

EXECUTIVE SUMMARY

A. Introduction

Michigan's No Fault auto insurance law was declared unconstitutional by the State Supreme Court, in the famous 1978 case, *Shavers v. Attorney General*. Writing for the majority of the Justices, Chief Justice G. Mennen Williams explained that the state cannot make the purchase of car insurance "compulsory" without a guarantee that rates will be affordable. Otherwise, the auto No Fault law violates the Due Process clauses under the 14th Amendment of the Michigan and U.S. Constitutions. Today, No Fault's affordability requirement, a central pillar of the auto No Fault law, when it went into effect on October 1, 1973, is substantially out of compliance with the *Shavers* ruling.

The state's expert witness at the Auto Insurance Affordability Hearings conducted in November, 2008, testified that auto insurance in Michigan has become unaffordable for "[a] large and growing segment of [Michigan's] population." [Source: Bay City Auto Insurance Affordability Hearing, Testimony of Birney Birnbaum, Transcript, p. 30]. After the Affordability Hearing conducted in Grand Rapids, even the Insurance Institute of Michigan's Executive Director stated that auto insurance rates across Michigan are "[i]ncreasingly becoming unaffordable." [Source: *Grand Rapids Press*, November 11, 2008]. Therefore, our state requires its 7.04 million registered drivers, [Source: Michigan Department of Transportation ("MDOT")], to participate in an insurance system which is at war with the State Constitution.

This Annual Report, which is mandated by Executive Order 2008-2, the most comprehensive examination of Michigan's No Fault law ever conducted, asks and answers some tough questions, beginning with the following:

1. Are we better off today than we were in 1973 when No Fault went into effect?

As it relates to affordability, for far too many Michiganders, the answer is:

No.

2. Has Michigan's de-regulation of the auto insurance industry allowed for adequate oversight of company rates?

Based upon input from consumers around the state and experts from around the country, the answer is:

No.

The No Fault system, in Michigan, needs a major overhaul. This can be achieved by offering consumers more choices of coverage, while preserving No Fault's essential benefits, including full health care coverage, and strengthening industry oversight and accountability.

In reaching these conclusions, this Office has:

- Researched the origins of No Fault, and reviewed Michigan's insurance laws, to assess their effect on consumers' pocketbooks
- Examined why Michigan's rates are among the highest in the United States
- Examined why insurance company profits are at record levels
- Prepared a "De-regulation Time-Line," which shows, year-by-year, how the insurance industry's rating practices have been steadily de-regulated
- Compiled a "50-State Best Practices Review," to determine what Michigan can learn from reforms that are working in other states, such as California, where successful, pro-consumer ballot initiatives and legislation, have led to markedly lower rates, consumer empowerment, and a healthy industry
- Conducted 4 state-wide "Auto Insurance Affordability Hearings," in Grand Rapids, Bay City, Detroit, and Marquette, to receive input from the public, consumer and industry experts, and other stakeholders
- Created a website for consumer education and engagement:
www.Michigan.gov/LowerRatesNow
- Filed a formal Complaint against Allstate, with the Michigan Office of Financial and Insurance Regulation ("OFIR"), for irregularities in its rating practices
- Met with key stakeholders from the insurance industry, the State Legislature, state regulators, national experts, and consumers across the state, for their input and advice

B. ABC's of No Fault

No Fault insurance means that it does not matter who is at fault in an accident. Instead of suing “the other guy,” a claim is filed with one’s own insurer for damage to property or person. No Fault has 3 main parts:

1. **Personal Injury Protection (“PIP”)**. This provides health care coverage for life, and up to \$4,589 a month for lost wages, for a maximum of 3 years. Michigan is the only state in the nation which protects its citizens in this manner.

As part of the overall premium, each driver pays a \$104 annual assessment to the Michigan Catastrophic Claims Association (“MCCA”) which reimburses insurance companies, on a dollar for dollar basis, for a policyholder’s medical bills exceeding \$440,000.

2. **Property Protection Insurance (“PPI”)**. This part of a policy provides coverage up to \$1 million for damage an individual does to other people’s property, such as hitting a parked car while driving.
3. **Bodily Injury and Property Damage (“BI-PD”)**. This covers the driver up to \$20,000 if he/she is sued after an accident where one individual is seriously hurt or killed; it covers the driver up to \$40,000 if more than one individual is seriously hurt or killed; and the policyholder is covered up to \$10,000 if he/she is sued for damage to someone’s property in another state.

The exceptions under No Fault, where the policyholder can be sued, are:

1. “Mini Tort,” where the policyholder is mostly at fault in an accident that causes up to \$500 in uninsured damage to another person’s car.
2. Out-of-state accidents.
3. Accidents in Michigan involving an out-of-state resident and vehicle.
4. If the policyholder is the cause of an accident resulting in serious injury or death.

[Source: OFIR 2008 Auto Guide].

