

(f) Nothing in this subchapter shall be construed as prohibiting a renewal policy from being issued for higher limits of coverage and/or additional coverage(s), provided that such additional protection is specifically requested by the insured and the insurer is willing to provide it. Conversely, nothing shall prohibit the renewal policy from being issued for lower limits of coverage and/or fewer coverages provided that such reduction in protection is specifically requested by the insured and further provided that coverage in no case shall fall below the level or levels otherwise required by law.

(g) In any instance in which an insurer may, pursuant to the provisions of this subchapter, nonrenew an automobile policy, it may, in lieu of the nonrenewal and in compliance with such provisions, condition the renewal of the policy upon a change of limits or elimination of any coverage not required by law.

(h) A notice of nonrenewal shall not be valid unless it is issued in accordance with N.J.A.C. 11:3-8.3 and authorized by the Commissioner of Banking and Insurance pursuant to N.J.A.C. 11:3-8.4 and 8.5.

Amended by R.1973 d.30, effective January 25, 1973.
See: 4 N.J.R. 305(b), 5 N.J.R. 48(a).
Amended by R.1976 d.328, effective October 18, 1976.
See: 8 N.J.R. 421(a), 8 N.J.R. 516(e).
Amended by R.1977 d.100, effective March 23, 1977.
See: 9 N.J.R. 178(b).
Amended by R.1977 d.437, effective January 1, 1978.
See: 9 N.J.R. 435(d), 9 N.J.R. 586(b).
Amended by R.1983 d.190, effective June 6, 1983.
See: 15 N.J.R. 231(a), 15 N.J.R. 927(a).
Recodified from 11:3-8.1. Replaced (d).
Amended by R.1986 d.418, effective October 6, 1986.
See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a).
Emergency Amendment, R.1990 d.626, effective November 26, 1990, operative April 1, 1991 (expired January 25, 1991).
See: 22 N.J.R. 3766(b).
Recodified from 11:3-8.2. In (f)1i, added notice of eligibility points and added ii-iv.
Adopted Concurrent Proposal, R.1991 d.89, effective January 25, 1991, operative April 1, 1991.
See: 22 N.J.R. 3766(b), 23 N.J.R. 507(a).
Provisions of emergency amendment R.1990 d.626 readopted without change.
Amended by R.1991 d.45, effective February 4, 1991.
See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).
In (f): revised address in (f)2i and deleted NJAFIUA reference in (f)3, adding text "... a residual market mechanism created by statute."
Amended by R.1998 d.43, effective January 20, 1998.
See: 29 N.J.R. 3107(a), 30 N.J.R. 366(b).
In (f), added 3 and 4.
Amended by R.1999 d.270, effective August 16, 1999.
See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).
In (b), rewrote the last sentence; rewrote (c); in (f), changed N.J.A.C. references throughout, rewrote the introductory paragraph in 1, deleted "applicable to the nonstandard rate level of an approved standard/nonstandard rating plan" following "rules" in the first sentence of 1ii, and deleted a former 4; and rewrote (i).
Amended by R.2001 d.44, effective February 5, 2001.
See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).
In (a), substituted "policyholder" for "in a policy"; and in (f), inserted "named policyholder" following "to the insured".
Amended by R.2003 d.498, effective December 15, 2003.
See: 35 N.J.R. 3081(a), 35 N.J.R. 5601(a).
Rewrote the section.

Case Notes

Notices of nonrenewal must be sent in strict compliance with statutory provisions. *Lopez v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 239 N.J.Super. 13, 570 A.2d 994 (A.D.1990), certification denied 122 N.J. 131, 584 A.2d 206.

Renewal policy need not be issued until premium is paid. *Lopez v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 239 N.J.Super. 13, 570 A.2d 994 (A.D.1990), certification denied 122 N.J. 131, 584 A.2d 206.

Insurance agent who continued to service insurer's policyholders subsequent to termination with insurance company, established prima facie case of quasi-contract. *Cohen v. Home Ins. Co.*, 230 N.J.Super. 72, 552 A.2d 654 (A.D.1989).

Policy binder in effect for more than 60 days held to provide coverage in absence of formal notice of cancellation, despite lack of any premium payment and knowledge that insurer would not issue policy. *Miney v. Baum*, 170 N.J.Super. 282, 406 A.2d 234 (Law Div.1979).

Provision that no insurer shall refuse to renew coverage without consent of the Commissioner upheld against constitutional challenges. *Sheeran v. Nationwide Mutual Insurance Co., Inc.*, 80 N.J. 548, 404 A.2d 625 (1979).

