

391 6A-4.3 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 39:6A-4.3 et al (PIP - maximum deductible)

LAWS OF: 1984

CHAPTER: 40

Bill No: A1845

Sponsor(s): Adubato

Date Introduced: April 30, 1984

Committee: Assembly: Banking and Insurance

Senate: /////

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: May 14, 1984

Senate: May 14, 1984

Date of Approval: May 15, 1984

Following statements are attached if available:

Sponsor statement: Yes Also attached: Assembly amendments, adopted 5-14-84 (with statement)

Committee statement: Assembly Yes

Senate No

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clipping (attached) - Trenton Times, 5-17-84 - "Kean gives Merin power to order rebates"

OFFICE OF THE CLERK OF THE LEGISLATURE
TRENTON, NEW JERSEY

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1845

STATE OF NEW JERSEY

INTRODUCED APRIL 30, 1984

By Assemblymen M. ADUBATO, DEVERIN, LARocca and LOVEYS

AN ACT concerning automobile insurance, amending and supplementing P. L. 1983, c. 362 ****[and]**** **** ****, **** **** amending P. L. 1972, c. 198 and P. L. 1972, c. 70 and P. L. 1944, c. 27.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3) is amended
2 to read as follows:

3 13. Personal injury protection coverage deductibles, exclusions
4 and setoffs. With respect to personal injury protection coverage
5 provided on an automobile in accordance with section 4 of P. L.
6 1972, c. 70 (C. 39:6A-4), the automobile insurer shall, at appro-
7 priately reduced premiums, provide the following coverage options:
8 a. Medical expense benefit deductibles in amounts of \$500.00,
9 \$1,000.00 and \$2,500.00 for any one accident **[for any one person]**;
10 b. The option to exclude all benefits offered under subsections b.,
11 c., d., and e. of section 4;
12 c. A setoff option entitling an automobile insurer paying medical
13 expense benefits under section 4 to reimbursement from, and a lien
14 on, any recovery for noneconomic loss by an injured party pursuant
15 to an arbitration award, judicial judgment or voluntary settlement
16 for the amount of the medical expense benefits paid, not to exceed
17 20% of the amount of the award, judgment or settlement, including
18 recoveries under uninsured and underinsured motorist coverage,
19 except that if, at the time of the award, judgment or settlement,
20 the amount of medical expense benefits does not exceed 20% but
21 additional expense benefits of an indeterminate amount are antici-

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted May 7, 1984.

**—Assembly amendments adopted May 14, 1984.

22 pated, the amount of the setoff shall be 20% of the award, judg-
23 ment or settlement, with the difference between the value of the
24 20% and the amount of medical expense benefits previously paid
25 to be placed in an interest bearing trust account for use to indemnify
26 the insurer paying the medical expense benefits, as the benefits are
27 paid. Attorney's contingent fees shall be computed on the amount
28 of the award, judgment or settlement, less the amount of the setoff,
29 which setoff shall be, if the medical expense benefit claim of the
30 injured person, as of the date of the award, judgment or settle-
31 ment is made, is: (1) closed, the amount of medical expense bene-
32 fits paid, not to exceed 20% of the award, judgment or settlement,
33 or (2) open, 20% of the award, judgment or settlement. Under a
34 contingent fee arrangement, the attorney shall also be entitled to
35 reimbursement out of the amount of the setoff for costs actually
36 incurred in the institution and prosecution of the claim or action,
37 which amount shall in no instance exceed 10% of the amount of
38 the setoff, in a manner to be prescribed by the Supreme Court.
39 Nothing in this subsection shall be construed to prohibit an attorney
40 representing the injured party from recovering from the insurer
41 providing personal injury protection benefits the reasonable cost
42 of any legal services rendered to that insurer primarily in con-
43 junction with the setoff reimbursement.

44 A deductible, exclusion or setoff elected by the named insured in
45 accordance with this section shall apply only to the named insured
46 and any resident relative in the named insured's household *who*
47 *is not a named insured under another automobile insurance policy,*
48 and not to any other person eligible for personal injury protection
49 benefits required to be provided in accordance with section 4.

50 *In the case of a medical expense benefit deductible, the deducti-*
51 *ble elected by the named insured shall be satisfied for any one*
52 *accident whether the medical expense benefits are paid or provided,*
53 *in the amount of the deductible, to the named insured or to one or*
54 *more resident relatives in the named insured's household who are*
55 *not named insureds under another insurance policy, or to any com-*
56 *bination thereof.*

57 No insurer or health provider providing benefits to an insured
58 who has elected a deductible pursuant to subsection a. of this sec-
59 tion shall have a right of subrogation for the amount of benefits
60 paid pursuant to a deductible elected thereunder.

61 Where a trust account has been established in accordance with
62 subsection c. of this section, any remaining principal and all accrued
63 interest in the trust account at the time the final payment of medi-

64 cal expense benefits is made shall be paid to the party to whom the
65 award, judgment or settlement was made, or to his estate.

66 The Commissioner of Insurance shall adopt rules and regulations
67 to effectuate the purposes of this section.

1 2. Section 8 of P. L. 1972, c. 198 (C. 39:6-86.2) is amended to
2 read as follows:

3 8. The benefits provided in sections 7 and 10, shall be payable as
4 loss accrues, upon written notice of such loss including reasonable
5 proof of such loss, except that benefits collectible under:

6 a. Employees' temporary disability benefit statutes and medicare
7 provided under federal law shall be deducted from the benefits
8 collectible under sections 7 and 10; and

9 b. Any hospital, medical or dental benefit plan or policy coverage
10 with benefits similar to those provided under section 7, in an amount
11 not to exceed *in the aggregate* \$2,500.00 for any one [claim for
12 any one person] *accident*; shall be deducted from the benefits
13 collectible under sections 7 and 10.

