

Amended by R.1991 d.17, effective January 7, 1991.

See: 22 N.J.R. 2082(b), 23 N.J.R. 106(a).

Amended by R.1992 d.254, effective June 15, 1992.

See: 24 N.J.R. 529(a), 24 N.J.R. 2264(a).

Appendix deleted and replaced with new appendix.

Amended by R.1994 d.24, effective January 3, 1994.

See: 25 N.J.R. 1829(a), 26 N.J.R. 241(a).

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

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

Repeal and New Rule, R.1996 d.312, effective July 15, 1996.

See: 28 N.J.R. 1616(a), 28 N.J.R. 3627(b).

Administrative correction.

See: 28 N.J.R. 3798(b).

SUBCHAPTER 20A. (RESERVED)

Subchapter Historical Note

Subchapter 20A, Standard Limited Effect of Negative Excess Investment Income in the Computation of Excess Profits, was repealed by R.1996 d.312, effective July 15, 1996. See: 28 N.J.R. 1616(a), 28 N.J.R. 3627(b).

SUBCHAPTER 21. PERSONAL INJURY PROTECTION COVERAGE REDUCED PIP PREMIUM CHARGE FOR ADDITIONAL AUTOS IN ONE-DRIVER HOUSEHOLDS

11:3-21.1 Purpose

The purpose of this rule is to implement N.J.S.A. 39:6A-4.1, which provides for reduced personal injury protection premiums for additional automobiles in one-driver households.

11:3-21.2 Reduction of PIP premium

(a) In any instance where a named insured is the owner, the only designated operator of two or more automobiles insured by the same insurer under one or more policies, and the only licensed driver residing in the household, the full basic PIP rate shall be charged on one automobile, and a percentage discount shall be given on the PIP premium charge on each additional auto. For the three-year period commencing with the operative date of this rule, the premium reduction shall be at least 50 percent of the approved charge for the applicable territory of garaging for the additional automobile(s), exclusive of expense fees and policy constants or residual market equalization charges.

11:3-21.3 Automobiles eligible for premium reduction

(a) Except as provided in paragraph 1 below, the reduced premiums shall only apply to a private passenger automobile of a private passenger or station wagon type that is owned or hired by an individual or by husband and wife who are residents of the same household and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pick-up

body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

1. The reduced premium shall not apply to automobiles for which the basic PIP premium charge is less than \$25.00, exclusive of expense fees and policy constants or residual market equalization charges, and which are of the following types:

- i. Automobiles 10 years or older and maintained primarily for use in exhibitions, parades and club activities, or
- ii. A self-propelled vehicle with a living area that is an integral part of the chassis or a pick-up with a permanently attached camper body.

(b) A reduced premium charge for PIP coverage as specified in (a) above shall apply to all policies which are in force, issued or renewed on or after the operative date of this rule.

1. With respect to in force policies, the insurer shall calculate the reduce premium charge in (a) above, and shall issue a refund check in this amount to the insured or apply a credit in this amount to the insured's renewal policy.

- i. In the event a policy is nonrenewed or otherwise terminated prior to renewal, the insurer shall calculate a return premium in accordance with the operative date of this rule and the effective termination date of the policy. The insurer shall issue a refund check in this amount to the insured.

11:3-21.4 Filing and statistical requirements

(a) Each automobile filer shall, within 60 days of the effective date of this rule, submit to the Commissioner for approval filings of rates and manual rules for implementing the reduced PIP premium charges for additional automobiles required by this rule.

1. Each statistical organization shall, within 60 days of the effective date of this rule, submit to the Commissioner for approval amendments to its statistical plan designed to effectuate the purposes of N.J.S.A. 39:6A-4.1 and this subchapter.

(b) Every insurer, rating organization and statistical organization shall segregate and maintain the exposure, premium, loss and expense statistics with respect to the payment

of PIP benefits that are attributable to additional automobiles in one-driver households.

1. Any loss or loss adjustment expense for a PIP claim shall be charged to the automobile for which the full premium was paid unless the injury was sustained while in the automobile with the reduced PIP premium.

