
INJURY LAW FIRMTM

ALERT

Created by **R. Michael Shickich**,
Attorney at Law ©2005
Founder of the **Injury Law Firm**
Law Offices of **R. Michael Shickich, L.L.C.**

No. 7

ELEVEN AUTO INSURANCE FACTS YOU NEED TO KNOW

This *Injury Law Firm Alert* does not constitute an attorney-client relationship but is meant for informational purposes only. Nor is this *Alert* meant to replace the legal advice of an attorney. Every case is different with specific circumstances that should be addressed individually. Should you have a legal question, speak to an attorney who is qualified to answer your specific question.

You are driving down the street, and through no fault of your own, you get hit by another vehicle. You have been in an accident. In the days and weeks that follow you come to realize that you may be out of a vehicle, you have medical bills, and you have time away from work – and this is all going to cost money. How are you going to cope with it? One of the most complex parts is understanding that there are many types of insurance, and each type works differently. This **Injury Law Firm Alert** will walk you through the 11 facts you need to know about auto insurance.

In this issue...

- ▶ Liability Insurance
- ▶ Medical Coverage
- ▶ Health Insurance
- ▶ Lien Agreements
- ▶ Subrogation
- ▶ Settlement

1) It just does not seem fair.

You did not cause the accident, yet you may already be receiving bills from the doctors, the hospital, the tow truck company, the auto repair shop, etc. One of the cruel realities is that even though you did not cause the accident, you are responsible for the medical care you receive, the vehicle repairs, and all the other related expenses. Knowing the various types of insurance and how they work will help.

2) What about your vehicle?

Usually within a short time after the accident, the insurance company for the person who caused the accident contacts you. They will want to work out the issues around repair and/or replacement of your vehicle. This involves negotiation. You will need to stand strong in negotiating the value of your vehicle. The way you do this is by getting estimates, Blue Book values, bank values, and written values from auto dealers which establish the value of your vehicle. This whole process can be complicated. (For clients of The Injury Law Firm, we have an extensive forty minute video which explains how to settle the property and vehicle damage issues.)

3) Is there liability insurance and how much?

The person who caused the accident is required by law to carry liability insurance, but you will not see any of it until you settle your case. Wyoming law requires that every driver of a motor vehicle carries at least \$25,000 in liability insurance. Liability insurance is the type of insurance which kicks in when someone causes an accident and unintentionally hurts another person. In other words, his insurance company is to pay you for his negligence. As explained below, liability insurance is different from insurance that pays your medical bills.

Consumers can buy various amounts of liability insurance. While the minimum is \$25,000, it is not uncommon for people to carry upwards of ten times that amount. Determining the amount of insurance coverage can be the Holy Grail of auto accident negotiations. It is extremely uncommon and outright rare for the other driver's insurance company to tell you how much coverage he or she carried.

Normally the insurance company plays this very close to its vest and will refuse to disclose this amount. When you ask, the agent will tell you that you do not need to know how much, but in his or her opinion there is enough to cover you. Often it takes a lawyer, and ultimately a lawsuit, to discover this information. This information can be important because it gives you an idea of what you have to work with.

4) You may have medical coverage on your auto policy.

As explained above, Wyoming law requires all drivers to carry liability insurance. At the same time you were buying your liability insurance, the insurance agent may have sold you what is called "med-pay" or "medical coverage" with your car insurance policy. This covers medical bills you may get hit with. This can be a God-send for those who are injured because it is a way to pay those medical bills in the near term.

The way this insurance works is that even though the other person caused the accident, you nonetheless file a claim under the medical coverage on **your** policy with **your** insurance company.

One other note, many "med-pay" policies have a time limit of 12, 18, 24, or 36 months when the medical coverage is available. In other words, your med-pay policy may cover you for any related medical service that you receive for the next 12 months, 18 months, etc., after the auto accident. After that date, it may provide no coverage at all. So, check your policy.

Lastly, be aware that down the road if you collect any money from the wrongdoer's insurance company, you will be required to pay back your "med-pay" insurance with a portion of any settlement you receive.

5) Your health insurance may pay for your medical care following an accident.

If you do not have "med-pay" coverage, another alternative to cover your medical bills is to file a claim under your health insurance policy, if you are one of those who are lucky enough to have health insurance. This is a complex area of the law, but generally health providers should cover you for the injuries you sustained in the auto accident. As I will explain more fully below, be aware that you will probably have to pay back the health insurance company out of any settlement you ultimately make with the adverse party's insurance company.

6) Developing a lien agreement.

If you do not have medical coverage, and you do not have health insurance, you might explore working out a "lien" agreement with your doctors and the hospital. A lien is a legal agreement in which you agree with the doctor or hospital that they will wait for payment rather than pursuing collections against you. In return, you promise that when you receive a settlement, you will pay them first and up front. This is a somewhat technical process and often requires an attorney, but it is something that should be explored with the billing department at your doctor's office or the hospital. Our firm has generally had success with developing these agreements for clients.

7) Be aware that the doctrine of "subrogation" will apply to your claim.

