



Michigan Catastrophic Claims Association

# **Michigan Catastrophic Claims Association Annual Report to the Commissioner Fiscal Year Ended June 30, 2012**

*The MCCA is a private, non-profit association whose mission is to protect the financial integrity of Michigan's auto insurance industry by providing an effective reinsurance mechanism for Personal Injury Protection (PIP) benefits.*

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## **MCCA Year in Review**

### **June 2011– June 2012**

The premium paid to the Michigan Catastrophic Claims Association (“MCCA”) by member insurance companies was increased to \$175.00 per insured vehicle effective July 1, 2012 to June 30, 2013. This represents an increase of \$30.00 (21%) over the 2011-2012 MCCA charge of \$145.00. The \$175.00 is comprised of pure premium of \$141.93, deficit recoupment of \$32.72 and administration expenses of \$.35. The MCCA premium charge is determined each year following its annual actuarial evaluation. The MCCA reimburses auto insurance companies for Personal Injury Protection (PIP) benefits paid in excess of a set amount per claim. That amount increased to \$500,000 on July 1, 2011.

From inception to June 30, 2012, the MCCA has 13,703 reported open claims and 15,085 reported closed claims. For all open and closed claims, payment has been made on 12,836 (44.59%) claims. Inception to date, \$9,924,085,947 has been paid on claims. Payments for the twelve months ended June 30, 2012 was \$931,689,712 which represents an average of \$77,640,809 paid per month. Please refer to Appendices 3-6 for additional information on claim payments and injury trends.

During the past fiscal year the MCCA continued to enhance communications with member companies through the implementation of a new Claim Guide, as well as work with member companies regarding the pre-approval requirements for proposed PIP claim settlements.

#### **Premium Audit Program**

The MCCA is in the second year of the Premium Audit Program for all member companies. The objective of this program is to enhance the reliability of the premium data submitted by members and to identify members that may have incorrectly reported data in their Annual Assessment Report.

The Audit Procedures focus on self-reporting by members and allows for flexibility depending upon audit volume and error history. Follow-up audits will be based upon results reported by members or other risk factors identified by the MCCA.

The Agreed-Upon Audit Procedures will be performed on a triennial basis by members with their independent auditor. All results for the member companies selected for 2012 will be required to submit their results by November 15, 2012.

#### **Annual PricewaterhouseCoopers(PWC) Financial Audit**

PricewaterhouseCoopers conducted their audit of the MCCA’s statutory statements of admitted assets, liabilities, and accumulated deficit as of June 30, 2012 and 2011, and the related statutory statements of operations and accumulated deficit, and cash flows for the years then ended. PWC has issued an unqualified opinion and indicated the financial statements prepared by the MCCA present fairly, in all material respects, the admitted assets, liabilities, and accumulated deficit of the MCCA as of June 30, 2012 and 2011 on the basis of statutory accounting practices. PWC found no exceptions or audit adjustments

and no Report to Management was required. The audited statements are in agreement with the MCCA's Annual Statement for the year ended June 30, 2012 that was filed with the Michigan Office of Financial and Insurance Regulation.

### **Annual Financial Reporting Model Regulation Compliance**

As a result of the enactment of the Annual Financial Reporting Model Audit Regulation ("AFRMR"), the MCCA completes an AFRMR compliance audit on an annual basis.

Major accomplishments included the compilation of procedures and improvements regarding internal controls, creation of Board and Committee Charters, and an expanded Information Security Policy. In January 2012, MCCA filed a Report of Internal Controls of Financial Reporting with the Michigan Office of Financial and Insurance Regulation.

### **Michigan Office of Financial and Insurance Regulation Examination of the MCCA**

In 2011 the Michigan Office of Financial and Insurance Regulation ("OFIR") conducted an examination of the MCCA for the period July 1, 2006 through June 30, 2010. In accordance with statutory requirements, the financial condition, management, and operations of the MCCA were examined. On October 17, 2011, OFIR issued their report of examination indicating no findings or recommendations. In addition, the OFIR contracted with the American Actuarial Consulting Group LLC, to conduct an actuarial review of MCCA's loss and loss adjustment expense reserves. This review also indicated no findings or recommendations. The report can be reviewed in its entirety on the MCCA website. ( [www.michigancatastrophic.com](http://www.michigancatastrophic.com) )

