

**Michigan No-Fault Law:**  
**Information Gathering, Order of Priority, the MACP and More**  
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**Robert E. Dice, Jr., Esq.**  
**Dice Law PLLC**  
**19080 W. 10 Mile Rd.**  
**Southfield, Michigan 48075**  
**www.dicelaw.us**  
**rob@dicelaw.us**  
**(248) 234-8288**  
**(313) 727-5300**

**PIP – An Overview:**

**1. When should bills be paid by auto insurance?**

If a “**motor vehicle**” is “**involved**” in the accident, the injured person is entitled to no-fault benefits (also known as “first party” or “PIP” (Personal Injury Protection) benefits).

**2. What circumstances give rise to a claim for no-fault benefits?**

MCL 500.3105 provides that a no-fault insurer is liable for paying benefits for **accidental injury arising out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle.**

**3. What medical expenses must the insurer pay?**

MCL 500.3107 provides that personal protection insurance benefits are available for “allowable expenses.” **Allowable expenses are “all reasonable charges incurred for reasonably necessary products, services and accommodations for an injured person’s care, recovery or rehabilitation.”**

**4. What must a medical provider establish in order to get paid?**

- A) The claimed expense must be incurred (the insurer has no duty to preauthorize treatment).
- B) The expense must be for the injured person’s care, recovery or rehabilitation.
- C) The charge must be reasonable.
- D) The treatment must be reasonably necessary.

**5. When is payment due?**

MCL 500.3142(2) provides that no-fault benefits are due 30 days after the insurer “receives reasonable proof of the fact and of the amount of loss sustained.”

**6. How do I know which auto insurance company has to pay the bills?**

If a patient is injured in a car accident and has car insurance, you make a claim with that car insurance. But what about situations where it is not so simple? The Michigan No-fault Act (MCLA 500.3101 et. seq.) sets forth the rules for determining which insurance company pays under different circumstances.

### **OOP and Exclusions: A Systematic Analysis**

First, you must determine whether or not benefits are available under the No-Fault Act. Ask the following questions:

#### **1. Was there an accidental injury that arose out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle?**

- If the answer is “Yes,” continue.

There is a great body of law in which the courts have analyzed whether injuries “**arose out of**” the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle.

**Some examples:**

- **Maintenance** – coverage generally allowed.
- **Loading/Unloading property into or out of the vehicle** – coverage generally allowed.
- **Slip and fall** – coverage available but limited.
- **Assault while in motor vehicle** – coverage generally NOT allowed.

#### **2. Do any exclusions apply?**

**Uninsured owner/operator** - If the patient is an owner and driver of an uninsured vehicle that was involved, he or she is not entitled to PIP.

**Stolen Vehicle** - A patient that knew or should have known that the accident vehicle was taken unlawfully is not entitled to PIP.

**Out of State Resident/Vehicle/Insurer** – the patient was not a MI resident, was an occupant of a motor vehicle or motorcycle not registered in MI **and** the motor vehicle or motorcycle was not insured by an insurer that has filed certification in MI.

**Excluded Driver** – the patient was operating a motor vehicle or motorcycle as to which he was named as an excluded operator under the applicable insurance policy.

**Intentional Act** - A patient that intentionally crashes his car with the intent to injure himself cannot claim PIP benefits.

## **Two Types of Ownership – Titled Ownership and Constructive Ownership**

MCL 500.3101 requires owners of motor vehicles to insure them. If you are the driver of a vehicle that you own that is not insured, you are not entitled to PIP benefits. The two main types of ownership under this section are **titled ownership** (the person holds title to the vehicle) and **constructive ownership**. MCL 500.3101(h)(i) defines a constructive owner as a person having use of a motor vehicle for a period that is greater than 30 days. This definition of ownership greatly expands the reach of the uninsured owner/operator exclusion.

Michigan Courts have taken the position that it is not necessary that 30 days actually pass before a person can be deemed a constructive owner. Rather, Michigan case law indicates that if it was the intent of the parties that the prospective user/owner have exclusive use of the vehicle for more than 30 days, he is a constructive owner even if the accident occurs before he has had the vehicle for 30 days.

### **ORDER OF PRIORITY: 3 CATEGORIES OF CLAIMANTS – 3 PRIORITY SCHEMES**

If the patient's circumstances pass the tests above and none of the exclusions apply, you determine the responsible insurance company by first determining whether the patient is:

- an **Occupant** of a privately owned vehicle,
- a **Non-Occupant** or
- a **Motorcyclist** according to the Michigan No-Fault law.

The priority scheme for determining which auto insurance company is responsible for PIP benefits is different for an **occupant, non-occupant and motorcyclist**. The charts that follow explain the process for determining which company is responsible.

