

11:3-7.3 Personal injury protection policy forms or endorsements

(a) All policy forms or endorsements that provide personal injury protection benefits required by N.J.S.A. 39:6A-4 shall specify that such benefits shall be afforded by the insurer of the injured person subject to any deductibles or exclusions elected by the policyholder pursuant to N.J.S.A. 39:6A-4.3. The required personal injury protection benefits are set forth below:

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

(b) Each policy form or endorsement covering an automobile as defined at N.J.S.A. 39:6A-2 shall include excess medical payments coverage, corresponding to Section II, Extended Medical Expense Benefits Coverage of the personal automobile policy. Insurers must include a minimum coverage of \$1,000 and may offer coverage of \$10,000.

(c) Each policy form or endorsement providing additional personal injury protection benefits shall specify that, pursuant to N.J.S.A. 39:6A-10, additional death benefits under the policy 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.

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

Law Review and Journal Commentaries

Auto Insurance—PIP. Steven P. Bann, 138 N.J.L.J. No. 16, 49 (1994).

Survey of Recent Developments in United States and New Jersey Law. Michael Ben-David, Stacy A. Dowling, Kristina K. Pappa, Douglas Friedman, Michael S. Rubin, Kerrie Restieri-Heslin, 25 Seton Hall L.Rev. 1332 (1995).

Case Notes

Extended medical-expense benefits coverage; not included within antistacking provision. *Ingersoll v. Aetna Cas. and Sur. Co.*, 138 N.J. 236, 649 A.2d 1269 (1994).

Absence of income continuation benefits covering either named insured and/or household relatives did not require reformation of policy. *Olivero by Olivero v. New Jersey Mfrs. Ins. Co.*, 227 N.J.Super. 367, 547 A.2d 710 (A.D.1988), certification denied 115 N.J. 76, 556 A.2d 1219.

Insurer of automobile in which injured party was riding had to reimburse injured party's insurer on pro rata basis for PIP benefits

paid. *Colonial Penn Ins. Co. v. Allstate Ins. Co.*, 214 N.J.Super. 453, 519 A.2d 935 (App.Div.1986).

Driver who was neither a relative nor resident of named insured's household, held not entitled to coverage. *Kuzan v. Prudential Property & Casualty Insurance Co.*, 195 N.J.Super. 553, 480 A.2d 960 (Law Div.1984).

Insurer of car owned by insured's wife held entitled to contribution from insurer of car leased by insured in which insured was injured in a one-car accident. *Federal Insurance Co. v. Liberty Mutual Insurance Co.*, 190 N.J.Super. 605, 464 A.2d 1197 (App.Div.1983).

Additional coverage held but provided for 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).

Minor passenger on moped which collided with automobile held not a "pedestrian" and, therefore, not entitled to medical benefits under automobile's personal injury protection coverage. *McKenna v. Wis-kowski*, 181 N.J.Super. 482, 438 A.2d 355 (Ch.Div.1981).

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).

Insurer's declaratory judgment action held not barred by pendency of New York action between parties. *Lumbermens Mutual Casualty Co. v. Carriere*, 163 N.J.Super. 7, 394 A.2d 132 (App.Div.1978) on remand 170 N.J.Super. 437, 406 A.2d 994.

11:3-7.4 Minimum schedule of additional personal injury protection coverage benefits

(a) Every rate filer's schedule of rates for additional personal injury protection benefits, other than medical expense benefits, shall provide at least the benefit schedules set forth in Table 1 in (b) below.

(b) The additional personal injury protection coverage table follows:

Table 1

Option	Income		Essential Services		Death	Funeral Expense
	Weekly	Total	Per Day	Total		
1	\$100	\$10,400	\$12	\$ 8,760	\$10,000	\$2,000
2	125	13,000	20	14,600	10,000	2,000
3	175	18,200	20	14,600	10,000	2,000
4	250	26,000	20	14,600	10,000	2,000
5	400	41,600	20	14,600	10,000	2,000
6	500	52,000	20	14,600	10,000	2,000
7	600	62,400	20	14,600	10,000	2,000
8	700	72,800	20	14,600	10,000	2,000
9	100	unlimited	12	8,760	10,000	2,000
10	125	unlimited	20	14,600	10,000	2,000
11	175	unlimited	20	14,600	10,000	2,000
12	250	unlimited	20	14,600	10,000	2,000
13	400	unlimited	20	14,600	10,000	2,000
14	500	unlimited	20	14,600	10,000	2,000
15	600	unlimited	20	14,600	10,000	2,000
16	700	unlimited	20	14,600	10,000	2,000

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).

Changes required by "The Fair Automobile Insurance Reform Act of 1990", P.L. 1990 c.8.

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.

