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**Circular 2024-04**

**To: ICRB Members**

**Educational Circular- Assigned Risk Other States Coverage**

This circular is being sent for education purposes only, no changes have been made to the coverage form in Assigned Risk policies. We have had many questions regarding the coverage provided for Other States on Assigned Risk policies in Indiana. It is a limited coverage, intended for unexpected or unanticipated exposures only.

For further details please see the Circular below.

Sincerely,

*Paul E. Keathley*

Paul E. Keathley  
President & CEO

## ASSIGNED RISK OTHER STATES COVERAGE

For assigned risk policies, the Assigned Risk Supplement, Part Two – Pools, Rule IV-J.3., states that Other States Insurance is “designed solely for unknown or unanticipated exposures.” The words “temporary or incidental” exposure are also used in describing the Residual Market Limited Other States Insurance Endorsement with item filing P-35(A). The table below summarizes the coverage from a Residual Market perspective.

COVERAGE	RESIDUAL MARKET P-35(A)
<b>To obtain Other States coverage:</b>	automatic for <i>limited</i> coverage
<b>Where coverage provided:</b>	RM Limited Other States Insurance Endorsement WC 00 03 26(A)
<b>States included:</b>	automatic for <i>limited</i> coverage in all states
<b>Type of coverage:</b>	<i>Limited</i> coverage replaces Part Three coverage: 1) temporary, unanticipated, or casual exposure coverage only (like interstate travel); 2) as long as no existing separate coverage & separate coverage not required by state law; 3) no automatic new operations coverage & no promise to add coverage
<b>Payment of claim:</b>	same as voluntary

From an Assigned Risk perspective, the use of Part Three – Other States Insurance of the policy is inappropriate because it grants coverage for not only the exposure resulting from incidental interstate travel but also the exposure resulting from the actual commencement of long-term business operations in other states. By virtue of the state-specific nature of workers compensation statutes, insurers or state pools in the Assigned Risk market are not obligated to extend policy coverage beyond that which is needed to satisfy the requirements of the employer’s state of domicile. Consequently, some employers may be faced with obtaining separate policies from each state where a potential exposure exists.

The purpose of the Residual Market Limited Other States Insurance Endorsement (WC 00 03 26 A) is to amend the coverage available to Assigned Risk policyholders under

Part Three of the policy. This endorsement was created to provide protection for unanticipated exposures resulting from interstate travel by employees of those states listed in Item 3.A. of the policy Information Page. Unlike Part Three of the standard policy, this endorsement does not provide automatic coverage for actual operations in other states.

The endorsement includes an important notice which reads:

“If you hire any employees outside those states listed in Item 3.A on the Information Page or begin operations in any such state, you should do whatever may be required under that state’s law, as this endorsement does not satisfy the requirements of that state’s workers compensation law.”

This limited coverage is further explained in the NCCI Assigned Risk Supplement to The Basic Manual, Section 4:

“Limited Other States Insurance coverage is intended as coverage for an employer, of a state listed on the policy, while employees are temporarily in another state and where the employer’s operations in said state are not such that separate coverage is required by that state’s laws. **This coverage is designed solely for unknown and unanticipated exposure in states or territories other than those designated in 3.A of the policy** and not otherwise specifically excluded. If the insured has or develops exposures in any state not specified in 3.A of the policy, some separate applications may be necessary.”

#### **Requirements for the Residual Market Limited Other States Coverage Endorsement**

For an insured to meet all the conditions of the Residual Market Limited Other States Insurance Endorsement. The insured:

- A.1.a. has employees who are hired under an Indiana contract of employment;
- A.1.b. i. has no other WC insurance for the other state in question;
- A.1.b.ii. has no known other state law requirement that the insured carry that state’s WC insurance coverage;
- A.1.b.iii. is not a self-insured in that other state; and
- A.1.c. the work is temporary (not begun operations in the other state).

**Note:** Indiana does not have a legal definition of “temporary” or what constitutes “beginning operations” in another state. This is a gray area that depends on individual circumstances that a servicing carrier will consider.

#### **Adding another State to an Indiana Assigned Risk Policy**

Indiana Assigned Risk policies cannot be extended to provide coverage for operations in any other state, a separate application to the other state is required.