



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

1000 Washington Street, Suite 810 • Boston, MA 02118-6200
(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

JOSEPH G. MURPHY
COMMISSIONER OF INSURANCE

Commonwealth Automobile Reinsurers’
Proposed Changes to MAIP Rules 28, 30 and 31
Docket No. C2012-01

Order on Proposed Changes

On April 18, 2012, the Commonwealth Automobile Reinsurers (“CAR”) Governing Committee voted to amend four Rules of Operation relating to the Massachusetts Automobile Insurance Plan (“MAIP”), specifically numbers 28, 29, 30 and 31. Subsequently, on April 27, CAR submitted the proposed amendments to the Commissioner of Insurance (“Commissioner”) for his approval. On May 1, 2012, the Massachusetts Association of Insurance Agents (“MAIA”) requested a hearing on the proposed changes to Rules 28, 30 and 31 which address, respectively, the application process for obtaining insurance through the MAIP, the obligations of Assigned Risk Producers (“ARPs”) and the obligations of Assigned Risk Companies (“ARCs”). A hearing notice was issued on May 9, 2012, scheduling a hearing for June 8, 2012.

CAR’s amendments propose substantive changes to its rules that establish procedures for making an ARC’s voluntary rates available to an ARP at the time an applicant for insurance through the MAIP is assigned to a carrier, thereby enabling the ARP to calculate the applicant’s down payment from the appropriate premium base, *i.e.*, the lower of the MAIP premium or the

premium based on the ARC's voluntary rates.¹ The amendments also include a number of non-substantive "clean-up" edits, such as removing now obsolete provisions in Rule 28 that applied only during a limited time period that has expired, and adding provisions that reflect a change in CAR's publications.²

Prior to the implementation of competition in motor vehicle insurance rates in 2008, premiums for risks insured in the residual and voluntary markets were developed from a single set of fixed and established rates with limited options for deviating from them. Under managed competition, each ARC develops and files with the Division of Insurance its own rates and rating plans, creating a concurrent need to develop methods for providing the carrier's rating information to producers. ARPs whose customers are applying to the MAIP may not have a contractual relationship with the assigned ARC that would permit access to its rating information.

The proposed CAR rule amendments therefore establish procedures for providing such access to all ARPs in connection with processing MAIP applications. CAR's proposals permit ARCs to provide such access in three ways: 1) direct access to an ARC's web-based rating site; 2) access to web-based rating through a third-party comparative rating vendor; or 3) a dedicated toll-free telephone service for quoting purposes. With its proposed rule amendments, CAR submitted documents chronicling its internal discussions relating to options it had considered for providing ARPs who are submitting applications to the MAIP with access to the relevant ARC's voluntary rates.

The six individuals who spoke at the hearing included representatives of MAIA, the Massachusetts Insurance Federation ("MIF"), the Massachusetts Urban Agents Association ("MUAA"), and CAR, and the co-owner of a business that provides comparative rating software to insurance companies. At the close of the hearing, the record was left open until June 15, 2012 to receive any additional written commentary. The Massachusetts Insurance Federation supplemented its hearing statement in support of the proposed rule changes with additional written commentary. CAR also supplemented its hearing testimony with a letter, dated June 15, 2012, which contained an attachment.

¹ By statute, the premium for a private passenger motor vehicle policy written through the residual market, i.e., the MAIP, cannot be higher than the premium that the ARC would charge the policyholder if the policy were written on the voluntary market. When there is a difference between the premium calculated from the MAIP rates and the ARC's voluntary rates, the policyholder must receive the lower rate. *See* M.G.L. c. 175, § 113H(D).

² CAR has replaced a single Manual of Administrative Procedures with two separate procedures manuals, one for Assigned Risk Producers and one for Assigned Risk Companies.

The comment offered at the hearing and the written commentary that was received on CAR's proposals principally focused on two issues: 1) whether CAR itself should develop and maintain an information system that would comprehend each member's voluntary rates and rating plans so that an ARP need only contact CAR for rating information; and 2) the particular options that ARCs must provide for ARPs to obtain individual company rating information.

MAIA and the MUAA took the position that it is CAR's responsibility to provide a system that will provide information on voluntary private passenger motor vehicle rates for each ARC that receives MAIP assignments. MAIA believes that a system managed by CAR would be more consistent and efficient than a process that involves individual companies. It contends that the maintenance of a data base of rates and rating plans is comparable to other tasks that CAR undertakes, such as developing performance standards for the industry.

MAIA characterized the telephone option permitted under the proposed amended Rule 30 as a throwback to 19th century technology, but endorsed the use of an outside vendor, commenting that Boston Software now provides private passenger motor vehicle rating information to 1,600 Massachusetts insurance agencies. The co-owner of Boston Software provided additional information on its current programs and identified some modifications that might be necessary were it to be utilized to provide voluntary rate and MAIP rate premium quotes for MAIP applicants.