Under assigned risk automobile insurance plan, 45 day notice sufficed for non-renewal expiration; broker held to have breached duty to insured in failing to advise him of ramifications of expiration. *Commercial Union Assurance Companies v. State Farm Mutual Automobile Insurance Co.*, 158 N.J.Super. 326, 385 A.2d 1286 (Law Div.1978).

Proof of mailing of notice of cancellation held to be conclusive proof of provision of such notice to insured. *Weathers v. Hartford Insurance Group*, 77 N.J. 228, 390 A.2d 548 (1978).

Insured's latest accident justifies insurer declining coverage. *Hakim v. State Farm Insurance Company*, 97 N.J.A.R.2d (INS) 20.

11:3-8.4 Standards of nonrenewal—ineligible persons

(a) An insurer may issue a notice of nonrenewal to any person who is not an eligible person as defined in N.J.A.C. 11:3-34.

1. For the purpose of determining whether a person is an eligible person who must be renewed, an insurer shall consider those eligibility points accrued only in the 36-month period ending 90 days prior to the expiration of the current policy or a 36-month period ending as of the extended notification period ordered by the Commissioner pursuant to N.J.A.C. 11:3-8.3(e).

2. An insurer shall not issue a notice of nonrenewal for the reason that a member of the insurer's household is not an eligible person unless the member of the insured's household usually accounts for 10 percent or more of the use of the vehicle insured for the purpose of this section:

i. Any driver who is the principal driver of an automobile shall be presumed not to account for 10 percent or more of the use of any other automobile in the household.

ii. Except when there are more automobiles than drivers in the household, a person shall be presumed not to be the principal driver of more than one automobile.

3. No insurer shall issue a notice of nonrenewal to any person qualified to be renewed in accordance with the insurer's filed and approved underwriting rules.

(b) An insurer which has filed a tier rating plan pursuant to N.J.A.C. 11:3-19A may issue notices of intention not to renew any insured who is not an eligible person and who no longer qualifies for any rate level in accordance with its approved underwriting rules.

Amended by R.1983 d.190, effective June 6, 1983.

See: 15 N.J.R. 231(a), 15 N.J.R. 927(a).

Recodified from 11:3-8.1(e)-(g).

Amended by R.1986 d.418, effective October 6, 1986.

See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a).

Emergency Repeal and New Rule, R.1990 d.626, effective November 26, 1990, operative April 1, 1991 (expired January 25, 1991).

See: 22 N.J.R. 3766(b).

Recodified from 11:3-8.3.

Adopted Concurrent Proposal, R.1991 d.89, effective January 25, 1991, operative April 1, 1991.

See: 22 N.J.R. 3766(b), 23 N.J.R. 507(a).

Provisions of emergency repeal and new rule R.1990 d.626 readopted with changes.

Amended by R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

In (a)3, substituted "filed and approved underwriting rules" for "underwriting rules filed and approved pursuant to N.J.A.C. 11:3-35" at the end; and in (b), substituted a reference to tier rating plans for a reference to standard/nonstandard rating plans, and changed N.J.A.C. reference.

Amended by R.2003 d.498, effective December 15, 2003.

See: 35 N.J.R. 3081(a), 35 N.J.R. 5601(a).

Rewrote (a)1.

Case Notes

Absent a state-mandated definition of the date or time when "accrual" of violation points occurred, for purpose of determining whether insured was an eligible person who had to be renewed, terms of insurance policy, which specifically stated that points for violations accrued when event was recorded in records of the New Jersey Division of Motor Vehicles (DMV), would define the term. *Jonathan A. Kes-sous, v. Liberty Mutual Insurance Company*, 2003 WL 21781647, N.J. Adm., Jul 16, 2003, (NO. BKI 044, EPO2).

Nonmailing or mailing of renewal offer for New Jersey Automobile Full Insurance Underwriting Association policy by mail less than 30 days before expiration date results in coverage beyond expiration date for reasonable period. *Gatto v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 284 N.J.Super. 665, 666 A.2d 204 (A.D.1995).

Charge to which insured pleaded guilty in New York, operating a motor vehicle while under the influence, was substantially similar in nature to an offense in New Jersey and justified nonrenewal of automobile policy. *Chillemi v. Selective Insurance*, 95 N.J.A.R.2d (INS) 89.

At fault accident in which insured was involved was an event under automobile policy giving insurer right to decline renewal. *Wenzler v. ITT Hartford*, 95 N.J.A.R.2d (INS) 47.

