

**INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE**

**Fraud Prevention and Detection
Fraud Prevention and Detection Plans**

Proposed Amendments: N.J.A.C. 11:16-6

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

Authority: N.J.S.A. 17:1-8.1, 15e, 17:23-8 et seq., 17:23-20 et seq., 17:33A-1 et seq. and 47:1A-5.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2005-23

Submit comments by March 19, 2005 to:

Douglas Wheeler, Assistant Commissioner
Department of Banking and Insurance
Legislative and Regulatory Affairs
20 West State Street
PO Box 325
Trenton, NJ 08625-0325
Fax: 609-292-0896
Email: Legsregs@dobi.state.nj.us

The agency proposal follows:

Summary

N.J.S.A. 17:33A-15a and 17:33B-46a require insurers to file anti-fraud prevention plans with the Commissioner of Banking and Insurance (Commissioner). N.J.A.C. 11:16-6 establishes the standards for fraud and theft prevention/detection plans relating to both automobile and health insurers. Additionally, N.J.A.C. 11:16-6.8(b) requires insurers to submit an annual report to the Commissioner, which contains claims and other information relevant to the insurer's anti-fraud prevention and detection plans. The prescribed annual report form is set forth in the Appendix to N.J.A.C. 11:16-6 as Form DAFC #1.

The Insurance Company Fraud Practices Advisory Board, in consultation with insurers throughout the State, determined that it would be appropriate to revise the current annual reporting format to enable insurers to facilitate the gathering and reporting of their fraud prevention and protection plan information, and recommended to the Commissioner that N.J.A.C. 11:16 be amended accordingly. As a result, the current single reporting form is proposed to be replaced by separate forms to be used by auto and health insurers. The new forms capture the same data obtained by the insurers for their own internal purposes and for reporting to other state regulators. Also, the new forms should enable the Department to form more meaningful comparisons between insurers.

The purpose of this proposal is to amend N.J.A.C. 11:16-6.8 to make reference to the new annual reporting forms, to change the date by and address to which the submissions referenced in the rules are to be made, and to make changes to the format in which the annual report forms are to be supplied. This proposal replaces the current annual report form in the subchapter Appendix with the two new forms to be used by auto and health insurers. The proposal also makes certain "housekeeping" changes to the current rules to eliminate or change outdated information.

A 60-day comment period is provided on this notice of proposal, and therefore, pursuant to N.J.A.C. 1:30-3.3(a)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

The proposed amendments, repeals and new rule will have a positive impact on insurers because they will facilitate insurers' filing of auto- and health-specific fraud prevention and detection information with the Commissioner. To the extent that the amendments, repeals and

new rule enable insurers to fulfill the information-reporting requirements imposed by the rules in a more efficient manner, their administrative costs will be reduced. This will, in turn, exert downward pressure on rates, which will favorably impact the public. Moreover, the proposed amendments, repeals and new rule will enable the Department to make better use of the information obtained.

Economic Impact

As was mentioned above, insurers should experience a cost savings resulting from the submission of separate report forms by auto and health insurers. The distinct forms were developed as a result of a consensus among certain major insurers and were intended to reflect the manner in which insurers capture data for internal purposes and for reporting to other states' insurance regulators. Such a reduction in administrative costs will exert downward pressure on insurance rates, from which the public will benefit economically. Any additional costs insurers incur to adjust existing systems to implement the use of the revised annual report forms will be minimal and an isolated, rather than a recurring, expense.

Federal Standards Statement

A Federal standards analysis is not required because N.J.A.C. 11:16, including N.J.A.C. 11:16-6 Appendix, is not subject to any Federal requirements or standards.

Jobs Impact

The Department does not anticipate that the proposed amendments, repeals and new rule will result in the generation or loss of jobs.

Agriculture Industry Impact

The Department does not believe that the proposed amendments, repeals and new rule will have any impact on the agriculture industry in the State.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments, repeals and new rule do not impose any additional reporting, recordkeeping or other compliance requirements on insurers. Rather, the proposed revised reporting format will facilitate insurers' reporting of fraud prevention and detection data to the Department.

Smart Growth Impact

The proposed amendments, repeal and new rule will have no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

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

SUBCHAPTER 6. FRAUD PREVENTION AND DETECTION PLANS

11:16-6.2 Definitions

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

. . .

