

AUTOMOBILE INSURANCE RATE FILING

OF THE

**MASSACHUSETTS
AUTOMOBILE RATING
AND ACCIDENT PREVENTION
BUREAU**

Docket 88-57

Industry Direct Payment Plan

(Line of Business)

December 15, 1988

(Date of Filing)

Industry Direct Payment Plan for the Settlement of
Insured Auto Damage Repairs

Objective: In order to provide, by January 1, 1989, for the implementation of a Direct Payment Plan for auto damage repairs insured under collision, limited collision and comprehensive coverages, excluding glass claims, in accordance with Sections 24 and 51 of c.273 of the Acts of 1988 and Regulation 211 CMR 123 (the "Regulation"), as issued on an emergency basis 12/8/88 and attached as Exhibit A, the Massachusetts Automobile Rating and Accident Prevention Bureau (MARB) files the following plan on behalf of its member companies under 211 CMR 123.04(1) to be effective for the settlement of all auto physical damage claims arising from accidents on or after January 1, 1989, provided, however, that each member company electing to implement the industry plan shall file a Notice of Election of the Industry Plan, attached as Exhibit B, at least 14 days prior to implementation as required by the Regulation. Any member insurer may deviate from the industry Direct Payment Plan upon approval by the Commissioner of the insurer's own individual plan filed in accordance with Sections 24 and 51 and the Regulation using the Notice of Election of a Modified Industry Plan form attached as Exhibit C or their own filing format.

The Industry Plan

1. Payment to the claimant:

The insurer shall offer to pay every claimant for the loss of or damage to the insured motor vehicle under collision coverage, limited collision coverage or comprehensive coverage, excluding glass claims, the full amount, less any applicable deductible, of the cost of repair¹ of the damage as described in an appraisal made by a licensed automobile damage appraiser employed or designated by the insurer, subject to the terms and conditions of the applicable insurance policy. Direct payments will be offered by each insurer electing to implement this industry plan to claimants for accidents on or after the insurer's implementation date but no sooner than January 1, 1989.

Unless such direct payment is refused by the claimant, the insurer shall make such payment at the time of, or within 5 business days after, the preparation of the said appraisal. In no event shall payment be made prior to provision of a copy of the appraisal to the claimant. Nothing in this section shall be construed to affect the right of any insurer to delay payment for a period of time reasonably necessary to investigate any claim before authorizing repair work or making payment on such claim.

If the claimant refuses such direct payment, the insurer shall comply with applicable laws and regulations relating to such payments without regard to the plan.

¹The insured cost of repairs describe in an appraisal may differ from the actual cost of repairs due to the replacement of used or depreciated components by new components in the actual course of repairs, so-called "betterment". Common examples of betterment are tires, batteries and the use of new parts in place of used parts at the direction of the insured. Betterment will be excluded throughout this plan when referring to the insured cost of repairs.

2. Repair Certification Form

Each insured receiving a direct payment under collision, limited collision and comprehensive coverages shall receive, with the appraisal or direct payment check, a Repair Certification Form containing an explanation of the insured's rights. The insured shall return the Repair Certification Form to the insurer upon completion of repairs. If the completed Repair Certification Form is not returned to the insurer, the actual cash value of the insured vehicle will be reduced by the amount of the claim payment plus any applicable deductible. The sample Repair Certification Form for use with the industry plan is attached as Exhibit D.

3. Resolution of Consumer Disputes

If the claimant disputes the accuracy of the appraisal or the amount of the payment based thereon, the insurer shall resolve such dispute as follows:

(1) The claimant, or the claimant's representative or repair shop at the direction of the claimant, must notify the insurer by telephone or in writing if the insured cost of repairs, excluding betterment, is expected to exceed the amount of the payment plus any applicable deductible and the claimant is seeking to have the insurer pay any part of the difference. Such notice must be prior to, or in the course of, the repair work.

(2) The insurer shall promptly evaluate the source of any differences between the insurer's appraisal and the cost of repairs and either authorize or deny a supplemental payment within 3 business days after the notification of such difference and inspection of the vehicle. During such 3-day period, the insurer may inspect the vehicle, and if it so requests, the claimant or repair shop shall make the vehicle available for inspection by the insurer. The insurer shall not delay such inspection for more than 3 days without the consent of the claimant. If the insurer makes a timely request for inspection the insurer will either authorize or deny a supplemental payment within 3 business days after the inspection. The claimant may direct the insurer to make any supplemental payment to the repair shop, provided the repair shop is registered under M.G.L. c. 100A. Otherwise, any supplemental payment must be made directly to the claimant.

