



Dedicated to protecting access to quality healthcare for automobile accident victims

April 2, 2010

As you are aware, last November the Insurance Department issued a “working draft” of a proposed revision of the regulations governing the processing of No-Fault claims and the payment of No-Fault benefits. On February 1, 2010, members of NYFAIR working as part of the New York Coalition of No-Fault Lawyers (NYCNFL) submitted extensive commentary on the “working draft”. The commentary, which is available at www.newyorkfair.org, included objections to the proposed “working draft” as well as suggestions to help protect accident victims and their health care providers from abusive insurance company practices.

On March 25, 2010, representatives of NYFAIR met with members of the New York State Insurance Department to discuss these comments. During the meeting, we articulated detailed objections to many provisions of the proposed regulations and suggested the adoption of new provisions to help protect accident victims and their health care providers. While we voiced concern about many aspects of the proposed regulations, the following issues were discussed in depth:

- Health care provider examinations under oath (EUO) where carriers routinely, and without any legitimate belief of wrongdoing, demand that providers:
 - Produce documentation of every aspect of their practice, including tax returns, bank records, and rental agreements.
 - Submit to lengthy interrogation at the hands of insurance company lawyers.
- Abusive requests for verification of claims where carriers demand the production of information or documents that are:
 - Not under the accident victim’s or their health care provider’s control.
 - Already in the carrier’s possession.
 - Not relevant to the particular claim at issue.
- The new 7-page billing questionnaire that the current draft of the proposed regulations require for every bill.

Overall, the Insurance Department appeared sympathetic to many of the concerns we articulated. For example, we received an indication that the Department would not be requiring the use of the 7-page billing questionnaire as initially proposed. Regarding the other issues, we are cautiously optimistic that the next draft of proposed changes will contain additional provisions to help protect accident victims and their health care providers from abusive insurance carrier conduct.