["DAFC" means the Division of Anti Fraud Compliance in the Department of Banking and Insurance.]

"MCEAFC" means the Market Conduct Examinations and Anti- Fraud Compliance Unit in the Department of Banking and Insurance, Office of Consumer Protection Services.

11:16-6.3 General requirements and filing format

(a) - (b) (No change.)

(c) Insurers shall file their plan with the Department at the following address:

Fraud Prevention and Detection Plans

New Jersey Department of Banking and Insurance

[Division of Anti Fraud Compliance]

Market Conduct Examinations and Anti Fraud Compliance Unit

PO Box [324] **329**

Trenton, NJ 08625-[0324] **0329**

11:16-6.4 Special Investigations Unit (SIU) - duties, qualifications, and composition

(a) (No change.)

(b) The SIU shall be responsible for the following:

1. (No change.)

2. Providing liaison with OIFP, other law enforcement personnel and the [DAFC]

MCEAFC;

3. - 8. (No change.)

(c) - (d) (No change.)

11:16-6.8 Record retention

(a) (No change.)

(b) [As of January 1 of each year, **insurers**] Insurers shall submit **to the Commissioner on or before March 31 of each year** an annual report for the prior calendar year [to the Commissioner] on [DAFC] **MCEAFC Form #1 or #1A, pursuant to instructions provided in MCEAFC Form #1B**, incorporated herein by reference in the subchapter Appendix. **Individual insurers that comprise a group shall submit separate reports. Reports shall be submitted in hard copy and either on an MS-DOS formatted disk or by email to:**

[1. The report referred to in (b) above shall be filed with the Department on or before February 1 of each year and sent to the following address:]

New Jersey Department of Banking and Insurance

Market Conduct Examinations and [Division of] Anti-Fraud Compliance **Unit**

20 West State Street

PO Box [324] 329

Trenton, NJ 08625-[0324] 0329

Email: mceafc@dobi.state.nj.us

[2. Insurers shall submit the report referred to in (b) above in written copy and on an MS-DOS formatted disk. The disk shall be a 3.5 inch 1.44 MB disk.] **1.** The information shall be [provided in an Access Database provided by] **submitted in a spreadsheet format**

established by the Department. Insurers may acquire the required spreadsheet format from the Department:

i. By directing an email request for the "Annual Filing Template" to mceafc@dobi.state.nj.us; or

ii. By directing a written request, along with a blank 3.5 inch, 1.44 MB MS-DOS formatted disk, to the above address. The Department shall return the disk and a blank spreadsheet for completion by the insurer. [Insurers may submit a disk, together with a self-addressed stamped diskette mailer to the DAFC. The DAFC will properly format the disk and return to the insurer to facilitate compliance.]

3. As an alternative to the filings described in (1) and (2) above, insurers may submit this annual informational filing to the Department at the following email address: dafc@dobi.state.nj.us. Insurers can acquire the required Access Database format from the Department by directing a request for the "annual filing template" to the DAFC e-mail address referenced here.]

11:16-6.9 Approval and filing of fraud prevention and detection plans

(a) - (c) (No change.)

(d) The insurer shall permit the [DAFC] **MCEAFC** access to its offices upon reasonable notice and at reasonable hours to conduct an audit of the insurer's compliance with its fraud prevention plan. Nothing in this section shall be construed as to preclude the [DAFC] **MCEAFC** from conducting reviews of an insurer's compliance with its fraud prevention and detection plan at the office of the [DAFC] **MCEAFC** when determined to be necessary by the [DAFC] **MCEAFC**.

(e) (No change.)

(f) All information included in an insurer's plan submitted to the [DAFC] **MCEAFC** pursuant to this subchapter [or any other information] including, **but not limited to**, training programs submitted to [DAFC] **MCEAFC** pursuant to this subchapter, shall be confidential and not subject to public disclosure or inspection.

[11:16-6.11 Transition

No later than August 5, 2000, all insurers shall file with the Department of a new fraud prevention and detection plan and manual in conformance with these rules.]

