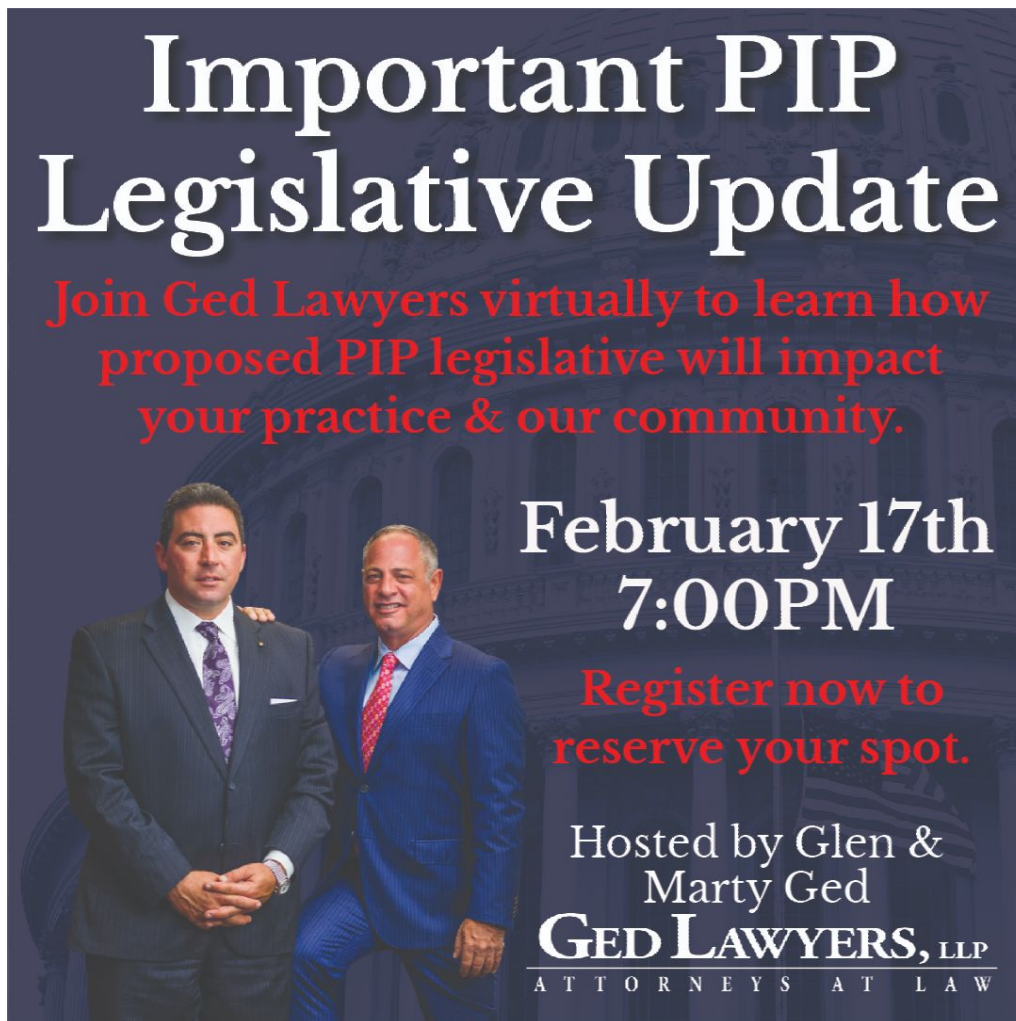


## THIS WEEK IN PIP

A Weekly Newsletter brought to you by Ged Lawyers, LLP

Every week the team at Ged Lawyers will be bringing you the latest news regarding PIP. We are dedicated to our clients, their families, and their businesses. This newsletter will help keep you updated and united with us on where PIP stands. As many of you know, there's an active Senate Bill looking to repeal PIP and Ged Lawyers remains at the forefront fighting for our clients.

02/08/21 THROUGH 02/12/21 February 16, 2021



# Important PIP Legislative Update

Join Ged Lawyers virtually to learn how  
proposed PIP legislative will impact  
your practice & our community.

