

SUBCHAPTER 2A. SPECIAL AUTOMOBILE
INSURANCE POLICY**11:3-2A.1 Purpose and scope**

(a) The purpose of this subchapter is to assist certain low income individuals in this State and encourage their greater compliance in satisfying the mandatory private passenger automobile insurance requirements imposed by N.J.S.A. 39:6A-3.2.

(b) This subchapter shall apply to all insurers transacting private passenger automobile insurance in this State, the PAIP and to all insurance producers licensed in this State.

11:3-2A.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 the New Jersey Department of Banking and Insurance.

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

“Emergency care” means all medically necessary treatment of a traumatic injury or a medical condition manifesting itself by acute symptoms of sufficient severity 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, but not be limited to, immediate pre-hospitalization 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. It shall also include all medically necessary treatment of permanent or significant brain injury, spinal cord injury or disfigurement after the patient is discharged from acute care.

“Emergency personal injury protection coverage” means the payment of benefits without regard to negligence, liability or fault of any kind, only to the named insured and dependant members of his or her family, as defined by the Federal Medicaid program, residing in his or her household, who sustain bodily injury 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, and to other persons sustaining bodily injury while occupying, entering into, alighting from or using the automobile of the named insured, with the permission of the named insured.

“Insurer” means an entity authorized or admitted to transact insurance in this State pursuant to N.J.S.A. 17:17-1 et seq. or 17:32-1 et seq., as applicable.

“Insurance producer” means a person required to be licensed under the laws of this State to sell, solicit or negotiate insurance.

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

“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.

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

11:3-2A.3 General provisions

(a) The special automobile insurance policy shall be administered by the PAIP in accordance with a Special Policy plan of operation prepared by PAIP and approved by the Commissioner. The plan of operation shall include:

1. The procedure for the writing of Special Insurance Policies by:

- i. Assignment of special automobile insurance policies to the member insurers of the PAIP pursuant to the apportionment methodology of the PAIP Plan of Operation; or

- ii. The sharing of the premium, losses and expenses of the special automobile policies among the member insurers of the PAIP;

2. The designation of one or more LAD carriers or servicing carriers to issue and service special automobile insurance policies;

3. A rating system to be used for a special automobile insurance policy. The special automobile insurance policy shall have a Statewide uniform rate, established without regard to territorial or tier factors, to be utilized by all insurers. The Commissioner may adjust the rate annually by Order;

4. The policy form and the application for the special automobile insurance policy for the Special Policy, which shall clearly and conspicuously set forth the limitations on benefits provided under the policy;

5. A Coverage Selection Form for the Special Policy that meet the requirements of N.J.S.A. 39:6A-3.2 as amended by section 46 of P.L. 2003, c.89; and

6. Such other provisions as are deemed necessary by the Governing Committee for the operation of the PAIP.

(b) Special automobile insurance policies shall not be included in the determination of a competitive market pursuant to N.J.S.A. 17:33B-15d, as amended by § 38 of P.L. 2003, c.89.

11:3-2A.4 Eligibility for special automobile insurance policy

(a) The special automobile insurance policy shall only be available to individuals who are eligible for and enrolled in the Federal Medicaid program pursuant to N.J.S.A. 30:4D-3i(1) through (14).

(b) The PAIP special automobile insurance policy plan of operation shall provide procedures for verification of the Medicaid eligibility of applicants.

11:3-2A.5 Coverages

(a) The following coverages shall be included in all special automobile insurance policies:

1. Emergency personal injury protection coverage for emergency care not to exceed \$250,000 per person per accident; and
2. A death benefit in the amount of \$10,000.

(b) The limitation on lawsuit tort option provided in subsection a of N.J.S.A. 39:6A-8 shall apply to every named insured and any other person to whom the special automobile insurance policy applies.

(c) The special automobile insurance policy shall not provide liability, collision, comprehensive, uninsured or underinsured motorist coverage.

11:3-2A.6 Election of special automobile insurance policy

No insurer shall issue a special automobile insurance policy unless the named insured has signed a document entitled Special Policy Coverage Selection Form approved by the Commissioner.

SUBCHAPTER 2B. (RESERVED)

SUBCHAPTER 3. BASIC AUTOMOBILE INSURANCE POLICY

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 consistency 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 ex-

pense 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

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.

