

Who Pays the Attorney Fees?

No attorney fees for representing a claimant in connection with a claim for first-party benefits can be charged on a contingent fee basis. Attorney fees cannot be deducted from the benefits due to a claimant. An attorney may charge a claimant a reasonable fee based on the actual time expended. If an insurer is found to have acted with no reasonable foundation for refusing to pay the benefits when due, the insurer must pay, in addition to the benefits owed with interest, reasonable attorney fees based on actual time expended.

If an attorney represents you on a third-party claim, he or she may charge you a contingent fee. A contingent fee provides for a percent of the gross recovery to go to attorneys fees. The attorney may also charge the claimant costs in addition to the contingent fees.

How Can I Locate a Lawyer?

Call the Pennsylvania Bar Association Lawyer Referral Service toll free at 800-692-7375 (in PA) or 717-238-6807 (out of state). Many counties have this same service at the local level. Look in your Yellow Pages under "attorneys" for more details.

Auto Accidents & Insurance

If you are involved in an accident in which a person is injured or there is damage to the vehicles or other property, you must stop, call the police and give information and assistance. There are criminal penalties, including fines and imprisonment, if you do not stop at the scene of an accident in which you are involved.

Your first duty is to render assistance to anyone injured in the accident, if you are able. You must then notify the nearest police station. You are required to give your name, address, automobile registration number and upon request, show your insurance or financial responsibility information and your driver's license.

If the police do not investigate at the scene of the accident, you must notify the police department closest to the accident as soon as possible.

What Is the Motor Vehicle Financial Responsibility Insurance Law?

The Motor Vehicle Financial Responsibility Insurance Law, effective July 1, 1990, provides basic minimum protection for accident victims. Two types of insurance coverage can be purchased, which are known as limited tort option and full tort option. Those who select the limited tort option, or those individuals who are bound by someone else's selection of limited tort, may not bring an action for non-economic damages, or "pain and suffering," unless they have suffered a "serious injury." A serious injury is defined by law as a personal injury resulting in death, permanent and serious disfigurement, or serious impairment of bodily function. There are a few other exceptions to the limited tort option.

Those who select the full tort option may bring an action for pain and suffering for all types of injuries.

All motor vehicle owners must prove they have "financial responsibility" to be able to register their vehicles. Financial responsibility

means that you, the owner, are able to pay for damages caused by you or another driver of your car. You can show financial responsibility by buying insurance or by certifying to the Pennsylvania Department of Transportation that you can pay for up to \$15,000 for injuries to one person in one accident, \$30,000 for injuries to more than one person in one accident, and for \$5,000 in damages to someone else's property. Insurance is the only practical way for most vehicle owners to meet these requirements.

Who Is Covered by Insurance?

Your insurance policy will cover you, the policyholder, all members of your family residing at home, most passengers riding in your car, anyone driving the car with the owner's permission, pedestrians, bicyclists and others not required to buy insurance.

If you own a motor vehicle but do not purchase insurance, you are not allowed by law to bring an action for damages, unless an exception applies.

Consumer Legal Information



Pamphlets

by the

PENNSYLVANIA BAR ASSOCIATION

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Pennsylvania Bar Association
100 South Street, PO Box 186,
Harrisburg, PA 17108

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Special Note: This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referred to here.

If you do not own a car or are not covered by a policy of insurance, but are involved in a motor vehicle accident, you will be covered by one of the vehicles involved or by the Assigned Claims Plan. The Plan is maintained and funded by the insurance industry. It will pay medical benefits of up to \$5,000, less any payments from workers' compensation or an accident and health insurance policy, but will not pay for income loss or accidental death benefit.

What Coverage Is Required?

A. REQUIRED FIRST PARTY BENEFITS

Generally, you must purchase a minimum of \$5,000 medical coverage. Higher levels of medical coverage are available as an option, as are coverages for income loss, accidental death, and funeral expenses. These are called "first party" coverages because any benefits due you and/or anyone covered by your policy will be paid by your own insurance company, no matter who caused the accident.

