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Fraud Warning

Application forms for motor vehicle insurance – Sec. 17:33(A-6)

All claim forms – Sec. 17:33(A-6)

Section 17:33(A-6) – motor vehicle insurance – Language is permissive, but must be approved by the Insurance Commissioner.

Any person who knowingly makes an application for motor vehicle insurance coverage containing any statement that the applicant resides or is domiciled in this State when, in fact that applicant resides or is domiciled in a state other than this State, is subject to criminal and civil penalties.

Section 17:33(A-6) – all claims forms – Language is permissive, but must be approved by the Insurance Commissioner.

Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties.

NJAC 11:16-4.111:16-4.7

Fraud Plan – Auto Insurers & Health Insurers

NJAC 11:16-63

- (a) All insurers shall file for approval a fraud prevention and detection plan in accordance with NJSA 17:33A-15 and this subchapter. No insurer shall use or implement any plan that is not filed and approved.
- (b) Insurers shall submit their plan on 8 ½ by 11-inch paper. The first page shall show the filer's company name, the filer's identifying number for this filing, National Association of Insurance Commissioners ("NAIC") company number(s), and NAIC group number(s).

NJAC 11:16-6.4

- (a) Except for automobile insurers that insure fewer than 2,500 New Jersey automobile policies, and health insurers that insure fewer than 10,000 lives, the plan filed in accordance with NJAC 11:16-6.3 shall establish a full-time Special Investigations Unit ("SIU").
- (b) The SIU shall be responsible for the following:
 - 1. Conducting investigations of the claims referred by the claim personnel or applications referred by underwriting personnel whenever the adjuster, processor, or underwriter identifies specific facts and circumstances which, upon further SIU investigation, may lead to a reasonable conclusion that a violation of NJSA 17:33A-4 has occurred;

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2. Providing liaison with OIFP, other law enforcement personnel and the DAFC;
 3. Providing in-service training to claims personnel, underwriting personnel, and adjusters in accordance with the provisions of NJAC 11:16-6.5;
 4. Maintaining a database of fraudulent claims and application fraud which shall consist, at a minimum, the names, addresses and other identifying information regarding all parties to the investigation referred to in (b)1 above;
 5. Informing insurance underwriters of in eligible risks by reason of prior fraudulent activities from the database is (b)4 above;
 6. Identifying persons and organizations that are involved in suspicious claim activity and application fraud, as described in (b)1 above;
 7. Referring matters to OIFP in accordance with NJAC 11:16-6.6(b) and 6.7 and providing notice of suspicious claims in accordance with NJAC 11:6-6.6(c) and;
 8. Ensuring that all evidence on matters referred to the SIU including, but not limited to, checks issued in payment of claims, taped statements, original receipts, and original documents submitted by a person or entity in support of or in opposition to a claim applicant, are identified, collected and preserved in order to be turned over to OIFP at the request of OIFP in connection with the referral of cases to OIFP.
- (c) The SIU shall have the following compositions:
1. SIU investigators and SIU specialists shall be a separate unit from the claims or underwriting unit. For purposes of this paragraph, it shall not violate this provision if the SIU issues a check paying a claim or denies payments of a claim so long as:
 - i. The SIU personnel are a separate and distinct unit; and
 - ii. When closing the file at the completion of the investigation, the SIU records its findings in writing together with its recommendation to pay or deny the claim with the reasons.
 2. Automobile insurers shall employ at least one SIU investigator or SIU specialist (when permitted by NJAC 11:16-6.4(d)2) for each 30,000 New Jersey automobile policies serviced.
 3. Health insurers offering comprehensive benefits contracts shall employ at least one SIU investigator or SIU specialist (when permitted by NJAC 11:16-6.4(d)2) for every 60,000 insured lives.
 4. Health insurers offering limited benefits contracts shall employ at least one SIU investigator or SIU specialist (when permitted by NJAC 11:16-6.4(d)2) for every 250,000 insured lives. Limited benefits contracts shall include, but not be limited to, the following: accident only; credit; disability; long-term care; Medicare supplement; dental only vision only; insurance issued as a supplement to liability insurance; and any other supplemental hospital indemnity benefits.
- (d) Qualifications of SIU investigators and specialists shall be as follows:
1. SIU investigators and specialists shall have at least one of the following:
 - i. A Bachelor's degree

