

March 14, 1950

SUBJECT: INSURANCE

WITHDRAWN

TO ALL AUTHORIZED COMPANIES LICENSED TO WRITE BENEFITS UNDER THE DISABILITY BENEFITS LAW (CHAPTER 600, LAWS OF 1949)

Under date of February 27, 1950, Advisory Insurance Forms A, B and H, together with a memorandum relative thereto, were sent to all insurance companies licensed to write benefits under the Disability Benefits Law. In the memorandum which accompanied the above mentioned communication, companies were advised that final consideration had not been given to all the forms which had been the subject of study. Final consideration has now been given to two additional forms, namely, Forms E and G, which are attached hereto, together with explanatory memorandum. Additional advisory forms are still under consideration and it is expected that they will be released within the near future.

ROBERT E. DINEEN

Superintendent of Insurance

ATTACHMENT

March 14, 1950

MEMORANDUM

ADVISORY INSURANCE POLICY FORMS UNDER THE DISABILITY BENEFITS LAW

Advisory Forms A, B and H have heretofore been sent to insurance companies. The Insurance Department has now given final consideration to two additional Advisory Forms for the guidance of insurance carriers licensed to write Disability Benefits Law coverage. The attached Advisory Forms E and G are designed for use as endorsements to the standard form of Workmen's Compensation Policy.

ADVISORY FORM E

Many of the companies which will undertake to write insurance under the Disability Benefits Law are workmen's compensation writing companies, and it is expected that some employers will look to their workmen's compensation carriers to handle the required disability insurance more or less in conjunction with their workmen's compensation insurance. Since this is so, a number of companies may wish to write disability benefits by means of an endorsement to the workmen's compensation policy. Advisory Form E is such an endorsement.

This endorsement is designed to meet the benefit requirements of Section 204 of the Disability Benefits Law and relies wholly upon the law for a statement of the benefits payable, benefit limitations and restrictions, claim procedures, etc. In preparing this form, the policy provisions set out in the Standard Workmen's Compensation and Employers' Liability Policy are made to apply to the additional benefits wherever practicable. Only such changes have been made in

the Workmen's Compensation Policy as are necessary to make the provisions apply to the disability benefits.

Advisory Form E is readily adaptable for use by companies writing workmen's compensation insurance which do not have established group insurance departments. The use of this endorsement is an adaptation of a familiar device and one which it is anticipated can be handled inexpensively. Particularly on the small type of risk, companies can effectively and efficiently write the additional benefits required by the Disability Benefits Law by simply feeding into the company's existing operational procedures an amendment to an existing policy, without disruption of normal operating procedures and without organizational changes.

#### ADVISORY FORM G

There are some companies with established group insurance departments which will find it necessary or desirable to write insurance under the Disability Benefits Law by means of an endorsement to the Standard Workmen's Compensation and Employers' Liability Policy. For such companies it may be desired, even though the disability benefits are written by endorsement to the Workmen's Compensation Policy, to administer the disability benefits portion of the policy wholly within their group insurance departments. For this purpose it is desirable to have an endorsement which is complete in itself and sets out fully the undertaking of the company so that, particularly in handling claims, it will be unnecessary to have reference to the Workmen's Compensation Policy. Advisory Form G has been prepared for this purpose.

It will be noted that Advisory Form G is essentially an adaptation of Advisory Form A and represents a conversion of Advisory Form A into an endorsement. All of the provisions of Advisory Form A have been made a part of the endorsement and the comments made in connection with Form A apply equally to Form G. Likewise, all the comments made above concerning the use of Advisory Form E apply with equal force to this form, since it accomplishes the same purpose as Form E but does not rely in its construction upon the provisions contained in the Workmen's Compensation Policy. Advisory Form B can be converted into an endorsement in a similar manner.

#### GENERAL

Advisory Forms E and G provide precisely the benefits required under Section 204 of the Disability Benefits Law. In some cases an employer may wish to modify the minimum statutory benefits as, for example, by reducing the waiting period or increasing the minimum cash benefit. This may be accomplished by using Advisory Form H, which was forwarded to insurance carriers under date of February 27, 1950, either in conjunction with Advisory Form E or G. When this method of modifying the benefits is utilized the word "policy" as it appears in the introductory language of Advisory Form H should be changed as appropriate to either "New York Disability Benefits Endorsement" (being the title of Advisory Form E), or "New York Disability Benefits Supplement" (being the title of Advisory Form G).

The Department at this time calls particular attention to the "CANCELTION OF POLICY" provision which is contained in Advisory Form B, heretofore sent to carriers under date of February 27, 1950. Reference to the provision will disclose that

"Upon receipt by the (Insurance Company), not less than twenty days prior to any premium due date, of a written request either from the Policyholder that this policy be canceled with respect to the employees of any one or more Employers or from an Employer that this policy be canceled with respect to his employees, the (Insurance Company) shall effect such cancelation by exercising the cancelation privilege set forth in the first paragraph of this section and in the written notice referred to therein shall state such premium due date as the date such cancelation is to be effective."

