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THE NO-FAULT PROCESS
Summary of Regulations, Terms and Procedures

1. Identify Insurance Company - On the Police Report there is a three digit code that identifies the insurance company for a vehicle. The following link will take you to the insurance code index on the NYS DMV website:
<http://www.ins.state.ny.us/dmvindex.htm>.
2. The insurance company, under Article 51 of the New York Insurance Law, is required to pay all of your medical bills, i.e. no-fault insurance.
3. Every automobile is required to have insurance. For this discussion the types of coverage we need to address are:
 - a. Liability Coverage – provides monies for pain and suffering in cases where injuries are “serious and severe” and liability is established. If the injured person has a “threshold” injury, then the Insurance Company is required to make payment under the Liability Coverage.
 - b. No-Fault Coverage (also known as Personal Injury Protection or PIP) – pays medical bills, lost wages, reimbursement for expenses. The Insurance Company for the car that you are in pays the bills, regardless of who is at fault for the accident. If you are a pedestrian or bicyclist, then the car that hits you pays the bills (even if you own your own car or live in a household where someone owns a car).
4. Report the Accident - No-Fault Claim must be established within 30 days of an accident. If you do not report the accident to the No-Fault Insurance Company in a timely manner they may not pay your medical bills. This “Report” can be given over the phone by calling the insurance company and opening a claim with the “first reports” department. They will in turn send you a No-Fault Claim Form (NF-2) which must be completed, signed and returned within a specific period of time. This form should be mailed to the insurance company via Certified Mail with Return Receipt Requested.

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5. All bills that you receive from medical care providers (i.e.: doctors, hospital, radiology office) should be sent to the insurance company with whom the No-Fault Claim is established. These bills should be accompanied by a letter written by you which includes your claim number. Also, send a copy of the letter to the No-Fault Insurance Company and bill to the medical care provider. **ALWAYS KEEP A COPY OF EVERYTHING YOU SEND TO THE NO-FAULT INSURANCE COMPANY.**
6. No-Fault Medical Examination – At some point after the establishment of the No-Fault Claim, the No-Fault Insurance Company will send a notice of an appointment to be examined by one of their doctors. This is a requirement of the No-Fault Insurance coverage. If you do not attend the Physical Examination your medical benefits through No-Fault will be terminated, past bills (that are not yet paid by No Fault) will not be paid and you may become personally responsible for these bills. This Physical Examination is used by the Insurance Company to decide whether you require additional medical treatment for your injuries or if they will terminate your benefits.
7. The No-Fault Insurance Company’s doctors do not always agree with the treating doctors and sometimes declare that no future benefits are necessary even though you may still be treating. Unfortunately this is a rather normal practice for the insurance companies. At that point you may use your own health insurance to pay for your continuing medical treatment. **YOU SHOULD NOT USE YOUR OWN HEALTH INSURANCE UNTIL YOUR NO-FAULT BENEFITS ARE CUT OFF.**
8. Lost Wage Claim – No-Fault Insurance will also potentially pay for your lost wages if correctly established. Your employer must complete a NF-6 form which will be sent to them by the No-Fault Insurance Company. Your Doctor must submit a report to NO Fault stating that you are not able to work for the time period that you are seeking lost wages. The lost wage request and the Doctor’s disability note must be updated every 30 days that you are not working. If you do not submit the doctor’s note they will delay payment of your lost wage claim.

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9. Travel Reimbursement – you are entitled to be reimburse for your travel to and from your treating doctors. [a] If you drive - you must submit a mileage reimbursement statement every 30 days to the No-Fault Insurance Company. This statement must include the name and address of your treating physician, the date of service and the round trip mileage from your home to the doctor’s office. Below is an example.

MILEAGE STATEMENT

| <u>Date of Visit</u> | <u>Doctor</u> | <u>R/T Mileage</u> |
|----------------------|--|--|
| 1/1/10 | Dr. John Doe 123 ABC Street Any Town, Any State 11111 | 15.0 miles |
| 2/2/10 | Dr. Jane Smith 456 DEF Street Any Town, Any State 1111 | 10.0 miles |
| | TOTAL MILES | 25.0 miles x. \$0.55 cents per Mile per Internal Revenue Rules for Travel reimbursement. |
| | | <u>DUE = \$13.75</u> |

OR

[Continued next page]

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[b] Attached are Taxi / Car Service Receipts.

| <u>Date of Visit</u> | <u>Doctor</u> | |
|----------------------|--|-----------------------------|
| 1/1/10 | Dr. John Doe 123 ABC Street Any Town, Any State 11111 | \$4.75 / 4.75 round trip |
| 1/2/10 | Dr. Jane Smith 456 DEF Street Any Town, Any State 1111 | \$5.75 / 5.75 round trip |
| | | <u>DUE = \$21.00</u> |

***FOR INSURANCE COVERAGE FOR ACCIDENTS WHERE THERE IS NO
INFORMATION ON THE CAR THAT CAUSED THE ACCIDENT, OR THE CAR DOES
NOT HAVE INSURANCE, COVERAGE IS PROVIDED BY NEW YORK STATE.***

SEE THE FOLLOWING PAGES.

