The Michigan Catastrophic Claims Association:

Does it offer a way to achieve affordable health insurance coverage for all Michiganians?

Issue Brief - Michigan Legal Services
Winter 2009
Anti-Poverty Advocates

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Purpose

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It is the purpose of this white paper to generate discussion around the policy option of creating a universal, catastrophic medical claim system for the State of Michigan. Our experience with the Michigan Catastrophic Claims Association [MCCA] has generally been positive. It is the belief of MLS that that experience should be examined carefully to determine whether it suggests a solution to the problem of costly health insurance and would lead to expanded coverage for the residents of the State.

Background

Health care costs were a major issue in the last political campaign. Bringing those costs down will continue to be a priority on national, state, and local agendas. As the cost of health insurance and health care rises, so do the number of uninsured and underinsured. Besides the number of uninsured there are thousands of people who are underinsured and even more who have good insurance, who go into debt or become bankrupt, with high cost co-pays for high cost procedures .

The problem was once again outlined by a recent report from the Center for Healthcare Research and Transformation, a newly formed collaboration between the University of Michigan and Blue Cross Blue Shield of Michigan. The Center found that the gaps in health care coverage are widening rapidly. More than 11 percent of Michigan's population, or about 1.1 million people, did not have health insurance in 2007, and more privately insured residents are paying a bigger share of their medical costs through higher co-payments and deductibles. The state's percentage of uninsured children, although still low compared to other parts of the country, jumped to 6.2 percent in 2007, up from 4.7 percent a year earlier. In addition, safety net providers such as federally funded health centers and free clinics also were lacking in some of Michigan's most medically underserved areas. The growing lack of coverage is further straining Michigan hospitals, which saw their unpaid medical bills pile up in 2007 as uncompensated care increased by 68 percent since 2004. Hospitals in Wayne County were among the hardest hit, with the number of unpaid medical bills in 2007 almost double those of hospitals in neighboring counties. Nearly 1 in 4 Michigan residents had some form of public health insurance in 2007. 53.4 percent of the state's private employers offered health coverage in 2006, down from 63.9 percent in 2000, a decrease of over 1% annually. As reported in the Detroit News; January 26, 2009.

The trend away from employer sponsored health insurance and toward government sponsored insurance is clear from this data. And yet we have not been able to create a financing system that provides affordable coverage even when almost 25% of Michigan residents are already covered by a public plan.

We urgently need a strategy and model to bring coverage to all Michigan residents.

One approach, unique to the State of Michigan, may be useful. The Michigan Catastrophic Claims Association [MCCA] has been providing reinsurance to auto insurers for 30 years for very high cost medical claims, usually requiring nursing home or in-home care over an extended period of time. MCCA has a long experience base and has been financially sustainable over the long term. Michigan is the only state in the USA that has an organization like the MCCA. This is a proven model.

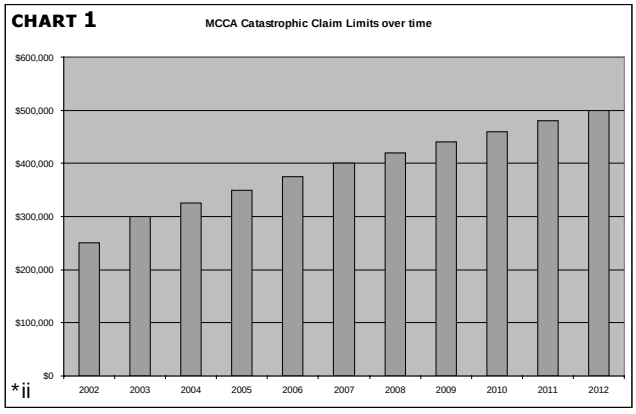
Key factors in making this model work are that the auto insurance industry is mandated to participate and accepts the system. The industry actually asked for the MCCA to be created in 1978.

An analysis of the MCCA as a potential model to address the broader Michigan health coverage needs is the focus of this white paper. Quite simply, the questions we are asking are, "If we take the highest risk, highest cost consumers out of the private health insurance market, will the price of health insurance drop for those left in the marketplace? If we use the MCCA as a model and implement catastrophic coverage for all Michiganians will that system be self sustaining And, if so, will health insurance premiums drop enough that they will become affordable to a larger portion of the population?"

