

Michigan auto reform glossary

Unless otherwise noted herein, references to “sections” of the statute (e.g. “Section 3107 (d)”) refer to the provisions of the Michigan Insurance Code, which is found in Title 500. All of these sections are preceded by “MCL 500.xxxx” but have been abbreviated to just the chapter and section reference for ease.

+ Qualified health coverage (QHC)

As defined in 3107d (7) (B) QHC includes **either**:

1. Health or accident coverage that (1) does not exclude or limit coverage for auto accident injuries **and** (2) has an annual deductible of \$6,000 or less per individual, **OR**
2. Coverage under Medicare Parts A and B of the Federal Medicare Program.

Notes:

- This definition is important when deciding whether policyholders qualify to “opt out” of PIP Allowable Expenses coverage.
- Medicaid is not QHC under the statutory definition.
- The notes in the “Coordination” section include additional information related to QHC.
- Refer to our FAQ on QHC for a more in-depth discussion of this topic.

+ Qualified person

As defined in 3107d(7)(C), a “qualified person” is a person who has coverage under Parts A **and** B of the Federal Medicare program.

+ Allowable expenses

As defined in Section 3107(1)(a), Allowable Expenses include reasonable charges incurred for:

- Medical expenses
- Attendant care
- Funeral benefits (capped at a specified dollar limit in the policy)

Notes:

- This term is sometimes used interchangeably with “PIP Medical,” even though it includes some expenses that are not “medical” in nature (e.g. funeral benefits and some aspects of attendant care).

- Allowable Expenses do NOT include work losses, replacement services, or survivor's benefits. Thus, these coverages are not impacted by the policyholder's choice of Allowable Expense coverage limit

+ Insured

In our contract, the definition of insured for PIP coverage is clarified to include only:

- The named insured(s)
- The named insured(s) spouse
- Resident relatives

Note:

- More information is provided in our recent agency bulletins.

+ PIP allowable expense limit

We use this term to refer to the new allowable expense coverage limit options defined in Section 3107c.

- The coverage limit options include:
 - Unlimited (no limit)
 - \$500,000
 - \$250,000 (does not apply to exclusions for QHC – see below)
 - \$50,000*
- Policyholders must elect one of the above limits per policy.
- The limits above apply **per individual**, per claim. The limits apply **only to allowable expense** coverage.
- Coverage for work loss, replacement services and survivor's benefits are not impacted by the limit.
- *To qualify for the \$50K limit:
 - At least one named insured must be enrolled in **Medicaid**
 - All other insureds must be either enrolled in Medicaid, have qualified health coverage or PIP allowable expense coverage from another auto policy.

+ Medicare opt-out**

We use this term to refer to the provision in Section 3107d that allows policyholders meeting the statutory requirements to elect not to maintain PIP allowable expense coverage. Section 3107d states that if the named insured is a "qualified person" AND all other "insured(s)" have qualified health coverage, the applicant or named insured may elect not to maintain PIP allowable expense coverage.

Notes:

- When a policyholder selects this option, we will continue to provide coverage for work loss, replacement services and survivors benefits, and an appropriate premium will be charged for this coverage.
- This is a policy-level option. No one under the policy will have allowable expense coverage when this option is selected.

+ Qualified health coverage (QHC) exclusion**

We use this term to refer to the provision in Section 3109a(2) that allows policyholders meeting the statutory criteria for qualified health coverage to elect not to maintain PIP allowable expense coverage.

In order to select this option, both of the following must be true:

- The applicant or named insured has QHC that is not Medicare; AND
- Each family member excluded from PIP Allowable Expenses has QHC

Notes:

- Medicare enrollees that wish to not maintain PIP Allowable Expenses coverage do not qualify for the QHC Exclusion option but may qualify for the “Medicare Opt-Out” option.
- The named insured is responsible for disclosing the names of family members excluded from PIP Allowable Expenses coverage.
- Family members that are not excluded will receive limited PIP Allowable Expenses coverage of \$250,000 per individual, per loss occurrence. This is the only option available to non-excluded family members under the QHC Exclusion.
- When a policyholder selects this option, we will continue to provide coverage for work loss, replacement services and survivors benefits, at an appropriate premium.
- The QHC Exclusion should only be considered when it can be verified that the policyholder’s QHC covers auto-accident related injuries on a “primary” basis. See the “Coordination” section below for more details.

+ **Loss of qualified health coverage (QHC)

This concept applies to both the Medicare Opt-Out and QHC Exclusions if QHC coverage is lost. In that scenario, you should be aware that:

- The named insured has 30 days after the effective date of the termination of AHC to obtain PIP allowable expense coverage.
- During this 30-day period, the named insured can apply to Michigan Assigned Claims Plan (MACP) if injured in an auto accident. Any such claim to the MACP will be subject to a statutory \$2 million coverage limit.
- After the 30-day period expires, there will be **no coverage** for allowable expenses under the policy or through the MACP.

+ Coordinated or excess medical

These terms are used interchangeably and refer to the coverage options that are available if the insured has other insurance (e.g. health or disability insurance, whether QHC or not), that will cover auto accident-related injuries on a “primary” basis. A discount is available for both PIP allowable expenses and work loss, if health or disability insurance pays primary.

