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OKLAHOMA INSURANCE DEPARTMENT
STATE OF OKLAHOMA

OKLAHOMA BULLETIN NO. PC 2012-02

**TO: ALL PROPERTY & CASUALTY INSURERS LICENSED TO WRITE
WORKERS' COMPENSATION INSURANCE IN THE STATE OF
OKLAHOMA; ALL RATING AND ADVISORY ORGANIZATIONS**

RE: WORKERS' COMPENSATION LARGE DEDUCTIBLE PLANS

**FROM: Denise M. Engle, CPCU, CIIP, AIC
Deputy Commissioner of Workers' Compensation
Rate & Form Compliance Division
Licensing & Education Division**

DATE: August 6, 2012

CONTENT OF THIS BULLETIN

In the workers' compensation insurance context, a large deductible plan is a plan that includes a provision in workers' compensation policies that maintains an insurer's entire obligation for payment of an insured loss and provides that an insured employer will reimburse the insurer for the first part of that loss subject to an agreed upon amount.

The Oklahoma Insurance Department has determined that uniform guidelines are needed for workers' compensation insurance policies that include large deductible plans. This determination results from a study conducted by the National Association of Insurance Commissioners, in conjunction with the International Association of Industrial Boards and Commissions. The Department finds that the use and approval of large deductible plans may help control workers' compensation insurance premiums and increase market availability for employers who meet specified financial requirements, and may increase the incentive for workers' compensation insureds to implement loss control programs. The State Board for Property and Casualty Rates previously issued guidelines for large deductible plans in Order 93-360, and by an Amendment to the Order dated May 18, 1995. Bulletin No. PC 2010-02 provided similar guidelines. The purpose of this bulletin is to update statute citations and the address and contact information for the Oklahoma Insurance Department.

The Department has developed criteria that will allow the approval, disapproval, or the approval with modifications, of large deductible plans that will not violate the provisions of the Oklahoma Insurance Code. Insurers making large deductible workers' compensation filings should follow these guidelines when making a large deductible workers' compensation insurance rate and form filing

- The insurer should use a standard workers' compensation and employers' liability policy approved for use in Oklahoma, pursuant to 85 O.S. § 356.
- The insurer should submit an endorsement that requires the insured to reimburse the insurer for losses the insurer pays up to the large deductible amount, pursuant to 36 O.S. § 3610.
- The policy and/or endorsement should not relieve the insurer of any obligations pursuant to 85 O.S. § 356(D)(4) should the insured fail to reimburse the insurer. The endorsement should include a disclosure of the responsibilities of both the insured and the insurer under the large deductible plan, and include a statement that the failure to reimburse the insurer will not affect coverage for an eligible insured employee under the policy from the first dollar of the loss.
- If the large deductible endorsement is terminated, any additional premiums generated due to the deletion of the large deductible endorsement will be charged to the insured. Failure to reimburse any additional premiums may also be grounds for policy cancellation, consistent with the provisions of 36 O.S. § 3639 and 85 O.S. § 356.
- The insurer may offer an annual aggregate large deductible amount.
- The deductible amount should apply to indemnity and medical benefits.
- Based on an agreement between the insured and insurer, the large deductible amount may be applied to allocated loss adjustment expenses.
- The large deductible amount should be selected from the estimated annual standard countrywide workers' compensation premium for that insured at the inception date of the policy. The amount of \$2,500.00 is the maximum small deductible, pursuant to 85 O.S. § 356. The large deductible begins above \$2,500.00. The maximum large deductible amount should not exceed forty percent (40%) of the estimated annual standard countrywide workers' compensation premium, unless the insurer requires the employer to provide some type of secured collateral. The company must provide information regarding the type of secured collateral that the employer will be providing, to utilize a large deductible greater than the forty percent (40%) of the estimated annual standard premium, in their rule pages for the Large Deductible Plan.
- Premium development can be "A rated." Even though large deductible workers' compensation insurance policies can be "A rated," insurers are not exempted from the filing and review requirements of the Oklahoma Insurance Code. 36 O.S. § 997. Rather, an insurer issuing a large deductible workers' compensation insurance policy must satisfy all filing and review requirements.

Any deviation from these guidelines may result in a form filing being disapproved or delayed. Form filings must be submitted separately from the rate and/or rule filing. The form filing must also meet all other requirements of a complete filing, as described by OAC 365:15-1-3.

All **rate and rule** filings for large deductible plans should satisfy the standards outlined in this bulletin and should include:

- A. An explanation of the general purpose behind offering the large deductible plan;
- B. A specific rule of eligibility for the plan. This rule must be uniform so as to allow any risk of a certain size or financial condition to be eligible;
- C. The plan must contain a minimum and maximum loss reimbursement amount, which can be either a flat dollar amount or a percentage of the premium.
- D. All factors used in the method or formula for determining the large deductible program must be described, and an illustrative example must be included.
- E. A description of other items for which the insured will be responsible or which would affect the underwriting or rating of the plan, such as letters of credit, surety bonds, etc.
- F. The filing must meet all other requirements of a complete filing, as described by OAC 365:15-7-3.

At the Commissioner's discretion, a large deductible filing may be submitted to an independent actuary for review, pursuant to OAC 365:15-7-18(d).

Insurers submitting workers' compensation large deductible plans must comply with 36 O.S. § 612.2.

Statistics reported to a designated statistical agency for ratemaking purposes shall be reported as required by that statistical agency.

This Bulletin supersedes Bulletin PC 2010-02

QUESTIONS

Questions applicable to this bulletin should be submitted in written form to Cuc Nguyen; cuc.nguyen@oid.ok.gov of the Rate and Form Compliance Division, or Oklahoma Insurance Department, 3625 NW 56th St. Suite 100, Oklahoma City, OK 73112.

The Oklahoma Insurance Department encourages readers of this bulletin to periodically check the Department's web site <http://www.oid.state.ok.us/> for news and updates to bulletins and other relevant material.