### **MCCA Membership System (MMS)**

In June 2010 the MCCA introduced the MCCA Membership System (MMS), a web based paperless claims and assessment system. This past fiscal year a variety of enhancements to improve the member user's experience and streamline the claim reporting and reimbursement process were added. Other MMS related activities include:

- Security Assessment
- System upgrade assessment

### **Relevant Case Law That Impacted the MCCA**

- The Michigan Supreme Court in *Douglas v Allstate Insurance Co*, 2012 WL 3078449, held, *first*, that a family member providing attendant care must prove that care was actually rendered, not simply that household services were performed. The family member must prove the amount and nature of the services rendered, as well as an expectation of compensation. The best evidence would be itemized statements, bills, contracts, and logs. *Second*, when determining the hourly rate to compensate a family member, a comparison to hourly rates charged by commercial agencies is too attenuated. The comparison should be to the rate of compensation received by the person actually providing the care.

- The Michigan Supreme Court in *Joseph v Auto Club Insurance Association*, 491 Mich 200 (2012), held that the minority/insanity tolling provision of MCL 600.5851(1) does not apply to toll the one-year-back rule in MCL 500.3145(1). The one-year-back rule is designed to limit the amount of benefits recoverable under the No-Fault Insurance Act to those losses occurring no more than one year before an action is brought. The minority/insanity tolling provision is designed to toll statutes of limitations, not statutes limiting damages. This reverses *University of Michigan Regents v Titan Insurance Co*, 487 Mich 289 (2010), and reinstates *Cameron v Auto Club Insurance*

### **Recent Lawsuits Against the MCCA**

- The Coalition Protecting Auto No-Fault (“CPAN”) brought a lawsuit against the MCCA under the Freedom of Information Act (“FOIA”), seeking a declaration that the MCCA’s statutory exemption from FOIA is unconstitutional, as well as the production of documents reflecting certain information regarding all claims, open or closed, in the MCCA’s inventory. CPAN argues that the statute exempting the MCCA from FOIA is unconstitutional under both the Michigan and United States constitutions. The Brain Injury Association of Michigan (“BIAMI”) later filed a complaint against the MCCA seeking the same documents CPAN seeks, but under Michigan common law rather than FOIA. BIAMI also seeks the production of actuarial information and standards used by the MCCA. The Ingham County Circuit Court consolidated these two cases and heard cross-motions for summary disposition, but has not yet ruled.

## Appendix 1

### **MCCA Reporting Requirements and Organizational History**

The MCCA is a private, non-profit association whose mission is to protect the financial integrity of Michigan's auto insurance industry by providing an effective reinsurance mechanism for Personal Injury Protection (PIP) benefits.

#### **REPORTING REQUIREMENTS**

##### **Michigan Statute 3104(16):**

An annual report of the operations of the association in a form and detail as may be determined by the board shall be furnished to each member.

##### **MCCA Plan of Operation:**

Article XVI – Boards and Report 16.02. Annual Reports. The Board shall make an annual report to the Commissioner and to each Member and 3103 Member. Such report shall include a review of the Association's transactions, activities and affairs and an accounting of its income and disbursements of the past year.

#### **ORGANIZATIONAL HISTORY**

The MCCA was established by Public Act 136 of 1978, which amended the no-fault law by adding Section 3104 effective July 1, 1978. The Legislature created MCCA because insurance companies had difficulty obtaining reinsurance for Michigan's automobile no-fault policies, which provided for unlimited lifetime medical benefits for people who are catastrophically injured in auto accidents.

The MCCA is a private, non-profit, unincorporated association of which every insurer that sells automobile or motorcycle coverage in Michigan is required to be a member.

The MCCA is funded by an annual premium assessment to its member insurance companies based on the number of policies covering automobiles and motorcycles written in Michigan. The MCCA is required to assess an amount each year that is sufficient to cover the lifetime claims of all persons catastrophically injured in that year and in addition, may adjust future assessments for excesses or deficiencies in prior assessments.

#### **ORGANIZATIONAL STRUCTURE**

MCCA is governed by a Board of Directors which consists of five member companies appointed by the Commissioner of Financial and Insurance Regulation. The Commissioner, or his/her representative, serves as an ex-officio member of the Board.

