

(g) Reports with an evaluation date of June 30 shall be due by July 31.

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

1. E-mail ( preferred media);
2. CD-ROM; or
3. Floppy Diskette.

(i) The Excel templates shall not be modified by the user in any way.

(j) Reports shall be submitted to:

New Jersey Department of Banking and Insurance  
Office of Property and Casualty  
PO Box 325  
Trenton, NJ 08625-0325  
E-mail: [reports@dobi.state.nj.us](mailto:reports@dobi.state.nj.us)

Amended by R.2006 d.243, effective July 3, 2006.  
See: 37 N.J.R. 4162(a), 38 N.J.R. 2828(c).

In (h), substituted "<http://www.state.nj.us/dobi>" for "<http://www.state.nj.us/dobi>".

Amended by R.2008 d.75, effective April 7, 2008.  
See: 39 N.J.R. 4538(a), 40 N.J.R. 1875(a).

In the introductory paragraph of (b), deleted "Tier Report;" following "Primary Classification;"; added new (b)1iii; recodified former (b)1iii and (b)1iv as (b)1iv and (b)1v; in (b)2i, deleted ", tier" following "classification"; deleted former (b)2ii; recodified former (b)2iii and (b)2iv as (b)2ii and (b)2iii; in (b)2ii, inserted "(three for SAIP)"; in (b)2iii, deleted "except to include extra tiers within the original spreadsheet for insurers who have additional tiers not listed on the template" following "any way"; and in (i), deleted "except as stated above in (b)2iv above" following "any way".

### 11:3-3A.4 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties pursuant to N.J.S.A. 17:33-2 and as otherwise authorized by law.

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

### 11:3-4.1 Scope and purpose

(a) This subchapter implements the provisions of N.J.S.A. 39:6A-3.1, 39:6A-4 and 39:6A-4.3 by identifying the personal injury protection medical expense benefits and emergency personal injury protection coverage for which reimbursement of eligible charges will be made by automobile insurers under basic, standard and special automobile insurance policies and by motor bus insurers under medical expense benefits coverage.

(b) This subchapter applies to all insurers that issue policies of automobile insurance containing PIP coverage, emer-

gency personal injury protection coverage and policies of motor bus insurance containing medical expense benefits coverage.

(c) This subchapter shall apply to those policies that are issued or renewed on or after March 22, 1999.

Amended by R.2004 d.218, effective June 7, 2004 (operative October 27, 2004).

See: 35 N.J.R. 3072(a), 36 N.J.R. 2890(a), 36 N.J.R. 4319(a).

In (a), inserted "and emergency personal injury protection coverage" following "medical expense benefits"; deleted "and" following "automobile insurers under basic"; inserted "and special automobile insurance" preceding "policies and by motor bus insurers"; in (b), inserted "emergency personal injury protection coverage" following "automobile insurance containing PIP coverage".

### Case Notes

Statute and the regulations promulgated by the Commissioner represented a complex legislative and regulatory package designed to reform automobile insurance law in New Jersey, and the courts of New Jersey were in the best position to consider the validity of the applicable regulations under state law. *Chiropractic America v. Lavachchia*, 180 F.3d 99 (3rd Cir. N.J. 1999).

Associations representing personal injury attorneys and health-care providers for automobile accident victims had standing to challenge approval of automobile policies by the commissioner of Banking and Insurance. *Quality Health Care v. DOBI*, 348 N.J.Super. 272, 791 A.2d 1085.

### 11:3-4.2 Definitions

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

"Basic automobile insurance policy" or "basic policy" means those private passenger automobile insurance policies issued in accordance with N.J.S.A. 39:6A-3.1 and N.J.A.C. 11:3-3.

"Clinically supported" means that a health care provider prior to selecting, performing or ordering the administration of a treatment or diagnostic test has:

1. Personally examined the patient to ensure that the proper medical indications exist to justify ordering the treatment or test;
2. Physically examined the patient including making an assessment of any current and/or historical subjective complaints, observations, objective findings, neurologic indications, and physical tests;
3. Considered any and all previously performed tests that relate to the injury and the results and which are relevant to the proposed treatment or test; and
4. Recorded and documented these observations, positive and negative findings and conclusions on the patient's medical records.