14 Evidence of benefit payments collectible under subsections a. and
15 b. of this section shall not be admissible in a civil action by the
16 claimant for recovery of damages for bodily injury from the fund.

17 *The amount of \$2,500.00 shall be deemed to have been exceeded*
18 *whether the amount is paid or benefits in that amount are provided*
19 *to one or more persons eligible for benefits under the hospital,*
20 *medical or dental plan or policy, for injuries sustained in any one*
21 *accident.*

1 3. Section 4 of P. L. 1972, c. 70 (C. 39:6A-4) is amended to
2 read as follows:

3 4. Personal injury protection coverage, regardless of fault.

4 Every automobile liability insurance policy insuring an auto-
5 mobile as defined in this act against loss resulting from liability
6 imposed by law for bodily injury, death and property damage
7 sustained by any person arising out of ownership, operation, main-
8 tenance or use of an automobile shall provide personal injury
9 protection coverage, as defined hereinbelow, under provisions
10 approved by the Commissioner of Insurance, for the payment of
11 benefits without regard to negligence, liability or fault of any
12 kind, to the named insured and members of his family residing in
13 his household who sustained bodily injury as a result of an acci-
14 dent while occupying, entering into, alighting from or using an
15 automobile, or as a pedestrian, being struck by an automobile *or*
16 *by an object propelled by or from an automobile*, to other persons
17 sustaining bodily injury while occupying, entering into, alighting

18 from or using the automobile of the named insured, with the per-
19 mission of the named insured, and to pedestrians, sustaining bodily
20 injury caused by the named insured's automobile or struck by an
21 object propelled by or from such automobile.

22 "Personal injury protection coverage" means and includes:

23 a. Medical expense benefits. Payment of all reasonable medical
24 expenses incurred as a result of personal injury sustained in an
25 automobile accident. In the event of death, payments shall be made
26 to the estate of the decedent. In the event benefits paid by an
27 insurer, pursuant to this subsection are in excess of \$75,000.00 on
28 account of personal injury to any one person in any one accident,
29 such excess shall be paid by the insurer in consultation with the
30 Unsatisfied Claim and Judgment Fund Board and shall be reim-
31 bursable to the insurer from the Unsatisfied Claim and Judgment
32 Fund pursuant to section 2 of P. L. 1977, c. 310 (C. 39:6-73.1).

33 b. Income continuation benefits. The payment of the loss of
34 income of an income producer as a result of bodily injury disability,
35 subject to a maximum weekly payment of \$100.00. Such sum shall
36 be payable during the life of the injured person and shall be sub-
37 ject to an amount or limit of \$5,200.00, on account of injury to any
38 one person, in any one accident, except that in no case shall income
39 continuation benefits exceed the net income normally earned dur-
40 ing the period in which the benefits are payable.

41 c. Essential services benefits. Payment of essential services
42 benefits to an injured person shall be made in reimbursement of
43 necessary and reasonable expenses incurred for such substitute
44 essential services ordinarily performed by the injured person for
45 himself, his family and members of the family residing in the house-
46 hold, subject to an amount or limit of \$12.00 per day. Such benefits
47 shall be payable during the life of the injured person and shall
48 be subject to an amount or limit of \$4,380.00, on account of injury
49 to any one person in any one accident.

50 d. Death benefits. In the event of the death of an income pro-
51 ducer as a result of injuries sustained in an accident entitling
52 such person to benefits under section 4 of this act, the maximum
53 amount of benefits which could have been paid to the income pro-
54 ducer, but for his death, under section 4 b. shall be paid to the
55 surviving spouse, or in the event there is no surviving spouse,
56 then to the surviving children, and in the event there are no sur-
57 viving spouse or surviving children, then to the estate of the
58 income producer.

59 In the event of the death of one performing essential services as
60 a result of injuries sustained in an accident entitling such person

61 to benefits under section 4 c. of this act, the maximum amount of
 62 benefits which could have been paid such person, under section 4 c.,
 63 shall be paid to the person incurring the expense of providing such
 64 essential services.

65 e. Funeral expenses benefits. All reasonable funeral, burial and
 66 cremation expenses, subject to a maximum benefit of \$1,000.00, on
 67 account of the death to any one person in any one accident shall
 68 be payable to decedent's estate.

69 Benefits payable under this section shall:

70 (1) Be subject to any deductibles or exclusions elected by the
 71 policyholder pursuant to section 13 of [this 1983 amendatory and
 72 supplementary act] P. L. 1983, c. 362 (C. 39:6A-4.3);

73 (2) Not be assignable, except to a provider of service benefits
 74 under this section, nor subject to levy, execution, attachment or
 75 other process for satisfaction of debts.

1 4. (New section) The amendments to section 13 of P. L. 1983,
 2 c. 362 (C. 39:6A-4.3) contained in section 1 of this amendatory and
 3 supplementary act shall apply to any **accident occurring on or*
 4 *after the effective date of this amendatory and supplementary act*
 5 *involving an** automobile insurance policy in force on, or issued on
 6 or after the **[effective]* *that* date *[of this amendatory and*
 7 *supplementary act]**, under which the named insured has elected
 7A a medical expense deductible in accordance with subsection a.
 7B of section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3). Any additional
 8 premium that may be owing on an existing policy by reason of the
 9 application of those amendments shall be debited to the account
 10 of the named insured and shall be payable at the time of payment
 11 of the next policy premium.

