

STATE OF NEW YORK

5353

2025-2026 Regular Sessions

IN SENATE

February 20, 2025

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to enacting the "automobile insurance fraud prevention act of 2025"

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

1 Section 1. This act shall be known and may be cited as the "automobile
2 insurance fraud prevention act of 2025".

3 § 2. Section 5106 of the insurance law, subsection (b) as amended by
4 chapter 452 of the laws of 2005, subsection (d) as amended by section 8
5 of part AAA of chapter 59 of the laws of 2017, paragraph 2 of subsection
6 (d) as amended by chapter 129 of the laws of 2022, and subsection (e) as
7 added by chapter 766 of the laws of 2023, is amended to read as follows:

8 § 5106. Fair claims settlement. (a) (1) Payments of first party bene-
9 fits and additional first party benefits shall be made as the loss is
10 incurred. Such benefits are overdue if not paid within thirty days
11 after the claimant supplies proof of the fact and amount of loss
12 sustained. If proof is not supplied as to the entire claim, the amount
13 which is supported by proof is overdue if not paid within thirty days
14 after such proof is supplied. All overdue payments shall bear interest
15 at the rate of two percent per month. If a valid claim or portion was
16 overdue, the claimant shall also be entitled to recover ~~[his]~~ their
17 attorney's reasonable fee, for services necessarily performed in
18 connection with securing payment of the overdue claim, subject to limi-
19 tations promulgated by the superintendent in regulations.

20 (2) The failure to issue a denial of a claim within thirty days shall
21 not preclude the insurer or self-insurer from presenting evidence to
22 establish that (A) the services or items billed for in a claim were not
23 provided; (B) certain portions of the charges for services in a claim
24 exceed, by more than ten percent, the charges permissible under sched-
25 ules prepared and established pursuant to subsections (a) and (b) of

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

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1 section five thousand one hundred eight of this article; or (C) the
2 event from which the claim arose was based upon an intent to defraud an
3 insurer or self-insurer. Nothing contained in this paragraph shall
4 preclude an insurer from contesting the existence of applicable insur-
5 ance coverage for the loss claimed.

6 (3) An insurer may deny a claim on the basis of lack of medical neces-
7 sity not later than sixty days after the date upon which the claim
8 became overdue. Any denial of a claim which is based upon a lack of
9 medical necessity shall be based upon review by a licensed provider who
10 typically diagnoses and provides treatment for the condition under
11 review, or typically provides the health care service or treatment under
12 review. Copies of all reports prepared by a health care provider who
13 examines a claimant at the request of an insurer or reviews a claim for
14 medical benefits at the request of an insurer shall be provided to the
15 claimant, the claimant's attorney and the claimant's treating health
16 care provider within thirty business days of such examination or review.

17 (b) [~~Every insurer shall provide a~~] (1) A claimant [~~with~~] shall have
18 the option of submitting any dispute involving the insurer's liability
19 to pay first party benefits, or additional first party benefits, the
20 amount thereof or any other matter which may arise pursuant to
21 subsection (a) of this section to arbitration pursuant to simplified
22 procedures to be promulgated or approved by the superintendent. Such
23 simplified procedures shall include an expedited eligibility hearing
24 option, when required, to designate the insurer for first party benefits
25 pursuant to subsection [~~(d)~~] (f) of this section. The expedited eligi-
26 bility hearing option shall be a forum for eligibility disputes only,
27 and shall not include the submission of any particular bill, payment or
28 claim for any specific benefit for adjudication, nor shall it consider
29 any other defense to payment.

30 [~~(e)~~] (2) The commencement of a court proceeding or the submission of
31 a dispute to arbitration shall not preclude a claimant from electing to
32 submit other disputes arising from the same instance of use or operation
33 of a motor vehicle to the alternate forum. However, with the exception
34 of a proceeding brought pursuant to article seventy-five of the civil
35 practice law and rules, a claimant may not submit a dispute regarding
36 the same denial to multiple forums.

