

CHAPTER 3
AUTOMOBILE INSURANCE

Authority

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

Source and Effective Date

R.2001 d.44, effective January 4, 2001.
See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

Executive Order No. 66(1978) Expiration Date

Chapter 3, Automobile Insurance, expires on January 4, 2006.

Chapter Historical Note

Chapter 3, New Jersey Automobile Insurance Plan, was adopted as R.1972 d.20, effective January 31, 1972. See: 3 N.J.R. 223(d), 4 N.J.R. 49(d).

Subchapter 7, Automobile Repairment Reform Act, was adopted as R.1972 d.244, effective December 4, 1972. See: 4 N.J.R. 270(a), 5 N.J.R. 13(c).

Subchapter 10, Auto Physical Damage Claims, was adopted as R.1976 d.46 and R.1976 d.47, effective May 1, 1976. See: 8 N.J.R. 38(b), 8 N.J.R. 136(b).

Pursuant to Executive Order No. 66(1978), Subchapter 8, Nonrenewal of Automobile Insurance Policies, was readopted as R.1983 d.190, effective June 6, 1983. 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, was adopted as R.1983 d.424, effective October 3, 1983. 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, was adopted as R.1983 d.467, effective October 17, 1983. See: 15 N.J.R. 1342(a), 15 N.J.R. 1769(b).

Pursuant to Executive Order No. 66(1978), Subchapter 6, Insurance Identification Card, was readopted as R.1983 d.648, effective December 29, 1983. See: 15 N.J.R. 1919(a), 16 N.J.R. 145(c).

Public Notice: Automobile Insurance Written Notice/Buyer's Guide Coverage Selection Form. See: 16 N.J.R. 254(d).

Subchapter 15, Standards for Written Notice: Buyer's Guide and Coverage Selection Form, was adopted as R.1984 d.114, effective April 2, 1984. See: 15 N.J.R. 2142(a), 16 N.J.R. 733(a).

Subchapter 14, Personal Injury Protection Options, was adopted as R.1984 d.116, effective April 2, 1984. See: 15 N.J.R. 2139(a), 16 N.J.R. 730(b).

The Executive Order No. 66(1978) expiration date of Subchapter 7, Automobile Repairment Reform Act, was extended by gubernatorial directive from August 17, 1984 to November 15, 1984, and was further extended by gubernatorial directive from November 15, 1984 to February 13, 1985. See: 17 N.J.R. 43(a).

Pursuant to Executive Order No. 66(1978), Subchapter 7, Automobile Repairment Reform Act, was readopted as R.1985 d., effective February 13, 1985. See: 17 N.J.R. 43(a), 17 N.J.R. 707(b).

Subchapter 17, Rating Organizations, was adopted as R.1985 d.609, effective October 6, 1985. See: 16 N.J.R. 2936(a), 17 N.J.R. 2905(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Automobile Insurance, was readopted as R.1985 d.654, effective January 6, 1986, operative May 6, 1986. See: 16 N.J.R. 3286(a), 17 N.J.R. 89(b).

Subchapter 20, Reporting Financial Disclosure and Excess Profit Reports, was adopted as R.1986 d.111, effective April 7, 1986. See: 17 N.J.R. 2597(a), 18 N.J.R. 692(a).

Subchapter 17, Rating Organizations, was repealed and Subchapter 17, Rating Organizations, was adopted as new rules by R.1986 d.419, effective October 6, 1986. 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, was adopted as R.1986 d.463, effective November 17, 1986. See: 18 N.J.R. 1344(b), 18 N.J.R. 2329(a).

Subchapter 23, Dangerous Drivers or Drivers with Excessive Claims, was adopted as R.1987 d.527, effective December 21, 1987. 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).

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 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 Subchapter 20, Reporting Financial Disclosure and Excess Profit Reports, was adopted as new rules 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 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 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 R.1989 d.584, effective November 20, 1989. See: 21 N.J.R. 2876(a), 21 N.J.R. 3666(b).

Subchapter 31, Examination of the Financial Experience of Private Passenger Automobile Insurers, was adopted as 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 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 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 Subchapter 1, Commercial Automobile Insurance Plan, was adopted as new rules 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 R.1990 d.161, effective March 19, 1990. See: 21 N.J.R. 3719(a), 22 N.J.R. 963(a).

