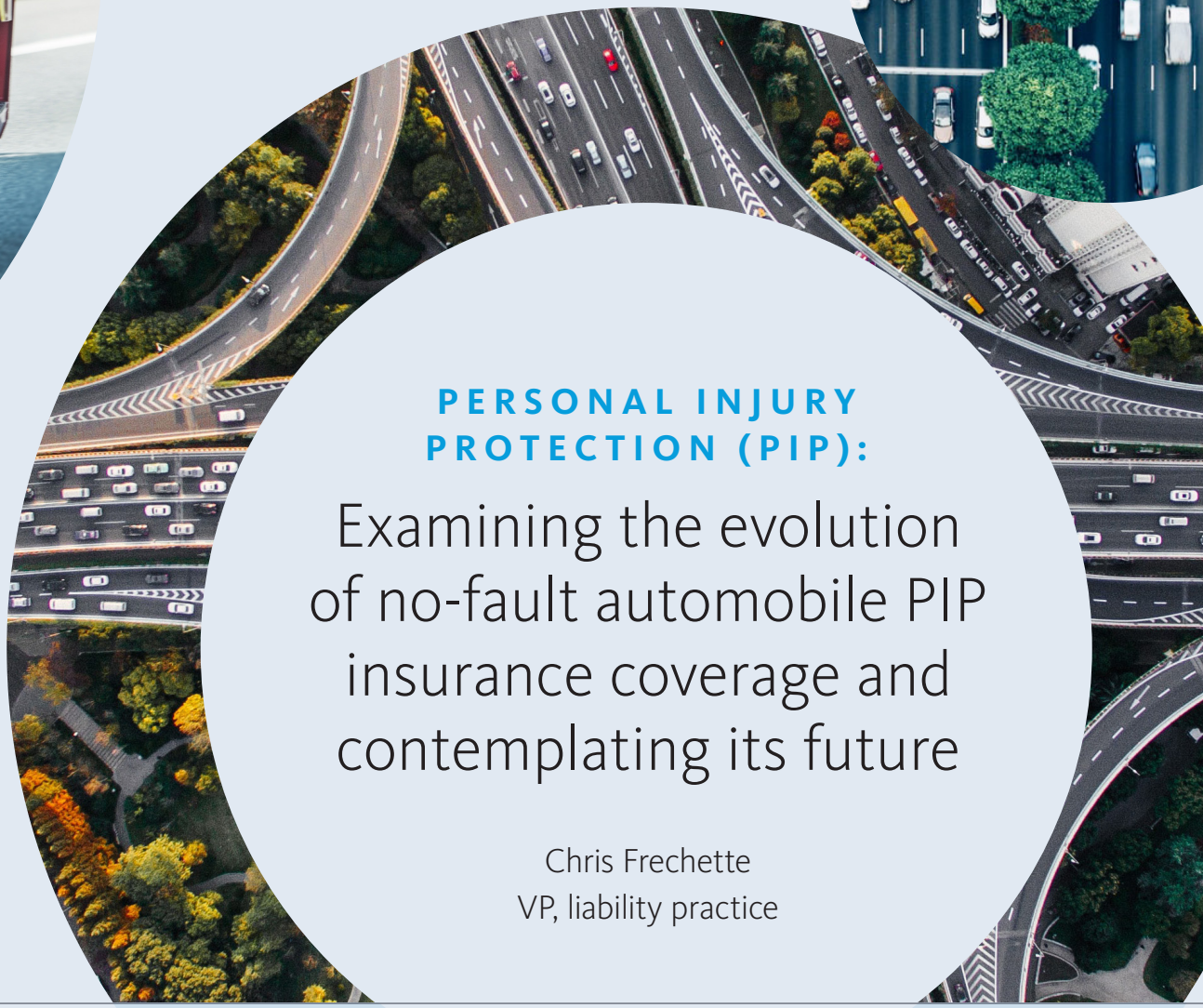
AUTO LIABILITY



PERSONAL INJURY PROTECTION (PIP):

Examining the evolution of no-fault automobile PIP insurance coverage and contemplating its future

Chris Frechette
VP, liability practice

Personal injury protection

Background

Inspired by some of the positive aspects of the U.S. workers' compensation system, which was initiated in 1911 and expanded to all states by 1948, discussion and debate grew over the ensuing decades regarding the feasibility of a no-fault approach to automobile insurance. But it wasn't until 1970 that Massachusetts became the first state to pass a no-fault law.