Amended by R.2003 d.95, effective March 3, 2003.

See: 34 N.J.R. 3470(a), 35 N.J.R. 1289(a).

In (b), deleted "as of December 31" following "exposures", deleted ", and filed no later than the next occurring February 15" following "Commissioner" and added a N.J.A.C. reference.

Amended by R.2006 d.243, effective July 3, 2006.

See: 37 N.J.R. 4162(a), 38 N.J.R. 2828(c).

Deleted designation (a) and deleted (b).

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 3A. REPORTING REQUIREMENTS AND FILING DEADLINES

11:3-3A.1 Purpose and scope

(a) This subchapter consolidates reporting obligations from various rules into one subchapter to result in one efficient, time-saving procedure.

(b) This subchapter applies to all insurers that write private passenger automobile insurance in this State as defined in N.J.A.C. 11:3-3A.2.

11:3-3A.2 Definitions

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

“Insurer” means any person authorized to write automobile insurance in New Jersey, including any residual market mechanism, and includes all affiliated companies with a group.

“Private passenger automobile” means a vehicle that meets the definition of “automobile” set forth at N.J.S.A. 39:6A-2.

11:3-3A.3 Report requirements

(a) All private passenger automobile insurers are required to file the following reports on a semi-annual basis, reflecting data from the last 12 months, and showing the residual market separately from the voluntary data, for the evaluation dates of December 31 and June 30 of each year:

1. The Consolidated Report;
2. The Limits of Liability Report;
3. The Coverage Option Survey—Personal Injury Protection (“PIP”) Deductibles, Threshold Options; and
4. PIP Medical Expense Limits Report.

(b) The Consolidated Report shall include the following reports: In Force Exposures; Primary Classification; Tier Report; and Basic versus Standard Exposures.

1. The Consolidated Report shall be filed in accordance with the template found at <http://www.state.nj.us/dobi>. The Consolidated Report forms shall be filed for the following four subheadings:

- i. Voluntary Standard Policy In-Force Exposure and Written Premiums;
- ii. Voluntary Basic Policy In-Force Exposures and Written Premiums;
- iii. PAIP Standard Policy In-Force Exposures and Written Premiums; and
- iv. PAIP Basic Policy In-Force Exposures and Written Premium.

2. The Consolidated Report shall:

- i. Include the total number of exposures for each report itemized by classification, tier and territory;
- ii. Be completed for each of the company’s rating tiers as well as a summary of all tiers combined;
- iii. Include in-force exposure and written premium for each of 12 classifications based on age, gender and use; and

iv. Not be modified in any way except to include extra tiers within the original spreadsheet for insurers who have additional tiers not listed on the template.

(c) The Limits of Liability Report shall be provided on seven separate spreadsheets and shall be filed in accordance with the template found at <http://www.state.nj.us/dobi> which itemizes limits of liability by territory for the following subheadings:

1. Standard policy no threshold—bodily injury split limits of liability;
2. Standard policy verbal threshold—bodily injury split limits of liability;
3. Standard policy verbal threshold—property damage split limits of liability;
4. Standard policy no threshold—property damage split limits of liability;
5. Standard policy verbal threshold—combined single limit;
6. Standard policy no threshold—combined single limit; and
7. Basic policy—liability limits.

(d) The Coverage Option Survey—PIP Deductibles, Threshold Options Report shall be filed in accordance with the template found at <http://www.state.nj.us/dobi>, and shall:

1. Be filed for both standard policies and basic policies;
2. Reflect the total number of automobiles with inforce coverage; and
3. Indicate the named driver exclusion, medical expense only, personal injury protection deductible, health primary or automobile primary and lawsuit threshold or no threshold options selected with respect to each automobile by territory and total.

(e) The PIP Medical Expense Limits Report shall be filed in accordance with the template found at <http://www.state.nj.us/dobi>, listing the total number of standard and basic combined in-force exposures for the six standard medical expense limits (\$15,000; \$50,000; \$75,000; \$150,000; \$250,000; and excess of \$250,000) and total by territory.

(f) Reports with an evaluation date of December 31 shall be due by January 31.

(g) Reports with an evaluation date of June 30 shall be due by July 31.

(h) Reports shall be submitted using the Excel templates, available on the Department’s website at <http://www.state.nj.us/dobi> on one of the following media:

1. E-mail (preferred media);