

PROPOSED RULEMAKING

INSURANCE DEPARTMENT

[31 PA. CODE CH. 67]

Evidence of Financial Responsibility

The Insurance Department (Department) proposes to amend Chapter 67, Subchapter B (relating to evidence of financial responsibility) to read as set forth in Annex A. The Department is publishing the amendments as proposed rulemaking. The Department proposes the amendments under the authority of 75 Pa.C.S. § 1782(d) (relating to manner of providing proof of financial responsibility). Subchapter B sets forth the requirements of providing proof of financial responsibility for all owners and operators of motor vehicles in this Commonwealth. Additionally, the form and content of identification cards that insurers are required to issue and motorists are required to possess is also contained within this subchapter.

Purpose

The purpose of this rulemaking is to amend Subchapter B to provide additional detail for clarity, delete unenforceable and outdated provisions, and bring the regulation into conformance with 75 Pa.C.S. §§ 1701–1798 (relating to Motor Vehicle Financial Responsibility Law).

In the definitions section, the reference to Department is proposed to be deleted as it is contained in another regulation and the definition of “NAIC company code number” is proposed to be modified slightly for clarity.

Under § 67.23(a) and (b) (relating to I. D. cards), references to the original dates of these requirements in 1984 are proposed to be deleted, as they are outdated and no longer necessary.

Section 67.24(a) (relating to form and content of I. D. cards) is proposed to be amended to delete reference to no-fault insurance and pre-1985 requirement dates. Section 67.24(b)(8) is proposed to be modified to conform with 75 Pa.C.S. § 1782(d) by requiring that the I. D. cards disclose the period for which coverage has been paid by the insured. Additionally, in § 67.24(c), the warning language is proposed to be amended because it was confusing as written.

Instructions accompanying I. D. cards, § 67.25 (relating to instructions accompanying I. D. cards), is proposed to be amended to allow insurers flexibility, without mandating specific language.

Section 67.26 relating to multiple vehicle situations is proposed to be renamed to “I. D. cards issued by an insurer to fleets or dealers,” as it is more concise and accurate. Language requiring the insurance company to advise a dealer that an I. D. card cannot be used to register a specific vehicle has been amended. The language that an I. D. card be placed in each vehicle while it is being driven under the dealer’s policy with the dealer’s plate is proposed to be deleted, as the Department cannot enforce this requirement.

Section 67.27 entitled “Binder” is proposed to be renamed, “Temporary Identification Cards,” for clarity. Subsection (a) is proposed to be modified to require the issuance of a temporary I. D. card rather than a copy of the binder, as the Department feels the use of temporary I. D. cards may become more widespread as insurance companies change over to electronic application transmis-

sions. Also, a requirement of what specific information a temporary I. D. card must contain is listed, such as the statement that the I. D. card is temporary, and that it is not valid for more than 60 days from the date of issuance. Subsection (b) is proposed to be modified to indicate exactly what information must be contained on the assigned risk application for it to be used as a temporary I. D. card. A copy of a valid application is still acceptable, and must state that a certified producer is not permitted to issue a temporary I. D. card for assigned risk applications.

Section 67.28 regarding other evidence of financial responsibility is proposed to be deleted in its entirety as the Department of Transportation will have to determine what is acceptable evidence of financial responsibility.

External Comments

The Insurance Federation of Pennsylvania, Inc., and the Department of Transportation, Bureau of Motor Vehicles, were contacted regarding these proposed amendments. The Department has incorporated their comments into these proposed amendments. Specifically, the Department has retained the warning language required on the I. D. cards by § 67.24 because it informs the insureds that there are penalties for failing to maintain liability insurance. The Department’s proposed change that “I. D. cards shall contain a statement similar to the following” was made because the warning is confusing as presently written, implying that if insureds allow their insurance to lapse, there would not be a problem so long as they do not drive the vehicle.

