BWC BOARD OF DIRECTORS

ACTUARIAL COMMITTEE

THURSDAY, FEBRUARY 19, 2009, 2:00 P.M.
WILLIAM GREEN BUILDING
30 WEST SPRING ST., 2nd FLOOR (MEZZANINE)
COLUMBUS, OHIO 43215

Members Present:	Charles Bryan, Chair David Caldwell James Hummel Jim Matesich Thomas Pitts William Lhota, ex officio
Members Absent:	None
Other Directors Present:	James Harris, Alison Falls, Kenneth Haffey, Larry Price, and Robert Smith
Counsel Present:	John Williams, Assistant Attorney General

CALL TO ORDER

Mr. Bryan called the meeting to order at 2 P. M. and the roll call was taken.

MINUTES OF JANUARY 22, 2009

Mr. Bryan requested that page 3, ¶3, of the January minutes be amended to add the following sentence: “The Administrator shall provide the Actuarial Committee and the Workers' Compensation Board with periodic updates on development of the rating plan.”

Mr. Pitts moved that the minutes of January 22, 2009, be approved as amended. Mr. Hummel seconded and the amended minutes were approved by a unanimous roll call vote.

AGENDA

Mr. Caldwell moved that the agenda be approved as published. Mr. Matesich seconded and the motion was approved by unanimous roll call vote.

DISCUSSION ITEMS

ACCELERATED RATE REFORM PROPOSAL AND DETAILS

John Pedrick, Chief Actuarial Officer, reported on the Accelerated Rate Reform Proposal. The three key strategies are, first, to lower base rates to more appropriate levels for non-group employers. BWC has already determined the differential in rates to bring rates of group-rated and non-group employers closer to actuarially sound levels. BWC will set rates for non-group employers commensurate with the risk they present to the system. The second strategy is to address the resulting premiums shortfall. BWC will estimate the shortfall and identify options to remove it and frame a strategy in the form of proposals for Board consideration. Third, BWC will provide a road map of rate reform: the elements of the comprehensive plan, this proposal, and additional steps. This is not a change of direction from what was proposed to the Workers' Compensation Board in June 2008.

Mr. Pedrick presented two tables used to determine the differences in rates between group employers and non-group employers. Non-group employers incur 30% higher claim costs than average each year, while group employers incur claim costs that are 20% lower than average. These figures are consistent when looking at both paid losses and incurred losses. However, the actual premium charged for non-group employers is 59% higher than average, whereas group employers pay 41% less than average. Ray Mazzotta, Chief Operating Officer, reported that as a result of incurring 128% in losses and paying 159% higher premiums, non-group employers have an 81% loss ratio, whereas group employers with 80% of average in incurred losses and 59% of average in base premiums have a loss ratio of 135%.

Mr. Pedrick reported that setting non-group employers rates at a more appropriate rate will yield a reduction of $295 million in collected premium, based on the assumption of no change in overall rate level from the current year. BWC proposes to address the premium shortfall, first, by the planned change of the credibility table to a maximum of 77%. This is expected to reduce the shortfall by $71 million, with a remaining shortfall of $224 million.

Mr. Hummel asked if the change of the credibility table moved base rates lower. Mr. Pedrick replied that when the credibility maximum was lowered from 90% to 85%, it did not change the off-balance for non-group employers. This is one reason that BWC is proposing expedited change to non-group employers. Also, the $71 million is an optimistic estimate based on the 2008 policy year. BWC does not yet know the size and number of groups for the next rating year.

Mr. Matesich asked if the deductible plans will affect the shortfall. Mr. Pedrick replied it would not because employer payment of deductible reduces losses to the system. Mr. Matesich asked how the deductible program differs from group. Mr. Pedrick replied that the BWC analysis for the deductible program incorporates reduction in costs. The Ohio group program does not use costs and was never designed using analysis of costs. Mr. Matesich asked if the BWC plan in June was to reduce the credibility table maximum available to group employers to promote equity. Mr. Pedrick reported that BWC had changes in the credibility table as part of the plan, however, the predicted results were not reached and the disparities worsened. On the other hand, if groups had continuity, then BWC could predict better results.

