

Title 19: Insurance

Part 4: Automobile Insurance

Part 4 Chapter 1: A (79-1) Automobile Club Service Contracts Pursuant To The Provisions Of Miss. Code Ann. §§81-11-201 Through 83-11-247.

Rule 1.01 Automobile Club Service Contracts

TO: ALL COMPANIES WRITING AUTOMOBILE CLUB SERVICE CONTRACTS
PURSUANT TO THE PROVISIONS OF SECTIONS 83-11-201 THROUGH
83-11-247 OF THE MISSISSIPPI CODE OF 1972, ANNOTATED.

WHEREAS, it has come to the attention of the Department of Insurance and the Commissioner of Insurance that certain automobile clubs and automobile club agents have, because of certain company-agent problems committed acts that are either misleading or confusing to the automobile club buying public in revealing to the named club member the identity of the automobile club holding the member's automobile club service contract, and

WHEREAS, following a detailed study of the automobile club service contract field in the State of Mississippi, it has been decided that some automobile clubs and automobile club agents are involved in the practice of "twisting" to the detriment of the automobile club buying public of the State of Mississippi.

THEREFORE, it is the considered opinion of the Insurance Commissioner of the State of Mississippi that certain voluntarily steps be taken by the automobile clubs doing business in this state to help remedy this problem, and,

THAT the Commissioner of Insurance suggests that all automobile clubs doing business in this state initiate a program wherein all agents presently in the employ of, or hired from this day forward, be employed through the use of a written contract setting forth all of the conditions and responsibilities of such employment and that each and every agent's contract contain the following standard provisions in the words in which the same appear in this letter, to wit:

"It is agreed, in the event of the termination of this employment by either party with or without cause, that for a period of one (1) year after the date of such termination, if such employee shall go into business alone or in conjunction with one or more persons or in the employ of any person, partnership, association, corporation, automobile club or other legal entity where the business of such employment shall be the same or similar to that of the company, that such employee shall not;

- (1) Solicit any active or paid up members or holders of service contracts of the company;
- (2) Loan to, pay off or pay on any active membership or service contract of the company.

(3) Transmit or reveal any information, written or oral, concerning the active or paid up membership or service contract of the company, or its method of operation, or the types of benefits offered by the company or use same for himself or others in the same or similar employment.

Further, members or service contract holders shall be regarded or defined as; All persons, and each and every one thereof, for whom the company performs services in the course of its business, are and shall be the members or service contract holders of the company , as well after the termination of, as at all times during, the employment of the employee, notwithstanding that some or all of said persons may have been induced to give their patronage to the company by the solicitation of the employee, or of someone on his behalf, either during the usual hours of employment of the employee or otherwise, and notwithstanding that all or some of such persons may have previously been customers of the employee or others.”

WHEREFORE, it is requested that all automobile clubs doing business in this state announce to the Commissioner of Insurance, within ten (10) working days of this writing, their intention to either comply with or resist this request, and if such automobile club refuses to voluntarily comply with this request to state their reasons for same. Full compliance of this request will be effective thirty (30) days from the date of this writing.

IT IS, THEREFORE, the hope of the Commissioner of Insurance that all automobile clubs doing business in this state will comply with this request so that the automobile club buying public of this state will be protected from the practices mentioned herein and that it will not be necessary to promulgate any further rules or regulations in the furtherance of the purposes stated herein. The Department of Insurance and the Commissioner of Insurance earnestly solicit the cooperation of all concerned.

Dated: February 12, 1979.

Source: Miss. Code Ann. §§ 83-11-201 through 83—11-247 (Rev. 2011)

Part 4 Chapter 2:(2002-1) Non-Stacking Uninsured Motorist Insurance Coverage.

Rule 2.01: Authority

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority granted to him by Miss. Code Ann. § 83-5-1 and Miss. Code Ann. § 83-11-102 as enacted in the 2002 Regular Session of the Mississippi Legislature, and amended by House Bill 545, 2013 Regular Session, as well as the provisions of the Mississippi Department of Insurance Regulation No. 88-101, and regulation being the Rules of Practice and Procedure before the Mississippi Insurance Department.

