

Issued October 1, 1999

SPECIAL RULES

RULE VI—RATES, ADVISORY LOSS COSTS, AND PREMIUM DETERMINATION

Add the following:

F. DEPOSIT PREMIUM

Deposit premium is determined by taking a percentage of the estimated annual premium. This percentage varies with the amount of the estimated annual premium.

Estimated Annual Premium	Payment Basis	Minimum Deposit Percentage	Additional Payments During Year
Under \$5,000	Annual	100% of annual	None
At least \$5,000	Semiannual	75% of annual	One
At least \$10,000	Quarterly	50% of annual	Three

All additional payments shall be equal payments, the sum of which, when added to the deposit premium, shall equal 100% of estimated annual premium. All payments are subject to adjustment at final audit, and a risk may select a higher deposit percentage at inception.

This deposit premium table is followed by the servicing carrier, which, based on sound underwriting practices, has the right to make appropriate changes in the interim audit program that the employer has selected. The servicing carrier will give the reason for any change.

RULE IX—SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE AND PREMIUM

H. EMPLOYEE LEASING ARRANGEMENTS

1. DEFINITIONS

- a. *Employee leasing arrangement* shall mean an arrangement, under contract or otherwise, whereby one business or other entity leases any or all of its workers from another business. Employee leasing arrangements include, but are not limited to, full-service employee leasing arrangements, long-term temporary arrangements, and any other arrangement which involves the allocation of employment responsibilities among two or more entities. For purposes of this rule, employee leasing arrangement does not include arrangements to provide temporary help service.
- b. *Temporary help service* shall mean a service whereby an organization hires its own employees and assigns them to clients for a finite time period to support or supplement the client's workforce in special work situations such as employee absences, temporary skill shortages and seasonal workloads.
- c. *Client (lessee)* shall mean an entity that obtains all or part of its workforce from another entity through an employee leasing arrangement or that employs the services of an entity through an employee leasing arrangement.
- d. *Labor contractor (lessor)* shall mean an entity that grants a written lease to a client through an employee leasing arrangement. In this rule, the labor contractor may also be referred to as an employee leasing company.
- e. *Leased worker (leased employee)* shall mean a person performing services for a client under an employee leasing arrangement.
- f. *Multiple coordinated policies basis* shall mean:
 - (1) (a) Each client shall have its own standard workers compensation insurance policy covering its leased workers required to be covered pursuant to the workers compensation laws of the state.
(b) Nonleased workers of a client shall not be included on the policy required by (a) above.
 - (2) All policies for clients of the same employee leasing company shall be assigned to one insurer in the state.
 - (3) The insurer shall arrange to have the same renewal dates for all such policies.
 - (4) The insurer shall arrange to have all notices sent to the labor contractor and to have a single master invoice sent to the labor contractor for all policies covering the clients of the labor contractor.
 - (5) If a client leases employees from more than one labor contractor, there shall be a separate policy for the leased employees of each labor contractor.

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- (6) The insurer also shall issue a policy covering the internal employees of the labor contractor.
- (7) Appropriate endorsements shall be used to restrict the coverage to specific employees and to coordinate coverage between clients and labor contractor.

2. COVERAGE

- a. A client seeking to fulfill its statutory responsibility to secure workers compensation benefits for leased workers under a state workers compensation insurance plan shall secure the coverage by purchasing and maintaining a standard workers compensation insurance policy that covers the leased workers.
- b. A labor contractor seeking to obtain workers compensation benefits for leased workers under a state workers compensation insurance plan shall secure the coverage for the leased workers on a multiple coordinated policies basis.

To afford coverage to a labor contractor on a multiple coordinated policies basis, refer to part 4 of this rule.

3. PREMIUM FOR LEASED WORKERS

Premium shall be charged on the policy of the party to an employee leasing arrangement that is securing coverage for the leased workers as indicated below. The party to an employee leasing arrangement that is not securing coverage for the leased workers shall furnish satisfactory evidence that the other party to the employee leasing arrangement had workers compensation insurance in force covering the leased workers. For each employee leasing arrangement for which such evidence is not furnished, additional premium shall be charged on the policy of the party to the employee leasing arrangement that originally did not intend to secure coverage for the leased workers as follows:

- a. The risk shall provide a complete payroll record of the leased workers. Premium on such payroll shall be based on the classifications and rates that would have applied if the leased workers had been direct employees of the client.
- b. If the payroll records of the leased workers are not provided, 100% of the full employee leasing arrangement price shall be established as the payroll of the leased workers. The premium shall be charged on that amount as payroll.

Exception to IX-3.b.

If investigation on a specific employee leasing arrangement contract discloses that a definite amount of the contract price represents payroll, such amount if deemed reasonable shall be the payroll for the premium computation.

- c. If an experience modification has been established for the risk, such experience modification shall be applied to the premium developed for the leased workers.

4. MULTIPLE COORDINATED POLICIES

a. ELIGIBILITY

The labor contractor shall meet each of the following requirements at application and thereafter to qualify for securing coverage on a multiple coordinated policies basis:

- (1) It is in good faith entitled to insurance required under the workers compensation laws, state and federal, and has been unable to secure such insurance in a regular manner.
- (2) Its officers, directors, and any person with a five percent or greater interest do not owe any undisputed workers compensation premium to the current or prior insurers; and
- (3) It provides all information required under each policy in accordance with this rule.
- (4) It is in compliance with all state laws applicable to employee leasing arrangements.

In order for the labor contractor to secure the coverage for the workers leased to a client, the client must be in good faith eligible to receive the insurance. The client is not in good faith entitled to insurance if any of the following circumstances exist, at the time of application or thereafter, or other evidence exists that the client is not in good faith entitled to insurance:

- (1) If, at the time of application, a self-insured client is aware of pending bankruptcy proceedings, insolvency, cessation of operations, or conditions that would probably result in occupational disease or cumulative injury claims from exposures incurred while the client was self-insured.
- (2) If the client, while insurance is in force, knowingly refuses to meet reasonable health and safety requirements.

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(3) If the client, or an enterprise with a common managing interest, has an outstanding obligation for workers compensation premium on previous insurance that is not the subject of a bona fide dispute.

b. POLICY ISSUANCE

Each policy issued to cover the leased workers of a specific employee leasing arrangement on a multiple coordinated policies basis shall be issued in the name of the client and in accordance with this rule and all other rules governing the issuance of a standard workers compensation insurance policy for assigned risk business.

A policy issued to cover the direct employees of the labor contractor under a multiple coordinated policies basis shall be issued in the name of the labor contractor and in accordance with this rule and all other rules governing the issuance of a standard workers compensation insurance policy for assigned risk business.

c. DEPOSIT PREMIUM

The multiple coordinated policies of a single labor contractor may be combined for the purpose of computing deposit premiums. A deposit premium is payable at the time of application and at the time of renewal.

d. ENDORSEMENTS

(1) LABOR CONTRACTOR POLICY

Attach the Labor Contractor Exclusion Endorsement (WC 00 03 21) to the labor contractor's policy to exclude coverage for workers leased to specified clients.

(2) CLIENT POLICY

Attach to each client's policy the Multiple Coordinated Policy Endorsement (WC 00 03 23) to provide coverage for workers leased from the specified labor contractor and the Labor Contractor Endorsement (WC 00 03 20 A) to extend coverage to the labor contractor.

5. AUDIT

The insurer shall audit any policy issued pursuant to IX-2. above of this rule within 90 days of the policy effective date, and may conduct periodic audits thereafter to determine whether all classifications, experience modifications and estimated payrolls utilized are appropriate.