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## JANUARY 14, 2010 - NO-FAULT NEWSLETTER

### IMPORTANT NOTICE – PLEASE READ IMMEDIATELY

Re: Proposed new No-Fault Regulations affecting automobile accident victims and their medical providers.

The New York State Insurance Department has introduced a draft version of proposed changes to the No-Fault Regulations. Many of these changes may adversely affect the ability of both you and your patients to collect No-Fault benefits. The proposed changes are set forth at the New York Insurance Department website at:

[http://www.ins.state.ny.us/r68/r68\\_draft\\_trk\\_chg.pdf](http://www.ins.state.ny.us/r68/r68_draft_trk_chg.pdf) or <http://www.ins.state.ny.us/>

Some of the more substantial proposed changes in the No-Fault Regulations that may negatively affect you and your patients are:

- **COMPLEX MEDICAL QUESTIONNAIRE REQUIRED FOR EVERY BILL**

The new proposed NF-3 verification of treatment form (the medical bill), is seven pages long and contains many new questions which the no-fault insurer can insist be answered in their entirety before it even considers payment of the claim. It will likely take your office considerably longer to complete this more onerous form for each claim that you submit as compared to the prior procedure.

- **PHYSICAL THERAPY REFERRAL REQUIREMENT**

A patient requiring physical therapy will no longer be able to visit a physical therapist without first obtaining a referral.

- **90 DAY DEADLINE TO PROVIDE INFORMATION**

Information/Verification requested by the insurance carrier **MUST** be provided within ninety days, or else the claim will be permanently barred. Under the current regulation, a claim is simply delayed until the information is submitted. Under the proposed regulation, if a request is misplaced or lost in the mail, or if

you or your patient is unable to obtain the requested information within ninety days, your bill will never be paid.

- **NO EXCUSE FOR MISSING EXAMINATIONS**

No-fault insurers will no longer be required to prove willfulness on the part of a medical provider or its patient in failing to appear for an examination. This means that if you or your patient fails to appear for an examination, you can never collect on your bill, even if the non-appearance was not willful or intentional.

- **REQUEST FOR EXAMINATION UNDER OATH SUSPENDS ALL PAYMENTS**

A request that a medical provider appear for an examination under oath can delay the payment of ALL your bills regarding that insurance carrier.

- **REQUEST FOR AN ADJOURNMENT OF AN EXAMINATION UNDER OATH CAN NOT BE MADE WITHIN 48 HOURS OF THE SCHEDULED EXAMINATION**

The new regulations require the insurer to accommodate reasonable requests for adjournments only if the request is made more than 48 hours in advance.

### **Questions Concerning the Proposed Changes**

Question: Are the regulation changes final?

Answer: NO. The changes described above are only A PROPOSED DRAFT. The Insurance Department still has power to modify the changes.

Question: Can anything be done to prevent or modify these proposed changes?

Answer: YES. The Insurance Department needs to know how these changes will affect medical providers and their ability to treat automobile accident victims. There is an opportunity for the public to submit comments to the Insurance Department regarding the proposed changes

Question: Who can submit such comments?

Answer: Any New York State resident, including medical doctors, and other health service providers, and their patients.

Question: How can I submit my comment?

Answer: If you go to the website listed above, you can follow a link for submitting comments directly to the Insurance Superintendent. Visit [http://www.ins.state.ny.us/r68/r68\\_draft\\_form.htm](http://www.ins.state.ny.us/r68/r68_draft_form.htm) for an online form that you can submit. Alternatively, you can email your comments to: [NoFaultDraftReg@ins.state.ny.us](mailto:NoFaultDraftReg@ins.state.ny.us)

Question: What sort of comment should I submit?

Answer: Feel free to write in as many or as few words as you like concerning what you feel about the new proposed regulation changes. If, based upon your past

experience with particular carriers, you feel that carriers will abuse their power to request verification or Examinations Under Oath, please share your concerns. The important thing is that you voice your opinion and tell the Insurance Department if you do not approve of the proposed changes and that these changes will hurt not only you and your patients, but also every person in New York who has been or may be injured in an automobile accident.

Question: When must I submit my comments?

Answer: IMMEDIATELY. Comments MUST be submitted on or before February 1, 2010.

Question: Will my comment make a difference?

Answer: Yes. The Insurance Department is required to consider every comment made regarding the proposed changes. Additionally, the more of us whom submit comments, the more our collective voices will be heard. This is our opportunity to stand up to the powerful insurance lobby in New York and tell the Insurance Department we do not approve of certain provisions of the proposed regulation. If we do not stand up for our patients and practices, we cannot expect the Insurance Department to do so.

Question: Will it help to get my professional association involved?

Answer: Yes! Comments made by respected professional associations such as the Medical Society of the State of New York, the New State York Osteopathic Medical Society, the New York State Chiropractic Association, the New York Physical Therapy Association can be particularly helpful.

Question: What else is being done?

Answer: The New York Coalition of No-Fault Lawyers (NYCNFL), a coalition of concerned attorneys whose goals include challenging the insurance industry on particular legislative and regulatory issues, has been intimately involved in identifying and tracking proposed rulemaking that will affect the rights of automobile accident victims and their medical providers. As a member of this coalition, we are committed to ensuring that your rights are not compromised for the sake of the insurance industry.

In sum, we believe that some of the proposed changes to the No-Fault Regulations will help only the insurance companies. If these provisions are enacted, they will hurt automobile accident victims, the medical providers who treat them, and everyone else in New York State who pays for automobile insurance. In order to make a difference, we must stand united in our opposition to those proposed changes to the No-Fault Regulations. Please submit your comments to the Insurance Department no later than February 1, 2010 and help support those public officers who will fight for us. Finally, please pass this notice along to your patients, your colleagues and anyone else who may be interested in stopping this injustice.

If you have any questions, please do not hesitate to contact us.