GROUP RATING STAKEHOLDER MEETING

Executive summary

On July 18, 2007, the Ohio Bureau of Workers' Compensation (BWC) hosted its fourth stakeholder meeting to further consider improvements to Ohio's group rating program. The primary purpose of this meeting was to discuss proposed changes to group rating rules and eligibility requirements.

Before discussing the proposed modifications, Todd Spence (BWC's director of employer consulting) provided background and statistical information on Ohio's group rating program. He explained the program has been in existence since 1991 and that there are approximately 100,000 employers participating in group rating. He added that there are currently 75 BWC-approved group sponsors who maintain about 590 individual groups. He then walked the group through a series of proposals submitted by BWC and members of the stakeholder group.

The meeting provided an open forum for ongoing debate and feedback on the following ideas, concepts and proposals (see the meeting minutes section for discussion details):

- Limiting the size of employers who are eligible to participate in group rating;
- Removing or modifying the statute requiring groups to have at least 100 members or $150,000 in annual premium;
- Establishing more specific requirements for groups to promote workplace safety;
- Establishing stricter rules for group sponsorship and parameters for marketing group rating programs;
- Determining how to prevent negative impacts on groups when mergers, acquisitions and successorships occur.

Stakeholder input focused on suggestions for marketing group rating. In short, to provide the most information up front to employers in a way that is transparent (not misleading). Some of the suggestions included:

- Savings estimates given to employers from group sponsors need to include appropriate disclosures;
- Marketing material must clearly communicate the name of the sponsor and enrollment deadlines;
- BWC should track and publish group experience modifications versus actual discounts;
- Allowing an employer to withdraw without penalty from a group until 20 days prior to deadline.
- Providing information upfront on group expulsion rates, reasons for expulsions and the impact expulsion can have on premiums;
- Extending or eliminating fraud provision.

Other items tangentially related to group rating were also discussed by the group (see meeting minutes) before Keary McCarthy brought the meeting to a close. In closing, he outlined the next steps of the process which include: summarizing the group's work; continued data analysis; consideration of implementation issues; and providing support to BWC's administrator and the new workers' compensation board of directors to help in the decision-making process.

GROUP RATING STAKEHOLDER MEETING RECAP REPORT

Meeting Minutes

Attendees

- Nadine Wise, Denny Davis, Lauri Cochran, Maryellen O'Shaughnessy, Rep. William Batchelder, Jean Krum, Liz Bravender, John Pedrick, Keary McCarthy, Todd Spence, Jeremy Jackson, Rep. Chris Widener, Ty Pine, Steve Millard, Rep. Tom Letson, George Haenszel, Stuart Garson, Phil Fulton, Dan Rapp, Tony Fiore

Agenda

Welcome

- Keary McCarthy gave welcome
- Todd Spence gave a recap on the meetings to date.
- The first meeting covered the maximum credibility.
- This is a very global issue.
- Base rates need to be more fair and equitable.
- The second meeting covered the NCCI rating plan.
- Again, this is a very global issue affecting all 280,000 employers.
- The third meeting covered group continuity.
- The focus is being narrowed down.
- Having an incentive for groups staying in place was discussed.
- Employers need to have rate stability and predictability. They need to know what is happening in the future.
- Today's issues have been discussed for years. How do we tip the scale back? Since we are making major changes to the rate making system, it is a good time to make changes to the group rating program.
- The group rating program started on July 1, 1991.
- Some small changes have been made over the years. Now is a good time to make more changes.
- Issues have been compiled over the years, and we would like feedback.
- A decision won't be made today.
- There is a mixed crowd in attendance today. Some are very knowledgeable, while others only have a high level view.
- We want input on whether the proposed items should be discussed further or dropped.
- Here are some current statistics.
- There are 280,000 active policies; 100,000 of them are in group rating.
- There are 75 approved group sponsors and 595 groups for the 7-1-2007 rating year.