Police report established five-point at fault accident which, when combined with six-point speeding violations, justified insurer in declining to renew automobile policy. *Fichera v. Liberty Mutual*, 95 N.J.A.R.2d (INS) 41.

Renewal of automobile policy for one period despite accumulation of points did not preclude nonrenewal in next period for same points. *Liberty Mutual v. Lee*, 95 N.J.A.R.2d (INS) 38.

Accumulation of nine or more points by member of insured's household justified nonrenewal of auto policy, *Pandola v. State Farm*, 95 N.J.A.R.2d (INS) 32.

Insured at-fault for automobile accident; insured could decline to renew insurance. *AMICA Mutual Insurance Co. v. Farley*, 93 N.J.A.R.2d (INS) 51.

11:3-8.5 Other nonrenewals—standards

(a) Subject to the limitation set forth in N.J.A.C. 11:3-8.6, an insurer may issue a notice of nonrenewal to an insured, in the following instances:

1. In accordance with N.J.S.A. 17:29C-7.1f, when the policyholder or other person insured under the policy either has:

i. Provided false or misleading information in connection with an application or renewal of coverage, or as part of a claim for benefits; or

ii. Failed to provide the minimum information necessary to accurately rate the policy or renewal.

2. In accordance with N.J.S.A. 17:29C-7.1b, an insurer may nonrenew the policies of two percent of the insurer's in force voluntary market policies in each rating territory.

3. In accordance with N.J.S.A. 17:29C-7.1c, an insurer may nonrenew one automobile for each two automobiles written by the insurer during the same calendar year and in the same rating territory.

Repeal and New Rule, R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

Section was "Additional nonrenewals".

11:3-8.6 Limitations on nonrenewal

(a) No insurer shall nonrenew a policy based on N.J.A.C. 11:3-8.5(a)1i without having first conducted an investigation and reported the matter in accordance with the insurer's Fraud Detection and Prevention Plan.

(b) No insurer shall nonrenew a policy for failure to complete and return a renewal questionnaire without having first given written notice to the policyholder one full policy cycle prior to the issuance of the notice of nonrenewal that:

1. At the next renewal, the insurer shall send the policyholder a renewal questionnaire, which must be completed and returned; and

2. Failure to complete and return that renewal questionnaire may result in the nonrenewal of the policy

(c) No insurer shall nonrenew a policy pursuant to N.J.A.C. 11:3-8.5(a)2 and 3:

1. In an amount in excess of 20 percent of the entire private passenger automobile insurance book of business of any one producer in force with the insurer at the end of the previous calendar year; and

2. Unless the insured or any other operator insured under the policy has individually, within five years prior to the expiration of the policy, two or more of the following events:

i. An at-fault accident as defined by N.J.A.C. 11:3-34.3;

ii. A motor vehicle violation for which four or more automobile insurance eligibility points accumulate under N.J.A.C. 11:3-34.5; or

iii. Has failed to maintain insurance coverage without lapse as required by P.L. 1998, c.21 and 22, sec. 4 and 6.

(d) No insurer shall nonrenew a policy pursuant to N.J.A.C. 11:3-8.5(a)3 in any rating territory containing a municipality designated as an automobile urban enterprise zone (UEZ) unless the insurer's aggregate voluntary market

share in the UEZs is at least 95 percent of the insurer's Statewide market share excluding UEZs as of the most recent UEZ in force report filed in accordance with N.J.A.C. 11:3-46.13 for the quarter ending September 30.

(e) Except as prohibited by (d) above, an insurer may nonrenew a policy pursuant to N.J.A.C. 11:3-8.5(a)3 in a rating territory where the number of its in-force exposures has increased in the previous year as indicated by the two most recent in-force exposure reports for the quarter ending December 31.

“Automobile insurance eligibility points” means points calculated under the schedule promulgated by the Commissioner pursuant to this subchapter.

“Commissioner” means the Commissioner of Banking and Insurance of the State of New Jersey.

“Department” means the Department of Banking and Insurance of the State of New Jersey.

“State” means the State of New Jersey.

Public Notice: Receipt of petition for rulemaking and action on petition. See: 28 N.J.R. 1565(b).
Amended by R.2001 d.44, effective February 5, 2001.
See: 32 N.J.R. 3891(a), 33 N.J.R. 573(a).
Amended by R.2003 d.469, effective December 1, 2003.
See: 35 N.J.R. 3260(a), 35 N.J.R. 5423(a).
Rewrote “At-fault accident”.

