The Impact of Reducing PIP Coverage in Michigan

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Public Sector Consultants gratefully acknowledges consultation provided by
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EXECUTIVE SUMMARY

In the fall of 2010, the Michigan Brain Injury Provider Council[1] asked Public Sector Consultants (PSC) to analyze the potential impact of limiting the amount of coverage required for personal protection insurance (also referred to as personal injury protection or PIP) under Michigan's no-fault system for reparations related to automobile accidents. A recent report has suggested that automobile insurance rates and the percentage of automobile owners carrying the required coverage are adversely affected by Michigan's current requirement for PIP coverage,[2] but the benefits that could be lost and the potential for cost-shifting if the coverage requirement is modified have not been thoroughly explored. To more fully understand the potential impact of reducing the coverage requirement for PIP under Michigan's No-Fault Automobile Insurance Act, we have examined the following issues:

- What benefits are associated with personal protection insurance required under Michigan's current no-fault system?
- What is the cost burden associated with catastrophic motor vehicle–related injuries, specifically traumatic brain injuries (TBI)?
- Who currently pays for costs associated with motor vehicle–related injuries and how might the cost burden be shifted to the state and other payers if the coverage requirement for PIP were reduced?

Analysis of the adequacy and appropriateness of automobile insurance rates or the factors that contribute to insurers' pricing decisions, such as loss costs, administrative expenses, and assessments by the Michigan Catastrophic claims Association, are outside the scope of this report.

Personal protection insurance is one piece of a very complex automobile insurance system involving interactions among multiple payers, providers, and beneficiaries. Because PIP provides benefits for health care and treatment, it intersects with the much larger health care delivery and insurance system with its own intricacies. Automobile insurance premiums for PIP may be affected by the type and level of coverage an individual has through traditional, private health insurance or public programs.

With the implementation of the Patient Protection and Affordable Care Act at the national level, the health care delivery and insurance system is undergoing monumental change. The full impact on the proportion of the population with health care coverage and the benefits covered through private insurance or public plans is still unknown. Reductions in the number of people who lack health insurance and expansion in Medicaid enrollment are expected, but it is impossible to make an accurate prediction of the effect these changes might have on future rate classifications by automobile insurers and premiums for personal protection insurance.

[1] MBIPC is a 501(c)(6) trade association established in 1987 for providers and professions serving people with brain injury.

[2] RAND Institute for Civil Justice, *Reducing Michigan Auto Insurance Rates*, Research Brief, 2010, available online at http://www.rand.org/pubs/research_briefs/RB9513/index1.html (accessed 6/15/11).

Based on our analysis, we conclude that there is no compelling reason to reduce the coverage requirement for personal protection insurance under Michigan's no-fault system, especially at this time when the larger health care policy environment is changing so dramatically. Our rationale is presented below.

- The current requirement for lifetime payment for "reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation" enables victims of motor vehicle accidents to immediately obtain the health care and services they need for maximum recovery.

  PIP provides comprehensive benefits for motor vehicle–related injuries that range from minor to catastrophic. Michigan's no-fault legislation and requirement for personal injury protection does what it was intended to do—direct resources to necessary care and treatment of victims of motor vehicle accidents through first-party insurance.

- PIP coverage protects all covered individuals against the risk of catastrophic economic loss resulting from a motor vehicle accident.

  The risk of economic losses as a result of motor vehicle–related injuries is spread across all individuals who operate automobiles, through their insurance premiums. Reducing the amount of coverage required would transfer risk back to the individual for all costs exceeding the selected coverage level. No one can predict if he or she is going to be the victim of a catastrophic motor vehicle accident, but analysis of claims data has shown that about one out of 17 claims exceed $50,000 and one out of 200 exceed $400,000.[3]

- Care and treatment for an individual suffering a catastrophic motor vehicle–related injury such as traumatic brain injury can cost hundreds of thousands during the first year following the injury and more than a million dollars on average over the injured person's lifetime.

  Research has demonstrated the benefits of intensive rehabilitation and extended treatment for catastrophic injuries such as traumatic brain injuries. Costs associated with motor vehicle–related traumatic brain injuries are high because of the nature of the injuries and the level and duration of the care required for maximum recovery. Without adequate personal protection insurance, the cost burden is devastating for victims and their families.

- Michigan drivers pay only $23 more than the national average for liability coverage, but they receive far more in benefits compared to drivers in other states.

  In Michigan, the costs associated with motor vehicle–related injuries are borne directly by the population at risk—those who own and operate automobiles—in the form of premiums for first-party insurance. In return for payment of the premium, Michigan PIP provides lifetime, comprehensive benefits. In other states that require no-fault personal protection insurance, the amount of personal protection insurance required is lower than Michigan, but the average expenditure for liability coverage is higher.

- Without adequate personal protection insurance to cover the costs incurred, the costs associated with catastrophic motor vehicle–related injuries will be shifted to other payers—including the victims and their families, publicly-funded programs (including Medicaid, Medicare, and Social Security disability), and health care providers in the form of uncompensated care.

[3] Michael J. Miller, *Private Passenger Automobile Analysis of No-Fault Legislative Reforms in Michigan*, conducted on behalf of the Insurance Institute of Michigan (Lansing, Mich.: EPIC Consulting LLC, June 2007), 4, available online at http://www.mirsnews.com/pdfs/nofault.pdf (accessed 6/15/11).

