R.C. 2247

To the Members of the Board

Re: New York Workers Compensation
Workers Compensation Security Fund Surcharge

Pursuant to Sections 108 and 109 of the New York Workers’ Compensation Law, the New York State Insurance Department has announced that private insurance carriers are to cease collecting the Security Fund surcharge from their insureds on policies issued or renewed with effective dates January 1, 2011 and subsequent. A copy of the Department’s Circular Letter No. 13, dated September 15, 2010, is attached for your reference.

A revised Miscellaneous Values Page 6 of the New York Workers Compensation and Employers Liability Manual, displaying a zero percent surcharge, is also attached. This page will be published and included shortly in the on-line version of the Board’s manual.

Questions regarding compliance with Circular Letter No. 13, or the Workers Compensation Security Fund in general, should be addressed directly to the New York State Insurance Department.

Very truly yours,

Monte Almer

President

MH/ab
Encl.
To: All Property/Casualty Insurance Companies and Reciprocal Insurers Authorized to Write Workers’ Compensation Insurance  

Re: Workers’ Compensation Security Fund  

STATUTORY REFERENCE: Sections 108 and 109 of the Workers’ Compensation Law  

Please be advised that determinations made in accordance with the requirements of Workers’ Compensation Law § 109 indicate that the amount of assets in the Workers’ Compensation Security Fund as of June 30, 2010 exceeds $74 million dollars. Section 109 provides that when the amount of assets of the Fund equals or exceeds $74 million dollars, no further contributions shall be required.  

Workers’ Compensation Law § 108 provides that for the privilege of carrying on the business of workers’ compensation insurance in this state, every carrier (as defined in Workers’ Compensation Law § 106) shall pay into the Fund, on a quarterly basis, a sum equal to not more than two percent of its net written premiums, less the amount of dividends paid to policyholders, as shown on the quarterly return form required to be filed by Workers’ Compensation Law § 108.  

Workers’ Compensation Law § 109(1) provides that when the Superintendent determines, as of the end of any quarterly period, the amount of assets in the Workers’ Compensation Security Fund equals or exceeds $74 million dollars, no further payment under Workers’ Compensation Law § 108 shall be required to be made after that quarterly period. However, whenever as of any subsequent quarterly period the amount of such assets is less than $74 million dollars, contributions shall be resumed at the beginning of the next quarter.
The first quarterly contribution to be suspended will be the contribution due on or before May 15, 2011 for the quarter ending March 31, 2011. Accordingly, every carrier must cease collecting the surcharge from its insureds for policies issued or renewed with effective dates January 1, 2011 or later. Any carrier that has collected surcharges in excess of payments made pursuant to Workers’ Compensation Law § 108 must, in accordance with that section, remit the excess to the Superintendent within 120 days after January 1, 2011.

In addition, unless an insurer is required to remit any payments made in excess of surcharges, no quarterly returns will be required to be filed until contributions are resumed.

Please acknowledge receipt of this letter and refer any questions to:

Mark E. Daigneault
Director of Taxes and Accounts
New York State Insurance Department
One Commerce Plaza
Albany, New York 12257
billing@ins.state.ny.us

Very truly yours,

Karen E. Cole
Director of Administration and Operations
MISCELLANEOUS VALUES (continued)

New York State Assessment Charges

General Instructions and Information

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

<table>
<thead>
<tr>
<th>Assessment</th>
<th>Volunteer Ambulance</th>
<th>Volunteer Firefighters</th>
<th>All Other Classes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workers’ Compensation Board</td>
<td>4.9%</td>
<td>3.1%</td>
<td>2.7%</td>
</tr>
<tr>
<td>Reopened Case Fund</td>
<td>4.8%</td>
<td>4.2%</td>
<td>4.4%</td>
</tr>
<tr>
<td>Special Disability Fund</td>
<td>0.0%</td>
<td>0.0%</td>
<td>10.0%</td>
</tr>
<tr>
<td>Interdepartmental Expenses</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.9%</td>
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<tr>
<td>Special Funds Conservation Committee</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.1%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>9.7%</strong></td>
<td><strong>7.3%</strong></td>
<td><strong>18.1%</strong></td>
</tr>
</tbody>
</table>

Premium Base

Refer to Rule IX-L., Section 3.

For all policies not retrospectively rated, premium is defined as premium determined on the basis of approved carrier rates, including any experience modification or merit rating factor, plus any applicable territory differential premium, minimum premium, Construction Classification Premium Adjustment Program credits, surcharges and credits from workplace safety programs, credits from return to work programs, credits from drug and alcohol prevention programs, credits from independently filed carrier specialty programs (for example, alternative dispute resolution, managed care or preferred provider organization programs), the charge for the waiver of subrogation, the charge for foreign voluntary coverage, the charge for terrorism and the charge for natural disasters and catastrophic industrial accidents. Any expense constant, including an expense constant in a minimum premium, the premium discount, and premium credits for participation in any Deductible Program are excluded from 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.

**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)