Case Notes

Because the New Jersey Insurance Commissioner reasonably construed the term “at-fault accident” as used in N.J.A.C. 11:3-34.3 to include a one-car, weather-related accident in which the driver was not negligent, an insurer properly assessed its insured five eligibility points for such an accident under N.J.S.A. 17:33B-14. *Reilly v. AAA Mid-Atlantic Ins. Co.*, 390 N.J.Super. 496, 915 A.2d 1105, 2007 N.J. Super. LEXIS 47 (App.Div. 2007).

As the New Jersey Department of Banking and Insurance’s past construction of the term “at-fault accident” as used in N.J.A.C. 11:3-34.3 had been inconsistent, and N.J.A.C. 11:3-34.3 did not give the insurance industry or consumers fair notice as to the types of accidents that would result in assessment of points for insurability purposes, the Department was ordered to amend N.J.A.C. 11:3-34.3 to define “at-fault” and its application to one-car accidents. *Reilly v. AAA Mid-Atlantic Ins. Co.*, 390 N.J.Super. 496, 915 A.2d 1105, 2007 N.J. Super. LEXIS 47 (App.Div. 2007).

Insurer could not refuse renewal of automobile policy based upon eligibility points accumulated in “collision” where insured’s automobile was damaged by falling object. *Geist v. Selective Insurance Company*, 96 N.J.A.R.2d (INS) 75.

Driver’s automobile insurance application properly denied for two at-fault accidents. *Belmonte v. Department of Insurance*, 96 N.J.A.R.2d (INS) 51.

Insurer erred in finding insured more than 50 percent at fault for three-car accident where another driver was convicted of careless driving in connection with that collision. *Hoke v. National Consumer Insurance Company*, 96 N.J.A.R.2d (INS) 22.

Insurer could decline renewal of automobile policy based upon insured’s two at-fault accidents. *DiFrancesco v. Continental Casualty Company*, 96 N.J.A.R.2d (INS) 17.

Charge to which insured pleaded guilty in New York, operating a motor vehicle while under the influence, was substantially similar in nature to an offense in New Jersey and justified nonrenewal of automobile policy. *Chillemi v. Selective Insurance*, 95 N.J.A.R.2d (INS) 89.

At fault accident in which insured was involved was an event under automobile policy giving insurer right to decline renewal. *Wenzler v. ITT Hartford*, 95 N.J.A.R.2d (INS) 47.

Police report established five-point at fault accident which, when combined with six-point speeding violations, justified insurer in declining to renew automobile policy. *Fichera v. Liberty Mutual*, 95 N.J.A.R.2d (INS) 41.

Insured at-fault for automobile accident; insured could decline to renew insurance. *AMICA Mutual Insurance Co. v. Farley*, 93 N.J.A.R.2d (INS) 51.

11:3-34.4 Eligible person qualifications

(a) An “eligible person” is a person who is an owner or registrant of an automobile registered and principally garaged in this State or who is a resident and holds a valid New Jersey driver’s license to operate an automobile, but does not include any person:

1. Who, during the three-year period immediately preceding application for, or renewal of, an automobile insurance policy has been convicted pursuant to N.J.S.A. 39:4-50 or N.J.S.A. 39:4-50.4a or for an offense of a substantially similar nature committed in another jurisdiction;

2. Who has been convicted of a crime of the first, second or third degree resulting from the use of a motor vehicle; or has been convicted of theft of a motor vehicle;

3. Whose driver’s license to operate an automobile is under suspension or revocation;

4. Who has been convicted, within the five-year period immediately preceding application for or renewal of a policy of automobile insurance, of fraud or intent to defraud involving an insurance claim or an application for insurance;

5. Who has been successfully denied, with the immediately preceding five years’ payment by an insurer of a claim in excess of \$1,000 under an automobile insurance policy, if there was evidence of fraud or intent to defraud involving the automobile insurance claim or application. For the purpose of this section:

i. If the claim has been subject to litigation between the insurer and the insured in which the insurer defended against payment of the claim in whole or in part on grounds of fraud, it shall be conclusively presumed that the claim was successfully denied if judgment was entered for the insurer in the litigation; and conclusively presumed that the claim was not successfully denied if judgment was entered for the insured;

ii. If the claim has not been subject to litigation between the insurer and the insured, but the insurer denied the claim without payment by reason of fraud, it shall be presumed that the claim was successfully denied. This presumption may be overcome in an administrative proceeding pursuant to N.J.A.C. 11:3-33;

iii. If the incident was not reported to the New Jersey Office of Insurance Fraud Prosecutor pursuant to N.J.S.A. 17:33A-9 it shall be presumed that there was no evidence of fraud or intent to defraud;

