

Michigan No-Fault Law

Your Questions Answered

VARNUM
ATTORNEYS AT LAW

Are you all right?

While this may be the most important question you will hear after an accident, it will not be the last. In fact, you may be the one asking the questions.

The purpose of this handbook is to answer the basic questions most often asked about No-Fault. It is not intended to be legal advice, but rather to help you generally understand your rights. For specific questions or problems, you may need to consult an attorney. Michigan law is constantly changing.

Michigan's No-Fault law, adopted in 1973, can be confusing. It is a "no-fault" system – which means that certain benefits are paid by your own insurance company even if the other person was at fault. You may also be able to bring other legal claims against the person(s) who caused the accident.

This handbook is designed to answer questions if you have been injured in an accident involving a car, truck, bus or other motorized vehicle. Which insurance company pays for your benefits depends upon a variety of circumstances, but the benefits themselves are the same regardless of which company pays.

Recovery and Rehabilitation

Regardless whether someone else may be at fault for your injuries, your major focus should be on getting better and following the recommendations of your doctors and therapists. Do not, under any circumstance, refuse to follow medical advice because "it might help a lawsuit." Doing so is the worst possible thing you could do for yourself. It also ultimately hurts any legal claims you may have. Your full recovery and rehabilitation should be your primary goal after you are injured in an accident.

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FIRST-PARTY/NO-FAULT BENEFITS

Michigan law provides you and your family members with valuable rights and benefits when there has been an automobile accident. There are two primary “benefits” available to you – “First-party” benefits and “Third-party” claims. As explained in more detail below, First-party benefits come from an insurance company to pay for your medical expenses, wage loss, and replacement services needed because of your injuries. Third-party claims are against the person(s) at fault for the accident for damages such as pain and suffering, excess wage loss and other damages.

What are first-party/no-fault benefits?

First-Party/No-Fault benefits are benefits that you are legally entitled to receive as a result of an accident, whether or not it is your fault. These benefits include, but are not limited to, payment for medical treatment and rehabilitation, wage loss, replacement services, and survivor’s loss benefits.

If you or someone you know has been hurt, it is important to remember that all insurance companies are different and do not always have your best interest in mind. A few insurance companies try to pay all of the benefits to which you are entitled. Some insurance companies will not tell you about all of your benefits. You may wish to consult with an attorney to see if your insurance company is paying you all of the benefits you are entitled to receive under Michigan law. Often there is no charge for this service.

If an insurance company asks you to sign a document, it is generally not a good idea to sign anything without first consulting an attorney. You may be waiving or releasing an important right.

Do I qualify for benefits if I am injured in an accident involving a car, truck, bus or other motorized vehicle?

Yes, generally. There are very few circumstances in which you would not be covered. One such circumstance would be if you were the owner of

an uninsured vehicle that was involved in the accident. It is always best to apply for No-Fault benefits if a car, truck, bus or other motorized vehicle was involved in the accident in any manner.

How do I get these benefits?

You fill out a simple application that the insurance company will send to you upon request. The form is basically a notice to the insurance company about the accident, your name, address, and the nature of the injuries. It also includes permission for the insurance company to obtain relevant information about your medical treatment and employment history to verify your claim.

You should receive written confirmation that your application for benefits was received and that benefits will be paid. If your application is denied, you should immediately consult an attorney.

What insurance company has to pay my bills?

If you own a vehicle that is insured under Michigan law, your own insurance company will pay for your benefits under most circumstances. It does not matter if you were the driver, a passenger, a bicyclist or even a pedestrian. If you are injured in an accident involving a car, truck, bus or other motorized vehicle, your own No-Fault insurance company generally pays your benefits.

What if I do not have insurance?

If you do not have your own insurance, you collect benefits from the insurance company of any relative with whom you live that is insured. If there is no such insurance in the household, collect your benefits from the insurance company of the car (or driver) in which you were riding or if that car is uninsured, from the No-Fault insurer of the other car (or driver). If there is no insurance coverage available from either, then the Assigned Claims Facility will assign an insurance company to provide your No-Fault benefits.

Remember, if you knowingly own and drive an uninsured car, truck or other motorized vehicle, or are in a motor vehicle that was taken unlawfully and knew or should have known that the motor vehicle was taken unlawfully, you are probably not eligible for No-Fault benefits.

