



July 1, 1999

Advisory Circular 99-20

To: All Members

HOUSE ENROLLED ACT 2085

The following information is provided on an **advisory basis** only.

The Indiana General Assembly enacted House Enrolled Act 2085 effective July 1, 1999. The Act amends several provisions within the workers compensation statute. The two provisions discussed below deal with "school to work students" and the Second Injury Fund assessment. We recommend that you read the entire Act. You may find the full contents of the Act on the state's website located at <http://www.state.in.us/legislative/bills/1999/HE/HE2085.1.html>.

School to Work Student

The Act expands the definition of employee to include a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C.6101 et seq.). Such a student is eligible for medical, permanent partial impairment, permanent total impairment and death benefits, including burial expenses. The Act stipulates that a student's average weekly wage is equal to the federal minimum wage.

A student should be assigned to the classification code that applies to the regular employees of the business entity performing the same or similar duties. In reporting a student injury under the Unit Statistical Plan, no special statistical code is necessary. A student injury should be assigned to the statistical code that applies to regular employees.

Second Injury Fund Assessment

The Act changes the Second Injury Fund assessment. It allows the Workers Compensation Board of Indiana to make an assessment of up to 1.5% of claims paid, excluding medical, from the prior calendar year. The Board can assess once a year any time the fund balance falls below \$1,000,000 on or before October 1. The Board must conduct an actuarial study by September 1 each year to calculate the recommended funding level. The Board sent notice in May 1999 and made an assessment of 1% under the new law effective July 1, 1999.

The Act adds a new section where **insurance companies must show the assessment on the policy as "a surcharge based on the employer's premium."** How might the surcharge be calculated and shown on the policy? A work group consisting of representatives from the Workers Compensation Board of Indiana, Indiana Insurance Institute, American Insurance Association, National Council on Compensation Insurance,

and ICRB met to discuss this matter. A suggested method is to convert losses to premium to derive a statewide average surcharge factor that can be applied to premium. NCCI actuaries have calculated the advisory factor to be 0.0023 (please see Exhibit I for derivation). It is an estimate based on Indiana 1998 data and assumes a 1% assessment on paid indemnity losses. The advisory factor could be applied to new and renewal policies effective on and after July 1, 1999.

Because the law states the surcharge is not premium, a suggestion is that it appear at the bottom of the premium algorithm, below the Estimated Annual Premium line. The description could read: "Indiana Second Injury Fund Surcharge" with the factor and amount also shown on the same line. The attached Exhibits II & III provide an example for your information. ***Each carrier must decide how it will apply and show the surcharge. The advisory factor presented in this circular is not mandatory for any carrier to use.***

Also, because the surcharge is not premium, the ICRB does not expect to make a filing for a rule change with the Indiana Department of Insurance. You do not need to report the surcharge to the ICRB under the statistical plan and no statistical code is necessary. You may use a company internal code if coding is necessary for your policy issuance or accounting systems. Further, the premium surcharge must be excluded for purposes of computation of agent commission and premium taxes.

Finally, since the surcharge is not premium, an insurance carrier is acting, in essence, as a collection agent for the state. So, if a policy were canceled at any time, other than a flat cancellation, you would not refund any portion of the surcharge to the insured. A suggestion is that you provide some form of notification to clients that the surcharge is not premium and no refund could be expected. Yet if the surcharge is not paid, the Act permits a carrier to cancel the policy under the statutes applicable to the nonpayment of premiums.

Sincerely,

A handwritten signature in black ink that reads "Ronald W. Cooper". The signature is written in a cursive, flowing style.

Ronald W. Cooper
General Manager

Attachments:

- Exhibit I Derivation of Advisory Surcharge
- Exhibit II Indiana Workers Compensation Premium Algorithm
- Exhibit III Advisory Calculation Example

Exhibit I

DERIVATION OF ADVISORY SURCHARGE FACTOR
 Indiana Second Injury Fund Assessment eff 7/1/99
 Statewide Average
 as a Percent of Premium

	(1)	(2)	(3)
		Indemnity	Assessment as
<u>Cal Yr</u>	<u>Net Premium</u>	<u>Paid Losses</u>	% of Premium
			<u>(2) / (1) x .01</u>
97	447,880,551	98,525,911	0.0022
98 *	456,114,053	107,372,498	0.0024
		Surcharge Factor	0.0023

Notes:

- * Data for 1998 are preliminary
- (3) Net Premium x Indem. Paid Losses x 1% assessment
 source: NCCI

EXHIBIT II

Algorithm source: Item Filing B-1351 effective in Indiana July 1, 2000
Indiana Second Injury Fund Surcharge line inserted in this exhibit for demonstration purposes only.

