

ATTENTION UNDERWRITERS & AGENTS
THE FOLLOWING CHANGES APPLY IN MINNESOTA
EFFECTIVE MAY 26, 2005

July 1, 2005

ALL ASSOCIATION MEMBERS

Circular Letter No. 05-1453

RE: MN LAW CHANGE — NOTICE OF CANCELLATION/TERMINATION/NON-RENEWAL

The Minnesota Legislature has passed changes in the law governing the form and timing of the notice insurers (carriers) must give to insureds (policyholders) and to the Commissioner of the Department of Labor & Industry in the event of a policy cancellation, termination, expiration or non-renewal. These new changes are part of Minnesota Statutes, Section 176.185, subdivision 1 and 1a. By implementing these changes, the requirement of carriers to file cancellation/reinstatement notices for policyholders who ultimately pay their premium before the policy expiration date [in order to protect their right to timely cancel the policy upon nonpayment] has been eliminated. The Department of Labor & Industry and MWCIA are releasing this circular jointly to make you aware of these changes.

Your company should take whatever steps are necessary to immediately bring itself into compliance with the new statutory requirements for canceling, expiring, terminating, or non-renewing workers' compensation coverage in Minnesota. A synopsis of the changes contained in Section 176.185, subd. 1 and 1a are attached for your convenience.

WHAT HAS NOT CHANGED:

The following statutes and regulations have not changed and must still be followed by insurers:

- Minnesota Statutes, Section 60A.351 requiring 60 days prior notice to the policyholder if an insurer wishes to renew a policy at less favorable rates or terms;
- Minnesota Statutes, Section 60A.36 describing the requirements for midterm cancellation of a policy including 60 days advance notice to the policyholder;
- Minnesota Statutes, Section 60A.37 requiring 60 days prior notice if an insurer intends not to renew a policy; and
- Minnesota Rule 5222.2002 requiring that notice of coverage and cancellation be submitted to MWCIA as the entity designated to collect this information on behalf of the Department of Labor & Industry.

MINNESOTA DEPARTMENT OF LABOR & INDUSTRY WORKERS' COMPENSATION DIVISION

Summary of Minnesota Filing Requirements under Minnesota Statute §176.185

- Notice of coverage must be filed within 10 days of policy effective date
- Written notification specifying a policy will be cancelled, terminated, and/or expired if premium is not paid by the due date must be sent to the insured (policyholder) 60 days before the date coverage will cease
- Written notification specifying a policy will non-renew on the policy expiration date must be sent to the policyholder 60 days before the date coverage will cease
- Written notification of a midterm cancellation must be sent to the policyholder 60 days before the date of coverage will cease
- The following notice language* must be included on every 60 day advance notice to the policyholder:

You must maintain workers' compensation insurance, or obtain permission to self-insure for workers' compensation from the Minnesota Department of Commerce. Failure to maintain workers' compensation coverage is a violation of Minnesota Statute, Section 176.181, and could result in criminal prosecution and civil penalties of up to \$1,000 per week per uninsured employee.

- The above required language must be separately listed from the rest of the text in the notice and must be shown in at least 12 point bold-faced type. This form of notice must be placed on or sent with a premium invoice or other document by the carrier to notify the policyholder of the intended cancellation or termination.
- The above notice must be mailed or delivered to the policyholder at least 60 days prior to the actual cancellation, termination, or non-renewal date
- In addition to the above written notice, the carrier must, within 10 calendar days of the specified cancellation, termination, expiration, or non-renewal date, send the Policy Termination/Cancellation/Reinstatement Notice (WC 89 06 09 B) to the policyholder and file it with MWCIA for coverage to actually cease as of that date
- Carriers who fail to provide the required 60 days advance notice with the required language specified above will continue to be liable for coverage until 60 days after the Policy Termination/Cancellation/Reinstatement Notice (WC 89 06 09 B) is sent to the policyholder and received by MWCIA unless replacement coverage exists
- Carriers who fail to send the Policy Termination/Cancellation/Reinstatement Notice (WC 89 06 09 B) to the policyholder and to also file it with MWCIA within 10 calendar days of the proposed cancellation/expiration date will continue to be liable for coverage until the date the notice is both sent to the policyholder and received by MWCIA unless replacement coverage exists

These changes to Minnesota Statute § 176.185 are intended to streamline the cancellation/renewal process for the employer as well as the insurance company by allowing carriers writing workers' compensation coverage in Minnesota to use forms such as their renewal billing notice to fulfill Minnesota's required 60 day cancellation, termination, expiration, and/or non-renewal notice to the policyholder. By including the required notice language provided under M.S. §176.185, subd. 1(b) on a billing invoice or other documentation sent to the policyholder, carriers eliminate the need to file cancellation/reinstatement notices for employers who pay their premium before the policy expiration date. Cancellation notices to MWCIA, as the entity designated to collect this information on behalf of the Minnesota Department of Labor & Industry, are only required for policies whose premium is not received by the policy expiration date. Upon expiration of a policy, the carrier now has ten calendar days to forward a copy of the Policy Termination/Cancellation/Reinstatement Notice (WC 89 06 09 B) to the policyholder and MWCIA.

The chart below illustrates the various timelines based upon the revisions to M.S. §176.185:

NEW NOTICE REQUIREMENTS			
60 day advance notice to PH sent <u>with</u> required notice language		60 day advance notice sent to PH <u>without</u> required notice language	60 day advance notice <u>not</u> sent to PH
Cancellation notice sent to insured (PH) & received by MWCIA <u>10</u> or fewer days after expiration date	Cancellation notice sent to PH &/or received by MWCIA more than <u>10</u> days after expiration date		
POLICY CANCELLED AS OF DATE STATED	REGARDLESS OF DATE STATED, CANCELLATION IS NOT EFFECTIVE UNTIL THE LATEST DATE THAT <u>BOTH HAVE OCCURRED</u>	REGARDLESS OF DATE STATED, CANCELLATION IS NOT EFFECTIVE UNTIL <u>60</u> DAYS <u>AFTER THE CANCELLATION NOTICE IS SENT TO THE PH AND RECEIVED BY MWCIA,</u> WHICHEVER IS LATER	REGARDLESS OF DATE STATED, CANCELLATION IS NOT EFFECTIVE UNTIL <u>60</u> DAYS <u>AFTER THE CANCELLATION NOTICE IS SENT TO THE PH AND RECEIVED BY MWCIA,</u> WHICHEVER IS LATER

Please direct any questions you may have concerning the law changes to Minnesota's cancellation/non-renewal procedures to Jim Feckey of the Minnesota Department of Labor & Industry by calling 651.284.5455 or sending an email to Jim.Feckey@state.mn.us.