POVERTY SOLUTIONS
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BUILDING ON MICHIGAN'S AUTO INSURANCE REFORM LAW

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INTRODUCTION

Michigan drivers have long paid the highest auto insurance rates in the country. By mandating unlimited personal injury protection (PIP) for all drivers and failing to regulate reimbursement rates for medical providers, the state's average insurance rates had ballooned to over $3,000 per year by 2019, nearly $800 higher than the next closest state.[1] While Michigan rates were high, rates in its biggest city, Detroit, were astronomical, with drivers facing an average rate of over $6,300, a function of the unlimited PIP requirement coupled with insurance discrimination based on geographic and other non-driving factors.[2] In the spring of 2019, the Michigan legislature passed sweeping reforms to Michigan's auto insurance laws, with the goal of driving down these exorbitant rates. These reforms began to take effect in the summer of 2020.

In this brief, we analyze the early outcomes of auto insurance reform more than a year after the initial provisions of the law went into effect. In a 2019 brief, which was widely cited in the run-up to reform, we argued that high auto insurance rates erected a significant barrier to economic mobility, forcing those with low incomes to go without a car, dedicate a large share of their limited income to insurance premiums, or drive without insurance, exposing them to legal penalties. Here, we evaluate the success of auto insurance reform through the same lens, seeking to understand the extent to which recent reforms have offered Michiganders a boost in their pursuit of economic mobility.

We will provide some background on the 2019 law, use preliminary data to describe the impact of the law more than one year after taking effect, and discuss what still needs to be done to ensure the cost of auto insurance does not continue to stand as a barrier to economic mobility for Michigan residents. Early data find the average cost of auto insurance declined significantly in Michigan from 2019 to 2020—a steeper decline than anywhere else in the country. However, the cost of insurance remains unreasonably high for many Michigan residents—and Detroit residents in particular. We will outline how Michigan's insurance laws can be improved to further reduce rates statewide and in Detroit. In addition, we will discuss some of the early, unintended consequences of the reform law, such as reduced revenues for long-term care facilities, and outline how careful policy reforms can assure quality long-term care for vulnerable Michiganders, while not driving up insurance rates across the system.

KEY FINDINGS

- The reforms instituted through the 2019 auto insurance reform law made a difference. Early data suggest rates across the state have fallen by nearly 20%.
- Even with these reductions, Michigan rates remain the highest in the country, and average rates in Detroit still eat up over 18% of the median household income in that city.
- Insurance rates are still highly correlated with race, and more can be done to eliminate the discriminatory impact of using non-driving factors to calculate rates.
- The method used to cap medical fees may be unnecessarily stringent and out of line with national peers, causing a crisis in access to care for victims of catastrophic accidents that occurred prior to reform.

AUTO INSURANCE IN MICHIGAN AND THE 2019 REFORM LAW

Owing to a unique mix of policies, Michigan has long held the dubious distinction of having the highest auto insurance rates in the country. Prior to the 2019 reform law, Michigan was the only state in the country that required every driver to have unlimited personal injury protection (PIP) to cover medical claims in the case of severe injury, and auto insurance was almost always considered the primary insurer in the event of auto accidents. In addition, Michigan did not impose a medical fee schedule on procedures covered by auto insurance. These two policies led to high claims in Michigan, which drove up rates.[3]

In addition, Michigan allowed the use of non-driving factors to determine auto insurance rates, which led to rates in majority-Black zip codes that were even higher than those in the rest of the state. Under prior law, insurance companies could take into account a range of non-driving factors to determine auto insurance rates, including marital status, educational attainment, homeownership status, credit scores, and the zip code in which one lives.[4] Owing to historical and persistent racial discrimination in housing and labor markets, as well as structural racial inequities in our education system, many of these non-driving factors highly correlate with race.[5] This means that prior to reform, the share of Black residents in a zip code was highly correlated with the average price of auto insurance *(correlation coefficient of 0.76, with 1 being the strongest possible correlation)*, while other factors, such as a zip code's median income or poverty rate, were only weakly correlated with the price of insurance.[6] Said another way, if you knew the share of Black residents in a zip code, you could offer a good guess as to the price of auto insurance. In 2019, the average premium for all zip codes in the state was $3,100; for the 37 zip codes in which more than 50% of residents were Black, the average rate was $5,500.[7]

