

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 Repair 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 Judgement 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: Recission of Circular Letter # 75. See: 19 N.J.R. 570(e).

1989 Revisions: Subchapter 26, Accident Claims; Subchapter 27, Unsatisfied Claim and Judgement Fund Board; and Subchapter 28, Unsatisfied Claim and Judgement 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 5. (RESERVED)

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

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. AUTOMOBILE RATE FILERS: DEDUCTIBLES FOR PRIVATE PASSENGER AUTOMOBILE COLLISION AND COMPREHENSIVE COVERAGES

- 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 (Reserved)

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 Insurer flex rate filings
- 11:3-16.6 Insurer filings for rates requiring prior approval
- 11:3-16.7 Jointly developed historical data
- 11:3-16.8 Premiums, 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

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 GENERAL FILING QUESTIONNAIRE

EXHIBIT E DEVIATION APPLICATION FORM

**EXHIBIT F REPRESENTATIONS REGARDING
RATE FILING DOCUMENTS**

EXHIBIT G KEY PERFORMANCE INDICATORS

**EXHIBIT H MARKETING METHODS FOR THE
TOP 20 PRIVATE PASSENGER AUTO
INSURERS IN NEW JERSEY**

**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 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

**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

SUBCHAPTERS 23 THROUGH 24. (RESERVED)

**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

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

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

AUTOMOBILE INSURANCE

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 such 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 form 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

APPENDIX A. FORMS; PAYMENT RECORD

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 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.

“Substantially similar vehicle” means a vehicle of the same make, model, year and condition, including all major options of the insured vehicle. Mileage must not exceed that of the insured vehicle by more than 4,000 miles. Mileage differences of more than 4,000 miles may, at the option of the insured, be exchanged for the presence or absence of options or a cash adjustment.

Amended by R.1985 d.629, effective December 16, 1985.
See: 16 N.J.R. 3170(a), 17 N.J.R. 2988(a).

Case Notes

Insurers' activities in estimating repair costs held not an Antitrust Act violation. *Chick's Auto Body v. State Farm Mutual Automobile Insurance Co.*, 168 N.J.Super 68, 401 A.2d 722 (Law Div.1979), affirmed per curiam 176 N.J.Super. 320, 423 A.2d 311 (App.Div.1980).

Measure of value applicable under policy's theft coverage held to be fair market value; insured, owner of modified vehicle, held entitled to recover only the average market value of an ordinarily equipped automobile of the same make, model and year. *Titus v. West American Insurance co.*, 143 N.J.Super. 195, 362 A.2d 1236 (Law Div.1976).

11:3-10.3 Adjustment of partial losses

(a) If the insurer intends to exercise its right to inspect, or cause to be inspected by an independent appraiser, damages prior to repair, the insurer shall have seven working days following receipt of notice of loss to inspect the insured's damaged vehicle, which is available for inspection, at a place and time reasonably convenient to the insured; commence negotiations; and make a good faith offer of settlement.

(b) Negotiations must be conducted in good faith, with the basic goal of promptly arriving at an agreed price. Early in negotiations, the insurer must inform and confirm in writing to the insured or the insured's designated representative all deductions that will be made from the agreed price, including the amount of applicable deductible.

(c) If the insurer inspects the damaged vehicle or causes it to be inspected, the insurer shall promptly upon completing the inspection furnish the insured or the designated representative of the insured with a detailed written estimate of the cost of repairing the damage resulting from the loss, specifying all appropriate deductions.

(d) No insurer shall negotiate the settlement of any physical damage claim involving an automobile as defined at N.J.S.A. 39:13-1b with an unlicensed auto body repair facility or in any manner utilize an unlicensed facility in the adjustment, negotiation or settlement of such a claim. It shall be the responsibility of the insurer to make a reasonable and diligent effort to determine whether the facility is properly licensed.

(e) Subject to the requirements of (d) above, the insured may use any repair facility of his or her own choice. The insured's selection of facilities may be made upon entering into a contract for insurance by affirmatively accepting optional policy provisions that provide that only certain

specified facilities will be used for automobile repairs, and a selection so made is binding on the insured. With respect to automobile damage claims, the insurer shall notify in writing any insured who elects to use his or her own repair facility that, pursuant to law, any entity engaged in the business of auto body repairs must be duly licensed. The notice shall further advise the insured that the insurer is prohibited by law from negotiating, adjusting or settling an automobile damage claim with an unlicensed facility. The written notice shall be furnished at the time of acknowledgment of the claim as provided at N.J.A.C. 11:2-17.6 or upon the furnishing of its written estimate, as specified at (c) above, whichever is sooner. The insurer must make all reasonable efforts to obtain an agreed price with the facility selected by the insured. The insurer may recommend, and if the insured requests, must recommend a qualified repair facility at a location reasonably convenient to the insured motor vehicle who will repair the damaged motor vehicle at the insurer's estimated cost of repairs, but in either event the provisions of (g) below apply.

