

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

Renewal, Nonrenewal and Cancellation Notice Requirements; Buyers Guide; Coverage Selection Form; Automobile Insurance Consumer Bill of Rights for Standard and Basic Policies; Notice to Insureds and Maintenance of Data

Proposed Amendments: N.J.A.C. 11:2-29.3; 11:3-15.1, 15.4 and 15.5; and 11:25-2.3

Proposed Repeals: N.J.A.C. 11:25-2.6 and N.J.A.C. 11:25 Appendix

Authorized By: Thomas B. Considine, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17: 1-15e and 17:29E-1 et seq.

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

Proposal Number: PRN 2010 – 210

Submit comments by November 6, 2010 to:

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The agency proposal follows:

Summary

The Department is proposing to amend or repeal certain reporting and data retention requirements of insurers and certain text and publication requirements applicable to the personal lines and commercial lines automobile insurance Buyer's Guides. The Department proposes to amend N.J.A.C. 11:2-29.3(i); 11:3-15.1(a), (b) and (d); 11:3-15.4(a), (c) and (d); 11:3-15.5(a), (c) and (f); and 11:25-2.3. The Department proposes to repeal N.J.A.C. 11:25-2.6 and N.J.A.C. 11:25 Appendix.

Currently, N.J.A.C.11:2-29.3(i) requires that non-renewal notices shall not include the statements otherwise required pursuant to N.J.A.C. 11:1-20.2(h) and 11:3-8.3(e)2i, which latter citation is outdated. The proposed amendment refers to the current rule, N.J.A.C. 11:3-8.5(b)1.

N.J.A.C. 11:3-15.1(a) currently refers to standards regarding the written notice provided by insurers to applicants for automobile insurance and policyholders offered a renewal of coverage. The Department is proposing to amend the subsection to explicitly apply to private passenger automobile insurance and to reference one of the two versions of the required Buyer's Guide as referenced in the proposed amendments to N.J.A.C. 11:3-15.5 discussed below. The Department is also deleting the statutory purpose of the subchapter in this subsection as it is duplicative of the text in N.J.A.C. 11:3-15.1(c).

N.J.A.C. 11:3-15.1(b) currently refers to P. L. 2003, c. 89, section 43a, which requires every insurer to provide to every insured an annual Consumer Bill of Rights. The Department is amending this section to refer instead to the statutory citation of this law, N.J.S.A.17:29A-52a.

The Department is proposing to delete N.J.A.C. 11:3-15.1(d) which contains text that is duplicative of other provisions in the subchapter.

N.J.A.C. 11:3-15.4(a) currently refers to the application for a policy or to a renewal. The Department is amending this reference to include the word “offer” after “renewal” to clarify the text of the subsection. In addition, the outdated reference to a 2004 issuance date is deleted.

N.J.A.C. 11:3-15.4(a)1 currently refers to the notice of renewal. The Department is also amending this provision to indicate “renewal offer” and adding a reference to the appropriate Buyer’s Guide.

N.J.A.C. 11:3-15.4(c) currently requires that by April 29, 2004, each insurer shall file its Coverage Selection Forms with the Office of Insurance Claims Ombudsman. The Department is seeking to eliminate redundant filings by insurers of coverage selection forms, the text of which does not change from year to year. Accordingly, the proposed amendment to N.J.A.C. 11:3-15.4(c) requires, as of the effective date of this amendment, that every insurer that becomes authorized to write private passenger automobile insurance shall make a filing pursuant to N.J.A.C. 11:1-2 which shall consist of a certification that the Lawsuit Option rate differentials in its standard policy coverage selection form were calculated in accordance with N.J.A.C. 11:3-15.6(g)4.

N.J.A.C. 11:3-15.4(c)1 currently requires that a filing shall be deemed approved if not affirmatively approved or disapproved within 30 days of the filing. This paragraph is being deleted as the affirmative deeming of these required filings is no longer necessary, as most insurers’ coverage selection forms will not change from year to year and compliance with N.J.A.C. 11:3-15.6(g)4 has been required since March 15, 2004.

