

**A. Appointments**

The Governing Committee shall appoint ARCs 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.

1. A Newly Writing Company shall be eligible for appointment as an ARC as of the effective date of its initial rates and rate manual. The ARC shall be required to accept assignments through the MAIP on the date that MAIP processes the ARC's initial summary data submission pursuant to Rule 29.B.
2. A Member may be excused from its private passenger motor vehicle Servicing Carrier responsibilities for the business assigned to it through the MAIP if the Member executes a Limited Assignment Distribution Agreement (LADA). Rule 36 details the eligibility requirements and procedures applicable to LADAs.
3. In order to assure the protection of the public interest, the Governing Committee, in considering the appointment of an ARC, shall require that the Member 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;
  - b. Service insurance claims in every state, the District of Columbia and Canada;
  - c. Administer a direct bill program;
  - d. Provide an installment payment plan as described in Rule 28 – Application Process. An ARC 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. Use the policy forms, endorsements, new business application and renewal questionnaire filed by the MAIP with and approved by the Commissioner for use in private passenger motor vehicle insurance.

**B. Responsibilities**

Nothing in this Rule shall be construed to affect the rights of any Member to enter into any third party contractual agreement for the purpose of servicing its voluntary business. Nothing in this Rule shall be construed so as to relieve any Member of its Quota Share or its share of the administrative expenses of the MAIP, as required by G.L. c. 175, § 113H. A Member appointed as an ARC is required to perform the following responsibilities in its capacity as an ARC:

1. An ARC must provide quality service to policyholders assigned through the MAIP by maintaining the standards established as a condition of appointment under Section A. Policies and other forms mailed to policyholders shall be the same as those filed by the MAIP and approved by the Commissioner for private passenger motor vehicle business. An ARC shall provide the same level of service to policies assigned to it through the MAIP as it provides to policies it issues voluntarily. At a minimum the ARC shall provide timely access to billing and claim information which will reflect current premium due, payments made, and if applicable, cancellation status and effective date, claim status and claim payments made.
2. An ARC shall, for purposes of quoting an assigned Eligible Risk, provide access to its voluntary rates to ARPs by providing either web-based rating capability directly or through a third party comparative rating vendor, or by providing a dedicated toll-free telephone service for quoting purposes.

If an ARC provides access through a third party comparative rating vendor and an ARP wishes to access an ARC's voluntary rates using a third party comparative rater, (1) the ARP will contract with the third party vendor for access to the ARC's voluntary rates and request access

to the voluntary rates from the ARC, and (2) the ARC will not withhold permission for gaining access to its voluntary rates for any third party vendor it supports for its voluntary agents.

After an assignment is made, the ARP will obtain from the Eligible Risk any supplemental or additional information needed by the ARC to produce the voluntary quote. The ARC shall provide the quote using the same timeframes applicable to its voluntary market quotes, but in all cases within 48 hours of the receipt of the information necessary to calculate the voluntary premium.

An ARC providing web-based rating capability shall return the voluntary premium quote to the ARP in a printable format. An ARC providing a toll-free telephone service will respond with the voluntary premium quote and include an identification number to be used to match the quote to the new business application upon receipt by the ARC.

3. An ARC shall bill the premium for a policy assigned through the MAIP that is the lesser of the premium calculated using the ARC's rates applicable to that policy if the ARC or its affiliates had issued the policy in the voluntary market and the premium calculated using the MAIP rates on file with the Commissioner. For the purposes of this comparison:
  - a. The ARC, through its affiliated companies, shall quote risk-specific premiums based on the rates applicable to its voluntary policies for any eligible risk obtaining insurance through the MAIP.
  - b. The ARC must use voluntary private passenger motor vehicle insurance rates that are based primarily on actual loss and expense experience for risks voluntarily insured.

The calculation of the premium assigned through the MAIP shall be based on information contained in the application. At the time the assignment is made, the ARC shall provide a form to the Eligible Risk requesting any additional or supplemental information necessary to accurately calculate the premium. The completed form shall be submitted by the ARP to the ARC with the application within two business days. If during the underwriting process an ARC discovers third-party information that appears inconsistent with the information provided on the application for insurance or is inconsistent with any supplemental information, the ARC shall: 1) initiate an inquiry either directly with the insured or through the producer of record to resolve

any factual errors; and 2) obtain the insured's consent before issuing a notice of adjustment to the down payment and/or total premium. If the inquiry is made directly to the applicant, the producer of record shall be furnished a copy.

