

"Eligible applicant" means the owner or registrant of a motor vehicle registered in New Jersey or to be registered within 60 days who is unable to obtain automobile insurance in New Jersey in the voluntary market and is not in good faith qualified for automobile insurance coverage in any residual market mechanism created by statute other than the CAIP. For multi-state operations, the applicant must have its operating headquarters in New Jersey but vehicles may be registered in other states. No applicant shall be deemed eligible if the principal operator of the vehicle to be insured does not hold a driver's license which is valid in New Jersey, or if a regular operator of the vehicle other than the principal operator does not hold such a license.

"Emergency type vehicle" means any land vehicle, used to respond to distress calls, fires, or rescue, propelled by other than muscular power and not run upon rails or tracks. This term includes, but is not limited to, fire trucks, rescue trucks, police cars and ambulances.

"Gross participation" means a participant's Voluntary All Other Automobile Direct Written Premiums derived from information contained in the annual statement times a fraction, the numerator of which is the sum of the plan's total written premiums for that year and the Statewide total Voluntary All Other Automobile Direct Written Premiums which are eligible for depopulation credit for that policy year, and the denominator of which is the Statewide total Voluntary All Other Automobile Net Direct Written Premiums of all participants for that second prior year.

"Light truck" means a vehicle with a gross vehicle weight (G.V.W.) of 10,000 pounds or less.

"Motor vehicle" means any land vehicle propelled otherwise than by muscular power including trailers and semi-trailers, except such vehicles that run only upon rails or tracks.

"Net participation" means a participant's gross participation for that policy year less its business eligible for depopulation credit for that policy year.

"Net participation percentage" means a participant's net participation for that policy year in proportion to the comparable Statewide total net participation for all participants.

"Operating headquarters" means the chief place of business where the principal officers generally transact business, and the place to which reports are made and from which orders emanate. It is the location where the executive offices are, corporate decisions are made and corporate functions are performed.

"Participant" means an insurer licensed and authorized to write motor vehicle liability and physical damage insurance and specifically includes any insurer who writes all other automobile liability and all other automobile physical damage insurance.

"Policy year" means the exposure and premiums for all policies written during a calendar year and all losses attributable to policies written during the same calendar year.

"Private passenger automobile" means a vehicle that meets the definition in N.J.S.A. 39:6A-2a, that is not eligible for coverage through any voluntary or residual market mechanism created by statute, and is owned by an individual or husband and wife; or owned jointly by two or more relatives other than husband and wife; or owned jointly by two or more resident individuals; or owned by a corporation, partnership and unincorporated association, governmental agency, or registered to a professional designation (that is, T/A, PA or P.C.) where such autos are furnished to individuals and not used for business purposes.

"Private passenger type automobile" means a vehicle that meets the definition in N.J.S.A. 39:6A-2a and is owned by a corporation, partnership or any other entity except an individual or husband and wife.

"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. CAIP direct written premiums included in the figures which the participant wrote as a service carrier for CAIP;
2. Any direct written premiums included in the figures from insureds who are eligible applicants for any residual market mechanism created by statute other than the CAIP.
3. Any reinsurance premiums assumed from other insurers included in the figures; and
4. Any premiums for Death and Disability coverage included in the figures.

Amended by R.1991 d.45, effective February 4, 1991.

See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

Deleted definition of NJAFIUA and references to it; added text to definitions for "Private passenger automobile" and "Voluntary All Other Automobile Direct Written Premiums."

Amended by R.1996 d.502, effective October 21, 1996.

See: 27 N.J.R. 4489(a), 28 N.J.R. 4586(a).

11:3-1.3 Creation of the plan

(a) There is created in the State of New Jersey a plan for the administration and apportionment of automobile insurance for qualified applicants to be known as the Commercial Automobile Insurance Plan hereafter referred to as "CAIP."

(b) CAIP shall be administered by the governing committee pursuant to this subchapter and a plan of operation approved by the Commissioner.

(c) Every insurer admitted to transact and transacting motor vehicle insurance in the State of New Jersey shall

participate in CAIP to the extent required by this subchapter and the plan of operation.

Amended by R.1996 d.502, effective October 21, 1996.
See: 27 N.J.R. 4489(a), 28 N.J.R. 4586(a).

11:3-1.4 Governing committee

(a) CAIP shall be administered by a governing committee of 14 members.

1. Eight members shall be salaried employees of an insurer which is a participant of CAIP.

2. Three members shall be licensed producers.

3. One member shall be public representative who is knowledgeable about automobile insurance matters but who is not employed by, or otherwise affiliated with, insurance producers, or other entities of the insurance industry.

4. One member shall be a salaried employee of a servicing carrier for the CAIP, provided that neither the servicing carrier nor any affiliate of the servicing carrier otherwise serves as a member of the governing committee.

5. The Commissioner or his or her designee shall be an ex-officio member of the committee.

(b) The following organizations shall each nominate two members to represent participants of CAIP:

1. The Alliance of American Insurers;

2. The American Insurance Association; and

3. The National Association of Independent Insurers.

(c) Participants which are not members of the organizations in (b) above shall nominate two members to represent participants in accordance with a fair method set forth in the plan of operation.

(d) The following organizations shall each nominate one member to represent producers:

1. Independent Insurance Agents of New Jersey;

2. Insurance Brokers Association of New Jersey; and

3. Professional Insurance Agents of New Jersey.

(e) All members shall be appointed by the Commissioner and shall serve for one year or until a successor is appointed. Each member may designate an alternate. In the event the Commissioner fails to appoint a nominee, the organization shall nominate another representative.

(f) The governing committee of the existing Commercial Automobile Insurance Plan shall act as the governing committee for CAIP until the CAIP governing committee is appointed pursuant to this section.

(g) All meetings of the governing committee shall be conducted in accordance with this subchapter and the plan of operation.

(h) Pursuant to this subchapter and the plan of operation, the governing committee shall have the following duties:

1. To assume the assets and liabilities of the Commercial Automobile Insurance Plan on behalf of the member insurers;

2. To assume the rights and obligations of the Commercial Automobile Insurance Plan on behalf of the member insurers;

3. To develop and submit for approval by the Commissioner.

i. A plan of operation; and

ii. A rating system, including rates, rules and forms;

4. To appoint, conditionally appoint or terminate:

i. A CAIP manager subject to approval by the Commissioner, which shall be located in this State;

ii. At least two servicing carriers; and

iii. Other employees, professionals, and contractors required to administer CAIP.

5. Enter into and/or negotiate contracts as are necessary or proper to carry out the provisions of this subchapter;

6. Sue or be sued in the name of the CAIP, including taking any legal actions measuring or proper for recovery of any assessments for, on behalf of or against members. A judgment against the CAIP shall not create any direct liability against the governing committee or its individual members, or the individual participating members of the CAIP.

7. To budget expenses, levy assessments, and disburse funds;

8. To investigate complaints and hear appeals from applicants, insureds, producers, servicing carriers or participants about any matter pertaining to the proper administration of the CAIP;

9. To arrange for an independent audit of CAIP each year which shall include all servicing carriers;

10. To furnish all participants with:

i. An annual written operations report;

ii. The approved annual budget upon request;

iii. A copy of the annual audit upon request;

iv. A copy of the plan of operation, and all amendments;

v. A copy of all rates, rules and manuals upon request; and

vi. A copy of the minutes from all meetings upon request;

11. To audit the records of any participant relating to the subject matter of CAIP and establish such policies, records, books of account, documents and related material which shall be maintained for the proper administration of CAIP;

12. To perform such other functions as may be necessary and proper to administer CAIP in accordance with this subchapter and the approved plan of operation;

13. To indemnify on behalf of the member insurers each member of the governing committee, and employees for any and all claims, suits, costs of investigations, costs of defense, settlements or judgments against them on account of an act or omission in the scope of the member's duties or employee's employment. CAIP shall refuse to indemnify if it determines that the act or failure to act was due to actual fraud, willful misconduct or actual malice.

