



Summer, 1999



COMMISSIONER SETS 1999 UEZ MARKET SHARES

On June 16, Banking and Insurance Commissioner Jaynee LaVecchia issued an [order establishing Urban Enterprise Zones \(UEZ\) shares for 1999](#) for companies selling private passenger auto insurance in New Jersey.

The UEZ program, created by legislation in June 1997, requires insurance companies to insure a percentage of drivers in the UEZs similar to what they insure statewide. The order sets UEZ share assignments for a second year of the program.

Commissioner LaVecchia said, "The share assignments for the UEZ cities for the first year have been met. In this second year, we intend to continue the work that has been done, and to promote permanent insurance market outlets in the UEZs.

"Toward that end, I am adding incentives for companies to use UEZ agents to build and keep market relationships in the urban areas", she said.

Under the UEZ law, companies may meet their share requirements voluntarily through increased marketing and the use of special company UEZ agents. Companies not meeting their UEZ shares within the timeframes set by the state are assigned drivers through the Urban Zone Assigned Risk (UZAR), a program administered by the New Jersey Personal Automobile Insurance Plan.

The order calls for insurers to begin receiving assigned drivers on September 30, 1999 if they are not within 95 percent of their UEZ share goal. As an added incentive to use designated UEZ agents, insurers may extend their deadline until Dec. 31, 1999 by appointing one or more new UEZ agents or designating current UEZ agents for continued use. To qualify for the extended deadlines, insurers must name their UEZ agents within 45 days of the order.

The calculation of the 1999 required UEZ shares calls for a total increase of 36,608 cars insured in the UEZs. Companies that are under-represented must increase the number of cars they insure in the UEZs. The share goals will vary from year to year because of fluctuations in the company market shares and in the number of cars insured statewide and in the UEZs.

A review of the 1998 operation of the UEZ program shows that the companies that had been below their assigned UEZ share were required to insure a total of 76,000 cars in the designated cities. Combined, companies surpassed that market and insured a total of 83,000 cars. Most of the new policies were written for drivers who used the increased availability as an opportunity to change companies, but there was a 36,000 net increase in the number of cars insured in the UEZs.

The UEZ program will expand to two additional cities, Perth Amboy and Plainfield, bringing to 27 the total of number of UEZ cities.

[UEZ Order A99-139](#)



COURT UPHOLDS AUTO REFORM REGULATIONS

On June 14, the Appellate Division of the Superior Court of New Jersey issued a decision in favor of the Department of Banking and Insurance's regulations to implement the cost-saving medical protocols, to administer the medical review organizations and to define the new basic policy called for in the Automobile Insurance Cost Reduction Act of 1998 (AICRA).

The auto insurance reform regulations are intended to reduce overuse and fraud in the treatment of injuries from auto accidents, while ensuring that medically necessary treatment is provided to those who are truly injured. The regulations are the cornerstone of the implementation of the mandated rate rollback.

Banking and Insurance Commissioner Jaynee LaVecchia said, "I am happy with the Appellate Division's decision. It reaffirms that the department acted within the guidelines given to it by the Legislature, and that reasonable and appropriate choices were made by the department in its decision making."

The decision addressed numerous objections to the regulations that implement the auto insurance reform act. The reforms, were permitted to move ahead while legal challenges to them were appealed in arguments heard by the Appellate Division on May 12, 1999. Appellants included organizations of physicians, osteopaths, chiropractors and trial attorneys.

The decision made clear that the "care paths" developed to establish guidelines for treatment of certain injuries are consistent with the intent of the reform legislation to contain costs. The opinion, authored by Judge Michael P. King, specifically and repeatedly recognized that the care paths apply only to certain soft-tissue injuries of the neck and back, not to emergency care or other injuries. Throughout the decision, the court reiterated that the rules are intended as guidelines against which to measure medical necessity rather than as replacements for professional judgment in treating accident victims.

"The regulations are not intended as a straight jacket," the court noted. "Treatments may vary from the standards set out in the care paths for reasons of medical necessity where there is objective clinical support for a deviation."

