

BWC BOARD OF DIRECTORS

ACTUARIAL COMMITTEE

Wednesday, December 17, 2008, 2:00 P.M.

WILLIAM GREEN BUILDING

30 WEST SPRING STREET, 2ND FLOOR (MEZZANINE)
COLUMBUS, OHIO 43215

Members Present: Charles Bryan, Chair
James Matesich, Vice Chair
James Hummel
David Caldwell
Thomas Pitts

Members Absent: Bill Lhota, ex officio

Other Directors Present: Alison Falls
Kenneth Haffey (arrived at 4:10)

CALL TO ORDER

Mr. Bryan called the meeting to order at 4:02 PM and the roll call was taken.

MINUTES OF DECEMBER 17, 2008

The minutes were approved without further changes by unanimous roll call vote on a motion by Mr. Matesich, seconded by Mr. Pitts.

NEW BUSINESS / ACTION ITEMS

No action items were scheduled for this month's meeting.

DISCUSSION ITEMS

1. Update on Rate Reform

John Pedrick, Chief Actuarial Officer, and Elizabeth Bravender, Director of Actuarial, presented an update on rate reform efforts. Many elements will move forward regardless of what occurs with the group rating litigation.

Administrator Marsha Ryan reported that House Bill 79 has been passed by both branches of the legislature as of this afternoon, and will be sent to the governor for signature. This bill revises the language of ORC 4123.29 to replace the words "retrospective rating" with "group rating", which

addresses a portion of the order issued by the Cuyahoga County Common Pleas Court. It also clarifies expenses of the Workers' Compensation Council, and requires a BWC report to the General Assembly in September 2009 about progress towards creating equity in group rating. A summary will be available for the Board.

The aforementioned court order has been appealed. The Attorney General's Office has also requested a stay of execution for the order. Chairman Bryan asked whether House Bill 79 leaves the present group rating system in place. Administrator Ryan stated BWC believes that it does.

A second reading will be done at the January Committee meeting regarding the capping rules. Deductible and group retro programs are on schedule to be implemented 7/1/2009.

Staff has completed benchmarking of deductible programs with industry standards as used in the NCCI states. The proposed deductible program is based on Ohio data, with five (5) deductible levels up to \$10,000 per incident. Both group and non-group employers are eligible to participate, but the employer must have at least \$2,000 in premiums. The first reading on the deductible program is scheduled for January, with the second reading in February and rollout in March.

Pursuant to a question from Director Pitts, Mr. Pedrick clarified that the deductible program may be available to individual employers only, not group employers. This program will be advantageous to employers who don't qualify for group rating. Eligibility is based on premium amount and ability to collect rather than the number of claims. Chairman Bryan asked if bonds will be required. Mr. Pedrick advised this issue is still being evaluated.

In response to a question from Director Matesich, Mr. Pedrick stated that the deductible program would cover both medical and indemnity claims. An employer who participated in the \$15,000 medical only program or who utilized salary continuation would not be eligible for this deductible program. Minimum premium requirements and collectability of the deductible amounts are additional concerns under review.

A full report will be available in January. Ms. Bravender gave a tentative timetable for rule introduction. Mr. Pedrick added that the group retro program is being moved forward for a 7/09 rollout. The staff proposal will be modeled upon the NCCI retro plan and a similar program in the state of Washington.

Other rules that will be considered are group homogeneity and group continuity

2(a). Quarterly Reserve Adjustments

Tracy Valentino, Chief of Fiscal and Planning, reviewed reserve changes for the first quarter of 2009. Initial projections were made 3/31/08 using data from Oliver Wyman. This information was presented to the Committee in May/June 2008. Similar increases were expected in 2009. When the audit was completed and 9/30/08 data became available, Oliver Wyman predicted 2009 reserves to be lower by \$75M. This necessitated a negative \$159M adjustment to the financial statements. Another similar evaluation process will occur 1/09.

Chairman Bryan posed the question of what the Committee's role should be when estimates change. Director Falls requested quarterly trends information, which Ms. Valentino agreed to provide.

2(b). Actuarial Opinion

Mr. Pedrick noted work by Oliver Wyman is ongoing.

3. Net Asset Position method to be included in private employer rates

Mr. Pedrick submitted discussion points to the Committee regarding the role of premium levels vis-à-vis net assets, and methods of increasing or decreasing net assets. The November funding ratio is 1.05, based upon \$15.5 billion funded assets / \$14.7 billion funded liabilities.

He compared the impact of an additional 1% of investment return to an additional 1% of premium. The former results in an additional \$155M based on current levels, while the latter would produce only \$18M. While investment returns produce a much larger number, BWC has far more control over premiums and rates.

Mr. Matesich commented that if rates become too high, Ohio will lose businesses anyway.

To decrease net assets, BWC could lower premiums by a fixed percentage, or base reductions on meeting performance targets. The latter approach allows for yearly adjustment of reductions. Issuing employer dividends is not advisable as it increases instability. It will be necessary to model when the funding ratio would exceed the maximum level, and timeframes for adjustments to lower net assets.

4. CAO Report

Mr. Pedrick reviewed the report, including several team efforts and a reform plan. The Legal Division is reviewing the RFP. As the actuarial contract

cannot be extended past 12/31/09, the RFP will be sent out in the first quarter of 2009. Per a question from Chairman Bryan regarding the status of MIRA II, Mr. Pedrick noted a positive impact and that expected losses were dropping by approximately 20%.

5. Calendar

Chairman Bryan noted additional time should be devoted to reviewing the reserve analysis at the 2/09 meeting.

There is no Executive Session at today's meeting

Adjournment

The next Actuarial Committee meeting is January 22, 2008 at 2:00 PM.

The meeting was adjourned at 5:22 PM on a motion by Mr. Matesich, seconded by Mr. Hummel.

Prepared by Jill Whitworth, Staff Counsel
December 19, 2008

BWC BOARD OF DIRECTORS

ACTUARIAL COMMITTEE EDUCATION SESSION

WEDNESDAY, DECEMBER 17, 2008, 8:00 A.M.

WILLIAM GREEN BUILDING

**30 WEST SPRING STREET, 2ND FLOOR (MEZZANINE)
COLUMBUS, OHIO 43215**

Members Present: Charles Bryan, Chair
Jim Matesich, Vice Chair
David Caldwell
James Hummel
Thomas Pitts

Members Absent: William Lhota, ex officio

Other Directors Present: Alison Falls, Kenneth Haffey, James Harris, Larry Price, and Robert Smith

CALL TO ORDER

Mr. Bryan called the meeting to order at 8:00 a.m. and the roll call was taken.

EDUCATION SESSION

Mr. Bryan reported that the meeting was to be devoted to an education session with a report from Deloitte Consulting LLP. House Bill 100 requires that the BWC Administrator obtain a study from an independent actuary to review the base rate of premiums paid by employers and all of the rating programs. Today's report is the fourth of four on these issues.

Deloitte representatives included Jan Lommele, Chief Property and Casualty Actuary; Bob Miccolis, Senior Advisor Actuary and Team Leader; Dave Heppen, Surplus/Reinsurance Projects Lead and Pricing & Programs Project Lead; Dick Messick, Senior Actuary and Project Management Coordinator; Kristen Hernan, Senior Manager; and Randy Hindman, Specialist Leader. Deloitte has been asked to perform thirty-six tasks, which have been classified into four groups.

