



NATALIE A. HUBLEY
PRESIDENT

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NOTICE OF MEETING

COMMERCIAL AUTOMOBILE COMMITTEE

A meeting of the Commercial Automobile Committee will be held virtually via Zoom video conferencing software on

THURSDAY, APRIL 23, 2026, AT 10:30 A.M.

If you plan to attend this meeting and are not a member of this Committee, please RSVP by completing the Visitor Security Form located in the Contact Us/Visitor Information section of CAR's website. CAR will then forward to you, via email, meeting access information. Please do not share access information provided by CAR, but refer others wishing to attend the meeting to CAR's Visitor Security Form.

MEMBERS OF THE COMMITTEE

Mr. Thomas DePaulo – Chair
Cabot Risk Strategies, LLC

Mr. Michael Brady
Ms. Annmarie Castonguay
Ms. Sheila Doherty
Mr. Andrew Lajzer
Ms. Sharon Murphy
Mr. John Olivieri, Jr.
Ms. Allison Ratliff
Ms. Tricia Sabulis
Mr. David Zawilinski

Pilgrim Insurance Company
The Hanover Insurance Company
Doherty Insurance Agency, Inc.
Safety Insurance Company
Acadia Insurance Company
World Insurance Associates, LLC
MAPFRE U.S.A. Corporation
Michaud Insurance Agency
Arbella Insurance Group

AGENDA

CAC

26.01 Records of Previous Meeting

The Records of the Commercial Automobile Committee meeting of February 19, 2026 should be read and approved.

CAC

26.03 CAR Conflict of Interest Policy

The Chair will read a statement relative to CAR's Conflict of Interest Policy.

CAC

26.07 Primary & Noncontributory and Waiver of Subrogation Endorsements

A producer has requested that the Committee reconsider the appropriateness of CA 04 49 – Primary and Noncontributory – Other Insurance Condition and CA 04 43 – Waiver of Transfer of Rights of Recovery Against Others to Us for use in the commercial residual market. In 2019, the Committee discussed these endorsements in conjunction with coverage for Additional Insureds, but did not adopt them due to the negative impact to the residual market. However, the producer has indicated that it is more commonplace now for risks to require these endorsements. A summary describing the background and considerations for committee discussion is attached, as well as the producer's request and the related endorsement forms (Docket #CAC26.07, Exhibit #1).

CAC

26.08 Cost of Hire Coverage

In preparing the final 1/1/2027 filing relating to the implementation of the new forms and endorsements, CAR Staff received several pertinent questions related to the Cost of Hire coverage that will be reviewed with the Committee for its consideration. Attached is an outline of the Cost of Hire coverage questions (Docket #CAC26.08, Exhibit #1).

CAC

24.07 Proposed Amendments to CAR Rules and Manuals for New Coverage Forms

Staff will review the highlights of its Rate/Rule/Form filing made on March 31, 2026 relating to the 1/1/2027 implementation of the new forms and endorsements.

Other Business

To transact any other business that may properly come before this Committee.

Executive Session

The Commercial Automobile Committee may convene in Executive Session in accordance with the provisions of G.L. c. 30A, § 21.

TIMOTHY GALLIGAN
Director of Actuarial & Statistical Services

Attachments

Boston, Massachusetts
April 9, 2026

COMMERCIAL AUTOMOBILE COMMITTEE
April 23, 2026

Primary & Noncontributory and Waiver of Subrogation Endorsements

Background:

A producer has requested that the Commercial Automobile Committee reconsider allowing the use of CA 04 49 – Primary and Noncontributory – Other Insurance Condition and CA 04 43 – Waiver of Transfer of Rights of Recovery Against Others to Us endorsements in the commercial residual market.

In 2019, the Commercial Auto Committee reviewed a number of issues related to Additional Insureds, and while it ultimately developed a specific Additional Insurance Endorsement for the commercial residual market, it also agreed with Staff's recommendation to not adopt the Waiver of Subrogation and Primary and Noncontributory endorsements because of their negative impact to the residual market. However, the producer indicates that the commercial market has changed in the last seven years such that it is now commonplace for risks to require these endorsements. Accordingly, the Committee should be prepared to discuss whether CAR should adopt these endorsements for use in the commercial residual market.

Considerations:

- There are two Waiver of Subrogation Endorsements, CA 04 43 and CA 04 44. Both require that the waiver be stipulated in a contract pre-accident. However, the latter requires the entity getting the waiver be included in the Schedule whereas the former provides a blanket waiver for all with the contract provision requiring it. If the Committee is inclined to adopt a waiver of subrogation endorsement, it should consider which is better suited for the residual market.
- The Committee has raised concerns with mixed use vehicles, such as those that provide transportation services and engage in TNC activities. The Committee should discuss alternatives to avoid extending the applicability of the endorsements.
- For those mixed used risks that engage in TNC activities, the Primary and Noncontributory – Other Insurance Condition coverage would need to be reconciled with the intent that Public or Livery Passenger Conveyance and On-Demand Delivery Services – Other Insurance Condition requires that the TNC Network Coverage be primary.

From: Michael Kovalev <michael@kovalevinsurance.com>

Sent: Tuesday, February 24, 2026 11:44 AM

To: Browne, Wendy <wbrowne@commauto.com>; Rosenberg, Lynne <lrosenberg@commauto.com>

Cc: mbrady@pilgrimins.com

Subject: Request for Expedited Review – Addition of CA 04 49 (11/16) and CA 04 43 (12/23) to MA Ceded Commercial Auto Program

Importance: High

CAUTION: This email originated from outside of CAR. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Wendy & Lynne,

My name is Michael Kovalev and I'm the owner of Kovalev Insurance Agency.

I am writing to formally request that Commonwealth Automobile Reinsurers (CAR) convene an expedited meeting to review and consider adoption of the following ISO endorsements for use in the Massachusetts Residual Market Commercial Automobile program:

- **CA 04 49 (11/16)** – Primary and Noncontributory – Other Insurance Condition
- **CA 04 43 (12/23)** – Waiver of Transfer of Rights of Recovery Against Others to Us (Waiver of Subrogation)

At present, neither endorsement is available under the MA ceded/assigned risk commercial auto policy, and they are not included in the new forms package scheduled for adoption effective 1/1/2027.

This has become a significant and urgent marketplace issue.

The Montachusett Regional Transit Authority (MART), which administers contracts for a substantial portion of the Non-Emergency Medical Transportation (NEMT) risks in Massachusetts, now requires both Primary & Noncontributory wording and Waiver of Subrogation as contractual conditions.

Currently:

- The voluntary market has largely withdrawn from writing NEMT risks.
- The ceded market is effectively the only available market for many of these operators.

- The required contractual risk transfer language cannot be satisfied through the Residual Market form.

This creates a structural gap in the marketplace: insureds are contractually required to provide coverage enhancements that are not available in the only market willing to insure them. As a result, otherwise viable transportation operators may be unable to secure or maintain required municipal and regional transit authority contracts, directly affecting service availability to vulnerable populations across the Commonwealth.

From a broader market stability perspective, this situation:

- Undermines the purpose of the residual market as a true market of last resort.
- Creates operational and legal friction between insureds and contracting authorities.
- Introduces uncertainty and potential coverage disputes.

Both CA 04 49 and CA 04 43 are widely recognized ISO forms that have already been adopted in many other contexts and are standard contractual requirements in today's insurance marketplace. Their absence in the Massachusetts Residual Market commercial auto program places assigned risk insureds at a competitive and contractual disadvantage.

Given the immediacy of MART's requirements and the lack of alternative market solutions, I respectfully request that CAR:

1. Hold an expedited meeting to evaluate the operational and actuarial implications of adopting these endorsements; and
2. Consider interim or emergency approval for their use or allow the use of a manuscript endorsement pending broader form revisions.

This issue affects not just individual insureds or agencies, but the continuity of transportation services across the state. Given that this is a social service, the lack of available coverage significantly impacts medical services to residents of the state, this is an urgent issue.

