

## Group Rating Rule Changes

### 4123-17-61 Criteria for group experience rating.

(A) The administrator shall offer a plan that groups employers for rating purposes. Employers shall retain their separate risk identity, but shall be pooled and grouped for rating purposes only, specifically with respect to experience rating.

(B) In establishing a group for group rating purposes, the sponsoring group organization or individual employers in the group must satisfy all of the following requirements and must meet all the sponsorship rules as provide in rule 4123-17-61.1:

~~(1) All of the employers within the group must be members of the sponsoring organization. The sponsoring organization must have been in existence for at least two years prior to the last date upon which the group's application for coverage may be filed with the bureau of workers' compensation as provided in rule 4123-17-62 of the Administrative Code.~~

~~(2) The organization must be formed for a purpose other than that of obtaining group workers' compensation coverage. The bureau shall require the organization to document its purpose by its charter, by laws, or other evidence. So long as all of the other criteria of this rule are satisfied, a parent corporation may be a sponsoring organization and, if it qualifies under the criteria of this rule, a member of a group of its subsidiary corporations for group rating purposes.~~

~~(3) (2) The employers' business in the organization must be substantially similar such that the risks which are grouped are substantially homogeneous. A group shall be considered substantially homogeneous if the main operating manuals of the risks as determined by the premium obligations for the rating year beginning two years prior to the coverage period are assigned to the same or similar industry groups. Industry groups are determined by appendix B of rule 4123-17-05 of the Administrative Code. Industry groups seven and nine as well as eight and nine are considered similar. A sponsoring organization may sponsor more than one group.~~

(a) To address the issue of homogeneity and changes that may occur in an employer's operations, the bureau may do the following:

(i) Allow an employer to move to a more homogeneous group when, after December 31 for private employer groups and June 30 for public employer taxing district groups but before the application deadline for group rating, the employer:

(a) Is a new employer;

(b) Is reclassified as a result of an audit; or

(c) Fully or partially combines with another employer.

~~(4)~~ (3) The group of employers must consist of at least one hundred individual risk members or a group where the aggregate workers' compensation premiums of the members are, as determined by the administrator, expected to exceed one hundred fifty thousand dollars during the coverage period. For public employer taxing districts, the coverage period shall be January 1 through December 31 of a year. For private employers, the coverage period shall be July 1 through June 30 of the following year.

~~(5) The formation and operation of the group program in the organization must substantially improve accident prevention and claims handling for the employers in the group. The bureau shall require the group to document its plan or program for these purposes, and, for groups reapplying annually for group coverage, the results of prior programs.~~

~~(6)~~ (4) Each employer seeking to enroll in a group for workers' compensation coverage must have active workers' compensation coverage according to the following standards:

(a) Unless the employer submits prior to the application deadline a dispute of the obligation to the bureau's adjudicating committee by a written letter containing the detailed reasons for the objection and the supporting documentation, the employer must be current (not more than forty-five days past due) on any and all premiums, administrative costs, assessments, fines or monies otherwise due to any fund administered by the Ohio bureau of workers' compensation, including amounts due for retrospective rating, at the time of the application deadline date as defined in rule 4123-17-62(B) of the Administrative Code;

(b) As of the deadline for the application for group rating, the employer must be current on the payment schedule of any part-pay agreement into which it has entered for payment of premiums or assessment obligations;

(c) Beginning January 1, 2010 for public employer taxing district groups and July 1, 2010 for private employer groups, the employer cannot have cumulative lapses in workers' compensation coverage in excess of ~~fifty-nine~~ fifteen days within the ~~eighteen~~ twelve months preceding the application deadline date for group rating. However, the cumulative lapse period under this section that was used to disqualify an employer from participating in a group rating plan the previous year will not be used to disqualify the employer in future years.;

(d) An employer whose coverage status becomes cancelled or combined during the rating year may not participate in group rating. The effective date of the removal from the group rating program shall be on the first day of the next payroll reporting period (January first or July first) or in cases where the date of cancellation or combination is determined to be January 1 or July 1, the employer shall be removed from group as of the actual date of cancellation or combination. An employer who becomes active and obtains coverage after the group rating application deadline may not participate in group rating for that year except as defined in rule 4123-17-66 of the Administrative Code. The

~~employer must be in an active status as of the group rating application deadline and be in an active status at the beginning of the rating year. An employer who becomes active and obtains coverage or who lapses and does not reinstate its coverage by April first for private employers after the group rating application deadline may not participate in group rating for that year except as defined in rule 4123-17-66 of the Administrative Code.~~

(C) In providing employer group plans under section 4123.29 of the Revised Code, the bureau shall consider an employer group as a single employing entity for purposes of group rating. No employer may be a member of more than one group for the purpose of obtaining workers' compensation coverage. Applying for more than one group on a valid application for group rating will result in rejection of the employer from all groups for which the employer applied.

