

**A GUIDE TO THE MINNESOTA  
NO-FAULT SYSTEM**

**By**

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## ***A GUIDE TO THE MINNESOTA AUTOMOBILE INSURANCE SYSTEM***

Minnesota's No-Fault Automobile Insurance System plays an integral part in our daily lives. Every time you come in contact with a motor vehicle, the no-fault system is put in play. Do you know what the Minnesota No-Fault Act covers? What are the minimum insurance requirements in Minnesota? Are there special rules for residents and non-residents of our state? What about rental cars, motorcycles, trailers, and business vehicles? Do they get special treatment? If there are injuries from a motor vehicle accident, what benefits does the Minnesota No-Fault Act make available? What are no-fault ("PIP"), uninsured ("UM") and underinsured ("UIM") coverage? For that matter, what do the terms PIP, UM and UIM mean? Where do you go to make a claim for PIP, UM or UIM benefits? How do the No-Fault and Worker's Compensation Acts interact? How do other benefits, such as unemployment and disability, affect no-fault benefits? What are replacement service benefits?

For those new to, or unfamiliar with, Minnesota's No-Fault Automobile Insurance Act, learning the lingo and the system can seem to be a daunting task. But, not anymore. This article answers the most frequently asked questions about Minnesota's no-fault automobile insurance system for the beginner and experienced automobile insurance practitioner. It is perfect for new entrants to the field of automobile law; as well as those "grey-haired" practitioners who don't regularly practice in the field. Thanks to the knowledge of Theodore J. Smetak<sup>1</sup> and the Minnesota Insurance Federations'<sup>2</sup> vast experience in the world of automobile insurance coverage and litigation, I am able to impart a plain language overview of Minnesota's Automobile Insurance System.

Jeannie Provo-Petersen

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<sup>1</sup>These materials derive from text written by Theodore J. Smetak, Esq. and myself for the Insurance Federation of Minnesota.

<sup>2</sup>The Insurance Federation of Minnesota represents Minnesota's insurance industry to the legislature and regulatory agencies. The Federation forms coalitions with consumer groups in the interests of addressing the concerns of Minnesotans who have special insurance needs. The Federation attempts to improve insurance service to the public through education and legislative activity as well as a sound communications program. For further information about the Federation you may call (651) 292-1099.

## INTRODUCTION

In 1974 when the Legislature passed the Minnesota No-Fault Automobile Insurance Act, Minnesota became a compulsory insurance state. The goals of the Act are to ensure that everyone injured in a motor vehicle accident has a source to go to for PIP (No-Fault) benefits. The Act sets forth which policy an individual goes to as his/her source for PIP benefits, and also includes an alternative source for PIP benefits through the Minnesota Automobile Assigned Claims Bureau (MAACB) which provides PIP benefits to qualified persons who, through no failing of their own, have no policy available to them.

The Act requires owners of motor vehicles to purchase policies of insurance which, at a minimum, must include the following types of coverages:

- Personal Injury Protection (PIP) or “No-Fault”** benefits payable to compensate certain economic losses from a motor vehicle accident without regard to questions of fault or negligence.
- Liability Insurance (BI)** to pay, up to the selected limit, toward any damage sums the insured under the policy may be legally obligated to pay to others for bodily injury or property damage caused by his/her fault in a motor vehicle accident.
- Uninsured/Underinsured Insurance.** Coverage by which your own insurer pays damages you are legally entitled to recover from an Uninsured (phantom or hit and run) motorist (UM) who has no liability insurance or from an Underinsured motorist (UIM) who did not carry enough liability insurance to pay your full damages.

### I. MINNESOTA’S MANDATORY NO-FAULT AUTOMOBILE INSURANCE ACT

The Minnesota No-Fault Act requires **owners** of certain **vehicles** to carry insurance, while, at the same time, prescribing the minimum types and amounts of coverage **insurers** must provide. Each individual has the option to choose their own type and amount of coverage, subject to the minimums set forth in the Act. The Minnesota No-Fault Act focuses on the vehicle **“owner”** because, under Minnesota law, the owner may be sued for damages caused by the fault of anyone who uses his/her vehicle with permission.

#### A. The “Owner” is Required to Insure Motor Vehicles.

##### 1. The motor vehicle “owner.”

The “owner” will generally be the person who holds registered title to the vehicle.

**2. An owner is not fully protected (immune from suit) simply by purchasing the minimum liability insurance specified by the No-Fault Act.**

In Minnesota, an owner of a motor vehicle may be sued for the amount of damages. As a result, each owner must decide how much protection is necessary. Most insurers will agree to write higher limits of liability protection.

**3. Responsibility for insuring a leased vehicle.**

**Short term leases** (less than six months): the registered titleholder remains responsible for insurance and is considered the “owner” for all purposes.

**Long term leases** (more than six months): the obligation to insure shifts to the customer who leases the vehicle. In long term lease situations, the customer (but not the registered titleholder) may be sued as the “owner” in the event of an accident.

