



April 20, 2021

DCRB CIRCULAR NO. 996

To All Members of the DCRB:

RE: APPROVAL OF DCRB FILING NO. 2101
DCRB RESIDUAL MARKET WAIVER OF SUBROGATION CHARGE
EFFECTIVE APRIL 1, 2021

The Delaware Insurance Commissioner has approved DCRB Filing No. 2101 which establishes a rate and minimum premium for the use of the Waiver of Our Right to Recover From Others (WC 00 03 13) endorsement for the Delaware Insurance Plan (DIP) residual market policies only. There are no changes to the filed and approved Waiver Of Our Right to Recover From Others endorsement. The charge and minimum premium are approved for policies applicable to policies with effective dates as of 12:01 a.m., April 1, 2021 or later.

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 DIP. To ensure that all carriers writing coverage in the Plan are using the same rate and minimum premium and to maintain equality amongst all Plan participants, DCRB filed a waiver of subrogation charge on residual market policies of 5 percent 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 approved minimum premium charge and the type of waiver is consistent with charges used by the approved DCRB member carriers who act as servicing carrier participants of the National Workers Compensation Reinsurance Pool (NWCRP). DCRB data supports that over 60 percent 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 5percent additional premium charge for consistency with other state pools was also reasonable.

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.

The changes associated with this circular are noted on the Basic Manual pages provided below. Both manuals will be updated on the DCRB's website at a later date. Please refer to Filing No. 2101, available on the DCRB's website (www.dcrb.com) under the "Filings" tab, for additional details and information on this revision. Please contact Delisa Fairley, Vice President – Underwriting Services at 215-320-4411 or at dfairley@dcrb.com for any questions on this Circular.

William V. Taylor
President

WVT/DF/dn

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

Approved 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.

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