

ASSEMBLY, No. 2927

STATE OF NEW JERSEY

INTRODUCED MAY 5, 1997

By Assemblyman GEIST

1 AN ACT concerning personal injury protection medical expense
2 benefits and revising various parts of the statutory law.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 4 of P.L. 1972, c. 70 (C. 39:6A-4) is amended to read
8 as follows:

9 4. Personal injury protection coverage, regardless of fault.

10 Every automobile liability insurance policy, issued or renewed on
11 or after [January 1, 1991] the effective date of P.L. _____, c. _____ (now
12 before the Legislature as this bill), insuring an automobile as defined
13 in section 2 of P.L.1972, c.70 (C.39:6A-2) against loss resulting from
14 liability imposed by law for bodily injury, death and property damage
15 sustained by any person arising out of ownership, operation,
16 maintenance or use of an automobile shall provide personal injury
17 protection coverage, as defined hereinbelow, under provisions
18 approved by the Commissioner of Banking and Insurance, for the
19 payment of benefits without regard to negligence, liability or fault of
20 any kind, to the named insured and members of his family residing in
21 his household who sustained bodily injury as a result of an accident
22 while occupying, entering into, alighting from or using an automobile,
23 or as a pedestrian, caused by an automobile or by an object propelled
24 by or from an automobile, to other persons sustaining bodily injury
25 while occupying, entering into, alighting from or using the automobile
26 of the named insured, with the permission of the named insured, and
27 to pedestrians, sustaining bodily injury caused by the named insured's
28 automobile or struck by an object propelled by or from such
29 automobile.

30 "Personal injury protection coverage" means and includes:

31 a. Medical expense benefits. Payment of reasonable medical
32 expenses in an amount not to exceed [~~\$250,000~~] \$15,000 per person
33 per accident. In the event benefits paid by an insurer pursuant to this
34 subsection on a policy issued or renewed prior to the effective date of

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 P.L. , c. (now before the Legislature as this bill) are in excess
2 of \$75,000 on account of personal injury to any one person in any one
3 accident, such excess shall be paid by the insurer in consultation with
4 the Unsatisfied Claim and Judgment Fund Board and shall be
5 reimbursable to the insurer from the Unsatisfied Claim and Judgment
6 Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-73.1).

7 b. Income continuation benefits. The payment of the loss of
8 income of an income producer as a result of bodily injury disability,
9 subject to a maximum weekly payment of \$100.00. Such sum shall be
10 payable during the life of the injured person and shall be subject to an
11 amount or limit of \$5,200.00, on account of injury to any one person
12 in any one accident, except that in no case shall income continuation
13 benefits exceed the net income normally earned during the period in
14 which the benefits are payable.

15 c. Essential services benefits. Payment of essential services
16 benefits to an injured person shall be made in reimbursement of
17 necessary and reasonable expenses incurred for such substitute
18 essential services ordinarily performed by the injured person for
19 himself, his family and members of the family residing in the
20 household, subject to an amount or limit of \$12.00 per day. Such
21 benefits shall be payable during the life of the injured person and shall
22 be subject to an amount or limit of \$4,380.00, on account of injury to
23 any one person in any one accident.

24 d. Death benefits. In the event of the death of an income producer
25 as a result of injuries sustained in an accident entitling such person to
26 benefits under this section, the maximum amount of benefits which
27 could have been paid to the income producer, but for his death, under
28 subsection b. of this section shall be paid to the surviving spouse, or
29 in the event there is no surviving spouse, then to the surviving
30 children, and in the event there are no surviving spouse or surviving
31 children, then to the estate of the income producer.

32 In the event of the death of one performing essential services as a
33 result of injuries sustained in an accident entitling such person to
34 benefits under subsection c. of this section, the maximum amount of
35 benefits which could have been paid such person, under subsection c.,
36 shall be paid to the person incurring the expense of providing such
37 essential services.

38 e. Funeral expenses benefits. All reasonable funeral, burial and
39 cremation expenses, subject to a maximum benefit of \$1,000.00, on
40 account of the death of any one person in any one accident shall be
41 payable to decedent's estate.

