



March 31, 2008

Circular 2008-05

Amish & WC Board Agreement

Background

The Indiana statute [IC § 22-3-5-4](#) allows for a substitute system of insurance, subject to the approval of the Workers Compensation Board of Indiana (“Board”).

The Board and Amish business owners have reached an Agreement effective January 1, 2008. Amish business owners may choose to join a voluntary mutual aid plan titled “Small Business Aid.” (SBA) if they employ Amish workers. Through this group, injured Amish workers will be provided with necessary medical care and compensation similar to benefits under the Workers Compensation Act. Non-Amish workers are not eligible for inclusion in the plan and should still be covered by workers compensation insurance.

Coverage Issues

This plan only covers Amish workers. It does not cover non-Amish workers. An Amish employer may employ both Amish workers and non-Amish workers. Accordingly, if such an Amish employer participates in the Amish Small Business Aid plan, it must still provide coverage for its non-Amish workers.

For an insurer covering such an employer, to properly set up the policy, it appears an appropriate method could be attaching the Partners, Officers and Others Exclusion Endorsement (WC 00 03 08). In the endorsement schedule of excluded workers, it could display the words “Amish employees covered under the Amish Small Business Aid.”

Issues & Answers

Because this agreement is new, and in consultation with the Board, we have attempted to anticipate issues and questions which may arise and provided answers (please see below).

1. *Issue:* How does the Board or an insurer verify that a worker is of the Amish faith? This decision then determines if a premium charge is appropriate and if an injury occurs, if benefits should be paid or denied.

Answer: The Small Business Aid plan requires each participating employer to keep an updated list of all workers. It is in the best interest of Amish employers participating in the Small Business Aid plan to provide accurate information to insurers in order to keep the plan approved by the Board. It is the Board’s expectation that insurers will work with Amish employers in a spirit of cooperation in determining this matter.

2. *Issue:* Regarding subcontractors, what form of proof of coverage is appropriate for an Amish employer to prove to a general contractor or insurer that the Amish employer has coverage through the Small Business Aid plan? This is especially important when dealing with

subcontractors since the WC statute makes a general contractor liable for uninsured subcontractors.

Answer: The Amish employer/subcontractor should be able to furnish the general contractor or insurer the Small Business Aid list showing its name on the list, or a certificate of insurance if both Amish and non-Amish workers are employed by the subcontractor.

- Issue:* A Small Business Aid employer/member may withdraw from the plan by a signed letter of intent effective the day after the withdrawal was signed. If an employer withdraws from the plan, how will the insurer be notified? Note that the insurer would now be responsible for the additional exposure of Amish workers under a policy issued to cover only the non-Amish workers.

Answer: The employer should copy its insurer in the withdrawal letter. The insurer might desire to conduct a mid-term audit to adjust payrolls and update endorsements.

- Issue:* The Agreement excludes occupational diseases (OD) at this time. Would Amish employees covered under the Amish Small Business Aid be eligible for OD benefits? Note that the standard WC policy automatically includes OD and Employers Liability coverage.

Answer: No. The Board's position is that there is no WC or OD coverage under the standard policy for Amish employees covered under the Amish Small Business Aid.

- Issue:* The Board's Agreement specifically mentions the Amish. Is the Agreement or a similar agreement available for other religions which may hold the same or similar beliefs?

Answer: No. This is a single agreement with a unique group.

As this Agreement matures and more insights are learned, we will update you.

Sincerely,

Ronald W. Cooper, CWCP
President

Attachments:

Certificate of Agreement effective January 1, 2008
Amish Small Business Aid brochure
Partners, Officers and Others Exclusion Endorsement (WC 00 03 08)

CERTIFICATE OF AGREEMENT

January 1, 2008

In accordance with your Small Business Aid handbook and the Workers Compensation Act set out at Chapter 22, Title 3 of the Indiana Code, your group of Amish business owners has reached a workable system to provide medical treatment and compensation to injured Amish workers employed by Amish owned businesses. This system, while limited in its breadth, is acceptable to the Worker's Compensation Board of Indiana, as to the situations it addresses. Your Small Business Aid handbook is a streamlined explanation of the benefits an injured Amish worker may seek from his employer, and the employer, from the Small Business Aid membership.

As a brief recap, you have agreed to keep the Board informed of changes in the Small Business Aid membership. If you would please keep the Board apprised of the names and addresses of the members participating, the nature of each business and the approximate number of workers employed, this would be helpful to us. In addition, we will need the name and phone number, if applicable, of a contact person for each business if it is different from the named business owner. The Worker's Compensation Board approves your plan as it addresses workers' compensation injuries while excluding occupational diseases at this time. It is my hope that in the next year or so we can reconvene to address the Board's concerns regarding occupational illnesses which Amish employees may contract in their workplaces.

