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ADDITIONAL INFORMATION

TO MEMBERS OF THE SERVICING CARRIER SERVICE LEVELS SUBCOMMITTEE

FOR THE MEETING OF:

Tuesday, February 6, 2018 at 1:00 p.m.

SCSL

17.04 Servicing Carrier Service Levels

Attached is proposed language amending Rule 11.C. of CAR's Rules of Operation and Chapter III – Servicing Carrier Responsibilities of CAR's Manual of Administrative Procedures relative to the notification and review process for Servicing Carriers requesting reimbursement of extraordinary expenses associated with the Commercial Automobile or Taxi and Limousine Servicing Carrier Programs. (Docket #SCSL17.04, Exhibits #2 and #3)

JOHN METCALFE
Director – Residual Market Services

Attachments

Boston, Massachusetts
February 1, 2018

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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 extraordinary expense incurred in qualifying for, ~~continuing serving~~ 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 an expense that is~~ significantly in excess of the normal additional expense expected to be incurred by the 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.

E. Request for Reimbursement of Extraordinary Expenses from Commercial Automobile or Taxi and Limousine Servicing Carrier Programs

A Servicing Carrier may be reimbursed in whole or in part for a specific extraordinary expense incurred in qualifying for, serving as, or ceasing to be a Servicing Carrier. The Servicing Carrier must petition CAR for such relief and the expense must be actually incurred before reimbursement. Such expense must be explained by the Servicing Carrier in such detail as is requested and establish that the expense is significantly in excess of the normal additional expense expected to be incurred by the Servicing Carrier in acceptance of the terms of CAR's request for proposal for the current service period.

1. Reimbursement Considerations

An advisory committee will be appointed to review a Servicing Carrier's petition for reimbursement and will make a recommendation to CAR's Governing Committee as to whether or not the Servicing Carrier is entitled to the reimbursement it requested or some portion thereof. Reimbursement of an extraordinary expense will be reviewed on an individual case basis.

2. Procedures

a. Notification

A Servicing Carrier must provide CAR with timely and reasonable notification of its intent to seek reimbursement of extraordinary expenses involved in a matter it deems to be significantly in excess of costs that were reasonably anticipated in the expense allowance provision for the current Servicing Carrier program.

In support of its petition for the reimbursement of extraordinary expenses, the Servicing Carrier must complete a Request for Reimbursement of Extraordinary Expenses form (Exhibit III-E-1) with a copy sent to the Commissioner of Insurance. The following additional information must also be provided:

a. A summary of the request.

b. A detailed description of the issue(s) directly responsible for the request and why the petitioner deems its efforts as being extraordinary, i.e. why the effort/expense is considered to be outside of the scope of services accepted by the carrier in

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response to CAR's Request for Proposal for Commercial Automobile or Taxi and Limousine Servicing Carrier Appointment.

- c. A background of events, in chronological order, leading up to the request, including pertinent correspondence and documentation between the company(s), producer(s) and/or any other involved entity.
- d. A summary of efforts undertaken by the Servicing Carrier to mitigate the impact to the residual market.
- e. A detailed accounting of any incurred expenses directly related to the residual market issue by company employees and/or contracted other service providers utilized by the company on a regular or routine basis that are alleged to be extraordinary. Provide detailed explanations as to why these efforts/costs are deemed to be significant and extraordinary.
- f. An explanation for the need of any outside business, legal or other service provider contracted to specifically address resolution of the issue(s) along with the anticipated costs and an accounting of any expenses already incurred that are directly related to the issue presented by the Servicing Carrier.
- g. Confirmation that the Commissioner of Insurance has been copied on the request.

b. Advisory Committee Review

The appointed advisory committee will be charged with determining whether or not the Servicing Carrier had diligently used usual and customary procedures for managing residual market business, including effective oversight of agency/company business submissions (underwriting, loss control, etc.) and whether the company diligence was timely in addressing issues that may have otherwise held costs to lower amounts. The petitioning Servicing Carrier must demonstrate its entitlement to relief and address why the expected and/or incurred extraordinary costs were not anticipated in the Servicing Carrier's acceptance of the service terms and the expense allowance provision resulting from Servicing Carrier selection process. The committee's presumption prior to review of the request will be that expense allowance expectations for residual market business were intended to be at a level that would anticipate

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and require a higher level of management versus voluntary business. A decision to authorize reimbursement and the amount of reimbursement will not be based solely on whether the Servicing Carrier's efforts were justified but also on whether the efforts are deemed to have been extraordinary and the company took appropriate steps to mitigate negative impact to the residual market.

The advisory committee will require any level of detail it may deem necessary to support the amount of the requested reimbursement. The Servicing Carrier bears the burden of providing adequate documentation and justification for all requested expense amounts. The committee may recommend an "expense not to exceed" in order that the company may move forward in its efforts to act in the best interest of the residual market and the motoring public. Reimbursable expenses must be already paid, directly related to the residual market issue, and quantifiable and verifiable prior to reimbursement.

c. CAR Review of an Approved Expense Reimbursement

To the extent that clarification or revision of the original requested reimbursement amount occurs as a result of advisory committee deliberations, CAR staff will verify that all documentation supports the recommended reimbursement amounts pursuant to the committee discussion.

d. Governing Committee and Commissioner of Insurance Approval

The Governing Committee will consider whether to authorize reimbursement of all or any part of the amount requested. Any decision by CAR's Governing Committee to approve reimbursement of extraordinary expenses, will be subject to the review and approval of the Commissioner of Insurance.

e. Reimbursement by CAR

After final approval by the Commissioner of Insurance, CAR staff will review final expense documentation to confirm compliance with the approved reimbursement amount and approved reimbursement payments will be processed as bulk adjustments to a Servicing Carrier's Settlement of Balances and the Governing Committee will be notified.

