

PIP: Part I

The History of PIP, a National Perspective, and PIP's Problems in Kentucky

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What is Personal Injury Protection (PIP)?

- ▶ **No-fault medical coverage included in auto insurance coverage**
- ▶ **Must be included in coverage unless specifically rejected (optional for motorcycles)**
- ▶ **Usually covers medical bills, funeral costs, lost wages, and replacement services**
- ▶ **Designed to pay medical and other losses arising from auto accidents without determination of fault**
- ▶ **Those covered by PIP generally may not sue an at-fault party for damages unless a threshold for a lawsuit is met**

Definitions of PIP Terms

- **No-fault vs. tort states:**
 - **No-fault states:** If PIP has not been rejected, a suit may not be filed until a threshold is met (see below for thresholds)
 - **Tort states (sometimes referred to as at-fault or fault states):** There is no limitation on filing a suit due to PIP
- **PIP Threshold:** The criteria for filing a suit for damages for those covered by PIP
 - **Monetary Threshold:** A specified dollar amount (e.g., \$1K in KY) of medical costs from a motor vehicle crash
 - **“Verbal” Threshold:** Serious injury, disfigurement, or death resulting from a crash instead of a specific dollar amount of medical costs

PIP Enactments in the United States

- ▶ Puerto Rico, 1970
- ▶ Massachusetts, January 1, 1971
- ▶ Florida, January 1, 1972 (temporarily repealed 2007, reenacted 2008)
- ▶ New Jersey, January 1, 1973
- ▶ Michigan, October 1, 1973
- ▶ Kansas, January 1, 1974
- ▶ Utah, January 1, 1974
- ▶ New York, February 1, 1974
- ▶ Hawaii, September 1, 1974
- ▶ Minnesota, January 1, 1975
- ▶ **Kentucky, July 1, 1975**
- ▶ North Dakota, January 1, 1976
- ▶ Pennsylvania, July 1, 1990 (originally passed in 1974, repealed in 1984)

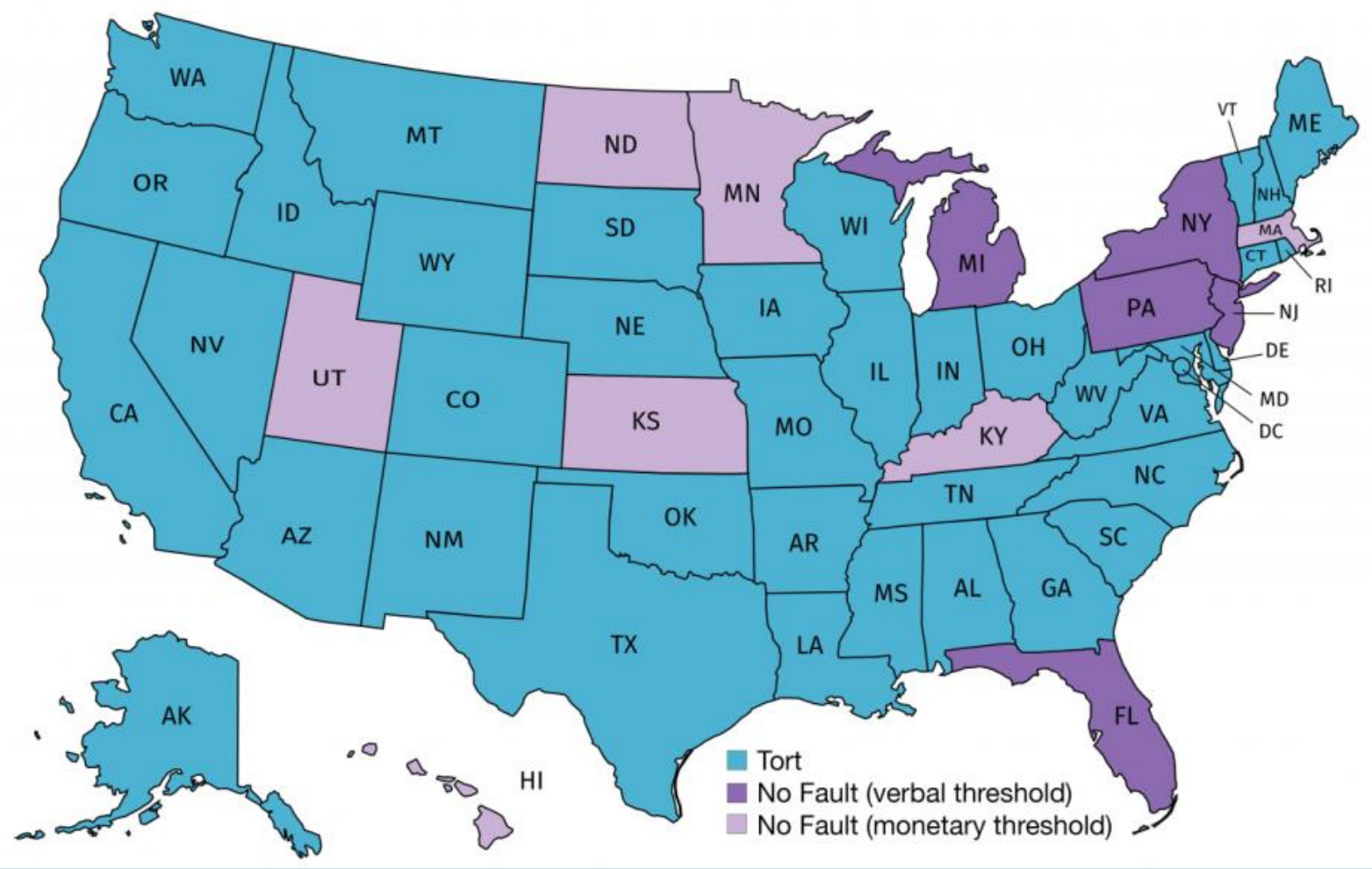
Source: [III](#)