1 **5. Section 14 of P. L. 1944, c. 27 (C. 17:29A-14) is amended
 2 to read as follows:

3 14. a. With regard to all property and casualty lines, a filer may,
 4 from time to time, alter, supplement, or amend its rates, rating-
 5 systems, or any part thereof, by filing with the commissioner copies
 6 of such alterations, supplements, or amendments together with a
 7 statement of the reason or reasons for such alteration, supplement,
 8 or amendment, in a manner and with such information as may be
 9 required by the commissioner. If such alteration, supplement or
 10 amendment shall have the effect of increasing or decreasing rates,
 11 the commissioner shall determine whether the rates as altered
 12 thereby are reasonable, adequate, and not unfairly discriminatory.
 13 If the commissioner shall determine that the rates as so altered are
 14 not unreasonably high, or inadequate, or unfairly discriminatory,
 15 he shall make an order approving them. If he shall find that the

16 rates as altered are unreasonable, inadequate, or unfairly discrim-
17 inatory, he shall issue and order disapproving such alteration, sup-
18 plement or amendment.

19 b. (Deleted by amendment, P. L. 1984, c. 1.)

20 c. If an insurer or rating organization files a proposed alteration,
21 supplement or amendment to its rating system, or any part thereof,
22 which would result in a change in rates, the commissioner may,
23 or upon the request of the filer or the Public Advocate, shall certify
24 the matter for a hearing. The hearing shall, at the commissioner's
25 discretion, be conducted by himself or by the Office of Administra-
26 tive Law, created by P. L. 1978, c. 67 (C. 52:14F-1 et seq.), as a
27 contested case. The following requirements shall apply to the
28 hearing:

29 (1) The hearing shall commence within 30 days of the date of
30 the request or decision that a hearing is to be held. The hearing
31 shall be held on consecutive working days. If the hearing is con-
32 ducted by an administrative law judge, the administrative law
33 judge shall submit his findings and recommendations to the com-
34 missioner within 30 days of the close of the hearing. A decision
35 shall be rendered by the commissioner not later than 60 days from
36 the close of the hearing. A filing shall be deemed to be approved
37 unless rejected or modified by the commissioner within the time
38 period provided herein.

39 (2) The commissioner, or the Director of the Office of Admin-
40 istrative Law, as appropriate, shall notify all interested parties,
41 including the Public Advocate on behalf of insurance consumers,
42 of the date set for commencement of the hearing on the date of the
43 filing of the request for a hearing, or within 10 days of the decision
44 that a hearing is to be held.

45 (3) The insurer or rating organization making a filing on which
46 a hearing is held shall bear the costs of the hearing.

47 (4) The commissioner may promulgate rules and regulations
48 (a) to establish standards for the submission of proposed filings,
49 amendments, additions, deletions and alterations to the rating
50 system of filers, which may include forms to be submitted by each
51 filer; and (b) making such other provisions as he deems necessary
52 for effective implementation of this act, except that all requests
53 for information shall be limited to the kinds of detail required by
54 the commissioner under section 5 of P. L. 1944, c. 27 (C. 17:29A-5).

55 d. (Deleted by amendment, P. L. 1984, c. 1.)

56 e. *In order to meet, as closely as possible, the deadlines in sec-*
57 *tion 17 of P. L. 1983, c. 362 (C. 39:6A-23) for provision of notice*

58 of available optional automobile insurance coverages pursuant to
 59 section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3) and section 8 of P. L.
 60 1972, c. 70 (C. 39:6A-8), and to implement these coverages, the
 61 commissioner may require the use of rates, fixed by him in advance
 62 of any hearing, for deductible, exclusion, setoff and tort limitation
 63 options, on an interim basis, subject to a hearing and to a provision
 64 for subsequent adjustment of the rates, by means of a debit, credit
 65 or refund retroactive to the effective date of the interim rates. The
 66 public hearing on initial rates applicable to the coverages available
 67 under section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3) and section 8
 68 of P. L. 1972, c. 70 (C. 39:6A-8) shall not be limited by the pro-
 69 visions of subsection c. of this section, governing changes in pre-
 70 viously approved rates or rating systems.**

1 **6. Section 15 of P. L. 1944, c. 27 (C. 17:29A-15) is amended
 2 to read as follows:

3 15. No insurer or employee thereof, and no broker or agent shall
 4 knowingly charge, demand or receive a premium for any policy of
 5 insurance except in accordance with the respective rating-systems
 6 on file with and approved by the commissioner *or, as required by*
 7 *the commissioner, to be used on an interim basis in accordance*
 8 *with subsection e. of section 14 of P. L. 1944, c. 27 (C. 17:29A-14).*

9 No insurer, or employee thereof, and no broker or agent shall pay,
 10 allow, or give, or offer to pay, allow, or give, directly or indirectly,
 11 as an inducement to insurance, or after insurance has been effected,
 12 any rebate, discount, abatement, credit, or reduction of the pre-
 13 mium named in a policy of insurance, or any special favor or
 14 advantage in the dividends or other benefits to accrue thereon, or
 15 any valuable consideration or inducement whatever, not specified
 16 in the policy of insurance, except to the extent that such rebate,
 17 discount, abatement, credit, reduction, favor, advantage or con-
 18 sideration may be provided for in rating-systems filed by or on
 19 behalf of such insurer and approved by the commissioner. No in-
 20 sured named in a policy of insurance, nor any employee of such
 21 insured, shall knowingly receive or accept, directly or indirectly,
 22 any such rebate, discount, abatement, or reduction of premium, or
 23 any such special favor or advantage or valuable consideration or
 24 inducement. Nothing herein contained shall be construed as pro-
 25 hibiting the payment of commissions or other compensation to
 26 regularly appointed and licensed agents and to brokers duly li-
 27 censed by this State, nor as prohibiting a discount, abatement, or
 28 reduction in premium on policies issued to or on behalf of the State
 29 of New Jersey.**

1 **[5.]** **7.** This act shall take effect immediately.

