



# THE GARDEN STATE QUARTERLY COLUMNS

THIS PUBLICATION IS PREPARED FOR BGIA CLIENTS

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## Risk Control Technical Bulletin: Snow Plow Safety

Now is the time to review your snow plow plans to look for ways to plow and salt the roads of your community, while not pushing the driving time of your staff too far. Driver fatigue has been a focus of many studies over the last few years and in response to those studies, the Federal Motor Carrier Safety Regulations (FMCSR) have reduced the hours of service regulations that dictate the amount of time a driver is permitted to be behind the wheel in a given day, and within a seven day period.

While the FMCSR guidelines on consecutive hours of driving do not specifically apply to municipal operations, the research and limits imposed on over-the-road drivers provide guidance to local authorities as they manage their driving staff. The newer Hours of Service regulations state that drivers cannot drive beyond the 14th hour when working 5 days per week, or beyond the 16th hour when working 2 days per week.

The State of New Jersey has "Maggie's Law" which addresses driving while fatigued. This law defines "Fatigued" as "having been without sleep for a period in excess of 24 consecutive hours." A driver can be charged with recklessness due to fatigue and, if a fatality were to occur, the driver can be charged with vehicular homicide (prison + fine).

### MUNICIPAL OPERATIONS ARE NOT EXEMPT FROM MAGGIE'S LAW

Local authorities must monitor and control driver fatigue. Who has this responsibility in your organization(s)? Also, what are your plowing contractors' policies? Do you have a written plan?



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**Contact Info**

**900 Route 9 North  
Suite 503  
Woodbridge, NJ  
07095  
Phone: 800.272.6771  
Fax: 732.634.5379**

**Steve Edwards**  
*President*  
Ext 241

**Jerry Barry**  
*Executive Vice President*  
Ext 452

**Stuart Migdon**  
*Employee Benefits*  
Ext 226

**Christopher Clark**  
*Property & Casualty*  
Ext 342

**Risk Control Technical Bulletin: Snow Plow Safety**

In addition to the issues of working hours, there are other concerns that should be addressed when developing snow plow plans. These concerns include the following:

- Driver experience in dealing with hazardous road conditions
- Effective communications for plow operators
- Availability of food and beverages for drivers during overnight hours
- Priority routes for plowing
- Communicating the plan to residents of your community

Your trucks, plows, snow-blowers and related equipment should have been inspected, repaired, maintained, etc. and ready to go by now. Inspections should include all truck systems, plow hydraulics, plow blades, salt / sand spreaders and snow blower operations.

Training in the safe operation of all of your equipment should also be provided to all employees assigned to operate that equipment. This training should be documented in writing to record when, where, and how the training was provided.

Any questions or concerns should be directed to the PMA Risk Control Team:

Walt Reibrich 609-273-9883  
Ken Child 856-371-3173  
Sotirios Thomas 856-885-1450  
Mark Boyles 609-273-9886  
Laura Comber 856-727-3121



**IMPORTANT NOTICE** - The information and suggestions presented by The PMA Insurance Group in this Risk Control Technical Guide are for your consideration in your loss prevention efforts. They are not intended to be complete or definitive in identifying all hazards associated with your business, preventing workplace accidents, or complying with any safety related, or other, laws or regulations. You are encouraged to alter them to fit the specific hazards of your business and to have your legal counsel review all of your plans and company policies.

RCTB: Snow Plow Safety (November 2009)



## Dependent Eligibility Audits: Benefits and Insurance Issues Important to You

How can you be sure that your health plan is covering only those that are eligible? A dependent eligibility audit may be an option.

Used primarily by self-insured employer groups, the purpose of a dependent eligibility audit is to identify dependents that should no longer be covered. Examples include children that have met maximum age or student status, divorced spouses, or children impacted by changes in custody arrangements. Estimates are that 3 to 12 percent of covered dependents are not actually eligible. This can translate into significant cost savings for employers. Additionally, **not** performing an audit could risk non-compliance with ERISA resulting from failure to comply with plan eligibility rules as provided in plan documents. There may also be tax implications.

When planning an audit, an employer should consider the following:

- Are all plan documents consistent in defining dependents?
- What will the scope of the audit be and who will perform it?
- What documents will satisfy proof of eligibility for various types of dependents?
- What will be the message communicated to employees?
- How will employees perceive an audit? Are there other employee relations issues going on?
- How will privacy issues be addressed?

One of the most essential aspects of a dependent eligibility audit is employee communication. Employees should be told in advance of the coming audit so they can gather the proper documentation. Also, they should be reminded frequently throughout the audit period to ensure the best possible participation rate. Use already established mediums for communicating the message, including your company intranet, e-mails, bulletin board postings, payroll stuffers, etc.

Typically there are two steps to a dependent audit.

- 1) Employers establish a period of amnesty where employees can voluntarily remove ineligible dependents. Employees are notified by letter, explaining eligibility rules. An employee can then review all covered dependents for status, and no penalty will apply to those dependents removed because they no longer qualify. Employers generally give employees one month to respond. Ineligible dependents are terminated at the end of the following month.



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2) For all remaining dependents after the initial amnesty period, employers should require employees to provide documentation to verify dependent status/relationship. Documents must establish both a dependent relationship and that the relationship still exists.

Examples may include:

- Marriage certificate
- Domestic partner affidavit
- Legal documents that establish custody, guardianship or foster care
- Birth certificate
- Tax status form
- Medical documentation of disability
- Adoption papers

If an employee is unable to establish a dependent relationship, employer may impose penalties or seek reimbursement for claims paid for ineligible dependents. Some employers also offer an appeals process to give those deemed to have ineligible dependents (or non-respondents) a chance to reinstate their children or spouses.

Dis-enrollment may not be a COBRA qualifying event, thus an employer may choose to offer COBRA to all (if fully insured, get permission from your insurer), not just those that are truly COBRA eligible as a result of the audit. Also, an employer may need to retroactively adjust employee W-2s if an employee made pre-tax contributions for an ineligible dependent. For this reason, some employers choose not to seek reimbursements for past claims, but simply to deny coverage to ineligible dependents going forward.

It is recommended that plan documents be amended to reflect the process to be followed in determining dependent eligibility – frequency of audits, verification process, penalties at the point of new employee enrollment, etc.

Many companies find that hiring an independent audit firm may be desirable. This might be done on a risk sharing basis where payment is based on the percentage of recovered amounts or estimated savings. Using an outside firm might also help with employee perception of the independence and objectivity of an audit. In addition, the auditing process can be cumbersome and time-consuming, so larger companies may find that a third-party auditor is more practical.

It is important to weigh your company resources against the potential payoff of cost control and ongoing risk exposure when deciding whether a dependent eligibility audit is right for your company.



### Calendar of Events

#### NJ Conference of Mayors

Atlantic City, NJ  
April 27-30, 2010  
[www.njcm.org](http://www.njcm.org)

#### NJ School Association of School Boards

June 2-4, 2010  
[www.njasbo.com](http://www.njasbo.com)

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