

SENATE, No. 2361

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED APRIL 5, 2018

Sponsored by:

Senator ANTHONY R. BUCCO

District 25 (Morris and Somerset)

SYNOPSIS

Clarifies insurance coverage for certain home and health care agency employees under their own private passenger automobile insurance.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain private passenger automobile insurance
2 coverage, supplementing and amending P.L.1972, c.70, and
3 amending R.S.48:16-13.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) a. An insurer shall not refuse to issue,
9 cancel, or non-renew a policy of private passenger automobile
10 insurance that provides or will provide coverage pursuant to
11 P.L.1972, c.70 (C.39:6A-1 et seq.), or refuse to pay a claim under a
12 policy issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), solely
13 on the basis that a named insured or other person covered under the
14 policy is an employee of a home health care agency that is licensed
15 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or an employee of
16 an agency or organization participating in the Home Care
17 Expansion Program established by the "Home Care Expansion
18 Act," P.L.1988, c.92 (C.30:4E-5 et seq.) and:

19 (1) who drives an automobile covered under the policy to
20 transport the recipient of the agency's or organization's services for
21 activities attendant to the needed services provided to the recipient;

22 or

23 (2) who, while driving a covered automobile to transport the
24 recipient of the agency's or organization's services for activities
25 attendant to the needed services provided to the recipient, is
26 involved in an accident.

27 b. Nothing in this section shall be construed to prohibit the use
28 of underwriting guidelines, risk classifications, or other rules of any
29 rating-system, as defined by section 1 of P.L.1944, c.27 (C.17:29A-
30 1), which establish rates and premiums for private passenger
31 automobile insurance coverage on the basis of the driving activities
32 of an employee of a home health care agency, or home care agency
33 or organization as described in subsection a. of this section.

34
35 2. Section 2 of P.L.1972, c.70 (C.39:6A-2) is amended to read
36 as follows:

37 2. As used in this act:

38 a. "Automobile" means a private passenger automobile of a
39 private passenger or station wagon type that is owned or hired and
40 is neither used as a public or livery conveyance for passengers, nor
41 as a limousine or livery service as defined in R.S.48:16-13, nor
42 rented to others with a driver; and a motor vehicle with a pickup
43 body, a delivery sedan, a van, or a panel truck or a camper type
44 vehicle used for recreational purposes owned by an individual or by
45 husband and wife who are residents of the same household, not

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 customarily used in the occupation, profession or business of the
2 insured other than farming or ranching. An automobile owned by a
3 farm family copartnership or corporation, which is principally
4 garaged on a farm or ranch and otherwise meets the definitions
5 contained in this section, shall be considered a private passenger
6 automobile owned by two or more relatives resident in the same
7 household.

8 b. "Essential services" means those services performed not for
9 income which are ordinarily performed by an individual for the care
10 and maintenance of such individual's family or family household.

11 c. "Income" means salary, wages, tips, commissions, fees and
12 other earnings derived from work or employment.

13 d. "Income producer" means a person who, at the time of the
14 accident causing personal injury or death, was in an occupational
15 status, earning or producing income.

16 e. "Medical expenses" means reasonable and necessary
17 expenses for treatment or services as provided by the policy,
18 including medical, surgical, rehabilitative and diagnostic services
19 and hospital expenses, provided by a health care provider licensed
20 or certified by the State or by another state or nation, and
21 reasonable and necessary expenses for ambulance services or other
22 transportation, medication and other services as may be provided
23 for, and subject to such limitations as provided for, in the policy, as
24 approved by the commissioner. "Medical expenses" shall also
25 include any nonmedical remedial treatment rendered in accordance
26 with a recognized religious method of healing.

27 f. "Hospital expenses" means the cost of treatment and
28 services, as provided in the policy approved by the commissioner,
29 by a licensed and accredited acute care facility which engages
30 primarily in providing diagnosis, treatment and care of sick and
31 injured persons on an inpatient or outpatient basis; the cost of
32 covered treatment and services provided by an extended care
33 facility which provides room and board and skilled nursing care 24
34 hours a day and which is recognized by the administrators of the
35 federal Medicare program as an extended care facility; and the cost
36 of covered services at an ambulatory surgical facility supervised by
37 a physician licensed in this State or in another jurisdiction and
38 recognized by the Commissioner of Health **【and Senior Services】**,
39 or any other facility licensed, certified or recognized by the
40 Commissioner of Health **【and Senior Services】** or the
41 Commissioner of Human Services or a nationally recognized
42 system such as the Commission on Accreditation of Rehabilitation
43 Facilities, or by another jurisdiction in which it is located.