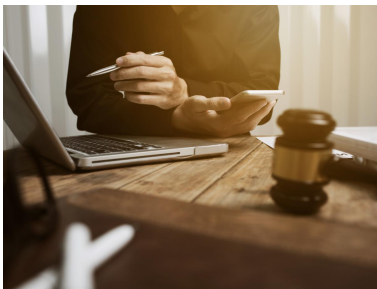
February 17th  
7:00PM

Register now to  
reserve your spot.

Hosted by Glen &  
Marty Ged  
**GED LAWYERS, LLP**  
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## Section 1

### Current Events with PIP



## Section 2

### Recent PIP Cases throughout the State



## Section 3

### Events and Announcements

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# Current Events with PIP

## No Fault system vs. At-Fault system

With the current (and previous) legislative session, there has been an increase in debates over the No-Fault system in Florida. Florida has embraced the No-Fault system since the 1970s. However, there is an increasing opinion to repeal the No-Fault system and enact an At-Fault system. An at-fault system is often referred to as tort-based system and/or mandatory BI.

Simply removing No-Fault does not solve the concerns of PIP; simultaneously, there is an increasing trend to use PIP as a scapegoat for why the system is not working. Regardless of one's position for or against No-Fault, the purpose behind No-Fault cannot be questioned and directly known—to provide swift and efficient coverage for Floridians regardless of fault or liability



The No-Fault system has a completely different core than an at-fault system. At-fault systems are solely incorporated with the determination of liability/fault; while liability/fault in a No-Fault system is irrelevant. In Florida, the No-Fault system is based around the injuries—that the injuries resulted from an auto-accident and required reasonable and medically necessary treatment and care. The system provides an amount of \$10,000 when a claimant has an emergency medical treatment and without an emergency medical condition the amount is reduced to \$2,500. The core of Florida's No-Fault system is based around the injuries and not an individual's liability in the accident. At the same time, PIP provides all Floridians the access to healthcare, even if the person does not have private or public healthcare, due to Florida requiring PIP coverage for all motor vehicles.

In a tort-based system or at-fault system, the ultimate inquiry is liability. Without Florida's No-Fault statute, the protections afforded—to all Floridians, insureds, patients, medical providers, etc.—are eliminated. Many medical providers directly depend on the swift and efficiency revenue/payment cycle of PIP, which simply would not exist under a mandatory BI system. This change for medical providers is massive—a medical provider will need to wait until a determination of liability is found, which will likely be years of litigation. Under PIP, medical providers receive financial security through concrete timeframes, which would also be eliminated.

Emergency medical services and hospitals receive special protections under PIP, where an At-Fault system does not have. Hospital and emergency medical services are protected with reservations, coordination of benefits, timeframes, etc. In Florida, auto-insurance is required by law; the requirement of auto-insurance allows these services to operate without the risk of inability to collect. PIP provides a security blanket for the taxpaying Floridians to not pay for these expenses/losses. Under an at-fault system, the losses will be directed and absorbed by the taxpayers.

In order to provide Florida with the best option, there needs to be an understanding of each

system. The systems are inherently on different sides of the spectrum. This means each system has its own pros and cons and the alternative is not necessarily an answer to the other's con.

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## SB 420—Another Attack on No-Fault: Exclusion of Passengers

On January 15, 2021, Senator Hooper introduced a Senate Bill (SB) 420, which has since been referred to Banking & Insurance, Judiciary and Rules Committees.

The proposed bill creates a new section of No-Fault, § 627.747, that allows circumstances for private passenger automobile policy to exclude particular individuals from coverage. The new creation narrows the application of No-Fault, where the proposed bill would amend §§ 627.736 and 627.7407. The effective date of the bill is July 1, 2021.

This new ability of insurers would trim the 'who' and 'who does not' qualify for PIP coverage. This is directly evident by the amendment to § 627.736(1), which adds the phrase 'unless excluded under s. 627.747. This exclusion of a new group of individuals limits the protections that No-Fault provides; No-Fault provides protection to insureds, Floridians, medical providers, patients, resident-relatives, etc.

