

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation

7 CCR 1101-3

WORKERS' COMPENSATION RULES OF PROCEDURE

Rule 2 Workers' Compensation Insurance Premium And Payroll Surcharges

2-1 SURCHARGE REQUIREMENTS FOR INSURANCE CARRIERS

Pursuant to § 8-44-112(1), insurance carriers must file semiannual surcharge returns based upon the premium amounts for the periods July 1, 2018 through December 31, 2018 **OF EACH YEAR** and January 1, 2019 through June 30, 2019 **OF EACH YEAR**.

- (A) Insurance carriers must use **EITHER** Division Form WC 113 **OR THE ONLINE SURCHARGE APPLICATION** to file semiannual surcharge returns.
- (B) The surcharge return must state the amount of premiums written for Colorado workers' compensation insurance, including any policy expense constants, membership fees, finance and service, or other administrative fees charged to the policyholders with the issuance or renewal of policies during the semiannual period covered by such return. These premiums are the same as the premiums reported to the Colorado Division of Insurance (DOI) in accordance with §10-3-208, and regulations promulgated thereunder.
- (C) Insurance carriers must verify the surcharge return by affidavits of at least two chief officers or agents, such as president and secretary.
- ~~(D) Insurance carriers must pay surcharges to the Division with its semiannual return form on or before January 31, 2019 and July 31, 2019. FOR THE SEMIANNUAL ASSESSMENT PERIOD JULY 1 THROUGH DECEMBER 31, CARRIERS MUST FILE VERIFICATIONS AND PAY NO LATER THAN THE FOLLOWING JANUARY 31. FOR THE SEMIANNUAL ASSESSMENT PERIOD JANUARY 1 THROUGH JUNE 30, CARRIERS MUST FILE VERIFICATIONS AND PAY NO LATER THAN THE FOLLOWING JULY 31.~~
- (E) Insurance carriers may take a credit for actually refunded premiums as an offset against surcharges due within one year of the date the premium was refunded. The insurance carrier may not offset a credit of one subsidiary against the surcharge owed by another subsidiary.

2-2 SURCHARGE REQUIREMENTS FOR SELF-INSURED EMPLOYERS

Pursuant to § 8-44-112(3) every self-insured employer must report its semiannual payroll to the Division **UTILIZING THE DIVISION'S ONLINE SURCHARGE APPLICATION.** ~~for the periods July 1, 2018 through December 31, 2018 and January 1, 2019 through June 30, 2019 utilizing the Division's online surcharge application.~~

- (A) The payroll **FILING** must include the National Council on Compensation Insurance (NCCI) class codes, job titles **AND PAYROLL FOR EACH EMPLOYEE,** ~~number of employees, and total payroll,~~ as instructed by the online surcharge application. The Division may request further information to verify the reported payroll data. The failure to report payroll timely or accurately may result in the computation of surcharge without the otherwise applicable discounts.

- (B) Self-insured employer surcharges must be based on the manual premium, adjusted by Pinnacol Assurance discount applicable for the covered surcharge assessment period ~~and modified by 1.0 experience rating factor~~ **AND MODIFIED BY THE EXPERIENCE RATING FACTOR AS CALCULATED BY NCCI. NO OTHER RATING FACTOR SHALL BE ALLOWABLE. IF THE SELF-INSURED EMPLOYER IS UNABLE TO DEVELOP THE EXPERIENCE RATING FACTOR, THE EMPLOYER MAY APPLY TO THE DIRECTOR FOR APPROVAL TO USE A 1.0 EXPERIENCE RATING FACTOR FOR THE FOLLOWING SURCHARGE RATING PERIOD.**
- (C) Self-insured employers must ~~report total payroll, under oath, in a flat file format~~ **PROVIDE A COMPLETED NCCI FORM SETTING FORTH ALL OF THE INFORMATION AND METHODOLOGY USED IN THE CALCULATION OF THE EXPERIENCE MODIFICATION** using the Division's online surcharge application. For the semiannual assessment period July 1, ~~2018~~ through December 31, ~~2018~~, self-insured employers must report ~~total payroll no later than January 10, 2019~~ and pay no later than January 31, ~~2019~~. For the semiannual assessment period January 1, ~~2019~~ through June 30, ~~2019~~, self-insured employers must report ~~total payroll no later than July 10, 2019~~ and pay no later than July 31, ~~2019~~.
- (D) **ALL FILINGS MUST BE ACCOMPANIED BY AN AFFIDAVIT FROM A REPRESENTATIVE OF THE SELF-INSURED EMPLOYER ATTESTING TO THE ACCURACY OF THE INCLUDED INFORMATION.**
- (E) **THE DIVISION MAY AUDIT ANY SELF-INSURED EMPLOYER FOR PURPOSES OF ASCERTAINING THE CORRECTNESS OF THE REPORTED WAGE EXPENDITURE, NUMBER OF PERSONS EMPLOYED, ACCURACY OF INFORMATION UPON WHICH THE EXPERIENCE RATING FACTOR WAS CALCULATED AND SUCH OTHER INFORMATION AS MAY BE NECESSARY.**
- (F) **IF IT IS DETERMINED FOLLOWING AN AUDIT THAT THE SURCHARGE PAID WAS INCORRECT AS A RESULT OF INACCURATE DATA OR CALCULATIONS SUBMITTED TO THE DIVISION, THE DIRECTOR MAY BY ORDER RETROACTIVELY INCREASE THE SURCHARGE TO REFLECT ACCURATE DATA OR CALCULATIONS**

2-3 SURCHARGE RATES

- (A) The following surcharge rates shall apply for the period ~~through~~ **BEGINNING** July 1, ~~2018~~ and continue ~~through December 31, 2018~~ **INDEFINITELY WITH PERIODIC REVIEW BY THE DIRECTOR:**
 - (1) The workers' compensation cash fund premium surcharge rate authorized by §8-44-112(1)(a), shall be **1.35** percent of the amount of all premiums written as defined in section 2-1(b) or the premium equivalent amount established in section 2-2(c) of this rule.
 - (2) The additional assessment to fund the cost containment program authorized by § 8-44-112(1)(b)(i), shall be 0.00 percent of all premiums written, as defined in section 2-1(b). This assessment shall not be imposed on self-insured employers.
 - (3) The assessment to fund the subsequent injury fund authorized by §8-46-102(2)(a)(i), and the major medical fund authorized by § 8-46-202 shall be ~~0.0~~ **0.1** percent of all premiums written as defined in section 2-1(b) or the premium equivalent amount established in section 2-2(c) of this rule.

- ~~(b) The following surcharge rates shall apply for the period beginning January 1, 2019 and continue indefinitely with periodic review by the director:~~
- ~~(1) The workers' compensation cash fund premium surcharge rate authorized by §8-44-112(1)(a), shall be 1.35 percent of the amount of all premiums written as defined in section 2-1(b) or the premium equivalent amount established in section 2-2(c) of this rule.~~
 - ~~(2) The additional assessment to fund the cost containment program authorized by § 8-44-112(1)(b)(i), shall be 0.00 percent of all premiums written, as defined in section 2-1(b). This assessment shall not be imposed on self-insured employers.~~
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 - ~~(3) The assessment to fund the subsequent injury fund authorized by §8-46-102(2)(a)(i), and the major medical fund authorized by § 8-46-202 shall be 0.1 percent of all premiums written as defined in section 2-1(b) or the premium equivalent amount established in section 2-2(c) of this rule.~~