

April 30, 1974

SUBJECT: INSURANCE

WITHDRAWN

Circular Letter No. 1 (1974)

TO ALL INSURERS WRITING AUTOMOBILE INSURANCE IN THIS STATE:

It has come to our attention that some insurers have advised eligible injured persons that amounts recovered or recoverable from employers under wage continuation plans may be deducted or offset in computing amounts due for loss of earnings from work under the no-fault law.

Article XVIII of the Insurance Law (the New York Comprehensive Automobile Insurance Reparations Act, New York's No-Fault law) provides in Section 671(2)(b) that --

"\* \* \* amounts recovered or recoverable on account of\* \* \*injury under state or federal laws providing social security disability benefits, or workmen's compensation benefits" are the only offsets from loss of earnings from work.

Department Regulation No. 68 provides that in determining loss of earnings from work --

\* \* \*

"benefits from other sources shall not be considered as an off-set against or a deduction from loss of earnings, unless article XVIII of the Insurance Law expressly provides for such off-set or deduction;" (11 NYCRR 65.6(n)(2)(i))

All claims personnel should be informed immediately that amounts payable under wage continuation plans are not a permissible off-set or deduction.

Receipt of this letter should be acknowledged by a responsible officer of the company.

[SIGNATURE]