
Massachusetts Association of Insurance Agents

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info@massagent.com
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August 10, 2015

Commissioner Daniel R. Judson
Massachusetts Division of Insurance
1000 Washington Street, Suite 810
Boston, MA 02118-6200

Re: 211 CMR 45.00 Establishment of Service Fees to Insurance Producers Assisting Employers in Obtaining Workers' Compensation Insurance

Dear Commissioner Judson:

In response to the request by your Division for comments regarding current regulations, set out below are the Massachusetts Association of Insurance Agents '(MAIA) comments on 211 CMR 45.00.

Initially we will respond to the questions posed in your Division's July 20, 2015 request for comments.

- There are no costs to the Commonwealth associated with the regulation.
- The regulation does not exceed either federal or state requirements.
- No less restrictive alternative regulations exist
- The regulation does not unduly or adversely affect Massachusetts citizens and consumers or the competitive environment in the state.

This regulation has been in effect since November 6, 1974. It was promulgated pursuant to the authority given to the Commissioner of Insurance by Chapter 152, Section 65O, M.G.L. This statute provides that an insurance producer, designated by an employer to place workers' compensation insurance.



91 Cedar Street, Milford, MA 01757
TEL (508) 634-2900 ▪ (800) 972-9312 ▪ FAX (508) 634-2929
Francis A. Mancini, Esq., President & CEO



The average premium today in the workers' compensation assigned risk plan is \$4,759, which provides a commission of \$269 to the producer. While commission levels vary in the voluntary market, an average commission for a risk with a comparable premium in the voluntary market would be approximately 45% higher. This amount certainly represents an incentive to the producer to place the risk in the voluntary market if possible.

Below is set forth the process a producer follows in placing a risk in the assigned risk plan:

- The producer gathers the applicant's information such as name, address, phone number, type of business to determine the class code, and an estimate of payroll for the coming year, broken down by class code. Is it a corporation, sole proprietor, etc., and do the owners wish to opt in or exclude themselves from coverage? Is the business using a social security number on an EIN? Do they need standard limits of insurance for Employers' Liability or will they need higher limits to conform to an Umbrella Policy or satisfy wording in a contract with a client?
- The producer must determine if the applicant has a connection to another entity, through purchasing a business or does the business owner have an ownership interest in another business? These questions must be addressed and the proper forms must be completed and submitted to the workers' compensation bureau.
- The producer must determine if the applicant owes money on a prior workers' compensation policy and/or has an incomplete audit? If so, the producer assists the applicant in completing the audit and/or arranging premium payment.
- The producer enters information into the workers' compensation application in the workers' compensation bureau website. If the bureau rejects the application (questions about prior coverages, possible connections to another entity through common ownerships, questions about mis-classifications, etc.) the producer reviews it with the applicant and formulates a response to the bureau and completes any forms that may be required. The producer then follows up with the bureau to assure the policy is issued.
- If the applicant wishes to finance the premium, an agreement is drafted and submitted to the bureau with the application. If the bureau approves the application the producer processes the payment in full to the bureau. Follow up is then done with the finance company to make sure payment is received. Following up is then done with the applicant to make sure the final application is signed and properly stored in the producer's system for possible audit by the bureau.

Workers' compensation policies written through the assigned risk plan like those written in the voluntary market require ongoing servicing such as monitoring of billing, processing of endorsements, requesting certificates of insurance and assisting with audits.

Based on the above, MAIA would encourage the Division of Insurance to retain 211 CMR 45.00. It has been in effect for over four decades without controversy and provides the only schedule for payment of a service fee to producers who assist employers in placing assigned risk workers' compensation policies.

Should the Division of Insurance have any questions regarding this matter, please contact me.

Sincerely,

Francis A. Mancini, Esq.
President & CEO

cc: Robert A. Whitney, Deputy Commissioner & General Counsel