

I have received quite a few questions about the best choice of insurance options under the no-fault law. I must admit that I am a consumer in this area myself. But, in response to the many inquiries, I have obtained information that should be helpful to you in making your decision. I am providing this summary for you as information only and nothing here should be construed as recommending any one option over another (lawyers have to say stuff like that.) So, I hope this helps clarify what can be a very confusing subject. Please consult with your personal insurance professional about the best option for your personal circumstance. (Please read the below explanations and also use the attached chart to make a comparison of Medicare vs. PIP coverages.) Hope this helps!!

On June 11, 2019, the most comprehensive change to Michigan car accident law in over 40 years took effect. The new law completely changed the Michigan No-Fault Law enacted in 1973. The new law provides for various Personal Injury Protection (PIP) coverage options, a mandatory increase in bodily injury (BI) coverage, changes to which insurance carrier is responsible for paying Michigan car accident claims, and some other changes and reforms.

PIP Choice – Different Options of PIP Coverage:

As a review, Personal Injury Protection (PIP) coverage pays allowable expenses for the care, recovery and rehabilitation of an injured person accidentally injured in a motor vehicle accident. PIP coverage also includes the payment of lost wages for up to 3 years, and the payment of replacement services (household chores) for up to 3 years from the date of the accident. PIP coverage also provides survivor's benefits which are paid to the dependents of a covered person, and their funeral expenses.

Under the new law, no longer will all no-fault policies have unlimited PIP coverage. Starting July 2, 2020, policyholders can choose from a few different options, depending on their eligibility status and other factors. (emphasis added.)

Different Choice Options of PIP Coverage:

1. Option 1: Unlimited PIP Coverage
2. Option 2: \$500,000
3. Option 3: \$250,000
4. Option 4: \$50,000 – Medicaid
5. Option 5: Medicare Opt-Out
6. Option 6: \$250,000 PIP Opt-Out
7. Attendant Care Riders and Limitations:

Let's take the options in order:

Option 1: Unlimited PIP Coverage:

This is the same as present-day policies. This coverage allows a policyholder, and persons covered under this policy (including resident relatives) to receive **unlimited** allowable expenses for their care, recovery and rehabilitation following a motor vehicle accident. The advantage of

unlimited PIP coverage is it provides services that are simply not covered by health insurance, such as different types of rehabilitation, nurse case managers and attendant care.

- Choosing this option means a mandatory rate reduction – An average of 10% or greater per vehicle. This reduction is not based on a percentage reduction the policyholder paid for PIP insurance on May 1, 2019. Rather, the rate reduction is based on the “average reduction per vehicle from the premium rates for PIP insurance coverages that were in effect for the insurer on May 1, 2019.” This means folks won’t really receive a full 10% savings.

Option 2: \$500,000

This coverage allows a policyholder to purchase \$500,000 worth of PIP coverage.

- Choosing this option means a mandatory rate reduction – An average of 20% or greater per vehicle. Again, this does not mean the policyholder will save 20% on the cost of their PIP coverage.

Option 3: \$250,000

This coverage allows a policyholder to purchase \$250,000 worth of PIP coverage.

- Choosing this option means a mandatory rate reduction – An average of 35% or greater per vehicle. Again, this does not mean the policyholder will save 35% on the cost of their PIP coverage.

Option 4: \$50,000 – Medicaid

This coverage allows a policyholder to purchase \$50,000 worth of PIP coverage, **but only if they qualify**. To qualify for this option, the applicant or named insured must:

- be enrolled in Medicaid; and
- the person’s spouse and all resident relatives must also be on Medicaid, have other *‘‘qualified health coverage’’, or have PIP coverage through a different auto policy.
- If eligible, choosing this option means a mandatory rate reduction – An average of 45% or greater per vehicle. Again, this does not mean the policyholder will save 45% on the cost of their PIP coverage.

*Under the law, **qualified health coverage** means either of the following: 1.) Health and accident coverage that does not exclude or limit coverages for injuries related to auto accidents and has an annual individual deductible of \$6,000 or less; or 2.) Coverage under both Medicare Parts A and B.

Option 5: Medicare Only – PIP Opt-Out

A customer may completely opt-out of all PIP coverage if the person satisfies the following two conditions: 1.) The person is covered under both Part A and Part B of Medicare, and 2.) The person's spouse and all resident relatives covered by the policy has "qualified health coverage" or are covered under another auto policy with PIP coverage.

