S T A T E O F N E W Y O R K

4724--A

2015-2016 Regular Sessions

I N S E N A T E

April 10, 2015

Introduced by Sens. MARTINS, ADDABBO, AMEDORE, DILAN, LATIMER, PARKER, RITCHIE, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to verification of claims made under the comprehensive motor vehicle insurance reparations act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 5106 of the insurance law, subsection (b) as amended and subsection (d) as added by chapter 452 of the laws of 2005, is amended to read as follows:

S 5106. Fair claims settlement. (a) Payments of first party benefits and additional first party benefits shall be made as the loss is incurred. Such benefits are overdue if not paid within thirty days after the claimant supplies proof of the fact and amount of loss sustained. If proof is not supplied as to the entire claim, the amount which is supported by proof is overdue if not paid within thirty days after such proof is supplied. All overdue payments shall bear interest at the rate of two percent per month. If a valid claim or portion was overdue, the claimant shall also be entitled to recover his attorney's reasonable fee, for services necessarily performed in connection with securing payment of the overdue claim, subject to limitations promulgated by the superintendent in regulations.

(b) THE INSURER IS ENTITLED TO RECEIVE ALL ITEMS NECESSARY TO VERIFY THE CLAIM, INCLUDING MEDICAL EXAMINATION AND EXAMINATION UNDER OATH OF THE INJURED PARTY OR ANY ADDITIONAL VERIFICATION REQUIRED BY THE INSURER TO ESTABLISH PROOF OF CLAIM. THE FAILURE OF THE INJURED PARTY TO APPEAR FOR A SCHEDULED MEDICAL EXAMINATION OR EXAMINATION UNDER OATH OR TO PROVIDE ANY OTHER ADDITIONAL VERIFICATION SHALL NEITHER BE A POLICY VIOLATION NOR BE UTILIZED AS THE BASIS FOR THE DENIAL OF A CLAIM OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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DISCLAIMER, PROVIDED THE INJURED PARTY SUBMITS TO THE INSURER WRITTEN PROOF OFFERING EITHER (1) REASONABLE JUSTIFICATION FOR THE FAILURE TO COMPLY; OR (2) A DEMONSTRABLE WILLINGNESS TO COMPLY WITHIN THIRTY CALENDAR DAYS FROM THE DATE OF THE INJURED PARTY'S FAILURE TO APPEAR OR OTHER VERIFICATION BECOMES OVERDUE. IF SUCH WRITTEN PROOF IS NOT PROVIDED WITHIN A REASONABLE TIME PERIOD, THE INSURER MAY ONLY DENY THAT PORTION OF THE CLAIM FOR WHICH THE REQUESTED MEDICAL EXAMINATION, EXAMINATION UNDER OATH OR ADDITIONAL VERIFICATION WAS REQUIRED AS PROOF OF THE FACT AND AMOUNT OF LOSS SUSTAINED. IN NO EVENT SHALL THE FAILURE OF THE INJURED PARTY TO APPEAR FOR A SCHEDULED MEDICAL EXAMINATION OR EXAMINATION UNDER OATH OR TO PROVIDE ANY OTHER ADDITIONAL VERIFICATION SERVE AS THE BASIS FOR THE DENIAL OF THAT PORTION OF A CLAIM RELATING TO EMERGENCY MEDICAL CARE PROVIDED WITHIN FORTY-EIGHT HOURS OF AN ACCIDENT.

(C) Every insurer shall provide a claimant with the option of submitting any dispute involving the insurer's liability to pay first party benefits, or additional first party benefits, the amount thereof or any other matter which may arise pursuant to subsection (a) of this section to arbitration pursuant to simplified procedures to be promulgated or approved by the superintendent. Such simplified procedures shall include an expedited eligibility hearing option, when required, to designate the insurer for first party benefits pursuant to subsection [(d)] (E) of this section. The expedited eligibility hearing option shall be a forum for eligibility disputes only, and shall not include the submission of any particular bill, payment or claim for any specific benefit for adjudication, nor shall it consider any other defense to payment.

[(c)] (D) An award by an arbitrator shall be binding except where vacated or modified by a master arbitrator in accordance with simplified procedures to be promulgated or approved by the superintendent. The grounds for vacating or modifying an arbitrator's award by a master arbitrator shall not be limited to those grounds for review set forth in article seventy-five of the civil practice law and rules. The award of a master arbitrator shall be binding except for the grounds for review set forth in article seventy-five of the civil practice law and rules, and provided further that where the amount of such master arbitrator's award is five thousand dollars or greater, exclusive of interest and attorney's fees, the insurer or the claimant may institute a court action to adjudicate the dispute de novo.

[(d)] (E) Where there is reasonable belief more than one insurer would be the source of first party benefits, the insurers may agree among themselves, if there is a valid basis therefor, that one of them will accept and pay the claim initially. If there is no such agreement, then the first insurer to whom notice of claim is given shall be responsible for payment. Any such dispute shall be resolved in accordance with the arbitration procedures established pursuant to section five thousand one hundred five of this article and regulation as promulgated by the superintendent, and any insurer paying first-party benefits shall be reimbursed by other insurers for their proportionate share of the costs of the claim and the allocated expenses of processing the claim, in accordance with the provisions entitled "other coverage" contained in regulation and the provisions entitled "other sources of first-party benefits" contained in regulation. If there is no such insurer and the motor vehicle accident occurs in this state, then an applicant who is a qualified person as defined in article fifty-two of this chapter shall institute the claim against motor vehicle accident indemnification corporation.

S 2. This act shall take effect immediately.