Deloitte reported on ten of the thirty-six tasks in this session: Actuarial Department organization, the National Council on Compensation Insurance (NCCI) classification system, experience aggregation approach, minimum premium review, change of employer experience rates, out-of-state employers experience rating, the Disabled Workers' Relief Fund (DWRF), the Marine Industry Fund, Coal Workers Pneumoconiosis Fund, and the vocational rehabilitation program. Each task was evaluated on a five-point scale on effectiveness and efficiency; financial strength and stability; transparency; and impact on the Ohio economy. The scale ranged from "strongly supports system performance" to "significant opportunity for system performance change/enhancement."

RECESS

Mr. Bryan recessed the meeting at 9:35 a. m.

RECONVENING

Mr. Bryan reconvened the meeting at 9:50 a. m.

ADJOURNMENT

Mr. Bryan adjourned the meeting at 11:00 a.m.

Prepared by: Larry Rhodebeck, Staff Counsel
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December 22, 2008

Improving Ohio's Experience Rating for Workers' Compensation

Rate Reform Update

For the BWC Board of Directors

January 21, 2009

Introduction

During the June 2008 Board of Directors meetings, we presented our plan to improve Ohio's experience rating and group-rating programs. In addition, we presented plans, to implement new programs that give broader choices to employers while meeting performance requirements. These include improved workplace safety and improved pricing. The board unanimously approved this plan. This report provides an update on our continuing efforts to implement comprehensive, customer-focused reform and to improve the performance of Ohio's workers' compensation system. These efforts include transforming many of the concepts proposed six months ago into practical solutions.

Performance-based options for employers

- **Deductible Program:** We have developed several deductible options and administrative rules. We anticipate launching this program for the July 1, 2009 policy year, for private-sector employers.
- **Group Retrospective-Rating Program:** We have developed the overall structure of this program. We will provide a report that highlights similarities and differences between Ohio's proposed program and Washington's group-retro plan. In addition, we will identify the types of employers we expect to enroll, and provide the schedule for a July 1, 2009 policy year implementation. We will present proposed administrative rules during the March board meeting.
- **Safety-Dividend Program:** We continue to evaluate the viability of this type of program and whether existing employer rating programs can be modified to accomplish the same goal. We will bring findings to the actuarial committee during the 2009 calendar year.

Transition to more competitive rates

- **Credibility:** The board adopted the 77-percent maximum discount credibility table effective for the July 1, 2009 policy year.
- **Mitigation strategies:** We proposed capping strategies during the October board meeting. We plan to bring these strategies to the board for a second reading and possible vote.
- **Split-Experience Rating Plan:** We are developing the structure and parameters of the new experience-rating plan. This includes whether the split point should vary by employer size (a multi-split plan). We will bring the results of this work to the board in summer 2009.

Improved performance of the group experience rating program

- **Continuity:** Maintaining continuity in group membership over many years will improve overall group performance. It will require sponsors to develop both short- and long-term plans to help employers prevent claims and manage costs. Multiple options exist. We will share our findings and recommendations to the board by spring 2009.
- **Sponsorship requirements:** We will present proposed changes during the January actuarial committee meeting. These changes will affect the organizations that sponsor bureau discount programs today and in the future. These changes will also help employers better understand the role of sponsors in helping them provide safe workplaces.

Throughout this rate-reform process, we have maintained a transparent and open approach. The success of our outreach efforts continue to depend on the feedback of employers, sponsors and third-party administrators (TPAs). We will continue to report to the Board on our progress and seek its input.

Rate reform development process

After receiving the Board of Directors' approval June 2008, we implemented a three-step process:

- 1. Verify that each proposed concept has a market:** We researched program offerings in other states' workers' compensation systems. We also sought feedback from the business community to ensure the market potential for any new program offerings in Ohio.
- 2. Determine implementation feasibility:** We determined the resources needed to effectively oversee and operate any new program offerings. Resources include people within BWC as well as employers, sponsors and TPAs. We re-evaluated each potential new program to make sure that all involved could support it.
- 3. Improve pricing:** It is fundamentally important that each new program concept move us further toward the primary goal of having employers pay premiums commensurate with the risks they present to the system. Our actuarial consultant, Oliver Wyman, has been integral in the evaluation of these proposals and in verifying they will build on our past and present efforts to improve overall system performance.

We continue to take into account input from employers, their sponsoring associations and TPAs as we progress the rate-reform plan. We also established several dedicated communications channels to discuss ideas, including:

- O Advisory councils:** BWC's 16 customer service offices established advisory councils. To date, more than 250 employers from various industries participate in 11 councils. The councils meet quarterly to provide input and feedback on the rate-reform plan, and discuss workers' compensation issues that affect their businesses.
- O Local outreach:** Each service office manager sought to discuss the ongoing rate-reform efforts with employers, local chambers, trade associations and economic development entities. To date, the managers have visited with more than 120 entities and reported their feedback.
- O Workgroups:** We requested volunteers from employer organizations and TPAs to participate in rate-reform workgroups. This played an important role in developing our potential mitigation plans, identifying prospective changes to group sponsorship requirements and solidifying a strategy for group continuity. We facilitated 14 meetings covering nearly 30 hours with the organizations below. We spent additional time meeting individually with many of those who actively participated in the process.

Sponsors	TPAs
Central Ohio BX	CCI
COSE	CompManagement
County Commissioners' Association	Comprehensive Risk Management
Farm Bureau	Frank Gates
Greater Cleveland Auto Dealers' Association	Gates McDonald
NFIB	Sheakley
Ohio Association of School Board Officials	Spooner
Ohio Manufacturers' Association	Workers' Comp Management Solutions
Ohio Retail Merchants	
Ohio School Board Association	

These efforts have contributed to our progress. We expect to continue active discussions based upon the relationships developed thus far and hope to attract more participation from others. This will ensure the comprehensive rate-reform efforts achieve their intended benefits.

Key accomplishments to date

At its June 2008 meeting, the board directed BWC to move forward with its plan to strengthen Ohio's workers' compensation system by improving rating accuracy, stability and equity. As part of this comprehensive plan, BWC recommended the following:

- Reduce the maximum credibility level from 85 percent to 77 percent beginning July 1, 2009;
- Implement a capping strategy to mitigate potential premium volatility for employers negatively impacted by the credibility table reductions or significant experience changes;
- Create a series of new performance-based safety incentive and discount options for employers;
- Implement a nationally tested, split-experience rating plan;
- Continue to analyze components of group rating. This includes continuity, homogeneity and sponsor requirements.

To date, BWC has achieved significant progress as it relates to these recommendations as described below.

1) Reducing the maximum credibility level from 85 percent to 77 percent beginning July 1, 2009

At its June 2008 meeting, the board unanimously approved this recommendation. The new credibility table will be effective for the July 1, 2009, policy year for private employers. In May, we will present the proposed PEC credibility table to be effective January 1, 2010.

2) Proposing a capping strategy to mitigate potential premium volatility for Ohio employers beginning July 1, 2009

As part of the recommendations presented to the board in June, BWC proposed two caps to moderate employer premium volatility. The first was a 20-percent premium cap to control increases for employers impacted by changes to the credibility table. The second was a 100-percent EM cap to protect employers from significant increases due to experience changes.

