

# The Assigned Risk Plan For Allocation Of Certain Insurance Risks

GEORGE D. MASSAR\*

On September 20, 1943, the first Ohio financial responsibility law for motorists became effective.<sup>1</sup> The law provided for the revocation for a period of five years of the license of a motorist who failed, within 30 days after the entry of the same, to satisfy or stay the execution of any final judgment rendered against him in an action for wrongful death, personal injury, or damage to property caused by his operation of a motor vehicle. A second feature of the law provided for the revocation of the license of a motorist found guilty of certain driving offenses unless said motorist could evidence his ability to respond in damages for injury to person or property. In this latter instance provision was made for vacating the order of revocation upon the production of such evidence. The ability to respond in damages could be evidenced, among other ways, by the production of a motor vehicle liability policy, and of course the ability to satisfy a future judgment could be assured through the acquisition of such a policy. Thus, as a result of the law, insurance became virtually a must for the motorists who valued their driving privileges. Yet, under sound underwriting practice, many risks would necessarily be rejected.

As is pointed out in another article in this symposium the Ohio Motor Vehicle Safety Responsibility Act of 1953 imposes a greater financial responsibility on motorists than that imposed by the law of 1943. Without going into the requirements of the recent act, suffice it to say that the demand for insurance coverage has been increased rather than decreased and that the need for a plan for insuring risks that under sound underwriting practice would be rejected has become still more important.

The Ohio Automobile Assigned Risk Plan, which became effective on the same date as the first financial responsibility law, was a direct result of the financial responsibility legislation of 1943 and was designed to provide insurance for the motorist who could not otherwise obtain direct coverage. Thus, it was the stated purpose of the Plan:

- “(a) To provide a means by which a risk...that is in good faith entitled to automobile bodily injury and property damage liability insurance in the State, but is unable to secure it for itself, may be assigned to an authorized carrier.

---

\* Of the firm of Gingher & Christensen, Columbus, Ohio; Member of the Ohio Bar.

<sup>1</sup> OHIO REV. CODE §§ 4509.01 *et seq.*

- (b) To establish a procedure for the equitable distribution of such assigned risks among such insurance carriers."<sup>2</sup>

The financial responsibility law made no provision for an assigned risk or similar type of plan. Rather, the Plan was the result of a voluntary agreement among all of the insurers writing automobile bodily injury liability insurance in the state of Ohio worked out in cooperation with the Ohio Superintendent of Insurance, and was adopted to fill a need that had been created by law.

The Ohio Automobile Assigned Risk Plan was not novel since similar plans had earlier been adopted in other states. The Ohio Plan, while generally patterned after those already in existence, was tailored to meet the Ohio situation. It has, of course, been amended from time to time but it presently exists in substantially the same form as it was conceived.

The Plan, as the title of this article suggests, is a method whereby certain insurance risks, which for lack of a better word might be termed "undesirable," are allocated among the various insurers. The Plan was devised to provide a source of insurance for the motorist who stood to lose his license under the financial responsibility law because of his inability, in the absence of insurance, to satisfy a judgment or because of his record of certain offenses. However, the Plan has come to provide a source of insurance for aged, crippled and otherwise disabled persons who, whether or not financially responsible and irrespective of their records, are unable to obtain insurance directly. Today many disabled persons, including war veterans, are served by the Plan.

The Plan itself writes no insurance. It is simply a method whereby the risks eligible for coverage through the Plan are allocated on an equitable basis among the various insurers writing automobile bodily injury and property damage liability insurance in the state. Neither does the Plan accept and allocate all risks that may apply. Rather, it serves risks in that twilight zone between normal risks and those that no insurer would carry or could even be expected to carry. Thus, certain motorists cannot obtain coverage even through the Plan. These are the motorists who, it might be argued, should be denied a license and banned from the highways, completely.

The Plan is administered by a Manager and by a Governing Committee consisting of five subscribers to the Plan each representing a different class of insurers. The Governing Committee, in addition to being charged with the general administration of the Plan, is also designated as a forum for appeal for any applicant who

---

<sup>2</sup> Section 1, Ohio Automobile Assigned Risk Plan, effective September 20, 1943.

has claimed eligibility under the Plan but has been denied coverage.

The operation of the Plan can probably most effectively be described in terms of an applicant and the processing of his application. A person, having sought insurance from one of the carriers qualified to do business in Ohio and having failed to obtain the same, can then file application for insurance under the Plan. The application form is available from, and in many instances its use is suggested by, the agent of the very insurer that refused to write direct coverage.

The applicant must certify on the prescribed application form that he has unsuccessfully attempted, within 60 days prior to the date of the application, to obtain motor vehicle bodily injury and property damage liability insurance in this state. Having submitted the application in good faith, the applicant will be considered for assignment unless it appears that he is excluded from eligibility under the rules prescribed in the Plan. Thus, for example, an applicant will be denied assignment of his risk if he has been convicted of a felony during the immediately preceding 36 month period; if he has intentionally registered a motor vehicle illegally in Ohio during the immediately preceding 12 month period; or if he has been convicted or forfeited bail more than once during the immediately preceding 36 month period for driving a motor vehicle while under the influence of intoxicating liquor or narcotic drugs. A detailed list of risks to be excluded is set forth in the Plan.

The application, accompanied by a \$5 investigating fee, is then forwarded by the applicant or agent to the office of the Manager of the Plan in Columbus, Ohio. The application is there checked for patent errors and evidence of ineligibility. If errors or omissions are discovered, the form is returned to the applicant or agent for correction or completion. If the application appears to be in order, the Manager then designates the insurance carrier to which the risk is to be assigned and so notifies the producer (agent) and carrier. This is done on the same day that the application is received.

Under the present provisions of the Plan the assigned carrier has fifteen days in which to notify the applicant either that the insurance will be written upon payment of the quoted premium or that the insurance will not be written because of ineligibility. While eligibility might appear on the face of the application, the assigned carrier is afforded the opportunity to investigate the facts and to make an independent finding of eligibility. If the carrier is satisfied as to eligibility, it quotes the premium to the applicant and upon payment of the premium the policy becomes effective.

If the application is denied because of ineligibility, the Manager of the Plan must be so advised, and if the matter cannot be resolved by the Manager the applicant may take an appeal to the Governing

Committee. From the decision of the Governing Committee, either the applicant or the assigned carrier may take an appeal to the Superintendent of Insurance. As a practical matter, most questionable applications are successfully handled by the Manager. There has not been an appeal to the Governing Committee in the last 18 months and there has never, during the existence of the Plan, been an appeal to the Superintendent of Insurance. While the insurers are given the opportunity to refuse the risk if they feel it is not entitled to assignment, the number of refusals is relatively small. Of the 23,480 cases processed by the Plan during the year ended June 30, 1953, only 145 of those cases were rejected by the carrier to which the risk was assigned.

As heretofore mentioned, no insurance is written by the Plan. Rather, the risks are assigned to the member subscribers. The risks are assigned to carriers by the Manager in proportion to their respective net direct motor vehicle bodily injury premium writings. Assignment of risks during the 12 months beginning July 1 of each year is based upon the net direct motor vehicle bodily injury premiums in Ohio for the calendar year ending December 31 immediately preceding. Thus, as a general proposition, the carrier writing the most automobile liability insurance is the carrier to whom the greatest number of risks is assigned.

The assignments are made on a unit basis. A carrier that is assigned a risk on a bus, for example, is given a greater unit credit than the carrier that is assigned a risk on a passenger car. At present, a carrier is allowed 8 units for each public passenger carrying vehicle, ambulance, invalid carriage and long-haul unit exceeding 100 miles. In all other cases, the carrier is allowed one unit for each vehicle insured.

As a general rule there is no selectivity in making the assignment and the current risk is assigned to the carrier next in order of rotation. There are enough exceptions to prove the rule but the exceptions are so few and of such minor importance as to proscribe the need for their here being discussed.

The cost and coverage of policies obtained through the Plan differ from those of policies obtained directly from the carriers through their own licensed agents. As would be expected, the rates of the assigned risks are somewhat higher than those applicable to the motorists directly insured. The risks assigned under the Plan are subject to the rules, rates, minimum premiums and classifications in force and to the rating plans applicable thereto in use by the designated carrier, all recognized by the rating section of the Ohio Department of Insurance. In addition, a surcharge of either 15 per cent or 25 per cent of the normal premium is prescribed by the Plan, the amount of the surcharge being dependent upon the type of vehicle and its use and the record of the applicant. Thus,

for example, the motorist with but one accident causing injury or death to another or damage to another's property during the immediately preceding 36 month period would pay only the minimum surcharge of 15 per cent, while a motorist with two or more such accidents during such period or a motorist convicted of certain offenses during such period would be assessed the maximum of 25 per cent. The applicable surcharge for a given case is prescribed by the Plan and is the same regardless of which carrier handles the risk.

The coverage of an assigned risk policy differs from that of a policy directly written in that the assigned risk policy does not become effective until the premium is received. No binders or similar means of interim coverage are available to the assigned risk.

The coverage of an assigned risk policy is also limited to the minimum requirements of federal and state law. If no such minimum is prescribed the coverage is limited to \$5,000/\$10,000 bodily injury and \$5,000 property damage. This minimum coverage concept is in keeping with the purpose of the Plan to enable the assigned risk to obtain such coverage as will permit him to drive and comply with the financial responsibility requirements. It is not the purpose of the Plan to provide the assigned risk with all the coverage he may desire.

It might also be mentioned that an assigned risk is entitled to renew his policy with the assigned carrier for two successive years. The renewals are dependent, of course, upon the insured's paying of the premiums and remaining eligible under the Plan. If the risk is unable to obtain insurance directly at the end of the third year, he must then reapply to the Plan and his application will be treated as a new application and will be reassigned.

There are two proposed amendments to the Plan which have been approved by the Governing Committee and the Superintendent of Insurance and which will soon be considered by the member subscribers. One amendment provides that the assigned carrier shall quote a premium to the applicant or reject the application within two working days after the risk has been assigned to it by the Manager of the Plan. While the present rules permit the carriers 15 days in which to take such action, they have, as a matter of practice, been quoting or rejecting within a two-day period. Thus, the proposed rule change will have little actual effect.

The second amendment would eliminate the 15 per cent minimum surcharge on a "clean" risk. A "clean" risk will probably be defined to include an applicant who has had no accident resulting in injury or death to another or damage to another's property and no conviction within the past three years. At the present time, all risks assigned by the Plan pay at least the 15 per cent minimum re-

ardless of their previous record. When this amendment becomes effective the "clean" risk will be paying no more than the risk being directly insured, without the Plan. Even though the "clean" risk will be paying no higher premium he is still not a normal risk and he is assigned under the Plan so as to make for an equitable distribution of such risks among the various insurance carriers.

The results obtained through the Plan amply justify its existence and without it a large segment of the motoring public would be denied insurance coverage. For the year ended June 30, 1953, the 125 subscribers to the Plan (being all of the insurance companies writing this type of insurance then operating in the state of Ohio) wrote a total of 18,223 policies carrying total premiums of \$1,059,179.71. These statistics evidence the importance of the Plan, not only to those insured but to all of the residents of Ohio who face the possibility of injury to person or property.

As earlier mentioned, the Plan is the result of a voluntary agreement among the insurance carriers. Such was true at the inception of the Plan and continues to be true at the present time even though there is now statutory authority for the creation of such a plan.<sup>3</sup>

The Ohio Motor Vehicle Safety Responsibility Act<sup>4</sup> which became effective on March 1, 1953, provides that the Superintendent of Insurance, after consultation with the insurance companies authorized to issue automobile liability policies in Ohio, shall approve a reasonable plan or plans for the apportionment among said companies of applicants for motor vehicle liability policies who are in good faith entitled to, but are unable to procure such policies, through ordinary methods.<sup>5</sup> The reader may note that this latter language is almost identical with the language of the purpose clause of the Plan originally adopted in 1943. The new act further provides that all of said insurance companies shall subscribe to the approved plan and shall participate therein. Further provision is made for review by the Superintendent of Insurance of any ruling or decision of the manager or committee designated to operate such plan.

It is clear that this section envisions a plan of the type now in existence. In fact, it vests in the Superintendent of Insurance the power to continue the present Plan in the absence of voluntary continuance by the carriers. The enactment of this section testifies to the need for the Plan and speaks well for the present operation of the Plan and the service it is rendering to the people of Ohio.

---

<sup>3</sup> OHIO REV. CODE § 4509.70.

<sup>4</sup> OHIO REV. CODE §§ 4509.01 to 4509.78, inclusive, and § 4509.99.

<sup>5</sup> Note 3, *supra*.