In addressing the process the state used to develop the medical protocols, the opinion affirms the authority and responsibility of the commissioner to develop treatment protocols as she did here, in consultation with professional associations, but without their individual approval.

The decision said, "We think this course was rational and averted a process in which a clamor of competing individuals, many motivated by economic self-interest or without familiarity with the regulatory process, could block or severely delay implementation of a plan designed to correct a situation of compelling economic concern."

The court also noted that the research conducted by the department and the health benefits consultant, Price Waterhouse Coopers, to develop the care paths examined a "diverse collection of timely and nationally-recognized sources."

The court disagreed with the appellants' claims that a patient could be harmed by the rules. "These AICRA regulations establish standards pursuant to which insurers may find it even more difficult to deny reimbursement, where the patient and provider conform to the norms established," the decision said.

The appellants also failed in their argument against the confidentiality of medical review organizations as they decide disputes that may arise over medical treatment. The court noted that the statute specifically calls for such confidentiality to ensure the independence of reviewers.

The opinion agreed with the department's rules for requiring a random referral of files to the medical review organizations, saying it "fairly implements the legislative mandate of impartiality and integrity" and calling it a "sensible interpretation of AICRA."

Also the court upheld the department's rules which permit insurers to offer optional comprehensive and collision coverage as part of the new basic policy. The court said that current law indeed allows for such sales and noted "...sound policy reasons to allow the sale..." particularly the usual need for comprehensive and collision coverage on leased or financed cars.

And the court upheld the regulation permitting the \$15,000 limit on personal injury protection (PIP) in the basic policy.

The regulations which allow an arbitrator to assign attorneys' fees to an unsuccessful claimant in a dispute concerning payment of PIP benefits was not upheld. The court determined that the statute did not expressly assign such attorneys' fees as it has done in the other cases, and therefore the legislative

mandate was unclear.

EDUCATIONAL PROGRAMS AVAILABLE THROUGH THE DIVISION OF ANTI-FRAUD COMPLIANCE

The Education Section of the Division of Anti-Fraud Compliance within the Department of Banking and Insurance is pleased to offer training sessions and educational programs to industry underwriters, claims representatives, agents and SIU personnel. The program topics are:

- The role of the Division of Anti-Fraud Compliance in combating insurance fraud
- Provisions of the Automobile Insurance Cost Reduction Act
- The governor's reorganization plan No.007-1998
- Identifying fraud indicators in the handling of claims
- New procedures for referring suspected fraudulent cases to the Office of Insurance Fraud Prosecutor/Division of Criminal Justice
- Civil and criminal remedies to insurance fraud

Training sessions are designed to address contemporary problems and concerns within the industry regarding insurance fraud. These training seminars normally last one hour, but can be tailored to meet carrier schedules and needs. For additional information, or to schedule a presentation, please contact the Education Section at (609) 633-9685, ext. 50399.

We look forward to working with the industry in the fight against insurance fraud.

REMINDERS ABOUT INSURANCE EDUCATION SCHOOLS

Prior to offering any continuing education or prelicensing insurance course, New Jersey insurance schools must obtain state approval as per NJAC 11:17-3.1(a). Producers will not receive continuing education credit or be admitted to examination centers for attendance at any non-approved organization's course. ☐

NJAC 11:17-3.1(f) requires an approved New Jersey insurance school to maintain a New Jersey business address unless it is a trade association or a college/university - both of which must apply for New Jersey approval as per NJAC 11:17-3.1(a). Producers are cautioned that no continuing education credits or prelicensing school certificates will be honored if completed through a nonresident insurance

school.

(Check out the [interactive map](#) of approved insurance schools.)

Also, the department reminds producers that they must sign in and out of each course in order to be credited for continuing education credits or prelicensing course completions. The producer's signature on the sign in/sign out sheets, as well as on continuing education forms and prelicensing school certificates, indicates the course was completed for the duration and topics approved by the department.

Falsifying documentation can result in revocation, suspension or refusal to issue or renew the producers' insurance license; revocation, suspension or refusal to renew the school's approval; and/or the revocation, suspension or refusal to issue or renew the insurance license of the school director/instructor, if applicable. Other penalties and fines can be imposed.



