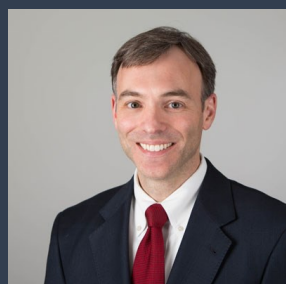




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Governor Murphy signs bills permitting party injured in auto accident to recover medical expenses in excess of PIP limits.

On August 15, 2019, Governor Murphy signed S-2432 and S-3963 in law. Those bills permit a party who was injured in an auto accident to seek recovery of medical expenses in excess of the injured party's personal injury protection ("PIP") limits. Those bills amend N.J.S.A. 39:6A-12 and N.J.S.A. 39:6A-4.6, respectively.

Prior to the enactment of those bills, the New Jersey Supreme Court issued its opinion in Haines v. Taft, 237 N.J. 271 (2019), which prohibited a party injured in an auto accident to recover unreimbursed medical expenses in excess of the PIP limits of the injured party's auto policy. The two bills reverse the ruling in Haines.

S-2432 amends N.J.S.A. 39:6A-12 to state that in a suit for injuries sustained in an auto accident, an injured party may seek to recover uncompensated loss, including uncompensated medical expenses that exceed or are not covered by the injured party's PIP limits. The injured party may seek such recovery from any liable party.

S-3963 amends N.J.S.A. 39:6A-4.6 to state that the medical fee schedule promulgated by the Commissioner of Banking and Insurance applies to suits for reimbursement of unpaid medical expenses. No health care provider may seek to recover unreimbursed medical expenses in excess of those fee schedules. The bill also permits the prevailing party in a suit limited to the recovery of only unreimbursed medical expenses to recover reasonable and necessary attorneys' fees incurred in the collection of those medical expenses.

According to Governor Murphy's signing statement, the purpose of S-3963 is to make clear that the collateral source rule still applies to auto accident cases. The bill is also intended to protect drivers and to control insurance rate increases by limiting recovery of unreimbursed medical expenses in excess of an injured driver's PIP limits to the automobile medical fee schedules established by the Commissioner of the Department of Banking and Insurance.

S-2432 took effect on August 15, 2019, and applies to pending actions as well as actions filed after that date. S-3963 took effect as of August 1, 2019, and applies to auto accidents occurring after that date. Together, the bills will result in increased recovery of medical payments, likely raising the verdict potential of auto claims when the injured party's medical expenses exceed the available PIP limits.

If you have questions about these bills, please contact Julia C. Talarick, Esq. or Timothy P. Smith, Esq.

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