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HOLLY C. BAKKE
Commissioner

BULLETIN NO. 03-14

TO: All Insurers Authorized to Transact Private Passenger Automobile Insurance in this State

FROM: Holly C. Bakke, Commissioner

RE: Implementation of P.L. 2003, c. 89

P.L. 2003, c. 89, effective June 9, 2003 (the "Act") provides a well-balanced approach to addressing the immediate automobile insurance availability crisis facing New Jersey consumers, insurers and regulators. To this end, the Act substantially revises the regulatory framework for the provision of private passenger automobile insurance in this State. The purpose of this bulletin is to advise insurers of the steps the Department has taken and plans to take in the near future in order to implement the Act. The bulletin further is intended to provide insurers with guidance as to appropriate actions they should take to ensure an orderly transition with respect to their operating systems. First, on June 16, 2003, the Department issued Bulletin No. 03-13, which addressed modifications with respect to the filing of excess profit reports under the Act. Secondly, the Department issued Order Nos. A03-135 and A03-136, with respect to the transition of the administrative functions of the Unsatisfied Claim and Judgment Fund ("UCJF"), the New Jersey Automobile Full Insurance Underwriting Association, and the Market Transition Facility, to the New Jersey Property-Liability Guaranty Association, in accordance with Sections 1 through 35 of the Act.

In addition, the Department intends to issue in the near future an Order regarding the various changes required pursuant to the Act including those changes insurers will be required to make to their manual rules, rates and policy forms. More specifically, these include:

◆ **Manual Rules:**

- Pursuant to Section 40 of the Act, revisions to an insurer's eligibility rules, if insurers choose to do so, to reflect that insureds will not be assigned to a rating tier other than the standard rating tier applicable to the insured's territory solely on the basis of accumulating four or fewer motor vehicle points.

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- Pursuant to Section 63 of the Act, revisions to an insurer’s eligibility rules to exclude a person who filed false or misleading information in an application for insurance, renewal of insurance or claim for benefits under an insurance policy, during the immediately preceding three-year-period.
 - Pursuant to Section 40 of the Act, revisions to an insurer’s manual tier and rating rules, if insurers choose to do so, to reflect tier descriptions and tier placement based on 4 points for “Standard Tier”.
 - Pursuant to Section 64 of the Act, revisions to the definition of at-fault accident to reflect payments by the insurer of at least \$1,000.00. This also may require revision to an insurer’s tier rules and Schedule 1 violations as set forth in N.J.A.C. 11:3-34.5.
 - Under Section 65 of the Act, revise deductible options to reflect that the new business default deductible for physical damage coverage is \$750.00.
 - Pursuant to Section 62 of the Act, for insurers that include non-renewal provisions in their manual, revision to the rules to state that the time for advance notice of non-renewal may be extended to 90 days.
 - For companies that include cancellation provisions in their manual rules, under Section 61 of the Act, revision to an insurer’s manual rules to permit cancellation for knowingly providing materially false or misleading information in connection with any application for insurance, renewal of insurance or claim for benefits under an insurance policy, or if the insurer determines, within 60 days of the issuance of the policy, that the named insured does not meet the approved underwriting rules of the insurer then in effect.
 - The requirement that insurers revise manual rules to reflect coverage limits for personal injury protection above \$75,000.00 up to \$250,000.00, as provided in Sections 36 and 37 of the Act, which revisions shall be in accordance with the form to be provided by the Department in the Order.
 - Pursuant to Section 35 of the Act, revisions to the insurer’s manual rules to address the provision by the UCJF of personal injury protection (“PIP”) benefits to a pedestrian sustaining bodily injury in this State caused by an automobile, other than to a named insured or a member of the named insured’s family residing in his or her household (“pedestrian PIP”).
- ◆ **Rates**
- Under Section 65 of the Act, revise rates to reflect that the default deductible for physical damage coverage is \$750.00.
 - The requirement that insurers revise rates to reflect coverage limits for personal injury protection above \$75,000.00 up to \$250,000.00, as provided in Sections 36 and 37 of the Act, which revisions shall be in accordance with the form to be provided by the Department in the Order.

- Revisions to tier factors, if insurers choose to do so, to reflect revenue neutral changes for revisions to tier rating plans based upon the accumulation of more than four motor vehicle points by a named insured or regular operator, as provided under Section 40 of the Act.
- ◆ **Policy Forms**
- Changes to an insurer's Rating Information Form to incorporate all rule and tier changes as applicable.
- Revisions to policy forms to reflect the cancellation and non-renewal provisions under Sections 61 and 62 of the Act.
- Amend provisions of an insurer's policy forms relating to uninsured/under-insured ("UM/UIM") coverage to state that drivers with a Special Auto Policy are "uninsured" under the UM/UIM coverage, pursuant to Section 45 of the Act.
- Amend the PIP endorsement with respect to pedestrian PIP coverage to reflect that such coverage will be provided by the UCJF under Section 35 of the Act.

The Department is also advising insurers, as set forth in Order No. A03-136, that until the Department approves changes to their policy forms, they will continue to be responsible for personal injury protection benefits to pedestrians sustaining bodily injury in this State caused by an automobile, other than to a named insured or a member of the named insured's family residing in his household consistent with their existing policy forms.

The Department also advises that it is working with the Personal Automobile Insurance Plan ("PAIP") to develop the rates, rules and forms for the Special Automobile Insurance Policy ("Special Policy") provided for under Section 45 of the Act. The Department expects that the Special Policy will utilize a single rating system filed by the PAIP and that insurers will write those policies through a LAD or Servicing Carrier designated by the PAIP. In addition to the Special Policy rule to be proposed by the Department, be advised that the administration of the Special Policy will be handled through the PAIP's Plan of Operation.

Insurers should be aware that the Urban Enterprise Zone Assignment program has been extended an additional three years in accordance with Section 39 of the Act.

With respect to correspondence to be sent to the UCJF, insurers should continue sending mailings to the current address until further notice by the Department, as set forth in Order No. A03-136.

The Department also has filed with the Office of Administrative Law notices of proposed new rules and rule amendments to provide for the implementation of various provisions of the Act and intends to file additional rule-making proposals with the Office of Administrative Law in the near future. Insurers should begin their systems analysis and planning with respect to implementation of the changes effectuated by the Act based upon its provisions and the new rules and amendments as proposed, subject to any modification that may be made upon adoption.

Finally, insurers should be aware that, in order to ensure an orderly transition and the efficient implementation of the changes effected by the Act, filings for tier rating changes that

address the revised restriction upon assignment of a vehicle to a higher than standard tier based solely upon the accumulation of four or less motor vehicle points by a named insured or regular operator, and changes to reflect revised payment amounts to constitute an at-fault accident, will be given priority. Any application for approval of other changes to an insurer's tier rating plan should be filed separately with the Department.

6/20/03

Date

/s/ Holly C. Bakke

Holly C. Bakke
Commissioner

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