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MARYLAND AUTOMOBILE INSURANCE FUND

“TWO TURN DOWN RULE” ANALYSIS REPORT

Review Period:
June 1, 2005 through May 31, 2009

MARTIN O'MALLEY
Governor

ANTHONY G. BROWN
Lieutenant Governor



RALPH S. TYLER
Commissioner

BETH SAMMIS
KAREN STAKEM HORNIG
Deputy Commissioners

NANCY GRODIN
Associate Commissioner

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The Honorable Ralph S. Tyler
Commissioner of Insurance
State of Maryland
200 St. Paul Place, Suite 2700
Baltimore, Maryland 21202

Dear Commissioner Tyler:

Pursuant to your instructions and authorization, a targeted analysis report is being submitted on:

MARYLAND AUTOMOBILE INSURANCE FUND

whose home office is located at 1750 Forest Drive, Annapolis, Maryland 21401. The report of such analysis is being respectfully submitted.

Sincerely,

Nancy Grodin, Associate Commissioner
Compliance and Enforcement



1 ANALYSIS REPORT SUBMISSION

2
3 The following individuals of the Compliance & Enforcement Unit participated in this
4 targeted analysis and in the preparation of this report:

5
6 Dudley B. Ewen, AIE, MCM
7 Chief Examiner

8
9 Kyle L. Lanasa, MCM
10 Assistant Chief Examiner

11
12 Dawna E. Kokosinski, MCM
13 Market Analyst

14
15 Alan Slokan
16 Market Conduct Examiner

17
18 Cindy Hess, AU
19 Market Conduct Examiner

20
21 Kimberly Egerland
22 Market Conduct Examiner

1 The Property/Casualty Market Conduct Section of the Compliance & Enforcement Unit,
2 as requested by Commissioner Tyler, conducted a target analysis of the Maryland
3 Automobile Insurance Fund's ("MAIF") eligibility requirements, *primarily* the "Two Turn
4 Down Rule"¹ for private passenger automobile policies. The analysis generally covered
5 the period from June 1, 2005 through May 31, 2009 and focused on new business as
6 well as third year recertifications.

7
8 **APPLICABLE LAWS AND REGULATIONS**

9
10 Section 20-502 of the Insurance Article, Annotated Code of Maryland ("Insurance
11 Article"), titled "**Eligibility requirements for policyholders**," provides that MAIF is
12 authorized to issue and deliver policies of insurance to a person who:

13
14 (a) On payment of the premium set by the Fund, the Fund is authorized to
15 and shall sell, issue, and deliver a policy that provides the security
16 required under § 17-103 of the Transportation Article to a person:

17 * * * * *
18 (3) that:

19 (i) has attempted in good faith to obtain a policy that provides the security
20 required under Section 17-103 of the Transportation Article from at least
21 two Association members and has been rejected or refused a policy by
22 two association members for any reason other than nonpayment of
23 premiums; or (ii) has had a policy that provides a security required under
24 Section 17-103 of the Transportation Article cancelled or nonrenewed by
25 an Association member for any reason other than nonpayment of
26 premiums...

27
28 Code Of Maryland Regulations ("COMAR") 14.07.02.02, titled "**Preliminary**
29 **Determination of Eligibility**," defines the manner in which a producer and an applicant
30 certify eligibility:

31 B. A fund producer determines eligibility by verifying that the applicant:

- 32 (1) Is a Maryland resident;
33 (2) Owns an automobile validly registered with the Motor Vehicle
34 Administrator, as may be required by the Transportation Article, Annotated
35 Code of Maryland, or has a valid Maryland operator's license;
36 (3) Has been rejected or refused a policy of automobile liability insurance
37 by two insurers or has had the coverage canceled or nonrenewed by an
38 insurer for a reason other than nonpayment of premium; and
39 (4) Does not owe any unpaid premium to MAIF.

40
41
42 COMAR 14.07.02.03, titled "**Binding of Minimum Required Coverage**," defines the
43 manner in which coverage is bound:

¹ The "Two Turn Down" Rule refers to the process of the *applicant signing the eligibility statement* certifying that the applicant has been turned down by two companies; or canceled or non-renewed by one company for a reason other than non-payment of premium.

1
2 A. The fund producer binds the minimum coverages as may be required
3 by the Transportation Article, Annotated Code of Maryland, when:

4 * * * * *
5 **(3) The applicant and fund producer have both signed and dated the**
6 **application form in all appropriate places;** (emphasis added)
7

8 In addition, the Maryland Insurance Administration's Bulletin 00-24, dated December 7,
9 2000, reinforces the interpretation of Section 20-502(a)(3). The Bulletin can be found
10 on the Administration's website at www.mdinsurance.state.md.us.

