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## BREAKING NEWS FOR DELAWARE HEALTHCARE PROVIDERS

A new Delaware Supreme Court decision expands PIP benefits and may make it possible for some injured people to get PIP benefits. The Delaware Supreme Court on July 26, 2013 decided the case of *Kelty v. State Farm*. That decision has changed the way the law interprets whether an injury occurred as a result of the operation, use, or maintenance of a vehicle.

Prior to the law change, Delaware had a three pronged test to determine PIP eligibility. This test required all the following be met:

1. That the vehicle was an active accessory in causing the injury (such as loading the vehicle, or putting gas in the vehicle);
2. That there was not an act of independent significance that broke the causal link between the use of the vehicle and the injuries inflicted (such as a shooting or a road rage incident); and
3. That the vehicle was used for transportation purposes.

The recent decision eliminated the third prong, requiring a transportation purpose. As a result, injuries that occur near a Delaware registered vehicle may be eligible for PIP. As many of you are aware, reimbursement through PIP is at a much higher level than personal health insurance.

In the Kelty case, the claimant was able to secure PIP benefits when he was injured while assisting a friend cut branches from the top of a tree. The branch was in close proximity to a power line, and to ensure that the falling branches avoided the power line, they tied off the targeted branch to the hitch of the friend's truck. His friend kept the rope taut while the branch was being cut by moving the vehicle. Once it was cut, the rope would pull it away from the power line. Unfortunately, his friend suddenly hit the gas, causing the rope to snap, which then caused the branch to recoil, break, and knock the claimant from the tree. He suffered multiple injuries. You can read the entire decision by clicking here:

<http://courts.delaware.gov/Opinions/Download.aspx?ID=192810>

As always, if you have any questions, please do not hesitate to contact me at 1-800-632-9230.

Thank you,

Eric M. Doroshow  
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