



STATE OF NEW YORK
INSURANCE DEPARTMENT
160 WEST BROADWAY
NEW YORK, NEW YORK 10013

WITHDRAWN EFFECTIVE 08/24/2010

**Circular Letter No. 16 (1996)
November 22, 1996**

**TO: All Automobile Self-Insurers, and Insurers Licensed to Write
Automobile Insurance In New York State**

**RE: Chapter 639 of the Laws of 1996, The New York State Health Care
Reform Act and Its Effects on No-Fault Insurance**

Section 2807-c and related provisions of Article 28 of the Public Health Law establish the hospital inpatient reimbursement system. Chapter 639 of the Laws of 1996, the New York Health Care Reform Act, has made certain changes to the reimbursement system that are applicable to No-Fault payments. Effective January 1, 1997 through December 31, 1999, No-Fault insurers will continue to reimburse at Diagnostic Related Group (DRG) rates, which will now utilize Medicaid rates as a base. However, the new DRG rates will not include the current 13% differential which is added to the base rate. Instead, No-Fault insurers and self-insurers will have to pay a surcharge on payments made for services rendered in General Hospitals, Diagnostic & Treatment centers (that provide a comprehensive range of primary health care services or ambulatory surgical services) and free standing clinical laboratories to fund the public goods pool (Bad Debt & Charity pool and New Health Care Initiatives pools). The Department of Health has transmitted a list of facilities whose services are subject to the surcharge to all affected insurers.

The amount of surcharge payable by a No-Fault insurer to the public goods pool is contingent upon the mode of payment elected by the insurer to comply with Section 2807(j) of the Public Health Law. Two options are available. By now, all insurers and self-insurers should have received a packet of material from the Department of Health explaining these pool participation options. Any questions concerning the election process or the forms needed to file an election choice, can be directed to Mr. Richard Pellegrini, Director of the Department of Health's Bureau of Financial Management and Information Support at (518) 473-4653.

If the insurer elects to pay the Department of Health's pool administrator directly on a monthly basis, the surcharge would equal 8.18% for all surchargeable services actually paid. If the insurer elects not to pay the Department of Health's pool administrator directly and elects instead to pay the health provider directly, an additional surcharge of 24% will be added to the bill. This would bring the total surcharge to 32.18%. The Department of Health is clearly encouraging carriers to make payment directly to the Department's pool administrator.

An insurer's election to make direct payments to the Department of Health's pool administrator for a calendar year must be received by the Department of Health by December 1, of the preceding year. If the initial election date (December 1, 1996) is missed, an election to make direct payment can be made at quarterly intervals during 1997,

if an election form is submitted in accordance with rules established by the Department of Health.

For No-Fault insurers that elect to pay the Department of Health's pool administrator directly, the 8.18% surcharge can be offset against the applicant's No-Fault benefit package. However, those insurers that elect to pay health providers directly and thereby incur the additional 24% surcharge, may not offset and thereby reduce an applicant's No-Fault benefit package by the additional 24% surcharge. The additional surcharge is self imposed based upon an insurer election and cannot be passed along as an offset to the applicant for benefits. While the insurer may still offset the 8.18% surcharge against the applicant's No-Fault benefit package, the additional 24% surcharge may be charged as an unallocated loss adjustment expense.

The Health Care Reform Act requires No-Fault billing using DRG rates for inpatient hospital stays. The bill does not provide for a negotiated rate for any No-Fault managed care program. Therefore, all No-Fault managed care programs will be bound by DRG rates for inpatient hospital stays, including all applicable Department of Health surcharges.

Any questions regarding this Circular Letter should be directed to Mr. Joseph Smeragliuolo at (212) 602-0349.

Please acknowledge receipt of this circular letter to:

Ms. Bettina Freer, Examiner
Property/Casualty Bureau
New York State Insurance Department
160 West Broadway
New York, NY 10013-3383