



No Fault Evidentiary Proposal Civil Court Act 1308

Section 1: Medical proof in no-fault actions. A party who initiates an action for money, exclusive of interest and costs and attorney fees, which seeks reimbursement for medical treatment, testing, or supplies pursuant to section 5106 of the insurance law, shall at trial, submit the sworn statement of the licensed medical professional that rendered, prescribed or ordered the medical treatment on the issue(s) of medical necessity or a sworn statement from a representative that the claimed services had been billed in accordance with the workers compensation fee schedule pursuant to section 5108 of the insurance law.

The licensed medical professional shall affirm that no-fault benefits were duly assigned to the plaintiff, the claimed treatment, testing or supplies were rendered, prescribed or ordered by the plaintiff, medically necessary to treat accident related injuries and shall include the material facts and documents upon which the opinion of medical necessity was based; or, the representative shall include the relevant sections of the fee schedule and the material facts and documents that support the claimed services were billed in accordance with the fee schedule. Submission of such sworn statement does not create a presumption of medical necessity or provide greater deference to the treating medical professional or adherence to the fee schedule.

A party opposing said action may submit a sworn statement on the issue(s) of medical necessity or that the claimed services were not billed in accordance with the workers compensation fee schedule pursuant to section 5108 of the Insurance law. Such statement shall include the material facts and/or documents upon which that opinion was based.

A copy of the sworn statement(s) shall be furnished to all parties no later than the time the statement is submitted to the court. The sworn statement shall be accepted by the court in lieu of testimony unless, after submission of the sworn statement, the court determines that it wishes to hear testimony wherein the court shall then direct that all parties submitting a sworn statement shall have that person appear and testify in person.

This act shall take effect immediately and shall apply to all actions and proceedings commenced on or after such date and shall also apply to any action or proceeding which was commenced prior to such effective date where, as of such date, either (a) a trial of the issues has not yet commenced, or (b) the parties have not yet entered into a stipulation of settlement. This act shall expire December 31, 2016.