

SIDE BY SIDE COMPARISON:

MICHIGAN AUTO NO-FAULT & THE
AFFORDABLE CARE ACT (ACA) AS IMPLEMENTED IN MICHIGAN



Michigan's auto insurance system is designed to cover treatments that seriously injured drivers cannot obtain under most health insurance policies.

Michigan Auto No-Fault Benefits are comprised of "allowable expenses" consisting of:

"all reasonable charges incurred for reasonably necessary products, services and accommodations for an injured person's care, recovery or rehabilitation" Subsection 3107(1)(a).

These allowable expense benefits have no maximum days of care or numerical limits on visits and may be available to the patient for their lifetime, if required.

The Affordable Care Act (ACA) requires that individual and small group health plans provide coverage of the 10 Essential Health Benefits (EHB) and although these plans have no lifetime limits to these essential benefits, there are limits on the scope and number of benefits. For example: most health care plans limit skilled nursing care to just 45 days per year.

It is not unusual for catastrophically injured people to spend months in the hospital or skilled nursing facilities. **Most traditional health insurance plans only cover a combined 60 visits for the year for ongoing physical, occupational, and speech therapy.** Many auto accident survivors have injuries including traumatic brain injuries (TBI). TBI injuries often require months or years of ongoing therapies to improve a patient's self-sufficiency and quality of life.

Below, are just some of the important items covered by Auto No-Fault but NOT covered by health care plans:



- Extended need for inpatient rehabilitation beyond 45 days
- Extended need for physical, occupational, and or chiropractic therapy beyond 30 visits
- Extended need for skilled nursing care beyond 45 days
- Cognitive rehabilitation, often needed after a brain injury



- Wage loss - up to 3 years
- Replacement services - up to 3 years
- Home modifications
- Independent case management
- Transportation services
- Therapy for the purpose of maintaining physical condition
- Vocational rehabilitation



- Durable medical equipment designed for self-assistance, safety, communication assistance and other adaptive aids
- Custodial care, residential care, assisted living care
- Family-provided attendant care

MICHIGAN AUTO NO-FAULT

Benefits consist of “allowable expenses” consisting of:

“all reasonable charges incurred for reasonably necessary products, services and accommodations for an injured person’s care, recovery or rehabilitation.”

Subsection 3107(1)(a)



Allowable expense benefit under Auto No-Fault is a benefit that is unlimited in amount and duration.

- No maximum days of care
- No numerical limits on visits



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AFFORDABLE CARE ACT

Individual and small group health plans must provide coverage of the 10 Essential Health Benefits (EHB) required by ACA

- Ambulatory patient services
- Emergency Services
- Hospitalizations
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment
- Prescription drugs
- Rehabilitation and habilitative services & devices
- Laboratory services
- Preventative and Wellness services and chronic disease management
- Pediatric Services, including oral and vision care

In the 2017-2020 plan, no annual limits on coverage for EHB in any plan, meaning no lifetime \$ limits (caps) for these benefit categories. However these benefits can be limited in number or scope-- unlike Auto No-Fault.

Limitations under benchmark plan:

- **Skilled Nursing** Maximum of 45 days per contract year
- **Outpatient Rehab** Maximum of 30 visits per contract year for: (1) PT/OT/ Chiropractic office visits; (2) Speech Therapy.
- **Chiropractic Office Visits** Included in the maximum of 30 visits per contract year for PT/OT

Limitations under benchmark plan section titled, “Home Health Care”

Non-covered services

- Custodial care, even if you receive covered Home Health Care or Skilled Nursing Services at the same time.

Limitations under benchmark plan section titled, “Reconstructive Surgery”

Non-covered services

- Orthodontic treatment, even when provided along with reconstructive surgery.

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AFFORDABLE CARE ACT

Limitations under benchmark plan section titled, “Rehabilitative Medicine Services”

Non-covered services

- Therapy is not covered if there has been no meaningful improvement in your ability to do important day-to-day activities that are necessary in your life roles within 90 days of starting treatment.
- Cognitive rehabilitative therapy (neurological training or retraining).
- Rehabilitation services obtained from non-Health Professionals, including massage therapists.
- Summer programs meant to maintain physical condition or developmental status during periods when school programs are unavailable.
- Therapy for the purpose of maintaining physical condition or maintenance therapy for a chronic condition including, but not limited to, Cerebral Palsy and developmental delays.
- Vocational rehabilitation, including work training, work related therapy, work hardening, work site evaluation and all return to work programs.

Limitations under benchmark plan section titled, “Private Duty Nursing”

Non-covered services

- Nursing services provided in a facility or private home, usually to one patient. Private duty nursing services are generally provided by independently contracted nurses, rather than through an agency, such as a Home Health Care agency.

Limitations under benchmark plan section titled, “Skilled Nursing Services – Skilled Nursing, Subacute, Inpatient Rehabilitation Facility Care”

Non-covered services

- Care provided in a facility required to protect you against self-injurious behavior is not covered.
- Custodial Care is not covered, even if you receive Skilled Nursing Services or therapies along with Custodial Care.
- Residential Facility or Assisted Living Facility Care. Non-skilled care received in a residential facility or assisted living facility on a temporary or permanent basis is not covered. Examples of such care include room and board, health care aids, and personal care designed to help you in activities of daily living or to keep you from continuing unhealthy activities.