(f) All estimates, including revisions and adjustments, prepared by any repair facility, estimator or appraiser must be included in each claim file.

(g) If the insured's vehicle is repaired at a repair facility whose name is furnished by the insurer under (e) above for a sum estimated by the insurer as the reasonable cost to repair the vehicle the insurer:

1. Shall select a repair facility that issues written guarantees that any work performed in repairing damaged vehicles meets generally accepted standards for safe and proper repairs;

2. Shall cause the damaged vehicle to be restored to the condition it was in prior to the loss, at no additional cost to the insured and within a reasonable time, if the repair facility does not repair the damaged vehicle in accordance with generally accepted standards for a safe and proper repair.

(h) Whenever an insurer elects to repair its insured's vehicle, that is, physically take the vehicle and have it repaired, the election must be in writing addressed to the insured and contain a reasonable estimate of the time period within which the vehicle will be repaired. The insurer shall guarantee, in writing, that the work performed meets generally accepted standards for safe and proper repairs.

(i) Deductions for betterment and depreciation are permitted only for parts normally subject to repair and replacement during the useful life of the insured motor vehicle. Deductions for betterment and depreciation shall be limited to the lesser of an amount equal to the proportion that the expired life of the part to be repaired or replaced bears to the normal useful life of that part, or the amount by which the resale value of the vehicle is increased by the repair or replacement. Calculations for betterment, depreciation and

normal useful life must be included in the insurer's claim file.

(j) Deductions for previous damage or prior condition of the vehicle must be measurable, discernible, itemized and specific as to the dollar amount, and those deductions must be included in the insurer's claim file. The deductions shall be limited to the amount by which the resale value of the motor vehicle is increased by the estimation of the previous damage or the correction of the prior condition.

(k) The insurer must mail or hand deliver to the insured or the designated representative its proof of loss or payment within five working days after the insured has accepted the insurer's offer.

(l) The insured shall have the right to receive the proceeds of any settlement. The insurer may not insist on making settlement proceeds jointly payable to the insured and the repair facility, or payable to the repair facility only. If the insured has exercised his or her right to accept the optional policy provisions that provide that only certain specified facilities will be used for automobile repairs, the insurer may pay settlement proceeds directly to the repair facility.

(m) The insured may elect to have the insurer pay the repair facility directly in order to expedite recovery of the motor vehicle. The insured must make this election in writing.

Amended by R.1985 d.629, effective December 16, 1985.

See: 16 N.J.R. 3170(a), 17 N.J.R. 2988(a).

Substituted "the insurer" for "it".

Amended by R.1987 d.249, effective June 15, 1987.

See: 18 N.J.R. 2415(a), 19 N.J.R. 1096(a).

Substantially amended.

Amended by R.1995 d.471, effective August 21, 1995 (operative January 1, 1996).

See: 27 N.J.R. 437(a), 27 N.J.R. 3172(a).

In (e) allowed limitation of insured's choice of repair facilities as optional part of insurance contract and in (l) allowed payment directly to repair facility under such contract.

Public Notice: Extension of operative date of R.1995 d.471 to March 1, 1996.

See: 27 N.J.R. 5031(a).

Case Notes

Insurers' activities in estimating repair costs held not an Antitrust Act violation. *Chick's Auto Body v. State Farm Mutual Automobile Insurance Co.*, 168 N.J.Super. 68, 401 A.2d 722 (Law Div.1979), affirmed per curiam 176 N.J.Super. 320, 423 A.2d 311 (App.Div.1980).

11:3-10.4 Adjustment of total losses

(a) If the insurer elects to make a cash settlement, it must bear in mind at all times that the insured's position is that of a retail consumer and the settlement value arrived at must be reasonable and fair for a person in that position. Written, itemized valuations showing all options and deductions shall be included in the insurer's claim file and presented to the insured no later than the date of payment. If the insurer elects to make a cash settlement, its offer, subject to applicable additions or deductions, must be one of the following plus applicable sales tax:

1. The average of the retail values for substantially similar motor vehicles as listed in the editions current for the date of loss of two valuation manuals approved by the Commissioner.

i. The average figure arrived at may be reduced or increased by considering all factors, including, but not limited to, mileage tables and the presence or absence of extras.

ii. If the destroyed vehicle included an option which is listed in one manual but not in the other, the value of the option shall not be averaged. The insured shall receive full value for the option by carrying over the amount listed to the other manual. The option carry-over shall apply only in those instances where the option has not been considered by the used vehicle guide either as a separate item or included in the vehicle's base value.

iii. If a manual is submitted for approval by the Commissioner its accuracy must meet objective criteria for the values of substantially similar vehicles of at least 85 percent of all makes and models for the last 15 years and shall include all major options. A sufficient number of vehicles shall be used for each year, make and model to represent a cross-section sufficient to determine fair market values. At the time of request for approval, the source of the manual's data must be revealed to the Commissioner in a manner that can be verified by the Department. Manuals approved for use on or after January 1, 1976 are "Automobile Red Book" and "Older Car/Truck Red Book" published by Maclean Hunter Market Reports, Inc. and the "N.A.D.A. Official Used Car Guide" and "N.A.D.A. Official Older Car Guide" published by the National Automobile Dealers Used Car Guide Company.