ASSEMBLY, No. 1845

STATE OF NEW JERSEY

INTRODUCED APRIL 30, 1984

By Assemblymen M. ADUBATO, DEVERIN, LARocca and LOVEYS

AN ACT concerning automobile insurance, amending and supplementing P. L. 1983, c. 362 and amending P. L. 1972, c. 198 and P. L. 1972, c. 70.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3) is amended
2 to read as follows:

3 13. Personal injury protection coverage deductibles, exclusions
4 and setoffs. With respect to personal injury protection coverage
5 provided on an automobile in accordance with section 4 of P. L.
6 1972, c. 70 (C. 39:6A-4), the automobile insurer shall, at appro-
7 priately reduced premiums, provide the following coverage options:

8 a. Medical expense benefit deductibles in amounts of \$500.00,
9 \$1,000.00 and \$2,500.00 for any one accident **[for any one person]**;

10 b. The option to exclude all benefits offered under subsections b.,
11 c., d., and e. of section 4;

12 c. A setoff option entitling an automobile insurer paying medical
13 expense benefits under section 4 to reimbursement from, and a lien
14 on, any recovery for noneconomic loss by an injured party pursuant
15 to an arbitration award, judicial judgment or voluntary settlement
16 for the amount of the medical expense benefits paid, not to exceed
17 20% of the amount of the award, judgment or settlement, including
18 recoveries under uninsured and underinsured motorist coverage,
19 except that if, at the time of the award, judgment or settlement,
20 the amount of medical expense benefits does not exceed 20% but
21 additional expense benefits of an indeterminate amount are antici-
22 pated, the amount of the setoff shall be 20% of the award, judg-

**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 printed in italics thus is new matter.**

23 ment or settlement, with the difference between the value of the
24 20% and the amount of medical expense benefits previously paid
25 to be placed in an interest bearing trust account for use to indemnify
26 the insurer paying the medical expense benefits, as the benefits are
27 paid. Attorney's contingent fees shall be computed on the amount
28 of the award, judgment or settlement, less the amount of the setoff,
29 which setoff shall be, if the medical expense benefit claim of the
30 injured person, as of the date of the award, judgment or settle-
31 ment is made, is: (1) closed, the amount of medical expense bene-
32 fits paid, not to exceed 20% of the award, judgment or settlement,
33 or (2) open, 20% of the award, judgment or settlement. Under a
34 contingent fee arrangement, the attorney shall also be entitled to
35 reimbursement out of the amount of the setoff for costs actually
36 incurred in the institution and prosecution of the claim or action,
37 which amount shall in no instance exceed 10% of the amount of
38 the setoff, in a manner to be prescribed by the Supreme Court.
39 Nothing in this subsection shall be construed to prohibit an attorney
40 representing the injured party from recovering from the insurer
41 providing personal injury protection benefits the reasonable cost
42 of any legal services rendered to that insurer primarily in con-
43 junction with the setoff reimbursement.

44 A deductible, exclusion or setoff elected by the named insured in
45 accordance with this section shall apply only to the named insured
46 and any resident relative in the named insured's household *who*
47 *is not a named insured under another automobile insurance policy,*
48 and not to any other person eligible for personal injury protection
49 benefits required to be provided in accordance with section 4.

50 *In the case of a medical expense benefit deductible, the deducti-*
51 *ble elected by the named insured shall be satisfied for any one*
52 *accident whether the medical expense benefits are paid or provided,*
53 *in the amount of the deductible, to the named insured or to one or*
54 *more resident relatives in the named insured's household who are*
55 *not named insureds under another insurance policy, or to any com-*
56 *bination thereof.*

57 No insurer or health provider providing benefits to an insured
58 who has elected a deductible pursuant to subsection a. of this sec-
59 tion shall have a right of subrogation for the amount of benefits
60 paid pursuant to a deductible elected thereunder.

61 Where a trust account has been established in accordance with
62 subsection c. of this section, any remaining principal and all accrued
63 interest in the trust account at the time the final payment of medi-
64 cal expense benefits is made shall be paid to the party to whom the
65 award, judgment or settlement was made, or to his estate.

66 The Commissioner of Insurance shall adopt rules and regulations
67 to effectuate the purposes of this section.

1 2. Section 8 of P. L. 1972, c. 198 (C. 39:6-86.2) is amended to
2 read as follows:

3 8. The benefits provided in sections 7 and 10, shall be payable as
4 loss accrues, upon written notice of such loss including reasonable
5 proof of such loss, except that benefits collectible under:

6 a. Employees' temporary disability benefit statutes and medicare
7 provided under federal law shall be deducted from the benefits
8 collectible under sections 7 and 10; and

9 b. Any hospital, medical or dental benefit plan or policy coverage
10 with benefits similar to those provided under section 7, in an amount
11 not to exceed *in the aggregate* \$2,500.00 for any one [claim for
12 any one person] *accident*; shall be deducted from the benefits
13 collectible under sections 7 and 10.