~~(D) A sponsoring organization for group rating shall satisfy all of the requirements for a sponsoring organization as required under section 4123.29 of the Revised Code and in this rule. A sponsoring organization shall submit to the bureau information to demonstrate that the organization meets the requirements for group sponsorship. The bureau shall review the information and shall register the sponsoring organization if it meets the requirements. A sponsoring organization shall register with the bureau prior to marketing to or soliciting employers for membership in a group under the group rating program.~~

HISTORY: Eff 10-2-90; 11-11-91; 9-14-92; 11-8-99; 7-1-01  
Rule promulgated under: RC 111.15  
Rule authorized by: RC 4121.12, 4121.121  
Rule amplifies: RC 4123.29

### **4123-17-62 Application for group experience rating.**

(A) A sponsoring organization shall make application for group experience rating on a form provided by the bureau and shall complete the application in its entirety with all documentation attached as required by the bureau. If the sponsoring organization fails to include all pertinent information, the bureau will reject the application.

(1) The group application shall be signed each year by an officer of the sponsoring organization to which the members of the group belong, and the sponsoring organization shall identify each individual employer in the group in the AC-25 application and shall provide information on each employer as follows:

(a) All employers which were in the group in the previous rating year. The employer does not need to file an AC-26 form.

(b) All employers which were not in the group in the previous rating year, but were in another group of the same sponsoring organization for the previous rating year. The employer does not need to file an AC-26 form.

(c) All employers which were not in the group in the previous rating year, and were not in another group of the same sponsoring organization for the previous rating year. The employer must file an AC-26 form for the group. Effective January 1, 2010 for public employer taxing district groups and July 1, 2010 for private employer groups, the sponsoring organization does not need to file the AC-26 form with the bureau, but shall maintain the original AC-26 form at the sponsoring organization to be available to the bureau upon the bureau's request. The AC-26 must be date stamped by the group rating filing deadline.

(2) In a separate report, or on the AC-25 form in a manner that clearly distinguishes the employers which are in the group from those which are not in the group, the sponsoring organization shall provide information on each employer as follows:

(a) All employers which were in the group in the previous rating year and are no longer in the group, but are in another group of the same sponsoring organization. The employer does not need to file an AC-26 form.

(b) All employers which were in the group in the previous rating year, are no longer in the group, and are not in another group of the same sponsoring organization. If the employer is participating in group rating with another sponsoring organization, the employer must file an AC-26 form for that group.

(3) An individual employer's application for group rating (AC-26) is applicable for the upcoming policy year and all subsequent policy years where the employer remains in the same group or another group sponsored by the same sponsoring organization. The employer does not need to file a new AC-26 each year where the employer remains in any group sponsored by the same sponsoring organization, whether it is the same group as the previous rating year or a new group of the same sponsoring organization. The employer must file an AC-26 if the employer applies for group rating with a different sponsoring organization or was not participating in group rating the previous rating year. Where an employer files a new AC-26 during an application period, it shall be presumed that the latest filed AC-26 of the employer indicates the employer's intentions for group rating. The employer's AC-26 shall remain effective until any of the following occurs:

(a) The employer timely files a subsequent AC-26 indicating the desire to participate in a group with a different sponsor for the upcoming policy year;

(b) The sponsoring organization for the group does not include the employer on the group roster (AC-25);

(c) The group does not reapply for group rating or is rejected for failure to meet group eligibility requirements; or

(d) The employer fails to meet individual eligibility requirements and is rejected from participation in the group for the purpose of group rating by the bureau.

(4) The bureau may request of individual employers or the group additional information necessary for the bureau to rule upon the application for group coverage. Failure or refusal of the group to provide the requested information on the forms or computer formats provided by the bureau shall be sufficient grounds for the bureau to reject the application and refuse the group's participation in group experience rating. Individual employers who are not included on the final group roster or do not have an individual employer application (AC-26) for the same group or another group sponsored by the same sponsoring organization on file by the application deadline will not be considered for the group plan for that policy year; however, the bureau may waive this requirement for good cause shown due to clerical or administrative error, so long as no employer is added to a group after the application deadline. All rosters, computer formats or typewritten, must be submitted by the application deadline.

(5) A sponsoring organization shall notify an employer that is participating in a group of that sponsoring organization if the employer will not be included in a group by that sponsoring organization for the next rating year. For private employer groups, the sponsoring organization shall notify the employer in writing prior to the first Monday in February of the year of the group application deadline. For public employer taxing district groups, the sponsoring organization shall notify the employer in writing prior to the second Friday of August of the year of the group application deadline. If an employer notifies the bureau that a sponsoring organization has not complied with this rule and the sponsoring organization fails to prove that the notice was provided in a timely manner, the bureau will, without the approval of the sponsoring organization, allow the employer to remain in the group for the rating year for which the notice was required. If that group no longer exists the bureau will, without the approval of the sponsoring organization, place the employer in a homogeneous group with the same sponsoring organization or take other appropriate action.