### **MOTORCYCLES ARE NOT “MOTOR VEHICLES” UNDER THE MICHIGAN NO-FAULT ACT**

A **motorcycle** is not defined as a motor vehicle under the No-fault law. Accordingly, you can't purchase no-fault insurance on a motorcycle. However, motorcyclists are often entitled to claim PIP benefits if a motor vehicle is involved in the accident.

If patient is injured in a **single motorcycle accident** (e.g. a motorcyclist hits a tree, deer, or other motorcycle), **no PIP benefits** are available. However, if a motor vehicle hits a motorcycle or a motor vehicle cuts a motorcyclist off causing him to lose control and suffer injuries, a “motor vehicle” was “involved” and no-fault benefits are available.

## Order of Priority: OCCUPANTS

1. Named Insured: If the patient has a motor vehicle with insurance, that insurance company pays. If not, proceed to next level.



2. Spouse or Resident Relative: Does the patient live with a spouse or relative that has an insured motor vehicle? If so, that company pays. If not, proceed to next level.



3. Insurance Company of the Owner of the vehicle they were in: The insurance on the motor vehicle occupied pays. If none, proceed to next level.



4. Insurance Company of the Driver of the vehicle they were in: If the driver borrowed a friend's uninsured motor vehicle, the driver may have an insured motor vehicle. If so, the driver's insurance company pays. If not, proceed to next level.



5. Michigan Assigned Claims Plan: Some automobile insurance companies that do business in Michigan participate in the assigned claims plan. If there is no insurance at any of the levels described above and there are no exclusions that would bar coverage, the MACP will assign the claim to an insurance company for the payment of benefits.

## **Order of Priority:** **NON-OCCUPANTS**

(This includes pedestrians, joggers, bicyclists, snowmobilers,  
moped riders, tractor drivers, but not motorcyclists)

1. Named Insured: If the patient has a motor vehicle with insurance that company pays. If not, proceed to the next level.



2. Spouse or Resident Relative: Does the patient live with a spouse or relative that has an insured motor vehicle? If so, that company pays. If not, proceed to the next level.



3. Insurance Company of the Owner of the vehicle involved: If none, proceed to the next level.



4. Insurance Company of the Driver of the vehicle involved: If the driver borrowed a friend's uninsured motor vehicle, the driver may have an insured motor vehicle. If so, the driver's insurance company pays. If not, proceed to the next level.



5. Michigan Assigned Claims Plan: Some automobile insurance companies that do business in Michigan participate in the assigned claims plan. If there is no insurance at any of the levels described above and there are no exclusions that would bar coverage, the MACP will assign the claim to an insurance company for the payment of benefits.

## **Order of Priority** **MOTORCYCLES**

(Operators and passengers)

1. Insurance Company of the Owner of the Motor Vehicle “involved”. If none, proceed to the next level.



2. Insurance Company of the Operator of the Motor Vehicle (not motorcycle) “involved.” If none, proceed to the next level.



3. Insurance Company of the Motor Vehicle (not motorcycle) of the operator of the motorcycle. If none, proceed to the next level.



4. Insurance Company of the Motor Vehicle (not motorcycle) of the Owner or person on the registration of the motorcycle. If none, proceed to the next level.



5. Spouse or Resident Relative: Does the patient live with a spouse or relative that has an insured motor vehicle? If so, that company pays. If not, proceed to the next level.



6. Michigan Assigned Claims Plan: Some automobile insurance companies that do business in Michigan participate in the assigned claims plan. If there is no insurance at any of the levels described above and there are no exclusions that would bar coverage, the MACP will assign the claim to an insurance company for the payment of benefits.

**MACP**  
**THE MICHIGAN ASSIGNED CLAIMS PLAN:**  
**From Difficult to Nearly Impossible**

Injured persons who are uninsured may still, under many circumstances, qualify for no-fault insurance. Often, that insurance is provided through the Michigan Assigned Claims Plan. Upon proper application, the MACP assigns the claim to one of the no-fault insurers that voluntarily participate with the Plan.

The application form and additional information can be obtained at [www.michacp.org](http://www.michacp.org) or by calling or writing to:

Michigan Assigned Claims Plan  
PO Box 532318  
Livonia, MI 48153  
734-464-8111

The MACP application for benefits form is needlessly long, complex, and contains intimidating and misleading statements that are a real deterrent to people honestly pursuing their legitimate legal rights. Many people give up rather than even attempt to pursue an assigned claim.

From a practical standpoint, with the MACP it has been far more difficult to get a claim assigned to a participating insurer than in the past. Instead of assigning the claim upon receiving application, the MACP frequently responds by asking for additional information. The purpose of such requests is to frustrate claimants and cause them to give up because it simply is too difficult or isn't worth the time to deal with the MACP.

However, the No-Fault Act states that the MACP may deny an application only if it is based on an "obviously ineligible claim." Otherwise, the MACP must **promptly** assign the claim.

At this point, it typically takes 30 days or more before the MACP will even look at a claimant's application.