



CR 94-224

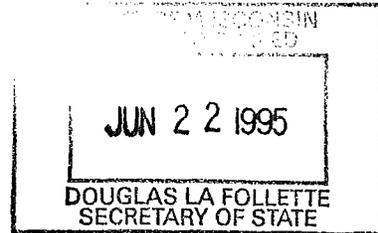
State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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STATE OF WISCONSIN)
)
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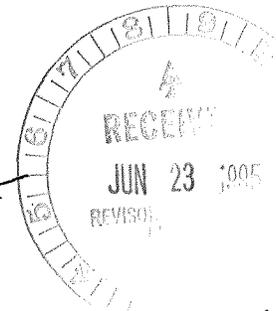


I, Josephine W. Musser, Commissioner of Insurance and custodian of the official records of this Office, certify that the attached rule-making order affecting sections Ins 21.01(4), Wis. Adm. Code relating to the notice requirements for terminating worker's compensation insurance policies, was issued by this Office on June 22, 1995.

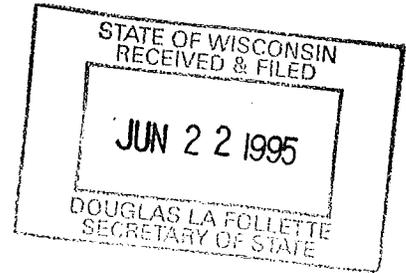
I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the whole of the original.

Dated at Madison, Wisconsin, on June 21, 1995.

Josephine W. Musser
Josephine W. Musser
Commissioner of Insurance



9-1-95



ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE
AMENDING A RULE

To amend s. Ins 21.01 (4) (title) and (a) (intro.), and (8); to create s. Ins 21.01 (4) (b), (6), and (7); to renumber and amend s. Ins 21.01 (4) (b), (4) (c), (4) (d), and (4) (f) to (i); to repeal s. Ins 21.01 (4) (e) and Ins 21.01 Note, relating to the notice requirements for terminating worker's compensation insurance policies.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: 631.36, 102.31, and 601.41 (3), Stats.

Statutes interpreted: 631.36 and 102.31, Stats.

These changes will give worker's compensation insurance policyholders additional time to shop for other insurance when their policies are cancelled. In addition, the rule clearly requires insurers to notify DILHR of any cancellations. Finally, the rule requires that notices be sent to the insured not more than 75 days prior to the termination date so that the insured will be adequately informed of the impending termination.

SECTION 1. Section Ins 21.01 (4) (title) and (a) (intro.) are amended to read:

Ins 21.01 (4) MIDTERM CANCELLATIONS. (a) (intro.) (title)

Permissible grounds. Except as provided by par. (c), no worker's compensation

insurance policy may be cancelled by the insurer prior to the expiration of the agreed term except for failure to pay a premium due or on grounds stated in the policy, which must be comprehended within one of the following classes:

SECTION 2. Ins 21.01 (4) (b) is renumbered Ins 21.01 (4) (c) and amended to read:

Ins 21.01 (4) (c) (title) New policies. Paragraph ~~(a)~~ does Paragraphs (a) and (b) do not apply to any worker's compensation insurance policy that has not been previously renewed if the policy has been in effect less than 60 days at the time the notice of cancellation is mailed or delivered. No cancellation under this paragraph is effective until at least 30 days after the 1st class mailing or delivery of a written notice to the policyholder. The cancellation is effective whether or not the notice has been given to the policyholder upon the effective date of replacement insurance coverage obtained by the employer or of an order exempting the employer from carrying insurance under s. 102.28 (2), Stats.

SECTION 3. Ins 21.01 (4) (b) is created to read:

Ins 21.01 (4) (b) Notice. No cancellation under par. (a) is effective until at least 30 days after the 1st class mailing or delivery of a written notice to the policyholder. The cancellation is effective whether or not the notice has been given to the policyholder upon the effective date of replacement insurance coverage obtained by the employer or of an order exempting the employer from carrying insurance under s. 102.28 (2), Stats.

SECTION 4. Ins 21.01 (4) (c) is renumbered Ins 21.01 (5) and amended to read:

Ins 21.01 (5) (title) ANNIVERSARY CANCELLATION. A worker's compensation policy may be issued for a term longer than one year or for an indefinite term with a clause providing for cancellation by the insurer by ~~giving notice 30 days prior to any anniversary date, as provided in par. (d)~~

~~for cancellations or nonrenewals in the manner provided in sub. (6) (a) for nonrenewals, except the notice must be given at least 60 days prior to any anniversary date and an insurer may not cancel a policy solely because of the termination of an insurance marketing intermediary's contract with the insurer unless the insurer complies with sub (7).~~

SECTION 5. Ins 21.01 (4) (d) is renumbered Ins 21.01 (6) (c) and amended to read:

Ins 21.01 (6) (c) (title) Exceptions. ~~No cancellation or a~~ nonrenewal of a worker's compensation policy is effective ~~until at least 30 days after the 1st class mailing or delivery of a written notice to the policyholder.~~ However, ~~the cancellation or nonrenewal is effective~~ whether or not the notice has been given to the policyholder upon the effective date of replacement insurance coverage obtained by the employer or of an order exempting the employer from carrying insurance under s. 102.28 (2), Stats.

