



STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

**Supplement No.2 to
Circular Letter No. 18 (1997)
June 1, 1999**

**TO:All Licensed Property/Casualty Insurers Authorized To Write Workers'
Compensation Insurance in New York State**

**RE:Workers' Compensation Policies/Preferred Provider Organization
Arrangements**

[Circular Letter No. 18 \(1997\)](#), issued on December 16, 1997, and [Supplement No. 1](#), dated May 6, 1998, set forth requirements and procedures to be followed by insurers offering credits for workers' compensation managed care programs in New York. The purpose of this Supplement is to outline additional procedures to be followed by insurers in filings made with this Department for workers' compensation managed care programs in New York. Please note the following:

- The filing should include a copy of the Business Contract and, if applicable, a copy of the Management Service Agreement (with a certified PPO) that will be used, and must provide documentation of the approval of the agreement/contract by the Department of Health.
- Where the insured employer has both covered and non-covered employees, the managed care premium credit should be allocated based on standard premium. An example of such a situation is an employer with a mix of union and non-union employees, in which non-union employees are participating in a managed care program while unionized employees are not. (Reasons for unionized employees not participating in managed care programs vary. Examples include: the appropriate negotiations may not yet have taken place; negotiations may not have been completed; or the collective bargaining unit may have decided not to participate in the managed care program.)
- The filing should include a list of all the counties in which the insurer intends to utilize the Managed Care Premium Credit.
- Where the insured's employer has operations in counties where the Managed Care Premium Credit is not applicable, the credit should be allocated accordingly.
- Credits may only be applied to insureds that have notified their carrier of their intention to participate in the managed care program. Appropriate documentation should be maintained in the underwriting file.
- Insurers must maintain evidence in the underwriting file of each insured receiving a Workers' Compensation Managed Care Premium Credit, that the employer has complied with the requirements set forth in Title 12 NYCRR Part 325-8.2 (a) and (b) of the Workers' Compensation Board Rules, which read as follows:

"a) Any employer utilizing the services of a certified preferred provider organization shall

distribute to all of its employees a written notice of the preferred provider organization arrangement for the treatment of all workers' compensation injuries and illnesses. Such written notice shall also advise potential claimants that they may obtain more detailed informational materials regarding the preferred provider organization from the employer". (For details, see Part 732-2.6 (e) of Title 10 NYCRR).

"b) Where there is a duty to collectively bargain for the utilization and implementation of a preferred provider organization, an employer must engage in such bargaining and must file with the board a notarized affirmation signed by the collective bargaining agent(s) confirming that the requisite negotiation of the selection of a preferred provider organization has taken place, and that the particular union and individual agent(s) which have agreed to such preferred provider organization are the recognized or certified exclusive bargaining representatives of the covered employees. All agreements shall clearly state the duration of such agreement and all subsequent agreements shall be subject to the same prior review and approval by the collective bargaining agent(s)".

A copy of the notarized affirmation that confirms the requisite negotiation of the selection of the PPO, or attests that the employer either has no unionized employees or that the employer has unionized employees that are not participating in the PPO program, should also be maintained in the underwriting file. Samples of acceptable affirmation statements are attached for your information.

- The managed care premium credit should be removed from the policy of any employer that fails to adhere to any of the requirements of the New York State Workers' Compensation Board and the Department of Health applicable to PPO arrangements.

Questions regarding this Circular Letter should be directed to:

Marielle Brutus, Senior Insurance Examiner
New York State Insurance Department
Property Bureau, Second Floor
25 Beaver Street
New York, NY 10004
Telephone No. 212-480-5511

Very truly yours,

Mark Presser
Assistant Deputy Superintendent
and Bureau Chief
Property Bureau

[Click here](#) for **SAMPLE AFFIRMATION A** and **SAMPLE AFFIRMATION B**