

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Automobile Insurance

Proposed Readoption with Amendments: N.J.A.C. 11:3

Proposed Repeals: N.J.A.C. 11:3-28.15, and 28.17

Authorized By: Donald Bryan, Acting Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1 and 17:1-15e

Calendar Reference: See Summary below for explanation of exception to the rulemaking calendar requirement.

Proposal Number: PRN 2005-411

Submit written comments by January 6, 2005 to:

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The agency proposal follows:

Summary

In accordance with Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1 the Commissioner of the Department of Banking and Insurance (Commissioner) proposes to readopt N.J.A.C. 11:3, with certain amendments. This chapter, which concerns automobile insurance, will expire on July 3, 2006, pursuant to N.J.S.A. 52:14B-5.1c, unless it is readopted prior to that date.

The chapter contains rules, listed by subchapters codification below, concerning the following subjects:

1. The Commercial Automobile Insurance Plan (CAIP);
2. The New Jersey Personal Automobile Insurance Plan (PAIP);
- 2A. Special Automobile Insurance Policy;
3. Basic automobile insurance policies;
- 3a. Reporting requirements and filing deadlines;
4. Personal injury protection (PIP) benefits; medical protocols; diagnostic tests;
5. PIP dispute resolution;
6. Insurance identification cards;
7. Automobile Repairs Reform Act;
8. Renewal and nonrenewal of automobile insurance policies;
9. Rating information: automobile insurance on private passenger cars;
10. Auto physical damage claims;
11. Moped insurance;
12. Automobile rate filers: flattening of premium taxes and assessments made for the Unsatisfied Claim and Judgment Fund;
13. Collision and comprehensive coverage deductibles and options;
14. PIP options for Standard Policies;
15. Buyers' Guide, Coverage Selection Form, and Automobile Insurance Consumer Bill of Rights for Standard and Basic Policies;
16. Rate filing requirements: Voluntary Market Private Passenger Automobile Insurance;
- 16A. Private Passenger Automobile Insurance Territorial Rating Plans;

- 16B. Rate process for limited rate change; calculations for Private Passenger Automobile Insurance Rate Change;
17. Rate intervener rules;
18. Private Passenger Automobile Insurance: rate filing review procedures;
- 19 A. Tier rating plans and underwriting rules;
20. Reporting financial disclosure and excess profits;
21. Personal injury protection (PIP) coverage: reduced pip premium charge for additional autos in one-driver households;
22. Coverage option survey pip and tort threshold options;
24. Defensive driving rate reductions;
25. Private Passenger Automobile Insurance: notification by treating health care providers;
26. Unsatisfied Claim and Judgment Fund: Notice of Intent;
27. Unsatisfied Claim and Judgment Fund Board;
28. Unsatisfied Claim and Judgment Fund's reimbursement of excess medical expense benefits paid by insurers;
29. Medical Fee Schedules: Automobile Insurance PIP and Motor Bus Medical Expense Insurance Coverage;
30. Motor vehicle self-insurance;
32. Certification of compliance: mandatory liability coverage;
33. Appeals from denial of automobile insurance;
34. Eligible persons qualifications and automobile insurance eligibility point schedule;
35. Private passenger automobile insurance underwriting rules;
- 35a. Private passenger automobile insurance – use of alternate underwriting rules;
36. Automobile physical damage insurance inspection procedures;

37. Order of benefits determination between automobile pip and health insurance;
39. Reductions in premium charges for private passenger automobiles equipped with anti-theft, vehicle recovery and safety features;
40. Insurers required to provide automobile insurance coverage to eligible persons;
44. Special rules for affecting coverage for private passenger automobile insurance;
45. Insurers required to provide survey information;
46. Automobile insurance Urban Enterprise Zone program; and
47. Insurance scenarios.

These rules implement many essential provisions of the statutory requirements of Titles 17, 39 and 52 of the Laws of the State of New Jersey. As part of this readoption process, the Department has undertaken a review of N.J.A.C. 11:3 to determine the current effectiveness of the rules contained therein. This review was undertaken pursuant to Executive Order No. 66 (1978) in order to ensure the continuing relevancy and effectiveness of the chapter. Each rule was examined to determine whether it still provides a useful function within the automobile insurance structure existing in New Jersey. The Department examined the continuing relevance of the rules and also considered whether they require unnecessary time and expense.

The Department finds that Chapter 3 continues to provide the insurance industry, other regulated entities, business enterprises and consumers with appropriate and useful regulatory standards concerning many aspects of automobile insurance. Thus, the Department has concluded that the purposes of Chapter 3 as declared in the rules continue to be relevant and necessary and the need for this chapter remains constant. Major substantive amendments to particular sections will be made by separate proposals that are not being undertaken as part of this readoption. Therefore, the Department is proposing to readopt Chapter 3 with amendments that will not substantially alter the structure of the rules.

The Department is amending the definition of “Voluntary All Other Automobile Direct Written Premiums” found in N.J.A.C. 11:3-1.2 to add “physical damage” in order to be consistent with the definition found in the CAIP Manual. The Department’s amendment clarifies that total written premiums apply to all coverages.

