

CHAPTER 66. [Reserved]**§ 66.1. [Reserved].****Source**

The provisions of this § 66.1 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; amended through October 15, 1977, 7 Pa.B. 3081; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215685) to (215686).

Notes of Decisions*Motor Vehicle*

Plaintiff cannot recover from an insurance carrier for injuries sustained while riding in a golf cart on a golf green because plaintiff averred no facts which would bring the golf cart in question within the ambit of the Motor Vehicle Financial Responsibility Law, 75 Pa.C.S. § 1701 et seq. *Herr v. Grier*, 671 A.2d 224 (Pa. Super. 1995).

In holding that an injured individual was not entitled to basic loss benefits under the Pennsylvania No-Fault Motor Vehicle Act (40 P. S. § 1009.101), because the dune buggy in which she was riding was not a vehicle of a kind required to be registered under the Vehicle Code, since it was uninsured, unregistered, lacked a substantial portion of the minimum equipment required for registration, and was continuously operated exclusively off of public highways, the Court noted that the definition of “motor vehicle” found in this section specifically exempts motor vehicles which are not registered because they are used exclusively off of public highways. *Bills v. Nationwide Mutual Insurance Co.*, 463 A.2d 1148 (Pa. Super. 1983).

Regulations at §§ 66.1—66.103 formerly specifically excluding snowmobiles from the definition of motor vehicle was not dispositive in the interpretations of the statutory phrase and did not mandate the exclusion of snowmobiles from coverage under the No-Fault Act (40 P. S. § 1009.101). *Gallo v. J.C. Penney Casualty Insurance Co.*, 476 A.2d 1322 (Pa. Super. 1984).

§ 66.2. [Reserved].**Source**

The provisions of this § 66.2 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215686).

§ 66.11. [Reserved].**Notes of Decisions***Insurance Requirements*

Transportation authority must either purchase insurance, including uninsured motorist coverage, or maintain adequate funds to compensate individuals injured on or by buses, placing them in the same position as a vehicle owner who has purchased liability insurance. *Modesta v. Southeastern Pennsylvania Transportation Authority*, 469 A.2d 1019 (Pa. Cmwlth. 1983).

The provisions of 31 Pa. Code § 66.11 do not require self-insurers to provide insurance which is not required by the Uninsured Motorist Act (40 P. S. §§ 2000—2101) or the No-Fault Act (40 P. S. §§ 1009.101—1009.701). *Modesta v. Southeastern Pennsylvania Transportation Authority*, 445 A.2d 1271 (Pa. Super. 1982).

Section 66.11 requires that in addition to basic loss benefits a no-fault insurance policy provide for uninsured motorist benefits. This applies also to policy responsibilities under the assigned claims plan,

which provides for insurance coverage for those injured in motor vehicle accidents who are not covered by a policy of basic loss insurance. Thus, assigned insurers under the plan are required to pay both basic loss benefits and uninsured motorist benefits. *Tubner v. State Farm Mutual Automobile Insurance Co.*, 436 A.2d 621 (Pa. 1981).

Pedestrian

Where uninsured pedestrian is struck by an insured vehicle and an uninsured vehicle, pedestrian is entitled to recover from the insurer for no-fault and tort liability coverage but not for uninsured motorists coverage. *McMullin v. Dallago*, 510 A.2d 787 (Pa. Super. 1986).

Substantially Equivalent

Under the No-Fault Motor Vehicle Insurance Act (40 P.S. §§ 1009.101—1009.701) (Repealed) self-insurers must include uninsured motorists coverage in order to meet the “substantially equivalent” requirements of the act. *Fairbanks v. Travelers Insurance Company*, 486 A.2d 469 (Pa. Super. 1984).

Uninsured Motorist Coverage

Every policy of insurance issued under the no-fault act must provide for uninsured motorist coverage. *Prudential Property and Casualty Ins. Co. v. Falligan*, 484 A.2d 88 (Pa. Super. 1984).

Source

The provisions of this § 66.11 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215686) to (215687).

§ 66.12. [Reserved].

Source

The provisions of this § 66.12 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; amended June 23, 1978, effective June 24, 1978, 8 Pa.B. 1677; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215687).

§ 66.21. [Reserved].

Source

The provisions of this § 66.21 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; amended April 11, 1975, effective April 12, 1975, 5 Pa.B. 897; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215687).

Notes of Decisions

Interest

The regulation does not excuse an insurer from paying interest on damages in the form of lost wages, especially since a municipal wage continuation plan is not a “Government program such as Medicare.” *Bowdren v. State Farm Insurance Co.*, 6 Pa. D. & C.3d 292 (Pa. Cmwlth. 1977).