What if I am riding in a taxi-cab, bus or other commercial vehicle?

Generally, you will collect your benefits from your own insurance company. There are some exceptions, however, where you would collect benefits from the insurance company of the commercial vehicle in which you were a paying customer. You should consult a lawyer if there is any confusion as to which insurance company is responsible for paying your benefits.

What if I am not covered by any insurance company and neither is the other car or driver?

Under these circumstances, Michigan law has what is called the "Assigned Claims Facility." You need to file an Application for Benefits and send it to:

Assigned Claims Facility
7064 Crowner Drive
Lansing, MI 48918
(517) 322-1875

Once you file the Application, the State of Michigan will assign an insurance company to provide your benefits.

WHAT BENEFITS AM I ENTITLED TO RECEIVE?

Each of your rights is described in greater detail later in this booklet. In summary, your rights include payment of reasonable and necessary medical bills, including services, accommodations and rehabilitation for the rest of your life for injuries suffered in the accident. Your benefits also include 85 percent of the gross wages you would have made if you had not been injured. Lost wages are subject to monthly maximums and are paid only for three (3) years.

Your insurance company will also pay up to \$20 a day for services you used to perform for yourself or your family that you are no longer able to do because of your injuries (dishwashing, snow removal, home repairs, etc.). Additional benefits include mileage to and from medical appointments and payment to people who provide medical assistance to you at home, even if they are relatives.

Long term benefits for seriously injured people (spinal cord, brain damage, burns, etc.) are perhaps the most complex area of No-Fault law. Therefore, it is wise to consult an attorney as to the full range of medical and rehabilitative services that are available under Michigan law.

What if I have health insurance?

Under most No-Fault policies (called “excess” or “coordinated” medical benefits), your health insurance company pays your medical expenses and your No-Fault carrier pays the rest. Some No-Fault policies are not “coordinated” and will pay all of your medical bills even if you also have health insurance. The bill from your No-Fault insurance company will state clearly whether your medical bills are “coordinated” or “excess.” In some situations, your general healthcare policy may shift primary responsibility of your medical benefits to the No-Fault carrier, but should state somewhere in the policy language that it does so.

What if I get benefits from someone other than a health insurance company such as workers' compensation, Medicaid or Social Security disability?

Your No-Fault carrier has the right to subtract from what it owes any benefits that you are entitled to receive through government mandated benefit programs.

What about pain, suffering, scarring, and other injuries that are not money losses or First-Party No-Fault benefits?

You should have a lawyer who is well experienced in cases like this to bring a claim on your behalf. See page 17 for more on Third-Party Claims, as they are called.

How long do I have to notify my insurance company of my accident?

You must immediately notify the correct insurance company and file an Application for No-Fault benefits within one-year of the date of your accident or you will lose your right to any benefits that you may be entitled to receive under the No-Fault law. No payments will start until this application is filed.

Filing an application with the applicable No-Fault carrier is critical because of the strict time limits now in place for obtaining benefits.

Is there a time limit on the insurance company's obligation to pay my medical bills or other No-Fault benefits?

Yes. There are specific time limits that must be followed when submitting claims for payment to your insurance company.

Your insurance company is not required by law to pay for any wage loss, medical, replacement service benefits or other No-Fault benefits that are more than one year old. To avoid losing benefits, you must send written proof of all expenses and losses to your insurance carrier as soon as you have them, but in no event more than one year from when incurred. Keep a copy of what has been submitted by you to the insurance company. Once received the insurance company has 30 days after receiving the written notice of the claim to make payment, request additional information or deny the claim.

If any item of allowable expense is not paid by the insurance carrier, you must file a lawsuit for that particular item within 12 months from the date that expense was incurred. If a lawsuit is not filed within that one-year period, you forever lose your legal right to payment for that expense.

Does it matter if the person injured in an accident is a minor or suffers from a mental disability?

No. The one-year time limits apply to minors and persons with mental disabilities.

MEDICAL EXPENSE BENEFITS

Who pays my medical benefits and for how long?

Your medical expense benefits are paid by your own No-Fault insurance carrier, regardless of who was “at fault” for the accident. If you do not have No-Fault coverage of your own, the rules regarding which insurance company pays are the same as those for wage loss benefits.

