



April 4, 2019

**CIRCULAR LETTER NO. 2348**

To All Members and Subscribers of the WCRIBMA:

**ESTABLISHMENT OF AN AUDIT NONCOMPLIANCE CHARGE**

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On March 26, 2019, the Massachusetts Commissioner of Insurance (Commissioner) issued a Decision and Order in Docket No. R2018-01 (Order) approving a filing that, in part, established a rule, endorsement and statistical code to enable workers' compensation insurance carriers to apply an Audit Noncompliance Charge (ANC) to employers insured in the voluntary market that do not allow the insurer to examine and audit their records. The ANC is approved for a two (2) year pilot program as described in the Revised Stipulation (Stipulation) also approved by the Commissioner in the Order. **[The Order and Stipulation are attached as Appendix 1.]**

In accordance with the Commissioner's requirements and as described in the Stipulation, the rules related to the implementation of the ANC in Massachusetts during the pilot program differ from the NCCI Audit Noncompliance Charge Endorsement rules as further described below. The ANC is optional and applies only to new and renewal workers' compensation policies written in the voluntary market with an effective date between May 1, 2019 and April 30, 2021 (Pilot Period).

The Stipulation establishes rules and a designated statistical code, and adopts NCCI's Audit Noncompliance Charge Endorsement (WC 00 04 24) (ANC Endorsement) **[Attached as Exhibit I to the Stipulation]** which will enable an insurer to apply an ANC to employers that do not allow the insurer to examine and audit its records, subject to certain limitations described in the Stipulation and summarized below. The pilot program goes into effect at 12:01 A.M., May 1, 2019.

**A. Primary Features of the ANC**

- 1) The Audit Noncompliance Charge Endorsement must be attached to the policy at inception of the policy term being audited.
- 2) The insurer must make two (2) attempts to obtain the audit information and/or complete the audit before applying the ANC.

- 3) The insurer shall maintain written documentation of its good faith attempts to obtain the audit information and to provide notice of an opportunity to cure, including dates and times of contacts with the policyholder, the results of such contacts, copies of any notices provided to the policyholder, and any correspondence or records received from the policyholder.
- 4) The amount of the ANC paid by any policyholder with respect to any particular policy shall equal two (2) times the estimated annual premium for that policy as determined at the inception of the policy.
- 5) When an insurer applies an ANC to the policy, and mid-term cancellation is permissible under state law, the insurer may initiate mid-term cancellation of the policy and must issue a cancellation notice in accordance with applicable Massachusetts state laws and/or regulations.
  - Based on the Division’s decision on the Stipulation, failure to pay the ANC may not, on its own, give an insurer grounds to initiate mid-term cancellation of the policy for “nonpayment of premium”.
  - Mid-term notice of cancellation for failure to pay the ANC shall be effective only if based on the other grounds for mid-term cancellation permitted pursuant to M.G.L. c. 152, § 55A: (a) fraud or material misrepresentation affecting the policy or insured or (b) a substantial increase in the hazard insured against. Companies should consult with their counsel to determine whether such circumstances exist with respect to a particular policyholder.
- 6) If the policyholder permits the audit, the ANC will not be charged.
- 7) The insurer must refund the ANC to the employer or apply it to any outstanding balance on the policy, after the employer has paid the ANC and has allowed an examination and audit of all records that relate to the policy.

**B. Special Conditions Applicable to the ANC During the Pilot Program**

- 1) An insurer that wishes to utilize the ANC shall attach to their Massachusetts workers’ compensation policies the ANC Endorsement and a policyholder notice “Explanation of Audit Noncompliance Charge” [**Attached as Exhibit II to the Stipulation**] which shall include all the rights and responsibilities of insurers and policyholders pursuant to their workers’ compensation policies set forth in the Stipulation.

- 2) An insurer that desires to issue the ANC Endorsement to a policyholder must issue the ANC Endorsement to all other policyholders that the insurer writes within the same workers' compensation insurance classification.
- 3) The first and second attempts to obtain the audit information and/or complete the audit before applying the ANC shall be separated by at least five (5) business days.
  - The second attempt shall be by, or be accompanied by, e-mail to the policyholder and its insurance agent (if any) to the last known mail and e-mail addresses for both on file with the insurer. **[Sample email attached as Exhibit III to the Stipulation]**
  - At each attempt, the insurer must notify the employer regarding the specific, required records and the amount of the ANC to be applied if the employer fails to allow an examination and audit of all records that relate to the policy.
- 4) Insurers shall provide their policyholders subject to the ANC Endorsement and their insurance agents (if any) with written notice by certified mail of a final opportunity to cure the policyholder's failure to permit the insurer to conduct an audit (Final Notice). **[Sample written notice of final opportunity to cure attached as Exhibit IV to the Stipulation].**
  - The Final Notice shall be separated from the second attempt to obtain an audit by at least five (5) business days.
  - The Final Notice must indicate that:
    - ❖ The ANC will not be charged if the policyholder permits the audit.
    - ❖ The policyholder has the right to appeal the application of the ANC to the WCRIBMA pursuant to Policyholder Endorsement #WC 20-03-03-D; and such endorsement also allows for further appeal to the Massachusetts Division of Insurance (DOI).
    - ❖ The policyholder shall not be required to pay the ANC pending an appeal to the WCRIBMA or a further appeal to the DOI.
    - ❖ The insurer shall maintain records that a policyholder submits to the insurer in connection with an audit or an appeal of the ANC in accordance with all confidentiality and privacy requirements of the policyholder's policy and all applicable laws.
    - ❖ Policyholders may report concerns with the use of the ANC program to the State Rating Bureau (SRB).
  - The policyholder shall have ten (10) days to cure such failure from the date of the Final Notice.

- 5) An insurer shall immediately notify the WCRIBMA of any policyholder that elected to pay the ANC in lieu of complying with the insurer's requests to perform the audit.

### **C. Data Reporting Requirements**

- 1) The ANC is not part of standard premium. It is applied after standard premium in the premium algorithm. The voluntary market premium algorithm has been revised to show the exact placement of the ANC within that algorithm. **[Attached as Appendix 2]**
- 2) The ANC must be reported to the designated statistical code 9757.
- 3) Any ANC paid to an insurer, unless subsequently refunded to the policyholder, shall be reported to the WCRIBMA as "Incidental Income" under the Massachusetts Workers' Compensation Statistical Plan (Statistical Plan).
- 4) Unpaid audit noncompliance charges are not considered uncollected premium and, therefore, should not be included in uncollectible premium receivables as defined in the Statistical Plan.