Notes:

- The excess medical discount will only be available for the Unlimited, \$500K and \$250K options.
- The excess medical discount will NOT be available for the \$50K, Medicare Opt-Out and the qualified health care exclusion options.
- “Qualified health coverage” does not necessarily mean the plan qualifies for the excess medical discount. For example, Medicare is qualified, but will not pay primary. Please refer to our Health Insurance Verification guide for information about some health plans that have historically NOT covered auto accident related injuries on a primary basis.

+ Other PIP

We sometimes use this term to refer to an insured, other than the named insured, who has an auto policy covering PIP allowable expenses. The determination of whether “Other PIP” coverage is available may impact a policyholder’s eligibility for the \$50K coverage option and the Medicare Opt-Out options.

+ Family member

As defined in our contract, “family member” means a person related to you by blood, marriage or adoption, who physically resides primarily in your household. This includes the following:

1. A ward who resides with the “named insured”;
2. A foster child who resides with the “named insured”; and
3. Unmarried dependent children of the named insured, while temporarily away from home if they intend to continue to reside in the household of the “named insured.”

+ MCCA assessment

The MCCA assessment consists of two components: (1) the pure premium amount needed to cover current and future claim costs; and (2) the deficit/surplus adjustment for deficiencies in prior year assessments.

Notes:

- Only those policyholders selecting Unlimited coverage will pay both components of the MCCA assessment. They will see this as “Michigan Catastrophic Claims Association - Full Assessment” on the Dec Page.
- All other policyholders will pay only deficit/surplus adjustment. They will see this as “Michigan Catastrophic Claims Association – Deficit/Surplus Assessment” on the Dec Page.

+ Other assessments

Other state-mandated assessments include the Michigan Assigned Claims Plan (MACP), the Auto Theft Prevention Authority (ATPA) and taxes associated with assessments. Policyholders will see all of these charges combined on the Dec Page under “Other Assessments Required by State Laws.”

+ Attendant care

We use this term generally to describe services rendered to care for an injured party. This category of PIP benefits is not specifically defined in the statute, but is a component of PIP allowable expenses coverage. It includes services and accommodations for an injured person’s care, recovery or rehabilitation. This includes family, agency and institutional long-term care.

+ Attendant care rider

We use this term to refer to the mandatory new coverage option defined in Section 3107c (8):

- Though attendant care coverage is a component of the mandatory Allowable Expense coverage required in Section 3107(1)(a), this additional attendant care rider provides optional additional attendant care coverage.
- The attendant care rider is only available to policyholders who choose the \$500K, \$250K or \$50K PIP allowable expense coverage options.
- This coverage will provide benefits in addition to the applicable allowable expenses limit.

+ Replacement services

This term is defined in Section 3107(1)(c). Replacement services are sometimes referred to as “household expenses.” They are limited to \$20 per day, and only covered for the first 3 years after the accident. They are intended to cover ordinary services and not meant to be a source of income. This is NOT part of allowable expense coverage.

+ Survivor's benefits

This term is defined in Section 3108. These "loss of income" benefits are payable to a survivor and are limited to a monthly dollar maximum and only payable for the first 3 years after the date of accident. This is NOT part of allowable expense coverage.

+ Order of priority

This term refers to the rules that determine which insurance policy(s) applies. It is covered in Sections 3114 and 3115 in the statute.

Notes:

- The rules for passengers in motor vehicles for hire are complex and can lead to situations where the named insured's policy isn't first in the OOP. Therefore, it is important to know the type and ownership of the vehicle involved in the accident.
- We have created a separate training document providing more detail into the rule of order of priority, included detailed slides for each type of vehicle.

+ Economic damages

Economic damages are generally described as the monetary damages associated with a person's injury from an auto accident. These damages include allowable expenses (medical, attendant care, funeral benefits), work loss and survivor's benefits.

Notes:

- With the no-fault changes, section 3135(3)(C) was amended to allow for tort liability for economic damages in excess of any applicable PIP limit, even for policyholders who elect the Medicare Opt-Out or the QHC Exclusion. Importantly, under Section 3135(3)(C), an insured can be sued even if they are less than 50% at fault.
- Under the new laws, Michigan insureds remain liable for economic damages to non-Michigan residents. However, for out-of-state residents are not entitled to economic losses unless the accident results in death, permanent serious disfigurement or serious impairment of body function.
- These changes, combined with the increased minimum liability limits, will likely cause overall liability costs to increase, which means that liability premiums would also increase. Individual policyholders may experience a higher liability premium, depending on which coverages they select. In addition, policyholders may be subject to additional litigation seeking economic damages after 7/2/2020.

+ Non-economic damages

This category of damages generally includes monetary compensation for losses such as “pain and suffering.” Non-economic damages may be sought and awarded when the auto accident results in death, disfigurement, or serious impairment of a bodily function (sometimes referred to as “threshold injuries.”

Notes:

- Michigan law continues to allow tort liability for non-economic damages for threshold injuries – 3135 (1), (2).
- Non-economic damages cannot be awarded to an injured person who is more than 50% at fault.

Disclaimer: This material is based on the recently enacted Michigan Public Acts 21 and 22 of 2019 and is provided for informational purposes only. It does not provide any coverage. The material herein represents our current understanding of the law, which may be subject to change if additional guidance is provided by the Legislature, DIFS, or the courts. This document is not intended to render legal advice, which you should seek from your own counsel.

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