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, to expire January 25, 1991. See: 22 N.J.R. 3847(a). The provisions of R.1990 d.620 were 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 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, to expire January 25, 1991. See: 22 N.J.R. 3861(a). The provisions of R.1990 d.622 were 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 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, to expire January 25, 1991. See: 22 N.J.R. 3874(a). The provisions of R.1990 d.623 were 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 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, to expire January 25, 1991. See: 22 N.J.R. 3809(a). The provisions of R.1990 d.624 were readopted as R.1991 d.96, effective January 25, 1991, with changes effective February 19, 1991. See: 22 N.J.R. 3809(a), 23 N.J.R. 536(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, to expire January 25, 1991. See: 22 N.J.R. 3777(a). The provisions of R.1990 d.625 were 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 35, Private Passenger Automobile Insurance Underwriting Rules, was adopted as emergency new rules by R.1990 d.627, effective November 26, 1990, to expire January 25, 1991. See: 22 N.J.R. 3856(a). The provisions of R.1990 d.627 were 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 19, Standard/Non-Standard Rating Plans, was adopted as emergency new rules by R.1990 d.628, effective November 26, 1990, to expire January 25, 1991. See: 22 N.J.R. 3804(a). The provisions of R.1990 d.628 were 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).

Pursuant to Executive Order No. 66(1978), Chapter 3, Automobile Insurance, was readopted as R.1991 d.45, effective January 4, 1991, and Subchapters 2 through 5, concerning the Automobile Insurance Plan (AIP), were repealed by R.1991 d.45, effective February 4, 1991. See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

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 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).

Subchapter 33, Appeals from Denial of Automobile Insurance, was adopted as 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 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, to expire November 3, 1992. See: 24 N.J.R. 3421(a). The provisions of R.1992 d.381 were 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).

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, to expire April 30, 1993. See: 25 N.J.R. 1290(a). The provisions of R.1993 d.135 were readopted as R.1993 d.238, effective April 30, 1993. See: 25 N.J.R. 1290(a), 25 N.J.R. 2479(a).

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, to expire April 30, 1994. See: 26 N.J.R. 1393(a). The provisions of R.1994 d.164 were 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 R.1994 d.477, effective September 19, 1994. See: 26 N.J.R. 1939(a), 26 N.J.R. 3866(a).

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 R.1995 d.235, effective May 1, 1995. See: 27 N.J.R. 289(a), 27 N.J.R. 1803(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Automobile Insurance, was readopted as R.1996 d.58, effective January 4, 1996, and 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 by R.1996 d.58, effective February 5, 1996. See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

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

Subchapter 25, Private Passenger Automobile Insurance: Notification by Treating Health Care Providers, was adopted as new rules by R.1997 d.14, effective January 6, 1997. See: 28 N.J.R. 3876(a), 29 N.J.R. 132(a).

Subchapter 24, Defensive Driving Rate Reductions, was adopted as new rules by R.1997 d.522, effective December 15, 1997. See: 28 N.J.R. 4854(a), 29 N.J.R. 5305(a).

Subchapter 28A, Unsatisfied Claim and Judgment Fund Assessments, was adopted as R.1997 d.535, effective December 15, 1997. See: 29 N.J.R. 4246(a), 29 N.J.R. 5309(a).

Subchapter 19A, Tier Rating Plans and Underwriting Rules, was adopted as R.1998 d.129, effective March 2, 1998. See: 29 N.J.R. 5253(a), 30 N.J.R. 839(a).

Subchapter 46, Automobile Insurance Urban Enterprise Zone Program, was adopted as R.1998 d.290, effective June 1, 1998. See: 30 N.J.R. 773(a), 30 N.J.R. 2010(a).

Subchapter 3, Basic Automobile Insurance Policy, was adopted as new rules by R.1998 d.592, effective December 21, 1998, operative March 22, 1999. See: 30 N.J.R. 3209(a), 30 N.J.R. 4398(a).

Subchapter 5, Personal Injury Protection Dispute Resolution, was adopted as new rules by R.1998 d.593, effective December 21, 1998. See: 30 N.J.R. 3359(a), 30 N.J.R. 4437(a).

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Subchapter 4, Personal Injury Protection Benefits; Medical Protocols; Diagnostic Tests, was adopted as new rules by R.1998 d.597, effective December 21, 1998, operative March 22, 1999. See: 30 N.J.R. 3211(a), 30 N.J.R. 3748(a), 30 N.J.R. 4401(a).