Several elements of the law that took effect in 2020 are designed to both rein in PIP payouts and reform discriminatory rate setting practices. Under the new law, drivers are not required to purchase unlimited PIP coverage, but they can instead select PIP coverage that best fits their needs and existing health insurance coverage. Consumers have the choice of six different coverage levels, including an opportunity to opt out of purchasing unlimited PIP coverage if they have a health insurance policy that covers auto injuries and has a deductible of $6,000 or less.[8] The law also provides low-cost options for seniors and drivers with low incomes, allowing seniors to completely opt out of PIP if they have Medicare Part A and B, and Medicaid recipients to purchase a policy with $50,000 in PIP coverage, so long as other household members also have adequate coverage.[9] The new law also seeks to reduce PIP costs by placing limits on the fees health providers can charge auto insurance companies for medical services, a change that should impact everyone who carries PIP coverage.

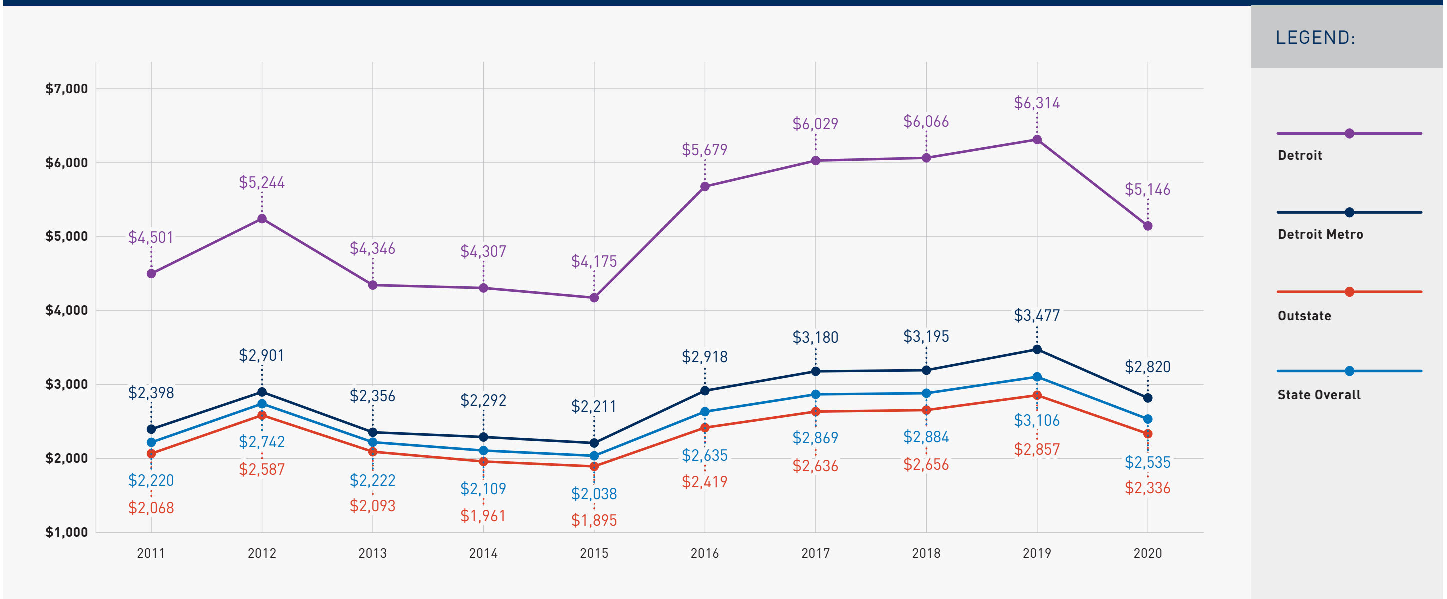
The new law also prohibits the use of sex, marital status, homeownership, education level, zip code, or credit score when determining rates.[10] By removing these factors—most of which are highly correlated with race and poverty—the new law removes a set of elements that disproportionately impact minority and low-income drivers and should have a bigger impact on their rates compared to the average driver.[11] However, as we discuss below, it is unclear how this reform is playing out in practice, as insurers can often use proxies for these non-driving factors that may have an equally or perhaps greater discriminatory effect.

HOW MUCH HAVE RATES CHANGED POST-REFORM?