N.J.A.C. 11:3-15.4(d) currently provides that an insurer may make changes in its coverage selection forms by filing a copy with the Department’s Insurance Claims Ombudsman, that the bottom of the last page shall clearly indicate the month and year in which the changes

were implemented, and that the filing shall be deemed approved if not affirmatively approved or disapproved within 30 days of filing. The Department proposes to delete these requirements and allow insurers to change the Lawsuit Option rate differentials in their approved Standard Policy Coverage Selection Forms by making a filing pursuant to N.J.A.C. 11:1-2 that specifies the date of the revised rate differentials that will be used and includes the certification required by N.J.A.C. 11:3-15.4(c).

N.J.A.C. 11:3-15.5(a) currently requires insurers to produce a Buyer's Guide by reproducing the Buyer's Guide available on the Department's website. Subsection (a) is being amended to establish two Buyer's Guides for use by insurers: a personal lines Buyer's Guide and a commercial lines Buyer's Guide for individually owned vehicles written on commercial lines policies. Subsection (a) is also being amended to specify the Department website locations of the two Buyer's Guides in paragraphs (a)1 and 2, respectively.

N.J.A.C. 11:3-15.5(c) sets forth general descriptions of the required topics that the Buyer's Guides must contain. The Department is amending this subsection to relocate current text indicating that the Department will notify insurers of any changes to the required Buyer's Guide text by Bulletin and that insurers shall provide the Buyer's Guides as revised for new and renewal business no later than 90 days after the issuance of such a Bulletin.

N.J.A.C. 11:25-2.3(a) currently requires insurers to maintain a system to record and document the status of all internal appeals of claim settlement offers, which shall be maintained for a period of three years from the date the internal appeal is closed. The Department is proposing to amend this paragraph (a)1 to specify that such data include a description of the appeal as pending or resolved, and indicate the type of coverage, type of claim, the specific disposition of the appeal, and the amount of additional benefits paid on resolved internal appeals,

all of which information is currently referenced in Exhibit 1 of the Appendix to Subchapter 25. The amendment further requires that such information shall be made available to the Department upon request.

N.J.A.C. 11:25-2.6 currently requires that insurers shall provide a written report on internal appeals of claim settlement offers to the Ombudsman semi-annually on each July 31 for the period of January 1 through June 30, and on each January 31 for the period July 1 to December 31, on the form set forth as Exhibit 1 of the Appendix to the subchapter and incorporated by reference. The Department is proposing to repeal N.J.A.C. 11:25-2.6 and N.J.A.C. 11:25 Appendix, as the Department has determined that the reporting of this data to the Office of Insurance Claims Ombudsman is no longer necessary.

A 60-day comment period is provided for the 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 and repeals will eliminate unnecessary reporting requirements regarding coverage selection forms and internal appeals data. These amendments will enhance the efficiency of the Department's and insurers' operations and, consequently, have a beneficial social impact.

Economic Impact

The proposed amendments and repeals make no changes in the previously established purposes of and definitions in the rules. The amendments and repeals eliminate the unnecessary filing of automobile insurance coverage selection forms and internal appeals data with the

Ombudsman. Companies with existing selection forms must now file a certification of any proposed change in premium differences in lawsuit thresholds. Only those automobile insurance coverage selection forms which expand the form to ask for additional relevant information will now be submitted. The amendments delete the requirement that insurers file information indicating the calculated premium differences for lawsuit thresholds. These amendments and repeals will make the review process of changes to the coverage selection forms more efficient and will have a favorable economic impact upon consumers. Insurers will experience a cost savings by no longer being required to annually mail to the Ombudsman copies of unchanged coverage selection forms and semi-annually submit data on internal appeals. By repealing the internal appeals reporting approach for insurers and amending the companies' internal appeals system data retention requirements, the Department is not increasing the requirements of insurers, merely adding the description of the retained data to the Code text which was formerly reported semi-annually to the Department on the Appendix form which is being repealed. Thus, the proposed amendments will benefit insurers by reducing their compliance costs and consumers by alleviating the effect such administrative costs have on insurance rates.

Federal Standards Statement

Executive Order No. 27 (1994) and P.L. 1995, c. 65 require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. A Federal standards analysis is not required in this instance because there are no Federal standards or requirements applicable to the proposed amendments and repeals.

Jobs Impact

The Department does not believe that these amendments and repeals will cause any jobs to be generated or lost. The Department invites interested parties to submit any data or studies concerning the jobs impact of the amendments and repeals together with their written comments on other aspects of the proposal.