You have agreed that when an Amish employee of a Small Business Aid member business sustains a work related injury which results in that employee missing time from work, a loss time claim form will be completed and mailed to Mary Taivalkoski at the Board's office in Indianapolis. If that employee is unable to work for 8 or more days, he or she shall be paid at the rate of 66 2/3% of the employee's weekly wages until such time as the employee can return to work, at either light or regular duty.

While your booklet refers to permanent partial disability, the Board refers to the situation where a worker does not return to 100% of his pre-injury physical condition as permanent partial impairment. Permanent partial impairment, or PPI, is a percentage of either a body part or the body as a whole, assigned by the treating physician when the injured worker is released from the doctor's care. The statute section you have cited in your booklet sets out the schedule of payments owed based on the worker's average weekly wage.

The one benefit factor not set out in your booklet is that of permanent total disability. This is when an employee, through an injury in the course and scope of his employment, sustains an injury which makes his future work for any employer unfeasible. It is my understanding that in such situations, the Small Business Aid Group, in conjunction with the Amish community and church, provides lifelong assistance to the injured Amish worker and that worker's family. Please be aware, as your manner of addressing permanent total disability differs from that set out in the Indiana Worker's Compensation Act, and also because the Small Business Aid Group does not pay into the Second Injury Fund, an Amish employee who is rendered permanently and totally disabled through a workplace injury will be unable to receive benefits from the Indiana Second Injury Fund.

This Certificate shall be in full force and effect until amended in writing by the Worker's Compensation Board of Indiana.

Linda Hamilton
Chairman, Worker's Compensation Board

SMALL BUSINESS AID



1998 - First Printing
1999 - Second Printing
2001 - Third Printing
2007 - Fourth Printing
2008 - Fifth Printing

Introduction

Since the Amish Faith teaches us to be opposed to Public Insurance and State Workman's Compensation is considered a public insurance by the Internal Revenue Service, many Amish business owners and their workers desired an alternative to the State Compensation plan.

Through discussions at meetings with many Amish business owners and with encouragement from neighboring states who already have a working plan among themselves, it was decided to set up a similar plan in Northern Indiana to help fellow members with medical expenses due to work place accidents and/or other specified losses.

This is a voluntary mutual aid plan for Amish employers and business owners desiring to help share burdens with others.

Therefore our goal remains not to see what we can collect, but to help one another in time of need. This plan is intended to meet the requirements of the Workers Compensation Act of Indiana as set out at IC 22-3-5-4.

Membership

This plan was started to help small business owners with expenses from accidents on the job, but does not cover illness caused by our jobs.

Eligible employers and self employed persons may enroll by filling out a sign up form. Membership begins the day immediately following sign up.

Members may withdraw from the plan by a signed letter of such intent and would be effective the day immediately following the day the withdrawal was signed.

Any member leaving the plan shall remain responsible to help pay for any accidents which happened before the withdrawal was effective.

It is the duty of the Employer to keep an updated list of all workers sent to the Treasurer. This list needs to include all members by name.

Membership is not available to employees or employers who are not of the Amish faith.

Administration

The plan shall be administered by a directors committee composed of enrolled members from various different communities of the area.

Duties Of Directors Committee

- To sign up and withdraw members and keep an updated count of enrolled persons.
- To supply forms and assist members to fill out the various forms and reports.
- To notify members of meetings or collections and help forward them to the treasurer.
- The treasurer shall collect and disperse funds upon approval from the committee and keep accurate records and provide an annual financial report.
- Review all accident report forms and bills to be paid. After approval, bills are forwarded to Treasurer for payment.

Coverage

This plan shall cover self-employed Amish business owners, their workers or employees who have been signed into the plan. The first \$1,000.00 is to be paid by the employer or member. The plan will pay the balance of medical expenses including transportation to and from medical establishments. The plan will not pay medical expenses for someone receiving benefits from Workers Compensation. Coverage shall extend to injured workers in accordance with title 22 article 3. (entire act)

Temporary Total Disability

Indemnity benefits will be owed on the 8th calendar day of a medical defined disability. This is to be paid at the mandated rate of 66 2/3 percent of the average weekly rate until claimant is determined to be at maximum medical improvement. If mutually agreed, benefits may be greater than specified under the act.

Permanent Partial Impairment

Treatment for injuries will be provided until the employee reaches maximum medical improvement. At such time the injured employee will be medically evaluated for any permanent loss. If such a loss is rendered by the physician, then equitable payment will be offered to the injured worker in accordance with the pertinent Indiana code 22-3-3-10. (schedule of payments)

Cost Sharing

After the directors committee receives and approves an accident report form, the cost shall be divided by the number of members in the plan. Employers and or members will then be notified what his share of the expenses are. Each employer or member is expected to pay his share within 10 days of notice date. The committee shall be notified if any employer or member does not pay his share within 30 days of notice date, and shall follow up and work with members to solve the problem.

