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April 13, 2018

BULLETIN NO. 1049

PROPOSED CHANGES TO THE RULES OF OPERATION

At its meeting of April 11, 2018, the Governing Committee voted to amend the following Rule of Operation by deleting and adding the language as indicated on the attached copy. A copy of the Filing Letter, which contains an explanation of the Rule changes, is attached for your information. The impacted Rule is listed below.

Rule 11 – Assessments and Participation

This Bulletin, with a copy of the proposed changes to the Rule listed above, is being furnished to every Member Company, each association of insurance Producers, and the Public Protection Division of the Office of the Attorney General as required in Article X of the Plan of Operation. Any Member Company, association of insurance producers, or the Attorney General may request a public hearing within five days of receipt of this Bulletin and Filing Letter, as provided by Article X of the Plan of Operation.

A proposed Rule shall become effective upon the written approval of the Commissioner or upon the expiration of 30 days after filing, provided the Commissioner has not previously disapproved the Rule in writing.

MARIAN ADGATE
Corporate Documentation Specialist

Attachment



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April 13, 2018

Honorable Gary D. Anderson
Commissioner of Insurance
Massachusetts Division of Insurance
1000 Washington Street, Suite 810
Boston, MA 02118

Proposed Changes to the Rules of Operation

Dear Commissioner Anderson:

In accordance with the provisions of Article X of the Plan of Operation, I hereby file, at the direction of the Governing Committee, amendments to the following Rules of Operation for your approval:

Rule 11 – Assessments and Participation

Changes are shown by deleting and adding language as reflected on the attached copy. The remainder of the Rule is unchanged.

Explanation:

Rule 11.C.2. of CAR's Rules of Operation currently provides that the Governing Committee, subject to the approval of the Commissioner, may allow for reimbursement to a Servicing Carrier for specific extraordinary expenses incurred in performing its duties as a Servicing Carrier. This provision predates the CAR's Commercial Automobile and Taxi/Limousine Servicing Carrier programs, under which a limited number of Servicing Carriers are appointed based on an extensive request for proposal process that concludes with the selected Servicing Carriers agreeing to terms for expense allowances.

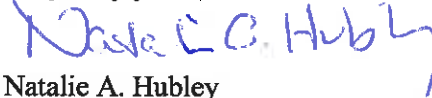
The Governing Committee recently considered whether the CAR Rules should continue to contemplate reimbursement of such expenses incurred by a Servicing Carrier. After extensive deliberation, the Committee concurred that with the advent of the Servicing Carrier Programs the occurrence of extraordinary circumstances may be evaluated in a different context, but that it would be prudent to ensure that the Rules of Operation provide guidance in such an event. Accordingly, the Committee is recommending amendments to the Rule to incorporate language recognizing the context of the current Servicing Carrier Programs.

The proposed amendments emphasize that a Servicing Carrier seeking reimbursement must demonstrate that the expense is specific, necessary, and extraordinary, and that the expense is significantly in excess of the normal additional expense expected to be incurred in performing its obligations as a

Servicing Carrier such that the carrier could not have reasonably contemplated the expense in its acceptance of the terms of its appointment.

A copy of the proposed amendments to Rule 11 is attached hereto, and is being furnished to every Member Company, the two associations of insurance producers, and the Public Protection Division of the Office of the Attorney General, as required by Article X of the Plan of Operation.

Very truly yours,



Natalie A. Hubley
President

Attachment: Rule 11 – Assessments and Participation

cc: Massachusetts Urban Agents Association, Inc.
Massachusetts Association of Insurance Agents
Public Protection Division – Office of the Attorney General

CAR expenses, and the profits and losses on CAR policies, shall be allocated among the Members of CAR in the manner provided under this Rule. Assessments shall be levied on a quarterly basis or as frequently as the Governing Committee deems necessary. Such assessments shall be allocated among the Members in accordance with the following principles:

A. Participation – Expenses

Expenses, including all costs of operating CAR and all costs, charges, expenses and liabilities and all income, property and other assets which the Governing Committee determine not to be properly chargeable to the profit or loss of risks ceded to CAR by Servicing Carriers, shall be shared by the Members. Sharing is based upon the proportion that each Member's Massachusetts direct written Motor Vehicle Insurance premiums, which are reported on its Annual Statement for the most recent calendar year, bear to the total of such premiums for all Members.