Source: Miss. Code Ann. §§ 83-5-1; 83-11-102 (Rev 2011)

Rule 2.02: Purpose

The purpose of this Regulation is to provide a form for insurers to use in the course of the sale or issuance of multi-vehicle, non stacking uninsured motorist insurance coverage which informs the named insured or applicant of the limitation on stacking imposed and that such coverage is an alternative to coverage without such limitation in accordance with Miss. Code Ann. § 83-11-102

Source: Miss. Code Ann. §83-11-102 (Rev. 2011)

Rule 2.03: Coverages Under a Non-stacking Policy

Insurers may offer multi-vehicle, non-stacking uninsured motorist insurance coverage to an insured in an automobile liability policy that covers four (4) or more vehicles. Insurers must offer uninsured motorist insurance that would cover bodily injury and property damage with limits no less than four times those in the Mississippi Motor Vehicle safety Responsibility Law in accordance with Miss. Code Ann. § 83-11-101 and § 83-11-102. The Mississippi Motor Vehicle Safety Responsibility Law sets out minimum split limits of twenty-five thousand dollars (\$25,000) for bodily injury to or death of one person in any one accident, fifty thousand dollars (\$50,000) for bodily injury to or death of two or more persons in any one accident, and twenty-five thousand dollars (\$25,000) for injury to or destruction of property of others.

Thus, the minimum limits an insurer must offer for a non-stacking uninsured motorist insurance policy are one hundred thousand dollars (\$100,000) for bodily injury to or death of one person in any one accident, two hundred thousand dollars (\$200,000) for bodily injury to or death of two or more persons in any one accident, and one hundred thousand dollars (\$100,000) for injury to or destruction of property of others. Should the minimum requirements in the Mississippi Motor Vehicle Safety Responsibility law be increased, the minimum limits for the non-stacking uninsured motorist coverage must be increased accordingly.

Source: Miss. Code Ann. §§ §§ 63-15-3, 63-15-11, 63-15-31; 63-15-43 (Rev. 2004); 83-11-101; 83-11-102 (Rev. 2011)

Rule 2.04: Disclosures of Limitations of Non-Stacking Policy

A disclosure document containing the disclosures required in Miss. Code Ann. § 83-11-102 and this regulation shall be provided in the course of the sale or issuance of non-stacking uninsured motorist coverage. Said disclosure document shall be in the form of the disclosure listed in Appendix A.

Source: Miss. Code Ann. §83-11-102 (Rev. 2011)

Rule 2.05: Severability

If any provision of any section of this Regulation or the application thereof is held by a court to be invalid, such invalidity shall not affect any other provision of that section or application of the Regulation which can be given effect without the invalid provision or application, and to this end the provisions of the Regulation are declared to be severable.

Source: Miss. Code Ann. §83-5-1 (Rev. 2011)

Rule 2.06: Effective Date

The Effective Date of this Regulation shall be July 1, 2013.

Source: House Bill 545, 2013 Regular Session; Miss. Code Ann. §25-43-3.113 (Rev. 2010)

Rule 2.07: Appendix A-Approved Form - Effective 7/1/13.

THIS FORM TO BE USED WHEN INSURED SELECTS NON-STACKING UM COVERAGE

**MISSISSIPPI NON-STACKING
UNINSURED MOTORIST INSURANCE**

Miss. Code Ann. §83-11-102 provides for an **optional** Non-stacking Uninsured Motorist Coverage available to an insured under an auto liability policy that covers **four (4) or more** vehicles. The Non-stacking Uninsured Motorist limits selected shall cover all vehicles listed in the policy and does not apply per vehicle. The selection of this Non-stacking coverage imposes a limitation on adding together or stacking of coverages. **If the insured selects the Non-stacking Uninsured Motorist Policy, in the event of an accident, the total limit of uninsured motorist coverage available from the policy will be only the one limit previously selected by the insured. It is an alternative to stackable uninsured motorist coverage where the coverage limits for each vehicle may be added together or stacked to determine the total coverage available. While only one limit of uninsured motorist coverage is available from a Non-stacking Uninsured Motorist policy, other limits of uninsured motorist coverage from other policies might be available to add to the single coverage available from the Non-stacking Uninsured Motorist policy depending upon the specific circumstances.**

