

1 AN ACT relating to the motor vehicle reparations act.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 304.39-020 is amended to read as follows:

4 As used in this subtitle **unless context requires otherwise:**

- 5 (1) "Added reparation benefits" ~~means~~<sup>mean</sup> benefits provided by optional added  
6 reparation insurance.
- 7 (2) "Basic reparation benefits" ~~means~~<sup>mean</sup> benefits providing reimbursement for net  
8 loss suffered through injury arising out of the operation, maintenance, or use of a  
9 motor vehicle, subject, where applicable, to the limits, deductibles, exclusions,  
10 disqualifications, and other conditions provided in this subtitle. The maximum  
11 amount of basic reparation benefits payable for all economic loss resulting from  
12 injury to any one (1) person as the result of one (1) accident shall be ten thousand  
13 dollars (\$10,000), regardless of the number of persons entitled to ~~the~~<sup>such</sup> benefits  
14 or the number of providers of security obligated to pay ~~the~~<sup>such</sup> benefits. Basic  
15 reparation benefits consist of one (1) or more of the elements defined as "loss."
- 16 (3) "Basic reparation insured" means:
- 17 (a) A person identified by name as an insured in a contract of basic reparation  
18 insurance complying with this subtitle; and
- 19 (b) While residing in the same household with a named insured, the following  
20 persons not identified by name as an insured in any other contract of basic  
21 reparation insurance complying with this subtitle: a spouse or other relative of  
22 a named insured; and a minor in the custody of a named insured or of a  
23 relative residing in the same household with the named insured if he usually  
24 makes his home in the same family unit, even though he temporarily lives  
25 elsewhere.
- 26 (4) **"Current Procedural Terminology" or "CPT" means a system developed by the**  
27 **American Medical Association for standardizing the terminology and coding to**

1 describe medical services and procedures.

2 (5) "Health care provider" or "provider" means a health facility, as defined in KRS  
 3 216B.015, or an individual who is licensed to practice in Kentucky under KRS  
 4 Chapter 311, 311A, 311B, 312, 313, 314, 314A, 315, 319, 319A, 319B, 320, or  
 5 327, or is similarly licensed in another jurisdiction.

6 (6) "Injury" and "injury to person" means~~[mean]~~ bodily harm, sickness, disease, or  
 7 death.

8 (7) "International Statistical Classification of Diseases" or "ICD" means the system  
 9 of medical coding used to classify hospital care in the United States.

10 ~~(8)~~~~(5)~~ "Loss" means accrued economic loss consisting only of medical  
 11 expenses~~[expense]~~, work loss, replacement services loss, and, if injury causes  
 12 death, survivor's economic loss and survivor's replacement services loss.  
 13 Noneconomic detriment is not loss. However, economic loss is loss although caused  
 14 by pain and suffering or physical impairment.

15 (a) ~~["Medical expense" means reasonable charges incurred for reasonably needed~~  
 16 ~~products, services, and accommodations, including those for medical care,~~  
 17 ~~physical rehabilitation, rehabilitative occupational training, licensed~~  
 18 ~~ambulance services, and other remedial treatment and care. "Medical expense"~~  
 19 ~~may include non-medical remedial treatment rendered in accordance with a~~  
 20 ~~recognized religious method of healing. The term includes a total charge not~~  
 21 ~~in excess of one thousand dollars (\$1,000) per person for expenses in any way~~  
 22 ~~related to funeral, cremation, and burial. It does not include that portion of a~~  
 23 ~~charge for a room in a hospital, clinic, convalescent or nursing home, or any~~  
 24 ~~other institution engaged in providing nursing care and related services, in~~  
 25 ~~excess of a reasonable and customary charge for semi-private~~  
 26 ~~accommodations, unless intensive care is medically required. Medical expense~~  
 27 ~~shall include all healing arts professions licensed by the Commonwealth of~~

1           ~~Kentucky. There shall be a presumption that any medical bill submitted is~~  
2           ~~reasonable.~~

3           ~~(b)~~ "Work loss" means loss of income from work the injured person would  
4           probably have performed if he had not been injured, and expenses reasonably  
5           incurred by him in obtaining services in lieu of those he would have  
6           performed for income, reduced by any income from substitute work actually  
7           performed by him.

8           ~~(b)~~~~(c)~~ "Replacement services loss" means expenses reasonably incurred in  
9           obtaining ordinary and necessary services in lieu of those the injured person  
10          would have performed, not for income but for the benefit of himself or his  
11          family, if he had not been injured.

12          ~~(c)~~~~(d)~~ "Survivor's economic loss" means loss after decedent's death of  
13          contributions of things of economic value to his survivors, not including  
14          services they would have received from the decedent if he had not suffered the  
15          fatal injury, less expenses of the survivors avoided by reason of decedent's  
16          death.

17          ~~(d)~~~~(e)~~ "Survivor's replacement services loss" means expenses reasonably  
18          incurred by survivors after decedent's death in obtaining ordinary and  
19          necessary services in lieu of those the decedent would have performed for  
20          their benefit if he had not suffered the fatal injury, less expenses of the  
21          survivors avoided by reason of the decedent's death and not subtracted in  
22          calculating survivor's economic loss.