Even though they are not required to do so, Michigan drivers may elect to purchase additional coverage, such as collision or comprehensive insurance.

Collision Insurance: this covers the cost of repairing or replacing the driver’s car if it is damaged in an accident.

Comprehensive Insurance: this covers the cost of accidental damage to the car, other than in a collision, caused by, for example, hitting a deer, vandalism, fire, or theft.

The elective collision and comprehensive insurance coverages, together, comprise approximately 65 percent of the overall premium cost, by far the largest portion of the premium, while No Fault's mandatory health care coverage adds up to a comparatively small percentage of the overall premium cost, approximately 15 percent.

No Fault is not a free market system. It is a captive system where consumers are not free to walk away from buying insurance. All drivers in the State of Michigan must purchase the minimum No Fault coverage or face monetary civil infractions and criminal penalties of up to one year in jail. [Source: MCL 257.328(5)]. Prior to the adoption of the No Fault system, consumers had the right to opt out of auto insurance coverage, and still drive their vehicle, by paying \$45 into the state's Uninsured Motorists Fund.

When Michigan adopted auto No Fault, it was already the law in six other states: Massachusetts (the nation's first No Fault state), Florida, Delaware, South Dakota, Oregon, and Illinois. Sixteen states (including Michigan) adopted No Fault systems in the 1970's. Since then, four of the sixteen: Colorado, Delaware, Oregon and Nevada, have repealed their No Fault laws, having concluded that their rates were just too expensive. The State of Minnesota's Legislature is now seriously debating legislation to repeal its auto No Fault law because of affordability concerns.

Currently, twelve states and one U.S. Territory have No Fault insurance:

***Florida**

***Minnesota**

***Hawaii**

***New Jersey**

***Kansas**

***New York**

***Kentucky**

***North Dakota**

***Massachusetts**

***Pennsylvania**

***Michigan**

***Puerto Rico**

***Utah**

C. No Fault Promises

The No Fault system in Michigan was originally sold to the public on the basis of three (3) main promises:

1. **Simple System**: Instead of suing to prove fault, which can take years of litigation with no guaranteed outcome, the policyholder seeks recovery from his or her own insurer for prompt payment of claims,
2. **The Injured are to be Made Whole**: Health care is provided for those injured in accidents, for as long as care is needed, and lost wages are covered for 3 years, and
3. **Lower Rates**: Lower premiums were promised to come from the savings companies would realize from fewer lawsuits (which, in 1973, made up approximately 30% of the total premium cost), and the increased revenues insurance companies would earn from more people purchasing mandatory insurance.

*State's no-fault
plan called
'outstanding'*



WILLIAM S. GIBSON
No-fault supporter

“[B]esides guaranteeing full out of pocket reimbursement to all accident victims, no fault insurance would result in premium costs at least 15 percent cheaper than drivers now pay.”

**-William S. Gibson
American Insurance Association**

[Source: Detroit News, April 9, 1972]

In exchange for the promises that were made to the public, under No Fault:

- **Consumers gave up the right to sue**, except in the event of death or very serious injury, and
- **Consumers were REQUIRED to purchase insurance.**

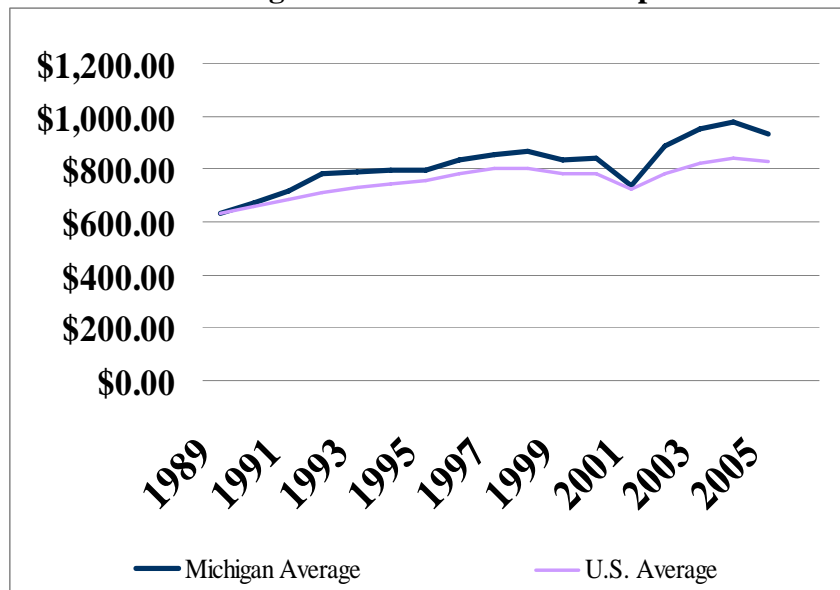
When the No Fault law was debated and passed, Michiganians were led to believe that this was a fair deal. But there was a twist. Rates did not go down. They went up.

