

A. Appointments

1. All Members are required to be Assigned Risk Companies. A Member may delegate its ARC responsibilities for assigned risk business if the Member executes an agreement with a LADC for handling its private passenger business quota share, in accordance with Rule 29 – Assignment Process. The agreement must be reviewed and approved by the MAIP.
2. LADCs must be approved by the Governing Committee and must meet and continuously maintain specified eligibility requirements. If at any time the LADC does not satisfy the specified requirements, the MAIP or the Commissioner may take appropriate action to terminate the LADC. The specified eligibility requirements that a LADC must meet are:
 - a. have a statutory capital and surplus of at least \$25,000,000;
 - b. have and maintain a net premium to surplus ratio that does not exceed 2 to 1;
 - c. have maintained an A.M. Best's financial rating of A- or better for a continuous three (3) year period from the most current publication date of the member's rating. A financial rating from an alternative rating service cannot be used to fulfill this eligibility requirement;
 - d. have been licensed to write motor vehicle liability insurance and physical damage insurance without restriction for a minimum of five (5) years;
 - e. have a service facility affording policy issuance and all other policyholder services; and
 - f. have the ability to service insurance claims in every state, the District of Columbia; and Canada.
3. The Governing Committee has the option to consider a LADC application from a company that does not meet the above eligibility criteria with the prior written approval of the Commissioner.

The Governing Committee shall appoint ARCs and LADCs 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.

4. In order to assure the protection of the public interest, the Governing Committee, in considering the appointment of an insurer as an ARC or LADC, shall require that the insurer, pursuant to a written agreement reviewed and approved by the Governing Committee or its designee, 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 upon the request of the applicant;
 - b. Service insurance claims in every state, the District of Columbia and Canada;
 - c. Administer a Direct Bill Program;
 - d. Provide the Installment Payment Plan as described in Rule 28 – Application Process. An ARC or LADC 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. The policy forms, endorsements, new business application and renewal questionnaire shall be those filed by the Automobile Insurers Bureau and approved for use by the Commissioner for private passenger motor vehicle insurance.

B. Responsibilities

Nothing in this Rule shall be construed to affect the rights of any ARC or LADC to enter into any contractual agreement for the purpose of servicing the ARC's voluntary business. Nothing in this Rule shall be construed so as to relieve any Member of its quota share, its share of the administrative expenses of the MAIP, or of its responsibility to provide coverages as required by G.L. c.175, §113H(A). An ARC or LADC is required to perform the following responsibilities:

1. ARCs and LADCs 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 used for non-ARC or non-LADC motor vehicle business. ARCs and LADCs shall provide the same level and type of service to policies issued through the MAIP, as they provide to policies issued voluntarily.
2. No group or members of a group under the same management or ownership or both may charge rates on business subject to the provisions of G.L. c.175, §113B, different from those fixed and established under such section or provide different levels of service through a member of the group that is not an ARC or LADC than is provided to policyholders insured by an ARC or LADC member of the group.

3. General Duties

ARCs and LADCs shall perform the following general duties.

- a. Confirm operator driving licenses and records in order to effectively administer the Safe Driver Insurance Plan;
- 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 or LADC 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 and LADC'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 or LADC on all ARPs; and
- i. Monitoring of Assigned Risk Producers

ARCs and LADCs 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 or LADC 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 or LADC on a timely basis in accordance with the MAIP Rules of Operation;
- (5) Failure to notify the ARC or LADC 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 or LADC 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 and LADCs must report all premiums written, paid losses, allowable expenses 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

The producer of record must be mailed notification of such offer on a prescribed form ninety (90) days prior to expiration, which shall contain the provisional 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.

d. Member Obligations

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

Once the offer to write voluntary coverage is mailed, the Member shall have no further obligation to the producer of record if the policyholder accepts its offer and the producer of record is not licensed by that Member. However, the Member shall have the option of servicing the policy through the producer of record if permitted by the laws of the state.

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 Member and it shall not make an offer to the policyholder.

2. Voluntary Writing of Present MAIP Insured by Member Other Than Assigned Company

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 assigned company 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.