

**CHAPTER 3**

**AUTOMOBILE INSURANCE**

**Authority**

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

**Source and Effective Date**

R.1996 d.58, effective January 4, 1996.  
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 3, Automobile Insurance, expires on January 4, 2001.

**Chapter Historical Note**

Chapter 3, New Jersey Automobile Insurance Plan, became effective January 31, 1972 as R.1972 d.20. See: 3 N.J.R. 223(d), 4 N.J.R. 49(d). Subchapter 7, Automobile Reparation Reform Act, became effective December 4, 1972 as R.1972 d.244. See: 4 N.J.R. 270(a), 5 N.J.R. 13(c).

1973 Revisions: Amendments became effective January 3, 1973 as R.1973 d.3. See: 4 N.J.R. 307(a), 5 N.J.R. 47(d). Further amendments became effective January 25, 1973 as R.1973 d.30. See: 4 N.J.R. 305(b), 5 N.J.R. 48(a). Further amendments became effective January 26, 1973 as R.1973 d.35. See: 5 N.J.R. 20(b). Further amendments became effective May 31, 1973 as R.1973 d.140. See: 5 N.J.R. 150(a), 5 N.J.R. 229(b). Further amendments became effective August 31, 1973. See: 5 N.J.R. 350(b). Further amendments became effective December 4, 1973 as R.1973 d.337. See: 6 N.J.R. 15(d).

1974 Revisions: Amendments became effective July 24, 1974 as R.1974 d.208. See: 6 N.J.R. 322(b).

1975 Revisions: Amendments became effective July 1, 1975 as R.1975 d.130. See: 7 N.J.R. 113(a), 7 N.J.R. 276(d).

1976 Revisions: Subchapter 10, Auto Physical Damage Claims, became effective May 1, 1976 as R.1976 d.46 and R.1976 d.47. See: 8 N.J.R. 38(b), 8 N.J.R. 136(b). Amendments became effective October 18, 1976 as R.1976 d.328. See: 8 N.J.R. 421(a), 8 N.J.R. 516(a). Further amendments became effective November 22, 1976 as R.1976 d.371. See: 8 N.J.R. 481(b), 8 N.J.R. 559(c).

1977 Revisions: Amendments became effective March 23, 1977 as R.1977 d.100. See: 9 N.J.R. 178(b). Further amendments became effective March 31, 1977 as R.1977 d.114. See: 9 N.J.R. 127(a), 9 N.J.R. 239(a).

1978 Revisions: Amendments became effective January 1, 1978 as R.1977 d.437. See: 9 N.J.R. 435(d), 9 N.J.R. 586(b). Further amendments became effective January 19, 1978 as R.1978 d.12. See: 9 N.J.R. 585(c), 10 N.J.R. 69(c).

1979 Revisions: Amendments became effective August 17, 1979 as R.1979 d.155. See: 11 N.J.R. 142(a), 11 N.J.R. 250(a).

1982 Revisions: Amendments became effective August 16, 1982 as R.1982 d.246. See: 14 N.J.R. 543(b), 14 N.J.R. 917(d).

1983 Revisions: Subchapter 8, Nonrenewal of Automobile Insurance Policies, was readopted effective June 6, 1983 as R.1983 d.190. See: 15 N.J.R. 231(a), 15 N.J.R. 927(a). Subchapter 12, Automobile Rate Filers: Flattening of Premium Taxes and Assessments Made for the Unsatisfied Claim and Judgment Fund, became effective October 3, 1983 as R.1983 d.424. See: 15 N.J.R. 1170(a), 15 N.J.R. 1666(a). Subchapter 13, Automobile Rate Filers: Deductibles for Private Passenger Automobile Collision and Comprehensive Coverage, became effective October 17, 1983 as R.1983 d.467. See: 15 N.J.R. 1342(a), 15 N.J.R. 1769(b). Subchapter 6, Insurance Identification Card, was

readopted effective December 29, 1983 as R.1983 d.648. See: 15 N.J.R. 1919(a), 16 N.J.R. 145(c).

1984 Revisions: Sections 13.3, 13.4 and 13.5 were originally amended as an emergency amendment effective January 4, 1984 as R.1984 d.3. See: 15 N.J.R. 1961(a), 16 N.J.R. 246(c). Amendments became effective January 17, 1984 as R.1983 d.648. See: 15 N.J.R. 1919(a), 16 N.J.R. 145(c). Public Notice for automobile insurance written notice/buyer's guide coverage selection form as contained in Subchapter 15. See: 16 N.J.R. 254(d). Subchapter 15, Standards for Written Notice: Buyer's Guide and Coverage Selection Form, became effective April 2, 1984 as R.1984 d.114. See: 15 N.J.R. 2142(a), 16 N.J.R. 733(a). Subchapter 14, Personal Injury Protection Options, became effective April 2, 1984 as R.1984 d.116. See: 15 N.J.R. 2139(a), 16 N.J.R. 730(b). Subchapter 7 was scheduled to expire August 17, 1984. The Governor granted a waiver of the scheduled expiration date from August 17, 1984 to November 15, 1984. On November 15, 1984, the Governor granted a second waiver from November 15, 1984 to February 13, 1985. Amendments became effective November 5, 1984 as R.1984 d.480. See: 16 N.J.R. 1692(a), 16 N.J.R. 3037(b).

1985 Revisions: Subchapter 7 was readopted pursuant to Executive Order No. 66(1978) effective February 13, 1985 with amendments effective March 18, 1985. See: 17 N.J.R. 43(a), 17 N.J.R. 707(b). Further amendments became effective February 19, 1985 (operative April 22, 1985) as R.1985 d.72. See: 16 N.J.R. 3285(a), 17 N.J.R. 458(c). Subchapter 17, Rating Organizations, became effective October 6, 1985 as R.1985 d.609. See: 16 N.J.R. 2936(a), 17 N.J.R. 2905(a). Further amendments became effective December 16, 1985 as R.1985 d.629. See: 16 N.J.R. 3170(a), 17 N.J.R. 2988(a).

1986 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 3, Automobile Insurance was readopted effective January 6, 1986 (operative May 6, 1986) as R.1985 d.654. See: 16 N.J.R. 3286(a), 17 N.J.R. 89(b). Subchapter 20, Reporting Financial Disclosure and Excess Profit Reports, became effective April 7, 1986 as R.1986 d.111. See: 17 N.J.R. 2597(a), 18 N.J.R. 692(a). Subchapter 8, Nonrenewal of Automobile Insurance Policies, was revised effective October 6, 1986 as R.1986 d.418. See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a). Subchapter 17, Rating Organizations, was repealed and new rules became effective October 6, 1986 as R.1986 d.419. See: 18 N.J.R. 1171(b), 18 N.J.R. 2045(a). Subchapter 22, Coverage Option Survey: Personal Injury Protection and Tort Threshold Options, became effective November 17, 1986 as R.1986 d.463. See: 18 N.J.R. 1344(b), 18 N.J.R. 2329(a).

1987 Revisions: Subchapter 7 was extensively revised effective March 16, 1987 as R.1987 d.140. See: 19 N.J.R. 44(a), 19 N.J.R. 453(a). Sections 1 through 4 were repealed, section 5 was recodified to section 6 and new rules were adopted for sections 1 through 5. As part of R.1987 d.142, section 13.3 was amended, effective March 16, 1987. See: 19 N.J.R. 46(a), 19 N.J.R. 455(a). Further amendments became effective June 15, 1987 as R.1987 d.249. See: 18 N.J.R. 2415(a), 19 N.J.R. 1096(a). Subchapter 23, Dangerous Drivers or Drivers with Excessive Claims, became effective December 21, 1987 as R.1987 d.527. See: 19 N.J.R. 1880(a), 19 N.J.R. 2403(b). Public Notice: Rescission of Circular Letter # 75. See: 19 N.J.R. 570(e).