If the level of required PIP coverage is reduced in Michigan, it is likely that many people will elect to purchase the minimum level of coverage required, leaving them without protection against the risk of catastrophic economic loss.

- Uncertainties regarding the various possible payment sources and the range of severity of motor vehicle–related injuries make it impossible to accurately predict the future additional cost burden for the Michigan Medicaid program if changes are made in the current requirement for personal protection insurance, but there is enough information available to suggest that the impact could easily exceed $30 million for long-term care in the first year alone.

After exhausting their resources, most, if not all, people suffering a catastrophic motor vehicle–injury will ultimately become eligible for Medicaid, Medicare, or Social Security disability. Over 500 people who suffer a TBI in a motor vehicle–related accident each year will require long-term care, which costs the Medicaid program approximately $61,000 per year per individual. Since each year another 500 people who suffer a motor vehicle–related TBI require long-term care, the cost of their care would be added to the ongoing Medicaid costs for people injured in previous years.

MICHIGAN'S NO-FAULT SYSTEM

Michigan is one of 12 states with a no-fault system. The Michigan no-fault automobile accident reparations system "was adopted in 1973 to increase the level of benefits paid to injured persons, make sure such payments are made promptly, and reduce the proportion of premium dollars paid out for legal and administrative costs."[4] Implementation of Michigan's current system was revolutionary in that it replaced a tort system with a no-fault system and a requirement for first-party insurance. This is a fundamental change in the way that costs associated with injuries caused by motor vehicle-related accidents are covered. Those costs are now borne largely by the injured person and distributed among a number of potential payers—including health insurers, automobile insurers, and the Michigan Catastrophic Claims Association.

Under the current system, people injured in automobile accidents have the right to recover certain benefits—usually through their own insurance company—regardless of who caused the accident. Michigan residents who own an automobile are required to purchase automobile insurance to protect themselves, other drivers and property owners, and pedestrians and bicyclists from personal injury and property damage costs that can result from automobile accidents. Michigan's basic policy requirement has three parts: personal protection insurance (also referred to as personal injury protection or PIP), property protection insurance, and residual liability insurance. Michigan drivers can also opt to purchase collision and/or comprehensive insurance to cover damage to their own car, among other types of additional coverage.

Benefits Established by Legislation

Michigan's no-fault law states that PIP covers all "reasonable charges incurred for reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation" if the injury "arises from a motor vehicle accident."[5] PIP also covers up to three

[4] Michigan Department of Energy, Labor & Economic Growth (MDELEG), Office of Financial and Insurance Regulation, *A Consumer's Guide to No-Fault Automobile Insurance in Michigan* (Lansing, Mich.: MDELEG, April 2010), 1, available online at http://www.michigan.gov/documents/cis_ofis_noflt_gd_25094_7.pdf (accessed 6/15/11).

[5] Michigan No-Fault Automobile Insurance Act, (MCL500.3101, et seq.).

years of lost wages, up to $20 per day for replacement services[6] for a maximum of three years, and funeral and burial expenses. PIP insurance policies in Michigan cover all family members who live in the same household. In addition, PIP benefits are payable when a covered individual is a passenger in another person's car or is injured as a pedestrian or bicyclist. PIP benefits also are payable when people who do not have automobile insurance are hurt as a passenger, pedestrian, or bicyclist in an accident involving a covered automobile.

The no-fault law provides for lifetime payment for "reasonably necessary products, services, and accommodations" without a cap or maximum. However, the law does not define "reasonable charges" or "reasonably necessary products, services, and accommodations." Court decisions since the law's enactment have established that PIP benefits include a wide variety of products and services. Allowable expenses include medical expenses (such as hospital expenses, physician charges, prescriptions, medical equipment, prosthetic devices, chiropractic treatment, psychological services, and other related expenses); in-home attendant care and skilled nursing services; physical and occupational rehabilitation; room and board charges incurred by institutionalized patients in a hospital or residential facility; renovation or construction to make a home or apartment handicap accessible; medical mileage; and, in some situations, purchase or modification of a motor vehicle for transportation of a seriously injured patient.[7] In other words, PIP provides comprehensive benefits for motor vehicle–related injuries that range from minor to catastrophic.

Coordination of Benefits

Automobile insurance companies are not required to pay the total costs for reasonably necessary products, services, and accommodations in all cases. In Michigan, people may purchase a PIP automobile insurance policy with coordinated benefits or uncoordinated benefits. Under a *coordinated* PIP insurance policy, the auto insurer is only obligated to pay expenses and benefits that are not paid by other applicable accident or health insurance coverage. If a PIP policy is coordinated, it is a secondary source of payment to traditional health insurance plans, health coverage through a health maintenance organization, and health coverage through a preferred provider organization. If PIP benefits are *uncoordinated*, the automobile insurance policy is the primary source of payment.

Automobile insurance companies also are permitted to reduce PIP benefits by specific governmental benefits paid or payable to the injured person, such as Social Security disability benefits, Social Security survivor's benefits, workers' compensation benefits, and certain kinds of veterans or military benefits. However, since federal law establishes Medicare and Medicaid as payers of last resort, benefits under these programs are *not* payable for any expense that is covered by automobile insurance.