42 Benefits payable under this section shall:

43 (1) Be subject to any option elected by the policyholder pursuant
44 to section 13 of P.L.1983, c.362 (C.39:6A-4.3);

45 (2) Not be assignable, except to a provider of service benefits
46 under this section, nor subject to levy, execution, attachment or other

1 process for satisfaction of debts.

2 Medical expense benefit payments shall be subject to a deductible
3 of \$250.00 on account of injury in any one accident and a copayment
4 of 20% of any benefits payable between \$250.00 and \$5,000.00.

5 No insurer or health provider providing benefits to an insured shall
6 have a right of subrogation for the amount of benefits paid pursuant
7 to any deductible or copayment under this section.

8 (cf: P.L.1990, c.8, s.4)

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10 2. Section 10 of P.L.1972, c.70 (C.39:6A-10) is amended to read
11 as follows:

12 10. Additional personal injury protection coverage. Insurers shall
13 make available to the named insured covered under section 4 of
14 P.L.1972, c.70 (C.39:6A-4), and, at his option, to resident relatives in
15 the household of the named insured, suitable additional first party
16 coverage for income continuation benefits, essential services benefits,
17 death benefits and funeral expense benefits, but the income
18 continuation and essential services benefits shall cease upon the death
19 of the claimant, and shall not operate to increase the amount of any
20 death benefits payable under section 4 of P.L.1972, c.70 (C.39:6A-4)
21 and such additional first party coverage shall be payable only to the
22 extent that the claimant establishes that the amount of loss sustained
23 exceeds the coverage specified in section 4 of P.L.1972, c.70
24 (C.39:6A-4). Insurers [may] shall also make available to named
25 insureds covered under section 4 of P.L.1972, c.70 (C.39:6A-4), and,
26 at their option, to resident relatives in the household of the named
27 insured or to other persons provided medical expense coverage
28 pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4), or both,
29 additional first party medical expense benefit coverage in amounts per
30 person per accident of \$25,000, \$50,000, \$100,000 and in increments
31 of \$100,000 thereafter up to \$500,000. The additional coverage shall
32 be offered by the insurer at least annually as part of the coverage
33 selection form required by section 17 of P.L.1983, c.362
34 (C.39:6A-23). Income continuation in excess of that provided for in
35 section 4 must be provided as an option by insurers for disabilities, as
36 long as the disability persists, up to an income level of \$35,000.00 per
37 year, provided that a. the excess between \$5,200.00 and the amount
38 of coverage contracted for shall be written on the basis of 75% of said
39 difference, and b. regardless of the duration of the disability, the
40 benefits payable shall not exceed the total maximum amount of income
41 continuation benefits contracted for. Death benefits provided pursuant
42 to this section shall be payable without regard to the period of time
43 elapsing between the date of the accident and the date of death, if
44 death occurs within two years of the accident and results from bodily
45 injury from that accident to which coverage under this section applies.
46 The Commissioner of Banking and Insurance is hereby authorized and

1 empowered to establish, by rule or regulation, the amounts and terms
2 of income continuation insurance to be provided pursuant to this
3 section.

4 (cf: P.L.1990, c.8, s.11)

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6 3. Section 2 of P.L.1977, c.310 (C.39:6-73.1) is amended to read
7 as follows:

8 2. In the event medical expense benefits paid by an insurer on a
9 policy issued or renewed prior to the effective date of P.L. _____, c. _____
10 (now before the Legislature as this bill), in accordance with subsection
11 a. of section 4 of P.L.1972, c.70 (C.39:6A-4), are in excess of
12 \$75,000.00 on account of personal injury to any one person in any one
13 accident, the Unsatisfied Claim and Judgment Fund shall assume such
14 excess up to \$250,000 and reimburse the insurer therefor in
15 accordance with rules and regulations promulgated by the
16 commissioner; provided, however, that this provision is not intended
17 to broaden the coverage available to accidents involving uninsured or
18 hit-and-run automobiles, to provide extraterritorial coverage, or to pay
19 excess medical expenses.

