

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Tier Rating Plans and Underwriting Rules

Proposed Amendment: N.J.A.C. 11:3-19A.5

Authorized By: Holly C. Bakke, Commissioner of Banking and Insurance

Authority: N.J.S.A. 17:29A-46.1 et seq. and section 40 of P.L. 2003, c. 89.
Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal: PRN 2003 - 279

Submit comments by September 19, 2003 to:

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The agency proposal follows:

Summary

P. L. 2003, c. 89, approved June 9, 2003 (the "Act"), provides a well-balanced approach to addressing the immediate automobile insurance availability crisis facing New Jersey consumers, insurers and regulators. The Act strives to put downward pressure on rates, especially for good, honest drivers. To that end, the Act ensures that good drivers pay the best rates. Section 40 of the Act addresses tier rating plans and underwriting rules. Pursuant to N.J.S.A. 17:29A-46.1, insurers transacting private passenger automobile insurance in New Jersey

who intend to write coverage in the voluntary market using more than one rating level or “tier” must file with the Commissioner the rates and underwriting rules applicable to each rating tier.

N.J.A.C. 11:3-19A.5 establishes standards for the approval, disapproval or modification of automobile insurance underwriting rules and tier rating plans.

Subsection (a) of the rule identifies reasons on the basis of which tier rating plans shall be disapproved. Paragraph 3 of N.J.A.C. 11:3-19A.5(a) currently requires the Department to disapprove a tier rating plan if the plan assigns a vehicle insured under the policy to a higher than standard tier solely because any named insured under the policy has accumulated six or fewer motor vehicle points.

The proposed amendment to that paragraph would allow insurers to assign vehicles to a rating tier other than the standard tier based upon the accumulation of more than four motor vehicle points by any regular operator under the policy. The term “regular operator” as defined in N.J.A.C. 11:3-44.2 is used to describe anyone whose usage of a vehicle under a policy may be considered in rating the policy as permitted in the insurer’s approved rating plan.

The proposed amendment at N.J.A.C. 11:3-14A.5(c) also would require insurers, who revise their underwriting rules because of the assignment of insureds to rating tiers based upon the accumulation of more than four motor vehicle points, to certify to the Commissioner that the revised underwriting rules would produce rates that are revenue neutral based upon the insurer’s current book of business.

A 60-day comment period is provided for this notice of proposal and, therefore, pursuant to N.J.A.C. 1:30-3.3(9a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

This proposed amendment would benefit more than 90 percent of New Jersey drivers by ensuring that those drivers who have four or fewer motor vehicle points pay the best rates. As such, this amendment further strives to end the policy of good drivers subsidizing bad drivers. New Jersey drivers with five or six motor vehicle violation points, in many cases, those drivers with three significant speeding violations in a one-year period, will be affected by the amendment to N.J.A.C 11:3-19A.5(a)3. These drivers, even in the absence of other negative rating factors, will no longer be assured of inclusion in the standard rating tier and may be rated in a higher than standard tier.

Economic Impact

The Department believes that there will be a positive economic impact for a very high percentage of drivers as a result of these amendments. The proposed amendments will have a positive economic impact on good drivers who should see downward pressure on rates as these drivers remain eligible for coverage under the standard rating tier. On the other hand, the small percentage of drivers with more than four motor vehicle points may be required to secure coverage under a higher than standard tier, potentially resulting in an upward pressure on rates.

The Department does not anticipate any increased administrative, enforcement or oversight costs as a result of the proposed amendments, other than the review of any revised tier rating plans and underwriting rules that they may be submitted as a result of their adoption.

As amended, N.J.S.A. 17:29A-46.2c requires any insurer who revises its underwriting rules regarding the assignment of insureds to rating tiers based upon the accumulation of more

than four motor vehicle violation points to certify to the Commissioner that the revised underwriting rules will produce rates that are revenue neutral based upon the insurer's current coverages and book of business. Thus, insurers who revise their underwriting rules based upon the adoption of these proposed amendments are required to do so in a manner that does not affect the total revenue amount generated by their complete tier rating plan.

Federal Standards Statement

A Federal standards analysis is required when any State agency proposes to adopt, readopt, or amend State regulations that exceed any Federal standards or requirements.

The proposed amendments deal with insurance related issues which are exclusively the subject of State law and are not subject to any Federal standards or requirements. Thus, no Federal standards analysis is required.

Jobs Impact

Although the Department does not anticipate that the amendments alone will result in the generation or loss of jobs, it believes that the package of statutory and regulatory amendments of which it is a part, taken as a whole, will contribute to the attractiveness and competitiveness of the New Jersey automobile insurance market and help preserve and expand employment in the automobile insurance industry and in insurance agencies and brokerage firms. The Department invites interested persons to submit any data or studies about the jobs impact of these proposed rules with their written comments.

Agriculture Industry Statement

The Department does not anticipate any impact on agriculture from the proposed amendments.

Regulatory Flexibility Analysis

The Department believes that the proposed amendments will apply to "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because some insurers may have fewer than 100 full-time employees. To the extent that the proposed amendment will apply to such small businesses, those insurers will be required to comply with the proposed amendments as described in the Summary above. The Department does not believe that the proposed amendments will impose additional costs on insurers other than those costs associated with the filing of any revised tier rating plans and underwriting rules with the Department as a result of their adoption. All businesses should be able to comply with the proposed amendments utilizing existing staff, professional services or resources. As amended, N.J.S.A. 17: 29A-46.2c does not distinguish amongst auto insurers based upon their size or volume of business. Accordingly, the proposed amendments make no distinction on the basis of business size. All businesses should be able to comply with the proposed amendments utilizing existing staff, professional services or resources.

Smart Growth Impact

The proposed amendments have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

11:3-19A.5 Standards of approval, disapproval or modification of underwriting rules
and tier ratings plans

(a) A tier rating plan shall be disapproved for any of the following reasons:

1. – 2. (No change.)

3. The plan assigns a vehicle insured under the policy to a higher than standard tier solely for the accumulation of [six] **four** or less motor vehicle violation points by any named insured **or a regular operator as defined in N.J.A.C. 11:3-44.2**. [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. –5. (No change.)

(b) (No change.)

(c) Insurers who, as a result of the enactment of P.L. 2003 c.89, revise

their underwriting rules based on the number of motor vehicle points accumulated by a named insured or a regular operator of a vehicle insured under the policy, shall certify to the Commissioner that the revised rules will produce rates that are revenue neutral based upon the insurer's current coverages and book of business. That certification shall be provided to the Commissioner at the time that the revised underwriting rules are submitted for approval in accordance with N.J.A.C. 11:3-19A.3 and 19A.4.