The Department is amending N.J.A.C. 11:3-1.6(a)2, by adding an apostrophe for “producer’s” certification program.

The Department is correcting the address of the PAIP found in N.J.A.C. 11:3-2.4(d)2. In N.J.A.C. 11:3-2.4(d)3 the Department is amending the reference to the “ARM Unit” by replacing it with “Property & Casualty.”

The Department is amending N.J.A.C. 11:3-2.7(d)1 by increasing the maximum loss payable amount from \$30,000 to \$60,000, in order to be consistent with the exportable list promulgated by the Commissioner pursuant to N.J.S.A. 17:22-6.43. The Department’s amendment should permit more higher priced vehicles to be written in the admitted market.

The Department is deleting N.J.A.C. 11:3-3.5(b) because the information regarding basic policies is now required as part of the combined report pursuant to N.J.A.C. 11:3-3A.3(b)1.

The Department is amending the website address referenced in N.J.A.C. 11:3-3A.3(h).

The Department is amending N.J.A.C. 11:3-4.7(e)7 by replacing the phrase “description point review” with the correct phrase “decision point review.” Additionally, in subsection (g) the reference to N.J.A.C. 11:16-16.2 is incorrect and is being amended to read N.J.A.C. 11:16-6.2.

The Department is amending N.J.A.C. 11:3-5.5(a) by replacing “year’s” with “years of.” In N.J.A.C. 11:3-5.10(c), the Department is replacing the word “individuals” with “individual” and is removing the comma that follows “providers.”

In N.J.A.C. 11:3-6.2(a)3ii and ix and in N.J.A.C. 11:3-8 Appendix Exhibit A, the Department is replacing the phrase “Division of Motor Vehicles” with “Motor Vehicle Commission.”

In N.J.A.C. 11:3-10.3(e), the Department is replacing “at” with “in.” Additionally, the Department is replacing “must” with “shall” in two places.

Pursuant to N.J.S.A. 17:30A-1 et seq., the New Jersey Property-Liability Insurance Guaranty Association is responsible for the management and administration of the affairs of, and payments of claims asserted against, the Unsatisfied Claims and Judgment Fund (UCJF). Therefore, the Department is amending the Subchapter 12 heading, to delete the reference for UCJF assessments. In N.J.A.C. 11:3-12.1 the statutory reference to the UCJF assessments and N.J.S.A. 39:6-64, 66 and 67 are being deleted. In N.J.A.C. 11:3-12.3 the definition of “assessments” is being deleted because it is no longer necessary. The reference to “and assessment fees” in the heading of N.J.A.C. 11:3-12.4 is being deleted, as well as in N.J.A.C. 11:3-12.4(a) and 11:3-12.5(a)1. The Department is deleting N.J.A.C. 11:3-12.5(b), because it is no longer necessary. N.J.A.C. 11:3-12.5(e) is being recodified as subsection (d). Additionally, the Department is deleting the reference to “as well as excess limit premium for bodily injury and property damage liability,” because they are not miscellaneous coverages. Additionally, the Department is changing “date” to “data” in subsection (d).

The Department is amending N.J.A.C. 11:3-15.8 to correct the Department’s website address.

The Department is amending N.J.A.C. 11:3-16B.3(a)5, because the reference to N.J.A.C. 11:3-19A.3 for rating examples is incorrect. The correct reference is N.J.A.C. 11:3-45. The word “shows” is also being replaced with the word “show.”

In N.J.A.C. 11:3-20 Appendix, under Exhibit One, the formula contained in the last sentence is missing the operation. The Department is amending the formula in the Appendix to show that the correct formula is Item 5B = Item 3 – Item 5A.

The Department is amending N.J.A.C. 11:3-26.2(a) to read (additions in boldface): “...may be filed on the form designated by, the Unsatisfied Claims and Judgment Fund, identified as a “Notice of Intention to Make Claim...”

Since the UCJF is administered by the staff of PLIGA, the Department is amending N.J.A.C. 11:3-27.1 and 27.6 by adding “Board’s designee” and adding a comma after designee. In N.J.A.C. 11:3-28.2, the Department is amending the definition of “Board” to mean the Board of the New Jersey Property-Liability Insurance Guaranty Association, and is deleting the reference to N.J.S.A. 39:6-64 by replacing it with N.J.S.A. 17:30A-1 et seq., which provides a mechanism to run off, manage, administer and pay claims asserted against the UCJF.

N.J.S.A. 11:3-28.7(a) is being amended to require that when claim payments are less than \$20,000, insurers shall submit itemized accounts with supporting documentation. N.J.S.A. 11:3-28.10(a) is being amended to require an on-site audit where claims are equal to or in excess of \$50,000.

N.J.A.C. 11:3-28.11(b) is being amended so that when an insurer submits a written request to the Fund for modification to vehicles, the insurer also includes a Van Purchase and Modification Agreement.

N.J.A.C. 11:3-28.13(e) is being added and provides that all recovery amounts obtained or that should have been obtained from the tortfeasor will be deducted from the reimbursement claim. The Department is repealing N.J.A.C. 11:3-28.15 and 28.17 because they are no longer necessary because of N.J.S.A. 17:30A-1 et seq., the New Jersey Property-Liability Insurance

Guaranty Association is responsible for the management and administration of the affairs of, and payments of claims asserted against, the Unsatisfied Claims and Judgment Fund (UCJF).

