



To: All New York PIP Arbitrators

**Re: Summary of May 19, 2010, Loss Transfer Advisory Committee Meeting**

The following discussion points from the May 19, 2010, Loss Transfer Advisory Committee meeting are being shared to help ensure consistency in understanding and application.

1. The Intercompany Reimbursement Notification form only needs to be sent to the adverse carrier prior to the initial arbitration filing. If a payment is made subsequent to the initial arbitration filing, the Applicant does not need to send the Respondent a new or updated Intercompany Reimbursement Notification form. The condition precedent is amended accordingly to reflect, "As a condition precedent to initial filing of arbitration, a party requesting reimbursement of first-party benefits from another party, as provided in Section 5105 and 5221(b) of the Insurance Law, shall make such request as soon as practicable on the prescribed Intercompany Reimbursement Notification form."
2. So long as the requirements set forth in (2) *Initiation of Arbitration (v)* are met (i.e., appropriate box selected on the NY PIP-Form, Affirmative Defense asserted, and a copy of the denial of coverage letter submitted), the arbitrator shall dismiss the arbitration without prejudice by upholding the affirmative defense of no jurisdiction. The arbitrator will **not** consider the basis for the denial or rule on its merit. This shall not apply to applications filed by MVAIC. Applications filed by MVAIC will be heard by an arbitrator who will render a decision on the merits of the denial/disclaimer.
3. Per (2) *Initiation of Arbitration (vii)*, a deferment must be requested on the NY PIP-Form **and** the justification for it included in the Deferment Justification section of the Contentions Sheet. In addition, (4) *Arbitration Proceedings (iv)* provides that all documents must be received by Arbitration Forums by the Materials Due Date for the case. The same applies to a subsequent deferment continuance request. If AF does not receive a deferment request (or request for a deferment continuance) on the prescribed forms by the applicable Materials Due Date, a representative may not appear at the hearing to request it.
4. When damages are disputed, if an arbitrator requests more information to determine whether the damages are correct, then the party(ies) should produce that additional information by the date requested. If not, then the party that fails to produce and properly document the damages may be in a position where it will not receive the full reimbursement. That which is not supported should be denied; however, the entire request should not be denied simply because certain aspects for damages were not proven.
5. When only one party has a representative attend the hearing, the arbitrator's responsibility is only to make sure that there is a prima facie case presented by the party that does have a representative, and that no findings or awards are made that are contrary to the statute. An arbitrator must not act as an advocate for a party that does not appear in person, raising arguments on its behalf that were not specifically presented in the contentions.
6. For cancellation of policy, there is a 15-day notice, and a letter and proof of mailing, certified or mailing manifests, should be sufficient.
7. If a representative who appears at a hearing engages in unacceptable behavior, communication will be made by AF to the carrier for which the representative is employed or retained. If the particular representative continues to not act appropriately, and the matter is not resolved amicably, then AF will inform the Department of Insurance about the activity.