



**Details about Michigan's
New No-Fault Law (July 2020)**

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Overview

Michigan's New No-Fault Law is one of the most extensive overhauls to auto insurance laws in the state that we've seen. It requires every vehicle owner to purchase basic No-Fault coverage, but the law is very complex and offers many different options for Michigan residents. It will also result in significant policy changes for drivers. This guide is meant to provide guidance to help readers make more informed decisions.

Under the No-Fault Law, Michigan residents can select from First Party and Third Party claims. Both claims can be made for the same accident, although they cover different injuries suffered. Although they both arise out of the same accident and injuries, they cover different types of injuries.

The new law includes other changes ranging from time and pay rate limits on family member provided attendant care, increased minimum liability limits, a medical provider fee schedule and more.

Minimum coverage for a vehicle under Michigan's No-Fault law is \$50,000 under a First Party claim. This will include coverage for such costs as medical bills, lost wages, at-home nurse care and other associated costs relating to healthcare appointments.

The other type of claim that can be made under the No-Fault law is a Third Party Claim, better known by many as what you may receive from pain and suffering caused by an accident where another party was at fault. Another name for it is "Bodily Injury." Third-party claims include both economic and non-economic damages. The economic damages may include wages lost in the future as well as some medical or other "replacement" care required in the future, often because of a significant injury. The non-economic damages include claims broadly defined as "pain and suffering" based on medical treatment needed because of injuries suffered from that accident. Its minimum limits were raised as well.

One of the main differences is that the law allows drivers to select their choice of preferred PIP medical coverage options ranging from unlimited to no coverage with several levels in between. The new law includes other significant reforms as well, including a medical provider fee schedule, increased minimum liability limits, pay rate restrictions on attendant care provided by family members, a prohibition of the use of non-driving factors for premium confirmation and a codification of the tort, or threshold standard.



Personal Injury (PIP) Benefits

Also Called: “No-Fault Benefits” or “Economic Damages”

These personal injury benefits cover up to 85 percent of work loss costs up to three years, various allowable expenses up to a set coverage cap, and replacement services. Additional coverage under PIP includes:

Survivor’s Loss Benefit Source of Coverage:

This coverage is made available from the driver’s own auto insurance company. There are guidelines that govern what coverage is available if one or more parties involved in an accident do not have proper coverage or are underinsured.

Time Guidelines: Information regarding the accident and injury must be provided to the insurance company within one year of the accident occurring. Furthermore, a lawsuit for nonpayment or underpayment of a claim must be filed within one year from the date the expense was denied. If this deadline is not met, the injured person will likely become financially responsible for all related expenses.

Injury Threshold: No matter the type of injury, or how it happened as a result of the auto accident, benefits are compensable if they are “reasonable charges incurred for reasonably necessary products, services and accommodations for an injured person’s care, recovery or rehabilitation.”



Your New Personal Injury Benefit (PIP) Options

As we mentioned earlier, you now have multiple options for selecting the PIP coverage you want.

Unlimited Coverage – obviously this is the “Rolls-Royce” of PIP coverage. It will pay for all allowable expenses for you and your care, recovery, and rehabilitation. Of course it will be the most expensive as well.

Limited Coverage of \$500,000 – under this coverage, \$500,000 is the most your auto insurance company will pay per person, per accident of the expenses related to an accident.

Limited Coverage of \$250,000 – under this coverage, \$250,000 is the most your auto insurance company will pay per person, per accident of the expenses related to an accident.

Limited Coverage of \$250,000 with Exclusions - some or all persons may be excluded from coverage. It is only available for those who choose the \$250,000 PIP medical coverage limit. A named insured or resident relative who wishes to exclude PIP medical coverage must have qualified medical coverage besides Medicare. Anyone who is excluded will not have any PIP coverage.

Limited Coverage of \$50,000 - under this coverage, \$50,000 is the most your auto insurance company will pay per person, per accident of the expenses related to an accident.

Waived PIP Coverage – this is only a feasible option if the applicant or named insured has coverage under both Medicare Parts A and B, AND any spouse and all resident relatives covered by the policy have qualified health coverage or are covered under another auto policy with PIP medical coverage.



No-Fault Benefits Guidelines

The new Michigan No-Fault law includes four categories of benefits that may be payable to accident victims directly, or to any designated caregivers responsible for care of the injured party. They include:

Work/Wage Loss

Coverage is payable for up to three years to cover “loss of income from work an injured person would have performed” had the accident, and therefore the injury, not occurred.

Such benefits are payable at a rate of 85 percent of gross pay. Generally overtime will be included when this is calculated. Additionally victims of an auto accident who were considered “temporarily unemployed” at the time could receive work loss benefits.

