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BILL



ANALYSIS

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Senate Bill 288 (Substitute S-2)
Sponsor: Senator Virgil Smith
Committee: Insurance

Date Completed: 6-3-15

CONTENT

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

- **Allow an eligible city to contract with one or more insurers to provide qualifying no-fault policies to its residents.**
- **Specify that an individual insured under a qualifying no-fault policy, his or her spouse, and a relative of either living in the same household, would be limited to the rights under that policy.**
- **Allow a qualifying no-fault policy to limit benefits for critical care to \$250,000 for an individual named in the policy, his or her spouse, or a relative of either living in the same household, and to limit other personal protection benefits to \$25,000.**
- **Allow an injured person to receive benefits under the assigned claims plan after benefits under a qualifying no-fault policy were exhausted, unless he or she was insured under that policy, the spouse of the insured person, or a relative of either living in the same household.**
- **Allow an insurer that provided a qualifying no-fault policy to create a limited provider network and require an injured individual to receive post-acute care through an in-network provider, as well as obtain preauthorization.**
- **Prohibit the Catastrophic Claims Association from charging a member a premium for a car insured under a qualifying no-fault policy.¹**

The bill would define "eligible city" as a city that either 1) has a population of at least 500,000 and a charter provision allowing it to provide insurance to its residents (i.e., Detroit), or 2) presents credible evidence to the Department of Insurance and Financial Services that at least 50% of the city's residents who regularly operate a motor vehicle do so without the personal protection insurance required by the Code.

Under the Code, personal protection benefits are payable for 1) allowable expenses consisting of all reasonable charges incurred for reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation; 2) loss of income from work an injured person would have performed for three years after the accident; and 3) expenses of up to \$20 per day reasonably incurred in obtaining services that an injured person would have performed for himself or herself or a dependent, for three years after the accident.

¹ The Catastrophic Claims Association is an unincorporated, nonprofit association to which all Michigan auto insurers are required to belong. The Association reimburses insurers for personal protection insurance claims above a certain threshold (currently \$530,000), and members pay a premium to the Association based on the number of vehicles insured in the State.

Under the bill, a qualifying no-fault policy could limit the total amount of benefits payable under the policy to both of the following:

- \$25,000 for the personal protection benefits described above.
- \$250,000 in the aggregate, payable only for critical care for an individual named in the policy, the individual's spouse, or a relative of either domiciled in the same household, who was injured in a single motor vehicle accident during the policy term.

If a qualifying no-fault policy provided a cap of more than \$25,000 on personal protection benefits other than critical care (for the allowable expenses, work loss, and services described above), the benefits for critical care could be reduced accordingly, if the total benefits available were at least \$275,000.

"Critical care" would mean treatment rendered at an acute care hospital or trauma center immediately following the motor vehicle accident, necessary to save the individual's life or treat life-threatening or permanently disabling injuries, until the individual is stabilized. An individual would be considered stabilized when he or she could be safely discharged or transferred to another acute care hospital or trauma center or to a rehabilitation or other facility, regardless of whether the individual was actually discharged or transferred at that time.

A qualifying insurer could contest the charges from an acute-care hospital or trauma center if the insurer could present competent evidence showing that the charges related to post-stabilization services.

The Code requires a person injured in a motor vehicle accident to claim personal protection insurance benefits from insurers in a specified order of priority. Under the bill, these requirements would not apply if the motor vehicle occupied or involved were insured under a qualifying no-fault policy.

If the motor vehicle occupied or involved in an accident were insured under a qualifying no-fault policy, an injured person would be entitled only to the benefits available under that policy. Unless the person was the individual insured, his or her spouse, or a relative of either domiciled in the same household, the injured person could receive benefits from the assigned claims plan after benefits under the qualifying no-fault policy were exhausted.² The same provisions would apply to a person who was injured while he or she was not an occupant and the vehicle involved in the accident was insured by a qualifying no-fault policy, if no personal protection insurance were available to the injured person.

Under the Code, if two or more insurers are in the same order of priority to provide personal protection benefits, the insurer paying benefits due is entitled to partial recoupment from the other insurers in order to accomplish equitable distribution of the loss among the insurers. The bill provides that if one of the motor vehicles involved were insured under a qualifying no-fault policy, the other insurer or insurers would be entitled to recoup only the amount of the qualifying no-fault policy limits that were not otherwise payable because of the accident.

The bill would allow a qualifying insurer (an insurer under contract with an eligible city) to create a limited provider network. Except for emergency services and treatment rendered immediately after a motor vehicle accident and until the individual was stable and could be transferred to an in-network provider, the insurer could require an injured individual under a

² The assigned claims plan is maintained by the Michigan Automobile Insurance Placement Facility, and all automobile insurers in the State are required to participate. The plan is responsible for providing no-fault medical benefits to a person who is injured in an accident involving an uninsured motor vehicle and who has no insurance of his or her own.

qualifying no-fault policy to obtain products, treatment, services, accommodations, or rehabilitative or occupational therapy or training from a provider or supplier that was part of the limited provider network. There would be no private right of action for claims arising under or relating to this provision. If the qualifying insurer exhibited a pattern or practice of providing an inadequate network of providers, the Department Director could initiate an appropriate administrative or civil action against the insurer.

A qualifying insurer also could require an injured individual to obtain preauthorization from the insurer for products, treatment, services, accommodations, therapy, or training, except for emergency services rendered until the individual could be transferred to an in-network provider. The insurer would have to grant preauthorization only if medical necessity had been demonstrated. If an insurer required preauthorization and an injured individual, provider, or vendor failed to obtain it, the failure would render a claim for payment void.

A qualifying no-fault policy would have to contain language that prominently disclosed that it was a "qualifying no-fault policy with limited benefits issued under 20__ PA __", indicating the year of enactment and public act number assigned to the bill.

MCL 500.3101 et al.

Legislative Analyst: Ryan M. Bergan

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Glenn Steffens

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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.