

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
PROPOSED CONSOLIDATED**

**FIFTH AMENDMENT TO 11 NYCRR 65-1
(INSURANCE REGULATION 68-A)
REGULATIONS IMPLEMENTING THE COMPREHENSIVE MOTOR VEHICLE INSURANCE
REPARATIONS ACT – PRESCRIBED POLICY ENDORSEMENTS**

**SECOND AMENDMENT TO 11 NYCRR 65-2
(INSURANCE REGULATION 68-B)
REGULATIONS IMPLEMENTING THE COMPREHENSIVE MOTOR VEHICLE INSURANCE
REPARATIONS ACT – RIGHTS AND LIABILITIES OF SELF-INSURERS**

**ELEVENTH AMENDMENT TO 11 NYCRR 65-3
(INSURANCE REGULATION 68-C)
REGULATIONS IMPLEMENTING THE COMPREHENSIVE MOTOR VEHICLE INSURANCE
REPARATIONS ACT – CLAIMS FOR PERSONAL INJURY PROTECTION BENEFITS**

**THIRTY-EIGHTH AMENDMENT TO 11 NYCRR 68
(INSURANCE REGULATION 83)
CHARGES FOR PROFESSIONAL HEALTH SERVICES**

I, Adrienne A. Harris, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301 and 5102 and Article 51 of the Insurance Law, do hereby promulgate the following amendments to Parts 65 and 68 of Title 11 of the Official Compilation of Codes, Rules, and Regulations of the State of New York, to take effect 90 days after publication of the Notice of Adoption in the State Register, to read as follows:

(New Matter is Underscored; Matter in Brackets is Deleted)

Subsection (b) of the medical expense section in the mandatory personal injury protection endorsement set forth in section 65-1.1(d) is amended as follows:

Medical expense shall consist of necessary expenses for:

(b) psychiatric, physical therapy, and occupational therapy and rehabilitation, provided that the physical therapy is rendered pursuant to a referral by a physician, dentist, podiatrist, or nurse practitioner and the occupational therapy and rehabilitation is rendered pursuant to a referral by a physician or nurse practitioner;

Subsection (b) of the medical expense section in the mandatory personal injury protection endorsement for motorcycles set forth in section 65-1.1(e) is amended as follows:

Medical expense shall consist of necessary expenses for:

(b) psychiatric, physical therapy, and occupational therapy and rehabilitation, provided that the physical therapy is rendered pursuant to a referral by a physician, dentist, podiatrist, or nurse practitioner and the occupational therapy and rehabilitation is rendered pursuant to a referral by a physician or nurse practitioner;

Subsection (b) of the the medical expense section in the mandatory personal injury protection endorsement for all-terrain vehicles as set forth in section 65.1-1(f) is amended as follows:

Medical expense shall consist of necessary expenses for:

(b) psychiatric, physical therapy, and occupational therapy and rehabilitation, provided that physical therapy is rendered pursuant to a referral by a physician, dentist, podiatrist, or nurse practitioner and the occupational therapy and rehabilitation is rendered pursuant to a referral by a physician or nurse practitioner;

Sections 65-2.2(d)(3) and (f)(2) are amended as follows:

(d) If the self-insurer has elected to provide Optional Basic Economic Loss (OBEL) coverage, the eligible injured person or that person's legal representative may specify that the OBEL coverage will be applied to one of the following four options:

(3) psychiatric, physical therapy, or occupational therapy and rehabilitation, provided that the physical therapy is rendered pursuant to a referral by a physician, dentist, podiatrist, or nurse practitioner and the occupational therapy and rehabilitation is rendered pursuant to a referral by a physician or nurse practitioner; or

(f) Medical expense.

Medical expense shall consist of necessary expenses for:

(2) psychiatric, physical therapy, and occupational therapy and rehabilitation, provided that physical therapy is rendered pursuant to a referral by a physician, dentist, podiatrist, or nurse practitioner and the occupational therapy and rehabilitation is rendered pursuant to a referral by a physician or nurse practitioner;

Section 65-3.16(a)(5) is amended as follows:

(5) If the applicant's injuries warrant occupational therapy [or] and rehabilitation [based on an attending physician's recommendation, or if the injuries have rendered the applicant unable to resume the applicant's

occupation] pursuant to a referral by a physician or nurse practitioner, the insurer shall inform the applicant of the coverage for occupational therapy [or] and rehabilitation required by section 5102(a)(1)(ii) of the Insurance Law, and the insurer shall assist the applicant in obtaining such occupational therapy and rehabilitation.

Section 65-3.19(d)(1) is amended as follows:

(d) When it becomes apparent that an applicant, who is receiving no-fault first-party benefits, will be disabled for more than one year, the insurer shall proceed as follows:

(1) forward to the applicant[, in triplicate,] the prescribed agreement to pursue social security disability benefits (NYS form NF-8) [and a self-addressed, stamped return envelope. The applicant shall bring this form to the Social Security Administration (SSA) and, when completed, one copy will be retained by the SSA, one will be retained by the applicant and one will be returned by the applicant to the insurer in the self-addressed, return envelope];

Section 65-3.19(f)(2) is amended as follows:

(2) The insurer shall provide the applicant with a notice and proof of claim for disability benefits (DB 450)[, which has been printed on buff-colored paper and, in addition, shall notify the applicant's employer that such employer is required to process the applicant's disability benefits claim if its employees are covered for such benefits by the Workers' Compensation Law. The notification to the employer should be sent along with the employer's wage verification report (NYS form NF-6). Unless the insurer has complied with the above, it], The insurer shall not take an offset for New York State disability benefits [until it verifies that] unless the applicant is actually receiving statutory disability benefits.

NYS Forms NF-1A, NF-1B, and NF-10 in Appendix 13 are hereby repealed and new NYS Forms NF-1A, NF-1B, and NF-10 are added.

Section 68.0(b) is amended as follows:

(b) [Paragraph (1) of subdivision (a) of section 5102 of the] Insurance Law section 5102(a)(1) defines *basic economic loss* to include necessary expenses incurred for: (i) medical, hospital, surgical, nursing, dental, ambulance, X-ray, prescription drug and prosthetic services; (ii) psychiatric, physical therapy, and occupational therapy and rehabilitation, provided that the physical therapy is rendered pursuant to a referral by a physician, dentist, podiatrist, or nurse practitioner and the occupational therapy and rehabilitation is rendered pursuant to a referral by a physician or nurse practitioner; (iii) any nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by the laws of this State; and (iv) any other professional health services.