



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

101 Arch Street, Suite 400 Boston, Massachusetts 02110
www.commauto.com 617-338-4000

March 29, 2019

BULLETIN NO. 1076

DECISION

DISAPPROVAL OF PROPOSED CHANGES TO THE RULES OF OPERATION

Rule 2 – Definitions

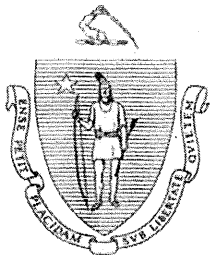
Proposed changes to the Rules of Operation amending Rule 2 were filed with the Commissioner of Insurance on February 26, 2019. The proposed changes were furnished to all members and interested parties as Bulletin No. 1072, dated February 26, 2019.

Under the provisions of Article X of the Plan of Operation, a proposed Rule of Operation becomes effective either upon approval by the Commissioner of Insurance, or upon expiration of 30 days from the time of submission, provided that no public hearing was requested within 5 days by an interested party and the Commissioner has not otherwise disapproved the Rule change within the 30-day period.

In correspondence dated March 28, 2019, the Commissioner of Insurance disapproved the proposed amendments to Rule 2. A copy of the Decision is attached.

MARIAN ADGATE
Corporate Documentation Specialist

Attachment



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

1000 Washington Street, Suite 810 • Boston, MA 02118-6200
(617) 521-7794 • Toll-free (877) 563-4467
<http://www.mass.gov/doi>

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

MIKE KENNEALY
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

EDWARD A. PALLESCHI
UNDERSECRETARY OF CONSUMER AFFAIRS
AND BUSINESS REGULATION

GARY D. ANDERSON
COMMISSIONER OF INSURANCE

March 28, 2019

Natalie Hubley, President
Commonwealth Automobile Reinsurers
101 Arch Street, Suite 400
Boston, MA 02110

Re: Proposed Changes to CAR Rules of Operation

Dear Ms. Hubley:

On February 13, 2019, the Governing Committee of Commonwealth Automobile Reinsurers ("CAR") voted to amend Rule 2 and Rule 14 of the Rules of Operation. CAR submitted those proposed amendments to the Division of Insurance ("Division") on February 26, 2019. Article X of CAR's Plan of Operation requires the Commissioner of Insurance to hold a public hearing on a proposed Rule of Operation if a request is made by a member company, association of insurance producers or the Attorney General within five days of that party's receipt of the proposed Rule. I did not receive any requests for a hearing on the proposed amendments to Rule 2 or Rule 14.

Rule 2 – Definitions

CAR's Governing Committee has proposed to amend Rule 2 by modifying the definition of "Eligible Risk." After careful review, I am disapproving the proposed amendment to Rule 2. The current definition of "Eligible Risk" refers to "any Person who qualifies for a Motor Vehicle Insurance policy pursuant to G.L. c. 175, § 113H..." As proposed, the definition of "Eligible Risk" would add a requirement "that the applicant establishes that any person who regularly drives the motor vehicle(s) holds a valid operator's license." CAR's Filing Letter noted that "[t]he Committee determined that proposed amendments to the Rule 2 definition of an 'Eligible Risk' must provide clear direction and must not be inconsistent with CAR's enabling statute [and] ... the Committee agreed that the eligibility provisions must also be consistent with their equivalents in the private passenger residual market."

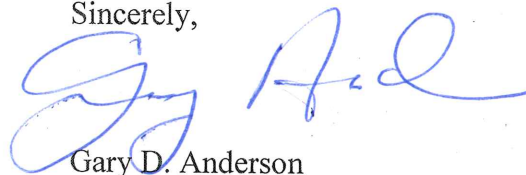
Natalie Hubley, President
Commonwealth Automobile Reinsurers
March 28, 2019
Page 2 of 2

However, the eligibility requirement proposed to be added to Rule 2 is not consistent with G.L. c. 175, § 113H, nor does it track the language in the eligibility requirements for placement in the private passenger residual market as cited in the Filing Letter (Rule 26.A.3). CAR's enabling statute, G.L. c. 175, § 113H, in relevant part, provides that an insurer is not required to issue a policy to an applicant who has been unable to obtain insurance through the voluntary market if "[a]ny person who *usually* drives the motor vehicle does not hold *or is not eligible to obtain* an operator's license." The proposed amendment to Rule 2 deviates from the eligibility criteria contained in G.L. c. 175, § 113H by requiring an "Eligible Risk" to *hold* an operator's license and would limit access to the residual market if approved. The Rules of Operation should not be inconsistent with CAR's enabling statute.

Reference Materials

The Filing Letters for the proposed amendments to Rule 2 and Rule 14 discussed and attached additional materials for "reference." In particular, the Filing Letter for Rule 2 attached and referenced "Servicing Carrier and Exclusive Representative Producer Standards for Verification of Applicant Drivers' Licenses" ("Standards"), and the Filing Letter for Rule 14 referenced and attached "Market Need Criteria" and what is described as an example of the data to be reviewed by CAR in connection with its market need determination. None of the attachments are incorporated by reference into the proposed amendments. Insofar as the materials were provided for "reference" only and not intended to be part of any Rule of Operation, I take no position on the Standards, the Market Need Criteria or the example provided by CAR. I also render no opinion relative to the proposed market needs assessment that is contemplated by the Market Need Criteria. I do note, however, that any supplementary materials used by CAR in the operation of the residual market, whether filed with the Division or not, should not be inconsistent with G.L. c. 175, § 113H.

Sincerely,



Gary D. Anderson
Commissioner of Insurance