



**Administrator of the
Massachusetts Workers' Compensation Assigned Risk Pool**

**POOL PROCEDURES
for EXISTING POLICIES**

(Updated December 20, 2017)
The most recent updates are highlighted.

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Introduction

The following Pool Procedures are instructions intended for use by Residual Market carriers, both servicing and Voluntary Direct Assignment Carriers (VDACs), who may be referred to as “carriers”, “pool carriers”, “assigned carriers”, or “designated carriers”, who are providing coverage in the Massachusetts Workers’ Compensation Assigned Risk Pool (“Pool”), and for assigned risk employers who have obtained coverage in the Pool, and their representatives.

These procedures have been prepared by The Workers' Compensation Rating and Inspection Bureau of Massachusetts (“Bureau” or “WCRIBMA”) in its capacity as the Administrator of the Assigned Risk Pool. If additional information is needed, refer to the WCRIBMA’s website, www.wcribma.org, or contact the WCRIBMA’s Customer Service Department at (617) 439-9030.

These Procedures should be used in conjunction with, and not as a substitute for, the manuals approved for use in Massachusetts, such as the *Performance Standards in the Massachusetts Pool Plan of Operation*, the *Massachusetts Workers Compensation and Employers Liability Insurance Manual (“MA Manual”)*, NCCI’s *Forms Manual for Workers Compensation and Employers Liability*, and NCCI’s *Experience Rating Plan Manual*.

Note: ‘Days’ refers to calendar days, unless otherwise specified.

Policy at Issuance

Issuance and Reporting of Policy

According to the Performance Standards, on newly assigned business, the policy will be accurately issued by the carrier within thirty (30) calendar days from the date the required premium and properly completed application are received from the Pool Administrator; and on renewal business, the policy will be issued within thirty (30) calendar days after the receipt of the required deposit premium.

All policies issued through the Pool will be written in accordance with the Residual Market Premium Algorithm, Appendix F of the *MA Manual*, and with the classifications and rates established by the WCRIBMA.

Pool carriers, in the format prescribed in WCIO’s *Policy Reporting Specifications Manual (WCPOLS)*, are required to electronically report policies, endorsements and coverage transactions to the WCRIBMA. Testing requirements for electronic reporting to the WCRIBMA can be found under *Electronic Submission Testing Requirements* in the Data Reporting section of the WCRIBMA’s website, www.wcribma.org. Assigned carriers are also required to electronically submit policy transactions to NCCI. Contact NCCI’s Customer Service at www.ncci.com or 800-NCCI-123 for information on reporting electronic data to NCCI.

Policy Term

The policy is normally issued for a term of one year. A one-year policy may be extended by a maximum of sixteen (16) days to permit a ‘first day of the month’ expiration. A policy may be issued for a shorter term for such reasons as coinciding with the experience rating date and common expiration dates, if requested by the employer in writing.

Mandatory Endorsements

Assigned carriers must attach the following endorsements onto all Massachusetts assigned risk policies. Refer to *Mandatory Endorsements* in the Residual Market / Residual Market Carrier Resources section of the WCRIBMA's website, www.wcribma.org, to view the Massachusetts endorsements.

- WC 00 04 14 Notification of Change in Ownership Endorsement
- WC 00 04 22B Terrorism Risk Insurance Program Reauthorization Act Disclosure End.
- WC 20 03 01 MA Limits of Liability Endorsement
- WC 20 03 02A MA Assessment Charge
- WC 20 03 03D MA Notice to Policyholders Endorsement
- WC 20 03 06B MA Limited Other States Benefit Endorsement
- WC 20 03 07 MA Assigned Risk Pool Eligibility Endorsement
- WC 20 04 05 MA Premium Due Date Endorsement
- WC 20 06 01A MA Cancellation Endorsement
- WC 20 06 04 MA Policy Definition Endorsement

Eligibility Requirements

Every **Pool** policy is required to have the *Massachusetts Assigned Risk Pool Eligibility Endorsement*, WC200307, attached. The Endorsement adds the following to the policy in Part Six – Conditions:

1. You are unable to obtain coverage through the Massachusetts voluntary workers' compensation insurance market;
2. You will not be in default of premium on any Massachusetts workers' compensation insurance policy;
3. You will have complied and will continue to comply with all laws, orders, rules and regulations in force and effect relating to the welfare, health and safety of your employees, including, but not limited to:
 - a. You will allow us to make a careful inspection of your operation for the purpose of measuring the hazards, making recommendations for the health and safety of employees, and determining the rate or rates which will be adequate and reasonable for this insurance;
 - b. You will comply with our reasonable recommendations aimed at controlling or reducing the hazard(s) insured against;
 - c. You will keep records of information needed to compute premium and provide us with copies of those records when we ask for them;
 - d. You will let us examine and audit your records and otherwise fully cooperate with our attempts to conduct premium audits or inspect the premises for loss control purposes.

Your compliance with each eligibility condition is material to the continuation of Assigned Risk Pool coverage. We may, to the extent allowed by Massachusetts law, initiate a mid-term cancellation, if you fail to comply with any of these policy conditions.

For procedures **in** situations when the employer ceases to meet the Pool eligibility requirements contained in the *Massachusetts Assigned Risk Pool Eligibility Endorsement*, see [Loss of Eligibility](#).

Coverages

Endorsements Available Upon Request Under Certain Circumstances

Upon the request of the employer or his representative, an assigned carrier may attach the following endorsements onto a Massachusetts assigned risk policy under certain circumstances. Additional information can be found under *Coverages Available* in the Residual Market / General Residual Market Resources section of the WCRIBMA's website, www.wcribma.org.

WC 00 03 01A	Alternate Employer Endorsement
WC 00 01 01A	Defense Base Act Coverage Endorsement
WC 00 03 02	Designated Workplaces Exclusion Endorsement
WC 00 03 15	Domestic and Agricultural Workers Exclusion Endorsement
WC 00 01 06A	Longshore & Harbor Workers' Compensation Act Coverage Endorsement
WC 00 02 01B	Maritime Coverage Endorsement (Program I and II)
WC 20 06 03A	Massachusetts Benefits Claim and Aggregate Deductible Endorsement
WC 20 06 02	Massachusetts Benefits Deductible Endorsement
WC 00 01 08A	Non-appropriated Fund Instrumentalities Act Coverage Endorsement
WC 00 01 09C	Outer Continental Shelf Lands Act Coverage Endorsement
WC 00 03 08	Partners, Officers and Others Exclusion Endorsement
WC 00 03 10	Sole Proprietors, Partners, Officers and Others Coverage Endorsement
WC 00 02 03	Voluntary Compensation Maritime Coverage Endorsement (Program II)
WC 00 03 13	Waiver of Our Right to Recover from Others Endorsement

Corporate Officer Exemptions

According to M.G.L. c. 152, Section 1(4), workers' compensation coverage is elective for an officer or director of a corporation who owns at least 25% of the issued and outstanding stock of the corporation. *(Note that in this section all references to corporate officers also refer to corporate directors.)* For corporate officers to become exempt from coverage on an existing Pool policy, a Form 153 must be filed with and approved by the Department of Industrial Accidents (DIA) in accordance with **Massachusetts DIA** Regulation 452 CMR 8.06. A copy of the **approved** Form 153 must be submitted by the employer or his/her representative to the assigned carrier. **Along with the approved Form 153, the employer must submit a letter that specifies** the name, duties, and salary of each corporate officer who is electing to be exempt from coverage under this policy.

After receiving the required information, the assigned carrier will issue the Partners, Officers and Others Exclusion Endorsement, WC000308, and adjust payroll estimates to exclude the exempt officer(s) from the premium calculation. The effective date of the requisite changes to any existing workers' compensation policy shall be either (i) the next policy effective date following the carrier's receipt of the **approved** Form 153, or (ii) the day following the carrier's receipt of the **approved** Form 153 **along with a written request that the election be made mid-term**. All such written requests must be on the employer's corporate letterhead and signed by a corporate officer.

In accordance with 452 CMR 8.06 (5) if, after an approved Form 153 has been submitted to a carrier, one or more exempted officer(s) choose to be covered under the current worker's compensation policy, he or she must submit a written, signed request on corporate letterhead to the carrier. Coverage will be made effective for the officer(s) as of the day after receipt of the written request.

Such coverage shall remain in effect until completion of the current policy term. A new Form 153 must be submitted to the DIA and **after approved** sent to the carrier.