14. Appoint from among its members or from qualified nonmembers appropriate legal, actuarial, claims, and other committees as necessary to provide technical assistance in the operation of the CAIP, policy and other contract design, and any other function within the authority of the CAIP;

i. The Commissioner or his or her designee may serve as an ex-officio, non-voting member of any committee (except the appeals subcommittee) established pursuant to this section.

Amended by R.1996 d.502, effective October 21, 1996.
See: 27 N.J.R. 4489(a), 28 N.J.R. 4586(a).

11:3-1.5 Participation

(a) At the end of each fiscal period, CAIP's operating profit or loss shall be determined separately for each policy year. Profit shall be credited or distributed to each participant and loss shall be charged against each participant in proportion to each participant's "net participation percentage" for the second prior year which resulted in the profit or loss.

(b) All data necessary to comply with the foregoing participation procedures shall be reported to the CAIP's central statistical agent in the manner described in the approved statistical plan.

(c) Groups of participants under the same ownership and management shall be treated as a single participant. Groups of participants under either the same ownership or management, but not both, may elect to be treated either separately or as a single company.

(d) In the event a participant discontinues writing motor vehicle liability or physical damage insurance in this State and retains its certificate of authority to write such business,

it shall continue to pay assessments, provided, however, that if the automobile liability or physical damage business of a participant discontinuing the writing of automobile liability or physical damage insurance in this State has been purchased by, transferred to, or reinsured by another company, the latter shall receive the assessments of the former.

(e) In the event a participant is merged with another company or there is a consolidation of companies, the continuing company shall receive the assessments of the company merged or consolidated, provided, however, the continuing company may be relieved from such obligations if another company has agreed, in a manner satisfactory to the governing committee, to assume such obligations.

(f) Participation shall be suspended upon order of the Commissioner of Insurance if he or she finds that such action is required by the financial condition of that participant.

(g) All participants in CAIP shall participate in the business written by the Commercial Automobile Insurance Plan pursuant to an approved plan of operation.

Amended by R.1996 d.502, effective October 21, 1996.
See: 27 N.J.R. 4489(a), 28 N.J.R. 4586(a).

11:3-1.6 Plan of operation

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

1. The internal organization and proceedings of the governing committee;

2. Standards and procedures for the appointment, compensation, and termination of and performance standards for servicing carriers, the CAIP manager, other employees, professionals and contractors required to administer CAIP along with a producers certification program;

3. The extent of coverage to be offered by CAIP to eligible applicants;

4. Procedures to apply for coverage;

5. Premium rules, surcharges and minimum premiums;

6. Procedures for handling premium charge-offs;

7. Procedures for the performance of preliminary premium audits on certain risks identified by the governing committee and approved by the Commissioner;

8. Procedures for a servicing carrier performance audit program;

9. Establishment of a Producer Compliance Unit which shall report directly to the CAIP manager;

10. The amount of commissions to be paid producers;

11. Provisions for the cancellation or the nonrenewal of policies;

12. Methods and means for the collection, investment and disbursement of funds;

13. Development and maintenance of a statistical plan, and manuals incorporating that plan, which shall be subject to the prior approval by the Commissioner in the same manner as the plan of operation; and

14. A voluntary depopulation credit program which shall be used in calculating a participant's net participation for the CAIP;

15. Procedures for the provision of coverage to good faith applicants where a producer has violated plan rules; and

16. Development of a basic servicing carrier contract and procedures for making modifications to that contract.

(b) For the purpose of conformance with the amendments to this chapter effective October 21, 1996, the governing committee shall, by January 19, 1997, submit to the Commissioner, for his or her review and approval, proposed revision to the plan of operation. The governing committee may propose amendments to the plan of operation at any time.

(c) The proposed plan and any amendments shall be reviewed by the Commissioner and approved by him or her if he or she finds it fulfills the purposes provided by this subchapter. If approved, the Commissioner shall certify approval to the governing committee and the plan of operation or amendments shall take effect 10 days after such certification.

1. If the Commissioner disapproves all or any part of the plan of operation or any amendment he or she shall return same to the governing committee with a statement, that sets forth the reasons for his or her disapproval and may include other recommendations he or she may wish to make.

2. If the governing committee does not submit a plan of operation by 90 days from the effective date of these amendments or a new plan which is acceptable to the Commissioner within 90 days after the disapproval of a proposed plan, the Commissioner may promulgate a plan of operation and certify same to the governing committee.

3. Any such plan approved by the Commissioner shall take effect 10 days after the certification to the governing committee; provided, however, that until a plan of operation is in effect pursuant to the provisions of this subchapter, the existing Commercial Automobile Insurance Plan temporary placement facility shall be continued in effect. Each participant shall continue to comply with the Commercial Automobile Insurance Plan with respect to all business written under the procedure prior to the effective date of the CAIP plan of operation.

(d) The Commissioner may propose an amendment to the plan of operation by communicating the proposed amendment to the governing committee. If the governing committee does not adopt amendments acceptable to the Commissioner within 30 days, the Commissioner may certify amendments with an effective date to the governing committee. For good cause shown, the Commissioner may certify proposed amendments two days after copies of the proposed amendments are provided to the governing committee.

Amended by R.1996 d.502, effective October 21, 1996.
See: 27 N.J.R. 4489(a), 28 N.J.R. 4586(a).

Case Notes

Former New Jersey assigned risk scheme in automobile liability coverage mentioned in discussion of methods available to a state to deal with the social consequences of adverse risk selection. *Owens v. Aetna Life & Casualty Co.*, 654 F.2d 218 (3rd Cir.1981), certiorari denied 102 S.Ct. 657, 454 U.S. 1092, 70 L.Ed.2d 631 (1981).

11:3-1.7 Coverage

(a) CAIP shall provide to eligible applicants, bodily injury liability and property damage liability coverages as follows:

1. CAIP shall provide basic combined single limit of \$35,000 and statutory uninsured motorist coverage except:

i. When limits in excess of the basic combined single limit of \$35,000 are required by law, the plan shall offer limits adequate to comply with the minimum requirements of that law, except with respect to limits over \$5 million in which case excess coverage is conditioned upon the plan being able to secure facultative reinsurance. CAIP shall provide a policy for limits less than the minimum requirements of the law when evidence of adequate excess insurance is provided by the producer or the insured.

ii. CAIP shall provide limits adequate to comply with the provisions of the financial responsibility law of any state in which the motor vehicle will be operated, but only while the vehicle is being operated in that state.

iii. CAIP shall also offer the optional limits of liability as specified in the plan of operation.

(b) CAIP shall offer to eligible applicants, additional uninsured or underinsured motorist coverage as follows:

1. Additional uninsured and underinsured motorist coverage shall be provided as an option to the named insured up to the limits set forth in N.J.S.A. 17:28-1.1b and subject to the deductibles specified in the plan of operation. The limits for uninsured and underinsured motorist coverage shall not exceed the insured's motor vehicle liability policy limits for bodily injury and property damage respectively.

Amended to delete references to the NJAFIUA and to substitute therefor a general reference to residual market mechanisms created by New Jersey statute consistent with "The Fair Automobile Insurance Reform Act of 1990", P.L. 1980 c.8.

11:3-15.2 Scope

This subchapter applies to every insurance company authorized to transact the business of private passenger automobile insurance in this State and to any residual market mechanism created by any New Jersey statute.

New Rule, R.1989 d.117, effective February 21, 1989.

See: 20 N.J.R. 2984(a), 21 N.J.R. 558(b).

Old text was repealed.

Amended by R.1990 d.580, effective November 19, 1990 (operative January 1, 1991).

See: 22 N.J.R. 1681(a), 22 N.J.R. 3488(b).

Amended to delete references to the NJAFIUA and to substitute therefor a general reference to residual market mechanisms created by New Jersey statute consistent with "The Fair Automobile Insurance Reform Act of 1990", P.L. 1980 c.8.

11:3-15.3 Definitions

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

"Department" means the Department of Insurance of the State of New Jersey.