The reservation of N.J.A.C. 11:3-28.16 is deleted.

N.J.A.C. 11:3-33.6(d) is being amended to provide for reimbursement to the insured in cases where they have been denied coverage improperly and then obtained replacement coverage at a higher cost.

The Department is amending N.J.A.C. 11:3-34.5(b)2 and (c) to replace “Division of Motor Vehicles” with the “Motor Vehicle Commission.”

The Department’s rule proposal provides for a comment period of 60 days, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

N.J.A.C. 11:3 implements numerous statutes that address various aspects of automobile insurance in this State. These rules provide the framework for regulation of the automobile insurance market and seek to promote the availability and affordability of private passenger automobile insurance and commercial automobile insurance.

Chapter 3 interprets statutes and establishes standards which are critical to the continuing stability of automobile insurance markets in this State. These rules are integrated into the rating systems by which mandatory automobile insurance is obtained by vehicle owners and operators. The chapter also provides consumers with information about insurance products and types of coverage. These rules provide for the filing of data with the Department by insurers pertaining to rates, coverages, and premiums.

The insurance industry has come to rely upon the presence and the predictability of these rules in their operations. Insurers are provided with standards of conduct which are identifiable, achievable, reasonable and predictable. This kind of stability in a regulatory structure is essential to the proper functioning of an insurance enterprise. Thus, the protections that these rules afford to consumers, insurers and producers mandate their continued existence.

The amendments set forth in this readoption are primarily “housekeeping” in nature and are intended to streamline the regulatory process; and thus will not have any significant, new, or adverse impact on insurers, consumers or upon the ability of the Department to effectively regulate the business practices of automobile insurers and promote the continuing stability of the automobile insurance market. A few amendments clarify or codify existing practices. The Department’s amendment to N.J.A.C. 11:3-2.7(d)1, should permit more higher priced vehicles to be written in the admitted market.

The Department’s amendment to N.J.A.C. 11:3-28.7(a) and N.J.A.C. 11:3-28.10 will have a positive impact because of its accounting efficiencies that should reduce administrative costs.

The Department’s amendment to N.J.A.C. 11:3-33(d) will have a positive social impact on insured’s, in case where they have been denied coverage improperly.

Economic Impact

The readoption of N.J.A.C. 11:3 with amendments will not impose any additional economic impact on insurers, other regulated entities, or consumers because the readoption is merely continuing currently existing and longstanding regulatory requirements. The amendments will not impose any additional recordkeeping requirements or compliance burdens

on insurers or other regulated entities. The Department recognizes that the proposed amendment to N.J.A.C. 11:3-33.6(d) will impact insurers, when insureds obtain comparable replacement coverage as a result of an improper denial. In those instances the insurer may be required to reimburse the insured for the difference. The Department's amendment to N.J.A.C. 11:3-2.7(d)1, should permit more higher priced vehicles to be written in the admitted market. The Department's amendments to N.J.A.C. 11:3-28.7(a) and N.J.A.C. 11:3-28.10 will have a positive economic impact because of their accounting efficiencies that should reduce administrative costs.

Insurers will continue to be required to incur costs associated with the compliance requirements established in Chapter 3. Some of these obligations include the following:

- Filing annual financial disclosure and excess profits reports;
- Filing tier rating plans;
- Petitions for rate review in private passenger automobile insurance;
- Preparation and dissemination of buyers' guides and coverage selection forms;
- Forms and other documents associated with the issuance of commercial automobile insurance;
- Participation in the New Jersey Automobile Insurance Plan;
- Preparation, dissemination and issuance of insurance identification cards;
- Cancellation and nonrenewal of automobile insurance policies;
- Disposition and procedures associated with automobile physical damage claims;
- Issuance of moped insurance;
- Physical damage insurance inspection procedures;
- Procedures associated with premium reductions for vehicles equipped with anti-theft , vehicle recovery and safety features;

- Special rules and obligations regarding the obligation to provide coverage in private passenger automobile insurance;
- The preparation and filing of annual premium survey information;
- Participation in and compliance with the automobile insurance urban enterprise program; and
- Compliance with PIP medical expense benefit review and processing requirements (special rules regarding diagnostic testing).

The costs associated with achieving compliance with these obligations and requirements will be paid directly by insurers. In many cases, the use of professional services required by these rules (for example, actuaries, claims professionals, certified public accountants, underwriting professionals, attorneys, etc.) will continue to be necessary. The Department notes, that but for N.J.A.C. 11:3-33.6, it is not aware of any additional costs that will be imposed as a result of readopting this chapter. The Department's amendment to N.J.A.C. 11:3-28.7(a) and N.J.A.C. 11:3-28.10(c) will have a positive impact because of its accounting efficiencies that should reduce administrative costs.

The Department will continue to be required to incur any costs associated with reviewing the information filed by insurers pursuant to Chapter 3 and to ensure compliance with all of the rules set forth therein.

