

eBook

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eBook:

New No-Fault Law

Attorney Jason Waechter

Fighting for Justice

*This guide shields you from evil-
Michigan's new No-Fault Law of July 1, 2020*

This legal advice guide explains Michigan's new No-Fault Law and advises how to protect yourself from new risk and medical bill exposure as of July 1, 2020.

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ABOUT THIS eBOOK GUIDE

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The new **No-Fault Law** affects coverage for **insurance policies starting July 1, 2020.**

Before July 1, 2020, Michigan had the highest auto insurance rates in the country, but we also had the best coverage. Michigan's 'No-Fault' system paid your medical bills and wage loss immediately no matter whose fault the crash was. Most significantly, medical coverage was unlimited and for life!

The auto insurance industry promised reduced rates if we changed the unlimited, life-long medical coverage. They also promised not to use credit scores or zip codes to calculate premiums.

This guide will expose their half-truths and advise you as to what coverage you should choose to protect yourself and your family.



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Law offices of Jason Waechter

About

Attorney Jason A. Waechter is the owner and head trial attorney of the Law Offices of Jason Waechter and known nationally as **THE Motorcycle LawyerSM**.

Recently, there has been confusion. People have commented they tried to find Jason on-line, but there were other so-called motorcycle lawyers in the search results. The people ended up with different law firms and told us the lawyers were horrible.

The second thing that consistently happened was people said to us, "I thought you only did motorcycle cases, so we did not call you for our car (or truck) accident. They too missed out on great representation from—power lawyers.

Our firm has four lawyers and specializing departments. **We handle auto, truck, No-Fault, road defect and, of course, motorcycle wreck cases.**

We needed to do something about this confusion. Then a client said to me, "You sure have a powerful courtroom presence." And after I gave a large check to another client, she said, "You're my hero!" That is what inspired obtaining the toll-free number **877-Power-Law** and creating the print ads you see here.

So, for the best legal representation after any injury or wrongful death accident, call attorney Jason Waechter at 877-Power-Law.

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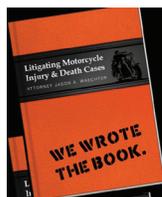


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Jason Waechter literally wrote **THE book: Litigation Motorcycle Injury & Death Cases**. It is a comprehensive guide for personal injury lawyers handling motorcycle accident cases.

No-Fault Guide by Attorney Jason Waechter of 877-Power-Law.com



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Insurance Information You Need to Know to Understand the New Law & Use This Guide



No-Fault Benefits

“PIP” stands for Personal Injury Protection and relates to the No-Fault (or PIP) benefits we receive after a “motor vehicle” crash. Beginning 7/1/2020, the coverage for **No-Fault benefits includes** payment for:

1. Medical Expenses (PIP Medical): was unlimited; now you choose amount;
2. Wage Loss: presently a maximum of \$5,718 a month for up to 3 years;
3. Household/Replacement Services: maximum of \$20 per day for up to 3 years;
4. Medical Transportation or Mileage; and
5. Attendant Care (part of medical expenses).

Bodily Injury Coverage (BI) pays for injuries and damages a driver causes to other people. For example, say you rear ended someone when traffic backed up and the guy you hit suffered a broken leg. If he files a claim or sues you for pain & suffering, disfigurement, excess wage loss (and now excess medical bills), or other applicable damages, this insurance pays him and protects you.

Uninsured Motorist Coverage (UM) is additional coverage you buy on your vehicle that pays you for your damages (which may include lost wages, medical expenses, pain suffering, depending upon the terms of your UM policy) if the negligent driver that hit you is uninsured or is unknown (hit & run).

Underinsured Motorist Coverage (UIM) is additional coverage you buy on your vehicle that pays you for your damages (which may include lost wages, medical expenses, pain & suffering, depending upon the terms of your UIM policy) if the negligent driver that hit you did not have enough insurance (he was UNDER-insured) to cover all your injury damages.

Umbrella Policy is extra liability insurance that covers beyond the limits of your home, auto, motorcycle, recreational vehicle or watercraft insurance. It is an inexpensive way to get more bodily injury coverage for multiple items you insure. Make sure the umbrella policy specifically covers what you own (motorcycle, house, cabin, boat, truck, etc.) Also see if the umbrella policy can include extra Uninsured and Underinsured coverage; this would be in addition to the UM/ UIM on your motorcycle, car or truck.



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BIG CHANGE #1

We Must Now Choose Amount of PIP Medical

For the first time in Michigan's No-Fault history, we will have to choose the amount of PIP Medical coverage for our "motor vehicles" (cars, trucks, vans, *not motorcycles*) as of July 1, 2020.

