

SUMMARY OF MASSACHUSETTS EXCEPTIONS TO NCCI'S 2010 SERVICING CARRIER REFERENCE GUIDE

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MASSACHUSETTS EXCEPTIONS TO NCCI'S 2010 SERVICING CARRIER REFERENCE GUIDE

PREFACE

The Preface of the SCRG is applicable.

PART 1 – GENERAL

RG 1-1 Introduction

Section RG 1-1 is applicable to Massachusetts servicing carriers, with the following exceptions.

A. General Explanation

4. Definitions and Terms

The following definitions and terms are detailed *for specific use within these Massachusetts exceptions* to NCCI's SCRG.

Assigned Carrier – The term 'assigned carrier' encompasses both servicing carriers and voluntary direct assignment carriers.

Audit – The term 'audit' as used in this document generally refers to premium audits which are performed by assigned carriers or their outside vendors to determine the employer's adequate actual (or estimated) payroll, confirm classification assignment(s), and actual (or estimated) annual premium. The term 'audit' can also refer to the onsite audit or self audit of servicing or voluntary direct assignment carriers performed in accordance with the Massachusetts Assigned Risk Pool Plan of Operation.

Commissioner – the Massachusetts Commissioner of Insurance.

Data – The term 'data' refers to actuarial, financial, policy and statistical data unless otherwise indicated.

Employer – The term 'employer' refers to an insured or policyholder, in accordance with the MA Manual, Rule III-A.

Governing Committee –The Governing Committee consists of nine insurer representatives, one labor representative, one employer representative and one producer representative. The Governing Committee has charge of the administration of the WCRIBMA.

Manuals – The manuals that have been approved for use in Massachusetts and that must be utilized by the servicing carriers include:

Massachusetts Workers' Compensation and Employers Liability Insurance Manual (MA Manual)

Massachusetts Workers' Compensation Statistical Plan

Massachusetts Master Alphabetical Classification Index (MACI)

NCCI's Experience Rating Plan Manual (with Massachusetts exceptions)

NCCI's Forms Manual of Workers' Compensation and Employers Liability Insurance (with Massachusetts exceptions)

WCIO Workers' Compensation Data Specifications Manual

Massachusetts Workers' Compensation Assigned Risk Pool – The “Massachusetts Pool” is the reinsurance mechanism created by statute to provide a means for Massachusetts employers, who could not obtain coverage in the voluntary market, to satisfy their obligations under M.G.L. Chapter 152.

Massachusetts Workers' Compensation Assigned Risk Pool Plan of Operation - In accordance with M.G.L., Chapter 152, Section 65C, the WCRIBMA has adopted and the Commissioner of Insurance has approved The Massachusetts Workers' Compensation Assigned Risk Pool Plan of Operation (“Plan of Operation”), which is binding upon all members of the Massachusetts Workers' Compensation Assigned Risk Pool. The Plan of Operation contains rules and procedures for the allocation of losses of the reinsurance pool among its members.

National Council on Compensation of Insurance, Inc. (“NCCI”) –NCCI is the organization with which the WCRIBMA contracts to provide certain pool-related financial and actuarial services.

Performance Standards – The Massachusetts Performance Standards are found in the Appendix of the Massachusetts Workers' Compensation Assigned Risk Pool Plan of Operation. They are the minimum standards that the Massachusetts servicing and voluntary direct assignment carriers are required to meet.

Plan – The term ‘Plan’, as used in these Massachusetts exceptions to NCCI's Servicing Carrier Reference Guide, refers to the Massachusetts Workers' Compensation Assigned Risk Pool Plan of Operation.

Pool Administration – The term ‘Pool Administration’ refers specifically to NCCI's Pool Administration Department.

Pool Administrator – The Workers' Compensation Rating and Inspection Bureau of Massachusetts (“WCRIBMA”) has been designated as the Administrator of the Massachusetts Workers Compensation Assigned Risk Pool (“Pool Administrator”) by the Massachusetts Commissioner of Insurance.

Residual Market Committee – The Residual Market Committee monitors and administers the Massachusetts Workers' Compensation Assigned Risk Pool, unless the Governing Committee of the WCRIBMA otherwise directs.

Servicing Carrier – The term ‘servicing carrier’ in Massachusetts refers to a Massachusetts insurer designated by the WCRIBMA and the Commissioner of Insurance to accept assignment of risks from the WCRIBMA in consideration of a servicing carrier allowance in accordance with the Massachusetts Pool Plan of Operation, Article VII, Servicing Carriers.

Servicing Carrier Reference Guide (“SCRG”) – The SCRG is the procedural guide published by NCCI that provides instruction to servicing carriers on matters of policy and financial reporting. **The purpose of these Massachusetts exceptions is to clarify which portions of the SCRG are applicable in Massachusetts and which are not.**

Voluntary Direct Assignment Program – The Voluntary Direct Assignment Carrier Program (“VDAC Program”), as authorized by the Plan of Operation, provides that insurers may satisfy their assessment obligations as Pool members by accepting voluntary direct assignment of risks from the Workers' Compensation Rating and Inspection Bureau, in the manner specified in the Pool Plan of Operation, Article XIII, Section 2.

Voluntary Direct Assignment Carrier (“VDAC carrier”) – A “VDAC carrier” is a Massachusetts insurer who has elected and has been approved by the Commissioner of Insurance to satisfy its assessment obligations to the Massachusetts Pool in accordance with the filed and approved Voluntary Direct Assignment Program.

WCRIBMA – The term ‘WCRIBMA’ or ‘Bureau’ refers to the Worker’s Compensation Rating and Inspection Bureau of Massachusetts, a not-for-profit association of insurers, which has been designated by the Massachusetts Commissioner of Insurance to administer the Massachusetts Workers’ Compensation Assigned Risk Pool.

Worker’s Compensation Rating and Inspection Bureau of Massachusetts (“WCRIBMA” or “Bureau”) – The “WCRIBMA”, a not-for-profit association of insurers, is the licensed rating organization for workers’ compensation insurance in Massachusetts and has been designated by the Massachusetts Commissioner of Insurance to administer the Massachusetts Workers’ Compensation Assigned Risk Pool.

PART 2 – WORKERS COMPENSATION PLAN INFORMATION

RG 2-1 R.M. Policy Reporting, Quota Management, Assignment Mechanism and Assignment of Coverage

A. Residual Market Policy Reporting

Section RG 2-1-A of NCCI’s SCRG is not applicable to Massachusetts servicing carriers. Rather, the following applies:

Servicing carriers, in the format prescribed by WCIO’s Policy Tape Specifications (WCPOLS), are required to electronically report policies, endorsements, coverage transactions, and Noncompliance/Compliance information to the WCRIBMA according to the following timelines. Servicing carriers are also required to submit policies, endorsements and coverage transactions to NCCI as stated in NCCI’s Reporting Timeframe Table.

- New Business Policies – issued within 30 calendar days from the date the application and premium are received from the WCRIBMA (*Performance Standards*), and reported to WCRIBMA within 5 days of issuance (*MGL c. 152 § 63*).

- Renewal Policies – issued within 30 calendar days after the receipt of the required deposit premium (*Performance Standards*) and reported to WCRIBMA within 5 days of issuance (*MGL c. 152 § 63*).
- Endorsements Initiated by Insured – issued within 30 calendar days of receipt of the request (*Performance Standards*) and reported to WCRIBMA within 5 days of issuance.
- Endorsements Initiated by Carrier - issued within 45 calendar days of determination of need for endorsement (*Performance Standards*) and reported to WCRIBMA within 5 days of issuance.
- Cancellations by Insured – issued within 5 days of request to cancel (*Performance Standards*) and received by WCRIBMA at least 10 days prior to effective date of cancellation, unless the employer has replaced coverage and a record of that coverage has been received by the WCRIBMA (*MGL c. 152 § 63*).
- Cancellations by Carrier – must be received by WCRIBMA at least 10 days prior to effective date of cancellation (*MGL c. 152 § 63*).
- Reinstatements – must be accepted or denied and communicated to the employer within 5 business days of receipt of request (*Performance Standards*) and reported to WCRIBMA within 5 days of issuance (*WCRIBMA's Coverage Reporting Guide*).
- Nonrenewals – must be received by WCRIBMA at least 10 days prior to expiration date (*MGL c. 152 § 63*).
- Noncompliance – must be reported to WCRIBMA within 5 business days of the determination of ineligibility for assigned risk Pool coverage.
- Compliance – must be reported to the WCRIBMA within 5 business days of the event correcting the previously reported noncompliance.

