Michigan's 'No fault" under scrutiny, again

By Janice Brunson

Dean Babiak was doubly unlucky that December evening in 1980 when he was beaten and left partially conscious in the parking lot of a Waterford bowling alley.

Babiak, 36 at the time and unemployed, was left severely brain injured. Worse, aside from minimal speech therapy, he has received none of the extensive and essential rehabilitation necessary for recovery because neither he nor his retired mother are able to afford the enormous costs.

"Before the beating, my son had an IQ of 135. In his last IQ test, he measured borderline mentally handicapped," said Babiak's mother, Gini Neuville who, since 1984, has been active in the Wayne-Oakland Chapter of the Michigan Head Injury Alliance.

The irony is that if Babiak had been injured in an auto accident, chances are he would be a significantly changed man today, certainly more productive, better able to care for himself and perhaps even able to work.

Had he been an insured motorist under Michigan's No-Fault Law, catastrophic coverage would automatically provide unlimited medical and rehabilitation services. All motorists insured in Michigan are covered.

Considered model legislation and hailed as the most progressive in the nation, no-fault is under attack by a pair of Republican elected officials who are proposing massive reform of the system, including reduced rates by offering catastrophic coverage as an option.

OPTIONAL COVERAGE spells disaster, say opponents of the reform, because young drivers, those most prone to accidents and whose insurance rates are highest, would surely opt for lower rates. In the event of a disabling accident, there would be no benefits for ongoing care or therapy.

"The only thing worse than head injury is compounding the tragedy by having no money available for rehabilitation," said Birmingham attorney Wayne Miller, who specializes in representing head injury victims. Miller is also vice-president of the Head Injury Alliance in Wayne and Oakland counties.

"Long-term services, particularly custodial care and activity programming is absolutely essential, for both the head-injured and the sanity of their families," he added.

A Southfield father, a West Bloomfield wife and a Livonia businesswoman are painfully aware of the need. The first two are embroiled in bitter financial suits, the father for a son seriously injured in a parachute jump four years ago and the wife who has been unable to work since sustaining an accidental blow to the head at work a year ago. In the interim, both are paying for care.

The businesswoman, involved in an out-of-state auto accident, was recently forced to discontinue counseling after losing a court suit for financial assistance in a neighboring state that does not offer no-fault coverage. *She can no longer afford* services.

Motorcycle, snowmobile and bicycle accidents are also not covered under Michigan's no-fault.

"IT'S VERY DISHEARTENING. I often have to turn away injury victims. There is nothing to be done, simply because their accident does not entitle them to no-fault benefits," Miller said.

In addition to unlimited medical and rehab benefits, Michigan's no-fault also provides three years' worth of wage-loss benefits to those with "permanent serious disfigurement or serious impairment of body function" as the result of an auto accident.

Last December, state Sen. Dick Posthumus and state Rep. Paul Wartner simultaneously introduced no-fault reform legislation aimed at "disproportionately high" premiums for collision and comprehensive coverage. Earlier this year, Posthumus, chairman of the Senate Commerce & Technology Committee, conducted public hearings, summarizing findings in a report last April.

"Michigan's no-fault auto insurance system is probably the best in America," the report begins. Other points contained in it and underlined by Posthumus are:

- "Despite having the most generous no-fault benefits in the nation, Michigan has continuously experienced low average premiums.
- "Michigan's auto insurers are experiencing among the lowest profits *in the nation.*
- "Loss ratios for auto insurance (the percent of premium dollars going back in the form of claims payments) have been consistently and significantly higher in Michigan than in the rest of the nation.
- "This means that Michigan is returning among the highest percentage of premium dollars back to injured victims of any state in the nation."

IN CONCLUSION, the report said, "We need to examine whether mandatory unlimited benefits, forced upon consumers without options to reduce their premium costs, are justifiable and appropriate when insurance costs are ever increasing." Reducing personal injury protection to $250,000 could, the report suggests, save the consumer "as much as $48.12 annually."

The proposal, Miller said, is "60 pages of a virtual wish list for the insurance industry. Not a single reform is favored by consumer groups." And, he added, it is unlikely the proposed changes will significantly lower insurance premiums.

The issue was discussed in a recent issue of the Michigan Head Injury Alliance. "We believe the estimated cost savings by reducing benefits cannot justify the potential loss of necessary medical, therapeutic and cognitive services that are required to complete the rehabilitation process," the article said.

Meanwhile, Babiak, a victim of vi*olent crime a decade ago, now* resides in a full-care facility, paid for by Medicaid and Social Security Disability. His condition continues to decline. He still receives no rehabilitation therapy, according to his mother.

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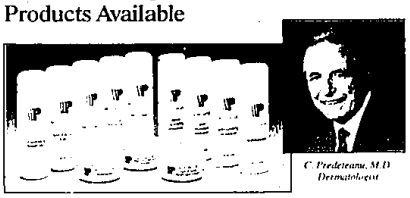

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