

## **Snyder calls for no-fault reform, \$1 million benefits cap**

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*BY: Gary Gosselin*

Gov. Rick Snyder rolled out a no-fault auto insurance reform plan April 18, calling for an end to unlimited lifetime medical coverage for those with catastrophic injuries and a cap of \$1 million on their benefits.

The governor was flanked by the two Insurance Committee chairmen from the Legislature — Sen. Joe Hune, R-Hamburg, and Rep. Pete Lund, R-Shelby Township — and insurance officials.

“When it comes to [no-fault] benefits, we’re No. 1 in the country,” Lund said. “And if this bill passes, we will drop all the way to No. 1. It’s something I don’t think we can emphasize enough.”

Snyder said legislation is in draft mode, but a bill is expected to be presented next week.

In addressing claims of a lack of transparency in the Michigan Catastrophic Claims Fund, the bill would create a new nonprofit entity with appointees from the governor and Legislature, and would subject to open meetings laws.

Not everyone is as enthusiastic as Snyder, Hune and Lund, however.

“By wiping out the Catastrophic Claims Fund, basically it would send your injured loved ones into a warehouse situation, because Medicaid doesn’t cover rehab,” said John Truscott, spokesman for the Coalition Protecting Auto No-Fault.

Farmington Hills attorney David E. Christensen, chair of the Michigan Association for Justice no-fault insurance committee, said he has serious problems with the draft proposal he saw.

A few of the issues Christensen notes that are in the draft are:

- If there is a factual dispute as to the cause of the condition, it becomes a question of law, where the judge decides, not a question of fact, where the jury decides.
- Claims processing of insurance adjusters is not admissible at a trial: “Thus, bad faith denials, or an insurer’s fraud, is inadmissible,” Christensen noted.
- If the claimant’s claim is excessive or in some respect fraudulent, the court can award the insurer legal fees.

- Whether a charge is reasonable will be a question of law (judge's decision). Currently, it is a question of fact (jury's decision).
- Reasonable and necessary products, services and accommodations is replaced with "medically appropriate" products, services, or accommodations.
- In-home attendant care provided by family is limited to 56 hours per week at \$15 per hour. Attendant care by some other entity would be limited to 16 hours per day with no 24-hour-a-day provision.
- It limits home modifications to \$50,000: "If you're in a wheelchair, it is not possible to make an ordinary house accessible for \$50,000 or even \$100,000," Christensen said.

"There are so many features in this bill that have never been proposed before, I could characterize this as the most extreme wish list the insurance industry could come up with," Christensen said. "I could not imagine that any legislator who takes the time to read this and understands the no fault system, could vote for this."

### Touting 'better system'

Snyder said that the average auto insurance medical claim in Michigan is more than \$45,000, twice as high as the next closest no-fault state. The bill will include cost controls to reduce payments to medical providers and said it would lower insurance premiums by \$125 per vehicle.

"One of the most important pieces to me is not simply having a cap, it's managing the cost structures better. ... This is about substantive changes to make a better system for our consumers and our drivers," Snyder said.

The legislation also will established a fraud authority funded by insurance providers, which will provide grant funding to agencies charged with combating fraud and will establish a central repository for fraud data.

Legislation will be introduced to provide a \$50,000 cap option for low-income, low-car-value drivers with good records. Tom Shields, spokesman for the Michigan Insurance Coalition and the Coalition for Auto Insurance Reform, said 50 percent of urban drivers are not insured, and this would provide a low-cost option to get them insurance.

In March, Sen. Virgil Smith, D-Detroit, and Hune introduced Senate Bill 251, which would cap no-fault personal injury protection benefits at \$50,000, and will be the model for the low income bill.

"I think what [Lund and Hune] and the governor wanted to do was to address concerns, so this will cover 99.5 of medical claims from auto accidents," Shieldss said. "Those that go over \$1 million have other avenues; they can sue, 60 percent have private insurance, seniors have Medicare and others have Medicaid. They will be covered."

The package also will include a \$25 Medicaid tax to pay for the \$1.2 billion Medicaid deficiency created by the shortfall and sunset of the Health Insurance Claims Assessment, and extending the sunset for HICA.

“We have serious concerns about what was discussed, were waiting for details; it appears to us they are eliminating the Catastrophic Claims fund, but they’re not wiping out the payments,” Truscott said.

The MCCA assessment will be \$186 starting July 1, but Snyder only outlined a savings of \$125.

Shields said a small portion of the difference will go to the Michigan Catastrophic Claims Association to fully fund the benefits for those in the plan. Some have estimated a projected \$2 billion estimated deficit in the \$14 billion fund, which will have to continue paying for those cared for now.

“The average age of a person collecting under MCCA is 49,” Shields said, and mortality is at 77 years old, so that account will have to fund benefits for at least another 28 years.

### What about MCCA funds?

Shields and Christensen had differing views of what happens to the money in the MCCA if any is left over.

Shields said it would go to the driving public, but Christensen said it would go back to members, the insurers.

State Insurance Commissioner Kevin Clinton said at the press conference that any leftover money would go to drivers: “The insurance companies get no money back; it will be consumers or nothing.”

As for the \$25 “assessment,” Truscott said: “This is basically a Medicaid tax, so this seems like a shift shaft type of proposal to me and I think voters will be very wary, I have no doubt.”

In late March, the MCCA announced it was raising its premium for catastrophic coverage by 6 percent, from \$175 to \$186 per insured vehicle starting July 1, 2013.

Snyder’s office said Michigan is the only state to require unlimited lifetime medical benefits, and even at \$1 million it would be 20 times higher than the requirement in the next closest state, New York.

Michigan’s average premium is more than \$261 above any neighboring state and as much as \$400 higher in some cases, according to Snyder’s office and the average auto insurance medical claim in Michigan has increased 230 percent in the past 12 years — more than twice as much as the next closest state

They pointed out that medical providers often charge auto insurers more for covered services, sometimes as much as 300 percent to 400 percent higher than what they accept from health insurers.