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November 26, 2018

BULLETIN NO. 1067

PROPOSED CHANGES TO THE RULES OF OPERATION

At its meeting of November 14, 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 29 – Assignment Process

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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November 26, 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, proposed amendments to the following Rule of Operation:

Rule 29 – Assignment Process

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

Explanation:

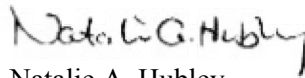
The algorithm used to identify those classification/territory combinations eligible for MAIP quota share credit as codified in Rule 29 was promulgated in 2011 for policies effective April 1, 2012 and later. Since that time, the size of the residual market has decreased steadily from its 2.71% market share as of August 2012 to its 1.25% market share as of August 2018. For several years, the majority of Governing Committee and Actuarial Committee members have opined that the successful depopulation of the residual market is not the result of credit availability, but rather a reflection of a vibrant competitive marketplace. Despite indications produced from the Rule that almost 80% of exposures currently eligible for credit are written in class/territory cells that are not overrepresented in the residual market, credit-eligibility has been frozen since April 1, 2015. Most Governing Committee and Actuarial Committee members opine that this has resulted in an inequitable distribution of the residual market burden among Member Companies. Members note that only 61% of the company groups writing private passenger automobile insurance in Massachusetts are assigned risks through the MAIP.

The Actuarial Committee sought to directly address concerns that have been raised by some members of the Governing Committee, and to address concerns expressed by the Division of Insurance and the Attorney General in considering prior proposals to change credits, by thoughtfully considering prior year decisions, the role of credits, and the impact of the competitive marketplace on the size and makeup of the residual market. The Committee recognized that in his May 31, 2016 Decision, the Commissioner

advised that any reconsideration of credit eligibility should give careful attention to its effect on consumers and small businesses in affected cells. For those reasons, the Actuarial Committee's proposal uses the Rule 29 algorithm, but tempers decreases to credit factors over a five year period in those cells where credit eligibility would otherwise be eliminated. This conservative, gradual tempering of credit factors will allow the Actuarial Committee to measure any impact of the small reduction. Quarterly monitoring will allow the Committee to carefully study the impact to consumers and producers in those territories of concern such that unintended consequences can be addressed and remediated promptly. Further, adoption of the proposed credit factors will ensure that consumers in those class/territory combinations indicated to be overrepresented in the residual market will benefit by allowing for the introduction of credits as indicated.

After considerable discussion, the Governing Committee voted with six members in favor and four opposed to submit the proposed amendments to Rule 29, reflective of the Actuarial Committee's recommendation. A copy of the proposed amendments to Rule 29 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.

Respectfully,



Natalie A. Hubley
President

Attachment: Rule 29 – Assignment Process

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

A. Calculation of Initial Quota Share

For the purposes of calculating a Member's initial Quota Share, the Member's voluntary market share will be the ratio of each Member's written property damage liability exposures for the 12-month period ending June 30, 2007 with CAR ID codes 0 or 1 over the industry written exposures for the 12-month period ending June 30, 2007 with CAR ID 0 or 1. Exposures for motorcycles, snowmobiles, and electric motor vehicles will be adjusted by a factor of 0.33.

B. Assignment of Applications

The MAIP shall randomly assign applications that are eligible for coverage based on each Member's individual Quota Share. A Member's Quota Share shall reflect that Member's proportion of Private Passenger Motor Vehicle MAIP premiums that its respective voluntary private passenger property damage liability direct written exposures bears to the statewide total of voluntary private passenger property damage liability direct written exposures of all companies in the state.

1. For the purpose of such distribution as described above: (1) voluntary private passenger property damage liability direct written exposures; and (2) private passenger MAIP premiums shall be defined as below:
 - a. Voluntary private passenger property damage liability direct written exposures shall be the number of private passenger property damage liability car years written by the company for the most recent 12 months, regardless of the type of Motor Vehicle Insurance policy under which such property damage liability car years are written, excluding private passenger liability car years written through the MAIP. Exposures for motorcycles, snowmobiles, and electric motor vehicles will be adjusted by a factor of 0.33.

