



COMMONWEALTH AUTOMOBILE REINSURERS

225 Franklin Street Boston, Massachusetts 02110

www.commauto.com

617-338-4000

RALPH A. IANNACO
PRESIDENT

June 25, 2010

BULLETIN NO. 930

REVISIONS TO ASSIGNED RISK COMPANY PERFORMANCE STANDARDS

In Bulletin No. 904 CAR published performance standards and procedures for monitoring Assigned Risk Company (ARC) compliance with MAIP Rules of Operation. The Performance Standards have been modified to include penalty provisions for non-compliance and to address issues relating to cancellations for misrepresentation or insufficient down payment, and the non-renewal of a policy assigned through the MAIP.

1. The Performance Standards have been modified to incorporate the following provisions:

- The ARC may not cancel a policy for non-payment of premium if such premium deficiency is the result of an insufficient down payment. The ARC shall bill the policyholder for the amount of the deficiency, or otherwise incorporate the amount in future premium installments. If the policyholder fails to pay the minimum amount due, then the ARC may issue a statutory Notice of Cancellation for non-payment of premium.
- Division of Insurance Bulletin 1999-02 states in part that, “in order to prevent wrongful cancellations, if during the underwriting process an insurer discovers third-party information that appears inconsistent with the information provided on the application for insurance, the insurer shall 1) initiate an inquiry either directly with the insured or through the producer of record to resolve any factual errors; and 2) obtain the insured’s consent before issuing a notice of adjustment to the down payment and/or total premium. If the inquiry is made directly to the applicant the producer of record should be copied.” The full text of Bulletin 1999-02 may be found in the Industry Services section of the Division of Insurance website.
- If the resolution of an apparent inconsistency results in a change to information used to calculate premium, the ARC shall charge an appropriate premium based upon the additional or corrected information, and adjust the applicant’s next bill accordingly. If however, the applicant is unwilling to consent to the modification, and the ARC has independent evidence that the applicant had the actual intent to deceive or the material misrepresentation increases the ARC’s risk of loss, the ARC may cancel the policy as provided by Massachusetts law.
- An individual copy of each cancellation notice issued by an ARC shall be furnished to the producer of record.

- If the reason for a cancellation or non-renewal is remedied prior to the effective date, the policy shall be reinstated or the renewal policy issued.
 - An endorsement recalculating premium is required within 15 days of notification to the ARC validating an incorrect premium charge.
2. Non-compliance review procedures have been modified and penalty provisions have been added:
- The timeframe for an ARC to respond to a complaint has been changed from 20 calendar days to 5 business days from the receipt of the complaint.
 - The ARC will be required to notify CAR of corrective action within 5 business days of the receipt from CAR requesting remedial action.
 - The Standards have been organized into two categories with separate penalty provisions. Category I relates to Standards having a significant impact on consumers, with Category II Standards primarily addressing the timeliness of various ARC responsibilities.
3. The Assigned Risk Company Complaint Form has been modified as follows:
- Wrongful cancellation has been added.
 - Failure to provide an individual copy to the ARP of each cancellation notice issued has been added.
 - The notation indicating the timeframe for the response from the ARC has been changed from 20-calendar to 5-business days.

The attached Assigned Risk Performance Standards and Non-Compliance Review and Penalty Procedures is included in the MAIP Manual of Administrative Procedures and the Assigned Risk Producer Procedures Manual. The Assigned Risk Company Complaint Form may be accessed under Non Compliance in the MAIP Section of CAR's website.

Any questions concerning Assigned Risk Company Performance Standards may be addressed to the undersigned via email or telephone at pwallace@commauto.com, 617-880-7240.

PAMELA WALLACE
Vice President - Residual Market Services

Attachments

ASSIGNED RISK COMPANY PERFORMANCE STANDARDS

Category I

A. Claims Performance

Claim adjustment practices and procedures shall be in accordance with the established Performance Standards and shall correspond with those followed for voluntarily written business.

B. Certificates of Insurance

The Assigned Risk Company (ARC) shall, at the request of the named insured or producer of record, issue certificates of insurance, which shall include SR-22 filings. Such certificates or filings must be provided within four business days after receipt of a request for same.

C. Cancellation – Insufficient Down Payment

The ARC may not cancel a policy for non-payment of premium if such premium deficiency is the result of an insufficient down payment. The ARC shall bill the policyholder for the amount of the deficiency, or otherwise incorporate the amount in future premium installments. If the policyholder fails to pay the minimum amount due, then the ARC may issue a statutory notice of cancellation for non-payment of premium.

D. Cancellation - Misrepresentation

To prevent wrongful cancellation, if during the underwriting process an ARC discovers third-party information that appears inconsistent with the information provided on the application for insurance, the ARC shall 1) initiate an inquiry either directly with the insured or through the producer of record to resolve any factual errors; and 2) obtain the insured's consent before issuing a notice of adjustment to the down payment and/or total premium. If the inquiry is made directly to the applicant the producer of record shall be furnished a copy.

If the resolution of an apparent inconsistency results in a change to information used to calculate premium, the ARC shall charge an appropriate premium based upon the additional or corrected information, and adjust the applicant's next bill accordingly. If however, the applicant is unwilling to consent to the modification, and the ARC has independent evidence that the applicant had the actual intent to deceive or the material misrepresentation increases the ARC's risk of loss, the ARC may cancel the policy as provided by Massachusetts law.

E. Reinstatement

If the reason for a cancellation or non-renewal has been remedied prior to the effective date, then the ARC shall reinstate the policy or issue the renewal.

