

# Beier Howlett

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## *Michigan No Fault Reform*

by Jeffrey Feikens



On July 1, 2020, several major changes are set to go into effect for Michigan automobile insurance. This article is meant to help you understand the changes most likely to affect you should you be involved in an automobile accident after that date. We suggest you contact your insurance agent to discuss any necessary changes to your policy. If you have any legal questions regarding the Michigan No Fault Reform, please contact Beier Howlett.

### **Personal Injury Protection (PIP) Coverage**

Personal Injury Protection, or PIP, covers medical expenses for injuries related to an auto accident. Historically Michigan

has been the only state to require that you carry unlimited PIP coverage.

Instead of the previously required unlimited coverage for PIP benefits, the reform law makes available several coverage options. The new law provides the following coverage options:

**Option 1:** Unlimited coverage

**Option 2:** Limited coverage of up to \$500,000

**Option 3:** Limited coverage of up to \$250,000

**Option 4:** Limited coverage of up to \$250,000 with a spouse and some, or all, resident relatives excluded from PIP coverage. Any spouse or resident relative who is excluded from PIP coverage must have their own automobile policy with PIP coverage or qualified health coverage. With this option, any person excluded would have no coverage under the policy from which they are excluded. Any person not excluded would have \$250,000 of PIP medical coverage.

**Option 5:** Limited coverage of up to \$50,000. In order to qualify for this option, you must be enrolled in Medicaid, have qualified health coverage, or be covered under another policy with PIP medical coverage.

**Option 6:** No PIP medical coverage. In order to qualify for this option, you must have coverage from both Medicare parts A and B and any spouse and/or resident relative must be covered by a qualified health insurance plan or covered under another motor vehicle policy with PIP medical coverage.

Many of these options reference qualified health coverage. Qualified health coverage implies that your health insurance will take the primary role in paying your medical bills related to injuries sustained in an automobile accident. However, be aware that PIP covers any reasonable medical expense resulting from an accident, while your health insurance is likely to have certain limitations or exclude certain care, particularly

specialized care one might receive over a long recovery. This PIP would generally cover more than your health insurance plan. Options 4, 5, and 6 require that you either have coordinated medical benefits with qualified health coverage, Medicaid, Medicare, another motor vehicle policy with PIP coverage, or a combination of these requirements. Certain health insurance coverages in Michigan specifically exclude treatment for injuries sustained in a motor vehicle accident. It is important to contact your health insurance carrier to discuss and confirm whether your policy includes exclusions or coordination language. Each of these options has pros and cons. We recommend you contact your insurance agent or Beier Howlett if you are considering options 4, 5, and 6.

### **The Michigan Catastrophic Claims Association**

The Michigan Catastrophic Claims Association (MCCA) reimburses insurance carriers for benefits paid on claims that exceed \$580,000. The reimbursement will still apply to policies where the insured chooses unlimited PIP benefits. The MCCA is funded by charging a flat fee for each vehicle insured in Michigan. Effective July 2, 2020, the MCCA

assessment will be reduced from \$220 per vehicle per year to \$100 per vehicle for those who choose unlimited PIP coverage. Those who chose a different option will not be charged an assessment unless the MCCA goes into a deficit.

Those who are injured in an automobile accident who do not have car insurance of their own will go to the Michigan Assigned Claims Plan for coverage up to \$250,000 for treatment related to injuries sustained in an automobile accident. If costs are greater than \$250,000, then the person is responsible for their own care (or more likely they might be eligible for Medicaid, and whatever services it might cover.)

### **Tort Liability Exposure**

Prior to the current No Fault Reform, a person was subject to tort liability to an injured party for serious impairment of body function and for lost income after three years. In the past, medical expenses were not subject to tort liability because they were covered by the unlimited PIP coverage on the injured party's policy.

Under the new reform, a person is subject to tort liability for the original liability noted above, plus medical expenses over the injured party's selected PIP

coverage unless unlimited PIP coverage was selected.

The reform now requires a minimum third-party liability limited of \$250,000/\$500,000. However, there is an opt out to liability limits of \$50,000/\$100,000 as a minimum if you simply sign a form. We do not recommend decreasing your third-party liability limits from the new minimum. If anything, you should consider increasing your liability limits to further protect yourself.

In regards to property damage, the new limit for the mini-tort is \$3,000. This coverage allows you to recoup your deductible up to \$3,000 or up to \$3,000 in damages to your vehicle from the at fault party if you do not carry collision coverage on the vehicle involved in the accident.