Subchapter 38, Towing and Storage Fee Schedule, was repealed by R.1999 d.1, effective January 4, 1999. See: 30 N.J.R. 2813(a), 31 N.J.R. 54(c).

Pursuant to Executive Order No. 66(1978), Chapter 3, Automobile Insurance, was readopted as R.2001 d.44, effective January 4, 2001, and Subchapter 2B, Market Transition Facility of New Jersey Payment Prioritization and Claims Payment Deferral, Subchapter 16A, Flex Rate Percentage Calculations for Private Passenger Automobile Insurance, Subchapter 19, Standard/Nonstandard Rating Plans, and Subchapter 42, Producer Assignment Program, were repealed by R.2001 d.44, effective February 5, 2001. See: Source and Effective Date. See, also, section annotations.

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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 Banking and 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.

"Personal injury protection" means those benefits as set forth at N.J.S.A. 39:6A-4.

"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).

Amended by R.1998 d.591, effective December 21, 1998 (operative March 22, 1999).

See: 30 N.J.R. 3202(a), 30 N.J.R. 4390(b).

Inserted "Personal injury protection".

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;
2. To assume the rights and obligations of the Commercial Automobile Insurance Plan on behalf of the member insurers;
3. To develop and submit for approval by the Commissioner.
 - i. A plan of operation; and
 - ii. A rating system, including rates, rules and forms;

4. To appoint, conditionally appoint or terminate:

- i. A CAIP manager subject to approval by the Commissioner, which shall be located in this State;
- ii. At least two servicing carriers; and
- iii. Other employees, professionals, and contractors required to administer CAIP.

5. Enter into and/or negotiate contracts as are necessary or proper to carry out the provisions of this subchapter;

6. Sue or be sued in the name of the CAIP, including taking any legal actions measuring or proper for recovery of any assessments for, on behalf of or against members. A judgment against the CAIP shall not create any direct liability against the governing committee or its individual members, or the individual participating members of the CAIP.

7. To budget expenses, levy assessments, and disburse funds;

8. To investigate complaints and hear appeals from applicants, insureds, producers, servicing carriers or participants about any matter pertaining to the proper administration of the CAIP;

9. To arrange for an independent audit of CAIP each year which shall include all servicing carriers;

10. To furnish all participants with:

- i. An annual written operations report;
- ii. The approved annual budget upon request;
- iii. A copy of the annual audit upon request;
- iv. A copy of the plan of operation, and all amendments;
- v. A copy of all rates, rules and manuals upon request; and
- vi. A copy of the minutes from all meetings upon request;

11. To audit the records of any participant relating to the subject matter of CAIP and establish such policies, records, books of account, documents and related material which shall be maintained for the proper administration of CAIP;

12. To perform such other functions as may be necessary and proper to administer CAIP in accordance with this subchapter and the approved plan of operation;

13. To indemnify on behalf of the member insurers each member of the governing committee, and employees for any and all claims, suits, costs of investigations, costs of defense, settlements or judgments against them on account of an act or omission in the scope of the member's duties or employee's employment. CAIP shall refuse to indemnify if it determines that the act or failure to

act was due to actual fraud, willful misconduct or actual malice.

14. 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 CAIP, policy and other contract design, and any other function within the authority of the CAIP;

i. The Commissioner or his or her designee may serve as an ex-officio, non-voting member of any committee (except the appeals subcommittee) established pursuant to this section.

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

Case Notes

Governing committee of Commercial Automobile Insurance Plan (CAIP) could not decide servicing carrier's claim for exception to limitations period on corrections and adjustments to premium data for apportioning profits and losses of CAIP; six of 11 members of governing committee had per se conflict of interest, as they were employees of other plan participants, and granting carrier requested relief would have resulted in their employers bearing brunt of two million dollar reallocation. Matter of Appeal by Progressive Cas. Ins. Co., 704 A.2d 562, 307 N.J.Super. 93 (A.D.1997).

Commissioner lacked authority to create Appeals Subcommittee composed of industry employees to hear premium disputes under policies issued pursuant to Commercial Automobile Insurance Plan. Chopper Exp., Inc. v. Department of Ins. of State of N.J., 293 N.J.Super. 536, 681 A.2d 1226 (A.D.1996).

