



# Michigan's New No-Fault Law

One accident. Two claims.

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One accident. Two claims.

## Michigan's New No-Fault Law Explained

Michigan automobile accidents are governed by Michigan's No-Fault Law which requires every vehicle owner to purchase basic No-Fault coverage.

Michigan's No-Fault Law is unique, complex and dynamic. The information provided here is intended to provide a basic overview of the key elements of this comprehensive law.

- There are two types of claims that can be made when you are in an automobile accident. They are referred to as First Party and Third Party claims.
- Although they both arise out of the same accident and injuries, they cover different types of injuries.
- The law pertaining to First Party claims is intended to ensure prompt payment of the expenses related to motor vehicle injuries.
- Small errors in the First Party claim can cause big problems in the Third Party claim. Therefore, we strongly recommend that you let us help you with both claims.
- Our No Fee Guarantee applies to both claims... No recovery, No fee.



- Beginning July 1, 2020, Michigan No-Fault Law, allows drivers to select PIP medical coverage options ranging from unlimited to no coverage. The new law includes other significant reforms including time and pay rate limits on family member provided attendant care, a medical provider fee schedule, a prohibition of the use of non-driving factors to set premiums, increased minimum liability limits, and a codification of the tort "threshold" standard.



### Our No Fee Guarantee means...No recovery, No fee.

Our No Fee Guarantee is our promise that if we don't collect money for you, you don't owe us an attorney fee. If there is no recovery, there is no fee.

We don't get paid unless you do. It's that simple.

## Michigan's New No-Fault Law —First Party Claim

### Also Called:

“No-Fault Benefits”  
 “Personal Injury Benefits” or “PIP” or  
 “PIP Benefits”  
 “Economic Damages”

### What is Covered:

- 1 Work Loss (85% up to 3 years)
- 2 Allowable Expenses (up to coverage cap)
- 3 Replacement Services
- 4 Survivor's Loss Benefit

### Source of Coverage:

Generally, the injured person receives benefits from their own auto insurance company. The law provides a way to identify the proper insurer when the injured person does not have their own auto insurance.

### Time Limit:

Notice of the accident and injury must be submitted within one year from the date of the accident to the insurance company. When an insurance company fails or refuses to pay expenses that have been submitted, a lawsuit must be filed within one year from the date the expense was denied. Failure to properly submit expenses and failure to timely sue may result in the injured person becoming financially responsible for the expenses.

### Injury Threshold:

Regardless of the nature and extent of the injury, benefits are compensable if they are “reasonable charges incurred for reasonably necessary products, service and accommodations for an injured person's care, recovery or rehabilitation.”<sup>1</sup>

## The Four Specific No-Fault Benefits

The Michigan No-Fault law includes four categories of benefits available to accident victims and their caregivers.

### 1 Work Loss\*

Work loss benefits are payable for up to three years to cover “loss of income from work an injured person would have performed...if he or she had not been injured.”<sup>2</sup> These benefits are payable at a rate of 85% of gross pay. Overtime is included in the calculation of this benefit. Accident victims who were “temporarily unemployed” at the time of the accident may receive work loss benefits.

### 2 Allowable Expenses

The Michigan No-Fault law defines these benefits as “all reasonable charges incurred for reasonably necessary products, services and accommodations for an injured person's care, recovery or rehabilitation.”<sup>3</sup> Auto insurance companies are required to pay these benefits up to the value of the coverage cap selected by the insured. This category includes:

- Accident related medical expenses
- In-home patient care
- Attendant care
- Transportation
- Mileage reimbursement to/from medical appointments
- Home accommodations
- Case management services
- Vocational rehabilitation
- Physical therapy
- Guardian/conservatorship expenses

### 3 Replacement Services Reimbursement\*

This benefit covers reimbursement for expenses incurred by an injured person to obtain reasonably necessary services that the injured person would have performed themselves had they not been injured.<sup>4</sup> This benefit (\$20/day) covers household services such as housekeeping, meal preparation, snow removal, and yard work.