Exposures of a Clean-in-Three Risk as defined in Rule 22 as of the effective date of its current Private Passenger Motor Vehicle Insurance policy and pursuant to the provisions of Rule 21.D. will be adjusted by a factor of 0.0 provided the following conditions are met:

- (1) The operator was insured by a Member under a Private Passenger Motor Vehicle Insurance policy with an effective date between April 1, 2008 and March 31, 2009 and the producer of record was exclusively assigned to the Member by CAR;
 - (2) The producer of record for the operator has not changed since March 31, 2009.
- b. For the purpose of establishing the Quota Share of a Newly Writing Company that becomes eligible for appointment as an ARC pursuant to Rule 30 before that Member is required to submit detailed statistical data under the provisions of the Massachusetts Private Passenger Automobile Statistical Plan, the Member is required to report interim summary data pursuant to Section C.
 - c. Private Passenger Motor Vehicle MAIP premiums shall be developed from the MAIP rates and rating plan and shall include the total of: 20/40 bodily injury (including guest), \$100,000 property damage liability, and \$8,000 personal injury protection manual premiums excluding subsidies calculated using MAIP cost-based rates and adjusted for the MAIP merit rating plan for Private Passenger Motor Vehicle MAIP insureds and any risk voluntarily insured that is eligible for premium credits allowed pursuant to this Rule.
2. MAIP will assign applications to the most undersubscribed Member as defined by the ratio of the Member's assigned MAIP premium to the Member's credit-adjusted Quota Share. In the event this ratio is the same for two or more Members, MAIP will assign the application to the most undersubscribed of those Members based upon the difference between each Member's assigned MAIP premium and its credit-adjusted Quota Share. All assignments are subject to the distribution restrictions relative to the assignment process pursuant to Section F. After assignment, MAIP will update the accumulated assigned MAIP premium and recalculate each Member's ratio of assigned MAIP premium to credit-adjusted Quota Share.

C. Quota Share Adjustment

The MAIP shall adjust the assigned premium Quota Share of each Member monthly, in order to correct for the amount of previously assigned MAIP premium which was less than or in excess of each

Member's appropriate share of total MAIP premium, for the amount of premium connected with reversed assignments due to non-payment or insufficient funds, and for the amount of premium associated with MAIP risks moving to the voluntary market or adjustments for any applicable credits. On a monthly basis, the MAIP shall notify each Member of its market share and premium Quota Share adjustments.

1. To determine the current premium Quota Share of a Newly Writing Company that becomes eligible for appointment as an ARC pursuant to Rule 30.A.1. before that Member is required to submit detailed statistical data under the provisions of the Massachusetts Private Passenger Automobile Statistical Plan, the Member is required to report interim summary data to CAR beginning no later than the 23-month anniversary of the calendar date on which the Member's initial Private Passenger Motor Vehicle Insurance rates and manual become effective. The Member will be required to report private passenger property damage liability car months of exposure by CAR identification code, policy effective month, premium town, classification, and merit rating status as defined in the Massachusetts Private Passenger Automobile Statistical Plan. The initial report will include the 12 consecutive policy effective months that will be used to determine the Member's initial Quota Share. Monthly data will be reported thereafter until the Member commences reporting detailed statistical data to CAR.

An additional adjustment shall be made to the latest rolling 12-month voluntary exposure based market share that is used to determine the current premium Quota Share of a Member(s) when that Member(s) is part of an insurer group that includes any other insurance company that qualifies as a Newly Writing Company, and that Newly Writing Company has elected to be treated as a Member separate from the current Member(s) under these Rules. This adjustment shall continue until the Newly Writing Company become eligible for appointment as an ARC pursuant to Rule 30.

The latest rolling 12-month voluntary exposure based market share used to determine such Member(s) current premium Quota Share shall not be adjusted to reflect any reduction in vehicle exposures that were insured under a Private Passenger Motor Vehicle Insurance policy issued voluntarily by such Member(s) immediately prior to the vehicle's initial policy inception date with such Newly Writing Company.

This adjustment will apply regardless of whether the initial policy inception date with the Newly Writing Company pre-dates the calendar months underlying the latest rolling 12-month voluntary exposure based market share used to determine the Member(s) current premium Quota Share.

2. To determine the current premium Quota Share of a Newly Writing Company that becomes eligible for appointment as an ARC pursuant to Rule 30.A.2 before that Member is required to submit detailed statistical data under the provisions of the Massachusetts Private Passenger Automobile Statistical Plan, the Member is required to report interim summary data to CAR. The Member shall begin reporting summary data no later than 45 days after the close of the month of the Member's initial Private Passenger Motor Vehicle Insurance rates and rate manual effective date. The Member will be required to report written private passenger property damage liability car months of exposure by CAR identification code, policy effective month, territory, classification, and merit rating status as defined in the Massachusetts Private Passenger Automobile Statistical Plan. Monthly summary data will be reported thereafter until the Member commences reporting detailed statistical data to CAR.

