January 9, 2004

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R.C. 2055

To the Members of the Board

Re: New York Workers Compensation
Security Fund Recoupment Procedure

The Rates Committee of the Board has adopted, and the New York State Insurance Department has approved, a revised procedure to more accurately facilitate the recoupment of assessments levied by the New York Workers Compensation Security Fund.

The New York Workers Compensation Security Fund serves as a guaranty fund to ensure that claimants, covered by the workers compensation policies of carriers that have become insolvent, receive the workers compensation benefits to which they are entitled. The Security Fund assesses private carriers for the purpose of maintaining a statutory minimum balance for the payment of these claims. Over the years, the Security Fund has periodically imposed the necessary assessments, the latest being in December 2001 and continuing at the present time.

Since the inception of the Security Fund, the manner of recoupment by the assessed carriers has been for the Rating Board to include an estimated loading for this assessment in the annual rate revision and, consequently, in the manual rates. It has recently been realized, however, that this manner of carrier recoupment, while simple to administer, could result in an inaccurate amount being collected by the carriers and appears to be in conflict with Section 108 of the Workers’ Compensation Law which requires that a policy surcharge be used for the recoupment process.

The new method of recoupment will be implemented by means of a policy surcharge which will ensure the adequate collection of assessment dollars, since the procedure will now be a straight pass-through of costs. Furthermore, the revised method will be in strict compliance with Section 108 of the Workers’ Compensation Law. Concomitantly, when the new procedure becomes effective, the loading in the manual rates will be removed.

To implement the revised method of recoupment, Rule IX M. is being added to the New York Workers Compensation and Employers Liability Manual and the surcharge amount will be included on Page 6 of the Miscellaneous Values page of that manual. A copy of the new Rule IX M. is attached for your reference.

In addition, the New York Workers Compensation Statistical Plan is also being revised to include a newly established statistical code, Code 9749, for the recording of the policy surcharge. The appropriate Statistical Plan manual page is also attached for your information.
Since the new procedure will most likely require changes to the computer systems of the private carriers, an effective date of October 1, 2004 for new and renewal policies has been established.

Revised manual pages will be issued as soon as they are available.

Very truly yours,

Monte Almer

President

MH/ab
Encl.
M. WORKERS COMPENSATION SECURITY FUND SURCHARGE

1. Explanation

The Workers Compensation Security Fund Surcharge is a separate identifiable charge to policyholders for the funding of the Workers Compensation Security Fund which serves as the guaranty fund for fulfilling the obligations of insolvent private carriers writing workers compensation in the state of New York.

2. General Information

The Workers Compensation Security Fund Surcharge amount must be displayed as a separate identifiable charge on the policy information page. Code 9749 must be used in conjunction with this charge.

The Workers Compensation Security Fund Surcharge amount is subject to change at audit and at all subsequent retrospective rating adjustments.

The Workers Compensation Security Fund Surcharge 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 surcharge percentages will apply.

3. Premium Base for Calculating the Security Fund Surcharge

Total policy premium, including the New York State Assessment, is the premium base to which the surcharge percentage, shown in the Miscellaneous Values page in the rates section of this manual, is to be applied.
13. Minimum Premiums

a. Other than Maritime or FELA

When the premium, including the expense constant, is less than the policy minimum premium, as defined in the New York Workers Compensation and Employers Liability Manual, the additional premium necessary to balance to the minimum premium shall be assigned to Statistical Code 0990 and reported on Lines D, E, or F. The amount reported under this statistical code should not include the expense constant.

If the minimum premium applies to a multistate policy, the additional premium required to bring the total risk standard premium up to the minimum premium shall be allocated to the state with the highest minimum premium.

b. Maritime or FELA

When manual premium is developed under Maritime or FELA classifications and where such premium together with any Maritime or FELA increased limits charge is less than the stipulated Maritime or FELA minimum premium, as defined in the New York Workers Compensation and Employers Liability Manual, the additional premium required to equal such separate minimum premium shall be assigned to Statistical Code 9849 and reported on Lines D, E, or F.

14. Total Standard Exposure—Line G

Report the sum of all payroll exposures above Line A. For multi-page unit reports, report this total on the last page only.

15. Total Standard Premium—Line G

Report the sum of all premium dollars, both subject and not subject to modification, which are to be included in standard premium. For multi-page unit reports, report this total on the last page only.

This total must exclude the amounts for premium discount and expense constant referenced in Items 16 and 17.

16. Premium Discount Amount—Line H

Report the premium adjustment resulting from the application of the premium discount plan under Class Code 0063 (stock discount) or 0064 (non-stock discount). Do not include the premium discount amount in the total standard premium.

17. Expense Constant Amount—Line I

Report the premium adjustment resulting from the application of the expense constant under Class Code 0900. Do not include the expense constant amount in the total standard premium.

For multi-state policies, allocate the expense constant to the state with the highest applicable expense constant. If two or more states have the same highest expense constant, allocate it to the state developing the highest standard premium.


Report the surcharge amount under Class Code 9749. Do not include the Security Fund surcharge amount in the total standard premium.