As we further analyzed these proposed caps and solicited feedback from employers, group sponsors and TPAs, it became apparent that a 20-percent premium cap would create implementation issues, be hard for employers to understand, and be difficult to communicate. After considering internal and external input, we modified the capping strategy to the following:

- **A 30-percent EM cap** to control premium increases for employers impacted by changes to the credibility table
- **A 100-percent EM cap** to protect employers from significant increases due to experience changes

For more information on the proposed capping structure and impacts, please refer to the attached capping exhibits.

The change from a 20-percent premium cap to a 30-percent EM cap allows for a more transparent application of the cap while achieving approximately the same results.

In October 2008, BWC presented the Board's actuarial committee with this modified capping recommendation. We expect to bring a recommendation before the Board again and request that the Board approve a series of proposed rule changes to implement this capping plan for the July 1, 2009 policy year.

3) Creating new performance-based employer safety incentives and discount options for July 1, 2009, implementation

In June 2008, we proposed a series of new performance-based programs that would offer employers greater choice and improve customer service. These include a deductible program, group retrospective program, safety-dividend program and a shared savings program. For a complete description of these programs, please refer to the attached performance-based programs exhibits.

We have identified significant interest from the employer community for many of these new options. While there is a viable market, we also learned that offering too many new options could be confusing for employers. This would not allow us to efficiently direct resources to identify and improve the most successful programs. When considering infrastructure, process implementation, marketability, education, and the significant input from the external business community, we modified the parameters and schedule as described below.

Deductibles

We will propose rules to the actuarial committee to implement this program for the July 1, 2009, policy year. We will make a per claim deductible level of \$500; \$1,000; \$2,500; \$5,000 and \$10,000 available to any private employer or public employing taxing district that meets qualification requirements. For opting to participate in the deductible program, employers will receive an upfront discount on their premium. The higher the deductible level the employer selects, the greater its premium level discount.

BWC will continue to pay all medical and indemnity in claims subject to a deductible from the outset and bill the employer, up to the deductible amount, on a monthly basis. Per best practices as identified by the National Council on Compensation Insurance, we will apply claim costs from first dollar to the employer's loss experience. Billing for deductibles will occur monthly so BWC can decrease potential issues related to collections, cash flow and transparency. In addition, employers will be able to pay down their deductible costs with greater frequency instead of building up one large bill.

We must still establish qualification criteria and processes to verify that the employer is in good financial standing with BWC and is an acceptable credit risk. Failure to make timely payments would be a criterion to discontinue an employer's participation in the program starting with the next semi-annual policy period.

We are working with our consulting actuary, Oliver Wyman, to develop an appropriate pricing structure for this program. The proposed rules will be presented to the Actuarial Committee of the Board of Directors in January and February.

Group-retrospective rating

The external community has warmly received the concept of this program. BWC perceives a viable market upon implementation. This program would reward employers that can limit or reduce claim costs due primarily to improvements in workplace safety. Any private or public employer that meets the program qualification requirements would be eligible for this program. However, participation is subject to acceptance into a group by a certified group sponsor.

A collection of similar employers would form a retrospective-rating group for a given policy year. We would recalculate this group's combined performance 12, 24 and 36 months after the end of the policy year. If the group of employers accumulates fewer losses than projected based on the initial standard premiums paid, it would receive a premium refund commensurate with this performance. Conversely, if the group performs worse than projected, we would bill the group and additional premium assessment. A successful retrospective-rating group will have a track record of policy years with premium refunds that outweigh any policy years that resulted in a premium assessment. However, we will measure each policy year separately with all claim experience retained by the group for a given year.

The group will select a maximum premium level with options ranging from 1.05 to 2.0 times the collective experience premium of the group. We will match these with minimum premium factors, giving the group up front knowledge of the potential premium refunds or assessments.

We are working with our consulting actuary, Oliver Wyman, to develop the group retrospective rating tables. We recommend that BWC make this program available for private employers for the July 1, 2009, policy year. Upon completion of the group retrospective rating discount tables, we will present proposed rules for this program.

Safety dividend

Rather than create an entirely new program, we are assessing whether we can modify the current Premium Discount Program (PDP) to accomplish the same goal of a safety dividend in terms of rewarding safety in the workplace. Deloitte Consulting LLP's analysis indicates that while PDP provides some value to employers, the initial discount level may not be commensurate with subsequent loss reduction.

We are working with our consulting actuary, Oliver Wyman on a feasibility study for the structure of this program. Upon completion of the feasibility study, BWC will present the findings to the actuarial committee.

Shared savings

Shared savings is a concept in which a group of similar employers work together and attempt to achieve increased premium stability. Typically, better performing employers sacrifice some level of premium discount to benefit the poorer performing members of the group. After initial research and discussion, it became clear the core components of shared savings program, such as pooling of risk among similar types of employers, could be achieved in the proposed group retro product. Additionally, neither sponsors nor TPAs think BWC needs to participate in the few existing public sector shared savings programs. Therefore, BWC recommends it no longer pursue this option. However, we may ask for additional disclosure from sponsors and TPAs that offer this program.

4) Transition to a split-experience rating plan beginning the July 1, 2011, policy year.

In June 2008, we recommended introducing a split-experience rating plan. This plan differs from the current rating plan by emphasizing both the frequency and severity of claims to measure the risk an employer brings to the system. This nationally recognized rating methodology is a better predictor of risk and will provide better rating accuracy for all Ohio employers.

We began to discuss split-plan parameters and performance measures, taking into account both internal and external input. We continue to define and test the split-experience rating plan structure and parameters. As part of this analysis, we will incorporate potential impacts resulting from other reform efforts in addition to the impact resulting from the transition to MIRA II. The goal is to finalize the split-experience rating plan structure by summer 2009. Once accomplished, we will consider rules necessary to implement this program.

5) Continue to analyze components of group rating, including continuity, homogeneity and group-sponsor requirements.

We continue to analyze other aspects of group-rating reform. The sections below describe this work.

Continuity

In June 2008, we committed to reviewing strategies for maintaining continuity within the current group format. Under most options considered, groups would have to maintain a majority of their employers each rating year. This would improve our rating of groups by better matching the effects of a group's safety efforts with the claim experience that arises during an employer's membership in the group.

We continue to take into account input from sponsoring associations and TPAs. Through their retained consultant, Art Cohen, an actuary from Ernst and Young, some organizations asked BWC to study continuity in conjunction with potential future changes to the credibility tables as a way to improve overall performance within the system.

With input through the workgroup process, we have solidified several components of a functional group continuity strategy by adapting recommendations from the study done by Pinnacle Actuarial Solutions, and devising a persistency approach. They include:

- Requiring each group to maintain the majority of its employers from one year to the next.
- Identifying objective criteria to measure whether individual groups remain continuous. Groups that successfully meet a persistency threshold would earn appropriate discount levels. Those that failed to achieve it would receive appropriately reduced discounts.
- Starting new groups at a significantly reduced discount level. Because a new group would not have sufficient collective experience, it would earn only a portion of the discount those results from experience rating. The group could then earn greater experience rating discounts in future years by remaining continuous and achieving certain persistency levels.

- Allowing limited flexibility within groups to add or remove members. Because 100 percent continuity would dramatically restrict participation in the group-rating program, current modeling contemplates permitting groups to change their composition slightly from one year to the next without potentially jeopardizing their discount levels.