20 (cf: P.L.1990, c.8, s.14)

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22 4. Section 7 of P.L.1972, c.198 (C.39:6-86.1) is amended to read
23 as follows:

24 7. When any person qualified to receive payments under the
25 provisions of the "Unsatisfied Claim and Judgment Fund Law" suffers
26 bodily injury or death as a pedestrian, as defined in section 2 of
27 P.L.1972, c.70 (C.39:6A-2), caused by a motor vehicle, including an
28 automobile as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), and
29 a motorcycle, or by an object propelled therefrom, or arising out of an
30 accident while occupying, entering into, alighting from, or using an
31 automobile, registered or principally garaged in this State for which
32 personal injury protection benefits under the "New Jersey Automobile
33 Reparation Reform Act," P.L.1972, c.70 (C.39:6A-1 et seq.), or
34 section 19 of P.L.1983, c.362 (C.17:28-1.3), would be payable to such
35 person if personal injury protection coverage were in force and the
36 damages resulting from such accident or death are not satisfied due to
37 the personal injury protection coverage not being in effect with respect
38 to such accident, then in such event the Unsatisfied Claim and
39 Judgment Fund shall provide, under the following conditions, the
40 following benefits:

41 a. Medical expenses benefits. Payment of all reasonable medical
42 expense benefits in an amount not exceeding ~~[\$250,000]~~ \$15,000 per
43 person per accident. In the event of death, payment shall be made to
44 the estate of the decedent.

45 Medical expense benefit payments shall be subject to a deductible
46 of \$250.00 on account of injury in any one accident and a copayment

1 of 20% of any benefits payable between \$250.00 and \$5,000.00.

2 b. Income continuation benefits. The payment of the loss of
3 income of an income producer as a result of bodily injury disability,
4 subject to a maximum weekly payment of \$100.00. Such sums shall
5 be payable during the life of the injured person and shall be subject to
6 an amount or limit of \$5,200.00, on account of injury to any one
7 person in any one accident, except that in no case shall income
8 continuation benefits exceed the net income normally earned during
9 the period in which the benefits are payable.

10 c. Essential services benefits. Payment of essential services
11 benefits to an injured person shall be made in reimbursement of
12 necessary and reasonable expenses incurred for such substitute
13 essential services ordinarily performed by the injured person for
14 himself, his family and members of the family residing in the
15 household, subject to an amount or limit of \$12.00 per day. Such
16 benefits shall be payable during the life of the injured person and shall
17 be subject to an amount or limit of \$4,380.00, on account of injury to
18 any one person in any one accident.

19 d. Death benefits. In the event of the death of an income producer
20 as a result of injuries sustained in an accident entitling such person to
21 benefits under this section, the maximum amount of benefits which
22 could have been paid to the income producer, but for his death, under
23 subsection b. of this section shall be paid to the surviving spouse, or
24 in the event there is no surviving spouse, then to the surviving
25 children, and in the event there are no surviving spouse or surviving
26 children, then to the estate of the income producer.

27 In the event of the death of one performing essential services as a
28 result of injuries sustained in an accident entitling such person to
29 benefits under subsection c. of this section, the maximum amount of
30 benefits which could have been paid such person, under subsection c.,
31 shall be paid to the person incurring the expense of providing such
32 essential services.

33 e. Funeral expenses benefits. All reasonable funeral, burial and
34 cremation expenses, subject to a maximum benefit of \$1,000.00, on
35 account of the death to any one person in any one accident shall be
36 payable to decedent's estate.

37 Provided, however, that no benefits shall be paid under this section
38 unless the person applying for benefits has demonstrated that he is not
39 disqualified by reason of the provisions of subsection (a), (c), (d) or
40 (l) of section 10 of P.L.1952, c.174 (C.39:6-70), or any other
41 provision of law.

42 (cf: P.L.1990, c.8, s.101)

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44 5. This act shall take effect on the 180th day following enactment.

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STATEMENT

This bill reduces the mandatory medical expense benefits under personal injury protection coverage of an automobile insurance policy from \$250,000 to \$15,000 and requires insurers to offer increased coverages of \$25,000, \$50,000, \$100,000 and in increments of \$100,000 thereafter up to \$500,000.

Reduces mandatory PIP medical expense benefits to \$15,000 and requires insurers to offer up to \$500,000 in benefits.