The MIF urged the Commissioner to approve CAR's proposed rule amendments, noting that the MAIP Steering Committee, the CAR Committee that developed the proposed rules, and whose members include producers with and without voluntary contracts, unanimously approved them on March 28, 2012. Furthermore, all but one member of the CAR Governing Committee thereafter approved the MAIP Steering Committee's recommendation. The MIF endorses a system that allows companies to decide which option for providing voluntary rate information best suits its needs and operations. It observes, as well, that CAR decided against creating its own system based on considerations of the time required to implement it, projected initial costs of at least \$1,800,000, and ongoing annual maintenance costs between \$400,000 and \$500,000.

The MIF suggested that it would be fiscally imprudent for CAR to assume those expenses, particularly because its responsibilities have changed under managed competition. In its supplemental statement, the MIF commented that adoption of MAIA's proposal to utilize an outside vendor could unfairly create a monopoly for Boston Software and that in some

circumstances that Boston Software might create rates that were not consistent with an ARC's rates. It again urged the Commissioner to approve CAR's proposed amendments.

CAR noted that the proposed amendments resulted from consideration, over the course of a year, of various alternatives for providing voluntary rate comparisons to MAIP applicants and represent a compromise that reasonably balances the interests of the various participants in the MAIP and provides flexibility both to ARCs and ARPs. CAR submitted a series of workflow charts documenting the steps involved in each of the three options described in the proposed amendment to Rule 30. It noted that not all ARCs subscribe to comparative rating services and may not have rating software available. For that reason, CAR included the toll-free telephone number among the alternatives available to an ARC.

CAR affirmed that the proposed procedures will be closely monitored to ensure that they are successfully achieving their objective, noting that the Governing Committee vote to approve the amendments included a directive to CAR staff to explore the possibility of web-based rating that would serve as an industry standard. It observed that historically CAR has been responsive to issues that have arisen in connection with MAIP implementation, and that it will continue to be open to new suggestions. The proposed amendments are intended to utilize systems that are already in place that carriers use to write voluntary business. CAR stated that approval of the rule amendments at this time will allow CAR to move forward.

The ultimate effect of the proposed rule amendments is to improve the timeliness of accurate premium quotes to MAIP applicants and renewing policyholders so that the down payment can be correctly calculated. The proposed amendments formalize procedures for ARCs to provide rating information to ARPs on a timely basis, but build on systems that are already in place. ARCs universally need systems that enable them to quote premiums for new and renewal customers, but not all ARCs necessarily use the same system.³

³ During the hearing, the Presiding Officer asked CAR to explain the meaning of the language in the proposed amendment to Rule 30.B.2 which provides in pertinent part that "[i]f an ARC provides access through a third party comparative rating vendor and an ARP wishes to access an ARP's voluntary rates using a third party comparative rater. . . the ARC will not withhold permissions for gaining access to its voluntary rates for any third party vendor it supports for its voluntary agents." In response, CAR explained that its intent was for an ARC to permit an ARP, for the purpose of quoting an assigned MAIP applicant, to have access to its voluntary rates from any third party vendor that the ARC supports for those rates. CAR submitted a letter to supplement its hearing comments, along with an attachment, on June 15, 2012. The attachment was a copy of CAR's proposed amendments to both Rule 28 and Rule 30, with several suggested editorial changes relating to the procedural sequence for obtaining rate quotes and a suggested change to the proposed language of Rule 30.B.2, to further illustrate CAR's explanation of the proposed amendments made at the hearing. These editorial changes were not voted on or specifically approved by the CAR Governing Committee before submission and, thus, are not properly before the Commissioner for approval. The

A central system available through CAR to calculate voluntary rates for the purpose of operating the MAIP would duplicate information that ARCs already have. Development and maintenance costs for such an information system would require significant financial resources, thereby increasing CAR's costs of operation, costs that are borne by the industry and, ultimately, by consumers. It is reasonable to select options that recognize the need to provide access to rating information to all ARPs who submit applications to the MAIP, but avoid duplication and maximize the use of existing methods for providing premium quotes.

For the above reasons, CAR's proposed amendments to Rules 28, Rule 30 and Rule 31 as submitted to the Commissioner on April 27, 2012, are approved.

Dated: July 3, 2012

Jean F. Farrington
Presiding Officer

Affirmed:

Joseph G. Murphy
Commissioner of Insurance

Dated: _____, 2012

Presiding Officer is therefore not acting on CAR's June 15, 2012 submission, other than to note its receipt prior to the close of the record in this proceeding.