



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

George E. Pataki
Governor

Howard Mills
Superintendent

**Circular Letter No. 21 (2005)
November 25, 2005**

To: All motor vehicle automobile self-insurers and insurers licensed to write motor vehicle liability insurance in New York State

Re: Unpaid No-fault conciliation agreements, American Arbitration Association (AAA) issued settlement letters and No-fault arbitration and master arbitration awards

STATUTORY REFERENCE: Sections 109 and 5106 of the Insurance Law and Regulation No. 68

The purpose of this circular letter is to advise insurers and self-insurers regarding the actions that are taken by the Department when insurers and self-insurers fail to make timely payment on No-fault conciliation agreements, AAA issued settlement letters and No-fault arbitration awards.

A No-fault conciliation agreement, AAA issued settlement letter, or No-fault arbitration award must be paid within 30 calendar days of the date the conciliation agreement, AAA issued settlement letter, or arbitration award was mailed to the parties (excluding an award that has been appealed to a master arbitrator). Master arbitration awards must be paid within 21 calendar days of the mailing of the award. The award need not be confirmed into judgment. Failure to comply with the above noted time frames is a violation of Section 5106 of the New York Insurance Law.

If a conciliation agreement, settlement letter issued by the AAA, or an arbitration award issued by a New York No-fault arbitrator or master arbitrator is not paid within the time frames stated above, an applicant or applicant's attorney may submit an enforcement request to the Department's Property Bureau Claims Administration Unit. With every request for enforcement, the Department requires insurers and self-insurers to either provide proof to the Department that full payment was made or an explanation why payment was not made. Pursuant to Section 109(c)(1) of the New York Insurance Law, a penalty may be imposed on insurers for each complaint made where no justifiable reason was furnished to the Department explaining why the conciliation agreement, settlement letter issued by the AAA, arbitration award or master arbitration award was not paid timely. Furthermore, these complaints will be recorded for the purpose of calculating the complaint ratios that form the basis of the Department's annual complaint ranking.

In addition to the foregoing, insurers and self-insurers are required to comply with Section 3.10(b) of Regulation 68-C (11 NYCRR 65-3), which reads in part:

"if payment is not made by the insurer in accordance with the terms specified in the conciliation letter or arbitration award within 45 days following such resolution, an additional attorney's fee shall be paid by the insurer when the attorney writes to the insurer in order to receive such overdue payment. The additional attorney's fee shall be \$60 and shall become payable only after written request from the attorney to the insurer, received by the insurer more than 45 days after mailing of the conciliation letter or arbitration award. Such fee shall not be payable if payment was made by the insurer prior to the attorney's request for such payment or if an arbitration award is appealed in accordance with the provisions of this Part."

If you have any questions regarding the contents of this circular letter please contact:

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Very truly yours,

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