§ 66.31. [Reserved].

Source

The provisions of this § 66.31 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215687).

§ 66.41. [Reserved].**Source**

The provisions of this § 66.41 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; amended April 11, 1975, 5 Pa.B. 897; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215688).

Notes of Decisions*Applicable Regulations*

Regulations under which a claimant's basic loss benefits coverage would be increased to meet the requirements of New Jersey law, the place where the accident occurred, are not binding if the statute under which they were promulgated has been repealed. *Smith v. Firemens Insurance Co.*, 590 A.2d 24 (Pa. Super. 1991); appeal denied 605 A.2d 334 (Pa. 1992).

Promulgation

The section defining "state no-fault plan" was properly promulgated even though the statute section did not name the Commissioner. *Ropka v. Government Employees Insurance Co.*, 500 A.2d 1171 (Pa. Super. 1985).

State No-Fault Plan

Since the Maryland No-fault Motor Vehicle Insurance Act has no restriction on the right to bring an action for noneconomic detriment, it does not qualify as a "state no-fault plan." *Sefret v. Tarter*, 9 Pa. D. & C.3d 767 (1979).

§ 66.51. [Reserved].**Source**

The provisions of this § 66.51 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215689).

§ 66.52. [Reserved].**Source**

The provisions of this § 66.52 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; amended through July 15, 1977, 7 Pa.B. 1979; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215689) to (215690).

§ 66.53. [Reserved].**Source**

The provisions of this § 66.53 amended through March 6, 1981, effective April 6, 1981, 11 Pa.B. 809; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215690) to (215692).

Notes of Decisions*Collateral Benefits*

Citing subsection (c)(4)(v) as support, the court held there was no reason not to include HMO benefits as collateral benefits in “benefits and advantages” to be set off under the Pennsylvania Assigned Claim Plan (40 P. S. § 1009.108 (a)(3)). *Grant v. Travelers Insurance Company*, 494 A.2d 862 (Pa. Super. 1985).

Coverage

Insured’s inability to collect on primary medical coverage provided through an HMO did not render excess insurance carrier liable where the insured disqualified herself under the HMO contract by choosing the services of a non-HMO doctor. The provision of subsection (c)(1) for coverage where “no named insured has such coverage in effect...” does not apply when coverage is in effect at the time of the accident but is later voluntarily rejected by the insured. *Carr v. Erie Insurance Co.*, 493 A.2d 97 (Pa. Super. 1985).

Waiting Period

If a claimant has not made the election to use the one week waiting period for work loss benefits provided by 40 P. S. § 1009.202(e)(2), the claimant is subject either to a two week waiting period under the provisions of 31 Pa. Code § 66.53(c)(1) or to no waiting period at all, depending on whether he is a “named insured” under the policy. *Zepp v. Nationwide Insurance Company*, 434 A.2d 112 (Pa. Super. 1981).

§ 66.54. [Reserved].**Source**

The provisions of this § 66.54 adopted July 15, 1977, 7 Pa.B. 1979; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215692) to (215696).

Notes of Decisions*Work Loss*

In determining whether a claim for work loss benefits under the Pennsylvania No-fault Motor Vehicle Insurance Act is barred by the 2-year statute of limitations (40 P. S. § 1009.06(c)(1)), a gross income analysis of ‘work loss’ is required by 40 P. S. § 1009.103, rather than the net income analysis utilized in subsection (b), and should be employed to identify the amounts of loss and dates on which accrued. *Miller v. Prudential Property and Casualty Insurance Company*, 495 A.2d 973 (Pa. Super. 1985).

§ 66.55. [Reserved].**Source**

The provisions of this § 66.55 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; amended July 15, 1977, 7 Pa.B. 1979; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215697).

§ 66.56. [Reserved].**Source**

The provisions of this § 66.56 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215697) to (215698).

Notes of Decisions*Added Loss Benefits*

In the absence of an allegation that the defendant is the plaintiff's insurer under section 103 of the No-fault Insurance Act (40 P. S. § 1009.103), no obligation of the defendant to provide added loss benefits can be found. The plaintiff's cause of action against a self-insured defendant lies solely in trespass based on the defendant's negligence. *Boyer v. Hicks*, 19 Pa. D. & C. 3d 300 (Pa. Com. Pl. 1981).

§ 66.57. [Reserved].**Source**

The provisions of this § 66.57 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; amended July 28, 1978, 8 Pa.B. 2099; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215698).