**4. Responsibility for insuring a vehicle being purchased in installments.**

If the purchaser is entitled to immediate use and possession of the vehicle, then the purchaser is the “owner” and is responsible for providing insurance coverage.

**5. Out of state resident’s compliance with Minnesota insurance rules.**

Minnesota law requires non-resident motor vehicle “owners” to provide only two forms of coverage while the vehicle is used in Minnesota. An out of state motor vehicle must have PIP coverage and it must have the minimum liability (BI) coverage required for Minnesota residents. But out of state motor vehicles are not required to have uninsured (UM) or underinsured motorist (UIM) coverage; those are only required for Minnesota motor vehicles.

**6. Proof of insurance required by the State of Minnesota.**

Minnesota requires that you certify that you are insured when you apply for license plates.

**7. Special rules for senior citizens.**

- a. Insurance companies are required to provide a **premium reduction** of at least 10 percent to policyholders aged 55 and older who successfully complete an approved **accident prevention course**.
- b. A person 65 or older may reduce his/her premium by waiving PIP wage loss benefits. This option recognizes that often such a person does not reasonably expect to receive wage loss reimbursement despite an injury because of retirement or other reasons. The insurer must inquire whether the 65 or older insured wants this option. The premium charge for the policy must be reduced if that waiver is made.

## **B. Types of “Motor Vehicles” Which Must Be Insured.**

Any motorized vehicle which must be registered (licensed) for operation on the road is a “**motor vehicle**” which must be insured under the No-Fault Act. This includes cars, trucks, pickups, buses and vans.

**Motorcycles** (and other vehicles with less than four wheels) are subject to separate laws and rules.

**Trailers** are considered “**motor vehicles**” only when connected to a motor vehicle.

### **1. Registering and insuring motorcycles.**

Motorcycles are subject to some of the same rules as motor vehicles, but are treated uniquely under the law.

- a. Motorcycle owners must register (license) their motorcycle with the state.
- b. Motorcycle owners must obtain some, but not all, of the same insurance coverages owners of cars and trucks must have.
  - ▶ Motorcycles must have liability insurance to pay for bodily injury and property damage caused by the fault of the motorcycle driver.
  - ▶ Motorcycles are not required to have PIP, UM or UIM coverages. But such coverage may be available as an option.

**2. Farm vehicles.**

Need only be insured if they are required by the state to be registered (licensed).

**3. Snowmobiles and other recreational vehicles.**

Need only be insured if the state requires them to be registered as a motor vehicle.

**4. Trailers.**

Trailers such as boat and camper trailers need only be insured when attached to a motor vehicle of a sort the state requires be registered. The trailer, while connected, essentially becomes a part of the motor vehicle itself.

**C. Insurance Coverage a Motor Vehicle Insurer Must Provide.**

Insurers who write policies of motor vehicle insurance must include certain types of coverages with minimum limits specified by the Minnesota No-Fault Act. The Act also requires Insurers to provide its insureds with certain notices and certain minimum options. Beyond that minimum, the types and amounts of coverage are a matter of agreement between the insurer and the insured policyholder. For example, optional “collision” or “comprehensive” insurance is available to cover property damage and theft.

**1. Types and amounts of insurance that must be included in the policy.**

Subject to the exceptions set out below, as a **general rule** every policy covering a Minnesota motor vehicle must include, at a minimum, a basic package of the following **four coverages**:

- a. Liability Coverage** to pay others for injury or property damage caused by the fault of the operator or owner of the insured vehicle. The minimum limit is \$30,000 for injury or death to any one person in any single accident and \$60,000 for two or more people injured in any one accident. Each policy must also include property damage insurance (a minimum of \$10,000) to pay for damage to property, such as the other person’s car, if it was the insured’s fault that caused the damage.
- b. No-Fault or Personal Injury Protection (PIP) Benefits** coverage provides benefits to compensate for certain economic losses stemming from a motor vehicle accident without regard to questions of fault or negligence. The minimum amount of PIP

benefits is \$40,000, consisting of \$20,000 medical expenses and \$20,000 non-medical expense benefits.

- c. **Uninsured Motorist Coverage (UM)** pays damages a covered person is legally entitled to recover from an uninsured (or hit and run) motorist who lacks minimum liability insurance. The minimum UM limits are \$25,000 person and \$50,000 per accident.
- d. **Underinsured Motorist Coverage (UIM)** pays damages a covered person is legally entitled to recover from an underinsured motorist who did not carry enough liability insurance to pay the full damages. The minimum UIM limits are \$25,000 per person and \$50,000 per accident.

2. **Not every motor vehicle insurance policy must include all of those coverages. There are two exceptions:**

- a. The minimum **motorcycle insurance policy** provides only liability insurance with the same limits as for a car or truck, \$30,000 per person, \$60,000 per accident, and \$10,000 property damage. PIP (no-fault), uninsured and underinsured motorist coverages are not required as part of the minimum motorcycle coverage.
- b. For **out of state motor vehicle policies**, the State of Minnesota tries to compel the vehicle insurer to “rewrite” the insurance policy while the vehicle is within Minnesota’s borders. If successful, the out of state policy will be “rewritten” to provide both basic PIP coverage and liability coverage, each in the minimum limit amount. The out of state insurance policy will not be “rewritten” to include uninsured (UM) or underinsured (UIM) motorist coverage simply because the vehicle is used in the state.