44 g. "Named insured" means the person or persons identified as
45 the insured in the policy and, if an individual, his or her spouse, if
46 the spouse is named as a resident of the same household, except that
47 if the spouse ceases to be a resident of the household of the named
48 insured, coverage shall be extended to the spouse for the full term

1 of any policy period in effect at the time of the cessation of
2 residency.

3 h. "Pedestrian" means any person who is not occupying,
4 entering into, or alighting from a vehicle propelled by other than
5 muscular power and designed primarily for use on highways, rails
6 and tracks.

7 i. "Noneconomic loss" means pain, suffering and
8 inconvenience.

9 j. "Motor vehicle" means a motor vehicle as defined in
10 R.S.39:1-1, exclusive of an automobile as defined in subsection a.
11 of this section.

12 k. "Economic loss" means uncompensated loss of income or
13 property, or other uncompensated expenses, including, but not
14 limited to, medical expenses.

15 l. "Health care provider" or "provider" means those persons
16 licensed or certified to perform health care treatment or services
17 compensable as medical expenses and shall include, but not be
18 limited to, (1) a hospital or health care facility which is maintained
19 by a state or any of its political subdivisions, (2) a hospital or health
20 care facility licensed by the Department of Health **【and Senior**
21 **Services】**, (3) other hospitals or health care facilities designated by
22 the Department of Health **【and Senior Services】** to provide health
23 care services, or other facilities, including facilities for radiology
24 and diagnostic testing, freestanding emergency clinics or offices,
25 and private treatment centers, (4) a nonprofit voluntary visiting
26 nurse organization providing health care services other than in a
27 hospital, (5) hospitals or other health care facilities or treatment
28 centers located in other states or nations, (6) physicians licensed to
29 practice medicine and surgery, (7) licensed chiropractors, (8)
30 licensed dentists, (9) licensed optometrists, (10) licensed
31 pharmacists, (11) licensed podiatrists, (12) registered bio-analytical
32 laboratories, (13) licensed psychologists, (14) licensed physical
33 therapists, **【(16)】** (15) certified nurse-midwives, **【(17)】** (16)
34 certified nurse-practitioners/clinical nurse-specialists, **【(18)】** (17)
35 licensed health maintenance organizations, **【(19)】** (18) licensed
36 orthotists and prosthetists, **【(20)】** (19) licensed professional nurses,
37 and **【(21)】** (20) providers of other health care services or supplies,
38 including durable medical goods.

39 m. "Medically necessary" means that the treatment is consistent
40 with the symptoms or diagnosis, and treatment of the injury (1) is
41 not primarily for the convenience of the injured person or provider,
42 (2) is the most appropriate standard or level of service which is in
43 accordance with standards of good practice and standard
44 professional treatment protocols, as such protocols may be
45 recognized or designated by the Commissioner of Banking and
46 Insurance, in consultation with the Commissioner of Health **【and**
47 **Senior Services】** or with a professional licensing or certifying board

1 in the Division of Consumer Affairs in the Department of Law and
2 Public Safety, or by a nationally recognized professional
3 organization, and (3) does not involve unnecessary diagnostic
4 testing.

5 n. "Standard automobile insurance policy" means an
6 automobile insurance policy with at least the coverage required
7 pursuant to sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and
8 39:6A-4).

9 o. "Basic automobile insurance policy" means an automobile
10 insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-
11 3.1).

12 (cf: P.L.2005, c.259, s.35)

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14 3. R.S.48:16-13 is amended to read as follows:

15 48:16-13. Except as provided in section 2 of P.L.1997, c.356
16 (C.48:16-13.1), as used in this article:

17 "Autocab" means a limousine.

18 "Chief Administrator" means the Chief Administrator of the New
19 Jersey Motor Vehicle Commission.

20 "Commission" means the New Jersey Motor Vehicle
21 Commission established by section 4 of P.L.2003, c.13 (C.39:2A-
22 4).