D. No Fault Reality: Michigan's Rates are Highest in U.S.

In fact, rates went up from the very start. Insurance companies argued that they had miscalculated costs, while Michigan policyholders were trapped into paying higher rates with no way out. Since then, auto insurance premiums have increased steadily to the point where today, Michiganians pay some of the highest rates in America, at a time when they can least afford it. Michigan's state-wide annual average premium of \$1,067 is just below New Jersey's \$1,100 average annual statewide rate, the nation's most expensive. Michigan's \$436 annual average collision premium (which is part of the overall premium) is the highest in the nation. And the state's average urban premium of \$5,072 is, by far, the country's priciest. [Sources: NAIC; Runzheimer International, 2006]. Michiganians pay *the* highest rates when economic factors such as Average Annual Median Household Income, Cost of Living, and Unemployment Rates, are factored in.

Auto insurance premiums in Michigan have increased by 69% since 1989, the fastest rate of increase in the United States.

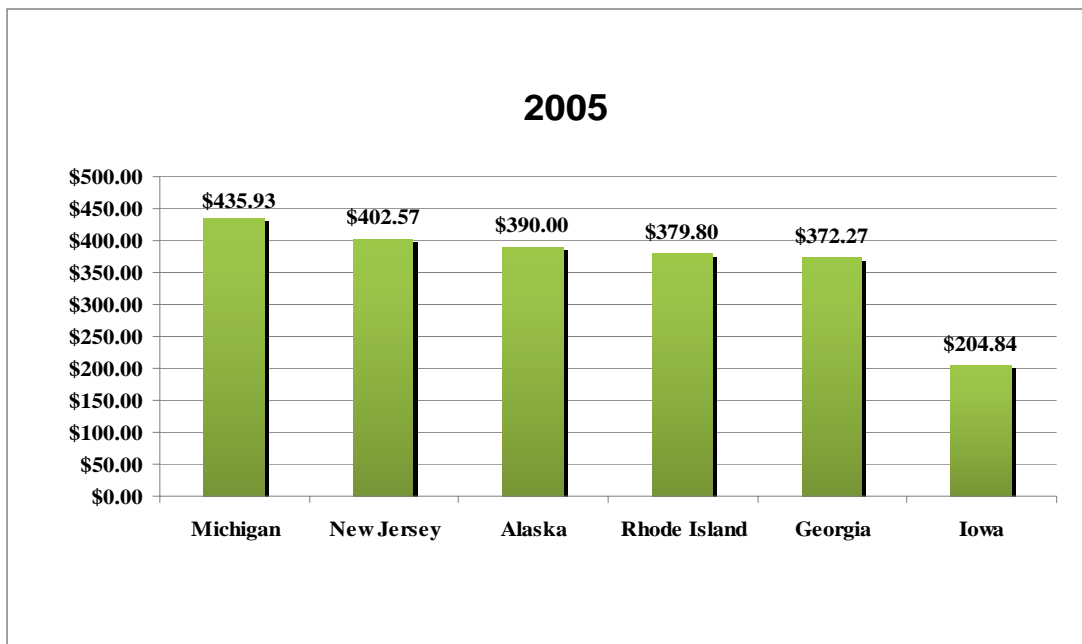
Michigan Insurance Premiums up 69%



[Source: NAIC]

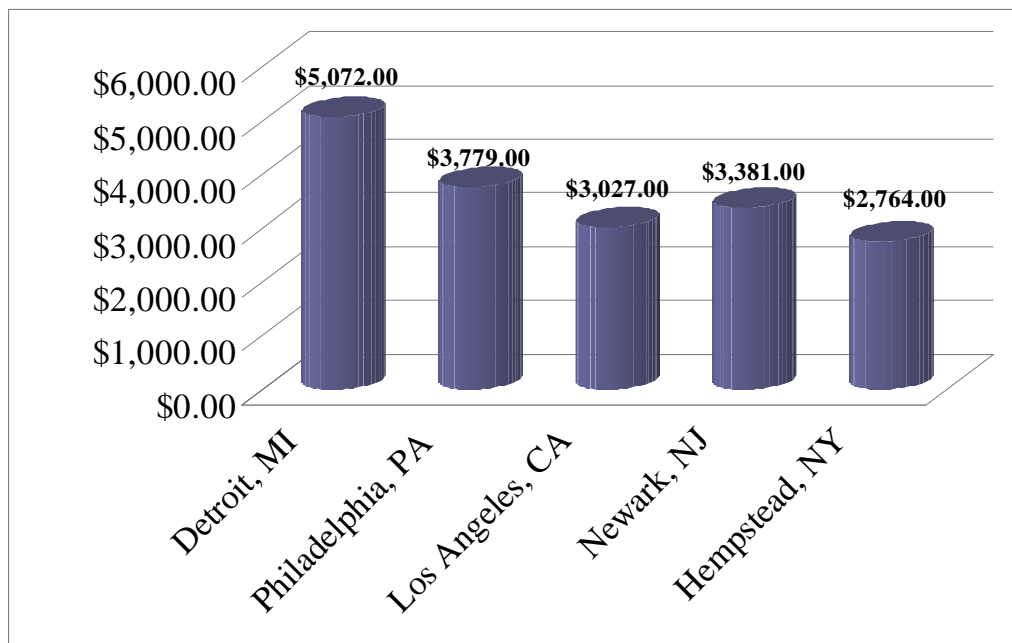
Michigan has the most expensive average Collision and Urban rates in America