Group Rating Program Components

Size of Employers in Group

- Limiting size of employers in a group would follow the original intent of the program. It also would allow them to earn a premium discount greater than they could on their own.
- There is nothing in the law limiting the size of the employer.
- If the size is limited, large employers won't be eligible.
- Is there a desire to add this requirement?
- George Haenszel posed a question. Other than questions about legislative intent, what is the problem?
- Todd Spence said there was no problem. We just want feedback.
- Denny Davis believed that the size of the employer allowed into group rating is something that is taken care of in the marketplace. His company rejects employers in the top three credibility groups, sometimes the top four or five.
- Ty Pine thought that groups for extraction and utilities would be hard to create if larger employers aren't allowed into group rating.
- From the discussion, Todd Spence said we probably don't need a rule limiting the size of an employer in group.

Size of a Group

- Removing or modifying the current statute specifying that groups must have 100 members or $150,000 in annual premium could permit a wider variety of choices and options for employers eligible for group rating.
- Todd Spence said that rules concerning the size of a group are currently in the revised code.
- Something that was discussed in our pre-meetings was neither actuarial nor our consultants know of a reason why this rule was implemented.
- Sponsors may not have enough employers or premium to create a group currently or if the limit is raised.
- Rep. Tom Letson asked if the premium was before the group discount or after.
- Liz Bravender thought that the premium used is off our systems from a year and a half ago from what she remembered from being a supervisor over that area.
- Rep. Tom Letson though maybe the rule should use individual premium instead of the group premium.
- George Haenszel said that the larger the group is the more stable it is. Perhaps we could consider combining groups.
- Todd Spence said that is something that could be looked at.
- Liz Bravender asked if some sort of continuity rule is in place, does that change your mind about making changes to the size rule?
- Lauri Cochran said if there is continuity, we may have to remove the limits.
- Rep. William Batchelder asked if there was a downside to having a smaller number with continuity?
- Lauri Cochran said yes.
- Rep. William Batchelder asked how many applications are rejected because of premium size?

- Todd Spence said maybe one group in a year or one in a thousand groups is rejected for being too small.
- Denny Davis said that the employers are in the cold for a year when that happens.
- Todd Spence said yes.
- George Haenszel asked if it was appropriate to direct those employers to other associations.
- Todd Spence said that he wasn't sure if we want to do that. The TPA's should assume that responsibility on their own.
- Rep. Tom Letson said that statistical stability is with greater numbers. The impact is greater with less members. If there is an employer with negative experience, the rates should increase, which is not taken very well.
- Tony Fiore said that everything needs to stay on the table to provide the greatest discount possible. Small groups are more focused on safety, so they should be able to be together. We have to work with the legislation and rules.
- Liz Bravender brought up a discussion with the Builders Exchange during one of the pre-meetings where they said if we are forced to stay together, we can't form groups with unsafe employers. Tony Fiore said there are a lot of issues with the size of groups that we need to keep in perspective.
- Todd Spence said that we will keep this issue on the table. Any change will require changes to the law.

Safety Parameters & Requirements

- Establishing more specific requirements for group to encourage workplace safety could have a positive impact on loss ratios that is not currently being seen in the data. Specific requirements and mandates could produce positive results for groups in accident prevention and premium stability.
- Todd Spence said that he has seen discussion on safety before. He has been at BWC for over fourteen years.
- Some employers don't want to take the extra step to promote a safe workplace.
- Section 4123-17-61 (B) (5) of the Ohio Administrative Code states that the formation and operation of the group program must substantially improve accident prevention and claims handling.
- There is no measurement for that in the rules or anything that is specific to what substantial is.
- The State of Washington requires a safety program.
- Some think group rating should be a safety program.
- What is reasonable to get to level in the legislation and law?
- Currently there are two requirements to be met annually.
- Sponsors must submit a safety plan to the Safety & Hygiene Department. Some plans are very detailed. Other plans are not, but they meet the intent of the rule.
- Sponsors must offer a minimum of eight hours of safety training, but there is no requirement for employers to attend.
- What expectations should we have on an employer?
- The discussion can be wide open. We can be restrictive or not. Some employer can't attend training for a day, so internet training, CD, or video may be more appropriate for them.