(3) If the claimant and the insurer are unable to reach agreement as to any dispute as to the amount of the payment by the insurer, either party may demand arbitration of the dispute. The demand for arbitration must be in writing and it must include an appraisal of the cost of the repair prepared by a licensed automobile damage appraiser and an itemized bill for the actual cost of the repair, if the repair has been completed. The arbitration will be conducted pursuant to General Provision Section 11 of the Massachusetts Standard Automobile Insurance Policy and the applicable provisions of M.G.L. c. 175, section 191A, attached as Exhibit E.

(4) If the repair is made at a repair shop which is on the insurer's list of referral shops prepared pursuant to paragraph 5 below, neither the repair shop nor the insurer shall require the claimant to pay more than the amount of the direct payment plus the amount of any applicable deductible to have the insured repair work, excluding betterment, completed, and any dispute as to the amount of the appraised damage shall be resolved between the referral repair shop and the insurer.

4. Disclosure of Insured Rights and Duties

Each direct payment shall be accompanied by a notice on the Repair Certification Form explaining to the insured his or her rights and duties under the Direct Payment plan including:

(1) the right to shop around and to obtain repairs at the repair shop of his or her choice for the amount of the insurer's appraisal.

(2) the right to be given a list of geographically convenient repair shops which will provide quality repairs, excluding betterment, for the amount of the payment made directly to the insured plus any applicable deductible. The insurer will guarantee the quality of the materials and workmanship used in making the repairs at any shop on its list.

(3) the duty to notify the insurer, by phone or in writing, prior to or in the course of repairs, if the insured cost of repairs, excluding betterment, exceeds the amount of the direct payment, plus any applicable deductible, and the claimant seeks payment for any part of that excess from the insurer. The insurer has the right to inspect the vehicle within three (3) business days of notification. The insurer has the duty to authorize or deny a supplemental payment within three (3) business days after the inspection.

(4) the right to pursue resolution of any differences in repair cost through contact with the insurer and the procedure established in General Provision Section 11 of the Massachusetts Standard Automobile Policy.

(5) the duty to return a completed Repair Certification Form when the vehicle is repaired. If the completed Repair Certification Form is not returned to the insurer, the actual cash value of the insured vehicle will be reduced by the amount of the claim payment plus any applicable deductible.

(6) the duty to allow the insurer, upon request, to reinspect the repaired vehicle after receipt of the Repair Certification Form. If the repaired vehicle is not made available for inspection within a reasonable amount of time, the actual cash value of the insured vehicle will be reduced by the amount of the claim payment plus any applicable deductible.

5. Referral Repair Shop Programs

(1) Consumer's Choice of Shop: No insurer in implementing the Industry Direct Payment Plan shall require a claimant to have repairs made at any specific repair shop or list of shops.

(2) Number of Shops: Unless the requirement is specifically waived by the Commissioner, the insurer shall provide that every claimant will be given a list of at least five repair shops geographically convenient for the claimant which will perform the repairs on referred claims without undue delay. The claimant may or may not choose to use a shop on the referral list.

(a) For the first year in which this Industry Plan is effective, i.e., calendar year 1989, the following transitional rule will apply:

Insurers implementing plans during calendar year 1989 shall provide a list of at least:

- (i) two referral shops at any time a list is given to a claimant;
- (ii) three shops by May 1, 1989;
- (iii) four shops by September 1, 1989; and
- (iv) five shops by January 1, 1990.

(b) Any individual insurer which wishes to implement the Industry Plan but does not meet the minimum requirements of (2) (a) above may petition the Commissioner for a waiver of those requirements. The insurer seeking such a waiver shall set forth the specific facts regarding market share, geographic location, availability of repair shops, or other circumstances in support of its petition. No insurer may implement the Industry Plan if it does not meet the requirements of section (2) (a) above unless and until the Commissioner has granted a petition for waiver using the Petition for Waiver form attached as Exhibit F or any other format. A copy of the Massachusetts Automobile Market Share for each insurer and each insurer group is attached as Exhibit G.

