

**CHAPTER 3**

**AUTOMOBILE INSURANCE**

**Authority**

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

**Source and Effective Date**

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

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

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

**Chapter Historical Note**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## APPENDIX

### SUBCHAPTER 1. COMMERCIAL AUTOMOBILE INSURANCE PLAN

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

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

1. To provide the coverages described herein, subject to the conditions stated, for motor vehicles other than those vehicles subject to the New Jersey Personal Automobile Insurance Plan and any private passenger vehicle that is owned by or driven by a person who meets the definition of an eligible person pursuant to N.J.S.A. 17:33B-13 and N.J.A.C. 11:3-34;

2. To provide for the apportionment of insurance coverage for eligible applicants who are in good faith entitled to but are unable to procure the same, through the voluntary market; and

3. To establish a procedure for the sharing of premiums, losses, and expenses among all insurers who are participants in New Jersey as defined within this subchapter for all risks eligible for coverage under the provisions of this subchapter.

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

#### 11:3-1.2 Definitions

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

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

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

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

### 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 mini-bus type owned by or operated on behalf of a non-profit entity used to transport, without charge, the elderly or handicapped.

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.

### 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.

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## 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 Insurance.

"Department" means the New Jersey Department of 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).

### 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 Insurance  
20 West State Street  
CN-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).

**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;

## SUBCHAPTER 2A. (RESERVED)

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

**11:3-2B.1 Purpose and scope**

(a) This subchapter provides the general procedures to be utilized for the resumption of certain claims payments by the MTF that had been suspended pursuant to this subchapter, and the deferral of certain claims payments by the MTF pursuant to amendments certified to the MTF Plan of Operation by the Commissioner on July 26, 1994 pursuant to N.J.S.A. 17:33B-11c as amended by P.L. 1994, c.57, section 17.

(b) This subchapter shall apply to the MTF and the MTF's servicing carriers, former MTF policyholders and persons or entities having any unpaid claims against the MTF or former MTF policyholders.

Amended by R.1995 d.50, effective January 17, 1995.  
See: 26 N.J.R. 4590(a), 27 N.J.R. 368(a).

**11:3-2B.2 Definitions**

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

"Assets" means any funds made available to the MTF through any payments received from a member insurer for its apportioned share of the MTF's operating losses pursuant to N.J.S.A. 17:33B-11d, monies, funds, accounts receivable, premium payments, payments collected on any and all private passenger automobile insurance policies, interest income, contracts, causes of action, books, records, and property of the MTF wherever located, including such property of the MTF that may be discovered hereafter.

"Claim" means a request for payment for a loss which arises out of and is within the coverage provided by the MTF to an insured pursuant to N.J.S.A. 17:33B-11.

"Closing papers" means the original, fully-executed release(s) containing the proper deferral language set forth in this subchapter and which is signed by the claimant releasing the MTF and its insured(s) from liability for the claim, or a warrant of satisfaction of judgment and/or other closing documents.

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

"Infrastructure" means those items or components necessary for the MTF to operate and fulfill its obligations to

policyholders and claimants, including MTF central staff, contracted servicing carriers, defense attorneys and certain independent consultants. Infrastructure costs include, but are not limited to, payroll expenses (including salaries, benefits and payroll taxes), rent, utilities, bank charges, investment charges, data processing, office and computer supplies, licensing fees for computer software, insurance coverages (such as workers' compensation coverages), legal fees (including defense of claims directly against the MTF), postage, telephone, consultant fees (including auditors and actuaries), MTF servicing carrier fees, and defense costs (that is, payments to defense counsel to protect the MTF's interests in litigation involving MTF policyholders for which the MTF is liable for payment under the MTF policy).

"Member insurer" means any insurer authorized to transact private passenger automobile insurance in this State.

"MTF" means the Market Transition Facility of New Jersey created pursuant to N.J.S.A. 17:33B-11.

"Person" means any individual, corporation, partnership, association or private or public entity which seeks payment of a claim.

"Plan of Operation" means the Plan of Operation promulgated by the Commissioner pursuant to N.J.S.A. 17:33B-11c as amended by P.L. 1994, c.57, section 17.

"Private passenger automobile" is as defined at N.J.S.A. 39:6A-2.

"Private passenger automobile insurance" means direct insurance against injury or damage, including the legal liability therefor, arising out of the ownership, operation, maintenance, or use of private passenger automobiles, including, but not limited to, personal injury protection coverage (including extended medical expense coverage), bodily injury liability coverage, property damage liability coverage, uninsured motorists coverage (including underinsured motorists coverage), towing and labor coverage, rental reimbursement coverage, and collision and comprehensive (other than collision) coverage.

"Residual bodily injury claim" means a liability claim for the loss of any kind whatsoever, other than present economic loss, resulting from liability imposed by law for or as a result of bodily injury or death.

"Servicing carrier" means a member insurer or other entity that had or presently has a contract with the MTF to underwrite, process, and settle claims for the MTF pursuant to the MTF Plan of Operation approved by the Commissioner pursuant to N.J.S.A. 17:33B-11c.

Amended by R.1995 d.50, effective January 17, 1995.  
See: 26 N.J.R. 4590(a), 27 N.J.R. 368(a).

**11:3-2B.3 Priority of claims**

(a) Subject to N.J.A.C. 11:3-2B.4 and Part IV of the MTF Plan of Operation, the MTF shall have the power to make distributions from the assets of the MTF in the following order of priority:

1. Expenses of administration;
2. Claims for taxes and debts due to Federal, State or local government;
3. Covered claims by policyholders and beneficiaries thereof arising from and within the coverage of, and not in excess of, the applicable limits of insurance policies and contracts issued by the MTF, in the following order of priority:
  - i. Present economic loss;
  - ii. Collision or comprehensive loss and third party property damage loss;
  - iii. Residual bodily injury loss; and
  - iv. Other creditor claims.

Repeal and New Rule, R.1995 d.50, effective January 17, 1995.  
See: 26 N.J.R. 4590(a), 27 N.J.R. 368(a).  
Formerly "Suspension of payment of claims by the MTF".

**11:3-2B.4 Resumption of payment of certain claims previously suspended; deferral of payment for residual bodily injury claims**

(a) The servicing carriers shall resume making claim payments previously suspended pursuant to this subchapter as follows:

1. Payments for claims that are due for payment that have been suspended shall be issued for the following coverages:
  - i. Personal injury protection;
  - ii. Collision;
  - iii. Comprehensive;
  - iv. Property damage;
  - v. Other payments for present economic loss; and
  - vi. Residual bodily injury claims that were resolved and for which the releases and other necessary closing papers were received and date stamped by the servicing carrier on or before March 1, 1994.

(b) The servicing carrier shall not pay interest on the suspended claims described in (a) above, except where such payment is required by law or explicitly authorized by the Commissioner.

(c) During the period when the previously suspended claims are being paid, servicing carriers shall be permitted to make payments on newly received bills for the claims described in (a)1i through v above, provided that such payment of new claims does not delay the payment of suspended claims.

(d) Payments by the MTF of any residual bodily injury claims, including uninsured motorist claims and underinsured motorist claims, are deferred from payment for a period not to exceed 18 months, except such claims as may be granted a hardship exemption from deferral as provided in N.J.A.C. 11:3-2B.6.

(e) The deferral of claim payments set forth in (d) above applies to all such residual bodily injury claims, regardless of settlement date or jurisdiction, for which closing papers have not been physically received in the offices of the appropriate MTF servicing carrier before March 2, 1994. Receipt by defense counsel or facsimile transmissions shall not constitute receipt by the appropriate MTF servicing carrier.

(f) With regard to those residual bodily injury claims for which closing papers were received in the offices of the servicing carrier after March 2, 1994, but before August 31, 1994, the servicing carriers shall prepare an amended release including proper reference to the Deferral Program and send the amended release to the claimant or the claimant's attorney for execution. If the release is properly executed and received back in the offices of the servicing carrier within 60 days after it is mailed, then the deferral date shall relate back to the date on which the original release was received in the office of the servicing carrier. Failure by claimant or the claimant's attorney to return the amended release with proper reference to the Deferral Program so as to be received by the servicing carrier within 60 days shall be deemed an election that the claimant wishes to dissolve the original settlement and reopen the claim. The date of deferral for any reopened claim shall be the date described in N.J.A.C. 11:3-2B.5(c).

(g) Payment of a claim which has been deferred pursuant to this subchapter shall occur no later than the first day of the eighteenth month following the date of deferral.

(h) When claims deferred pursuant to this subchapter are paid by the MTF, the payment shall include simple interest calculated at a rate of six percent per annum beginning on the date of deferral. If claims deferred pursuant to this section are paid prior to the first day of the eighteenth month following physical receipt of the closing papers by the MTF's servicing carrier, then payment of interest shall be pro-rated to the day of payment.

(i) Payment of claims for current economic loss shall not be deferred.

New Rule, R.1995 d.50, effective January 17, 1995.

See: 26 N.J.R. 4590(a), 27 N.J.R. 368(a).

### 11:3-2B.5 Administrative provisions

(a) Claims shall not be considered settled and ready for deferral until the servicing carrier physically receives the appropriate closing papers. Receipt by defense counsel or facsimile transmissions shall not be accepted for these purposes.

(b) Deferral releases shall contain the following language:

Payment: In consideration for making this Release, you have agreed to pay me a settlement of \$\_\_\_\_\_, plus simple interest at a rate of 6 percent per annum for a total amount of \$\_\_\_\_\_, to be paid no later than the first day of the eighteenth month after receipt of this Release by the servicing carrier or its designee. It is further understood that, if by further Order of the Commissioner of Insurance for the State of New Jersey, the settlement amount is released earlier, the interest will be pro-rated. I further understand and agree that I will not seek anything further including any other payments from you.

1. Orders for Judgment shall include language similar to that in (b) above specifically referring to the deferral of any payment until the first day of the eighteenth month following physical receipt by the MTF's servicing carrier of the Order, the inclusion of per annum, simple interest at six percent in any final payment, and the understanding that if any payment is made early, the amount of interest will be pro-rated to the date of payment.

(c) The date of deferral shall be deemed to be the date upon which closing papers are physically received in the office of the servicing carrier, except as otherwise provided in N.J.A.C. 11:3-2B.4(f) and 2B.6. Such date shall govern the period of deferral applicable to the deferred claim.

(d) Disputes regarding the date of deferral shall be resolved in the first instance by the MTF in accordance with the following procedures:

1. A claimant who disputes the date of deferral as indicated by the servicing carrier shall notify the MTF in writing of the factual basis for the dispute and shall include therewith all supporting documentation. The servicing carrier shall also provide all relevant documentation in opposition to the date of claim settlement alleged by the claimant.

2. The MTF may adjust the ultimate pay-out date of a deferred claim upon a finding of inordinate delay by defense counsel or the servicing carrier in the handling or processing of the closing papers.

3. The MTF shall establish appropriate procedures for obtaining additional information when required during the course of review.

4. The MTF's written decision shall be mailed to the applicant by regular and certified mail, return receipt requested.

(e) Servicing carriers shall not utilize their own funds to pay claims subject to deferral unless instructed and authorized to do so by the MTF, the Commissioner or his or her designated representative. Regardless of the source of funds utilized, the MTF shall not reimburse servicing carriers for the unauthorized payment of claims subject to deferral.

(f) Servicing carriers shall continue their efforts to resolve all outstanding claims. During negotiations and/or other discussions with claimants or their attorneys, the servicing carrier and defense counsel shall advise all parties that payment will be deferred for 18 months.

(g) The Plan of Operation shall set forth uniform operating procedures necessary to implement these rules consistent with this subchapter including procedures for the implementation of hardship exemptions as provided at N.J.A.C. 11:3-2B.6; servicing carrier procedures; and the uniform handling of deferred claim payments.

New Rule, R.1995 d.50, effective January 17, 1995.  
See: 26 N.J.R. 4590(a), 27 N.J.R. 368(a).

### 11:3-2B.6 Hardship exemption procedure

(a) Notwithstanding the provisions of N.J.A.C. 11:3-2B.4, and subject to the availability of funds, an exemption from the deferral of a claim payment shall be permitted in limited circumstances upon the filing of a written application with the MTF which:

1. Demonstrates, through a written statement and sufficient supporting documentation, the existence of an extreme immediate financial emergency; and

2. Includes a statement in which the applicant attests that the emergency cannot be resolved through use of any other reasonably available financial resources. "Reasonably available financial resources" includes, but is not limited to, resources such as reimbursement or compensation through insurance coverage, reasonable liquidation of assets to the extent that liquidation would not cause further economic hardship, or borrowing from commercial sources on reasonable commercial terms.

(b) Some examples which may constitute acceptable grounds for a hardship exemption are as follows:

1. The claimant, spouse or dependant has incurred substantial medical expenses (over \$5,000) not related to the subject motor vehicle accident and not covered by insurance. Copies of all medical bills and insurance coverages must be provided.

2. The claimant, spouse or dependant cannot pay for essential food and shelter or household services. For this exemption to apply, the applicant, spouse or dependant

must face imminent eviction or foreclosure from their principal residence or loss of essential household services such as utility or telephone. A copy of the imminent foreclosure eviction notice or utility shut-off notification must be provided.

3. The claimant, spouse or dependant faces immediate removal from a nursing home, hospital or other medical care institution due to the inability to pay, although continued medical care is prescribed by medical health care providers and such care is not related to the subject motor vehicle accident. Copies of bills for treatment and medical insurance coverages, along with an original written statement from the medical institution advising that removal due to the inability to pay is imminent, must be provided.

4. The applicant cannot pay funeral expenses of the claimant, spouse or dependant and the death is not related to the subject motor vehicle accident. Copies of the unpaid funeral bills must be provided.

5. Such other emergency or situation of an unusual nature which may be deemed to be appropriate based upon information provided.

(c) Applications for a hardship exemption may be obtained from the servicing carriers or by submitting a written request to the Market Transition Facility of New Jersey, 293 Eisenhower Parkway, Livingston, New Jersey 07039.

1. A hardship application shall contain the following information:

- i. The name, address, social security number, telephone number and date of birth of the claimant;
- ii. The claim number and policy number;
- iii. The caption of the case;
- iv. The name of the MTF insured;
- v. The amount deferred and date deferred;
- vi. A description of the examples which constitute a hardship as set forth at (b) above;
- vii. The documents required to be appended to the application as set forth at (c) below;
- viii. The amount of exemption being sought and the grounds for the exemption; and
- ix. An appropriate certification executed by the applicant.

2. Completed applications shall be submitted directly to the MTF at the address noted in (c) above and shall include a certified-to-be-true copy of the associated judgment or fully-executed deferral release, a copy of the written acknowledgment of receipt of the deferral release or order for judgment issued by the MTF's servicing carrier, copies of all unpaid medical bills, insurance coverages, foreclosure notices, eviction notices, funeral bills and other appropriate documentation. Original documents shall be available for review upon the request of the MTF.

(d) The amount requested and the amount released from deferral, if a hardship exemption is granted, shall not exceed the minimum amount required to meet the financial emergency, nor the net amount due the claimant.

(e) The MTF shall establish appropriate procedures for obtaining additional information when required during the course of review.

(f) The MTF's written decision shall be delivered to the applicant or his or her legal representative by certified mail, return receipt requested or by an express mail service of the MTF's choice.

(g) Where an exemption is granted, the decision shall include a hardship exemption release amendment, prepared by the MTF, to be reviewed by the applicant or his or her legal representative, executed by the applicant, and forwarded directly to the MTF's servicing carrier. Additionally, where an exemption is granted, the appropriate servicing carrier shall be notified, in writing, with instructions to make the appropriate payment directly to and in the name of the claimant, upon receipt of the fully-executed hardship exemption release amendment. The servicing carriers shall proceed in accordance with procedures developed by the MTF.

(h) Where an exemption is either denied or only partially granted, the MTF decision shall enclose a copy of the appropriate documents required to file an appeal.

Recodified from 11:3-2B.4 and amended by R.1995 d.50, effective January 17, 1995.  
See: 26 N.J.R. 4590(a), 27 N.J.R. 368(a).

### 11:3-2B.7 Appeal to the Commissioner

(a) An applicant may appeal the decision of the MTF denying a request for a hardship exemption or from the MTF's decision regarding a dispute about the date of deferral within 20 days of receipt of the MTF's written decision by submitting to the Commissioner an appeal of the MTF's decision addressed to the AIM Unit, Department of Insurance, 20 West State Street, CN-325, Trenton, NJ 08625.

(b) The Notice of Appeal shall include those items presented in the initial request, a written statement explaining why the decision of the MTF denying the request was incorrect, and any additional documentation in support of the exemption request.

1. A copy of the appeal shall be simultaneously filed by the claimant with the MTF.

2. The MTF, upon receipt of notice of the appeal, shall forward the claimant's file to the Commissioner for his or her review.

(c) The Commissioner's final decision shall be provided to the MTF and shall be mailed to the applicant or his or her legal representative by certified mail, return receipt requested and by regular mail.

Recodified from 11:3-2B.5 and amended by R.1995 d.50, effective January 17, 1995.

See: 26 N.J.R. 4590(a), 27 N.J.R. 368(a).

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

### 11:3-2B.8 Confidentiality of documents

The information provided by a claimant pursuant to N.J.A.C. 11:3-2B.6 or 2B.7 as part of an application for a hardship exemption or appeal from a decision of the MTF shall be confidential and not subject to public inspection or copying pursuant to the "Right to Know" law, N.J.S.A. 47:1A-1 et seq.

Recodified from 11:3-2B.6 and amended by R.1995 d.50, effective January 17, 1995.

See: 26 N.J.R. 4590(a), 27 N.J.R. 368(a).

## SUBCHAPTER 3. BASIC AUTOMOBILE INSURANCE POLICY

### Authority

N.J.S.A. 17:1-8.1 and 17:1-15e and P.L. 1998, c.21.

### Source and Effective Date

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).

### 11:3-3.1 Purpose and scope

(a) This subchapter provides rules to be utilized by insurers in developing the policy forms and rates for basic automobile insurance policies to be filed with and approved by the Department in accordance with the provisions of N.J.S.A. 39:6A-3.1.

(b) This subchapter shall apply to all insurers writing private passenger automobile insurance on personal lines policy forms, including the New Jersey Personal Automobile Insurance Plan established by N.J.A.C. 11:3-2.

### 11:3-3.2 Definitions

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

"Basic automobile insurance policy" or "basic policy" means that automobile insurance policy offered pursuant to N.J.S.A. 39:6A-3.1 and this subchapter.

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

"Department" means the Department of Banking and Insurance.

"Insurer" means any person or persons, corporation, association, partnership, company, reciprocal exchange, or other legal entity authorized or admitted to transact private passenger automobile insurance in this State, or any one member of a group of affiliated companies that transacts business in accordance with a common rating system.

"Medically necessary" is as defined in N.J.A.C. 11:3-4.2.

"Personal injury protection" or "PIP" means the benefits and coverages set forth at N.J.S.A. 39:6A-4 and 39:6A-3.1 and N.J.A.C. 11:3-4.

"Significant disfigurement" means the result and/or manifestation of a serious traumatic injury that is observable as a permanent and substantial defect in the appearance and functional ability of the person injured. "Significant disfigurement" is a serious outward change that substantially detracts from the appearance and functional ability of the person injured.

"Standard automobile insurance policy" or "standard policy" means that policy form filed by private passenger automobile insurers and approved by the Commissioner that contains the coverages and options pursuant to N.J.S.A. 39:6A-4.

Amended by R.2000 d.454, effective November 6, 2000.

See: 31 N.J.R. 4210(a), 32 N.J.R. 4005(c)

Inserted "Significant disfigurement".

### 11:3-3.3 General provisions

(a) All insurers writing private passenger automobile insurance and the Personal Automobile Insurance Plan shall file for approval with the Department their rates, rules and policy forms for a basic automobile insurance policy to be issued in accordance with N.J.S.A. 39:6A-3.1 and this subchapter.

(b) An insurer shall make available the basic policy at either a single tier rate or at multiple tier rates, consistent with its tier rating system filed and approved pursuant to N.J.A.C. 11:3-19A. If more than one basic policy rate is offered, each shall be identified as part of a standard, non-standard or preferred tier.

(c) If a named insured has elected basic automobile insurance coverage and other immediate family members or resident relatives of the named insured have higher policy limits under a standard policy, the provisions of N.J.S.A. 39:6A-4.2 shall apply and the named insured shall only be entitled to the coverages provided under his or her basic policy.

(d) Basic policies shall provide the tort option provided under N.J.S.A. 39:6A-8a.

(e) Initial rates by coverage for basic policies filed in accordance with this subchapter shall demonstrate consis-

tency with the rates in the insurer's standard policy, adjusted for reduced coverage limits.

(f) Insurers shall file for approval an initial basic policy rating system by January 20, 1999.

#### 11:3-3.4 Coverages; mandatory and optional

(a) The following coverages shall be included in all basic policies:

1. Personal injury protection medical expense benefits coverage in an amount not to exceed \$15,000 per person, per accident; except that all medically necessary treatment of permanent or significant brain injury, spinal cord injury or disfigurement or medically necessary treatment of other permanent or significant injuries rendered at a trauma center or acute care hospital immediately following the accident and until the patient is stable, no longer requiring critical care and can be safely discharged or transferred to another facility in the judgment of the attending physician shall be covered in an amount not to exceed \$250,000, including the \$15,000 above. The medical expense benefits provided herein shall be in accordance with N.J.A.C. 11:3-4; and

2. Liability insurance coverage insuring against loss resulting from liability imposed by law for property damage sustained by any person arising out of the ownership, maintenance, operation or use of an automobile in an amount or limit of \$5,000, exclusive of interest and costs, for damage to property in any one accident.

(b) Insurers shall also make available in the basic policy, at the option of the insured, liability insurance coverage for bodily injury or death in an amount or limit of \$10,000, exclusive of interest and costs, on account of the injury or death of one or more persons in any one accident.

(c) Insurers may make available with the basic policy, at the option of the insured, comprehensive and collision coverage with deductibles filed and approved pursuant to N.J.A.C. 11:3-13.

(d) Basic policies shall not contain any other coverages, options, limits or deductibles other than those which are set forth in (a) through (c) above. Increased policy limits, the health insurance primary option for automobile medical expense coverage and uninsured/under-insured motorist coverages shall not be provided in basic policies.

#### 11:3-3.5 Election of basic automobile insurance policy coverage and reporting

(a) No insurer shall issue a basic automobile insurance policy unless the named insured has signed a written document entitled "basic automobile insurance policy coverage selection form" set forth in N.J.A.C. 11:3-15.7.

(b) For the years 1999 through 2003, each insurer writing basic automobile insurance policies shall report the number of basic automobile insurance in-force exposures as of December 31 together with the age of the named insured and the territories in which the named insured resides on a form prescribed by the Commissioner, and filed no later than the next occurring February 15.

#### 11:3-3.6 Filing requirements

(a) Insurers initially filing basic policy rating systems shall include the following:

1. A complete set of policy forms and endorsements that provide the mandatory and optional coverages as set forth in this subchapter;
2. Rates and rules as necessary;
3. An actuarial memorandum that supports the rate differentials from the insurer's standard policy rates;
4. The declaration page;
5. The rating information form; and
6. The personal lines filing forms as set forth in N.J.A.C. 11:3-16.3(f) and (g).

(b) Subsequent amendments to the rating systems shall be filed pursuant to N.J.A.C. 11:3-16 and other applicable statutes and rules.

### SUBCHAPTER 4. PERSONAL INJURY PROTECTION BENEFITS; MEDICAL PROTOCOLS; DIAGNOSTIC TESTS

#### Authority

N.J.S.A. 17:1-8.1, 17:1-15e, 39:6A-3.1a and 39:6A-4a.

#### Source and Effective Date

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).

#### 11:3-4.1 Scope and purpose

(a) This subchapter implements the provisions of N.J.S.A. 39:6A-3.1, 39:6A-4 and 39:6A-4.3 by identifying the personal injury protection medical expense benefits for which reimbursement of eligible charges will be made by automobile insurers under basic and standard policies and by motor bus insurers under medical expense benefits coverage.

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

Amended by R.2000 d.454, effective November 6, 2000.

See: 31 N.J.R. 4210(a), 32 N.J.R. 4005(c).

Rewrote Exhibits 3 and 10; inserted new Exhibit 11.

## SUBCHAPTER 5. PERSONAL INJURY PROTECTION DISPUTE RESOLUTION

### Authority

N.J.S.A. 17:1-8.1 and 17:1-15e, 39:6A-1.2, 39:6A-5.1 and 5.2.

### Source and Effective Date

R.1998 d.593, effective December 21, 1998.

See: 30 N.J.R. 3359(a), 30 N.J.R. 4437(a).

### 11:3-5.1 Purpose and scope

(a) The purpose of this subchapter is to establish procedures for the resolution of disputes concerning the payment of medical expense and other benefits provided by the personal injury protection coverage in policies of automobile insurance. This subchapter implements N.J.S.A. 39:6A-5.1 and 5.2, which provide that PIP disputes shall be resolved by binding alternate dispute resolution as provided in the policy form approved by the Commissioner. This subchapter also implements provisions of N.J.S.A. 2A:23A-1 et seq., as applicable to PIP dispute resolution.

(b) This subchapter shall apply to disputes arising under policies of private passenger automobile insurance, on either a personal lines or commercial lines policy form, that pro-

vide medical expense benefits and other benefits under personal injury protection coverage, as follows:

1. PIP benefits under a standard automobile insurance policy pursuant to N.J.S.A. 39:6A-4;
2. PIP benefits under a basic automobile insurance policy pursuant to N.J.S.A. 39:6A-3.1;
3. PIP benefits provided by the UCJF pursuant to N.J.S.A. 39:6-86.1; and
4. Additional PIP benefits provided pursuant to N.J.S.A. 39:6A-10.

(c) This subchapter shall apply to policies issued or renewed on or after March 22, 1999 in accordance with the approved policy terms.

### 11:3-5.2 Definitions

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

“Administrator” means the dispute resolution organization designated by the Commissioner pursuant to N.J.S.A. 39:6A-5.1 and N.J.A.C. 11:3-5.3.

“Basic policy” means an automobile insurance policy issued pursuant to N.J.S.A. 39:6A-3.1 and N.J.A.C. 11:3-3.

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

**11:3-6.3 Temporary identification card (form IV-2)**

(a) The specifications for temporary insurance identification cards are set forth below:

1. The size shall be the same as the permanent identification card;
2. The weight and color shall be minimum 24 pound white stock;
3. The color shall be the same as the permanent identification card;
4. Number of copies: One original;
5. The content of the temporary card shall be the same as the permanent identification card except as noted below:
  - i. Title: "TEMPORARY" to precede heading on card;
  - ii. Policy number: Indicate policy number if available; otherwise, the application or binder number is acceptable;
  - iii. Effective date: Month, day and year that coverage becomes effective. Expiration date is not required;
  - iv. Expiration: The card shall contain the following statement: "This card expires 60 days after the effective date shown above";
  - v. Assignment of form number IV2T (1/96), to be shown in the upper left corner.

As amended, R.1973 d.35, eff. January 26, 1973.

See: 5 N.J.R. 20(b).

As amended, R.1974 d.208, eff. July 24, 1974.

See: 6 N.J.R. 322(b).

As amended, R.1983 d.648, eff. January 17, 1984.

See: 15 N.J.R. 1919(a), 16 N.J.R. 145(c).

Language changes and clarification.

Amended by R.1991 d.45, effective February 4, 1991.

See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

Deleted subsection (b), describing components of the New Jersey Automobile Insurance Plan.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

**11:3-6.4 General provisions**

(a) The order of the information to be contained on the identification cards may be rearranged in order to accommodate fixed printout systems already established by a company. No changes shall be made without obtaining approval of the New Jersey Division of Motor Vehicles.

(b) Additional information may be printed on the reverse side of the identification cards, provided the additional information is appropriately captioned and is not at variance with the information required.

(c) One identification card shall be issued for each vehicle insured under the policy. Replacement identification

card or cards will be issued at the request of the insured in the event of loss.

(d) Each identification card shall be effective for no more than 14 months from the effective date indicated on its face. A replacement identification card shall be issued to all insureds each year upon renewal of the policy. A replacement identification card must be issued upon either a change of vehicle or the acquisition of additional vehicles. Upon assignment of a new policy number, a new card must also be issued.

(e) Identification cards will not be required for trailers as the liability burden is on the towing or power unit.

(f) The insurer shall, prior to the expiration of a 60-day temporary identification card, issue to the insured a permanent identification card.

(g) Insurers may continue to use existing supplies of form number IV2A (1/73) and ACORD 50(1/83) until June 30, 1996. Thereafter, insurers shall only be permitted to issue insurance identification cards which comply with this subchapter. Insurance identification cards issued in compliance with this subchapter shall be valid for the term of the policy referenced thereon.

As amended, R.1973 d.35, effective January 26, 1973.

See: 5 N.J.R. 20(b).

As amended, R.1983 d.648, effective January 17, 1984.

See: 15 N.J.R. 1919(a), 16 N.J.R. 145(c).

Dated material at (e) deleted.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

**11:3-6.5 Commercial motor vehicles; exemption**

Commercial motor vehicles regulated by the Interstate Commerce Commission or the New Jersey Department of Public Utility Commissioners shall be exempted from this regulation.

NOTE: To require an I.C.C. or P.U.C. carrier to carry such an identification card would be an unnecessary duplication. The insurance and filing requirements of the I.C.C. and the P.U.C. present a comparable safeguard to that sought by the newly required identification insurance cards.

R.1973 d.3, effective January 3, 1973.

See: 4 N.J.R. 307(a), 5 N.J.R. 47(d).

**SUBCHAPTER 7. AUTOMOBILE REPAIRATION REFORM ACT****11:3-7.1 Purpose**

This subchapter implements certain provisions of the Automobile Repairation Reform Act, N.J.S.A. 39:6A-1 et seq., including the Commissioner's authority to establish the

amounts and terms of additional personal injury protection benefits that must be made available to insureds electing a standard automobile insurance policy pursuant to N.J.S.A. 39:6A-4.

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).

Substituted "made available to insureds electing a standard automobile insurance policy pursuant to N.J.S.A. 39:6A-4" for "provided in policies covering automobiles as defined in N.J.S.A. 39:6A-2" at the end.

#### Case Notes

Additional personal injury protection coverage applied to all persons for whom basic coverage was provided. *Clendaniel v. New Jersey Manufacturers Insurance Co.*, 190 N.J.Super. 286, 463 A.2d 369 (App. Div.1983), affirmed in part, reversed in part 96 N.J. 361, 476 A.2d 263 (1984).

Individual held to be "surviving spouse" until conclusive determination of divorce reached. *Allstate Insurance Co. v. Skolny*, 86 N.J. 112, 429 A.2d 1045 (1981).

#### 11:3-7.2 General requirements applicable to additional personal injury protection benefits

(a) In addition to the personal injury protection benefits that insurers must provide pursuant to N.J.S.A. 39:6A-4, insurers shall make available to the named insured, and, at his or her option, to any resident relatives in the name insured's household who are not named insureds on another standard or basic policy, additional income continuation benefits, essential services benefits, death benefits and funeral expense benefits pursuant to N.J.S.A. 39:6A-10 and this subchapter.

(b) The additional benefit indicated in each option that an insurer may offer for income continuation benefits and essential services benefits represents the aggregate of the basic and additional personal injury protection benefits.

(c) Any additional income continuation benefits that an insurer may offer shall be limited to 75 percent of the insured's weekly income.

(d) The limits which are applicable to any additional personal injury protection benefits that an insurer may offer shall apply on a per person, per accident basis.

(e) Each insurer shall make available as an option additional income continuation benefits for as long as the disability persists.

1. Each insurer shall furnish rates for such benefits upon the request of the insured.

(f) Any additional death benefits which an insurer may offer shall be payable without regard to the period of time elapsing between the date of the accident and the date of death provided death occurs within two years of the accident and results from bodily injury from that accident.

1. The requirements of (f) above shall apply to any claim for additional death benefits where death occurs on or after April 21, 1986.

i. With respect to any claim presented on or after the effective date of this subchapter, each insurer shall disclose the availability of additional death benefits in conformance with the applicable provisions of N.J.A.C. 11:2-17.1 et seq.

ii. With respect to any claim initiated prior to the effective date of this subchapter, each insurer shall take appropriate steps to determine whether additional death benefits are payable, pursuant to (f) above. These steps shall include, but need not be limited to, review of claims closed on or after April 21, 1986 for the purpose of ascertaining the applicability of additional death benefits. Upon determining that such benefits are payable, each insurer shall provide written notice to eligible beneficiaries and process the claim in accord with N.J.S.A. 39:6A-5 and the applicable provisions of N.J.A.C. 11:2-17.1 et seq.

(g) In addition to the minimum schedule of additional personal injury protection benefits set forth at N.J.A.C. 11:3-7.4(b), any insurer may provide other additional personal injury protection benefit options subject to review and approval of its filing by the Department of Insurance. Any additional options offered by the insurer must be in compliance with the standards and requirements set forth in this subchapter.

(h) Insurers may also make available to named insureds covered under N.J.S.A. 39:6A-4, and at their option, to resident relatives in the household of the named insured or to other persons provided medical expense coverage pursuant to this statutory provision, or both, additional first party medical expense benefit coverage pursuant to N.J.S.A. 39:6A-10.

Amended by R.1990 d.580, effective November 19, 1990 (operative January 1, 1991).

See: 22 N.J.R. 1681(a), 22 N.J.R. 3488(b).

New (h) added enabling insurers to make available additional first party medical expense benefit coverage in excess of \$250,000 as per P.L. 1990 c.8.

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 (a), deleted "basic" preceding "personal" and inserted "who are not named insureds on another standard or basic policy" following "household".

#### Case Notes

Insurer made sufficient offer of basic income continuation benefits for as long as disability exists. *Werts v. New Jersey Mfrs. Ins. Co.*, 250 N.J.Super. 580, 595 A.2d 1110 (A.D.1991), certification denied 127 N.J. 554, 606 A.2d 366.

After death of named insured in accident, maximum scheduled income continuation and essential services benefits held payable to husband of named insured. *Muschette v. The Gateway Insurance Co.*, 149 N.J.Super. 89, 373 A.2d 406 (App.Div.1977) certification denied 75 N.J. 27, 379 A.2d 258, affirmed 76 N.J. 560, 388 A.2d 964 (1978).

## SUBCHAPTER 8. RENEWAL AND NONRENEWAL OF AUTOMOBILE INSURANCE POLICIES

### 11:3-8.1 Scope

This subchapter applies to all automobiles as defined in N.J.S.A. 39:6A-2a, excluding those owned by business entities or insured through any statutorily mandated residual market mechanism, and to all policies or contracts of insurance insuring such automobiles.

New Rule, R.1983 d.190, effective June 6, 1983.

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

Section was "General provisions".

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

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

#### Case Notes

Policy provision defining an eligible person as a spouse only if resident in the same household as insured held void; named insured's deletion of estranged wife from coverage held void; reformation of policy ordered. *Matland v. United States Automobile Ass'n*, 174 N.J.Super. 499, 417 A.2d 46 (Law Div.1980).

The extension of N.J.A.C. 11:3-8.1, establishing procedures for the nonrenewal of "No-Fault" coverages to include physical damage coverages is a valid and enforceable exercise of the commissioner's rule making power. *Atty.Gen.F.O.1982, No. 8.*

### 11:3-8.2 Definitions

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

"Automobile insurance eligibility points" or "eligibility points" means points calculated under the schedule set forth in N.J.A.C. 11:3-34.

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

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

"DIFP" means the Division of Insurance Fraud Prevention of the New Jersey Department of Banking and Insurance.

"Eligible person" means an individual that meets the qualifications set forth in N.J.A.C. 11:3-34.

"Information" means any facts, documents, information and representations that are intentionally disclosed, or not disclosed, by an insured, applicant or covered person to an insurer or its representative that would materially affect the coverage, the premium or the benefits under a policy of insurance.

"Insurer" includes a group of affiliated companies.

"Nonrenewal" means the termination of coverage at the end of the policy period. Nonrenewal occurs when a notice of nonrenewal is sent to the insured in accordance with these rules.

"Producer" means any person or business entity, licensed pursuant to N.J.S.A. 17:22A-1 et seq., that earns \$10,000 or more in commissions from an insurer in the prior calendar year.

"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 rating plan, filed and approved in accordance with N.J.A.C. 11:3-19A.

"Tier rating plan" means a rating system used by an insurer that provides different rates for different risks to those insureds who qualify in accordance with the insurer's approved underwriting rules, which has been filed and approved in accordance with N.J.A.C. 11:3-19A.

Emergency 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).

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

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

Provisions of emergency new rule, R.1990 d.626 readopted without change, operative April 1, 1991.

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

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

Inserted "DIFP", "Information" and "Nonrenewal"; in "Renew", changed N.J.A.C. reference; and changed "Standard/nonstandard rating plan" definition to "Tier rating plan", substituted a reference to rates for a reference to base rates, and changed N.J.A.C. reference.

#### Case Notes

Where offer to renew insurance is conditioned upon timely premium payment, that fact should be clearly set forth. *Cervone v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 239 N.J.Super. 25, 570 A.2d 999 (A.D.1990).

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.

Insurer held liable for fire loss where it failed to give notice of policy expiration. *Barbara Corp. v. Bob Maneely Insurance Agency*, 197 N.J.Super. 339, 484 A.2d 1292 (App.Div.1984) (dissenting opinion).

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).

Insurance company cancelling agencies was required to give insureds renewal options indefinitely unless like coverage was available in the market. *Sheeran v. Nationwide Mutual Insurance Co., Inc.*, 159 N.J.Super. 417, 388 A.2d 272 (Ch.Div.1978), affirmed per curiam 163

N.J.Super. 40, 394 A.2d 149 (App.Div.1978), modified and affirmed 80 N.J. 548, 404 A.2d 625 (1979).

### 11:3-8.3 General provisions

(a) Every insurer shall make an offer to the insured named in a policy subject to this subchapter to renew such policy upon its expiration date, unless a valid notice of nonrenewal or conditioned renewal as specified in (h) below has been sent by the insurer to the insured in accordance with this subchapter.

(b) Each renewal offer shall be in the usual form of either a renewal policy, a certificate, or a renewal bill. With respect to payment of the renewal premium, notice shall be given not more than 45 days nor less than 30 days prior to the expiration of the existing policy or the due date of the premium, whichever is later, and shall clearly state the effect of not paying the renewal premium by the due date.

(c) Subject to changes approved by the Commissioner that had become effective prior to the expiration of the current policy, each renewal shall offer coverage, limits and terms at least as favorable to the insured as the expiring policy, including, but not limited to the schedule of premium payments, if any.

(d) Payment by the insured in accordance with the terms stated in the billing notice or in accordance with terms agreed to with the company or producer shall constitute acceptance of the renewal offer by the insured.

(e) The requirements of (b) above shall not preclude the insurer from offering physical damage coverage with a higher deductible than that in the expiring policy, provided the insured is informed that a lower deductible is available at an appropriate rate.

(f) A notice of nonrenewal shall not be valid unless it is mailed or delivered by the insurer to the insured no less than 60 days and no more than 90 days prior to the expiration of the current policy, setting forth the reason(s) for such nonrenewal.

1. A notice of nonrenewal shall not be valid unless it includes the designated provision(s) of this subchapter under which action is being taken and the facts relied upon by the insurer in determining to nonrenew the insured. The notice shall include reference to the underwriting provision(s), including dates and other facts necessary for identification of the incident(s).

i. In the event action is being taken under N.J.A.C. 11:3-8.4(a) (ineligible person), the notice shall provide the basis by which the insured fails to qualify as an eligible person. When notice of nonrenewals is based on automobile insurance eligibility points, the notice shall identify the number of eligibility points and the events and sources which resulted in their assessment.

ii. In the event action is being taken under N.J.A.C. 11:3-8.4(b) (underwriting rules) to nonrenew an insured who is not an eligible person in accordance with the approved underwriting rules, the notice shall provide the basis by which the insured fails to qualify as an eligible person and shall reference the specific underwriting rule by which the insured is disqualified. The notice shall set forth the specific facts upon which the insurer relied to determine that the insured is not an eligible person and is no longer qualified to be insured in accordance with the insurer's approved underwriting rules.

iii. In the event action is being taken under N.J.A.C. 11:3-8.5(a)2, the notice shall specify that the action is being taken in accordance with N.J.A.C. 11:3-8.5(a)2 (two percent territorial nonrenewal) and shall be consecutively numbered in each territory.

iv. In the event action is being taken under N.J.A.C. 11:3-8.5(a)3, the notice shall specify that the action is being taken in accordance with N.J.A.C. 11:3-8.5(a)3 (one nonrenewal for each two newly insured automobiles) and shall be consecutively numbered in each territory.

2. Notices of nonrenewal shall include or be accompanied by the statement prescribed in (f)2i below which shall be clearly and prominently set out in boldface type or other manner which draws the reader's attention.

i. Notices of nonrenewal must set forth: "If you have reason to believe that our decision to nonrenew your policy is not in compliance with New Jersey Regulation N.J.A.C. 11:3-8, you should file a written complaint with the New Jersey Department of Banking and Insurance, Division of Enforcement and Consumer Protection, PO Box 329, Trenton, NJ 08625-0329. Your written complaint should indicate the facts on which you are basing your complaint."

3. Each notice of nonrenewal sent in accordance with (f)1iii and iv above shall be accompanied by a copy of the notice contained in Appendix Exhibit A, incorporated herein by reference.

(g) 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.

(h) 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.

(i) 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).

#### 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. *Minney 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.

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.

#### Case Notes

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.

(f) Nothing in these rules or their application shall be construed to authorize insurers to act in contravention of any applicable State or Federal law prohibiting discrimination on impermissible bases.

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

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

Former N.J.A.C. 11:3-8.6, Suspension of nonrenewals, recodified to N.J.A.C. 11:3-8.7.

Administrative correction.

See: 32 N.J.R. 809(b).

### 11:3-8.7 Suspension of nonrenewals

Notwithstanding the provisions of this subchapter, if the plan for automobile insurance established pursuant to N.J.S.A. 17:29D-1 is not accepting new applications for coverage pursuant to N.J.S.A. 17:29D-1(d), no insurer transacting automobile insurance in this State shall refuse to renew any private passenger automobile insurance policy in this State.

Emergency 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).

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

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

Provisions of emergency new rule readopted without change.

Recodified from N.J.A.C. 11:3-8.6 by R.1999 d.270, effective August 16, 1999.

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

Former N.J.A.C. 11:3-8.7, Reporting requirements, recodified to N.J.A.C. 11:3-8.8.

### 11:3-8.8 Reporting requirements

(a) Insurance companies shall maintain records of nonrenewals for not less than five years which shall include a copy of the notice of nonrenewal, data concerning the allowable number of nonrenewals in each territory computed in accordance with N.J.A.C. 11:3-8.5(a)2, and data concerning the actual number of newly insured automobiles and nonrenewals in each territory for each category, computed in accordance with N.J.A.C. 11:3-8.5(a)3. Such records and data shall be made available to the Department upon request.

(b) Each automobile insurer shall report on June 30 and December 31 the number of exposures represented by policies nonrenewed during the preceding 180 days in accordance with N.J.A.C. 11:3-8.5(a)2 (two percent) and 11:3-8.5(a)3 (two for one). Reports shall be due 20 days after the end of the reporting period and shall be on a form acceptable to the Commissioner.

New Rule, 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 11:3-8.5.

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

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

Provisions of emergency repeal and new rule, R.1990 d.626 readopted without change.

Recodified from N.J.A.C. 11:3-8.7 and amended by R.1999 d.270, effective August 16, 1999.

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

Rewrote the section. Former N.J.A.C. 11:3-8.8, Separability, recodified to N.J.A.C. 11:3-8.9.

### 11:3-8.9 Separability

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

New Rule, R.1986 d.418, effective October 6, 1986.

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

Recodified from 11:3-8.6 as part of Emergency Amendments filed as R.1990 d.626, effective November 26, 1990, operative April 1, 1991.

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

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

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

Recodified from N.J.A.C. 11:3-8.8 by R.1999 d.270, effective August 16, 1999.

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

Former N.J.A.C. 11:3-8.9, Penalties, recodified to N.J.A.C. 11:3-8.10.

### 11:3-8.10 Penalties

(a) Any person violating the provisions of this subchapter shall be subject to such penalties as may be authorized by law.

(b) In addition to any such penalties, the Commissioner may, after notice and hearing, suspend or revoke the rights of any insurer or group of insurers under N.J.A.C. 11:3-8.4.

New Rule, R.1986 d.418, effective October 6, 1986.

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

Recodified from 11:3-8.7 as part of Emergency Amendments filed as R.1990 d.626, effective November 26, 1990, operative April 1, 1991.

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

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

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

Recodified from N.J.A.C. 11:3-8.9 by R.1999 d.270, effective August 16, 1999.

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

## APPENDIX

## EXHIBIT A

## New Jersey Auto Consumers' Rights Q&amp;A

New Jersey Department of Banking and Insurance

PO Box 325

Trenton, NJ 08625-0325

1-800-446-7467

*Shopping for Auto Insurance? Start now and know your rights.*

*Below are some of the most commonly asked questions about auto insurance and the answers every consumer should have before shopping for a new policy. But remember, it is difficult to take advantage of your rights if you wait until the last minute.*

- *Can a company refuse to sell auto insurance to me?*

No, not as long as you are an "eligible" driver under the law, based primarily on motor vehicle violations, at-fault accidents and lapses in coverage. More than 97 percent of New Jersey drivers are eligible for coverage by all but a very few companies. If your application is declined, the company must tell you the reason, in writing.

- *There are no insurance agents in my neighborhood? Where can I get insurance?*

Call the Department of Banking and Insurance for an annual premium comparison survey and a list of all companies that sell insurance in New Jersey. Many are "direct writers," who sell insurance over the telephone or by mail.

- *Can I be denied insurance because of where I live or my race, sex, or age?*

No. Insurance companies are barred by law from refusing to sell auto insurance coverage based on any of those factors.

- *An insurance agent refused to tell me about rates. Is this right?*

No. Insurance companies and agents must provide general pricing information for your area upon request. If you meet with an agent to get a "quote," or specific pricing for your policy, any agent who sells for multiple companies must give you quotes for each one.

- *Will I have to wait several weeks to get an appointment to buy auto insurance coverage?*

No. If a company uses appointments, you should be scheduled so that you can get coverage before your current policy expires. Tell the agent your current expiration date, and get an appointment well in advance so your coverage will not lapse. Give yourself time to shop around—you might get a better price. Remember that processing the application will take some time, so don't wait until the last minute.

- *What documents do I have to provide to get insurance?*

That can vary, so be sure to ask and make a list of what is needed. You will be asked to provide a copy of your driver's license and registration certificate and you may be asked to supply other information or documents. Companies cannot require you to provide a copy of your driver's "abstract," or Division of Motor Vehicle record. You may wish to bring one if you do not have time to wait for the company to obtain one. It's up to you.

- *How much time does an insurance company have to approve or reject my application once it is completed?*

The company has 5 business days from the time it receives a completed application to approve or decline it, and the clock starts running *when the company receives the application*, not when you put it in the mail. If you buy through an agent, ask how long it will take for the company to receive your application and you will know when to expect an answer.

- *Can I do anything to reduce the cost of my insurance?*

Yes. Give yourself enough time to shop around. Prices vary from company to company. When you apply for insurance coverage, you will be asked to complete a "coverage selection form." Read the form carefully. You can pay less by taking advantage of cost-saving options available. Buy *only* the insurance you need. You can help lower the cost of insurance by reporting insurance fraud and spotting aggressive drivers who cause accidents.

- *Who should I call?*

To obtain shopping information,

Insurance Consumer Hotline

1-800-446-7467

To report suspected fraud

Insurance Fraud Prevention

1-800-373-8568

To report aggressive drivers

New Jersey State Police

1-888-723-7623

New Rule, R.1998 d.43, effective January 20, 1998.  
See: 29 N.J.R. 3107(a), 30 N.J.R. 366(b).

Recodified from N.J.A.C. 11:3-8 Appendix Exhibit C by R.1999 d.270, effective August 16, 1999.

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

Former N.J.A.C. 11:3-8 Appendix Exhibit A, Nonrenewal report—A, repealed.

**EXHIBIT B (RESERVED)**

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

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).  
Exhibit was “Nonrenewal report—B”.

**EXHIBIT C (RESERVED)**

Recodified to N.J.A.C. 11:3-8 Appendix Exhibit A by R.1999 d.270, effective August 16, 1999.

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

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

**11:3-9.1 Rating information; private passenger cars;  
automobile insurance**

(a) Every automobile insurance policy subject to New Jersey rates and providing coverage for an individually owned (or jointly owned by husband and wife; or two or more relatives resident of the household) private passenger automobile and/or any motor vehicle rates as a private passenger automobile shall be accompanied by rating information applicable to the premium determination. Such information must include the criteria pertaining to any individual driver classification plan used by the company and shall recite any rules that apply to the chargeability of accidents and convictions.

(b) If the declaration page or extension certificate or similar documents to the insured identifies the insured's car by a code, or other abbreviation, the rating information may be supplied by a rating information form that interprets the code number or abbreviation.

(c) Every company shall develop a rating information format adapted to the classification system approved for and used by the company in this State. Such format shall be submitted to the Commissioner of Insurance for approval initially within 30 days of the effective date of this regulation, and subsequently within 15 days of any revision of the classification system approved for the company. Filings of the rating information format by a rating organization shall be applicable to members and subscribers of such organization unless such companies deviate from the rating organization's classification system.

(d) This regulation shall be effective August 31, 1973. Use of approved forms will be required on all new and renewal business with effective dates January 1, 1974 and thereafter.

R.1973 d.206, effective August 31, 1973.

See: 5 N.J.R. 150(b), 5 N.J.R. 282(b).

Amended by R.1991 d.45, effective February 4, 1991.

See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

Deleted subsection (b) regarding New Jersey Automobile Insurance Plan and recodified existing (c)-(e) as (b)-(d) with no change in text.

**11:3-9.2 (Reserved)**

R.1975 d.130, eff. July 1, 1975.

See: 7 N.J.R. 113(a), 7 N.J.R. 276(d).

Repealed by R.1996 d.246, effective June 3, 1996.

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

Section was "Private passenger automobile rating class; revoked or suspended operator".

**SUBCHAPTER 10. AUTO PHYSICAL DAMAGE  
CLAIMS**

**11:3-10.1 Scope**

This subchapter applies to claims arising under motor vehicle collision and comprehensive coverages.

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

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

Section heading was Application.

**Case Notes**

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

**11:3-10.2 Definitions**

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

"Actual cash value", unless otherwise specifically defined by law or policy, means the lesser of the amounts for which the insured or the designated representative can reasonably be expected to:

1. Repair the motor vehicle to its condition immediately prior to the loss; or
2. Replace the motor vehicle with a substantially similar vehicle. The amount shall include all moneys paid or payable as sales taxes on the motor vehicle repaired or replaced. This paragraph shall not be construed to prevent an insurer from issuing a policy where the amount of damages to be paid in the event of a total loss is a specified dollar amount.

"Agreed price" or "figure" means the amount agreed to by the insurer and the insured, or their representatives, as the reasonable cost to replace the motor vehicle or to repair damages to the motor vehicle resulting from the loss, without considering any deductible or deductions.

"Designated representative" means a person designated by the insured to represent the insured in negotiations with the insurer in an attempt to settle the claim. The designated representative may be any person authorized by the insured who may act legally in his or her behalf.

"Motor vehicle" shall have the meaning ascribed in N.J.S.A. 39:1-1.

ii. The source shall produce fair market values of substantially similar vehicles for at least 85 percent of all makes and models for the last 15 years and shall include all major options. A sufficient number of vehicles must be used for each year, make, and model to represent a cross-section of the market sufficient to determine fair market value.

iii. If the database uses several price ranges for the same model vehicle depending on the condition of the vehicle, it must clearly indicate what condition the vehicle is being valued at and define in detail the difference between such rating categories. Documentation of the condition of the insured vehicle must be made a part of the written valuation.

iv. At the time of request for approval the source of the database shall be revealed to the Commissioner in a manner that can be verified by the Department.

4. If it is not possible to value the insured vehicle by using the method set forth in (a)1, 2 and 3, the insurer shall determine the retail value of the vehicle by using the best available method and shall fully explain in writing to the insured how its offer was calculated.

(b) If the insurer is notified in writing within 30 calendar days of the receipt of the claim draft that the insured cannot purchase a comparable vehicle at the market value established by the insurer, the insurer shall reopen its claim file and the following procedures will apply:

1. The insurer may locate a substantially similar vehicle by the same manufacturer of the same year, make and model, with similar options, mileage, and condition as the destroyed vehicle from a licensed dealer. Such vehicle must be within a reasonable distance not to exceed 25 miles from the insured's principal place of garaging;

2. The insurer shall either pay the difference between the market value before applicable deductions and the cost or the market value as determined by (a)2 above of a substantially similar vehicle located by the insured or negotiate and effect purchase of this vehicle for the insured;

3. The insurer may elect to offer a replacement vehicle in accordance with the provisions as in (e) below; or

4. The insurer or insured may conclude the loss settlement as provided for under the appraisal section of the insurance contract in force at the time of loss. This appraisal shall be considered as binding against both parties, but shall not preclude or waive any other rights either party has under the insurance contract or under law.

(c) The insurer shall advise the insured in writing of the rights of recourse at the time the settlement draft is issued and retain a copy of the notice in its claim file.

(d) An insurer shall use the same source of settlement for all claims unless it is documented that the primary settlement source is not available in the case of a particular vehicle. At the request of the Commissioner, the insurer shall provide the Department with its primary source of valuation for vehicles.

(e) If the insurer elects to replace the vehicle, the replacement vehicle must be an immediately available, substantially similar vehicle that is both furnished and paid for by the insurer, subject to the deductible, if any, and including applicable sales tax.

(f) If the insured vehicle is a private passenger automobile of the current model year, meaning that the vehicle has not been superseded in the market place by an officially introduced succeeding model, the insurer shall utilize one of the following methods in the settlement of the loss, unless the utilization of (a) or (b) above is more favorable to the consumer.

1. Either the insurer shall pay the insured an amount equal to the reasonable purchase price on the date of the loss of a new identical vehicle, less any applicable deductible and an allowance for depreciation in accordance with the schedule below; or

2. The insurer shall provide the insured with a new identical replacement vehicle charging the insured for any applicable deductible and for depreciation in accordance with the schedule below:

**Depreciation Schedule**

Purchase Price	Depreciation per mile
Up to \$ 6,500	\$0.10
\$ 6,501-\$ 8,000	0.12
8,001- 10,000	0.15
10,001- 12,000	0.18
12,001- 15,000	0.21
15,001- 20,000	0.25
More than \$20,000	0.29

(g) In the event of a total loss, any parts of the insured vehicle included in its valuation which are removed by the insured or the designated representative shall have their value deducted from the final settlement figure. This section shall not be construed to grant a right of removal.

(h) The following provisions of N.J.A.C. 11:3-10.3 also shall apply to the adjustment of total losses, except that the insurer shall have a total of 14 working days to comply with the requirements of subsections (a), (b), (c), (h), (i), (j) and (k) of N.J.A.C. 11:3-10.3.

(i) This section does not prohibit an insurer from issuing a stated value policy insuring against physical damage where the amount of damages to be paid in the event of a total loss is a specified dollar amount.

(j) If the vehicle is a total loss, the insurer may require that the insured transfer ownership of the vehicle to recoup salvage as a condition of settlement.

As amended, R.1976 d.371, eff. November 22, 1976.  
See: 8 N.J.R. 481(b), 8 N.J.R. 559(c).  
Amended by R.1985 d.629, effective December 16, 1985.  
See: 16 N.J.R. 3170(a), 17 N.J.R. 2988(a).  
(a)ii added; new depreciation schedule.  
Administrative correction to (e).  
See: 21 N.J.R. 3173(b).  
Amended by R.1987 d.249, effective June 15, 1987.  
See: 18 N.J.R. 2415(a), 19 N.J.R. 1096(a).  
Substantially amended.  
Amended by R.1995 d.583, effective November 6, 1995.  
See: 27 N.J.R. 2535(a), 27 N.J.R. 4314(a).

#### Case Notes

Compilation of used vehicle valuations did not automatically fall into public domain and lose its copyright protection. CCC Information Services, Inc. v. Maclean Hunter Market Reports, Inc., C.A.2 (Conn.)1994, 44 F.3d 61, certiorari denied 116 S.Ct. 72, 133 L.Ed.2d 32..

#### 11:3-10.5 Unreasonable delay

(a) Unless a clear justification exists, physical damage claims will have a maximum payment period of 30 calendar days. A payment period is the period between the date of the receipt of the notice of loss by the insurer, and:

1. The date the settlement check is mailed; or
2. The date on which the damaged vehicle is returned to use when the insurer elects to repair or have repaired the insured vehicle; or
3. The date on which the damaged vehicle is replaced by the insurer.

(b) If any element of a physical damage claim remains unresolved more than 30 calendar days from the date of receipt of notice of loss by the insurer, the insurer shall provide the insured with a written explanation of the specific reasons for delay in the claim settlement. An updated letter of explanation shall be sent again every 30 calendar days thereafter until all elements of claim are either honored or rejected.

(c) Any letter of explanation, rejection or acceptance of any element of a claim shall contain in the upper right hand corner the date of receipt of notice of loss by the insurer and be identified as such. The letter shall also contain the identity and claim processing address of the insurer, and the insured's policy number and claim number.

(d) A copy of the second update letter sent 60 days after the date of receipt of notice of loss, and all thereafter sent to any New Jersey insured, shall be mailed simultaneously to the insured and the Division of Enforcement and Consumer Protection, 20 West State Street, CN 325, Trenton, New Jersey 08625.

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

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

Substituted "Marketplace Regulation and Consumer Assistance Division" for "Consumer Services Division".

Amended by R.1991 d.45, effective February 4, 1991.

See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

In (d): revised address.

#### Law Review and Journal Commentaries

Damages—First Party Claims—Insurance. Judith Nallin, 133 N.J.L.J. No. 12, 65 (1993).

#### Case Notes

Cause of action exists for insured's bad-faith refusal to pay first-party claims. Pickett v. Lloyd's, 131 N.J. 457, 621 A.2d 445 (1993).

Insurer owes duty of good faith to insured in processing first-party claim. Pickett v. Lloyd's, 131 N.J. 457, 621 A.2d 445 (1993).

Finding that insurer and agent breached duty of fair dealing by failing to timely pay claim was supported by the evidence. Pickett v. Lloyds, 252 N.J.Super. 477, 600 A.2d 148 (A.D.1991), certification granted 127 N.J. 563, 606 A.2d 373, affirmed 131 N.J. 457, 621 A.2d 445.

Insured acted reasonably in not reading proof of loss form. Pickett v. Lloyds, 252 N.J.Super. 477, 600 A.2d 148 (A.D.1991), certification granted 127 N.J. 563, 606 A.2d 373, affirmed 131 N.J. 457, 621 A.2d 445.

Insured could to recover for lost income as result of insurer's delay in paying claim. Pickett v. Lloyds, 252 N.J.Super. 477, 600 A.2d 148 (A.D.1991), certification granted 127 N.J. 563, 606 A.2d 373, affirmed 131 N.J. 457, 621 A.2d 445.

Insured who did not submit proof of loss until loss of seniority was not barred from recovery against insurer. Pickett v. Lloyds, 252 N.J.Super. 477, 600 A.2d 148 (A.D.1991), certification granted 127 N.J. 563, 606 A.2d 373, affirmed 131 N.J. 457, 621 A.2d 445.

#### 11:3-10.6 Loss of use

In the event of the theft of the entire vehicle the insurer at the time of notification shall advise the insured of his or her right under the policy to be reimbursed for transportation expenses. The notification must be confirmed in writing immediately after receipt of notice of theft. All conditions and benefits related to this coverage as stated in the policy must be contained in the notification to the insured.

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

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

Deleted "it shall be the duty of".

#### 11:3-10.7 Subrogation agreements

(a) If an insured has received payment under his or her physical damage coverage that is subject to a deductible, the insured shall share, pro rata, with the insurer any net recovery received by the insurer from third parties.

(b) Net recovery shall be the total recovery less the insurer's allocated loss adjustment expenses attributable to such recovery. The formula for computing net recovery and the insured's share of recovery of the deductible may be stated as follows:

1. Total recovery – Allocated loss adjustment expenses = Net recovery.

$$\frac{\text{Deductible}}{\text{Total loss}} \times \text{Net recovery} = \text{Insured's Share of recovery.}$$

2. Application of formula: Assume a loss of \$500.00 subject to a \$100.00 deductible with \$50.00 in allocated loss adjustment expenses:

i. If there is full recovery of \$500.00: computation of net recovery:

$$\$500.00 - \$50.00 = \$450.00$$

Computation of insured's share of recovery:

$$\frac{\$100.00}{\$500.00} \times \$450.00 = \$90.00$$

ii. If there is a partial recovery of \$300.00: computation of new recovery: \$300.00 – \$50.00 = \$250.00

Computation of insured's share of recovery:

$$\frac{\$100.00}{\$500.00} \times \$250.00 = \$50.00$$

(c) Unless the insurer returns its insured's full deductible the insured shall attempt to effect full recovery in clear liability cases and shall not enter into any intercompany agreements that provide for the acceptance of lesser amounts on a formula basis.

(d) If an insurer has paid a physical damage claim that is subject to a deductible and it elects not to pursue its subrogation claim where the probability of recovery exists, the insurer shall so notify its insured in writing within 60 calendar days after it has paid the claim, except that the notification shall be given at least 30 days prior to the running of any applicable statute of limitations or period required for notice of claim. If an insurer does not notify its insured within the time periods prescribed above and the statute of limitations or period required for notice or claim has expired, the insurer shall forthwith remit to its insured the full amount of the insured's deductible.

Amended by R.1985 d.629, effective December 16, 1985.  
See: 16 N.J.R. 3170(a), 17 N.J.R. 2988(a).  
Substituted "the insured" for "it".

**11:3-10.8 Repair estimates**

If the insurer requires that its insured obtain more than one estimate of motor vehicle damage, the reasonable cost of such additional estimates, if any, shall be borne by the insurer unless the estimator does the work.

**11:3-10.9 Referral of insured to the at-fault party**

There shall be no attempt to discourage an insured from filing a physical damage claim, nor shall an insurer encourage its insured to assert a claim against a third party in lieu of filing a physical damage claim under the insured's policy.

**11:3-10.10 Examinations by the New Jersey Insurance Department**

To ensure compliance with this rule, the Department of Insurance personnel will investigate the market performance of insurers. To enable department personnel to reconstruct an insurer's activities pursuant to the provisions of this rule,

each insurer must maintain a complete file on each claim settled pursuant to this rule. The claim file shall contain all communications, transactions, notes and work papers relating to the claim. With respect to automobile damage claims, the file also shall include the name, address, telephone number and license number of any auto body repair facility that has been utilized by the insurer in the adjustment of the loss or repair of the automobile. All papers in the file must be accurately dated by the insurer.

Amended by R.1985 d.629, effective December 16, 1985.  
See: 16 N.J.R. 3170(a), 17 N.J.R. 2988(a).  
"Rule" substituted for "regulation".  
Amended by R.1987 d.249, effective June 15, 1987.  
See: 18 N.J.R. 2415(a), 19 N.J.R. 1096(a).  
Added text "With respect to . . . of the automobile."

**Case Notes**

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

**SUBCHAPTER 11. MOPED INSURANCE**

**11:3-11.1 Required coverages for mopeds**

(a) No policy insuring against loss resulting from liability imposed by law for bodily injury, death and property damage sustained by any person arising out of the ownership, operation or use of a motorized bicycle as defined in N.J.S.A. 39:1-1, as amended, shall be issued in the State to the owner (or parent or guardian of an owner under 18 years of age) of any motorized bicycle principally garaged or operated in this State unless it includes coverage for the owner and operator in the following minimum amounts or limits.

1. Bodily injury;

i. An amount or limit of \$15,000, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident; and

ii. An amount or limit, subject to such limit for any one person so injured or killed, of \$30,000, exclusive of interest and costs, on account of injury to or death of more than one person, in any one accident.

2. Property damage: An amount or limit of \$5,000 in the aggregate for damage to property of others resulting from one accident.

(b) Every liability insurance policy as described in (a) above, issued or renewed on or after the operative date of this subsection, shall provide personal injury protection coverage benefits, in accordance with N.J.S.A. 39:6A-4, to pedestrians who sustain bodily injury in this State caused by the named insured's motorized bicycle or caused by being struck by or from the motorized bicycle.

1. Every rating organization and insurer making its own rates for policies covering motorized bicycles shall submit to the Commissioner of Insurance filings of rules, rates and forms within 30 days of the effective date of this subsection.

(c) Every business entity or individual owner who rents motorized bicycles shall maintain liability insurance coverage pursuant to N.J.S.A. 39:4-14.3e in the minimum amounts or limits set forth in (a) above.

(d) Any such coverages as described in subsections (a), (b) and (c) above shall describe the make and model, piston displacement, and serial number (VIN) of each motorized bicycle insured. This information shall also constitute the description of vehicle required on insurance identification cards, and N.J.A.C. 11:3-5.1 through 6.4 shall apply to moped coverage except where the language is clearly inappropriate.

(e) The policy period for the coverages described in subsection (a) of this section shall commence at 12:01 A.M. of the effective date shown in the policy declaration page, unless expressly set forth in the policy or in a binder or other contracts for temporary insurance.

(f) Any insurer authorized to write motor vehicle coverage may write moped coverage.

R.1978 d.12, eff. January 19, 1978.

See: 9 N.J.R. 585(c), 10 N.J.R. 69(c).

Amended by R.1985 d.72, effective February 19, 1985 (operative April 22, 1985).

See: 16 N.J.R. 3285(a), 17 N.J.R. 458(c).

(b) added; old (b)-(d) recodified to (c)-(e).

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

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

### 11:3-12.1 Purpose

The New Jersey Automobile Insurance Reform Act of 1982 (N.J.S.A. 17:29A-33 et al.) requires that each insurer calculate and collect, on a flat and uniform basis per insured automobile statewide, the taxes which are paid pursuant to N.J.S.A. 54:18A-1 et seq. and certain assessments made pursuant to N.J.S.A. 39:6-64, 66 and 67. This subchapter provides rules for the implementation of these requirements.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

### 11:3-12.2 Scope

(a) This subchapter applies to every insurer authorized to transact the business of automobile insurance in the State and every rating organization engaged in the business of rate-making for such insurers.

(b) The provisions of this subchapter are not intended to supersede or amend any other law or regulation.

### 11:3-12.3 Definitions

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

"Assessments" mean any assessment to be made pursuant to N.J.S.A. 39:6-64, 66 and 67, excluding assessments made to reimburse a filer for medical benefits payable under N.J.S.A. 39:6A-4 or 39:6A-3.1 in excess of \$75,000.

"Commissioner" means the Commissioner of Banking and Insurance.

"Filer" means a rating organization or any insurer making its own rates.

"Insurer" means any person or persons, corporation, association, partnership, or company authorized by the laws of this State to transact the business of insurance in this State.

"Rating organization" means every person or persons, corporation, partnership, company, society, or association engaged in the business of rate-making for two or more insurers.

"Taxes" mean those taxes required to be paid pursuant to N.J.S.A. 54:18A-1 et seq.

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 "Assessments", inserted a reference to N.J.S.A. 39:6A-3.1.

**11:3-12.4 Tax and assessment fees; general provisions**

(a) Pursuant to N.J.S.A. 17:29A-33 et seq., each automobile filer shall calculate and collect taxes and assessments for its insureds on a flat uniform fee basis per insured automobile statewide.

1. The flat and uniform fee per insured automobile required in (a) above shall be included in all new or renewal automobile policies issued on or after January 1, 1984.

(b) The fee shall be charged on any additional automobile which is acquired during the policy period. The amount of the fee shall be proportional to the remainder of the policy term.

(c) In the event of the cancellation of the policy or the deletion of the automobile from a policy, the fee shall be refunded in proportion to the earned premium for the period that the policy or coverage on the deleted automobile was in force.

**11:3-12.5 Filing and reporting requirements**

(a) Each automobile shall submit to the commissioner for approval a rate filing designed to place the premium structure of the filer in compliance with the requirements of the New Jersey Automobile Insurance Reform Act of 1982 and this subchapter.

1. The rate filing submitted to the Commissioner shall include the uniform tax and assessment fee to be used by the filer.

2. Each filer shall submit to the Commissioner for approval any alteration, amendment or supplement to the rate filing specified in (a) above.

(b) Within 30 days of the effective date of this subchapter, every automobile filer shall submit to the Commissioner for approval the rate filing specified in (a) above including the uniform tax assessment fee to be used by the filer in the calendar year commencing January 1, 1984.

(c) All filings required to be submitted pursuant to this subchapter shall be prepared in accordance with insurance laws and regulations including applicable provisions of N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2 and the Department's existing filing procedures.

(d) The filing of a rating organization shall be applicable to the members and subscribers of the organization.

1. Members or subscribers may submit to the Commissioner for approval a separate filing which deviates from the rating organization's filing. Such filings shall be prepared and submitted in accordance with the requirements of this subchapter.

(e) The Commissioner may require the filing of such additional data or information as he deems necessary to

implement the provisions of this subchapter, including, but not limited to, premium information on miscellaneous coverages such as rental reimbursement, additional personal injury protection and underinsured motorists as well as excess limits premiums for bodily injury and property damage liability coverages.

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

**11:3-13.1 Purpose**

The New Jersey Automobile Insurance Reform Act of 1982 (N.J.S.A. 17:29A-39) requires that each insurer offer a range of deductibles up to at least \$2,000 for private passenger automobile collision and comprehensive coverage. This subchapter provides rules for the implementation of the requirement and provides other options that insurers shall offer.

As amended, R.1984 d.3, effective January 4, 1984. Originally filed as an emergency amendment R.1983 d.537.

See: 15 N.J.R. 1961(a), 16 N.J.R. 246(c).

Range of deductibles increased to \$2,000; coinsurance options added.

Amended by R.1987 d.142, effective March 16, 1987.

See: 19 N.J.R. 46(a), 19 N.J.R. 455(a).

Deleted (a)1 through i.

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.1998 d.594, effective December 21, 1998.

See: 30 N.J.R. 2567(a), 30 N.J.R. 4446(a).

Added "and provides other options that insurers shall offer" at the end.

**11:3-13.2 Scope**

This subchapter applies to every insurer authorized to transact the business of automobile insurance in this State and every rating organization engaged in the business of rate-making for such insurers.

**Case Notes**

Insured had no right to jury trial in action seeking personal injury protection benefits from insurer. *Manetti v. Prudential Property and Casualty Insurance Co.*, 196 N.J.Super. 317, 482 A.2d 520 (App.Div. 1984).

**11:3-13.3 Deductibles for private passenger automobile collision and comprehensive coverages**

(a) Paragraphs (a)1 and 2 below set forth the minimum schedules of deductibles for private passenger automobile collision and comprehensive coverages which each insurer shall offer, effective January 1, 1984, pursuant to N.J.S.A. 17:29A-39.

1. Deductibles for collision coverage:

\$100.00	\$1,000.00
\$150.00	\$1,500.00
\$250.00	\$2,000.00
\$500.00	

i. An insurer may offer a \$200.00 collision deductible in lieu of, or in addition to, the \$250.00 deductible contained in (a)1 above.

2. Deductibles for comprehensive coverage:

	\$ 500.00
\$100.00	\$1,000.00
\$150.00	\$1,500.00
\$250.00	\$2,000.00

i. An insurer may offer a \$200.00 comprehensive deductible in lieu of, or in addition to, the \$250.00 deductible contained in (a)2 above.

(b) In addition to the required schedules in (a) above, an insurer may offer other intermediary ranges of deductibles as well as deductibles which are in excess of \$2,000.