Agriculture Industry Impact

The Department does not expect any impact upon the State agriculture industry by these proposed amendments and repeals.

Regulatory Flexibility Analysis

There are no provisions in the proposed amendments and repeals that are excessively onerous to "small businesses" as that term is defined in N.J.S.A. 52:14B-17. These amendments and repeals will impose no new recordkeeping. However, insurers authorized to write private passenger automobile insurance will be required to verify that the lawsuit option rate differentials in their standard policy coverage selection forms comply with N.J.A.C. 11:3-15.6(g)4. The internal appeals information previously submitted to the Department semi-annually will now be retained by insurers for three years for review upon request by the Department. No additional professional services should be needed in order to fulfill this requirement. Future annual costs of compliance with these rules are not expected to differ from current annual costs, except for the costs that will be saved by insurers who will no longer have to annually file their unchanged automobile coverage selection forms or semi-annually submit data on internal appeals. These amendments and repeals have no differing standards for small

businesses because although reduced, the retained reporting requirements affected by the proposed amendments reflect policy objectives of the Department which cannot be realized through a more relaxed requirement based upon the size of the reporting insurers.

Smart Growth Impact

The proposed amendments and repeals will not have an impact upon the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed amendments and repeals will not have an impact on housing affordability because the proposed amendments and repeals address data reporting, consumer inquiries and complaints, automobile insurance coverage selection forms, the automobile insurance buyers guide and the consumers bill of rights.

Smart Growth Development Impact

The Department believes that there is an extreme unlikelihood that these proposed amendments and repeals would evoke a change in the housing production in Planning Areas 1 and 2 or within the designated centers under the State Development and Redevelopment Plan in New Jersey because the proposed amendments and repeals address data reporting, consumer inquiries and complaints and automobile insurance.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 11:25-2.6 and 11:25 Appendix.

Full text of the proposed amendments follows (additions indicated in boldface **thus**;

deletions indicated in brackets [thus]):

CHAPTER 2

INSURANCE GROUP

SUBCHAPTER 29. ORDERLY WITHDRAWAL OF INSURANCE BUSINESS

11:2-29.3 Informational filing withdrawals

(a) – (h) (No change.)

(i) The one-year non-renewal notice, unless waived pursuant to N.J.A.C. 11:2-29.4, and the final non-renewal notice shall be sent within the timeframes for such notices as provided by N.J.S.A. 17:17-10 or 17:33B-30, as applicable, and N.J.A.C. 11:3-8, for private passenger automobile insurance, and N.J.A.C. 11:1-20 or 5.2, as applicable, for all other lines. The notice(s) shall contain the information required for such notices set forth in applicable law. Except as set forth in this section, the notice(s) shall not include the statements otherwise required pursuant to N.J.A.C. 11:1-20.2(h) and 11:3-[8.3(e)2i]**8.5(b)1**, as applicable, related to filing complaints with the Department concerning the non-renewal.

(j) (No change.)

CHAPTER 3

AUTOMOBILE INSURANCE

SUBCHAPTER 15. BUYER'S GUIDE, COVERAGE SELECTION FORM, AND AUTOMOBILE INSURANCE CONSUMER BILL OF RIGHTS FOR STANDARD AND BASIC POLICIES

11:3-15.1 Purpose

(a) N.J.S.A. 39:6A-23 requires the Commissioner of the Department of Banking and Insurance to promulgate standards for the written notice to be provided to applicants for **private**

passenger automobile insurance and to policyholders offered renewal of coverage. This written notice includes [a] **one of two versions of the** Buyer's Guide and one of two versions of the Coverage Selection Form. [This subchapter implements this statutory requirement and establishes the necessary minimum standards insurers shall use in giving notice of available coverages, options and rate credits.]

(b) [P.L 2003, c.89, section 43a] **N.J.S.A. 17:29A-52a** requires every insurer writing private passenger automobile insurance in this State to provide each insured at least annually and each applicant for insurance with an Automobile Insurance Consumer Bill of Rights. The Automobile Insurance Consumer Bill of Rights shall contain the information necessary, relevant or appropriate to improve the understanding of the rights and responsibilities of consumers and insurers regarding automobile insurance.

(c) (No change.)

