

BULLETIN

February 10, 2011

Contact: *Martin Heagen, VP & Actuary*
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R.C. 2265

To the Members of the Board

Re: New York Workers Compensation & Employers Liability Manual
New York State Assessment
Definition of Standard Premium for Policyholder Surcharge

The Underwriting Committee of the New York Compensation Insurance Rating Board has authorized, and the New York State Insurance Department has approved, amendments to the New York Workers Compensation & Employers Liability Manual that set forth the definition of standard premium for use in determining the New York State Assessment policyholder surcharge in conformance with Insurance Department Regulation 119.

In R.C. 2258, dated December 22, 2010, you were informed that the New York State Insurance Department had issued the Fifth Amendment to Regulation 119. This document provides a single definition of standard premium to be used for assessment purposes. Since the premium definition in the regulation eliminates the distinction between retrospectively-rated policies and guaranteed cost policies with respect to assessments, it is necessary to modify the Rating Board manual rules to conform to the language and intent of the regulation.

The criteria embodied in Regulation 119 have been incorporated into the Rating Board's manual and are shown as amendments to Rule IX, Page 69, and to Miscellaneous Values Page 6, which are attached for your information.

Please especially note that the change in definition applies to policyholder surcharges on new and renewal policies with effective dates on or after March 1, 2011 and does not follow the customary anniversary rating effective date rule.

The amended manual pages, with an approved effective date of March 1, 2011, are also included in an updated version of the New York Workers Compensation & Employers Liability Manual, which is available on our website at: www.nycirb.org.

Very truly yours,

Monte Almer

President

L. NEW YORK STATE ASSESSMENT

1. Explanation

The New York State Assessment is a separate identifiable charge to policyholders for the funding of the Special Disability Fund, Reopened Case Fund, Workers' Compensation Board expenses, Special Funds Conservation Committee expenses and interdepartmental expenses associated with the administration of OSHA requirements.

2. General Information

The New York State Assessment amount must be displayed as a separate identifiable charge on the policy information page. Code 0932 must be used in conjunction with this charge **for policy submission use only**.

The New York State Assessment amount is subject to change at audit and at all subsequent retrospective rating adjustments.

The New York State Assessment amount is charged in conjunction with the effective date of the rates used on each policy. Therefore, where the Anniversary Rating Date Endorsement (WC 00 04 02) applies, e.g., when two sets of rates are used, two assessment percentages will apply.

- ★ For **all policies effective on or after March 1, 2011**, in accordance with the Fifth Amendment to Regulation No. 119 (11 NYCRR 151-6), **standard premium must be used** as the basis for calculating the policy charge.

3. Premium Base for Calculating the New York State Assessment

- ★ Standard premium is the only premium base to be used in calculating the New York State Assessment policyholder charge.

(i) For purpose of this rule, standard premium is defined as the premium determined on the basis of the insurer's approved rates, as modified by:

- (a) any experience modification or merit rating factor;
- (b) any applicable territory differential premium;
- (c) the minimum premium;
- (d) any Construction Classification Premium Adjustment Program credits;
- (e) any credit from return to work and/or drug and alcohol prevention programs, including credits under the Workplace Safety Loss Prevention Incentive Program (WSLPIP);
- (f) any surcharge or credit from a workplace safety program, including credits under the Workplace Safety Loss Prevention Incentive Program (WSLPIP);
- (g) any credit from independently-filed insurer specialty programs (for example, alternative dispute resolution, drug-free workplace, managed care or preferred provider organization programs);
- (h) any charge for the waiver of subrogation;
- (i) any charge for foreign voluntary coverage; and
- (j) the additional charge for terrorism, and the charge for natural disasters and catastrophic industrial accidents.

(ii) For purposes of determining standard premium, the insurer's expense constant, including the expense constant in the minimum premium, the insurer's premium discount, and premium credits for participation in any deductible program shall be excluded from the premium base.

(iii) The insurer shall also use the definition of standard premium set forth in Regulation 119, cited above, to report standard premium to the New York State Workers' Compensation Board.

MISCELLANEOUS VALUES (continued)

New York State Assessment Charges

General Instructions and Information

Refer to Rule IX-L., Sections 1. and 2.

| <u>Assessment</u> | <u>Applicable Premium Charge</u> | | |
|---|----------------------------------|-----------------------------------|------------------------------|
| | <u>Volunteer Ambulance</u> | <u>Volunteer Firefighters</u> | <u>All Other Classes</u> |
| Workers= Compensation Board | 4.9% | 3.1% | 2.7% |
| Reopened Case Fund | 4.8% | 4.2% | 4.4% |
| Special Disability Fund | 0.0% | 0.0% | 10.0% |
| Interdepartmental Expenses | 0.0% | 0.0% | 0.9% |
| <u>Special Funds Conservation Committee</u> | <u>0.0%</u> | <u>0.0%</u> | <u>0.1%</u> |
| Total | 9.7% | 7.3% | 18.1% |

★ Premium Base (Effective March 1, 2011)

Refer to Rule IX-L., Section 3.

Standard premium is the only premium base to be used in calculating the New York State Assessment policyholder charge.

For policyholder assessment purposes, standard premium is defined as the premium determined on the basis of the insurer's approved rates, as modified by any experience modification or merit rating factor, any applicable territory differential premium, the minimum premium, any Construction Classification Premium Adjustment Program credits, any credit from return to work and/or drug and alcohol prevention programs, including credits under the Workplace Safety Loss Prevention Incentive Program (WSLPIP), any surcharge or credit from a workplace safety program, including credits under the Workplace Safety Loss Prevention Incentive Program (WSLPIP), any credit from independently-filed insurer specialty programs (for example, alternative dispute resolution, drug-free workplace, managed care or preferred provider organization programs), any charge for the waiver of subrogation, any charge for foreign voluntary coverage and the additional charge for terrorism, and the charge for natural disasters and catastrophic industrial accidents.

For purposes of determining standard premium, the insurer's expense constant, including the expense constant in the minimum premium, the insurer's premium discount and premium credits for participation in any deductible program shall be excluded from the premium base.

Passenger Seat Surcharge - Applicable in conjunction with Code 7421 Aircraft or Helicopter Operation:

Transportation of Personnel in Conduct of Employer=s Business - Flying Crew@

in accordance with the classification footnote instructions..... \$100 per passenger seat
\$1,000 maximum per aircraft

Terrorism and Catastrophe Loss Cost Charges

Terrorism

Applicable only in conjunction with Rule IX-N.1 of the Manual

Terrorism loss cost (**NOT RATE**) charge per \$100 of total policy payroll \$.038

For non-payroll based classes, charge is % of non-payroll class manual premium..... 2.9%

Natural Disasters and Catastrophic Industrial Accidents

Applicable only in conjunction with Rule IX-N.2 of the Manual

Catastrophe loss cost (**NOT RATE**) charge per \$100 of total policy payroll \$.008

For non-payroll based classes, charge is % of non-payroll class manual premium..... 0.7%

Workers Compensation Security Fund Surcharge

Applicable only in accordance with Rule IX - M of the Manual

Charge is % of total policy premium, including the New York State Assessment (effective January 1, 2011)..... 0.0%

United States Longshore and Harbor Workers= Compensation Coverage Percentage

Applicable only in connection with Rule XII-D of the Manual 74.6%

(Multiply a Non-F classification rate by a factor of 1.746 to adjust for differences in state and federal benefits and assessments)