### **D. Additional Information Relating to the Pilot Period**

- 1) The WCRIBMA shall make periodic reports to the SRB and the Office of the Attorney General (AG) for each policy for which an ANC Endorsement was issued. Such reports will include:
  - The amount of any ANC applied to each policy.
  - The amount of any ANC paid for each policy.
  - A description of any related appeal to the WCRIBMA or DOI.
- 2) The two (2) year Pilot Period may be reduced to any shorter period for any reason by the Commissioner in his/her sole discretion.
- 3) If the Commissioner decides to shorten the Pilot Period, the Commissioner shall inform the WCRIBMA and the AG and, may, at the Commissioner's discretion, require one or more of the following:
  - That no additional policies be endorsed with the ANC Endorsement by any insurer as of the effective date of the end of the shortened Pilot Period.

- That an insurer that has attached an ANC Endorsement to a policy notify the policyholder that such ANC Endorsement is cancelled, null and void as of the effective date of the end of the shortened Policy Period.
  - That the WCRIBMA or the DOI be required to find in favor of the policyholder in any pending appeal before them of an ANC that has been applied, but not yet paid, by a policyholder.
- 4) At the conclusion of the Pilot Program, the WCRIBMA may submit a filing to the DOI to request implementation of an ANC beyond the Pilot Period.
- 5) The WCRIBMA is not bound in any way by the terms of the Stipulation with respect to a future ANC filing.

The revised Massachusetts Workers' Compensation & Employers Liability Insurance Manual pages [**attached as Exhibit V to the Stipulation**] and the revised Massachusetts Workers' Compensation Statistical Plan Manual pages [**Attached as Appendix 3**] will be available on our website at [www.wcribma.org](http://www.wcribma.org).

Any questions regarding the application of the ANC may be directed to Daniel M. Crowley, Vice President –Customer Services at 617-646-7594; [dcrowley@wcribma.org](mailto:dcrowley@wcribma.org).

Daniel M. Crowley, CPCU,  
Vice President-Customer Services

# Appendix 1



CHARLES D. BAKER  
GOVERNOR

KARYN E. POLITO  
LIEUTENANT GOVERNOR

**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

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COMMISSIONER OF INSURANCE

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**Filing of the Workers' Compensation Rating and Inspection Bureau  
for Revisions to the Massachusetts Workers' Compensation and Employers  
Liability Insurance Manual to Establish an Audit Noncompliance Endorsement**

**Docket No. R2018-01**

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**Decision and Order**

**I. Introduction and Procedural History**

On January 29, 2018, the Workers' Compensation Rating and Inspection Bureau of Massachusetts ("WCRIB") submitted a filing that proposes to revise the Massachusetts Workers' Compensation and Employers Liability Insurance Manual (the "Manual") to establish a rule, endorsement and statistical code that will enable an insurer writing workers' compensation insurance in Massachusetts to charge an audit noncompliance fee to employers who do not allow the insurer to audit their policy (the "Filing"). Although the Filing, in large measure, consists of documents relating to the adoption of audit noncompliance endorsements ("ANCES") in other states (Exhibit 1), it includes five exhibits specific to the WCRIB's proposal: Exhibit 2, Notice to Policyholder endorsement; Exhibit 3, Revisions to Manual Rule XV to add subsection B on the ANCE; Exhibit 4, changes to the Statistical Plan; Exhibit 5, the proposed endorsement; and Exhibit 6, instructions for voluntary market premium calculation. The proposed effective date for the revisions was January 1, 2018.<sup>1</sup>

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<sup>1</sup> The proposed effective date appears to be an artefact from prior WCRIB ANCE filings. It first proposed to apply an ANCE in the voluntary workers' compensation market on July 22, 2016; that filing, and a subsequent one, submitted on October 27, 2016 that proposed an ANCE and a Records Noncompliance Premium Surcharge Endorsement to apply, respectively, in the voluntary and residual markets, were withdrawn in 2017. The current filing memorandum largely duplicates the 2016 filing; both consist mainly of 152 pages of material from the National Council on Compensation Insurance relating to the adoption of

A hearing notice, issued on March 30, 2018, scheduled a public comment hearing for May 3, 2018; it was published in the Boston Globe on April 4, 2018. On April 13, 2018, the Office of the Attorney General filed a notice of appearance and, on April 17, 2018, the law firm Anderson Kreiger entered an appearance as counsel for the WCRIB.<sup>2</sup>

At the hearing, Thomas McCall, Esq., counsel for the State Rating Bureau ("SRB") and Mina S. Makarious, Esq. representing the WCRIB, made statements.<sup>3</sup> Charlene Rideout, on behalf of the American Insurance Association, spoke in support of the WCRIB filing. Prior to the hearing, the Massachusetts Workers' Compensation Advisory Council also submitted written comment supporting the WCRIB.<sup>4</sup> At the close of the public comment hearing, we held a conference with the parties to discuss scheduling. Counsel indicated that they hoped to resolve the matter, and requested a status conference. That conference, held on May 17, was the first of a series of conferences, at each of which the parties advised us that they were working on a stipulation.

A stipulation was filed on January 9, 2019 for our review. On February 13, 2019 we advised the parties that we had a number of concerns about it and would hold a status conference to discuss those concerns on March 6, 2019.<sup>5</sup> Following the March 6 conference, the parties submitted revisions to the January 9 Stipulation that were responsive to our concerns. We summarize the revised stipulation below.

## **II. The Revised Stipulation**

The stipulation establishes a pilot project that permits insurers to attach an ANCE to Massachusetts workers' compensation policies during a two year period beginning on May 1, 2019 and concluding on April 30, 2021, unless sooner terminated by the Commissioner. The endorsement itself, Exhibit I to the Revised Stipulation (Exhibit 5 to the Filing), is a form developed by the National Council on Compensation Insurers ("NCCI") that, according to the Filing, has been

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ANCEs in other United States jurisdictions. Exhibits 2 through 5 to the 2016 filing parallel Exhibits 3 through 6 of the 2018 filing.

<sup>2</sup> On April 30, the Attorney General augmented her notice of appearance to add Diana Hooley, Esq. as counsel.

<sup>3</sup> The Attorney General did not make a statement.

<sup>4</sup> Following the hearing, an insurance producer and a business owner submitted statements expressing concerns about the actual audit process.

<sup>5</sup> At the request of the parties, we also held a telephone conference on February 20 to provide more specific guidance about our questions.

approved in 34 NCCI jurisdictions and five independent rating bureaus in other jurisdictions. The parties confirmed that the ANCE will be attached only to policies written in the voluntary market, and will not be used in the residual market. During the pilot project, an insurer who issues an ANCE to an employer assigned to a particular workers' compensation classification must also issue one to any other employer it insures who is assigned to that classification. The parties clarified that insurers may attach an ANCE to other employers in a classification only upon inception of a policy or the renewal date, not during the term of an existing policy.

