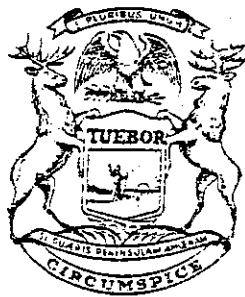


No-Fault Insurance After Three Years

A REPORT TO THE GOVERNOR



INSURANCE BUREAU
MICHIGAN DEPARTMENT OF COMMERCE

STATE OF MICHIGAN



THOMAS C. JONES
COMMISSIONER OF INSURANCE

WILLIAM G. MILLIKEN, Governor

DEPARTMENT OF COMMERCE

RICHARD K. HELMBRECHT, Director

INSURANCE BUREAU
P.O. BOX 30220
LANSING, MICHIGAN 48909

October 6, 1976

The Honorable William G. Milliken
Governor
State of Michigan
The State Capitol
Lansing, Michigan

Dear Governor Milliken:

I am pleased to transmit to you this report on no-fault automobile insurance on the third anniversary of its taking effect in Michigan. Michigan, through your leadership and that of the Legislature, was a pioneer in enacting the most comprehensive no-fault law in the nation.

In your statement of January 5, 1972, assigning high priority to the adoption of no-fault insurance, you expressed your hopes for a new system of reparations for the victims of automobile accidents as follows:

"The citizens of Michigan deserve a better system for compensating those injured in automobile accidents than exists today. Part of the problem lies in the insurance mechanism, which in turn is based on a legal system which did not contemplate the use of the automobile by nearly every citizen.

"In addition to delays and inequities, the present system of settling automobile accident injury claims is inefficient and expensive. Nearly 33% of the automobile bodily injury insurance premium dollar goes for attorneys fees. Valuable lawyers' time is spent on both sides of each claim. To these costs must be added the price to the taxpayers of the courts and juries, overburdened as they are."

I am pleased to report to you that no-fault has in fact fulfilled your hopes and the hopes of its many other supporters. No-fault auto insurance has provided Michigan's drivers and passengers with more benefits per premium dollar than the insurance system of any other state and has



The Honorable William G. Milliken
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assured that those benefits are distributed more promptly and equitably. This report supports that conclusion in every important aspect.

First, and most importantly, no-fault has resulted in more accident victims receiving compensation for their injuries and in the most seriously injured receiving more adequate compensation.

Second, no-fault has eliminated delays in the payment of legitimate claims. Before no-fault, 34% of the families suffering a serious injury or fatality were forced to use their own assets or to borrow funds to pay the costs associated with their accident. Now, that is not necessary.

Third, no-fault has enabled Michigan's citizens to coordinate their auto insurance benefits with other insurance benefits and thereby has created the potential for overall cost-savings in insurance premiums.

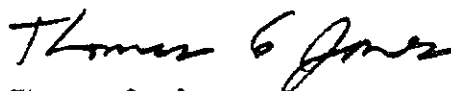
Fourth, and finally, no-fault has reduced the administrative and legal costs associated with auto accident insurance claims. Court cases have been significantly reduced, resulting in more premium dollars being available to pay benefits to people.

In summary, the record bears out that no-fault has been successful in righting the wrongs of the old tort liability system and in protecting the Michigan consumer. That fundamental improvements were needed in the tort liability system there can be little doubt. The old fault system systematically undercompensated the most seriously injured and overcompensated the least seriously injured. Those results were inequitable and wrong and could not be allowed to continue.

Fortunately, we have improved the auto insurance system without incurring the dramatic premium increases experienced by other states. In spite of overall rampant inflation, Michigan insurance premiums remained virtually level from 1971 until 1975. Since 1975, rate increases have averaged about 25 to 30%. Those increases are substantially less than states with other no-fault systems and than states which still have the fault system. In addition, those increases are far less than the 91% increase in automobile crash parts, and than the overall increase of 49% in medical care costs, the main things for which auto insurance must pay.

In short, I believe no-fault auto insurance represents a signal achievement for the people of our state, one of which you, the Legislature, and all of Michigan can be proud.

Sincerely,



Thomas C. Jones
Commissioner of Insurance

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EXECUTIVE SUMMARY

The Michigan no-fault automobile insurance law took effect on October 1, 1973. No-fault was an innovative approach to the problems of compensating people who were injured in auto accidents. Although the Insurance Bureau is still in the process of evaluating several aspects of the Michigan no-fault experience, after three years it is possible to make some observations of how well no-fault has solved the problems it was supposed to correct.

Michigan no-fault coverage provides unlimited medical and rehabilitation benefits, income replacement benefits of 85 percent of wages up to \$1,285 per month for as long as three years, survivors' income loss benefits of up to \$1,000 per month for a maximum of three years and funeral expense benefits of \$1,000. Income replacement benefits are tied to the cost of living.

No-fault is accomplishing four major objectives in compensating auto accident victims.

1. Payments are being made promptly and at a level related to the size of the loss. The tort liability system produced lengthy delays in payment, and legal costs accounted for as much as 30 percent of the judgments received. Because of the costs of going to court, small claims tended to be overcompensated and large claims tended to be undercompensated. Under no-fault, insurance companies pay claims promptly and adequately. Almost all claims are settled within 30 days.

Recent data indicates that over 30 percent of the catastrophe claims (claims in excess of \$25,000) now being paid under no-fault involved single vehicle accidents, which would generally not have been compensated. A high percentage of catastrophe claims involved brain damage or paralysis, and the average age of the claimants was 32. Under the tort liability system, many of these cases would have received nothing at all. For the others, payment would have been long delayed while lawsuits were filed and the cases took years to come to trial. Under no-fault, all their medical expenses are paid, and consideration is made for their lost wages.

Insurance companies have expressed concern over the cost of unlimited medical benefits. However, a

study by the National Association of Independent Insurers estimated that the cost of providing medical benefits for claims exceeding \$25,000 is only \$8 per car.

2. Suits have been eliminated except in cases of permanent serious disability or disfigurement or death. This contributes to quick settlement of claims and a reduction in legal and administrative costs.

The Michigan Association of Insurance Companies found that in the first two years of no-fault experience, bodily injury liability claims decreased by 87 percent while no-fault personal injury claims increased by 161 percent. Suits and nuisance claims have been eliminated, while people who suffered injuries were able to receive compensation for their costs.

3. Auto insurance benefits have been coordinated with government mandated insurance programs such as social security and workers' compensation. Eliminating duplication makes better use of premium dollars. Consumers also have the option of saving further by coordinating their auto insurance with their private health insurance coverage. If all consumers coordinated their health coverage, the savings would be \$80 to \$100 million per year.

The Insurance Bureau has estimated that if the courts decide that no-fault benefits cannot be coordinated with other disability and survivors' benefits, the cost to the insurance system could be as much as \$25 million per year.

4. The number of automobile bodily injury liability claims filed has fallen sharply, resulting in less congestion in the court system and shifting premium resources from legal costs to benefit payments. The number of auto negligence cases filed in Michigan Circuit Court between June, 1975 and June, 1976 were 20 percent fewer than the number filed the previous year.

In Michigan, the no-fault concept has been extended to cover property damage as well as bodily injury. This part of the act is facing an uncertain future, as the Wayne County Circuit Court ruled against the abolition of tort liability for property damage and the appellate court concurred. The case is being appealed to the Michigan Supreme Court.

One of the advantages of no-fault collision insurance is that the cost of the insurance is related to the value of the car being insured, and drivers of older, low value cars can drop collision insurance altogether if they wish.

For the first two years of no-fault, average Michigan auto insurance rates remained unchanged. In the latter part of 1975, auto insurance premiums began to rise, due primarily to inflation. Medical costs, crash parts, auto repair costs and other expenses covered by insurance have increased dramatically in recent years. While the savings from no-fault insurance have not been enough to insulate Michigan drivers from the increase in auto insurance costs being experienced throughout the nation, there is evidence that Michigan rates have risen less than the national average while offering more comprehensive benefits.

It is difficult to compare the Michigan experience with that of other states because no other state no-fault law is as comprehensive as Michigan's. Many supposedly no-fault states have such low limits for prohibiting suits that they are effectively still tort liability states.

The criteria for measuring no-fault's performance are rigorous enough that it is not necessary to look at other states to see if no-fault has been a success in Michigan. Payment to injured parties has been prompt, benefit levels have increased, the proportion of premium dollar paid out for legal costs has dropped and duplication of insurance coverages has been reduced. The preliminary judgment is that the consumer has been well served by no-fault.

INTRODUCTION

No-fault auto insurance took effect in Michigan on October 1, 1973. The no-fault concept was a response to the poor performance of the tort liability system with its long payment delays, its inequitable payment structure and its high legal costs.

In his State of the State address in January 1972, Governor Milliken expressed his support for no-fault legislation, adding that the people of Michigan deserved a better system for compensating those injured in automobile accidents than existed at that time. He urged legislative enactment of a program that would provide basic personal protection benefits promptly and without regard to fault.

Michigan was one of the first states to pass a no-fault auto insurance law and is one of only two states to extend the no-fault system to property damage as well as to bodily injury. The limitation of suits to allow legal action only for serious disability, disfigurement or death makes the Michigan statute a model for serious, effective no-fault legislation.

Three years of experience with no-fault auto insurance in Michigan have shown that a no-fault approach can be successful in remedying the faults of the tort liability system as applied to auto accidents. Prompt, regular compensation which is related to the level of injuries suffered can be achieved through a rational insurance system. Administrative and legal costs can be reduced and the proportion of premium dollar paid out as benefits can be increased.

Commissioner Van Hooser suggested four criteria which an optimal system of automobile insurance should meet:

1. Compensation of injured persons adequately, promptly, and without regard to fault for medical expenses, wage loss and rehabilitation expenses.
2. Reduction or elimination of the nuisance value of small claims.
3. Reduction of the duplication and overlapping of benefits within the automobile insurance system and between the automobile insurance system and other systems.
4. Reduction or elimination of some of the other frictions and inefficiencies of the present system, such as the adversary relationship between insurer and injured party, court congestion, litigation expense, and overhead expense.

In October 1972, after several years of study and intense debate, the Michigan Legislature enacted, and Governor William G. Milliken signed, the most comprehensive no-fault automobile insurance law in the nation.¹ The law was implemented on October 1, 1973. Almost three years have elapsed since the implementation. Since the Insurance Bureau is presently analyzing several aspects of the law, this report must be a preliminary evaluation. The Bureau plans to complete a more thorough assessment in the future. Nonetheless, it is still possible to draw some conclusions now as to how well the goals set forth at that hearing in 1971 have been met.

II

SUMMARY OF THE MICHIGAN NO-FAULT COVERAGE

The mandatory or compulsory coverage for owners of motor vehicles in Michigan consists of three parts--Personal Injury Protection (PIP), Residual Bodily Injury and Property Damage Liability Insurance, and Property Protection Insurance (PPI).

Statutory first-party, no-fault PIP coverage offers broad benefits and includes the following:

1. Unlimited medical and rehabilitation benefits.
2. Work or income loss benefits of up to \$1,285 per month for a maximum period of three years.
3. Dependent survivor loss benefits of up to \$1,000 a month for a maximum period of three years.

4. Replacement service benefits of up to \$20 per day for a maximum period of three years for disabled accident victims and dependent survivors of death victims.
5. Funeral and burial expense benefits of \$1,000.

The PIP benefits are required by statute to be coordinated with governmental benefits, e.g. social security benefits and workers' compensation benefits.²

It should be noted that income loss benefits have increased under the statutory cost-of-living provision from the original \$1,000 per month to a current level of \$1,285.³ Potential aggregate income loss benefits per person have therefore increased from \$36,000 to \$46,260, an increase of 29 percent in three years.

Eligibility for PIP benefits is broad. In addition to protecting insured motorists, coverage extends to pedestrians and occupants of motorcycles and other vehicles when accidents involve automobiles. Even the family of an uninsured owner of an automobile is covered. Persons from other states injured in an accident in Michigan are eligible for PIP benefits if their insurer is licensed in Michigan or, if unlicensed, has voluntarily certified the coverage. Out-of-state persons are also covered if they are hurt in a Michigan car or as a pedestrian in Michigan. Michigan residents also are protected for PIP benefits while traveling in any other state and Canada. Exclusions from PIP coverage include the owner of a vehicle who does not purchase the mandatory coverage and who is injured in his own vehicle, a person injured in an automobile that he has stolen, or a non-resident who does not have coverage that has been certified by his insurer.

Residual Bodily Injury Coverage

One technical question has arisen with respect to the third-party residual liability coverage. Section 3131 of the Act states "In this state this insurance shall afford coverage for automobile liability retained by Section 3135." Section 3135 provides that persons remain subject to tort liability for non-economic losses due to injuries resulting in death, serious impairment of bodily function, or permanent serious disfigurement. The two sections, when read together, might be interpreted by someone to mean that residual liability coverage must be unlimited if the injury occurs in Michigan, but not in another state. On the other hand, Section 3009 clearly states that mandatory coverages need only be within the dollar limits set forth in that section, and the Insurance Bureau believes that this is a correct reading of the intent of the law.

To clarify the statute, a bill has been introduced in the Michigan Legislature.⁴ The bill would make clear that the residual liability coverage which must be purchased need not be unlimited, but that instead the dollar limits of Section 3009 are applicable to that coverage as they are to other coverages.

Property Protection Insurance

The third portion of the mandatory coverage in Michigan is Property Protection Insurance (PPI). Property Protection Insurance benefits are payable without regard to fault to third parties for damage to tangible property, including damage to parked vehicles. The statutory policy limit for damage from any one accident is \$1 million.

Tort liability with respect to accidents in Michigan involving damage to automobiles has been abolished for insured car owners. This means that each driver in an accident is liable for the damages to his own car regardless of who was at fault, and drivers are not liable for damages to the other party's automobile. First party collision coverage which pays the driver for damages to his own car is not mandatory but is offered by all auto insurers operating in Michigan, and several options are available.

The available coverages fall into three categories. Regular collision insurance is offered, which pays the owner of a damaged vehicle his loss after the subtraction of a stated deductible amount. Limited collision pays the loss only if the driver of the damaged vehicle was not at fault, and again after the subtraction of a stated deductible. Broadened collision is like regular collision, but no deductible is subtracted from the amount paid if the driver of the damaged vehicle was not at fault.

Litigation

The no-fault statute has been subject to constitutional litigation. In Shavers v Kelley⁵ the Wayne County Circuit Court upheld the tort restrictions of the act for personal injury but ruled invalid the abolition of tort liability for property damage. The intermediate appellate court affirmed the trial court⁶ on these issues. In addition, several other issues are involved. The case is currently on appeal to the Michigan Supreme Court.

In another recent case, O'Donnell v State Farm,⁷ the Michigan Court of Appeals ruled unconstitutional the provision in the act requiring coordination of Personal Injury Protection benefits and governmental benefits. The economic impact of these decisions, if allowed to stand, will be discussed later in this report.

III

THE PERFORMANCE OF NO-FAULT

Goal 1: Prompt and Adequate Compensation of Injured Persons

The Michigan no-fault law is fulfilling its primary objective of guaranteeing prompt, sure, and more adequate recovery of injury costs, including compensating many victims who would have been either under-

compensated or received no benefits under the prior liability system. Studies undertaken by the Department of Transportation in the late 1960's and early 1970's indicated that less than 50 percent of the economic loss of seriously injured auto accident victims was recovered prior to no-fault. Legal costs amounted to as much as 30 percent of all tort recovery. Delays of up to five years were suffered by persons in critical need of prompt remuneration. The court system became hopelessly overburdened with the enormous volume of automobile accident suits. These problems and similar ones have been greatly mitigated or eliminated by the existence of no-fault.

A recent study by the National Association of Independent Insurers (NAII) of catastrophic medical claims in Michigan offers striking evidence of the success of no-fault. A catastrophe medical claim was defined as an injury resulting in medical expenses exceeding \$25,000. The study included the results of NAII member companies insuring approximately 43 percent of the private passenger automobiles in Michigan. The study covered the period from October 1, 1973, to December 31, 1975. A total of 443 claims in which NAII insurers have established reserves for medical expenses of \$25,000 and over were reported for the time period. Aggregate reserves established for these claims amounted to over \$32 million with 21 percent of the claims reserved for more than \$100,000. Table 1 summarizes such claims.

TABLE 1

Unlimited Medical No-Fault Claims in Michigan
October 1, 1973-December 31, 1975, NAII Companies
Distribution by Size of Reserve
\$25,000 and Over

<u>Reserve</u>	<u>No. of Claims</u>	<u>% of Total</u>	<u>Amount of Reserve</u>	<u>% of Total</u>	<u>Amount Pd. to Date</u>
\$100,000 & over	91	21%	\$17,660,902	54%	\$3,127,019
\$50,000-\$99,999	102	23	6,344,882	20	2,077,193
\$25,000-\$49,999	<u>250</u>	<u>56</u>	<u>8,296,985</u>	<u>26</u>	<u>4,424,449</u>
Total	443	100%	\$32,302,769	100%	\$9,628,661

If all insurers writing automobile insurance in Michigan are considered, the number of victims with current catastrophic medical claims very likely exceeds 1,000.

This data provides insight into some of the difficulties involved in analyzing the effect of no-fault. Of the approximately \$42 million of large claims represented in the sample, only \$9.6 million has actually been paid. Over 75 percent of the amount (\$32 million) is represented by reserves which are estimates of future liability. To the extent

these estimates prove to be incorrect, the experience figures reported will be distorted.

The data also provides information on the unlimited medical feature of no-fault. While only 91 of the reported claims are expected to generate costs in excess of \$100,000, they are expected to cost almost \$21 million. This amounts to an average cost in excess of \$237,000 per claim. The NAII data were further analyzed by type of accident and injury. Table 2 itemizes the catastrophic medical claim cases by type of accident.

TABLE 2

Unlimited Medical No-Fault Claims in Michigan
October 1, 1973-December 31, 1975, NAII Companies
Distribution by Type of Accident
\$25,000 and Over

<u>Type of Accident</u>	<u>No. of Claims</u>	<u>Percent</u>	<u>Amount of Reserve</u>	<u>Percent</u>
Multi-Car	100	38%	\$ 7,329,920	34%
Single Car	82	32	8,784,533	40
Motorcycle	40	15	2,558,313	12
Pedestrian	<u>38</u>	<u>15</u>	<u>2,971,986</u>	<u>14</u>
Total	260	100%	\$21,644,752	100%

Table 2 reveals that 32 percent of the catastrophe claims involved single vehicle accidents. These victims would have gone uncompensated under the prior tort system, or at most, would have received modest amounts of medical payments, typically a maximum of \$1,000. The average reserve for such single vehicle cases under no-fault exceeds \$87,000.

The distribution of catastrophic medical claims by type of injury and the average age of accident victims is shown in Table 3.⁸

TABLE 3

Unlimited Medical No-Fault Claims in Michigan
October 1, 1973-December 31, 1975, NAII Companies
Distribution by Type of Injury
\$25,000 and Over

<u>Type of Injury</u>	<u>Number</u>	<u>Amount of Reserve</u>	<u>Average Age (Years)</u>
Brain Damage	61	\$ 8,115,484	25
Quadriplegic	12	1,906,449	30
Paraplegic	20	2,881,974	24
Other	<u>256</u>	<u>12,182,458</u>	<u>34</u>
Total	349	\$25,086,365	32

The seriousness of the injuries and the relative young average age of the accident victims (age 32) vividly demonstrates the need which is being met by no-fault. Some insurers have expressed concern that the cost of unlimited medical benefits may be prohibitive. While a detailed study by the Insurance Bureau has not been completed, it is interesting to note that on the basis of its study the NAI estimates the total cost of medical claims exceeding \$25,000 in Michigan is \$8 per car.

Perhaps the most dramatic impact of the Michigan no-fault law has been the provision for comprehensive rehabilitation. Critically injured persons are assured immediate access to all necessary rehabilitation treatment. A substantial number of cases are already in or scheduled to enter the best rehabilitation centers in the country, and several insurers have established their own rehabilitation units. An effective rehabilitation program is not only essential in returning seriously injured persons to productive lives, but also reduces future medical and wage loss claims. An excerpt from a recent letter to the editor of a Michigan newspaper from a family relating their experience is illustrative:

"... No fault has been a godsend to our family over the past 28 months. At that time our 18-year old son was very seriously injured in a collision between his motorcycle and a car. The no-fault insurance our boy carried on his car at the time has helped us keep our heads above water.

"I wouldn't attempt to list all the expenses it has paid, but I will name a few. It paid for his wheelchair, crutches, leg braces, shoes and even for the labor attaching the braces to his shoes. It paid for the driver's training to enable our son to get his driver's license, with the use of hand controls, as his legs were paralyzed in the mishap. Also it paid for the hand controls on his car and pick-up truck.

