

**CHAPTER 67. CATASTROPHIC LOSS BENEFITS
CONTINUATION FUND**

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Authority

The provisions of this Chapter 67 issued under sections 506 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 186 and 412); 75 Pa.C.S. Chapter 17; and 75 Pa.C.S. § 6103, unless otherwise noted.

Source

The provisions of this Chapter 67 adopted September 28, 1984, effective September 29, 1984, 14 Pa.B. 3520; amended February 15, 1985, effective February 16, 1985, 15 Pa.B. 558, unless otherwise noted. Immediately preceding text appears at serial pages (94059) to (94072).

Subchapter A. CATASTROPHIC LOSS TRUST FUND

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§ 67.1. Purpose.

The purpose of this subchapter is to provide procedures for the establishment and administration of the Fund, which continues the Catastrophic Loss Trust Fund eligibility determinations for certain individuals suffering catastrophic losses on or after October 1, 1984, but 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for which payment for Catastrophic Loss Trust Fund coverage was made in accordance with former section 1762 of the act (repealed).

Source

The provisions of this § 67.1 amended October 30, 1998, effective October 31, 1998, 28 Pa.B. 5482. Immediately preceding text appears at serial page (137019).

§ 67.2. Definitions.

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

Act—75 Pa.C.S. §§ 1701—1798 (relating to the Motor Vehicle Financial Responsibility Law).

Administrator—The person or entity designated by the Fund to review claims for catastrophic loss benefits, determine the eligibility of the claimant and make payment where appropriate.

Benefits—Payments by the Fund for reasonable, necessary and accident-related expenses for medical treatment and rehabilitative services which exceed \$100,000, subject to limitations provided in sections 1761 and 1766 of the act (now repealed). Reference may be made to sections 1761, 1762 and 1766, in Appendix A.

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

Department—The Insurance Department of the Commonwealth.

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

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

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

Source

The provisions of this § 67.2 amended October 30, 1998, effective October 31, 1998, 28 Pa.B. 5482. Immediately preceding text appears at serial page (137020).

§ 67.3. Fund financing.

The Fund shall be financed by surcharges for motor vehicle violations pursuant to 75 Pa.C.S. § 6506(a) and (b).

Authority

The provisions of this § 67.3 issued and amended under 75 Pa.C.S. §§ 1762 and 1765.

Source

The provisions of this § 67.3 amended September 19, 1986, effective September 20, 1986, 16 Pa.B. 3510; amended September 4, 1987, effective September 5, 1987, 17 Pa.B. 3608; amended September 16, 1988, effective September 17, 1988, 18 Pa.B. 4243; amended October 30, 1998, effective October 31, 1998, 28 Pa.B. 5482. Immediately preceding text appears at serial pages (137020) and (131437).

§ 67.4. Claim filing and review.

(a) A person who seeks benefits from the Fund shall file a claim for benefits 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. The insurer shall assist the insured in filing the claim for benefits.

(b) A claim submitted to the Fund which is erroneously completed or contains inadequate information may be returned to the claimant for correction and resubmission.

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

Source

The provisions of this § 67.4 amended October 30, 1998, effective October 31, 1998, 28 Pa.B. 5482. Immediately preceding text appears at serial page (131437).

§ 67.5. Collection of data.

The Administrator and Fund are authorized to obtain from claimants, insurers and self-insurers data or information which is necessary to permit review of claims for Fund benefits.

Source

The provisions of this § 67.5 amended October 30, 1998, effective October 31, 1998, 28 Pa.B. 5482. Immediately preceding text appears at serial page (131437).

Notes of Decisions*Records of Activities*

The third-party claims administrator was authorized, under § 67.5, to require the caretaker to provide details of her activities and the services she provides to her injured husband, the recipient of CAT Fund Benefits. *Bickerton v. Insurance Commissioner*, 808 A.2d 971 (Pa. Cmwlth. 2002), appeal denied 822 A.2d 705 (Pa. 2003).

§ 67.6. Appeals.

(a) A claimant who disputes a determination by the Administrator or Fund concerning eligibility for or allowance of benefits, may file a written complaint 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 33 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 will 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 claims manager's review, the claimant may request

in writing a formal administrative hearing before the Commissioner. The written determination by the claims manager will advise the claimant how to request a hearing. A request for hearing is timely if received by the Department no later than 33 days after the date of the written determination from the claims manager.