"Insurance company" means any person, corporation, association, partnership, company and any other legal entity issuing a contract of private passenger automobile insurance, including any residual market mechanism established pursuant to any New Jersey statute. As appropriate, "insurance company" shall also mean a servicing carrier for a residual market mechanism.

New Rule, R.1989 d.117, effective February 21, 1989.

See: 20 N.J.R. 2984(a), 21 N.J.R. 558(b).

Repealed old rule, "effective date."

Amended by R.1989 d.624, effective December 18, 1989 (operative January 1, 1990).

See: 21 N.J.R. 3244(a), 21 N.J.R. 3922(a).

NJAFIUA added to definition of "insurance company".

Amended by R.1990 d.580, effective November 19, 1990 (operative January 1, 1991).

See: 22 N.J.R. 1681(a), 22 N.J.R. 3488(b).

Changed definition of "Insurance Company" for consistency with "The Fair Automobile Insurance Reform Act of 1990", P.L. 1990 c.8.

Case Notes

Insured was not entitled to underinsured motorist benefits; insurance carried by two vehicles which struck his was greater than the amount of uninsured coverage which he could have obtained. *Pinto v. Garretson*, 237 N.J.Super. 444, 568 A.2d 119 (A.D.1989).

Insurer and agent were not liable in allegedly failing to inform insured about higher levels of underinsured motorist coverage. *Pinto v. Garretson*, 237 N.J.Super. 444, 568 A.2d 119 (A.D.1989).

11:3-15.4 Compliance

Pursuant to N.J.S.A. 39:6A-23, no new private passenger automobile insurance policy or renewal shall be issued on or after January 1, 1989, unless the application for the policy or

renewal is accompanied by a written notice which meets the minimum standards prescribed in this subchapter.

New Rule, R.1989 d.117, effective February 21, 1989.

See: 20 N.J.R. 2984(a), 21 N.J.R. 558(b).

Repealed "General context of written notice".

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Case Notes

Insurance agent had no obligation to contact insureds to provide explanation of notice provided by insurance carrier. *Bruce v. James P. MacLean Firm*, 238 N.J.Super. 501, 570 A.2d 49 (L.1989), affirmed 238 N.J.Super. 408, 570 A.2d 1.

"Notice of coverage" provisions imposed duty on carrier to prove only that it mass mailed requisite materials concerning optional coverage to its insureds. *Bruce v. James P. MacLean Firm*, 238 N.J.Super. 501, 570 A.2d 49 (L.1989), affirmed 238 N.J.Super. 408, 570 A.2d 1.

11:3-15.5 Content of written notice; receipt by public

(a) The written notice shall include the New Jersey Auto Insurance Buyer's Guide and the Coverage Selection Form as they appear in this subchapter.

(b) Each named insured of an automobile insurance policy shall receive a Buyer's Guide and a Coverage Selection Form:

1. When application is made for a new policy;
2. As part of a notice of renewal; and
3. When mid-term changes are requested which require the use of a Coverage Selection Form (see N.J.A.C. 11:3-15.9).

(c) The Coverage Selection Form shall be used in accordance with the requirements of N.J.A.C. 11:3-15.9.

New Rule, R.1989 d.117, effective February 21, 1989.

See: 20 N.J.R. 2984(a), 21 N.J.R. 558(b).

Repealed "General content of buyer's guide".

Amended by R.1989 d.624, effective December 18, 1989 (operative January 1, 1990).

See: 21 N.J.R. 3244(a), 21 N.J.R. 3922(a).

(c) deleted.

Amended by R.1990 d.580, effective November 19, 1990 (operative January 1, 1991).

See: 22 N.J.R. 1681(a), 22 N.J.R. 3488(b).

Amended to clarify when a Buyer's Guide and Coverage Selection Form are required to be received by the public, and, for convenience to the reader, to reference the rules concerning the use of the Coverage Selection Form (see section 13 of the "Fair Automobile Insurance Reform Act of 1990").

Case Notes

Insured could not have jury trial in reformation action for agent's failure to inform insured of available underinsured motorist coverage. *Weinisch v. Sawyer*, 123 N.J. 333, 587 A.2d 615 (1991).

Direct writing insurer was not responsible for insured's inadequate underinsured motorist (UIM) coverage. *Andriani v. New Jersey Mfrs. Ins. Co.*, 245 N.J.Super. 252, 584 A.2d 875 (A.D.1991), certification denied 126 N.J. 327, 598 A.2d 886.

Client-initiated contacts with insurance brokers can result in broker's duty to exercise skill and possess knowledge concerning coverages.

Avery v. Arthur E. Armitage Agency, 242 N.J.Super. 293, 576 A.2d 907 (A.D.1990).

Insurer's buyer's guide and coverage selection form complied with regulations. Avery v. Arthur E. Armitage Agency, 242 N.J.Super. 293, 576 A.2d 907 (A.D.1990).

Insurer that was already voluntarily offering underinsured motorist coverage prior to January 1, 1984 did not have adjustment period until July 1, 1984. Sikking v. Nelson, 242 N.J.Super. 185, 576 A.2d 311 (A.D.1990).

"Notice of coverage" provisions required carrier to prove only that it mass mailed requisite materials. Bruce v. James P. MacLean Firm, 238 N.J.Super. 501, 570 A.2d 49 (L.1989), affirmed 238 N.J.Super. 408, 570 A.2d 1.

Insured was not entitled to underinsured motorist benefits; insurance carried by two vehicles which struck his was greater than the amount of uninsured coverage which he could have obtained. Pinto v. Garretson, 237 N.J.Super. 444, 568 A.2d 119 (A.D.1989).

Insurer and agent were not liable in allegedly failing to inform insured about higher levels of underinsured motorist coverage. Pinto v. Garretson, 237 N.J.Super. 444, 568 A.2d 119 (A.D.1989).

Whether insured was contributorily negligent was for jury. Weinisch v. Sawyer, 237 N.J.Super. 195, 567 A.2d 259 (A.D.1989), certification granted 121 N.J. 658, 583 A.2d 345, reversed 123 N.J. 333, 587 A.2d 615.

11:3-15.6 Minimum Standards for New Jersey Auto Insurance Buyer's Guide

(a) Any insurance company may comply with this subchapter by using a camera-ready typeset Buyer's Guide produced by the Department. To obtain this camera-ready Buyer's Guide, an insurance company may contact the Division of Public Affairs, Department of Insurance, 20 West State Street, CN 325, Trenton, New Jersey 08625-0325.

(b) Insurance companies that wish to produce their own plates may do so according to the requirements prescribed in this subchapter.

(c) In preparing the Buyer's Guide, insurance companies shall use the text provided in this subchapter. Insurance companies which do not offer all the coverages described in the Buyer's Guide shall delete those sections and shall indicate clearly that they do not offer those coverages. Insurance companies may add information to the Buyer's Guide provided that the additional information is consistent with the purpose of the written notice.

(d) To assure conformity with this subchapter, each insurance company shall file its Buyer's Guide with the Division of Public Affairs. The filing shall include a sample copy of the insurance company's Buyer's Guide and a letter listing all alterations and additions, if any, made from the text appearing in this section. The filing shall be made once when the first Buyer's Guide is issued by the insurance company and again whenever changes are made.

(e) When changes are made in Buyer's Guide, the new Buyer's Guide shall be filed with the Division of Public Affairs within seven days of its use, and the bottom of the last page shall clearly state the month and year in which the changes were implemented. Insurers shall be permitted to use existing supplies of the current Buyer's Guide until June 30, 1996. After that date, only use of a Buyer's Guide conforming to these rules shall be permitted.

(f) The size of the pages of the Buyer's Guide shall not be smaller than three and a half inches by eight and one-half inches. The camera-ready Buyer's Guide produced by the Department shall use pages measuring five and one-half inches by eight and one-half inches.

(g) An insurance company which uses the Department's camera-ready Buyer's Guide shall not reduce the image or the size of its pages. The Buyer's Guide shall be bound. If an insurance company intends to fit this printed booklet in a common-size four-inch by nine-inch business envelope, the booklet may be folded once lengthwise.

