

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 ~~such~~ benefits or
14 the number of providers of security obligated to pay ~~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) ***"CMS revenue codes" means codes published by the Centers for Medicare and***
27 ***Medicaid Services that are used for hospital billing;***

1 (5) "Current Procedural Terminology" or "CPT" means a system developed by the
2 American Medical Association for standardizing the terminology and coding to
3 describe medical services and procedures;

4 (6) "Healthcare Common Procedure Coding System" or "HCPCS" means a
5 standardized coding system for describing medical procedures developed by the
6 Centers for Medicare and Medicaid Services;"

7 (7) "Health care provider" or "provider" means:
8 (a) A health facility, as defined in KRS 216B.015;
9 (b) An individual licensed under KRS 309.353, or KRS Chapters 311, 311A,
10 311B, 312, 313, 314, 314A, 315, 319, 319A, 319B, 320, or 327;
11 (c) A medical laboratory, as defined in KRS 333.020; or
12 (d) An individual or facility located in another state that is similarly licensed in
13 that state;

14 (8) "Injury" and "injury to person" means~~[mean]~~ bodily harm, sickness, disease, or
15 death;~~[.]~~

16 (9) "International Statistical Classification of Disease" or "ICD" means the system
17 of medical coding used to classify hospital care in the United States;

18 ~~(10)~~⁽⁵⁾ "Loss" means accrued economic loss consisting only of medical expense,
19 work loss, replacement services loss, and, if injury causes death, survivor's
20 economic loss and survivor's replacement services loss. Noneconomic detriment is
21 not loss. However, economic loss is loss although caused by pain and suffering or
22 physical impairment.

23 (a) "Medical expense" means reasonable charges incurred for reasonably needed
24 products, services, and accommodations, including those for medical care,
25 physical rehabilitation, rehabilitative occupational training, licensed
26 ambulance services, and other remedial treatment and care.~~["Medical~~
27 ~~expense" may include non-medical remedial treatment rendered in accordance~~

1 ~~with a recognized religious method of healing.]~~ **Medical expense shall**
2 **include only services rendered by a provider, that are within the provider's**
3 **lawful scope of practice and that are billed in accordance with any**
4 **applicable CPT, ICD, HCPCS, or CMS revenue codes for the year in which**
5 **the expense occurs, and**~~[The term includes]~~ a total charge not in excess of
6 one thousand dollars (\$1,000) per person for expenses in any way related to
7 funeral, cremation, and burial. It does not include that portion of a charge for a
8 room in a hospital, clinic, convalescent or nursing home, or any other
9 institution engaged in providing nursing care and related services, in excess of
10 a reasonable and customary charge for semi-private accommodations, unless
11 intensive care is medically required.~~[Medical expense shall include all~~
12 ~~healing arts professions licensed by the Commonwealth of Kentucky.]~~ There
13 shall be a presumption that any medical bill submitted is reasonable.

14 (b) "Work loss" means loss of income from work the injured person would
15 probably have performed if he had not been injured, and expenses reasonably
16 incurred by him in obtaining services in lieu of those he would have
17 performed for income, reduced by any income from substitute work actually
18 performed by him.

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

23 (d) "Survivor's economic loss" means loss after decedent's death of contributions
24 of things of economic value to his survivors, not including services they
25 would have received from the decedent if he had not suffered the fatal injury,
26 less expenses of the survivors avoided by reason of decedent's death.

27 (e) "Survivor's replacement services loss" means expenses reasonably incurred by

1 survivors after decedent's death in obtaining ordinary and necessary services
2 in lieu of those the decedent would have performed for their benefit if he had
3 not suffered the fatal injury, less expenses of the survivors avoided by reason
4 of the decedent's death and not subtracted in calculating survivor's economic
5 loss;[-]

6 (11)~~(6)~~ "Use of a motor vehicle" means any utilization of the motor vehicle as a
7 vehicle including occupying, entering into, and alighting from it. It does not
8 include:

9 (a) Conduct within the course of a business of repairing, servicing, or otherwise
10 maintaining motor vehicles unless the conduct occurs off the business
11 premises; or

12 (b) Conduct in the course of loading and unloading the vehicle unless the conduct
13 occurs while occupying, entering into, or alighting from it;[-]

14 (12)~~(7)~~ "Motor vehicle" means any vehicle which transports persons or property upon
15 the public highways of the Commonwealth, propelled by other than muscular power
16 except road rollers, road graders, farm tractors, vehicles on which power shovels are
17 mounted, such other construction equipment customarily used only on the site of
18 construction and which is not practical for the transportation of persons or property
19 upon the highways, such vehicles as travel exclusively upon rails, and such vehicles
20 as are propelled by electrical power obtained from overhead wires while being
21 operated within any municipality or where said vehicles do not travel more than five
22 (5) miles beyond the said limits of any municipality. Motor vehicle shall not mean
23 moped as defined in this section;[-]