2. A quotation obtained by the insurer for a substantially similar motor vehicle from a dealer located within a reasonable distance from the principal place of garage-ment of the insured vehicle. Unless otherwise agreed by the insured, a reasonable distance shall not exceed 25 miles from the principal place of garage-ment. The vehicle must be available for purchase by the insured and the insured must be able to purchase it for the insurer's cash offer plus applicable deductions. The insurer shall maintain in its claim file proof of the vehicle's availability and the name and location of the dealer, stock number, vehicle identification number and description of the substantially similar vehicle.

3. The fair market value of the insured vehicle, determined by using a source including a computerized database approved by the Commissioner that meets all of the following minimum criteria:

i. The source must give primary consideration to the values of vehicles in the local market area, but if necessary to obtain a reasonable cross-section of the market, may consider vehicles in the next closest area.

3. When the medical condition of the injured party made it impossible to comply with the notice requirement.

New Rule, R.1997 d.14, effective January 6, 1997 (operative March 7, 1997).
See: 28 N.J.R. 3876(a), 29 N.J.R. 132(a).

11:3-25.6 Standards for adjustment of reduction

(a) Notwithstanding the reductions set forth in N.J.A.C. 11:3-25.5(b), insurers may choose to pay the full or a less reduced amount of an eligible charge based upon consideration of the following factors:

1. Whether the treating medical provider has previously provided untimely notice under this subchapter or has established a pattern of untimely notice;
2. The cost of medical treatment provided by the treating medical provider between the time treatment commenced, when notice was due and when it was provided;
3. The injured party was a pedestrian who did not have PIP coverage as the named insured or resident relative under another policy and the circumstances are such that additional time is necessary to identify the policy under which coverage is being provided;
4. Any potential adverse impact on the public; and
5. Such other factors as the insurer may determine.

(b) Within 60 days of receipt of notice, or such additional time as may be afforded under N.J.S.A. 39:6A-5g, the insurer shall give the treating medical provider notice of its final determination as to payment, reduction or denial of payment of an eligible charge. Such notice shall be clearly labeled "Final Determination," and it shall refer clearly to the injured party, the insured, the claim number, the date of accident, the date of first treatment, the date notice of the commencement of treatment was made and the acceptance or rejection of any of the standards of adjustment of the reduction in (a) above and N.J.A.C. 11:3-25.5(b).

11:3-25.7 Payment from insurers only

Whenever an eligible charge has been reduced or denied pursuant to N.J.A.C. 11:3-25.5(b), the treating medical provider shall not seek to obtain payment directly from the insured or the person receiving treatment.

11:3-25.8 Procedure for appeals

A treating medical provider who fails to notify the insurer within 21 days and whose claim has been reduced or denied by the insurer pursuant to N.J.A.C. 11:3-25.5(b) may, in the discretion of a judge of Superior Court, be permitted to refile such claim provided that the insurer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of the receipt of the insurer's final determination of reduction or denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the

failure to notify the insurer within 21 days of the commencement of treatment.

11:3-25.9 Reporting requirement

(a) By February 5, 1997, every insurer shall file with the Department the address, facsimile number (if notice by facsimile is permitted) and E-mail address, if any, of the designated location for the filing of notice required under this subchapter. Insurers shall use Appendix B, appended to and incorporated by reference in this subchapter, to report the information required by this subsection.

(b) Insurers shall complete and file the information in Appendix B by January 1 of each year.

(c) Completed copies of Appendix B shall be submitted to:

Department of Banking and Insurance
Director of Public Affairs
CN 325
Trenton, New Jersey 08625

11:3-25.10 Compliance

For treatments rendered between January 6, 1997 and July 6, 1997, all eligible charge reductions set forth in N.J.A.C. 11:3-25.5(b) shall be reduced by 50 percent (for example, a 10 percent reduction shall be five percent, a 25 percent reduction shall be 12.5 percent, etc.).

