

No-Fault Reform Efforts Gearing Up Again?

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The introduction of House Bill (HB) 4612, heavily supported by Michigan Gov. Rick Snyder, was well documented and highly debated in the first six months of 2013. On May 2, 2013, the Michigan House Insurance Committee voted to move 4612 to the full House. However, the bill lost steam, and has since given way to new proposals in 2014.

Senate Bill (SB) 818 was introduced in February 2014 by Sen. John Pappageorge. As many may recall, HB 4612 involved a series of proposed limitations to the current No-Fault Act, including but not limited to a \$1 million cap on Personal Injury Protection (PIP) benefits, redefinition of the reasonably necessary standard for allowable expense benefits and elimination of the Michigan Catastrophic Claims Association (MCCA).

SB 818 is a watered down version of HB 4612, aimed more directly at the cost of medical treatment currently regulated by the “reasonable charge” component of MCL 500.3107(1)(a). The prominent proposed changes in SB 818 includes a new definition of what constitutes a reasonable charge pursuant to MCL 500.3107(1)(a), a medical provider fee schedule, a \$10 million cap on PIP benefits and established maximums for in-home, family and/or household member provided attendant care. SB 818 was introduced by Sen. Pappageorge on Feb. 25, 2014 and was referred to the Michigan Senate Insurance Committee.

Although no further actions have been taken on SB 818, additional reform efforts have recently emerged. On Sept. 23, a new House Bill, HB 5854, was introduced by the chair of the House Insurance Committee, Representative Pete Lund, who was responsible for the former introduction of HB 4612. Unlike its predecessor, HB 5854, takes a different direction that has again drawn immediate criticism from the plaintiff’s bar.

HB 5854 is aimed at changing the process by which claimants seeking benefits through the assigned claims plan may gain access to no-fault benefits. The new bill seeks to heighten the requirement for access to no-fault benefits for those that have not paid into the system and also seeks to reduce instances of fraudulent behavior associated with the assigned claims plan.

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The new bill intends to accomplish this goal by requiring that a claimant seeking benefits through the assigned claims plan be required to show that he/she has “exercise[d] due diligence” in establishing that the eligibility factors apply to his or her claim. In addition, claimants will be required to “provide a satisfactory proof of loss” and “cooperate in the investigation of eligibility,” which may include submission to “examinations under oath and examinations by physicians selected by the Michigan Automobile Insurance Placement Facility[.]”

Moreover, the proposal includes a provision that dictates that any submission of any oral or written statements as “part of or in support” of a claim will render the claim ineligible under the assigned claims plan.

HB 5854 was referred to the House Insurance Committee on Sept. 23, although no further action is expected prior to elections in November 2014. Look for reform efforts to resume in 2015.

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