Allowed Expenses

Auto insurance companies are required to pay benefits at a level up to what the coverage cap is as selected by the insured. This category includes such items as in-home accommodations, vocational rehabilitation, physical therapy, case management service guardian expenses and more. In-home patient care, attendant care, and transportation costs (i.e. gas mileage) to and from medical appointments may also be covered.

First Party Claim Replacement Services Reimbursement

Coverage includes reimbursement for expenses incurred by an injured person in an effort to obtain reasonably necessary services that the injured person would have required if they had not been injured. There are specific definitions to help define what gets covered under this reimbursement.

Up to \$20 of household services may also be covered per day, including housekeeping, meal preparation, cooking, snow blowing a driveway or sidewalk and various types of yard work.

Survivor’s Loss Benefits

When a death caused by a motor vehicle accident occurs, the No-Fault law requires payment of survivor’s loss benefits to the dependents of the victim with monthly benefit payments determined by the courts. Benefits include the economic value previously provided by the deceased, replacement services and funeral/burial expenses.



Who is Actually Paying a Claim Under No-Fault?

One of the more confusing aspects of Michigan's New No-Fault Law is who is actually paying for claims in the case of a serious accident where one or more injured parties require medical care. There is essentially a priority order that governs this process. It is dependent on the type of vehicle(s) involved, and who was injured (a driver, passenger, or a pedestrian).

There is a "coordinated" policy option that allows a policyholder to confirm that injuries suffered from an automobile accident when the insured is not at fault should be applied as a primary coverage to the healthcare policy. One thing to stress here is that there could be significant financial repercussions for an individual or family who's healthcare plan does not include auto accident coverage.

This coverage is not automatic and you will want to check your healthcare policy to confirm what is covered. If not, you may be stuck with a significant healthcare bill and little to no related coverage.

There also is no guarantee that this coordinated policy option will save you money, as it could lead to higher premiums with your healthcare policy. Plus you will still have to pay any deductibles on your healthcare policy.

In addition the insurance policy that will be impacted by the claim will vary significantly if a motorcycle is involved in the accident. The State of Michigan serves as the insurer of last resort under The Assigned Claims Plan in all cases.

By knowing who is responsible for payments, Michigan residents can make more informed decisions when selecting their insurance, and Bashore Green can more effectively represent clients if an accident were to occur. We are happy to answer any questions you have.

*Driver or Passenger Order of Priority and a Pedestrian's Order of Priority
(this is when a traditional vehicle, whether a sedan, truck or SUV is involved)*

1st priority – Driver's individual insurance policy

If that policy does not exist, then:

2nd priority - Insurance company of a spouse or resident relative (i.e. parent or sibling)

Finally if that doesn't exist, then:

3rd priority - The Assigned Claims Plan (mentioned above)

Motorcycle Order of Priority

Things are different if a motorcycle is involved in the accident. That's because Michigan law does not consider a motorcycle as a motor vehicle. So the priority order of which insurance policy is impacted by the claim is:

1st priority - Insurer of the motor vehicle **owner** (not the motorcycle owner) involved in the accident.

If a traditional motor vehicle was not involved in the accident or if the motor vehicle owner opted out of the PIP medical coverage then:

2nd priority - Insurer of the motor vehicle **operator** (driver) involved in the accident

If a traditional motor vehicle was not involved in the accident or if the motor vehicle owner opted out of the PIP medical coverage then:

3rd priority - Motor vehicle insurer of the motorcycle operator involved in the accident

If none or if the motorcycle operator opted out of the PIP medical coverage then:

4th priority - Motor vehicle insurer of the motorcycle owner involved in the accident if none or if the motorcycle owner opted out of the PIP coverage.

The last priority under this scenario is The Assigned Claims Plan.



Third Party or Bodily Injury options

When you purchase or renew your auto insurance policy, you'll need to confirm the amount of Bodily Injury coverage (also known as a third party claim) you require.

That's because drivers may now be directly sued if they were at fault in an auto accident that injured one or more other drivers or passengers. Or you may be sued if a vehicle you owned but driven by someone else causes a serious injury because of an accident. That suit would be based on the cost of medical expenses required for those injured, which could easily rise into five or six figures, depending on severity.

A Bodily Injury policy covers the cost of damages you or someone driving your car causes following a car crash. Before July 2, the state minimum was \$20,000 per person or \$40,000 per accident. Now that default has changed to \$250,000 per person and \$500,000 per accident, based largely on soaring healthcare costs.

Take a close look at the DIFS form before you confirm the amount of Bodily Injury coverage you require. You are required to fill out this form prior to finalizing your policy and it does a credible job of explaining the risks associated with being underinsured. It also explains what bodily injury coverage is and how the default level is \$250,000/\$500,000.

