

NEW YORK CODES, RULES AND REGULATIONS

\*\*\* THIS DOCUMENT REFLECTS CHANGES RECEIVED THROUGH OCTOBER 24, 2003 \*\*\*

TITLE 11. INSURANCE DEPARTMENT

CHAPTER III. POLICY AND CERTIFICATE PROVISIONS

SUBCHAPTER B. PROPERTY AND CASUALTY INSURANCE

PART 65. \* (REGULATION 68) REGULATIONS IMPLEMENTING THE COMPREHENSIVE  
MOTOR VEHICLE INSURANCE REPARATIONS ACT

11 NYCRR § 65.18 (2003)

**§ \* 65.18 Optional arbitration procedures under section 5106(b) of the Insurance Law with respect to personal injuries sustained on and after December 1, 1977 for arbitrations filed with an organization designated by the Superintendent on and after December 1, 1999**

**(a) Application.**

(1) This section shall apply to insurers, and the term insurer, as used in this section, shall include both insurers and self-insurers, as those terms are defined in this Part and article 51 of the Insurance Law, and shall also include the Motor Vehicle Accident Indemnification Corporation (MVAIC) created pursuant to article 52 of the Insurance Law and any company or corporation providing insurance pursuant to section 5103(g) of the Insurance Law.

(2) Section 5106 of the Insurance Law requires that the Superintendent of Insurance promulgate simplified procedures for the resolution by arbitration of no-fault disputes.

(3) Chapter 892 of the Laws of 1977 provides for the establishment of revised optional arbitration systems for the resolution of no-fault disputes. These changed procedures for the administration of the arbitration system provide for initial review of all arbitration requests by an organization designated by the superintendent, who is authorized to receive, attempt to conciliate and forward to arbitration all requests for arbitration that it cannot conciliate.

(4) All arbitrations will be administered by the designated organization. Pursuant to Chapter 340 of the Laws of 1981, which amended former section 675(2), now section 5106(b) of the Insurance Law, disputes involving claims arising under an additional personal injury protection endorsement for accidents occurring on and after January 1, 1982 are arbitrable.

**\*\* (b) Procedures.**

**(1) Initiation of arbitration.**

(i) An applicant for benefits may initiate arbitration proceedings by mailing a copy of the denial of claim form

prescribed by section 65.15(c) of this Part, upon which the applicant has entered the reason(s) for contesting the denial, together with a detailed listing and calculation of all incurred expenses in dispute, indicating the dates upon which the claims for incurred expenses were submitted to the insurer, to the address designated on the denial of claim form. If there is a dispute with respect to any matter which is arbitrable pursuant to section 5106 of the Insurance Law and a denial of claim form has not been issued, the applicant may initiate arbitration by completing a no-fault arbitration request form and forwarding the original and one copy to the designated organization at the address designated on the form, and one copy to the insurer against which arbitration is being requested. The no-fault arbitration request form shall be prescribed by the designated organization and approved by the superintendent.

(ii) The denial of claim form or the arbitration request form shall be accompanied by a check or money order for \$40 payable to the designated organization. This filing fee shall be returned to the applicant directly by the insurer, if the applicant prevails in whole or in part.

(iii) As a condition precedent to arbitration where there is no denial of claim by an insurer, evidence of attempts to settle the dispute must be detailed on the arbitration request form.

(iv) In the absence of a denial of claim form, a dispute shall be considered arbitrable if the claim is overdue as described in paragraph (g)(1) of section 65.15 of this Part and a demonstrable attempt was made by the applicant to obtain payment or an explanation from the insurer of the continued nonpayment of the claim.

(v) All items on the no-fault arbitration request form must be completed in full. An explanation must be provided for any omitted spaces on the form, which may be obtained, upon request, from the designated organization by writing to the address designated on the Denial of Claim Form (NYS Form N F 10), which is included in Appendix 13-A of this Title.

(2) Initial review by the conciliation center.

(i) The designated organization shall establish a conciliation center, which shall review all requests for arbitration and assign file numbers thereto, which shall be used by the designated organization and the parties to identify the case.

(ii) Each insurer shall designate, for each claims office used by the insurer to handle New York no-fault claims, a responsible staff member whom the conciliation center can contact to determine whether the no-fault dispute for which arbitration has been requested can be resolved without the

need for arbitration. Since conciliation staff will attempt to resolve the dispute by telephone, facsimile, e-mail, or other means, the insurer's designated representative shall have the authority to bind the insurer to any agreement reached. The insurer shall notify the conciliation center of the designated representative in writing and immediately notify the conciliation center of any change in such designation.

(iii) If it appears, after review, that the dispute may be resolved without arbitration, the conciliation center will communicate with the parties and attempt through conciliation to resolve the dispute.

(a) If all the issues in dispute are resolved through the designated organization's conciliation, by the insurer agreeing to pay and the applicant agreeing to accept all or a portion of the amount in dispute, the insurer shall, in addition, return the filing fee to the applicant. If the claim was overdue, the insurer shall also pay the applicable interest.

(b) If the arbitration was initiated by use of a no-fault arbitration request form and it is subsequently established that the claim and any applicable interest and attorney fees were paid at least 20 calendar days prior to the submission of the completed arbitration request form, the filing fee shall not be returned to the applicant. In such instance, an additional \$100 service and processing fee shall be payable by the applicant to the designated organization.

(iv) If it appears to the conciliation center that the dispute cannot be resolved through conciliation within 60 calendar days, the conciliation center will refer the request for arbitration as prescribed in this section and the applicant shall be so advised. The conciliation center may, however, withhold such referral pending receipt from the applicant of pertinent and available information that has been requested.

(3) Submission of documents.

(i) The applicant shall submit all documents supporting the applicant's position along with their request for arbitration. Such documents shall also be simultaneously submitted to the respondent. Following this original submission of documents, no additional documents may be submitted by the applicant other than bills or claims for ongoing benefits.

(ii) The designated organization shall, no later than five business days after receipt of the arbitration request, advise the respondent of such receipt. The respondent shall, within 30 calendar days after the mailing of such advice, provide all documents supporting its position on the

disputed matter. Such documents shall be submitted to the applicant at the same time. The respondent may, in writing, request that the designated organization provide an additional 30 calendar days to respond based upon reasonable circumstances that prevent it from complying.

(iii) The written record shall be closed upon receipt of the respondent's submission or the expiration of the period for receipt of the respondent's submission. Documents submitted after the record is closed shall be marked "Late".

(iv) Any additional written submissions may be made only at the request or with the approval of the arbitrator.

(v) The provisions of this paragraph shall take effect with all arbitrations filed on and after March 1, 2002.

(4) All disputes remaining after expiration of the conciliation period shall be forwarded for arbitration.

\*\*NB Effective until June 24, 2002

\*\***(b)** Procedures.

(1) Initiation of arbitration.