11
12 **MAIF ELIGIBILITY GUIDELINES**

13
14 The following eligibility requirements must be reached in order to qualify for a private
15 passenger policy with the Fund:

16
17 New Business Guidelines

- 18
19 • Resident and principally garage vehicle(s) in Maryland.
20 • Own or lease insured vehicle(s); and
21 • Vehicle(s) are currently registered in Maryland, or have obtained a non-resident
22 permit issued by the Maryland MVA; or have a valid Maryland drivers license
23 issued by the Maryland MVA;

24
25 And current automobile liability insurance has been:

- 26
27 • **Turned down by two companies; OR**
28 • **Canceled or non-renewed by one company for a reason other than non-**
29 **payment of premium (provided in Applicant's Eligibility Statement of the**
30 **application).**

31
32 Third Year Rewrites/Recertification Guidelines

- 33
34 • Insured with the Fund for the last 36 months.
35 • No more than a 30 day lapse in coverage in the preceding 36 – months.
36 • No driver has moving violations, and
37 • No Chargeable accidents.

38
39 And current automobile liability insurance has been:

- 40
41 • **Turned down by two insurance companies (provided in Applicant's**
42 **Eligibility Statement of the application).**

43
44 Additionally, first and second year rewrites do not require the "two turn down rule" or the
45 policyholder's signature.
46

1 **SECTIONS REVIEWED**

2
3 Policies from each of the following population listings were reviewed. Policies were
4 randomly selected using a computer generated sampling program:

- 5
6 • New business manual policies² issued June 1, 2005 through May 31, 2006.
7 • New business electronic/E-MAIF³ policies issued June 1, 2005 through May 31,
8 2006.
9 • New business manual polices issued June 1, 2008 through May 31, 2009.
10 • New business electronic/E-MAIF policies issued June 1, 2008 through May 31,
11 2009.
12 • Third year manual policy rewrites eligible for recertification issued June 1, 2008
13 through May 31, 2009. (Each prior policy was reviewed back to inception at New
14 Business).
15 • Third year electronic/E-MAIF policies issued June 1, 2008 through May 31, 2009.
16 (Each prior policy reviewed back to inception at New Business).
17 • New Business policies issued directly by the Fund issued June 1, 2005 through
18 May 31, 2006.

19
20 A total of 606 policy files were reviewed. The following chart provides the total
21 population and sample size for each section reviewed:
22

Section Reviewed	New Business Manual 2005-2006	New Business E-Maif 2005-2006	New Business Manual 2008-2009	New Business E-Maif 2008-2009	3 RD Year Manual Rewrites 2008-2009	3 RD Year E-Maif Rewrites 2008-2009	New Business Direct 2005-2006 Issued by the Fund
Total Population	18,487	49,546	14,127	40,739	448	1,456	6
Sample Reviewed	100	100	100	100	100 ⁴	100 ⁵	6

23
24 **DOCUMENTATION REVIEWED**

- 25
26 • New Business Applications
27 • Third Year/Recertification Eligibility Applications
28 • Policy Declarations
29 • Remittance Forms
30 • Driver Chargeability Reports
31 • MVR's
32 • Rewrite Questionnaires
33 • Policy Forms
34 • MAIF Policy Guidelines (New Business and Third Year/Recertification Rewrites)

² Manual policies are paper applications that are submitted by the producer to the Fund.

³ E-MAIF policies are completed by the producer and forwarded electronically to the Fund.

⁴ For 3rd year manual rewrites, the 3rd year rewrite and the initial new business policy to the 3rd year rewrite were both reviewed.

⁵ For 3rd year E-Maif rewrites, the 3rd year rewrite and the initial new business policy to the 3rd year rewrite were both reviewed.

- 1 • Producer Guide (Binding Rules)
- 2 • Cover Letter advising applicant of right to obtain insurance with a private
- 3 automobile insurance company (Rate Comparison Guide provided by the MIA).
- 4 Letter sent out between 60 – 70 days prior to renewal.
- 5 • Producer Audit's (2006, 2007, 2008, 2009)

6 7 POLICY REQUIREMENTS

8
9 Manual Policies - A paper application must be submitted in the following circumstances:

- 10
- 11 • Named Non-Owner, Excluded Operator, and Commercial Policies
- 12 • Primary Owner does not have a Maryland License; or
- 13 License is "Invalid," "Eligible" or "Expired"; or
- 14 MVR cannot be found; or
- 15 Current Suspended or Revoked License; or
- 16 Rated on a MAIF Commercial Policy.
- 17 • More than 4 Operators.
- 18 • More than 4 vehicles.
- 19 • Primary or Co-owner has an outstanding balance on a previous MAIF policy of
- 20 \$150 or more.
- 21 • The same "Claim" is charged against more than one driver.
- 22 • Additional Equipment coverage.
- 23 • VIN is greater than 17 characters
- 24 • Any Conversion Van or Commercial Vehicle.