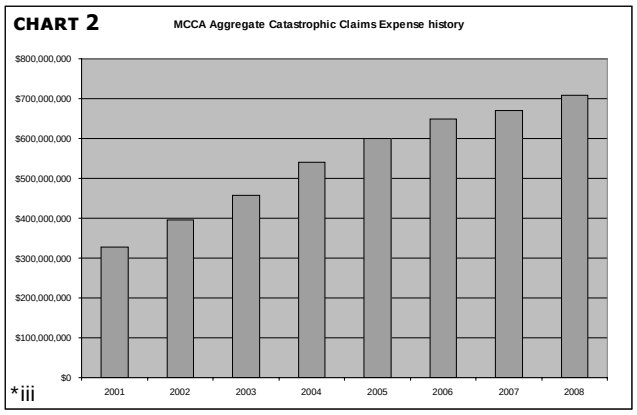
If the premiums do fall enough, then the number of uninsured and underinsured should also drop and perhaps we could achieve coverage for everyone.

MCCA Description*i.

The MCCA has been reimbursing auto insurance carriers in Michigan since 1978. It was established by amending the "No-Fault Act" to spread the risk of high cost medical claims related to auto accidents. The auto insurance industry identified that it needed a mechanism to spread the risk of high cost claims, since Michigan is the only state in the USA that has no 'cap' on medical expenses related to auto accidents. The definition of 'catastrophic' is financial. Today 'catastrophic' means a cost of $440,000 or more over an accident victim's lifetime. If the covered person's care over time costs more than that amount the MCCA will reimburse the insured's insurance carrier for any amounts over $440,000. There are no upper limits and the benefit is lifetime. See Chart 1 for the changing financial definition of 'catastrophic' from 2001 into the future.

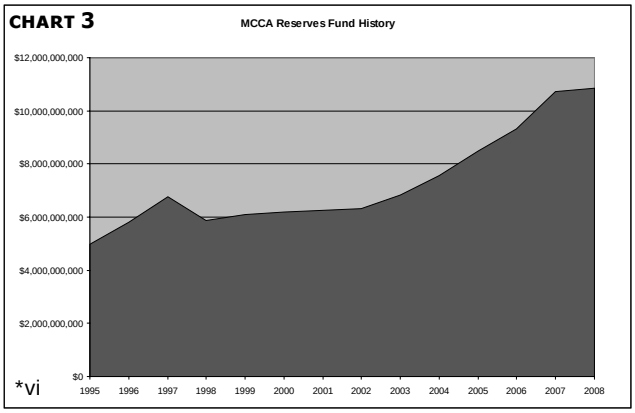


The actual amount spent each year for these medical claims varies but has never exceeded $710,000,000 for a given fiscal year. (see chart 2.)



While these amounts seem large they represent around 1% of all health care expenditures in the State of Michigan. The Commissioner of the Office of Finance and Insurance Regulation (OFIR) reports that since 1979 21,900 claims have been paid with 11,408 'live' claims as of March 2008. Another 1,100 claims are expected in 2009 *iv. The medical costs paid are mostly for home or institutionalized care. [63.8% of claims are home care payments; hospital care; or other institutional care.] *v.

MCCA, however, has decided to create an asset base, or reserve fund, of 15 times their annual expenditures on medical care. These funds are invested in stocks and/or bonds and earn income for MCCA. See Chart 3 for the amount in the asset base as of fiscal year end for each year listed.



*vi

Those MCCA Reserve fund assets could cover all the uninsured people in Michigan for 2 or more years. *vii.

About 1.1 million in Michigan have no health insurance. A recent and more comprehensive study found that 850,000 were uninsured. The Governor estimated we could cover 500,000 people for around $600 million in her as yet not implemented "Michigan First" program. Even using the average cost for a privately provided health insurance product the cost for covering the uninsured would be about $5 billion. The reserves from MCCA could be a large down payment on coverage for everyone in Michigan.

The only year the asset base dropped was 1998 when the Republican Governor, John Engler, and Democratic Legislature, working together, determined that the MCCA asset base was too large. Note that the assets in 1998 were $5.8 billion and today are over $10 billion. MCCA's Board agreed to return $1.2 Billion to policy holders. Each auto policy was reimbursed at $180 per car. The very next year MCCA posted a gain [profit] of over $200 Million.*viii.