An enactment of the current proposed bill would become effective July 1, 2021. The bill is not currently scheduled nor on the agenda of the particular Committees.



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## Recent PIP Cases

September 2020: **C&R Healthcare, LLC a/a/o Samaria Harasta v. Progressive, FLWSUPP2810HARA** (Fla. 17th Jud. Cir. Ct. Sept. 24, 2020).

The 17th Judicial Circuit Court, in its appellate capacity, reversed judgment based on a trial court error to conclude that the No-Fault statute requires a treating physician to determine an emergency medical condition (EMC). *C&R Healthcare, LLC a/a/o Samaria Harasta v. Progressive, FLWSUPP2810HARA* (Fla. 17th Jud. Cir. Ct. Sept. 24, 2020).

The Court found that the language of the No-Fault statute is clear and unambiguous that an EMC can be rendered by a qualified physician under the statute for reimbursement of care and services. The Court noted that there would be a triable issue of fact with the particular record of conflicting EMC determinations.

November 2020: **GEICO Indem. Co. v. Injury Health Center, LLC (a/a/o Ashley Smith), FLWSUPP2810SMIT** (Fla. 7th Jud. Cir. Ct. (Nov. 4, 2020).

The 7th Judicial Circuit Court, in its appellate capacity, entered judgment consistent with *Irizarry* based on the ruling being dispositive to the appeal and being issue after the trial court's judgment. Ultimately, the Court held that the *Irizarry* ruling was dispositive and where, during an appeal, district court resolves the dispositive issue, the circuit court is bound by the decision. In *Irizarry*, the Fifth District Court of Appeals held that the methodology of reimbursing 80% of a billed amount charge, with the provider responsible to collect the insured's 20% coinsurance, was in accordance with the PIP statute. *Geico Indem. Co. v. Accident & Injury Clinic, Inc. (a/a/o Frank Irizarry)*, 290 So. 3d 980, 44 Fla. L. Weekly D3045b (Fla. 5th DCA 2019).

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November 2020: **GEICO Indemnity Co. v. Prezoisi West East Orlando Chiropractic Clinic, LLC (a/a/o Antwionette Hayes), FLWSUPP 2810HAYE** (Fla. 9th Jud. Cir. Ct. Nov. 30, 2020).

The 9th Judicial Circuit, in its appellate capacity, ruled on that the No-Fault statute does not preclude an insurer from limiting its reimbursement to 80% of the total billed amount when amount billed is less than the schedule of maximum charges. *GEICO Indemnity Co. v. Prezoisi West East Orlando Chiropractic Clinic, LLC (a/a/o Antwionette Hayes), FLWSUPP 2810HAYE* (Fla. 9th Jud. Cir. Ct. Nov. 30, 2020).

The issue was whether the insured is subject to the 20% co-insurance of under the policy and statute. Even though the *Irizarry* ruling was issued after the trial court's ruling, an appellate court's decision should be made in accordance with the law at the time of appellate decision and not the time the trial court rendered judgment. *Id.* (citing to *N. Broward Hosp. Dist. V. Kalitan*, 174 So. 3d 403, 40 Fla. L. Weekly D1531a (Fla. 4th DCA 2015)).

Between the trial court's judgment and appellate decision was the Fifth District Court of Appeals ruling in *Irizarry*, 290 So. 3d 980, that found that the methodology of reimbursing 80% of a billed amount charge, with the provider responsible to collect the insured's 20% coinsurance, was in accordance with the PIP statute. *Geico Indem. Co. v. Accident & Injury Clinic, Inc. (a/a/o Frank Irizarry)*, 290 So. 3d 980, 44 Fla. L. Weekly D3045b (Fla. 5th DCA 2019). Thus, the Court was required to reverse the trial court's judgment. The Court ruled that the No-Fault statute does not prevent an insurer from limiting reimbursement to 80% of the total billed amount when the billed amount is less than the schedule of maximum charges. The Ninth Judicial Circuit Court followed the same analysis in *Gov't Emp. Ins. Co. v. Sacowi Medical Clinic, LLC (a/a/o Herronda Mortimer)*, FLWSUPP2810MORT (Fla. 9th Jud. Cir. Ct. Nov. 30, 2020).