1989 Revisions: Subchapter 26, Accident Claims; Subchapter 27, Unsatisfied Claim and Judgment Fund Board; and Subchapter 28, Unsatisfied Claim and Judgment Fund's Reimbursement of Excess Medical Expense Benefits Paid by Insurers, were adopted as new rules by R.1989 d.268, effective May 15, 1989. See: 21 N.J.R. 688(a), 21 N.J.R. 1363(a). Subchapter 20, Reporting Financial Disclosure and Excess Profit Reports, was repealed and replaced by R.1989 d.277, effective May 15, 1989. See: 21 N.J.R. 667(b), 21 N.J.R. 1335(a), 21 N.J.R. 1517(b). Subchapter 24, Policy Constants; and Subchapter 25, Residual Market Equalization Charges (RMECs), were adopted as new rules by R.1989 d.278, effective May 15, 1989. See: 20 N.J.R. 3104(a), 21 N.J.R. 1358(b). Subchapter 20A, Standard Limiting Effect of Negative Excess Investment Income in the Computation of Excess Profits, was adopted as new rules by R.1989 d.306, effective June 5, 1989. See: 21 N.J.R. 842(a), 21 N.J.R. 1517(c). Subchapter 17,

Rating Organizations, was repealed by R.1989 d.328, effective June 19, 1989. See: 21 N.J.R. 973(a), 21 N.J.R. 1708(a). Subchapter 30, Motor Vehicle Self-Insurance, was adopted as new rules by R.1989 d.584, effective November 20, 1989. See: 21 N.J.R. 2876(a), 21 N.J.R. 3666(b).

1990 Revisions: Subchapter 31, Examination of the Financial Experience of Private Passenger Automobile Insurers, was adopted as new rules by R.1990 d.108, effective February 5, 1990. See: 21 N.J.R. 3726(a), 22 N.J.R. 425(a). Subchapter 18, Private Passenger Automobile Insurance: Rate Filing Review Procedures, was adopted as new rules by R.1990 d.109, effective February 5, 1990. See: 21 N.J.R. 3422(b), 22 N.J.R. 421(a). Subchapter 16, Rate Filing Requirements: Voluntary Market Private Passenger Automobile Insurance, was adopted as new rules by R.1990 d.116, effective February 5, 1990. See: 21 N.J.R. 2182(a), 22 N.J.R. 399(a). Subchapter 1, Provisions and Operations, was repealed and replaced by Subchapter 1, Commercial Automobile Insurance Plan, by R.1990 d.118, effective February 5, 1990. See: 21 N.J.R. 3613(a), 22 N.J.R. 392(b). Subchapter 16A, Flex Rate Percentage Calculations for Private Passenger Automobile Insurance, was adopted as new rules by R.1990 d.161, effective March 19, 1990. See: 21 N.J.R. 3719(a), 22 N.J.R. 963(a). Amendments to Subchapter 31 were adopted as R.1990 d.290, effective June 4, 1990. See: 22 N.J.R. 1026(a), 22 N.J.R. 1725(b). Subchapter 34, Eligible Persons Qualifications and Automobile Insurance Eligibility Points Schedule, was adopted as emergency new rules by R.1990 d.620, effective November 26, 1990 (operative April 1, 1991). See: 22 N.J.R. 3847(a). Subchapter 36, Automobile Physical Damage Insurance Inspection Procedures, was adopted as emergency new rules by R.1990 d.622, effective November 26, 1990 (operative March 1, 1991). See: 22 N.J.R. 3861(a). Subchapter 38, Towing and Storage Fee Schedule, was adopted as emergency new rules by R.1990 d.623, effective November 26, 1990 (operative January 1, 1991). See: 22 N.J.R. 3874(a). Subchapter 29, Medical Fee Schedules: Automobile Insurance Personal Injury Protection Coverage, was adopted as emergency new rules by R.1990 d.624, effective November 26, 1990 (operative January 1, 1991). See: 22 N.J.R. 3809(a). Subchapter 37, Order of Benefit Determination Between Automobile Personal Injury Protection and Health Insurance, was adopted as emergency new rules by R.1990 d.625, effective November 26, 1990. See: 22 N.J.R. 3777(a). Subchapter 35, Private Passenger Automobile Insurance Underwriting Rules, was adopted as emergency new rules by R.1990 d.627, effective November 26, 1990. See: 22 N.J.R. 3856(a). Subchapter 19, Standard/Non-Standard Rating Plans, was adopted as emergency new rules by R.1990 d.628, effective November 26, 1990. See: 22 N.J.R. 3804(a).

1991 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 3 was readopted as R.1991 d.45, effective January 4, 1991, with amendments effective February 4, 1991. As part of R.1991 d.45, Subchapters 2 through 5, concerning the Automobile Insurance Plan (AIP), were repealed effective February 4, 1991. See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b). Subchapter 37 was readopted as R.1991 d.90, effective January 25, 1991, with changes effective February 19, 1991. See: 22 N.J.R. 3777(a), 23 N.J.R. 597(a). Subchapter 19 was readopted as R.1991 d.92, effective January 25, 1991, with changes effective February 19, 1991. See: 22 N.J.R. 3804(a), 23 N.J.R. 532(a). Subchapter 34 was readopted as R.1991 d.93, effective January 25, 1991 (operative April 1, 1991), with changes effective February 19, 1991. See: 22 N.J.R. 3847(a), 23 N.J.R. 572(a). Subchapter 35 was readopted as R.1991 d.94, effective January 25, 1991, with changes effective February 19, 1991. See: 22 N.J.R. 3856(a), 23 N.J.R. 577(a). Subchapter 36 was readopted as R.1991 d.95, effective January 25, 1991 (operative October 1, 1992), with changes effective February 19, 1991. See: 22 N.J.R. 3861(a), 23 N.J.R. 579(a), 23 N.J.R. 1132(c). Subchapter 29 was readopted as R.1991 d.96, effective January 15, 1991, with changes effective February 19, 1991. See: 22 N.J.R. 3809(a), 23 N.J.R. 536(a). Subchapter 38 was readopted as R.1991 d.97, effective January 25, 1991, with changes effective February 19, 1991. See: 22 N.J.R. 3874(a), 23 N.J.R. 592(a). Subchapter 24, Policy Constants, was repealed by R.1991 d.216, effective April 15, 1991. See: 22 N.J.R. 3441(a), 23 N.J.R. 1132(a). Subchapter 25, Residual Market Equalization Charges (RMECs), was repealed by R.1991 d.217, effective April 15, 1991. See: 22 N.J.R. 3442(a), 23 N.J.R. 1132(b). Subchapter 39, Reductions in Premium Charges for Private Passenger Automobiles Equipped with Anti-Theft, Vehicle Recovery and Safety Features, was adopted as new rules by R.1991 d.363, effective July 15, 1991 (operative September 1, 1991). See: 23 N.J.R. 384(a), 23 N.J.R. 2144(a).

1992 Revisions: Subchapter 33, Appeals from Denial of Automobile Insurance, was adopted as new rules by R.1992 d.192, effective April 30, 1992. See: 24 N.J.R. 546(a), 24 N.J.R. 1510(a). Subchapter 40, Insurers Required to Provide Automobile Insurance Coverage to Eligible Persons, was adopted as new rules by R.1992 d.207, effective May 4, 1992. See: 23 N.J.R. 3736(a), 24 N.J.R. 336(a), 24 N.J.R. 1796(b). Subchapter 2, New Jersey Personal Automobile Insurance Plan, was adopted as new rules by R.1992 d.370, effective September 21, 1992. See: 24 N.J.R. 331(a), 24 N.J.R. 3400(a). Subchapter 3, Limited Assignment Distribution Servicing Carriers, was adopted as new rules by R.1992 d.371, effective September 21, 1992. See: 24 N.J.R. 519(a), 24 N.J.R. 3414(a). Subchapter 42, Producer Assignment Program, was adopted as emergency new rules by R.1992 d.381, effective September 4, 1992 (expires November 3, 1992). See: 24 N.J.R. 3421(a). Subchapter 42 was readopted as R.1992 d.482, effective November 2, 1992, with changes effective December 7, 1992. See: 24 N.J.R. 3421(a), 24 N.J.R. 4397(a).

1993 Revisions: Subchapter 44, Special Rules for Effecting Coverage for Private Passenger Automobile Insurance, was adopted as emergency new rules by R.1993 d.135, effective March 1, 1993 (operative March 8, 1993; expires April 30, 1993). See: 25 N.J.R. 1290(a). Subchapter 44 was readopted as R.1993 d.238, effective April 30, 1993. See: 25 N.J.R. 1290(a), 25 N.J.R. 2479(a).