(3) Insurer's Choice of Shops

(a) An insurer's referral list shall include only shops:

- (i) which are registered repair shops and,
- (ii) which have entered into an agreement satisfactory to the insurer, to complete insured repairs, excluding betterment, for claimants referred by the insurer without undue delay, for the amount of the direct payment to the insured plus any

applicable deductible, plus any supplemental payment authorized by the insurer.

- (b) In determining which registered repair shops will be put on such referral list, the insurer shall consider all of the following criteria, and only the following criteria: the quality and cost of repairs at a particular shop, the quality of the service given the customer, the responsiveness of the shop to the customer's needs, the ability of the shop to perform repairs without undue delay, the geographic convenience of the shop for the claimant, cooperation of the shop with pre- and post-repair inspections and the shop's compliance with applicable laws and regulations.

Each individual insurer shall maintain written guidelines incorporating these criteria as applied by the insurer in implementing its plan; such guidelines shall be deemed to be a part of the individual insurer's implementation of the Industry Plan. While individual insurers which implement the Industry Plan shall maintain such written guidelines, under no circumstances shall the Massachusetts Automobile Rating and Accident Prevention Bureau propose or maintain such guidelines. Individual insurers' guidelines shall be made available to the Commissioner upon his or her request and shall also be made available to any repair shop in the event the insurer denies that shop placement on, or strikes that shop from, its list.

A repair shop shall be included on the list prepared by the insurer if the shop agrees in writing to comply fully with the Industry Plan, unless the shop is denied placement on, or is stricken from, the list pursuant to paragraph four (4) below, and is determined by the insurer not to satisfy one or more of the criteria listed above. The form of agreement between the shops on the referral list and the insurer may provide adequate assurances that the repair shop will continue to satisfy the insurer as to such criteria.

(4) Development and Changes of Referral List

An insurer may strike a repair shop from a referral list, or deny placement thereon, provided the insurer files a statement with the Commissioner specifying the nature of the shop's failure to comply with the Industry Plan or with the agreement or proposed agreement between the insurer and the repair shop. A repair shop which claims that it has been improperly stricken from or denied placement on the list may demand arbitration. Such binding arbitration shall be conducted by a neutral arbitrator jointly agreed to by the insurer and the repair shop, or, in the absence of such agreement, within 21 days of submission of the request for arbitration to the insurer, by an arbitrator selected by the Commissioner. The parties to the arbitration shall bear the costs of the arbitration equally, but the losing party shall be liable to the prevailing party for its costs, unless the arbitrator orders otherwise. If the arbitrator finds that the losing party acted in bad faith, he or she may also award the prevailing party attorney's fees, if any. The arbitrator shall determine whether the repair shop was improperly stricken from the list, but shall make no finding or order as to any

damages other than the award of costs and/or attorney's fees, if any. The decision of the arbitrator shall be final.

(5) Insurer's Guarantee

If a claimant has a repair performed at a repair shop included on the insurer's list, then the insurer shall guarantee the quality of the materials and workmanship used in making the repairs. No insurer may petition the Commissioner for a waiver of this requirement. This guarantee by the insurer shall be in addition to all other guarantees which may be made by the manufacturer and the repair shop. The agreement between the insurer and the repair shop may provide for indemnification of the insurer by the repair shop for any costs associated with such guarantee under such terms and conditions as the parties to the agreement shall specify.

6. Reinspection

The insurer shall have a licensed automobile damage appraiser reinspect vehicles following completion of repairs, excluding glass only claims, as follows:

- (a) with respect to repairs as to which the appraisal indicates that the cost is expected to exceed \$4,000, at least 75% of such vehicles shall be reinspected;
- (b) with respect to repairs as to which the appraisal indicates that the cost is not expected to exceed \$4,000, at least 25% of such vehicles shall be reinspected.

In no event shall the selection of vehicles for reinspection be based on the age or sex of the policyholder or of the customary operators of the vehicle, or on the principal place of garaging the vehicle.

If the repair vehicle is not made available for reinspection within a reasonable amount of time, the actual cash value of the insured vehicle will be reduced by the amount of the claim payment plus any applicable deductible.