After a corporate officer exempts him/herself from coverage (either at inception or midterm), **he/she** can elect coverage at any time during the policy term; but once the corporate officer has elected coverage, the corporate officer cannot change his election status again until the completion of the current policy term.

A copy of the **approved** Form 153 must be submitted to the insurance carrier on an **annual** basis, prior to the renewal of any existing policy, as affirmation that the statements contained therein remain in effect. If the **approved** Form 153 is not submitted to the carrier, the corporate officers shall be covered under the renewal policy, and the salary or compensation of those officers shall be included in the premium calculation. **Pool carriers should refer to the [Renewal](#) section for specific instructions and to the [Sample Renewal Quotation Insert](#) at the end of this document.**

Additional References:

Circular Letter # 1906 dated January 7, 2003 - Coverage for Sole Proprietors and Partners of Legal Partnerships and Exemption from Coverage of Corporate Officers or Directors - Revisions to the MA Manual & Addition of Massachusetts Explanatory Notes to National Endorsements WC000308 and WC000310

Circular Letter #1902 dated October 30, 2002 - Coverage for Sole Proprietors and Partners of Legal Partnerships and Exemption from Coverage of Corporate Officers or Directors

Obtaining Coverage for Sole Proprietors, Partners and Members of an LLC

According to M.G.L. c. 152, Section 1(4), sole proprietors and partners of a legal partnership may elect to be treated as employees and obtain coverage for themselves under a workers' compensation insurance policy. For a sole proprietor or partner to elect coverage on an existing Pool policy, a written request on the employer's company letterhead signed by the sole proprietor or partner must be submitted to the assigned carrier. The letter must specify the name and duties of each sole proprietor or partner who is electing to be covered under this policy. Refer to **DIA Regulation** 452 CMR 8.07.

After receiving the appropriate written request for coverage, the assigned carrier will issue the Sole Proprietors, Partners, Officers and Others Coverage Endorsement, WC000310, and adjust payroll estimates to include in the premium calculation the Basis of Premium for the sole proprietor or each partner who has elected to be covered by the policy. Refer to Rule IX in the *MA Manual* for payroll determination information and to the Miscellaneous Values page in the *MA Manual* for the Basis of Premium. The effective date of coverage for the sole proprietor or partner(s) shall be either (i) the next policy effective date following the carrier's receipt of a written request from the sole proprietor or partner, or (ii) the day following the carrier's receipt of a written request **that the election for coverage be made effective mid-term**. All such written requests must be on the employer's company letterhead and signed by the sole proprietor or partner. Once electing to be covered under a workers' compensation insurance policy, no sole proprietor or partner may opt out of said coverage until the completion of the current policy term.

The sole proprietor or partner(s) must reaffirm in writing their right of inclusion as an employee on their workers' compensation policy to the assigned carrier **annually** and prior to the renewal date of the policy. **Pool carriers should refer to the [Renewal](#) section for specific instructions and to the [Sample Renewal Quotation Insert](#) at the end of this document.**

Members of a limited liability company (LLC) and partners of a limited liability partnership (LLP) may also elect to be treated as employees and obtain coverage for themselves, but will not be covered unless they elect coverage in accordance with 452 CMR 8.07. All regulations, rules and procedures applicable to sole proprietors and partners with regards to the election of workers' compensation insurance coverage are also applicable to members of LLCs and partners of LLPs.

Additional References:

Circular Letter #2062 dated July 13, 2007 – Revised Methodology for Determining Payroll for Sole Proprietors, Partners of Legal Partnerships & Members of an LLC

Circular Letter #2028 dated July 18, 2006 - LLC Members and LLP Partners Elections for Coverage - Revisions to the Massachusetts Workers Compensation and Employers Liability Insurance Manual and Massachusetts Explanatory Notes to National Endorsement WC000310

Circular Letter #1942 dated February 2, 2004 - Circular Letters from the Department of Industrial Accidents on Optional Coverage for Members of an LLC and Partners of an LLP

Circular Letter #1906 dated January 7, 2003 – Coverage for Sole Proprietors and Partners of Legal Partnerships and Exemption from Coverage of Corporate Officers or Directors – Revisions to the MA Manual & Addition of Massachusetts Explanatory Notes to National Endorsements WC000308 and WC000310

Circular Letter #1902 dated October 30, 2002 - Coverage for Sole Proprietors and Partners of Legal Partnerships and Exemption from Coverage of Corporate Officers or Directors

Employee Leasing Arrangements

In Massachusetts, the manner in which an employee leasing company obtains and maintains its workers' compensation insurance is contemplated by Massachusetts **Division of Insurance** Regulation 211 CMR 111.00.

An "Employee Leasing Arrangement" is defined as "an arrangement whereby one business entity provides workers to another business entity under a contract that retains for the lessor a substantial portion of personnel management functions, such as payroll, direction and control of workers, and the right to hire and fire these workers provided by such lessor; provided, however, that the leasing arrangement is long term and not an arrangement to provide the lessee temporary help services during seasonal or unusual conditions, such as temporary skill shortages or temporary special assignments and projects."

The Regulations provide as follows, where the entity providing employee leasing services (who may be known as a Professional Employment Organization or PEO) is referred to as an "employee leasing company". The entity receiving the services is referred to as a "client company".

- The employee leasing company shall purchase and maintain a separate policy providing standard workers' compensation and employers' liability insurance for each client company.
- Each policy written to cover leased employees shall be issued with the employee leasing company as the named insured. Coverage under the policy shall be limited to the named insured's employees leased to the client company. The client company shall be identified on the policy by attaching the *Massachusetts Employee Leasing Endorsement, WC200304B*, which names the client.
- The experience of all of the employees leased to a client company shall be combined with the experience of the employees of the client company for purposes of calculating an experience

modification. The experience modification, so calculated, shall be applied to the client company's policy and all policies maintained for it by a leasing company or leasing companies.

- The employee leasing company shall purchase and maintain a separate policy providing standard workers' compensation and employers' liability insurance for its own non-leased employees. This policy, restricting coverage to the employee leasing company's own non-leased employees, shall have attached the *Massachusetts Exclusion of Coverage for Leased Employees Endorsement*, WC200305.
- If the client company has its own **directly paid** employees **that are not leased from the leasing company**, the client company must have a separate policy providing workers' compensation and employers' liability for these employees, with the name of the client company as the named insured.

Situations that may affect an existing assigned risk policy:

- If an employee leasing company begins leasing employees to a new Massachusetts client, the employee leasing company must submit a new assigned risk application to **the** WCRIBMA. Refer to the *Pool Procedures for New Applications* for instructions. The assigned carrier cannot amend coverage on an existing policy to include employees of a new client;
- If an employee leasing company provides employees to one or more of its clients only 'during seasonal or unusual conditions, such as temporary skill shortages or temporary special assignments and projects', then those specific arrangements would not be considered 'employee leasing arrangements' and would be covered on the employee leasing company's policy that contains the *Massachusetts Exclusion of Coverage for Leased Employees Endorsement*, WC200305.
- The leased corporate officers of a corporate client named on the *Massachusetts Employee Leasing Endorsement* are not able to exempt themselves from coverage on the employee leasing company's policy because the corporate client is not the named insured on the policy.
- The leased corporate officers of a corporate client named on the *Massachusetts Employee Leasing Endorsement* are not subject to corporate officer minimum and maximum payroll restrictions because they are not corporate officers of the named insured on the policy.

Additional References:

Circular Letter #1787 dated November 13, 1997 - Revised Massachusetts Employee Leasing Endorsement WC200304B

Circular Letter #1728 dated October 3, 1995 - Premium for Leased Employees, Change in Manual Rule

Circular Letter #1612 dated October 28, 1992 – Revised Basic WC and EL Manual (MA) Rules; Revised Rating Plan Manual (MA) Rules; Revised Massachusetts Employee Leasing Endorsement WC200304A

Circular Letter #1610 dated July 7, 1992 - Employee Leasing Companies, Regulation 211 CMR 111.00

Circular Letter #1602 dated April 23, 1992 – Employee Leasing Companies, Regulation 211 CMR 111.00

Deductibles

The Division of Insurance has approved two separate and distinct deductible programs **that are available in the Pool**: one without an aggregate limit: the *Massachusetts Benefits Deductible Program*, and one with an aggregate limit: the *Massachusetts Benefits Claim and Aggregate Deductible*

Program. An insured may elect either program or neither of them. If the insured wishes to elect either deductible program, the insured must make the election before the effective date of the policy, otherwise before the next renewal of the policy. Refer to *Deductible Programs* under Program Overviews on the home page of the WCRIBMA's website, www.wcribma.org, for details of the programs.