The new law has been in effect for a little over a year, and certain elements of the law—such as the reduction in reimbursement rates for medical services covered by auto insurance—only recently went into effect.[12] However, even partial implementation of the law over a relatively brief time period has led to a significant decline in rates across the state. Relying on data from The Zebra, an auto insurance comparison marketplace that collects rate information from public rate filing and insurance rating platforms, we analyzed the changes in estimated rates statewide and in Detroit.

Between 2019 and 2020, average estimated rates fell by 18% statewide, the steepest decline of anywhere in the country over that time period.[13] This is a decline of nearly $600 per year for the average Michigan driver. Despite this dramatic fall, Michigan's auto insurance rates remain the highest in the nation, after having risen by 40% between 2011 and 2019. The high statewide average is partially driven by Detroit and metro Detroit, where auto insurance rates are higher than the state average. However, even when Detroit and the Detroit Metro area are excluded from the calculations, Michigan's average rate—$2,336—is still slightly higher than any other state in the country, and is 2.5 times the average rate in Ohio, which at $926 has one of the lowest rates in the nation. Despite the reform and a substantial decrease in rates, insurance rates remain high and largely unaffordable in Michigan.

FIGURE 1: AUTO INSURANCE RATES, 2011 TO 2020



Insurance rates have always been substantially higher in Detroit, partially due to greater numbers of PIP claims and partially because insurers were allowed to use non-driving factors to calculate rates.[14] In theory, the new law should lead to larger declines in Detroit than the state overall because the exclusion of non-driving factors in rate-setting should have a larger impact in majority-Black areas most severely impacted by discriminatory rate-setting practices. However, post-reform, the rates in Detroit remain twice as high as the rest of the state, falling at the same rate as the statewide average (18%). While these data are preliminary and we may see rates drop more dramatically in the next year, it appears the new law does not go far enough to protect non-white and low-income people from being discriminated against in the insurance market.

ROOM FOR IMPROVEMENT?

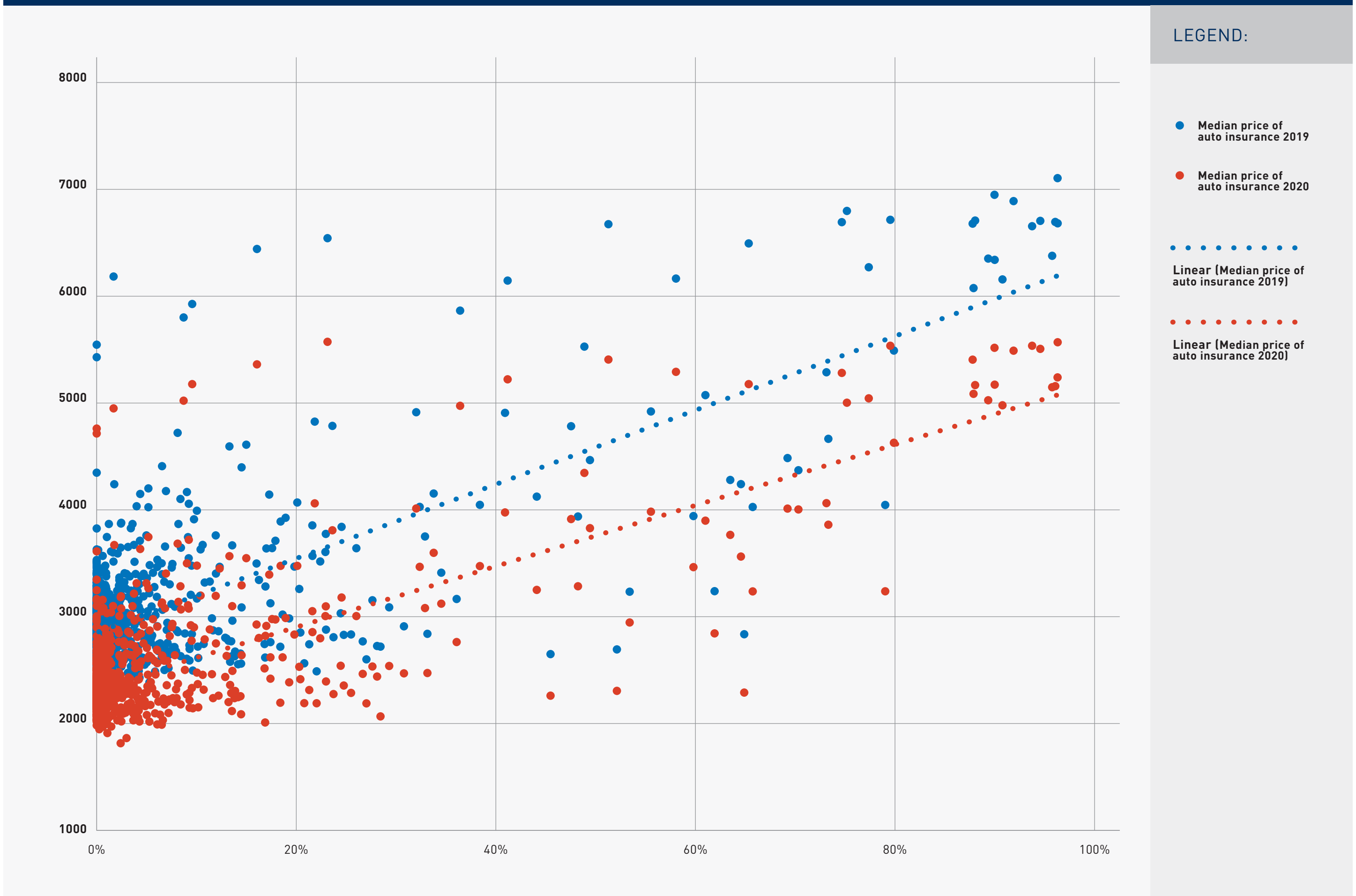
While rates in Michigan remain the highest in the country and $1,000 above the national average of $1,483, rates in Detroit are an eye-popping $5,146 a year.[15] In New Orleans, the city with the second highest rates in the country, residents face an average rate of $3,564, nearly $1,500 less than Detroit.[16] Rates may decline further as actuarial models adjust to the consequences of the law and new insurers enter the Michigan insurance market, many of whom did not previously offer policies in the state due to the requirement of unlimited PIP coverage with no fee limits.[17] However, the gap between rates in Detroit and the rest of the state does not show any sign of closing despite the removal of non-driving factors from rate calculations.