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

Source

The provisions of this § 67.6 amended October 30, 1998, effective October 31, 1998, 28 Pa.B. 5482. Immediately preceding text appears at serial page (131438).

§ 67.7. [Reserved].

Source

The provisions of this § 67.7 adopted September 28, 1984, effective September 29, 1984, 14 Pa.B. 3520; reserved February 15, 1985, effective February 16, 1985, 15 Pa.B. 558. Immediately preceding text appears at serial page (94062).

§ 67.8. [Reserved].

Source

The provisions of this § 67.8 adopted September 28, 1984, effective September 29, 1984, 14 Pa.B. 3520; reserved February 15, 1985, effective February 16, 1985, 15 Pa.B. 558. Immediately preceding text appears at serial page (94063).

§ 67.9. [Reserved].

Source

The provisions of this § 67.9 adopted September 28, 1984, effective September 29, 1984, 14 Pa.B. 3520; reserved February 15, 1985, effective February 16, 1985, 15 Pa.B. 558. Immediately preceding text appears at serial page (94063).

§ 67.10. [Reserved].

Source

The provisions of this § 67.10 adopted September 28, 1984, effective September 29, 1984, 14 Pa.B. 3520; reserved February 15, 1985, effective February 16, 1985, 15 Pa.B. 558. Immediately preceding text appears at serial page (94064).

§ 67.11. [Reserved].

Source

The provisions of this § 67.11 adopted September 28, 1984, effective September 29, 1984, 14 Pa.B. 3520; reserved February 15, 1985, effective February 16, 1985, 15 Pa.B. 558. Immediately preceding text appears at serial page (94064).

§ 67.12. [Reserved].**Source**

The provisions of this § 67.12 adopted September 28, 1984, effective September 29, 1984, 14 Pa.B. 3520; reserved February 15, 1985, effective February 16, 1985, 15 Pa.B. 558. Immediately preceding text appears at serial pages (94064) and (94065).

§ 67.13. [Reserved].**Source**

The provisions of this § 67.13 adopted September 28, 1984, effective September 29, 1984, 14 Pa.B. 3520; reserved February 15, 1985, effective February 16, 1985, 15 Pa.B. 558. Immediately preceding text appears at serial page (94065).

§ 67.14. [Reserved].**Source**

The provisions of this § 67.14 adopted September 28, 1984, effective September 29, 1984, 14 Pa.B. 3520; reserved February 15, 1985, effective February 16, 1985, 15 Pa.B. 558. Immediately preceding text appears at serial page (94065).

§ 67.15. [Reserved].**Source**

The provisions of this § 67.15 adopted September 28, 1984, effective September 29, 1984, 14 Pa.B. 3520; reserved February 15, 1985, effective February 16, 1985, 15 Pa.B. 558. Immediately preceding text appears at serial page (94065).

§ 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).

Source

The provisions of this § 67.16 adopted October 30, 1998, effective October 31, 1998, 28 Pa.B. 5482.

Cross References

This section cited in 31 Pa. Code § 67.2 (relating to definitions).

§ 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 these 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.

Source

The provisions of this § 67.17 adopted October 30, 1998, effective October 31, 1998, 28 Pa.B. 5482.

§ 67.18. Coordination of benefits.

An eligible claimant shall cooperate in providing coordination of benefit information to the Administrator and the Fund.

Source

The provisions of this § 67.18 adopted October 30, 1998, effective October 31, 1998, 28 Pa.B. 5482.

Subchapter B. EVIDENCE OF FINANCIAL RESPONSIBILITY

Sec.	
67.21.	Purpose.
67.22.	Definitions.
67.23.	I.D. cards.
67.24.	Form and content of I.D. cards.
67.25.	Instructions accompanying I.D. cards.
67.26.	I.D. cards issued to fleets, dealers, transporters; and temporary registrations.
67.27.	Binder.
67.28.	Other evidence of financial responsibility.

Cross References

This subchapter cited in 67 Pa. Code § 43.5 (relating to issuance of temporary registration cards); 67 Pa. Code § 179.7 (relating to indemnification, insurance and security); 67 Pa. Code § 219.6 (relating to acceptable proof of financial responsibility); and 67 Pa. Code § 223.6 (relating to self-insurance identification card).

