

#### **A. Eligibility Requirements**

In accordance with G.L. c. 175, § 113H, every Assigned Risk Producer (ARP) shall be assigned to each and every Assigned Risk Company (ARC) for the sole purpose of obtaining Private Passenger Motor Vehicle Insurance for applicants who have been unable to obtain such insurance through the method by which such insurance is voluntarily made available.

On or after April 1, 2008, all licensed property and casualty producers must meet the following requirements and become certified as ARPs.

1. Have electronic access to the MAIP and the Registry of Motor Vehicles;
2. Have within the preceding 12-month period worked for a minimum of 6 months with a producer licensed by the Division of Insurance, or with a Massachusetts motor vehicle insurer, during which time the applicant's efforts were primarily devoted to the Massachusetts Motor Vehicle Insurance market; and
3. In satisfying the preceding criteria the applicant must conclusively show that he:
  - a. is applying in good faith;
  - b. will operate from an established location properly equipped to meet producer certification requirements;
  - c. will maintain regular business hours;
  - 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 Assigned Risk Producer Procedures Manual and the Assigned Risk Company Procedures Manual, 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 eligibility requirements in Section A. 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 through the MAIP complete a new business insurance application in its entirety.
- 3. The ARP must ensure that the application and any additional or supplemental information for insurance through the MAIP is submitted on the prescribed forms and that each is filled out accurately and in its entirety. An application that contains information the MAIP verifies as inaccurate or an incomplete 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 Vehicles Registration 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 from the ARC, only those coverages 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 may quote the voluntary premium of the designated ARC based on information provided by the Eligible Risk for the coverage desired. The ARP must inform the Eligible Risk that the final premium will be determined and billed by the ARC upon receipt of the new business application and any supplemental information

necessary to calculate the voluntary premium for comparison to the MAIP premium;

1. The ARP must notify the Eligible Risk that he has the option of utilizing an installment payment plan;
- m. The ARP must verify that the Eligible Risk has signed the new business application before it is submitted to the MAIP; and
- n. 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 i) the certification number assigned to the application, ii) the ARC to which the policy is assigned and iii) 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, any additional or supplemental information, and if applicable, a copy of the voluntary premium quote or voluntary premium quote identification number. The application must be signed by the Eligible Risk and the ARP; and
  - b. The required deposit premium pursuant to Rule 28.
6. The new business application, any additional coverage, and/or modifications in coverage must be submitted to the ARC within two business days of the effective date of coverage.
7. The ARP must forward premium payments to an ARC within two business days of receipt. However, an ARC shall extend the payment period for an additional seven days upon sufficient notice that all or part of a premium is being financed by a licensed premium finance company where the premium finance company has given its written assurance to pay the full premium financed to the ARC directly. This provision shall not obligate an ARC to provide such additional time if, notwithstanding any written assurances, the premium finance company has failed to perform its commitment previously.

8. The ARP must conduct all monetary transactions with the Eligible Risk and the ARC as required by the Rules of Operation.
9. The ARP must advise the premium finance company and/or the policyholder that checks for premiums for all financed accounts are to be made payable to the ARC.
10. The ARP must report all coverages bound and all registrations/titles certified to the ARC within two business days after binding coverage or certifying a registration.
11. The ARP must forward to the Eligible Risk within 30 days of receipt from the ARC, all policies and endorsements if not mailed directly by the ARC to the Eligible Risk.
12. The ARP must properly order endorsements.
13. The ARP must retain the necessary documentation of ARC transactions in accordance with the Assigned Risk Producer Procedures Manual and the Assigned Risk Company Procedures Manual.
14. The ARP and his employees will be required to receive training on claims reporting and fraud recognition. For current ARPs and employees, such training must be completed within six months of the initial implementation of the MAIP. For new ARPs, such training must be completed within six months of certification by the Governing Committee or its designee to immediately submit Motor Vehicle Insurance policies for placement through the MAIP with an ARC. For new employees, such training must be completed within six months of hire. Any fraud training program that receives three CEU credits from the Massachusetts Division of Insurance will satisfy the claims reporting and fraud recognition training requirement. No other training that an ARC provides to its producers is sufficient to meet the claims reporting and fraud recognition training requirement set in this Section.
15. The ARP must notify the MAIP and the ARC of any suspected fraud surrounding a loss.
16. The ARP must cooperate with ARC and MAIP personnel during all audits and investigations.
17. The ARP and his employees are prohibited from accepting a fee or any other monetary or tangible property for referring the insured or parties

to an accident to any glass, repair or rental facility, or to any legal or medical provider.

