

1 AN ACT relating to basic and added reparation benefits.

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:

- 5 (1) "Added reparation benefits" mean benefits provided by optional added reparation
6 insurance;~~[-]~~
- 7 (2) "Basic reparation benefits" mean benefits providing reimbursement for net loss
8 suffered through injury arising out of the operation, maintenance, or use of a motor
9 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 reparation
15 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) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death;~~[-]~~
- 27 (5) "Loss" means accrued economic loss consisting only of medical expense, work

1 loss, replacement services loss, and, if injury causes death, survivor's economic loss
2 and survivor's replacement services loss. Noneconomic detriment is not loss.
3 However, economic loss is loss although caused by pain and suffering or physical
4 impairment.

5 (a) 1. "Medical expense" means reasonable charges incurred for reasonably
6 needed products, services, and accommodations, including those for
7 medical care, physical rehabilitation, rehabilitative occupational
8 training, licensed ambulance services, and other remedial treatment and
9 care. "Medical expense" may include non-medical remedial treatment
10 rendered in accordance with a recognized religious method of healing.
11 The term includes a total charge not in excess of five thousand dollars
12 (\$5,000)~~one thousand dollars (\$1,000)~~ per person for expenses in any
13 way related to funeral, cremation, and burial. It does not include that
14 portion of a charge for a room in a hospital, clinic, convalescent or
15 nursing home, or any other institution engaged in providing nursing care
16 and related services, in excess of a reasonable and customary charge for
17 semi-private accommodations, unless intensive care is medically
18 required. "Medical expense" shall include all healing arts professions
19 licensed by the Commonwealth of Kentucky.

20 2. a. A medical expense, other than care provided in a hospital or
21 hospital-owned outpatient facility, paid pursuant to this subtitle
22 shall not exceed the maximum fee allowed or listed for that
23 expense on the relevant schedule of fees established pursuant to
24 KRS 342.035 that is in effect at the time the medical expense is
25 incurred. Other requirements, terms, or conditions imposed
26 under or associated with the relevant schedule of fees established
27 pursuant to KRS 342.035 shall not apply to this subtitle.

1 **b. Subdivision a. of this subparagraph shall not be construed as**
 2 **making basic reparation benefits or added reparation benefits**
 3 **primary.**

4 **3. Solely for the purpose of basic reparation benefits and added**
 5 **reparation benefits,** there shall be a presumption that any medical
 6 **expense**~~[bill]~~ submitted **in accordance with this paragraph** is
 7 reasonable.

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

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

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

21 (e) "Survivor's replacement services loss" means expenses reasonably incurred by
 22 survivors after decedent's death in obtaining ordinary and necessary services
 23 in lieu of those the decedent would have performed for their benefit if he had
 24 not suffered the fatal injury, less expenses of the survivors avoided by reason
 25 of the decedent's death and not subtracted in calculating survivor's economic
 26 loss;~~[-]~~

27 (6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle

1 including occupying, entering into, and alighting from it. It does not include:

2 (a) Conduct within the course of a business of repairing, servicing, or otherwise
3 maintaining motor vehicles unless the conduct occurs off the business
4 premises; or

5 (b) Conduct in the course of loading and unloading the vehicle unless the conduct
6 occurs while occupying, entering into, or alighting from it; ~~and~~

7 (7) "Motor vehicle" means any vehicle which transports persons or property upon the
8 public highways of the Commonwealth, propelled by other than muscular power
9 except road rollers, road graders, farm tractors, vehicles on which power shovels
10 are mounted, such other construction equipment customarily used only on the site
11 of construction and which is not practical for the transportation of persons or
12 property upon the highways, such vehicles as travel exclusively upon rails, and such
13 vehicles as are propelled by electrical power obtained from overhead wires while
14 being operated within any municipality or where said vehicles do not travel more
15 than five (5) miles beyond the said limits of any municipality. "Motor vehicle"
16 shall not mean moped as defined in this section or an electric low-speed scooter as
17 defined in KRS 189.010; ~~and~~

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

25 (9) "Public roadway" means a way open to the use of the public for purposes of motor
26 vehicle travel; ~~and~~

27 (10) "Net loss" means loss less benefits or advantages, from sources other than basic and

1 added reparation insurance, required to be subtracted from loss in calculating net
2 loss;~~[-]~~

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

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

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

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

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

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

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

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

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

1 apportioned on an annual basis.

