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ALERT

## Michigan lawmakers pass \$25 million no-fault fund in response to reform critics

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Jul 2, 2021



Brittney Ruckle walks along a bar holding the hand of Todd Nienhouse of Agevix Professional Network for Exercise Therapy, left, and in-home health aid Kyra Askwith assisting during an exercise therapy session in her Traverse City home.

Record-Eagle file photo/Jan-Michael Stump



LANSING — The Michigan legislature agreed to appropriate \$25 million toward funding gaps in the state's 2019 no-fault insurance reforms, just as a provision slashing rates paid to caregivers went into effect.

Gov. Gretchen Whitmer is expected to sign the bill, her office said previously, which will use federal COVID stimulus aid to fund the program.

At issue is the 45 percent rate reduction paid to healthcare providers who care for people injured in automobile crashes, which went into effect Thursday.

The state Department of Insurance and Financial Services will have 21 days to come up with an application process for providers to apply for the funds, the department will vet applications and the money is first come, first serve for those who can prove a "systemic deficit."

Supporters, including state House Speaker Jason Wentworth (R-Farwell) and some insurance groups, say it will give lawmakers time to collect data on possible policy issues which could then be addressed at a later date.

Critics of the measure say it is too little too late, that no-fault reform will now likely put some in-patient rehab facilities out of business and won't help the most severely injured car crash survivors or those who care for them.

"Providers can't wait around for six months to try and make payroll at 45 percent of their funding stream," said Tom Judd, president of the Michigan Brain Injury Provider Council.

"We now have no long-term solution, and frankly we have no short-term solution either," Judd said. "Those funds are not going to be available to providers until well down the road, six months down the road at least."

In 2019 the state reformed auto insurance laws in an effort to save drivers money on premiums by no longer requiring unlimited personal injury protection.

Drivers now have a choice between \$250,000, \$500,000, unlimited lifetime PIP coverage or can opt out entirely if they can show they have other health insurance covering auto-related injuries.

Under the new law, auto insurance companies are required to lower PIP premiums between 10 and 100 percent depending on the level of coverage purchased for the next eight years, the Insurance Alliance of Michigan states on its website.

Savings will vary from company to company and driver to driver, and in the event medical costs exceed coverage limits, drivers can inquire with their employer's health care plan, Medicaid, Medicare or seek damages from the at-fault driver's insurance policy, IAM says.

The law also bans insurance companies from using "non-driving factors," such as zip code, credit score, gender, marital status, occupation, education or homeownership to set rates.

These cost cutting measures aren't the problem Judd said — it's the arbitrary cut in rates paid to caregivers which insurance companies are expected to apply to new claims as well as those made years before reforms were passed.

"This is the legislature admitting there's a problem, but not offering any real solutions for families like mine," said Kris Ruckle-Mahon, whose daughter, Brittney Ruckle, was injured in a car crash in 2007 and requires 24-hour care.

"It's really sad the legislature did not try harder to represent us," Ruckle-Mahon of Traverse City said. "I feel like Brittney has been screwed over and her care bought out by the insurance companies."

The fund does not have a provision to pay for care provided by family members of those injured or to reimburse families like the Ruckle-Mahon's who hire caregivers on their own dime when agencies can't provide staff due to industry-wide shortages.

"There is no safety net for people like that," Judd confirmed.

Todd Nienhouse, co-owner of Agevix, a Michigan healthcare business providing therapy services to 40 people who've sustained catastrophic injuries as the result of car crashes, said he expects to lose a third of those clients.

"We have adjusted our client mix and will probably not take any new clients related to auto," Nienhouse said, adding the firm will be forced to cut back on visits to clients' homes.

The rate cut is likely to cause some who receive in-patient care at facilities like The Lighthouse of Traverse City, to be moved home or to adult foster care facilities where families and staff may not have the training to care for them, Judd said.

Jessica Stark, a therapist with The Lighthouse, previously said care for 21 of the facility's 23 in-patients was paid for by auto insurance claims.

State Long Term Care Ombudsman Salli Pung previously said in a letter to Senate Majority Leader Mike Shirkey (R-Clarklake) that moving such patients to nursing homes was not a viable option.

"These specialized services are not available in nursing homes or other long-term care settings, and the staff in these new settings have not been trained to meet the unique needs of these survivors," Pung said.

A grassroots group, We Can't Wait, made up of survivors, their family members and caregivers, contends providers won't receive any funds from the appropriation until sometime in 2022.

One member, Randy Bruce, owner of Aspire Rehabilitation Services, LLC, of Troy, posted an obituary for his company on the group's Facebook page.

"Aspire Rehabilitation Services, LLC, passed away peacefully on June 30, 2021, after a long battle with corporate greed and legislative malfeasance, at the age of seven years old, surrounded by family and friends," Bruce wrote. "Aspire leaves behind over 20 clients and 50 employees, and was loved by all with whom they had the privilege to work."

Nienhouse and Ruckle-Mahon said they've pinned their last hopes for fair reimbursement of services on an ongoing insurance-related lawsuit.

A brain injury rehabilitation clinic and guardians of two auto crash victims filed suit against Citizens Insurance and USAA Casualty Insurance, which was dismissed in November by Ingham County Circuit Court Judge Wanda Stokes.

The case, now with the state's Court of Appeals, seeks clarity on whether state no-fault insurance reforms can be applied retroactively.

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