



**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

One South Station • Boston, MA 02110-2208  
(617) 521-7794 • FAX (617) 521-7475  
TTY/TDD (617) 521-7490  
<http://www.mass.gov/doi>

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

GREGORY BIALECKI  
SECRETARY OF HOUSING AND  
ECONOMIC DEVELOPMENT

BARBARA ANTHONY  
UNDERSECRETARY

NONNIE S. BURNES  
COMMISSIONER OF INSURANCE

June 19, 2009

Ralph A. Iannaco, President  
Commonwealth Automobile Reinsurers  
225 Franklin Street  
Boston, MA 02110

**Re: Proposed amendments to CAR Rules 21, 26, 29, 30 and 31**

Dear Mr. Iannaco:

On June 5, 2009, Commonwealth Automobile Reinsurers (“CAR”) submitted to me for my approval proposed amendments to MAIP Rules of Operation 21, 26, 29, 30 and 31 that the CAR Governing Committee approved on June 3. The Division of Insurance (“Division”) has carefully reviewed these proposed amendments and I have concluded that they should be approved in part and disapproved in part, as specified below. With respect to the proposed amendment to Rule 21, I am directing CAR to submit to me revised proposals for amendments to the rule by June 26. I am scheduling a hearing on July 20 to address the section of the proposed amendments that I have not specifically approved.

**Rule 21.** CAR proposes to add a new subsection C establishing Transition Procedures that would override other MAIP rules for applications “effective” through March 31, 2010, that meet specified eligibility criteria. I am disapproving the proposed rule as submitted because it exceeds the immediate needs of certain residual market policyholders and has ramifications beyond the residual market. I will reconsider that position, however, if the rule is revised to incorporate the following recommendation.

Amend proposed C.1.a, by adding language that limits eligibility to the following circumstances: the applicant’s producer of record for the prior policy was an Exclusive Representative Producer on the effective date of that policy, or the prior policy was ceded to CAR.

The remaining sections of proposed Rule 21.C are approved as submitted.

**Rules 26 and 29.** The technical corrections to conform the internal citations to the amended Rule 21, as revised, are approved.

**Rule 30.** CAR proposes two amendments to Rule 30. The first amendment would eliminate the phrase “on a prescribed form” from Rule 30.C.1.c, thereby allowing an insurer to develop its own format for notifying a producer when the company decides to write voluntarily a policy that it originally wrote through the MAIP. I am approving this amendment.

CAR’s second proposed amendment, to Rule 30.C.1.d, would eliminate the sunset provisions that limit an insurer’s obligation to pay a commission to the producer of a policy initially written through the MAIP when the insurer writes the policy voluntarily. The insurer’s obligation ceases as of March 31, 2011, unless the insurer has entered into a contract with the producer. The proposed amendment reflects CAR’s position on the issue of commission payments to producers in that circumstance. That position, and CAR’s arguments seeking approval of the amendment, including those relating to the New York State Residual Market Plan, were thoroughly considered and rejected in my January 2, 2008 *Decision on Commonwealth Automobile Reinsurers’ Proposed Amendments to Rules of Operation 23, 26, 28 and 30 of the Massachusetts Automobile Insurance Plan*, Docket No. C2007-03 and my May 6, 2008 *Decision on Amendments to Rules 21 through 24 and 26 through 38 of the Massachusetts Automobile Insurance Plan*, Docket No. C2008-01. These decisions highlight that CAR lacks the authority to make rules for the voluntary market. CAR again has offered no new argument in support of its proposal to amend this provision of Rule 30.

I remind those who support the elimination of this sunset provision that Rule 30.C.1.d , as currently in effect, does not prohibit insurers from continuing to pay a commission to the producer of record for any previously assigned policies they choose to continue to insure in the voluntary market. They are free to continue to pay such commissions if they choose. CAR’s proposed amendment to Rule 30 is, once again, and for all of the reasons previously articulated, disapproved.

**Rule 31.** The proposed revisions to 31.B.1.b. are approved.

Thank you for your responding to my letter of May 5<sup>th</sup>. CAR has made progress to ensure a smoother transition for residual market policyholders and producers during this time. I also appreciate your new approach of explaining the Governing Committee’s rationale underlying each of the proposed rule changes. This approach helps me and my staff to better understand the landscape upon which CAR is seeking to make these changes.

Very truly yours,

Nonnie S. Burnes  
Commissioner of Insurance