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- ii. An Associate's degree plus a minimum of two years experience with insurance related employment.
 - iii. A minimum of four years of experience with insurance related employment; or
 - iv. A minimum of five years of law enforcement experience.
2. When approved by the Department in the plan, an insurer shall be permitted to employ limited number of SIU specialists who shall possess unique qualifications by way of training, technical skill, and/or experience to investigate and identify cases of fraud, but lack the specific educational requirements set forth in (d)1 above, to be SIU investigators.
- (e) The plan may provide that the functions of the SIU may be assigned to an outside vendor or third party administrator. In such case, the plan shall provide that the outside vendor or third party administrator shall also be responsible, together with the insurer, for compliance with NJAC 11:16-6.

Training program and manual for the prevention and detection of fraud

NJAC 11:16-6.5

- (a) Except for automobile insurers that insure fewer than 2,500 New Jersey automobile policies and health insurers that insure fewer than 10,000 lives, the plan shall provide anti-fraud education for SIU investigators, SIU specialists, claims adjusters and underwriters that shall include a detailed and comprehensive program of insurance fraud awareness and education to prepare claims adjusting and underwriting personnel for insurance fraud prevention and detection.
1. The training program, which shall include Basic Entry Level Training and Continuing Education Training for all adjusters, claims processors, underwriters, SIU investigators and SIU specialists, shall be submitted to and approved by the Department by August 5, 2000. The instructions format may be classroom instruction, self-guided instruction, videotape, seminar, computer based or by any other means.
 2. The training programs referred to in (a)1 above shall be provided as follows:
 - i. In the case of automobile insurers, training shall include, but not be limited to, the following areas as appropriate: automobile theft investigations, automobile property damage and fire investigations, personal injury protection investigations, bodily injury liability claim investigation, statutory requirements for fraud referrals, techniques for the identification of fraudulent applications for coverage, insurance rate making practices, tier rating plans used by the insurer, PIP medical expense benefits and medical treatment protocols and precertification plans, and current indicators of fraud.
 - ii. In the case of health insurers, training shall include, but not be limited to, the following areas as appropriate: overcharging and

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overpayment detection, claims processing guidelines, medical coding, duplicate bills, excessive charges, unnecessary services or supplies, overutilization, services never rendered, miscoded or misleading claim information, hospital inpatient or outpatient billing abuse or inappropriate commitment or confinement, abusive or fraudulent referrals, statutory requirements dealing with fraud referrals, techniques for the identification of fraudulent applications for coverage, the type, methods of service and operating procedures of various health insurers, and current indicators of fraud.

- iii. The Basis Entry Level Training shall be no less than nine hours of classroom instruction. The Continuing Education Training shall be no less than nine hours of training per year for SIU personnel and four hours per year for claims and underwriting personnel. Basic Entry Level training shall be given to all employees within 180 days from the commencement of their employment at each of these positions: underwriters, adjusters, claims processors, SIU investigators, or SIU specialists. The four-hour Continuing Education training provided to non-SIU personnel shall emphasize the responsibility of all employees to identify and report indications of internal and external fraud to the proper authority. Persons currently employed in these positions as of February 7, 2000 shall be exempt from entry level training requirement.
- (b) Except for insurers which insure fewer than 2,500 New Jersey automobile policies, or health insurers fewer than 10,000 lives, the plan shall provide a Fraud Prevention and Detection Procedures Manual and disseminate it to, or make it available to, as appropriate, all SIU, claims adjusters, and underwriting personnel. The Fraud Prevention and Detection Procedures Manual shall include, at a minimum, the following:
1. Information for claim adjusters, underwriting personnel, SIU investigators and SIU specialists regarding general investigation guidelines; unfair claim practices; conducting interviews; report writing; information disclosure; law enforcement relations; and the New Jersey Insurance Fraud Prevention Act;
 2. The process to be employed for reporting to OIFP when specific facts and circumstances are identified, in connection with a claim or application, which upon further SIU investigation leads to a reasonable conclusion that a violation of NJSA 17:33A-4 has occurred;
 3. For automobile insurers, the “fraud indicators” used for automobile theft, automobile physical damage fraud, personal injury claims fraud, bodily injury claims fraud, and application fraud;
 4. For health insurers, “fraud factors” or “indicators” for health fraud, application fraud, and claims fraud;
 5. The duties and functions of the SIU;
 6. The procedures for referral of a claim or application to the SIU;

