

**40-3109. Same; injuries for which payment of benefits required; liability for payment by two or more insurers; policy providing primary benefit coverage.** (a) A self-insurer or the insurer of the owner of a motor vehicle covered by a policy of motor vehicle liability insurance meeting the requirements of this act shall pay any personal injury protection benefits which are required to be provided by this act or in such owner's policy of motor vehicle liability insurance for any injury:

(1) Sustained within the United States of America, its territories or possessions or Canada by the owner while:  
(A) Occupying a motor vehicle not excluded by subsection (a) of K.S.A. 40-3108, and amendments thereto; or  
(B) not an occupant of a motor vehicle if the injury is caused by physical contact with a motor vehicle;

(2) sustained by a relative of the owner residing in the same household, under the circumstances described in paragraph (1) of this subsection, if the relative at the time of the accident is not the owner of a motor vehicle with respect to which a motor vehicle liability insurance policy is required by this act;

(3) sustained in this state by any other person while occupying such motor vehicle or, if a resident of this state, while not an occupant of such motor vehicle if the injury is caused by physical contact with such motor vehicle, and the injured person is not the owner of a motor vehicle with respect to which a motor vehicle liability insurance policy is required under this act.

(b) If two or more insurers or self-insurers are liable to pay personal injury protection benefits for the same injury to any one person, the maximum benefits payable from all applicable policies shall be the highest limit of any one policy providing such personal injury protection benefits. The primary personal injury protection coverage shall be provided by the policy covering:

- (1) The motor vehicle occupied by the injured person at the time of the accident; or
- (2) the motor vehicle causing such physical contact.

**History:** L. 1974, ch. 193, § 9; L. 1984, ch. 167, § 3; L. 1987, ch. 173, § 4; Jan. 1, 1988.