Michigan No-Fault Medical coverage used to pay for all auto-injury related medical bills for life. It was the best in the country. Beginning July 1, 2020, we will choose our desired amount of PIP Medical coverage and, for a time, will receive a reduction on that part of our premiums. The 7/1/2020 premium reductions are to remain in effect for policies that take effect before 7/1/28—only an eight-year period. The choices are:

- Unlimited coverage (same as old law) with 10% premium reduction for PIP Medical;
- \$500,000 coverage with 20% premium reduction for PIP Medical;
- \$250,000 coverage with 35% premium reduction for PIP Medical;
- Qualified Medicaid recipients: \$50,000 coverage with 45% premium reduction for PIP Medical;
- A Qualified Person* may opt out entirely: Available only to those with other Qualified Health Insurance*/ Medicare covering car accidents injuries.

Caveat: If you choose \$50,000 or opt out, you better make sure you are in fact qualified as defined under the law. People may assume or be told that they were qualified, and then when a loss occurs, it will be determined they were not, resulting in the insured (you) being stuck with all the medical bills.



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BIG CHANGE #1 CONTINUED

We Must Now Choose Amount of PIP Medical

A **“Qualified Person”** has Medicare or “Qualified Health Coverage,” defined as health or accident coverage that does not exclude or limit coverage for injuries related to motor vehicle accidents and for which the individual deductible is \$6,000 or less per individual. In addition, the Qualified Person’s spouse and all his/her relatives residing in the household must have either ‘Qualified Health Insurance’ or No-Fault benefits from other sources.

Author analysis: Most people don’t know if their health insurance excludes coverage for auto-related injuries. When people call to ask, they may be told and rely on inaccurate or bad information.

Next, you need to know the insurance situation and coverage of all resident relatives in your household. You can assume that if you get any of this wrong, your claim for No-Fault PIP Medical benefits will be denied—potentially leaving you with hundreds of thousands of dollars in medical bills.

Example: Assume you have Qualified Health Coverage and an adult son that lives with you. Further, assume your son has No-Fault coverage from his own insurance company. Since you meet the two requirements to be a Qualified Person, you choose \$50,000 of PIP Medical coverage. Months later, your son’s No-Fault policy lapses for forgetting to pay the bill. Then you have an accident in your vehicle. You are no longer a “Qualified Person” because there was an uninsured resident relative in your household at the time of the accident. Your No-Fault carrier could void your entire policy and not have to pay for your collision damage, your medical bills, or provide liability coverage if you get sued.



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BIG CHANGE #2

Increase in Mandatory Minimum Bodily Injury Coverage

The old law required drivers to carry a minimum of \$20,000/\$40,000 worth of bodily injury coverage. This means \$20,000 worth of coverage for any one person injured and up to \$40,000 for two or more persons in the same car crash. The insurance industry promised to increase those minimum limits to \$250,000 which may help pay for medical bills that would now not be covered given the change in unlimited medical coverage. This appears to be a lie.

Actually, anyone who signs a form which explains the choices and risk can reduce this coverage to \$50,000/\$100,000.

Author analysis: Insured negligent drivers will now have higher bodily injury insurance limits if they choose the minimum coverage. This is great for the person they injured. However (as detailed below), the bodily injury coverage may have to be used to pay the injured person's noncovered medical bills or to reimburse his/her health insurance liens, leaving the injured victim with little to no recovery for pain and suffering.

Higher coverage limits will mean higher premiums, so any savings realized in lower PIP Medical premiums may be offset by increased payments for BI coverage.

Finally, the insurance industry touted a higher BI minimum of \$250,000 to cover all the new risk of increased medical bill exposure on the BI claim. A closer look reveals that this is a deception. For example, if you are the injured person in the accident and not at fault, the PIP Medical coverage is only \$50,000 and your medical expenses exceed \$300,000, the total of \$50,000 PIP medical and \$250,000 BI coverage will not pay for all your medical bills. Although the at-fault driver may be held responsible to pay for these unpaid bills, he/she may not be collectible, and the bills may become your own responsibility.



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BIG CHANGE #3

New Risk & More Exposure: You can now be sued for medical bills.

The new law creates greater liability if you make a mistake and cause a crash. Before July 1, 2020, you could not be sued for the other guy's medical bills even if the crash was your fault. After July 1, 2020, you can be sued for all the other person's medical bills not covered by his PIP Medical coverage.