§ 67.21. Purpose.

The purpose of this subchapter is to ensure that persons will be able to demonstrate satisfaction of the financial responsibility requirements of the act.

§ 67.22. Definitions.

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

Act—75 Pa.C.S. §§ 1701—1798 (relating to the Motor Vehicle Financial Responsibility Law).

Department—The Insurance Department of the Commonwealth.

I.D. Card—An insurance identification card prescribed by this chapter.

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

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

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

Self-insurance certificate number—An identification number assigned by the Department of Transportation to a self-insurer.

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).

Vehicle—A motor vehicle of a kind required to be registered under 75 Pa.C.S. (relating to the Vehicle Code).

§ 67.23. I.D. cards.

(a) *Insurers.* On or after October 1, 1984, at the inception or renewal of a policy, 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 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.

(c) *Evidence.* The I. D. cards shall serve as evidence of financial responsibility.

§ 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 insurer and self-insurer shall use a new 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:

- (1) Title of card, "Financial Responsibility Identification Card".
- (2) NAIC company code number of the insurer or self-insurance certificate number.
- (3) Name of the insurer or self-insurer.
- (4) Name and address of the named insured or motor vehicle registrant where the vehicle is self-insured.
- (5) Description of vehicle: year, make, and vehicle identification number (VIN). The model of the vehicle may be used as the make. All digits of the vehicle identification number shall appear on the I. D. 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.

(c) *Statement.* Each I. D. card shall contain the following statement on the back of the card:

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 registration suspended or revoked.

NOTE: THIS CARD IS REQUIRED WHEN:

- (1) You are involved in an auto accident.
- (2) 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 registration privilege which has been previously suspended or revoked.

Cross References

This section cited in 31 Pa. Code § 67.27 (relating to binder).

§ 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:

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 satisfying the financial responsibility requirements of the law.

If you lose the card, 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.

(a) When a policyholder or self-insurer has five or more vehicles registered in this Commonwealth, the insurer or self-insurer may use the statement “all

owned vehicles” or “all owned and leased vehicles” instead of a specific vehicle description on each I. D. card. However, each vehicle must have an I. D. card for it.

(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 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.

(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.

(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.

§ 67.28. Other evidence of financial responsibility.

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.

Subchapter C. SURCHARGE DISCLOSURE PLAN

Sec.	
67.31.	Purpose
67.32.	Definitions.
67.33.	Assessment of premium surcharge.
67.34.	Contents of the surcharge disclosure plan.
67.35.	Distribution of the surcharge disclosure plan.

§ 67.31. Purpose.

The purpose of this subchapter is to establish guidelines for the assessment of premium surcharges and the form and content of surcharge disclosure plans under the act.

§ 67.32. Definitions.

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

Act—75 Pa.C.S. §§ 1701—1798 (relating to the Motor Vehicle Financial Responsibility Law).

Department—The Insurance Department of the Commonwealth.

Insured—Named insured and the following persons if residing in the household of the named insured: A spouse of the named insured, a relative of the named insured, and a minor in the custody of the named insured or the spouse or relative of the named insured.

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

Named insured—A person or entity identified by name as an insured in a policy.

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

Prospective insured—A person or entity applying for insurance coverage on a motor vehicle under the act.

§ 67.33. Assessment of premium surcharge.

(a) *Circumstances where a premium surcharge can be assessed on a named insured.*

(1) Insurers may assess a premium surcharge on policies where payment for at-fault accidents exceeds their approved dollar threshold. An at-fault accident is one where the insured was at fault in causing or contributing to the accident, and the claim resulting from that accident was paid in part or in whole by the insurer.

(2) Insurers may assess a premium surcharge on policies where an insured has been convicted of at least two violations of an offense enumerated in 75 Pa.C.S. § 1535 (relating to schedule of convictions and points).

(i) To impose a surcharge the two violations must have occurred in a period of time no more than 36 months in duration.

(ii) To impose a surcharge the accumulation of two violations must have been committed by one individual insured in the household covered by the policy.

(3) Where an insurer imposes a surcharge for an at-fault accident, the amount of the surcharge may be increased if the same accident also resulted in two 75 Pa.C.S. § 1535 convictions.

(4) Offenses that occur while operating a motor vehicle other than those listed in 75 Pa.C.S. § 1535 may be used in a premium surcharge plan.