1994 Revisions: Subchapter 2B, Market Transition Facility of New Jersey Suspension of Claims, was adopted as emergency new rules by R.1994 d.164, effective March 1, 1994 (expires April 30, 1994). See: 26 N.J.R. 1393(a). Subchapter 2B was readopted as R.1994 d.261, effective April 29, 1994. See: 26 N.J.R. 1393(a), 26 N.J.R. 2288(a). Subchapter 32, Certification of Compliance: Mandatory Liability Coverages, was adopted as new rules by R.1994 d.477, effective September 19, 1994. See: 26 N.J.R. 1939(a), 26 N.J.R. 3866(a).

1995 Revisions: Subchapter 31, Examination of the Financial Experience of Private Passenger Automobile Insurers, was repealed by R.1995 d.171, effective March 20, 1995. See: 27 N.J.R. 41(a), 27 N.J.R. 1190(b). Subchapter 45, Insurers Required to Provide Survey Information, was adopted as new rules by R.1995 d.235, effective May 1, 1995. See: 27 N.J.R. 289(a), 27 N.J.R. 1803(a).

1996 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 3 was readopted as R.1996 d.58, effective January 4, 1996, with amendments effective February 5, 1996. As part of R.1996 d.58, Subchapter 2A, New Jersey Automobile Full Insurance Underwriting Association Claims Payment Deferral; Subchapter 3, Limited Assignment Distribution Servicing Carriers; and Subchapter 23, Dangerous Drivers or Drivers with Excessive Claims, were repealed effective February 5, 1996. See: Source and Effective Date. See, also, section annotations.

## CHAPTER TABLE OF CONTENTS

### SUBCHAPTER 1. COMMERCIAL AUTOMOBILE INSURANCE PLAN

- 11:3-1.1 Purpose and scope
- 11:3-1.2 Definitions
- 11:3-1.3 Creation of the plan
- 11:3-1.4 Governing committee
- 11:3-1.5 Participation
- 11:3-1.6 Plan of operation
- 11:3-1.7 Coverage
- 11:3-1.8 Eligibility
- 11:3-1.9 Rates and policy forms
- 11:3-1.10 Right to petition for appeal to the Commissioner

### SUBCHAPTER 2. NEW JERSEY PERSONAL AUTOMOBILE INSURANCE PLAN

- 11:3-2.1 Purpose and scope
- 11:3-2.2 Definitions
- 11:3-2.3 Creation of the plan
- 11:3-2.4 Exemptions
- 11:3-2.5 Governing committee

## **AUTOMOBILE INSURANCE**

---

- 11:3-2.6 Plan of operation
- 11:3-2.7 Coverage
- 11:3-2.8 Eligibility
- 11:3-2.9 Rates and policy forms
- 11:3-2.10 Installment payment option
- 11:3-2.11 Determination and fulfillment of quotas
- 11:3-2.12 Right to petition for appeal to the Commissioner
- 11:3-2.13 Penalties

### **SUBCHAPTER 2A. (RESERVED)**

### **SUBCHAPTER 2B. MARKET TRANSITION FACILITY OF NEW JERSEY PAYMENT PRIORITIZATION AND CLAIMS PAYMENT DEFERRAL**

- 11:3-2B.1 Purpose and scope
- 11:3-2B.2 Definitions
- 11:3-2B.3 Priority of claims
- 11:3-2B.4 Resumption of payment of certain claims previously suspended; deferral of payment for residual bodily injury claims
- 11:3-2B.5 Administrative provisions
- 11:3-2B.6 Hardship exemption procedure
- 11:3-2B.7 Appeal to the Commissioner
- 11:3-2B.8 Confidentiality of documents

### **SUBCHAPTERS 3 THROUGH 4. (RESERVED)**

### **SUBCHAPTER 5 PERSONAL INJURY PROTECTION DISPUTE RESOLUTION**

- 11:3-5.1 Purpose and scope
- 11:3-5.2 Definitions
- 11:3-5.3 Designation of the administrator
- 11:3-5.4 Dispute resolution organizations
- 11:3-5.5 Dispute resolution professionals
- 11:3-5.6 Conduct of PIP dispute resolution proceedings
- 11:3-5.7 Recordkeeping
- 11:3-5.8 Medical review organizations
- 11:3-5.9 Standards for medical review organizations
- 11:3-5.10 Medical review organization certification process
- 11:3-5.11 Fees
- 11:3-5.12 Prohibition of conflicts of interest

### **SUBCHAPTER 6. INSURANCE IDENTIFICATION CARDS**

- 11:3-6.1 Scope
- 11:3-6.2 Permanent identification cards (form IV-1)
- 11:3-6.3 Temporary identification card (form IV-2)
- 11:3-6.4 General provisions
- 11:3-6.5 Commercial motor vehicles; exemption

### **SUBCHAPTER 7. AUTOMOBILE REPARATION REFORM ACT**

- 11:3-7.1 Purpose
- 11:3-7.2 General requirements applicable to additional personal injury protection benefits
- 11:3-7.3 Personal injury protection policy forms or endorsements
- 11:3-7.4 Minimum schedule of additional personal injury protection coverage benefits
- 11:3-7.5 Notice Requirement
- 11:3-7.6 Cancellation of automobile coverage for nonpayment of premium

### **SUBCHAPTER 8. NONRENEWAL OF AUTOMOBILE INSURANCE POLICIES**

- 11:3-8.1 Scope
- 11:3-8.2 Definitions
- 11:3-8.3 General provisions
- 11:3-8.4 Standards of nonrenewal applicable to all automobile policies
- 11:3-8.5 Additional nonrenewals
- 11:3-8.6 Suspension of nonrenewals

- 11:3-8.7 Reporting requirements
- 11:3-8.8 Separability
- 11:3-8.9 Penalties

### **APPENDIX**

#### **EXHIBIT A NONRENEWAL REPORT A**

#### **EXHIBIT B NONRENEWAL REPORT B**

#### **EXHIBIT C NEW JERSEY AUTO CONSUMERS' RIGHTS Q&A**

### **SUBCHAPTER 9. RATING INFORMATION: AUTOMOBILE INSURANCE ON PRIVATE PASSENGER CARS**

- 11:3-9.1 Rating information; private passenger cars; automobile insurance
- 11:3-9.2 (Reserved)

### **SUBCHAPTER 10. AUTO PHYSICAL DAMAGE CLAIMS**

- 11:3-10.1 Scope
- 11:3-10.2 Definitions
- 11:3-10.3 Adjustment of partial losses
- 11:3-10.4 Adjustment of total losses
- 11:3-10.5 Unreasonable delay
- 11:3-10.6 Loss of use
- 11:3-10.7 Subrogation agreements
- 11:3-10.8 Repair estimates
- 11:3-10.9 Referral of insured to the at-fault party
- 11:3-10.10 Examinations by the New Jersey Insurance Department

### **SUBCHAPTER 11. MOPED INSURANCE**

- 11:3-11.1 Required coverage for mopeds

### **SUBCHAPTER 12. AUTOMOBILE RATE FILERS: FLATTENING OF PREMIUM TAXES AND ASSESSMENTS MADE FOR THE UNSATISFIED CLAIM AND JUDGMENT FUND**

- 11:3-12.1 Purpose
- 11:3-12.2 Scope
- 11:3-12.3 Definitions
- 11:3-12.4 Tax and assessment fees; general provisions
- 11:3-12.5 Filing and reporting requirements

### **SUBCHAPTER 13. COLLISION AND COMPREHENSIVE COVERAGE DEDUCTIBLES AND OPTIONS**

- 11:3-13.1 Purpose
- 11:3-13.2 Scope
- 11:3-13.3 Deductibles for private passenger automobile collision and comprehensive coverages
- 11:3-13.4 Filing and reporting requirements
- 11:3-13.5 Named excluded driver

### **APPENDIX**

### **SUBCHAPTER 14. PERSONAL INJURY PROTECTION OPTIONS**

- 11:3-14.1 Purpose
- 11:3-14.2 Scope
- 11:3-14.3 Optional medical expense benefit deductibles for personal injury protection coverage
- 11:3-14.4 Optional exclusion of income continuation benefits, essential services benefits, death benefits and funeral expense benefits
- 11:3-14.5 Option to choose health care insurance coverage as primary coverage
- 11:3-14.6 Refund or credit of unearned premium
- 11:3-14.7 Filing requirements
- 11:3-14.8 Application of the option to choose health care insurance coverage as the primary insurer

