

5. Inpatient and/or outpatient treatment for alcoholism as described at N.J.S.A. 17B:27-46.1 shall only be subject to pre-authorization provisions if all inpatient and/or outpatient treatments for other injuries and illnesses are subject to the same review.

(b) Incorporation of the required pre-authorization warning text in a certificate booklet, through certificate riders and/or insert pages shall not be acceptable.

(c) If an identification card is used for benefit certification purposes, a pre-authorization requirement warning similar to that contained in the policy and certificate shall be displayed on the identification card, along with a telephone number by which to contact the insurer regarding the pre-authorization provision.

1. A sample of the identification card along with a copy of any promotional and/or informational material which describes the preauthorization requirement shall be included with the initial form submission made to the Department.

#### **11:4-42.9 Provisions for pre-existing condition exclusions and limitations**

(a) Blanket and group policies and certificates providing life insurance or accidental death and dismemberment insurance benefits shall not subject such benefits to pre-existing condition exclusions and limitations.

(b) Group policies and certificates providing health insurance benefits, other than accidental death and dismemberment, may include pre-existing condition exclusions and limitations subject to the following:

1. A pre-existing condition may be defined no more restrictively than as an illness or injury for which the insured received treatment or advice from a physician or used prescription drugs within no more than a two year period prior to the effective date of coverage.

2. No policy, other than a policy providing group disability income insurance shall exclude coverage for a loss due to a pre-existing condition for a period greater than 24 months following the effective date of coverage, nor shall any policy provide any exclusion or limitation applicable to new losses due to a pre-existing condition after the 24-month (or lesser) period. Policies providing group disability income insurance may exclude coverage for losses beginning during the first 24 months after the effective date of coverage due to disabilities and recurrent disabilities which result from a pre-existing condition.

3. A succeeding insurer, in applying a pre-existing condition waiting period in its policy shall credit the covered person for satisfaction of the pre-existing condition waiting period under a prior policy or contract, or any portion thereof if the prior waiting period has not been satisfied in full.

4. No policy shall limit benefits to illnesses or injuries which first manifest themselves while the covered person is covered under the policy.

#### **11:4-42.10 Provisions for subrogation and repayment of benefits**

(a) Group policies and certificates providing health insurance may contain subrogation provisions or provisions that require the return to the insurer by a covered person of benefits paid for illness or injury up to the amount a covered person receives from a third party through settlement, a satisfied judgment or other means, as compensation for the medical costs of such illness or injury, subject to the following:

1. Repayment of benefits shall be required only where the amounts received for the third party through settlement, judgment or other means are specifically identified as amounts paid for health benefit which have been paid by the insurer under the group policy or certificate.

2. The repayment shall not exceed the amount of benefits paid by the insurer under the group policy or certificate for the particular illness or injury.

3. The group policy and certificate shall allow the covered person to deduct from the repayment to the insurer the reasonable pro-rata expenses incurred in effecting the third party payment.

(b) Group policies and certificates providing health insurance may exclude or reduce the health benefits payable to or on behalf of a covered person to the extent that the covered person has already received payment from a third party for past or future health care costs for an illness or injury resulting from the negligence or intentional act of such third party.

(c) Except as set forth in (b) above, no policy or certificate providing group health insurance shall limit or exclude health benefits as the result of the covered person's sustaining a loss attributable to the actions of a third party.

(d) Notwithstanding (a) or (b) above, disability income, long term care and accidental loss benefits and blanket insurance shall not be subject to subrogation or repayment of benefits received.

(e) Subrogation shall only be applicable when third party liability benefits may exist, subject to the restrictions set forth above.

#### **11:4-42.11 Provisions concerning exclusions and limitations for the use of alcohol and drugs or relating to illegal occupations**

(a) A blanket insurance policy or certificate or other group policy or certificate providing health insurance may include an exclusion for losses resulting from the covered

person's use of alcohol or drugs, but such exclusion shall be worded no more restrictively than as follows:

"The insurer shall not be liable for any loss sustained or contracted as a consequence of the covered person's intoxication or being under the influence of any narcotic unless administered or consumed on the advice of a physician."

(b) A group policy or certificate providing health insurance may include an exclusion for losses resulting from the covered person's involvement in an illegal activity, but such exclusion shall not be worded more restrictively than as follows:

"The insurer shall not be liable for any loss to which a contributing cause was the covered person's commission of or attempt to commit a felony or to which a contributing cause was the covered person's engagement in an illegal occupation."

Amended by R.1997 d.513, effective December 1, 1997.

See: 29 N.J.R. 2232(a), 29 N.J.R. 5066(a).

Deleted (c).

#### **11:4-42.12 Provisions for payment of benefits payable for automobile related injuries**

(a) A group policy or certificate providing health insurance benefits shall not include any provision that restricts, limits, or excludes coverage of services or expenses, directly or indirectly, that otherwise are eligible under the policy or certificate on the grounds that such expenses or services would be covered under an automobile no-fault medical benefits plan for which the covered person would be eligible, nor shall the policy or certificate include an automobile no-fault medical plan for which the covered person would be eligible in the definition of "plan" in any coordination of benefits provision.

1. A group policy or certificate providing health insurance benefits shall contain the wording which appears in the Appendix to this subchapter, incorporated herein by reference, or any alternate wording that is at least as favorable to the covered person as the language contained in the Appendix, if the insurer intends to adjust its benefits by medical benefits payable under a group, group-type or individual automobile no-fault or traditional fault type contract.

#### **11:4-42.13 Conversion of group life insurance coverage to an individual life insurance policy**

(a) An insurer, in providing the conversion right required by N.J.S.A. 17B:27-19, shall treat the retirement of a covered person under a policy providing group life insurance as a termination of employment and shall permit the covered person to obtain, without evidence of insurability, an individual policy of life insurance.

(b) An insurer shall provide for a right of conversion to an individual policy for the amount of coverage that terminates when a covered person is transferred or transfers from one class of employee to another class of employee.

### **APPENDIX**

#### **BENEFITS PAYABLE FOR AUTOMOBILE RELATED INJURIES**

##### **1. Definitions.**

"Automobile Related 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.

"Allowable Expense" means a medically necessary, reasonable and customary item of expense covered by this (policy/certificate) or PIP at least in part as an Eligible Expense.

"Eligible Expense" means that portion of expense incurred for treatment of an injury which is covered under this (policy/certificate) without application of deductibles or co-payments, if any.

"Out-of-State Automobile Insurance Coverage" or "OSAIC" 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 (specifically those provisions for medical expense coverage) provided as part of an automobile insurance policy issued in New Jersey.

##### **2. Application of this section.**

When expenses are incurred as the result of an Automobile Related Injury, and the injured person has coverage under PIP or OSAIC, this section will be used to determine whether this (policy/certificate) provides coverage that is primary to such coverage or secondary to such coverage. It will also be used to determine the amount payable if this (policy/certificate) provides primary or secondary coverage.

##### **3. Determination of primary or secondary coverage.**

This (policy/certificate) provides secondary coverage to PIP unless health coverage has been elected as primary coverage by or for the person covered under this (policy/certificate). This election is made by the named insured under a PIP policy and affects that person's family members who are not themselves named insureds under another automobile policy. This (policy/certificate) may be primary for one covered person, but not for another if the persons have separate automobile insurance policies and have made different selections regarding primacy of health coverage.