Bulletin No. 81-03

Coordination of workers' compensation benefits and no-fault auto insurance benefits
Issued and entered March 9, 1981 by Nancy A. Baerwaldt, Commissioner of Insurance

In April 1978, the Michigan Insurance Bureau issued Bulletin 78-6, which interpreted Section 3114(3) of the Michigan Insurance Code (Code), MCLA 500.3114(3); MSA 24.13114(3), concerning the payment of no-fault personal injury protection insurance benefits to an employee injured in the course of his or her employment while an occupant of the employer's vehicle. The bulletin discussed the decision of the Michigan Court of Appeals in Mathis v. Interstate Motor Freight System, 73 Mich App 602 (1977), concerning the responsibilities of self-insured employers.

More recently, the Michigan Supreme Court considered several cases on appeal involving the payment of workers' compensation insurance benefits and no-fault automobile insurance benefits to or on behalf of persons injured in automobile accidents while in the course of their employment. The Court rendered a decision in Mathis v. Interstate Motor Freight System, Hawkins v. Auto-Owners Insurance Company, Ottenwess v. Hawkeye Security Insurance Company, and Joseph v. Transport Indemnity Company, 408 Mich 164 (1980), on March 20, 1980 (Mathis v. Inter-State Freight). The Court decided Great American Insurance Company v. Queen, _____ Mich _____ (1980), on December 23, 1980. This bulletin is being issued to summarize the Supreme Court's opinion in these cases.

BACKGROUND

In Mathis v. Interstate Freight, the Supreme Court held that the Workers' Disability Compensation Act, which provides a substitute for the common-law tort liability of the employer to the employee, and the No-Fault Auto Insurance Act, which provides a substitute for common-law tort liability arising out of the ownership or operation of a motor vehicle, are complete, self-contained legislative schemes addressing discreet problems. The Workers' Disability Compensation Act makes recovery of compensation benefits the exclusive remedy of the employee against the employer. The No-Fault Auto Insurance Act provides that persons are entitled to receive compensation from a no-fault insurance carrier for injuries which result from auto accidents. If an employee is injured while an occupant of an employer's vehicle, Section 3114(3) of the Code provides that the injured employee shall receive the no-fault personal injury protection insurance benefits to which the employee is entitled from the insurer of the employer's vehicle. Section 3109(1) of the Code, MCLA 500.3109(1); MSA 24.13109(1) provides that benefits payable under any other state or Federal law are to be deducted from the personal injury protection insurance benefits otherwise payable.

Therefore, the Supreme Court held that an employee injured in the course of his or her employment while an occupant of the employer's motor vehicle is entitled to no-fault insurance benefits regardless of whether he or she is also entitled to workers' compensation benefits. Such an employee is entitled to receive no-fault benefits from the no-fault insurer of the employer's vehicle and is not limited to workers' compensation as his or her sole remedy.

The Supreme Court upheld the setoff of workers' compensation benefits against the no-fault benefits otherwise due to the employee. In addition, the Supreme Court ruled that an employee injured in the course of his or her employment while an occupant of the employer's motor vehicle is entitled to both no-fault and workers' compensation benefits regardless of whether the employer is self-insured for one or both coverages. Finally, the Supreme Court ruled that, when an employee is injured while an occupant of the employer's motor vehicle, the priority for filing claims established by Section 3114(3) of the Code entitles the employee to claim no-fault personal injury protection benefits from the insurer of the employer's vehicle, and therefore does not entitle the injured employee to receive benefits from the no-fault insurer of the employee's private vehicle.

In Great American Insurance Company v. Queen, the Court considered the subrogation rights of a workers' compensation insurance carrier against the tort recovery of an employee who was injured in a motor vehicle accident. The Court held that when a workers' compensation carrier provides benefits which would otherwise have been payable by a no-fault insurer, the workers' compensation carrier's reimbursement rights are coextensive with those of the no-fault insurer whose liability it replaces. Under the no-fault law, a no-fault insurer has a right to reimbursement out of tort recoveries from third parties only to the extent the tort recovery is for damages which are compensated by no-fault. In addition, the Court ruled that, when a workers' compensation carrier provides benefits which do not substitute for no-fault benefits, because they exceed no-fault benefits in amount or duration, the workers' compensation carrier has a right to reimbursement from third-party tort recoveries in the same manner as the payment of workers' compensation for injuries which are not suffered in motor vehicle accidents.

CONCLUSIONS

In cases involving Section 3114(3), the insurer of the employer's vehicle, or the employer if self-insured, shall pay no-fault personal injury protection insurance benefits to the injured person. If a successful claim for workers' compensation benefits has been made on behalf of the injured person, those benefits shall be subtracted from the no-fault benefits as provided in Section 3109(1). Failure to pay claims in accordance with this bulletin shall be considered a violation of Section 2006 of Act No. 273 of the Public Acts of 1976, the Uniform Trade Practices Act, MCLA 500.2006; MSA 24.12006,
and Section 3142 of Act No. 294 of the Public Acts of 1972, MCLA 500.3142; MSA 24.13142.

This bulletin is effective immediately. Bulletin 78-6 is withdrawn pursuant to Order No. 81-2580-M, effective March 9, 1981.