



**State of New Jersey**  
**DEPARTMENT OF BANKING AND INSURANCE**  
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*Commissioner*

May 17, 2013

Honorable Vincent Prieto c/o  
David J. Rosen  
Legislative Budget and Finance Officer  
Office of Legislative Services  
State House Annex  
PO Box 068  
Trenton, NJ 08625-0068

Re: Department of Banking and Insurance Budget Hearing Response

Dear Chairman Prieto,

Please accept the following in response to your May 6, 2013 letter requesting follow-up information with respect to the questions raised by Assemblyman Schaer and Assemblyman Singleton at the Department of Banking and Insurance (Department) budget hearing on May 2, 2013.

**1. Do the proposed regulations concerning out-of-network reimbursement address the issue of silent PPO's?**

The regulations in question are no longer proposed. The Department adopted these regulations on February 20, 2013 with an effective date of March 13, 2013 and an operative date of January 1, 2014. These regulations, as adopted, do address the issue of silent PPOs.

Specifically, N.J.A.C. 11:24C-4.3(c)5 provides that a carrier shall not make the terms of a provider agreement available to any third party, including, but not limited to, preferred provider organizations (PPOs), organized delivery systems (ODSs) and such other entities as the carrier may lease networks to, unless:

- The agreement specifically states that the carrier may enter into an agreement with third parties allowing the third parties to obtain the contracting entity's rights and responsibilities as if the third party were the contracting entity;
- Every third party accessing the provider agreement is contractually obligated to comply with all of its terms;
- The carrier identifies all such third parties in existence as of the date the agreement is entered into;

- The carrier includes on its website a listing, updated no less frequently than every 90 days, identifying all such third parties;
- The carrier requires each third party to identify the source of the discount on all remittance advices and/or explanations of payment under which a discount is taken;
- The carrier notifies the third party of the termination of a provider contract upon issuance of the termination by the carrier or upon receipt of notice by the provider;
- The third party ceases its right to a provider's discounted rate upon termination of the provider's contract with the carrier; and
- Carriers deliver to participating providers a copy of any agreement relied on in the adjudication of a claim within 30 days after the date of a request from the provider.

**2. Please provide to the committee the number of insurance carriers which have filed for automobile insurance rate increases in 2012 and were denied any increase.**

As discussed at the May 2, 2013 hearing, it is rare that an automobile insurance company files for a rate action when no rate increase is warranted. Rather, there are instances where a company may make a request for a rate increase that is still justified, yet not in its entirety, based upon the Department's actuarial review. In those instances, the Department will only approve a rate increase in line with the Department's determination of the rate need indication. There are instances where companies request a rate increase that is less than what their rate need indication is due to a variety of reasons – most importantly competition in light of reforms made to the automobile insurance market almost a decade ago. The Department has no authority to arbitrarily deny a request for a rate increase if a rate need indication exists, as long as any total rate increase is within the permitted amounts for a year.

In 2012, five companies requested rate increases that upon the Department's actuarial review exceeded their rate need indication, and are listed below. In each of these instances, the rate eventually approved by the Department was less than what the companies had requested.

Company	Effective Date	Requested Rate (%)	Approved Rate (%)
High Point Safety & Insurance Company	July 31, 2012	3.5	2.5
Mercury Indemnity Company of America	August 3, 2012	6.0	3.8
Progressive Garden State Insurance Company	October 5, 2012	2.7	1.2
Electric Insurance Company	December 4, 2012	7.8	6.8
21 <sup>st</sup> Century Pinnacle Insurance Company	December 26, 2012	3.0	1.2

I trust that the foregoing is responsive to your inquiries. Please advise if you require additional information.

Very truly yours,



Kenneth E. Kobylowski  
Commissioner