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Communities charging drivers responsible for crashes

Some communities bill for sending firetrucks, police to accidents.

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MARSHALL GORBY

Regina Moore, left, and Jennifer Baldwin of Cost Recovery Corporation work to recover funds for agencies that provide safety services to communities. The company works with fire departments, police agencies and other safety service providers to gain reimbursement from insurance companies and negligent individuals who are responsible for various kinds of property damage.

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By Josh Sweigart and Cornelius Frolik Staff Writers

Local governments, saying they are strapped for cash, are relying on a controversial practice to raise money — billing drivers responsible for fender-bender crashes for the costs of sending police and fire crews to the crash scenes.

Washington Twp. resident Ray Fisher received a bill for nearly \$1,000 after his teenage daughter's car hit another vehicle in April on an on-ramp of Interstate 675 from Wilmington Pike. Neither driver asked for the Sugarcreek Twp. fire department to come help, but a passerby called 911, and a fire engine showed up.

Weeks later, Fisher received a bill for \$956 for the expense of a firetruck rushing to the scene, the staff who arrived, and "fire station preparation and administration."

The Dayton Daily News found several local communities seek the money by hiring a Springfield firm, Cost Recovery Corp., one of several that offers such billing services nationwide. Most of the agreements with Cost Recovery Corp. do not limit the fees the company can seek to charge drivers if their auto insurance companies don't pay.

"I'm not calling it extortion, because it's not that," said Fisher, 46, of Washington Twp. "But it feels like that."

Cost Recovery Corp. staff and local government officials who use the service say the practice generates much-needed revenue without raising taxes.

"We felt that it was important that all the taxpayers not pay for something that was incurred by a small number of the people," said the Sugarcreek Twp. board president, Dick

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King.

Cost Recovery Corp. President Regina Moore-Jones says the only problem with the practice is that a growing number of auto insurance companies are refusing to pay the fees, forcing her company to take the extra step of billing the drivers.

Moore-Jones contends about 40 percent of insurance companies pay these claims, though the Ohio Insurance Institute puts the number that pay closer to 15 percent.

The Daily News found several local communities use Cost Recovery Corp.: Sugarcreek Twp. in Greene County, Butler and Miami townships in Montgomery County, and the cities of Vandalia, Fairborn and Springfield.

Billing is different from ambulance runs

Fisher’s bill caught him by surprise, he said, because the fire crews had nothing to do at the scene of his daughter’s accident. There was no debris to pick up, the vehicles did not obstruct traffic and neither party required medical attention.

The bill they received sought reimbursement for the equipment and personnel that showed up to the scene “for up to 15 minutes”: one firefighter (\$10), one safety services vehicle (\$25), two command officers (\$32), one engine company (\$587) and fire station preparation and administration (\$302). The letter accompanying the bill said Fisher’s insurance company refused to pay and it “is your financial responsibility.”

“I would equate it to being billed for a service I didn’t ask for,” Fisher said. “If someone comes to my house and puts the goods at my doorstep or comes to provide lawn service I never contracted for and then leaves me a bill — and that’s what this is — then they are billing me for something that was not requested, desired or necessary.”

Sugarcreek Twp. Fire Chief Randall Pavlak said the response was mandated because the crash was on a busy highway and the caller couldn’t say if there were injuries.

The billing is different from the more-common practice used in many communities of billing for ambulance runs. Those charges typically are covered by medical insurance. These charges, for police and fire response to auto accidents, are being sent to the auto insurers of the drivers.

Other local residents have received similar bills.



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Todd Kline received a \$443 bill from Cost Recovery Corp. for an accident he had in Montgomery County's Butler Twp. in May at the Interstate 75 exit to Miller Lane.

"It doesn't seem right to me. That's what everybody's taxes go for, whether you live there or not," Kline said.

The bill was itemized: \$154 for the police vehicle, \$159 for preparation and administration, and \$130 for the officer who gave him a \$133 citation.

He paid the citation, but stresses out about the bill: "I'm afraid if I don't pay it, they're going to put a mark against my credit."