3. **Property damage.**

This is not automatically insured. “**Collision**” and “**comprehensive**” insurance coverage are optional coverages which guard against property losses. If the damage is caused by the fault of some other motorist, the insured can make a claim against the at-fault motorist. The at-fault motorist’s mandatory property damage liability coverage would pay toward the property damage losses.

4. **Deductibles.**

Deductibles are allowed and can result in a lower premium charge. However, deductibles are not available for mandatory liability, uninsured

or underinsured motorist coverage. PIP coverage may be available with deductibles for both medical and non-medical benefits. There are also deductibles available for optional coverages such as “collision” or “comprehensive”.

**5. Minnesota insurance policies and out of state accidents.**

Generally speaking a Minnesota insurance policy extends to cover the use of motor vehicles anywhere in the United States (including its territories or possessions) or in Canada. Minnesota motor vehicle insurance policies do not necessarily apply in Mexico, or other countries, but it is possible to buy coverage needed to drive in other countries.

**6. Out of state policies and in state (Minnesota) accidents.**

Unless the policy is “rewritten” to conform to Minnesota law, the only coverage is that which was purchased in the other state. Because Minnesota requires non-residents to have two types of insurance (30/60/10 liability coverage and 20/20 PIP coverage) virtually all out of state policies will be conformed to provide Minnesota’s minimum coverage when the insured out of state vehicle is in Minnesota. Because non-residents are not required to insure themselves for uninsured (UM) or underinsured (UIM) risks, out of state policies may or may not have that type of coverage.

**7. Rental cars and Minnesota insurance policies.**

**a. Property damage.** If you rent a car, a pickup or a truck under 26,000 pounds, the rental car company cannot collect from you for the first \$35,000 of loss or damage to the rented vehicle. Instead, your property damage liability insurance coverage will protect you. You do not need to purchase any collision damage waiver (“CDW”) when you rent a vehicle. The rental company is supposed to notify you of that fact in the rental agreement.

**b. Liability coverage.** The liability coverage limit selected in your own insurance policy will also protect you from claims that you either caused injury to other persons or caused other property damage when driving the rented vehicle.

**8. Other insurance options.**

Most insurers are willing to write policies with higher limits, other coverages, and other benefits. Because not everyone may be familiar with opportunities to vary their insurance coverage, Minnesota insurers are required to notify the policyholder of certain election opportunities. These include the opportunity to

elect “**stacking**” of PIP coverage or for those over 65 years of age, to waive PIP wage loss reimbursement.

## II. NO-FAULT INSURANCE: PIP COVERAGE.

The Minnesota No-Fault Act requires automobile owners to provide insurance coverage against certain economic losses resulting from automobile accidents. These benefits are referred to by various terms, such as Personal Injury Protection (“PIP”) benefits, basic economic loss benefits or simply “no-fault benefits.”

### A. Purpose of PIP Coverage.

The purpose of PIP benefits is to reimburse certain economic losses resulting from automobile accidents without regard to questions of fault. Minnesota requires a minimum of \$40,000 PIP benefits for any one person injured in an automobile accident. This consists of \$20,000 medical benefits and \$20,000 non-medical benefits.

#### 1. \$20,000 medical expense coverage.

In the event of a motor vehicle accident causing injury, PIP medical expense benefits provide coverage for:

- ▶ All **reasonable** expenses for **necessary** medical care, including transportation and extended care
- ▶ Semi-private hospital room rates
- ▶ Remedial treatment
- ▶ Religious treatment for healing
- ▶ Rehabilitation and occupational training.

#### 2. \$20,000 non-medical coverage.

In the event of a motor vehicle accident causing injury, PIP non-medical benefits provide coverage for:

- ▶ Disability income loss
- ▶ Replacement Services loss.
- ▶ Death—in case of **death** caused by the auto accident (and occurring within one year after the accident):
  - Funeral expenses (funeral and burial, including cremation or delivery under the Uniform Anatomical Gift Act) up to \$5,000
  - Survivors economic losses

Survivors replacement services losses.

**3. Weekly PIP benefit limits.**

- ▶ **Disability income loss benefits** are capped at \$500 per week.
- ▶ **Replacement services, survivors economic losses and survivors replacement service benefits** are each capped at \$200 per week.

**4. Increasing PIP benefits.**

- ▶ Most insurers are willing to write a variety of different coverage options, including **additional benefits**.
- ▶ If you own more than one insured vehicle, you can choose **stacking** of your PIP coverage. (Stacking basically involves adding together the limits of two or more motor vehicle insurance PIP limits.)

**5. PIP deductibles.**

Deductibles are available for both the medical and non-medical benefits.