Fueled by growing disenchantment with the time and cost of litigating fault in auto accidents in the courts — and perhaps even more so by the promise of savings — other states quickly followed. By 1976, just six years later, varying systems of no-fault automobile insurance had been adopted by 26 U.S. states. Some states took an add-on approach, allowing residents to elect no-fault insurance and yet retain the right to sue a driver they believe to be at fault for an accident. Three states offered residents the option to elect no-fault or traditional tort-based coverage.

Initially, no-fault programs met with more favor than opposition. Early assessments showed that, as had been hoped, unfair disparities in compensation became more balanced, claim payments were being issued faster, and some costs were averted by avoiding the expensive legal process for deciding fault. A federal no-fault program was even proposed. But by the mid-1980s, data clearly indicated that no-fault states had generally higher costs and, consequently, higher insurance premiums than states that had not yet adopted no-fault — results that countered the primary catalyst and selling point of cost savings.

*In the context of insurance, the acronym **PIP** stands for "personal injury protection" and is used in reference to various forms of no-fault automobile insurance.*

*"**No-fault**" is a system in which an injured party receives benefits from their own insurer regardless of fault and an at-fault driver can only be sued under certain exceptional circumstances. It does not extend to non-economic damages, like pain and suffering.*

A re-evaluation

From the mid-1980s onward, premiums in no-fault states exceeded premiums in tort-system states by at least 25%, and the gap continued to grow. By 2004, average premiums in no-fault states were 50% higher than tort-system states. Popular support declined. Insurers continued to raise no-fault premiums, and some exited the market. Today, only 21 states offer some form of auto PIP coverage, and of those, only 12 have a mandatory requirement.

Summations of PIP's history are varied. Some generalize the rush toward and subsequent withdrawal away and little more. Other retrospectives have theorized on assorted societal and market changes and how they may have influenced automobile PIP. Notably, some studies from the early 2000s point out that premiums in tort states remained lower throughout the previous two decades, the premium gap widened during that period, and the areas with the highest liability premiums were largely PIP states. To an extent, perceptions from those summations have persisted — despite the passage of another two decades, further societal and market changes and often absent a broader look at the weight of other possible drivers of overall premiums.

Examining automobile premiums by state today (see table below), it is evident that while premium disparities remain, PIP states no longer dominate the side of the spectrum with the highest premiums. They now fall more evenly among the rest. In fact, the scale may be tipping back in the other direction.

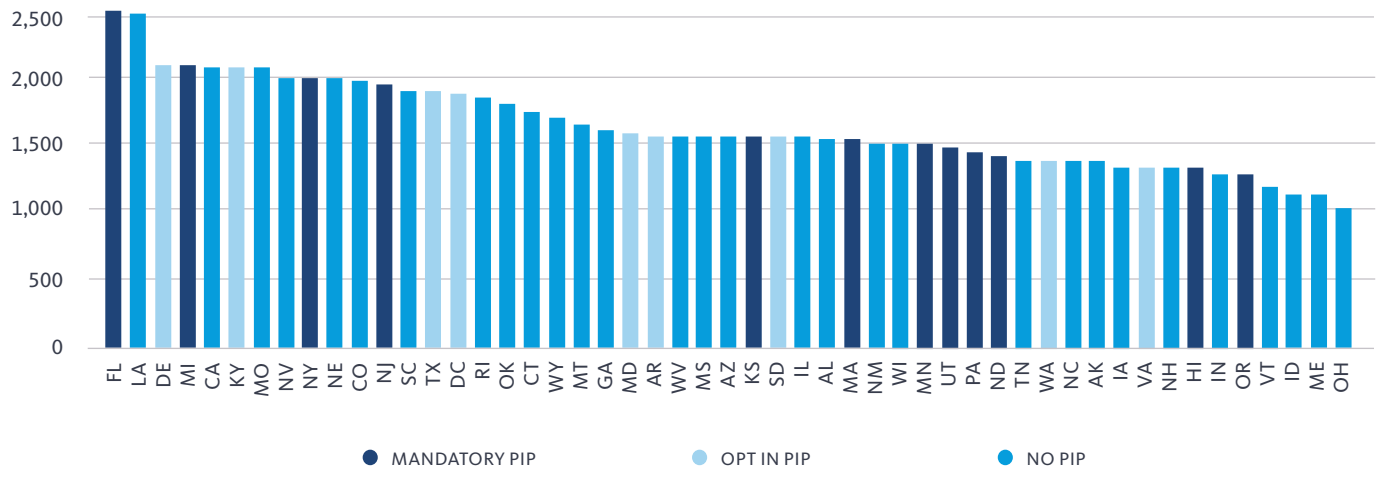
Simply stated, many states that stuck with PIP were able to successfully integrate it into cost-balanced systems.