11:3-1.5 Participation

(a) At the end of each fiscal period, CAIP's operating profit or loss shall be determined separately for each policy year. Profit shall be credited or distributed to each participant and loss shall be charged against each participant in proportion to each participant's "net participation percentage" for the second prior year which resulted in the profit or loss.

(b) All data necessary to comply with the foregoing participation procedures shall be reported to the CAIP's central statistical agent in the manner described in the approved statistical plan.

(c) Groups of participants under the same ownership and management shall be treated as a single participant. **Groups of participants** under either the same ownership or management, but not both, may elect to be treated either separately or as a single company.

(d) In the event a participant discontinues writing motor vehicle liability or physical damage insurance in this State and retains its certificate of authority to write such business, it shall continue to pay assessments, provided, however, that if the automobile liability or physical damage business of a participant discontinuing the writing of automobile liability or physical damage insurance in this State has been purchased by, transferred to, or reinsured by another company, the latter shall receive the assessments of the former.

(e) In the event a participant is merged with another company or there is a consolidation of companies, the continuing company shall receive the assessments of the company merged or consolidated, provided, however, the continuing company may be relieved from such obligations if another company has agreed, in a manner satisfactory to the governing committee, to assume such obligations.

(f) Participation shall be suspended upon order of the Commissioner of Banking and Insurance if he or she finds that such action is required by the financial condition of that participant.

(g) All participants in CAIP shall participate in the business written by the Commercial Automobile Insurance Plan pursuant to an approved 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).
Amended by R.2001 d.44, effective February 5, 2001.
See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

11:3-1.6 Plan of operation

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

1. The internal organization and proceedings of the governing committee;
2. Standards and procedures for the appointment, compensation, and termination of and performance standards for servicing carriers, the CAIP manager, other employees, professionals and contractors required to administer CAIP along with a producers certification program;
3. The extent of coverage to be offered by CAIP to eligible applicants;
4. Procedures to apply for coverage;
5. Premium rules, surcharges and minimum premiums;
6. Procedures for handling premium charge-offs;
7. Procedures for the performance of preliminary premium audits on certain risks identified by the governing committee and approved by the Commissioner;
8. Procedures for a servicing carrier performance audit program;
9. Establishment of a Producer Compliance Unit which shall report directly to the CAIP manager;
10. The amount of commissions to be paid producers;
11. Provisions for the cancellation or the nonrenewal of policies;
12. Methods and means for the collection, investment and disbursement of funds;

13. 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;

14. A voluntary depopulation credit program which shall be used in calculating a participant's net participation for the CAIP;

15. Procedures for the provision of coverage to good faith applicants where a producer has violated plan rules; and

16. Development of a basic servicing carrier contract and procedures for making modifications to that contract.

(b) For the purpose of conformance with the amendments to this chapter effective October 21, 1996, the governing committee shall, by January 19, 1997, submit to the Commissioner, for his or her review and approval, proposed revision to the plan of operation. The governing committee may propose amendments to the plan of operation at any time.

(c) The proposed plan and any amendments shall be reviewed by the Commissioner and approved by him or her if he or she finds it fulfills the purposes provided by this subchapter. If approved, the Commissioner shall certify approval to the governing committee and the plan of operation or amendments shall take effect 10 days after such certification.

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 90 days from the effective date of these amendments or a new plan which is acceptable to the Commissioner within 90 days after the disapproval of a proposed plan, the Commissioner may promulgate a plan of operation and certify same to the governing committee.

3. Any such plan approved by the Commissioner shall take effect 10 days after the certification to the governing committee; provided, however, that until a plan of operation is in effect pursuant to the provisions of this subchapter, the existing Commercial Automobile Insurance Plan temporary placement facility shall be continued in effect. Each participant shall continue to comply with the Commercial Automobile Insurance Plan with respect to all business written under the procedure prior to the effective date of the CAIP plan of operation.

(d) The Commissioner may propose an amendment to the plan of operation by communicating the proposed amendment to the governing committee. If the governing committee does not adopt amendments acceptable to the

Commissioner within 30 days, the Commissioner may certify amendments with an effective date to the governing committee. For good cause shown, the Commissioner may certify proposed amendments two days after copies of the proposed amendments are provided to the governing committee.

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

Case Notes

Former New Jersey assigned risk scheme in automobile liability coverage mentioned in discussion of methods available to a state to deal with the social consequences of adverse risk selection. *Owens v. Aetna Life & Casualty Co.*, 654 F.2d 218 (3rd Cir.1981), certiorari denied 102 S.Ct. 657, 454 U.S. 1092, 70 L.Ed.2d 631 (1981).