Your own insurance company will pay your medical expenses for your entire life, so long as you prove the medical expenses were (1) reasonable charges incurred for reasonably necessary products, services and accommodations for an injured person’s care, recovery or rehabilitation and (2) for injuries you suffered in the accident.

Medical benefits include, but are not limited to:

- Doctors, hospitals, home health care, occupational and physical therapy, nursing homes, rehabilitation, etc.
- Medical and other necessary equipment for your care, recovery and rehabilitation.
- Mileage to and from the doctor, hospital, or clinic, such as physical therapy.
- Rehabilitation: vocational, physical, occupational, return to work and, where appropriate, education and retraining.

Remember that if you were the owner or registrant of an uninsured car, and you were injured in an accident, you will presumptively not be entitled to no-fault benefits.

Is there a limit on how much my insurance company must pay for medical expense benefits?

No. The insurance company is responsible for all expenses that are deemed “reasonable” for your care, recovery and rehabilitation. The insurance company is not responsible for expenses that are “unnecessary”

or “unreasonable,” (such as a private hospital room unless medically necessary or fees that are improperly high). To avoid problems with payment of medical expenses, check to make sure that your doctor will support that the services or equipment are “reasonably necessary” for your care, recovery or rehabilitation.

Your No-Fault insurance company is responsible to work out any disputes between it and the health care provider as to amounts it deems in excess of what is determined to be a “reasonable” or “customary” charge.

Remember, the insurance company is only required to pay for medical bills and expenses submitted within one year from the date of service. If not submitted within one year (or a lawsuit is not filed for it within 12 months of the expense being incurred), the right to payment for that medical bill or expense is forever lost.

What if, because of the severity of my injuries, I am unable to care for myself and need help or require nursing care at home?

In certain situations, usually when a person has been seriously injured in an accident, your insurance company will pay for what are called “attendant care” benefits. This is where your insurance company will pay someone to come to your home and assist in your care and recovery. Depending on your needs, either a trained medical person or non-medically trained person (such as a family member) can perform these services. The level of care depends upon what services your doctor has prescribed and whether he or she determines such care is reasonably necessary.

What if my injuries require that my home or car need modification?

Your No-Fault insurance company is responsible for expenses you require to modify your home or car to accommodate your injuries. These modifications must be “reasonably necessary” for your care, recovery or rehabilitation. The insurance company should work with your healthcare providers to determine the extent of your needs.

WAGE LOSS BENEFITS

Who pays my lost wages and for how long?

The No-Fault insurance company who is paying your medical expenses (usually your own insurance company) also must pay your wage loss claim if you cannot work because of your injuries. The wage loss benefit is payable for up to three (3) years from the date of the accident, depending upon your continued inability to work. This benefit is payable even if you were the at fault driver for the accident, were a passenger in the vehicle, or were a pedestrian. If you were a passenger or a pedestrian and do not have your own No-Fault insurance, your wage loss would be paid by:

1. The No-Fault carrier of your spouse or other relative living with you.
2. If no one in your household has No-Fault coverage, then from the owner/driver of the car in which you were a passenger.
3. If the car in which you were a passenger does not have No-Fault coverage and another car was involved in the accident, the other driver's/owner's insurance carrier.
4. If none of the vehicles involved in the accident are insured, then from the Assigned Claims Facility.

Remember, if you were the owner or driver of an uninsured car or truck, or were willingly operating or willingly using a motor vehicle that was taken unlawfully and knew or should have known that the motor vehicle was taken unlawfully, you may not be eligible to recover wage loss benefits, even if the other driver was at fault.

How much wage loss will I receive?

Eighty-five percent of your average gross wages (generally based upon the previous six-months earnings), including overtime and any wage increases and bonuses you would have received had you been working.

Maximum wage loss benefits are set by law, which is modified annually each year to reflect cost of living changes. For example, for October 1, 2014 to September 30, 2016, the monthly maximum recovery is \$5,392. The increased rate applies to benefits arising out of accidents occurring subsequent to the date of change in the maximum.

Wage loss benefits are tax-free, which is the reason you receive only 85 percent of your gross wage amount.

Proof of your disability and your wages are necessary. If your earnings exceed the statutory maximum, your additional wage loss may be recoverable from the negligent driver's insurer.

How do I prove my average gross wages?