APPENDIX A

Notification of Commencement of Medical Treatment
(to be filed with insurer)

Name, address and phone No. of Treating Medical Provider: _____

Fax No. (optional) _____

| | |
|------------------------------------|---|
| Name and address of patient: _____ | Name and address of insured: (if different) _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Insurer Name: _____

Insurer Address: _____

_____ Policy No. _____

Date of accident/injury: _____

Date of first treatment: _____

APPENDIX B

Address for Notification of Commencement
of Medical Treatment

Insurance Co. Name: _____

NAIC Group #: _____ NAIC Company #: _____

Address established by insurer for the filing of the notification of the commencement of PIP treatment by Treating Medical Providers

Address: _____

Facsimile Number: _____

E-mail: _____

Contact Person: _____

Phone: _____

To be filed with:

Department of Insurance
Division of Public Affairs
CN 325
Trenton, NJ 08625
Attn: Notification of Treatment List

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

11:3-26.1 Claim information

(a) Notice of intention to make a claim under N.J.S.A. 39:6-65 shall contain the following information:

1. The claimant's name, address, date of birth and social security number;
2. The time, date, location, municipality and county in which the loss occurred;
3. The identity of the operators and vehicles involved in the accident, including the name and address of the owner and operator and the license plate number of the vehicle;
4. Such witnesses to said accident as are then known;
5. A short description of the accident, including the claimant's role or position therein;
6. A description of the injuries then known, and attached thereto a medical certificate if then available. In any event the medical certificate shall be filed as soon as available;
7. A description of the damage sustained to property, and attached thereto an estimate of the cost of repairs if then available; and
8. The policy number of any insurance applicable to the accident, including the name and address of all insurance companies involved.

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

In (a)1-5: added text to contents of claim information notice. Added new (a)8.
Amended by R.1996 d.58, effective February 5, 1996.
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

11:3-26.2 Claim filing; form

(a) A Notice of Intention to Make Claim under N.J.S.A. 39:6-65 may be filed on a form of the Unsatisfied Claim and Judgment Fund Board designated as a "Notice of Intention to Make Claim."

(b) A written notice to the Board in any other form that contains the information required by this section shall be acceptable.

(c) A notice of intention to make a claim that does not contain the items identified in N.J.A.C. 11:3-26.1(a) 1 through 8 shall be returned to the sender and deemed to be not filed with the Unsatisfied Claim and Judgment Fund (UCJF) for the purpose of complying with N.J.S.A. 39:6-65 and shall not toll the statute of limitations.

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

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

SUBCHAPTER 27. UNSATISFIED CLAIM AND JUDGMENT FUND BOARD

11:3-27.1 Uninsured's current financial status

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

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

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

11:3-28.1 Purpose and scope

(a) The purpose of this subchapter is to establish procedures to ensure that only appropriate, reimburseable claims

are submitted to the Fund by insurers by requiring investigation of the medical necessity for certain claims; requiring the audit of claims of \$10,000 or more submitted by licensed providers of health care services or claims of \$25,000 or more by health care facilities; and requiring prior approval of claims for alterations to vehicles and residences. This subchapter also requires insurers to pursue the proper, alternative sources for reimbursement where such other sources of funds are available.

(b) This subchapter applies to all insurers authorized in this State to write the kinds of insurance specified in paragraphs d and e of N.J.S.A. 17:17-1.

Repeal and New Rule, R.1993 d.583, effective November 15, 1993.
See: 25 N.J.R. 2636(b), 25 N.J.R. 5219(a).

Section was "Notification of potential for payment of excess medical expense benefits".

11:3-28.2 Definitions

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

"Board" means the Unsatisfied Claim and Judgment Fund Board created in accordance with N.J.S.A. 39:6-64.

"Diagnosis related groups" or "DRG" means a patient classification scheme in which cases are grouped by shared characteristics of principal diagnosis, secondary diagnosis, age, surgical procedure, and other complications. Each DRG exhibits a consistent amount of resource consumption as measured by some unit (for example, length of stay or dollars).

"Excess medical expense benefits" means medical expense benefits paid in accordance with N.J.S.A. 39:6A-4a which are in excess of \$75,000 resulting from personal injury to any one person in any one accident.

"Fund" means the Unsatisfied Claim and Judgment Fund established pursuant to N.J.S.A. 39:6-61 et seq.

"Health care facility" means a facility or institution, whether public or private, engaged principally in providing services for diagnosis of treatment of pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, outpatient clinic, dispensary or residential health care facility.

"Health care service" means the preadmission, outpatient, inpatient and postdischarge care provided in or by a health care facility, and such other items or services as are necessary for such care, which are provided by or under the supervision of a physician for the purpose of diagnosis or treatment of pain, injury, disability, deformity or physical condition, including, but not limited to, nursing service,

home care nursing and other paramedical service, ambulance service, service provided by an intern, resident in training or physician whose compensation is provided through agreement with a health care facility, laboratory service, medical social service, drugs, biologicals, supplies, appliances, equipment, bed and board.

“Insurer” means any person authorized or admitted in this State to write the kinds of insurance specified in paragraphs d and e of N.J.S.A. 17:17-1.

“Licensed nursing personnel” or “licensed nurse” means a nurse licensed by the New Jersey State Board of Nursing or the equivalent from another jurisdiction.

“Medical expense benefits” means medical expense benefits paid in accordance with N.J.S.A. 39:6A-4a.