(c) Every insurer, rating organization and statistical organization shall amend their statistical plans to segregate and maintain the exposure, premium, loss and expense statistics with respect to the payment of PIP benefits that are attributable to households in which the number of automobiles insured by the same insurer exceeds the number of licensed drivers customarily operating such automobiles.

(d) The statistics required in (b) and (c) above shall be subject to examination by the Commissioner or his or her designee and shall be reported annually to the Department.

(e) Three years after the operative date of this rule, each automobile filer shall submit to the Commissioner for approval filings of rates or manual rules reflecting the actual loss experience of the filer with respect to the payment of PIP benefits which are attributable to additional automobiles described in 11:3-21.3.

(f) All filings submitted pursuant to this subchapter, and all changes and amendments thereto, shall be prepared in accordance with insurance laws and regulations, including the applicable provisions of N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2 and the Department's filing procedures.

Amended by R.1996 d.58, effective February 5, 1996.
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

SUBCHAPTER 22. COVERAGE OPTION SURVEY PERSONAL INJURY PROTECTION AND TORT THRESHOLD OPTIONS

11:3-22.1 Purpose

This subchapter requires the submission of data concerning policyholder selection of the various options provided under the New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act of 1984 (N.J.S.A. 17:28-1.1) in order to monitor the implementation and effectiveness of the Act.

Amended by R.1989 d.267, effective May 15, 1989.
See: 21 N.J.R. 619(a), 21 N.J.R. 1358(a).

Added cite to P.L. 1988, c.119.
Amended by R.1996 d.58, effective February 5, 1996.
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

11:3-22.2 Scope

(a) This subchapter applies to every insurer authorized to transact the business of automobile insurance in this State.

(b) For the purpose of the reporting requirements of this subchapter, "automobile" means a private passenger automobile of a private passenger or station wagon type that is owned or hired by an individual and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pickup body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered an individually owned private passenger automobile owned by two or more relatives resident in the same household.

11:3-22.3 Coverage option survey requirements

(a) Every automobile insurer, on a biannual basis, shall complete and file with the Commissioner the coverage option survey required by this subchapter. The insurer's biannual survey shall reflect the total number of automobiles with in force coverage as of December 31 and as of June 30 of each year, and shall indicate the personal injury protection and lawsuit threshold or no threshold options selected with respect to each such automobile. Insurers shall use forms A and B, appended to and incorporated by reference in this subchapter, to report the information required by this section.

(b) Survey forms reflecting coverage option selections as of December 31 of each year shall be filed with the Commissioner by January 21 of that year. Survey forms reflecting coverage option selections as of June 30 of each year shall be filed with the Commissioner by July 22 of that year.

(c) Completed coverage option survey forms shall be submitted to:

Director of Public Affairs
State of New Jersey, Department of Insurance
20 West State Street
PO Box 325
Trenton, New Jersey 08625-0325

(d) Companies may submit the data required by this rule on a group basis, provided that each company included in the group is identified on the coverage option survey forms.

(e) Insurers which act as servicing carriers for a residual market mechanism created by statute shall report directly to the Department only the coverage options selected by their voluntary policyholders. The options selected by residual market mechanism insureds shall be reported directly to the residual market mechanism.

(f) Failure to provide the data required by this subchapter by the due dates in (b) above will result in Departmental sanctions as authorized by law.

Amended by R.1991 d.45, effective February 4, 1991.
See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

In (c): revised address; in (e) deleted NJAFIUA reference and added residual market mechanism text to subsection.