Additionally, as the law comes into effect, some individuals injured under the unlimited PIP provisions in the prior law are losing access to catastrophic care services that they previously received, an unintended and unfortunate byproduct of the reform law.[18] Understanding why rates may not be falling at a faster rate for Detroit drivers and how the new cost controls are impacting vulnerable auto accident victims can give us insight into ways the law could be made stronger.

TAKING A CLOSER LOOK AT NON-DRIVING FACTORS

Although the new law specifically prohibits the use of zip code and credit score in calculating rates, it still allows insurance companies to group insurance risks by geographic "territory" and use an insurance score, which has credit score as a component, in determining rates.[19] Consequently, rates remain as highly correlated with race as they were prior to reform. The chart below shows the median price of auto insurance in every zip code in the state plotted against the percentage of residents in that zip code who are Black. Blue dots represent 2019 rates, orange dots represent 2020 rates, and we have added trend lines highlighting the relationship between the racial makeup of a zip code and auto insurance rates. As we can see by the trajectory of the trend lines, while insurance reform has lowered rates across the board, it has done nothing to change the relationship between the percentage of Black residents in a zip code and the price of auto insurance in that zip code.[20]

FIGURE 2: MEDIAN PRICE OF AUTO INSURANCE IN MICHIGAN ZIP CODES 2019 AND 2020 BY % BLACK IN ZIP CODE



Geography can play a legitimate actuarial role in determining rates—for example, driving in more congested urban areas results in more accidents, driving faster in rural areas may cause more fatal accidents, and medical costs may be higher in one part of a state versus another.[21] However, using geography to determine rates can also lead to insurance "redlining," in which residents of neighborhoods with high concentrations of Black residents or residents with low incomes may be charged higher rates based on perceived risks that may not be borne out by the data.[22]