Collision Premiums



[Source: NAIC]

Urban Premiums



[Source: Runzheimer International, 2006 Report; Insure.com Nov 29, 2006]

The following is a list of the most recent rates filed with the state, by Michigan's leading auto insurers. Combined, these companies represent well over 50 percent of the state's total auto insurance market. With one exception, AAA, these insurance companies have continued their long-standing pattern and practice of price hikes.

**Most Recent Rate Filings for Michigan's
Leading Insurers in Order of Market Share**

- * State Farm **UP 3%** (July 2008)
- * AAA **DOWN 2.5%** (July 2008)
- * Progressive **UP 11.3%** (March & Sept. 2008)
- * Citizens **UP 3.2%** (January 2009)
- * Farm Bureau **UP 3.1%** (January 2009)
- * Allstate **UP 7%** (July 2008)

[Source: Office of Financial and Insurance Regulation ("OFIR"), State of Michigan; reflects percentage increase /decrease in rates and the date of the rate filing with OFIR].

Family budgets are tight and finite. Accordingly, every dollar spent on "mandatory", unaffordable insurance, is a direct tax of a dollar on "discretionary" essentials like heat, rent, gas, groceries and prescription drugs.

1. Michigan Car Crashes Down Dramatically

Between 1996 and 2006, auto accidents in Michigan declined by 54 percent, a total of 9,000 fewer serious crashes. Transportation experts, and law enforcement officials, attribute the reduction in crashes to, among other things, (1) higher levels of seat belt use by Michigan drivers, (2) the effectiveness of laws such as Michigan's Graduated Drivers License requirement, (3) strategic highway safety plans, (4) Driving Under the Influence legislation, (5) Work Zone legislation, and (6) Child Passenger Safety legislation. [Source: MDOT, American Association of State Highway and Transportation Officials Report].

2. Policyholder Claims Down Significantly

The *New York Times* recently investigated insurance company rating practices, in relation to the significant decline in the number of miles being driven by motorists, because of the economy and the shock of higher gas prices. [Source: “Consumers Driving Less, But Hit Up for Higher Premiums,” *The New York Times*, August 23, 2008, p. B-1]. The *New York Times* investigation found that even though the number of miles driven is supposed to be one of the most important premium rating characteristics, rates continue to climb.

The New York Times:



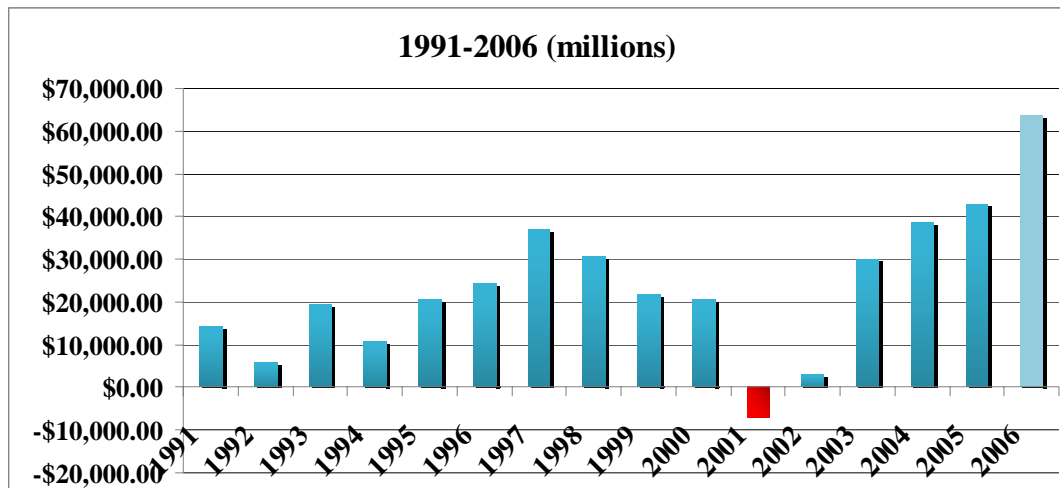
While gas prices have declined over the past few months, they are on their way back up, and energy economists project that they will rise again in the near future. This is reflected in Michigan’s declining gas tax receipts. [Source: State of Michigan, Department of the Treasury, 2008].

