

FROM

(MON) 11. 16 ' 98 14:48 T. 14:47/NO. 4206007917 P 2

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Office of Special Projects

VIA FACSIMILE & FEDERAL EXPRESS

Peter J. Salvatore, Regulatory Coordinator
Commonwealth of Pennsylvania
Insurance Department
1326 Strawberry Square
Harrisburg, PA 17120

Re: Proposed Amendments to Title 31 §33.29 of the Pennsylvania Code

Dear Mr. Salvatore:

This letter is written by me, in my capacity as counsel to the Pennsylvania Assigned Risk Plan, as part of the comment process to the proposed amendments to Title 31 §33.29, of the Pennsylvania Code. As set forth in the Explanation of Regulatory Requirements, the new provisions of §33.29 will be moved to Chapter 67a. The purpose of this letter is to comment upon §67a.2.(f).

As a result of the Act 6 Amendments, the Legislature in 75 Pa. C.S.A. §1742(4) enacted an Electronic Mail Binding procedure for the Pennsylvania Assigned Risk Plan. Recently, the Pennsylvania Superior Court decided the case of Nationwide v. Johnson, 676 A.2d 680 (Pa. Supr. 1996) *affirmed per curiam*, 704 A.2d 127 (Pa. 1998), holding that the provisions of the Electronic Mail Binding System are enforceable. Accordingly, as a result of the Statute as interpreted by the Superior Court, we respectfully request that the last sentence of Chapter 67a.2.(f) be deleted and the following sentence be substituted:

"The effective date of coverage for the application will be determined in accordance with 75 Pa. C.S.A. §1742(4) and in accordance with the Assigned Risk Plan Rules."

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Peter J. Salvatore, Regulatory Coordinator
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We respectfully request your consideration of the proposed change, since we believe it captures the Legislative intent as set forth in the Nationwide v. Johnson case.

Respectfully submitted,



Lewis R. Olshin

for DUANE, MORRIS & HECKSCHER LLP

LRO:mhf

cc: Thomas Lajeunesse, Chair
 Pennsylvania Assigned Risk Plan
 Anthony Madalone, Manager
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