

# The Newsletter<sup>®</sup>

A newsletter by the **Law Offices of J. Michael Hayes**, devoted to relevant issues of negligence and liability.  
J. Michael Hayes, 69 Delaware Avenue, Suite 1111, Buffalo, NY 14202, Telephone: (716) 852-2707

## MANDATORY INSURANCE NOTIFICATIONS

Spring, 2005

### Introduction

You have been involved in a car accident and are injured. This is not the best time for you. You are in pain and on medication. You are unable to work and you sleep a great deal.

Do you believe that since you have faithfully paid your automobile insurance premiums for your entire life, your insurance carrier will “understand” if you take a few extra days to notify them of your accident and injuries? It may be that the insurance carrier will understand. It is equally possible, however, and even likely that they will refuse to pay your rightful claims due to your “failure to comply” with a policy term.

It is respectfully suggested that the prudent approach is to know your rights and obligations and to timely comply with all policy terms.

### Check List of Required Insurance Notifications

- 1 No Fault Application within 30 days  
*Penalty—denial of medical & wage payments*
- 2 Submission of medical bills within 45 days  
*Penalty – refusal to pay bills*
- 3 Out of pocket expenses within 90 days  
*Penalty – the expenses will not be repaid*
- 4 Submission of lost wage documentation  
*Penalty – no lost wages paid*
- 5 Notice of APIP possible claim within 90 days  
*Penalty – denial of additional benefits*
- 6 SUM notice “as soon as reasonably practical”  
*Penalty – denial of coverage*
- 7 MV 104 accident report filed within 10 days  
*Penalty – revocation of drivers license*

### Mandatory Notifications

Pursuant to New York State No-Fault Law, Regulation 68, your **no-fault application** must be submitted for processing within **30 days** of the happening of the accident or you may be denied coverage.

If you receive any **bills for medical treatment** related to this accident, forward them immediately to the no-fault insurance carrier for payment. These bills must make their way to the carrier within **45 days** of the date of service. Advise your medical providers of your no fault claim number so they may bill no fault directly.

You are entitled to be reimbursed for certain **out-of-pocket expenses** such as mileage, parking, tolls, medications, household assistance, and other special damages, for up to one (1) year following the date of the accident. However, you only have **90 days** from the date of the expense to submit those receipts to the carrier for reimbursement.

**Practical Tip: Make and keep a copy of all forms and documents you submit to the insurance company. Also, send all such documents by “certified mail, return receipt requested”.**

### Lost Wages

If you are off work due to the automobile accident, you are entitled to **lost wages** up to \$2,000 or \$4,000 per month depending upon the amount of coverage you purchased. Before the no fault carrier will make any payments, **you must first apply for New York State Disability** through your employer. You are entitled to collect 80% of your lost wages. As there are no income taxes on this reimbursement, the no fault carrier uses this to justify the 20% reduction.

There is a specific three part disability form that you fill out, your employer fills out and your doctor fills out. Once all these parties enter the information, the form goes to the disability carrier who will then pay you a limited amount. The no fault carrier is notified of the amount being paid, and then they make up the difference up to the above-mentioned 80%. Your physician will be required to submit a disability slip on a regular basis to continue the lost wage payments.

New York State Disability only pays lost wages for six months. Thereafter, the entire 80% is paid by the no fault carrier up to three years from the date of the accident, generally up to a \$50,000 maximum. Any continued disability from employment is not compensated after that time or that amount.

### Additional Personal Injury Protection (APIP)

It is possible that you purchased Additional Personal Injury Protection (APIP) that will provide for lost wages and medicals in excess of the basic \$50,000. However, APIP will be denied unless you notify your carrier within 90 days of the accident of the “possibility” that you might have to make such a claim at some point in the future.

A very recent case decided Nov. 19, 2004 denied coverage where the policy holder exhausted her primary no fault (\$50,000) from the vehicle in which she had been a passenger (State Farm) and sought to utilize the APIP coverage in her personal policy (New York Central Mutual) for which she had paid an additional premium. The court held in a 3-2 decision that since there was an indication that she might at some point in the future need the APIP coverage, she was required to notify the carrier of that possibility within 90 days of the accident. New York Central’s denial of coverage was upheld. *New York Central Mutual v Drasgow*, Fourth Department.

### Supplemental Underinsured Motorist (SUM) Coverage

If you have Supplemental Underinsured Motorist (SUM) coverage, you are required to notify your insurance carrier “as soon as is reasonably practical. What is “reasonably practical” differs with the circumstances of each case. The rule of thumb is, the sooner the better.

This newsletter does not offer specific legal advice. If legal advice or other expert assistance is required, the services of a competent professional person should be sought. If you have any questions or would like a specific topic covered in the newsletter, please contact J. Michael Hayes, Esq. at 69 Delaware Avenue, suite 1111, Buffalo, NY 14202, telephone (716) 852-2707 or e-mail [jmh@jmichaelhayes.com](mailto:jmh@jmichaelhayes.com).  
Newsletter available by e-mail if you so request.