If the injured person chose \$50,000 PIP Medical and his medical bills are \$250,000, you can be sued for the \$200,000 difference. Keep in mind you can also be sued for his injury (pain and suffering) and excess wage loss as has always been the law. With this new exposure, you should buy more Bodily Injury coverage.

CRITICAL ADVICE: The new law exposes you to new liabilities. To protect yourself and your family, you should purchase more Bodily Injury coverage, more Uninsured Motorist Coverage, more Underinsured Motorist coverage and maybe even an Umbrella Policy.



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Attorney Jason Waechter and his Harley Davidson Fat Boy.

Horrible New Law for Motorcyclists!

A specialty of ours is motorcycle wreck cases

For 25 years, Jason Waechter has been known in the motorcycle community as **THE Motorcycle LawyerSM** with the phone number: **877-Biker-Law**. So we are passionate to expose how the new law harms motorcyclists.

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Horrible New Law for Motorcyclists! CONTINUED

A specialty of ours is motorcycle wreck cases

The lower premiums described above do not apply to motorcycles. Cycle policies will not be lowered because bikers can't buy "No-Fault" (specifically PIP Medical) on a motorcycle and the only premiums that are being lowered are the PIP Medical premiums. A motorcyclist is entitled to PIP/No-Fault benefits, **ONLY WHEN** a "motor vehicle" (car, truck or van) is "involved" in the crash. The insurance carrier first in order of priority for payment of a motorcyclist's No-Fault benefits (including PIP Medical) is the insurer of the motor vehicle involved in the crash.

Michigan motorcyclists who qualify for No-Fault benefits will now be at the mercy of the PIP Medical **amount chosen BY THE GUY THAT HITS THEM!** Before July 1, 2020, a biker hit by a 'motor vehicle' ALWAYS got unlimited lifelong medical coverage. Now, that same motorcyclist may have only \$50,000 of his/her medical bills paid if that is the amount of coverage the negligent driver chose. We are trying to change this part of the new law, but for now, this is the law.

I will repeat that-- this horrible new law that shafts motorcyclists: You (motorcyclist) get your PIP Medical Coverage from the guy who hit you and are stuck with the amount he chose!

Advice to Motorcyclists for July 1, 2020 Coverage:

1. Have health insurance. Motorcycle wrecks often happen without a 'motor vehicle' involved which would provide PIP Medical coverage. PIP Medical does not pay for wrecks with deer, road defects (potholes), loose gravel, or other motorcycles.
2. Purchase as much Uninsured Motorist coverage and Underinsured Motorist coverage as possible on your motorcycle.
3. Choose unlimited (or as much as you possibly can afford) PIP Medical on **YOUR** CARS, TRUCKS, and VANS (your 'motor vehicles'). Why? Because if you get in a wreck and the at-fault driver is uninsured, your No-Fault benefits will come from insurance on YOUR motor vehicle (car, truck or van, *not motorcycle*).

FYI: You can't buy No-Fault insurance on a motorcycle. No-Fault benefits never come from your motorcycle insurance. You can purchase 'First Party Medical' coverage on your motorcycle. Talk to your insurance agent to see if it is right for you. I don't recommend it if you have covering health insurance.



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Action Items for Choosing Motor Vehicle Insurance as of July 1, 2020:

1. Choose unlimited PIP Medical on your personal “motor vehicles” if you can afford it. This applies only to cars, trucks and vans. We can’t purchase No-Fault/PIP on a motorcycle.
2. Purchase as much Uninsured Motorist (UM) coverage and Underinsured Motorist (UIM) coverage as you can afford on all vehicles, including motorcycles. The more the better. Recommendation: \$1,000,000 is great; minimally \$250,000.
3. Increase your Bodily Injury coverage limits because, if you hurt someone, they now can come after you for unpaid medical bills. I recommend \$500,000 or even \$1,000,000 if you can afford it. I don’t think anyone should have less than the new \$250,000 limit.
4. Consider purchasing an Umbrella Policy which is additional bodily injury coverage that applies not only to your vehicles, but also your watercraft and home.



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No-Fault Choice Recommendations

Depending Upon Your Income and Assets



877 Power Law Attorney Sean Murphy

Logically, a person who has significant assets should have more insurance than someone who has very limited assets.