Fiscal Impact

The proposed amendments should not have any substantial impact on costs associated with the Department, insurance companies, political subdivisions or the general public.

Paperwork

The proposed amendments should not impose additional paperwork requirements on the Department, insurers or the general public.

Persons Regulated

The proposed amendments apply to insurance companies who transact insurance business and owners and operators of motor vehicles in this Commonwealth.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429, within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 13, 1997, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order

1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

If the Committees have objections to any portion of the proposed amendments, they will notify the Department within 20 days of the close of the public comment period. If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations by the Department, the General Assembly and the Governor of objections raised.

M. DIANE KOKEN,
Acting Insurance Commissioner

Fiscal Note: 11-165. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART II. AUTOMOBILE INSURANCE

CHAPTER 67. MOTOR VEHICLE FINANCIAL RESPONSIBILITY LAW

SUBCHAPTER B. EVIDENCE OF FINANCIAL RESPONSIBILITY.

§ 67.22. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

[**Department**—The Insurance Department of the Commonwealth.]

* * * * *

NAIC company code number—The unique number which is assigned by the National Association of Insurance Commissioners [**Central Office to identify that insurer**].

* * * * *

§ 67.23. I. D. cards.

(a) *Insurers.* [**On or after October 1, 1984, at the inception or renewal of a policy, the**] The insurer shall issue to each named insured one I. D. card as specified in this subchapter for each vehicle which it insures. Upon the addition or substitution of a vehicle covered in the policy, the insurer shall issue an I. D. card for that vehicle. Replacement of I. D. cards for the purpose of change of address shall be optional at the discretion of the insurer.

(b) *Self-insurers.* [**On or after October 1, 1984, the**] The self-insurer shall issue an I. D. card as specified in this subchapter for each vehicle for which satisfaction of the requirements of the act is accomplished through self-insurance. Upon the addition or substitution of a vehicle, the self-insurer shall issue an I. D. card for that vehicle. Replacement of I. D. cards for the purpose of change of address shall be optional at the discretion of the self-insurer.

* * * * *

§ 67.24. Form and content of I. D. cards.

(a) *Form of financial responsibility cards.* [**The insurer and self-insurer may in their discretion choose to satisfy the requirements of this subchapter by continuing to use the existing no-fault identification card until January 1, 1985. After January 1, 1985, the**] The insurer and self-insurer shall [**use a new**] issue an I. D. card containing information required in this section or another card as may be approved by the Department.

(b) *Contents.* Each I. D. card shall contain the following information on the front of the card:

* * * * *

(6) Policy number [**where applicable**].

(7) Effective date: month, day[,] and year [**of the policy must be shown**].

(8) [**The following inscription below the effective date: NOT VALID MORE THAN 1 YEAR FROM EFFECTIVE DATE.**] Expiration date: month, day, and year.

(c) *Statement.* Each I. D. card shall contain [**the following**] a statement [**on the back of the card**] similar to the following:

This card must be carried for production upon demand. It is suggested that you carry this card in the insured vehicle.

WARNING: Any owner or registrant of a motor vehicle who drives or permits a motor vehicle to be driven in this State without the required financial responsibility may have [**his**] the registration suspended or revoked.

NOTE: THIS CARD IS REQUIRED WHEN:

(1) You are involved in an auto accident.

(2) [**Your**] **You** are convicted of a traffic offense other than a parking offense that requires a court appearance.

(3) You are stopped for violating any provision of 75 Pa.C.S. (relating to the Vehicle Code) and requested to produce it by a police officer.

You must provide a copy of this card to the Department of Transportation when you request restoration of your operating privilege [**and/or**] or registration privilege, or both, which has been previously suspended or revoked.

§ 67.25. Instructions accompanying I. D. cards.

