

Title 19: Department of Insurance

Part 4: Automobile Insurance

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.

C. The requirements herein shall apply to Vehicle Service Contracts issued on or after January 1, 2018.

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.

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.

C. Notwithstanding subsections (A) (2) or (B) (2), a Service Contract Provider is not required to deduct the amount of any claims paid under a Vehicle Service Contract from the amount of a refund required under this section.

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).