Form A
STATE OF NEW JERSEY—DEPARTMENT OF INSURANCE
AUTOMOBILE INSURANCE COVERAGE OPTION SURVEY

Company/Group: _____

Total Number of Automobiles with Insurance Policy Coverage in Force as of December 31 or June 30, 19

Options	Number of Automobiles
PIP Coverages for Medical Expenses Only	_____
PIP Medical Expense Benefits Deductible:	_____
\$ 250	_____
500	_____
\$1,000	_____
\$2,500	_____
Excess of \$250,000	_____
Health Insurance Primary for PIP	_____
Auto Insurance Primary for PIP	_____
Tort Threshold	_____
Lawsuit Threshold	_____
No Threshold	_____

Form B
STATE OF NEW JERSEY—DEPARTMENT OF INSURANCE
AUTOMOBILE INSURANCE COVERAGE OPTION SURVEY

Company/Group: _____

Total Number of Automobiles with Insurance Policy Coverage in Force as of December 31 or June 30, 19

PIP Option	Auto Insurance Primary Full PIP with		Auto Insurance Primary Medical PIP Only With		Health Insurance Primary Full PIP with	
	Lawsuit Threshold	No Threshold	Lawsuit Threshold	No Threshold	Lawsuit Threshold	No Threshold
\$250 deductible						
\$500 deductible						
\$1,000 deductible						
\$2,500 deductible						
Excess \$250,000						

Amended by R.1988 d.65, effective February 1, 1988.
See: 19 N.J.R. 2237(a), 20 N.J.R. 295(a).

Change of reporting dates for coverage option selections.
Amended by R.1989 d.267, effective May 15, 1989.
See: 21 N.J.R. 619(a), 21 N.J.R. 1358(a).

Changed "tort threshold" to "lawsuit threshold", added \$250 PIP Deductible to both forms.

Amended by R.1991 d.45, effective February 4, 1991.
See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

Source and Effective Date

R.1997 d.522, effective December 15, 1997.
See: 28 N.J.R. 4854(a), 29 N.J.R. 5305(a).

11:3-24.1 Purpose and scope

This subchapter applies to all private passenger automobile insurers and establishes procedures for defensive driving rate reductions as required by N.J.S.A. 17:33B-45.1.

11:3-24.2 Definitions

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

"Automobile" means any private passenger automobile as defined in N.J.S.A. 39:6A-2 but does not include any automobile insured under a commercial insurance policy.

"Department" means the New Jersey Department of Banking and Insurance.

SUBCHAPTER 23. (RESERVED)

SUBCHAPTER 24. DEFENSIVE DRIVING RATE REDUCTIONS

Authority

N.J.S.A. 17:1-8.1, 17:1C-6(e) and 17:33B-45.1

“Defensive driving course” means a course approved by DMV pursuant to N.J.S.A. 17:33B-45 and N.J.A.C. 13:21-24.

“DMV” means the New Jersey Division of Motor Vehicles.

“Motor vehicle points” means points accumulated as a result of a conviction of a motor vehicle violation(s) and other events that are set forth on an abstract of drivers license records that are available from the New Jersey Division of Motor Vehicles and are set forth in N.J.A.C. 13:19-10.1. Motor vehicle points are also listed in Schedule 2 of N.J.A.C. 11:3-34. Insurance eligibility points in Schedule 1 are not motor vehicle points.

11:3-24.3 Rate reduction filing requirements

(a) Every insurer shall include in its rules for automobile insurance coverage rate reductions for the successful completion of a defensive driving course.

(b) The rate reduction for the completion of a defensive driving course should be a minimum of five percent and is to apply to the base premium before expense fees are added for bodily injury liability, property damage liability, personal injury protection and collision coverages. Insurers may use external sources and/or actuarial experience to justify a discount different than five percent.

(c) Insurers shall disclose the application of the rate reduction on each Declarations page during the period for which the rate reduction is applied.

(d) Insurers shall maintain separate defensive driving experience statistics until coding by statistical agents for persons receiving the discount is implemented.

11:3-24.4 Application of defensive driving rate reduction

(a) An insured may receive a rate reduction for successful completion of a defensive driving course provided he or she is the named insured or principal operator of an automobile insured under the policy or is an occasional operator whose experience is used to rate the policy.

(b) If the policy insures two or more automobiles, the rate reduction shall apply only to the automobile(s) principally operated or assigned to the person who has completed the defensive driving course. Only one rate reduction may be applied to an automobile on the policy.

(c) The rate reduction shall be applied for three years beginning with the next policy period after completion of the defensive driving course, as follows:

1. The rate reduction shall be applied if the driver completed the defensive driving course in the three year period immediately preceding the new business or renewal effective date of the policy.