Burden of Proof

The burden of proof for "reasonable charges" and "reasonably necessary" products, services, and accommodations rests with the injured individual and his or her health care provider. Automobile insurers are not obligated to pay any PIP benefits until the insurer "receives reasonable proof of

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[6] Replacement services are ordinary and necessary services in lieu of those that the injured person would have performed for the benefit of himself or herself or dependents, if he or she had not been injured.

[7] George T. Sinas, *The Michigan No-Fault Automobile Insurance Law: Your Rights and Benefits, A Practical Guide for Patients and Providers*, 7th ed. (Lansing, Mich.: Sinas, Dramis, Brake, Boughton & Mcintyre, P.C., 2011), available online at http://www.sinasdramis.com/pdf/Rights_and_Benefits_7th_Edition_web.pdf (accessed 6/15/11).

the fact and of the amount of the loss sustained," but the law does not define "reasonable proof." Insurance companies typically require that the injured person submit several types of claim forms before payment on a claim is made, such as an application for benefits, an attending physician's report form, and an employer's wage loss verification form.[8]

Catastrophic Claims Protection

Fortunately, the vast majority of motor vehicle–related injuries are not catastrophic and the type of care needed—emergency transportation, emergency department treatment, acute care of limited duration—is likely to be covered by the individual's health insurance as the primary source of payment. However, for serious to catastrophic injuries, the type of care needed will most likely exceed coverage provided by traditional health insurance plans.

While 94 percent of PIP claims are under $50,000,[9] the needs of about 6 percent of injured individuals—one out of 17 claims—will exceed that amount. For some, the cost of treatment and rehabilitation for an injury sustained in a motor vehicle accident will be much, much higher than $50,000. In an analysis of more than 70,000 PIP claims, EPIC Consulting found that 0.5 percent of claims (1 of every 200) exceeded $400,000; the average cost of these claims was $1.4 million.[10] The current PIP coverage required under Michigan's no-fault system provides automobile owners with protection against such catastrophic costs.

Michigan has also put in place a mechanism to protect automobile insurance companies from the losses associated with claims for catastrophic motor vehicle–related injuries. The Michigan Catastrophic Claims Association (MCCA) was created by the state legislature in 1978 after Michigan implemented its no-fault system. The MCCA charges each automobile insurance company a per-vehicle assessment to cover the costs associated with motor vehicle–related injuries that exceed a certain threshold (currently $480,000). The current assessment is $143.09 per vehicle. The assessment is calculated every year based on the MCCA's estimates of the costs of ongoing care for individuals who have reached or exceeded the threshold. This system is designed to permit insurers to set reasonably accurate premiums by shifting major loss costs above a set level to all participating insurers.

Automobile insurance companies are required to report claims to the MCCA based on either the type of injury sustained in an accident or when the amount they have paid plus what they expect to pay on a claim reaches a certain threshold. Auto insurers automatically submit claims to the MCCA when the claim involves a brain injury, spinal cord injury, burns over more than 50 percent of a person's body, or amputation of a major limb. If these injuries are not present, auto insurers submit claims to the MCCA when the amount they have already paid on a claim plus their reserve (anticipated future losses for the claim) reaches $200,000. This allows the MCCA to plan for the potential additional costs.

As of June 30, 2010, a total of 25,216 claims had been reported to the MCCA since its inception in 1978.[11] There are currently 12,801 open claims. An open claim is one for which the threshold of $480,000 has been reached and the MCCA is reimbursing the insurer, or one for which the individual insurer is still making payments that are expected to eventually reach the threshold. Not all claims made to the MCCA will ultimately reach the $480,000 threshold. Since 1978, the

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[8] Sinas, 22.

[9] Michael J. Miller, *Private Passenger Automobile Analysis of No-Fault Legislative Reforms in Michigan.*

[10] Ibid.

[11] Michigan Catastrophic Claims Association (MCCA), *Injury Type Summary, Inception to Date (as of June 30, 2010)*, available online at http://www.michigancatastrophic.com/LinkClick.aspx?fileticket=h4aZgsphLzs%3d&tabid=2943 (accessed 6/15/11).

MCCA has made payments on 11,291 claims to cover the costs associated with reasonable and necessary medical expenses, lost wages, replacement services, and funeral and burial expenses that have exceeded the catastrophic threshold.[12]

COST BURDEN OF MOTOR VEHICLE–RELATED TBI

Traumatic brain injuries (TBIs) are just one type of catastrophic injury that can be caused by motor vehicle accidents. This section reviews the number of TBIs resulting from motor vehicle accidents, the type of care typically needed, and the estimated costs to illustrate the cost burden associated with catastrophic motor vehicle–related injuries in Michigan. As shown by the data presented below, care and treatment for a motor vehicle–related TBI can cost hundreds of thousands during the first year following the injury and average more than a million dollars over the injured person's lifetime.