7. Conflicts of Interest

- (a) No employee or agent of an insurer with responsibility for creating, managing or maintaining a list of repair shops as prescribed above shall receive or ask for any payment, gift or any other thing of value from any repair shop included, or seeking to be included, on the insurer's list of repair shops. No repair shop, or employee or owner thereof, shall give, pay or offer to give or pay, any thing of value to any employee or agent of an insurer with responsibility for creating, managing or maintaining a list of repair shops. No repair shop, or employee, owner or agent thereof, shall give or pay, or offer to give or pay, any thing of value to any person in exchange for being included, or an inducement for being included, on an insurer's list of repair shops. For purposes of this paragraph, the words "employee", "owner" and

“agent” shall also include any spouse or child of an employee, owner or agent.

- (b) A discount on parts, glass, labor rate or other item or customer service in connection with the repair of motor vehicles offered by a repair shop to an insurer shall not constitute a “payment, gift or any other thing of value” for purposes of (7) (a) above.

8. Disclosures to Consumers

Every claimant under a plan shall be given full and adequate disclosure with the appraisal, and at such other times as the insurer may determine, explaining that:

- (a) the claimant may elect to accept direct payment under the plan and receive a list of referral shops, or he or she may choose to pursue the claim without regard to the plan;
- (b) if the claimant accepts direct payment, he or she may choose to have repairs made at any repair shop, whether or not the shop appears on the insurer’s referral list;
- (c) if the claimant accepts direct payment, the claimant may choose a shop on the insurer’s referral list, in which case the insurer will guarantee the materials and workmanship of the repair, and the cost of the insured repair, excluding betterment, to the claimant will not exceed the amount of the insurer’s direct payment to the claimant plus any applicable deductible.
- (d) the procedure for resolving claimants’ disputes under the plan; and,
- (e) such other information as will aid the claimant in exercising his or her rights under the plan.

Memorandum

Differences Between Regulations 211 CMR 123 And the Industry Direct Payment Plan

Regulation 211 CMR 123, Direct Payment of Motor Vehicle Collision and Comprehensive Coverage Claims and Referral Repair Shop Program, was issued on an emergency basis effective December 8, 1988. The Bureau is filing a direct payment plan on behalf of its member companies (The "Industry Plan") prior to any hearing on the Regulation in order to have an Industry Plan in effect on January 1, 1989. Since the filing deadline for an Industry Plan is December 15, 1988, the Bureau takes this opportunity to clarify the Regulation and to recommend changes where necessary. This memorandum will explain the differences between the Industry Plan and relevant parts of the Regulation.

1. Section 123.03 Definitions

<u>Regulation</u>	<u>Industry Plan</u>
"Claimant" means any person making a claim for motor vehicle damage or loss for first or third party damages.	"Claimant" means any person making a claim for motor vehicle damage or loss for first party damages

Explanation

The Direct Payment and Referral Shop program rules and regulation should apply to claims made by first parties under the auto physical damage coverages of collision, limited collision and comprehensive. The title of the regulation and Sections 24 and 51 of c.273 refer to the physical damage coverages only. Although the extension of the plan to third party property damage liability coverage seems to be voluntary with the company (123.05(1)), it should be made clear that these regulations will apply to first party payments only. Some of the reasons for excluding property damage liability claims from the Industry Plan are that (1) a direct payment system is already in place for appropriate PDL claims; (2) direct payments and appraisals may not make sense and/or may duplicate effort for some PDL claims, such as subrogated claims; (3) PDL claim settlements may be delayed or reduced depending upon the determination of liability and comparative negligence; and (4) the restoration of the decrease in value and/or reinspection of repairs through a completed repair certification form would be meaningless on third party claims.

Regulation

“Repair Shop” means a motor vehicle repair shop as defined in M.G.L. c100A, Section 1, including glass specialty shops, but not including a shop which primarily sells tires

Industry Plan

“Repair Shop” means a motor vehicle shop as defined in M.G.L. c100A, Section 1, but not including glass. Specialty shops or shops which primarily sell tires.

Explanation

The Direct Payment and Referral Shop Program should not apply to glass claims under comprehensive coverage. There currently exists an active and efficient system of insurer referral shops for glass claims. The glass shop referral system allows the claimant to have glass damage repaired by a referral shop at the request of the insurer and at the convenience of the insured. The system allows for direct payment to the referral shop at negotiated rates for labor and parts discounts.¹ Allowing the insured to “shop around” with a direct payment in hand, but with broken glass, would (1) tend to increase the cost of the system² by requiring appraisals, reinspections and the inability to direct insureds to specific referral shops³ and (2) tend to increase the hazard to safe driving by having active motorists with broken windshields who are either “shopping around” or have decided not to repair.

