

NEW JERSEY ADMINISTRATIVE CODE
TITLE 11. DEPARTMENT OF BANKING AND INSURANCE DIVISION OF INSURANCE
CHAPTER 3. AUTOMOBILE INSURANCE
SUBCHAPTER 25. PRIVATE PASSENGER AUTOMOBILE INSURANCE:
NOTIFICATION BY TREATING HEALTH CARE PROVIDERS
(Full text of rule effective 6/7/04)

11:3-25.1 Purpose and scope

(a) The purpose of this subchapter is to implement N.J.S.A. 39:6A-5, as amended by P.L. 1995, c.407, by establishing procedures to be followed by treating medical providers to give timely notification of the commencement of medical treatment for injuries sustained in automobile accidents. The subchapter sets forth:

1. Time limits for the filing of notification of the commencement of treatment for PIP claims;
2. The actions to be taken upon failure to comply with the notification time limits, including reduction or denial of claim payments;
3. The factors to be considered in evaluation of a late notification; and
4. The rights of providers when payment is reduced or denied for failure to comply with the notification requirements.

(b) This subchapter shall apply to every insurer authorized to transact the business of automobile insurance in this State. The subchapter applies to treatment for injuries resulting from automobile accidents that occur after July 8, 1996.

11:3-25.2 Definitions

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

"Coverage status" means the status of PIP coverage for an injured party pursuant to N.J.S.A. 39:6A-5.

"Department" means the Department of Banking and Insurance of the State of New Jersey.

"Eligible charge" means the treating medical provider's usual, customary and reasonable charge or the upper limit on the medical fee schedule as found in N.J.A.C. 11:3-29.6, whichever is

lower subject to provisions of N.J.A.C. 11:3-29.4.

"Emergency care" means all medically necessary treatment of a traumatic injury or a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbance and/or symptoms of substance abuse) such that absence of immediate attention could reasonably be expected to result in: death; serious impairment to bodily functions; or serious dysfunction of a bodily organ or part. Such emergency care shall include all necessary care immediately following an automobile accident, including, but not limited to, immediate pre-hospital care, transportation to a hospital or trauma center, emergency room care, surgery, critical and acute care. Emergency care extends during the period of initial hospitalization until the patient is discharged from acute care by the attending physician.

"Multiple treating medical provider" means a treating health care provider as defined herein that provides emergency care, in association with one or more other treating medical providers.

"Notification" or "notice" means a written communication, transmitted by mail, facsimile or electronic message ("E-mail").

"Personal injury protection" or "PIP" means the coverage set forth at N.J.S.A. 39:6A-4 or 39:6A-3.1 or the emergency personal injury protection coverage provided by a Special Automobile Insurance Policy pursuant to section 45 of P.L. 2003, c. 89..

"PIP information" means: the name and address of the insured and the name and address of the injured party, if different; the name of the PIP insurer and the address established by the insurer for notification of commencement of medical treatment pursuant to N.J.A.C. 11:3-25.3(c); the policy number of the insurance policy providing PIP benefits; and the date of the accident/injury. A treating medical provider may obtain this information from the insured, the injured party, the hospital, a police report or any other reasonably available source.

"Secondary medical providers" means those health care providers who provide medical products, care and services to a person injured in an automobile accident only after having received a prescription from a treating health care provider. Secondary medical providers shall include, but are not limited to, pharmacists, visiting nurses, prosthetics fabricators and providers of durable medical equipment products. Notwithstanding the existence of a prescription of a treating medical provider, physical therapists, chiropractors and any secondary medical provider who seeks payment of an eligible charge in excess of \$500.00 for individual services or products provided on one occasion or in the course of 30 days shall not be considered secondary medical providers.

"Treating health care provider" means those persons licensed or certified to perform health care treatment or services compensable as medical expenses and shall include, but not be limited to:

1. A hospital or health care facility which is maintained by a state or any of its political subdivisions;

2. A hospital or health care facility licensed by the Department of Health and Senior Services;
3. Other hospitals or health care facilities designated by the Department of Health and Senior Services to provide health care services, or other facilities, including facilities for radiology and diagnostic testing, freestanding emergency clinics or offices, and private treatment centers;
4. A nonprofit voluntary visiting nurse organization providing health care services other than in a hospital;
5. Hospitals or other health care facilities or treatment centers located in other states or nations;
6. Physicians licensed to practice medicine and surgery;
7. Licensed chiropractors;
8. Licensed dentists;
9. Licensed optometrists;
10. Licensed pharmacists;
11. Licensed chiropodists (podiatrists);
12. Registered bio-analytical laboratories;
13. Licensed psychologists;
14. Licensed physical therapists;
15. Certified nurse-midwives;
16. Certified nurse-practitioners/clinical nurse-specialists;
17. Licensed health maintenance organizations;
18. Licensed orthotists and prosthetists;
19. Licensed professional nurses;
20. Licensed occupational therapists;
21. Licensed speech-language pathologists;