Number of Motor Vehicle–related TBIs

An estimated 57,930 TBIs occur in Michigan each year. While a large majority of these injuries are minor, 1,530 result in death and 10,400 require hospitalization. Approximately 21 percent of fatal TBIs (321) and 31 percent of hospitalized TBIs (3,224) are caused by motor vehicle traffic.[13] Each year, approximately 534 people who have been hospitalized with a TBI caused by motor vehicle traffic are discharged to a skilled-nursing facility, inpatient rehabilitation facility, or other institutional long-term care facility.[14] These individuals are likely to require ongoing, long-term care and treatment that are not covered by traditional health insurance policies, so it is not surprising that automobile insurers have reported an average of 528 claims for brain injuries to the MCCA in each of the past four years (2007–2010).[15]

Treatment and Care for TBI

For an individual suffering a TBI, initial treatment will most likely include emergency medical services and intensive and acute medical care provided in a hospital setting. Depending on the individual's insurance coverage and access to care, initial treatment may be followed by inpatient and outpatient rehabilitation and long-term care in a nursing facility, licensed residential setting, or in a home- or community-based setting.

The National Institute on Disability and Rehabilitation Research (NIDRR) Model Systems are specialized programs of care in spinal cord injury, traumatic brain injury, and burn injury. The Traumatic Brain Injury Model Systems comprise 16 centers at which emergency medical services, intensive and acute medical care, inpatient rehabilitation, and a spectrum of community rehabilitation services are provided. Inpatient rehabilitation provided at these specialized centers

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[12] MCCA, *Comparison of Motorcycle Claims Data and Assessments Earned for the Period Inception to Date as of June 30, 2010 (Period July 1, 1978 through June 30, 2010)*, available online at http://www.michigancatastrophic.com/LinkClick.aspx?fileticket=phljYAeLecg%3d&tabid=2943 (accessed 6/15/11).

[13] Injuries caused by motor-vehicle traffic include injuries to an occupant, motorcyclist, pedal cyclist, pedestrian, or unspecified person involved in a motor vehicle traffic incident.

[14] Analysis of the discharge disposition of auto-related hospitalized TBI cases from 2003 to 2008 in Michigan, provided by Cheribeth Tan-Schriner, PhD, Senior Research Scientist, Michigan Public Health Institute.

[15] MCCA, *Presentation on the Michigan Catastrophic Claims Association to the House Insurance Committee*, February 26, 2009. Data for 2009 and 2010 were obtained through personal communication with Jim Lunsted at the MCCA.

includes nursing care, occupational therapy, physiatry, physical therapy, psychology and neuropsychology, therapeutic recreation, social services, and speech and language therapy.[16]

Multiple studies have shown the effectiveness of rehabilitation following traumatic brain injury. People once believed to be permanently dependent can be more independent, and some may return to productive employment. Early rehabilitation intervention of sufficient duration provides significant benefits in the rate of recovery, ongoing care requirements, and reduction of lifetime costs. Studies also have shown that rehabilitation provided more than two years after injury is effective in reducing disability, reducing care and supervision needs, and achieving lifetime cost savings.[17, 18]

Cost of Care for TBI

The NIDRR Model Systems conduct research and disseminate findings in the areas of medical rehabilitation, service delivery, short- and long-term interventions, and systems research. Data on the average length of stay and charges for acute care and inpatient rehabilitation provided in the TBI Model Systems centers for TBIs caused by motor vehicles (other than motorcycles) are available from a study commissioned by the National Highway Traffic Safety Administration (NHTSA).[19] The patients included in the study are only those whose injuries were severe enough to require inpatient rehabilitation following acute care. These patients had an average length of stay of 22.3 days in an acute care setting, with average charges of about $5,570 per day. The average length of stay in inpatient rehabilitation was 30.4 days with average charges of about $1,470 per day. Thus, for the average patient whose injuries required both acute care and inpatient rehabilitation, the initial cost for this care was about $168,899. The study authors noted that variation in length of stay and costs was very high due to the nature of TBI.[20] In another study of 60 participants in the TBI Model Systems with injuries ranging from mild to severe, Craig Hospital found that charges and bills for services and care, equipment, and supplies *received* following acute care and inpatient rehabilitation averaged $40,000 in the first year after initial inpatient rehabilitation.[21] This brings the estimated average full first-year cost of care for a

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[16] National Highway Traffic Safety Administration, *Rehabilitation Costs and Long-Term Consequences of Motor Vehicle Injuries* (Washington, D.C.: National Highway Traffic Safety Administration, March 2006), available online at http://www.nhtsa.gov/people/injury/research/RehabCosts/images/Final%20Report Lo.pdf (accessed 6/15/11).

[17] M. Ashley, G. O'Shanick, and L. Kreber, *Early vs. Late Treatment of Traumatic Brain Injury* (Vienna, Va.: Brain Injury Association of America, August 2009), available online at http://www.biausa.org/Default.aspx?SiteSearchID=1192&ID=/search-results.htm (accessed 6/15/11).

[18] Mark J. Ashley, Treatment Parameters and Evidence-Based Medical Guidelines, *Brain Injury Source* 7, No.1 (February 2010).

[19] Ibid.

[20] The standard deviation for the average charges per day for acute care was $2,887.81. Assuming a normal distribution, charges per day for acute care for two-thirds of patients could range from $2,681.73 to $8,457.35.

