

NO-FAULT AUTOMOBILE INSURANCE REFORM

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4397 as enrolled

Sponsor: Rep. Jason M. Sheppard

House Committee: Insurance [Discharged]

Senate Committee: Committee of the Whole

Complete to 6-4-19

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4397 would amend the Insurance Code to amend sections amended by Enrolled Senate Bill 1 and to add new sections that differ only slightly from identically numbered sections added by Enrolled Senate Bill 1.¹ Compared with corresponding sections in Enrolled Senate Bill 1, House Bill 4397 includes corrected citation numbering and editorial (i.e., not substantive) differences. House Bill 4397 also includes an effective date of July 1, 2020, for provisions in sections 2111f (rate filings/reductions), 3009 (liability policies), and 3135 (tort liability for vehicle damages). Other differences between the bills are described below.

Section 3107c as added by Enrolled Senate Bill 1 would apply PIP coverage options to rental car companies that are self-insurers. House Bill 4397 does not include that provision.

Section 3107d as added by Enrolled Senate Bill 1 contains a provision concerning a policy to which a PIP health coverage benefit opt-out applies that describes what would happen if a person lost requisite health coverage and was in an accident. House Bill 4397 contains a clause clarifying that the description would apply to an accident during a 30-day period for restoring or replacing health coverage.

Section 3109a as amended by Enrolled Senate Bill 1 would provide an exclusion from PIP health coverage benefits for insurance policyholders with certain other health or accident coverage. Under House Bill 4367, section 3109a would provide the following:

For a policy issued or renewed after July 1, 2020, if a person selected the \$250,000 PIP health benefit coverage limit, the insurer would have to offer an exclusion related to *qualified health coverage*. All of the following would apply to the exclusion:

- If the insured had other health or accident coverage that does not exclude or limit coverage for injuries related to motor vehicle accidents and that has an annual deductible of \$6,000 or less per individual and if his or her spouse and any relative living in the same household had *qualified health coverage* that would cover injuries occurring as a result of a car accident, the premium for PIP health benefits payable under the policy would have to be reduced by 100%.
- If a member of the household covered by the policy had *qualified health coverage* that would cover injuries occurring from a car accident, but not all household members had that coverage, the insurer would have to offer a reduced premium reflecting reasonable anticipated reductions in losses or expenses. The share of the reduction attributable to any person with health or accident coverage would have to be 100%.
- An excluded person would not be eligible for any PIP benefits under the policy.

¹ See the HFA summary of Enrolled Senate Bill 1: <http://www.legislature.mi.gov/documents/2019-2020/billanalysis/House/pdf/2019-HLA-0001-0034B9E0.pdf>

Qualified health coverage would mean Medicare coverage or any other health or accident coverage that does not exclude or limit coverage for injuries related to motor vehicle accidents and that has a deductible of \$6,000 or less per individual.

If a person subject to an exclusion were no longer covered by the qualified health coverage, the insured would have to notify the insurer and would have 30 days to obtain insurance with PIP health benefit coverage. If an excluded person were injured in a car accident during that 30-day period, he or she would be entitled to claim benefits under the assigned claims plan (up to \$2,000,000). If the insured did not obtain PIP health coverage within 30 days and the insured or any excluded person were injured in a car accident, the injured person would not be entitled to PIP health benefits for an injury during the period of the exclusion unless entitled to coverage under some other policy. An insurer could not refuse to insure, limit coverage available to, charge a reinstatement fee to, or increase premiums for an eligible person solely because the person previously failed to obtain insurance providing PIP health benefits within 30 days.

The amount of any premium reduction under a health or accident coverage exclusion currently allowed under the Insurance Code (not the exclusion described above) would have to be conspicuously displayed as a dollar amount or percentage on the policy declarations page.

Section 3116, which is not included in Enrolled Senate Bill 1, concerns tort liability. Currently a subtraction from or reimbursement for PIP benefits may only be made under certain circumstances, one of which is a tort claim against the owner/operator of a vehicle for which insurance required by section 3101(3) and (4) was not in effect. House Bill 4397 would apply this instead to a vehicle for which insurance required by section 3101 was not in effect.

Section 3151 as amended by Enrolled Senate Bill 1 would require a physician conducting a mental or physical examination of an individual related to a claim for past or future PIP benefits to be a licensed, board certified, or board eligible physician qualified to practice in the area of medicine appropriate to the individual's condition. House Bill 4367 would instead provide that, if care were being provided to the individual by a specialist, the examining physician would have to specialize in the same specialty, and if the physician providing the care were board certified in the specialty, the examining physician would have to be board certified in that specialty.

MCL 500.3009 et seq.

FISCAL IMPACT:

House Bill 4397 would not make any material changes to the fiscal impact statement of Enrolled Senate Bill 1.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.