(B) For public employer taxing districts, applications for group coverage shall be filed on or before the last Friday of August of the year immediately preceding the rating year. For private employers, applications for group coverage shall be filed on or before the last business day of February of the year of the July 1 beginning date for the rating year.

(C) A group's application for group rating is applicable to only one policy year. The group must reapply each year for group coverage. Continuation of a plan for subsequent years is subject to timely filing of an application on a yearly basis and the meeting of eligibility requirements each year; however, an individual employer member of a continuing group who initially satisfied the homogeneous requirement of paragraph (B)(3) of rule 4123-17-61 of the Administrative Code shall not be disqualified from participation in the continuing group for failure to continue to satisfy such requirement.

(D) The application shall be filed in the risk technical services section of the bureau of workers' compensation, Columbus, Ohio.

(E) The application for any group to participate in group experience rating is optional with the group, subject to acceptance by the bureau. Once a group has applied for group rating, the organization may not voluntarily terminate the application during the bureau's evaluation period. All changes to the original application must be filed on a bureau form provided for the application for the group experience rating plan and must be filed prior to the filing deadline. Any rescissions made must be completed in writing, signed by an officer of the organization to which the members of the group belong, and filed prior to the filing deadline. The group may make no changes in the application after the last day for filing the application. Any changes received by the bureau after the filing deadline will not be honored. The latest application form or rescission received by the bureau prior to the filing deadline will be used in determining the premium obligation.

(F) In reviewing the group's application, if the bureau determines that individual employers in the group do not meet the eligibility requirements for group rating, the bureau will notify the individual employers and the group of this fact, and the group may continue in its application for group coverage without the disqualified employers, if the group still satisfies the minimum requirements for group rating as provided in rule 4123-17-61 of the Administrative Code.

(G) After the group application deadline but before ~~April first for a private employer group or before October first for a public employer taxing district group~~ the end of the policy year for the group, the sponsoring organization may notify the bureau that it wishes to remove an employer from participation in the group. The sponsoring organization may request that the employer be removed from the group after the application deadline only for the employer's gross misrepresentation on its application to the group.

(1) "Gross misrepresentation" is an act by the employer that would cause financial harm to the other members of the group. Gross misrepresentation is limited to any of the following:

(a) Where the sponsoring organization discovers that the employer applicant for group rating has recently merged with one or more entities, such that the merger adversely affects the employer's experience modification and adversely affects the experience modification of the group, and the employer did not disclose the merger on the employer's application for membership in the group.

(b) Where the sponsoring organization discovers that the employer applicant for group rating has failed to disclose the true nature of the employer's business pursuit on its application for membership in the group, and this failure adversely affects the experience modification of the group.

(2) Where the sponsoring organization requests that an employer be removed from the group, the burden of proof is on the sponsoring organization to provide documentation. The bureau shall review the request to remove the employer from the group, and the employer shall be removed from the group only upon the bureau's consent.

HISTORY: Eff 10-2-90; 11-11-91; 9-14-92; 1-1-95; 7-1-96; 12-10-96; 11-17-97; 11-8-99; 7-1-01; 1-1-02; 7-1-02; 12-1-02

Rule promulgated under: RC 111.15

Rule authorized by: RC 4121.121, 4121.13, 4121.30

Rule amplifies: RC 4123.29

**4123-17-68 Group experience and group retrospective safety program requirements.**

(A) The purpose of this rule is to establish minimum safety requirements for group experience and group retrospective rating as provided by section 4123.29 of the Revised Code.

(B) The bureau safety and hygiene division, upon the request of the sponsoring organization, shall provide assistance with implementing all of the provisions of this rule.

(C) The sponsoring organization of a group or group retrospective plan shall document its program to improve accident prevention and claims handling for the employers in the group with the group and group retrospective application, and, for an existing group reapplying for group coverage annually, shall document the effectiveness of prior programs as stipulated in paragraph (D) of this rule and any proposed improvements to these programs.

(1) Within sixty days after the application filing deadline, a bureau division of safety and hygiene loss prevention representative shall review the group's safety program. The safety and hygiene representative shall contact the group sponsor or its authorized representative to assist in further developing an appropriate safety program if there are deficiencies in the program. All sponsoring organizations shall be required to sponsor a minimum of eight hours of safety seminar (or safety seminars) during the rating year for members of their group rating program. A bureau representative may attend these seminars to ensure the requirement is being met. If the requirement is not met, the sponsoring organization will be ineligible to sponsor a group rating program the following year.