PIP Repeals in the United States

- ▶ Nevada: effective 1974; repealed 1980
- ▶ Pennsylvania: effective 1976; repealed 1984 (reenacted 1990)
- ▶ Georgia: effective 1975; repealed 1991
- ▶ Connecticut: effective January 1, 1973; repealed 1993
- ▶ Colorado: effective April 1974, repealed July 2003

Source: [III](#)

Current No-fault and Tort States



Source: [Honest Policy](#)

Choice of No-fault vs. tort coverage

- ▶ In three PIP states, drivers may choose a no-fault (PIP) or a tort policy.
 - ▶ In KY and NJ, the default is to no-fault unless a drivers elects to opt for a tort system by rejecting PIP.
 - ▶ In PA, the default is to the tort system.
- ▶ In DC, drivers are offered the option of no-fault or tort-based coverage. In the event of an accident a driver who originally chose no-fault benefits has 60 days to decide whether to receive those benefits or file a claim against the other party.

KY PIP Coverage Specifics

- Covers medical bills, funeral costs (up to \$1,000), lost wages, and replacement services.
- Coverage minimum is \$10,000, but added benefits may be purchased.
- Monetary threshold of \$1,000.
- All medical bills are presumed to be reasonable and must be paid within 30 days or be subject to interest penalties.
- For the necessity of medical treatment to be challenged, court approval of individual medical examinations (IME's) is required.
- Statutory system of penalties – bad faith does not apply.

The Evolution of PIP in Kentucky

- ▶ When PIP was enacted in 1975, it was effective in limiting lawsuits
- ▶ When PIP was enacted, there were many fewer with health insurance coverage
- ▶ As medical costs have increased, the \$1,000 threshold has become far easier to meet, meaning it is easier to file suit
- ▶ Some providers, often migrating from FL and other states, have “gamed the system” to exhaust the \$10,000 coverage of accident victims whether treatment is effective or not

The Problems with PIP in Kentucky

- The presumption of reasonableness leads to PIP being paid at “retail” with no negotiated network rates
- Since providers are allowed to charge any amount, consumers may get less treatment for their coverage dollars.
- Statutes and court decisions make it difficult to properly investigate claims
- Fraud is rampant in KY, especially in Louisville
- When claims costs rise due to uncontrolled medical costs and fraud, consumers pay higher PIP premiums



Has PIP Outlived Its Usefulness in KY?

- ▶ PIP was passed in KY when there was no individual mandate for health insurance.
- ▶ The \$1,000 threshold is all but meaningless now. Medical costs have increased significantly since the 70's.
- ▶ The use of medical imaging is much more widespread and it is much more expensive now.
 - ▶ Providers may use imaging as “defensive medicine.”
 - ▶ Can be used to “chase the PIP dollars.”



PIP Is an Inefficient Way to Pay Medical Claims

- ▶ PIP is one of the only medical coverages in which full retail is billed; others are subject to network rates or a statutory fee schedule.
- ▶ Court decisions have limited the ability of insurers to investigate claims.
 - ▶ The presumption of reasonableness had been held in many decisions to apply only to the amount of the bill, not to medical necessity.
 - ▶ The Houchens vs. GEICO decision extended the presumption of reasonableness to medical necessity.
- ▶ Some providers abuse the presumption of reasonableness with excessive rates, resulting in less treatment for the dollars spent.

Questions?