We have asked our actuarial consultant, Oliver Wyman, to study a range of parameters to test this approach and report on its performance. Results are expected back in early 2009. We expect the following benefits to materialize:

- Group EMs will increase at levels commensurate with the group's overall performance. Groups will earn their discounts through effective accident prevention and loss control. Those efforts may enable them to retain lower EMs than others that perform poorly. Overall, however, each group will pay premiums that are better aligned with the risks they bring to the system.
- Loss ratios between group and non-group employers will continue to move closer into alignment.
- New groups will not automatically receive high discounts. Instead, they will earn their discounts by remaining together, minimizing frequency and severity of claims with greater emphasis on safety, and controlling costs through effective claims management.

Deloitte recommended two other options. The first would result in creating two sets of base rates: one for non-group employers and another for those businesses participating in the group rating program.

Deloitte also suggested using individual employer experience retention within each group to improve performance. This strategy would require each employer's experience to remain with the group for the period in which they participated. This type of approach would also mitigate the impacts of continuity.

Group sponsor requirements

We have worked with sponsors to clarify the requirements for sponsoring a group. There are two primary components for consideration:

- Determining whether the criteria set forth in the administrative rules for sponsors are sufficient
- Refining BWC's enforcement of those rules

Thus far, the workgroup has identified several ideas to improve rules governing sponsorship requirements, including:

- Requiring sponsor certification at least once every three years;
- Strengthening disclosure by requiring sponsors to provide BWC with articles of incorporation, a table of organization, revenue stream and board minutes. Such information would allow us to confirm whether each sponsor meets the legal requirement that it maintain other business purposes in addition to group rating;
- Mandating that sub-sponsors who feed members to a primary sponsor submit to the same certification and disclosure requirements as the primary sponsor;

- Certify all sponsors and sub-sponsors to ensure compliance with all rule changes approved by the board. Failure to comply could prevent sponsors and sub-sponsors from participating in BWC programs;
- Enhanced safety-programming requirements.

We have had additional discussion as to whether BWC should register or more closely oversee TPAs, which are not governed by statute or rule in the context of workers' compensation. We will continue to study this issue

Communication and education

As part of the rate-reform process, we have a responsibility to raise awareness of the ongoing changes resulting from rate reform. These include changes to group rating as well as the advent of new, performance-based discount programs.

In early 2009, we will focus our efforts primarily on communicating to employers about the deductible program and the group retro program. Of particular importance will be educating those employers that could potentially benefit from either program.

A comprehensive communications plan is under development. We will execute the plan once Oliver Wyman finishes its modeling for both products. Preliminary timelines include:

- **Internal education and training:** BWC will train key front line staff who service employer accounts to explain the new programs by the end of February.
- **Employer targets:** We are using the new program rules to identify target employers for each program. Once Oliver Wyman finalizes the pricing structure, we will work to educate and raise awareness among those businesses that might benefit from enrollment in one of the new programs.
- **Sponsor education:** Since September 2008, we have worked with sponsors and their TPAs regarding our new product development. We are exploring ways to inform these sponsors, educate their employers and help them to make better decisions with respect to managing their workers' compensation costs.
- **Collateral materials:** We expect to develop collateral materials to promote these new discount programs, including:
 - Communicating via ohiohwc.com;
 - Developing static materials, including fact sheets and Q&A forms for internal staff and external customers;
 - Educating BWC contact center staff and other affected staff to help them answer basic program questions;
 - Marketing to editorial boards;
 - Sharing program development efforts with the General Assembly.

Exhibits

The following exhibits are available online at:

<http://www.ohiobwc.com/home/current/releases/2009/groupexhibits.asp>

Exhibit 1: Capping Materials

- 1.A. October 2008 capping plan presented to BWC Board of Directors
- 1.B. Capping power point presented to Actuarial Committee
- 1.C. Capping recommendations received from SAO
- 1.D. Oliver Wyman data – 20% EM cap
- 1.E. Oliver Wyman data – 20% EM and off-balance cap
- 1.F. Oliver Wyman data – 25% EM cap
- 1.G. Oliver Wyman data – 30% EM cap
- 1.H. Oliver Wyman data – 33% EM cap
- 1.I. Oliver Wyman data – Premium impacts over 20% under an EM cap
- 1.J. Proposed rule changes to 4123-17-03
- 1.K. Proposed rule changes to 4123-17-71

Exhibit 2: Program materials

- 2.A. Deductible Product Definition
- 2.B. Group Retrospective Rating Product Definition
- 2.D. Proposed rule 4123-17-72

Exhibit 3: Group continuity and rules materials

- 3.A. Oliver Wyman data – Experience Based Rating of Group Continuity
- 3.B. Pinnacle Analysis of Group Rating Plan - December 2006
- 3.C. Proposed rule changes to 4123-17-61
- 3.D. Proposed rule 4123-17-61.1

Exhibit 4: Employer outreach efforts

- 4.A. Cambridge advisory council notes
- 4.B. Canton advisory council notes
- 4.C. Columbus advisory council notes
- 4.D. Dayton advisory council notes
- 4.E. Northeast advisory council notes
- 4.F. Portsmouth advisory council notes
- 4.G. Rate Reform Outreach Presentation 11-7-2008

Exhibit 5: Workgroup outreach efforts

- 5.A. Rules Workgroup 9-4-2008
- 5.B. Product Development Workgroup 9-9-2008
- 5.C. Rules Workgroup 9-16-2008
- 5.D. Rules Workgroup 9-30-2008
- 5.E. TPA Workshop 10-19-2008
- 5.F. TPA Workshop 10-20-2008
- 5.G. Rules Workgroup 10-28-2008
- 5.H. Product Development Workgroup 11-12-2008
- 5.I. Rules Workgroup 11-12-2008
- 5.J. Split Plan Workgroup 11-18-2008
- 5.K. Group Retrospective Rating Overview 1-8-2009
- 5.L. Group Retrospective Rating Premium and Assessment Calculation 1-8-2009 Exhibit

6: Other materials

- 6.A. June project plan proposal
- 6.B. Deloitte Consulting LLP Comprehensive Study - June 2008
- 6.C. Timeline of project deliverables

Ohio BWC Comprehensive Study List of Recommendations and Impacts

Study Element	Task Description	Recommendation	BWC response	BWC area of responsibility	BWC Priority	Statute or Rule Change	Effectiveness & Efficiency	Financial Strength & Stability	Transparency	Ohio Economic Impact
Actuarial Dept Functions & Resources	Actuarial Organization	Establish Rating & Programs Pricing Team		Actuarial		No	High	High	Moderate	Moderate
Actuarial Dept Functions & Resources	Actuarial Organization	Establish Reserving & Net Asset Level Analysis Function		Actuarial		No	High	High	Moderate	Moderate
Actuarial Dept Functions & Resources	Actuarial Organization	Establish Data Management		Actuarial		No	High	High	Moderate	Moderate
Actuarial Dept Functions & Resources	Actuarial Organization	Actuarial Hiring and Development Program		Actuarial/ Personnel		No	Moderate	Moderate	None	None
Cost Controls	Salary Continuation	Terminate the Salary Continuation Program		Actuarial/Legal/ Claims/Employer Operations/ IT		Rule	High	High	Moderate	High
Cost Controls	\$15,000 Medical Only Program	Terminate the \$15,000 Medical Only Program		Actuarial/Legal/ Claims/Employer Operations/ IT		Statute / Rule	High	High	Moderate	High
Cost Controls	Salary Continuation / \$15K Med Only Program	Consider an Appropriately Priced Deductible Program as an Alternative	Included in Rate Reform	Actuarial/IT/ Employer Operations		Rule	Moderate	Moderate	None	High
Cost Controls	Subrogation	Limit caseloads to no more than 400		Legal		No	High	Moderate	Low	High
Cost Controls	Subrogation	Build functionality in V-3 to manage subrogation claims		Legal/Claims/IT		No	High	Moderate	Low	Moderate
Cost Controls	Subrogation	Establish a more robust set of performance metrics		Legal		No	High	Moderate	Moderate	Moderate
Cost Controls	Subrogation	Investigate utilization of text mining		Legal/Claims/IT		No	High	Moderate	Moderate	Moderate
Cost Controls	MCO Effectiveness	Sustain Trend of Decreasing Numbers of Participating MCOs		Medical		No	High	Moderate	None	Moderate
Cost Controls	MCO Effectiveness	Remove the BWC from the ADR Appeal Process		Medical		Rule	High	Moderate	None	Moderate
Cost Controls	MCO Effectiveness	Legislate Change to Mandatory IME Requirement at 90 Days Lost Time		Medical		Statute / Rule	High	Moderate	Moderate	Moderate

