December 2, 2015

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R.C. 2407

To: The Members of the Board

Deposit Premium Rule
Effective Date – January 1, 2016

The Rating Board is introducing amendments to the Deposit Premium Rule following approval by the New York State Department of Financial Services, and in accordance with authorization of the NYCIRB Underwriting Committee. These amendments are contained in the New York Workers Compensation and Employers Liability Manual. These changes are being implemented for new and renewal policies with effective dates on or after January 1, 2016.

The language contained in the Rules section of the Manual, Rule VI. F. Deposit Premium, states that a Deposit Premium is payable at the inception of the policy. The rule also indicates what the deposit premium should be for policies adjusted upon audit following the termination of an annual policy and when an interim adjustment of premium is on a monthly, quarterly or semi-annual basis.

The rule in the manual requires revision to allow workers compensation carriers to offer Workers Compensation Insurance policies with no deposit premiums. Several programs have emerged over the years, such as Pay-As-You-Go Programs, which allow for carriers to set up individual financial arrangements for payment with their insureds. The proposed deposit premium rule eliminates all references to mandatory deposit premiums and their associated amounts. The new rule states that a deposit premium “may be” payable at the inception of the policy in lieu of “is” payable at the inception of the policy.

Provided with this Bulletin are pages R-40 and R-41 reflecting the amended wording. These changes are also included in an updated version of the New York Workers Compensation & Employers Liability Manual, available on the Board’s website at: www.nycirb.org.

Very truly yours,

Monte Almer

President

PR:tg
Encl.
7. Multiple State Policies

If a policy provides workers compensation insurance in more than one state, the minimum premium to be charged for the policy shall be the carrier’s single highest minimum premium of the individual state’s minimum premiums. Refer to Section I.M. of the New York Digest of Rulings and Interpretations for additional information.

F. DEPOSIT PREMIUM

★ A deposit premium may be payable at the inception of the policy. The deposit premium shall not be less than the minimum premium stated in the policy.

G. AUDIT OF PAYROLL AND ADJUSTMENT OF PREMIUM

The rules and classifications in this manual govern the audit of payrolls and adjustments of premiums, subject to the following requirements:

1. The carrier shall make a physical audit of the employer’s records for the purpose of determining the premium subject to the following:

   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.
7. **Multiple State Policies**

If a policy provides workers compensation insurance in more than one state, the minimum premium to be charged for the policy shall be the carrier's single highest minimum premium of the individual state's minimum premiums. Refer to Section I.M. of the New York Digest of Rulings and Interpretations for additional information.

**F. DEPOSIT PREMIUM**

*Note:* This rule does not apply to Paid Loss Collection Programs written in conjunction with Retrospective Rating Plans. For details regarding the premium payment under these Programs, refer to Part Two, Section II.D. of the New York Retrospective Rating Plan Manual.

1. **When Payable**

   A deposit premium maybe is payable at the inception of the policy. The deposit premium shall not be less than the minimum premium stated in the policy.

2. **Amount Payable**

   **Annual Adjustment**

   For a policy which provides that the premium shall be adjusted upon audit following the termination of an annual period, the deposit premium shall be the total estimated annual premium for that policy.

3. **Amount Payable**

   **Interim Adjustment**

   An interim adjustment and payment of premium is permissible on a monthly, quarterly or semi-annual basis. If this method of premium adjustment is provided, the deposit premium shall be:

<table>
<thead>
<tr>
<th>Interim Adjustment Basis</th>
<th>Deposit Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly</td>
<td>At least 25% of estimated annual premium</td>
</tr>
<tr>
<td>Quarterly</td>
<td>At least 50% of estimated annual premium</td>
</tr>
<tr>
<td>Semi-Annual</td>
<td>At least 75% of estimated annual premium</td>
</tr>
</tbody>
</table>

4. **When Credit Allowed**

   The deposit premium shall be credited in premium computation to the final earned premium adjustment or to the renewal policy. The deposit premium shall not be credited to any interim premium adjustment.

5. **Three-Year Fixed Rate Policies**

   For deposit premium determination on Three-Year Fixed Rate Policies, refer to Rule XI.

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   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.

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