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Motorcyclists claim unfair treatment under new Michigan auto insurance law

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LANSING — Motorcyclists are upset and seeking a fix to what they consider a dangerous defect in Michigan's new auto insurance system that took effect in July and limits injured motorcyclists' access to lifetime medical benefits after an accident.

Previously, motorcyclists involved in a crash with an automobile were automatically covered by the no-fault system's potentially unlimited, lifetime medical benefits, known as personal injury protection coverage or PIP.

That is no longer the case for owners and riders of the roughly 262,000 registered motorcycles in Michigan.

"Man, they're really screwing up on this insurance thing," motorcyclist Jim Rhoades said Tuesday, speaking from the steps of the state Capitol during a rally attended by about 60 members of ABATE of Michigan, a motorcycle advocacy group.

Under the revamped no-fault system, the amount of no-fault benefits available to motorcyclists in a crash involving an auto now depends on how much PIP the automobile's owner or driver chose to purchase.

Those coverage choices include any one of the following:

- Unlimited PIP
- \$500,000 PIP
- \$250,000 PIP
- \$50,000 PIP
- \$0 PIP

Before July, there was no PIP choice and all Michigan automobiles had unlimited medical.

Under the new system, the PIP coverage in a motorcyclist's personal auto insurance policy only comes into play if neither the owner nor driver of an automobile in a crash involving their motorcycle had auto insurance.

That means that if a motorcyclist chooses unlimited PIP for their car, he or she still gets unlimited medical if their motorcycle gets hit by a car without insurance.

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Motorcycle insurance in Michigan has never carried PIP coverage.

However, until last July, motorcyclists were still required to pay no-fault's catastrophic claims fee (previously \$220 per year) because they could still easily access lifetime PIP. That is because motorcyclists were covered under the auto policy of the car driver in an accident — regardless of who was at fault.

Motorcycle advocates say the new situation is unfair because motorcyclists are now at the mercy of the medical choices of a driver who hits them, and the new lower PIP coverage options may be inadequate for a serious accident.

To be sure, injured motorcyclists who run out of PIP coverage can still fall back on their commercial health insurance, Medicare or Medicaid. And because of the Affordable Care Act, there are no annual or lifetime limits to such health coverage.

However, no-fault's PIP covers things that even the best health insurance plans do not, such as long-term injury rehabilitation, extensive in-home attendant care and long-term custodial care in specialized centers. It also has lower deductibles than most health insurance plans.

In addition, some health insurance plans consider motorcycling "inherently dangerous" and exclude injuries from motorcycle accidents, according to Dondi Vesprini, a personal injury attorney with Buckfire Law Firm who also represents ABATE.

'In a handful of cases that we've had, we've seen that,' Vesprini said of health plans that exclude motorcycle accidents. The insurers who sell such plans are typically not widely known companies in Michigan such as Blue Cross or Health Alliance Plan, he said.

Vesprini said that with the new system, motorcyclists in a catastrophic accident are actually better off if hit by a driver without auto insurance because that scenario activates the motorcyclist's personal auto insurance, for which they have the option to buy unlimited PIP.

“If you’ve got an uninsured driver, then the motorcyclist gets the advantage of their own choice instead of being bound by the choice the other guy made,” Vesprini said. “Motorcyclists are the only ones who don’t go to their own auto insurance first — everyone else does.”

He said the law allows bicyclists and pedestrians who are hit by automobiles to immediately access their own vehicles' PIP coverage.

Bicyclists and pedestrians without any auto insurance coverage get \$250,000 in PIP benefits through the Michigan Assigned Claims Plans.

Melissa Moore, 35, who lives near Kalamazoo, said she is glad that her motorcycle accident occurred in June, before the new PIP choices took effect, because the driver who hit her motorcycle was still required to have unlimited coverage.

That PIP coverage continues to pay the medical bills for Moore's twice-a-week physical therapy sessions for her injured left elbow and wrist.

“I was hit by someone that ran a red light, and luckily I wasn’t any further in the intersection or it could have been a lot worse than it was,” Moore said.

Vince Consiglio, president of ABATE, speculated that many legislators who voted last year for the auto insurance system overhaul were unaware of its impact on motorcyclists.

“I don’t think most of them knew what was in the bill,” he said. “The insurance companies wrote the bill.”

State Rep. Phil Green, R-Millington, who also attended the rally, said he doesn't believe that legislators meant to have motorcyclists entirely dependent on the PIP coverage levels of an automobile driver who hits them.

“I do not think it was intentional,” he said, “I think this was one of those unintended consequences.”

The advocacy group backs what it considers a fix to the coverage situation. The proposed bill would allow motorcyclists to access the PIP coverage in their own auto insurance after an accident involving an automobile.

That bill, sponsored by state Sen. Pete Lucido, R-Shelby Township, is pending before the Legislature's Insurance and Banking Committee.

The office of committee Chairwoman Sen. Lana Theis, R-Brighton, who was a strong backer of the insurance system overhaul, did not respond to messages seeking comment.

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