22. Licensed audiologists;
23. Licensed physician assistants;
24. Licensed physical therapists assistants;
25. Licensed occupational therapy assistants; and
26. Providers of other health care services or supplies, including durable medical goods.

11:3-25.3 Notification of commencement of treatment

(a) When medical treatment is rendered for which a claim for payment will be made pursuant to the PIP coverage of a private passenger automobile insurance policy, a treating health care provider shall provide notice to the PIP insurer no later than 21 days following the date of the commencement of such treatment.

(b) In accordance with the PIP information provided by the injured party or the insured, notice shall be sent by the treating health care provider to the insurer at the address established by the insurer for the receipt of such notice.

(c) Insurers shall establish one address where notice must be sent by treating health care providers pursuant to these rules. Insurers shall provide this address, and may provide a facsimile transmission number, and E-mail address if any, on all insurance identification cards issued by the insurer after January 6, 1997.

(d) In accordance with the provisions of N.J.A.C. 11:3-25.10, insurers shall file with the Department the address, and may provide a facsimile transmission number, and E-mail address, if any, where notice of commencement of treatment should be sent. Insurers shall also include the name and telephone number of a contact person at the insurer for this purpose. Such information shall be added to a list of insurer addresses maintained by the Department.

(e) Notice sent to the address printed on a valid insurance identification card or on the Department's current list of addresses shall be presumed to have been sent to the proper address.

(f) Within 14 days after receiving notice of the commencement of treatment, the insurer shall notify the treating health care provider of the coverage status of the person receiving treatment. If the notice from the insurer states that the coverage status of the person receiving treatment is unknown, the insurer shall make a determination of coverage and provide written confirmation to the treating health care provider no later than 60 days from receipt of notice of commencement of treatment. Examples where the coverage status may not be known are when the injured person is not a named insured, principal or occasional operator, or is not otherwise

listed as a resident of the insured household on the most recent information provided to the insurer by the named insured.

(g) The notice requirements set forth in (a) through (c) above and the eligible charge reductions contained in N.J.A.C. 11:3-25.5 shall not apply to secondary medical providers, except as noted in the definition of that term found in N.J.A.C. 11:3-25.2.

(h) In calculating the time for notice in (a) and (f) above, the day treatment begins or the day the insurer receives notice from the treating health care provider is not to be included. If the last day for providing notice falls on a Saturday, Sunday or legal holiday, the time runs to the next business day.

11:3-25.4 Content of notice and proof of receipt

(a) The treating health care provider shall send the written notice required by N.J.A.C. 11:3-25.3(a) to the PIP insurer on either:

1. The "Notification of Commencement of Medical Treatment Form" found in Appendix A, appended to and incorporated by reference in this subchapter; or

2. A bill or invoice rendered by the treating health care provider that includes at a minimum the information required in the "Notification of Commencement of Medical Treatment Form" in Appendix A.

(b) When any notice required by this subchapter is mailed, the postmark shall be the proof of mailing. The insurer shall retain evidence of untimely mailing of the notice whenever it denies or reduces payment pursuant to N.J.A.C. 11:3-25.5.

(c) In those cases where facsimile or E-mail notice is authorized by the insurer when any notice required by this subchapter is sent by facsimile or by E-mail, the proof of notice shall be the facsimile transmission receipt generated by the sender's facsimile machine, a copy of the E-mail message showing the date and time of transmittal or an acknowledgment of receipt generated by the receiving system. Nothing in this section shall prohibit treating health care providers and insurers from mutually agreeing to accept other proofs of notice for electronic transmissions. It shall be the responsibility of the treating health care provider to retain proof of notice of commencement of treatment transmitted by facsimile or other electronic means.

(d) Any notice given pursuant to this subchapter shall be deemed to have been made on the date of postmark or the date of transmission in the case of facsimile transmission and E-mail.