1. The offering of such intermediary and additional deductibles shall be subject to the Commissioner's approval as set forth in N.J.A.C. 11:3-13.4.

(c) Insurers may offer actual case value comprehensive coverage.

As amended, R.1984 d.3, effective January 4, 1984. Originally filed as an emergency amendment R.1983 d.537.  
 See: 15 N.J.R. 1961(a), 16 N.J.R. 246(c).  
 Deductibles of \$1,500.00 and \$2,000.00 added.  
 Amended by R.1987 d.142, effective March 16, 1987.  
 See: 19 N.J.R. 46(a), 19 N.J.R. 455(a).  
 Amended by R.1996 d.58, effective February 5, 1996.  
 See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

**11:3-13.4 Filing and reporting requirements**

(a) Within 30 days of the effective date of this subchapter, every automobile filer shall submit to the Commissioner for approval filings of rates or manual rules which provide at least the minimum schedules of deductibles set forth at N.J.A.C. 11:3-13.3(a).

(b) All filings of collision and comprehensive deductibles and all changes and amendments thereto, shall be prepared in accordance with insurance laws and regulations, including the applicable provisions of N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2 and the Department's existing filing procedures.

(c) The filing of a rating organization shall be applicable to the members and subscribers of the organization who have authorized the organization to file on their behalf.

1. Members or subscribers may submit to the Commissioner for approval a separate filing which deviates from the rating organization's filing. Such filings shall be prepared and submitted in accordance with the requirements of this subchapter.

As amended, R.1984 d.3, eff. January 4, 1984. Originally filed as an emergency amendment R.1983 d.537.

See: 15 N.J.R. 1961(a), 16 N.J.R. 246(c).

The text of 13.4 was recodified to this cite and amended to reference coinsurance options.

Amended by R.1987 d.142, effective March 16, 1987.

See: 19 N.J.R. 46(a), 19 N.J.R. 455(a).

This section was recodified from section 5. The old section 4 "Coinsurance options applicable separately to private passenger automobile collision and comprehensive coverages" was originally filed as an emergency amendment as R.1983 d.537 and was readopted effective January 4, 1984 as R.1984 d.3.

**11:3-13.5 Named excluded driver**

(a) For purposes of this subchapter, a "named excluded driver" means a driver who is specifically identified in the endorsement as a person who is excluded from physical damage coverage for specified automobile(s) and whose operation of a specified automobile(s) covered under the policy at the time of an accident would result in the denial of a physical damage claim for that automobile(s) made by the named insured or any loss payee. For the purpose of this section, physical damage coverage means both collision and comprehensive coverages (also referred to as "other than collision" coverage), or comprehensive coverage if purchased on a stand-alone basis.

(b) The premium charged for the physical damage coverage on the specified automobile(s) to which the named excluded driver endorsement applies shall not reflect the claim experience or driving record or rating classification of the named excluded driver or drivers.

(c) The named excluded driver endorsement shall be made available by personal private passenger automobile insurers to their insureds. Election of a named excluded driver endorsement shall be in writing and signed by a named insured in accordance with the subchapter Appendix incorporated herein by reference. The named excluded driver endorsement shall continue in force for the specified automobile(s) on subsequent renewal or replacement policies unless:

1. The specified automobile(s) is removed from the policy;
2. A new automobile replaces the specified automobile(s) on the policy; or
3. The insurer or its authorized representative receives a written request signed by a named insured electing to discontinue the endorsement.

(d) The request to exclude or reinstate a named driver shall become effective in the following manner:

1. For new policies, the request shall become effective on the date of issuance;

2. For mid-term policy changes, the request shall be effective the day following the date of postmark or, when personal delivery is made or if the postmark is illegible, the day following the receipt by the insurer or insurance producer of the signed Request To Exclude Named Driver form or request to reinstate the excluded driver;

3. For changes upon renewal, the changes shall be effective on the date of the next policy renewal if post-marked or received by the insurer or by an insurance producer prior to the renewal date.

(e) By February 19, 1999, all personal private passenger automobile insurers shall make a filing with the Commissioner to permit a named excluded driver. The filing shall include the following:

- 1. The named excluded driver endorsement;

2. Rule changes and rating procedures necessary to offer the option, including how the option will interface with the insurer's tier rating system; and

3. Other documents to be provided to an insured or applicant that describe or explain the named excluded driver option.

(f) The named excluded driver(s) and vehicle(s) shall be listed on the declaration page or on a supplemental declaration page.

(g) Notwithstanding any other provision of the law to the contrary, no person, including, but not limited to, an insurer or an insurance producer, shall be liable in an action for damages on account of the election of the named excluded driver endorsement.

New Rule, R.1998 d.594, effective December 21, 1998. See: 30 N.J.R. 2567(a), 30 N.J.R. 4446(a).

APPENDIX

REQUEST TO EXCLUDE NAMED DRIVER

Named insured (as shown on policy declaration)

Policy number \_\_\_\_\_

I, a Named Insured of the above policy, authorize the driver(s) listed below to be excluded from collision and comprehensive coverage (also known as "other than collision coverage") on my insurance policy for the specified vehicle(s). I understand:

1. In consideration of the premium for which the policy is written, comprehensive and collision coverages afforded by the policy will not apply to any damages, losses or claims while the designated automobile is being used or operated by the excluded driver(s) listed below.

2. This exclusion applies regardless of any provision in the policy defining insured Persons.

3. This exclusion applies to any claim of a Loss Payee shown on the Policy Declarations to the extent of the lienholder's interest in the insured auto and that I am responsible for any claim to the Loss Payee.

4. This agreement will be binding and will apply to all future renewals, reinstatements, and changes in my policy unless the specified automobile(s) is/are removed from the policy, a new automobile replaces the specified automobile on the policy, or the insurer or its representative receives my signed written request to discontinue the exclusion.

5. Notwithstanding any other provision of the law to the contrary, no person, including, but not limited to, an insurer or an insurance producer, shall be liable in an action for damages on account of the election of the named excluded driver endorsement.

Date: \_\_\_\_\_ Signature(s) of Named Insured(s) \_\_\_\_\_

	Driver Excluded	Driver's License #	Vehicle
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____

New Rule, R.1998 d.594, effective December 21, 1998. See: 30 N.J.R. 2567(a), 30 N.J.R. 4446(a).

SUBCHAPTER 14. PERSONAL INJURY PROTECTION OPTIONS FOR STANDARD POLICIES

11:3-14.1 Purpose

This subchapter establishes rules for the provision of optional deductibles and benefits for personal injury protection offered under standard private passenger automobile insurance policies pursuant to N.J.S.A. 39:6A-4.

Amended by R.1989 d.117, effective February 21, 1989.

See: 20 N.J.R. 2984(a), 21 N.J.R. 558(b).

Substituted "appropriately" for "approximately" and deleted "set-offs".

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

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

Rewrote the section.

### 11:3-14.2 Scope

This subchapter applies to every insurer, including any residual market mechanism created by any New Jersey statute, authorized to transact the business of automobile insurance in this State.

Amended by R.1990 d.580, effective November 19, 1990 (operative January 1, 1991).

See: 22 N.J.R. 1681(a), 22 N.J.R. 3488(b).

Amended to extend the applicability of the subchapter to all residual market mechanisms created by New Jersey statutory law consistent with the provisions of the Fair Automobile Insurance Reform Act of 1990 creating certain residual market mechanisms and eliminating, over time, the New Jersey Automobile Full Insurance Underwriting Association (NJAFIUA) (see sections 34 and 88 of the Act), also amended to delete reference to rating organizations pursuant to section 69 of the Act.

### 11:3-14.3 Optional medical expense benefits for standard policies

(a) With respect to personal injury protection under standard automobile insurance policies, issued pursuant to N.J.S.A. 39:6A-4, each insurer shall make available as an option, at appropriately reduced premiums, medical expense benefits in amounts of \$150,000, \$75,000, \$50,000, and \$15,000. If none of these options is affirmatively chosen in writing, the policy shall provide medical expense benefits in an amount not to exceed \$250,000 per person per accident.

(b) Notwithstanding (a) above, if an optional medical expense benefit option is chosen, the policy shall provide that medical expense benefits shall be paid in an amount not to exceed \$250,000, inclusive of any limit of medical expense benefits pursuant to (a) above, for all medically necessary treatment of permanent or significant brain injury, spinal cord injury or disfigurement or for medically necessary treatment of other permanent or significant injuries rendered at a trauma center or acute care hospital immediately following the accident and until the patient is stable, no longer requires critical care and can be safely discharged or transferred to another facility in the judgment of the attending physician.

(c) "Significant disfigurement" as used in (b) above means the result and/or manifestation of a serious traumatic injury that is observable as a permanent and substantial defect in the appearance and functional ability of the person injured. "Significant disfigurement" is a serious outward change that substantially detracts from the appearance and functional ability of the person injured.

As amended, R.1984 d.480, eff. November 5, 1984.

See: 16 N.J.R. 1692(a), 16 N.J.R. 3037(b).

Substantially amended (a)-(d).

Amended by R.1989 d.117, effective February 21, 1989.

See: 20 N.J.R. 2984(a), 21 N.J.R. 558(b).

Deleted (d); recodified (e)-(h) as (d)-(g) and substantially amended (d) and (f).

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Repeal and New Rule, 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).

Section was "Optional medical expense benefit deductibles for personal injury protection coverage".

Amended by R.2000 d.454, effective November 6, 2000.

See: 31 N.J.R. 4210(a), 32 N.J.R. 4005(c).

Added (c).

### Case Notes

Economically independent mother-in-law who resided with insured, was not bound by insured's cost containment options. *Swyersky v. Prudential Commercial Ins. Co.*, a Subsidiary of Prudential Ins. Co. of America, 229 N.J.Super. 608, 552 A.2d 240 (L.1988), reversed 240 N.J.Super. 37, 572 A.2d 219, on remand 263 N.J.Super. 544, 623 A.2d 310.

### 11:3-14.4 Optional exclusion of income continuation benefits, essential services benefits, death benefits and funeral expense benefits

(a) Automobile insurers offering personal injury protection coverage pursuant to N.J.S.A. 39:6A-4 shall, at an appropriate reduced premium, provide the named insured the option to exclude all of the following benefits from such coverage:

1. Income continuation benefits;
2. Essential services benefits;
3. Death benefits;
4. Funeral expense benefits.

(b) Election of the exclusion shall result in the elimination of all elements of personal injury protection coverage except medical expense benefits.

(c) An exclusion elected by the named insured in accordance with this subchapter shall apply only to the named insured, and any resident relative in the named insured's household, who is not a named insured under another automobile insurance policy but not to any other person eligible for personal injury protection benefits to be provided under that policy in accordance with N.J.S.A. 39:6A-4.

(d) Additional personal injury protection coverage pursuant to N.J.S.A. 39:6A-10 shall not be available to any named insured selecting the exclusion or to any relative resident in his household.

(e) No new automobile insurance policy shall be issued on or after July 1, 1984 unless the option to exclude personal injury protection benefits in accord with this section is made available to the applicant. In the case of any automobile policy expected to be in force on July 1, 1984, the named insured shall be provided not later than May 15, 1984 with the opportunity to elect, effective July 1, 1984, the personal injury protection coverage exclusion in accord with this section. Any notice of renewal of an automobile insurance policy with an effective date subsequent to July 1, 1984 shall be accompanied by a notice to the named insured providing the opportunity to elect personal injury protection coverage exclusion in accord with this subchapter.

i. The low end of the dollar range shall be a policy with minimum limits for the territory with the lowest basic limit Limitation on Lawsuit Option rate, and shall assume standard tier, pleasure usage by an age 30-64, married male principal operator.

ii. The high end of the dollar range shall be calculated at a \$250,000/\$500,000 split limit or a \$500,000 single limit policy for the territory with the highest basic limit Limitation on Lawsuit Threshold Option, and shall assume business usage by a standard tier, 22 year old, unmarried male principal operator.

iii. Because the range of the possible additional dollar cost will depend upon territory, bodily injury liability loss limits, and other factors, insurers shall be permitted to use round numbers to represent the approximate range of the cost increase. For example, if the smallest dollar rate increase was \$54.00 and the largest \$305.00, the insurer may use the range \$50.00 to \$310.00 on its Coverage Selection Form.

### 3. Premium Basis for Single Limit Liability Coverage:

i. For single limit liability coverage, the percentage range calculation that is described in (g)1 above shall be based upon the applicable liability rate. This calculation shall be made on the basis of a combined rate containing a charge for bodily injury liability, and property damage liability.

ii. For single limit liability coverage, the dollar range calculation that is described in (g)2 above shall be based upon the applicable liability rate. In contrast to the procedure in (g)3i above, the dollar change calculation shall be made on the basis of a complete rate containing a charge for bodily injury liability, personal injury protection (PIP), and property damage liability.

### 4. Insurers shall prepare:

i. An example showing the calculation of the high and low values for the percentage and dollar change ranges;

ii. Data about the insurer's territorial rates to confirm that the highest and lowest basic limit Limitation on Lawsuit Option rates have been used in the example. A rating page showing a list of Standard tier, basic limit rates by territory shall be sufficient;

iii. Data about the insurer's increased limits liability rating, vehicle usage, and type of driver factors to confirm that the proper relativities have been used in the example. The appropriate rating pages shall be sufficient; and

iv. For those insurers offering only single limit liability coverage, an explanation of the procedure used to develop the bodily injury liability rate from which the percentage and dollar change amounts have been determined. This explanation shall include an example of the calculation methodology.

As amended, R.1984 d.479, eff. November 5, 1984.  
See: 16 N.J.R. 1693(a), 16 N.J.R. 3038(a).

(a)3: added "as amended by P.L. 1984 c.40".  
New Rule, R.1989 d.117, effective February 21, 1989.  
See: 20 N.J.R. 2984(a), 21 N.J.R. 558(b).

Repealed "Specific coverages and options to be included in written notice and buyer's guide".

Amended by R.1990 d.580, effective November 19, 1990 (operative January 1, 1990).

See: 22 N.J.R. 1681(a), 22 N.J.R. 3488(b).

Subsection (n) of this section is amended to delete in its entirety the text of the Buyer's Guide and to substitute new text therefor. The new text is written in plain language pursuant to the requirement of section 13 of the "Fair Automobile Insurance Reform Act of 1990" and incorporated several changes required to be made in the Coverage Selection Form by the Act; also amended to delete the provision that the Department, upon request from an insurer, will prepare a coverage-ready final page of the Buyer's Guide.

R.1992 d.218, effective May 18, 1992.

See: 24 N.J.R. 523(a), 24 N.J.R. 1898(b).

In (c), "Insurance companies... shall delete those sections" was "may delete...". Added new (n), regarding additional medical benefits, and redesignated existing (n) as (o), with extensive revisions to Buyer's Guide. Redesignated existing (o) through (r) as (p) through (s). Amended by R.1996, d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

In (e) provided for supplies of the current Buyer's Guide, in (g) deleted "by glue or staples" following "bound", and in (o) rewrote the Buyer's Guide.

Repeal and New Rule, R.1998 d.595, effective December 21, 1998 (operative March 22, 1999).

See: 30 N.J.R. 3577(a), 30 N.J.R. 4452(a).

Section was "Minimum Standards for New Jersey Auto Insurance Buyer's Guide".

### Case Notes

Whether tort-feasor's vehicle is underinsured is not determined relative to injured person's damages or relative to judgment or judgments against tort-feasor, but rather relative to limits of coverage purchased by or for injured person. *Calabrese v. Selective Ins. Co. of America*, 297 N.J.Super. 423, 688 A.2d 606 (A.D.1997).

Driver who owned no automobile and was injured in cohabitant's car was entitled to underinsured motorist benefits. *Market Transition Facility of New Jersey By and Through Amgro Ins. Co. v. Parisi-Lusardi*, 293 N.J.Super.471, 681 A.2d 660 (A.D.1996).

Motorcyclist's tort claim for personal injuries sustained when his motorcycle collided with automobile subject to verbal threshold; he chose that option for liability policy covering only his personally owned automobile and not his motorcycle, even though he was not eligible for personal injury protection benefits under that policy. *Koff v. Carrubba*, 290 N.J.Super. 544, 676 A.2d 184 (A.D.1996).

Insured who was injured by uninsured motorist and underinsured motorist was entitled to recover no more than \$75,000 as maximum limit of liability per accident; not entitled to recover maximum uninsured benefits and maximum underinsured benefits; overruling *Conigliario v. Hanover Ins. Co.*, 233 N.J.Super. 627, 559 A.2d 875. *Hesser v. Harleysville-Garden State Ins. Co.*, 287 N.J.Super. 47, 670 A.2d 123 (A.D.1996).

The Automobile Repair Reform Act limits on recovery from tort-feasor. *Roig v. Kelsey*, 135 N.J. 500, 641 A.2d 248 (1994).

No regulation prevents insurer from providing greater underinsured motorist coverage to insured than is provided under insured' personal insurance. *French v. New Jersey School Bd. Ass'n Ins. Group*, 149 N.J. 478, 694 A.2d 1008 (N.J. 1997).

Motorist could reasonably and objectively expect to be buying protection up to declared legal limits. *Clegg v. New Jersey Auto. Full Underwriting Ass'n By and Through Cigna Ins. Co.*, 254 N.J.Super. 634, 604 A.2d 179 (A.D.1992).

There was common-law duty on part of insurance carriers or their agents to advise insureds concerning possible need for higher policy limits upon policy renewal. *Wang v. Allstate Ins. Co.*, 125 N.J. 2, 592 A.2d 527 (1991).

Insured could not have jury trial in reformation action for agent's failure to inform insured of available underinsured motorist coverage. *Weinisch v. Sawyer*, 123 N.J. 333, 587 A.2d 615 (1991).

Direct writing insurer was not responsible for insured's inadequate underinsured motorist (UIM) coverage. *Andriani v. New Jersey Mfrs. Ins. Co.*, 245 N.J.Super. 252, 584 A.2d 875 (A.D.1991), certification denied 126 N.J. 327, 598 A.2d 886.

Client-initiated contacts with insurance brokers can result in broker's duty to exercise skill and possess knowledge concerning coverages. *Avery v. Arthur E. Armitage Agency*, 242 N.J.Super. 293, 576 A.2d 907 (A.D.1990).

Insurer's buyer's guide and coverage selection form complied with regulations. *Avery v. Arthur E. Armitage Agency*, 242 N.J.Super. 293, 576 A.2d 907 (A.D.1990).

Automobile insurer that was already voluntarily offering underinsured motorist coverage prior to January 1, 1984 did not have adjustment period until July 1, 1984. *Sikking v. Nelson*, 242 N.J.Super. 185, 576 A.2d 311 (A.D.1990).

"Notice of coverage" provisions required carrier to prove only that it mass mailed requisite materials. *Bruce v. James P. MacLean Firm*, 238 N.J.Super. 501, 570 A.2d 49 (L.1989), affirmed 238 N.J.Super. 408, 570 A.2d 1.

Whether insured was contributorily negligent was question for jury. *Weinisch v. Sawyer*, 237 N.J.Super. 195, 567 A.2d 259 (A.D.1989), certification granted 121 N.J. 658, 583 A.2d 345, reversed 123 N.J. 333, 587 A.2d 615.

Buyer's guide and coverage selection form did not contain inherent bias or confusion on basis that Commissioner made reference to "basic limit" as opposed to "basic tort option." *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Buyer's guide and coverage selection form which gave basic tort option, as opposed to no-threshold option, a favorite status, was justifiable. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Commissioner's regulations did not have to require that coverage selection form inform consumers of exact dollar amount of premium savings arising from election. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Commissioner's use of term "lawsuit threshold" in buyer's guide and coverage selection form, as opposed to "verbal threshold" did not lead to confusion. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Insurance Commissioner acted properly when he required that coverage selection form contain provision referring consumers to their automobile insurance companies in event of questions on coverage. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Model coverage selection form, was not arbitrary, unreasonable or capricious, and was substantially consistent with statutory language. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Two statutes, one requiring that coverage selection form state the percentage difference in premium rates or dollar savings between the two tort options for suing for noneconomic loss and the other requiring that coverage selection form identify range of premium rate credit or dollar savings or both; were not inconsistent. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

### 11:3-15.7 Use of Coverage Selection Form

(a) For all new policies, an insurer or an insurance producer shall receive a Coverage Selection Form signed by the named insured and indicating the prospective insured's coverage choices. Coverage shall not become effective until the signed Coverage Selection Form is received from the named insured, unless otherwise authorized by law.

(b) For the mid-term policy changes set forth in (b)1 through 5 below, the insurer shall receive a Coverage Selection Form signed by the named insured prior to making the change.

1. Change of policy type from Basic to Standard or Standard to Basic;

2. Change of Lawsuit Option (Standard Policy only):

3. Change of primary coverage for PIP medical expense benefits coverage (from or to Health Insurer Primary) (Standard Policy only);

4. Change in PIP Medical Expense Coverage Limit (Standard Policy only); and

5. Addition or deletion of Liability Coverage (Basic Policy only).

(c) An insurer may require that other policy changes be made by signed Coverage Selection Form.

(d) All coverage changes that are required to be made by a signed Coverage Selection Form, either by this subchapter or by the insurer, shall become effective in the following manner, except when coverage for comprehensive or collision is effected by a required inspection pursuant to N.J.A.C. 11:3-36.

1. For new policies, the choices on the Coverage Selection Form shall be effective on the policy effective date ;

2. For mid-term policy changes, the choices on the Coverage Selection Form shall be effective the day following the date of postmark or, when personal delivery is made or if the postmark is illegible, the day following receipt of the signed Coverage Selection Form by the insurer or an insurance producer;

3. For changes upon renewal, the changes shall be effective on the date of the next policy renewal if post-marked or received by the insurer or by an insurance producer prior to the renewal date.

(e) With the knowledge and consent of an insured or applicant, an insurer may transmit the Buyer's Guide and Coverage Selection Form to the applicant or insured by facsimile or electronic transmission. A signed Coverage Selection Form may be transmitted to the insurer by facsimile but not by electronic mail.

New Rule, R.1989 d.117, effective February 21, 1989.  
Sec: 20 N.J.R. 2984(a), 21 N.J.R. 558(b).

Section was "Statement on the possible coordination of other health benefits coverage with the personal injury protection medical expense options".

Amended by R.1989 d.624, effective December 18, 1989 (operative January 1, 1990).

See: 21 N.J.R. 3244(a), 21 N.J.R. 3922(a).

Amendments made to bring rule in line with changes in N.J.S.A. 39:6A-23 made by P.L. 1988 c.119.

Amended by R.1990 d.580, effective November 19, 1990 (operative January 1, 1991).

See: 22 N.J.R. 1681(a), 22 N.J.R. 3488(b).

Amended to be consistent with N.J.A.C. 11:3-15.6; the text of the Coverage Selection Form is amended both to clarify the current Form and requirements and to respond to changes required by the "Fair Automobile Insurance Reform Act of 1990".

R.1992 d.218, effective May 18, 1992.

See: 24 N.J.R. 523(a), 24 N.J.R. 1898(b).

In (h), added Note to 3, Warning statement to 7 and 8, and prohibition against domicile misstatement to (2).

Amended by R.1994 d.195, effective April 18, 1994.

See: 26 N.J.R. 85(a), 26 N.J.R. 1659(a).

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.1998 d.412, effective August 3, 1998.

See: 30 N.J.R. 1747(a), 30 N.J.R. 2927(a).

In (a), substituted "of sufficient size to be easily readable" for "size eight and one-half inches by 11 inches" at the end of the first sentence. Repeal and New Rule, R.1998 d.595, effective December 21, 1998 (operative March 22, 1999).

See: 30 N.J.R. 3577(a), 30 N.J.R. 4452(a).

Section was "Minimum standards for coverage selection form".

#### Case Notes

Buyer's guide and coverage selection form in regulations promulgated by Insurance Commissioner to implement revisions to no-fault automobile insurance law did not contain inherent bias or confusion on basis that Commissioner made reference to "basic limit" as opposed to "basic tort option." *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Buyer's guide and coverage selection form which gave basic tort option, as opposed to no-threshold option, a favorite status, was justifiable. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Insurance Commissioner acted properly when he required that coverage selection form contain provision referring consumers to their automobile insurance companies in event of questions on coverage. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Insurance Commissioner's proposed regulations, which implemented revisions to nonfault automobile insurance law requiring consumers to select between two options of coverage for automobile accident-related bodily injury, did not have to require that coverage selection form inform consumers of exact dollar amount of premium savings arising from election. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Model coverage selection form, proposed by regulations promulgated by Insurance Commissioner for implementing legislative revisions to no-fault automobile insurance law requiring consumers to select between two options of coverage for automobile accident-related bodily injury. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

Statute requiring that no-fault automobile insurance coverage selection form state the percentage difference in premium rates or dollar savings between the two tort options for suing for noneconomic loss was not inconsistent with statute requiring that coverage selection form identify range of premium rate credit or dollar savings or both. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

When promulgating regulations to implement revisions to no-fault automobile insurance law, Commissioner's use of term "lawsuit threshold" in buyer's guide and coverage selection form, as opposed to "verbal threshold", did not lead to confusion. *Emmer v. Merin*, 233 N.J.Super. 568, 559 A.2d 845 (A.D.1989), certification denied 118 N.J. 181, 570 A.2d 950.

#### 11:3-15.8 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties as prescribed by law.

New Rule, R.1989 d.117, effective February 21, 1989.

See: 20 N.J.R. 2984(a), 21 N.J.R. 558(b).

Recodified from N.J.A.C. 11:3-15.10, R.1989 d.624, effective December 18, 1989 (operative January 1, 1990).

See: 21 N.J.R. 3244(a), 21 N.J.R. 3922(a).

Recodified from N.J.A.C. 11:3-15.11 by R.1998 d.595, effective December 21, 1998 (operative March 22, 1999).

See: 30 N.J.R. 3577(a), 30 N.J.R. 4452(a).

#### 11:3-15.9 (Reserved)

New Rule, R.1989 d.624, effective December 18, 1989 (operative January 1, 1990).

See: 21 N.J.R. 3244(a), 21 N.J.R. 3922(a).

Amended by R.1990 d.580, effective November 19, 1990 (operative January 1, 1991).

See: 22 N.J.R. 1681(a), 22 N.J.R. 3488(b).

Amended to clarify when a Coverage Selection Form must be used and when the changes made thereon become effective.

R.1992 d.218, effective May 18, 1992.

See: 24 N.J.R. 523(a), 24 N.J.R. 1898(b).

In (c), added exception regarding comprehensive and collision.

Repealed by R.1998 d.595, effective December 21, 1998 (operative March 22, 1999).

See: 30 N.J.R. 3577(a), 30 N.J.R. 4452(a).

Section was "Use of Coverage Selection Form".

#### 11:3-15.10 (Reserved)

Recodified from N.J.A.C. 11:3-15.9, R.1989 d.624, effective December 18, 1989 (operative January 1, 1990).

See: 21 N.J.R. 3244(a), 21 N.J.R. 3922(a).

Repealed by R.1998 d.595, effective December 21, 1998 (operative March 22, 1999).

See: 30 N.J.R. 3577(a), 30 N.J.R. 4452(a).

Section was "Effect on other notice requirements".

#### 11:3-15.11 (Reserved)

New Rule, R.1989 d.117, effective February 21, 1989.

See: 20 N.J.R. 2984(a), 21 N.J.R. 558(b).

Recodified from N.J.A.C. 11:3-15.10, R.1989 d.624, effective December 18, 1989 (operative January 1, 1990).

See: 21 N.J.R. 3244(a), 21 N.J.R. 3922(a).

Recodified from N.J.A.C. 11:3-15.8 by R.1998 d.595, effective December 21, 1998 (operative March 22, 1999).

See: 30 N.J.R. 3577(a), 30 N.J.R. 4452(a).

## APPENDIX

### EXHIBIT 1

#### NEW JERSEY AUTO INSURANCE BUYER'S GUIDE

When you purchase a new insurance policy or renew your current policy, you must make many decisions about what you need to buy and how much you can afford to spend.

You must decide:

Do I need a policy with a broad range of choices that I can adjust to meet my needs and offers the most protection but at a higher cost? **THIS IS THE STANDARD POLICY.** See page insert page # here.

Do I need a policy with fewer choices about the type of insurance and the amounts of insurance I buy, which offers less protection but at a lower cost than the Standard Policy? **THIS IS THE BASIC POLICY.** See page insert page # here.

How much insurance do I need to cover medical bills and other related expenses if I am in an accident? **THIS IS PERSONAL INJURY PROTECTION OR "PIP."** See page insert page # here.

How much insurance do I need if someone sues me because of an accident I caused that injures them or damages their property? **THIS IS BODILY INJURY LIABILITY AND PROPERTY DAMAGE LIABILITY.** See page insert page # here. How much insurance do I need if I am in an accident caused by someone who has little or no insurance? **THIS IS UNINSURED AND UNDERINSURED MOTORIST COVERAGE.** See page insert page # here.

Do I need to buy insurance to cover my car if it is damaged in an accident I cause, or if it is stolen or damaged in some other way? **THIS IS COLLISION AND COMPREHENSIVE COVERAGE.** See page insert page # here. If appropriate use term "other than collision" throughout.

How much money can I afford to pay out of my own pocket before the insurance company begins paying, if I have an insurance claim? **THESE ARE DEDUCTIBLES AND CO-PAYMENTS.** See page insert page # here.

Do I want to be able to sue another driver for my pain and suffering when the accident was not my fault and I was injured? Am I willing to limit my ability to sue for only the most serious injuries? **THESE ARE THE LAWSUIT OPTIONS.** See page insert page # here.

**WARNING:** Insurers or their producers or representatives shall not be held liable for choices you make for insurance coverages or limits as long as your choices provide at least the minimum coverage required by law. Insurers or their producers or representatives also shall not be held liable if you choose not to purchase higher limits of PIP medical expense coverage, bodily injury liability coverage, higher limits of uninsured/underinsured motorists coverage, collision coverage or comprehensive coverage. Insurers, their producers and representatives can lose this limitation on liability by failing to act in accordance with the law. See N.J.S.A. 17:28-1.9 for more information.

#### SOME TERMS USED IN THIS GUIDE

Your auto insurance policy is divided into different **COVERAGES** based on the type of loss from which you are protected. Automobile insurance **COVERAGES** are:

**PERSONAL INJURY PROTECTION  
LIABILITY  
UNINSURED/UNDERINSURED MOTORIST  
COLLISION  
COMPREHENSIVE**

Most coverages are offered at several **LIMITS**, which are the maximum dollar amount the insurer will pay in the event of an accident.

The lower the limit of coverage, the less the insurance will cost you. However, low limits of coverage may not be sufficient to pay for all of your losses (injuries or damage to property) or cover the losses of those making claim against you.

Some coverages also have **DEDUCTIBLES**. **DEDUCTIBLES** are payments you have to make before the insurer starts to pay. For example, a \$500 **DEDUCTIBLE** means that you pay for the first \$500 of each loss.

Higher deductibles can lower the cost of your automobile insurance. However, you should consider how high a deductible you can pay if you are involved in an accident.

A **PRODUCER** is someone who is licensed to sell insurance. **STANDARD and BASIC POLICIES**

There are two types of auto insurance policies available in New Jersey. A **BASIC** policy is a low cost policy that provides a minimum of benefits.

A **STANDARD** policy provides a wide variety of coverage options many of which are not available in a basic policy. The following chart compares the differences between the **BASIC AND STANDARD** policy. Each of the coverages explained after the chart below will state whether it is available for the **BASIC** or **STANDARD** policy.

See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1993 d.158, effective April 5, 1993.

See: 24 N.J.R. 4486(a), 24 N.J.R. 56(a), 25 N.J.R. 1543(a).

Added "Amount(s) paid to the MTF".

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Deleted definition of "Public Advocate".

Amended by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

Inserted "Expenses": in "Filer", inserted a reference to rating organizations, and deleted a reference to flex rate filing; deleted "Flex rate" and "Flex rate filing"; and inserted "Loss cost multiplier", "Prior approval filing", "Prospective loss cost", "Rate", "Supplementary rate information", and "Tier" and "tier rating system".

### 11:3-16.3 General requirements and filing format

(a) The data requirements set forth in this subchapter are minimum requirements. The filer may submit any other data it believes to be relevant in justifying proposed rate changes. If the filer has not collected portions of this information in the past, or has not collected it in a form so as to facilitate reporting, it is not required to compile it retrospectively.

(b) Separate insurance companies that are affiliated by a parent-subsidiary or any group relationship and that choose to submit a single filing for the group shall provide the minimum data requirements set forth in N.J.A.C. 11:3-16.8 and 16.9, and make the rate level calculation set forth in N.J.A.C. 11:3-16.10, either:

1. Separately for each company with a different rate level or different underwriting guidelines; or
2. Combined for those companies of the group which use a common rating system, including both base rates and underwriting guidelines, or when the difference is based only on expense differences.

(c) Small filers need not provide all of the information required by N.J.A.C. 11:3-16.8(c) and (d); more limited requirements are set forth in those sections. Notwithstanding this, any filing by a small filer for a rate change shall include sufficient justification for all factors used.

(d) All filings shall be submitted to the Department at the following address:

New Jersey Department of Banking and Insurance  
Property/ Casualty  
PO Box 325  
Trenton, New Jersey 08625-0325

(e) All filings shall be accompanied by a New Jersey Department of Insurance transmittal form (Form AMB-10, incorporated herein by reference Exhibit D in the Appendix).

(f) All filings shall be accompanied by the following certification signed by an officer of the filer: "I \_\_\_\_\_ certify that the attached filing complies with all statutory

and regulatory requirements and that all the information it contains is true and accurate. I further certify that I am authorized to execute this certification on behalf of the filer."

(g) Each filer shall submit prior approval filings in loose leaf form inserted into standard three-ring binders. The loose leaf sheets used in the filing shall be eight and one-half inches wide and 11 inches long and punched for three hole standard binders. Only one side of the page shall be used. Each page shall be consecutively numbered.

(h) The margin at the top of each page shall show the filer's name, filer's identifying number for this filing, NAIC company number(s) and NAIC group number. The right hand side of the page shall show the section, exhibit and sheet number.

(i) All data shall be reported on a direct basis exclusive of business ceded to reinsurers or reinsurance assumed from other companies. Notwithstanding this provision, transactions with the UCJF shall be reported as set forth in N.J.A.C. 11:3-16.8(d)1, 11:3-16.9(a)3 and 11:3-16.10(c)3.

(j) Data submitted in any prior approval rate or loss cost filing shall report only voluntary market experience and shall not include experience derived from risks insured through any assigned risk plan established pursuant to N.J.S.A. 17:29D-1. For the purpose of this subsection, "voluntary market" shall include risks insured by the filer in the voluntary market during any period of time certified by the Commissioner for the cessation of acceptance of applications or the issuance of new policies by the assigned risk plan pursuant to N.J.S.A. 17:29D-1d.

(k) Where the application is by an insurer that is a member of a rating organization, the insurer may refer to the data filed by the rating organization to comply with the requirements set forth in:

1. N.J.A.C. 11:3-16.6(a)1, 2, 3, 4 and 6, (b) and (c);
2. N.J.A.C. 11:3-16.8(a)1 through 7, and (d) through (j);
3. N.J.A.C. 11:3-16.9(b)1 and 2;
4. N.J.A.C. 11:3-16.10(c), (d) and (f).

(l) Regarding applications made in accordance with (k) above, the insurer shall remain responsible for compliance with the individual company reporting under:

1. N.J.A.C. 11:3-16.6(a)1, 2, 3 and 5, (b) and (c);
2. N.J.A.C. 11:3-16.8(a)8, (b), (c), (h), (i) and (j);
3. N.J.A.C. 11:3-16.9(a), (b)3, 4 and 5, (c), (d), (e) and (f);
4. N.J.A.C. 11:3-16.10(a), (b), (e) and (g).

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Provisions added to confirm that rate filings should contain only voluntary market data and not include data from risks that may be insured through the assigned risk plan to be instituted pursuant to section 34 of the Act.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991. See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Deleted requirement to send filings to the Public Advocate.

Amended by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

In (a), deleted the former fourth and fifth sentences; in (d), changed the mailing address; deleted former (i); recodified former (j) as (i); recodified former (k) as (j), and substituted "prior approval rate or lost cost" for "rate" in the first sentence; and added new (k) and (l).

### 11:3-16.4 Insurer informational filings due July 1 of each year

(a) Informational filings shall be made by all insurers transacting private passenger automobile insurance in the voluntary market, including all individual members and subscribers of rating organizations, pursuant to N.J.S.A. 17:29A-36.2b.

(b) The information filing shall consist of the following documents:

1. The insurer's Excess Profits Report for each company filed pursuant to N.J.A.C. 11:3-20. In lieu of providing copies, the filer may submit a certification of an officer that the report has been filed and is incorporated by reference.

2. Such other specific information on a particular subject at a particular time as the Commissioner may require by Order.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Deleted (b)2. through 8.; added new 2.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.

See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1995 d.171, effective March 20, 1995.

See: 27 N.J.R. 41(a), 27 N.J.R. 1190(b).

### 11:3-16.5 (Reserved)

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Amended to implement provisions of the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.

See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted without change.

Amended by R.1992 d.189, effective April 20, 1992.

See: 23 N.J.R. 3199(a), 24 N.J.R. 1504(a).

Rate calculation to be included in memo.

Amended by R.1995 d.171, effective March 20, 1995.

See: 27 N.J.R. 41(a), 27 N.J.R. 1190(b).

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Repealed by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

Section was "Insurer flex rate filings".

### 11:3-16.6 Insurer filings for rates requiring prior approval

(a) Any insurer that desires to modify its rates or rating systems in a manner other than that provided by N.J.S.A. 17:29A-46.6 shall provide the following information in support of its application:

1. A cover letter notifying the Department of its intention to modify its rating system in a manner that requires prior approval, pursuant to N.J.S.A. 17:29A-14; a statement describing the proposed changes, which shall include the percentage and total dollar amount of any change in rates for each company included in the filing with subtotals by groups of coverages and a grand total (including the variable portion plus expense fees) by coverage and overall; and the name, telephone number and mailing address of the company officer familiar with the filing, to whom inquiries about the filing may be directed;

2. A checklist that sets forth the information in Exhibit AII in the Appendix incorporated herein by reference;

3. A narrative overview that sets forth the contents of the filing, and explains the reasons and procedures used to derive the rate change requested;

4. Data concerning the premiums or loss costs, losses and loss adjustment expenses, as specified in N.J.A.C. 11:3-16.8;

5. With the exception of rating organizations, data concerning the expense and profit provisions, as set forth in N.J.A.C. 11:3-16.9;

6. Rate collections or loss cost calculations, as set forth in N.J.A.C. 11:3-16.10; and

7. Data described in N.J.A.C. 11:3-16.8 (c) (loss development) and 16.9(c)2, 3 and 4 (cash-flow patterns) shall be submitted in written copy and, except for purely textual information, on an MS-DOS formatted disk. Filers with fewer than 20,000 exposures in the prior year are exempt from submitting the formatted disk. The disk shall be a 3.5 inch 1.44 MB disk. The information shall be provided in a Lotus 123 version 5 or compatible spreadsheet. The left and top margins of each page shall indicate the row and column respectively of all data on the page. Each page of written copy shall also display in the bottom right corner the name of computer the file and disk on which it is contained. All calculated values shall be given as a formula in the spreadsheet.

(b) All rate filers shall submit data in support of their application for approval of their proposed rating system based on their own loss experience to the extent it is credible (N.J.A.C. 11:3-16.8), their own expense and profit provisions (N.J.A.C. 11:3-16.9) except rating organizations, and their own rate or loss cost calculation (N.J.A.C. 11:3-16.10). Those filers who refer, without deviation, to the loss experience data of a rating organization shall not be required to file their own loss experience data.

(c) Upon approval insurers shall file manual rating pages on or before the effective date of the rates. In the case of rating organizations, the manual rating page shall reflect the lost cost information.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Provisions to implement the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.

See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted without change.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Amended (a)1 and 5, and added (a)6.

In (a)1 eliminated the exclusion of the policy constant and RMEC from the grand total.

Amended by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

In (a), inserted a reference to loss costs in 4, added an exception at the beginning of 5, inserted a reference to loss cost calculations in 6, and changed N.J.A.C. references and deleted a reference to 5.25 inch 360 KB disks in 7; in (b), inserted an exception relating to rating organizations and inserted a reference to loss cost calculations in the first sentence, and added a second sentence; and rewrote (c).

### 11:3-16.7 (Reserved)

Emergency Repeal and New Rule, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Formerly entitled Rating Organization Filings; new rule to implement section 69 of the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.

See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1995 d.288, effective June 5, 1995.

See: 27 N.J.R. 1356(a), 27 N.J.R. 2232(b).

Rewrote (i), extending its application indefinitely.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

In (a)4v substituted "costs" for "cuts", and rewrote (i) to eliminate model year limitation.

Repealed by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

Section was "Jointly developed historical data".

### 11:3-16.8 Premiums, loss costs, loss and loss adjustment expense data

(a) Filers shall provide the following data regarding New Jersey premium, loss and loss adjustment expense:

1. For each coverage, or combined coverages when the premium, or lost cost, is inseparable, calculate earned premium, or lost cost, at present rates using either the extension of exposures or on level factor methodologies. Provide the rate level history. Provide the underlying calculations and indicate how such calculations were produced and supply supporting documentation for a sample of such calculations and justifications of any factors used where the on level factor methodology is used. Provide the justification for the selected use of a particular method in calculating the rate level. Provide this information either at basic limits or at total limits.

2. For each coverage and each experience year used in setting the overall rate level, the following information at total limits and, at the filer's option, basic limits:

- i. Direct earned exposures measured in car years;
- ii. Incurred losses;
- iii. Applicable loss development factor (aged to ultimate);
- iv. Paid or incurred allocated loss adjustment expenses;
- v. Paid or incurred unallocated loss adjustment expenses;
- vi. Ultimate incurred losses and loss adjustment expenses;
- vii. Trend factor; and
- viii. Trended ultimate incurred losses and loss adjustment expenses.

3. Whenever New Jersey losses are separated into catastrophe and non-catastrophe losses, include a clear description and justification of the standard used to separate such losses. In determining a catastrophe loading, include as many years of data as available but at least 10 years. Provide an explanation if the data base from which the catastrophe loading is derived differs from that on which the rate level change is based.

4. Territorial rate calculations including earned premiums or loss costs, earned exposures, incurred losses, and the number of claims by territory separately for each coverage and each of the years used to determine the territorial relativities, or for each of the last three years, whichever is greater, if there is a change in the territorial relativities.

5. All information related to the derivation of classification differentials contained in the filing. Include the minimum information in (a)5i through iii below. Compliance with this paragraph is only necessary if there is a change in the classification relativities.

- i. All data and worksheets used and judgments made;
- ii. A description of the methodology used to arrive at the differentials; and
- iii. A description of the application of the methodology to this filing.

6. For all incurred loss adjustment expense data contained in the filing, show the related incurred losses used to determine any loss adjustment expense loadings.

7. Tier relativity calculations including earned premiums or lost costs, earned exposures, incurred losses, and the number of claims by tier separately for each coverage and each of the years used to determine the tier relativity.

ties, or for each of the last three years, whichever is greater.

8. For each coverage provide total on-level premium and on-level premium excluding expense fees.

9. Attach a copy of the filer's most recent Statewide exposure distribution of voluntary written exposure and classification report filed pursuant to N.J.A.C. 11:3-16.15(b) (Appendix Exhibit I). Those insurers authorized by the Department to employ an alternative use classification system, shall file a statement relating its classification system to the primary use classification system identified herein.

10. Provide the primary classification factors that are used in the determination of rates for the classification listed in N.J.A.C. 11:3-16.15(d).

(b) In the event a filer's percentage of pleasure use classification as reflected in (a)8 above is greater than the mean as established each year pursuant to N.J.A.C. 11:3-16.15(c), the filer shall provide a written explanation why the filer's pleasure use classification exceeds the Statewide mean. This may include verifiable reference to:

1. Marketing activity directed at pleasure or recreational vehicle owners;
2. Sales activity in retirement communities or retirement associations; and
3. Such other factors which would account for a higher pleasure use classification.

(c) The Department shall review the filer's written submission in (b) above and the responses to Appendix Exhibit J. If the Department determines that the filer has failed to present a measurable and verifiable explanation to account for the filer's percentage of pleasure use classification, the Department shall increase the filer's projected premium due to the filer's failure to adhere to efficient rate pursuit procedures and results. The filer's projected premium shall be increased in accordance with the following:

1. Using the filer's classification rating factors, two average classification rating factors shall be calculated;
2. The first average factor shall be calculated by weighing the company's rating factors by the Statewide classification distribution as determined by the most recent voluntary written exposure and primary classification report (N.J.A.C. 11:3-16.15);
3. The second average factor shall be calculated by weighing the company's rating factors by the company's classification distribution; and
4. The increase in the projected premium shall be calculated by the following formula: (Average Factor using Statewide distribution)/(Average Factor using company distribution) x On-level Premium excluding expense fees.

(d) Filers shall provide all information related to the derivation of credibility factors contained in the filing, specifically including the following information:

1. All data and worksheets used and judgments made;
2. A description of the methodology used to derive the factors; and
3. A description of the application of the methodology to this filing.

(e) Each filer, except small filers, shall provide the data in (e)1 through 7 below. Small filers shall provide the data in (e)3 and 4 below:

1. All information related to the derivation of loss development factors contained in the filing specifically including:
  - i. All data and worksheets used and judgments made;
  - ii. A description of the methodology used to derive the factors; and
  - iii. A description of the application of the methodology to this filing.
2. For each coverage, complete paid loss development triangles for the 10 latest available accident years at each and every annual evaluation date from 15 months to 123 months for Personal Injury Protection ("PIP") up to \$75,000, either basic or total Bodily Injury Protection ("BI") and Uninsured/Underinsured Motorists ("UM/UIM"), 15 to 75 months for Property Damage Liability ("PD"), and 15 to 51 months for collision and comprehensive if accident year data is used by the filer to develop its rate or loss cost level indications for collision and comprehensive coverages. Provide the corresponding nine-year, five-year and three-year average loss development factors derivable from these triangles. (These are minimum requirements. The filer may present additional accident years, further evaluation and other averages of factors);
3. The information in (e)2 above for either basic or total limits incurred losses;
4. For liability coverages only, the information in (e)2 above for allocated loss adjustment expenses on a paid or incurred basis. Alternatively, if allocated loss adjustment expenses are not available separately, the filer shall provide incurred losses and allocated loss adjustment expenses combined and so indicate on the filing;
5. The information in (e)2 above for the number of paid claims;
6. The information in (e)2 above for the number of incurred claims; and
7. A statement regarding any changes in the filer's case loss reserving practices during the last five years.

(f) Each filer, except small filers, shall provide the following data regarding trend factors and their application:

1. All internal loss trend data on a calendar year paid and, at the filer's option, incurred basis shown separately for frequency and severity for the latest available five calendar years on a quarterly year ending basis for all coverage on both a countrywide and New Jersey basis. Bodily injury liability and property damage liability trend data shall be given at total limits and, at the filer's option, basic limits. Basic personal injury protection ("PIP") data shall be given at a per person limit retained by the insurer according to N.J.S.A. 39:6-73.1 (\$75,000 of insurer payments). Physical damage coverages shall be shown on the basis of the \$500.00 deductible or all deductibles combined adjusted to the \$500.00 deductible basis. In the latter case the filer shall provide an explanation of the methodology for adjusting other than \$500.00 deductible data to the \$500.00 deductible level.

2. For all trend data described above, calculate annual trend factors along with "T" statistics and the coefficient of correlation. This shall be done from a least-squares regression with time being the independent variable.

i. Include trend results calculations for at least two of the latest six, nine, 12, 16 and 20-point periods;

ii. Include a side-by-side comparison of the actual data and fitted data; and

iii. Include calculations on both an exponential and straight line basis.

3. All information related to the derivation of trend factors contained in the filing specifically including:

i. All data used, worksheets used, and judgments made;

ii. A description of the methodology used to derive the factors; and

iii. A description of the application of the methodology to this filing.

4. Information, including studies, analyses, and fact sheets regarding the effects (both countrywide and in New Jersey) of the items described in (d)4i through vi below if the filer has either compiled the information itself or relied upon outside information in the support of the filing. If the effects of such studies, etc., have been incorporated into the rate filing, described in detail the methodologies used. Provide this information for the following:

i. Changes in seatbelt use;

ii. Use of passive restraint systems, including air bags, and any other safety or anti-theft devices including, but not limited to, anti-lock braking systems; and automatic traction control systems;

iii. Changes in the drinking age;

iv. Changes in the price and amount of gasoline purchased;

v. Changes in the average miles driven; and

vi. Other legislative, regulatory, social, or economic factors that have an impact on loss frequency or severity, including, but not limited to, the effects of the Fair Automobile Insurance Reform Act of 1990, N.J.S.A. 17:33B-1 et seq.

(g) Each filer shall provide the following regarding changes in the New Jersey premium or loss cost base and exposures:

1. Data on the mix of written exposures by different policy terms for the last three years. Include both the number of written exposures and the amount of written premium or lost cost for different policy terms;

2. Calculate the trend in the average model year and symbol relativities for collision and comprehensive coverages separately during the most recent five calendar years. Explain how these trends were calculated and provide all intermediate calculations. Show the average age/model year and average symbol relativity for each of the latest five calendar years. Include the distributions of written exposure by age/model year and symbol for comprehensive and collision coverages separately for each of the latest five calendar years; and

3. The most recent five-year history of the distribution, by deductible amount, of the written exposures and premium or loss cost of comprehensive and collision coverages purchased.

(h) Filers shall provide the following regarding limitations applicable to the filing:

1. Limitations on losses and/or loss adjustment expenses included in the statistical data used in the filing;

2. Limitations on the extent of the rate level change by coverage;

3. Limitations on the extent of territorial rate changes;

4. Limitations on the extent of classification rate changes;

5. Limitations due to statute; and

6. Any other limitations applied.

(i) Filers shall show the overall Statewide rate change indicated by coverage.

(j) Filers shall provide any additional information specifically requested by the Department which may be necessary to constitute a proper rate filing.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).  
See: 22 N.J.R. 3790(a).

Changes to implement the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.  
See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1992 d.189, effective April 20, 1992.

See: 23 N.J.R. 3199(a), 24 N.J.R. 1504(a).

Basic limits included at filer's option.

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.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

Rewrote the section.

### 11:3-16.9 Data requirements for expense and profit provisions

(a) Filers, not including rating organizations, shall provide the data in (a)1 through 4 below regarding expenses:

1. All information related to the derivation of expense provisions contained in the filing specifically including:

i. All data and worksheets used and judgment made;

ii. A complete description of the methodology used to derive the provisions; and

iii. Details on the application of the methodology to this filing;

2. Average incurred expenses per exposure on a New Jersey basis (explain the basis of allocation) and on a countrywide basis for each of the last five complete calendar years for the following expense categories:

i. Commission and brokerage;

ii. Other acquisition expenses;

iii. General expenses; and

iv. Taxes, licenses, and fees;

3. The derivation of the expense flattening as required by N.J.S.A. 17:29A-37. The expense flattening calculation shall exclude the UCJF assessment for the excess medical benefits reimbursed to insurers by that fund. The expense shall be applied by coverage; and

4. All data shall be on a direct basis excluding AIRE assessments and reimbursements.

(b) Filers shall provide the following data regarding proposed rates or loss costs:

1. Proposed rates or loss costs for each territory and coverage together with their derivation;

2. Classification differentials, with descriptions, if any proposed changes are being made to the currently approved classification plan;

3. The calculations showing that the proposed rates for each tier are in compliance with N.J.S.A. 17:29A-36. The base class rates for the territorial calculations shall be inclusive of expense fees but exclusive of all discounts. In determining rates for principal operators 65 years of age or older, ratios of rates shall be inclusive of expense fees and exclusive of discounts. The filer's average base rate for each tier shall be determined from each tier's territorial distribution for the latest year of data contained in the filing either:

i. By applying the multiplicative factor for each tier to the Statewide average base rate, which has been calculated by multiplying the standard base rate by the number of risks in each territory without regard to the tier in which those risks reside divided by the total number of risks, or

ii. By applying the territorial distribution for each tier to the base rate for that tier;

4. By coverage, a comparison of average Statewide variable rates, expense fees and average premium proposed and currently in use, along with number of exposures by coverage; and

5. Rating examples as described in the annual premium survey developed in accordance with N.J.A.C. 11:3-45.

(c) Filers shall provide the following data regarding investment earnings:

1. The amount of investment income earned on loss, loss adjustment expense and unearned premium reserves in relation to earned premium for private passenger automobile insurance in New Jersey shall be calculated for the latest two years and estimated for the current year and the two following years. Calculations should be provided in detail including the amount of the composite reserves of each type (that is, loss, loss adjustment expense and unearned premium) at the beginning and end of each of the specified years;

2. The cash flow pattern from policy inception date until receipt of premium. Show both premium and installment premium. This shall be provided by coverage;

3. The cash flow pattern from policy inception date for commission and brokerage, other acquisition expenses, general expenses, assessments, premium taxes, licenses and fees and any other expense payments; and

4. The cash flow pattern from policy inception date for losses, allocated loss adjustment expenses, and unallocated loss adjustment expenses.

(d) Filers shall provide the following regarding identification and certification of statistical plans:

1. Identification of all statistical plans used or consulted in preparing the filing; and

2. A certification by an officer on behalf of the filer that the data utilized in the rate filing was collected in accordance with such plans and is a true and accurate representation of the insurer's experience. The certification shall identify any data included in the filing that was not collected in accordance with the statistical plan.

(e) Filers shall provide the following information regarding investment earnings on capital and surplus:

1. Given the selected underwriting profit and contingency loadings contained in the filing, the resulting rate of return on equity capital and on total assets, showing the derivation on all factors used to produce the calculation.

(f) Filers shall provide also the following:

1. The amount of finance and other miscellaneous charges collected in New Jersey in connection with the sale of private passenger automobile insurance;

2. A description of all products and services supplied or received in transactions between the filer and a parent company, a wholly-owned subsidiary or an affiliated company; and

3. Any additional information specifically requested by the Commissioner which may be necessary to constitute a proper rate filing.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Changes to implement the Fair Automobile Insurance Reform Act, P.L. 1990, c.8.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991. See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

In (b)3 deleted exclusions of residual market equalization charges and policy constants.

Amended by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

Rewrote (a) and (b); in (c), inserted a new second sentence in 2; and in (e), deleted former 2.

### 11:3-16.10 Rate calculation using standard ratemaking methodology

(a) Investment income shall be treated by group of coverages as follows:

1. The calculation of the underwriting profit and contingency loading taking into account investment income on loss, loss adjustment expense, and unearned premium reserves shall be calculated in accordance with the Clifford Formula methodology, wherein the combined after-tax profit from underwriting and investment income on loss, loss adjustment expense, and unearned premium reserves is 3.5 percent of premium. The profit and contingency provision may be calculated using a discounted cash flow method with the cash-flow patterns provided in N.J.A.C. 11:3-16.9(c); otherwise, the company shall

provide the information contained in (a)2 through 6 below.

2. No deductions shall be made for prepaid expenses unless there is specific documentation included in the filing that supports the prepayment of those expenses, which shall include the cash flow pattern from policy inception date for commission and brokerage, other acquisition expenses, general expenses, assessments, premium taxes, licenses and fees and any other expense payments.

3. No deductions shall be made for the delayed remission in premiums unless there is specific supporting documentation in the filing verifying such delay in the remission of premiums, which shall include the cash flow pattern from policy inception date until receipt of premium.

4. The ratio of unearned premium reserves to premium shall be obtained from the appropriate line of business from Page 14 of the statutory Annual Statement for New Jersey. The calculations shall be the direct unearned premium reserve divided by the direct premiums written.

5. The ratio of loss reserves to incurred losses shall be on a direct business basis derived from the appropriate line of business from Page 14 of the Statutory Annual Statement for New Jersey. The calculations shall be as follows:

i. The average of the loss reserve (excluding the reserves for excess medical benefits claims over \$75,000 and AIP reserves) at the beginning of the year and at the end of the year divided by the corresponding incurred losses during the year;

ii. The ratio of these reserves to corresponding losses incurred shall be calculated for the most recent four calendar years; and

iii. If there is a monotonic change in these ratios, either up or down, the most recent ratio shall be used in the calculation. If no such trend exists, the unweighted average of the four ratios shall be used in the calculation.

6. The ratio of loss adjustment expense reserves to loss reserves shall be derived from the appropriate line of business from Part 3A—Unpaid Losses and Loss Adjustment Expenses of the Annual Statement. The calculations shall be as follows:

i. The unpaid loss adjustment expense divided by the net losses unpaid excluding loss adjustment expense;

ii. This ratio shall be calculated for the most recent four calendar years; and

iii. If there is a monotonic change in these ratios, either up or down, the most recent ratio shall be used

in the calculation. If no such trend exists, the un-weighted average of the four ratios shall be used in the calculation.

7. The expected loss and loss adjustment expense ratio shall be one minus the underwriting expense ratio, minus the underwriting profit and contingency ratio derived from the Clifford Formula.

8. The interest rate used in the calculation shall be a simple average of the most recent six monthly numbers for the Moody's seasoned AAA corporate bond rate as published in the Federal Reserve statistical release "Selected Interest Rates," or the insurer's actual prospective yield, whichever is higher.

(b) Underwriting expense provisions shall be determined as follows:

1. New Jersey specific data shall be used to determine the expense provision for commission and brokerage. Countrywide data for commissions and brokerage is not acceptable.

2. New Jersey specific data shall be used for premium taxes, licenses and fees.

3. New Jersey specific data shall be used for assessments.

4. New Jersey specific data shall be used, if available, for general expenses and other acquisition expenses. When New Jersey specific data is not available, countrywide data allocated to New Jersey may be used. In such cases, the basis of allocation of countrywide data to New Jersey shall be explained in specific detail.

5. The projected provision for other acquisition expenses and general expenses shall be based on a separate trending of the dollar amounts of these items. These shall not be determined by simply assuming the same ratio of these items to premium in the future as has been the case in the past. The basis of the trend shall be a 50/50 weighting of the trend during the past two years of the monthly All Items Consumer Price Index and monthly average weekly wages for fire and casualty insurance employees as published by the Federal Bureau of Labor Statistics. This shall be performed by calculating through regression analysis the annual trends for the two indices and then averaging these values on an equal basis.

6. In determining the historic expense provision for commission and brokerage, other acquisition expenses and general expenses on a combined basis, the percentage to premium for each year of experience shall be limited to a maximum of the weighted average of the percentages shown in "Best's Aggregates and Averages" for the same period for those property/casualty insurance companies which most closely approximate the insurer's method of marketing automobile insurance as set forth in Exhibit H to the Appendix, incorporated herein by reference.

i. If an insurer uses salaried employees which deal directly with the public, the filer shall use the weighted average percentage for insurers which use salaried employees which deal directly with the public; if an insurer uses exclusive agents, the filer shall use the weighted average percentage for insurers which use exclusive agents; and if an insurer uses independent agents, the filer shall use the weighted average percentage for insurers which use independent agents.

ii. For the purposes of this section, the calculation of the weighted average shall be based upon written premiums in New Jersey in the year prior to making the filing.

7. The percentage loading for the UCJF assessment shall be the most recent value established by the Commissioner.

8. The following expense items shall not be incorporated into the expense base for determining rates:

i. Fines against the company;

ii. Lobbying expenses;

iii. Charitable contributions;

iv. Political contributions;

v. Awards against the company itself for punitive damages and for bad faith claims;

vi. Advertising and other expenses incurred in connection with proposed changes in the regulation of insurance; and

vii. Assessments and surtaxes imposed pursuant to N.J.S.A. 17:30A-8(9) and 17:33B-49, respectively.

9. The filing shall include for each of the categories in (b)8 above the dollars of expense that were excluded from the rate base, separately for each year of historic information and separately for each of the above seven categories. If the filer submits a ratemaking methodology that includes these expenses pursuant to (f) below, specific justification for including these expenses shall be included.

10. Commissions for bodily injury liability coverage for the \$0 and verbal threshold shall be equalized in accordance with the Exhibit C in the Appendix incorporated herein by reference.

(c) The data base to be used shall be as follows:

1. Accident year data shall be used for all liability coverages. Accident year or calendar year data shall be used for physical damage coverages.

2. The most recent accident year data used in the filing shall end no more than 15 months prior to the date of submission of the filing. Data may be from either a fiscal year or year ending December 31, so long as the period is within 15 months of the filing.

3. Personal injury protection experience shall be limited to the direct "before reinsurance" exposure retained by the insurance company according to N.J.S.A. 39:6-73.1. Any losses reimbursed or subject to reimbursement to the insurer by the UCJF for excess medical benefits shall not be included with the experience contained in the filing.

(d) The trend methodology to be used shall be as follows:

1. With regard to loss trends, the filing shall contain separate determinations of the loss severity from loss frequency trends.

2. The filing shall contain an adjustment for symbol drift, and where appropriate for model year rating.

(e) The filer shall demonstrate that a reasonable total rate of return on its capital investment attributable to the New Jersey private passenger automobile insurance market will result from the proposed rates.

(f) The ratemaking methodology set forth in (a) through (e) above is the Department's preferred procedure and must be included with the filing. The filer may, however, propose an alternate procedure in total or in part and support it with such calculations and other information it deems appropriate to demonstrate the superiority of the alternate procedure in the determination of the filer's rates or loss costs.

1. In the event the filer has computed the rates using an alternate methodology, it shall provide all information related to the derivation of the profit and contingency loading contained in the filing, specifically including:

- i. All data and worksheets used and judgments made;
- ii. A description of the methodology used to arrive at the selected loading; and
- iii. Details on the application of the methodology to this filing.

2. Filers which propose an alternate ratemaking methodology shall show the overall statewide rate change by coverage by both the standard and alternate methodologies.

(g) In addition to that required under N.J.A.C. 11:3-16.6, any filer desiring to modify its rates or rating system in any manner other than provided in N.J.S.A. 17:29A-46.6 shall also provide the following:

1. A completed Rate Pursuit Questionnaire as set forth in Appendix Exhibit J, of this subchapter incorporated herein by reference; and

2. A sample insurance application for new and renewal policies.

(h) Due to the amount of data required, a new company may not be able to fulfill all of the requirements of N.J.A.C.

11:3-16.8, 16.9 and this section. New companies shall be required to submit as much of the information as it is able to supply and each new company filing will be reviewed based on its own merit. Filers shall provide any additional information specifically requested by the Department that may be necessary to constitute a proper rate filing.

(i) Rating organizations shall be excused from the filing requirements of (a), (b), (e) and (g) above.

Emergency Amendment, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Changes to implement the Fair Automobile Reform Act, P.L. 1990, c.8.

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991. See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1992 d.189, effective April 20, 1992.

See: 23 N.J.R. 3199(a), 24 N.J.R. 1504(a).

Interest rate changed to 36 months of Moody bond rates or actual prospective yield.

Petition for Rulemaking.

See: 25 N.J.R. 4523(a).

Amended by R.1994 d.46, effective January 18, 1994.

See: 25 N.J.R. 4436(a), 26 N.J.R. 378(b).

Amended by R.1998 d.128, effective March 2, 1998.

See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

In (a), added a second sentence in 1; in (f), added a reference to loss costs at the end; and added (g) through (i).

#### Case Notes

Insurer's establishment of reserve for payment of its share of anticipated market transition facility (MTF) losses was premature. Matter of Private Passenger Auto. Rate Revision on Behalf of Aetna Cas. and Sur. Co., 256 N.J.Super. 46, 606 A.2d 401 (A.D.1992).

Regulatory amendment more accurately reflected actual yield rate than previous calculation method and had to be applied in calculating yield on premiums. Matter of Private Passenger Auto. Rate Revision on Behalf of Aetna Cas. and Sur. Co., 256 N.J.Super. 46, 606 A.2d 401 (A.D.1992).

Commissioner should make determinations on individual insurers' special rate-increase applications resulting from surtaxes and assessments imposed by Fair Automobile Insurance Reform Act before challenges to constitutionality. State Farm Mut. Auto. Ins. Co. v. State, 124 N.J. 32, 590 A.2d 191 (1991).

Fair Automobile Insurance Reform Act prohibiting pass throughs to policyholders of costs did not violate takings clause. State Farm Mut. Auto. Ins. Co. v. State, 124 N.J. 32, 590 A.2d 191 (1991).

Private passenger automobile insurer failed to document need for rate increase. In Re Harleysville Garden State Insurance Company's request for a Rate Increase, 96 N.J.A.R.2d (INS) 25.

Private passenger insurer not entitled to rate relief; insurer had reasonable rate of return. Matter of Private Passenger Automobile Rate Filings on Behalf of State Farm Mutual Insurance Company Concerning Fair Act Surtaxes and Assessments, 93 N.J.A.R.2d (INS) 1.

Private passenger automobile insurer's request for rate relief for market transition facility deficit was not ripe. In Re Chubb Group's Request for Private Passenger Automobile Insurance Rate Increase, 92 N.J.A.R.2d (INS) 59.

Increase in private passenger automobile insurance rates was not proven. Matter of Aetna Casualty and Surety Company's Request for Private Passenger Automobile Insurance Rate Increase, 92 N.J.A.R.2d (INS) 51.

Application of Clifford Formula to rate increase request by private passenger automobile insurer did not result in unconstitutional taking. Matter of All State Insurance Company, 92 N.J.A.R.2d (INS) 25.

Thirteen percent rate increase for private passenger automobile insurance approved. Matter of Filing by Travelers Indemnity Company, 92 N.J.A.R.2d (INS) 1.

### 11:3-16.11 Rate filings reflecting assessments and surtaxes

(a) All insurers who submit a rate filing which reflects assessments or surtaxes imposed pursuant to N.J.S.A. 17:30A-8(a) and 17:33B-49, respectively, or amounts paid to the Market Transition Facility, shall submit such rate filing independently of any prior approval rate filing submitted pursuant to N.J.A.C. 11:3-16.6.

(b) Any insurer desiring to modify its rates to reflect assessments or surtaxes imposed pursuant to N.J.S.A. 17:30A-8(9) and 17:33B-49, respectively, or amounts paid to the Market Transition Facility, shall provide the following information in support of its application:

1. All of the data required for prior approval filings submitted pursuant to N.J.A.C. 11:3-16.6;

2. A copy of the statutory property and casualty Annual Statement, Exhibit of Premiums and Losses (page 14) for New Jersey for each of the most recent 10 years. The insurer shall also file information combining this data for each of the most recent 10 years for all states and the District of Columbia, if applicable, in which the insurer is authorized to transact business; and shall provide a list of these jurisdictions;

3. The following data for all of its insurance affiliates for each of the most recent 10 years on a Statewide and countrywide basis;

i. For property and casualty affiliates, Exhibit of Premiums and Losses (page 14) of the statutory property and casualty Annual Statement;

ii. For title insurance affiliates, Operations and Investment Exhibit (page 4) and Schedule T—Exhibit of Premiums Written (page 39) of the statutory title insurance Annual Statement;

iii. For life and health affiliates, Liabilities, Surplus and Other Funds (page 3); Analysis of Operations by Lines of Business (page 5); and Exhibit 1 Part 1 and Part 2 (pages 7 and 7A) of the statutory life and health Annual Statement; and

iv. An estimate of the amount of business in other lines that is produced by the synergistic effects of the insurer writing private passenger automobile insurance in this State.

4. Certifications/representations by the insurer's Chief Financial Officer and President containing the information set forth in Exhibit F in the Appendix incorporated herein by reference;

5. A schedule of Key Performance Indicators (KPI's), as set forth in Exhibit G in the Appendix incorporated herein by reference, for the year of the rate filing and each of the preceding two years;

6. For the current year and preceding two years, a schedule of premiums, incurred losses and operating expenses by New Jersey lines of business corresponding to line items one (1) through twenty-two (22) of Part II of the IEE. In addition, provide a schedule of operating expenses by classification corresponding to line items one (1) through twenty-two (22) of Part I of the IEE. The aggregate of expenses reported by line item must agree with the total operating expenses related to New Jersey policies reported by line of business in Part II of the IEE, (sum of lines four (4) through eight (8));

7. For each line item expenditures included in the schedule required pursuant to (b)6 above, the following:

i. A description of all allocation methodologies used to allocate corporate-wide costs (including worldwide, countrywide and regionalwide costs) to New Jersey lines of business;

ii. A description of all allocation methodologies used to allocate operating expenses to New Jersey private passenger automobile liability and physical damage lines of business and to all other New Jersey lines of business;

iii. An explanation for any changes in allocation methodologies between years; and

iv. For each operating expense classification by each New Jersey line of business, a schedule which shows the expenses directly charged to a line of business; and indirect expenses allocated to various lines of business using a reasonable allocation methodology;

8. For each New Jersey line of business (including private passenger automobile), the following:

i. The number of named insureds;

ii. The number of employees directly dedicated to the line of business;

iii. The square feet of office space dedicated to the line of business (excluding allocations of corporate or administrative office space);

iv. The hours of data processing time charged;

v. The volume of exposures;

vi. The number of policies in force; and

vii. The number of claims reported during each of the three years requested;

9. A report, based on a study and evaluation of the insurer's system of internal accounting control and signed by an independent public accountant. The report shall state that in the accountant's opinion, the system of internal accounting control of the insurer in effect during the current year, taken as a whole, was sufficient to meet the objectives of a system of internal accounting control insofar as those objectives pertain to the prevention or detection of errors or irregularities in amounts that would be material in relation to the insurer's financial statements;

10. A listing of all internal audits performed of the operations of the New Jersey private passenger automobile lines of business during the current year, including the scope of procedures performed;

11. Copies of all internal audit reports issued during the current year pursuant to (b)10 above and management responses to all internal audit findings, which are deemed to be confidential pursuant to N.J.S.A. 17:23-6;

12. Access to source documents which, in the opinion of the Commissioner, are necessary to support any and all transactions reported on the insurer's statutory annual statement filed with the Department or to support any other schedules referred to herein;

13. An explanation why the insurer believes that the assessment imposed by N.J.S.A. 17:30A-8(9) should be reflected in the requested private passenger automobile rates since the assessment, by statute, is classified as a loan; and

14. Any additional information specifically requested by the Commissioner which may be necessary to evaluate the request for rate relief.

(c) Upon written application and for good cause shown, the Commissioner may, in his or her discretion, waive any of the data filing requirements set forth in (b) above.

(d) The Commissioner shall not approve any increase in an insurer's rates on the basis that the insurer is required to pay assessments pursuant to N.J.S.A. 17:30A-8(9), or surtaxes pursuant to N.J.S.A. 17:33B-49, unless he or she shall find that an increase in revenue is necessary to ensure that the insurer earns a constitutionally adequate return. In making that determination the Commissioner shall consider:

1. The insurer's experience on all lines of its business in New Jersey, and in the case of insurers operating in an insurance holding company system, the experience of all of the lines of business of all affiliated companies in New Jersey, for a period of time over which an insurer could reasonably plan to earn a target rate of return;

2. Whether the insurer and its affiliates, if any, are reasonably efficient in their operations, including claims handling, subrogation and salvage, by comparison to insurers on a statewide and countrywide basis;

3. Whether the insurer and its affiliates, if any, have allocated expenses to New Jersey operations in a fair and equitable manner; and

4. The synergistic effect of mandated private passenger automobile insurance on the sale of other lines of insurance that the filer writes, including, but not limited to, higher premium volumes, lower operating costs and lower acquisition costs.

(e) Each filer shall present in its filing a formula it believes appropriate for determining the return required by relevant constitutional principles, with supporting analysis and data fully explaining why such formula should be utilized.

(f) The Commissioner may determine whether an insurer's rates are, as a result of the payment of the surtaxes and assessments, constitutionally adequate. In the event that the Commissioner determines that rate relief is deemed to be necessary, the Commissioner shall determine whether the rates should be adjusted immediately or over time, as may be appropriate.