Absence of income continuation benefits covering either named insured and/or household relatives did not require reformation of policy. *Olivero v. Olivero v. New Jersey Mfrs. Ins. Co.*, 227 N.J.Super. 367, 547 A.2d 710 (A.D.1988), certification denied 115 N.J. 76, 556 A.2d 1219.

Additional coverage held provided for all persons for whom basic coverage was provided (citing former N.J.A.C. 11:3-7.7). *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).

Surviving spouse held entitled to lump sum payment of survivor benefits; doubling of benefits due to payment of two premiums for additional protection denied. *Riccio v. New Jersey Manufacturers Insurance Co.*, 179 N.J.Super. 65, 430 A.2d 641 (App.Div.1981).

Insured held entitled to policy reformation due to statutory deficiency of insurer's letter notifying insured of optional coverage selection. *Lumbermens Mutual Casualty Co. v. Carriere*, 170 N.J.Super. 437, 406 A.2d 994 (Law Div.1979).

11:3-7.5 Notice Requirement

(a) Additional personal injury protection benefits that are required to be offered by an insurer shall be offered by the insurer at least annually as part of the Coverage Selection Form required pursuant to N.J.S.A. 39:6A-23 and N.J.A.C. 11:3-15.

1. The buyer's guide and coverage selection form specified at N.J.S.A. 39:6A-23 and any rules promulgated thereunder shall meet the requirements of (a) above.

(b) Each insurer shall distribute copies of this subchapter to every person responsible for the handling and settlement of claims subject to this subchapter. Every insurer shall satisfy itself that all such responsible persons are thoroughly conversant with and are complying with this subchapter.

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).

Changes required by "The Fair Automobile Insurance Reform Act of 1990", P.L. 1990 c.8.

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

New Jersey Automobile Full Insurance Underwriting Association satisfied its duty to provide first-time insured with notice of personal injury income protection coverage options; it provided buyer's guides and coverage selection forms to insured's broker and received back signed policy application and selection form. *MacKenzie v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 299 N.J.Super. 112, 690 A.2d 668 (A.D.1997).

Genuine issue of material fact existed as to whether seller of policy was insurer's agent. *Lilly v. Allstate Ins. Co.*, 218 N.J.Super. 313, 527 A.2d 903 (App.Div.1987).

Insured held entitled to policy reformation to due to statutory deficiency of insurer's letter notifying insured of optional coverage selection. *Lumbermens Mutual Casualty Co. v. Carriere*, 170 N.J.Super. 437, 406 A.2d 994 (Law Div.1979).

11:3-7.6 Cancellation of automobile coverage for nonpayment of premium

(a) This rule applies to all automobile policies delivered or issued for delivery in this State, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, not rented to others; or

2. Any other four-wheel motor vehicle with a load capacity of 1,500 pounds or less which is not customarily used in the occupation, profession or business of insured, other than farming or ranching, provided, however, that this rule shall not apply to any policy insuring more than four automobiles, or to any policy covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards.

(b) The effective date of the cancellation of a policy for nonpayment of premium shall not be earlier than 10 days prior to the last full day of which premium received by the company prior to the date of preparation of the cancellation notice, would pay for coverage on a pro rata basis. In calculating the effective date of the cancellation as provided in this section, the premium applicable to the coverage provided by the policy and the premium received by the company at or prior to the time cancellation notice was prepared shall be the premium used for the calculation and determination of such effective date.

(c) Cancellation for nonpayment of premium does not include cancellation at the request of a premium finance company or of a producer of record under N.J.A.C. 11:1-3.1.

(d) No cancellation notice shall be mailed prior to 30 days in advance of its effective date.

(e) The rule shall not apply to deposits accompanying New Jersey Personal Automobile Insurance Plan or Commercial Automobile Insurance Plan applications which are insufficient under Plan rules or those of any succeeding residual market availability plan.

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

Notice of cancellation; no need to postdate default in payment. *Munoz v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 145 N.J. 377, 678 A.2d 1051 (1996).

Additional insured is not "insured" within meaning of statute; regulation does not require that notice of cancellation be given to additional insureds. *Pawlick v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 284 N.J.Super. 629, 666 A.2d 186 (A.D.1995).

Cancellation notice of automobile policy for nonpayment was ineffective to cancel policy. *Christian v. Ormsby*, 267 N.J.Super. 237, 631 A.2d 158 (L.1992).

Genuine issue of material fact existed as to whether seller of policy was insurer's agent, precluding summary judgement on issue of coverage. *Lilly v. Allstate Ins. Co.*, 218 N.J.Super. 313, 527 A.2d 903 (App.Div.1987).

Pedestrian held entitled to benefits under No-Fault Law when struck first by a commercial vehicle and then by a private automobile. *Berg v. The Ohio Casualty Insurance Companies*, 166 N.J.Super. 239, 399 A.2d 675 (Law Div.1979).

SUBCHAPTER 8. 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 Insurance.

