

Legal Spin: Pedaling PIP

by John Duggan

I recently received a call from a cyclist (I'll call him Joe) who was hit by a car when he rode his bike through a red light.

Joe was taken by ambulance to Harborview where he was diagnosed with a broken collarbone. Joe incurred a \$500 ambulance bill and a \$2,200 hospital bill. Joe admitted that the accident was his fault and was calling for advice on how to handle the medical bills because he did not have any medical insurance.

Luckily for Joe, most car drivers in Washington carry PIP (Personal Injury Protection) coverage as part of their auto insurance policy and most PIP policies state that regardless of fault, the car driver's insurance will pay reasonable and necessary medical bills for a pedestrian or a cyclist involved in an accident with the insured car. Most PIP policies have a maximum medical benefit limit of \$10,000.

While this may seem unfair to the car driver, the public policy behind the law makes sense. Washington law requires that car drivers carry liability insurance because cars are dangerous instrumentalities that can cause serious bodily injury. Because not everyone has medical insurance, Washington law requires that insurers offer PIP coverage so that there is some minimal level of medical coverage to cover injuries resulting from car accidents. If a car is involved in an accident with a bicycle or a pedestrian, there is chance that the cyclist or pedestrian does not own a car and therefore may not have PIP coverage. Because the state, as a matter of public policy, does not want injured cyclists or pedestrians to forego medical treatment, Washington law requires that the driver's PIP policy pay the medical bills. While PIP coverage is not mandatory, most drivers have it.

Therefore, in Washington, the order of responsibility for paying medical bills in a bicycle versus car accident, regardless of who

was at fault, is as follows: 1. Car's PIP; 2. If the car does not have a PIP policy or if the car's PIP policy is exhausted, then the cyclist's auto PIP policy, if any; 3. If the car does not have PIP or if the car's and cyclist's PIP policies are exhausted, then the cyclist's health insurance, if any, steps in to pay. In Joe's case, even if he had medical insurance, his carrier would deny/reject his bills until Joe provided evidence either that there was no applicable PIP policy or that the PIP policy(ies) had been exhausted.

You should also be aware that most PIP policies also have a modest lost wage benefit (usually the lesser of \$200 or 85% of your weekly wage) and an "essential services" benefit which can provide for such things as housecleaning, daycare, etc. The "essential services" and lost wage benefits are in addition to the medical benefits and are also paid by the car's PIP policy regardless of who is at fault for the accident.

Some PIP policies, but not all, require that there be actual contact between the cyclist/bike and the car. Such a policy may not cover a situation where, for example, a car pulls out in front of a cyclist and causes the cyclist to go down, but car and bike/cyclist do not actually collide.

While the no-fault PIP provisions may at first seem unfair to the car driver's insurance company, there is good reason behind the law and it certainly inures to the benefit of cyclists. If you ride safely, hopefully you can avoid ever having to use PIP insurance!

John Duggan is an avid cyclist and Seattle attorney who represents injured cyclists. He is a member of the Cascade Bicycle Club, Bicycle Alliance of Washington and the Washington State Trial Lawyers Association. He is also a sponsor and member of the Byrne/Invent/Jet City Velo Cycling Team. He can be reached at 206-343-1888 or JohnD@warrenduggan.com.

**Submit your legal questions to John to answer.
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