

# Legislative Analysis

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## ASSIGNED CLAIMS PLAN AMENDMENTS

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

**House Bill 4624 (reported from committee as H-2)**  
**Sponsor: Rep. Hank Vaupel**

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

**House Bill 4625 (reported from committee as H-2)**  
**Sponsor: Rep. Mary Whiteford**

**House Bill 4626 (reported from committee w/o amendment)**  
**Sponsor: Rep. Bronna Kahle**

**House Bill 4627 (reported from committee as H-1)**  
**Sponsor: Rep. Curt VanderWall**

**Committee: Insurance**  
**Complete to 5-25-17**

**BRIEF SUMMARY:** House Bills 4624, 4625, 4626, and 4627 would amend the Insurance Code to make various changes to the requirements, procedures, and timeline for submitting a claim to the Michigan **Assigned Claims Plan** (ACP), which is housed within the Michigan Automobile Insurance Placement Facility (MAIPF).

Generally speaking, the Michigan Assigned Claims Plan provides financial assistance through participating automobile insurance companies to people injured in an accident involving a motor vehicle when there is no automobile insurance identifiable or available. (See **BRIEF BACKGROUND** later in the summary.) The MAIPF began implementing and maintaining the Assigned Claims Plan in 2012. Prior to that the ACP was operated by the Michigan Department of State.

**FISCAL IMPACT:** The bills would have no fiscal impact on the Department of Insurance and Financial Services. The Michigan Automobile Place Facility is a joint underwriting association supported exclusively by assessments on member auto insurance companies.

## ***THE CONTENT OF THE BILL:***

**House Bill 4624** would amend the Insurance Code (500.3172) to do the following:

1. Require a person entitled to claim insurance benefits through the ACP to file a completed application on a claim form provided by the MAIPF, and provide **reasonable proof of loss** to the MAIPF.
2. Require the MAIPF or an insurer assigned to administer a claim on behalf of the MAIPF to, within 60 days of receiving the application that complies with the MAIPF, specify in writing the materials that constitute a **reasonable proof of loss**.

3. Stipulate that the MAIPF or an insurer assigned to administer a claim is not required to pay an interest penalty in connection with a claim for any period of time during which the claim is reasonably in dispute.

**House Bill 4625** would make the following changes (MCL 500.3173a):

- Require the MAIPF to review a claim for personal protection insurance benefits under the ACP, make an initial determination of eligibility, and deny a claim that it determines is ineligible under the ACP.
- Stipulate that if a claimant (or person making a claim through or on behalf of a claimant) **fails to cooperate** with the MAIPF (as required below), the benefits to the claimant under the ACP will be suspended and continue only until the MAIPF determines that the claimant or person making a claim through or on behalf of a claimant cooperates or resumes cooperation.
- Require the MAIPF to promptly notify in writing the claimant, and any person that submitted a claim through or on behalf of a claimant, of a denial and the reasons for denial.
- Require **cooperation with the MAIPF** as including, but not limited to, submitting to an examination under oath, submitting to mental or physical examination, submitting to access of reports of mental or physical examinations, and being subject to court orders for noncompliance. [Note: with the exception of submitting to an examination under oath, these provisions already exist in the Insurance Code. MCL 500.3151 to 500.3153.]
- Stipulate that person has a rebuttable presumption of having satisfied the **duty to cooperate** if all of the following apply:
  - a. The person submitted a claim for personal protection insurance benefits to the MAIPF with a complete application on a form provided.
  - b. The person provided **reasonable proof of loss**, under the terms proposed in HB 4624.
  - c. If required to submit to an examination under oath, the person did so, subject to the following:
    - The person was provided at least 21 days' notice of the exam.
    - The exam was conducted in a location reasonably convenient for the person.
    - Any reasonable request by the person to reschedule the date, time, or location of the exam was accommodated.

**HB 4625** would also:

- Allow the MAIPF to perform its functions and responsibility under the ACP directly or through an insurer assigned by the MAIPF to administer a claim.
- Stipulate that assignment of a claim by the MAIPF to an insurer is not a determination of eligibility, and a claim assigned could later be denied if the claim is not eligible.
- Allow the MAIPF to contract with other persons for all or a portion of the goods and services needed for operating and maintaining the ACP.

