

§2910-A. Subrogation; medical payments coverage

1. Policy requirements. A casualty insurance policy subject to this chapter may not provide for subrogation or priority over the insured of payment for any hospital, nursing, medical or surgical services or of any expenses paid or reimbursed under the medical payments coverage in the policy in the event the insured is entitled to receive payment or reimbursement from any other person as a result of legal action or claim, except as provided in this section.

The coverage may contain a provision that allows the payments if:

- A. [PL 2011, c. 509, §1 (RP).]
- B. The provision requires the written approval of the insured; [PL 2009, c. 222, §1 (NEW).]
- C. The provision provides that the insurer's subrogation right is subject to subtraction to account for the pro rata share of the insured's attorney's fees incurred in obtaining the recovery from another source; and [PL 2009, c. 222, §1 (NEW).]
- D. The provision is approved by the superintendent. [PL 2009, c. 222, §1 (NEW).]
[PL 2011, c. 509, §1 (AMD).]

2. Dispute resolution. In the event of a dispute as to the application of any such provision or the amount available for payment to those claiming payment for services or reimbursement, that dispute must be determined, if the action is pending, before the court in which it is pending; or if no action is pending, by filing an action in any court for determination of the dispute.
[PL 1997, c. 369, §2 (NEW).]

3. Exception. Nothing in this section prevents an insurer from exercising its subrogation rights directly against any person legally responsible for the insured's injury. In the event that the insurer pursues its subrogation rights directly against such a person, the insurer's subrogation right is not subject to any subtraction to account for attorney's fees and the insurer is entitled to full recovery.
[PL 1997, c. 369, §2 (NEW).]

4. Coordination of benefits and assignment of medical payments coverage. The following provisions apply to coordination of benefits and assignment of medical payments coverage in a casualty insurance policy.

- A. A carrier, as defined in section 4301-A, subsection 3, may not coordinate benefits against medical payments coverage in a casualty insurance policy and may not require medical payments coverage to be primary coverage over any health insurance policy. [PL 2019, c. 182, §1 (NEW).]
- B. Medical payments coverage in a casualty insurance policy is assignable only by agreement between the insured and the casualty insurer. Benefits under medical payments coverage must be applied as directed by the insured. [PL 2019, c. 182, §1 (NEW).]
- C. The insured has the right to submit a claim for medical expenses under medical payments coverage in a casualty insurance policy. The insured may also submit a claim for medical expenses under a health insurance policy, except that an insured is not entitled to duplicate payment from medical payments coverage and a health insurance policy for the same medical expense. [PL 2019, c. 182, §1 (NEW).]
[PL 2019, c. 182, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 369, §2 (NEW). PL 2009, c. 222, §1 (AMD). PL 2011, c. 509, §1 (AMD). PL 2019, c. 182, §1 (AMD).

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