The following is copied from: <http://www.mvaic.com/>. All information below is copied from the New York State web-site. Please check back to the web-site for updated requirements and forms that need to be filed.

The Motor Vehicle Accident Indemnification Corporation (MVAIC) was established to pay bodily injury damages and no fault benefits to “qualified” victims of motor vehicle accidents caused by uninsured motorists.

PURPOSE OF THE LAW

Since January 1, 1957, owners of automobiles registered in New York State have been required to furnish proof of financial responsibility (usually liability insurance) in order to register their vehicles. In order to provide compensation for innocent victims of certain types of accidents caused by uninsured or otherwise financially irresponsible motorists, the New York State legislature passed the MVAIC Law. Examples of such accidents are those caused by:

- 1) Uninsured out-of-state motor vehicles.
- 2) Unidentified hit and run drivers.
- 3) Uninsured New York motor vehicles.
- 4) Stolen motor vehicles.
- 5) Motor vehicles operated without the consent of the owner.
- 6) Insured motor vehicles. where the insurance is inapplicable to the accident.
- 7) Unregistered motor vehicles.

ELIGIBILITY

In order to be eligible to submit a claim to MVAIC a claimant must be a QUALIFIED PERSON as that term is described hereafter. [Article 52](#) of the Insurance Law provides that persons with other available insurance no longer seek redress from or submit claims to MVAIC. Instead, such claimants give notice to the insurance company insuring the automobile which the person occupied, or if the vehicle the person occupied is uninsured, or if the person is a pedestrian, to such person's insurance company or the insurer of a resident relative of such person.

QUALIFIED PERSONS

A QUALIFIED PERSON is a resident of New York State or a resident of another state or country having a substantially similar program available to New York State residents injured in that state or country. A QUALIFIED PERSON is someone other than (1) an insured, or (2) the owner of an uninsured motor vehicle and his/her spouse when a passenger in such vehicle. An example of a QUALIFIED PERSON is a pedestrian residing in New York State who does not own a motor vehicle and does not qualify as an insured person under any automobile liability insurance policy, who is struck by an uninsured motor vehicle in New York State.

INSURED PERSONS

Automobile Liability Insurance Policies generally contain language which defines an insured as follows:

Insured. The unqualified word "insured" means:

- 1) The named insured and, while residents of the same household, his/her spouse and the relatives of either;
- 2) Any other person while occupying
 - (i) a motor vehicle owned by the named insured or, if the named insured is an individual, such spouse, and used by or with the permission of either, or
 - (ii) any other motor vehicle while being operated by the named insured or such spouse, except a person occupying a motor vehicle not registered in the State of New York, while used as a public or livery conveyance; and
- 3) Any person, with respect to damages he/she is entitled to recover because of bodily injury to which this endorsement applies sustained by an insured under (1) or (2) above.

INELIGIBLE CLAIMS

MVAIC does not provide benefits for any of the following:

- 1) Property damage.
- 2) Injuries or death of an uninsured motorist or his/her spouse, when a passenger in an uninsured motor vehicle owned by his or her spouse.
- 3) Injuries or death of a person driving, in violation of a revocation or suspension of said person's driving privileges.
- 4) Claims against persons not liable under law. For example, between husband and wife.
- 5) Accidents caused by vehicles owned by the United States of America, Canada, a state, a political sub division of any such government or agency of any of the foregoing.
- 6) Accidents occurring outside of New York State.
- 7) Hit and run claims which did not involve physical contact by a hit and run motor vehicle.
- 8) Hit and run claims which were not reported to the Police, Justice of the Peace, a judge, or the Motor Vehicle Commissioner within 24 hours or as soon as reasonably possible.
- 9) Operators or passengers on motorcycles are not covered by PIP.
- 10) "Non serious injures." For the purposes of claims of "non-economic" loss (i.e., tort damages) only "serious injuries" as defined by the No-Fault Law, which includes death, significant disfigurement, fractures, and permanent and long term physical injuries

IF YOU ARE A QUALIFIED PERSON

1) Notify the Motor Vehicle Accident Indemnification Corporation, located at 110 William Street, New York, New York 10038 of your intention to make a claim and file an affidavit (sworn statement) setting forth information including the names of the operator and owner of the uninsured motor vehicle, if known, and the facts in support of your claim. Suitable affidavit forms may be obtained on request from MVAIC, or in stores selling legal forms.

If a claim is based on an accident involving a "hit and run" vehicle in which the identity of the owner and/or operator is unascertainable then the affidavit of claim must be filed within 90 days

of the accident date. However, when the owner or operator of the vehicle is identifiable, effective July 22, 1989, this affidavit must be filed within 180 days of the accident date. If the claim was originally against an insured person whose insurance carrier denied the claim, then the affidavit must also be filed within 180 days after the receipt of the disclaimer or denial, provided that due diligence has been exercised to determine whether or not such insurance coverage existed. Failure to file the affidavit within the appropriate time may cause your claim to be denied unless you can prove to MVAIC or a Court that filing was prevented by mental or physical disability, infancy, or death of the injured person and/or that the affidavit was filed as soon as reasonably possible.