(b) *Circumstances under which a surcharge cannot be assessed.*

(1) An insurer may not assess a premium surcharge for the payment of a claim arising from one or more accidents where the insured was not at fault in causing or contributing to the accident.

(2) An insured shall be deemed not at fault for an accident which occurs under the following circumstances:

(i) The motor vehicle is lawfully parked and is struck by another vehicle. If the parked vehicle rolls from the parked position, then the accident is charged to the person who parked the vehicle.

(ii) The insured, or owner of the motor vehicle, is reimbursed by, or on behalf of, a person who is responsible for the accident, or the insurer is able to subrogate its entire payment to the insured.

(iii) The insured, or owner of the motor vehicle, has a judgment against a person who is responsible for the accident.

(iv) The motor vehicle is struck in the rear by another vehicle and the insured has not been convicted of a traffic violation in connection with the accident.

(v) The driver of the other motor vehicle involved in the accident was convicted of a moving traffic violation and the insured was not convicted of a moving traffic violation in connection with the accident.

(vi) The motor vehicle driven by the insured is struck by a hit-and-run vehicle, if the accident is reported to the proper authority within 24 hours by the insured.

(vii) The accident involves damage by contact with animals or fowl.

(viii) The accident involves physical damage, limited to and caused by flying gravel, missiles, or falling objects.

(ix) The accident occurs when the insured is using the motor vehicle in response to an emergency if the insured was a paid or voluntary member of a police or fire department, first-aid squad, or a law enforcement agency at the time of the accident. This exception does not include an accident occurring after the motor vehicle ceases to be used in response to the emergency.

(3) An insurer may not assess a premium surcharge for the payment of a claim made under the comprehensive portion of the policy unless the loss was intentionally caused by the insured.

(4) An insurer may not assess a premium surcharge solely because of one conviction of an offense enumerated in 75 Pa.C.S. § 1535. If an insurer assesses a surcharge because of payment for an at-fault accident, the insurer may not increase the surcharge solely because of one 75 Pa.C.S. § 1535 conviction connected with that same accident.

§ 67.34. Contents of the surcharge disclosure plan.

(a) A surcharge disclosure plan shall describe the circumstances and conditions when a surcharge would be applied, the estimated increase of the surcharge per policy period per policyholder and the number of years a surcharge will be in

effect. The estimated increase of the surcharge may be stated as a percent or dollar amount of premium increase. The estimated increase may also be stated as a percentage of the base premium if the insurer describes the manner in which the prospective or named insured's premium relates to the base premium.

(b) The insurer shall disclose the approved dollar threshold in the surcharge disclosure plan.

(c) The insurer shall disclose in the surcharge disclosure plan whether the insurer will assess a premium surcharge due to the payment of an at-fault accident by another insurer.

§ 67.35. Distribution of the surcharge disclosure plan.

(a) *Prospective insured.* Beginning on October 1, 1984, the insurer shall give the surcharge disclosure plan to each prospective insured at the time application is made for motor vehicle insurance coverage.

(b) *Named insured.* Beginning on October 1, 1984, the insurer shall deliver the surcharge disclosure plan to each named insured at least once every year.

Subchapter D. STATEMENTS OF POLICY

Sec.

- 67.41. Eligibility guidelines for the Catastrophic Loss Trust Fund for accidents on and after June 1, 1989.
- 67.42. Phase-in of extraordinary medical benefit coverage.
- 67.43. Coordination of benefits between the Catastrophic Loss Trust Fund and Extraordinary Medical Benefit Coverage.
- 67.44. EMB coverage provided by nonautomobile insurers.
- 67.45. Nondiscrimination in availability of approved EMB coverage.

§ 67.41. Eligibility guidelines for the Catastrophic Loss Trust Fund for accidents on and after June 1, 1989.

(a) Section 1798.2(a) of the act (relating to transition), added by the act of April 26, 1989 (P. L. _____, No. 4) (Act 4), continues the Catastrophic Loss Trust (CAT) Fund eligibility for certain individuals suffering catastrophic losses after June 1, 1989. The Department will be guided by this section in making eligibility determinations for accidents occurring on or after 12:01 a.m., June 1, 1989.

