

KENTUCKY ASSIGNED CLAIMS PLAN
Plan Rules
Amended and Restated Effective
January 1, 2023

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SECTION 1. Purpose and Objectives

To form and provide for the operation and administration of the Kentucky Assigned Claims Plan.

SECTION 2. Effective Date

The Plan, Rules and Regulations pertaining to the operation and administration thereof, subject to approval of the Commissioner of the Department of Insurance, became effective on July 1, 1975. The Plan, Rules and Regulations shall be updated and amended by the Governing Committee from time to time with the approval of the Commissioner of the Department of Insurance, and shall become effective as outlined within.

SECTION 3. Administration

Rule 1. Duties of the Governing Committee

The Committee shall meet as often as may be required to perform the general duties of administration of the Plan.

Rule 2. Meetings

Five (5) days written notice, including agenda, shall be given by the secretary.

Rule 3. Voting

(a) A majority of Committee Members shall constitute a quorum for voting on amendments to the rules and regulations of the Plan; and general administrative duties of the Plan.

(b) Amendments to or changes in the Plan by the Committee will require the majority vote of all members of the committee. Voting by proxy shall be permitted.

(c) Assessments to members will require the majority vote of all members of the Committee. Voting by proxy shall be permitted.

Rule 4. The Committee shall be empowered to appoint a Manager, budget expenses, levy assessments, disburse funds, and establish subcommittees to perform all duties essential to the proper administration of the Plan.

Rule 5. The Governing Committee shall designate three (3) members who shall be empowered as a Finance Committee to invest funds in short term government or bank obligations, to open accounts and engage in such banking transactions as may be authorized by majority vote of this subcommittee.

Rule 6. Annually the Manager shall submit to the Committee an operating budget in the manner prescribed by the Committee and a report of the condition and operation of the Plan during the preceding calendar year for approval and submission to the Commissioner of Insurance and to member companies upon request.

Rule 7. Officers and Management.

The Governing Committee shall elect from its membership to serve a period of one (1) year a Chair and a Vice Chair. A Secretary/Treasurer shall be elected by the Committee. The person elected need not be a member of this Plan.

- (a) The Chair shall preside over all meetings. S/he shall discharge such other duties incidental to their office or required of him by these rules or by the Governing Committee.
- (b) The Vice Chair shall preside at meetings in the absence of the Chair. In the event of death, incapacity or disability of the Chair, the Vice Chair shall perform the duties of the Chair until such office has been filled by the Governing Committee.
- (c) The Secretary shall issue, or require to be issued all notices of meetings, record minutes of all meetings, keep the records of the Governing Committee and discharge such other duties incidental to their office or required of them by these rules or by the Governing Committee.
- (d) The Treasurer shall, in cooperation with the Manager, keep books of account and discharge such other duties usual or incidental to the office of Treasurer or required of them by these rules or by the Governing Committee.
- (e) The office of Treasurer shall be combined with the office of Secretary.

Rule 8. The Commissioner of Insurance shall be notified immediately of any change in status of a member of the Governing Committee.

Rule 9. The Kentucky Assigned Claims Plan shall meet annually to report to the Executive Director of the Office of Insurance and participating members of the Plan. Such meetings will be held at the office of the Kentucky Assigned Claims Plan at such time and location as directed. (Call the Plan Office to confirm the time and place of the meeting.)

SECTION 4. Assigned Claims Plan

Rule 1. The Assigned Claims Plan shall be a nonprofit, unincorporated association. The principal office shall be located in Louisville, Kentucky.

Rule 2. The Plan shall operate on a calendar year.

Rule 3. The Plan shall make available to persons claiming benefits under the Plan all required forms, which must be completed in duplicate and signed by the applicant.

Rule 4. Assignment of Claims.

- (a) Upon receipt of properly completed and executed claim forms, including a police report when available, the Assigned Claims Plan shall make an initial determination of the claimant's eligibility for assignment.
- (b) An apparent eligible claim shall be assigned promptly by the Assigned Claims Plan to a servicing insurer. The Plan shall notify the claimant of the identity and address of the servicing insurer to which the claim is assigned.
- (c) If statements on an application for Benefits, received by the Assigned Claims Plan, show that the person claiming benefits is ineligible for payment, the claim shall be rejected. The claimant shall be notified promptly in writing of the rejection and the reasons, therefore.
- (d) In assigning claims, the Assigned Claims Plan shall consider the resources of the servicing insurer relative to the claim and the convenience for the claimant. Multiple claimants from a single accident may be assigned to one servicing insurer.
- (e) A servicing insurer upon discovery that it, or an affiliated company, insures persons whose interest may be adverse to the claimant, shall promptly notify the Assigned Claims Plan and the claimant of its possible conflict of interest and shall return the claim for reassignment.

