



COMMONWEALTH AUTOMOBILE REINSURERS

225 Franklin Street Boston, Massachusetts 02110

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RALPH A. IANNACO
PRESIDENT

November 20, 2008

BULLETIN NO. 887

PROPOSED CHANGES TO THE RULES OF OPERATION

At its meeting of November 19, 2008, the Governing Committee voted to amend the following Rules of Operation by deleting and adding the language as indicated on the attached copies. A copy of the Filing Letter, which contains an explanation of these Rule changes, is attached for your information.

The proposed Rules are listed below.

Rule 21 – General Provisions

Rule 29 – Assignment Process

This Bulletin, with a copy of the proposed changes to the Rules as 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, providing the Commissioner has not previously disapproved the Rule in writing.

RALPH A. IANNACO
President

Attachments



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RALPH A. IANNACO
PRESIDENT

November 20, 2008

Honorable Nonnie S. Burnes
Commissioner of Insurance
Massachusetts Division of Insurance
One South Station
Boston, MA 02110-2208

Dear Commissioner Burnes:

Rules of Operation

Rule 21 – General Provisions

Rule 29 – Assignments Process

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 Rules 21 and 29 of CAR's Rules of Operation.

The attached amendments change Rules 21 and 29 by deleting and adding the language as indicated on the attached copy.

The remainder of Rules 21 and 29 is unchanged.

Explanation

The proposed amendment to Rule 21.E. postpones CAR's proposal, relative to a Clean-in-Three credit provision, to no later than December 1, 2010.

The proposed amendment to Rule 29.E.1. and 2. provides that a member shall receive credit for any exposures with effective dates of April 1, 2009 through March 31, 2010 that it writes voluntarily in the specified classes and territories. The proposed amendment to Rule 29.E.3. defines the provisions of the take-out credit program. The proposed amendment to Rule 29.H. postpones CAR's proposal relative to a Clean-in-Three credit mechanism to no later than December 1, 2010 in order that CAR may develop its proposal based on data that will be collected for policies effective April 1, 2009 and later.

A copy of the proposed amendments to Rules 21 and 29 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,



Ralph A. Iannaco
President

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Attachments: Rule 21 – General Provisions
Rule 29 – Assignment Process

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

A. General Provisions

The Massachusetts Automobile Insurance Plan (MAIP) has been created to provide Private Passenger Motor Vehicle Insurance to Eligible Risks, as defined by Rule 22, who seek and are unable to obtain such insurance through the voluntary market, and to assure that the risks written through the MAIP are distributed equitably based upon the Quota Share of each Member as defined by Rule 22.

The Rules of Operation of the MAIP are adopted in accordance with CAR's Plan of Operation in order to implement the MAIP and shall be effective July 16, 2007, subject to the provisions for the phase-in of placements through the MAIP pursuant to Section B. below and the constraints identified in Section C. below.

B. Provisions for the Phase-In of Placements Through the MAIP

In order to achieve a smooth transition from the reinsurance facility administered by Commonwealth Automobile Reinsurers (the CAR pool) to the MAIP, the placement of Eligible Risks through the MAIP will not begin until April 1, 2008 pursuant to Section B.2. below and will, at first, be limited to New Business. The placement of all other business through the MAIP will be subject to a gradual process. The first, limited category of risks that must be placed through the MAIP if declined in the voluntary market will also begin for policies effective on or after April 1, 2008 pursuant to Sections B.2. and 3. below. Only as of April 1, 2009 must all risks that are declined in the voluntary market be placed through the MAIP pursuant to Section B.4. below. Additionally, constraints on business that cannot be non-renewed are imposed for a three-year transition period pursuant to Section C. below. This measured approach is necessary to ensure that the MAIP is not overwhelmed in its initial operation and to allow CAR time to implement the administrative framework of the MAIP. To achieve these benefits, the following Rules apply to eligibility for ceding to the CAR pool and to eligibility for placement through the MAIP on or after July 16, 2007:

1. Beginning on July 16, 2007, the MAIP Rules become effective, but no business can be placed through the MAIP until April 1, 2008. Members who are eligible to cede pursuant to CAR Rules may continue to cede to the CAR pool new or other Private Passenger Motor Vehicle Insurance business, including renewal business, with policy effective dates from July 16, 2007 through March 31, 2008.
2. All New Business, pursuant to Rule 22, with policy effective dates on or after April 1, 2008, must either be written voluntarily or be declined and referred for placement through the MAIP. These declined risks can no longer be ceded to the CAR pool as of April 1, 2008.
3. All Private Passenger Motor Vehicle Insurance business, including renewal business, with policy effective dates on or after April 1, 2008 that has 10 or more merit rating points, as determined by the MAIP rate manual rules, must either be written voluntarily or declined and referred for placement through the MAIP. These risks can no longer be ceded to the CAR pool as of April 1, 2008.
4. All Private Passenger Motor Vehicle Insurance business with policy effective dates on or after April 1, 2009, must either be written voluntarily or be declined and referred for placement through the MAIP. These risks can no longer be ceded to the CAR pool as of April 1, 2009.

The last policy effective date on which any risk can be ceded to the CAR pool is March 31, 2009.

C. Constraints on Placement Through the MAIP During the Transition Period

A Clean-in-Three Risk, pursuant to Rule 22, with a renewal date during the period April 1, 2008 through March 31, 2011, cannot be non-renewed by a Member unless:

1. The insured, at his own initiative, chooses not to renew his policy with such Member;

2. The producer terminates his relationship with a Member and the producer transfers his book of business, which includes such a Clean-in-Three Risk, from that Member to a new Member; or
3. The Member terminates his relationship with a producer and the producer transfers his book of business, which includes such a Clean-in-Three Risk, from that Member to a new Member.

D. Obligations of Assigned Risk Companies Relative to Clean-in-Three Business

The Producer of a Clean-in-Three Risk, renewed by an ARC pursuant to Rule 21.C., shall continue as the risk's producer of record and shall be paid commissions owed on such business, even if the producer does not hold a voluntary contract with the ARC. The producer's commission and the term of commission payments are governed by Rule 30.C.1.d.

E. Responsibility of CAR During the Transition Period

CAR is directed to submit to the Commissioner, by December 15, ~~2009~~, 2010 proposed rules that will ensure continued control of the size of the residual market after April 1, 2011. In developing such rules, CAR is to consider market-based strategies as well as other methodologies.

A. Calculation of Initial Quota Share

For the purposes of calculating a Member's initial Quota Share, the Member's voluntary market share will be the ratio of each Member's written property damage liability exposures for the 12-month period ending June 30, 2007 with CAR ID codes 0 or 1 over the industry written exposures for the 12-month period ending June 30, 2007 with CAR ID 0 or 1. Exposures for motorcycles, snowmobiles, and electric motor vehicles will be adjusted by a factor of 0.33.

B. Assignment of Applications

The MAIP shall randomly assign applications that are eligible for coverage based on each Member's individual Quota Share. A Member's Quota Share shall reflect that Member's proportion of Private Passenger Motor Vehicle MAIP premiums that its respective voluntary private passenger property damage liability direct written exposures bears to the statewide total of voluntary private passenger property damage liability direct written exposures of all companies in the state.

1. For the purpose of such distribution as described above: (1) voluntary private passenger property damage liability direct written exposures; and (2) private passenger MAIP premiums shall be defined as below:
 - a. Voluntary private passenger property damage liability direct written exposures shall be the number of private passenger property damage liability car years written by the company for the most recent 12 months, regardless of the type of Motor Vehicle Insurance policy under which such property damage liability car years are written, excluding private passenger liability car years written through the MAIP. Exposures for motorcycles, snowmobiles, and electric motor vehicles will be adjusted by a factor of 0.33.

Exposures that qualify as a Clean-in-Three Risk pursuant to Rule 22 as of the effective date of their current Private Passenger Motor Vehicle Insurance policy will be adjusted by a factor of 0.0 provided all of the following conditions are met:

- (1) The operator was insured under a Private Passenger Motor Vehicle Insurance policy issued by the Assigned Risk Company (ARC) with an effective date between April 1, 2008 and March 31, 2009;
 - (2) The producer of record for the policy between April 1, 2008 through March 31, 2009 that insured the operator was exclusively assigned to the Member by CAR.
 - (3) The producer of record for the operator has not changed since March 31, 2009; and
 - (4) The producer of record has not obtained a voluntary appointment for selling Private Passenger Motor Vehicle Insurance policies in Massachusetts at any time between March 31, 2008 and earlier of the policy effective date of March 31, 2011.
- b. Private Passenger Motor Vehicle MAIP premiums shall be developed from the MAIP rates and rating plan and shall include the total of: 20/40 bodily injury (including guest), \$100,000 property damage liability, and \$8,000 personal injury protection manual premiums excluding subsidies calculated using MAIP cost-based rates and adjusted for the MAIP merit rating plan for Private Passenger Motor Vehicle MAIP insureds and any risk voluntarily insured that is eligible for premium credits allowed pursuant to this Rule.
2. MAIP will assign applications to the most undersubscribed Member as defined by the ratio of the Member's assigned MAIP premium to the Member's credit-adjusted Quota Share. In the event this ratio is the same for two or more Members, MAIP will assign the application to the most undersubscribed of those Members based upon the difference between each Member's assigned MAIP premium and its credit-adjusted Quota Share. All assignments are subject to the distribution restrictions relative to the assignment process pursuant to Section F. below. After assignment, MAIP will update the accumulated assigned MAIP premium and recalculate each Member's ratio of assigned MAIP premium to credit-adjusted Quota Share.

C. Quota Share Adjustment

The MAIP shall adjust the assigned premium Quota Share of each Member monthly, in order to correct for the amount of previously assigned MAIP premium which was less than or in excess of each Member's appropriate share of total MAIP premium, for the amount of premium connected with reversed assignments due to non-payment or insufficient funds, and for the amount of premium associated with MAIP risks moving to the voluntary market or adjustments for any applicable credits. On a monthly basis, the MAIP shall notify each Member of its market share and premium Quota Share adjustments.

Until April 1, 2009, the premium Quota Share of each Member shall be based on the voluntary exposure market share pursuant to Section A. above. Thereafter, monthly adjustments will be made to each Member's premium based Quota Share to reflect the latest rolling 12-month voluntary exposure based market share.

D. Assignment Period

An Eligible Risk shall be insured by a designated ARC for a period of three consecutive years. The designated ARC may offer to continue an Eligible Risk's assignment beyond the period of three consecutive years by offering to write a third or subsequent renewal.

If an Eligible Risk that is unable to obtain insurance in the voluntary market at the end of the consecutive three-year period, or is unable to obtain an extension by the designated ARC he may reapply for coverage through the MAIP. Such reapplication shall be considered a new application and the Eligible Risk shall be assigned to a different Member such that the designated ARC is different than the previous ARC.

In the case of a non-resident military person, pursuant to Rule 26.A.1.c., the designated ARC need not renew if at the time of the renewal the policyholder is stationed in another state and his motor vehicle is not registered in Massachusetts.

E. Credit Programs

All credits for each rate year shall be reviewed annually and submitted to the Commissioner for his approval. Any premium credited under this Rule that in aggregate exceeds 100% of the overall Quota Share may not be credited against the Quota Share.

1. Voluntary Credit

- a. For policies with effective dates of April 1, 2008 through March 31, 2009, each Member_s shall receive a credit for any exposure that is eligible for MAIP placement through the MAIP pursuant to Rule 21.B.3., including those exposures meeting the MAIP eligibility criteria but written under a group marketing plan pursuant to G.L. c. 175, § 193R, that it insures voluntarily.
- b. For policies with effective dates ~~of on or after~~ April 1, 2008⁹ through March 31, 2010, each Member_s shall receive a credit for any exposure that is eligible for MAIP placement for reasons other than those described in Rule 21.B.3., including those exposures meeting the MAIP eligibility criteria but written under a group marketing plan pursuant to G.L. c. 175, § 193R, that it insures voluntarily in the territory and operator classes pursuant to Section E.2. below.
- c. Credit shall be applied to the Member's Quota Share pursuant to Section 29.C. above for the appropriate premiums pursuant to Section E.2. below.

2. Amount of Credits

Members shall receive a credit for each exposure with a policy effective date on or prior to March 31, 2009 if 10 or more points are attributable to the exposure based on the MAIP rate manual. Such credit shall equal to the annual Private Passenger Motor Vehicle MAIP premium that for the risk, would have been charged as if it had been insured through the MAIP, if 10 or more points are attributable to the exposure based on the MAIP rate manual.