**6. PIP disability income loss.**

Disability Income Benefits cover 85 percent of the gross income loss (including salary, wages, tips, commissions and earnings) up to a maximum of \$500 per week.

**7. Lost time from work for medical appointments.**

If income (including vacation or sick leave) is lost due to treatment for automobile accident injuries, that income is recoverable as though it were a wage loss and is determined just like Disability Income Loss Benefits (85 percent of the gross income loss, subject to the \$500 per week maximum).

**8. Work related automobile accidents—PIP coverage and workers' compensation.**

By law, workers' compensation is "primary." After worker's compensation benefits are paid, uncompensated losses may fall under PIP coverage. PIP benefits will be reduced by workers' compensation payments.

**9. Substitute work.**

What happens if you were disabled from your job due to an automobile accident and could not return to your old job? What if you take a new job and earn less money?

You can still collect PIP disability income loss benefits as long as you are disabled from your old job because of a covered automobile accident. The amount of income you earn from your new job (“substitute work”) will reduce the amount of PIP disability income loss benefits you can claim.

**10. Job unavailability after release to return to work.**

If you are disabled from your job due to an automobile accident, and have been released to return to work by your doctor but your job is not available to you anymore, you may no longer recover PIP disability income loss benefits. Disability income loss benefits are only payable during the period you were disabled from your job and unable to work due to injuries you sustained in the automobile accident.

**11. Loss of eligibility for unemployment benefits.**

If you are unemployed and collecting unemployment benefits when you are involved in a motor vehicle accident, and you lose your eligibility for those benefits because the accident made you unable to work, you can still collect PIP disability income loss benefits. During the time you remain disabled, you can recover up to 100 percent of the amount of your unemployment benefits, subject to a maximum of \$500 per week.

**12. Self-employed persons.**

If you are self-employed, injured in an automobile accident, and have no one to operate your business, PIP benefits provide coverage for replacement workers. PIP disability income loss benefits will pay either 85 percent of the difference between your income before and after the accident, or 85 percent of the cost you incur to hire a replacement worker for you, whichever is less. The maximum disability income loss benefit you can collect per week is \$500.

**13. Retired persons.**

A retired person’s entitlement to claim disability income loss benefits will depend on whether the retired person waived his/her right to PIP disability income loss benefits.

**14. Replacement service benefits.**

PIP Replacement Service Loss Benefits cover the expense of hiring someone to do the normal, non-income tasks around the house.

- a. Replacement Service Benefits are limited to \$200 per week. (There is no maximum amount per day, only a weekly limit of \$200.)
- b. Replacement service benefits cannot be claimed until eight days after the accident.
- c. A person can qualify for both Replacement Service Benefits and Disability Income Loss Benefits at the same time. Each has a separate weekly limit, but the maximum entitlement for all non-medical benefits remains \$20,000.

**15. Rehabilitation or occupational training.**

A proposed rehabilitation or occupational plan must:

- ▶ Be reasonable
- ▶ Be appropriate given your particular situation
- ▶ Be reasonable in cost in relation to probable rehabilitative effect and
- ▶ Be likely to contribute substantially to either medical or occupational rehabilitation.

If this cannot be agreed upon in advance, the court can be asked to determine whether the proposed plan should be paid by PIP. If notice is not given before the expense is incurred, the PIP insurer will not be required to pay more than \$1000 toward non-medical rehabilitation or occupational training.

**16. Funeral expenses.**

PIP provides up to \$5,000 for funeral expenses, cremation or even some organ donor expense.

**17. No double recovery.**

If you sue the at fault party for an accident, the same PIP entitlement exists. However, the PIP insurer will not have to pay for any loss recovered in the lawsuit. One of the purposes of the no-fault system is to prevent double recovery of economic losses.

## **B. Qualifying for PIP Benefits.**

Generally speaking, everyone injured in the state of Minnesota in an automobile accident (or as a pedestrian struck by a motorcycle) has a right to PIP benefits. Anyone insured under a Minnesota automobile insurance policy also carries PIP coverage with them throughout the United States.

### **1. Only motor vehicle accidents qualify for PIP coverage.**

Victims of motor vehicle accidents whose injury arises out of the **maintenance** or **use** of a motor vehicle for **transportation** purposes, including a driver or passenger in a car or truck, are entitled to make claims for PIP benefits. Pedestrians and others who are not **occupying** a motor vehicle (or motorcycle) also qualify if they are injured by a motor vehicle accident.

**a. Exception.** The **one major exception is motorcycle injuries** which are generally not covered. Anyone riding a motorcycle, even if a car or truck hit them, is not covered. But, a pedestrian struck by a motorcycle is covered.

### **2. Making a claim for PIP benefits.**

Rules set out in the No-Fault Act determine which insurer must respond to each particular claim. The rules select among the following insurance sources, and their application depends on the status of the person claiming (*e.g.*, pedestrian, occupant, owner):

- ▶ The injured person's own insurer where he/she is "insured", either by name or as a family member of the named insured;
- ▶ The insurer of a vehicle involved in the accident;
- ▶ The Minnesota Automobile Assigned Claims Bureau (MAACB).