D. Assignment Period

1. An Eligible Risk shall be insured by a designated ARC for a period of three consecutive years.

At the expiration of the three year assignment period, the designated ARC may offer to write the policy on a voluntary basis, or may non-renew the policy.

2. If the designated ARC intends to non-renew the policy at the end of the three year assignment period the following procedures shall apply.

On or about the first business day of the month, the designated ARC will distribute to the ARP a list of policies that the ARC does not intend to renew and which will expire during the month at least 120 days from the distribution date, thereby providing the ARP an opportunity to seek replacement coverage in the voluntary market. If replacement coverage is obtained for the risk, the ARP shall submit a Notice of Transfer of Insurer to the former ARC identifying the new carrier.

No less than 60 days prior to the expiration date, if replacement coverage is not obtained for the Eligible Risk, the ARP shall submit an application to the MAIP. The application will be assigned to a Member such that the designated ARC is different than the former ARC. Upon receiving the assignment, the ARP shall submit a Notice of Transfer of Insurer to the former ARC identifying the newly designated ARC. A down payment is not required and upon receipt of the application, the newly designated ARC will bill the applicant for 20% of the premium to be charged, which shall be the lower of the MAIP premium or the voluntary premium for which the applicant qualifies. The pre-inspection requirement shall be waived provided that the vehicle(s) to be insured is the same as the vehicle(s) insured under the previous policy.

If a Notice of Transfer of Insurer is not received, the designated ARC will issue a Notice of Expiration of Policy Assignment to the named insured at least 45 days prior to the expiration date with a copy sent to the ARP.

Upon receipt of the Notice of Expiration of Policy Assignment, the Eligible Risk may reapply for coverage through the MAIP. Such reapplication shall be considered a new business application and the Eligible Risk shall be assigned to a different Member such that the designated ARC is different than the former ARC.

3. In the case of a non-resident military person, pursuant to Rule 26.A.1.c., the designated ARC need not renew if at the time of the renewal the policyholder is stationed in another state and his motor vehicle is not registered in Massachusetts.

E. Credit Programs

Credits shall be reviewed annually and submitted to the Commissioner for approval. Any premium credited under this Rule that in aggregate exceeds 100% of the overall Quota Share may not be credited against the Quota Share.

1. Voluntary Credit

- a. For policies with effective dates of April 1, 201~~7~~⁵ and subsequent, a Member shall receive a credit for any exposure that it insures voluntarily in the territory and operator classes pursuant to Sections E.2. and E.3.

- b. Credit shall be applied to the Member's Quota Share pursuant to Section C. for the appropriate premiums pursuant to Sections E.2. and E.3.

2. Amount of Credits

Members shall receive credit for each exposure written voluntarily pursuant to Section E.1.b. in the territory and operator classes listed in Section E.3. The amount of credit shall equal the annual Private Passenger Motor Vehicle MAIP premium for the risk as if it has been insured through the MAIP, multiplied by the appropriate factor as displayed in the policy effective date tables.

~~For policies with effective dates of April 1, 2013 and subsequent, t~~The factor will be determined based on a review of the three most recent prior years of residual market share data, by territory and operator class. Credit eligible groups will be defined by ranges of residual market shares, and credit factors will be established in accordance with the following criteria:

Residual Market Group	Residual Market Share Range	Voluntary Credit Factor
0	0.0% - 4.9%	0.00
1	5.0% - 7.9%	1.00
2	8.0% - 10.9%	1.00
3	11.0% - 16.9%	1.00
4	17.0% - 22.9%	1.25
5	23.0% - 28.9%	1.50
6	29.0% - 34.9%	1.75
7	35.0% - 40.9%	2.00
8	41.0% - 46.9%	2.25
9	47.0% - 100.0%	2.50

3. Credit Factors

The following factors are applicable for policies with effective dates of April 1, 201~~5~~ through March 31, 2019, and subsequent.