FINES AND OTHER PENALTIES

> The department has assessed fines to the following companies and producers for various violations of New Jersey's insurance statutes and regulations:

JC Penney Life Insurance Company - \$25,000 for allowing an unlicensed entity to solicit life and accident on its behalf.

Lincoln Benefit Life Company - \$5,000 for approving for use by one of its agents a life insurance advertisement that contained incorrect rates.

Manhattan National Life Insurance Company and **National Group Life Insurance Company** - \$5,000 for issuing medical expense insurance policies to small employers in New Jersey without first filing the rates with the commissioner.

Abco Insurance Agency, Inc., Deptford, and its active officer **Charles N. Arena**, Cherry Hill - \$5,000 for the improper sale of motor club memberships, submission of ineligible risks to an insurer and improper receipts.

A&G Insurance and Travel Agency, Inc. and its active officer **Galal H. Ahmed**, Newark - \$750 for submitting applications to NJ PAIP with various deficiencies and changing their business addresses without proper notification to the commissioner.

AVA Insurance Agency, Inc. and its active officer **Vaughn J. Archie**, Cherry Hill - \$750 for the untimely submission of an automobile insurance premium payment, issuing an insufficient fund check and using checks which failed to display "Trust Account" on their face.

D'Alessio, Joseph R., Rockaway - \$750 for using an unfiled trade name and failing to deliver an annuity to an insured within ten calendar days of his receipt of the policy.

David Lerner Organization, Inc., Syosset, New York - \$6,000 for the distribution of solicitation materials which failed to clearly identify the name of the insurer and used the term "investment" causing prospective purchasers to believe that they were going to receive something other than a life insurance policy.

Ercolano, Charles, Sussex - \$500 for failing to notify the commissioner within 30 days of the initiation of formal disciplinary proceedings in another state.

Hobbes Group, Inc. and its active officer **Frank A.J. Krawiecki**, Greenwich, Connecticut. - \$1,000 for allowing an employee to secure coverage for a New Jersey risk with a surplus lines insurer without placing the coverage through a licensed New Jersey surplus lines agent.

Morgan, Willie, Somerset - \$1,750 for failing to remit to the insurer \$74.07 in life insurance premiums received from an insured, using an insufficient fund check to pay for the renewal of his insurance producer license, using an unfiled trade name and changing his business address without proper notification to the commissioner.

Rigdon, Douglas Dean, Lisle, Illinois - \$1,000 for failing to notify the commissioner within 30 days of the initiation of formal disciplinary proceedings in another state.

Salado, Frank, Carteret - \$1,000 for submitting applications to NJ PAIP with various deficiencies.

Schariff, Dennis K., Hopelawn - \$2,500 for submitting documentation to an insurer that did not contain the genuine signature of the insured.

TRANSACTING BUSINESS WITH AN EXPIRED LICENSE

Amato, Dean W., Somerset - \$500

Charles Schwab & Co. Inc., San Francisco, California - \$500

Glass, Joseph C., Montclair - \$750 (Fine includes penalty for failing to properly notify the commissioner of a change in his business address.)

Heffner, Denise A., Browns Mills - \$250

OFFERING A CREDIT CARD AS AN INDUCEMENT TO PURCHASE A LIFE INSURANCE POLICY

Banks, Carl C., Trenton - \$1,200

Siegel, Sanford J., North Brunswick - \$2,000

Zampetti, Robert C., Green Brook - \$5,000 (Fine includes a penalty for using an unfiled trade name and failing to notify the commissioner of a change in his business address.)

FAILING TO COMPLY WITH THE DEPARTMENT'S REPLACEMENT REGULATIONS

Caden, Thomas R., Union Beach - \$2,500

Midura, Paul R., Clark - \$1,000

Perrone, Mary Elizabeth, Highlands- \$375

LICENSE REVOCATIONS, SUSPENSIONS, FINES AND COSTS

Inteso, Joseph J., Neptune- Failed to notify the commissioner within 30 days of the filing of criminal charges against him and being indicted for aggravated arson and official misconduct. Inteso consented to suspension of his license until such time as he can provide the department with satisfactory proof that charges contained in the indictment have been dismissed or he has been acquitted of all charges.

