

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 one thousand dollars
12 (\$1,000) per person for expenses in any way related to funeral,
13 cremation, and burial. It does not include that portion of a charge for a
14 room in a hospital, clinic, convalescent or nursing home, or any other
15 institution engaged in providing nursing care and related services, in
16 excess of a reasonable and customary charge for semi-private
17 accommodations, unless intensive care is medically required. Medical
18 expense shall include all healing arts professions licensed by the
19 Commonwealth of Kentucky.

20 2. A medical expense, other than care provided in a hospital or hospital-
21 owned outpatient facility, submitted pursuant to this subtitle shall not
22 exceed the maximum fee allowed or listed for that expense on the
23 relevant workers' compensation schedule of fees established pursuant
24 to KRS 342.035 that is in effect at the time the medical expense is
25 incurred.

26 3. There shall be a presumption that any medical expense~~[bill]~~ submitted
27 in accordance with this paragraph is reasonable.

- 1 (b) "Work loss" means loss of income from work the injured person would
2 probably have performed if he had not been injured, and expenses reasonably
3 incurred by him in obtaining services in lieu of those he would have
4 performed for income, reduced by any income from substitute work actually
5 performed by him.
- 6 (c) "Replacement services loss" means expenses reasonably incurred in obtaining
7 ordinary and necessary services in lieu of those the injured person would have
8 performed, not for income but for the benefit of himself or his family, if he
9 had not been injured.
- 10 (d) "Survivor's economic loss" means loss after decedent's death of contributions
11 of things of economic value to his survivors, not including services they
12 would have received from the decedent if he had not suffered the fatal injury,
13 less expenses of the survivors avoided by reason of decedent's death.
- 14 (e) "Survivor's replacement services loss" means expenses reasonably incurred by
15 survivors after decedent's death in obtaining ordinary and necessary services
16 in lieu of those the decedent would have performed for their benefit if he had
17 not suffered the fatal injury, less expenses of the survivors avoided by reason
18 of the decedent's death and not subtracted in calculating survivor's economic
19 loss.
- 20 (6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle
21 including occupying, entering into, and alighting from it. It does not include:
- 22 (a) Conduct within the course of a business of repairing, servicing, or otherwise
23 maintaining motor vehicles unless the conduct occurs off the business
24 premises; or
- 25 (b) Conduct in the course of loading and unloading the vehicle unless the conduct
26 occurs while occupying, entering into, or alighting from it.
- 27 (7) "Motor vehicle" means any vehicle which transports persons or property upon the

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

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

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

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

23 (11) "Noneconomic detriment" means pain, suffering, inconvenience, physical
24 impairment, and other nonpecuniary damages recoverable under the tort law of this
25 Commonwealth. The term does not include punitive or exemplary damages.

26 (12) "Owner" means a person, other than a lienholder or secured party, who owns or has
27 title to a motor vehicle or is entitled to the use and possession of a motor vehicle

1 subject to a security interest held by another person. The term does not include a
2 lessee under a lease not intended as security.

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

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

7 (15) A "user" means a person who resides in a household in which any person owns or
8 maintains a motor vehicle.

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

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

14 ➔Section 2. KRS 304.39-210 is amended to read as follows:

15 (1) (a) Basic and added reparation benefits are payable monthly as loss accrues.

16 (b) Loss accrues not when injury occurs, but as work loss, replacement services
17 loss, or medical expense is incurred.

18 (c) Benefits are overdue if not paid within thirty (30) days after the reparation
19 obligor receives reasonable proof of the fact and amount of loss realized,
20 unless the reparation obligor elects to accumulate claims for periods not
21 exceeding thirty-one (31) days after the reparation obligor receives reasonable
22 proof of the fact and amount of loss realized, and pays them within fifteen
23 (15) days after the period of accumulation.

24 (d) Notwithstanding any provision of this chapter to the contrary, benefits are not
25 overdue if a reparation obligor has not made payment to a provider of services
26 due to the request of a secured person when the secured person is directing the
27 payment of benefits among the different elements of loss.

1 (e) If reasonable proof is supplied as to only part of a claim, and the part totals
2 one hundred dollars (\$100) or more, the part is overdue if not paid within the
3 time provided by this section.

4 (f) Medical expense benefits may be paid by the reparation obligor directly to
5 persons supplying products, services, or accommodations to the claimant, if
6 the claimant so designates.

7 (g) A reparation obligor shall not, in any event, pay a charge for a medical
8 expense that exceeds the maximum fee permitted under subsection (5)(a)2.
9 of Section 1 of this Act.

10 (h) 1. Except as provided in subparagraph 2. of this paragraph, a person
11 supplying an item of medical expense shall submit a statement of the
12 charge for the medical expense within forty-five (45) days of the date
13 treatment is initiated and every forty-five (45) days thereafter, if
14 appropriate, as long as the products, services, or accommodations are
15 rendered.

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

17 a. A hospital; or

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

20 (i) A person supplying products, services, or accommodations shall not:

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

25 2. Cause the credit of any basic or added reparation insured to be
26 impaired by reason of the insured's failure or refusal to pay the
27 balance of any charge for a medical expense covered by a reparation

1 *obligor that exceeds the maximum fee permitted under subsection*
2 *(5)(a)2. of Section 1 of this Act.*

- 3 (2) Overdue payments bear interest at the rate of twelve percent (12%) per annum,
4 except that if delay was without reasonable foundation, the rate of interest shall be
5 eighteen percent (18%) per annum.
- 6 (3) (a) A claim for basic or added reparation benefits shall be paid without deduction
7 for the benefits which are to be subtracted pursuant to the provisions on
8 calculation of net loss if these benefits have not been paid to the claimant
9 before the reparation benefits are overdue or the claim is paid.
- 10 (b) The reparation obligor is entitled to reimbursement from the person obligated
11 to make the payments or from the claimant who actually receives the
12 payments.
- 13 (4) (a) A reparation obligor may bring an action to recover benefits which are not
14 payable, but are in fact paid, because of an intentional misrepresentation of a
15 material fact, upon which the reparation obligor relies, by the insured or by a
16 person providing an item of medical expense.
- 17 (b) The action may be brought only against the person providing the item of
18 medical expense, unless the insured has intentionally misrepresented the facts
19 or knows of the misrepresentation.
- 20 (c) An insurer may offset amounts he is entitled to recover from the insured under
21 this subsection against any basic or added reparation benefits otherwise due.
- 22 (5) (a) A reparation obligor who rejects a claim for basic reparation benefits shall
23 give to the claimant prompt written notice of the rejection, specifying the
24 reason.
- 25 (b) If a claim is rejected for a reason other than that the person is not entitled to
26 the basic reparation benefits claimed, the written notice shall inform the
27 claimant that he may file his claim with the assigned claims bureau and shall

1 give the name and address of the bureau.