¹According to the State Rating Bureau, glass discounts averaged 36% (1987 Bodyshop Hearing, Ex. 11).

²The 1987 average glass claim was about \$275.

³This requirement might prove costly in light of the newly enacted \$100 deductible glass coverage.

RegulationIndustry Plan

None.

“Cost of Repair” shall mean the insured cost to restore the damaged vehicle to a condition equal to that prior to the accident under the terms of the policy. The (insured) cost of repair does not include any increase in value, so-called “betterment”, due to the replacement of used components with new components during the actual course of repairs, such as in the case of tires and batteries.

Explanation

The exclusion of betterment seems to have been implicitly recognized in Section 123.05(1), Payment to the Claimant by the use of the terms “subject to the terms and conditions of the applicable insurance policy”.

Other parts of the Regulation, specifically Sections 123.05(3) (d) and 123.07(1) (c), convey the (incorrect) impression that the claimant will pay only the deductible and the amount of the direct payment for repairs completed at the insurer’s referral shops. Although this indeed may be true in a large number of cases, there will often be times when the vehicle will increase in value due to the repairs (repair of old damage, new tires, etc.) and the increase in value, so-called betterment, must be paid for the claimant. The Industry Plan emphasizes this important distinction throughout the text of the plan.

2. Section 123.04 Procedure for Approval of Plans

The MARB interprets sections 123.04(1) and (2) as allowing each member insurer to adopt the approved industry plan in its entirety, with the Industry Plan effective date of January 1, 1989, and to implement that plan on or after January 1, 1989 by filing a notice of election of the Industry Plan (Exhibit B) at least 14 days prior to the implementation date and by receiving the approval of the Commissioner of Insurance. The principal reason for this interpretation of these sections is the impracticality of the 14 day notice requirements combined with the January 1 effective date and the extremely tight filing/hearing/decision schedule for this initial plan.

For each individual insurer adopting the Industry Plan in its entirety, the benefits of the Industry Plan shall be made available to all claimants submitting claims arising from accidents or other losses occurring on or after the implementation date. (Compare 123.04(7)).

3. Section 123.05: Direct Payment Plans: Required Provisions

(1) Payment to Claimant

MARB interprets “cost of repair” to exclude betterment (Sec 123.03 above).

MARB recognizes the voluntary nature of the offer (direct payment) to the claimant under property damage liability, but believes it is unnecessary (See 123.03 above).

MARB also recognizes that the intention of the Regulation requirement to “make such payment at the time of, or within 2 business days after, the preparation of said appraisal” is to minimize the time between the claimants’ receipt of the appraisal and his or her receipt of the direct payment check. The recognition of actual diverse claim department check writing and accounting systems among companies, however, leads MARB to substitute a more realistic time frame of 5 business days to cover all cases. For some company operations it will be possible to present a claimant with all necessary material at once (appraisal, Repair Certificate Form, general instructions, and check). For others the process, especially for drive-in claim service, may separate the issuance and mailing of the direct payment check from the completion of the appraisal. A five (5) business days limit should accommodate all operational forms in a direct payment plan. MARB notes that the current payment limitation after receiving the completed Work Claim Form on repairs is seven (7) days.

(2) Repair Certification

MARB has recognized the inappropriateness of asking the insured to certify that repairs were made “in accordance with the appraisal” and has designed the Industry Repair Certification Form (RCF) to certify only the fact and the location of the repairs. Appraisers doing reinspections are asked to note on the RCF the items of repair that differ from the appraisals. It seems appropriate to delete that phase for the insured in order (1) to minimize the ambiguity of the RCF, and (2) to allow return of the RCF without the involvement of the repair shop in determining whether its repair was “in accordance” with the appraisal.

MARB has also chosen to allow the decrease in value (DIV), whether or not the claimant repairs the vehicle, in all cases where the RCF is not returned. The DIV will be eliminated upon the subsequent receipt of the completed RCF.

(3) Resolution of Consumer Disputes

The various “3-day” requirements of subsection (b) seem inconsistent. The MARB has replaced the overall 3-day requirements of the Regulation by requiring the authorization or denial-of a supplemental payment “within 3 business days” after the notification of such difference and inspection of the vehicle. The two individual notification and inspection 3-day constraints of the Regulation still apply for the Industry Plan.