Emergency New Rule, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.

See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

In (a) and (b) inserted amounts paid to the Market Transition Facility, and deleted former (b)7iv relating to NJAFIUA/MTF servicing entities.

#### Law Review and Journal Commentaries

Auto Insurance. Steven P. Bann, 134 N.J.L.J. No. 18, 45 (1993).

#### Case Notes

Commissioner of Insurance was required to apply emergency "pass-through" regulation to Fair Automobile Insurance Reform Act surtax and assessment payments. Matter of Commissioner of Insurance's Decision on Liberty Mut. Fire Ins. Company's N.J.A.C. 11:3-16 Rate Filing, 266 N.J.Super. 457, 630 A.2d 295 (A.D.1993).

Five percent surtax on premiums and assessment based on percentage of insurer's market share did not violate due process or equal protection. *American Fire and Cas. Co. v. New Jersey Dept. of Ins.*, 256 N.J.Super. 423, 607 A.2d 196 (A.D.1992).

Provision of Fair Automobile Insurance Reform Act of 1990 directing Property Liability Insurance Guaranty Association (PLIGA) to assess its member insurers and pay those collected assessments into the Automobile Insurance Guaranty Fund was not unconstitutionally vague. *Matter of Loans of New Jersey Property Liability Ins. Guar. Ass'n*, 124 N.J. 69, 590 A.2d 210 (1991).

Commissioner should make determinations on individual insurers' special rate-increase applications resulting from surtaxes and assessments imposed by Fair Automobile Insurance Reform Act before challenges to constitutionality. *State Farm Mut. Auto. Ins. Co. v. State*, 124 N.J. 32, 590 A.2d 191 (1991).

Fair Automobile Insurance Reform Act prohibiting pass throughs to policyholders of costs Act did not violate takings clause. *State Farm Mut. Auto. Ins. Co. v. State*, 124 N.J. 32, 590 A.2d 191 (1991).

**11:3-16.12 (Reserved)**

New Rule, R.1993 d.148, effective April 5, 1993.

See: 24 N.J.R. 4486(a), 24 N.J.R. 56(a), 25 N.J.R. 1543(a).

Repealed by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Section was "Filings reflecting paid, apportioned MTF expenses and losses".

**11:3-16.13 Incomplete filings and further proceedings**

(a) Failure to submit the data and calculations required by this subchapter may result in a finding that the filing is incomplete. The Department shall promptly notify a filer of a finding that its filing is incomplete.

(b) No finding that a filing is incomplete shall be based solely on the filer's failure to include data that was either not being collected, or was not collected in a manner so as to facilitate reporting, on February 5, 1990, provided that the filer includes with the filing a statement that identifies the item or items not included; specifies the reason; and certifies that the filer is undertaking action to collect and report such data in the future pursuant to N.J.A.C. 11:3-16.3(a).

(c) For informational filings, failure to submit a filing or failure to cure the deficiency of an incomplete filing within 30 days of notice shall authorize the Department to impose penalties as provided by N.J.S.A. 17:29A-23. Any penalty imposed shall be in addition to penalties imposed for failure to file an Excess Profits Report.

(d) For flex rate filings, failure to cure the deficiency of an incomplete filing within 30 days of notice, or failure to request a hearing on the issue of incompleteness within 30 days of notice, shall authorize the Commissioner to issue an Order directing the filer to cease using any flex rate increase, to refund any increased premiums collected, and to impose penalties as provided by N.J.S.A. 17:29A-23.

(e) For filings requiring prior approval, a notice that the filing is incomplete shall include a statement that the filing is disapproved as a nonconforming filing. The filer may thereafter resubmit the filing for approval with the deficiencies cured as noted.

Recodified from N.J.A.C. 11:3-16.11, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Recodification adopted effective January 25, 1991.

See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

**Case Notes**

Documents were not protected from disclosure under the deliberative process privilege. In the Matter of the Commissioner of Insurance's December 29, 1992 Certification of Amendments, 94 N.J.A.R.2d (INS) 31.

**11:3-16.14 Rate adjustments upon repayment of assessments**

(a) At such time that the loans provided for in N.J.S.A. 17:30A-8(a)(10) from the Property-Liability Insurance Guaranty Association to the Automobile Insurance Guaranty Fund are repaid, the Guaranty Association shall determine the proportion of the repayment which is to be allocated to each insurer which paid assessments pursuant to N.J.S.A. 17:30A-8(a)(9).

(b) The Guaranty Association shall advise each insurer in writing of the amount of the repayment which is to be allocated to that insurer, and shall further advise the insurer that it must comply with the provisions of N.J.A.C. 11:3-16.13(c) before the funds will be remitted.

(c) Prior to receiving repayment of any funds attributable to the assessments paid to the Guaranty Association pursuant to N.J.S.A. 17:30A-8(a)(9), an insurer shall file a plan with the Commissioner for a reduction of rates commensurate with such repayment. Upon the Commissioner's review and approval of such plan, the Commissioner shall order the repayment of funds from the Guaranty Association to the insurer.

Emergency New Rule, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.

See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency amendment, R.1990 d.621, readopted without change.

**Case Notes**

Act's provision requiring assessments to be deposited in guaranty fund was not unconstitutional. Matter of Loans of New Jersey Property Liability Ins. Guar. Ass'n, 124 N.J. 69, 590 A.2d 210, (1991).

**11:3-16.15 Voluntary written exposure and primary classification data**

(a) All private passenger automobile insurers shall file, individually and as a member of an insurance holding company group, a report showing the total Statewide written exposures and primary classification distribution of policies written as of December 31 of the prior year. The filer's performance under N.J.A.C. 11:3-11.8(a) shall be reviewed as a group and not by individual companies.

(b) The report shall be due February 1 of each year and shall be filed on the form located at Appendix Exhibit I of this subchapter, incorporated herein by reference.

(c) Sixty days after the receipt of the written exposures/primary classification data report filed by all insurers, the Department shall publish a Bulletin reflecting the Statewide exposure distribution of voluntary written exposure and classification report. The report shall establish the mean for all primary classifications.

(d) The following shall be the primary class codes pursuant to this section:

1. Principal Operators 65 and over;
2. Youthful Operator Unmarried Female, Pleasure/Farm Use;
3. Youthful Operator Unmarried Female, Drive to Work/Business Use;
4. Youthful Operator Unmarried Male, Principal Operator or Owner;
5. Youthful Operator Unmarried Male, Not Principal Operator or Owner;
6. Youthful Operator Married Male, Pleasure/Farm Use;
7. Youthful Operator Married Male, Drive to Work/Business Use;
8. No Youthful Operator, Principal Operator Under 65, Pleasure Use >3 miles;
9. No Youthful Operator, Principal Operator Under 65, Drive to Work, <10 miles;
10. No Youthful Operator, Principal Operator Under 65, Drive to Work, >10 miles;
11. No Youthful Operator, Principal Operator Under 65, Business Use; and
12. No Youthful Operator, Principal Operator Under 65, Farm Use.

(e) Insurers not using the primary use classifications found in (d) above shall provide the Department with a statement relating its rating system to those factors identified in Appendix Exhibit I.

New Rule, R.1998 d.128, effective March 2, 1998.  
See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

**11:3-16.16 Prospective loss cost filing requirements for insurers**

(a) In order for an insurer to incorporate a rating organization's prospective loss costs to establish its own rates, an insurer shall:

1. Be a participating insurer in the rating organization; and
2. File its loss cost multiplier using the Reference Filing Adoption Form (as set forth in Appendix Exhibit C to this subchapter and incorporated herein by reference). An insurer's loss cost multiplier shall be filed and become effective in accordance with N.J.S.A. 17:29A-1 et seq., N.J.S.A. 17:33B-31, and applicable provisions of N.J.A.C. 11:3-16 and 18. An insurer's final rates shall be a combination of the prospective loss costs and the loss cost multiplier.

i. An insurer may file modifications to the rating organization's approved prospective loss cost filing based on its own anticipated experience by using the Reference Filing Adoption Form. Supporting documentation shall be filed for any modification (upwards or downwards) to the rating organization's prospective loss cost filings. Supporting documentation must comply with N.J.A.C. 11:3-16.3(k).

ii. An insurer's loss cost multiplier shall remain in effect until the insurer revises the multiplier in accordance with N.J.S.A. 17:29A-14 and applicable provisions of N.J.A.C. 11:3-16 and 18.

(b) An insurer may vary expense loads by coverage. An insurer may use variable or fixed expense loads or a combination of these to establish their expense loadings by using the Reference Filing Adoption Form. An insurer's loss cost multiplier based on its expenses plus any profit provision shall be developed in accordance with N.J.A.C. 11:3-16.3(l).

(c) Any insurer participating in a rating organization shall continue to use all rates and deviations currently in effect for its use, until disapproved pursuant to N.J.S.A. 17:29A-14 or until the insurer revises its rates, either by making an independent filing or by filing a Reference Filing Adoption Form.

New Rule, R.1998 d.128, effective March 2, 1998.  
See: 29 N.J.R. 5240(a), 30 N.J.R. 828(a).

**APPENDIX**

**EXHIBIT A I**

**FLEX RATE FILINGS**

COMPANY: \_\_\_\_\_

COMPANY FILE NO. \_\_\_\_\_

RATE FILING REQUIREMENTS:	PAGE #
(1) COVER LETTER NOTIFYING THE DEPARTMENT OF INTENTION TO INCREASE RATES IN ACCORDANCE WITH N.J.S.A. 17:29A-44	_____
(2) STATEMENT OF PERCENT OF INCREASE BY COVERAGE (INCLUDING VARIABLE PORTION AND EXPENSE FEES)	_____
(3) STATEMENT OF DOLLAR AMOUNT OF INCREASE BY COVERAGE	_____
(4) EFFECTIVE DATE OF CHANGE	_____
(5) NAME, ADDRESS, FACSIMILE NUMBER AND TELEPHONE NUMBER OF COMPANY OFFICER FAMILIAR WITH FILING	_____
(6) MANUAL PAGES CONTAINING THE FLEX RATES	_____
(7) FORM AMB 10 MUST BE INCLUDED	_____
(8) CERTIFICATION BY COMPANY OFFICER THAT FILING MEETS STATUTORY AND REGULATORY REQUIREMENTS AND INFORMATION IS ACCURATE AND TRUE	_____

- (9) FILER'S NAME SHOWN \_\_\_\_\_  
 FILER'S IDENTIFYING NUMBERS \_\_\_\_\_  
 FILER NAIC # \_\_\_\_\_  
 GROUP NAIC # \_\_\_\_\_
- (10) CERTIFICATION BY COMPANY OFFICER THAT EXCESS PROFITS REPORT REQUIRED BY N.J.A.C. 11:3-20 HAS BEEN FILED \_\_\_\_\_
- (11) THE MOST RECENT FIVE COMPLETE CALENDAR YEAR HISTORY OF THE DISTRIBUTION, BY LIMIT OF LIABILITY OF WRITTEN EXPOSURES AND PREMIUMS FOR:  
 BODILY INJURY LIABILITY \_\_\_\_\_  
 PROPERTY DAMAGE LIABILITY \_\_\_\_\_  
 COMBINED SINGLE LIMIT LIABILITY \_\_\_\_\_  
 UNINSURED/UNDERINSURED MOTORISTS \_\_\_\_\_
- (12) EXHIBIT SHOWING COVERAGE WEIGHTS AND CALCULATION OF NEW VARIABLE BASE RATES IF COVERAGES ARE COMBINED \_\_\_\_\_
- (13) COMMISSION EQUALIZATION WORKSHEET \_\_\_\_\_

- (a) Earned premium or loss costs at present rates for each coverage or combined coverages using extension of exposures or on level factors. \_\_\_\_\_
- (b) A rate level history. \_\_\_\_\_
- (c) Explanation as to how calculations were produced and documentation for sample of such calculation and justification for factors used in the rate level history. \_\_\_\_\_
- (d) Justification for the selected method. \_\_\_\_\_
- (e) Primary classification distribution and factors. \_\_\_\_\_
- (f) Adjustment for symbol drift and model year rating. \_\_\_\_\_
- (g) Data on a basic or total limits basis. \_\_\_\_\_
- (h) Premium excluding expense fees. \_\_\_\_\_

LOSS DATA:

- (a) For each coverage and each year used in calculating rate level indicate whether loss data is provided on a basic or total limits basis. \_\_\_\_\_
- (b) Each year and each coverage includes:
  - Earned exposures \_\_\_\_\_
  - Incurred losses \_\_\_\_\_
  - Loss development factors \_\_\_\_\_
  - Unallocated loss adjustment expense \_\_\_\_\_
  - Allocated loss adjustment expense \_\_\_\_\_
  - Ultimate incurred losses and loss adjustment expense \_\_\_\_\_
  - Trend factors \_\_\_\_\_
  - Trended ultimate incurred losses and loss adjustment expense \_\_\_\_\_
- (c) If New Jersey losses are separated into catastrophic and noncatastrophic, a description of the method used to separate losses. \_\_\_\_\_
- (d) If the number of years to determine the catastrophe loading is different than number of years available, an explanation is provided, at least 10 years is needed. \_\_\_\_\_
- (e) Territorial rate calculations include earned premiums or loss costs, earned exposures, incurred and number of claims by territory for each coverage and each of the years used to determine territorial relativities or the last three years, whichever is greater if territorial relativities are changing. \_\_\_\_\_
- (f) Provide the following information with regard to classification differentials if classification relativities are changing:
  - Data used, worksheets used and judgments made. \_\_\_\_\_
  - Methodology used to arrive at differentials. \_\_\_\_\_
  - Description of application of the methodology to this filing. \_\_\_\_\_
- (g) For loss adjustment expense data showing related incurred losses used to determine any loss adjustment expense loadings. \_\_\_\_\_
- (h) Tier rate calculations including earned premium or loss costs, earned exposures, incurred and number of claims by tier for each coverage and each of the years used to determine tier relativities or the last three years, whichever is greater if the tier relativities are changing. \_\_\_\_\_

Emergency Repeal and Replacement, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).  
 See: 22 N.J.R. 3790(a).  
 Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.  
 See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).  
 Repeal and Replacement, R.1990 d.621, readopted without change.  
 Amended by R.1996 d.58, effective February 5, 1996.  
 See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Exhibit A II

Prior Approval Filings

COMPANY: \_\_\_\_\_  
 COMPANY FILE NO: \_\_\_\_\_

- | RATE FILING REQUIREMENTS:  | PAGE # |
|--|--------|
| (1) Cover letter notifying the Department of intention to modify rates which requires prior approval. _____                                  | _____  |
| Statement of proposed or requested percent of change by coverage and overall by company (including variable portion and expense fees). _____ | _____  |
| Statement of proposed or requested dollar amount of change by coverage and overall by company. _____   | _____  |
| Proposed date of the commencement of change. _____   | _____  |
| Name, address and telephone number of company officer familiar with filing. _____  | _____  |
| An overview of the contents of the filing and the reasons and procedures used to derive the rate change requested. _____                     | _____  |
| Manual pages on or before the effective date of the rates. _____   | _____  |
| Data disk if over 20,000 exposures. _____  | _____  |
| Rate pursuit questionnaire (Appendix J). _____   | _____  |
| Sample insurance application for new policies and renewal policies. _____  | _____  |
| (2) The following must be filed by:<br>PREMIUM OR LOSS COST DATA:  |        |

- (3) **DERIVATION OF CREDIBILITY FACTORS:**  
 Provide all data used and judgments made. \_\_\_\_\_  
 Provide description of methodology used to derive factors. \_\_\_\_\_
- (4) **LOSS DEVELOPMENT:**
  - (a) All data used, worksheets used and judgments made. \_\_\_\_\_
  - (b) Description of the methodology used to derive the loss development factors. \_\_\_\_\_
  - (c) By coverage provide total or basic limits paid, loss development parallelograms for the latest 10 accident years at each annual evaluation date from 15 months to 123 months for PIP, BI, and UM, 15 months to 75 months for PD, 15 months to 51 months for collision and comprehensive if on an accident year basis. \_\_\_\_\_
  - (d) Nine, five and three year average loss development factors by coverage. \_\_\_\_\_
  - (e) Loss development data must be provided by:
    - Total or basic limits paid losses \_\_\_\_\_
    - Total or basic limits incurred losses \_\_\_\_\_
    - Allocated loss adjustment expenses \_\_\_\_\_
    - Incurred losses and allocated loss adjustment expenses \_\_\_\_\_
    - Number of paid claims \_\_\_\_\_
    - Number of incurred claims \_\_\_\_\_
  - (f) Statement regarding any changes in loss reserving practices during last five years. \_\_\_\_\_
- (5) **TREND FACTORS:**
  - (a) All internal loss trend data on either a calendar year paid or incurred basis for the latest five years on a quarterly year ending basis. \_\_\_\_\_
  - (b) Separate determinations of loss severity and frequency trends. \_\_\_\_\_
  - (c) Bodily injury liability data on a basic or total limits basis. \_\_\_\_\_
  - (d) Property damage liability shown on a basic or total limits basis. \_\_\_\_\_
  - (e) PIP shown at a per person limit retained by filer. \_\_\_\_\_
  - (f) Collision and comprehensive shown on basis of: \$500 deductible or adjusted to \$500 deductible. \_\_\_\_\_
  - (g) Calculate annual trend factors, T-statistics, and coefficient of correlation using least squares regression for all trend data. \_\_\_\_\_
  - (h) Calculations for at least 2 of 6, 9, 12, 16, 20 point periods on both exponential and straight line basis. \_\_\_\_\_
  - (i) Side by side comparison of actual data, fitted data and differences. \_\_\_\_\_
  - (j) All data used, worksheets used and judgments made regarding trend. \_\_\_\_\_
  - (k) Description of methodology used to derive factors. \_\_\_\_\_
  - (l) Description of application of the methodology used to this filing. \_\_\_\_\_
  - (m) If filer has included the effects of any studies, analysis, or fact sheets, describe in detail the methodologies used for the following:
    - Changes in seatbelt use. \_\_\_\_\_
    - Changes in use of passive restraint system. \_\_\_\_\_
    - Changes in drinking age. \_\_\_\_\_
    - Changes in price and amount of gasoline purchased. \_\_\_\_\_
    - Changes in average miles driven. \_\_\_\_\_
    - Legislative, regulatory, social or economic factors. \_\_\_\_\_
- (6) **NEW JERSEY PREMIUM OR LOSS COST BASE AND EXPOSURES:**
  - (a) Data on mix of written exposures by different policy terms for latest 3 years. Include both written exposures and amount of written premium for different policy terms. \_\_\_\_\_
  - (b) Calculation of trend showing all steps for average model year and symbol relativities for each of the most recent five calendar years. \_\_\_\_\_
  - (c) Five year history of the distribution of written exposures and premium of comprehensive and collision by deductible amount. \_\_\_\_\_
- (7) **LIMITS ON FILING:**
  - (a) Limitations on losses and/or loss adjustment expenses included in statistical data used in filing. \_\_\_\_\_
  - (b) Limitations on extent of rate or loss cost level change by coverage. \_\_\_\_\_
  - (c) Limitations on extent of territorial rate or loss cost changes. \_\_\_\_\_
  - (d) Limitations on extent of classification rate or loss cost changes. \_\_\_\_\_
  - (e) Limitations due to statute. \_\_\_\_\_
  - (f) Limitations not provided for above. \_\_\_\_\_
- (8) **BY COVERAGE AND GROUP OF COVERAGES:**  
 Number of claims incurred for all limits and deductibles by coverage. \_\_\_\_\_
- (9) **EXPENSE AND PROFIT PROVISIONS:**
  - (a) For each filer provide all information related to derivation of expense provisions including:
    - i. All data used, worksheets used, and judgments made; \_\_\_\_\_
    - ii. Description of methodology used to derive provisions; \_\_\_\_\_
  - (b) Provide derivation of expense flattening (exclude UCJF assessment for excess medical). \_\_\_\_\_
- (10) **DATA REGARDING PROPOSED RATES OR LOSS COSTS:**
  - (a) Proposed rates or loss costs for each tier by territory and coverage. \_\_\_\_\_
  - (b) If classification plan is changed describe classification differentials. Provide explanation of how classification rates are determined and provide a sample calculation. \_\_\_\_\_
  - (c) Provide calculations showing how base rates are in compliance with N.J.S.A. 17:29A-26. \_\_\_\_\_
  - (d) Base class not greater than 1.35 statewide average base rate (include expense fees). \_\_\_\_\_
  - (e) Principle operator over 65 not greater than 1¼ times statewide average rate for principle operators over 65. \_\_\_\_\_

- (f) Comparison of average statewide variable rates, expense fees and average premium proposed and currently in use, and number of exposures by coverage. \_\_\_\_\_
- (g) Rating examples \_\_\_\_\_
- (11) INVESTMENT EARNINGS:
  - (a) CASH FLOW METHOD:
    - By coverage, cash flow pattern from policy inception until premium received. \_\_\_\_\_
    - Cash flow pattern from inception for commission and brokerage, other acquisition expenses, general expenses, assessments, premium taxes, licenses, fees, other expense payments. \_\_\_\_\_
    - Cash flow pattern from inception for losses, allocated loss adjustment expense, unallocated loss adjustment expense. \_\_\_\_\_
  - (b) ALTERNATIVE METHOD:
    - Amount of investment income earned on loss, loss adjustment expense and unearned premium reserve to earned premium for the latest 2 years, estimated for current and two following years. \_\_\_\_\_
    - Reserves at beginning and end of specified years:
      - Loss reserve \_\_\_\_\_
      - Loss adjustment reserve \_\_\_\_\_
      - Unearned premium reserve \_\_\_\_\_
- (12) STATISTICAL PLANS:
  - Identify plans used or consulted in preparing filing. \_\_\_\_\_
  - Describe data compiled by each plan. \_\_\_\_\_
  - Certification by officer of filer that data was collected by such plans and is true and accurate representation of filer's experience. \_\_\_\_\_
  - Identify data not collected in accordance with plan used in filing. \_\_\_\_\_
- (13) OTHER:
  - (a) Using the underwriting profit and contingency loadings selected for use in the filing, provide the rate of return on equity and assets by group of coverages. \_\_\_\_\_
  - (b) Provide amount of finance and other miscellaneous charges collected in New Jersey. \_\_\_\_\_
  - (c) Provide a description of all products, and services supplied between filer and parent company. \_\_\_\_\_
- (14) STANDARD RATE MAKING METHODOLOGY INVESTMENT INCOME:
  - (a) Underwriting profit calculated using the Clifford Formula so that after tax profit from underwriting and investment income on loss and LAE and unearned premium is 3.5% of premium. \_\_\_\_\_
  - (b) Using Discounted Cash Flow Method. \_\_\_\_\_
  - (c) Alternative method:
    - If there is a deduction for prepaid expenses or delayed remission of premiums, support is provided. \_\_\_\_\_
    - The ratio of unearned premium reserves to premium from page 14 of annual statement. (Direct E.P. divided by direct premium Written) is provided. \_\_\_\_\_
- The ratio of loss reserves to incurred losses from Page 14 of annual statement (Avg. of LR at beg. of yr. & at end of yr. divided by incurred losses during yr.), monotonic change use latest ratio, otherwise use average of 4 years. \_\_\_\_\_
- The ratio of loss adjustment expense reserves to loss reserves from annual statement for 4 years. (unpaid LAE divided net losses unpaid exclude LAE), monotonic change latest ratio, otherwise use average of 4 years. \_\_\_\_\_
- (d) The expected loss and LAE ratio 1- (underwriting experience ratio + underwriting profit and cont. ratio). \_\_\_\_\_
- (e) Interest rate = Moody's AAA Bond six month average. \_\_\_\_\_
- (15) UNDERWRITING EXPENSES PROVISIONS:
  - (a) NJ data for commission and brokerage. \_\_\_\_\_
  - (b) NJ data for taxes, license, fees. \_\_\_\_\_
  - (c) Basis of allocation for general expenses if NJ data is not used. \_\_\_\_\_
  - (d) Expense trend (50/50 weighting of trend using AICP index and MAWWFCIE index and regression analysis). \_\_\_\_\_
  - (e) Provision for other acquisition and general expense based on separate trending dollar amounts for these items. \_\_\_\_\_
  - (f) Historic Exp. Provisions limited by percent in Best Aggregates & Averages for comparable companies. \_\_\_\_\_
  - (g) UCJF loading = latest year. \_\_\_\_\_
  - (h) Fines against companies, lobbying expenses, charitable and political contributions, awards against company for punitive damages, advertising, legal expenses and expenses in connection with changes in regulation of insurance and assessments and surtaxes are not included. Company must show dollar amount of expense excluded separately and by year. \_\_\_\_\_
  - (i) Commissions for BI for \$0 and verbal threshold are equalized. \_\_\_\_\_
- (16) DATA BASE:
  - Accident year used for either calendar or accident year for physical damage. \_\_\_\_\_
  - Most recent data year ends no more than 15 months prior to submission. \_\_\_\_\_
  - PIP limited to direct exposure retained by company. \_\_\_\_\_
- (17) ALTERNATIVE RATE MAKING METHODOLOGY:
  - Is one used? \_\_\_\_\_
  - If yes, provide: all data used, worksheets used, description of methodology to arrive at selective loading. \_\_\_\_\_
  - Details on application of methodology to this filing. \_\_\_\_\_
  - Overall proposed statewide rate change and by coverage standard and alternate methodology. \_\_\_\_\_
- (18) GENERAL AND FORMAT REQUIREMENTS:

- Separate insurance companies make rate calculation separately and combined as a group if separate rate levels and underwriting guidelines are used. \_\_\_\_\_
  - Form AMB 10 must be included. \_\_\_\_\_
  - Certification by company officer (filing meets statutory and regulation requirements). \_\_\_\_\_
  - Loose leaf binder, one side of page, consecutively numbered. \_\_\_\_\_
  - Original files plus two copies \_\_\_\_\_
  - Filer's name shown \_\_\_\_\_
  - Filer's identifying numbers \_\_\_\_\_
  - Filer's NAIC # \_\_\_\_\_
  - Group NAIC # \_\_\_\_\_
- (19) List of items the filer states are not included and the reason why. \_\_\_\_\_
- (20) IF SURTAX AND GUARANTY ASSOCIATION ASSESSMENT REFLECTED IN FILING: \_\_\_\_\_
- (a) Annual Statement, New Jersey, page 15, for 10 years. \_\_\_\_\_
- (b) Annual Statement, Countrywide, page 15 equivalent of 10 years. \_\_\_\_\_
- (c) Each affiliate, New Jersey and country-wide property and casualty \_\_\_\_\_
- Annual Statement, New Jersey, Page 15, for 10 years. \_\_\_\_\_
  - Annual Statement, Countrywide, Page 15 for equivalent of 10 years. \_\_\_\_\_
- TITLE INSURANCE AFFILIATES**
- Operations and Investment, Exhibit, Page 4, 10 years. \_\_\_\_\_
  - Premiums Written, Schedule T, Page 39, 10 years. \_\_\_\_\_
- LIFE AND HEALTH AFFILIATES**
- Liabilities, Surplus and Other Funds, page 3, 10 years. \_\_\_\_\_
  - Analysis of operations by lines of business, Page 5, 10 years. \_\_\_\_\_
  - Exhibit I, Part 1 and Part 2, Pages 7 and 7A, 10 years. \_\_\_\_\_
- (d) **ADDITIONAL DATA AND CERTIFICATIONS**
- Estimated amounts of business in other lines because the filer writes private passenger automobile in New Jersey. \_\_\_\_\_
  - Certifications and representations by both Chief Financial Officer and President on information in Exhibit F. \_\_\_\_\_
  - Schedule of key performance indicators in Exhibit G. \_\_\_\_\_
  - Current year and preceding two years operating expenses by classification for each New Jersey line of business (insurance expense exhibit Parts I and II). \_\_\_\_\_
- Description of all allocation methodologies used to allocate corporate-wide costs to New Jersey lines of business. \_\_\_\_\_
  - Description of allocation methodologies to New Jersey private passenger automobile liability and physical damage lines of business. \_\_\_\_\_
  - Explanation of any allocation changes between the years. \_\_\_\_\_
  - Each operating expense classification by each New Jersey line of business, directly charged expenses and indirectly allocated expenses. \_\_\_\_\_
- (21) **DATA FOR EACH NEW JERSEY LINE OF BUSINESS:**
- Number of insureds. \_\_\_\_\_
- Number of employees directly dedicated to business. \_\_\_\_\_
- Square feet of office space dedicated to line of business. \_\_\_\_\_
- Hours of data processing time. \_\_\_\_\_
- Number of exposures. \_\_\_\_\_
  - Number of policies in force. \_\_\_\_\_
  - Number of claims in each of 3 years requested. \_\_\_\_\_
- (22) **ACCOUNTING REPORTS AND AUDITS:**
- Report by independent public accountant evaluating the filer's system of internal accounting controls. \_\_\_\_\_
  - Listing of internal audits for New Jersey private passenger lines of business current year. \_\_\_\_\_
  - Copies of all internal audits issued during the current year with management responses. \_\_\_\_\_
- (23) **OTHER INFORMATION:**
- Why the assessment (17:30A-8(9)) should be reflected in rates since it is a loan. \_\_\_\_\_
  - Formula the filer believes appropriate for determining constitutional rate of return with supporting analysis and data. \_\_\_\_\_
- Emergency Repeal and Replacement, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).  
See: 22 N.J.R. 3790(a).  
Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.  
See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).  
Provision of emergency amendment, R.1990 d.621, readopted with changes effective February 19, 1991.  
Amended by R.1996 d.58, effective February 5, 1996.  
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).  
Repeal and New Rule, R.1998 d.128, effective March 2, 1998.  
See: 30 N.J.R. 5240(a), 30 N.J.R. 828(a).  
Was "Prior Approval Filings".

**EXHIBIT B**  
**CAUSE OF LOSS REPORT**  
**COMPREHENSIVE**  
**NEW JERSEY**

Calendar Year Ending 12/31 \_\_\_\_\_

	Written Exposures	Earned Exposures	Written Premium	Earned Premium	No. of Losses	Losses Paid	% Loss Paid	Loss Freq.	Avg. Loss	Pure Premium (Loss Cost)
FIRE										
THEFT										

	Written Exposures	Earned Exposures	Written Premium	Earned Premium	No. of Losses	Losses Paid	% Loss Paid	Loss Freq.	Avg. Loss	Pure Premium (Loss Cost)
GLASS										
ALL OTHER CAUSES										
TOTAL										

EXHIBIT C

Worksheet to Determine Zero Threshold Premium and Commission for BI and UMBI

Page 1 of 4

Insurance Group Name \_\_\_\_\_

Insurance Company Name \_\_\_\_\_

Group NAIC Number \_\_\_\_\_

Company NAIC Number \_\_\_\_\_

Check one: This is a filing for (check one):  
 BI \_\_\_\_\_ Flex Rating Increase \_\_\_\_\_  
 UMBI \_\_\_\_\_ Prior Approval Increase \_\_\_\_\_  
 \_\_\_\_\_ Prior Approval Decrease \_\_\_\_\_

BEFORE COMPLETING THIS FORM, PLEASE READ THE INSTRUCTIONS ON PAGE 4.

Section A

Section A develops the revised verbal threshold base rate after the rate change.

Item 1A: Current verbal threshold base rate  
 State the territory number \_\_\_\_\_

Number of exposures \_\_\_\_\_

Percent of statewide total \_\_\_\_\_

Item 2A: Verbal threshold rate change, expressed as a multiplicative factor \_\_\_\_\_

Item 3: Revised verbal threshold base rate \_\_\_\_\_  
 (Item 1A multiplied by Item 2A)

NOTE: Item 3A is the new verbal threshold base rate after the rate change.

Section B

The dollars of commission for the verbal threshold base rate and the zero threshold base rate are to be identical after the rate change. Section B develops the dollars of commission which can be included in the rate. The insurer may pay a higher commission. However, the portion of the commission above the amount stated in Item 2B is not to be included in the rate and is not to be charged to the policyholder.

Page 2 of 4

Item 1B: Current filed and approved commission rate for the VERBAL threshold base rate, expressed as a decimal and rounded to the third decimal place \_\_\_\_\_

State the relevant DOI filing number: \_\_\_\_\_

Item 2B: Dollars of commission for the increased/decreased verbal threshold base rate

(Item 3A multiplied by Item 1B) \_\_\_\_\_

NOTE: Item 2B is the dollars of commission for the verbal threshold base rate after the rate change, and it is also the dollars of commission for the zero threshold base rate after the rate increase/decrease.

Section C

Section C develops the zero threshold rate change.

For a prior approval rate increase, or a flex rating increase, complete Item 1C, Item 2C, Item 3C, and Item 4C. For a rate decrease, complete Item 5C, Item 6C, Item 7C, and Item 8C. COMPLETE ITEMS 1C, 2C, 3C, AND 4C ONLY FOR A PRIOR APPROVAL RATE INCREASE, OR A FLEX RATING RATE INCREASE, BUT NOT FOR A RATE DECREASE.

Item 1C: Item 2A minus 1.000

Item 2C: Item 1C times 2.000

Item 3C: Item 2C plus 1.000

Item 4C: Zero threshold rate increase expressed as a multiplicative factor

NOTE: Item 4C is the amount the insurer selects as the zero threshold rate increase. However, for a flex filing rate increase, Item 4C cannot be smaller than Item 3C.

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COMPLETE ITEMS 5C, 6C, 7C, AND 8C ONLY FOR A PRIOR APPROVAL RATE DECREASE, AND NOT FOR A PRIOR APPROVAL RATE INCREASE, AND NOT FOR A FLEX RATING INCREASE.

Item 5C: 1.000 minus Item 2A

Item 6C: Item 5C divided by 2.000

Item 7C: 1.000 minus Item 6C

Item 8C: Zero threshold rate decrease expressed as a multiplicative factor

NOTE: Item 8C is the amount the insurer selects as the zero threshold rate decrease.

Section D

Item 5D of Section D is the zero threshold base rate with the rate increase/decrease.

Item 1D: Current zero threshold base rate

Item 2D: Filed and approved dollars of commission for the current zero threshold base rate

State the relevant DOI filing number:

Item 3D: Current zero threshold base rate excluding commissions (Item 1D minus Item 2D)

Item 4D: Increased/decreased zero threshold base rate, excluding commissions

(Item 3D multiplied by Item 4C, or Item 3D multiplied by Item 8C, as appropriate.)

Item 5D: Increased/decreased zero threshold base rate, including commissions (Items 2B plus Item 4D)

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Instructions:

1. Data are for base rates for the territory with the largest number of the filer's exposures. Following Item 1A state the number of the territory in question; the number of exposures in that territory; and the portion of the statewide exposures for the filer in that territory.

2. File one worksheet for BI and one for UMBI.

3. For combined single limits, fill out the worksheets using the BI and UMBI portions of the rate.

4. Item 2A is to be expressed as a decimal and rounded to the third digit. For example, if the rate change is an increase of 2%, Item 2A is 1.020. As another example, if the rate change is a decrease of 3.2%, then Item 2A is 0.968.

5. The commission rate in Item 1B to be expressed as a decimal and rounded to the third digit. For example, if the commission rate is 15.3%, Item 1B is 0.153. As another example, if the commission rate is 19%, Item 1B is 0.190.

6. The commission allowable in the zero threshold base rate is Item 2B. The insurer may pay a higher commission. However, the portion of the commission above the amount stated in Item 2B is not to be included in the rate and is not to be charged to the policyholder.

7. Following Items 1B and 2D, provide the DOI filing number of the filing in which the commission rate was approved.

**EXHIBIT D**

Date of filing out form: \_\_\_\_\_

**NEW JERSEY INSURER RATE FILING  
ADOPTION OF ADVISORY ORGANIZATION  
PERSPECTIVE LOSS COSTS  
REFERENCE FILING ADOPTION FORM  
PRIVATE PASSENGER AUTOMOBILE**

1. **INSURER NAME** \_\_\_\_\_  
**ADDRESS** \_\_\_\_\_

**PERSON RESPONSIBLE FOR FILING** \_\_\_\_\_  
**TITLE** \_\_\_\_\_ **TELEPHONE** \_\_\_\_\_

2. **INSURER GROUP NAIC #** \_\_\_\_\_

2A. **INSURER COMPANY NAIC #** \_\_\_\_\_

3. **LINE OF INSURANCE** \_\_\_\_\_

4. **ADVISORY ORGANIZATION** \_\_\_\_\_

5. **ADVISORY ORGANIZATION REFERENCE FILING #** \_\_\_\_\_

6. The above insurer hereby declares that it is a member, subscriber or service purchaser of the named advisory organization for this line of insurance. The insurer hereby files to be deemed to have independently submitted as its own filing, the prospective loss costs in the captioned Reference Filing.

7. **PROPOSED RATE LEVEL CHANGE** \_\_\_\_\_% **EFFECTIVE DATE** \_\_\_\_\_

8. **PRIOR RATE LEVEL CHANGE** \_\_\_\_\_% **EFFECTIVE DATE** \_\_\_\_\_

9. **ATTACH "FILING ADOPTION FORM" FOR EACH INSURER IF SELECTED LOSS COST MULTIPLIER IS DIFFERENT.**

\*\* The filed Loss Cost Level Change Factor for the initial filing is the Ratio of the Revised Loss Costs to Current Rates divided by the Deviation which the insurer applied to the Current Rates (expressed as a decimal); and for subsequent filings, the Ratio Loss Cost Level to Current Loss Cost Levels.

Insurer Name: \_\_\_\_\_

Date of filing out form: \_\_\_\_\_

NAIC # Group: \_\_\_\_\_ Company: \_\_\_\_\_

**NEW JERSEY EXPENSE CONSTANT SUPPLEMENT  
CALCULATION OF COMPANY LOSS COST MULTIPLIER**

10. Coverage to which this page applies: \_\_\_\_\_

11. Loss Cost Modification

A. The insurer hereby files to adopt the prospective loss costs in the captioned reference filing:

(CHECK ONE)

Without Modification (Factor = 1.000) \_\_\_\_\_

With the following modification(s): \_\_\_\_\_

B. Loss Cost Modification Expressed as a Factor: \_\_\_\_\_

(See examples below.)

12. Development of Expected Loss Ratio. (Attach exhibit detailing insurer expense data and/or other supporting information).

	<u>Overall</u>	<u>Variable</u>	<u>Fixed</u>
A. Commissions	_____ %	_____ %	_____ %
B. Other Acq.	_____ %	_____ %	_____ %
C. General Exp.	_____ %	_____ %	_____ %
D. Expenses Subject to Cap	_____ %	_____ %	_____ %
E. Expense Cap	_____ %	_____ %	_____ %
F. Capped Expenses	_____ %	_____ %	_____ %

		<u>Overall</u>	<u>Variable</u>	<u>Fixed</u>
	G. Taxes, Licenses & Fees	_____ %	_____ %	_____ %
	H. UCJF	_____ %	_____ %	_____ %
	I. Profit Provision	_____ %	_____ %	_____ %
	J. Other	_____ %	_____ %	_____ %
	K. Total	_____ %	_____ %	_____ %
	L. Fixed Expense Trend Factor			_____
	M. Trended Fixed Expense Ratio			_____ %
13.	A. Expected Loss Ratio: ELR = 100% = Overall 12K =		_____ %	
	B. ELR expressed in decimal form =		_____	
	C. Variable Expected Loss Ratio: VELR = 13A + 12M		_____	
	D. VELR in decimal form =		_____	
14.	Formula Expense Consultant:			
	Average Prospective Loss Cost =		_____	
	Formula Variable Loss Cost Multiplier: (11B/13D) =		_____	
15.	Selected Expense Constant =		_____	
	Selected Variable Loss Cost Multiplier =		_____	
16.	Rate level change for the coverage to which this page applies		_____ %	

New Rule, R.1998 d.128, effective March 2, 1998.  
See: 30 N.J.R. 5240(a), 30 N.J.R. 828(a).

EXHIBIT E

	Percentage Change	Dollar Effect
<b>Bodily Injury</b>		
Verbal	_____	_____
Zero	_____	_____
Property Damage	_____	_____
Personal Injury Protection	_____	_____
Uninsured Motorists	_____	_____
Verbal	_____	_____
Zero	_____	_____
Total Liability	_____	_____
Comprehensive	_____	_____
Collision	_____	_____
Total Physical Damage	_____	_____
Overall Total	_____	_____
<b>Expense Fees</b>	<b>Current</b>	<b>Proposed</b>
Single Limit Liability	_____	_____
Bodily Injury	_____	_____
Property Damage	_____	_____
Personal Injury Protection	_____	_____
Comprehensive	_____	_____
Collision	_____	_____

Emergency Repeal and Replacement, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).  
See: 22 N.J.R. 3790(a).  
Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.  
See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).  
Repeal and Replacement, R.1990 d.621, readopted with changes effective February 19, 1991.

EXHIBIT F

The Chief Financial Officer and President must make the following representations regarding rate filing documents:

1. The schedule of operating expenses for the insurer's New Jersey private passenger automobile lines of business (corresponding to columns 19.1 through 19.4 and in columns 21.1 and 21.2 of the insurance expense exhibit (IEE)). Include only those costs which were incurred to support the insurer's New Jersey private passenger automobile insurance operations.

2. The allocation of expenses to each line of business on the insurance expense exhibit and the required schedule was made in accordance with the Instructions for Uniform Classifications of Expenses.
3. The allocation of corporate-wide (worldwide, countrywide and regionalwide) expenses to New Jersey lines of business represents only those corporate-wide costs that are properly allocable to New Jersey operations based on reasonable and prudent allocation methodologies.
4. The allocation methodologies used to allocate certain New Jersey general and administrative or indirect costs to New Jersey private passenger automobile lines of business were reasonable, adequately supportable, and did not result in costs being allocated which were incurred by reason of non-private passenger automobile insurance operations.
5. Allocation methodologies used were applied consistently from year to year or, if there were any changes in allocation methodologies, the insurer has stated the reasons for the changes and has quantified the effect of changing the methodologies.
6. The methodologies used to allocate indirect costs is consistent with the methodologies used to allocate indirect costs by the insurer's internal reporting system.
7. If the insurer operated separate cost centers for its New Jersey private passenger automobile lines of business, but expenses for these cost centers were allocated rather than accounted for directly, the insurer has accurately quantified the effect of not accounting for such expenses directly. Also, reasons for not using direct costing for the separate New Jersey private passenger auto cost centers have been provided.
8. The methodologies used to allocate indirect costs to the New Jersey private passenger automobile lines of business are consistent with the methodologies used to allocate indirect costs to other New Jersey lines of business.
9. The total pool of allocated costs (before allocating to the various lines of business in each state) represents all and only such costs as are reflected in the insurer's annual audited financial statements prepared under statutory accounting principles.
10. All paid allocated loss adjustment expenses reported for New Jersey private passenger automobile lines of business were incurred to settle specific claims and the guidelines used for determining these loss adjustment expenses are the same as those used for the insurer's other lines of business.

11. A reasonable, prudent person would not determine that there are allocation methodologies which could have been used that would clearly have resulted in a more accurate allocation of operating expenses.
12. Financial information on the IEE properly reconciles with the insurer's annual statements as reported to the Department.
13. The schedule provided for premiums, incurred losses and operating expenses (on a direct basis) by New Jersey lines of business properly reconciles to the insurer's total premiums, incurred losses and operating expenses by line of business (on a net basis) as reported in the IEE.
14. Net direct written premiums reported in the current year for each New Jersey line of business were determined in the same manner as in the preceding two years.
15. The Insurance Expense Exhibits for the current and preceding two years and the required supporting schedules were prepared in conformity with statutory accounting principles.
16. Adequate provision has been made for all incurred losses in each of the periods reported.
17. There were no violations of laws or regulations during the periods reported whose effects have not been considered in the results of operations reported.
18. The accounting records underlying the financial information provided accurately and fairly reflect, in reasonable detail, the transactions of the insurer's private passenger automobile and other lines of business.
19. The filer has complied with all aspects of contractual agreements that would have a material effect on the financial information provided in the event of noncompliance.
20. No events have occurred subsequent to the date of the most recent Insurance Expense Exhibit that would require adjustment to the financial information provided on the Insurance Expense Exhibits or to the financial information provided on the other schedules required.
21. There have been no:
  - a. Irregularities involving management or employees who have significant roles in the internal control structure.
  - b. Irregularities involving other employees that could have a material effect on the financial information provided.
  - c. Communications from regulatory agents concerning noncompliance with, or deficiencies in, financial reporting practices that could have a material effect on the financial information provided.

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

#### EXHIBIT G

##### KEY PERFORMANCE INDICATORS

The following data ratios should be provided for each line of business (for New Jersey business only). All of the ratios shall be calculated for the current year and preceding two years. Information on surplus as regards policyholders, accounts receivable, underwriting employees and number of adjusters shall be provided as of the last day of each year reported.

1. Salvage Recoveries/Paid Losses (Collision Only)
2. Subrogation Recoveries/Paid Losses (Liability Coverages Only)

3. Premiums Collected/Earned Premiums
4. Accounts Receivable/Earned Premiums
5. Incurred Losses (excl. IBNR)/Earned Premiums
6. Earned Premiums/Earned Exposures
7. Exposures Written/Underwriting Employees
8. Underwriting Expenses/Exposures Written
9. Paid Losses/Claims Paid and Closed
10. Claims Outstanding/Number of Adjusters
11. Claim Expenses/Claims Reported
12. Other ratios as deemed necessary by the Department of Insurance

In addition, the following data should be provided:

13. Annual Net Written Premiums/Surplus as Regards Policyholders
14. Reduction to Surplus as Regards Policyholders during the current and preceding two years.

Emergency New Rule, R.1990 d.621, effective November 26, 1990 (expired January 25, 1991).

See: 22 N.J.R. 3790(a).

Adopted Concurrent Proposal, R.1991 d.91, effective January 25, 1991.  
See: 22 N.J.R. 3790(a), 23 N.J.R. 514(a).

Provision of emergency new rule, R.1990 d.621, readopted without change.

#### EXHIBIT H

##### Marketing Methods for the Largest Private Passenger Auto Insurer Groups in New Jersey

##### Independent Agents:

Aetna Casualty and Surety Co.  
Atlantic Employers Insurance Co.  
General Accident  
Continental Insurance Co. of New Jersey/CNA Group  
First Trenton  
Hanover Insurance Co.  
Hartford/Twin City  
Liberty Insurance Corp.  
Maryland Casualty  
Newark Insurance Co.  
Ohio Casualty Insurance Co.  
Parkway Insurance Co.  
Selective Insurance Co.

##### Captive Agents:

Allstate Insurance Co./Allstate Indemnity  
Keystone Insurance Co. of New Jersey  
(formerly Keystone Insurance Co.)  
Prudential Property and Casualty Insurance Co. of NJ  
State Farm Indemnity Co.

##### Direct Writers:

Colonial Penn  
Liberty Mutual Fire Insurance Co.  
New Jersey Manufacturers Insurance Co./NJ Re-Insurance Co.  
United States Automobile Association/USAA Casualty Ins. Co.

Repeal and New Rule, R.1998 d.128, effective March 2, 1998.  
 See: 30 N.J.R. 5240(a), 30 N.J.R. 828(a).

Was "Marketing Methods for the Top 20 Private Passenger Auto  
 Insurers in New Jersey".

EXHIBIT I  
 WRITTEN EXPOSURES/PRIMARY CLASSIFICATION

Evaluated as of 12/31/96

This survey shall be completed and filed with the New Jersey Department of Banking and Insurance, Property & Casualty Division. A separate survey shall be completed for each company within a NAIC defined group.

Insurance Company Name: \_\_\_\_\_  
 NAIC Grp #: \_\_\_\_\_ NAIC Co #: \_\_\_\_\_

Principal Operator 65 and Over		No Youthful Operator Principle Operator under 65 Pleasure Use, Work < 3 miles		No Youthful Operator Principle Operator under 65 Work 3-10 miles	
Written Exposures	% of Total	Written Exposures	% of Total	Written Exposures	% of Total

No Youthful Operator Principle Operator under 65 Work > 10 miles		No Youthful Operator Principle Operator under 65 Business Use		No Youthful Operator 1-2 Principle Operator under 65 1-2 Farm Use	
Written Exposures	% of Total	Written Exposures	% of Total	Written Exposures	% of Total

Youthful Operator Unmarried Female Pleasure/Farm Use		Youthful Operator Unmarried Female Drive to Work/Business Use		Youthful Operator Married Male Pleasure/Farm Use	
Written Exposures	% of Total	Written Exposures	% of Total	Written Exposures	% of Total

Youthful Operator Married Male Drive to Work/Business Use		Youthful Operator Unmarried Male Principle Operator or Owner		Youthful Operator Unmarried Male Not Principle Operator or Owner	
Written Exposures	% of Total	Written Exposures	% of Total	Written Exposures	% of Total

\* Written Exposures = Number of Inforce Cars

Total Written Exposures  
 \_\_\_\_\_

I certify that the information provided is true and accurate to the best of knowledge and belief. I further certify that I am authorized to execute this statement on behalf of the company named above.

Name: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Phone #: \_\_\_\_\_  
 (Include Area Code)

Fax #: \_\_\_\_\_  
 (Include Area Code)

New Rule, R.1998 d.128, effective March 2, 1998.  
 See: 30 N.J.R. 5240(a), 30 N.J.R. 828(a).

EXHIBIT J  
 NEW JERSEY DEPARTMENT OF INSURANCE—  
 RATE PURSUIT SURVEY QUESTIONNAIRE  
 Category A—Insurance Eligibility Points

1. How often does your company acquire MVR's on new business applications?
2. How often does your company acquire MVR's on renewals?
3. Are MVR's ordered on each:
  - Principal Operator \_\_\_\_\_
  - Occasional Operator \_\_\_\_\_
  - Household Member \_\_\_\_\_
  - Named Driver \_\_\_\_\_
  - Other (please specify) \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Category B—Hidden Operators**

1. Does your company's new business application request information on all licensed drivers in the household not insured under another policy?
2. Does your company's new business application request information on all licensed drivers in the household?
3. Does your company's new business application request information regarding all residents in the household?
4. Does your company send a renewal questionnaire to each insured prior to renewal?
5. Does your company's renewal questionnaire request information on all licensed drivers in the household not insured under another policy?
6. Does your company's renewal questionnaire request information on all licensed drivers in the household?
7. Does your company's renewal questionnaire request information regarding all residents in the household?
8. What are your company's procedures with regard to an unreturned renewal questionnaire?
9. Please provide us with a copy of your company's new business application and renewal questionnaire.

COMMENTS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Category C—Vehicle Usage**

1. Provide the percentage of all drivers rated as pleasure use.
2. With regard to mileage, does your company verify the use of the vehicle? How?
3. Does your application/renewal questionnaire request estimated annual mileage?
4. Does your application/renewal questionnaire request an odometer reading for each vehicle?
5. Does your application/renewal questionnaire request employment location for each driver?
6. Is there a reconciliation process if there is a discrepancy between:
  - Estimated annual mileage and vehicle usage
  - Odometer reading and vehicle usage
  - Home-Work locations and vehicle usage
 How is this accomplished?
7. Provide an estimated average annual mileage for each use class: pleasure, 3-10, over 10.
8. Is there a verification process with regard to carpooling? How?
9. Is there a verification process with regard to mass transit? How?

10. If your company is not a direct writer, what are your company's instructions to agents with regard to use class verification?

COMMENTS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Category D—General**

1. What are your company's biggest problems with regard to rate evasion?  
 \_\_\_\_\_  
 \_\_\_\_\_
2. What suggestions do you have for the Department to help minimize this problem?  
 \_\_\_\_\_  
 \_\_\_\_\_

New Rule, R.1998 d.128, effective March 2, 1998.  
 See: 30 N.J.R. 5240(a), 30 N.J.R. 828(a).

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

**11:3-16A.1 Purpose and scope**

(a) The purpose of this subchapter is to set forth the methodology for determining the flex rate percentage increase for private passenger automobile insurance permitted by N.J.S.A. 17:29A-44.

(b) This subchapter shall apply to rates filed by:

1. All insurers writing or transacting private passenger automobile insurance in the voluntary market in this State;
2. The New Jersey Personal Automobile Insurance Plan; and
3. All coverages described herein, subject to the conditions stated for private passenger automobile insurance.

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

In (b)2 substituted "The New Jersey Personal Automobile Insurance Plan" for "All rating organizations authorized in this State".

**11:3-16A.2 Definitions**

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

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

“Flex rate” means a Statewide average rate change as set forth in N.J.S.A. 17:29A-44.

“Flex rate percentage” means the maximum rate change permitted by N.J.S.A. 17:29A-44 that is calculated and modified, if required, in accordance with this subchapter.

“Personal Automobile Insurance Plan” or “PAIP” means the New Jersey Personal Automobile Insurance Plan established under N.J.S.A. 17:29D-1 and N.J.A.C. 11:3-2.

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

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Added the definition of “Personal Automobile Insurance Plan”.

### 11:3-16A.3 Flex rate percentage calculations for private passenger automobile insurance

(a) The flex rate percentage shall be based upon the following:

1. For personal injury protection coverage, bodily injury liability and property damage liability coverage, the flex rate percentage shall be calculated from the last published increase in the medical care service components of the National Consumer Price Index (CPI), all urban consumers, U.S. City Average, plus three percentage points; and

2. For physical damage coverage, the flex rate percentage shall be calculated from the last published increase in the automobile maintenance and repair components of the National Consumer Price Index, U.S. City Average, plus three percentage points.

(b) The CPI used for determining the flex rate percentage may be calculated annually by using the factors set forth in (a) above by:

1. Fitting an exponential curve to a 12 month moving average starting in December and ending 14 months later in February of the current year. This method provides a stabilized yearly average of the month-to-month changes in the CPI;

2. Using the annual change from February of the previous year to February of the current year. This method produces a rate that is responsive to recent market changes reflected by changes in the CPI; and

3. Averaging the two figures in (b)1 and 2 above. This calculation permits the Commissioner to utilize the strengths of both methods by striking a balance between stability and responsiveness.

(c) The flex rate percentage may be modified pursuant to N.J.S.A. 17:29A-44(d) if the Commissioner finds that the flex rate percentage as calculated in (b) above will produce rate levels that are excessive.

### Case Notes

Commissioner of insurance is not required to provide notice and comment of the calculation of flex-rates. Matter of Department of Insurance's Order Nos. A89-119 and A90-125, 129 N.J. 365, 609 A.2d 1236, (1992).

### 11:3-16A.4 Establishment of the flex rate

(a) The Commissioner shall annually issue an order establishing the allowable flex rate.

1. The order issued by the Commissioner shall set forth the flex rate for the following coverages:

i. Personal Injury Protection;

ii. Bodily Injury Liability (Underinsured/Uninsured):

(1) Verbal Threshold; and

(2) Zero Threshold;

iii. Property Damage Liability; and

iv. Physical Damage:

(1) With model year rating; and

(2) Without model year rating.

2. If a modification to the flex rate pursuant to N.J.S.A. 17:29A-44 has been made by the Commissioner, the order shall set forth the amount of and reason for the modification.

i. New Jersey currently has no actuarial data under P.L. 1988, c.119 to compare bodily injury liability rates for the verbal threshold and zero threshold optional coverages. Until sufficient New Jersey data is developed, the relative flex rate between the verbal and zero thresholds may be based on the Department's examination of the rate of trends in states with no-fault or tort systems. States with no-fault systems would be the basis for data for the verbal threshold, and tort system states would be the basis for data for the zero threshold.

(1) If the Commissioner finds that the rate of trend is different in no-fault states than in states using the tort system, the flex rate for the verbal threshold shall be set at a different rate than the zero threshold flex rate.

ii. Individual classification rating factors (for example, territory, deductibles, increased limits, factors, age, etc.) shall be subject to prior approval and shall not be changed through the use of the flex rate, except to the extent needed to comply with N.J.S.A. 17:29A-36.

(1) The purpose of flex rating is to permit insurers to increase their overall revenue. The use of flex rating was not intended to permit insurers to alter the relative premium paid by various classes of insureds without first obtaining prior approval by the Department.

iii. The Commissioner may modify the flex rate for physical damage based on an insurer's or rating organization's use of the following rating systems:

(1) For insurers and rating organizations using both model year and vehicle series/symbol group rating systems: Model year rating systems and vehicle series/symbol group rating systems, when used in conjunction, provide for built-in premium increases from year to year and therefore may contain appropriate yearly premium increases for physical damage coverages. A flex rate increase in addition to the

yearly automobile premium increases may result in rate levels that are excessive.

(2) For insurers and rating organizations using only vehicle series/symbol group rating systems, a partial flex rate shall be set forth by the Commissioner in an order to be issued annually. Vehicle series/symbol group rating systems provide some built-in premium increases from year to year and therefore are entitled to a portion of the flex rate increase as set forth by the Commissioner in an order.

(b) All insurers and the PAIP may implement the flex rate on a combined basis for both physical damage coverages. The overall flex rate for collision and comprehensive on a combined basis shall not exceed the physical damage flex rate pursuant to N.J.S.A. 29A-44(2).

(c) The PAIP may implement the flex rate upon the filing of manual rate changes with the Commissioner.

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

In (b) substituted "the PAIP" for "rating organizations" and added (c).

#### Case Notes

Commissioner cannot modify the "three percentage point" component of the flex-rate provision, and is not required to provide notice and comment in the calculation of flex-rates. Matter of Department of Insurance's Order Nos.A89-119 and A90-125, 129 N.J. 365, 609 A.2d 1236 (1992).

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## SUBCHAPTER 17. (RESERVED)

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

### 11:3-18.1 Purpose and scope

(a) This subchapter sets forth the procedures used by the Department to review voluntary market private passenger automobile insurance rate filings and implements N.J.S.A. 17:29A-1 et seq. It is intended to provide for the expeditious review and disposition of automobile insurance rate filings consistent with applicable statutes regarding insurance and administrative procedures.

(b) This subchapter applies to the following kinds of automobile insurance rate filings submitted to the Department:

1. Annual informational filings made pursuant to N.J.S.A. 17:29A-36.2b;
2. Flex rate filings made pursuant to N.J.S.A. 17:29A-44; and
3. Rate change filings that require prior approval of the Commissioner made pursuant to N.J.S.A. 11:29A-14.

(c) This subchapter shall be construed so as to be compatible with the rules that set forth requirements for rate filings, N.J.A.C. 11:3-16; the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.; and the administrative procedure rules, N.J.A.C. 1:1 and 1:11 con-

cerning the disposition of matters after they have been determined to be a contested case.

### 11:3-18.2 Definitions

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

"Annual informational filing" means a filing made in accordance with the provisions of N.J.S.A. 17:29A-36.2b and N.J.A.C. 11:3-16.4 or 16.7(a).

"Contested case" means any proceeding so defined in N.J.S.A. 52:14B-2(b), specifically including a prior approval filing when request for a hearing has been made by any party or when the Commissioner determines that a hearing on the filing is necessary.

"Day" means a calendar day.

"Department" means the New Jersey Department of Insurance.

"Filer" means a rating organization or any insurer making its own rates or a portion thereof, establishing or proposing to establish a new rate or rate change, or making an annual informational filing.

"Flex rate filing" means a filing made pursuant to N.J.A.C. 11:3-16.5 or 16.7(c) to adjust rates within limits set in accordance with the provisions of N.J.S.A. 17:29A-44 and applicable orders of the Commissioner issued pursuant to N.J.A.C. 11:3-16A.

"Parties" includes the filer, the Public Advocate, and any other person with a legal right to participate in the proceedings who has served notice on the Commissioner of its intention to participate.

"Prior approval filing" means a filing made pursuant to N.J.S.A. 17:29A-14 and N.J.A.C. 11:3-16.6 or 16.7(d) to alter, supplement, or amend rating systems or any part thereof, except flex rate filings.

"Qualified member" of a rating organization means an insurer member or subscriber of a rating organization whose total written private passenger car years insured on a calendar year basis, is less than 1.5 percent on January 1, 1990 and one percent on or after January 1, 1991, of the total written private passenger car years insured by all insurers writing motor vehicle insurance in this State in the voluntary market, pursuant to N.J.S.A. 17:29A-6.1a2.

"Rating organization" means every person or persons, corporation, partnership, company, society, or association engaged in the business of making rates or a portion thereof for two or more insurers and licensed in accordance with N.J.S.A. 17:29A-2.

Amended by R.1996 d.58, effective February 5, 1996.  
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).  
Deleted definition of "Public Advocate".

### 11:3-18.3 General provisions applicable to all filings

(a) Filings may be submitted by insurers or licensed rating organizations which are authorized to file rates for insurers which are members or subscribers of the rating organization.

1. Insurers required to make their own rates pursuant to N.J.S.A. 17:29A-6.1a(2), which are not qualified members of rating organizations as defined in N.J.A.C. 11:3-18.2 shall make filings themselves.

2. Filings submitted by rating organizations shall be submitted only for and on behalf of their qualified member companies.

(b) In computing any period of time fixed by this subchapter, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is on a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday.

(c) All documents filed with the Commissioner, except initial filings, shall contain a statement certifying that the item is being submitted within the time provided by this subchapter.

(d) Provisions of this subchapter that establish time limits may be relaxed or modified by the Commissioner for good cause shown.

(e) A determination by the Department that a filing is complete relates solely to the presence in the filing of the items required by N.J.A.C. 11:3-16 and shall not be considered a finding regarding the accuracy or reasonableness of the information or calculations.

(f) All filings and other items submitted to the Commissioner shall be sent to the Department at the following address:

New Jersey Department of Insurance  
Property/Liability Division  
20 West State Street  
CN 325  
Trenton, New Jersey 08625-0325

Amended by R.1996 d.58, effective February 5, 1996.  
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).  
Deleted provision for sending filings to the Public Advocate.

#### Case Notes

Insurers' filings for rate increases were ruled complete due to commissioner's failure to timely respond. *Allstate Ins. Co. v. Fortunato*, 248 N.J.Super. 153, 590 A.2d 690 (A.D.1991).

### 11:3-18.4 Procedures for review of annual informational filings

(a) The time period for the Department's review of an annual informational filing shall commence upon the day that the filing is received.

(b) If the filing is incomplete, the Department shall so advise the filer not later than 60 days after receipt of the filing.

1. The filing shall be deemed to be complete if the filer is not notified that the filing is incomplete.

2. Notice to the filer that the filing is incomplete shall specify the missing item(s) or information. The notice shall advise the filer that the deficiency must be cured within 30 days of receipt of notice, and that failure to cure the deficiency within 30 days of receipt of notice may result in imposition of penalties as provided by law.

(c) If any annual informational filing is not made, or if an incomplete filing is not cured within 30 days of receipt of notice, the Commissioner may commence proceedings to impose penalties on the filer as provided by law.

### 11:3-18.5 Procedures for review of flex rate filings

(a) The time period for the Department's review of a flex rate filing shall commence upon the day that the filing is received.

(b) The Department shall advise the filer if the filing is incomplete not later than 60 days after receipt of the filing.

1. The filing shall be deemed to be complete if the filer is not notified that the filing is incomplete.

2. A notice to the filer that the filing is incomplete shall specify the missing item(s) or information. The notice shall advise the filer that the deficiency must be cured within 30 days of receipt of the notice. The notice shall further advise the filer of its right to a hearing on the issue of completeness, and of the consequences of failure to cure the deficiency, as provided in (c) below.

(c) If the filer has not cured the deficiency within 30 days of notice, or if the filer has not requested a hearing in writing within 30 days of notice, the Commissioner may enter an Order directing the filer to cease using the flex rates set forth in the filing; directing the filer to use its rates in effect prior to making the flex rate filing; and directing the filer to file a plan to refund or adjust the rates of any insured whose policy was issued or renewed using the rates set forth in the flex rate filing.

(d) A filer may request a hearing on the issue of completeness. Any such request shall be made in writing and shall contain facts or legal arguments that adequately support the filer's contention that the filing is complete as submitted.

(e) Not later than 10 days after receipt of a request for hearing, the Commissioner shall determine whether the matter requires a hearing and so notify the filer in writing.

1. If the matter is found to require a hearing, the Commissioner may hear the matter; direct that the matter be transmitted to the Office of Administrative Law for further proceedings; or appoint a salaried employee of the Department to hear the matter pursuant to N.J.S.A. 17:29A-14c.

2. As a condition to scheduling the hearing, the Commissioner may order the filer to establish a separate interest-bearing escrow account, into which the funds collected on account of the flex rate increase shall be deposited, pending the outcome of the hearing.

(f) Further proceedings on the matter shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

### 11:3-18.6 Procedures for review of prior approval filings

(a) The time period for the Department's review of a prior approval filing shall commence the day the filing is received.

(b) The Department shall advise the filer if the filing is incomplete not later than 25 days after receipt of the filing.

1. The filing shall be deemed to be complete if the filer is not notified that the filing is incomplete.

2. Notice to the filer that the filing has been found to be incomplete shall specify the missing item(s) or information.

3. The Department may disapprove an incomplete filing as a nonconforming filing. Any resubmission of the filing after the deficiency has been cured shall be considered initial receipt.

(c) If the Department requests further information from the filer, which information must be provided to the Department upon request pursuant to N.J.A.C. 11:3-16.8, 16.9 or 16.10 the filer shall submit the information to the Department within 15 days of the receipt of the request.

(d) Not later than 60 days after receipt of a filing by the Department the filer may request in writing a hearing on the filing. A request for hearing shall include a statement of facts and issues in sufficient detail so as to notify the Department and any other party of the matters in dispute.

(e) Upon receipt of a request for a hearing, or not later than 75 days after receipt of a filing by the Department, the Commissioner shall determine whether the matter is a contested case and notify all parties in writing.

1. If no hearing is requested the Commissioner shall enter an appropriate final order disposing of all issues raised by the filing. The final order shall be issued not

later than 90 days from receipt of the filing, except for good cause the Commissioner may extend the time to issue a final Order by not more than 30 days.

2. If a hearing is requested the Commissioner may hear the matter; direct that the matter be transmitted to the Office of Administrative Law; or may appoint a salaried employee of the Department to hear the matter pursuant to N.J.S.A. 17:29A-14c.

(f) The hearing shall be conducted pursuant to the provisions of N.J.S.A. 17:29A-14c and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and applicable administrative rules, N.J.A.C. 1:1 and 1:11.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Deleted provisions relating to the Public Advocate.

#### Case Notes

Insurers' filings for rate increases were ruled complete due to commissioner's failure to timely respond. *Allstate Ins. Co. v. Fortunato*, 248 N.J.Super. 153, 590 A.2d 690 (A.D.1991).

### 11:3-18.7 Other remedies preserved

Nothing in this subchapter shall prevent the Commissioner from at any time initiating an action pursuant to N.J.S.A. 17:29A-1 et seq. to direct that rating systems be altered or revised if found to provide for, result in, or produce rates which are unreasonable, inadequate, or which discriminate unfairly between risks in this State involving essentially the same hazards and expense elements.

## SUBCHAPTER 19. STANDARD/NONSTANDARD RATING PLANS

### 11:3-19.1 Purpose and scope

(a) This subchapter implements N.J.S.A. 17:29A-45 by establishing standards for standard/non-standard rating plans in the voluntary automobile insurance market. It sets forth the items to be filed and approved by the Commissioner in order to create a standard/non-standard rating plan; standards to be applied by the Department in approving a plan; and standards for the functioning of a plan in the market.

(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 groups of affiliated companies which insure risks through separate individual insurance companies.

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

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

### 11:3-19.2 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.

“Applicant” means a person applying to an insurer for a policy of automobile insurance who is not currently a named insured under a policy of automobile insurance issued by that insurer.

“Automobile insurance eligibility points” or “eligibility points” means points accrued in accordance with the schedule set forth in N.J.A.C. 11:3-34.

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

“Department” means the New Jersey Department of Insurance.

“Individual insurance company” means an insurance company separately 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.

“Insured” when used as a noun means a policyholder or other person insured under a policy of automobile insurance and not insured elsewhere.

“Insurer” includes a group of affiliated companies.

“Standard/non-standard rating plan” means a rating system used by an insurer that provides different rates for different risks to those insureds who qualify in accordance with the insurer’s approved underwriting rules.

“Renew” means to issue and deliver at the end of the policy period a policy superceding 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 this subchapter.

“Risk” means the person or property exposed to loss or damage that is insured under an automobile insurance policy.

Amended by R.1996 d.58, effective February 5, 1996.  
See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).  
Deleted definition of “Public Advocate”.

### 11:3-19.3 Filing requirements for standard/non-standard rating plans

(a) All insurers which write personal private passenger automobile insurance shall file standard/non-standard rating plans that provide different rates for risks separately described by the insurer’s approved underwriting rules. No insurer shall implement or use a standard/non-standard rating plan that has not been filed and approved in accordance with N.J.S.A. 17:29A-45 and this subchapter.

(b) Merit rating surcharges, which are permitted to be included in rating systems by N.J.S.A. 17:29A-35, shall be incorporated only into the non-standard rate level of the voluntary market.

(c) An insurer shall initially establish a standard/non-standard rating plan by filing with the Commissioner the following items:

1. A narrative description of the plan, which shall include:
  - i. The percentage difference between the standard and non-standard rate levels;
  - ii. The variation of the difference by eligibility points;
  - iii. Any variation of the difference by coverage;
  - iv. The insurer’s plan for determining upon renewal to which rate level a risk will be assigned; and
  - v. If the plan is submitted by a group of affiliated companies, the identity of all individual insurance companies in the group that transact private passenger automobile insurance business in New Jersey and the rate level to be used by each;

2. A complete set of underwriting rules that set forth qualifications for each rate level, which rules shall conform to the standards set forth in N.J.A.C. 11:3-35; and

3. Within 30 days of the date of approval of the underwriting rules or the effective date of the plan, whichever is later, manual rate pages for each rate level.

(d) A group of affiliated companies may file a standard/non-standard rating plan that provides that different individual insurance companies write risks at different rate levels.

### 11:3-19.4 Standards for disapproval or modification

(a) A standard/non-standard rating plan shall be disapproved for any of the following reasons:

1. If the average non-standard rate is in excess of 135 percent of the average of the combined standard and non-standard rates;

2. If the plan does not provide for an equitable graduated scale of non-standard rates based on accrued automobile insurance eligibility points;

3. If the plan does not provide that the insurer shall, after April 1, 1992, insure at either its standard or non-standard rate level all applicants and insureds defined as "eligible persons" in N.J.A.C. 11:3-34;

4. If the plan does not provide that the insurer shall insure at its standard rate level all insureds who have accrued no automobile insurance eligibility points during the previous three years;

5. If the underwriting rules do not meet the standards set forth in N.J.A.C. 11:3-35;

6. If the insurer fails to submit the items required for filing pursuant to N.J.A.C. 11:3-19.3; or

7. If the plan otherwise fails to meet any of the standards of this subchapter.

(b) The Commissioner may by rule or order direct an insurer with an approved standard/non-standard rating plan to modify its plan to conform to rules which may be adopted pursuant to N.J.S.A. 17:29A-45f that further define the non-standard voluntary market.

(c) A standard/non-standard rating plan may provide that any applicant who is not an "eligible person" as defined in N.J.A.C. 11:3-34 may be insured at the non-standard rate level during any period of time certified by the Commissioner for the cessation of the acceptance of applications or the issuance of new policies by the assigned risk plan, pursuant to N.J.S.A. 17:29D-1d.

#### 11:3-19.5 Renewal of policy at proper rate level

(a) An insurer which has implemented a standard/non-standard rating plan shall issue and renew its policies at the appropriate rate level for which the risk qualifies in accordance with the insurer's approved underwriting rules based upon eligibility points accrued in the 36 month period ending 90 days prior to the expiration of the current policy. The transfer of a risk from one rate level to another within an insurer's standard/non-standard rating plan shall not be deemed to be a nonrenewal of the policy as provided by N.J.S.A. 39:6A-3 and N.J.A.C. 11:3-8 if the insurer complies with the provisions set forth below.