#### **a. General rule.**

The general rule requires everyone to first look to their own insurance company, where they are an "insured" for PIP. If they do not have any PIP insurance, they will generally then submit their claim to the insurer of the motor vehicle they were riding in. (If they were not in a vehicle, they may make claim to an insurer of any car which caused the accident.) If there is no such insurer, the person may attempt to qualify for PIP from the MAACB.

#### **b. Exceptions to the general rule.**

The general rule covers most situations and vehicles which are privately owned and not connected to a business. When a **business vehicle** is involved, there are some exceptions:

1) **Employer furnished vehicle.** If the vehicle was **furnished by an employer** to an employee, and the vehicle is involved in an automobile accident, the employee and his/her family members occupying that vehicle collect PIP from the insurer of the “**employer-furnished**” vehicle even if they have their own PIP policy.

2) **Businesses which involve transporting persons or property.** If the vehicle involved in the accident was **in the business of transporting persons or property** then the driver, passengers and persons struck by that business vehicle collect PIP from the insurer of the “business” vehicle even if they have their own policy. Unlike the employer furnished vehicle, the vehicle **must have been involved in transporting persons or property at the time of the accident.**

a) **Exceptions.** This rule does not apply to certain types of businesses which have been carved out as exceptions by the legislature. The following business vehicles go back to the general rule (meaning the business vehicle is not priority in these situations):

- (1) **Buses**
- (2) **Taxicabs** (taxicab passengers were required to submit their PIP claim to the taxicab until 9/1/95; taxi drivers until 9/1/96.)
- (3) **Commuter vans**
- (4) **Day care vehicles**
- (5) **Vehicles used to transport kids during school sponsored activities.**

3) **Uninsured business vehicles.**

If the business vehicle is uninsured then there is no PIP at the priority level. In that event, under the **general rule**, you can always turn to a policy which covers you personally if the exception applies but there is no insurance available there.

**3. Who is covered by your PIP insurance policy?**

- a. You as the person **named (“insured”)** in the policy;
- b. Any **relative of yours who lives with you** and is not named in their own policy;
- c. A **minor** in the custody of you or a relative who lives with you;
- d. **Anyone** who is **driving, or riding in, your insured vehicle** (if they do not have their own policy);
- e. Anyone such as a **pedestrian** struck by our insured vehicle (if they do not have their own policy and if they are not in some other vehicle).

**4. College students and military personnel.**

If your son/daughter who usually lives with you, but temporarily lives elsewhere, is involved in an accident, they are still covered under your PIP policy.

**5. Occupying someone else’s car.**

Under the **general rule**, when occupying someone else’s car you still submit your PIP claim to your own insurer unless the car you were in fits one of the previously mentioned **exceptions**. If there is not a policy where you are insured, you go to the insurer of the car in which you were riding. If that fails to provide a policy, you may apply to the MAACB.

**6. Pedestrians.**

Under the **general rule**, the claim is first submitted to the pedestrian’s own policy, or that of a resident relative. However, if the pedestrian does not have his/her own policy, nor does a resident relative, the pedestrian hit by a car may submit a claim to the insurer of the car which hit him/her. If there is no such policy, submit your claim to the MAACB.

**7. Roommates and non-relative residents.**

Unless you are related to the roommate or person you live with, you are not covered under your roommate’s policy. (The term “relative” would not extend that far.) Ordinarily you are only covered under the roommate’s policy if you are injured while in the roommate’s insured vehicle.

**8. The Minnesota Automobile Assigned Claims Bureau (MAACB), 227 Central Avenue, Osseo, Minnesota 55369 (612) 425-6634.**

Generally, the MAACB provides PIP benefits to those who otherwise qualify for PIP benefits but who have no insurer available to respond to the claim. The MAACB does **not** provide PIP benefits to **those persons who owned a vehicle but failed to insure it.**

The MAACB handles claims for PIP benefits when:

- ▶ The injured person did not own a vehicle of his/her own, and is not an “insured” for PIP benefits anywhere else.
- ▶ The injured person is unable to collect PIP benefits from the vehicle he/she was occupying in the accident because the vehicle was not insured.

**9. Motorcycle injuries.**

You may not collect PIP benefits if you are hit by a car or truck while riding on a motorcycle. You must resort to the tort system or your own medical insurance; PIP simply does not apply.

**10. PIP benefits for out of state vehicles when in Minnesota.**

As a matter of public policy, everyone injured in the State of Minnesota has a right to claim PIP benefits. The **general rule** applies. A person injured in a Minnesota motor vehicle accident while riding in their own car should submit his/her claim for PIP benefits to his/her own insurer. Usually, the out of state insurer will “rewrite” the policy to include Minnesota PIP benefits when the vehicle is in Minnesota.

**11. PIP benefits for out of state residents when in Minnesota.**

When out of state residents are injured in an automobile accident in Minnesota, and they did not bring their own car into the state, the claim for PIP benefits is handled as if they were a non-insured person under the **general rule**. The claim for PIP benefits is covered by the vehicle in which they were riding.