**SUBCHAPTER 15. STANDARDS FOR WRITTEN NOTICE: BUYER'S GUIDE AND COVERAGE SELECTION FORM**

- 11:3-15.1 Purpose
- 11:3-15.2 Scope
- 11:3-15.3 Definitions
- 11:3-15.4 Compliance
- 11:3-15.5 Content of written notice; receipt by public
- 11:3-15.6 Minimum Standards for New Jersey Auto Insurance Buyer's Guide
- 11:3-15.7 Minimum standards for coverage selection form
- 11:3-15.8 (Reserved)
- 11:3-15.9 Use of Coverage Selection Form
- 11:3-15.10 Effect on other notice requirements
- 11:3-15.11 Penalties

**SUBCHAPTER 16. RATE FILING REQUIREMENTS: VOLUNTARY MARKET PRIVATE PASSENGER AUTOMOBILE INSURANCE**

- 11:3-16.1 Purpose and scope
- 11:3-16.2 Definitions
- 11:3-16.3 General requirements and filing format
- 11:3-16.4 Insurer informational filings due July 1 of each year
- 11:3-16.5 (Reserved)
- 11:3-16.6 Insurer filings for rates requiring prior approval
- 11:3-16.7 (Reserved)
- 11:3-16.8 Premiums, loss costs, loss and loss adjustment expense data
- 11:3-16.9 Data requirements for expense and profit provisions
- 11:3-16.10 Rate calculation using standard ratemaking methodology
- 11:3-16.11 Rate filings reflecting assessments and surtaxes
- 11:3-16.12 (Reserved)
- 11:3-16.13 Incomplete filings and further proceedings
- 11:3-16.14 Rate adjustments upon repayment of assessments
- 11:3-16.15 Voluntary written exposure and primary classification data
- 11:3-16.16 Prospective loss cost filing requirements for insurers

**APPENDIX**

- EXHIBIT AI FLEX RATE FILINGS
- EXHIBIT AII PRIOR APPROVAL FILINGS
- EXHIBIT B CAUSE OF LOSS REPORT
- EXHIBIT C WORKSHEET TO DETERMINE ZERO THRESHOLD PREMIUM
- EXHIBIT D INSURER RATE FILING
- EXHIBIT E DEVIATION APPLICATION FORM
- EXHIBIT F REPRESENTATIONS REGARDING RATE FILING DOCUMENTS
- EXHIBIT G KEY PERFORMANCE INDICATORS
- EXHIBIT H MARKETING METHODS FOR THE LARGEST PRIVATE PASSENGER AUTO INSURER GROUPS IN NEW JERSEY
- EXHIBIT I WRITTEN EXPOSURES/PRIMARY CLASSIFICATION
- EXHIBIT J RATE PURSUIT SURVEY QUESTIONNAIRE

**SUBCHAPTER 16A. FLEX RATE PERCENTAGE CALCULATIONS FOR PRIVATE PASSENGER AUTOMOBILE INSURANCE**

- 11:3-16A.1 Purpose and scope
- 11:3-16A.2 Definitions
- 11:3-16A.3 Flex rate percentage calculations for private passenger automobile insurance
- 11:3-16A.4 Establishment of the flex rate

**SUBCHAPTER 17. (RESERVED)**

**SUBCHAPTER 18. PRIVATE PASSENGER AUTOMOBILE INSURANCE: RATE FILING REVIEW PROCEDURES**

- 11:3-18.1 Purpose and scope
- 11:3-18.2 Definitions
- 11:3-18.3 General provisions applicable to all filings
- 11:3-18.4 Procedures for review of annual informational filings
- 11:3-18.5 Procedures for review of flex rate filings
- 11:3-18.6 Procedures for review of prior approval filings
- 11:3-18.7 Other remedies preserved

**SUBCHAPTER 19. STANDARD/NON-STANDARD RATING PLANS**

- 11:3-19.1 Purpose and scope
- 11:3-19.2 Definitions
- 11:3-19.3 Filing requirements for standard/non-standard rating plans
- 11:3-19.4 Standards for disapproval or modification
- 11:3-19.5 Renewal of policy at proper rate level
- 11:3-19.6 Procedural provisions
- 11:3-19.7 Penalties

**SUBCHAPTER 19A. TIER PLANS AND UNDERWRITING RULES**

- 11:3-19A.1 Purpose and scope
- 11:3-19A.2 Definitions
- 11:3-19A.3 General provisions
- 11:3-19A.4 Filing requirements for tier rating plans
- 11:3-19A.5 Standards of approval, disapproval or modification of underwriting rules and tier rating plans
- 11:3-19A.6 Policy renewals and notice to insureds
- 11:3-19A.7 Underwriting rules for eligible persons
- 11:3-19A.8 Penalties
- 11:3-19A.9 Transition

**APPENDIX**

**SUBCHAPTER 20. REPORTING FINANCIAL DISCLOSURE AND EXCESS PROFIT REPORTS**

- 11:3-20.1 Purpose
- 11:3-20.2 Scope
- 11:3-20.3 Definitions
- 11:3-20.4 General reporting requirements
- 11:3-20.5 Profits report
- 11:3-20.6 Reporting requirements for insurance holding company systems
- 11:3-20.7 Determination of excess profits
- 11:3-20.8 Refund or credit of excess profits
- 11:3-20.9 Excess profits carry forward
- 11:3-20.10 Order for further information
- 11:3-20.11 Supplemental filings
- 11:3-20.12 (Reserved)
- 11:3-20.13 Penalties

**APPENDIX EXCESS PROFIT EXHIBITS—INSTRUCTIONS**

**SUBCHAPTER 20A. (RESERVED)**

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

- 11:3-21.1 Purpose
- 11:3-21.2 Reduction of PIP premium
- 11:3-21.3 Automobiles eligible for premium reduction
- 11:3-21.4 Filing and statistical requirements

# **AUTOMOBILE INSURANCE**

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

- 11:3-22.1 Purpose
- 11:3-22.2 Scope
- 11:3-22.3 Coverage option survey requirements

## **SUBCHAPTER 23. (RESERVED)**

## **SUBCHAPTER 24. DEFENSIVE DRIVING RATE REDUCTIONS**

- 11:3-24.1 Purpose and scope
- 11:3-24.2 Definitions
- 11:3-24.3 Rate reduction filing requirements
- 11:3-24.4 Application of defensive driving rate reduction
- 11:3-24.5 Procedure to obtain rate reduction
- 11:3-24.6 Penalties

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

- 11:3-25.1 Purpose and scope
- 11:3-25.2 Definitions
- 11:3-25.3 Notification of commencement of treatment
- 11:3-25.4 Content of notice and proof of receipt
- 11:3-25.5 Late notification
- 11:3-25.6 Standards for adjustment of reduction
- 11:3-25.7 Payment from insurers only
- 11:3-25.8 Procedure for appeals
- 11:3-25.9 Reporting requirement
- 11:3-25.10 Compliance

## **APPENDIX A NOTIFICATION OF COMMENCEMENT OF MEDICAL TREATMENT**

## **APPENDIX B ADDRESS FOR NOTIFICATION OF COMMENCEMENT OF MEDICAL TREATMENT**

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

- 11:3-26.1 Claim information
- 11:3-26.2 Claim filing; form

## **APPENDIX A**

## **SUBCHAPTER 27. UNSATISFIED CLAIM AND JUDGMENT FUND BOARD**

- 11:3-27.1 Uninsured's current financial status

## **SUBCHAPTER 28. UNSATISFIED CLAIM AND JUDGMENT FUND'S REIMBURSEMENT OF EXCESS MEDICAL EXPENSE BENEFITS PAID BY INSURERS**

