

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1355 Session of  
1985

INTRODUCED BY GALLEN, FRYER, GAMBLE, BOWSER, DeVERTER, BOOK,  
BARLEY, DUFFY, ANGSTADT, ROBBINS, HAYES, PUNT, CESSAR, DAVIES  
AND DIETZ, JUNE 4, 1985

REFERRED TO COMMITTEE ON INSURANCE, JUNE 4, 1985

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, eliminating the Catastrophic Loss Trust Fund; and  
3 requiring insurers to make additional medical benefits  
4 available.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 1712 of Title 75 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 1712. Availability of benefits.

10 An insurer issuing or delivering liability insurance policies  
11 covering any motor vehicle of the type required to be registered  
12 under this title, except recreational vehicles not intended for  
13 highway use, motorcycles, motor-driven cycles or motorized  
14 pedalcycles or like type vehicles, registered and operated in  
15 this Commonwealth, shall make available for purchase first party  
16 benefits with respect to injury arising out of the maintenance  
17 or use of a motor vehicle as follows:

18 (1) Medical benefit.--Coverage of not less than \$10,000

1     nor for more than \$1,000,000 to provide for reasonable and  
2     necessary medical treatment and rehabilitative services,  
3     including, but not limited to, hospital, dental, surgical,  
4     psychiatric, psychological, osteopathic, ambulance,  
5     chiropractic, licensed physical therapy, nursing services,  
6     vocational rehabilitation and occupational therapy, speech  
7     pathology and audiology, optometric services, medications,  
8     medical supplies and prosthetic devices, all without  
9     limitation as to time, provided that, within 18 months from  
10    the date of the accident causing injury, it is ascertainable  
11    with reasonable medical probability that further expenses may  
12    be incurred as a result of the injury. Benefits under this  
13    paragraph may include any nonmedical remedial care and  
14    treatment rendered in accordance with a recognized religious  
15    method of healing.

16         (2) Income loss benefit.--Includes the following:

17             (i) Eighty percent of actual loss of gross income.

18             (ii) Reasonable expenses actually incurred for  
19             hiring a substitute to perform self-employment services  
20             thereby mitigating loss of gross income or for hiring  
21             special help thereby enabling a person to work and  
22             mitigate loss of gross income.

23    Income loss does not include loss of expected income for any  
24    period following the death of an individual or expenses  
25    incurred for services performed following the death of an  
26    individual. Income loss shall not commence until five working  
27    days have been lost after the date of the accident.

28         (3) Accidental death benefit.--A death benefit paid to  
29    the personal representative of the insured, should injury  
30    resulting from a motor vehicle accident cause death within 24

1 months from the date of the accident.

2 (4) Funeral benefit.--Expenses directly related to the  
3 funeral, burial, cremation or other form of disposition of  
4 the remains of a deceased individual, incurred as a result of  
5 the death of the individual as a result of the accident and  
6 within 24 months from the date of the accident.

7 (5) Combination benefit.--A combination of benefits  
8 described in paragraphs (1) through (4) as an alternative to  
9 the separate purchase of those benefits.

10 Section 2. Subchapter F of Title 75 is repealed.

11 Section 3. Sections 1787, 1796, 1797 and 1798 of Title 75  
12 are amended to read:

13 § 1787. Self-insurance.

14 (a) General rule.--Self-insurance is effected by filing with  
15 the Department of Transportation, in satisfactory form, evidence  
16 that reliable financial arrangements, deposits, resources or  
17 commitments exist such as will satisfy the department that the  
18 self-insurer will:

19 (1) Provide the benefits required by section 1711  
20 (relating to required benefits), subject to the provisions of  
21 Subchapter B (relating to motor vehicle liability insurance  
22 first party benefits), except the additional benefits and  
23 limits provided in sections 1712 (relating to availability of  
24 benefits) and 1715 (relating to availability of adequate  
25 limits).

26 (2) Make payments sufficient to satisfy judgments as  
27 required by section 1774 (relating to payments sufficient to  
28 satisfy judgments).

29 (3) Provide uninsured motorist coverage up to the limits  
30 set forth in section 1774.

1 (b) Stacking limits prohibited.--Any recovery of uninsured  
2 motorist benefits under this section only shall not be increased  
3 by stacking the limits provided in section 1774, in  
4 consideration of the ownership or operation of multiple vehicles  
5 or otherwise.