Mr. Pedrick reviewed the options for closing the shortfall. First, increase group premiums closer to the rate indication. Second, reduce, restructure, or eliminate some of the premium discount programs.

Mr. Mazzotta outlined changes in programs. BWC proposes to eliminate the Premium Discount Program (PDP). PDP has few employers and is made up chiefly of employers no longer able to participate in groups. With 2500 members, it has less than 1% of the State Insurance Fund population. It is hard to track continuity and multi-program participation. With a 100% cap, employers will no longer risk 600% premium increases due to one injury. BWC also proposes to eliminate or reduce the discounts associated with the Drug-Free Workplace Programs (DFWP), which also have small populations of employers, many of whom had favorable experience rating before enrolling. Third, BWC proposes to eliminate the discounts associated with the Safety Council attendance incentives, but retain the 2% performance. Mr. Pedrick added that the result the group adjustment factor and program changes will reduce shortfall to $39 million if proposal one chosen, and to $7 million if the proposal two is chosen.

Mr. Pedrick reported that, in March, BWC will present a full rate change proposal for the next policy year to the Board. The proposal will include the reduction for non-group employers, additional elements resulting from input from groups and group sponsors, and a base-rate recommendation. This differs from the two-step process in the past of bringing in the indication, and then waiting for groups to form before setting manual rates. BWC will also present rules to implement the proposals. The BWC will continue to move forward with the reduction in credibility to a maximum of 65% for 2010, and the split experience rating plan for 2011. The group shortfall will be eliminated and there will be stronger sponsorship requirements.

Mr. Matesich asked whether the average employer will see relief if the DFWP is eliminated. Mr. Pedrick responded that if an employer leaves group membership, then the negative impact is reduced. Another outcome is that there will be lower base rates and correction of the non-group employers' off-balance.

Mr. Hummel asked how stakeholders could have adequate input with only one month to submit comment. Mr. Pedrick reported that BWC hosted multiple meetings with stakeholders every month since the June 2008 Board meeting and that progress on group continuity was slow until late Fall. Late in 2008 there had been better participation but the various parties involved were told that greater progress was needed, and that BWC had several suggestions from Deloitte that would implement rapid progress.

Mr. Matesich asked about comments in the January minutes of the Actuarial Committee that recent events had compelled more deliberate change. Mr. Pedrick replied that the June 2008 plan included a goal of implementing continuity rules in December 2008, but that date has been delayed. The “other events” include the realization that the off-balance was problematic. Also, the opinion issued with the *San Allen* lawsuit injunction came with comments by the judge on the harm done to non-group employers. Moreover, the adoption of HB79 came with much discussion between the General Assembly, BWC, and stakeholders on goals of group rating reform. The General Assembly appears to expect improvement, charged the Administrator with developing plan to fix group rating and to report back in September 2009. Comments from legislators in the press indicate dissatisfaction with our three to five year time frame.

Mr. Matesich observed that much hard work had gone into the 77% credibility table change and group sponsors have marketed for the upcoming policy year. Now, BWC will add additional charges to group employers and this change challenges the credibility of BWC. Mr. Pedrick responded that this change and the overall proposal will reduce rates for employers throughout the state.

Mr. Caldwell commented that the Workers' Compensation Board understands the financial impact and its fiduciary responsibility, but he does not feel that the DFWP should be eliminated. It is not merely a social improvement program but most likely results in the avoidance of many injuries in the system.

Mr. Price asked about stakeholder feedback on elimination of programs. Mr. Mazzotta replied there was not much on PDP, but there was much support for DFWP. BWC met with larger sponsors to explain the proposed changes and allow them to voice concerns. There was no feedback on Safety Council incentives.

