

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Insurance Scenarios

Adopted New Rules: N.J.A.C. 11:3-47

Proposed: October 6, 2003 at 35 N.J.R. 4434(a)

Adopted: February 20, 2004 by Holly C. Bakke, Commissioner, Department of Banking and Insurance

Filed: February 20, 2004 as R. 2004 d. 118, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1, 17:1-15e and 17:29A-52

Effective Date: March 15, 2004

Expiration Date: January 4, 2006

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance (Department) timely received written comments from the following:

1. A joint submission from the American Insurance Association, the Insurance Council of New Jersey, and the National Association of Independent Insurers;
2. State Farm Indemnity Company;
3. The New Jersey Hospital Association;
4. Allstate New Jersey Insurance Company;
5. The Professional Insurance Agents of New Jersey;
6. The Brain Injury Association of New Jersey;
7. The Alliance of American Insurers;
8. New Jersey Manufacturers Insurance Group; and

9. The Independent Insurance Agents of New Jersey.

COMMENT: One commenter noted that N.J.A.C. 11:3-47.1(a) provides that insurers and producers are required to produce insurance scenarios in accordance with the rule. The commenter believed that the rules should provide that insurers or producers are required to provide the scenarios. The commenter believed that this would make this subsection consistent with the other provisions of the rules. The commenter also stated that a similar change would be required at N.J.A.C. 11:3-47.3(a).

RESPONSE: Upon review, the Department believes that no change is required. N.J.A.C. 11:3-47.1(a) outlines the purpose of the rules, which is to set forth the requirements for the provision by private passenger automobile insurers and insurance producers of insurance scenarios in accordance with the rule. This is also the case with respect to N.J.A.C. 11:3-47.3(a), which provides that insurers and insurance producers shall provide scenarios in accordance with the subchapter. The rules apply both to insurers and producers. The remaining provisions of the rules outline the specific requirements with respect to individual insurers and producers. The Department thus believes that no further clarification is necessary.

COMMENT: One commenter, while supporting the efforts to make consumers better informed about the products they buy, expressed concern that there may be too much information provided pursuant to these rules, which could confuse the consumer. The commenter thus suggested that the rules provide that applicants may waive their right to receive the insurance scenarios.

RESPONSE: Upon review, the Department has determined that no change is required. The Legislature, pursuant to N.J.S.A. 17:29A-52c, has determined that it is appropriate for consumers to receive information in the form of insurance scenarios regarding the effect on their premium of different coverage choices. N.J.S.A. 17:29A-52c imposes a requirement on insurers and producers to provide these scenarios, without exception. The Department thus believes that a rule providing that consumers may waive the requirement that they be supplied with insurance scenarios would be inconsistent with and thwart the legislative intent as expressed in N.J.S.A. 17:29A-52c.

COMMENT: Several commenters requested additional guidance with respect to the application of N.J.A.C. 11:3-47.3(c). One commenter requested that the Department elaborate on how the subsection will be enforced, that is, whether the requirements are intended to apply to each scenario, so that there will be a total of nine scenarios, or whether the number of scenarios would be limited to three, with one scenario for each paragraph, N.J.A.C. 11:1-47.3(c) 1, 2 and 3.

Another commenter similarly inquired whether, for example, an insurer would give an applicant premium scenarios for someone similar to the applicant that showed for scenario number one: \$100,000/\$300,000 limits with verbal threshold, minimum limits with verbal threshold, and \$100,000/\$300,000 limits with no threshold; for scenario number two: standard personal injury protection (PIP) coverage, and medical only PIP coverage; and for scenario number three: \$750.00 deductible for comprehensive and collision coverages, and \$2,000 deductible for comprehensive and collision coverages, and no comprehensive and collision coverages, for a total of eight premium examples. This commenter believed that the rules should be clarified to provide that at least two premium examples per scenario are required. This

commenter suggested that N.J.A.C. 11:3-47.3(c) should be revised upon adoption to add the following sentence at the end of the subsection: “At least two premium or percentage examples per scenario shall be provided.”

Another commenter believed that the rules should require a total of three scenarios only.