6 (c) Assigned Risk and Assigned Claims Plans.--Self-insurers  
7 shall not be required to accept assigned risks pursuant to  
8 Subchapter D (relating to Assigned Risk Plan) or contribute to  
9 the Assigned Claims Plan pursuant to Subchapter E (relating to  
10 Assigned Claims Plan).

11 [(d) Catastrophic Loss Trust Fund.--Self-insurers shall  
12 contribute to the Catastrophic Loss Trust Fund in the manner  
13 provided in Subchapter F (relating to Catastrophic Loss Trust  
14 Fund).]

15 (e) Promulgation of regulations, etc.--The Department of  
16 Transportation may, jointly with the Insurance Department,  
17 promulgate rules, regulations, guidelines, procedures or  
18 standards for reviewing and establishing the financial  
19 eligibility of self-insurers.

20 § 1796. Mental or physical examination of person.

21 (a) General rule.--Whenever the mental or physical condition  
22 of a person is material to any claim for medical[, ] or income  
23 loss [or catastrophic loss benefits], a court of competent  
24 jurisdiction [or the administrator of the Catastrophic Loss  
25 Trust Fund for catastrophic loss claims] may order the person to  
26 submit to a mental or physical examination by a physician. The  
27 order may only be made upon motion for good cause shown. The  
28 order shall give the person to be examined adequate notice of  
29 the time and date of the examination and shall state the manner,  
30 conditions and scope of the examination and the physician by

1 whom it is to be performed. If a person fails to comply with an  
2 order to be examined, the court [or the administrator] may order  
3 that the person be denied benefits until compliance.

4 (b) Report of examination.--If requested by the person  
5 examined, a party causing an examination to be made shall  
6 promptly deliver to the person examined a copy of every written  
7 report concerning the examination at least one of which must set  
8 forth the physician's findings and conclusions in detail. Upon  
9 failure to promptly provide copies of these reports, the court  
10 [or the administrator] shall prohibit the testimony of the  
11 examining physician in any proceeding to recover benefits.

12 § 1797. Customary charges for treatment.

13 A person or institution providing treatment, accommodations,  
14 products or services to an injured person for an injury covered  
15 by medical [or catastrophic loss] benefits shall not make a  
16 charge for the treatment, accommodations, products or services  
17 in excess of the amount the person or institution customarily  
18 charges for like treatment, accommodations, products and  
19 services in cases involving no insurance.

20 § 1798. Attorney fees and costs.

21 (a) Basis for reasonable fee.--No attorney's fee for  
22 representing a claimant in connection with a claim for first  
23 party benefits provided under Subchapter B (relating to motor  
24 vehicle liability insurance first party benefits) [or a claim  
25 for catastrophic loss benefits under Subchapter F (relating to  
26 Catastrophic Loss Trust Fund)] shall be calculated, determined  
27 or paid on a contingent fee basis, nor shall any attorney's fees  
28 be deducted from the benefits enumerated in this subsection  
29 which are otherwise due such claimant. An attorney may charge a  
30 claimant a reasonable fee based upon actual time expended.

1       (b) Unreasonable refusal to pay benefits.--In the event an  
2 insurer is found to have acted with no reasonable foundation in  
3 refusing to pay the benefits enumerated in subsection (a) when  
4 due, the insurer shall pay, in addition to the benefits owed and  
5 the interest thereon, a reasonable attorney fee based upon  
6 actual time expended.

7       [(c) Payment by fund.--The Catastrophic Loss Trust Fund may  
8 award the claimant's attorney a reasonable fee based upon actual  
9 time expended because a claimant is unable to otherwise pay the  
10 fees and costs.]

11       (d) Fraudulent or excessive claims.--If, in any action by a  
12 claimant to recover benefits under this chapter, the court  
13 determines that the claim, or a significant part thereof, is  
14 fraudulent or so excessive as to have no reasonable foundation,  
15 the court may award the insurer's attorney a reasonable fee  
16 based upon actual time expended. The court, in such case, may  
17 direct that the fee shall be paid by the claimant or that the  
18 fee may be treated in whole or in part as an offset against any  
19 benefits due or to become due the claimant.

20       Section 4. This act shall take effect immediately.