

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF PROPERTY AND CASUALTY

Basic Automobile Insurance Policy

Proposed Amendments: N.J.A.C. 11:3-3.2 and 3.3

Authorized By: Steven M. Goldman, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17:29D-1 and 39:6A-3.1

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

Proposal Number: PRN 2006-174.

Submit written comments by August 4, 2006 to:

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The agency proposal follows:

Summary

N.J.S.A. 39:6A-3.1 provides that, as an alternative to the coverages provided in N.J.S.A. 39:6A-3 and 39:6A-4, any owner or registered owner of an automobile registered or principally garaged in this State may elect a basic automobile insurance policy. N.J.A.C. 11:3-3 sets forth the rules to be utilized by insurers in developing the policy forms and rates for basic automobile insurance policies to be filed with and approved by the Department of Banking and Insurance (Department). The following coverages are included in all basic policies:

1. Personal injury protection (PIP) medical expense benefits coverage in an amount not to exceed \$15,000 per person per accident; except that all medically necessary

treatment of permanent or significant brain injury, spinal cord injury or disfigurement or medically necessary treatment of other permanent or significant injuries rendered at a trauma center or acute care hospital immediately following the accident and until the patient is stable, no longer requires critical care and can be safely discharged or transferred to another facility in the judgment of the attending physician, shall be covered in an amount not to exceed \$250,000 including the \$15,000 set forth above; and

2. Liability insurance coverage in an amount or limit of \$5,000, exclusive of interests and costs, for damage to property in any one accident.

In addition, insurers are required to make available in the basic policy, at the option of the insured, liability insurance coverage for bodily injury or death in an amount or limit of \$10,000, exclusive of interest and costs, on the account of the injury to or death of, one or more persons in any one accident. See N.J.S.A. 39:6A-3.1e

The Department is proposing amendments to N.J.A.C. 11:3-3.2 and 3.3 to permit insurers to meet the requirement that they provide the optional basic automobile policy by contracting with a servicing carrier to issue basic policies with rates, rules and forms to be developed by the Personal Automobile Insurance Plan (PAIP), established pursuant to N.J.S.A. 17:29D-1 et seq., and to be approved by the Department. The Department is also proposing this framework as a means of encouraging private passenger automobile insurers to write basic policies through a servicing carrier. Notwithstanding the relatively small number of basic automobile insurance policies issued, because the requirements applicable to basic policies differ significantly from those applicable to standard private passenger automobile insurance policies (for example, only basic policies have the limitation that the automobile insurance rate of the base class in any territory for any filer may not exceed 1.35 times the filer's Statewide average base rate for each

coverage, pursuant to N.J.S.A. 17:29A-36a; uninsured/underinsured motorist coverage is not available in the basic policy; and only the limitation on lawsuit option is available in the basic policy, there is no choice on a lawsuit option), private passenger automobile insurers are required to maintain and develop two sets of policy forms, rates and rules in order to provide basic automobile insurance policies pursuant to law. If these policies are provided through one servicing carrier, the additional administrative expenses related to the inefficient maintenance of multiple rating systems, which are ultimately borne by policyholders, may be avoided. Finally, by increasing the number of basic policies written by a single carrier, credible experience related to the basic automobile insurance policies may be developed.

Accordingly, the Department is proposing to amend N.J.A.C. 11:3-3.3 to provide that an insurer may write a basic policy through a “basic policy servicing carrier.” N.J.A.C. 11:3-3.2 is proposed to be amended to provide definitions of “basic policy servicing carrier” and “PAIP.” The procedures for utilizing and selecting a servicing carrier will be provided in the PAIP Plan of Operation adopted by the PAIP, which is filed with and approved by the Department.

A 60-day comment period is provided for 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 may encourage insurers to choose to provide basic automobile insurance policies through a servicing carrier, which ultimately should benefit the public for the reasons set forth in the Summary above.

Economic Impact

The proposed amendments will not impose any negative economic impact. The proposed amendments reflect Department policy to permit and encourage insurers to provide basic automobile insurance policies through a basic policy servicing carrier administered by the PAIP. Through this proposed framework, administrative costs to insurers related to the maintenance of multiple rating systems may be avoided, ultimately reducing costs to policyholders. Finally, as noted above, having the relatively small number of policies written through one carrier will help provide more credible experience for this coverage, which should enable insurers to more accurately rate basic policies.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are not subject to any Federal requirements or standards.

Jobs Impact

The Department does not believe that the proposed amendments 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 proposed amendments together with their written comments on other aspects of the proposal.

Agriculture Industry Impact

The proposed amendments will not have any impact on the agriculture industry.

Regulatory Flexibility Statement

A Regulatory flexibility analysis is not required because the proposed amendments do not impose any reporting, recordkeeping or other compliance requirements on “small business” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. As noted above, the proposed amendments merely reflect the provisions in the PAIP Plan of Operation that insurers have the option of providing basic automobile insurance policies, otherwise required by law, through a servicing carrier.

Smart Growth Impact

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

Full text of the proposal follows (additions indicated in boldface **thus**):

11:3-3.2 Definitions

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

...

“Basic policy servicing carrier” means a limited assignment distribution carrier that is a participating insurer that agrees to accept assignments of basic policies pursuant to this subchapter and the procedures set forth in the PAIP plan of operation.

...

“PAIP” means the New Jersey Personal Automobile Insurance Plan established pursuant to N.J.S.A. 17:29D-1 and N.J.A.C. 11:3-2.

...

11:3-3.3 General provisions

(a) - (f) (No change.)

(g) An insurer may write basic policies through a basic policy servicing carrier.