



July 28, 2006

Robert J. Melillo, Chief
Office of Legislative and Regulatory Affairs
Department of Banking and Insurance
20 West State Street
Trenton, NJ 08625-0325

**PROFESSIONAL
INSURANCE
AGENTS**

**RE: PRN 2006-174, Basic Automobile Insurance Policy, Proposed amendments:
N.J.A.C. 11:3-3.2 and 3.3**

PIANJ appreciates the opportunity to provide comments regarding the departments' proposal to permit insurers to offer basic policies through a Personal Automobile Insurance Plan (PAIP) servicing carrier. While PIANJ understands the department's rationale for proposing the rule change, we strongly oppose the change for the reasons outlined below.

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Proposal lacks statutory authority

PIANJ asserts that the department lacks statutory authority to initiate this change. Neither the statute authorizing the PAIP (N.J.S.A. 17:29D-1) nor the statute authorizing basic insurance policies (N.J.S.A. 39:6A-3.1), contain any provision for the PAIP administering basic auto insurance policies. In contrast, the statute authorizing the special automobile insurance policy (39:6A-3.3) specifically provides for administration of special auto policies through PAIP. With respect to other "eligible" policyholders allowed to obtain coverage through PAIP, the statute likewise authorizes this participation. In particular, N.J.S.A. 17:29D-1 authorizes a voluntary rating tier in PAIP to accommodate certain applicants in urban enterprise zones, as well as applicants denied coverage by insurers using alternate underwriting rules. Furthermore, the department's proposal conflicts with the statute authorizing PAIP, which prohibits PAIP from insuring eligible persons, except where specifically authorized. N.J.S.A. 17:29D-1(e) states that "except for risks written in automobile insurance urban enterprise zones pursuant to subsection i., or risks written pursuant to subsection j. of this section, it shall not provide coverage to an eligible person as defined pursuant to Section 25 of P.L. 1990, c.8 (C17:33B-13).

If the Legislature had intended for the PAIP to administer the basic automobile policy, it would have specifically provided for this in the law. Therefore, PIANJ believes that a statutory change is required to allow basic policies to be written through the PAIP.

Furthermore, it appears that even the statutory authorization for the basic policy itself has expired. N.J.S.A. 39:6A-3.2(b) provides that the basic policy "shall be offered by every insurer...for a period of five years after the effective date of P.L. 1998. The commissioner shall require every company writing such insurance coverage to report to him annually during that five-year period as to the number of policies written...in the previous year...and any other information...The commissioner

shall report to the Governor and the Legislature regarding the acceptance of the basic automobile insurance policy by the automobile insurance consumers of this state annually for the first four years the basic policy is sold. On or before Jan. 1, 2003, the commissioner shall make a final, cumulative report which shall include recommendations as to the continuation of the basic policy to the Governor and the Legislature.”

A statutory reauthorization of the basic policy was never effected in 2003 and PIANJ is unaware if the DOBI ever filed a report to the Legislature with its recommendations as to whether the basic policy should be continued. If the department is concerned about the low number of basic policies being purchased by automobile insurance consumers, perhaps a better approach to the problem would be to simply allow the basic policy option to expire, as opposed to trying to make it more appealing by allowing companies to offer it through PAIP.

Unfair burden upon producers

While PIANJ appreciates that the rule change would make it easier for insurance companies to provide basic policies, we are concerned that it would increase the burden placed upon PAIP-certified insurance producers who would now be the sole outlet for consumers to obtain basic policies. It is a very time-consuming process to write a basic policy. By allowing only PAIP-certified producers to offer these policies, PAIP producers will be deprived of the opportunity afforded to other, non-PAIP producers to pursue sales of other types of insurance. PAIP-certified Producers have already been saddled with the administrative burden of being the sole provider of SAIP policies. It is simply not reasonable to continue to give insurance companies a break at the expense of PAIP producers. All insurance companies that write personal automobile insurance in this State have done so with the expectation and knowledge that they were required to offer basic automobile policies. It is certainly not unfair to continue asking insurers to provide the product in the manner originally authorized. On the other hand, it is unfair to ask PAIP producers to pick up the administrative burden of offering these policies on behalf of all insurers, including direct writers, something that was not contemplated when the basic policy was originally authorized.

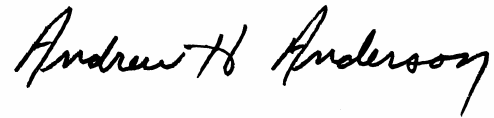
Consumer access impeded

While PIANJ maintains the positions outlined above, if the department does implement the proposal, we believe that the basic policy should be available through all properly licensed insurance producers in the state, not through PAIP-certified producers that have a contract to write automobile insurance with a voluntary market insurer actively writing new policies (as the PAIP Plan of Operation proposes).

If the department truly wants to allow consumers to be able to easily obtain a basic policy, it will not limit the sales channels through which consumers can purchase the policy to just PAIP-certified producers with a company contract. It will make it more difficult for consumers who wish to purchase the policy to do so if there are restrictions on which producers can offer the product. Insurance consumers should be able to purchase the policy from any properly licensed insurance producer.

PIANJ thanks the department for the opportunity to provide comments on this proposal. If you have any questions, you may contact me or PIANJ's Government Affairs Counsel, Jill Muratori.

Sincerely,

A handwritten signature in black ink that reads "Andrew H. Anderson". The signature is written in a cursive style with a large, stylized initial "A".

Andrew H. Anderson, CIC
PIANJ President