1. If the insured qualifies for the standard rate level after having been insured at the non-standard rate level, the insurer shall renew the insured at the standard rate level in accordance with procedures set forth in N.J.A.C. 11:3-8.3(a) through (e).

2. If the insured qualifies for the non-standard rate level after having been insured at the standard rate level, the insurer shall renew the insured at the non-standard rate level in accordance with procedures set forth in

N.J.A.C. 11:3-8.3(a) through (e) after providing notice to the insured as follows:

i. Written notice shall be sent to the insured at least 30, but not more than 45, days before expiration of the policy;

ii. The written notice shall advise the insured that he or she no longer meets the insurer's approved underwriting rules for the standard rate level;

iii. The notice shall set forth a summary of the provisions of the underwriting rule that applies to the insured and the specific facts upon which the insurer relies to determine that the insured no longer is qualified for the standard rate level, including the specific events that resulted in the accrual of automobile insurance eligibility points; and

iv. The notice shall advise the insured of his or her right to contact other insurers to determine whether comparable insurance can be purchased elsewhere at less cost.

(b) An insurer which has implemented a standard/non-standard rating plan shall state on the policy declaration page, or some other writing accompanying the policy, the number of eligibility points that were used to rate the policy.

#### 11:3-19.6 Procedural provisions

(a) An individual insurance company operating pursuant to a rating plan approved on or before November 14, 1989 may initially file a standard/non-standard rating plan in which the modification is expressed as a percentage increase or decrease of the existing rate level.

(b) The decision of the Commissioner to approve or disapprove the rates and underwriting rules shall be based on the documents submitted. The Commissioner shall promptly notify the insurer whether the rates and underwriting rules have been approved or disapproved.

(c) An individual insurance company which did not have a rating plan approved on or before November 14, 1989 may file a standard/non-standard rating plan by complying with the provisions of N.J.A.C. 11:3-19.3 and N.J.A.C. 11:3-16.5 (rate filing requirements for prior approval filings) even if it is one of a group of affiliated companies of which one or more companies has approved rates.

(d) All insurers which write personal private passenger automobile insurance shall file for approval on or before March 1, 1991 a standard/non-standard rating plan that meets the requirements 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).

Deleted provisions relating to the Public Advocate.

**11:3-19.7 Penalties**

Failure to comply with the provisions of this subchapter shall subject the insurer to penalties as provided by N.J.S.A. 17:33-2.

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

**Authority**

N.J.S.A. 17:1-8.1, 17:1-15e, 17:29A-1 et seq. and 17:29A-46.1 et seq.

**Source and Effective Date**

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

**11:3-19A.1 Purpose and scope**

(a) This subchapter implements N.J.S.A. 17:29A-46.1 et seq. which requires that personal private passenger automobile insurers file for approval their underwriting rules used to accept or reject business and to assign risks to a tier rating plan. 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 tier rating plan.

(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 groups of affiliated companies which insure risks through separate individual insurance companies.

(c) This subchapter does not apply to the New Jersey Personal Automobile Insurance Plan or to private passenger automobile insurance written in a commercial lines rating system filed pursuant to N.J.S.A. 17:29AA-1 et seq. except to those eligible person risks that are assigned to an insurer pursuant to N.J.S.A. 17:29D-1i.

(d) Pursuant to N.J.S.A. 17:33B-31, insurers may use information provided by a rating organization or advisory organization, including, but not limited to, rules used to assign risks to a tier rating plan, classifications, rating rules and relativities. An insurer duly participating with a rating organization may make a reference filing to utilize rating and advisory organization rules used to assign risks to a tier rating plan, classifications, rating rules and relativities.

**11:3-19A.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 where one insurer controls, is controlled by, or is under common control with the other insurer.

"Applicant" means a person applying to an insurer for a policy of automobile insurance who is not currently a named insured under an existing policy of automobile insurance issued by that insurer.

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

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

"Insured" when used as a noun means a named insured or other person insured under a policy of automobile insurance and not a named insured under another automobile insurance policy.

"Insurer" means any person or persons, corporation, association, partnership, company, reciprocal exchange, group of affiliated companies, or other legal entity authorized or admitted to transact private passenger automobile insurance in this State.

"Personal private passenger automobile insurance" or "automobile insurance" means direct insurance on private passenger automobiles issued by an insurer in accordance with a personal lines rating system filed and approved pursuant to N.J.S.A. 17:29A-1 et seq.

"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 insurer, or by another insurer in a group of affiliated companies, pursuant to a tier rating plan file and approved in accordance with this subchapter.

"Risk" means the person or property exposed to loss or damage that is insured under an automobile insurance policy.

"Standard tier" refers to the tier that contains those named insureds with six or less motor vehicle record (MVR) points who do not meet the requirements for higher or lower rated tiers due to other risk characteristics. The initial standard tier rating factor is 1.000.

"Tier" refers to one or more underwriting rules, filed and approved pursuant to N.J.S.A. 17:29A-46.1, which defines and characterizes one or more mutually exclusive groups of insureds.

**11:3-19A.3 General provisions**

(a) 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 under a tier rating plan, in accordance with N.J.S.A. 17:29A-46.1 and this subchapter. No insurer shall use or implement any underwriting rule for a tier rating plan not filed and approved as set forth herein.

(b) In determining the number of tiers in a multi-tier rating program, the insurer shall consider the following factors:

1. The homogeneity of risk characteristics;
2. The number of exposures for credibility determinations;
3. The experience of the insurer and its affiliates; and
4. Actuarial judgment.

(c) When requested by the Department, insurers shall demonstrate that the expected losses between the tiers will vary in accordance with the risk characteristics.

(d) The rating system associated with the various tiers shall comply with all existing statutes and rules governing private passenger automobile insurance and shall reflect all premium credits and premium discounts required by statute or rule. Pursuant to N.J.S.A. 17:33B-14.1, there shall be no differential in rates of the insured for a single speeding violation by the insured of less than 15 miles per hour.

(e) Each insurer shall provide a notice explaining the insurer's tier rating system and an applicant/insured's placement within the system upon:

1. An application for coverage;
2. The first renewal of any policy after an insured has adopted an approved tier rating plan; or
3. An insured's request.

(f) The placement of applicants and insureds at or within a tier and the movement of insureds between tiers shall be based on underwriting rules that comply with N.J.A.C. 11:3-19A.5(b), are mutually exclusive per tier, objective and not applied so as to violate any statute or regulation of the United States or the State of New Jersey.

(g) Underwriting rules shall be included in the insured's rule section of the manual. The underwriting rules shall clearly identify the rating tier to which the rules shall be applied and how the rules apply to new business, renewal business or both. All tables shall be clearly labeled.

(h) The ratemaking restrictions established in N.J.S.A. 17:29A-36 shall be applied to each tier within an insurer's rate making plan.

**11:3-19A.4 Filing requirements for tier rating plans**

(a) An insurer seeking to establish or to modify a tier rating plan shall file with the Commissioner the following items:

1. A complete set of underwriting rules containing the standards for each tier and the rating differentials between the tiers;
2. A narrative description of the plan, which shall include:
  - i. The percentage difference between tier rate levels;
  - ii. The insurer's plan for determining placement and renewal of an insured at a tier level; and
  - iii. If the plan is submitted by a group of affiliated companies, the identity of all individual insurance companies in the group that transact private passenger automobile insurance business in New Jersey and the tiers to be used by each;

3. Rating examples as set forth in the Appendix to this subchapter, incorporated herein by reference. Where a driver qualifies for more than one rating tier; the insurer may provide the premium for different tiers together with the factors that might result in the placement of the insured in a lower tier; and

4. No later than 10 days prior to the effective date of the plan, copies of manual rate pages for each rate level together with rating examples and a copy of the notice explaining the insurer's tier rating system pursuant to N.J.A.C. 11:3-19A.3(e).

(b) In addition to the items contained in (a) above, insurers initially substituting a tier rating plan for a standard/nonstandard rating plan pursuant to N.J.A.C. 11:3-19, and insurers initially adopting a rating organization's loss cost tier rating plan, shall also file the following:

1. The expected distribution by tier of current exposures when placed within each tier and the rate effect, including the maximum and minimum individual rate change for each tier; and
2. Calculations demonstrating that the initial rating plan is revenue neutral by coverage in accordance with N.J.S.A. 17:29A-46.4.

(c) When a filer's rating system contains more than one tier, a percentage rate differential shall be applied to the base rates contained in the initial filed and approved tier rating plan.

**11:3-19A.5 Standards of approval, disapproval or modification of underwriting rules and tier rating plans**

(a) A tier rating plan shall be disapproved for any of the following reasons:

1. The plan does not comply with N.J.S.A. 17:29A-46.1 et seq. and this subchapter;

2. The plan does not provide that the insurer or affiliated companies shall insure all applicants and insureds defined as "eligible persons" in N.J.A.C. 11:3-34;

3. The plan assigns a vehicle insured under the policy to a higher than standard tier solely for the accumulation of six or less motor vehicle violation points by any named insured. For purposes of this subsection, any named insured also includes insureds that are principal operators of the vehicles based on the insurers manual rules. The motor vehicle points of a person who has more than six motor vehicle points and who is not a named insured or principal operator on any policy in the household may be used to place one vehicle in the household in a higher than standard tier. The motor vehicle points of a person who has six or fewer motor vehicle points and who is not a named insured or principal operator on any policy in the household shall not be used to place any policy in the household in a higher than standard tier;

4. The insurer failed to submit the items required to be filed pursuant to this subchapter; or

5. The plan fails to meet any of the standards for rating systems established by statute or administrative rule.

(b) Underwriting rules for tier placement in a tier rating plan shall meet the following standards:

1. No rule shall be based on the territory in which an insured resides or any other factor which the Commissioner finds to be a surrogate thereof;

2. Underwriting rules shall be based on a reasonable and demonstrable relationship between the risk characteristic of the driver(s) and vehicle(s) insured and the hazards insured against;

3. Underwriting rules shall be based on objective, specific and verifiable criteria. No underwriting rule shall be based on subjective judgments such as "pride of ownership evident," "poor attitude," "unsatisfactory environment to conduct business," etc.;

4. Underwriting rules shall not be based on the previous coverage of an insured or applicant by a substandard insurer in such a way that the insurer is relying upon application of the previous insurers underwriting rules and not its own;

5. Underwriting rules shall not be based on the nonrenewal of an insured prior to June 30, 1997 in accordance with N.J.S.A. 17:29C-7.1b or 7.1c except as permitted by N.J.A.C. 11:3-19A.7(f); and

6. Underwriting rules shall not be based on race, color, creed, religion, national origin or ancestry.

#### 11:3-19A.6 Policy renewals and notice to insureds

(a) An insurer that has implemented a tier rating plan shall issue and renew its policies at the appropriate tier for which the risk qualifies in accordance with the insurer's approved underwriting rules.

1. The transfer of a risk from one company to another in accordance with an insurer's tier rating plan shall not be deemed to be nonrenewal of the policy as provided by N.J.S.A. 39:6A-2.

2. If the insured qualifies for a higher rated tier after having been insured at a lower rated tier, the insurer shall renew the insured at the higher rated tier after providing notice to the insured at the time of renewal advising the insured that he or she is being placed in a higher rated tier resulting in a greater premium.

(b) An insurer that has implemented a tier rating plan shall state on the policy declaration page, or some other writing accompanying the policy, the tier level that was used to rate the policy.

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).

Rewrote (a).

#### 11:3-19A.7 Underwriting rules for eligible persons

(a) All affiliated companies shall file for approval underwriting rules that provide that the affiliated companies will make an offer to renew any of its insureds who are defined as an "eligible person" in N.J.A.C. 11:3-34.

(b) All affiliated companies shall file for approval underwriting rules that provide the insurer shall not refuse to insure, refuse to renew or limit coverage available to any of its insured, or to any applicant for insurance, which is defined as an "eligible person" in N.J.A.C. 11:3-34.

(c) An insurer may file for approval underwriting rules pursuant to which it will determine whether to insure any person not defined as an "eligible person" in N.J.A.C. 11:3-34.

(d) Underwriting rules for eligible persons shall not provide that coverage will be declined based on whether a member of the insured household is not an "eligible person" as defined in N.J.A.C. 11:3-34 unless the member of the insured household accounts for 10 percent or more of the use of the automobile insured or to be insured. For the purposes of this section:

1. 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.

2. 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.

(e) Insurers may file for approval underwriting rules by which it cancels the policy during the policy term under a policy insuring an eligible person pursuant to N.J.S.A. 17:29A-7(A)(b) when the driver's license or motor vehicle registration of another named insured or person insured under the policy who either resides in the same household or customarily operates an automobile insured under the policy has been suspended or revoked. The Department shall approve such underwriting rules if they include the following provisions:

1. The underwriting rules provide for the cancellation of the policy when the driver's license or motor vehicle registration is suspended or revoked during the policy term for one or more of the following reasons:

i. Conviction of operating a motor vehicle under the influence of alcohol or drugs (N.J.S.A. 39:4-50.4);

ii. Conviction of refusal to submit to a chemical test (N.J.S.A. 2C:11-2);

iii. Conviction of vehicular homicide (N.J.S.A. 2C:11-2);

iv. Conviction of operating a motor vehicle while driving privilege is suspended (N.J.S.A. 39:3-40);

v. Conviction of operating a motor vehicle without liability insurance (N.J.S.A. 39:6B-2);

vi. Conviction of misrepresentation of insurance coverage (N.J.S.A. 39:6A-15);

vii. Accumulation of motor vehicle penalty points pursuant to N.J.S.A. 39:5-30.5; or

viii. By a court upon conviction of one of the following motor vehicle violations: racing on a highway (N.J.S.A. 39:5C-1); failure to pass to right of vehicle proceeding in opposite direction (N.J.S.A. 39:4-84); tailgating (N.J.S.A. 39:4-89); reckless driving (N.J.S.A. 39:4-96); exceeding a speed limit by 30 MPH or more (N.J.S.A. 39:4-99); improperly passing a school bus (N.J.S.A. 39:4-128.1); or leaving the scene of an accident in which personal injury occurred (N.J.S.A. 39:4-129);

2. The underwriting rules provide for the cancellation of the policy when:

i. An insured is convicted of a violation of N.J.S.A. 39:6B-2 during the policy term; or

ii. Other evidence exists indicating that the suspended or revoked driver has been operating a vehicle

during a period of suspension as set forth in (e)1 above; and

3. The underwriting rules provide that coverage for eligible persons shall not be cancelled when the driver's license or motor vehicle registration of an insured is suspended or revoked for any reason other than those set forth in (e)1 above.

(f) Insurers may file for approval underwriting rules by which it declines coverage for one policy period not to exceed one year to eligible persons who have been nonrenewed pursuant to N.J.S.A. 17:29C-7.1 and N.J.A.C. 11:3-8.5(a).

### 11:3-19A.8 Penalties

Failure to comply with the provisions of this subchapter shall result in the imposition of penalties as authorized by law.

### 11:3-19A.9 Transition

(a) Insurers shall file a notice with the Department no later than March 9, 1998 whether they intend to replace their present standard/nonstandard rating system with a tier rating plan. Rating organizations shall file notice of their intent to file a tier rating plan in conjunction with a loss cost filing no later than seven calendar days after the date of the adoption of this subchapter. Insurers that are members or subscribers of rating organizations that intend to file a loss cost tier rating plan may file notice of their intent to adopt the rating organization filing.

(b) Insurers that do not intend to file a tier rating plan by April 1, 1998, or to adopt a rating organizations loss cost tier rating plan filing, shall not continue to charge any surcharge based on automobile insurance eligibility points accumulated by the insurer pursuant to a standard/nonstandard rating plan approved pursuant to N.J.A.C. 11:3-19. Such insurers shall immediately file necessary amendments to their present rating systems to delete eligibility point surcharges or a certification that their currently filed rating system does not charge or collect eligibility point surcharges. If no filing is made by April 1, 1998, the currently filed and approved rating plans are deemed to have been amended to eliminate all surcharges on new business as of April 1, 1998 and as of May 1, 1998 on all renewal business.

(c) Upon compliance with (a) above, and receipt of a tier rating filing by April 1, 1998 insurers that intend to file or adopt a tier rating plan shall continue to utilize their presently approved rating system until the effective date of the tier rating plan contained in the insurer's filing as approved by the Department.

(d) The initial notice of renewal after the effective date of an insurer's tier rating system shall be issued not less than 30 nor more than 45 days prior to policy expiration regardless of the tier at which the insured vehicle is to be rated.

## APPENDIX

The following information shall be used to provide rating examples for Drivers A, B, C and D as listed below:

1. PAIP territories 2, 15 and 40;
2. Verbal and zero thresholds;
3. Liability limits 100/300/50 or 300 CSL;
4. Operator is "all other" class;
5. Annual mileage is 12,000;
6. Basic PIP;
7. \$500 deductibles for comprehensive and collision;
8. Model Year = Current Year -2, (for example, in calendar year 1997 the model year would be 1995);
9. Symbol is based on a Pontiac Grant Am SE Coupe; and
10. Insured with company for five years.

Filers shall furnish rating examples for the following. (If a driver qualifies for more than one tier, use the highest rating tier):

1. Driver A: 0 MVR points, 0 accidents, companion policy.
2. Driver B: 6 MVR points, 0 accident.
3. Driver C: 7 MVR points, 0 accident.
4. Driver D: 0 MVR points, 1 accident.

## SUBCHAPTER 20. REPORTING FINANCIAL DISCLOSURE AND EXCESS PROFITS

### 11:3-20.1 Purpose

This subchapter sets forth the financial disclosure and excess profits reporting requirements pursuant to N.J.S.A. 17:29A-5.6 to 17:29A-5.16.

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

#### Case Notes

Insurance commissioner failed to utilize statutory rule-making procedures in changing evaluation of excess profits. *American Employers' Ins. Co. v. Commissioner of Ins., Dept. of Ins., State of N.J.*, 236 N.J.Super. 428, 566 A.2d 202 (A.D.1989).

### 11:3-20.2 Scope

The provisions of this subchapter apply to all insurers authorized to transact private passenger automobile insurance business in this State.

### 11:3-20.3 Definitions

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

"Actual investment income" means that portion of income generated by investment of policyholder-supplied funds.

"Actuarial gain" means the remainder obtained by subtracting the allowance for profit and contingencies from underwriting income which remainder may be positive or negative.

"AIRE charges" and "AIRE compensation" mean, respectively, amounts paid to or received (including share of investment income) from the New Jersey Automobile Insurance Risk Exchange pursuant to N.J.S.A. 39:6A-22.

"Anticipated investment income" means the amount obtained by multiplying earned premium by the percentage of premium representing investment income used in the insurer's approved rate filings to calculate the allowance for profit and contingencies.

"Calendar-accident year" means the period from January 1 to December 31, during which, in the appropriate context:

1. Premium or investment income was earned;
2. Expenses were incurred; or
3. Accidents occurred which resulted in losses, loss adjustment expenses or AIRE compensation.

"Car year" means the unit of exposure equivalent to the insuring of one automobile for 12 months, or two automobiles for six months each.

"Combined profits report" means the Excess Profits Report consisting of the aggregated profits results of all members within an insurance holding company system.

"Commissioner" means the Commissioner of Insurance.

"Development adjustment" means the difference obtained by subtracting:

1. Loss and loss adjustment expenses for that calendar-accident year, developed to an ultimate basis and evaluated as of March 31 of the year preceding the year in which the profits report required by N.J.A.C. 11:3-20.5 is due; from

2. Losses and loss adjustment expenses for the calendar-accident year, developed to an ultimate basis and evaluated as of March 31 of the year in which the profits report is due.

“Excess investment income” means the remainder obtained by subtracting the anticipated investment income from the actual investment income earned by the insurer, which remainder may be positive or negative.

“Exempted types” are those kinds of coverage arising out of a specialty program which uses its own rates, rules and policy forms which have been filed with and approved by the Department and does not include private passenger automobile insurance coverage. “Exempted types” include, but are not limited to, motorcycles, “off-road” vehicles, policies sold through the New Jersey Automobile Full Insurance Underwriting Association, and antique automobiles.

“Insurance holding company system” for the purpose of the excess profits report means two or more insurers under the same ultimate common ownership each of whom writes private passenger automobile insurance in New Jersey.

“Insurer” means an entity authorized or admitted to transact private passenger automobile insurance business in New Jersey. Where an insurer is part of an insurance holding company system, insurer means each individual insurer within the insurance holding company system as defined in N.J.S.A. 17:27A-1 et seq. Insurer does not include any residual market mechanism for automobile insurance for the purposes of this subchapter.

“LAD fees” mean a buy-out fee as defined in the New Jersey Personal Automobile Insurance Plan, Plan of Operation, Article 5, D8.

“NCIC pool losses” means the percentage of participation in the National Consumer Insurance Company (“NCIC”) pool multiplied with the NCIC operating loss. The NCIC pool reinsurers may reflect their participating share of any operating loss of the NCIC pool in their profits report. The operating loss of the NCIC pool for purposes of the excess profits report is defined as the result obtained from the total of earned premium and actual investment income of the NCIC pool, less the total of all losses, loss adjustment expenses and underwriting expenses incurred by the NCIC pool on a direct basis. Underwriting expenses do not include any service fees assumed by the various reinsurers of the NCIC pool nor cash calls paid to NCIC. Each participating reinsurer must include in the profits report the percentage of participation for each year and calculation showing the NCIC operating loss used in arriving at its share of the NCIC pool losses.

“Non-excessive subsidization” means the number of dollars of excess profit, as calculated pursuant to this subchapter, for an individual insurer within an insurance holding company system, that is less than or equal to .5 percent (one half of one percent) of its earned premiums for the three calendar-accident years immediately preceding the year in which the Excess Profits Report is due to the extent that this excess profit has not been refunded or credited to policyholders.

“Private passenger automobile insurance business” means direct insurance on private passenger automobiles as defined in N.J.S.A. 39:6A-2, excluding personal excess liability insurance and insurance on commercial vehicles.

“Subsidization” means the number of dollars of excess profit as calculated pursuant to this subchapter, for a member of an insurance holding company system, which has not been refunded or credited to policyholders.

“Total actuarial gain” means the sum of actuarial gains for the three calendar-accident years immediately preceding the due date of the profits report required by N.J.A.C. 11:3-20.5 less the development adjustments for the calendar-accident years beginning with the seventh calendar-accident year immediately preceding the due date of the profits report and ending with the fourth calendar-accident year immediately preceding the due date of the profits report.

“Underwriting income” means the remainder obtained by subtracting the sum of losses developed to an ultimate basis, loss adjustment expenses developed to an ultimate basis, and other expenses exclusive of UCJF assessments, from the sum of premiums earned and AIRE compensation developed to an ultimate basis, which remainder may be positive or negative.

“UCJF assessments” means amounts paid by insurers to the Unsatisfied Claim and Judgement Fund pursuant to N.J.S.A. 39:6-63.

“UCJF reimbursements” means amounts received by an insurer from the Unsatisfied Claim and Judgement Fund as a result of excess medical expense benefit payments by the insurer pursuant to N.J.S.A. 39:6-73.1.

Amended by R.1991 d.17, effective January 7, 1991.  
See: 22 N.J.R. 2082(b), 23 N.J.R. 106(a).

Definitions added for “combined profits report”, “non-excessive subsidization” and “subsidization”.

Amended by R.1991 d.45, effective February 4, 1991.

See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

Revised “Insurer” definition by deleting NJAFIUA reference and added “. . . any residual market mechanism for automobile insurance . . .” to text.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

Amended “Anticipated investment income” and “Development adjustment”.

Amended by R.1996 d.312, effective July 15, 1996.

See: 28 N.J.R. 1616(a), 28 N.J.R. 3627(b).

### 11:3-20.4 General reporting requirements

(a) The data in the reports required by this subchapter shall be for New Jersey voluntary private passenger automobile insurance and the Personal Automobile Insurance Plan only.

(b) Each private passenger automobile insurer, except as provided in (e) and (f) below, shall annually file with the Commissioner the data and information required by this subchapter on or before July 1 of each year. Filings shall be sent to the following address:

New Jersey Department of Insurance  
Division of Property and Casualty  
20 West State Street  
CN 325  
Trenton, New Jersey 08625  
Attention: Excess Profits

(c) The data required by this subchapter shall be submitted on an MS-DOS formatted disk(s), and the Exhibits shall be submitted in written copy using the forms and record layouts contained in the Appendix to this subchapter. The disk(s) shall be 3½ inch high density. The information shall be presented in a Lotus 123 version 3.1 or compatible spreadsheet. The written copy of the Exhibits shall include in the left and top margins the row and column location respectively of all the data in the worksheets. Each page shall also display in the bottom right corner the name of the computer file and disk on which it is contained. All calculated values shall be given as a formula in the spreadsheet. Data shall be submitted in the format set forth in Exhibits found in the Appendix to this subchapter, incorporated herein by reference. Companies may submit a 3½ inch high density diskette and a self-addressed, stamped *mailer* to receive copies of the Lotus 123 spreadsheets for current and future use in the excess profits report required pursuant to this subchapter. Insurers shall not submit written copies of the input screens.

(d) The information shall be provided with respect to the insurer's New Jersey private passenger automobile insurance business separately for each of the following coverages:

1. Personal injury protection, including all options;
2. Bodily injury liability, including uninsured and underinsured motorist coverages, reported at total limits;
3. Property damage liability reported at total limits; and
4. Physical damage, consisting of comprehensive and collision coverages, including all deductibles.

(e) Any insurer having fewer than 150 earned car years of exposure in New Jersey during the three calendar-accident years immediately preceding the date the profits report is due shall file a certification to that effect, in lieu of all other requirements of this subchapter.

(f) If an insurer's sole activity in New Jersey is exempted types of insurance, as defined in N.J.A.C. 11:3-20.3, and does not include any private passenger automobile insurance, such insurer shall file a certification to that effect, in lieu of all other requirements 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.312, effective July 15, 1996.  
See: 28 N.J.R. 1616(a), 28 N.J.R. 3627(b).

#### 11:3-20.5 Profits report

(a) Each insurer shall submit a complete and accurate profits report in the format of the exhibits appended to this subchapter, which exhibits are hereby incorporated by reference as part of these rules.

(b) The profits report shall contain the following information for each of the eight most recent calendar-accident years, with an evaluation date as of March 31 of the year in which the profits report is due:

1. Losses paid;
2. Losses developed to an ultimate basis;
3. Allocated loss adjustment expenses paid;
4. Allocated loss adjustment expenses developed to an ultimate basis;
5. AIRE compensation received;
6. AIRE compensation developed to an ultimate basis;
7. AIRE charges; and
8. AIRE charges developed to an ultimate basis.

(c) In addition to the requirements in (b) above, each insurer shall file in the format of the exhibits appended to this subchapter, the following information of the calendar-accident year ending December 31 immediately preceding the date the profits report is due:

1. Premiums written;
2. Premiums earned;
3. Unallocated loss adjustment expense incurred;
4. Other expenses incurred, itemized separately as follows:
  - i. Commissions and brokerage fees;
  - ii. Taxes, licenses and fees;
  - iii. UCJF assessments;
  - iv. Other acquisition costs and general expenses and
  - v. Policyholder dividends including any excess profits refunded or credited to policyholders;
5. Allowance for profit and contingencies (obtained by multiplying premiums earned by the profit and contingency factors authorized for use with the insurer's approved rate filings);
6. Anticipated investment income;
7. Actual investment income; and
8. UCJF reimbursements received.

(d) The profits report shall include a calculation of each of the following items in the format of the exhibits appended to this subchapter:

1. Underwriting income for each of the three calendar-accident years immediately preceding the date of the profits report;
2. Actuarial gain for each of the three calendar-accident years immediately preceding the date of the profits report;
3. Excess investment income for each of the three calendar-accident years immediately preceding the date of the profits report;
4. Development adjustment for the calendar-accident years beginning with the seventh calendar-accident year immediately preceding the due date of the profits report and ending with the fourth calendar-accident year immediately preceding the due date of the profits report;
5. Total actuarial gain; and
6. Excess profits.

(e) No expenses included in the Excess Profits Report shall include assessments paid to the New Jersey Property Liability Insurance Guaranty Association pursuant to N.J.S.A. 17:30A-8a(9) or surtaxes paid pursuant to N.J.S.A. 17:33B-49, except to the extent that insurer was permitted to reflect the assessments and surtaxes in its approved rates for private passenger automobile insurance pursuant to N.J.A.C. 11:3-16.11 for any of the three years reported in the Excess Profits Report. No expenses included in the Excess Profits Report shall include cash call payments to the National Consumer Insurance Company with respect to NCIC pool losses.

(f) An officer of the insurer shall certify on the profits report forms that the report complies with all statutory and regulatory requirements to the best of his or her information, knowledge and belief. The officer shall sign his or her name and provide title and date, and phone number.

(g) An insurer may reflect as an expense the amounts paid to the MTF in calculating its excess profits. The expense shall be reported in the "BI Liability and the Uninsured/Underinsured Motorist Coverages" of Exhibit Eight in the Appendix.

1. The amounts paid to the MTF includes only payments actually made by the insurer to the MTF, which are to be credited as all or part of the insurer's apportionment share of MTF losses pursuant to N.J.S.A. 17:33B-11d and the MTF Plan of Operation, including any payment made on account of the insurer's liability or in response to an Order of the Commissioner directing that payment be made.

2. If an insurer makes a payment to the MTF pursuant to Article XIV, section 5 of the MTF Plan of Operation prior to the issuance of an Order of the Commissioner directing payment, the insurer may reflect the payment either in the year when paid or in the year when payment is due pursuant to the Order of the Commissioner. Once an insurer selects a year to report the MTF payment, the payment must be reported in that year in all future reports.

Amended by R.1992 d.254, effective June 15, 1992.  
See: 24 N.J.R. 529(a), 24 N.J.R. 2264(a).

Text added at (e) regarding Excess Profits Report expenses.  
Amended by R.1994 d.24, effective January 3, 1994.  
See: 25 N.J.R. 1829(a), 26 N.J.R. 241(a).  
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.312, effective July 15, 1996.  
See: 28 N.J.R. 1616(a), 28 N.J.R. 3627(b).

#### Law Review and Journal Commentaries

Auto Insurance. Steven P. Bann, 137 N.J.L.J. No. 16, 50 (1994).

#### Case Notes

Challenge to validity of regulation was justiciable. Matter of Commissioner of Insurance's Issuance of Orders A-92-189 and A-92-212, 274 N.J.Super. 385, 644 A.2d 616 (A.D.1993), affirmed 137 N.J. 93, 644 A.2d 576.

Commissioner of Insurance did not exceed his authority in prohibiting automobile insurers from deducting surtaxes and assessments under Fair Automobile Insurance Requirement Act as expenses. Matter of Commissioner of Insurance's Issuance of Orders A-92-189 and A-92-212, 274 N.J.Super. 385, 644 A.2d 616 (A.D.1993), affirmed 137 N.J. 93, 644 A.2d 576.

Insurance commissioner failed to utilize statutory rule-making procedures in changing evaluation of excess profits. American Employers' Ins. Co. v. Commissioner of Ins., Dept. of Ins., State of N.J., 236 N.J.Super. 428, 566 A.2d 202 (A.D.1989).

#### 11:3-20.6 Reporting requirements for insurance holding company systems

(a) All private passenger automobile insurers shall file a separate profit report under N.J.S.A. 17:29A-5.7 and N.J.A.C. 11:3-20.5. In compliance with this obligation a separate certification and individual profits report (Exhibit Ten) may be filed for each insurer in an insurance holding company system. The certification and individual profits report shall be filed by each company within the insurance company holding company system and shall be attached to and accompanied by the excess profit report filed by the insurance company holding system.

(b) The Commissioner may order a complete excess profits report for any insurer in an insurance holding company system if, in his or her judgment, one or more of the insurers in that system are excessively subsidizing other insurers in that system. Excessive subsidization may exist if the number of dollars of excess profit, as calculated pursuant to this subchapter, for an individual insurer within an insurance holding company system, exceeds .5 percent (one half of one percent) of its earned premiums for the three calendar-accident years immediately preceding the year in which the Excess Profits Report is due to the extent that this excess profit has not been refunded or credited to policyholders.

(c) Notwithstanding any provision of this section to the contrary, for purposes of evaluating the Excess Profits Reports, the excess profits computation shall be performed solely on the insurance holding company system's combined profits report.

(d) If an individual insurer within an insurance holding company system does not file a certification and individual profits report (Exhibit Ten), as provided for in (a) above, the insurer and all other individual insurers within the holding company system shall file a complete excess profits report (Exhibits One through Nine) in addition to the combined excess profits report filed by the insurance holding company system.

(e) If an insurer chooses to comply with N.J.S.A. 17:29A-5.7 and (a) above by filing Exhibit Ten as permitted under (a) above, the insurer shall continue to file in this fashion until such time as the insurer requests and the Department permits such insurer to file in an alternative manner consistent with this subchapter.

Amended by R.1991 d.17, effective January 7, 1991.  
See: 22 N.J.R. 2082(b), 23 N.J.R. 106(a).

New subsection (c) added, provision for determining excessive subsidization.

Amended by R.1994 d.425, effective August 15, 1994.  
See: 26 N.J.R. 1938(b), 26 N.J.R. 3441(b).  
Amended by R.1996 d.312, effective July 15, 1996.  
See: 28 N.J.R. 1616(a), 28 N.J.R. 3627(b).

**11:3-20.7 Determination of excess profits**

(a) Excess profits shall exist if for the three calendar-accident years immediately preceding the date the profits report is due, the sum of an insurer's total actuarial gain and excess investment income for all private passenger automobile coverages combined exceeds 2.5 percent of earned premiums.

(b) The effect of negative excess investment income shall be limited in the computation of excess profits. Negative excess investment income shall be limited pursuant to a standard on the investment of policyholder supplied funds. The standard shall be a simple six month average of the Moody's seasoned AAA corporate bond rate as published in the Federal Reserve statistical release "Selected Interest Rates" as of April 1 for each year.

Amended by R.1996 d.312, effective July 15, 1996.  
See: 28 N.J.R. 1616(a), 28 N.J.R. 3627(b).

**Case Notes**

Insurance commissioner failed to utilize statutory rule-making procedures in changing evaluation of excess profits. *American Employers' Ins. Co. v. Commissioner of Ins., Dept. of Ins., State of N.J.*, 236 N.J.Super. 428, 566 A.2d 202 (A.D.1989).

**11:3-20.8 Refund or credit of excess profits**

(a) If the Commissioner determines that an insurer is required to refund excess profits, the Commissioner shall issue written notice to the insurer of his or her determination. The notice shall contain a written explanation of the basis on which such a determination was made and shall advise the insurer that it may request a reevaluation of the determination as set forth at (b) below.

(b) An insurer may request a reevaluation of the determination that it is required to refund excess profits by submitting a written request to the Department within 30 days of the receipt of the notice in (a) above.

1. The written request shall set forth the legal or factual basis for the requested reevaluation.

2. If the basis for the requested reevaluation is good faith error or excusable mistake, the request shall be accompanied by a written request to make a supplemental filing pursuant to N.J.A.C. 11:3-20.11.

3. The Commissioner shall notify the insurer in writing of his or her determination within 60 days, which shall constitute a final agency decision. If no written request for a reevaluation is made as set forth in (b)1 and 2 above, the original notice of determination shall constitute a final agency decision.

(c) The insurer shall submit to the Commissioner a fair, practicable and nondiscriminatory plan to refund or credit to policyholders the excess profits within 30 days after the written notice in (a) or (b) above, as applicable, has been given to the insurer by the Commissioner.

1. The refund or credit plan shall be subject to approval by the Commissioner.

2. If the refund or credit plan is disapproved, the Commissioner shall issue a written notice to the insurer containing the reasons for disapproval, and specifications for corrections of the plan.

(d) Upon approval of the insurer's refund or credit plan, the Commissioner shall issue an order requiring the insurer to distribute all excess profits according to the approved plan.

(e) Within 15 days after the excess profits have been refunded or credited to policyholders, the insurer's corporate official shall certify that such refund or credit has occurred.

(f) Any refund or credit shall be deemed a policyholder dividend applicable to the year in which it is incurred for reporting in subsequent excess profits reports.

Amended by R.1991 d.17, effective January 7, 1991.  
See: 22 N.J.R. 2082(b), 23 N.J.R. 106(a).

Provision at (a) added to require certain information in notice; new (b) added describing procedure and content of request for reevaluation.

**11:3-20.9 Excess profits carry forward**

(a) In the event an excess profit is returned by an insurer in accordance with this subchapter and subsequent development demonstrates that an excess profit did not exist or was overstated, an excess profit carry forward in the amount of the excess profit refunded or the amount overstated, whichever is less, shall be established.

(b) This excess profit carry forward shall be applied by such insurer as a credit against future determinations of excess profits until such credit is exhausted or the end of a 15 year period from the date the excess profits carry forward was established, whichever occurs first.

(c) In order to take credit in the form of an excess profits carry forward in any filing of an excess profits report, the filer shall file the following which shall be attached to the excess profits report in which the carry forward is to be taken:

1. A copy of the excess profit report which originally showed the existence of an excess profit; and

2. Excess Profits Exhibits One through Six (for excess profits determined prior to 1996) or Exhibits One through Four (for excess profits determined in 1996 or later) containing the data that shows the adverse development of the pertinent accident year or years.

Amended by R.1990 d.470, effective September 17, 1990.  
See: 22 N.J.R. 1025(a), 22 N.J.R. 2969(c).

New (c) added providing procedure by which insurer establishes "excess profit carry forward" credit.

Amended by R.1996 d.312, effective July 15, 1996.  
See: 28 N.J.R. 1616(a), 28 N.J.R. 3627(b).

Amended by R.1991 d.17, effective January 7, 1991.  
 See: 22 N.J.R. 2082(b), 23 N.J.R. 106(a).  
 Amended by R.1992 d.254, effective June 15, 1992.  
 See: 24 N.J.R. 529(a), 24 N.J.R. 2264(a).  
 Appendix deleted and replaced with new appendix.  
 Amended by R.1994 d.24, effective January 3, 1994.  
 See: 25 N.J.R. 1829(a), 26 N.J.R. 241(a).  
 Amended by R.1996 d.58, effective February 5, 1996.  
 See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).  
 Repeal and New Rule, R.1996 d.312, effective July 15, 1996.  
 See: 28 N.J.R. 1616(a), 28 N.J.R. 3627(b).  
 Administrative correction.  
 See: 28 N.J.R. 3798(b).

## SUBCHAPTER 20A. (RESERVED)

### Subchapter Historical Note

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

### 11:3-21.1 Purpose

The purpose of this rule is to implement N.J.S.A. 39:6A-4.1, which provides for reduced personal injury protection premiums for additional automobiles in one-driver households.

### 11:3-21.2 Reduction of PIP premium

(a) In any instance where a named insured is the owner, the only designated operator of two or more automobiles insured by the same insurer under one or more policies, and the only licensed driver residing in the household, the full basic PIP rate shall be charged on one automobile, and a percentage discount shall be given on the PIP premium charge on each additional auto. For the three-year period commencing with the operative date of this rule, the premium reduction shall be at least 50 percent of the approved charge for the applicable territory of garaging for the additional automobile(s), exclusive of expense fees and policy constants or residual market equalization charges.

### 11:3-21.3 Automobiles eligible for premium reduction

(a) Except as provided in paragraph 1 below, the reduced premiums shall only apply to a private passenger automobile of a private passenger or station wagon type that is owned or hired by an individual or by husband and wife who are residents of the same household and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pick-up

body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

1. The reduced premium shall not apply to automobiles for which the basic PIP premium charge is less than \$25.00, exclusive of expense fees and policy constants or residual market equalization charges, and which are of the following types:

- i. Automobiles 10 years or older and maintained primarily for use in exhibitions, parades and club activities, or
- ii. A self-propelled vehicle with a living area that is an integral part of the chassis or a pick-up with a permanently attached camper body.

(b) A reduced premium charge for PIP coverage as specified in (a) above shall apply to all policies which are in force, issued or renewed on or after the operative date of this rule.

1. With respect to in force policies, the insurer shall calculate the reduce premium charge in (a) above, and shall issue a refund check in this amount to the insured or apply a credit in this amount to the insured's renewal policy.

- i. In the event a policy is nonrenewed or otherwise terminated prior to renewal, the insurer shall calculate a return premium in accordance with the operative date of this rule and the effective termination date of the policy. The insurer shall issue a refund check in this amount to the insured.

### 11:3-21.4 Filing and statistical requirements

(a) Each automobile filer shall, within 60 days of the effective date of this rule, submit to the Commissioner for approval filings of rates and manual rules for implementing the reduced PIP premium charges for additional automobiles required by this rule.

1. Each statistical organization shall, within 60 days of the effective date of this rule, submit to the Commissioner for approval amendments to its statistical plan designed to effectuate the purposes of N.J.S.A. 39:6A-4.1 and this subchapter.

(b) Every insurer, rating organization and statistical organization shall segregate and maintain the exposure, premium, loss and expense statistics with respect to the payment

of PIP benefits that are attributable to additional automobiles in one-driver households.

1. Any loss or loss adjustment expense for a PIP claim shall be charged to the automobile for which the full premium was paid unless the injury was sustained while in the automobile with the reduced PIP premium.

(c) Every insurer, rating organization and statistical organization shall amend their statistical plans to segregate and maintain the exposure, premium, loss and expense statistics with respect to the payment of PIP benefits that are attributable to households in which the number of automobiles insured by the same insurer exceeds the number of licensed drivers customarily operating such automobiles.

(d) The statistics required in (b) and (c) above shall be subject to examination by the Commissioner or his or her designee and shall be reported annually to the Department.

(e) Three years after the operative date of this rule, each automobile filer shall submit to the Commissioner for approval filings of rates or manual rules reflecting the actual loss experience of the filer with respect to the payment of PIP benefits which are attributable to additional automobiles described in 11:3-21.3.

(f) All filings submitted pursuant to this subchapter, and all changes and amendments thereto, shall be prepared in accordance with insurance laws and regulations, including the applicable provisions of N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2 and the Department's filing procedures.

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

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

### 11:3-22.1 Purpose

This subchapter requires the submission of data concerning policyholder selection of the various options provided under the New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act of 1984 (N.J.S.A. 17:28-1.1) in order to monitor the implementation and effectiveness of the Act.

Amended by R.1989 d.267, effective May 15, 1989.  
See: 21 N.J.R. 619(a), 21 N.J.R. 1358(a).

Added cite to P.L. 1988, c.119.

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

### 11:3-22.2 Scope

(a) This subchapter applies to every insurer authorized to transact the business of automobile insurance in this State.

(b) For the purpose of the reporting requirements of this subchapter, "automobile" means a private passenger automobile of a private passenger or station wagon type that is owned or hired by an individual and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pickup body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered an individually owned private passenger automobile owned by two or more relatives resident in the same household.

### 11:3-22.3 Coverage option survey requirements

(a) Every automobile insurer, on a biannual basis, shall complete and file with the Commissioner the coverage option survey required by this subchapter. The insurer's biannual survey shall reflect the total number of automobiles with in force coverage as of December 31 and as of June 30 of each year, and shall indicate the personal injury protection and lawsuit threshold or no threshold options selected with respect to each such automobile. Insurers shall use forms A and B, appended to and incorporated by reference in this subchapter, to report the information required by this section.

(b) Survey forms reflecting coverage option selections as of December 31 of each year shall be filed with the Commissioner by January 21 of that year. Survey forms reflecting coverage option selections as of June 30 of each year shall be filed with the Commissioner by July 22 of that year.

(c) Completed coverage option survey forms shall be submitted to:

New Jersey Department of Banking and Insurance  
Office of Property/Casualty  
20 West State Street  
PO Box 325  
Trenton, NJ 08625-0325

(d) Companies may submit the data required by this rule on a group basis, provided that each company included in the group is identified on the coverage option survey forms.

(e) Insurers which act as servicing carriers for a residual market mechanism created by statute shall report directly to the Department only the coverage options selected by their voluntary policyholders. The options selected by residual market mechanism insureds shall be reported directly to the residual market mechanism.

(f) Failure to provide the data required by this subchapter by the due dates in (b) above will result in Departmental sanctions as authorized by law.

Form A  
STATE OF NEW JERSEY—DEPARTMENT OF BANKING AND INSURANCE  
AUTOMOBILE INSURANCE COVERAGE OPTION SURVEY

Company/Group: \_\_\_\_\_

Total Number of Automobiles with Insurance Policy Coverage in Force as of December 31 or June 30, 19

Options	Number of Automobiles
PIP Coverages for Medical Expenses Only	_____
PIP Medical Expense Benefits Deductible:	_____
\$ 250	_____
500	_____
\$1,000	_____
\$2,500	_____
Excess of \$250,000	_____
Health Insurance Primary for PIP	_____
Auto Insurance Primary for PIP	_____
Tort Threshold	_____
Lawsuit Threshold	_____
No Threshold	_____

Form B  
STATE OF NEW JERSEY—DEPARTMENT OF BANKING AND INSURANCE  
AUTOMOBILE INSURANCE COVERAGE OPTION SURVEY

Company/Group: \_\_\_\_\_

Total Number of Automobiles with Insurance Policy Coverage in Force as of December 31 or June 30, 19

PIP Option	Auto Insurance Primary Full PIP with		Auto Insurance Primary Medical PIP Only With		Health Insurance Primary Full PIP with	
	Lawsuit Threshold	No Threshold	Lawsuit Threshold	No Threshold	Lawsuit Threshold	No Threshold
\$250 deductible						
\$500 deductible						
\$1,000 deductible						
\$2,500 deductible						
Excess \$250,000						

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

In (c): revised address; in (e) deleted NJAFIUA reference and added residual market mechanism text to subsection.

Amended by R.1988 d.65, effective February 1, 1988.

See: 19 N.J.R. 2237(a), 20 N.J.R. 295(a).

Change of reporting dates for coverage option selections.

Amended by R.1989 d.267, effective May 15, 1989.

See: 21 N.J.R. 619(a), 21 N.J.R. 1358(a).

Changed "tort threshold" to "lawsuit threshold", added \$250 PIP Deductible to both forms.

Amended by R.1991 d.45, effective February 4, 1991.

See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

Administrative change.

See: 30 N.J.R. 1317(a).

**SUBCHAPTER 23. (RESERVED)**

**SUBCHAPTER 24. DEFENSIVE DRIVING RATE REDUCTIONS**

**Authority**

N.J.S.A. 17:1-8.1, 17:1C-6(e) and 17:33B-45.1

**Source and Effective Date**

R.1997 d.522, effective December 15, 1997.

See: 28 N.J.R. 4854(a), 29 N.J.R. 5305(a).

**11:3-24.1 Purpose and scope**

This subchapter applies to all private passenger automobile insurers and establishes procedures for defensive driving rate reductions as required by N.J.S.A. 17:33B-45.1.

**11:3-24.2 Definitions**

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

“Automobile” means any private passenger automobile as defined in N.J.S.A. 39:6A-2 but does not include any automobile insured under a commercial insurance policy.

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

“Defensive driving course” means a course approved by DMV pursuant to N.J.S.A. 17:33B-45 and N.J.A.C. 13:21-24.

“DMV” means the New Jersey Division of Motor Vehicles.

“Motor vehicle points” means points accumulated as a result of a conviction of a motor vehicle violation(s) and other events that are set forth on an abstract of drivers license records that are available from the New Jersey Division of Motor Vehicles and are set forth in N.J.A.C. 13:19-10.1. Motor vehicle points are also listed in Schedule 2 of N.J.A.C. 11:3-34. Insurance eligibility points in Schedule 1 are not motor vehicle points.

**11:3-24.3 Rate reduction filing requirements**

(a) Every insurer shall include in its rules for automobile insurance coverage rate reductions for the successful completion of a defensive driving course.

(b) The rate reduction for the completion of a defensive driving course should be a minimum of five percent and is to apply to the base premium before expense fees are added for bodily injury liability, property damage liability, personal injury protection and collision coverages. Insurers may use external sources and/or actuarial experience to justify a discount different than five percent.

(c) Insurers shall disclose the application of the rate reduction on each Declarations page during the period for which the rate reduction is applied.

(d) Insurers shall maintain separate defensive driving experience statistics until coding by statistical agents for persons receiving the discount is implemented.

**11:3-24.4 Application of defensive driving rate reduction**

(a) An insured may receive a rate reduction for successful completion of a defensive driving course provided he or she is the named insured or principal operator of an automobile insured under the policy or is an occasional operator whose experience is used to rate the policy.

(b) If the policy insures two or more automobiles, the rate reduction shall apply only to the automobile(s) principally operated or assigned to the person who has completed the defensive driving course. Only one rate reduction may be applied to an automobile on the policy.

(c) The rate reduction shall be applied for three years beginning with the next policy period after completion of the defensive driving course, as follows:

1. The rate reduction shall be applied if the driver completed the defensive driving course in the three year period immediately preceding the new business or renewal effective date of the policy.

2. The rate reduction shall not be applied during the three-year period beginning with the completion of the defensive driving course and ending with the new business or renewal effective date of the policy, if the driver who completed the defensive driving course accumulates four or more motor vehicle points or has his or her drivers license suspended for one of the reasons listed in N.J.A.C. 11:3-35.4(e)1.

(d) The rate reduction shall be applied or removed at new business inception or upon renewal of the policy, not mid-term.

**11:3-24.5 Procedure to obtain rate reduction**

(a) Insurers may require the named insured on the policy to apply for the rate reduction by notifying the insurer of the successful completion of a defensive driving course.

(b) Insurers shall establish procedures to process and verify requests for rate reductions pursuant to this section based on:

1. The completion of a defensive driving course that appears on the driver record abstract. All drivers who have taken an approved defensive driving course will have the date the course was actually completed as the event date and one or more of the following event codes on their driver record abstract:

i. PDP-M-DDCC described as POINT CREDIT—DEFENSIVE DRIVING PROG used until July 1996, for drivers with zero points;

ii. DMV-M-DDCC described as DEFENSIVE DRIVING COURSE used after July 1996, for all drivers regardless of point accumulation, in addition to the two event codes in (b)liii and iv below that are used if the driver had a point accumulation before taking the defensive driving course;

iii. DDP-Z-PC01 described as POINT CREDIT—DEFENSIVE DRIVING PROG used for drivers with one point;

iv. DDP-Z-PC02 described as POINT CREDIT—DEFENSIVE DRIVING PROG used for drivers with two or more points; or

2. The acceptance from the insured of a certificate or other documentation from an approved defensive driving course provider that indicates that the insured successfully completed a defensive driving course.

(c) Insurers shall provide written notification of the availability of the rate reduction with all new business and renewals.

#### 11:3-24.6 Penalties

Failure of an insurer to comply with these rules may result in the imposition of penalties prescribed by law.

### SUBCHAPTER 25. PRIVATE PASSENGER AUTOMOBILE INSURANCE: NOTIFICATION BY TREATING HEALTH CARE PROVIDERS

#### Authority

N.J.S.A. 17:1-15e, 17:1-8.1 and N.J.S.A. 39:6A-5.

#### Source and Effective Date

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

#### 11:3-25.1 Purpose and scope

(a) The purpose of this subchapter is to implement N.J.S.A. 39:6A-5, as amended by P.L. 1995, c.407, by establishing procedures to be followed by treating medical providers to give timely notification of the commencement of medical treatment for injuries sustained in automobile accidents. The subchapter sets forth:

1. Time limits for the filing of notification of the commencement of treatment for PIP claims;
2. The actions to be taken upon failure to comply with the notification time limits, including reduction or denial of claim payments;
3. The factors to be considered in evaluation of a late notification; and
4. The rights of providers when payment is reduced or denied for failure to comply with the notification requirements.

(b) This subchapter shall apply to every insurer authorized to transact the business of automobile insurance in this State. The subchapter applies to treatment for injuries resulting from automobile accidents that occur after July 8, 1996.

#### 11:3-25.2 Definitions

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

“Coverage status” means the status of PIP coverage for an injured party pursuant to N.J.S.A. 39:6A-5.

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

“Eligible charge” means the treating medical provider’s usual, customary and reasonable charge or the upper limit on the medical fee schedule as found in N.J.A.C. 11:3-29.6, whichever is lower subject to provisions of N.J.A.C. 11:3-29.4.

“Emergency care” means all medically necessary treatment of a traumatic injury or a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbance and/or symptoms of substance abuse) such that absence of immediate attention could reasonably be expected to result in: death; serious impairment to bodily functions; or serious dysfunction of a bodily organ or part. Such emergency care shall include all necessary care immediately following an automobile accident, including, but not limited to, immediate pre-hospital care, transportation to a hospital or trauma center, emergency room care, surgery, critical and acute care. Emergency care extends during the period of initial hospitalization until the patient is discharged from acute care by the attending physician.

“Multiple treating medical provider” means a treating health care provider as defined herein that provides emergency care, in association with one or more other treating medical providers.

“Notification” or “notice” means a written communication, transmitted by mail, facsimile or electronic message (“E-mail”).

“Personal injury protection” or “PIP” means the coverage set forth at N.J.S.A. 39:6A-4 or 39:6A-3.1.

“PIP information” means: the name and address of the insured and the name and address of the injured party, if different; the name of the PIP insurer and the address established by the insurer for notification of commencement of medical treatment pursuant to N.J.A.C. 11:3-25.3(c); the policy number of the insurance policy providing PIP benefits; and the date of the accident/injury. A treating medical provider may obtain this information from the insured, the injured party, the hospital, a police report or any other reasonably available source.

“Secondary medical providers” means those health care providers who provide medical products, care and services to a person injured in an automobile accident only after

having received a prescription from a treating health care provider. Secondary medical providers shall include, but are not limited to, pharmacists, visiting nurses, prosthetics fabricators and providers of durable medical equipment products. Notwithstanding the existence of a prescription of a treating medical provider, physical therapists, chiropractors and any secondary medical provider who seeks payment of an eligible charge in excess of \$500.00 for individual services or products provided on one occasion or in the course of 30 days shall not be considered secondary medical providers.

“Treating health care provider” means those persons licensed or certified to perform health care treatment or services compensable as medical expenses and shall include, but not be limited to:

1. A hospital or health care facility which is maintained by a state or any of its political subdivisions;
2. A hospital or health care facility licensed by the Department of Health and Senior Services;
3. Other hospitals or health care facilities designated by the Department of Health and Senior Services to provide health care services, or other facilities, including facilities for radiology and diagnostic testing, freestanding emergency clinics or offices, and private treatment centers;
4. A nonprofit voluntary visiting nurse organization providing health care services other than in a hospital;
5. Hospitals or other health care facilities or treatment centers located in other states or nations;
6. Physicians licensed to practice medicine and surgery;
7. Licensed chiropractors;
8. Licensed dentists;
9. Licensed optometrists;
10. Licensed pharmacists;
11. Licensed chiropodists (podiatrists);
12. Registered bio-analytical laboratories;
13. Licensed psychologists;
14. Licensed physical therapists;
15. Certified nurse-midwives;
16. Certified nurse-practitioners/clinical nurse-specialists;
17. Licensed health maintenance organizations;
18. Licensed orthotists and prosthetists;
19. Licensed professional nurses;
20. Licensed occupational therapists;
21. Licensed speech-language pathologists;
22. Licensed audiologists;
23. Licensed physician assistants;
24. Licensed physical therapists assistants;
25. Licensed occupational therapy assistants; and

26. Providers of other health care services or supplies, including durable medical goods.

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 “Multiple treating medical provider”, substituted a reference to health care providers for a reference to medical providers; in “Personal injury protection” or “PIP”, inserted a reference to N.J.S.A. 39:6A-3.1; in “Secondary medical providers”, substituted a reference to health care providers for a reference to medical service practitioners and providers following “those” and substituted a reference to health care providers for a reference to medical providers at the end of the first sentence; deleted “Treating medical provider”; and added “Treating health care provider”.

### 11:3-25.3 Notification of commencement of treatment

(a) When medical treatment is rendered for which a claim for payment will be made pursuant to the PIP coverage of a private passenger automobile insurance policy, a treating health care provider shall provide notice to the PIP insurer no later than 21 days following the date of the commencement of such treatment.

(b) In accordance with the PIP information provided by the injured party or the insured, notice shall be sent by the treating health care provider to the insurer at the address established by the insurer for the receipt of such notice.

(c) Insurers shall establish one address where notice must be sent by treating health care providers pursuant to these rules. Insurers shall provide this address, and may provide a facsimile transmission number, and E-mail address if any, on all insurance identification cards issued by the insurer after January 6, 1997.

(d) In accordance with the provisions of N.J.A.C. 11:3-25.10, insurers shall file with the Department the address, and may provide a facsimile transmission number, and E-mail address, if any, where notice of commencement of treatment should be sent. Insurers shall also include the name and telephone number of a contact person at the insurer for this purpose. Such information shall be added to a list of insurer addresses maintained by the Department.

(e) Notice sent to the address printed on a valid insurance identification card or on the Department’s current list of addresses shall be presumed to have been sent to the proper address.

(f) Within 14 days after receiving notice of the commencement of treatment, the insurer shall notify the treating health care provider of the coverage status of the person receiving treatment. If the notice from the insurer states that the coverage status of the person receiving treatment is unknown, the insurer shall make a determination of coverage and provide written confirmation to the treating health care provider no later than 60 days from receipt of notice of commencement of treatment. Examples where the coverage status may not be known are when the injured person is not a named insured, principal or occasional operator, or is not otherwise listed as a resident of the insured household on the most recent information provided to the insurer by the named insured.

(b) An insurer shall, within 10 business days from the date it assigns the claim to defense counsel, provide the Fund with the name, address and telephone number of defense counsel.

(c) An insurer shall, within 10 business days, provide written notice to the Fund of any changes, substitutions or replacements which occur with respect to any of the persons identified pursuant to (a)2 or (b) above.

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

### 11:3-28.15 Procedures for handling an assigned uninsured motorist claim

(a) Each insurer shall:

1. Perform an investigation in accordance with the procedures set forth in the instruction sheet and obtain the following:

- i. Confirmation that there is no insurance available for the claim;
- ii. Confirmation of the claimant's eligibility based on N.J.S.A. 39:6-70 or 39:6-78;
- iii. A police report;
- iv. Witness statements;
- v. Copies of medical reports, bills and hospital records; and
- vi. A central index bureau ("C.I.B.") report;

2. Forward to assigned defense counsel a copy of the instruction sheet for reference; and

3. Forward to the Fund's claim adjuster for certification responses to interrogatories propounded upon the Commissioner in hit and run cases.

(b) An insurer or assigned defense counsel shall obtain and file with the Fund, within five business days of receipt, all documents which relate to the claim including, but not limited to:

1. Documents relating to the discovery of information including, but not limited to:

- i. Interrogatories propounded by the claimant and any responses thereto;
- ii. Responses to interrogatories propounded by the insurer;
- iii. Deposition notices; and
- iv. Deposition transcripts;

2. Documents filed with the court including, but not limited to:

- i. Motion papers;
- ii. Briefs; and

iii. Settlement or consent agreements; and

iv. Orders entered by the Court; and

3. Scheduling notices, notices of arbitration and any results thereof; other correspondence from the courts; and any judgments or court decisions which affect the claim in whole or in part and copies of trial or hearing transcripts upon the request of the Fund.

(c) Within 60 days of receipt of a claim assignment, an insurer shall file with the Fund a completed 60-day Report as set forth in Appendix B, Item 2, incorporated herein by reference, and the following information:

1. The results of the investigation conducted in accordance with (a)1 above;
2. An estimate of the amount of damages involved;
3. A brief synopsis of the status of the case;
4. All answers to interrogatories not previously filed, which have been propounded on the Fund, the Commissioner or any known defendants;
5. Answers to interrogatories propounded by the insurer; and
6. Any other pertinent documents filed with the court in connection with the matter which were not previously forwarded to the Fund.

(d) At six-month intervals, following the initial receipt of a case assignment, an insurer shall file with the Fund an updated, detailed Six-Month Summary Report as set forth at Appendix B, Item 3, incorporated herein by reference, and the following information:

1. An update of the information set forth in (b) and (c) above;
2. A brief summary which describes the status of the case, outlines the action taken to date, sets forth anticipated future action and/or strategy; and the anticipated outcome;
3. The discovery of any evidence of a fraudulent claim. Such information shall be referred to an insurer's special investigation unit. The unit shall, thereafter, forward its findings to the Department's Fraud Unit with a copy to the Fund; and
4. All other relevant information discovered during the pendency of the claim.

(e) An insurer shall provide notice to the Fund of any and all hearings, motions, arbitration and trial dates in a manner which provides sufficient notice to facilitate the Fund's review of the file prior thereto. An insurer shall provide notice to the Fund's claim adjuster either by telephone and confirming letter, facsimile transmission or mail.

(f) An insurer shall consult with the Fund and obtain prior approval from the Board before:

1. Entering into a settlement or judgment by consent in accordance with N.J.S.A. 39:6-72 or 6-82;
2. Proceeding to trial; or
3. Filing a motion for reconsideration.

(g) An insurer shall consult with the Fund and obtain prior approval from the Board before filing an appeal from an order or judgment adverse to the Fund.

(h) Prior approval from the Board shall be obtained by telephoning the Fund at (609) 292-3100 or by writing to:

Fund Adjuster  
Unsatisfied Claim and Judgment Fund  
CN 325  
Trenton, NJ 08625

(i) For each assigned claim, an insurer shall review all medical bills submitted by claimants to ensure compliance with the medical fee schedule set forth at N.J.A.C. 11:3-29. Where a medical bill is not in compliance with N.J.A.C. 11:3-29, the insurer shall immediately notify the Fund of the discrepancy.

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

#### **11:3-28.16 (Reserved)**

#### **11:3-28.17 Penalties**

Failure of an assigned insurer to comply with these rules shall result in the imposition of penalties prescribed by law.

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

2. When the service or equipment is provided by reason of the election by the insured to receive treatment outside the State of New Jersey, the reasonable and necessary costs shall not exceed fees set forth in the fee schedules for the geographic region in which the insured resides.

(e) The insurer's limit of liability for any medical expense benefit for any service or equipment not set forth in the fee schedules shall be a reasonable amount considering the fee schedule for similar services or equipment in the region where the service or equipment was provided or, in the case of elective services or equipment provided outside the State, the region in which the insured resides. Where the fee schedule does not contain a reference to similar services or equipment as set forth in the preceding sentence, the insurer's limit of liability for any medical expense benefit for any service or equipment not set forth in the fee schedules shall not exceed the usual, customary and reasonable fee.

(f) The following shall apply to multiple treatment procedures:

1. When multiple procedures are performed on the same patient by the same provider at the same time or during the same visit, it is virtually never appropriate for the fee to be the sum of the fees for each procedure. The principle procedure at a single session shall be paid at 100 percent of the eligible charge, the second procedure at no more than 50 percent of the upper limit on the fee schedule for that particular procedure, and if performed, any additional procedures at no more than 25 percent of the upper limits on the fee schedule for those particular procedures. If the total amount resulting from application of the multiple procedures reduction formula is in excess of the total amount of the billing, the billing may be submitted and paid without change assuming it is not in excess of usual, customary and reasonable charges for the services provided. If the total amount is less than the total amount of the billing, then the total amount of the billing must be reduced accordingly. When appropriate, providers may apply this multiple procedures reduction formula in the process of preparing their billings, clearly indicating that this has been done.

2. If two or more providers in different specialties perform procedures or if one provider performs multiple procedures on different body parts or regions, each individual provider, or each individual body region or body part procedure may be reimbursed separately. For purposes of such billing, the body shall be divided into: head (including skull and brain); face; neck; chest; abdomen; back; and pelvic regions. In addition, the extremities shall be subdivided into right and left: upper arm, elbow, forearm, wrist and hand; and thigh, knee, lower leg, ankle and foot. This reference to specific body parts or regions is included as a guideline to be used in billings for operative and surgical procedures. It is not intended to apply to nor should it be used in connection with billings

submitted for nonsurgical or physiotherapy type services provided during the same visit except as a means of describing the treatment rendered.

3. Nothing in this subchapter shall be construed to prevent PIP insurers or motor bus insurers from paying only reasonable and appropriate fees when multiple procedures are performed at the same time or multiple services provided during the same visit.

(g) Artificially separating or partitioning what is inherently one total procedure into subparts which are integral to the whole for the purpose of increasing medical fees is prohibited. Such practice is commonly referred to as "unbundling" or "fragmented" billing. For surgery and many other procedures, it is established practice to include follow-up care and visits as part of the basic procedure charge. Such charges shall not be subject to additional billings. The existence of a CPT-4 code, per se, does not imply the right to receive separate compensation for the procedure/sub-procedure so described. If a procedure is judged to be part of the major or principal procedure, only the charges for the principal procedure are eligible.

(h) The insurer's limit of liability for medically necessary assisting surgeon expenses shall be 20 percent of the primary physician's allowable fee determined pursuant to the fee schedule and rules.

(i) The insurer's limit of liability for the professional component of allowable global charges for radiology services shall be 40 percent of the global charge.

Amended by R.1992 d.170, effective April 6, 1992.  
See: 23 N.J.R. 3203(a), 24 N.J.R. 1347(a).

Billing for multiple procedures clarified in (f).  
Amended by R.1993 d.25, effective January 4, 1993.  
See: 24 N.J.R. 3605(a), 25 N.J.R. 140(a).

Motor bus insurers added.  
Amended by R.1993 d.395, effective August 2, 1993.  
See: 25 N.J.R. 229(b), 25 N.J.R. 3466(b).  
Amended by R.1994 d.564, effective November 21, 1994 (operative January 1, 1995).  
See: 25 N.J.R. 4706(a), 26 N.J.R. 4616(b).  
Administrative Correction to (a).  
See: 26 N.J.R. 5041(a).

#### Case Notes

A medical equipment supplier was a "medical institution" which was subject to the pricing and disclosure provisions of the No Fault Act and its regulations; thus an automobile insurer need not pay more than the scheduled fees or the provider's usual, customary, and reasonable fee and was entitled to information on the cost of products. *Allstate Insurance Co. v. A & A Medical Supplies*, 330 N.J.Super. 360, 749 A.2d 890 (N.J.Super.L. 1999).

No-fault insurer should have been allowed to adjust insured's medical bills to reflect relevant medical fee schedule. *Leeman v. Eagle Ins. Co.*, 707 A.2d 1037, 309 N.J.Super. 525.

Under Commissioner of Insurance's medical fee regulations allowing physical therapists to bill personal injury protection claimants according to modality, rather than charging flat rate fee, rates charged had to be consistent with the therapists' customary rates in order to be considered reasonable; remand. *Cobo by Hudson Physical Therapy Services v.*

Market Transition Facility by Material Damage Adjustment Corp., 293 N.J.Super. 374, 680 A.2d 1103 (A.D.1996).

Former patient failed to establish that charges reflected in bill were not usual, customary, and reasonable; hospital's witness testified that charges were in accord with other teaching institutions in area and were approved by state insurance commission, and patient's insurance company paid its full share of all charges and did not reject any by claiming that they were not usual, customary, reasonable, and/or necessary. Hahnemann University Hosp. v. Dudnick, 292 N.J.Super. 11, 678 A.2d 266 (A.D.1996).

Examination fees were not reasonable despite being consistent with prevailing rates. Thermographic Diagnostics, Inc. v. Allstate Ins. Co., 125 N.J. 491, 593 A.2d 768 (1991).

Agency-promulgated schedule of fees was pertinent to reasonableness of fees charged. Thermographic Diagnostics, Inc. v. Allstate Ins. Co., 125 N.J. 491, 593 A.2d 768 (1991).

**11:3-29.5 Balance billing prohibited**

No health care provider may demand or request any payment from any person in excess of those permitted by the medical fee schedules, nor shall any person be liable to any health care provider for any amount of money which results from the charging of fees in excess of those permitted by the medical fee schedules.