“Medically necessary” means services or supplies including tests or examinations that are needed for the medical care of a diagnosed injury. To be considered “needed” a service or supply must be ordered by a licensed physician and be commonly and customarily recognized throughout the medical profession as appropriate in the treatment of the particular injury for which it was ordered. Neither educational, experimental nor investigational procedures will be deemed “needed” or “medically necessary” for purposes of these rules.

“Per diem” means a daily fixed charge which includes room and board and other fees for services and supplies.

“PIP coverage” means personal injury protection coverage as described at N.J.S.A. 39:6A-4.

“Person” means any individual, association, company, corporation, insurer, joint stock company, organization, partnership, society, syndicate, trust, any combination of the foregoing acting in concert or any other entity.

“Pre-screen” means an off-site review of the billings from a health care facility to determine whether the care given and amounts charged are appropriate.

“Provider” means any person that furnishes services or equipment for medical expense benefits for which payment is required to be made under PIP coverage in automobile insurance policies, but does not include health care facilities.

“Reimbursement” refers to reimbursement to insurers by the Fund as provided at N.J.S.A. 39:6-73.1.

“Uninsured motorist claims” means claims submitted against operators of uninsured vehicles and hit and run claims submitted pursuant to N.J.S.A. 39:6-61.

New Rule, R.1993 d.583, effective November 15, 1993.
See: 25 N.J.R. 2636(b), 25 N.J.R. 5219(a).
Amended by R.1994 d.597, effective December 5, 1994.
See: 26 N.J.R. 2190(a), 26 N.J.R. 4772(a).

11:3-28.3 Report of such claims when the carrier has paid at least \$50,000 for medical expense benefits

In cases where the potential exposure to the automobile liability insurer exceeds \$75,000, the insurer shall report on form UC-321 (incorporated herein by reference as Exhibit 1 in Appendix A) whenever medical expense benefits in a total amount of \$50,000 have been paid on account of personal injury to any one person in any one accident.

Recodified from 11:3-28.2 and amended by R.1993 d.583, effective November 15, 1993.

See: 25 N.J.R. 2636(b), 25 N.J.R. 5219(a).

11:3-28.4 Notice of change in the amount of reserves

Whenever an automobile liability insurer has paid medical expense benefits on account of personal injury to any one person in any one accident in a total amount of \$50,000, said insurer shall notify the Fund of any changes in the amount of reserves established for payment of the claim or closing of the file.

Recodified from 11:3-28.3 and amended by R.1993 d.583, effective November 15, 1993.

See: 25 N.J.R. 2636(b), 25 N.J.R. 5219(a).

11:3-28.5 Supplemental form to be submitted to the Fund

A two-sided reimbursement and reserve form, UCJF-REIMB./91 (incorporated herein by reference as Exhibit 2 in Appendix A), shall be filed with the Fund within 90 days after an automobile insurer has paid medical expense benefits on account of personal injury to any one person in any one accident in a total amount in excess of \$75,000. Such form together with form UC-323(93) (incorporated herein by reference as Exhibit 3 in Appendix A) shall be filed each quarter that the insurer seeks reimbursement.

Recodified from 11:3-28.4 and amended by R.1993 d.583, effective November 15, 1993.

See: 25 N.J.R. 2636(b), 25 N.J.R. 5219(a).

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

(a) An automobile liability insurer shall be required to discharge its duty of investigating claims where the potential exposure to the insurer exceeds \$75,000. Said insurer's duty and obligation with regard to claim handling shall exist and continue to exist notwithstanding this rule. The Executive Director may direct such investigations as often as he or she deems necessary. All expenses relating to the investigation of claims, including expenses for medical examinations, file maintenance and cost containment measures, are the responsibility of the automobile liability insurer.

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

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

APPENDIX A

EXHIBIT 1

UNSATISFIED CLAIM AND JUDGMENT FUND
EXCESS MEDICAL BENEFITS FIRST NOTICE FORM

This form shall be completed by the Carrier anticipating reimbursement from the Fund of Medical Expense Benefits. This form shall be sent to the Fund at the time the Carrier has made payments in a total amount of \$50,000 and the Carrier expects the payments will exceed a total of \$75,000.

