

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

Automobile Insurance

Readoption with Amendments: N.J.A.C. 11:3

Adopted Repeal and New Rule: N.J.A.C. 11:3-16 Appendix, Exhibit A

Adopted Repeals: N.J.A.C. 11:3-45 Appendix and 11:3-46 Appendix, Exhibit C

Proposed: August 5, 2013, at 45 N.J.R. 1886(a).

Adopted: December 3, 2013, by Kenneth E. Kobylovski, Commissioner, Department of Banking and Insurance.

Filed: December 3, 2013, as R.2014 d.004, **with a substantial change** 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, 17:1-15.e, 17:17-1 et seq., and 39:6A-1 et seq.

Effective Dates: December 3, 2013, Readoption;

January 6, 2014, Amendments, New Rule, and Repeals.

Expiration Date: December 3, 2020.

Summary of Public Comments and Agency Responses:

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

1. CARCO Group, Inc.;
2. The Medical Society of New Jersey; and
3. New Jersey Manufacturers Insurance Group.

COMMENT: The commenters supported the proposal. One commenter expressly supported continuing the “pre-insurance automobile inspection” requirement for physical damage coverage. Another commenter expressly supported the proposed amendment to N.J.A.C. 11:3-29.4(e)1 to remove Ingenix from the listed databases that are appropriate to calculate “usual, customary and reasonable” (UCR) PIP fees as Ingenix is no longer collecting data.

RESPONSE: The Department appreciates the support of its proposal.

COMMENT: One commenter stated that it appears that proposed Appendix A to N.J.A.C. 11:3-16, governing private passenger automobile rate filings, eliminates the existing requirement for filing rating examples under N.J.A.C. 11:3-45, Appendix A 1, citing the filing requirements under N.J.A.C. 11:3-16.6(a)10 as changed in the proposed exhibit. The commenter supported the elimination of this requirement but requested confirmation that the change was intentional.

RESPONSE: The Department confirms that this was intentional. The change conforms the checklist in the Appendix to the current rule requirements.

COMMENT: One commenter noted that N.J.A.C. 11:3-45.3(d), related to filing of the annual premium survey, provides that “[t]he Excel templates shall not be modified by the user in any way.” The commenter also stated that the “Start” worksheet of the current template includes the statement: “Companies are not to change Appendix #3(except to add comments), but may modify Appendix #4 if necessary to calculate the correct rate.” The commenter stated that the current practice has been to alter the columns on the “Start” worksheet to include such items as

company specific territories and data on combined single limits since no space is allocated for such information. The commenter further noted that Appendix #4 rows have typically been altered to reflect proper order of applied rating factors and rounding steps. The commenter requested confirmation that this practice will continue to be permitted under the proposed new exhibit. If not, the commenter suggested that the rule specify the manner in which these items should be reported to provide consistency among industry filings.

RESPONSE: The Department disagrees that the changes to the Start page such as those set forth by the commenter are necessary or relevant for purposes of completing the survey required by N.J.A.C. 11:3-45. No changes should be made to the survey, other than those recognized in the instructions. The Department believes, however, that the proscription in proposed N.J.A.C. 11:3-45.3(d) may be confusing in that it appears to prohibit any changes, even those permitted under the current instructions. This was not the intent of the Department. Accordingly, the Department is not adopting the proposed amendment at N.J.A.C. 11:3-45.3(d).

COMMENT: One commenter requested that, with respect to the PIP medical fee schedule, given the current state of confusion regarding the amount to be charged for facility fees for outpatient treatment in hospital emergency rooms and the “exorbitant” amounts being billed, the Department amend the existing rules to establish fees for emergency room facility reimbursements. The commenter believed that such a change will provide needed clarity and lead to cost savings by eliminating arbitration on this issue.

RESPONSE: The Department, after notice and an opportunity to comment, affirmatively exempted treatment performed in emergency rooms from the fees in N.J.A.C. 11:3-29 Appendix, Exhibit 7, the Schedule of Hospital Outpatient Surgical Facility Fees, in the amendments it adopted to N.J.A.C. 11:3-29.4(a) effective November 5, 2012. At this time, the Department does not agree that this exemption should be rescinded. The Department requests that the commenter submit data concerning the “confusion” and “exorbitant fees” mentioned in the comment. The Department will consider this information as part of its ongoing review of these regulations and development of possible future proposed amendments.

Federal Standards Statements

A Federal standards analysis is not required because the rules set forth in this chapter and the adopted amendments, new rule, and repeals are not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 11:3.

Full text of the adopted amendments and new rule follows (deletion from proposal indicated in brackets with asterisks *[thus]*):

11:3-45.3 Annual premium survey filing

(a) – (c) (No change from proposal.)

[(d) The Excel templates shall not be modified by the user in any way.]