



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

**David A. Paterson
Governor**

**Eric R. Dinallo
Superintendent**

Circular Letter No. 14 (2008)

June 10, 2008

TO: All Authorized Insurers Writing Motor Vehicle Insurance in New York State, Motor Vehicle Self-insurers, and the Motor Vehicle Accident Indemnification Corporation (MVAIC)

RE: Unfair Claims Settlement Practices: Interest on Overdue No-Fault Claims and Claim Settlement Structure.

STATUTORY REFERENCE: Section 5106 of the Insurance Law; Section 65-3.9 of Regulation 68-C (11 NYCRR 65-3)

Circular Letter No. 17 (2006), issued on September 15, 2006, reminded insurers of their obligations with respect to settling claims that are subject to Regulation 68-C.

The letter advised insurers 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 ensures 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 settlement of their claims. Citing 11 NYCRR § 65-3.9(e) and 11 NYCRR § 65-3.9(f), the letter also stated that where the terms of a settlement include interest, the insurer should separately identify the amounts allocable to the principal and the interest.

The purpose of this letter is to advise insurers that the obligations set forth in 11 NYCRR § 65-3.9 fully apply regardless of whether a claim is in litigation or arbitration, and cannot be circumvented by having outside counsel or other representatives of insurers suggest or require, as a condition of settlement of a contested claim, waiver of any interest that is due. The Department expects insurers to take all necessary measures to ensure that the actions of its employees, legal representatives and other claim processors comply fully with all pertinent statutory and regulatory mandates.

The Department will continue to enforce compliance with the law through market conduct examinations of insurers, including targeted investigations of insurers, when warranted.

Moreover, the Department will continue to enforce requests for assistance in obtaining payment of arbitration awards, including the correct identification of applicable interest payments due, as referenced in Circular Letter No. 21 (2005).

Please direct any comments or questions regarding the content of this circular letter to:

Debra Parris, Senior Insurance Examiner
New York State Insurance Department
25 Beaver Street
New York, NY 10004
212-480-5665 or e-mail at dparris@ins.state.ny.us

Very truly yours,

Larry Levine
Assistant Deputy Superintendent &
Chief Examiner
Property Bureau