

CHAPTER 4. WORKERS' COMPENSATION INSURANCE
EXPLANATION AND REQUIREMENTS

4-1. WORKERS' COMPENSATION INSURANCE AND EMPLOYERS' LIABILITY
COVERAGE.

- a. The current Workers' Compensation and Employers' Liability policy is the cumulative result of more than 50 years of compromise between employers and employees in which injured employees relinquish the right to sue their employers for employment related injuries in return for a statutory imposed mechanism providing specific scheduled benefits which are funded for the most part by insurance.
- b. Each of the 50 states, the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands have workers' compensation statutes. (Nevada, North Dakota, Ohio, Washington, West Virginia, and Wyoming administer their own monopolistic workers compensation funds.) Workers' compensation insurance has been, and most likely will continue to be the most effective method available to an employer for compensation to employees and their families for work-related injuries or diseases as prescribed by law. Employers' liability coverage protects employers when suits are filed against them for employment related incidents that are not compensable under Workers' Compensation coverage.

NOTE: Workers' compensation coverage is not an employee benefit. It is a casualty insurance coverage.

4-2. DIVISIONS OF COVERAGE.

The Workers' Compensation and Employers' Liability policy contains three distinct areas of coverage.

Part One. This is the Workers' Compensation section, under which the insurer agrees to assume the liability imposed upon the insured by the workers' compensation law or laws of the state where the HA is located.

4-1

5/96

G 7401.5

Part Two. This is the Employers' Liability section (the standard limit is \$100,000 and the premium is included in the Workers' Compensation rate) which protects the insured against liability imposed by law for injury to employees in the course of employment that is not compensable under the Workers' Compensation section. This portion of the contract essentially is similar to the CGL coverages and is subject to about the same conditions.

Part Three. This section provides other states insurance for workers' compensation and employers liability coverage in states where an insured may have incidental exposures that are not listed on the declaration page for purposes of Part One coverage. This coverage applies only to those states listed under the Other States insurance section of the policy.

4-3. WORKERS' COMPENSATION INSURANCE RATING.

In most states, workers compensation insurance is provided by private insurance companies, but in some states there are state funds from which the HA must fund their compensation insurance. The premiums are based on a rate per \$100 of payroll and are assigned by classification of the operations or employment. Such types of employment that involve a greater degree of hazard are charged a higher rate than less dangerous occupations. The rating classifications and the payroll amounts are shown on the declaration page of the Workers' Compensation insurance contract. The National Council on Compensation Insurance (a national rating organization) has developed a separate classification for employees of HAs. This classification groups all HA employees into one class without a distribution into various types of duties performed. However, some states may require the use of various classes for HAs.

4-4. EXPERIENCE RATING.

Workers' Compensation contracts are subject to experience rating if the premium exceeds a certain annual amount, which will vary by state. This experience rating allows the insurance company to either increase or decrease the rate per \$100 of payroll depending on the loss experience of the insured. The percentage of increase is expressed as an experience modifier and is shown on the declaration page of the contract. Thus, an HA without any losses may have a modifier of .80 which means they will be charged 80 percent

5/96

4-2

G 7401.5

of the rate to reflect good experience. A HA with severe losses may have an experience modifier of 1.3 meaning they will pay 130 percent of the base rate to reflect poor experience. The experience modifier generally reflects a running three-year experience period.

4-5. PREMIUM PAYMENT.

For Workers' Compensation insurance, the amount paid at the inception of the contract represents an estimate based on the payroll amount expected during the contract term and the rates in effect at the inception of the contract. At the end of the contract period, an audit of the actual payroll for the insured period is made by the insurance company and the actual premium is established using the actual payroll amount. The final premium also reflects any increase or decrease in rates

which may have occurred during the term of the contract. Any additional premium resulting from the audit or any rate change is billed by the insurance company. In order to avoid substantial expenses of this nature, the HAs should be certain that the estimated payroll shown on the Declaration page and used to develop the deposit premium, accurately reflects the anticipated payroll for the policy period. When comparing competitive proposals for Workers' Compensation insurance, care should be taken that all offerors use the same estimated payroll and classes in order to have a standard basis for comparison.

4-6. MONOPOLISTIC STATE FUNDS.

Six states: Nevada, North Dakota, Ohio, Washington, West Virginia, and Wyoming have established state workers' compensation insurance funds and granted them a monopoly position, excluding private insurers from providing the coverage.

4-7. VOLUNTARY COMPENSATION ENDORSEMENT.

The majority of HAs will enlist the help of unpaid voluntary workers. The voluntary worker, in most states, is not covered by the state's workers' compensation laws. The Department recommends that the workers' compensation policy be endorsed to cover this exposure.

4-3

5/96

G 7401.5

4-8. PARTIES INSURED.

A HA shall be shown as the named insured. The U.S. Department of Housing and Urban Development should not be named as an insured.

4-9. FULL AND OPEN COMPETITION.

Competition in procurement is required, except that procurement by noncompetitive proposals through solicitation from only one source is authorized (and waiver of any ACC requirements to the contrary is hereby granted) when award is otherwise infeasible under the sealed bidding, competitive proposals, or small purchase method of procurement because the item is available only from a single source (e.g., in states or jurisdictions with monopolistic workers' compensation state funds), or after solicitation of sources, competition is determined inadequate.

5/96

4-4

7401.5