



**THE WORKERS' COMPENSATION  
RATING AND INSPECTION BUREAU**

*Administrator  
Massachusetts Assigned Risk Pool*

December 5, 2003

**MASSACHUSETTS WORKERS' COMPENSATION  
ASSIGNED RISK POOL**

**SPECIAL BULLETIN 12-03**

**NEW ASSIGNED RISK POOL PROCEDURES  
EFFECTIVE 1/1/04**

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The Massachusetts Appeals Court issued a decision in *Thomas Dearmon's Case* which held that an assigned risk pool policy remained in effect beyond its policy expiration date because the Court found that the carrier's notice of non-renewal (that was sent in accordance with the Assigned Risk Pool Procedures Manual) did not comply with Massachusetts General Laws chapter 152, section 65B. As a result, the carrier was required to pay benefits for an injury that occurred beyond the expiration date, even though the insured did not pay the renewal deposit premium.

As a result of this decision, the Governing Committee directed the Assigned Risk Pool Procedures Subcommittee to work with Bureau staff to establish renewal and non-renewal procedures for assigned risk pool policies that would comply with the *Dearmon* decision. The Subcommittee and the Bureau drafted new Renewal Procedures and Non-Renewal Procedures that have been reviewed and agreed to by the Department of Industrial Accidents and approved by the Commissioner of Insurance. **The revised procedures will be effective on January 1, 2004.**

The revised Renewal Procedures and Non-Renewal Procedures are attached as Exhibit A, and the current Renewal Procedures and Non-Renewal Procedures are attached as Exhibit B. The Pool Procedures for Existing Policies on our website ([www.wcribma.org](http://www.wcribma.org)) will be updated in time for the January 1, 2004 effective date.

DANIEL M. CROWLEY  
Director – Customer Services

## **New Renewal Procedures**

At least forty-five (45) days, but not more than one hundred (100) days prior to the expiration date of the policy, the designated 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 designated carrier receives the required deposit premium by the due date, the designated carrier will issue a renewal policy within thirty (30) calendar days.

The renewal proposal will 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."

**IMPORTANT:** If the deposit premium is not received by the due date (e.g. 11/10/03), the designated carrier must send a Notice of Non-Renewal to the insured and the Bureau. 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 Bureau receive the Notice at least ten (10) days prior to the expiration date of the current policy. The designated carrier shall obtain for its records 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 carrier will always provide the reason for non-renewal on any Notice sent to the Bureau or the insured employer. **Designated carriers should refer to the sample Notice of Non-Renewal on the next page.**

If a designated carrier does not receive the deposit premium prior to the expiration date of the current policy, it shall not issue a renewal policy.

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

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

**NAME OF INSURANCE COMPANY**

Mailing Address of Insurance Company  
City, State, Zip Code  
Telephone Number  
Fax Number

**NOTICE OF NON-RENEWAL**

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

**Date of Notice:** <mm/dd/yyyy>

Policy Number: xxxxxxxxxxxxxxxxxxxxxxxx

Policy Period: <mm/dd/yyyy> to <mm/dd/yyyy>

Effective Date of Termination: <mm/dd/yyyy> (= Expiration Date)

Reason for Non-Renewal: Renewal Premium Not Received

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 Non-Renewal 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

## **New Non-Renewal Procedures**

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 Bureau.

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 Bureau 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 Department of Industrial Accidents.

Designated carriers must give ten (10) days written notice to the insured employer and the Bureau 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 Bureau receive the Notice at least ten (10) days prior to the expiration date of the current policy. The designated carrier shall obtain for its records 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 will always provide the reason for non-renewal on any Notice sent to the Bureau or the insured employer.

Refer to the section entitled IMPORTANT in the **Renewal Procedures** 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 should also be sent to the producer of record.

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

**Current Renewal Procedures**

At least forty-five (45) days, but not more than one hundred (100) days prior to the expiration date of the policy, the designated carrier sends a renewal proposal to the employer and the producer of record. This proposal will identify the policy expiration date and specify a deposit premium which must be received by the designated carrier before the policy expires to avoid a lapse in coverage. Provided the required deposit premium is received before the expiration date of the policy, the designated carrier will issue the renewal policy within thirty (30) calendar days.

The renewal quotation will 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."

The insured remains assigned to a designated carrier for fifteen (15) days after a policy expires, even though coverage is not in effect. If all outstanding premiums are paid and a sufficient, negotiable deposit premium check is received by the designated carrier on or before the fifteenth (15th) day after the policy expiration date, a policy will be issued with a lapse in coverage effective the day after receipt of the deposit premium by the designated carrier. The designated carrier's obligation to renew a policy ends if the deposit premium is not received on or before the fifteenth (15th) day after the policy expiration date.

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

The carrier will be able to produce a photocopy or other exact reproduction of the document(s) sent to the insured employer or to the Bureau.

**Current Non-Renewal Procedures**

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

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 Bureau 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 Department of Industrial Accidents (DIA). Accordingly, the Notice of Non-Renewal must be mailed in enough time to ensure that the insured and the Bureau receive the Notice of Non-Renewal at least ten (10) days prior to the policy expiration date. The carrier will always provide the reason for non-renewal on any Notice sent to the Bureau or to the insured employer.

Some designated carriers choose to routinely send a Notice of Non-Renewal to the Bureau at the same time they send the renewal proposal to the insured. Carriers do this to satisfy the statutory notification requirement in Section 63 which states that the insurance shall not be cancelled or shall not be otherwise terminated until ten (10) days after written notice is given to the Bureau. In this situation, if the insured pays the renewal deposit premium prior to the current policy expiration date, then the designated carrier will issue the renewal policy. The issuance of the renewal policy will negate the previously filed Notice of Non-Renewal. Therefore, the carrier is not required to send a Notice of Reinstatement to the Bureau. Refer to the Renewal section for additional information.

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

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