"Decision point" means those junctures in the treatment of identified injuries indicated by hexagonal boxes on the Care

Paths where a decision must be made about the continuation or choice of further treatment. The determination whether to administer one of the tests listed in N.J.A.C. 11:3-4.5(b) is also a decision point for both identified and all other injuries.

“Decision point review” means the procedures in an insurer’s approved decision point review plan for the insurer to receive notice and respond to requests for proposed treatment or testing at decision points.

“Diagnostic test” means a medical service or procedure utilizing biomechanical, neurological, neurodiagnostic, radiological, vascular or any means, other than bioanalysis, intended to assist in establishing a medical, dental, physical therapy, chiropractic or psychological diagnosis, for the purpose of recommending or developing a course of treatment for the tested patient to be implemented by the treating practitioner or by the consultant.

“Eligible charge” means the treating health care provider’s usual, customary and reasonable charge or the upper limit of the medical fee schedule as found in N.J.A.C. 11:3-29.6, whichever is lower.

“Emergency care” means all medically necessary treatment of a traumatic injury or a medical condition manifesting itself by acute symptoms of sufficient severity such that absence of immediate attention could reasonably be expected to result in: death; serious impairment to bodily functions; or serious dysfunction of a bodily organ or part. Such emergency care shall include all medically necessary care immediately following an automobile accident, including, but not limited to, immediate pre-hospitalization care, transportation to a hospital or trauma center, emergency room care, surgery, critical and acute care. Emergency care extends during the period of initial hospitalization until the patient is discharged from acute care by the attending physician. Emergency care shall be presumed when medical care is initiated at a hospital within 120 hours of the accident.

“Emergency personal injury protection coverage” means the coverage provided by a Special Automobile Insurance Policy pursuant to section 45 of P.L. 2003, c.89.

“Health care provider” or “provider” means those persons licensed or certified to perform health care treatment or services compensable as medical expenses and shall include, but not be limited to:

1. A hospital or health care facility that is maintained by State or any political subdivision;
2. A hospital or health care facility licensed by the Department of Health and Senior Services;
3. Other hospitals or health care facilities designated by the Department of Health and Senior Services to provide health care services, or other facilities, including facilities for radiological and diagnostic testing, free-standing emergency clinics or offices, and private treatment centers;

4. A nonprofit voluntary visiting nurse organization providing health care services other than a hospital;

5. Hospitals or other health care facilities or treatment centers located in other States or nations;

6. Physicians licensed to practice medicine and surgery;

7. Licensed chiropractors;

8. Licensed dentists;

9. Licensed optometrists;

10. Licensed pharmacists;

11. Licensed chiropodists (podiatrists);

12. Registered bioanalytical laboratories;

13. Licensed psychologists;

14. Licensed physical therapists;

15. Certified nurse mid-wives;

16. Certified nurse practitioners/clinical nurse-specialist;

17. Licensed health maintenance organizations;

18. Licensed orthotists and prosthetists;

19. Licensed professional nurses;

20. Licensed occupational therapists;

21. Licensed speech-language pathologists;

22. Licensed audiologists;

23. Licensed physicians assistants;

24. Licensed physical therapy assistants;

25. Licensed occupational therapy assistants; and

26. Providers of other health care services or supplies, including durable medical goods.

“Identified injury” means those injuries identified by the Department in the subchapter Appendix as being suitable for medical treatment protocols in accordance with N.J.S.A. 39:6A-3.1a and 39:6A-4a.

“Insurer” means any person or persons, corporation, association, partnership, company, reciprocal exchange or other legal entity authorized or admitted to transact private passenger automobile insurance in this State, or any one member of a group of affiliated companies that transacts business in accordance with a common rating system. Insurer does not include an entity that is self-insured pursuant to N.J.S.A. 39:6-52. For purposes of communicating with insureds and providers concerning the administration of decision point review plans, “insurer” also means the insurer’s PIP vendor.