(h) The Buyer's Guide shall be printed on paper of a quality sufficient to assure that printing does not bleed from one side to the other. The cover may be of the same or better paper quality as the pages.

(i) The type size used in the Buyer's Guide shall be at least 10-point. The camera-ready material provided by the Department shall be 12-point type.

(j) The type style used shall be within the discretion of the insurance company, but it shall be suitable for the use of boldface type for emphasis. In the text required by this subchapter, material which appears in boldface shall be printed in boldface type. The type style used in the camera-ready material provided by the Department shall be Times Roman.

(k) To provide adequate white space for an attractive format, the typeset shall be paragraphed consistent with the text of the Buyer's Guide in (m) below. Additionally, at least one line shall be skipped between each paragraph.

(l) The Buyer's Guide shall have a cover with the following title in large type: "New Jersey Auto Insurance Buyer's Guide." In regular type, the cover shall state, "This contains only general information and is not a legal document." An insurance company may include its name and/or company logo on the cover.

(m) An insurance company which writes at least two percent of the New Jersey private passenger automobile market, and each NJAFIUA servicing carrier, shall print its name and toll-free telephone number on the last page of the Buyer's Guide.

(n) An insurance company which does not offer additional medical expense benefits above limits of \$250,000 per person, per accident, shall not include any reference to this optional coverage in its Buyer's Guide, nor shall any reference be made to such coverage in its Coverage Selection Form.

(o) The text of the New Jersey Auto Insurance Buyers' Guide follows:

New Jersey
Auto Insurance
Buyers' Guide

This contains only general information and is not a legal document.

Summary

New Jersey consumers have specific rights regarding the purchase of auto insurance coverage.

For instance, if the insurance company you choose will not sell you auto insurance, the company must tell you why and, upon your request, the company must respond in writing. If you are not satisfied with the company's response, you can ask the New Jersey Department of Insurance for help. Under certain circumstances, you may also ask for a hearing. Any consumer who believes that his or her insurance company has improperly charged him or her for an at-fault accident can contact the Department, which will investigate the allegations.

The insurance agent or the insurance company also must tell you whether you qualify for auto insurance coverage with one of its other companies or affiliates. Auto insurance applicants with eight or fewer eligibility points can obtain coverage from the company to which they apply, if they fulfill all other eligibility requirements.

You also have the right to receive from your agent auto insurance premium quotes from all the insurance companies he or she represents for which you qualify.

The law requires that you maintain auto liability coverage which, subject to the terms and limits of the policy, protects you in case you are sued, and pays for damages that you cause to someone else's property. Please see page XX.

You are also required to purchase personal injury protection, which pays the auto accident-related medical bills of you and your family. Please see page XX.

You can choose whether your health insurance will pay first for injuries stemming from auto accidents (if you have health insurance which pays for such injuries), or whether you want your auto insurer to pay medical expenses first. You may save on your auto premiums by choosing the health option. To find out more about your medical bene-

fits and options, please see the section beginning on page XX.

Your medical benefits are now capped at \$250,000. That means your auto insurer can only pay up to \$250,000 per person, per accident. But, for an additional premium, you may be able to purchase more coverage for yourself or your family.

You must also carry uninsured motorist coverage, which pays for damages caused by a driver who has no insurance. Please see page XX.

If you want additional coverage, you can buy collision or comprehensive, which pays for damages to your own car or for auto theft. These will add to your total insurance cost. In many cases, State law requires a special insurance inspection of a vehicle before this coverage takes effect. You can save on your collision or comprehensive coverage by choosing higher deductibles. Please see page XX.

The law also allows you to choose whether you want an unlimited right to sue for auto-related damages—the "no threshold" option—or to save money by limiting your right to sue for serious injuries only—the "lawsuit threshold" option (also known as the "verbal threshold"). Please see page XX.

The buyer's guide will explain each of these terms. It will also help you fill out the Coverage Selection Form. You can also learn how to get a comparison of premiums for all auto insurers (page XX).

Explanation of Coverages

Your auto insurance policy is actually several kinds of policies, or coverages, rolled into one.

For each coverage, you are charged a separate price, which is known as the premium.

You pay only one price for auto insurance, but that price is determined by adding the premiums for all the coverages you buy.

Use your coverage selection form to indicate what coverages you will buy in accordance with New Jersey law.

The coverages are:

LIABILITY
PERSONAL INJURY PROTECTION
UNINSURED/UNDERINSURED MOTORIST
COLLISION
COMPREHENSIVE

Use these explanations to help you complete the coverage selection form.

Liability Coverage

(Required by Law)

Item 1 on the Coverage Selection Form

Liability coverage pays for injuries to other people or damages to their property if you are legally responsible for their losses. The company will pay damages only up to the amount of coverage you have chosen.

There are two kinds of liability coverage:

Bodily injury coverage involves cases in which other people are hurt or die as a result of an auto accident. If you are legally responsible, it will compensate these people for pain, suffering or other personal hardships, and will also pay for some economic damages, such as lost wages.

Property damage coverage will reimburse other people if you are legally liable for damage to their belongings as a result of an auto accident.

If a liability claim is filed against you, your insurance company will investigate the claim and will decide whether it should be paid, negotiated, or defended in court. Your insurance company will pay the legal bills.

Under State law, you must buy coverage which will pay, for each accident, at least in the following amounts:

- \$15,000 for any one person's injuries;
- \$30,000 when more than one person is injured;
- \$5,000 for property damage.

Some companies sell a combined single limit policy, which must provide at least \$35,000 of coverage per accident.

Higher limits of liability coverage are available at relatively low cost.

If you cause an accident and do not have enough insurance to cover your legal responsibilities, you then are personally responsible and could lose some of your assets or spend years paying this debt.

**PREMIUM COST SAVER: Lawsuit
Threshold (Verbal Threshold)**

Item 2 on the Coverage Selection Form

In order to hold down insurance premiums, New Jersey motorists may choose to limit when they may sue for noneconomic loss which means pain, suffering and inconvenience resulting from an auto accident.

The lawsuit threshold option, also known as the verbal threshold, uses words, rather than a dollar amount of medical bills, to describe when a suit may be filed. If you select this limitation, then you, your spouse and children living with you who are not covered by name by another auto insurance policy will not be able to sue unless the injury sustained appears on this list:

- death;
- dismemberment;
- significant disfigurement;
- a fracture;
- loss of a fetus;
- permanent loss of use of a body organ, member, function or system;
- permanent consequential limitation of use of a body organ or member;
- significant limitation of use of a body function or system; or
- a medically determined injury or impairment of a nonpermanent nature which prevents the injured person from performing substantially all of the material acts which constitute the person's usual and customary daily activities for not less than 90 days during the 180 days immediately following the occurrence of the injury or impairment. (N.J.S.A. 39:6A-8, effective January 1, 1989)

You can reject this threshold and retain the right to sue for any auto-related injury. This option, called "no threshold", will increase the price of your insurance policy.

Under state law, you must choose either the lawsuit threshold or the no threshold option. The same choice should be made under all policies that you have. If you do not choose one of these options, you are considered by law to have selected the lawsuit threshold option.

Personal Injury Protection (PIP)

(Required by Law)

Item 3 on the Coverage Selection Form

New Jersey law requires Personal Injury Protection, sometimes called PIP or no-fault coverage, which pays all reasonable medical bills up to a maximum of \$250,000 per person, per accident regardless of who caused the auto accident.

However, you may also have the option to select your health insurer or health maintenance organization to pay your auto accident no-fault claims.

Basic PIP Coverage

- **Medical Expenses:** Payment of reasonable and necessary medical expenses within certain limits set by State law—\$250 deductible for each accident, only 80 percent reimbursement for the expenses from \$251 through \$5,000 for each accident, and a maximum benefit of \$250,000 per person per accident.

- **Income Continuation:** If you cannot work because of an auto accident injury, you can collect up to \$100 a week up to a total limit of \$5,200 for lost wages.