[21] Craig Hospital, *Brain Injury Health Resources: Costs, service use, and who pays for what during the first year after TBI rehabilitation*, n.d., available online at http://www.craighospital.org/tbi/doc_costs.asp (accessed 6/15/11).

TBI to about $208,899. In an additional study by the NHTSA, the average direct medical cost for treating a TBI beyond the first year is estimated to be $26,871 per person per year.[22]

The life expectancy for an adult born in Michigan in 2009 is 75.4 for men and 80.1 for women.[23] However, the average lifespan of an individual with a TBI who has received inpatient rehabilitation is reduced by 7 years.[24] Thus, assuming an age of 25 at injury, remaining life expectancy of 43.4 years for men and 48.1 years for women, and NHSTA average cost estimates, the estimated average lifetime cost for medical care of individuals suffering a motor vehicle–related TBI would be $1,348,229 for men and $1,474,523 for women. Assuming an age of 50 at injury, remaining life expectancy of 18.4 years for men and 23.1 years for women, the estimated average lifetime cost for medical care would be $676,454 for men and $802,748 for women (see Exhibit 1).

EXHIBIT 1

Estimated Medical Expenses for Persons with a Traumatic Brain Injury

	Average Yearly Expenses		Estimated Lifetime Costs by Age at Injury	
Type of care	First year	Each subsequent year	25 years of age	50 years of age
Acute care	$124,211	—	—	—
Inpatient rehabilitation	44,688	—	—	—
Follow-up care*	40,000	$26,871	—	—
Total costs	**$208,899**	**$26,871**	**$1,348,229 (m)** **$1,474,523 (f)**	**$676,454 (m)** **$802,748 (f)**

SOURCE: Prepared by Public Sector Consultants Inc. using estimates from the National Highway Traffic Safety Administration and Craig Hospital. Estimated lifetime costs have not been adjusted for inflation.
*NOTE: m = male; f = female. The expense estimates provided above for follow-up care of individuals with TBI include the cost of care "received" during the first year after inpatient rehabilitation. The Craig Hospital study authors note "...with changing rules and policies of insurance companies, patients don't always get all of the services they may need, especially once they have been discharged from the rehabilitation hospital." The estimates for care beyond the first year are for "direct medical cost" and do not appear to include the costs of supervision in a long-term care setting. Neither do the estimates include other impacts of disabling injury, such as loss of income and reduced quality of life, both of which could be significant.

These estimates for the lifetime cost for medical care of individuals with a TBI are consistent with data from the Michigan Catastrophic Claims Association. Nearly half of all claims made to the MCCA are for traumatic brain injuries. From its inception in 1978 to June 30, 2010, the MCCA had reimbursed 11,291 initial claims for a total of $8,027,586,000. This is an average of $710,972 per person. With the addition of the $250,000 to $450,000 covered by the automobile insurance company before the claim reached the MCCA, the total average claim paid to date

[22] National Highway Traffic Safety Administration, *Estimated Minimum Savings to a State's Medicaid Budget by Implementing a Primary Seat Belt Law: Arkansas, Colorado, Florida, and Missouri* (Washington, D.C.: National Highway Traffic Safety Administration, March 2007), available online at http://ntl.bts.gov/lib/26000/26700/26721/TT323_Est_Min_Savings_Medicaid_Cost_AK_CO_FL_MO.pdf (accessed 6/15/11).

[23] Michigan Department of Community Health, *Life Expectancy at Birth by Sex, Michigan and United States Residents, 1901–2009*, available online at http://www.mdch.state.mi.us/pha/osr/deaths/lifeUSMI.asp (accessed 6/15/11).

[24] Cynthia Harrison-Felix, Gale Whiteneck, Michael DeVivo, Flora M. Hammond, and Amitabh Jha, Mortality following rehabilitation in the Traumatic Brain Injury Model Systems of Care, *NeuroRehabilitation* 19 (2004): 45–54.

ranges from $960,972 to $1,160,972, and that cost is on top of expenses covered by other payers, such as the individual's health insurance, Social Security, or worker's compensation. Since some of the claims included in this analysis are still open to cover expenses of ongoing care, the average MCCA reimbursement for lifetime care ultimately could be even higher.

WHO PAYS FOR MOTOR VEHICLE–RELATED INJURIES?

No one can predict if or when he or she will be in a tragic car accident of catastrophic proportions. The purpose of any insurance—whether home, health, life, or automobile—is to protect the insured against such uncertainties and the associated risk of economic losses. In the case of Michigan's personal protection insurance requirement, the costs for protection against losses due to a motor vehicle–related injury are borne directly by the population at risk—those who own and operate automobiles—in the form of premiums for first-party insurance.

Rate Comparisons and Proportion of Drivers with Insurance

A recent report by the Rand Corporation[25] has suggested that the current requirement for personal protection insurance in Michigan has resulted in higher automobile insurance premiums in Michigan and a higher proportion of drivers without auto insurance. National data on insurance expenditures suggest that other factors, such as rates for collision coverage, contribute to higher premiums and failure to purchase the required coverage.

