

To: All New York PIP Arbitrators

Re: Summary of November 16, 2011, Loss Transfer Advisory Committee Meeting

The following discussion points from the November 16, 2011, Loss Transfer Advisory Committee meeting are being shared to help ensure consistency in understanding and application.

I. AF Update

- a. Filing fee will be reduced from \$65 to \$55 effective January 1, 2012.
- b. At the next meeting in May, AF will request a rule change that will require all filings, responses and evidence be submitted electronically effective January 1, 2013. As of October 2011, 96% of filings, 87% of responses, and 53% of evidence is submitted electronically, and AF will continue to work with insurers and self-insureds to get them online. Online and electronic usage offers significant cost reductions by eliminating the need to copy and mail evidentiary documentation.

II. Coverage Denials

- a. AF will lack jurisdiction over a dispute so long as the Respondent complies with the rule and:
 1. Checks the appropriate box indicating the coverage for the claim in dispute has been denied.
 2. Asserts and explains the reason for the denial of coverage in the Affirmative Defense section.
 3. Provides a copy of the denial of coverage letter to the party seeking coverage for the loss (i.e., alleged negligent party).
- b. Non-involvement is a liability argument to be presented in the contentions and supported with evidence (i.e., driver's statement or vehicle log). Non-involvement is not to be considered a reason to deny coverage. An [FAQ item](#) was added to address this issue.

III. Deferments

- a. AF confirmed that a one-year deferment is from the date of filing by the Applicant.
- b. AF's online filing system has a prompt where a party can enter the Case Index number. This will cause the case to be automatically deferred. Near the end of the one-year deferment period, the case will be restored to active status. The party may request another one-year deferment, if needed, and simply enter the Case Index number again.
- c. As discussed at the May 2011 meeting, AF will not accept deferment requests at the hearing. All requests must be made by the Materials Due Date.

IV. FAQ Updates

- a. Current FAQ item 12 was amended to more clearly reflect when a claim involving an out-of-state accident would be filed in NY PIP.
- b. Two additional FAQ items were added regarding the recoverability of legal fees and workers compensation schedule loss of use awards. See [NY PIP FAQ](#) web page.

V. Reschedules

- a. To address an abuse by some parties, the reschedule rule will be amended to allow one reschedule for all related cases involving the same parties. This will eliminate the practice by some when there are multiple related filings to request a reschedule on each case individually, needlessly delaying the resolution of the dispute.

VI. Arbitrator Participation

- a. AF continues to experience a deficiency in the number of arbitrators, primarily in New York City, and requested the Insurance Department to issue a Circular letter reminding all insurers and self-insureds of their obligation to provide arbitrators. AF's guideline is that each insurer or self-insured hear as many cases as they file (1:1 cases filed to cases heard ratio).

VI. Decision Quality

- a. AF continues to train arbitrators on writing decisions that address all disputed issues and clearly explain how each piece of evidence referenced in the contentions influenced the decision.
- b. Some committee members suggested that liability training was needed, but after discussion it was agreed that each decision is based on what the parties present and how each arbitrator views the case. In addition, each company has its own philosophy on liability assessment.