

AN ACT relating to basic reparation benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 304.39-210 is amended to read as follows:

- (1) Basic and added reparation benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as work loss, replacement services loss, or medical expense is incurred. Benefits are overdue if not paid within thirty (30) days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, unless the reparation obligor elects to accumulate claims for periods not exceeding thirty-one (31) days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, and pays them within fifteen (15) days after the period of accumulation. Notwithstanding any provision of this chapter to the contrary, benefits are not overdue if a reparation obligor has not made payment to a provider of services due to the request of a secured person when the secured person is directing the payment of benefits among the different elements of loss. If reasonable proof is supplied as to only part of a claim, and the part totals one hundred dollars (\$100) or more, the part is overdue if not paid within the time provided by this section. Medical expense benefits may be paid by the reparation obligor directly to persons supplying products, services, or accommodations to the claimant, if the claimant so designates.
- (2) Overdue payments bear interest at the rate of twelve percent (12%) per annum, except that if delay was without reasonable foundation the rate of interest shall be eighteen percent (18%) per annum.
- (3) A claim for basic or added reparation benefits shall be paid without deduction for the benefits which are to be subtracted pursuant to the provisions on calculation of net loss if these benefits have not been paid to the claimant before the reparation benefits are overdue or the claim is paid. The reparation obligor is entitled to reimbursement from the person obligated to make the payments or from the

claimant who actually receives the payments.

- (4) A reparation obligor may bring an action to recover benefits which are not payable, but are in fact paid, because of an intentional misrepresentation of a material fact, upon which the reparation obligor relies, by the insured or by a person providing an item of medical expense. The action may be brought only against the person providing the item of medical expense, unless the insured has intentionally misrepresented the facts or knows of the misrepresentation. An insurer may offset amounts he is entitled to recover from the insured under this subsection against any basic or added reparation benefits otherwise due.
- (5) A reparation obligor who rejects a claim for basic reparation benefits shall give to the claimant prompt written notice of the rejection, specifying the reason. If a claim is rejected for a reason other than that the person is not entitled to the basic reparation benefits claimed, the written notice shall inform the claimant that he may file his claim with the assigned claims bureau and shall give the name and address of the bureau.

(6) (a) As used in this subsection:

- 1. "Board" has the same meaning as in KRS 312.015(1);**
- 2. "Chiropractor" has the same meaning as in KRS 312.015(3); and**
- 3. "Peer review" has the same meaning as in KRS 312.015(4).**

(b) A reparations obligor, when seeking to deny or reduce reimbursement for medical expenses to a person entitled to basic reparations benefits and those medical expenses are for services provided by a chiropractor, shall base the denial or reduction on a peer review. The peer review shall be performed by a chiropractor who is:

- 1. Licensed in accordance with KRS Chapter 312 and qualified to conduct a peer review pursuant to KRS 312.200(3); and**
- 2. Registered with the board.**

- (c) 1. If the person entitled to basic reparation benefits or chiropractor who provided the services disagrees with the denial or reduction of basic reparation benefits, the person entitled to basic reparation benefits or provider involved may submit written complaints to the board regarding decisions which the person or provider believes to be inappropriate or in error.
2. The peer review committee, appointed by the board pursuant to KRS 312.200, shall promptly review the disputed claim, and if the peer review committee determines that the denial or reduction of basic reparation benefits was inappropriate or in error, the decision of the peer review committee shall become binding on the insurer and the complainant.
3. To defray the expenses associated with the peer review, a reasonable fee for the service shall be charged by the board, not to exceed one thousand dollars (\$1,000). This fee shall be paid by the party who does not prevail in the peer review committee's decision.
4. a. Once a final decision has been made by the peer review committee, the committee shall recommend to the board that a complaint be filed against a doctor of chiropractic performing the peer review under paragraph (b) of this subsection, if it appears that reasonable cause exists to believe that the peer-reviewing doctor of chiropractic has violated any portion of KRS Chapter 312 or 201 KAR Chapter 21 for which a chiropractor may be disciplined.
- b. If the board receives a recommendation for a complaint from the peer review committee, it shall take corrective measures which may include a reprimand, fines, and suspension, or revocation of

the peer reviewer's ability to further participate in peer reviews.

(d) Nothing in this subsection shall prohibit:

- 1. A reparations obligor from performing a utilization review or requesting an independent medical examination;*
- 2. A reparations obligor from attempting to negotiate a mutually agreeable settlement with the provider;*
- 3. Other health care professionals from providing testimony in a court of law; or*
- 4. A person entitled to basic reparations benefits, a reparations obligor, or a chiropractor from seeking relief in a court of law.*