The Insurance Information Institute provides average automobile insurance expenditures for all 50 states and Washington, D.C. The averages comprise expenditures on liability premiums (including PIP in Michigan),[26] and premiums for comprehensive and collision coverage, which are generally optional coverage. Michigan's total average expenditure on auto insurance in 2008 was $907.[27] This is 15 percent higher than the national average of $789. The main contributor to this difference, however, appears to be expenditures for collision coverage, not liability. According to the Insurance Information Institute, Michigan's average expenditure for collision coverage is $387, which is $89, or 30 percent, higher than the national average. The average expenditure for liability coverage in Michigan of $494 is only $23, or 5 percent, higher than the national average[28] (see Exhibit 2).

EXHIBIT 2

Average Annual Automobile Insurance Expenditures

	Liability	Collision	Comprehensive	Average Expenditure
Michigan	$494	$387	$152	$907
National average	$471	$298	$134	$789
Difference	**$23 (5%)**	**$89 (30%)**	**$18 (13%)**	**$118 (15%)**

SOURCE: Insurance Information Institute.

[25] RAND Institute for Civil Justice, *Reducing Michigan Auto Insurance Rates*, Research Brief, 2010, available online at http://www.rand.org/pubs/research_briefs/RB9513/index1.html (accessed 6/15/11).
[26] PIP is not truly liability insurance, but rather first-party insurance to indemnify the insured party for losses suffered by the insured.
[27] Insurance Information Institute, *Auto Insurance, Average Expenditures for Auto Insurance by State, 1999–2008*, available online at http://www.iii.org/media/facts/statsbyissue/auto/ (accessed 6/15/11).
[28] Ibid.

In 2009, about 20 percent of Michigan drivers did not carry automobile insurance, compared with about 14 percent nationally.[29] There does not appear to be a direct relationship between premiums and the proportion of automobile owners who carry insurance. New Mexico and Mississippi each have more than 25 percent uninsured drivers even though the average total expenditure for auto insurance in each of these states ($728 and $654, respectively, in 2008) is lower than Michigan's. Conversely, New York has a much lower rate of uninsured drivers (5.4 percent), while the average total expenditure for auto insurance ($1,044 in 2008) is higher than in Michigan.

Value of Coverage

Comparisons of auto insurance rates across states are deceptive unless differences in insurance products and pricing structure are considered, along with the value provided to the individual and society. For example, in the Insurance Information Institute report cited above, average insurance expenditures for "liability" coverage include true liability insurance expenditures in some states and first-party personal protection insurance expenditures in other states. These two types of insurance products are very different. As first-party insurance, PIP required in Michigan indemnifies the insured party for losses suffered by the insured, whereas the automobile liability insurance required in many other states indemnifies a third party for losses that the insured's tort caused that third party. This difference in the insurance product affects how premiums are set, how claims are handled, how reimbursement levels are determined.

As noted above, Michigan drivers pay only 5 percent more than the national average for "liability" coverage (including PIP, property protection, and residual liability), but they are entitled to far more benefits than drivers in other states—even drivers in the 11 other states that require no-fault personal protection insurance. Michigan PIP provides lifetime, comprehensive benefits. New York has the next highest minimum requirement for PIP benefits at only $50,000. New Jersey's minimum coverage requirement for PIP is $15,000, although the standard offer made by insurers is $250,000.[30] And even with these lower levels of benefits, the average expenditures for liability coverage in these states are higher than the average expenditure for liability coverage in Michigan ($687 in New York and $721 in New Jersey).[31]

Potential for Cost Shifting

Personal protection insurance is one piece of a very complex automobile insurance system involving interactions among multiple payers, providers, and beneficiaries. Because PIP provides benefits for health care and treatment, it intersects with the much larger health care delivery and insurance system with its own intricacies. As described earlier in this report, PIP benefits are often coordinated as the secondary source of payment after traditional health insurance, but they are primary to Medicaid and Medicare. Automobile insurers are permitted to consider coordination of benefits in rate classifications, so premiums for PIP may be affected by the type and level of coverage an individual has through traditional, private health insurance or public programs.

With the implementation of health care reform and the Patient Protection and Affordable Care Act at the national level, the health care delivery and insurance system is undergoing monumental

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[29] Insurance Information Institute, *Compulsory Auto/Uninsured Motorists*, Estimated Percentage of Uninsured Motorists by State, 2009, available online at http://www.iii.org/issues_updates/compulsory-auto/uninsured-motorists.html, last updated June 2011 (accessed 6/15/11).

[30] Personal communication with Barbara Geiger-Parker, President and CEO of the Brain Injury Association of New Jersey, December 10, 2010.

[31] Insurance Information Institute, *Auto Insurance*.

change. The full impact on the proportion of the population with health care coverage and the benefits covered through private insurance or public plans is still unknown. Reductions in the number of people who lack health insurance as well as expansion in Medicaid enrollment are expected, but it is impossible to make an accurate prediction of the effect these changes might have on future rate classifications by automobile insurers and premiums for personal protection insurance.

Policy decisions regarding PIP—only one piece of the puzzle—can not be made with any confidence at this time given the complexities of the automobile and health insurance systems and the uncertainties of health care reform. The questions that must be considered are whether an expectation of a reduction in premiums warrants losing the certainty of first-party coverage for catastrophic injuries, and what might be the ramifications (e.g., potential for cost shifting) if first-party coverage through PIP is reduced.

