



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

George E. Pataki  
Governor

Howard Mills  
Superintendent

**Circular Letter No. 17 (2006)  
September 15, 2006**

**TO: All insurers authorized to write motor vehicle insurance in New York State, motor vehicle self-insurers, and the Motor Vehicle Accident Indemnification Corporation (MVAIC)**

**RE: Fair claims settlement practices: interest on overdue No-fault claims and claim settlement structure**

**STATUTORY REFERENCE: NYIL Section 5106; Section 65-3.9 of Regulation 68-C (11 NYCRR 65-3)**

The purpose of this Circular Letter is to remind insurers of their obligations with respect to settling claims that are subject to Regulation 68-C.

The Insurance Department has become aware of a practice whereby the parties to a disputed no-fault claim enter into an agreement to settle the dispute for a monetary amount without itemizing the principal and interest components of such amount. This practice does not comply with the provisions of 11 NYCRR 65-3.9(e) and 11 NYCRR 65-3.9(f), which require the separate identification of any interest payment from the principal and that interest payments are not to be included in ratemaking calculations. Also, insurers are prohibited from taking credit for interest payments in calculating whether the maximum aggregate policy limits have been reached. Therefore, if the terms of a settlement include interest, the insurer should separately identify the amounts allocable to the principal and the interest in each case.

In addition, insurers are reminded that 11 NYCRR 65-3.9(b) provides that an insurer "...shall not suggest or require, as a condition to settlement of a claim, that the interest due be waived." This rule is designed to encourage the prompt payment of claims and resolution of disputes while preventing insurers from exercising undue influence on applicants by inducing them to waive their rights to the payment of accrued interest as a condition of obtaining a quick settlement of their claims. Insurers are required to take all necessary steps to ensure compliance with this provision.

As in the past, the Department will investigate complaints on these subjects and will monitor insurers' claim settlement practices to ensure that they are not engaging in any prohibited practice. Insurers found to be in violation of the above cited regulation will be subject to appropriate disciplinary action in accordance with the Insurance Law.

It should be noted that 11 NYCRR 65-3.2(g) requires that every insurer, self-insurer and the MVAIC distribute copies of the Regulation to every person directly responsible for the handling and settlement of its claims for mandatory and additional first party benefits, and to satisfy itself that all such personnel are thoroughly conversant with the regulation.

Questions concerning the content of this Circular Letter should be directed to the attention of Isaac Zamdas, Principal Examiner at the following address:

New York State Insurance Department  
25 Beaver Street  
New York, NY 10004

Mr. Zamdas can also be contacted by telephone at 212-480-5586 or via e-mail at [Isaac Zamdas](mailto:Isaac.Zamdas).

Very truly yours,

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Mark Presser  
Assistant Deputy Superintendent &  
Chief Examiner  
Property Bureau