

**Performance Standards for the Handling and Payment of  
Private Passenger Claims by Assigned Risk Companies**

**Summary of Approved Changes  
May 13, 2011**

**PERFORMANCE STANDARDS**

***Introduction***

Massachusetts G.L.c.175, §113H requires Commonwealth Automobile Reinsurers (CAR) to establish Performance Standards designed to contain costs, ensure prompt customer service, payment of legitimate claims, and to resist inflated, fraudulent, and unwarranted claims. Periodic audits of members of the plan are required in order to determine whether there is a difference in claims handling between policies insured voluntarily and involuntary policies issued through the plan. The Performance Standards were last approved by the Commissioner of Insurance on November 13, 2009.

The introduction of competitive rating in the Massachusetts insurance market in April 2008 and the transition from a ceded pool environment to an assigned risk plan has necessitated modifications to the procedures for conducting the Claims and SIU Performance Standards reviews. These proposed changes are contained in the Measurements and Penalties section and Appendix J and K. The procedures used by CAR to conduct the reviews follow those outlined in the National Association of Insurance Commissioners' Market Conduct Examiners Handbook Chapter VIII G. Claims. Appendix N details the sections in the Performance Standards and Rule 32 that conform to the NAIC Standards.

***I. Auto Physical Damage & Property Damage Liability Claims***

***A. Auto Body Payments***

8. a - f which pertains to the G.L. c. 100 § A8, the Motor Vehicle Repair Shop law, has been deleted in its entirety. Although ARCs should report infractions of the law by repair shops it is not part of the revised audit scope.

***D. Glass***

6. a - f which is the same language as above has been deleted in its entirety.

***IV. Voluntary/ Involuntary Claim Handling Differential***

A. MAIP claims must be processed with the same degree of diligence as are voluntary claims.

B. Voluntary and MAIP claims will be reviewed for compliance with policy provisions and applicable statutes, rules, regulations, and Best Practices. Statistical testing will be conducted on each Best Practice Voluntary and MAIP score to determine if there is any statistical difference in handling.

## ***Measurements***

The key claim requirements of MGL, c. 175, § 113 H that will be measured by the Audit Plan are:

- That claims handling is consistent for voluntary and involuntary claims.
- That each ARC maintains a Special Investigative Unit which provides effective fraud control procedures.

Voluntary and MAIP claims will be reviewed for compliance with policy provisions and applicable statutes, rules, and regulations for the following Best Practices:

- Coverage
- Investigation
- Special Investigation
- Medical Management
- Litigation Management
- Evaluation & Settlement

The benchmark for compliance with these Best Practices is 93% in accordance with the NAIC error tolerance of 7% for standards involving claim resolution. The aggregate score for these best practices will be calculated. If the score is less than 93% the ARC will be required to address the reasons in their response and submit a remedial action plan.

Chi square testing will be conducted on each Best Practice Voluntary and MAIP score to determine if there is any statistical difference in handling. If the difference is statistically significant the ARC will be required to address the reasons in their response and submit a remedial action plan.

## ***Non Compliance Penalties***

In the case of non-compliance the ARC will be required to submit a remedial action plan to CAR. The Governing Committee will determine if further action including penalties is warranted based on the recommendation of the Compliance Audit Committee.

## **APPENDICES**

With the elimination of Appendix E - Regulation 211 CMR 93.00 that was repealed the subsequent appendices have been re-lettered.

### **Appendix A - Special Investigative Unit Standards**

All references to Servicing Carriers have been changed to ARCs.

Appendix B: Direct Payment of Motor Vehicle Collision and Comprehensive Coverage Claims and Referral Repair Shop Programs

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

Appendix D: Decision and Order on the Application for Approval of the Massachusetts Automobile Rating and Accident Prevention Bureau Direct Payment Plan

Appendix E: Regulation 212 CMR 2.00 - The Appraisal and Repair of Damaged Motor Vehicles Revised 2008

Appendix F: Regulation 211 CMR 133 - Standards for the Repair of Damaged Motor Vehicles

Appendix G: Regulation 211 CMR 94.00 - Mandatory Pre-Insurance Inspection of Private Passenger Motor Vehicles

Appendix H: Salvage Title Law, Chapter 90D, Section 20 (a..e)

Appendix I: M.G.L. Chapter 175: Section 24D\_Insurance Claim Payment Intercept Program

## **Appendix J - CAR Compliance Audit Claim Review Process**

### **Section 1. Private Passenger Policies**

Effective April 2010 the Performance Standards Claims and SIU Reviews have been incorporated into the Hybrid Audit Plan approved by the Governing Committee in February 2010 and forwarded to the Division of Insurance. The Hybrid Audit Plan includes the Premium and Claims Statistical audits, Claims Performance Standards reviews, and SIU reviews.

