

Chapter Ins 21

WORKER'S COMPENSATION INSURANCE

Ins 21.01 Termination of worker's compensation insurance policies

Note: Chapter Ins 21 was created as an emergency rule effective October 1, 1986.

Ins 21.01 Termination of worker's compensation insurance policies. (1) PURPOSE. In accordance with s. 631.36 (1) (c), Stats., this rule exempts worker's compensation insurance, as defined in s. Ins 6.75 (2) (k), from the requirements of s. 631.36, Stats., and establishes specific requirements concerning termination of worker's compensation insurance contracts.

(2) **SCOPE.** This section applies to all worker's compensation insurance policies issued in Wisconsin. Worker's compensation insurance policies may provide terms more favorable to policyholders than are required by this rule.

(3) **EXEMPTION.** Worker's compensation insurance policies are exempt from the requirements of s. 631.36, Stats.

(4) **REQUIREMENTS.** (a) 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:

1. Material misrepresentation;

2. Substantial change in the risk assumed, except to the extent that the insurer should reasonably have foreseen the change or contemplated the risk in writing the contract; or

3. Substantial breaches of contractual duties, conditions or warranties.

(b) Paragraph (a) does 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.

(c) 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.

(d) No cancellation or 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.

(e) If the notice of cancellation or nonrenewal under par. (d) does not state with reasonable precision the facts on which the insurer's decision is based, the insurer must mail or deliver that information within 5 working days after receipt of a written request for the basis of the decision by

the policyholder. No such notice is effective unless it contains adequate information about the policyholder's right to make the request and displays prominently that it is a cancellation or nonrenewal notice.

(f) Notice of cancellation or nonrenewal under par. (d) 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.

(g) No termination of worker's compensation insurance is effective unless such termination complies with s. 102.31 (2), Stats.

(h) 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 employes, 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, or for the provision of information pertaining thereto.

(i) 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.

Note: Initial applicability. Subsection (4) (i) first applies to worker's compensation policies terminated after May 1, 1992.

History: Cr. Register, January, 1987, No. 373, eff. 2-1-87; cr. (4) (i), Register, April, 1992, No. 436, eff. 5-1-92.