To ensure geography is used in a way that balances increased risk and geographical differences in medical costs without discrimination, some states provide restrictions on how territories can be determined, provide state-defined territories, or require insurers to get approval for how they define territories.[23] Michigan only restricts insurers from using zip codes to determine rates and does not require approval for, or transparency about, how insurance companies define their territories. Using state-specified territories or allowing insurers to develop their own territories based on strict criteria, as is done in New Jersey, would provide greater transparency and blunt discriminatory impacts.[24] Alternatively, the law could be amended to require insurers to create territories that are at least 20 square miles, as is done in California, potentially broadening the socioeconomic characteristics of individuals in a particular area.[25] California's law also requires more weight be given to driving-related factors—such as miles driven and vehicle characteristics—than geography in developing rates.[26] In Connecticut, insurers are required to moderate the impact of geography on rates by weighting territory versus statewide experience, which uses the lower statewide rate to temper the higher rates in the urban areas.[27] Taking similar steps to ensure territories under the new law do not have the same discriminatory impact as zip codes under the old law could help close the gap between rates in Detroit and the rest of the state.

Similarly, while the prohibition on using credit scores to calculate risk was intended to diminish racial and socioeconomic disparities in rates, the continued use of insurance scores—which rely, in part, on credit scores—may render this change irrelevant. The continued use of credit scores, either explicitly or by proxy, will have a racially and socioeconomically discriminatory effect, as the outcomes of other forms of systemic discrimination are often visible on credit reports.[28] Furthermore, analyses have found credit scores are unrelated to driving risk.[29] To truly remove these negative biases, insurance scores should be eliminated as a factor in determining insurance rates, as California, Hawaii, and Massachusetts have done.

REINING IN MEDICAL COSTS WHILE SUPPORTING QUALITY CARE

For years prior to reform, the major driver of high rates across the state was Michigan's unique mix of policies that mandated all drivers obtain unlimited PIP while at the same time placed no limits on the cost of medical services covered by auto insurance. Though the reform law ended the unlimited PIP requirement—the likely cause of declining rates statewide—and introduced a fee schedule on medical services that went into effect this year, more can be done in both of these areas to lessen the impact of medical costs on rates, while also supporting quality long-term care for those who need it.

As reflected in their lower auto insurance rates, other states have contained PIP costs better than Michigan. Post-reform, Michigan still requires a minimum of $250,000 of PIP for most drivers, and it remains the only state where unlimited PIP coverage is an option. In other no-fault states, minimum PIP coverage ranges from a low $3,000 in Utah to a high of $50,000 in New York, where $50,000 is also the maximum available.[30] Additional coverage is available in other no-fault states, but these states set limits to coverage, such as $50,000 in New York or $250,000 in New Jersey. Though eliminating mandatory unlimited PIP was a necessary step, Michigan's still elevated rates may be in part due to its still relatively high PIP requirements.

In states with lower minimums, health insurance becomes the primary payer after PIP limits are reached, which helps contain PIP costs. Some states, like New Jersey, have lowered medical costs further by allowing drivers to designate their health insurance as the primary insurer in a car accident.[31] Michigan's new law allows auto insurers to offer a managed care option, where auto insurers contract with health care providers to cover the cost of care and medical deductibles for drivers. However, insurers are not *required* to offer this option. Ensuring consumers have the choice of selecting a managed care option or a deductible on medical expenses could help further reduce rates.

In addition to mandating unlimited PIP, the previous auto insurance law did not impose a medical fee schedule on service providers, resulting in inflated rates for medical procedures covered by auto insurance as opposed to other forms of health insurance. To control medical costs, the reform law set rates at 200% of the Medicare reimbursement rate, a level similar to those in other states that rely on the Medicare charge list or the fees allowed by the state's workers' compensation schedules.[32] For procedures not on the Medicare master charge schedule, however, fees are capped at roughly 50% to 75% of what they were in July 2019. This new fee schedule was introduced in July 2021.[33]

While the introduction of a medical fee schedule was necessary to control costs and bring down rates for Michigan drivers, the rate cuts for certain services subject to the lower reimbursement rates, such as those provided by long-term care facilities, may have been too dramatic. Already, reports suggest these fee caps are causing problems for accident victims who were injured prior to the passage of the reform bill, as many providers face budget shortfalls and may be forced to go out of business.[34]

Indeed, other states have set rates for services not on the Medicare schedule in a manner that seeks to reimburse providers for the true cost of care. For example, New Jersey creates a regional state fee schedule based on the "reasonable and prevailing fees of 75% of practitioners in the region."[35] For fees not on the schedule, providers justify their fees based on fees billed to other payers. Insurers determine the reasonableness of this fee relying on previous experience with the provider and national databases of fees. Conflicts between auto insurers and medical providers over non-fee schedule charges are resolved through binding arbitration. In Pennsylvania, fees not on the Medicare schedule are limited to 80% of the providers' usual and customary charge.[36] By implementing a careful policy around reimbursement for those services not on the Medicare schedule, Michigan can both better contain costs and support the long-term care facilities particularly burdened by the reform law.