Major studies by the Consumer Federation of America, and by national expert Jay Angoff, have indicated that beyond fewer miles driven, there has been an overall downward trend in the number of claims being filed by consumers. Moreover, there has been a marked reduction in the amount of claim dollars being paid out by companies to policyholders. [Source: Consumer Federation of America Report, July 29, 2008; “An Analysis of the Profitability and Performance of the Michigan Auto Insurance Market,” Jay Angoff, Roger Brown & Associates, May 30, 2007, “Angoff Report”].

E. Insurance Company Profits: Highest in American History

The down-ward trends in the auto insurance industry are reductions in claims filed by policyholders, and reductions in claims being paid out to policyholders by insurance companies. The upward trend is company profits. The past 10 years have been the most profitable period in U.S. history for property and casualty insurers.

Record Insurance Industry Profits



[Source: A.M. Best, ISO, Insurance Information Institute]

The Angoff Study, cited above, is specific to Michigan insurance companies. It concluded that:

“For the three leading Michigan auto insurers—State Farm, Allstate, and AAA—both liability and physical damage coverage has been highly profitable over the last five years. [A]AA, [m]ore than doubled its profits in five years, from \$50.9 million in 2002 to \$104.2 million in 2006.”

[Source: “An Analysis of the Profitability and Performance of the Michigan Auto Insurance Market,” 2007 (“Angoff Report”). Angoff served as the state’s expert witness at the Auto Insurance Affordability Hearing in Detroit].

F. *Laissez Faire*: the De-regulation of Michigan’s Auto Insurance Industry

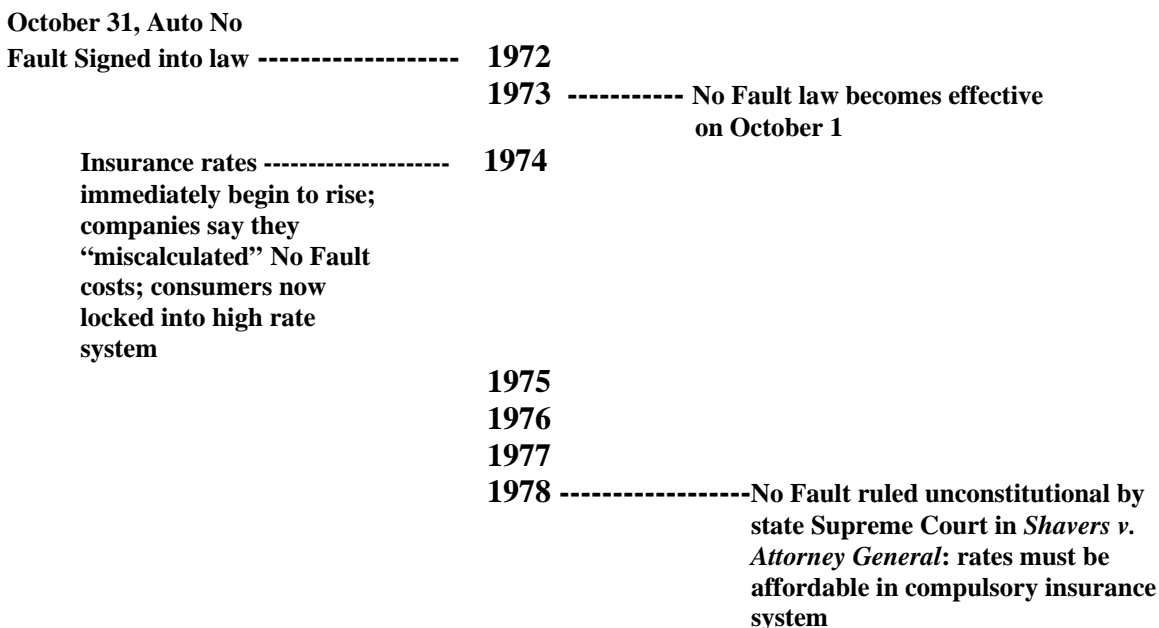
A national culture of “let them do as they please” de-regulation, beginning in the 1980’s, gave the banking, finance, and insurance industries a free hand to make and then break their own rules. At the Auto Insurance Affordability hearing in Bay City, the state’s expert testified that, “The current system of lax regulatory oversight and

deregulation, does not provide meaningful or sufficient consumer protection. In the same way that deregulation led to abusive mortgage lending and the financial crisis, the deregulation of auto insurance has led to market failures and a lack of affordability for a large number of consumers.” [Source: Bay City Auto Insurance Affordability Hearing, Transcript, p. 24].

Here in Michigan, the de-regulation of the auto insurance industry has been steady, and unrelenting, and decidedly not to the consumers’ advantage. Here are just a few examples of what it has come to:

- Companies can and do give themselves a pay raise (rate increase), as often as they like, without the prior approval of the Insurance Commissioner.
- The Insurance Commissioner cannot deny a company’s rate increase unless the Commissioner can prove the un-provable: that insurance companies are not competing against one another.
- On paper, the Insurance Commissioner has the authority under the Insurance Code to order refunds for consumers who have been over-charged by companies. In reality, companies use a loophole to file their rates under a different section of the Insurance Code where the Commissioner’s refund authority does not apply.

1. De-regulation Timeline



Legislature passes Essential ----- 1979

Insurance Act (P.A. 145):

Defines affordability from
insurers perspective, not
Consumers.' Companies
Need only show that they
"reasonably compete"

Loophole in Act allows companies
to avoid Insurance Commissioner's
power to order refunds for over-
charging, by letting insurers
file rates where refund authority
does not apply

Prior approval of insurance
company rate increases is no
longer required under Act

1980

1981

1982

1983

1984

1985

1986 ----- **P.A. 10 Adopted:**

Legislature gives insurers broad
authority to base rates on
policyholder's place of residence,
as opposed to driving record

1987

1988

Beginning of period
where Michigan rates
increase at fastest rate
in U.S.; over 16-year
period, 1989 to 2005,
rates up by 69% -----

----- 1989 ----- **P.A. 10 Suspended:**

Insurance Commissioner
Reports that rating
based on residential address is too
subjective; rates becoming
more unaffordable

1990

Legislature overrules
Commissioner, grants
insurance industry's
demand to re-instate
residence-based rating
under P.A. 10 -----

1991

1992 ----- Industry places "Proposal D"
on state-wide ballot to eliminate
No Fault's full health care coverage.
63% of Michigan voters, vote "No"

P.A. 143 Adopted:

Ignoring the will of the
voters, Legislature votes to
give in to insurers' demands
and grant them the limits on
health care coverage Michigan
voters had overwhelmingly
rejected at the polls, the year
before -----

1993

1994 ----- Petition drive temporarily
stops P.A. 143 from going
into effect

"Proposal C" placed on the
state-wide ballot to once again
eliminate No Fault's full health
care coverage. 61% of Michigan
voters reject companies' latest
effort to limit health care.

1995

P.A. 514 Adopted: -----
Disguised as a "discount,"
Legislature passes "Credit
Scoring" loophole, allowing
insurance industry to use
policyholder's record of paying
household bills, level of education
attained, and type of
occupation, in setting rates

1996 -----

P.A. 98 Adopted:
Legislature eliminates all
restraints on residence-based
rating

Insurance Bureau Bulletin No. 97-03:

Calling review of insurance company
conduct “impractical,” Insurance
Commissioner issues companies
sweeping exemptions from all filings
unless the company is new to the state

--- 1997 ----- Credit Scoring loophole under
P.A. 514 becomes effective

1998

1999 ----- *Smith v. Globe Life:*
State Supreme Court rules
consumers cannot challenge
illegal company practices
under Michigan’s Consumer
Protection Act

2000

2001

2002

P.A. 664 Effective: ----- 2003

Legislature passes S.B 1213,
exempting insurance
companies from filings for
commercial lines of
insurance

2004

Rory v. Continental:

State Supreme Court sides with
insurance industry, ruling
policyholders get no relief from
courts, even if plain language
of insurance policy is unfair; case
involved denial of coverage to injured
policyholder who filed claim a year
after accident, since investigation of
other driver took a year and a
half; policy had one year statute
of limitations. -----

-----2005 -----Insurance Commissioner adopts
Rule prohibiting Credit Scoring

Industry sues state to avoid Rule;
Berry County Judge James H.
Fisher Grants industry’s request
for injunction; Judge re-instates
Credit Scoring

Insurance Commissioner Appeals
to State Court of Appeals;
Appeals Court takes no action on
case for 3 years, while Credit
Scoring remains in effect

2006
2007

**State Court of Appeals rules
Credit Scoring is illegal;
insurance industry appeals
loss to State Supreme Court;
appeal has effect of freezing
Credit Scoring in place until
the Supreme Court rules -----2008**

2009 ----- Most recent (January) filings from
state's largest insurers show rates
continuing to climb

2. Credit Scoring

Disguised as a “discount,” credit scoring is the insurance companies’ practice of using a policyholder’s record of paying household bills, as a significant factor in the policyholder’s premium cost. This Office strongly opposes Credit Scoring because it has nothing whatever to do with how the policyholder operates his or her vehicle. In Michigan, the practice was introduced in 1996 as an obscure loophole in the Insurance Code. Public Act 514 allows companies to use one’s credit history, occupation, level of education, and a host of other non-driving-related factors, in determining rates. When a policyholder applies for coverage, the company obtains this information (e.g. bill paying record, job, education), and based upon that information assigns the applicant to one of several “discount risk pools.” The company places the applicant in a preferred risk pool, where the best rates are offered, if the applicant has a high credit score, lofty job status, and/or a higher level of education.

