



Division of Insurance

550 W. 7th Avenue, Suite 1560, Anchorage, AK 99501-3568

Telephone: (907) 269-7900 • Fax: (907) 269-7910 • Text Telephone: (907) 465-5437

Email: Insurance@dced.state.ak.us • Website: www.dced.state.ak.us/insurance/

BULLETIN B 04-10

**TO: ALL PRODUCERS AND INSURERS AUTHORIZED TO TRANSACT
PROPERTY AND CASUALTY BUSINESS IN THE STATE OF ALASKA AND
OTHER INTERESTED PARTIES**

RE: ALASKA INSURANCE GUARANTY ASSOCIATION ASSESSMENTS

Background

Chapter 80 of the Alaska Insurance Code (AS 21.80) provides for a mechanism to pay covered claims under certain insurance policies to minimize loss to policyholders in the event of the insolvency of an insurer. All insurers authorized to transact a type of business that is covered by the Alaska Insurance Guaranty Association (association) are members of the association.

When a member insurer is declared to be insolvent, the association is notified of the insolvency. Eligible claims received by the association are paid primarily from two sources. The majority of the funds are from assessments on insurers that are writing business in Alaska and smaller amounts are from distributions of remaining money from the estates of insolvent insurers. Alaska law allows the insurer, at the insurer's discretion, to pass assessments on to its policyholders through a policyholder surcharge. AS 21.80.140.

The association is divided into three separate accounts based on lines of business: an auto account, a workers' compensation account and an account for all other types of covered insurance. On an annual basis the association reviews the claims that it expects to pay and determines whether an assessment is needed to fund any of the accounts for the following year. This review normally occurs in November but the association is authorized to make assessments at other times of the year subject to an annual cap on the total amount that can be assessed. This annual cap has historically been two percent of the insurer's net direct written premium for the applicable calendar year. Due to the insolvency of a large workers' compensation insurer, the two percent cap produced insufficient funds for the association to meet its obligations on a timely basis. When the association has insufficient funds, the association has to prorate claims payments until more funds are received.

New Legislation

The Division of Insurance (division) and the association worked hard to stay ahead of any decision to prorate indemnity benefits to injured workers or medical payments to providers who treat injured workers. To help the association manage the cash flow problems that it was facing, legislation was introduced this year to increase the assessment cap to four percent in the account facing a deficiency. And, should this increase still produce inadequate funds to allow the association to meet its obligations timely, the association may assess the other two accounts up to two percent of their net direct written premium. This legislation, HCS CSSB 276(JUD), was signed into law by Governor Murkowski on June 18, 2004 and became effective on June 19, 2004 (Chapter 61 SLA 04). The text of this law is available at <http://www.legis.state.ak.us/PDF/23/Bills/SB0276Z.PDF>

Rate Filings

In order for the association to continue to pay claims of the insolvent workers' compensation insurers, a second 2004 initial assessment of two percent for the workers' compensation account, as allowed by the new law, is being assessed on member insurers. The surcharge period is stated as September 1, 2004 to August 31, 2005. An insurer that elects to pass this assessment on to its policyholders through a policyholder surcharge should submit a rate filing to the division following the usual rate filing procedures.

The filing should include:

- a cover letter explaining that the insurer is electing to offset its assessment through a premium surcharge,
- the amount of the surcharge,
- a copy of the association assessment letter as support for the filing, and
- the time period during which the surcharge will be applied, which should coincide with the time period contained in the assessment letter.

An insurer that has filed and received approval to include a policyholder surcharge on its policies must show the assessment separate from the premium for the policy. The surcharge amount is not considered premium and is not subject to the premium tax. AS 21.80.140.

An insurer that has not received an assessment notice from the association may not apply a surcharge on its policies.

Annual Statement Reporting

The surcharge collected from policyholders should be reported as an aggregate write-in for underwriting deductions on Page 4, Underwriting and Investment Exhibit, line 5. This figure should be a negative amount and the write-in description should be "Alaska Insurance Guaranty Association Surcharge".

Since the assessment paid to the association is included in line 4, Other Underwriting Expenses Incurred, including the surcharge in line 5 will offset the expense and remove it from premium so that it is not used to calculate premium tax.

Frequently Asked Questions

Why is the insurer applying a four percent surcharge when the assessment cap is only two percent (prior to the effective date of the new legislation)?

This question is applicable to policies that were issued before June 19, 2004 when the cap was still two percent. The initial 2003 assessment of two percent was issued in July 2003 after the association was notified of the large workers' compensation insurer insolvency. This assessment/surcharge was to apply to policies issued between September 1, 2003 and August 31, 2004. At the end of the year, the association issued the initial 2004 assessment notice for two percent to be applicable for the period January 1, 2004 to December 31, 2004. The 2003 and 2004 assessments overlap between January 1, 2004 and August 31, 2004. Therefore, a policy that is written or renewed during the time period over which the assessments overlap could have both the 2003 and 2004 assessments/surcharges applied to it.

Why is the 2003 assessment being applied to 2004 policy renewals? Since the 2004 policies are written at a higher premium level than the 2003 policies, are policyholders paying more than they should be paying?

The "2003 assessment" terminology is simply an easy way of referring to the time period in which the association notified the insurer that an initial assessment is being made. It does not refer to the time period to which the assessment/surcharge applies.

Alaska Statute 21.80.060 provides for an initial assessment to be based on the net direct written premium found in the most recent insurer financial statements filed with the division. The association specifies the future time period to which the assessment/surcharge applies. The initial assessment percentage is then used to determine an adjusted assessment after the assessment/surcharge period is over. The adjusted assessment is based on the insurer's actual premium written during the assessment/surcharge period. Once the adjustment is made, the amount collected as a policyholder surcharge should match the amount of the adjusted assessment even if there are rate changes between the time the initial assessment is made and the time that the surcharge is applied to a policy.

For example:

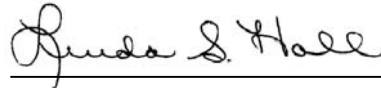
Insurer ABC wrote \$100,000 of net direct premium in 2003. The initial 2003 assessment was two percent, so ABC paid the association \$2,000 on August 31, 2003. During the time period of the assessment, September 1, 2003 to August 31, 2004, ABC wrote \$120,000 of net direct premium. Therefore, ABC collected \$2,400 in policyholder surcharges. In 2004, the association issued an adjusted assessment based upon \$120,000, the premium actually written by ABC during the time period in which the assessment was applied. Note that the assessment percentage does not change, only the amount of net direct written premium to which it applies has changed. ABC pays an additional \$400 to the association.

Insurer X has surcharged a policy but insurer Y has not included a surcharge for the same line of business. Why?

Alaska law allows, but does not require, an insurer to offset a guaranty association assessment with policyholder surcharges. For business reasons, some insurers will elect to pay the assessment themselves and other insurers will elect to offset the assessment by surcharging their policyholders.

If you have questions, please contact the Division of Insurance, P.O. Box 110805; Juneau, AK 99811-0805; (907) 465-2515; or via electronic mail at insurance@dced.state.ak.us

Date this 2nd day of July, 2004 at Anchorage, Alaska.

A handwritten signature in cursive script that reads "Linda S. Hall". The signature is written in black ink and is positioned above a horizontal line.

Linda S. Hall
Director