

The Governing Committee shall establish and monitor procedures for the review of claim practices of ARCs to insure compliance with the "Performance Standards for the Handling and Payment of Claims". National Association of Insurance Commissioners guidelines are incorporated where applicable into the Performance Standards. The MAIP will conduct periodic audits of ARC claims including policies in the MAIP and voluntarily written as specified in G.L. c.175, §113H.

- A. Claim practices of each ARC shall comply with the requirements of G.L. c. 175, § 113H. ARCs and shall, in accordance with the Performance Standards and the MAIP's Rules:
1. Comply with the standards for prompt investigation of claims. Upon receipt of a new claim, investigate policy information for garaging, listed operator, prior accidents, or any other issues. Information developed may be used to affirm or deny claim payments. Discrepancies shall be communicated to the Underwriting Department and the premium recalculated and billed if appropriate and in accordance with Division of Insurance requirements;
 2. Affirm or deny coverage of claims within a reasonable period of time;
 3. Effectuate prompt, fair and equitable settlements of claims in which liability is reasonably clear;
 4. Maintain claim reserving procedures for all applicable claims;
 5. Conduct internal claim quality audit of a reasonably representative number of claim files on MAIP business, commensurate with their procedures for audit of claims on voluntary business, in order to verify compliance with the Performance Standards. With sufficient frequency to reflect reasonable continuity of their quality controls, ARCs shall prepare internal reports summarizing the efforts and conclusions of their claim department quality audit. Reports shall consolidate comments relative to both the MAIP and voluntary claim adjustment. Report format shall be at the discretion of each ARC, or as may be requested from time to time on an individual basis by the Governing Committee, or the Committee's designee;
 6. Establish complaint handling procedures, and maintain complete records of all complaints received on claims related to both the MAIP and voluntary business. ARCs shall maintain records reflecting the number of complaints received annually. For purposes of this Rule,

the term "complaint" shall mean any written communication initiated by the complainant primarily expressing a grievance;

ARCs shall also maintain and forward to the MAIP, records on all written complaints filed on all producers;

7. Acknowledge and act promptly upon communications regarding claims;
 8. Promptly provide a reasonable explanation for denial of a claim or for the offer of a compromise settlement;
 9. Resolve inter-company subrogation disputes involving Physical Damage and Personal Injury Protection claims through arbitration;
 10. Have direct telephone reporting available for first and third party claims;
 11. Provide producers with a list of approved inspection services for conducting pre-inspections. Appraisers shall report when the damage is inconsistent with the description of the loss; and
 12. ARCs shall offer training on claim reporting and fraud recognition to producers and their customer service representatives. Such training shall be completed for current producer and customer services representatives within six (6) months of approval of this Rule and for new producers and customer services representatives within six (6) months of licensing or employment.
- B. In the handling of MAIP claims, ARCs shall not:
1. Misrepresent pertinent facts or policy provisions relating to the coverage at issue;
 2. Refuse to pay claims without having conducted a reasonable investigation based upon all available information; and
 3. Fail to promptly settle claims, where liability is reasonably clear, under one portion of the policy coverage in order to influence settlements under other portions of the policy coverage.

C. Every ARC shall maintain a special investigative unit to investigate suspicious claims for the express purpose of eliminating fraud and shall specifically report to the MAIP evidence of fraud pertaining to theft or misappropriation of a private passenger motor vehicle on policies issued through the MAIP as provided in the Manual of Administrative Procedures. Special investigative units so established shall be organized and operated to investigate claims on any policies that are issued through MAIP and on policies issued on a voluntary basis by ARCs. The special investigative unit shall investigate suspicious circumstances surrounding underwriting, rating, and premium issues. A claim shall not be investigated by such a unit solely on the basis that such claim arises from a policy issued through the MAIP. The special investigative unit also shall conduct an audit on a representative sample of policies to verify garaging and policy facts.

D. Compliance with Performance Standards

An error tolerance of ten percent (10%) for procedures and seven percent (7%) for claim resolution will be used to measure compliance with the Performance Standards. Failure to meet the standards or other requirements described in this Rule may result in penalties as directed by the Performance Standards or as may be otherwise imposed by the Governing Committee.

E. Dishonesty

Loss or expense resulting from the dishonesty of those employed to handle claims shall be the sole responsibility of the ARC.

F. Claim Contingency Procedures

1. Terminations

An ARC whose appointment is terminated as provided in Rule 38 shall, subject to the provisions of Rule 32 - Claim Practices, service to a conclusion all claims against all policies issued by it in its capacity as an ARC and in effect prior to the date of termination. "Service to a conclusion" shall mean until the claim is properly closed, or until an agreed date.

2. Other Terminations

Upon notice from the Governing Committee of the non-voluntary termination of a company's appointment as an ARC, the MAIP shall examine a representative sample of open claim files to determine the amount of work completed, to estimate the future cost of servicing the claims to a conclusion, and to verify compliance with Rule 32 - Claim Practices. Findings from that examination shall be reviewed with the Claims Advisory Committee, which shall present to the Governing Committee for its consideration the recommendations of the Claims Advisory Committee for the further servicing of said ARC claims.