

No fault car insurance essay

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No-Fault Auto Insurance Is Faulty! Hidden truths are the exciting part of contracts as they throw twists and turns into the deal, sometimes for better but also sometimes for worse. Just like those "\$8/month for the first 6 months" gym memberships have hidden terms and conditions, car insurance is no different and it is wise to read the fine print to ensure understanding of what is included.

However, with car insurance, sometimes the fine print is not sufficient as certain parts are emphasized whereas others are either not mentioned or not mentioned until it is necessary to make a claim. Regardless of the contracts involved, there are two main systems of insurance in use: tort and no-fault. Tort liability is the traditional system of hiring a lawyer and taking care of matters in front of a court. No-fault insurance was designed to provide basic medical coverage for people in car accidents without dealing with the time consuming tort process. No-fault automobile insurance is beneficial until you have to make a claim.

The advantages of no-fault insurance are lower premiums which so more drivers can afford to be insured as well as it's quicker and easier to make a claim. However, like anything else in life, there is a hidden, yet intense negative side to no-fault insurance because accident victims cannot sue for damages, compensation is limited to what is stated in the policy, and there is a severe moral hazard problem related to the direct incentive to drive carelessly while "protected" by no-fault insurance. Good but.. Traditional car insurance is based on a tort liability system. A tort system allows accident victims to sue the wrongful party for damages in the aftermath of an accident. Under a tort system, " only victims who can show that someone

negligently caused the accident are able to collect economic losses” (Cummins & Weiss, *The Stochastic Dominance of No-Fault Automobile Insurance*, 1993).

This makes the case difficult because of the pure nature of an auto accident. It is referred to as an “accident” because, according to Mikita Brottman in her book *Car Crash Culture*, “an accident... is an unlucky conflation of circumstances” and responsibility is difficult, if not impossible to determine (Brottman, 2002). A court case is immediately dismissed if insufficient evidence is given and the process of determining cause and blame can be very time consuming and costly. The process of assessing fault in an accident must be performed by a registered expert in the field. Before an accident case can be brought to justice for compensation, it is mandatory for research to be completed into the details of the accident by agents who work for insurance companies.

The amount available for compensation can also vary since the strength of the case depends on how much time and money is available and devoted to working on it. In this view, the benefit of no-fault insurance is clear over tort liability because claims can be made to the driver’s own insurance company without assigning blame. No-fault insurance “shifts emphasis from liability-based compensation toward compensation provided without regard for fault” (Carroll & Kakalik, 1993). No-fault provides first-party insurance for personal injuries without requiring the hassles of a lawyer and time spent in court.

This is advantageous over tort liability since it requires less inputs of funding and time allocations to bring the other driver to justice and receive

compensation. Insurance costs are also decreased under a no-fault system in comparison to the tort system. No-fault insurance brings social equity of compulsory or partially-compulsory auto insurance systems for drivers with very low net worth. High insurance premiums in urban areas requiring liability insurance imposes a severe regressive tax on economically-disadvantaged drivers and thus forces many to take the risk of driving without insurance (Cummins & Weiss, *The Stochastic Dominance of No-Fault Automobile Insurance*, 1993). No-fault insurance has lower premiums because there is less work involved to process the claim than in a tort liability situation. .

.. This part sucks! However, there are many major negatives associated with no-fault insurance that the majority of consumers are unaware of when agreeing to the contract. As many residents of Manitoba discovered since its implementation of no-fault insurance in 1994, accident victims who want to sue for pain and suffering are unable to (Barrett, 2000). As stated by Winnipeg lawyer, Barry Steinfeld, “ people do not realize the coverage they have or do not have until they’re actually involved in an accident and make a claim” (Barrett, 2000).

Most drivers assume that in the case of a serious accident, they can receive compensation from their insurance and file a claim against the wrongful driver for any additional damages. The straightforward process of submitting a claim under no-fault insurance and the speed of repayment are the only benefits, but in the event of a serious accident, many drivers fail to see these as benefits when they want to seek the claim they feel they deserve. Along

with the disadvantage of being unable to sue for damages, accident victims are further punished by receiving a pre-specified amount of compensation regardless of the severity of the accident. Accident victims are entitled to the payout as determined by their insurance policy in the event of an accident, but they cannot sue for additional damages if they are unsatisfied with their compensation. Many drivers, especially those in Manitoba which have voiced their concerns, feel that “ the payout is not enough and should be either dramatically raised or the entire no-fault plan should be scrapped” (Barrett, 2000). No-fault insurance laws prohibit individuals from filing suit against an at-fault driver, unless certain criteria, called thresholds, are met. These thresholds focus on the severity of the injury and the threshold amount is what determines whether. Thus, since accident victims are unable to receive the necessary compensation for their injuries, the no-fault insurance system is beneficial until you have to make a claim, but the truth in the system is evident after an accident. Numerous studies analyzed the impact of tort systems compared to no-fault and their impact on the severity of accidents.