Another commenter stated that for scenario one, based on the variety of limits offered by companies, this could amount to over 50 different premium comparisons. The commenter believed that the producer or insurer should be permitted to choose just one of the general comparisons to offer as a scenario. For example, the difference between the limitation on lawsuit versus no limitation on lawsuit option, or one limit of liability versus another limit of liability. The commenter provided similar suggestions with respect to scenarios two and three. More specifically, with respect to scenario three, the commenter stated that one of the choices relating to the “elimination of physical damage” would result in a total re-quote of the policy, since liability only coverage can result in re-tiering of the policy and actually cost the insured more than selecting the physical damage coverage.

RESPONSE: Consistent with N.J.S.A. 17:29A-52c, the rules require the provision of three scenarios demonstrating the effect of different coverage choices. N.J.A.C. 11:3-47.3 provides that Scenario 1 shall relate to options in bodily injury liability coverage, Scenario 2 shall relate to options in PIP coverage, and Scenario 3 shall relate to options in physical damage coverage. N.J.A.C. 11:3-47.3(c) provides examples of options available for use in each scenario for guidance purposes only. The rule does not mandate that those specific examples be utilized or that all of those listed be utilized. Insurers using their own scenario documents may utilize their own coverage choices for each scenario. In developing their scenarios, insurers and producers

should be mindful of the intent underlying the requirement that they be provided. That intent is to supply consumers with timely and useful information on the basis of which they may ask pertinent questions and make informed choices about the levels of coverage they will purchase. Accordingly, one way to comply would be to provide a base line sample reflecting the insured's existing or most recent coverage levels under their current or last policy, and then provide three examples, reflecting changes in bodily injury liability coverage, PIP coverage options and physical damage coverage, respectively. This is not intended to constitute the only means of compliance. The rules provide flexibility in the manner by which insurers and producers may develop their own scenarios based on their systems and the information they may have regarding the circumstances of the insured. While an insurer or producer is required to provide only three scenarios to an individual applicant or insured, the purpose of the rule is to ensure that insurers and producers supply scenarios that are meaningful to the applicant or insured, and not merely provide the same three scenarios to every applicant or insured. Subsection (e) of the rule has been revised upon adoption to clarify this intent. Insurers may also choose to utilize the document developed by the Department.

With respect to the comment on Scenario 3 that elimination of all physical damage coverage could require a re-tiering of the policy that could ultimately cost a consumer more money, this reflects one of the reasons the Legislature has required the delivery of insurance scenarios, that is, providing timely information to consumers indicating the effect of different coverage choices on premiums.

COMMENT: Several commenters suggested that N.J.A.C. 11:3-47.3(d) be revised to clarify that insurers are not liable for selections made by consumers and that consumers should use their

own discretion and judgment when selecting coverages. One commenter specifically suggested that the rule be revised to add the following sentence: “In addition, consumers should use their own discretion and judgment when selecting their coverages as insurers are not liable for the selections made by the consumers.”

Another commenter suggested that the provision should read as follows: “Warning: Insurance companies or their producers or representative shall not be held liable for your choice of lawsuit option (limitation on lawsuit option or no limitation on lawsuit option). Insurers or their producers or representatives also shall not be liable for your choice of coverage or limits selected.” This commenter believed that it would be appropriate to use the same language with which insureds are familiar from the coverage selection form.

Another commenter requested that the Department permit producers, who desire to do so, to require the applicant/insured to sign a specific statement from the producer that the coverage chosen is not recommended by the producer and that they hold harmless the producer from all liability based upon the coverage/limits chosen. The commenter stated that pursuant to N.J.S.A. 17:28-1.9, producers are granted immunity from liability based upon the election of coverage in a coverage selection form. The commenter is concerned that providing a scenario that is unsuited for the particular applicant may be construed as encouraging the consumer to purchase such coverage.

RESPONSE: Upon review, the Department has determined not to change this provision. The purpose of providing the insurance scenarios, as required by N.J.S.A. 17:29A-52c, is to supply New Jersey auto insurance consumers with timely, useful information about coverage options for their consideration in making choices on the coverage selection form. The premium scenarios do

not supplant other discussions or the review of other materials related to an insured's coverage choices. The Department expects that insurers and producers will continue the practice of discussing appropriate coverage levels for the insured's needs. The Department does not believe that additional notice regarding an insurer's liability, which is otherwise indicated or provided in the coverage selection form, need be provided on the insurance scenarios. Nothing would prevent the insurer or producer from verbally reiterating these caveats as part of their discussions regarding the insurance scenarios. The Department cannot by rule grant additional immunity from liability to a licensee beyond that which is currently provided by statute.