Motorists can select coverage as low as \$50,000 per person and \$100,000 per accident under Michigan's New No-Fault law. However there are significant financial risks to making that decision, including:

- Your personal assets may be seized, or for homeowners, a lien could be placed on a house you own
- Your wages could be garnished
- Your driver's license may be suspended

The DIFS form specifically requires any motorist choosing to purchase less than the default policy \$250,000/\$500,000 per accident to initial their intent which is meant to make it clear the potential for financial losses if that driver (or vehicle owner) was found to be at fault in a serious accident.

That's why it is critical to know your risks. Be in control of who drives your vehicle and make good decisions. Anything that happens in a vehicle you own can be brought against you by law, potentially causing catastrophic financial ruin.



The Fine Print

Of course with any law this complex, there are several exceptions that may hold true.

Coordinated versus Uncoordinated

Both Coordinated and Uncoordinated coverage is available to state motorists. Coordinated coverage is more common and premiums are less expensive because the only thing being paid is medical bills not covered by health insurance. Uncoordinated coverage though, will pay medical benefits even if health insurance exists. This results in certain situations where the injured party's health insurance benefits available from his or her employer will override any coordinating benefits from the No-Fault insurance company's policy.

Motorcycle Accidents

Motorcycles are not considered motor vehicles under Michigan's No-Fault law. This is an important consideration because it means riders are not entitled to the same coverages and protections as other vehicles. In addition most motorcycle insurance policies only include liability coverage for property damage and bodily injury. Another difference is that physical contact between the motorcycle and the other (four-wheel) vehicle is not required, provided the other vehicle is considered at fault or at least a significant factor in any injuries suffered by the motorcycle rider. So if motorcyclist sustains injury as a result of an accident with a non-motor vehicle, their No-Fault benefits are not recoverable. All motorcyclists should be aware of this distinction with shopping for premiums.

Liens and Risk Exposure with Low Coverage Limits

If medical bills exceed the PIP medical coverage option, then medical providers may seek reimbursement of these bills from money recovered in any claim for pain and suffering (e.g. a lien on your the Third Party Claim). Conversely, if you are responsible for the injuries to another person, you may be liable for damages for their pain and suffering, as well as the costs of their medical and other care that exceed their coverage under their auto insurance policy.

The Definition of an "Injury" has been Updated

The injured person must suffer "death, serious impairment of a body function, or permanent serious disfigurement" under what is essentially a new definition of the term injured." A serious impairment of a body function refers to an impairment of some type of an important body function that affects the person's general ability to lead his or her normal life. Significant injuries to arms or legs, a concussion with long-term implications, or other mid-to-long term injuries may all qualify.

Time Limit has been shortened

Simply put, you have less time to file a claim than previously. All Third Party claims must be filed within three years from the date of the accident. In addition all claims for uninsured or underinsured motorists will be distributed and managed based on the policy's specific terms. These may include additional limit restrictions. You should confirm the time you have to file claims before finalizing any auto insurance policy.

We can help guide you through Michigan's Complex New No-Fault Law

There are several risks buried in the wording of Michigan's New No-Fault Law that you need to be aware of. Whether caused by new statutes of limitations, limited time limits for action and other complexities, your window for filing claims is shorter than ever before. Your claims need to be properly presented or you will be disqualified from getting the No-Fault benefits you deserve. Unfortunately, it may be easier to make an unintended mistake than with the previous law.

We have read that Michigan's New No-Fault law was supposed to simplify and expedite the payment of benefits. That is not the case. In fact securing benefits is more difficult than many had thought. The confusing nature of the law is not helping matters either. Consider these hidden factors:

Statutes of Limitations

You have just one year to file a claim for no-fault benefits. Failing to do so will likely result in a claims denial. Furthermore, failure to file a lawsuit for third party damages within three years of the date of the accident means you will forfeit your right to ever pursue a claim. In other words, if you are injured in an auto accident, speak with an attorney as soon as possible.

Fraudulent Representations are Redefined

Under the new law, there may be little difference between a "minor mistake" and a "fraudulent representation." A minor mistake made on a no-fault application, even if harmless with no adversarial intent, could void all of your no-fault benefits. Furthermore such a mistake could also jeopardize your ability to ever pursue a third party claim in the future.

Disqualification

The reasons for disqualification have been expanded as well. For example, an uninsured vehicle owner involved in a serious accident will not be able to pursue any types of damages, whether First or Third Party benefits. Not even the severity of their injuries will matter. Under certain circumstances, an uninsured party driving his or her vehicle, may be deemed a "constructive owner" and therefore barred from being able to recover benefits even if the title is not in their name.

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**"Whether Your Case is Big or Small,
at Bashore Green Law Group,
we Treat All Our Clients as Family and
we are Committed to Getting Them Justice."**

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