### 4 Survivor's Loss Benefits\*

In the event of a death caused by a motor vehicle accident, the No-Fault law requires payment of survivor's loss benefits to the dependents of the person who died. Maximum monthly benefit payment limits are set by law. Benefits include the economic value previously provided by the deceased, replacement services and funeral/burial expenses.

\* PIP medical coverage caps do not apply to these items.

## Michigan's New No-Fault Law —First Party Claim (cont.)

### Who Pays No-Fault Benefits

Michigan No-Fault law's order of priority determines which insurance company is responsible for benefit payments. The order of priority differs depending upon the type of vehicle involved and whether the injured person is a driver, passenger or pedestrian. The Assigned Claims Plan, administered by the State of Michigan, is always the insurer of last resort.

#### Driver or Passenger Order of Priority

- **1st priority** is your own insurance policy, if none then...
- **2nd priority** is the insurance company of a spouse or resident relative (i.e. parent or sibling), if none then...
- **3rd priority** is the Assigned Claims Plan.

#### Pedestrian Order of Priority

- **1st priority** is your own insurance, if none then...
- **2nd priority** is the insurance company of a spouse or resident relative (i.e. parent or sibling), if none then...
- **3rd priority** is the Assigned Claims Plan.

#### Motorcycle Order of Priority

A different order for receiving benefits exists if you are in a Michigan motorcycle accident. Motorcycles are not considered "motor vehicles" under Michigan law. In a motorcycle/auto collision the priority would be as follows:

- **1st priority** is the insurer of the motor vehicle owner involved in the accident, if none or if the motor vehicle owner opted out of the PIP medical coverage then...
- **2nd priority** is the insurer of the motor vehicle operator involved in the accident, if none or if the motor vehicle operator opted out of the PIP medical coverage then...
- **3rd priority** is the 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** is the motor vehicle insurer of the motorcycle owner involved in the accident if none or if the motorcycle owner opted out of the PIP coverage, then...
- **5th priority** is the Assigned Claims Plan.

### The Six PIP Medical Coverage Options

#### Option 1 – Unlimited Coverage

This option provides the most coverage. It will pay for all allowable expenses for you and your care, recovery, and rehabilitation.

#### Option 2 – Limited Coverage of \$500,000

If you choose one of these coverage limits, \$500,000 is the most your auto insurance company will pay per person per accident for an injured person's expenses under PIP medical coverage.

#### Option 3 – Limited Coverage of \$250,000

If you choose one of these coverage limits, \$250,000 is the most your auto insurance company will pay per person per accident for an injured person's expenses under PIP medical coverage.

#### Option 4 – Limited Coverage of \$250,000 with Exclusions

Some or all persons excluded from coverage. This option is only available if you 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 that is not Medicare (e.g. health coverage that covers motor vehicle accident injuries). Anyone who is excluded will have no PIP medical coverage.

#### Option 5 – Limited Coverage of \$50,000

If you choose this limit, \$50,000 is the most your auto insurance company will pay per person per accident for an injured person's expenses under PIP medical coverage. You may select this option if the applicant or named insured is enrolled in Medicaid AND any spouse and all resident relatives have qualified health coverage, Medicaid enrollment, or coverage under another auto policy with PIP medical coverage.

#### Option 6 – No PIP Medical Coverage

You may select this 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.

<sup>1</sup>MCL 500.3107(1)(a)  
<sup>2</sup>MCL 500.3107(1)(b)

<sup>3</sup>MCL 500.3107(1)(a)  
<sup>4</sup>MCL 500.3107(1)(c)

<sup>5</sup>MCL 500.3135  
<sup>6</sup>MCL 500.3135(5)

## Exceptions & Complications

There are many complications and exceptions that can impact these benefits including:

### Coordination of Benefits

There are two types of No-Fault coverage available to Michigan motorists — coordinated and uncoordinated. Coordinated coverage is more common and is typically cheaper because it pays only those medical bills that are not covered by health insurance. Uncoordinated coverage pays medical benefits even if health insurance exists.