**11:3-29.6 Medical Fee Schedules**

(a) The following is the Medical Fee Schedule for physicians' services:

STATE OF NEW JERSEY  
PERSONAL AUTO INJURY FEE SCHEDULE—PHYSICIANS' SERVICES

CPT-4 Code	Description of Services	Region 1	Region 2	Region 3
10060	I&D ABSCESS, SIMPLE OR SINGLE	\$91	\$86	\$81
10061	I&D ABSCESS, COMPLICATED OR MULTIPLE	275	269	269
10120	INCIS & REMOVAL OF FOREIGN BODY, SIMPLE	99	91	86
10121	INCIS & REMOVAL, MULTIPLE OR COMPLICATED	301	301	301
10140	I&D OF HEMATOMA, SIMPLE	80	75	84
10141	I&D OF HEMATOMA, COMPLICATED	583	583	583
10160	PUNCTURE ASPIRATION OF ABSCESS	92	102	112
11000	DEBRIDEMENT OF SKIN; UP TO 10%	37	37	37
11040	DEBRIDEMENT; SKIN, PARTIAL THICKNESS	52	43	48
11041	DEBRIDEMENT; SKIN, FULL THICKNESS	93	107	113
11042	DEBRIDEMENT; SKIN, SUBCUTANEOUS TISS	188	162	140
11043	DEBRIDEMENT; SKIN, SUB-Q TISS, MUSCLE	454	454	486
11044	DEBRIDEMENT; SKIN, SUB-Q, MUSCLE, BONE	648	648	648
11730	NAIL AVULSION, SIMP, PARTIAL OR COM	61	61	50
11750	EX NAIL/MATRIX, PART/COMP, PERMANENT	346	372	377
11765	WEDGE EXC OF SKIN NAIL FOLD	146	146	146
12001	SIMPLE REPAIR, SCALP ETC; TO 2.5 CM	107	124	120
12002	SIMPLE REPAIR, SCALP ETC; 2.6-7.5 C	162	162	162
12004	SIMPLE REPAIR, SCALP ETC; 7.6-12.5 C	233	233	233

CPT-4 Code	Description of Services	Region 1	Region 2	Region 3
12011	SIMP REPAIR, FACE ETC; TO 2.5 CM	131	152	147
12013	SIMP REPAIR, FACE ETC; 2.6-5.0 CM	190	190	189
12031	INTER REPAIR, SCALP ETC; TO 2.5 CM	207	207	207
12032	INTER REPAIR, SCALP ETC; 2.6-7.5 C	277	277	277
12041	INTER REPAIR, NECK, ETC; TO 2.5 CM	218	218	218
12042	INTER REPAIR, NECK ETC; 2.6-7.5 CM	286	286	286
12051	INTER REPAIR, FACE ETC; TO 2.5 CM	438	394	482
12052	INTER REPAIR, FACE ETC; 2.6-5.0 CM	540	540	594
13101	COMPLEX REPAIR, TRUNK; 2.6-7.5 CM	491	491	491
13120	COMPX REPAIR, SCALP ETC; 1.1-2.5 CM	405	405	405
13121	COMPX REPAIR, SCALP ETC; 2.6-7.5 CM	637	637	637
13131	COMPX REPAIR, CHEEKS ETC; 1.1-2.5 CM	547	547	567
13132	COMPX REPAIR, CHEEKS ETC; 2.6-7.5 CM	846	846	809
13150	COMPX REPAIR, NOSE ETC; TO 1.0 CM	438	438	438
13151	COMPX REPAIR, NOSE ETC; 1.1-2.5 CM	639	639	648
13152	COMPX REPAIR, NOSE ETC; 2.6-7.5 CM	1040	1040	1040
13300	COMPLICATED REP; OVR 7.5 CM ANY AREA	1431	1431	1431
14000	ADJ TISS TRANSFER, TRUNK; TO 10 SQ CM	513	513	542
14001	ADJACENT TIS TRANS OR REARR, TRUNK	920	920	951
14020	ADJ TISS TRANS, SCALP ETC; TO 10 SQ CM	1096	1096	1096
14040	ADJ TISS TRANS, CHIN ETC; TO 10 SQ CM	1225	1225	1269
14060	ADJ TISS TRANS, NOSE ETC; TO 10 SQ CM	1589	1589	1589
15100	SPLIT GRAFT, TRUNK ETC; TO 100 SQ CM	1261	1261	1261
16000	INITIAL TREATMENT, FIRST DEGREE BURN	75	75	75
16020	DRESS/DEBRIDE SM BURN; NO ANESTHESIA	87	87	93
16025	DRESS/DEBRIDE MED BURN; NO ANES	124	124	124
17250	CHEMICAL CAUT OF GRANULATION TISS	57	57	54
19000	PUNCTURE ASPIRATION CYST PAST	107	118	113
20220	BIOPSY, BONE, TROC AR OR NEEDLE; SUPER	317	317	313
20550	INJ, TEND SHEATH, LIG-AMENT, TRIGGER P	96	96	91
20600	ARTHROCENTESIS, ASP &/OR INJ; SM JNT	81	86	86
20605	ARTHROCEN, ASP &/OR INJ; INTER JOINT	86	92	96
20610	ARTHROCEN, ASP &/OR INJ; MAJOR JOINT	102	113	113
20670	REMOVAL OF IMPLANT; SUPERFICIAL	187	187	187
20680	REMOVAL OF IMPLANT; DEEP	806	809	864
21320	MANIP TREATMNT, NOSE FX; STABILIZA-TION	719	719	719
21455	CLOSE MANIP TREAT, FIXATN, MANDIB FX	2398	2398	2398
21800	RIB, FRACTURE(S), CLOSED (SIMPLE)	86	86	86
23350	INJECTION PROC, SHOULDER ARTHRO-GRAPH	132	132	132

CPT-4 Code	Description of Services	Region 1	Region 2	Region 3	CPT-4 Code	Description of Services	Region 1	Region 2	Region 3
23420	REPAIR SHOULDER CUFF AVULSION, CHRON	3294	3294	3294	27802	TX CLOS TIB & FIB FX, SHAFT; W/MANIP	1046	1046	1046
23500	TREAT CLOSED CLAVICLE FX; NO MANIPUL	237	237	237	27808	TX CLOS BIMALLEOLAR ANKL FX, W/O MAN	648	648	648
23505	TREAT CLOSED CLAVICLE FX; W/MANIPUL	468	468	468	27810	TX CLOS BIMALLEOLAR ANKLE FX, W/MAN	803	803	803
23600	TREATMENT CLOSED HUMERAL FX; NO MANIP	430	430	430	27814	OPEN TX CLOS/OPEN BIMALL ANKLE FX	2522	2522	2522
23605	TREATMENT CLOSED HUMERAL FX; W/MANIP	617	617	617	27818	TX CLOS TRIMALL ANKLE FX; W/MANIP	1107	1107	1107
23650	TREAT CLOSED SHOULDER DISLOC, W/MANIP	354	354	339	27822	OPEN TX CL/OP TRIMALL ANKLE FX; ONLY	3155	3155	3155
23655	TREATMENT OF CLOSED SHOULDER DISLOC	450	450	450	28090	EXC LES TEN, SHEATH, CAP W/SYNOV; FOOT PART EX, PHALANXO	844	844	844
24640	RADIAL HEAD SUBLUXATION, CHILD, MANI	194	194	194	28124	FASCIAL REL	687	687	687
24650	CLOSED RADIAL HEAD/NECK FX; NO MANIP	505	505	505	28126	CONDYLECTOMY, PHALANX BASE SNG EA	648	648	648
25111	EXCISION GANGLION, WRIST; PRIMARY	1000	1000	1101	28153	RESECTION, HEAD OF PHALANX	648	648	648
25500	CLOSED RADIAL SHAFT FX; NO MANIP	452	452	452	28160	HEMIPHALANGECTOMY/JOINT EX, SNG, EACH	917	917	917
25505	CLOSED RADIAL SHAFT FX; W/MANIP	559	559	559	28455	TRTM. OF CLOSED TARSAL BONE FRACTURE	347	347	366
25560	CLSD RADIAL & ULNAR SHAFT FX; NO MANIP	728	728	728	28470	METATARSAL FX CLSD; W/O MANIP, EA W M	384	384	384
25565	CLSD RADIAL & ULNAR SHAFT FX; W/MANIP	843	843	843	28475	METATARSAL FX CLSD; W/MANIP, EA	390	390	390
25600	C/S DIS RAD FX/EPIPHYS SEP; NO MANIP	498	486	513	28490	PHALANGES FX, CLSD; W/O MANIPULATION	148	148	148
25605	C/S DIS RAD FX/EPIPHYS SEP; W/MANIP	657	594	702	28510	PHAL NT GT TOE FX CLSD W/O MANIP, EA	132	132	132
25610	CLSD COMPLEX, DIST RAD FX/EPIPHY SEP	719	719	719	28515	PHAL NT GT TOE FX CLSD W/MANIP EA	219	219	219
25635	TREATMENT CLOSED CARPAL BONE FX W M	481	481	481	29065	CAST SHOULDER TO HAND (LONG ARM)	216	226	216
26600	TX CLOSED METACARP FX, SNG; W/O MANIP	323	323	346	29075	CAST ELBOW TO FINGER (SHORT ARM)	188	216	205
26605	TX CLOSED METACARP FX, SNG; W/MANIP	428	428	432	29085	CAST HAND & LOWER FOREARM-GAUNTLET	185	185	185
26720	TX CLOS PHALAN SHAFT FX; W/O MANIP	224	224	210	29105	SPLINT LONG ARM (SHOULDER TO HAND)	137	137	137
26725	TX CLOS PHALANG SHAFT FX, W/MANIP	344	344	344	29125	SPLINT SHORT ARM (FOREARM-HAND(STAT))	114	135	135
26750	TX CLOS DIST PHALANG FX; W/O MANIP	156	156	156	29130	SPLINT FINGER; STATIC STRAPPING; SHOULDER	91	91	91
26755	TX CLOS DIST PHALANG FX; W/MANIP	194	194	194	29240	STRAPPING; ELBOW OR WRIST	89	89	89
26770	TX CLOS INTERPHAL JNT DIS; W/O ANESTH	154	154	154	29260	STRAPPING; ELBOW OR WRIST	69	69	70
27125	PARTIAL HIP REPLACEMENT, PROSTHESIS	4429	4429	4429	29280	STRAPPING; HAND OR FINGER	58	58	62
27130	ARTHROPLAS; TOT HIP REPLAC W/WO GRF	4932	4618	5185	29345	CAST LONG LEG (THIGH TO TOES)	279	279	279
27236	OPEN TX CLOSE/OPEN FEM FX, INT FIX	3422	3422	3422	29365	CAST CYLINDER (THIGH TO ANKLE)	208	208	208
27244	OPEN TX CHANTERIC FEM FX; W INT FIX	2971	2971	2971	29405	CAST SHORT LEG (BELOW KNEE TO TOES)	243	269	243
27370	INJECT PROCEDURE KNEE ARTHROGRAPHY	139	139	165	29425	CAST SHORT LEG; WALKING/AMBULATORY	280	291	296
27447	ARTHRO, KNEE, TOT, CNDYL&PLAT; MED & LAT	5022	5022	5402	29505	SPLINT LONG LEG (THIGH-ANKLE/TOES)	67	67	67
27506	OPEN TX CLOS/OPEN FEM SHAFT FX	3955	3955	3955	29515	SPLINT SHORT LEG (CALF TO FOOT)	128	124	135
27520	PATELLA, FRACTURE, CLOSED (SIMPLE), WITHOUT RED	444	444	444	29530	STRAPPING; KNEE	93	93	91
27750	TX CLOSED TIBIAL SHAFT FX; W/O MAN	648	648	648	29540	STRAPPING; ANKLE	75	75	75
27752	TIBIA, SHAFT FRACTURE, CLOSED (SIMPLE)	817	817	817	29550	STRAPPING; TOES	59	59	65
27760	TX CLOSED DISTAL TIBIAL FX; W/O MAN	451	451	451	29580	STRAPPING; UNNA BOOT	90	107	102
27762	TX CLOS DIST TIBIAL FX; W/MANIP	544	544	544	29700	CAST REM/BIV; GAUNTLET/BOOT/BODY	90	90	90
27786	TX CLOSED DISTAL FIBULAR FX; W/O MAN	521	521	518	29705	CAST REM/BIV; FULL ARM/FULL LEG	83	83	86
27788	TX CLOSED DISTAL FIBULAR FX; W/MAN	602	602	602	29870	ARTHROSCOPY, KNEE, DIAG, W/WO SYNOV BX	1785	1785	1785
					29874	ARTHROSCOPY, KNEE, SURG; REMOVE F-BODY	2452	2452	2452
					29875	ARTHROSCOPY, KNEE, SURG; SYNOVECTMY, LTD	2594	2594	2594

CPT-4 Code	Description of Services	Region 1	Region 2	Region 3	CPT-4 Code	Description of Services	Region 1	Region 2	Region 3
29876	ARTHROSCOPY, KNEE, SURG; SYNOVECT, COMP	2798	2798	2798	36425	VENIPUNCTURE, CUT-DOWN; AGE 1 OR OVER	59	59	59
29877	ARTHROSCOPY, KNEE, SURG; CHONDROPLASTY	2640	2640	2640	36430	TRANSFUSION, BLOOD/COMPONENTS; INDIR	153	153	162
29880	ARTHRO, KNEE SRG, W/MENISECTOMY	2998	2998	2998	36488	PLACE CENT VEN CATH; PERCUT; AGE 2 & <	156	156	156
29881	ARTHROSCOPY, W/MENISCTMY MED OR LAT	2627	2700	3106	36489	PLACE CENT VENOUS CAT; PERCUT, > 2	324	273	316
29882	ARTHROSCOP, W/MENSCUS REP MED OR LAT	3189	3189	3189	36491	PLCMT CENT VEN CATH HYPERAL, > 2 YR	444	442	437
29888	ARTHRO, AID ANT CRUC LGMNT, RP/AG/RC	4567	4567	4567	36600	ART PUNCTURE, WITHDRAW BLD FOR DIAG	105	102	107
30200	INJECTION TURBIDATE(S), THERAPEUTIC	76	76	75	36620	ART CATH/CANNULAT FOR SAMP; PERCUTAN	216	216	216
30300	REMOVAL FOR BODY, INTRANSAL; OFFICE	96	96	96	36800	INS CANNULA HEMODIALYSIS; VEIN-VEIN	571	571	571
30420	RHINOPLASTY; INCL MAJOR SEPTAL REP	4041	4041	4213	36830	ARTERIOVEN FIST, NON-AUTOGENOUS GRAFT	2833	2833	2833
30520	SEPTOPLASTY W/WO CARTILAGE IMPLANT	2479	2479	2700	36860	CANNULA DECLETTING; WO BALLOON CATH	73	73	73
30901	CONTROL NASAL HEMORRHAGE, ANT SMP; U	104	107	102	37609	LIGATION/BIOPSY, TEMPORAL ARTERY	584	584	584
30903	CONTROL NASAL HEMORRHAGE, ANT, COMP; U	159	143	162	37620	INTERRUPT, INFERIOR VENA CAVA BY SUT	2539	2539	2539
30905	CONTROL NASAL HEMORRHAGE POST; INIT	405	405	405	43220	ESOPHAGOSC, RIG/FIBEROPT; W/DIR DILAT	918	918	918
31000	LAVAGE CANNULATION; MAXIL SINUS, UNI	113	113	124	43235	ESOPHAGOGASTRODUODENOSCOPY; DIAGNOST	594	541	648
31201	ETHMOIDECTOMY; INTRANASAL, TOTAL	2714	2714	2714	43245	ESOPHAGOGASTRODUODENOSCOPY, DILATION	883	883	883
31250	NASAL ENDOSCOPY, DIAGNOSTIC	226	226	226	43246	ESOPHAGOGASTRODUODENOSCOPY, FOR TUBE	1093	1093	1093
31500	INTUBATION, ENDOTRACHEAL EMERGENCY	275	275	269	43247	ESOPHAGOGASTRODUODENOSCOPY; W/REM FB	988	988	988
31505	LARYNGOSCOPY INDIRECT; DIAGNOSTIC	121	121	129	43255	ESOPHAGOGASTRODUOD; FOR HEMORRHAGE	1053	1053	1053
31515	LARYNGOSCOPY, DIRECT; FOR ASPIRATION	346	346	346	43260	ERCP W/WO BX +/-SPEC COLLECTION	1000	939	1026
31525	LARYNGOSCOPY, DIR; DIAG, EXCEPT NEWBORN	421	421	421	43450	ESOPHAG, INDIRECT DILATE SOUND, INIT	152	152	152
31575	LARYNGOSCOPY, FLEX FIBERSCOPIC; DIAG	351	377	351	43451	ESOPHAG, INDIRECT DILATE SOUND, SUBS	162	162	162
31600	TRACHEOSTOMY, PLANNED	1075	1075	1075	43830	GASTROSTOMY, TEMPORARY (SEP.PROC.)	1594	1594	1594
31622	BRONCHOSCOPY, DIAG; W/WO CELL WASHNG	737	702	778	44005	ENTEROLYSIS	2485	2485	2485
31645	BRONCHOSCOPY; W/ASP TRACH TREE INIT	756	756	756	44120	ENTERECTOMY, RES SM INTES; W/ANASTOMO	2994	2994	2994
32000	THORACENTESIS, INITIAL/SUBSEQUENT	305	249	291	44140	COLECTOMY, PARTIAL; W/ANASTOMOSIS	3102	3102	3284
32020	TUBE THORACOSTOMY W/WO WATER SEAL	806	853	804	44143	COLECTOMY, PART; END COLOST/CLS DIST	3461	3461	3461
32405	BX LUNG/MEDASTINUM; PERCUTAN NDLE	408	408	408	44145	COLECTOMY, PARTIAL; W/COLOPROCTOSTOMY	3501	3501	3501
32480	LOBECTOMY, TOTAL OR SEGMENTAL	5660	5660	5660	44160	COLECTMY W/REM TERM ILEUM & ILEO-COL	3354	3354	3354
33210	INS TEMP CARD ELECT/PACEMAKER CATH	831	831	831	45300	PROCTOSIGMOIDOSCOPY; DIAGNOSTIC (SEP)	129	129	124
33212	INSERT/REPLC PULSE GENERATOR/AICD	1262	1262	1262	45330	SIGMOIDOSCOPY, FLEX FIBEROPTIC; DIAGN	269	254	259
35301	THROMBOENDARDECTOMY; CAROTID, ETC; NCK	4215	4215	4215	45355	COLONOSCOPY W/SIGMOID, TRANSAB/COLOT	354	377	335
35656	BYPASS GFT; FEMORAL-POPLITEAL	3937	3937	3937	45378	COLONOSCOPY, FIBER BEYOND SPLEN FLEX	809	702	783
36000	INTRO NEEDLE/INTRACATHETER, VEIN; UN	118	103	124	46040	I & D ISCHIORECTAL/PERIRECTAL ABSCESS	466	466	466
36010	INTRO CATH; SUP/INF VENA CAVA, RT HRT	470	470	446	46050	I & D PERIANAL ABSCESS, SUPERFICIAL	155	155	155
36200	CATHETER; AORTANA CAVA, RT HRT	462	462	464	46600	ANOSCOPY, DIAGNOSTIC (SEPARATE PROC)	93	114	93
36400	VENIPUNCTURE, < 3 YR; FEM JUGULAR/SAGI	50	50	50	46604	ANOSCOPY, DX W/DILATE, DIRECT, INSTRUM	124	124	124
36410	VENIPUNCTURE, > 3 YR, DIAG/THER, COMPL	41	41	43	46700	ANOPLASTY FOR STRICTURE, ADULT	1296	1296	1296
36415	ROUTINE VENIPUNCTURE 4 SPECMEN COLL	10	10	10					

CPT-4 Code	Description of Services	Region 1	Region 2	Region 3	CPT-4 Code	Description of Services	Region 1	Region 2	Region 3
47000	BIOPSY LIVER, NEEDLE, PERCUTANEOUS	396	396	396	62282	INJ NEUROLYTIC SUB; EPIDURAL/CAUDAL	486	486	486
47600	CHOLECYSTECTOMY	1991	1991	2433	62284	INJ PROC MYELOGRAPHY, SPINAL/POST	535	535	589
47605	CHOLECYSTECTOMY W/CHOLANGIOGRAPHY	2183	2106	2296	62289	INJ SUB OT THAN ANES/NEUROLYT; EP/C	420	420	432
47610	CHOLECYSTECTOMY W/EXPL COMMON DUCT	2686	2686	2686	63030	LAMINOTOMY; 1	4650	4650	4861
49000	EXPLOR LAPAR/CELIOTOMY W/WO BX(S)	2114	2114	2204	64440	INTRSP, LMBR, UNILAT INJ, ANESTH AGNT; PAV	92	92	83
49080	PERITONEOCENTESIS, ABD PARACEN; INIT	202	216	247	64445	INJ, ANESTH AGNT; SCIATIC NERV	113	113	113
49421	INS INTRAPERI CANN/ CATH DRAIN, PERM	1012	1012	1012	64450	INJ, ANESTH AGNT; OT PERIPH NRV/BRAN	84	84	86
50230	NEPHRECTOMY, RAD, W/RGNL LYMPHADEC	3916	3916	3916	64505	INJ, ANESTH AGNT; SPHENOPALATINE GAN	432	432	432
50392	INTRO OF INTRACATHETER RENAL PELVIS	666	666	666	64640	DESTR BY NEUROLYTIC AGNT; OT PER NRV	118	118	118
50394	INJECT PROC FOR PYELOGRAPHY (SEPARA)	122	122	122	64721	NEUR &/ TP; MEDIAN NRV @ CARPAL TUN	1380	1620	1620
51600	INJ PROC CYSTOGRAPHY/VOID URCYSTOG	80	80	80	65205	REM FB, EXTERN EYE; CONJUNC SUPERFI	53	53	53
51700	BLAD IRRIG, SIMP, LAVAGE &/INSTILLA	70	65	78	65210	REM FB, EXTERN EYE; CONJUNC EMBEDDE	80	80	80
51725	SIMPLE CYSTOMETROGRAMIC AGNT	166	166	166	65220	REM FB, EXTERN EYE; CORN, W/O SLIT L	103	103	103
51736	SIMPLE UROFLOWMETRY	86	86	86	65222	REM FB, EXTERN EYE; CORN W/SLIT LM	112	112	113
51741	ELECTRONIC UROFLOWMETRY	178	178	178	65420	EX OR TRANSPOS PIERYGIUM; W/O GRAFT	1296	1296	1296
52000	CYSTOURETHROSCOPY ETHROPX, SIMP	249	249	304	65435	REM CORNEA EPITHELIUM W/WO CHEMOCAU	156	156	156
52005	CYSTOURETHROSC, W/URETERAL CATH	543	489	594	67101	REP RET DETACH, CRYOTHERAPY/DIATHERM	1646	1646	1646
52204	CYSTOURETHROSC, W/BIOPSY	512	512	512	67105	REP RET DETACH; PHOTCOAG, W/WO DRAIN	1635	1635	1635
52276	CYSTOURETHROSC; DIR VIS INT URTHROT	964	964	964	67107	REP RETINAL DETACH; SCLERAL BUCKLIN	3713	3713	3713
52281	CYSTOURETHROSC W/DILAT URETH STR	464	432	486	67145	PROPHY RET DETACH; PHOTOCOAGULATION	1508	1508	1508
52310	CYSTOURETHROSC; W/REM FB UR/BLAD, SIM	582	582	631	67500	RETROBULBAR INJECTION; MEDICATION	126	126	126
52332	CYSTOURETHROSC; W/INS INDWELL STENT	866	866	945	69420	MYRING W ASPIRE &/EUST TUBE INFLA	167	167	183
52335	CYSTOURETHROSC; W/URETEROSC & PYELOS	934	934	934	69433	MYRNG/TYMPNOSTMY, LOC/TOP ANES, TUBE	306	306	324
52500	TRNSURETH RESECT OF BLADDER NECK	1620	1620	1620	69436	MYRING/TYMPANOSTMY, GEN ANES; W TUBE	704	704	704
53600	DILAT URET STRICT, W/SOUND, MALE, IN	77	78	81	70110	X-RAY MANDIBLE, COMP, MIN 4 VIEWS	65	65	65
53601	DILAT URET STRICT, W/SOUND, MALE SU	64	64	63	70150	X-RAY FACIAL BONES, COMP, MIN 3 VIEWS	69	69	69
53620	DIL UR STRIC, FILLIFRM/FOLL, MALE, IN	132	132	132	70160	X-RAY NASAL BONES, COMP, MIN 3 VIEWS	60	60	66
53621	DIL UR STRIC, FILLIFRM/FOLL, MALE, SU	124	124	124	70200	X-RAY ORBITS, COMP, MIN 4 VIEWS	72	72	65
53660	DIL FEM UR W/SUPPOS &/INSTILL, INIT	80	75	70	70210	X-RAY SINUSES, PARTIAL, < 3 VIEWS	82	82	86
53661	DIL FEM UR W/SUPPOS &/INSTILL, SU	69	65	59	70220	X-RAY SINUSES, COMP, MIN 3 VIEWS	95	89	102
53670	CATHETERIZATION; SIMPLE	81	81	91	70250	X-RAY SKULL, < 4 VIEWS, W/WO STEREO	67	67	67
53675	CATHETERIZATION; COMPLICATED	155	155	155	70260	X-RAY SKULL, COMP, MIN 4 VIEWS, W/WO	81	74	70
54235	INJ CORPORA CAVERNOSA W/PHARM AGNTS	105	105	104	70330	X-RAY TMJ, OPEN/CLOSED, BILATERAL	166	166	166
58980	LAPAROSCOPY; SURGICAL	1747	1620	1922	70336	MRI, TEMPOROMANDIBULAR JOINT	875	875	875
59160	CURETTAGE, POSTPARTUM	848	848	848	70355	ORTHOPANTOGRAMAR JOINT	70	70	70
59515	CESAREAN DELIV INC POSTPARTUM CARE	2968	2968	3187	70360	X-RAY NECK, SOFT TISSUE	45	45	43
59812	SPONT ABORT, TRIMEST, COMPLETE SURG	773	773	809	70450	CAT SCAN, HEAD OR BRAIN, W/O CONTRAST	453	371	432
59820	TREAT MISS ABORT, COMP SURG, 1ST TRIM	756	809	809	70460	CAT SCAN, HEAD OR BRAIN W/CONTRAST	517	428	458
62270	SPINAL PUNCTURE LUMBAR; DIAGNOSTIC	216	216	216	70470	CAT SCAN, HEAD/BRN, WO CONT, FOL CONTR	612	535	535
62278	INJ ANESTH SUB; EPIDURAL/CAUDAL, SIM	388	354	388	70480	CAT SCAN, ORBIT/SEL-LA/FOSSA, WO CONTR	536	536	539
62279	INJ ANESTH SUB; EPIDURAL/CAUDAL, CON	378	378	378					

CPT-4 Code	Description of Services	Region 1	Region 2	Region 3	CPT-4 Code	Description of Services	Region 1	Region 2	Region 3
70481	CAT SCAN, ORBIT/SEL- LA/FOSSA, W/CONTR	505	505	505	72170	X-RAY PELVIS, ANTERO- POSTERIOR ONLY	66	59	63
70486	CAT SCAN, MAXILLOFA- CIAL, W/O CONTRAST	539	536	539	72190	X-RAY PELVIS, COMP, 3 OR MORE VIEWS	67	67	67
70487	CAT SCAN, MAXILLOFA- CIAL, W/CONTRAST	357	357	357	72192	CAT SCAN PELVIS, W/O CONTRAST	413	413	372
70490	CAT SCAN, NECK, SOFT TISSUE, W/O CONTR	539	539	539	72193	CAT SCAN PELVIS, W/O CONTRAST	432	392	353
70491	CAT SCAN, NECK, SOFT TISSUE, W/CONTR	501	501	481	72194	CAT SCAN PELVIS, W/O CONT FOL BY CONT	550	550	550
70540	MRI, ORBIT, FACE AND NECK	918	918	918	72196	MRI, PELVIS	938	938	938
70551	MRI, BRAIN, W/O CON- TRAST	891	891	918	72200	X-RAY SACROILIAC JOINTS, < 3 VIEWS	77	77	77
70552	MRI, BRAIN, W/CON- TRAST	1096	1096	1096	72202	X-RAY SACROILIAC JOINTS, 3 OR MORE	93	93	93
71010	X-RAY CHEST, SINGLE, FRONTAL	43	41	48	72220	X-RAY SACRUM & COC- CYX, MIN 2 VIEWS	73	73	75
71020	X-RAY CHEST, 2 VIEWS, FRONTAL/LATERAL	66	57	65	73000	X-RAY CLAVICLE, COM- PLETE	61	60	65
71021	X-RAY CHEST, 2 VIEWS, APICAL LORDOTIC	70	70	70	73010	X-RAY SCAPULA, COM- PLETE	62	62	62
71022	X-RAY CHEST, 2 VIEWS, OBLIQUE PROJECT	80	80	80	73020	X-RAY SHOULDER, 1 VIEW	62	62	65
71030	X-RAY CHEST, COM- PLETE, MIN 4 VIEWS	73	77	77	73030	X-RAY SHOULDER, COMPLETE, MIN 2 VIEWS	70	70	70
71035	X-RAY CHEST, SPECIAL VIEWS	15	15	15	73050	RADIOL EXAM, ACRO- MIOCLAVICULAR, BILAT	81	81	81
71100	X-RAY RIBS, UNILAT, 2 VIEWS	80	68	75	73060	RADIOLOGIC EXAMS, HUMERUS, 2+ VIEWS	73	66	66
71101	X-RAY RIBS, UNI, INCL CHEST, 3 VIEWS	81	89	91	73070	X-RAY ELBOW, A/P & LATERAL	65	59	65
71110	X-RAY RIBS, BILAT, 3 VIEWS	80	80	80	73080	X-RAY ELBOW, COM- PLETE, MIN 3 VIEWS	67	65	70
71111	X-RAY RIBS, BI, INCL CHEST, 4+ VIEWS	96	96	96	73090	X-RAY FOREARM, A/P & LATERAL VIEWS	63	59	59
71120	X-RAY STERNUM, MIN 2 VIEWS	70	70	70	73100	X-RAY WRIST, A/P & LATERAL VIEWS	62	62	59
71250	CAT SCAN, CHEST, W/O CONTRAST	513	467	475	73110	X-RAY WRIST, COM- PLETE, MIN 3 VIEWS	70	65	70
71260	CAT SCAN, CHEST, W/CONTRAST	580	527	507	73120	X-RAY HAND, 2 VIEWS	59	54	59
71270	CAT SCAN, CHEST, WO CONT, FOL BY CONTR	476	476	476	73130	X-RAY HAND, MINIMUM 3 VIEWS	65	65	65
72010	X-RAY SPINE, ENTIRE, SURVEY, A/P & LAT	135	129	145	73140	X-RAY FINGER(S), MINI- MUM 2 VIEWS	56	51	59
72020	X-RAY SPINE, SINGLE VIEW	53	53	43	73220	MRI UPPER EXTREMITY, NOT JOINT	929	929	929
72040	X-RAY CERVICAL SPINE, A/P & LATERAL	65	65	65	73221	MRI UPPER EXTREMITY JOINT	902	902	902
72050	X-RAY CERV SPINE, A/P LAT, MN 4 VIEWS	107	96	107	73500	X-RAY HIP, UNIL, 1 VIEW	63	63	65
72052	X-RAY CERV SPINE, COMP, OBLIQ/FLEX/EX	117	105	113	73510	X-RAY HIP, UNIL, COMP, MIN 2 VIEWS	81	70	75
72070	X-RAY THORACIC SPINE, A/P & LATERAL	73	71	75	73520	X-RAY HIPS, BIL, MIN 2 VIEWS EA SIDE	96	100	102
72072	X-RAY THOR SPINE, AP LAT, CERVICOTHOR	61	61	61	73540	X-RAY PELVIS & HIPS, INFNT/CHILD, MIN 2	73	73	73
72074	X-RAY THOR SPINE, COMP, INCL OBLIQUES	83	83	83	73550	X-RAY FEMUR, A/P & LATERAL VIEWS	75	70	70
72080	X-RAY THORACOLUM- BAR SPINE, A/P & LAT	75	72	70	73560	X-RAY KNEE, A/P & LAT- ERAL VIEWS	70	70	70
72090	X-RAY SPINE, SCOLIOSIS STUDY	79	79	75	73562	X-RAY KNEE, A/P & LAT, OBLIQ, MIN 3 VIEWS	75	80	80
72100	X-RAY LUMBOSACRAL SPINE, A/P & LAT	75	75	75	73564	X-RAY KNEE, COM- PLETE	91	91	91
72110	X-RAY LUMBOSACRAL SPINE, COMPLETE	129	108	118	73590	X-RAY TIBIA, & FIBULA, A/P & LATERAL	65	65	75
72114	X-RAY LUMB/SAC SPINE, INCL BENDING	140	133	131	73600	X-RAY ANKLE, A/P & LATERAL	57	57	70
72120	X-RAY LUMB/SAC SPINE, BENDING ONLY	81	81	89	73610	X-RAY ANKLE, COM- PLETE PROCEDURE	75	65	70
72125	CAT SCAN CERVICAL SPINE WO CONTRAST	453	453	498	73620	X-RAY FOOT, A/P & LAT- ERAL	54	57	55
72128	CAT SCAN THORACIC SPINE WO CONTRAST	572	572	572	73630	X-RAY FOOT, COM- PLETE, MIN 3 VIEWS	70	70	70
72131	CAT SCAN LUMBOSA- CRAL SPINE WO CONTR	550	513	577	73650	X-RAY CALCANEUS, MINIMUM 2 VIEWS	59	64	65
72141	MRI, CERVICAL SPINE, W/O CONTRAST	918	864	891	73660	X-RAY TOE(S), MINI- MUM 2 VIEWS	59	56	57
72148	MRI, LUMBOSACRAL SPINE, W/O CONTRAST	914	914	918	73700	CAT SCAN LEG, W/O CONTRAST	486	486	486

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73720	MRI LOWER EXTREMITY, NOT JOINT	891	908	918	76770	ECHOGRAM, RETROPERITONEAL, COMPLETE	232	221	226
73721	MRI LOWER EXTREMITY JOINT	907	896	891	76775	ECHOGRAM, RETROPERITONEAL, LIMITED	198	198	198
74000	X-RAY ABDOMEN, SINGLE A/P VIEW	54	53	59	76805	ECHOGRAM, PREGNANT UTERUS, COMPLETE	243	216	216
74010	X-RAY ABDOMEN, AP, OBLIQUE, CONE VIEWS	48	44	39	76815	ECHOGRAM, PREGNANT UTERUS, LIMITED	177	146	162
74020	X-RAY ABDOMEN, COMP, DECUB/ERECT	46	54	54	76816	ECHOGRAM, PREG UTERUS, REPEAT/FOLLOWUP	132	132	119
74022	X-RAY ABDOMEN, ACUTE SERIES	61	60	60	76818	FETAL BIOPHYSICAL PROFILE	223	223	216
74150	CAT SCAN ABDOMEN, W/O CONTRAST	465	423	443	76830	ECHOGRAM, TRANSVAGINAL	269	269	269
74160	CAT SCAN ABDOMEN, W/ CONTRAST	575	471	513	76856	ECHOGRAM, PELVIC, NON-OB, COMPLETE	226	185	194
74170	CAT SCAN ABD WO CONT FOLL BY CONT	624	578	583	76857	ECHOGRAM, PELVIC, NON-OB, LTD/FOLLOW	147	164	180
74181	MRI, ABDOMEN FOLL BY CONT	958	958	958	76870	ECHOGRAM, SCROTUM AND CONTENTS	291	291	269
74210	X-RAY PHARYNX & /OR CERV ESOPHAGUS	108	108	108	76872	ECHOGRAM, PROSTATE, TRANSRECTAL	311	311	311
74220	X-RAY ESOPHAGUS	114	112	113	76880	ECHOGRAM, EXTREMITY, NON-VASCULAR	246	246	246
74240	X-RAY UPPER GI, W/O KUB/VIDEO	159	173	178	78006	THYROID IMAGING W/UPTAKE, SINGLE	233	233	243
74241	X-RAY UPPER GI, W/ KUB	182	187	221	78007	THYROID IMAGING W/UPTAKE, MULTIPLE	171	171	171
74245	X-RAY UPPER GI, W/SM BOWEL, MULT FILM	221	220	259	78215	LIVER & SPLEEN IMAGING, STATIC ONLY	164	164	164
74246	UPPER GI SERIES/BARIUM, W/O KUB	174	190	209	78223	HEPATOBIILIARY DUCT IMAGE, INCL GALL	145	145	145
74247	UPPER GI SERIES, BARIUM, W/KUB	216	223	226	78300	BONE IMAGING, LIMITED AREA	193	193	193
74249	UPPER GI, BARIUM, W/SM BOWEL FOLLOW	284	284	300	78305	BONE IMAGING, MULTIPLE AREAS	324	319	313
74250	X-RAY SMALL BOWEL, INCL MULT FILMS	153	153	162	78306	BONE IMAGING, WHOLE SKELETON	296	269	269
74270	CONTRAST X-RAY COLON, BARIUM ENEMA	167	166	199	78315	BONE SCAN, 3-PHASE TECHNIQUE	269	269	269
74280	CONTRAST X-RAY COLON, BARIUM, AIR CONT	232	222	229	78351	BONE DENSITY, DUAL PHOTON ABSORPT	199	199	199
74290	CHOLECYSTOGRAPHY, ORAL CONTRAST	104	116	127	78460	MYOCARDIAL IMAGING, RESTING	258	258	254
74400	UROGRAPHY/PYELOGRAPHY, IV, W WO KUB	168	168	173	78461	MYOCARDIAL IMAGING, EXERCISE	513	568	469
74405	UROGRAPHY, IV, W/HYPERTENSIVE CONTR	210	210	210	78464	MYOCARDIAL IMAGING, TOMOGRAM, REST	628	628	628
74410	UROGRAPHY, INFUSION, DRIP/BOLUS TECH	188	188	188	78465	MYOCARDIAL IMAGING, TOMOGR, EXERCISE	697	697	848
74415	UROGRAPHY, INF, W/NEPHROMATOGRAPHY	198	216	226	78472	CARD BLD POOL, WALL MOTION, REG EJ FR	339	339	339
74420	UROGRAPHY, RETROGRADE, W WO KUB	55	55	55	78481	CARD BLD POOL, 1ST PASS, EJ FRACTION	205	205	205
75754	COR ANGIO, BI, LFT VENT/SUPVALV, S/I	178	178	178	78580	PULM PERFUSION IMAGING, PARTICULATE	115	115	113
76000	FLUOROSCOPY, UP TO ONE HOUR	67	67	65	78707	KIDNEY IMAGING, VASC & FUNCT STUDIES	310	310	310
76140	CONSULT, X/RAY MADE ELSEWHERE, WRITTEN	54	53	54	78990	PROVISION OF DIAG RADIONUCLIDES	89	89	107
76150	XERORADIOGRAPHY	24	23	26	80002	1-2 CLINICAL CHEM TESTS	35	35	35
76375	CAT SCANS, OTHER PLANES	243	232	216	80003	3 CLINICAL CHEMISTRY TESTS	25	25	25
76506	ECHOENCEPHALOGRAPHY	101	101	101	80004	4 CLINICAL CHEMISTRY TESTS	24	24	24
76511	OPHTHALMIC ULTRASOUND, A-MODE	216	216	216	80006	6 CLINICAL CHEMISTRY TESTS	51	51	51
76512	OPHTHALMIC ULTRA, CONTACT B-SCAN	298	298	296	80007	7 CLINICAL CHEMISTRY TESTS	26	26	26
76516	OPHTHAL BIOMETRY, ULTRASOUND, A-MODE	188	196	216	80010	10 CLINICAL CHEMISTRY TESTS	29	29	29
76519	OPHTHAL BIOMETRY, W IOL POWER CALC	188	202	216	80012	12 CLINICAL CHEMISTRY TESTS	37	37	37
76536	ECHOGRAM, HEAD/NECK, B-SCAN/REAL TIME	182	182	191	80016	13-16 BLOOD/URINE TESTS	46	51	43
76700	ECHOGRAM, ABDOMEN, W IMAGE DOCUMENT	226	213	221	80018	17-18 BLOOD/URINE TESTS	41	37	43
76705	ECHOGRAM, ABDOMEN, LIMITED	203	168	173	80019	19 OR MORE BLOOD/URINE TESTS	37	42	37

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80031	DRUG MONITORING, ONE DRUG	80	80	80	84180	ASSAY URINE PROTEIN FRAC, QUAN	30	30	30
80058	HEPATIC FUNCTION PANEL	45	45	45	84231	RADIOIMMUNOASSAY	94	94	94
80059	HEPATITIS PANEL	77	77	77	84233	ASSAY ESTROGEN	43	43	43
80062	CARDIAC EVALUATION PANEL	51	51	51	84295	ASSAY BLOOD SODIUM	19	19	19
80073	RENAL PANEL	43	43	43	84403	RIA ASSAY BLOOD TESTOSTERONE	95	95	95
81000	URINALYSIS WITH MICROSCOPY	12	12	13	84420	ASSAY THEOPHYLLINERONE	54	54	54
81002	URINALYSIS W/O MICROSCOPY	12	12	10	84435	ASSAY THYROXINE (T-4)	25	25	25
81005	URINALYSIS, ANY # OF CONSTITUENTS	11	11	11	84436	RIA ASSAY, TRUE THYROXINE	22	24	21
81015	MICROSCOPIC EXAM OF URINE	8	8	8	84439	RIA ASSAY, FREE THYROXINE	53	53	50
82150	ASSAY OF SERUM AMYLASE	18	18	16	84443	ASSAY THYROID STIM HORMONE	60	59	66
82172	APOLIPOPROTEIN IMMUNOASSAY	18	18	18	84450	UV-ASSAY TRANSDAMINASE (SGOT)	14	14	14
82250	ASSAY BLOOD BILIRUBIN	19	19	19	84460	UV-ASSAY TRANSAMINASE (SGPT)	14	14	14
82270	TEST FECES FOR BLOOD DIRECT	12	12	15	84478	ASSAY BLOOD TRIGLYCERIDES	18	18	16
82310	ASSAY CALCIUM IN BLOOD, CHEMICAL	16	16	16	84479	ASSAY TRIIODOTHYRONINE (T-3)	16	16	15
82372	ASSAY SERUM CARBAMAZEPINE	57	57	57	84480	RIA ASSAY, TT-3E (T-3)	58	58	64
82374	ASSAY BLOOD CARBON DIOXIDE	11	11	11	84520	ASSAY BLOOD, UREA, NITROGEN	12	12	13
82643	RIA ASSAY FOR DIGOXIN	49	49	49	84550	ASSAY BLOOD URIC ACID	19	19	19
82660	TEST FOR DRUGS	67	67	67	84702	CHORIONIC GONADOTROPIN TEST	58	58	60
82947	ASSAY BLOOD FLUID GLUCOSE	12	12	12	84703	CHORIONIC GONADOTROPIN ASSAY	29	29	30
82948	STICK ASSAY OF BLOOD GLUCOSE	12	12	12	84999	CLINICAL CHEMISTRY TEST	90	90	90
82950	GLUCOSE TEST	14	14	13	85005	BASOPHIL BLOOD CELL COUNT	15	15	15
82951	GLUCOSE TOLERANCE TEST (GTT)	42	42	42	85007	DIFFERENTIAL WBC COUNT, W/MORPH + PLT	12	12	11
82952	GTT-ADDED SAMPLES	45	45	45	85009	DIFFERENTIAL WBC COUNT, BUFFY COAT	9	9	9
82977	ASSAY OF GGT ENZYME	15	15	15	85014	HEMATOCRIT COUNT, BUFFY COAT	12	10	12
83001	PITUITARY GONADOTROPIN RIA	66	66	66	85018	HEMOGLOBIN, COLORIMETRIC	12	10	10
83002	PITUITARY GONADOTROPINS RIA	59	59	59	85021	AUTOMATED HEMOGRAM, R/WBC, HGB, HCT, IN	17	15	16
83020	ASSAY HEMOGLOBINS RIA	13	13	12	85022	AUTOMATED HEMOGRAM, MAN DIFF, WBC	19	21	21
83036	GLYCOSYLATED HEMOGLOBIN TEST	38	38	39	85023	AUTOMATED HEMOGRAM, PLAT, AUT + MAN, CBC	31	31	25
83540	ASSAY SERUM IRON	15	15	15	85024	AUTOMATED HEMOGRAM, PLT, AUT + AUT PART	27	30	26
83545	AUTO-ASSAY SERUM IRON	24	24	24	85025	AUTO HEMOGRAM, PLATELET, AUT + AUT COMP	18	18	18
83550	SERUM IRON BONDING TEST	31	31	31	85027	AUTOMATED HEMOGRAM, HEM + PLAT COUNT	23	22	23
83555	SERUM IRON BINDING, AUTO-TEST	12	12	12	85029	AUTOMATED HEMOGRAM, RDW + MPV 1-3 IND	4	4	4
83705	ASSAY BLOOD LIPID GROUPS	29	29	29	85031	MANUAL HEMOGRAM, COMPLETE CBC	21	20	21
83718	ASSAY BLOOD LIPOPROTEIN, PRECIP	17	18	15	85044	RETICULOCYTE COUNT	15	15	15
83719	BLOOD LIPOPROTEIN ASSAY, ULTRACENT	33	33	33	85060	BLOOD SMEAR INTERPRETATION	37	37	37
83720	BLOOD LIPOPROTEIN ASSAY, FRACT CALC	16	16	16	85100	BONE MARROW EXAMINATION	269	269	269
83725	ASSAY BLOOD LITHIUM-RACT CALC	27	27	26	85580	BLOOD PLATELET COUNT	15	15	15
83735	ASSAY BLOOD MAGNESIUM, CHEMICAL	25	25	25	85595	ELECTRONIC PLATELET COUNT	14	15	14
84045	ASSAY PHENYTOIN	57	57	57	85610	PROTHROMBIN TIME	16	15	14
84065	ASSAY PROSTATE PHOSPHATASE, FRACTION	41	41	41	85650	RBC SEDIMENTATION RATE, WINTROBE	16	15	16
84075	ASSAY ALKALINE PHOSPHATASE, BLOOD	15	15	15	85651	RBC SEDIMENTATION RATE, WESTERGREN	15	15	14
84132	ASSAY BLOOD POTASSIUM	13	13	12					
84144	ASSAY PROGESTERONE	62	62	68					
84146	RIA ASSAY FOR PROLACTIN	79	79	80					
84165	ASSAY SERUM PROTEINS, ELEC FRAC, QUAN	42	42	42					

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85730	THROMBOPLASTIN TIME, PART, PLAS/WHOLE	23	23	22	87082	CULTURE OF SPECIMEN BY KIT, SINGLE	19	19	19
86006	ANTIBODY, QUALITATIVE, FIRST	26	26	26	87084	CULTURE OF SPECIMEN BY KIT, COL EST	19	19	19
86008	ANTIBODY, QUANT., FIRST	54	54	54	87085	CULTURE OF SPECIMEN BY KIT, COL CNT	15	15	15
86016	RBC SALINE ANTIBODIES, HP + ANTIHUMAN	18	18	18	87086	URINE CULTURE, COLONY COUNT	30	26	31
86038	ANTINUCLEAR ANTIBODIES, RIA	42	42	42	87087	URINE BACTERIA CULTURE, COMMERC KIT	22	22	24
86060	ANTISTREPTOLYSIN O TITER	32	32	32	87088	URINE BACTERIA CULTURE, ID + COM KIT	26	26	26
86082	BLOOD TYPING, ABO & RHO(D)	23	23	20	87101	SKIN FUNGUS CULTURE	25	25	25
86100	BLOOD TYPING, RHO(D) ONLY	6	6	6	87102	FUNGUS ISOLATION CULTURE	38	38	38
86128	COLLECTION, PROCESS & STORAGE BLOOD	432	432	432	87106	FUNGUS IDENTIFICATION	26	26	26
86140	C-REACTIVE PROTEIN	25	25	25	87109	MYCOPLASMA CULTURE	74	74	74
86244	ASSAY ALPHA-1 FETOPROTEIN	65	65	65	87110	CULTURE, CHLAMYDIA	80	80	80
86255	FLUORESCENT ANTIBODY; SCREEN	78	78	83	87177	OVA AND PARASITES SMEARS	63	63	63
86256	FLUORESCENT ANTIBODY; TITER	68	68	68	87184	ANTIBIOTIC SENSITIVITY, EACH, DISC	25	25	22
86280	HEMAGGLUTINATION INHIBITION	30	30	30	87186	ANTIBIOTIC SENSITIVITY, MIC	16	16	16
86287	HEPATITIS HAA, RIA, OR EIA	32	32	31	87205	SMEAR, STAIN & INTERPRET, ROUTINE	17	17	17
86289	HEPATITIS BC ANTIBODY TEST, HBCAB	49	49	49	87210	SMEAR, STAIN & INTERPRET, WET + SIMPLE	16	16	15
86291	HEPATITIS BS ANTIBODY TEST, HBSAB	37	37	37	87253	VIRUS INOCULATION FOR TEST, ADDL STD	70	70	70
86296	HEPATITIS A ANTIBODY TEST, HAAB	51	51	51	87999	MICROBIOLOGY PROCEDURE	26	26	26
86300	HETEROPHILE ANTIBODY SCREEN	20	20	20	88104	CYTOPATHOLOGY, W/CENTRIF, WO/CRV + VAG	73	73	71
86310	HETEROPHILE ANTIBODIES	35	35	35	88108	CYTOPATHOLOGY, CONCENTRATION	102	102	102
86312	HIV ANTIBODY DETECTION	51	51	51	88150	CYTOPATHOLOGY PAP SMEAR, TECH	19	21	21
86316	IMMUNOASSAY, TUMOR ANTIGEN	61	61	63	88151	CYTOPATHOLOGY INTERPRETATION, PHYS	21	21	21
86317	IMMUNOASSAY, INFECTIOUS AGENT	67	74	60	88155	CYTOPATHOLOGY, PAP SMEAR, W/HORMONAL	25	23	21
86319	IMMUNOASSAY TECHNIQUE FOR DRUGS	54	54	54	88160	CYTOPATHOLOGY, ANY OTHER SOURCE	46	46	46
86329	IMMUNODIFFUSION, EACH	67	67	67	88161	CYTOPATHOLOGY, PREP, SCRN + INTERPET	9	9	9
86357	LYMPHOCYTES, T & B DISTINCTION	178	178	178	88170	FINE NEEDLE ASPIRATION, W/WO PREP	136	136	136
86403	RAPID TEST, INFECTIOUS AGENT	20	20	19	88173	INTERPRETATION OF SMEAR	118	118	118
86421	RADIOALLERGOSORBENT TESTS, 5/<	34	34	34	88300	SURGICAL PATHOLOGY, GROSS	28	28	26
86422	RADIOALLERGOSORBENT TESTS, 6/>	346	346	346	88302	SURGICAL PATHOLOGY, COMP, NORM TISS	48	50	48
86423	RADIOIMMUNOSORBENT TEST IGE, QUANT	58	58	58	88304	SURGICAL PATHOLOGY, COMP, ABNORM TSS	73	80	75
86430	RHEUMATOID FACTOR TEST	18	18	16	88305	SURGICAL PATHOLOGY, COMP, WO/COMPLEX	124	124	129
86580	TB INTRADERMAL TEST	15	15	15	88307	SURGICAL PATHOLOGY, COMP, COMPLEX	192	192	194
86585	TB TINE TEST	14	13	15	88309	SURGICAL PATHOLOGY, COMP, COMPLX, DIS	269	269	269
86592	BLOOD SEROLOGY, QUALITATIVE	15	15	14	88311	DECALCIFY TISSUE, COMPLX, DIS	21	21	21
86999	IMMUNOLOGY PROCEDURE	82	82	82	88312	SPECIAL STAINS, GROUP 1	65	65	65
87015	SPECIMEN CONCENTRATION	32	32	32	88313	SPECIAL STAINS, GROUP 2 + OTHERS	21	21	21
87040	BLOOD CULTURE FOR BACTERIA	51	51	54	88346	IMMUNOFLUORESCENT STUDY	42	42	42
87045	STOOL CULTURE FOR BACTERIA	45	45	45	88399	SURGICAL PATHOLOGY PROCEDURE	43	43	43
87060	NOSE/THROAT CULTURE, BACTERIA	15	15	16	90292	HOSPITAL DISCHARGE DAY	81	81	91
87070	CULTURE SPECIMEN, BACTERIA	35	32	36	90782	INJECTION SUBCU/(IM)T	27	29	26
87072	CULTURE OF SPECIMEN BY KIT	20	18	21	90801	DIAGNOSTIC INTERVIEW, PSYCH	197	197	237
87081	BACTERIA CULTURE SCREEN	18	16	19	90843	INDIVIDUAL PSYCHOTHERAPY, 20-30 MIN	78	78	78

CPT-4 Code	Description of Services	Region 1	Region 2	Region 3	CPT-4 Code	Description of Services	Region 1	Region 2	Region 3
90844	INDIVIDUAL PSYCHOTHERAPY, 45-50 MIN	128	129	129	93553	LT CT COR ANG/VEN CIN; VISL; AORTGPHY	2106	2106	2106
90900	BIOFEEDBACK TRNG BY ELECTROMYOGRAM	108	110	110	93762	PERIPHERAL THERMOGRAM, INCLUDING ANY SERIES	432	432	432
90935	HEMODIALYSIS, SINGLE EVAL	1868	1868	1868	93870	CAROTID ARTERY IMAGING	397	397	432
92004	EYE EXAM & TREATMENT, NEW PT, COMP	75	75	75	93910	LOWER LIMB ARTERY STUDY	257	257	256
92012	EYE EXAM & TREATMENT, COMP	57	57	59	93950	NONINVASIVE EXTREMITY VEIN STUDIES	171	171	171
92014	EYE EXAM & TREATMENT	75	75	75	93960	QUANTITATIVE VENOUS FLOW STUDIES	269	269	269
92020	GONIOSCOPY W/EVALUATION	59	59	59	94010	SPIROMETRY	64	57	65
92081	VISUAL FIELD EXAM, LIMITED	57	57	57	94060	BRONCHOSPASM EVALUATION	127	127	135
92082	VISUAL FIELD EXAM, INTERMEDIATE	65	65	65	94160	VITAL CAPACITY SCREENING	25	25	25
92083	VISUAL FIELD EXAM, EXTENDED	89	89	89	94240	RESIDUAL LUNG CAPACITY	81	81	81
92100	SERIAL TONOMETRY, 1 OR MORE SESSIONS	42	42	42	94375	RESPIRATORY FLOW VOLUME LOOP	88	88	84
92225	OPHTHALMOSCOPY, EXTENDED, INITIAL	126	126	126	94700	BLOOD GAS ANALYSIS, REST ONLY	60	60	60
92226	OPHTHALMOSCOPY, EXTENDED, SUBSEQUENT	65	65	65	94720	CARBON MONOXIDE DIFFUSING CAPACITY	107	107	107
92235	OPHTHALMOSCOPY W/ANGIOGRAPHY	287	287	287	95020	INTRCUT TSTS, EXTRACTS, 15-20 MIN: <11	76	76	76
92250	OPHTHALMOSCOPY W/FUNDUS PHOTOGRAPHY	74	74	74	95021	INTRCUT TSTS, EXTRACTS, 15-20 MN:11-20	107	107	107
92551	PURE TONE AUDIOMETRY, AIR ONLY	24	24	24	95117	IMMUNOTHERAPY INJECTIONS, PROF SERV	23	23	26
92552	PURE TONE AUDIOMETRY, AIR & BONE	33	33	33	95155	SUPRV/PRV SNG/MLT ANTS, >1 MULT DOSE	133	133	133
92553	AUDIOMETRY, AIR & BONE	47	47	47	95819	EEG, STANDARD/PORTABLE, SAME FACILITY	166	162	162
92557	COMPREHENSIVE AUDIOMETRY	80	80	72	95860	ELECTROMYOGRAPHY, 1 LIMB	265	265	265
92566	IMPEDANCE HEARING TEST	30	30	32	95861	ELECTROMYOGRAPHY, 2 LIMBS	314	314	314
92567	TYMPANOMETRY	24	22	26	95869	ELECTROMYOGRAPHY, SPECIFIC MUSCLES	179	179	179
92982	PERCUT TRNSLUMINL CORN ANGIO; 1 VESL	3207	3207	3241	95900	MOTOR NERVE CONDUCTION TESTING, EACH NERVE	122	116	122
93000	ELECTROCARDIOGRAM, COMPLETE	54	54	59	95904	SENSORY NERVE CONDUCTION TESTING, EACH NERVE	116	110	122
93010	ELECTROCARDIOGRAM REPORT	38	37	43	96900	ACTINOTHERAPY (ULTRAVIOLET LIGHT)	21	21	21
93014	REPORT ON TRANSMITTED ECG	40	40	40	96912	PHOTOCHEMOTHERAPY: PSORALENS & PUVA	32	32	32
93015	CARDIOVASC STRESS TEST, TRAC/INTERP	291	269	296	97010	PHYS MED TRI 1 AREA HOT/COLD PACKS	31	38	34
93018	CARDIOVASC STRESS TEST, INTERP ONLY	182	182	188	97012	PHYS MED TRI 1 AREA, TRACTION MECH	35	35	35
93040	RHYTHM ECG WITH REPORT ONLY	47	47	47	97014	PHY MED TR TO ONE AREA; ELEC STIM	27	27	33
93042	RHYTHM ECG, REPORT	27	27	27	97018	PMT TO ONE AREA; PARAFFIN BATH	37	37	37
93224	24 HR ECG, SCANNER, RECORD/INTERP	322	322	322	97022	PMT TO ONE AREA; WHIRLPOOL	30	30	30
93227	24 HR ECG, SCANNER, REV/INTERP ONLY	162	162	162	97024	PMT TO ONE AREA; DIATHERMY	21	21	21
93307	ECHOCARDIOGRAPHY, REALTIME, COMPLETE	342	308	376	97110	PHYSIOTHERAPY: THERAPEUTIC EXERCISE	55	60	55
93320	DOPPLER ECHOCARDIOGRAPHY, COMPLETE	257	257	232	97118	PMT ONE AREA; INIT 30 MIN; ELEC STIM	46	46	46
93325	DOPPLER COLOR FLOW VELOCITY MAPPING	162	162	162	97124	PMT ONE AREA; INIT 30 MIN; MASSAGE	32	32	34
93501	HEART CATHETERIZATION RIGHT, ONLY	1117	1117	1117	97128	PHYSIOTHERAPY: ULTRASOUND	33	37	37
93503	HEART CATH RT; W/SWAN-GANZ CATH	774	756	809	97145	PHYS MED TRT TO ONE AREA EA ADD'L	17	17	17
93545	INJ FOR SELECT CORONARY ANGIOGRAPHY	1242	1242	1242	97240	POOL THERAPY/HUBBARD TANK W THERAPEUTIC	37	37	37
93547	HRT CATH LFT COR ANG & VENT ANG	1583	1620	1566	97260	MANIPULATION, PERFORMED BY PHYSICIAN	45	45	45
93548	HRT CAT LFT COR ANG VENT AORT RT AO	1539	1539	1539					
93549	HRT CAT RT & LFT COR ANG VENT ANG	1674	1755	1993					
93552	LT HRT CAT COR ANG VEN CIN; VIS BYPS	2183	2183	2183					



ADA Code	Description of services	Region 1	Region 2	Region 3	ADA Code	Description of services	Region 1	Region 2	Region 3
2387	RESIN-) 2 SURFACES POSTE- RIOR PERM	141	156	166	3920	HEMISECT W RT REM—WO RT CANAL THER	257	260	260
2520	INLAY—METALLIC—TWO SURFACES	579	572	598	3950	CANAL PREP & FIT—PRE- FORMED DOWEL/POST	83	83	88
2530	INLAY—METALLIC—3 OR MORE SURFACES	552	603	674	3960	BLEACHING OF DISCOLORED TOOTH	200	208	244
2540	ONLAY—MTLIC—PER T IN ADD TO INLAY	359	439	359	4211	GINGIVECTOMY/GINGIVO- PLASTY—PER T	110	119	130
2620	INLAY—PORCELAIN/CERAM- IC—2 SURFACES	550	514	550	4249	CROWN LENGTHENING— HARD TISSUE	476	436	468
2630	INLAY—PORCE/CERAMIC—3 OR MORE SURF	521	556	608	4270	PEDICLE SOFT TISSUE GRAFT PROCEDURE	601	601	650
2640	ONLAY—PORC/CERAMIC— PER TOOTH + INLAY	184	151	184	4271	FREE SOFT TISSUE GFT & DO- NOR SITE	566	608	624
2652	INLAY—COMP—RESIN—3 OR MORE SURF LAB	484	468	484	4320	PROVISIONAL SPLINTING— INTRACORONAL	113	130	130
2660	ONLAY—COMP/RES EA TH + INLAY LAB PROC	387	348	387	4321	PROVISIONAL SPLINTING— EXTRACORONAL	153	187	156
2710	CROWN—RESIN—LABORATO- RY	269	260	267	5110	COMPLETE DENTURE—UP- PER	782	884	928
2720	CROWN—RESIN WITH HIGH NOBLE METAL	717	691	722	5120	COMPLETE DENTURE—LOW- ER	771	867	910
2740	CROWN—PORCELAIN/CE- RAMIC SUBSTRATE	676	728	780	5130	IMMEDIATE DENTURE—UP- PER	872	988	1014
2750	CROWN—PORC FUSED TO HI NOBLE METAL	653	722	754	5140	IMMEDIATE DENTURE—LOW- ER	815	910	962
2751	CROWN—PORCE FUSED TO PREDOM BASE METAL	624	676	702	5211	U PAR—RESIN BS W/CONV CLSPS—RSTS & TH	669	733	795
2752	CROWN—PORC FUSED TO NOBLE METAL	624	676	722	5212	L PAR—RESIN BS W/CONV CLSPS—RSTS & TH	723	832	826
2790	CROWN—FULL CAST HIGH NOBLE METAL	667	738	764	5213	U PAR—CST MTL RESIN BS W/CONV CLSPS	830	933	956
2791	CROWN—FULL CAST PRE- DOM BASE METAL	651	780	705	5214	L PAR—CST MTL RESIN BS W/CONV CLSPS	816	936	936
2792	CROWN—FULL CAST NOBLE METAL	624	676	702	5410	ADJUST COMPLETE DEN- TURE—UPPER	42	38	46
2810	CROWN— $\frac{3}{4}$ CAST METALLIC	786	728	849	5411	ADJUST COMPLETE DEN- TURE—LOWER	46	46	46
2910	RECEMENT INLAY	52	52	57	5421	ADJUST PARTIAL DENTURE— UPPER	42	41	46
2920	RECEMENT CROWN	52	54	57	5422	ADJUST PARTIAL DENTURE— LOWER	41	40	49
2930	PREFAB STAINL STL CRWN— PRIM TOOTH	160	171	196	5510	REPAIR BROKEN COMPLETE DENTURE BASE	90	104	104
2931	PREFAB STAINL STL CRWN— PERM TOOTH	197	187	208	5520	REPL MISS/BRKN T—COMPL DENT—EA T	83	78	93
2932	PREFABRICATED RESIN CROWN	191	182	204	5610	REPAIR RESIN DENTURE BASE	85	98	98
2940	SEDATIVE FILLINGS	57	62	67	5620	REPAIR CAST FRAMEWORK	98	98	120
2950	BUILDUP INCLUDING ANY PINS	159	182	182	5630	REPAIR OR REPLACE BRO- KEN CLASP	105	109	128
2951	PIN RETEN—PER TOOTH IN ADD TO REST	28	33	33	5640	REPLACE BROKEN TEETH— PER TOOTH	78	88	88
2952	CAST POST & CORE IN ADD TO CROWN	235	260	270	5650	ADD TOOTH TO EXISTING PART DENTURE	94	98	114
2954	PREFAB POST & CORE IN ADD TO CROWN	198	214	234	5660	ADD CLASP TO EXISTING PART DENTURE	119	124	130
2970	TEMPORARY CROWN (FRAC- TURED TOOTH)	156	140	167	5730	RELINE COMPLETE UP DENT—CHAIRSIDE	165	177	202
2980	CROWN REPAIR—BY REPORT	132	140	156	5731	RELINE COMPLETE LOW DENT—CHAIRSIDE	193	193	208
3110	PULP CAP—DIRECT EXCL FI- NAL REST	41	44	46	5740	RELINE UP PART DENTURE— CHAIRSIDE	158	156	156
3120	PULP CAP—INDIRECT EXCL FINAL REST	41	36	42	5741	RELINE LOW PART DEN- TURE—CHAIRSIDE	152	156	156
3220	THERAPEUTIC PULPOTOMY EXC FIN REST	106	104	109	5750	RELINE COMPLETE UPPER DENTURE (LAB)	233	268	270
3310	RC THER—ANT EXC FINAL RESTORATION	442	468	468	5751	RELINE COMPLETE LOWER DENTURE (LAB)	231	260	270
3320	RC THER—BICUSPID EXC FI- NAL RESTORATION	525	531	540	5760	RELINE UPPER PARTIAL DEN- TURE (LAB)	283	260	312
3330	RC THER—MOLAR EXC FI- NAL RESTORATION	650	676	712	5761	RELINE LOWER PARTIAL DENTURE (LAB)	249	275	286
3410	APICOECTOMY/PERIRADICU- LAR SURG—ANT	457	468	452	5820	INTERIM PARTIAL DENTURE (UPPER)	380	364	390
3421	APICO/PERIRAD SURG—BI- CUS FIRST ROOT	521	546	494	5821	INTERIM PARTIAL DENTURE (LOWER)	407	407	416
3425	APICO/PERIRAD SURG—MO- LAR FIRST ROOT	544	520	556	5862	PRECISION ATTACHMENT BY REPORT	312	312	312
3426	APICO/PERIRAD SURG—EA ADD ROOT	244	260	234	6030	ENDOSSEOUS IMPLANT—IN THE BONE	1319	1300	1352
3430	RETROGRADE FILLING—PER ROOT	130	114	130					
3450	ROOT AMPUTATION—PER ROOT	313	281	338					

ADA Code	Description of services	Region 1	Region 2	Region 3
6210	PONTIC—CAST HIGH NOBLE METAL	730	722	738
6212	PONTIC—CAST NOBLE METAL	701	701	728
6240	PONTIC—PORC FUSED TO HI NOBLE METAL	651	722	736
6241	PONTIC—PORC FUSED TO PREDOM BS MTL	619	676	676
6242	PONTIC—PORC FUSED TO NOBLE METAL	617	676	712
6250	PONTIC—RESIN WITH HIGH NOBLE METAL	672	682	676
6545	RTAIN—CAST MTL RES BOND FIX PROSTH	290	312	354
6750	CROWN—PORC FUSED TO HI NOBLE METAL	661	724	754
6751	CROWN—PORC FUSED TO PREDOM BASE MTL	624	676	676
6752	CROWN—PORC FUSED TO NOBLE METAL	618	676	712
6790	CROWN—FULL CAST HIGH NOBLE METAL	702	686	728
6792	CROWN—FULL CAST NOBLE METAL	685	676	707
6930	RECEMENT BRIDGE	78	78	83
6950	PRECISION ATTACHMENT	294	324	265
6970	CAST POST & CORE IN ADD TO BRDG RET	260	260	260
6972	PREFAB PST & CORE IN ADD TO BRDG RET	219	213	234
6980	BRIDGE REPAIR, BY REPORT	156	156	171
7110	ORAL SURG EXTRACT—SINGLE TOOTH	85	95	98
7120	SURG EXTRACT—EACH ADD TOOTH	82	93	98
7130	ROOT REMOVAL—EXPOSED ROOTS	114	130	130
7210	SURGICAL REMOVAL OF ERUPTED TOOTH	156	171	182
7220	REM IMPACTED TOOTH—SOFT TISSUE	227	260	260
7230	REM IMPACTED TOOTH—PART BONY	312	322	338
7240	REM IMPACTED TOOTH—COMPL BONY	390	364	390
7241	REM IMPACTED T—COMPL COMPLIC	390	416	416
7250	SURG REM RESID T ROOTS—CUTTING PROC	165	202	188
7280	SURG EXPOS IMP/UNERUP T—ORTHO	416	390	459
7281	SURG EXPOS IMP/UNERUP T—AID ERUP	390	390	379
7310	ALVEOLOPL IN CONJ W EX-TRAC—PER QUAD	159	182	182
7320	ALVEOLOPL NO EXTRACT—PER QUAD	277	304	260
7510	I&D ABSCESS—INTRAORAL SOFT TISSUE	105	105	128
7880	OCCLUSAL ORTHOTIC DE-VICE—BY REPORT	548	520	572
7970	EXC OF HYPERPLASTIC TIS-SUE—PER ARCH	238	260	234
7971	EXCISION OF PERICORONAL GINGIVA	164	180	156
9110	PALL—EMER TREAT DENT PAIN—MINOR P	52	52	63
9210	LOCAL ANESTHESIA FOR NONSURG PROC	25	25	28
9215	LOCAL ANESTHESIA	18	17	17
9220	GENERAL ANESTHESIA—FIRST 30 MINUTES	208	208	208
9221	GEN'L ANESTHESIA—EACH ADD'L 15 MIN	93	78	78
9230	ANALGESIA	36	41	44
9240	INTRAVENOUS SEDATION	191	234	208
9310	CONSULT DIAG SVC BY NON-TREAT PRACT	57	62	67
9430	OFF VST OBS—SCHED HRS—NO OTHER SVCS	37	41	45
9440	OFF VST—AFTER REG SCHED HOURS	70	67	77

ADA Code	Description of services	Region 1	Region 2	Region 3
9610	THERAPEUTIC DRUG INJ BY REPORT	38	41	34
9630	OTHER DRUGS AND/OR MED BY REPORT	23	26	28
9940	OCCLUSAL GUARD, BY RE-PORT	320	364	364
9950	OCCLUSION ANALYSIS—MOUNTED CASE	141	141	142
9951	OCCLUSAL ADJUSTMENT—LIMITED	56	58	67
9952	OCCLUSAL ADJUSTMENT—COMPLETE	312	291	312

The dollar amounts appearing on this schedule are the upper limits of the insurance company's liability for reimbursement and will not be exceeded in any case. These amounts do not represent a provider's usual, customary and reasonable fee which is the principal standard for establishing reimbursement levels and which in most instances will be below the upper limit amounts shown on the schedule.

