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December 23, 1998

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Workers Compensation Insurance
Item B-1349 - Waiver of Right to Recover From Others
& Limited Liability Companies

The Bureau has adopted and the North Carolina Commissioner of Insurance has approved a proposal that Basic Manual Rule IX be amended to include new rules for Waiver of Right to Recover from Others and Members or Managers of Limited Liability Companies. Also approved was a North Carolina Special Rule with regard to the premium charge for the Waiver of Our Right to Recover From Others Endorsement.

The attached Filing Memorandum describes the changes which have been approved to become effective April 1, 1999, applicable to new and renewal business.

Very truly yours,

Jerry G. Hamrick

Workers Compensation Manager

JGH:lm

Enclosure

C-98-14

FILING MEMORANDUM

ITEM B-1349C Waiver of Right to Recover From Others and Limited Liability Companies

(To become effective 12:01 a.m., April 1, 1999, applicable to new and renewal business.)

PURPOSE

This item proposes to establish Basic Manual rules that provide information to facilitate the proper understanding of these subjects.

BACKGROUND

Waiver of Right to Recover From Others

In many states, it is permissible for a carrier to waive its right of recovery against third parties that may be responsible for an injury covered under the Workers Compensation and Employers Liability Insurance Policy. Although the Waiver of Our Right to Recover From Others Endorsement CWC 00 03 13 is available for that purpose, no mention of this coverage or endorsement presently exists in the national Basic Manual rules. Some feel it would facilitate the understanding and use of this endorsement if this coverage was identified in the Basic Manual.

Limited Liability Companies

The laws of most states provide for the creation of limited liability companies. Although rules relating to limited liability companies appear in the state special rules pages in several states, there is no reference to such rules in the national pages of the Basic Manual. A manual user would need to review the special rules section for each state to locate them. It has been suggested that including such a reference in the Basic Manual national rules would make manual users more aware of these rules and where to locate them.

PROPOSAL

It is proposed that Basic Manual Rule IX be amended to include new rules **F. Waiver of Right to Recover From Others** and **G. Members or Managers of Limited Liability Companies** and to include a North Carolina Special Rule with regard to the premium charge for the Waiver of Our Right to Recover From Others Endorsement.

IMPACT

This proposal is expected to have no impact on premium.

IMPLEMENTATION

In order to implement this item, the proposed phraseology as detailed in the attached exhibits is to be entered in the *Basic Manual for Workers Compensation and Employers Liability Insurance*.

EXHIBIT I

BASIC MANUAL

F. Waiver of Right to Recover from Others

1. Explanation

It is permissible in many states to issue a Standard Policy with the provision that 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 where permitted.

2. Advisory Loss Costs, Rates and Premium

The premium for this endorsement is based upon a charge to be determined by the carrier from its evaluation of the exposures presented.

Assigned Risk Exception

Refer to the assigned risk state special pages for premium determination information.

G. Members or Managers of Limited Liability Companies

1. Law and Status

Members or managers of a limited liability company are or may be included/excluded under the workers compensation law in some states. Refer to the individual state laws for the statutory qualifications and procedures required for the inclusion or exclusion of members of limited liability companies. Refer to Rule IX of the applicable state special rules pages for additional information.

2. Premium Determination

Refer to Rule IX of the applicable state special rules.

EXHIBIT II

SPECIAL RULES - NORTH CAROLINA

Amend as follows:

F. Waiver of Right to Recover from Others

2. Advisory Loss Costs, Rates and Premium

No premium charge has been approved for use in North Carolina.

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