Ohio BWC Comprehensive Study List of Recommendations and Impacts

Study Element	Task Description	Recommendation	BWC response	BWC area of responsibility	BWC Priority	Statute or Rule Change	Effectiveness & Efficiency	Financial Strength & Stability	Transparency	Ohio Economic Impact
Cost Controls	MCO Effectiveness	Give MCOs More Flexibility in Allowable Condition Determinations		Medical		Statute / Rule	High	Moderate	Moderate	Moderate
Cost Controls	MCO Effectiveness	Establish ODG as Mandated Disability Duration Guidelines (replacement for DODM)		Medical		No	Moderate	Moderate	High	Low
Cost Controls	MCO Effectiveness	Update All Fee Schedules Every 1 - 2 Years		Medical		Rule	Moderate	Moderate	High	High
Cost Controls	MCO Effectiveness	Improve Provider Profiling, Credentialing, and De-Certification		Medical		No	Moderate	Moderate	High	Moderate
Cost Controls	MCO Effectiveness	Continue Public Forums and Re-institute Injured Worker Surveys		Medical		No	Moderate	Moderate	High	None
Cost Controls	Medical Payments	Fee Schedule Update and Maintenance		Medical		No	High	Moderate	High	Moderate
Cost Controls	Medical Payments	Address Medical Payment Process Duplication		Medical		No	High	Moderate	Moderate	Moderate
Cost Controls	Medical Payments	Streamline Treatment Authorization Request and ADR Process		Medical		Rule	High	Moderate	Moderate	Moderate
Cost Controls	Medical Payments	Replace DoDM with ODG disability duration Guidelines		Medical		No	High	Moderate	High	Moderate
Cost Controls	Retrospective Rating	Redesign the Retrospective Rating Program		Actuarial/ Employer Operations		Rule	Moderate	Moderate	Moderate	Moderate
Cost Controls	Safety Grant Programs	Make Grants Available Even if No Claims Related to the Intervention		Safety and Hygiene		Rule	Moderate	Negative	Low	None
Cost Controls	Safety Grant Programs	Require Safety Report With Application		Safety and Hygiene		Rule	Moderate	High	Moderate	Moderate
Cost Controls	Safety Grant Programs	Combine DFWP and DF-EZ Programs	Included in Rate Reform	Employer Operations/ Actuarial		Rule	High	Moderate	Moderate	Low
Cost Controls	Safety & Hygiene Program	Develop the capability to track the experience of employers participating in the safety & hygiene program		Safety and Hygiene/ Actuarial		No	Low	Low	Low	Low
Cost Controls	Impact of Rates	Impact of Rates on Frequency, Severity, and Loss Ratios		Actuarial		No	None	No	None	None
Cost Controls	Vocational Rehabilitation Program	Change Rules to Give BWC Sole Authority to Direct Rehab Services		Medical		Rule	High	Moderate	None	Moderate
Cost Controls	Vocational Rehabilitation Program	Reconsider the Rules Associated with the Experience Rating Treatment of LM Claims		Actuarial		Statute / Rule	High	Moderate	Moderate	Moderate
Financial Provisions	SIEGF	Institute Pre-Assessment Alternatives		SI/Finance		Statute / Rule	High	High	Low	Moderate
Financial Provisions	SIEGF	Collect Enhanced Data		SI		No	High	High	High	Low

Ohio BWC Comprehensive Study List of Recommendations and Impacts

Study Element	Task Description	Recommendation	BWC response	BWC area of responsibility	BWC Priority	Statute or Rule Change	Effectiveness & Efficiency	Financial Strength & Stability	Transparency	Ohio Economic Impact
Financial Provisions	SIEGF	Require Collateral from Higher Risk Employers		SI/Finance		No	High	High	Moderate	High
Financial Provisions	SIEGF	Revise Assessment Base		SI/Actuarial/ Finance		No	Moderate	Low	Low	Low
Financial Provisions	SIEGF	Reinsure Certain Bankruptcy Losses		SI/Actuarial/ Finance		Statute / Rule	Moderate	Moderate	Low	Low
Financial Provisions	Net Asset Level	Adopt a Funding Policy with Guidelines & Metrics		Finance/ Actuarial/ Invesments		Rule	Moderate	High	High	Moderate
Financial Provisions	Net Asset Level	Target a Funding Ratio Range & Recommended Actions		Finance/ Actuarial/ Invesments		No	Moderate	High	High	Moderate
Financial Provisions	Net Asset Level	Policy Guidance with Premium Options based on Funding Ratio		Finance/ Actuarial/ Invesments		No	Moderate	High	High	Moderate
Financial Provisions	Excess Insurance and Reinsurance	Limit impact of CAT event to 5-10% of Net Assets		Finance/ Actuarial/ Invesments		Statute / Rule	Moderate	Moderate	Moderate	Moderate
Financial Provisions	Excess Insurance and Reinsurance	Test Reinsurance Market for CAT Protection		Finance/ Actuarial/ Invesments		No	Moderate	Moderate	Moderate	Moderate
Financial Provisions	Actuarial Audit Reserves and Expected Payments	Include Risk Margins & Disclose Margins/Discounts		Actuarial/ Oliver Wyman		No	Low	High	High	Low
Financial Provisions	Actuarial Audit Reserves and Expected Payments	Require Statement of Actuarial Opinion		Oliver Wyman/ Actuarial		No	Low	Moderate	High	Low
Financial Provisions	Actuarial Audit Reserves and Expected Payments	Further study of LSS Savings & DWRF Risk		Actuarial/Legal/ Claims		No	Moderate	Moderate	High	high
Financial Provisions	Actuarial Audit Reserves and Expected Payments	Use Add'l Methods, Document Better, Test Estimates, Focus on Risk & Uncertainty		Actuarial/ Oliver Wyman		No	Moderate	Moderate	High	Low
Pricing Process	Statewide Rate Level	Provide More Responsiveness to Ohio Trends		Actuarial/ Oliver Wyman		No	High	Moderate	Low	Moderate
Pricing Process	Statewide Rate Level	Perform Baseline Indication Before Discounting		Actuarial/ Oliver Wyman		No	Moderate	Moderate	High	Moderate
Pricing Process	Statewide Rate Level	Include Alternative Method in Calculating Indicated Rate Change		Actuarial/ Oliver Wyman		No	High	High	Moderate	Moderate