- 11:3-28.1 Purpose and scope
- 11:3-28.2 Definitions
- 11:3-28.3 Report of claims when the carrier has paid at least \$50,000 for medical expense benefits
- 11:3-28.4 Notice of change in the amount of reserves
- 11:3-28.5 Supplemental forms to be submitted to the Fund
- 11:3-28.6 Insurer's continuing obligation to investigate claims
- 11:3-28.7 Reimbursement of excess medical expense benefits paid by insurers
- 11:3-28.8 Audits
- 11:3-28.9 Reporting of losses for personal injury protection payments in excess of \$75,000
- 11:3-28.10 Insurers' obligations to investigate and audit bills for medical benefits
- 11:3-28.11 Modifications to vehicles
- 11:3-28.12 Modifications to a claimant's residence
- 11:3-28.13 Insurer's obligation to obtain recovery of payments for paid medical expense benefit claims

- 11:3-28.14 Insurer's responsibility upon assignment of an uninsured motorist claim
- 11:3-28.15 Procedures for handling an assigned uninsured motorist claim
- 11:3-28.16 (Reserved)
- 11:3-28.17 Penalties

## **SUBCHAPTER 28A. UNSATISFIED CLAIM AND JUDGMENT FUND ASSESSMENTS**

- 11:3-28A.1 Purpose and scope
- 11:3-28A.2 Definitions
- 11:3-28A.3 Creation and maintenance of UCJF
- 11:3-28A.4 Penalties

## **APPENDIX A FORMS; PAYMENT RECORD; QUESTIONNAIRE**

## **APPENDIX B AMORTIZATION FORMULA**

## **SUBCHAPTER 29. MEDICAL FEE SCHEDULES: AUTOMOBILE INSURANCE PERSONAL INJURY PROTECTION AND MOTOR BUS MEDICAL EXPENSE INSURANCE COVERAGE**

- 11:3-29.1 Purpose and scope
- 11:3-29.2 Definitions
- 11:3-29.3 Regions
- 11:3-29.4 Application of Medical Fee Schedules
- 11:3-29.5 Balance billing prohibited
- 11:3-29.6 Medical Fee Schedules

## **SUBCHAPTER 30. MOTOR VEHICLE SELF- INSURANCE**

- 11:3-30.1 Purpose
- 11:3-30.2 Scope
- 11:3-30.3 Definitions
- 11:3-30.4 General requirements
- 11:3-30.5 Certificate of self-insurance
- 11:3-30.6 Renewals
- 11:3-30.7 Surety bond requirement
- 11:3-30.8 Audits and examinations
- 11:3-30.9 Public entities
- 11:3-30.10 Cancellation of certificate of self-insurance

## **SUBCHAPTER 31. (RESERVED)**

## **SUBCHAPTER 32. CERTIFICATION OF COMPLIANCE: MANDATORY LIABILITY COVERAGE**

- 11:3-32.1 Purpose and scope
- 11:3-32.2 Definitions
- 11:3-32.3 Certification compliance requirements
- 11:3-32.4 Requests for copies of certification

## **SUBCHAPTER 33. APPEALS FROM DENIAL OF AUTOMOBILE INSURANCE**

- 11:3-33.1 Purpose; scope
- 11:3-33.2 Definitions
- 11:3-33.3 Right to appeal
- 11:3-33.4 Duties of insurer or insurance agent
- 11:3-33.5 Procedure for filing an appeal
- 11:3-33.6 Processing appeals
- 11:3-33.7 Contested case hearings; pleadings
- 11:3-33.8 Penalties
- 11:3-33.9 Compliance

## **APPENDIX A**

## **APPENDIX B**

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

- 11:3-34.1 Purpose

- 11:3-34.2 Scope
- 11:3-34.3 Definitions
- 11:3-34.4 Eligible person qualifications
- 11:3-34.5 Automobile insurance eligibility points

APPENDIX SCHEDULE OF AUTOMOBILE INSURANCE ELIGIBILITY POINTS

SUBCHAPTER 35. PRIVATE PASSENGER AUTOMOBILE INSURANCE UNDERWRITING RULES

- 11:3-35.1 Purpose and scope
- 11:3-35.2 Definitions
- 11:3-35.3 General requirements and filing format
- 11:3-35.4 Underwriting rules for eligible persons
- 11:3-35.5 Underwriting rules for standard/non-standard rating plans
- 11:3-35.6 Penalties

SUBCHAPTER 36. AUTOMOBILE PHYSICAL DAMAGE INSURANCE INSPECTION PROCEDURES

- 11:3-36.1 Purpose and scope
- 11:3-36.2 Definitions
- 11:3-36.3 Mandatory inspection requirements
- 11:3-36.4 Waivers of mandatory inspection
- 11:3-36.5 Deferral of inspections
- 11:3-36.6 Standards and procedures for inspection
- 11:3-36.7 Suspension of physical damage coverages
- 11:3-36.8 Enforcement
- 11:3-36.9 Results and audits
- 11:3-36.10 Severability
- 11:3-36.11 Required amendatory endorsements
- 11:3-36.12 (Reserved)

APPENDIX A ACKNOWLEDGMENT OF REQUIREMENT FOR INSURANCE INSPECTION

APPENDIX B NOTICE OF INSURANCE INSPECTION

APPENDIX C(1)

APPENDIX C(2)

APPENDIX D NOTICE OF SUSPENSION OF PHYSICAL DAMAGE COVERAGE

SUBCHAPTER 37. ORDER OF BENEFIT DETERMINATION BETWEEN AUTOMOBILE PERSONAL INJURY PROTECTION AND HEALTH INSURANCE

- 11:3-37.1 Purpose and scope
- 11:3-37.2 Definitions
- 11:3-37.3 Health benefits providers
- 11:3-37.4 Application of the PIP-as-secondary coverage option
- 11:3-37.5 Health benefit plan standards and the PIP premium reduction
- 11:3-37.6 Order of benefits determination when PIP is secondary coverage
- 11:3-37.7 Determination of PIP medical benefits payable when PIP is secondary coverage
- 11:3-37.8 Health benefits plan coverage ineligibility
- 11:3-37.9 Determination of benefits when PIP is primary coverage
- 11:3-37.10 Explanation of benefits
- 11:3-37.11 Dispute as to primacy of coverage
- 11:3-37.12 Eligibility under two or more automobile policies
- 11:3-37.13 Penalties
- 11:3-37.14 Severability

SUBCHAPTER 38. TOWING AND STORAGE FEE SCHEDULE

- 11:3-38.1 Purpose and scope
- 11:3-38.2 Definitions
- 11:3-38.3 Regions
- 11:3-38.4 Application of storage and towing fee schedule

- 11:3-38.5 Penalties
- 11:3-38.6 Towing and storage fee schedules

SUBCHAPTER 39. REDUCTIONS IN PREMIUM CHARGES FOR PRIVATE PASSENGER AUTOMOBILES EQUIPPED WITH ANTI-THEFT, VEHICLE RECOVERY AND SAFETY FEATURES

- 11:3-39.1 Purpose
- 11:3-39.2 Scope
- 11:3-39.3 Definitions
- 11:3-39.4 Reductions in rates for anti-theft and vehicle recovery devices
- 11:3-39.5 Categories of anti-theft and vehicle recovery devices
- 11:3-39.6 Reductions in rates for safety features
- 11:3-39.7 Penalties
- 11:3-39.8 Severability

SUBCHAPTER 40. INSURERS REQUIRED TO PROVIDE AUTOMOBILE INSURANCE COVERAGE TO ELIGIBLE PERSONS

- 11:3-40.1 Purpose and scope
- 11:3-40.2 Definitions
- 11:3-40.3 Insurers required to provide automobile insurance coverage to eligible persons
- 11:3-40.4 Penalties

SUBCHAPTER 41. (RESERVED)

SUBCHAPTER 42. PRODUCER ASSIGNMENT PROGRAM

- 11:3-42.1 Purpose and scope
- 11:3-42.2 Definitions
- 11:3-42.3 List of qualified producers
- 11:3-42.4 Eligible producers
- 11:3-42.5 Designation of geographic areas
- 11:3-42.6 Application procedures
- 11:3-42.7 Review of applications
- 11:3-42.8 Producer qualification standards
- 11:3-42.9 Exemption from program
- 11:3-42.10 Apportionment of producers; credits
- 11:3-42.11 Producer assignments
- 11:3-42.12 Appointment
- 11:3-42.13 Transfer of MTF business
- 11:3-42.14 New business
- 11:3-42.15 Producer compensation; company rates
- 11:3-42.16 Producer compensation; MTF rates
- 11:3-42.17 Duration and terms of producer assignment
- 11:3-42.18 Exclusion from program
- 11:3-42.19 Initial implementation of program
- 11:3-42.20 Penalties