The carriers' reporting requirements to insured employers can be found in the Performance Standards and in the Pool Procedures for Existing Policies on www.wcribma.org.

B. Quota Management and Assignment Mechanism

Section RG 2-1-B of NCCI's SCRG is not applicable to Massachusetts servicing carriers. Rather, the following applies.

Residual Market Assignment Mechanism

The purpose of the Massachusetts Pool is to provide a mechanism for the equitable distribution among insurers of risks entitled to coverage under M.G.L. Chapter 152, Section 65A. The Workers' Compensation Rating and Inspection Bureau of Massachusetts ("WCRIBMA"), as administrator of the MA Pool and in accordance with the Massachusetts Workers Compensation Assigned Risk Pool Plan of Operation ("Plan of Operation"), has developed a Quota Management System to ensure such equitable assignment, as described in the sections below.

The basis for all assignments is 'net workers' compensation insurance premiums written' as defined in the Plan of Operation. The calculation to determine 'net workers' compensation insurance premiums written' is as follows:

- Direct Written Premium, as reported on the insurers' Annual Statements;
- Less Excess Premiums (applicable only to CY 2008 and prior); and
- Less National Defense Premiums, as reported on MA Financial Call #5B; and
- Less Ceded Servicing Carrier Premium, as recorded by NCCI; and
- Less VDAC Written Premium, as reported on MA Financial Call #5; and
- Less Large Deductible Premium included in the Annual Statement, as reported on MA Financial Call #5B; and
- Plus Large Deductible Premium, to reflect Standard Premium plus ARAP, as reported on MA Financial Call #5A.

Assignment Quota Determination

According to the Plan of Operation, Article XIII.2.a., "If the Bureau determines that an applicant is eligible for assignment, the Bureau shall assign the applicant to a servicing carrier or voluntary direct assignment carrier. The Bureau will equitably assign applicants to each voluntary direct assignment carrier based on each such carrier's percentage of the total net workers' compensation insurance premiums written, as adjusted by any applicable take-out credit, for all carriers in that policy year. Applicants not assigned to a voluntary direct assignment carrier will be assigned to each servicing carrier based either on the terms of its servicing carrier contract with the Bureau or based on each designated servicing carrier's percentage of the total net workers' compensation insurance written premiums for all servicing carriers in the most recent policy year for which data is available."

In other words, an assignment quota is calculated for each VDAC based on the ratio of their net workers' compensation insurance premiums written, as adjusted by any applicable take-out credit, to the total of all carriers' net workers' compensation insurance premiums written, as adjusted by take-out credit, in that policy year.

A risk not assigned to a VDAC is assigned to a servicing carrier. To determine an assignment quota for each servicing carrier, the sum of all the VDACS' quota shares is subtracted from 1.000000000, and the difference is divided amongst the servicing carriers by multiplying by the ratio of each servicing carrier's net workers' compensation insurance premiums written to the total of all servicing carriers' net workers' compensation insurance premiums written in that policy year. No adjustments are made for take-out credits.

Carrier Target Premium

The total premium that a carrier should be assigned, or its target premium, is determined by multiplying its assignment quota by the total current Massachusetts residual market premium. The total current residual market premium is a rolling twelve month sum of all servicing carrier and VDAC renewal and newly assigned premiums as stored in the WCRIBMA's policy database. Each night, the WCRIBMA's Quota Management System uses all endorsements, change transactions, and policy cancellations and reinstatements to calculate the total current residual market premium.

Also on a nightly basis, the WCRIBMA's Quota Management System calculates each assigned carrier's total current residual market premium for the same rolling twelve months by summing their current assigned risk policy premium, their recently assigned premium and their recently block transferred premium. The policy data used is that stored in the WCRIBMA's policy database. Endorsements, change transactions, and policy cancellations and reinstatements are used in determining each carrier's current total residual market premium.

To determine each carrier's premium needs, a carrier's total current premium is subtracted from its target premium.

C. Assignment of Coverage

Section RG 2-1-C of NCCI's SCRG is not applicable to Massachusetts servicing carriers. Rather, the following applies:

If an employer has previously had assigned risk coverage, the Quota Management System will reassign that employer to the same carrier.

If the employer has not previously had assigned risk coverage, their assignment premium will be categorized into one of four stratified premium ranges. It is the goal of the Quota Management System to have each carrier reach its target premium within each premium range. Once the range is determined, and if the employer has not previously had assigned risk coverage, the Quota Management System will determine the most under-assigned carrier in that premium range. That carrier will receive the assignment.

RG 2-2 Reporting Non-Compliance and Compliance of Policy Terms and Conditions

Section RG 2-2 of NCCI's SCRG is not applicable to Massachusetts servicing carriers. Rather, the following applies:

Servicing carriers should notify WCRIBMA of Noncompliance and subsequent Compliance so that eligibility may be determined for an employer upon application for Assigned Risk Pool coverage. The following situations should be reported:

- Nonpayment of Premium
- Noncompliance with Audit
- Noncompliance with Loss Control or Inspections
- Noncompliance – Other
- Compliance of Nonpayment
- Compliance of Audit
- Compliance of Loss Control or Inspections
- Compliance – Other

Noncompliance and subsequent Compliance reporting should be made electronically to WCRIBMA in the format prescribed in the WCIO Policy Tape Specifications Manual (WCPOLS). Noncompliance and

subsequent Compliance reporting can also be submitted through the Enter Noncompliance / Compliance product located within the Members area of WCRIBMA's website.

RG 2-3 Servicing Carrier Oversight

RG 2-4 Remediation Program

Sections RG 2-3 and RG 2-4 of NCCI's SCRG are not applicable to Massachusetts servicing carriers. Rather, the following applies:

Refer to the Massachusetts Assigned Risk Pool Plan of Operation, Performance Standards for Servicing Carriers Appendix, pages 42-47: Translating Compliance Ratios into an Effect on the Servicing Carrier Fee, and the Determining the Servicing Carrier Fee Appendix, pages 48-49, numbers 6 and 8.

PART 3 – REINSURANCE POOLING MECHANISMS INFORMATION

RG 3-1 Financial Reporting and NP Reporting Forms

Section RG 3-1 is applicable to Massachusetts servicing carriers.

RG 3-2 Uncollectible Premium Reporting and Approval Procedures

Section RG 3-2 is applicable to Massachusetts servicing carriers, with the following exceptions:

A-2 Reporting Methods and Forms

d) Hard copy NP-8 Forms must be sent to WCRIBMA, with a copy being sent to Pool Administration at NCCI, for the following three exceptions:

1. Write offs for uncollectible premium amounts of \$25,000 or greater on a single policy. See MA exceptions to RG 3-2-C-7(a-b).
2. Settlements/Compromises that result in a write off amount of \$25,000 or greater on a single policy. See MA exception to RG 3-2-C-8(a - b).
3. Court costs that result in a cumulative amount of \$600 or greater on a single policy. See MA exception to RG 3-2-C-5.

B Eligibility for Reimbursement

Massachusetts servicing carriers are not required to meet the criteria listed in Section RG 3-2-B to be considered eligible for reimbursements of uncollectible premiums.