(2) If an employer that participates in group rating or group retrospective rating plan sustains a claim within the "green year" period or the prior year, the employer shall attend an additional two hours of safety training annually. The training can be offered by the sponsoring organization, the sponsoring organization's third party administrator, or the bureau. The bureau shall reserve the right to request information from the sponsor to ensure compliance.

~~(2)~~(3) The bureau safety and hygiene division shall make a recommendation to the bureau underwriting section on whether the group's safety program is acceptable for policy years beginning January 1, 1997. A copy of the recommendations and findings of the safety and hygiene division shall be mailed to the sponsoring organization or its

authorized representative at the same time. The underwriting section shall consider this recommendation in making its decision whether to approve the group rating application at the time of renewal. The underwriting section shall notify the sponsoring organization of the necessary changes and provide the sponsoring organization fourteen days to resubmit its group safety program with the recommended changes.

~~(3)~~(4) The bureau safety and hygiene division shall evaluate the group's safety program at the sponsoring organization level and not at the individual member level.

~~(4)~~(5) If the bureau's underwriting section does not approve a group for group rating or for retrospective rating based upon the group's safety program, the sponsoring organization may request a hearing before the adjudicating committee pursuant to rule 4123-14-06 of the Administrative Code.

(D) The following are guidelines and criteria that a sponsoring organization or its representative shall take into account in developing a safety program for its group members.

(1) The sponsoring organization shall utilize the following strategies to help group members improve safety efforts:

(a) Communication and education, as detailed in paragraph (E) of this rule;

(b) Linkage with the division of safety and hygiene, as detailed in paragraph (F) of this rule; and

(c) Communication and promotion of key safety program parameters, as detailed in paragraph (G) of this rule.

(2) Key success factors in managing safety by group member employers are:

(a) Leadership from management;

(b) Communication within and throughout the organization;

(c) Involvement of all employees in the safety process; and

(d) Training and education of employees and supervision in safety management and accident prevention.

(E) Communication and education strategies of the sponsoring organization may include use of the following strategies: newsletters, seminars, consultants, videos, group-sponsored safety committees, personal contact, brochures, booklets, stickers, manuals, self-help documents, claims review and analysis, identifying key personnel within the sponsoring organization, and training in safety management for the sponsoring organization staff or representative.

(F) Linkage of the group-sponsoring organization with the division of safety and hygiene may include the following strategies:

(1) The bureau shall link each sponsoring organization with a service representative from safety and hygiene.

(2) Safety and hygiene shall review and comment on group's safety plans.

(3) Safety and hygiene and the sponsoring organization may sponsor joint seminars.

(4) The sponsoring organization may use the safety congress to augment group safety communication and training.

(5) Safety and hygiene shall provide a list of resources and expertise within each region.

(6) The sponsoring organization may promote bureau safety and hygiene division training.

(7) Safety and hygiene may develop half day training sessions for remote locations.

(8) Safety and hygiene may provide written safety and hygiene safety and health materials to companies.

(9) The sponsoring organization may use bureau safety and hygiene division expertise to help companies improve the management of safety (direct consultation with top managers).

(10) Safety and hygiene may provide video teleconferencing of topic-related seminars.

(11) Safety and hygiene and the sponsoring organization may develop joint programs in response to member needs.

(G) The sponsoring organization or its representative shall communicate, educate, and promote the following key safety program parameters to group members:

(1) A written safety and health policy signed by the top company official that expresses the employer's values and commitment to workplace safety and health.

(2) Visible senior management leadership that promotes the belief that the management of safety is an organizational value.

(3) Employee involvement and recognition that affords employees the opportunity to participate in the safety management process.

- (4) A program of regular communications on safety and health issues to keep all employees informed and to solicit feedback and suggestions.
- (5) Orientation and training for all employees.
- (6) Published safe work practices so that employees have a clear understanding of how to safely accomplish their job requirements.
- (7) Assigning an individual the role of coordinating safety efforts for the company.
- (8) Early return-to-work strategies to help injured or ill workers return to work.
- (9) Internal program verification to assess the success of company safety efforts, to include audits, surveys, and record analysis.
- (10) All applicable OSHA required programs are developed and associated training conducted.

(H) The division of safety and hygiene shall schedule annual regional training seminars for sponsoring organizations. Each sponsoring organization must send at least one representative to the seminar. Additionally, the division of safety and hygiene shall develop a list of publications and support materials that assist the sponsoring organization in reinforcing the safety guidelines of this rule.

HISTORY: Eff 7-1-96; 7-1-01  
Rule promulgated under: RC 111.15  
Rule authorized by: RC 4121.121, 4121.13, 4121.30  
Rule amplifies: RC 4123.29

h:rule subjects/group rating 2009/Group Rating rule Changes 2009 (5).doc  
January 14, 2009