14 Evidence of benefit payments collectible under subsections a. and
15 b. of this section shall not be admissible in a civil action by the
16 claimant for recovery of damages for bodily injury from the fund.

17 *The amount of \$2,500.00 shall be deemed to have been exceeded*
18 *whether the amount is paid or benefits in that amount are provided*
19 *to one or more persons eligible for benefits under the hospital,*
20 *medical or dental plan or policy, for injuries sustained in any one*
21 *accident.*

1 3. Section 4 of P. L. 1972, c. 70 (C. 39:6A-4) is amended to
2 read as follows:

3 4. Personal injury protection coverage, regardless of fault.

4 Every automobile liability insurance policy insuring an auto-
5 mobile as defined in this act against loss resulting from liability
6 imposed by law for bodily injury, death and property damage
7 sustained by any person arising out of ownership, operation, main-
8 tenance or use of an automobile shall provide personal injury
9 protection coverage, as defined hereinbelow, under provisions
10 approved by the Commissioner of Insurance, for the payment of
11 benefits without regard to negligence, liability or fault of any
12 kind, to the named insured and members of his family residing in
13 his household who sustained bodily injury as a result of an acci-
14 dent while occupying, entering into, alighting from or using an
15 automobile, or as a pedestrian, being struck by an automobile *or*
16 *by an object propelled by or from an automobile*, to other persons
17 sustaining bodily injury while occupying, entering into, alighting
18 from or using the automobile of the named insured, with the per-
19 mission of the named insured, and to pedestrians, sustaining bodily

20 injury caused by the named insured's automobile or struck by an
21 object propelled by or from such automobile.

22 "Personal injury protection coverage" means and includes:

23 a. Medical expense benefits. Payment of all reasonable medical
24 expenses incurred as a result of personal injury sustained in an
25 automobile accident. In the event of death, payments shall be made
26 to the estate of the decedent. In the event benefits paid by an
27 insurer, pursuant to this subsection are in excess of \$75,000.00 on
28 account of personal injury to any one person in any one accident,
29 such excess shall be paid by the insurer in consultation with the
30 Unsatisfied Claim and Judgment Fund Board and shall be reim-
31 bursable to the insurer from the Unsatisfied Claim and Judgment
32 Fund pursuant to section 2 of P. L. 1977, c. 310 (C. 39:6-73.1).

33 b. Income continuation benefits. The payment of the loss of
34 income of an income producer as a result of bodily injury disability,
35 subject to a maximum weekly payment of \$100.00. Such sum shall
36 be payable during the life of the injured person and shall be sub-
37 ject to an amount or limit of \$5,200.00, on account of injury to any
38 one person, in any one accident, except that in no case shall income
39 continuation benefits exceed the net income normally earned dur-
40 ing the period in which the benefits are payable.

41 c. Essential services benefits. Payment of essential services
42 benefits to an injured person shall be made in reimbursement of
43 necessary and reasonable expenses incurred for such substitute
44 essential services ordinarily performed by the injured person for
45 himself, his family and members of the family residing in the house-
46 hold, subject to an amount or limit of \$12.00 per day. Such benefits
47 shall be payable during the life of the injured person and shall
48 be subject to an amount or limit of \$4,380.00, on account of injury
49 to any one person in any one accident.

50 d. Death benefits. In the event of the death of an income pro-
51 ducer as a result of injuries sustained in an accident entitling
52 such person to benefits under section 4 of this act, the maximum
53 amount of benefits which could have been paid to the income pro-
54 ducer, but for his death, under section 4 b. shall be paid to the
55 surviving spouse, or in the event there is no surviving spouse,
56 then to the surviving children, and in the event there are no sur-
57 viving spouse or surviving children, then to the estate of the
58 income producer.

59 In the event of the death of one performing essential services as
60 a result of injuries sustained in an accident entitling such person
61 to benefits under section 4 c. of this act, the maximum amount of
62 benefits which could have been paid such person, under section 4 c.,

63 shall be paid to the person incurring the expense of providing such
64 essential services.

65 e. Funeral expenses benefits. All reasonable funeral, burial and
66 cremation expenses, subject to a maximum benefit of \$1,000.00, on
67 account of the death to any one person in any one accident shall
68 be payable to decedent's estate.

69 Benefits payable under this section shall:

70 (1) Be subject to any deductibles or exclusions elected by the
71 policyholder pursuant to section 13 of [this 1983 amendatory and
72 supplementary act] *P. L. 1983, c. 362 (C. 39:6A-4.3)*;

73 (2) Not be assignable, except to a provider of service benefits
74 under this section, nor subject to levy, execution, attachment or
75 other process for satisfaction of debts.

1 4. (New section) The amendments to section 13 of P. L. 1983,
2 c. 362 (C. 39:6A-4.3) contained in section 1 of this amendatory and
3 supplementary act shall apply to any automobile insurance policy
4 in force on, or issued on or after the effective date of this amend-
5 atory and supplementary act, under which the named insured has
6 elected a medical expense deductible in accordance with subsection
7 a. of section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3). Any additional
8 premium that may be owing on an existing policy by reason of the
9 application of those amendments shall be debited to the account
10 of the named insured and shall be payable at the time of payment
11 of the next policy premium.