"Department" means the New Jersey Department of Insurance.

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

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

"Standard/non-standard rating plan" means a rating system used by an insurer that provides different base 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. 11:3-19.

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.

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 or less than 30 days prior to the due date of the premium and shall clearly state the effect on nonpayment of the 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:

1. Schedule of premium payments, if any; and
2. Duration of policy term;
 - i. Whenever an insurer, pursuant to changes approved by the Commissioner, alters the duration of the insured's policy term, the insurer shall permit the insured to revert to the prior duration of policy term upon request.
 - ii. The renewal offer shall include or be accompanied by a statement advising the insured of his or her right to revert to the prior duration of policy term.

(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) No notice of nonrenewal shall 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. No notice of nonrenewal shall be valid unless it includes the designated provision(s) of this subchapter under which action is being taken and the correct facts which bring the insured under the provision(s), including dates and any other facts necessary for identification of the incidents.

- 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 applicable to the non-standard rate level of an approved standard/non-standard rating plan, 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)1, the notice shall specify that the action is being taken in accordance with N.J.A.C. 11:3-8.5(a)1 (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)2, the notice shall specify that the action is being taken in accordance with N.J.A.C. 11:3-8.5(a)2 (one nonrenewal for each two newly insured automobiles) and shall be consecutively numbered in each territory.

2. Each notice 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. Each notice 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 Insurance, Division of Enforcement and Consumer Protection, PO Box 329, Trenton, New Jersey 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)2iii and iv above shall be accompanied by a copy of the notice contained in Appendix Exhibit C, incorporated herein by reference.

4. Insurers may expend existing supplies of the "Q and A" until May 1, 1998 whereupon the form contained in Appendix Exhibit C shall be used.

(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) No notice of nonrenewal for any coverage subject to this subchapter shall be valid unless it is based upon one or more of the standards set forth in N.J.A.C. 11:3-8.3 or is otherwise authorized by the Commissioner of Insurance pursuant to N.J.A.C. 11:3-8.4.

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)li, 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.

Case Notes

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

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

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

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

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).

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

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).

11:3-8.4 Standards of nonrenewal applicable to all automobile policies

(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 underwriting rules filed and approved pursuant to N.J.A.C. 11:3-35.

(b) An insurer which has filed a standard/non-standard rating plan pursuant to N.J.A.C. 11:3-19 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.

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 Additional nonrenewals

(a) Any insurer may:

1. For each calendar year period, issue notices of intention not to renew an automobile insurance policy in the voluntary market in an amount not to exceed two percent of the total number of voluntary market automobile insurance policies of the insurer, rounded to the nearest whole number, which are in force at the end of the previous calendar year in each of the insurer's territories; and

2. For every two newly insured automobiles which an insurer voluntarily writes in each territory during each calendar year period, issue a notice of intention not to renew one additional automobile in that territory. For the purpose of this subsection, "voluntarily writes" shall not include any exposure voluntarily written by or assigned to an insurer to meet any quota established pursuant to N.J.S.A. 17:30E-14 and N.J.S.A. 17:33B-11 and shall not include any new business cancelled by the insurer pursuant to N.J.S.A. 17:29C-7.

(b) Any insurer that does not write its apportionment share of any quota established by the Commissioner pursuant to N.J.S.A. 17:30E-14 and N.J.S.A. 17:33B-11 within the applicable time shall be precluded from nonrenewing automobile insurance policies pursuant to (a) above during the following year.

(c) Nothing in this rule 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.1986 d.418, effective October 6, 1986.

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

Emergency Adopted 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 11:3-8.4.

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.

Public Notice: Receipt of petition for rulemaking and action on petition.

See: 28 N.J.R. 1565(b).

Case Notes

Casualty insurer's use of its nonrenewal credits under New Jersey regulation, which permitted insurer to decline to renew one personal automobile policy for every two new policies written in specific geographic area, to decline renewal of policies written by discharged agent did not violate New Jersey insurance law. *In re Professional Ins. Management*, 130 F.3d 1122 (3rd Cir. 1997).

11:3-8.6 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.

11:3-8.7 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)1, 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)2. Such records and data shall be made available to the Department upon request. In addition, each insurer shall file summary reports of its nonrenewals as follows:

1. For insurers with approved standard/non-standard rating plans, in the form of report set forth as Exhibit A of the Appendix incorporated herein by reference; or

2. For all other insurers, in the form of report set forth as Exhibit B of the Appendix, incorporated herein by reference.

(b) An insurer shall submit summary reports of their nonrenewals for the year to date on or before February 15 and August 15 of each year to the following address:

New Jersey Department of Insurance
 Division of Enforcement and Consumer Protection
 20 West State Street
 PO Box 329
 Trenton, New Jersey 08625-0329

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.

11:3-8.8 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).

11:3-8.9 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).