Ohio BWC Comprehensive Study List of Recommendations and Impacts

Study Element	Task Description	Recommendation	BWC response	BWC area of responsibility	BWC Priority	Statute or Rule Change	Effectiveness & Efficiency	Financial Strength & Stability	Transparency	Ohio Economic Impact
Pricing Process	Statewide Rate Level	Display Historical Loss Costs at Proposed Cost and Wage Levels		Actuarial/ Oliver Wyman		No	None	None	High	None
Pricing Process	Statewide Rate Level	Display Impact of Collecting Premium in Arrears on the Rate Change Indication		Actuarial/ Oliver Wyman		No	None	None	High	None
Pricing Process	Class Ratemaking	Eliminate Use of ER Off-Balance Adjustment Factor for Class Base Rates		Actuarial/IT		Rule	High	High	Moderate	Moderate
Pricing Process	Class Ratemaking	Apply Individual ER Off-Balance Adjustment to Individual ER Risks Only		Actuarial/IT		Rule	High	High	Moderate	Moderate
Pricing Process	Class Ratemaking	Calculate Catastrophe Factor by NCCI Hazard Group		Actuarial/IT		Rule	Moderate	Moderate	None	Moderate
Pricing Process	Class Ratemaking	Provide More Detailed Documentation for Each Adjustment Factor		Actuarial/IT		No	None	None	High	None
Pricing Process	Class Ratemaking	Use Alternative Indication of Class Loss Costs to Credibility Weight Class Loss Costs		Actuarial/IT		No	Low	Low	None	Low
Pricing Process	Class Ratemaking	Separate Case Reserves in Estimating Historical Loss Costs	Separate reserve figure between Medical Only and Lost time	Actuarial/IT		No	Low	Low	None	Low
Pricing Process	Experience Rating / Group Rating	Change the Structure of the Group Rating Program		Actuarial/ Employer Operations		Rule	High	High	High	High
Pricing Process	Experience Rating / Group Rating	Change Credibility for Individual Experience to be In Line with Industry Practices		Actuarial/IT		Rule	Low	Moderate	None	Low
Pricing Process	Experience Rating / Group Rating	Prohibit Exclusion of Claims from Experience Rating Calculation	Remove MIRA Transition Rules	Actuarial/Legal/ Claims/ Employer Operations/ IT		No	Low	Low	Low	Low
Pricing Process	MIRA II Reserving	Develop an Alternative to the Exclusive Use of MIRA II	Develop internal BWC reserving system	Actuarial/IT		No	Moderate	High	High	High
Pricing Process	MIRA II Reserving	Determine Where MIRA II Claim Values are Most Predictive		Actuarial/Claims/Em ployer Operations		No	Moderate	High	High	High
Pricing Process	MIRA II Reserving	Study the Impact of MIRA II Reserves on Class Rates and Experience Rating		Actuarial		No	Moderate	Moderate	Moderate	Moderate
Pricing Process	Self-Insurance (19.1)	Require an Actuarial Study for Self-Insurance Applicants		SI/Actuarial		Rule	High	High	Moderate	High
Pricing Process	Self-Insurance (19.1)	Require Additional Security for Employers Applying for Self-Insurance		SI/Actuarial		Rule	High	High	Low	Moderate
Pricing Process	Self-Insurance (19.1)	Consider Offering Group Self-Insurance		SI/Actuarial		Statute / Rule	Moderate	Moderate	Moderate	High
Pricing Process	Self-Insurance (19.1)	Consider Trends within Industries to Determine Self-insurance Criteria		SI/Actuarial		No	Moderate	Moderate	Low	High
Pricing Process	Self-Insurance (19.1)	Incorporate Objective Financial Criteria as Part of the Self-Insurance Application		SI		No	Moderate	Moderate	Moderate	Low

Ohio BWC Comprehensive Study List of Recommendations and Impacts

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Pricing Process	Self-Insurance (19.1)	Consider Offering Enhanced Customer Service Aid to Employers		SI		No	Low	Low	High	Low
Pricing Process	Self-Insurance (19.1)	Consider Requiring an Anti-Fraud Program as Part of the Self-Insurance Application		SI/Fraud		Rule	Low	Low	Moderate	Low
Pricing Process	Self-Insurance (19.1)	Consider Requiring a Formal Safety Program as Part of the Self-Insurance Application		SI/Field Operations		Rule	Low	Low	Moderate	Low
Pricing Process	Self-Insurance (19.1)	Require Organization Documents for Self-Insurance Application		SI		Rule	Low	Low	Moderate	Low
Pricing Process	Self-Insurance (18)	Require an Actuarial Study for Self-Insurers Returning to the SIF		SI/Actuarial		Rule	High	High	Moderate	High
Pricing Process	Self-Insurance (18)	Continuation of Security upon Returning to the State Insurance Fund		SI		Rule	High	High	Moderate	High
Pricing Process	Self-Insurance (18)	Do Not Allow Self-Insurers to Leave the State Insurance Fund Multiple Times		SI		Rule	High	High	Moderate	High
Pricing Process	Self-Insurance (18)	Expand Reporting Forms to Allow for More Detailed Internal Analysis		SI		No	Moderate	Moderate	Moderate	Moderate
Pricing Process	Administrative Cost Calculation	Re-evaluate portion of Administrative Expenses allocated to LAE		Finance		No	Low	Moderate	Moderate	Low
Pricing Process	PES Rate Setting	Change the Manner in which PES Rates are Calculated		Actuarial		Statute / Rule	Moderate	Moderate	High	Low
Pricing Process	PES Rate Setting	Change the Method Used to Determine Expected Paid Losses in the Prospective Policy Year		Actuarial/ Oliver Wyman		Rule	Moderate	Low	Low	Low
Pricing Process	Handicap Reimbursement Program	Terminate the Handicap Reimbursement Program		Legal/Actuarial/ Employer Operations/ Claims		Statute / Rule	Moderate	Moderate	High	Low
Pricing Process	NCCI Classification System	Consider Using NCCI Class Codes for Public Taxing Districts		Actuarial/ Employer Operations		Rule	Moderate	Low	Low	Low
Pricing Process	NCCI Classification System	Monitor Procedures used to Code Construction Classes		Employer Operations		No	Moderate	Moderate	None	Moderate
Pricing Process	NCCI Classification System	Establish Specific Premium Audit Guidelines		Employer Operations		No	High	Moderate	None	Moderate
Pricing Process	NCCI Classification System	Increase Scope of Premum Audit Function		Employer Operations		No	Moderate	High	None	Moderate
Pricing Process	NCCI Classification System	Consider an Audit Scoring Tool to Prioritize Audits		Employer Operations		No	High	High	None	Moderate
Pricing Process	Experience Aggregation Approach	Use NCCI Approach to Common Majority Ownership for Experience Rating		Employer Operations/ Actuarial		Rule	Moderate	Moderate	Moderate	Moderate

