A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 431:10C-304, Hawaii Revised Statutes, is amended to read as follows:

"§431:10C-304 Obligation to pay personal injury protection benefits. For purposes of this section, the term "personal injury protection insurer" includes personal injury protection self-insurers. Every personal injury protection insurer shall provide personal injury protection benefits for accidental harm as follows:

(1) Except as otherwise provided in section 431:10C-305(d), in the case of injury arising out of a motor vehicle accident, the insurer shall pay, without regard to fault, to the provider of services on behalf of the following persons who sustain accidental harm as a result of the operation, maintenance, or use of the vehicle, an amount equal to the personal injury protection benefits as defined in section 431:10C-
103.5(a) payable for expenses to that person as a result of the injury:

(A) Any person, including the owner, operator, occupant, or user of the insured motor vehicle;

(B) Any pedestrian (including a bicyclist); or

(C) Any user or operator of a moped as defined in section 249-1;

provided that this paragraph shall not apply in the case of injury to or death of any operator or passenger of a motorcycle or motor scooter as defined in section 286-2 arising out of a motor vehicle accident, unless expressly provided for in the motor vehicle policy;

(2) Payment of personal injury protection benefits shall be made as the benefits accrue, except that in the case of death, payment of benefits under section 431:10C-302(a)(5) may be made immediately in a lump sum payment, at the option of the beneficiary;

(3) (A) Payment of personal injury protection benefits shall be made within thirty days after the insurer has received reasonable proof of the fact
and amount of benefits accrued, and demand for payment thereof. All providers must produce descriptions of the service provided in conformity with applicable fee schedule codes;

(B) If the insurer elects to deny a claim for benefits in whole or in part, the insurer shall, within thirty days, notify the claimant in writing of the denial and the reasons for the denial. The denial notice shall be prepared and mailed by the insurer in triplicate copies and be in a format approved by the commissioner. In the case of benefits for services specified in section 431:10C-103.5(a) the insurer shall also mail a copy of the denial to the provider; and

(C) If the insurer cannot pay or deny the claim for benefits because additional information or loss documentation is needed, the insurer shall, within the thirty days, forward to the claimant an itemized list of all the required documents. In the case of benefits for services specified in
section 431:10C-103.5(a) the insurer shall also
forward the list to the service provider;

(4) Amounts of benefits [which] that are unpaid thirty
days after the insurer has received reasonable medical
proof of the fact and the amount of benefits accrued,
and demand for payment thereof, after the expiration
of the thirty days, shall bear interest at the rate of
[one-and-one-half] ____ per cent per month; provided
that the insurer shall be assessed an additional fine
of $ ______ per month until the unpaid amount of
benefits has been paid;

(5) No part of personal injury protection benefits paid
shall be applied in any manner as attorney's fees in
the case of injury or death for which the benefits are
paid. The insurer shall pay, subject to section
431:10C-211, in addition to the personal injury
protection benefits due, all attorney's fees and costs
of settlement or suit necessary to effect the payment
of any or all personal injury protection benefits
found due under the contract. Any contract in
violation of this provision shall be illegal and
unenforceable. It shall constitute an unlawful and
unethical act for any attorney to solicit, enter into,
or knowingly accept benefits under any contract;
(6) Disputes between the provider and the insurer over the
amount of a charge or the correct fee or procedure
code to be used under the workers' compensation
supplemental medical fee schedule shall be governed by
section 431:10C-308.5; and
(7) Any insurer who violates this section shall be subject
to section 431:10C-117(b) and (c)."
SECTION 2. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 3. This Act shall take effect on July 1, 2020.

INTRODUCED BY:  

JAN 23 2020
Report Title:
Motor Vehicle Insurance; Personal Injury Protection Benefits; Claims; Penalties

Description:
Clarifies what constitutes reasonable proof for a personal injury protection benefits claim under a motor vehicle insurance policy. Blanks out amount of interest charged on unpaid personal injury protection benefits claims. Establishes a monthly penalty for unpaid personal injury protection benefits claims.

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