

CHAPTER 233

INSURANCE

HOUSE BILL 01-1034

BY REPRESENTATIVE(S) White;
also SENATOR(S) Hagedorn.

AN ACT

CONCERNING AMENDMENTS TO THE "COLORADO AUTO ACCIDENT REPARATIONS ACT", AND, IN CONNECTION THEREWITH, CONSOLIDATING THE DEFINITION OF A RESIDENT RELATIVE AND CLARIFYING THE TYPES OF INSURANCE POLICIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 10-4-703, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

10-4-703. Definitions. As used in this part 7, unless the context otherwise requires:

(12) "RESIDENT RELATIVE" MEANS A PERSON WHO, AT THE TIME OF THE ACCIDENT, IS RELATED BY BLOOD, MARRIAGE, OR ADOPTION TO THE NAMED INSURED OR RESIDENT SPOUSE AND WHO RESIDES IN THE NAMED INSURED'S HOUSEHOLD, EVEN IF TEMPORARILY LIVING ELSEWHERE, AND ANY WARD OR FOSTER CHILD WHO USUALLY RESIDES WITH THE NAMED INSURED, EVEN IF TEMPORARILY LIVING ELSEWHERE.

SECTION 2. The introductory portion to 10-4-706 (1), 10-4-706 (1) (d) (III) (A), (1) (f) (III), (2) (a) (I), (2) (d) (II), and (3) (a), the introductory portion to 10-4-706 (3) (b), and 10-4-706 (3) (c), (3) (f), (3) (g), (3) (h), and (4) (a), Colorado Revised Statutes, are amended, and the said 10-4-706 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

10-4-706. Required coverages - complying policies - PIP examination program - repeal. (1) Subject to the limitations and exclusions authorized by this part 7, the ~~minimum~~ BASIC PERSONAL INJURY PROTECTION coverages required for compliance with this part 7 are as follows:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(d) (III) (A) Notwithstanding the requirements of this subsection (1), the loss of gross income coverage set forth in this paragraph (d) may be declined at the option of the insured. However, if such option to decline such coverage is exercised by the named insured, it shall apply only to such named insured, the insured's resident spouse, and any resident relative, as defined in ~~subparagraph (II) of paragraph (d) of subsection (2) of this section 10-4-703 (12)~~. All other covered persons shall be entitled to the coverage as set forth in subparagraph (I) of this paragraph (d).

(f) (III) ~~For purposes of this paragraph (f), "resident relative" has the same meaning as set forth in subparagraph (II) of paragraph (d) of subsection (2) of this section.~~

(1.3) THE BENEFITS ENUMERATED IN PARAGRAPHS (a) TO (e) OF SUBSECTION (1) OF THIS SECTION SHALL BE DESIGNATED AS "BASIC".

(2) (a) (I) An insurer may offer IN WRITING OR BY THE SAME MEDIUM AS THAT IN WHICH THE INSURANCE APPLICATION WAS TAKEN, and provide at the option of the named insured, the BASIC benefits described in PARAGRAPHS (b) AND (c) OF subsection (1) ~~(b) and (1) (c)~~ of this section through managed care arrangements such as a health maintenance organization (HMO) or a preferred provider organization. Insurers shall make deductibles and coinsurance options available in such policy and may make other conditions and limitations to coverage available.

(d) (II) ~~"Resident relative" means a person who, at the time of the accident, is related by blood, marriage, or adoption to the named insured or resident spouse and who resides in the named insured's household, even if temporarily living elsewhere, and any ward or foster child who usually resides with the named insured, even if temporarily living elsewhere.~~

(3) (a) Notwithstanding anything in subsection (1) of this section, an insurer may offer, as an alternative to the minimum coverages required under PARAGRAPHS (b) TO (e) OF subsection (1) ~~(b), (1) (c), (1) (d), and (1) (e)~~ of this section, to persons qualified pursuant to paragraph (c) of this subsection (3), a ~~basic~~ REDUCED personal injury protection policy which shall be deemed to provide minimum coverages required for compliance with this part 7. Acceptance of any policy offered pursuant to this subsection (3) shall be voluntary and shall be subject to all requirements of this subsection (3).

