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State of New Jersey
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DIVISION OF INSURANCE
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HOLLY C. BAKKE
Commissioner

July 21, 2004

Joseph DellaFera, Director
New Jersey Property-Liability Insurance Guaranty Association.
69-63 Mine Brook Road
Bernardsville, New Jersey 07924

RE: Commercial Auto Policy Pedestrian PIP

Dear Mr. DellaFera:

This will confirm our recent conversation concerning the Department's interpretation of the "pedestrian PIP" provisions of PL 2003, c.89 (enacted June 9, 2003) and its application to the responsibilities of the Property-Liability Insurance Guaranty Association (PLIGA) to administer the Uninsured Claim Judgment Fund (UCJF).

As I understand, the question whether PLIGA is responsible to handle pedestrian PIP claims on commercial auto policies results from the fact that N.J.S.A. 17:28-1.3 was not amended. Nevertheless, N.J.S.A. 17:28-1.3 references provisions of the law related to Pedestrian PIP that were amended. Additionally, we note that commercial lines auto insurers will be assessed for pedestrian PIP claims; if despite the assessment PLIGA was not responsible to pay these claims for commercial insureds, the practice may be subject to a legal challenge as improperly discriminatory. Furthermore, it would seem to be less confusing to injured persons, medical providers and others to have all pedestrian PIP claims handled through a single entity in order to provide certainty to claimants and to avoid delays in reimbursement and potential interruption of needed medical care. Finally, this result seems consistent with the legislative intent of the statutes.

For all the above reasons, the Department interprets the new law to require PLIGA to be responsible for these claims. As we discussed, PLIGA should include an appropriate provision that sets forth this conclusion in its

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revised Plan of Operation. I have so advised the Department staff that is working with your organization to develop appropriate amendments.

Thank you for your continued cooperation.

Sincerely,



Donald Bryan, Director
Division of Insurance

DB:mcf

- c. Jean Bickal, Assistant Commissioner
- Douglas Wheeler, Assistant Commissioner
- George Dytyniak, Manager, Financial Solvency Regulation
- Michael Goldman, SDAG