37 (3) Arbitrators are required to follow and apply substantive law. An
38 award by an arbitrator shall be binding except where vacated or modified
39 by a master arbitrator in accordance with simplified procedures to be
40 promulgated or approved by the superintendent, which shall offer the
41 parties the opportunity to submit written briefs. The grounds for vacat-
42 ing or modifying an arbitrator's award by a master arbitrator shall not
43 be limited to those grounds for review set forth in article seventy-five
44 of the civil practice law and rules and shall include factual, legal and
45 procedural errors. The award of a master arbitrator shall be binding
46 except for the grounds for review set forth in article seventy-five of
47 the civil practice law and rules, and provided further that where the
48 amount of such master arbitrator's award is five thousand dollars or
49 greater, exclusive of interest and attorney's fees, the insurer or the
50 claimant may institute a court action to adjudicate the dispute de novo.

51 [~~(d)~~] (c) With respect to an action for serious personal injury pursu-
52 ant to section five thousand one hundred four of this article, the award
53 of an arbitrator or master arbitrator rendered in a proceeding brought
54 pursuant to this article, other than an award pertaining to the issue of
55 the existence of insurance coverage, shall not constitute collateral
56 estoppel of the issues arbitrated.

1 (d) With respect to an arbitration or an action commenced in a court
2 of competent jurisdiction initiated to obtain payment of an overdue
3 claim for the payment of medical benefits prima facie entitlement to
4 benefits shall be established by filing a verification by the claimant
5 with the arbitration demand or complaint, setting forth that:

6 (1) the claimant was licensed to render the services or the items
7 provided at the time they were provided;

8 (2) the services were rendered or items supplied by the claimant;

9 (3) the services or items were medically necessary, or, for services
10 or supplies provided pursuant to prescription, that such were properly
11 supported by a prescription;

12 (4) the claimant received an assignment of benefits from the injured
13 party or the guardian or parent of the injured party; and

14 (5) the claimant authorized the particular attorney or law firm to
15 commence the suit.

16 (e) With respect to an action commenced in a court of competent juris-
17 isdiction to obtain benefits pursuant to this article:

18 (1) A rebuttable presumption of admissibility attaches to claims
19 forms, denial of claims forms, verification requests and responses ther-
20 eto, when such are accompanied by an affidavit establishing that such
21 forms are business records pursuant to rule forty-five hundred eighteen
22 of the civil practice law and rules.

23 (2) A rebuttable evidentiary presumption shall attach to such docu-
24 ments referenced in paragraph one of this subsection that such are
25 valid.

26 (3) A rebuttable evidentiary presumption shall attach to such docu-
27 ments referenced in paragraph one of this subsection that such were
28 mailed to the address contained thereon, on the date contained thereon.

29 (4) A rebuttable evidentiary presumption shall attach to proofs of
30 payment that such payments were made by the insurer and received by the
31 plaintiff.

32 (5) In matters where the insurer's denial is based upon an alleged
33 lack of medical necessity, a rebuttable presumption of admissibility
34 attaches to medical reports of the claimant's treating providers.

35 (6) Nothing contained in this subsection shall preclude a party from
36 offering evidence at trial to rebut any presumption in this subsection,
37 nor to preclude an insurer from offering evidence at trial on any meri-
38 torious, non-precluded defense to payment of the benefits.

39 (7) The deposition of any person may be used by any party without the
40 necessity of showing unavailability or special circumstances, subject to
41 the right of any party to move pursuant to section thirty-one hundred
42 three of the civil practice law and rules to prevent abuse, provided
43 that the party against whom the evidence is offered had been afforded an
44 opportunity to participate and question the witness at the deposition.