This doctrine says that a portion of any money that you receive from the person who caused the auto accident ultimately must be used to pay back those insurance companies which paid your outstanding medical bills, etc. Again, this is a somewhat complicated issue, and we would encourage you to have your lawyer look at this directly. But you need to know about this subrogation doctrine when you settle because there is a very good chance that out of the settlement money you receive, you will have to turn around and pay back any insurance company or entity that initially assisted in paying your bills.

8) Stay on top of the "we will work with you" approach to handling your claim.

Not all insurance companies are out to do you wrong. Some claims adjustors are actually trying to work with you. Be aware, however, that insurance companies are large, service-oriented companies and have done studies, polling, and focus groups to decide what is best to minimize their exposure. Thus, insurance companies have learned that the best way to approach you is with promises of fairness and

compromise. Studies indicate claims settled by individuals settle for 3 ½ times less than claims handled by an attorney. Thus, it is no surprise that an insurance company will communicate that it is “willing to work with you.” It would much rather not have attorneys involved.

9) Stay sensitive to a change in attitude by the adverse party’s insurance company.

If you are handling your claim on your own, there is a chance that the adverse party’s insurance company has been paying some of your medical bills and gently and consistently assuring you that they will work with you. But, as the bills continue to mount, they may put up more resistance. It is my experience that the insurance company realizes that people begin to get stressed about how they will pay their bills. When this stress is high, the insurance company may make a lowball offer to settle. Many people are just relieved to get their bills paid and put the matter put behind them. But, be careful here. Once you settle there is no coming back for further compensation, even if you later find out you were more injured than you or your doctors first knew.

10) When is the right time to settle?

This is so complex we cannot begin to address it in this Alert. In the end, it depends on you, your injuries, and your prognosis. A couple of things to remember are that first, you need to know the full extent of your injuries before you settle your claim. Once you sign a release of the claim, there is no coming back against the insurance company. This is true even if you later find out that your injuries are more extensive than you thought.

Second, remember that there are time limitations, or what lawyers call “statutes of limitations,” which provide a deadline by when you must settle your claim or file a lawsuit. This requires you to consult with a lawyer knowledgeable in the law and your type of injury. So, while you want to wait until you know the full extent of your injuries before you settle, you do not want to wait so long that you give up the right to have your issue addressed in the judicial system.

11) Be an informed consumer.

An immediate fix is just that, and it does not solve the long term problem. You must understand the extent of your injuries and what future medical care you may need, because once you sign a release, there is no coming back – even if you later find out that your injuries are much more substantial.

ABOUT R. MICHAEL SHICKICH:



Michael Shickich has a regional injury law practice. In addition to being licensed in Wyoming, he is also licensed to practice in Colorado and New Mexico.

Experience and achievements include:

- Over 20 years experience as a trial lawyer.
- Direct knowledge of the injury/insurance system: 8 years prior experience in insurance defense law.
- Highest rating of “Very High to Preeminent” by Martindale-Hubbell®.
- Member of the “Million Dollar Advocates Forum.”
- 4th Generation Wyoming resident.
- President of the Wyoming Trial Lawyers Association, 2003-2004.
- Dean of “The People’s Law School,” 2002-present.

Practice areas include:

- Automobile and Pedestrian Accidents
- Wrongful Death
- Injuries to Children
- Spinal and Bodily Injuries
- Trucking Accidents
- Burn Injuries
- Amputations
- Paralysis
- Oil Field Injuries and Explosions
- Brain and Head Injuries
- Nursing Home Negligence
- Asbestos and Toxic Exposures
- Airplane Crashes
- Railroad Injuries
- Whistle Blower Cases concerning Government and Corporate Fraud, Theft and Medicaid Fraud
- Class Action Lawsuits
- Prescription Drug and Pharmaceutical Injuries
- Insurance Bad Faith and Wrongful Denial of Insurance Benefits

PLEASE FORWARD: If you would like to share this Injury Law Firm Alert with friends, feel free to forward this issue, including the copyright notice, or they are invited to subscribe and receive their own alerts as they are published.

DO YOU HAVE OTHER AREAS OF INQUIRY?

Feel free to contact us. We have these other, free information alerts:

- When to Retain an Injury Attorney – Five Critical Signs
- How Much Do You Really Know about the McDonald's Coffee Case?
- Health Problems Linked to Ancure Abdominal Aortic Stents
- Health Problems Linked to Asbestos Exposure
- You Have Just Been in an Accident – Now What? (13 Must Know Facts)
- Eleven Facts You Need to Know about Auto Insurance

If you have a question, and we do not have an Alert on that subject, we still may have an answer.

Questions, Comments, Suggestions? I would be happy to hear from you, and you can reach me at:

**Injury Law Firm
Law Offices of R. Michael Shickich, L.L.C.
111 W. 2nd Street, Suite 500
Casper, WY 82601
Phone: (307) 266-LAWS (5297)
(877) 266-LAWS (5297)
Fax: (307) 266-1261**

The Wyoming State Bar does not certify any lawyer as a specialist or expert. Anyone considering a lawyer should independently investigate the lawyer's credentials and ability, and not rely upon advertisements or self-proclaimed expertise.