

October 29, 1982

SUBJECT: INSURANCE

WITHDRAWN
(EFF. 12-4-03)

DATED: OCTOBER 29, 1982

SUPPLEMENT NO. 2 TO CIRCULAR LETTER NO. 16(1981)

TO: ALL INSURERS AND SELF-INSURERS WRITING AUTOMOBILE INSURANCE IN THIS STATE

RE: REDUCTION IN NO-FAULT LOSS OF EARNINGS BENEFITS FOR QUALIFIED WAGE CONTINUATION PLANS.

Section 671(1) of the Insurance Law contains a provision which requires insurers to reduce gross loss of earnings from work by benefits paid under what have become known as "qualified wage continuation plans" when calculating no-fault first party benefits payable for loss of earnings.

In order for a particular wage continuation plan to qualify under the aforementioned provision it must meet all of the following three conditions:

- 1) The applicant must be entitled to receive the same level of wage continuation benefits for a subsequent unrelated accident or illness when he or she returns to work after recovering from the injuries sustained in the motor vehicle accident;
- 2) benefits for a subsequent unrelated accident must be equal in both time and amount to the wage continuation benefits the applicant was entitled to as a result of the injuries suffered in the motor vehicle accident; and
- 3) wage continuation benefits for a subsequent disability must be immediately available, without any requirement that the applicant work a stated period of time before full benefits are restored.

If these three conditions are met, the plan probably qualifies.

In addition, for all "qualified plans" which provide benefits equal to less than 100% of the employees salary, the insurer should reduce the amount paid under the "plan" by the amount required to be paid in satisfaction of the New York State Disability Law, (50% of salary up to \$ 95 per week). Only the excess over the N.Y.S. Disability Benefits is a "qualified wage continuation plan" benefit.

In order to provide for consistent application of this provision, the Insurance Department has been reviewing plans submitted by insurers and employers and classifying them as either "qualified" or "non-qualified". The following revised lists contain additional plans revised since supplement # 1 to this Circular Letter was issued (identified with a double asterisk **):

QUALIFIED PLANS

EMPLOYER	COVERED EMPLOYEES AND BENEFIT
Chevrolet, Inc. and Ford Motor Co.	All employees represented by the U.A.W. with one year or more of service are entitled to benefits for 52 weeks equal to approximately 60% of the employee's weekly salary, as set forth in schedule of benefits as contained in U.A.W. contract.
* City of Yonkers	Police Officers.
** Corning Glass Works	<p>1-Hourly Roll Employees-Entitled to an "Enriched Disability Plan", which provides up to \$ 150 per week for a maximum of 26 weeks per disability.</p> <p>2-Other Than Hourly Roll Employees-Entitled to from 1 to 26 weeks of full pay per disability, depending upon length of service. The "Enriched Disability Plan", (see hourly roll employees above), is used up to \$ 150 per week maximum, only to supplement the wage continuation benefit when full salary benefits have been exhausted. Insurers must ascertain number of weeks eligible injured person is entitled to.</p>
Depository Trust Co.	Professional, administrative, supervisory employees, guards and confidential secretaries are entitled to full salary for up to 180 days.
* Federal District Court	Justices only.
General Electric Co.	All employees. Level I Benefits-

QUALIFIED PLANS

EMPLOYER (revised and corrected)	COVERED EMPLOYEES AND BENEFIT
	<p>20 days each 12 months, at full pay.</p> <p>No-Fault insurers are required to pay full no-fault benefits, (no reduction) when this benefit period is utilized, since as the time is used, it is lost. However, insurers are entitled to the \$ 95 per week disability offset. Level II Benefits-Payable only after Level I Benefits have been exhausted. Benefits are equal to 60% of employee's weekly salary up to a maximum weekly benefit of \$ 200 for up to 26 weeks.</p>
* Greenwich Fixture Co.	Officers of the company not covered by the union plan.
* Manhasset Union Free School District	All professional personnel including teaching and administrative staff.
** Motorola, Inc.	All employees, after 1 year of service are entitled to: 1. 90 days at full pay; and 2. next 90 days at half pay.
* New York City	Employees in the uniformed services of Police, Fire, Correction and Sanitation Departments.
** New York State Electric and Gas Corp.	<p>Hourly Employees-(with more than 6 months service)-entitled to 85% of basic earnings (40 hour week) for up to 26 weeks per disability.</p> <p>Salaried Employees-Entitled to full salary for a specified period of time,</p>

QUALIFIED PLANS

EMPLOYER	COVERED EMPLOYEES AND BENEFIT
	based on length of service. Insurer must ascertain benefit period eligible injured person is entitled to.
Niagara Mohawk Power	All employees. Benefits are payable for up to 26 weeks at 100% of salary.
** Prudential Property and Casualty Ins. Co.	All Employees: (Level I) 10, 15, or 20 days at full pay per year depending on length of service. (Level II) Payable only after initial period benefits have been exhausted. Benefits are equal to: 1 - 75% of base salary for employees with less than 5 years of service, payable for up to 26 weeks per disability; or 2 - 90% of base salary for employees with 5 or more years of service, payable for up to 52 weeks per disability.
Stauffer Chemical Co.	All employees. Benefits are payable for up to 6 months (3 months for employees with less than one year's service) at 100% of salary.
* U.S. Armed Forces	All members of the Armed Forces.
* Village of Mamaroneck	Police Officers.
** Westinghouse Electric Corp.	All employees scheduled to work 24 or more hours per week are entitled to approximately 60% of weekly salary up to a maximum of \$ 200 per week for up to 26 weeks per disability.

NON-QUALIFIED PLANS

** Alliance Tool Corp.	I.B.M.
** Amos Post, Inc.	International Telephone and
Associate Metals and Minerals	Telegraph Corp. (ITT)
Corp.	** Lightron of Cornwall, Inc.
Bristol Labs a.k.a. Bristol	** MacMillan, Inc.
Meyers	** National Bulk Carriers
** Buffalo Envelope	** Nationwide Ins. Co.
Celanese Corp.	** New York State Employees
** Community Savings Bank	New York Telephone Company
** Computer Task Group	** Rochester Telephone
Con Edison	So. Huntington Schools
Dobbs Ferry U.F.S.D.	U.F.S.D. # 13
Eastman Kodak	Sperry Rand
** Hart Schaffner and Marx	State University of New York
(Wallachs)	

Note: If an employee covered by a non-qualified plan is eligible for New York State Disability Benefits, the insurer is entitled to an offset pursuant to Section 671(2)(b) of the Insurance Law.

* Unlimited sick leave plans providing full salary for the duration of disability.

** Plans reviewed subsequent to prior revision.

* * *

Insurers are reminded that insureds covered by a "qualified wage continuation plan" are entitled to a premium reduction, to reflect the insurer's reduced exposure to loss, pursuant to Section 677.6 of the Insurance Law. Insurers must grant the premium reduction upon receipt of information that the insured is entitled to benefits under a qualified wage continuation plan.

Insurers are again requested to submit for approval, to the address shown below, details of any other plans which they believe may qualify. All plans submitted will be reviewed and, periodically, the Department will issue revised lists of qualified and non-qualified wage continuation plans:

Martin Reis
 Examiner
 Property and Casualty Insurance Bureau
 New York State Insurance Department

Two World Trade Center
New York, New York 10047

Very truly yours,

[SIGNATURE]

ALBERT B. LEWIS

Superintendent of Insurance

ABL/eb