Failure to readopt Chapter 3 would require the automobile industry to comply with many significant obligations without guidance from the Department. The structure provided by these rules would be removed and insurers would be left with the obligation to achieve statutory compliance without the interpretive guidance supplied by the chapter. This would result in the imposition of substantial new costs on insurers to achieve acceptable levels of performance and

compliance. In addition, a substantial disruption in the automobile insurance market would certainly result. Furthermore, the readoption of the current rules will enable the Department to continue to monitor insurers and to provide for the protection of consumers in a manner that is consistent with their statutory and contractual rights. The current procedures found in Chapter 3 have a proven record of effectiveness and are vital to the economic stability of the State, insurers and consumers.

The Department continues to monitor the impact of these rules through communication with the insurance industry and the public. The Department is not aware of any provisions that impose an undue hardship or unnecessary costs on insurers, producers or consumers.

Federal Standards Statement

A Federal standards analysis is not required because the rules set forth in this chapter regulate and relate to the business of automobile insurance and are not subject to any Federal requirements or standards.

Jobs Impact

The Department does not believe that the readoption of Chapter 3 will cause any jobs to be generated or lost. However, if these rules are not readopted, then commerce would be severely restricted and, as a result, jobs would likely be lost. If the chapter is readopted in this proposed form, it is possible that new jobs may come into being as a result of the continued market stability and increased commerce that may result. These rules promote a healthy automobile insurance marketplace in which insurers and related businesses may consider

expanding or locating to this State. The Department invites interested parties to submit any data or studies concerning jobs impact of these proposed readopted rules with their written comments.

Agriculture Industry Impact

Pursuant to P.L. 1998, c. 48, the Right to Farm Act, and N.J.S.A. 52:14B-4(a) of the Administrative Procedures Act, the Department does not anticipate any impact from the proposed new chapter on the agriculture and related industries in this State.

Regulatory Flexibility Analysis

Pursuant to N.J.S.A. 52:14B-17, a “small business” is any business resident in this State which employs fewer than 100 full-time employees, is independently owned and operated, and is not dominant in its field. Several small automobile insurers fit this description. Additionally, several rules relate to the conduct of automobile insurance producers, most of whom are small businesses. The rules proposed for re-adoption with amendments will impose regulatory compliance reporting and recordkeeping requirements on small businesses.

Numerous compliance, recordkeeping, and reporting requirements will continue to be imposed by these rules as set forth in the Economic Impact above. The Department has determined that these rules continue to be reasonable and necessary for the purpose for which they were originally proposed and readopted. These rules apply to all insurers, insurance producers and related businesses without regard to size. Each rule implements statutory provisions, regulatory directives or both which apply even-handedly and without differentiation with respect to size. These rules address the regulatory structure for mandatory automobile insurance, which the Department believes requires uniformity and consistency in order to

promote stability and a healthy marketplace. The Department also notes that, with the exception of N.J.A.C. 11:3-2.7(d)1, 28.7(a), 28.10, and N.J.A.C. 11:3-33.6, the re adoption of these rules will impose no new recordkeeping, reporting or other compliance obligations, but merely continues those requirements which already exist.

The Department anticipates that the future annual costs of compliance with these rules should be consistent with annual costs already absorbed by the regulated insurers and producers. The Department recognizes that, as a result of proposed amendments to N.J.A.C. 11:3-33.6(d), insurers may be required to reimburse insureds for the difference between their improperly denied coverage and comparable replacement coverage. The Department's amendment to N.J.A.C. 11:3-2.7(d)1, should permit more higher priced vehicles to be written in the admitted market. The Department's amendment to N.J.A.C. 11:3-28.7(a) and N.J.A.C. 11:3-28.10 which address accounting efficiencies should reduce administrative costs. The use of professional services currently required by the rules (for example, actuaries, claims professionals, underwriting professionals, etc.) will continue to be necessary, at costs which will vary with the individual professional.

It should also be noted that, in most instances, these rules simply implement statutory obligations which make no distinction between small and large businesses. Thus, the Department does not believe that any adjustments for the size of the regulated businesses are needed or possible. Therefore, these rules proposed for re adoption with amendments provide no differing reporting, recordkeeping or compliance requirements based on business size.

Smart Growth Impact

The rules proposed for readoption with amendments will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 11:3

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 11:3-28.15 and 28.17.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

SUBCHAPTER 1. COMMERCIAL AUTOMOBILE INSURANCE PLAN

11:3-1.2 Definitions

The following definitions and terms, when used in this subchapter, shall have the following meanings, unless the context indicates otherwise:

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“Voluntary All Other Automobile Direct Written Premiums” means automobile liability, personal injury protection, and physical damage premiums written by a participant on New Jersey risks, minus:

1. – 4. (No change.)

5. Private passenger nonfleet automobile bodily injury and property damage liability, medical payments, basic and additional personal injury protection and uninsured and underinsured motorists **and physical damage** voluntary premium;

6. Miscellaneous nonfleet specialty personal automobile bodily injury and property damage **and physical damage** liability voluntary premiums for any class approved by the Department as specified in the plan of operation; and

7. (No change.)