The minimum limits required under Mississippi law for Non-stacking Uninsured Motorist Coverage are four (4) times the limits required by the Mississippi Motor Vehicle Safety Responsibility Law. Therefore, the Non-stacking Uninsured Motorist Coverage limits pursuant to Miss. Code Ann. §83-11-102 require \$100,000 per person, \$200,000 per accident and \$100,000 for property damage. An increase to the statutory limits under this Law shall increase the minimum limits for Non-stacking Uninsured Motorist coverage accordingly.

I understand the limitations imposed by the Non-stacking Uninsured Motorist policy and that such coverage is an alternative to coverage without such limitation. I further agree that acceptance of this limitation shall apply to any policy from the same insurer, including sister insurers in the same holding company, which renews the coverage, extends the coverage, or changes covered vehicles unless and until I make a written request for a change to stackable uninsured motorist coverage.

Selection of Non-stacking Uninsured Motorist coverage is affirmed by your signature below. I select the following coverages at the limits shown below:

€ Non-stackable UM Bodily Injury and UM Property Damage at limits of _____ per person / _____ per accident / _____ property damage.

€ Non-stackable UM Bodily Injury Coverage (No Property Coverage) at limits of per person / _____ per accident.

€ Non-stackable Combined Single-limit UM Coverage (Includes Bodily Injury and Property Damage Coverage together) at the limit of _____ per accident.

Date: _____ Policy Number (if available): _____
Applicant Name (Print): _____ Address: _____
Signature of Applicant: _____ Proposed Effective Date of Coverage: _____

Amended Form (Effective 7/1/2013)

Source: House Bill 545, 2013 Regular Session; Miss. Code Ann. §83-11-102 (Rev. 2011)

Part 4 Chapter 3 Mississippi Automobile Insurance Plan (*Miss. Code Ann. §63-15-65*)

Introduction. The Mississippi Automobile Insurance Plan (“the Plan”), established by *Miss. Code Ann. §63-15-65*, is an agreement among insurance companies for granting automobile bodily injury and property damage liability insurance to risks unable to secure it for themselves.

Rule 3.01 Purposes of Plan

The purposes of the Plan are to make automobile bodily injury, property damage, and medical payment liability insurance available to vehicles registered with the Mississippi Division of Motor Vehicles, subject to the conditions hereinafter stated and in the Mississippi Plan of Operation (hereinafter the “Plan of Operation”) and the Mississippi Automobile Insurance Plan of Rules and Rates (hereinafter the “Plan Manual”). The Plan may issue private passenger motor vehicle policies, and commercial motor vehicle policies in the name of the Plan. Such policies shall be recognized as if issued by an insurance company authorized to issue insurance in this state. The Plan shall also establish procedures for the sharing of premium, losses, costs, and expenses generated by the Personal Automobile Insurance Procedure (hereinafter “PAIP”) among all subscriber companies writing voluntary private passenger non-fleet (hereinafter “PPNF”) and the Commercial Automobile Procedure (hereinafter “CAIP”) among all subscriber companies writing voluntary other than private passenger (hereinafter “OTPP”) policies in the State of Mississippi. Copies of the Plan of Operation or Plan Manual may be obtained at www.aipso.com/ms or by calling 1-800-301-6477.

Source: *Miss. Code Ann. §§83-5-1 (Rev. 2011); 63-15-65 (Rev. 2004).*

Rule 3.02 Effective Date

The Plan became effective in February of 1949 when all companies licensed to write direct automobile bodily injury liability insurance in the state have subscribed thereto. The requirements in this Regulation shall become effective upon adoption. No company which is licensed to write only reinsurance shall be a subscriber to this plan.

Source: *Miss. Code Ann.* §25-43-3.102 (Rev. 2010).

