

CHAPTER 245

AN ACT concerning unreimbursed economic loss in an action for recovery of damages for bodily injury under certain circumstances and amending P.L.1988, c.119 and P.L.1972, c.70.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 10 of P.L.1988, c.119 (C.39:6A-4.6) is amended to read as follows:

C.39:6A-4.6 Medical fee schedules.

10. a. The Commissioner of Banking and Insurance shall, within 90 days after the effective date of P.L.1990, c.8 (C.17:33B-1 et al.), promulgate medical fee schedules on a regional basis for the reimbursement of health care providers providing services or equipment for medical expense benefits for which payment is to be made by an automobile insurer under personal injury protection coverage pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), by an insurer under medical expense benefits coverage pursuant to section 2 of P.L.1991, c.154 (C.17:28-1.6), or for payment of unreimbursed medical expenses that are admissible as uncompensated economic loss pursuant to section 12 of P.L.1972, c.70 (C.39:6A-12). These fee schedules shall be promulgated on the basis of the type of service provided, and shall incorporate the reasonable and prevailing fees of 75% of the practitioners within the region. If, in the case of a specialist provider, there are fewer than 50 specialists within a region, the fee schedule shall incorporate the reasonable and prevailing fees of the specialist providers on a Statewide basis. The commissioner may contract with a proprietary purveyor of fee schedules for the maintenance of the fee schedule, which shall be adjusted biennially for inflation and for the addition of new medical procedures.

b. The fee schedule may provide for reimbursement for appropriate services on the basis of a diagnostic-related (DRG) payment by diagnostic code where appropriate, and may establish the use of a single fee, rather than an unbundled fee, for a group of services if those services are commonly provided together. In the case of multiple procedures performed simultaneously, the fee schedule and regulations promulgated pursuant thereto may also provide for a standard fee for a primary procedure, and proportional reductions in the cost of the additional procedures.

c. No health care provider may demand or request any payment from any person in excess of those permitted by the medical fee schedules established pursuant to this section, nor shall any person be liable to any health care provider for any amount of money which results from the charging of fees in excess of those permitted by the medical fee schedules established pursuant to this section. This subsection shall apply to unreimbursed medical expenses that are subject to the medical fee schedules and admissible as uncompensated economic loss pursuant to section 12 of P.L.1972, c.70 (C.39:6A-12).

2. Section 12 of P.L.1972, c.70 (C.39:6A-12) is amended to read as follows:

C.39:6A-12 Inadmissibility of evidence of losses collectible under personal injury protection coverage.

12. Inadmissibility of evidence of losses collectible under personal injury protection coverage. Except as may be required in an action brought pursuant to section 20 of P.L.1983, c.362 (C.39:6A-9.1), evidence of the amounts collectible or paid under a standard automobile insurance policy pursuant to sections 4 and 10 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10), amounts collectible or paid for medical expense benefits under a basic

automobile insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) and amounts collectible or paid for benefits under a special automobile insurance policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3), to an injured person, including the amounts of any deductibles, copayments or exclusions, including exclusions pursuant to subsection d. of section 13 of P.L.1983, c.362 (C.39:6A-4.3), otherwise compensated is inadmissible in a civil action for recovery of damages for bodily injury by such injured person.

The court shall instruct the jury that, in arriving at a verdict as to the amount of the damages for noneconomic loss to be recovered by the injured person, the jury shall not speculate as to the amount of the medical expense benefits paid or payable by an automobile insurer under personal injury protection coverage payable under a standard automobile insurance policy pursuant to sections 4 and 10 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10), medical expense benefits under a basic automobile insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) or benefits under a special automobile insurance policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3) to the injured person, nor shall they speculate as to the amount of benefits paid or payable by a health insurer, health maintenance organization or governmental agency under subsection d. of section 13 of P.L.1983, c.362 (C.39:6A-4.3).

Nothing in this section shall be construed to limit the right of recovery, against the tortfeasor, of uncompensated economic loss as defined by subsection k. of section 2 of P.L.1972, c.70 (C.39:6A-2), including all unreimbursed medical expenses not covered by the personal injury protection limits applicable to the injured party and sustained by the injured party, including the value of any deductibles and copayments incurred through a driver's secondary insurance coverage and medical liens asserted by a health insurance company related to the treatment of injuries sustained in the accident. Medical expenses shall be subject to the current automobile medical fee schedules established pursuant to section 10 of P.L.1988, c.119 (C.39:6A-4.6). In any case in which the recovery is for medical expenses only, a prevailing claimant shall be entitled to reasonable and necessary attorneys' fees incurred by the prevailing claimant in the collection of such medical expenses.

3. This act shall take effect on August 1, 2019 and shall apply to automobile accidents occurring on or after that date.

Approved August 15, 2019.