Ohio BWC Comprehensive Study List of Recommendations and Impacts

Study Element	Task Description	Recommendation	BWC response	BWC area of responsibility	BWC Priority	Statute or Rule Change	Effectiveness & Efficiency	Financial Strength & Stability	Transparency	Ohio Economic Impact
Pricing Process	Minimum Premium Review	Examine the Feasibility of Raising the Minimum Premium		Actuarial/ Employer Operations		Rule	Moderate	Moderate	None	Moderate
Pricing Process	Minimum Premium Review	Increase Premium Audits for Accounts that Report No Payroll but Have Claims		Employer Operations		No	Moderate	Moderate	None	Moderate
Pricing Process	Ancillary Funds - DWRP	Set DWRP Rates to Meet Payments and Reduce Burden to Future Employers for DWRP Benefits		Actuarial/ Finance		Statute / Rule	Moderate	High	Moderate	Moderate
Pricing Process	Ancillary Funds - DWRP	Change DWRP from Pay-As-You-Go Basis to Support Reducing Unfunded Obligations		Actuarial/ Finance		Statute / Rule	Moderate	High	Moderate	Moderate
Pricing Process	Ancillary Funds - DWRP	Establish a Good, Clear, and Long Term Rationale for Funding DWRP Benefits		Actuarial/ Finance		No	Moderate	High	Moderate	Moderate
Pricing Process	Ancillary Funds - DWRP	Set Policy Rationale for Equity between Past, Current and Future Benefits to Pay DWRP Benefits		Actuarial/ Finance		No	Moderate	Moderate	High	Low
Pricing Process	Ancillary Funds - CWRP	Charge Some Premium for CWPF Coverage with Credits/Dividends for Long Term CWPF Employers		Actuarial/ Finance		Rule	Moderate	Moderate	High	High
Pricing Process	Ancillary Funds - All	Address Large Unfunded Obligation Including Possible Long Term Funding		Actuarial/ Finance		Statute / Rule	Moderate	High	Moderate	Moderate
Pricing Process	Ancillary Funds - All	Develop Funding Policies for Each Ancillary Fund (DWRP, MIF, CWPF)		Actuarial/ Finance/ Investments		No	Moderate	Moderate	High	Moderate
Pricing Process	Ancillary Funds - All	Conduct Further Research to Support Legislative Change to Combine Funds		Legal/Legislative Affairs/Actuarial/Finance		Statute / Rule	Moderate	Moderate	Moderate	None
Pricing Process	Change of Employer Experience Rates	Eliminate/Restrict Changes to Employer Rates Due to Changes in Claims		Actuarial/ Employer Operations/ Legal/ IT		Statute / Rule	High	Low	Moderate	Low
Pricing Process	Change of Employer Experience Rates	Establish Shorter and Clearly Defined Time Constraints, and Restrict Time to Report Errors		Actuarial/ Employer Operations/ Legal/ IT		Statute / Rule	Moderate	Moderate	Moderate	Moderate
Pricing Process	Out-of-State Employer Experience Rating	Utilize only Ohio based Information to Determine Eligibility for Experience Rating		Actuarial/ Employer Operations/ Legal/ IT		Rule	High	Low	Moderate	Low
Pricing Process	Out-of-State Employer Experience Rating	Adopt the Industry Standard of using Base Premiums as the Eligibility Criteria for Experience Rating		Actuarial/ Employer Operations/ Legal/ IT		Rule	High	Low	Moderate	Low

OLIVER WYMAN

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January 12, 2009

Mr. John Pedrick, FCAS, MAAA
Chief Actuarial Officer
Ohio Bureau of Workers' Compensation
30 West Spring Street
Columbus, OH 43266-0581

Subject:
NAIC Actuarial Opinion Requirements

Dear Mr. Pedrick:

We have been asked to compare our current reserve opinion letter with that required by the National Association of Insurance Commissioners (NAIC) opinion requirements. Below we have outlined the key elements required, provided comments on each element and raised a few questions for you to consider.

Identification:

- Association with BWC – The relationship should be defined as consultant.
- Qualifications – State that qualifications are met as a Fellow of the Casualty Actuarial Society and Member of the American Academy of Actuaries
- Date of Appointment by Board or Board committee to render opinion – This is not included at this time. We could state that we have been retained by BWC to issue this opinion.

Scope:

- Identify the reserves items for which an opinion is being expressed. – The NAIC exhibit 'A' provides a list of those items; exhibit 'B' reflects the disclosures. We may need a summary exhibit with the financial statement reserves as opposed to the NAIC exhibits A and B.
- State who was relied upon for the data, if it was evaluated for reasonableness and consistency, and what reconciliations were performed (schedule P tie out for example). – This is covered, although there is no equivalent to Schedule P for reconciliation. We could have BWC provide an audit file for reconciliation purposes or add a statement describing the BWC's reconciliation process.

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Page 2

January 12, 2009

Mr. John Pedrick, FCAS, MAAA

Ohio Bureau of Workers' Compensation

- Review of assumptions and methods, tests of calculations, etc. – This is covered.
- Discuss significant data elements with auditor, and work with them on selecting key data elements for the auditors to check. – At the present time, this has not been done. We are aware that the auditors review the data and calculations, but have not directly asked for verification of specific data elements.

Opinion Paragraph:

- Confirm whether reserves make a reasonable provision for all unpaid loss and LAE (gross and net) <OR>
 - Identify reserves that are inestimable, if any
 - Indicate that net or gross reserves are excessive or deficient, and by how much
 - Decide that an opinion cannot be formed
- The reasonableness statement is made for the undiscounted reserves in the audit report, but not for the discounted reserves (see next item). Likewise no comment regarding the financial statement reserves is made. If we are to provide an opinion consistent with the NAIC, we would be issuing a qualified opinion, as most discounting is not allowed. To issue an unqualified opinion, we would need the law/regulatory language that would allow discounting and also incorporate a risk margin into the discounted reserve.
- Confirm the reserves are calculated in accordance with actuarial standards. – This is done, however a comment is provided that an actuarially sound reserve, on a present value basis, must include a risk margin.
- Confirm the reserves meet the requirements of the Ohio insurance laws. – At this time we are not sure if this applies—is there a relevant law?

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Page 3

January 12, 2009

Mr. John Pedrick, FCAS, MAAA

Ohio Bureau of Workers' Compensation

Relevant Comments:

- Determine materiality standard, disclose it, and discuss whether or not there is a material risk of adverse deviation (RMAD) – A significant risk of adverse deviation is stated explicitly. The word “material” should be added. The percentage of surplus should be labelled as the materiality standard.
- Conduct due diligence and comment on reinsurance – This is not applicable as there is no reinsurance.
- Comment on IRIS test results – This is not practical since BWC does not produce statutory Annual Statement accounting data.
- Describe any material changes to methods and assumptions – This should be added, even if it just a comment that there are none. Significant changes could include trend change, new methodology or change in discount rate.
- Review unearned premium calculations for long duration contracts – This is not applicable as there are no long duration contracts.
- Other potential comments –
 - Pools and associations – not applicable
 - Asbestos and Environmental Reserves – A comment may be required due to potential occupational diseases related to this exposure.
 - Extended loss contracts – not applicable
 - Anticipated salvage and subrogation – New analysis may need to be performed if the amount of salvage and subrogation is needed. The unpaid liability is currently net of salvage and subrogation.
 - Discounting – A discussion is currently included on discounting, however should this document clarify that the financial statement reserves are on a discounted basis? Is this a summary document about the actuarial audit report, or is it an opinion on the reserves in the financials?

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Page 4

January 12, 2009

Mr. John Pedrick, FCAS, MAAA

Ohio Bureau of Workers' Compensation

- Comment on Actuarial Report and Workpapers – Need to add instructions on recommended document retention.