Waiver of Our Right to Recover From Others

The *Waiver of our Right to Recover From Others Endorsement* (WC000313) is available in the **Pool** only when required by contract. An insured who needs to have this endorsement added to **its** policy midterm or at renewal, should submit a request letter on **its** company letterhead to **its** assigned carrier along with a copy of the contract in which the *Waiver of Our Right to Recover From Others Endorsement* is required. The insured must also provide the assigned carrier with a detailed breakdown of the payroll for the specific job for which the endorsement is required. The carrier will endorse the policy accordingly and charge 2% of the Manual Premium Subject to Waiver of Subrogation. Refer to the Residual Market Premium Algorithm, Appendix F, in the *MA Manual*.

Revisions to the Policy

Adding Named Insureds

The eligibility requirements and designation of a carrier are required by statute for each (any) employer. Accordingly, requests to add additional named insureds to an existing assigned risk policy must be denied by assigned carriers until otherwise instructed by the WCRIBMA. For example: Corp A has an assigned risk policy. The owner of Corp A has created a second entity, Corp B. If the owner of Corp A asks its assigned carrier to endorse Corp B onto its existing policy, the request will be denied.

An insured wishing to endorse an additional entity(s) onto an existing assigned risk policy must submit a separate **hard copy** application for each such additional entity to the WCRIBMA for assignment. An online (OAR) application cannot be submitted in this situation. A completed ERM Form (Confidential Request for Information) showing combinability and a letter specifically requesting that the additional entity(s) be endorsed onto the existing policy must be attached to the submission. In lieu of completing an ERM Form, detailed ownership information may be submitted on the letterhead of the insured signed by the owner, partner, corporate officer, or LLC member. The declination requirements must be met for each additional entity, and a sufficient deposit premium check must be submitted. The WCRIBMA will issue an Endorsement Letter instructing the carrier to add the entity(s), subject to the *Eligibility Requirements* and *Binding of Coverage* sections in the *Pool Procedures for New Applications*.

Changing the Legal Status or the Named Insured

All changes in name, ownership or legal status must be immediately reported by the insured or **its** representative to the assigned carrier to ensure that appropriate coverage remains in effect. All such policy change requests should be made by filing a completed ERM Form (Confidential Request for Information) with the carrier and attaching a letter from the insured specifying the requested change. In lieu of completing an ERM Form, detailed ownership information may be submitted on the letterhead of the insured signed by **an** owner, partner, corporate officer, or LLC member. Not all

requested changes will be allowed; oftentimes, the employer will be required to submit a new application to the WCRIBMA to obtain coverage.

For additional information, refer to the Helpful Info / FAQs / Assigned Risk Pool FAQs section on www.wcribma.org: “What changes to a legal entity necessitate the submission of a new application to the Pool (MWCARP)?”

The eligibility requirements and designation of a carrier are required by statute for each (any) employer. Therefore, while requests to merely change the corporate name or the trade name will be allowed, requests to replace the insured entity with another entity will be denied.

Examples of 'replacement entities' include, but are not limited to: a sole proprietorship which reorganizes as a partnership, a partnership which reorganizes as a corporation, a corporation that converts to an LLC or vice versa, or a corporation which is replaced by a new corporation. These processes involve the creation of a new entity, and as such, the new employer must submit its own application to the Pool. The application must be submitted to the WCRIBMA; it must be accompanied by a sufficient deposit premium check and a completed ERM Form (Confidential Request for Information) showing the change. The submission is subject to the approved *Eligibility Requirements* and *Binding of Coverage* sections in the *Pool Procedures for New Applications*.

Examples of allowed 'name changes' include, but are not limited to: a business which changes its trade (DBA) name, a sole proprietor or partner who changes his/her name after being married, or a corporation that changes its corporate name by filing an Amendment to its Articles of Organization with the Secretary of the Commonwealth. In these cases, the employer should send its name change request to the assigned carrier along with supporting documentation. As long as the carrier is satisfied with the documentation received, the name on the policy will be endorsed accordingly.

Changes in Address and/or Location

All changes in address or location must be immediately reported by the insured or its representative to the assigned carrier. All such policy change requests must be made in writing. The carrier must also be notified of any accompanying changes in payroll estimates or the location of records.

Changes in Operation and/or Classification

All changes in operation must be immediately reported by the insured or its representative to the assigned carrier. No carrier is permitted to change classifications without the written consent of the WCRIBMA, except under certain circumstances. Refer to the Bureau Rules and Procedures, Appendix A, in the *MA Manual* or contact the WCRIBMA's Customer Service Department for details.

Changes in Payroll

Requests for payroll reductions from the insured or its representative must be substantiated to the carrier's satisfaction.

Changes in Producer of Record

The WCRIBMA recognizes the licensed producer of record as the direct representative of the employer and recognizes the employer's right to change representatives.

If an insured wishes to change the producer of record upon renewal of a policy when the carrier has issued a renewal quote, the insured should inform the assigned carrier of the change of broker by means of a letter written on the letterhead of the insured and signed by a sole proprietor, general partner, corporate officer, trustee or member over his/her title. This “Broker of Record Letter” should be submitted to the carrier along with the deposit premium check.

Note: The new producer should not submit a new application to the Pool for the purpose of changing the producer of record.

If an insured wishes to change the producer of record midterm, the insured may submit a Broker of Record Letter to the assigned carrier; however, carriers are not obligated to change the producer of record at any time other than at renewal.

Certificates of Insurance

Requests for Certificates of Insurance

Producers may either request certificates of insurance from the WCRIBMA using the Certificate of Insurance tool on our website or may continue to submit requests to the assigned carrier. Since the producer is not a contract agent or agency of the Pool, the producer has no authority to issue certificates of insurance on assigned risk business. For policies with no producer listed, employers must request certificates of insurance from the assigned carrier.

WCRIBMA Certificate of Insurance Web Tool

The WCRIBMA provides to producers who have OAR (Online Assigned Risk) accounts a tool on our website through which the producer can request certificates of insurance from the WCRIBMA that provide evidence of Massachusetts workers’ compensation and employers’ liability insurance coverage. To request a certificate through this tool, all of the following conditions must be met; otherwise the producer must request the certificate from the assigned carrier.

- The policy is a Massachusetts Assigned Risk Pool policy.
- The policy has been issued by the assigned carrier, reported to the WCRIBMA, and successfully loaded into the WCRIBMA’s coverage database. The status of the policy can be verified by accessing the Proof of Coverage - Coverage Verification Search tool at www.mass.gov/lwd/workers-compensation/investigations/.
- The producer reported on the policy as the broker of record is the same as the producer logged into OAR and requesting the certificate of insurance.
- The policy is *not* more than three (3) years old.
- The policy was *not* reported to the WCRIBMA as an employee leasing policy.
- The certificate does *not* require multiple employers, multiple addresses, or special coverage wording to be shown on the certificate as no wording can be added to or removed from our certificate of insurance form.

Copies of all certificates of insurance issued through the WCRIBMA’s Certificate of Insurance tool are provided to the assigned carriers through our web product, Manage Policy.

Certificate of Insurance Requests to the Assigned Carrier

Requests for certificates of insurance submitted to assigned carriers must be on the *Massachusetts Assigned Risk Pool Request for Certificate of Insurance Form*, which can be found on our website under **Tools and Services / Underwriting Tools and Forms / Applications and Forms**, or on a document containing identical information to that on the form and formatted for the carrier to quickly determine if all of the required information is provided.

For policies that have been issued, the assigned carrier will issue and distribute certificates of insurance within two (2) business days of its receipt of a fully and accurately completed form, where the first day is the day after the carrier's receipt.

For new business where the policy has not yet been issued, the assigned carrier will issue and distribute the certificates of insurance within ten (10) business days from the date the carrier is in receipt of both 1) the assignment package from the WCRIBMA and 2) a fully and accurately completed *Massachusetts Assigned Risk Pool Request for Certificate of Insurance Form*.

For additional information, the *Massachusetts Assigned Risk Pool Request for Certificate of Insurance Form*, and carrier contacts, refer to the *Certificates of Insurance* page in the Residual Market / Producer and Employer Resources section of the WCRIBMA's website, www.wcribma.org.

Additional References:

Circular Letter #2263 dated September 11, 2015 - *Online Certificate of Insurance Tool - Assigned Risk Pool Policies*.