The authorization you sign for your insurance company at the time you file the Application for No-Fault Benefits will permit your employer to release your employment records to your insurance company. You may also be required to submit other documentation, such as tax returns and W-2's. Tax returns are not the only way to show wage loss.

What if my wage loss extends beyond three (3) years or the maximum monthly amount allowed by law?

You may be able to file a lawsuit against the at-fault driver (and owner of the car) for losses not covered by your own No-Fault insurance company. Additionally, you may also want to consider filing a claim for Social Security Disability Insurance Benefits if your inability to work because of your injuries is expected to extend beyond one year.

What if I was temporarily unemployed at the time of the accident?

If you were between jobs at the time of the accident and would have returned to work, your insurance company will use the average gross wage from your normal job to calculate your work loss benefits. If you were receiving unemployment compensation at the time of the accident, those benefits will stop because you are no longer available for and seeking employment.

What if I was under-employed at the time of the accident?

If you were soon to begin a higher paying job, but could not start that job because of your injuries, with appropriate proof, the insurance company should use the wages you would have earned to calculate your wage loss benefits.

REPLACEMENT SERVICES BENEFIT

What are replacement services?

Replacement services are things that you used to do for yourself or your family, but are no longer able to do because of your injuries. These include things like household chores, meal preparation, childcare, transportation and yard work, among others. Your insurance company will pay up to twenty dollars (\$20) per day to have someone perform these services for you. It can be anyone that performs these services for you, including family members. The \$20 per day is the maximum you can receive for this benefit. For example, even if you hire people to do lawn mowing, painting and childcare in a single day, you still will receive only \$20. It is best to have these services performed over several days during the week or month so that the \$20 per day maximum amount is not exceeded.

Your doctor likely will need to provide a written statement saying what household type activities you are unable to perform on your own. You will also have to document who is doing what and when.

Replacement service benefits are payable only for up to three (3) years from the date of the accident.

SURVIVOR'S LOSS BENEFITS

What are survivor's loss benefits?

If a person covered by No-Fault insurance dies because of injuries suffered in an accident, the insurance company will pay lost contributions of "tangible things of economic value" to that person's dependents. These benefits are limited to three (3) years from the date of the accident.

What are tangible things of economic value?

Generally, tangible things of economic value include any amounts the person would have provided to the dependents in actual wages and any other income and fringe benefits.

Who pays the medical expenses incurred before death?

The insurance company will pay all medical expenses incurred before death, so long as they were reasonably necessary for the person's medical care because of the accident, even though death resulted.

What about funeral and burial expenses?

The insurance company will pay the amount set forth in your insurance policy, which by law cannot be less than \$1,750 or more than \$5,000.

Are there any set-offs?

Yes. A No-Fault insurer is entitled to a set-off (or credit) from benefits it owes because of other government mandated benefits you are entitled to receive, such as worker's compensation or social security. For example, some survivors have not been able to collect wage loss benefits from the No-Fault carrier because the amount they receive from workers compensation and social security survivor benefits exceed the amount it owes for wage loss.

VEHICLE AND PROPERTY DAMAGE

Who pays for damage to my car or truck?

Regardless of fault, your own insurance company pays the expenses to repair or replace the damage to your car or truck, but only if you bought “collision” coverage. Generally, the insurance company requires a certain amount be paid first as a “deductible” before it will pay for vehicle damage expenses.

Can I get my deductible back from the at-fault driver or for damage that cost less than my deductible?

Yes. If you were less than 50 percent at fault for the accident, you can recover up to \$1,000 from the at-fault driver for the uninsured property damage to your car, which includes your deductible. This type of claim is called a “mini tort” and is recoverable from at-fault driver’s insurance company or directly from the at-fault driver. You may need to file a claim with the Small Claims Court if the at-fault driver is not willing to pay. Some No-Fault policies agree to recover this amount for you from the at-fault driver.

What if my personal property, such as clothes and glasses, were damaged or destroyed?

Your No-Fault carrier will not reimburse you for damaged or destroyed personal property, such as clothing, jewelry and glasses that are considered “contents” of the vehicle unless you bought special coverage. Homeowner’s (or renter’s) insurance may cover these losses.

MOTORCYCLES

What if I was on a motorcycle at the time of the accident?

Special rules apply under the No-Fault law if you were injured while operating or riding as a passenger on a motorcycle that was involved in an accident.