Broker who mailed application for automobile insurance after expiration of prior policy was not de facto agent of servicing insurer under assigned risk plan and lacked authority to bind servicing insurer. *Rodriguez v. Hudson County Collision Co.*, 296 N.J.Super. 213, 686 A.2d 776 (A.D.1997).

11:3-1.7 Coverage

(a) CAIP shall provide to eligible applicants, bodily injury liability and property damage liability coverages as follows:

1. CAIP shall provide basic combined single limit of \$35,000 and statutory uninsured motorist coverage except:

i. When limits in excess of the basic combined single limit of \$35,000 are required by law, the plan shall offer limits adequate to comply with the minimum requirements of that law, except with respect to limits over \$5 million in which case excess coverage is conditioned upon the plan being able to secure facultative reinsurance. CAIP shall provide a policy for limits less than the minimum requirements of the law when evidence of adequate excess insurance is provided by the producer or the insured.

ii. CAIP shall provide limits adequate to comply with the provisions of the financial responsibility law of any state in which the motor vehicle will be operated, but only while the vehicle is being operated in that state.

iii. CAIP shall also offer the optional limits of liability as specified in the plan of operation.

(b) CAIP shall offer to eligible applicants, additional uninsured or underinsured motorist coverage as follows:

1. Additional uninsured and underinsured motorist coverage shall be provided as an option to the named insured up to the limits set forth in N.J.S.A. 17:28-1.1b and subject to the deductibles specified in the plan of operation. The limits for uninsured and underinsured motorist coverage shall not exceed the insured's motor vehicle liability policy limits for bodily injury and property damage respectively.

2. Uninsured and underinsured motorist coverage shall not be increased by stacking the limits of coverage of multiple motor vehicles covered under the same policy of

insurance nor shall these coverages be increased by stacking the limits of coverage of multiple policies available to the insured. If the insured had uninsured motorist coverage available under more than one policy, any recovery shall not exceed the higher of the applicable limits of the respective coverages and the recovery shall be prorated between the applicable coverages as the limits of each coverage bear to the total of the limits.

3. Uninsured motorist coverage shall be subject to the policy terms, conditions and exclusions approved by the Commissioner, including, but not limited to, unauthorized settlements, nonduplication of coverage, subrogation and arbitration.

(c) CAIP shall provide to eligible applicants, standard and additional personal injury protection coverage as follows:

1. With respect to those automobiles subject to the New Jersey Automobile Reparation Reform Act, N.J.S.A. 39:6A-1 et seq., CAIP shall provide personal injury protection coverage under every automobile liability policy as required by the Act and shall also offer to the named insured Additional Personal Injury Protection as required by the Act and by regulations promulgated by the Commissioner thereunder.

(d) CAIP shall provide to eligible applicants, physical damage coverage as follows:

1. CAIP shall only offer physical damage coverage to:
 - i. Private passenger vehicles;
 - ii. Private passenger type vehicles;
 - iii. Light trucks;
 - iv. Motorcycles;
 - v. Recreational trailers (excluding trailers used as residences); and
 - vi. Social services vehicles of the private passenger, station wagon, van or minibus type owned by or operated on behalf of a non-profit entity used to transport persons without charge.

2. Notwithstanding (d)1 above, CAIP shall not offer physical damage coverage to:

- i. Risks consisting of fleets of 10 or more vehicles not including trailers and semi-trailers;
- ii. Vehicles more than 25 or more years old;
- iii. Vehicles with a seating capacity in excess of 20;
- iv. Any emergency type vehicle; and
- v. Any vehicle which is operated under a registration plate not issued for a specific vehicle.

3. Comprehensive and collision coverage shall be provided on an actual cash value basis, less deductible, subject to a maximum loss payable of such amount at which physical damage coverage may be exported in accordance with the exportable list promulgated by the Commissioner pursuant to N.J.S.A. 17:22-6.43. CAIP shall also offer optional higher deductibles as specified in the plan of operation.

4. Physical damage coverage shall be offered only in connection with a policy written by the plan affording bodily injury and property damage coverage.

5. Upon request, CAIP shall issue a loss payable clause for the benefit of a lienholder.

Amended by R.1996 d.502, effective October 21, 1996.