Rule 3.03 Residents and Non-Residents

- A. Except as may be otherwise provided, the Plan shall be available to residents and non-residents of the state only with respect to automobiles that are registered in the state, except that non-residents who are members of the United States military forces shall be eligible with respect to automobiles registered in other states provided such military non-residents are stationed in this state at the time application is made and are otherwise eligible for insurance under the Plan.
- B. A motor vehicle registered in Mississippi, and principally garaged in another state shall be subject to the rates, additional charges, rating rules and policy forms applicable under the Automobile Insurance Plan of the state of principal garaging, and such applicants shall be assigned to companies licensed to write and writing automobile liability insurance in that state.
- C. When a vehicle registered in Mississippi is principally garaged in another state whose Automobile Insurance Plan does not provide for physical damage coverage such risk shall be subject to whichever of the following will produce the higher dollar amount:
 - 1. The rates applicable to the Mississippi territory determined by the address shown on the registration, and otherwise subject to all of the provisions of this Plan, or
 - 2. The rules, rates, minimum premiums, classifications in force and rating plans applicable in the state and territory where the vehicle is principally garaged, and otherwise subject to all of the provisions of this Plan.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.04 Administration

The Plan shall be administered by a Governing Committee and a Manager. The Governing Committee (hereinafter referred to as “the Committee”) must be approved by the Commissioner of Insurance and shall consist of nine voting members, who are Plan Subscriber Companies, two non-voting members who are licensed Mississippi resident property and casualty insurance producers and two ex officio non-voting members.

A. Subscriber Companies shall be chosen from each of the following classes of insurers:

- 1. Six Subscribers from the American Property Casualty Insurers Association (APCIA);
- 2. Three Subscribers from the Non-Affiliated Insurance Companies (NAF)

When the APCIA or NAF are unable to appoint one or more subscriber companies to serve on the Governing Committee, the vacant seat shall be opened up to any subscriber company for that term only. The company to fill the vacancy for that term only will be chosen by a process to be determined by the Governing Committee. At the end of the term, the seat will be resumed by a representative from the respective class of company.

Each voting member serving on the Committee shall designate a representative to act on its behalf. This representative shall be either (1) a salaried employee or officer of the named subscriber company or (2) a salaried employee or officer of another subscriber company from a group of companies under the same management as the named subscriber company. A salaried employee or officer of the holding company of the named subscriber company may also be designated as the representative.

B. Two non-voting members shall be chosen from a list of all licensed Mississippi resident property and casualty insurance producers.

C. The Commissioner of Insurance shall appoint two persons, who are employed by the Mississippi Insurance Department, to serve as ex officio non-voting members.

Prior to the biennial meeting, the Manager shall poll the nonaffiliated companies to determine those companies desiring to serve on the Committee and then conduct a mail ballot prior to the annual meeting for the nonaffiliated companies to elect their representatives. Nonaffiliated company representatives shall be selected on a weighted vote basis by all nonaffiliated company insurers. Each nonaffiliated company shall cast a proportionate vote based on that company's respective Voluntary Private Passenger Nonfleet Liability Direct Written Premiums and Voluntary Other than Private Passenger Liability and Physical Damage Net Direct Written Premiums written in the state for the calendar year ending December 31 of the second prior year by nonaffiliated companies as reported to AIPSO by statistical agents.

Biennially, on a date fixed by the Committee, each respective group of insurers heretofore described shall elect its representative to the Committee to serve for a period of one year or until a successor is elected. Forty-five (45) days' notice of such meeting shall be given in writing to all subscribers and members to the Plan. The subscriber companies and members may be present or represented by proxy at such meetings and voting by proxy shall be permitted.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2013).

Rule 3.05 Duties of Governing Committee

The Committee shall meet as often as may be required to perform the general duties of administration of the Plan. A majority of the filled_voting members' seats of the Committee shall constitute a quorum.

The Committee shall be empowered to appoint a Manager, budget expenses, levy assessments, disburse funds and perform all duties essential to the proper administration of the Plan.

