



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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RECORDS OF MEETING

SERVICING CARRIER SERVICE LEVELS SUBCOMMITTEE – FEBRUARY 6, 2018

Members Present

Mr. John Olivieri, Jr. – Chair
Mr. Peter Chung
Ms. Mayre Hammond
Mr. Brian Hayes
Mr. Brian Lam
Ms. Wendy Stearns
Mr. Barry Tagen

J.K. Olivieri Insurance Agency, Inc.
The Norfolk & Dedham Group
Arbella Insurance Group
Quincy Mutual Insurance Group
Safety Insurance Company
MAPFRE U.S.A. Corporation
Pilgrim Insurance Company

Substituted for:

Not in Attendance:
N/A

18.01 Records of Meeting

The Subcommittee unanimously voted to approve the Records of the Servicing Carrier Service Levels Subcommittee meeting of January 23, 2018. The Records have been distributed and are on file.

17.04 Servicing Carrier Service Levels

Based upon Subcommittee discussion at its January 23, 2017 meeting, Staff drafted updates to Rule 11.C. of the Rules of Operation and added procedural language to Chapter III – Servicing Carrier Responsibilities of the Manual of Administrative Procedures to provide further guidance on a process to address the reimbursement of extraordinary expenses incurred through the Commercial Automobile or Taxi/Limo Servicing Carrier Programs.

Ms. Natalie Hubley noted that the modifications made to Rule 11.C.2. reflect Subcommittee discussion that the existing Rule language predates the commercial Servicing Carrier programs and emphasize the fact that the expenses being requested are of an extraordinary nature. The updated language describes the requirement to ensure that requested expenses are in excess of the expenses anticipated in the acceptance of the terms of the request for proposal, that the Servicing Carrier must petition the Governing Committee for relief and the expense must actually be paid before reimbursement.

Ms. Hubley further noted that the language added to Chapter III of the Manual of Administrative Procedures describes the procedure for requesting reimbursement of extraordinary expenses and the process for committee review. She stated that the process includes the appointment of an advisory committee to review and recommend requests for reimbursement and identifies the form that the Servicing Carrier is

required to use to initiate a petition for reimbursement of extraordinary expenses. Additionally, based on Subcommittee discussion at the last meeting relative to the feasibility of a pre-approval process and to address concerns that the public nature of the appeal process could be a potential hindrance, particularly if the event required an investigation of a sensitive nature, the language reflects a need for the Servicing Carrier to provide reasonable notification to CAR when it recognizes that it has encountered an extraordinary circumstance for which it intends to seek reimbursement.

The proposed procedure identifies other information expected to be provided in support of a request, including a detailed description of the issue and why the expenses are considered outside the scope of services accepted by the carrier in response to the RFP for commercial or taxi/limo appointment. Additional supporting documentation to be provided would include background information relative to the events leading up to the request, a summary of the efforts undertaken by the Servicing Carrier to mitigate residual market impacts, a detailed accounting of incurred expenses directly related to the issue and a justification for any outside business, legal or other service provider costs incurred and required confirmation that the Commissioner of Insurance has been copied on the request.

The procedures also includes detail on what would be anticipated by the advisory committee in review of the request, such as whether the Servicing Carrier had used usual and customary procedures for managing residual market business, and that the committee's presumption prior to the review of the request is that expense allowance expectations for residual market business is anticipated to be at a higher level than for voluntary business. Finally, Ms. Hubley noted that any decision by the Governing Committee to approve reimbursement of extraordinary expenses, as recommended by the advisory committee, would be subject to the approval of the Commissioner of Insurance.

Ms. Hubley addressed various Subcommittee questions and concerns relative to the proposed Manual of Administrative Procedures language. Relative to the concern that using the word "entitled to" in Sections E.1. and E.2.b. implies that that the reimbursement is owed to the Servicing Carrier, the Subcommittee agreed that the wording "qualifies for" is more appropriate. Relative to the required notification process, including whether submission of the notification form is the request for reimbursement or if there is an additional notification that must be provided, Ms. Hubley indicated that the language in Section E.2.a. will be clarified to eliminate the reference relative to the "intent to seek" reimbursement and will specify that the submission of the Request for Reimbursement of Extraordinary Expenses form *is* the Servicing Carrier's notification that "it is seeking" reimbursement. Finally, to clarify that if the advisory committee's recommended amount of reimbursement is an amount equal to an "expense not to exceed", that amount is subject to the further approval by the Governing Committee and Commissioner of Insurance, and additional language in this regard has been added to Section E.2.b.