**III. PIP CLAIMS: RESOLVING DISPUTES OVER PIP BENEFITS ENTITLEMENT.**

The No-Fault Act not only specifies what insurance an owner must have but also governs the process by which the injured person and the insurance company deal with each other to determine whether, and to what extent, a person is entitled to PIP benefits.

**A. What Must Be Done to File a PIP Claim?**

**1. Notify the insurance company within six months of the accident.**

Most policies require that notice must be given to the insurer or to the agent within six months. If late notice causes prejudice to the insurer, it could result in loss of the insurance benefits.

If you find out you have contacted the wrong insurer, you have the rest of the six month period or ninety days, whichever is greater, during which you must notify the correct insurer (or the MAACB).

**2. Complete an application for benefits form** (which includes medical or earnings authorizations);

**3. Provide proof of expenses;**

**4. Cooperate;**

**5. Submit to medical examinations** if requested to do so by your insurer.

**B. When PIP Benefit Payments Commence.**

The insurance company must pay expenses which total \$100 or greater within 30 days of when they receive substantiation (proof) of the bills. (If the bills are less than \$100, the insurance company may wait 45 days.)

**C. Overdue Payments.**

Overdue payments qualify for simple interest at the rate of 15 percent annually. Benefits are not overdue until the insurer has proof of the fact and amount of loss.

**D. PIP Insurer's Denial of Claims.**

The PIP insurer must provide written notice of the denial, specifying the reason for the denial.

All disputes over entitlement to PIP benefits that are under \$10,000, with the exception of coverage disputes, must be arbitrated. The Minnesota Supreme Court has selected the American Arbitration Association ("AAA") to handle PIP arbitrations. No-Fault Rules and procedures may be obtained by contacting AAA at: 200 South 6th Street, Suite 700, Minneapolis, MN 55402. The general e-mail address for AAA is [MinnesotaNoFaultArbInfo@adr.org](mailto:MinnesotaNoFaultArbInfo@adr.org).

#### **IV. UNINSURED AND UNDERINSURED MOTORIST COVERAGES.**

The No-Fault Act requires Minnesota vehicles carry both uninsured motorist (UM) and underinsured motorist (UIM) coverages.

##### **A. Uninsured Motorist (UM) Coverage.**

UM coverage is basically a substitute for the liability insurance the at-fault motorist failed to have. It covers damages an injured party is legally entitled to recover for bodily injury caused by another driver who is at fault for the accident but who has no insurance. It allows you to make a claim to your own UM insurer for coverage because the at-fault person is not insured or is unknown. UM coverage in Minnesota does not apply to property damage.

##### **1. Mandatory UM coverage.**

You cannot license and operate a motor vehicle in Minnesota without insurance, which includes UM coverage. For motorcycles, UM coverage is optional.

You must have at least \$25,000 in UM coverage for injury or death of one person in any accident, and \$50,000 for injury or death to two or more persons in any one accident. You can purchase higher UM limits, but be aware insurance companies do not have to write UM coverage limits for any more than the amount of liability insurance you have purchased.

##### **2. UM coverage only covers the vehicle you insure.**

If you own and fail to insure a motor vehicle which should have been insured, you are not entitled to any UM coverage if you are using that uninsured vehicle when injured. You cannot collect UM coverage from another of your insured vehicles, even if some other uninsured motorist causes you injury because to do so is to ignore your legal duty to have insured the vehicle you were in at the time.

UM coverage which your purchase for your car or truck is also unavailable to you if you are injured while using your own motorcycle. You must buy optional UM motorcycle coverage to protect yourself from uninsured motorists while using the motorcycle.

##### **3. Stacking of UM coverages and policies.**

Although Minnesota used to allow “stacking” by which all of your UM coverage could be accumulated to compensate you for your injuries, the law currently restricts you to one limit. You must now increase the amount

of your UM limits if you are concerned that \$25,000 per person is not enough.

#### **4. Defining an uninsured motor vehicle.**

Generally speaking, an uninsured vehicle is any motor vehicle which should have, but did not have, the minimum bodily injury liability insurance in effect to satisfy Minnesota law. This includes any of the following:

- ▶ A car, truck or motorcycle with no insurance.
- ▶ A car, truck or motorcycle with insurance but that insurer denies coverage or becomes insolvent.
- ▶ A car, truck or motorcycle with insurance but whose limits are less than \$30,000/\$60,000 (Minnesota's minimum liability limit).
- ▶ A hit and run or "phantom" vehicle whose fault caused the accident but which could not be identified.

#### **5. How UM coverage works.**

Since UM coverage is basically a substitute for the liability insurance the at-fault motorist should have had to pay for damages he/she caused, you can present a claim to the UM insurer for the amount of damages you are legally entitled to recover, up to the limits you selected for UM coverage.

#### **6. Calculating UM damages.**

Because UM coverage is practically a substitute for the at fault motorist's liability insurance, damages are calculated just the same as if you had presented a bodily injury claim and sued the at-fault motorist.