Circular Letter #2199 dated July 3, 2012 – *Updated Audit Guidelines for Sole Proprietor and Partnership Certificates of Insurance*

Circular Letter #2176 dated April 8, 2011 – *Division of Insurance Bulletin Regarding Certificates of Insurance, Evidence of Coverage Forms and Binders*

Special Bulletin #09-03 dated September 8, 2003 – *New Procedures for Obtaining Certificates of Insurance*

Notice to Pool Carriers #02-1 dated December 16, 2002 – *Certificates of Insurance*

Issuing Certificates of Insurance

The following audit guidelines shall be followed by **assigned** carriers **when a policyholder provides a Certificate of Insurance for a sole proprietor or partnership** to determine whether payments by the policyholder to the sole proprietor or partnership should be included in the policyholder's workers' compensation insurance premium basis in accordance with Parts One and Five of the standard Workers' Compensation and Employers Liability Insurance Policy ('Policy') and Rule V-A or Rule IX of the *MA Manual*.

In Massachusetts, the workers' compensation insurance policy does not provide coverage for a sole proprietor or partner(s) unless those individuals elect coverage for themselves in accordance with M.G.L. Chapter 152, section 1(4) and 482 CMR 8.07. As announced in Circular Letter No. 2045, before issuing a Certificate of Insurance, carriers must determine whether any coverage elections are reflected on a policy issued to a sole proprietor or partnership. Based on the carrier's findings, one of the following comments must be shown in the Description of Operations section of the Certificate of Insurance:

Legal Status	Elections Reflected on Policy	Comment for Certificate of Insurance
Sole Proprietor ...	<p>Sole proprietor ("SP") has elected coverage</p> <p>Sole proprietor ("SP") has not elected coverage</p>	<p>"<SP NAME> is covered by the workers' compensation policy."</p> <p>"The workers' compensation policy does not provide coverage for <SP NAME>."</p>
Partnership ...	<p>All partners have elected coverage</p> <p>Some but not all partners have elected coverage</p> <p>No partners ("P") have elected coverage</p>	<p>"All partners are covered by the workers' compensation policy."</p> <p>"<P NAMES> are covered by the workers' compensation policy." AND "<P NAMES> are not covered by the workers' compensation policy."</p> <p>"No partners are covered by the workers' compensation policy."</p>

Additional References:

Circular Letter #2258 dated May 21, 2015 - the Division of Insurance Bulletin M.G.L. c.175L Certificate of Insurance

Circular Letter #2254 dated February 19, 2015 - M.G.L. c.175L Certificate of Insurance

Circular Letter #2199 dated July 3, 2012 – Updated Audit Guidelines for Sole Proprietor and Partnership Certificates of Insurance

Circular Letter #2045 dated February 14, 2007 – Procedures for Issuing Certificates of Insurance for Sole Proprietors and Partnerships

Audit Guidelines for Sole Proprietors and Partnership Certificates of Insurance

These Guidelines are mandatory for all policies issued through the Residual Market.

If during an audit, the carrier determines from review of the Certificate of Insurance, that their policyholder has hired a **sole proprietor that has selected coverage** for himself or a partnership of which **one or more of the partners have elected coverage** for themselves, (<NAME(s)> is covered by the workers' compensation policy is shown on the Certificate of Insurance), then no additional payroll should be picked up on the policyholder's policy.

If during an audit, the carrier determines from review of the Certificate of Insurance, that their policyholder has hired a **sole proprietor who has not elected coverage** for himself or a partnership of which **none of the partners have elected coverage** for themselves, then all payments made to the sole proprietor or partnership shall be picked up on the policyholder's policy in accordance with the Policy and *MA Manual*, Rule IX. **The only possible exceptions are:**

A. The policyholder can present satisfactory evidence to the auditor that the sole proprietor or partnership is a bona fide employer whose employees are covered by the policy identified on the Certificate of Insurance.*

B. The sole proprietor or partnership cannot prove they have employees, but the policyholder can prove that the sole proprietor or partnership meets the following three-part test set forth in G.L. c. 149, section 148B that distinguishes independent contractors from employees:

1. The individual is free from control and direction in connection with the performance of the service, both under his contract for the performance of service and in fact; and
2. The service is performed outside the usual course of the business of the employer; and
3. The individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

NOTE: In those situations where the Certificate of Insurance is silent on coverage elections for the sole proprietor or partnership (or when no Certificate of Insurance has been presented), the auditor shall ask additional questions and obtain additional documentation from the policyholder to determine:

- Whether the sole proprietor or partnership is a bona fide employer, or
- Whether the sole proprietor or partnership is an independent contractor or an employee of the policyholder in accordance with the three-part test referenced above.

* Evidence to establish whether a sole proprietor or partnership is a bona fide employer could include, but is not limited to, the following types of documents that show the existence of employees: contracts providing size and scope of work between the policyholder and the sole proprietor or partnership; invoices itemizing work and materials from a sub-contractor to the general contractor; Employer Identification Numbers (EINs); W2 Forms: Wage and Tax Statements; 940 Forms: Employer's Annual Federal Unemployment (FUTA) Tax Returns; and/or 941 Forms: Employer's Quarterly Federal Tax Returns.

Additional References:

Circular Letter #2199 dated July 3, 2012 – Updated Audit Guidelines for Sole Proprietor and Partnership Certificates of Insurance

Notice to Pool Carriers #07-2 dated December 18, 2007 – Attachment of Bureau Circular Letter #2071 – Audit Guidelines for Sole Proprietor and Partnership Certificates of Insurance for Renewal Quotes

Circular Letter #2071 dated October 24, 2007 – Audit Guidelines for Sole Proprietor and Partnership Certificates of Insurance

Circular Letter #2057 dated June 22, 2007 – Follow-Up to Circular Letter 2045: Procedures for Issuing Certificates of Insurance for Sole Proprietors and Partnerships

Circular Letter #2045 dated February 14, 2007 – Procedures for Issuing Certificates of Insurance for Sole Proprietors and Partnerships

Termination of Policy

Loss of Eligibility

In accordance with the Massachusetts Assigned Risk Pool Eligibility Endorsement, WC200307, the employer's compliance with the Assigned Risk Eligibility Requirements is material to the continuation

of assigned risk pool coverage. When the employer ceases to meet the Pool eligibility requirements contained in the Massachusetts Assigned Risk Pool Eligibility Endorsement, the assigned carrier:

- 1) Must report noncompliance to the WCRIBMA. These transactions must either be reported electronically as a WCPOLS Record Type Z1 - Transaction Code 17 or through the *Enter Noncompliance / Compliance* section **or through Manage Policy** in the Secure Online Services Area ("**SOSA**") of the WCRIBMA's website, www.wcribma.org. Note that if the employer subsequently corrects the noncompliance issue, the assigned carrier must report compliance to the WCRIBMA to reestablish the employer's eligibility, and
- 2) May choose to initiate a mid-term cancellation or nonrenewal if, after two good faith attempts made by the assigned carrier, one by certified mail, the employer fails to comply with any of these policy conditions.

If the employer fails to...	then the assigned carrier may ...
allow the assigned carrier to make a careful inspection of their operation for the purpose of measuring the hazards, making recommendations for the health or safety of employees, or determining the rate or rates which will be adequate and reasonable for this insurance, ...	cancel or nonrenew the assigned policy for the reason of 'material misrepresentation/fraud' (WCPOLS reason code #21).
comply with the assigned carrier's reasonable, critical loss control recommendations aimed at controlling or reducing the hazard(s) insured against, ...	cancel or nonrenew the assigned policy for the reason of 'material misrepresentation/fraud' (WCPOLS reason code #21).
keep records of information needed to compute premium and provide the assigned carrier with copies of those records when asked for them, ...	cancel or nonrenew the assigned policy for the reason of 'material misrepresentation/fraud', (WCPOLS reason code #21).
let the assigned carrier examine and audit their records and otherwise fully cooperate with the assigned carrier's attempts to conduct premium audits or inspect their premises for loss control purposes, ...	cancel or nonrenew the assigned policy for the reason of 'material misrepresentation/fraud' (WCPOLS reason code #21).
** pay their premium on a current or prior workers' compensation insurance policy, ...	** cancel the assigned policy for the reason of 'nonpayment of premium' (WCPOLS reason code # 05).

