

INDIANA DEPARTMENT OF INSURANCE

September 16, 2008

Bulletin 166

Indiana Patient's Compensation Fund – Coverage for Self-Insured Hospitals, Residents, and Fellows

This Bulletin is directed to all hospitals in Indiana, especially those that use self-insurance as their method of providing proof of financial responsibility under Indiana's Medical Malpractice Act ([IC 34-18-1-1](#) et seq.), and to all brokers filing proof of financial responsibility on these hospitals' behalf. The Department is concerned that the Patient's Compensation Fund (PCF) may not be receiving updated information about changes which occur throughout the annual policy period that would require adjustments to the PCF surcharge. This Bulletin sets forth specific reporting requirements for self-insured hospitals in order to ensure their PCF coverage. In addition, this Bulletin is intended to clarify when residents and fellows may share in the limits of institutions, including universities and all hospitals, not just those that self-insure. This Bulletin becomes effective January 1, 2009.

The Department therefore directs that all self-insured hospitals or their brokers, or both, conduct an audit on a quarterly basis to determine if any additional/return surcharge is owed. The audit should track any and all additions or deletions of employed physicians and any other significant changes, additions, or deletions that occurred to the exposures most recently provided to the PCF. The hospital or broker should then, within thirty (30) days of the end of each quarter for the policy period, remit the Department's Certificate of Insurance form reflecting any additional/return surcharge owed for the current quarter to the Department via e-mail to agunter@idoi.in.gov. Upon next renewal, the hospital or broker should add together all the quarterly amounts and remit the additional surcharge payment, if applicable, or claim the appropriate credit if return surcharge is owed. If no additional surcharge or credit is required, the self-insured hospital or its broker, or both, should provide the PCF with a notice so stating. Renewal of PCF qualification will not be allowed unless the previous year's final payment, credit, or notice has been received.

If the self-insured hospital or its broker fails to remit notice of its self audit, or if the audit submitted is grossly inadequate in the Commissioner's determination, PCF coverage will not be afforded to any additional exposure where surcharge was not remitted, no return surcharge will be granted for the prior period, and the health care provider could experience a gap in coverage.

In addition, the Department would like to clarify when residents and fellows may share in the limits of an institution, including universities and all hospitals, not just those that self-insure. Because of the unique nature of the relationship between institutions and their residents and fellows, the Department will allow residents and fellows to share in the institution's limits only with regard to activities associated with the residency or fellowship. Any hospital may pay surcharge for residents and fellows – but no other employees – on a full-time equivalent (FTE) basis. All hospitals, not just those that self-insure, should report changes to the FTEs, along with a listing of all residents and fellows covered under the hospital's coverage, to the PCF quarterly at the e-mail address listed above.

Finally, it has come to the Department's attention that not all self-insured hospitals are reporting notices as required by [IC 34-18-9-3](#) (reserve and claim adjudication and settlement notices). Such notices are necessary for calculation of future exposures for the PCF. Therefore, self-insured hospitals are reminded that the Department expects them to comply with [IC 34-18-9-3](#) and Bulletin 119, including use of the format provided by the bulletin.

This Bulletin does not affect the procedures for new submissions or calculations of annual renewals for self-insured hospitals, which procedures can be found on the Department's website: <http://www.in.gov/idoi/2376.htm>. Questions concerning this Bulletin should be directed to Annette Gunter, Manager of the Medical Malpractice Division, at (317) 232-2401 or agunter@idoi.in.gov.

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James Atterholt, Commissioner

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