45 (f) (1) Except as provided in paragraph two of this subsection, where
46 there is reasonable belief more than one insurer would be the source of
47 first party benefits, the insurers may agree among themselves, if there
48 is a valid basis therefor, that one of them will accept and pay the
49 claim initially. If there is no such agreement, then the first insurer
50 to whom notice of claim is given shall be responsible for payment. Any
51 such dispute shall be resolved in accordance with the arbitration proce-
52 dures established pursuant to section five thousand one hundred five of
53 this article and regulations as promulgated by the superintendent, and
54 any insurer paying first-party benefits shall be reimbursed by other
55 insurers for their proportionate share of the costs of the claim and the
56 allocated expenses of processing the claim, in accordance with the

1 provisions entitled "other coverage" contained in regulation and the
2 provisions entitled "other sources of first-party benefits" contained in
3 regulation. If there is no such insurer and the motor vehicle accident
4 occurs in this state, then an applicant who is a qualified person as
5 defined in article fifty-two of this chapter shall institute the claim
6 against the motor vehicle accident indemnification corporation.

7 (2) A group policy issued pursuant to section three thousand four
8 hundred fifty-five or three thousand four hundred fifty-eight, as
9 amended by chapter one hundred twenty-nine of the laws of two thousand
10 twenty-two, of this chapter shall provide first party benefits when a
11 dispute exists as to whether a driver was using or operating a motor
12 vehicle in connection with a transportation network company or peer-to-
13 peer car sharing program when loss, damage, injury, or death occurs. A
14 transportation network company or peer-to-peer car sharing program
15 administrator shall notify the insurer that issued the owner's policy of
16 liability insurance of the dispute within ten business days of becoming
17 aware that the dispute exists. When there is a dispute, the group insurer
18 liable for the payment of first party benefits under a group policy
19 shall have the right to recover the amount paid from the driver's insurer
20 or in the case of a peer-to-peer car sharing program, the shared
21 vehicle owner's insurer to the extent that the driver would have been
22 liable to pay damages in an action at law.

23 ~~[(e)]~~ (g) With respect to an action for serious personal injury
24 permissible under section five thousand one hundred four of this article,
25 an award or decision of an arbitrator or master arbitrator or that
26 is court rendered pursuant to paragraph two of subsection ~~[(e)]~~ (b) of
27 this section seeking no-fault reimbursement by or for medical providers,
28 shall not be given collateral estoppel effect in any action or proceeding
29 arising out of the same occurrence and shall not be admissible in
30 any action or proceeding in actions seeking damages for bodily injuries,
31 pain suffering, medical care and loss of wages as evidence of any facts.

32 § 3. Section 5109 of the insurance law, as added by chapter 423 of the
33 laws of 2005, is amended to read as follows:

34 § 5109. Unauthorized providers of health services. (a) The superintendent
35 ~~[, in consultation with the commissioner of health and the commissioner of education,~~
36 shall by regulation, promulgate standards and
37 procedures for investigating and suspending or removing the authorization
38 for providers of health services to demand or request payment for
39 health services as specified in paragraph one of subsection (a) of
40 section five thousand one hundred two of this article upon findings
41 reached after investigation pursuant to this section. Such regulations
42 shall ensure the same or greater due process provisions, ~~[including]~~ and
43 include notice and opportunity to be heard, as those afforded physicians
44 investigated under article two of the workers' compensation law and
45 shall include provision for notice to all providers of health services
46 of the provisions of this section and regulations promulgated thereunder
47 at least ninety days in advance of the effective date of such regulations.
48 As used in this section, "health services" means services,
49 supplies, therapies or other treatment as specified in subparagraph (i),
50 (ii), or (iv) of paragraph one of subsection (a) of section five thousand
51 one hundred two of this article.

