

October 17, 1978

SUBJECT: INSURANCE

WITHDRAWN

Date: October 17, 1978
Circular Letter No. 15 (1978)

TO: All automobile self insurers and insurers writing automobile insurance in New York State

RE: Notice of satisfaction of Workers' Compensation or Disability Benefits lien from third party recovery; Sections 29(1) & (2) and 227(1) & (2) of the Workers' Compensation Law as amended by Chapter 572 of the Laws of 1978.

Chapter 572 of the Laws of 1978 requires providers of workers' compensation who have satisfied liens from automobile liability recoveries or who, as assignees, have obtained such recoveries, to notify automobile accident victims injured between February 1, 1974 and June 30, 1978 of their right to be reimbursed by their no-fault automobile insurer for the amount of the lien which the no-fault insurer previously offset from first party benefits.

Providers of disability benefits who have satisfied such liens or obtained such recoveries must similarly notify automobile accident victims injured in motor vehicle accidents between December 1, 1977 and June 30, 1978.

The Chairman of the Workers' Compensation Board and the Superintendent of Insurance have approved the use of Forms C 121.2 and DB 381.3 (attached) for notification of victims. Pursuant to L. 1978, Ch. 572 these forms are to be sent by the workers' compensation or disability benefits provider to the claimant by certified mail.

The 11th Amendment to Regulation 68 (11 NYCRR 65.6(p)(5) & 65.15(p)(5)) provides that upon the submission of proof of the satisfaction of a lien or recovery by the workers' compensation or disability benefits provider "[T]he no-fault insurer shall make the claimant whole with respect to first party benefits for items of basic economic loss not recoverable in an action brought pursuant to Section 673(1) for which the no-fault insurer has taken an offset". Claimants have until July 1, 1980 or 2 years from the satisfaction of the lien or the obtaining of a recovery, whichever is later, to request reimbursement from the no-fault insurer. but Within 30 days of the submission of Form C-121.2 or DB 381.3 the no-fault insurer must either pay or deny the claim for reimbursement. Failure to make timely payments will subject the no-fault insurer to the applicable interest, attorney fees and arbitration provisions of Regulation 68.

As to motor vehicle accidents occurring on and after July 1, 1978, L. 1978, Ch. 572 has eliminated the workers' compensation and disability benefits liens in most negligence recoveries.

This letter is being sent to the Bar Associations in New York State and the insurance trade press in order to facilitate the execution of the reimbursement provisions which were previously specified in Insurance Department Regulation No. 68.

Please acknowledge receipt of this letter by a responsible executive officer of your company and address any inquiry to:

John Reiersen

Carrier File No.

Claimed First Date of
Disability

No-Fatal
Case No.
Known)

Name

Address

Disability

Benefits

Carrier

Third Party

To

No-Fault

Insurer

(If Known)

THIS LETTER CONTAINS IMPORTANT INFORMATION. READ THIS LETTER CAREFULLY. YOU MAY BE ENTITLED TO ADDITIONAL MONEY

Your motor vehicle no-fault insurer took credit for and reduced its no-fault payments to you because we made Disability Benefits payments to you in the following amount: \$ _____

We received \$ _____ in full satisfaction of our lien for the above payments, out of the recovery in the lawsuit you brought against the above named third party tortfeasor. Your no-fault insurer must, under recent court decisions and Insurance Department Regulations, pay no-fault benefits it did not originally pay because it took credit for our payments to you. **THE EXACT AMOUNT OF MONEY YOU MAY BE ENTITLED TO RECEIVE DEPENDS UPON A NUMBER OF FACTORS WHICH YOUR NO-FAULT INSURER AND/OR LAWYER WILL EXPLAIN TO YOU.**

IN ORDER TO PROTECT YOUR RIGHT TO GET PAID, SHOW THIS TO YOUR LAWYER IMMEDIATELY!

If you are handling your case without a lawyer give the original of this letter to your no-fault insurer without delay and keep a copy for your own records. If you do not personally deliver this letter to your no-fault insurer, we suggest that you send it by certified mail, return receipt requested, in order that you have proof of their receipt of this letter.

Your no-fault insurer has 30 days after receipt of this letter to pay all amounts owed to you. If you do not receive payment of all amounts owed to you within 30 days, you or your lawyer should telephone the New York State Insurance Department at (212)775-1011 in New York City or toll free at (800)522-4370 elsewhere in the State and request assistance from the Insurance Department.

Date

Print or Type Name

Signature

Telephone No. & Extension

Official Title

Claimant's Attorney -- Please Note -- See Chapter 572 of the Laws of 1978, Sections 5 and 7 and 11th Amendment to Insurance Department Regulation No. 68, 11 NYCRR 65.15 (p) (5).