In response to queries about the interface between the endorsement and the statutory provisions for cancelling a workers' compensation policy, the parties agreed that an insurer may not initiate cancellation for failure to pay premium on the ground that the policyholder has not paid an ANCE charge. Changes to Manual Rule XV B. proposed in the Filing were revised to remove the reference to "Massachusetts state laws" relating to workers' compensation policy audits, thereby clarifying that the audit rules and regulations with which insurers must comply are those set out in the Manual.

Attached to the January 9 Stipulation were three exhibits, one prescribing an explanation of the audit noncompliance charge to be sent by insurers to policyholders who receive an ANCE, and two sequential notices that an insurer must send to a policyholder when it attempts to obtain compliance with a payroll audit. Those exhibits require insurers to maintain records that a policyholder submits in connection with an audit in accordance with the confidentiality and privacy requirements of the policy and "all applicable laws." They do not affect the procedures applicable to a policyholders' appeal under the Massachusetts Notice to Policyholder Endorsement (WC 20 03 03D).

The Revised Stipulation also establishes a series of reporting options or requirements that apply during the pilot project. As revised, a policyholder that is concerned about the use of the ANCE program may report those concerns to the SRB, rather than to the Commissioner. The revision thus carefully separates appeals to the Commissioner under the Massachusetts Notice to Policyholder Endorsement from inquiries to the SRB about the pilot project. The extent to which insurers elect to use the ANCE and the number of Massachusetts employers who will receive the endorsement is uncertain. The Revised Stipulation requires the WCRIB, during the policy period, to report information on each policy to which an ANCE has been attached, including attempts to

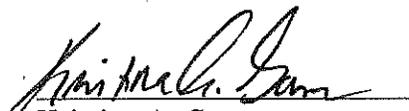
Filing of the Workers' Compensation Rating and Inspection Bureau for a Revision of the Workers' Compensation and Employers' Liability Insurance Manual to Establish an Audit Non-compliance Charge, Docket No. R2018-01. Decision and Order

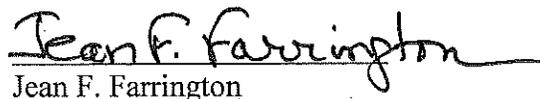
obtain compliance with the ANCE and the success of such attempts, to the AG and the SRB every six months.

We conclude that the pilot project created pursuant to the Revised Stipulation has the salutary goal of collecting data specific to Massachusetts on the use of an ANCE as a tool for effective calculation and collection of workers' compensation insurance premiums. The provisions extending an insurer's use of an ANCE to all employers in a particular business classification and the mandatory forms for explaining and attempting compliance with an audit should remove potential complaints of bias in the selection of ANCE recipients or in compliance proceedings. It was apparent, at the March 6 status conference, that the parties recognize that the Revised Stipulation will be in effect solely for a two year period, and that a new filing will be required in 2021.

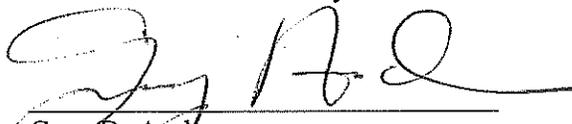
We note that no questions have been raised about Exhibits 4 and 6 to the Filing relating to revision of the Statistical Plan and voluntary market premium calculations. Our concerns about Exhibits 2, 3 and 5 have been satisfactorily resolved in the Revised Stipulation. We therefore approve the January 29, 2018 Filing, as modified by the Revised Stipulation, and the Revised Stipulation and revised exhibits, to be effective for the period from May 1, 2019 through April 30, 2021.

ENTERED this 26<sup>th</sup> day of March 2019.

  
Kristina A. Gasson  
Presiding Officer

  
Jean F. Farrington  
Presiding Officer

AFFIRMED this 26<sup>th</sup> day of March 2019:

  
Gary D. Anderson  
Commissioner of Insurance

**COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF INSURANCE**

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RE: WORKERS' COMPENSATION RATING )  
AND INSPECTION BUREAU OF )  
MASSACHUSETTS FILING FOR REVISIONS ) R2018-01  
TO THE MASSACHUSETTS WORKERS' )  
COMPENSATION AND EMPLOYER'S )  
LIABILITY MANUAL )

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**REVISED STIPULATION WITH RESPECT TO ESTABLISHMENT OF AN AUDIT  
NONCOMPLIANCE CHARGE**

In order to avoid further hearings, delay and uncertainty for insureds and insurers, and to permit orderly implementation of the proposal by the Workers' Compensation Rating and Inspection Bureau of Massachusetts ("WCRIBMA") to establish an Audit Noncompliance Charge ("ANC"), the WCRIBMA, the State Rating Bureau ("SRB") and the Office of the Attorney General ("AG"), stipulate as follows with respect to this matter, without in any way admitting or agreeing to any position taken by any other party.

1. No party will object to or appeal from an approval by the Commissioner of Insurance ("Commissioner") that, except as provided below, allows the WCRIBMA to implement the ANC as proposed in the WCRIBMA's filing dated November 17, 2017, (the "WCRIBMA Filing") for new and renewal workers' compensation insurance policies with an effective date between May 1, 2019 and April 30, 2021 (the "Pilot Period"). To the extent the terms of this Stipulation conflict with the WCRIBMA Filing, the terms of this Stipulation shall govern.

2. The Pilot Period may be reduced to any shorter period by the Commissioner in the Commissioner's sole discretion for any reason. If the Commissioner decides to shorten the Pilot Period, the Commissioner shall so inform the WCRIBMA and the AG and may, at the Commissioner's discretion, require one or more of the following:

- a. that no additional policies be endorsed with the ANC Endorsement (as hereinafter defined) by any workers' compensation insurance carrier (an "Insurer") after the end of the shortened Pilot Period;
- b. that an Insurer that has attached an ANC Endorsement to a policy notify the policyholder that such ANC Endorsement is cancelled, null and void as of the end of the shortened Pilot Period; and
- c. that the WCRIBMA or the Division of Insurance ("DOI") be required to find in favor of the policyholder in any pending appeal before them of an ANC that has been applied, but not yet paid, by a policyholder.

3. An Insurer that wishes to utilize the ANC shall attach to their Massachusetts workers' compensation policies the ANC Endorsement (Attached as **Exhibit I** to this Stipulation, "ANC Endorsement") and a policyholder notice "Explanation of Audit Noncompliance Charge" which shall include all the rights and responsibilities of insurers and policyholders pursuant to their workers' compensation policies set forth in this Stipulation (Attached as **Exhibit II** to this Stipulation). The ANC Endorsement shall be attached at the inception or the renewal of the policy.

4. An Insurer that wishes to issue the ANC Endorsement to a Massachusetts policyholder must issue the ANC Endorsement to all other Massachusetts policyholders that the Insurer writes within the same workers' compensation insurance classification.

5. The amount of the ANC paid by any Massachusetts Policyholder with respect to any particular policy shall equal two times the estimated annual premium for that policy as determined at the inception of the policy.