COMMENT: Two commenters suggested that N.J.A.C. 11:3-47.3(e)2 be deleted because it mandates that insurance scenarios be individualized for each applicant. One commenter, while supporting the rule's objective of helping to educate consumers about their options, believed that this requirement is unduly burdensome. Another commenter stated that, by standardizing the scenarios, companies can help further the goal of clarifying options available to consumers.

RESPONSE: Upon review, the Department has determined not to change this provision. The Department does not believe that the provision imposes an undue burden on insurers, as it sets forth one of the three different options by which insurers or producers may comply with the subchapter. Insurers may provide at least three company-composed generic scenarios appropriate to the particular type of applicant, or utilize the format provided by the Department and posted on its website to provide such generic scenarios, or provide at least three scenarios based upon the individual characteristics and circumstances of the applicant or insured. Thus,

insurers are not required to provide insurance scenarios solely in accordance with N.J.A.C. 11:3-47.3(e)2.

COMMENT: One commenter requested further clarification of N.J.A.C. 11:3-47.3(f). This rule provides that the document reflecting the insurance scenarios developed by the Department may be revised from time to time to reflect current market conditions, prevalent consumer choices, and cost-saving features of particular coverage options. The rule further provides that the Department shall notify insurers and producers of any changes to the document by Bulletin, which also will be posted on its website. The commenter understood the merits of updating the information, but was concerned about the timeliness of the revisions. The commenter recommended that any updates or revisions by the Department be provided with sufficient advance notice of an effective date in order for the industry to consider incorporating them as their own scenarios, as allowed under the rules.

RESPONSE: The Department agrees with the commenter that sufficient prior notification should be provided, and the Department intends to do so. The Department does not anticipate that any problems will result because the notifications by the Department of any such revisions will provide that insurers may use the revised insurance scenarios as soon as practicable, given their systems and resources.

COMMENT: One commenter stated that N.J.A.C. 11:3-47.3(a) requires that scenarios be given to “each new applicant.” The commenter stated that the term “new applicant” is not further defined. The commenter did not believe that the requirement should apply to a replacement car

(some insurers may require an application with the replacement car), an added car, or the situation where the same insurer or an affiliate issues a new policy to cover the existing cars, replacement cars or added cars. The commenter noted that, in such cases, under the rules the insured may request scenarios if he or she so desires. The commenter believed that the rules should be clarified by the addition of a new sentence at the end of N.J.A.C. 11:3-47.3(a) as follows: “New applicant does not include a person who is replacing a vehicle already insured under the policy, adding a vehicle to the policy, or whose policy is being replaced by the insurer or an affiliated insurer to cover the existing insured vehicles, replacement vehicles or added vehicles.”

RESPONSE: The Department agrees that insurance scenarios should not be required for each change made by an insured to his or her policy, such as adding a vehicle. However, insurance scenarios should be provided to a policyholder whose policy is replaced by an affiliated insurer with a different rating system. In this case, the policyholder essentially would be a “new applicant.” Accordingly, N.J.A.C. 11:3-47.3(a) has been revised upon adoption to add the following sentence: “‘New applicant’ shall not include a person who is replacing a vehicle already insured under the policy; adding a vehicle to the policy; or whose policy is being replaced by the insurer or an affiliated insurer to cover the existing insured vehicles, replacement vehicles or added vehicles, provided that the rating system of the affiliated insurer is identical to that of the insurer which originally issued the policy.”

COMMENT: One commenter supported the flexibility provided under N.J.A.C. 11:3-47.3(e) allowing insurers to develop generic examples, to use specific examples reflecting the

applicant's actual situation, or to use the Department's examples, in providing insurance scenarios. The commenter believed that the flexibility will enable insurers and producers to provide clear examples to their customers in a manner compatible with their systems and business methods without great cost. It will also allow insurers and producers to compete on how well they can provide this information.

RESPONSE: The Department appreciates the support of its proposal.

COMMENT: One commenter specifically supported N.J.A.C. 11:3-47.3(a)2, providing that independent producers only are required to provide scenarios with respect to one of the companies they represent.