Here are three different scenarios and my recommendations for insurance coverage considering the respective risks and cost in each case:

#1. Person with Significant Assets:

If you own your house, have a well-paying job, have significant savings in the bank, I recommend the following:

- PIP Medical Choice: Unlimited
- Uninsured Motorist: \$1,000,000
- Underinsured Motorist: \$1,000,000
- Bodily Injury: \$1,000,000
- Umbrella Policy: \$1,000,000 Make sure it also includes Uninsured and Underinsured coverage on it. Make sure the policy language says that it pays over and above what your underlying auto policy pays.

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No-Fault Choice Recommendations

Depending Upon Your Income and Assets

CONTINUED

877 Power Law Attorney Susan Thomas

#2. Person with Moderate Assets:

This person may have a house with a mortgage, has a decent job, and a little savings. My suggested advice is below, however, the more insurance the better. Only you can evaluate your situation, the risk and the cost.

- PIP Medical Choice: Unlimited is always best. I can understand \$500,000 for this person, but not less than \$250,000.
- Uninsured Motorist: \$1,000,000 is best. I can understand \$500,000 for this person, but never less than \$250,000.
- Underinsured Motorist: \$1,000,000 is best. I can understand \$500,000 for this person, but never less than \$250,000.
- Bodily Injury: \$1,000,000 is best. I can understand \$500,000 for this person, but never less than \$250,000.
- Umbrella Policy: Price one out. It should be a few hundred dollars. Usually the insurance coverage amount is \$1,000,000. Make sure it also includes uninsured and underinsured coverage. Make sure the policy language says that it pays over and above what your underlying auto policy pays.

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No-Fault Choice Recommendations

Depending Upon Your Income and Assets

CONTINUED

877 Power Law Attorney Eric Liblang

#3. Person with Limited Assets:

This person does not have many assets. He may rent his residence and live paycheck to paycheck or is on social security. Here is a recommendation:

- PIP Medical Choice: Unlimited is always best, however, I understand you need to save money. I recommend at least \$250,000. If you qualify for and chose \$50,000 or none at all, make sure you actually qualify for those options. If you select either of these options, understand your risks.
- Uninsured Motorist: You should have it, the more the better. Price it and choose what you can afford. Get at least \$250,000 coverage.
- Underinsured Motorist: You should have it, the more the better. Price it and choose what you can afford. Get at least \$250,000.
- Bodily Injury: The new minimum is \$250,000. Get this. It is true that if you sign a form, you can get \$50,000, but I do not recommend it. \$50,000 is too little coverage given all the risk and exposure under the new law.
- Umbrella Policy: Persons with limited assets usually do not buy umbrella policies, which are not required and cost extra.

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Other No-Fault Changes

Attendant Care: Accident victims often need nursing-type assistance with taking care of their basic needs such as bathing, toileting, getting dressed, ambulating, etc. These services are called Attendant Care. Family members can be paid for taking care of the injured person after a crash. Effective July 1, 2021, the new law will restrict Attendant Care provided by family and/or friends to 56 hours per week. This is drastically different from 168 hours per week available under the old law. If Attendant Care is required in excess of 56 hours per week, the excess must be provided by a professional facility or other professional caregiver.

Less Injury Compensation Left for Injured Victim: A government agency or a company with a contractual right, often must be paid back any money it paid for medical bills related to an auto accident. If the injured victim receives money damages in the negligence claim/lawsuit, any medical bills not paid by No-Fault may have to be repaid by the victim or out of the victim's injury proceeds. Under the old law this was extremely rare because Medicaid or Medicare never (rarely) paid medical bills because the No-Fault carrier was required to pay them all. Under the new law, these kinds of reimbursements from the BI claim may also be required in the case of short-term and long-term disability benefits received when the injured person was disabled as a result of accident-related injuries.

Mini-Tort Increased: In a typical auto accident, our No-Fault Law does not allow you to collect money for the damage to your vehicle from the at-fault driver. You decide whether to buy collision coverage which will repair or replace your vehicle. You may collect from the at-fault driver or his insurance company the amount you paid out-of-pocket, but only up to a certain amount. Typically, this applies to persons who only have Personal Liability and Property Damage coverage (PLPD) or have paid a deductible. This is called the Mini-Tort law. The old law allowed recovery of up to \$1,000 from the at-fault driver or his insurance company. The new law increases that amount to \$3,000 effective July 1, 2020.

Once again, motorcyclists are treated differently. Typically, a deductible for a motorcycle cannot be claimed.

Zip Codes & Credit Scores Can't Be Used for Rates (Not Really): Starting July 1, 2020, the new law changes what information insurance companies can use to calculate an auto insurance premium. They will not be allowed to use these factors: sex, marital status, education level, home ownership, occupation, the zip code where the insured lives, or credit score.