(c) The following is the Medical Fee Schedule for nursing and allied professional health services:

STATE OF NEW JERSEY  
PERSONAL AUTO INJURY FEE SCHEDULE  
NURSING AND ALLIED PROFESSIONAL HEALTH SERVICES

Service	Fee
PRIVATE NURSING CARE (PER HOUR)	
Registered nurse	40.00
Licensed practical nurse	35.00
Home health aide	15.50
Live-in attendant (per 24-hour shift)	136.00
HOME HEALTH VISITS (PER VISIT)	
Registered nurse	82.00
Licensed practical nurse	58.00
Physical therapist	77.00
Speech therapist	77.00
Occupational therapist	77.00

(d) The following is the Medical Fee Schedule for ambulance services:

STATE OF NEW JERSEY  
PERSONAL AUTO INJURY FEE SCHEDULE  
AMBULANCE SERVICES

Code	Description	Fee
A0302	Ambulance service basic life support (BLS), base rate, emergency transport, one way	142.00
A0380	Ambulance service (BLS) per mile, transport, one way	5.50
A0422	Ambulance service, oxygen administration and supplies, life sustaining situation	35.00
Z0224	Cardiac monitoring during an ambulance trip	59.00
A0999	Ambulance service transport patient return trip	142.00

(e) The following is the Medical Fee Schedule for durable medical equipment and prosthetic devices:

STATE OF NEW JERSEY  
PERSONAL AUTO INJURY FEE SCHEDULE  
DURABLE MEDICAL EQUIPMENT AND PROSTHETIC DEVICES  
CODES BEGINNING WITH "A"

HCPCS Code	Description	Fee For New Equipment
A4214	Sterile saline or water, 30 cc vial	\$1.37
A4310	Insertion tray without drainage bag and without catheter (accessories only)	5.56
A4311	Insertion tray without drainage bag with indwelling catheter, Foley type, two-way latex with coating (teflon, silicone, silicone elastometer, or hydrophilic, etc.)	10.68

HCPCS Code	Description	Fee For New Equipment	HCPCS Code	Description	Fee If New	Fee If Used	Monthly Rental		
A4312	Insertion tray without drainage bag with indwelling catheter, Foley type, two-way, all silicone	12.49	A4626	Tracheostomy cleaning brush, each	3.05	—	—		
A4313	Insertion tray without drainage bag with indwelling catheter, Foley type, three-way, for continuous irrigation	12.91	A4627	Spacer, bag or reservoir, with or without mask, for use with metered dose inhaler	18.38	13.77	1.84		
A4314	Insertion tray with drainage bag with indwelling catheter, Foley type, two-way latex with coating (Teflon, silicone, silicone elastometer, or hydrophilic, etc.)	16.19	A4630	Replacement batteries. Medically necessary T.E.N.S. owned by patient	8.44	—	—		
A4315	Insertion tray with drainage bag with indwelling catheter, Foley type, two-way, all silicone	17.27	A4631	Replacement batteries for medically necessary electronic wheelchair owned by patient	78.87	59.15	7.89		
A4316	Insertion tray with drainage bag with indwelling catheter, Foley type, three-way, for continuous irrigation	19.57	A4635	Underarm pad, crutch, replacement, each	6.64	4.96	.66		
A4320	Irrigation tray for bladder irrigation with bulb or piston syringe	5.02	A4636	Replacement, handgrip, cane, crutch, or walker, each	2.93	2.19	.29		
A4322	Irrigation syringe, bulb or piston	2.60	A4637	Replacement, tip, cane, crutch, walker, each	1.88	1.41	.19		
A4323	Sterile saline irrigation solution, 1000 ml	7.19	A4640	Replacement pad for use with medically necessary alternating pressure pad owned by patient	49.50	37.12	4.95		
A4326	Male external catheter specialty type, e.g., inflatable, faceplate, etc., each	11.02	A5051	Pouch, closed; with barrier attached (1 piece)	2.62	—	—		
A4327	Female external urinary collection device, metal cup, each	25.38	A5052	Pouch, closed; without barrier attached (1 piece)	1.84	—	—		
A4328	Female external urinary collection device; pouch, each	10.17	A5053	Pouch, closed; for use on faceplate	2.88	—	—		
A4329	External catheter starter set, male/female, includes catheters/urinary collection device, bag/pouch and accessories (tubing, clamps, etc.) 7 day supply	30.36	A5054	Pouch, closed; for use on barrier with flange (2 piece)	2.39	—	—		
A4330	Perianal fecal collection pouch with adhesive	6.12	A5055	Stoma cap	1.69	—	—		
A4338	Indwelling catheter; Foley type, two-way latex with coating (Teflon, silicone, silicone elastometer or hydrophilic, etc.)	8.77	A5061	Pouch, drainable; with barrier attached (1 piece)	3.78	—	—		
A4340	Indwelling catheter; specialty type, (e.g., Coude, Mushroom, Wing, etc.)	14.25	A5062	Pouch, drainable; without barrier attached (1 piece)	3.19	—	—		
A4344	Indwelling catheter, Foley type, two-way, all silicone	12.86	A5063	Pouch, drainable; for use on barrier with flange (2 piece system)	2.92	—	—		
A4346	Indwelling catheter, Foley type, three-way, for continuous irrigation	18.74	A5064	Pouch, drainable; with faceplate attached; plastic or rubber	7.35	—	—		
A4347	Male external catheter with or without adhesive, with or without anti-reflux device; per dozen	16.90	A5065	Pouch, drainable; for use on faceplate; plastic or rubber	5.37	—	—		
A4351	Intermittent urinary catheter; straight tip	1.72	A5071	Pouch, urinary; with barrier attached (1 piece)	4.18	—	—		
A4352	Intermittent urinary catheter; Coude (curved) tip	5.36	A5072	Pouch, urinary; without barrier attached (1 piece)	4.03	—	—		
A4354	Insertion tray with drainage bag but without catheter	8.68	A5073	Pouch, urinary; for use on barrier with flange (2 piece)	3.65	—	—		
A4355	Irrigation tubing set for continuous bladder irrigation through a three-way indwelling Foley catheter	8.69	A5074	Pouch, urinary; with faceplate attached; plastic or rubber	7.75	—	—		
A4356	External urethral clamp or compression device (not to be used for catheter clamp)	36.53	A5075	Pouch, urinary; for use on faceplate; plastic or rubber	3.79	—	—		
A4357	Bedside drainage bag, day or night, with or without anti-reflux device, with or without tube	6.95	A5081	Continent device; plug for continent stoma	3.18	—	—		
A4358	Urinary leg bag; vinyl, with or without tube	6.94	A5082	Continent device; catheter for continent stoma	10.57	—	—		
A4359	Urinary suspensory; without leg bag	27.63	A5093	Ostomy accessory; convex insert	1.68	—	—		
A4361	Ostomy faceplate	13.88	A5102	Bedside drainage bottle, rigid or expandable	26.39	—	—		
A4362	Skin barrier; solid, 4x4 or equivalent; each	4.19	A5105	Urinary suspensory; with leg bag, with or without tube	35.03	—	—		
A4363	Skin barrier; liquid (spray, brush, etc.) powder or paste; per oz.	4.05	A5112	Urinary leg bag; latex	17.84	—	—		
A4364	Adhesive for ostomy or catheter; liquid (spray, brush, etc.) cement, powder or paste; any composition (e.g., silicone, latex, etc.); per oz.	3.83	A5113	Leg strap; latex, per set	4.26	—	—		
A4367	Ostomy belt	6.99	A5114	Leg strap; foam or fabric, per set	9.16	—	—		
A4397	Irrigation supply; sleeve	4.43	A5119	Skin barrier; wipes, box per 50	9.73	—	—		
A4398	Irrigation supply, bags	9.43	A5121	Skin barrier; solid, 6x6 or equivalent, each	5.09	—	—		
A4399	Irrigation supply, cone/catheter	11.78	A5122	Skin barrier; solid, 8x8 or equivalent, each	7.86	—	—		
A4400	Ostomy irrigation set	42.60	A5123	Skin barrier; with flange (solid, flexible or accordian), any size, each	5.84	—	—		
A4402	Lubricant	1.78	A5126	Adhesive; disc or foam pad	1.21	—	—		
A4404	Ostomy rings	1.31	A5131	Appliance cleaner, incontinence and ostomy appliances, per 16 oz.	15.77	—	—		
A4454	Tape, all types, all sizes	2.03	CODES BEGINNING WITH "E"						
A4455	Adhesive remover or solvent (for tape, cement or other adhesive)	2.41							
A4560	Pessary	22.66							
HCPCS Code	Description	Fee If New	Fee If Used	Monthly Rental	HCPCS Code	Description	Fee For New Eqpt	Fee For Used Eqpt	Monthly Rental
A4611	Battery, heavy duty; replacement for patient-owned ventilator	140.08	121.48	14.01	E0100	Cane, includes canes of all materials, adjustable or fixed, with tip	16.37	12.02	1.64
A4612	Battery cables; replacement for patient-owned ventilator	39.17	38.51	3.92	E0105	Cane, quad or three prong, includes canes of all materials, adjustable or fixed, with tips	40.94	29.99	4.09
A4613	Battery charger; replacement for patient-owned ventilator	131.80	98.08	13.18					
A4618	Breathing circuits	7.97	8.78	.80					
A4622	Tracheostomy or laryngectomy tube	64.29	—	—					
A4623	Tracheostomy, inner cannula (replacement only)	7.93	—	—					
A4624	Tracheal suction catheter, any type, each	2.02	—	—					
A4625	Tracheostomy care or cleaning starter kit	6.75	—	—					

HCPCS Code	Description	Fee For New Eqpt	Fee For Used Eqpt	Monthly Rental	HCPCS Code	Description	Fee For New Eqpt	Fee For Used Eqpt	Monthly Rental
E0110	Crutches forearm, includes crutches of various materials, adjustable or fixed, pair, complete with tip	60.06	45.04	6.01	E0193	Powered air flotation bed (low air loss therapy)	9798.00	7348.50	979.80
E0111	Crutch forearm, includes crutches of various materials, adjustable or fixed, each, with tip and handgrip	55.60	36.08	5.56	E0194	Air fluidized bed	25429.40	19072.05	2542.94
E0112	Crutches underarm, wood, adjustable or fixed, pair, with pads, tips and handgrips	36.96	28.66	3.70	E0196	Gel pressure mattress	221.50	166.13	22.15
E0113	Crutch underarm, wood, adjustable or fixed, each, with pad, tip and handgrip	24.69	12.67	2.47	E0197	Air pressure pad for mattress	119.99	102.13	12.00
E0114	Crutches underarm, aluminum, adjustable or fixed, pair with pads, tips and handgrips	51.53	36.28	5.15	E0198	Water pressure pad for mattress	126.16	106.76	12.62
E0116	Crutch underarm, aluminum, adjustable or fixed, each, with pad, tip and handgrip	22.72	14.46	2.27	E0199	Dry pressure pad for mattress (e.g., Eggcrate)	54.52	53.76	5.45
E0130	Walker, rigid (pickup), adjustable or fixed height	56.05	43.47	5.61	E0200	Heat lamp, without stand (table model), includes bulb, or infrared element	70.04	54.44	7.00
E0135	Walker, folding (pickup), adjustable or fixed height	61.63	45.51	6.16	E0202	Phototherapy (bilirubin) light with photometer	906.50	679.88	90.65
E0141	Walker, wheeled, without seat	99.41	71.02	9.94	E0205	Heat lamp, with stand, includes bulb, or infrared element	110.92	63.69	11.09
E0142	Rigid walker, wheeled, with seat	231.50	154.39	23.15	E0210	Electric heat pad, standard	29.16	30.28	2.92
E0143	Folding walker, wheeled, without seat	105.43	74.38	10.54	E0215	Electric heat pad, moist	46.64	37.18	4.66
E0145	Walker, wheeled, with seat and crutch attachments	180.70	135.53	18.07	E0220	Hot water bottle	5.51	4.16	.55
E0146	Walker, wheeled, with seat	116.60	87.45	11.66	E0225	Hydrocollator unit, includes pads	177.95	172.29	16.73
E0147	Heavy duty, multiple breaking system, variable wheel resistance walker	255.83	221.57	25.58	E0230	Ice cap or collar	6.94	5.20	.69
E0153	Platform attachment, forearm crutch, each	57.41	49.15	5.74	E0235	Paraffin bath unit, portable	161.20	120.90	16.12
E0154	Platform attachment, walker, each	64.20	53.32	6.42	E0236	Pump for water circulating pad	316.90	237.68	31.69
E0155	Wheel attachment, rigid pick-up walker attachments	25.64	22.16	2.56	E0237	Water circulating heat pad with pump	339.91	216.43	30.82
E0156	Seat attachment, walker	21.87	14.06	2.19	E0238	Non-electric heat pad moist	29.56	13.99	2.96
E0157	Crutch attachment, walker, each	57.41	44.26	5.74	E0239	Hydrocollator unit, portable	372.28	303.77	37.23
E0158	Leg extensions for a walker	26.36	21.56	2.64	E0249	Pad for water circulating heat unit	73.69	96.78	7.37
E0160	Sitz type bath, portable, fits over commode seat	22.17	12.22	2.22	E0250	Hospital bed, fixed height, with any type side rails, with mattress	764.50	573.38	76.45
E0161	Sitz type bath, portable, fits over commode seat, with faucet attachments	44.57	17.94	4.21	E0251	Hospital bed, fixed height, with any type side rails, without mattress	624.40	468.30	62.44
E0163	Commode chair, stationary, with fixed arms	92.37	63.68	9.24	E0255	Hospital bed, variable height, Hilo, with any type side rails, with mattress	835.60	626.70	83.56
E0164	Commode chair, mobile, with fixed arms	167.00	86.97	16.70	E0256	Hospital bed, variable height, Hilo, with any type side rails, without mattress	608.80	456.60	60.88
E0165	Commode chair, stationary with detachable arms	149.90	112.43	14.99	E0260	Hospital bed, semi-electric (head and foot adjustment), with any type side rails, with mattress	1276.60	957.45	127.66
E0166	Commode chair, mobile with detachable arms	220.50	165.38	22.05	E0261	Hospital bed, semi-electric (head and foot adjustment), any type side rails, without mattress	927.10	695.33	92.71
E0167	Pail or pan for use with commode chair	10.30	7.93	1.03	E0265	Hospital bed, total electric (head, foot and height adjustments), any type side rails, with mattress	1580.40	1185.30	158.04
E0175	Foot rest, for use with commode chair, each	53.65	35.23	4.74	E0266	Hospital bed, total electric (head, foot and height adjustments), any type side rails, without mattress	1606.30	1204.73	160.63
E0176	Air pressure pad or cushion, non-positioning	91.90	68.93	9.19	E0271	Mattress, innerspring	171.14	131.08	17.11
E0177	Water pressure pad or cushion, nonpositioning	91.90	68.93	9.19	E0272	Mattress, foam rubber	150.75	101.91	15.08
E0178	Gel pressure pad or cushion, non-positioning	101.48	75.38	10.15	E0275	Bed pan, standard, metal or plastic	14.46	11.30	1.45
E0179	Dry pressure pad or cushion, non-positioning (e.g., Eggcrate)	55.54	40.26	5.55	E0276	Bed pan, fracture, metal or plastic	13.07	14.14	1.31
E0180	Pressure pad, alternating with pump, light duty	237.90	178.43	23.79	E0277	Alternating pressure mattress	44.18	33.14	4.42
E0181	Pressure pad, alternating with pump, heavy duty	253.90	190.43	25.39	E0280	Bed, cradle, any type	30.63	20.82	3.06
E0182	Pump for alternating pressure pad	288.50	216.38	28.85	E0290	Hospital bed, fixed height, without side rails, with mattress	508.20	381.15	50.82
E0184	Dry pressure mattress (e.g., Eggcrate)	244.03	74.85	24.40	E0291	Hospital bed, fixed height, without side rails, without mattress	363.50	272.63	36.35
E0185	Gel pressure pad for mattress	184.83	153.18	18.48	E0292	Hospital bed, variable height, Hilo, without side rails, with mattress	595.30	446.47	59.53
E0186	Air pressure mattress	196.20	147.15	19.62	E0293	Hospital bed, variable height, Hilo, without side rails, without mattress	565.00	423.75	56.50
E0187	Water pressure mattress	198.20	148.65	19.82	E0294	Hospital bed, semi-electric (head and foot adjustment), without side rails, with mattress	922.60	691.95	92.26
E0188	Synthetic sheepskin pad	23.85	14.04	2.39	E0295	Hospital bed, semi-electric (head and foot adjustment), without side rails, without mattress	917.00	687.75	91.70
E0189	Lambswool sheepskin pad, any size	36.30	23.31	3.63	E0296	Hospital bed, total electric (head, foot and height adjustments), without side rails, with mattress	1159.50	869.63	115.95
E0191	Heel or elbow protector, each	10.42	6.73	1.04	E0297	Hospital bed, total electric (head, foot and height adjustments), without side rails, without mattress	1168.50	876.38	116.85
E0192	Low pressure and positioning pad for wheelchair	317.96	237.79	31.80	E0305	Bed side rails, half length	124.20	93.15	12.42
					E0310	Bed side rails, full length	145.92	128.13	14.59
					E0325	Urinal; male, jug type, any material	6.95	6.92	.70

HCPCS Code	Description	Fee For New Eqpt	Fee For Used Eqpt	Monthly Rental	HCPCS Code	Description	Fee For New Eqpt	Fee For Used Eqpt	Monthly Rental
E0326	Urinal; female, jug type, any material	9.14	7.22	.91	E0651	Pneumatic compressor, segmental home model (lymphedema pump) without calibrated gradient pressure	992.94	570.07	99.29
E0430	Portable gaseous oxygen system, includes regulator with flow gauge, humidifier, cannula or mask and tubing	—	—	54.99	E0652	Pneumatic compressor, segmental home model (lymphedema pump) with calibrated gradient pressure	3732.98	3235.90	355.79
E0435	Oxygen system, liquid, portable, includes portable container, supply reservoir, flow humidifier, cannula or masks, tubing and refill adaptor	—	—	54.99	E0655	Pneumatic appliance for use with pneumatic compressor, half arm	86.50	93.74	8.65
E0450	Volume ventilator; stationary	—	—	767.32	E0660	Pneumatic appliance for use with pneumatic compressor, full leg	133.96	93.85	13.40
E0452	Intermittent assist device with continuous positive airway pressure device (CPAP)	—	—	159.65	E0665	Pneumatic appliance for use with pneumatic compressor, full arm	94.13	69.80	9.41
E0453	Therapeutic ventilator; suitable for use 12 hours or less per day	—	—	319.30	E0666	Pneumatic appliance for use with pneumatic compressor, half leg	113.82	96.28	11.38
E0457	Chest shell (cuirass)	—	—	61.36	E0667	Pneumatic appliance for use with segmental pneumatic compressor, leg	299.32	246.51	29.31
E0459	Chest wrap	437.40	328.05	43.74	E0668	Pneumatic appliance for use with segmental pneumatic compressor, arm	309.67	260.20	29.51
E0460	Negative pressure ventilator; portable (e.g., Porta-lung)	—	—	672.75	E0690	Ultraviolet cabinet, appropriate for home use	654.39	867.44	65.44
E0462	Rocking bed with or without side rails	2454.70	1841.02	245.47	E0720	TENS, two lead, localized stimulation	447.80	—	44.78
E0480	Percussor, electric or pneumatic, home model	385.60	289.20	38.56	E0730	TENS, four lead, larger area/multiple nerve stimulation	453.50	—	45.35
E0500	IPPB machines with manual valves, external power source, includes cylinder regulator, built-in nebulization	—	—	99.23	E0731	Form fitting conductive garment for delivery of TENS	249.32	—	24.93
E0550	Humidifier, durable for extensive supplemental humidification during IPPB treatment or oxygen delivery (e.g., Cascade)	498.00	373.50	49.80	E0744	Neuromuscular stimulator for scoliosis	854.10	640.58	85.41
E0560	Humidifier, durable for supplemental humidification during IPPB treatment or oxygen delivery (e.g., Cascade Jr.)	132.10	68.74	13.21	E0745	Neuromuscular stimulator, electronic shock unit, non-clinical model	780.50	585.38	78.05
E0565	Compressor, air power source for equipment which is not self-contained or cylinder driven	435.30	326.48	43.53	E0747	Osteogenesis stimulator (non-invasive)	2813.76	2058.18	281.38
E0570	Nebulizer, with compressor (e.g., DeVilbiss Pulmo-Aid)	—	—	54.62	E0749	Osteogenesis stimulator (surgically implanted)	2035.20	1526.40	203.52
E0575	Nebulizer, self-contained, ultrasonic	—	—	95.53	E0776	IV pole	94.41	72.32	9.44
E0585	Nebulizer, with compressor and heater	—	—	73.03	E0781	Ambulatory infusion pump with administrative equipment, worn by patient	1877.90	1408.43	187.79
E0600	Suction pump, home model, portable	—	—	66.65	E0782	Infusion pump, implantable	3616.95	2778.64	361.70
E0601	Nasal continuous airway pressure (CPAP) device	—	—	93.23	E0791	Parenteral infusion pump, stationary, single or multi-channel	1862.80	1397.10	186.28
E0605	Vaporizer, room type	28.60	23.79	2.86	E0840	Traction frame, attached to headboard, simple cervical traction	50.31	33.21	5.03
E0606	Postural drainage board	148.00	111.00	14.80	E0850	Traction stand, free standing, simple cervical traction	58.36	39.68	5.84
E0607	Home blood glucose monitor	162.28	131.82	16.23	E0860	Traction equipment, overdoor, cervical	28.17	22.15	2.82
E0608	Apnea monitor	1455.70	1091.78	145.57	E0870	Traction frame, attached to footboard, simple extremity traction (e.g., Buck's)	86.94	52.94	8.69
E0609	Blood glucose monitor with special features (e.g., voice synthesizers, automatic timers, etc.)	435.50	339.64	43.55	E0880	Traction stand, free standing, simple extremity traction (e.g., Buck's)	90.73	53.32	9.07
E0610	Pacemaker monitor self-contained (checks battery depletion, includes audible and visible check systems)	323.85	261.66	32.39	E0890	Traction frame, attached to footboard, simple pelvic traction	93.73	70.17	9.37
E0615	Pacemaker monitor self-contained (checks battery depletion and other pacemaker components, includes digital/visible check systems)	357.53	170.77	35.75	E0900	Traction stand, free standing, simple pelvic traction (e.g., Buck's)	93.64	75.79	9.36
E0621	Sling or seat, patient lift, canvas or nylon	65.71	65.88	6.57	E0910	Trapeze bars, A/K/A patient helper, attached to bed, with grab bar	160.90	120.68	16.09
E0627	Seat lift mechanism incorporated into a combination liftchair mechanism	273.68	205.27	27.37	E0920	Fracture frame, attached to bed, includes weights	326.50	244.88	32.65
E0628	Separate seat lift mechanism for use with patient-owned furniture; electric	273.68	205.27	27.37	E0930	Fracture frame, free standing, includes weights	340.60	255.45	34.06
E0629	non-electric	273.68	205.27	27.37	E0935	Passive motion exercise device	—	—	534.50
E0630	Patient lift, hydraulic, with seat or sling	796.40	597.30	79.64	E0940	Trapeze bar, free standing, complete with grab bar	260.60	195.45	26.06
E0635	Patient lift, electric with seat or sling	914.30	685.73	91.43	E0941	Gravity assisted traction device, any type	372.50	279.38	37.25
E0650	Pneumatic compressor, non-segmental home model (lymphedema pump)	541.36	406.03	54.14	E0942	Cervical head harness/halter	16.41	12.31	1.64
					E0943	Cervical pillow	29.95	26.52	3.00
					E0944	Pelvic belt/harness/boot	33.95	23.16	3.40
					E0945	Extremity belt/harness	35.83	28.45	3.58
					E0946	Fracture, frame, dual with cross bars, attached to bed, (e.g., Balken, 4 poster)	547.20	410.40	54.72
					E0947	Fracture frame, attachments for complex pelvic traction	440.23	319.92	44.02

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E0948	Fracture frame, attachments for complex cervical traction	429.31	316.24	42.93	E1086	Hemi-wheelchair, detachable arms, desk or full length, swing-away detachable footrests	786.30	589.73	78.63
E0950	Tray	85.65	60.78	8.57	E1087	High strength lightweight wheelchair, fixed full length arms, swing-away detachable elevating legrests	954.20	715.65	95.42
E0951	Loop heel, each	13.99	11.70	1.40	E1088	High strength lightweight wheelchair, detachable arms desk or full length, swing-away detachable elevating legrests	1272.10	954.07	127.21
E0952	Loop toe, each	13.44	11.70	1.34	E1089	High strength lightweight wheelchair, fixed length arms, swing-away detachable footrest	805.00	603.75	80.50
E0953	Pneumatic tire, each	56.79	42.59	5.68	E1090	High strength lightweight wheelchair, detachable arms desk or full length, swing-away detachable footrests	967.80	725.85	96.78
E0954	Semi-pneumatic caster, each	42.53	31.18	4.25	E1091	Youth wheelchair, any type	854.40	640.80	85.44
E0958	Wheelchair attachment to convert any wheelchair to one arm drive	348.70	261.53	34.87	E1092	Wide heavy duty wheelchair, detachable arms, desk or full length, swing-away detachable elevating legrests	1120.10	840.07	112.01
E0959	Amputee adapter (device used to compensate for transfer of weight due to lost limbs to maintain proper balance)	70.88	57.41	7.09	E1093	Wide heavy duty wheelchair, detachable arms, desk or full length, swing-away detachable elevating legrests	946.20	709.65	94.62
E0961	Brake extension, for wheelchair	13.84	12.56	1.33	E1100	Semi-reclining wheelchair, fixed full length arms, swing-away detachable elevating legrests	840.30	630.23	84.03
E0962	1" cushion, for wheelchair	49.22	36.92	4.92	E1110	Semi-reclining wheelchair, detachable arms (desk or full length), elevating legrests	909.10	681.83	90.91
E0963	2" cushion, for wheelchair	58.25	37.36	5.83	E1130	Standard wheelchair, fixed full length arms, fixed or swing-away detachable footrests	374.20	280.65	37.42
E0964	3" cushion, for wheelchair	60.41	43.54	6.04	E1140	Wheelchair, detachable arms, desk or full length, swing-away detachable footrests	577.20	432.90	57.72
E0965	4" cushion, for wheelchair	67.55	57.15	6.76	E1150	Wheelchair, detachable arms, desk or full length, swing-away detachable elevating legrests	642.70	482.03	64.27
E0966	Hook on head rest extension	53.59	41.97	5.36	E1160	Wheelchair, fixed full length arms, swing-away detachable elevating legrests	505.50	379.13	50.55
E0967	Wheelchair hand rims with 8 vertical rubber tipped projection, pair	109.37	82.03	10.53	E1170	Amputee wheelchair, fixed full length arms, swing-away detachable elevating legrests	706.60	529.95	70.66
E0968	Commode seat, wheelchair	150.10	112.58	15.01	E1171	Amputee wheelchair, fixed full length arms, without footrests or legrests	642.50	481.88	64.25
E0969	Narrowing device, wheelchair	118.04	90.74	11.80	E1172	Amputee wheelchair, detachable arms (desk or full length) without footrests or legrests	726.30	544.73	72.63
E0970	No. 2 footplates, except for elevating legrest	61.98	60.08	5.80	E1180	Amputee wheelchair, detachable arms (desk or full length), swing-away detachable footrests	776.40	582.30	77.64
E0971	Anti-tipping device wheelchairs	52.14	37.95	5.21	E1190	Amputee wheelchair, detachable arms (desk or full length), swing-away detachable elevating legrests	897.00	672.75	89.70
E0972	Transfer board, wheelchair	39.09	28.72	3.91	E1195	Heavy duty wheelchair, fixed full length arms, swing-away detachable elevating legrests	814.10	610.58	81.41
E0973	Adjustable height detachable arms, desk or full length, wheelchair	73.49	78.81	7.31	E1200	Amputee wheelchair, fixed full length arms, swing-away detachable footrests	668.00	501.00	66.80
E0974	"Grade-Aid" (device to prevent rolling back on an incline) for wheelchair	66.90	50.68	5.08	E1210	Motorized wheelchair w/micro switch fixed full length arms, swing-away detachable elevating legrests	3122.40	2341.80	312.24
E0975	Reinforced seat upholstery, wheelchair	47.27	33.99	4.73	E1211	Motorized wheelchair, detachable arms, desk or full length, swing-away detachable elevating legrests	3359.90	2519.93	335.99
E0976	Reinforced back, wheelchair, upholstery or other material	56.29	33.99	4.81	E1212	Motorized wheelchair, fixed full length arms, swing-away detachable footrests	2512.30	1884.23	251.23
E0977	Wedge cushion, wheelchair	57.03	38.55	2.91	E1213	Motorized wheelchair, detachable arms, desk or full length, swing-away detachable footrests	2863.30	2147.48	286.33
E0978	Belt, safety with airplane buckle, wheelchair	37.08	26.99	3.39	E1221	Wheelchair with fixed arm, footrests	344.80	258.60	34.48
E0979	Belt, safety with velcro closure, wheelchair	26.88	22.84	2.69					
E0980	Safety vest, wheelchair	25.79	20.10	2.58					
E0990	Elevating legrest, each	80.00	71.93	8.00					
E0991	Upholstery seat	36.93	28.71	3.20					
E0992	Solid seat insert	65.01	44.90	6.50					
E0993	Back, upholstery	31.70	34.21	2.98					
E0994	Arm rest, each	14.51	10.44	1.39					
E0995	Calf rest, each	23.05	20.49	2.31					
E0996	Tire, solid, each	26.58	18.11	2.61					
E0997	Caster with a fork	58.02	44.29	5.80					
E0998	Caster without fork	33.42	25.50	3.34					
E0999	Pneumatic tire with wheel	91.15	79.60	9.12					
E1000	Tire, pneumatic caster	46.48	24.32	4.65					
E1001	Wheel, single	79.93	89.39	7.41					
E1031	Rollabout chair, any and all types with castors 5" or greater	472.20	354.15	47.22					
E1050	Fully-reclining wheelchair, fixed full length arms, swing-away detachable elevating legrests	1062.10	796.57	106.21					
E1060	Fully-reclining wheelchair, detachable arms, desk or full length, swing-away detachable elevating legrests	931.90	698.93	93.19					
E1065	Power attachment (to convert any wheelchair to motorized wheelchair; e.g., Solo)	2400.62	1728.00	211.01					
E1066	Battery charger	205.17	188.65	20.52					
E1069	Deep cycle battery	96.43	68.18	8.59					
E1070	Fully-reclining wheelchair, detachable arms, desk or full length, swing-away detachable footrests	976.90	732.68	97.69					
E1083	Hemi-wheelchair, fixed full length arms, swing-away detachable elevating legrests	593.60	445.20	59.36					
E1084	Hemi-wheelchair, detachable arms, desk or full length arms, swing-away detachable elevating legrests	827.80	620.85	82.78					
E1085	Hemi-wheelchair, fixed full length arms, swing-away detachable footrests	587.40	440.55	58.74					



HCPCS Code	Description	Fee For New Eqpt	HCPCS Code	Description	Fee For New Eqpt
L0860	Addition to halo procedures, magnetic resonance image compatible system	774.08	L1680	HO, abduction control of hip joints, dynamic, pelvic control, adjustable hip motion control, thigh cuffs (Rancho hip action type)	740.43
L0900	Torso support, ptosis support, custom fitted	92.81	L1685	HO, abduction control of hip joints post-operative hip abduction type, custom fabricated	786.30
L0910	Torso support, ptosis support, custom fabricated	202.24	L1686	HO, abduction control of hip joints post-operative hip abduction type, custom fitted	785.25
L0920	Torso support, pendulous abdomen support, custom fitted	125.38	L1700	Legg Perthes orthosis, Toronto type	917.50
L0930	Torso support, pendulous abdomen support, custom fabricated	236.90	L1710	Legg Perthes orthosis, Newington type	1,066.91
L0940	Torso support, post surgical support, custom fitted	118.26	L1720	Legg Perthes orthosis, trilateral, Tachdijan type	792.45
L0950	Torso support, post surgical support, custom fabricated	229.10	L1730	Legg Perthes orthosis, Scottish Rite type	687.24
L0960	Torso support, post surgical support, pads for post surgical support	50.08	L1750	Legg Perthes orthosis, Legg Perthes sling (Sam Brown type)	157.98
L0970	TLSO, corset front	84.49	L1755	Legg Perthes orthosis, pattern bottom type	1,097.88
L0972	LSO, corset front	72.12	L1800	Knee orthosis, KO, elastic with stays	38.86
L0974	TLSO, full corset	110.68	L1810	KO, elastic with joints	61.52
L0976	LSO, full corset	94.41	L1815	KO, elastic with condylar pads	59.34
L0978	Axillary crutch extension	116.92	L1820	KO, elastic with condylar pads and joints	94.31
L0980	Peroneal straps, pair	10.31	L1825	KO, elastic knee cap	34.34
L0982	Stocking supporter grips, set of four (4)	9.78	L1830	KO, immobilizer, canvas longitudinal	62.17
L1000	Cervical-thoracic-lumbar-sacral orthosis (CTLSO) (Milwaukee), inclusive of furnishing initial orthosis, including model	1,445.62	L1832	KO, adjustable knee joints, positional orthosis, rigid support, custom fitted	476.27
L1010	Addition to cervical-thoracic-lumbar-sacral orthosis (CTLSO) of scoliosis, axilla sling	41.21	L1834	KO, without knee joint, rigid, molded to patient model	521.71
L1020	Addition to CTLSO or scoliosis orthosis, kyphosis pad	51.55	L1840	KO, derotation, medial-lateral, anterior cruciate ligament, custom fabricated to patient model	682.12
L1025	Addition to CTLSO or scoliosis orthosis, kyphosis pad, floating	103.57	L1845	KO, double upright, thigh and calf, with adjustable flexion and extension joint, medial-lateral and rotation control, custom fitted	623.14
L1030	Addition to CTLSO or scoliosis orthosis, lumbar bolster pad	37.53	L1846	KO, double upright, thigh and calf, with adjustable flexion and extension joint, medial-lateral and rotation control, molded to patient model	737.98
L1040	Addition to CTLSO or scoliosis, lumbar of lumbar rib pad	45.12	L1850	KO, Swedish type	197.66
L1050	Addition to CTLSO or scoliosis orthosis, sternal pad	57.21	L1855	KO, molded plastic, thigh and calf sections, with double upright knee joints, molded to patient model	834.87
L1060	Addition to CTLSO or scoliosis orthosis, thoracic pad	73.37	L1858	KO, molded plastic, polycentric knee joints, pneumatic knee pads (CTL)	808.65
L1070	Addition to CTLSO or scoliosis orthosis, trapeze sling	66.11	L1860	KO, modification of supracondylar prosthetic socket, molded to patient model (SK)	752.94
L1080	Addition to CTLSO or scoliosis orthosis, outrigger	37.12	L1870	KO, double upright, thigh and calf lacers, molded to patient model with knee joints	684.44
L1085	Addition to CTLSO or scoliosis orthosis, outrigger, bilateral with vertical extensions	110.01	L1880	KO, double upright, non-molded thigh and calf cuffs/lacers with knee joints	491.55
L1090	Addition to CTLSO or scoliosis or orthosis, lumbar sling	71.58	L1900	Ankle-foot orthosis (AFO), spring wire, dorsiflexion assist, calf band	161.65
L1100	Addition to CTLSO or scoliosis orthosis, ring flange, plastic or leather	113.66	L1902	AFO, ankle gauntlet, custom fitted	64.64
L1110	Addition to CTLSO or scoliosis orthosis, ring flange, plastic or leather, molded to patient model	154.66	L1904	AFO, molded ankle gauntlet, molded to patient model	356.61
L1120	Addition to CTLSO or scoliosis orthosis, cover for upright, each	23.76	L1906	AFO, multiligamentous ankle support	72.94
L1200	Thoracic-lumbar-sacral-orthosis (TLSO), inclusive of furnishing initial orthosis only	971.24	L1910	AFO, posterior, single bar, clasp attachment to shoe counter	234.93
L1210	Addition to TLSO (low profile), lateral thoracic extension	205.11	L1920	AFO, single upright with static or adjustable stop, (Phelps or Perlstein type)	215.09
L1220	Addition to TLSO (low profile), anterior thoracic extension	207.78	L1930	AFO, custom fitted, plastic	143.47
L1230	Addition to TLSO (low profile), Milwaukee type superstructure	476.65	L1940	AFO, molded to patient model, plastic	435.59
L1240	Addition to TLSO (low profile), lumbar derotation pad	56.37	L1945	AFO, molded to patient model, plastic, rigid anterior tibial section (floor reaction)	671.58
L1250	Addition to TLSO (low profile), anterior asis pad	54.54	L1950	AFO, spiral, molded to patient model, (IRM type), plastic	546.81
L1260	Addition to TLSO (low profile), anterior thoracic derotation pad	54.54	L1960	AFO, posterior, solid ankle, molded to patient model, plastic	494.86
L1270	Addition to TLSO (low profile), abdominal pad	55.46	L1970	AFO, plastic molded to patient model, with ankle joint	450.40
L1280	Addition to TLSO (low profile), rib gusset (elastic), each	61.72	L1980	AFO, single upright, free dorsiflexion, solid stirrup, calf band/cuff (single bar "BK" orthosis)	293.83
L1290	Addition to TLSO (low profile), lateral trochanteric pad	51.23	L1990	AFO, double upright free plantar dorsiflexion, solid stirrup, calf band/cuff (double bar "BK" orthosis)	373.71
L1300	Other scoliosis procedure, body jacket molded to patient model	1,307.02	L2000	Knee-ankle-foot-orthosis (KAFO), single upright, free ankle, solid stirrup, thigh and calf bands/cuffs (single bar "AK" orthosis)	747.92
L1310	Other scoliosis procedure, post-operative body jacket	1,298.69	L2010	KAFO, single upright, free ankle, solid stirrup, thigh and calf bands/cuffs (single bar "AK" orthosis), without knee joint	676.31
L1500	Thoracic-hip-knee-ankle orthoses (THKAO), mobility frame, (Newington, Parapodium types)	1,138.24	L2020	KAFO, double upright, free knee, free ankle, solid stirrup, thigh and calf bands/cuffs (double bar "AK" orthosis)	743.31
L1510	THKAO, standing frame	747.52	L2030	KAFO, double upright, free ankle, solid stirrup, thigh and calf bands/cuffs (double bar "AK" orthosis), without knee joint	919.05
L1520	THKAO, swivel walker	1,443.95	L2036	KAFO, full plastic, double upright, free knee, molded to patient model	1,399.25
L1600	Hip orthosis (HO), abduction control of hip joints, flexible, freika type with cover	73.52	L2037	KAFO, full plastic, single upright, free, molded to patient model	1,236.66
L1610	HO, abduction control of hip joints, flexible, frejka cover only	35.79			
L1620	HO, abduction control of hip joints, flexible, Pavlik harness	103.18			
L1630	HO, abduction control of hip joints, semi-flexible (Von Rosen type)	103.02			
L1640	HO, abduction control of hip joints, static pelvic band or spreader bar, thigh cuffs	286.38			
L1650	HO, abduction control of hip joints, static, adjustable, custom fitted (Ilfed type)	159.01			
L1660	HO, abduction control of hip joints, static, plastic, custom fitted	98.58			

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L2038	KAFO, full plastic, without knee joint, multi-axis, molded to patient model (lively orthosis or equal)	1,282.70	L2330	Addition to lower extremity, lacer, molded to patient model	253.59
L2040	HKAFO, torsion control, bilateral rotation straps, pelvic band/belt	137.71	L2335	Addition to lower extremity, anterior swing band	155.45
L2050	HKAFO, torsion control, bilateral torsion cables, hip joint, pelvic band/belt	290.62	L2340	Addition to lower extremity, pre-tibial shell, molded to patient model	351.01
L2060	HKAFO, torsion control, bilateral torsion cables, ball bearing hip joint, pelvic band/belt	349.52	L2350	Addition to lower extremity, prosthetic type "BK" socket, molded to patient model (used for "PTB" "AFO" orthosis)	627.52
L2070	HKAFO, torsion control, unilateral rotation straps, pelvic band/belt	89.24	L2360	Addition to lower extremity, extended steel shank	46.52
L2080	HKAFO, torsion control, unilateral, torsion cables, hip joint, pelvic band/belt	282.87	L2370	Addition to lower extremity, patten bottom	222.30
L2090	HKAFO, torsion control, unilateral torsion cables, ball bearing hip joint, pelvic band/belt	270.88	L2375	Addition to lower extremity, torsion control, ankle joint and half solid stirrup	80.97
L2102	Ankle-foot-orthosis (AFO), fracture orthosis, tibial fracture cast orthosis, plaster type casting material, molded to patient	280.90	L2380	Addition to lower extremity, torsion control, straight knee joint, each joint	70.17
L2104	AFO, fracture orthosis, tibial fracture cast orthosis, synthetic type casting material, molded to patient	300.98	L2385	Addition to lower extremity, straight knee joint, heavy duty, each joint	79.30
L2106	AFO, fracture orthosis, tibial fracture cast orthosis, thermoplastic type casting material, molded to patient	420.32	L2390	Addition to lower extremity, offset knee joint, each joint	70.52
L2108	AFO, fracture orthosis, tibial fracture cast orthosis, molded to patient model	765.61	L2395	Addition to lower extremity, offset knee joint, heavy duty, each joint	92.90
L2112	AFO, fracture orthosis, tibial fracture orthosis, soft custom fitted	334.57	L2405	Addition to knee joint, drop lock, each joint	32.97
L2114	AFO, fracture orthosis, tibial fracture orthosis, semi-rigid custom fitted	439.58	L2415	Addition to knee joint, cam lock (Swiss, French, Bail types), each joint	122.01
L2116	AFO, fracture orthosis, tibial fracture orthosis, rigid custom fitted	495.75	L2425	Addition to knee joint, disc or dial lock for adjustable knee flexion, each joint	146.57
L2122	Knee-ankle-foot-orthosis (KAFO), fracture orthosis, femoral fracture cast orthosis, plaster type casting material, molded to patient	656.03	L2435	Addition to knee joint, polycentric joint, each joint	118.41
L2124	KAFO, fracture orthosis, femoral fracture cast orthosis, synthetic type casting material, molded to patient	734.37	L2492	Addition to knee joint, lift loop for drop lock ring	86.12
L2126	KAFO, fracture orthosis, femoral fracture cast orthosis, thermoplastic type casting material, molded to patient	902.15	L2500	Addition to lower extremity, thigh/weight bearing, gluteal/ischial weight bearing, ring	186.08
L2128	KAFO, fracture orthosis, femoral fracture cast orthosis, molded to patient model	1,209.09	L2510	Addition to lower extremity, thigh/weight bearing, quadrilateral brim, molded to patient model	473.01
L2132	KAFO, fracture orthosis, femoral fracture cast orthosis, soft custom fitted	663.70	L2520	Addition to lower extremity, thigh/weight bearing, quadrilateral brim, custom fitted	309.95
L2134	KAFO, fracture orthosis, femoral fracture cast orthosis, semi-rigid custom fitted	739.97	L2525	Addition to lower extremity, thigh/weight bearing, ischial containment/narrow M-L brim, molded to patient model	872.97
L2136	KAFO, fracture orthosis, femoral fracture cast orthosis, rigid custom fitted	880.56	L2526	Addition to lower extremity, thigh/weight bearing, ischial containment/ narrow M-L brim, custom fitted	458.59
L2180	Addition to lower extremity fracture orthosis, plastic shoe insert with ankle joints	73.22	L2530	Addition to lower extremity, thigh/weight bearing, lacer, non-molded	192.13
L2182	Addition to lower extremity fracture orthosis, drop lock knee joint	62.13	L2540	Addition to lower extremity, thigh/weight bearing, lacer, molded to patient model	262.44
L2184	Addition to lower extremity fracture orthosis, limited motion knee joint	85.93	L2550	Addition to lower extremity, thigh/weight bearing, high roll cuff	173.11
L2186	Addition to lower extremity fracture orthosis, adjustable motion knee joint, lerman type	125.95	L2570	Addition to lower extremity, pelvic control, hip joint, clevis type, two position hip joint, each	352.15
L2188	Addition to lower extremity fracture orthosis, quadrilateral brim	249.24	L2580	Addition to lower extremity, pelvic control, pelvic sling	323.83
L2190	Addition to lower extremity fracture orthosis, waist belt	62.86	L2600	Addition to lower extremity, pelvic control, hip joint, clevis type or thrust bearing, free, each	158.91
L2192	Addition to lower extremity fracture orthosis, hip joint, pelvic band, thigh flange, and pelvic belt	272.37	L2610	Addition to lower extremity, pelvic control, hip joint, clevis type or thrust bearing, lock, each	152.57
L2200	Addition to lower extremity, limited ankle motion, each joint	42.96	L2620	Addition to lower extremity, pelvic control, hip joint, heavy duty, each	219.37
L2210	Addition to lower extremity, dorsiflexion assist, (plantar flexion resist), each joint	53.95	L2622	Addition to lower extremity, pelvic control, hip joint, adjustable flexion, each	210.12
L2220	Addition to lower extremity, dorsiflexion and plantar flexion assist/resist, each joint	71.09	L2624	Addition to lower extremity, pelvic control, hip joint, adjustable flexion, extension, abduction control, each	197.31
L2230	Addition to lower extremity, split flat caliper stirrups and plate attachment	68.56	L2627	Addition to lower extremity, pelvic control, plastic, molded to patient model, reciprocating hip joint and cables	1,158.68
L2240	Addition to lower extremity, round caliper and plate attachment	55.90	L2628	Addition to lower extremity, pelvic control, metal frame, reciprocating hip joint and cables	1,169.36
L2250	Addition to lower extremity, foot plate, molded to patient model, stirrup attachment	253.37	L2630	Addition to lower extremity, pelvic control, band and belt unilateral	152.53
L2260	Addition to lower extremity, reinforced solid stirrup (Scott-Craig type)	164.08	L2640	Addition to lower extremity, pelvic control, band and belt bilateral	280.63
L2265	Addition to lower extremity, long tongue stirrup	74.03	L2650	Addition to lower extremity, pelvic and thoracic control, gluteal pad, each	87.36
L2270	Addition to lower extremity, varus/valgus correction ("T") strap, padded/lined or malleolus pad	47.36	L2660	Addition to lower extremity, thoracic control, thoracic band	105.59
L2280	Addition to lower extremity, molded inner boot	282.70	L2670	Addition to lower extremity, thoracic control, paraspinal uprights	125.23
L2300	Addition to lower extremity, abduction bar (bilateral hip involvement), jointed, adjustable	222.95	L2680	Addition to lower extremity, thoracic control, lateral support uprights	112.35
L2310	Addition to lower extremity, abduction bar, straight	80.56	L2750	Addition to lower extremity orthosis, plating chrome or nickel, per bar	54.80
L2320	Addition to lower extremity, non-molded lacer	134.72	L2760	Addition to lower extremity orthosis, extension, per extension, per bar (for lineal adjustment for growth)	43.74
			L2770	Addition to lower extremity orthosis, stainless steel, per bar or joint	43.46
			L2780	Addition to lower extremity orthosis, non-corrosive finish, per bar	39.55

HCPCS Code	Description	Fee For New Eqpt	HCPCS Code	Description	Fee For New Eqpt
L2785	Addition to lower extremity orthosis, drop lock retainer, each	21.95	L3936	WHFO, Palmer	61.81
L2795	Addition to lower extremity orthosis, knee control, full knee cap	66.92	L3938	WHFO, dorsal wrist	61.81
L2800	Addition to lower extremity orthosis, knee control, knee cap, medial or lateral pull	80.00	L3940	WHFO, dorsal wrist, with outrigger attachment	74.80
L2810	Addition to lower extremity orthosis, knee control, condylar pad	57.66	L3942	WHFO, reverse knuckle bender	46.28
L2820	Addition to lower extremity orthosis, soft interface for molded plastic, below knee section	55.81	L3944	WHFO, reverse knuckle bender, with outrigger	73.51
L2830	Addition to lower extremity orthosis, soft interface for molded plastic, above knee section	58.53	L3946	WHFO, composite elastic	58.39
L2840	Addition to lower extremity orthosis, tibial length sock, fracture or equal, each	35.78	L3948	WHFO, finger knuckle bender	45.82
L2850	Addition to lower extremity orthosis, femoral length sock, fracture or equal each	43.65	L3950	WHFO, combination Oppenheimer, with knuckle bender and two attachments	118.44
L3215	Orthopedic footwear, ladies shoes, oxford	79.32	L3952	WHFO, combination Oppenheimer, with reverse knuckle bender and two attachments	119.21
L3219	Orthopedic footwear, mens shoes, oxford	82.12	L3954	WHFO, spreading hand	65.20
L3650	Shoulder orthosis (SO), figure of "8" design abduction restrainer	42.46	L3960	Shoulder-elbow-wrist-hand orthosis SEWHO, abduction positioning, airplane design	566.85
L3660	SO, figure of "8" design abduction restrainer, canvas and webbing	76.06	L3962	SEWHO, abduction positioning, Erbs Palsey design	526.63
L3670	SO, acromio/clavicular (canvas and webbing type)	87.42	L3963	SEWHO, molded shoulder, arm, forearm, and wrist, with articulating elbow joint	965.08
L3700	Elbow orthosis (EO), elastic with stays	48.44	L3964	SEWHO, mobile arm support attached to wheelchair, balanced and fitted to patient, adjustable	517.74
L3710	EO, elastic with metal joints	79.85	L3965	SEWHO, radial arm support attached to wheelchair, balanced and fitted to patient, adjustable Rancho type	710.17
L3720	EO, double upright with forearm/arm cuffs, free motion	510.77	L3966	SEWHO, mobile arm support attached to wheelchair, balanced and fitted to patient, reclining	697.49
L3730	EO, double upright with forearm/arm cuffs, extension/flexion assist	544.70	L3968	SEWHO, mobile arm support attached to wheelchair, balanced and fitted to patient, friction arm support, (friction dampening to proximal and distal joints)	846.68
L3740	EO, double upright with forearm/arm cuffs, adjustable position lock with active control	652.96	L3969	SEWHO, mobile arm support, monosuspension arm and hand support, overhead elbow forearm hand sling support, yoke type arm suspension support	523.46
L3800	Wrist-hand-finger-orthosis (WHFO) short opponens, no attachments	112.58	L3970	SEWHO, addition to mobile arm support, elevating proximal arm	253.02
L3805	WHFO, long opponens, no attachment	265.19	L3972	SEWHO, addition to mobile arm support, offset or lateral rocker arm with elastic balance control	170.60
L3810	WHFO, addition to short and long opponens, thumb abduction "C" bar	38.30	L3974	SEWHO, addition to mobile arm support, supinator	139.07
L3815	WHFO, addition to short and long opponens, second M.P. abduction assist	37.53	L3980	Upper extremity fracture orthosis, humeral	272.10
L3820	WHFO, addition to short and long opponens, I.P. extension assist with M.P. extension stop	74.42	L3982	Upper extremity fracture orthosis, radius/ulnar	255.57
L3825	WHFO, addition to short and long opponens, M.P. extension stop	38.39	L3984	Upper extremity fracture orthosis, wrist	201.68
L3830	WHFO, addition to short and long opponens, M.P. extension assist	56.63	L3985	Upper extremity fracture orthosis, forearm, hand with wrist hinge	486.86
L3835	WHFO, addition to short and long opponens, M.P. spring extension assist	60.95	L3986	Upper extremity fracture orthosis, combination of humeral, radius/ulnar, wrist, (example—Colles fracture)	368.78
L3840	WHFO, addition to short and long opponens, spring swivel thumb	41.41	L3995	Addition to upper extremity orthosis, sock, fracture or equal, each	21.47
L3845	WHFO, addition to short and long opponens, thumb I.P. extension assist, with M.P. stop	47.75	L4000	Replace girdle for Milwaukee orthosis	891.37
L3850	WHFO, addition to short and long opponens, action wrist with dorsiflexion assist	99.93	L4010	Replace trilateral socket brim	413.32
L3855	WHFO, addition to short and long opponens, adjustable M.P. flexion control	70.27	L4020	Replace quadrilateral socket brim, molded to patient model	618.99
L3860	WHFO, addition to short and long opponens, adjustable M.P. flexion control and I.P.	97.11	L4030	Replace quadrilateral socket brim, custom fitted	310.53
L3900	WHFO, dynamic flexor hinge; reciprocal wrist extension/flexion, finger flexion/extension, wrist or finger driven	984.26	L4040	Replace molded thigh lacer	252.65
L3901	WHFO, dynamic flexor hinge; reciprocal wrist extension/flexion, finger flexion/extension, cable driven	1,156.39	L4045	Replace non-molded thigh lacer	193.44
L3902	WHFO, external powered, compressed gas	1,423.90	L4050	Replace molded calf lacer	274.16
L3904	WHFO, external powered, electric	1,713.93	L4055	Replace non-molded calf lacer	157.66
L3906	WHFO, wrist gauntlet, molded to patient model	345.54	L4060	Replace high roll cuff	195.37
L3907	WHFO, wrist gauntlet with thumb spica, molded to patient model	372.72	L4070	Replace proximal and distal upright for "AKO"	162.83
L3908	WHFO, wrist extension control cock-up, canvas or leather design, non-molded	47.88	L4080	Replace metal bands "KAFO", proximal thigh	75.31
L3910	WHFO, Swanson design	278.37	L4090	Replace metal bands "KAFO-AFO", calf or distal thigh	59.44
L3912	WHFO, flexion glove with elastic finger control	69.72	L4100	Replace leather cuff "KAFO", proximal thigh	80.40
L3914	WHFO, wrist extension cock-up	57.04	L4110	Replace leather cuff "KAFO-AFO", calf or distal thigh	69.59
L3916	WHFO, wrist extension cock-up, with outrigger	89.91	L4130	Replace pretibial shell	302.79
L3918	WHFO, knuckle bender	47.31	L4310	Multi-Podus or equal orthotic preparatory management system for lower extremities	275.13
L3920	WHFO, knuckle bender, with outrigger	77.23	L4320	Addition to AFO, Multi-Podus (or equal) orthotic preparatory management system for lower extremities, flexible foot positioner w/soft interface for AFO, with velcro closure, custom fitted	94.23
L3922	WHFO, knuckle bender, two segment to flex joints	58.67	L4350	Pneumatic ankle control splint (aircast or equal)	64.30
L3924	WHFO, Oppenheimer	75.78	L4360	Pneumatic walking splint (aircast or equal)	203.25
L3926	WHFO, Thomas suspension	71.89	L4370	Pneumatic full leg splint (aircast or equal)	115.96
L3928	WHFO, finger extension with clock spring	50.57	L4380	Pneumatic knee splint (aircast or equal)	76.28
L3930	WHFO, finger extension, with wrist support	45.22	L5000	Partial foot, shoe insert with longitudinal arch, toe filler	310.43
L3932	WHFO, safety pin, spring wire	27.49	L5010	Partial foot, molded socket, ankle height, with toe filler	939.85
L3934	WHFO, safety pin, modified	29.05	L5020	Partial foot, molded socket, tibial tubercle height, with toe filler	1,336.23
			L5050	Ankle Symes, molded sock, Sach foot	1,767.70
			L5060	Ankle Symes, metal frame, molded leather socket, articulated ankle/foot	1,966.12
			L5100	Below knee, molded socket, shin, Sach foot	1,425.79
			L5105	Below knee, plastic socket, joints and thigh lacer, Sach foot	2,688.46

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L5150	Knee disarticulation (or through knee), molded socket, external knee joints, shin, Sach foot	3,294.44	L5580	Preparatory, above knee—knee disarticulation, ischial level socket, "USMC" or equal pylon, no cover, Sach foot, thermoplastic or equal, molded to model	1,753.04
L5160	Knee disarticulation (or through knee), molded socket, bent knee configuration, external knee joints, shin, Sach foot	2,461.44	L5585	Preparatory, above knee—knee disarticulation, ischial level socket, "USMC" or equal pylon, no cover, Sach foot, prefabricated adjustable open end socket	1,638.70
L5200	Above knee, molded socket, single axis constant friction knee, shin, Sach foot	2,010.07	L5590	Preparatory, above knee—knee disarticulation, ischial level socket, "USMC" or equal pylon, no cover, Sach foot, laminated socket, molded to model	1,608.83
L5210	Above knee, short prosthesis, no knee joint ("stubbies"), with foot blocks, no ankle joints, each	1,938.78	L5595	Preparatory, hip disarticulation—hemipelvectomy, pylon, no cover, Sach foot, thermoplastic or equal, molded to patient model	2,844.43
L5220	Above knee, short prosthesis, no knee joint ("stubbies"), with articulated ankle/foot, dynamically aligned, each	2,168.99	L5600	Preparatory, hip disarticulation—hemipelvectomy, pylon, no cover, Sach foot, laminated socket, molded to patient model	3,045.18
L5230	Above knee, for proximal femoral focal deficiency, constant friction knee, shin, Sach foot	2,429.79	L5610	Addition to lower extremity, above knee, hydracadence system	1,361.24
L5250	Hip disarticulation, Canadian type; molded socket, hip joint, single axis constant friction knee, Sach foot	3,964.65	L5611	Addition to lower extremity, above knee—knee disarticulation, "OHC" 4-bar linkage, with friction swing phase control	1,037.38
L5270	Hip disarticulation, tilt table type; molded socket, locking hip joint, single axis constant friction knee, shin, Sach foot	3,329.66	L5613	Addition to lower extremity, above knee—knee disarticulation, "OHC" 4-bar linkage, with hydraulic swing phase control	1,618.35
L5280	Hemipelvectomy, Canadian type; molded socket, hip joint, single axis constant friction knee, shin, Sach foot	3,313.07	L5616	Addition to lower extremity, above knee, universal multiplex system, friction swing phase control	925.39
L5300	Below knee, molded socket, Sach foot, endoskeletal system including soft cover and finishing	1,800.81	L5618	Addition to lower extremity, test socket, Symes	209.39
L5310	Knee disarticulation (or through knee), molded socket, Sach foot endoskeletal system, including soft cover and finishing	3,522.65	L5620	Addition to lower extremity, test socket, below knee	193.07
L5320	Above knee, molded socket, open end, Sach foot, endoskeletal system, single axis knee, including soft cover and finishing	2,611.90	L5622	Addition to lower extremity, test socket, knee disarticulation	324.49
L5330	Hip disarticulation, Canadian type; molded socket, endoskeletal system, single axis knee, hip joint, Sach foot, including soft cover and finishing	3,729.91	L5624	Addition to lower extremity, test socket, above knee	304.51
L5340	Hemipelvectomy, Canadian type; molded socket, endoskeletal system, single axis knee, hip joint, Sach foot, including soft cover and finishing	5,070.18	L5626	Addition to lower extremity, test socket, hip disarticulation	371.26
L5400	Immediate post surgical or early fitting, application of initial rigid dressing including fitting, alignment, suspension, and one cast change, below knee	875.51	L5628	Addition to lower extremity, test socket, hemipelvectomy	381.54
L5410	Immediate post surgical or early fitting, application of initial rigid dressing, including fitting, alignment and suspension, below knee, each additional cast change and realignment	344.27	L5629	Addition to lower extremity, below knee, acrylic socket	297.65
L5420	Immediate post surgical or early fitting, application of initial rigid dressing, including fitting, alignment and suspension and one cast change "AK" or knee disarticulation	986.87	L5630	Addition to lower extremity, Symes type, expandable wall socket	355.27
L5430	Immediate post surgical or early fitting, application of initial rigid dressing, including fitting, alignment and suspension, "AK" or knee disarticulation, each cast change and realignment	472.21	L5631	Addition to lower extremity, above knee or knee disarticulation, acrylic socket	404.25
L5450	Immediate post surgical or early fitting, application of non-weight bearing rigid dressing, below knee	276.28	L5632	Addition to lower extremity, Symes type, "PTB" brim design socket	180.23
L5460	Immediate post surgical or early fitting, application of non-weight bearing rigid dressing, above knee	326.14	L5634	Addition to lower extremity, Symes type, posterior opening (Canadian) socket	217.05
L5500	Initial, below knee "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, plaster socket, direct formed	922.17	L5636	Addition to lower extremity, Symes type, medial opening socket	166.63
L5505	Initial, above knee—knee disarticulation, ischial level socket, "USMC" or equal pylon, no cover, Sach foot, plaster socket, direct formed	1,224.84	L5637	Addition to lower extremity, below knee, total contact	219.90
L5510	Preparatory, below knee, "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, plaster cover, molded to model	969.62	L5638	Addition to lower extremity, below knee, leather socket	338.09
L5520	Preparatory, below knee, "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, thermoplastic or equal, direct formed	1,252.59	L5639	Addition to lower extremity, below knee, wood socket	831.38
L5530	Preparatory, below knee, "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, thermoplastic or equal, molded to model	1,256.38	L5640	Addition to lower extremity, knee disarticulation, leather socket	572.60
L5535	Preparatory, below knee, "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, prefabricated, adjustable open end socket	1,306.05	L5642	Addition to lower extremity, above knee, leather socket	443.84
L5540	Preparatory, below knee, "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, laminated socket, molded to model	1,269.86	L5643	Addition to lower extremity, hip disarticulation, flexible inner socket, external frame	1,011.85
L5560	Preparatory, above knee—knee disarticulation, ischial level socket, "USMC" or equal pylon, no cover, Sach foot, plaster socket, molded to model	1,500.31	L5644	Addition to lower extremity, above knee, wood socket	378.79
L5570	Preparatory, above knee—knee disarticulation, ischial level socket, "USMC" or equal pylon, no cover, Sach foot, thermoplastic or equal, direct formed	1,581.76	L5645	Addition to lower extremity, below knee, flexible inner socket, external frame	490.59
			L5646	Addition to lower extremity, below knee, air cushion socket	357.30
			L5647	Addition to lower extremity, below knee, suction socket	523.36
			L5648	Addition to lower extremity, above knee, air cushion socket	422.90
			L5649	Addition to lower extremity, ischial containment/narrow M-L socket	1,413.30
			L5650	Addition to lower extremity, total contact, above knee or knee disarticulation socket	477.00
			L5651	Addition to lower extremity, above knee, flexible inner socket, external frame	760.91
			L5652	Addition to lower extremity, suction suspension, above knee or knee disarticulation, socket	279.79
			L5653	Addition to lower extremity, knee disarticulation, expandable wall socket	372.39
			L5654	Addition to lower extremity, socket insert, Symes (Kemblo, Pelite, Aliplast, Plastazote or equal)	218.93
			L5655	Addition to lower extremity, socket insert, below knee (Kemblo, Pelite, Aliplast, Plastazote or equal)	228.29
			L5656	Addition to lower extremity, socket insert, knee disarticulation (Kemblo, Pelite, Aliplast, Plastazote or equal)	281.78
			L5658	Addition to lower extremity, socket insert, above knee (Kemblo, Pelite, Aliplast, Plastazote or equal)	245.52
			L5660	Addition to lower extremity, socket insert, Symes, silicone gel or equal	407.19

<b>HCPCS Code</b>	<b>Description</b>	<b>Fee For New Eqpt</b>	<b>HCPCS Code</b>	<b>Description</b>	<b>Fee For New Eqpt</b>
L5661	Addition to lower extremity, socket insert, multi-durometer, Symes	442.77	L5810	Addition, endoskeletal knee-shin system, single axis, manual lock	344.91
L5662	Addition to lower extremity, socket insert, below knee, silicone gel or equal	384.40	L5811	Addition, endoskeletal knee-shin system, single axis, manual lock, ultra-light material	457.76
L5663	Addition to lower extremity, socket insert, knee disarticulation, silicone gel or equal	497.21	L5812	Addition, endoskeletal knee-shin system, single axis, friction swing and stance phase control (safety knee)	370.46
L5664	Addition to lower extremity, socket insert, above knee, silicone gel or equal	497.21	L5816	Addition, endoskeletal knee-shin system, polycentric, mechanical stance phase lock	535.54
L5665	Addition to lower extremity, socket insert, multi-durometer, below knee	330.99	L5818	Addition, endoskeletal knee-shin system, polycentric, friction swing and stance phase control	715.25
L5666	Addition to lower extremity, below knee, cuff suspension	51.44	L5822	Addition, endoskeletal knee-shin system, single axis, pneumatic swing, friction stance phase control	1,358.75
L5668	Addition to lower extremity, below knee, molded distal cushion	77.28	L5824	Addition, endoskeletal knee-shin system, single axis, fluid swing phase control	1,006.78
L5670	Addition to lower extremity, below knee, molded supracondylar suspension ("PTS" or similar)	194.85	L5828	Addition, endoskeletal knee-shin system, single axis, fluid swing and stance phase control	1,996.04
L5672	Addition to lower extremity, below knee, removable medial brim suspension	241.93	L5830	Addition, endoskeletal knee-shin system, single axis, pneumatic swing phase control	1,397.62
L5674	Addition to lower extremity, below knee, latex sleeve suspension, each	43.05	L5850	Addition, endoskeletal system, above knee or hip disarticulation, knee extension assist	86.19
L5675	Addition to lower extremity, below knee, latex sleeve suspension or equal, heavy duty, each	54.04	L5910	Addition, endoskeletal system, below knee, alignable system	331.16
L5676	Addition to lower extremity, below knee, knee joints, single axis, pair	219.04	L5920	Addition, endoskeletal system, above knee or hip disarticulation, alignable system	326.39
L5677	Addition to lower extremity, below knee, knee joints, polycentric, pair	309.38	L5940	Addition, endoskeletal system, below knee, ultra-light material (Titanium, carbon fiber or equal)	319.24
L5678	Addition to lower extremity, below knee, joint covers, pair	24.23	L5950	Addition, endoskeletal system, above knee, ultra-light material (Titanium, carbon fiber or equal)	607.51
L5680	Addition to lower extremity, below knee, thigh lacer, non-molded	229.02	L5960	Addition, endoskeletal system, hip disarticulation, ultra-light material (Titanium, carbon fiber or equal)	678.32
L5682	Addition to lower extremity, below knee, thigh lacer, gluteal/ischial, molded	488.16	L5970	All lower extremity prosthesis, foot, external keel, Sach foot	124.87
L5684	Addition to lower extremity, below knee, fork strap	39.59	L5972	All lower extremity prosthesis, flexible keel foot (Safe, Sten, Bock, Dynamic or equal)	225.20
L5686	Addition to lower extremity, below knee, back check (extension control)	44.11	L5974	All lower extremity prosthesis, foot, single axis ankle/foot	149.30
L5688	Addition to lower extremity, below knee, waist belt, webbing	55.16	L5976	All lower extremity prosthesis, energy storing foot (Seattle Carbon Copy II or equal)	400.31
L5690	Addition to lower extremity, below knee, waist belt, padded and lined	69.30	L5978	All lower extremity prosthesis, foot, multi-axial ankle/foot (Greissinger or equal)	187.15
L5692	Addition to lower extremity, above knee, pelvic control belt, light	90.91	L5980	All lower extremity prosthesis, flex foot system	2,828.85
L5694	Addition to lower extremity, above knee, pelvic control belt, padded and lined	118.09	L5982	All exoskeletal lower extremity prosthesis, axial rotation unit	478.23
L5695	Addition to lower extremity, above knee, pelvic control, sleeve suspension, neoprene or equal, each	130.45	L5984	All endoskeletal lower extremity prosthesis, axial rotation unit	377.66
L5696	Addition to lower extremity, above knee or knee disarticulation, pelvic joint	147.87	L5986	All lower extremity prosthesis, multi-axial rotation unit ("MCP" or equal)	414.95
L5697	Addition to lower extremity, above knee or knee disarticulation, pelvic band	50.65	L6000	Partial hand, Robin-Aids, thumb remaining (or equal)	881.85
L5698	Addition to lower extremity, above knee or knee disarticulation, silesian bandage	87.99	L6010	Partial hand, Robin-Aids, little and/or ring finger remaining (or equal)	968.62
L5699	All lower extremity prosthesis, shoulder harness	117.93	L6020	Partial hand, Robin-Aids, no finger remaining (or equal)	890.81
L5710	Addition, exoskeletal knee-shin system, single axis, manual lock	229.69	L6050	Wrist disarticulation, molded socket, flexible elbow hinges, triceps pad	1,491.49
L5711	Addition, exoskeletal knee-shin system, single axis, manual lock, ultra-light material	376.27	L6055	Wrist disarticulation, molded socket with expandable interface, flexible elbow hinges, triceps pad	2,047.43
L5712	Addition, exoskeletal knee-shin system, single axis, friction swing and stance phase control (safety knee)	304.92	L6100	Below elbow, molded socket, flexible elbow hinge, triceps pad	1,558.79
L5714	Addition, exoskeletal knee-shin system, single axis, variable friction swing phase control	351.58	L6110	Below elbow, molded socket (Muenster or Northwestern suspension types)	1,928.42
L5716	Addition, exoskeletal knee-shin system, polycentric mechanical stance phase lock	514.95	L6120	Below elbow, molded double wall split socket, step-up hinges, half cuff	1,589.40
L5718	Addition, exoskeletal knee-shin system, polycentric friction swing and stance phase control	595.55	L6130	Below elbow, molded double wall split socket, stump activated locking hinge, half cuff	1,801.47
L5722	Addition, exoskeletal knee-shin system, single axis, pneumatic swing, friction stance phase control	601.20	L6200	Elbow disarticulation, molded socket, outside locking hinge, forearm	1,871.18
L5724	Addition, exoskeletal knee-shin system, single axis, fluid swing phase control	1,195.58	L6205	Elbow disarticulation, molded socket with expandable interface, outside locking hinges, forearm	3,168.40
L5726	Addition, exoskeletal knee-shin system, single axis, external joints, fluid swing phase control	1,268.89	L6250	Above elbow, molded double wall socket, internal locking elbow, forearm	2,050.61
L5728	Addition, exoskeletal knee-shin system, single axis, fluid swing and stance phase control	1,980.69	L6300	Shoulder disarticulation, molded socket, shoulder bulkhead, humeral section, internal locking elbow, forearm	2,879.35
L5780	Addition, exoskeletal knee-shin system, single axis, pneumatic hydropneumatic swing phase control	767.47	L6310	Shoulder disarticulation, passive restoration (complete prosthesis)	2,377.99
L5785	Addition, exoskeletal system, below knee, ultra-light material (Titanium, carbon fiber or equal)	320.90	L6320	Shoulder disarticulation, passive restoration (shoulder cap only)	1,474.39
L5790	Addition, exoskeletal system, above knee, ultra-light material (Titanium, carbon fiber or equal)	451.75	L6350	Interscapular thoracic, molded socket, shoulder bulkhead, humeral section internal locking elbow, forearm	3,344.81
L5795	Addition, exoskeletal system, hip disarticulation, ultra-light material (Titanium, carbon fiber or equal)	642.84	L6360	Interscapular thoracic, passive restoration (complete prosthesis)	1,958.57
			L6370	Interscapular thoracic, passive restoration (shoulder cap only)	1,876.84

HCPCS Code	Description	Fee For New Eqpt	HCPCS Code	Description	Fee For New Eqpt
L6380	Immediate post surgical or early fitting, application of initial rigid dressing, including fitting, alignment and suspension of components and one cast change, wrist disarticulation or below elbow	914.24	L6670 L6672	Upper extremity addition, hook to hand, cable adapter Upper extremity addition, harness, chest or shoulder, saddle type	43.80 142.05
L6382	Immediate post surgical or early fitting, application of initial rigid dressing including fitting, alignment and suspension of components and one cast change, elbow disarticulation or above elbow	1,154.60	L6675 L6676	Upper extremity addition, harness, figure of "8" type, for single control Upper extremity addition, harness, figure of "8" type, for dual control	71.86 78.27
L6384	Immediate post surgical or early fitting, application of initial rigid dressing including fitting, alignment and suspension of components and one cast change, shoulder disarticulation	1,406.05	L6680	Upper extremity addition, test socket, wrist disarticulation or below elbow	157.50
L6386	Immediate post surgical or early fitting, each additional cast change and realignment	313.90	L6682	Upper extremity addition, test socket, elbow disarticulation or above elbow	192.76
L6388	Immediate post surgical or early fitting, application of rigid dressing only	273.65	L6684	Upper extremity addition, test socket, shoulder disarticulation or interscapular thoracic	223.60
L6400	Below elbow, molded socket, endoskeletal system, including soft prosthetic tissue shaping	1,638.59	L6686	Upper extremity addition, suction socket	452.96
L6450	Elbow disarticulation, molded socket, endoskeletal system, including soft prosthetic tissue	1,993.94	L6687	Upper extremity addition, frame type socket, below elbow or wrist disarticulation	356.55
L6500	Above elbow, molded socket, endoskeletal system, including soft prosthetic tissue shaping	2,047.91	L6688	Upper extremity addition, frame type socket, above elbow or elbow disarticulation	371.44
L6550	Shoulder disarticulation, molded socket, endoskeletal system, including soft prosthetic tissue shaping	2,487.09	L6689	Upper extremity addition, frame type socket, shoulder disarticulation	482.14
L6570	Interscapular thoracic, molded socket, endoskeletal system, including soft prosthetic tissue shaping	2,942.19	L6690	Upper extremity addition, frame type socket, interscapular thoracic	490.33
L6580	Preparatory, wrist disarticulation or below elbow, single wall plastic socket, friction wrist, flexible elbow hinges, figure of eight harness, humeral cuff, Bowden cable control, USMC or equal pylon, no cover, molded to patient model	1,064.80	L6691 L6692	Upper extremity addition, removable insert, each Upper extremity addition, silicone gel insert or equal, each	301.77 364.95
L6582	Preparatory, wrist disarticulation or below elbow, single wall socket, friction wrist, flexible elbow hinges, figure of eight harness, humeral cuff, Bowden cable control, USMC or equal pylon, no cover, direct formed	914.24	L6700	Terminal device, hook, dorrance, or equal Model # 3	325.28
L6584	Preparatory, elbow disarticulation or below elbow, single wall plastic socket, friction wrist, locking elbow, figure of eight harness, fair lead cable control, USMC or equal pylon, no cover, molded to patient model	1,494.44	L6705	Terminal device, hook, dorrance, or equal Model # 5	196.82
L6586	Preparatory, elbow disarticulation or above elbow, single wall socket, friction wrist, locking elbow, figure of eight harness, fair lead cable control, USMC or equal pylon, no cover, direct formed	1,297.97	L6710	Terminal device, hook, dorrance, or equal Model # 5X	263.89
L6588	Preparatory, shoulder disarticulation or interscapular thoracic, single wall plastic socket, shoulder joint, locking elbow, friction wrist, chest strap, fair lead cable control, USMC or equal pylon, no cover, molded to patient model	2,189.21	L6715	Terminal device, hook, dorrance, or equal Model # 5Xa	221.37
L6590	Preparatory, shoulder disarticulation or interscapular thoracic, single wall socket, shoulder joint, locking elbow, friction wrist, chest strap, fair lead cable control, USMC or equal pylon, no cover, direct formed	2,012.22	L6720	Terminal device, hook, dorrance, or equal Model # 6	556.04
L6600	Upper extremity additions, polycentric hinge, pair	140.17	L6725	Terminal device, hook, dorrance, or equal Model # 7	265.84
L6605	Upper extremity additions, single pivot hinge, pair	159.25	L6730	Terminal device, hook, dorrance, or equal Model # 7L0	431.23
L6610	Upper extremity additions, flexible metal hinge, pair	103.86	L6735	Terminal device, hook, dorrance, or equal Model # 8	195.72
L6615	Upper extremity addition, disconnect locking wrist unit	138.56	L6740	Terminal device, hook, dorrance, or equal Model # 8X	247.97
L6616	Upper extremity addition, additional disconnect insert for locking wrist unit, each	59.40	L6745	Terminal device, hook, dorrance, or equal Model # 88X	226.63
L6620	Upper extremity addition, flexible-friction wrist unit	288.58	L6750	Terminal device, hook, dorrance, or equal Model # 10P	223.39
L6623	Upper extremity addition, spring assisted rotational wrist unit with latch release	467.97	L6755	Terminal device, hook, dorrance, or equal Model # 10X	224.49
L6625	Upper extremity addition, rotation wrist unit with cable lock	321.96	L6765	Terminal device, hook, dorrance, or equal Model # 12P	233.05
L6628	Upper extremity addition, quick disconnect hook adapter, Otto Bock or equal	321.81	L6770	Terminal device, hook, dorrance, or equal Model # 99X	225.85
L6629	Upper extremity addition, quick disc lamin collar w/coupling piece, Otto Bock or equal	101.79	L6775	Terminal device, hook, dorrance, or equal Model # 555	273.03
L6630	Upper extremity addition, stainless steel, any wrist	142.36	L6780	Terminal device, hook, dorrance, or equal Model # SS555	308.63
L6632	Upper extremity addition, latex suspension sleeve, each	41.94	L6790	Terminal device, hook, "ACCU" hook or equal	372.54
L6635	Upper extremity addition, lift assist for elbow	153.57	L6795	Terminal device, hook "2" load or equal	875.24
L6637	Upper extremity addition, nudge control elbow lock	253.99	L6800	Terminal device, hook—APRL VC or equal	707.35
L6640	Upper extremity additions, shoulder abduction joint, pair	195.19	L6805	Terminal device, modifier, wrist flexion unit	252.08
L6641	Upper extremity addition, excursion amplifier, pulley type	132.56	L6806	Terminal device, hook, TRS grip, VC	1,176.87
L6642	Upper extremity addition, excursion amplifier, lever type	190.09	L6807	Terminal device, hook, TRS adept, child, VC	895.05
L6645	Upper extremity addition, shoulder flexion-abduction joint, each	206.87	L6808	Terminal device, hook, TRS adept, infant, VC	744.49
L6650	Upper extremity addition, shoulder universal joint, each	214.36	L6809	Terminal device, hook, TRS Super Sport, passive	284.88
L6655	Upper extremity addition, standard control cable, extra	47.80	L6810	Terminal device, hook, pincher tool, Otto Bock or equal	130.35
L6660	Upper extremity addition, heavy duty control cable	59.15	L6825	Terminal device, hand, dorrance, VO	859.12
L6665	Upper extremity addition, teflon or equal, cable lining	32.96	L6830	Terminal device, hand, APRL, VC	993.53
			L6835	Terminal device, hand, Sierra, VO	869.14
			L6840	Terminal device, hand, Becker Imperial	562.76
			L6845	Terminal device, hand, Becker Lock Grip	585.60
			L6850	Terminal device, hand, Becker Plylite	536.26
			L6855	Terminal device, hand, Robin-Aids, VO	553.52
			L6860	Terminal device, hand, Robin-Aids, VO soft	514.41
			L6865	Terminal device, hand, passive hand	247.26
			L6867	Terminal device, hand, Detroit infant hand, (mechanical)	780.11
			L6868	Terminal device, hand, Passive infant hand, (Steeper, Hosmer or equal)	162.92
			L6870	Terminal device, hand, child mitt	221.05
			L6872	Terminal device, hand, NYU child hand	752.69
			L6873	Terminal device, hand, mechanical infant hand, Steeper or equal	295.27
			L6875	Terminal device, hand, Bock, VC	705.53
			L6880	Terminal device, hand, Bock, VO	435.00
			L6890	Terminal device, glove for above hands, production glove	125.56
			L6895	Terminal device, glove for above hands, custom glove	379.27
			L6900	Hand restoration (cast, shading and measurements included), partial hand, with glove, thumb or one finger remaining	1,295.70
			L6905	Hand restoration (casts, shading and measurements included), partial hand, with glove, multiple fingers remaining	1,292.16
			L6910	Hand restoration (cast, shading and measurements included), partial hand, with glove no fingers remaining	1,122.97