2) Report the accident to the police, justice of the peace, a judge, or the Motor Vehicle Commissioner within twenty-four (24) hours after the accident if the claim is against a hit and run driver. Failure to make such report may result in your claim being denied unless you can prove it was not reasonably possible to make such report and it was made as soon as reasonably possible.

3) Cooperate with MVAIC in handling your claim. MVAIC may ask you to supply further particulars of the accident, names or witnesses, the nature of the injuries, medical expenses, etc. This may be done by means of forms submitted to you by MVAIC or by an adjuster assigned to investigate and, in a proper case, negotiate a settlement.

FALSE STATEMENTS

Knowingly filing with MVAIC any necessary notice, statement or document which is false or untrue, or which contains material misstatements, is a misdemeanor. Upon conviction thereof, the guilty person may be fined or imprisoned.

LIABILITY NECESSARY

Other than for No-Fault claims, the mere fact that an individual has sustained injury or death in a motor vehicle accident does not necessarily entitle said person or said person's representative to payment. It must be established that the injury or death resulted from the negligence of the party causing the accident and that the eligible injured party or deceased comes within the provisions of the "Comparative Negligence" doctrine. This doctrine apportions the degree of negligence between parties to an accident for the purpose of establishing the extent of liability to pay damages by the party causing the accident predicated on his or her share of negligence.

LIMITS OF LIABILITY OF MOTOR VEHICLE ACCIDENT INDEMNIFICATION CORPORATION

Effective January 1, 1996 for accidents occurring thereafter, the maximum recovery for injury to one person is \$25,000 and the maximum recovery for injury to two or more persons as the result of one accident is \$50,000. In case of death the applicable coverage is \$50,000/100,000.

The amount that MVAIC is liable to pay is reduced by:

- 1) Payments by or on behalf of financially irresponsible motorists.
- 2) Payments by or on behalf of any other person, or entity, jointly or severally liable for the accident.
- 3) Payments under any coverage similar to that provided by MVAIC.

ALTERNATIVE REMEDIES

Any claimant may make his claim in the first instance, either against MVAIC or against the uninsured person causing the accident. If you proceed against the uninsured person, you should advise MVAIC and cooperate with it. This includes providing MVAIC with copies of any lawsuit commenced against the uninsured motorists and other persons or entities against whom liability and damages are sought. If you should either settle with the uninsured motorist, or recover a judgment against said person without the prior consent of MVAIC, you may have cut off your right to any further payment by MVAIC. You may have also cut off any possible claim against other persons responsible for the accident. If you proceed against the uninsured, however, be sure to timely file with MVAIC to protect your rights.

SUBROGATION - If you are paid by MVAIC, it becomes the owner of your claim against the uninsured motorists.

"NO FAULT" - PERSONAL INJURY PROTECTION - (PIP Benefits)

As of December 1, 1977, a law went into effect which required MVAIC to pay certain PIP benefits to a QUALIFIED PERSON irrespective of fault and whether or not such person's acts contributed to the accident.

If you are injured as the result of a motor vehicle accident involving a financially irresponsible motorist, including hit-and-run; and you have complied with certain statutory requirements, MVAIC will pay you up to \$50,000 for your reasonable and necessary hospital and doctor's bills, certain related expenses (e.g., transportation to and from medical providers), as well as for loss of earnings up to certain prescribed amounts.

It is important to note that in the event a lawsuit is commenced against the financially irresponsible motorist, the fault, if any, of the "QUALIFIED PERSON" would be taken into consideration by the Court or a jury. However, in the case of No-Fault payments fault is not a consideration.

If a "Qualified Person" is killed as the result of any accident by a financially irresponsible motorist, a prescribed death benefit payment of \$2,000 will also be paid by MVAIC in accordance with the No-Fault law.

A qualified pedestrian injured or killed by an uninsured motorcycle is covered for PIP benefits, etc.

WHERE DOES THE MONEY COME FROM

MVAIC, a corporation created by the New York State legislature is not a part of the government and receives no tax money. MVAIC is composed of all the motor vehicle liability insurers doing business in New York State.

The money needed to fund MVAIC for claim payments and claim and administrative expense is derived from assessments levied upon its member companies in proportion to their respective premium writings. These assessments are passed on to purchasers of motor vehicle liability insurance as part of the premium.

(If you are not sure whether you are an "Insured" or a "Qualified Person" proceed as if you were a "Qualified Person" and advise MVAIC of any insurance coverage you believe may exist.)

This above summary has been published by MVAIC to acquaint the public with the principal provisions of the program established by the MVAIC Law, Article 52 of the New York State Insurance Law and the No-Fault Law . It does not intend to provide legal advice or to set forth all the provisions of the respective statutes, nor all the provisions required of insurance coverages, nor to discuss any of them in legal detail. Persons needing or desiring more complete information should read the law and the applicable insurance contracts or consult with a qualified attorney.

Contact Information

Our office hours are 8:30am to 4:30pm Monday through Friday. You can contact us via telephone 646-205-7800, fax 212-732-1826, regular mail 110 William Street, 19th Floor, New York, NY 10038