- Or we can hold sponsors to the intent of the law. The requirements might entail some type of investment in safety, like requiring sponsorship of a PDP plan or having safety professionals on staff.
- Requirements can be created for sponsors, TPA's, and employers.
- George Haenszel said that most professions have some sort of continuing education requirement. Most people don't want to be there so they read the paper. Employers need to be there and pay attention. After attending, they just cross that requirement off the list. What motivates employers to change is the premium impact. When rates go sky high, they are motivated to do something.
- Stuart Garson said employers get kicked out for one claim whether it was for a violation of a safety requirement or not. He is ok with fault in system, but isn't sure how else to get employers motivated to think about safety.
- Phil Fulton doesn't want fault in system. Workers' compensation is supposed to be a no-fault system.
- Stuart Garson said there is a disconnect in the system.
- Rep. Tom Letson said that fault is not part of the system. There is a disconnect in the system. Employers need to know what happens to them when they get kicked out of group. Right now they are only interested in safety after something hideous happens like an amputation or death. A CD sent to employers with questions every year would be good. There are ways to improve safety and get people interested.
- Jeremy Jackson said that there could be an onsite analysis with a BWC or safety representative. The employer could be given feedback that they are required to address. We don't want something that is onerous for employers. They need value.
- Phil Fulton said that he would consider some rejections as good if employers aren't participating in safety programs.
- Ty Pine asked if there had been any review by the Bureau on whether the safety plans submitted by the sponsoring organizations are being executed. In regards to continuity, he said that requiring movement is part of the process. His organization makes an investment in safety. They sponsor a PDP program and have four to five field consultants. He believes these are sound investments.
- Tony Fiore agreed. There needs to be a safety component in the group rules. The problem is with the people who don't care. You can only do so much as a group sponsor. His organization goes over and above that. The safety congress is free. You have to sell employers on the fact that if they don't care about safety, they won't get discounts. There is a two to four percent discount by being in a safety council. That would absorb something. There are safety grants with the matching program. We need to hold out a fig leaf to employers to incentivize them to do something. It is a matter of how effective it is.
- Dan Rapp said he appreciated the methods that were discussed, but previous discussions said that it wouldn't work. Why force employers to go to a training class? Let them do it at home.
- George Haenszel said that there are market-based solutions. Everyone is very competitive. Fees have gone done; employers usually have three to four different proposals; the only way to attract employers is by marketing safety. Organizations used to make thirty to forty percent of an employer's premium savings. Now they only make one to two percent. There needs to be some way to motivate employers, safety is the piece.

- George Haenszel said that if you quote savings by listing the rate with and without the group discount, that is a market-based solution that will help.
- Ty Pine said an employer's investment in the DFWP and PDP program is significant in terms of time and money. These programs have been found to be actuarially sound. Maybe the programs can be expanded more to provide extra incentives at the expense of other employers.
- Rep. Tom Letson said he was against cannibalizing the system on the backs of the other 180,000 employers. He objects totally. The more transparency there is, the better it will be, and the more likely employers will pay attention.
- Denny Davis said that just about every TPA is doing an analysis of what an employer's rate will be.
- Rep. Tom Letson disagreed. There is a difference in mailing a quote versus talking or personally visiting an employer. He believes that penalty rating isn't explained, and employers don't get all the information – real transparency.
- Todd Spence said that there was lots of great discussion. Currently there is no safety requirement on an employer. He heard alternative methods about ways to look at the information. He asked if there was a consensus for employer to look at safety information?
- Rep. Tom Letson said yes.
- Steve Millard said he struggles with having more requirements on an employer. Requirements like having the vice-president of a company attend a safety meeting to get discounts are good. Most don't want more requirements on an employer. Maybe there could be more requirements on the sponsor.
- Ty Pine asked if Todd Spence could go back and discuss the review of the safety material that is submitted by sponsors.
- Todd Spence said that the safety material is reviewed by the Department of Safety & Hygiene. The majority of the material is solid. Maybe thirty to forty percent of the sponsors meet the bare minimum of the requirement. The material isn't much more than a binder in a shelf.
- Ty Pine asked if it is execution or what they put on paper.
- Todd said it is what they put on paper.
- Ty Pine said he would favor more safety requirements.
- Jean Krum asked what in the parameters of the rule can we do?
- Ty Pine said that his organization has a very comprehensive program. Hopefully they are setting the standard. He believes that the group rules are pretty decent. Maybe they need tweaked.
- Stuart Garson said that there is a problem with data and measurability. This is a risk adverse system. One claim knocks an employer out of the group rating program. He would like to see data for the next year and believes things can be done internally to fix group rating. He doesn't want to see a legislative solution.
- Phil Fulton asked if the adjudication committee reviews the safety of an employer?
- Todd Spence said that doesn't come up.
- Liz Bravender said the decision to reject an employer is between the employer and sponsor.
- Phil Fulton said he thinks it should be part of the program.
- Jean Krum said that the committee doesn't have the authority to review a sponsor's decision to reject an employer.