[(d) The purpose of the Buyer's Guide, Coverage Selection Form and Automobile Insurance Consumer Bill of Rights is to help consumers understand the choices they will make. The Buyer's Guide, Coverage Selection Form and Automobile Insurance Consumer Bill of Rights shall be presented in an attractive format and plain language describing the choices in general, in order to encourage consumers to read the documents and to make informed choices about the auto insurance coverages and options available to them.]

11:3-15.4 Compliance

(a) No new private passenger automobile insurance policy or renewal shall be issued [on or after July 13, 2004] unless the application for the policy or renewal **offer** is accompanied

by a Buyer's Guide, a Coverage Selection Form and an Automobile Insurance Consumer Bill of Rights that meet the minimum standards prescribed in this subchapter.

1. The [notice of] renewal **offer** shall include the appropriate **Buyer's Guide and Coverage Selection Form** for the policy being renewed.

2. – 3. (No change.)

(b) (No change.)

(c) [By April 29, 2004] **As of the effective date of this amendment**, [Each] **each insurer that becomes authorized to write private passenger automobile insurance** shall [file its Coverage Selection Forms with the Department's Insurance Claims Ombudsman] **make a filing pursuant to N.J.A.C. 11:1-2**. The filing shall [include both Coverage Selection Forms, the supporting information on how the Lawsuit Option Rate differentials were calculated as required by N.J.A.C. 11:3-15.6(g)4 and a letter listing all alterations and additions, if any, made from the text found in Appendix, Exhibits 1 and 2] **consist of a certification that the Lawsuit Option rate differentials in its Standard Policy Coverage Selection Form were calculated in accordance with N.J.A.C. 11:3-15.6(g)4**.

[1. The filing shall be deemed approved if not affirmatively approved or disapproved within 30 days of filing.]

(d) [An insurer may make changes in its Coverage Selection Forms by filing a copy with the Department's Insurance Claims Ombudsman. The bottom of the last page shall clearly indicate the month and year in which the changes were implemented. The filing shall be deemed approved if not affirmatively approved or disapproved within 30 days of filing.] **An insurer may change the Lawsuit Option rate differentials in its approved Standard Policy Coverage Selection Forms by making a filing pursuant to N.J.A.C. 11:1-2 that specifies the effective**

date of the revised rate differentials that will be used and that includes the certification required by (c) above.

11:3-15.5 New Jersey Auto Insurance Buyer's Guide

(a) **There are established two Buyer's Guides for use by insurers: a personal lines Buyer's Guide and a commercial lines Buyer's Guide for individually owned vehicles written on commercial policies.** [Each insurer shall produce a Buyer's Guide by reproducing the Buyer's Guide] **The Buyer's Guides shall be** available on the Department's website.

[at <http://www.state.nj.us/dobi/acrobat/autoguide02.pdf>. The Department shall notify insurers of any changes to the Buyer's Guide by Bulletin. Insurers shall provide the Buyer's Guide, as revised, for new and renewal business as soon as practicable, but no later than 90 days after the date of the Bulletin.]

1. The personal lines Buyer's Guide can be found at http://www.state.nj.us/dobi/division_insurance/byguide.doc.

2. The commercial Buyer's Guide can be found at http://www.state.nj.us/dobi/division_insurance/commbguide.doc.

(b) (No change.)

(c) **The Department shall notify insurers of any changes to the Buyer's Guides by Bulletin. Insurers shall provide the Buyer's Guide, as revised, for new and renewal business as soon as practicable, but no later than 90 days after the date of the Bulletin.**

The Buyer's Guide shall provide general descriptions of:

1. – 8. (No change.)

(d) – (f) (No change.)

CHAPTER 25

OFFICE OF THE INSURANCE CLAIMS OMBUDSMAN

11:25-2.3 Complaint and internal appeals system - general requirements

(a) Every insurer shall establish and maintain an internal appeals system to provide for the presentation and review of complaints brought by a consumer. All internal appeals procedures shall, at a minimum, include the following components:

1. A system to record and document the status of all internal appeals **including whether the appeal is pending or resolved, the type of coverage, type of claim, the specific disposition of the appeal, and the amount of additional benefits paid on resolved internal appeals. The data** [which] shall be maintained for a period of three years from the date the internal appeal is closed **and shall be made available to the Department upon request;**

2. - 6. (No change.)