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7. The post-referral procedure for communication between the claims unit and/or the underwriting unit and the SIU; and
8. An update page indicating that the manual has been updated and kept current.

Fraud prevention and detection plan

NJAC 11:16-6.6

- (a) The plan shall provide for underwriting inquiry to verify that the insured is an eligible person and the policy is properly rated within 60 days of receipt of the application. These underwriting inquiries shall verify the insured's residency provided by the insured on his or her applications for insurance. The plan may provide that these inquiries are generally for insurance. The plan may provide that these inquiries are generally done "in-house" by telephone and by using information from the New Jersey Division of Motor Vehicle Services (or similar agencies in other states) and prior insurers.
- (b) The following concern referral or application and claims.
 1. The plan shall provide that an application or claim shall be referred as a case to OIFP, for further OIFP investigation or other appropriate action, on the prescribed Referral Form (OIFP-1A for claims and OIFP-1B for applications, incorporated herein by reference in the subchapter Appendix), with all other information required by the form, when the investigation complies with the requirements set forth in NJAC 11:16-6.7.
 2. The plan shall provide that all applications and claims, which meet the standard for referral set forth in NJAC 11:16-6.7, shall be referred to OIFP by the SIU as soon as practicable, but in no case later than 30 days from when the investigation is complete.
 3. The plan shall provide criteria and levels of economic impact for the referral of insurance claims and application fraud in accordance with the requirements of NJAC 11:16-6.7.
- (c) The plan shall provide that after completion of an SIU investigation, or after identification by an SIU of a pattern of applications or claims, the insurer shall provide notice to OIFP on Notification Form OIFP-2 (incorporated herein by reference in the subchapter Appendix), unless this form is superseded by an electronic reporting form, of instances in which a violation of NJS 17:33A-4 is suspected on the basis of fraud factors or indicators, but where sufficient evidence to support a case referral pursuant to NJAC 11:16-6.7 has not been developed.
- (d) The plan shall provide that all referrals of application and claims fraud and notification of suspected application or claims fraud by the insurer to OIFP shall be made by personnel in the insurer's SIU or other personnel designated in the plan so long as records are kept of all referrals and notification and the appropriate form is used.
- (e) Where an insurer contracts any of its SIU functions to an outside vendor or third party administrator in accordance with NJAC 11:16-6.4(e), the plan shall

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provide the name(s) and address(es) of the outside vendor(s) or third party administrator used by the insurer to conduct investigations or perform SIU functions together with a copy of the contract between the insurer and the outside vendor or third part administrator.

- (f) The plan may include such other items as the insurer may wish to provide.

