



COMMONWEALTH AUTOMOBILE REINSURERS

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RALPH A. IANNACO  
PRESIDENT

June 23, 2010

**BULLETIN NO. 929**

**PROPOSED CHANGES TO THE RULES OF OPERATION**

At its meeting of June 23, 2010, the Governing Committee voted to amend the following Rule of Operation by deleting and adding the language as indicated on the attached copy. A copy of the Filing Letter, which contains an explanation of the Rule changes, is attached for your information.

The proposed Rule is listed below.

Rule 30 – Assigned Risk Company Requirements

This Bulletin, with a copy of the proposed changes to the Rule listed above, is being furnished to every Member Company as required in Article X of the Plan of Operation. Any Member Company may request a public hearing within five days of receipt of this Bulletin and Filing Letter, as provided by Article X of the Plan of Operation.

A proposed Rule shall become effective upon the written approval of the Commissioner or upon the expiration of 30 days after filing, provided the Commissioner has not previously disapproved the Rule in writing.

RALPH A. IANNACO  
President



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Honorable Joseph G. Murphy  
Commissioner of Insurance  
Massachusetts Division of Insurance  
1000 Washington Street, Suite 810  
Boston, MA 02118

### **Rules of Operation**

#### **Rule 30 – Assigned Risk Company Requirements**

Dear Commissioner Murphy:

In accordance with the provisions of Article X of the Plan of Operation, I hereby file, at the request of the Governing Committee, the attached amendments to Rule 30.C.1.d. of CAR's Rules of Operation.

The attached amendments change Rule 30.C.1.d. by deleting and adding the language as indicated on the attached copy.

The remainder of Rule 30 is unchanged.

#### **Explanation**

The proposed amendments to Rule 30.C.1.d. eliminate the Rule's sunset provision, thereby ensuring that an Assigned Risk Company (ARC) can offer voluntary coverage to an individual that it has insured through the MAIP, and must pay appropriate commission on the policy to the producer of record regardless of whether such producer has a voluntary contract with the ARC.

The Governing Committee unanimously voted to adopt this change, which is consistent with New York's assigned risk plan and serves to insulate consumers from instability by allowing insureds to remain with their chosen producers both during and after the transition period, while maintaining the producers' right of ownership.

A copy of revised Rule 30 is attached hereto, and is being furnished to every Member Company, the two associations of insurance producers, and the Public Protection Division of the Office of the Attorney General, as required by Article X of the Plan of Operation.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ralph A. Iannaco". The signature is fluid and cursive, with the first name "Ralph" being the most prominent.

Ralph A. Iannaco  
President

RAI/ms

Attachment: Rule 30 – Assigned Risk Company Requirements

cc: Assigned Risk Producers of Massachusetts, Inc.  
Massachusetts Association of Insurance Agents  
Public Protection Division – Office of the Attorney General

**A. Appointments**

The Governing Committee shall appoint ARCs in accordance with the eligibility requirements specified in accordance with the Plan and these Rules. For purposes of determining eligibility, groups of companies under the same ownership and management will be treated as a single Member.

A Newly Writing Company will be eligible for appointment as an ARC and be required to accept assignments through the MAIP on the 24-month anniversary of the calendar date on which the Newly Writing Company's initial Private Passenger Motor Vehicle insurance rates and rate manual became effective.

A Member may be excused from its private passenger motor vehicle servicing carrier responsibilities for the business assigned to it through the MAIP if the Member executes a Limited Assignment Distribution Agreement (LADA). Rule 36 details the eligibility requirements and procedures applicable to LADAs.

1. In order to assure the protection of the public interest, the Governing Committee, in considering the appointment of an ARC, shall require that the Member has the ability to and will effectively meet the following requirements:
  - a. Provide policy issuance and premium collection services for all eligible classes of risks, except for those classes of risks specifically exempted by the Commissioner;
  - b. Service insurance claims in every state, the District of Columbia and Canada;
  - c. Administer a direct bill program;
  - d. Provide an installment payment plan as described in Rule 28 – Application Process. An ARC shall cooperate with ARPs to assure that policyholders are made aware of their option to utilize an installment payment plan;

- e. Maintain a special investigative unit to investigate suspicious or questionable motor vehicle insurance claims for the purpose of eliminating fraud;
- f. Report all required information to the MAIP in an accurate and timely manner;
- g. Adopt and maintain a plan approved by the Commissioner providing for direct payment by the insurer to the insured under collision, limited collision, comprehensive, and fire and theft coverages; and
- h. Use the policy forms, endorsements, new business application and renewal questionnaire filed by the MAIP with and approved by the Commissioner for use in private passenger motor vehicle insurance.