[**At the time the insurer issues an I. D. card to a policyholder, it shall also issue a statement explaining I. D. card requirements, including display to law enforcement officers, use for registering vehicles, and action that must be taken in the event a card is lost or a card is in error. The following language will be acceptable to the Department in satisfaction of this requirement:**] The insurance company shall advise the policyholder of I. D. card requirements as outlined in § 67.24(c) (relating to form and content of I. D. cards), including display to law enforcement officers, action that shall be

taken in the event a card is lost or contains incorrect information and use for registering vehicles. The following language is provided as an example of language which meets these requirements:

IMPORTANT NOTICE Regarding your Financial Responsibility Insurance Identification Card.

The _____ Insurance Company is required by Pennsylvania law to send you an I. D. card. The card shows that an insurance policy has been issued for the vehicle(s) described in satisfying the financial responsibility requirements of the law.

If you lose the card, or if the card contains incorrect information, contact your insurance company or agent for a replacement.

The I. D. card information may be used for vehicle registration and replacing license plates. If your liability insurance policy is not in effect, the I. D. card is no longer valid.

You are required to maintain financial responsibility on your vehicle. It is against Pennsylvania law to use the I. D. card fraudulently such as using the card as proof of financial responsibility after the insurance policy is terminated.

§ 67.26. I. D. cards issued [to fleets, dealers, transporters; and temporary registrations] by an insurer to fleets or dealers.

* * * * *

(b) An I. D. card issued to a dealer may show either "garage liability hazard number 1 policy" or "all owned and nonowned vehicles—comprehensive auto liability policy" instead of a specific vehicle description. One I. D. card must be issued for each set of dealer plates assigned to the dealer and insured under such a policy. [An I. D. card issued to a dealer] The insurance company shall advise that an I. D. card issued to a dealer cannot be used to register a specific vehicle. [An I. D. card must be placed in each vehicle while it is being driven under the dealer's policy with the dealer's plate.]

§ 67.27. [Binder] Temporary identification cards.

(a) [Prior to receiving an I. D. card from an insurer, a copy of a valid binder which contains the information required in § 67.24(b)(1)-(7) (relating to form and content of I. D. cards) excluding the policy number can be used as evidence of financial responsibility.] An agent may issue a temporary I. D. card, which can be used as evidence of financial responsibility until the permanent I. D. card is issued by the insurance company. The temporary I. D. card shall contain the following information:

TITLE OF CARD—TEMPORARY FINANCIAL RESPONSIBILITY IDENTIFICATION CARD

NOTE: THIS CARD IS NOT VALID FOR MORE THAN 60 DAYS FROM THE DATE OF ISSUANCE

NAME OF INSURANCE GROUP

NAME, ADDRESS, AND SIGNATURE OF ISSUING AGENT

DESCRIPTION OF VEHICLE—YEAR, MAKE AND VEHICLE IDENTIFICATION NUMBER

EFFECTIVE DATE OF COVERAGE—MONTH, DAY AND YEAR

(b) [Prior to receiving an I. D. card from an assigned company of the Pennsylvania Automobile Insurance Plan (Plan), a copy of an application to the Plan can be used in place of an I. D. card, if the application contains the information required in § 67.24(b)(1)–(7) excluding the policy number and is signed by a licensed insurance agent or broker.] A Pennsylvania Assigned Risk Plan application may be used as evidence of financial responsibility prior to receipt of an I. D. card from the assigned insurance company. The application shall contain the following information:

NAME, ADDRESS AND SIGNATURE OF CERTIFIED PRODUCER

DESCRIPTION OF VEHICLE—YEAR, MAKE AND VEHICLE IDENTIFICATION NUMBER

ELECTRONIC MAIL REFERENCE NUMBER, IF APPLICABLE

NOTE: A CERTIFIED PRODUCER IS NOT PERMITTED TO ISSUE A TEMPORARY ID CARD FOR ASSIGNED RISK APPLICATIONS

§ 67.28. [Other evidence of financial responsibility] (Reserved).