MCCA's justification for such a huge asset base to protect such a small number of claims is that they are in a 'high risk business' since,

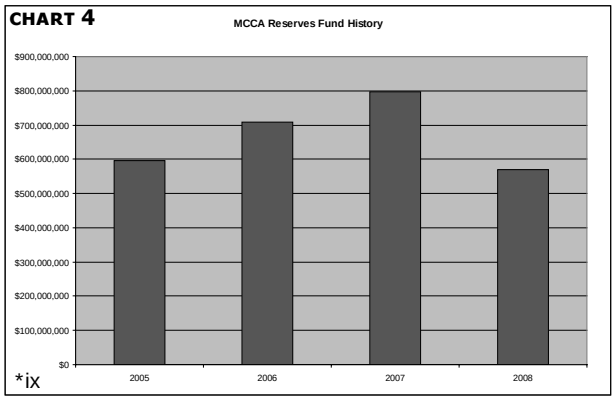
"The Company [MCCA] is liable to reimburse member insurers for all covered expenses incurred by qualifying claimants through their respective lifetimes without any monetary limit. As such the company's current liabilities could extend to payments more than one hundred years into the future. This extremely long potential payment tail, coupled with uncertainties in estimating payments that are far into the future, means that any estimate of the Company's liabilities is subject to substantial uncertainty." Statement of Actuarial Opinion , 2006, 2007, and 2008, Page 2 of 7.

[The reasonableness of assuming that those who benefit from MCCA's product will survive a century after suffering a severe traumatic injury is certainly suspect.]

The actual cash flow for this 'high risk' venture belies the size of the risk. Every year the MCCA Board determines what Michigan Auto policy holders will pay per car. In effect they levy a tax on each person who owns a vehicle. The amount of that tax varies wildly from year to year. The Premium changes each year based on investment income; cost of medical care; and the assumed need to build up the 'asset base.' See Appendix A for premiums charged. Note that in 1998 and for a few years thereafter the MCCA Board assessed very little but relied almost entirely on investment income to pay the medical losses. The asset base continued to grow even then. (see chart 3.)

MCCA Description

When we add in the investment income to the premiums and deduct the expenses of Chart 3 it is easy to see how the "asset base" built up to such a large amount. See Chart 4. This shows the 'profit' or 'excess' of income over medical costs each year.



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The investment income was substantial in each year. The growth was so dramatic that an investment consultant was retained " . . .in 2006 due to the continued growth of the portfolio, the increasing complexity of the asset mix, and to provide additional resources to the investment committee [of the Board]." . . ."The portfolio is very large and can generate significant investment income." *x. This could lead to decreased assessments for vehicle owners. The amount of money in the asset base will next be reported in the Summer of 2009 and it is reasonable to anticipate losses given the economy. Even if MCCA lost 50% of its asset base, that reserve fund is still excessive.

This growth in the asset base occurred despite the fact that the MCCA can do nothing to curb medical cost inflation. Over the last several years that inflation has been several points over wage inflation every year but one. MCCA continues to prosper and build bigger and bigger assets despite doing nothing on the 'cost' end of the equation.

In US Fidelity v. MCCA, 481 Mich 862 (2008) the Supreme Court of Michigan granted leave to appeal to it after the Court of Appeals found that MCCA must reimburse its insurance company members at the amount expended, not at a 'reasonable' rate. The statute appears to say that MCCA can do no bargaining with care providers for fees at a reduced rate, as companies like Blue Cross do. In January 2007 the Plan of Operation [see below] was amended for the only time in its history to allow some cost control measures at the discretion of the Board. The purpose is to join in the effort to reign in medical inflation.

The Legislature did grant limited oversight power to the Insurance Commissioner. *xi. MCCA is subject to all the reporting, loss reserve, and investment requirements of the commissioner to the same extent as would a no-fault insurer and the commissioner may visit the MCCA at any time and examine any and all of the association's affairs. There is however no enforcement authority. Nor is MCCA subject to the Freedom of Information , nor the Open Meetings Acts. There is little transparency in the MCCA Board's actions even though those actions have a major impact on consumers of auto insurance. For example, there is no requirement for an insurer member of MCCA to inform their customers what the amount of MCCA 'tax' assessment is for their policy.