6. In addition to the requirement that an Insurer make two good faith attempts to obtain an audit before applying the ANC as described in the WCRIBMA Filing, the Massachusetts

Workers' Compensation and Employer's Liability Manual (the "Manual") shall be revised to include the requirements set forth in this Paragraph 6. The first and second attempt shall be separated by at least five (5) business days. The second attempt shall be by, or be accompanied by, e-mail to the policyholder and its insurance agent (if any) to the last known mail and e-mail addresses for both on file with the Insurer, and shall include the rights specified below in items (a) through (e). The form of an appropriate email is attached as **Exhibit III** to this stipulation ("Second Notice Email"). The insurer shall retain copies of emails sent pursuant to this section. In addition, Insurers shall provide their Massachusetts policyholders subject to the ANC Endorsement and their insurance agents (if any) with written notice by certified mail of a final opportunity to cure the policyholder's failure to permit the Insurer to conduct an audit. This final notice shall be separated from the second attempt to obtain an audit by at least five (5) business days. The form of an appropriate certified letter is attached as **Exhibit IV** to this Stipulation ("Certified Letter"). The policyholder shall have ten (10) days to cure such failure from the date of said notice (the "Cure Period"). The notice provided pursuant to this Paragraph 6 must state that:

- a. if the policyholder permits the audit, the ANC will not be charged;
- b. the policyholder has the right to appeal the application of the ANC to the WCRIBMA pursuant to Policyholder Endorsement #WC 20-03-03-D and that this endorsement also allows for further appeal to the DOI;
- c. the policyholder shall not be required to pay the ANC pending an appeal to the WCRIBMA or a further appeal to the DOI;
- d. Insurer shall maintain records that a Massachusetts Policyholder submits to an Insurer in connection with an audit or an appeal of the ANC in accordance with

all confidentiality and privacy requirements of the Massachusetts Policyholder's policy and all applicable laws.

- e. policyholders may report concerns with the use of ANC program to the SRB.

The following periods referred to in this paragraph shall be tolled when the policyholder agrees to provide access to its payroll information within a reasonable agreed-upon period: (i) the five day periods corresponding to the first and second good faith attempts, and (ii) the Cure Period.

7. The Insurer shall maintain written documentation of its good faith attempts to obtain audit compliance and to provide notice of an opportunity to cure, including dates and times of contacts with Massachusetts Policyholders to obtain compliance, the results of such contacts, copies of any notices provided to a Massachusetts Policyholder, and any correspondence or records received from the Massachusetts Policyholder.

8. Each Insurer that chooses to issue the ANC Endorsement to a Massachusetts Policyholder during the Pilot Period shall immediately notify the WCRIBMA of any Massachusetts Policyholder that elected to pay the ANC in lieu of complying with the insurer's requests to perform the audit. The WCRIBMA shall, every six months during the Pilot Period, report the following information to the SRB and the AG for each policy for which an ANC Endorsement has been issued:

- a. The policy number;
- b. The insurer issuing the policy;
- c. The policyholder's name;
- d. The policyholder's address;
- e. The estimated annual premiums for each policy;
- f. The governing workers' compensation classification for each policy;

- g. The amount of any ANC applied for each policy;
- h. The amount of any ANC paid for each policy; and
- i. A description of the status of any appeal to the WCRIBMA or the DOI regarding application of an ANC.

9. A Massachusetts Policyholder may appeal an Insurer's application of the ANC to the WCRIBMA in accordance with the procedures in the Massachusetts Notice to Policyholder Endorsement #WC 20-03-03-D (Exhibit 2 to the WCRIBMA Filing). The WCRIBMA shall provide notice to the AG and the SRB whenever such an appeal is filed and provide a copy of the WCRIBMA Appeals Subcommittee's final written decision disposing of the appeal, which decision shall include the facts of the case and a description of the reasons for the decision. A copy of any case file held by the WCRIBMA Appeals Subcommittee shall, upon the Commissioner's request, be forwarded to the Commissioner.

10. Any ANC paid to an Insurer, unless subsequently refunded to the policyholder, shall be reported to the WCRIBMA as "Incidental Income" under the Massachusetts Workers' Compensation Statistical Plan (the "Statistical Plan"). The WCRIBMA, SRB, and AG agree that an ANC that is charged but not paid by a Massachusetts Policyholder shall not be considered uncollected premium.

11. Revised Manual pages reflecting this Stipulation are attached as **Exhibit V** to this Stipulation.

12. The WCRIBMA, AG and SRB agree that this Stipulation will have no precedential value and will not be relevant in future hearings on any line of insurance and that they will not attempt to introduce it (or the decision adopting it) as evidence or to rely on it (or the decision adopting it) for any purpose in future hearings, provided that the Stipulation may be considered in

any future hearing with respect to the implementation of this Stipulation, but only on the issue of the implementation of this Stipulation. The WCRIBMA, AG and SRB each acknowledge that this Stipulation does not imply approval or disapproval by any party of any particular ratemaking methodology or projection and each party otherwise reserves the right to contest in future hearings all aspects of rate-setting resolved for present purposes only by this Stipulation.

13. The WCRIBMA may submit a filing to request implementation of the ANC beyond the Pilot Period. The WCRIBMA, the SRB, and the AG shall in no way be bound by the terms of this Stipulation with respect to such a filing.

14. Each party enters into this Stipulation upon the condition that it is approved by the Commissioner, in its entirety, on the record of this hearing no later than March 31, 2019. If the Commissioner does not approve this Stipulation in its entirety on or before March 31, 2019, this Stipulation shall be null and void and shall not be relied upon by any party, or by the Commissioner, for any purpose whatsoever.

15. If any person not a party to this Stipulation successfully challenges the Commissioner's approval of this Stipulation and the Commissioner's approval is suspended, set aside or otherwise rendered ineffective, this Stipulation shall be null and void and shall not be relied upon by any party, or by the Commissioner, for any purpose.

16. This Stipulation shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

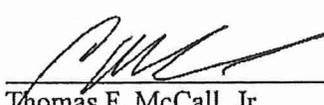
[Signature page to follow]

17. The Parties may execute this Stipulation in counterparts, each of which shall be deemed an original and all of which shall constitute one original.



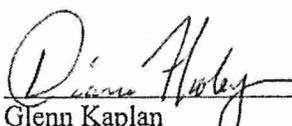
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For the AG

Effective March 6, 2019

**AUDIT NONCOMPLIANCE CHARGE ENDORSEMENT**

Part Five—Premium, Section G. (Audit) of the Workers Compensation and Employers Liability Insurance Policy is revised by adding the following:

If you do not allow us to examine and audit all of your records that relate to this policy, and/or do not provide audit information as requested, we may apply an Audit Noncompliance Charge. The method for determining the Audit Noncompliance Charge by state, where applicable, is shown in the Schedule below.