**** Note that when a policy is cancelled for nonpayment of premium then, according to the Performance Standards, the carrier must make two documented attempts to collect the premium and neither attempt is required to be mailed certified mail. See [Cancellation by Assigned Carrier](#).**

Cancellation by Assigned Carrier

Pursuant to M.G.L. Chapter 152, Section 55A, a mid-term notice of cancellation shall be effective only if based on one or more of the following reasons:

- Non-payment of premium (WCPOLS reason code #05);
- Fraud or material misrepresentation affecting the policy or insured (WCPOLS reason code #21);
- A substantial increase in the hazard insured against (WCPOLS reason code #15).

The Notice of Cancellation to the insured must include the effective date of cancellation, the reason for cancellation, and notice of the insured's right to file an objection with the DIA within ten (10) days of receipt of the cancellation notice. If the reason for the cancellation notice is nonpayment of premium, the Notice of Cancellation should include the amount of premium owed and indicate that the cancellation will not take effect if the premium is received by the insurance company prior to the cancellation effective date. Assigned carriers should refer to the [Sample Notice of Cancellation](#) at the end of this document.

Note that the carrier **must** always provide the reason for cancellation on any notice sent to the WCRIBMA or to the insured employer. When a cancellation is initiated by the **insurer**, premium for the cancelled policy shall be calculated on a **pro rata** basis, as described in Rule X. B. in the *MA Manual*.

Pursuant to M.G.L. Chapter 152, Section 63, the insurance shall not be cancelled or shall not be otherwise terminated until ten (10) days after written notice of such cancellation or termination is given to the WCRIBMA, or until a notice has been received by the WCRIBMA that the employer has secured insurance from another insurance company or has otherwise insured the payment of compensation provided for by this chapter.

Pursuant to M.G.L. Chapter 152, Section 65B, any insurer desiring to cancel or otherwise terminate a Pool policy shall give notice in writing to the WCRIBMA and the insured of its desire to cancel or terminate the same. Such cancellation or termination shall be effective unless the insured, within ten (10) days after the receipt of such notice, files an objection with the DIA. Accordingly, the Notice of Cancellation must be mailed by the carrier in enough time to ensure that the insured and the WCRIBMA receive the Notice of Cancellation at least ten (10) days prior to the cancellation effective date.

Pursuant to M.G.L. Chapter 175, Section 187C, no written notice of cancellation shall be deemed effective when mailed by the company unless the company obtains a certificate of mailing receipt from the United States Postal Service showing the name and address of the insured stated in the policy. **Therefore, assigned** carriers' records must contain, at a minimum, a certificate of mailing receipt from the United States Postal Service that shows the name and address of the insured employer to whom the Notice of Cancellation was mailed.

See [Non-Negotiable Checks](#) for procedures for situations when the deposit premium or other premium checks are returned as non-negotiable. See [Reinstatement of Policy](#) for procedures for situations when a policy has been cancelled more than once.

A copy of any notice sent by the carrier to the insured employer **must** also be sent to the producer of record.

The carrier **must** be able to produce a photocopy or electronic reproduction of the document(s) sent to the insured employer.

Additional References:

Circular Letter #2093 dated May 29, 2008 – Revisions to the Massachusetts Notice to Policyholder Endorsement and the Massachusetts Cancellation Endorsement and the Pool Procedures - Existing Policies
Special Bulletin #14-02 dated October 15, 2002 – Non-compliance with Eligibility Requirements

Cancellation by Insured

The insured employer may request cancellation at any time by submitting a written request to the assigned carrier. However, pursuant to M.G.L. Chapter 152, Section 63, such insurance shall not be cancelled or shall not be otherwise terminated until ten (10) days after written notice of such cancellation or termination is given to the WCRIBMA, or until a notice has been received by the WCRIBMA that the employer has secured insurance from another insurance company or has otherwise insured the payment of compensation provided for by this chapter. See [Voluntary Assumption of Coverage](#) when coverage has been placed in the voluntary market. Otherwise, a Notice of Cancellation must be sent to the WCRIBMA (WCPOLS reason code #01, 02, 03, 08, or 09), and the notice must be mailed in enough time to ensure that the WCRIBMA receives it at least ten (10) days prior to the effective date of cancellation.

Even though the insured has requested cancellation, a copy of the cancellation will be sent to the insured employer. The carrier **must** always provide the reason for cancellation on any notice sent to the WCRIBMA or to the insured employer. A copy of any notice sent by the carrier to the insured employer **must** also be sent to the producer of record.

When a cancellation is initiated by the insured when retiring from business, premium for the cancelled policy shall be calculated on a **pro rata** basis, as described in Rule X. B. in the *MA Manual*. When a cancellation is initiated by the insured when **not** retiring from business, premium for the cancelled policy shall be calculated on a **short rate** basis, as described in Rule X. C. in the *MA Manual*. When a Pool policy is cancelled by the insured because coverage was voluntarily assumed, premium shall be calculated on a **pro rata** basis, as described in Rule X. B. in the *MA Manual*.

For cancellations initiated by the **insured**, only one reinstatement will be allowed. See [Reinstatement of Policy](#) for details.

The carrier **must** be able to produce a photocopy or electronic reproduction of the document(s) sent to the insured employer.

Voluntary Assumption of Coverage

If an employer requests cancellation of their assigned risk policy because **it has** obtained replacement coverage in the voluntary market, the assigned risk carrier shall not cancel the policy until the following details are verified:

- To verify the existence of the coverage, the carrier can either:
 - Request from the employer a copy of the Information Page from their voluntary policy, or
 - Utilize the **DIA's** Workers Compensation Proof of Coverage and Verification Search **tool**. This coverage search application accesses the WCRIBMA's database. If the WCRIBMA has received notice of the voluntary market coverage, the carrier name, policy name and policy term will be displayed.
- Verify that the name and (if possible) the FEIN on the voluntary policy exactly match the information on the assigned risk policy.
- Verify that the policy provides Massachusetts coverage.
- Verify that there have been no claims filed against the assigned risk policy with dates of loss subsequent to the effective date of the voluntary replacement coverage.

If the assigned carrier can verify that **its** insured has obtained voluntary replacement coverage, that the WCRIBMA has received notice of such coverage by utilizing the DIA's Proof of Coverage and Verification Search, and if no claims have been filed on the assigned risk policy with dates of loss subsequent to the effective date of the voluntary replacement coverage, then the assigned risk policy should be cancelled, pursuant to M.G.L., Chapter 152, §63, as of the effective date of the replacement coverage.

If the employer has requested cancellation, but the assigned carrier cannot successfully verify that their insured has obtained voluntary replacement coverage, then the assigned risk policy should be cancelled so that the WCRIBMA receives the Cancellation Notice at least ten (10) days prior to the date of cancellation as required by M.G.L., Chapter 152, §63.

If a claim has been filed against the assigned risk policy subsequent to the effective date of the voluntary replacement coverage, then the assigned carrier's Claim Department should contact the voluntary carrier to attempt to obtain reimbursement for any payments made by the assigned carrier. If the assigned carrier receives reimbursement for all payments made after the effective date of voluntary replacement coverage, then the assigned carrier shall cancel the policy to coincide with the effective date of the voluntary coverage.

If the employer has not requested cancellation, but rather the assigned carrier has otherwise learned of the existence of voluntary coverage, then the carrier must contact the employer to confirm that the voluntary coverage belongs to them before proceeding with the verification and cancellation procedures stated above. If the employer confirms that the voluntary coverage is theirs, but advises that the assigned risk coverage should not be cancelled, **or if the employer does not cooperate with the assigned carrier's attempts to collect information about the voluntary coverage**, then the assigned carrier should notify WCRIBMA's Customer Services Department of the existence of the overlapping coverage.

In all cases when an assigned risk carrier cancels an employer's coverage because coverage was replaced in the voluntary market and the existence of such voluntary coverage was verified, the cancellation must be issued on a **pro rata** basis in accordance with the *MA Manual*, Rule X-B.

The carrier **must** be able to produce a photocopy or electronic reproduction of the cancellation request and evidence of replacement coverage.

Additional Reference:

Notice to Pool Carriers #10-2 dated April 5, 2010 – Retroactive Cancellation of Assigned Risk Coverage to Prevent an Overlap of Coverage

Cancellation by Producer of Record

The producer of record may initiate cancellation when the insured fails to pay money due the producer **only** under the following circumstances:

1. The employer must have executed a legal finance agreement giving both of the following two (2) rights to the producer of record:
 - a. The right to cancel the policy should the employer fail to meet a payment as required in the agreement; and
 - b. The right of the producer of record to receive return premium.
2. The assigned carrier must be provided with a valid copy of the actual finance agreement signed by the insured. Without a valid copy in its records, an assigned carrier cannot **approve** the producer of record's request.