"Our agent even gave me to understand I could submit a bill for caring for my son after he returned home from an eight-month stay in the hospital. Needless to say I didn't feel that was necessary; having him home was payment enough. No fault picked up the medical bills that our medical and hospital insurance didn't quite cover. And, when necessary, it will also pay 85 per cent of lost gross earnings.

"No fault cannot save and restore lives, but it certainly helped our son over what could have been a pretty rough rehabilitation."⁹

Goal 2: Reduction or Elimination of Nuisance Claims

The Michigan no-fault law retains tort liability or the right to sue only in cases of death, serious impairment of bodily function or permanent serious disfigurement. The theory behind this limitation is that less of the benefits paid out would be used for legal fees and that injured persons would receive more prompt and adequate compensation. Minor cases could be settled quickly without expensive and protracted legal proceedings.

A complete evaluation of the effectiveness of the so-called threshold in the law in eliminating minor injury tort liability cases is premature. However, evidence is growing that the threshold has resulted in a significant decline in the number of minor tort liability claims and liability suits filed.

Data collected by the Michigan Association of Insurance Companies (MAIC) from its members indicate a substantial reduction in private passenger automobile bodily injury liability claims since 1973. Liability claims decreased from 163,369 in 1973 (includes three months of no-fault) to 21,553 in 1975--a decline of 87 percent. The shift in the system from tort liability claims to first party no-fault Personal Injury Protection claims is also evident. PIP claim frequency increased from 23,925 in 1973 to 61,178 in 1975, an increase of 161 percent. The MAIC companies write approximately 50 percent of the private passenger automobile insurance business in Michigan.

Thus, the evidence to date indicates that the goal of reducing or eliminating the costs associated with small, non-serious claims while still compensating those who suffer injury is being met by no-fault.

Goal 3: Reduction of Duplication and Overlapping of Benefits

Commissioner Van Hooser highlighted the problems of duplicating and overlapping of auto insurance and other benefits in 1971:

"Such duplication increases the cost of the present system and encourages overutilization of medical services and malingering. Much of the duplication in the present system is beyond the control of the consumer and arises out of the conflict between systems designed to pay benefits directly to the injured without regard to fault (like sick leave, group health insurance, personal accident and health insurance, automobile medical payments insurance, social security and medicare) and the liability insurance system which is designed to pay benefits to third parties injured through the negligence of the insured. Much of the duplication could be reduced by making automobile insurance excess over existing coverages. If the duplication is not reduced or eliminated, it should at least be subject to greater control by the consumer so that the consumer will have a corresponding control over his costs."¹⁰

In order to reduce duplication, the Michigan Legislature mandated coordination of automobile no-fault PIP benefits with other collateral governmental benefits such as workers' compensation, social security, etc. This provision, while assuring adequate compensation, reduces aggregate automobile insurance premiums. As previously mentioned, the Michigan Court of Appeals has ruled in the O'Donnell¹¹ case that this provision is unconstitutional. Actuaries of the Insurance Bureau have estimated that if the O'Donnell decision stands, the added costs to the automobile insurance system may be as high as \$25 million per year. Moreover, the decision would have a major premium redistributive effect.

In 1974, the Michigan Legislature acted to give automobile insurance consumers more control over duplication of no-fault benefits and other private sources of accident and health insurance. A new section, Section 3109(a), was added requiring all automobile insurers to offer an option, at reduced premiums, of deductibles and exclusions for PIP benefits reasonably related to other health and accident coverage. Potential aggregate no-fault premium savings, if all insured elected the option, were estimated by the Insurance Bureau to be 80 to 100 million dollars per year.

Under guidelines promulgated by the Insurance Bureau, all automobile insurers are offering "coordinated coverage" or wrap-around options whereby PIP benefits are secondary and supplementary to other private health and accident insurance. Premiums for the coordinated option for PIP coverage are reduced 50 percent resulting in an average reduction of 10 to 15 percent in the total auto insurance premium depending on coverage elected, classification, etc.

Precise data on the utilization of the coordination option by insureds is not yet available. However, a survey of eleven insurers writing a substantial portion of automobile insurance in Michigan was conducted in April 1975 by the Consumer Affairs Department of the United Auto Workers.¹² The eleven companies estimated the percentage of their total policies and renewal business which was coordinated with other private accident and health insurance. The percentage that was coordinated by the eleven companies varied from a low of 5 percent to a high of 80 percent. Significantly, several companies reported that the percentage of policyholders electing the option on new applications and renewals was increasing. For example, one insurer estimated that 45 percent of its total Michigan business was coordinated but 80 percent of its new business was coordinated. A recent informal survey confirmed that this increase was continuing.

The UAW study noted that utilization of the coordinated option was likely to be significantly affected by consumer education concerning the option, and the efforts made by the company or its agents to disclose and explain the option. The UAW study concluded:

"Consumers like and use the option when available to reduce the direct cost of auto insurance. The data clearly indicates that (except in a couple of instances) a significant proportion of consumers utilize the option. The proportion of new applicants using the option is especially high.

"The high usage is especially significant since consumers do not reject but must specifically ask for the option on forms provided by insurers."¹³

The UAW survey was completed ten months after all insurers were required to offer the option. Not all policyholders would have been offered the option during that period because of the staggered renewal policy dates of insurers.

Goal 4: Reduction or Elimination of Frictions and Inefficiencies of Tort System

One of the major, but controversial, objectives of no-fault was to reduce litigation and thereby reduce court congestion. This objective is clearly being realized. Table 4 records the number of automobile negligence cases filed in circuit courts in Michigan from 1971 through June 1976. The declining trend is evident and the decrease of cases filed of nearly 20 percent from 1975 is very impressive. It should also be recognized that the circuit court data include many cases that are based on accidents filed before the effective date of the no-fault law, which makes the case reduction even more impressive. It is reasonable to expect a further decline in automobile negligence suits in the future with corresponding savings accruing to the Michigan auto insurance consumer and taxpayer. The important no-fault objective of reducing the costs related with court congestion will continue to result in important costs reductions.

TABLE 4

Michigan Circuit Court Auto Negligence
Cases Filed, January 1971-June 1976

<u>Period</u>	<u>Auto Negligence Cases</u>	<u>Percentage Change</u>
Jan. 1971-Dec. 1971	11,295	
Jan. 1972-Dec. 1972	13,118	+16.1
Jan. 1973-Dec. 1973	12,952	- 1.3
June 1973-June 1974	12,580	- 2.9
June 1974-June 1975	12,582	+ 0.0
June 1975-June 1976	10,079	-19.9

Summary

A full analysis of the efficiency of the Michigan no-fault system has not been completed. Sufficient time has not elapsed since the effective date of the law. Automobile insurers experienced no interruption in operations in the change-over to no-fault; they continue to handle liability claims and tort suits arising out of the previous liability insurance system which results in added costs to the system which will wash out as time goes on. It may be noted, however, that a recent study of the Florida no-fault law--a law which is much more modest than that of Michigan--the benefits-to-premium ratio increased markedly.¹⁴ Thus, the no-fault system in Florida was found to be more cost-efficient than the old tort system, i.e. consumers received more benefits per premium dollar under no-fault. There is reason to believe that the Michigan no-fault system is even more efficient than that of Florida because of its substantially higher tort liability threshold.

