

Who Should Pay For Auto Insurance?

In 2019, Michigan became the final state in the nation to abandon no-fault automobile insurance, moving back to a tort-based system in which accident survivors must sue at-fault drivers in hopes of recovering medical and other economic damages.

Modeled in the 1970s on the successful no-fault workers compensation insurance laws of states throughout the nation, the goals of no-fault auto insurance were to reduce litigation and improve medical care for accident survivors.ⁱ

But no-fault auto premiums turned out to be higher than expected and above the tolerance level of most drivers, who signaled a willingness to take their chances on litigation, liability, and inadequate medical coverage in exchange for lower premiums. Lawmakers responded by going back to tort auto insurance, pushing auto accident survivors back into the courts and back onto Medicaid. (Most catastrophic injury survivors in a tort-based system end up in bankruptcy and on public assistance.)ⁱⁱ

So how has no-fault workers compensation insurance succeeded, while no-fault auto insurance has failed? Inadequate cost controls might have played a role,ⁱⁱⁱ but the main reason is that workers compensation premiums are paid entirely by the employer as a business expense, whereas auto insurance premiums have always fallen entirely on the driver to pay with after-tax disposable income, even though it is widely acknowledged that both types of accidents involve similar issues of shared responsibility.^{iv}

In fact, many drivers, passengers, pedestrians, and cyclists are injured or killed in auto accidents each year through absolutely no fault of their own, and for those drivers who are at fault to some degree, the error is often minor and is typically the final thing to go wrong in a chain of events that include car and road design. Just as employers share responsibility for workplace accidents, so too do automakers and those who design and build our roads share responsibility for auto accidents.^v

All of this suggests automakers and others responsible for auto transportation safety in Michigan should bear the expense, if not for the entire auto policy premium, at least for the portion that covers no-fault insurance for catastrophic auto injuries in the state. Indeed, this concept is supported by a growing number of researchers, especially considering recent advances in crash-avoidance technology that give automakers more control over auto transportation safety.^{vi}

The result would be timely medical care for auto accident survivors and dramatically lower overall costs for the consumer. New car buyers would see slightly higher prices, but the increase would be far outweighed by the savings drivers would see in the medical and liability portions of their auto insurance premiums. Economic analysis shows the average Michigan household would save almost \$700 per year off what they are currently paying.^{vii}

This simple but fundamental change in our auto insurance law would produce a fairer, more efficient, and more affordable way of insuring against auto accident injuries in Michigan.

ⁱ Anderson, James M., Heaton, Paul and Carroll, Stephen J., **The US Experience with No-Fault Automobile Insurance: A Retrospective**, Rand Institute for Civil Justice, 2010.

ⁱⁱ Anderson, Heaton, and Carroll; Michigan House Fiscal Agency, **Legislative Analysis: No-Fault Automobile Insurance Reform**, May 29, 2019, p. 17.

ⁱⁱⁱ Anderson, Heaton, and Carroll; Livengood, Chad and Wilkinson, Mike, **How Michigan's Auto Insurance Premiums Became the Nation's Highest**, Bridge Michigan, Oct 24, 2017.

^{iv} Anderson, Heaton, and Carroll.

^v Anderson, Heaton, and Carroll; Marshall, Aarian, **The Feds Plan to Reduce Roadway Deaths - With Smarter Road Design**, Wired, Jan 27, 2022; Marshall; Davis, Steve, **How Street Design Shapes the Epidemic of Preventable Pedestrian Fatalities**, Smart Growth America, Jul 12, 2022; Giarratana, Chris, **Seven Roadway Engineering Design Strategies to Make Roads Safer for Drivers**, Safety Resource Center, Sep 18, 2018; Giarratana, Chris, **Simple Roadway Tech to Make Our Streets Safer**, Safety Resource Center, Dec 11, 2017; Rosenfeld, Jonathan, **Improving Roadway Designs for Traffic Safety**, National Law Review, Oct 23, 2017.

^{vi} Stanley, Karlyn D., Grise, Michelle and Anderson, James M., **Autonomous Vehicles and the Future of Auto Insurance**, Rand Institute for Civil Justice, 2020; Logue, Kyle D., **Should Automakers Be Responsible for Accidents?** Regulation, Spring 2019; Logue, Kyle D., **The Deterrence Case for Comprehensive Automaker Enterprise Liability**, Journal of Law & Mobility, Feb 25, 2019; Wyatt, Geoffrey M., **Automakers' Insurance Offerings Will Have Broad Impact**, Skadden, Feb 4, 2021.

^{vii} Based on the following data, assumptions, and estimations: (i) Catastrophic fund premiums needed to insure catastrophically injured accident survivors on a no-fault basis = \$1.236 billion/year; (ii) Number of auto insurance policies sold in Michigan = 6 million; (iii) Number of new cars sold in Michigan = 540,000/year; (iv) Automaker business tax rate = 27%; (v) new car price elasticity of supply = new car price elasticity of demand; (vi) Catastrophic fund surcharge before 2019 reform law = \$206/car/year (average of 2020 and 2021); (vii) Catastrophic fund surcharge after 2019 reform law = \$104/car/year (average of 2022 and 2023); (viii) Average increase in BI/PD liability premiums after 2019 reform law = \$280/car/year; (ix) Number of households in Michigan = 3.98 million; (x) Average number of vehicles owned per Michigan household = 2.1; (xi) increased Medicaid expenditures following 2019 reform law = \$58 million/year; (xii) Automakers would pay 95% of catastrophic fund premiums, and governmental entities would pay 5%. The resulting net consumer savings per household = \$695/year; net tax savings per household = -\$1/year.