F. Disputed Premium Recalculation

The ARC shall issue an endorsement recalculating premium within 15 days from the receipt of a determination validating an incorrect premium charge identified as a result of a complaint filed in accordance with ARC Performance Standard K – Premium Disputes.

Category II

G. Policy Issuance

The ARC must issue a policy within 15 calendar days of the receipt of a completed application and any supplemental information needed to verify and appropriately calculate the premium for the coverages requested.

H. Endorsements

Any endorsement to an assigned policy, which includes all information necessary for processing, shall be issued within 15 calendar days of receipt.

I. Return Premiums

Return premium checks must be mailed within 30 calendar days of the effective date of the cancellation or endorsement generating the return.

J. Policy Changes

If policy changes are mailed directly to the insured, copies must be furnished to the Assigned Risk Producer.

K. Premium Disputes

The ARC shall reply within 15 calendar days to letters disputing the premium charged.

L. Commissions

Commission shall be paid no less frequently than monthly and shall be paid within 15 calendar days after the close of the month in which the commission was credited to the producer's account. Each payment will include a commission statement that contains the policy number, named insured, and amount of premium on which the commission has been calculated.

M. Cancellation Notices

A copy of each cancellation notice issued by an ARC shall be furnished to the producer of record.

NON-COMPLIANCE REVIEW AND PENALTY PROCEDURES

A. Violation Reporting

Assigned Risk Company Non-Compliance Forms should be completed online by an ARP. The form should simultaneously be submitted to CAR and the individual designated by the Assigned Risk Company (ARC) for which the violation(s) is being reported. The ARC will have 5 business days to respond to CAR regarding the violation. The ARC shall forward a copy of the response to the ARP.

B. Compliance Review

Subsequent to an ARC response to a violation reported by an ARP, or the lapse of 5 business days lacking a response, CAR will review the complaint and any supporting documentation to determine the validity of the reported violation.

CAR shall assess the alleged violation(s) and resulting response to determine the validity of the complaint and what course of remedial action may be necessary.

C. Warning – Remedial Action

If CAR determines the ARP complaint to be valid, or such complaint remains outstanding, CAR shall notify the ARC of the failure to comply with the approved performance standard(s) and request that the ARC institute corrective measures. The ARC will be required to notify CAR of corrective action, in writing within 5 business days and may be required to address remedial action in a meeting with CAR staff and/or a committee of CAR.

D. Penalty Provisions

Category I

CAR will perform an analysis of each ARC's compliance with Category I Performance Standards on a monthly basis. A flat penalty of \$10,000 will be assessed for any validated infraction, or combined infractions, of Category I Performance Standards. This provision applies to the following Performance Standards: Claims Performance, Certificates of Insurance, Cancellation – Insufficient Down Payment Cancellation – Misrepresentation, Reinstatement and Disputed Premium Recalculation.

Category II

CAR will perform an analysis of each ARC's compliance with Category II Performance Standards on a monthly basis. If the number of validated infractions exceeds 2% of the ARC's enforce MAIP assigned policies based on the current twelve-month rolling total of assignments, and a minimum of 10 validated infractions, a \$5000 penalty will be assessed. This provision applies to the following Performance Standards: Policy Issuance, Endorsements, Return Premium, Policy Changes, Premium Disputes Commissions and Cancellation Notices.

Penalties will continue to accrue for validated infractions of both Category I and II Performance Standards newly identified in each month subsequent to the initial assessment, except that validated infractions relating to Commissions will be assessed a Category I penalty for infractions occurring during the 12-month period subsequent to the initial assessment.

E. Non-Compliance

Subsequent and repeated non-compliance by an ARC with the performance standards will result in notification of such non-compliance to the Commissioner of Insurance.

COMPLAINT FORM - ASSIGNED RISK COMPANY

Assigned Risk Company: _____

Insured Name (MAIP Policy): _____

MAIP Application Certification No.: ____ - ____ - ____

Assigned Risk Company Policy No.: _____

Select one or more of the following:

_____ **Policy Processing Delay** (original policy or subsequent endorsement not issued within 15 calendar days of the receipt of the assigned application or endorsement request, which includes any supplemental information necessary to process the request, certificate of insurance within 4 business days of request)

_____ **Return Premium** (within the 30 calendar days of the effective date of the cancellation or endorsement that results in a refund)

_____ **Policy Changes** (copies must be furnished to the ARP if furnished directly to the policyholder)

_____ **Premium Dispute** (failure to respond within 15 days of receipt of the complaint, or failure to recalculate premium)

_____ **Claims Performance** (provide details below)

_____ **Commissions** (no less frequently than monthly and within 15 days after the close of the month in which the commission is credited to the producer's account)

_____ **Invalid, Improper, or Unreasonable Cancellation** (insufficient down payment, material misrepresentation, provide details below)

_____ **Cancellation Notices** (copies must be furnished to the ARP)

_____ **Reinstatement** (failure to reinstate if the reason for cancellation or non-renewal has been remedied prior to the effective date)

_____ **Other** (note below and provide details of complaint)

Detail action taken to resolve or mitigate the complaint, include name(s) of company representative(s) contacted:

Assigned Risk Producer Signature: _____ Date: _____

Assigned Risk Producer Agency No.: _____ Email Address: _____

The Assigned Risk Company Complaint Form may be accessed under Non-Compliance in the MAIP Section of CAR's website.

Response from the ARC must be issued within 5 business days of receipt of complaint