11:16-[6.12] **6.11** Confidential records and information

(a) All information and materials in the possession of the [Office of Insurance Fraud Prosecutor] **OIFP** concerning the possibility of the existence or occurrence of insurance fraud or related criminal activities are confidential and privileged against disclosure, and shall not be deemed public records, so as to protect the public interest in the prosecution of insurance fraud, including protecting witness security, the State's relationship with informants and witnesses, the privacy interests of persons investigated by OIFP where no fraud has been proven and other confidential relationships.

(b) The confidentiality which extends to information and materials possessed by the [Office of Insurance Fraud Prosecutor] **OIFP** with respect to the existence or occurrence of insurance fraud or related criminal activities extends to all papers, documents, reports, evidence and databases, such as investigative reports, referrals, reports or notifications of suspicious claims or applications or suspected insurance fraud, computer maintained databases of such investigative information, and such other materials and information as the Insurance Fraud

Prosecutor, on the basis of his experience and exercise of judgment, believes must be kept confidential in order to ensure the orderly investigation and prosecution of insurance fraud.

(c) (No change.)

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Form: DA-7C #1



New Jersey Department of Banking & Insurance
Fraud Prevention and Detection Plan
Annual Report



| | | | | | |
|--|--------|------|-----------------------------|------------|-----|
| Company Name: | | | First Name: | | MI: |
| Address 1: | | | Last Name: | | |
| Address 2: | | | Title: | | |
| City: | State: | Zip: | NAIC Co. # | NAIC Gr. # | |
| 1. The number of NJ claims processed for the preceding calendar year: | | | | | |
| 2. The number of NJ claims referred to SIU: | | | | | |
| 3. The number of NJ policy applications processed for the preceding calendar year: | | | | | |
| 4. The number of NJ applications referred to SIU for the preceding calendar year: | | | | | |
| 5. The number of NJ claims denied for fraud based on an SIU investigation: | | | | | |
| 6. The dollar amount spent implementing a fraud prevention and detection plan in NJ: | | | | | \$ |
| 7. The dollar amount of NJ claims denied for fraud: | | | | | \$ |
| 8. The dollar amount of restitution obtained as the result of fraud investigations: | | | | | \$ |
| 9. In health policies, the number of insured lives covered: | | | 9a. Comprehensive benefits: | | |
| | | | 9b. Limited benefits: | | |

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Exhibit 1

NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE
 FRAUD PREVENTION AND DETECTION PLAN/ANNUAL REPORT AS OF DECEMBER 31, _____
 AUTOMOBILE INSURANCE
 MCEAFC Form #1

| | |
|--------------------------------------|-------------------------------|
| Group Company Name _____ | NAIC Group Number _____ |
| Company/Affiliate Name _____ | NAIC Company Number _____ |
| Address _____ | Address 2 _____ |
| City _____ | State _____ Zip _____ |
| Respondent First and Last Name _____ | Phone Number (____) _____ |
| Respondent Title _____ | Calendar Year of Report _____ |

I. Claims Data

- a. Number of NJ Claims Opened/Received During Calendar Year _____
 - b. Total dollars saved by denial and compromise during Calendar Year due to investigation _____
 - c. Dollar Amount of Restitution Obtained from NJ Claim Fraud Investigations _____
 - d. Number of NJ Claims Investigated for Fraud During Calendar Year _____
- From d. above, the Number of NJ Claims Referred to SIU During Calendar Year _____
- From d. above, the Number of NJ Claims Referred to OIFP During Calendar Year _____

II. Underwriting Data

- a. Number of NJ Policies In Force During Calendar Year. _____
 - b. Number of NJ Policies and Applications Processed During Calendar Year (includes New, renewal, endorsements, etc.). _____
 - c. Number of NJ Applications and Policies Declined for Fraud During Calendar Year. _____
 - d. Number of NJ Applications and Policies (new business, renewals, endorsements, terminations, etc.) Investigated for Underwriting Fraud During Calendar Year. _____
- From d above, the Number of NJ Applications and Policies Referred to SIU During Calendar Year _____

From d above, the Number of NJ Applications and Policies Referred to OIFP
During Calendar Year _____

e. Dollar Amount of Restitution Obtained from NJ Application Fraud Investigations _____

III. Total SIU Expenditures

a. Dollar Amount Spent on NJ Claim and Underwriting Fraud Detection and Prevention (See Footnotes 1-3 below):

NJ SIU Salaries¹ _____ Direct Expenses² _____ Other/Indirect Expenses³ _____

^{1.} Gross compensation exclusive of benefits including investigators, support staff, etc.

