

SENATE, No. 1473

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen)

SYNOPSIS

Revises personal injury protection coverage for basic automobile insurance policies from \$15,000 to \$50,000 and requires \$50,000 minimum personal injury protection coverage for standard automobile liability insurance policies.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning automobile insurance policies and amending
2 P.L.1972, c.70 and P.L.1998, c.21.

3

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

6

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 Except as provided by section 45 of P.L.2003, c.89 (C.39:6A-
11 3.3) and section 4 of P.L.1998, c.21 (C.39:6A-3.1), every standard
12 automobile liability insurance policy issued or renewed on or after
13 the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.) shall
14 contain personal injury protection benefits for the payment of
15 benefits without regard to negligence, liability or fault of any kind,
16 to the named insured and members of his family residing in his
17 household who sustain bodily injury as a result of an accident while
18 occupying, entering into, alighting from or using an automobile, or
19 as a pedestrian, caused by an automobile or by an object propelled
20 by or from an automobile, and to other persons sustaining bodily
21 injury while occupying, entering into, alighting from or using the
22 automobile of the named insured, with permission of the named
23 insured.

24 "Personal injury protection coverage" means and includes:

25 a. Payment of medical expense benefits in accordance with a
26 benefit plan provided in the policy and approved by the
27 commissioner, for reasonable, necessary, and appropriate treatment
28 and provision of services to persons sustaining bodily injury, in an
29 amount **[not to exceed]** that is no less than \$50,000 per person per
30 accident and no more than \$250,000 per person per accident. In the
31 event benefits paid by an insurer pursuant to this subsection are in
32 excess of \$75,000 on account of bodily injury to any one person in
33 any one accident, that excess shall be paid by the insurer and shall
34 be reimbursable to the insurer from the Unsatisfied Claim and
35 Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-
36 73.1). The policy form, which shall be subject to the approval of
37 the commissioner, shall set forth the benefits provided under the
38 policy, including eligible medical treatments, diagnostic tests and
39 services as well as such other benefits as the policy may provide.
40 The commissioner shall set forth by regulation a statement of the
41 basic benefits which shall be included in the policy. Medical
42 treatments, diagnostic tests, and services provided by the policy
43 shall be rendered in accordance with commonly accepted protocols
44 and professional standards and practices which are commonly
45 accepted as being beneficial for the treatment of the covered injury.

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

Matter underlined thus is new matter.

1 Protocols and professional standards and practices and lists of valid
2 diagnostic tests which are deemed to be commonly accepted
3 pursuant to this section shall be those recognized by national
4 standard setting organizations, national or state professional
5 organizations of the same discipline as the treating provider, or
6 those designated or approved by the commissioner in consultation
7 with the professional licensing boards in the Division of Consumer
8 Affairs in the Department of Law and Public Safety. The
9 commissioner, in consultation with the Commissioner of the
10 Department of Health and Senior Services and the applicable
11 licensing boards, may reject the use of protocols, standards and
12 practices or lists of diagnostic tests set by any organization deemed
13 not to have standing or general recognition by the provider
14 community or the applicable licensing boards. Protocols shall be
15 deemed to establish guidelines as to standard appropriate treatment
16 and diagnostic tests for injuries sustained in automobile accidents,
17 but the establishment of standard treatment protocols or protocols
18 for the administration of diagnostic tests shall not be interpreted in
19 such a manner as to preclude variance from the standard when
20 warranted by reason of medical necessity. The policy form may
21 provide for the precertification of certain procedures, treatments,
22 diagnostic tests, or other services or for the purchase of durable
23 medical goods, as approved by the commissioner, provided that the
24 requirement for precertification shall not be unreasonable, and no
25 precertification requirement shall apply within ten days of the
26 insured event. The policy may provide that certain benefits
27 provided by the policy which are in excess of the basic benefits
28 required by the commissioner to be included in the policy may be
29 subject to reasonable copayments in addition to the copayments
30 provided for pursuant to subsection e. of this section, provided that
31 the copayments shall not be unreasonable and shall be established
32 in such a manner as not to serve to encourage underutilization of
33 benefits subject to the copayments, nor encourage overutilization of
34 benefits. The policy form shall clearly set forth any limitations on
35 benefits or exclusions, which may include, but need not be limited
36 to, benefits which are otherwise compensable under workers'
37 compensation, or benefits for treatments deemed to be experimental
38 or investigational, or benefits deducted pursuant to section 6 of
39 P.L.1972, c.70 (C.39:6A-6). The commissioner may enlist the
40 services of a benefit consultant in establishing the basic benefits
41 level provided in this subsection, which shall be set forth by
42 regulation no later than 120 days following the enactment date of
43 P.L.1998, c.21 (C.39:6A-1.1 et al.). The commissioner shall not
44 advertise for bids for the consultant as provided in sections 3 and 4
45 of P.L.1954, c.48 (C.52:34-8 and 52:34-9).