See: 27 N.J.R. 4489(a), 28 N.J.R. 4586(a).

Amended by R.1998 d.591, effective December 21, 1998 (operative March 22, 1999).

See: 30 N.J.R. 3202(a), 30 N.J.R. 4390(b).

In (c), substituted "standard" for "basic" following "applicants," in the introductory paragraph, and inserted N.J.S.A. reference and deleted "basic" following "provide" in 1.

Amended by R.2001 d.44, effective February 5, 2001.

See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

In (d)1vi, inserted "persons" preceding "without charge" and deleted "the elderly or handicapped".

11:3-1.8 Eligibility

(a) As a prerequisite for insurance from CAIP, a prospective insured must attempt, within 60 days prior to the date of application, to obtain automobile insurance in New Jersey, and be unable to obtain such insurance. The prospective insured must certify, in the application form prescribed by CAIP, that the applicant has attempted, but has been unable, to obtain automobile insurance in New Jersey through ordinary methods. An applicant so certifying shall be considered for assignment upon making application in good faith to the CAIP. 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 of a material nature in the prescribed application form approved by the Commissioner.

(b) For any risk consisting of 10 or more vehicles, the applicant must also provide:

1. A copy of the notice of cancellation or nonrenewal from the applicant's previous insurer, or an explanation concerning why the applicant was not insured; and

2. A certification that the applicant has been refused insurance within 60 days of the date of application from at least three named insurers licensed to transact automobile business in New Jersey. Such certification shall list the three insurers.

(c) No producer shall bind a risk for CAIP or submit an application for insurance to CAIP if such producer knows that the risk currently has or has been offered coverage from the voluntary market.

(d) An eligible applicant shall not be afforded coverage until it:

1. Submits an application as prescribed in the plan of operation;
2. Pays the premium, or portion thereof, required in the plan of operation;
3. Is accepted for coverage by CAIP as provided for in the plan of operation; and
4. Completes such other requirements as set forth in 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).

Case Notes

Broker who mailed application for automobile insurance after expiration of prior policy was not de facto agent of servicing insurer under assigned risk plan and lacked authority to bind servicing insurer. *Rodriguez v. Hudson County Collision Co.*, 296 N.J.Super. 213, 686 A.2d 776 (A.D.1997).

11:3-1.9 Rates and policy forms

(a) CAIP shall continue to use the rates, rules, surcharges, minimum premiums, classifications and policy forms approved for the Commercial Automobile Insurance Plan until modified or changed pursuant to this subchapter.

(b) The governing committee shall file all rates, rules, surcharges, minimum premiums, classifications and policy forms to be used by CAIP for the prior approval of the Commissioner. Proceedings to review these filings shall be conducted pursuant to N.J.S.A. 17:29A-1 et seq. All rates shall consider the experience of risks insured by the plan and shall not be excessive, inadequate or unfairly discriminatory.

(c) For any risk with less than 10 vehicles, the premium shall be subject to a merit rating plan established in the plan of operation. Every rate filing shall include an analysis of the adequacy of the merit rating plan.

(d) Any risk with 10 or more vehicles not including trailers and semi-trailers shall be considered as a fleet. CAIP shall file base rates for fleets with the Commissioner for his or her prior approval which are different than the rates for non-fleet risks if CAIP determines that the loss expectancy of fleet risks insured by CAIP is different than the loss expectancy of non-fleet risks insured by CAIP.

(e) Fleet risks shall be subject to an experience rating plan established in the plan of operation, which shall set forth the criteria for eligibility of the experience rating plan. If any fleet risk is determined to be ineligible for the experience rating plan, the risk shall be subject to a merit rating plan established in the plan of operation.

(f) Any risk with basic limits premium of \$100,000 or greater shall also be subject to a retrospective rating plan

established in the plan of operation. In the event CAIP finds that the premium from all retrospectively rated risks combined is inadequate, or excessive, CAIP shall file with the Commissioner for his or her prior approval a change in the retrospective rating formulas, including a percentage surcharge on all retrospectively rated risks if necessary, so that the total premium from retrospectively rated risks is adequate based on the combined experience of retrospectively rated risks insured by the plan.

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

11:3-1.10 Right to petition for appeal to the Commissioner

(a) An applicant, insured, producer, servicing carrier or participant may petition for appeal to the Commissioner from an adverse decision of the governing committee by filing a request in writing within 20 days of the date of receipt of the written decision of the governing committee.