[Where the I. D. card is not held sufficient by the court, the Department of Transportation or other law enforcement agency to demonstrate financial responsibility, an insurer shall provide in writing other evidence that the policyholder is financially responsible.]

[Pa.B. Doc. No. 97-1909. Filed for public inspection November 28, 1997, 9:00 a.m.]

[31 PA. CODE CH. 67]

Motor Vehicle Financial Responsibility Law; Catastrophic Loss Benefits Continuation Fund

The Insurance Department (Department), Bureau of Special Funds, proposes to amend Chapter 67, Subchapter A (relating to Catastrophic Loss Trust Fund) to read as set forth in Annex A. The proposed amendments are published as proposed rulemaking under the authority of sections 506 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 186 and 412). The proposed rulemaking is necessary due to the repeal of the Catastrophic Loss Trust Fund and the subsequent implementation of the Catastrophic Loss Benefits Continuation Fund (Fund).

Purpose

Sections 67.1—67.15 were originally promulgated to provide guidance for the handling of claims under the Catastrophic Loss Trust Fund created in 1984 by Subchapter F of 75 Pa. C.S. §§ 1761—1769, which was deleted effective December 12, 1988, by the act of December 12, 1988 (P. L. 1120, No. 144) (Act 144). Subsequently, the act of April 26, 1989 (P. L. 13, No. 4) (Act 4) added

Subchapter I to Title 75. Section 1798.4 of Act 4 established the Fund to provide funds necessary to pay catastrophic loss benefits to individuals who suffered a catastrophic loss after October 1, 1984, and prior to June 1, 1989, or during the December 1988-89 registration year for which payment for Catastrophic Loss Trust Fund coverage was made under former 75 Pa.C.S. § 1762.

Section 1798.2 of Subchapter I contains a savings provision providing that despite the repeal of Subchapter F by Act 144, persons experiencing catastrophic losses during the time between the Catastrophic Loss Trust Fund's effective date (October 1, 1984, and June 1, 1989) or during the December 1988-89 vehicle registration year for which a fee was paid, shall continue to receive, or will be eligible to receive, catastrophic loss benefits as if Subchapter F had not been deleted. Because of the deletion of Subchapter F and the addition of Subchapter I allowing claimants to continue to receive Fund benefits, it is necessary to modify various sections of Chapter 67 as well as add a new section to reflect the statutory changes and provide a more accurate reflection of current Fund needs.

Explanation of Regulatory Requirements

Section 67.1 (relating to purpose) is proposed to be revised to state that the deletion of and amendments to various sections of Chapter 67 are necessitated by the deletion of Subchapter F of 75 Pa.C.S. §§ 1761—1769, and the amendment of Title 75 to add Subchapter I, which allows certain claimants to continue to receive benefits through the Fund.

Section 67.2 (relating to definitions) is proposed to be revised to delete definitions for "Board," "Commissioner," "Director," "Fund charge," "insured," "insurer," "manager," "policy" and "self-insurer" which are no longer applicable. Further, definitions have been added for "claims manager," "eligible claimant" and "surcharge" which are necessary due to changes in the regulations.

Section 67.3 (relating to fund financing) is proposed to be amended to reflect that the Fund is now financed with surcharges placed on motor vehicle violations as opposed to a surcharge paid by each vehicle owner.

Section 67.4 (relating to filing of claim) is proposed to be revised to specify that the Fund will review a claim for benefits, advise the claimant of eligibility and may employ an administrator to perform these functions.

Section 67.5 (collection of data) is proposed to be revised in subsection (a) to clarify that both the Fund and its Administrator are authorized to obtain data or information from claimants, health care providers, insurers and self-insurers to assist in determining eligibility for Fund benefits. The language in subsection (a) authorizing the Administrator to collect data to assure sufficient Fund funding was deleted since the Administrator no longer performs this role. Subsection (b) was deleted in its entirety since it is no longer needed to properly enforce the law.