APPENDIX A PRODUCER ASSIGNMENT PROGRAM (PAP)

APPENDIX B COVERAGE DETERMINATION EXAMPLES

APPENDIX C PRODUCER ASSIGNMENT PROGRAM—REFUSAL OF PRODUCER APPOINTMENT

SUBCHAPTER 43. (RESERVED)

SUBCHAPTER 44. SPECIAL RULES FOR EFFECTING COVERAGE FOR PRIVATE PASSENGER AUTOMOBILE INSURANCE

- 11:3-44.1 Purpose and scope
- 11:3-44.2 Definitions
- 11:3-44.3 Duty to provide coverage upon receipt of a completed written application
- 11:3-44.4 Immediate binding authority for insurers with MTF rates
- 11:3-44.5 New applicants previously insured in another state by the insurer or an affiliate
- 11:3-44.6 Underwriting rules

11:3-44.7 Penalties

#### SUBCHAPTER 45. INSURERS REQUIRED TO PROVIDE SURVEY INFORMATION

- 11:3-45.1 Purpose and scope
- 11:3-45.2 Definitions
- 11:3-45.3 Annual premium survey filing
- 11:3-45.4 Penalties

#### APPENDIX New Jersey Automobile Insurance Premium Comparison Survey

#### SUBCHAPTER 46. AUTOMOBILE INSURANCE URBAN ENTERPRISE ZONE PROGRAM

- 11:3-46.1 Purpose and scope
- 11:3-46.2 Definitions
- 11:3-46.3 Designation of UEZ and UEZ share
- 11:3-46.4 Qualified insurers
- 11:3-46.5 UEZ agents
- 11:3-46.6 PAIP voluntary rating tier
- 11:3-46.7 Qualified producers
- 11:3-46.8 Review of applications
- 11:3-46.9 Disapproval standards
- 11:3-46.10 Commissions
- 11:3-46.11 Coverage application procedure
- 11:3-46.12 PAIP Plan of Operation
- 11:3-46.13 Reporting requirements
- 11:3-46.14 Penalties

#### APPENDIX

#### SUBCHAPTER 1. COMMERCIAL AUTOMOBILE INSURANCE PLAN

##### 11:3-1.1 Purpose and scope

(a) The purpose of this subchapter is to establish a plan pursuant to N.J.S.A. 17:29D-1:

1. To provide the coverages described herein, subject to the conditions stated, for motor vehicles other than those vehicles subject to the New Jersey Personal Automobile Insurance Plan and any private passenger vehicle that is owned by or driven by a person who meets the definition of an eligible person pursuant to N.J.S.A. 17:33B-13 and N.J.A.C. 11:3-34;
2. To provide for the apportionment of insurance coverage for eligible applicants who are in good faith entitled to but are unable to procure the same, through the voluntary market; and
3. To establish a procedure for the sharing of premiums, losses, and expenses among all insurers who are participants in New Jersey as defined within this subchapter for all risks eligible for coverage under the provisions of this subchapter.

Amended by R.1996 d.58, effective February 5, 1996.  
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).  
Amended by R.1996 d.502, effective October 21, 1996.  
See: 27 N.J.R. 4489(a), 28 N.J.R. 4586(a).

##### 11:3-1.2 Definitions

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

“CAIP” means the Commercial Automobile Insurance Plan pursuant to this subchapter.

“CAIP manager” means the entity employed by the Governing Committee to manage and conduct the administrative affairs of the CAIP on a daily basis.

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

“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:

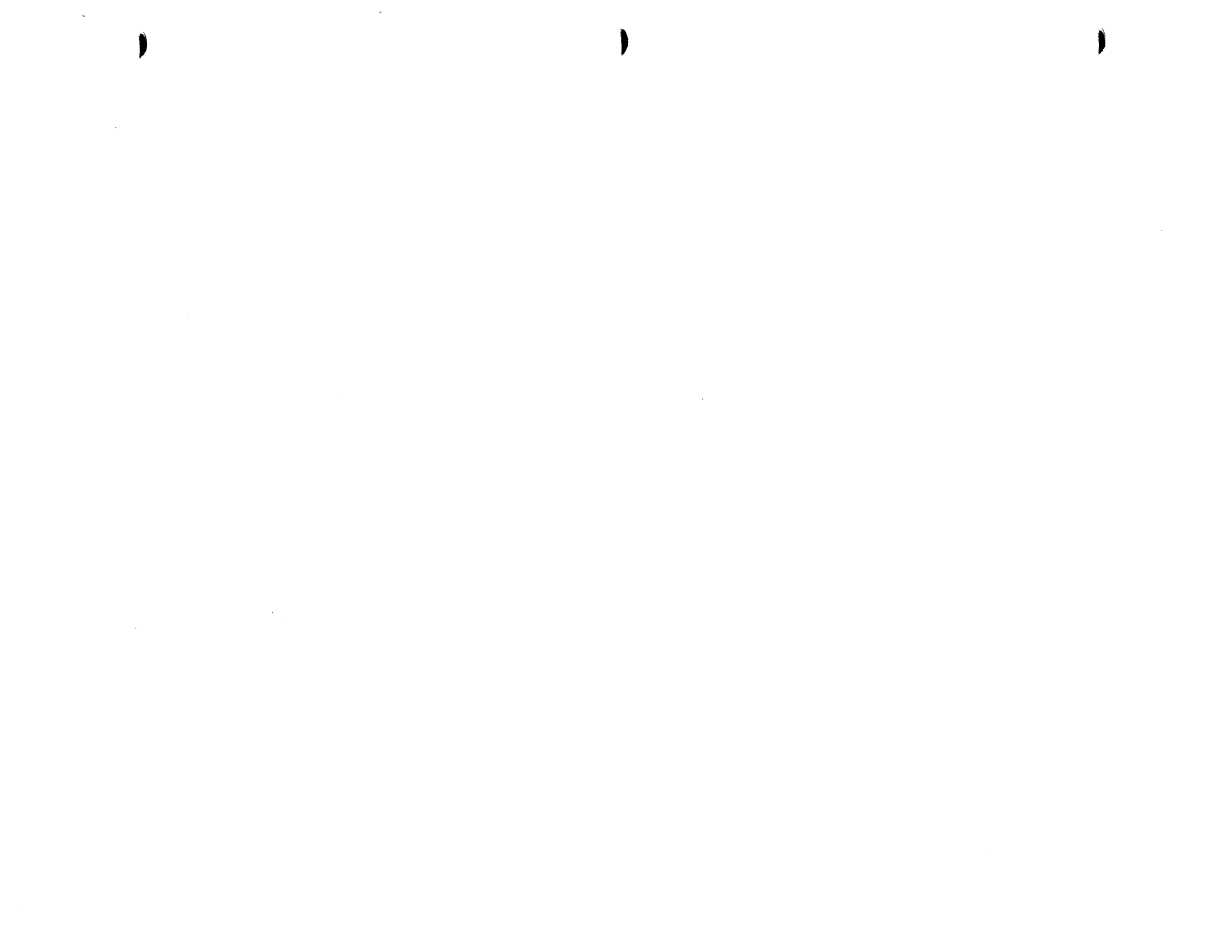
1. To assume the assets and liabilities of the Commercial Automobile Insurance Plan on behalf of the member insurers;

(d) When a health benefits plan provides hospital expense or service benefits only, or medical expense or service benefits only, and is not otherwise a part of a basic health benefits package, all allowable expenses remaining uncovered shall be considered by that health benefits plan for the provision of benefits, without regard as to whether the expenses are hospital-related or medical-related expenses. Actual benefits paid by that health benefits plan for the allowable expenses remaining uncovered shall not exceed the total actual benefits which would have been payable had the health benefits plan been providing coverage primary to the PIP plan.

(e) When there is one health benefits plan providing insureds hospital expense or service benefits and another health benefits plan providing insureds medical expense or

service benefits as two separate parts of one basic health benefits plan package, the hospital benefits plan and the medical benefits plan shall both consider all allowable expenses remaining uncovered and shall apportion such allowable expenses between the two plans on a pro-rata basis without regard as to whether the expenses are hospital-related or medical-related expenses. Actual benefits paid by each plan of the health benefits plan package shall not exceed the total actual benefits which would have been payable by each plan had the health benefits plan package been providing primary coverage.