The Department wishes to call to the attention of all carriers which intend to use Advisory Form B that if premiums are payable less frequently than quarterly the provision must be changed to give the policyholder the right to effect cancelation at the end of any quarter during the policy year.

Advisory Form E  
3-8-50

NEW YORK DISABILITY BENEFITS ENDORSEMENT

For attachment to

STANDARD WORKMEN'S COMPENSATION AND EMPLOYERS' LIABILITY POLICY

when insurance is afforded under the Disability Benefits Law of New York to complete the contract as provided in the policy.

1. The obligations of Paragraph One (a) of the Policy apply to the Disability Benefits Law herein cited:

Section 204 of Article 9 of the Workmen's Compensation Law of the State of New York (Chapter 600 of the Laws of 1949)

and all laws amendatory thereof or supplementary thereto, which are or may become effective during the Policy Period, which article is hereinafter referred to as the "Disability Benefits Law."

2. In their application to insurance with respect to the Disability Benefits Law:

(a) Wherever used in the Policy:

"Personal injury," "personal injuries," "injury," "injuries," and "accident" mean disability under the Disability Benefits Law, "compensation" means disability benefits, and "Workmen's Compensation Law" means Disability Benefits Law.

(b) Paragraph 6 is amended to read:

This agreement shall apply only to the disability benefits which an employee is entitled to receive under the Disability Benefits Law because of employment in the business operations described in said Declarations while the Policy applies thereto. For the purpose of this insurance, such business operations shall include all operations necessary, incident, or appurtenant thereto, or connected therewith, whether such operations are conducted at the work place as defined and described in said Declarations, or also are in connection with or in relation to, such work places.

(c) Paragraph 7 of the Policy is amended to read:

This agreement shall apply only to disability commencing during the Policy Period limited and defined as such in Item 2 of the Declarations or, with respect to an employee whose employment terminates during the Policy Period, to disability commencing within four weeks after such termination of employment and prior to the first day after such termination on which he performs any work for remuneration or profit.

(d) The first and second sentences of Condition F of the Policy are replaced by the following:

Upon receipt by this Employer of notice of disability written notice shall be given by or on behalf of this Employer to the Company or any of its authorized agents as soon as practicable after the first day for which benefits may be payable with respect to such disability. Such notice shall contain particulars sufficient to identify this Employer and

also reasonably obtainable information respecting the time, place, and circumstances of the disability and the name and address of the employee. This Employer shall give immediate notice with full particulars of any claim made on account of disability.

3. This Employer shall furnish the Company with all information which the Company may reasonably require with regard to any matters pertaining to the insurance.

4. Notwithstanding any other provision of the Policy or any endorsement made a part hereof, benefits payable under the Policy or any such endorsement in accordance with the provision of benefits made under the Disability Benefits Law by this Employer, shall be payable at least to the extent and in the manner and subject to the conditions required by the terms of such provision of benefits, which provision is evidenced by this Policy.

5. Insurance afforded under the Policy, in its application to the Disability Benefits Law is separate and distinct from, and may be canceled independently of, any insurance which may be afforded under the provisions of the Policy other than this endorsement. Such independent cancellation may be effected by cancellation of this endorsement in the same manner that the Policy in its entirety may be canceled.

6. The rates of premium are subject to change, if during the term of this Policy any amendments affecting the benefits provided by the Disability Benefits Law become effective, such change, if any, to be made by endorsement naming the effective date thereof.

7. By acceptance of the Policy this Employer agrees that the statements in the declarations are his agreements and are representations and not warranties.

8. Under the Disability Benefits Law the Company will pay the assessments levied on the total payrolls of employees covered hereunder pursuant to Sections 214-2, 214-3 and 228 of said law.

9. In accordance with the requirements of the Disability Benefits Law, any excess of the aggregate contributions of employees applied to the cost of insurance provided under this endorsement over the premiums paid by this Employer (less any amounts returnable under this Policy for such insurance) shall, under rules of the Chairman of the Workmen's Compensation Board of the State of New York, be paid to this Employer and distributed or applied for the sole benefit of employees or otherwise be applied or disposed of as prescribed in Section 216 of the Disability Benefits Law. (See Note 3)

10. While this endorsement is in effect, Paragraph 13 of the New York Standard Endorsement is hereby deleted.

11. None of the provisions of the New York Standard Endorsement forming a part of the Policy apply to the insurance under the Disability Benefits Law. The premium for the insurance afforded under the Disability Benefits Law shall not affect the application of the premium provisions of the Policy other than this endorsement.