2. The rate reduction shall not be applied during the three-year period beginning with the completion of the defensive driving course and ending with the new business or renewal effective date of the policy, if the driver who completed the defensive driving course accumulates four or more motor vehicle points or has his or her drivers license suspended for one of the reasons listed in N.J.A.C. 11:3-35.4(e)1.

(d) The rate reduction shall be applied or removed at new business inception or upon renewal of the policy, not mid-term.

11:3-24.5 Procedure to obtain rate reduction

(a) Insurers may require the named insured on the policy to apply for the rate reduction by notifying the insurer of the successful completion of a defensive driving course.

(b) Insurers shall establish procedures to process and verify requests for rate reductions pursuant to this section based on:

1. The completion of a defensive driving course that appears on the driver record abstract. All drivers who have taken an approved defensive driving course will have the date the course was actually completed as the event date and one or more of the following event codes on their driver record abstract:

i. PDP-M-DDCC described as POINT CREDIT—DEFENSIVE DRIVING PROG used until July 1996, for drivers with zero points;

ii. DMV-M-DDCC described as DEFENSIVE DRIVING COURSE used after July 1996, for all drivers regardless of point accumulation, in addition to the two event codes in (b)1iii and iv below that are used if the driver had a point accumulation before taking the defensive driving course;

iii. DDP-Z-PC01 described as POINT CREDIT—DEFENSIVE DRIVING PROG used for drivers with one point;

iv. DDP-Z-PC02 described as POINT CREDIT—DEFENSIVE DRIVING PROG used for drivers with two or more points; or

2. The acceptance from the insured of a certificate or other documentation from an approved defensive driving course provider that indicates that the insured successfully completed a defensive driving course.

(c) Insurers shall provide written notification of the availability of the rate reduction with all new business and renewals.

11:3-24.6 Penalties

Failure of an insurer to comply with these rules may result in the imposition of penalties prescribed by law.

**SUBCHAPTER 25. PRIVATE PASSENGER
AUTOMOBILE INSURANCE:
NOTIFICATION BY TREATING MEDICAL
PROVIDERS**

Authority

N.J.S.A. 17:1-15e, 17:1-8.1 and N.J.S.A. 39:6A-5.

Source and Effective Date

R.1997 d.14, effective January 6, 1997.
See: 28 N.J.R. 3876(a), 29 N.J.R. 132(a).

11:3-25.1 Purpose and scope

(a) The purpose of this subchapter is to implement N.J.S.A. 39:6A-5, as amended by P.L. 1995, c.407, by establishing procedures to be followed by treating medical pro-

viders to give timely notification of the commencement of medical treatment for injuries sustained in automobile accidents. The subchapter sets forth:

1. Time limits for the filing of notification of the commencement of treatment for PIP claims;
2. The actions to be taken upon failure to comply with the notification time limits, including reduction or denial of claim payments;
3. The factors to be considered in evaluation of a late notification; and
4. The rights of providers when payment is reduced or denied for failure to comply with the notification requirements.

3. Involvement in an accident in connection with which neither the named insured nor any other driver insured under the policy was convicted of a moving traffic violation and the owner or operator of another vehicle involved in such accident was so convicted;

4. For physical damage losses other than collision;

5. For an accident in which the motor vehicle was struck in the rear by another vehicle and a driver insured under the policy has not been convicted of a moving violation in connection with the accident; or

6. For an accident occurring as a result of operation of any motor vehicle in response to an emergency if the operator at the time of the accident was responding to the call to duty as a paid or volunteer member of any police or fire department, first aid squad or any law enforcement agency.

“Automobile” means an automobile as defined in N.J.S.A. 39:6A-2.

“Automobile insurance” means insurance for an automobile including any or all of the following coverages: bodily injury liability, and property damage liability, comprehensive and collision coverages, uninsured and underinsured motorist coverage, personal injury protection coverage, additional personal injury protection coverage and any other automobile insurance required by law.

“Automobile insurance eligibility points” means points calculated under the schedule promulgated by the Commissioner pursuant to this subchapter.