What type of insurance is a motorcycle required to carry?

The owner of a motorcycle is required to carry only liability insurance, which does not cover wage loss, medical expenses or replacement services. Liability insurance protects only the owner and operator of the motorcycle in the event that another person sues them because of the accident.

What if the motorcycle accident involved a car, truck or bus?

If the accident involved a car, truck or bus, the injured motorcycle operator and rider can collect wage loss, medical, replacement service benefits and all other allowable expenses under the No-Fault laws. The benefits will be paid by the insurance company of the car, truck or bus involved in the accident, regardless of who was at fault. However, this No-Fault benefit coverage exists only when the motorcycle carries the liability insurance coverage required by law.

Also remember, if a person was willingly operating or willingly using a motorcycle that was taken unlawfully, and the person knew or should have known that the motorcycle was taken unlawfully, that person is not entitled to be paid personal protection insurance benefits for accidental bodily injury.

What if there wasn't any liability insurance on the motorcycle?

If you were the owner of the motorcycle and did not insure it for liability as required by law, you cannot recover your wage loss, medical or replacement service benefits from the insurer of the car, truck or bus involved in the accident. However, if you were not the owner or registrant of the motorcycle, you will be permitted to make a claim.

What if the motorcycle accident did not involve a motor vehicle?

If a car, truck or bus was not involved in the accident, you may not have the insurance coverage for work loss, medical benefits, replacement services or other benefits unless you or the owner of the motorcycle bought special motorcycle No-Fault insurance coverage. The No-Fault insurance company for your own car or truck is generally not responsible for these benefits if you were injured while operating or riding on a motorcycle.

THIRD-PARTY CLAIMS

What is a third party claim?

This is a legal claim that is brought against the at-fault driver or person(s) responsible for causing you to suffer injuries as the result of an accident. These claims seek compensation for serious injury, which includes death, “serious impairment of a body function” or “permanent or serious disfigurement.” In a third-party claim, you can sue for non-economic losses, including pain and suffering, mental anguish, scars and disfigurement, as well as economic losses in excess of your No-Fault benefits. There are strict legal requirements that you must be able to prove in order to pursue this type of lawsuit.

Who do I sue in a third-party claim?

Generally, you will sue the person(s) who was primarily at fault for the accident from which you were seriously injured. There could also be other potential parties that may be responsible for your injuries. For example, if a bar serves alcohol to a visibly intoxicated person who then drives and causes your accident, there may be a “dramshop” claim. For other examples, see also “Who can I sue?” below.

What is a serious impairment of body function?

The Michigan Supreme Court has defined “serious impairment of an important body function” to mean “an objectively manifested impairment of an important body function that affects the injured person’s general ability to lead his or her normal life.” This definition is constantly changing under Michigan case law. Pain is not enough. The injuries you suffered must significantly alter the course of your life as compared to before the accident.

For example, a severely fractured leg may or may not be a serious impairment depending upon how long the leg takes to heal and whether the injured person is able to get back to a similar lifestyle he or she had before the accident. The more serious the injury, the more likely it is that you have suffered a serious impairment of an important body function. Whether you were off work, for how long, the type of medical treatment and what you can no longer do are important considerations.

This is an area of law in which legal counsel is very important because the facts and circumstances of each case are very different. What to one person may not be a serious impairment of body function may be to another person. There are a number of factors involved in determining whether someone has suffered a "serious impairment of an important body function." The law from Michigan courts on this issue is changing constantly.

Who decides if I have a serious impairment?

Most likely a judge, but in some cases a jury decides. For example, brain injuries are treated differently under the serious impairment requirement. If a licensed physician who regularly diagnoses or treats closed head injuries testifies that there may be a serious neurological injury, the jury will decide the issue and not the judge.

You do not need to have suffered serious impairment of bodily function or permanent serious disfigurement to bring a claim for lost wages that exceed No-Fault benefits.

Who can I sue?

There are several categories of possible defendants. The most obvious defendant is the at-fault driver.

At-Fault Driver: Claims against the driver who caused the accident if there was a death, serious impairment of body function or permanent serious disfigurement.

Owner of the At-Fault Vehicle: Claims against the owner of the vehicle that caused the accident if there was a death, serious impairment of body function or permanent serious disfigurement.