Note 1 -- This endorsement is for use to cover under the New York Disability Benefits Law the employees covered under the Standard Workmen's Compensation and Employers' Liability Policy as amended by the New York Standard Endorsement. Classes of such employees not to be covered for Disability Benefits should be specifically excluded.

Note 2 -- An additional provision, stating the premium basis for this insurance, must be added to this endorsement. Such provision is to be prepared by the Company in light of its customary practices. If the standard remuneration basis for workmen's compensation is used reference should be made to Condition A of the policy and Paragraph 7 of the New York Standard Endorsement. If reference is made to Paragraph 7 of the New York Standard Endorsement, the first sentence of Paragraph 9 of this endorsement must be modified.

Note 3 -- Paragraph 8 of this endorsement may be made a part of the premium provision.

Advisory Form G  
3/8/50

#### NEW YORK DISABILITY BENEFITS SUPPLEMENT

For attachment to

STANDARD WORKMEN'S COMPENSATION AND EMPLOYEES' LIABILITY POLICY WHEN INSURANCE IS AFFORDED UNDER THE DISABILITY BENEFITS LAW OF NEW YORK

[BLANK INSURANCE COMPANY (A insurance company, herein called the company)]1

Agrees with this Employer, in consideration of the payment of the premium and in reliance upon the statements in the [declarations]2 made a part hereof and subject to the conditions and other terms of this supplement:

#### INSURING AGREEMENTS

I DISABILITY BENEFITS To pay the disability benefits which any employee of this Employer, because of employment within any class stated in this supplement while this supplement applies thereto, is entitled to receive under Section 204 of Article 9 of the Workmen's Compensation Law of the State of New York or any laws amendatory thereof or supplementary thereto which are or may become effective during the supplement period, which Article is hereinafter referred to as the Disability Benefits Law.

(See Reference Note 3)

II SUPPLEMENT PERIOD This supplement applies only to disability commencing during the supplement period or, with respect to an employee whose employment with this Employer terminates during the supplement period, to disability commencing within four weeks after such termination of employment end prior to the first day after such termination on which he performs any work for remuneration or profit.

#### CONDITIONS

1. [Premiums]4 The premium bases and rates, until changed by the company, shall be as stated in this supplement. The premium bases, rates and rating plans are each subject to change by the company as of the effective date of any amendment of the Disability Benefits Law which affects the company's obligations under this supplement such change, if any, to be expressed by [endorsement]5 stating the effective date thereof.

2. Records, Examination and Audit This Employer shall furnish the company with all information which the company may reasonably require with regard to any matters pertaining to the insurance afforded by this supplement. All documents furnished to this Employer in connection with the insurance, together with such books end records of this Employer as may have a bearing on the insurance, shall be open for examination and audit by the company at all reasonable times during the supplement period and any extension thereof and within three years after the final termination of this supplement.

3. Required Provisions As between the employee and the company, notice to or knowledge of the occurrence of an injury or sickness suffered by the employee on the part of this Employer shall be deemed notice or knowledge, as the case may be, on the part of the company; jurisdiction of this Employer shall, for the purpose of the Disability Benefits Law, be jurisdiction of the company and the company shall in all things be bound by and subject to the orders, findings or decisions rendered in connection with the payment of benefits under the provisions of said law.

The Chairman of the Workmen's Compensation Board of the State of New York shall have the right to enforce in the name of the people of the State of New York for the benefit of the employee, either by filing a separate application or by making the company a party to the original application, the liability of the company in whole or in part for the payment of the benefits afforded hereunder provided, however, that payment in whole or in part of such benefits by either this Employer or the company shall to the extent thereof be a bar to the recovery against the other of the amount so paid.

Bankruptcy or insolvency of this Employer shall not relieve the company of any of its obligations under this supplement.

All of the provisions of the Disability Benefits Law shall be and remain a part of this supplement as fully and completely as if written herein, so far as they apply to disability benefits provided by this supplement. Notwithstanding any other provision of this policy, or any endorsement made a part hereof, benefits payable under this supplement or any such endorsement in accordance with the provision of benefits made under the Disability Benefits Law by this Employer, shall be payable at least to the extent and in the manner and subject to the conditions required by the terms of such provision of benefits, which provision is evidenced by this policy.

4. Notice of Disability [Claim or Suit]6 Upon receipt by this Employer of notice of disability written notice shall be given by or on behalf of this Employer to the company or any of its authorized agents as soon as practicable after the first day for which benefits may be payable with respect to such disability, such notice shall contain particulars sufficient to identify this Employer and also reasonably obtainable information respecting the time, place, circumstances and nature of the disability and the name and address of the employee. This Employer shall give immediate notice to the company with full particulars of any claim made on account of disability. [If any suit or other proceeding is instituted against this Employer every summons, notice or other process shall be immediately forwarded to the company.]6 Nothing elsewhere contained in this policy shall relieve this Employer of his obligations to the company with respect to notice as herein imposed upon him.