(f) No insured shall be liable to a health care provider for any fees for services or supplies which exceed the dollar or percentage amounts recognized for those services or supplies on the medical fee schedules.



(g) No health benefits plan shall seek repayment from or withhold payment to an insured for amounts paid to the insured in consideration of charges which were in excess of the amounts set forth in the medical fee schedules.

(h) If there is more than one group health benefits plan providing secondary coverage to an insured, these plans may coordinate their benefits with one another in accordance with N.J.A.C. 11:4-28.

#### Case Notes

Costs of home renovations and specialized equipment for quadriplegic insured were "allowable expenses" within meaning of regulation mandating that actual benefits payable by health benefits plan. *Bailey v. Garden State Hospitalization Plan*, 280 N.J.Super. 206, 654 A.2d 1043 (L.1994), affirmed 290 N.J.Super. 277, 675 A.2d 696.

Hospitalization insurer could be held responsible for hospital bills without regard to when they were incurred, and personal injury protection benefits could be used for specialized equipment and home modifications. *Bailey v. Garden State Hospitalization Plan*, 280 N.J.Super. 206, 654 A.2d 1043 (L.1994), affirmed 290 N.J.Super. 277, 675 A.2d 696.

"Primary carrier" is carrier first required to pay personal injury protection benefits preserving its right of contribution from other insurers also liable for such payments. *Bailey v. Garden State Hospitalization Plan*, 280 N.J.Super. 206, 654 A.2d 1043 (L.1994), affirmed 290 N.J.Super. 277, 675 A.2d 696.

#### 11:3-37.10 Explanation of benefits

(a) Automobile insurers shall develop and utilize an explanation of benefits form to be provided with the payment of benefits for expenses incurred for treatment of injuries which clearly identifies and explains the following:

1. Each procedure for which a claim has been made;
2. Eligible expense related to each procedure with an indication of whether the eligible expense is based on the medical fee schedules or is the reasonable charge as determined by the automobile insurer;
3. Actual benefits paid;
4. Any deductible or copayment applied;
5. A concise explanation why any item of expense is considered an ineligible expense, when this occurs; and
6. A statement to insureds that no health care provider may demand or request any payment from any person in excess of those permitted by N.J.A.C. 11:3-29, and that no person is liable to any health care provider for any amount of money which results from the charging of fees in excess of those permitted by N.J.A.C. 11:3-29 pursuant to N.J.S.A. 39:6A-4.6.

Amended by R.1994 d.564, effective November 21, 1994 (operative January 1, 1995).

See: 25 N.J.R. 4706(a), 26 N.J.R. 4616(b).

#### Case Notes

Former patient failed to establish that charges reflected in bill were not usual, customary, and reasonable; hospital's witness testified that charges were in accord with other teaching institutions in area and were approved by state insurance commission, and patient's insurance com-

pany paid its full share of all charges and did not reject any by claiming that they were not usual, customary, reasonable, and/or necessary. *Hahnemann University Hosp. v. Dudnick*, 292 N.J.Super. 11, 678 A.2d 266 (A.D.1996).

#### 11:3-37.11 Dispute as to primacy of coverage

(a) If, subsequent to the selection of the PIP-as-secondary coverage option by the named insured, injuries are sustained by an insured eligible for health benefits plan coverage, but a dispute exists between the health benefits provider and the automobile insurer, then the health benefits provider shall provide benefit as if it were the primary coverage provider and no PIP benefits were available to the insured. In no event shall the provision of benefits be unreasonably delayed by either a health benefits provider or an automobile insurer.

(b) If the health benefits provider asserts that it is not subject to N.J.A.C. 11:3-37.3, and thus, will not act as the primary coverage provider then the automobile insurer shall assume the role of primary coverage provider, and provide its benefits in accordance with N.J.A.C. 11:3-37.8. The automobile insurer shall be entitled to recover premium reductions in accordance with N.J.A.C. 11:3-37.8(c).

#### 11:3-37.12 Eligibility under two or more automobile policies

(a) If an insured is eligible for coverage of medical expenses under more than one automobile policy, the determination as to which automobile policy will assume coverage responsibility for that insured shall be as follows:

1. A named insured shall receive benefits for medical expenses under the terms of the automobile policy on which he or she, or his or her spouse, is identified as the named insured.
2. A family member who is a child of a named insured or the named insured's spouse shall receive benefits for medical expenses under the automobile policy of the named insured, subject to the following:
  - i. If the child is a child of more than one named insured or of more than one spouse of a named insured, the child shall receive benefits under the terms of the automobile policy of the named insured who has legal custody of that child or whose spouse has legal custody of that child.
  - ii. If the child is a child of more than one named insured or of more than one named insured's spouse, and legal custody of that child has either never been awarded, or has been awarded jointly, then the child shall receive benefits under the terms of the automobile policy of the named insured whose birthday occurs earliest in the calendar year.
  - iii. If the child is a named insured or the spouse of a named insured, (a)1 above shall apply.

3. If neither (a)1 nor (a)2 above apply to an adult or child family member, then that family member shall receive benefits for medical expenses under the terms of the automobile policy of the named insured whose birthday occurs earliest in the calendar year.

4. If an automobile policy identifies more than one person as a named insured on the automobile policy, the birthday of the named insured whose birthday occurs earliest in the calendar year shall be considered the determinant birthday on that automobile policy.

(b) An insured shall not receive benefits for medical expenses under more than one automobile policy.

(c) If an automobile policy PIP plan provides benefits for medical expenses for an insured who is eligible for medical expense benefits under more than one automobile policy PIP plan, the automobile insurer of the paying PIP plan may seek equitable pro rata contributions from the other automobile policy PIP plan(s) for the benefits actually paid by the paying PIP plan.

#### Case Notes

"Follow-the-family" exclusory clause, under which policy did not provide personal injury protection benefits to those outside named insured's family if they were entitled to coverage under another policy, did not violate provision of No-Fault Act setting forth permissible exclusions from coverage. *Rutgers Cas. Ins. Co. v. Ohio Cas. Ins. Co.*, 299 N.J.Super. 249, 690 A.2d 1074 (A.D.1997).

Primary carrier must pay PIP benefits and may seek contribution from other carriers. *U.S. Fidelity & Guar. Co. v. Industrial Indem. Co.*, 264 N.J.Super. 379, 624 A.2d 1014 (A.D.1993), certification denied 134 N.J. 484, 634 A.2d 530.

Double recovery of PIP benefits is prohibited. *Martin v. Prudential Ins. Co.*, 255 N.J.Super. 524, 605 A.2d 762 (A.D.1992).

Passenger could recover PIP benefits under both driver's policy and own policy. *Martin v. Prudential Ins. Co.*, 255 N.J.Super. 524, 605 A.2d 762 (A.D.1992).

#### 11:3-37.13 Penalties

Each automobile policy or health benefits plan subject to the terms of this subchapter which fails to comply with the terms herein shall be in violation of this subchapter. Failure to comply with the terms of this subchapter may result in the assessment of any and all penalties in accordance with the laws of this State.

#### 11:3-37.14 Severability

If any provision of this subchapter or application thereof to any person or circumstance is held invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

### SUBCHAPTER 38. TOWING AND STORAGE FEE SCHEDULE

#### 11:3-38.1 Purpose and scope

(a) The purpose of this subchapter is to establish towing and storage fee schedules on a regional basis pursuant to N.J.S.A. 17:33B-47 for the reimbursement of towing charges and storage charges for private passenger automobiles that are damaged in accidents or are recovered after being stolen.

(b) The provisions of this subchapter apply to all insurers which write private passenger automobile insurance in this State and to all persons who provide towing and storage services in this State for private passenger automobiles that are damaged in accidents or are recovered after being stolen.

#### 11:3-38.2 Definitions

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

"Automobile" means a private passenger automobile of a private passenger or station wagon type that is owned or hired 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, or 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.

"Basic towing service" means the removal and transportation of an automobile from a highway, street or other public or private road, or a parking area, or from a storage facility, and other services normally incident thereto, but does not include recovery of an automobile from a position beyond the right-of-way or berm, or from being impaled upon any other object within the right-of-way or berm.

