

## **Legally Speaking**

**Skip Morgan** 473 1986 – [chmorgan2d@aol.com](mailto:chmorgan2d@aol.com)

There's been much sound and fury about Colorado's decision to revert to a fault-based automobile insurance system on July 1, 2003. Detractors prefer to call it a "tort-based" system and fault the trial attorneys for lobbying the legislature to put them back on the gravy train. Proponents argue that 37 other states have found the tort system to actually be more efficient, and hence less expensive, than no-fault. The truth, as is often the case, lies somewhere in the middle.

The original idea of no-fault was to eliminate the cumbersome, time-consuming, and economically inefficient way of apportioning responsibility in traffic accidents, and thereby save money. It was thought that since trial attorneys typically take 30 to 40 percent of the awarded damages in contingency attorney's fees, eliminating that induced inefficiency would streamline the system and result in savings. In the event, it didn't happen that way. What it really did was to cause the added burden of bad and uninsured drivers (often one and the same) to be shouldered by all of us across the board. If a drunk driver sped through a red light and t-boned you, you went to your own insurance company rather than the drunk's. Thus, in essence your insurance carrier really couldn't afford to lower your rates much if you were a good driver, because even if you were not at fault in an accident they had to pay for your injuries just the same.

To cover themselves, insurance companies used Personal Injury Protection (PIP), which was mandatory, to provide coverage for certain medical and rehabilitation expenses from injuries sustained in an automobile accident irrespective of fault. Thus, PIP not only provided personal injury protection for the insured, but paid for the depredations of other drivers as well. It wasn't long before PIP became the single biggest premium item. Colorado reported that insurance premiums leapt 20% last year alone, primarily owing to increases in PIP. Compounding the problem was the fact that Colorado required relatively low thresholds for liability insurance--\$25,000 per person and \$50,000 per accident for bodily injury. And trial lawyers, much like cockroaches, flourished even in this austere environment either by suing people's own insurance company over the issue of damages or by attacking the liability coverage of an at-fault driver, even though their own client was uninsured.

To add to this Mulligan's stew, Colorado had one of the highest incidents of uninsured motorists in the United States. Critics claimed that the skyrocketing cost of PIP coverage made insurance unaffordable for low-income people, even if they were good drivers.

What does that mean for us? For most of us, our insurance premiums will probably go down in the near term since PIP will no longer be mandatory. Colorado law provides that your PIP policies will continue in effect after July 1, 2003, depending upon when your policy comes up for renewal.

Remember that your insurance policy is a contract, and you have some control over what it says. Some of you may wish to ask your insurance agent whether you can convert earlier than your policy's expiration. Bear in mind that if you drop PIP and you are at fault in an accident you will be expected to bear the costs of your own medical and rehabilitation expenses incurred in the accident, while your liability coverage would offer protection to those whom you injured. You will still be able to purchase coverage for your own medical expenses if you are at fault by getting a separate medical payments rider in your insurance contract. Uninsured motorist coverage would offer you protection from an uninsured driver who caused you injury. In that case, you would look to your own insurance company for coverage.

A final note. If you're looking to save money on your automobile insurance, don't do it by purchasing only the minimum liability coverage. That could prove to be penny wise and pound foolish. Remember that since all of us have an assured source of income from the government, skimping on our liability coverage is like chumming the waters for trial lawyers. I have friends whose retired pay is pledged forever-after-amen to pay for a tragic 4<sup>th</sup> of July accident where the damages exceeded their liability maximums. Save money on premiums by carrying maximum deductibles on collision/comprehensive. That limits your actual exposure in the event of an accident and constitutes an affordable risk.