(i) An applicant for benefits may initiate arbitration proceedings by mailing a copy of the denial of claim form prescribed by section 65.15(c) of this Part, upon which the applicant has entered the reason(s) for contesting the denial, together with a detailed listing and calculation of all incurred expenses in dispute, indicating the dates upon which the claims for incurred expenses were submitted to the insurer, to the address designated on the denial of claim form. If there is a dispute with respect to any matter which is arbitrable pursuant to section 5106 of the Insurance Law and a denial of claim form has not been issued, the applicant may initiate arbitration by completing a prescribed no-fault arbitration request form (Form AR) and forwarding the original and one copy to the designated organization at the address designated on the form, and one copy to the insurer against which arbitration is being requested.

(ii) The denial of claim form or the arbitration request form shall be accompanied by a check or money order for \$40 payable to the designated organization. This filing fee shall be returned to the applicant directly by the insurer, if the applicant prevails in whole or in part.

(iii) As a condition precedent to arbitration where there is no denial of claim by an insurer, evidence of attempts to settle the dispute must be detailed on the arbitration request form.

(iv) In the absence of a denial of claim form, a dispute shall be considered arbitrable if the claim is overdue as

described in paragraph (g)(1) of section 65.15 of this Part and a demonstrable attempt was made by the applicant to obtain payment or an explanation from the insurer of the continued nonpayment of the claim.

(v) All items on the no-fault arbitration request form (Form AR) must be completed in full. An explanation must be provided for any omitted spaces on the form, which may be obtained, upon request, from the designated organization by writing to the address designated on the form, which is included in Appendix 13A of this Title.

(2) Initial review by the conciliation center.

(i) The designated organization shall establish a conciliation center, which shall review all requests for arbitration and assign file numbers thereto, which shall be used by the designated organization and the parties to identify the case.

(ii) Each insurer shall designate, for each claims office used by the insurer to handle New York no-fault claims, a responsible staff member whom the conciliation center can contact to determine whether the no-fault dispute for which arbitration has been requested can be resolved without the need for arbitration. Since conciliation staff will attempt to resolve the dispute by telephone, facsimile, e-mail, or other means, the insurer's designated representative shall have the authority to bind the insurer to any agreement reached. The insurer shall notify the conciliation center of the designated representative in writing and immediately notify the conciliation center of any change in such designation.

(iii) If it appears, after review, that the dispute may be resolved without arbitration, the conciliation center will communicate with the parties and attempt through conciliation to resolve the dispute.

(a) If all the issues in dispute are resolved through the designated organization's conciliation, by the insurer agreeing to pay and the applicant agreeing to accept all or a portion of the amount in dispute, the insurer shall, in addition, return the filing fee to the applicant. If the claim was overdue, the insurer shall also pay the applicable interest.

(b) If the arbitration was initiated by use of a no-fault arbitration request form (Form AR) and it is subsequently established that the claim and any applicable interest and attorney fees were paid at least 20 calendar days prior to the submission of the completed AR form, the filing fee shall not be returned to the applicant. In such instance, an additional \$100 service and processing fee shall be

payable by the applicant to the designated organization.

(iv) If it appears to the conciliation center that the dispute cannot be resolved through conciliation within 45 days, the conciliation center will refer the request for arbitration as prescribed in this section and the applicant shall be so advised. The conciliation center may, however, withhold such referral pending receipt from the applicant of pertinent and available information that has been requested.

(3) All disputes remaining after expiration of the conciliation period shall be forwarded for arbitration.

\*\*NB Effective June 24, 2002

(c) No-Fault Optional Arbitration Advisory Committee. The superintendent shall select an advisory committee composed of 12 members to review the operations and the actual costs of the designated organization set forth in this section. Not more than four of the members of the advisory committee shall be representatives of self-insurers.

(d) Financing.

(1) The cost of administering the designated organization's conciliation function, reduced by any fees collected, shall be paid annually by insurers (including self-insurers and MVAIC) to the designated organization upon receipt of a statement therefrom. This cost shall be distributed among insurers in an equitable manner approved by the Superintendent of Insurance. This distribution shall, to the extent practicable, be a function of the degree to which an insurer is named as a respondent in conciliation proceedings of the designated organization.

(2) Semiannually, commencing December 1, 1999 and continuing every six months thereafter, the designated organization shall prepare an estimate of the expenses expected to be incurred for the operation of the conciliation function during the subsequent six-month period. The projected cost of the conciliation function shall be assessed on a proportionate basis to those insurers named as respondents in the preceding calendar year and shall be subject to the approval of the superintendent. The designated organization shall send to each applicable insurer a bill for the amount due and any payment due shall be made to the designated organization within 30 days after billing date.

(3) On an annual basis, as of December 31st of each year, the designated organization shall prepare a detailed analysis of the actual costs incurred for the operation of the conciliation function. This analysis shall be forwarded to the No-Fault Optional Arbitration Advisory Committee and the superintendent on or before April 30th of each year. The No-Fault Optional Arbitration Advisory Committee shall notify the designated organization and the superintendent whether it accepts or rejects the designated organization's cost analysis in whole or in part. In the event that the designated organization and the No-Fault

Optional Arbitration Advisory Committee cannot resolve any differences that may exist, such differences will be referred to the superintendent for resolution. The superintendent's decision shall be binding on the designated organization and insurers.

(4) Once the designated organization submits a final cost analysis that has either been approved by the No-Fault Optional Arbitration Advisory Committee or resolved by the superintendent in the event of a dispute, the designated organization shall send to each applicable insurer an accounting of the actual assessment. Any adjustment shall be made to the bill for the subsequent estimated assessment, as illustrated by the following example:

**EXAMPLE**

(1) Total conciliation cases closed during year	30,000
(2) Cases in which Insurer A was named as a respondent in the conciliation proceeding	1,250
(3) Insurer A's Assessment Percentage = (2)/(1)	4.167%
(4) Actual Expenses of the conciliation function reduced by amounts received through fees collected	\$ 2,500,000
(5) Insurer A's actual expense = (3)*(4)	\$ 104,175
(6) Insurer A's Estimated Assessment	\$ 102,000
(7) Insurer A's Debit or (Credit) = (5)-(6)	\$ 2,175

**(e) Arbitration procedure.**

(1) Consolidation. The designated organization shall, except where impracticable, consolidate disputes for which a request for arbitration has been received, if the claims involved arose out of the same accident and involve common issues of fact.

**\*\* (2) Qualifications of arbitrators for a hearing held in New York State.**

(i) No-Fault Arbitrator Screening Committee. The superintendent shall appoint an advisory committee composed of six members, who will review the qualifications of applicants for the position of no-fault arbitrator for hearings to be held in New York State and review the performance of the appointed arbitrators. The screening committee shall make recommendations to the superintendent pertaining to the appointment and dismissal of no-fault arbitrators. The committee shall consist of one representative of the New York State Bar Association, one representative of the New York State Trial Lawyer's Association, two representatives of the insurance industry selected by the No-Fault Optional Arbitration Advisory Committee, a nonvoting representative of the designated organization and a nonvoting representative of the Insurance Department. Tie votes shall be reported as such to the superintendent.