A cancellation requested by a producer of record on behalf of an insured employer will be treated as a cancellation by the employer (i.e., on a short rate basis) and will be reported to the WCRIBMA as Cancelled by Employer (WCPOLS reason code #03). By entering a finance agreement, the employer arranges for the producer to pay the premium in full to the assigned carrier. The employer is then obligated to pay back the producer according to the terms of the finance agreement. Therefore, a cancellation requested by a producer in this circumstance will not be reported to the WCRIBMA as a cancellation for non-payment of premium because the premium has been paid in full to the assigned carrier by the producer of record.

Pursuant to M.G.L. Chapter 152, Section 63, such insurance shall not be cancelled or shall not be otherwise terminated until ten (10) days after written notice of such cancellation or termination is given to the WCRIBMA, or until a notice has been received by the WCRIBMA that the employer has secured insurance from another insurance company or has otherwise insured the payment of compensation provided for by this chapter. Accordingly, a Notice of Cancellation must be sent to the WCRIBMA, and the notice must be mailed in enough time to ensure that the WCRIBMA receives it at least ten (10) days prior to the effective date of cancellation.

Even though not explicitly required by statute in this situation, a copy of the cancellation notice must be mailed to the employer. A copy of any notice sent by the carrier to the insured employer must also be sent to the producer of record.

For cancellations initiated by the producer of record, only one reinstatement will be allowed. See [Reinstatement of Policy](#) for details.

The carrier must be able to produce a photocopy or electronic reproduction of the document(s) sent to the insured employer.

Cancellation by Finance Company

A finance company may request cancellation for failure of the insured to pay money due only under the following circumstances:

1. The employer must have executed a legal finance agreement giving both of the following two (2) rights to the finance company:
 - a. The right to cancel the policy should the employer fail to meet a payment as required in the agreement; and
 - b. The right of the finance company to receive return premium.
2. The assigned carrier must be provided with a valid copy of the actual finance agreement signed by the insured. Without a valid copy in its records, an assigned carrier cannot approve the finance company's request.

A cancellation requested by a finance company on behalf of an insured employer will be treated as a cancellation by the employer (i.e., on a short rate basis) and will be reported to the WCRIBMA as Cancelled at Request of the Finance Company (WCPOLS reason code #20). By entering a finance agreement, the employer arranges for the finance company to pay the premium in full to the assigned carrier. The employer is then obligated to pay back the finance company according to the terms of the finance agreement. Therefore, a cancellation requested by the finance company in this circumstance will not be reported to the WCRIBMA as a cancellation for non-payment of premium because the premium has been paid in full to the assigned carrier by the finance company.

Pursuant to M.G.L. Chapter 152, Section 63, such insurance shall not be cancelled or shall not be otherwise terminated until ten (10) days after written notice of such cancellation or termination is given to the WCRIBMA, or until a notice has been received by the WCRIBMA that the employer has secured insurance from another insurance company or has otherwise insured the payment of compensation provided for by this chapter. Accordingly, a Notice of Cancellation must be sent to the WCRIBMA, and the notice must be mailed in enough time to ensure that the WCRIBMA receives it at least ten (10) days prior to the effective date of cancellation.

Even though not explicitly required by statute in this situation, a copy of the cancellation notice **must** be mailed to the employer. A copy of any notice sent by the carrier to the insured employer **must** also be sent to the producer of record.

For cancellations initiated by the finance company, only one reinstatement will be allowed. **See [Reinstatement of Policy](#)** for details.

The carrier **must** be able to produce a photocopy or electronic reproduction of the document(s) sent to the insured employer.

Reinstatement of Policy

When a notice of cancellation is **initiated by the insured employer, a finance company or a producer of record** with authority to act on behalf of the insured, such cancellation will be rescinded, and the policy reinstated, only if a written request from the insured employer, finance company or producer of record who requested the cancellation is received by the assigned carrier prior to the effective date of cancellation. The request for reinstatement must be accepted or denied and communicated to the insured within five **(5)** business days after receipt of the request. At the time of the first reinstatement, the carrier will advise the insured that subsequent notices of cancellation of the same policy that are issued at the request of the insured, the finance company, or producer of record will not be rescinded and the policy will not be reinstated. The assigned carrier will retain a copy of such notification to the insured employer, finance company or producer of record.

When a notice of cancellation is **initiated by the assigned carrier** for non-payment of premium, such cancellation will be rescinded, and the policy reinstated, only if the required premium is postmarked prior to the effective date of cancellation. At the time of the first reinstatement, the carrier will advise the insured that if a subsequent notice of cancellation must be issued by the carrier for non-payment of premium, then the insured will lose **its** payment plan, and payment in full of the remaining policy premium prior to the cancellation effective date will be required as a condition of reinstatement.

Within five **(5)** business days of issuance, a Notice of Reinstatement must be sent by the assigned carrier to the WCRIBMA and to the insured employer. A copy of any notice sent by the carrier to the insured employer **must** also be sent to the producer of record. A reinstatement with a lapse of coverage is **not** permissible.

See [Receipt of Payments](#) for information about how the carriers should handle various combinations of payment submissions and postmarks.

The carrier **must** be able to produce a photocopy or electronic reproduction of the document(s) sent to the insured employer.

Renewal

At least forty-five (45) days, but not more than one hundred (100) days prior to the expiration date of the policy, the assigned carrier sends a renewal proposal to the insured employer and the producer of record and retains a copy of the proposal for its records. The renewal proposal must contain the following information: the expiration date of the current policy (e.g. 11/30/03), the amount of the deposit premium, and the due date for the deposit premium, which shall be twenty (20) days prior to the current policy's expiration date (e.g. 11/10/03). If the required deposit premium is postmarked prior to or on the due date, the assigned carrier will issue a renewal policy within thirty (30) calendar days.

The renewal proposal **must** contain the following statement: "Payment of the deposit premium will constitute the employer's acceptance of and agreement to the terms and conditions of the policy."

If the expiring policy contains either corporate officer exclusions or sole proprietor, partner or member elections, then the premium used for the renewal proposal should assume that the employer will continue their same coverage exclusions/elections. The renewal proposal must contain an insert advising the employer they are required to restate their exclusions/elections on an annual basis. See the [Sample Renewal Quotation Insert](#) at the end of this document. If the employer submits their deposit premium without the required form, then the carrier will promptly contact the employer to remind them that the necessary forms must be submitted or their coverages and premiums will change. If the required form has not been submitted by the effective date of the policy, the policy will be revised as of the effective date to reverse any exclusions/elections previously made.

IMPORTANT: If the deposit premium is not received prior to or on the due date (e.g. 11/10/03), the assigned carrier must send a Notice of Non-Renewal to the insured and the WCRIBMA. The Notice of Non-Renewal must state: "Your policy will terminate on the policy expiration date (the exact expiration date must be given, e.g. 11/30/03)". The Notice of Non-Renewal must be sent in enough time so that the insured and the WCRIBMA receive the notice at least ten (10) days prior to the expiration date of the current policy. The assigned carrier shall obtain for its records, at a minimum, a certificate of mailing receipt from the United States Postal Service showing the name and address of the insured to which the Notice of Non-Renewal was mailed. The **assigned** carrier **must** always provide the reason for non-renewal on any notice sent to the WCRIBMA or the insured employer. Pool carriers should refer to the sample Notice of Non-Renewal at the end of this document. If the deposit premium is not postmarked prior to the expiration date of the current policy, it shall not issue a renewal policy. See [Receipt of Payments](#) for information about how the carriers should handle various combinations of payment submissions and postmarks.

A copy of any notice sent to the insured employer **must** also be sent to the producer of record.

The carrier **must** always be able to produce a copy or other exact reproduction of the document(s) sent to the insured employer.

Additional Reference:

Special Bulletin #12-03 dated December 5, 2003 – New Assigned Risk Pool Procedures Effective 1/1/04

Non-Renewal

Pursuant to M.G.L. Chapter 152, Section 63, the insurance shall not be cancelled or shall not be otherwise terminated until ten (10) days after written notice is given to the WCRIBMA.