1 5. This act shall take effect immediately.

STATEMENT

As the premium for personal injury protection coverage is calculated on a per incident and not a per person basis, this bill changes the manner of determining when the deductible for personal injury protection benefits has been exceeded so as to conform with the manner of calculating the premium. Under the terms of this bill, in the event of an accident resulting in injuries to the named insured and one or more eligible resident relatives in the named insured's household, the policy deductible would be breached when the aggregate medical expense benefits paid to all eligible persons in the named insured's household, under that policy exceed the policy deductible. For example, if the name insured elected a \$2,500.00 medical expense benefit deductible, and the insured and two eligible family members were injured in the accident each with medical expenses of \$2,500.00, the insurer would be liable for the difference between \$7,500.00 and \$2,500.00 or \$5,000.00. Using

the same example under the law as currently written, the automobile insurer would incur no obligation as none of the insured exceeded the \$2,500.00 deductible. Based on the cost savings of the medical expense benefit deductibles projected by automobile insurers, it can be expected that the additional premium cost of the changes effectuated by this bill will be about 1% of the personal injury protection premium.

Similar provisions are extended to claims made on the Unsatisfied Claim and Judgment Fund. The fund will be responsible for benefit payments in excess of \$2,500.00 whether the benefits in that amount are provided to one or more eligible persons under the hospital, medical or dental plan or policy, for any one automobile accident.

The provisions of section 1 of this bill will apply to any automobile insurance policy issued prior to, and in force on the effective date of this act, as well as any policy issued on or after that date, under which policies the named insured has elected a medical expense deductible. If any additional premium is due by reason of the coverage change, the amount due shall be debited to the account of the named insured for payment at the time the next policy premium is paid.

Section 3 of this bill clarifies legislative intent that medical expense benefits coverage, also referred to as personal injury protection coverage, extends to injuries resulting from being struck by objects propelled by or from an automobile.

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 1845

STATE OF NEW JERSEY

INTRODUCED APRIL 30, 1984

By Assemblymen M. ADUBATO, DEVERIN, LARocca and LOVEYS

AN ACT concerning automobile insurance, amending and supplementing P. L. 1983, c. 362 and amending P. L. 1972, c. 198 and P. L. 1972, c. 70.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3) is amended
2 to read as follows:

3 13. Personal injury protection coverage deductibles, exclusions
4 and setoffs. With respect to personal injury protection coverage
5 provided on an automobile in accordance with section 4 of P. L.
6 1972, c. 70 (C. 39:6A-4), the automobile insurer shall, at appro-
7 priately reduced premiums, provide the following coverage options:

8 a. Medical expense benefit deductibles in amounts of \$500.00,
9 \$1,000.00 and \$2,500.00 for any one accident **[for any one person]**;

10 b. The option to exclude all benefits offered under subsections b.,
11 c., d., and e. of section 4;

12 c. A setoff option entitling an automobile insurer paying medical
13 expense benefits under section 4 to reimbursement from, and a lien
14 on, any recovery for noneconomic loss by an injured party pursuant
15 to an arbitration award, judicial judgment or voluntary settlement
16 for the amount of the medical expense benefits paid, not to exceed
17 20% of the amount of the award, judgment or settlement, including
18 recoveries under uninsured and underinsured motorist coverage,
19 except that if, at the time of the award, judgment or settlement,
20 the amount of medical expense benefits does not exceed 20% but
21 additional expense benefits of an indeterminate amount are antici-
22 pated, the amount of the setoff shall be 20% of the award, judg-

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted May 7, 1984.

23 ment or settlement, with the difference between the value of the
24 20% and the amount of medical expense benefits previously paid
25 to be placed in an interest bearing trust account for use to indemnify
26 the insurer paying the medical expense benefits, as the benefits are
27 paid. Attorney's contingent fees shall be computed on the amount
28 of the award, judgment or settlement, less the amount of the setoff,
29 which setoff shall be, if the medical expense benefit claim of the
30 injured person, as of the date of the award, judgment or settle-
31 ment is made, is: (1) closed, the amount of medical expense bene-
32 fits paid, not to exceed 20% of the award, judgment or settlement,
33 or (2) open, 20% of the award, judgment or settlement. Under a
34 contingent fee arrangement, the attorney shall also be entitled to
35 reimbursement out of the amount of the setoff for costs actually
36 incurred in the institution and prosecution of the claim or action,
37 which amount shall in no instance exceed 10% of the amount of
38 the setoff, in a manner to be prescribed by the Supreme Court.
39 Nothing in this subsection shall be construed to prohibit an attorney
40 representing the injured party from recovering from the insurer
41 providing personal injury protection benefits the reasonable cost
42 of any legal services rendered to that insurer primarily in con-
43 junction with the setoff reimbursement.

44 A deductible, exclusion or setoff elected by the named insured in
45 accordance with this section shall apply only to the named insured
46 and any resident relative in the named insured's household *who*
47 *is not a named insured under another automobile insurance policy,*
48 and not to any other person eligible for personal injury protection
49 benefits required to be provided in accordance with section 4.

50 *In the case of a medical expense benefit deductible, the deducti-*
51 *ble elected by the named insured shall be satisfied for any one*
52 *accident whether the medical expense benefits are paid or provided,*
53 *in the amount of the deductible, to the named insured or to one or*
54 *more resident relatives in the named insured's household who are*
55 *not named insureds under another insurance policy, or to any com-*
56 *bination thereof.*

57 No insurer or health provider providing benefits to an insured
58 who has elected a deductible pursuant to subsection a. of this sec-
59 tion shall have a right of subrogation for the amount of benefits
60 paid pursuant to a deductible elected thereunder.