11:3-1.6 Plan of Operation

(a) The plan of operation shall provide for the prompt and efficient provision of automobile insurance to qualified applicants. The plan of operation shall provide for, among any other matters:

1. (No change.)

2. Standards and procedures for the appointment, compensation, and termination of and performance standards for the CAIP manager, other employees, professionals and contractors required to administer CAIP along with a [producers] **producer's** certification program;

3. – 17. (No change.)

(b) – (d) (No change.)

SUBCHAPTER 2. NEW JERSEY PERSONAL AUTOMOBILE INSURANCE PLAN

11:3-2.4 Exemptions

(a) – (c) (No change.)

(d) Insurers claiming to be excluded from participation pursuant to the provisions of (b) or (c) above shall comply with the following:

1. (No change.)
2. The certified statement shall be sent to the PAIP at the following address:

PAIP Exemptions
 New Jersey Personal Automobile Insurance Plan
 [2000] **6000** Midlantic Drive
 [Suite 450] **Suite 200 North**
 Laurel Corporate Center
 Mt. Laurel, NJ 08054

3. A copy of the information filed pursuant to (c)1 and 2 above shall be filed

with the Department at the following address:

[ARM Unit] **Property & Casualty**
 New Jersey Department of Banking and Insurance
 20 West State Street
 P.O. Box 325
 Trenton, NJ 08625-0325

11:3-2.7 Coverage

(a) – (c) (No change.)

(d) The PAIP shall provide physical damage coverages with no less than the minimum deductibles required pursuant to N.J.S.A. 17:29A-39. PAIP shall offer higher deductibles as provided by N.J.A.C. 11:3-13.3.

1. All physical damage coverages shall be on an “actual cash value” basis, less deductible, subject to a maximum loss payable of [\$30,000] **\$60,000**, or such amount at which physical damage coverage may be placed in the surplus lines market as set forth on the exportable list promulgated by the Commissioner pursuant to N.J.S.A. 17:22-6.43.

2. (No change.)

SUBCHAPTER 3. BASIC AUTOMOBILE INSURANCE POLICY

11:3-3.5 Election of basic automobile insurance policy coverage and reporting

[(a)] No insurer shall issue a basic automobile insurance policy unless the named insured has signed a written document entitled “basic automobile insurance policy coverage selection form” set forth in N.J.A.C. 11:3-15.7

[(b)] For the years 1999 through 2003, each insurer writing basic automobile insurance policies shall report the number of basic automobile insurance in-force exposures together with the age of the named insured and the territories in which the named insured resides on a form prescribed by the Commissioner and in accordance with the provisions of N.J.A.C. 11:3-3A.]

SUBCHAPTER 3A. REPORTING REQUIREMENTS AND FILING DEADLINES

11:3-3A.3 Report requirements

(a) – (g) (No change.)

(h) Reports shall be submitted using the Excel templates, available on the Department’s website at [<http://www.state.nj.us/dobi>] <http://www.state.nj.us/dobi>, on one of the following media:

1. – 3. (No change.)

(i) – (j) (No change.)

SUBCHAPTER 4. PERSONAL INJURY PROTECTION BENEFITS; MEDICAL PROTOCOLS; DIAGNOSTIC TESTS

11:3-4.7 Decision point review plans

(a) – (d) (No change.)

(e) A physical examination of the injured party shall be conducted as follows:

1. – 6. (No change.)

7. Insurers may include in their [description] **decision** point review plan a procedure for the denial or reimbursement for treatment, diagnostic testing or durable medical equipment after repeated unexcused failure to attend a scheduled physical examination. The procedure shall provide for adequate notification of the insured and the treating provider of the consequences of failure to attend the examination.

(f) (No change.)

(g) An insurer shall not retrospectively deny payment for treatment, diagnostic testing or durable medical equipment on the basis of medical necessity where a decision point review or precertification request for that treatment or testing was properly submitted to the insurer unless the request involved fraud or misrepresentation as defined in N.J.A.C. 11:16-[16.2] **6.2**, by the provider or the person receiving the treatment, diagnostic testing or durable medical equipment.

SUBCHAPTER 5. PERSONAL INJURY PROTECTION DISPUTE RESOLUTION

11:3-5.5 Dispute resolution professional

(a) A dispute resolution professional employed by the dispute resolution organization shall be either:

1. An attorney licensed to practice in New Jersey with at least 10 [years'] **years of** experience in cases involving personal injury or workers' compensation;

2. – 3. (No change.)

(b) – (d) (No change.)

11:3-5.10 Medical review organization certification process

(a) - (b) (No change.)

(c) The MRO application shall include the following:

1. A list of the names, addresses and specialties of the individual[s] health care providers[,] that will provide the medical review services. If the MRO will be limited in its service area, the application shall provide a map of the service area, including the providers by specialty;

2. – 10. (No change.)

(d) – (i) (No change.)

SUBCHAPTER 6. INSURANCE IDENTIFICATION CARDS

11:3-6.2 Permanent identification cards

(a) A permanent insurance identification card shall conform to the following specifications:

1. – 2. (No change.)