“Commissioner” means the Commissioner of Insurance of the State of New Jersey.

“Department” means the Department of Insurance of the State of New Jersey.

“State” means the State of New Jersey.

Public Notice: Receipt of petition for rulemaking and action on petition.
See: 28 N.J.R. 1565(b).

Case Notes

Insurer could not refuse renewal of automobile policy based upon eligibility points accumulated in “collision” where insured’s automobile was damaged by falling object. *Geist v. Selective Insurance Company*, 96 N.J.A.R.2d (INS) 75.

Driver’s automobile insurance application properly denied for two at-fault accidents. *Belmonte v. Department of Insurance*, 96 N.J.A.R.2d (INS) 51.

Insurer erred in finding insured more than 50 percent at fault for three-car accident where another driver was convicted of careless driving in connection with that collision. *Hoke v. National Consumer Insurance Company*, 96 N.J.A.R.2d (INS) 22.

Insurer could decline renewal of automobile policy based upon insured’s two at-fault accidents. *DiFrancesco v. Continental Casualty Company*, 96 N.J.A.R.2d (INS) 17.

Charge to which insured pleaded guilty in New York, operating a motor vehicle while under the influence, was substantially similar in nature to an offense in New Jersey and justified nonrenewal of automobile policy. *Chillemi v. Selective Insurance*, 95 N.J.A.R.2d (INS) 89.

At fault accident in which insured was involved was an event under automobile policy giving insurer right to decline renewal. *Wenzler v. ITT Hartford*, 95 N.J.A.R.2d (INS) 47.

Police report established five-point at fault accident which, when combined with six-point speeding violations, justified insurer in declining to renew automobile policy. *Fichera v. Liberty Mutual*, 95 N.J.A.R.2d (INS) 41.

Insured at-fault for automobile accident; insured could decline to renew insurance. *AMICA Mutual Insurance Co. v. Farley*, 93 N.J.A.R.2d (INS) 51.

11:3-34.4 Eligible person qualifications

(a) An “eligible person” is a person who is an owner or registrant of an automobile registered and principally garaged in this State or who is resident and holds a valid New Jersey driver’s license to operate an automobile, but does not include any person:

1. Who, during the three-year period immediately preceding application for, or renewal of, an automobile insurance policy has been convicted pursuant to N.J.S.A. 39:4-50 or N.J.S.A. 39:4-50.4a or for an offense of a substantially similar nature committed in another jurisdiction;

2. Who has been convicted of a crime of the first, second or third degree resulting from the use of a motor vehicle; or has been convicted of theft of a motor vehicle;

3. Whose driver’s license to operate an automobile is under suspension or revocation;

4. Who has been convicted, within the five-year period immediately preceding application for or renewal of a policy of automobile insurance, of fraud or intent to defraud involving an insurance claim or an application for insurance;

5. Who has been successfully denied, within the immediately preceding five years, payment by an insurer of a claim in excess of \$1,000 under an automobile insurance policy, if there was evidence of fraud or intent to defraud involving the automobile insurance claim or application. For the purpose of this section:

i. If the claim has been subject to litigation between the insurer and the insured in which the insurer defended against payment of the claim in whole or in part on grounds of fraud, it shall be conclusively presumed that the claim was successfully denied if judgment was entered for the insurer in the litigation; and conclusively presumed that the claim was not successfully denied if judgment was entered for the insured;

ii. If the claim has not been subject to litigation between the insurer and the insured, but the insurer denied the claim without payment by reason of fraud, it shall be presumed that the claim was successfully de-

nied. This presumption may be overcome in an administrative proceeding pursuant to N.J.A.C. 11:3-33;

iii. If the incident was not reported to the New Jersey Department of Insurance, Fraud Division pursuant to N.J.S.A. 17:33A-9 it shall be presumed that there was no evidence of fraud or intent to defraud;

