

January 23, 1978

SUBJECT: INSURANCE

WITHDRAWN

CIRCULAR LETTER NO. 3

January 23, 1978

TO: ALL INSURERS INCLUDING ARTICLE IX-C CORPORATIONS, LICENSED TO WRITE ACCIDENT AND HEALTH INSURANCE IN NEW YORK STATE

SUBJECT: WRITING OF NO-FAULT BENEFITS AUTHORIZED BY SECTION 672.7 OF THE NEW YORK INSURANCE LAW

Chapter 892 of the Laws of 1977 included an amendment to Section 672 of the New York Insurance Law which added a new subdivision 7, to read as follows:

"A company authorized to provide the insurance specified in subdivision three of section forty-six of this chapter or a corporation organized pursuant to article nine-c of this chapter may, individually or jointly, with the approval of the superintendent upon a showing that the company or corporation is qualified to provide for all of the items of basic economic loss specified in paragraph (a) of subdivision one of section six hundred seventy-one of this chapter, provide coverage for such items of basic economic loss to the extent that an insurer (as defined in this article) would be required to provide therefor. Where a policyholder elects to be covered under such an arrangement the insurer providing coverage for the automobile shall be furnished with the names of all persons covered by the company or corporation under the arrangement and such named persons shall not be entitled to benefits for any of the items of basic economic loss specified in paragraph (a) of subdivision one of section six hundred seventy-one. The premium for the automobile insurance policy shall be appropriately reduced to reflect the elimination of coverage for such items of basic economic loss. Coverage by the automobile insurer of such eliminated items of basic economic loss shall be effected or restored upon request therefor by the insured and payment of the premium for such coverage. All companies and corporations providing coverage for items of basic economic loss pursuant to the authorization of this subdivision shall have only those rights and obligations which are applicable to an insurer subject to this article."

The law grants the option to accident and health insurers, including Article IX-C Corporations, to provide insurance coverage for all items of basic economic loss specified in paragraph (a) of subdivision 1 of Section 671 of the Insurance Law. An insurer desiring to provide this coverage must receive the approval of the Superintendent to do so after a showing that the insurer is qualified as required under Section 672.7 of the Insurance Law. It is noted that to date no accident and health insurer has requested approval from the Superintendent to write this coverage. To assist insurers in reaching a decision to write no-fault benefits authorized by Section 672.7, the following Department interpretations and guidelines are set forth:

1. Insurance companies authorized to write accident and health insurance pursuant to Section 46.3 of the Insurance Law and/or Article IX-C Corporations may qualify individually or jointly to provide coverage for all of the items of basic economic loss specified in Section 671.1(a) to the extent that an automobile insurer would be required to provide coverage for such items.

2. A health insurer may present a plan for approval of the Superintendent which permits election of coverage under a health insurance contract for all items of basic economic loss specified in Section 671.1(a), by:

- a) an insured or subscriber holding an individual contract, and/or
- b) all subscribers in a group remittance group, and/or
- c) a policyholder of a group contract.

3. In the event a policyholder of a group health insurance contract elects an arrangement where all items of basic economic loss specified in Section 671.1(a) are covered by health insurance, the health insurer must provide such coverage to all certificateholders and other covered persons in the group.

4. A health insurer writing Section 671.1(a) no-fault benefits is required to insure only those persons covered by the health insurance contract. Other persons who would be eligible to receive no-fault benefits not covered by the health insurer would continue to be covered by the automobile insurer.

5. Health insurers providing Section 671.1(a) no-fault benefits shall require that individual insureds and certificateholders, affected by an election to transfer coverage from an automobile insurer to a health insurer, furnish to them the name and policy number of their automobile insurer. The health insurer shall notify the automobile insurer of the names of all persons covered under the health insurance contract arrangement and those persons who subsequently terminate such coverage.

6. The coverage authorized by Section 672.7 may be provided by rider to an existing health insurance contract or by separate policy. Such a rider or policy must be submitted to the Property and Casualty Insurance Bureau for approval.

7. All companies and corporations choosing to provide the coverage authorized by Section 672.7 of the Insurance Law shall have only those rights and obligations which are applicable to the insurer subject to the provisions of Article XVIII of the Insurance Law.

8. Health insurers should coordinate information with automobile insurers to determine when the \$ 50,000 per person limit on all items of basic economic loss has been reached.

9. The requirements of Department Regulation 62 shall not apply to coverage provided by health insurers pursuant to Section 672.7.

10. Health Maintenance Organizations licensed and operating as Article IX-C Corporations may also provide the coverage authorized by Section 672.7.

Very truly yours,

[SIGNATURE]

Albert B. Lewis

Superintendent of Insurance