(1) Medical Benefit — You must purchase at least \$5,000 coverage to pay for any medical and rehabilitation expenses resulting from an auto accident. If you want to buy more than the minimum \$5,000 coverage, you may buy up to \$1 million coverage.

(2) Income-Loss Benefit — This is an optional coverage. Most plans will provide 80 percent of gross income lost after the first five days of work missed.

(3) Funeral Benefit and Accidental Death Benefit — While not required, the law provides that you may purchase up to \$25,000 in accidental death benefit coverage and up to \$2,500 in funeral benefits. If you already have adequate life insurance, you probably won't need this coverage.

B. REQUIRED LIABILITY COVERAGE

(1) Bodily Injury Liability Coverage — This coverage will pay for the damages to a person you kill or injure in an auto accident if you are legally at fault in causing the accident.

Under the law, you must purchase coverage of at least \$15,000 for injuries you may cause to any one person and \$30,000 for injuries to more than one person in a single accident. You may purchase more coverage.

(2) Property Damage Liability Insurance — You must purchase at least \$5,000 coverage for property of others that you damage if you are at fault in causing the accident. Such property could include other motor vehicles, telephone poles, trees or buildings. You may purchase more coverage.

What Coverage Is Optional?

Collision insurance will pay for damage to your car caused by a collision with another vehicle or object. Comprehensive physical damage insurance pays if your car is stolen or damaged by such things as fire, flood, falling objects, earthquake, explosion, hail, wind-storm, water or vandalism.

Collision and comprehensive insurance are usually sold with deductibles. A deductible is the amount of each loss you pay out of your pocket. A high deductible lowers the cost of the coverage.

Two other important optional coverages available for your own protection are uninsured motorist coverage, which will pay you in the event that you are hit by an uninsured driver, and underinsured motorist coverage, which can pay you money if the at-fault driver has inadequate insurance coverage.

How Can I Save Money on Insurance?

Many insurance companies offer discounts for drivers who have passed approved driver education courses, students who do well in school, people who insure for more than one car on the same policy, and drivers who participate in car pools. There are also discounts for passive restraint systems, such as airbags and automatic seat belts, and for anti-theft devices such as car alarms.

Choosing limited tort will cost less than full-tort coverage, although you give up many of your rights to make claims. Increasing your deductible on collision and/or comprehensive coverage will also lower your premium. If you have an older car of relatively low value, you may want to eliminate collision coverage.

Before selecting the limited-tort or full-tort option be sure you fully understand the difference in both premium and coverage. Your insurance agent or lawyer can explain.

Will My Premiums Be Increased If I Make a Claim?

An insurer cannot increase your premium rates solely because you or one of the insureds under your policy made a claim and was paid unless it is determined that you or the insured was at fault.

Can I Sue for Injuries?

If you have chosen limited tort, you may only bring an action for non-economic damages (i.e., pain and suffering) if you sustained serious injuries (defined as "death, serious impairment of body function, or permanent serious disfigurement"), though you retain the

right to sue for any unreimbursed economic losses (typically medical expenses or lost earnings over and above the amount of available first-party benefits coverage, property damage and other out-of-pocket losses).

Who Pays for Damage to My Car?

If your car is damaged in an accident, you are entitled to receive money from the person who was responsible for the accident.

If your car is slightly damaged, you may wish to recover through your own collision insurance. If the damage is less than \$8,000, you can file suit through a magisterial district judge. This procedure is explained in another pamphlet in this series entitled "Bringing Suit Before a Magisterial District Judge."

If the damage to your car is more than \$8,000, you must file suit in Common Pleas Court. You will probably need an attorney to represent you.

If you were responsible for the accident, contact your own insurance agent.

When Should I Contact an Attorney?

- if you are injured in an accident;
- if you wish to file a tort action against the at-fault party;
- if you selected limited tort and have questions about exceptions;
- if there is a problem in getting money from your insurance company;
- if you were at fault in the accident and there is a possibility that the other party will file suit against you; and/or
- to recover money for property damage.