- **Essential Services:** You can collect as much as \$12 a day, up to a total limit of \$4,380 to pay someone to do necessary services that you normally do yourself, such as cleaning your house, mowing your lawn, shoveling snow or doing laundry.

- **Death Benefit:** If you die from auto accident injuries, your family or estate will receive any benefits you have not already collected under the income continuation and essential services coverages.

- **Funeral Expense Benefit:** In addition to the death benefit, reasonable funeral expenses are covered up to \$1,000.

PREMIUM COST SAVER: PIP Medical Expenses Only Coverage

If you wish, you can buy PIP medical coverage without any income continuation, essential services, death benefits and funeral expense benefits. This is called PIP medical expenses only.

You might want this premium cost-saving option if you and relatives who live with you would not lose income if any of you were disabled by an auto accident. For example, this option should be considered if your sources of income are pensions, Social Security or investments which would continue regardless of an auto accident, and if someone is always available to care for your personal needs, and if your funeral expenses are covered in some other way.

But the option is a package deal. Either you keep all four of these non-medical expense PIP benefits, or you drop them all. You cannot pick and choose.

Additional PIP Coverage

On the other hand, you and relatives who live with you and who do not have their own auto insurance policies might want higher benefits. You can purchase higher benefits for income protection and essential services, and higher death benefits, than the amounts provided in the basic PIP plan.

Additional Medical Expense Coverage

Your auto insurance company may also offer additional medical expense benefits above limits of \$250,000 per person, per accident.

If you buy additional benefits, the price of your insurance will be higher.

(NOTE: Reference to Additional Medical Expense Coverage shall be deleted by those companies which do not offer the coverage.)

Personal Injury Protection (PIP)

Health Insurance Option (Premium Cost Saving Option)

Item 4 on Coverage Selection Form

Most New Jersey residents have the option of selecting their health coverage provider, rather than their auto insurance company, to pay for their no-fault medical expense claims. A health coverage provider may be an insurance company, an HMO or some other type of benefit plan provided by your employer.

Medicare and Medicaid will NOT provide primary coverage. If your health benefits are provided by either Medicare or Medicaid, you cannot choose this option.

If you select your health coverage provider to be the primary payer of auto no-fault claims, you may save on your auto premium. Before selecting this option, however, check to make sure that your health coverage provider will pay for auto accident injury treatment expenses. If your employer supplies your health coverage, your employer should be able to give you this information; otherwise, check with your health coverage provider directly.

Deductibles and co-payments of your health policy or plan will still apply. The coverage limits of your health policy or plan will also be in effect.

Most HMOs offer unlimited coverage. Most other health coverage providers offer lifetime benefit limits of \$1 million.

That means the health coverage provider will pay all eligible health claims, as long as they do not total more than \$1 million during your lifetime. Be sure to ask your health coverage provider what limits apply under your policy or plan.

Your health policy or plan may not cover all procedures or treatments. Exclusions listed in your policy or plan will apply. But your auto insurer should pay for necessary expenses not covered by your health policy or plan.

If you choose your health coverage provider to be responsible for paying auto accident-related medical bills, you must provide the name of your health coverage provider and the policy, plan, membership or certificate number on the Coverage Selection Form. You must also maintain your health coverage.

If you are in an accident and your coverage is no longer in effect, your auto insurer must pay PIP medical benefits. However, you will be required to pay a \$750 additional deductible.

PIP Medical Expenses Deductible

Auto Insurer Option

Item 5 on Coverage Selection Form

This option involves only the medical bills paid by PIP, not the income continuation, essential services, death benefits or funeral expense benefits, which will be paid under basic PIP coverage regardless of whether you select your health insurer or auto insurer to be the primary payer of your auto accident-related medical bills.

Under New Jersey law, unless you choose your health insurer to pay your auto accident-related medical bills, your auto insurance policy will cover your medical bills up to a maximum of \$250,000 per person, per accident, if you are injured in an auto accident.

However, for the first \$5,000 of medical bills per accident, your auto policy will pay only part of the cost of your treatment or the treatment of others covered by your policy. There is a \$250 deductible, meaning the first \$250 will not be covered. The deductible applies only once per accident regardless of the number of people injured.

There is also a 20 percent co-payment, which means that for the bills from \$251 to \$5,000, the policy will pay only 80 percent. No co-payment applies to medical expenses between \$5,001 and \$250,000 per person, per accident.

(NOTE: Companies offering higher PIP limits may state that benefits above \$5,000 are paid up to the limit selected.)

You can choose PIP deductibles of \$250, \$500, \$1,000 or \$2,500. A larger PIP deductible will reduce the price of your auto insurance. The 20 percent co-payment still applies to expenses between the deductible chosen and \$5,000.

You should consider the \$2,500 PIP deductible if you are already covered by a health insurance policy or a health maintenance organization (HMO). In most cases, those plans will pay part of the medical bills which auto insurance will not pay.

Before taking this option, ask your health insurance company or HMO two things:

Will your health policy or HMO cover auto accident-related medical bills not paid by auto insurance? The Department of Insurance requires that health insurance sold in New Jersey cover treatment for auto accident-related injuries the same as other injuries. But your policy may not follow this rule because you may be covered by a health insurance group sold out of state or by an employer's self-insurance plan. Find out.

What are your health policy's or HMO's own deductible, co-payments and exclusions? Find out what your health plan covers. For instance, it may cover only hospitalization but not doctor visits. Also, your health insurance or HMO has its own rules regarding what you pay out of your pocket for medical treatment. Those rules will apply if you use your health plan to cover the \$2,500 PIP deductible.

Uninsured/Underinsured Motorist Coverage

(Required by Law)

Item 6 on the Coverage Selection Form

Despite New Jersey law, which requires auto insurance, many cars are not covered by insurance. Some motorists break the law. Many other motorists are residents of other states which do not require auto insurance by law.

Because these motorists can cause accidents, you are required to buy uninsured motorist coverage. This coverage does not benefit the uninsured driver. It will provide benefits to you, your passengers or relatives living with you if a motorist without insurance is legally liable for injuries to these persons or for damage to your car or its contents.

There are other motorists who have auto insurance coverage but with very low limits. When you buy uninsured motorist coverage above the minimum limits required by law, you are also provided coverage to protect you from those motorists who are underinsured. If you are in an accident caused by such a motorist, underinsured motorist coverage will pay damages up to the difference between your underinsured motorist coverage limit and the other driver's liability coverage limit.

You must purchase uninsured motorist coverage which will pay, for each accident, at least the following amounts:

- \$15,000 for any one person's injuries;
- \$30,000 when more than one person is injured;
- \$5,000 for property damage.

Many companies sell a combined single limit policy, which must provide at least \$35,000 of coverage per accident. The property damage coverage has a basic \$500 deductible, which means that you pay the first \$500 of a claim under that coverage.

You can buy higher uninsured/underinsured motorist coverage limits, but only as high as the liability coverages you have purchased. Most companies sell up to \$250,000/\$500,000/\$100,000 of coverage or a combined single limit of \$500,000.

Collision and Comprehensive Coverages (Optional)

Items 7 and 8 on Coverage Selection Form

Collision coverage and comprehensive (also known as "other than collision") coverage pay for damage to your car. These coverages will pay to repair your car or pay for its value at the time of the loss if it is stolen or declared a total loss.

These coverages are not required by law. However, if you borrowed money to buy your car or if you are leasing the car, the lender or lessor may require you to buy these coverages. Note that some companies will provide collision coverage only if you buy comprehensive coverage too. Contact your company for details.

Collision coverage pays for damage to your car caused by your car hitting things like other cars, trees or telephone poles, or for the car overturning, or for other moving objects hitting your car.

Comprehensive insurance pays for nearly every other kind of damage to your car, such as fire, theft, flood, vandalism, or contact with a bird or animal.