Cost Recovery Corp. vs. big insurance

Auto insurance companies are increasingly refusing to pay for such fees. A November 2010 letter from State Farm Insurance to the Springfield Fire Department says fire departments are required by law to provide public safety free-of-charge, and that accident fee billing is an "unlawful excise tax" that would amount to double taxation of insurance companies.

Cost Recovery Corp. takes the opposite view. An April 2011 opinion letter from their attorney, Joseph Diemert, says the billing practice is fully supported by law. "The goal of insurance companies to avoid the obligation of their negligent insured is clearly a breach of their contract to the insured, and a bad faith attempt to make taxpayers as a whole pick up the tab for obligations the insurance companies have been paid significant premiums to cover," the letters states.

Auto insurers suggest policyholders who get billed complain to the Ohio Attorney General's office. The Attorney General's office has received two such complaints, and dismissed both as out of their jurisdiction, according to state records.

"To lead an official into believing this is a major revenue generator when the company itself and other billing companies know that this is not a covered loss, I feel is very deceitful," said Mary Bonelli, spokeswoman for the Ohio Insurance Institute.

Moore-Jones says drivers are ultimately responsible for these costs when the billing is approved by local ordinances. The company's letters to drivers whose insurance companies will not pay the fees recommends policyholders report non-paying insurance companies to the Ohio Insurance Commission. The Insurance Commission has received one such complaint.

"I do not believe they (drivers) should have to pay this — I believe their insurance provider should take care of them," Moore-Jones said.

This puts residents in the middle of a statewide legal battle that one side threatens could mandate higher taxes, and the other side warns could drive up insurance premiums.

Billing practices vary among municipalities

How local communities bill police and fire response to car

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crashes varies, the Daily News investigation found.

All local officials contacted by the Daily News say they take no collection actions against drivers who don't pay. Most have several letters sent seeking payment, then write off the debt as uncollected.

"It's soft billing, so if you don't pay it or it doesn't get paid, it gets dropped," said Sugarcreek Twp. Administrator Barry Tiffany.

Fairborn bills insurance companies and takes the issue no further if the companies don't pay.

Montgomery County's Miami Twp., has letters sent to drivers — as long as they don't live in the township — which state, "Before we take further action, it may be appropriate for you to contact your insurance agent." The further action is not specified in the letter.

Sugarcreek Twp. began billing for fire response in 2008.

In a memo written that year, the township fire chief, Randall Pavlak, requested the township trustees approve the new fees because they would add "substantial funding to our over-burdened budget."

The memo, obtained by the Dayton Daily News, estimated the township would receive up to \$40,000 a year for the police department and \$100,000 a year for the fire department.

But actual revenues have fallen far short of the estimates. Revenues for fire department reimbursement were \$28,427 last year.

Insurance companies refused to pay most of Sugarcreek's police bills, leading the billing company to pursue residents for the money. After citizens complained, the township dropped the practice altogether for police service. It still bills for fire service response to traffic accidents.

"(Police billing) just really struck a nerve with the residents in the community," said Township Administrator Barry Tiffany.

Pavlak said in 2010 more than 88 percent of the drivers who received crash assistance from his department were nonresidents.

"They're not paying tax dollars here," he said.

Company sets the fees sent to at-fault drivers

The actual dollar amounts charged to at-fault drivers are determined by Cost Recovery Corp. based on a market study, Moore-Jones said. The company says the rates are proprietary business materials and not public record.

"I think transparency is a good idea, but just as soon as the insurance industry does the same thing (showing their profits and rates)," Moore-Jones said.

A sample rate sheet obtained by the Daily News lists charges varying from \$705 for more than 90 minutes of use of a ladder truck to \$10 for 15 minutes of a firefighter's time. It lists police "station prep" at up to \$59, though the amounts

billed for preparation and administration were often much higher on bills obtained by the Daily News. Moore-Jones would not comment on the rate sheet, but said rates were roughly the same across municipalities.

Cost Recovery Corp. does not charge cities for their service. Instead they add an administrative fee to the bills they send out.

Moore-Jones said her company's surcharge to the bills is "an aggregate of 10 percent" and never exceeds one-third of a bill.

Most of the contracts for the company's service reviewed by the Daily News did not cap how much the company can seek from drivers or their insurance companies in administrative overhead.