A study, led by the University of Alberta’s Dr. David Cassidy, investigated the role of insurance compensation in the recovery of people injured in traffic accidents. The results of the study found that no-fault insurance claimants recover faster from whiplash injuries than those who sought compensation through the tort system. Cassidy found that “ since claimants under no-fault insurance cannot sue for pain and suffering-and are therefore not required to document injuries-they focus on getting better rather than on litigation and compensation” (Cassidy & al. , 2000).

Another interesting correlation is the effect of no-fault insurance on the amount of fatal automobile accidents. Results of studies throughout the 1970s until mid 1990s have supported the accepted hypothesis that no-fault insurance weakens the tort deterrent sufficiently to cause higher fatality rates. Fatality rates were chosen for comparison as opposed to simply accident rates because it is easier to set the boundaries of the study when using fatality rates. Reported automobile injury rates are affected by fraud and exaggeration, making it difficult to isolate the effects of no-fault on driving behaviour as opposed to claiming behaviour in accident injury rate analysis, so fatality rates are preferred across the board (Cummins & Phillips, *Incentive Effects of No-Fault Automobile Insurance*, 2001).

In a tort insurance system, drivers have increased incentive to report accidents because there is a greater chance that they will receive extraordinary sums of money as compensation when they file a claim through the courts (Cummins & Phillips, *Incentive Effects of No-Fault Automobile Insurance*, 2001). By comparing fatal accidents of states which have and have not adopted no-fault and pre-and-post rates of those states which have adopted it between 1971 and 1975, those states which have adopted no-fault suffered between 376 and 1, 009 additional fatal accidents during the years the laws were in effect (Landes, 1982). No-fault auto insurance creates a moral hazard problem among drivers and thus increases not only the risk of accidents, but also the risk of a fatal accident (Friedman, 2000). When drivers have adequate insurance coverage, they have no fear to drive dangerously since they know they will not pay penny-for-penny out of pocket in the event of a collision. If drivers did not have insurance

coverage, they would categorize themselves in a different category of risk aversion because of the likelihood that an accident will make a large impact on an individual's personal bank account.

This translates into carelessness on the roads and increased danger. An example of another similar moral hazard problem is related to the Gardasil vaccination for HPV that is administered to sexually-active females in the years of their life that they are deemed to be at the highest risk of infection. This vaccination delivers a false sense of security to adolescent females and increased infection rates of other STDs have now been reported as linked to those who were vaccinated (Caplan & Field, 2008). The Evolution of No-Fault Auto Insurance in the 20th Century: The evolution of the no-fault auto insurance system in the 20th century took place in the latter half of the century.

With more cars on the roads, accidents were more frequent and many more drivers were dealing with the process of insurance claims through the tort system. As well, the insurgence of expensive vehicles, due to the increase in consumers' willingness to pay for their mode of transportation, created the demand for a system that would need to adapt to this changing world. The no-fault insurance system, like many other developments in the modern world, was developed out of a need. Consumers expressed a desire for relief from the constraints of the tort system. Lifestyles evolved and drivers have increased day-to-day responsibilities.

Finding the time to process a claim, participate in the court battle, and receive compensation proved near impossible and Since many drivers are

angered, as noted in Manitoba, with the compensation they are entitled to after an accident under the no-fault system, the threshold amounts for no-fault systems have evolved. Medical bills are rising and the costs of care are not the same dollar figures quoted in the 1970s when no-fault insurance first came into play. Joel Baker, the president of MSA Research Inc, found that “ Ontario’s no-fault accident benefits are costing 24 percent more than premiums collected” due to the increasing amount of compensation required for the same medical care (Daw, 2009). The pressure for big increases in premiums is mounting since the average increases since the Liberal government of Ontario capped rates a few years ago have been modest and averaged at 5.6 percent. Don Ferguson, Ontario vice-president of the Insurance Bureau of Canada has a possible solution to the problem. Ferguson says “ the government can confer a benefit on the people (by addressing the rising cost of accident benefit claims and it will cost them nothing” (Daw, 2009). Conclusion: In conclusion, the benefits of a no-fault automobile insurance system do not outweigh the severe negatives associated with implementing that plan.

Although the cost to each driver is less when paying premiums, there is a hidden extreme cost in the event of a claim. The fact that maximum benefits are capped at a specified threshold outweighs the often-publicized advantages of a no-fault insurance plan.