RESPONSE: The Department appreciates the support of its proposal.

COMMENT: One commenter generally opposed the rules and believed that they exceed the intent of the Legislature in enacting N.J.S.A. 17:29A-52c. The commenter stated that in developing the legislation, the Legislature removed the requirement to provide three quotations and replaced the language with three scenarios. The commenter stated that this change was intended to remove the requirement to re-quote an insured several times based on their specific information for coverages which may not be suitable for that insured. The commenter believed that the coverage selection form, which provides every option available to the insured for that specific company and includes approximate premium differences, should be sufficient to meet the intent of the statute. The commenter suggested that the Department revise the guidelines for

the coverage selection form so that it may be used to provide the premium scenarios. The commenter stated that if the guidelines require all coverage selection forms to include a detailed description of coverage, approximate premium difference by percentage and a place for the applicant's/insured's initials next to each coverage, it would provide the information to the insured without requiring additional documents.

RESPONSE: Upon review, the Department has determined no change is required. The Department does not believe that the Legislature intended that the insurance scenario requirement be folded into the coverage selection form and Buyer's Guide requirements. The Legislature was aware that insureds and applicants are already provided the coverage selection form and buyer's guide, which provide consumers with certain information about the effects of different coverage choices. The Legislature determined, however, that in addition to these requirements, producers and insurers must provide three insurance scenarios that show the general effect of different coverage choices on premiums. Moreover, the coverage selection form is completed at the time of purchase of coverage from a particular company, at which point informed coverage choices will have been already made. The insurance scenarios provide an additional tool by which consumers may receive timely, useful information in order to make such choices. Thus, the Department believes that the rules are consistent with the intent of the Legislature as set forth in N.J.S.A. 17:29A-52c.

COMMENT: One commenter disagreed with the Department's statement in the Summary to the proposal that consumers purchase default coverage rather than coverage based upon their needs. The commenter stated that consumers spend more than 90 minutes with their producer when

purchasing insurance. In addition, many spend additional time throughout the year as they make vehicle or driver changes and review coverage once again on renewal. The commenter stated that minimum limits may not meet the consumer's needs, and that consumers have many choices available to them that are currently explained in the Buyer's Guide, coverage selection form and through consultation with a licensed producer. The commenter believed that, as proposed, the rules will further confuse the consumer by providing too many premium options, some of which are for coverages that are not suitable to their needs.

RESPONSE: As set forth in the Response to the previous Comment, the Department believes that the rules implement the intent of the Legislature as set forth in N.J.S.A. 17:29A-52c to provide insurance scenarios to further educate consumers. The Department recognizes that insureds and applicants are already provided various educational tools through the buyer's guide and coverage selection form with respect to their coverage choices. The Legislature, however, determined that an additional educational device should be provided. The Department does not believe that the insurance scenarios supplant the use of the buyer's guide, coverage selection form and discussions with producers, with respect to consumers choosing coverages that best suit their needs. Further, according to data collected by the Department, most consumers purchase and pay for standard or default coverages. The purpose of the insurance scenarios is not to inappropriately steer consumers to "buy down" coverage merely to save money, but to provide consumers with timely and useful information regarding their coverage needs and the approximate financial impact of the various available choices. The Department believes that this additional educational tool will not confuse consumers, but rather will provide additional

information, in the nature of a general cost/benefit comparison. This will better enable consumers to make coverage choices that are appropriate to their individual circumstances.

COMMENT: One commenter stated that the premium scenario document should be a generic form that outlines three major areas where an insured can reduce costs as follows:

1. Limitation on lawsuit threshold versus no limitation on lawsuit threshold;
2. The availability of reduced PIP coverage/optional coverages if the insured has other coverage to protect them (disability, health insurance which will provide coverage for New Jersey auto accidents, life insurance to cover the death benefit that would be lost), with the warning that the insured must notify the company should their existing coverage change; and
3. The availability of physical damage deductibles up to \$2,000 that the consumer may be able to select if their lien holder or finance company permits it.

The commenter further stated that specific premium differences should not be required, but rather only a general percentage difference based upon the company's rate filing. If the insured is interested based upon the approximate premium difference, then the producer/insurer can re-quote the specific coverage for the consumer.

