

BULLETIN

March 1, 2012

Contact: Ms. Annmarie Visciano
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R.C. 2291

To: The Members of the Board

**RE: New York Workers Compensation & Employers Liability Manual
Waiver of Right to Recover from Others - Update
Effective Date- April 1, 2012**

In accordance with the authorization of the NYCIRB Underwriting Committee, and approval by the New York State Department of Financial Services, we hereby introduce amendments to the New York Workers Compensation and Employers Liability Manual pertaining to the Rule for ‘Waiver of Right to Recover from Others’ coverage, with an effective date of April 1, 2012.

For enhanced clarity and consistency, the manual page rule and algorithm for the “Waiver of Rights to Recover from Others” endorsement is amended to clarify the alternate methods of premium calculation, specific and blanket. The language in the algorithm is now more general and can apply to either ‘blanket’ or ‘specific’ methods as described in the rules section.

The amendments to the NY WC and EL Manual are reflected on the following pages:

1. Rules Section, Page R-68 which defines the premium calculation as using manual premium and not total premium.
2. Premium Algorithm pages, AC-1 and AC-4 where the indicated example and definition are modified and shown under Item 14.

The revised manual pages are attached for your reference. The changes are also included in an updated version of the New York Workers Compensation & Employers Liability Manual which is available via the Board’s website at: www.nycirb.org.

Very truly yours,

Monte Almer

President

WVT:tg
Encl.

Refer to the New York Experience Rating Plan Manual for the Transition Program applicable to expected loss rates.

K. WAIVER OF RIGHT TO RECOVER FROM OTHERS

1. Coverage

A provision in the Standard Policy allows the carrier to waive its right of recovery against anyone liable for an injury covered by the policy. Attach the Waiver of Our Right to Recover from Others Endorsement (WC 00 03 13) to waive right of recovery.

A carrier's right to waive recovery from others applies only to the extent that an insured performs work under a written contract that requires the insured to obtain an agreement from the carrier.

2. Premium

a. Specific

- ★ A premium charge of 5% to 10% of the manual premium developed in conjunction with the work for which the waiver is provided shall apply for each person or organization named in the endorsement, subject to a minimum premium of \$250 per policy.

b. Blanket

- ★ A premium charge equal to 2% to 10% of the manual premium, subject to a minimum premium of \$250 per policy.

Note: If a premium charge other than the minimum percentage is used, the underwriting file will be documented as to the reason for the higher percentage.

PREMIUM ALGORITHM

The following algorithm provides an outline of the sequence and calculation procedures for determining New York workers compensation policy premiums.

Sequence of Presentation & / or Calculation *	Statistical Codes	Premium Element Name	Calculation Procedure
1	Various	Classification	N/A
2	N/A	Exposure	N/A
3	N/A	Classification Rate	From carrier's rate manual
4	None	USL&HW Percentage for Non-F Classes	USL&HW percentage x Non-F class rate
5	None	Deviation Method 1 (Percentage of rate)	Rate x deviation percentage = carrier rate; not applicable as of 10/1/08
6	9126, 9127, 9128	Construction Class Territory Differential Premium	Construction class manual premium for commercial work x territory differential in NY WC&EL Manual
MANUAL PREMIUM			Exposure X Rate / 100 + Line 6
7	0994, 0998	Outstanding Rate Decrease/Increase	Manual Premium for all classifications x Outstanding Rate Change factor
8	9803 thru 9816, 9837	Employers Liability Increased Limits Charge, with Workers Compensation	Manual Premium for Non-Subject Employees x Increased Limits Factor
9	9823 thru 9836	Employers Liability Increased Limits Charge, without Workers Compensation	Manual Premium for the policy x Increased Limits Factor
10	9817 thru 9822, 9840	Employers Liability Increased Limits Charge - Admiralty or FELA Coverage	Manual Premium for employees subject to Admiralty Law/FELA x Increased Limits Factor.
11	9848	Employer Liability Minimum Premium Charge	Minimum Premium less Increased Limits Premium if applicable
12	9850	Extension of Employers Liability Coverage to Additional Interests – Volunteer Firefighters Benefit Law policy	10% of the manual premium of Code 7711 – Volunteer Firefighters.
13	9851	Extension of Employers Liability Coverage to Additional Interests – Volunteer Ambulance Workers Benefit Law policy	10% of the manual premium of Code 7370 – Volunteer Ambulance Workers.
★ 14	0930	Waiver of Subrogation Premium	Percentage of the manual premium subject to a minimum charge of \$250 per policy.
15	9664	Deductible Premium Credit (Prior to Experience Rating)	Manual Premium for all classifications (including Outstanding Rate Change) x deductible credit factor for the NYCIRB's small deductible program; as per carrier filing for large deductibles (>= \$100,000)
16	9037, 9039	Deviation Method 2 (Before Experience Modification)	(Manual Premium for all classifications and statistical codes subject to experience rating) x deviation factor; not applicable as of 10/1/08

PREMIUM ALGORITHM (Continued)
PREMIUM ELEMENT DEFINITIONS

Sequence of Presentation & / or Calculation	Premium Element Name	Premium Element Definition
1	Classification	Employer Business Classification
2	Exposure	Estimated or audited exposures (generally payrolls)
3	Classification Rate	Charge per unit of exposure
4	USL & HW Percentage for Non-F Classes	Charge applicable to Non-F class rate to include USL&HW Act coverage
5	Deviation Method 1 (Percentage of rate)	Specific percentage of the rate as per carrier filing with the Insurance Department; not applicable as of 10/1/08.
6	Construction Class Territory Differential Premium	Adjusts commercial construction manual premium for payroll limitation
MANUAL PREMIUM		
7	Outstanding Rate Decrease/Increase	A flat percentage adjustment to the manual premium earned on or after a specified date to reflect law changes regarding workers compensation benefits.
8	Employers Liability Increased Limits Charge, with Workers Compensation	Part Two coverage premium for selecting higher coverage limits for employees not subject to the New York Workers' Compensation Law.
9	Employers Liability Increased Limits Charge, without Workers Compensation	Premium for selecting higher coverage limits for employers liability policies written without workers compensation.
10	Employers Liability Increased Limits Charge - Admiralty or FELA Coverage	Part Two coverage, premium for selecting higher coverage limits for employees subject to Admiralty Law or the Federal Employers' Liability Act.
11	Employer Liability Minimum Premium Charge	Additional premium to balance to minimum charge for Part Two increased limits.
12	Extension of Employers Liability Coverage to Additional Interests –Volunteer Firefighters Benefit Law policy	Provides Part Two coverage to volunteer fire departments/companies and their fire chiefs, fire commissioners, and board of trustees.
13	Extension of Employers Liability Coverage to Additional Interests – Volunteer Ambulance Workers Benefit Law policy	Provides Part Two coverage to volunteer ambulance companies and their officers and board of trustees.
★ 14	Waiver of Subrogation Premium	Premium for the carrier waiving its right to recover payments from entities if they are liable for injuries covered by the policy.
15	Deductible Premium Credit (Prior to Experience Rating)	Apply at carrier/insured option.
16	Deviation Method 2 (Before Experience Modification)	Specified percentage premium adjustment per carrier filing with the Insurance Department; not applicable as of 10/1/08.