R.C. 2358

To: The Members of the Board

Audit Commencement Date
Effective Date - April 1, 2014

In accordance with the authorization of the NYCIRB Underwriting Committee, and approval by the New York State Department of Financial Services, we hereby introduce an amendment to the New York Workers Compensation and Employers Liability Manual pertaining to an update to language contained in Rule VI, regarding a Policy Audit’s commencement date. This change will be effective for new and renewal policies with effective dates on or after April 1, 2014.

In order to align with the national standard regarding the commencement date used for conducting premium audits, a change has been made to Rule VI, Item G.2 in the Manual. Previously the rule specified that audits were to commence within one half month of the policy inception date. The revised rule specifies that commencement is to coincide with the policy effective and expiration dates of the policy, with the intention that the audit be coordinated with the first of the nearest month.

The attached change is also included in an updated version of the New York Workers Compensation & Employers Liability Manual which is available on the Board’s website at: www.nycirb.org.

Very truly yours,

Monte Almer

President
a. Each risk producing an annual premium of $5,000 or more shall be audited at least once a year.

b. Except as provided in c. below, each risk producing an annual premium of less than $5,000 shall be audited the first year a policy is written by a particular carrier, then at least once every three years thereafter. In each year when a physical audit is not conducted, a signed payroll statement shall be obtained from the employer.

c. In instances where an audit is clearly impracticable, such as for private residences or building operations risks served by one or two employees, an actual audit may be waived and a signed payroll statement from the employer may be accepted.

2. The payroll auditor shall complete an audit report directly from the books of account and original payroll records of the employer. In every instance, audited information must coincide with the policy effective and expiration dates of the policy. Reasonable deviations from this standard that do not affect the earned premium are permitted to coordinate the audit with the first of the nearest month. On policies subject to monthly, quarterly, or semi-annual audit, the Deposit Premium shall be determined and paid in accordance with the rules in Section VI.F. The carrier shall then:

a. Charge premium for each interim period as well as for the final period on the basis of actual audits; or

b. Charge premium for each interim period on the basis of signed payroll statements from the employer; or

c. Charge the balance of the estimated annual premium on the basis of equal interim payments which aggregate such balance.

Note: Refer to Section I.H.10 of the Digest of Rulings and Interpretations.

3. For construction employers subject to the provisions of Rule V.G., a carrier may enter into agreement with the New York State Department of Taxation for the purpose of verifying an employer’s payroll records. Note that this verification is limited to a representation by the Department that the employer’s payroll information, submitted to the Department of Taxation by the carrier, is either overstated or understated.

H. RATING MODIFICATIONS

1. Experience Rating

If the risk is subject to experience rating, the experience rating modification shall be shown in Item 4 of the Information Page and applied to the premium in accordance with the New York Experience Rating Plan Manual.

2. Merit Rating

If the risk is subject to merit rating, the merit rating factor shall be shown in Item 4 of the Information Page and applied to the premium in accordance with the New York Experience Rating Plan Manual.