



NYCIRB

New York Compensation
Insurance Rating Board
733 Third Avenue
New York, NY 10017
Tel: (212) 697-3535

April 11, 2018

R.C. 2462

Re: New York Workers' Compensation and Employers' Liability Manual
Conditional Renewal for Carriers Under Common Control
Effective Date: April 17, 2018

Members of the Rating Board:

I write to inform you that the New York State Department of Financial Services ("DFS") approved a change to the New York Workers' Compensation and Employers' Liability Manual ("Manual") regarding conditional renewals for carriers under common control. The herein described amendment brings the Manual into compliance with recent legislation. The amendment is effective as of April 17, 2018.

The approved amendment pertains to insurance carriers that issue a conditional renewal of a policy that supersedes a policy previously issued by another insurance carrier under common control and results in an increased premium of more than ten percent ("Conditional Renewal"). The above referenced "in excess of ten percent" threshold is exclusive of any premium increase generated as a result of increased loss costs, increased exposure units, experience rating, contractor credit adjustment program, merit rating, retrospective rating, or audit or removal or reduction of a drug free credit, managed care credit or deductible. Specifically, the amendment requires that when issuing a Conditional Renewal, insurance carriers provide written notice to the employer and their authorized agent or broker, at least thirty days in advance of the expiration date of the policy indicating such intention.¹ Insurance carriers are not required to provide such notice when the employer or their authorized agent or broker, or another insurance carrier of the employer has mailed or delivered written notice that the policy has been replaced or is no longer desired.

¹ A renewal conditioned upon increased premiums equal to or less than ten percent of current premiums is not considered a Conditional Renewal and is therefore not subject to the notice requirements described herein.

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The modified and final versions of Manual Pages P-1, P-5 and P-5a, reflecting the approved change, are attached for your convenience.

Very truly yours,

A handwritten signature in blue ink, appearing to read "JA", is written over a faint, illegible printed name.

Jeremy Attie
President and CEO

Enclosures

ADMINISTRATIVE RULES AND PROCEDURES

A. GENERAL

The New York Workers Compensation and Employers Liability Manual which contains rules and procedures, classifications and loss costs has been adopted by the New York Compensation Insurance Rating Board to govern the underwriting of Workers Compensation and Employers Liability Insurance, Voluntary Compensation Insurance and Employers Liability Insurance in the State of New York. This manual does not apply to any insurance under Article 9 of the Workers' Compensation Law of the State of New York (Chapter 600 of the Laws of 1949).

B. DEFINITIONS

1. Rating Board

The term "Rating Board" as used in this manual refers to the New York Compensation Insurance Rating Board organized under the provisions of Section 2313 of the New York Insurance Law.

2. Department

The term "Department" as used in this manual refers to the Superintendent of Insurance and the New York State Department of Financial Services.

C. APPROVAL

This manual has been filed with the Department by the Rating Board on behalf of its members and has been approved by the Department pursuant to the provisions of Section 2305 of the Insurance Law.

D. FILING REQUIREMENTS

1. Policies and Renewal Certificates

Copies of all policy Information Pages and renewal certificates shall be filed with the Rating Board within thirty (30) days after the effective date of the policy. In addition, proof of coverage must be filed, in the electronic format, with the State of New York Workers' Compensation Board within thirty (30) days after the effective date of the policy. *Refer to K.1. below.*

2. Endorsements

a. Except as noted in (1) and (2) below, a copy of every endorsement *affected coverage* in New York State shall be filed with the Rating Board within thirty (30) days after issue. It is not necessary, however, to file a copy of any endorsement which does not require the insertion of any information relating to coverage on the endorsement provided:

- ★ (1) Specimen copies of carrier specific endorsements have previously been filed with and approved by the Rating Board (refer to P-5a, Item L2, and Part Four of this Manual); and
- (2) The identification number and title or authorized symbol of the endorsement is shown on the Information Page which was filed with the Rating Board.