PLEASE PRINT OR TYPE

| | | |
|---|---|--|
| NAME OF CARRIER UNDER WHICH POLICY IS WRITTEN | | NAIC NUMBER |
| ADDRESS | | |
| CITY | STATE | ZIP CODE |
| CONTACT PERSON | | TELEPHONE NUMBER INCLUDING AREA CODE |
| CARRIER FILE NUMBER | CARRIER POLICY NUMBER | POLICY EFFECTIVE DATES FROM: _____ TO: _____ |
| DATE OF ACCIDENT | LOCATION OF ACCIDENT INCLUDING CITY, COUNTY AND STATE | |
| NAME OF NAMED INSURED ON POLICY | | |
| NAME OF INJURED PARTY | | |
| ADDRESS | | |
| AGE OF INJURED PARTY AT TIME OF ACCIDENT | | SEX |
| DESCRIPTION OF INJURIES | | |
| PROGNOSIS AS TO INJURIES | | |
| AMOUNT OF MEDICAL PAYMENTS MADE TO DATE: \$ | TOTAL AMOUNT OF EXPECTED FUTURE MEDICAL PAYMENTS: \$ | |
| RECOMMENDED RESERVE FOR THE TOTAL VALUE OF THE CLAIM TO ITS ULTIMATE DISPOSITION: \$ _____ | | |
| RECOMMENDED RESERVE FOR THE AMOUNT OF PAYMENTS TO BE MADE IN THE NEXT TWO YEARS: \$ _____ | | |
| DATE ON WHICH THE \$75,000 THRESHOLD MAY BE REACHED: _____ | | |
| NAME OF SUPERVISOR RESPONSIBLE FOR INVESTIGATION FILE AND PHONE NUMBER: | | |
| COMPLETED BY _____ | TITLE _____ | |
| PHONE NUMBER _____ | DATE _____ | |

UC-321 (R1/91)

EXHIBIT 2
 UNSATISFIED CLAIM AND JUDGEMENT FUND
 REIMBURSEMENT AND RESERVE FORM

This form shall be completed by the Carrier seeking reimbursement from the fund for Medical Expenses Benefits in excess of \$75,000. The reverse side of this form must be completed upon submission of the first request for reimbursement only. A separate form shall be submitted with each request.

PLEASE PRINT OR TYPE

| | |
|---|-----------------------|
| NAME OF CARRIER UNDER WHICH POLICY IS WRITTEN ADDRESS | CARRIER'S FILE NUMBER |
| NAME OF INJURED PARTY | EMB FILE NUMBER |
| SET FORTH PROGNOSIS AS TO INJURIES AND EXPECTED FUTURE MEDICAL PAYMENTS | |

RECOMMENDED RESERVE FOR TOTAL VALUE OF CLAIM TO ITS ULTIMATE DISPOSITION, NOT INCLUDING THE \$75,000 THRESHOLD \$ _____

TOTAL AMOUNT OF ANTICIPATED PAYMENTS DURING THE NEXT 2 YEARS \$ _____

TOTAL AMOUNT OF EXPECTED PAYMENTS DURING THE NEXT 90 DAYS \$ _____

THE PIP PAYMENT RECORD AND ADDING MACHINE TAPE(S) ARE TO BE ATTACHED TO THIS FORM. THE PIP PAYMENT RECORD SHOULD INCLUDE THE DATE PAID, AMOUNT PAID, NAME OF THE PARTY PAID AND TREATMENT DATES. THE PIP PAYMENT RECORD SHOULD INDICATE TO WHICH PAYMENTS THE PIP DEDUCTIBLE AND CO-PAYMENT WAS APPLIED.

AMOUNT OF REIMBURSEMENT NOW BEING SOUGHT FROM THE FUND \$ _____

AMOUNT OF REIMBURSEMENT PREVIOUSLY RECEIVED, IF ANY \$ _____

NO FURTHER REIMBURSEMENT ON THIS CLAIM IS ANTICIPATED. WE HAVE CLOSED OUR MEDICAL EXPENSE FILE.

| |
|------------------|
| COMPLETED BY |
| TITLE |
| DATE COMPLETED |
| TELEPHONE NUMBER |

*COMPLETE REVERSE SIDE ON INITIAL REQUEST FOR REIMBURSEMENT.

UCJF-REIMB./91

ANSWER THE FOLLOWING QUESTIONS "YES OR NO". IF AUDITS, MEDICAL REPORTS, ETC. ARE REQUIRED, ATTACH TO PIP PAYMENT RECORD AT TIME OF SUBMISSION FOR REIMBURSEMENT.

| YES | NO | |
|-------|-------|--|
| _____ | _____ | CONCURRENCY APPLIES |
| _____ | _____ | WORKER'S COMPENSATION COVERAGE INVOLVED |
| _____ | _____ | SUBROGATION APPLIES |
| _____ | _____ | PIP REIMBURSEMENT OPTION SELECTED (IF YES, ATTACH COPY OF LETTER TO INSD) |
| _____ | _____ | CIB WAS FILED |
| _____ | _____ | AUDIT REPORTS FOR PAYMENTS OVER \$10,000 |
| _____ | _____ | COMPREHENSIVE MEDICAL AND/OR REHABILITATION REPORTS |
| _____ | _____ | PIP PAYMENT RECORDS WITH ADDING MACHINE TAPE(S). |
| _____ | _____ | COMPLETED AND SIGNED TREASURY INVOICE |
| _____ | _____ | IS CLAIM IN LITIGATION? IF SO, BY WHOM? |

PLEASE STATE ADDITIONAL COMMENTS:

UCJF-REIMB./91 p.2

APPENDIX B
ITEM 1

UNSATISFIED CLAIM AND JUDGMENT FUND

INSTRUCTION SHEET

UCJF FILE NUMBER: _____

_____ Enter appearance for _____

_____ OBTAIN PROOF OF SERVICE ON ALL NAMED DEFENDANTS.

_____ Proceed with immediate discovery. Serve SPECIAL UCJF ELIGIBILITY INTERROGATORIES.

_____ Schedule depositions and/or
IME if indicated.

_____ Obtain conformed copy of
cancellation notice.

_____ Move to dismiss improper defendants:

_____ Commissioner of Insurance
_____ Director of Motor Vehicles
_____ UCJF

_____ PIP not payable: _____ LATE NOTICE
_____ OUT OF STATE VEHICLE
_____ COMMERCIAL VEHICLE
_____ OTHER

_____ Claimant ineligible, not a resident of New Jersey.

_____ Determine if carrier notified Taxi Commission of cancellation of policy

_____ NOTICE OF INTENTION not sufficiently complete to qualify as a timely filing.

_____ File CIB. _____ Obtain Police Report _____ Obtain Medical Reports

_____ Obtain signed statement of uninsured.

_____ Obtain settlement agreement. _____ Contract witness(es)

_____ Contact claimant's employer for possible health insurance coverage and Temporary Disability Benefits.

_____ Rule out vehicle ownership in household.

_____ Obtain the names, dates of birth and driver's license numbers of all household residents.

_____ Other: _____

APPENDIX B

ITEM 2

THIS FORM IS A FORMAT AND NOT TO BE USED
IN SUBMITTING REPORTS TO THE FUND

60 DAY REPORT

UCJ # _____

DATE _____

CLAIMANT: SS# _____ AGE _____

CLAIMANT'S ATTORNEY:

ELIGIBILITY OF CLAIMANT:

UNINSURED:

ASSIGNED ATTORNEY:

ASSIGNED ATTORNEY'S ACTIVITY:

DATE OF ACCIDENT: _____ PLACE OF ACCIDENT: _____

ACCIDENT DESCRIPTION:

LIABILITY:

WITNESSES:

POLICE INVOLVEMENT:

INJURIES:

EXPENSES:

ADJUSTER'S RECOMMENDATION:

WORK TO BE DONE:

COMPANY/CARRIER _____

ADJUSTER _____

CLAIM # _____

PHONE # _____

**APPENDIX B
ITEM 3**

**THIS FORM IS A FORMAT AND NOT TO BE USED
IN SUBMITTING REPORTS TO THE FUND**

6 MONTH SUMMARY REPORT

UCJ # _____ DATE _____

SS# _____ AGE _____

CLAIMANT(S):

CLAIMANT(S) ATTORNEY:

UNINSURED:

ATTORNEY ASSIGNED:

COMPANY ASSIGNED: _____ CLAIM # _____
D/A: _____ TIME: _____ PLACE OF ACCIDENT: _____

SUIT: _____ COURT: _____ COUNTY: _____

ELIGIBILITY OF CLAIMANT(S):

DESCRIPTION OF ACCIDENT:

LIABILITY:

WITNESSES DESCRIPTION:

POLICE DESCRIPTION:

DESCRIPTION OF INJURIES:

UP TO DATE LIST OF MEDICAL EXPENSES:

CARRIER'S RECOMMENDATION:

ASSIGNED ATTORNEY'S RECOMMENDATION:

WORK TO BE DONE:

ADJUSTER _____

PHONE # _____

New Rule, R.1994 d.597, effective December 5, 1994.
See: 26 N.J.R. 2190(a), 26 N.J.R. 4772(a).

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

11:3-29.1 Purpose and Scope

(a) This subchapter implements the provisions of N.J.S.A. 39:6A-4.6 to establish medical fee schedules on a regional

basis for the reimbursement of health care providers providing services or equipment for medical expenses benefits for which payment is required to be made by automobile insurers under PIP coverage and by motor bus insurers under medical expense benefits coverage.

(b) This subchapter applies to all insurers who issue policies of automobile insurance containing PIP coverage and policies of motor bus insurance containing medical expense benefits coverage.

(c) These fee schedules do not apply to the following:

1. Other coverages contained in an automobile or motor bus insurance policy such as coverage for bodily injury liability;
2. Any other kind of insurance including health insurance, even when the health insurer may be required pursuant to its health insurance contract to pay benefits to, or on behalf of, a person who sustained bodily injury as a result of an accident while occupying, entering into, alighting from or using an automobile or motor bus, or as a pedestrian, caused by an automobile or motor bus or an object propelled by or from an automobile or motor bus; and
3. Medical services or equipment provided outside of the geographic boundaries of New Jersey except as set forth in N.J.A.C. 11:3-29.4(d)2.

Amended by R.1993 d.25, effective January 4, 1993.
See: 24 N.J.R. 3605(a), 25 N.J.R. 140(a).
Added motor bus insurers under medical expense benefits coverage.