23          ~~(g)~~~~(6)~~ "Use of a motor vehicle" means any utilization of the motor vehicle as a  
24          vehicle including occupying, entering into, and alighting from it. It does not  
25          include:

26          (a) Conduct within the course of a business of repairing, servicing, or otherwise  
27          maintaining motor vehicles unless the conduct occurs off the business

1 premises; or

2 (b) Conduct in the course of loading and unloading the vehicle unless the conduct  
3 occurs while occupying, entering into, or alighting from it.

4 **(10) "Medical expenses" means charges incurred for reasonably needed products,**  
5 **services, and accommodations, including those for medical care, physical**  
6 **rehabilitation, rehabilitative occupational training, licensed ambulance services,**  
7 **massage therapy, and other remedial treatment and care. Medical expenses:**

8 **(a) Includes:**

9 **1. A total charge not in excess of one thousand dollars (\$1,000) per**  
10 **person for expenses in any way related to funeral, cremation, and**  
11 **burial;**

12 **2. Only charges incurred for:**

13 **a. Services rendered by a provider, as defined in subsection (5) of**  
14 **this section, which are within the provider's legally authorized**  
15 **scope of practice; or**

16 **b. Nonmedical remedial treatment rendered in accordance with a**  
17 **recognized religious method of healing; and**

18 **3. Charges incurred for services provided by an individual licensed**  
19 **under KRS 309.353, which are rendered in coordination with a**  
20 **provider or at a provider's business location;**

21 **(b) Shall be limited to:**

22 **1. The respective fee set forth for that medical expense in the Kentucky**  
23 **workers' compensation medical fee schedule established in KRS**  
24 **342.035 and in any administrative regulation adopted pursuant to**  
25 **KRS 342.035(1), including any billing requirements; or**

26 **2. If no fee is set by the Kentucky workers' compensation medical fee**  
27 **schedule, the usual and customary rate charged for the product,**

1 service, or accommodation. Reparation obligors may consult  
 2 independent services in order to determine the usual and customary  
 3 rate; and

4 (c) Shall be deemed to be reasonably needed only if they are:

- 5 1. Commonly and customarily recognized in accordance with generally  
 6 accepted standards of medical practice as appropriate for the purpose  
 7 of preventing, diagnosing, or treatment of the injury; and
- 8 2. Clinically appropriate in terms of type, frequency, extent, site, and  
 9 duration.

10 ~~(11)~~~~(7)~~ "Motor vehicle" means any vehicle which transports persons or property upon  
 11 the public highways of the Commonwealth, propelled by other than muscular power  
 12 except road rollers, road graders, farm tractors, vehicles on which power shovels are  
 13 mounted,~~such~~ other construction equipment customarily used only on the site of  
 14 construction and which is not practical for the transportation of persons or property  
 15 upon the highways, any~~such~~ vehicles that~~as~~ travel exclusively upon rails, and  
 16 any~~such~~ vehicles that~~as~~ are propelled by electrical power obtained from  
 17 overhead wires while being operated within any municipality or where said vehicles  
 18 do not travel more than five (5) miles beyond the said limits of any municipality.  
 19 Motor vehicle shall not mean moped as defined in this section.

20 ~~(12)~~~~(8)~~ "Moped" means either a motorized bicycle whose frame design may include  
 21 one (1) or more horizontal crossbars supporting a fuel tank so long as it also has  
 22 pedals, or a motorized bicycle with a step-through type frame which may or may not  
 23 have pedals rated no more than two (2) brake horsepower, a cylinder capacity not  
 24 exceeding fifty (50) cubic centimeters, an automatic transmission not requiring  
 25 clutching or shifting by the operator after the drive system is engaged, and capable  
 26 of a maximum speed of not more than thirty (30) miles per hour.

27 ~~(13)~~~~(9)~~ "Public roadway" means a way open to the use of the public for purposes of

1 motor vehicle travel.

2 ~~(14)~~~~(10)~~ "Net loss" means loss less benefits or advantages, from sources other than  
3 basic and added reparation insurance, required to be subtracted from loss in  
4 calculating net loss.

5 ~~(15)~~~~(11)~~ "Noneconomic detriment" means pain, suffering, inconvenience, physical  
6 impairment, and other nonpecuniary damages recoverable under the tort law of this  
7 Commonwealth. The term does not include punitive or exemplary damages.

8 ~~(16)~~~~(12)~~ "Owner" means a person, other than a lienholder or secured party, who owns  
9 or has title to a motor vehicle or is entitled to the use and possession of a motor  
10 vehicle subject to a security interest held by another person. The term does not  
11 include a lessee under a lease not intended as security.

12 ~~(17)~~~~(13)~~ "Reparation obligor" means an insurer, self-insurer, or obligated government  
13 providing basic or added reparation benefits under this subtitle.