Note: If an employer has obtained insurance with another carrier and the effective date of coverage is prior to the expiration of the time stated in the cancellation notice, the cancellation shall be effective as of the effective date of the other coverage.

2. Reinstatements

When a policy has been terminated by cancellation or has expired, the policy shall not be reinstated or renewed by certificate. Coverage may be afforded only upon issuance of a new policy. If, however, a notice of cancellation has been mailed to the insured, as provided by statute, the policy may be reinstated at any time before the effective date of the cancellation as shown in the notice. If a policy is to be reinstated before the effective date of cancellation, electronic notification of such reinstatement must be sent to the Chair of the Workers' Compensation Board.

3. Notice of Intention Not to Renew

As provided by statute, no insurer shall refuse to renew a policy unless notification has been sent to the employer, by registered or certified mail, and has also been filed electronically with the Chair of the Workers' Compensation Board at least thirty (30) days prior to the expiration of the policy.

Note: Insurers must also file with the Rating Board copies of notices of cancellation, reinstatement and non-renewal which have been filed with the Chair of the Workers' Compensation Board.

★ 4. Conditional Renewal for Carriers Under Common Control

According to section 54 of the New York State Workers' Compensation law, if an insurance carrier issues a conditional renewal of a policy that supersedes a policy previously issued by another insurance carrier under common control that will result in an increased premium in excess of ten percent ("Conditional Renewal"), then it shall deliver or mail written notice indicating such intention ("Conditional Renewal Notice") in the manner described herein. To determine whether the premium increase threshold is met, the proposed premium shall be calculated exclusive of any premium change generated as a result of increased loss costs, increased exposure units, experience rating, contractor credit adjustment program, merit rating, retrospective rating, or audit or removal or reduction of a drug free credit, managed care credit or deductible. A renewal conditioned upon increased premiums equal to or less than 10 percent of current premiums (pursuant to the calculation described above) is not considered a Conditional Renewal and is therefore not subject to the notice requirements of section 54 of the New York State Workers' Compensation law, which are described herein.

The Conditional Renewal Notice shall be mailed or delivered in writing to the employer, at the address shown on the policy, and to such employer's authorized agent or broker, at least thirty days in advance of the expiration date of the policy and shall set forth the amount of the premium increase. If the amount of the premium increase cannot reasonably be determined as of the time the notice is provided due to failure of the policyholder to provide the insurance carrier with the information necessary to determine the premium, the insurance carrier shall provide a reasonable estimate of the premium increase based upon the information available at the time.

A Conditional Renewal Notice is not required when the employer, an authorized agent or broker, or another insurance carrier of the employer, has mailed or delivered written notice that the policy has been replaced or is no longer desired.

★ **L. NEW YORK ENDORSEMENTS**

1. Forms—Where Found

Part Four of this manual—Policy Forms and Authorized Endorsements—contains copies of the standard Workers Compensation and Employers Liability Insurance Policy, Volunteer Firefighters' Benefit Law Policy, Volunteer Ambulance Workers' Benefit Law Policy, Information Page, and all endorsement forms approved for use in New York (both countrywide and New York special endorsements).

Also included are certain standardized forms accepted in New York for use to provide or amend insurance under the United States Longshore and Harbor Workers' Compensation Act, Admiralty Laws or the Federal Employers' Liability Act. All forms which are approved for use in New York may be obtained by contacting the National Council on Compensation Insurance, Director of Publications Services, 901 Peninsula Corporate Circle, Boca Raton, FL 33487.

The title of each form available for use in New York is shown in the Alphabetical List of Endorsements in Part Four.

2. Forms—Standard

The forms shown in Part Four are standard forms approved for use in New York.

The company may use its own attachment clause and method of execution, i.e. use of Carrier Form Numbers. Endorsements which use custom form numbers are not required for filing with NYCIRB. However, any deviation, modification, or customization of any standard form, whether national or NY specific, requires specific filing and approval from the NYCIRB.

3. Notes on Forms

The notes on the various forms and endorsements are to be used solely as a guide and are not to be included as part of the form or endorsement.

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