Those with the more successful PIP-inclusive programs have found ways to manage costs through:

- Offering more opt-in and/or coverage level choice(s).
- Legislation placing personal medical insurance in front of PIP benefits.
- Adopting medical fee schedules like those in workers' compensation programs.
- Leveraging telematics data in premium modeling.
- And other refinements to their processes.

So, why is it that we still hear about states struggling with PIP, and what might be in store for PIP in the future?

Auto insurance premiums by state as of August 2022



A tale of two states

Michigan

In 2019, Michigan auto insurance premiums were the highest in the country. Michigan remained the only no-fault state still providing medical benefits with no limits and with no pricing controls in place, posting among the highest costs in the nation. The state legislature passed comprehensive bipartisan reforms, known as Public Acts 21 and 22. Primary changes aimed at cost reduction included choice of coverage levels for PIP (with minimums), mandatory rate reductions required of carriers and a medical fee schedule reducing provider fees by as much as 45%.

The acts created nearly $3 billion in funds that were returned to over 7 million policyholders. Proponents assert that the reforms have allowed residents to choose policies that better fit their individual needs, driving habits and budgets, easing costs overall; reduced overinflated medical costs; and curtailed fraud. Michiganders opposed to the changes cite concerns over repercussions to long-term care. Auto premium dropped 18% from 2019 to 2020 — the largest reduction in the U.S. that year — taking Michigan out of the No. 1 spot.

Florida

While the number of drivers and the number of automobile accidents in the state of Florida have remained relatively constant in recent years, both the frequency and cost of PIP claims have grown exponentially. Despite passing 2012 legislation aimed at reducing fraud and lowering costs (PIP accounted for only 2% of all insurance premium in the state, yet generated almost half of all fraud referrals), fraud is still prevalent. Florida currently carries the highest auto insurance premiums in the nation, despite being one of the only states not to require bodily injury (BI) insurance.

SB54 was introduced in 2021 to end PIP and replace it with mandatory bodily injury coverage. The bill was vetoed by Gov. Ron DeSantis, citing concerns over “unintended consequences.” Proponents argued the measure would have lowered premiums, while opponents contended exactly the opposite. Florida continues to maintain the highest rates of fraud, litigation and lawsuit abuse in the nation — bolstered by third-party bad faith suits and lack of conventional limitations of legal fees.

Michigan and Florida offer a view of two recent re-examinations of PIP. They also provide two re-affirmations that PIP, like any other coverage, exists within a system with disparate and changing influences. Accordingly, it is neither hero nor villain on its own; it’s simply one component of a larger structure — one that can, on its own, be executed poorly or executed well.

In the case of Michigan, the changes made appear to have reduced abuse and expanded choices, resulting in cost reductions. Work remains in other areas of the system driving premium, including reducing the number of uninsured drivers and examining rating factors. While a true cap was not established, the costs and benefits of Michigan’s PIP component have improved.

In the case of Florida, the latest decision reflects that it may not be an all-or-nothing choice between PIP and BI coverage(s). Insurance premiums in Florida are influenced by weather exposures, traffic congestion from visiting drivers, unusually high numbers of younger and older drivers, a high percentage of uninsured drivers and the highest litigation and fraud rates in the country.

What may cause and what may be the effect will continue to be debated. What is clear is that the success of insurance programs can be highly influenced by external factors, and those factors are subject to change.

Looking forward

We have more data available to us today than ever before. Checking back in on PIP, there is evidence enough that, in context, it can be part of a state's overall automobile insurance system without single-handedly causing premiums to vary significantly from those in states with similar demographics. Equally clear is that market factors have changed and continue to change. When PIP was first introduced, it briefly succeeded in reducing litigation rates, but in time, the variances diminished. Early in the history of PIP states, medical costs remained aligned with claims in tort states, but by 2000, medical costs under PIP had more than doubled by comparison — contributing to some states choosing to drop and others to reform PIP. States making reforms borrowed some lessons from workers' compensation medical fee management and added other mechanisms that have brought about more controls against abuse, greater predictability and reductions to premiums.

Today's broader societal and market environment continues to be influenced by increasing medical costs, growing litigation rates and bigger jury awards as a result of social inflation and other factors. Leveraging data and reflecting on the history and lessons learned in auto no-fault, the timing may be ripe for another re-evaluation. By integrating limits and removing incentives for fraud and other abuse, short of broader tort reform, reformed PIP may once again present a tool worth considering but for new reasons. The cost of litigation has changed. Redefining table stakes for what is litigable with the proper controls for managing medical expense may provide enhanced value while reducing costs if it's part of a fully considered and well-integrated program structure.

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