Pursuant to M.G.L. Chapter 152, Section 65B, any insurer desiring to cancel or otherwise terminate an Assigned Risk Pool policy shall give notice in writing to the WCRIBMA and the insured. Such cancellation or termination shall be effective unless the insured, within ten (10) days after the receipt of such notice, files an objection with the DIA.

The assigned carrier must give ten (10) days written notice to the insured employer and the WCRIBMA of its desire to non-renew a policy. The Notice of Non-Renewal must state: "Your policy will terminate on the policy expiration date (the exact expiration date must be given, e.g. 11/30/03)". The Notice of Non-Renewal must be sent in enough time to ensure that the insured and the WCRIBMA receive the notice at least ten (10) days prior to the expiration date of the current policy. The assigned carrier **must** obtain for its records, at a minimum, a certificate of mailing receipt from the United States Postal Service showing the name and address of the insured employer to which the Notice of Non-Renewal was mailed. The carrier **must** always provide the reason for non-renewal on any notice sent to the WCRIBMA or the insured employer.

Refer to the section entitled **IMPORTANT** in the [Renewal Procedures](#) (above) when a Notice of Non-Renewal is issued due to the insured employer's failure to timely pay a deposit premium.

A copy of any notice sent to the insured **must** also be sent to the producer of record.

The carrier **must** always be able to produce a copy or other exact reproduction of the document(s) sent to the insured employer.

Additional Reference:

Special Bulletin #12-03 dated December 5, 2003 – New Assigned Risk Pool Procedures Effective 1/1/04

Block Transfers

Occasionally, when assigned carriers enter or leave the Pool or when the amount of premium assigned to a carrier needs to be adjusted, the WCRIBMA sends lists of policies to be nonrenewed to the expiring carrier(s) and corresponding lists of employers to be transferred to the new carrier(s). This process of transferring risks from one assigned carrier to another is known as the Block Transfer Program.

For policies non-renewed at the request of the WCRIBMA for block transfer purposes, the expiring carrier will send a written notice to the insured and the producer of record at least forty-five (45) days prior to the expiration date of the policy. Refer to the [Sample Notice of Reassignment](#) at the end of this document. The expiring carrier will retain a copy of the notice that was sent to the insured employer. The expiring carrier will also attempt to provide the producer with a copy of the written notice **at least** five (5) days in advance of notifying the insured.

The expiring carrier will send to the new designated carrier a copy of the declaration page(s), including payrolls by classification from the expiring policy. The expiring carrier will also send to the new carrier a copy of the latest experience rating worksheet as produced by the WCRIBMA, if available, along with any other relevant underwriting information contained in its files. All information sent from the expiring carrier to the newly assigned carrier should reach the new carrier at least **forty-five** (45) days prior to the expiration date of coverage.

Upon receipt and review of the underwriting information referenced above, the newly assigned carrier will promptly issue a quote for **Pool** coverage to the employer, and provide a copy of that quote

to the producer identified by the expiring carrier. The proposal must contain the following information: the proposed effective date (the same as the expiration date on the expiring carrier's policy), the amount of the deposit premium, and the due date for the deposit premium, which shall be ten (10) days prior to the proposed effective date. If the required deposit premium is postmarked prior to the effective date, the newly assigned carrier will issue a policy within thirty (30) calendar days. If the required deposit premium is not postmarked prior to the effective date, the new carrier is not required to send a non-renewal notice.

IMPORTANT: Additionally, in accordance with M.G.L. Ch. 152 Sections 63 and 65B, the expiring carrier shall give at least ten (10) days written notice to the insured employer and the WCRIBMA of its intention to non-renew a policy. These Notices of Non-Renewal must be mailed in enough time to ensure they are received at least ten (10) days, but not more than twenty (20) days, prior to policy expiration. The expiring carrier will retain evidence that notice was sent to the WCRIBMA and the employer.

See [Receipt of Payment](#) for information about how the carriers should handle various combinations of payment submissions and postmarks.

Additional Reference:

[Notice to Pool Carriers #08-2 dated September 12, 2008 – Block Transfer Procedures](#)

Financial Considerations

Non-Negotiable Checks / Declined Payments

When the carrier finds the deposit premium or any premium payment is not covered by sufficient funds or is declined by a financial institution for any other reason, the assigned carrier will **not** redeposit the check. The carrier should follow one of the two sets of instructions outlined here, depending whether the policy has been issued or has not yet been issued.

- If a deposit premium payment is returned as non-negotiable or is otherwise declined and **the policy has not yet been issued**, the carrier will promptly send a letter to the employer advising **it** that **the** deposit premium payment was returned as insufficient or otherwise declined, and therefore, there is no coverage in place. (If the check has been returned to the carrier by the time the carrier sends the letter to the employer, then the check should accompany the letter.) The carrier will advise the employer that, if the carrier receives a bank check or money order for the full amount of the deposit premium by [Due Date], coverage will be in effect as of [Effective Date]. To allow time for mailing, the due date should be **fifteen (15)** days from the date of the carrier's letter. The effective date will be either the coverage effective date on the Notice of Assignment (for new assignments) or the policy renewal date (for renewals). The carrier will obtain for its records a certificate of mailing receipt from the United States Postal Service showing the name and address of the employer to whom the letter and check were mailed.
 - If a bank check or money order is not postmarked prior to or on the specified due date, the carrier will send another letter to the employer advising that no coverage is in place because a bank check or money order was not received by the specified due date. The carrier will obtain for its records, at a minimum, a certificate of mailing receipt from the

United States Postal Service showing the name and address of the employer to whom the letter was mailed. **A copy of the letter advising the employer that no coverage is in place must be emailed to the WCRIBMA's Pool mailbox (mwcarp@wcribma.org) at the same time that it is mailed to the employer.**

- If a bank check or money order is postmarked prior to or on the specified due date, the carrier will issue the policy.

A copy of any notice sent by the carrier to the employer will also be sent to the producer of record.

The carrier **must** be able to produce a photocopy or other electronic reproduction of the document(s) sent to the employer.

The above procedure will also be followed if the carrier has filed a Notice of Issuance with the WCRIBMA, but has not yet issued a policy to the employer.

- If a deposit premium, installment or audit premium payment is returned as non-negotiable or otherwise declined, and **the policy has been issued**, then the carrier will promptly send a Notice of Cancellation and letter to the employer advising **it** that **the** premium payment was returned as insufficient or otherwise declined, and therefore **the policy will be terminated for non-payment of premium as of the cancellation effective date** that appears on the Notice of Cancellation. (If the check has been returned to the carrier by the time the carrier sends the letter to the employer, then the check should accompany the letter.)

Since a policy has been issued, the carrier shall give ten (10) days written notice of termination to the insured and the WCRIBMA. Therefore, to allow time for mailing, the carrier will mail the check, Notice of Cancellation, and letter fifteen (15) days before the cancellation effective date. The carrier must obtain for its records, at a minimum, a certificate of mailing receipt from the United States Postal Service showing the name and address of the insured employer to whom the check, Notice of Cancellation, and letter were mailed. **Electronic notice of cancellation must be submitted to the WCRIBMA at the same time that the Notice of Cancellation is mailed to the insured.**

- If the **policy has not previously been cancelled for non-payment of premium**, the carrier will advise the insured that if a bank check or money order for [The Amount of the Payment That Was Declined] is postmarked prior to the effective date of cancellation, coverage will be effective as of [Effective Date on the Policy that was Issued].
- If the **policy has previously been cancelled for non-payment of premium and reinstated**, the carrier will advise the insured that if a bank check or money order for [The Full Amount of All Outstanding Premium on This Policy] is postmarked prior to the effective date of cancellation, coverage will be effective as of [Effective Date on the Policy that was Issued]. See [Reinstatement of Policy](#) for details.

If the required bank check or money order is not postmarked prior to the effective date of cancellation, then no further action is required by the carrier, and the cancellation will take effect.

If the required bank check or money order is postmarked prior to the effective date of cancellation, then the cancellation will not take effect and the carrier will issue a Notice of Reinstatement to the insured and the WCRIBMA.

A copy of any notice sent to the insured will also be sent to the producer of record.

The carrier **must** be able to produce a photocopy or electronic reproduction of the document(s) sent to the insured employer.