Members shall receive credit for each exposure written voluntarily pursuant to Section E.1.b. above in the territory and operator classes listed below. The amount of credit shall equal the annual Private Passenger Motor Vehicle MAIP premium for the risk as if it has been insured through the MAIP, multiplied by the factor shown below.

To the extent If an exposure qualifies for credit on the basis of merit rating points and on the basis of operator class and territory, the final credit shall be the greater of the credit based on merit rating points or the credit based on operator class and territory.

The following factors are applicable for policies with effective dates from April 1, 2008 through March 31, 2009.

Territory	Operator Class							
	10	15	17	18	20	21	25	26
1					1.0		1.0	
2					1.0		1.0	
3					1.0		1.0	
4					1.0		1.0	
5					1.0		1.0	
6					1.0		1.0	
7					1.0		1.0	
8					1.0		1.0	
9					1.0		1.0	
10					1.0		1.0	
11					1.0		1.0	
12					1.0		1.0	
13					1.0		1.0	
14					1.0	1.0	1.0	1.0
15	1.0	1.0	1.0		1.0	1.0	1.0	1.0
16	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
17					1.0		1.0	
18	1.0	1.0			1.0		1.0	
19	1.0	1.0	1.0		1.0		1.0	
20	1.0	1.0	1.0		1.0		1.0	
21	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
22	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
23			1.0		1.0		1.0	
24					1.0		1.0	
25					1.0	1.0	1.0	1.0
26			1.0		1.0	1.0	1.0	1.0
27					1.0		1.0	
40					1.0		1.0	
41					1.0	1.0	1.0	1.0
42	1.0	1.0	1.0		1.0	1.0	1.0	1.0
43	1.0	1.0	1.0		1.0	1.0	1.0	1.0
44	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
45	1.0	1.0	1.0		1.0	1.0	1.0	1.0

The following factors are applicable for policies with effective dates from April 1, 2009 through March 31, 2010.

Territory	Operator Class									
	10	15	17	18	20	21	25	26	30	M/M*
01					1.0		0.5			
02					1.0		0.5			
03					1.5		0.5			
04					1.5		0.5			
05					1.5	0.5	0.5			
06			0.5		1.5		0.5			
07			0.5		1.5	1.0	1.0			
08			0.5		1.5	0.5	1.0			
09			1.0		1.5	1.0	1.0	0.5		
10			1.0		1.5	1.0	1.0	0.5		
11			1.0		1.5	1.0	1.0			
12			1.0		1.5	1.0	1.0	0.5		0.5
13			1.0		2.0	1.0	1.0	1.0		0.5
14			1.0	0.5	1.5	1.0	1.0	1.0		1.0
15	0.5	0.5	1.0	1.0	2.5	1.0	1.0	0.5		1.0
16	1.0	1.0	1.5	0.5	2.0	1.5	1.5	1.5	1.0	1.0
17			1.0		2.0	1.0	1.5			
18	0.5	0.5	1.5		2.0	1.0	1.5			1.0
19	0.5	0.5	1.5	1.0	2.0	0.5	1.0			1.0
20	0.5	0.5	1.5		2.0	1.5	2.0	1.5	1.0	1.0
21	0.5	1.0	1.5	1.0	2.0	1.5	1.5	1.0	0.5	1.0
22	1.0	1.0	1.5	1.0	2.0	1.5	1.5	1.0	1.5	1.5
23			1.0		2.0	1.0	1.5	0.5		1.0
24			1.0		2.0	1.0	1.0	0.5		1.0
25			1.0		1.5	0.5	1.0	0.5	0.5	1.0
26			1.5	1.0	2.0	1.0	1.0	0.5		1.0
27					1.0		0.5			
40	0.5		1.5	1.0	2.5	1.5	1.0	1.0		1.0
41			1.5		2.0	1.5	1.0	1.0		0.5
42	0.5	0.5	1.5	0.5	2.0	1.0	1.0	1.0		1.0
43	1.0	0.5	1.5	1.0	2.5	1.5	1.0	1.0		0.5
44	0.5	0.5	1.0	0.5	2.0	1.0	1.0	1.0		1.0
45	1.0	0.5	1.5	1.0	2.0	1.5	1.5	1.0	1.0	1.0
99						0.5		0.5		

* Motorcycle and Miscellaneous Classes

3. Take-Out Credit

Each A Member shall receive a credit for each exposure previously insured through the MAIP that it writes voluntarily at the expiration of the MAIP policy. A Member may only receive a credit for the first year in which an Eligible Risk is written voluntarily after the expiration of the risk's MAIP policy.

