



COMMONWEALTH AUTOMOBILE REINSURERS

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RALPH A. IANNACO  
PRESIDENT

**ADDITIONAL INFORMATION**

**TO MEMBERS OF THE MAIP STEERING COMMITTEE**

**FOR THE MEETING OF:**

**Wednesday, April 28, 2010 at 10:00 a.m.**

**MSC**

**10.10 Cancellation for Material Misrepresentation**

Draft Rules 26, 28, 30, and 31 are attached. (Docket #MSC10.10, Exhibit #2)

PAMELA WALLACE  
Vice President – Residual Market Services

Attachment

Boston, Massachusetts  
April 20, 2010

**A. Eligibility Requirements**

1. Applicants Eligible for the Massachusetts Automobile Insurance Plan (MAIP)

- a. A completed, signed application for assignment submitted to the MAIP shall constitute a certification by the applicant, or his duly authorized agent submitting the application on his behalf, to the effect that the applicant has attempted within 15 days prior to the date of application to obtain Motor Vehicle Insurance in the voluntary market and that he has been unable to obtain such insurance through a voluntary policy.
- b. An application shall be considered in good faith if the applicant reports all information of a material nature and does not intentionally make ~~incorrect or~~ misleading statements in the prescribed application form, or does not fall within any of the prohibitions or exclusions pursuant to Section A.3. of this Rule.
- c. The MAIP shall be available to residents and non-residents of the state only with respect to motor vehicles that are registered or will be registered in the state within 15 days, except that non-residents who are members of the United States military forces shall be eligible with respect to motor vehicles registered in other states provided such military non-residents are stationed in this state at the time application is made and are otherwise eligible for insurance under the Plan.

2. Motor Vehicles Eligible for Assignment

The MAIP shall accept for assignment applications to insure all types of motor vehicles that may be insured under a standard Private Passenger Motor Vehicle Insurance policy approved for use by the MAIP.

3. Applicants not Eligible for the MAIP

- a. No Assigned Risk Company (ARC) is required to offer or continue insurance to any applicant or insured in any of the following circumstances:

- (1) If any person who usually drives the motor vehicle does not hold or is not eligible to obtain an operator's license or fails to obtain such license as required by law; or
  - (2) If the applicant or any person who usually drives the motor vehicle has failed to pay an insurance company any motor vehicle insurance premiums due or contracted during the preceding 12 months; or
  - (3) An applicant shall not be entitled to physical damage insurance pursuant to Rule 27 nor shall any ARC be required to offer or continue to offer physical damage insurance if the applicant has failed to make the vehicle(s) available for inspection pursuant to 211 CMR 94.
- b. An applicant who is eligible for insurance shall not be placed in the MAIP in any of the following circumstances:
- (1) If a person obtains insurance through a group marketing plan pursuant to G.L. c. 175, § 193R; or
  - (2) If the applicant is one of two or more entities, in each of which the same person or group of persons or corporations owns a majority interest, none of such entities shall be eligible for insurance through the MAIP if any such entities have failed to meet its premium obligations as outlined above. If an entity owns the majority interest in another entity that in turn owns the majority interest in another entity, all entities so related shall be considered under the same majority ownership for purposes of this Rule.

**B. Reassignment Rights**

1. An ARC shall provide coverage to each applicant assigned to it. However, pursuant to Sections B.2. and 3. of this Rule, an applicant or policyholder may subsequently request reassignment to another Member if the applicant or policyholder can establish any one of the following:

- a. the applicant or policyholder has previously been involved as a plaintiff in litigation with the ARC;
  - b. the applicant or policyholder is currently involved as a plaintiff in litigation with the ARC;
  - c. the policyholder of an ARC filed a consumer complaint with the Division of Insurance against such ARC prior to the MAIP assignment;
  - d. the policyholder of an ARC filed a consumer complaint with the Attorney General against such ARC prior to the MAIP assignment;  
or
  - e. the applicant or policyholder has invoked his rights under a consumer protection statute regarding his relationship with the ARC (i.e. applicant has previously issued a Chapter 93A Demand Letter) prior to the MAIP assignment.
2. To request reassignment, an applicant or policyholder must complete the Request for Reassignment Form found in the MAP and provide the necessary documentation required by such form no later than 30 days following: 1) the date of the initial assignment through the MAIP, or 2) the annual policy renewal date.
  3. Pursuant to Rule 29.F.3., at no time may an applicant or policyholder request reassignment to a different Member if any outstanding premium balance is due the ARC. Furthermore, an applicant or policyholder may not for any reason request reassignment to a specific Member under this Section.
  4. If the reassignment of an applicant or a policyholder pursuant to Rule 26.B.1. results in assignment to a Member that has executed a Limited Assignment Distribution Agreement (LADA) with the ARC from which the applicant or the policyholder has requested reassignment, the MAIP shall apply the reassignment process until the applicant or the policyholder obtains insurance from another ARC.

