



*Dedicated to protecting access to quality healthcare for automobile accident victims*

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We appreciate and share the legislature's concern about insurance fraud and automobile insurance premiums. However, this legislation will have a devastating impact on automobile accident victims by eliminating preclusion, the only effective safeguard claimants have to ensure claims are processed on time. NYFAIR is opposed to A04348.

The Preclusion Rule was designed to discourage "dilatory practices" and ensure that claims are processed promptly, thereby furthering the primary goal of the No-Fault system: Prompt reimbursement for economic loss, including payment of medical bills. The No-Fault Regulations give insurers several procedural rights and requirements. A04348 would permit insurers to indefinitely delay compliance and belatedly deny claims even though they failed to follow the procedural timelines set forth in the law.

The statement in the Sponsor's Memo that additional time is needed to investigate fraud is misleading. It implies that all investigations must be complete within 30 days. This is untrue. The 30 day rule does not prevent an insurer from initiating a timely investigation into possible fraudulent action. Every insurer can extend the 30 day period for the payment of claims, by merely requesting information, or asking the claimant or her doctor to appear for an examination under oath. Each request "stops the clock" until the information is provided. Once provided, if necessary, the insurer can ask for more information, or the examination of other people. As long as the insurer has good cause, this process can be repeated without limit.

Furthermore, the proposed legislation is not limited to fraudulent claims, or newly discovered information. Instead, it allows insurers to raise new defenses unrelated to fraud, against honest claimants with legitimate claims. Thus, insurers will have no meaningful disincentive against raising any reason--at any time--for withholding payment on valid claims. The insurer should be required to inform the accident victim why the claim is not being paid. Accident victims, already stripped of the right to seek compensation for pain and suffering, should not have less rights than those seeking other insurance coverage.

The mere accrual of interest is insufficient to ensure prompt action. Before the implementation of preclusion, it was not unusual for it to take six, seven or eight months for a carrier to act on a claim. Sometimes it took years. Today, over 97 percent of claims are handled in a timely manner. For fourteen years, the Preclusion Rule has ensured that No-Fault claims are processed promptly while still permitting carriers to investigate questionable claims. On balance, the rule does much more good than harm. It should not be abandoned in the wholesale manner proposed. A04348 should not be enacted as drafted.