Section 67.6 (relating to appeals) is proposed to be changed to provide a new claim review procedure wherein a claimant may request review of the Administrator's determination of eligibility for benefits, allowance of benefits or otherwise by filing a complaint in writing that is received by the Claims Manager of the Fund no later than 30 days from the date of the Administrator's denial letter. No later than 30 days after receipt of claimant's written complaint, the Claims Manager shall issue a letter determination notifying the claimant of the decision on eligibility or allowance of benefits. If the claimant is

dissatisfied with the results of the Claim Manager's determination, the claimant may then request, in writing, a formal administrative hearing before the Commissioner. This request must be received by the Department no later than 30 days of the date of the Claim Manager's determination.

This appeal process is a change from the procedure contained in the previous regulations, which allowed the claimant to request review of the Administrator's determination from the Department's Policyholders Services and Enforcement Division. This change is necessitated because the management of the Fund within the Department has changed from the Policyholder Services and Enforcement Division to the Bureau of Special Funds. Although the prior regulations did not set forth an explicit time period for the review process, the proposed amendments provide a 30-day time requirement for submitting requests for review to both the Claims Manager and the Commissioner. This time frame is consistent with the appeal periods contained in other insurance laws and the General Rules of Administrative Practice and Procedure, specifically 1 Pa. Code § 31.11.

Fund claimants who suffered a catastrophic loss between June 1, 1989, and December 31, 1989, may also be eligible to receive Extraordinary Medical Benefits (EMB). For these individuals, § 67.16 (relating to eligible claimant for Fund benefits) confirms that the EMB carrier would be the primary payor and the Fund secondary. This section must be added because EMB coverage came into effect after the December 12, 1988, deletion of the Catastrophic Loss Trust Fund.

Finally, § 67.16 is proposed to be added to delineate the claimant's duty to cooperate in providing coordination of benefits information to the Fund and its administrator. This section is necessary to ensure that the Fund is properly paying claimant benefits in all instances in which it is the primary payor, and not paying benefits in instances in which it is not.

Affected Parties

Parties who will be affected by these proposed amendments include claimants who are currently receiving benefits from the Fund, catastrophically injured claimants who are not currently eligible to receive benefits from the Fund but who may be eligible in the future, the Administrator for the Fund and the Fund itself.

Fiscal Impact

State Government

The proposed amendments will not have an impact on costs of the Fund or the Department.

General Public

The proposed amendments are not expected to have a fiscal impact upon the general public.

Political Subdivisions

The proposed amendments have no impact on costs to political subdivisions.

Private Sector

The proposed amendments have no impact on costs to the private sector.

Paperwork

The proposed amendments impose no additional paperwork requirements on the Department or the Fund.

Effectiveness/Sunset Date

The proposed amendments will become effective 90 days after final adoption and publication in the *Pennsylvania Bulletin* as final rulemaking. No sunset date has been assigned. All Department regulations are reviewed for continued effectiveness on a triennial basis.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 14, 1997, the Department submitted a copy of proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted proposal, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

If the Committees have objections to any portion of the proposed amendments, they will notify the Department within 20 days of the close of the public comment period. If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the regulations by the Department, the General Assembly and the Governor of objections raised.

M. DIANE KOKEN,
Acting Insurance Commissioner

Fiscal Note: 11-160. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART II. AUTOMOBILE INSURANCE

CHAPTER 67. MOTOR VEHICLE FINANCIAL RESPONSIBILITY LAW

Subchapter A. CATASTROPHIC LOSS TRUST FUND

§ 67.1. Purpose.

[The purpose of this] This subchapter [is to provide] provides procedures for the establishment and administration of the Catastrophic Loss [Trust] Benefits Continuation Fund, which continues the Catastrophic Loss Trust Fund eligibility determinations for certain individuals suffering catastrophic losses prior to June 1, 1989, or who may have suffered a catastrophic loss during the December 1988 to December 1989 vehicle registration year for

which payment for Catastrophic Loss Trust Fund coverage was made in accordance with former section 1762 of the act (Repealed).