C-5 Court Costs

Any court costs up to \$600 may be reported electronically. Cumulative court costs in excess of \$600 on an individual policy require approval by WCRIBMA and must be submitted to WCRIBMA (and NCCI) via a hard copy NP-8.

C-7 Write-Offs

a) Uncollectible Premium Accounts Less Than \$25,000

Servicing carriers may use their discretion to write off uncollectible accounts less than \$25,000. The write-off must be reported to NCCI via the electronic NP-8 submission.

b) Uncollectible Premium Accounts of \$25,000 or Greater

- (1) When a servicing carrier is considering a write-off of premium due of \$25,000, prior approval must be obtained from WCRIBMA. For purposes of these procedures, a write-off is defined as the discontinuation of the pursuit of outstanding premium. The remaining procedures in 7(b)(1) must be adhered to. A hard-copy NP-8 form and all other required information should be sent to the General Counsel at WCRIBMA. A copy of the NP-8 should be submitted to NCCI's Pool Administration Staff.
- (2) WCRIBMA staff reviews each case when write-off of premium is requested to ensure that all reasonable and economically feasible collection efforts have been undertaken to collect the outstanding premium. If the WCRIBMA concludes after a review of all of the available documentation that additional efforts are warranted, the NP-8 will be returned to the servicing carrier with further recommendations and/or instructions.

C-8 Settlements/Compromises

a) Uncollectible Premium Accounts Less Than \$25,000

Servicing carriers may use their discretion in agreeing to a settlement or compromise that would result in a write-off of less than \$25,000. The settlement must be reported to NCCI via the electronic NP-8 submission.

b) Uncollectible Premium Accounts \$25,000 or Greater

When the servicing carrier is recommending a settlement or compromise that would result in a write off of \$25,000 or more, approval must be received from WCRIBMA before finalizing such settlement. The request for approval of the settlement must be made by the servicing carrier to the General Counsel at WCRIBMA via submission of a hard-copy NP-8 form, with documentation attached explaining the terms of the settlement and why it is the most appropriate settlement alternative. A copy of the NP-8 should be submitted to NCCI's Pool Administration Staff.

D Uncollectible Premium Reports

Massachusetts servicing carriers will receive the following reports from NCCI:

- (1) Uncollectible Premium Weekly Detail Report,
- (2) Uncollectible Premium Quarterly Report,
- (3) Reject/Disapproval Report, and
- (6) Inactivity Follow-Up Report.

Massachusetts servicing carriers will not receive the following reports from NCCI:

- (4) Quarterly Uncollectible Premium Compliance Report, and
- (5) Performance History Report.

E Contract Collection Agencies

E-1 Outstanding Premium of \$1,000 or Greater

Massachusetts servicing carriers must refer all uncollectible premium accounts where the premium due for a single policy term is \$1,000 or greater to a collection agency before the account is closed or written off as uncollectible. An exception to this requirement exists when the servicing carrier determines the risk has filed for bankruptcy protection.

Massachusetts does not have contracts with specific collection agencies. However, WCRIBMA does maintain a record of the collection agencies utilized by the servicing carriers and the rates charged by those agencies for first and second placements. Servicing carriers must advise WCRIBMA of any changes or additions to the collection agencies used or of any changes to collection rates charged by their current agencies, or they may not be eligible for reimbursement of those expenses.

Massachusetts servicing carriers must submit a quarterly summary report to WCRIBMA for each of their first and second collection agencies which details the referrals made (by policy year), collection activity (by policy year) and the cost associated with each collection. The costs included on this quarterly report must coincide with the quarterly collection expenses reported to NCCI on the NP-5.

Accounts placed with one of the outside collection agencies must be placed early enough in the collection cycle for the agency to have at least 60 days to work the account prior to the initial uncollectible premium reporting.

E-2 Collection Agency Contacts

Not applicable in Massachusetts.

E-3 Second Placement of Uncollected Premium Accounts

b) Accounts may only be second placed with one of the collection agencies on file for a servicing carrier at the WCRIBMA.

e) Accounts may not be second placed with a servicing carrier's in-house collection unit, with the collection agency that performed collection services during the initial placement, or with a collection agency not on file with the WCRIBMA.

E-4 Collection Agency Fees

a) The collection agencies utilized by MA servicing carriers and their contingent rates are on file with the WCRIBMA.

b) No collection agency and/or attorney fees other than those that have been preapproved by the WCRIBMA will be reimbursed to the servicing carrier. Note that under no condition will the WCRIBMA reimburse servicing carriers for collection agency fees or collection-related attorney fees that were billed on an hourly basis. Servicing carriers must advise WCRIBMA of any changes or additions to the collection agencies used or of

any changes to collection rates charged by their current agencies, or they may not be eligible for reimbursement of those expenses.

- d) If a counterclaim is filed against the servicing carrier as a result of the original, approved claim of the collection agency's outside counsel (see 3-2-F, below), then the servicing carrier is required to report the counterclaim to WCRIBMA. Preapproval is only required for the servicing carrier to defend the counterclaim if the attorney's hourly rate exceeds \$200. Any hourly rate attorney fee bills to defend the counterclaim must comply with RG 3-4. All attorney fee bills will be reviewed in accordance with RG 3-4.

F Use of Outside Counsel

Collection agency referrals to outside counsel who charge on a 'contingent basis' do not require preapproval. (For purposes of these procedures, 'contingent basis' means fees calculated as a percentage of the amount collected.) Collection agency referrals to outside counsel that charge on any basis other than contingent do require preapproval and must be submitted by the servicing carrier for preapproval by WCRIBMA either in writing or by using the WCRIBMA's Initial Request for Indemnification Form (Exhibit 1). A copy of the request should be sent to Pool Administration at NCCI. All requests for reimbursement by the servicing carrier should be sent directly to NCCI and must comply with RG 3-4-A.

RG 3-3 NP-10 Petition for Servicing Carrier Allowance

Section RG 3-3 is not applicable to Massachusetts servicing carriers.

Massachusetts servicing carriers receive servicing carrier allowance on collected as well as uncollected premium. There is no need to submit Form NP-10.

RG 3-4 Indemnification Procedures

Section RG 3-4 is applicable to Massachusetts servicing carriers, with the following exceptions:

A-1 General Information

- a) Pursuant to the indemnification provisions of the Massachusetts Pool Plan of Operation: *"Any person or insurer made, or threatened to be made, a party to any action, suit or proceeding," ... " ,because such person or insurer was a member of the Pool, or a servicing carrier,"... " ,shall be indemnified against all judgments, fines, amounts paid in settlement, reasonable costs and expenses including attorney's fees, and any other liabilities that may be incurred as a result of such action, suit or proceeding, or threatened action, suit or proceeding,..."*
- b) Note: The general procedures outlined in this section (RG 3-4 A-1-b) are applicable in Massachusetts except that preapproval must be obtained from WCRIBMA, not NCCI's Pool Administration Staff or Legal Department.

Refer to the Massachusetts exceptions to Section RG 3-4-B for procedures on premium fraud matters and to Section RG 3-4-D for procedures on litigation matters involving multiple Massachusetts servicing carriers.

- c) WCRIBMA will approve or disapprove all indemnification requests in accordance with the terms of the Pool Plan of Operation, including the administration of these procedures.

A-3 Indemnification Eligibility

Any servicing carrier that has issued an assigned risk policy reinsured through the Massachusetts Assigned Risk Pool is potentially eligible for indemnification.

Even if approved, failure to comply with any of the indemnification procedures or time frames may subject a servicing carrier to cancellation or forfeiture of the right to indemnification for a particular matter.

A-4 Indemnifiable Costs and Issues

- b) The 'Allegations of bad faith and/or breach of contract' bullet is not applicable in Massachusetts because legal expenses paid in connection with a particular claimant's claim are reimbursable as ALAE but not included in the servicing carrier allowance.