INDIANA WORKERS COMPENSATION PREMIUM ALGORITHM

The following algorithm provides the framework for premium charges and credits.
Where not specified, the premium base would be the result from the prior line.*

	PREMIUM ELEMENTS	EXPLANATORY NOTES
	MANUAL PREMIUM	[(PAYROLL / 100) * RATE]
+	Supplementary Disease (foundry, abrasive, sandblasting)	[(SUBJECT PAYROLL / 100) * DISEASE RATE]
+	USL & H Exposure for non-F classification codes	[(SUBJECT PAYROLL/100) * (RATE * USL&H FACTOR)]
	TOTAL MANUAL PREMIUM	
+	Waiver of Subrogation factor**	[% applied to the portion of Total Manual Premium where waiver is applicable]
+	Employers Liability (E/L) increased limits factor	[% applied to Total Manual Premium]
+	Employers Liability increased limits charge	[Balance to E/L increased limits minimum premium]
+	Employers Liability increased limits factor (Admiralty, FELA)	[Factor applied to the portion of Manual Premium where Admiralty/FELA coverage is applicable]
+	Employers Liability/Voluntary Compensation flat charge	[Coverage in Monopolistic State Funds]
-	Small Deductible/Coinsurance credit	[% applied to Total Manual Premium]
	TOTAL SUBJECT PREMIUM	
×	Experience Modification (Exp Mod)	
	TOTAL MODIFIED PREMIUM	
×	Schedule Rating factor (1-SR credit%) or (1+ SR debit%)	
+	Supplemental Disease Exposure (Asbestos, NOC)†	
+	Atomic Energy Radiation Exposure NOC†	
+	Charge for nonratable catastrophe loading†	
+	Aircraft Seat Surcharge	
+	Balance to Minimum Premium (State Act)	[Balance to minimum premium at Standard Limits]
+	Balance to Minimum Premium (Admiralty, FELA)	
	TOTAL STANDARD PREMIUM‡	
-	Premium Discount§	[% applied to Standard Premium]
+	Coal Mine Disease Charge	[Underground, surface, surface auger]
+	Expense Constant	
	ESTIMATED ANNUAL PREMIUM	
×	Indiana Second Injury Fund Surcharge#	[Advisory surcharge factor applied to Estimated Annual Premium]

- * **The above rating method would be used in absence of independent carrier filings.**
- ** Premium charges established for Waiver of Subrogation are not filed by ICRB for the voluntary market.
- † Non-Ratable Element Premiums generated by nonratable portion of manual rate are subject to all applicable premium elements applied to the policy, however not subject to experience rating or retrospective rating.
- ‡ Statistical calls for ratemaking data contain a different definition of "Standard Premium." Refer to the *Reporting Guidebook for the Annual Calls for Experience*.
- § For policies subject to premium adjustments under a retrospective rating plan, premium discount does not apply.
- # Advisory method only

NOC = Not Otherwise Classified

Note: For short rate cancellations, short rate percentage/short rate penalty premium factor is subject to experience rating, included in Total Subject Premium, and applied prior to Experience Modification.

EXHIBIT III

Algorithm source: Item Filing B-1351 effective in Indiana July 1, 2000
 Indiana Second Injury Fund Surcharge line inserted in this exhibit for demonstration purposes only.

ADVISORY CALCULATION EXAMPLE

Parameter	Value	
Manual Premium	\$100,000	
Increased Limits Factor	1.7%	
Deductible Credit	4.1%	
Experience Modification	1.02	
Schedule Rating Credit	25.0%	(0.25)
Aircraft Seat Surcharge	\$400	
Premium Discount	10.2%	
Expense Constant	\$140	
Indiana Second Injury Fund Surcharge	0.23%	(0.0023)

Total Manual Premium		100,000	
+ Incr Limits (100,000 * 1.7%)	+	1,700	(1.7%)
- Deductible (100,000 * 4.1%)	-	4,100	(4.1%)
Total Subject Premium		97,600	
x Exp Mod	x	1.02	
Total Modified Premium		99,552	
x Schedule Rating (1 - Schedule Credit)	x	0.75	(1 - .25)
+ Aircraft Seat surcharge	+	400	
Total Standard Premium		75,064	
- Premium Discounts (SP * discount)	-	7,657	(10.2%)
+ Expense Constant	+	140	
Estimated Annual Premium		67,547	
x Indiana Second Injury Fund Surcharge	x	0.0023	(0.23%)
Indiana Second Injury Fund Amount		155	