

Work Orders

3 workers comp-related E&O exposures

By Nicole Yarbrough

You're brimming with confidence after sealing the deal on a new workers compensation policy for your agency. You lean back in your chair with your hands folded behind your head, your mind cycling through the events that led you to receiving the bind order.

Seconds later, you break into a cold sweat and a pit forms in your stomach. You think to yourself, "Did I discuss the three workers comp conundrums?"



Swiss Re Corporate Solutions has found that the following three issues are the most common causes of E&O claims arising from placing workers comp coverage.

- 1) **Location:** When an employer has operations in only one state and all its employees live and work in the same state, the rules are easier to navigate. But when a company's business expands into other states, employs workers that reside in a different state or employs anyone who travels outside the state on business, the coverage picture quickly becomes more complicated.

Did the policy you placed take that other state or states into account? If an employee lives or is injured in a different state than where the business is located, the employee may be able to make a claim in that other state. But in order to qualify for coverage in that state, the workers compensation policy must contemplate it.

- 2) **Premium:** Upon issuing a workers comp policy, an estimated premium is based on the information provided during the application process. But the carrier may conduct premium audits to determine the actual premium for a policy period.

Factors used to determine the premium include employee classification codes and payroll. Carriers may use classification codes to identify different exposures that are priced based upon the risk associated with the kind of work the insured performs. While an employer may indicate a certain code for an employee, the carrier has the final word on the correct classification.

- 3) **Time:** A business should obtain workers comp coverage as soon as it has employees as defined by the state. Often, this occurs prior to the business officially opening. If a business does not carry workers comp coverage when required, the employer faces not only exposure to paying benefits if an employee is injured, but also fines and penalties from the state.

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