Dramshop: Claims against liquor stores, bars or restaurants that served alcohol to a visibly intoxicated person or a minor, who later caused an accident. These are complex claims. The law requires a legal notice to a seller of liquor within 120 days after he or she retains an attorney.

Product Liability: Claims against manufacturers/sellers of a defective product if it caused or contributed to the accident and your injuries. Examples include defective seat belts, improperly designed fuel systems, defective tires and vehicle rollover susceptibility. There are statutorily imposed limitations on the amount of damages that can be recovered in a product liability action.

Roadways: This is a claim against a governmental agency (local, state, or federal) for failing to maintain a road so that it is reasonably safe and fit for public travel.

Semi Tractor-Trailers: Violations of specific rules that apply to semi-tractor trailers by either the driver or driver's employer.

These are only a few of the types of claims/lawsuits that may be brought. Each type of claim has specific legal requirements that must be met before a lawsuit can be filed. You should immediately contact an attorney who has experience and expertise in these areas of the law.

Are there time limits to bring third-party lawsuit claims?

Yes. All lawsuits have a "statute of limitation" or time period within which a claim must be brought. If the lawsuit is not filed within the time set by law, even if only one day late, you will forever lose your right to sue. Many claims are subject to a three (3) year statute of limitations, but there are shorter time periods in some cases, such as the two (2) years imposed

for cases against governmental authorities. Also, in some claims against government agencies notice of intent to sue must be given within a very short time frame, such as 30 to 120 days after the accident depending on which agency is being sued. The failure to do so usually results in dismissal of the claim. Similarly, dramshop notices must be given to the bar or tavern within 120 days of retaining an attorney and a lawsuit filed within two (2) years of the date of the accident. Some claims may even exist against an at-fault driver who is from another state where an even shorter time limit may apply. Failure to follow applicable laws will preclude an otherwise legitimate claim.

In addition, “uninsured” and “underinsured” (UM and UIM) coverage rules may also exist (explained below). The applicable insurance policies must be reviewed immediately because (1) there may be additional insurance coverage available and (2) the policy language may have notice and filing requirements, which may be short.

You should always investigate the possibility of a lawsuit as soon as possible after the accident because your legal rights may be at risk.

Will my conduct in the accident affect my right to file a lawsuit or recovery for my injuries?

Yes. There are several laws that may limit or prevent a claim for your injuries.

Comparative Fault: Your damages will be reduced by your percentage of fault. For example, if the other driver is 80 percent at fault and you were 20 percent at fault, you would recover only 80 percent of your damages.

Limited Recovery: If you were drinking, your recovery may also be severely limited by law. If you were not wearing a seatbelt, your recovery will also likely be reduced. There are other circumstances in which your recovery could also be reduced.

No Recovery: If you were more than 50 percent at fault, you generally cannot recover for your injuries.

No Insurance: A person who drives his or her own car and who did not have insurance is not entitled to recover.

What about attorney fees?

There are many options. First, you can hire a lawyer to represent you on an hourly basis. Second, you can hire a lawyer on a “contingent fee.” This means that the lawyer will not charge you per hour, but will only take a fee based upon the amount of money you receive. Most personal injury lawyers accept cases on a contingent fee of one-third of the recovery after first deducting the case expenses. If there is no recovery, you will not owe the attorney any fee for services.

All contracts with an attorney should be in writing and fully explained to you. You should not sign a contract unless you fully understand it.

OTHER THINGS YOU SHOULD KNOW ABOUT THIRD-PARTY CLAIMS AGAINST OTHERS

Wrongful Death: There are procedures that must be followed to bring or settle a wrongful death claim. For example, a court must appoint a Personal Representative of an Estate before a claim can be filed or settled.

There are other special rules about which family members can make a claim for damages and the types of damages they can seek.

Workers’ Compensation: If you received workers’ compensation benefits as a result of your accident, that insurance company may have the right to be reimbursed from your settlement or lawsuit for things not covered by No-Fault. Generally, you do not have to pay your No-Fault carrier back for benefits it pays to you.

Mental Incapacity: If a person is rendered mentally incapacitated because of an accident, a Guardian/Conservator may need to be appointed by the court.

Evidence Preservation: Because additional claims may exist, all evidence such as the car and seatbelts should be preserved. The failure to preserve or the destruction of evidence, even if not intentional, may prevent you from successfully bringing a claim.

