THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF CONSUMER AFFAIRS
DIVISION OF INSURANCE
470 Atlantic Avenue, Boston, MA 02210-2223
(617) 521-7794 FAX (617) 521-7770
TTY (617) 521-7490

PRISCILLA H. DOUGLAS
SECRETARY, CONSUMER AFFAIRS

LINDA RUTHARDT
COMMISSIONER, INSURANCE

Bulletin 96-03

To: **Insurers Writing Group Automobile Business in 1996**

From: **Commissioner Linda Ruthardt**

RE: **Changes in 1996 Prior Approved Group Rate Deviations**
Private Passenger Automobile Group Marketing
Rate Deviations Pursuant to M.G.L. c. 175, § 193R

Date: **March 28, 1996**

The Division of Insurance has received applications from a number of insurers with 1996 prior approved group rate deviations to amend the approved deviation amounts for one or more groups. The applications have included a number of different reasons in support of greater deviations for these groups.

It has been the general policy of the Division in past years that a group automobile rate deviation approved for all or part of a policy year was not subject to change within that policy year. Any change in a group automobile deviation rate should be included in the renewal application for that group for the following policy year. The single exception to this policy has been in the case of new group automobile plans where change has been requested prior to the writing of any business in the group plan.

1996 has been a year markedly different from prior years in terms of group automobile renewal and new business applications. The number of approved group automobile deviation plans in 1995 (1,179) prompted the Division to develop an expedited filing procedure for January 1, 1996 group automobile renewal and new business applications in order to ensure prompt review of the large number of anticipated applications. (All group automobile rate deviations approved for 1995 expired on December 31, 1995, the last day of the 1995 rate year.) This expedited filing procedure requested insurers to submit their January 1, 1996 group automobile renewal and new business applications in a certain format no later than December 19, 1995. In return, the Division indicated it would complete its review of all such applications prior to January 1, 1996.

Many insurers complied with the above filing procedure and submitted the bulk of their renewal and new business applications not only prior to December 19, 1995, but prior to the December 14, 1995 release date of the Commissioner's Decision on 1996 Rates. While these insurers should have had an indication of the range of the Decision's rate

level effect, they could not have known the exact rate impact of the Commissioner's Decision.

In addition to the uncertainty of the Commissioner's Decision, these insurers would not have anticipated the number of insurers that would submit applications for deviations off the 1996 rates under M.G.L. c. 175, § 113B. In the December 14, 1996-January 16, 1996 period some twenty-four different insurers submitted such applications for deviations for some or all of their insureds ranging from 5% to 15% off the 1996 Decision Rates. A number of these applications were submitted on January 16, 1996, the last day permitted under this statute.

The approval of these deviation applications was not certain. A public hearing was required for each deviation application. Evidence had to be entered into the records of each of these hearings to demonstrate statutory compliance with M.G.L. c. 175, § 113B. Hearings were held, with the first starting in late December 1995 and the last starting in late February 1996. The records of those hearings in each case indicated that §113B deviations were to be compounded multiplicatively with any applicable group deviations. The Division issued its first decision on one of these proposals on January 5, 1996 (Liberty Mutual) and its most recent on February 29, 1996 (Norfolk & Dedham). One portion of one application was continued and remains to be heard and decided at this time (Peoples Service).

From all of the above, it is clear that those companies that submitted their group filings both before and after December 20, 1995 could not be expected to have had a good sense of the 1996 private passenger automobile market before February 1996. The question arises as to what action the Division should take, if any, in order to establish a level playing field for insurers participating in the 1996 group automobile insurance market. As previously stated a number of insurers have requested to amend the already approved deviation rates for one or more groups.

The Division believes that these requests have merit.

In order to provide all insurers the same opportunity, the Division has decided to offer to all insurers a one time window of opportunity to request changes in already approved deviations. The Division offers this one time opportunity under the following conditions:

1. The insurer must submit a single request listing all proposed changes to be received at the Division not later than April 15, 1996.

2. Each request shall contain the name of each group, the group current deviation amount, and the proposed group amended deviation amount.

3. The proposed group amended deviation rate shall be applicable to all group insureds written in 1996. Those group insureds written at a deviation rate lower

than the proposed amended group deviation rate would be rewritten at the amended group deviation rate back to their policy effective date.

4. Amended deviation rates outside the usual range of approved rates would need to be supported by credible experience for the group.

Please be advised that all requests for changes in already approved 1996 group deviation rates that do not comply with all four criteria above will be denied.

1996 Participation

The group marketing statute, M.G.L. c.175, § 193R, requires that "at least thirty-five per cent are insured within one year of the effective date of the plan." This year many insurers have seen one or more 1996 renewal applications not approved for 1996 renewal due to poor participation in 1995. This policy is consistent with Division enforcement of statutory participation requirements. For a number of years this statutory requirement was not strictly enforced. Several years ago the Division reviewed this issue and decided that the most equitable path to full participation would be a gradual phase-in toward strict 35% participation enforcement. **Please be advised that this phase-in period has expired. Any application for a group automobile rate deviation off the 1997 fixed and established rates will not be approved for any participation rate less than the statutory 35%.**