Upon request, the Committee shall furnish to any subscribers to the Plan, a written report of operations annually in such form and detail as the Committee may determine. The annual report shall be available on the Plan website. In addition, hardcopies of the report may be available by contacting the Plan.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3. Subscriber Participation

- ~~A.~~ The Plan shall establish a procedure to perform all such policy holder and claim handling services as may be necessary to administer the PAIP.
- B. The Plan shall distribute CAIP applications to the CAIP servicing carriers for servicing of eligible risks.
- C. Company groups under the same ownership may elect to be treated as one company to receive assessments, and for PAIP and CAIP participation ratios.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.07 Cost of Administration

Each company subscribing to the Plan shall pay a minimum annual fee and assessments as provided in the Plan of Operation, each for liability and for physical damage insurance.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.08 Eligibility

- A. To be eligible for bodily injury, property damage, medical payments, and physical damage coverage's, the applicant must meet the following criteria:
 - 1. As a prerequisite to consideration for coverage through the Plan, an applicant must certify, in the prescribed application form, that he has attempted, within 60 days prior to the date of application, to obtain automobile insurance in the State and that he has been unable to obtain such insurance.
 - 2. An applicant so certifying shall be considered for coverage through the Plan upon making application in good faith to the Plan. An applicant shall be considered in good faith if he reports all information of a material nature, and does not willfully make incorrect or misleading statements, in the prescribed application form, or does not come within any of the prohibitions or exclusions specified in the Plan of Operation or Plan Manual.

- B. An applicant shall not be entitled to physical damage insurance nor shall the Plan or CAIP servicing carrier be required to afford or continue to afford physical damage insurance under the exclusions specified in the Plan of Operation or Plan Manual.
- C. Medical payments insurance shall be available to an applicant, but only in conjunction with the same policy written in accordance with this Plan affording bodily injury and property damage coverage for a four-wheel vehicle classified and rated as a private passenger automobile.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.09 Extent of Coverage

- A. The Plan or CAIP servicing carrier shall be required to write a policy or binder at a minimum for the limits in the Financial Responsibility law of the State.
- B. Notwithstanding paragraph A, upon request of any applicant, the Plan or CAIP servicing carrier shall provide limits adequate to comply with the provisions of the Financial Responsibility Law of any state in which the motor vehicle will be operated, but applicable only while the motor vehicle is being operated in that state/province.
- C. Upon request of the insured, a standard loss payable clause for the benefit of a lien-holder shall be included in the policy.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.10 Application for Assignment

The application for insurance under the Plan must be submitted to the Plan on a prescribed form accompanied by the appropriate premium as specified in the Plan of Operation. If the applicant is ineligible for coverage, the deposit shall be returned. No coverage will be in effect if the premium remittance which accompanies the application is justifiably dishonored by the financial institution. Producers may not deduct commission from the premium submitted with the application. The producer must compute the premium for each risk and show the computed premium on the application. If computation is not shown, the application will be returned. The Plan will not estimate a premium.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.11 Designation of Company and Effective Date of Coverage

Upon receipt of the application for insurance properly completed and the deposit specified in the Plan of Operation, and if the application form shows that the applicant is eligible for coverage, the Plan shall so advise the applicant and producer of record and shall state in such notice the date when the coverage shall become effective. The Plan shall give written notice to the CAIP

servicing carrier of the name of the applicant, the producer of record, the coverage to be afforded and the effective date of coverage.

If for any reason, the applicant refuses to accept the policy, the Plan or CAIP servicing carrier shall retain the premium as allowed in the Plan of Operation or Plan Manual.

The Plan shall forward to the CAIP servicing carrier, a copy of the application form, the notice of the effective date of coverage, and the deposit, same to be credited by the CAIP servicing carrier against the policy premium.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.12 Assignment Period

The Plan or CAIP servicing carrier shall write the applicant for a period of three consecutive years, except in the event a financial responsibility filing is required, the Plan or CAIP servicing carrier shall carry the risk for the period of Financial Responsibility Filing, but in no event in excess of 5 years. The Plan or CAIP servicing carrier shall not extend or offer to renew a policy beyond the fifth year. If an insured is unable to obtain insurance at the end of the 3 year period, reapplication for insurance may be made to the Plan. Such reapplication shall be considered as a new application.