Ms. Falls commented that BWC was doing the right thing to accelerate group rating reform, but the financial impact will be quite large. She advised BWC to consider this as an opportunity to address the off-balance issue now, take the loss, and address the programs at another time.

Mr. Lhota asked what comprises the projected increase due to group adjustment factors. William Hansen, Oliver Wyman Consulting Actuaries, replied that the $115 million is the net effect of the factors as contained in Proposal One. Marsha Ryan, BWC Administrator, cautioned that the $71 million reduction in the shortfall due to the change in credibility is a top end estimate of the savings for next year, since groups will reform for the next year.

Mr. Lhota asked if the Workers' Compensation Board should consider maintaining group rates and employer programs as a one-year investment. Ms. Falls replied that taking program eliminations off the table would have that effect. Mr. Pitts stated that the intent of group rating was to combine small employers to achieve economies of scale, but groups are not operating in that way today. Mr. Pedrick replied group membership benefits those in the membership, but the driver of group membership is not safety, but the lowest price an employer can get for workers' compensation coverage. Mr. Pitts noted that if an employer is in group, an injury leads to rejection from the group, which was not the intent of the General Assembly. It is a tremendous injustice not to change now and cushioning the rate adjustment for groups perpetuates injustice.

At this point, Mr. Bryan announced that Mr. Haffey had re-scheduled the audit Committee meeting to start at 5 p.m.

Mr. Bryan stated that the issues before the Actuarial Committee were: Whether to do away with discount programs? Is there an adequate match of funds from group employers? What is the size of the deficit if BWC does not do away with programs?

Mr. Caldwell moved that the Actuarial Committee entertain a proposal to not eliminate employer incentive programs from the Accelerated Rate Reform Plan. Mr. Hummel seconded. Mr. Matesich moved to amend the motion to specify keeping in DFWP and Safety Council membership incentives. Mr. Pitts seconded and the motion to amend passed by a unanimous roll call vote. The amended motion also passed by a unanimous roll call vote.

Mr. Bryan asked whether the stakeholders had sufficient notice of the proposal. Mr. Pedrick replied that BWC had a target of finishing the group continuity proposal by December 2008, which some considered was too soon. Now it is February 2009.

Mr. Matesich moved that BWC proceed with the accelerated rate reform plan on non-group employers, but without adjustment to group employer rates. The motion failed for lack of a second.

Mr. Smith asked about the deadlines for the Accelerated Rate Reform Proposal. Mr. Pedrick replied that BWC planned to present all parts of the plan at the March meeting, including manual rates. The practical deadline is June 20, 2009, in order to file the rates with the Joint Commission on Agency Rule Review (JCARR). BWC would prefer to inform external parties as soon as possible.

Mr. Lhota moved to table the Accelerated Rate Reform Proposal and direct BWC staff to continue to seek input from stakeholders and bring back the proposal to the Actuarial Committee at the March meeting. Mr. Pitts seconded.

Mr. Harris noted that group rating was an early controversy in formation of the Workers' Compensation Board. Group sponsors and employers know about the problems. Mr. Pitts added that since the motion included stakeholder participation he wanted to ensure that non-group employers' views were included in the final recommendation. Mr. Matesich stated that it was not the time to impose additional expense on group employers.

The motion was passed by a unanimous roll call vote.

REMAINING DISCUSSION ITEMS

Mr. Bryan tabled the remainder of the discussion items. Reports on these items may be found in materials distributed to the public.

NEW BUSINESS/ACTION ITEMS

DEDUCTIBLE PROGRAM RULE, OHIO ADMINISTRATIVE CODE RULE 4123-17-72 (SECOND READING)

Joy Bush, Employer Management Project Manager, recommended adoption of a deductible program. Ms. Bush reported that based on feedback since January, BWC made some changes. The program is available to private employers and public employer taxing districts. BWC pays benefits and then bills the employers. The deductible applies to both indemnity and medical. Claims expenses are used in calculating the experience rating. Options for deductibles range from $500 to $10,000. The employer must be current and the deductible amount must be less than 25% of the previous year's premiums. The changes from the first reading in January include increasing the fifteen-day maximum lapse time to forty days. The deductible program is compatible with groups, but not retrospective rating, the $15,000 medical-only program, or salary continuation.

