



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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RECORDS OF MEETING

COMMERCIAL AUTOMOBILE COMMITTEE – MAY 23, 2019

Members Present

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|-------------------------------------|---|
| Mr. John Olivieri, Jr. – Chair | J.K. Olivieri Insurance Agency, Inc. |
| Mr. Peter Chung | The Norfolk & Dedham Group |
| Ms. Lisa Hatch ⁽¹⁾ | MAPFRE U.S.A. Corporation |
| Mr. Coleman Johnson | The Hanover Insurance Company |
| Mr. Brian Lam | Safety Insurance Company |
| Ms. Sharon Pontes | Acadia Insurance Company |
| Mr. Thomas Skelly, Jr. | Deland, Gibson Insurance Associates, Inc. |
| Mr. Barry Tagen | Pilgrim Insurance Company |
| Mr. David Zawilinski ⁽²⁾ | Arbella Insurance Group |

Substituted for:

⁽¹⁾Mr. Paul Drennan

⁽²⁾Ms. Mona McCowen

Not in Attendance:

Ms. Sheila Doherty

Doherty Insurance Agency, Inc.

19.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Commercial Automobile Committee meeting of April 4, 2019. The Records have been distributed and are on file.

19.05 Commercial Residual Market Issues

Ms. Wendy Browne reported that the list of issues impacting the commercial residual market has been updated to reflect the current status of the Committee's deliberations. For today's meeting, she stated that the Committee will discuss the verification of applicant drivers' licenses, including revised amendments to the Eligible Risk definition in Rule 2 – Definition of CAR's Rules of Operation, Rule 31 – Operator Exclusion Form of the Commercial Automobile Insurance Manual and the Standards for the Verification of Applicant Drivers' Licenses. Additionally, the Committee will discuss amendments to Rules 52 and 72 of the Commercial Automobile Insurance Manual relative to the determination of zone combination for zone rated risks, and the appropriateness of the Additional Insured, Waiver of Subrogation and Primary and Non-Contributory endorsements in the residual market. She also noted that staff is continuing its research on the non-ownership liability coverage issue and that the vehicle operations outside of Massachusetts issue will be included in the rate study overseen by the Joint Actuarial and Commercial Lines Committee. Also, it is anticipated that the development of CAR's website application for the pre-

notification of large losses will be completed in the summer of 2019. Finally, Ms. Browne indicated that added to the list of commercial residual market issues is an item for incorporating each of the standards previously approved by CAR's committees into the Manual of Administrative Procedures (MAP). It is anticipated that the updates to the MAP will be provided to the Committee for its review and approval in the fall of 2019.

19.06 Standards for the Verification of Applicant Drivers' Licenses

Ms. Natalie Hubley reviewed with the Committee proposed amendments to Rule 2 – Definitions of CAR's Rules of Operation. The amendments to the definition of Eligible Risk have been modified to provide that the applicant must establish that any person who usually drives the motor vehicle holds or is eligible to obtain a valid operator's license. Ms. Hubley advised that the revised amendments mirror the language in CAR's enabling statute in order to address concerns raised by the Commissioner of Insurance in his decision disapproving CAR's original proposal.

Ms. Hubley also presented corresponding amendments to Rule 31- Operator Exclusion Form of CAR's Commercial Automobile Manual and changes to the Standards for the Verification of Applicant Drivers' Licenses (the Standards) to also incorporate the language contained in the enabling statute. She advised that, because the Standards set forth the eligibility for placement in the residual market pursuant to Registry of Motor Vehicle policies and procedures, the language modifications do not alter the standard procedures to be employed by Servicing Carriers in confirming eligibility for placement in CAR, as originally developed by the Committee.

The Committee unanimously voted to approve the proposed amendments to Rule 2, Rule 31 and the Standards, as presented, and recommended their approval to the Governing Committee.