<b>HCPCS Code</b>	<b>Description</b>	<b>Fee For New Eqpt</b>	<b>HCPCS Code</b>	<b>Description</b>	<b>Fee For New Eqpt</b>	<b>Monthly Rental Fee</b>
L6915	Hand restoration (shading, and measurements included), replacement glove for above	407.73	L7266	Servo control, Steeper or equal	618.60	
L6920	Wrist disarticulation, external power, self-suspended inner socket, removable forearm shell, Otto Bock or equal switch, cables, two batteries and one charger, switch control of terminal device	4,877.49	L7272	Analogue control, UNB or equal	1,496.06	
L6925	Wrist disarticulation, external power, self-suspended inner socket, removable forearm shell, Otto Bock or equal electrodes, cables, two batteries and one charger, myoelectronic control of terminal	5,479.18	L7274	Proportional control, 12 volt, Utah or equal	4,656.89	
L6930	Below elbow, external power, self-suspended inner socket, removable forearm shell, Otto Bock or equal switch, cables, two batteries and one charger, switch control of terminal device	4,499.94	L7360	Six volt battery, Otto Bock or equal, each	215.51	
L6935	Below elbow, external power, self-suspended inner socket, removable forearm shell, Otto Bock or equal electrodes, cables, two batteries and one charger, myoelectronic control of terminal device	5,371.69	L7362	Battery charger, six volt, Otto Bock or equal	183.20	
L6940	Elbow disarticulation, external power, molded inner socket, removable humeral shell, outside locking hinges, forearm, Otto Bock or equal switch, cables, two batteries and one charger, switch	6,343.68	L7364	Twelve volt battery, Utah or equal, each	370.97	
L6945	Elbow disarticulation, external power, molded inner socket, removable humeral shell, outside locking hinges, forearm, Otto Bock or equal electrodes, cables, two batteries and one charger	7,000.80	L7366	Battery charger, 12 volt, Utah or equal	472.71	
L6950	Above elbow, external power, molded inner socket, removable humeral shell, internal locking elbow, forearm, Otto Bock or equal switch, cables, two batteries and one charger, switch control of	6,592.75	L8000	Breast prosthesis, mastectomy bra	23.24	
L6955	Above elbow, external power, molded inner socket removable humeral shell, internal locking elbow, forearm, Otto Bock or equal electrodes, cables, two batteries and one charter, myoelectronic	7,861.37	L8010	Breast prosthesis, mastectomy sleeve	59.82	
L6960	Shoulder disarticulation, external power, molded inner socket, removable shoulder shell, should bulkhead, humeral section, mechanical elbow, forearm, Otto Bock or equal switch, cables, two	8,585.21	L8020	Breast prosthesis, mastectomy form	169.82	
L6965	Shoulder disarticulation, external power, molded inner socket, removable shoulder shell, shoulder shell, shoulder bulkhead, humeral section, mechanical elbow, forearm, Otto Bock or equal	9,850.27	L8030	Breast prosthesis, silicone or equal	200.15	
L6970	Interscapular-thoracic, external power, molded inner socket, removable shoulder shell, shoulder bulkhead, humeral section, mechanical elbow, forearm, Otto Bock or equal switch, cables, two	10,616.81	L8300	Truss, single with standard pad	58.20	
L6975	Interscapular-thoracic, external power, molded inner socket, removable shoulder shell, shoulder bulkhead, humeral section, mechanical elbow, forearm, Otto Bock or equal electrodes, cables, two	11,783.36	L8310	Truss, double with standard pads	119.68	
L7010	Electronic hand, Otto Bock, Steeper or equal switch controlled	2,225.07	L8320	Truss, addition to standard pad, water pad	36.38	
L7015	Electronic hand, Systemtechnik, Variety Village or equal switch controlled	4,117.35	L8330	Truss, addition to standard pad, scrotal pad	32.71	
L7020	Electronic Greifer, Otto Bock or equal switch controlled	2,556.81	L8400	Prosthetic sheath, below knee, each	15.37	
L7025	Electronic hand, Otto Bock or equal, myoelectronically controlled	2,507.23	L8410	Prosthetic sheath, above knee, each	15.52	
L7030	Electronic hand, Systemtechnik, Variety Village or equal, myoelectronically controlled	4,255.34	L8415	Prosthetic sheath, upper limb, each	15.28	
L7035	Electronic Greifer, Otto Bock or equal, myoelectronically controlled	2,468.65	L8420	Prosthetic sock, wool, below knee, each	17.40	
L7040	Prehensile actuator, Hosmer or equal, switch controlled	1,956.78	L8430	Prosthetic sock, wool, above knee, each	18.76	
L7045	Electronic hook, child, Michigan or equal, switch controlled	947.19	L8435	Prosthetic sock, wool, upper limb, each	13.73	
L7160	Electronic elbow, Boston or equal, switch controlled	10,781.93	L8440	Prosthetic shrinker, below knee, each	37.82	
L7165	Electronic elbow, Boston or equal, myoelectronically controlled	12,233.01	L8460	Prosthetic shrinker, above knee, each	47.66	
L7170	Electronic elbow, Hosmer or equal, switch controlled	3,893.67	L8465	Prosthetic shrinker, upper limb, each	40.26	
L7180	Electronic elbow, Utah or equal, myoelectronically controlled	23,158.53	L8470	Stump sock, single ply, fitting, below knee, each	4.64	
L7185	Electronic elbow, adolescent, Variety Village or equal, switch controlled	4,178.52	L8480	Stump sock, single ply, fitting, above knee, each	5.86	
L7186	Electronic elbow, child, Variety Village or equal, switch controlled	6,585.92	L8500	Artificial larynx, any type	596.58	
L7190	Electronic elbow, adolescent, Variety Village or equal, myoelectronically controlled	5,747.84	L8501	Tracheostomy speaking valve	72.92	
L7191	Electronic elbow, child, Variety Village or equal, myoelectronically controlled	6,915.81	L8600	Implantable breast prosthesis, silicone or equal	245.90	
L7260	Electronic wrist rotator, Otto Bock or equal	1,625.89	L8605	Other prosthetic procedures-devices: tissue expander	305.06	
L7261	Electronic wrist rotator, for Utah arm	2,826.48	L8610	OPPD: ocular	426.64	
			L8613	OPPD: ossicula	222.38	
			L8615	OPPD: temporomandibular joint	188.17	
			L8620	OPPD: radial head	179.61	
			L8622	OPPD: proximal ulna/radius	192.44	
			L8623	OPPD: distal ulna	192.44	
			L8624	OPPD: distal radius	205.27	
			L8625	OPPD: trapezium	179.61	
			L8626	OPPD: wrist	491.80	
			L8627	OPPD: lunate	325.02	
			L8628	OPPD: carpus	179.61	
			L8629	OPPD: scaphoid	179.61	
			L8630	OPPD: metacarpophalangeal joint	192.44	
			L8640	OPPD: patella	102.00	
			L8641	OPPD: metatarsal joint	179.61	
			L8642	OPPD: haliux implant	179.61	
			L8655	OPPD: flexor tendon in hand or finger	102.64	
			L8656	OPPD: extensor tendon in hand or finger	102.64	
			L8657	OPPD: tendon other than hand or finger	102.64	
			L8658	OPPD: interphalangeal joint	188.17	
			L8690	OPPD: testicle	149.68	
				CODES BEGINNING WITH "Q" THRU "V"		
			<b>HCPCS Code</b>	<b>Description</b>	<b>Fee For New Eqpt</b>	<b>Monthly Rental Fee</b>
			Q0036	Oxygen concentrator high humidity	—	296.10
			Q0038	Oxygen contents, gaseous, per unit (for use with owned gaseous stationary systems or when both a stationary and portable gaseous system are owned; 1 unit = 50 cubic feet)	204.80	—
			Q0039	Oxygen contents, liquid, per unit (for use with owned stationary liquid systems or when both a stationary and portable liquid system are owned; 1 unit = 10 lbs.)	204.80	—
			Q0040	Portable oxygen contents, gaseous per unit (for use only with portable gaseous systems when no stationary gas system is used; 1 unit = 5 cubic ft.)	30.81	—
			Q0041	Portable oxygen contents, liquid, per unit (for use with portable liquid systems when no stationary liquid system is used; 1 unit = 1 lb.)	30.81	—
			Q0042	Stationary compressed gas system rental, includes contents (per unit), regulator with flow gauge, humidifier, nebulizer, cannula or mask and tubing, 1 unit = 50 cubic ft.	—	296.10
			Q0043	Stationary liquid oxygen system rental, includes content (per unit), use of reservoir, contents indicator, flowmeter, humidifier, ne-		

HCPCS Code	Description	Fee For New Eqpt	Monthly Rental Fee
	bulizer, cannula or mask and tubing; 1 unit of contents = 10 lbs.	—	296.10
Q0046	Portable liquid oxygen system rental, includes flowmeter, refill adapter, contents gauge, cannula and tubing	—	54.99
V2620	Prosthetic, eye, glass, stock	304.96	—
V2621	Prosthetic, eye, plastic, stock	293.40	—
V2622	Prosthetic, eye, glass, custom	671.89	—
V2623	Prosthetic, eye, plastic, custom	671.89	—

Administrative Correction.  
 See: 23 N.J.R. 125(a).  
 Administrative Correction.  
 See: 23 N.J.R. 861(a).  
 Amended by R.1992 d.170, effective April 6, 1992.  
 See: 23 N.J.R. 3203(a), 24 N.J.R. 1347(a).  
 Amended by R.1993 d.395, effective August 2, 1993.  
 See: 25 N.J.R. 229(b), 25 N.J.R. 3466(b).  
 Petition for Rulemaking.  
 See: 27 N.J.R. 2015(a), 27 N.J.R. 2492(a), 27 N.J.R. 3637(a).  
 Petition for Rulemaking.  
 See: 28 N.J.R. 1078(b).  
 Public Notice: Action on petition for rulemaking.  
 See: 28 N.J.R. 3018(a).  
 Amended by R.1996 d.388, effective August 19, 1996.  
 See: 28 N.J.R. 1472(a), 28 N.J.R. 3962(a).  
 Amended by R.1997 d.125, effective March 17, 1997.  
 See: 28 N.J.R. 4705(a), 29 N.J.R. 887(a).  
 In (d), amended schedule codes numbers and raised fees.  
 Petition for Rulemaking.  
 See: 30 N.J.R. 1438(a), 1866(a).

**Case Notes**

Agency-promulgated schedule of fees was pertinent to reasonableness of fees charged. *Thermographic Diagnostics, Inc. v. Allstate Ins. Co.*, 125 N.J. 491, 593 A.2d 768 (1991).  
 Examination fees were not reasonable despite being consistent with prevailing rates. *Thermographic Diagnostics, Inc. v. Allstate Ins. Co.*, 125 N.J. 491, 593 A.2d 768 (1991).

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

**11:3-30.1 Purpose**

This subchapter sets forth the filing requirements for motor vehicle self-insurers pursuant to N.J.S.A. 39:6-50.1, and 39:6-52 to 39:6-54.

**11:3-30.2 Scope**

The provisions of this subchapter apply to any person seeking to qualify as a motor vehicle self-insurer in New Jersey, except public entities pursuant to N.J.S.A. 39:6-54.

**11:3-30.3 Definitions**

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

“Applicant” means a person applying for a certificate of self-insurance who does not currently possess a valid certificate.

“Association” means the New Jersey Automobile Full Insurance Underwriting Association created pursuant to N.J.S.A. 17:30E-1 et seq.

“Certificate” means certificate of self-insurance.

“Certificate holder” means a person who currently possesses a valid certificate of self-insurance.

“Certified public accountant” means an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which they are licensed to do business.

“Commissioner” means the Commissioner of Insurance.

“Motorized bicycle” means a pedal bicycle having a helper motor characterized in that either the maximum piston displacement is less than 50 cubic centimeters (cc.) or said motor is rated at no more than 1.5 brake horsepower and said bicycle is capable of a maximum speed of no more than 25 miles per hour on a flat surface.

“Motor vehicle” means all vehicles propelled otherwise than by muscular power, excepting such vehicles as run upon rails or tracks and motorized bicycles.

“Person” means a natural person, firm, co-partnership, association or corporation.

“Public entity” means this State, any political subdivision of this State or any municipality therein.

**11:3-30.4 General requirements**

(a) Any person in whose name more than 25 motor vehicles are registered or in whose name more than 25 motor vehicles are leased may qualify as a self-insurer by obtaining a certificate of self-insurance issued at the discretion of the Commissioner as provided in this subchapter.

(b) All filings for certificates of self-insurance, renewals, and any other filings deemed necessary by the Commissioner pursuant to this subchapter shall be sent to:

New Jersey Department of Insurance  
 Financial Exams Division  
 20 West State Street  
 PO Box 325  
 Trenton, New Jersey 08625-0325  
 Attention: Self-insurers

**11:3-30.5 Certificate of self-insurance**

(a) Any person applying for a certificate of self-insurance shall submit the following to the Commissioner:

1. A completed application form on forms to be provided by the Commissioner;
2. The most current financial statement and financial statements for the two years immediately preceding the date of such current financial statement:
  - i. All financial statements shall be certified by a Certified Public Accountant;
  - ii. If the applicant is a subsidiary of a corporation, the applicant shall also submit the financial statements of the subsidiary's ultimate parent corporation;
  - iii. If the applicant is a corporation, the Commissioner may also include the name of any subsidiary

corporation under the control of that corporation in the certificate of self-insurance if the ultimate parent corporation guarantees that it will discharge the subsidiary's liability as evidenced by the filing of an indemnity agreement. If the ultimate parent corporation does not provide such a guarantee, the subsidiary shall make a separate application and receive independent qualification as a self-insurer. If the name of the subsidiary is included in the certificate of self-insurance of the ultimate parent corporation and ownership of the ultimate parent or subsidiary corporation changes, the ultimate parent or subsidiary shall reapply for a certificate of self-insurance within 30 days of the ownership change; and

3. A \$1,000 filing fee.

(b) After the submission of an application, the Commissioner may require an additional fee to cover the costs of further examinations which may include a credit report to be prepared by a credit agency acceptable to the Commissioner.

(c) If an application is approved and the Commissioner receives notification from the Association that the applicant has paid any applicable policy constant or RMEC pursuant to N.J.S.A. 17:29A-37.1 and 17:30E-1 et seq., respectively, the Commissioner shall issue a certificate of self-insurance to the applicant.

(d) All certificates of self-insurance are valid from the date of issuance until June 30 immediately following and may be renewed thereafter, pursuant to N.J.A.C. 11:3-30.6, for a one year period beginning July 1 and ending June 30 the following year.

#### 11:3-30.6 Renewals

(a) Any certificate holder applying for renewal shall submit the following so that it is received by the Commissioner not later than June 1 of the year of the expiration date of such certificate:

1. An accident and claim activity report on forms to be provided by the Commissioner;
2. A financial statement for the calendar year immediately preceding the expiration date of the certificate of self-insurance certified by a Certified Public Accountant;
3. An updated vehicle listing which shall include a listing of the vehicles subject to any applicable policy constant or RMEC pursuant to N.J.S.A. 17:29A-37.1 and 17:30E-1 et seq., respectively;
4. A \$1,000 renewal fee; and
5. Any other information that is substantially different from the information provided in the original application form or from the information provided in the last renewal period.

(b) After the submission of an application for renewal, the Commissioner may require an additional fee to cover the costs of further examinations which may include a credit report to be prepared by a credit agency acceptable to the Commissioner.

(c) If an application for renewal is approved and the Commissioner receives notification from the Association that the certificate holder has paid any applicable policy constant or RMEC pursuant to N.J.S.A. 17:29A-37.1 and 17:30E-1 et seq., respectively, the Commissioner shall issue a new certificate of self-insurance.

#### 11:3-30.7 Surety bond requirement

(a) The Commissioner may require the furnishing of a surety bond and/or evidence of excess insurance.

(b) If the applicant or certificate holder is required to furnish a surety bond, the surety bond shall be in an amount of not less than \$300,000, with an additional \$10,000 for each vehicle registered or leased in the applicant's or certificate holder's name over the minimum required to qualify as self-insurer under this subchapter, up to a maximum amount of \$1,000,000.

#### 11:3-30.8 Audits and examinations

(a) The Commissioner may make or cause to be made audits or examinations as may be necessary to determine the ability of the applicant or the certificate holder to discharge its financial obligations as a self-insurer.

(b) The applicant or certificate holder shall pay the reasonable expenses of the audit or examination.

#### 11:3-30.9 Public entities

(a) This subchapter does not apply to any motor vehicle owned by the United States, this State, any political subdivision of this State or any municipality therein; nor to any motor vehicle which is subject to the requirements of law requiring insurance or other security on certain types of vehicles, other than the requirements of N.J.S.A. 39:6A-1 et seq. or N.J.S.A. 39:6B-1 et seq.

(b) Notwithstanding the provisions in (a) to the contrary, any public entity that currently has or will establish in the future a self-insurance program or plans to discontinue a self-insurance program currently in effect, shall notify the Commissioner in writing that it currently has, will establish or discontinue such a program.

#### 11:3-30.10 Cancellation of certificate of self-insurance

After a hearing conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, upon not less than five days' notice, the Commissioner may cancel a certificate of self-insurance upon reasonable grounds including, but not limited to, failure to pay any judgment within 30 days after such judgment has become final.

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### SUBCHAPTER 31. (RESERVED)

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### SUBCHAPTER 32. CERTIFICATION OF COMPLIANCE: MANDATORY LIABILITY COVERAGES

#### 11:3-32.1 Purpose and scope

(a) This subchapter establishes the procedures and requirements for automobile or motor vehicle insurers to

certify that automobile or motor vehicle insurance liability policies issued outside of New Jersey provide coverage pursuant to N.J.S.A. 39:6A-3, 39:6A-4, 39:6B-1, 17:28-1.3 and 17:28-1.1, as required under N.J.S.A. 17:28-1.4, whenever the automobile or motor vehicle insured under such a policy is used or operated in this State.

(b) This subchapter applies to each insurer authorized to transact automobile or motor vehicle insurance business in the State pursuant to N.J.S.A. 17:28-1.4.

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).

### 11:3-32.2 Definitions

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

“Certification” means a written statement certified or sworn to be true and signed by a duly authorized officer of the insurer.

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

“Control” (including the terms “controlling,” “controlled by” and “under common control”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 percent or more of the voting securities of any other person, provided that no such presumption of control shall of itself relieve any person so presumed to have control from any requirement of this subchapter.

“NAIC” means the National Association of Insurance Commissioners.

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).

### 11:3-32.3 Certification compliance requirements

(a) Each insurer authorized to transact automobile or motor vehicle insurance business in this State pursuant to N.J.S.A. 17:28-1.4 shall file a certification of compliance with the Department on its own behalf and on behalf of:

1. Any insurer that is controlled by the insurer authorized to transact insurance business in this State, which sells a policy providing automobile or motor vehicle liability insurance coverage;

2. Any insurer that controls the insurer authorized to transact automobile or motor vehicle liability insurance in this State, which sells a policy providing automobile or motor vehicle liability insurance coverage; and

3. Any insurer under common control by or with the insurer authorized to transact automobile or motor vehicle liability insurance in this State.

(b) The certification insurers are required to file in accordance with (a) above shall include the following information:

1. The name of the insurance company authorized to transact automobile or motor vehicle insurance in New Jersey;

2. The names of insurance companies that transact automobile or motor vehicle insurance in other states or provinces of Canada, that are controlling or controlled by, or are under common control by, or with, the insurer named in (b)1 above;

3. The NAIC group and company number for each insurer named in (b)1 and 2 above;

4. The name, signature, title and telephone number of the company officer authorized to complete the certification; and

5. A statement that the company will provide the coverages required in N.J.S.A. 39:6B-1, 39:6A-3, 39:6A-4, 17:28-1.3, and 17:28-1.1, whenever the automobile or motor vehicle insured under the policy is used or operated in this State.

(c) Any insurer that acquires control of, is acquired by or comes under common control of another insurer shall file the required certification of compliance within 30 days of this change in control and include the following information:

1. A certification that contains the information provided in (b)1 through 5 above; and

2. The effective date of the changes in control described in (c) above.

(d) Each insurer required to file a certification shall do so by October 19, 1994.

(e) All certifications shall be submitted to the Department at the following address:

New Jersey Department of Banking and Insurance  
Property/Liability Division  
20 West State Street  
PO Box 325  
Trenton, NJ 08625-0325

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).

**11:3-32.4 Requests for copies of certifications**

(a) Any person requesting a copy of a certification on file with the Department shall make the request in writing and include the complete name of the company or companies for which the certification is requested.

(b) Requests for copies of certification on file with the Department shall be directed to:

New Jersey Department of Insurance  
Property/Liability Division  
20 West State Street  
PO Box 325  
Trenton, New Jersey 08625-0325

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

**11:3-33.1 Purpose; scope**

This subchapter sets forth an appeal procedure for a person who has been either denied personal private passenger automobile insurance or nonrenewed in the voluntary market by an insurer on the basis that they are not an eligible person as defined in N.J.A.C. 11:3-34.4. This subchapter applies to such persons, agents and insurers required to write personal private passenger automobile insurance pursuant to State statutes and rules.

**11:3-33.2 Definitions**

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

“Applicant” means an insured or prospective insured who has made a request for personal private passenger automobile insurance on either a first time or renewal basis.

“Automobile” means a private passenger automobile of a private passenger or station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pickup body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

“Cancellation” means termination of insurance during the policy term pursuant to the provisions of N.J.S.A. 17:29C-7.

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

“Completed written application” means a signed application that contains the minimum information necessary as set forth at N.J.A.C. 11:3-44.3(a) to determine whether the applicant is an eligible person, to rate and underwrite the policy, is accompanied by a completed coverage selection form as provided at N.J.A.C. 11:3-15.6 and, if requested, a copy of the applicant’s driver’s license, a copy of the motor vehicle registration of the principal vehicle to be insured, one additional proof of New Jersey residency and an acknowledgment of requirement for insurance inspection form where physical damage is requested.

“Contested case” means a proceeding, including any licensing proceeding, in which the legal rights, duties, obligations, privileges, benefits or other legal relations of specific parties are required by constitutional right or by statute to be determined by an agency by decision, determination, or other, addressed to them or disposing of their interests, after opportunity for an agency hearing, but shall not include any proceeding in the Division of Taxation, Department of the Treasury, which is reviewable de novo by the Tax Court.

“Declination,” “denied” or “denial” means:

1. Refusal by an insurance agent to submit an application on behalf of an applicant to any of the insurers represented by the agent;

2. Refusal by an insurer to issue an automobile insurance policy to an applicant upon receipt of an application for automobile insurance;

3. The offer of automobile insurance coverage with less favorable terms or conditions than those requested by an applicant, including the refusal to make requested changes to an existing policy that are available to other insureds with that insurer, or the offer to insure at a rate applicable to other than eligible persons;

4. The refusal by an insurer or agent to provide, upon the request of an applicant, an application form or other means of making an application or request for automobile insurance coverage;

5. The refusal by an insurer to renew a policy of automobile insurance based on eligible person status, unless either a member of the insured’s household is not an eligible person and that person accounts for 10 percent or more of the use of the subject vehicle pursuant to N.J.A.C. 11:3-8.4(a)2, that the eligible person is nonrenewed pursuant to the provisions of N.J.A.C. 11:3-8.5; or

6. The cancellation of an automobile insurance policy by the insurer pursuant to N.J.S.A. 17:29C-7 for any reason other than nonpayment of premium; or

7. Failure of an insurer to either bind coverage or issue a written denial of coverage to an applicant, or if requested to notify the applicant whether coverage will be provided or denied, within five business days of the date a completed written application is received that includes the information in N.J.A.C. 11:3-44.3(a).

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

“Eligible person” means an eligible person as defined at N.J.A.C. 11:3-34.4.

“Insurance agent” or “agent” means an insurance agent as defined at N.J.S.A. 17:22A-2 and shall also include an “insurance broker” as defined at N.J.S.A. 17:22A-2 who has a brokerage relationship with an insurer.

“Insurer” means any person transacting the business of personal private passenger automobile insurance with a duty to write personal private passenger automobile insurance in New Jersey for an eligible person, pursuant to N.J.S.A. 17:33B-15 and rules promulgated pursuant thereto by the Commissioner.

“Person” means an individual, association, corporation, partnership or other entity.

“Personal private passenger automobile insurance” or “automobile insurance” means direct insurance on private passenger automobiles issued by an insurer in accordance with a personal lines rating system filed and approved pursuant to N.J.S.A. 17:29A-1 et seq.

“Voluntary market” means automobile insurance written other than through a plan of operation established pursuant to N.J.S.A. 17:29B-1 et seq., 17:30E-1 et seq. or 17:33B-11.

“Working day” means any day except Saturday, Sunday or New Jersey State legal holidays.

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 for completed written application added; item 7 added to definition of declination.

Adopted Concurrent Proposal, R.1993 d.238, effective April 30, 1993.

See: 25 N.J.R. 1290(a), 25 N.J.R. 2479(a).

New Rule, R.1994 d.598, effective December 5, 1994.

See: 26 N.J.R. 3591(a), 26 N.J.R. 4777(a).

### 11:3-33.3 Right to appeal

Any eligible person who has been denied automobile insurance in the voluntary market by an insurer shall be entitled to appeal the denial in the manner provided by this subchapter.

### 11:3-33.4 Duties of insurer or insurance agent

(a) If the application or request for coverage was made in writing, the insurer or agent shall provide the applicant with an explanation of the reasons for the denial in writing. If the application or request for coverage was made orally, the insurer or agent may provide the applicant with an oral explanation instead of a written explanation but shall provide a written explanation if the applicant requests a written explanation within 90 days of the oral denial.

(b) Within 10 working days of a determination to deny automobile insurance in the voluntary market (from either a written application or from the date that an oral request is made for a written determination), an insurer or agent shall notify an applicant, in writing, of each specific reason for the denial. The reasons provided by an insurer or insurance agent shall be comprehensive and written in plain language. The reasons shall identify the specific basis for which the applicant fails to qualify as an “eligible person.”

(c) An insurer or agent who has issued a written denial shall notify an applicant of his or her right to appeal the denial to the Department, pursuant to the provisions of this subchapter. That insurer or agent shall also advise the applicant of his or her obligation to obtain insurance coverage as a condition of operation of the vehicle. As part of this notification, an insurer or agent shall provide an applicant with the letter and appeal form which comprise Appendices A and B to this subchapter set forth and incorporated as part of this rule. For nonrenewals, the insurer shall provide the notice set forth in N.J.A.C. 11:3-8.3 together with the letter and appeal form when nonrenewing an applicant pursuant to N.J.A.C. 11:3-8.4.

#### 11:3-33.5 Procedure for filing an appeal

(a) Appeals from a denial of automobile insurance in the voluntary market shall be submitted to the Department, on a form prescribed by the Department (Appendix B to this subchapter, which is incorporated herein by reference as part of this rule), within 90 days of the date of a written denial from an insurer or insurance agent. Notwithstanding an insurer's or agent's obligation to provide a person with this form upon a denial of initial coverage (see N.J.A.C. 11:3-33.4(c)), copies can also be obtained by contacting the Department by telephone (609) 984-2426 or by mail at the address below:

Department of Insurance  
Division of Enforcement and Consumer Protection  
Attn: Auto Insurance Denial  
20 West State Street  
CN 329  
Trenton, New Jersey 08625

(b) The form prescribed by the Department shall be completed and submitted to the address above and shall include, at a minimum, the following information:

1. A copy of the written denial obtained from the insurer or agent pursuant to N.J.S.A. 17:33B-16 and N.J.A.C. 11:3-33.4. When an applicant receives an oral denial, he or she shall request a written denial as provided by N.J.A.C. 11:3-33.4; and
2. A statement from the applicant who has received a denial of coverage, including supporting documentation, if any, indicating the reasons why the denial is improper.

#### 11:3-33.6 Processing appeals

(a) Upon receipt of an appeal submitted in accordance with N.J.A.C. 11:3-33.5, the Department shall send to the insurer or insurance agent (the "respondent") who provided the written denial, a copy of all pertinent documents which have been submitted by applicant (the "appellant"), and shall require a final written reply from the respondent within 30 days of the receipt of these documents.

(b) Upon the Department's receipt of the respondent's reply to the appeal, and upon a review of the papers, the Department shall render its decision on the appeal. The decision shall be in writing and shall set forth the reasons why the denial was appropriate or inappropriate under law. Copies of the Department's decision shall be mailed by certified mail to the appellant and the respondent. The Department's decision shall also include a written notice explaining the procedures to appeal the decision pursuant to N.J.A.C. 11:3-33.7.

(c) A respondent's failure to timely reply pursuant to (a) above shall result in a decision by the Department based solely upon the papers submitted by the appellant, together with any other information available to the Department at that time, pursuant to this subchapter. A respondent's failure to timely reply pursuant to (a) above shall be deemed a violation of this subchapter and may result in the assessment of penalties provided in N.J.A.C. 11:3-33.8.

(d) Upon a determination by the Department that a denial was improper, the insurer shall be required to offer the applicant the requested coverage effective as of the date of the declination. The Department may, however, determine to require the insurer to offer coverage effective on a later date upon a finding that the applicant failed to maintain insurance on an automobile as required by N.J.S.A. 39:6B-1.

#### 11:3-33.7 Contested case hearings; pleadings

(a) An appeal from a decision of the Department made pursuant to N.J.A.C. 11:3-33.6 shall be heard as a contested case pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as implemented by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) The procedure for filing an appeal from the Department's decision pursuant to N.J.A.C. 11:3-33.6(c) shall be as follows:

1. Upon receipt of the Department's decision, the insurer or agent denying coverage or the applicant denied automobile insurance coverage shall, within 20 calendar days of receipt of the decision, file with the Department a written request that the matter be heard as a contested case. Failure to file an appeal within the time required by this section shall result in the Department's decision becoming the final agency action. The written request for a hearing as a contested case shall contain the following information.
  - i. The name and address of the appellant;
  - ii. The Department's case or file number;
  - iii. If the appellant is the person denied insurance, the name and address of the insurance company and/or insurance agent which issued the denial of automobile insurance. If the appellant is the insurance company, the name and address of the insurance agent who issued the denial of coverage, if any, and the name and address of the person to whom automobile insurance was denied;

iv. A detailed statement explaining the reasons why the Department's determination is improper together with supporting documentation, if any; and

v. A statement as to whether the appellant is represented by legal counsel, or another person pursuant to N.J.A.C. 1:1-5.1, and the name, address and telephone number of said person.

(c) Upon the Department's timely receipt of the items set forth in (b) above, it shall simultaneously send a copy of the documents to the opposing party and shall transmit the matter to the Office of Administrative Law for hearing as a contested case.

**11:3-33.8 Penalties**

Any insurer or insurance producer who violates any provision of this subchapter shall be subject to the penalties provided by law, including, but not limited to, the suspension or revocation of a certificate of authority or licensure and a civil penalty in an amount of up to \$2,000 for the first violation and up to \$5,000 for the second and each subsequent violation, pursuant to N.J.S.A. 17:33B-15 and 21.

**11:3-33.9 Compliance**

(a) Pursuant to N.J.S.A. 39:6A-3 and 17:33B-15, compliance with the provisions of this subchapter shall be effected in the following manner:

1. Appeals from denials concerning new policies on or after April 1, 1992 may be filed in the manner prescribed by this subchapter; and

2. Appeals from denials concerning policy renewals which take effect on or after April 1, 1992, may be filed in the manner prescribed by this subchapter.

**APPENDIX A**

Dear Applicant,

The "Fair Automobile Insurance Reform Act of 1990" (Act) provides that on or after April 1, 1992, every insurer, either by one or more separate rating plans, shall provide automobile insurance for eligible persons.

Therefore, an insurer may deny coverage only to those applicants who are not eligible. New Jersey law provides that any person who owns or has registered an automobile in New Jersey or a person who has a valid New Jersey drivers license is eligible except a person:

1. Who, in the last three years, has been convicted of driving under the influence or refusing a chemical test in New Jersey or elsewhere;

2. Who, in the last three years, has been convicted of a crime involving an automobile;

3. Whose driving license is suspended or revoked by a court;

4. Who, in the last five years, has been convicted of fraud or intent to defraud involving an insurance claim or application;

5. Who, in the last five years, has been denied payment of an insurance claim in excess of \$1,000, if there was evidence of fraud or intent to defraud;

6. Whose automobile insurance policy, in the last two years, was cancelled because of nonpayment of premium or financed premium (unless the entire annual premium for the new coverage is paid in full before issuance or renewal);

7. Who fails to maintain membership in a club, group or organization, if membership is a uniform requirement of the insurer as a condition of providing insurance;

8. Whose driving record, for the last three years, has an accumulation of nine or more eligibility points. (Eligibility points are accumulated as a result of convictions, suspensions, revocations and determination of responsibility for civil infractions in accordance with schedules adopted by the New Jersey Department of Insurance. For example, one at-fault accident has been assigned five eligibility points.)

NOTE: The above description is a simplification of the statutory definition. For a more extensive description, see the New Jersey Administrative Code at N.J.A.C. 11:3-34.4.

The Commissioner of Insurance has established an appeal process for persons who have been denied automobile insurance. The procedure for filing a written appeal can be found in the New Jersey Administrative Code at N.J.A.C. 11:3-33. Most New Jersey public libraries have this material.

To begin the appeal process, you must complete the attached form and mail it, with the necessary documentation, to the address indicated.

WARNING: You must have automobile insurance if you plan to operate and/or register a vehicle during the appeal process. Filing an appeal does not provide you with insurance.

**APPENDIX B**

NOTE: YOU HAVE 90 DAYS FROM THE DATE ON WHICH A WRITTEN DENIAL OF AUTOMOBILE INSURANCE IS MADE TO FILE THIS APPEAL.

**NEW JERSEY DEPARTMENT OF INSURANCE  
AUTOMOBILE DECLINATION APPEAL**

Your Name: \_\_\_\_\_

Your Address: \_\_\_\_\_

Your Telephone Number: (\_\_\_\_) \_\_\_\_\_

Insurance Company and/or Insurance Producer (agent or broker) that declined your application for automobile insurance coverage in the voluntary market (if producer, please provide the name and address):

Company \_\_\_\_\_

Producer \_\_\_\_\_

YOU MUST ATTACH A COPY OF THE DECLINATION (If you have not received a written declination from the insurance company or producer, you must request one within 90 days from the date you first applied for insurance.)

BASIS FOR YOUR APPEAL (Please indicate with an "X" those statements or reasons that apply and attach a copy of pertinent documentation supporting your appeal. Such documentation should include a certified motor vehicle driver "abstract", where appropriate, available from the Division of Motor Vehicles, 120 South Stockton Street, CN 142, Trenton, New Jersey 08666. There is a \$5.00 fee for each copy of the DMV abstract.)

- I have not been convicted of Driving Under the Influence (N.J.S.A. 39:4-50) or of refusing to submit to a chemical test (N.J.S.A. 39:4-50.4(a)), or for a similar offense in another jurisdiction, or of a crime involving an automobile or theft of a motor vehicle.
- My driver's license is not suspended or revoked, nor has it been for any 12-month period in the preceding three years.
- I have not been convicted of insurance fraud or intent to defraud, or have not had an insurance claim (in excess of \$1,000) denied because of evidence of fraud within the five-year period immediately preceding application or renewal.
- My auto insurance has not been cancelled for nonpayment of premium within the last two years and I provide proof of payment OR I have had my policy cancelled for nonpayment AND I am able to pay the full annual premium for this policy.
- I am qualified as a member of a group or organization in which membership is required in order to obtain this insurance policy.
- I have fewer eligibility points accumulated than alleged in the declination letter as evidenced by the attached copy of my driving record.
- The accident record indicated in the declination letter is wrong as evidenced by the attached.
- No other person who is a member of the same household and who will drive the subject vehicle for 10 percent or more of the time is an ineligible person.
- Other (Specify and provide proof, if appropriate).

**CERTIFICATION OF APPEAL**

The information contained in this appeal is true and complete to the best of my knowledge and belief.

I UNDERSTAND THAT FILING THIS APPEAL DOES NOT PROVIDE ME WITH AUTOMOBILE INSURANCE. IF MY AUTO IS REGISTERED IN NEW JERSEY OR IS BEING DRIVEN, I HAVE OBTAINED OTHER AUTO INSURANCE.

Your Signature \_\_\_\_\_ Date \_\_\_\_\_

MAIL THIS COMPLETED FORM AND NECESSARY DOCUMENTATION TO:

New Jersey Department of Insurance  
 Division of Enforcement and Consumer Protection  
 PO Box 329  
 Trenton, New Jersey 08625-0329  
 Attn: Auto Insurance Denial

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

**11:3-34.1 Purpose**

The purpose of this subchapter is to set forth the requirements for determining who can qualify as an "eligible person," and to provide the schedule for "automobile insurance eligibility points" pursuant to N.J.S.A. 17:33B-13 and 14.

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

**11:3-34.2 Scope**

The provisions of this subchapter apply to all insurers which write personal private passenger automobile insurance and all persons who are required to procure automobile insurance coverage in this State.

**11:3-34.3 Definitions**

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

"At-fault accident" is any accident involving a driver insured under the policy which resulted in a payment by the insurer of at least \$500.00, and for which the driver is at least proportionately responsible based on the number of vehicles involved. A driver is proportionately responsible if 50 percent responsible for an accident involving two drivers; if 33 1/3 percent responsible for an accident involving three drivers; etc. An at-fault accident shall not include the following:

1. Involvement in an accident in which the motor vehicle owned or operated by the insured or other driver insured under the policy was lawfully parked;
2. Involvement in an accident in which the motor vehicle was struck by a hit and run driver, if such accident was reported to the proper authorities within 24 hours;

3. Involvement in an accident in connection with which neither the named insured nor any other driver insured under the policy was convicted of a moving traffic violation and the owner or operator of another vehicle involved in such accident was so convicted;

4. For physical damage losses other than collision;

5. For an accident in which the motor vehicle was struck in the rear by another vehicle and a driver insured under the policy has not been convicted of a moving violation in connection with the accident; or

6. For an accident occurring as a result of operation of any motor vehicle in response to an emergency if the operator at the time of the accident was responding to the call to duty as a paid or volunteer member of any police or fire department, first aid squad or any law enforcement agency.

“Automobile” means an automobile as defined in N.J.S.A. 39:6A-2.

“Automobile insurance” means insurance for an automobile including any or all of the following coverages: bodily injury liability, and property damage liability, comprehensive and collision coverages, uninsured and underinsured motorist coverage, personal injury protection coverage, additional personal injury protection coverage and any other automobile insurance required by law.

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

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

“Department” means the Department of 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).

#### Case Notes

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 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, within 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 de-

nied. 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 Department of Insurance, Fraud Division 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 nine or more automobile insurance eligibility points as determined in N.J.A.C. 11:3-34.5; or

9. 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. Other evidence exists indicating that the suspended or revoked driver has been operating a vehicle during the period of suspension.

(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.

### 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. *Petri 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 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 \$500.00. 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 \$500.00; 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 Division of Motor Vehicles, or comparable agency of another state, shall accrue when the event is recorded in the agency's records as evidenced by an abstract.

3. 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.

(c) Automobile insurance eligibility points are cumulative and accrue for all offenses set forth on Schedules 1 and 2, except as noted on Schedule 1.

(d) Automobile insurance eligibility points set forth on Schedule 2 of the Appendix represent motor vehicle points established by the New Jersey Division of Motor Vehicles 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.

N.J.S.A. Section Number If applicable	Event Description	DMV Event Identifier(s) If applicable	Points
39:3-40	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 2
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**

**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 If applicable	Event Description	DMV Event Identifier(s) If applicable	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

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
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

N.J.S.A. Section Number	Offense	Points
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	
	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).

**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 Insurance of the State of New Jersey.

"Department" means the New Jersey Department of 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.

**11:3-35.3 General requirements and filing format**

(a) All insurers which 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 the standard or non-standard rate level of an approved standard/non-standard rating plan, in accordance with N.J.S.A. 17:29A-46 and this subchapter. No insurer shall use or implement any underwriting rule not filed and approved as set forth herein.

(b) Underwriting rules shall be submitted on 8½ by 11 inch paper using one side of the page. Each page shall be consecutively numbered. The first page shall show the filer's company name, the filer's identifying number for this filing, National Association of Insurance Commissioners (NAIC) company number(s), and NAIC group number. The underwriting rules filing shall clearly identify the rate level to which the underwriting rules will be applied and whether the underwriting rules apply to new business, renewal business or both. All tables shall be clearly labeled.

(c) Underwriting rules shall meet the following standards:

1. No underwriting rule shall be based on the territory in which an insured resides.
2. An underwriting rule shall be based on a reasonable and demonstrable relationship between the risk characteristics of the driver(s) insured and the hazards insured against.

3. An underwriting rule shall be based on specific and verifiable measurements. No underwriting rule shall be based on subjective judgments such as "pride of ownership evident," "poor attitude," "unsatisfactory environment to conduct business," etc.

4. No underwriting rule shall be based on race, color, creed, national origin or ancestry.

5. No underwriting rule shall be based on whether the applicant or insured was previously insured as a non-standard or sub-standard risk, was previously insured by a residual market mechanism, or whether another insurer declined to insure or terminated insurance.

6. No underwriting rule shall be based on whether the insured or a member of the insured's household purchases or continues to purchase other insurance or services from the insurer or its affiliates, agents or other companies under common management or ownership, except that this provision shall not prohibit a rate discount.

7. No underwriting rule shall be based on the lawful occupation or profession of an insured, except that this provision shall not apply to any insurer which limits all its insureds to one lawful occupation or profession, or to several related lawful occupations or professions.

8. No underwriting rule shall be based on whether the insured has changed employment in the recent past, except that this provision shall not prohibit a rate discount to an insurer's employees or agents.

9. No underwriting rule shall be based on whether the insured is impaired by physical or mental disabilities except those disabilities that impair the ability to operate an automobile safely.

#### 11:3-35.4 Underwriting rules for eligible persons

(a) All insurers shall file for approval underwriting rules that provide that the insurer will make an offer to renew any of its insureds who is defined as an "eligible person" in N.J.A.C. 11:3-34.

(b) All insurers shall file for approval underwriting rules that provide that on or after April 1, 1992, the insurer shall not refuse to insure, refuse to renew or limit coverage available to any of its insureds, or to any applicant for insurance, which is defined as an "eligible person" in N.J.A.C. 11:3-34.

(c) An insurer may file for approval underwriting rules pursuant to which it will determine whether to insure any person not defined as an "eligible person" in N.J.A.C. 11:3-34.

(d) Underwriting rules for eligible persons applicable on and after April 1, 1992 shall not provide that coverage will be declined based on whether a member of the insured household is not an "eligible person" as defined in N.J.A.C. 11:3-34 unless the member of the insured household ac-

counts for 10 percent or more of the use of the automobile insured or to be insured. For the purposes of this section:

1. 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.

2. 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.

(e) Insurers may file for approval underwriting rules by which it cancels coverage during the policy term under a policy insuring an eligible person pursuant to N.J.S.A. 17:29C-7(A)(b) when the driver's license or motor vehicle registration of another named insured or person insured under the policy who either resides in the same household or customarily operates an automobile insured under the policy has been suspended or revoked. The Department may approve such underwriting rules if they include the following provisions:

1. The underwriting rules provide for the cancellation of the policy when the driver's license or motor vehicle registration is suspended or revoked for one or more of the following reasons:

i. Conviction of operating a motor vehicle under the influence of alcohol or drugs (N.J.S.A. 39:4-50);

ii. Conviction of refusal to submit to a chemical test (N.J.S.A. 39:4-50.4);

iii. Conviction of vehicular homicide (N.J.S.A. 2C:11-2);

iv. Conviction of operating a motor vehicle while driving privilege is suspended (N.J.S.A. 39:3-40);

v. Conviction of operating a motor vehicle without liability insurance (N.J.S.A. 39:6C-2);

vi. Conviction of misrepresentation of insurance coverage (N.J.S.A. 39:6A-15);

vii. Accumulation of motor vehicle penalty points pursuant to N.J.S.A. 39:5-30.5; or

viii. By a court upon conviction of one of the following motor vehicle violations: racing on a highway (N.J.S.A. 39:5C-1); failure to pass to right of vehicle proceeding in opposite direction (N.J.S.A. 39:4-84); tailgating (N.J.S.A. 39:4-89); reckless driving (N.J.S.A. 39:4-96); exceeding a speed limit by 30 MPH or more (N.J.S.A. 39:4-99); improperly passing a school bus (N.J.S.A. 39:4-128.1); or leaving the scene of an accident in which personal injury occurred (N.J.S.A. 39:4-129).

2. The underwriting rules provide for the cancellation of the policy when:

i. A household member is convicted of a violation of N.J.S.A. 39:6B-2 during the policy term; or

ii. Other evidence exists indicating that the suspended or revoked driver has been operating a vehicle during a period of suspension as outlined in 1 above.

3. The underwriting rules provide that coverage for eligible persons shall not be cancelled when the driver's license or motor vehicle registration of another named insured or any other operator insured under the policy is suspended or revoked for any reason other than those set forth in (e)1 above.

(f) Insurers may file for approval underwriting rules by which it declines coverage for one policy period not to exceed one year to eligible persons who have been nonrenewed pursuant to N.J.S.A. 17:29C-7.1b and c and N.J.A.C. 11:3-8.5(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 (e) and (f).

Administrative correction.

See: 28 N.J.R. 3798(a).

#### Case Notes

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.

#### 11:3-35.5 Underwriting rules for standard/non-standard rating plans

(a) Insurers shall file underwriting rules applicable to each rate level of a standard/non-standard rating plan in accordance with N.J.A.C. 11:3-19.3(c) which filing shall be made in accordance with, and in satisfaction of, the requirements of this subchapter.

(b) Insurers shall file underwriting rules that provide that its insureds and applicants who have accrued no automobile insurance eligibility points shall be assigned to its standard rate level.

(c) An insurer may file for approval underwriting rules pursuant to which it will determine whether to insure at its standard rate level any person who has accrued one or more automobile insurance eligibility points.

(d) Underwriting rules for standard/non-standard rating plans shall provide that an automobile insured at the non-standard rate level shall be rated based upon the eligibility points of the principal driver; eligibility points of other household members or customary operators may additionally be used to rate the automobile only if not used to rate any other automobile.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

#### Case Notes

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.

#### 11:3-35.6 Penalties

(a) An insurer which fails to file its underwriting rules for approval pursuant to N.J.S.A. 17:29A-46 and this subchapter by March 1, 1991 shall be subject to penalties as provided by N.J.S.A. 17:33-2.

(b) An insurer which knowingly fails to transact automobile insurance business consistently with its approved underwriting rules shall be subject to a fine of not less than \$500 for each violation, pursuant to N.J.S.A. 17:29A-46a.

### SUBCHAPTER 36. AUTOMOBILE PHYSICAL DAMAGE INSURANCE INSPECTION PROCEDURES

#### 11:3-36.1 Purpose and scope

(a) The purpose of this subchapter is to provide rules for the inspection of automobiles in connection with the issuance of physical damage insurance coverage by insurers pursuant to N.J.S.A. 17:33B-33 through 17:33B-40.

(b) The provisions of this subchapter apply to all insurers which write private passenger automobile insurance in this State.

#### 11:3-36.2 Definitions

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

"Authorized representative" means any person which is authorized by the insurer to conduct insurance inspections pursuant to this subchapter; an authorized representative may be an employee of the insurer, a producer or an inspection service other than the insured, whether located inside or outside of this State.

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

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

"Automobile physical damage insurance inspection" means a physical examination of an automobile by an authorized representative of the insurer, in accordance with the standards set forth in N.J.A.C. 11:3-36.6.

“Book of business” means all private passenger automobile insurance written by one producer with one insurer.

“Certificate of mailing” means a receipt from the United States Postal Service that the item was received by it with the proper postage affixed for delivery.

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

“Inspection service” means any person or legal entity other than the insurer, established and operated to perform the inspections required by this subchapter.

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

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

“New automobile” means an automobile not previously titled with not more than 1,000 miles recorded on the odometer.

“Nonowned automobile” means a private passenger automobile in the possession of the insured or being operated by the insured which is neither owned by nor furnished for the regular use of either the named insured or any relative (as defined in the policy), other than a temporary substitute automobile.

“Private passenger automobile” or “automobile” means a private passenger automobile of a private passenger or station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pickup body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

“Renewal” means the issuance and delivery by an insurer, at the end of the policy period, of a policy superseding a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term.

“Replacement automobile” is a vehicle acquired to replace one shown in the declarations.

“Temporary substitute automobile” means any private passenger automobile not owned by the insured, while temporarily used with the permission of the owner as a substitute for an owned automobile, when the latter is withdrawn from normal use because of breakdown, repair, servicing, loss or destruction.

Amended by R.1992 d.142, effective March 16, 1992.  
See: 23 N.J.R. 1262(a), 24 N.J.R. 953(b).

Definition for authorized representative amended; nonowned and temporary substitute automobile definitions added.

### 11:3-36.3 Mandatory inspection requirements

(a) No insurer shall provide automobile physical damage insurance coverage prior to conducting an insurance inspection in accordance with this subchapter, under the following circumstances:

1. When a new policy or endorsement adding physical damage coverage insuring a private passenger automobile is effected; and
2. When coverage is effected for an additional or replacement private passenger automobile.

(b) An insurer may require, prior to continuing physical damage coverage on an automobile, that the insured present the automobile for inspection, under the following circumstances:

1. When the automobile insured for physical damage coverage has been in an accident or otherwise damaged; or
2. As a condition of renewal.

### 11:3-36.4 Waivers of mandatory inspection

(a) An insurer shall waive a mandatory inspection when a new automobile is purchased from a franchised automobile dealership and the insurer is provided with the following documents in accordance with N.J.A.C. 11:3-36.7(e):

1. A copy of the bill of sale which contains a full description of the automobile, including all options and accessories;
2. A copy of the window sticker or advanced dealer shipping notice (invoice) showing the itemized options and equipment, the total retail price of the automobile, and any dealer installed option purchased by the customer; or
3. Vehicle buyer's order (contract) and/or the dealership invoice to the buyer, including all options and accessories.

(b) An insurer may waive a mandatory inspection under any of the following circumstances:

1. When the automobile is more than seven model years old. For example: in 1991 an insurer shall inspect 1984 and newer model year vehicles and in 1992 an insurer shall inspect 1985 and newer model year vehicles;

2. When a policy is being renewed or issued by a different individual insurance company within a group of affiliated companies;

3. When the insured automobile is insured under a commercially rated policy which insures five or more automobiles;

4. When an insurance producer or insurer is transferring a book of business from one insurer to another insurer(s);

5. When the automobile is a temporary substitute automobile; or

6. When the automobile is leased for less than six months.

7. When the named insured has been continuously insured for automobile insurance with the same insurer, or an affiliate of the insurer, for four or more policy years.

8. Where an individual insured's coverage is being transferred by an independent insurance agent to a new insurer and the previous insurer provides the new insurer with a copy of the inspection report.

i. If the new insurer does not receive a copy of the inspection report 60 days prior to the first annual renewal date, the insurer, upon renewal of the automobile physical damage insurance, shall require a physical inspection in accordance with N.J.A.C. 11:3-36.5(e).

(c) Insurers shall maintain a record of the waiver in the insurer's file on the insured.

(d) Insurers shall decide whether to waive an inspection based solely on underwriting criteria uniformly applied and not based on the age, race, sex or marital status of the insured, the principal place of garaging or the fact that the automobile is insured in the residual market.

Amended by R.1992 d.142, effective March 16, 1992.

See: 23 N.J.R. 1262(a), 24 N.J.R. 953(b).

Text on out of State garaging deleted; (a)8 and 9 added.

### 11:3-36.5 Deferral of inspections

(a) An insurer, by itself or through its authorized producers, may defer the mandatory inspection required by N.J.A.C. 11:3-36.3 for seven calendar days following the effective date of coverage, upon an insured's requests for coverage for automobile physical damage insurance on an additional or replacement automobile.

(b) An insurer may defer the mandatory inspection under any of the following circumstances:

1. On new business for seven calendar days following the effective date of coverage; and

2. On replacement automobiles, an insurer may provide the same type and level of physical damage coverage which covered the replaced automobile, without a request for coverage by the insured. Such automatic coverage prior to the insured's request for coverage shall be for a period of three days, including the day on which the automobile is acquired. The three-day period shall be extended by one day for each Saturday, Sunday or any New Jersey State legal holiday falling within the period. The insurer's election shall apply only to automobiles replacing covered automobiles which were insured by the insurer for physical damage coverage for at least the 12-month period preceding the replacement date and

such election once made shall apply to all the insurer's private passenger automobile insurance. An insurer which makes an election pursuant to this clause shall file an appropriate policy endorsement with the Commissioner and furnish a copy of such endorsement to all of its insureds who have physical damage coverage.

(c) When an inspection is deferred pursuant to (a) or (b) above, the insurer or producer shall:

1. At the time the insurance application is completed, obtain the Acknowledgment of Requirement for Insurance Inspection form (as set forth in Appendix A and incorporated herein by reference) signed by the insured if the insured has applied for coverage in person; or

2. At the time the insurance application is completed, confirm physical damage coverage and advise the insured of the inspection requirements and mail the insured the Notice of Insurance Inspection form (as set forth in Appendix B and incorporated herein by reference) if the insured has applied for coverage by mail or by telephone. Documentation of such verbal notices shall include the name of the person giving the notice.

(d) In addition to the notice requirements set forth in (c)1 and 2 above, the insurer or producer shall furnish the insured with information about where an inspection can be conducted and the consequences of the insured's failure to have the automobile inspected.

1. The insurer shall retain documentation of the required notice in (c) above in the insurer's file on the insured.

(e) When an insurer requires an insured's automobile to be inspected as a condition for any annual renewal of physical damage coverage, the insurer shall provide notice and coverage as follows:

1. Whenever a renewal of physical damage coverage is conditioned upon inspection, the insurer shall mail or deliver a written Notice of Insurance Inspection (Appendix B) to the insured at least 30 days prior to the renewal date. The insurer's file on the insured shall reflect the mailing of such notice.

2. If the insured has not responded to the Notice of Insurance Inspection, the insurer shall, at least 10 days prior to the expiration of the above 30-day deferral period, mail a second Notice of Insurance Inspection to the insured, to the producer of record, and any lienholders, restating that failure to have the automobile inspected prior to the expiration of the deferral period will result in suspension of physical damage coverage. A certificate of mailing of the second notice to the insured shall be retained by the insurer. The insurer shall assist the insured in arranging a convenient appointment for the required inspection. The written notice of the inspection requirement shall clearly inform the insured of the failure to comply with the inspection requirement will result in

the suspension of automobile physical damage coverage. The notice shall also state that a copy of the inspection report will be given to the insured.

(f) An insurer shall decide whether to defer an inspection based solely on underwriting criteria and not based on age, sex, race, or marital status of the insured, the principal place of garaging, or the fact that a policy is insured in the residual market.

Amended by R.1992 d.142, effective March 16, 1992.

See: 23 N.J.R. 1262(a), 24 N.J.R. 953(b).

Text added at (b) and (e).

### 11:3-36.6 Standards and procedures for inspection

(a) Inspections shall be made by an authorized representative of the insurer at a time and place reasonably convenient to the insured. A reasonably convenient time shall include, in addition to customary business hours, sufficient early morning, evening and weekend hours. A reasonably convenient place shall not be more than 10 miles from the city or town where automobile is principally garaged.

(b) If the insured acquires an additional or replacement automobile outside of New Jersey, and such automobile will be located outside New Jersey until after the expiration of the deferral period permitted by N.J.A.C. 11:3-36.5(a) or (b), the insurer shall arrange to conduct the inspection by an authorized representative during the deferral period at a place which shall not be more than 50 miles from the temporary location.

(c) If the insured automobile required to be inspected upon renewal is temporarily located outside of New Jersey when the required notice of inspection is mailed to the insured, and such automobile will continue to be located outside of New Jersey until the expiration of the deferral period required by N.J.A.C. 11:3-36.5(e)1, the insurer shall arrange to conduct the inspection by an authorized representative before the expiration of the deferral period at a place which shall not be more than 50 miles from the temporary location.

(d) Whenever an insurer requires an automobile to be inspected pursuant to this subchapter, the insurer by itself or through its authorized producer shall provide the insured with a Notice of Inspection in the form set forth in Appendix B or an Acknowledgement of Requirement for Insurance Inspection as set forth in Appendix A. Any form so provided shall not contain the vehicle identification number (VIN) of the automobile to be inspected.

(e) The inspection shall include the following:

1. Completion of the Automobile Insurance Inspection Report as set forth in Appendix C incorporated herein by reference;

2. Two color photographs of the automobile, taken as directed on the inspection report (Appendix C), which shall be a part of the report;

3. A third close-up color photograph showing the VIN located on the Environmental Protection Agency/Federal Certification Label (EPA sticker) affixed to the driver's side door jamb. The photograph must be of sufficient clarity that the information contained on the EPA sticker and VIN is legible. If the EPA sticker is damaged, faded, missing or otherwise not legible, a photograph of the EPA sticker, or of the area of the door jamb where the sticker is normally located, is still required;

4. The authorized representative may take additional photographs showing any damaged areas, which shall also be a part of the report; and

5. The authorized representative shall provide a copy of the report, without photographs, to the insured at the time of inspection.

(f) The insurer shall utilize authorized representatives and systems to implement the provisions of this subchapter which meet the following standards:

1. Verifies the accuracy, completeness and identity of the person completing each inspection report;

2. Provides a control system for its inspection reports such as the use of sequentially numbered or coded reports;

3. Completes all required information for each automobile on the Automobile Insurance Inspection Report set forth in Appendix C;

4. Takes photographs as required in (e)2 through 3 above; and

5. Provides for the storage and retrieval of reports and photographs in a manner that facilitates their use as set forth in paragraph (j) below.

(g) There shall be no direct charge to the insured by the authorized representative or insurer in connection with an inspection.

(h) After the inspection is completed, the report and photographs shall be retained in the insurer's file on the insured for five years.

(i) The insurer shall maintain an up-to-date list of all authorized representatives and inspection sites performing inspections for the insurer. The list shall include the names, addresses and business telephone numbers of all authorized representatives. The insurer shall send a copy of the list to the Department and update it semi-annually at the following address:

New Jersey Department of Insurance  
 Fraud Division  
 CN 324  
 Trenton, New Jersey 08625

(j) The inspection report and photographs shall be used by the insurer to document previous damage, prior condition, options and mileage of the automobile on physical damage claims whenever:

1. The appraisal indicates prior damage and the new damage (claim) exceeds \$1,000;
2. The automobile is a total loss or unrecovered theft;  
or
3. The new damage (claim) exceeds \$3,000.

(k) A copy of the inspection report and photographs shall be utilized, and made a part of the insurer's claim file, in the settlement of all total loss claims. The inspection report shall be made a part of the claim file regardless of whether or not the payment is reduced based on the information contained therein.

(l) The documents set forth as Appendices A through D provide minimum standards. Insurers may enhance or alter the form of these documents provided the minimum information requirements are met.

Amended by R.1992 d.142, effective March 16, 1992.  
 See: 23 N.J.R. 1262(a), 24 N.J.R. 953(b).

Text added at (b) and (c).  
 Amended by R.1994 d.103, effective February 22, 1994.  
 See: 25 N.J.R. 5756(a), 26 N.J.R. 1100(a).

**11:3-36.7 Suspension of physical damage coverages**

(a) If the inspection is not conducted prior to the expiration of the deferral period or the expiration of the policy in the case of renewals, the insurer shall suspend automobile physical damage coverage on the automobile at 12:01 A.M. of the day following the last day for inspection. Suspension of coverage shall apply to all insureds, owners and lienholders.

(b) Whenever physical damage coverage is suspended, the insurer shall:

1. No later than the 30th calendar day after the effective date of the suspension, mail to the insured, the producer of record and any lienholders a Notice of Suspension of physical damage coverage (as set forth in Appendix D incorporated herein by reference);
2. Obtain a certificate of mailing or other evidence of mailing of the Notice of Suspension to the insured and shall retain the certificate and copy of the Notice in the insurer's file on the insured; and
3. Make a pro-rata premium adjustment (premium refund or credit) whenever there is a suspension of physical damage coverage for more than 10 days. A

refund of premium, if applicable, shall be sent to the insured within 45 days of the effective date of suspension.

(c) A reinstatement of physical damage coverage shall only be effective upon inspection and payment by the insured to the insurer of the adjusted premium for the physical damage coverage in full or in accordance with the insurer's normal payment plan. Any such reinstatement shall be effective at the time of inspection.

(d) If the automobile is not inspected pursuant to this subchapter due to the fault of the insurer, or if the insurer fails to give the verbal or telephone notice required by the subchapter or mail or deliver the Notice of Insurance Inspection (Appendix B) or obtain the Acknowledgement of Requirements for Insurance Inspection (Appendix A) as set forth in this subchapter, physical damage coverage on the motor vehicle shall not be suspended. The failure of the insurer to act promptly does not relieve it of its obligation to inspect. An insurer's failure, however, to comply with (b) above shall not restore physical damage coverage, but shall subject the insurer to a penalty pursuant to N.J.S.A. 17:33B-39.

(e) Physical damage coverage on a new automobile shall not be suspended during the term of the policy due to the insured's failure to provide the documents required by N.J.A.C. 11:3-36.4(a).

1. Payment of a physical damage claim shall be conditioned upon the receipt of such document(s) by the insurer.

2. If the above document(s) are not submitted by the insured 60 days prior to the next policy renewal date, the insurer shall require an inspection upon renewal.

3. New automobiles acquired less than 90 days prior to the next policy renewal date have until 60 days prior to the following policy renewal date to submit the required document(s) or be subject to an inspection at that renewal in accordance with N.J.A.C. 11:3-36.5(e).

(f) For renewal inspections, if the insured fails to have the insured automobile inspected before the expiration of the 30-calendar day deferral period required by N.J.A.C. 11:3-36.5(e)1, physical damage coverage on the insured automobile shall be suspended effective at 12:01 A.M. on the day following the last day of the deferral and suspension shall continue until such inspection is effected. The insurer, however, must reinstate coverage for automobile physical damage if the insured thereafter completes the inspection. Any such reinstatement shall be effective at the time of the inspection and, for the purposes of this subchapter, shall not be considered new business.

1. If the insurer fails to mail or deliver the initial written notice of inspection to the insured in accordance with N.J.A.C. 11:3-36.5(e), it shall, nevertheless, give written notice of the inspection requirement, and automobile physical damage coverage shall continue without the

required inspection past the renewal date for up to 30 days from the same of the delayed notice.

2. An insurer shall make every effort to conduct a renewal inspection in advance of the normal inspection period for such risk, in order to mitigate any hardship to the insured which would otherwise result.

3. If an automobile is not inspected due to the fault of the insurer, physical damage coverage on the automobile shall not lapse.

Amended by R.1992 d.142, effective March 16, 1992.

See: 23 N.J.R. 1262(a), 24 N.J.R. 953(b).

Documentation and inspection requirements added at (e) and (f).

### 11:3-36.8 Enforcement

(a) A violation of any provision of this subchapter by an insurer shall be punishable by a \$500.00 fine pursuant to N.J.S.A. 17:33B-39.

1. Insurers shall be responsible for the conduct of their authorized representatives with respect to all duties imposed by this subchapter.

2. Each issuance, procurement, or negotiation of a policy of insurance, or maintenance of a record in violation of this subchapter shall be deemed a separate offense.

### 11:3-36.9 Results and audits

Insurers shall maintain records as to the costs and savings related to this subchapter and make such records available to the Department upon request.

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

### 11:3-36.10 Severability

If any section or portion of a section of this subchapter or its application to any person, entity or circumstance is held invalid by any court, the remainder of this regulation or the applicability of such provisions to other persons, entities or circumstances shall not be affected thereby.

### 11:3-36.11 Required amendatory endorsements

(a) For all policies providing automobile physical damage coverage issued on or after June 1, 1991, or renewed on or after July 1, 1991, insurers may adopt any one of the following procedures:

1. Amend the policy by adding thereto the endorsements as set out in (c) below, which may include the option set forth in (d) below and which is hereby deemed approved upon filing with the Department;

2. Submit for Department approval the insurer's own similar endorsement; or

3. Submit for Department approval the insurer's basic policy form incorporating the substance of the endorsements set out in (c) below, which may include the option set forth in (d) below.

(b) An insurer which adopts any of the above procedures may subsequently submit filings under any of the other procedures.

(c) The required endorsement is as follows: New Jersey Mandatory Inspection Endorsement for Physical Damage Coverage. Notwithstanding any conflicting provisions contained in the automobile physical damage coverage of this policy, it is agreed that the following conditions are added:

1. The company or its authorized representative has the right to inspect any private passenger automobile, including a nonowned automobile, insured or intended to be insured under this policy before physical damage coverage shall be effective.

2. During the term of the policy, coverage for an additional or replacement private passenger automobile shall not become effective until the insured notifies the company and requests coverage for the automobile.

3. When an inspection is required by the company the insured shall cooperate and make the automobile available for the inspection.

(d) Insurers which elect to provide physical damage coverage for a replacement automobile for three days without an insured's request for coverage in accordance with N.J.A.C. 11:3-36.5 may substitute the following provision for item 2 in the endorsement in (c) above:

1. During the term of the policy, coverage for an additional or replacement private passenger automobile shall not become effective until the insured notifies the company and requests coverage for the automobile. However, this provision does not apply to a replacement private passenger automobile, for a period of three days, including the day on which the automobile is acquired, if:

i. The automobile is acquired during the policy period; and

ii. There was Physical Damage Coverage on the vehicle replaced for at least the 12-month period preceding the replacement date.

(1) The three-day period in paragraph 1 above shall be extended by one day for each Saturday, Sunday or New Jersey State holiday falling within the three-day period.

New Rule, R.1992 d.142, effective March 16, 1992.

See: 23 N.J.R. 1262(a), 24 N.J.R. 953(b).

### 11:3-36.12 (Reserved)

APPENDIX D

(COMPANY LETTERHEAD)

IFD 30 D

NOTICE OF SUSPENSION OF PHYSICAL DAMAGE COVERAGE

YOU ARE NO LONGER INSURED FOR PHYSICAL DAMAGE TO YOUR CAR

(Date of Mailing)

Name of Insured: \_\_\_\_\_
Address: \_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

POLICY #: \_\_\_\_\_

Dear Policyholder,

The vehicle(s) listed below is (are) no longer covered for FIRE AND THEFT/
COMPREHENSIVE \_\_\_\_\_; COLLISION \_\_\_\_\_;

- 1. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_
2. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_
3. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_
YEAR MAKE MODEL

DATE COVERAGE WAS REQUESTED \_\_\_\_\_
DATE COVERAGE WAS SUSPENDED \_\_\_\_\_

The physical damage coverage(s) indicated above, has (have) been suspended
on the vehicle(s) described, effective 12:01 a.m. on the suspension date. Such
coverage has been suspended due to your failure to comply with the Physical
Damage Insurance Inspection Regulation (N.J.A.C. 11:3-36), as required by the
Fair Automobile Insurance Reform Act of 1990, N.J.S.A. 17:33B-1 et seq.

If your coverage has been suspended for more than ten (10) days, you will
receive a premium adjustment (return premium or credit) for the suspended
coverage(s) within forty-five (45) days from the date of suspension.

The coverage(s) will be restored when you have your vehicle(s) inspected
and the adjusted premium due for such coverage(s) has been paid.

INSURER REPRESENTATIVE

TELEPHONE NUMBER

cc: PRODUCER OF RECORD
LIENHOLDER

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

**11:3-37.1 Purpose and scope**

The purpose of this subchapter is to establish guidelines for the order of benefit determination between a plan of health insurance and personal injury protection provided through an automobile policy pursuant to N.J.S.A. 39:6A-4, when a named insured elects to have his or her personal injury protection become secondary coverage for the provision of benefits for medical expenses incurred due to injuries sustained in an automobile accident. This subchapter also sets forth the requirements for the order of benefit determination between a plan of health insurance and personal injury protection provided pursuant to N.J.S.A. 39:6A-4 or 39:6A-3.1, when personal injury protection is primary coverage. The provisions of this subchapter shall apply to all automobile policies, as that term is defined at N.J.S.A. 39:6A-2a, issued to New Jersey residents, or renewed on or after January 1, 1991, and to all health benefits plans which have been or will be delivered or issued for delivery in this State.

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 a reference to N.J.S.A. 39:6A-4 in the first sentence, and inserted a new second sentence.

**11:3-37.2 Definitions**

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

“Actual benefits” means those benefits determined to be payable for allowable expenses.

“Allowable expense” means a medically necessary, reasonable and customary item of expense covered by an insured’s health benefits plan(s) or PIP plan as an eligible expense, at least in part. When a plan provides benefits in the form of services, the reasonable monetary value of each such service shall be considered as both an allowable expense and a paid benefit.

“Benefits” means the provision of the following in consideration of payment of premiums or fees on a prepaid or postpaid basis:

1. Services, including supplies;
2. Payment of expenses incurred;
3. A combination of 1 and 2 above; or
4. An indemnification.

