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**WITHDRAWN EFFECTIVE 08/24/2010**

**Supplement No. 1 to  
Circular Letter No. 16 (1996)  
November 21, 2003**

**TO: All Motor Vehicle Automobile Self-Insurers, and Insurers Authorized To Write Motor Vehicle Insurance In New York State**

**RE: Statutory Amendments Made to the New York State Health Care Reform Act of 2000 and their Effects on No-Fault Insurance**

**STATUTORY AUTHORITY: Section 5108 of the Insurance Law**

[Circular Letter No. 16 \(1996\)](#) issued November 22, 1996 provided an explanation of motor vehicle automobile no-fault insurers' obligations in their implementation of Chapter 639 of the Laws of 1996. The purpose of this supplement is to update the information set forth in the earlier Circular Letter, based on subsequent amendments to the New York State Health Care Reform Act.

Section 2807-c and related provisions of Article 28 of the Public Health Law establish the hospital inpatient reimbursement system. The New York Health Care Reform Act has been revised and certain changes have been made to the reimbursement system that are applicable to No-Fault payments. Effective January 1, 1997 through June 30, 2005 No-Fault insurers will continue to reimburse hospitals using Diagnostic Related Group (DRG) rates, which will utilize Medicaid rates as a base. Payments made by NYS No-Fault insurers, self-insurers and other insurers are subject to a surcharge with regard to services rendered by general hospitals, comprehensive Diagnostic and Treatment Centers and ambulatory surgical Diagnostic and Treatment Centers (see Public Health Law section 2807-j) to fund the public goods pool (Indigent Care Pool and Health Care Initiatives Pool). The Department of Health maintains a list of facilities whose services are subject to the surcharge. The lists of designated providers can be found on the HCRA Web site: [www.health.state.ny.us/nysdoh/hcra/provider.htm](http://www.health.state.ny.us/nysdoh/hcra/provider.htm).

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. If the insurer elects to pay the Department of Health's Office of Pool Administration directly, the surcharge would equal 8.85% for all surchargeable services provided on and after July 1, 2003. If the insurer does not elect to pay the Department of Health's Office of Pool Administration directly, it must pay the provider of service the 8.85% surcharge plus an additional 25.97%. This would bring the total surcharge to 34.82% for all surchargeable services provided on and after July 1, 2003.

In addition, the Department of Health has advised that all electing monthly payors are required to file electronically for reporting periods on and after July 1, 2004. Payors whose elections are effective on or after January 1, 2004 will be subject to mandatory electronic filing only after one full year of pool payment experience, which results in them being a monthly filer. In regard to monthly elections, beginning June 1, 2003, an election shall begin on the first day of the month following the date the election application is postmarked.

For No-Fault insurers that elect to pay the Department of Health's Office of Pool Administration directly, the 8.85% surcharge can be offset against the applicant's aggregate No-Fault benefit limit. However, those insurers that elect to pay health providers directly and thereby incur the additional 25.97% surcharge, may not offset (and thereby reduce) an applicant's aggregate No-Fault benefit limit by the additional 25.97% surcharge. The

additional surcharge is 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 8.85% surcharge against the applicant's aggregate No-Fault benefit limit, the additional 25.97% surcharge may be charged as an adjusting and other expense.

Any questions regarding this Circular Letter should be directed to Ms. Debra Forde at (212) 480-5665 or [email Ms. Forde](#).

Very truly yours,

Mark Presser  
Assistant Deputy Superintendent &  
Bureau Chief, Property Bureau