RESPONSE: Upon review of the commenter's suggestion, the Department has determined that no change is required. First, the Department notes that two of the three options by which insurers and producers may comply with the requirements of the rules provide that the premium amounts associated with each scenario may be expressed either in an approximate dollar amount or as a percentage difference. With respect to the suggested "three areas" to be provided as the

scenarios, the Department believes that they are consistent with the examples that may be utilized by insurers under N.J.A.C. 11:3-47.3(c).

COMMENT: One commenter noted that N.J.A.C. 11:3-47.3(e)3 provides that one of the optional forms of providing insurance scenarios would be utilizing the form developed by the Department. The commenter noted that at the time of the proposal, a sample form was not available for review and requested the opportunity to assist the Department in the development of the form.

RESPONSE: The Department will consider suggestions submitted regarding its form, and make revisions as and when appropriate. The Department notes that the utilization of the document provided by the Department is optional, and is one of three means by which insurers and producers may comply with the rules.

COMMENT: One commenter suggested that the rules have a delayed effective date to allow insurers and producers time to implement their provisions. The commenter believed that 90 days should be sufficient. Accordingly, the commenter suggested that the Department provide a new rule, codified at N.J.A.C. 11:3-47.5, to read as follows: “The provisions of this subchapter shall be effective 90 days after its adoption and publication in the New Jersey Register. The Department, insurers and producers may take all steps needed to implement this subchapter prior to this effective date.”

RESPONSE: The Department agrees that insurers and producers should be provided with time to comply with the rules. The Department believes that 30 days should be sufficient to comply for those utilizing the document developed by the Department. However, to provide sufficient time for insurers and producers that may choose to develop their own documents, the Department has revised the rules upon adoption to provide that the requirements therein apply to new applications or requests made 60 days after the effective date of the rules.

COMMENT: Two commenters expressed concern with the rules regarding PIP coverage. One of the commenters, while applauding the Department's intent to provide consumers with more and better information upon which to make purchasing decisions with respect to auto insurance, recommended that the Department refrain from suggesting in any scenarios that health plans are comparable in terms of coverage to what is provided under PIP. The commenter believed that adequate and appropriate PIP coverage for individuals injured in accidents is essential to their receiving the right care at the right place for the right amount of time. The commenter stated that, although premiums might be slightly reduced if a consumer chooses a lower level of PIP coverage, the cost of providing care beyond the lower coverage limit will be shifted over to health plans. The commenter believed that this ripple effect would adversely affect hospitals and many employers. In addition, if consumers opted out of PIP completely because they had health insurance, such problems would become even more pronounced.

Accordingly, the commenter recommended that scenario two include language such as the following: "In most instances, health insurance plans do not provide identical coverage to what is available under personal injury protection. This is either because health plans do not cover the same type of services or because they only cover services for a specific number of

visits or length of time. Consumers should carefully examine their health plan coverage BEFORE they decide to opt for a PIP level lower than \$250,000 or to have their health plan provide primary coverage and not have PIP.”

Another commenter expressed similar concerns, and believed that, to address this issue, the scenarios should indicate that the cost differential between \$50,000 and \$250,000 for PIP coverage is approximately \$60.00 per year.

RESPONSE: Upon review of the commenters’ suggestions, the Department has determined not to change this provision. The purpose of the rules is to provide scenarios to educate consumers regarding appropriate coverage choices for them. The scenarios are not intended to supplant other tools, such as the buyer’s guide, coverage selection form, and discussions with insurers and producers, that consumers use in purchasing coverage appropriate to their needs. The statements that the commenters seek to have placed in the scenarios could dissuade consumers from choosing PIP coverage options available to them under the law that may be appropriate to their needs. The Department further believes that the issue raised by the commenters is part of the decision-making process that all consumers experience when deciding the appropriate levels of coverage for them. The Department also notes that, regardless of the PIP option limit chosen, pursuant to N.J.A.C. 11:3-14.3(b), the policy will provide medical expense benefits not to exceed \$250,000 for the medically necessary treatment of permanent or significant brain injury, spinal cord injuries, disfigurement, or for other permanent or significant injuries rendered at a trauma center or acute care hospital.