(b) Natural persons who suffer catastrophic losses on or after 12:01 a.m., June 1, 1989, may be eligible for benefits from the CAT Fund if the following apply:

- (1) They are injured in an accident arising out of the maintenance or use of a motor vehicle.

(2) The accident giving rise to the claim for CAT Fund benefits occurred during the registration year for which the CAT Fund charge had been paid on one or more of the motor vehicles involved in the accident.

(3) They otherwise are “eligible claimants” as defined in 75 Pa.C.S. § 1761 (repealed).

Source

The provisions of this § 67.41 adopted May 19, 1989, effective May 8, 1989, 19 Pa.B. 2178.

Cross References

This section cited in 31 Pa. Code § 67.43 (relating to coordination of benefits between Catastrophic Loss Trust Fund and Extraordinary Medical Benefit Coverage).

§ 67.42. Phase-in of extraordinary medical benefit coverage.

(a) *Mandatory offering.* The act of April 26, 1989 (P. L. _____, No. 4) (Act 4) amends the act to require automobile insurers to offer extraordinary medical benefit (EMB) coverage as of June 1, 1989. Insurers shall offer to bind this coverage as of June 1, 1989 if so requested by the policyholder. This includes policyholders who have been bound or assigned to an insurer under the Assigned Risk Plan. Policyholders who have already requested EMB or similar coverage from their insurer need not provide the insurer with additional notice to have this coverage effective as of June 1, 1989.

(b) *Notice to policyholders.* By May 24, 1989, insurers should send a notice to policyholders in the form required by section 1798.2(c) of the act (relating to transition), except that if the insurer is utilizing the interim rate specified in subsection (e), appropriate revisions may be made in the interest of fully and accurately informing the policyholder. Insurers that have sent a notice to policyholders regarding an approved catastrophic loss filing by May 8, 1989 will be deemed to have satisfied the requirement of this subsection.

(c) *Rate filing.* Insurers are required by section 1798.2(b) of the act to make an EMB rate filing with the Department by May 26, 1989, that date being 30 days from the effective date of section 1798.2 of the act. This filing requirement includes those insurers which had obtained Departmental approval of catastrophic loss rates by April 26, 1989—the effective date of section 1798.2 of the act. However, those insurers may file amendments to their approved catastrophic loss filings with the changes necessary to comply with Act 4. No initial EMB rate filing or amendment to an approved catastrophic loss filing may be deemed into effect.

(d) *Insurers with approved catastrophic loss rates and forms.* Insurers which have obtained Departmental approval for catastrophic loss rates and forms by April 26, 1989 shall utilize those rates and forms for EMB endorsements issued effective on or after June 1, 1989 until the Department approves a new EMB rate or form. The insurer shall pro-rate the catastrophic loss premium to the next

policy renewal. Insurers which are subscribers to a licensed rating organization that had obtained Departmental approval of catastrophic loss rates by April 26, 1989 may elect to utilize the rating organization's approved rates and forms for EMB coverage until the rating organization receives approval of a revised filing under subsection (c). With approval of the Department, subscribers may utilize deviations from the rate and form approved for a rating organization if the deviation provides for a rate reduction and the form provides more liberal coverage. Insurers planning to utilize the rating organization's rates and forms or deviations shall inform the Department of their intent by May 26, 1989.

(e) *Interim rate and forms.* Insurers are obligated by Act 4 to offer to bind EMB coverage as of June 1, 1989. However, Act 4 does not relieve insurers that had not obtained Departmental approval for catastrophic loss rates and forms by April 26, 1989 from the requirements under section 4(h) of the Casualty and Surety Rate Regulatory Act (40 P. S. § 1184(h)) and section 354 of the Insurance Company Law of 1921 (40 P. S. § 477b) that rates and forms be approved by the Department prior to use. Under the Commissioner's authority under the Casualty and Surety Rate Regulatory Act (40 P. S. §§ 1181—1199), the requirement of preapproved rates for EMB coverage is temporarily suspended if an insurer utilizes the interim Statewide rate of \$38 per motor vehicle, per year. The interim rate is to be utilized for EMB endorsements issued effective on or after June 1, 1989, until the Department approves the insurer's EMB rate filing. The interim EMB rate shall be prorated to the next policy renewal. Insurers not having approved EMB forms may utilize the form in Appendix A.