6. Whose automobile insurance policy has been cancelled for nonpayment of premiums or financed premium with a lapse of coverage of at least 30 days, within the

immediately preceding two-year period, unless the premium due on a policy for which application has been made is paid in full before issuance or renewal of the policy. For the purpose of this section, "paid in full" shall not include any transaction in which a lender obtains authority from an insured to cancel the policy and receive a refund from the insurer in the event the insured defaults on a loan used to pay the premium;

7. Who fails to obtain or maintain membership or qualification for membership in a club, group, or organization, if membership is a uniform requirement of the insurer as a condition of providing insurance, and if the dues or charges, if any, or other conditions for membership or qualifications for membership are applied uniformly throughout this State, are not expressed as a percentage of the insurance premium, and do not vary with respect to the rating classification of the member or potential member except for the purpose of offering a membership fee to family units. Membership fees, if applicable, may vary in accordance with the amount or type of coverage if the purchase of additional coverage, either as to type or amount, is not a condition for reduction of dues or fees;

8. Whose driving record for the three year period immediately preceding the application for or renewal of a policy of automobile insurance has an accumulation of seven or more automobile insurance eligibility points as determined in N.J.A.C. 11:3-34.5;

9. Who, during the three-year period immediately preceding application for, or renewal of, an automobile insurance policy, has knowingly provided materially false or misleading information in connection with an application for insurance, renewal of insurance or claim for benefits under an insurance policy; or

10. Who is a named insured or who is insured under the same policy as a person whose driver's license is suspended or revoked and either:

- i. The suspended or revoked driver has been convicted of a violation of N.J.S.A. 39:6B-2 within the previous three years; or
- ii. With the exception of a conviction for violating N.J.S.A. 39:3-40i, other evidence exists indicating that the suspended or revoked driver has been operating a vehicle during the period of suspension or revocation.

(b) An "eligible person" includes a person who is an owner or registrant of an automobile registered in this State or who holds a valid New Jersey driver's license to operate an automobile and is domiciled in this State who is temporarily residing out-of-State and whose car may be principally garaged in another state while the person either is a full time student or is in the military service and is stationed out-of-State.

Emergency Amendment, R.1992 d.380, effective September 4, 1992 (expires November 3, 1992).

See: 24 N.J.R. 3420(a).

Text added to (a)6 to specify a lapse of at least 30 days. Adopted Concurrent Proposal, R.1992 d.481, effective November 2, 1992.

See: 24 N.J.R. 3420(a), 24 N.J.R. 4396(a).

Provisions of Emergency Amendment R.1992 d.380 readopted with changes effective December 7, 1992.

Emergency Amendment R.1993 d.135, effective March 1, 1993. (Operative March 8, 1993) (expires April 30, 1993.)

See: 25 N.J.R. 1290(a).

Definition of eligible person added at (b).

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.246, effective June 3, 1996.

See: 27 N.J.R. 2048(a), 28 N.J.R. 3002(b).

Added (a)9.

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

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

Amended by R.2003 d.469, effective December 1, 2003.

See: 35 N.J.R. 3260(a), 35 N.J.R. 5423(a).

In (a), substituted "seven" for "nine" following "accumulation of" in 8, added a new 9 and recodified former 9 as 10.

Amended by R.2007 d.373, effective December 3, 2007.

See: 38 N.J.R. 4624(a), 39 N.J.R. 5086(a).

In (a)10ii, substituted "With the exception of a conviction for violating N.J.S.A. 39:3-40i, other" for "Other", and inserted "or revocation" at the end.

Case Notes

Insured's nine ineligibility points justifies insured's nonrenewal of automobile policy. *Lawrence v. USAA Casualty Insurance Company*, 97 N.J.A.R.2d (INS) 3.

Nonrenewal of automobile insurance policy was upheld where insured motorist exceeded maximum number of automobile insurance eligibility points. *Woo v. State Farm Insurance Company*, 96 N.J.A.R.2d (INS) 99.

Insurer's nonrenewal of automobile policy justified when insured accumulates 10 eligibility points from two accidents for which insured is at fault. *Premi v. New Jersey Manufacturers Ins. Co.*, 96 N.J.A.R.2d (INS) 9.

Renewal of automobile policy for one period despite accumulation of points did not preclude nonrenewal in next period for same points. *Liberty Mutual v. Lee*, 95 N.J.A.R.2d (INS) 38.

Accident in which insured was at fault, when combined with two other accidents in period of coverage, justified nonrenewal for accumulation of too many points. *New Jersey Manufacturers v. Sandor*, 95 N.J.A.R.2d (INS) 36.