Photographs: Photographs should be taken to show the full extent of injuries.

OTHER CONSIDERATIONS

There are many legal requirements and traps for the unwary. Giving statements without legal representation can be dangerous and hurt legitimate claims. Experienced lawyers for insurance companies can take advantage of statements given by an unrepresented person. There may also be liens on your third-party recovery.

Trying to settle a claim by yourself without being aware of all of the legal issues and ramifications can result in unforeseen consequences. For example, if you receive governmental benefits (Medicare, Medicaid or Social Security) you may lose those benefits by a monetary settlement if you do not have an applicable trust. Probate court approval is necessary for a decedent's estate and minor's settlement. An insurance company will try to obtain a signed "release of liability" before settling a claim. However, this legal document may release or waive other claims you otherwise may have, including against those other third parties.

OTHER TYPES OF COVERAGE

Is there another means of obtaining a recovery if the At-Fault driver was uninsured or there is no one else to sue?

Yes. There is what is called “uninsured” and “underinsured” motorist coverage that can be purchased through your own insurance company. This is insurance coverage you personally buy in order to protect yourself and your family against drivers that have inadequate insurance coverage or no insurance coverage at all.

Although the law requires insurance coverage for all motorized vehicles, there are a large number that do not carry liability insurance at all. There are also times that a car or other motorized vehicle will leave the scene of an accident and never be caught.

Or, many drivers/owners carry only the minimum amount of liability insurance, which is \$20,000 per victim. This amount will not be enough if you are seriously injured. More often than not, the at-fault driver/owner is unable to pay you beyond their insurance limits.

What is uninsured motorist coverage?

If the at-fault vehicle/owner is not covered by any insurance, or is unknown, you may file an “uninsured motorist” claim with your own insurance company. It will pay for what you would have collected from the at-fault driver/owner if that person had liability insurance coverage. Your claim will be limited by the amount of uninsured coverage you purchase from your carrier.

What is underinsured coverage?

If you bought “underinsured coverage,” you may file a claim with your own No-Fault insurance company to make up the difference between the amount paid by the other driver’s insurance and the value of your injuries. Your claim will be limited by the amount of “underinsured coverage” you purchased from your carrier.

There are usually strict requirements for making underinsured claims that, if not followed, may prevent you from recovering anything from your own policy. Your No-Fault insurance carrier will require proof of the seriousness of your injuries and the inadequacy of the at-fault driver/owner's liability insurance. It will also require that you obtain its consent to settle with the at-fault party and usually receive a set off "credit" for all money paid by or on behalf of the at-fault driver/owner of the at-fault vehicle.

Although you are dealing with your own No-Fault insurance company in making an "underinsured" claim, these are often very difficult and complex claims to pursue because of the defenses usually raised by the insurance company. You should seek the assistance of an attorney.

Remember, all of the facts of the accident must be reviewed as soon as possible to determine the applicable notice/filing and insurance policy requirements. The failure to do so may prevent any claim.

What if I still have questions?

Every situation is different – with specific questions that may require expert advice. This handbook has addressed general questions about your No-Fault benefit rights and claims. There are many exceptions and unusual circumstances that cannot be covered in a short booklet like this one. If you have additional questions, you should consult an attorney.

Varnum is a law firm that represents injured people in cases throughout Michigan. Our lawyers have obtained record jury verdicts and settlements for clients throughout the state. We have co-authored manuals to teach other lawyers how to handle cases involving automobile accidents and No-Fault insurance, and have lectured statewide on how No-Fault benefits can help those with brain injuries, spinal cord and other injuries. If you have questions about your rights under Michigan No-Fault law, please call **800-400-9115** or visit us at www.varnumlaw.com/pi. We travel throughout the state representing injured persons. Your facts may involve the laws of other states as well.

If you have been injured and wish to discuss your legal rights or whether you have a legitimate claim, free consultation will be provided.

Disclaimer

This information is a general overview and should not be relied upon to make decisions. Examples, illustrations and statements are general in nature and may or may not be applicable to any individual case. There are exceptions to every rule and this booklet is not intended to cover or apply to any specific case. You should not view this booklet as offering any legal or medical advice. Each case needs individual assessment. We would be happy to answer any specific questions you may have.

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