61 Where a trust account has been established in accordance with
62 subsection c. of this section, any remaining principal and all accrued
63 interest in the trust account at the time the final payment of medi-
64 cal expense benefits is made shall be paid to the party to whom the
65 award, judgment or settlement was made, or to his estate.

66 The Commissioner of Insurance shall adopt rules and regulations
67 to effectuate the purposes of this section.

1 2. Section 8 of P. L. 1972, c. 198 (C. 39:6-86.2) is amended to
2 read as follows:

3 8. The benefits provided in sections 7 and 10, shall be payable as
4 loss accrues, upon written notice of such loss including reasonable
5 proof of such loss, except that benefits collectible under:

6 a. Employees' temporary disability benefit statutes and medicare
7 provided under federal law shall be deducted from the benefits
8 collectible under sections 7 and 10; and

9 b. Any hospital, medical or dental benefit plan or policy coverage
10 with benefits similar to those provided under section 7, in an amount
11 not to exceed *in the aggregate* \$2,500.00 for any one [claim for
12 any one person] *accident*; shall be deducted from the benefits
13 collectible under sections 7 and 10.

14 Evidence of benefit payments collectible under subsections a. and
15 b. of this section shall not be admissible in a civil action by the
16 claimant for recovery of damages for bodily injury from the fund.

17 *The amount of \$2,500.00 shall be deemed to have been exceeded*
18 *whether the amount is paid or benefits in that amount are provided*
19 *to one or more persons eligible for benefits under the hospital,*
20 *medical or dental plan or policy, for injuries sustained in any one*
21 *accident.*

1 3. Section 4 of P. L. 1972, c. 70 (C. 39:6A-4) is amended to
2 read as follows:

3 4. Personal injury protection coverage, regardless of fault.

4 Every automobile liability insurance policy insuring an auto-
5 mobile as defined in this act against loss resulting from liability
6 imposed by law for bodily injury, death and property damage
7 sustained by any person arising out of ownership, operation, main-
8 tenance or use of an automobile shall provide personal injury
9 protection coverage, as defined hereinbelow, under provisions
10 approved by the Commissioner of Insurance, for the payment of
11 benefits without regard to negligence, liability or fault of any
12 kind, to the named insured and members of his family residing in
13 his household who sustained bodily injury as a result of an acci-
14 dent while occupying, entering into, alighting from or using an
15 automobile, or as a pedestrian, being struck by an automobile *or*
16 *by an object propelled by or from an automobile*, to other persons
17 sustaining bodily injury while occupying, entering into, alighting
18 from or using the automobile of the named insured, with the per-
19 mission of the named insured, and to pedestrians, sustaining bodily

20 injury caused by the named insured's automobile or struck by an
21 object propelled by or from such automobile.

22 "Personal injury protection coverage" means and includes:

23 a. Medical expense benefits. Payment of all reasonable medical
24 expenses incurred as a result of personal injury sustained in an
25 automobile accident. In the event of death, payments shall be made
26 to the estate of the decedent. In the event benefits paid by an
27 insurer, pursuant to this subsection are in excess of \$75,000.00 on
28 account of personal injury to any one person in any one accident,
29 such excess shall be paid by the insurer in consultation with the
30 Unsatisfied Claim and Judgment Fund Board and shall be reim-
31 bursable to the insurer from the Unsatisfied Claim and Judgment
32 Fund pursuant to section 2 of P. L. 1977, c. 310 (C. 39:6-73.1).

33 b. Income continuation benefits. The payment of the loss of
34 income of an income producer as a result of bodily injury disability,
35 subject to a maximum weekly payment of \$100.00. Such sum shall
36 be payable during the life of the injured person and shall be sub-
37 ject to an amount or limit of \$5,200.00, on account of injury to any
38 one person, in any one accident, except that in no case shall income
39 continuation benefits exceed the net income normally earned dur-
40 ing the period in which the benefits are payable.

41 c. Essential services benefits. Payment of essential services
42 benefits to an injured person shall be made in reimbursement of
43 necessary and reasonable expenses incurred for such substitute
44 essential services ordinarily performed by the injured person for
45 himself, his family and members of the family residing in the house-
46 hold, subject to an amount or limit of \$12.00 per day. Such benefits
47 shall be payable during the life of the injured person and shall
48 be subject to an amount or limit of \$4,380.00, on account of injury
49 to any one person in any one accident.

50 d. Death benefits. In the event of the death of an income pro-
51 ducer as a result of injuries sustained in an accident entitling
52 such person to benefits under section 4 of this act, the maximum
53 amount of benefits which could have been paid to the income pro-
54 ducer, but for his death, under section 4 b. shall be paid to the
55 surviving spouse, or in the event there is no surviving spouse,
56 then to the surviving children, and in the event there are no sur-
57 viving spouse or surviving children, then to the estate of the
58 income producer.

59 In the event of the death of one performing essential services as
60 a result of injuries sustained in an accident entitling such person
61 to benefits under section 4 c. of this act, the maximum amount of
62 benefits which could have been paid such person, under section 4 c.,

63 shall be paid to the person incurring the expense of providing such
64 essential services.

65 e. Funeral expenses benefits. All reasonable funeral, burial and
66 cremation expenses, subject to a maximum benefit of \$1,000.00, on
67 account of the death to any one person in any one accident shall
68 be payable to decedent's estate.

