



**THE WORKERS' COMPENSATION
RATING AND INSPECTION BUREAU**

January 5, 2006

CIRCULAR LETTER NO. 2011

To All Members and Subscribers of the Bureau:

**FOURTH COMMUNICATION FROM THE DEPARTMENT OF INDUSTRIAL ACCIDENTS
(DIA) ON THEIR ASSESSMENT PROCESS**

Attached is the fourth in a series of planned communications from the DIA to all insurance companies that are licensed to write workers' compensation in Massachusetts.

The fourth communication deals with an algorithm developed by the DIA to assist the insurance community in better understanding the components included in the DIA's definition of standard premium as outlined in 452 CMR 7.00. The attached Department of Industrial Accident's Massachusetts Workers Compensation DIA Assessment Premium Algorithm is final and outlines the DIA's position regarding the proper method of calculating the DIA assessment.

Although the attached communication did not identify an effective date for the implementation of the DIA's assessment algorithm, insurance companies are urged to implement the new DIA assessment algorithm as soon as possible. The DIA will be utilizing the new assessment calculation during their upcoming round of audits. The DIA's position is that the tool (algorithm) may be new, but the method does not change the DIA's long standing definition as outlined in 452 CMR 7.00.

Carriers should also keep in mind that the DIA now requires that insurance companies submit on a quarterly basis, the standard premium, as defined by the DIA, used to calculate the DIA assessment along with the actual assessment collected. This information must be submitted on an individual company basis.

We will keep you informed of any future developments with regards to the DIA assessment process. If you have any questions regarding this matter, please contact me at dcrowley@wcribma.org or 617-646-7594.

DANIEL M. CROWLEY, CPCU
Vice President – Customer Services

Attachments

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This is the fourth communication that the Department of Industrial Accidents (DIA) has issued. This issue deals with an algorithm developed to assist the insurance community's understand the components included in the DIA's definition of standard premium.

Background

The Workers' Compensation Special Fund (hereinafter, "the Special Fund") and the Workers' Compensation Trust Fund (hereinafter, "the Trust Fund") were established to pay for the operating expenses of the Massachusetts Department of Industrial Accidents and to pay or reimburse certain compensation to employees and insurance companies specifically outlined in Section 65. Both the Special Fund and the Trust Fund are funded by revenues generated from assessments levied on all insured employers subject to M.G.L. c.152.

According to the statute, insurance companies shall bill and collect assessments on insured employers. Such assessments shall be separately stated amounts on premium notices, and shall not be reported as premiums for any tax or regulatory purposes under Chapter sixty-three, one hundred and seventy-five, or any other law.

Assessment rates for insured employers should apply to standard premiums for policy years beginning on or after July first following the determination of such rates.

In an earlier communication the DIA expressed the opinion that, "All insurance companies are expected to be familiar with the insurance laws of each state, in which they operate." Commissioner John Chapman added "The DIA anticipates that these communications as well as the DIA's web-site and Assessment web page at www.mass.gov/dia will be informational tools that help insurance companies understand their obligations."



Deputy Commissioner Jack Tynan indicated that "In the past few years, the DIA has been auditing the insurance companies to ensure that assessments are being billed and remitted in accordance with state statutes". Mr. Tynan continued, "The DIA has hired a full time Assessment Manager who has 25 years of industry experience. He is the point of contact for all insurance companies writing Workers Compensation in Massachusetts. The DIA plans to continue audits into the future, similar to IRS corporate audits."

Standard Workers' Compensation Premium

The DIA acknowledges that in the past, there has been confusion in the insurance industry regarding the handling of deviated rates related to the DIA's definition of standard premium, but the confusion was eliminated in 1997 when Circular Letter 1778 was issued by the Workers' Compensation Rating and Inspection Bureau of Massachusetts (WCRIBMA).

As stated in 452 CMR 7.00, standard premium shall mean the direct written premium equal to the product of payroll by class code and the currently applicable manual rates multiplied by any applicable experience modification factor.

