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**Proposed Amendments to Performance Standards for the Handling  
and Payment of Private Passenger Motor Vehicle Insurance Claims  
by Assigned Risk Companies and to Performance Standards for the Handling  
and Payment of Commercial Motor Vehicle Insurance Claims by Servicing Carriers**

**Docket No. C2015-01**

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**ORDER**

Commonwealth Automobile Reinsurers (“CAR”), established pursuant to Massachusetts General Laws c. 175, §113H to administer the residual market for motor vehicle insurance, is required by statute to prepare performance standards for the handling and payment of motor vehicle insurance claims. It then submits those standards to the Commissioner of Insurance (“Commissioner”) who, after a public hearing, may approve or modify them. Since 2007, CAR has prepared separate performance standards for commercial and for private passenger motor vehicle claims; since 2013 both have been heard in one proceeding. By letter dated November 20, 2015, CAR requested the Commissioner’s approval of proposed amendments to the performance standards for private passenger motor vehicle insurance claims and for commercial claims that the Governing Committee had approved on November 18, 2015.

On December 21, 2015, the Commissioner issued a notice scheduling a hearing on January 22, 2016 to afford interested persons an opportunity to provide oral and written comments regarding the proposed amendments to the performance standards.

CAR’s 2015 proposed amendments to both sets of performance standards in large measure reflect formatting and editorial changes that are intended to increase clarity and to

improve consistency with the CAR Rules and other CAR manuals. For example, internal references to the Massachusetts statutes, the Appendices to the Performance Standards, and similar recurring references were standardized. Language relating to issues that are no longer relevant, such as the transition to Managed Competition, was deleted; other language was revised to conform the performance standards to current CAR Rules.

In addition to technical and editorial amendments, CAR proposed to amend Performance Standard III, the Handling of No-Fault Personal Injury Protection Benefits (“PIP claims”), by adding to Subsection C, Medical Management, ¶ 2 language incorporating “medical fee databases” in the list of historically utilized techniques to be included in a carrier’s required medical management plan. It made the proposed amendment to the standards applicable to both the handling of private passenger motor vehicle and commercial motor vehicle insurance claims.

At the January 22, 2016 hearing Mark Alves, CAR’s Administrator of Compliance Audit, appeared on its behalf. At the start of the hearing, we reviewed some typographical errors that required correction and addressed modifying editorial choices to improve clarity. Mr. Alves submitted a written statement and responded to questions about, among other things, the process underlying the decision to add the use of medical databases as a required claims handling technique in medical management plans for PIP claims.

No other person submitted written commentary or made a statement at the hearing. At the request of the Massachusetts Insurance Federation (“MIF”), the record was kept open until February 5, 2016. On February 4, CAR filed revised pages incorporating the modifications that were addressed at the January 22, 2016 hearing. It also submitted a statement summarizing CAR’s Compliance Audit Committee discussion of adding the use of medical fee databases to the list of medical management techniques. The MIF and the Mapfre Insurance Company (“Mapfre”) submitted written post-hearing comments; both supported CAR’s proposed inclusion of medical fee databases in the list of required techniques to be included in carriers’ medical management plans for PIP claims.

PIP covers reasonable medical expenses that a claimant incurs as the result of an accident. Claims handling ultimately balances twin goals: cost containment and the obligation to settle policyholder claims fairly and equitably. Mr. Alves stated at the hearing that carriers now refer to databases to obtain information on the cost of medical procedures. He also observed that, although the Compliance Audit Committee ultimately elected to amend Performance

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Standard III, by adding medical fee databases to Subsection C, ¶2, not all members of the committee were convinced that such addition was necessary. We conclude, on this record, that the current Performance Standards provide tools for investigating usual and customary charges that appear adequate for the purpose of negotiating PIP payments. We are therefore further modifying CAR's proposed Performance Standards for the Handling and Payment of Private Passenger Motor Vehicle Insurance Claims and for the Handling and Payment of Commercial Motor Vehicle Insurance Claims by removing from each the phrase "medical fee databases" as it appears in Performance Standard III, Subsection C, ¶2.

Pursuant to his authority under G.L c. 175, §113H, the Commissioner, after hearing, has modified the Performance Standards for the Handling and Payment of Private Passenger Motor Vehicle Insurance Claims by Assigned Risk Companies and for the Handling and Payment of Commercial Claims by Servicing Carriers approved by the CAR Governing Committee on November 18, 2015. As so modified, the Performance Standards are approved.

May 31, 2016

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Jean F. Farrington  
Presiding Officer