The following standing committees provide assistance in the operation of the MCCA:

- (1) Actuarial
- (2) Audit
- (3) Claims
- (4) Communications
- (5) Investment and
- (6) Personnel

A staff of 25 MCCA employees handles the day to day operations and includes:

- Executive Director
- Controller
- Assistant Controller
- 2 Claim Supervisors
- Information System Manager
- 15 Claim Examiners
- Accountant
- 3 Claim Technicians

MCCA contracts for the following services: (1) Actuarial, (2) Annual audit by an independent accountant, (3) Legal, (4) Investment consulting and management, (5) Payroll, and (6) Information system support.

## **REPORTING REQUIREMENTS**

### **Annual Financial Statements:**

MCCA's annual financial statements, available on the public website ([www.michigancatastrophic.com](http://www.michigancatastrophic.com)), are prepared on the basis of statutory accounting practices as prescribed or permitted by the State of Michigan Office of Financial and Insurance Regulation (OFIR). MCCA is subject to all the reporting, loss reserve, and investment requirements of the Commissioner of the Office of Financial and Insurance Regulation (OFIR) to the same extent as would a member company of the Association. The Association's fiscal year is on a June 30 basis.

In addition, an Actuarial Opinion is part of the MCCA's Annual Statement. The Opining Actuary is required to comply with all applicable Actuarial Standards of Practice. The methodologies used in the Opining Actuary's analysis are well accepted and understood in the Actuarial community. The Opining Actuary employs an annuity model, which projects future payment streams at the claimant level and applies a mortality adjustment developed specifically from MCCA data. Annuity models do not assume all persons will live to the maximum age in the model, but instead apply a probability of death in each succeeding year. The result of the compound probabilities of death produces a very small chance of payments persisting to an advanced age. The MCCA Actuarial committee reviews MCCA mortality experience annually to verify the modeled numbers of deaths are tracking with actual numbers of deaths.

### **Annual Independent Audit:**

An annual audit of MCCA's financial statements is conducted by the independent public accounting firm PricewaterhouseCoopers LLP. The results of these annual audits are available on the MCCA public website ([www.michigancatastrophic.com](http://www.michigancatastrophic.com)).

**Office of Financial and Insurance Regulation (OFIR) Oversight:**

Pursuant to Section 3104(23) of the Michigan Insurance Code, the Commissioner or an authorized representative of the Commissioner may visit the Association at any time and examine any and all the Association's affairs. In the past five years, OFIR has conducted a financial examination of MCCA for the fiscal years ended June 30, 2006 and June 30, 2010.

In addition, the Office of Financial and Insurance Regulation periodically reviews the financial condition of the MCCA, including an independent Actuarial analysis. The results of these Actuarial analyses, the latest of which occurred in 2011, have been consistent with the results of the MCCA Opining Actuary and are available on the MCCA public website ([www.michigancatastrophic.com](http://www.michigancatastrophic.com)).

**MCCA PUBLIC WEBSITE ([www.michigancatastrophic.com](http://www.michigancatastrophic.com))**

The following documents are available on MCCA's website:

- Background Information
- Financial Information
  - Annual Statement (3 years)
  - Report of Financial Examination issued by MCCA's independent accountant (3 years)
  - Assessment History
- Consumer Information
  - Claim Statistics
    - Injury Type Summary
    - Summary of Payments by Cost Category
    - Motorcycle Statistics
  - Frequently Asked Questions



**Appendix 2**

**MCCA Board of Directors and Standing Committees**

**Board of Directors**

Auto Club Insurance Association  
Auto-Owners Insurance Company  
Farmers Insurance Group  
Citizens Insurance Company of America  
State Farm Mutual Automobile Insurance Company  
Commissioner of the Office of Financial and Insurance Regulation (Ex-Officio Member)

**Standing Committees**

Actuarial Committee  
Audit Committee  
Claims Committee  
Communications Committee  
Investment Committee  
Personnel Committee

**Insurance Companies Serving on Standing Committees**

Allstate Insurance Company  
Amerisure Companies  
Auto Club Insurance Association  
Auto-Owners Insurance Company  
Citizens Insurance Company of America  
Farm Bureau Insurance Group  
Frankenmuth Mutual Insurance Company  
Grange Mutual Casualty Company  
Hastings Mutual Insurance Company  
Liberty Mutual Insurance Company  
Progressive Insurance Company  
State Farm Mutual Automobile Insurance Company  
West Bend Mutual Insurance Company  
Wolverine Mutual Insurance Company

