

By Representative Bainter

1                                   A bill to be entitled  
2           An act relating to personal injury protection  
3           benefits; amending s. 627.736, F.S.; limiting  
4           payment of interest on overdue payments under  
5           certain circumstances; providing criteria and  
6           procedures for payment of charges for treatment  
7           of injured persons; providing for arbitration;  
8           providing an effective date.

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10   Be It Enacted by the Legislature of the State of Florida:

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12           Section 1. Paragraph (c) of subsection (4) and  
13           subsection (5) of section 627.736, Florida Statutes, 1996  
14           Supplement, are amended to read:

15           627.736 Required personal injury protection benefits;  
16           exclusions; priority.--

17           (4) BENEFITS; WHEN DUE.--Benefits due from an insurer  
18           under ss. 627.730-627.7405 shall be primary, except that  
19           benefits received under any workers' compensation law shall be  
20           credited against the benefits provided by subsection (1) and  
21           shall be due and payable as loss accrues, upon receipt of  
22           reasonable proof of such loss and the amount of expenses and  
23           loss incurred which are covered by the policy issued under ss.  
24           627.730-627.7405. When the Department of Health and  
25           Rehabilitative Services provides, pays, or becomes liable for  
26           medical assistance under the Medicaid program related to  
27           injury, sickness, disease, or death arising out of the  
28           ownership, maintenance, or use of a motor vehicle, benefits  
29           under ss. 627.730-627.7405 shall be subject to the provisions  
30           of the Medicaid program.

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1 (c) All overdue payments shall bear simple interest at  
2 the rate of 10 percent per year, provided interest on an  
3 overdue payment shall not be payable unless the amount of such  
4 interest exceeds \$5.

5 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

6 (a) Any physician, hospital, clinic, or other person  
7 or institution lawfully rendering treatment to an injured  
8 person for a bodily injury covered by personal injury  
9 protection insurance may charge only a reasonable amount for  
10 the products, services, and accommodations rendered, and the  
11 insurer providing such coverage may pay for such charges  
12 directly to such person or institution lawfully rendering such  
13 treatment, if the insured receiving such treatment or his  
14 guardian has countersigned the invoice, bill, or claim form  
15 approved by the Department of Insurance upon which such  
16 charges are to be paid for as having actually been rendered,  
17 to the best knowledge of the insured or his guardian. In no  
18 event, however, may such a charge be in excess of the amount  
19 the person or institution customarily charges for like  
20 products, services, or accommodations in cases involving no  
21 insurance, provided that no charges, including charges for  
22 cephalic thermograms and peripheral thermograms, shall not  
23 exceed the maximum reimbursement allowance for such procedures  
24 as set forth in the applicable fee schedule established  
25 pursuant to s. 440.13.

26 (b) An insurer shall have no obligation to pay for  
27 such charges to the injured person or the person or  
28 institution rendering treatment or performing diagnostic  
29 testing services unless, by the close of the twenty-first day  
30 following the first treatment, such person or institution  
31 furnishes to the insurer a notice of treatment and services on

1 forms prescribed by the department. This provision does not  
2 apply to hospital emergency room services.

3 (c) The person or institution rendering treatment  
4 shall, if requested by the insurer, provide to the insurer an  
5 itemized statement of the specified services rendered and the  
6 charge for each such service and the written records  
7 justifying the course of treatment which the person rendering  
8 treatment is required to keep under s. 458.331, s. 459.015, s.  
9 460.413, s. 461.013, or s. 466.018. If an insurer makes a  
10 written request for documentation under this paragraph or  
11 paragraph (6)(b) within 30 days after having received notice  
12 of treatment and services by such person or institution under  
13 paragraph (5)(b), the amount or partial amount of covered loss  
14 to which such documentation relates shall not be deemed to be  
15 overdue for purposes of paragraph (4)(b) until 30 days after  
16 the insurer is furnished with such requested documentation.

17 (d) Every insurer shall include a provision in its  
18 policy for personal injury protection benefits for binding  
19 arbitration of any claims dispute involving medical benefits  
20 arising between the insurer and any person providing medical  
21 services or supplies if that person has agreed to accept  
22 assignment of personal injury protection benefits. The insurer  
23 may include a provision in its policy for mandatory binding  
24 arbitration of any claims dispute involving medical benefits  
25 arising between the insurer and the insureds and claimants  
26 under the policy. Such provision shall be binding on all  
27 insureds, claimants, and persons providing medical services  
28 and supplies.The provision shall specify that the provisions  
29 of chapter 682 relating to arbitration shall apply. The  
30 prevailing party shall be entitled to attorney's fees and  
31 costs. The prevailing party is the claimant or provider when

1 the award is at least the full amount of the claim asserted by  
2 the claimant or provider at arbitration. The prevailing party  
3 is the insurer when the award is no more than the amount  
4 offered by the insurer at arbitration. There is no prevailing  
5 party and attorney's fees shall not be awarded when the amount  
6 of the award is less than the full amount of the claim  
7 asserted by the claimant or provider at arbitration and more  
8 than the amount offered by the insurer at arbitration. The  
9 policy may authorize the arbitrator to award attorney's fees  
10 and costs to the prevailing party, if any.

11 Section 2. This act shall take effect October 1, 1997.

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13 HOUSE SUMMARY

14 Limits payment of interest on overdue payments if less  
15 than \$5. Revises provisions for payment of charges for  
16 treatment of injured persons to provide criteria and  
17 procedures for payments. Provides for arbitration of  
18 disputed claims. See bill for details.