In order to obtain collision or comprehensive coverage for a newly insured vehicle, you must notify your auto insurance company immediately. Under state law, in most cases, collision or comprehensive coverage cannot be provided on a newly acquired vehicle until the auto insurance company is notified. Also, many such vehicles must be inspected for insurance purposes before coverage can be provided. See the section entitled "Mandatory Insurance Inspection" for more details.

PREMIUM COST SAVER:

No Collision or No Comprehensive

If your car is older and is paid for, consider eliminating collision or comprehensive coverage, or both. This decision will reduce your premium.

To make the decision, consider what you will pay for these coverages versus the possible benefit if you file a claim.

Collision and comprehensive coverages will reimburse you only up to the actual cash value of your car. The insurance payment probably will be less than the actual cash value because of your policy's deductibles.

PREMIUM COST SAVER:

Collision and Comprehensive Deductibles

If you decide that you need collision or comprehensive coverage or both, a significant way to hold down the price of your insurance policy is to select higher deductibles.

If you file a claim, a deductible is the amount of money you will pay before the insurance company starts paying. Deductibles are a way of reducing insurance company costs, and thereby decreasing the price of your insurance policy.

The standard deductible for collision and comprehensive coverages in New Jersey is \$500. You still have the right to buy collision or comprehensive coverage with higher or lower deductibles; lower deductibles will increase the price of your insurance policy.

MANDATORY INSURANCE INSPECTION

For Newly Insured Vehicles

Under state law, many vehicles to be insured for collision or comprehensive (also known as "other than collision") coverage must first be inspected for insurance purposes. The law is intended to reduce insurance fraud by documenting the condition of newly insured private passenger automobiles.

Whenever you acquire a vehicle and desire collision or comprehensive coverage on it, you should notify your auto insurer immediately. The company will tell you everything necessary to comply with the law and obtain the coverage you desire.

Until you notify your auto insurance company, the vehicle may not be covered for collision or comprehensive.

It is important to understand that the mandatory insurance inspection is in addition to the Motor Vehicle Inspection program conducted by the State of New Jersey. The two inspections are separate and unrelated requirements.

In many cases, an insurance inspection may not be necessary. The law says that insurance inspections may be waived for vehicles which are older than seven model years. The law also says that an insurance inspection may not be necessary for a new automobile purchased from a franchised dealer if you submit an invoice documenting your purchase. And if your auto insurance policy has been in effect for four years or longer, an inspection may not be required by law. Your auto insurance company will explain when you call.

Otherwise, an inspection is required for newly insured vehicles. If your vehicle must be inspected, your auto insurer can provide temporary coverage for only seven days after the day you notify the company about the vehicle.

The only way to make sure that you meet the state requirements and receive the coverage you want is to call your auto insurance company before or as soon as any change of a vehicle occurs.

ANTI-THEFT AND SAFETY DISCOUNTS

State law requires all auto insurers to provide comprehensive and collision premium discounts for certain anti-theft

devices and safety features. Most insurers use make and model year rating. Their rates already include the discounts.

Anti-Theft Device Discount—Your auto insurance company encourages the use of anti-theft and vehicle recovery devices as another means to reduce losses. The following types of devices are among those which may qualify for a reduction in the comprehensive premium:

1. Alarm system;
2. Fuel cut-off;
3. Hydraulic brake lock;
4. Ignition or starter cut-off;
5. Steering wheel collar;
6. Transmitter which enables the location of the vehicle to be traced; or
7. Window etching vehicle identification system.

Other types may also qualify.

If your auto is equipped with an anti-theft or vehicle recovery device, contact your auto insurance company for an anti-theft questionnaire.

Safety Feature Discount—Your auto insurance company encourages the use of safety features as another means to reduce losses. The following types of safety features are among those which may qualify for a reduction in the collision premium:

1. Anti-lock braking system;
2. Traction control systems;
3. Five-mile-per-hour bumpers;

Other types may also qualify.

Price Comparison

If you would like a copy of the annual auto insurance premium comparison published by the New Jersey Department of Insurance, please send a stamped, self-addressed envelope to:

Auto Comparison
Division of Public Affairs
NJ Department of Insurance
CN 325
Trenton, NJ 08625-0325

(p) As appropriate, an insurance company may substitute its name in the Buyer's Guide.

(q) As appropriate, an insurance company which offers only split limits may delete language in the Buyer's Guide explaining combined limits, and an insurance company which offers only combined limits may delete language regarding split limits. If an insurance company does not offer limits as low as the minimums required by law, that information may be inserted in this paragraph.

(r) An insurance company which offers higher benefits than described in the text of the Buyer's Guide may modify the relevant paragraph to explain those higher benefits.

(s) An insurance company which uses only one term, "Comprehensive" or "Other Than Collision," to describe this coverage, may delete reference to the inappropriate term.

As amended, R.1984 d.479, eff. November 5, 1984.

See: 16 N.J.R. 1693(a), 16 N.J.R. 3038(a).

(a)3: added "as amended by P.L. 1984 c.40".

New Rule, R.1989 d.117, effective February 21, 1989.

See: 20 N.J.R. 2984(a), 21 N.J.R. 558(b).

Repealed "Specific coverages and options to be included in written notice and buyer's guide".

Amended by R.1990 d.580, effective November 19, 1990 (operative January 1, 1990).

See: 22 N.J.R. 1681(a), 22 N.J.R. 3488(b).

Subsection (n) of this section is amended to delete in its entirety the text of the Buyer's Guide and to substitute new text therefor. The new text is written in plain language pursuant to the requirement of section 13 of the "Fair Automobile Insurance Reform Act of 1990" and incorporated several changes required to be made in the Coverage Selection Form by the Act; also amended to delete the provision that the Department, upon request from an insurer, will prepare a coverage-ready final page of the Buyer's Guide.

R.1992 d.218, effective May 18, 1992.

See: 24 N.J.R. 523(a), 24 N.J.R. 1898(b).

In (c), "Insurance companies . . . shall delete those sections" was "may delete . . .". Added new (n), regarding additional medical benefits, and redesignated existing (n) as (o), with extensive revisions to Buyer's Guide. Redesignated existing (o) through (r) as (p) through (s).

Amended by R.1996, d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

In (e) provided for supplies of the current Buyer's Guide, in (g) deleted "by glue or staples" following "bound", and in (o) rewrote the Buyer's Guide.

Case Notes

Motorcyclist's tort claim for personal injuries sustained when his motorcycle collided with automobile subject to verbal threshold; he chose that option for liability policy covering only his personally owned automobile and not his motorcycle, even though he was not eligible for personal injury protection benefits under that policy. *Koff v. Carrubba*, 290 N.J.Super. 544, 676 A.2d 184 (A.D.1996).

Insured who was injured by uninsured motorist and underinsured motorist was entitled to recover no more than \$75,000 as maximum limit of liability per accident; not entitled to recover maximum uninsured benefits and maximum underinsured benefits; overruling *Conigliario v. Hanover Ins. Co.*, 233 N.J.Super. 627, 559 A.2d 875. *Hesser v. Harleyville-Garden State Ins. Co.*, 287 N.J.Super. 47, 670 A.2d 123 (A.D.1996).

The Automobile Reparation Reform Act limits on recovery from tort-feasor. *Roig v. Kelsey*, 135 N.J. 500, 641 A.2d 248 (1994).

Motorist could reasonably and objectively expect to be buying protection up to declared legal limits. *Clegg v. New Jersey Auto. Full Underwriting Ass'n By and Through Cigna Ins. Co.*, 254 N.J.Super. 634, 604 A.2d 179 (A.D.1992).

There was common-law duty on part of insurance carriers or their agents to advise insureds concerning possible need for higher policy limits upon policy renewal. *Wang v. Allstate Ins. Co.*, 125 N.J. 2, 592 A.2d 527 (1991).

Insured could not have jury trial in reformation action for agent's failure to inform insured of available underinsured motorist coverage. *Weinisch v. Sawyer*, 123 N.J. 333, 587 A.2d 615 (1991).