## Appendix 3

## MCCA Financial and Statistical Highlights

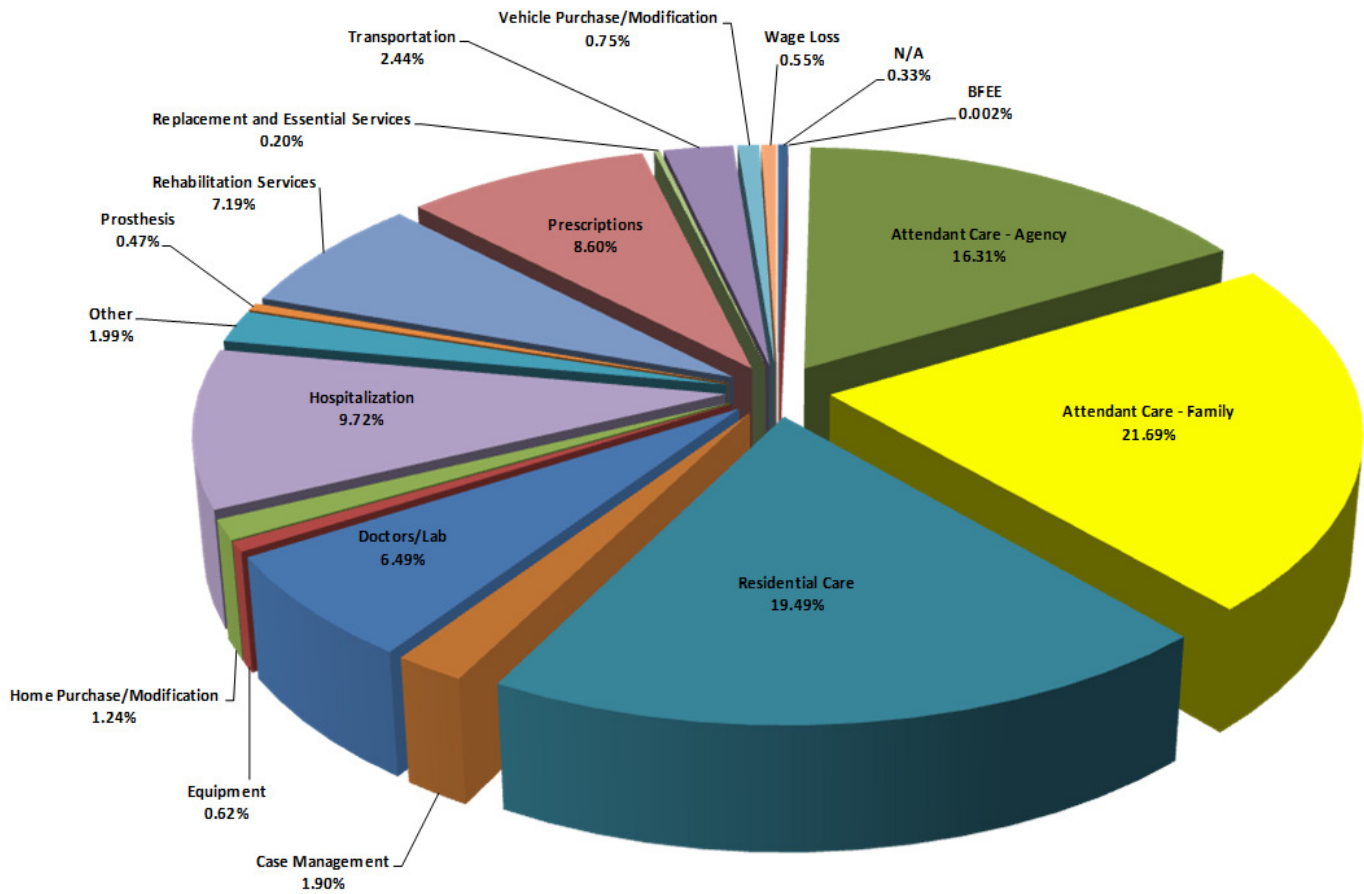
	Inception to June 30,		Change
	2012	2011	
Total Assets	\$14,284,453,000	\$13,806,946,000	\$477,507,000
Total Liabilities	16,332,342,000	14,841,938,000	1,490,404,000
Total Deficit	(2,047,889,000)	(1,034,992,000)	(1,012,897,000)
Amount of Reimbursement	9,924,086,000	8,992,397,000	931,689,000
Undiscounted (gross) Loss Reserves	68,937,707,000	71,579,443,000	(2,641,736,000)
Discounted Loss Reserves	15,418,169,000	13,743,306,000	1,674,863,000
Claims Reported	28,788	27,169	1,619
Claims Closed	15,085	13,647	1,438
Claims Open	13,703	13,522	181
Claims Reimbursed	12,836	12,163	673
	12 Months Ended June 30,		
	2012	2011	Change
Assessment Income	\$1,000,776,000	\$981,455,000	\$19,321,000
Investment Income	393,939,000	647,710,000	(253,771,000)
Amount of Reimbursement	931,689,000	964,811,000	(33,122,000)
Average Monthly Reimbursement	77,641,000	80,401,000	(2,760,000)
Claims Reported	1,619	1,617	2
Claimants Reported:			
Brain	527	635	(108)
Quad	23	42	(19)
Para	17	22	(5)
Burn	11	4	7
Miscellaneous	1,199	1,155	44
In-Process/Not Coded	6	4	2
NPLC*/Denied	571	567	4
Total	2,354	2,429	(75)
Claims Closed	1,438	907	531
Claims Reimbursed	673	850	(177)