6. Whose automobile insurance policy has been cancelled for nonpayment of premiums or financed premium with a lapse of coverage of at least 30 days, within the immediately preceding two-year period, unless the premium due on a policy for which application has been made is paid in full before issuance or renewal of the policy. For the purpose of this section, "paid in full" shall not include any transaction in which a lender obtains authority from an insured to cancel the policy and receive a refund from the insurer in the event the insured defaults on a loan used to pay the premium;

7. Who fails to obtain or maintain membership or qualification for membership in a club, group, or organization, if membership is a uniform requirement of the insurer as a condition of providing insurance, and if the dues or charges, if any, or other conditions for membership or qualifications for membership are applied uniformly throughout this State, are not expressed as a percentage of the insurance premium, and do not vary with respect to the rating classification of the member or potential member except for the purpose of offering a membership fee to family units. Membership fees, if applicable, may vary in accordance with the amount or type of coverage if the purchase of additional coverage, either as to type or amount, is not a condition for reduction of dues or fees;

8. Whose driving record for the three year period immediately preceding the application for or renewal of a policy of automobile insurance has an accumulation of nine or more automobile insurance eligibility points as determined in N.J.A.C. 11:3-34.5; or

9. Who is a named insured or who is insured under the same policy as a person whose driver's license is suspended or revoked and either:

i. The suspended or revoked driver has been convicted of a violation of N.J.S.A. 39:6B-2 within the previous three years; or

ii. Other evidence exists indicating that the suspended or revoked driver has been operating a vehicle during the period of suspension.

(b) An "eligible person" includes a person who is an owner or registrant of an automobile registered in this State or who holds a valid New Jersey driver's license to operate an automobile and is domiciled in this State who is temporarily residing out-of-State and whose car may be principally garaged in another state while the person either is a full time student or is in the military service and is stationed out-of-State.

Emergency Amendment, R.1992 d.380, effective September 4, 1992 (expires November 3, 1992).

See: 24 N.J.R. 3420(a).

Text added to (a)6 to specify a lapse of at least 30 days.

Adopted Concurrent Proposal, R.1992 d.481, effective November 2, 1992.

See: 24 N.J.R. 3420(a), 24 N.J.R. 4396(a).

Provisions of Emergency Amendment R.1992 d.380 readopted with changes effective December 7, 1992.

Emergency Amendment R.1993 d.135, effective March 1, 1993. (Operative March 8, 1993) (expires April 30, 1993.)

See: 25 N.J.R. 1290(a).

Definition of eligible person added at (b).

Adopted Concurrent Proposal, R.1993 d.238, effective April 30, 1993.

See: 25 N.J.R. 1290(a), 25 N.J.R. 2479(a).

Amended by R.1996 d.246, effective June 3, 1996.

See: 27 N.J.R. 2048(a), 28 N.J.R. 3002(b).

Added (a)9.

Case Notes

Insurer's nonrenewal of automobile policy justified when insured accumulates 10 eligibility points from two accidents for which insured is at fault. *Premi v. New Jersey Manufacturers Ins. Co.*, 96 N.J.A.R.2d (INS) 9.

Renewal of automobile policy for one period despite accumulation of points did not preclude nonrenewal in next period for same points. *Liberty Mutual v. Lee*, 95 N.J.A.R.2d (INS) 38.

Accident in which insured was at fault, when combined with two other accidents in period of coverage, justified nonrenewal for accumulation of too many points. *New Jersey Manufacturers v. Sandor*, 95 N.J.A.R.2d (INS) 36.

Accumulation of nine or more points by member of insured's household justified nonrenewal of auto policy, *Pandola v. State Farm*, 95 N.J.A.R.2d (INS) 32.

Insured who was otherwise eligible for automobile insurance in voluntary market could obtain coverage for vehicles registered to her notwithstanding her husband's license suspension. *Kwok v. First Trenton*, 95 N.J.A.R.2d (INS) 29.

Decision not to renew automobile insurance policy was improper. *Capasso v. State Farm Indemnity Company*, 94 N.J.A.R.2d (INS) 59.

Eligibility points for accident prior to effective date of regulation not ex post facto violation. *Selective Insurance Company v. Diana*, 93 N.J.A.R.2d (INS) 58.