(e) When a bill or invoice is used to provide notice of the commencement of treatment in accordance with this subchapter, it shall not be deemed to constitute notice unless the following message appears on the first page of the bill or invoice: "21 DAY NOTICE" or "FIRST BILL 21

DAY NOTICE." This message shall be in contrasting color ink and be in at least 12 point capital letters. Use of a rubber stamp or affixed label is acceptable for purposes of complying with this subsection.

11:3-25.5 Late notification

(a) In the event notice of commencement of medical treatment is made after 21 days, the insurer shall advise the treating health care provider in writing of the late notification and may reserve the right to reduce payment in accordance with (b) below.

(b) Where notice of the commencement of medical treatment is not timely provided in accordance with this subchapter, an insurer may apply the following reductions to the eligible charges:

1. 22 to 30 days after the commencement of treatment: 10 percent reduction.
2. 31 to 60 days after the commencement of treatment: 25 percent reduction.
3. 61 to 120 days after the commencement of treatment: 50 percent reduction.
4. 121 to 160 days after the commencement of treatment: 75 percent reduction.
5. 161 or more days from the commencement of treatment: 100 percent reduction.

(c) If notice is not provided as required by this subchapter, the reduction formula set forth in (b) above shall apply to all eligible charges for which the treating health care provider seeks payment through such late notice.

(d) Insurers shall not reduce an eligible charge under the following circumstances:

1. When the provider is a member of the group of multiple treating health care providers giving emergency care during the initial hospitalization as defined in N.J.A.C. 11:3-25.2;
2. When the provider is a secondary medical provider as defined in N.J.A.C. 11:3-25.2;
3. When the medical condition of the injured party made it impossible to comply with the notice requirement; or
4. When the provider has submitted a request for decision point review or precertification of treatment or testing in accordance with an insurer's decision point review plan approved in accordance with N.J.A.C. 11:3-4.

11:3-25.6 Standards for adjustment of reduction

(a) Notwithstanding the reductions set forth in N.J.A.C. 11:3-25.5(b), insurers may choose to pay the full or a less reduced amount of an eligible charge based upon consideration of the following factors:

1. Whether the treating health care provider has previously provided untimely notice under this subchapter or has established a pattern of untimely notice;
2. The cost of medical treatment provided by the treating health care provider between the time treatment commenced, when notice was due and when it was provided;
3. The injured party was a pedestrian who did not have PIP coverage as the named insured or resident relative under another policy and the circumstances are such that additional time is necessary to identify the policy under which coverage is being provided;
4. Any potential adverse impact on the public; and
5. Such other factors as the insurer may determine.

(b) Within 60 days of receipt of notice, or such additional time as may be afforded under N.J.S.A. 39:6A-5g, the insurer shall give the treating health care provider notice of its final determination as to payment, reduction or denial of payment of an eligible charge. Such notice shall be clearly labeled "Final Determination," and it shall refer clearly to the injured party, the insured, the claim number, the date of accident, the date of first treatment, the date notice of the commencement of treatment was made and the acceptance or rejection of any of the standards of adjustment of the reduction in (a) above and N.J.A.C. 11:3-25.5(b).

11:3-25.7 Responsibility for payment

Whenever an eligible charge has been reduced or denied pursuant to N.J.A.C. 11:3-25.5(b), the treating health care provider shall not seek to obtain payment directly from the insured or the person receiving treatment.

11:3-25.8 Procedure for appeals

A treating health care provider who fails to notify the insurer within 21 days and whose claim has been reduced or denied by the insurer pursuant to N.J.A.C. 11:3-25.5(b) may, in the

discretion of a judge of Superior Court, be permitted to refile such claim provided that the insurer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of the receipt of the insurer's final determination of reduction or denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to notify the insurer within 21 days of the commencement of treatment.

11:3-25.9 Reporting requirement

(a) By February 5, 1997, every insurer shall file with the Department the address, facsimile number (if notice by facsimile is permitted) and E-mail address, if any, of the designated location for the filing of notice required under this subchapter. Insurers shall use Appendix B, appended to and incorporated by reference in this subchapter, to report the information required by this subsection.

(b) Insurers shall complete and file the information in Appendix B by January 1 of each year.

(c) Completed copies of Appendix B shall be submitted to:

Department of Banking and Insurance
Director of Public Affairs
PO Box 325
Trenton, New Jersey 08625-0325

11:3-25.10 Compliance

For treatments rendered between January 6, 1997 and July 6, 1997, all eligible charge reductions set forth in N.J.A.C. 11:3-25.5(b) shall be reduced by 50 percent (for example, a 10 percent reduction shall be five percent, a 25 percent reduction shall be 12.5 percent, etc.).