19.08 Radius of Operation and Rating Territory

Ms. Hubley stated that at the Committee's last meeting, staff reported that proposed amendments to Rules 52 and 72 of the Commercial Automobile Manual that were intended to clarify the determination of zone combination for zone rated risks, were withdrawn from Division of Insurance consideration. Staff has revisited those Rules in order to assure that any modifications proposed clarify the rating procedures without changing the existing methodology. Accordingly, a new proposal has been presented for Committee consideration. She stated that staff has researched how zone combination is assigned in other state residual market plans, as compared to how it is assigned in Massachusetts and noted that it is important that the Massachusetts plan to be in sync with other states, since CAR adopts relativities and rating factors from the ISO rating plan. The proposed changes to Rules 52 and 72 clarify how zone combination is to be assigned.

Ms. Hubley distributed an exhibit explaining how the assignment procedure works in other states, how zone rating and multi-state risks are handled in other state plans and the impact to Massachusetts. She explained that in other plans, a multi-state risk is included in the residual market where automobile's principal place of business is located and the Servicing Carrier is directed to use the rates on file in the state where the vehicle is principally garaged. However, in the Massachusetts Manual, all risks whose principal place of business is in Massachusetts, regardless of where the auto is garaged, are rated from the Massachusetts manual. CAR's objectives in clarifying the Rule language are to assure that the Massachusetts Plan is consistent with other plans and that the language provide for a rate to be calculated for every risk, while assuring that Servicing Carriers will not be subject to any system changes, as long as they are already applying the rating procedure properly.

She stated that at this point, the proposed amendments are only providing clarification to the Rule language. Other issues, such as dealing with operations outside of Massachusetts, will be dealt with by another CAR committee. In order for Massachusetts to work similarly with other plans, there are two rate pages to be used based upon whether the automobile's principal place of garaging is in a metropolitan or a regional zone. If principal place of garaging is in a metropolitan zone, the metropolitan zone rate page would be used and if garaged in a regional zone, the regional zone page would be used. The proposed changes will assure that an appropriate rate is selected based upon the proper rate page and the correct combination of metropolitan and regional zones.

The Committee unanimously voted to approve the proposed amendments to Rules 52 and 72 and the Zone Rating Tables of the Commercial Automobile Insurance, and recommend their approval to the Governing Committee.

19.09 Review of Additional Insureds

Ms. Browne informed the Committee that based on previous discussion at the Committee's last meeting and additional research performed by CAR staff, discussion points relative to the additional insured, waiver of subrogation, and primary and noncontributory endorsements have been prepared for the Committee. The Committee agreed that the waiver of subrogation and primary and noncontributory endorsements should be discussed separately from the additional insured endorsements.

At its last meeting the Committee agreed that in order for additional insured coverage to be provided in the residual market, a copy of the contract or the insurance related portion of the contract to substantiate the relationship between the named insured and the requested additional insured must be obtained by the producer and submitted with the application to the Servicing Carrier. However, in further discussion of this issue, the Committee expressed concern that requiring a physical copy of the contract in order to issue the endorsement would create more paperwork for both the producer and the company.

To assure consistency among Servicing Carriers, members questioned whether it would be possible to build language into the endorsement stating that in order for the endorsement to be issued, a written contract must be in place, eliminating the need for the paperwork to be submitted. Members also discussed the development of a blanket additional insured endorsement, similar to that provided in the voluntary market, which would cover anyone with an executed contract with the policyholder. This type of endorsement would automatically afford coverage to those entities, as long as the contract was executed prior to the occurrence of a loss. Additionally, if requested, a specific entity could be specifically named in the endorsement. Discussion ensued on whether there would be a premium charge for the endorsement and the requirements for notifying the additional insureds in the instance when a policy is cancelled for non-payment of premium. It was noted that in the voluntary market, an additional insured can request to be specifically notified upon policy cancellation.

