



[Breaking Down Catastrophic Auto Accidents and Michigan's No-Fault Law - Episode #105](#)

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Hosted by: John Czuba, Managing Editor

Guest Attorney: Mark Vanneste of [Secret, Wardle](#)

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John Czuba: Welcome to the Insurance Law podcast, the broadcast about timely and important legal issues affecting the insurance industry. I'm John Czuba, managing editor of *Best's Directory of Recommended Insurance Attorneys*.

We're pleased to have with us today attorney Mark Vanneste, from the law firm of [Secret Wardle](#). Mark is a partner in the firm's Troy, Michigan office, and is a member of their motor vehicle litigation practice group. He represents insurers, corporations, and individuals in a variety of no-fault, first-property, and third-party automobile negligence claims, including claims for uninsured and under-insured motorists benefits.

Mark also has experience representing hospitals and healthcare providers in medical malpractice litigation. He practices law in Michigan, and we're very pleased to have you with us today, Mark.

Mark Vanneste: Thanks for having me, John.

John: Today's topic is on Michigan's PIP and No-Fault Law pertaining to automobile accidents, and Mark, relative to other states, Michigan's No-Fault Law gives persons injured in automobile accidents a lot of coverage, but what are the limitations on medical benefits for people with access to PIP benefits?

Mark: John, like you said, Michigan's No-Fault Law does provide for a lot of coverage. In fact, the benefits available under Michigan's no-fault system are the broadest and most generous of any benefits under any no-fault system in the entire country.

Here in Michigan, if a person is injured in an auto accident, they may be entitled to lifetime uncapped medical and rehabilitation expenses. That's right -- uncapped for life. The law that was written to provide for that coverage is very broad. It includes anything that is reasonably necessary for the person's recovery or rehabilitation, as long as the amount of the charges are reasonable as well.

John: Mark, are carriers obligated for those lifetime benefits, even if an insured is catastrophically injured?

Mark: Not necessarily. When the legislature created the No-Fault Act, shortly thereafter, they also created what's called the "Michigan Catastrophic Claims Association," or the MCCA. The MCCA basically reimburses insurance carriers in Michigan on claims that exceed \$530,000 in benefits paid. That number increases every few years.

The MCCA is funded by drivers in Michigan, who end up paying about \$190 per year, per car. Since the inception of the MCCA, which was back in 1978, they've actually reimbursed insurance carriers over \$12 billion. Today, there's about 15,000 accident victims whose claims are open with the MCCA, because they have reached that \$530,000 amount.

While the MCCA does reimburse insurance carriers once a claim reaches that figure, the carriers are still responsible for adjusting the claim, making payments, and so on and so forth, and then are reimbursed.

John: What can an injured person claim as part of the unlimited lifetime medical benefit?

Mark: Like I said, the law providing the uncapped lifetime medical is very broad. The courts have defined that medical benefit to go far beyond the typical hospital and doctor bills that an accident victim may incur.

It includes home nursing care, attendant care is included, even if that attendant care is provided by a non-professional family member or friend it's included.

It includes things like home modifications, handicap-equipment vehicles, guardianship fees, vocational rehabilitation, even mileage reimbursement to and from medical appointments.

All those things are in addition to the other benefits provided by the No-Fault Act, such as \$20 per day for replacement household services for three years, and wage loss benefits for three years.

It's safe to say that it covers a lot.

John: Are Michigan legislators trying to reduce the unlimited lifetime medical benefits?

Mark: Yeah, over the last few years, because of the cost of the system, there have been a few different proposals that we've seen in the Michigan legislature. None of them have gained significant traction just yet, but it's an issue that's not going away.

Michigan drivers pay more in insurance premiums than any other state because of the broad nature of the benefits, so that's a valuable issue for the politicians, especially come election time.

Some of the proposed changes have included things like a million-dollar cap on the lifetime medical benefits, or even being able to voluntarily take a lower cap in exchange for a lower premium.

There's also been proposals to limit what medical providers can charge for certain services, kind of like a fee schedule for certain things, and also to create an authority to try to fight some of the fraud that we see -- people trying to take advantage of the broad range of benefits available.

John: Are carriers able to do anything to limit their exposures to unlimited lifetime benefits?

Mark: Because the benefits are available for life, so far into the future, if we're litigating a claim, one of the things we see when we're trying to settle a claim, that's gone to litigation is negotiating a release of future benefits.

Since the carrier knows that they're on the hook for life in most of these cases, a lot of times it's a good move to pay a little more as a settlement of a case that's gone to litigation to get a full release of those future benefits.

Needless to say, that's a risk for the claimant, since they're giving up a pretty significant benefit, and in fact, some attorneys on the plaintiff side will never negotiate a release of future benefits because of how

significant it is, but it is something that we see carriers do, sometimes once a case goes into litigation to try to limit their exposure to unlimited lifetime benefits.

John: Mark, does Michigan's unlimited medical coverage affect other states?

Mark: Yeah, I think that there are a lot of ways that Michigan's broad no-fault system affects other states. For one, sometimes we see when a person is in an accident somewhere other than Michigan, but has access to a Michigan no-fault policy, they'll file their claim or a lawsuit for PIP benefits here in Michigan.

Then Michigan does have a threshold for bodily injury cases, so they'll file their bodily injury claim wherever the accident occurred to try to take advantage of both Michigan's broad PIP coverage, and avoid Michigan's threshold as well.

And then also, of course, for the carriers, there's underwriting implications, that are different in Michigan given the significant exposure that any individual claim may bring.

John: Mark, thanks very much for joining us today.

Mark: Thank you for having me, John.

John: That was Mark Vanneste, from the law firm of [Secrest Wardle's](#) Troy, Michigan office, and special thanks to our producer Brian Cohen.

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