

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF COMMERCIAL AUTOMOBILE )  
INSURERS' RISK-SHARING OF THE PAYMENT OF )  
PERSONAL INJURY PROTECTION BENEFITS TO ) ORDER  
STRANGER PEDESTRIANS THROUGH THE )  
UNSATISFIED CLAIM AND JUDGMENT FUND )  
("UCJF") AND THE PROPERTY LIABILITY )  
INSURANCE GUARANTY ASSOCIATION ("PLIGA") )

This matter having been opened by the Commissioner of the Department of Banking and Insurance ("the Commissioner") pursuant to N.J.S.A. 17:1-15, N.J.S.A. 17:28-1.3, P.L. 2003, c.89, and all powers expressed or implied therein; and

IT APPEARING that P.L. 2003, c.89 removed the statutory requirement for all private passenger automobile ("PPA") insurance policies issued in this State to include coverage for stranger pedestrian claims for personal injury protection ("PIP") benefits where the pedestrian lacked other PIP coverage in N.J.S.A. 39:6A-4; and

IT FURTHER APPEARING that to replace the removal of the pedestrian PIP coverage in PPA insurance policies, P.L. 2003, c.89 created a risk-sharing mechanism among PPA insurers authorized or admitted to transact business in this State pursuant to N.J.S.A. 17:17-1 et seq. (hereinafter "PPA insurers") for these stranger pedestrian PIP claims without other PIP coverage to be provided by the UCJF under the administration of PLIGA as codified at N.J.S.A. 39:6-86.6; and

IT FURTHER APPEARING that both PPA insurers and commercial motor vehicle insurers in this State authorized or admitted to transact business in this State pursuant to N.J.S.A. 17:17-1 et seq. (hereinafter "Commercial Motor Vehicle insurers") are members of PLIGA and

were eligible to be assessed for sharing of the stranger pedestrian PIP claims through the UCJF in accordance with P.L. 2003, c.89; however, P.L. 2003, c.89 did not amend N.J.S.A. 17:28-1.3 that requires all commercial motor vehicle liability policies issued in this State to provide stranger pedestrian PIP coverage in accordance with N.J.S.A. 39:6A-4; and

IT FURTHER APPEARING that upon the request of the UCJF/PLIGA, the Department provided direction via letters dated July 21, 2004, and August 16, 2004, that UCJF/PLIGA should permit Commercial Motor Vehicle insurers to participate in the stranger pedestrian PIP risk-sharing with the PPA insurers because, among other reasons: 1) it appeared to be consistent with the legislative intent of P.L. 2003, c.89; 2) Commercial Motor Vehicle insurers would be assessed for such claims; and, 3) it avoided confusion for injured stranger pedestrians, medical providers and others to have a single statutorily-created entity handle all pedestrian PIP claims regardless of whether the liable driver was insured under a policy issued by a PPA or Commercial Motor Vehicle insurer; and

IT FURTHER APPEARING that, although this risk-sharing was successful, attempts by the insurers to obtain additional amendments to the applicable statutory provisions for the sake of clarity have been unsuccessful, and usage of the UCJF/PLIGA risk-sharing mechanism for pedestrian PIP claims under commercial motor vehicle policies issued by a Commercial Motor Vehicle insurer (“commercial pedestrian PIP”) has been the subject of litigation on a number of issues; and

IT FURTHER APPEARING that the Department has determined that it is appropriate at this time to withdraw the commercial pedestrian PIP claims from the UCJF/PLIGA risk-sharing mechanism as provided in this Order.

NOW, THEREFORE, IT IS on this 30th day of June, 2015, ORDERED that:

1. On or before March 1, 2016, all Commercial Motor Vehicle insurers or rating organizations shall file the following with the Department for review pursuant to N.J.S.A. 17:29AA-6 to enable deemed approval on or before April 1, 2016: all necessary policy forms to include coverage for stranger pedestrian PIP claims in accordance with N.J.S.A. 17:28-1.3; and

2. On or before May 1, 2016, all Commercial Motor Vehicle insurers or rating organizations shall file the following with the Department pursuant N.J.S.A. 17:29AA-5 to be effective on or before April 1, 2016: all rates and/or rules necessary for inclusion of the stranger pedestrian PIP coverage in the commercial motor vehicle policy forms as required by paragraph 1. above.

3. Starting on or before April 1, 2016, all Commercial Motor Vehicle insurers shall only issue and renew policies that contain coverage for stranger pedestrian PIP claims in accordance with N.J.S.A. 17:28-1.3; and

4. By March 31, 2017, all commercial motor vehicle insurance policies issued in this State shall contain coverage for stranger pedestrian PIP claims in accordance with N.J.S.A. 17:28-1.3; and

5. All Commercial Motor Vehicle insurers shall notify UCJF/PLIGA in writing as to the date upon which that insurer began issuing/renewing all policies with the stranger pedestrian PIP coverage contained in the commercial motor vehicle policy within thirty (30) days of the effective date of same; and

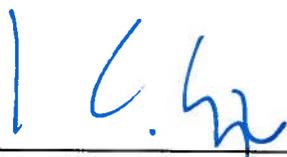
6. All Commercial Motor Vehicle insurers shall continue to be assessed for commercial pedestrian PIP claims by UCJF/PLIGA based upon their commercial motor vehicle

insurance premium volume until all commercial pedestrian PIP claims covered by the risk-sharing mechanism have been satisfied in full; and

7. Any commercial motor vehicle insurance policy issued or renewed on or after April 1, 2016, without appropriate stranger pedestrian PIP coverage as required by N.J.S.A. 17:28-1.3, shall be deemed to have provided such coverage in accordance with N.J.S.A. 17:28-1.3 and this Order; and

8. Nothing in this Order shall effect and/or discontinue the UCJF/PLIGA's assessment of Commercial Motor Vehicle insurers for uninsured motorists pursuant to N.J.S.A. 39:6-63d and N.J.S.A. 39:6-69.

6/30/15  
Date

  
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Kenneth E. Kobylowski  
Commissioner