### **Opt Outs**

Recipients of Medicare parts A and B or those who have qualified healthcare coverage with a deductible no greater than \$6,000 per person along with no exclusions for motor vehicle accidents can opt out of PIP coverage completely. This results in a 100 percent reduction of PIP premiums in the automobile policy. In order to opt out, spouses and/or resident relatives must also meet these guidelines or have their own

automobile policy with PIP coverage. When opting out, Medicare or the qualified healthcare plan becomes the primary payer of medical bills related to the motor vehicle accident. If you choose to opt out of PIP coverage, any deductibles or copays associated with your Medicare or other qualified healthcare coverage may still apply.

If a person loses their qualified coverage, they have 30 days to notify their insurance carrier and choose a new PIP coverage option or they will be excluded from PIP medical coverage.

Those who are in the business of transporting passengers can opt out of purchasing PIP coverage on their policy. Uber and Lyft drivers must have at least \$250,000 in PIP coverage.

### **Priority Changes**

The order or priority determines where medical coverage comes from if you are injured as a result of an automobile accident. Effective June 11, 2019 there were changes made to the order of priority as part of the No Fault Reform signed into law on May 30, 2019.

The order of priority if you have your own PIP policy hasn't changed. If you are injured in automobile accident you will

continue to return to your own policy for medical benefits. If you are injured in an automobile accident and do not have your own auto insurance policy, you would return to the policy of a spouse or any resident relative if available. These two scenarios haven't changed. If an uninsured occupant is injured in an accident and not domiciled with a resident relative who has an auto insurance policy at the time of loss, the new No Fault Reform directs them to the Michigan Assigned Claims Plan where it will provide up to \$250,000 for medical benefits. If medical expenses exceed \$250,000, the injured party could sue the at fault party for benefits in excess of \$250,000.

It is important to note that students away at school driving a vehicle owned by parents or resident relatives will no longer be provided coverage under the owner of the vehicle's policy. Students away at school will no longer be considered resident relatives of their parents. You may want to consider discussing a non-owned auto policy for students away at school if driving a vehicle owned by their parent or resident relative.

For non-occupants (pedestrians, cyclists, and mopeds under 50 cc) involved in a motor vehicle accident, the new No Fault

Reform makes the order of priority the same as an occupant. Non-occupants will now return to their own policy first. If they do not have their own policy, they return to a resident relative's policy. If they are not domiciled with a resident relative at the time of loss, they will now return to the Michigan Assigned Claims Plan with PIP benefits capped at \$250,000.

Motorcyclists injured in an auto accident will continue to first return to the policy of the owner of the motor vehicle involved. If the owner of the motor vehicle does not have insurance, they would then return to the operator of the motor vehicle's insurance policy for coverage. Ultimately, if the owner of the vehicle and the operator of the vehicle have no insurance, the motorcyclist would return to their own automobile insurance policy for PIP coverage. The No Fault Reform limits the motorcyclist's PIP coverage to the limits chosen by whichever auto policy their returning to for coverage. This means that the insured motorcyclists could ultimately be stuck with the lower limits of the auto owner or operator's policy even if the motorcyclist purchased unlimited PIP benefits on their own auto policy.

### **Underwriting**

Insurance companies can no longer base insurance rates on non-driving factors such as sex, marital status, home ownership, postal code, or credit rating.

### **Fee Schedules**

Currently there is no fee schedule limiting what health providers can charge auto insurance carriers for treatment related to injuries sustained in automobile accidents. The No Fault Reform is putting into place effective July 1, 2021 a fee schedule for medical expenses that will limit the amount healthcare providers are able to bill auto insurance companies.

The new fee schedule is based on the current Medicare fee schedule and will allow up to 200 percent of the Medicare rate to be billed to the auto insurance carrier.

### **Conclusion**

Given these significant changes to auto insurance coverage, we highly recommend that you contact your insurance agent to discuss your coverage moving forward. We recommend that you strongly consider maintaining unlimited PIP benefits as well as increasing your bodily injury liability limits to better protect you, your family, and your assets. While the No Fault Reform was meant to reduce auto insurance premiums

in Michigan, we expect fewer people to elect unlimited PIP benefits, which will likely lead to an increase in suits being filed against at fault parties. In turn, as PIP premiums decrease as required by the new reform, premiums for increased liability coverage may offset any savings on your auto policy premium.

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