



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1279 (as introduced 4-29-08)
Sponsor: Senator Alan Sanborn
Committee: Economic Development and Regulatory Reform

Date Completed: 5-29-08

CONTENT

The bill would amend the Insurance Code to do all of the following:

- **Establish an hourly limit on services per week for in-home attendant care or nursing services provided by certain people and covered by personal injury protection (PIP) benefits under an automobile insurance policy.**
- **Establish hourly maximum rates for the provision of attendant care or nursing services under PIP benefits.**
- **Limit payments for PIP benefits to maximum fees established by rule for worker's compensation.**
- **Require the Commissioner of Financial and Insurance Regulation to examine future changes to the worker's compensation rules and apply the changes to PIP benefits if they furthered the goal of providing affordable automobile insurance rates.**
- **Require insurers to charge a premium reflecting savings obtained under the bill.**

The bill specifies that it would apply to products, services, and accommodations that were provided on and after 90 days following the bill's effective date, but would not affect any obligation under a written agreement or consent judgment entered into before the bill's effective date.

PIP Benefits: Maximum Hours & Rates

Under the Code, personal protection insurance (commonly referred to as personal injury protection, or PIP) benefits are payable for the following:

- Allowable expenses consisting of all reasonable charges incurred for reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation.
- Work loss consisting of loss of income from work an injured person would have performed during the first three years after the date of the accident if he or she had not been injured.
- Expenses up to \$20 per day, reasonably incurred in obtaining ordinary and necessary services in lieu of those that, if he or she had not been injured, an injured person would have performed during the first three years after the date of the accident for the benefit of himself or herself or his or her dependent.

Allowable expenses within PIP coverage do not include charges for a hospital room in excess of a reasonable and customary charge for semiprivate accommodations unless the injured person requires special or intensive care or charges for funeral and burial expenses exceed the amount set forth in the policy, which may not be less than \$1,750 or more than \$5,000.

The bill specifies, in addition, that for attendant care or nursing services provided in the injured person's home, payment would be limited to 56 hours per week for services performed by an individual who was not certified, registered, or licensed to render attendant care or nursing services. Also, payment for services performed by such an individual could not be more than \$11 per hour for basic care or \$17 per hour for skilled care. Payment for services performed by an individual who was certified, registered, or licensed to render attendant care or nursing services could not exceed \$17 per hour. Beginning October 1, 2009, these maximum amounts would have to be adjusted annually to reflect changes in the cost of living under the rules prescribed by the Commissioner of Financial and Insurance Regulation for annual increases in work loss payments. Any change in those maximum amounts would apply only to services rendered after the effective date of the change.

"Basic care" would mean any of the following:

- Providing personal care services, including bathing, shampooing, skin care, oral hygiene, shaving male patients, catheter care, and toileting assistance.
- Measuring and documenting vital signs.
- Providing or assisting with exercise, ambulation, or positioning as directed by a nurse or therapist, including ambulation with or without assistive devices, basic range of motion both passive and active, light pivot transfers, and assisting from bed, chair, or commode.
- Providing environmental and homemaking services, including bed-making whether occupied or unoccupied, light housekeeping to maintain a healthy environment, laundering of bedding and clothing, shopping for groceries, and transportation as necessary.
- Assisting with self-administered medications.

"Skilled care" would mean providing basic care services and any of the following:

- Performing intermittent straight catheterization, catheter perineal care, and colostomy care as directed.
- Performing a bowel program under the direction of a registered nurse.
- Performing tube feedings and simple wound care under the direction of a registered nurse.
- Performing full one-person transfers and transfers using a Hoyer lift.

Use of Worker's Compensation Fee Schedule

Under Section 3157 of the Code, a physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for an accidental bodily injury covered by PIP, and a person or institution providing rehabilitative occupational training following the injury, may charge a reasonable amount for the products, services, and accommodations rendered. The charge may not exceed the amount the person or institution customarily charges for like products, services, and accommodations in cases not involving insurance. The bill would refer to cases not involving personal protection insurance.

The bill specifies that a physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for an accidental bodily injury covered by PIP, or a person or institution providing rehabilitative occupational training following the injury, would be limited to, and have to be paid by the automobile insurer at, an amount that did not exceed the amount paid for treatment, service, accommodation, and medicine pursuant to payment under, or schedules of maximum fees for worker's compensation developed

pursuant to, R 418.10101-418.101504 of the Michigan Administrative Code (worker's compensation health care services rules).

The Commissioner would have to examine changes made to those rules after the bill's effective date. If he or she found that those changes furthered the goal of providing affordable automobile insurance rates, the changes would apply to Section 3157 and the Commissioner would have to issue an order to that effect. An insurer providing PIP benefits would have to provide an appropriate premium that reflected the savings obtained by the insurer under the bill.

MCL 500.3107 & 500.3157

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would require the Commissioner to cap charges from treatment providers to those amounts established under the worker's compensation administrative rule structure. The Office of Financial and Insurance Regulation would incur costs related to consumer and provider education and outreach efforts regarding these rate changes.

Limiting reimbursement to rates paid for worker's compensation also would result in a decrease in revenue to the limited number of public providers in the State. This would have to be balanced against the presumed reduction in rates paid by those who purchase auto insurance.

Fiscal Analyst: Steve Angelotti
Elizabeth Pratt
Maria Tyszkiewicz

S0708\sb1279sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.