- Phil Fulton said he wasn't talking about rejection. He is talking about the premium impacts of getting kicked out of group. An employer may have to pay up to four times the premium.
- Todd Spence said he understood his position and noted it.
- Tony Fiore said the biggest issue is that sponsors are supposed to be partners with BWC. His organization wants member to stay, so they go above and beyond to keep them. They aren't so quick to drop them. They extend their arm to help them.

Sponsorship & Marketing

- Establishing rules for group sponsorship and setting parameters on marketing of group rating could enhance the quality and caliber of group sponsors, while also providing an appropriate level of protection for consumers.
- The statute says that sponsoring organizations must have been in business for at least two years and be formed for purposes other than group rating.
- Todd Spence said he has received various comments on this subject.
- Sometimes it is obvious that the sponsoring organization was created for other purposes. Some organizations meet the intent of the rule, but they are not high on the spectrum of valid organizations.
- Some comments that have been received include requiring organizations to have been in business for five years. This helps make sure the organization is authentic. Other comments received were that members must have voting rights and pay dues.
- Do you see an issue with this rule? Should the rule be modified?
- Denny Davis asked if we wanted to revoke licenses.
- Todd Spence said we haven't talked about it.
- Denny Davis said the horse is already out of the barn. He wouldn't want to guess how many sponsors are just an answering phone and a PO Box, twenty to thirty?
- Jean Krum suggested that maybe there could be some sort of precertification process like we have for MCO's.
- Denny Davis said he wouldn't have a problem with that.
- Todd Spence said maybe there could be a recertification process every two years.
- Steve Millard said we are allowing high discounts in the group-rating plan. We can't allow someone to do this on the side. We need higher requirements.
- George Haenszel said that a couple of cases were shell associations driven by TPA's. Organizations are worried about the association fees, dues, and the benefits they provide. If a TPA is an association, they are only worried about revenues. He isn't sure how you define an organization that is created for purposes other than group rating. You can have an organization that only offers three services but has high penetration, or you can have an organization that offers twenty-five services but has low penetration.
- Todd said that hadn't been looked at. We are just trying to get a feel for the issue right now.
- George Haenszel asked Todd Spence if in his gut if he had a feeling what falls here or there.

- Todd Spence said that is the trick. The safety plans get reviewed by the group unit and by the Department of Safety & Hygiene. If an organization offers a cell phone plan, we have to approve them. In the end, will that organization be in existence after group. That is the trick, to put it on paper.