The Act requires that a "Plan of Operation" [POO] be written and approved by the Commissioner. A basic outline of the structure of the MCCA is included in the statute – 5 Board members from 5 of the largest sellers of Auto coverage; the Commissioner sitting ex- officio; the structure being a non-profit unincorporated association but with no duties under the state's corporate regulations. The law requires all No-Fault Insurers active in Michigan to participate in the MCCA or lose their rights to sell auto coverage in the state.*xii. See Appendix B for more detail on the Plan of Operation.

Though the law allows the Commissioner to appoint the 5 member board the criteria are clearly set out by statute allowing the Commissioner no real discretion. The Board members must represent at least 40% of vehicle coverage sales in the state. Given that membership is limited to insurers, only vehicle insurance company representatives have any voting power on the 5 member board.*xiii.

Conclusion & Analysis

It is obvious that the MCCA is a successful program. It pays 11,000 or more claims a year and covers every one in Michigan who operates a motor vehicle. Building up a significant cash reserve, while continuing to pay claims, is no small feat.

This accomplishment should be noticed. Should the MCCA experience be used as a model for a catastrophic claims system for everyone in Michigan? From an ethical perspective, why should a small sub-set of 11,000 people be treated to the highest priced care, while the rest of us struggle to pay for coverage?

If we can create a system patterned after the MCCA to cover large medical claims regardless of their cause it would change the actuarial formula for assessing risk for health insurers; lead to lower premiums for non-catastrophic medical claims; and make non-catastrophic coverage more affordable for employers and individuals. The number of underinsured and uninsured should decrease. The marketplace for health coverage would become more certain and the people of Michigan more secure in their health insurance. At least they would not lose catastrophic coverage even if they lost a job or a spouse. That coverage would be their right.

If we are to adapt the MCCA model to provide Catastrophic Coverage to all Michigan residents we suggest these reforms:

1. Require all health insurers to participate in an MCCA style Catastrophic Claims program as a condition of doing business in Michigan;

2. Expand the definition of Catastrophic Claims covered to any such medical claim regardless of cause;

3. Lower the definitional amount to a more reasonable figure;

4. Require that the new, broader in scope MCCA is subject to the Freedom Of Information and Open Meetings Acts;

5. Require the new governing body to include consumers and all stakeholders;

6. Establish regulations that would;
- *a. Set actuarial rules for reserves;*
- *b. Require health insurers to lower their premiums in exchange for the benefit of the new catastrophic claims program; and*
- *c. Control Medical costs for catastrophic claims.*

Appendix A

Period	Pure Premium	Surplus/Deficit	Admin	Assessment
7/78 – 6/79	3	0	0	3
7/79 – 12/79	6.28	5.4	0	11.68
1/80 – 12/80	6.36	(.36)	0	6
1/81 – 12/81	7.14	(.58)	.2	6.76
1/82 – 12/82	6.64	(.81)	.1	5.93
1/83 – 12/83	7.55	(2.12)	.1	5.53
1/84 – 12/84	8.24	(2.44)	.11	5.91
1985	10.55	1.4	.1	12.05
1986	11.24	3.07	.09	14.40
1987	15.77	6.81	.09	22.67
1988	24.41	8.10	.09	32.60
1989	33.44	10.12	.09	43.65
1990	48.12	18.37	.15	66.64
1991	68.33	32.50	.17	101.00
1992	77.69	32.77	.12	110.58
1993	90.43	28.14	.12	118.69
1994	98.71	16.89	.12	115.72
1995	98.07	(1.24)	.12	96.95
1996	87.53	(15.06)	.10	72.57
1997	62.03	(47.19)	.10	14.94
1998	63.87	(58.37)	.10	5.60
1999	56.31	(50.81)	.10	5.60
2000	52.30	(46.79)	.09	5.60
2001	61.53	(47.21)	.09	14.41
2002 [6 months]	71.05	0	.10	71.15
02-03	68.90	0	.10	69.00
03-04	79.30	20.80	.10	100.20
04-05	95.93	31.21	.10	127.24
05-06	116.43	25.17	.10	141.70
06-07	113.48	23.75	.10	137.33
07-08	106.63	16.42	.10	123.15
08-09	96.06	8.32	.20	104.58

Appendix B

Plan of Operation:

The Plan of Operation [PO] approved shortly after the enactment of the law establishing the MCCA defined membership in the MCCA as any insurer selling No-Fault coverage under MCL 500.3101 and 3103. Voting power of a member is based on the number of 'vehicle years' insured. The largest seller of insurance receives the most voting power. Voting power is defined in section IV.(h)

Each year an annual meeting is held where the Board members determine if changes need to be made in the PO; what the rates for MCCA coverage for the coming year shall be; and if changes in the contracts between members and the MCCA or other contractual obligations need to be altered.

