

4123-17-42 Eligibility for retrospective rating.

- (A) An employer that is either a private or a public employer taxing district as defined in division (B)(1) of section 4123.01 of the Revised Code may be eligible for either the tier I or tier II retrospective rating plan depending upon satisfying the eligibility requirements for either the tier I or tier II retrospective rating plan as described in this rule.
- (B) For both the tier I and tier II retrospective rating plans, the employer must satisfy the following requirements as of the application deadline:
- (1) The employer must be current with respect to all payments due the bureau, as defined in paragraph (A)(1)(b) of rule 4123-17-14 of the Administrative Code.
 - (2) The employer cannot have cumulative lapses in workers' compensation coverage in excess of fifteen days within the last five rating years.
 - (3) The employer must report actual payroll for the preceding policy year and pay any premium due upon reconciliation of estimated premium and actual premium for that policy year no later than the date set forth in rule 4123-17-14 of the Administrative Code. An employer will be deemed to have met this requirement if the bureau receives the payroll report and the employer pays premium associated with such report before the expiration of any grace period established by the administrator pursuant to paragraph (B) of rule 4123-17-16 of the Administrative Code.
 - (4) The employer must be in an active policy status. The administrator may waive this requirement for a new business entity moving into Ohio. For purposes of this rule, "active policy status" does not include a policy that is a no coverage policy or a policy that is lapsed.
 - (5) The employer's estimated experience-rated premium for the retrospective rating year must be greater than or equal to the minimum experience-rated premium threshold listed on the "Retrospective Rating Minimum Premium Percentages Table." If estimated premium is less than the minimum experience-rated premium threshold listed on the "Retrospective Rating Minimum Premium Percentages Table," the bureau will reject the application. In the event the estimated experience-rated premium is equal to or greater than the minimum premium threshold but the actual premium is less than the minimum experience-rated premium threshold, the retrospective rating plan remains in effect for that risk and the minimum premium is based on the minimum experience-rated premium threshold multiplied by the appropriate minimum premium percentage for the hazard group and the claim limit/maximum premium percentage selected.
 - (6) The employer shall maintain a safety program approved by the division of safety and hygiene.
- (C) In addition to the requirements of paragraph (B) of this rule, for the tier I retrospective rating plan, a private employer must submit audited financial statements prepared in accordance with generally accepted accounting principles (GAAP) to satisfy the following requirements:
- (1) The employer must satisfy financial standards demonstrating strength and stability. In reviewing the financial requirements of the employer, the bureau shall consider, but is not limited to, the following criteria, as applicable:
 - (a) The employer's trend of operating profit for a minimum of three years.
 - (b) The employer's trend of net income for a minimum of five years.

- (c) The employer's consistent return on equity, of ten per cent or better.
- (d) Significant asset size of the employer in the state of Ohio.
- (e) A total liabilities/equity ratio of no greater than four to one.
- (f) The employer's debt structure, including current versus long term debt, recent drastic changes in debt, etc.
- (g) The employer's retained earnings trend.
- (h) Whether the employer has significant fluctuations in specific balance sheet numbers from one year to the next.
- (i) The employer's bond rating.

- (2) The employer shall demonstrate that if it sustains a catastrophic or severe workers' compensation loss, it has the ability to maintain its financial viability and to cover all costs of the retrospective rating plan through closure.
- (3) The employer cannot have entered into a part-pay agreement for payment of assessments due the state insurance fund for the past three rating years preceding the beginning date of the retrospective policy year.

In lieu of the requirements of this paragraph, the employer may provide a letter of credit that is equal to the maximum premium for the applicable policy year.

(D) In addition to the requirements of paragraph (B) of this rule, for the tier I retrospective rating plan, a public employer taxing district must submit audited or reviewed financial statements prepared in accordance with generally accepted accounting principles (GAAP) to satisfy the following requirements:

- (1) The public employer must satisfy financial standards demonstrating strength and stability. In reviewing the financial requirements of the public employer, the bureau shall consider, but is not limited to, the following criteria, as applicable:
 - (a) Significant asset size of the public employer in the state of Ohio;
 - (b) The public employer's debt structure, including current versus long term debt, recent drastic changes in debt, etc.;
 - (c) Whether the public employer has significant fluctuations in amounts reported on the balance sheet and statement of operations from one year to the next.
 - (d) The public employer's underlying or uninsured bond rating.
- (2) The public employer shall demonstrate that if it sustains a catastrophic or severe workers' compensation loss, it has the ability to maintain its financial viability and to cover all costs of the retrospective rating plan through closure.
- (3) The public employer cannot have entered into a part-pay agreement for payment of assessments due the state insurance fund for the past three rating years preceding the beginning date of the retrospective policy year.
- (4) The public employer, if it is making its initial application for retrospective rating, cannot be under fiscal

watch or fiscal emergency pursuant to section 118.022, 118.04 or 3316.03 of the Revised Code as of the application deadline for retrospective rating.

- (E) In addition to the requirements of paragraph (B) of this rule, for the tier II retrospective rating plan, a private employer must submit audited financial statements prepared in accordance with generally accepted accounting principles (GAAP). A public employer must submit audited or reviewed financial statements prepared in accordance with GAAP or other comprehensive basis of accounting as permitted in Ohio auditor of state bulletin 2005-002.

For a private employer that does not demonstrate the ability to satisfy the financial criteria of paragraph (C) of this rule or a public employer that does not demonstrate the ability to satisfy the financial criteria of paragraph (D) of this rule, the financial statements provided by the employer must demonstrate the ability to sustain losses that are at the maximum claim limit for the retrospective rating plan and still maintain its financial viability.

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