46 Notwithstanding the provisions of P.L.2003, c.18, physical
47 therapy treatment shall not be reimbursable as medical expense
48 benefits pursuant to this subsection unless rendered by a licensed

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1 physical therapist pursuant to a referral from a licensed physician,
2 dentist, podiatrist or chiropractor within the scope of their
3 respective practices.

4 Notwithstanding the provisions of P.L.2009, c.56 (C.45:2C-19 et
5 al.), acupuncture treatment shall not be reimbursable as medical
6 expense benefits pursuant to this subsection unless rendered by a
7 licensed acupuncturist pursuant to a referral from a licensed
8 physician within the scope of the physician's practice.

9 b. Income continuation benefits. The payment of the loss of
10 income of an income producer as a result of bodily injury disability,
11 subject to a maximum weekly payment of \$100. Such sum shall be
12 payable during the life of the injured person and shall be subject to
13 an amount or limit of \$5,200, on account of injury to any one
14 person in any one accident, except that in no case shall income
15 continuation benefits exceed the net income normally earned during
16 the period in which the benefits are payable.

17 c. Essential services benefits. Payment of essential services
18 benefits to an injured person shall be made in reimbursement of
19 necessary and reasonable expenses incurred for such substitute
20 essential services ordinarily performed by the injured person for
21 himself, his family and members of the family residing in the
22 household, subject to an amount or limit of \$12 per day. Such
23 benefits shall be payable during the life of the injured person and
24 shall be subject to an amount or limit of \$4,380, on account of
25 injury to any one person in any one accident.

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

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

41 e. Funeral expenses benefits. All reasonable funeral, burial
42 and cremation expenses, subject to a maximum benefit of \$1,000,
43 on account of the death of any one person in any one accident shall
44 be payable to the decedent's estate.

45 Benefits payable under this section shall:

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

1 (2) Not be assignable, except to a provider of service benefits
2 under this section in accordance with policy terms approved by the
3 commissioner, nor subject to levy, execution, attachment or other
4 process for satisfaction of debts.

5 Medical expense benefit payments shall be subject to any
6 deductible and any copayment which may be established as
7 provided in the policy. Upon the request of the commissioner or
8 any party to a claim for benefits or payment for services rendered, a
9 provider shall present adequate proof that any deductible or
10 copayment related to that claim has not been waived or discharged
11 by the provider.

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

15 (cf: P.L.2009, c.56, s.18)

16

17 2. Section 4 of P.L.1998, c.21 (C.39:6A-3.1) is amended to
18 read as follows:

19 4. As an alternative to the mandatory coverages provided in
20 sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and 39:6A-4), any
21 owner or registered owner of an automobile registered or
22 principally garaged in this State may elect a basic automobile
23 insurance policy providing the following coverage:

