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AUTOMOBILE ACCIDENTS AND MEDICAL COVERAGE

If you are injured in an automobile accident, your medical bills will first be paid from any medical coverage available to you under any automobile insurance policy from which you can draw coverage. Once those benefits are exhausted, your health insurance will cover insured expenses. If you do not have health or automobile insurance, or if you exhaust all of the limits of benefits of both, you may be eligible for medical assistance benefits.

Under some circumstances, insurance companies that pay out on claims are "subrogated" to any money the injured insured later wins in a lawsuit. If, for example, a workers' compensation insurance company pays benefits to a worker injured by a defective workplace machine, that insurance company is entitled to reimbursement if the worker later sues the machine manufacturer and wins.

However, Pennsylvania law broadly forbids insurance companies from demanding subrogation rights to the money won by injured persons who bring lawsuits over motor vehicle accidents. So, if your automobile or health insurance company paid your medical bills from an automobile accident injury, you do not have to pay the company back if you win a personal injury award—unless you have insurance through a "health maintenance organization," or "HMO."

Recently, the Pennsylvania Supreme Court analyzed the precise language of the Pennsylvania automobile liability statute and the Pennsylvania HMO statute and decided that the statutes bar subrogation only for insurance companies and other health care programs but not for HMOs. If you have a claim against a negligent driver, and some or all of your medical bills were paid by an HMO, you must consult with the HMO before settling your claims. The HMO will be entitled to reasonable reimbursement.

Examine Your Auto Insurance Coverage

With most health insurance companies capping maximum lifetime benefits, and now that HMOs are allowed to seek reimbursement for medical bills, it is wise for Pennsylvania consumers to examine their choice of medical benefits coverage under their automobile insurance policies. All Pennsylvania automobile policies must provide a minimum of \$5,000 in medical coverage. Especially if you have HMO health coverage, consider boosting your medical coverage under your automobile policy now. The cost is often very affordable, and it is wise to maximize the medical coverage available to you for automobile accidents.

HOMEOWNERS RECOVER ATTORNEY'S FEES

The Pennsylvania Storage Tank and Spill Prevention Act (STSPA) gives Pennsylvania officials and private citizens the right to sue to

recover damages and cleanup costs when underground or above ground storage tanks leak or spill petroleum products or other hazardous

substances. Recently, homeowners who lived immediately adjacent to a gas station won the right to have their attorney's fees paid by the gas station in their STSPA suit.

Generally, Pennsylvania law places the burden of payment of attorney's fees on each litigant. However, in limited kinds of lawsuits, attorney's fees are "shifted" to the party found to have engaged in wrongdoing. Because the STSPA permits courts to make attorney's fees awards, the homeowners insisted that all of their fees be shifted to the gas station owner.

The Pennsylvania Superior Court found that the legislature identified the purposes of the STSPA to include the protection of public health and the promotion of responsibility for storage tank owners. The court ruled that vigorous

enforcement of the STSPA may not occur unless the trial courts award plaintiffs attorney's fees. Even where an attorney has agreed to accept a contingent fee—a fee that is a share of the damages award—the court ruled that it is appropriate to require the responsible party to pay an award based on the actual hours that the attorney devoted to the case.

The STSPA provides broad and immediate remedies for persons whose land or property has been damaged by a storage tank spill. Litigants cannot count on receiving a 100% fee shift in storage tank spill cases, but they certainly can expect to have a portion of their attorney's fees paid by the party responsible for the spill.

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