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AFFORDABLE CARE ACT

Limitations under benchmark plan section titled, “Durable Medical Equipment (DME)”

Non-covered services

- Equipment and devices solely for the convenience of you or your caregiver.
- The purchase or rental of personal comfort items, convenience items, or household equipment that have customary non-medical purposes, such as protective beds, chair lifts, air purifiers, water purifiers, exercise equipment, non-allergenic pillows, mattresses or waterbeds, spas, tanning equipment, and other similar equipment, even if they are Medically/Clinically Necessary.
- **Modifications to your home**, living area, or motorized vehicles. This includes equipment and the cost of installation of equipment, such as central air or unit conditioners, escalators, elevators, swimming pools, and car seats.
- **Items designed for self-assistance**, safety, communication assistance and other adaptive aids. This includes, but is not limited to, reachers, feeding, dressing and bathroom aids, augmentative communication devices, care seats, and protective beds.

Limitations under benchmark plan section titled, “Medical Supplies”

Non-covered services

- Certain outpatient medical supplies that are consumable or disposable supplies, including, among other things, gloves, diapers, adhesive bandages, elastic bandages, and gauze.

Limitations under benchmark plan section titled, “Mental Health Services”

Non-covered services

- Care provided in a home, residential or institutional facility, or other facility on a temporary or permanent basis is not covered, including:
 1. the costs of living and being cared for in:
 - Transitional living centers
 - Non-licensed programs or
 - Therapeutic boarding schools
- the costs for care that is:
 - Custodial
 - Designed to keep you from continuing unhealthy activities

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AFFORDABLE CARE ACT

Limitations under benchmark plan section titled, “Dental Services”

Non-covered services

- Dental services required due to accidents.

Limitations under benchmark plan section titled, “Vision Care Services”

Non-covered services

- Eye exercises, visual training, orthoptics, sensory integration therapy.

Limitations under benchmark plan section titled, “Hearing Care Services”

Non-covered services

- Services and supplies related to hearing care, including ear plugs, external BAHAs devices, hearing aids and adjustments, unless you have a hearing care rider to this certificate.
- Examinations for hearing aids, including examinations performed during a covered hearing screening, unless you have a hearing rider to this certificate.

Limitations under benchmark plan section titled, “Experimental, Investigational or Unproven Services”

Non-covered services

- Any drug, device, treatment or procedure that is experimental, investigational or unproven. A drug, device, treatment or procedure is experimental, investigational or unproven if one or more of the following applies:
- The patient informed consent documents describe the drug, device, treatment, or procedure as experimental or investigational or in other terms that indicate the service is being evaluated for its safety, toxicity or efficacy.

Limitations under benchmark plan section titled, “Not Medically/Clinically Necessary”

Non-covered services

- All of the following are considered not to be Medically/Clinically Necessary:
 - Those services and supplies furnished mainly for the personal comfort or convenience of you, anyone who cares for you, or anyone who is part of your family.

Auto No-Fault Benefits covered not mentioned in the Certificate of Coverage:

Independent Case Management
Recreational Therapy
Family Provided Attendant Care
And more.....

WHY MICHIGAN NO-FAULT?

Before auto no-fault, Michigan policymakers struggled with how best to care for seriously injured accident victims. Hospital bills piled up and injured parties went uncompensated for years while their cases wound their way through the courts. There had to be a better way.

More than 45 years ago, Governor William G. Milliken and the Michigan Legislature worked together to pass a law that dramatically revolutionized how we take care of people who sustain serious motor vehicular injury. That law was the Michigan Automobile No-Fault Insurance Act. No state had ever enacted such a bold plan of providing comprehensive medical care while protecting the legal rights of seriously injured accident victims. This unique concept blended venerable principles of the common law tort system with a new, comprehensive statutory reparations plan that would provide patients with lifetime medical care and broad-based rehabilitation therapies that are essential to rebuilding lives that have been shattered by catastrophic injury.

Over the following decades, the noble objectives of this innovative legislation were substantially achieved, and the Michigan Auto No-Fault Law soon became known nationally as a “model law.” Unfortunately, this remarkable law has recently come under intense attack in the Legislature and the Courts by special interest groups that believe it is no longer worth preserving. Michigan citizens, however, have consistently opposed those special interests. On two occasions, in 1992 and 1994, Michigan voters voiced their great support for the Michigan Auto No-Fault Law by defeating two ballot proposals that would have dramatically weakened its operation.

CPAN ADVOCATES FOR REFORMS THAT ARE BALANCED, FAIR, AND AFFORDABLE, WHILE PRESERVING ACCESS TO NECESSARY CARE FOR ACCIDENT SURVIVORS AND THEIR FAMILIES.

Coalition Protecting Auto No-Fault (CPAN) has been committed to finding balanced and fair reforms in our auto no-fault system. We fully support reforms that increase efficiencies within the system, reduce the incidences of unnecessary litigation, address cost containment and make the system more affordable for all drivers through more effective rate regulation. CPAN is a staunch defender of Michigan’s no-fault laws and the benefits they provide to thousands of auto accident victims each year. However, we also recognize that the system is not perfect. The reforms CPAN has proposed will address a number of flaws in the system by making Michigan Auto No-Fault more efficient, transparent, fair and affordable.