11:3-34.5 Automobile insurance eligibility points

(a) Automobile insurance eligibility points shall be accumulated as a result of convictions, suspensions, revocations and determinations of responsibility for civil infractions in accordance with the schedule set forth in the Appendix to this subchapter herein incorporated by reference.

(b) Automobile insurance eligibility points shall be deemed to accrue as follows:

1. Points for an at-fault accident shall accrue on the date that total payment by the insurer equals or exceeds \$500.00. An insurer may, at its option, use the date of the accident or date of first payment provided, however, that the insurer shall not underwrite or rate any policy based on the accident until total payment by the insurer equals or exceeds \$500.00; and further provided that the insurer shall use the optional date consistently in all cases.

6. Information regarding each resident licensed driver who is to be a named insurer under the policy, or who is the principal driver of a vehicle insured under the policy, or who is not otherwise a named insured under a separate policy of automobile insurance including:

- i. The percentage use of each licensed driver;
 - ii. The motor vehicle record for the previous three years including:
 - (1) Convictions for traffic violations that result in the assessment of insurance eligibility points pursuant to N.J.A.C. 11:3-34.5;
 - (2) Motor vehicle accidents; and
 - (3) Drivers' license and registration suspensions and revocations;
 - iii. An insurer shall not require the applicant to submit a motor vehicle abstract;
 - iv. Automobile insurance claims history if needed to determine placement into a preferred company in a group of insurers;
 - v. Insurance fraud and other violations or crimes enumerated at N.J.S.A. 17:33B-13 or set forth at N.J.A.C. 11:3-34.4(a)1, 2 or 4; and
 - vi. Criminal convictions for offenses in the course of which a motor vehicle was used pursuant to N.J.S.A. 2C:43-2b(7);
7. The drivers' license number of the applicant;
8. Information relating to types of coverage, limits of liability and driver discounts;
9. A coverage selection form; and
10. No information shall be requested based on whether the insured is impaired by physical or mental disabilities except those disabilities that impair the ability to operate an automobile safely.

(b) An insurer, by itself or through its producers with binding authority, shall provide coverage to an eligible person applicant who submits a completed written application that includes the information in (a) above.

1. Insurers shall have five business days from the date of receipt of a completed written application to either provide or decline insurance, or if requested to notify the applicant whether coverage will be provided or denied. An insurer shall obtain and retain documentation of the date of receipt of such application. When an application is transmitted to an insurer by first class mail, there is a rebuttable presumption that the application was received by the insurer two calendar days after mailing when the destination is in New Jersey or within a 300 mile radius of the place of mailing, or three calendar days when the destination is outside a 300 mile radius of the place of mailing, as evidenced by a proof of mailing or postmark.

2. Any document which an insurer requires to be submitted in connection with an application or renewal shall be prominently requested in the application or renewal form.

3. If physical damage coverages are requested by eligible person applicants, insurers shall bind liability coverages in accordance with these rules and may bind physical damage coverages subject to compliance with N.J.A.C. 11:3-36.

(c) If upon receipt of an application from a producer without immediate binding authority or directly from an applicant, an insurer finds that the application is incomplete and the insurer is unable to determine whether the applicant is an eligible person, the insurer shall, within five business days of the date the application was received by it, issue a notice which:

1. Clearly and specifically identifies the deficiencies;
2. Advises the applicant that if the deficiencies are cured within 15 days and the applicant is determined to be an eligible person, coverage shall be provided either immediately or as of the originally requested effective date if later; and
3. Advises the applicant that if the deficiencies are not cured within 15 days, the application shall be deemed to have been declined.

(d) Nothing in this rule shall be deemed to require an insurer to provide coverage prior to receipt by either the insurer or its producer of the premium deposit required based upon the premium quoted by the insurer or its producer.

Amended by R.1994 d.598, effective December 5, 1994.
See: 26 N.J.R. 3591(a), 26 N.J.R. 4777(a).