#### **7. UM disputes—resolving damages and fault.**

If you and the UM insurer cannot agree, those matters will be decided by following the procedure set out in your contract of insurance. Sometimes that means you and the UM insurer will litigate the matter in court; sometimes it means you will arbitrate.

### **B. Underinsured Motorist (UIM) Coverage.**

UIM coverage is basically a supplemental coverage you purchase to pay you up to the amount of the damages you are legally entitled to recover from an at-fault motorist but which you cannot recover because that motorist did not have enough insurance. It differs from UM coverage in two ways. First, an uninsured motorist by definition has no insurance while an underinsured motorist has at least

minimum (\$30/60) BI coverage. Second, because the underinsured motorist has insurance, you must first seek that BI coverage before claiming UIM benefits.

**1. Mandatory UIM coverage.**

You cannot license and operate a motor vehicle without UIM insurance in Minnesota. UIM coverage is optional for motorcycles.

You must have at least \$25,000 in UIM coverage for injury or death of one person in any accident, and \$50,000 for injury or death to two or more persons in any accident. You may purchase higher UIM limits, but be advised insurance companies do not have to write UIM coverage limits for any more than the limit of liability insurance you have purchased.

**2. Stacking of UIM coverages and policies.**

Although Minnesota used to allow “stacking” of UIM policies, the law currently limits you to only one UIM limit. You must now increase the amount of your UIM coverage if you are concerned that \$25,000 per person is not enough.

**3. Defining an underinsured motor vehicle.**

An underinsured motor vehicle or motorcycle is one which has a valid liability insurance policy, but the amount of liability insurance is less than the amount needed to pay you for the actual damages you are legally entitled to recover from that motorist for injuries you sustain in the accident.

**4. How UIM coverage works.**

UIM coverage essentially supplements the payments you receive under the liability coverage of the at-fault motorist for the damages you are legally entitled to recover from the at-fault motorist, but cannot because he/she did not have enough insurance. After collecting from that motorist’s liability insurer you can claim the additional amount of your damages, up to your UIM limits, from your UIM insurer. Minnesota law requires that before a UIM claim is made, an effort must be made to recover from the at-fault motorist’s liability insurance.

**5. Calculating UIM damages.**

UIM damages are calculated just as if the injured party had sued the at-fault motorist. After determining the amount of the injured party’s damages, you deduct the amount the injured party has been paid already

from the at-fault motorist's liability insurer. The difference is the amount of the UIM claim. You can collect this amount from the UIM insurer, up to the limits of the injured party's UIM insurance policy.

**6. UIM disputes—resolving damages and fault.**

If there has been a trial between the injured party and the at-fault motorist, questions of damages and fault will have been answered at that trial. If not, and if you and the UIM insurer cannot agree, matters of damages and fault will be decided by following the procedure set out in the contract of insurance. Sometimes that means you and the insurer will litigate the matter in court; sometimes the contract will provide for arbitration.

**7. UIM coverage is not a substitute for liability insurance on your own vehicle.**

If you are injured when in your own car while someone else is driving, and your injuries are more than the insurance you had on your car, you cannot make an underinsured motorist claim. UIM coverage is intended to protect you against others who fail to have enough insurance. It is not a substitute for inadequate liability insurance you put on your own vehicle.

**C. Motorcycles and UM/UIM Coverage.**

What if you are riding a motorcycle and are struck by a negligent motorist who does not have enough liability insurance to pay for your damages? You will be able to collect UIM coverage if you did not own the motorcycle but were riding on someone else's motorcycle. However, if you were riding on your own motorcycle and failed to buy optional UIM coverage, you cannot turn to any of your car or truck policies for UIM coverage.

Because motorcycles are required to insure against bodily injury liability, you may be able to make a claim if you are hit by a motorcycle and injured. If the motorcycle was uninsured, you can make a UM claim. If the motorcycle had at least the minimum required liability insurance, but if that is less than the amount of damages you should recover, you can make an underinsured motorist (UIM) claim.

**V. SOURCES OF UM/UIM COVERAGE, AND WHERE TO COLLECT.**

There is a single set of rules in the No-Fault Act which govern where a UM or UIM claim is to be submitted. The No-Fault Act generally requires you to notify both the insurer of the vehicle you were occupying as well as any insurer with whom you are yourself insured.

Three principles form the basis for the Minnesota Legislature's rules determining which UM/UIM insurer should pay:

1. **The insurer of the vehicle in which you were riding at the time** is required to provide UM/UIM coverage for you simply because you were an occupant. That is the first source of UM or UIM insurance.
2. **Everyone who insures a vehicle is allowed to choose their own level of insurance** protection in advance. The level of UM/UIM coverage you chose to buy for your vehicle is all you can get if you were using your vehicle at the time.
3. If you were in someone else's vehicle when injured, and if that vehicle did not have as much UM/UIM coverage as you chose to buy for your vehicle, **you may supplement the first UM/UIM limit** (that on the vehicle you occupied) from your own insurer up to your chosen UM/UIM limit.