§ 66.81. [Reserved].**Source**

The provisions of this § 66.81 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; amended April 11, 1975, effective April 12, 1975, 5 Pa.B. 897; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215699).

§ 66.101. [Reserved].**Source**

The provisions of this § 66.101 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215699).

Notes of Decisions*Ceiling*

A policy that provides for work loss benefits to a deceased insured without excluding domiciliaries of another state and provides more benefits than the minimum required by the No-Fault Act does not violate the act. *Manheim v. State Farm Mutual Automobile Insurance Co.*, 518 A.2d 861 (Pa. Super. 1986).

This section establishes a minimum standard for a No-Fault insurance policy but does not put a ceiling on specified amounts or types of coverage. *Manheim v. State Farm Mutual Automobile Insurance Co.*, 518 A.2d 861 (Pa. Super. 1986).

The regulations found at 31 Pa. Code § 66.101, while affording a minimum standard for a No-Fault insurance policy, do not put a ceiling on specified amount or type of coverage. *Gallo v. J. C. Penney Casualty Insurance Co.*, 476 A.2d 1322 (Pa. Super. 1984).

The fact that a policy which prohibits stacking of basic loss benefits has been approved by the Insurance Commissioner under this section is evidence that the Commissioner is of the view that such a policy is not contrary to the No-Fault Act. *Antanovich v. Allstate Insurance, Co.*, 467 A.2d 345 (Pa. Super. 1983); affirmed 488 A.2d 571 (Pa. 1985).

§ 66.102. [Reserved].

Source

The provisions of this § 66.102 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; amended July 18, 1980, effective July 19, 1980, 10 Pa.B. 3040; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215700) to (215711).

Notes of Decisions

No Fault Act

Attendant care services are an “allowable expense” under the Pennsylvania No-Fault Motor Vehicle Insurance Act (40 P. S. § 1009.103) (Repealed) when provided by accredited, nonfamily, medical care providers. *Travelers Insurance Company v. Obusek*, 72 F.3d 1148 (3d Cir. Pa. 1995).

It is necessary to establish a prima facie case for claimant for attorneys fees under section 107 of the No-Fault Motor Vehicle Insurance Act (40 P. S. § 1009.107) (Repealed) to prove that reasonable proof of loss was submitted to insurer or that insurer acted in bad faith. *Lee v. Safeguard Mutual Insurance Co.*, 549 A.2d 927 (Pa. Cmwlth. 1988); appeal denied 562 A.2d 320 (Pa. 1989).

This section is consistent with court’s conclusion that, under section 106(a)(2) of No-Fault Act (40 P. S. § 1009.106), victim or his survivor bears burden of establishing “reasonable proof of the fact and amount of loss.” *Ralph v. Ohio Casualty Insurance Company*, 525 A.2d 1234 (Pa. Super. 1987).

A policy that provides for work loss benefits to a deceased insured without excluding domiciliaries of another state and provides more benefits than the minimum required by the Pennsylvania No-Fault Act does not violate the act. *Manheim v. State Farm Mutual Automobile Insurance Co.*, 518 A.2d 861 (Pa. Super. 1986).

This section establishes a minimum standard for a No-Fault insurance policy but does not put a ceiling on specified amounts or types of coverage. *Manheim v. State Farm Mutual Automobile Insurance Co.*, 518 A.2d 861 (Pa. Super. 1986).

A provision in a policy which provides that in the event of the existence of other automobile medical payments insurance, the insurance company will not be liable for a greater proportion of the loss than the limit of its policy bears to the total applicable limit of liability of all valid and collectible automobile medical payments insurance is deemed appropriate since it is in basic conformance with the Model Basic Personal Injury Protection Endorsement found in subsection (e). *Fireman’s Fund Insurance Co. v. Nationwide Mutual Insurance Co.*, 464 A.2d 431 (Pa. Super. 1983).

Although the definition of “replacement services loss” under 31 Pa. Code § 66.102 is not dispositive for the interpretation of the statutory version of that phrase under section 202(c) of the No-Fault Motor Vehicle Insurance Act (40 P. S. § 1009.202(c)), nothing in the model policy is inconsistent with the interpretation that insureds are entitled to reimbursement for 365 days of such services, even when these replacement service days occur more than a year after the injuries. *Habecker v. Nationwide Insurance Co.*, 445 A.2d 1222 (Pa. Super. 1982).