This definition is found in the above mentioned DIA web-site within the Department of Industrial Accidents Insurers' Page in the section labeled 452 CMR 1.00-8.00 Rules and Regulations of the DIA.

The initial audit results confirm that confusion had existed in the insurance community regarding the definition of standard premium. Deputy Commissioner and General Counsel, Gregory White indicated "the audits highlighted this and the DIA was aware of this when dealing with insurers regarding the initial audit findings. Since that time, and continuing with the new round of audits the DIA will work with other state agencies and will vigorously pursue those insurance companies that are not

billing and remitting assessments correctly. Insurers will find that the DIA will take the necessary legal steps in order to recover these funds and impose penalties for acting in such an irresponsible manner."



Algorithm

As noted in the first paragraph, an algorithm has been developed in conjunction with several insurance companies, the WCRIB and Massachusetts Division of Insurance.

The DIA held a meeting at its headquarters on September 20, 2005 with representatives of the Insurance community, WCRIB and Massachusetts Division of Insurance (DOI) came together to agree on the algorithm.

The objective of this venture was to finalize a web based algorithm, to serve as a tool for insurers to remove the confusion that exists regarding the DIA's definition of standard premium. The algorithm defining the DIA's definition of standard premium is located on the DIA's assessment web page. Links are being built

from WCRIB web-site to the DIA's assessment web-site.

The Working Group

Organization

Liberty Mutual
A.I.M. Mutual
AIG
Norfolk and Dedham
GUARD Ins Group
WCRIB
Mass DOI
Mass DOI
DIA
DIA

Contact

Hector Reyes
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Dan Crowley
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C. Huntington
Jim Boyle
Richard
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“For those insurance companies which have ignored the statute's definition of standard premium, that action poses a threat to the financial well being of the DIA and the customers it serves.” Deputy Commissioner White said. "All insurance companies operating in Massachusetts have a legal obligation to properly and accurately assess their customers when preparing the premium notice”.

While commenting on the algorithm, Mr. White indicated he was pleased with the insurance community's participation and response, but added “insurance companies must fulfill their obligations and comply with state laws to minimize the impact on the DIA and those that depend upon the DIA's services. The correct calculation, collection and timely payment of the assessment to the DIA, is a critical component.”

DIA Contact information

Assessment Manager James Boyle has been designated as the point of contact for insurance companies at the DIA. All questions or comments regarding the assessment process should be directed to him.

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**Department of Industrial Accidents
Massachusetts Workers Compensation DIA Assessment Premium Algorithm**

The following algorithm provides the framework for those elements
subject to the DIA's assessment charge

	DIA's definition of Standard Premium for the purpose of calculating DIA Assessment	Associated Statistical Code
Premium elements	Included	
Manual premium (payroll exposure) Manual rates - not deviated - excludes F class exposure	Yes	
+ Manual premium (per-capita exposure)	Yes	0908,0909,0912,0913
USL & H Exposure for non-F classification codes	No	
+ Supplementary Disease (foundry, abrasive,sandblasting)	Yes	0059, 0065, 0066, 0067
+ Aircraft Seat Surcharge	Yes	0088
Total DIA Manual premium		
x Experience Modification/Merit Rating	Yes	9885, 9886(Merit Codes)
Total DIA Standard premium		
x DIA Assessment Rate		
Total DIA assessment charge		

**Code of Massachusetts Regulations Title 452: Department of Industrial
Accidents
Chapter 7:00: Practices by Insurers**

7.02: Definitions

Standard Workers' Compensation Premium as used in M.G.L. c. 152 § 65 and 452 CMR 7.00, shall mean the direct written premium equal to the product of the payroll by class code and the currently applicable manual rates multiplied by an applicable experience modification factor.

Carriers are reminded that the assessment rates are to be applied prior to the effects of any company deviations, scheduled credits, ARAP Surcharge or deductible credits.

Disclosure - any premium element not included in the above should not be included for the purpose of calculating the DIA assessment.