25 26 E-MAIF policies

- 27
- 28 • Producer must have the applicant sign after completing "Two turn down" option,
- 29 as well as other appropriate boxes in order to complete the electronic application
- 30 process.

31 32 MAIF Producer File Retention Guidelines

- 33
- 34 • Two (2) years On-site (Producer's Office)
- 35 • Two years Off-Site (Storage)

36 37 MAIF Company File Retention Guidelines

- 38
- 39 • Incoming underwriting documents are imaged and stored virtually forever
- 40 • Underwriting documents generated on the MAIF system MIPS remain available
- 41 on the MIPS system for 13-months. After that time, the IT department can
- 42 recreate the document as needed

1 Discounts

- 2
- 3 • Discounts apply for each Rewrite
 - 4 • Three (3) year Safe Driver Discounts indicate eligibility for Recertification

5

6 Code Safe Driver Discount

- 7
- 8 0 No Safe Driver Discount Applies
 - 9 1 One Year Safe Driver Discount Applies
 - 10 2 Two Year Safe Driver Discount Applies
 - 11 3 Three Year Safe Driver Discount Applies

12

13 MAIF's INTERNAL AUDITS

- 14
- 15 • 2006 - (23) Producers/Agencies
 - 16 • 2007 - (23) Producers/Agencies
 - 17 • 2008 - (5) Producers/Agencies
 - 18 • 2009 - (7) Producers/Agencies

19

20 SUMMARY OF FINDINGS

21

22 The following charts show a summary of the analysis findings for each section reviewed:

23

24

25 New Business Manual (2005-2006)

26

Samples Reviewed	No app to verify 2-Turn Down	Missing Producer Signature/Date	Missing Applicant Signature/Date	2-Turn Down Box not Checked
100	0	0	0	7 ⁶

27

28 New Business E-MAIF (2005-2006)

29

Samples Reviewed	No app to verify 2-Turn Down	Missing Producer Signature/Date	Missing Applicant Signature/Date	2-Turn Down Box not Checked
100	17 ⁷	0	1	0

30

31 New Business Manual (2008-2009)

32

Samples Reviewed	No app to verify 2-Turn Down	Missing Producer Signature/Date	Missing Applicant Signature/Date	2-Turn Down Box not Checked
100	0	0	0	5 ⁸

33

⁶ Of the seven exceptions noted for not certifying the 2 turn-down, all seven included both an applicant signature and the name of two companies that declined coverage

⁷ Four of the documents older than the required record retention limit

⁸ Of the five exceptions noted for not certifying the 2 turn-down, three included both an applicant signature and the name of two companies that declined coverage

New Business E-MAIF (2008-2009)

Samples Reviewed	No app to verify 2-Turn Down	Missing Producer Signature/Date	Missing Applicant Signature/Date	2-Turn Down Box not Checked
100	3	12	0	0

3rd Year Rewrites/Recertifications Manual (2008-2009)

	Samples Reviewed	No app to verify 2-Turn Down	Missing Producer Signature/Date	Missing Applicant Signature/Date	2-Turn Down Box not Checked
3YR	50	4	0	3	5 ⁹
NB	50	0	0	0	0

3rd Year Rewrites/Recertifications E-MAIF (2008-2009)

	Samples Reviewed	No app to verify 2-Turn Down	Missing Producer Signature/Date	Missing Applicant Signature/Date	2-Turn Down Box not Checked
3YR	50	1	4	4	0
NB	50	4	0	0	0

New Business Direct (2005-2006)

- 6 Files Reviewed = No Exceptions

CONCLUSIONS

- Producers, in certain instances, failed to check the appropriate boxes on the Manual applications.
- Producers, in certain instances, did not forward completed E-Maif applications that were signed and dated by both the producer and the applicant to MAIF to verify the eligibility statement.
- A much higher percentage of E-MAIF applications could not be located by the producers, as opposed to the Manual policies that are submitted directly to MAIF.
- Disparity in record retention by MAIF and its producers.
- E-MAIF/Electronic files have approximately twice as many instances of improper verification of eligibility as opposed to Manual files.
- MAIF's internal producer audits reviewed E-policies and did not take into consideration if a file was new business, 1st year, 2nd year, or 3rd year re-certification eligible.
- Selected files for MAIF's internal audits were within the last three to 12 months of issuance or latest renewal.
- Each producer was sent a letter advising them of MAIF's specific findings in the internal audit, however, no disciplinary action was taken.