Accumulation of nine or more points by member of insured's household justified nonrenewal of auto policy, *Pandola v. State Farm*, 95 N.J.A.R.2d (INS) 32.

Insured who was otherwise eligible for automobile insurance in voluntary market could obtain coverage for vehicles registered to her notwithstanding her husband's license suspension. *Kwok v. First Trenton*, 95 N.J.A.R.2d (INS) 29.

Decision not to renew automobile insurance policy was improper. *Capasso v. State Farm Indemnity Company*, 94 N.J.A.R.2d (INS) 59.

Eligibility points for accident prior to effective date of regulation not ex post facto violation. *Selective Insurance Company v. Diana*, 93 N.J.A.R.2d (INS) 58.

11:3-34.5 Automobile insurance eligibility points

(a) Automobile insurance eligibility points shall be accumulated as a result of convictions, suspensions, revocations and

determinations of responsibility for civil infractions in accordance with the schedule set forth in the Appendix to this subchapter herein incorporated by reference.

(b) Automobile eligibility points are cumulative and accrue for all violations and occurrences set forth on Schedules 1 and 2. Automobile insurance eligibility points shall be deemed to accrue as follows:

1. Points for an at-fault accident shall accrue on the date that total payment by the insurer equals or exceeds \$1,000 or such other amount as may be prescribed by Order of the Commissioner issued pursuant to N.J.S.A. 17:33B-14. The amount under such Order shall be reflected in this paragraph through a notice of administrative change published in the New Jersey Register. An insurer may, at its option, use the date of the accident or date of first payment provided, however, that the insurer shall not underwrite or rate any policy based on the accident until total payment by the insurer equals or exceeds \$1,000, and further provided that the insurer shall use the optional date consistently in all cases.

2. Points for conviction of motor vehicle violations and other events that are set forth on an abstract of drivers license records available from the New Jersey Motor Vehicle Commission, or a comparable agency of another state, shall accrue when the event is recorded in the agency's records as evidenced by an abstract.

3. When an eligible person is involved in an at-fault accident and has not accrued any eligibility points during the three-year period immediately preceding the date of that accident, no eligibility points for a two- or three-point violation, as set forth in Schedule 2 of the Appendix, shall accrue along with the points assessed in accordance with Schedule 1 for the at-fault accident, when the violation arises out of the same incident which results in the assessment of points for the at-fault accident. However, violations that arise out of the same incident may be considered by insurers for purposes of tier placement pursuant to N.J.A.C. 11:3-19A.

4. Points for each full year of court-imposed driver's license suspension within the preceding three years and points for each full year within the immediately preceding three years that a person has not held a driver's license shall accrue on the date of application for insurance. However, in accordance with Schedule 1, eligibility points assessed for failure to hold a drivers' license in the previous three years are not cumulative to points assessed for the suspension of a drivers license.

(c) Automobile insurance eligibility points set forth on Schedule 2 of the Appendix represent motor vehicle points established by the New Jersey Motor Vehicle Commission by rule, N.J.A.C. 13:19-10.1, which is hereby incorporated by reference. Any additions, deletions or modifications to N.J.A.C. 13:19-10.1 shall likewise be incorporated as of the effective date of amendment. Schedule 2 is included in the Appendix for convenience.

(d) The reference in Appendix Schedule 1 and Schedule 2 to provisions of the New Jersey Statutes Annotated is meant for convenience to assist in the quick identification of the nature of the event. If the event takes place in a state or province other than New Jersey, Schedule 1 and 2 should be consulted for identification of the specific misconduct committed and the assessment of the appropriate number of insurance eligibility points to be assessed.

(e) In addition to the motor vehicle violation and insurance eligibility points specifically enumerated on Schedule 2 of the Appendix pertaining to the New Jersey Turnpike, Atlantic City Expressway, and the Garden State Parkway, for any other motor vehicle violations that occur on the New Jersey Turnpike (N.J.A.C. 19:9), the Atlantic City Expressway (N.J.A.C. 19:2-2.1), the Garden State Parkway (N.J.A.C. 19:8) or for any other moving violation at any location, Schedules 1 and 2 shall be consulted for identification of the specific misconduct committed and the determination of the appropriate number of insurance eligibility points to be assessed.

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

Added (e).

Amended by R.2002 d.330, effective October 7, 2002.
See: 34 N.J.R. 368(a), 34 N.J.R. 3525(a).

Added (f).

Amended by R.2003 d.469, effective December 1, 2003.
See: 35 N.J.R. 3260(a), 35 N.J.R. 5423(a).

