



**STATE OF NEW YORK
INSURANCE DEPARTMENT**
25 BEAVER STREET
NEW YORK, NEW YORK 10004

George E. Pataki
Governor

Howard Mills
Superintendent

Circular Letter No. 16 (2005)
October 5, 2005

TO: All insurers authorized to write motor vehicle insurance in New York State, motor vehicle self-insurers, and the Motor Vehicle Accident Indemnification Corporation

RE: Claims for No-fault Benefits – Resolution Methods for Disputes between Insurers Emergency Adoption of the Third Amendment to Regulation 68-C and Fourth Amendment to Regulation 68-D

STATUTORY REFERENCE: NYIL Section 5106, Sections 65-3.12 and 3.13 of Regulation No. 68-C (11 NYCRR 65-3), Subdivision (b) of Section 65-4.5 of Regulation No. 68-D (11 NYCRR 65-4)

The purpose of this Circular Letter is to provide guidance to insurers about recent legislation and amendments to Regulation No. 68-C and Regulation No. 68-D with regard to processing certain first party No-fault claims.

Chapter 452 of the laws of 2005, effective September 8, 2005 amended paragraph (b) and added new paragraph (d) of Section 5106 of the Insurance Law. The new legislation:

- includes provisions consistent with rules contained within Regulation No. 68-C that mandate how an insurer that provides No-fault first party benefits is to proceed in the processing of No-fault claims; and
- creates an expedited arbitration procedure for a claimant to resolve disputes to determine which of the two or more automobile insurers is to assume initial responsibility for processing a first-party No-fault claim.

To effect this expedited arbitration procedure, the Department has promulgated the Third Amendment to Regulation 68-C and Fourth Amendment to Regulation 68-D on an emergency basis. The amendments:

- Requires specific wording for No-fault denials for claims for which the insurer determines that it is not the first notified insurer.
- Provide procedures for the special expedited arbitration that will be administered by the American Arbitration Association (AAA) to resolve disputes filed by a claimant to designate the automobile insurer responsible for processing first party benefits when there is a dispute between two or more automobile insurers over which insurer has primary responsibility.

It should be noted that Regulation 68-C already contains rules that insurers must follow in order to resolve a dispute over which insurer has primary responsibility for the payment of first party benefits. [See Subdivisions (b) and (c) of Section 65-3.12 and Paragraphs (2), (3) and (4) of Section 65-3.13] Appropriate compliance with these rules by insurers should make unnecessary the need for claimants to file a request for special expedited arbitration in order to designate the automobile insurer responsible for processing first party benefits. The Department will take appropriate administrative action in the event a claimant's request for special expedited arbitration is due to an insurer's non-compliance with these rules.

It should also be noted that new subdivision 7 to Section 142 of the Workers' Compensation Law, which was also enacted in Chapter 452, requires the Workers' Compensation Board to hold an expedited hearing when there is a dispute as to whether a motor vehicle accident that caused personal injury occurred during the course of employment. Any questions concerning this new expedited hearing process should be directed to

the Workers' Compensation Board.

If you have any questions concerning the content of this circular letter, contact:

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Very truly yours,

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