(ii) A no-fault arbitrator shall be an attorney, licensed to practice law in New York State, with at least 5 years experience which the No-Fault Arbitrator Screening Committee has determined qualifies such attorney to review and resolve

the issues involved in no-fault insurance disputes. Documentation of such experience shall be submitted to, and reviewed by, the superintendent prior to the appointment of an arbitrator.

(iii) All no-fault arbitrators shall be appointed by, and serve at the pleasure of, the superintendent. An arbitrator candidate shall disclose to the superintendent any circumstance which is likely to create an appearance of bias or which might disqualify such person as an arbitrator, and the superintendent shall determine whether the candidate should be disqualified. The superintendent shall forward the name of all no-fault arbitrators to the designated organization, and promptly inform the designated organization of all additions to, and deletions from, the panel.

(iv) No person shall, during the period of appointment as an arbitrator, have any practice or professional connection with any firm or insurer involved in any degree with automobile insurance or negligence law. The No-Fault Arbitrator Screening Committee, subject to the approval of the superintendent, shall establish any additional qualifications for appointment as a no-fault arbitrator.

\*\*NB Effective until June 24, 2002\*\*

(2) Qualifications of arbitrators for a hearing held in New York State.

(i) No-Fault Arbitrator Screening Committee. The superintendent shall appoint an advisory committee composed of six members, who will review the qualifications of applicants for the position of no-fault arbitrator for hearings to be held in New York State and review the performance of the appointed arbitrators. The screening committee shall make recommendations to the superintendent pertaining to the appointment and dismissal of no-fault arbitrators. The committee shall consist of one representative of the New York State Bar Association, one representative of the New York State Trial Lawyer's Association, two representatives of the insurance industry selected by the No-Fault Optional Arbitration Advisory Committee, a nonvoting representative of the designated organization and a nonvoting representative of the Insurance Department. Tie votes shall be reported as such to the superintendent.

(ii) A no-fault arbitrator shall be an attorney, licensed to practice law in New York State, with at least 10 years' experience which the No-Fault Arbitrator Screening Committee has determined qualifies such attorney to review and resolve the issues involved in no-fault insurance disputes. Documentation of such experience shall be submitted to, and reviewed by, the superintendent prior to the appointment of an arbitrator.



(iii) All no-fault arbitrators shall be appointed by, and serve at the pleasure of, the superintendent. An arbitrator candidate shall disclose to the superintendent any circumstance which is likely to create an appearance of bias or which might disqualify such person as an arbitrator, and the superintendent shall determine whether the candidate should be disqualified. The superintendent shall forward the name of all no-fault arbitrators to the designated organization, and promptly inform the designated organization of all additions to, and deletions from, the panel.

(iv) No person shall, during the period of appointment as an arbitrator, have any practice or professional connection with any firm or insurer involved in any degree with automobile insurance or negligence law. The No-Fault Arbitrator Screening Committee, subject to the approval of the superintendent, shall establish any additional qualifications for appointment as a no-fault arbitrator.

\*\*NB Effective June 24, 2002

(3) Qualifications of arbitrators for a hearing held outside New York State. For a hearing which will be held outside New York State, the arbitrator shall be a licensed attorney in the State or Canadian province where the hearing is held.

(4) Designation of arbitrator. The designated organization shall designate an arbitrator who will hear the case, and shall submit the name of the arbitrator to each party to the arbitration. The designated organization shall maintain a file containing the professional background of each of its no-fault arbitrators, and the information contained therein shall be available to any party to the arbitration upon written or oral request.

(5) Conflict of interest and disqualification of arbitrator. No person shall serve as an arbitrator in any arbitration in which such person has any financial or personal interest or bias. If a party challenges an arbitrator, the specific grounds for the challenge shall be submitted in writing to the designated organization, which shall determine within 15 calendar days after receipt of the challenge whether the arbitrator shall be disqualified. Such determination shall be final and binding. If an arbitrator should resign, be disqualified or be otherwise unable to perform necessary duties, the designated organization shall designate another arbitrator to the case.

(6) Oaths. Arbitrators shall take an annual oath of office. Arbitrators shall require all witnesses to testify under oath or affirm that their statements are true under the penalties of perjury.

\*\*(7) Time and place of arbitration.

(i) The arbitration hearing shall be held in the arbitrator's office or any other appropriate place selected by the designated organization and, to the extent practicable, within the general locale of the applicant's residence but, in no event, more than 100 miles from such residence. The arbitrator shall fix the time and place for such hearing. At least 15 calendar days prior to the hearing, the designated organization shall mail a notice of hearing to each party. Unless otherwise agreed by the parties, the hearing shall be scheduled to be held within 30 calendar days of the date of the appointment of the arbitrator. The parties to the arbitration shall not directly contact the arbitrator at any time prior to or subsequent to the hearing, but shall direct all communications to the designated organization.

(ii) Effective with arbitrations filed on and after March 1, 2002, if the applicant requests arbitration within 90 days after the claim became overdue or within 90 days after receipt of the denial of claim, the arbitration shall be scheduled for a hearing within 45 days after transmittal from the conciliation center.

\*\*NB Effective until June 24, 2002

**(7)** Time and place of arbitration. The arbitration hearing shall be held in the arbitrator's office or any other appropriate place selected by the designated organization and, to the extent practicable, within the general locale of the applicant's residence but, in no event, more than 100 miles from such residence. The arbitrator shall fix the time and place for such hearing. At least 15 calendar days prior to the hearing, the designated organization shall mail a notice of hearing to each party. Unless otherwise agreed by the parties, the hearing shall be scheduled to be held within 30 calendar days of the date of the appointment of the arbitrator. The parties to the arbitration shall not directly contact the arbitrator at any time prior to or subsequent to the hearing, but may submit to the designated organization material intended for the arbitrator.

\*\*NB Effective June 24, 2002

**(8)** Postponements and adjournments. The arbitrator may for good cause postpone or adjourn the hearing upon request of a party or upon the arbitrator's own initiative. Each party may cause one adjournment without the payment of an adjournment fee, if the adjournment request is received by the designated organization at least two business days prior to the scheduled arbitration. There shall be an adjournment fee of \$50 payable to the designated organization by the party requesting any subsequent adjournment. An adjournment fee of \$100 shall be payable to the designated organization by the party causing any adjournment within two business days prior to the scheduled hearing. Such fees shall be used to defray the cost of administration of the arbitration forum.

(9) Representation at arbitration. Any party may represent itself or may be represented by an attorney.

(10) Record of proceedings. A stenographic record of the arbitration proceedings shall not be required. However, a party requesting such a record shall inform the other party or parties of such intent, make the necessary arrangements, and pay the cost thereof directly to the person or agency making such record. Any other party or parties to the arbitration shall be entitled to a copy of such record upon agreeing to share the cost of the total stenographic expense. Whether or not a stenographic record of the proceeding is made, the arbitrator shall, at a minimum, record the exhibits offered by each party and the names and addresses of all parties and witnesses.

(11) Interpreters. Any party wishing an interpreter shall make all arrangements directly with the interpreter and shall assume the costs of such services.

(12) Attendance at hearings. Persons having a direct interest in the arbitration are entitled to attend hearings. It shall be discretionary with the arbitrator to permit the attendance of any other persons.

**\*\* (13) Evidence.**

(i) The arbitrator shall be the judge of the relevance and materiality of the evidence offered, and strict conformity to legal rules of evidence shall not be necessary.

(ii) The arbitrator or an attorney of record in the arbitration may subpoena witnesses or documents upon the arbitrator's own initiative or upon the request of any party, when the issues to be resolved require such witnesses or documents.

(iii) The arbitrator shall determine if the parties provided and exchanged documents in accordance with the requirements of subparagraphs (i) and (ii) of section 65.18(b)(3) of this Part.

\*\*NB Effective until June 24, 2002

**\*\* (13) Evidence.**

(i) The arbitrator shall be the judge of the relevance and materiality of the evidence offered, and strict conformity to legal rules of evidence shall not be necessary.

(ii) The arbitrator or an attorney of record in the arbitration may subpoena witnesses or documents upon the arbitrator's own initiative or upon the request of any party, when the issues to be resolved require such witnesses or documents.

(iii) Copies of all documents to be submitted to the arbitrator shall be simultaneously transmitted to the other

parties at least seven calendar days prior to the hearing. The arbitrator shall determine if all parties received such documents prior to the commencement of the hearing.

\*\*NB Effective June 24, 2002

(iv) If a party to the arbitration intends to introduce an expert witness at the hearing, the identity of the expert witness must be given to all parties at least seven calendar days prior to the hearing.

(14) Arbitration in the absence of a party. The arbitration may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain a postponement or adjournment. An award shall not be made in favor of an appearing party solely on the default of another party. The arbitrator shall require the appearing party to submit such evidence as may be required for the making of an award. The arbitrator may require the appearance of a party at the hearing if the arbitrator determines that the party's appearance is necessary to realize a fair and just resolution of the dispute and to afford all parties due process.

(15) Reopening of hearing. The hearing may be reopened by the arbitrator, for good cause, at any time before the award is made.

(16) Time of award. The award shall be made and delivered no later than 30 calendar days from the date the hearing is completed. Failure to adhere to this time limit shall not nullify the award.

(17) Form and scope of award. The award shall be in writing in a format approved by the superintendent. It shall state the issues in dispute and contain the arbitrator's findings and conclusions based on the Insurance Law and Insurance Department regulations. It shall be signed by the arbitrator and shall be transmitted to the parties by the designated organization with a copy to the Insurance Department. The award shall contain a decision on all issues submitted to the arbitrator by the parties. In the event that the applicant prevails in whole or in part on the claim, the arbitrator shall also direct the insurer to:

(i) reimburse the applicant for the amount of the filing fee paid, unless the filing fee had already been returned to the applicant;

(ii) if due under section 5106 of the Insurance Law, pay a reasonable attorney's fee in accordance with the limitations set forth in subsection (f) of this section; and

(iii) in an award of interest, compute the amount due for each element of first-party benefits in dispute, commencing 30 days after proof of claim therefor was received by the insurer and ending with the date of payment of the award, subject to the provisions of section 65.15(h)(3) of this Part (stay of interest).

\*\* (18) Imposition of Costs.

(i) Effective with arbitrations filed on and after March 1, 2002, the arbitrator may impose all administrative costs of arbitration to the applicant or apportion the administrative costs of arbitration between the parties if the arbitrator concludes that the applicant's arbitration request was frivolous, was without factual or legal merit or was filed for the purpose of harassing the respondent.

(ii) The amount of such administrative costs per case shall be established for each calendar year by the designated organization. The administrative cost shall be based upon the actual administrative costs per case in the prior calendar year. Such costs shall be paid to the designated organization and the receipt of such costs shall be used to reduce the actual expenses of the designated organization for the administration of the arbitration forum.

\*\*NB Effective until June 24, 2002

**(19)** Award upon settlement.

(i) If the parties settle their dispute during the course of arbitration, the arbitrator shall set forth the terms of the agreed settlement in an award, which shall provide that the parties agree that the settlement is final and binding and shall not be subject to review by a master arbitrator or by a court. If an attorney's fee is due under section 5106 of the Insurance Law, such fee shall be awarded in accordance with the limitations set forth in subsection (f) of this section. The award shall be signed by the arbitrator and shall be transmitted to the parties by the designated organization.

(ii) The insurer shall provide the arbitrator with the terms of settlement no later than 30 days following the scheduled date of the hearing.

\*\*NB Renumbering effective until June 24, 2002 then becomes 18

**(20)** Delivery of award to parties. The parties shall accept as delivery of the award the placing of the award or a true copy thereof in the mail, addressed to the parties or their designated representatives at their last known addresses, or by any other form of service permitted by law. The designated organization shall note on such award or transmittal letter thereof the date of mailing and keep a record of same.

\*\*NB Renumbering effective until June 24, 2002 then becomes 19

**(21)** Interpretation and application of procedures. The arbitrator shall interpret and apply these procedures insofar as they relate to the arbitrator's powers and duties. All other procedures shall be interpreted by the designated organization, subject to consultation with and approval by the superintendent.

\*\*NB Renumbering effective until June 24, 2002 then becomes 20

**(22)** Alternative legal remedies. The designated organization shall not be made a party to a court proceeding relating to an

arbitration award unless the designated organization's presence as a party is pertinent to the issues raised in the litigation. The participation of a party in an arbitration proceeding shall be a waiver of any claim against an arbitrator or the designated organization for any act or omission in connection with any arbitration conducted under these rules. The designated organization shall transmit to the superintendent copies of any legal papers served upon designated organization or an arbitrator, relating to any stay or appeal of an arbitration.

\*\*NB Renumbering effective until June 24, 2002 then becomes 21

**(23)** Payment of award. Insurers shall, within 30 calendar days of the date of mailing of the award, either pay the amounts set forth in the award or, where grounds exist, appeal to the master arbitrator as provided for in this Part, which appeal shall stay payment of the award. The award need not be confirmed into judgment.

\*\*NB Renumbering effective until June 24, 2002 then becomes 22

**(24)** Arbitrator's compensation. Arbitrators shall contract on an annual basis with the designated organization. The rate of annual compensation shall be determined by the designated organization, after consultation with the No-Fault Arbitrator Screening Committee. Arbitrators shall be independent contractors, and shall not be employees or agents of the designated organization.

\*\*NB Renumbering effective until June 24, 2002 then becomes 23

**(25)** Financing.

**(i)** The cost of administering the arbitration forum shall be paid annually by insurers (including self-insurers and MVAIC) to the designated organization upon receipt of a statement therefrom. This cost shall be distributed among insurers in an equitable manner approved by the Superintendent of Insurance. This distribution shall, to the extent practicable, be a function of the degree to which an insurer is named as a respondent in arbitration proceedings.

**(ii)** Semiannually, as of January 1 of each year and continuing every six months thereafter, the designated organization shall prepare an estimate of the expenses expected to be incurred for the operation of the arbitration function during the subsequent six-month period. The projected cost of the arbitration function shall be assessed on a proportionate basis to those insurers named as respondents on cases forwarded to an arbitrator in the preceding calendar year and shall be subject to the approval of the superintendent. The designated organization shall send to each applicable insurer a bill for the amount due and any payment due shall be made to the designated organization within 30 days after billing date.

**(iii)** On an annual basis, as of December 31st of each year, the designated organization shall prepare a detailed analysis of the actual costs incurred for the operation of

the arbitration function. This analysis shall be forwarded to the No-Fault Optional Arbitration Advisory Committee and the superintendent on or before April 30th of each year. The No-Fault Optional Arbitration Advisory Committee shall notify the designated organization and the superintendent whether it accepts or rejects the designated organization's cost analysis in whole or in part. In the event that the designated organization and the No-Fault Optional Arbitration Advisory Committee cannot resolve any differences that may exist, such differences will be referred to the superintendent for resolution. The superintendent's decision shall be binding on the designated organization and insurers.

(iv) Once the designated organization submits a final cost analysis that has either been approved by the No-Fault Optional Arbitration Advisory Committee or resolved by the superintendent in the event of a dispute, the designated organization shall send to each applicable insurer an accounting of the actual assessment. Any adjustment shall be made to the bill for the subsequent estimated assessment, as illustrated by the following example:

**EXAMPLE**

(1) Total arbitration cases closed during year	15,000
(2) Cases in which Insurer A was named as a respondent in the arbitration proceedings	500
(3) Insurer A's Assessment Percentage = (2)/(1)	3.33%
(4) Actual Expenses of the designated organization	\$ 2,500,000
(5) Insurer A's actual expense = (3)*(4)	\$ 83,333
(6) Insurer A's Estimated Assessment	\$ 102,000
(7) Insurer A's Debit or (Credit) = (5)-(6)	(\$ 18,667)

\*\*NB Renumbering effective until June 24, 2002 then becomes 24

(f) Limitations on attorney's fees pursuant to section 5106 of the Insurance Law. The following limitations shall apply to the payment by insurers of applicants' attorney's fees for services necessarily performed in the resolution of no-fault disputes:

(1) If an arbitration was initiated or a court action was commenced by an attorney on behalf of an applicant and the claim or portion thereof was not denied or overdue at the time the arbitration proceeding was initiated or the action was commenced, no attorney's fees shall be granted.

\*\*(2) If the claim is resolved by the designated organization at any time prior to transmittal to an arbitrator and it was initially denied by the insurer or overdue, the payment of the applicant's attorney's fee by the insurer shall be limited as follows:

(i) If the resolved claim was initially denied, the attorney's fee shall be \$60.

(ii) If the resolved claim was overdue but not denied, the attorney's fee shall not exceed the amount of first-party

benefits and any additional first-party benefits, plus interest thereon, which the insurer agreed to pay and the applicant agreed to accept in full settlement of the dispute submitted, subject to a maximum fee of \$60.

(iii) In disputes solely involving interest, the attorney's fee shall be equal to the amount of interest which the insurer agreed to pay and the applicant agreed to accept in full settlement of the dispute submitted, subject to a maximum fee of \$60.

(iv) Notwithstanding the limitations of this paragraph, the insurer may, at its discretion, offer a higher attorney's fee, subject to the limitations of paragraph (4) or (5) of this subdivision, in order to resolve the dispute during conciliation.

\*\*NB Effective until June 24, 2002

**(2)** If the claim is resolved by the designated organization at any time prior to transmittal to an arbitrator and it was initially denied by the insurer or overdue, the payment of the applicant's attorney's fee by the insurer shall be limited as follows:

(i) If the resolved claim was initially denied, the attorney's fee shall be \$60.

(ii) If the resolved claim was overdue but not denied, the attorney's fee shall not exceed the amount of first-party benefits and any additional first-party benefits, plus interest thereon, which the insurer agreed to pay and the applicant agreed to accept in full settlement of the dispute submitted, subject to a maximum fee of \$60.

(iii) In disputes solely involving interest, the attorney's fee shall be equal to the amount of interest which the insurer agreed to pay and the applicant agreed to accept in full settlement of the dispute submitted, subject to a maximum fee of \$60.

\*\*NB Effective June 24, 2002

**(3)** Except as provided in paragraphs (1) and (2) of this subsection, the minimum attorney's fee payable pursuant to this section shall be \$60.

**(4)** For disputes subject to arbitration where one of the issues involves a policy issue as enumerated on the prescribed denial of claim form (NYS form N-F10), subject to the provisions of paragraphs (1) and (3) of this subsection, the attorney's fee for the arbitration of all issues shall be limited as follows:

(i) for preparatory services relating to the arbitration forum or court, the attorney shall be entitled to receive a fee of up to \$70 per hour, subject to a maximum fee of \$1,400; and



(ii) in addition, an attorney shall be entitled to receive a fee of up to \$80 per hour for each personal appearance before the arbitration forum or court.

(5) For all other disputes subject to arbitration, subject to the provisions of paragraphs (1) and (3) of this subsection, the attorney's fee shall be limited as follows: 20 percent of the amount of first-party benefits, plus interest thereon, awarded by the arbitrator or court, subject to a maximum fee of \$850. If the nature of the dispute results in an attorney's fee which could be computed in accordance with the limitations prescribed in both paragraph (4) and this paragraph, the higher attorney's fee shall be payable.

(6) Notwithstanding the limitations listed in this subsection, if the arbitrator or a court determines that the issues in dispute were of such a novel or unique nature as to require extraordinary skills or services, the arbitrator or court may award an attorney's fee in excess of the limitations set forth in this paragraph. An excess fee award shall detail the specific novel or unique nature of the dispute which justifies the award. An excess award of an attorney's fee by an arbitrator shall be appealable to a master arbitrator.

(7) If a dispute involving an overdue or denied claim is resolved by the parties after it has been forwarded by the designated organization to an arbitrator or after a court action has been commenced, the claimant's attorney shall be entitled to a fee which shall be computed in accordance with the limitations set forth in this subsection.

(8) No attorney shall demand, request or receive from the insurer any payment of fees not permitted by this subsection.

\*FOOTNOTE \* Attorneys should be aware of the Appellate Division Rules prohibiting contingent fees in connection with the collection of first-party no-fault benefits. (22 NYCRR 603.7(e)(7), 691.20(e)(7) and 806.12(f).)

(g) Independent health consultant.

(1) The designated organization shall maintain a list of independent health consultants, who will review medical evidence or examine the eligible injured person upon the request of an arbitrator.

(2) The independent health consultant shall be selected by the designated organization from its list and, to the extent practicable, shall be a specialist in the field requested by the arbitrator. If a medical examination is requested by the arbitrator, such examination shall be conducted at the health consultant's office, which shall be located in the general locale of the applicant's residence, or at a place agreed upon by the parties and the consultant.

(3) Within 15 calendar days after the review of medical evidence or examination of the eligible injured person, the health consultant shall submit to the designated organization a written report, which shall contain the consultant's advisory opinion for consideration by the arbitrator. The designated organization shall submit such report to the arbitrator and the parties.

(4) The independent health consultant's fee shall include the written report and be paid by the designated organization, with the cost of such fee charged as an administrative expense of the arbitration forum.

(5) No person shall serve as an independent health consultant in any arbitration in which such person has any financial or personal interest or bias. An independent health consultant shall disclose to the designated organization any circumstance, which is likely to create an appearance of bias, or which might serve to disqualify such expert. Upon receipt of such information, the designated organization shall immediately disclose it to the parties. If a party challenges a health consultant, the specific grounds for the challenge shall be submitted in writing. The designated organization shall determine whether the health consultant should be disqualified and shall inform the parties of its decision, which shall be final and binding. If a health consultant should resign, be disqualified or be otherwise unable to perform necessary duties, the designated organization shall appoint another health consultant to the case.

**(h) Witness fees.**

(1) No witness fee shall be payable to a person who is a party to the arbitration.

(2) The arbitrator shall not approve the payment of a fee to a witness appearing on behalf of an applicant or an assignee, unless the witness was subpoenaed by the arbitrator or, prior to appearance, the witness's presence was determined by the arbitrator to be necessary for resolution of the dispute.

(3) Whenever a witness fee is determined by the arbitrator to be payable, the cost thereof shall be charged as an administrative expense of the arbitration forum.

(4) Any witness fee awarded pursuant to paragraphs (2) and (3) of this subsection shall be determined as follows:

(i) If the witness is testifying as an expert, the fee shall be calculated on the basis of such witness's documented usual and customary hourly charge for an appearance, plus necessary verified disbursements.

(ii) Any other witness shall only be entitled to reimbursement for verified expenses and economic losses necessarily incurred in connection with an appearance before the arbitrator.

\*\*NB Effective until June 5, 2002

**\*65.18 Master arbitration procedures under section 5106(b) of the Insurance Law with respect to personal injuries sustained on and after December 1, 1977.**

(a) Grounds for review. An award by an arbitrator rendered pursuant to section 5106(b) of the Insurance Law and section 65.16 or 65.17 of this Part (Regulation No. 68) may be vacated or modified solely by appeal to a master arbitrator, and only upon one or more of the following grounds:

(1) any ground for vacating or modifying an award enumerated in article 75 of the Civil Practice Law and Rules (an article 75 proceeding), except the ground enumerated in CPLR section 7511(b)

(1) (iv) (failure to follow article 75 procedure);

(2) that the award required the insurer to pay amounts in excess of the policy limitations for any element of first-party benefits; provided that, as a condition precedent to review by a master arbitrator, the insurer shall pay all other amounts set forth in the award which will not be the subject of an appeal, as provided for in section 65.16 or 65.17 of this Part;

(3) that the award required the insurer to pay amounts in excess of the policy limitations for any element of additional first-party benefits (when the parties had agreed to arbitrate the dispute under the additional personal injury protection endorsement for an accident which occurred prior to January 1, 1982); provided that, as a condition precedent to review by a master arbitrator, the insurer shall pay all other amounts set forth in the award which will not be the subject of the appeal, as provided for in section 65.16 or 65.17 of this Part;

(4) that an award rendered in an AAA-expedited arbitration under section 65.16(c) (3)(i) of this Part, or a regular AAA arbitration under section 65.16(c) (3)(iv) of this Part, or an arbitration under section 65.17 of this Part, was incorrect as a matter of law (procedural or factual errors committed in the arbitration below are not encompassed within this ground);

(5) that the attorney's fee awarded by an arbitrator below was not rendered in accordance with the limitations prescribed in section 65.16(c) (8) section 65.17(b) (6) of this Part; provided that, as a condition precedent to review by a master arbitrator, the insurer shall pay all other amounts set forth in the award which will not be the subject of the appeal, as provided for in section 65.16 or 65.17 of this Part; or

(6) that the award rendered in the AAA arbitration is inconsistent, and irreconcilable with, the award rendered in the H.S.A. arbitration, involving the same personal injury.

(b) Qualifications of master arbitrators.

(1) A master arbitrator shall be an attorney, licensed to practice law in New York State, who has at least 15 years' experience which

the superintendent has determined qualifies such attorney to review and resolve the issues involved in no-fault insurance disputes. Documentation of such experience shall be submitted to, and reviewed by, the superintendent prior to appointment of a master arbitrator.

(2) All master arbitrators shall be appointed by, and serve at the pleasure of, the superintendent. A master arbitrator candidate shall disclose to the superintendent any circumstance which is likely to create an appearance of bias or which might disqualify such person as a master arbitrator, and the superintendent shall determine whether the candidate should be disqualified. The superintendent shall forward the names of all master arbitrators to the American Arbitration Association, and promptly inform it of all additions to, and deletions from, the panel.

(3) No person shall, during the period of appointment as a master arbitrator, also serve as an arbitrator under the optional arbitration systems prescribed in section 5106(b) of the Insurance Law and sections 65.7, 65.16 and 65.17 of this Part, nor serve as an attorney to a party to any such arbitration.

(4) All master arbitrators shall take an oath of office.

(5) No person shall serve as a master arbitrator in any master arbitration in which such person has any financial or personal interest or bias. If a party challenges a master arbitrator, the specific grounds for the challenge shall be submitted in writing to the AAA which, in consultation with the superintendent, shall determine within 15 calendar days after receipt of the challenge whether the master arbitrator should be disqualified. Such determination shall be final and binding. If a master arbitrator should resign, be disqualified or be otherwise unable to perform necessary duties, the AAA shall assign another master arbitrator to the case within seven calendar days after receipt of notice thereof.

(c) Scope of master arbitration review.

(1) Review by a master arbitrator shall be based solely on submitted documents, including any record made of the arbitration below, unless a master arbitrator requires oral argument on specified issues.

(2) Legal briefs shall not be submitted, unless requested by the master arbitrator.

(3) The master arbitrator shall initially consider and determine whether the facts alleged in the submitted documents set forth a ground for review pursuant to subdivision (a) of this section, and whether the request for arbitration was made in accordance with paragraphs (d)(1) and (2) of this section.

(4) If the master arbitrator determines that either subdivision (a) or paragraph (d) (1) or (2) of this section have not been

complied with, the master arbitrator shall, in lieu of rendering an award, deny the request for review. The procedural requirements contained in this section applicable to a master award, shall also be applicable to a denial of request for review, but such denial shall not form the basis of an action de novo within the meaning of section 5106(b) of the Insurance Law.

(5) If the master arbitrator determines that subdivision (a) and paragraphs (d) (1) and (2) of this section have been complied with, the master arbitrator shall proceed to review the matter and render an award accordingly.

(6) The master arbitrator shall only consider those matters which were the subject of the arbitration below or which were included in the arbitration award appealed from.

(d) Procedure for review.

(1) If grounds exist, pursuant to subdivision (a) of this section, any party to an arbitration may request that the arbitration award be vacated or modified by a master arbitrator.

(2) The request for review by a master arbitrator shall be in writing and shall be mailed or delivered to the American Arbitration Association office which processed the lower arbitration or, in other cases, the AAA office covering the region in which the applicant resides:

(i) within 15 calendar days of the mailing of an award rendered in an AAA-expedited arbitration; or

(ii) within 21 calendar days of the mailing of any other appealable award.

The request shall include a copy of the award in issue and shall state the nature of the dispute and the grounds for review. A request by an applicant for benefits shall be accompanied by a filing fee of \$75, payable by check or money order to the American Arbitration Association. A request by an insurer shall be accompanied by a filing fee of \$325, payable by check or money order to the American Arbitration Association.

(3) The applicant for master arbitration review shall send, by certified mail, a copy of its filing papers to the opposing party at the same time that it submits the request for review to the AAA.

(4) Within seven calendar days of receipt of the request, the AAA shall assign a master arbitrator, selected in sequence from a panel of master arbitrators appointed by the superintendent, and shall forward to the master arbitrator a copy of the request for review.

(5) The master arbitrator shall render an award no later than 90 calendar days after assignment.

(i) Submission of materials. Within 15 calendar days after assignment, the master arbitrator shall set a date (which date shall not be more than 45 calendar days after assignment) by which all evidence, documents and briefs, if any, must be submitted to the master arbitrator by the parties. The master arbitrator shall give the parties 30 calendar days' written notice of this date.

(ii) Oral argument. If after receipt of these materials, the master arbitrator determines that oral argument on specific issues is necessary, the master arbitrator shall give the parties 10 calendar days' notice of the place, time and date for oral argument and the issues to be argued. Oral argument shall be conducted at the office of the master arbitrator, the office of the American Arbitration Association or at a location agreeable to the parties and the master arbitrator.

(iii) The master arbitrator may postpone or adjourn the date for submission of materials or of oral argument to a date within the 90-day period for good cause shown. A postponement or adjournment shall also be granted when all the parties agree thereto. The postponement or adjournment shall not extend the 90-day period for rendering of an award.

(6) The failure of a master arbitrator to adhere to the procedural time frames, contained in paragraph (5) of this subdivision, shall not affect the validity of an award.

(7) Any party may be represented in a master arbitration by an attorney.

(8) A master arbitration shall proceed if any party, after due notice of the date to submit materials or date of oral arguments, fails to appear, to submit materials or to obtain a postponement or adjournment. However, an award shall not be made in favor of an appearing party solely on the default of another party. A master arbitrator shall direct the appearing party to submit such materials as may be required in order to render a decision in the matter.

(e) Award by master arbitrator.

(1) Form and scope of award.

(i) The award shall be in writing in a format approved by the superintendent. It shall state the issues in dispute and contain the master arbitrator's findings and conclusions based on the materials submitted. It shall be signed by the master arbitrator and shall be transmitted to the parties by the AAA, with a copy to the Insurance Department. The award shall be determinative of all issues submitted to the master arbitrator by the parties.

(ii) If the applicant for benefits prevails in whole or part on the claim, the award shall also direct the insurer to:

(a) if the applicant requested review by a master arbitrator, pay to the applicant reimbursement of the amount of the master arbitration filing fee paid;

(b) pay to the applicant the amount previously paid by the applicant to reimburse for the filing fee in the arbitration below, unless the filing fee had already been returned to the applicant pursuant to an earlier award;

(c) if due under section 5106 of the Insurance Law, pay a reasonable attorney's fee in accordance with the limitations set forth in subdivision (k) of this section;

(d) if due, compute and pay the amount of interest for each element of first-party benefits in dispute, commencing 30 days after proof of claim therefor was received by the insurer and ending with the date of payment of the award, subject to the provisions of section 65.15(h) (3) of this Part (stay of interest).

(2) Award upon settlement. If the parties settle their dispute during the course of the master arbitration, the master arbitrator shall set forth the terms of the agreed settlement in an award which shall provide that the parties agree that the settlement is final and binding and shall not be subject to review by a court or the subject of a de novo court action. The award shall be signed by the master and shall be transmitted to the parties by the AAA, with a copy to the Insurance Department.

(3) Delivery of award to parties. The parties shall accept as delivery of the award the placing of the award or a true copy thereof in the mail, addressed to the parties or their designated representatives at their last known addresses, or by any other form of service permitted by law. The AAA shall note on such award or transmittal letter thereof the date of mailing and keep a record of same.

(4) Payment of award. Subject to subdivision (i) of this section, the insurer shall, within 21 calendar days of the date of mailing of the award, pay the amounts set forth in the award. The award need not be confirmed into judgment.

(f) Adjustment of fees.

(1) If the master arbitrator's award reverses in whole an AAA arbitration or AAA expedited arbitration award which was adverse to the insurer, the AAA shall reimburse the insurer its filing fee paid by the applicant insurer in the arbitration below. The reimbursement shall, in accordance with section 65.16(c)(7)(xxiii)(a) and (b) of this Part, be charged to the cost of administering the AAA arbitration forums below.

(2) If the master arbitrator's award reverses in whole an AAA arbitration or AAA expedited arbitration award which was adverse to the applicant, the AAA shall bill the insurer the filing fee refunded below pursuant to section 65.16(c)(7)(xxiii)(a) and (b) of this Part. Such payments shall reduce the cost of administering the AAA arbitration forums below.

(g) Interpretation and application of procedures. The master arbitrator shall interpret and apply the procedures of this section insofar as they relate to the master arbitrator's powers and duties. All other procedures shall be administered by the AAA, subject to consultation with and approval by the superintendent.

(h) Alternative legal remedies. The AAA or the master arbitrator shall transmit to the superintendent copies of any legal papers served upon AAA, or the master arbitrator, relating to any stay or appeal of a master arbitration.

(i) Appeal from master arbitrator's award.

(1) A decision of a master arbitrator is final and binding, except for:

(i) court review pursuant to an article 75 proceeding; or

(ii) if the award of the master arbitrator is \$ 5,000 or greater, exclusive of interest and attorney's fees, either party may, in lieu of an article 75 proceeding, institute a court action to adjudicate the dispute de novo.

(2) A party who intends to commence an article 75 proceeding or an action to adjudicate a dispute de novo shall follow the applicable procedures as set forth in CPLR article 75. If the party initiating such action is an insurer, payment of all amounts set forth in the master arbitration award which will not be the subject of judicial action or review shall be made prior to the commencement of such action.

(j) Master arbitrator's fee. The master arbitrator shall be compensated in the amount of \$200 for each case. Such fee will be paid by the AAA. The master arbitrator's fee shall be charged to the cost of administering the master arbitration system.

(k) Limitations on attorney's fees pursuant to section 5106 of the Insurance Law. The following limitations shall apply to the payment by insurers of applicant's attorney's fees for services rendered in a master arbitration to resolve a no-fault dispute:

(1) The minimum attorney's fee payable pursuant to this section shall be \$60.

(2)

(i) For preparatory services necessarily rendered, the attorney shall be entitled to receive a fee of up to \$65 per hour, subject to a maximum fee of \$650.



(ii) An attorney shall be entitled to receive a fee of up to \$80 per hour for oral argument before the master arbitrator, made pursuant to paragraph (c) (1) of this section.

(iii) If an applicant is successful in obtaining a reversal of the arbitration(s) below, wherein no attorney's fee was awarded, the attorney in the arbitration below shall also be entitled to receive a fee, computed in accordance with the provisions of section 65.16(c) (8) or 65.17(b) (6) of this Part, which shall be payable in the manner provided in section 65.16 or 65.17 of this Part.

(3) Notwithstanding the above limitations, if the master arbitrator determines that the issues in dispute were of such a novel or unique nature as to require extraordinary skills or services, the master arbitrator may award an attorney's fee in excess of the limitations set forth above. An excess fee award shall detail the specific novel or unique nature of the dispute which justifies the award.

(4) The attorney's fee for services rendered in connection with a court adjudication of a dispute de novo, as provided in section 5106(c) of the Insurance Law, or in a court appeal from a master arbitration award and any further appeals, shall be fixed by the court adjudicating the matter.

(5) No attorney shall demand, request or receive from the insurer any payment or fee in excess of the fees permitted by this subdivision for services rendered with respect to a no-fault master arbitration dispute.

(1) Financing.

(1) The cost of administering the master arbitration system over and above the amount of fees paid by applicants and insurers shall be paid annually by insurers to the AAA upon receipt of a statement therefrom. This cost shall be distributed among insurers in an equitable manner approved by the superintendent. This distribution shall, to the extent practicable, be a function of the degree to which an insurer is a party to arbitration proceedings.

(2) Upon filing of a demand for master arbitration by an applicant, the AAA shall bill the respondent insurer the sum of \$ 250, which shall be payable by the insurer within 30 days after billing.

(3) On an annual basis, as of December 31st of each year, the AAA shall prepare a detailed accounting of the actual costs incurred for the implementation of the master arbitration system and the amount of fees received from applicants and insurers. The accounting will be forwarded to the No-Fault Optional Arbitration Advisory Committee (the committee) and the superintendent on or before April 30th of each year. The committee shall notify the AAA and the superintendent whether it accepts the AAA's accounting in

whole or in part. In the event the AAA and the committee cannot resolve any differences that may exist, the dispute will be referred to the superintendent for resolution. The superintendent's decision shall be binding on the AAA and insurers.

(4) Once the AAA submits a final accounting that has either been approved by the committee or resolved, in the event of a dispute, by the superintendent, the AAA shall send to each insurer a bill for the amount due or a refund for the amount credited, based upon the number of master arbitrations to which the insurer was a party.

\* NB Reinstated effective February 1, 2000 per Medical Society of New York v. Neil D. Levin as Superintendent of Insurance, 712 NY2d 745 (Supreme Court, New York County).

Section statutory authority: Insurance Law, §5106; Civil Practice Law & Rules, §A75, §7511

Renumbered 65.17 to be 65.18 on 6/08/88; amended 65.18 on 6/08/88; amended 65.18 on 5/15/92; amended 65.18 (a) (2) on 11/25/92; amended 65.18 (e) (i) (ii)(d) on 11/25/92; repealed 65.18 on 11/03/99; renumbered 65.18 to be 65.19 on 12/01/99, expired 90 days after filing; renumbered 65.18 to be 65.19 on 1/20/00, expired 90 days after filing; renumbered 65.18 to be 65.19 on 4/04/01, expired 90 days after filing; renumbered 65.18 to be 65.19 on 6/25/01, expired 90 days after filing; renumbered 65.18 to be 65.19 on 9/18/01, expired 90 days after filing; renumbered 65.18 to be 65.19 on 12/12/01, expired 90 days after filing; renumbered 65.18 to be 65.29 on 3/08/02, expired 90 days after filing; added 65.18 on 12/01/99, expired 90 days after filing; added 65.18 on 1/20/00, expired 90 days after filing; added 65.18 on 4/04/01, expired 90 days after filing; added 65.18 on 6/25/01, expired 90 days after filing; added 65.18 on 9/18/01, expired 90 days after filing; added 65.18 on 12/12/01, expired 90 days after filing; added 65.18 on 3/08/02, expired 90 days after filing; amended 65.18(b) on 12/31/01, expired 90 days after filing; amended 65.18(b) on 3/27/02, expired 90 days after filing; amended 65.18(e)(2) on 12/31/01, expired 90 days after filing; amended 65.18(e)(2) on 3/27/02, expired 90 days after filing; amended 65.18(e)(7) on 12/31/01, expired 90 days after filing; amended 65.18(e)(7) on 3/27/02, expired 90 days after filing; amended 65.18(e)(13) on 12/31/01, expired 90 days after filing; amended 65.18(e)(13) on 3/27/02, expired 90 days after filing; renumbered 65.18(e(18)-(24) to be (19)-(25) on 12/31/01, expired 90 days after filing; renumbered 65.18(e(18)-(24) to be (19)-(25) on 3/27/02, expired 90 days after filing; added 65.18(e)(18) on 12/31/01, expired 90 days after filing; added 65.18(e)(18) on 3/27/01, expired 90 days after filing; amended 65.18(f) on 12/31/01, expired 90 days after filing; amended 65.18(f) on 3/27/02, expired 90 days after filing.