

November 2, 1983

SUBJECT: INSURANCE

WITHDRAWN
(EFF. 12-4-03)

DATED: November 2, 1983

SUPPLEMENT NO. 3 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 employee's 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. Only the excess over the New York State 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 reviewed since supplement # 2 to this Circular Letter was issued October 29, 1982 (identified with a double asterisk **):

QUALIFIED PLANS

EMPLOYER	COVERED EMPLOYEES AND BENEFITS
** ARCO Metals Co.	Hourly Employees - Entitled to up to \$ 140 per week for up to 26 weeks per disability. Salaried Employees - Entitled to full salary for up to 6 months per disability, after one year of service.
** Bedford Central School District	Teachers on Tenure. Maximum of 2 years at full pay.
*** Chevrolet, Inc.	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.
Corning Glass Works	Hourly Roll Employees - Entitled to an "Enriched Disability Plan", which provides up to \$ 150 per week for a maximum of 26 weeks per disability.
	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

QUALIFIED PLANS

EMPLOYER	COVERED EMPLOYEES AND BENEFITS
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.
Ford Motor Co.	See Chevrolet (above)
** G.A.T.X. Corp. (American Steamship Corp.)	All employees. From one to six months at full pay; or combination of full pay and 2/3 pay for a maximum of six months, depending upon length of service.
General Electric Co.	All employees. Level I Benefits - 20 days each 12 months, at full pay. 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 applicable weekly 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.
* Greenwich Fixture Co.	Officers of the company not covered by the union plan.
** Ingersoll - Rand Co.	Union Employees - \$ 145 per week for

QUALIFIED PLANS

EMPLOYER	COVERED EMPLOYEES AND BENEFITS
* Village of Mamaroneck, N.Y.	a maximum of 52 weeks. Salaried Employees - Full salary for 3 to 26 weeks; or combination of full pay and 60% of salary for a maximum of 26 weeks, depending upon length of service.
* Manhasset Union Free School District	Police Officers.
Motorola, Inc.	All professional personnel including teaching and administrative staff.
* New York City	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 State Electric and Gas Corp.	Employees in the uniformed services of Police, Fire, Correction and Sanitation Departments
Niagara Mohawk Power	Hourly Employees - (with more than 6 months service) - entitled to 85% of basic earnings (40 hour week) for up to 26 weeks per disability. Salaried Employees - Entitled to full salary for a specified period of time, based on length of service. Insurer must ascertain benefit period eligible injured person is entitled to.
** Occidental Chemical Corp.	All employees. Benefits are payable for up to 26 weeks at 100% of salary.
	All employees (after successful

QUALIFIED PLANS

EMPLOYER	COVERED EMPLOYEES AND BENEFITS
** J.C. Penney	<p data-bbox="699 373 1101 489">completion of probationary period) - 55% of base salary for a maximum of 26 weeks per disability.</p> <p data-bbox="699 548 1101 926">All employees working more than 20 hours per week (after 13 weeks of service) - Combination of full pay and 1/2 pay for a maximum of 26 weeks depending upon length of service, after a waiting period of 0-5 days, depending upon length of service.</p>
Prudential Property and Casualty Insurance Co.	<p data-bbox="699 989 1101 1058">All Employees: (Level I) 10,15, or 20 days</p> <p data-bbox="699 1073 1101 1583">at full pay per year depending upon 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.</p>
** Reynolds Metals Co.	<p data-bbox="699 1646 1101 1890">Employees with less than 2 years of service - up to 26 weeks per disability. Employees with more than 2 years of service - up to 104 weeks per disability. Benefits range from \$ 235 per week to \$ 303 per week,</p>

QUALIFIED PLANS

EMPLOYER	COVERED EMPLOYEES AND BENEFITS
	depending upon an employee's "Insurance Class".
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.
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.
* City of Yonkers, N.Y.	Police Officers.

NON-QUALIFIED PLANS

Alliance Tool Corp.	International Telephone and Telegraph Corp. (ITT)
Amos Post, Inc.	** Ivy Hill Corp.
Associated Metals and Minerals Corp.	Lightron of Cornwall, Inc.
Bristol Labs a.k.a. Bristol Myers	** Longines - Wittnauer Watch Co.
Buffalo Envelope	MacMillan, Inc.
** C.D.I. Corp.	** Management Assistance, Inc.
Celanese Corp.	** Montgomery Ward
Community Savings Bank	** M.O.N.Y.
Computer Task Group	National Bulk Carriers
Con Edison	Nationwide Insurance Co.
** Dellwood Foods, Inc.	** Nestle
Dobbs Ferry U.F.S.D.	** New York Daily News
Eastman Kodak	New York State Employees
** Elmira College	New York Telephone Company
	** New York Times

NON-QUALIFIED PLANS

** Fisher - Price Toys	Rochester Telephone
** W.W. Granger, Inc.	So. Huntington Schools
** Harris Corp.	U.F.S.D. # 13
Hart Schaffner and Marx (Wallachs)	Sperry Rand
I.B.M.	State University of New York
** Western Electric	** Syosset General School District

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.

*** Applies to employees of all divisions of General Motors who are represented by the U.A.W.

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
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Two World Trade Center
New York, New York 10047

Very truly yours,

[SIGNATURE]

JAMES P. CORCORAN

Superintendent of Insurance

JFC/bmb