COMMENT: One commenter stated that the rules do not eliminate the current requirement for insurance agents and brokers to provide applicants with premium quotations for every insurer they represent. The commenter believed that these rules eliminate the need for this requirement. The commenter cited numerous problems arising from the requirement including: inappropriate cancellation of existing policies by consumers; provision of unnecessary quotes where different affiliated companies provide the same coverage but at different premiums; the ignoring of issues raised where an insurer may be experiencing financial difficulty (a quote must still be provided from such an insurer); the difficulty producers have in obtaining errors and omission coverage because of the volume of business the agency has placed in companies that are rated B or lower; and the increase in business to companies offering lower rates that may not be able to handle the volume, and thus may ultimately seek to withdraw from transacting business in this State.

Accordingly, the commenter believed that the requirement in N.J.A.C 11:17A-1.7(a)2, requiring agents and brokers to provide premium quotations on behalf of all insurers they represent, be deleted.

RESPONSE: The comment is outside the scope of the proposal. In addition, the requirement that insurance producers provide premium quotations for all insurers represented by the producer is expressly required as a condition of licensure of the producer at N.J.S.A. 17:33B-18a(1). The Department may not alter this statutory requirement by rule.

COMMENT: One commenter stated that the option to utilize the document developed by the Department for delivering the insurance scenarios that is referenced at N.J.A.C. 11:3-47.3(e)3 does not afford to insurers and producers the option of providing the premium amounts

associated with each scenario expressed as either an approximate dollar amount or as a percentage difference; this option requires that the appropriate premium amount be provided. The commenter believed that it would be easier for consumers to understand their choices if the Department's document also provided for the "approximate dollar amounts" or "percentage differences" associated with each scenario.

RESPONSE: Upon review of the comment, the Department has determined not to change this provision. The Department believes that listing approximate dollar amounts provides more useful information to consumers and has chosen to provide this information in its document. The Department does not believe that this will be confusing to consumers. The document developed by the Department relates to a sample household and sample drivers, requiring only that the insurer "plug in" the appropriate premium amounts based on the rating of such a "generic" applicant or insured. Recognizing that insurers utilize different systems, and in order to provide sufficient flexibility, the Department has permitted the use of percentage differentials or dollar amounts where insurers develop their own scenarios.

COMMENT: One commenter questioned whether the provision of insurance scenarios through a "document or documents" includes the provision of scenarios in electronic, audio or videotape format.

RESPONSE: The Department believes that the term "document or documents" does not encompass information in electronic, audio or videotape format. The Department believes that consumers will be better served by providing a document which they may retain and review for

future reference. Permitting the use of the forms of delivery described by the commenter would essentially allow scenarios to be provided orally, with no record of their provision for determination of compliance with the subchapter.

COMMENT: One commenter requested that the Department clarify whether the rules apply to car leasing companies at the time of vehicle pick-up. The commenter stated that, generally, a consumer may lease a vehicle at the airport and may be offered the option of further insurance coverage by the leasing company's representatives.

RESPONSE: The Department does not intend that the rules apply to car leasing companies, nor does the Department believe that the rules by their terms would apply to such transactions. The situation as described by the commenter would not be an application for private passenger automobile insurance, but rather would relate to a transaction where additional insurance coverage may be offered at the time of entering into a rental car transaction. All other laws regarding lease or rental transactions will continue to apply.

COMMENT: One commenter expressed the concern that the rules may not provide the intended result. The commenter stated that the options for compliance in proposed N.J.A.C. 11:3-47.3(e) appear to require the preparation of individualized scenarios, rather than the generic premium scenarios referenced earlier in the proposal. The commenter stated that N.J.A.C. 11:3-47.3(e)1 states that an applicant or insured should be provided with three generic scenarios, but then requires that scenarios be selected from at least nine scenarios that reflect coverage choices applicable to various categories of applicants (that is, families, single drivers, senior citizens or

households with multiple drivers and/or multiple vehicles). Similarly, N.J.A.C. 11:3-47.3(e)2 requires that scenarios be developed by electronic data systems based on individual characteristics and circumstances of the applicant or insured. The third option, which is to utilize the document developed by the Department, also appears to provide scenarios based on individual circumstances rather than generic examples. The commenter believed that each of these options assumes that the insurer has knowledge of an applicant's circumstances prior to preparing insurance scenarios. The commenter stated it has no knowledge of the individual circumstances of each applicant prior to receipt of a coverage selection form. The commenter stated that it would be inefficient, time-consuming and costly to require preparation of a second set of scenarios to be sent with a second coverage selection form based on individual characteristics contained in the first coverage selection form. The commenter believed that this procedure would cause delay for consumers in the application, quotation and binding process. The commenter thus requested that the Department clarify that the preparation and distribution of generic scenarios by direct writers and others whose marketing plan so require would fulfill the requirements of the rule.