Referrals to OIFP

NJAC 11:16-6.7

- (a) The plan shall provide that upon completion of its investigation, as described in (d) below, an SIU shall refer cases, on form OIFP-1A or OIFP-1B, which meet the following standard to OIFP:
1. Any application or claim when the facts and circumstances create a reasonable suspicion that a person or entity has violated NJSA 17:33A-4; and
 2. There is sufficient independent evidence corroborating the reasonable suspicion described in (a)1 above, from which a person could reasonably conclude that the person or entity has violated NJSA 17:33A-4.
- (b) The facts and circumstances referred to in (a)1 above can include, but are not limited to, “fraud indicators” contained in an insurer’s approved plan, and such other facts and circumstances as would lead a reasonable person to suspect that a violation of NJSA 17:33A-4 has occurred.
- (c) As referred to in (a)2 above, independent evidence corroborating the reasonable suspicion that a person has violated NJSA 17:33A-4 includes, but is not limited to:
1. A statement from a witness;
 2. Documentary evidence that directly negates a material element of the claim or directly establishes the falsity of a material element of an insurance application;
 3. A report of an expert; or
 4. Additional apparent misrepresentations tending to negate a possibility that the misrepresentation was merely an error.
- (d) An investigation shall be complete for purposes of referral to OIFP when reasonable and appropriate investigative leads and opportunities have been exhausted. When an investigation has identified a pattern of possible violations of NJSA 17:33A-4, the investigation will be deemed complete for purposes of referral as a case to OIFP when one or more violations included in the identified pattern have been sufficiently investigated and corroborated, in accordance with (a) above for referral to OIFP.

Record Retention and Annual Report

NJAC 11:16-6.8

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- (a) Insurers shall maintain up-to-date and accurate records on their fraud prevention and detection plan, which shall at minimum, include those necessary to prepare the report required in (b) below.
- (b) As of January 1 of each year, insurers shall submit an annual report for the prior calendar year to the Commissioner on DAFC Form #1, incorporated herein by reference in the subchapter Appendix.
 - 1. The report referred to in (b) above shall be filed with the Department on or before February 1 of each year and sent to the following address:
New Jersey Department of Banking and Insurance
Division of Anti-Fraud Compliance
PO Box 324
Trenton, NJ 08625-0324
 - 2. Insurers shall submit the report referred to in (b) above in written copy and on an MS-DOS formatted disk. The disk shall be a 3.5 inch 1.44 MB disk. The information shall be provided in an Access Database provided by DAFC. Insurers may submit a disk, together with a self-addressed stamped diskette mailer to the DAFC. The DAFC will properly format the disk and return to the insurer to facilitate compliance.
 - 3. As an alternative to the filings described in (1) and (2) above, insurers may submit this annual informational filing to the Department at the following e-mail address: dafc@dobi.state.nj.us. Insurers can acquire the required Access Database format from the Department by directing a request for the “annual filing template” to the DAFC e-mail address referenced here.

Approval and filing of fraud prevention and detection plan

NJAC 11:16-6.9

- (a) An insurer’s fraud prevention and detection plan shall be deemed approved by the Commissioner if not affirmatively approved or disapproved by the Commissioner within 90 days of the date of filing.
- (b) The Commissioner may request such amendments to be the plan as he or she deems necessary.
- (c) An insurer must submit amendments to its plan when necessary to achieve compliance with these rules. Any amendments to a plan filed with the Commissioner shall be deemed approved by the Commissioner if not affirmatively approved or disapproved within 90 days of the date of filing.
- (d) The insurer shall permit the DAFC access to its offices upon reasonable notice and at reasonable hours to conduct an audit of the insurer’s compliance with its fraud prevention plan. Nothing in this section shall be construed as to preclude the DAFC from conducting reviews of an insurer’s compliance with its fraud prevention and detection plan at the office of the DAFC when determined to be necessary by the DAFC.
- (e) In those instances in which an insurer uses an outside agent, third party administrator or contractor to perform SIU functions or claims investigations, the Plan and contract with the outside vendor or third party administrator shall

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provide that the Department shall be permitted to audit the records, books, and documents maintained by the outside contractor or third party administrator in the same manner and fashion as it would be able to examine the books and records in accordance with NJSA 17:33A-15 and NJSA 17:323-22.

- (f) All information included in an insurer's plan submitted to the DAFC pursuant to this subchapter or any other information including training programs submitted to DAFC pursuant to this subchapter shall be confidential and not subject to public disclosure or inspection.