

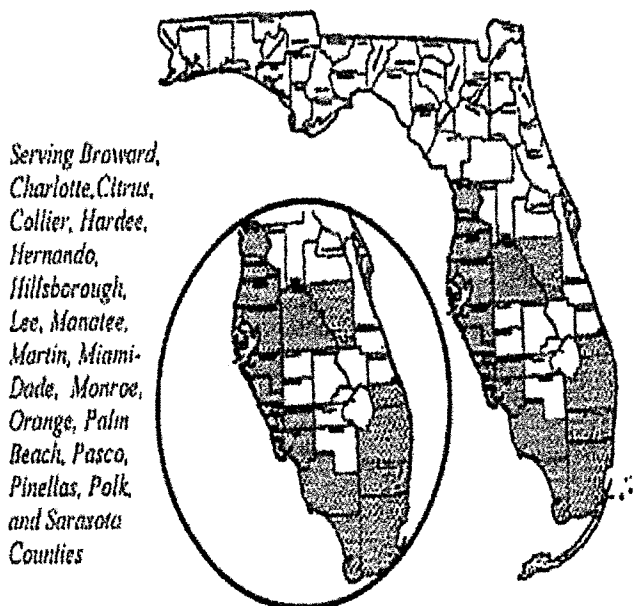
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PIP Legalese
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AUGUST 2017



any and all limitations, authorized by section 627.736, or any other provisions of the Florida Motor Vehicle No-Fault Law, as enacted, amended or otherwise continued in the law, including, but not limited to, all fee schedules," is legally sufficient notice of the insurer's election to use the permissive Medicare fee schedules to limit reimbursements for medical expenses.

Excel Medical Imaging, P.L. a/a/o Mark Mattalina, v. State Farm Mutual Automobile Insurance Company. FLWSUPP 2504MATT (6th Judicial Circuit in and for Pasco County, May 17, 2017) Provider's suit against insurer not precluded by fact that amount due is *de minimus* -- Statutory fee schedules -- Policy clearly stated insurer's intent to limit payment pursuant to statute fee schedules.

Progressive American Insurance Company v. Eduardo J. Garrido D.C., P.A. 42 Fla. L. Weekly D408a (3rd DCA, February 15, 2017) County Court erred in finding that statute which limits PIP benefits to \$2,500 if a provider determines that the injured person did not have an emergency medical condition, and excludes chiropractors from the list of professionals that are authorized to diagnose a patient with an emergency medical condition, is unconstitutional as applied to chiropractors on equal protection and due process grounds.

Allstate Insurance Company v. Orthopedic Specialists. 42 Fla. L. Weekly S38a (Supreme Court of Florida, January 26, 2017) Policy endorsement stating that "any amounts payable under this coverage shall be subject to

Health Diagnostics of Orlando, LLC, d/b/a Stand Up MRI of Orlando a/a/o Vita Diaz, v. State Farm Mutual Automobile Insurance Company. FLWSUPP 2504VDIA (9th Judicial Circuit in and for Orange County, April 28, 2017) Medicaid Multiple Procedure Payment Rule does not limit use or duration of services and does not prevent insured from accessing any procedure -- Accordingly, insurer's application of MPPR is permitted under no-fault statute -- Insurer properly applied MPPR for the year in which services were rendered -- Section 627.736(5)(a)(3) has no language requiring "substitution" of 2007 Medicare Coding policies or payment methodologies.

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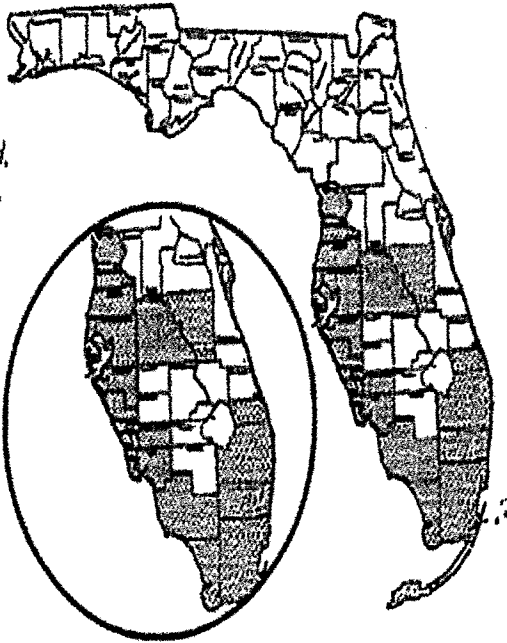


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required insurer to replace damaged kitchen cabinets as matter of law -- Under both governing statute and insurance policy at issue, insurer may limit its liability to reasonable and necessary cost to repair damaged, destroyed, or stolen covered property -- Trial court erred in ruling that payment for general contractor's overhead and profit was required as matter of law where there remained disputed issues of fact as to whether a general contractor would be necessary to repair damage.

Carabeo Carpet Care, Inc., a/a/o Gulnara Muminova v. St. John's Insurance Company, Inc. 25 Fla. L. Weekly Supp. 162a (9th Judicial Circuit in and for Orange County, April 20, 2017) Standing -- Motion for summary judgment arguing that company that provided emergency water removal services on homeowner's property lacks standing to sue insurer because homeowner's mortgage holder did not consent to assignment of benefits, as is required by policy, is denied -- Policy provision that restricts post-loss assignment of benefits is contrary to Florida law.

Companion Property and Casualty Group v. Built Tops Building Services, Inc. 42 Fla. L. Weekly D1085b (3rd DCA, May 10, 2017) In subrogation action by insurer against defendant alleging that defendant negligently repaired insured's roof, resulting in water damage, limitations period commenced at time of the water damage, rather than at the time of the negligent repair -- Subrogation action filed within 4 years of date water damage occurred was timely.

Prepared Insurance Company v. David Gal. 41 Fla. L. Weekly D2322a 209 So.3d 14 (4th DCA October 13, 2016) Replacement cost policy -- Trial court erred in finding as matter of law that replacement cost policy

Lloyd's of Shelton Auto Glass, LLC a/a/o Jedidiah Thomas v. Progressive Select Insurance Company. FLWSUPP 2504THOM (13th Judicial Circuit in and for Hillsborough County, July 26, 2017) Windshield repair or replacement -- Appraisal -- Mandatory appraisal clause constituted a *de facto* deductible, thereby rendering appraisal clause unenforceable, where appraisal clause required the insured to share the costs of appraisal -- Discussion of interplay between section 627.7288, which precludes application of deductible to claim of windshield damage, and costs required by an appraisal clause under insurance policy's comprehensive coverage provisions.

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