Mergers, Acquisitions and Successorships

- In a situation when a purchased company's claim and payroll experience is transferred or combined (partially or totally) into a group, it can sometimes have a negative impact on all of the employers in that group.
- A predecessor company has negative experience. When it is taken over by a successor company in group, the successor company and the group is rerated, causing a premium increase. The TPA and BWC didn't know it was going to happen.
- Should there be protection for the group?
- Tony Fiore said he didn't want to discourage employers from doing this. It happens all the time. He would like some change though. Maybe we can give the group some credit for taking on the risk.
- Rep. Tom Letson said we are already using 180,000 employers to account for discounts and you want to use them again.
- Todd Spence said notes are being taken.
- Rep. William Batchelder asked if an employer comes out of bankruptcy, does the carryover affect the risk?
- Liz Bravender said the experience does transfer.
- Rep. William Batchelder asked even on an asset sale?
- Jean Krum said it depends on whether BWC considers it an asset sale.
- Rep. William Batchelder gave an example of a self-insured employer. Is it more desirable for them to go bankrupt?
- Liz Bravender said that the SIEGF (Self Insured Employers Guarantee Fund) picks up the costs if there is no other funding (bonds). This doesn't happen with the SIF (State Insurance Fund).
- Rep. William Batchelder asked if the experience follows them (in the SIF)?
- Liz Bravender said yes.
- Rep. William Batchelder said the discussion has more to do with how you style the transfer instead of whether the risk transfers.
- Liz Bravender said if BWC decides the risk transfers, it is supposed to measure the risk going forward. It is not a charge. TPA's have the most trouble with PEO's in group.
- Rep. William Batchelder asked if the problem with PEO's is just another aspect of the same question?
- Liz Bravender said yes.
- Lauri Cochran said most TPA's don't let PEO's in group.
- Steve Millard said re-rates have been happening more often. Do regular employers have re-rates?
- Liz Bravender said yes.
- Steve Millard said his organization has trouble with re-rates.
- Liz Bravender said we do studies every year to look at the premium from re-rates and compare this to the SIF.

- Steve Millard said that they have due diligence of an individual employer, but they can't do that for the entire group.
- Lauri Cochran would like to see the April 1st date lifted for when TPA's can remove employers for gross misrepresentation.
- George Haenszel said his organization doesn't represent PEO's. They have had trouble with them. There is a problem with new businesses. They can't get into group for one and a half years due to timing issues. They get referred to a PEO so they can get the group rate right away. If PEO's can't be in group, this would eliminate options for these new businesses.
- Todd Spence said there have been comments on both sides of the issue. We will come up with something reasonable.
- Tony Fiore said that too much time lapses between knowing about the re-rate and actually doing it. Quicker would be better. As far as the homogeneity rule is concerned, allowing TPA's to move the employer to a different group instead of rejecting them would be good.

Group Rating Marketing

- Savings estimates to include appropriate disclosures.
- Material to include name of sponsor.
- BWC to track, publish group EMs vs. actual discounts.
- Materials to clearly explain enrollment deadlines.
- Allow employer to withdraw without penalty from a group until 20 days prior to deadline.
- Fraud provision extended or eliminated.
- Todd Spence said that we have pushed the issue to TPA's if an employer complains that his estimate is off.
- A solution would be to publish that information. It would be more or less like a grade card. It allows for the best decision for a company.
- Another rule is that an employer can't have more than fifty-nine days lapse in the previous eighteen months before the application deadline.
- A secretary may forget to pay premiums for two to three months, which pushes them past the limit.
- A goal should be to educate employers about deadlines.
- Perhaps we should give employers more time to get into the best group.
- George Haenszel said that employers are pressured to apply early by non-BWC dates. TPA's won't refund an employer's money if they switch groups. The April 1st date for gross misrepresentation came up in the legislature. A group didn't catch the fraud earlier.
- Tony Fiore said it is all about competition. Administratively, it would be very difficult to allow employers to switch groups up until twenty days before the deadline. The window is set up to benefit BWC and TPA's. If this is allowed, it can affect the whole group.
- Stuart Garson said that talking about truth in advertising is a good thing. Maybe a sponsor's expulsion record can be published.
- Rep. Tom Letson said that was a good idea. It would have an effect on their rates also. It ties into safety nicely.
- Steve Millard said that twenty days might not be right, but he liked the idea of pushing that date closer to the group application deadline. He thought it would be a challenge.

- Ty Pine said that in the 401K program, there may be five, ten, or fifteen choices. Here an employer has two, four, maybe six choices. Sponsors are in partnership with employers. The sign up period begins in August. Then there is an ongoing period to review with a disclaimer about still having time to sign up. He doesn't want to expose an employer to the possibility of waiting too long to sign up for group rating.
- Rep. Tom Letson said this is a philosophical question about whether we want to do this for the group or for the employer. If we want to change the rule for the employer, it is good. If we want to change the rule for the group, leave it alone. Some adjustment without penalty would be good, but he wasn't sure when.