69 Benefits payable under this section shall:

70 (1) Be subject to any deductibles or exclusions elected by the
71 policyholder pursuant to section 13 of [this 1983 amendatory and
72 supplementary act] P. L. 1983, c. 362 (C. 39:6A-4.3);

73 (2) Not be assignable, except to a provider of service benefits
74 under this section, nor subject to levy, execution, attachment or
75 other process for satisfaction of debts.

1 4. (New section) The amendments to section 13 of P. L. 1983,
2 c. 362 (C. 39:6A-4.3) contained in section 1 of this amendatory and
3 supplementary act shall apply to any **accident occurring on or*
4 *after the effective date of this amendatory and supplementary act*
5 *involving an** automobile insurance policy in force on, or issued on
6 or after the **[effective]* *that* date *of this amendatory and*
7 *supplementary act]**, under which the named insured has elected
7A a medical expense deductible in accordance with subsection a.
7B of section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3). Any additional
8 premium that may be owing on an existing policy by reason of the
9 application of those amendments shall be debited to the account
10 of the named insured and shall be payable at the time of payment
11 of the next policy premium.

1 5. This act shall take effect immediately.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1845

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 7, 1984

Assembly Bill No. 1845:

(1) Limits the medical expense benefits deductible to a per accident basis;

(2) Amends the Unsatisfied Claim and Judgment Fund law to similarly limit the medical expense benefits deductible provisions in that law; and

(3) Makes a technical change in section 4 of P. L. 1972, c. 70, the State's no fault law, concerning coverage benefits for certain automobile related injuries.

The provisions of the bill relating to deductibles change the application of the deductible elected by the insured to a per accident basis as contrasted with the current per accident per person basis. This means that if the named insured elects a deductible, the deductible will be considered to have been exceeded whether this results from benefits paid or provided to one or more than one eligible insured in the household. The no-fault insurer is liable for all medical expenses benefits paid or provided in excess of the deductible.

Section 3 of the bill clarifies the fact that the insured and resident relatives are eligible for medical expense benefits if, as pedestrians, they are injured by an object propelled by or from a private passenger automobile. This language is identical to that for injured pedestrians who do not have and are not required to have automobile insurance coverage.

The committee amendments make clear that the provisions of section 1 shall not apply to accidents occurring prior to the effective date of this act.

Assembly ~~Committee~~ Amendments

to

Assembly Bill No. 1845 ^{ACA}
(~~Printed~~ Version)
Typed

Amend:

| Page | Sec. | Line |
|------|------|---|
| | | "6. Section 15 of P.L. 1944, c. 27 |
| | | (C. 17:29A-15) is amended to read as follows: |
| | | 15. No insurer or employee thereof, and no broker or agent shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the respective rating-systems on file with and approved by the commissioner <u>or, as</u> |
| | | <u>required by the commissioner, to be used on an</u> |
| | | <u>interim basis in accordance with subsection e. of</u> |
| | | <u>section 14 of P.L. 1944, c. 27 (C. 17:29A-14)</u> ^{6K} . No insurer, |
| | | or employee thereof, and no broker or agent shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent that such rebate, discount, abatement, credit, reduction, favor, advantage or consideration may be provided for in rating-systems filed by or on behalf of such insurer and approved by the commissioner. No insured named in a policy of insurance, nor any employee of such insured, shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing herein contained shall be construed as prohibiting the payment of commissions or other compensation to regularly appointed and licensed agents and to brokers duly licensed by this State, nor as prohibiting a discount, abatement, or reduction in premium on policies issued to or on behalf of the State of New Jersey. " |
| | | Omit "5." insert "7." |
| | | <u>STATEMENT</u> |
| | | The Assembly amendments to Assembly Bill No. 1845 (ACA) authorize the Commissioner of Insurance to approve, on an interim basis and without a prior public hearing, proposed rates for the automobile insurance coverage options contained in P.L. 1983, c. 362, subject to subsequent hearing |

STATEMENT

adopted 5-14-84

Ct. P.L.
Am. 7/22/84
Cm. T 6
B. 1971/152/5
N. V. J.

Assembly ~~Committee~~ Amendments

to

Assembly Bill No. 1845 Aca
(Printed Version
Typed)

Amend:

| Page | Sec. | Line |
|------|------|------|
|------|------|------|

| | | |
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| | | <p>and final approval. The bill also removes some of the limits on the commissioner in holding hearings on the initial rate filings for the options. The bill also authorizes the commissioner to order rebates or credits by the insurance companies, if the interim rates are determined to be too high.</p> |
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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: PAUL WOLCOTT
609-292-8956

TRENTON, N.J. 08625

Release: MAY 16, 1984

Governor Thomas H. Kean has signed legislation which will allow the Insurance Commissioner to give interim approval of rates for auto insurance fee deductions scheduled to take place July 1.

The bill, A-1845, sponsored by Assemblyman Michael F. Adubato, D-Essex, would also allow the Commissioner to order reductions in the interim rates should future findings show them to be warranted.

The bill also amends the medical expense benefit deductible contained in the insurance reform package adopted last year, so that the deductible will be applied on a per accident basis rather than on a per person basis. The bill further extends personal injury protection coverage to injuries resulting from being struck by objects propelled by or from an automobile.

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PROPERTY OF
NEW JERSEY GOVERNMENT

105 N. State Street
Trenton, N. J.