Direct writing insurer was not responsible for insured's inadequate underinsured motorist (UIM) coverage. *Andriani v. New Jersey Mfrs. Ins. Co.*, 245 N.J.Super. 252, 584 A.2d 875 (A.D.1991), certification denied 126 N.J. 327, 598 A.2d 886.

Client-initiated contacts with insurance brokers can result in broker's duty to exercise skill and possess knowledge concerning coverages. *Avery v. Arthur E. Armitage Agency*, 242 N.J.Super. 293, 576 A.2d 907 (A.D.1990).

Insurer's buyer's guide and coverage selection form complied with regulations. *Avery v. Arthur E. Armitage Agency*, 242 N.J.Super. 293, 576 A.2d 907 (A.D.1990).

Automobile insurer that was already voluntarily offering underinsured motorist coverage prior to January 1, 1984 did not have adjustment period until July 1, 1984. *Sikking v. Nelson*, 242 N.J.Super. 185, 576 A.2d 311 (A.D.1990).

"Notice of coverage" provisions required carrier to prove only that it mass mailed requisite materials. *Bruce v. James P. MacLean Firm*, 238 N.J.Super. 501, 570 A.2d 49 (L.1989), affirmed 238 N.J.Super. 408, 570 A.2d 1.

Whether insured was contributorily negligent was question for jury. *Weinisch v. Sawyer*, 237 N.J.Super. 195, 567 A.2d 259 (A.D.1989), certification granted 121 N.J. 658, 583 A.2d 345, reversed 123 N.J. 333, 587 A.2d 615.

Buyer's guide and coverage selection form did not contain inherent bias or confusion on basis that Commissioner made reference to "basic limit" as opposed to "basic tort option." *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Buyer's guide and coverage selection form which gave basic tort option, as opposed to no-threshold option, a favorite status, was justifiable. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Commissioner's regulations did not have to require that coverage selection form inform consumers of exact dollar amount of premium savings arising from election. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Commissioner's use of term "lawsuit threshold" in buyer's guide and coverage selection form, as opposed to "verbal threshold" did not lead to confusion. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Insurance Commissioner acted properly when he required that coverage selection form contain provision referring consumers to their automobile insurance companies in event of questions on coverage. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Model coverage selection form, was not arbitrary, unreasonable or capricious, and was substantially consistent with statutory language. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Two statutes, one requiring that coverage selection form state the percentage difference in premium rates or dollar savings between the two tort options for suing for noneconomic loss and the other requiring that coverage selection form identify range of premium rate credit or

dollar savings or both; were not inconsistent. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

11:3-15.7 Minimum standards for coverage selection form

(a) The Coverage Selection Form shall be printed on at least two pages of paper, size eight and one-half inches by 11 inches. A space shall be provided at the top of the front page for the consumer's name to be handprinted, and a space shall be provided at the bottom of the last page for the consumer's signature and date.

(b) The insurance company may include additional lines for application number, policy number or other necessary information.

(c) An insurance company may expand the form to solicit additional information, including, but not limited to, the names of resident relatives eligible for PIP benefits, or different collision and comprehension deductibles applying to different vehicles covered by the same policy.

(d) The type size shall be at least 12-point.

(e) The Department will not provide camera-ready typeset for the Coverage Selection Form.

(f) The Coverage Selection Form shall include the range of premium rate differences as indicated by this subchapter. Each insurance company shall determine the numbers for use in these sections. When the numbers on the Coverage Selection Form change for any reason, including, but not limited to, rate changes, a new Coverage Selection Form with the current numbers shall be printed.

(g) The Coverage Selection Form shall include the language in (h) below, except that language marked "(NOTE)", which describes language which the insurance company shall insert.

(h) The text of the Coverage Selection Form follows:

(NOTE: Company's name may be included here.)

(NOTE: If a company has more than two percent of the New Jersey private passenger automobile market, it shall include its name and toll-free number here.)

COVERAGE SELECTION FORM

Name: _____

For new policies, you must choose one option for each item below. For changes upon renewal and mid-term policy changes, you must use this Form when you:

(a) elect the "No Threshold" option;

(b) change from the "No Threshold" option to the "Lawsuit Threshold" option;

(c) desire collision or comprehensive deductibles other than \$500;

(d) desire to change to the \$500 deductible for collision or comprehensive coverage;

(e) desire your health insurer to be the primary insurer to pay for your auto accident-related medical bills; or

(f) desire your auto insurance carrier to be the primary insurer for your auto accident-related medical bills.

The following item numbers match the explanations in the New Jersey Auto Insurance Buyer's Guide. Read the Buyer's Guide for information and help in completing this form.

1. Liability Coverage

How much coverage do you choose for damage you may do to others?

- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____

(NOTE: At least four of the most popular coverage limits shall be listed, including the lowest limit offered)

(NOTE: If a complete list is not provided, state that other coverage limits are available.)

2. Lawsuit Threshold (Otherwise known as the "Verbal Threshold")

Do you accept the basic limit on the right to sue if injured in an auto accident?

☐ Yes. I want the Lawsuit Threshold.

☐ No. I want No Threshold. My bodily injury liability premium will be ___% to ___% higher if I select the No Threshold option instead of the Lawsuit Threshold, depending upon where my car is garaged, my bodily injury liability coverage limit, and other factors. Per vehicle, my bodily injury liability premium at current rates will be \$___ to \$___ higher on each _____ renewal of my policy if I select the No Threshold option instead of the Lawsuit Threshold. I understand that I can contact my insurance company or my insurance producer i.e., agent or broker) for specific details.

(NOTE: Insurance companies writing six month policies should insert the word "semi-annual" in the blank space above. Companies writing 12 month policies should insert the word "annual.")

(NOTE: Insurance companies writing single limit liability coverage may add a footnote to inform insureds that the policy declaration page will not include a specific premium for "bodily injury liability" coverage.)

NOTE: Insurance companies or their producers or representatives shall not be held liable in an action for damages either on account of the choice of a tort option (lawsuit threshold/verbal threshold or no threshold) made by an insured or on account of the tort option imposed by law if no choice is made, except for damages caused as the result of a willful, wanton or grossly negligent act of commission or omission.

3. Personal Injury Protection (PIP). Choose the kind of coverage you want.

☐ Basic PIP Coverage which includes income continuation, essential services, death benefits and funeral expense benefits as well as medical expense benefits, or

☐ PIP Medical Expenses Only Coverage, for a ___% to ___% savings in the _____ premium. (NOTE: Include the range of percentage savings and the base, i.e., basic PIP premium.);

☐ Additional PIP Coverage at an extra cost. NOTE: This option is not available if you have selected PIP Medical Expenses Only Coverage. Contact your insurance company or insurance producer (i.e., agent or broker) for details. (NOTE: Company's name may be used here or a chart listing options may be enclosed.)

☐ Additional Medical Expense Coverage.

(NOTE: Reference to Additional Medical Expense Coverage shall be deleted by those companies which do not offer the coverage.)

4. PIP Health Insurance Option. Choose if you want your health insurer, other than Medicare or Medicaid, to be your primary carrier to pay your auto accident-related medical benefits. Check with your employer or health insurer to see if you are eligible and request an answer in writing. To choose this option, health coverage must cover the named insured and members of his family residing in the household.

☐ Yes, I choose the PIP health insurer option.

(NOTE: Your auto insurance company may invalidate this option selection and request payment of the discounted premium amount if it checks but cannot verify that (1) your health coverage is in effect, and (2) your health insurer will provide primary coverage for your auto accident-related medical expenses.

The name of my health insurer(s) is (are):

1. _____
Number: _____

Policy, Plan, Membership or Group
Certificate Number (circle one)

2. _____
Number: _____

Policy, Plan, Membership or Group
Certificate Number (circle one)

☐ No, I do not want the PIP health insurer option.

5. PIP Medical Expenses Deductible. Choose only one:

☐ \$250 deductible, minimum required by law.

☐ \$500 deductible, for a ____% to ____% reduction in the Basic PIP premium.

☐ \$1,000 deductible, for a ____% to ____% reduction in the Basic PIP premium.

