

BULLETIN

Date: April 25, 2000

To: All Motor Vehicle Liability Insurers

Subject: Personal Injury Protection Coverage

Bulletin No.: Property and Casualty 00-5

A number of motor vehicle liability insurers are applying a medical utilization (or "fee review") schedule to medical bills submitted for reimbursement under Personal Injury Protection ("PIP") coverage. The Maryland Insurance Administration ("MIA") has received complaints from insureds and healthcare providers concerning these insurers' actions.

The issue is whether a PIP insurer, based *solely* on a fee review schedule applying "uniform, customary and reasonable" ("UCR") rates, may refuse to pay as "unreasonable" that part of a healthcare provider's charge which exceeds a particular UCR rate for otherwise covered treatment rendered to a PIP insured. The terms of PIP coverage are defined by Sections 19-505 and 19-508 of the Insurance Article. A PIP insurer must pay (up to the limits of coverage) for all "reasonable and necessary [healthcare] expenses that arise from a motor vehicle accident[.]" Based upon the Code of Maryland Regulations (COMAR 31.15.07.03B(13)), upon submission by a PIP insured of "satisfactory proof" of an otherwise covered healthcare expense, a PIP insurer cannot "refuse to fully satisfy claims for arbitrary or capricious reasons."

The MIA, in consultation with its counsel, has concluded that it is unlawful for a PIP insurer to determine based *solely* on the application of a fee review schedule, that a charge for an otherwise covered healthcare expense is "unreasonable" and, thus, discounted. If a PIP insurer has unlawfully denied a claim (whether partially or in its entirety), that PIP insurer has violated Section 27-303(2) of the Insurance Article and is subject to sanctions pursuant to Section 27-305 of the Insurance Article. In and of itself, however, it is not unlawful for a PIP insurer to apply and utilize a fee review schedule. Accordingly, while a PIP insurer may use the application of a fee review schedule as a factor in challenging the reasonableness of a particular healthcare provider's charges, that insurer must also adduce evidence of "unreasonableness" specific to each PIP insured's injuries and to the treatment rendered by the particular healthcare provider to the insured.

Questions regarding this Bulletin should be directed to David Diehl at ddiehl@mia.state.md.us.

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