



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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

September 23, 2022

BULLETIN NO. 1140

PROPOSED CHANGES TO THE RULES OF OPERATION

At its meeting of September 21, 2022, 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 32 – Claim Practices

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 the bulletin and filing letter, as provide 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.

ROBIN TIGGES
Executive Administrative Specialist

Attachment



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September 23, 2022

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 Rules of Operation:

Rule 32 – Claim Practices

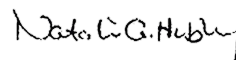
Changes are shown by deleting and adding language as reflected on the attached copy. The remainder of the Rule is unchanged.

Explanation:

Section C. is amended to replace the reference to the Manual of Administrative Procedures with the Assigned Risk Company (ARC) Procedures Manual. Additional editorial changes ensure consistent formatting with the private passenger Rules.

A copy of the proposed amendments to Rule 32 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

Attachments: Rule 32 – Claim Practices

cc: Mary Ellen Thompson – Counsel to the Commissioner
Massachusetts Urban Agents Association, Inc.
Massachusetts Association of Insurance Agents
Public Protection Division – Office of the Attorney General

The Governing Committee shall establish and monitor procedures for the review of claim practices of ARCs to insure compliance with the “Performance Standards for the Handling and Payment of Claims”. National Association of Insurance Commissioners guidelines are incorporated where applicable into the Performance Standards. The MAIP will conduct periodic audits of ARC claims including policies in the MAIP and voluntarily written as specified in G.L. c.175, §113H.

A. Claim practices of each ARC shall comply with the requirements of G.L. c. 175, § 113H. ARCs shall, in accordance with the Performance Standards and the MAIP’s Rules:

1. Comply with the standards for prompt investigation of claims. Upon receipt of a new claim, investigate policy information for garaging, listed operator, prior accidents, or any other issues. Information developed may be used to affirm or deny claim payments. Discrepancies shall be communicated to the Underwriting Department and the premium recalculated and billed if appropriate and in accordance with Division of Insurance requirements;
2. Affirm or deny coverage of claims within a reasonable period of time;
3. Effectuate prompt, fair and equitable settlements of claims in which liability is reasonably clear;
4. Maintain claim reserving procedures for all applicable claims;
5. Conduct internal claim quality audit of a reasonably representative number of claim files on MAIP business, commensurate with their procedures for audit of claims on voluntary business, in order to verify compliance with the Performance Standards. With sufficient frequency to reflect reasonable continuity of their quality controls, ARCs shall prepare internal reports summarizing the efforts and conclusions of their claim department quality audit. Reports shall consolidate comments relative to both the MAIP and voluntary claim adjustment. Report format shall be at the discretion of each ARC, or as may be requested from time to time on an individual basis by the Governing Committee, or the Committee’s designee;
6. Establish complaint handling procedures, and maintain complete records of all complaints received on claims related to both the MAIP and voluntary business. ARCs shall maintain records reflecting the number of complaints received annually. For purposes of this Rule, the

term "complaint" shall mean any written communication initiated by the complainant primarily expressing a grievance;

ARCs shall also maintain and forward to the MAIP, records on all written complaints filed on all producers;

7. Acknowledge and act promptly upon communications regarding claims;
8. Promptly provide a reasonable explanation for denial of a claim or for the offer of a compromise settlement;
9. Resolve inter-company subrogation disputes involving Physical Damage and Personal Injury Protection claims through arbitration;
10. Have direct telephone reporting available for first and third party claims;
11. Provide producers with a list of approved inspection services for conducting pre-inspections. Appraisers shall report when the damage is inconsistent with the description of the loss; and
12. ARCs shall offer training on claim reporting and fraud recognition to producers and their customer service representatives. Such training shall be completed for current producer and customer services representatives within six (6) months of approval of this Rule and for new producers and customer services representatives within six (6) months of licensing or employment.

B. In the handling of MAIP claims, ARCs shall not:

1. Misrepresent pertinent facts or policy provisions relating to the coverage at issue;
2. Refuse to pay claims without having conducted a reasonable investigation based upon all available information; and
3. Fail to promptly settle claims, where liability is reasonably clear, under one portion of the policy coverage in order to influence settlements under other portions of the policy coverage.

C. Special Investigative Unit

Every ARC shall maintain a ~~S~~pecial ~~I~~nvestigative ~~U~~nit (SIU) to investigate suspicious claims for the express purpose of eliminating fraud and shall specifically report to the MAIP evidence of fraud pertaining to theft or misappropriation of a private passenger motor vehicle on policies issued through the MAIP as provided in the ~~Manual of Administrative Procedures Assigned Risk Company Procedures Manual~~. ~~Special investigative units~~SIUs so established shall be organized and operated to investigate claims on any policies that are issued through MAIP and on policies issued on a voluntary basis by ARCs.

The SIU shall:

1. ~~The special investigative unit shall I~~investigate suspicious circumstances surrounding underwriting, rating, and premium issues. A claim shall not be investigated by such a unit solely on the basis that such claim arises from a policy issued through the MAIP; and
2. ~~The special investigative unit also shall C~~onduct an audit on a representative sample of policies to verify garaging and policy facts.

D. Compliance with Performance Standards

An error tolerance of ten percent (10%) for procedures and seven percent (7%) for claim resolution will be used to measure compliance with the Performance Standards. Failure to meet the standards or other requirements described in this Rule may result in penalties as directed by the Performance Standards or as may be otherwise imposed by the Governing Committee.

E. Dishonesty

Loss or expense resulting from the dishonesty of those employed to handle claims shall be the sole responsibility of the ARC.

F. Claim Contingency Procedures

1. Terminations

An ARC whose appointment is terminated as provided in Rule 38 shall,

subject to the provisions of Rule 32, service to a conclusion all claims against all policies issued by it in its capacity as an ARC and in effect prior to the date of termination. “Service to a conclusion” shall mean until the claim is properly closed, or until an agreed date.

2. Other Terminations

Upon notice from the Governing Committee of the non-voluntary termination of a company’s appointment as an ARC, the MAIP shall examine a representative sample of open claim files to determine the amount of work completed, to estimate the future cost of servicing the claims to a conclusion, and to verify compliance with Rule 32. Findings from that examination shall be reviewed with the Compliance and Operations Committee, which shall present to the Governing Committee for its consideration the recommendations of the Compliance and Operations Committee for the further servicing of said ARC claims.