Ms. Hubley stated that staff will research the development of both blanket and specific additional insured endorsements with consideration of an appropriate rate to be referred to another committee for review. Additionally, a special notice of policy cancellation to notify additional insureds of policy cancellation will be considered. The Committee directed staff to prepare additional information for review at its next meeting.

The Committee also agreed with staff's recommendation not to adopt the waiver of subrogation and primary and noncontributory endorsements for use in the residual market, as the use of either would have a negative impact to the pool.

19.11 Annual Evaluation of Market Need for ERP Appointments

Mr. John Metcalfe provided the Committee with background information relative to this issue, noting that the Committee had previously approved the market need criteria developed by the Commercial Automobile Residual Market Standards Subcommittee. Additionally, he noted that modifications to the eligibility requirements in Rule 14 – Exclusive Representative Producer Requirements which require that an ERP must meet the conditions for addressing a market need as determined by the established criteria, were recently approved by the Division of Insurance.

For today's meeting, Mr. Metcalfe stated that the Committee should focus on determining whether there exists a market need for the appointment of an ERP without a voluntary commercial automobile contract and to develop a recommendation for the annual determination of market need. If, after reviewing the provided data, the Committee determines that a market need exists, the conditions for appointment should also be determined. If the Committee determines that a market need does not exist, then CAR will not appoint any producer not having a current voluntary commercial contract to a Servicing Carrier. However, under the established criteria, the applicant may still petition for a review of the application by a Committee but must demonstrate that a market need exists that will be uniquely satisfied by the appointment of the applicant.

The Commercial Automobile Residual Market Standards Subcommittee had previously reviewed policy year 2017 data reports, displayed by class type and territory for producers both with and without voluntary contracts, and concluded that there did not appear to be a market need for any new ERP appointments at that time. In review of similar reports updated with policy year 2018 data, the Commercial Automobile Committee determined that there exists ample access to the residual market through qualified producers throughout the Commonwealth with experience servicing complex commercial risks. Accordingly, the Committee unanimously voted to recommend to the Governing Committee that a market need does not exist for appointment of new non-voluntary contracted ERPs at this time. Additionally, the Committee recommends that the restriction on appointments be implemented for any application received subsequent to approval of its recommendation by the Governing Committee.

MARIAN ADGATE
Corporate Documentation Specialist

Boston, Massachusetts
June 5, 2019

ATTACHMENT LISTING

Docket #CAC19.02, Exhibit #4

Attendance Listing

Docket #CAC19.08, Exhibit #3

Multi-State Zone Rating Examples

Zone (Multi-State) Rating – AIPSO Plans

- Risk is placed in the residual market of the state of PPOB
- Risk is rated using rates on file in the state of principal garaging

Example 1:

PPOB = New York

Principal Garaging = Pennsylvania

Risk is placed in the NY residual market; Servicing Carrier refers to Pennsylvania Rating Manual for rates and forms

PA Manual has separate Rate Pages for each zone of Principal Garaging within that state:

Metropolitan Zone 30 – Philadelphia

Metropolitan Zone 31 – Pittsburg

Regional Zone 48 – Eastern (all other locations in PA fall into this category)

Example 2:

PPOB = Pennsylvania

Principal Garaging = Tennessee

Risk is placed in the PA residual market; Servicing Carrier refers to TN Rating Manual for rates and forms

TN Manual has separate Rate Pages for each zone of Principal Garaging within that state:

Metropolitan Zone 24 – Nashville

Metropolitan Zone 20 – Memphis

Regional Zone 45 - Mideast

Zone (Multi-State) Rating – Massachusetts Plan

- Risk is placed in the residual market of the state of PPOB (Massachusetts)
- Risk is rated using CAR rates on file in Massachusetts
- Servicing Carriers refer to CAR Manual for rates and forms, select the rate page depending upon whether the risk is garaged in a regional zone or a metropolitan zone

Metropolitan Zone – Titled Boston 03

Regional Zone – Titled New England 49