**House Bill 4626** would make the following changes (MCL 500.3174):

1. Specify that a person claiming through the ACP must notify the MAIPF of the claim **within one year of the date of the accident.**
2. Require that, **on an initial determination of a claimant's eligibility for benefits through the ACP**, the MAIPF promptly assign the claim and notify the claimant of the insurer to which the claim is assigned.
3. Specify that an action by a claimant be commenced as provided in Section 3145, which specifies when actions for recovery of personal or property protection benefits may be commenced.<sup>1</sup>

**House Bill 4627** would make the following changes (MCL 500.3101a):

1. Insurers are currently required to report to the Secretary of State information about their insureds in a format and on a timeline required by the SOS, but not more often than 14 days. The bill would require the SOS to consult with insurers in determining the format of information.
2. The bill would also require the Secretary of State to provide this information to the MAIPF. The bill would further stipulate that the information received by the MAIPF is confidential, not subject to the Freedom of Information Act, is only to be used for purposes of administering the ACP, and cannot be disclosed to any person unless it is for purposes of administering the ACP or by an order of a court.

#### ***BACKGROUND INFORMATION:***

The **Assigned Claims Plan** is a program that aims at providing financial assistance to individuals in an uninsured motor vehicle accident in Michigan who have no insurance coverage of their own (or for which the appropriate available insurance is not immediately apparent). Classic examples include a pedestrian with no auto insurance coverage in the household who is hit by an uninsured driver or a hit-and-run driver, and an out-of-state resident injured riding in an uninsured Michigan vehicle. But there are many other kinds of cases.

After initial screening, claims are assigned to participating private auto insurance companies. Following an investigation, the insurance company pays the claim and is reimbursed by the Assigned Claims Fund, which is supported through assessments on all the companies writing auto insurance in the state, as well as the self-insured.

The **Michigan Automobile Insurance Placement Facility** began implementing and maintaining the Assigned Claims Plan in 2012. Prior to that the ACP was operated by the Michigan Department of State. The MAIPF was created as a "residual market" mechanism to provide auto insurance to drivers who do not qualify for coverage in the normal auto insurance market because of their driving records or other risk factors. (However, other drivers can purchase from the facility as well.)

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<sup>1</sup> [http://www.legislature.mi.gov/\(S\(je2psajwu5ahvpjtd0cb5vtg\)\)/mileg.aspx?page=getObject&objectName=mcl-500-3145](http://www.legislature.mi.gov/(S(je2psajwu5ahvpjtd0cb5vtg))/mileg.aspx?page=getObject&objectName=mcl-500-3145)

The MAIPF is a joint underwriting association whose membership is made up of all the companies writing auto insurance in the state. It uses a limited number of private auto insurance companies as servicing carriers, and customers are placed by insurance agents with one of the servicing carriers, although the rates would not vary from company to company.

***POSITIONS:***

A representative from the following organization testified in support of the bills:

- AAA Michigan – Servicing Carrier (5-25-17)

Representatives of the following organizations indicated support of the bills:

- Farmers Insurance (5-25-17)
- Property Casualty Insurers Association (5-25-17, as reported)
- Auto-Owners Insurance Co. (5-25-17)
- Insurance Alliance of Michigan (5-18-17)
- National Federation of Independent Businesses (5-18-17)
- Michigan Chamber of Commerce (5-18-17)

Representatives of the following organizations testified in opposition to the bills:

- Michigan Association for Justice—formerly the Trial Lawyers Association (5-18-17, 5-25-17)
- Hope Network (5-18-17; HBs 4624 and 4625)
- Rainbow Rehabilitation Centers (5-18-17; HBs 4624 and 4625, opposed as introduced)
- Coalition to Protect Auto No Fault (5-18-17; HBs 4624 and 4625, opposed as introduced)

Representatives of the following organizations indicated opposition to the bills:

- Unique Options, LLC (5-25-17)
- Concerned Association of Patients and Providers (5-18-17)

Legislative Analyst: Patrick Morris  
Fiscal Analyst: Marcus Coffin

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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.