A-5 Issues That Are Not Indemnifiable

a) **Article X**

In accordance with Article X of the Pool Plan of Operation, the following are not indemnifiable:

- Servicing Carrier Misconduct: Servicing carriers will not be reimbursed, "... in relation to matters as to which he, she or it shall be adjudged in such action, suit or proceeding to be liable by reason of willful misconduct in the performance of his, her or its duties or obligations to the Pool."
- Unlawful Conduct of Servicing Carrier: Servicing carriers will not be reimbursed, "... with respect to any criminal actions or proceedings, except when such person or insurer had reasonable cause to believe that his, her or its conduct was lawful."

b) **Items That Are Compensated by Servicing Carrier Allowance or Reimbursed by the MA Pool**

Components of Massachusetts Servicing Carrier Allowance:

- Other Acquisition Expense and Field Supervision
- General Expense and Other Taxes
- Premium Taxes
- Residual Market Unallocated Loss Adjustment Expenses

In addition to receiving the Servicing Carrier Allowance, Massachusetts servicing carriers:

- retain the Expense Constant,
- are reimbursed for Allocated Loss Adjustment Expenses, and

- are reimbursed for statutory assessments made on servicing carrier assigned risk pool premium for the State Rating Bureau, the Insurance Fraud Bureau, the Massachusetts Insurer's Insolvency Fund and the Attorney General's Office.

A-6 Request for Indemnification

- b) The servicing carrier must immediately notify the WCRIBMA in writing and/or obtain preapproval from WCRIBMA in the following situations:
- 1) When the servicing carrier proposes the use of outside counsel to handle a litigation matter, preapproval must be obtained from WCRIBMA.
 - 2) When a lawsuit has been filed naming the servicing carrier or the MA Pool as a party, WCRIBMA must be notified.
 - 3) When a counterclaim or appeal has been filed against a servicing carrier in conjunction with any premium collection suit, WCRIBMA must be notified, and preapproval must be obtained if the hourly rate for the attorney defending the counter-claim exceeds \$200.
 - 4) When a collection issue arises outside the normal collection agency process, WCRIBMA must be notified.
 - 5) When the carrier suspects that cumulative fees/expenses for a case will exceed \$100,000, notification should be submitted to the WCRIBMA's General Counsel so the WCRIBMA can seek approval from the Massachusetts Residual Market Committee.

A-7 Contents of the Request for Indemnification

For initial requests for indemnification, the servicing carrier may either:

- Submit to the WCRIBMA a written request for indemnification, following the instructions in RG-3-4-A-7 and using NCCI's sample letter as a guide, or
- Submit to the WCRIBMA a completed *Massachusetts Compensation Assigned Risk Pool – Servicing Carrier Initial Request for Indemnification Form* (Exhibit 1). A copy of the request or completed form should be sent to NCCI's Pool Administration Staff for their records.

A-9 Evaluation Report

Note: Ninety day evaluation reports, as described in this section, should be submitted to Pool Administration at NCCI.

A-10 Quarterly Status Report

Note: Quarterly status reports, as described in this section, should be submitted to Pool Administration at NCCI.

A-11 Settlement Approval

- a) The servicing carrier must submit all settlement offers to WCRIBMA for prior approval, except in premium collection cases where the settlement would result in a write-off of less than \$25,000.

c) *Not applicable to Massachusetts servicing carriers.*

A-12 Procedures for Submitting Fee Bills

Note: Fee bills should be submitted to NCCI for reimbursement according to the procedures in this section. The descriptions of Reimbursable and Non-reimbursable Services in RG 3-4, A-13 and A-14, respectively, as well as the Time Limitations for Submitting Indemnification Requests in RG 3-4, A-15, are applicable to Massachusetts servicing carriers.

A-16 Appeals

b) Appeals to decisions made by NCCI on Massachusetts policies should be submitted to the WCRIBMA's General Counsel.

Appeals to decisions made by WCRIBMA on Massachusetts policies should initially be submitted to WCRIBMA for reevaluation. If the servicing carrier wishes to appeal the WCRIBMA's reevaluation, notification should be submitted to WCRIBMA who will notify the Residual Market Committee of the appeal. The appeal will be heard by the Residual Market Committee or other committee designated by the Governing Committee.

c) All appeals of NCCI's or WCRIBMA's decisions regarding requests for indemnification must be submitted to WCRIBMA within 60 days of the date of the decision. If no appeal has been submitted within 60 days, the decision is final.

d) *Not applicable to Massachusetts servicing carriers.*

A-17 WCRIBMA Contact Information

Workers' Compensation Rating and Inspection Bureau of Massachusetts
Attention: General Counsel
101 Arch Street – 5th Floor
Boston, MA 02110

B Procedures for Premium Fraud Matters

Section RG 3-4-B is not applicable to Massachusetts servicing carriers. Rather, the following applies:

1. Mandatory Referrals to the Insurance Fraud Bureau

In accordance with Massachusetts statute, any insurer licensed in Massachusetts that has reason to believe that an insurance transaction may be fraudulent, or that has knowledge that a fraudulent insurance transaction is about to take place or has taken place, shall within 30 days after determination that the transaction may be fraudulent, send to the Insurance Fraud Bureau, on their prescribed form (see Exhibit 2) the information requested by the form and such additional information relative to the transaction and the parties involved as the Insurance Fraud Bureau may require.

After the referral is made, the Insurance Fraud Bureau will review the case to determine if it should be prosecuted criminally. While the servicing carrier is awaiting a response from the Insurance Fraud Bureau, the servicing carrier is not precluded from pursuing a civil action against the insured. The procedures in this section, RG 3-4-B, are applicable when the servicing carrier decides to pursue the matter civilly. The procedures in RG 3-4-C are applicable when the authorities decide to prosecute the case criminally.

Note: If the state and/or federal authorities pursue the case and there is a criminal indictment, the servicing carrier may be required to cease their civil action.

2. Investigation Stage

During the investigation stage, the servicing carrier may have identified an indicator of premium fraud committed by an insured.

Examples of premium avoidance fraud include, but are not limited to:

- Hidden payroll (e.g., Employees paid in cash, second set of books)
- Underreporting of payroll (e.g., Payroll not proportionate with claims)
- Misclassification of business (e.g., Description of business found by carrier conflicts with description provided by insured)
- Misclassification of employees (e.g., Improper allocation of payroll to lower rated classifications, or classifying employees as independent contractors)
- Experience modification avoidance (e.g., Creation and dissolution of successive entities)

3. Initial Report to WCRIBMA

The servicing carrier must put WCRIBMA's Legal Department on notice when it suspects that an insured has committed insurance fraud and the carrier intends to seek reimbursement for outside counsel fees.

Important: The servicing carrier must obtain approval from WCRIBMA before incurring outside counsel fees to be eligible for reimbursement of those fees. Servicing carriers will not be reimbursed for expenses that are included in the servicing carrier allowance or reimbursed as ALAE.

The servicing carrier should submit to WCRIBMA the information required on NCCI's Initial Notice – Suspected Premium Fraud Report. Note that the Total Premium currently being charged, including calculation, as well as the Total Premium suspected, including calculation and an explanation of the basis of the calculation, should both be provided.

Please note that if a servicing carrier does not have all of the information requested above, it should still notify WCRIBMA's Legal Department of its intent to seek reimbursement and then supplement the information once it is known by the carrier.

4. Initial Response From WCRIBMA

Upon receipt of the Initial Request for Indemnification Form and supplementary documentation, WCRIBMA's Legal Department will:

- Work with the servicing carrier to determine whether action should be taken to further investigate the risk and evaluate the merits of the matter
- Determine whether other Massachusetts servicing carriers have been defrauded by the same risk and whether the other servicing carrier(s) should be included in the action.
- Provide written approval (or disapproval) to the servicing carrier to pursue the case.