Rewrote (b); deleted (c) and recodified former (d) through (f) as (e) through (e).

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

In (b)2 and (c), substituted "Motor Vehicle Commission" for "Division of Motor Vehicles".

Amended by R.2007 d.373, effective December 3, 2007.
See: 38 N.J.R. 4624(a), 39 N.J.R. 5086(a).

In (b)2, substituted "Motor Vehicle Commission, or a" for "Division of Motor Vehicles or"; in (b)3, substituted, "is involved in an at-fault accident and has not accrued any eligibility points during the three-year period immediately preceding the date of that accident" for "has not accrued eligibility points during the preceding three-year period, and is subsequently involved in an at-fault accident".

Case Notes

Police report established five-point at fault accident which, when combined with six-point speeding violations, justified insurer in declining to renew automobile policy. *Fichera v. Liberty Mutual*, 95 N.J.A.R.2d (INS) 41.

Renewal of automobile policy for one period despite accumulation of points did not preclude nonrenewal in next period for same points. *Liberty Mutual v. Lee*, 95 N.J.A.R.2d (INS) 38.

Accident in which insured was at fault, when combined with two other accidents in period of coverage, justified nonrenewal for accumulation of too many points. *New Jersey Manufacturers v. Sandor*, 95 N.J.A.R.2d (INS) 36.

Accumulation of nine or more points by member of insured's household justified nonrenewal of auto policy, *Pandola v. State Farm*, 95 N.J.A.R.2d (INS) 32.

Accident resulting in payment of \$500 or more not recouped from another tort-feasor and not specifically excepted, and driver not excused under proportionate responsibility standard, was "at-fault accident" warranting eligibility points. *Amica Mutual Insurance Co. v. Kern*, 93 N.J.A.R.2d (INS) 55.

Insured at-fault for automobile accident; insured could decline to renew insurance. AMICA Mutual Insurance Co. v. Farley, 93 N.J.A.R.2d (INS) 51.

APPENDIX

Schedule of Automobile Insurance Eligibility Points

Schedule 1

N.J.S.A. Section Number	Event Description	DMV Event Identifier(s)	Points
39:4-50	Operating a motor vehicle under the influence of alcohol or drugs	0450; 3261	9
39:4-50.4	Refusal to submit to a chemical test	4504	9
2C:11-2	Vehicular homicide	C115	9
39:3-40 a through h and j	Operating a motor vehicle while driving privilege is suspended	0340	9
39:6B-2	Operating a motor vehicle without liability insurance	06B2	9
39:6A-15	Misrepresentation of insurance coverage	6A15	9
	Each at fault accident		5
	* For each full year of a court imposed driver's license suspension within the preceding 3 years		3
	* For each full year within the immediately preceding 3 years that a person has not held a driver's license		1
	Involved in a fatal accident	EFTL; NFTL	4
39:3-37	Obtaining a driver's license or registration through deception	0337; 0312; 05D5; 1312; MSNJ; MSOS	5
39:3-38	Make or use counterfeit plate or plates other than issued	0338	5
39:3-38.1	Make, alter or counterfeit driver's license or registration	3381	5
	Failure to verify insurance involved in an automobile accident	FVIA	2

*Points for failure to hold a driver's license in the previous three years are not cumulative to points for driver's license suspension.

Schedule 2

N.J.S.A. Section Number	Offense	Points
27:23-29	Moving against traffic—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	2
27:23-29	Improper passing—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	4
27:23-29	Unlawful use of median strip—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	2
39:3-20	Operating constructor vehicle in excess of 30 mph	3
39:4-14.3	Operating motorized bicycle on a restricted highway	2
39:4-14.3d	More than one person on a motorized bike	2
39:4-35	Failure to yield to pedestrian in crosswalk	2