(f) *Enforcement action.* The Department may take enforcement action against insurers failing to offer to bind EMB coverage as of June 1, 1989. However, the Department will not take enforcement action against insurers utilizing the interim rates and forms specified in subsection (e) prior to the Department's approval of an insurer's EMB rates and forms.

Source

The provisions of this § 67.42 adopted May 19, 1989, effective May 8, 1989, 19 Pa.B. 2178.

§ 67.43. Coordination of benefits between the Catastrophic Loss Trust Fund and Extraordinary Medical Benefit Coverage.

An individual eligible for CAT Fund benefits under § 67.41 (relating to eligibility guidelines for the Catastrophic Loss Trust Fund for accidents on and after June 1, 1989) may also be insured for EMB coverage. In these instances, the EMB carrier is primary and the CAT Fund secondary. No duplicate recovery may be available. The total lifetime aggregate to one individual under both EMB coverage and the CAT Fund may not exceed \$1 million dollars.

Source

The provisions of this § 67.43 adopted May 19, 1989, effective May 8, 1989, 19 Pa.B. 2178.

§ 67.44. EMB coverage provided by nonautomobile insurers.

Section 1715(e) of the act (relating to availability of adequate limits), added by the act of April 26, 1989 (P. L. _____, No. 4) authorizes insureds to obtain EMB coverage through nonautomobile insurers and other arrangements. The Department interprets this provision as authorizing commercial accident and health insurers, Professional Health Service Plan Corporations, and Hospital Plan Corporations to offer EMB coverage as defined in the act, as either a freestanding policy or a part of another policy. An insurer, Health Maintenance Organization, Preferred Provider Organization, Professional Health Service Plan Corporation or Hospital Plan Corporation shall obtain the approval of the Department prior to offering this coverage.

Source

The provisions of this § 67.44 adopted May 19, 1989, effective May 8, 1989, 19 Pa.B. 2178.

§ 67.45. Nondiscrimination in availability of approved EMB coverage.

Insurers shall make available to an applicant or policyholder all levels of extraordinary medical benefit coverage approved for use by the Department.

Source

The provisions of this § 67.45 adopted May 19, 1989, effective May 8, 1989, 19 Pa.B. 2178.

APPENDIX A
EXTRAORDINARY MEDICAL EXPENSE BENEFIT
COVERAGE—PENNSYLVANIA

It is agreed that the First Party Benefits Coverage is amended as follows:

EXTRAORDINARY MEDICAL EXPENSE BENEFITS COVERAGE

1. We will pay benefits for medical expenses in excess of \$100,000 arising from bodily injury to an eligible person. The bodily injury must result from the maintenance or use of a motor vehicle as a vehicle.
2. This coverage will not pay for medical expenses of \$100,000 or less.
3. Subject to a lifetime aggregate limit of \$1,000,000 the most we will pay on behalf of any one eligible person is \$50,000 per year. However, during the first 18 months of eligibility, we shall make payments in excess of the \$50,000 per year limit, subject to the lifetime aggregate limit of \$1,000,000.
4. This amendment is subject to all the terms and provisions of the First Party Benefits Coverage not expressly modified herein.

Source

The provisions of this Appendix A adopted May 19, 1989, effective May 8, 1989, 19 Pa.B. 2178.

Cross References

This section cited in 31 Pa. Code § 67.42 (relating to phase-in extraordinary medical benefit coverage).

APPENDIX B

Section	
1761.	Definitions (Repealed).
1762.	Funding (Repealed).
1766.	Benefits (Repealed).

Source

The provisions of this Appendix B adopted October 30, 1998, effective October 31, 1998, 28 Pa.B. 5482.

§ 1761. Definitions (Repealed).

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“*Administrator.*”—The administrator designated by the Catastrophic Loss Trust Fund Board.

“*Board.*”—The Catastrophic Loss Trust Fund Board.

“*Catastrophic loss.*”—An injury, arising out of the maintenance or use of a motor vehicle, for which the reasonable and necessary expenses for medical

treatment and rehabilitative services, as described in section 1712(1) (relating to availability of benefits), exceed \$100,000.

“Catastrophic loss benefit.”—Payments by the Catastrophic Loss Trust Fund for those reasonable and necessary expenses only for medical treatment and rehabilitative services which, as described in section 1712(1), exceed \$100,000, subject to the limitations provided in section 1766 (relating to benefits). Catastrophic loss benefits shall not duplicate any other payments for medical treatment and rehabilitative services.