If you allow us to examine and audit all of your records after we have applied an Audit Noncompliance Charge, we will revise your premium in accordance with our manuals and Part 5—Premium, E. (Final Premium) of this policy.

Failure to cooperate with this policy provision may result in the cancellation of your insurance coverage, as specified under the policy.

**Note:**

For coverage under state-approved workers compensation assigned risk plans, failure to cooperate with this policy provision may affect your eligibility for coverage.

**Schedule**

State(s)	Basis of Audit Noncompliance Charge	Maximum Audit Noncompliance Charge Multiplier
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This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement Effective  
Insured

Policy No.

Endorsement No.  
Premium

Insurance Company

Countersigned by \_\_\_\_\_

**EXPLANATION of AUDIT NONCOMPLIANCE CHARGE**

The final earned premium for your workers' compensation policy is calculated on actual payroll as determined by your insurance carrier at audit, and not on the estimated payroll that was used to determine the estimated premium at policy inception. The insurance company has the right to calculate final earned premium based on an examination and audit of all records related to the policy.

If you do not comply with Part Five—Premium, Section G. (Audit) of the policy, you will be considered noncompliant with the policy terms and conditions. When this occurs, your insurance company may apply an Audit Noncompliance Charge (ANC) equal to two times the estimated annual premium.

Before your insurance company can apply an audit noncompliance charge to your policy, the insurance company must first make two attempts to obtain the audit information and/or complete your audit. The first and second attempts are required to be separated by at least five (5) business days. The second attempt shall be by, or be accompanied by, e-mail to you and your insurance agent (if any) to the last known e-mail addresses for both on file with the insurance company. At each attempt, your insurance company will notify you regarding the required records needed to complete the audit and the amount of the ANC to be applied if you fail to allow an examination and audit of records that relate to your policy. After the second attempt to obtain the required audit information, your insurance company will provide you with written notice by certified mail of a final opportunity to cure your refusal to allow the insurance company to conduct the audit. You will have ten (10) days from the date of said notice to cure such failure. After each of these three attempts at obtaining the required payroll information you may respond by agreeing to provide access to your payroll information within a reasonable time. If you permit a payroll audit you will not be charged the audit noncompliance penalty.

If your insurance company applies an ANC to your policy, and you do not pay the ANC, the carrier may initiate mid-term cancellation of your policy in accordance with applicable Massachusetts state laws and/or regulations.

You have the right to appeal the application of the ANC pursuant to the procedures in the Massachusetts Notice to Policyholder Endorsement (WC 20 03 03D) attached to your policy. You will not be required to pay the ANC pending an appeal to the Workers' Compensation Rating and Inspection Bureau of Massachusetts (WCRIBMA) or a further appeal to the Massachusetts Division of Insurance. We will maintain records that you submit to us in connection with an audit or an appeal of the ANC in accordance with all confidentiality and privacy requirements of your policy and all applicable laws.

The insurance company must refund the ANC to you or apply it to any outstanding balance on your policy after you have paid the ANC and have allowed an examination and audit of all records that relate to the policy.

Your insurance company is required to immediately notify the WCRIBMA of any Massachusetts Policyholder that elected to pay the ANC in lieu of complying with the insurance company's requests to perform the audit.

**Email - 2<sup>nd</sup> Attempt at compliance with workers' compensation payroll audit**

**FROM:** Insurance Company

**RE:** Second Attempt to Schedule Your Workers' Compensation Premium Audit

Named Insured

Policy Period

Policy #

**TO:** Insured

**CC:** Insurance Agent

Dear Mr. Smith,

On [DATE], our auditor tried unsuccessfully to perform an audit in order to determine the final earned premium for your workers' compensation policy. Under Part Five—Premium, Section G. (Audit) of your policy, the insurance company has the right to calculate final earned premium based on an examination and audit of all records related to the policy. These records may include ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records, and programs for storing and retrieving data.

**We request that you either call our Audit Department at (xxx) xxx-xxxx or contact us by email at emailaddress@insurance.com to set a mutually convenient appointment to conduct an audit of your records for the policy period stated above.**

If you do not allow us to conduct the necessary audit to determine your final premium, we may apply an audit noncompliance charge (ANC) in the amount of \$XXX.XX to your policy. If you do permit us to conduct a payroll audit as required by Part Five — Premium, Section G. (Audit) of your workers' compensation policy you will not be charged an audit noncompliance charge.

If you are charged the ANC, you will then have the right to appeal the application of the ANC pursuant to the procedures in the Massachusetts Notice to Policyholder Endorsement (WC 20 03 03D) attached to your policy. You will not be required to pay the ANC pending an appeal to the Workers' Compensation Rating and Inspection Bureau of Massachusetts (WCRIBMA) or a further appeal to the Massachusetts Division of Insurance. We will maintain records that you submit to us in connection with an audit or an appeal of the ANC in accordance with all confidentiality and privacy requirements of your policy and all applicable laws. If you have concerns about our use of the ANC in your case, you may also contact the State Rating Bureau at 617-521-7781.

Thank you for your cooperation,

Insurance Company Representative

**Certified Mail – Notification of Pending ANC Charge**

**Date**

**Named Insured  
Address line 1  
Address Line 2  
City, State, Zip Code**

**RE: Final Attempt to Schedule Your Workers' Compensation Premium Audit  
Policy Period:  
Policy #**

**Dear Sir/Madam:**

On [DATE], we contacted you and made a second attempt at scheduling an audit for the purpose of determining the final earned premium for your workers' compensation policy. As we indicated in our earlier correspondence, the insurance company has the right, under Part Five—Premium, Section G. (Audit) of your policy, to calculate final earned premium based on an examination and audit of all records related to the policy. These records may include ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records, and programs for storing and retrieving data.

**As required under the Audit Noncompliance Charge Endorsement, which was attached to your policy, we are providing you with a final opportunity to allow us to audit your records that pertain to the workers' compensation policy listed above. You have ten (10) days from the date of this notice to contact us to schedule the audit and avoid an audit noncompliance charge. We urge you to either call our Audit Department at (xxx) xxx-xxxx or contact us by email at [emailaddress@insurance.com] to set a mutually convenient appointment to conduct an audit of your records.**

If you do not contact us to schedule the audit within ten (10) days from the date of this notice, we will apply an audit noncompliance charge in the amount of \$XXX.XX, equal to two times the estimated premium, to your policy.

Failure to pay the audit noncompliance charge may result in the mid-term cancellation of your policy in accordance with applicable Massachusetts state laws and/or regulations.