3. The front of the card shall include the following:

i. (No change.)

ii. Named insured: The surname of the insured must agree with **the** surname shown on the motor vehicle registration certificate. The [Division of Motor Vehicles] **Motor Vehicle Commission** will conduct verification on surname basis;

iii. – viii. (No change.)

ix. The insurance company code as established by the New Jersey [Division of Motor Vehicles] **Motor Vehicle Commission** will be printed immediately preceding the insurance company name;

x. (No change.)

4. – 5. (No change.)

(b) (No change.)

SUBCHAPTER 8. RENEWAL AND NONRENEWAL OF AUTOMOBILE INSURANCE POLICIES

APPENDIX

Exhibit A

New Jersey Auto Consumers' Rights Q & A

New Jersey Department of Banking and Insurance
 PO Box 325
 Trenton, NJ 08625-0325
 1-800-446-7467

Shopping for Auto Insurance? Start now and know your rights.

Below are some of the most commonly asked questions about auto insurance and the answers every consumer should have before shopping for a new policy. But remember, it is difficult to take advantage of your rights if you wait until the last minute.

- *Can a company refuse to sell auto insurance to me?*

No, not as long as you are an “eligible” driver under the law, based primarily on motor vehicles violations, at-fault accidents and lapses in coverage. More than 97 percent of New Jersey drivers are eligible for coverage by all but a very few companies. If your application is declined, the company must tell you the reason, in writing.

- *There are no insurance agents in my neighborhood? Where can I get insurance?*

Call the Department of Banking and Insurance for an annual premium comparison survey and a list of all companies that sell insurance in New Jersey. Many are “direct writers,” who sell insurance over the telephone or by mail.

- *Can I be denied insurance because of where I live or my race, sex, or age?*

No. Insurance companies are barred by law from refusing to sell auto insurance coverage based on any of those factors.

- *An insurance agent refused to tell me about rates. Is this right?*

No. Insurance companies and agents must provide general pricing information for your area upon request. If you meet with an agent to get a “quote,” or specific pricing for your policy, any agent who sells for multiple companies must give you quotes for each one.

- *Will I have to wait several weeks to get an appointment to buy auto insurance coverage?*

No. If a company uses appointments, you should be scheduled so that you can get coverage before your current policy expires. Tell the agent your current expiration date, and get an appointment well in advance so your coverage will not lapse. Give yourself time to shop around – you might get a better price. Remember that processing the application will take some time, so don’t wait until the last minute.

- *What documents do I have to provide to get insurance?*

That can vary, so be sure to ask and make a list of what is needed. You will be asked to provide a copy of your driver’s license and registration certificate and you may be asked to supply other information or documents. Companies cannot require you to provide a copy of your driver’s “abstract,” or [Division of Motor Vehicle] **Motor Vehicle Commission** record. You may wish to bring one if you do not have time to wait for the company to obtain one. It’s up to you.

- *How much time does an insurance company have to approve or reject my application once it is completed?*

The company has 5 business days from the time it receives a completed application to approved or decline it, and the clock starts running *when the company receives the application*, not when you put it in the mail. If you buy through an agent,

ask how long will it take for the company to receive your application and you will know when to expect an answer.

- *Can I do anything to reduce the cost of my insurance?*

Yes. Give yourself enough time to shop around. Prices vary from company to company. When you apply for insurance coverage, you will be asked to complete a “coverage selection form.” Read the form carefully. You can pay less by taking advantage of cost-saving options available. Buy *only* the insurance you need. You can help lower the cost of insurance by reporting insurance fraud and spotting aggressive drivers who cause accidents.

- *Who should I call?*

To obtain shopping information,
Insurance Consumer Hotline
1-800-446-7467

To report suspected fraud
Office of the Insurance Fraud Prosecutor
1-800-877-55FRAUD

To report aggressive drivers
New Jersey State Police
1-888-723-7623

SUBCHAPTER 10. AUTO PHYSICAL DAMAGE CLAIMS

11:3-10.3 Adjustment of partial losses

(a) – (d) (No change.)

(e) Subject to the requirements of (d) above, the insured may use any repair facility of his or her own choice. With respect to automobile damage claims, the insurer shall notify in writing any insured who elects to use his or her own repair facility that, pursuant to law, any entity engaged in the business of auto body repairs must be duly licensed. The notice shall further advise the insured that the insurer is prohibited by law from negotiating, adjusting or settling an automobile damage claim with an unlicensed facility. The written notice shall be

furnished at the time of acknowledgement of the claim as provided [at] **in** N.J.A.C. 11:2-17.6 or upon the furnishing of its written estimate, as specified in (c) above, whichever is sooner. The insurer [must] **shall** make all reasonable efforts to obtain an agreed price with the facility selected by the insured. The insurer may recommend, and if the insureds requests, [must] **shall** recommend a qualified repair facility at a location reasonably convenient to the insured motor vehicle who will repair the damaged motor vehicle at the insurer's estimated cost of repairs, but in either event the provisions of (g) below apply.

(f) – (m) (No change.)