⁹ Of the five exceptions noted for not certifying the two turn-down, two included both an applicant signature and the name of two companies that declined coverage

- 1 • MAIF's internal producer audits revealed approximately 15-19% of the files
2 contained missing information/documentation.
3

4 **CLOSING**

5
6 Three hundred six manual/paper files were reviewed. A total of 24 exceptions were
7 noted (**8% error ratio**).

8
9 Three hundred E-MAIF/electronic files were reviewed. A total of 46 exceptions were
10 noted (**15% error ratio**).

11
12 The following items, needed to determine and document eligibility certification
13 requirements were met, were noted as missing in the exception ratios above:
14

- 15 • Applications and re-certification eligibility forms
16 • Producer signatures and/or dates
17 • Applicant's signature and/or dates
18 • 2-turn down box not checked
19

20 MAIF conducted internal audits in 2006 thru 2009 which included, but did not
21 specifically target, the two turn down certification requirement. Although we could not
22 do a comparison "apples to apples," the findings noted in this analysis report were
23 comparable to MAIF's internal audit results for items missing to determine eligibility
24 certification.
25

26 MAIF's response to this analysis report, dated November 17, 2009, is attached to but
27 not considered a part of this report.



MARYLAND AUTOMOBILE INSURANCE FUND

1750 FOREST DRIVE
ANNAPOLIS, MARYLAND 21401

410-269-8609

M. KENT KRABBE
EXECUTIVE DIRECTOR

November 17, 2009

Dudley B. Ewen, AIE, MCM
Chief Examiner
Maryland Insurance Administration
200 Saint Paul Place
Suite 2700
Baltimore, Maryland 21202-2004

Dear Mr. Ewen,

Thank you very much for the work done by your staff in its review of the Maryland Automobile Insurance Fund's binding procedures. As detailed below, MAIF is gratified that the study found such high compliance with the "two-turn down" rule (see, Ins. Article § 20-502(a)). This high compliance level, we believe, is consistent with the views expressed by Bryson Popham and the insurance agents he represented at the May 27, 2009 meeting, and unequivocally demonstrates the efficacy of the current procedures.

Overall, the audit reviewed a statistical mix of 577 MAIF applications drawn from a five year period.¹ According to the report, in only five of these files was either the applicant's signature missing or the identity of the two rejecting carriers omitted.² This translates to a compliance rate with the two-turn down rule of over 99%. The outstanding result is a testament to the insurance professionals who make MAIF insurance available to the public, and confirms this group's insistent belief that legal reform is not needed in this area. It also defeats the whispered notion that MAIF is not enforcing this rule.

Your review did find a slightly larger error percentage in the category titled "missing producer signature/date." Of the 577 applications reviewed, 16 lacked this information. This translates to an error rate of just under 3%. Our review indicates that the vast majority of these exceptions relate to missing dates on electronic submissions. Because these submissions are electronic, however, MAIF already has complete date, hour and minute filing information.

¹ There were 606 applications originally requested. Of those, 29 could not be located, and the report notes that four of these policies were beyond the required record retention limit.

² See footnotes 6, 8, and 9 of the Insurance Administration Report.

Overall, including missing files and dates, the report indicates a less than 10% error ratio in manual files, and a 15% error ratio in electronic files.³ MAIF will work with its producers within its limited authority to further lower that error rate. While Fund producers are not agents of MAIF, MAIF will enhance its audits, and follow-up more efficiently with lower achieving producers.

MAIF has only very limited disciplinary tools, and is loath to hamper public access to state mandated insurance by revoking a producer's ability to write MAIF insurance. MAIF also does not control the compensation of its agents. While our tools are, overall, limited, compared to a private carrier, we nonetheless will act as strongly as possible to maintain, and even enhance, producer compliance with MAIF's binding rules.

Again, my thanks to you and the audit team. While 99% compliance falls short of perfection, it is an outstanding result in which MAIF takes great pride.

Very truly yours,

A handwritten signature in black ink, appearing to read 'M. Kent Krabbe', with a long horizontal flourish extending to the right.

M. Kent Krabbe

cc: Nancy Grodin, Associate Commissioner
Compliance and Enforcement

Dawna E. Kokosinski, MCM
Market Analyst

³ Each of the 606 applications was reviewed for four distinct criteria, yielding 2424 potential errors, and finding only 70 exceptions. On this basis, the error rate is less than 3%.