You have the right to appeal the application of the ANC pursuant to the procedures in the Massachusetts Notice to Policyholder Endorsement (WC 20 03 03D) attached to your policy. You will not be required to pay the ANC pending an appeal to the Workers Compensation and Inspection Bureau of Massachusetts ("WCRIBMA") or a further appeal to the Division of Insurance ("DOI"). We will maintain records that you submit to us in connection with an audit or an appeal of the ANC in accordance with all confidentiality and privacy requirements of your policy and all applicable laws. If you have concerns about our use of the ANC in your case, you may also contact the State Rating Bureau at 617-521-7781.

We must refund the ANC to you or apply it to any outstanding balance on your policy, after you have paid the ANC and have allowed an examination and audit of records that relate to the policy.

We are required to immediately notify the WCRIBMA of any Massachusetts Policyholder that elected to pay the ANC in lieu of complying with the insurance company's requests to perform the audit.

Very Truly Yours,

Insurance Company Representative  
Title/Phone Number

**MASSACHUSETTS WORKERS COMPENSATION  
AND EMPLOYERS LIABILITY INSURANCE MANUAL****PART ONE  
RULE XV**1<sup>st</sup> Reprint*Effective March, 1, 2019*

Page R-61

**RULE XV – FINAL EARNED PREMIUM DETERMINATION****A. PREMIUM DETERMINATION**

1. Final earned premium is the total premium earned during the policy period. It is calculated using actual payrolls multiplied by the rate for each classification. Final earned premium includes the application of premium elements applicable to the employer.
2. Final earned premium for the policy must be determined on actual payroll as determined by the carrier at audit, instead of on estimated payroll or other premium basis.
3. Determination of final earned premium is governed by the approved rules, classifications, and rates, subject to modification by applicable rating plans.
4. The carrier has the right to calculate final earned premium based on an examination and audit of all records related to the policy.
5. Audited information must coincide with the 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.

**B. AUDIT NONCOMPLIANCE CHARGE**

1. If the employer does not comply with Part Five—Premium, Section G. (Audit) of the policy, the employer will be considered noncompliant with the policy terms and conditions. When this occurs, the carrier may apply an Audit Noncompliance Charge (ANC) equal to two times the estimated annual premium.
2. On a multistate policy, the ANC applies only to the exposure in the states where an employer is noncompliant with an audit and where this ANC rule is approved for use.
3. The application of the ANC is subject to the following conditions:
  - a. Carriers must comply with all applicable rules or regulations related to audits of workers' compensation insurance policies in this Manual.
  - b. A carrier that desires to issue the ANC Endorsement to a Massachusetts policyholder must issue the ANC Endorsement for all other Massachusetts policyholders that the carrier writes within the same workers' compensation insurance classification.
  - c. The Audit Noncompliance Charge Endorsement must be attached to the policy at inception of the policy term being audited.
  - d. The carrier must make two attempts to obtain the audit information and/or complete the audit. The first and second attempt shall be separated by at least five (5) business days. The second attempt shall be by, or be accompanied by, e-mail to the policyholder and its insurance agent (if any) to the last known mail and e-mail addresses for both on file with the carrier. At each attempt, the carrier must notify the employer regarding the specific, required records and the amount of the ANC to be applied if the employer fails to allow an examination and audit of all records that relate to the policy.
  - e. Carriers shall provide their Massachusetts policyholders subject to the ANC Endorsement and their insurance agents (if any) with written notice by certified mail of a final opportunity to cure the policyholder's failure to permit the carrier to conduct an audit. This final notice shall be separated from the second attempt to obtain an audit by at least five (5) business days. The policyholder shall have ten (10) days to cure such failure from the date of said notice.

- f. The carrier shall maintain written documentation of its good faith attempts to obtain the audit information and to provide notice of an opportunity to cure, including dates and times of contacts with the policyholder, the results of such contacts, copies of any notices provided to the policyholder, and any correspondence or records received from the policyholder.
  - g. When a carrier applies an ANC to the policy, and mid-term cancellation is permissible, the carrier may cancel the policy and must issue a cancellation notice in accordance with applicable Massachusetts state laws and/or regulations.
  - h. A policyholder has the right to appeal the application of the ANC pursuant to the procedures in the Massachusetts Notice to Policyholder Endorsement. The policyholder shall not be required to pay the ANC pending an appeal to the WCRIBMA or a further appeal to the DOI.
4. This ANC rule applies to mail/email, telephone, and physical audits.
  5. The ANC may be applied to guaranteed cost policies as well as retrospectively rated policies.
  6. The carrier must refund the ANC to the employer or apply it to any outstanding balance on the policy, after the employer has paid the ANC and has allowed an examination and audit of all records that relate to the policy.
  7. A carrier shall immediately notify the WCRIBMA of any Massachusetts Policyholder that elected to pay the ANC in lieu of complying with the carrier's requests to perform the audit.

# Appendix 2

**Part III (Continued)**

<b>MASSACHUSETTS WORKERS' COMPENSATION VOLUNTARY MARKET TOTAL PREMIUM CALCULATION</b>			
■ - Indicates that the given Rating Element applies to the column.			
Rating Element	Statistical Code	All Classes	Calculation
(21) Premium Subject to Short Rate Penalty		■	(11) + (14) + (16) + (17) + (20)
(22) Short Rate Penalty Factor	0931	■	Table look up based on (12) x 365 days
(23) Short Rate Penalty Premium	0931	■	[(21) / (12)] x [(22) - (12)]
(24) <b>Premium Subject to Total Policy Minimum Premium</b>		■	(21) + (23)
(25) Employers Liability Increased Limits Minimum Premium	9848	■	Part II, (8)
(26) Admiralty/FELA Minimum Premium	9849	■	Part II, (12)
(27) Class Minimum Premium <sup>35</sup>	0990	■	
(28) Total Policy Minimum Premium		■	(5) x [(25) + (26) + (27)]
(29) Balance to Total Policy Minimum Premium	0990	■	If (24) < (28) then [(28) - (24)], else 0
(30) <b>Audit Noncompliance Surcharge<sup>36</sup></b>	<b>9757</b>	■	
<b>(31) Total Premium</b>		■	<b>(24) + (29) + (30)</b>

<sup>23</sup> Part II, Column A

<sup>24</sup> Part II, Columns B + C

<sup>25</sup> Traditionally, Large Deductibles apply to losses under both Part One (Workers' Compensation) and Part Two (Employers' Liability) of the policy, therefore, the premium adjustment for these types of deductibles enter the algorithm here. Large Deductible Credits are reported under code 9663.

<sup>26</sup> See endnote 16.

<sup>27</sup> If the policy is written on a multi-state basis, the discount factor will be based on the sum of the applicable premiums across all states.

For Large Construction Projects the discount factor will be based on the sum of the premiums for the combined project-related policies.

For the purpose of calculating premium discount for two or more policies that are issued to the same insured by one or more carriers that are under the same management, the total standard premium for those policies must be combined unless the insured instructs the carrier otherwise.

Premium Discount is not applicable to policies written with Large Deductibles.

