

COMMISSIONER OF SECURITIES & INSURANCE

MATTHEW M. ROSENDALE, SR.
COMMISSIONER



OFFICE OF THE MONTANA
STATE AUDITOR

INFORMATIONAL BULLETIN

To: All Workers' Compensation Insurers in Montana

From: MATT M. ROSENDALE – Commissioner of Securities and Insurance,
Montana State Auditor

Date: September 21, 2017

Premium Determination for Executive/Corporate Officers in Montana

To Whom It May Concern:

The National Council on Compensation Insurance (NCCI) is the workers' compensation advisory organization designated by the Commissioner pursuant to Mont. Code Ann. § 33-16-1023. The information provided by the designated advisory organization assists the Commissioner with "the making of premium rates for workers' compensation insurance issued under compensation plan No. 2 and plan No, 3[.]" Mont. Code Ann. § 33-16-1002. NCCI updated its Montana Advisory on Loss Costs filing on July 1, 2013. That filing included modifications to NCCI's Basic Manual rules regarding Executive Officers, Members of Limited Liability Companies, Partners, and Sole Proprietors[1] to align the Miscellaneous Values and manual rules with Mont. Code Ann. §§ 39-71-118(5), and 401.

NCCI issued an FYIPlus Circular on July 14, 2017 to clarify the premium determination for executive/corporate officers, and stated in part:

"To be excluded from coverage (and yet have the option for the employer to elect coverage), executive/corporate officers must meet certain criteria as provided in Sections 39-71-401 and 39-71-118 of the Montana Code Annotated. If an executive/corporate officer does not qualify to be excluded from coverage, then that officer is automatically included under the Workers Compensation Act, unless the officer is exempt from the Act as described in **Basic Manual** Rule 2-E-1-b."

If exempt, the employer may elect that the officer or manager be covered under the Workers' Compensation Act, 39-71-118 (5) (a). Section 39-71-118 (5) (d) provides for the election of a minimum and maximum payroll for the exempt officers or managers. The minimum and maximum payroll election does not apply unless the exemption requirements are met. However, as clarified by the NCCI's 2013 Montana Advisory on Loss Costs filing, Montana law requires non-exempt executive/corporate officer payroll to be automatically included in premium calculations.

[1] The proposal modifies references to minimum and maximum coverage levels and replaces those with references to the Miscellaneous Values page (Basic Manual Appendix F). Additionally, the proposal eliminates the payroll limitation in the Basic Manual for executive officers who are automatically included under the Workers Compensation Act.