Under subsection (d), the repair shop and the insurer may require the payment of betterment by the insured. (Sec 123.03 – “cost of repairs” above).

4. Section 123.06 Referral Repair Shop Programs

The MARB has assumed in its filing that the procedure for the registration of repair shops, required for (3a) and (3b) will be in place and that a sufficient number of such registered shops will be available for the implementation of the plan. To the extent that this assumption is not realized, the implementation of a viable direct payment plan program will be delayed.

The MARB knows of no subsection (4) of the Regulation.

The MARB has added to the requirements of subsection (7), Reinspection, the allowance of a decrease in value (DIV) if the reinspection is not permitted by the claimant and/or the repair shop within a reasonable time.

5. Section 123.07 Disclosures to Consumers

MARB expects that individual insurers will advise claimants of the election of direct payments (1) (a) through revised company claim process literature that is normally distributed to claimants.

NOTICE OF ELECTION
OF
INDUSTRY DIRECT PAYMENT PLAN

The Honorable Nonnie Burnes
Commissioner of Insurance
Massachusetts Division of Insurance
One South Station, 5th Floor
Boston, MA 02110-2208

Dear Commissioner Burnes:

Please be advised that the undersigned auto insurance company(s) elects to implement a modification of the Industry Direct Payment Plan as filed by the Massachusetts Automobile Rating and Accident Prevention Bureau in accordance with 211 CMR 123 and approved by you. If approved, the effective date of our implementation of the modified industry plan will be _____.

The extent of our modifications to the industry plan are detailed on the attached page(s).

Company Name(s) _____

Company Officer _____
Name
Signature
Title
Telephone Number
Date

NOTICE OF ELECTION
OF
INDUSTRY DIRECT PAYMENT PLAN

Differences from the Industry Direct Payment Plan

Company Name _____

1. Effective Date _____

2. Payment to Claimant

3. Repair Certification Form (Attach Modified Form)

4. Resolution of Consumer Disputes

5. Repair Shop Referral Lists

6. Disclosure to Consumers

REPAIR CERTIFICATION FORM

(to be returned to your insurance company upon completion of repairs)

Company Information

Insured _____
Claim Number _____
Date of Accident _____

Policyholder Information

I. Explanation of Your Rights and Duties for Repairing Damaged Vehicle

1. It is your right to shop around and to obtain repairs at the repair shop of your choice for the amount of our appraisal.
2. It is your right to be given a list of geographically convenient repair shops which will provide quality repairs for the amount of the payment made directly to you plus any applicable deductible plus any increase in value due to the repairs. We guarantee the quality of the materials and workmanship used in making the repairs at any shop on our list.
3. It is your duty to notify us, by phone or in writing, prior to or in the course of repairs, if the cost of repairs is expected to exceed our payment plus any applicable deductible and increase in value and you wish us to pay any part of that excess cost. We have the right to inspect the vehicle within three (3) business days of your notification and we have the duty to authorize or deny any supplemental payments within three (3) business days after inspection.
4. It is your right to pursue resolution of any differences in repair costs through contact with us and the procedure established in General Provision Section 11 of the policy.
5. It is your duty to complete and to return this Repair Certification Form when the vehicle is repaired. If the completed Repair Certification Form is not returned to us, the actual cash value of the insured vehicle will be reduced by the amount of the claim payment plus any applicable deductible.
6. It is your duty to allow us, upon request, to reinspect the repaired vehicle after receipt of the Repair Certification Form. If the repaired vehicle is not made available for reinspection within a reasonable amount of time, the actual cash value of the insured vehicle will be reduced by the amount of the claim payment plus any applicable deductible.

II. Certification of Repair

I certify that my damage vehicle has been repaired by:

Repair Shop Name _____

Address _____

Telephone _____

Policyholder Name: _____

Policyholder Signature: _____

Date: _____

Company Reinspection

(check one) _____ Repair work completed in accordance with appraisal
_____ Other (explain) _____

Licensed Appraiser _____

Date _____

24

General Provisions and Exclusions (continued)

