August 29, 2008

To Ohio Bureau of Workers' Compensation:

We appreciate the opportunity to participate in the BWC workgroup sessions on the matters set forth in the Board-approved Plan Proposal. We look forward to working with the BWC to find the best possible solutions for employers, workers, and The State of Ohio. With regards to the matter of Moderating Premium Volatility included in the Key Recommendations, we would like to share some ideas regarding the Global EM Cap (or 100% EM Cap) and some possible solutions to mitigate the problem.

As we understand capping at this time, the current proposal would institute a 100% EM cap on annual increases to individual employer modifications (EM%'s), regardless of any rate making changes. This could include changes to the rating formula, group rating participation, or an individual employer's experience. It is also our understanding that it is the BWC's intent for capping to be on-going during the transition period in order to provide premium stability.

We share and understand the BWC's concerns for potential struggles many employers may experience on the matter of annual premium fluctuations. Please find below our list of potential concerns:

1. Mergers/Acquisitions – It is very common for an employer to experience a full combination or partial transfer of experience due to a merger or acquisition that results in a substantial increase in EM. Based on the 100% EM capping proposed, these activities would no longer result in the full impact being assessed to the purchaser. We believe this is inappropriate and could result in businesses combining policies to reduce their workers' compensation premium exposure.

2. PEO/Leasing Operations – Most State Fund PEO operations in Ohio result in the individual employer's experience being moved temporarily to the PEO policy for rating purposes. Based on the 100% EM capping proposed, these PEO operations would no longer realize the full impact of accepting new clients which incur negative claims experience because PEO's have the ability to add or remove policies. We believe this is inappropriate and will result in new business practices by PEO's which will increase the unexpected lost premium exposure for the BWC.

3. Group Rating Tier Manipulation – Employers that maintain no incurred claims year after year would normally be underwritten by TPA's for placement in the highest level discount. Based on the 100% EM capping proposed, there is the potential for manipulation by TPA's to place these

employers in a lower level discount group to enhance that lower tier's EM%. These claim-free employers placed in these lower tiers would still see an EM % of just 30% for the 2009/2010 rate year due to the cap. We believe this will result in further BWC exposure for unexpected lost premium dollars.

In addition to these possible opportunities for abuse, we also have concerns that this type of cap will have a negative impact on employers' commitment to claims management, as well as to investment in safety and loss control. We are especially concerned with the impact on return to work and transitional duty offers. Unfortunately, employers will be less likely to embrace these opportunities if they have the knowledge that no matter the course of claims management taken, the impact to premium increases will be minimal – even if only in the short term. We believe this, coupled with the items noted above, will be detrimental to the BWC's desired intent of this offering.

W would propose the following:

1. Apply the 100% EM cap effective July 1, 2009 only to employers removed by the sponsoring organization from the July 1, 2009 group program. (Lists would be provided by group sponsors). In order to secure this 100% EM cap, the employer would be required to remain in compliance with safety and claims management requirements as maintained by the BWC and the group sponsoring organization.

2. Do not allow either of the caps to be applied to PEO's or on changes due to mergers or acquisitions / transfers.

Again, we welcome the opportunity to work with the BWC on these matters and we appreciate your consideration of these points.

Best regards,
SAO