The industry’s position is that Credit Scoring is an accurate barometer of who is more likely or less likely to file a claim at some point in the future. However, national experts have testified that, in reality, **Credit Scoring is, at its core, just a proxy for income.** [Source: Testimony of Eric S. Poe, COO, CURE Auto Insurance, May 21, 2008, U.S. House of Representatives, Subcommittee on Oversight and Investigations, House Committee on Financial Services].

For example, under Credit Scoring, a factory worker in Kent County who did not complete high school, will pay a premium rate that is two or three times more than a physician in Oakland County, with the same driving record.

Credit Scoring is based on the following disturbing premise: insurance companies believe that they have the right to use *any* policyholder attribute, in determining rates, as long as its actuaries can find a way to justify it statistically.

The insurance companies' premise begs some uncomfortable questions. What if the insurance company's actuary produces statistics which show that green-eyed policyholders are less likely to file a claim than blue-eyed policyholders? What if the actuary concludes that based on his statistics, Methodists should be in a preferred risk pool over Catholics? Does the company have a free hand to make the decision of where to draw the line? Do they acknowledge that there are any lines? Where does it end?

Rates should be based on the eight straight-forward rating criteria set forth in the Insurance Code, which focus on one's driving record:

- 1. Age of Driver, or Length of Driving Experience**
- 2. "Driver Primacy" (primary driver of the vehicle)**
- 3. Average number of Miles Driven, weekly or annually**
- 4. Vehicle Use (e.g. business, farm, pleasure)**
- 5. Vehicle Type and Safety Features**
- 6. Commuting Mileage (daily or weekly)**
- 7. Number of Cars Insured (per household)**
- 8. Amount of Insurance Purchased**

[Source: MCL 500.2111].

In 2005, the Insurance Commissioner promulgated rules which prohibited insurance companies from using Credit Scoring. The industry immediately sued the state to oppose the Commissioner's ruling. [Source: *Insurance Institute of Michigan, et. al. v. Commissioner*]. The case was filed in Berry County, seeking to continue using the Credit Scoring loophole. Berry County Circuit Judge James H. Fisher sided with the insurance companies, and overturned the Commissioner's ruling. The Commissioner appealed to the state Court of Appeals, which issued no ruling for three years.

Then, on August 21, 2008, a panel of the Michigan Court of Appeals ruled in favor of the Commissioner's authority to prohibit Credit Scoring. In a press release, Governor Granholm stated, "The decision by the Court of Appeals that allows OFIR to prohibit this unfair, illegal practice is great news and an important step in lowering insurance costs for many Michigan residents." [Source: Office of the Governor, Press Release, August 22, 2008].

The industry has appealed to the State Supreme Court, and the practice of Credit Scoring remains in effect until the Supreme Court issues its final ruling on the matter.

G. Protecting No Fault's Health Care Coverage for Michigan Families

Known as "Personal Injury Protection," or "First Party Coverage," the life-time health care benefits provided to policyholders under the No Fault law, are unique in the United States, and stand out as one of the great achievements in the American health care system. These benefits, a signature feature of the No Fault law, cover:

"All reasonable charges incurred for reasonably necessary products, services and accommodations for an injured person's care, recovery or rehabilitation."

[Source: MCL 3107(1)(a)].

Each Michigan auto insurer pays a surcharge, currently \$104, per earned car year, to the Michigan Catastrophic Claims Association ("MCCA"), to cover the most serious types of injuries. Insurers pass this \$104 on to their policyholders (as part of the premium), and are fully reimbursed, by the MCCA, for all claims exceeding \$440,000.

These health care benefits are literally a life line for injured drivers. Out of a total state population of 10.12 million, today there are approximately one million (1,075,000) Michiganians who have no health care coverage. Nationally, the uninsured figure is nearly 46 million. [Source: www.census.gov/prod/2008pubs/p60-235.pdf]. Health care expenses can add up in a hurry. At the Auto Insurance Affordability hearing in Grand Rapids, testimony was presented by Dr. Robert Kreitsch, a nationally prominent physician who specializes in treating patients with catastrophic injuries. He reported the following:

“Many of our survivors are three to six weeks in an ICU. That can be a quarter of a million dollars right there. And spinal cord injuries and brain injuries do not recover like broken bones or punctured lungs or torn arteries. The surgeons do tremendous jobs these days. Many people survive that would not have survived when I started my medical training. The trauma systems, the technology, the expertise, tremendous teams. But after you get out of the ICU, that’s just the beginning.”

[Source: Grand Rapids Auto Insurance Affordability Hearing, Transcript, p. 44-45].

The Harvard Medical and Law Schools conducted a joint study of health care related bankruptcies. It found that **bills from un-covered health care expenses are the leading cause of family bankruptcies in the United States.** The researchers found that over 75% of those forced into “medical bill bankruptcy” actually had insurance at the start of the illness. Furthermore, the majority of the bankruptcies involved middle class households. Of the filers, 56 percent owned a home. The same percentage had attended college. The principal author of the study, Harvard Medical School Professor David Himmelstein, stated “Unless you’re Bill Gates you’re just one serious illness away from bankruptcy. Most of the medically bankrupt were average Americans who happened to get sick.” [Source: “Illness and Injury as Contributors to Bankruptcy,” *Health Affairs Journal*, February 2, 2005; http://www.consumeraffairs.com/news04/2005/bankruptcy_study.html].