The following procedures will replace the current Claims Review process contained in Appendix J and SIU procedures in Appendix K.

One of the four primary objectives of the audit is to verify adherence to statutory requirements. The review will evaluate the company's compliance with the key statutory requirements of MGL, c. 175, § 113 H:

- That claims handling is consistent for voluntary and involuntary claims and
- That the ARC maintains a Special Investigative Unit which provides effective fraud control procedures.

### **Performance Standards**

The Performance Standards approved by the Commissioner of Insurance on November 13, 2009 will remain in effect. Completion of the Questionnaire by the ARC will certify that its claims handling programs comply at a minimum with the Performance Standards.

### **Cycle and Sample**

For all private passenger business, the current claim audits have transitioned to a three year cycle. In this new cycle, every actively reporting Member and ARC will be audited. The cycle will be continually evaluated as new Members enter the Massachusetts private passenger automobile insurance market. The ARC Questionnaire and internal documentation including, but not limited to, claim manuals, reserving and claim settlement procedures, and internal audits will be reviewed at the onset of the examination.

Under the Hybrid Audit Plan all of an individual Member or ARC compliance audits will be conducted concurrently using a consistent sample selection. The sample size will be 270 policies with at least one claim. Data for the Audit is verified at a 90% confidence level with a standard error rate of + 5% through stratified random sample audits for all functions.

### **Measurements & Penalties**

Rather than measuring the individual Performance Standards on the benchmark of 90% for claim procedures Voluntary and MAIP claims will be reviewed for compliance with policy provisions and applicable statutes, rules, and regulations for the following Best Practices:

- Coverage
- Investigation
- Special Investigation
- Medical Management
- Litigation Management
- Evaluation & Settlement

The benchmark for compliance with these Best Practices is 93% in accordance with the NAIC error tolerance of 7% for standards involving claim resolution.

Compliance will be measured as YES, NO, or NA. If NO, a COMMENT will be entered into the worksheet with an explanation. Chi square testing will be conducted on each Best Practice Voluntary and MAIP score to determine if there is any statistical difference in handling. If the aggregate score is less than 93% or the difference is statistically significant the Member or ARC will be required to address the reasons in their response and submit a remedial action plan. The Governing Committee will determine if a penalty should be assessed based on the recommendation of the Compliance Audit Committee.

### **Appendix K - CAR SIU File Review Process**

ARCs are required by MGL, c. 175, § 113 H and Rule 30 to maintain a Special Investigative Unit to investigate suspicious or questionable motor vehicle insurance claims for the purpose of eliminating fraud. Rule 32 C. requires that special investigative units investigate claims on any policies that are issued through MAIP and on policies issued on a voluntary basis by ARCs. An SIU must have at least one full time employee whose responsibility is principally directed towards the recognition and investigation of fraud.

ARCs will continue to report SIU activity - assignments, denials, compromises, and savings to CAR on a quarterly basis along with their log identifying those cases. During the triennial audit a sample of cases selected from the SIU log will be reviewed to determine the effectiveness of the Carriers' fraud screening and quality of the SIU investigations.

### **Appendix L – Questionnaire**

The Questionnaire will be sent to the Company prior to the commencement of CAR's periodic review in order to provide background information on claims handling programs established by the ARC. Completion of the Questionnaire will certify that the ARC's claims handling practices comply at a minimum with the approved Performance Standards.

**Appendix M - Industry Best Practices - Performance Standards**

**Appendix N - NAIC Standards - CAR Rule 32 & Performance Standards**

All references to Servicing Carriers have been changed to ARCs.

All references to Rule 10 have been changed to Rule 32.

**Appendix O - DOI 2008-12 Clarification of Coordination of Benefits under MGL c 90, §34A and the Interrelationship by and among PIP, Health Insurance and Medical Payments**