It is the duty of the Employer to work with Doctors and Hospitals to receive all discounts. This is a cost sharing plan, let's work to make the financial load as light as possible.

Reporting

Within seven days of an accident, an early report shall be filed with a director. After all the bills are in, employer or members shall file an accident report form with a director. A copy of all bills to be paid shall be included. All workers listed on the sign up forms shall be used to determine the amount due per member. All employers and family members involved in the business and want to be covered shall be listed as workers by name. Lost time claims are to be filed with the executive secretary of the Workers Compensation Board by the treasurer of the Small Business Aid.

Miscellaneous

Members are encouraged to attend meetings when possible.
Members shall cooperate with their director. Have forms and collections in on time. If unable to do so, notify him as soon as possible.
Employers shall explain to workers how the plan works and that injured workers should inform the Doctor or Hospital that the employer or member is responsible to pay all bills, which is then reimbursed from the plan.
Let us take our responsibility seriously and provide a safe workplace for our workers, remembering that others are willing to share time and money if an accident occurs.
We recognize these BY-LAWS are not inflexible, and if conditions warrant they may be changed or supplemented.

Small Business Aid offers enrolled businesses product liability coverage including injuries on your property to a maximum of \$250,000.00, with a deductible of \$1,000.00. Bad-management or poor workmanship do not qualify.

Persons who are enrolled in this plan and some times work elsewhere shall be considered covered if the second employer is also enrolled.

Non Amish workers and drivers need to be covered by a plan other than Small Business Aid.

Coverage for Michigan shall be similar to Indiana regulations.

Committee Members

Rudy J. Miller (A & R Machine Shop)
14607 CR 20, Middlebury, IN 46540

Sam W. Miller (Square Deal Construction)
14704 CR 28, Goshen, IN 46528

Delbert Helmuth (D.H. Machine)
70388 Ash Road, Nappanee, IN 46550

Freeman P. Miller (F & N Woodworking)
2105 West 450 South, LaGrange, IN 46761

Dennis Lehman (Classic Carpentry)
3120 North 675 West, Shipshewana, IN 46565

Levi Schwartz (L & L Woodworking)
13614 North 700 West, Nappanee, IN 46550

Eli Miller [Treasurer] (Clinton Tax Service)
61569 County Road 35, Goshen, IN 46528

Jonas Jay Schmucker (Allen Co.)
19136 Hurstrown Road, Grabill, IN 46741

PARTNERS, OFFICERS AND OTHERS EXCLUSION ENDORSEMENT

The policy does not cover bodily injury to any person described in the Schedule.

The premium basis for the policy does not include the remuneration of such persons.

You will reimburse us for any payment we must make because of bodily injury to such persons.

Schedule

Partners

Officers

Others

Notes:

1. Use this endorsement in a state where an individual has elected pursuant to the workers compensation law not to be covered by the law and to exclude employers liability coverage where the insured is statutorily exempt from workers compensation coverage.
2. Individuals may be designated in this endorsement only when it is proper to do so under the workers compensation law. Individuals may be designated by naming them or by describing them, as, for example:
 - a. all partners;
 - b. all executive officers except the president;
 - c. each person named in Item 4 of the Information Page.
3. This endorsement may be used in Missouri to exclude members of a limited liability company who have rejected workers compensation and employers liability insurance in accordance with Missouri Department of Insurance Bulletin 96-02.
4. Use this endorsement in the state of Missouri to exclude family members, as allowed by Section 287.035.6.(2), RSMo. The family members should be individually named (a general statement of "all family members" is not acceptable) within this endorsement and updated annually to avoid any possible disputes over which family members intend to be excluded. In addition, for purposes of Section 287.035.6.(1), RSMo, family members within the third degree of affinity or consanguinity shall mean the following:
 - 1st Degree: Parents or child of the employer, or of the employer's current living spouse.
 - 2nd Degree: Grandparents, grandchildren, brothers or sisters of the employer or of the employer's current living spouse.
 - 3rd Degree: Great grandparents, great grandchildren, aunts, uncles, nieces or nephews of the employer or of the employer's current living spouse.
5. In the commonwealth of Massachusetts, this endorsement can be used only to identify corporate officers or directors who own at least 25% of the issued and outstanding stock of a corporation and who have elected to exclude themselves from coverage in accordance with Massachusetts General Law, Chapter 152, Section 1(4), as amended, and Regulation 452 CMR 8.00. All excluded corporate officers and directors must be individually named on this endorsement.