^{2.} Includes benefits excluded in item 1 such as benefits, as well as expenses incurred directly by SIU such as phones, equipment, cars, etc.

^{3.} Includes indirect expenses incurred by SIU including rent, space, utilities. May also include non-SIU expenses from other work units such as legal department, claim/underwriting department follow up, etc.

Exhibit 2

NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE
 FRAUD PREVENTION AND DETECTION PLAN/ANNUAL REPORT AS OF DECEMBER 31, _____
 HEALTH INSURANCE
 MCEAFC Form #1A

| | |
|--------------------------------------|---|
| Group Company Name _____ | NAIC Group Number _____ |
| Company/Affiliate Name _____ | NAIC Company Number _____ |
| Address _____ | Address 2 _____ |
| City _____ | State _____ Zip _____ |
| Respondent First and Last Name _____ | Phone Number (____) _____ |
| Respondent Title _____ | Calendar Year of Report _____ |
| Total Number Lives Insured: _____ | Comprehensive Benefits _____ Limited Benefits _____ |

I. Claims Data

- a. Number of NJ Claims Opened/Received During Calendar Year _____
 - b. Total dollars saved by denial and compromise during Calendar Year due to investigation _____
 - c. Dollar Amount of Restitution Obtained from NJ Claim Fraud Investigations _____
 - d. Number of NJ Claims Investigated for Fraud During Calendar Year _____
- From d. above, the Number of NJ Claims Referred to SIU During Calendar Year _____
- From d. above, the Number of NJ Claims Referred to OIFP During Calendar Year _____

II. Underwriting Data

- a. Number of NJ Policies In Force During Calendar Year. _____
 - b. Number of NJ Policies and Applications* Processed During Calendar Year (includes New, renewal, endorsements, etc.). _____
 - c. Number of NJ Applications and Policies Declined for Fraud During Calendar Year. _____
 - d. Number of NJ Applications and Policies (new business, renewals, endorsements, terminations, etc.) Investigated for Underwriting Fraud During Calendar Year. _____
- From d above, the Number of NJ Applications and Policies Referred to SIU During Calendar Year _____
- From d above, the Number of NJ Applications and Policies Referred to OIFP During Calendar Year _____
- e. Dollar Amount of Restitution Obtained from NJ Application Fraud Investigations _____

*Does not include Requests for Proposals

III. Total SIU Expenditures

- a. Dollar Amount Spent on NJ Claim and Underwriting Fraud Detection and Prevention (See Footnotes 1-3 below):
 NJ SIU Salaries¹ _____ Direct Expenses² _____ Other/Indirect Expenses³ _____

^{1.} Gross compensation exclusive of benefits including investigators, support staff, etc.
^{2.} Includes benefits excluded in item 1 such as benefits, as well as expenses incurred directly by SIU such as phones, equipment, cars, etc.
^{3.} Includes indirect expenses incurred by SIU including rent, space, utilities. May also include non-SIU expenses from other work units such as legal department, claim/underwriting department follow up, etc.

Exhibit 3

Fraud Detection and Prevention Annual Report
Instructions and Definitions
MCEAFC Forms #1 and #1A

I. Instructions

This report is due annually, on or before March 31 of each year.

The data evaluation date for this report is January 1 through December 31.

This report is comprised of two separate templates. One is exclusively for automobile insurers, and the other is exclusively for health insurers.

Data must be provided separately for each company that is part of a group.

Contact Person for Questions: Virgil Downtin
609-341-2513 ext. 50402
vdowntin@dobi.state.nj.us

Report may be e-mailed to: mceafc@dobi.state.nj.us

Report may be mailed to: New Jersey Department of Banking and Insurance
Office of Consumer Protection Services
Market Conduct Examination/Anti-Fraud Compliance
20 West State Street
P.O. Box 329
Trenton, NJ 08625-0329

Scope: This report includes automobile and health insurance fraud prevention and detection statistics.

Dollar Amount Spent: This value may be based either on actual expenses for those insurers that track this information individually and by State, or the insurer's pro-rata share in the event that expenses are tracked on an aggregate, national level.