Similarly, there may be instances where the injured party's employer provided health insurance prevents the No-Fault insurance company from coordinating benefits.

### Motorcycle Accidents

Motorcycles, which are defined as having an engine displacement of more than 50 cubic centimeters, are not considered motor vehicles under the No-Fault law. As a result, motorcyclists are not entitled to the same coverages and protections as other vehicles. A typical motorcycle insurance policy only includes liability coverage for property damage and bodily injury.

Actual physical contact between the motorcycle and motor vehicle is not required, as long as operation of the motor vehicle was a significant factor causing injury to the motorcyclist. If a motorcyclist sustains injury as a result of an accident with a non-motor vehicle, such as a stationary object or another motorcycle, No-Fault benefits are not recoverable.

### 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.

### Also Called:

“Pain and Suffering Claim”

“Tort Liability Claim”

“Excess Economic Loss”

### What is Covered:

Monetary compensation for pain and suffering and some financial losses that are not covered by No-Fault benefits.

### Source of Coverage:

The insurance company of the at-fault driver and/or owner. Uninsured or Underinsured Motorist claims are covered by the injured person's own insurance company and/or the insurance policy covering the vehicle occupied by the injured person, if available.

### Time Limit:

Third Party claims must be filed within three years from the date of the accident. Claims for Uninsured or Underinsured Motorist Benefits are governed by the terms of the insurance policy and may have shorter time limits.

### Injury Threshold:

The injured person must suffer “death, serious impairment of a body function, or permanent serious disfigurement.”<sup>5</sup>

A serious impairment of a body function means an objectively manifested impairment of an important body function that affects the person's general ability to lead his or her normal life.<sup>6</sup>

There are many issues that can disqualify you from getting benefits.

## Michigan's New No-Fault Law is Complex

Michigan No-Fault law is a minefield of short time limits, complex procedures, statutes of limitations, and inter-related risks. If your claims are not properly presented, these issues can disqualify you from getting

your No-Fault benefits. Mistakes can also destroy your third-party claim. Here are just a few of the special circumstances that can greatly impact the outcome of your case.

### Complicated and Uncertain Coverage

Although Michigan's No-Fault law was intended to simplify and expedite the payment of benefits, it has become extraordinarily complex. Recent court decisions have made obtaining these benefits uncertain and confusing for accident victims and their caregivers.

### Statutes of Limitations = Only 1 Year

Claims for No-Fault benefits must typically be filed within one year of the date the benefits were denied. If you do not file a lawsuit for third-party damages within three years of the date of the accident, you will forever lose your rights to pursue a claim.

### Minor Mistakes May Void Your Policy

The *Bahri v. IDS* case holds that minor mistakes on a No-Fault application could be considered "fraudulent representations" and void all No-Fault benefits. Amazingly, the ability to pursue a third party claim could also be jeopardized.

### Disqualification

An owner/registrator operating his/her own uninsured motor vehicle involved in an accident cannot pursue any form of damages. The law bars them from seeking First Party and Third Party benefits regardless of the severity of their injuries. Under certain circumstances, an uninsured party driving an uninsured auto, may be deemed a "constructive owner" and barred from the recovery of benefits even though they are not the titled owner/registrator of the vehicle.



# THE BERNSTEIN NO-FAULT ADVANTAGE®

Let our family help you get the No-Fault benefits you deserve. Here's what our clients say about the Bernstein No-Fault Advantage:

“When I was injured, they took care of my No-Fault claim for me. Best call I ever made. They got results — I got all the benefits I deserved.”