1. The written request to appeal shall set forth the facts upon which it is based and include a copy of the written decision of the governing committee.

2. The Commissioner shall notify the petitioner and the governing committee within 30 days whether the request to appeal shall be granted.

3. Notice from the Commissioner that an appeal has been granted shall also provide a statement about whether the action of the governing committee has been stayed pending the disposition of the appeal.

(b) An appeal to the Commissioner granted pursuant to this rule shall be conducted in accordance with applicable provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

SUBCHAPTER 2. NEW JERSEY PERSONAL AUTOMOBILE INSURANCE PLAN

11:3-2.1 Purpose and scope

(a) This subchapter establishes a plan pursuant to N.J.S.A. 17:29D-1 for the providing and apportionment of personal private passenger automobile insurance coverage for automobiles which are owned or operated by qualified applicants.

(b) The purposes of this subchapter are:

1. To provide the coverages described herein, subject to the conditions stated;

2. To establish a procedure for the equitable distribution of risks assigned to insurance companies; and

3. To preserve to the public the benefits of price competition by encouraging maximum use of the voluntary private insurance system.

(c) The provisions of this subchapter shall apply to all insurers admitted to transact private passenger automobile insurance in this State and all qualified applicants for automobile insurance through the PAIP, except as otherwise provided in this subchapter.

11:3-2.2 Definitions

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

An "affiliate" of, or a person "affiliated" with, a specific person, means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

"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; a motor vehicle with a pickup body, a delivery sedan, a van, or a panel truck or camper type vehicle used for recreational purposes, owned by an individual or jointly by individuals who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching; and solely for the purpose of this plan, a motorcycle as defined in N.J.S.A. 39:1-1. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets this definition, shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

"Automobile insurance" means direct insurance against injury or damage, including the legal liability therefor, arising out of the ownership, operation, maintenance or use of automobiles, including, but not limited to, personal injury protection insurance, bodily injury liability insurance, property damage liability insurance, physical damage insurance, and uninsured and underinsured motorist insurance.

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

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

"Insurer" means any person or persons, corporation, association, partnership, company, or other legal entity authorized to transact the business of private passenger automobile insurance in this State, except any residual market mechanism created by or pursuant to statute.

"LAD carrier" means a limited assignment distribution carrier which is a participating insurer which agrees to accept the assignments of another insurer pursuant to this subchapter and procedures set forth in the plan of operation.

"PAIP" means the Personal Automobile Insurance Plan established pursuant to this subchapter.

"Personal private passenger automobile insurance" means a policy of automobile insurance principally used to provide primary insurance on private passenger automobiles which are owned individually, or jointly by individuals who are residents of the same household, and used for personal, family, or household needs.

Amended by R.1993 d.548, effective November 15, 1993.
See: 25 N.J.R. 2212(a), 25 N.J.R. 5215(a).
Amended by R.2001 d.44, effective February 5, 2001.
See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

11:3-2.3 Creation of the plan

(a) There is created in the State of New Jersey a plan for the administration and apportionment of personal private passenger automobile insurance for qualified applicants to be known as the New Jersey Personal Automobile Insurance Plan, hereafter referred to as "PAIP."

(b) The PAIP shall be administered by a governing committee pursuant to this subchapter and a plan of operation approved by the Commissioner.

(c) The administrative offices of the PAIP shall be located within the State of New Jersey.

11:3-2.4 Exemptions

(a) Every insurer shall participate in the PAIP to the extent required by this subchapter and the plan of operation.

(b) The requirements of this subchapter shall not apply to the following:

1. Insurers that have not issued or renewed policies of private passenger automobile insurance in New Jersey since December 31, 1983;

2. Insurers that have issued or renewed policies of private passenger automobile insurance in New Jersey since December 31, 1983, but only in accordance with a commercial lines rating system filed and approved pursuant to N.J.S.A. 17:29AA-1 et seq.

3. Insurers transacting private passenger automobile insurance business in New Jersey subject to a plan of orderly withdrawal approved in accordance with N.J.A.C. 11:2-29, but only to the extent that waiver of participation in the PAIP is explicitly provided by the terms of the approved plan of orderly withdrawal; or

4. Insurers transacting private passenger automobile insurance business in New Jersey subject to an order issued by the Commissioner in accordance with N.J.S.A. 17:33B-23 and 24, but only to the extent provided by the terms of the order.