18. ARPs shall provide referral information to consumers consistent with company practices under regulations relating to motor vehicle repairs.
19. The ARP must return uncontested unearned commission within 45 calendar days from the date the producer receives notice from the insurer that such commission is due.

### **C. Service Fees**

1. G.L. c. 175, § 182, in part, prohibits producers and others in connection with the placing or negotiation of insurance policies or the continuance or renewal thereof from selling or offering to sell anything of value whatsoever not specified in the policy of insurance. See also G.L. c. 176D, § 3(8). The following acts and practices are prohibited:
  - a. Charging a fee in addition to the premium for certifying a registration on behalf of an ARC;
  - b. Charging a fee in addition to the premium for acting as a producer and placing the applicant's Motor Vehicle Insurance business with an ARC;
  - c. Charging a fee in addition to the premium for providing assistance to the insured in the completion of forms which are required to procure or to continue Motor Vehicle Insurance; and
  - d. Charging a fee in addition to the premium for the sale of a service contract which provides for service or advice relating to the issuance, continuance, or renewal of an insured's Motor Vehicle Insurance policy.
2. Nothing set forth in the provisions of Section C.1. is intended to prohibit producers from charging courier fees and other non-insurance related fees if the following requirements are met:
  - a. The producer provides to the applicant a complete description of the non-insurance related services for which the fee, in addition to the premium rate, is being charged;
  - b. The producer advises the applicant that there is no obligation to

purchase the non-insurance related service and that the insured may obtain Motor Vehicle Insurance through the producer, notwithstanding the insured's decision not to purchase the non-insurance related services;

- c. The applicant, after having been apprised of the information in Sections C.2.a. and C.2.b., agrees to pay the fee;
- d. The fee for the services provided is reasonable, and
- e. The disclosure of any fee is compliant with all state laws and regulations, including 940 CMR 38.00.

3. The producer may enter into a contract with the applicant, pursuant to which the producer provides non-insurance related services to the applicant if the producer complies with all of the requirements identified in C.1. and C.2. In the event the producer and applicant execute such a service contract, the producer shall give to the applicant an executed copy of the contract and shall retain an executed copy in the producer's file that shall be made available to the ARC, Division of Insurance and the MAIP upon request.

#### **D. Certification Ineligibility**

1. Grounds for revoking the certification of an ARP shall be pursuant to Rules 30 and 31. Any licensed property or casualty producer who, within the preceding 24-month period, has had an ARP certification revoked with the said revocation not having been reversed by the Governing Committee, the Division of Insurance, or court of competent jurisdiction, shall be ineligible to place business through the MAIP.
2. For purposes of this Section, the term Assigned Risk Producer includes any licensed producer with whom the ARP whose certification has been revoked has a direct or indirect material and continuing proprietary or management interest.

An ARP whose certification is revoked in conjunction with these Rules must return all MAIP forms, manuals and certification stamp(s) as well as any materials supplied by an ARC at such time as the revocation becomes effective. The ARP may appeal the revocation in accordance with the procedures pursuant to Rule 40.

3. If an Exclusive Representative Producer's (ERP's) appointment has been terminated by a Servicing Carrier for violations of any

obligation(s) delineated in Rule 14 of CAR's Rules of Operation, with the exception of Section C. Production Criteria, and having exhausted the appeal rights pursuant to Rules 14.F. and 20, the ERP is ineligible for MAIP certification or continuation of an existing MAIP certification. The ERP shall be ineligible to reapply for certification as an ARP until such time as the producer is eligible to reapply for appointment as an ERP.