

1 AN ACT relating to the motor vehicle reparations act.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 304.39-020 is amended to read as follows:

4 As used in this subtitle ***unless context requires otherwise:***

- 5 (1) "Added reparation benefits" ***means***~~mean~~ benefits provided by optional added  
6 reparation insurance.
- 7 (2) "Basic reparation benefits" ***means***~~mean~~ benefits providing reimbursement for net  
8 loss suffered through injury arising out of the operation, maintenance, or use of a  
9 motor vehicle, subject, where applicable, to the limits, deductibles, exclusions,  
10 disqualifications, and other conditions provided in this subtitle. The maximum  
11 amount of basic reparation benefits payable for all economic loss resulting from  
12 injury to any one (1) person as the result of one (1) accident shall be ten thousand  
13 dollars (\$10,000), regardless of the number of persons entitled to ***the***~~such~~ benefits  
14 or the number of providers of security obligated to pay ***the***~~such~~ benefits. Basic  
15 reparation benefits consist of one (1) or more of the elements defined as "loss."
- 16 (3) "Basic reparation insured" means:
- 17 (a) A person identified by name as an insured in a contract of basic reparation  
18 insurance complying with this subtitle; and
- 19 (b) While residing in the same household with a named insured, the following  
20 persons not identified by name as an insured in any other contract of basic  
21 reparation insurance complying with this subtitle: a spouse or other relative of  
22 a named insured; and a minor in the custody of a named insured or of a  
23 relative residing in the same household with the named insured if he usually  
24 makes his home in the same family unit, even though he temporarily lives  
25 elsewhere.
- 26 (4) ***"Health care provider" or "provider" means a health facility, as defined in KRS***  
27 ***216B.015, or an individual who is licensed to practice in Kentucky under KRS***

1        Chapters 311, 311A, 311B, 312, 313, 314, 314A, 315, 319, 319A, 319B, 320, or  
2        327.

3        (5) "Injury" and "injury to person" means~~[mean]~~ bodily harm, sickness, disease, or  
4        death.

5        (6)~~[(5)]~~ "Loss" means accrued economic loss consisting only of medical  
6        expenses~~[expense]~~, work loss, replacement services loss, and, if injury causes  
7        death, survivor's economic loss and survivor's replacement services loss.  
8        Noneconomic detriment is not loss. However, economic loss is loss although caused  
9        by pain and suffering or physical impairment.

10       (a) ~~["Medical expense" means reasonable charges incurred for reasonably needed~~  
11       ~~products, services, and accommodations, including those for medical care,~~  
12       ~~physical rehabilitation, rehabilitative occupational training, licensed~~  
13       ~~ambulance services, and other remedial treatment and care. "Medical expense"~~  
14       ~~may include non-medical remedial treatment rendered in accordance with a~~  
15       ~~recognized religious method of healing. The term includes a total charge not~~  
16       ~~in excess of one thousand dollars (\$1,000) per person for expenses in any way~~  
17       ~~related to funeral, cremation, and burial. It does not include that portion of a~~  
18       ~~charge for a room in a hospital, clinic, convalescent or nursing home, or any~~  
19       ~~other institution engaged in providing nursing care and related services, in~~  
20       ~~excess of a reasonable and customary charge for semi-private~~  
21       ~~accommodations, unless intensive care is medically required. Medical expense~~  
22       ~~shall include all healing arts professions licensed by the Commonwealth of~~  
23       ~~Kentucky. There shall be a presumption that any medical bill submitted is~~  
24       ~~reasonable.~~

25       (b)~~—~~"Work loss" means loss of income from work the injured person would  
26       probably have performed if he had not been injured, and expenses reasonably  
27       incurred by him in obtaining services in lieu of those he would have

1 performed for income, reduced by any income from substitute work actually  
2 performed by him.

3 ~~(b)~~~~(c)~~ "Replacement services loss" means expenses reasonably incurred in  
4 obtaining ordinary and necessary services in lieu of those the injured person  
5 would have performed, not for income but for the benefit of himself or his  
6 family, if he had not been injured.

7 ~~(c)~~~~(d)~~ "Survivor's economic loss" means loss after decedent's death of  
8 contributions of things of economic value to his survivors, not including  
9 services they would have received from the decedent if he had not suffered the  
10 fatal injury, less expenses of the survivors avoided by reason of decedent's  
11 death.

12 ~~(d)~~~~(e)~~ "Survivor's replacement services loss" means expenses reasonably  
13 incurred by survivors after decedent's death in obtaining ordinary and  
14 necessary services in lieu of those the decedent would have performed for  
15 their benefit if he had not suffered the fatal injury, less expenses of the  
16 survivors avoided by reason of the decedent's death and not subtracted in  
17 calculating survivor's economic loss.

18 ~~(Z)~~~~(6)~~ "Use of a motor vehicle" means any utilization of the motor vehicle as a  
19 vehicle including occupying, entering into, and alighting from it. It does not  
20 include:

21 (a) Conduct within the course of a business of repairing, servicing, or otherwise  
22 maintaining motor vehicles unless the conduct occurs off the business  
23 premises; or

24 (b) Conduct in the course of loading and unloading the vehicle unless the conduct  
25 occurs while occupying, entering into, or alighting from it.