11:3-29.2 Definitions

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

“Basic Life Support” (“BLS”) means volunteer ambulance services, whose personnel are not required to be Emergency Medical Technicians, and municipal and proprietary ambulance services whose personnel are required to be Emergency Medical Technicians.

“CPT-4” means Physicians Current Procedural Terminology, 4th Edition, coding system and the description of medical service provided.

“Eligible charge” means the provider’s usual, customary and reasonable charge or the upper limit on the fee schedule, whichever is lower.

“Global charge” means the sum of the technical and professional components.

“HCPCS” means the Federal Health Care Financing Administration’s (HCFA’s) Common Procedure Code System.

“Health insurance” means a contract or agreement whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the bodily injury, disablement, sickness, death by accident or accidental means of a human being, or because of any expense relating thereto, or because of any expense incurred in prevention of sickness, and includes every risk pertaining to any of the enumerated risks. As used in this subchapter, health insurance includes workers’ compensation coverage but does not include any PIP coverage.

“Health insurer” includes any insurer issuing a policy of health insurance as defined in this subchapter.

“Motor bus” means motor bus as defined in N.J.S.A. 17:28-1.5.

“Motor bus insurer” includes any insurer issuing a policy of insurance on a motor bus the owner, registered owner, or operator of which is required to maintain medical expense benefits coverage pursuant to N.J.S.A. 17:28-1.6.

“PIP coverage” means personal injury protection coverage described in N.J.S.A. 39:6A-4a and N.J.S.A. 39:6A-10 as amended.

“PIP insurer” includes any insurer issuing a policy of automobile insurance on any vehicle that contains PIP coverage.

“Provider” includes all persons who furnish services or equipment for medical expense benefits for which payment is required to be made under PIP coverage in automobile insurance policies or medical expense benefits coverage pursuant to N.J.S.A. 17:28-1.6 including, but not limited to, medical doctors, osteopathic physicians, medical laboratories, chiropractors, physical therapists, dentists, nurses, home health aides, home health agencies, live-in attendants, speech therapists, occupational therapists, ambulance service providers, medical equipment suppliers, acute care hospitals, trauma centers, rehabilitation facilities, other specialized hospitals, residential alcohol treatment facilities and nursing homes.

Amended by R.1992 d.170, effective April 6, 1992.

See: 23 N.J.R. 3203(a), 24 N.J.R. 1347(a).

Definition for eligible charge added.

Amended by R.1993 d.25, effective January 4, 1993.

See: 24 N.J.R. 3605(a), 25 N.J.R. 140(a).

Definitions for motor bus, motor bus insurer added.

Amended by R.1993 d.395, effective August 2, 1993.

See: 25 N.J.R. 229(b), 25 N.J.R. 3466(b).

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).

11:3-29.3 Regions

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

(b) Region II, as used in this subchapter, consists of the following counties in New Jersey: Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset, Sussex and Warren.

(c) Region III, as used in this subchapter, consists of the following counties in New Jersey: Bergen, Essex, Hudson, Morris, Passaic and Union.

11:3-29.4 Application of Medical Fee Schedules

(a) Every policy of automobile insurance and motor bus insurance issued in this State shall provide that the automobile insurer’s limit of liability for medically necessary expenses payable under PIP coverage, and the motor bus insurer’s limit of liability for medically necessary expenses payable under medical expense benefits coverage, is the fee set forth in this subchapter. Nothing in this subchapter shall, however, compel the PIP insurer or a motor bus insurer to pay more for any service or equipment than the provider’s usual, customary and reasonable fee, even if such fee is well below the automobile insurer’s or motor bus insurer’s limit of liability as set forth in the fee schedules. N.J.A.C. 11:3-29.6 shall not apply to inpatient services provided by acute care hospitals, trauma centers, rehabilitation facilities, other specialized hospitals, residential alcohol treatment facilities and nursing homes, reimbursement of which shall be limited to the provider’s usual, customary and reasonable fees. Insurers will not be required to pay for services or equipment which are not medically necessary.

(b) The region used to determine the proper fee set forth in the schedules shall be determined by the region in which the services were rendered or the equipment was provided or, in the case of elective services or equipment provided to New Jersey residents outside the State, by the region in which the insured resides.

(c) The fees set forth in the schedule for durable medical equipment are retail prices which may include purchase prices for both new and used equipment, and/or monthly rentals.

1. The insurer’s limit of liability for monthly rental of durable medical equipment described in the schedule is 10 percent of the amount of the purchase price.

2. The insurer’s total limit of liability for the rental of a single item of durable medical equipment set forth in the schedule is 15 times the monthly rental fee.

(d) The insurer’s limit of liability for any medical expense benefit for service or equipment provided outside the State of New Jersey shall be as follows:

1. When the service or equipment is provided by reason of emergency or medical necessity, the reasonable and necessary costs shall not exceed fees that are usual, customary and reasonable for that provider in the geographic location where the service or equipment is provided.