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

"Department" means the New Jersey Department of Insurance.

"Inside buildings" means a vehicle storage facility that is completely indoors, having one or more openings in the walls for storage and removal of vehicles and that is secured by a locking device on each opening.

"Motor vehicle accident" means an occurrence in which a private passenger automobile comes in contact with any other object for which the private passenger automobile must be towed or removed for placement in a storage facility. This includes all situations which are accidental as to the insured even if they were caused by the intentional acts of a perpetrator where the perpetrator was not the insured or not otherwise involved with the insured.

"Tow vehicle's base of service" means the towing operator's principal place of business where the tow vehicle is stationed when not in use.

“Outside secured” means an automobile storage facility that is not indoors and is secured by a fence, wall or other man-made barrier that is at least six feet high and is installed

with a passive alarm system or a similar on-site security measure. The facility is to be lighted at night.

“Outside unsecured” means an automobile storage facility that is not indoors and is not secured by a fence, wall or other man-made barrier, and all other storage facilities not defined above as inside building or outside secured.

“Storage charges for 24 hour period” means the maximum allowable amount to be charged by a storage facility for a 24 hour period or fraction thereof. A new 24 hour period begins at 12:01 A.M.

“Tow vehicle” means only those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by its manufacturer for the removal or transport of private passenger automobiles.

**11:3-38.3 Regions**

(a) Region I, as used in this subchapter, consists of the following counties in New Jersey: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem.

(b) Region II, as used in this subchapter, consists of the following counties in New Jersey: Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren.

**11:3-38.4 Application of storage and towing fee schedule**

(a) No person shall be liable to any person who tows or stores a private passenger automobile which was damaged in an accident or recovered after being reported stolen for any fees in excess of those permitted by the towing and storage fee schedules established in this subchapter.

(b) The region used to determine the proper fee set forth on the schedules shall be determined as follows:

1. For towing services, the fee shall be based on the region in which the tow vehicle’s base of service is located.
2. For storage services, the fee shall be based on the region in which the facility is located.

(c) The fee schedules shall be reviewed by the Commissioner on an annual basis and may be revised if necessary.

(d) The fees set forth on the schedule for towing rates are the maximum charges that shall apply to a private passenger automobile for basic towing services rendered as a result of an accident or theft recovery. There shall be no additional charges other than those provided in N.J.A.C. 11:3-38.6, including, but not limited to, flatbedding, waiting time, winching, cleanup cost, and additional labor, when only basic towing services as defined are provided.

1. The towing rates shall be calculated based on the total distance travelled from the tow vehicle’s base of service to the job site and return, by way of the shortest

available route. Fractions shall be rounded up to the nearest whole mile.

2. Tow vehicles transporting multiple passenger cars at one time shall receive the applicable fees for each vehicle transported.

3. When towing services are required at the scene of an automobile accident, the Day rate shall apply when the time of the accident is between 8:00 A.M. and 4:30 P.M., Monday through Friday, except New Jersey State Holidays. The Night, Weekend and Holiday rate shall otherwise apply.

4. When towing services are otherwise required, the Day rate shall apply when the vehicle is transported (pickup to delivery) entirely between the hours of 8:00 A.M. and 6:00 P.M., Monday through Friday, except New Jersey State Holidays. The Night, Weekend and Holiday rate shall otherwise apply.

(e) The fees set forth on the schedule for storage fees are the maximum storage charges per 24 hour period that shall apply to a private passenger automobile that is stored by a person as a result of an accident or theft recovery.

(f) No insurer or rating organization shall include any expense for storage of a private passenger automobile for more than 30 days into the base for determining private passenger automobile rates used or to be used in this State.

**11:3-38.5 Penalties**

(a) Failure of a person to abide by the requirements of this subchapter may be punishable by a fine not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for each subsequent violation pursuant to N.J.S.A. 17:33A-5.

(b) Violators who are licensed as an automobile repair facility will be reported to the Division of Motor Vehicles. Insurers may also report violators under the provisions of N.J.S.A. 17:23-8 to 15.

**11:3-38.6 Towing and storage fee schedules**

(a) The following is the fee schedule for towing services:

Days	Region	
	1	2
First mile or less	\$35.00	\$40.00
Each additional mile	\$ 1.75	\$ 1.75
<b>Nights, Weekends and New Jersey State Holidays</b>		
First mile or less	\$45.00	\$50.00
Each additional mile	\$ 1.75	\$ 1.75

(b) The following is the fee schedule for storage services:

Inside Building: Storage Facility Capacity	Region	
	1	2
21 or more spaces	\$13.00	\$15.00
10-20 spaces	\$18.00	\$20.00
Less than 10 spaces	\$22.00	\$25.00

Outside Secured: Storage Facility Capacity	Region	
	1	2
21 or more spaces	\$ 9.00	\$10.00
10-20 spaces	\$11.00	\$12.00
Less than 10 spaces	\$13.00	\$15.00

Outside Unsecured: Storage Facility Capacity	Region	
	1	2
21 or more spaces	\$ 7.00	\$ 8.00
10-20 spaces	\$ 9.00	\$10.00
Less than 10 spaces	\$10.00	\$12.00

Administrative correction.  
See: 28 N.J.R. 4590(a).

### SUBCHAPTER 39. REDUCTIONS IN PREMIUM CHARGES FOR PRIVATE PASSENGER AUTOMOBILES EQUIPPED WITH ANTI-THEFT, VEHICLE RECOVERY AND SAFETY FEATURES

#### 11:3-39.1 Purpose

The purpose of this subchapter is to encourage consumers to invest in and use anti-theft and vehicle recovery devices and safety features in private passenger automobiles by providing that there shall be a reduction in the base rates applicable to automobile physical damage coverage, in accordance with N.J.S.A. 17:33B-44, for those private passenger automobiles equipped with anti-theft and vehicle recovery devices and safety features.

#### 11:3-39.2 Scope

(a) This subchapter shall apply to all insurers which write private passenger automobile insurance in this State.

(b) This subchapter shall apply to all policies which include provisions for physical damage coverage and which are issued or renewed on or after September 1, 1991.

#### 11:3-39.3 Definitions

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

“Alarm” means a device which emits sounds audible at 300 feet or more, such as a horn, bell or siren, but does not include those sounds that reasonably may be confused with police or emergency response vehicle sirens.

“Automobile physical damage insurance” means a policy providing one or more of the following coverages:

1. Collision;
2. Comprehensive; and
3. Fire and theft.

“Electronic lock or keyless lock device” means an electronic coding device possessing 10,000 possible combinations or more, which may be unlocked by use of a keyboard or similar data entry device or by means of a remote control device.

“Inspection” means a physical examination of an automobile by an authorized representative of the insurer, in accordance with the standards set forth at N.J.A.C. 11:3-36.6.

“Insured” means the named insured, as defined in the policy, or an applicant for automobile physical damage insurance.

“Insurer” means any person authorized to write automobile insurance in New Jersey, including any residual market mechanism, and includes all affiliated companies within a group.

“Nonpassive” means a device or system designed to remain inoperative and nonfunctional until actively engaged by the user.

“Passive” means a device or system designed to become automatically operative and functional when the automobile’s ignition key is moved or stationed in the off position.

“Private passenger automobile” means a vehicle that meets the definition at N.J.S.A. 39:6A-2.

“Tubular lock” means a lock which may be opened by a specific cylindrically shaped key and which possesses at least 50,000 possible combinations.

#### 11:3-39.4 Reductions in rates for anti-theft and vehicle recovery devices

(a) Every insurer writing automobile physical damage insurance shall provide a reduction in the base rates of its comprehensive and fire and theft coverages, if different, for all private passenger automobiles equipped with one or more anti-theft or vehicle recovery devices, as described at N.J.A.C. 11:3-39.5. The reductions in the base rates shall be as follows:

1. At least five percent for devices which qualify as Category I anti-theft devices;
2. At least 10 percent for devices which qualify as Category II anti-theft devices;
3. At least 15 percent for devices which qualify as Category III anti-theft or vehicle recovery devices; and
4. At least 20 percent for devices which qualify as Category IV anti-theft or vehicle recovery devices.