IV

MICHIGAN EXPERIENCE WITH NO-FAULT PROPERTY DAMAGE

Perhaps the most controversial aspect of the Michigan no-fault law has been the property damage provisions. The Insurance Bureau has received consumer complaints concerning the inability to hold negligent drivers "responsible" for collision damages. However, the Insurance Bureau also received numerous complaints under the previous property damage tort liability system. Under the previous system, only about one-third of the automobile collisions resulted in payment under the property damage liability provisions, and most of those were the result of subrogation, where the insurance company pays the collision insurance claim of its own insured and then sues the party at fault for reimbursement.

The Bureau has also received complaints from innocent insureds who have had to bear a deductible for collision damages. These complaints have arisen largely from insureds whose insurers do not offer broadened collision coverage insuring such deductibles. The majority of insurers operating in Michigan are covering such losses. However, from the consumer's point of view, insuring "first dollar" car collision losses may be inefficient. Whether offered under a third party property damage liability insurance system or a first party collision system, deductibles provide savings to the consumer. By carrying deductibles on first party inverse liability (the limited collision option), the individual policyholder may reduce his or her total premium.

Major savings in premiums were not expected in the shift from the property damage liability insurance system to a first party collision insurance system. The transfer to a single system of compensating for collision losses has undoubtedly produced some efficiencies, e.g. savings resulting from the elimination of subrogation, but an analysis of the cost efficiency

of the no-fault property damage system in Michigan has not been undertaken. A Florida study found that the no-fault property damage system previously in effect in Florida, which was only a partial system, was still more efficient than the property damage liability insurance system.¹⁵

One significant result of the Michigan first party no-fault collision insurance system has been the redistribution of the premium burden for auto collision damages. First party collision insurance is priced in relation to the value of the vehicle. Owners of higher priced vehicles in Michigan pay relatively larger premiums than owners of older, lower valued vehicles. Thus, more equity was introduced into the system. The "ability to pay" principle is absent in the pricing of liability insurance. Owners of older cars in Michigan also have the option of not purchasing collision coverage. Under the previous system of financial responsibility, owners could not avoid the purchase of property damage liability insurance.

V

RATE LEVELS UNDER NO-FAULT

During the public debate on no-fault prior to its adoption by the Michigan Legislature, many people were given to believe that a no-fault automobile insurance law would result in lower premiums. Some supporters cautioned that average rate levels in the state under a no-fault program relative to the old tort system would be difficult, if not impossible, to predict. The general belief of the insurance industry was that overall costs would not change significantly, but that expenditures would be shifted from legal fees, claims adjustment costs and other liability related expenses to better compensation for seriously injured auto accident victims. The point of a no-fault system is to use more of the premium dollar to provide a higher level of benefits to injured people. The Michigan no-fault plan provides for unlimited medical and rehabilitation benefits, wage loss replacement features for disabled accident victims or their survivors in case of death, and funeral expenses. This was a substantial improvement over the tort system which historically has done a poor job of providing for seriously injured auto accident victims. And the potential for rate reduction still remained, depending on how much of the premium dollar was left after the no-fault claims had been met.

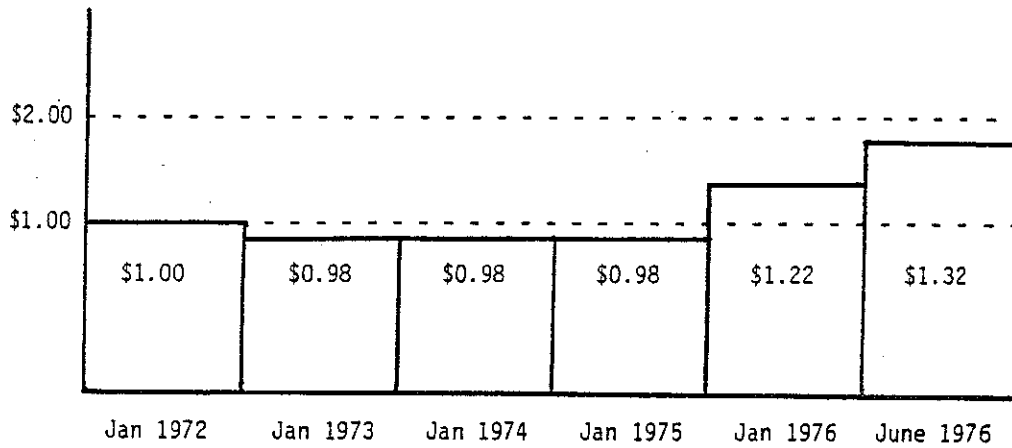
Exhibit I on page 14 shows how rate levels in Michigan and countrywide have changed over the past several years. It shows that rates in Michigan, and in other states, did not change much for the three-year period from January 1972 through January 1975. It also shows that rates began to jump significantly both in Michigan and nationwide in 1975.

By the middle of 1976, rate levels were continuing to rise throughout the country, including Michigan. Rate levels in October 1976 are 25 percent

to 30 percent higher in Michigan than the levels of January 1971. Most of these rate increases have occurred over the past 1 1/2 years. Rates in other states have been rising even more rapidly. The reasons for all of these events are complex, but as later exhibits show, the socioeconomic factors affecting auto rates, including the double digit inflation of 1974 and 1975 and the energy crisis appear to have played a major role in the size and timing of these increases. The enactment of the no-fault law appears to have had the effect of shifting system costs without changing the level of costs significantly.

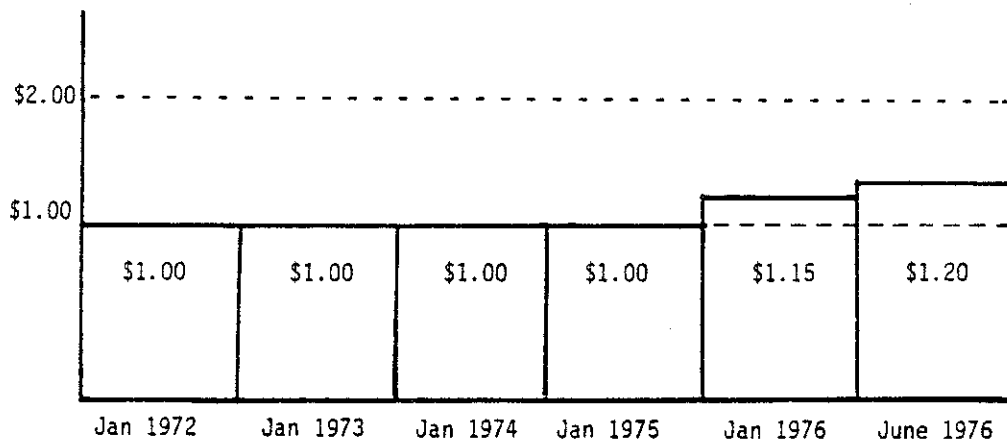
EXHIBIT I

INCREASE IN AUTO PREMIUMS
(Actual National Average)



For every dollar spent in the United States on auto insurance premiums in January 1972, one dollar and thirty two cents was spent to provide the same level of coverage in June 1976. (Bureau of Labor Statistics, CPI Components)

INCREASE IN AUTO PREMIUMS
(Michigan Estimated Average)



For every dollar spent in Michigan on auto insurance premiums in January 1972, one dollar and twenty cents was spent to provide the same level of coverage in June 1976. (Michigan Insurance Bureau)

An obvious indicator of the effect of a change in the auto reparations system such as that which no-fault brought about is the effect on insurance company experience. The table below gives a graphic demonstration of the experience of insurance companies over the past few years, and illustrates the shift in premium costs from bodily injury to property damage.