<sup>28</sup> The QLMP Program relates to residual market risks and is available for a period of four years for a given insured. However, if a carrier voluntarily insures a risk previously written in the residual market that was paying a reduced premium because of the application of a QLMP credit factor, the carrier must continue to apply the QLMP factor for the balance of the four year eligibility period for those policies written on a guaranteed cost basis.

QLMP is not applicable to policies written with Large Deductibles.

<sup>29</sup> The QLMP premium adjustment is a negative value in the algorithm. For purposes of Unit Statistical Reporting, the value is assumed to be negative.

<sup>31</sup> Note that for policies subject to a Short Term Policy Pro Rata Factor that are cancelled mid-term, the Short Term Policy Pro Rata Factor needs to be adjusted by the Ratio of Actual to Original Policy Term. Assume, for example, the following applies to a normal policy that remains in-force for its original duration of one year:

- Expense Constant           \$240
- Loss Constant               50
- Minimum Premium           750

The table that follows, details the impact on the expense constant, loss constant, and minimum premium if the policy is written as a short term policy and/or if the policy is cancelled early.

Original Policy Duration	Actual Policy Duration	Policy Eligible for Short Term Policy Pro Rating	Short Term Policy Pro Rata Factor	Ratio of Actual to Original Policy Term	Expense Constant	Loss Constant	Minimum Premium
(1)	(2)	(3)	(4)	(2) / (1)	\$240 x (4) x (5)	\$50 x (4) x (5)	\$750 x (4)
365	365	N	1.000	1.000	240	50	750
365	91	N	1.000	0.249	60	12	750
182	182	N	1.000	1.000	240	50	750
182	91	N	1.000	0.500	120	25	750
182	182	Y	0.499	1.000	120	25	374
182	91	Y	0.499	0.500	60	12	374

(4) - If (3) = "Y" then (1) / 365, else 1.000

Note that for policies that are cancelled early, the calculation for a policy subject to short rating and a policy subject to pro rating are the same. The impact of short rating comes later in the premium algorithm.

Also note that the minimum premium is never adjusted by the Ratio of the Actual to Original Policy Term.

<sup>32</sup> If more than one classification applies for the state of Massachusetts, use the loss constant for the classification which has the highest loss constant. Note that loss constants do not apply to all class codes in Massachusetts.

<sup>33</sup> Expense constants in Massachusetts are a function of standard premium. Policies with standard premiums less than \$200 are subject to a lesser expense constant than policies with \$200 or more of standard premium. Additionally, a special rule applies for the expense constant for private residence per capita classifications.

<sup>34</sup> Only include payroll in \$100's for class categories from Part I, Columns A and B. Including the exposure for the supplemental rates, Part I, Columns D, F, and G, would effectively double count payrolls already included in Part I, Columns A and B.

<sup>35</sup> For a policy with two or more classifications, apply the highest minimum premium for any classification on the policy. Note that for a classification to which the USL&HW Act factor is applied, the classification minimum premium should be adjusted in a similar manner as the rate by multiplying the classification minimum by the USL&HW Act factor before determining the highest minimum premium for any classification on the policy.

<sup>36</sup> When employers do not allow the carrier to examine and audit all records that are related to the policy, the carrier may apply a charge equal to two times the Estimated Annual Premium in accordance with MA Manual Rule XV-B – Audit Noncompliance Charge.

# Appendix 3

**MASSACHUSETTS WORKERS' COMPENSATION  
STATISTICAL PLAN**

**Effective:** *May 1, 2019*  
**Distributed:**  
Part I – Unit Statistical Reporting

**Section III  
CORRECTIONS  
Page 1**

**SECTION III – CORRECTIONS**

**A. Corrections Submitted between Valuations**

Corrections are to be submitted between valuations for only the following situations.

1. Errors (Header Records, Exposure Records and Loss Records)

An error occurs whenever the standards specified in [Section I – General Instructions, Subsection B](#) are not met.

Upon identification of an error by either the WCRIBMA or the carrier on a previously submitted unit statistical report, a correction report must be immediately filed.

The WCRIBMA routinely requests verification of reported data. In response to these verification requests the WCRIBMA expects corrections or acceptable explanations that confirm the data as accurate and reported in accordance with the Statistical Plan.

For loss records, corrections must be submitted for all previous unit statistical report levels (valuations) that contain the error.

2. *Completion or Change to a Premium Audit (Header Record, Exposure Record)*

*Change to a Premium Audit – Corrections to the first unit statistical reports are required whenever a premium audit is revised. Revise the [Exposure Amount](#) in the Exposure Record.*

*Completion of a Premium Audit – If previously reported exposures were estimates because a premium audit had yet to be completed, update the [Estimated Audit Code](#) in the Header Record as specified in Section IV – Header Information, even if exposures don't change as a result of completing the premium audit. The [Estimated Audit Code](#) should be revised from either Y or U to N. In cases where exposures do change as a result of a premium audit, revise the [Exposure Amount](#) in the Exposure Record.*

3. Formerly Self-Insured's Deposit Adjustments (Exposure Record)

If any of the formerly self-insured's rating plan deposit is returned to the insured, then a correction to the first unit statistical report must be submitted when the deposit is returned.

4. ~~Completion or Change in the Audit (Exposure Record)~~

~~Corrections to the first unit statistical report must be submitted whenever an audit is revised, or upon completion of the audit when the first unit statistical report was submitted based on estimated exposure.~~

**MASSACHUSETTS WORKERS' COMPENSATION  
STATISTICAL PLAN**

5. Non-Compensable Claims (Loss Record)

a. Non-Compensable Claims Definition

A claim is determined to be non-compensable if:

- There is an official ruling denying benefits under the Workers' Compensation Law.
- A claimant fails to file for benefits during the period of limitation allowed by the Workers' Compensation Law.
- The claimant fails to prosecute his/her claim following carrier's denial of the claim.

b. Non-Compensable Claims Reporting

**Effective:** *May 1, 2019*

**Distributed:**

**PART III - DEFINITIONS**

**Page 4**

Premium Components						
Components	Aggregate Financial Premium Level :				Unit Statistical Report Premium	Class Codes
	Standard Premium at Bureau Designated Statistical Rate Level	Standard Premium at Company Level	Net Premium	Direct Premium		
12. Large Deductible Premium Credit			x	x	x	9663,9664
13. Premium Discount			x	x	x	0063, 0064
14. QLMP Credit				x	x	9880
15. Admiralty / FELA Employers Liability Increased Limits	x	x	x	x	x	9817-9822, 9840, 9849
16. Loss Constant	x	x	x	x	x	0032
17. Expense Constant	x	x	x	x	x	0900
18. Balance to Total Policy Minimum Premium Adjustments	x	x	x	x	x	0990
19. Terrorism Insurance Program Premiums				x	x	9740
20. Short Rate Penalty Premium	x	x	x	x	x	0931
21. Retrospective Rating Adjustments			x	x		NA
22. Special Circumstances:						
a. Independently Filed Carrier Program			x	x	x	9721 – 9724

**MASSACHUSETTS WORKERS' COMPENSATION  
STATISTICAL PLAN**

b. Formerly Self Insureds	x	x	x	9129, 9136
c. No-Massachusetts Exposure	Must be zero			1111
<i>23. Audit Noncompliance Charge</i>			<i>x</i>	<i>9757</i>
24. Deductible Reimbursements	Do Not Report			
25. Policyholder Dividends	Do Not Report			
26. DIA Assessment	Do Not Report			

**Effective:** *May 1, 2019*

**Distributed:**  
**PART III - DEFINITIONS**

**Page 11**

adjusting the rating plan deposit to the amount retained by the carrier. This adjustment can be made no sooner than thirty (30) months after the coverage expiration date. All claims must be closed and all incurred losses finalized prior to the submission of the adjustment.

