R.C. 1973

To the Members of the Board

Re: New York Workers Compensation
New York State Assessment
Clarification of Manual Rule

The Rates Committee has adopted, and the New York State Insurance Department has approved, revisions to Rule IX L. of the New York Workers Compensation and Employers Manual which are intended to clarify that premium is the only base to be used in charging the New York State Assessment to policyholders.


Subsequent to the issuance of the revised rule, the Rating Board received several inquiries regarding the assessment base, especially with respect to deductible programs. In a number of these instances, the Board was informed that the rule, as it was written, could be interpreted to allow a loss base for special types of programs. This is clearly not the intent of the rule since the exclusive use of a premium base is a statutory requirement.

Consequently, to ensure that the rule is clear with respect to the use of standard premium as the only policyholder assessment base, revisions to the assessment rule have been made in order to clarify the intent of the statute and to ensure compliance by all carriers with the enacted legislation.

The revised rule is attached for your information. Portions of the current rule were interchanged between paragraphs 2 and 3 to emphasize that premium is the only base to be used for assessment purposes as prescribed by the law. Furthermore, specific reference to the Rating Board's small deductible program was eliminated and replaced with a broader reference to any deductible program so that it is clear that the use and definition of standard premium applies irrespective of the type of deductible program being written.
It is the Board’s hope that this rule clarification will eliminate any confusion or misconceptions concerning the appropriate base for application of policyholder assessments.

Very truly yours,

Monte Almer

President

MH/ab
Encl.
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.

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 Rate 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 January 1, 2001, in accordance with applicable New York statutes (Chapter 188, Laws of 1999 and Chapter 510, Laws of 2000) premium must be used as the basis for calculating the policy charge.

3. Premium Base for Calculating the New York State Assessment

For purpose of this rule, premium is defined as premium determined on the basis of Rating Board or authorized (deviated) rates (or percentage premium deviation) plus any applicable territory differential premium, including any experience modification, merit rating factor, minimum premium, Construction Classification Premium Adjustment Program policy credit factor, surcharges and credits from Workplace Safety Programs and credits from independently filed carrier specialty programs (for example, alternative dispute resolution, drug-free workplace, managed care or preferred provider organization programs). The expense constant, including the expense constant in the minimum premium, the premium discount, as defined in Rule VII, and premium credits for participation in any deductible program are excluded from the premium base for the determination of the assessment charge.

For retrospectively rated policies, premium is defined as the retrospective premium, as determined by the applicable parameters of the Retrospective Rating Plan, plus the implied premium discount determined on the basis of standard premium.

* For policies written under all independently filed programs, e.g., large deductible programs, the use of a premium base, other than as described in this rule, must be approved by the New York State Insurance Department prior to use.

4. Assessment Charge

The assessment percentages to be applied to each policy can be found in the Miscellaneous Values page of the rates section of this manual.

Note: Legislation requires that the assessment amounts collected from policyholders be considered as premium for tax purposes. Assessment charges contemplate premium tax, but not commission.