

# STATE OF NEW YORK

10297

## IN ASSEMBLY

May 13, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Septimo) --  
read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to increasing certain  
monetary limits under the comprehensive motor vehicle insurance repa-  
rations act

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Paragraphs 2 and 3 of subsection (a) of section 5102 of the  
2 insurance law, paragraph 2 as amended by chapter 320 of the laws of  
3 1991, are amended to read as follows:

4 (2) Loss of earnings from work which the person would have performed  
5 had he not been injured, and reasonable and necessary expenses incurred  
6 by such person in obtaining services in lieu of those that he would have  
7 performed for income, up to [~~two~~] three thousand dollars per month for  
8 not more than three years from the date of the accident causing the  
9 injury. An employee who is entitled to receive monetary payments, pursu-  
10 ant to statute or contract with the employer, or who receives voluntary  
11 monetary benefits paid for by the employer, by reason of the employee's  
12 inability to work because of personal injury arising out of the use or  
13 operation of a motor vehicle, is not entitled to receive first party  
14 benefits for "loss of earnings from work" to the extent that such mone-  
15 tary payments or benefits from the employer do not result in the employ-  
16 ee suffering a reduction in income or a reduction in the employee's  
17 level of future benefits arising from a subsequent illness or injury.

18 (3) [~~All~~] Any and all other reasonable and necessary expenses incurred  
19 including, without limitation, medical transportation, non-medical  
20 transportation, pet care services, house cleaning services, laundry  
21 services, and food preparation and delivery services, up to [~~twenty-~~  
22 ~~five~~] fifty dollars per day for not more than one year from the date of  
23 the accident causing the injury. In determining whether an "other  
24 expense" is reasonable and necessary, the certification of a treating  
25 physician that the claimant was disabled from work during the relevant  
26 period constitutes prima facie proof that the expense was reasonable and  
27 necessary.

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

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1     § 2. Subsection (b) of section 5102 of the insurance law is amended to  
2 read as follows:

3     (b) "First party benefits" means payments to reimburse a person for  
4 basic economic loss on account of personal injury arising out of the use  
5 or operation of a motor vehicle, less:

6     (1) Twenty percent of lost earnings computed pursuant to paragraph two  
7 of subsection (a) of this section, provided, however, that such twenty  
8 percent shall not count towards the fifty thousand dollar limit for  
9 basic economic loss per person described in subsection (a) of this  
10 section.

11     (2) Amounts recovered or recoverable on account of such injury under  
12 state or federal laws providing social security disability benefits, or  
13 workers' compensation benefits, or disability benefits under article  
14 nine of the workers' compensation law, or medicare benefits, other than  
15 lifetime reserve days and provided further that the medicare benefits  
16 utilized herein do not result in a reduction of such person's medicare  
17 benefits for a subsequent illness or injury.

18     (3) Amounts deductible under the applicable insurance policy.

19     § 3. This act shall take effect immediately.