24 a. Personal injury protection coverage, for the payment of
25 benefits without regard to negligence, liability or fault of any kind,
26 to the named insured and members of his family residing in his
27 household, who sustained bodily injury as a result of an accident
28 while occupying, entering into, alighting from or using an
29 automobile, or as a pedestrian, caused by an automobile or by an
30 object propelled by or from an automobile, and to other persons
31 sustaining bodily injury while occupying, entering into, alighting
32 from or using the automobile of the named insured, with the
33 permission of the named insured. "Personal injury protection
34 coverage" issued pursuant to this section means and includes
35 payment of medical expense benefits, as provided in the policy and
36 approved by the commissioner, for the reasonable and necessary
37 treatment of bodily injury in an amount not to exceed **[\$15,000]**
38 ~~\$50,000~~ per person per accident; except that, medical expense
39 benefits shall be paid in an amount not to exceed \$250,000: (1) for
40 all medically necessary treatment of permanent or significant brain
41 injury, spinal cord injury or disfigurement or (2) for medically
42 necessary treatment of other permanent or significant injuries
43 rendered at a trauma center or acute care hospital immediately
44 following the accident and until the patient is stable, no longer
45 requires critical care and can be safely discharged or transferred to
46 another facility in the judgment of the attending physician. In the
47 event benefits paid by an insurer pursuant to this subsection are in
48 excess of \$75,000 on account of personal injury to any one person

1 in any one accident covered by a policy issued or renewed prior to
2 January 1, 2004, such excess shall be paid by the insurer and shall
3 be reimbursable to the insurer from the Unsatisfied Claim and
4 Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-
5 73.1). Benefits provided under basic coverage shall be in
6 accordance with a benefit plan provided in the policy and approved
7 by the commissioner. The policy form, which shall be subject to
8 the approval of the commissioner, shall set forth the benefits
9 provided under the policy, including eligible medical treatments,
10 diagnostic tests and services as well as such other benefits as the
11 policy may provide. The commissioner shall set forth by regulation
12 a statement of the basic benefits which shall be included in the
13 policy. Medical treatments, diagnostic tests, and services provided
14 by the policy shall be rendered in accordance with commonly
15 accepted protocols and professional standards and practices which
16 are commonly accepted as being beneficial for the treatment of the
17 covered injury. Protocols and professional standards and practices
18 which are deemed to be commonly accepted pursuant to this section
19 shall be those recognized by national standard setting organizations,
20 national or state professional organizations of the same discipline as
21 the treating provider, or those designated or approved by the
22 commissioner in consultation with the professional licensing boards
23 in the Division of Consumer Affairs in the Department of Law and
24 Public Safety. The commissioner, in consultation with the
25 Commissioner of the Department of Health **[and Senior Services]**
26 and the applicable licensing boards, may reject the use of protocols,
27 standards and practices or lists of diagnostic tests set by any
28 organization deemed not to have standing or general recognition by
29 the provider community or the applicable licensing boards.
30 Protocols shall be deemed to establish guidelines as to standard
31 appropriate treatment and diagnostic tests for injuries sustained in
32 automobile accidents, but the establishment of standard treatment
33 protocols or protocols for the administration of diagnostic tests shall
34 not be interpreted in such a manner as to preclude variance from the
35 standard when warranted by reason of medical necessity. The
36 policy form may provide for the precertification of certain
37 procedures, treatments, diagnostic tests, or other services or for the
38 purchase of durable medical goods, as approved by the
39 commissioner, provided that the requirement for precertification
40 shall not be unreasonable, and no precertification requirement shall
41 apply within ten days of the insured event. The policy may provide
42 that certain benefits provided by the policy which are in excess of
43 the basic benefits required by the commissioner to be included in
44 the policy may be subject to reasonable copayments in addition to
45 the copayments provided for herein, provided that the copayments
46 shall not be unreasonable and shall be established in such a manner
47 as not to serve to encourage underutilization of benefits subject to
48 the copayments, nor encourage overutilization of benefits. The

1 policy form shall clearly set forth any limitations on benefits or
2 exclusions, which may include, but need not be limited to, benefits
3 which are otherwise compensable under workers' compensation, or
4 benefits for treatments deemed to be experimental or
5 investigational, or benefits deducted pursuant to section 6 of
6 P.L.1972, c.70 (C.39:6A-6). The commissioner may enlist the
7 services of a benefit consultant in establishing the basic benefits
8 level provided in this subsection, which shall be set forth by
9 regulation no later than 120 days following the enactment date of
10 this amendatory and supplementary act. The commissioner shall
11 not advertise for the consultant as provided in sections 3 and 4 of
12 P.L.1954, c.48 (C.52:34-8 and 52:34-9).