52 (b) ~~[The commissioner of health and the commissioner of education shall provide a list of the names of all providers of health services who the commissioner of health and the commissioner of education shall deem, after reasonable investigation, not authorized to demand or request any payment for medical services in connection with any claim~~

1 ~~under this article because such~~ Following the hearing conducted pursu-
2 ant to the procedures and regulation promulgated pursuant to this
3 section, the superintendent may prohibit a provider of health services
4 from demanding or requesting payment for health services subsequently
5 rendered under this article, for a period not exceeding three years, if
6 the superintendent determines, after notice and hearing, that the
7 provider of health services:

8 (1) has admitted to, or been found guilty of, professional [~~or other~~]
9 misconduct [~~or incompetency~~], as defined in the education law, in
10 connection with [medical] health services rendered under this article;
11 or

12 (2) has exceeded the limits of [~~his or her~~] their professional compe-
13 tence in rendering medical care under this article or has knowingly made
14 a false statement or representation as to a material fact in any medical
15 report made in connection with any claim under this article; or

16 (3) solicited, or has employed another to solicit for [~~himself or~~
17 ~~herself~~] themselves or for another, professional treatment, examination or
18 care of an injured person in connection with any claim under this arti-
19 cle; or

20 (4) has refused to appear before, or to answer upon request of, the
21 [~~commissioner of health, the~~] superintendent[,], or any duly authorized
22 officer of the state, any legal question, or refused to produce any
23 relevant information concerning [~~his or her~~] the conduct of the provider
24 of health services in connection with [~~rendering medical~~] health
25 services rendered under this article; or

26 (5) has engaged in [~~patterns~~] a pattern of billing for: health
27 services [which were not provided.] alleged to have been rendered under
28 this article, when the health services were not rendered, provided that
29 this shall not be construed to apply to good faith disputes regarding
30 the appropriateness of a particular coding to describe a health care
31 service; or

32 (6) utilized unlicensed persons to render health services under this
33 article, when only a person licensed in this state may render the health
34 services; or

35 (7) utilized licensed persons to render health services under this
36 article, when rendering the health services is beyond the authorized
37 scope of the license of such person; or

38 (8) unlawfully ceded ownership, operation or control of a business
39 entity authorized to provide professional health services in this state,
40 including but not limited to a professional service corporation, profes-
41 sional limited liability company or registered limited liability part-
42 nership, to a person not licensed to render the health services which
43 the entity is legally authorized to provide; or

44 (9) committed a fraudulent insurance act as defined in section 176.05
45 of the penal law; or

46 (10) has been convicted of a crime involving fraudulent or dishonest
47 practices; or

48 (11) has, after warning by the superintendent, engaged in a pattern of
49 unlawfully attempting to collect payment directly from the patient or
50 eligible person for services rendered under this article when such
51 attempts violate the terms of an enforceable assignment of benefits.

52 (c) [~~Providers~~] The superintendent shall by regulation develop due
53 process procedures to assure a health provider accused under this
54 section has appropriate notice, an opportunity for a fair hearing and
55 appeal prior to a determination that the health provider may not bill
56 for services under this section. A provider of health services shall

1 ~~[refrain from subsequently treating for remuneration, as a private~~
2 ~~patient, any person seeking medical treatment]~~ not demand or request
3 payment for any health services under this article ~~[if such provider~~
4 ~~pursuant to this section has been prohibited from demanding or request-~~
5 ~~ing any payment for medical services under this article. An injured~~
6 ~~claimant so treated or examined may raise this as]~~ that are rendered
7 during the term of the prohibition ordered by the superintendent pursu-
8 ant to subsection (b) of this section. The prohibition ordered by the
9 superintendent may be a defense in any action by ~~[such]~~ the provider of
10 health services for payment for ~~[treatment]~~ health services rendered
11 pursuant to this article at any time after such provider has been
12 prohibited from demanding or requesting payment for ~~[medical]~~ such
13 health services in connection with any claim under this article.

14 (d) The ~~[commissioner of health and the commissioner of education]~~
15 superintendent shall maintain and regularly update a database containing
16 a list of providers of health services prohibited by this section from
17 demanding or requesting any payment ~~[for health services connected to a~~
18 ~~claim]~~ rendered under this article and shall make ~~[such]~~ the information
19 available to the public ~~[by means of a website and by a toll free~~
20 ~~number]~~.