In the case of non-resident military personnel, the Plan or CAIP servicing carrier, shall not be required to renew if at the time of renewal the insured is stationed in another state and his/her automobile is not registered in Mississippi.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.13 Notice to Applicant

For private passenger risks and risks serviced by a CAIP servicing carrier, issuance of the original or renewal policy and the making of Financial Responsibility filings shall all be done in accordance with the applicable provisions of the Plan of Operation or Plan Manual.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.14 Reserved

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.15 Rates

- A. All risks placed through the Plan shall be subject to the rules, rates, surcharges, minimum premiums and classifications filed on behalf of all companies subscribing to this Plan by AIPSO and approved by the Mississippi Department of Insurance. The rate applicable to

any risk placed through the plan shall be determined in accordance with the applicable provisions as set forth in the Plan Manual.

- B. For the purposes of such filings, each company subscribing to this Plan is a subscriber to the AIPSO and authorizes the Mississippi Insurance Department to accept such filings on its behalf.
- C. All of the statistical data required to develop the appropriate rate shall be furnished to AIPSO by each company subscribing to this Plan or by a statistical agency designated by such company.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.15.01 Standard Policy Coverage

A. Personal Auto Policy

Coverage for private passenger automobiles, as defined in the Plan of Operation and Plan Manual, which have four wheels and are owned or hired under a long-term contract by an individual or by husband and wife who are residents in the same household and written on a specified car basis; for private passenger automobiles owned or hired under a long-term contract by relatives other than husband and wife or resident individuals and for motorcycles or similar type motor vehicles or motor homes; and for named non-owner risks, shall be provided uniform coverage equivalent to the coverage of the Edition of the Insurance Service Office, Inc. (ISO) Personal Auto Policy and the ISO and Automobile Insurance Plan endorsements which have been approved by the Mississippi Insurance Department for use with Plan business.

B. CAIP Commercial Policy

Commercial risks shall be provided uniform coverage, equivalent to the coverage of the ISO Commercial Auto Coverage Part Program and the ISO and Automobile Insurance Plan endorsements which have been approved by the Mississippi Insurance Department for use with Plan business.

Policies issued under the provisions of the Mississippi Commercial Automobile Part of the Plan of Operation shall indicate that they have been issued on behalf of the Plan.

Any required filings of policy or endorsement forms shall be made on behalf of all companies subscribing to this Plan by AIPSO. For the purposes of such filings, each company subscribing to the Plan is a subscriber to AIPSO.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004); 83-5-1 (Rev. 2004).

Rule 3.16 Cancellations

A. Cancellation at Request of Insured.

If for any reason the insured requests a cancellation, the Plan or CAIP servicing carrier shall retain the earned premium for the period of coverage and 10% of the pro rata unearned policy premium, or the minimum policy premium as contained in the Plan Manual, whichever is greater, and return the balance to the insured except in the cases indicated in the Plan of Operation or Plan Manual where the return premium shall be computed pro rata.

B. Cancellation by the Plan or by the CAIP Servicing Carrier

The Plan, or CAIP servicing carrier which has issued a policy or binder under this Plan, shall have the right to cancel the insurance by giving appropriate notice as required in the policy or binder only for the reasons specified in the Plan of Operation unless otherwise specified by law.

Nothing herein shall be deemed to affect the Plan's or the CAIP servicing carrier's right to rescind a policy for fraud or misrepresentation or if the insured's premium remittance which accompanies the application is justifiably dishonored by the financial institution, or to invoke other remedies provided by law.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.17 Right of Appeal

The Committee may hear any appeal from an applicant, insured, producer, or insurer on a matter pertaining to the proper administration of the Plan. Each Notice of Cancellation or denial of insurance under the provisions of the Plan shall contain or be accompanied by a statement that the insured or applicant has a right to appeal to the Committee within thirty (30) days from the date of cancellation, or denial of insurance. The action of the Committee may be appealed to the Commissioner of Insurance within thirty (30) days from the date of action by the Committee.