TABLE 5

MICHIGAN AUTOMOBILE INSURANCE EXPERIENCE

Coverage	Items	1975	1974	1973	1972
Private Passenger Bodily Injury and Liability	Earned Premiums	397,862,756	427,266,611	487,474,738	447,659,721
	Incurred Losses	287,755,553	260,728,431	307,797,450	322,475,318
	Loss Ratio	.723	.610	.631	.720
Private Passenger Property Damage	Earned Premiums	393,136,366	386,014,310	280,515,189	258,412,377
	Incurred Losses	324,754,478	265,685,355	186,852,340	154,643,864
	Loss Ratio	.826	.688	.666	.598
Total Auto Private Passenger	Earned Premiums	790,999,122	813,280,921	767,989,927	706,072,098
	Incurred Losses	612,510,031	526,413,786	494,649,790	477,119,182
	Loss Ratio	.774	.647	.644	.676

The statewide loss ratios for all automobile insurance coverages are seen to be somewhat stable for the years 1972-1974 at a level which is generally regarded as "breakeven." In other words, companies made a normal operating profit in those years. The loss ratios for bodily injury and property damage coverages show the same pattern. In 1974 and 1975 the effect of the no-fault law is beginning to show in the premium figures with the bodily injury portion dropping and the property damage portion rising, both absolutely and as a percentage of total earned premiums.

Since 1974 was the first full year that no-fault was in effect, it would seem that the effect of the change in law in the first year was negligible. While costs in terms of loss ratios didn't rise even though there was inflation, 1974 was also the year when the energy crisis had its major impact. Cost increases associated with inflation were offset by changes in driving patterns forced on Michigan citizens by the energy crisis.

Table 6 below shows the impact of the energy crisis in reducing the number of miles driven by Michigan drivers and the subsequent beneficial effects of fewer accidents, injuries and deaths. The 55 mile per hour speed limit also helped to reduce accidents and fatalities. Safety devices added to cars in recent years also deserve part of the credit for fewer fatal accidents.

TABLE 6
MICHIGAN AUTO ACCIDENT TRENDS

Year	Deaths	%Δ	(000) Injuries	%Δ	(000) Accidents	%Δ	(Billion) Mileage	%Δ
1968	2388	+11.7	160	+6.0	306	+2.2	48.0	+6.6
1969	2487	+4.1	175	+9.3	331	+8.4	50.9	+5.9
1970	2177	-12.5	162	-7.8	314	-5.3	53.2	+4.4
1971	2152	-1.1	158	-2.5	314	+0.1	54.8	+3.2
1972	2258	+4.9	179	+13.5	360	+14.5	57.8	+4.1
1973	2213	-2.0	170	-5.3	351	-2.5	58.5	+1.1
1974	1875	-15.3	141	-17.0	325	-7.4	55.7	-4.6
1975	1811	-3.4	147	+4.4	334	+2.7	56.3	+1.1

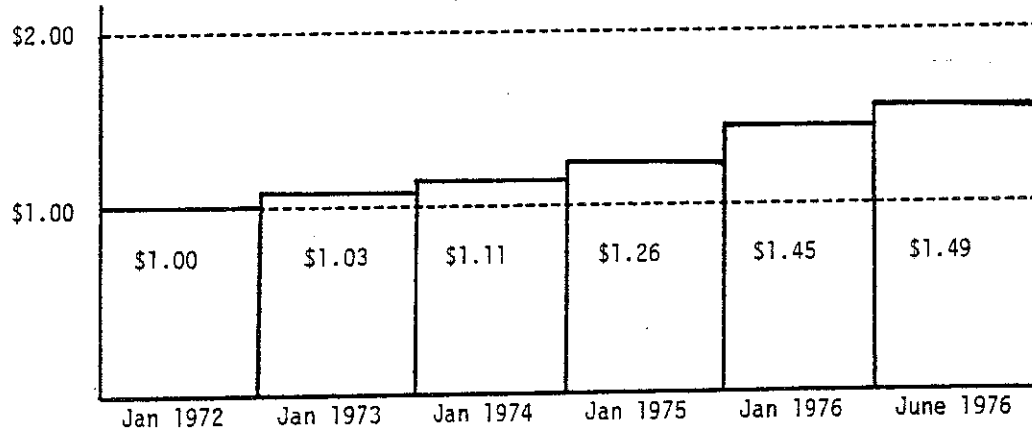
It should be noted that the number of motor vehicles registered in Michigan rose from about 4.7 million in 1970 to 5.7 million in 1975. The number of licensed Michigan drivers during the same period increased from 5.2 million to 6.0 million.

Previously, Table 5 showed that in 1975 Michigan insurance companies suffered losses substantially higher than those in previous years. Since the energy crisis had abated somewhat in 1975, there was now no major offsetting influence to inflationary forces. Since premium levels charged by insurance companies were quite stable through the first half of 1975, the outflow of the companies began to exceed the inflow. Michigan insurers were not alone in this experience.

Inflation has hit the auto insurance industry just as it has hit every other industry. There are many variables that affect automobile premiums and several of the components have shown significant increases. Yet when increases in auto premiums are compared to the overall Consumer Price Index, even assuming a premium lag in cause and effect, it is apparent that the relative cost of insurance has dropped in Michigan.

Four major variables affecting the cost of automobile insurance--medical care, auto repair, maximum work loss benefit, and crash parts--are shown in Exhibits II through V on the following pages. It can be seen that the cost of these items has risen dramatically since 1972. The range has been from 29 percent for maximum work loss benefits to 91 percent for crash parts. These increases in the cost of items paid for through insurance contracts have played a major role in bringing about the recent increases in auto insurance costs.

