

# STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF INSURANCE

1560 Broadway, Suite 850  
Denver, Colorado 80202



## Amended Regulation 5-2-8

### TIMELY PAYMENT OF PERSONAL INJURY PROTECTION BENEFITS

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#### **Section 1. Authority**

This regulation is jointly promulgated by the Commissioner of Insurance and the Executive Director of the Department of Revenue pursuant to §§10-1-109, 10-4-704, 10-4-708 (1.3) (effective until July 1, 2003 except for claims incurred under policies lawfully in effect as described in this regulation), and 10-3-1110(1), C.R.S.

#### **Section 2. Background And Purpose**

The purpose of this regulation is to provide rules for the prompt investigation and timely payment of personal injury protection (PIP) benefits. Additionally, the regulation sets forth the requirements for establishing proof of the fact and amount of expenses incurred, provides for notices by insurers, and makes certain acts of insurers presumptive unfair or deceptive acts or practices.

This regulation is not intended to define reasonable and necessary expenses as such terminology is used in the Act.

#### **Section 3. Applicability and Scope**

The Colorado Reparations (No-Fault) Act was repealed effective July 1, 2003. Automobile insurance policies with personal injury protection (PIP) benefits issued or renewed prior to July

1, 2003 will continue to incur PIP claims until such benefits do not apply any longer. This regulation applies to claims occurring under No-Fault Policies issued prior to July 1, 2003.

#### **Section 4. Rule**

##### **A. PROMPT INVESTIGATION OF PIP CLAIMS**

Section 10-3-1104 (1)(h)(III), C.R.S., requires insurers to adopt and implement reasonable standards for the prompt investigation of claims. An insurer is also required to promptly investigate a claim while it is accumulating claim's expense.

Whenever an insurer requires that an application for benefits form be submitted by an injured party, the insurer shall forward the form to the injured party upon notification of the injury.

When an investigation is incomplete or is otherwise continued, the insurer shall, within 30 days after the documents are received as described in C. below and every 30 days thereafter, send to the claimant or the claimant's representative, and the health care provider, if applicable, a letter setting forth the reasons additional time is needed for investigation.

Where additional information is required to complete an investigation, the insurer shall request such information, specifically listing the items needed to complete the investigation. A copy of such request shall be delivered to the claimant, the claimant's representative, the health care provider or other person or entity most likely in possession of the required information.

##### **B. PROMPT PAYMENT OF PIP BENEFITS**

Section 10-4-708(1), C.R.S. provides that benefits under the coverages enumerated in §10-4-706, C.R.S. are overdue if not paid within 30 days after the insurer receives reasonable proof of the fact and amount of the expenses incurred.

Section 10-4-708(1), C.R.S., allows for the accumulation of claims expense for periods not exceeding one month and provides that benefits are not overdue if paid within 15 days after the end of a defined period of accumulation. An insurer is permitted by this statute to pay a bill within 15 days after the end of a defined accumulation period only when there is a reasonable likelihood that multiple providers are involved and more than one bill is received during the accumulation period.

##### **C. REQUIREMENTS ESTABLISHING PROOF OF THE FACT AND AMOUNT OF EXPENSES INCURRED**

###### **1. Medical and Rehabilitative PIP benefits**

In the usual case, for purposes of triggering the 30-day time period described in §10-4-708(1), C.R.S., the following documents are sufficient to establish reasonable proof of the fact and amount of the expenses incurred for covered medical and rehabilitative PIP benefits:

- a. A properly executed application for benefits from the PIP claimant; and
- b. An initial notice to the insurer from the provider of benefits which meets the requirements of §10-4-708.5, C.R.S. or a billing statement for the procedure or treatment which complies with §10-4-708.6, C.R.S., and includes pursuant to §10-4-708.5 the following:
  - (1) The name and address of the treating health care provider;
  - (2) The evaluation or diagnosis, and the medical procedure performed or the medical treatment provided; and
  - (3) An itemized statement of charges corresponding to the medical service or treatment provided along with corresponding dates of services

## 2. Pip Wage Loss Benefits

In the usual case, if the claimant is pursuing covered PIP wage loss benefits, the following documents are sufficient to establish proof of the fact and amount of wage loss incurred:

- a. A properly executed application for benefits from the PIP claimant; and
- b. Written verification by a health care provider that the claimant is not able to perform his/her work as a result of the injury; and
- c. Written verification of employment and income; or
- d. Documentation of self-employment at the time of the loss through:
  - (1) Payroll receipts; or
  - (2) Copies of prior year income tax filings and business records evidencing the claimant is engaged in a business.