**B. Responsibilities**

Nothing in this Rule shall be construed to affect the rights of any Member to enter into any third party contractual agreement for the purpose of servicing its voluntary business. Nothing in this Rule shall be construed so as to relieve any Member of its Quota Share or its share of the administrative expenses of the MAIP, as required by G.L. c. 175, § 113H. A Member appointed as an ARC is required to perform the following responsibilities in its capacity as an ARC:

1. An ARC must provide quality service to policyholders assigned through the MAIP by maintaining the standards established as a condition of appointment under Section A.1 of this Rule. Policies and other forms mailed to policyholders shall be the same as those filed by the MAIP and approved by the Commissioner for private passenger motor vehicle business. An ARC shall provide the same level of service to policies assigned to it through the MAIP as it provides to policies it issues voluntarily.

2. An ARC shall bill the premium for a policy issued through the MAIP that is the lesser of the premium calculated using the ARC's rates applicable to that policy if the ARC or its affiliates had issued the policy in the voluntary market and the premium calculated using the MAIP rates on file with the Commissioner. For the purposes of this comparison:
  - a. The ARC, though its affiliated companies, shall quote risk-specific premiums based on the rates applicable to its voluntary policies for any eligible risk obtaining insurance through the MAIP.
  - b. The ARC must use voluntary private passenger motor vehicle insurance rates that are based primarily on actual loss and expense experience for risks voluntarily insured.
3. No companies within an insurer group under the same management or ownership or both may provide a different level of service through a company within the group that is not an ARC than is provided to policyholders insured by a company with the group that is an ARC.

4. General Duties

ARCs shall perform the following general duties.

- a. Confirm operator driving licenses and records in order to administer the MAIP merit rating plan and its own merit rating plan accurately;
- b. Verify eligibility criteria;
- c. Verify that representations contained in the application for insurance are accurate as to classification, garaging, discounts, credits, vehicle use and vehicle description;
- d. Assure that a policy has been issued for each RMV-1 and/or RMV-3 certificate and that the policy effective date and the certification date are the same;
- e. Implement procedures to assure collection of premiums billed;

- f. Comply with the terms and conditions of premium finance notes and/or agreements submitted to the ARC on behalf of applicants for insurance, by the producer or by a premium finance company licensed under the laws of the Commonwealth of Massachusetts;
- g. Ensure that there is communication among the ARC's Underwriting, Claims, and SIU Departments and that any discrepancies in information are shared promptly among the departments and documented;
- h. Maintain and forward to the MAIP a copy of all written complaints filed with the ARC regarding the service provided by the ARC or any ARP; and
- i. Monitoring of Assigned Risk Producers

ARCs will be responsible for notifying the MAIP of ARP infractions that may result in the revocation of the ARP's MAIP certification as follows:

- (1) Failure to maintain a valid producer's license as issued by the Division of Insurance;
- (2) Willful misappropriation of premium due an ARC in accordance with the provisions of the MAIP Rules of Operation;
- (3) The entry of a finding, by a court of competent jurisdiction that the producer has engaged in fraudulent activity in connection with the business of motor vehicle insurance;
- (4) Failure to remit payments to an ARC on a timely basis in accordance with the MAIP Rules of Operation;
- (5) Failure to notify the ARC of any suspected fraud in the application for insurance or in the underwriting or rating process or in the payment of premium obligations or surrounding a loss;

- (6) Failure to assist the ARC during any audit or investigation;
- (7) Failure to report all coverages bound within two (2) working days of the effective date of coverage;
- (8) Failure to comply with reasonable procedures as required by the MAIP for processing claims, remitting premiums and requesting coverages;
- (9) Failure to adhere to a directive issued by the Commissioner relative to the charging of service fees;
- (10) Failure to provide a reasonable and good faith effort to verify the information provided by the applicant, including rating and licensing data;
- (11) Failure to comply with applicable agency requirements and procedures, as prescribed in the MAIP Rules of Operation; and
- (12) Failure to comply with all of the provisions of the Rules of Operation and Manual of Administrative Procedures.

