

Car Crash 101

March 12, 2013 | by Christopher Musmanno

Out of the anxiety, uncertainty, and fear associated with being involved in an automobile accident comes the added confusion as to one's rights when asserting a claim for bodily injuries. You may have previously heard terms, such as "No Fault," "PIP," "Verbal Threshold," and/or "Uninsured/Underinsured Motorist." Many of us, however, have little understanding as to the meaning of these terms or their effect on our ability to recover for our injuries. With this in mind, below is an overview of these "buzzwords" intended to shed light on auto accident litigation in New Jersey and also to provide assistance to the average auto consumer as to what to consider when purchasing an auto policy.

"No Fault" Insurance

Put simply, New Jersey's "No Fault" law permits a person to initially recover for losses sustained as a result of an auto accident by making a claim through one's own insurance policy and carrier for what is known as Personal Injury Protection or "PIP" benefits without regard to the fault of the parties. In other words, if applicable under your own auto policy as a PIP benefit, your coverage provider will pay your auto accident-related medical expenses, absent certain co-pay and deductible provisions, regardless of who caused the accident; hence, the term, "No Fault".

Personal Injury Protection Benefits

PIP benefits are intended to provide compensation to an injured party for losses sustained as a result of a car accident without regard to fault. PIP may take the following forms: (1) medical expenses; (2) lost wages; (3) essential services; (4) survivor benefits; and (5) funeral expenses. The provision of these benefits must commence within 60 days from notice of loss. It is important to note, however, that what you collect via PIP is determined by the governing insurance policy and/or the policy choices you have made.

The most prevalent policies for private passenger vehicles in New Jersey are “Standard”, “Basic”, and “Special”. The “Standard” policy, which you should always choose when considering your policy options, may provide all types of PIP benefits with a \$250,000 medical expense limit. These policies are also accompanied by liability coverage, which may protect your assets if found liable for causing the accident. As for the “Basic” and “Special” policies, you should avoid choosing these types of policies. Medical expense benefit coverage is typically limited to \$15,000 under “Basic” policies, and you are afforded coverage for only acute/emergency room care under “Special” policies. Please know that unlike “Standard” policies, “Basic” and “Special” policies do not offer corresponding liability coverage and you will be exposed personally if found liable for the accident.

There are two more issues worthy of discussion regarding PIP benefits. First, if entitled to medical expense benefits under the governing policy, a person must pay a mandatory, non-recoverable \$250 deductible per accident in addition to a per person 20% co-payment up to \$5,000. This means a person must pay \$1,200 out-of pocket for the first \$5,000 in medical expenses while the remainder is paid dollar-for-dollar by the coverage provider subject to a fee schedule. Lastly, a person is not entitled to recover any PIP benefits if the claimed losses resulted from an intentional act or incurred while operating a vehicle under the influence. In fact, if a person has no auto insurance and is injured in an accident through no fault of their own, the person cannot make a claim for bodily injury as a matter of law.

Verbal Threshold

Whether electing the “Basic,” “Standard,” or “Special” PIP policies, an insured is permitted to choose between an “Unlimited Right to Sue” for bodily injuries or the “Verbal Threshold”. Also referred to as the “Limitation on Lawsuit” option, the “Verbal Threshold” essentially waives the insured’s right to sue for bodily injuries regardless of fault for the accident in exchange for a reduction in premium unless those injuries fall within one of six enumerated exceptions, including but not limited to, a permanent injury.

A permanent injury is proven by objective, credible medical evidence, and must be an injury that will not heal and go on to function normally. Typically, this is demonstrated by an x-ray, CT-scan, and/or MRI as the extent of injury can be demonstrated beyond a person’s subjective complaints. Common

types of permanent injuries include but are not limited to death and dismemberment, significant disfigurement/scarring, and displaced fractures.

If governed by the “Unlimited Right to Sue”, the issue of permanency need not be proven. The “Verbal Threshold”, however, will typically be applied by your coverage provider as a default on your policy. This means that if you do not wish to be governed by the Verbal Threshold, you must be sure to advise your coverage provider of this fact when discussing your policy options.

Uninsured/Underinsured Motorist

Uninsured Motorist (UM Claim) and Underinsured Motorist (UIM Claim) are coverage options intended to protect against the possibility of losses sustained in a car accident resulting from, among other things, a hit and run by a phantom vehicle, or where the at-fault vehicle is completely without insurance, and/or where the at-fault vehicle has insufficient insurance to cover the full value of your loss. Under these scenarios, a claim can be made against your own policy to recover your losses provided they do not exceed your UM/UIM policy limits less any amounts recovered from the negligent party.

Auto Insurance Tips to Remember

If you take anything away from this article, please remember the following:

- “No Fault” means that your own auto insurance will pay for your medical bills without considering who was at fault for the accident.
- Never choose “Basic” or “Special” policies because they provide insufficient PIP coverage and no liability coverage.
- Always elect PIP as primary to pay your medical expenses as opposed to your health insurance provider.
- If you can afford it, always elect the “Unlimited Right to Sue” for bodily injuries as opposed to the “Verbal Threshold”.
- Always elect UM/UIM policy limits equivalent to the liability coverage maintained on your policy.

Conclusion

As you can see, matters involving claims for bodily injuries can be highly complicated. Accordingly, if you are concerned about how these concepts may affect your ability to recover for injuries sustained as a result of a car accident, please contact a Certified Civil Trial Attorney.

This blog is for informational purposes only and is not to be construed as legal advice or the creation of an attorney-client relationship. The facts of each case is different, therefore you should seek competent legal representation.