24 (13)~~(8)~~ "Moped" means either a motorized bicycle whose frame design may include
25 one (1) or more horizontal crossbars supporting a fuel tank so long as it also has
26 pedals, or a motorized bicycle with a step-through type frame which may or may not
27 have pedals rated no more than two (2) brake horsepower, a cylinder capacity not

1 exceeding fifty (50) cubic centimeters, an automatic transmission not requiring
2 clutching or shifting by the operator after the drive system is engaged, and capable
3 of a maximum speed of not more than thirty (30) miles per hour;[-]

4 ~~(14)~~~~(9)~~ "Public roadway" means a way open to the use of the public for purposes of
5 motor vehicle travel;[-]

6 ~~(15)~~~~(10)~~ "Net loss" means loss less benefits or advantages, from sources other than
7 basic and added reparation insurance, required to be subtracted from loss in
8 calculating net loss;[-]

9 ~~(16)~~~~(11)~~ "Noneconomic detriment" means pain, suffering, inconvenience, physical
10 impairment, and other nonpecuniary damages recoverable under the tort law of this
11 Commonwealth. The term does not include punitive or exemplary damages;[-]

12 ~~(17)~~~~(12)~~ "Owner" means a person, other than a lienholder or secured party, who owns
13 or has title to a motor vehicle or is entitled to the use and possession of a motor
14 vehicle subject to a security interest held by another person. The term does not
15 include a lessee under a lease not intended as security;[-]

16 ~~(18)~~~~(13)~~ "Reparation obligor" means an insurer, self-insurer, or obligated government
17 providing basic or added reparation benefits under this subtitle;[-]

18 ~~(19)~~~~(14)~~ "Survivor" means a person identified in KRS 411.130 as one entitled to
19 receive benefits by reason of the death of another person;[-]

20 ~~(20)~~~~(15)~~ A "user" means a person who resides in a household in which any person
21 owns or maintains a motor vehicle;[-]

22 ~~(21)~~~~(16)~~ "Maintaining a motor vehicle" means having legal custody, possession or
23 responsibility for a motor vehicle by one other than an owner or operator; and[-]

24 ~~(22)~~~~(17)~~ "Security" means any continuing undertaking complying with this subtitle, for
25 payment of tort liabilities, basic reparation benefits, and all other obligations
26 imposed by this subtitle.

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

1 Basic reparation benefits payable for work loss, survivor's economic loss, replacement
 2 services loss, and survivor's replacement services loss arising from injury to one (1)
 3 person and attributable to the calendar week during which the accident causing injury
 4 occurs and to each calendar week thereafter may not exceed ~~four~~^{two} hundred dollars
 5 (~~\$400~~^{\$200}), prorated for any lesser period. If the injured person's earnings or work are
 6 seasonal or irregular, the weekly limit shall be equitably adjusted or apportioned on an
 7 annual basis.

8 →Section 3. KRS 304.39-210 is amended to read as follows:

9 (1) *A reparation obligor shall pay claims for medical expense:*

10 *(a) Except as provided in paragraph (b) of this subsection, at the greater of:*

11 *1. The respective fee set forth for that medical expense in the Kentucky*
 12 *workers' compensation fee schedule established in KRS 342.035 and*
 13 *in any administrative regulation adopted pursuant to KRS 342.035(1),*
 14 *which shall include any billing requirements, but exclude utilization*
 15 *management and treatment guidelines; or*

16 *2. A rate set under the terms of a separate applicable contract; or*

17 *(b) At the usual, customary, and reasonable rate paid for the product, service,*
 18 *or accommodation if:*

19 *1. No fee is set by the Kentucky workers' compensation fee schedule; or*

20 *2. The medical expense is:*

21 *a. Incurred on the day of or one (1) calendar day after the motor*
 22 *vehicle accident resulting in injury; or*

23 *b. Billed by a hospital for:*

24 *i. Inpatient services; or*

25 *ii. Outpatient services that include a charge for emergency*
 26 *department services.*

27 *(2) Reparation obligors may consult independent services in order to determine the*

1 usual, customary, and reasonable rate for a product, service, or accommodation.

2 **(3)** Basic and added reparation benefits are payable monthly as loss accrues. Loss
3 accrues not when injury occurs, but as work loss, replacement services loss, or
4 medical expense is incurred. Benefits are overdue if not paid within thirty (30) days
5 after the reparation obligor receives reasonable proof of the fact and amount of loss
6 realized, unless the reparation obligor elects to accumulate claims for periods not
7 exceeding thirty-one (31) days after the reparation obligor receives reasonable proof
8 of the fact and amount of loss realized, and pays them within fifteen (15) days after
9 the period of accumulation. Notwithstanding any provision of this chapter to the
10 contrary, benefits are not overdue if a reparation obligor has not made payment to a
11 provider of services due to the request of a secured person when the secured person
12 is directing the payment of benefits among the different elements of loss. If
13 reasonable proof is supplied as to only part of a claim, and the part totals one
14 hundred dollars (\$100) or more, the part is overdue if not paid within the time
15 provided by this section. Medical expense benefits may be paid by the reparation
16 obligor directly to persons supplying products, services, or accommodations to the
17 claimant, if the claimant so designates.

