

9. Audit the records of any insurer relating to the subject matter of PAIP and establish such policies, records, books of account, documents and related material which shall be maintained for the proper administration of PAIP;

10. Indemnify each member of the governing committee and PAIP employees for any and all claims, suits, costs of investigations, cost of defense, and settlements or judgments against them on account of an act or omission in the scope of the member's duties or employee's employment. The PAIP shall refuse to indemnify if it is determined that the act or failure to act was due to actual fraud, willful misconduct or actual malice;

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

i. The Commissioner may serve as an ex-officio, non-voting member of any committee established pursuant to this section. The Commissioner may designate an alternate; and

12. Perform such other functions as may be necessary and proper to administer PAIP in accordance with this subchapter and the approved plan of operation.

Amended by R.1993 d.548, effective November 15, 1993.  
See: 25 N.J.R. 2212(a), 25 N.J.R. 5215(a).

### 11:3-2.6 Plan of operation

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

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

2. Standards and procedures for:

i. The appointment, compensation, and termination of producers, the PAIP manager, and other employees, professionals and contractors required to administer the PAIP;

ii. The appointment, compensation, and termination by insurers of LAD carriers (consistent with any requirements established by regulation by the Commissioner);

3. Performance standards for insurers, producers, LAD carriers, the PAIP manager, and other employees, professionals and contractors required to administer the PAIP;

4. A producer certification program, which may not exclude producers with no affiliation with a voluntary market insurer;

5. The extent of coverage to be offered by PAIP to qualified applicants;

6. Procedures to apply for coverage;

7. Commissions to be paid producers;

8. Procedures for cancellation or the nonrenewal of policies;

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

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

11. Such other provisions as are deemed necessary by the governing committee for the operation of the PAIP.

(b) The governing committee shall, by May 1, 1992, submit to the Commissioner, for his or her review and approval, a proposed plan of operation. The governing committee may propose an amendment to the plan of operation at any time.

(c) The proposed plan and any amendments shall be submitted to the Commissioner for his or her review and approval. If approved, the Commissioner shall certify approval to the governing committee.

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

2. If the governing committee does not submit a plan of operation by May 1, 1992, or a new plan which is acceptable to the Commissioner within 30 days after the disapproval of a proposed plan, the Commissioner may promulgate a plan of operation and certify same to the governing committee.

3. The Commissioner may review the plan of operation at any time and may propose amendments to the governing committee. If the governing committee does not adopt amendments acceptable to the Commissioner within 30 days, the Commissioner may certify amendments and their effective date to the governing committee. For good cause shown, the Commissioner may certify proposed amendments two days after copies of the proposal are provided to the governing committee.

Amended by R.1993 d.548, effective November 15, 1993.  
See: 25 N.J.R. 2212(a), 25 N.J.R. 5215(a).

### 11:3-2.7 Coverage

(a) PAIP shall provide to qualified applicants bodily injury liability, property damage liability, personal injury protection, uninsured/underinsured motorists and physical damage

coverages at the minimum levels required by law, including all options related thereto.

(b) PAIP shall provide a variety of increased limits for the above coverages up to the following:

1. \$250,000 per person/\$500,000 per accident for bodily injury liability coverage, and \$100,000 for property damage liability coverage, or a combined single limit of \$500,000 for bodily injury liability and property damage liability coverage;

2. \$250,000 per person/\$500,000 per accident for uninsured/underinsured motorists bodily injury liability coverage and \$100,000 for uninsured/underinsured motorists property damage liability coverage, or a combined single limit of \$500,000 for uninsured/underinsured bodily injury liability and property damage liability coverages.

(c) The PAIP shall provide additional personal injury protection coverages as set forth in N.J.S.A. 39:6A-10.

(d) The PAIP shall provide physical damage coverages with no less than the minimum deductibles required pursuant to N.J.S.A. 17:29A-39. PAIP shall offer higher deductibles as provided by N.J.A.C. 11:3-13.3.

1. All physical damage coverages shall be on an "actual cash value" basis, less deductible, subject to a maximum loss payable of \$30,000, or such amount at which physical damage coverage may be placed in the surplus lines market as set forth on the exportable list promulgated by the Commissioner pursuant to N.J.S.A. 17:22-6.43.

2. For purposes of this section, "actual cash value" means the replacement cost of the automobile, less physical depreciation.

### 11:3-2.8 Eligibility

(a) The PAIP shall not provide coverage to an eligible person as defined in N.J.S.A. 17:33B-13 and N.J.A.C. 11:3-34.

(b) PAIP shall provide coverage to all qualified applicants. For purposes of this subchapter, a "qualified applicant" means:

1. A person who is not an "eligible person" as defined in N.J.A.C. 11:3-34.2; and

2. A person domiciled in New Jersey, who is an owner of an automobile registered and principally garaged in this State or will be registered and principally garaged in this State within 60 days.

(c) "Qualified applicant" shall also include military personnel with respect to an automobile if, at the time application is made, the applicant is a nonresident who is stationed in this State, whose automobile is registered in another State and garaged in this State.

(d) No person shall, however, be deemed a qualified applicant, if the principal operator of the automobile to be insured does not hold a driver's license which is valid in this State; or if a regular operator of the automobile other than the principal operator does not hold such a license; or if timely payment of premium is not tendered; or if the principal operator of the automobile does not furnish the information necessary to effect insurance; or if such person rents or leases automobiles to others which are used for commercial purposes.

(e) As a prerequisite to consideration for assignment under the PAIP, the applicant must certify, in the prescribed application form approved by the Commissioner, that he or she has attempted, within 60 days prior to the date of application, to obtain automobile insurance in the State and that he or she is a qualified applicant as set forth in (b), (c) and (d) above. An applicant so certifying shall be considered for assignment upon making application in good faith to the PAIP. An application shall be considered in good faith if he or she reports all information of a material nature and does not willfully make incorrect or misleading statements in the prescribed application form approved by the Commissioner.

(f) The governing committee shall establish procedures in the plan of operation with respect to documentation to be provided by the applicant and producer showing the reasons for termination of previous insurance coverage, including, but not limited to:

1. Previous insurance company name and policy number;
2. Reasons for termination and effective date of termination;
3. Claim history for the preceding three years;
4. Driving history for each operator; and
5. Copies of vehicle registration(s).

(g) The governing committee shall establish procedures for the cancellation or nonrenewal of policies to persons who are not or are no longer qualified applicants.

Emergency Rule, R.1993 d.135, effective March 1, 1993, operative March 8, 1993 (expires April 30, 1993).  
See: 25 N.J.R. 1290(a).  
Adopted Concurrent Proposal, R.1993 d.238, effective April 30, 1993.  
See: 25 N.J.R. 1290(a), 25 N.J.R. 2479(a).  
Amended by R.1996 d.58, effective February 5, 1996.  
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

### 11:3-2.9 Rates and policy forms

(a) The governing committee shall file for prior approval by the Commissioner, a rating system including rates, rules and forms which shall be used by insurers writing risks through the PAIP. Proceedings to review rate filings shall be conducted pursuant to N.J.S.A. 17:29A-1 et seq. All rates shall reflect the experience of the risks insured by the PAIP and shall not be excessive, inadequate or unfairly discriminatory.