

**40-3111. Lawful charges for treatment or occupational training of injured person; action to recover overdue benefits; allowance of attorney's fee.** (a) A physician, hospital, clinic or other person or institution lawfully rendering treatment to an injured person for an injury covered by personal injury protection benefits and a person or institution providing rehabilitative occupational training following the injury, may charge a reasonable amount for the products, services and accommodations rendered. The charge shall not exceed the amount the person or institution customarily charges for like products, services and accommodations in cases not involving insurance, and allowances for medical benefits under this act do not include that portion of the charge for a room in any hospital, clinic, convalescent or nursing home, extended care facility or any similar facility in excess of the reasonable and customary charge for semiprivate accommodations unless intensive care is medically required.

(b) An attorney is entitled to a reasonable fee for advising and representing a claimant in an action for personal injury protection benefits which are overdue. The attorney's fee shall be a charge against the insurer or self-insurer in addition to the benefits recovered, if the court finds that the insurer or self-insurer unreasonably refused to pay the claim or unreasonably delayed in making proper payment.

Within the discretion of the court, an insurer or self-insurer may be allowed an award of a reasonable sum as attorney's fee, based upon actual time expended, and all reasonable costs of suit for its defense against a person making claim against such insurer or self-insurer where such claim was fraudulent, excessive or frivolous, and such attorney's fee and all such reasonable costs of suit so awarded may be treated as an offset against any benefits due or to become due to such person.

**History:** L. 1974, ch. 193, § 11; Feb. 22.