EXHIBIT II
MEDICAL CARE INFLATION
(Detroit Average)

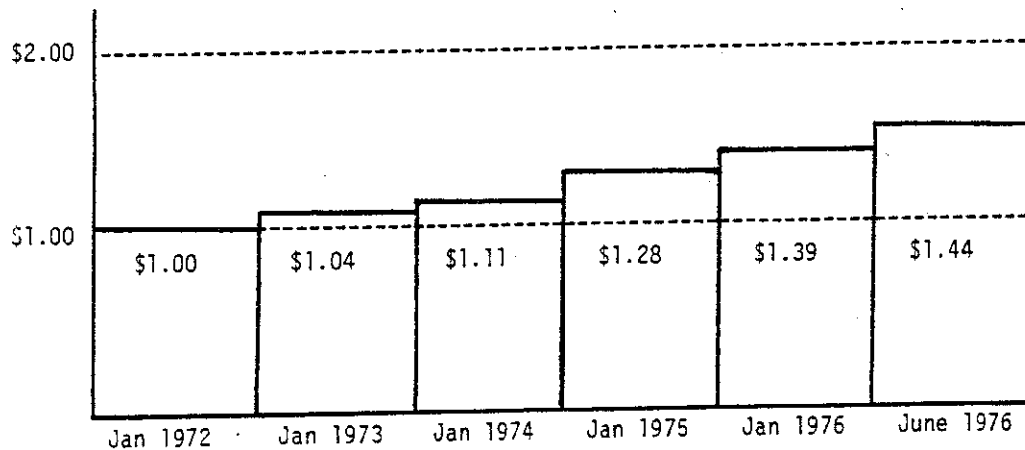


For every dollar spent on medical care in January 1972, one dollar and forty-nine cents had to be spent in June 1976 to provide the same care.

Source: Bureau of Labor Statistics, Detroit CPI Components

EXHIBIT III

AUTO REPAIR AND MAINTENANCE INFLATION
(National Average)



For every dollar spent on auto repair in January 1972, one dollar and forty-four cents had to be spent in June 1976 to provide the same repairs.

Source: Bureau of Labor Statistics

EXHIBIT IV

MAXIMUM WORK LOSS BENEFIT

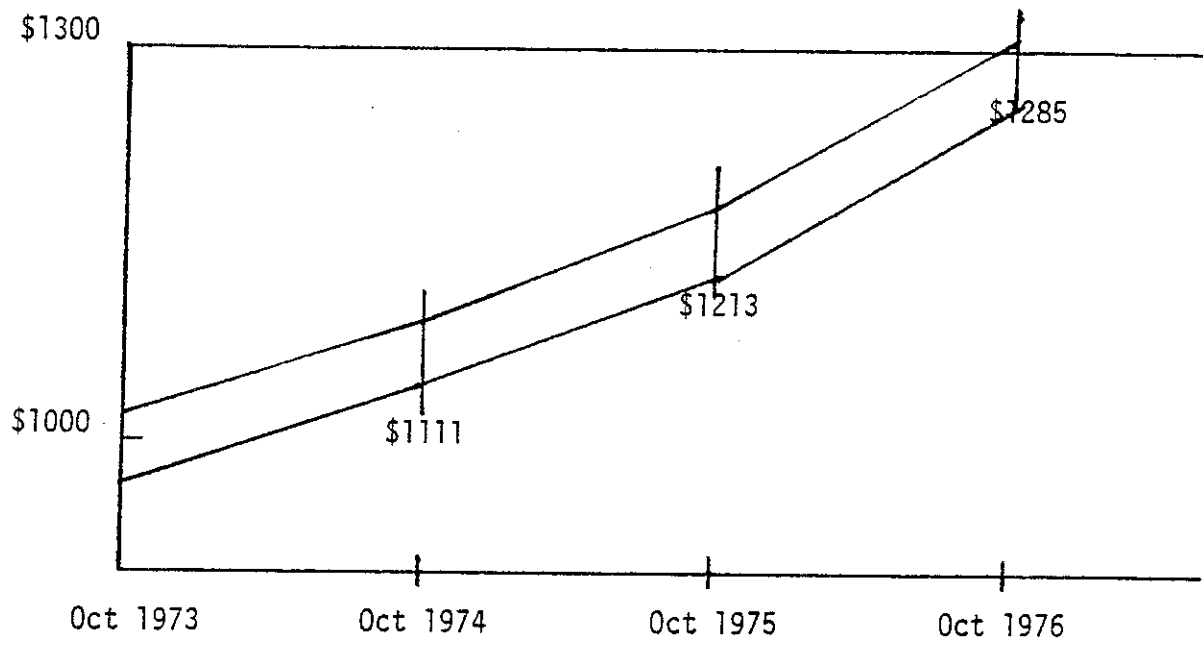


EXHIBIT V

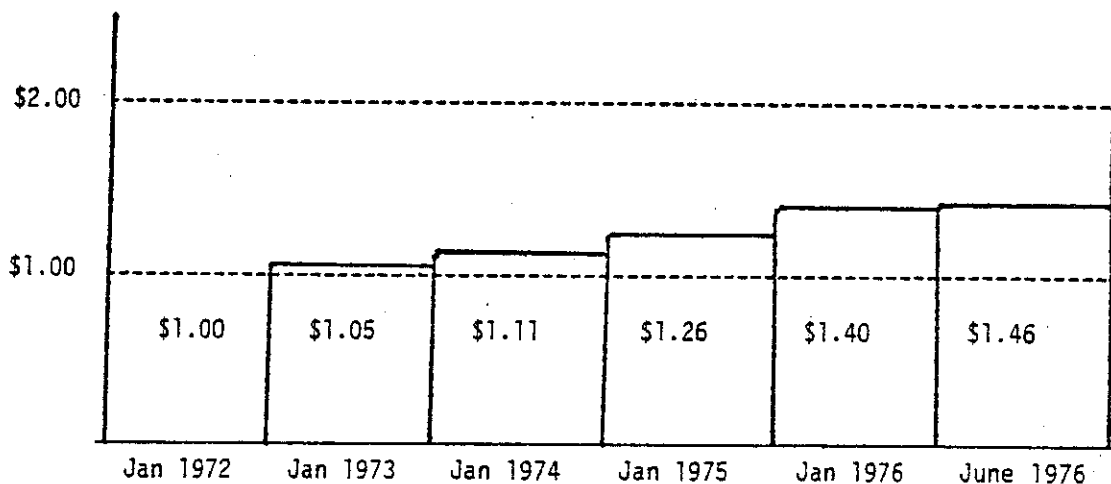
INDICES RELATIVE TO AUTOMOBILE REPAIR COSTS

Year	Auto Repair Index ^a	New Tire Price Index ^a	New Car Price Index ^a	Crash Parts Price Index ^b	Consumer Price Index ^a
1963	91.6	91.5	103.4	85.9	91.7
1964	92.8	91.9	103.1	88.1	92.9
1965	94.4	94.2	100.8	93.0	94.5
1966	96.2	96.4	99.1	95.5	97.2
1967	100.0	100.0	100.0	100.0	100.0
1968	102.9	105.6	102.7	107.1	104.2
1969	112.2	109.7	104.3	114.8	109.8
1970	120.6	113.1	107.4	117.0	116.3
1971	129.2	116.3	112.0	133.6	121.3
1972	135.1	115.9	111.0	140.9	125.3
1973	142.2	110.3	111.1	146.2	133.1
1974	156.8	118.4	117.5	175.9	147.7
Jan. 1, 1975	167.0	125.3	124.9	199.6	155.4
July 1, 1975	176.2	125.6	127.0	215.5	160.6
Jan. 1, 1976	182.5	128.8	134.0	249.2	166.3
July 1, 1976	189.0	130.2	134.5	255.7	170.1
Jan. 77				272.4	174.3
July 77				282.1	182.6

^aSource: Bureau of Labor Statistics, U.S. Government, BLS indices for 1963--1974 are based on average prices over the entire year.

