

JAN 25 2006

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 431:10C-304, Hawaii Revised Statutes,
2 is amended to read as follows:

3 "**§431:10C-304 Obligation to pay personal injury protection**
4 **benefits.** For purposes of this section, the term "personal
5 injury protection insurer" includes personal injury protection
6 self-insurers. Every personal injury protection insurer shall
7 provide personal injury protection benefits for accidental harm
8 as follows:

9 (1) Except as otherwise provided in section 431:10C-
10 305(d), in the case of injury arising out of a motor
11 vehicle accident, the insurer shall pay, without
12 regard to fault, to the provider of services on behalf
13 of the following persons who sustain accidental harm
14 as a result of the operation, maintenance, or use of
15 the vehicle, an amount equal to the personal injury
16 protection benefits as defined in section 431:10C-
17 103.5(a) payable for expenses to that person as a
18 result of the injury:



- 1 (A) Any person, including the owner, operator,
2 occupant, or user of the insured motor vehicle;
- 3 (B) Any pedestrian (including a bicyclist); or
- 4 (C) Any user or operator of a moped as defined in
5 section 249-1;
- 6 provided that this paragraph shall not apply in the
7 case of injury to or death of any operator or
8 passenger of a motorcycle or motor scooter as defined
9 in section 286-2 arising out of a motor vehicle
10 accident, unless expressly provided for in the motor
11 vehicle policy;
- 12 (2) Payment of personal injury protection benefits shall
13 be made as the benefits accrue, except that in the
14 case of death, payment of benefits under section
15 431:10C-302(a)(5) may be made immediately in a lump
16 sum payment, at the option of the beneficiary;
- 17 (3) (A) Payment of personal injury protection benefits
18 shall be made within thirty days after the
19 insurer has received reasonable proof of the fact
20 and amount of benefits accrued, and demand for
21 payment thereof. All providers must produce



1 descriptions of the service provided in
2 conformity with applicable fee schedule codes;
3 (B) If the insurer elects to deny a claim for
4 benefits in whole or in part, the insurer shall,
5 within thirty days, notify the claimant in
6 writing of the denial and the reasons for the
7 denial. A claimant may contest any denial of
8 benefits. The denial notice shall be prepared
9 and mailed by the insurer in triplicate copies
10 and be in a format approved by the commissioner.
11 In the case of benefits for services specified in
12 section 431:10C-103.5(a) the insurer shall also
13 mail a copy of the denial to the provider; and
14 (C) If the insurer cannot pay or deny the claim for
15 benefits because additional information or loss
16 documentation is needed, the insurer shall,
17 within the thirty days, forward to the claimant
18 an itemized list of all the required documents.
19 In the case of benefits for services specified in
20 section 431:10C-103.5(a) the insurer shall also
21 forward the list to the service provider;



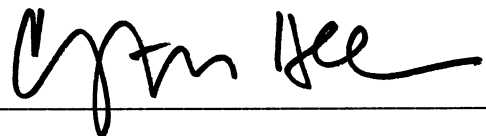
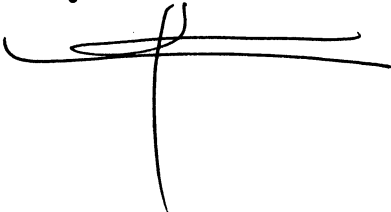
- 1 (4) Amounts of benefits which are unpaid thirty days after
2 the insurer has received reasonable proof of the fact
3 and the amount of benefits accrued, and demand for
4 payment thereof, after the expiration of the thirty
5 days, shall bear interest at the rate of one and one-
6 half per cent per month;
- 7 (5) No part of personal injury protection benefits paid
8 shall be applied in any manner as attorney's fees in
9 the case of injury or death for which the benefits are
10 paid. The insurer shall pay, subject to section
11 431:10C-211, in addition to the personal injury
12 protection benefits due, all attorney's fees and costs
13 of settlement or suit necessary to effect the payment
14 of any or all personal injury protection benefits
15 found due under the contract. Any contract in
16 violation of this provision shall be illegal and
17 unenforceable. It shall constitute an unlawful and
18 unethical act for any attorney to solicit, enter into,
19 or knowingly accept benefits under any contract;
- 20 (6) Disputes between the provider and the insurer over the
21 amount of a charge or the correct fee or procedure
22 code to be used under the workers' compensation



1 supplemental medical fee schedule shall be governed by
2 section 431:10C-308.5; and
3 (7) Any insurer who violates this section shall be subject
4 to section 431:10C-117(b) and (c)."

5 SECTION 2. Statutory material to be repealed is bracketed
6 and stricken.

7 SECTION 3. This Act shall take effect upon its approval.

8 INTRODUCED BY: 


Report Title:

MV Ins; PIP

Description:

Specifies that the claimant may contest the insurer's denial of personal injury protection benefits.

