Florida No-Fault Auto Insurance: A Historical Primer

Auto Insurance Fraud Strike Force

Board Meeting

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No-Fault Defined

- No-fault is also called Personal Injury Protection (PIP).

- Statute* requires owners or registrants of motor vehicles to purchase $10,000 of PIP insurance to compensate them for injuries in car crashes – no matter who is at fault.
  - Drivers also required to have a minimum $10,000 in property damage liability insurance.

- Its primary principle is to pay economic damages, such as medical, disability (lost wages) and death benefits, while limiting the right to sue for non-economic damages, such as pain and suffering.

- The intent is to be quick, fair and efficient.

*Florida Statute 627.730-627.7405.
No-fault Objectives

Objectives according to a Florida Supreme Court Case* are to:

• Directly compensate injured persons by their own insurer to avoid “possibility of swelling the public relief rolls,”
• Lessen court congestion and limit the number of lawsuits,
• End inequities of recovery under the traditional tort system, and
• Lower auto insurance premiums.

Variations of No-Fault Coverage

**No-Fault** describes a number of systems allowing policyholders to recover financial losses from their own insurer, regardless of fault.

- **Verbal Threshold** states provide a descriptive on the severity of an injury before one can sue for damages.

- **Monetary Threshold** expresses severity of injuries in the dollar amounts of medical bills.
  - Hawaii, Kansas, Kentucky, Massachusetts, Minnesota, North Dakota, Utah.

- **Choice No-Fault** gives drivers the option of a verbal threshold or traditional tort liability system.
  - New Jersey, Pennsylvania, Kentucky
Florida’s No-Fault Threshold

Policyholders can sue for non-economic damages (pain and suffering) if certain criteria are met.

- **Threshold**: Significant or permanent loss of an important bodily function, permanent injury within a reasonable degree of medial probability, significant/permanent scarring or disfigurement or death.

- Provided for 100% of necessary medical expenses up to $5,000, 85% of lost wages and funeral expenses not to exceed $1,000.
- Also required minimum coverage requirements under state Financial Responsibility Law ($10,000 bodily injury coverage and $5,000 property damage liability).

1974 – Objectives clarified in *Lasky v. State Farm*.

1976 – Legislature replaced the “dollar threshold” with “verbal threshold” and specified injured persons could sue only if they suffered a significant injury.

1977 – Legislature eliminates mandatory liability coverage for bodily injury and property damage that were enacted in 1971.
   ✷ Reduced PIP benefit to 80% of medical expenses and 60% of lost wages; increased PIP deductibles.

1978 – Legislature tightens verbal threshold language by eliminating right to sue for certain serious, but nonpermanent injuries.
   ✷ PIP benefit raised to $10,000, effective Jan. 1, 1979.

1982 – Funeral benefits increased from $1,000 to $1,750; PIP deductibles options reduced to $250, $500, $1,000 and $2,000.

- Enhanced enforcement of compulsory motor vehicle laws to address statewide problem of uninsured drivers. Also mandated that drivers obtain $10,000 minimum for property damage liability.
- Funeral benefits increased to $5,000 and renamed death benefits.

**PIP Historical Timeline**

**1990s**

- **1991** – Insurers allowed to provide an option to insured to use preferred providers for medical benefits.

- **1993** – Legislature repealed a provision that required a jury to deduct from its verdict the value of benefits received by the injured person from any other collateral source.

- **1994** – An act passed that put insurers in violation of the Insurance Code for failing to provide timely benefits to policyholders.

- **1998** – Provisions added to provide 30- and 60-day billing limits, standardized medical statements and codes, revised geographical requirements for independent medical examinations of claimants.

*Sources: Review of Florida’s No-Fault Automobile Insurance Law, House Insurance Committee, Feb. 2006*
1999 – Legislature allowed policyholders to elect a deductible amount to combine with wage loss benefits exclusions in exchange for lower premiums.

1999 – Grand Jury begins looking into organized criminal activity in Florida, including PIP fraud.

2001 – Legislature adopts all the Grand Jury’s recommendations, except one about adopting a medical fee schedule:

- Summary: Required licensure of certain health care clinics, defined “medically necessary” services, limited access to crash reports, required insurers to specify why claims were reduced, omitted or denied.

2003 – Law strengthened to regulate health care clinics, regulated how PIP providers bill for services, deleted the option for a $2,000 PIP deductible, created and strengthened criminal penalties for PIP fraud.


Sources: Review of Florida’s No-Fault Automobile Insurance Law, House Insurance Committee, Feb. 2006

- For three months (Oct.-Dec.), Florida operated under a “fault-based” system that held drivers responsible for the injuries they caused.


- Changes included adding a medical fee schedule for PIP benefits, limits on the health care providers who could receive reimbursement, required insurers to reserve $5,000 of benefits for 30 days for physicians providing emergency care.


- Summary: Shows PIP payouts increased 66% from 2006-2010, while the number of drivers and traffic crashes with injury declined; PIP litigation increased by 387%; Florida charges for medical provider services were 50% above the national average.


- Report concludes there is no denying “continued and escalating problem with PIP fraud.”

2012 – HB 119 passes to address fraud issues.

HB 119 Provisions

- PIP coverage still provides $10,000 in medical benefits.
  - For medical emergencies defined as experiencing severe enough symptoms that the absence of immediate medical treatment could result in impairment to health.
  - Treatment providers defined as ambulance, hospital, physician, dentist, supervised physician’s assistant or advanced registered nurse practitioner.

- Non-emergency treatment is limited to $2,500.
  - Treatment can be received from any medical provider, except a massage therapist or acupuncturist.
Insurers will maintain a benefit log for each PIP claim and notify claimants within 15 days if policy limits have been reached.

Insurers can ask policyholders to take an examination under oath and have an independent medical examination.

If lawsuit filed, attorney fees must comply with prevailing professional standards.
A Snapshot: Florida No-Fault Claim Severity Trends

Claim Severity is the average cost of a claim.

Average Claim Payout

2008: $6,681
1995: $3,902
1991: $3,460

Source: ISO/PCI Fast Track data; Insurance Information Institute
The Average Cost of No-Fault Claims in Florida Has Risen Rapidly in Recent Years

*Average of the four quarters ending 2012:Q3.
Source: ISO/PCI Fast Track data; Insurance Information Institute.
Insurance Fraud, Florida #1

Map 1: Rate of OGA QCs from 2008 - June 2012 per 100,000 Persons by State