The WCRIBMA's Legal Department shall, within 10 business days from the date of their receipt of all required, and if necessary any additionally requested information, make its determination as to whether the servicing carrier will be eligible for reimbursement of legal expenses on the premium fraud matter reported.

5. Single Carrier Actions

If the WCRIBMA determines that one servicing carrier was defrauded, then the servicing carrier must abide by the following procedures:

a) Outside Counsel Evaluation

If, based on the servicing carrier's research, investigation, and preliminary asset search, WCRIBMA and the servicing carrier agree and conclude that premium fraud is suspected and should be pursued, then prior to the servicing carrier engaging outside counsel to handle the fraud matter, WCRIBMA's Legal Department will authorize \$1,000.00 for the servicing carrier's outside counsel to review the carrier's entire investigative file, including a review of the preliminary asset search and all records on the risk.

The servicing carrier's outside counsel must provide a detailed analysis of the case, in the form of an evaluation letter to the servicing carrier, who will provide the evaluation letter to WCRIBMA's Legal Department. The evaluation letter from the servicing carrier's outside counsel must include, without limitation: background information such as the named insured, policy number(s) and effective dates, the location/state(s), the total premium due (if ascertained) or estimated, names and addresses of all parties involved, including individuals and companies (if known), claim history, audit history, the issues involved, the likelihood of prevailing, the likelihood of collecting, the appropriate jurisdiction and venue, a detailed budget amount through trial, and a statement that outside counsel is of the opinion that the legal elements of fraud have been met, in addition to any other pertinent information.

Pursuant to the receipt of the Outside Counsel Evaluation Report, the WCRIBMA will determine if litigation should be pursued and will convey that decision to the servicing carrier.

b) Retention of Outside Counsel

All servicing carriers must:

Obtain written approval from WCRIBMA's Legal Department for reimbursement of attorney fees and costs prior to the servicing carrier's referring the matter to outside counsel.

- Negotiate terms for the defense of the premium fraud matter with firms in the appropriate venue and jurisdiction to achieve the most cost-effective representation. Exceptions to this provision may be made only with prior written approval of WCRIBMA and only for good and substantial reasons.
- Obtain a litigation plan and proposed budget from outside counsel and have WCRIBMA's Legal Department review and approve the budget prior to the action being filed.

c) Payment of Outside Counsel Fees and Expenses

Once the WCRIBMA's Legal Department has preapproved a budget for a premium fraud matter, NCCI's Pool Administration Department will be notified of the approval and the approved budget. Servicing carriers must submit reimbursement requests to NCCI's Pool Administration for processing. All servicing carriers must:

- Ensure the reasonableness and necessity of all legal services, fees and expenses in accordance with WCRIBMA's Indemnification Procedures.
- Review and pay all invoices for legal fees and expenses from outside counsel before submitting them for reimbursement.
- Submit all legal invoices with receipts for services, fees, and expenses such as air travel and hotel accommodations.

If the fees/expenses have exceeded the budget originally submitted and approved by WCRIBMA's Legal Department, or if during the servicing carrier's review of any fee bills subsequently incurred in a case, the servicing carrier determines that any previously approved budget will be exceeded, the servicing carrier must submit revised litigation plans and budgets to WCRIBMA's Legal Department for review and prior approval.

Important: The servicing carrier will not be reimbursed for expenses covered by the servicing carrier allowance.

6. Multiple Carrier Actions

If the WCRIBMA determines that more than one servicing carrier was defrauded, then the WCRIBMA will oversee the case and determine which servicing carrier will manage the case. The selected servicing carrier will follow the procedures outlined for Single Carrier Actions.

The servicing carrier(s) not selected to manage the case will provide any assistance requested to the outside counsel of the managing carrier. If a non-managing carrier expects to incur any legal expenses while providing assistance, they should immediately notify and obtain preapproval from WCRIBMA.

7. Servicing Carrier Responsibilities to WCRIBMA

Servicing carriers must:

- a) Submit all fraud-related settlement offers to WCRIBMA's Legal Department for review and written approval.
- b) Provide copies of the complaint, answer, counterclaims, other relevant pleadings, and pertinent correspondence to WCRIBMA's Legal Department, including documents the servicing carrier uses to support its position on premium determination/allocation.
- c) Submit a Premium Fraud Quarterly Status Report to WCRIBMA's Legal Department, as detailed in Appendix C-4 of the SCRG, on all cases. The first Premium Fraud Quarterly Status Report is due 90 days after the servicing carrier has received approval, if applicable, for indemnification of attorney fees and costs. The quarterly status reports are required, unless expressly waived by WCRIBMA's Legal Department.

8. Premium Calculation Related Issues

The following procedures govern how servicing carriers handle premium calculation in fraud-related cases, which ultimately impacts the servicing carrier allowance.

a) Reasonableness

The carrier's premium calculation should be based upon what is reasonable given all available documentation. Examples include, but are not limited to:

- 1) Premium audits may not be based exclusively on "anonymous tips" in the absence of corroborating information/documentation, and
- 2) The servicing carrier may base its estimated audit on information in an employer's credit report if that is the only information/documentation available.

b) Experience Rating Modifications

To the extent information regarding payroll and/or losses can be obtained from the carrier(s), the experience rating modification should be recalculated to reflect the information obtained through the litigation. If no reliable information is found through the litigation, then the original experience rating modification must be used.

c) Inclusion of Affiliate Exposure

The servicing carrier may only include affiliate exposure in its premium calculation on an assigned risk policy if there is some indication of intent on the part of the employer or affiliate that employees of the affiliated entity be covered under the employer's policy.

Intent on the part of the employer or affiliate to fraudulently provide coverage for an uninsured affiliate may include, but is not limited to:

- Filing of claims for injured employees of the uninsured affiliate against the employer's policy
- Creation of a contractor / uninsured subcontractor relationship between the employer and affiliate for purposes of premium avoidance
- Fraudulent issuance or use of certificates of insurance to reflect existence of coverage for an uninsured affiliate

When any of the above indications of intent is determined to have occurred during a policy term, the servicing carrier may consider treating the affiliate as having been an insured under the policy from the policy inception date and include the affiliate's payroll in the premium calculation for such policy. Note that in these types of situations, although exposure is being added to the policy, the affiliate's name should not be added as a named insured.

When any of the above indications of intent are determined to have occurred during a policy term, and the servicing carrier determines that the affiliate exposure has existed in prior years in addition to the most recently issued policy, the servicing carrier may charge the employer for the affiliate exposure in those prior years as well, subject to the terms of the policy and the rules in the Massachusetts Manual.

d) Statute of Limitations

Servicing carriers are required to adjust audited premium balances within the time periods allowed under the Massachusetts statute of limitations for bringing legal actions. In cases where the carrier has been defrauded, the applicable statute of limitations may not begin to run until the time the fraud is discovered which could result in adjustments to older policies.

e) Settlements

Settlements entered into by the employer and carrier and final judgments entered by the court are final as to the determination of the premium amount due on the policy. After a settlement or judgment, the carrier may not adjust the premium balance due. An exception should exist where the judgment is by default (no substantive testimony offered by the employer) and the carrier learns

additional/reliable payroll information after the default judgment. In that case, the carrier may adjust premium in accordance with the additional information obtained.

With regard to settlements entered into by the employer and carrier and approved by the WCRIBMA, the difference between the policy's written premium and the settlement amount shall be written off as uncollectible, and servicing carrier allowance shall be paid on the Standard Premium portion of the policy's written premium.

With regard to final judgments entered by the court (with the exception of the default judgments as described above), the carrier shall adjust their policy premium to reflect the judgment amount, and servicing carrier allowance shall be paid on the Standard Premium portion of that judgment. The WCRIBMA reserves the right, in cases when it believes the court's judgment to be either significantly under- or overstated, to adjust the servicing carrier allowance to a reasonable amount.

f) Review

The WCRIBMA has the discretion to review all available information to determine the reasonableness of the premium calculation and corresponding servicing carrier allowance.