§ 67.2. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Administrator—The person or entity designated by the Catastrophic Loss [Trust] Benefits Continuation Fund [Board] to review claims for catastrophic loss benefits, determine the eligibility of the claimant and make payment [where] when appropriate.

Benefits—Payments by the Catastrophic Loss [Trust] Benefits Continuation Fund for reasonable [and], necessary and accident-related expenses for medical treatment and rehabilitative services which exceed \$100,000, subject to limitations provided in the act.

[Board]—The Board of Directors responsible for the general supervision of the Catastrophic Loss Trust Fund Board.]

Claims manager—The Department employe designated by the Insurance Commissioner to manage the daily activities of the Fund.

[Commissioner]—The Insurance Commissioner of the Commonwealth.]

* * * * *

[Director]—The Executive Director hired by the Board to carry out its decisions, receive all claims for benefits, forward them to the administrator for handling and monitor their progress.]

Eligible claimant—An individual who meets the requirements of § 67.16 (relating to eligible claimant for fund benefits).

Fund—The Catastrophic Loss [Trust] Benefits Continuation Fund established to provide benefits required by the act.

[Fund charge]—The amount to be paid by persons registering motor vehicles to fund the Catastrophic Loss Trust Fund.

Insured—A person who has purchased an insurance policy that provides coverage to satisfy the financial responsibility requirements of the act.

Insurer—An insurance company, association or exchange providing coverage on motor vehicles under the act.

Manager—The person designated by the Catastrophic Loss Trust Fund Board to accept, invest and reinvest the monies of the Catastrophic Loss Trust Fund.

Policy—An insurance policy which provides coverage to satisfy the financial responsibility requirements of the act.

Self-insurer—A person or entity designated as an approved self-insurer by the Department of Transportation as set forth in 67 Pa. Code § 223.5 (relating to certificate).]

Surcharge—The amount to be paid by drivers upon conviction of any traffic violation, exclusive of parking offenses, to fund the Fund.

§ 67.3. [Amount of fund charge] Fund financing.

[(a) **Fund charge**] The [fund] Fund shall be financed by [levying a fund charge on each motor vehicle required to be registered under 75 Pa.C.S. § 1301—1373 (relating to registration of vehicles) except trailers, recreational vehicles not intended for highway use, motorcycles, motor-driven cycles, motorized pedacycles or like type vehicles] surcharges for motor vehicle violations pursuant to 75 Pa.C.S. § 6506(a) and (b).

[(b) **Initial Fund charge**. On October 1, 1984, the amount of fund charge shall be \$5 per annum.

[(c) **Subsequent Fund charge**. By January 1, 1986, and by January 1 every year thereafter, the Board shall have established an annual fund charge in the amount necessary to ensure funding for all the Fund's liabilities, which amount shall be calculated in a manner consistent with sound actuarial principles.

[(d) **Amount required**. The Catastrophic Loss Trust Fund charge shall be \$8 for each vehicle required to be registered under 75 Pa.C.S. Chapter 13 (relating to registration of vehicles) except trailers, recreational vehicles not intended for highway use, motorcycles, motor-driven cycles, motorized pedacycles or like type vehicles during the period October 1, 1988—January 31, 1989. The charge during the period February 1, 1989—September 30, 1989 is \$24.]

§ 67.4. [Filing of claim] Claim filing and review.

(a) A person who [is eligible for] seeks benefits from the Fund [may] shall file a claim for benefits [on a form available at the regional offices of the Department or at the office of the insurer] with the Fund. The Fund will review the claim for benefits and advise the claimant in writing as to whether the claimant is an eligible claimant.

(b) A [form] claim submitted to the Fund which is erroneously completed or contains inadequate information may be returned to the claimant for correction and resubmission [at the discretion of the Administrator].

(c) The Fund may employ an Administrator to review the claim for benefits and advise the claimant of eligibility.