Choosing this option means a mandatory rate reduction – i.e. no premium charge for PIP coverage, and any other persons covered by the policy, will not have any PIP medical coverage. **They will have to rely upon Medicare for the payment of auto accident related expenses.**

Commentary: Remember, Medicare only must pay for Medicare-covered services to enrollees who opt out of PIP medical benefits. . . . "the enrollee will remain financially responsible for coinsurances, copayments, deductibles, and for any services Medicare does not cover." Medicare does not cover a lot of services. This includes long-term care, residential treatment programs, transportation, rehabilitation limits, and other products and services restrictions. **(SEE ATTACHED COMPARISON CHART.)** And remember this as well. When Medicare pays money to a beneficiary on an injury case, it can assert a lien on all recoveries the customer is entitled to on a pain and suffering claim, or possibly an estate. And this federal lien is a "super lien", meaning they get first dibs.

Option 6: \$250,000 PIP Opt-Out

This is one of the more controversial options and it is complicated. (Read on, you'll see!) A customer can select the \$250,000 PIP option, and if the named insured has "qualified health coverage" that covers motor vehicle accident related injuries, and if the named insured's spouse and any resident relatives have qualified health coverage, then the insurer must offer an exclusion from all PIP benefits, and the premium for PIP benefits must be reduced by 100%.

If the person's spouse or any resident relatives do not have such health and accident coverage, the PIP premium must be reduced to reflect reasonably anticipated reductions in risk. The statute describes this exclusion as follows: "a person subject to an exclusion under this subsection is not eligible for personal protection benefits under the insurance policy."

If a person loses their qualified health insurance, they must notify the insurer within 30 days. Within those 30 days, if an excluded person is injured in a motor vehicle accident, that person receives PIP coverage through the Michigan Assigned Claims Plan up to \$2,000,000.

Commentary: This is an option for some customers. It provides a way to save money on auto insurance by opting out of PIP. But there are a number of pitfalls and things to consider. First, as explained below, very few individuals have "qualified health coverage." Second, customers should be aware that health insurance is not nearly as robust as PIP coverage as far as the types of treatment available, such as the number of PT sessions permitted, chiropractic appointments permitted, out-of-pocket costs, prescription reimbursement and other expenses.

Attendant Care Riders and Limitations:

Insurance companies that sell policies with limits of \$50,000, \$250,000, or \$500,000 are also obligated to sell attendant care riders. MCL 500.3107c(8). These riders provide for attendant care coverage that is above the PIP coverage limit. Attendant care is nursing care paid to friends, family members or nursing facilities following a serious car accident. This is something you should ask your insurer about and have them explain so as to allow you to make the decision on whether to purchase a rider.

The new law also provides limitations on attendant care. Attendant care provided by family and friends at the patient's home is limited to 56 hours per week. Previously, there was no limitation. MCL 500.3157(10). This does not kick in until July 1, 2021.

BODILY INJURY (BI) COVERAGE CHANGES:

One of the biggest changes to the Michigan automobile law is the change to bodily injury limits. For decades, the minimum BI coverage in Michigan was \$20,000/\$40,000. Beginning on July 2, 2020, that is no longer the case.

Under the new law, the default bodily injury liability insurance coverage is now \$250,000 per person and \$500,000 per accident. Customers can select a smaller amount of liability coverage, but in no event can anyone select less than \$50,000/\$100,000.

To select BI coverage that is less than 250/500, the policyholder will have to initial and sign a form provided by DIFS. The form will be made available to you by your insurer.

When deciding about BI, everyone needs to understand the ramifications of not having enough BI coverage going forward. Some of the risks of being underinsured, include:

- Assets can be seized, or a lien may be placed on a home;
- Wages may be garnished;
- Driver's license may be suspended.

Under the old law, because we lived in a world of unlimited PIP, individuals who caused accidents did not have to worry about paying the medical expenses that arose out of the Michigan car crash. The insurance carrier, in theory, had to pay all medical bills. Those days are over. Once the PIP coverage is exhausted for an injured person, that claimant can now go after the at-fault party's BI coverage for all outstanding medical expenses, future expenses, lost wages and other economic damages. So, for the first time, claimants can sue an at-fault driver and owner for excess economic damages. As you can imagine, cases involving serious injuries will leave an at-fault driver and car owner with huge exposure.

The cost of BI coverage is almost always less expensive than other forms of coverage, such as collision or comprehensive. Purchasing lesser coverage is probably not a sound decision. Again, consult with your insurance professional when you decide what coverages may be best for you and your family.