



An accident runner, a chiropractor, and the push to curb no-fault insurance

25 August 2015

by [Nancy Derringer](#)

Bridge Magazine

Avery Gordon, general counsel for SMART, the regional bus service serving metro Detroit, has seen it before and seen it often. He said it usually goes like this:

“One of our employees is involved in an accident,” something minor, with no serious injuries. “The driver is at home, a few days after the accident, and gets a call (from someone who says), ‘I hear you’ve been in an accident.’”

The caller names a doctor, and tells the driver, “We’re calling to set up an appointment,” Gordon said. The driver might say yes, there was an accident, but I wasn’t hurt and don’t need to see anyone. The caller will tell the driver that soft-tissue injuries may take several days to announce themselves, and calls back the next day, or the day after, always saying, “Let’s set up an appointment.”

“They’re supposed to think it’s their employer, SMART, calling,” said Gordon. Setting the appointment is setting the hook. Reeling in the fish is the rest of the game.

What Gordon is describing is not unique, and not just for transit companies. Lawsuits and legal filings by insurance companies and others describe an insurance fraud network of “accident runners,” who work with lawyers and doctors to find clients involved in auto accidents and milk their (often unnecessary) medical treatments for maximum payouts, through private insurers and under Michigan’s no-fault insurance law.

As Michigan policymakers grapple with reform of the state’s no-fault law, and as the state’s insurance rates remain among the highest in the nation, cases like these are illustrative of how the culture of insurance abuse works here, and are among the reasons the insurance industry is pushing to curb Michigan’s no-fault law.

Of course, critics of the insurance industry counter that a multitude of factors, including the controversial use of motorists’ credit scores and educational background in setting rates, also impact Michigan insurance rates. In addition, critics also contest the portrayal of the state’s no-fault law as giving “unlimited” lifetime coverage for catastrophic injuries, noting the law only allows recovery for “reasonable charges” incurred by injury victims.

How it works

Rife with details that sound like they were taken from a Carl Hiaasen novel – such as a Florida-based business operating as WhoCanISue.com – a 2013 civil RICO case filed in U.S. District Court against Universal Health Group and others by AllState Insurance and its affiliated companies paints a picture of how the alleged fraud works. The suit argues that “the singular purpose of the defendants’ scheme and network was to exploit Michigan’s unlimited no-fault benefits by generating as many bills as possible by doing as much treatment as possible.”

The insurers say accident victims are contacted by “runners,” who obtain public police reports listing the names of everyone in a vehicle when it crashes. The runners steer them to particular lawyers and doctors, often chiropractors, who invariably order overpriced tests, make vague diagnoses (soft-tissue injuries are often the go-to diagnosis because they are difficult to refute) and send patients to treatments that go beyond common medical practice, sometimes lasting for months longer than soft-tissue injuries generally take to heal.

“(Michigan has) an unlimited pot of money. No other state has that. That attracts people who are unscrupulous and want to get their hands on it,” said Loni Conarton, communications director for the Insurance Institute of Michigan, an industry group backing no-fault reform.

In a counter-complaint filed in response to the State Farm suit, the defendants object on various legal grounds, pointing out that medical services were rendered, and that the insurers are improperly objecting to private medical decisions.

Those seeking to maintain Michigan’s current no-fault law say the lack of a cap on how much the seriously injured can recover outweighs the bad that comes from people who abuse the system. Michigan is notable for its generosity toward people injured in auto accidents; victims are entitled to recover unlimited “reasonable” medical expenses over their lifetime for catastrophic injuries. When the state’s no-fault law was enacted in 1978, the legislature also established the [Michigan Catastrophic Claims Association](#), to reimburse private insurers for any claim in excess of \$545,000. Each Michigan motorist is assessed \$150 per vehicle to fund this pool of money.

Advocates for victims and others say this benefit is essential for the most horrifically injured to lead manageable lives afterward. Though even they concede the fund can provide a tempting target for abuse.

A court deposition in one case, filed by two passengers on a Capital Area (Lansing) Transportation Authority bus that was hit by a car, pulled a curtain back on a typical operation. The passengers were suing the transit authority for medical claims. In testimony, Nicola Pavelka, a registered nurse who worked for United Wellness, one of the companies under the Universal Health Group Umbrella, said she was paid a \$94,000 salary and promised a finder’s fee (never paid, she said) to recruit doctors to work with the company’s various clinics in southeast Michigan.

Pavelka said chiropractors associated with the company saw some patients “five and six times a week” for chiropractic manipulation, and that the clinics had relationships with plaintiff attorneys looking for “a full-service gas station,” the term used to describe a single office or clinic where patients can receive all of their care. “So they didn’t have to chase all over everywhere to get reports” on their clients, she said.

