

### **304.39-160 Assigned claims.**

- (1) A person entitled to basic reparation benefits because of injury covered by this subtitle may obtain them through the assigned claims plan established pursuant to the provisions relating thereto and in accordance with the provisions on time for presenting claims under the assigned claims plan if:
  - (a) Basic reparation insurance is not applicable to the injury for a reason other than those specified in the provisions on converted vehicles and intentional injuries;
  - (b) Basic reparation insurance applicable to the injury cannot be identified;
  - (c) Basic reparation insurance applicable to the injury is inadequate to provide the contracted for benefits because of financial inability of a reparation obligor to fulfill its obligations; or
  - (d) A claim for basic reparation benefits is rejected by a reparation obligor for a reason other than that the person is not entitled under this subtitle to the basic reparation benefits claimed.
- (2) If a claim qualifies for assignment under paragraphs (c) or (d) of subsection (1), the assigned claims bureau or any reparation obligor to whom the claim is assigned is subrogated to all rights of the claimant against any reparation obligor, its successor in interest or substitute, legally obligated to provide basic reparation benefits to the claimant, for basic reparation benefits provided by the assignee.
- (3) Except in case of a claim assigned under subsection (1)(d), if a person receives basic reparation benefits through the assigned claims plan, all benefits or advantages he receives or is entitled to receive as a result of the injury, other than by way of succession at death, death benefits from life insurance, or in discharge of familial obligations of support, are subtracted in calculating net loss.
- (4) A person who sustains injury while occupying a motor vehicle owned by such person and with respect to which security is required by the provisions on security and who fails to have such security in effect at the time of an accident in this Commonwealth causing such injury, shall not obtain through the assigned claims plan basic reparation benefits, including benefits otherwise due him as a survivor, unless such person's failure to have such security in effect at the time of such accident was solely occasioned by the failure of the reparation obligor of such person to provide the basic reparation benefits required by this subtitle.

**Effective:** July 1, 1975

**History:** Created 1974 Ky. Acts ch. 385, sec. 16, effective July 1, 1975.