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

- 3 (1) (a) Basic and added reparation benefits are payable monthly as loss accrues.
- 4 (b) Loss accrues not when injury occurs, but as work loss, replacement services
5 loss, or medical expense is incurred.
- 6 (c) Benefits are overdue if not paid within thirty (30) days after the reparation
7 obligor receives reasonable proof of the fact and amount of loss realized,
8 unless the reparation obligor elects to accumulate claims for periods not
9 exceeding thirty-one (31) days after the reparation obligor receives reasonable
10 proof of the fact and amount of loss realized, and pays them within fifteen
11 (15) days after the period of accumulation.
- 12 (d) Notwithstanding any provision of this chapter to the contrary, benefits are not
13 overdue if a reparation obligor has not made payment to a provider of services
14 due to the request of a secured person when the secured person is directing the
15 payment of benefits among the different elements of loss.
- 16 (e) If reasonable proof is supplied as to only part of a claim, and the part totals
17 one hundred dollars (\$100) or more, the part is overdue if not paid within the
18 time provided by this section.
- 19 (f) Medical expense benefits may be paid by the reparation obligor directly to
20 persons supplying products, services, or accommodations to the claimant, if
21 the claimant so designates.
- 22 (g) *A reparation obligor shall not, in any event, pay a charge for a medical*
23 *expense that exceeds the maximum fee permitted under subsection (5)(a)2.*
24 *of Section 1 of this Act.*
- 25 (h) *1. Except as provided in subparagraph 2. of this paragraph, a person*
26 *providing a product, service, or accommodation shall submit a*
27 *statement of the charge for the medical expense within one hundred*

1 eighty (180) days of the date the product, service, or accommodation is
 2 rendered.

3 2. Subparagraph 1. of this paragraph shall not apply to:

4 a. A hospital;

5 b. Any other provider of emergency care or inpatient services
 6 rendered to a basic or added reparation insured in a hospital; or

7 c. Charges submitted pursuant to KRS 304.39-241.

8 (i) A person providing a product, service, or accommodation shall not:

9 1. Knowingly collect, attempt to collect, coerce, or attempt to coerce,
 10 directly or indirectly, the payment of any charge for a medical expense
 11 covered by a reparation obligor that exceeds the maximum fee
 12 permitted under subsection (5)(a)2. of Section 1 of this Act; or

13 2. Cause the credit of any basic or added reparation insured to be
 14 impaired by reason of the insured's failure or refusal to pay the
 15 balance of any charge for a medical expense covered by a reparation
 16 obligor that exceeds the maximum fee permitted under subsection
 17 (5)(a)2. of Section 1 of this Act.

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

21 (3) (a) 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
 23 calculation of net loss if these benefits have not been paid to the claimant
 24 before the reparation benefits are overdue or the claim is paid.

25 (b) The reparation obligor is entitled to reimbursement from the person obligated
 26 to make the payments or from the claimant who actually receives the
 27 payments.

1 (4) (a) A reparation obligor may bring an action to recover benefits which are not
2 payable, but are in fact paid, because of an intentional misrepresentation of a
3 material fact, upon which the reparation obligor relies, by the insured or by a
4 person providing an item of medical expense.

5 (b) The action may be brought only against the person providing the item of
6 medical expense, unless the insured has intentionally misrepresented the facts
7 or knows of the misrepresentation.

8 (c) An insurer may offset amounts he is entitled to recover from the insured under
9 this subsection against any basic or added reparation benefits otherwise due.

10 (5) (a) A reparation obligor who rejects a claim for basic reparation benefits shall
11 give to the claimant prompt written notice of the rejection, specifying the
12 reason.

13 (b) If a claim is rejected for a reason other than that the person is not entitled to
14 the basic reparation benefits claimed, the written notice shall inform the
15 claimant that he may file his claim with the assigned claims bureau and shall
16 give the name and address of the bureau.