“Eligible claimant.”—Except as provided in the definition of ineligible claimant, eligible claimant includes a resident of this Commonwealth who suffers injury on or after the effective date of this subchapter arising out of the maintenance or use of a motor vehicle in the United States, its territories or possessions and Canada. The estate of an eligible claimant shall be entitled to receive catastrophic loss benefits pursuant to section 1766 to the extent that financial obligations for reasonable and necessary medical treatment and rehabilitative services were incurred by the eligible claimant prior to the death of that person. Otherwise eligible claimants shall not be disqualified from participating in or receiving benefits from the Catastrophic Loss Trust Fund for injuries suffered after the effective date of this subchapter but prior to their first registration renewal after the effective date of this subchapter.

“Executive director.”—The executive director of the Catastrophic Loss Trust Fund Board.

“Fund.”—The Catastrophic Loss Trust Fund.

“Fund charge.”—The fund charge established under this subchapter.

“Ineligible claimant.”—Any of the following:

(1) A person who is the owner of a motor vehicle who has not complied with the registration requirements of Chapter 13 (relating to registration of vehicles).

(2) A person who is the driver or occupant of a recreational vehicle not intended for highway use, a motorcycle, a motorized pedalcycle, a motor-driven cycle or like type vehicle required to be registered under this title but not subject to the charge levied in section 1762 (relating to funding).

“Manager.”—The manager designated by the Catastrophic Loss Trust Fund Board.

§ 1762. Funding (Repealed).

The Catastrophic Loss Trust Fund shall be funded by levying an initial charge of \$5 upon all motor vehicles required to be registered under Chapter 13 (relating to registration of vehicles) except trailers, recreational vehicles not intended for highway use, motorcycles, motor-driven cycles, motorized pedalcycles or like type vehicles. This charge shall be remitted to an insurance company or other party as may be designated by the Insurance Department. Upon receipt of the charge, the insurance company or other designated party shall remit it to the

Insurance Department for deposit in the trust fund. The Catastrophic Loss Trust Fund Board shall by regulation determine by January 1 of each calendar year the amount of the fund charge for each registration year subsequent to the initial registration year and shall notify the Insurance Department which shall notify the insurance companies or other designated parties to collect the charge.

§ 1766. Benefits (Repealed).

(a) *General rule.*—Subject to the limitations set forth in subsection (b), the Catastrophic Loss Trust Fund shall provide catastrophic loss benefits to eligible claimants only for the payment of expenses for medical treatment and rehabilitative services in excess of \$100,000. No payment shall be made by the fund for the first \$100,000 of expense for medical treatment and rehabilitative services incurred by an eligible claimant.

(b) *Maximum benefit.*—The maximum catastrophic loss benefit which shall be paid by the fund on behalf of any one eligible claimant shall be \$50,000 per year and \$1,000,000 lifetime aggregate. During the first 18 months of eligibility, the administrator may approve payments on behalf of a claimant without regard to the \$50,000 per year limit but subject to the \$1,000,000 lifetime aggregate.

(c) *Effect of other benefits.*—Except for workers' compensation, catastrophic loss benefits paid or payable by the fund shall be primary to any other available source of accident or health benefits including any program, group contract or other private or public source of benefits unless the law authorizing or providing those benefits makes the benefits primary to the benefits provided under this subchapter.

(d) *Structured settlements.*—The administrator may enter into structured settlements to pay benefits under this subchapter. Where it appears the settlement will be both cost effective to the fund and in the best interest of the claimant, the restrictions in subsection (b) shall not apply to this subsection, but in no event shall the cost of the structured settlement exceed the present value of the future annual payments up to the maximum lifetime aggregate benefit remaining calculated at 6% simple interest.

(e) *Preclusion of pleading, proving and recovering benefits.*—In any action for damages against a tortfeasor arising out of the maintenance or use of a motor vehicle, a person who is eligible to receive catastrophic loss benefits shall be precluded from pleading, introducing into evidence or recovering the amount of medical and rehabilitative expenses for which catastrophic loss benefits were paid or are payable. This preclusion applies only to catastrophic loss benefits.

(f) *Subrogation.*—There shall be no subrogation or reimbursement from a claimant's tort recovery with respect to catastrophic loss benefits.

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