THE WORKERS' COMPENSATION BOARD EMPLOYS AND SERVES THE HANDICAPPED WITHOUT DISCRIMINATION.

Approved by Chairman,
Workers' Compensation Board and the Superintendent of Insurance, State of New York

DB-381.3 (10-78)

State of New York
WORKERS' COMPENSATION BOARD
OFFICE OF THE CHAIRMAN

October 6, 1978

To: Insurance Carriers and Self-Insurers Providing Benefits Under the Workers' Compensation Law

Subject: Form C-121.2, Notice of Satisfaction of Workers' Compensation Lien From Third Party Recovery Under Section 29, Subds. 1 and 2

Attached in a copy of new prescribed Form C-121.2 required by Section 29, subds. 1 and 2 of the Workers' Compensation Law as amended by Chapter 572 of the Laws of 1978, effective July 1, 1978.

Carriers and self-insurers are now required to review their files and to send Form C-121.2, in duplicate, by certified mail to all persons injured in motor vehicle accidents between February 1, 1974 and June 30, 1978, inclusive, who have satisfied workers' compensation liens from third party recoveries. Where the case is still pending, Form C-121.2 should be sent at the time the lien is satisfied.

As an alternative, if the lien has not been satisfied, Insurance Department regulations permit workers' compensation carriers and self-insurers to accept an assignment from the claimant and handle the exchange of money with the no-fault insurer directly. If you avail yourself of this alternative, Form C-121.2 need not be prepared.

Where the motor vehicle accident occurred on or after July 1, 1978, Chapter 572 of the Laws of 1978 sets forth the new Law governing such cases and Form C-121.2 should not be used.

Carriers and self-insurers are authorized to print Form C-121.2 on 8 1/2" x 11", 16# white bond with their name and address imprinted in the space provided. In all other respects, exact format and text are to be followed.

[SIGNATURE]

Chairman

NOTICE OF SATISFACTION OF WORKERS' COMPENSATION LIEN FROM THIRD PARTY RECOVERY UNDER SECTION 29, SUBDS. 1 & 2

Claimant (Name & Address)	W.C.B. Case No.	Compensation Carrier Case No.
	Date of Injury	No-Fault Case No. (If Known)

Name	Address
Workers'	
Compensation	
Carrier	
Third Party	
Tortfeasor	
No-Fault	
Insurer	
(If Known)	

THIS LETTER CONTAINS IMPORTANT INFORMATION. READ THIS LETTER CAREFULLY. YOU MAY BE ENTITLED TO ADDITIONAL MONEY

Your motor vehicle no-fault insurer took credit for and reduced its no-fault payments to you because we made the following payment(s) to you.

- Workers' Compensation you received for lost earnings. \$ _____
- Payments to hospital or other health service provider who treated you. \$ _____
- Other payments to you. \$ _____

We received \$ _____ in full satisfaction of our lien for the above payments, out of the recovery in the lawsuit you brought against the above named third party tortfeasor. Your no-fault insurer must, under recent court decisions and Insurance Department Regulations, pay no-fault benefits it did not originally pay because it took credit for our payments to you. THE EXACT AMOUNT OF MONEY YOU MAY BE ENTITLED TO RECEIVE DEPENDS UPON A NUMBER OF FACTORS WHICH YOUR NO-FAULT INSURER AND/OR LAWYER WILL EXPLAIN TO YOU.

IN ORDER TO PROTECT YOUR RIGHT TO GET PAID, SHOW THIS TO YOUR LAWYER IMMEDIATELY!

If you are handling your case without a lawyer give the original of this letter to your no-fault insurer without delay and keep a copy for your own records. If you do not personally deliver this letter to your no-fault insurer, we suggest that you send it by certified mail, return receipt requested, in order that you have proof of their receipt of this letter.

Your no-fault insurer has 30 days after receipt of this letter to pay all amounts owed to you. If you do not receive payment of all amounts owed to you within 30 days, you or your lawyer should telephone the New York State Insurance Department at (212)775-1011 in New York City or toll free at (800)522-4370 elsewhere in the State and request assistance from the Insurance Department.

Date

Print or Type Name

Signature

Telephone No. & Extension

Official Title

Claimant's Attorney -- Please Note -- See Chapter 572 of the Laws of 1978, Sections 1 and 3 and 11th Amendment to Insurance Department Regulation No. 68, 11 NYCRR 65.6(p)(5) and 65.15 (p).

THE WORKERS' COMPENSATION BOARD EMPLOYS AND SERVES THE HANDICAPPED WITHOUT DISCRIMINATION.

Approved by Chairman, Workers' Compensation Board and the Superintendent of Insurance, State of New York

C-121.2 (10-78)