The emphasis on providing a high volume of treatment was matched by generous billing, typically six times the Medicare rate, which was excessive, Pavelka said. One physical therapist working in the United Health Group clinics was allegedly fired for objecting to the aggressive treatment, and Pavelka herself said she quit when patients were subjected to what she considered unnecessary surgeries – including one scheduled to be done by Dr. Aria Sabit, a Birmingham neurosurgeon who in May [pleaded guilty](#) to defrauding private and government insurers for \$11 million since 2011.

The case against the Lansing bus system was dropped by the plaintiffs but the insurance industry maintains that abuse is a statewide problem.

Complaints of questionable insurance claims in Michigan made to the National Insurance Crime Bureau, a law enforcement-industry nonprofit partnership, jumped by 122 percent between 2009-13 – from 2,971 to 6,601, with most claims originating in Detroit, Dearborn or Warren. Those claims were “related to medical fraud, namely billing for services not rendered, overzealous solicitation of patients, upcoding and other abuses,” an NICB press release contends.

Who needs money most

But the flip side of Michigan’s benefit, others point out, is generosity, much of it extended to people who have suffered grievous injuries. Efforts to restrict Michigan’s no-fault law picked up a powerful enemy in L. Brooks Patterson, the longtime Oakland County Executive, who came out strongly against [SB 248](#), the most recent focus of reformers.

Patterson, who along with his driver was seriously injured in an auto accident in 2012, has been outspoken about protecting Michigan no-fault ever since. The extra money paid per car, he wrote in a [recent op-ed for the Oakland Press](#), is a small price to help people like his driver, who was left a quadriplegic by the crash, live something close to a normal life.

SB 248 would replace the MCCA with the Michigan Catastrophic Claims Corp., which would take over the former agency’s work, with some changes, among them limiting the amount that could be paid by insurance benefits for attendant care; and limiting the amount an insurer would have to pay to “the average amount the person or institution customarily accepted from all sources, not including cases involving personal protection insurance, Medicaid, or Medicare.” To put it simply, those who care for the most injured would see their compensation capped, and medical expenses would be paid on an average, not actual basis, which attorney Steven Gursten, who blogs on the topic regularly, called [“a gift to car insurance companies.”](#)

Conarton, the industry spokeswoman, counters that the bill preserves unlimited medical care – [some health-care executives disagree](#) – but the most important reform would be instituting an insurance fraud authority, something Michigan lacks, one of only eight states without one. Such a group would be supported by the insurance industry and provide support and financial assistance to prosecutors investigating fraud, who frequently don’t have the staff or budgets to go after these sorts of non-violent crimes, Conarton said.

“The model (for a fraud authority) would be the [Automobile Theft Protection Authority](#),” Conarton said. That group, established in 1992, has “significantly” improved the auto-theft climate in Michigan, she

added. A fraud authority would also analyze data to identify clusters of activity around the state, so efforts could be concentrated there.

All well and good, said George Sinas, legal counsel for the [Coalition Protecting Auto No-Fault](#) in Lansing, a nonprofit comprised of medical and consumer groups.

But, Sinas said, abuse of the system works both ways. Little love is lost between the insurance industry and CPAN – [a recent press release](#) by the latter group has the title “No-Fault Lies and the Lying Liars Who Tell Them” – and CPAN’s mission is in its very name. Sinas and others acknowledge the problem of high insurance rates in Michigan is partially linked to fraud, but says SB 248 is more about protecting the insurance industry than residents.

“If we’re going to get to the bottom, we need to look at more than just a few bad lawyers, but also the insurance industry,” Sinas said. “When the no-fault statute went into effect, one of the central pieces (driving the reform) was that the tort system (for litigating personal injury cases) was too adversarial. Everything was a fight. No-fault said, ‘You’re in an accident, you get benefits.’ But exactly the opposite has taken place. Virtually every single case is turning into an argument with the insurers.”

[Fraud debate](#)

Fraud happens in other public programs, but we don’t overhaul the system as a result, Sinas said. “CPAN has taken a very strong position that where fraud exists, it must be eradicated,” he said. It’s not only a crime, but it jeopardizes the integrity of the system. It must be stamped out.”

Many of the suits filed in recent years, both against and on behalf of insurers and doctors have been settled or otherwise dismissed. The AllState RICO suit is still pending, although settlements have been reached with some of the defendants, according to someone close to the litigation.

[WhoCanISue.com](#), after a flashy launch in 2009, still has a web presence (complete with its logo of a man slipping on a banana peel), but the site’s functionality appears to have vanished, and the phone is no longer answered. Universal Health Group and United Wellness have non-working numbers or full voicemail boxes.

Pavelka, the nurse/whistleblower, was at the time of her deposition dealing with insurers in a different context — getting a new house built. Two and a half months after she quit her job, her house burned to the ground, an act of arson, she said. No culprit was ever arrested.