If the resolution of an apparent inconsistency results in a change to information used to calculate premium, the ARC shall charge an appropriate premium based upon the additional or corrected information, and adjust the applicant's next bill accordingly. If, however, the applicant is unwilling to consent to the modification, and the ARC has independent evidence that the applicant had the actual intent to deceive or the material misrepresentation increases the ARC's risk of loss, the ARC may cancel the policy as provided by Massachusetts law.

4. No companies within an insurer group under the same management or ownership or both may provide a different level of service through a company within the group that is not an ARC than is provided to policyholders insured by a company with the group that is an ARC.
5. General Duties

ARCs shall perform the following general duties.

- a. Confirm operator driving licenses and records in order to administer the MAIP merit rating plan and its own merit rating plan accurately;
- b. Verify eligibility criteria;
- c. Verify that information contained in the application for insurance and any supplemental information is accurate as to classification, garaging, discounts, credits, vehicle use, vehicle description, and, to the extent verifiable, other rating factors;
- d. Assure that a policy has been issued for each Registration and Title Application (RTA) 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 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 the disclosure of any fee is compliant with all state laws and regulations, including 940 CMR 38.00;
- h. Ensure that there is communication among the ARC's Underwriting, Claims, and SIU Departments and that any discrepancies in information are shared promptly among the departments and documented;
- i. Maintain and forward to the MAIP a copy of all written complaints filed with the ARC regarding the service provided by the ARC or any ARP; and
- j. Monitoring of Assigned Risk Producers

ARCs 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 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 forward premium payments to an ARC within two business days in accordance with the MAIP Rules of Operation;
- (5) Failure to notify the ARC 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 during any audit or investigation;

- (7) Failure to report all coverages bound within two business 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 Assigned Risk Producer Procedures Manual and the Assigned Risk Company Procedures Manual.

6. Reporting Requirements

On a monthly basis, ARCs must report all premiums written, and any other information that may be required by the Plan, Rules or Assigned Risk Company Procedures Manual.

7. 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 disruptive reductions in voluntarily issued motor vehicle policies are found to be 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 to the Producer of Record

The producer of record must be notified of such offer no less than sixty days prior to policy expiration, which shall contain the premium quotation to be offered. The policyholder shall be notified of the offer for voluntary coverage forty-five days prior to policy expiration with copy to the producer of record. Notification may be by mail or electronic means.

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

If such replacement coverage is obtained by the producer of record within the fifteen day advance notice period, the producer of record shall notify the assigned ARC and it shall not make an offer to the policyholder.

d. ARC Obligations to the Producer of Record

A duly licensed insurance producer, certified to place business through the MAIP, shall own and have an exclusive right, as the insured's producer of record, to use certain insurance information of the insured embodying the records of the insurance agency which shall include but not be limited to, the name of the insured, the policy inception date, the amount of insurance coverage, the policy number and the terms of insurance. An ARC may choose to offer voluntary coverage to a policyholder it has insured through the MAIP. Once the ARC mails the offer to write voluntary coverage and the policyholder accepts the offer, the policyholder's producer of record shall continue to represent the policyholder who has been written or renewed in the voluntary market and to service the policy unless: 1) the producer is decertified or suspended by the MAIP or the Commissioner of Insurance pursuant to Rule 31.B.; 2) the insured chooses to terminate such producer as its producer of record; or 3) the producer of record is precluded from dealing with other companies by contract. An ARC who subsequently writes a policy on a voluntary basis that it previously insured through the MAIP shall pay a commission in accordance with its commission structure

for business written in the voluntary market at voluntary rates, regardless of whether there is a contract between the ARC and the producer of record. No commission payments shall be made to the producer of record if that producer is decertified or suspended under Rule 31.B., is terminated by the policyholder as its producer of record, or is precluded from dealing with other companies by contract.

2. Voluntary Writing of Present MAIP Insured by Member Other than the ARC

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 the MAIP

Nothing in the provisions of this Section shall render the policyholder ineligible for coverage in the MAIP for the full term of the three year assignment period. Subject to the right to reassignment pursuant to Rule 26.B.1., the policyholder may, at his or her option, continue the policy with the ARC as a MAIP risk if the three 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 Assigned Risk Company Procedures Manual for the procedure outlining the reporting of all credits.