Mr. Bryan asked how BWC determined that the program is actuarially sound. Ms. Bush replied the only discount is the dollars returned to BWC by employers. Mr. Pedrick added that the discounts in the deductible program are based on a standard actuarial analysis of the costs eliminated by the deductible, and that they will be tested regularly.

Mr. Matesich moved that the Actuarial Committee recommend to the Workers' Compensation Board of Directors that it approve new rule 4123-17-72 of the Ohio Administrative Code to create a deductible premium program for the Ohio State Insurance Fund. The Actuarial Committee consents to the administrative rule as presented today. Mr. Caldwell seconded.

Mr. Matesich asked about the difference between reapplication and renewal. Ms. Bush replied that an employer stays in the program unless the employer fails the annual credit check. Mr. Matesich asked if the deductible applied to salary continuation. Ms.

Bush replied employers could pay salary continuation on claims not covered in the year of a deductible plan. Mr. Pitts asked if the program could accommodate a deducible larger than $10,000. Ms. Bush replied that BWC planned to add larger deductibles at a later date.

The motion passed by a unanimous roll call vote.

SPONSORSHIP CERTIFICATION RULES AND GROUP RATING RULES, OHIO ADMINISTRATIVE CODE RULES 4123-16-61 AND 4123-17-61.1 (SECOND READING)

Ms. Bush and Mary Yorde, Underwriting Supervisor, recommended amendments to group rating rules. Ms. Yorde reported that after BWC had met with stakeholders, it made changes to Ohio Administrative Code Rule 4123-17-61. The proposed amendment previously had allowed fifty-nine days of lapse over eighteen months. Now, it was forty days over twelve months. The rule now requires all group employers to be governing members of the sponsoring organizations. With respect to homogeneity, the sponsor may move employers to other groups when eligible.

Mr. Matesich asked if the information from a sponsor becomes a public record. Ms. Bush replied that confidential items will be removed from the BWC form, but will be available for inspection by BWC. Mr. Matesich asked what if an organization is set up solely for workers' compensation, what is the penalty. Ms. Bush replied BWC will require certification of all groups by the sponsors. Mr. Pedrick added that there is a general statute against workers' compensation fraud.

Ms. Bush recommended approval of new Ohio Administrative Code Rule 4123-17-61.1 on recertification and sponsorship requirements. Between March and June, BWC will process applications effective July 1, 2009. The rule also applies to group retrospective rules and 2010 taxing district policies. Sponsors may appeal denial to the Adjudicating Committee.

Ms. Bush also recommended amendment of Ohio Administrative Code Rule 4123-17-68 on safety program requirements for group rating and group retrospective rating. There are no changes to the rule from the rule presented for first reading at the January meeting. Sponsors are required to conduct eight hours of classes per year regarding safety. Employers with one claim in the past two years must attend two hours of safety classes. Employers must follow training requirements of the Occupational Safety and Health Administration (OSHA).

Mr. Pitts moved that the Actuarial Committee recommend to the Workers' Compensation Board of Directors that it approve amended Ohio Administrative Code Rules 4123-17-61 and 4123-17-68 and adopt Ohio Administrative Code Rule 4123-17-61.1 regarding sponsorship and certification of sponsors for group rating and group retrospective rating. Mr. Hummel seconded and the motion was approved by unanimous roll call vote.

ADJOURNMENT

There was a motion to adjourn by Mr. Caldwell and a second by Mr. Pitts. The motion was approved by unanimous roll call vote, and Mr. Bryan adjourned the meeting.

Prepared by: Larry Rhodebeck, Staff Counsel
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February 26, 2009