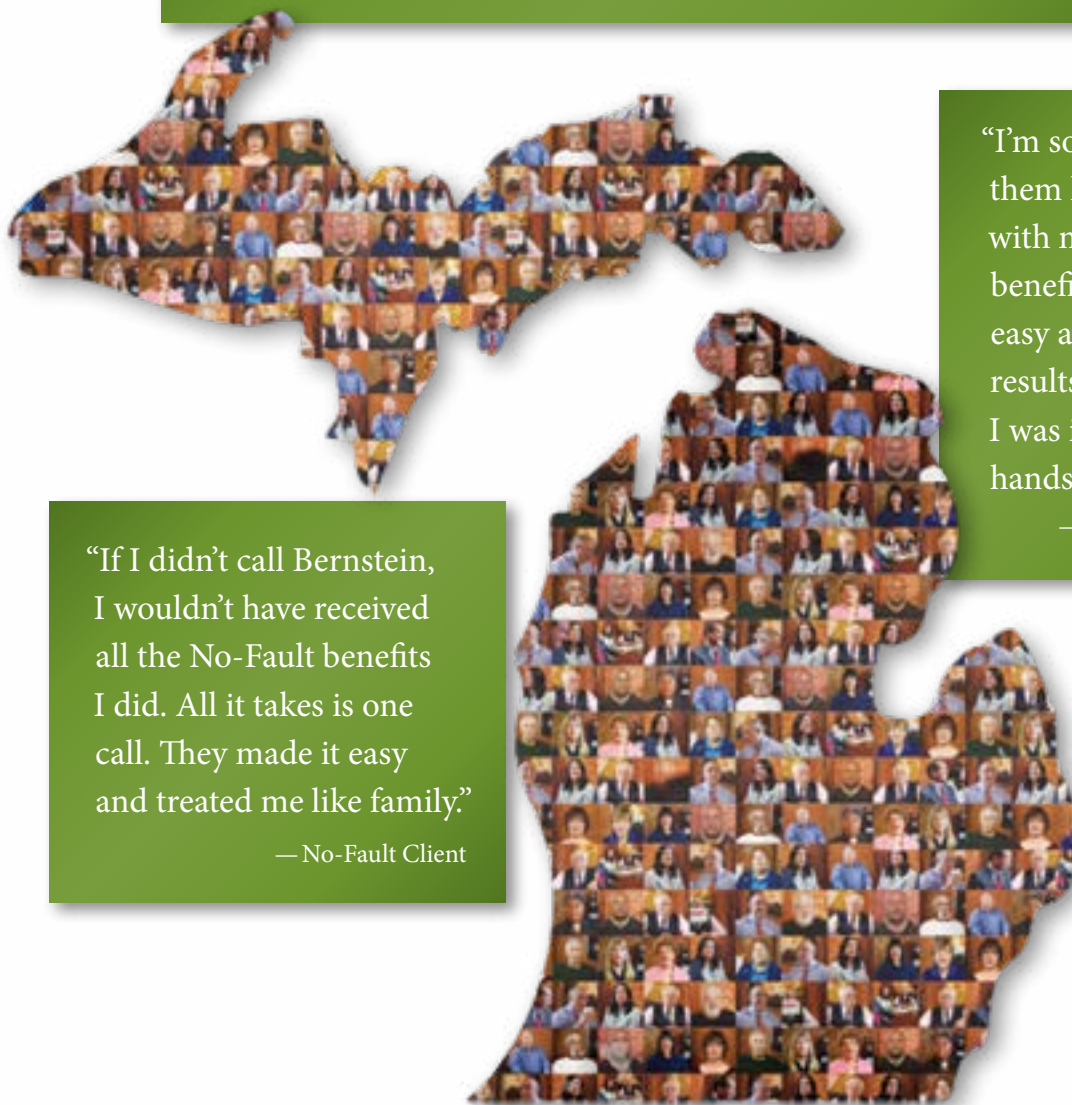
— No-Fault Client

“I'm so glad I had them help me with my No-Fault benefits. It was easy and they got results. I knew I was in good hands.”

— No-Fault Client

“If I didn't call Bernstein, I wouldn't have received all the No-Fault benefits I did. All it takes is one call. They made it easy and treated me like family.”

— No-Fault Client





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