(b) For persons qualified pursuant to paragraph (c) of this subsection (3), the coverages and limitations provided in a ~~basic~~ REDUCED personal injury protection policy shall be as follows:

(c) (I) To qualify for a ~~basic~~ REDUCED personal injury protection policy, the combined annual gross income of a person applying for such a policy and such person's resident spouse, if any, shall not exceed one hundred eighty-five percent of the federal poverty level for a family of four, adjusted upward for family size.

(II) On or before January 1 of each year, the commissioner shall prescribe income guidelines for determining eligibility for a ~~basic~~ REDUCED personal injury protection program based upon the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the federal department of health and

human services.

(III) Income verification for a ~~basic~~ REDUCED personal injury protection policy shall be through written evidence from the person seeking to qualify for a policy issued pursuant to this subsection (3) of the annual gross income of such person and such person's resident spouse for the most recent tax year available. Such evidence shall be contained in a document acceptable to the policy provider. For persons qualified pursuant to this paragraph (c), further verification of annual gross income shall be required in the same manner every third year following the date upon which the policy is issued.

(f) (I) The ~~basic~~ REDUCED personal injury protection policy shall apply only to the named insured, resident spouse, and resident child. For purposes of this subsection (3), a child is a resident if such child qualifies as a dependent of the named insured under the federal income tax code, 26 U.S.C.A., sec. 151 (c).

(II) Any person injured in an accident, other than those persons whose coverage is specifically limited in a ~~basic~~ REDUCED personal injury protection policy pursuant to subparagraph (I) of this paragraph (f), shall, if expenses incurred by such injured person exceed the limits of such ~~basic~~ REDUCED personal injury protection policy, receive coverage for such expenses of not less than the minimum coverages mandated by paragraphs (b), (c), (d), and (e) of subsection (1) of this section.

(g) All persons who qualify for and opt for a ~~basic~~ REDUCED personal injury protection policy pursuant to this subsection (3) shall be deemed in violation of this part 7 if such persons do not obtain a policy providing legal liability coverage as specified in paragraph (a) of subsection (1) of this section.

(h) For the first year an insurer offers the coverages authorized in this subsection (3), such insurer shall demonstrate in rate filings submitted to the commissioner that a savings of a minimum of fifteen percent of the BASIC personal injury protection coverage premium shall be realized under the plan. An insurer shall certify, pursuant to section 10-4-725, to the commissioner any disclosure form used to record an insured's election for any coverage authorized in this subsection (3).

(4) (a) An insurer issuing policies providing coverages as set forth in this section shall provide written explanations of all available coverages prior to issuing any policy to an insured. After a named insured selects a policy with desired personal injury protection coverage, an insurer shall not be under any further obligation to notify such policyholder in any renewal or replacement policy of the availability of a ~~basic~~ REDUCED personal injury protection policy or of any alternative personal injury protection coverage.

SECTION 3. 10-4-707 (4), Colorado Revised Statutes, is amended to read:

10-4-707. Benefits - how payable. (4) When an accident involves the operation of a motor vehicle by a person who is neither the owner of the motor vehicle involved in the accident nor an employee of the owner ACTING WITHIN THE COURSE AND SCOPE OF EMPLOYMENT AT THE TIME OF THE ACCIDENT, and the operator of the motor vehicle is an insured under a complying policy other than the complying policy insuring the motor vehicle involved in the accident, primary coverage as to all

coverages provided in the policy under which the operator is an insured shall be afforded by the policy insuring the said operator, except as provided in subsection (6) of this section, and any policy under which the owner is an insured shall afford excess coverage. When an accident involves the operation of a motor vehicle regulated under the provisions of article 10 or 11 of title 40, C.R.S., the provisions of subsection (3) of this section shall apply.

SECTION 4. The introductory portion to 10-4-710 (2) (a), Colorado Revised Statutes, is amended to read:

10-4-710. Required coverages are minimum. (2) (a) Every insurer shall offer THE FOLLOWING ENHANCED BENEFITS for inclusion in a complying policy, in addition to the BASIC coverages described in section 10-4-706, at the option of the named insured:

SECTION 5. Effective date - applicability. Sections 1, 2, and 4 of this act shall take effect July 1, 2001, and shall apply to insurance policies issued pursuant to part 7 of article 4 of title 10, Colorado Revised Statutes, on or after said date and section 3 of this act shall take effect July 1, 2001, and apply to auto accidents occurring on or after said date.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2001