SUBCHAPTER 12. AUTOMOBILE RATE FILERS: FLATTENING OF PREMIUM TAXES [AND ASSESSMENTS MADE FOR UNSATISFIED CLAIM AND JUDGMENT FUND]

11:3-12.1 Purpose

The New Jersey Automobile Insurance Reform Act of 1982 (N.J.S.A. 17:29A-33 et al.) requires that each insurer calculate and collect, on a flat and uniform basis per insured automobile statewide, the taxes which are paid pursuant to N.J.S.A. 54:18A-1 et seq. [and certain assessments made pursuant to N.J.S.A. 39:6-64, 66 and 67] This subchapter provides rules for the implementation of these requirements.

11:3-12.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise.

[“Assessments” mean any assessment to be made pursuant to N.J.S.A. 39:6-64, 66 and 67, excluding assessments made to reimburse a filer for medical benefits payable under N.J.S.A. 39:6A-4 or 39:6A-3.1 in excess of \$75,000.]

11:3-12.4 Tax [and assessment fees]; general provisions

(a) Pursuant to N.J.S.A. 17:29A-33 et seq., each automobile filer shall calculate and collect taxes [and assessments] for its insureds on a flat uniform fee basis per insured automobile statewide.

1. (No change.)

(b) - (c) (No change.)

11:3-12.5 Filing and reporting requirements

(a) Each automobile insurer shall submit to the Commissioner for approval a rate filing designated to place the premium structure of the filer in compliance with the requirements of the New Jersey Automobile Insurance Reform Act of 1982 and this subchapter.

1. The rate filing submitted to the Commissioner shall include the uniform tax [and assessment fee] to be used by the filer;

2. (No change.)

[(b) Within 30 days of the effective date of this subchapter, every automobile filer shall submit to the Commissioner for approval the rate filing specified in (a) above including the uniform tax assessment fee to be used by the filer in the calendar year commencing January 1, 1984.]

Recodify existing (c) – (d) as **(b) – (c)** (No change in text.)

[(e)] **(d)** The Commissioner may require the filing of such additional [date] **data** or information as he deems necessary to implement the provisions of this subchapter, including, but not limited to, premium information on miscellaneous coverage, such as rental reimbursement, additional personal injury protection and underinsured motorists [as well as excess limits premiums for bodily injury and property damage liability] coverages.

SUBCHAPTER 15. BUYER'S GUIDE, COVERAGE SELECTION FORM, AND
AUTOMOBILE INSURANCE CONSUMERS BILL OF RIGHTS FOR
STANDARD AND BASIC POLICIES

11:3-15.8 New Jersey Automobile Insurance Consumer Bill of Rights

(a) The insurer shall produce a Consumer Bill of Rights by reproducing the New Jersey Automobile Insurance Consumer Bill of Rights available on the Department's website at [<http://www.state.nj.us/dobi/autorights>] <http://www.state.nj.us/dobi/autorights.pdf>. The Department shall notify insurers of any changes to the Consumer Bill of Rights by Bulletin. Insurers shall provide the Consumer Bill of Rights, as revised, with new and renewal business 60 days after the date of the Bulletin.

(b) - (c) (No change.)

SUBCHAPTER 16B. RATE PROCESS FOR LIMITED RATE CHANGES: CALCULATIONS
FOR PRIVATE PASSENGER AUTOMOBILE INSURANCE RATE
CHANGES

11:3-16B.3 Rate process for limited rate changes; insurers and rating organizations

(a) An insurer and/or rating organization, pursuant to N.J.S.A. 17:33B-31, may file for a rate change in accordance with this subchapter. The insurer shall provide the following information in support of its filing:

1. – 4. (No change.)

5. Completed rating examples using the examples set forth in N.J.A.C. 11:3-[19A.3] **45**, which show[s] the proposed premium amounts.

(b) (No change.)

SUBCHAPTER 20. REPORTING FINANCIAL DISCLOSURE AND EXCESS PROFITS

APPENDIX

EXHIBIT ONE

Exhibit One removes UCJF and PLIGA Assessments, Excess Medical Benefit Reimbursements and other exclusions from Statewide premiums, losses and allocated loss adjustment expenses. Exhibit One consists of 36 sheets, one for each coverage for each of 9 CYs, beginning the year immediately prior to the year of submission and is uniform across all coverages.

For all columns, Item 2 is the sum of Items 2a-2f for premiums and Items 2a-2e for loss and ALAE from the Input Sheet. Item 2 is Item 1-Item 2.

For Col. (3), Item 5A is the sum of the excess profit refund paid, extraordinary loss incurred, and reinvestment into New Jersey listed in the Exhibits Seven and Eight portion of the Input Sheet. Item 5B=Item 3-Item 5A.

SUBCHAPTER 26. UNSATISFIED CLAIM AND JUDGMENT FUND: NOTICE OF INTENT

11:3-26.2 Claim filing: form

(a) A Notice of Intention to make Claim under N.J.S.A. 39:6-65 may be filed on **the** form [UCJF #72 of] **designated by** the Unsatisfied Claim and Judgment Fund [Board designated] **identified** as a “Notice of Intention to Make Claim” incorporated herein by reference as Appendix A.