While it is not possible to project the exact dollar amount that would be shifted to other payers if PIP coverage requirements were reduced, as noted earlier in this report, one out of 17 claims exceeds $50,000 and one out of 200 exceeds $400,000.[32] Without adequate personal protection insurance to cover the costs incurred, these costs will be shifted to other payers—including the victims and their families, publicly-funded programs (including Medicaid, Medicare, and Social Security disability), and health care providers in the form of uncompensated care.

Individual Burden

It is generally accepted that people do not always act in their best interest, particularly when it comes to making decisions about risk assessment and protection. A study released by the Insurance Research Council shows that following repeal of Colorado's no-fault legislation, more than half of the policyholders who chose to voluntarily purchase personal protection insurance purchased coverage of $5,000 or less[33]—which would not even cover the average cost of one day in a hospital. If the level of required PIP coverage is reduced in Michigan, it is likely that many people will elect to purchase the minimum level of coverage required, leaving them without protection against the risk of catastrophic economic loss.

Individuals who have private health insurance may be able to recoup some of the costs for initial acute care and intensive treatment for a motor vehicle–related injury through their health insurance. For those with traumatic brain injuries or other catastrophic injuries, however, the benefits provided through private health insurance plans often fall far short of covering the costs of all of the care that is needed for effective treatment, rehabilitation, and supported living services over the individual's lifetime.

Reports of dramatic recoveries following traumatic brain injuries—the return to broadcast journalism by Bob Woodruff and, most recently, the gains made by Rep. Gabrielle Giffords—reflect the outcomes possible today when timely, acute neurotrauma care and medical rehabilitation are provided.[34, 35] However, despite the scientific evidence that supports early, intensive rehabilitation and the recognition that the window of opportunity for recovery can extend for years, there has been a trend to reduce the length of stay covered by health insurance

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[32] Miller, *Private Passenger Automobile Analysis of No-Fault Legislative Reforms in Michigan.*

[33] Insurance Research Council, *Impact of Colorado No-Fault Insurance Repeal Documented in New IRC Report*, March 7, 2008, available online at http://www.ircweb.org/news/20080307.pdf (accessed 6/15/11).

[34] Ashley et al., *Early vs. Late Treatment of Traumatic Brain Injury.*

[35] JoNel Aleccia, *Giffords' rehab fully covered, but not so for other victims of brain injury*, February 8, 2011, available online at http://www.msnbc.msn.com/id/41315890/ns/health-health_care/t/giffords-rehab-fully-covered-not-so-other-victims-brain-injury/ (accessed 6/15/11)./

benefits. In 1990, for TBIs, the average length of stay was 29 days in an acute hospital and 48 days at a rehabilitation hospital. By 1995, length of stay in an acute hospital was reduced to 20 days and length of stay in a rehabilitation hospital had dropped to 29 days.[36] Many health insurance policies also limit the number of visits for outpatient rehabilitation.

Health insurance policies also limit the number of days covered in a skilled nursing facility (e.g., 120 days per member per year) and limit the number of home health care visits. Supported living services are typically not covered at all by traditional health insurance. It is not surprising that the MCCA projects that approximately 69 percent of its future costs will go toward residential care or attendant care provided by either an agency or the injured person's family.[37] These costs are unlikely to be covered by private health insurance.

The Brain Injury Association of America sums up the impact of a TBI on individuals and families that do not have adequate insurance:

> *When treatment is delayed or denied altogether, individuals with brain injury cannot return to work or school. Often, they lose their jobs, their insurance, and their homes. The burden of care falls to families until they become destitute and then shifts to welfare systems.*[38]

Impact on Michigan Medicaid Budget

Until health care reform is fully implemented, the type of benefits and level of coverage that will be available through private health plans and Medicaid are uncertain. The number of people who will be covered by private insurance and Medicaid is also unknown. The proportion of Medicaid costs that will be the responsibility of the state versus the federal government in future years is yet another unknown, along with uncertainties concerning Medicare funding and Social Security. Compounding these uncertainties regarding the various possible payment sources with the range of severity of motor vehicle–related injuries makes it impossible to accurately estimate the future cost burden for the Michigan Medicaid program if changes are made in the current requirement for personal protection insurance. The following scenario and data on the costs of care and treatment illustrate the potential for a serious impact on the Medicaid budget.

If the level of PIP coverage required is reduced, an individual who has private health insurance and suffers a catastrophic injury in a motor vehicle–related accident will begin by obtaining benefits through his or her health insurance for initial acute care and some rehabilitation services, as they do now under the current PIP system. The injured individual would file a claim for PIP benefits through his or her automobile insurance as the secondary payer for additional medical care expenses. Once PIP benefits are exhausted, the individual and his or her family will need to draw upon their personal resources to cover additional expenses for necessary treatment, rehabilitation, and care.

Under this scenario, after exhausting their resources, most, if not all, people suffering a catastrophic motor vehicle–injury will ultimately become eligible for Medicaid, Medicare, or Social Security disability. In Michigan, the Medicaid program benefits currently include acute care, inpatient rehabilitation, outpatient rehabilitation, and long-term care in a nursing home or

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[36] Ashley et al., *Early vs. Late Treatment of Traumatic Brain Injury.*

[37] MCCA, *MCCA Expected Future Costs by Reserve Component, Discounted Reserves as of 06/30/2010*, October 11, 2010, available online at http://www.michigancatastrophic.com/LinkClick.aspx?fileticket=FzZwt0ugEjk%3d&tabid=2943 (accessed 6/15/11).