The Plan shall promptly notify the company, the insured or the applicant, and the producer of record, of the disposition of the appeal, which notification in the case of refusal to sustain a cancellation shall include notice that upon payment of the deposit premium to the company a policy or binder will be issued.

An appeal shall not operate as stay of cancellation, provided, however, that if either the Committee or the Commissioner of Insurance refuses to sustain the cancellation, the company which issued the policy or binder shall, within two working days after receipt of the deposit premium, provided such deposit premium is received within thirty (30) days after determination of the appeal, issue a new policy or binder effective for a period of one year from the date of issuance of such new policy or binder. The balance of the premium shall be payable as provided in the Plan of Operation Personal Automobile Part and the Plan of Operation Commercial Automobile Part.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.18 Re-eligibility

An applicant denied insurance under the Plan or cancelled by the Plan or CAIP servicing carrier may reapply to the Plan as provided in the Plan of Operation.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.19 Commission

Unless other arrangements have been made with the Insurance Department the compensation under the Plan shall be a percentage as provided in the Plan of Operation. On any risk rated and domiciled outside of this state, the licensed producer may be paid only that portion of the producer's commission which is permissible under the laws of the state in which the risk is rated and domiciled.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.20 Amendment of Plan

Subject to the approval of the Commissioner of Insurance, the Plan may be amended by the Committee by a majority vote taken at a Committee meeting or teleconference or by mail vote.

In the event a mail vote is conducted, the mail ballot containing any proposed amendment shall be mailed to the Committee not less than ten (10) days prior to the final date fixed for voting thereon. If a Committee member does not respond on or by the final voting date, its vote shall be considered affirmative on the proposed amendment.

Source: *Miss. Code Ann.* §63-15-65 (Rev. 2004).

Rule 3.21 Separability

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the regulation and its application to other persons or circumstances shall not be affected.

Source: *Miss. Code Ann.* §83-5-1 (Rev. 2011).

Rule 3.22 Examination Oversight

The Commissioner or any of his appointed examiners may conduct an examination of the Plan under the procedures set forth under *Miss. Code Ann.* §83-5-201, et. seq. (as amended) as often as the Commissioner, in his or her sole discretion, deems appropriate. The cost of such examination shall be borne in full by the Plan.

Source: *Miss. Code Ann.* §§63-15-65 (Rev. 2004); 83-5-1 (Rev. 2011); 83-5-201 through 83-5-215 (Rev. 2011).

Part 4, Chapter 4: Regulation of Vehicle Service Contracts

Rule 4.01: Authority and Purpose

A. This regulation is adopted and promulgated pursuant to the authority granted by *Miss. Code Ann.* § 83-65-101, et seq. (Rev. 2011), Regulation of Vehicle Service Contracts, and in accordance with the provisions of The Mississippi Administrative Procedures Law, *Miss. Code Ann.* § 25-43-1.101, et seq., and the Mississippi Insurance Department Regulation found at *Miss. Admin. Code*, Part 1, Chapter 15, which regulation is entitled, “Rules of Practice and Procedure Before the Mississippi Insurance Department.”

B. The purpose of this regulation is to set forth rules and procedural requirements which the Commissioner of Insurance deems necessary for consistent regulation of vehicle service contracts, companies and entities engaged in the marketing and selling of these contracts in the State of Mississippi, and to ensure that there is clear guidance concerning the rules of the Mississippi Insurance Department pertaining to the regulation of vehicle service contracts.

Source: *Miss. Code Ann.* §§ 83-65-101, et seq. and 25-43-1.101, et seq. (Rev. 2011) and *Miss. Admin. Code* Part 1, Chapter 15.

Rule 4.02.: Scope

A. This regulation shall apply to all entities, individuals, and persons engaged in the selling and marketing of vehicle service contracts as defined in *Miss. Code Ann.* § 83-65-103. However, in accordance with *Miss. Code Ann.* § 83-65-101, this regulation shall not apply to motor vehicle manufacturers' warranties.