**C. Clean-in-Three Risks**

All Clean-in-Three Risks with renewal dates during the period April 1, 2008 through March 31, 2011, shall not be non-renewed by a Member, subject to the exceptions identified in Rule 21.D.

**D. Re-Eligibility for the MAIP**

Applicants eligible for assignment in accordance with Section A. are subject to the following re-eligibility requirements.

1. New Application

Any applicant denied insurance under Section A. or cancelled under Section E. of this Rule may reapply to the MAIP as soon as the cause of ineligibility is removed.

- a. Applicants cancelled for non-payment of premium may reapply for assignment at any time provided no earned premium is owed the previous assigned company.
- b. If an applicant cancelled for non-payment of premium reapplies, provided such applicant is otherwise eligible, the application shall be accompanied by the deposit pursuant to Rule 28.
- c. Such application shall be considered a new application and the applicant shall be assigned to a Member pursuant to Rule 29 or reassigned to the prior Member, if applicable.

2. Renewal Application

Any policyholder, who fails to pay the renewal premium quoted by the ARC in accordance with these Rules, may reapply for assignment at any time.

- a. If the applicant reapplies, provided the applicant is otherwise eligible, the application shall be accompanied by the deposit pursuant to Rule 28.





















- d. has not been convicted of a crime related to his occupation as an insurance producer;
- e. has not had his license to engage as an insurance producer revoked or suspended;
- f. has not been involved in a material and substantial breach of a contract between an ARC and a producer;
- g. is not in default in the remittance of any motor vehicle premiums due a Member;
- h. agrees to comply with the provisions of the Plan of Operation, the Rules of Operation, the Manual of Administrative Procedures, the MAIP's certification requirements, and the applicable regulations of the Division of Insurance;
- i. agrees to notify the MAIP of an agreement to sell the agency 15 days in advance of the proposed closing of any such sale; and
- j. has not had an ARP certification revoked by the MAIP as provided in these Rules, the revocation not having been reversed by the Governing Committee, the Division of Insurance or a court of competent jurisdiction.

**B. Ongoing Assigned Risk Producer Requirements and Responsibilities**

It will be the ongoing responsibility of an ARP to fulfill the following requirements as well as the producer certification requirements in Section A. above. Failure to do so will be grounds for revocation of certification.

1. The ARP must use the policy forms, endorsements, new business application and renewal questionnaire that are filed by the MAIP and approved for use by the Commissioner for Private Passenger Motor Vehicle Insurance.
2. The ARP must require that all Eligible Risks applying for insurance coverage by the MAIP complete a new business insurance application in its entirety.
3. The ARP must ensure that the application for insurance through the MAIP is submitted on the prescribed forms and that each application is filled out accurately and in its entirety. An incomplete ~~or incorrect~~ application will be returned to the producer for remedy. Steps that the ARP must take in order to complete an application correctly include the following:
  - a. The ARP must list all licensed operators in the household, including those not used for classification purposes, on the application;
  - b. The ARP must verify through the Registry of Motor Vehicle Inquiry System the driver's license for each listed operator who holds a Massachusetts driver's license. The ARP must submit a photocopy of the license of any operator holding an out-of-state or an out-of-country driver's license with the new business application.
  - c. The ARP must supply documentation supporting the deferral for rating purposes of any household member;
  - d. The ARP must confirm each licensed operator's driving record for rating and statistical data collection purposes;
  - e. The ARP must verify that the Eligible Risk has not been and is not now in default in the payment of any Motor Vehicle Insurance premiums in the past 24 months;
  - f. The ARP must certify, pursuant to Rule 26.A.1.a., that the risk has made an attempt to obtain Private Passenger Motor Vehicle Insurance within 15 days of the application to the MAIP and has been turned down for such insurance;

- g. The ARP must include the full and complete address of the Eligible Risk. A post office box will not be accepted for the determination of garaging town;
  - h. The ARP must verify eligibility for premium discounts through the Registry of Motor Vehicles or other appropriate sources;
  - i. The ARP must order only those coverages from the ARC requested by the Eligible Risk, for which he may be eligible through the MAIP;
  - j. The ARP must quote the proper MAIP premium based on information provided by the Eligible Risk for the coverage desired. The ARP must inform the Eligible Risk that the final premium billed by the ARC may be less than the MAIP premium quoted, but it may not be more;
  - k. The ARP must notify the Eligible Risk that he has the option of utilizing an installment payment plan;
  - l. The ARP must verify that the Eligible Risk has signed the new business application before it is submitted to the MAIP; and
  - m. The ARP must sign the new business application before it is submitted to the MAIP.
4. The ARP must submit an electronic application for Private Passenger Motor Vehicle Insurance coverage to the MAIP to obtain MAIP coverage for an Eligible Risk.
5. Once the MAIP has notified the ARP of the certification number assigned to the application, of the ARC to which the policy is assigned and of the effective date of the coverage, the ARP is responsible for providing the ARC with the following items within two business days:
- a. The original application form, signed by the Eligible Risk and the ARP; and
  - b. The required deposit premium pursuant Rule 28.