May 8, 2008

Bulletin 162

Calculation of Reporting Endorsement Surcharge to the Patient's Compensation Fund

This bulletin is directed to all insurers and others providing proof of financial responsibility to the Indiana Patient's Compensation Fund (the "PCF").

Effective March 4, 2007, the PCF instituted a calculation sheet to be used to determine the surcharge amount due for nursing homes. The calculation sheet does not include a method for determining proper surcharge for reporting endorsement policies. Surcharge for reporting endorsement policies for nursing homes should be calculated using the following factors.

Indicated Nursing Home Professional Liability Extended Reporting Endorsement Factors	
Claims-Made Maturity	**Indicated Factor**
First Year	0.65
Second Year	0.95
Third Year	1.00
Fourth Year	1.05
Mature	1.10

The appropriate date for determining the maturity of the PCF coverage is March 4, 2007. When determining the appropriate maturity, nursing homes should round up to the next highest full year of coverage. Surcharge for the reporting endorsement is calculated by applying the appropriate factor to the surcharge paid by the nursing home for the first policy following March 4, 2007.

Example: A nursing home was first qualified with the PCF on January 1, 2006. On March 4, 2007, the nursing home was in its second year of claims made coverage under the PCF. Thus, the appropriate indicated factor is 0.95. The nursing home's surcharge for the first policy after March 4, 2007, was $2500.

Surcharge	$2500
Indicated Factor	0.95
Surcharge	**$2375**

Each nursing home that was a qualified health care provider with the PCF on March 4, 2007, and has not yet purchased a reporting endorsement tail must pay the appropriate reporting endorsement surcharge to the PCF on or before December 31, 2008, or forfeit PCF coverage for policies commencing before March 4, 2007. Nursing homes that have paid reporting endorsement surcharge based on the published hospital factors should pay the appropriate additional surcharge or claim the appropriate credit on or before December 31, 2008.

Any nursing home with claims-made coverage seeking qualification with the PCF, or currently participating and switching to claims made coverage, on or after March 4, 2007, must only pay the minimum surcharge (currently $100) described at IC 34-18-5-2(e) for reporting endorsement coverage. Such coverage need not be purchased until the nursing home discontinues claims made coverage as its proof of financial responsibility with the PCF.

Since 1999, physicians and hospitals have been paying to the PCF an occurrence-based surcharge. Physicians and hospitals have been subject to reporting endorsement factors adopted by the PCF in 1999 for those physicians and hospitals that maintained claims-made coverage prior to July 1,1999. The PCF is no longer requiring physicians and hospitals to apply those reporting endorsement factors when discontinuing PCF participation or switching from claims made to occurrence coverage after 1999. Instead, physicians and hospitals need only remit the minimum surcharge ($100 currently) for reporting endorsement coverage with the PCF.

Any health care provider other than a nursing home, physician or hospital should pay surcharge for a reporting endorsement, as with other policies, based on a percentage (currently 110%) of underlying premium for the tail coverage, as provided by 760 IAC 1-21-8.

Questions should be addressed to Annette Gunter, manager of the Medical Malpractice Division, who can be reached at (317) 232-2401 or *agunter@idoi.IN.gov*.

INDIANA DEPARTMENT OF INSURANCE

James Atterholt, Commissioner