In addition, we should bear in mind that Michigan's Catastrophic Claims Fund could be playing a much larger role in ensuring long-term support for people catastrophically injured in an auto accident. The fund, managed by the Michigan Catastrophic Claims Association (MCAA), was worth $23 billion in 2020 and was designed under the old law to cover long-term care that exceeded $600,000.[37] There is no reason medical services paid for by this fund should be subject to a low reimbursement rate—the fund was specifically designed to cover the high costs of care that claimants with unlimited PIP might incur. In addition, going forward, given that fewer claimants will now have unlimited PIP, and therefore won't hit the $600,000 threshold, the fund could potentially be repurposed to support long-term care providers by covering more claimants at sustainable reimbursement rates.

CONCLUSION

One year after certain elements of the auto insurance reform law went into effect, average insurance rates have fallen considerably in Michigan, but remain the highest in the country and unaffordable for nearly every jurisdiction in the state.[38] To further lower rates, and ensure high auto insurance prices don't continue to stand as a barrier to economic mobility, lawmakers could do the following:

OFFER GREATER CHOICE IN PERSONAL INJURY PROTECTION COVERAGE.

While the changes to PIP made in the 2019 law clearly had an impact on rates, Michigan is still an outlier in the amount of PIP drivers have to purchase. More could be done to lower rates by aligning with PIP practices in other states.

REQUIRE INSURANCE COMPANIES TO BUILD CERTAIN FACTORS, AT CERTAIN WEIGHTS, INTO THEIR MODELS FOR CALCULATING RATES.

In the 2019 law, the State barred insurance companies from using a number of non-driving factors to calculate insurance rates, only to see insurance companies use proxy measures to replace the prohibited factors. This meant that while the 2019 law reduced rates for all Michigan drivers, it did nothing to reduce discriminatory pricing by race. To reduce rates in majority-Black zip codes, Michigan should look to California, where insurance companies must give a certain weight to three mandatory, driving-related factors in calculating their rates: driving record, annual miles driven, and years of driving experience.[39] By dictating what factors insurance companies have to consider and the weight they must give those factors—rather than the current practice of specifying what factors they cannot consider—the state can limit the discriminatory impact of non-driving factors.

REVISIT REIMBURSEMENT RATES FOR SERVICES NOT ON THE MEDICARE SCHEDULE, AND USE THE CATASTROPHIC CLAIMS FUND TO SUPPORT LONG-TERM CARE.

While containing the costs of medical fees is integral to reducing auto insurance costs, the sharp reduction in reimbursement rates for long-term care providers may drive providers out of business, resulting in poor outcomes for auto accident victims requiring long-term care. Lawmakers should revisit reimbursement policies for services not on the Medicare fee schedule, looking to models in other states that have implemented a more nuanced approach. In addition, lawmakers should seek to utilize the surplus in the Catastrophic Claims Fund to restructure how that fund is used to support long-term care facilities.

The 2019 reform law was an essential first step, but lawmakers should not be content. When we first wrote about Michigan's high auto insurance rates in 2019, we emphasized the ways in which high auto insurance rates create a barrier to economic mobility. For many Michigan drivers, this barrier has not been adequately diminished. More must be done to eliminate discriminatory rate setting practices and further curb the impact of PIP on rates. However, while we continue to push for lower rates, we must carefully consider the impact on those receiving long-term care and ensure that providers are reimbursed for services in a way that enables those who have been catastrophically injured in an auto accident to receive the care they need.

The passage of the 2019 reform law was years in the making and made meaningful changes that lowered rates for Michigan drivers. Now, more than two years after the passage of the law, we should celebrate what's working right and fix what's not, to ensure Michigan's insurance system does not stand as a barrier to opportunity and also provides security and peace of mind to Michigan drivers.

ABOUT THE AUTHORS

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ENDNOTES

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7 Authors' analysis of auto insurance data from The Zebra.

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