If the servicing carrier wishes to appeal the WCRIBMA's evaluation, notification should be submitted to WCRIBMA who will notify the Residual Market Committee of the appeal. The appeal will be heard by the Residual Market Committee or other committee designated by the Governing Committee.

C Reimbursement Procedures for Criminal Fraud Matters

Section RG 3-4-C is not applicable to Massachusetts servicing carriers. Rather, the following applies.

In accordance with Massachusetts statute, any insurer licensed in Massachusetts that has reason to believe that an insurance transaction may be fraudulent, or that has knowledge that a fraudulent insurance transaction is about to take place or has taken place, shall within 30 days after determination that the transaction may be fraudulent, send to the Insurance Fraud Bureau, on their prescribed form (see Exhibit 2) the information requested by the form and such additional information relative to the transaction and the parties involved as the Insurance Fraud Bureau may require.

All Massachusetts insurers pay a statutory assessment, a portion of which is allocated to the Insurance Fraud Bureau to prosecute criminal fraud cases.

If the servicing carrier expects to incur any legal expenses while providing assistance to the Insurance Fraud Bureau, they should immediately notify and obtain preapproval from WCRIBMA. If the servicing carrier expects to incur extraordinary expenses while providing assistance required by the prosecutors, they should immediately notify and obtain preapproval from WCRIBMA.

D Reimbursement Procedures for Multicarrier Litigation

Section RG 3-4-D is not applicable to Massachusetts servicing carriers. Rather, the following applies:

If the WCRIBMA determines that more than one servicing carrier is involved in the same case, then the WCRIBMA will oversee the case and determine which servicing carrier will manage the case. The servicing carriers not selected to manage the case will provide any assistance requested to the outside counsel of the managing carrier. If the non-managing carrier expects to incur any legal expenses while providing this assistance, they should immediately notify and obtain preapproval from WCRIBMA.

RG 3-5 Incentives / Disincentives Programs

Section RG 3-5 of NCCI's SCRG is not applicable to Massachusetts servicing carriers. Rather, the following applies:

Refer to the Paid Loss Ratio Incentive Program (PLRIP) in the Appendix of the Massachusetts Pool Plan of Operation.

PART 4 – APPENDICES

The Appendices to the Servicing Carrier Reference Guide are applicable to Massachusetts servicing carriers, with the following exceptions:

APPENDIX A APPLICABILITY TABLES

Appendix A is applicable to Massachusetts servicing carriers.

APPENDIX B RECORD LAYOUTS

Appendix B is not applicable to Massachusetts servicing carriers. The data collected using the Written Premium, Uncollectible Premium, Operational Performance Review, Claim Testing and Outstanding Loss and Financial Testing Record Layouts is used only for Carrier Oversight, Section R-G 2-3.

APPENDIX C REPORTS, FORMS AND EXHIBITS FOR RG-3

1. Form NP-10

Form NP-10 is not used by Massachusetts servicing carriers. Servicing carrier allowance is paid on collected and uncollected premium.

2. Sample Request for Indemnification

Massachusetts servicing carriers can either submit to the WCRIBMA a written request for indemnification, following the instructions in RG-3-4-A-7 and using NCCI's sample letter as a guide, or submit to the WCRIBMA a completed Massachusetts Initial Request for Indemnification Form - Exhibit 1.

3. Initial Notice – Suspected Fraud

4. Premium Fraud Quarterly Status Report

5. Form NP-11 - Multicarrier True-Up/Allocation

Form NP-11 is not used by Massachusetts servicing carriers.

APPENDIX D NP FINANCIAL FORMS AND ACTUARIAL REPORTS

Appendix D is applicable to Massachusetts servicing carriers with the following exceptions.

4.d.3. Form NP-4-2 - Summary of Paid and Outstanding Losses

The following is a list of summary data elements with the appropriate detail forms that contain the totals to be submitted:

- The paid loss *and paid ALAE* summary data for each state and policy year is split by current and subsequent accident year. The total loss *and ALAE* payments on the form should be as submitted on the detail report Form NP-3.
- The known outstanding loss *and outstanding ALAE* data for each state and policy year is split by current and subsequent accident year. The total losses *and ALAE* outstanding on the form should be as submitted on the detail report Form NP-6.

5.b.2.a. Form NP-2 – Ending Deferred Premiums - When Deferred Premiums Can Be Reported

In Massachusetts, the offering of installment plans is mandated, so servicing carriers may remit billed premium installments to NCCI. Carriers that remit billed premium installments and that include deferred premium installments on Statutory Page 14 of their Annual Statements must submit the deferred premium reports to NCCI to ensure that the carrier's true voluntary premium is used to calculate their pool participation ratio.

5.b.3. Form NP-3

This form contains details for Loss Payments. Reports generated from a servicing carrier's computer system must contain records with the same information as Form NP-3 and must be submitted in a format similar to Form NP-3. For each claim number, the report should be split out by medical and indemnity losses. *For Massachusetts, paid ALAE should be included in the paid indemnity amounts.* The report must have subtotals for each state by policy year and a summary total for the policy year at the end of the report. Expenses, *other than reimbursable paid ALAE*, are not to be submitted as a part of paid losses and are not reimbursable by the Pool.

Direct reimbursement of medical cost containment (MCC) expenses is not permitted in any state, regardless of policy period.

5.b.4. Form NP-6

This form contains details for Outstanding Losses. Reports generated from a servicing carrier's computer system must contain records with the same information as Form NP-6 and must be submitted in a format similar to Form NP-6. This form provides the details of outstanding losses as of the end of each quarter. The report must be split out by medical and indemnity losses for each claim number. *For Massachusetts, outstanding ALAE should be included in the outstanding indemnity amounts.* The report must have subtotals for each state by policy year and a summary total for the policy year at the end of the report.

6.a.1. Form NP-5 – Other Charges

Form NP-5 – Other Charges is applicable to Massachusetts servicing carriers with the following noted exceptions:

- ALAE on occupational disease claims should be reported along with ALAE for traumatic claims and not on Form NP-5.
- Massachusetts servicing carriers are not permitted to charge installment service fees and should therefore not report them in the Other Expenses column.

6.c. Form NP-5 – Other Charges – State Charges

Massachusetts servicing carriers are reimbursed for assessments they paid on behalf of the Pool to the State Rating Bureau, the Attorney General's Office, the Insurance Fraud Bureau and the Massachusetts Insurers Insolvency Fund. The WCRIBMA determines the amount of the reimbursements and reports those amounts to the servicing carriers and to NCCI in time for the servicing carriers to include the reimbursements on their quarterly reportings. The servicing carriers should report their reimbursements as "Other Charges" on the Transmittal Letter (Form NP-1) and on Form NP-5—Other Charges with the corresponding policy year details included in "Other Charges" on the NP-4 electronic submission.

The Massachusetts Department of Industrial Accidents (DIA) Assessment should not be reported or ceded to NCCI. It should be reported and ceded directly to the DIA.

6.d.1. Form NP-5 –SCA Quarterly Reporting of Servicing Carrier Allowance - Background

The Massachusetts servicing carrier allowance (SCA) compensates the servicing carriers for *Other Acquisition Expense and Field Supervision, General Expense and Other Taxes, Premium Taxes, and Residual Market Unallocated Loss Adjustment Expenses*. Form NP-5 SCA is used to support the calculation of servicing carrier allowance. According to the Plan of Operation, the SCA should be based only on *Standard Premium (i.e., non-surcharge premium)*.