23 "Limousine" means and includes any automobile or motor car
24 used in the business of carrying passengers for hire to provide
25 prearranged passenger transportation at a premium fare on a
26 dedicated, nonscheduled, charter basis that is not conducted on a
27 regular route and with a seating capacity of no more than 14
28 passengers, not including the driver, provided, that such a vehicle is
29 certified by the manufacturer of the original vehicle and the second-
30 stage manufacturer, if applicable, to conform to all applicable
31 Federal Motor Vehicle Safety Standards promulgated by the United
32 States Department of Transportation pursuant to 49 CFR Part 571
33 (49 CFR 571.1 et seq.) and 49 CFR Part 567 (49 CFR 567.1 et
34 seq.). In addition, a "Vehicle Emission Control Information" label,
35 which contains the name and trademark of the manufacturer and an
36 unconditional statement of compliance with the emission
37 requirements of the Environmental Protection Agency, shall be
38 present on the vehicle. Nothing in this article contained shall be
39 construed to include taxicabs, hotel buses, buses employed solely in
40 transporting school children or teachers, vehicles owned and
41 operated directly or indirectly by businesses engaged in the practice
42 of mortuary science when those vehicles are used exclusively for
43 providing transportation related to the provision of funeral services,
44 autobuses which are subject to the jurisdiction of the Department of
45 Transportation, or interstate autobuses required by federal or State
46 law or regulations of the Department of Transportation to carry
47 insurance against loss from liability imposed by law on account of
48 bodily injury or death.

1 "Limousine or livery service" means and includes the business of
2 carrying passengers for hire by limousines, but does not mean or
3 include any private passenger automobile owned by an individual
4 who is an employee of a home health care agency that is licensed
5 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or an employee of
6 an agency or organization participating in the Home Care
7 Expansion Program established by the "Home Care Expansion
8 Act," P.L.1988, c.92 (C.30:4E-5 et seq.), when the automobile is
9 driven by the individual to transport the recipient of the agency's or
10 organization's services for activities attendant to the needed
11 services provided to the recipient.

12 "Person" means and includes any individual, copartnership,
13 association, corporation or joint stock company, their lessees,
14 trustees or receivers appointed by any court whatsoever.

15 "Principal place of business" means, in reference to a
16 municipality, the location of the main place of business of the
17 limousine service in the municipality where limousine service is
18 conducted, where limousines are dispatched, or where limousine
19 drivers report for duty.

20 "Street" means and includes any street, avenue, park, parkway,
21 highway, or other public place.

22 (cf: P.L.2009, c.325, s.2)

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24 4. This act shall take effect on the first day of the third month
25 next following enactment.

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STATEMENT

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30 This bill clarifies that automobile insurance coverage for
31 employees of a home health care agency that is licensed pursuant to
32 P.L.1971, c.136 (C.26:2H-1 et seq.) or an agency or organization
33 participating in the Home Care Expansion Program established by
34 the "Home Care Expansion Act," P.L.1988, c.92 (C.30:4E-5 et
35 seq.), who drive their own automobile to transport recipients of an
36 agency's or organization's services for activities attendant to the
37 needed services provided to the recipients, shall be provided under
38 the employees' own private passenger automobile insurance. It
39 does so by indicating, in the relevant private passenger automobile
40 and livery statutes, that such driving activities are not any form of
41 autocab, limousine, or livery service, and thus are under the scope
42 of private passenger automobile insurance coverage.

43 Further, the bill provides that a licensed private passenger
44 automobile insurer shall not refuse to issue, cancel, or non-renew a
45 policy, or refuse to pay a claim under such a policy, solely on the
46 basis that a named insured or any other covered insured is an
47 employee of a home health care agency, or home care agency or
48 organization and:

1 (1) who drives a covered automobile to transport the recipient of
2 the agency's or organization's services for activities attendant to the
3 needed services provided to the recipient; or

4 (2) who, while driving a covered automobile to transport the
5 recipient of the agency's or organization's services for activities
6 attendant to the needed services provided to the recipient, is
7 involved in an accident.

8 However, nothing in the bill shall be construed to prohibit the
9 use of underwriting guidelines, risk classifications, or other rules of
10 any rating-system, as defined by section 1 of P.L.1944, c.27
11 (C.17:29A-1), which establish rates and premiums for private
12 passenger automobile insurance coverage on the basis of the driving
13 activities of the employee.