18 ~~(4)~~~~(2)~~ Overdue payments bear interest at the rate of twelve percent (12%) per
19 annum, except that if delay was without reasonable foundation the rate of interest
20 shall be eighteen percent (18%) per annum.

21 ~~(5)~~~~(3)~~ A claim for basic or added reparation benefits shall be paid without deduction
22 for the benefits which are to be subtracted pursuant to the provisions on calculation
23 of net loss if these benefits have not been paid to the claimant before the reparation
24 benefits are overdue or the claim is paid. The reparation obligor is entitled to
25 reimbursement from the person obligated to make the payments or from the
26 claimant who actually receives the payments.

27 ~~(6)~~~~(4)~~ A reparation obligor may bring an action to recover benefits which are not

1 payable, but are in fact paid, because of an intentional misrepresentation of a
 2 material fact, upon which the reparation obligor relies, by the insured or by a person
 3 providing an item of medical expense. The action may be brought only against the
 4 person providing the item of medical expense, unless the insured has intentionally
 5 misrepresented the facts or knows of the misrepresentation. An insurer may offset
 6 amounts he is entitled to recover from the insured under this subsection against any
 7 basic or added reparation benefits otherwise due.

8 ~~(7)~~~~(5)~~ A reparation obligor who rejects a claim for basic reparation benefits shall
 9 give to the claimant prompt written notice of the rejection, specifying the reason. If
 10 a claim is rejected for a reason other than that the person is not entitled to the basic
 11 reparation benefits claimed, the written notice shall inform the claimant that he may
 12 file his claim with the assigned claims bureau and shall give the name and address
 13 of the bureau.

14 ➔Section 4. KRS 304.39-241 is amended to read as follows:

15 An insured may direct the payment of benefits among the different elements of loss, if the
 16 direction is provided in writing to the reparation obligor. A reparation obligor shall honor
 17 the written direction of benefits provided by an insured on a prospective basis. The
 18 insured may also explicitly direct the payment of benefits for related medical expenses
 19 already paid arising from a covered loss to reimburse:

- 20 (1) A health benefit plan as defined by KRS 304.17A-005(22);
- 21 (2) A limited health service benefit plan as defined by KRS 304.17C-010;
- 22 (3) Medicaid;
- 23 (4) Medicare; or
- 24 (5) A person that provides Medicare supplement insurance~~[provider]~~.

25 ➔Section 5. KRS 304.39-245 is amended to read as follows:

26 (1) A reparation obligor may request or negotiate a reduction or modification of charges
 27 from a provider~~[of services to a secured person. In no event shall a provider of~~

1 ~~services which agrees to a reduction or modification of the charges bill the secured~~
 2 ~~person for the amount of the reduction or modification].~~

3 **(2) For all services paid by a reparation obligor, a provider shall not:**

4 **(a) Knowingly collect or attempt to collect, directly or indirectly, the payment of**
 5 **any charge for a medical expense under this subtitle covered by reparation**
 6 **benefits in excess of the amount allowed under subsection (1) of Section 3**
 7 **of this Act;**

8 **(b) Bill the person entitled to basic reparations benefits who received treatment**
 9 **from the provider for the amount of any reduction or modification of**
 10 **charges to which the provider agreed under subsection (1) of this section; or**

11 **(c) Cause the consumer report, as defined in KRS 367.363, of any person to be**
 12 **impaired by reason of that person's failure to pay any amount prohibited by**
 13 **this section.**

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

17 ➔SECTION 6. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304
 18 IS CREATED TO READ AS FOLLOWS:

19 **(1) This section shall expire on January 1, 2026.**

20 **(2) Sixty (60) days prior to each regular session of the General Assembly, the**
 21 **commissioner shall submit a written report to the Interim Joint Committee on**
 22 **Banking and Insurance and provide a detailed briefing upon request of the**
 23 **committee. The report shall contain information on billing rates and payment for**
 24 **medical expenses reimbursed under this subtitle and include comparisons, to the**
 25 **extent information is available, to:**

26 **(a) Rates contained in the Kentucky workers' compensation medical fee**
 27 **schedule established in KRS 342.035(1) and in any administrative**

- 1 regulation adopted pursuant to it;
- 2 (b) Any other fee schedules related to medical payments as the department may
- 3 deem appropriate;
- 4 (c) Other state medical billing practices for the same or similar benefits, as
- 5 applicable; and
- 6 (d) Billed charges in the private health care market.
- 7 (3) The department may contract with one (1) or more organizations that maintain a
- 8 database of billed and paid charges submitted by health care providers in order to
- 9 obtain information for the report.

10 ➔Section 7. Section 6 of this Act, as codified following the 2019 Session of the
 11 Kentucky General Assembly, shall be repealed effective January 1, 2026.

12 ➔Section 8. The provisions of this Act apply to loss, as defined in Section 1 of
 13 this Act, incurred on or after January 1, 2020.

14 ➔Section 9. The Act takes effect January 1, 2020.