Note the following for Massachusetts:

- For details on the calculation of the Massachusetts Servicing Carrier Fee, refer to the Determining the Servicing Carrier Fee Appendix of the Massachusetts Pool Plan of Operation.
- ALAE should not be reported as part of the servicing carrier allowance.
- Servicing Carrier Allowance is based on written Standard Premium, and no adjustment is made for uncollectible premium.
- Flat per-policy fees are not applicable for Massachusetts.

6.d.2. Form NP-5 –SCA Quarterly Reporting of Servicing Carrier Allowance – Multistate Policies

This section is not applicable to Massachusetts servicing carriers since Massachusetts assigned risk policies can never be multistate policies.

Note: *The following exception is also included in NCCI's SCRG, Massachusetts State Exception page MA-2:*

7. NPX Data Elements

d. Claim Count Reporting

(2) Detailed Instructions for Reporting Claim Counts

Add the following to Appendix D-7-d(2):

(e) Reporting on Massachusetts Allocated Loss Adjustment Expense (ALAE)

1. Effective September, 2008, the Massachusetts WCRIB has approved, and NCCI implemented, the reporting of Massachusetts NPX ALAE totals electronically in an expanded format.
2. The expanded electronic format includes the totals by policy year for the paid and outstanding ALAE for the current and subsequent accident years.
3. The data reporting requirements for the balancing of the data is:
NP4 outstanding losses (including the outstanding ALAE) =
NPX outstanding medical losses
+ NPX outstanding indemnity losses +
+ NPX outstanding ALAE

*Refer to **Pool Data Online** record layouts for Massachusetts ALAE.*

8. Reporting on Loss Sensitive Rating Plans

This section is not applicable to Massachusetts servicing carriers.

**MASSACHUSETTS WORKERS' COMPENSATION ASSIGNED RISK POOL
INITIAL REQUEST FOR INDEMNIFICATION**

Submit completed form by email to:
WCRIBMA, Legal Department
Pool_Financial@wcribma.org

Date of Request: _____

Name of Insured: _____

Carrier: _____

Policy No., Eff. Date: _____

Name of Case: _____

Contact Person & Email: _____

By completing and submitting this form, the servicing carrier is:

- 1) Affirming that the policy is a Massachusetts Assigned Risk Pool policy
- 2) Affirming that the policy is a servicing carrier policy, not a Voluntary Direct Assignment (VDAC) policy
- 3) Requesting that the Massachusetts Assigned Risk Pool provide indemnification pursuant to the Massachusetts Pool Plan of Operation, Article X, by reimbursing reasonable costs and expenses, including legal fees, incurred by the servicing carrier from an issue arising from the Massachusetts servicing carrier assigned risk policy shown above.

Description of Case (check all that apply):

- No coverage : policy properly cancelled prior to injury date
- No coverage : policy expired and properly nonrenewed prior to injury date
- No coverage : claimant is an unknown, not an employee or a contractor †
- No coverage : claimant is an independent contractor or subcontractor, not an employee †
- No coverage : claimant is an out-of-state employee and MA benefits should not be provided †
- Collection Agency / Carrier referral to non-contingent outside counsel for collection (circle one)
- Criminal Fraud : Legal Expenses / Other Expenses (circle one)
- Civil Fraud : Legal Expenses / Other Expenses (circle one)
- Administrative Appeal at Division of Insurance, Department of Industrial Accidents or WCRIBMA (circle one)
- Defense of Claim or Counterclaim Alleging: _____
- Initiation of Claim or Counterclaim Alleging: _____
- Other _____

Firm/Attorney Information:

Outside Counsel

In-house Counsel

Name: _____

Address _____

Tele. No.: _____ Hourly Rate: _____

Attach all relevant documentation (e.g., Application, First Report of Injury, copy of Complaint and Counterclaim).

Servicing carriers will be notified of approval or denial by email. If approved, servicing carriers will need to meet the requirements outlined in NCCI's Servicing Carrier Reference Guide, RG-3-4, to continue to be eligible for indemnification. Future submissions, including a copy of this form, the 90-Day Evaluation Report, and the Quarterly Status Report, must be submitted directly to NCCI.

† Additional information must be provided.

INSURANCE FRAUD BUREAU OF MASSACHUSETTS, 101 ARCH STREET, SUITE 600, BOSTON, MA, 02110

Please type or print information. **Please complete all applicable sections.**

- Regular Referral
 High Priority/Rush
 Provider Fraud / Rush
 Task Force / Rush
 Informational Purposes

REASON FOR REFERRAL:

(Attach all documents you believe relevant; for Auto include ACORD, PIP claim form; for WC include DIA forms 101, 104, 106, 110, 113.)

Did an IFB Investigator request this Referral? Yes <input type="checkbox"/> No <input type="checkbox"/>			IFB Investigator			IFB Case #		
Referral Source: <input type="checkbox"/> Ins. Co. <input type="checkbox"/> Other		DATE: / /		Referred to Other Law Enforcement Agency? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Contact Name		Ins. Co. / Agency Name		Contact Name		Agency Name		
Address				Address				
City		State	Zip		City		State	Zip
Phone		FAX		Phone		FAX		

TYPE OF INSURANCE: <input type="checkbox"/> Auto <input type="checkbox"/> WC <input type="checkbox"/> Bond <input type="checkbox"/> Life <input type="checkbox"/> Commercial <input type="checkbox"/> Medical/Health <input type="checkbox"/> Marine <input type="checkbox"/> Property (HO) <input type="checkbox"/> Other (Specify _____) <input type="checkbox"/> Multiple Types			TYPE OF FRAUD: <input type="checkbox"/> Agent Theft <input type="checkbox"/> Arson <input type="checkbox"/> False Billing <input type="checkbox"/> False/Exaggerated Loss Statement <input type="checkbox"/> Jump-In <input type="checkbox"/> Kickback <input type="checkbox"/> Phony Theft <input type="checkbox"/> Premium Avoidance <input type="checkbox"/> Repair Fraud <input type="checkbox"/> Pre-Existing Injury <input type="checkbox"/> Sliding <input type="checkbox"/> Staged Accident <input type="checkbox"/> Working While Collecting <input type="checkbox"/> Other (Specify _____)		
For WC: DIA Board Number:					
Company Name		Company Code	Policy Number		Exp Date

Loss Information: Description Accident/Loss					
Date of Loss / /		Loss Town:		Loss Location (Address):	
For Auto:	Vehicle Year	Vehicle Make	Vehicle Model	VIN Number	REG. State / Num.

Identify all principals and their roles – ROLES: ADJ – Adjusted; AGENT – Agent; APP – Appraiser; ATTOR - Attorney
 CHIRO – Chiropractor; CLMT – Claimant; INSD – Insured; MEDOC – Medical Doctor; PASSG – Passenger, No Claim;
 PHYS – Physical Therapist; RPAIR – Body Shop/Contractors; WIT – Witness; UNSPC – Unspecified.
 Provide reserve, any paid dollars and claim status (open/closed) for each insured/claimant and for each coverage where appropriate.

Last Name	First Name	MI	Role	Claimant Number	Type of Coverage	Reserve Dollars	Paid Dollars	Open/Closed
				<i>Use additional forms if necessary.</i>				

**INSURANCE FRAUD BUREAU
OF MASSACHUSETTS**

IFB REFERRAL PROCEDURES

The procedures for an insurance company to submit a suspected fraudulent transaction are listed below. If questions arise or help is needed, please call 1-617-439-0439.