RESPONSE: The only option that provides for insurance scenarios based upon the detailed characteristics and circumstances of individual applicants or insureds is set forth in N.J.A.C. 11:3-47.3(e)2. The other means of providing scenarios are, in fact, generic and not directly related to the particular characteristics of individual applicants or insureds. The document developed by the Department relates to a sample household and sample drivers, requiring only that the insurer "plug in" the appropriate premium amounts based on the rating of such a "generic" applicant or insured. No coverage selection form is required, and the rules do not

require, nor do they envision, a system where two coverage selection forms would be provided for the reasons expressed by the commenter. Accordingly, the Department believes that the rules provide for generic scenarios and do not require insurers to receive two coverage selection forms or a coverage selection form prior to providing the insurance scenarios. The Department also notes that, as noted in a Response to a previous Comment, the rule has been revised upon adoption to clarify its intent.

Summary of Agency-Initiated Changes:

The Department has made the following changes upon adoption to correct errors as a matter of form: added a semicolon in N.J.A.C. 11:3-47.3(c)1; added the close quotation marks in N.J.A.C. 11:3-47.3(d); and corrected the reference to the Department's website in N.J.A.C. 11:3-47.3(e)3.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rules relate to the provision of private passenger automobile insurance in this State, and are not subject to any Federal requirements or standards.

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

11:3-47.1 Purpose and scope

(a) – (c) (No change from proposal.)

(d) This subchapter shall apply to all applications and requests on or after May 14, 2004.

11:3-47.3 Insurance scenarios

(a) Pursuant to N.J.S.A. 17:29A-52, insurers and insurance producers shall provide insurance scenarios in accordance with this subchapter.

1. – 2. (No change from proposal.)

3. For purposes of this rule, “new applicant” shall not include a person who is replacing a vehicle already insured under the policy; adding a vehicle to the policy; or whose policy is being replaced by the insurer or an affiliated insurer to cover the existing insured vehicles, replacement vehicles or added vehicles, provided that the rating system of the affiliated insurer is identical to that of the insurer which originally issued the policy.

(b) (No change from proposal.)

(c) The three insurance scenarios shall be as follows:

1. Scenario 1 shall reflect choices of Bodily Injury Liability coverage under N.J.S.A. 39:6A-3, for example, the basic policy established by N.J.S.A. 39:6A-3.1*;* the limitation on lawsuit and no limitation on lawsuit options pursuant to N.J.S.A. 39:6A-8; and policy limits options, including options on uninsured and underinsured motorist coverage;

2. – 3. (No change from proposal.)

(d) The insurance scenarios provided may contain the following statement:
“Insurance scenarios are intended to further educate consumers about the choices available to

them, are not binding quotes, and do not necessarily represent the recommendations of the producer or insurer.***

(e) An insurer or producer shall satisfy the requirements of this subchapter by either:

1. Providing the applicant or insured with three applicable generic insurance scenarios, as set forth in (c) above, from among a selection of *[at least nine]* scenarios *[that]* ***. The scenarios provided shall*** reflect coverage choices *[appropriate]* ***that correspond*** to ***the general circumstances of*** certain kinds of applicants, for example, three that are applicable to families; three that are applicable to single drivers; *[and]* ***or*** three that are applicable to senior citizens, or three that are applicable to households with one, two or three or more drivers, or with one, two or three or more vehicles to be insured. The premium amounts associated with each scenario may be expressed either in an approximate dollar amount or as a percentage difference;

2. (No change from proposal.)

3. Providing the applicant or insured with three insurance scenarios, as set forth in (c) above, on a document developed by the Department and available on the Department's website, [*\[www.nj.dobi.org\]*](http://www.nj.dobi.org) ***www.njdobi.org***, and entering appropriate premium amounts where indicated.

(f) – (g) (No change from proposal.)