DO NOT LET THIS HAPPEN TO YOU!

Have you ever noticed that in every issue of *The Reporter*, including this one, there are producers who are penalized for failing to provide the commissioner with timely notification of business/home address changes?

Producers are required to file and maintain with the department complete and accurate business mailing and home addresses. NJAC 11:17-2.7(e) requires that all producers properly notify this department within 20 days of any address change. Failure of producers to do so results in unnecessary costs and inconvenience to the department - and your name in *The Reporter*.

The process to notify the department of address changes is very simple, so there is really no valid excuse for producers not to keep the department up-to-date. Individual producers can change their residence address by completing the back of their license and returning it to the department. There is a box on the back that a producer can check to alert the license processor that the residence address is being changed. After the change is entered into the computer records, a new license will be mailed to the producer. If the original license cannot be found, then a notarized statement should be submitted with the new address, indicating that the original license cannot be found.

To change a business address, individual licensees may return the license after completing the reverse side of the license or by sending a notarized statement providing the updated information. Organization licensees must return their license and provide the updated information. An organization producer who is unable to locate their license may send a notarized statement containing the updated information and statement concerning the loss of the license.

All address changes should be mailed to:

**New Jersey Department of Banking and Insurance
Licensing Unit
P.O. Box 327
Trenton, NJ 08625**

NEW PHONE NUMBERS

The Department of Banking and Insurance has a new telephone system. The table below provides the new telephone numbers for the various sections of the department.

Section	Telephone Number
Commissioner	341-2511
Deputy Commissioner	292-3420
Insurance Director	292-0844
Administrative Services	777-0558
Fiscal	292-9026
Information Management Services	292-6559
Anti-Fraud Compliance	633-9685
Banking	

Consumer Finance	292-7659
Consumer Services	984-2777
License Services	292-5340
Enforcement Bureau	984-7072
Depositories	984-7272
Insurance	
Enforcement & Consumer Protection	292-5316
Insurance Education	633-0818
Insurance License Processing	292-4337
Market Conduct	341-2513
Financial Examinations	292-5350
Financial Solvency	292-8181
Individual Health Care Program	633-1882
Small Employer Health Program	633-1882
Life & Health	292-5427
Legislative & Regulatory Affairs	984-3602
Public Affairs	292-5064
Property & Liability	984-7310

"BLAME IT ON THE STATE"

- *"Thank the governor, all new drivers now go into the inexperienced driver pool and it is an automatic \$3,200 premium until he turns 21."*
- *"They informed me that you (the governor) politicized the auto insurance issue and I have been misinformed. There is no plan for good drivers to get any relief."*
- *"My carrier doesn't know when the reduction will be put in place since, as they put it, 'We're a small company and nobody has informed us that we need to do anything.'"*
- *"The girl in the office said that the governor has signed this three year stipulation which doubles my insurance and said I should contact her about how to change this."*

These statements and many more just like them came from complaint letters that the department has received since tier rating was implemented. While we are aware that the industry has made a concerted effort to educate producers and customer service staff about the auto reforms and the impact on consumers, it seems that misinformation (and in some cases a lack of information) may be causing problems for some producers and their clients.

While "blaming it on the state" may be the simplest way to address confusion over the new reforms, it's not the most productive way.

As we've noted in prior issues of *The Reporter*, our department has prepared a comprehensive package of information on tier rating and the other reforms that have been recently implemented. This package includes a "Consumer Handbook on Tier Rating" which summarizes each insurer's tier rating plan and a rate comparison chart to help consumers determine which insurers might offer them the best price for coverage.

As this shopping guide is the information that many consumers are using when comparing the rates and plans of insurers, it might be helpful for producers to have this information at their disposal. To obtain copies, simply send your name, address and phone number to:

New Jersey Department of Banking and Insurance
Office of Public Affairs
Attn: Auto Consumer Handbook
P.O. Box 325
Trenton, NJ 08625-0325

Please limit your request to a maximum of 5 copies. If you would like rate comparisons for an area other than that indicated by your mailing address, please note the additional rating territories requested.

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