☐ \$2,500 deductible, for a ____% to ____% reduction in the Basic PIP premium.

6. Uninsured/Underinsured Motorists Coverage

How much coverage do you choose for damage which another driver who has little or no insurance may do to your car, your family, your passengers or yourself? Your auto insurance company must offer this coverage up to the bodily injury and property damage liability limits you have selected.

☐ _____

☐ _____

☐ _____

☐ _____

(NOTE: List the same options available for liability coverage above. Other options may also be listed.)

NOTE: Insurance companies or their producers or representatives shall not be held liable in an action for damages either on account of the choice of a given level of motor vehicle insurance coverage made by an insured, as long as those limits provide at least the minimum coverage required by law, or on account of the insured not choosing to purchase underinsured motorists coverage, collision coverage or comprehensive coverage, except for damages caused as the result of a willful, wanton or grossly negligent act of commission or omission.

7. Do you choose "collision" coverage?

☐ No. I do not wish to be covered for collision damage.

☐ Yes, with the basic \$500 deductible.

☐ Yes, with the deductible circled here: \$1,000, \$1,500 or \$2,000. This premium will be proportionately less than the premium with the basic \$500 deductible. Details avail-

able from company or insurance producer (i.e., agent or broker).

☐ Yes, with the deductible circled here: \$100, \$150, \$200 or \$250. This premium will be proportionately **more** than the premium with the basic \$500 deductible. Details available from company or insurance producer (i.e., agent or broker).

(WARNING: YOU MAY NOT BE ABLE TO ADD COLLISION COVERAGE TO AN EXISTING VEHICLE OR TO ADD AN ADDITIONAL OR REPLACEMENT VEHICLE TO YOUR EXISTING POLICY WITHOUT FIRST HAVING THAT VEHICLE INSPECTED; CONTACT YOUR INSURANCE COMPANY OR INSURANCE AGENT IMMEDIATELY.)

8. Do you choose "comprehensive" coverage? (NOTE: If appropriate, use the term "other than collision" coverage throughout this section.)

☐ No. I do not wish to be covered for comprehensive damage.

☐ Yes, with the basic \$500 deductible.

☐ Yes, with the deductible circled here: \$1,000, \$1,500 or \$2,000. This premium will be proportionately **less** than the premium with the basic \$500 deductible. Details available from company or insurance producer (i.e., agent or broker).

☐ Yes, with the deductible circled here: \$50, \$100, \$150, \$200 or \$250. This premium will be proportionately **more** than the premium with the basic \$500 deductible. Details available from company or insurance producer (i.e., agent or broker).

(NOTE: For both collision and comprehensive, if either the \$200 deductible or \$250 deductible is not offered, that option may be deleted from this form. Also, all other available collision and comprehensive deductibles shall be listed where appropriate.)

(WARNING: YOU MAY NOT BE ABLE TO ADD COMPREHENSIVE COVERAGE TO AN EXISTING VEHICLE OR TO ADD AN ADDITIONAL OR REPLACEMENT VEHICLE TO YOUR EXISTING POLICY WITHOUT FIRST HAVING THAT VEHICLE INSPECTED; CONTACT YOUR INSURANCE COMPANY OR INSURANCE AGENT IMMEDIATELY.)

I have read the Buyer's Guide outlining the coverage options available to me. The limits available for uninsured and underinsured motorists coverage have been explained to me. My choices are shown above. I agree that each of these choices will apply for all vehicles insured by my policy and to each subsequent renewal, continuation, replacement or amendment until the insurance company or its insurance

producer (i.e., agent or broker) with the company's binding authority receives my request that a change be made.

For new policyholders, I understand that:

(a) if I do not make a written choice for Item 2, I will receive the Lawsuit Threshold option;

(b) if I carry collision or comprehensive coverage without making a written choice for Item 7 or Item 8, I will receive the \$500 deductible; and

(c) if I do not make a written choice for the PIP health insurer option in Item 4, my auto insurer will be the primary health insurer for PIP medical expense benefits.

I understand that if this is a policy renewal and I do not complete choices, I will receive the same coverage as in my previous policy except when changes are required by a law becoming effective during the term of my previous policy.

I understand that these choices take effect in the following manner:

(1) for new policies and mid-term policy changes, the choices on this Form are effective the day following the date of postmark or, when personal delivery is made or the postmark is illegible, the day following receipt of this Form by the insurance company or by an insurance producer (i.e., agent or broker) with the company's binding authority; and

(2) for changes upon renewal, the changes to be made on this Form are effective on the date of the next policy renewal if postmarked or received by the insurance company or by an insurance producer (i.e., agent or broker) with the company's binding authority prior to the renewal date.

ANY PERSON WHO KNOWINGLY MAKES AN APPLICATION FOR MOTOR VEHICLE INSURANCE COVERAGE CONTAINING ANY STATEMENT THAT THE APPLICANT RESIDES OR IS DOMICILED IN THIS STATE WHEN, IN FACT, THAT APPLICANT RESIDES OR IS DOMICILED IN A STATE OTHER THAN THIS STATE, IS SUBJECT TO CRIMINAL AND CIVIL PENALTIES.

Please check the appropriate box to which this form applies

☐ NEW POLICY ☐ Mid-Term Change ☐ Renewal Change

SIGNATURE _____ DATE _____

(i) To assure conformity with this subchapter, each insurance company shall file its Coverage Selection Form with the Division of Public Affairs. Whenever the Coverage Selection Form is changed, the new form shall be filed, and the month and year the changes were implemented shall be clearly stated at the bottom of the revised form. Deadlines for implementation and filing requirements regarding the Coverage Selection Form shall be the same as for the Buyer's Guide. See N.J.A.C. 11:3-15.6(e).

(j) Insurance company shall be required to calculate the percentage and dollar change in premium (or rate) arising from the selection of the No Threshold option as indicated in (j)1 through 4 below. In these calculations, premium (or rate) shall include any expense fee.

1. The Percentage Change Calculation: The percentage increase in the bodily injury liability premium arising from the selection of the No Threshold option shall be determined by calculating the No Threshold rate as a percentage increase relative to the comparable Lawsuit Threshold rate. The low end of the percentage range shall be produced by calculating the percentage increase in the bodily injury liability premium of a policy with a \$250,000/\$500,000 split limit or a \$500,000 single limit when the motorist goes from the Lawsuit Threshold option to the No Threshold option. This calculation shall be made for the territory with the lowest basic limit Lawsuit Threshold rate, and shall assume pleasure usage by an age 30-64, married male principal operator. The high end of the percentage range shall be produced by making the same type of calculation using a policy with basic limits for the territory with the highest basic limit Lawsuit Threshold rate, and shall assume business usage by a youthful, unmarried male principal operator.

2. The Dollar Change Calculation: The dollar increase in the bodily injury liability premium arising from the selection of the No Threshold option shall be determined by subtracting the Lawsuit Threshold rate from the comparable No Threshold rate. The low end of the dollar range shall be produced by calculating the dollar change using a policy with basic limits for the territory with the lowest basic limit Lawsuit Threshold rate, and shall assume personal usage by an age 30-64, married male principal operator. The high end of the dollar range shall be calculated using a \$250,000/\$500,000 split limit or a \$500,000 single limit policy for the territory with the highest basic limit (verbal) Lawsuit Threshold rate, and shall assume business usage by a youthful, unmarried male principal operator. Because the range of the possible additional dollar cost will depend upon territory, bodily injury liability loss limits, and other factors, insurers shall be permitted to use round numbers to represent the approximate range of the cost increase. For example, if the smallest dollar rate increase was \$56.00 and the largest \$305.00, the insurer may use the range \$50.00 to \$310.00 on its Coverage Selection Form.

3. Premium Basis for Single Limit Liability Coverage:

i. For single limit liability coverage, the percentage range calculation that is described in (j)1 above shall be based upon the applicable bodily injury liability rate. This calculation shall not be made on the basis of a combined rate containing a charge for bodily injury liability, personal injury protection (PIP), and property damage liability.