

211 CMR 113.00: REQUIREMENTS REGARDING WORKERS' COMPENSATION INSURANCE DEDUCTIBLES

Section

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113.01: Purpose and Scope

The purpose of 211 CMR 113.00 is to provide for the offering of workers' compensation policies with reasonable deductible amounts and reasonable credits.

113.02: Authority

211 CMR 113.00 is promulgated in accordance with the authority granted to the Commissioner of Insurance by M.G.L. c. 152, §§ 25A, 53A and 55A.

113.03: Definitions

As used in 211 CMR 113.00 the following words shall have the meanings indicated.

Commissioner means the Commissioner of Insurance or his or her designee.

Insureds means employers who are insured for workers' compensation under the provisions of M.G.L. c. 152.

Pool means the residual market pool identified in M.G.L. c. 152, § 65C.

Reasonable Small Deductibles, as used in M.G.L. c. 152, § 25A means sums of not more than \$1000 per claim required by optional endorsements to workers' compensation policies to be reimbursed to workers' compensation insurers by policyholders.

113.04: Workers' Compensation Deductibles Plan

(1) Applicability. The pool and every insurer licensed to write workers' compensation insurance in the Commonwealth shall offer plans involving deductibles, including reasonable small deductibles, as optional endorsements to each workers' compensation policy issued, delivered, issued for delivery or renewed on or after January 1, 1993. Insureds shall have the right to choose one of the plans required to be offered by insurers as set forth in 211 CMR 113.00. Upon agreement of the insurer and insured, policies in force prior to January 1, 1993 and in effect on that date may be renegotiated so as to include a provision allowing for deductibles in accordance with 211 CMR 113.00. Except as provided by 211 CMR 113.00 or as the Commissioner in his or her discretion may authorize in writing on or after December 1, 1992, including such terms and limitations as he or she may require, no deductible plans are permitted subsequent to January 1, 1993. The Commissioner may require that such authorization be reviewed periodically. No insured shall be required to make reimbursement to an insurer for any amount paid pursuant to any policy or endorsement containing deductibles issued or renewed subsequent to January 1, 1993 unless such policy or endorsement conforms to the terms and limitations set forth in 211 CMR 113.00 or in other written notification issued by the Commissioner on or after December 1, 1992.

113.04: continued

(2) Filing and Other Requirements. Each insurer writing deductible plans shall submit such documentation as the Commissioner may from time to time require regarding such plans.

Deductibles shall apply to both indemnity and medical costs. The insurer shall pay all benefits required under the provisions of M.G.L. c. 152 directly to the appropriate party. Subsequent to insurer payment of any amount which falls within the deductible limit on any claim, the insurer may seek reimbursement from the policyholder. Failure to make complete reimbursement for deductibles within 30 days of receipt of a bill from the insurer shall constitute non-payment of premium and be grounds for termination of the policy.

The entire cost of all claims relative to a particular insured shall be included in the experience data used to determine the experience modification of that insured, regardless of the requirement that reimbursement must be made for the deductible amount of any claim.

(3) Applicable Deductibles. Endorsements including per claim deductibles in the amounts of \$500, \$1000, \$2000 and \$2500 and an aggregate deductible in the amount of \$10,000 shall be offered to every employer.

In addition, an insurer or the pool, at its option, may offer to any employer providing collateral deemed adequate by such insurer, an endorsement with a per claim deductible level of \$5000.

(4) Premium Credits. The premium credits associated with the deductible levels required by 211 CMR 113.04(3) shall be filed at least once every two years by the Workers' Compensation Rating and Inspection Bureau of Massachusetts and at any additional time requested by the Commissioner. Such filings shall be subject to approval by the Commissioner.

REGULATORY AUTHORITY

211 CMR 113.00: M.G.L. c. 152, §§ 25A, 13A and 55A.

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