\* NPLC - Non Probable Lifetime Care

Appendix 4

### MCCA Loss Payment Summary by Category

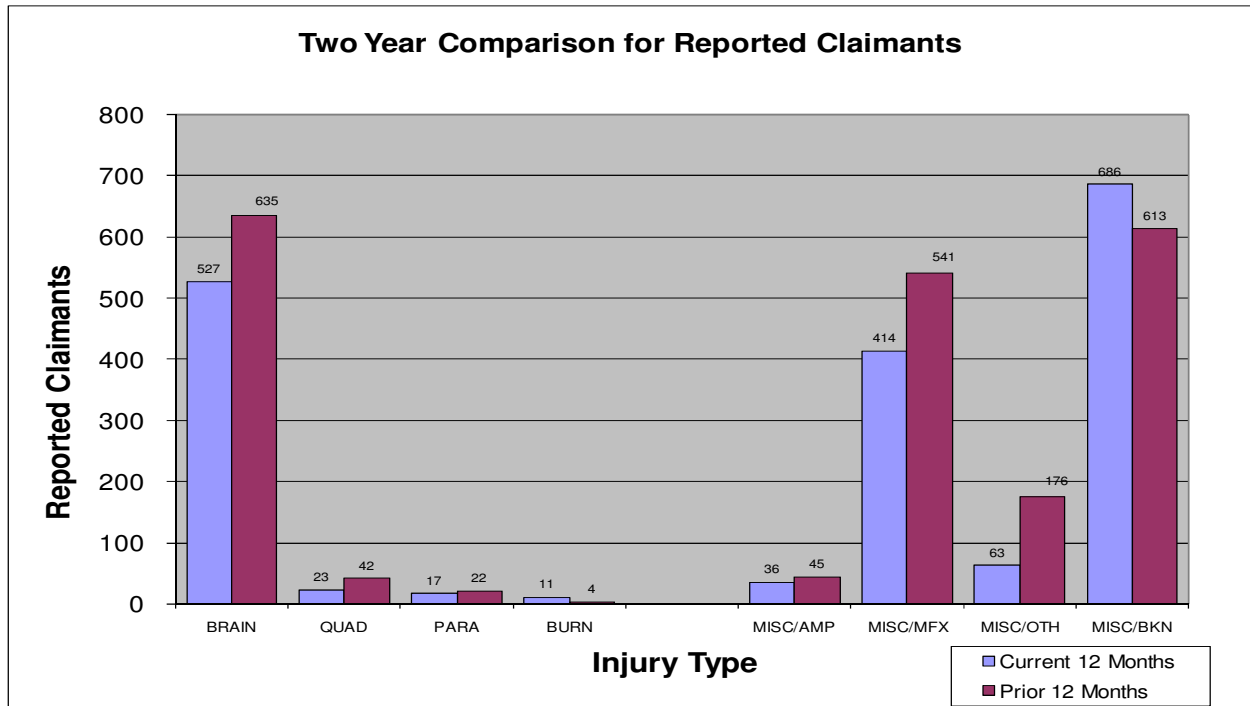
Period: 07/01/2010 to 06/30/2012



Appendix 5

MCCA Reported Claims Summary by Injury Type

As of June 30, 2012



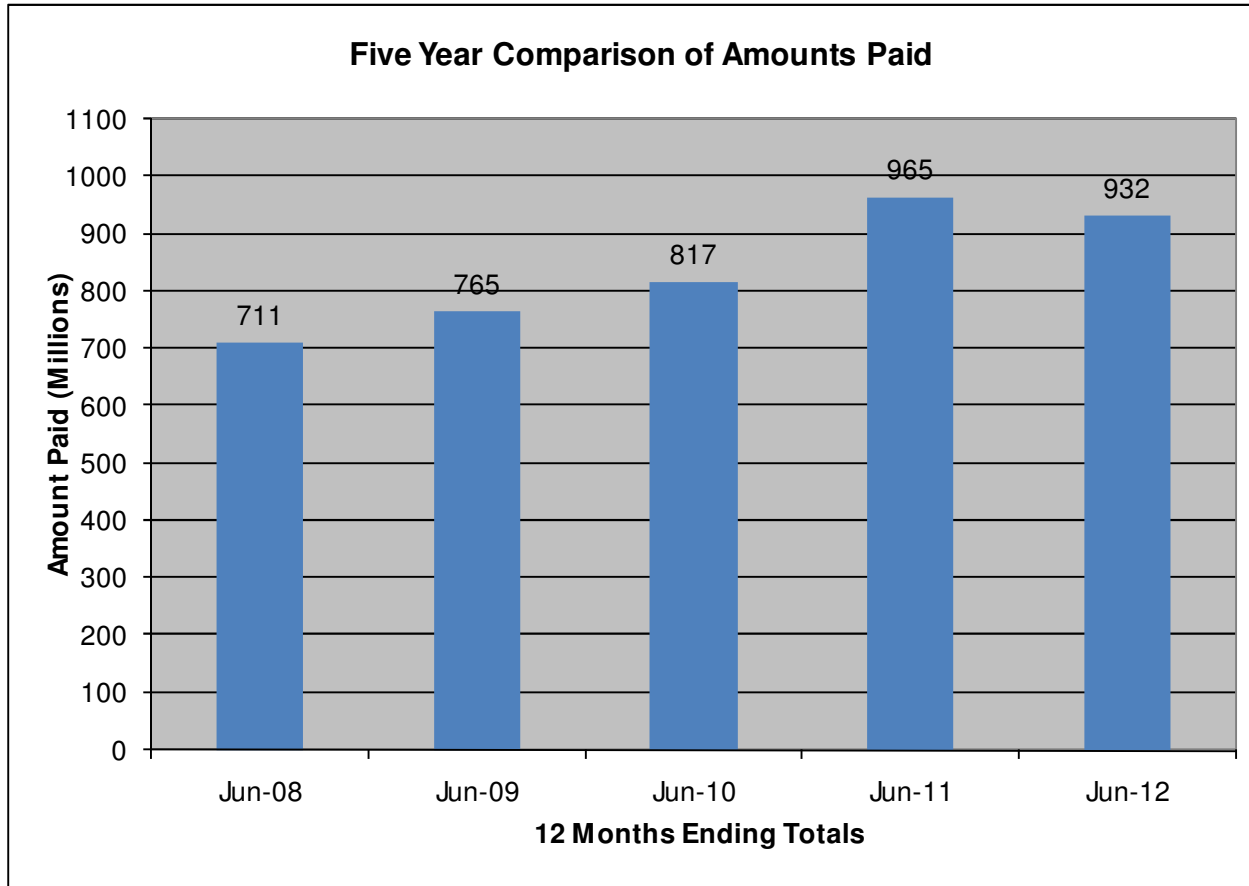
	Current 12 Months	Prior 12 Months		Current	
	Claims Reported	Claims Reported	Difference	Open Claims	
<b>Total Claims Reported</b>	1,619	1,617	2	13,703	
Injury Type	Claimants Reported	Claimants Reported	Difference	Percent Difference	Open Claimants
BRAIN	527	635	(108)	-17.01%	6,363
QUAD	23	42	(19)	-45.24%	627
PARA	17	22	(5)	-22.73%	629
BURN	11	4	7	175.00%	42
MISC	1,199	1,155	44	3.81%	6,677
In-Process/Not Coded	6	4	2	50.00%	8
NPLC*/Denied	571	567	4	0.71%	1
<b>Total Claimants Reported</b>	2,354	2,429	(75)	-3.09%	14,347
Inception to Date	Reported	Paid	% Paid		
<b>Open Claims</b>	13,703	8,187	59.75%		
<b>Closed Claims</b>	15,085	4,649	30.82%		
<b>Total</b>	28,788	12,836	44.59%		

\*NPLC - Non Probable Lifetime Care

**Appendix 6**

**MCCA Paid Claims Summary**

As of June 30, 2012



<b>12 Months Ending</b>	<b>Total Paid</b>	<b>% Difference</b>	<b>Average Monthly Payments</b>
06/30/2008	710,579,600	6.22%	59,214,967
06/30/2009	765,209,844	7.69%	63,767,487
06/30/2010	816,909,758	6.76%	68,075,813
06/30/2011	964,810,566	18.10%	80,400,881
06/30/2012	931,689,712	-3.43%	77,640,809

**Total Paid:** \$9,924,085,947

## Appendix 7

### **MCCA Frequently Asked Questions**

#### **How does the MCCA determine the annual premium (assessment) charged to its members?**

The law requires the MCCA to calculate the premium (assessment) on an annual basis. The premium is required to be sufficient to cover the lifetime claims of all persons catastrophically injured in that year. The MCCA also adjusts the premium (assessment) for excess or deficiency in earlier assessments.

Each insurance company writing auto or motorcycle insurance in Michigan is required to be a member of the MCCA. The insurance companies pay a premium (assessment) to the MCCA. Companies writing personal auto or motorcycle insurance pay a per vehicle amount to the MCCA and that cost (assessment) is generally passed on to policyholders.

#### **Why does the amount charged on an insurance bill differ from the actual MCCA premium (assessment)?**

The MCCA assessment is a per vehicle charge and is the same for all vehicles with the exception of historic vehicles and historic motorcycles (20% of the current assessment). Your insurance company is permitted to include administrative and other miscellaneous costs in the assessment rate which may be passed on to their policyholder. If you have any questions regarding the assessment rate your insurance company is charging, you should contact the company or your insurance agent.

#### **Why is my MCCA assessment based on the number of cars I own instead of the number of drivers in my house?**

The MCCA must assess to cover all catastrophic claims occurring during a certain year. Changing the assessment from per car to per person will not change the total amount needed to pay claims. The per car assessment is also consistent with the Personal Injury Protection (PIP) portion of the no-fault law, which is based on each car.

**I have a motorcycle. Do I have to pay the MCCA assessment?**

Effective December 22, 1981 and pursuant to PA 445 motorcycle insurers are subject to MCCA assessments. As of June 30, 2011, motorcycles represent 2.30 percent of assessments paid to the MCCA and account for 5.37 percent of claims paid by the MCCA.

Unless a motorcyclist is injured in an accident with a motor vehicle, he/she is not entitled to no-fault benefits, including MCCA protection for medical expenses that exceed the applicable MCCA retention. Thus if a motorcyclist is injured after hitting, for example, a tree, he/she would not be entitled to collect such benefits. The reason is that motorcyclists are not required to purchase no-fault medical benefits. While they can purchase medical benefits in \$5,000 increments, requiring them to purchase no-fault unlimited medical benefits would be cost prohibitive. They receive such benefits when injured in an accident with a motor vehicle because they are collecting under the motor vehicle's no-fault policy and not under their own policy.

If a motorcyclist is involved in an accident with a motor vehicle, occupants of the motorcycle will be eligible to receive unlimited PIP benefits. If a motorcyclist is NOT involved in an accident with a motor vehicle, then the occupants of the motorcycle are not eligible for unlimited lifetime PIP coverage and only eligible for benefits that were purchased from the motorcycle insurer.