N.J.S.A. Section Number	Offense	Points
39:4-36	Failure to yield to pedestrian in crosswalk; passing a vehicle yielding to pedestrian in crosswalk	2
39:4-41	Driving through a safety zone	2
39:4-52 & 39:5C-1	Racing on highway	5
39:4-55	Improper action or omission on grades and curves	2
39:4-57	Failure to observe direction of officer	2
39:4-66	Failure to stop vehicle before crossing sidewalk	2
39:4-66.1	Failure to yield to pedestrians or vehicles while entering or leaving highway	2
39:4-71	Operating a motor vehicle on a sidewalk	2
39:4-80	Failure to obey direction of officer	2
39:4-81	Failure to observe traffic signals	2
39:4-82	Failure to keep right	2
39:4-82.1	Improper operating of vehicle on divided highway or divider	2
39:4-83	Failure to keep right at intersection	2
39:4-84	Failure to pass to right of vehicle proceeding in opposite direction	5
39:4-85	Improper passing on right or off roadway	4
39:4-85.1	Wrong way on a one-way street	2
39:4-86	Improper passing in no passing zone	4
39:4-87	Failure to yield to overtaking vehicle	2
39:4-88	Failure to observe traffic lanes	2
39:4-89	Tailgating	5
39:4-90	Failure to yield at intersection	2
39:4-90.1	Failure to use proper entrances to limited access highways	2
39:4-91 & 39:4-92	Failure to yield to emergency vehicles	2
39:4-96	Reckless driving	5
39:4-97	Careless driving	2
39:4-97a	Destruction of agricultural or recreational property	2
39:4-97.1	Slow speed blocking traffic	2
39:4-98 & 39:4-99	Exceeding maximum speed 1-14 mph over limit	2
	Exceeding maximum speed 15-29 mph over limit	4
	Exceeding maximum speed 30 mph or more over limit	5
39:4-105	Failure to stop for traffic light	2
39:4-115	Improper turn at traffic light	3
39:4-119	Failure to stop at flashing red signal	2
39:4-122	Failure to stop for police whistle	2
39:4-123	Improper right or left turn	3
39:4-124	Improper turn from approved turning course	3
39:4-125	Improper "U" turn	3
39:4-126	Failure to give proper signal	2
39:4-127	Improper backing or turning in street	2
39:4-127.1	Improper crossing of railroad grade crossing	2
39:4-127.2	Improper crossing of bridge	2
39:4-128	Improper crossing of railroad grade crossing by certain vehicles	2
39:4-128.1	Improper passing of school bus	5
39:4-128.4	Improper passing of a frozen dessert truck	4
39:4-129	Leaving the scene of an accident	2
	No personal injury	2
	Personal injury	8
39:4-144	Failure to observe "stop" or "yield" signs	2
39:5D-4	Moving violation out-of-state	2

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.2007 d.373, effective December 3, 2007.
 See: 38 N.J.R. 4624(a), 39 N.J.R. 5086(a).
 In the first column of Schedule 1, substituted "39:3-40 a through h and j" for "39:3-40".

SUBCHAPTER 35. PRIVATE PASSENGER
AUTOMOBILE INSURANCE UNDERWRITING
RULES

11:3-35.1 Purpose and scope

(a) This subchapter implements N.J.S.A. 17:29A-46 which requires that personal private passenger automobile insurers file for approval their underwriting rules used to accept or reject new or renewal business or to assign risks to the standard or non-standard rate levels. Approval of underwriting rules shall serve to confirm that each insurer's business practices are consistent with law regarding the acceptance of new business, the renewal of current business and the assignment of a risk to an insurer's standard or non-standard rate level.

(b) This subchapter applies to all insurers that are licensed and authorized to transact personal private passenger automobile insurance in the voluntary market. It applies to affiliated companies which insure risks through different individual insurance companies.

(c) No private passenger automobile insurer shall make any filing pursuant to this subchapter after March 1, 1998.

Amended by R.1998 d.129, effective March 2, 1998.
See: 29 N.J.R. 5253(a), 30 N.J.R. 839(a).
Added a new (c).

11:3-35.2 Definitions

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

"Affiliated companies" means two or more individual insurance companies that are authorized to transact private passenger automobile insurance business in New Jersey and that are under both common ownership and common management.

"Automobile insurance eligibility points" means points accrued as provided in accordance with the schedule set forth in N.J.A.C. 11:3-34.

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

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

"Individual insurance company" means an insurance company licensed and authorized to transact private passenger automobile insurance business in New Jersey, regardless of whether it is one of a group of affiliated companies.

"Insurer" includes a group of affiliated companies.

"Renew" means to issue and deliver at the end of the policy period a policy superseding a policy previously issued and delivered, or to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term, by the same individual insurance company, or by another of a group of affiliated companies pursuant to a standard/non-standard rating plan filed and approved in accordance with N.J.A.C. 11:3-19.

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

11:3-35.3 General requirements and filing format

(a) All insurers that write personal private passenger automobile insurance in New Jersey shall file for approval their underwriting rules used to accept or reject new business, to renew or nonrenew current business and to assign business to a tier in a tier rating plan in accordance with N.J.S.A. 17:29A-46.1 and 46.2 and this subchapter. No insurer shall use or implement any underwriting rule not filed and approved as set forth herein. Insurers may also utilize alternate underwriting rules pursuant to N.J.A.C. 11:3-35A.