21 (e) The superintendent may levy a civil penalty not exceeding fifty
22 thousand dollars on any provider of health services that the superinten-
23 dent prohibits from demanding or requesting payment for health services
24 pursuant to subsection (b) of this section. Any civil penalty imposed
25 for a fraudulent insurance act, as defined in section 176.05 of the
26 penal law, shall be levied pursuant to article four of this chapter.

27 (f) Nothing in this section shall be construed as limiting in any
28 respect the powers and duties of the commissioner of health, commission-
29 er of education or the superintendent to investigate instances of
30 misconduct by a ~~[health care]~~ provider ~~[and, after a hearing and upon~~
31 ~~written notice to the provider, to temporarily prohibit a provider of~~
32 ~~health services under such investigation from demanding or requesting~~
33 ~~any payment for medical services under this article for up to ninety~~
34 ~~days from the date of such notice]~~ of health services and take appropri-
35 ate action pursuant to any other provision of law. A determination of
36 the superintendent pursuant to subsection (b) of this section shall not
37 be binding upon the commissioner of health or the commissioner of educa-
38 tion in a professional discipline proceeding relating to the same
39 conduct.

40 § 4. Subsection (d) of section 5102 of the insurance law, as amended
41 by chapter 955 of the laws of 1984, is amended to read as follows:

42 (d) "Serious injury" means a personal injury which results in death;
43 dismemberment; significant disfigurement; a fracture; loss of a fetus; a
44 complete tear or rupture of a nerve, tendon, ligament, cartilage or
45 muscle; a tear, rupture or impingement of a nerve, tendon, ligament,
46 cartilage or muscle which results in a significant impairment of a body
47 organ, member, function or system; permanent loss of use of a body
48 organ, member, function or system; permanent consequential limitation of
49 use of a body organ or member; significant limitation of use of a body
50 function or system; or a medically determined injury or impairment of a
51 non-permanent nature which prevents the injured person from performing
52 substantially all of the material acts which constitute such person's
53 usual and customary daily activities for not less than ninety days
54 during the one hundred eighty days immediately following the occurrence
55 of the injury or impairment.

1 § 5. Subsection (j) of section 3420 of the insurance law is amended by
2 adding a new paragraph 4 to read as follows:

3 (4) The term "covered person" as used in this article shall mean any
4 pedestrian injured through the use or operation of, or any owner, opera-
5 tor or occupant of, a motor vehicle which has in effect the financial
6 security required by article six or eight of the vehicle and traffic law
7 or which is referred to in subdivision two of section three hundred
8 twenty-one of such law; or any other person entitled to first party
9 benefits. For the purposes of this article, "covered person" shall also
10 include any person injured as the result of a staged, planned or inten-
11 tional accident, provided that such person is not a perpetrator of or a
12 knowing participant in the staging or planning of the accident.

13 § 6. Section 5202 of the insurance law is amended by adding a new
14 subsection (m) to read as follows:

15 (m) "Covered person" means any pedestrian injured through the use or
16 operation of, or any owner, operator or occupant of, a motor vehicle
17 which has in effect the financial security required by article six or
18 eight of the vehicle and traffic law or which is referred to in subdivi-
19 sion two of section three hundred twenty-one of such law; or any other
20 person entitled to first party benefits. For the purposes of this arti-
21 cle, "covered person" shall also include any person injured as the
22 result of a staged, planned or intentional accident, provided that such
23 person is not a perpetrator of or a knowing participant in the staging
24 or planning of the accident.

25 § 7. This act shall take effect immediately; provided that:

26 (a) section two of this act shall apply to benefits initiated on or
27 after the one hundred eightieth day after this act shall have become a
28 law; and

29 (b) sections three, five and six of this act shall take effect on the
30 one hundred eightieth day after this act shall have become a law,
31 provided that the superintendent of financial services shall immediately
32 promulgate rules and regulations pursuant to section 5109 of the insur-
33 ance law as amended by section three of this act and sections five and
34 six of this act shall apply to all new policies and policies that are
35 renewed or modified after such one hundred eightieth day.