I would welcome the opportunity to participate in or provide input at any such meeting and to supply additional documentation regarding the contractual requirements being imposed.

Thank you for your consideration of this urgent marketplace concern.

Respectfully,

Michael Kovalev, CIC
Kovalev Insurance Agency, Inc.
188 Needham St Suite 220. Newton, MA 02464
Phone: 617-562-6060
Fax: 617-562-0990
[Schedule a Meeting](#)
michael@kovalevinsurance.com
www.kovalevinsurance.com



PLEASE NOTE - Coverage is not considered bound or altered without written acknowledgement from Kovalev Insurance Agency

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**COMMERCIAL AUTO
CA 04 49 11 16**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A.** The following is added to the **Other Insurance Condition** in the Business Auto Coverage Form and the **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:
- This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:
1. Such "insured" is a Named Insured under such other insurance; and
 2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".
- B.** The following is added to the **Other Insurance Condition** in the Auto Dealers Coverage Form and supersedes any provision to the contrary:
- This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:
1. Such "insured" is a Named Insured under such other insurance; and
 2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

COMMERCIAL AUTO
CA 04 43 12 23

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US (WAIVER OF SUBROGATION) –
AUTOMATIC WHEN REQUIRED BY WRITTEN
CONTRACT OR AGREEMENT**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

The **Transfer Of Rights Of Recovery Against Others To Us** Condition does not apply to any person(s) or organization(s) for whom you are required to waive subrogation with respect to the coverage provided under this Coverage Form, but only to the extent that subrogation is waived:

- A.** Under a written contract or agreement with such person(s) or organization(s); and
- B.** Prior to the "accident" or the "loss".

POLICY NUMBER:

**COMMERCIAL AUTO
CA 04 44 10 13**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:
Endorsement Effective Date:

SCHEDULE

Name(s) Of Person(s) Or Organization(s):
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

COMMERCIAL AUTOMOBILE COMMITTEE
April 23, 2026

Cost of Hire Coverage

Background:

As Servicing Carriers have begun the process of implementing the updated coverage forms and endorsements, the carriers have raised questions related to Cost of Hire coverage for Auto Dealer risks. Other Cost of Hire questions have also been included on the Committee's list of topics for discussion over the years. CAR staff is seeking Committee input at this time regarding the questions/issues outlined below.

For the Committee's reference, the table below shows the volume of ceded business related to Cost of Hire by classification code including written premium for policy effective year 2025 and reported historical paid loss dollars.

Classification Code	Description	2025 Written Premium	% of Ceded Cost of Hire	Reported Losses by Policy Year
661100	PP and CM Vehicles excluding Truckers	\$96,325	6%	2021: \$5,290 2022: \$2,392 2023: \$9,564 2024: \$33,288 2025: \$0
661300	Truckers	\$96,129	6%	\$0 since 2021
500000	Public Transportation Autos	\$0	0%	\$0
661900	On a Minimum or "If Any" Premium Basis	\$1,430,415	88%	2021: Paid = \$1.6M Rsrv = \$300K 2022: Paid = \$850K Rsrv = \$50K 2023: Paid = \$850K Rsrv = \$2.1M 2024: Paid = \$225K Rsrv = \$400K 2025: Paid = \$60K Rsrv = \$100K

Questions/Issues for discussion:

- Both the Business Auto and Auto Dealer Declarations Pages enable the selection of Primary and/or Excess coverage for Hired Autos, whereas the Garage Declarations Page did not reflect this option. Staff is looking for input from Committee members relative to circumstances under which the Cost of Hire coverage would apply to the Auto Dealer risk.
- Servicing Carriers have noted that Truckers Cost of Hire coverage is not mandatory in the residual market. The Committee is asked to consider whether Truckers Cost of Hire coverage should be mandatory in instances where the owner-operator is not maintained on the policy for at least 6 months.
- It has been suggested that the Committee could review Rule 55 of the Commercial Automobile Manual to clarify rating procedures for Cost of Hire, which is based on the number of vehicles and trailers, on a Hired/Non-Owned risk with no actual vehicles.