



March 1, 2021

VIA SERFF

The Honorable Trinidad Navarro
Insurance Commissioner
Department of Insurance
State of Delaware
1351 West North Street, Suite 101
Dover, DE 19004

Attention: Harding Drane, Deputy Insurance Commissioner

**RE: DCRB Filing No. 2101 – Proposed Effective April 1, 2021
DCRB Residual Market Waiver of Subrogation Charge**

Dear Commissioner Navarro and Deputy Commissioner Drane:

On behalf of the members of the Delaware Compensation Rating Bureau, Inc. (DCRB), we hereby submit this filing to establish a rate and minimum for the use of the Waiver of Our Right to Recover From Others(WC 00 03 13) endorsement for Residual Market Policies only. There are no changes to the filed and approved Waiver of Our Right to Recover From Others endorsement. This charge and minimum premium is proposed for policies with effective dates on or after 12:01 a.m., April 1, 2021.

Currently, it is permissible for a carrier to waive subrogation rights against anyone liable for any injury covered by the workers compensation policy. The Waiver of Our Right to Recover From Others Endorsement is available if required by the employer's contract. The charge is reflected in the calculation of the employer's premium and assigned to Code 0930 or 9115. The applicable charge and/or minimum premium associated with the waiver of subrogation codes is filed by the carrier or carrier group subject to approval by the Delaware Department of Insurance.

The Delaware Compensation Rating Bureau is the Plan Administrator designated by the Delaware Insurance Department for the Delaware Insurance Plan. To ensure that all carriers writing coverage in the Plan are using the same rate and minimum premium in an effort to maintain equality amongst all Plan participants, DCRB is proposing a waiver of subrogation charge on residual market policies of 5% of the manual premium developed in conjunction with the work for which the waiver is provided, subject to a \$250 minimum premium charge per waiver. The minimum premium charge and the type of waiver proposed is consistent with charges used by the DCRB member carriers who act as servicing carriers as part of the National Workers Compensation Reinsurance Pool. DCRB data supports that over 60% of the residual market policies with waivers received the minimum premium charge. Given that the Delaware residual market is part of the National Pool, using the 5% additional premium charge for consistency, with other state pools is also reasonable.

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Waivers offered to Plan policies will be limited to specific waivers only. The specific waiver limitation is consistent with countrywide residual market plans. The charge and premium associated for the waiver shall be assigned to Code 0930.

Thank you in advance for your review and attention to this filing. The DCRB is pleased to answer any questions that you or the Department of Insurance staff may have regarding these proposals.

Sincerely,

William V. Taylor
President

Enclosure:

Revisions to Section 2

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES
FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

Proposed Effective April 01, 2021

INFORMATION PAGE remains unchanged.

PREFACE remains unchanged.

SECTION 1 – UNDERWRITING RULES

SECTION 1 – UNDERWRITING RULES-RULE I (GENERAL) through RULE VIII (LIMITS OF LIABILITY)
remains unchanged.

RULE IX – SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE AND PREMIUM

ITEMS A. through H. remain unchanged.

I. WAIVER OF SUBROGATION (WAIVER OF OUR RIGHTS TO RECOVER FROM OTHERS)

- 1.** For policies where the carrier waives subrogation rights, ~~the premium charge associated with such waiver shall be assigned to Code 0930~~ the Waiver Our Right to Recover From Others endorsement (WC 00 03 13) must be attached to the policy. ~~the premium charge associated with such waiver shall be assigned to Code 0930. For policies where a flat charge has been levied for a waiver of subrogation rights, the amount shall be assigned to Code 9115. Code 9115 – Flat Charge Waiver of Subrogation is not included in Total Standard Premium.~~
- 2.** The premium for the waiver endorsement is based on a pricing value and charged determined by the carrier.
- 3.** Voluntary market carriers must file the pricing value and premium charge with the Delaware Department of Insurance. The premium charge associated with the waiver shall be assigned to Code 0930. For policies where a flat charge has been levied for a waiver of subrogation rights, the amount shall be assigned to Code 9115. Code 9115 – Flat Charge Waiver of Subrogation is not included in the Total Standard Premium.
- 4.** Residual market carriers must use the values established by the DCRB in the annual residual market rate filing.

 - a.** Blanket waivers are not permitted in the residual market.
 - b.** The additional premium charge for residual market (assigned risk) policies is 5% of the total manual premium developed in conjunction with the work for which the waiver is provided, subject to a \$250 minimum premium charge per waiver.
 - c.** The residual market premium charge associated with the waiver shall be assigned to Code 0930.

SECTION 1 – RULE X (CANCELLATION) through RULE XVII (MEMBER CARRIER DISPUTES (DISPUTE RESOLUTION CONFERENCE)) remain unchanged.