Territory	Operator Class									
	10	15	17	18	20	21	25	26	30	M/M*
01										
02					1.00					
03					1.00					
04					1.00					
05					1.00					
06					1.00					
07			1.00		1.00					
08			1.00		1.00					
09			1.00		1.00	1.00				
10			1.00		1.00	1.00				
11					1.00					
12			1.00		1.00					
13			1.00		1.00	1.00				1.00
14			1.00		1.00	1.00	1.00			1.00
15			1.00		1.25	1.00	1.00		1.00	1.00
16	1.00		1.00		1.50	1.00	1.00		1.00	1.00
17			1.00		1.25					
18	1.00		1.00	1.00	1.25	1.00	1.00			1.00
19			1.00		1.00	1.00				
20	1.00		1.00		1.50	1.00	1.00			
21	1.00	1.00	1.00		1.75	1.00	1.00			1.00
22	1.00	1.00	1.00	1.00	1.75	1.00	1.00	1.00	1.00	1.00
23			1.00		1.25		1.00			1.00
24					1.00	1.00	1.00			1.00
25			1.00		1.00		1.00			
26			1.00		1.50	1.00	1.00			1.00
27					1.00					
40	1.00		1.00	1.00	1.50	1.00				1.00
41	1.00		1.00	1.00	1.00	1.00				1.00
42	1.00		1.00		1.25	1.00				1.00
43	1.00		1.00		1.25	1.00	1.00			1.00
44	1.00		1.00		1.50	1.00	1.00			1.00
45	1.00		1.00		1.25	1.00	1.00	1.00		1.00
99										

* Motorcycle and Miscellaneous Classes

4. Take-Out Credit

For policies with effective dates on or after April 1, 2009, a Member shall receive credit for each exposure previously insured through the MAIP or that had been ceded to CAR (CAR ID Codes 4 and 5) that it writes voluntarily at the expiration of that policy. A Member may receive a credit for the first year in which an Eligible Risk is written voluntarily after the expiration of the policy previously issued through the residual market.

The value of a take-out credit shall equal the annual Private Passenger Motor Vehicle MAIP premium pursuant to Section B.1.b., that the risk would have been charged if he had been insured through the MAIP, multiplied by a factor of 1.0. Take-out credits are applied in addition to any voluntary credit(s) pursuant to Section E.

To qualify for take-out credit, all of the following requirements must be met:

- a. The Member must provide proper notification prior to the expiration of the policy;
- b. The voluntary policy must be in effect for at least 90 days;
- c. The kinds and amounts of coverage to be offered to a voluntary risk shall at least equal those in the policy being replaced;
- d. The Member shall be required to submit an approved monthly reporting form to the MAIP for all policies qualifying for credit during the month and to submit supporting data to the MAIP upon request; and
- e. The Member shall, if requested by the MAIP, agree to a physical audit of its records to substantiate the credits and exposures stated in the monthly report. The executed request for credit form must be submitted to the MAIP by the last day of the fourth month following the effective date of the policy.

F. Distribution Restrictions

Distribution shall be made on the basis that any applicant eligible for assignment under the MAIP Rules shall be assigned or reassigned to any Member with a Quota Share, subject to the following restrictions:

1. No risk shall be assigned to more than one Member.
2. Reassignment to Prior Member

In the case where an applicant or policyholder has been cancelled for non-payment of premium, or has an outstanding premium balance due a Member and is otherwise eligible for placement through the MAIP pursuant to G.L. c. 175, § 113H, the applicant or policyholder is ineligible for assignment to another Member, and will be assigned to that same Member such that the policy premium deposit will be applied first to the outstanding premium due, and any remaining deposit balance will be applied to the new policy.

G. Accruing, Buying, Selling or Transferring Credits

1. Eligibility
 - a. Assigned Risk Companies may accrue excess credits.
 - b. As of April 1, 2008, ARCs may sell, transfer, or buy excess credits to or from other ARCs in accordance with the procedures below.
2. Operational Procedures

CAR will calculate the volume of excess credit premium eligible for transfer, if any, for each ARC on a monthly basis. Such calculation will be made in conjunction with updates to the statistical base data.

3. Notification of Intent to Transfer Credits

Assigned Risk Companies shall report to CAR within 30 days the execution of any agreement by the ARC to purchase, sell or transfer excess credits. An ARC shall notify CAR by submitting the prescribed authorization form to CAR. The terms of any such agreement must be reviewed by CAR and found to be consistent with CAR Rules.