

# Governor Recommends Changes to the No-Fault Act

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On April 18, Michigan Gov. Rick Snyder held a press conference and released proposed changes to Michigan's No-Fault Act. Among some of the changes, the Governor has proposed a \$1 million cap on lifetime medical benefits, which includes limiting medical procedures to only those that are deemed medically necessary by the insurer, fee schedules for medical care and caps on attendant care.

Shortly thereafter, on April 23, House Bill 4612 was introduced. The largest proposed changes are elimination of the current unlimited lifetime allowable expenses under MCL 500.3107(1)(a), elimination of the Michigan Catastrophic Care Association (MCCA), and creating a fee schedule for medical care.

MCL 500.3107(1)(a) currently requires an insurer to pay for "reasonably necessary products, services and accommodations for an injured person's care, recovery, or rehabilitation." In its current form, there are no dollar amount or durational limits on "allowable expenses."

The proposed bill places a \$1 million lifetime cap. Additionally, under the proposed bill, the language in MCL 500.3107(1)(a) would be changed to require insurers to pay "all reasonable charges incurred for medically appropriate products, services and accommodations for an injured person's care, recovery or rehabilitation." The proposed bill further states that the product, service, or accommodation must be "reasonably likely to result in meaningful and measurable lasting improvement in the injured person's functional status," and that the product, service, or accommodation must not be for something that "would have been needed or used by the injured person or a member of the injured person's household regardless of the loss occurrence."

Under HB 4612, "rehabilitation" would be limited to 52 weeks, which could be extended an additional 52 weeks if the rehabilitation is likely to "produce significant rehabilitation," and can be extended beyond 104 weeks if additional treatment "may produce significant measurable improvement."

With respect to attendant care, in-home care provided by a family or household member would be limited to 56 hours per week, with a cap of \$15 per hour. In-home attendant care provided by non-family or household members would be limited to 16 hours per day.

GOVERNOR RECOMMENDS CHANGES TO THE NO-FAULT ACT Cont.

HB 4612 also creates a medical fee schedule which would no longer allow providers to charge no-fault insurers any more than what they customarily *receive* for like products, services, and accommodations in cases not involving Personal Injury Protection (PIP) insurance.

Among other proposed changes, the proposed bill would close the current MCCA and open a new Catastrophic Claims Association that would reimburse insurers for losses between \$530,000 and \$1 million. Attorney fees penalties would be limited, and questions regarding “whether a charge is reasonable or whether a product, service, or accommodation is medically appropriate and medically necessary” would be a question of law decided by the court, rather than a jury.

Plunkett Cooney will continue to closely monitor the proposed bill and any other proposed changes to the Michigan No-Fault Act.

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