§ 67.5. Collection of data.

[(a)] The Administrator [is] and Fund are authorized to obtain from claimants, insurers and self-insurers data or information which is necessary [to assure that funding is sufficient to pay claimants,] to permit review of claims for Fund benefits [and to perform other duties under the act.

(b) As soon as practical, but no later than 10 days after determining that a claim for medical and

rehabilitative expenses is likely to exceed \$100,000, the insurer or self-insurer shall notify the Fund in writing.]

§ 67.6. Appeals.

(a) A claimant who disputes a determination by [of] the Administrator or Fund concerning eligibility for or allowance of benefits, [allowance of benefits or otherwise,] may [obtain a review by filing] file a written complaint [with the Policyholders Services and Enforcement Division of the Department] with the Claims Manager. The written determination by the Fund or Administrator shall advise the claimant how to file a complaint with the Claims Manager. A complaint is timely filed by the claimant if received by the Claims Manager no later than 30 days after the date of the written determination from the Administrator or the Fund denying eligibility for or allowance of benefits.

(b) The Claims Manager shall issue a written determination notifying the claimant of the results of the Claims Manager's review. If the claimant is not satisfied with the results of the [Department's] Claims Manager's review, [he] the claimant may [seek] request in writing a formal administrative hearing before the Insurance Commissioner [under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law.)] The written determination by the Claims Manager shall advise the claimant how to request a hearing. A request for hearing is timely if received by the Department no later than 30 days after the date of the written determination from the Claims Manager.

(c) Appeals are conducted with the General Rules of Administrative Practice and Procedure applicable to the Department as set forth in 1 Pa. Code Part II and Chapter 56 (relating to special rules of administrative practice and procedure).

§ 67.16. Eligible claimant for Fund benefits.

An individual who has suffered injuries in a motor vehicle accident is an eligible claimant for Fund benefits if the individual meets the following criteria:

(1) The individual was a resident of this Commonwealth at the time of the accident.

(2) The injury arose out of the maintenance or use of a motor vehicle after October 1, 1984, and prior to June 1, 1989, or during the December 1988 to December 1989 vehicle registration year for which payment for Catastrophic Loss Trust Fund coverage was made in accordance with former section 1762 of the act (Repealed).

(3) The auto accident occurred in the United States, its territories or possessions or Canada.

(4) The injured person was not the driver or occupant of a recreational vehicle not intended for highway use, a motorcycle, a motorized pedal cycle, a motor-driven cycle or any vehicle required to be registered under 75 Pa.C.S. (relating to the Vehicle Code) but not subject to the Fund charge.

(5) As a result of the accident, the individual incurred reasonable and necessary medical and rehabilitative expenses exceeding \$100,000.

(6) The individual's medical and rehabilitative expenses were not covered by workers' compensation.

(7) The individual's medical and rehabilitative expenses were not covered by a policy issued under the Pennsylvania No-fault Motor Vehicle Insurance Act (repealed).

§ 67.17 Extraordinary medical benefits coverage.

An eligible claimant receiving Fund benefits for accidents occurring between June 1, 1989, through December 31, 1989, may also be insured for extraordinary medical benefits coverage. If the Administrator or the Fund determines that extraordinary medical benefits are applicable, the insurer providing those benefits is the primary payor and the

Fund has no obligation to pay until the benefits payable by the insurer providing the extraordinary medical benefits have been exhausted. No duplicate recovery is available. The total lifetime aggregate to one eligible claimant under both Extraordinary Medical Benefits coverage and the Fund may not exceed \$1 million dollars.

§ 67.18. Coordination of benefits.

An eligible claimant shall cooperate in providing coordination of benefit information to the Administrator and the Fund. Failure to cooperate will result in a claimant's suspension of benefits.

[Pa.B. Doc. No. 97-1910. Filed for public inspection November 28, 1997, 9:00 a.m.]