Additional Input Not Related to Group Rating

- Catastrophic claims should be considered by the adjudicating committee appeal process.
- The $5K ($15K) Medical-Only Program needs updated, modified.
- Recommendations on salary continuation, audit of program need to be fast-tracked.
- Phil Fulton said all these are bastardizing programs. Salary continuation and the $15K medical-only program are all because of group rating. The adjudication committee used to go to the board. The catastrophe law should be adjusted to help employers.
- Todd Spence said these issues are causally related. They are not group rules, but it affects group.
- Ty Pine believed that these do have an impact. Look at the MCO side and case management. Employers need to do safety. Should there be a requirement for injured workers to participate in rehab or special training? These all impact groups and reserving

Next steps

- Keary McCarthy said we will continue running simulations, develop a work product from these discussions, and continue our feedback with stakeholders.
- Our data analysis will consider implementation issues. We are also cognizant of timing issues. We are trying to balance all the issues.
- We are in a period of transition with the board coming in. We will be providing decision support for the administrator and the board and look forward to working with them on these issues.
- Ty Pine asked if we anticipate reconvening.
- Keary McCarthy said we reserve the ability to do that, but we don't plan on meeting again now.
- George Haenszel said non-renewals are a problem, but believed the number we gave was inflated. He thought the numbers were closer to three percent instead of the seven or nine percent that was quoted. Last year, the 2004 loss ratio dropped. He believes it is because of the changes to the credibility table and would like to see numbers for 2005 and 2006.
- John Pedrick said loss ratios are used in a number of ways. They are used in financial reports and for comparing group to non-group employers. We need to be sure to compare apples to apples. The Pinnacle report said that the loss ratio relativities for group were three to four times as high as the non-group employers. This shows a problem. There is a value to group rating,

lower costs, but we need to charge the right premium. We need to reduce the impact of one claim on an employer. Currently we don't have actuarially sound rates.

- George Haenszel mentioned one of the examples where group employers had a loss ratio of 44 and non-group employers had a loss ratio of 29. He asked if disparity is the issue or are they both paying too much?
- John Pedrick said the issue is disparity.
- George Haenszel said when he sees that kind of loss ratio, he thinks they are paying too much.
- John Pedrick said the loss ratio is not fully developed. They are snapshots in time. A loss ratio of 44 is 50 percent more than a loss ratio of 29. Additional development is not included here. These are not the full ratios. These are taken at a point in time.
- Liz Bravender said the relatively of the ratios is what is important.
- Ty Pine said the credibility table went from 95 percent to 90 percent. He would like to see how the imbalance has changed.
- John Pedrick said he was hoping a 60% maximum credibility would change those loss ratios to 37 percent or something in between.
- Tony Fiore said it depends on how much is focused on safety.
- John Pedrick said there will be fluctuations in the data as long as we evaluate different dates. There are problems with one claim and the maximum credibility percent. The rate calculation needs to take frequency into account. We need more accurate and equitable EM's. One claim should not affect an employer that much. If we move to a point there, the danger of getting kicked out of a group will be less. There are two parts to fixing the problem. We need actuarially sound rates, and we need to create groups with value. We need to make sure the best practices are reflected in our rates.
- Steve Millard asked when will we get the data that reflects the changes that have been made?
- John Pedrick said we are looking at 2005 data now using different credibility percents.
- Stuart Garson said in speaking to the one claim that cripples an employer, is there any consideration to a short term solution like giving a 3, 5, or 7% discount, whatever it is as a one-time fix. This would address the economic development piece.
- Keary McCarthy said that is being considered. There is a short term challenge with actuarial soundness.
- Phil Fulton said that is where we are coming from with non-group ideas.
- Tony Fiore said you can throw those employers our way and we'll give them an application.
- Keary McCarthy thanked everyone for participating.