5. Changes Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this supplement or estop the company from asserting any right under the terms of this supplement; nor shall the terms of this supplement be waived or changed, except by [endorsement issued to form a part of this policy, signed by ----- (here insert titles of authorized company officials or representatives).]7

6. Cancellation This supplement may be canceled at any time by the company, in its own behalf or upon written request of this Employer, by furnishing written notice to this Employer and to the chairman of the Workmen's Compensation Board of the State of New York stating when, not less than ten days thereafter, cancellation shall be effective; provided, however, that if insurance with another insurance carrier has been obtained which becomes effective prior to the expiration of the time stated in such notice, the cancellation shall be effective as of the effective date of such other coverage. The effective date of such cancellation shall become the end of the supplement period. Such notice shall be served on this Employer by delivering it to him or by sending it by registered mail, addressed to this Employer at his or its last known place of business. If the company cancels in its own behalf, earned premiums shall be computed pro rata. If the company cancels at the request of this Employer, earned premiums shall be computed in accordance with the short rate table and procedure, provided, however, that if the supplement is being canceled because the employer is actually retiring from business, earned premiums shall be computed pro rata. The company's check or the check of its representative mailed or delivered as aforesaid shall be sufficient tender of any refund of premium due this Employer.

7. Statutory Assessments Under the Disability Benefits Law the company will pay the assessments levied on the total payrolls of employees covered hereunder pursuant to Sections 214-2, 214-3 and 228 of said law.

8. Special Provision Relating To Employee Contributions In accordance with the requirements of the Disability Benefits

Law, any excess of the aggregate contributions of employees applied to the cost of insurance provided hereunder over the premiums paid by this Employer (less any amounts related to the insurance provided hereunder returnable under this policy) shall, under rules of the Chairman of the Workmen's Compensation Board of the State of New York, be paid to this Employer and distributed or applied for the sole benefit of employees or otherwise be applied or disposed of as prescribed in Section 216 of said law. (See Reference Note 4).

9. [Amendment of New York Standard Endorsement]8 While this supplement is in effect, Paragraph 13 of the New York Standard Endorsement is hereby deleted.

10. [Declarations]2 By acceptance of this supplement, this Employer agrees that the statements in the [declarations]2 made a part hereof are his agreements, and are representations and not warranties, and that this policy embodies all agreements existing between himself and the company or any of its agents relating to this insurance.

11. (Insert here, as required, mutual policy conditions. Such conditions shall not conflict with Special Provision Relating to Employee Contributions.)

BLANK INSURANCE COMPANY

[DECLARATIONS]2 Disability Benefits Supplement to Policy NO. \_\_\_\_\_

Item 1 Name of Employer  
Address

Item 2 Supplement Period:From to

Item 3 Classes of employees

Item 4 Premium shall be payable \_\_\_\_\_  
and shall be computed as follows:

[Countersigned by \_\_\_\_\_  
Authorized Representative]7

(See reference notes 9 and 10)

REFERENCE NOTES

DISABILITY BENEFITS SUPPLEMENT

1. The name and location of the carrier and the word used throughout the supplement suitably to designate the carrier are to be stated. The type of the carrier may be stated.
2. May be changed to "application" at the option of the company.
3. If a defense clause is to be used the following page contains suggested language for such a clause.
4. Premiums to be made payable in accordance with company practice. Method of premium computation and definition of payroll, if any, to be inserted, The Special Provision relating to Employee Contributions may be made a part of the premium condition.

5. "Notice to the policyholder" may be substituted for "endorsement".
6. To be omitted if defense clause is not used.
7. May be amended to conform to requirements and practices of the company.
8. Condition 9 is a required provision.
9. The declarations or application may appear on a page of the supplement itself or on a separate page. If an application is used, provision should be made for the signature of the applicant.
10. Additional underwriting data and general information may be used in the declarations or application at the option of the company.

DEFENSE, SETTLEMENT, SUPPLEMENTARY PAYMENTS As respects the insurance afforded by the other terms of this supplement the company shall:

- (a) defend in his name and behalf any suit or proceeding against this Employer alleging disability and seeking benefits under the Disability Benefits Law, even if such suit or proceeding is groundless, false or fraudulent; but the company may make such investigation of any claim as it deems expedient, and make payment as required by law;
- (b) pay all costs taxed against this Employer in any suit or proceeding defended by the company, all interest accruing after entry of judgment and all expenses incurred by the company for investigation, negotiation or defense.