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## Ged Lawyers Events & Announcements

# Important PIP Legislative Update

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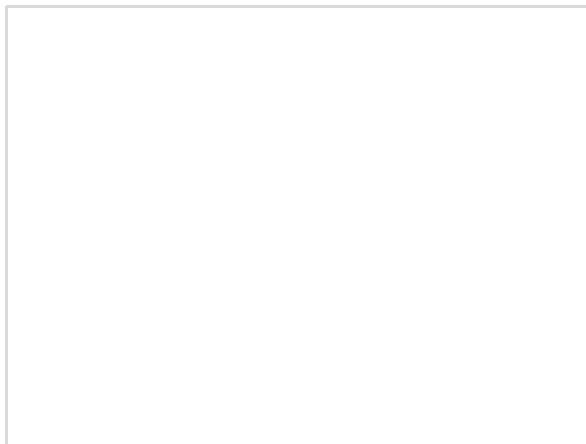
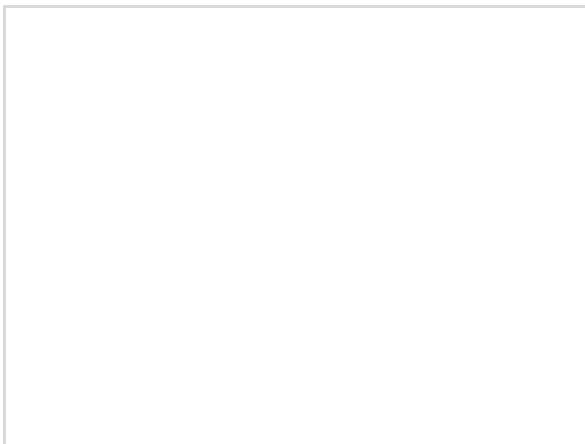


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GUEST SPEAKER  
**MARTY GED, ESQ**

JOIN US WEDNESDAY FEBRUARY 24TH  
12PM - 2:00PM

AS HE DISCUSSES PIP RECOVERIES & HOW HE'S SUCCESSFULLY  
RECOVERED MILLIONS FOR PROVIDERS THROUGHOUT THE STATE

TO RSVP TEXT JOSIE AT 954-253-0890

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GRILLE  
11365 LEGACY AVE. PALM BEACH GARDENS, FL 33410



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ATTORNEYS AT LAW

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NOT HARDER!**

GUEST SPEAKER  
**MARTY GED, ESQ**

JOIN US WEDNESDAY MARCH 10TH  
12PM - 2:00PM

AS HE DISCUSSES PIP RECOVERIES & HOW HE'S SUCCESSFULLY  
RECOVERED MILLIONS FOR PROVIDERS THROUGHOUT THE STATE

TO RSVP TEXT JOSIE AT 954-253-0890

*Carmela's*  
1910 HARRISON ST. HOLLYWOOD FL 33020



**BLACKPOINT** FUNDING **GED LAWYERS, LLP**  
ATTORNEYS AT LAW

Join Mr. Marty Ged, Esq at BlackPoint Funding's upcoming lunch and learns as he discusses PIP recoveries and how he's successfully recovered millions for providers throughout the state of Florida. Details and locations below. We hope to see you there!

With advanced remote capabilities, our PIP department is standing by ready to audit your existing files to uncover what you're rightfully owed. Even if another attorney has already completed an audit its likely you're still owed more. Our 0% administrative costs ensure you get back every dollar collected. Call us today to schedule a FREE 5 year look back before it's too late. Call us now at 561-995-1966 or visit our website and submit your info at [gedlawyers.com](http://gedlawyers.com).

NEXT EDITION: FEBRUARY 23, 2021

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