The Subcommittee unanimously agreed to recommend to the Commercial Automobile Committee proposed modifications to Rule 11.C.2. and the addition of Section E. to Chapter III – Servicing Carrier Responsibilities of the Manual of Administrative Procedures, with the additional modifications as discussed at the meeting.

MARIAN ADGATE
Corporate Documentation Specialist

Boston, Massachusetts
February 7, 2018

ATTACHMENT LISTING

Docket #SCSL18.02, Exhibit #2

Attendance Listing

Docket #SCSL17.04, Exhibit #2

Proposed Rule 11.C. Modifications

Docket #SCSL17.04, Exhibit #4

Proposed Chapter III.E. of the Manual of
Administrative Procedures Modifications

CAR | **Rules of Operation**
Rule 11 | **Assessments and Participation**
Revision Date | **2014.10.24**
Page | **3 of 3**

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 qualifies for the reimbursement it requested or some portion thereof. Reimbursement of an extraordinary expense will be reviewed on an individual case basis.

2. Procedures

a. Request for Reimbursement

A Servicing Carrier must provide CAR with timely and reasonable notification that it is seeking 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.

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:

- 1) A summary of the request.
- 2) 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 response to CAR's Request for Proposal for Commercial

CAR | **Manual of Administrative Procedures**
Chapter III | **Servicing Carrier Responsibilities**
Revision Date | **DRAFT – 2018.02.06**
Page | **22 of 24**

Automobile or Taxi and Limousine Servicing Carrier Appointment.

- 3) 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.
- 4) A summary of efforts undertaken by the Servicing Carrier to mitigate the impact to the residual market.
- 5) 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.
- 6) 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.
- 7) 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 that it qualifies for 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 and require a higher level of management versus voluntary business.

CAR | **Manual of Administrative Procedures**
Chapter III | **Servicing Carrier Responsibilities**
Revision Date | **DRAFT – 2018.02.06**
Page | **23 of 24**

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 and are subject to the further approval required in 2.d. and 2.e. of this Section.

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.

CAR Chapter III Revision Date Page	Manual of Administrative Procedures Servicing Carrier Responsibilities DRAFT – 2018.02.06 24 of 24
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EXHIBIT III-E-1

<i>COMMONWEALTH AUTOMOBILE REINSURERS</i>		
REQUEST FOR REIMBURSEMENT OF EXTRAORDINARY EXPENSES COMMERCIAL AUTOMOBILE AND TAXI/LIMOUSINE SERVICING CARRIER PROGRAMS		
Company Name:		
Requestor/Contact Name:		Date:
Tel. #:	Fax #:	Email:
Signature:		
Total Requested Reimbursement Expense Amount:		
Reason For Reimbursement Request:		
Concisely summarize the reason(s) for your request(s) and provide an overview of the nature of your issue(s).		
<i>Please reference CAR's Manual of Administrative Procedures, Chapter III, Section E. for procedures and documentation requirements relative to a request for reimbursement of extraordinary expenses.</i>		
Scheduling of Review		
Upon receipt of a completed Request for Reimbursement of Extraordinary Expenses form, a hearing date will be established as coordinated by CAR with the petitioning party and the designated committee chair. After a date has been confirmed, CAR will issue a written Notice of Meeting in compliance with the Open Meeting Law.		
Submission of Written Information		
Any written materials to be considered by the designated committee must be submitted to CAR's Docket Clerk no later than 12:00 p.m., five business days prior to the scheduled meeting date. Timely submitted materials will be docketed by CAR and distributed to the committee as soon as practicable. Written materials submitted to CAR after 12:00 p.m. on the fifth business day prior to the scheduled meeting date will not be entered on the docket, but the submitting party may petition the committee directly for consideration of such materials. The committee has the discretion to determine whether such materials will be considered in its deliberations. If the committee allows such materials to be considered, the submitting party is expected to be prepared to provide a minimum of 25 copies at the meeting.		
<u>All document submissions must be in compliance with M.G.L. c. 93H and 201 CMR 17.00: Standards for the Protection of Personal Information of Residents of the Commonwealth (i.e. personal information, as defined, must be redacted). Any document submission determined to not be in compliance will result in the document being returned to the sender for correction and may impact its distribution to the reviewing committee.</u>		