“Eligible expense” means:

1. In the case of health benefits plans, that portion of the medical expenses incurred for treatment of an injury which is covered under the terms and conditions of the plan, without application of the deductible(s) and copayment(s), if any.

2. In the case of PIP plans, that portion of the medical expenses incurred for treatment of an injury which, without considering any deductible and copayment, shall not exceed:

i. The percent or dollar amounts specified on the medical fee schedules, or the actual billed expense, whichever is less; or

ii. The reasonable amount, as determined by the automobile insurer, considering the medical fee schedules for similar services or equipment in the region where the service or equipment was provided, when an incurred medical expense is not included on the medical fee schedules.

“Health benefits provider” means any person, whether subject to the regulation of the New Jersey Department of Insurance, Department of Health, or both, or not otherwise subject to such regulation, who contracts to provide health services, provide reimbursement for the cost of health services in whole or in part, or to provide for indemnity in the event health services are used, in return for a prepaid or postpaid premium or fee or other consideration, including, but not limited to:

1. Insurers, as defined at N.J.S.A. 17B:17-2;
2. Hospital service corporations, as defined at N.J.S.A. 17:48-1;
3. Medical service corporations, as defined at N.J.S.A. 17:48A-1;
4. Health service corporations, as defined at N.J.S.A. 17:48E-1;
5. Health maintenance organizations, as defined at N.J.S.A. 26:2J-2;
6. Dental service corporations, as defined at N.J.S.A. 17:48C-2;
7. Dental plan organizations, as defined at N.J.S.A. 17:48D-2;
8. Medicare;
9. Medicaid;
10. State Employees Health Benefits Plan;
11. CHAMPUS;
12. Self-insured programs; and

13. An entity organized under the laws of any other state or jurisdiction which delivers certificates to residents of New Jersey evidencing coverage under a contract issued and delivered in a state or jurisdiction other than New Jersey.

“Hospital expenses,” when used by the automobile insurance PIP plan, means those expenses defined at N.J.S.A. 39:6A-2f.

“Injury” means bodily injury sustained by an insured as a result of an accident while occupying, entering into, alighting from or using an automobile, or as a pedestrian, caused by an automobile or by an object propelled by or from an automobile.

“Insured” means a person eligible for coverage, at least in part, for medical expenses incurred for treatment of injuries, under an automobile policy PIP medical expense provision, and who meets the definition of a named insured or family member.

1. Named insured means the person or persons identified as the insured in the automobile policy and if an individual, that person’s spouse, if the spouse is a resident of the same household, except that if the spouse ceases to be a resident of the household of the named insured, coverage for that spouse shall continue until the expiration of full term of any policy period in effect at the time of the cessation of residency.

2. Family member means any relative of the named insured or the named insured’s spouse who:

- i. Is related to the named insured or named insured’s spouse by blood, marriage, adoption or guardianship;
- ii. Resides in the household of the named insured or spouse of the named insured; and
- iii. Is not a named insured under another automobile policy.

“Medical expenses” is as defined in N.J.A.C. 11:3-4.2.

“Medical fee schedule” means that list of services, procedures and supplies to which have been assigned a maximum fee or percentage of a fee payable by an automobile insurer for expenses incurred as a result of the rendering to an insured any of those specific services, procedures or supplies for injuries, which list is set forth at N.J.A.C. 11:3-29.

“Out-of-State automobile insurance coverage” or “OSA-IC” means any coverage for medical expenses under an automobile insurance policy other than PIP, as PIP is defined herein, including automobile insurance policies issued in another state or jurisdiction.

“PIP” means personal injury protection coverage provided as part of an automobile insurance policy pursuant to N.J.S.A. 39:6A-4 or 39:6A-3.1, issued in New Jersey, specifically those provisions for medical expenses coverage.

“Plan” means any policy, contract, certificate, booklet, evidence of enrollment, program, or other such term which evidences the existence of a relationship between a health benefits provider or PIP carrier and an insured with respect to the provisions of hospital, medical, surgical, dental and/or other health care related benefits, at least in part.

“Primary coverage” means coverage by any plan which determines its actual benefits payable on allowable expenses incurred by an insured for treatment of injuries without taking into consideration the existence of any coverage for which the insured may be eligible provided secondary in accordance with this subchapter. There may be more than one plan providing the insured primary coverage.

“Secondary coverage” means coverage by any plan which determines its actual benefits payable on all allowable expenses incurred by an insured for treatment of injuries after all plans providing primary coverage have considered expenses incurred and paid actual benefits.

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).

Rewrote “Medical expenses”; and in “PIP”, inserted a reference to N.J.S.A. 39:6A-4 and 39:6A-3.1.

#### Case Notes

Eligibility for coverage under hospitalization policy did not bar hospitalization insurer from resisting contribution toward payments made by insured’s personal injury protection insurer as not having been “reasonable and necessary”. *Bailey v. Garden State Hospitalization Plan*, 290 N.J.Super. 277, 675 A.2d 696 (A.D.1996).

#### 11:3-37.3 Health benefits providers

(a) Nothing in this subchapter shall be construed as requiring any health benefits provider to offer, provide, or continue coverage to or for any individual or group, except as may be set forth by other laws of this State, or of the Federal government.

(b) Nothing in this subchapter shall be construed as requiring any health benefits provider to provide coverage for any treatment or service not otherwise covered under the terms of the applicable health benefits plan.

(c) No health benefits contract or policy delivered or issued for delivery in this State, or renewed, continued or converted on or after January 1, 1991, shall contain any provision, rider, waiver of endorsement or other instrument which restricts, limits or excludes coverage, directly or indirectly, of services or expenses otherwise eligible under the policy or contract on the grounds that such expenses or services would be covered under an automobile policy PIP provision for which the insured would be eligible had the named insured on the automobile policy not selected the PIP-as-secondary coverage option.

(d) No health benefits contract or policy delivered or issued for delivery in this State, or renewed, continued or converted on or after January 1, 1991, shall contain any provision, rider, waiver or endorsement, or other instrument which restricts, limits or excludes coverage, directly or indirectly, of services or expenses otherwise eligible under the policy or contract on the grounds that:

1. Such expenses arise from an automobile-related injury;
2. Such expenses are covered or paid by PIP; or
3. Such expenses are covered or paid by OSAIC except for reductions in benefits when the health benefits contract provides secondary coverage as defined in and permitted by this rule.

(e) A health benefits contract or policy may provide that it is always primary to OSAIC, or may provide that it will determine its benefits as if it were secondary to any OSAIC. If the health benefits contract or policy provides that it will determine its benefits as if it were secondary to OSAIC and the OSAIC either contains a provision that it is always excess or secondary, or refuses to cooperate in determining the amount of benefits payable by the health benefits plan as secondary coverage provider, the health benefits plan shall provide primary coverage.

#### Case Notes

Code section invalidating insurance contract exclusions was within ERISA's insurance savings clause. *Jugan v. State Farm Ins. Co.*, 267 N.J.Super. 338, 631 A.2d 582 (L.1993).

Secondary insurer was liable for reasonable medical expenses insured incurred as result of motor vehicle accident. *Jugan v. State Farm Ins. Co.*, 267 N.J.Super. 338, 631 A.2d 582 (L.1993).

#### 11:3-37.4 Application of the PIP-as-secondary coverage option

(a) When a named insured elects the PIP option, whereby the named insured intends that medical expenses incurred for treatment of an injury are to be covered by a health benefits provider or providers, as evidenced on the Coverage Selection Form, then the medical expense provisions of the PIP coverage shall be considered to be secondary coverage for the purposes of the order of benefit determination, and all health benefits plans of an insured subject to the PIP option elected shall be considered to be primary coverage.

(b) The election by the named insured to make PIP medical expense provisions secondary coverage shall apply to only the named insured and family members of the named insured who reside in the named insured's household and are not named insureds under other automobile policies.

(c) The election by the named insured to make PIP medical expense provisions secondary coverage shall continue in force as to subsequent renewal or replacement policies until the automobile policy insurer or its authorized representative receives a properly executed written request revoking the selection of this option.

(d) In the event that an insured is ineligible for health plan coverage of medical expenses, or is eligible for coverage under a dental expense or dental service plan only when an injury occurs, despite the selection of the PIP-as-secondary coverage option by the named insured, benefits shall be provided to the insured through PIP coverage in accordance with N.J.A.C. 11:3-37.8.

#### 11:3-37.5 Health benefit plan standards and the PIP premium reduction

(a) An automobile insurer may eliminate the premium reduction on the base rate applicable to the amount of medical expense benefit chosen in conjunction with the PIP-as-secondary coverage option election if the automobile insurer complies with (b) below, and verifies that the coverage specified by the named insured:

1. Excludes the provision of benefits for treatment of injuries of an eligible insured when expenses incurred in relation to treatment of those injuries are eligible expenses under an automobile policy's PIP provisions; or
2. Provides that it is always secondary, or otherwise will not be a primary provider of benefits;
3. Provides benefits only for dental expenses or dental services; or
4. Provides benefits only for prescription drugs.

(b) An automobile carrier shall notify a named insured if the automobile insurer determines that the health benefits plan(s) specified by the named insured contain exclusionary or restrictive coverage provisions as set forth in (a) above, or if the automobile insurer determines that one or more of the insureds covered under the automobile insurance policy is not provided coverage by at least one of the health benefit plan(s) specified by the named insured, and, therefore, the named insured's premium reduction for PIP medical expense benefits will be eliminated.

1. The notice shall be in writing and shall specify the reasons why the automobile insurer believes the named insured's health plan coverage is not in compliance with this subchapter.
2. The automobile insurer may include in the notice a demand for payment of the premium reduction difference with an explanation that failure to pay the indicated premium reduction difference may result in early cancellation of the automobile policy in accordance with (c) below.

National Highway Traffic and Safety Association  
 Docket Room  
 NAD-52  
 400 Seventh Street, S.W.  
 Washington, D.C. 20590

10. A hydraulic brake lock device is qualified if a warning label announces the presence of the device and the device is designed so that:

- i. The device is mounted on the dash;
- ii. When activated and pressurized with the brake pedal, hydraulic pressure is maintained on the brakes at two or more of the automobile's wheels;
- iii. The device has a high security locking system with at least 50,000 combinations; and
- iv. The lock is such that it cannot be pulled using a conventional slide hammer or lock puller equipment.

11. A window etching vehicle identification system is qualified if a warning label announces the presence of the system, and the system is designed so that:

- i. A specific, identifiable set of numbers is permanently etched into all primary window glass areas, either by sandblasting or a chemical process;
- ii. The set of numbers must be traceable to the automobile's registered owner; and
- iii. Immediate telephonic notification or identification of the registrant must be available 24 hours a day, seven days per week.

(d) A device or system qualifies as a Category IV anti-theft or vehicle recovery device if a warning label announces the presence of the device and it meets the following requirements:

- 1. The device or system is designed to transmit a pulse or signal by which the location of the automobile in which the device or system is installed may be tracked by those receiving the signal;
- 2. The device or system is activated or initiated when an automobile is stolen or reported stolen to police;
- 3. The pulse or signal either must be transmittable to the New Jersey State Police or to a private central

monitoring station which shall have direct communication with the New Jersey State Police for the purpose of reporting, tracking and monitoring the automobile; and

4. The device or system shall be designed so that upon recovery, information concerning the automobile's location may be provided to the proper authorities and/or the automobile's owner or insurer.

(e) All warning labels announcing the presence of an anti-theft or vehicle recovery device or system shall be located so as to be visible from the automobile's exterior, preferably on the forward passenger and driver's side door windows.

(f) The lists set forth in (a) through (d) above are not exclusive, and shall not prevent an insurer from considering other devices or systems as anti-theft or vehicle recovery devices eligible for reductions in the base rates of comprehensive and theft and fire coverages, in a manner determined by the insurer.

Public Notice: Notice of receipt of and action on Petition for rulemaking for vehicle anti-theft and recovery device.

See: 23 N.J.R. 2786(c).

Notice of Receipt of Petition for Rulemaking: Reductions in Premium Charges for Private Passenger Automobiles Equipped with Anti-Theft, Vehicle Recovery and Safety Devices.

See: 24 N.J.R. 305(a).

Notice of Action on Petition for Rulemaking.

See: 24 N.J.R. 658(a).

Amended by R.1999 d.170, effective June 7, 1999.

See: 30 N.J.R. 2332(a), 31 N.J.R. 1493(a).

Inserted (b)5.

**11:3-39.6 Reductions in rates for safety features**

(a) Except as (d) below may apply, every insurer writing automobile physical damage insurance shall provide a reduction in the base rates of its collision damage coverage for all private passenger automobiles equipped with one or more safety features. Reductions in the base rates shall be as follows:

- 1. At least five percent for a private passenger automobile equipped with one safety feature;
- 2. An additional 2.5 percent reduction shall be provided for each additional safety feature with which the automobile is equipped; and



3. No insurer shall be required to provide more than a 10 percent total reduction for safety features, (a)2 above notwithstanding.

(b) Insurers shall develop a list of features which will qualify as collision damage safety features. This list may include features which are standard features for some private passenger automobiles, but which are options or not available for other private passenger automobiles. This list shall include:

1. Anti-lock braking systems;
2. Traction control systems; and
3. Five-mile-per-hour bumpers.

(c) An insurer may require reasonable proof that a private passenger automobile is equipped with a safety feature before providing any reduction in the base rates for collision damage coverage for private passenger automobiles. An inspection for the issuance or renewal of physical damage coverages, as set forth at N.J.A.C. 11:3-36, shall be considered reasonable proof.

(d) The requirements of (a) through (c) above shall not be applicable to those insurers which utilize make and model rating in pricing collision coverage.

#### 11:3-39.7 Penalties

Any insurer which fails to comply with the terms of this subchapter shall be in violation of this subchapter, and subject to the assessment of any and all penalties in accordance with the laws of this State.

#### 11:3-39.8 Severability

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

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

#### 11:3-40.1 Purpose and scope

(a) The purpose of this subchapter is to implement N.J.S.A. 17:33B-15 by setting forth those insurers required under that statutory provision to provide automobile insurance to eligible persons.

(b) This subchapter applies to all insurers authorized or admitted to transact automobile insurance in this State, but does not include the Market Transition Facility created pursuant to N.J.S.A. 17:33B-11 et seq. or any residual

market mechanism implemented pursuant to N.J.S.A. 17:29D-1 et seq.

#### 11:3-40.2 Definitions

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

“Automobile” means a private passenger automobile of a private passenger or station wagon type that is owned or hired, and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; a motor vehicle with a pickup body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes, owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meeting the definition contained in this section shall be considered a private passenger automobile owned by two or more relatives residing in the same household.

“Automobile insurance” means insurance for a private passenger automobile including one or more of the following coverages: bodily injury liability and property damage liability, comprehensive and collision coverages, uninsured and underinsured motorist coverage, personal injury protection coverage, additional personal injury protection coverage and any other automobile insurance required by law.

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

“Department” means the Department of Insurance.

“Eligible person” means a natural person who meets the qualifications of an “eligible person” as set forth at N.J.A.C. 11:3-34.4.

“Insurer” means an entity authorized or admitted to write private passenger automobile insurance in New Jersey, but does not include the Market Transition Facility created pursuant to N.J.S.A. 17:33B-7 or any residual market mechanism implemented pursuant to N.J.S.A. 17:29D-1 et seq.

“Personal lines automobile insurance” means direct automobile insurance issued by an insurer for personal, family or household purposes, and written in accordance with a rating system filed and approved pursuant to N.J.S.A. 17:29A-1 et seq.

#### 11:3-40.3 Insurers required to provide automobile insurance coverage to eligible persons

(a) In accordance with N.J.S.A. 17:33B-15, every insurer, except as provided in (b) below, shall provide automobile insurance coverage for eligible persons beginning April 1,

1992. No insurer, except as provided in (b) below, shall refuse to insure, renew, or limit coverage available for automobile insurance to an eligible person meeting the insurer's underwriting rules as filed with and approved by the Commissioner in accordance with N.J.S.A. 17:29A-46. An insurer shall provide all coverages, including physical damage coverages, in accordance with its rating system filed with the Department and approved pursuant to N.J.S.A. 17:29A-1 et seq.

(b) The requirements set forth in (a) above shall not apply to the following:

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

2. Insurers that have issued or renewed policies of automobile insurance in New Jersey since December 31, 1983, 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 with less than 1,000 automobile inforce exposures as of December 31, 1983 and as of September 30, 1988. Insurers newly authorized to transact private passenger automobile insurance after September 30, 1988 shall be exempt from this subchapter until such time as the insurer has 1,000 or more automobile inforce exposures;

4. Insurers transacting 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 provided by the terms of the approved plan of orderly withdrawal;

5. Insurers transacting automobile insurance business in New Jersey subject to an order issued by the Commissioner in accordance with N.J.S.A. 17:33B-19 or 20, but only to the extent provided by the terms of the order;

6. Insurers transacting automobile insurance business subject to an order of administrative supervision pursuant to N.J.S.A. 17:51A-1 et seq., but only to the extent provided by the terms of such order; or

7. Insurers subject to any limitation on premium volume set forth as a condition of authorization or admission pursuant to N.J.A.C. 11:1-10.8(e) and (f) or 11:1-28.10(f) and (g), as applicable, but only to the extent of such limitation set forth in the authorization or admission or as modified thereafter.

(c) Insurers that currently insure, or have insured since December 31, 1983, only certain types of automobiles (for example, motor homes, recreational vehicles or antique automobiles) shall comply with the requirements of (a) above, but only for the particular types of automobiles currently being insured.

(d) Insurers that currently provide, or have provided since December 31, 1983, only limited coverage (for example, physical damage coverage) shall comply with the requirements of (a) above, but only for the limited coverages being written.

(e) Insurers that are required to insure eligible persons, but that do not have a current personal lines automobile insurance rating system on file with the Department, shall file such a system with the Department in accordance with N.J.S.A. 17:29A-1 et seq. within 90 days of the effective date of this rule.

(f) Insurers identified within the provisions of (b), (c) or (d) above, shall comply with the following:

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

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

ii. A statement that the insurer is not required to comply fully with N.J.S.A. 17:33B-15;

iii. The factual basis upon which the insurer relied to determine that it is not required to comply fully with N.J.S.A. 17:33B-15;

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 Department at the following address:

Division of Licensing, Enforcement and Consumer  
Protection  
New Jersey Department of Insurance  
20 West State Street  
CN 328  
Trenton, N.J. 08625-0328

Amended by R.1995 d.604, effective November 20, 1995.  
See: 27 N.J.R. 2854(a), 27 N.J.R. 4717(c).  
Administrative Correction.  
See: 27 N.J.R. 4894(a).

#### 11:3-40.4 Penalties

(a) The Commissioner may suspend, revoke or otherwise terminate the certificate of authority to transact automobile business in this State of any insurer failing to comply with the provisions of this subchapter requiring that the insurer provide automobile insurance in accordance with N.J.S.A. 17:33B-15.

(b) In addition to or in lieu of the penalty set forth in (a) above, the Commissioner may impose a fine as provided in N.J.S.A. 17:33B-21 for any violation of the provisions of this subchapter.

(c) The Department shall follow the procedures set forth at N.J.A.C. 11:17D-2.1 in imposing the penalties set forth at (a) or (b) above.

\_\_\_\_\_  
**SUBCHAPTER 41. (RESERVED)**  
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**SUBCHAPTER 42. PRODUCER ASSIGNMENT PROGRAM**

**Law Review and Journal Commentaries**

Auto Insurance. Steven P. Bann, 133 N.J.L.J. No. 6, 73 (1993).

**11:3-42.1 Purpose and scope**

(a) This subchapter implements N.J.S.A. 17:33B-9c and provides for the assignment of qualified producers on an equitable basis to insurers writing private passenger automobile insurance in the voluntary market.

(b) This subchapter applies to all insurers licensed to transact private passenger automobile insurance in this State, unless otherwise exempt pursuant to this subchapter, and all qualified producers who seek to be assigned to insurers pursuant to the procedures set forth in this subchapter.

(c) Producer assignments under the Program shall cease with any assignments made pursuant to the April 1, 1993 list of qualified producers. Notwithstanding the foregoing, the Commissioner may reactivate the assignment procedure in the event he or she determines that there are geographic areas in this State that lack sufficient representation for the placement of automobile insurance business in the voluntary market.

**Case Notes**

Adoption of emergency regulation cured defect where order was used rather than rule making. Matter of Producer Assignment Program, 261 N.J.Super. 292, 618 A.2d 894 (A.D.1993), certification denied 133 N.J. 439, 627 A.2d 1144.

Emergency regulation was used to overcome failure by Insurance Commissioner to establish mechanism to cover residual insureds. Matter of Producer Assignment Program, 261 N.J.Super. 292, 618 A.2d 894 (A.D.1993), certification denied 133 N.J. 438, 627 A.2d 1144.

**11:3-42.2 Definitions**

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

“Association” means the New Jersey Automobile Full Insurance Underwriting Association established pursuant to N.J.S.A. 17:30E-1 et seq.

“Automobile” is as defined in N.J.S.A. 17:30E-3b.

“Automobile insurance” is as defined in N.J.S.A. 17:30E-3c.

“Category B Association producer” means a producer who does not have a current affiliation with a voluntary market company for the purposes of placement of private passenger automobile insurance who:

1. Had such an affiliation with an insurer that was terminated by the insurer prior to December 31, 1980; or
2. Never had such an affiliation with a voluntary market company for the purposes of placement of private passenger automobile insurance.

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

“Department” means the New Jersey Department of Insurance.

“Geographic area” means any one of the 27 rating territories in this State approved by the Commissioner for use in private passenger automobile rating systems.

“Insurer” means any person authorized to transact the business of personal private passenger automobile insurance in this State, including insurers organized pursuant to N.J.S.A. 17:50-1 et seq.

“MTF” means the Market Transition Facility established pursuant to N.J.S.A. 17:33B-11.

“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.

“Program” means the Producer Assignment Program established pursuant to N.J.S.A. 17:33B-9c and this subchapter.

“Voluntary market insurer” means an insurer authorized to transact private passenger automobile insurance in this State.

Amended by R.1994 d.112, effective March 7, 1994. See: 25 N.J.R. 2215(a), 26 N.J.R. 1229(a).

**11:3-42.3 List of qualified producers**

Except for the first assignment made under this Program, the assignment of producers shall be made on a biannual basis subsequent to the conclusion of the quota periods

established pursuant to N.J.S.A. 17:33B-11, commencing with the October 1, 1992 quota. The Commissioner shall annually, on October 1 and April 1, establish a list of producers who have been determined to be qualified for assignment to voluntary market insurers pursuant to this Program.

#### 11:3-42.4 Eligible producers

(a) For the purpose of this subchapter, "eligible producer" is a producer who:

1. Is licensed in this State as a resident insurance producer;
2. Had a valid Association producer contract in force on September 30, 1990.
3. Does not have a current affiliation with a voluntary market insurer for the purposes of placement of private passenger automobile insurance, but who had such an affiliation that was terminated by the insurer between December 31, 1980 and December 31, 1992;
4. Is located in a rating territory that is determined by the Commissioner to be inadequately serviced, as defined in N.J.A.C. 11:3-42.5; and
5. Has derived not less than \$7,500 in commission income from Association or MTF policies combined in calendar year 1990.
  - i. A producer may also use any voluntary market private passenger automobile insurance commission income he or she received during 1990 to meet the \$7,500 threshold.

(b) For the purpose of this section, a producer who does not have a current affiliation with a voluntary market insurer for the purposes of placement of private passenger automobile insurance shall include the appointed representatives of insurers that have been:

1. Exempted from meeting the requirements of N.J.S.A. 17:33B-15, provided that the producer was appointed before the exemption Order and wrote at least 10 policies for the insurer during the year preceding the application for assignment;
2. Ordered by the Commissioner to cease the writing of automobile insurance; or
3. Permitted by the Commissioner to cease writing automobile insurance pursuant to a plan of orderly withdrawal approved pursuant to N.J.A.C. 11:2-29.

#### 11:3-42.5 Designation of geographic areas

(a) For the purposes of the Program, the State shall be divided into geographic areas corresponding to the rating territories used by the Association/MTF to write private passenger automobile insurance. Each rating territory shall be designated as either adequately serviced or inadequately serviced. For the initial producer assignment to be made under this Program, the determination of whether a territory is inadequately serviced shall be as follows:

1. A territory shall be designated as adequately serviced if the proportion of voluntary market private passenger automobile non-fleet exposures to total private passenger non-fleet exposures in that territory meets or exceeds both the aggregate Statewide quota established pursuant to N.J.S.A. 17:30E-14b(2), for the quota period ending on September 30, 1990 and the aggregate Statewide quotas established pursuant to N.J.S.A. 17:33B-11c(5), for the quota periods ending March 31, 1991 and September 30, 1991.

2. A territory shall be designated as inadequately serviced if the proportion of voluntary market private passenger automobile non-fleet exposures to total private passenger non-fleet exposures in that territory is less than the aggregate Statewide quota established pursuant to N.J.S.A. 17:30E-14b(2), for the quota period ending on September 30, 1990 or pursuant to N.J.S.A. 17:33B-11c(5), for the quota periods ending March 31, 1991, or September 30, 1991.

(b) For quota periods ending after September 30, 1991, the Commissioner shall review the status of each rating territory at the conclusion of each quota period established pursuant to N.J.S.A. 17:33B-11c(5). A rating territory shall be determined by the Commissioner to be inadequately serviced:

1. If the proportion of voluntary market private passenger automobile non-fleet exposures to total private passenger automobile non-fleet exposures in that territory is below the aggregate Statewide quota for the quota period; or

2. If the territory is adequately serviced based on the criteria established in (b)1 above, but the volume of exposures insured in the voluntary market was not achieved in the territory substantially through the voluntary writing of exposures but was achieved through the mandatory assignment of exposures pursuant to any mandatory depopulation plan established by the Commissioner.

(c) Notwithstanding the foregoing, the Commissioner, in his or her discretion, may find that specific areas within a rating territory are inadequately serviced although the territory as a whole has been determined to be adequately serviced. The Commissioner's determination shall set forth the basis for his or her finding in such instances.

(d) Except as may be otherwise permitted by the Commissioner, producers shall be deemed to be located and servicing business in a single rating territory for the purposes of this Program. The producer shall be assigned to the rating territory in which the producer's principal business office is located, as reflected by the records of the Department's licensing records.

(e) The Commissioner shall annually, on May 15 and November 15, establish a list of those rating territories or, if applicable, areas within rating territories that are determined to be inadequately serviced based on a review of the results of the immediately preceding quota periods, that is, April 1 and October 1, respectively. Notice thereof shall be provided to all Association producers by bulletin.

#### 11:3-42.6 Application procedures

(a) Any producer who is eligible for assignment to a voluntary market insurer pursuant to this Program shall make application to the Department on a form prescribed and furnished by the Department, incorporated herein by reference as Appendix A. The Department shall provide the form upon written request, within five working days of receipt of such request.

(b) All applications and accompanying documents shall be submitted to the Department. Applications premised on the May 15 list of inadequately serviced territories shall be filed with the Department no later than July 1 and applications premised on November 15 list shall be filed no later than January 1.

(c) In the event an application is not fully completed, or the information provided is inadequate or required documentation is missing, the application shall be disapproved and the producer so notified, in writing, within 10 working days of receipt of the application by the Department. The producer shall be afforded a reasonable opportunity to cure any deficiencies in the application, provided, however, that such deficiencies are cured and a completed application is filed with the Department by the filing dates specified in (b) above.

(d) The Department shall review each application to determine whether the producer meets each of the criteria established by the Commissioner pursuant to N.J.S.A. 17:33B-9c and shall advise the applicant, in writing, as to whether he or she is qualified for assignment under this Program. Disapproval of an application shall be made as provided in N.J.A.C. 11:3-42.8.

(e) Notifications to producers applying pursuant to the May 15 list of inadequately serviced territories shall be issued by the Department on or before September 1; notifications premised on the November 15 list of inadequately serviced territories shall be issued by the Department on or before March 1.

(f) Completed applications and other information required to be submitted pursuant to this subchapter shall be submitted to the Department at the following address:

AIM Unit/PAP  
Department of Insurance  
CN 325  
Trenton, New Jersey 08625

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

#### 11:3-42.7 Review of applications

(a) In determining whether a producer is qualified for participation in this Program, the Department's review shall include, but need not be limited to, the following:

1. Any records concerning the termination of the producer's affiliation with any voluntary market insurer(s) to determine whether:

i. The producer was terminated on or after December 31, 1980 (as provided at N.J.S.A. 17:33B-9c(3));

ii. The producer has violated any of the insurance laws of this State or rules promulgated pursuant thereto; and

iii. The reason for termination adversely reflects on the producer's competency, efficiency and effectiveness in servicing insurance business or otherwise indicates that the producer should not be qualified for this Program due to unworthiness, bad faith, lack of integrity, financial irresponsibility, dishonesty or other criteria deemed relevant by the Commissioner;

2. Any records relating to the appointment of the producer to act as an Association or MTF producer, his or her performance as an Association or MTF producer, any bona fide complaints filed against the producer with the Association, the MTF or any servicing carrier of these entities and any corrective or disciplinary action taken by the Association or MTF with respect to the producer;

3. Any records of bona fide complaints filed against the producer with the Department or any administrative action instituted by the Department (that is, issuance of an Order to Show Cause, issuance of an Order pursuant to N.J.S.A. 17:22A-20d etc.) with respect to the producer that has resulted in the imposition of fines or suspension or revocation of license privileges, including the imposition of such sanctions based on a Consent Order; and

4. Upon disclosure on the application or any other document reviewed by the Department of such administrative actions, any records relating to administrative actions instituted by any licensing authority of this or any other state or the Federal government with respect to the producer that has resulted in the imposition of fines, or suspension or revocation of license privileges.

#### 11:3-42.8 Producer qualification standards

(a) An application for qualification under this Program shall be disapproved if, based on the Department's review as set forth in N.J.A.C. 11:3-42.7:

1. The producer is determined not to meet the eligibility criteria set forth in N.J.A.C. 11:3-42.4;

2. The producer has failed to comply with insurance laws and regulations and/or the producer performance

standards established by the Association Plan of Operation, at Part III Operating Principles, Section 4: Producer Performance Standards, subsection 1, Performance Standards—General, or the MTF Plan of Operation, at Part III, Operating Principles, Section 4: Producer Performance Standards, subsection 1, Performance Standards—General;

3. The producer's affiliation with any voluntary market insurer has been terminated for reasons that adversely reflect on the producer's competency, efficiency or effectiveness in servicing insurance business or that otherwise indicate that the producer should not be qualified for this Program due to unworthiness, bad faith, lack of integrity, dishonesty, financial irresponsibility or other criteria deemed relevant by the Commissioner. This standard shall apply to all terminations of affiliation, including, but not limited to, agency appointments, brokerage arrangements and limited insurance representative appointments, any termination of an appointment made pursuant to the Producer Voluntary Placement Plan and any termination of an assigned appointment made under this Program;

4. The producer failed to file a completed application with the AIM Unit within the Department as provided in N.J.A.C. 11:3-42.6(c);

5. The producer knowingly withheld material information on the application or any accompanying document or intentionally made or caused to be made any false, deceptive or fraudulent statement during the application process, or otherwise qualified or attempted to qualify for this Program by fraud or material misrepresentation; or

6. The producer has been excluded from the Producer Voluntary Placement Plan or has previously been excluded from the Producer Assignment Program as provided in N.J.A.C. 11:3-42.18.

(b) An otherwise eligible producer whose application has been disapproved may reapply for the Program in a subsequent period except where such disapproval is for cause. For the purpose of this provision the term, "for cause," shall mean any willful and/or repeated violation of insurance laws or regulations, or Association or MTF performance standards, or any conduct that demonstrates unworthiness, lack of integrity, bad faith, dishonesty, financial irresponsibility or incompetency to transact business as an insurance producer.

(c) When the AIM Unit within the Department disapproves an application for assignment, the disapproval notice shall:

1. Include a written statement specifying the reasons for the rejection; and
2. Inform the producer of his or her ability to request a review of the disapproval by the Commissioner, within 10 days of receipt of the disapproval.

i. A request for review by the Commissioner shall be in writing and made within 10 days of receipt of the disapproval and shall be accompanied by all supporting documentation, if any, disputing with specificity, the reasons for disapproval. A response to this request may be made by the AIM Unit within five days thereafter.

ii. The Commissioner shall issue a written decision with reasons upholding or reversing the decision of the AIM Unit within 30 days from receipt of the last written request or response whichever is later.

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

### 11:3-42.9 Exemption from program

(a) The Program is intended to address the dual goals of protecting producers who have build businesses and developed expertise serving the residual market and of encouraging auto insurance sales and service in inadequately served territories. Therefore, assignment of producers on an equitable basis should consider whether an insurer's own marketing system has, in practice, provided reasonable access to persons in all areas of the State. When an insurer has demonstrably provided such access, it may be exempt from assignments under the Program.

1. Requests for an exemption on this basis must be supported by the following information:

i. For an insurer utilizing producers to transact private passenger automobile insurance in this State:

(1) A report showing the distribution of producers by territory within the State of New Jersey for the period between October 1, 1990 to the present. The report should specify the appointment dates of any newly appointed producer during the report period, as well as the termination date of any producer terminated during the report period;

(2) A narrative and supporting documentation demonstrating that the insurer was actively soliciting private passenger automobile insurance in inadequately serviced territories, especially the most inadequately serviced territories, for the period between October 1, 1990 to the present. The narrative and supporting documentation should also include data reflecting the results of the solicitation efforts; and

(3) Any other supplemental information that the insurer may consider relevant to the request for an exemption.

ii. For insurers who conduct business as direct writers:

(1) A narrative and supporting documentation showing that the insurer was actively soliciting private passenger automobile insurance in the inadequately serviced territories, especially the most inadequately serviced territories, for the period from October 1, 1990 to the present. The narrative and supporting documentation should also include data reflecting the results of the solicitation efforts; and

(2) Any other supplemental information that the insurer may consider relevant to its request for an exemption.

2. Requests for exemptions from this Program shall be filed with the Department no later than the end of the quota period, as set forth at N.J.A.C. 11:3-42.5, for which assignments are being made. Failure to submit a complete application by the due date may result in a denial of the insurer's request for exemption from assignments for that assignment period. An insurer that previously submitted an application for an exemption pursuant to this section may incorporate by reference information included with the previous request. However, the insurer shall submit documentation of continued or additional marketing and solicitation efforts between the time the original request was made and the time the present request is made.

3. The review of requests for exemptions from this Program shall be conducted by the AIM Unit within the Department. The AIM Unit shall review the request and shall notify the insurer in writing as to its decision within 45 days of the end of the quota period for which assignments are being made.

i. In evaluating an insurer's application for an exemption, the Department shall apply four tests. Each test shall be weighted equally so that passing or failing one test shall not automatically result in the denial of an exemption. A passing result on each test carries a score of one, and, therefore, the maximum possible score is four. A score of three or better results in the granting of an exemption.

ii. The four tests are as follows:

(1) Whether the insurer met the most recent de-population quota;

(2) Whether the insurer's distribution of business among all the rating territories for the most recent data available matches the distribution of business in the MTF on that same date. The Department uses a Standard Compliance Index for this measurement. A compliance index of 1.000 or more demonstrates a good match between the insurer's and MTF's distributions;

(3) Whether the insurer's rate of growth in the inadequately serviced territories as defined at N.J.A.C. 11:3-42.5 between September 30, 1990 and the most recent available quarterly report informa-

tion equals or exceeds the rate of growth in those same inadequately serviced territories by the voluntary market as a whole; and

(4) Whether the information submitted by the insurer pursuant to this subsection indicates that the insurer, through its system of marketing insurance and efforts at solicitation of business, provided reasonable market access in the inadequately serviced territories, especially the most inadequately serviced territories.

4. When the AIM Unit rejects an exemption request, the notice of rejection shall:

i. Include a statement in writing specifying the reasons for the rejection; and

ii. Inform the insurer of the right to request a review of the rejection by the Commissioner, no later than seven days after receipt of the notice of rejection.

(1) A request for review by the Commissioner shall be made in writing no later than seven days after receipt of the notice of rejection and shall be accompanied by all supporting documentation, if any, disputing, with specificity the reasons for rejection. A response to this request may be made by the AIM Unit within five days thereafter.

(2) The Commissioner shall issue a written decision with reasons upholding or reversing the decision of the AIM Unit within 30 days from receipt of the last written request or response whichever is later. In deciding requests for review, the Commissioner may consider such additional information submitted by the insurer that shall promote the express intention of N.J.S.A. 17:33B-9c to assign qualified producers to insurers on an equitable basis.

(b) An insurer may also be exempted from this Program:

1. As part of relief from insurer obligations under the Fair Automobile Insurance Reform Act having been granted, pursuant to the requirements of N.J.A.C. 11:2-35;

2. In accordance with a plan of orderly withdrawal from the State which has been approved pursuant to N.J.A.C. 11:2-29;

3. If the insurer had fewer than 1,000 voluntary private passenger automobile exposures in-force on December 31, 1983 and September 30, 1988; or

4. If the insurer has, as a condition of providing coverage, uniform membership requirements which have been filed and approved by the Department pursuant to N.J.S.A. 17:29A-46 and N.J.A.C. 11:3-35 and the insurer is not prohibited from using its membership requirements by N.J.S.A. 17:33B-26. Notwithstanding the foregoing, if the insurer is a member of a group that includes other insurers that are authorized to transact private passenger

automobile insurance in this State, but do not have approved membership requirements as a condition of providing coverage, producer assignments shall be made to the group.

(c) An insurer that has been exempted from this Program pursuant to (b)1 or 2 above or qualifies for exemption under (b)3 or 4 above shall notify the Department at least 45 days prior to the promulgation of the lists of qualified producers.

Amended by R.1992 d.482, effective December 7, 1992.  
See: 24 N.J.R. 3421(a), 24 N.J.R. 4397(a).

Text at (a)1i(2) revised to extend the period covered to the present; new application and policy information not required; incorporation by reference of previously submitted material allowed in application for exemption.

Amended by R.1994 d.112, effective March 7, 1994.

See: 25 N.J.R. 2215(a), 26 N.J.R. 1229(a).

Amended by R.1996 d.58, effective February 5, 1996.

See: 27 N.J.R. 3682(a), 28 N.J.R. 855(a).

### 11:3-42.10 Apportionment of producers; credits

(a) Each insurer authorized to transact the business of private passenger automobile insurance in this State shall be subject to the assignment of qualified producers pursuant to the procedures and requirements set forth in this Program. Producer assignments shall be apportioned among insurers based upon each insurer's apportionment share as determined for purposes of depopulation pursuant to N.J.S.A. 17:30E-14 and 17:33B-11(c)5, subject to any exemptions as set forth in N.J.A.C. 11:3-42.9.

(b) Any insurer that has, pursuant to the Producer Voluntary Placement Plan, appointed eligible Association producers as defined in N.J.A.C. 11:3-42.4 shall receive credit against any producer assignments to be made under this Program on a one-for-one basis. The one-for-one credit shall be premised on a calculation of the insurer's apportionment share of the total number of producers who otherwise would have been eligible for assignment under this Program in the absence of any voluntary agreements entered into by those companies subject to assignment.

1. In the event that an insurer appoints sufficient eligible Association producers to meet or exceed the insurer's apportionment share of such producers for that assignment period, the insurer shall not be subject to producer assignment during that assignment period and the excess shall be credited against any subsequent assignments made by the Commissioner.

2. The excess shall not be credited against subsequent assignments to the extent that the insurer has terminated any appointments of producers prior to the next assignment period.

3. Credits against future assignments shall apply irrespective of whether the territory where a producer is located continues to be designated as inadequately serviced pursuant to N.J.A.C. 11:3-42.5.

(c) Any insurer that has, pursuant to the Producer Voluntary Placement Plan, appointed Category B Association producers who are located in territories that have been determined by the Commissioner to be inadequately serviced pursuant to N.J.A.C. 11:3-42.5, shall receive credits against any producer assignments based on the credit allowance set forth in (d) below.

1. In the event that an insurer appoints sufficient Category B Association producers to meet or exceed the insurer's apportionment share of eligible producers for that assignment period, the insurer shall not be subject to producer assignment during that assignment period and the excess shall be credited against any subsequent assignments made by the Commissioner.

2. The excess shall not be credited against subsequent assignments to the extent that the insurer has terminated any producer appointments prior to the next assignment period.

3. Credits against future assignments shall apply irrespective of whether the territory where a producer is located continues to be designated as inadequately serviced pursuant to N.J.A.C. 11:3-42.5.

(d) The credit allowance specified in (c) above shall be calculated so as to ensure the Commissioner's ability to provide assignments for all or substantially all producers on each list of qualified producers as set forth in N.J.A.C. 11:3-42.3. The credit allowance shall be reviewed and adjusted, if necessary, on a periodic basis. For the initial implementation of this Program, an insurer shall receive one credit toward a producer assignment for every four Category B producers appointed who are located in inadequately serviced territories.

(e) In calculating any insurer's apportionment share of any producer assignments made pursuant to this Program, the following procedures shall govern:

1. The apportionment shares of producer assignments of any insurers that are subject to exemption under the Program, pursuant to N.J.A.C. 11:3-42.9, shall be calculated and such shares redistributed among the remaining carriers in the proportion that each of the remaining insurers' market shares bears to the total market share of all such insurers;

2. Credits against an insurer's apportionment share of producer assignments earned pursuant to (b) above shall be calculated and the producers redistributed among the remaining insurers in the proportion that each of the remaining insurers' producer assignments (after application of the one-for-one credit) bears to the total number of such assignments; and

3. Credits against an insurer's apportionment share of producer assignments earned pursuant to (c) above shall be calculated and the producers redistributed among the remaining insurers in the proportion that each of the remaining insurers' producer assignments (after application of any credits under (c) above) bears to the total number of such assignments.

(f) In calculating credits under this section, the Department shall utilize the number of voluntary agreements that are in force at the end of the April 1 and October 1 quota periods, as applicable. Any credits that are earned by an insurer for a given assignment period that are premised on an appointment that is subsequently terminated shall be removed and adjustments made to the insurer's apportionment share in the next assignment period.

#### 11:3-42.11 Producer assignments

(a) Each insurer subject to the assignment of producers pursuant to this Program shall be notified by Order subsequent to the Commissioner's establishment of each list of qualified producers as set forth in N.J.A.C. 11:3-42.3. Except as provided in (a)1 and 2 below, qualified producers shall be assigned to the insurers subject to assignments on a random basis.

1. No insurer whose total private passenger automobile in-force exposures at the end of the last quota period is greater than 1,000 will be assigned a producer whose eligible book of business is greater than 25 percent of the total private passenger automobile exposures of that insurer.

2. No insurer whose total private passenger automobile in-force exposures at the end of the last quota period is less than 1,000 will be assigned a producer whose eligible book of business is greater than 15 percent of the total private passenger automobile exposures of that insurer.

3. The Department shall consider the total in-force exposures of the insurer at the end of the last quota period in making assignments under this Program.

#### 11:3-42.12 Appointment

(a) Any producer assigned to an insurer under this Program shall be appointed by the insurer as an agent of the company pursuant to N.J.S.A. 17:22A-15 and notice thereof provided to the Department as provided in N.J.A.C. 11:17-2.9. Contracts between the insurer and the assigned producer(s) shall be executed no later than 30 days following issuance of the Order specified in N.J.A.C. 11:3-42.11.

1. With respect to insurers that are members of a group, the notice to the Department shall specify the member companies to which the producer is appointed as an agent. Where the group utilizes different member insurers for the purpose of writing standard and nonstandard risks, the producer shall be appointed as an agent for all such companies. Insurers that are members of a group are not required to appoint the producer as an agent of all the companies in the group provided that the producer is appointed to one or more companies that have approved standard and non-standard rating plans.

(b) Pursuant to N.J.S.A. 17:22-6.14a(e), an insurer may use an insurance marketing system that provides for its

agents to be compensated on a salary basis without commission or provides for its agents to represent the company exclusively. Such as insurer may utilize this system for producers assigned to it under this Program or may appoint such producers as independent agents.

Administrative Correction.  
See: 25 N.J.R. 5930(a).

#### Case Notes

Regulation allowing producers to place new business complied with statute. Matter of Producer Assignment Program, 261 N.J.Super. 292, 618 A.2d 894 (A.D.1993), certification denied 133 N.J. 439, 627 A.2d 1144.

Regulation mandating contracts between insurers and producers is not unconstitutional. Matter of Producer Assignment Program, 261 N.J.Super. 292, 618 A.2d 894 (A.D.1993), certification denied 133 N.J. 438, 627 A.2d 1144.

#### 11:3-42.13 Transfer of MTF business

(a) The insurer shall offer the same or equivalent automobile insurance coverage that was afforded under the MTF to each MTF insured serviced by the producer who is determined by the insurer to qualify as an eligible person pursuant to N.J.A.C. 11:3-34. Where the insurer does not have rates and rules filed and approved by the Department for the same or equivalent coverage presently afforded the insured under the MTF policy, the insurer shall offer to the insured the next broadest coverage for which the insurer has rates and rules filed and approved by the Department. The insurer is expressly prohibited from offering less coverage to the insured than the coverage afforded to such insured under the MTF policy. Examples of coverages that may be offered is set forth in Appendix B to this subchapter, incorporated herein by reference. In determining whether the MTF insured qualifies as an eligible person, insurers shall comply with N.J.A.C. 11:3-8.4. An insurer also may determine to make an offer of coverage to an insured who does not qualify as an eligible person.

(b) The transfer of the producer's MTF policies to the assigned insurer shall be accomplished through completion by the producer of a new business application and a coverage selection form for the insured. Pursuant to mutual agreement between the insurer and the producer, the new business application may be unsigned. However, a coverage selection form signed by the insured shall be submitted to the insurer.

(c) An insurer receiving assignments under this Program may make independent agreements with the servicing carriers for the exchange of electronic information or other arrangements involving the transfer of policies from the MTF to the insurer. An outline of the terms of any agreement and any copies of any written material that will be sent to insureds must be submitted in advance of its implementation to the Department. The MTF shall have no responsibility to provide coverage for insureds as a result

of the failure of the servicing carrier to perform under the terms of the independent agreement.

#### 11:3-42.14 New business

The producer shall be authorized to solicit, negotiate and effect new contracts of automobile insurance in accordance with all applicable laws and regulations and the insurer's underwriting guidelines, consistent with procedures applicable to the insurer's other representatives.

#### 11:3-42.15 Producer compensation; company rates

(a) Where an insurer determines to use its own rates for former MTF insureds transferred to the insurer and/or new business written through the producer, the contract shall provide for the producer to be compensated based on the insurer's current schedule of commissions or other formula used to provide compensation to its agents. Policies transferred from the MTF shall be considered as new business with respect to providing producer compensation, for the assigned insurer's initial policy period.

(b) Where an insurer's compensation schedule contemplates support services, such as office space, equipment or advertising, or other employee benefits, and such services or benefits are not provided to the producer, the compensation schedule shall be adjusted to reflect accurately the value of such services or benefits so that the producer shall receive compensation that is equivalent to the compensation paid to, or on behalf of, the company's agents who receive such services or benefits.

1. For the purpose of this provision, the term "agent" shall be construed to have the broadest possible meaning, including, but not limited to, exclusive agents or independent agents.

2. Where an insurer has more than one schedule of commissions for its agents, it shall negotiate in good faith with producers assigned pursuant to this Program to determine the commission to be paid.

(c) In the case of companies that are direct writers, expenses for a direct marketing department and related support staff shall be considered in determining the commission paid to the assigned producer under (a) above.

1. The commission agreed to by any direct writer and an assigned producer under (a) above shall be comparable to the compensation paid to independent agents by insurers that utilize such agents.

2. Where an insurer that is a direct writer also maintains, through a subsidiary company or otherwise, a mechanism to accept business from producers who are not the normal, exclusive agents of the direct writers, the commission schedule applicable to such producers shall be utilized consistent with (a) above.

#### 11:3-42.16 Producer compensation; MTF rates

Where the insurer is authorized by law to use MTF rates, rules and forms for policies written through the producer, it shall pay the producer the same commission paid by the MTF.

#### 11:3-42.17 Duration and terms of producer assignment

(a) Any termination of an appointment of a producer assigned to an insurer pursuant to this Program shall be prohibited for two years following the date of contract, except where such termination is for cause. A termination for cause must be based on the producer's insolvency, abandonment, gross and willful misconduct or failure to pay over to the companies monies due to the company after his or her receipt of written demand therefor, or after revocation of the agent's license by the Commissioner. In addition, an appointment may be terminated for cause if the producer violates the written underwriting guidelines of the insurer in such a manner or with such frequency as to substantially affect the company's ability to underwrite or provide coverage.

1. Insurers shall provide producers with at least 45 days written notice of a termination for cause. The notice of termination shall include a detailed written explanation of the reasons for termination. A copy of the notice shall also be sent to the Department.

2. A termination for cause shall result in the exclusion of the producer from further participation in the Program. Producers may contest a termination notice pursuant to the procedures in N.J.A.C. 11:3-42.18(d).

3. In the case of a termination for cause, the insurer may reassign the producer's book of business to another active agent of the company or service it directly.

(b) At the conclusion of the two year period, the producer and insurer shall negotiate in good faith to do one of the following:

1. Irrespective of the marketing system customarily used by the insurer, appoint the producer as an independent agent, the termination of which appointment is governed by N.J.S.A. 17:22-6.14a(d) and (l);

2. Where the insurer, pursuant to N.J.S.A. 17:22-6.14a(e), uses an insurance marketing system that provides for its agents to be compensated on a salary basis without commission or provides for its agents to represent that company exclusively, the insurer may appoint the producer under this system; or

3. Buy out the producer by paying to him or her an amount equivalent to at least one year's commission based on the book of business at the end of the two year assignment period.

(c) If the insurer and the producer cannot reach an agreement under (b) above, the producer shall be deemed a terminated agent who is subject to the provisions of N.J.S.A. 17:22-6.14a(d) and (f), notwithstanding N.J.S.A. 17:22-6.14a(e) or the mode of appointment of the producer under this Program (that is, exclusive agent or independent agent).

Administrative Correction.  
See: 25 N.J.R. 5930(a).

#### Case Notes

Regulation allowing producers to place new business complied with statute. Matter of Producer Assignment Program, 261 N.J. Super. 292, 618 A.2d 894 (A.D.1993), certification denied 133 N.J. 438, 627 A.2d 1144, certification denied 133 N.J. 439, 627 A.2d 1144.

#### 11:3-42.18 Exclusion from program

(a) Any producer who refuses an assignment under this Program, that provides for his or her appointment as the assigned company's agent on fair and equitable terms, shall be excluded from further participation in this Program.

(b) Any producer who is terminated within the two year period set forth in N.J.A.C. 11:3-42.17(a) above shall be excluded from further participation in this Program.

(c) Insurers shall immediately provide notice of any refusal of assignment as provided in (b) above, respectively, in

writing, to the Department in the format set forth in Appendix C to this subchapter, incorporated herein by reference. A copy of the notice shall be simultaneously delivered to the affected producer.

(d) A producer who has received a notice of termination for cause or a Notice of Refusal of Appointment may file a written response with the Department. Such response shall be made within 10 days of the insurer's notice. The Commissioner shall issue a written decision with reasons within 30 days.

Amended by R.1992 d.482, effective December 7, 1992.  
See: 24 N.J.R. 3421(a), 24 N.J.R. 4397(a).  
Citation corrected.

#### 11:3-42.19 Initial implementation of program

For the initial implementation of this Program, in-force voluntary agreements that are established by insurers with eligible Association producers and Category B producers located in inadequately serviced territories between October 1, 1990 and February 29, 1992 shall be used to determine any credits under N.J.A.C. 11:3-42.10.

#### 11:3-42.20 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties as authorized by law.

APPENDIX A

Date Stamp

Application Number

PRODUCER ASSIGNMENT PROGRAM (PAP)  
Producer Application

Producer License Reference #

Name of Applicant (must be same as on license)

Contact Person if Applicant is Corp. or Partnership

( )

Telephone Number

Main Business Address of Applicant—No. & Street (no Post Office Box #)

City NJ Zip

Rating Territory of Main Business Address

SS or Tax ID#

Does the applicant have a valid New Jersey producer license? Yes No

Did the applicant have a valid Association producer contract on 9/30/90? Yes No

Does the applicant have a current appointment with a voluntary market insurer for the placement of automobile insurance? Yes No

Did the applicant have an appointment with a voluntary insurer for the placement of automobile insurance that was terminated by the insurer after 12/31/80? Yes No If yes, list the insurers with the date and reason for termination below.

Insurer	Date	Reason for Termination

Total commission income earned by applicant from JUA/MTF business in 1990? \$\_\_\_\_\_

Total commission earned on voluntary market auto insurance policies, if any? \$\_\_\_\_\_ Attach copies of IRS 1099 forms.

If the answer to any of the questions below is YES, attach copies of relevant documents and explain in the Remarks section below. Add additional sheets if necessary.

Has the applicant or any officer, partner, director or owner of 5% or more have any unsatisfied judgments against them? Yes \_\_\_\_\_ No \_\_\_\_\_

Has the applicant or any officer, partner, director or owner of 5% or more ever been indicted or convicted of a crime, misdemeanor or disorderly persons offense in this State, other state or by the federal government? Yes \_\_\_\_\_ No \_\_\_\_\_

Has the applicant or any officer, partner, director or owner of 5% or more ever been the subject of any administrative action initiated by the Department of Insurance of this State or any other licensing authority of this or any other state, that resulted in the revocation or suspension of license privileges? Yes \_\_\_\_\_ No \_\_\_\_\_

Certification—I/We hereby certify that:

1. I/We give the Department of Insurance permission to verify any information supplied with any federal, state or local government agency, insurance company, JUA or MTF.
2. All the information submitted on this application and all attachments are true and complete. I am/We are aware that submitting false information in connection with this application is grounds for exclusion from the Producer Assignment Program and may subject me/us to administrative including revocation of license.

\_\_\_\_\_  
Signature of Applicant or Officer of Corporation

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Return to: NJ Department of Insurance  
ARM Unit/PAP Applications  
20 W. State Street CN 325  
Trenton, NJ 08625

## APPENDIX B

## COVERAGE DETERMINATION EXAMPLES

The following examples are provided for illustration purposes only:

Example 1: The MTF policyholder presently has \$25,000/\$50,000/\$10,000 split limits of liability coverage. However, the member company only writes combined single limit of liability coverage and only has rules and rates filed and approved by the Department for this type coverage. Therefore, the member company must offer the MTF policyholder a combined single limit of liability coverage which is equal to the bodily injury occurrences limit and the property damage occurrence limit added together or the next broadest available coverage (for example, \$75,000, but in no event less than \$60,000).

Example 2: The MTF policyholder presently has \$25,000/\$50,000/\$10,000 split limits of liability coverage. The member company only writes combined single limit of liability coverage and offers \$100,000 combined single limit of liability coverage as the minimum coverage to its voluntary insureds. However, the member company has rates and rules filed and approved by the Department for combined single limit of liability coverage for amounts less than \$100,000. Therefore, the member company must offer the MTF policyholder a combined single limit of liability coverage which is equal to the bodily injury occurrence limit and the property damage occurrence limit added together or the next broadest available coverage, but less than \$100,000 (for example, \$75,000, but in no event less than \$60,000).

Example 3: The MTF policyholder presently has \$25,000/\$50,000/\$10,000 split limits of liability coverage. The member company only writes combined single limit of liability coverage and offers \$100,000 combined single limit of liability of coverage as the minimum coverage to its voluntary insureds. The member company does not have any rates and rules filed and approved by the Department for amounts of combined single limit of liability coverage less than \$100,000. Therefore, the member company must offer the MTF policyholder \$100,000 combined single limit of liability coverage.

Example 4: The MTF policyholder presently has \$75,000 combined single limits of liability coverage. The member company writes both split limits and combined single limit of liability coverage and has rates and rules filed and approved by the Department for both types of coverage. Therefore, the member company must offer the MTF policyholder \$75,000 combined single limit of liability coverage and not a split limits policy.

Example 5: The MTF policyholder presently has \$100,000 combined single limit of liability coverage. The member company only writes split limits of liability coverage and only has rates and rules filed and approved by the Department for this type of coverage. Therefore, the member company must offer the MTF policyholder split limits of liability coverage with a bodily injury per person limit equal to the combined single limit of liability coverage or the next broadest available coverage (for example, \$100,000/\$300,000/\$50,000). (Note: All conversions of combined single limit of liability coverage should be handled in the same manner, except a \$35,000 combined single limits policy. In this particular case, the member company shall offer \$15,000/\$30,000/\$5,000 split limits of liability coverage.)

APPENDIX C

PRODUCER ASSIGNMENT PROGRAM—REFUSAL OF PRODUCER APPOINTMENT  
(Please print or type)

----- Company Information -----

\_\_\_\_\_  
Name of Company or Group NAIC #

Address: \_\_\_\_\_

\_\_\_\_\_  
Company Contact Person Title

Phone No.: (\_\_\_\_) \_\_\_\_\_ FAX No.: (\_\_\_\_) \_\_\_\_\_

----- Producer Information -----

\_\_\_\_\_  
Name of JEA/MIF Contractholder DOI Producer Reference No.

Contact Person: \_\_\_\_\_  
Individual Licensee if above is Partnership or Corporation

\_\_\_\_\_  
Main Business Address—No. and Street (P.O. Box not permitted)

\_\_\_\_\_  
City NJ Zip (\_\_\_\_) Phone

----- Refusal Information -----

Date of Refusal of Appointment: Mo. \_\_\_\_ Day \_\_\_\_ Yr. \_\_\_\_

Comment: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CERTIFICATION

I certify that the above information is correct to the best of my knowledge information and belief. I understand that if I have knowingly made any false statements I will be subject to penalties.

\_\_\_\_\_  
Signature of Company Representative Print Name

\_\_\_\_\_  
Title Date

## SUBCHAPTER 43. (RESERVED)

SUBCHAPTER 44. SPECIAL RULES FOR  
EFFECTING COVERAGE FOR PRIVATE  
PASSENGER AUTOMOBILE INSURANCE**11:3-44.1 Purpose and scope**

(a) This subchapter implements the provisions of N.J.S.A. 17:33B-15 and 18 which prohibit insurers, both individually and through their agents, from attempting to channel away eligible persons, with the effect of avoiding an insurer's obligation to provide private passenger automobile insurance coverage to eligible persons.

(b) This subchapter applies to all persons that are licensed and authorized to transact the business of personal private passenger automobile insurance in this State and all producers.

**11:3-44.2 Definitions**

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

"Affiliate" means an insurer that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common ownership and management with, another insurer.

"Business days" means all days other than weekends and official New Jersey State and Federal holidays.

"Commissioner" means the Commissioner of the Department of Insurance.

"Completed written application" means a signed application that contains the minimum information necessary as set forth at N.J.A.C. 11:3-44.3(a) to determine whether the applicant is an eligible person, to rate and underwrite the policy, is accompanied by a completed coverage selection form as provided at N.J.A.C. 11:3-15.6 and, if requested, a copy of the applicant's driver's license, a copy of the motor vehicle registration of the principal vehicle to be insured, one additional proof of New Jersey residency and an acknowledgment of requirement for insurance inspection form where physical damage is requested.

"Days" means calendar days.

"Eligible person" means a person as defined at N.J.S.A. 17:33B-13 and N.J.A.C. 11:3-34.4.

"Insurer" means a person authorized to transact the business of personal private passenger automobile insurance in this State including insurers organized pursuant to N.J.S.A. 17:50-1 et seq.

"Market Transition Facility" or "MTF" means the New Jersey Market Transition Facility established pursuant to N.J.S.A. 17:33B-11.

"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.

"Transmit" means to mail or deliver by any means including, but not limited to, third class mail, certified mail, overnight delivery or express delivery, hand delivery and any transmission by wire, including, but not limited to, facsimile transmission or computer modem.

**11:3-44.3 Duty to provide coverage upon receipt of a completed written application**

(a) The minimum information necessary to determine whether an applicant is an eligible person and to rate and underwrite the policy is as follows:

1. The desired effective date of policy;
2. Personal information, including the name, address, home telephone number, date of birth, sex and marital status of the applicant and principal driver of each automobile to be insured under the policy;
3. The number of vehicles to be insured and a description of each such vehicle including:
  - i. The model year;
  - ii. The cost of the vehicle, if new;
  - iii. The trade name;
  - iv. The model;
  - v. The body type;
  - vi. The vehicle identification number;
  - vii. An approximate odometer reading if the insurer rates by mileage;
  - viii. The estimated annual mileage if the insurer rates by mileage;
  - ix. The intended use of vehicle (for pleasure, for or to work, to school or to public transportation);
4. Where the vehicle is garaged, if different from residence;
5. The month and year licensed for all drivers licensed less than three years;

6. Information regarding each resident licensed driver who is to be a named insurer under the policy, or who is the principal driver of a vehicle insured under the policy, or who is not otherwise a named insured under a separate policy of automobile insurance including:

- i. The percentage use of each licensed driver;
  - ii. The motor vehicle record for the previous three years including:
    - (1) Convictions for traffic violations that result in the assessment of insurance eligibility points pursuant to N.J.A.C. 11:3-34.5;
    - (2) Motor vehicle accidents; and
    - (3) Drivers' license and registration suspensions and revocations;
  - iii. An insurer shall not require the applicant to submit a motor vehicle abstract;
  - iv. Automobile insurance claims history if needed to determine placement into a preferred company in a group of insurers;
  - v. Insurance fraud and other violations or crimes enumerated at N.J.S.A. 17:33B-13 or set forth at N.J.A.C. 11:3-34.4(a)1, 2 or 4; and
  - vi. Criminal convictions for offenses in the course of which a motor vehicle was used pursuant to N.J.S.A. 2C:43-2b(7);
7. The drivers' license number of the applicant;
8. Information relating to types of coverage, limits of liability and driver discounts;
9. A coverage selection form; and
10. No information shall be requested based on whether the insured is impaired by physical or mental disabilities except those disabilities that impair the ability to operate an automobile safely.

(b) An insurer, by itself or through its producers with binding authority, shall provide coverage to an eligible person applicant who submits a completed written application that includes the information in (a) above.

1. Insurers shall have five business days from the date of receipt of a completed written application to either provide or decline insurance, or if requested to notify the applicant whether coverage will be provided or denied. An insurer shall obtain and retain documentation of the date of receipt of such application. When an application is transmitted to an insurer by first class mail, there is a rebuttable presumption that the application was received by the insurer two calendar days after mailing when the destination is in New Jersey or within a 300 mile radius of the place of mailing, or three calendar days when the destination is outside a 300 mile radius of the place of mailing, as evidenced by a proof of mailing or postmark.

2. Any document which an insurer requires to be submitted in connection with an application or renewal shall be prominently requested in the application or renewal form.

3. If physical damage coverages are requested by eligible person applicants, insurers shall bind liability coverages in accordance with these rules and may bind physical damage coverages subject to compliance with N.J.A.C. 11:3-36.

(c) If upon receipt of an application from a producer without immediate binding authority or directly from an applicant, an insurer finds that the application is incomplete and the insurer is unable to determine whether the applicant is an eligible person, the insurer shall, within five business days of the date the application was received by it, issue a notice which:

1. Clearly and specifically identifies the deficiencies;
2. Advises the applicant that if the deficiencies are cured within 15 days and the applicant is determined to be an eligible person, coverage shall be provided either immediately or as of the originally requested effective date if later; and
3. Advises the applicant that if the deficiencies are not cured within 15 days, the application shall be deemed to have been declined.

(d) Nothing in this rule shall be deemed to require an insurer to provide coverage prior to receipt by either the insurer or its producer of the premium deposit required based upon the premium quoted by the insurer or its producer.

Amended by R.1994 d.598, effective December 5, 1994.  
See: 26 N.J.R. 3591(a), 26 N.J.R. 4777(a).

#### **11:3-44.4 Immediate binding authority for insurers with MTF rates**

Insurers which are approved by the Commissioner to use MTF rates in accordance with N.J.S.A. 17:33B-11c shall provide their producers with authority to immediately bind coverage on behalf of the insurer for all applicants to be charged MTF rates. Insurers shall amend their approved rating system, if necessary, either to incorporate MTF Manual Rule 5 which shall be deemed approved by the Commissioner; or to extend immediate binding authority to their producers in accordance with their own immediate binding procedures. This requirement shall not apply to insurers which transact personal private passenger automobile insurance directly with the public.

Amended by R.1994 d.598, effective December 5, 1994.  
See: 26 N.J.R. 3591(a), 26 N.J.R. 4777(a).

**11:3-44.5 New applicants previously insured in another state by the insurer or an affiliate**

(a) An insurer shall immediately provide coverage, without lapse, to any eligible person applicant that:

1. Has moved to New Jersey from another state;
2. Submits a completed written application within 60 days of establishing residency in New Jersey; and
3. Applies to either the same insurer under which the applicant is currently insured or an affiliate of that insurer.

**11:3-44.6 Underwriting rules**

These new rules shall supersede any existing, conflicting underwriting rules previously filed and approved by the Department pursuant to N.J.A.C. 11:3-35.

**11:3-44.7 Penalties**

Any insurer that violates any provision of this subchapter shall be subject to the penalties provided by law, including but not limited to the suspension, revocation or termination of a certificate of authority and a civil penalty in an amount of up to \$2,000 for the first violation and up to \$5,000 for the second and each subsequent violation in accordance with N.J.S.A. 17:33B-15 and 17:33B-21.

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**SUBCHAPTER 45. INSURERS REQUIRED TO PROVIDE SURVEY INFORMATION**
**11:3-45.1 Purpose and scope**

(a) The purpose of the subchapter is to implement N.J.S.A. 39:6A-23.1 by setting forth those procedures by which insurers shall annually submit to the Department current premium information.

(b) This subchapter shall apply to all auto insurers that have on file with the Department a current personal lines rating system for automobile insurance and which are not exempted from the obligation to insure, renew, or provide automobile insurance to eligible persons. Exempted insurers are listed in N.J.A.C. 11:3-40.3(b), (c) and (d).

**11:3-45.2 Definitions**

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

“Automobile insurance” means insurance for private passenger automobile including one or more of the following coverages: bodily injury liability and property damage liability, comprehensive and collision coverages, uninsured and underinsured motorist coverage, personal injury protection, additional personal injury protection coverage and any other automobile insurance required by law.

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

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

“Auto insurer” means an entity authorized or admitted to write automobile insurance in New Jersey but does not include either any residual market mechanism implemented pursuant to N.J.S.A. 17:29D-1 et seq. or any other statute, or insurers which are exempted from the requirement to provide automobile insurance coverage to eligible persons in accordance with N.J.A.C. 11:3-40.3(b), (c) and (d).

“Survey information” means the data annually supplied by the Commissioner to the auto insurers from which they will then issue survey quotations. This information includes, but is not limited to, the prior driving experience of the insured, the nature and extent of coverages, the deductible, the composition of household, information regarding the proposed vehicle, and other pertinent information.

Administrative change.  
See: 30 N.J.R. 1317(a).

**11:3-45.3 Annual premium survey filing**

(a) Every auto insurer shall prepare and file on or before September 15 of each calendar year, with the Department, at the address set forth in (d) below, an annual premium survey reflecting premiums charged for specific automobile insurance coverage.

(b) The filing shall reflect the annual premiums by coverage as of October 1 of that calendar year and shall be predicated on survey information provided by the Commissioner to auto insurers by Bulletin on or before September 1 of each calendar year.

(c) Auto insurers shall prepare and file the information required by this subchapter in accordance with the forms contained in the Appendix and incorporated herein by reference.

(d) Completed annual premium survey forms shall be submitted to:

New Jersey Department of Banking and Insurance  
Office of Property/Casualty  
20 West State Street  
PO Box 325  
Trenton, NJ 08625-0325  
Attn: Automobile Premium Comparison Survey

Administrative change.  
See: 30 N.J.R. 1317(a).



as designated by the Commissioner pursuant to N.J.S.A. 17:33C-2b and this subchapter.

(b) This subchapter shall apply to all insurers authorized or admitted to transact private passenger automobile insurance in this State, all insurers seeking to become "qualified insurers" pursuant to N.J.S.A. 17:33C-3 and this subchapter, and all producers seeking to become "UEZ agents" or "qualified producers" pursuant to N.J.S.A. 17:33C-1 et seq. and 17:29D-1, and this subchapter.

(c) In accordance with N.J.S.A. 17:29D-1i(6), the provisions of N.J.A.C. 11:3-46.6, 46.7, 46.8, 46.9, 46.10, and 46.11 shall not be operative after November 1, 2003.

Amended by R.1999 d.218, effective July 19, 1999.  
See: 31 N.J.R. 920(a), 31 N.J.R. 1927(a).

In (c), inserted N.J.S.A. reference at the beginning, and changed the date from December 31, 2000 to November 1, 2003 at the end.

### 11:3-46.2 Definitions

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

"Automobile" means an automobile as defined pursuant to N.J.S.A. 39:6A-2.

"Automobile insurance" means personal lines private passenger automobile insurance.

"Automobile insurance urban enterprise zone" or "UEZ" means a geographic area identified and designated by the Commissioner pursuant to N.J.S.A. 17:33C-2 and this subchapter.

"Automobile insurance urban enterprise zone program" or "program" means an automobile insurance urban enterprise zone program established pursuant to N.J.S.A. 17:33C-2 and this subchapter.

"Automobile insurer" means an insurer or group of affiliated insurers authorized or admitted to transact the business of personal lines private passenger automobile insurance in this State.

"Bona fide office" means an office maintained by the producer for the transaction of business that is open to the public during normal business hours, and that provides access as required by 12 U.S.C. § 12101 (the "Americans with Disabilities Act").

"CAIP" means the Commercial Automobile Insurance Plan established pursuant to N.J.S.A. 17:29D-1 and N.J.A.C. 11:3-1.

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

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

"Eligible person" means an eligible person as defined in N.J.S.A. 17:33B-13.

"Insurance producer" means any person engaged in the business of an insurance agent, insurance broker, or insurance consultant, and who is licensed pursuant to N.J.S.A. 17:22A-1 et seq.

"Located in a UEZ" or "maintain a bona fide office in a UEZ" means that the street address of the business office of the producer is located in a zip code located within a UEZ. Determination of zip code boundaries shall be based on the edition of the United States Zip Code and Post Office Directory in effect at the time of the application for eligibility.

"PAIP" means the New Jersey Personal Automobile Insurance Plan established pursuant to N.J.S.A. 17:29D-1 and N.J.A.C. 11:3-2.

"Qualified insurer" means an automobile insurer that is a qualified insurer pursuant to N.J.S.A. 17:33C-3 and this subchapter.

"Urban enterprise zone agent" or "UEZ agent" means an insurance producer who is licensed pursuant to N.J.S.A. 17:22A-1 et seq., is appointed on or after January 1, 1998 by a qualified insurer in accordance with the procedures set forth in N.J.S.A. 17:22A-15 and N.J.A.C. 11:17-2.9 to represent it in an automobile insurance urban enterprise zone under the terms of N.J.S.A. 17:33C-1 et seq., and maintains a bona fide office within that automobile insurance urban enterprise zone.

### 11:3-46.3 Designation of UEZ and UEZ share

(a) Pursuant to N.J.S.A. 17:33C-2, the Commissioner has identified and designated as UEZs certain urban-based geographic areas where the Commissioner has found that automobile insurance consumers would benefit from increased access to automobile insurance as set forth below. UEZs shall be designated by municipality consisting of one or more zip codes.

(b) In determining UEZ areas, the Commissioner first determined those areas of the State that are urban, as follows:

1. The eight Urban Centers designated by the State Planning Commission, Appendix C in the most recent edition of the State Plan; and
2. Municipalities with populations in excess of 10,000 as of the 1990 census and with population densities in excess of 3,500 persons per square mile.