

A bill for an act

relating to commerce; reforming no-fault auto insurance; prohibiting an injured person from collecting noneconomic damages in certain circumstances; modifying arbitration procedures; prohibiting balance billing by health care providers; clarifying civil liability with respect to recovery of medical and health care expenses; amending Minnesota Statutes 2006, sections 65B.44, subdivision 2; 65B.51, subdivisions 1, 3; 65B.525, subdivision 1; 65B.54, by adding a subdivision; 604.01, by adding a subdivision; 604.02, by adding a subdivision.

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

Section 1. Minnesota Statutes 2006, section 65B.44, subdivision 2, is amended to read:

Subd. 2. **Medical expense benefits.** (a) Medical expense benefits shall reimburse all reasonable expenses for necessary:

(1) medical, surgical, x-ray, optical, dental, chiropractic, and rehabilitative services, including prosthetic devices;

(2) prescription drugs;

(3) ambulance and all other transportation expenses incurred in traveling to receive other covered medical expense benefits;

(4) sign interpreting and language translation services, other than such services provided by a family member of the patient, related to the receipt of medical, surgical, x-ray, optical, dental, chiropractic, hospital, extended care, nursing, and rehabilitative services; and

(5) hospital, extended care, and nursing services.

(b) Hospital room and board benefits may be limited, except for intensive care facilities, to the regular daily semiprivate room rates customarily charged by the institution in which the recipient of benefits is confined.

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(c) Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of this state for an injured person who relies upon spiritual means through prayer alone for healing in accordance with that person's religious beliefs.

(d) Medical expense loss includes medical expenses accrued prior to the death of a person notwithstanding the fact that benefits are paid or payable to the decedent's survivors.

(e) Medical expense benefits for rehabilitative services shall be subject to the provisions of section 65B.45.

(f) In addition to any other limitation under law, medical expense benefits are limited to the amount actually paid or actually incurred by or on behalf of the claimant, whichever amount is lower.

Sec. 2. Minnesota Statutes 2006, section 65B.51, subdivision 1, is amended to read:

Subdivision 1. **Deduction of basic economic loss benefits.** With respect to a cause of action in negligence accruing as a result of injury arising out of the operation, ownership, maintenance or use of a motor vehicle with respect to which security has been provided as required by sections 65B.41 to 65B.71, the court shall deduct from any recovery the value of basic or optional economic loss benefits actually paid or, actually payable, or which would be actually payable but for any applicable deductible. In any case where the claimant is found to be at fault under section 604.01, the deduction for basic economic loss benefits must be made before the claimant's damages are reduced under section 604.01, subdivision 1.

Sec. 3. Minnesota Statutes 2006, section 65B.51, subdivision 3, is amended to read:

Subd. 3. **Limitation of damages for noneconomic detriment.** In an action described in subdivision 1, no person shall recover damages for noneconomic detriment unless:

(a) The sum of the following exceeds \$4,000:

(1) reasonable medical expense benefits actually paid, actually payable, or actually payable but for any applicable deductible, plus

(2) the value of free medical or surgical care or ordinary and necessary nursing services performed by a relative of the injured person or a member of the injured person's household, plus

(3) the amount by which the value of reimbursable medical services or products exceeds the amount of benefit paid, payable, or payable but for an applicable deductible

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for those services or products if the injured person was charged less than the average reasonable amount charged in this state for similar services or products, minus

(4) the amount of medical expense benefits actually paid, actually payable, or actually payable but for an applicable deductible for diagnostic X-rays and for a procedure or treatment for rehabilitation and not for remedial purposes or a course of rehabilitative occupational training; or

(b) the injury results in:

(1) permanent disfigurement;

(2) permanent injury;

(3) death; or

(4) disability for 60 days or more.

(c) For the purposes of clause (a) evidence of the reasonable value of medical services and products shall be admissible in any action brought in this state.

For the purposes of this subdivision disability means the inability to engage in substantially all of the injured person's usual and customary daily activities.

(d) Except as provided in paragraph (f), in any action to recover damages arising out of the operation or use of a motor vehicle, a person shall not recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damages if any of the following applies:

(1) the injured person was at the time of the accident operating the vehicle in violation of sections 169A.20 to 169A.27 and was convicted of that offense;

(2) the injured person was the owner of a vehicle involved in the accident and the vehicle was not insured as required by the financial responsibility laws of this state; or

(3) the injured person was the operator of a vehicle involved in the accident and the operator cannot establish their financial responsibility as required by the financial responsibility laws of this state.

(e) Except as provided in paragraph (f), an insurer shall not be liable, directly or indirectly, under a policy of liability or uninsured motorist insurance to indemnify for noneconomic losses of a person injured as described in paragraph (d).

(f) In the event a person described in paragraph (d), clause (2), was injured by a motorist who at the time of the accident was operating their vehicle in violation of sections 169A.20 to 169A.27 and was convicted of that offense, the injured person shall not be barred from recovering noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damages.

Sec. 4. Minnesota Statutes 2006, section 65B.525, subdivision 1, is amended to read:

Subdivision 1. **Mandatory submission to binding arbitration of nonconsolidated claims.** Except as otherwise provided in section 72A.327, the Supreme Court and the several courts of general trial jurisdiction of this state shall by rules of court or other constitutionally allowable device, provide for the mandatory submission to binding arbitration of all cases at issue where claims have not been consolidated and the claim at the commencement of arbitration is in an amount of \$10,000 or less against any insured's reparation obligor for no-fault benefits or comprehensive or collision damage coverage. Consolidated claims shall not be submitted to binding arbitration unless all parties or their counsel have signed a written agreement referring the case to binding arbitration.

Sec. 5. Minnesota Statutes 2006, section 65B.54, is amended by adding a subdivision to read:

Subd. 6. Balance billing by health care providers prohibited. (a) This subdivision applies to charges for medical expense benefits as defined in section 65B.44, subdivision 2, to the extent that a reparation obligor has rejected them under subdivision 5 on the basis that the health care was not medically necessary or on the basis that the charges exceed the usual and customary rate.

(b) If a reparation obligor rejects, in whole or in part, a claim for health care provided to the claimant by a health care provider, for reasons specified in paragraph (a), the claimant is not obligated to pay the health care provider for the rejected charges.

(c) The health care provider shall not bill the claimant for those charges or otherwise attempt to collect them from the claimant after they have been rejected by the insurer.

(d) A health care provider whose charges are rejected, in whole or in part, under this section by a reparation obligor, is the party at interest and has standing to commence and pursue a claim for payment as a claimant against the reparation obligor in an arbitration proceeding under section 65B.525. In such a proceeding, the insured may be required to attend the arbitration proceeding by either the reparation obligor or the health care provider, subject to the conditions provided in section 65B.56, subdivision 2.

(e) A health care provider shall not require an insured to waive any provision of this section, and any such attempted waiver is void and unenforceable.

EFFECTIVE DATE. This section is effective January 1, 2009, and applies to medical expense benefits provided on or after that date.

Sec. 6. Minnesota Statutes 2006, section 604.01, is amended by adding a subdivision to read:

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5.1 Subd. 6. **Limitation.** In addition to any other limitation under law, recovery of
5.2 medical or health care expenses is limited to the amount actually paid or actually incurred
5.3 by or on behalf of the claimant, whichever amount is lower.

5.4 Sec. 7. Minnesota Statutes 2006, section 604.02, is amended by adding a subdivision
5.5 to read:

5.6 Subd. 4. **Limitation.** In addition to any other limitation under law, recovery of
5.7 medical or health care expenses is limited to the amount actually paid or actually incurred
5.8 by or on behalf of the claimant, whichever amount is lower.