26 **(8) "Medical expenses" means charges incurred for reasonably needed products,**  
27 **services, and accommodations, including those for medical care, physical**

1 rehabilitation, rehabilitative occupational training, licensed ambulance services,  
2 and other remedial treatment and care. Medical expenses:

3 (a) Includes:

4 1. A total charge not in excess of one thousand dollars (\$1,000) per  
5 person for expenses in any way related to funeral, cremation, and  
6 burial; and

7 2. Only charges incurred for services rendered by a provider, as defined  
8 in subsection (4) of this section, which are within the provider's legally  
9 authorized scope of practice; and

10 (b) Shall be:

11 1. Limited to:

12 a. The respective fee set forth for that medical expense in the  
13 Kentucky workers' compensation fee schedule established in  
14 KRS 342.035 and in any administrative regulation adopted  
15 pursuant to it; or

16 b. If no fee is set by the Kentucky workers' compensation fee  
17 schedule, the usual and customary rate charged for the product,  
18 service, or accommodation. Reparation obligors may consult  
19 independent services in order to determine the usual and  
20 customary rate;

21 2. Deemed to be reasonably needed only if they are:

22 a. Necessary to achieve maximum medical improvement for the  
23 injury;

24 b. Commonly and customarily recognized throughout the medical  
25 profession within the United States of America as appropriate  
26 for the treatment of the injury;

27 c. Primarily designed to serve a medical purpose;

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d. Not experimental; and

e. Not for research purposes; and

3. Billed in accordance with the Physician's Current Procedural Terminology (CPT) for the year in which the expense occurs.

~~(9)~~~~(7)~~ "Motor vehicle" means any vehicle which transports persons or property upon the public highways of the Commonwealth, propelled by other than muscular power except road rollers, road graders, farm tractors, vehicles on which power shovels are mounted,~~such~~ other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, any~~such~~ vehicles that~~as~~ travel exclusively upon rails, and any~~such~~ vehicles that~~as~~ are propelled by electrical power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the said limits of any municipality. Motor vehicle shall not mean moped as defined in this section.

~~(10)~~~~(8)~~ "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

~~(11)~~~~(9)~~ "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.

~~(12)~~~~(10)~~ "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.

~~(13)~~~~(11)~~ "Noneconomic detriment" means pain, suffering, inconvenience, physical

1 impairment, and other nonpecuniary damages recoverable under the tort law of this  
2 Commonwealth. The term does not include punitive or exemplary damages.

3 ~~(14)~~~~(12)~~ "Owner" means a person, other than a lienholder or secured party, who owns  
4 or has title to a motor vehicle or is entitled to the use and possession of a motor  
5 vehicle subject to a security interest held by another person. The term does not  
6 include a lessee under a lease not intended as security.

7 ~~(15)~~~~(13)~~ "Reparation obligor" means an insurer, self-insurer, or obligated government  
8 providing basic or added reparation benefits under this subtitle.

9 ~~(16)~~~~(14)~~ "Survivor" means a person identified in KRS 411.130 as one entitled to  
10 receive benefits by reason of the death of another person.

11 ~~(17)~~~~(15)~~ A "User" means a person who resides in a household in which any person  
12 owns or maintains a motor vehicle.

13 ~~(18)~~~~(16)~~ "Maintaining a motor vehicle" means having legal custody, possession or  
14 responsibility for a motor vehicle by one other than an owner or operator.

15 ~~(19)~~~~(17)~~ "Security" means any continuing undertaking complying with this subtitle, for  
16 payment of tort liabilities, basic reparation benefits, and all other obligations  
17 imposed by this subtitle.

18 ➔Section 2. KRS 304.39-130 is amended to read as follows:

19 Basic reparation benefits payable for work loss, survivor's economic loss, replacement  
20 services loss, and survivor's replacement services loss arising from injury to one (1)  
21 person and attributable to the calendar week during which the accident causing injury  
22 occurs and to each calendar week thereafter may not exceed ~~four~~~~two~~ hundred dollars  
23 ~~(\$400)~~~~(\$200)~~, prorated for any lesser period. If the injured person's earnings or work are  
24 seasonal or irregular, the weekly limit shall be equitably adjusted or apportioned on an  
25 annual basis.

26 ➔Section 3. KRS 304.39-241 is amended to read as follows:

27 An insured may direct the payment of benefits among the different elements of loss, if the

1 direction is provided in writing to the reparation obligor. A reparation obligor shall honor  
2 the written direction of benefits provided by an insured on a prospective basis **following**  
3 **its receipt of the direction of benefits**. The insured may also explicitly direct the payment  
4 of benefits for related medical expenses already paid arising from a covered loss to  
5 reimburse:

- 6 (1) A health benefit plan as defined by KRS 304.17A-005(22);
- 7 (2) A limited health service benefit plan as defined by KRS 304.17C-010;
- 8 (3) Medicaid;
- 9 (4) Medicare; or
- 10 (5) A Medicare supplement provider.

11 ➔Section 4. KRS 304.39-245 is amended to read as follows:

12 **(1)** A reparation obligor may request or negotiate a reduction or modification of charges  
13 from a provider~~[of services]~~ to a secured person. In no event shall a provider~~[of~~  
14 ~~services]~~ which agrees to a reduction or modification of the charges bill the secured  
15 person for the amount of the reduction or modification.

16 **(2)** **A provider shall not knowingly collect, attempt to collect, coerce, or attempt to**  
17 **coerce, directly or indirectly, the payment of any charge for a medical expense**  
18 **under this subtitle covered by reparation benefits in excess of the amount allowed**  
19 **under Section 1 of this Act, nor cause the consumer report, as defined in KRS**  
20 **367.363, of any person entitled to basic reparations benefits to be impaired by**  
21 **reason of that person's failure to pay the excess charge.**

22 **(3)** Nothing in this section is intended to prohibit a provider of services from billing  
23 charges to a secured party if the charges are not paid by a reparation obligor because  
24 the reparation benefits have been exhausted.

25 ➔Section 5. The provisions of this Act apply to all self-insurance and all contracts  
26 for insurance covering required security for motor vehicles issued or renewed on or after  
27 January 1, 2019.

1           ➔Section 6. This Act takes effect January 1, 2019.