13 Medical expense benefits payable under this subsection shall not
14 be assignable, except to a provider of service benefits, in
15 accordance with policy terms approved by the commissioner, nor
16 shall they be subject to levy, execution, attachment or other process
17 for satisfaction of debts. Medical expense benefits payable in
18 accordance with this subsection may be subject to a deductible and
19 copayments as provided for in the policy, if any. No insurer or
20 provider providing service benefits to an insured shall have a right
21 of subrogation for the amount of benefits paid pursuant to any
22 deductible or copayment under this section.

23 Notwithstanding the provisions of P.L.2003, c.18, physical
24 therapy treatment shall not be reimbursable as medical expense
25 benefits pursuant to this subsection unless rendered by a licensed
26 physical therapist pursuant to a referral from a licensed physician,
27 dentist, podiatrist or chiropractor within the scope of their
28 respective practices.

29 Notwithstanding the provisions of P.L.2009, c.56 (C.45:2C-19 et
30 al.), acupuncture treatment shall not be reimbursable as medical
31 expense benefits pursuant to this subsection unless rendered by a
32 licensed acupuncturist pursuant to a referral from a licensed
33 physician within the scope of the physician's practice.

34 b. Liability insurance coverage insuring against loss resulting
35 from liability imposed by law for property damage sustained by any
36 person arising out of the ownership, maintenance, operation or use
37 of an automobile in an amount or limit of \$5,000, exclusive of
38 interest and costs, for damage to property in any one accident.

39 c. In addition to the aforesaid coverages required to be
40 provided in a basic automobile insurance policy, optional liability
41 insurance coverage insuring against loss resulting from liability
42 imposed by law for bodily injury or death in an amount or limit of
43 \$10,000, exclusive of interests and costs, on account of injury to, or
44 death of, one or more persons in any one accident.

45 If a named insured has elected the basic automobile insurance
46 policy option and an immediate family member or members or
47 relatives resident in his household have one or more policies with
48 the coverages provided for in sections 3 and 4 of P.L.1972, c.70

1 (C.39:6A-3 and 39:6A-4), the provisions of section 12 of P.L.1983,
2 c.362 (C.39:6A-4.2) shall apply.

3 Every named insured and any other person to whom the basic
4 automobile insurance policy, with or without the optional \$10,000
5 liability coverage insuring against loss resulting from liability
6 imposed by law for bodily injury or death provided for in
7 subsection c. of this section, applies shall be subject to the tort
8 option provided in subsection a. of section 8 of P.L.1972, c.70
9 (C.39:6A-8).

10 No licensed insurance carrier shall refuse to renew the coverage
11 stipulated by this section of an eligible person as defined in section
12 25 of P.L.1990, c.8 (C.17:33B-13) except in accordance with the
13 provisions of section 26 of P.L.1988, c.119 (C.17:29C-7.1) or with
14 the consent of the Commissioner of Banking and Insurance.
15 (cf: P.L.2009, c.56, s.17).

16

17 3. This act shall take effect on the 90th day next following
18 enactment and shall apply to policies that are delivered, issued,
19 executed, or renewed on or after that date.

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STATEMENT

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24 This bill revises the personal injury protection coverage for basic
25 automobile insurance policies from \$15,000 to \$50,000 and requires
26 a minimum personal injury protection coverage of \$50,000 for
27 standard automobile liability insurance policies. Under the bill,
28 every basic automobile insurance policy will be required to provide
29 personal injury protection coverage in an amount not to exceed
30 \$50,000 per person per accident, and every standard automobile
31 liability insurance policy will be required to provide personal injury
32 protection coverage that shall be no less than \$50,000 per person
33 per accident. Current law requires basic automobile insurance
34 policies to provide personal injury protection coverage in an amount
35 not to exceed \$15,000 per person per accident, with no minimums
36 required for standard automobile liability insurance policies.