For more information refer to the [Circular Letter Number 1524](#), dated February 7, 1990.

**c. No-Massachusetts Exposure**

When a policy is issued either on an "if any" basis, or as a multi-state policy, and upon audit it is determined that Massachusetts exposure did not develop on such policy, the first unit statistical report should be submitted with a single exposure record employing statistical class code 1111.

**23. *Audit Noncompliance Charge***  
*Report the Audit Noncompliance Charge to Statistical Code 9757. Refer to Rule XV in the [Massachusetts Workers Compensation and Employers Liability Insurance Manual](#) for the method of determining the Audit Noncompliance Charge.*

**24. Deductible Reimbursements**  
**Do not report deductible reimbursements as premiums.**  
In Massachusetts workers' compensation insurance, the insurance company is required to pay for all claims including those below any applicable deductible, large or small. If a deductible applies to a given policy, the insurance company will seek reimbursement from the insured for amounts below the deductible.

**25. Policyholder Dividends**  
**Do not report policyholder dividends as premiums.**  
Any amounts paid or credited to policyholders that are not fixed in the insurance contract but are dependent on either the experience of the insurance company or employer or the discretion of the insurance company management.

**26. DIA Assessment**  
**Do not report DIA assessment as premiums.**  
For more information, visit the DIA website at: [www.mass.gov/dia](http://www.mass.gov/dia)

**MASSACHUSETTS WORKERS' COMPENSATION  
STATISTICAL PLAN**

**Effective:** *May 1, 2019*

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**Part VI – Appendices**

**Appendix II – Statistical Class Codes**  
**Page 2**

Code	Phraseology	Premiums Assumed to be a Positive Value	Subject to Experience Mod.	How is the Exposure Expressed	Can Losses be Coded to this Class
7453	Non Ratable Element – Air Carrier – Commuter Flying Crew-NR	Yes	No	Payroll	No
9034	Rate Deviation – Not Subject to Experience Rating	No	No	Blank	No
9037	Rate Deviation – Subject to Experience Rating	No	Yes	Blank	No
9046	Construction Class Premium Adjustment	No	No	Blank	No
9129	Former Self-Insured Rating Plan Deposit	Yes	No	Blank	No
9136	Former Self-Insured Insurance Charge	Yes	No	Blank	No
9663	Large Deductible Adjustment Not Subject to Experience Rating	No	No	Blank	No
9664	Deductible Adjustment-Subject to Experience Rating	No	Yes	Blank	No
9721	Carrier Filed Premium Credit-Subject to Experience Rating	No	Yes	Blank	No
9722	Carrier Filed Premium Credit-Not Subject to Experience Rating	No	No	Blank	No
9723	Carrier Filed Premium Debit-Subject to Experience Rating	Yes	Yes	Blank	No
9724	Carrier Filed Premium Debit-Not Subject to Experience Rating	Yes	No	Blank	No
9740	Terrorism Insurance Program (Certified Acts of Terrorism) Premiums	Yes	No	Blank	No
<i>9757</i>	<i>Audit Noncompliance Charge</i>	<i>Yes</i>	<i>No</i>	<i>Blank</i>	<i>No</i>

**MASSACHUSETTS WORKERS' COMPENSATION  
STATISTICAL PLAN**

9803	Employers Liability 100/100/1,000	Yes	Yes	Blank	No
9804	Employers Liability 100/100/2,500	Yes	Yes	Blank	No
9805	Employers Liability 100/100/5,000	Yes	Yes	Blank	No

Effective: **May 1, 2019**

Distributed:

**PART III - DEFINITIONS**

**Page 19**

**D. Expenses**

Part D of the definitions is organized into the following components:

- Expenses Reported in Aggregate Financial Calls
- Expenses Reported in Unit Statistical Reporting Data

**1. Expenses Reported in Aggregate Financial Calls**

**a. Other Acquisition, Field Supervision and Collection Expenses Incurred**

Acquisition, field supervision and collection expenses **other than commission and brokerage** as defined in the Annual Statement instructions.

**b. General Expenses**

Includes all general expenses, **including** expenses incurred for auditing, inspecting, and administrative expenses incurred in conducting an insurance operation. **General expenses include the Boards and Bureau Expenses which are also reported separately.**

**c. Boards and Bureau Expenses**

Boards and Bureau expenses include dues, assessments, fees, and charges of:

- Underwriting boards, rating organizations, statistical agencies, and audits bureaus
- Underwriters' advisory and service organizations
- Accident and loss prevention organizations
- Claims organizations
- Specific payments to boards, bureaus, and associations for rate manuals, revisions, fillers, rating plans, and experience data.

**d. Incidental Income**

Any revenues received from finance charges, installment fees, check bouncing fees, reinstatement fees, **audit noncompliance charges** or similar charges, related to Massachusetts workers' compensation policies, imposed on a policyholder by their insurance company.

**e. Unreported Expenses**

Expenses associated with the collection of incidental income for workers' compensation policies. Do not report any amount otherwise reported in any of the other expense category.

**f. Uncollectible Premium Receivables**

Any premium receivable that has been written off because the determination was made that it was uncollectible.

**Note that unpaid audit noncompliance charges should not be included in uncollectible premium receivables.**

## MASSACHUSETTS WORKERS' COMPENSATION STATISTICAL PLAN

Note that this does not impact earned premiums or written premiums because uncollectible premium receivables are written off against other income.

### **g. Loss Adjustment Expenses**

For aggregate financial reporting, loss adjustment expenses can be classified into two broad categories: Defense and Cost Containment (DCC) and Adjusting and Other (AO). **Loss adjustment expenses should be reported in accordance with the current NAIC definitions.**

#### **i. Defense and Cost Containment (DCC)**

DCC includes defense, litigation, and medical cost containment expenses, whether internal or external. DCC includes, but is not limited to, the following items: