

New York State  
Seal

**STATE OF NEW YORK  
INSURANCE DEPARTMENT**

25 BEAVER STREET  
NEW YORK, NEW YORK 10004

George E. Pataki  
Governor

Gregory V. Serio  
Superintendent

The Office of General Counsel issued the following opinion on May 14, 2004 representing the position of the New York State Insurance Department.

**RE: No-Fault First Party Benefits, Coordination of Medical Care**

**Question Presented:**

May your firm bill insurers for referrals, or coordination of care, of individuals needing medical care necessitated by an automobile accident?

**Conclusion:**

Such services are not payable under the No-Fault statute, New York Insurance Law Article 51 (McKinney 2000).

**Facts:**

An inquirer stated that when individuals who have been injured in automobile accidents are discharged from either hospitals or the care of a physician, but still require additional services, they are unaware of where to access such services and are not furnished with the names of service providers by the hospital or physician. Accordingly, the inquirer has formed a firm to fill a perceived gap and assist these individuals in securing such services, including but not limited to physical therapy or home health care. The inquirer would like to bill the No-Fault insurer for the firm's services.

The inquirer also hopes to expand the services to accident victims covered under other government programs, such as Workers' Compensation.

**Analysis:**

New York Insurance Law § 5103(a) (McKinney 2000) provides:

Every owner's policy of liability insurance issued on a motor vehicle in satisfaction

of the requirements of article six or eight of the vehicle and traffic law shall also provide for; every owner who maintains another form of financial security on a motor vehicle in satisfaction of the requirements of such articles shall be liable for; and every owner of a motor vehicle required to be subject to the provisions of this article by subdivision two of section three hundred twenty-one of the vehicle and traffic law shall be liable for; the payment of first party benefits to: (1) Persons, other than occupants of another motor vehicle or a motorcycle, for loss arising out of the use or operation in this state of such motor vehicle. . . .

First party benefits are defined in New York Insurance Law § 5102(b) (McKinney 2000):

"First party benefits" means payments to reimburse a person for basic economic loss on account of personal injury arising out of the use or operation of a motor vehicle . . . .

Basic economic loss is defined in New York Insurance Law § 5102(a):

"Basic economic loss" means, up to fifty thousand dollars per person of the following combined items, subject to the limitations of section five thousand one hundred eight of this article: (1) All necessary expenses incurred for: (i) medical, hospital . . . , surgical, nursing, dental, ambulance, x-ray, prescription drug and prosthetic services; (ii) psychiatric, physical and occupational therapy and rehabilitation; . . . and (iv) any other professional health services; all without limitation as to time, provided that within one year after the date of the accident causing the injury it is ascertainable that further expenses may be incurred as a result of the injury. . . .

First, to be noted is that New York Public Health Law § 2803-1(1) (McKinney 2002) requires all general hospitals to establish discharge plans. In effectuation of that statute, the Health Department has promulgated regulations, N.Y. Comp. Codes R. & Regs. tit. 10, §§ 405.9(b)(14)(ii) (1996), dealing with inpatient discharges, and 405.19(c)(5) (1996), dealing with discharges from emergency departments, which both require discussion of the discharge plan with the patient. Accordingly, if ancillary services are required, it is incumbent upon the hospital to provide the patient with the names of available service providers. Second, referrals or coordination of care services are not within the definition of medical services in New York Insurance Law § 5102(a)(1).

Therefore, the Department does not believe that the firm's services would fall within the definition of basic economic loss set forth in New York Insurance Law § 5102(a)(1).

Since managed care is available for Workers' Compensation, New York Workers' Compensation Law Article 10-A (McKinney 2004 Supplement), questions concerning the firm's ability to provide its services in that context should be addressed to:

Chair  
New York State Workers' Compensation Board  
20 Park Street  
Albany, NY 12207-1674.

For further information you may contact Principal Attorney Alan Rachlin at the New York City Office.