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Other No-Fault Changes

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Analysis: On its face, the zip code and credit score restrictions seem to be a big win for consumers. However, the insurance lobbyists inserted language allowing the use of ‘territory’ (potentially the size of a neighborhood) and underlying credit data or credit information to be considered. Therefore, the zip code and credit score restrictions are essentially meaningless.

Doctors and Hospitals Will Now Be Paid Less: Under the old law, doctors were paid a “reasonable and customary” amount. The new law implements a No-Fault fee schedule based on the Medicare fee schedule. Doctors will be paid within a range of 190% to 250% of the amount payable under Medicare. This fee schedule goes into effect July 1, 2021. The No-Fault fee schedule will pay significantly less than what was paid under the old law.

Analysis: Even if the doctor receives double what Medicare pays, most doctors polled state that it is not a reasonable amount. As a result, I foresee fewer doctors accepting motor vehicle accident patients and many medical facilities closing their doors altogether.

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The MCCA: A Little Savings Here

The Michigan Catastrophic Claims Association (MCCA) is a private non-profit unincorporated association. It was created by the state Legislature in 1978. Michigan's unique auto insurance No-Fault Law provided for unlimited lifetime coverage for medical expenses.

The MCCA reimburses auto No-Fault insurance companies for each Personal Injury Protection (PIP No-Fault) medical claim it paid over a set amount. Currently that amount is \$580,000. This limits the total medical exposure that any insurance company has for any one claim to \$580,000.

As part of our 'old' unlimited medical coverage, we had to pay a fee to the MCCA to fund its reimbursements to insurance companies. Only those choosing unlimited PIP Medical under the new law are required to pay the fee. This new law reduces the fee from \$220.00 to \$100.00.

Because the new law allows us to choose PIP Medical less than \$580,000, those claims will never reach the MCCA. Therefore, if you choose \$500,000 or less for PIP Medical, you don't pay the \$100.00 fee.

As a citizen, you have no right to make a claim with the MCCA, even if you are the victim of a motor vehicle collision. The MCCA's fund exists to protect insurance companies from having to pay unlimited medical themselves.

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Summary Analysis

The new No-Fault Law is great for insurance companies. They will save millions of dollars. The new law should reduce our auto and truck insurance premiums a little until July 1, 2028, but it creates significant new risk and major exposure.

The insurance industry promised “lower rates,” **but the percentage reductions only apply to one line-item**-- PIP Medical coverage. Using my personal car as an example, if I were to choose \$500,000, the 20% discount would amount to a mere \$36.00 savings for the year.

On the further downside, there will be an increase in the required Bodily Injury coverage so your premium for BI coverage will increase. There is new risk and greater liability since beginning July 1, 2020, you can be sued for the noncovered medical bills of the other person involved in the accident. With the risk of this greater liability, you should purchase more Bodily Injury coverage than the minimum amount required, which in turn increases your premium even more.

I foresee disastrous results. Some folks will choose to opt out of PIP Medical only to learn after an accident that they were not a “Qualified Person” allowed to do so. If that happens, they could be stuck with all the medical bills.

Anyone severely injured could face extreme personal hardship. Attendant Care paid to families will be reduced from 168 possible hours per week to 56 hours. Our health insurance premiums will likely increase since they will pay more auto-related medical bills.

An injured victim’s claim for pain and suffering compensation often will be reduced to little or nothing because the proceeds will be used to pay medical and other liens.

Lastly, and perhaps most unfair, an injured motorcyclist who once received unlimited lifelong medical is now at the mercy of whatever the driver of the involved motor vehicle in the accident chose for No-Fault PIP coverage, leaving the motorcyclist to possibly pay medical bills out of his/her own pocket.





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Conclusion

My hope is that this eBook helped educate you on Michigan's No-Fault Law, advised you as to the best insurance coverage for your needs, and set the record straight regarding many circulating misconceptions.

Thank you for reading. Ride/drive safely. Please feel free to call me about anything. It would be a privilege to represent you or a loved one after a crash.

Sincerely,

Attorney Jason Waechter
& The 877-Power-Law Team

***Caveat: I have conveyed the basic essence of the law here. The law is very fact dependent and there are many nuances and exceptions depending on the circumstances. Changes to the law are constantly happening, so what is accurate today and at the time this was written may not be accurate in the future. Therefore, given the limited space, it is impossible to cover everything. An attorney should be consulted to see how the current law applies to your accident. Even with all the information and advice provided here, your insurance agent must be consulted to talk through your specific situation and needs.*



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