(b) - (c) (No change)

SUBCHAPTER 27. UNSATISFIED CLAIM AND JUDGMENT FUND BOARD

11:3-27.1 Uninsured’s current financial status

(a) Upon review of a case by the Unsatisfied Claim and Judgment Fund [Board,] **Board’s designee**, if the [Board] **designee** does not have sufficient current information to determine whether or not the uninsured’s installment payment is reasonable, a request will be addressed to the uninsured asking for a statement of current financial status.

(b) If the uninsured fails to furnish a completed statement of current financial status within a time period to be established by the executive director, the Unsatisfied Claim and Judgment Fund [Board] **Board’s designee** will request the Director of Motor Vehicles to suspend the license and all registrations of the uninsured pursuant to N.J.S.A. 39:5-30 and 39:5-87, for failure to furnish this information.

SUBCHAPTER 28. UNSATISFIED CLAIM AND JUDGMENT FUND REIMBURSEMENT OF EXCESS MEDICAL EXPENSE BENEFITS AND BY INSURERS

11:3-28.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Board” means the [Unsatisfied Claim and Judgment Fund Board] **Board of the New Jersey Property-Liability Insurance Guaranty** Association created in accordance with N.J.S.A. [39:6-64] **17:30A-1 et seq.**

11:3-28.6 Insurer’s continuing obligation to investigate claims

(a) (No change.)

(b) The failure to properly discharge the duty of investigating a claim may result in the imposition of a penalty, to be determined by the [UCJF Board of Directors] **Board’s designee** against the insurer’s request for reimbursement.

11:3-28.7 Reimbursement of excess medical expense benefits paid by insurer

(a) Insurers shall submit to the Fund itemized accounts with supporting documentation of excess medical expense benefit claim payments as soon as practicable after the close of the quarter for which reimbursement is sought [The Fund shall reimburse automobile liability insurers for excess medical expense benefits on a quarterly basis] **for claim payments of \$20,000 or more. For claim payments of less than \$20,000, insurers shall submit to the Fund itemized accounts with supporting documentation of excess medical expense benefits at the close of the calendar year in which such expenses are incurred.** Insurers shall not be reimbursed for interest, attorney fees or punitive damages.

(b) – (d) (No change.)

11:3-28.10 Insurers’ obligations to investigate and audit bills for medical benefits

(a) For purposes of reimbursement by the Fund, an insurer shall conduct an investigation and audit of claims submitted by health care facilities where such claims are equal to or in excess of \$25,000 **and an on-site audit where such claims are equal to or in excess of \$50,000.**

1. - 2. (No change.)

3. An insurer shall conduct [an initial on-site audit for charges by health care facilities] **any such audit** to determine whether the level of care, need and charges are appropriate.

4. – 7. (No change.)

(b) – (h) (No change.)

11:3-28.11 Modifications to vehicles

(c) (No change.)

(b) An insurer shall submit a written request to the Fund, **including a Van Purchase and Modification Agreement** seeking approval of modifications which are equal to or in excess of \$1,000, within 30 days of a claimant's request for modifications.

(c) – (f) (No change.)

11:3-28.13 Insurer's obligation to obtain recovery of payments for paid medical expense benefit claims

(a) - (d) (No change.)

(e) All recovery amounts obtained or that should have been obtained from the tortfeasor will be deducted from the reimbursement claim.

[11:3-28.16 (RESERVED)]

SUBCHAPTER 33. APPEALS FROM DENIAL OF AUTOMOBILE INSURANCE

11:3-33.6 Processing appeals

(a) - (c) (No change.)

(d) Upon a determination by the Department that a denial was improper, the insurer shall be required to offer the applicant the requested coverage effective as of the date of the declination. The Department may, however, determine to require the insurer to offer coverage effective on a later date upon a finding that the applicant failed to maintain insurance on an automobile as required by N.J.S.A. 39:6B-1 **or obtained replacement coverage. In the event the insured obtained comparable replacement coverage at a higher cost than the denied coverage, the Department may require the insurer to reimburse the insured for the difference.**

SUBCHAPTER 34. ELIGIBLE PERSONS QUALIFICATIONS AND AUTOMOBILE INSURANCE ELIGIBILITY POINTS SCHEDULE

11:3-34.5 Automobile insurance eligibility points

(a) (No change.)

(b) Automobile eligibility points are cumulative and accrue for all violations and occurrences set forth on Schedules 1 and 2. Automobile insurance eligibility points shall be deemed to accrue as follows:

1. (No change.)

2. Points for conviction of motor vehicle violations and other events that are set forth on an abstract of drivers license records available from the New Jersey [Division of Motor Vehicles] **Motor Vehicle Commission**, or comparable agency of another state, shall accrue when the event is recorded in the agency's records as evidenced by an abstract.

3. – 4. (No change.)

(c) Automobile insurance eligibility points set forth on Schedule 2 of the Appendix represent motor vehicle points established by the New Jersey [Division of Motor Vehicles] **Motor Vehicle Commission** by rule, N.J.A.C. 13:19-10.1, which is hereby incorporated by reference. Any additions, deletions or modifications to N.J.A.C. 13:19-10.1 shall likewise be incorporated as of the effective date of amendment. Schedule 2 is included in the Appendix for convenience.

(d) - (e) (No change.)

DHT05-12/INOREGS