



**STATE OF NEW YORK
INSURANCE DEPARTMENT**
25 BEAVER STREET
NEW YORK, NEW YORK 10004

George E. Pataki
Governor

Howard Mills
Acting Superintendent

**Circular Letter No. 10 (2005)
May 16, 2005**

TO: All insurers authorized to write motor vehicle insurance in New York State or workers' compensation insurance providing benefits in lieu of first party benefits under No-fault; motor vehicle self-insurers; and the Motor Vehicle Accident Indemnification Corporation (MVAIC)

RE: PIP (No-fault) inter-company loss transfer procedures

STATUTORY REFERENCE: NYIL Sections 308 and 5105, Section 65-4.11 of Regulation No. 68-D (11 NYCRR 65-4)

Pursuant to Section 5105 of the Insurance Law, if at least one of the motor vehicles involved in an accident is a motor vehicle weighing more than 6,500 pounds (unloaded) or is a motor vehicle used principally for the transportation of persons or property for hire, a No-fault insurer (including a self-insurer and MVAIC) or a compensation provider (as defined in NYIL Section 5102(l)) has a right to recover No-fault first party benefits that it has paid from the insurer of a party determined to be liable for damages. (This right does not apply to an insurer of passengers of a bus or school bus except in limited circumstances.)

If there is a dispute with respect to a claim arising pursuant to Section 5105, the sole remedy of any insurer or compensation provider is via the submission of the controversy to a mandatory arbitration program. This No-fault inter-company loss transfer arbitration program is administered by the Superintendent's designee, Arbitration Forums Inc. (AF).

Approval of new No-fault inter-company loss transfer procedures

The purpose of this Circular Letter is to advise that, in accordance with Section 65-4.11 of Regulation No. 68-D (11 NYCRR 65-4), the Superintendent has approved revised procedures submitted by AF, in consultation with the No-fault Inter-Company Loss Transfer Advisory Committee, for the administration of the No-fault inter-company loss transfer arbitration program. The revised procedures include several significant changes. For example:

- All applications and responses **MUST** be accompanied by a completed Contentions Sheet that lists all evidence that will be presented for consideration by the arbitrator(s).

- Arbitration shall be requested no later than three (3) years from the date that the claim payment is made.
- The minimum proof of damages necessary to support an Applicant's case is a computer printout or a ledger of benefits paid, kept in the regular course of business. The ledger must include the name of the payee, amount paid, date of service, and date paid. Additional proof may be needed if damages are contested.

The complete NY PIP Arbitration Procedures applicable to use in the arbitration forum are accessible at AF's website, www.arbfile.org, under the Forum's tab.

Arbitrator participation in No-fault inter-company loss transfer arbitration

Pursuant to Section 65-4.11 of the Regulation, the Administrator appoints members of local arbitration panels from full-time salaried representatives of insurers on the basis of their experience and qualification. Accordingly, each No-fault insurer, self-insurer, compensation provider, and MVAIC should designate to AF at least one qualified full-time salaried representative in each jurisdiction where the company participates in No-fault inter-company loss transfer arbitration who will be available for appointment by AF as an arbitrator in this forum. In addition, each user of this forum should designate at least one individual who will be responsible for resolving any case scheduling or administrative issues within this forum.

Arbitrator designee(s) and contact person(s)

Within ten business days of receipt of this Circular Letter, please provide in writing the name, title, address, telephone number and e-mail address of your arbitrator designee(s) along with that designee's resume outlining his or her qualifications, as well as the name and phone number of the individual(s) designated to act as the contact person(s) for administrative purposes, to:

Ms. Toni Ruocchio, Regional Manager
Arbitration Forums Inc.
867 Church Street – Union # 6
Bohemia, New York 11716

Phone: 631-567-1431; Fax: 631-567-1560; e-mail: truocchi@arbfile.org

If you have any questions concerning the content of this Circular Letter, contact Isaac Zamdas, Principal Insurance Examiner, at 212-480-5586, or via e-mail [Isaac Zamdas](mailto:Isaac.Zamdas).

Very truly yours,

Mark Presser
Assistant Deputy Superintendent & Chief
Examiner
Property Bureau