Premiums from MCCA are calculated by determining the estimated expenses for a year – medical claims, legal fees, and administrative overhead - and dividing that gross amount by the "Written Insurance Years" in effect dividing by the number of vehicles insured. The Premium determined is billed on our insurance invoices and passed through to the MCCA by our own vehicle insurer.

Section 9.08 allows any surplus to be redistributed to the members. Given the amount of "surplus" that has built up over the years this is an important provision.

Section 13.05 allows the MCCA to buy its own "reinsurance." That is, MCCA may buy insurance to reimburse it for claims it pays. The audits reviewed by the author reveal no 're-insurance' policy has been purchased by the MCCA. Under 16.02 and a Committee structure set up under 14.01 which includes Actuarial, Investment, Claims and Audit committees.

Section 20.01 incorporates the statute – MCL 500.3104 – as part of the plan so that amendment of the statute appears to automatically amend the Plan of Operation. The Plan itself may be amended under Section 21.01 by majority vote of the Board; approval of the membership with voting based on number of vehicles insured in the state; and the approval of the Commissioner. This is the process that was followed for the sole amendment to the plan in 30 years.

Appendix C

Reforming MCCA as an automobile insurance catastrophic claims program

If MCCA were to remain intact as it presently is we recommend that it be reformed in some major ways. Though a successful program it does suffer from several weaknesses.:

1. The definition of 'catastrophic' is too high and needs to be lowered;
2. The Board needs to have consumer and stakeholder representation as it is presently totally controlled by insurers;
3. There is very little transparency so the MCCA Board should be subject to the Open Meetings Act and the Freedom of Information Act;
4. Because the MCCA is a not-for-profit organization not subject to tax it should be required to contribute to the community as part of its mission some substantial amount each year as not-for-profit hospitals are required to do;
5. Regulate the amount of the asset base [reserve fund] and reform the 'risk' basis to a more reasonable time into the future than 100 years;
6. Require member insurers to report the amount of the MCCA 'tax' or 'assessment' to its policy holder in some standardized fashion;
7. Establish regulations as to how a member insurance corporation may treat the 'reserves' of the MCCA in their accounting; and
8. Establish regulations to control medical cost inflation such as are used by the Bureau of Workers' Disability i.e. a 'cost containment' system.

Michigan Legal Services & Acknowledgements

Michigan Legal Services

MLS has been in existence for almost 30 years, advocating for workers and particularly the poor. Besides health care policy work MLS has an extensive housing program fighting hundreds of tax foreclosures every year and a program that tries to solve legal problems of the homeless. MLS helped develop the water policy for the City of Detroit and has received press recognition for its work in foreclosure, water access, and health care.

Acknowledgements

This issue brief was written by Gary A. Benjamin as staff person at MLS. Several people have read and offered advice in this project including Marjorie Mitchell, President of the Michigan Universal Health Care Access Network, and Richard Nowakowski, Director of the Wayne County Four Star Program. The Boards of Directors of MichUHCAN and MLS have been supportive and a special thanks to Marilyn Mullane for her support as MLS's Executive Director as well as Dave Sinclair of Sinclair Marketing Group, who gifted design services.

ENDNOTES

*i. - History from "Financial Examination of MCCA" by OFIR, 2006, page 2. Statute
*ii. - Data from MCCA filings with OFIR
*iii. - Data from 2005, 2006, and 2007 audit reports.
*iv. - 2006 report page 13.
*v. - Data taken from MCCA filings with OFIR; particularly 5 year summary dated 6/30/05
*vi. - Estimate based on conversation with DCH staff and Governor Granholm's "Michigan First" plan which would have covered half a million people.
*vii. - Press release dated 9/15/99; Treasury analysis of 11/13/98
*viii. - Chart created by author from data from MCCA filings with OFIR.
*ix. - See fn 1; pages 13 and 14 of 2006 "Financial Examination"
*x. - See MCLA 500.
*xi. - See MCLA 500.
*xii. - See MCLA 500.
*xiii. - This section information taken from the Plan of Operation.