^bSource: State Farm Crash Parts Price Index. The indices for years 1963--1974 are based on prices as of July 1 of each year. Prices are determined directly from Crash Part Price Manuals, without any adjustments.

EXHIBIT VI
EFFECTS OF INFLATION ON
INSURANCE COMPANY EXPENDITURES



Combined effect of medical care inflation, auto repair inflation, and wage inflation on insurance company expenditures. (Estimated)

Basically, insurance premiums have gone up because the things insurance premiums pay for have gone up. There is no evidence that premiums have risen more in no-fault states than in tort liability states, but there are strong indications that the level of benefits paid per premium dollar in no-fault states is higher than in other states.

VI

MICHIGAN'S EXPERIENCE RELATIVE TO OTHER STATES

Michigan's no-fault law was passed before very many other states had any experience with the effect of such a law on system costs. Many speculative studies had been done in the late 1960's and 1970's, but the results were at best inconclusive. Since the no-fault laws which have been passed in various states are not uniform, and most have not been effective long enough to provide mature data, there is as yet little hard evidence as to the real effect of no-fault on system costs.

Studies were done after a year's experience with no-fault in the states of Massachusetts and Florida. While the data was not of sufficient maturity to provide conclusive results, several interesting insights were derived. In Massachusetts, a rate reduction of 15 percent was mandated with the advent of no-fault. Experience during the first year was so favorable that a retroactive premium refund of 27.6 percent was granted after the results were reviewed.

The 15 percent rate reduction was based on the assumption that the number of claimants would rise 30 percent under no-fault but that the average cost would drop 36 percent. In the first year, however, instead of rising 30 percent claims actually dropped 40 percent according to one study. The average claim dropped 20 percent as opposed to the assumption of 36 percent. As a result, experience the first year was much better than expected, but for reasons no one had foreseen. The first year experience was a result of conditions apparently unique to the state of Massachusetts.

Florida also reduced rates 15 percent at the inception of no-fault. Florida is typical of most no-fault states in that it has a very low threshold of \$1,000 in medical expenses above which suits are allowed. The result in these states is that small claims are inflated to cross this threshold and allow attorneys to sue for additional "pain and suffering" damages. A low threshold for tort liability essentially cancels out the benefits which should result from a no-fault system. Much of the adverse publicity which no-fault has received is based on experience in these states which have some elements of a no-fault law but which are really still tort liability states.

Much national publicity has recently been focused on no-fault and its effect in states which have passed no-fault laws. A good deal of the information has been biased and often blatantly misleading. A major problem is that no precise definition exists as to what a "real" no-fault law is. Confusion arises when comparing a state like Michigan which has a very comprehensive law with a state which has only the rudiments of a law. It is generally acknowledged that effective cost containment requires that tort actions be minimized in all but the most serious of situations.

The importance of this information in evaluating Michigan's no-fault law is that it demonstrates some of the difficulties which can arise in predicting the cost effect of the passage of a no-fault law. No overall rate changes were made when Michigan's law took effect, unlike many states which mandated large rate reductions, and the data after the first year shows that, in fact, the pre-no-fault levels were about right in the aggregate to support the significantly higher benefit levels guaranteed under no-fault.

VII

CONCLUSION

Based on the criteria of what an automobile insurance system ought to do, it can be said that Michigan's no-fault law has been a success. It has increased the portion of premiums paid out to accident victims as benefits. It has reduced payment time to within 30 days of a claim. And it has substantially improved the proportion of economic losses suffered by accident victims which are recovered through insurance.

In addition, general savings to the public have occurred through reduced congestion in the courts and insurance resources have been put to more efficient uses through the coordination of auto insurance with both private and governmental health insurance. The pairing of no-fault benefit coverage with social security insurance benefits and workers' compensation is another good concept in the Michigan no-fault law, but one whose future depends on the outcome of current court action.

Michigan has adopted a no-fault law most like the model legislation proposed in Congress for national no-fault insurance. The Michigan statute is more comprehensive than that of any other state. It has fulfilled the needs of Michigan consumers for protection against serious economic losses from medical expenses and loss of wages without unduly raising premiums. In fact, premiums in Michigan have risen only 25-30 percent over the past five years, in contrast to an average 35-40 percent increase for the nation as a whole and despite the fact that the Consumer Price Index has climbed by more than 40 percent over the same time period.

What the future holds for the concept of no-fault automobile insurance is not clear. Most of the states which have supposedly adopted no-fault plans have actually retained all of the disadvantages and inequities of the tort system, which works most poorly for those most seriously injured. In Michigan, there is a strong possibility that the property damage portion of no-fault will be found unconstitutional. Fortunately, the main advantages of no-fault and the heart of the improved benefits to people lie in the bodily injury provisions of no-fault, and these have been upheld by the courts. If the coordination of benefits provisions are struck down by the Supreme Court, auto insurance costs will rise substantially and some major adjustments will have to be made to the no-fault statute, but the no-fault concept will not have to be, and should not be, abandoned.

FOOTNOTES

NO-FAULT INSURANCE AFTER THREE YEARS: A REPORT TO THE GOVERNOR

- ¹ Mich. Comp. Laws Ann. Sec. 500.3101-500.3179 (Supp. 1975)
- ² Id. Sec. 3109(1)
- ³ Id. Sec. 3107(b)
- ⁴ Senate Bill 1266, 1976 Regular Session, Michigan Legislature
- ⁵ CCH Auto L. Rep. 91 8303 (Mich. Cir. Ct., Wayne County, 1974)
- ⁶ Shavers v. Attorney General, 65 Mich. App. 355, 237 N.W. 2d 325 (1975)
- ⁷ 70 Mich. App. , N.W. 2d No. 25429, rel'd. (August 4, 1976)
- ⁸ The number of total claims in Table 3 does not agree with the total number of claims in Table 1 since not all companies reported the type of injury
- ⁹ Letter to the Editor, Bernice Weber Dorr, Grand Rapids Press, February 27, 1976
- ¹⁰ Russell Van Hooser, "Statement on Automobile Insurance." Before a Joint Meeting of the Senate Commerce Committee and House Insurance Committee, June 7, 1971
- ¹¹ See footnote 7
- ¹² UAW Consumer Affairs Department, "Utilization of Coordination Option in Michigan," unpublished, April 1975
- ¹³ Id. p. 3
- ¹⁴ Joseph Little, "No-fault Auto Reparation in Florida: An Empirical Examination of Some of its Effects," 9 Mich. J.L. Reform 1 (1975)
- ¹⁵ Id., p. 61. The property damage provisions of the law were held unconstitutional by the Florida Supreme Court. Kluger v. White, 281 So. 2d 1 (Fla. 1973)