SECTION 6. Ins 21.01 (4) (e) is repealed.

SECTION 7. Ins 21.01 (4) (f) to (i) are renumbered Ins 21.01 (9) to (12), and Ins 21.01 (9) and (10), as renumbered, are amended to read:

Ins 21.01 (9) (title) CANCELLATION OR NONRENEWAL NOTICE. Notice of cancellation or nonrenewal under sub. (4) (b) or (6) is not effective unless the notice contains adequate instructions to the policyholder for obtaining insurance through the Wisconsin worker's compensation insurance pool. This paragraph does not apply to worker's compensation policies cancelled or nonrenewed on behalf of the Wisconsin worker's compensation insurance pool or if the ground for cancellation or nonrenewal is nonpayment of premium and the notice of cancellation or nonrenewal so states.

(10) (title) CANCELLATION FOR NONPAYMENT OF PREMIUM. Subsections (8) and (9) do not apply if the ground for cancellation or nonrenewal is nonpayment of the premium and if the notice so states. No termination of

worker's compensation insurance is effective unless such termination complies with s. 102.31 (2), Stats., including the entity designated by the department of industry, labor and human relations receiving proper notice at least 60 days prior to any nonrenewal under sub. (5) or (6) and at least 30 days prior to any cancellation under sub. (4).

(11) (title) INSURER'S LIABILITY. There is no liability on the part of and no cause of action of any nature arises against any insurer, its authorized representatives, its agents, its employees, or any firm, person or corporation furnishing to the insurer information relating to the reasons for cancellation or nonrenewal, for any statement made by them in complying or enabling the insurer to comply with this ~~subsection~~ section, or for the provision of information pertaining thereto.

(12) (title) RETURN PREMIUMS. If an insurer cancels a worker's compensation policy, the insurer shall return to the insured the pro rata unearned premium less any audit premiums which are due.

SECTION 8. Ins 21.01 (6), (7), and (8) are created to read:

Ins 21.01 (6) NONRENEWAL. (a) Notice required. Subject to subs. (4) and (5), a policyholder has a right to have the worker's compensation policy renewed, on the terms then being applied by the insurer to similar risks, for an additional period of time equivalent to the expiring term if the agreed term is one year or less, or for one year if the term is longer than one year, unless at least 60 days prior to the date of expiration provided in the policy a notice of intention not to renew the policy beyond the agreed expiration date is mailed or delivered to the policyholder, or with respect to failure timely to pay a renewal premium a notice is given, not more than 75 days nor less than 30 days prior to the due date of the premium, which states clearly the effect of nonpayment of premium by the due date.

(b) Prohibited nonrenewal. Notwithstanding par. (a), an insurer may not refuse to renew a worker's compensation policy solely because of the termination of an insurance marketing intermediary's contract with the insurer unless the insurer complies with sub. (7).

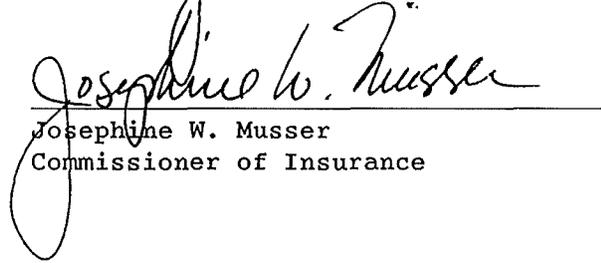
(7) POLICY CANCELLATION. An insurer may refuse to renew or may cancel a worker's compensation policy under sub. (5) or (6) solely because of the termination of an insurance marketing intermediary's contract with the insurer only if the notice of nonrenewal or cancellation contains an offer to continue or renew the policy with the insurer if the insurer receives a written request from the policyholder prior to the cancellation or renewal date. The insurer shall continue or renew the policy if a timely request is received unless the policyholder does not meet normal underwriting criteria. However, the cancellation or nonrenewal is effective whether or not the notice contains an offer to continue or renew the policy upon the effective date of replacement insurance coverage obtained by the employer or of an order exempting the employer from carrying insurance under s. 102.28 (2), Stats.

(8) INFORMATION ABOUT GROUNDS. A notice of cancellation or nonrenewal under sub. (4), (5) or (6) shall state with reasonable precision the facts on which the insurer's decision is based. No such notice is effective unless it so states the facts. However, the cancellation or nonrenewal is effective whether or not the notice states with reasonable precision the facts which the insurer's decision is based, upon the effective date of replacement insurance coverage obtained by the employer or of an order exempting the employer from carrying insurance under s. 102.28 (2), Stats.

SECTION 9. Ins 21.01 Note is repealed.

SECTION 10. EFFECTIVE DATE. This rule will take effect on the first day of the first month after publication, as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, this 20 day of June, 1995.



Josephine W. Musser
Commissioner of Insurance