#### 4. Reporting Requirements

On a monthly basis, ARCs must report all premiums written, and any other information that may be required by the Plan, Rules or Manual of Administrative Procedures.

#### 5. Continuation of Eligibility as an ARC

An ARC must maintain a viable book of voluntarily written private passenger motor vehicle insurance policies. The Commissioner may terminate any ARC if he or she finds that disruptive reductions in voluntarily issued motor vehicle policies are in violation of this section.

**C. Procedures for Voluntary Writing of Risks from the MAIP**

1. Voluntary Writing by an ARC of Its Own Policyholder Insured through the MAIP.

a. Eligibility

A risk is eligible if it is currently insured through the MAIP.

b. Offer to Write

The kinds and amounts of coverage to be offered for such voluntary risks shall not be less than those afforded by the policy being replaced unless the insured refuses such kinds and amounts of coverage.

c. Notification to the Producer of Record

The producer of record must be mailed notification of such offer ninety (90) days prior to expiration, which shall contain the premium quotation to be offered. The policyholder shall be mailed the offer for voluntary coverage forty-five (45) days prior to expiration with copy to the producer of record.

Following such offer to write, the ARC shall have no further obligations to the policyholder or to the producer of record if the policyholder obtains replacement insurance from another Member.

If such replacement coverage is obtained by the producer of record within the period of his or her forty-five (45) day advance notice, the producer of record shall notify the assigned ARC and it shall not make an offer to the policyholder.

d. ARC Obligations to the Producer of Record

An ARC may choose, ~~during the period from April 1, 2008 through March 31, 2011,~~ to offer voluntary coverage to a policyholder it has insured through the MAIP. Once the ARC mails the offer to write voluntary coverage and the policyholder accepts the offer, ~~during that period~~ the policyholder's producer of record shall continue to represent the policyholder who has been written or renewed in the voluntary market and to service the policy unless: 1) the producer is decertified or suspended by the MAIP or the Commissioner of Insurance pursuant to Rule 31.B; 2) the insured chooses to terminate such producer as its producer of record; or 3) the producer of record is precluded from dealing with other companies by contract. ~~During the period from April 1, 2008 through March 31, 2011, an~~ An ARC who ~~subsequently~~ writes a policy on a voluntary basis that it previously insured through the MAIP shall pay a commission in accordance with its commission structure for business written in the voluntary market at voluntary rates, regardless of whether there is a contract between the ARC and the producer of record. No commission payments shall be made to the producer of record if that producer is decertified or suspended under Rule 31.B, is terminated by the policyholder as its producer of record, or is precluded from dealing with other companies by contract.

~~On and after April 1, 2011, the ARC shall have no further obligation to the producer of record unless there is a contract between the licensed producer and the ARC. However, the ARC shall have the option of servicing the policy through the producer of record.~~

2. Voluntary Writing of Present MAIP Insured by Member Other Than the ARC

a. Eligibility

A risk is eligible if it is currently insured through the MAIP.

b. Offer to Write

The kinds and amounts of coverage to be offered for such voluntary risks shall not be less than those afforded by the policy being replaced unless such kinds and amounts of coverage are refused by the insured.

3. Right of Insured to Reapply to Plan

Nothing in the provisions of this Section shall render the policyholder ineligible for coverage in the MAIP for the full term of the three (3) year assignment period. Subject to the right to reassignment pursuant to Rule 26.A.2., the policyholder may, at his or her option, continue the policy with the ARC as a MAIP risk if the three (3) year assignment period has not yet expired.

**D. Failure to Comply with the Provisions of this Section**

If the Governing Committee finds that any Member without good cause is not complying with the provisions of this section it shall notify the Commissioner in writing.

**E. Reporting Credits**

Refer to the Manual of Administrative Procedures for the procedure outlining the reporting of all credits.