PERSONAL INJURY PROTECTION:
COORDINATED OR PRIMARY?

Under Michigan’s No Fault Insurance Act, your automobile insurance carrier will generally pay benefits to you and certain other people injured in an automobile accident, without regard to fault, for goods, services, and accommodations needed for care, recovery, and rehabilitation resulting from auto accident injuries. These benefits are collectively referred to as Personal Injury Protection (or “PIP”) and are provided without deductibles on a per-accident basis.

PIP claims can involve payments for medical expenses, work loss, replacement services, attendant care (such as supervision of an injured person or assisting a person with daily activities), survivor’s loss, or funeral expenses.

What exactly is covered?

- Medical expenses – No maximum dollar amount on general medical expenses in Michigan.
- Funeral expenses – $1,750 limit per person.
- Work loss – If you are in a car accident between October 1, 2010 and September 30, 2011, the new statutory maximum for Michigan no-fault (personal injury protection, PIP) wage loss is $4,929 per month for the first three years.
- Replacement services – To a maximum of $20 per day.
- Survivor loss – Not exceeding $20 per day for three years.

Coordinating PIP Coverage With Other Types Of Insurance

The Michigan no-fault law allows the purchaser of an automobile insurance policy to place other policies of insurance, such as health or disability insurance, higher in priority than the auto carrier. This means that if you have health or disability insurance that pays for automobile-related medical bills or loss of wages, that specific policy pays first and the auto policy pays second.
Thus, the auto carrier would liable for the difference between the amount of benefits paid by the health carrier and what would be allowed under the No-Fault Act, subject to a $300 deductible. This is known as “coordinated” or “excess” coverage.

By way of example, an injured person with coordinated coverage would submit his or her medical and pharmaceutical expenses to the health insurer first. Once the health insurer pays, subject to the health policy limits, the auto insurer is then responsible to cover any additional medical expenses that are reasonably necessary, such as co-pays that might apply, charges for medical services, and charges not covered under the health policy, subject to a $300 deductible.

Medicaid and Medicare and some self-funded plans do not allow you to coordinate with automobile PIP coverage and no-fault carriers therefore have primary responsibility for payment of accident-related medical expenses for persons covered by these plans.

Advantages And Disadvantages Of Coordinating PIP Coverage

One advantage of coordinating coverage is that it typically results in a premium decrease. However, that decrease may be slight. For instance, the decrease could be as low as $11 per vehicle for a driver in their 50s. But it could be as high as $109 per vehicle for a youthful driver.

One disadvantage of coordinated benefits is that payments made by the auto carrier are subject to a $300 deductible, regardless of whether the health insurer pays. It is important to note that in Michigan today, some health insurance companies are endorsing their health insurance policies to exclude automobile-related expenses.

Another disadvantage of coordinated benefits is the risk of deadlock between your health insurance carrier and auto carrier. There have been a number of cases where the health insurance carrier refused to pay the insured’s auto-related medical benefits even though the auto policy provided for coordinated benefits. In those cases, the health insurance company argued that the employer-provided health insurance was a qualified plan under the Employee Retirement Income Security Act (ERISA) and therefore, based upon the doctrine of federal preemption, the auto carrier is obligated to pay all auto-related medical expenses on a primary basis regardless of the coordination of benefits provision. (See AutoOwners Insurance Company v Thorn Apple Valley Inc., 31 F3d 371 (1994)). In these cases the insured ends up caught in the middle with both carriers denying coverage.

In addition, when you make a claim and have coordinated benefits you may also have to prove to the automobile insurance company that the health insurance excludes medical claims (if this applies), which could be a hassle.

Work Loss Benefits Under PIP

A major issue regarding work loss benefits is whether the statutory amount (currently $4,929 as of October 1, 2010) in any 30 day period is adequate and whether or not an individual should buy supplemental disability coverage either through the auto policy or elsewhere.

It is possible to purchase more than the statutory work loss benefits, both with regard to limits and period of coverage under your automobile policy. The amount that an individual would purchase is a
maximum amount. The actual payment in most cases will be no more than 85% of a disabled person’s actual loss of gross income from work up to that amount or up to a higher amount, if the higher amount is purchased. Also the loss of income benefit is payable only for three years after the automobile accident unless a longer period is chosen.

**Coordinating Work Loss Benefits Under PIP**

It is possible to coordinate work loss benefits provided under PIP with a sickness or accident policy. Additionally, an insured may totally exclude work loss benefits for individuals who are age 60 or older and who have no expectation of actual income loss, in exchange for reduced premium. However, this reduction in premium can be minimal, often only around $4 per year in savings.

Where work loss benefits are coordinated, calculation of work loss owed by the auto insurer, if any, can be complicated. The no-fault insurer will owe any differential between the amounts paid by the primary, sickness, and accident insurer, up to the maximum recovery amount stated under the Michigan statute. The claimant is not entitled to his or her full wages if expected wages exceed the statutory limit.

Under the Michigan no-fault law, if you have other work loss benefits, there is no coverage under the auto policy to the extent that similar benefits are paid, payable or required to be paid under any individual, blanket or group disability policy. Many employers provide short and long term disability. In any event, we recommend that individuals have stand-alone disability coverage, apart from the auto coverage, that will pay for longer than 36 months.

**PIP Coverage Recommendations**

Our recommendations regarding PIP coverage are as follows:

- **You may not want to buy no-fault medical coverage on a coordinated basis because a $300 deductible applies if your health coverage does not pay auto medical claims, and you will have to submit information regarding your health insurance to establish that coverage is not provided elsewhere in the event of an injury. Furthermore, the savings on the auto policy is minimal. It is probably better to use the auto policy for auto-related medical bills rather than the health insurance policy.**

- **Do not rely on the automatic wage loss benefit under the auto policy. The limited maximum of $4,929 per month (as of October 1, 2010) for up to 36 months is only payable to the extent that you do not have other coverage. Most employers provide short-term or long-term disability coverage. In addition, consider purchasing excess wage-loss coverage on your auto policy.**

- **Note that PIP coverage is first party in nature, meaning that it covers economic losses as provided for by the Michigan No-Fault Act. This does not include any coverage for pain and suffering or other noneconomic damages. While a cause of action against the negligent driver may be available, it may be the case that this driver has no insurance or has inadequate limits and will be uncollectible. This makes it especially important to purchase your own uninsured and underinsured motorists coverage in addition to PIP coverage.**