Rule 5. The servicing insurer shall return within ninety (90) days after the file is closed the original billing form and, if payments were made, the payment log(s). The Assigned Claims Plan may require additional supporting documentation upon review of the billing form. If additional supports are requested, the insurer must submit these to the Plan within thirty (30) days of notice.

Rule 6. The Plan shall be responsible for reimbursement to the servicing insurers as follows:

- (a) The servicing insurer shall be entitled to reimbursement for all benefits paid in good faith and to a maximum claim handling fee equal to 15% of such benefits paid per accident or loss. In no event shall such fee be less than \$400.00 per claimant. In addition, the servicing insurer shall be reimbursed for allocated claim expenses, subject to approval of the Plan.
- (b) The servicing insurer shall not be reimbursed for interest or penalties on overdue payments which results from its negligence or for any improper payments in failing to take all allowable deductions set forth in KRS 304.39-160.
- (c) A servicing insurer shall not be reimbursed for attorney fees or independent adjusting charges unless incurred in consent of the Plan.

Rule 7. The servicing insurer shall pursue subrogation without prior approval of the Plan until such time as the services of an attorney or arbitration is involved, at which time the Plan's decision will be final as to whether additional expense shall be incurred to pursue subrogation.

Rule 8. In pursuit of subrogation authorized by the Plan, the servicing insurer shall be entitled to a fee equal to 20% of gross recovery, or 20% of net recovery if an attorney is engaged to make recovery. In the event of subrogation authorized by the Plan there shall be a minimum fee of \$30.00 per claim. Court costs incurred by the servicing insurer, even when recovery is unsuccessful, will be reimbursed by the Plan.

Rule 9. The Plan is entitled to audit all claim files at any time. For audited claims, the Assigned Claims Plan may request full copies of claim files, including: adjuster notes, medical bills, medical records, payment logs, explanation of benefits forms, bill review forms, etc. If additional supports are requested by the Plan for purposes of audit, the insurer must submit the requested items within thirty (30) days of notice.

SECTION 5. Servicing Insurers

- Rule 1. The servicing insurers shall, within ten (10) days after receipt of the assignment from the Plan, acknowledge the receipt of the assignment and advise its claim control number.
- Rule 2. The servicing insurer shall within thirty (30) days determine the initial eligibility of the person to make claim and make an investigation report to the Plan. If eligibility cannot be determined within such time, the servicing insurer shall notify the Plan of its inability to do so.
- Rule 3. The servicing insurer shall within thirty (30) days notify the applicant in writing, of ineligibility and reasons for same.

SECTION 6. Assessment of Participating Members

- Rule 1. Assessments to all participating members shall be determined and levied as often as required by the Governing Committee. Each reparation obligor providing basic reparation insurance will be subject to a minimum assessment of \$25.00. Assessment shall be due no later than sixty (60) days of the assessment date. There after a 1% (percent) penalty will be levied for each thirty (30) days.
- Rule 2. For purposes of assessment, the members shall be divided into three classes:
 - (a) Class 1 shall consist of all self-insurers authorized by the Commissioner of the Department of Insurance.
 - (b) Class 2 shall consist of all governmental units which become obligated under the Act other than through the purchase of insurance.
 - (c) Class 3 shall consist of all insurers licensed to write automobile liability insurance in the Commonwealth of Kentucky.
- Rule 3. The total assessment shall be distributed among all three classes listed in Rule 2 pro-rata as to the number of known vehicles in each class bears to the total number of known vehicles for all classes combined.

Rule 4.

- (a) The amounts assessed self-insurers and/or obligated governments (classes 1 and 2) shall be apportioned among respective members of each class on a prorata basis as the number of known self-propelled motor vehicles (1) owned and registered in Kentucky; or (2) operated in Kentucky; or (3) which are made available and offered for operation within the state of Kentucky for rent; whichever is greater; bears to the total number of known vehicles in its class as their portion of the assessment.

- (b) The amounts assessed Insurers shall be apportioned on a pro-rata basis as each Member's subject written premium bears to the total such direct subject written premium for all members for the same period. Subject written premium will be taken from those lines on page 15 of the Annual Statement filed with the Commissioner of Department of Insurance which detail both Private Passenger and Commercial Automobile Liability; Automobile Medical Payments; Uninsured Motorists; and Personal Injury Protection.