11. If we Disagree on the Amount of Damage to Your Auto Sometimes there may be a disagreement as to the amount of money we owe for losses or damage to an auto under Collision, Limited Collision and Comprehensive (Parts 7, 8 and 9). If so, Massachusetts law provides for a method of settling the disagreement. Either you or we can, within 60 days after you file your proof of loss, demand in writing that appraisers be selected. The appraisers must then follow a procedure set by law to establish the amount of damage. Their decision will be binding on you and us. You and we must share the cost of the appraisal.
-
12. Sales Tax Under Collision, Limited Collision and Comprehensive (Parts, 7 8 and 9) we will pay, subject to your deductible, all sales taxes applicable to the loss of an auto or damage to an auto.
-
13. Secured Lenders When your Coverage Selections Page shows that a lender has a secured interest in your auto, we will make payments under Collision, Limited Collision and Comprehensive (Parts 7, 8 and 9) according to the legal interests of each party.
- The secured lender's right of payment will not be invalidated by your acts or neglect except that we will not pay if the loss of or damage to your auto is the result of conversion, embezzlement, or secretion by your or any household member.
- When we pay any secured lender we shall, to the extent of our payment, have the right to exercise any of the secured lender's legal rights of recovery. If you do not file a proof of loss as provided in this policy, the secured lender must do so within 30 days after the loss or damage becomes known to the secured lender.
- In order for us to cancel the rights of any secured lender shown on the Coverage Selections Page, a notice of cancellation must be sent to the secured lender as provided in this policy.
-
14. No Benefits to Anyone in the Auto Business Coverage under Collision, Limited Collision and Comprehensive (Parts 7, 8 and 9) shall not in any way benefit any person or organization having possession of your auto for the purpose of servicing, repairing, parking, storing, or transporting it or for any similar purpose.
-
15. If Two or More Autos are Insured Under this Policy Two or more autos may be insured under this policy. There may be different limits for each auto. If so, when someone covered under this policy is injured while a pedestrian or is using an auto other than your auto at the time of the accident, the most we will pay under any applicable Part is the highest limit shown for that Part for any one auto on your Coverage Selections Page.

175:191A. Notice and Arbitration Provisions in Policies Insuring Against
Physical Damage to Motor Vehicles of Assured.

Section 191A. No company shall issue a policy or contract which insures against physical damage to a motor vehicle of the insured unless said policy contains in substance the following provisions:

In case of any loss or damage insured against under the policy, the named insured shall give notice thereof as soon as practicable to the company or any of its authorized agents and also, in the event of larceny, robbery or pilferage, to the police, and within sixty days after filing proof of loss the company shall pay the amount of loss as provided in the policy.

If the named insured and the company fail to agree as to the amount of loss, each shall, on the written demand of either, made within sixty days after receipt of proof of loss by the company, select a competent and disinterested appraiser, and the appraisal shall be made at a reasonable time and place. The appraisers shall first select a competent and disinterested umpire, and failing for fifteen days to agree upon such umpire, then, on the request of the named insured or the company, such umpire shall be selected by a judge of a court of record in the county and state in which such appraisal is pending. The appraisers shall then appraise the loss, stating separately the actual cash value at the time of loss and the amount of loss, and failing to agree shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. The named insured and the company shall each pay his or its chosen appraiser and shall bear equally the other expenses of the appraisal and umpire.

The company shall not be held to have waived any of its rights by any act relating to appraisal.

PETITION FOR WAIVER OF MINIMUM
NUMBER OF SHOPS ON REFERRAL SHOP LISTS

The Honorable Nonnie Burnes
Commissioner of Insurance
Massachusetts Division of Insurance
One South Station, 5th Floor
Boston, MA 02110-2208

Dear Commissioner Burnes:

Please be advised that the undersigned auto insurance company(s) petitions for a waiver from the requirements of 211 CMR 123.06 (2), the minimum number of geographically convenient referral repair shops to be provided claimants, under the Industry Direct Payment Plan. For the reasons set forth on the attached page(s), we will be unable to comply with the Regulation minimum of 2 repair shops after January 1, 1988, 3 repair shops after May 1, 1989, 4 repair shops after September 1, 1989 and 5 repair shops after January 1, 1990. Our Massachusetts Auto Market Share for 1987 was _____%.

Company Name(s)

Company Officer

Name

Signature

Title

Telephone Number

Date

PETITION FOR WAIVER OF MINIMUM
NUMBER OF SHOPS ON REFERRAL SHOP LISTS

Company Name _____

1987 Market Share _____

We request a waiver from the minimum number requirement for referral repair shops on our referral shop list under 211 CMR 123.6 (2) for the following reasons: