

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES**

**FOURTH AMENDMENT TO 11 NYCRR 65-3
(INSURANCE REGULATION 68-C)**

CLAIMS FOR PERSONAL INJURY PROTECTION BENEFITS

I, Benjamin M. Lawskey, Superintendent of Financial Services of the State of New York, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law, Sections 301, 2601, 5221 and Article 51 of the Insurance Law, and Section 2407 of the Vehicle and Traffic Law, do hereby promulgate the following Fourth Amendment to Subpart 65-3 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 68-C), to take effect on April 1, 2013, to read as follows:

(NEW MATTER IS UNDERSCORED; MATTER IN BRACKETS IS DELETED)

New subdivisions (o) and (p) are added to section 65-3.5 to read as follows:

(o) An applicant from whom verification is requested shall, within 120 calendar days from the date of the initial request for verification, submit all such verification under the applicant's control or possession or written proof providing reasonable justification for the failure to comply. The insurer shall advise the applicant in the verification request that the insurer may deny the claim if the applicant does not provide within 120 calendar days from the date of the initial request either all such verification under the applicant's control or possession or written proof providing reasonable justification for the failure to comply. This subdivision shall not apply to a prescribed form (NF-Form) as set forth in Appendix 13 of this Title, medical examination request, or examination under oath request. This subdivision shall apply, with respect to claims for medical services, to any treatment or service rendered on or after April 1, 2013 and with respect to claims for lost earnings and reasonable and necessary expenses, to any accident occurring on or after April 1, 2013.

(p) With respect to a verification request and notice, an insurer's non-substantive technical or immaterial defect or omission, as well as an insurer's failure to comply with a prescribed time frame, shall not negate an applicant's obligation to comply with the request or notice. This subdivision shall apply to medical services rendered, and to lost earnings and other reasonable and necessary expenses incurred, on or after April 1, 2013.

Paragraph (3) of section 65-3.8(b) is amended to read as follows:

(3) Except as provided in subdivision (e) of this section, an insurer shall not issue a denial of claim form (NYS form N-F 10) prior to its receipt of verification of all of the relevant information requested pursuant to [section] sections 65-3.5 and 65-3.6 of this Subpart (e.g., medical reports, wage verification, etc.). However, an insurer may issue a denial if, more than 120 calendar days after the initial request for verification, the applicant has not submitted all such verification under the applicant's control or possession or written proof providing reasonable justification for the failure to comply, provided that the verification request so advised the applicant as required in section 65-3.5(o) of this Subpart. This subdivision shall not apply to a prescribed form (NF-Form) as set forth in Appendix 13 of this Title, medical examination request, or examination under oath request. This paragraph shall apply, with respect to claims for medical services, to any treatment or service rendered on

or after April 1, 2013, and with respect to claims for lost earnings and reasonable and necessary expenses, to any accident occurring on or after April 1, 2013.

Subdivisions (g) through (j) of section 65-3.8 are relettered subdivisions (i) through (l) and new subdivisions (g) and (h) are added to read as follows:

(g)(1) Proof of the fact and amount of loss sustained pursuant to Insurance Law section 5106(a) shall not be deemed supplied by an applicant to an insurer and no payment shall be due for such claimed medical services under any circumstances:

(i) when the claimed medical services were not provided to an injured party; or

(ii) for those claimed medical service fees that exceed the charges permissible pursuant to Insurance Law sections 5108(a) and (b) and the regulations promulgated thereunder for services rendered by medical providers.

(2) This subdivision shall apply to medical services rendered on or after April 1, 2013.

(h) With respect to a denial of claim (NYS Form N-F 10), an insurer's non-substantive technical or immaterial defect or omission shall not affect the validity of a denial of claim. This subdivision shall apply to medical services rendered, and to lost earnings and other reasonable and necessary expenses incurred, on or after April 1, 2013.



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

I, Benjamin M. Lawsky, Superintendent of Financial Services, do hereby certify that the foregoing is the Fourth Amendment to Part 65-3 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 68-C), signed by me on January 30, 2013, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law, Sections 301, 2601, 5221 and Article 51 of the Insurance Law, and Section 2407 of the Vehicle and Traffic Law, to take effect on April 1, 2013.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed amendment was published in the State Register on May 16, 2012. No other publication or prior notice is required by statute.

Benjamin M. Lawsky
Superintendent of Financial Services

Date: January 30, 2013