It is contrary to public policy and legislative intent to allow an insurance company to reduce the statutorily mandated minimum benefits of its uninsured motorist insurance provisions by setting off those amounts received by the insured under his no-fault coverage, and such policy provisions as well

as the model no-fault policy are therefore contrary to public policy and legislative intent. *Brader v. Nationwide Mutual Insurance Co.*, 411 A.2d 516 (Pa. Super. 1979).

No-fault protection afforded to passengers injured in accidents involving common carriers prohibits them from bringing assumpsit claims against third party common carriers. *Smith v. Harrisburg Taxicab and Baggage Company* 75 Pa. D. & C.2d 786 (1976).

§ 66.103. [Reserved].

Source

The provisions of this § 66.103 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; amended through September 9, 1977, 7 Pa.B. 2606; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215712) to (215713).

§ 66.104. [Reserved].

Source

The provisions of this § 66.104 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215713).

§ 66.111. [Security] Reserved.

Editor's Note: History. Section 9 of Act 1984, February 12, P. L. 53, No. 12, provides as follows: "Savings provision—Notwithstanding the repeal of the act of July 19, 1974 (P. L. 489, No. 176), known as the Pennsylvania No-fault Motor Vehicle Insurance Act (40 P. S. § 1009.101), the requirement to fund the payment of assigned claims under section 108 of that act remains unaffected."

Source

The provisions of this § 66.111 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215713).

§ 66.112. [Reserved].

Source

The provisions of this § 66.112 adopted April 11, 1975, 5 Pa.B. 897; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215713) to (215714).

§ 66.121. [Reserved].

Source

The provisions of this § 66.121 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215714) to (215718).

§§ 66.122 and 66.123. [Reserved].**Source**

The provisions of these §§ 66.122 and 66.123 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 231; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215718) to (215719).

§ 66.131. [Assigned claims plan] Reserved.

Editor's Note: History. Section 9 of Act 1984, February 12, P. L. 53, No. 12, provides as follows: "Savings provision—Notwithstanding the repeal of the act of July 19, 1974 (P. L. 489, No. 176) known as the Pennsylvania No-fault Motor Vehicle Insurance Act (40 P. S. § 1009.101), the requirement to fund the payment of assigned claims under section 108 of that act remains unaffected."

Source

The provisions of this § 66.131 adopted April 18, 1975, 5 Pa.B. 928; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215719) to (215720).

§ 66.141. [Reserved].**Source**

The provisions of this § 66.141 adopted July 11, 1975, 5 Pa.B. 1782; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215720).

§ 66.142. [Reserved].**Source**

The provisions of this § 66.142 adopted July 11, 1975, 5 Pa.B. 1782; amended through April 11, 1979, 9 Pa.B. 1288; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215720) to (215721).

§ 66.143. [Reserved].**Source**

The provisions of this § 66.143 adopted July 11, 1975, 5 Pa.B. 1782; amended April 11, 1979, 9 Pa.B. 1288; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215721) to (215722).

§ 66.144. [Reserved].**Source**

The provisions of this § 66.144 adopted July 11, 1975, 5 Pa.B. 1782; amended February 10, 1977, 7 Pa.B. 439; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215722).

§ 66.145. [Reserved].**Source**

The provisions of this § 66.145 adopted July 11, 1975, 5 Pa.B. 1782; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215722).

§§ 66.151 and 66.152. [Reserved].**Source**

The provisions of these §§ 66.151 and 66.152 adopted February 10, 1977, 7 Pa.B. 439; amended September 2, 1977, 7 Pa.B. 2526; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215722) to (215724).

§ 66.153. [Reserved].**Source**

The provisions of this § 66.153 adopted February 10, 1977, 7 Pa.B. 439; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215724).

§ 66.154. [Reserved].**Source**

The provisions of this § 66.154 adopted February 10, 1977, 7 Pa.B. 439, amended through July 15, 1977, 7 Pa.B. 3081; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215724) to (215728).

§ 66.155. [Reserved].**Source**

The provisions of this § 66.155 adopted February 10, 1977, 7 Pa.B. 439; amended September 2, 1977, 7 Pa.B. 2526; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial page (215728).

§§ 66.156—66.158. [Reserved].**Source**

The provisions of these §§ 66.156—66.158 adopted February 10, 1977, 7 Pa.B. 439; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215729) to (215730).

§ 66.201. [Reserved].**Source**

The provisions of this § 66.201 adopted February 26, 1982, effective February 27, 1982, 12 Pa.B. 836; reserved January 3, 1997, effective January 4, 1997, 27 Pa.B. 19. Immediately preceding text appears at serial pages (215730) to (215731).

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