[38] Mark J. Ashley and Larry Cervelli, Eds.,Maximizing Rehabilitation Outcomes and Cost Efficiency Following Acquired Brain Injury, *Brain Injury Source* 7, No. 1 (February 2010).

home-based setting. Medicaid inpatient rehabilitation and outpatient rehabilitation benefits are limited (36 times over 90 days in the outpatient setting without prior authorization; 24 visits within 60 days for home health therapy without prior authorization). Medicaid does not typically provide intensive rehabilitation of extended duration. Medicaid long-term care (supportive living services) is provided without limitation.

Assuming that an injured individual has managed to cover the first year of expenses for treatment and care of a motor vehicle–related TBI through a combination of private health insurance, PIP, and personal resources before enrolling in Medicaid, the Medicaid program would still end up paying for the cost of ongoing long-term care over the individual's lifetime. In the Medicaid program during 2009, the cost of care in a nursing facility averaged $167 per day or $60,955 per year.[39] Over 500 people who suffer a TBI in a motor vehicle–related accident each year are discharged to a skilled-nursing facility, inpatient rehabilitation facility, or other institutional long-term care facility. Thus, if the requirement for PIP coverage is reduced, the impact on the Medicaid budget could quickly top $30 million during the first year following the change in PIP coverage. Since each year another 500 people who suffer a motor vehicle–related TBI require long-term care, and the cost of care for people injured in the first year continues, the Medicaid budget could see an increase of an additional $30 million each subsequent year. This additive effect could continue until the number of people entering the program is offset by the number of people who no longer receive services as a result of their recovery, relocation to another state, or death—or changes in Medicaid covered services.

If the requirement for PIP coverage is reduced, the total cost impact on the Medicaid budget could be even higher since this scenario only includes the costs of long-term care associated with a TBI. Expenses for all injuries resulting in uncovered medical treatment and long-term care would be shifted, not just the costs for catastrophic injuries such as TBI used in this scenario.

Uncompensated Care

Some states have made changes in their no-fault systems and reduced or eliminated requirements for personal protection insurance. In Colorado, data has been gathered to analyze the impact since the state switched from a no-fault to a tort system in 2003. Findings from the Colorado study show the potential for costs to be shifted to health care providers in the form of uncompensated care if the requirement for personal protection insurance is reduced.

- Private insurance, including automobile insurance, covered three-fourths of auto-related injuries in Colorado in 2002 and only half in 2006.
- In Colorado, auto-related injury patients made up 2.9 percent of all patients coded as self-pay and charity care in 2002 and 3.4 percent in 2006. There were 802 self-pay and charity care auto-related injury inpatients in 2002, compared to 1,312 in 2006—an increase of about 64 percent.
- Non-reimbursed charges represented 18 percent of motor vehicle accident–related emergency transport charges in 2002 and rose to 37 percent in 2006.
- The reimbursement rate for inpatient care for auto-related injuries was 60 percent of charges in 2002 and only 36 percent of charges in 2006.[40]

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[39] Personal communication with Michael Daeschlein, State Administrative Manager, Michigan Department of Community Health, Home and Community-Based Services Section, January 18, 2011.

[40] BBC Research and Consulting, *Auto Insurance/Trauma System Study, State of Colorado*, prepared for the Office of the Governor of Colorado (Denver, Colo.: BBC Research and Consulting, February 2008), available online at http://www.coloradochiropractic.org/headlines/files/AutoInsStudy2_08.pdf (accessed 6/15/11).

CONCLUSIONS

Based on our analysis, we conclude that there is no compelling reason to reduce the coverage requirement for personal protection insurance under Michigan's no-fault system, especially at this time when the larger health care policy environment is changing so dramatically.

- The current requirement for lifetime payment for "reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation" enables victims of motor vehicle accidents to immediately obtain the health care and services they need for maximum recovery.
- PIP coverage protects all covered individuals against the risk of catastrophic economic loss resulting from a motor vehicle accident.
- Care and treatment for an individual suffering a catastrophic motor vehicle–related injury such as traumatic brain injury, can cost hundreds of thousands during the first year following the injury and more than a million dollars on average over the injured person's lifetime.
- Michigan drivers pay only $23 more than the national average for liability coverage, but they receive far more in benefits compared to drivers in other states.
- Without adequate personal protection insurance to cover the costs incurred, the costs associated with catastrophic motor vehicle–related injuries will be shifted to other payers—including the victims and their families, publicly-funded programs (including Medicaid, Medicare, and Social Security disability), and health care providers in the form of uncompensated care.
- Uncertainties regarding the various possible payment sources and the range of severity of motor vehicle–related injuries make it impossible to accurately predict the future additional cost burden for the Michigan Medicaid program if changes are made in the current requirement for personal protection insurance, but there is enough information available to suggest that the impact could easily exceed $30 million for long-term care in the first year alone.