- 1.) Complete the Referral Form on the back of this sheet entering all relevant information. As your reason for referral briefly describe the facts underlying your suspicion of a criminal insurance fraud case. Additionally check all application figures of fraud you believe are present in the referral.
- 2.) Complete one form for each loss referral. For auto claims please fill in vehicle data in Loss Information section.
- 3.) Provide copies of any documentation which, in your opinion, supports your belief that the claim can successfully be prosecuted criminally. Highlight specific details you wish to bring to the attention of the IFB (i.e.: false statements, altered figures, inconsistencies, recorded statements, etc.)
- 4.) Provide copies of documents which establish that the Claimant is eligible for coverage. (i.e.: policy declarations page.)
- 5.) Provide copies of documents which will prove that the claim was submitted and payments to the Claimants were or were not paid (i.e.: claim applications, settlement drafts – front & back, current demand on open cases.)
For Auto: Acord or first report , PIP application, appraisal, police/operators reports
For Workers Compensation: DIA forms, 101, 104, 106, 110, 113
- 6.) Please retain all original documents including original letters or faxes, along with the postmarked envelopes in which they were received, in your claim files. Please retain the tapes of all recorded statements.
- 7.) Please be certain to indicate the current status of a claim submitted for evaluation.
- 8.) For each insured or claimant please complete the last three columns of the table at the bottom of the form. State the appropriate coverage description, not the policy limits. Indicate the estimate or reserve dollars of the coverage if the case is open or the reserve just prior to closure if the case was denied. Reserve dollars are zero if the case is closed. Insert the paid amounts to date by coverage type.

PLEASE NOTE: The IFB is unable to adjust claims and cannot act as a branch office. Also, a company should not threaten to refer a claim to the IFB solely to obtain advantage in settlement negotiations or in a civil matter

TYPE OF FRAUD:

Agent Thefts:

Arson:

False Billing:

False or Exaggerated Loss Statements:

Jump-ins:

Kickbacks:

Phony Thefts:

Premium Avoidance:

Repair Fraud:

Pre-Existing Injury:

Sliding:

Staged Accident:

Working While Collecting:

Description of Fraud Type:

Agent accepts premium dollars for policy or coverage not actually written with carrier: diverts premium dollars.

Deliberate destruction of property by fire.

Health Care Provider double bills, or bills for services not rendered, or bills higher for insurance company than general public, or billing unnecessary treatments/tests.

Includes False Wage Statements; claiming non-existent condition; exaggerating the severity of the loss; malingering; or build-up.

Accident actually occurs; claimant not in vehicle at time of accident.

Any insurance industry agent or personnel who creates false claims or increases amount of payment of a claim in return for a share of the claim dollars or other compensation.

Theft never occurred/all losses false; theft occurred/part of claimed loss false.

Falsifying information on application and/or supporting records to reduce the amount of premium.

Auto or Property Repair fraud committed by the supplier of the service; creating additional damage to increase cost of work; not using specified parts/supplies; billing for repairs not performed.

Claiming pre-existing conditions were caused by incident.

Changing facts of the loss so it will be covered.

Accident occurs/involved parties planned and executed it; accident never actually occurred just claimed to have occurred by parties.

Collecting total disability payments while concurrently working; collecting partial disability payments and having earned income in excess of allowed amount.

NP-8 – Uncollectible Premium Report

NCCI, Inc.
 Residual Market Collection/Indemnification Administration
 901 Peninsula Corporate Circle
 Boca Raton, FL 33487

Carrier Number. _____

Name of Insured: _____ Amount Due \$ _____

Policy No: _____ Policy Period: _____ State Code: _____

Governing Class Code: _____ Producer's Name _____ Phone No.: _____

FEIN: _____ Estimated Premium: _____ Final Earned Premium: _____

Name of Pool: MASSACHUSETTS Physical Audit (Yes _____ No _____)

1. The Insured owes \$25,000 or more on the above-referenced policy term and:
 - A. We recommend that the account be written off as uncollectible based upon the documentation attached.
 - B. We recommend that the account be settled based upon the documentation attached.

2. Account Activity as follows: Uncollectible Codes _____

- A. Settlement Proposal \$ _____
- B. Request Write-Off as Uncollectible \$ _____
- C. Premium Collected \$ _____ Present Balance \$ _____
- D. Collection Costs \$ _____ Agency _____ / _____ In-House Unit
- E. Audit Revision Debit \$ _____ (money employer owes carrier)
- F. Audit Revision Credit \$ _____ (money carrier owes employer)

G. Suit Approval Requested.	Atty. Fee Basis \$ _____ (contingent or hourly rate)	Date of Final Audit _____
		Date of Referral to In-House Unit _____
	Court Costs \$ _____	Date Original Pmt. Rec'd. _____

Date of referral to outside collection agency _____

Date of referral to attorney _____

Date: _____
 Carrier: _____
 Representative: _____
 Address: _____
 City, State, Zip Code: _____
 Telephone: _____

NCCI/WCRIBMA USE ONLY	
Item # _____	
Appr By _____	
Date _____	
Not Appr _____	

EXHIBIT D (continued)-NP-8 FORM—GENERAL INSTRUCTIONS

ITEM	WHAT TO DO
1. Name of Insured	Enter complete name of risk from policy Information Page.
2. Amount Due	Enter amount of the uncollected premium in whole dollars.
3. Policy Number	Enter complete policy numbers from the policy Information Page, including all prefixes and suffixes.
4. Policy Period	Enter both the date coverage began and the date coverage ended.
5. State Code	Enter the state with greatest payroll using the two-digit state or postal abbreviation.
6. Governing Class Code	Enter classification code producing the greatest amount of payroll other than a standard exception classification. Use audited payroll figures, if available, and not those from the application for coverage.
7. Producer's Name	Enter the producer's name as indicated on the application.
8. Phone No.	Enter the producer's area code and phone number.
9. FEIN	Enter the risk's Federal Employer Identification Number.
10. Estimated Annual Premium	Enter premium based on anticipated payroll as it appeared on the application for coverage.
11. Final Earned Premium	Enter total audited earned premium for the policy.
12. Name of Pool	Enter name of the Reinsurance Pool applicable to the policy.
13. Pool Reference No.	The RMCIA will assign each uncollectible case a unique Pool Reference Number, e.g., 94-1100. You must reference this number on future correspondence with RMCIA.
14. Physical Audit	Check "yes" if the Final Earned Premium was the result of an actual physical audit and "no" if the Final Audit was estimated.
15. Date Referred to C/A	Enter date you forwarded account to outside collection agency.
16. Date Referred to Attorney	Enter date account was forwarded to outside attorney.
17. Uncollectible Codes	Enter the appropriate codes for the account.
18. Date	Enter the date you fill out the NP-8 for submission to RMCIA.
19. Servicing Carrier	Enter your company name.
20. Representative	Enter name of person at your company who can answer questions regarding the status of the uncollectible being reported.
21. Address	Enter your complete mailing address.
22. Telephone	Enter the telephone number of the servicing carrier representative who can answer questions regarding the status of the uncollectible.

Questionnaire NP-8

PREMIUM WRITE-OFFS

Insured _____

Pool No.: _____

1. We have verified that the insured is no longer operating as a business entity through the following means:
Credit report, skip tracing, etc. (copy attached)
Contact with Secretary of State
Direct contact with insured, drive-by inspection
Contacted producer for information
Other: _____

2. We have determined that there are no assets in the name of the insured through the following means:
Credit report, asset investigation, etc. (copy attached)
Review of financial data, tax returns, etc. (copy attached)
Other: _____

3. We have been unable to locate other business interests (subsidiaries, affiliates, commonly managed entities) of the insured. Efforts to do so include:
Credit reports, skip tracing, etc. (copy attached)
Other: _____

4. We have determined there is no basis to hold the principals of the insured personally liable for the premium obligation based upon the following:
The insured was operating as a corporation during the full policy term
There is no evidence of intentional misrepresentation of the insured's payroll, business classifications, etc.
Other: _____

5. The insured filed for bankruptcy protection under Chapter 7 and a copy of the Proof of Claim, if required, is attached.
Other: _____

6. The insured filed for bankruptcy protection under Chapter 11 and:
A copy of the Proof of Claim is attached
There is no premium due on current coverage, if any
No Plan of Reorganization has been filed by the insured

By: _____ Telephone No: _____