B. Vehicle service contracts, including the marketing, sale, offering for sale, insurance, making, proposing to make, and administration of vehicle service contracts by providers, sellers, and other persons, are governed exclusively by *Miss. Code Ann.* § 83-65-101, et seq. Other statutes are not applicable to Vehicle Service Contracts except as specifically provided in *Miss. Code Ann.* § 83-65-101, et seq.

C.

Source: *Miss. Code Ann.* § 83-65-101, et seq. (Rev. 2011).

Rule 4.03: Licensing

Except for the filing requirements in *Miss. Code Ann.* § 83-65-101, et seq., providers, sellers, and other persons marketing, selling, or offering to sell vehicle service contracts are exempt from any licensing or registration requirements of Title 83 of the Mississippi Code.

Source: *Miss. Code Ann.* § 83-65-101, et seq. (Rev. 2011).

Rule 4.04: Cancellation

A. Cancellation by Service Contract Holder

1. Cancellation by a Service Contract Holder shall require the Service Contract Provider to permit the Service Contract Holder to return the vehicle service contract within twenty (20) days of the date the vehicle service contract was mailed to the Service Contract Holder, within ten (10) days of delivery if the vehicle service contract was delivered to the Service Contract Holder at the time of sale, or within a longer time period permitted under the vehicle service contract. Upon return of the vehicle service contract to the Service Contract Provider within the applicable time period, if no claim has been made under the vehicle service contract prior to its return to the Service Contract Provider, the vehicle service contract will be voided, and the Service Contract Provider will refund to the Service Contract Holder, or credit to the account of the Service Contract Holder, the full purchase price of the vehicle service contract. The right to void the vehicle service contract provided in this subsection is not transferrable, applies only to the original Service Contract Holder, and is allowed only when no claim has been made prior to its return to the Service Contract Provider. A ten percent (10%) penalty per month shall be added to a refund that is not paid or credited within forty-five (45) days after return of the vehicle service contract to the Service Contract Provider.

2. Subsequent to the time period specified in subsection (1), or if a claim has been made under the vehicle service contract within that time period, a Service Contract Holder may cancel the vehicle service contract, and the Service Contract Provider shall refund to the Service Contract Holder one hundred percent (100%) of the unearned pro rata purchase price of the vehicle service contract, less the amount of any claims paid. A reasonable administrative fee may be charged by the Service Contract Provider not to exceed ten percent (10%) of the gross service contract provider fee paid by the Service Contract Holder.

B Cancellation by Service Contract Provider

1. Cancellation by the Service Contract Provider shall only occur in instances of nonpayment of the provider fee, a material misrepresentation by the Service Contract Holder to the Service Contract Provider, or a substantial breach of duties by the Service Contract Holder relating to the covered product or its use.

2. In the event of cancellation by a Service Contract Provider for reason other than nonpayment of the provider fee, the Service Contract Provider shall refund to the Service Contract Holder one hundred percent (100%) of the unearned pro rata purchase price of the vehicle service contract, less the amount of any claims paid. A reasonable administrative fee may be charged by the Service Contract Provider not to exceed ten percent (10%) of the gross provider fee paid by the Service Contract Holder.

Source: *Miss. Code Ann.* § 83-65-101, *et seq.* (Rev. 2011).

Rule 4.05: Severability

If any section or portion of a section of this regulation, or the application thereof to any person or circumstance, is held to be invalid by a court of competent jurisdiction, such determination shall not affect any other provision or application of this regulation which can be given effect without the invalid provision or application. To this end the provisions of this regulation are severable.

Source: *Miss. Code Ann.* § 83-65-101, *et seq.* (Rev. 2011).

Rule 4.06: Effective Date

This Regulation shall become effective thirty (30) days after filing in the Office of the Secretary of State.

Source: *Miss Code Ann.* §§ 83-65-101, *et seq.* and 25-43.3.113 (Rev. 2011).