(c) Insurers that currently insure, or have insured since December 31, 1983, only certain types of automobiles (for example, motor homes, recreational vehicles, antique automobiles or motorcycles) shall participate in the PAIP but only for the particular types of automobiles currently being insured.

(d) Insurers claiming to be excluded from participation pursuant to the provisions of (b) or (c) above shall comply with the following:

1. Such insurers shall file with the PAIP no later than 60 days from the effective date of this rule a certified statement containing the following information:

i. The insurer's name, including the NAIC group number;

ii. A statement that the insurer is not required to participate in the PAIP or receive assignments through the PAIP;

iii. The factual basis upon which the insurer relied to determine that it is not required to comply fully with this subchapter;

iv. The particular provision of this rule under which the insurer is included; and

v. A certification by an officer of the insurer that the statement is complete, correct and accurate to the best of the officer's information, knowledge and belief based upon the officer's personal review of all relevant records.

2. The certified statement shall be sent to the PAIP at the following address:

PAIP Exemptions
New Jersey Personal Automobile Insurance Plan
2000 Midlantic Drive
Laurel Corporate Center
Suite 450
Mt. Laurel, NJ 08054

3. A copy of the information filed pursuant to (c)1 and 2 above shall be filed with the Department at the following address:

ARM Unit
New Jersey Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, New Jersey 08625-0325

New Rule, R.1993 d.548, effective November 15, 1993.

See: 25 N.J.R. 2212(a), 25 N.J.R. 5215(a).
Amended by R.2001 d.44, effective February 5, 2001.
See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).

11:3-2.5 Governing committee

(a) The PAIP shall be administered by a governing committee of 14 members.

1. Eight members shall be salaried employees of an insurer which is a participant in PAIP.

2. Three members shall be licensed producers.

3. One member shall be a public representative who is knowledgeable about automobile insurance matters but who is not employed by, or otherwise affiliated with, insurers, insurance producers, or other entities of the insurance industry.

4. One member shall be a salaried employee of an approved LAD carrier for the PAIP, provided that neither the LAD carrier nor any affiliate of the LAD carrier otherwise serves as a member of the governing committee.

5. The Commissioner shall be an ex-officio, non-voting member of the committee. The Commissioner may designate an alternate.

(b) The following organizations shall each nominate two members to represent insurer participants of PAIP:

1. The Alliance of American Insurers;

2. The American Insurance Association; and

3. The National Association of Independent Insurers.

(c) Insurers which are not members of the organizations in (b) above shall nominate two members to represent insurer 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. The members of the initial governing committee appointed pursuant to this subchapter shall serve for two years or until a successor is appointed. Thereafter, all members 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) All meetings of the governing committee shall be conducted in accordance with this subchapter and the plan of operation.

(g) The governing committee shall have the power and duty to:

1. Develop and submit for approval to the Commissioner:
 - i. A plan of operation;
 - ii. A rating system, including rates, rules and forms; and
 - iii. A plan for a producer certification program, which may not exclude those producers with no affiliation with an insurer.
2. Appoint, conditionally appoint or terminate:
 - i. A PAIP manager, subject to approval by the Commissioner, which shall be located in this State, to be responsible for the conduct and administrative affairs of the PAIP; and
 - ii. Other employees, professionals, and contractors required to administer the PAIP.
3. Enter into contracts as are necessary or proper to carry out the provisions of this subchapter;
4. Sue or be sued in the name of the PAIP, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against members. A judgment against the PAIP shall not create any direct liability against the governing committee or its individual members, or the individual participating members of the PAIP. The PAIP shall not be liable for claims made on or pursuant to individual policies issued through the PAIP;
5. Budget expenses, levy assessments, and disburse funds;
6. Investigate complaints and hear appeals from applicants, insureds, producers, LAD carriers, or insurers about any matter pertaining to the proper administration of the PAIP;
7. Arrange for the independent audit of the PAIP each year;
8. Furnish all insurers with:
 - i. An annual written operations report;
 - ii. The approved annual budget upon request;
 - iii. A copy of the annual audit upon request;
 - iv. A copy of the plan of operation, and all amendments;
 - v. A copy of all policy forms, rates, rules and manuals upon request; and
 - vi. A copy of the minutes from all meetings upon request;