14 ~~(18)~~~~(14)~~ "Survivor" means a person identified in KRS 411.130 as one entitled to  
15 receive benefits by reason of the death of another person.

16 ~~(19)~~~~(15)~~ A "User" means a person who resides in a household in which any person  
17 owns or maintains a motor vehicle.

18 ~~(20)~~~~(16)~~ "Maintaining a motor vehicle" means having legal custody, possession or  
19 responsibility for a motor vehicle by one other than an owner or operator.

20 ~~(21)~~~~(17)~~ "Security" means any continuing undertaking complying with this subtitle, for  
21 payment of tort liabilities, basic reparation benefits, and all other obligations  
22 imposed by this subtitle.

23 ~~(22)~~ **"Usual and customary rate" means the average amount of all charges for a**  
24 **particular health care service performed by the same category of licensed hospital**  
25 **and provided in the same geographical area, as defined by Metropolitan Service**  
26 **Areas and Core Based Statistical Areas, as reported pursuant to Section 2 of this**  
27 **Act.**

1           ➔SECTION 2. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304  
2 IS CREATED TO READ AS FOLLOWS:

3 **(1) The commissioner shall, by promulgating administrative regulations:**

4           **(a) Specify a nonprofit organization that maintains a database of billed charges**  
5           **submitted by hospitals for health care services to be used as a benchmark**  
6           **for determining the usual and customary rate for health care services**  
7           **provided by hospitals. The nonprofit shall not be affiliated with an insurer**  
8           **offering health benefit plans in Kentucky or a reparation obligor in**  
9           **Kentucky; and**

10           **(b) Require all health benefit plans to submit to the department annually, but**  
11           **no later than March 1 of each year, all of the billed charges it receives from**  
12           **both in-network and out-of-network hospitals for each health care service**  
13           **billed by a hospital.**

14 **(2) Any information required to be reported under this section shall:**

15           **(a) Be reported on in a standardized manner by ICD or CPT codes as**  
16           **determined by the department;**

17           **(b) Not include any personally identifying information of an insured; and**

18           **(c) Include appropriate geographical information of the billing provider.**

19 **(3) The department shall provide information reported pursuant to this section to the**  
20 **nonprofit identified in subsection (1) of this section, or if no nonprofit exists**  
21 **meeting the requirements of subsection (1) of this section, then the department**  
22 **shall publish this information in a report on its Web site by June 1 of each year.**

23           ➔Section 3. KRS 304.39-130 is amended to read as follows:

24 Basic reparation benefits payable for work loss, survivor's economic loss, replacement  
25 services loss, and survivor's replacement services loss arising from injury to one (1)  
26 person and attributable to the calendar week during which the accident causing injury  
27 occurs and to each calendar week thereafter may not exceed ~~four~~<sup>two</sup> hundred dollars

1 (~~\$400~~[\$200]), prorated for any lesser period. If the injured person's earnings or work are  
 2 seasonal or irregular, the weekly limit shall be equitably adjusted or apportioned on an  
 3 annual basis.

4 ➔Section 4. KRS 304.39-241 is amended to read as follows:

5 An insured may direct the payment of benefits among the different elements of loss, if the  
 6 direction is provided in writing to the reparation obligor. A reparation obligor shall honor  
 7 the written direction of benefits provided by an insured on a prospective basis ***following***  
 8 ***its receipt of the direction of benefits***. The insured may also explicitly direct the payment  
 9 of benefits for related medical expenses already paid arising from a covered loss to  
 10 reimburse:

- 11 (1) A health benefit plan as defined by KRS 304.17A-005(22);
- 12 (2) A limited health service benefit plan as defined by KRS 304.17C-010;
- 13 (3) Medicaid;
- 14 (4) Medicare; or
- 15 (5) A Medicare supplement provider.

16 ➔Section 5. KRS 304.39-245 is amended to read as follows:

17 **(1)** A reparation obligor may request or negotiate a reduction or modification of charges  
 18 from a provider~~[of services]~~ to a secured person. In no event shall a provider~~[of~~  
 19 ~~services]~~ which agrees to a reduction or modification of the charges bill the secured  
 20 person for the amount of the reduction or modification.

21 **(2)** ***A provider shall not knowingly collect, attempt to collect, coerce, or attempt to***  
 22 ***coerce, directly or indirectly, the payment of any charge for a medical expense***  
 23 ***under this subtitle covered by reparation benefits in excess of the amount allowed***  
 24 ***under Section 1 of this Act, nor cause the consumer report, as defined in KRS***  
 25 ***367.363, of any person entitled to basic reparations benefits to be impaired by***  
 26 ***reason of that person's failure to pay the excess charge.***

27 **(3)** Nothing in this section is intended to prohibit a provider of services from billing



1 charges to a secured party if the charges are not paid by a reparation obligor because  
2 the reparation benefits have been exhausted.

3 ➔Section 6. The provisions of this Act apply to loss, as defined in Section 1 of  
4 this Act, incurred on or after January 1, 2019.

5 ➔Section 7. This Act takes effect January 1, 2019.