Commercial ceded written premium (CAR ID Codes 4 and 5) is excluded from this calculation. Additionally, all premium from classifications and/or coverages that are not statistically reportable to CAR (those classes or coverages not specified in the Massachusetts Statistical Plans) and all premium from Antique Motor Vehicles classification code 962000 is excluded from this calculation.

B. Participation – Underwriting Results

To establish a basis for allocating ceded commercial premiums, losses and expenses, each Member shall report statistical information required by the Rules of Operation to CAR or permit its statistical agencies, designated by the Member or appointed by the Commissioner, to report all required statistical information to CAR. If the Member does not exceed CAR's established statistical reporting thresholds and therefore is not required to report statistical data to CAR, CAR will utilize the Member's Massachusetts Annual Statement data as a basis for determining underwriting results.

Member participation shall be calculated on an annual basis in accordance with the following procedures:

A company's commercial participation ratios shall be determined as a function of the company's retained market share. Ceded business (CAR ID Codes 4 and 5) shall not be included in the commercial

participation formula. Additionally, all retained premium (CAR Identification Codes 0 and 1) for Antique Motor Vehicles (Classification Code 962000) shall be excluded from the calculation of commercial participation ratios.

The formula for determining commercial participation ratios shall be as follows:

1. Determine Premium to be Used in Participation Ratio Calculation

- a. For each company, separately for liability and physical damage, determine the company’s retained written premium to be used in the calculation of commercial participation ratios. Premiums shall be separately summarized for the following CAR ID Codes:

CAR ID Code	Description
0	Voluntary written premium from voluntary producers or written directly by the company
1	Voluntary written premium from producers with whom the company has no voluntary contract

If the sum of a company’s retained premium (CAR ID Codes 0 and 1) is less than zero, this premium is excluded from the commercial participation ratio formula.

- b. For the industry, separately for liability and physical damage, determine the total industry retained premium to be used in the calculation of commercial participation ratios. Premium shall be separately summarized for CAR ID Codes 0 and 1 pursuant to Section B.1.a.

2. Determine Company’s Final Participation Ratio

Determine each company’s final participation ratio by dividing the company’s retained premium pursuant to Section B.1.a. by the total industry retained premium pursuant to Section B.1.b.

C. Settlement of Balances

1. CAR will issue quarterly summaries to all Members reflecting their cumulative balances. However, CAR will settle the cumulative balances relating to the current policy year following the close of the third quarter of the calendar year, or at a later date if so determined by the Governing Committee.
2. The Governing Committee, subject to the approval of the Commissioner, may ~~offer or allow~~ authorize reimbursement of a Servicing Carrier ~~reimbursement~~ in whole or in part for a specific, necessary and extraordinary expense incurred in ~~qualifying for, continuing performing its obligations as, or ceasing to be,~~ a Servicing Carrier. The Servicing Carrier must petition the Governing Committee for such relief and the expense must be actually incurred before reimbursement. Such expense must be explained by the Servicing Carrier and supported in such detail as required by the Governing Committee ~~and must be shown to be, and must be in its judgment a~~ necessary expense that is significantly in excess of the normal additional expense expected to be incurred by ~~the a~~ Servicing Carrier such that the expense could not have been reasonably contemplated by the Servicing Carrier in its acceptance of the terms of CAR's request for proposal for the current service period, and must be actually incurred before reimbursement. The Servicing Carrier must petition the Governing Committee for such relief.
3. The Governing Committee, subject to the approval of the Commissioner, may authorize reimbursement of Servicing Carriers for normal insurance business losses incurred in connection with CAR business. Such normal business losses shall be defined and designated by the Governing Committee but shall not include any loss or expense incurred as a result of fraud or dishonesty on the part of a Servicing Carrier's claims personnel including, but not limited to, independent adjusters and agents, and each Servicing Carrier shall hold CAR harmless from and reimburse it for any such loss or expense charged. The Servicing Carrier must petition the Governing Committee for such relief.