Receipt of Payments

Assigned carriers must process payments received according to the following:

If the payment is submitted by regular mail and the envelope containing the payment has...	Then the 'postmark date' shall be considered the date of the...
A legible US Postal Service postmark	US Postal Service postmark
An illegible US Postal Service postmark	Receipt of the payment
A meter mark only	Receipt of the payment
Internet postage with a legible cancellation stamp	Cancellation stamp
Internet postage without a cancellation stamp or an illegible cancellation stamp	Receipt of the payment

If the payment is submitted by overnight mail and the envelope/package containing the payment has...	Then the 'postmark date' shall be considered the date of the...
Proof of mailing that can be verified	Postmark (the date the payment was sent)
NO proof of mailing or has proof of mailing that cannot be verified	Receipt of the payment

If the payment is submitted ...	Then the 'postmark date' shall be considered the date of the...
Online	Online submission
By telephone	Telephone submission

Deposit Premium and Installment Options

Refer to the *Installment Options* section in Pool Procedures for New Applications for the available installments and to the [Reinstatement of Policy](#) section for information about the loss of installment plans when a policy has been cancelled more than once for non-payment of premium.

Premium Discount

Premium discount is not available to policies written in the **Pool**.

Servicing Carrier Fee

The servicing carrier retains a portion of the premium for each policy assigned to it as its compensation for servicing the policy. Refer to the *Massachusetts Pool Plan of Operation* for details. Voluntary Direct Assignment Carriers (VDACs) do not receive compensation in this manner.

Producer Fee

The fee or allowance received by the licensed producer of record is determined by applying the appropriate producer fee percentage(s) to the policy's Standard Premium. Standard Premium is

defined and described in the Residual Market Premium Algorithm, Appendix F of the *MA Manual*, and in Part I, Section VI, #11 – Total Standard Premium of the *Massachusetts Workers' Compensation Statistical Plan*. The producer must be licensed to conduct the business of insurance in Massachusetts to receive a producer fee.

The producer fee, payable by the assigned carrier only on premium actually collected, will be paid within thirty (30) days from the date the policy is issued or thirty (30) days from the receipt of premium, whichever is later. If an overpayment of premium occurs due to an overestimate of exposures as determined at audit or due to a reduction in experience modification or for some other reason, any excess producer fee paid by the assigned carrier will be returned by the producer. Any disputes regarding the payment or recovery of producer fees must be resolved between the carrier and the producer.

PRODUCER FEE SCHEDULE	
First \$1,000	9% of Standard Premium
Next \$4,000	5% of Standard Premium
Next \$95,000	4% of Standard Premium
Over \$100,000	3% of Standard Premium

NAME OF INSURANCE COMPANY
Mailing Address of Insurance Company
City, State, Zip Code
Telephone Number
Fax Number

Sample Notice of Non-Renewal

Name of Insured	Date of Notice:	<mm/dd/yyyy>
Mailing Address of Insured		
City, State, Zip Code	Policy Number:	xxxxxxxxxxxxxxxxxxxxxxxxxxxx
	Policy Period:	<mm/dd/yyyy> to <mm/dd/yyyy>
	Effective Date of Termination:	<mm/dd/yyyy> (= <i>Expiration Date</i>)
	Reason for Non-Renewal:	<u>Renewal Premium Not Received</u>

DEAR POLICYHOLDER,

Several weeks ago, you received our renewal offer. In that offer, we stated that the deposit premium would have to reach our office by <mm/dd/yyyy> (= 20 days prior to Policy Expiration) in order for you to obtain a renewal policy. That date has passed, and we have not received your deposit premium.

The purpose of this Notice of Nonrenewal is to notify you that your policy will terminate at 12:01 a.m. on your Policy Expiration Date, <mm/dd/yyyy>.

Very truly yours,

(Signature)

Name of Insurance Company Personnel
Title of Insurance Company Personnel

cc: Producer of Record
Address
City, State, Zip Code

NAME OF INSURANCE COMPANY
Mailing Address of Insurance Company
City, State, Zip Code
Telephone Number
Fax Number

Sample Notice of Cancellation

Date of Notice: < mm/dd/yyyy >

Name of Insured
Mailing Address of Insured
City, State, Zip Code

RE: Policy Number:
Policy Effective Date:

Dear Policyholder,

Please be advised that your workers' compensation insurance policy (see above referenced policy number) is hereby cancelled in accordance with its terms, effective at 12:01 A.M. on the cancellation effective date indicated below:

Effective Date of Cancellation: < mm/dd/yyyy >
Reason for Cancellation:

- Nonpayment of Premium in the Amount of \$____*
- OR
- Other: [specify reason for cancellation other than nonpayment of premium]

* If the reason for this cancellation is nonpayment of premium, such cancellation will not take effect if the amount shown above is received by the insurance company prior to: <The Effective Date of Cancellation>.

Pursuant to Section 65B of Massachusetts General Law, Chapter 152, within ten (10) days of your receipt of this notice you may file an objection to this cancellation with the Department of Industrial Accidents, Office of Insurance, Lafayette City Center, 2 Avenue de Lafayette, Boston, MA 02111.

Sincerely,
(Signature)
Name of Insurance Company Personnel
Title of Insurance Company Personnel

cc: Producer of Record

**XYZ INSURANCE COMPANY
1000 State Street
Boston, MA 12345**

Sample Notice of Reassignment to a Different Pool Carrier

April 1, 2008

Mr. Employer Jones
ABC Manufacturing Company
100 Main Street
Boston, MA 12345

RE: Massachusetts Workers' Compensation Assigned Risk Pool
Policy # 12345-07, Expiring June 1, 2008

Dear Mr. Jones:

We have been providing workers' compensation insurance coverage for your company on behalf of the Massachusetts Workers' Compensation Assigned Risk Pool.

Your policy has been randomly selected by a process approved by the Commissioner of Insurance for reassignment to a different designated carrier. We will not be renewing your current workers' compensation policy when it expires on _____. Rather, MAJOR INSURANCE COMPANY has been designated by The Workers' Compensation Rating and Inspection Bureau of Massachusetts to provide your future Assigned Risk Pool coverage, should that be necessary.

By copy of this letter, we are informing MAJOR INSURANCE COMPANY of their designation. You should expect to hear directly from them or your producer of record in the very near future.

Please be assured that this process will result in continuous coverage, provided you comply with the deposit premium requirements when requested by MAJOR INSURANCE COMPANY. In the meantime, please feel free to contact your producer of record should you have any questions or concerns.

Very truly yours,
XYZ Insurance Company

cc: MAJOR INSURANCE COMPANY
Producer of Record

XYZ INSURANCE COMPANY
 1000 State Street
 Boston, MA 12345

phone (123) 456-7890
 fax (123) 456-7890
 email renewal@abcinsco.com

Sample Renewal Quotation Insert

LISTING OF CURRENT ELECTIONS/EXEMPTIONS OF COVERAGE *(provided by carrier)*

Name	Title	Include for Coverage (Y/N)	Ownership %	Effective Date	Termination Date
Joe Smith	President	N	50%	1/1/16	1/1/17
Mary Smith	Treasurer	N	50%	5/1/16	1/1/17
Or Mary Smith	Sole Proprietor	Y	100%	1/1/16	1/1/17

IF THE EMPLOYER IS A CORPORATION: According to 452 CMR 8.06, a copy of the approved Form 153 must be submitted to the insurance carrier annually and prior to the renewal date of the policy, as an affirmation that the statements contained therein remain in effect. If you wish to continue with the elections made on the expiring policy as shown above, please have each corporate officer or director sign the below statement and return this statement along with a copy of the previously approved Form 153 and the renewal premium. The premium on your attached renewal quotation assumes that the elections made on the current policy will continue. **Failure to return this statement and a copy of the previously approved Form 153 along with your renewal premium will result in a policy change to reverse the previous election which will result in changes to your policy coverages and premium.** *Note: If there have been changes to corporate officers or ownership, a new Form 153 must be filed with and approved by the MA Department of Industrial Accidents and then submitted to the insurance carrier.*

Printed Name	Signature	Title	Date	Exclude	Include
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

IF THE EMPLOYER IS A SOLE PROPRIETORSHIP, PARTNERSHIP OR LLC: According to 452 CMR 8.07, the sole proprietor or partner must reaffirm in writing their decision to be covered as an employee on their workers' compensation policy to the insurance carrier annually and prior to the renewal date of the policy. If you wish to continue with the elections made on the expiring policy as shown above, please have each sole proprietor, partner or member sign the below statement and return this statement along with the renewal premium. The premium on your attached renewal quotation assumes that the elections made on the current policy will continue. **Failure to return this statement along with your renewal premium will result in a policy change to reverse the previous election which will result in changes to your policy coverages and premium.**

Printed Name	Signature	Title	Date	Exclude	Include
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>