"We're three or four years (into the contract) here, and that's the first I've heard of that," said Pavlak, who said he thought the fee was a flat 10 percent. The contract the township signed put no limit on the fee, nor did it specify the rates.

Pavlak said billing companies for ambulance transport charge 7.5 to 10 percent.

Sugarcreek Twp. Trustee President King said he was unaware of the range in the administrative fees.

"If that's the case we need to check into it and get an opinion from the prosecutor's office," he said. "That's an issue that needs to be addressed, and right now I don't know the answer to that. I would like to get a legal opinion on that."

"It's an important revenue source for us and for it to be diminished in any way means we have to find ways to cut costs," he said. "It's not fair for people not to accept appropriate responsibility."

Only two communities surveyed limit the company's administrative fee in their contract. Vandalia limits the fee to 29 percent, and Springfield's ordinance says it can't exceed 12 percent.

Butler Twp. Trustee Mike Lang said he has been trying to better understand his community's contract, signed in 2009 by a previous administration.

"To date, for us, those questions have not been adequately answered," Lang said. "Whoever was getting billed was not a township resident. That was our foremost concern because to us (billing residents) was unacceptable."

But, he said, the township can't do anything about it because the contract automatically renewed itself through 2012 when it was not terminated by September.

Of the \$66,991 billed for 143 Butler Twp. police and fire responses to crashes in 2010, the township received \$10,536 and expected eventually to receive \$4,053 more, according to an annual report prepared for the township by Cost Recovery Corp. The township could not say whether those payments came from insurance companies or drivers.

Vandalia received \$6,220 in collections so far this year and \$3,796 last year.

In Springfield, the company billed \$201,648 for 291 calls in 2010, and received \$18,574 from insurance companies and \$1,472 from drivers. Cost Recovery Corp said only about 20 percent of that city's accidents are caused by nonresidents.

Some communities have stopped billing

Other communities have done such billing in the past — Dayton, Hamilton, Middletown and Xenia — but stopped after insurance companies increasingly fought the charges and revenues dwindled.

“Quite frankly, it has not been financially lucrative enough,” said Hamilton Fire Chief Joe Schutte.

“When we first did it, we were making some good money,” he said. “I can see both sides of the coin. Cities I think felt the health insurance certainly pays for ambulance billing and has for 20 years or so, and felt there should be a reciprocal billing issue with motor vehicle accident response.”

But what started with up to \$40,000 a year in revenue for Hamilton in 2002, dwindled to \$5,452 in 2009 before the city cancelled its contract with a different billing company. Hamilton only billed insurance companies, not drivers.

Xenia took in \$420 in 2008 before it stopped billing.

Most local officials and administrators said they would rather have the insurance companies be forced to pay than keep having to go back to voters with levies.

“I think the mind-set for a lot of communities is if we can bill the insurance companies for the accident that necessitates the cost of services, if we can bill for the services that were provided and not have to raise taxes community-wide, isn't that a better solution to revenue issues?” said Sugarcreek Twp. Administrator Barry Tiffany.

The push-back from auto insurance companies led one billing company to stop offering the service altogether.

Glenn Goodpaster, senior vice president of Miamisburg-based EMS billing company MED3000, said a previous billing company he operated, HealthServe, got out of the business of billing for fire services resulting from motor vehicle crashes because insurance companies decided police and fire services used in crashes were not covered under their clients' policies and they quit paying.

The only way to continue collecting any substantial amounts of money was to bill the at-fault drivers when the insurance companies rejected their claims.

“We reached out to clients and told them, ‘For the amount of revenue it is generating, we don't think it is worth the ill will and bad publicity it is generating,’ ” he said.

Lawmakers in 13 states have outlawed accident fee billing, according to the Ohio Insurance Institute. State Rep. Lynn Slaby, R-Copley, said he is researching introducing legislation limiting the practice of billing for police and fire response here in Ohio.

Charles Hallinan, an Ohio constitutional law professor at the

University of Dayton, said the more problematic part of the practice is the act of only charging nonresidents of a community.

“If they can distinguish residents and nonresidents in that way, it creates incentives to absolutely milk the nonresidents for everything you can,” he said. “If the residents don’t have any skin in the game, then they’re not likely to object.”

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