

# Bulletin 2020 09

**To:** Michigan Assigned Claims Plan (MACP) Servicing Insurers

**From:** Michigan Assigned Claims Plan Director, Holli LaJoyce

**Date of Memo:** 11.04.2020

**Effective Date:** Immediately upon Distribution

**Re:** MACP and Servicing Insurer Processes Post No Fault Reform

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This Bulletin supersedes Bulletin 2019-06 A for all claims made for dates of loss 6.11.19 3:22pm and after.

MCL 500.3114 states:

“(1) Except as provided in subsections (2), (3), and (5), a personal protection insurance policy described in section 3101(1) applies to accidental bodily injury to the person named in the policy, the person's spouse, and a relative of either domiciled in the same household, if the injury arises from a motor vehicle accident. A personal injury insurance policy described in section 3103(2) applies to accidental bodily injury to the person named in the policy, the person's spouse, and a relative of either domiciled in the same household, if the injury arises from a motorcycle accident. If personal protection insurance benefits or personal injury benefits described in section 3103(2) are payable to or for the benefit of an injured person under his or her own policy and would also be payable under the policy of his or her spouse, relative, or relative's spouse, the injured person's insurer shall pay all of the benefits up to the coverage level applicable under section 3107c to the injured person's policy, and is not entitled to recoupment from the other insurer.”

MCL 500.3115 states:

“Except as provided in section 3114(1), a person who suffers accidental bodily injury while not an occupant of a motor vehicle shall claim personal protection insurance benefits under the assigned claims plan under sections 3171 to 3175.”

Bulletin 2019 06 A previously indicated that on Friday September 20, 2019, DIFS issued Order No.19-048-M. Pursuant to the Order, DIFS directed the MACP not to provide coverage

“for claims that have been tendered to it under [insurance carrier] forms that purport to incorporate amendments made by PA 21 and PA 22 that affect the scope of coverage required to be provided under an insurance policy **unless those forms** have been approved by the Director.”  
(emphasis added).

Subsequently, several trial court judges have ruled that the priority statute change became immediately effective on June 11, 2019, regardless whether an insurer had filed a new form with the Director of DIFS. The courts further found that the Director exceeded her statutory authority when she issued her order. The MAIPF is bound by these court decisions and will therefore give immediate effect to the priority change for non-occupants and occupants that are not resident relatives or spouses of the named insured as of June 11, 2019 post 3:22pm.

## **MAIPF Process Change as a Result of Reform to MCL 500.3114 (1) and 3115:**

The MAIPF will assign initially eligible claims to the Servicing Insurer without inquiry whether or not the owner and/or driver of the involved motor vehicle had insurance for applicable claims with a date of loss post June 11, 2019, 3:22pm where appropriate. There will be exceptions to this process, including but not limited to; accidents involving motorcyclists, vehicles for hire, transportation network vehicles, commercial vehicles and for situations involving injured parties that may be owners and/or constructive owners of the involved vehicles.

**Servicing Insurer Process Change as a Result of the Statutory Reform:**

1. For claims sent to Servicing Insurers as a result of the change in priority under the amended no-fault act as defined above, Servicing Insurers are no longer required to determine if there was a policy in effect on the date of the loss for the owner or driver of the involved vehicle that covered occupants or non-occupants who are not spouses or resident relatives. However, as indicated above, there will be exceptions to this process, including but not limited to; accidents involving motorcyclists, vehicles for hire, transportation network vehicles, commercial vehicles and for situations involving injured parties that may be owners and/or constructive owners of the involved vehicles.

The MAIPF recognizes and acknowledges that each claim is unique and should be analyzed and handled with this in mind. While this Bulletin is intended to advise Servicing Insurers of process changes, Servicing Insurers are encouraged to schedule a roundtable with the MACP Director and where necessary, MAIPF Counsel, when circumstances warrant deviation from this Bulletin.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read "Holli LaJoice".

Holli LaJoice, AIC  
Michigan Assigned Claims Plan Director

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