**A. Rules That Determine Where to Make a UM or UIM Claim.**

Generally speaking, the UM/UIM claim must be made to the insurer of the vehicle which you occupied when you were injured. After collecting the UM/UIM insurance there, you may or may not be entitled to look further to your own insurer for additional UM or UIM coverage.

**1. Non-occupants/pedestrians.**

If you were not occupying any vehicle when you were injured, you can select any one policy where you are insured and make your UM/UIM claim there.

**2. Owning two cars with different insurance limits.**

If you do not have enough UM/UIM coverage on one car, you **may not use the higher UM/UIM limit from your other car**. Minnesota law encourages each owner to buy the amount of UM/UIM coverage he/she wants on each vehicle. The limit you select for each vehicle is binding on you if you are using that vehicle when injured. However, if you happened to be injured when not using any of them, for example if you are walking across the street when you are hit, you can pick the policy you want to use.

**3. Motorcycles.**

If you owned the motorcycle you were riding when injured, and did not elect to buy UM or UIM coverage on the motorcycle, you cannot turn to any of your car or truck policies for UM or UIM coverage. If you were on

someone else's motorcycle, your own UM or UIM insurance policy will usually apply.

## **VI. LAWSUITS AND DAMAGES: HOW TO DETERMINE THE AMOUNT AND TYPE OF DAMAGES YOU ARE LEGALLY ENTITLED TO RECOVER.**

Minnesota uses a “**fault based**” tort system, which means damages for bodily injury or property damage are recoverable to the extent an injured person can prove the other person was at fault in causing the damage or injury.

Minnesota also applies a “**comparative fault**” rule, which says:

- ▶ To the extent that the injured person or property owner was at fault for causing the accident, his/her damages are reduced by his/her own percentage of fault.
- ▶ If the injured party is more at fault than the other person, the injured party cannot recover.

### **A. How Damages are Calculated.**

First, you must determine the total dollar value of the bodily injury or property damage caused by the motor vehicle accident.

#### **1. Deduct other insurance payments.**

From the total dollar value, you must **deduct other insurance payments** which have already been made toward the same items of damage. The items “**set off**” include:

- ▶ **PIP benefits;**
- ▶ **Workers' compensation benefits;**
- ▶ **Other insurance payments for the same items of injury or property damage.**
- ▶ Certain payments by health insurance companies and other insurers who claim a right to be repaid out of the lawsuit recovery will not be setoff if those sums must be repaid to them.
- ▶ Keep in mind that recovery from the at-fault driver usually will be reduced by the amount of benefits already paid by the PIP insurer. Under certain limited circumstances, the PIP insurer has a right to recover PIP payments it made from the injured party's recovery or from the liability insurer directly.

#### **2. Determine percentage of fault.**

Because you can only collect damages if you are “legally entitled to recover” them, you must determine whether, and to what extent, the other motorist caused the injury.

**3. Multiply percentage of fault.**

Once fault has been determined, multiply the at-fault motorist’s percentage of fault (so long as your own percentage is not greater) by the dollar sum of your unreimbursed damages. The resulting figure represents the damages you are legally entitled to collect from the at-fault motorist.

**4. Exceptions to applying fault.**

Fault is not applied to **PIP, Collision** or **Comprehensive** coverages.

**B. Despite “No-Fault” You Can Still Be Sued.**

Although no-fault places conditions on an injured person’s recovery, it does not eliminate lawsuits. You may sue or be sued for property damage or economic losses for even minor accidents. If the injury is serious, you may sue or be sued for non-economic losses, such as pain and suffering. No-Fault (PIP) prevents minor injury claims from being made, and it reduces the damages by the amount of PIP paid to the injured person. But it does not put a limit on the amount of damages which can be claimed for serious injuries.

**C. Permissive Use of a Vehicle.**

The owner of a motor vehicle being used in the State of Minnesota can be sued even though the owner is not personally at fault. The fault of the driver attaches vicariously to the owner if the owner gave permission to the driver. Minnesota follows the “initial permission” rule which means that if you give permission to one person, and that person in turn gives permission to another (even though you didn’t give that third party permission), as owner of the car, you are still liable for the fault of that third party operating your car.

**D. Non-Economic Loss Caused by an Automobile Accident Injury.**

Minnesota applies certain “**thresholds**” which determine the type of injury that must be sustained from a motor vehicle accident before a lawsuit may be brought to collect general, non-economic damages (such as “pain and suffering”). The Act allows such a lawsuit when:

- 1. Medical expenses exceed \$4,000; or**
- 2. Permanent injury; or**

3. **Permanent disfigurement; or**
4. **Inability to engage in substantially all usual activities for 60 days or more; or**
5. **Death.**

## **CONCLUSION**

Clearly not every fact pattern can be answered in this article. However, we hope this easy to use checklist provides you with a comprehensive guide to allow you to gain insight into these issues, and to answer questions regarding the majority of cases you come in contact with.