11:3-44.4 Immediate binding authority for insurers with MTF rates

Insurers which are approved by the Commissioner to use MTF rates in accordance with N.J.S.A. 17:33B-11c shall provide their producers with authority to immediately bind coverage on behalf of the insurer for all applicants to be charged MTF rates. Insurers shall amend their approved rating system, if necessary, either to incorporate MTF Manual Rule 5 which shall be deemed approved by the Commissioner; or to extend immediate binding authority to their producers in accordance with their own immediate binding procedures. This requirement shall not apply to insurers which transact personal private passenger automobile insurance directly with the public.

Amended by R.1994 d.598, effective December 5, 1994.
See: 26 N.J.R. 3591(a), 26 N.J.R. 4777(a).

11:3-44.5 New applicants previously insured in another state by the insurer or an affiliate

(a) An insurer shall immediately provide coverage, without lapse, to any eligible person applicant that:

1. Has moved to New Jersey from another state;
2. Submits a completed written application within 60 days of establishing residency in New Jersey; and
3. Applies to either the same insurer under which the applicant is currently insured or an affiliate of that insurer.

11:3-44.6 Underwriting rules

These new rules shall supersede any existing, conflicting underwriting rules previously filed and approved by the Department pursuant to N.J.A.C. 11:3-35.

11:3-44.7 Penalties

Any insurer that violates any provision of this subchapter shall be subject to the penalties provided by law, including but not limited to the suspension, revocation or termination of a certificate of authority and a civil penalty in an amount of up to \$2,000 for the first violation and up to \$5,000 for the second and each subsequent violation in accordance with N.J.S.A. 17:33B-15 and 17:33B-21.

SUBCHAPTER 45. INSURERS REQUIRED TO PROVIDE SURVEY INFORMATION
11:3-45.1 Purpose and scope

(a) The purpose of the subchapter is to implement N.J.S.A. 39:6A-23.1 by setting forth those procedures by which insurers shall annually submit to the Department current premium information.

(b) This subchapter shall apply to all auto insurers that have on file with the Department a current personal lines rating system for automobile insurance and which are not exempted from the obligation to insure, renew, or provide automobile insurance to eligible persons. Exempted insurers are listed in N.J.A.C. 11:3-40.3(b), (c) and (d).

11:3-45.2 Definitions

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

“Automobile insurance” means insurance for private passenger automobile including one or more of the following coverages: bodily injury liability and property damage liability, comprehensive and collision coverages, uninsured and underinsured motorist coverage, personal injury protection, additional personal injury protection coverage and any other automobile insurance required by law.

“Commissioner” means the Commissioner of the New Jersey Department of Insurance.

“Department” means the New Jersey Department of Insurance.

“Auto insurer” means an entity authorized or admitted to write automobile insurance in New Jersey but does not include either any residual market mechanism implemented pursuant to N.J.S.A. 17:29D-1 et seq. or any other statute, or insurers which are exempted from the requirement to provide automobile insurance coverage to eligible persons in accordance with N.J.A.C. 11:3-40.3(b), (c) and (d).

“Survey information” means the data annually supplied by the Commissioner to the auto insurers from which they will then issue survey quotations. This information includes, but is not limited to, the prior driving experience of the insured, the nature and extent of coverages, the deductible, the composition of household, information regarding the proposed vehicle, and other pertinent information.

11:3-45.3 Annual premium survey filing

(a) Every auto insurer shall prepare and file on or before September 15 of each calendar year, with the Department, at the address set forth in (d) below, an annual premium survey reflecting premiums charged for specific automobile insurance coverage.

(b) The filing shall reflect the annual premiums by coverage as of October 1 of that calendar year and shall be predicated on survey information provided by the Commissioner to auto insurers by Bulletin on or before September 1 of each calendar year.

(c) Auto insurers shall prepare and file the information required by this subchapter in accordance with the forms contained in the Appendix and incorporated herein by reference.

(d) Completed annual premium survey forms shall be submitted to:

Department of Insurance
Division of Public Affairs
20 West State Street
CN 325
Trenton, NJ 08625
Attn. Automobile Premium Survey.

11:3-45.4 Penalties

Failure to comply with the provisions of this subsection shall result in the imposition of penalties as prescribed by law.