The value of a take-out credit shall equal the annual Private Passenger Motor Vehicle MAIP premium pursuant to Section B.1.b. above, that the risk would have been charged if he had been insured through the MAIP, multiplied by a factor of 1.0. Take-out credits are applied in addition to any voluntary credit(s) pursuant to Section E.2. above.

To qualify for take-out credit, all of the following requirements must be met:

- a. The Member must provide proper notification prior to the expiration of the policy;
- b. The voluntary policy must be in effect for at least 90 days;
- c. The kinds and amounts of coverage to be offered to a voluntary risk shall at least equal those in the policy being replaced;
- d. The Member shall be required to submit an approved monthly reporting form to the MAIP for all policies qualifying for credit during the month and to submit supporting data to the MAIP upon request; and
- e. The Member shall, if requested by the MAIP, agree to a physical audit of its records to substantiate the credits and exposures stated in the monthly report. The executed request for credit form must be submitted to the MAIP by the last day of the fourth month following the effective date of the policy.

The value of a take out credit for the purposes of this Section shall be determined by the MAIP no later than April 1, 2009.

F. Distribution Restrictions

Distribution shall be made on the basis that any applicant eligible for assignment under the MAIP Rules shall be assigned or reassigned to any Member with a Quota Share, subject to the following restrictions:

1. No risk shall be assigned to more than one Member.
2. Household Procedure

The household procedure will apply only to Private Passenger Motor Vehicle Insurance policies with effective dates on or after April 1, 2009.

If a voluntary Private Passenger Motor Vehicle Insurance policy is in force on a motor vehicle owned by a Household Member at the time an application through the MAIP is submitted, that application shall be assigned to the Member currently providing the voluntary insurance, provided that all of the following requirements are met:

- a. A copy of the coverage selections page for the policy providing Private Passenger Motor Vehicle Insurance coverage for a vehicle owned by a Household Member is submitted with the application; and
- b. The limits and coverages requested are available from the assigned household company.

Any assignment to a Member under the provisions of the household procedure that is contrary to such provisions shall be returned to the MAIP promptly for reassignment in accordance with the household procedure.

3. Reassignment to Prior Member

In the case where an applicant or policyholder has been cancelled for non-payment of premium, or has an outstanding premium balance due a Member and is otherwise eligible for placement through the MAIP pursuant to G.L. c. 175, § 113H, the applicant or policyholder is ineligible for assignment to another Member, and will be assigned to that same Member such that the policy premium deposit will be applied first to the outstanding premium due, and any remaining deposit balance will be applied to the new policy.

G. Accruing, Buying, Selling or Transferring Credits

1. Eligibility

- a. Assigned Risk Companies may accrue excess credits.
- b. As of April 1, 2008, ARCs may sell, transfer, or buy excess credits to or from other ARCs in accordance with the procedures below.

2. Operational Procedures

CAR will calculate the volume of excess credit premium eligible for transfer, if any, for each ARC on a monthly basis. Such calculation will be made in conjunction with updates to the statistical base data.

3. Notification of Intent to Transfer Credits

Assigned Risk Companies shall report to CAR within 30 days the execution of any agreement by the ARC to purchase, sell or transfer excess credits. An ARC shall notify CAR by submitting the prescribed authorization form to CAR. The terms of any such agreement must be reviewed by CAR and found to be consistent with CAR Rules.

H. Credits Relating to Clean-in-Three Risks

Not later than ~~April 1, 2009~~ December 1, 2010 CAR shall develop a credit mechanism designed to encourage Members to voluntarily insure consumers who are Clean-in-Three Risks and who meet the following criteria:

1. The applicant or any person who usually drives the motor vehicle has not failed to pay an insurance company any Private Passenger Motor Vehicle Insurance premiums due or contracted during the preceding 12 months; and
2. Any person who usually drives the Private Passenger Motor Vehicle holds or is eligible to obtain an operator's license.

Such credit will be available to Members as of April 1, 2011, when the transitional constraint on non-renewal of Clean-in-Three Risks pursuant to Rule 21.C. has ended.