- (3) If the claimant has hired a replacement worker, proof of payment for the replacement worker should also be provided.

### 3. Essential Service Benefits

In the usual case, if the claimant is pursuing covered PIP essential services benefits, the following documents are sufficient to establish proof of the fact and amount of essential services expenses incurred:

- a. A properly executed application for benefits from the PIP claimant; and
- b. Written verification by a health care provider that the claimant is not able to perform essential services as a result of the injury; and
- c. A statement or billing notice for services rendered indicating:
  - (1) Actual services rendered;
  - (2) Dates of services;
  - (3) Amounts charged; and
  - (4) The name and address of the individual or entity performing the services.

### 4. PIP Death Benefits

In the usual case, if covered PIP death benefits are pursued as a result of an automobile accident, the following documents are sufficient to establish proof of the fact and amount of death benefit expenses incurred:

- a. A properly executed application from the claimants representative; and
- b. A certified copy of the death certificate.

## D. NOTICE REQUIREMENTS

If an insurer does not pay a claim for benefits under §10-4-706, C.R.S. within 30 days of receipt of the appropriate documents described in this regulation and as set forth in §10-4-708, C.R.S., the insurer shall immediately notify the PIP claimant or the claimant's representative and the

health care provider, if applicable, of the reason(s) the claim has not been paid. If the claim has not been paid because an investigation is underway, the insurer shall document in the claim file the actions being taken to investigate the claim and the efforts being made to promptly conclude the investigation.

E. UNFAIR METHOD OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OF PRACTICES IN THE BUSINESS OF INSURANCE

Pursuant to §10-3-1104(1)(h)(III) and (IV), C.R.S., the following are presumptive violations of said sections:

1. Denying a claim, either in whole or in part, or otherwise reducing payment for PIP benefits arising under automobile insurance policies when the denial or reduction is based solely on any of the following:
  - a. An accident reconstruction report, a bio-mechanical engineering report or any other low impact study whether prepared by the insurer or any other governmental or private entity. Although such report may be part of the investigative process, additional medical information from the treating provider or an IME must be considered in the analysis; or
  - b. Relying upon utilization review prescribing a prospective fixed treatment plan as a final determination of benefits. Any insurer intending to deny PIP benefits upon completion of a course of treatment over the objection of the claimant shall not deny future benefits upon completion of the course of treatment without conducting further investigation, including but not limited to, a current evaluation to determine the necessity of further treatment.
2. Reducing payment of health care provider bills outside of a Health Maintenance Organization (HMO) or Preferred Provider Organization (PPO) in connection with the payment of PIP benefits pursuant to §10-4-706(1), C.R.S., based upon the recommendations of a medical data processing firm or other pricing entity unless the insurer reviews on an annual or more frequent basis whether the data in the vendor's database is current, accurate, and sufficient to make recommendations regarding reasonable charges for bills submitted as part of PIP claims. Further, any PIP insurer using such repricing firms or entities shall consider additional information given to it by a health care provider and shall make decisions independent of the vendor's recommendations when appropriate.

F. RECORDS OF HEALTH CARE PROVIDERS AND POLICY CONTRACT COMPLIANCE

Nothing herein shall preclude an insurer from requesting or obtaining medical records from a health care provider or to negate a contractual requirement that an injured party comply with a valid condition in the policy regarding eligibility for receipt of benefits.

G. DOCUMENTATION

The claim file documentation required by this regulation will be reviewed by the Division of Insurance during an investigation of a complaint or during a market conduct examination to determine if the requirements of § §10-4-708(1) and 10-3-1104 (1) (h), C.R.S. have been met.

**Section 5. Enforcement**

Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any lawful sanctions including the imposition of fines and suspension or revocation of license.

**Section 6. Severability**

If any provision of this regulation is for any reason held to be invalid, the remainder of the regulation shall not be affected.

**Section 7. Effective Date**

This amended regulation is effective on February 1, 2004.

**Section 8. History**

Issued as Regulation 5-2-8, effective November 1, 1997.

Amended effective September 1, 2000.

Amended effective February 1, 2004.