Therefore, at a time when Michigan families are facing mounting economic challenges, the health care benefits provided under Michigan No Fault are a source of life-saving comfort, and an aspect of the No Fault system that is not only working well, but is a nationally distinguished model.

And for all of these vital benefits, Michigan's No Fault health care coverage has been remarkably cost effective. Health care benefits make up only about 15 percent of a policyholder's total premium cost, compared to 65 percent for comprehensive and collision. The big money in auto insurance policies is in repairing or replacing a vehicle. Furthermore, Michigan's expenditures for No Fault health care coverage ranks right in the middle of the national pack, 22nd out of the 50 states, overall. [Source: NAIC]. And the annual assessment for catastrophic claims has held steady. Today's \$104 assessment is the same today as it was 18 years ago.

Some in the industry have proposed that Michigan should eliminate No Fault's full health care coverage, and cap benefits at \$50,000, like other No Fault states. Their proposal is called "PIP Choice." First, this Office believes that any "choice" of coverage offered to consumers should be (a) real, and (b) responsible. PIP Choice is neither. This industry proposal is outlined in S.B. 1278. The bill's fine print indicates that consumers would give up their full health care coverage under No Fault, for **zero** guaranteed savings, and that zero savings is guaranteed to be in effect for **zero** number of years. Second, it should be noted that the industry is divided on PIP Choice. At the Auto Insurance Affordability Hearing in Grand Rapids, a representative of the Michigan Association of Insurance Agents testified that it is opposed to this proposal. [Source: Grand Rapids Auto Insurance Affordability Hearing, Testimony of Scott Hummel, Transcript, p. 35]. Third, as indicated earlier in this Report, the liability portion of the premium is only about 15% of the overall premium cost. The focus should be on the major cost centers: collision and comprehensive, which make up approximately 65% of the premium cost. Fourth, there is no avoiding the reality that PIP Choice would result in:

1. **A Massive Tax Increase.** Accidents will still occur, so the uninsured cost will be passed on for re-imbursement under Medicaid, and
2. **A Diminution in the Quality of Care Delivered.** Medicaid does not cover many health care essentials for recovery.

Public testimony at the Auto Insurance Affordability Hearings made it crystal clear that no one expects to be in a serious car accident. But they do happen. Often in the blink of an eye. The overwhelming testimony at all 4 hearings was that the health care benefits under No Fault have been vital for Michigan families. This Office has concluded that as a clear cut policy choice, Michigan should fight to protect No Fault's health care coverage for its families.

H. Lessons from 50-State and District of Columbia Best Practices Review

This Office has worked with each of the 49 other states to prepare a comprehensive study of national best practices and reforms that are working to protect consumers in other parts of the country. For example, consumers can challenge unfair company rate hikes under Texas' progressive Consumer Protection Act. West Virginia has a strong law which prohibits companies from raising the rates of not-at-fault policyholders who submit claims. The State of Arizona has one of the strongest non-cancellation laws in the U.S. And Arizona appears to be the only state providing a grace period for auto insurance premium payments.

But of all the states, California stands out as being the most vigorously pro-consumer state, when it comes to auto insurance.

1. California Case Study

Fed up with soaring auto insurance premiums, California voters put "Proposition 103" on the ballot in 1988. Among other things, it provided:

- **Insurers must justify any rate changes prior to imposing higher rates**
- **A refund of \$1.2 billion to consumers to compensate for overcharging during the 1980's**
- **Standards for price gouging**
- **A 20% rate roll back**
- **Company rating data can be reviewed by consumers**
- **Consumers are allowed to challenge rate increase filings**

Despite intensive opposition from the insurance industry during the campaign, Proposition 103 passed. Afterward, the industry filed a flood of lawsuits to resist implementation of the ballot proposal. But the reforms were left largely intact by the courts, and in the 15 years since Proposition 103 went into effect, **California's** average annual premium **rates actually decreased by 7%**, while rates nationally have increased by 47%. By comparison, **Michigan's rates have increased by 69% during that period** of time. Between 1989 and 2004, California went from the second most expensive state for auto liability premiums in the U.S., to 21st. [Sources: State of California Department of Insurance; Consumer Federation of America; NAIC].

And notwithstanding dire admonitions from insurance companies that they would cease to do business in California, it turns out that the stability resulting from Proposition 103's pro-consumer reforms have also been good for business. More insurance companies are now operating in California, and are earning a higher profit margin there, compared to the national average. [Source: Companies earn an 11.1% profit margin in California vs. 8.5% national average; www.consumerwatchdog.org; State of California Department of Insurance].