BULLETIN

October 28, 2013

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R.C. 2349

To: The Members of the Board

New York State Assessment
Effective January 1, 2014

In accordance with the authorization of the NYCIRB Underwriting Committee, and approval by the New York State Department of Financial Services, we are implementing revisions to the New York Workers Compensation and Employers’ Liability Manual regarding the New York State Assessment for all policies effective January 1, 2014 and thereafter.

As background, in administering the NYS assessment beginning on January 1, 2014, the New York State Workers Compensation Board (WCB) has indicated that the applicable assessment rate would be based solely on the policy effective date. As a result, the Anniversary Rating Date Rule will not apply in the determination of the assessment. Therefore, revisions were necessary in order to align the instructions in the Manual with the method to be used by the WCB for the determination of the NYS Assessment amounts on all policies effective January 1, 2014 and thereafter.

The NY WC & EL Manual has been updated to address the rule change as it pertains to the assessment amount. Attached please find updates to pages R-69 and R-70 of the manual reflecting these changes. The changes are also reflected in an updated version of the New York Workers Compensation & Employers Liability Manual available via the Board’s website at: www.nycirb.org.

Very truly yours,

Monte Almer

President

WVT:tg
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 various expenses described in Section 151 of the Workers’ Compensation Law.

2. General Information

The New York State Assessment amount must be displayed as a separate identifiable charge on the policy information page. Statistical 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.

For policies with effective dates prior to January 1, 2014, 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 policies with effective dates on or after January 1, 2014, the New York State Assessment amount is charged in conjunction with the effective date of the policy. Therefore, a single assessment percentage will apply to each policy, even if the Anniversary Rating Date Endorsement (WC 00 04 02) applies.

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.
4. **Assessment Charge**

The assessment percentages to be applied to each policy can be found in Part Three–Loss Costs, Miscellaneous Values in this manual.

**Note:** For policies effective prior to January 1, 2014, New York State Law requires that the assessment amounts collected from policyholders be considered as premium for tax purposes. Assessment charges prior to January 1, 2014 contemplate premium tax, but not commission. For policies effective on or after January 1, 2014, assessment amounts collected from policyholders are no longer considered as premium for tax purposes.

**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.

Department of Financial Services, as required by statute, determines when this surcharge is necessary.

2. **General Information**

When applicable, 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 Rating 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 is the premium base to which the surcharge percentage, shown in Part Three–Loss Costs, Miscellaneous Values section of this manual, applies.