Required Exhibits

- Exhibit A – This is a specific list of loss reserve and premium reserve items as shown in NAIC Annual Statement. This could be modified to reflect the audited financial statements.
- Exhibit B – Specific Disclosures –
 - Materiality standard – The standard should be shown in dollars .
 - Risk of Material Adverse Deviation – Currently stated as existing in current opinion.
 - Statutory Surplus – Need to show as “Net Asset” realizing it is not the same as statutory surplus.
 - Anticipated net salvage and subrogation – This amount may need to be calculated.
 - Discount – The amount of the discount should be shown.
 - Pools and Associations – Not applicable, as there are no pools or associations.
 - Extended loss and expense reserves – Not applicable.

Regarding these exhibits, the outstanding question is whether or not these exhibits should be prepared and modified for inclusion into the opinion?

Report to the Board of Directors

This has been provided.

If we can provide further information or assistance, please let us know.

Sincerely,


Jeffery J. Scott, FCAS, MAAA


Jeffery W. Scholl, FCAS, MAAA

JJS/JWS

Proposed Actuarial Consultant RFP Schedule

New contract beginning after August 1, 2009 and before January 2, 2010.

Contract for 2 years with 2 one year renewal periods

Steps	Dates	Completion date
Blackout Period Begins	November 2008	
2006 Actuarial consultant RFP scope provided to Actuarial Committee for review	November 20, 2008	Hardcopy of previous actuarial consultant RFP provided to Actuarial Committee at November meeting. Follow up email with only scope section sent on December 23, 2008.
Comments and recommendations from actuarial committee members	November and December, 2008	Feedback provide from directors
Scope and evaluation criteria determined	February 6, 2009	
RFP issued	February 27, 2009	
Question submission begins	March 2, 2009	
Question submission ends	March 13, 2009 10:00 AM EST	
Answers posted on the web site	March 27, 2009	
Mandatory Letter of Intent or Mandatory Pre-submission conference	March 31, 2009 5:15 PM EST	
Proposals due	April 16, 2009 2:00 PM EST	
Initial Proposal review and scoring	April 16 to April 24, 2009	
Optional Phone interviews	Week of May 4, 2009	
Optional in person interviews	May 11 to May 29, 2009	
Presentation from recommended consultant to actuarial committee	June 18, 2009	
RFP review committee makes recommendation to Actuarial committee and Workers' Compensation Board	June 18, 2009	
Workers Compensation Board approves selection	June 19, 2009	
Blackout Period ends at selection of actuarial consultant	June 19, 2009	
Contract begins	August, 2009 –January, 2010	
Initial contract ends	December 31, 2011	
Contract renewals end	December 31, 2013	

BWC Board of Directors
Actuarial Committee
CAO Report

John Pedrick, Chief Actuarial Officer
January 22, 2009

We have developed a timeline for the rate reform implementation which is detailed in the rate reform report. The reform effort includes implementation dates for the deductible program, group sponsorship, group retrospective program, and credibility table changes. Specific program parameters and rules for the deductible will be presented in the January and February Actuarial Committee meetings. Items that will be forthcoming are potential changes in the homogeneity rule, proposed new rules on the continuity or persistency of group membership from year to year and the details regarding continuing improvement of the rate methodology through a split rating plan.

Current timelines for our projects follow subject to appropriate changes as developments warrant.

Comprehensive Plan Implementation

1. Communications/Group Structure and Governance Team

Jeremy Jackson		
Task/Function	Timeline	Status
Stakeholder Communications	8/1/2008 start	Ongoing
Rules/ Outreach	8/1/2008 start	Ongoing
Media	8/1/2008 start	Ongoing
Targeted Employer Communications	8/1/2008 start	Ongoing

- Workgroups will continue to meet on programs, continuity, and the split plan parameters.
- Individual meetings with group sponsors and TPA's continue.
- Meetings with employer groups in each service are also continuing.

2. Capping/Split Plan Team

Terry Potts and Paul Flowers		
Task/Function	Timeline	Status
Identify parameters and structure for capping strategy	Jul – Dec, 2008	Completed
System development	Sep 2008 to Dec 2009	In progress
Capping strategy for PA employers effective	July 1, 2009	In progress
Capping strategy for PEC employers effective	January 1, 2010	
Split Plan parameters decided	Summer, 2009	
Split plan development	July, 2009 to July, 2010	
Split Plan implementation	July 1, 2011	

- Rules to implement caps for the policy year starting July 1, 2009 were presented for a first reading with the Actuarial Committee in October. Further action on the rules is dependent on developments over the next few months.
- A continuity strategy is being reviewed using the persistency method.

3. New Products/Deloitte Integration Team

Joy Bush and Jamey Fauque, Centric Consulting		
Task/Function	Timeline	Status
Develop Project Plan	Aug 11-15	Completed
Develop Deductible Plan	Aug – Jan, 2009	In progress
Develop Dividend/Retro/Sharing Plans	Aug – July, 2009	In progress
Develop Group Retro Program	Dec 2008 – Jun, 2009	In progress
Review Current Programs	Aug – Feb, 2009	In progress
Board Meeting to Review Final Proposals	January 22, 2009	In progress

- We will present rules to the Actuarial Committee in January on the deductible program effective with the policy year starting July 1, 2009.
- A group retrospective rating plan will be developed for implementation on July 1, 2009.
- Additional products are being reviewed for development including a safety dividend and a no claim discount.

House Bill 100 §512.50 Actuarial Study

Task/Function	Timeline	Status
Project Begins	Feb 19, 2008	Completed
Initial Meeting with Deloitte	Feb 27, 2008	Completed
Deloitte introduced to Actuarial Committee	Feb 28, 2008	Completed
Deloitte training presentation to Actuarial Committee	May 28, 2008	Completed
Deloitte presents first grouping report to Actuarial Committee	June 25, 2008	Completed
Deloitte presents second grouping report to Actuarial Committee	August 28, 2008	Completed
Deloitte presents third grouping report to Actuarial Committee	October 30, 2008	Completed
Deloitte presents final report to Actuarial Committee/Board	Dec 17, 2008	Completed
Project ends	Dec 31, 2008	Completed

- Deloitte is preparing an executive summary for the Actuarial Committee/Board that will be presented to the board over the next few months
- Deloitte continues to submit draft reports for the completed tasks. The BWC is reviewing these reports and giving comments before finalization of the reports.
- The BWC is creating a project management team and project management plan to review the recommendations from the comprehensive study to determine priority, implementation strategy, and required legislative or rule changes.

MIRA II

Task/Function	Timeline	Status
Historical Data Extraction	January – August 2007	Completed
Customer Workgroups		-----
<ul style="list-style-type: none"> • Employer-Web Services Focus Group 	November 2007	Completed
<ul style="list-style-type: none"> • Claim Expert Workgroup 	November – December 2007	Completed
<ul style="list-style-type: none"> • MIRA II-TPA Update Meeting 	December 11, 2007	Completed
MIRA II Injury Mapping Logic-Finalized and Approved	January 2008	Completed
MIRA II-Development of Reserve Models (FIC)	February – May 2008	Completed
Data Interface Testing	March – May 2008	Completed

MIRA II- Web Services Enhancement	February – July 2008	Completed
Testing/Review of Initial MIRA II Reserves	May – June 2008	Completed
Training/Education on MIRA II System	July – November 2008	Completed
MIRA II Reprediction (Adjustment) System		
Design, Develop, Test, Implement	May 2008 – July 2009	On schedule
Implement MIRA II	July – September 2008	Completed
MIRA II reserves used for the 12/31/2008 PA rate cutoff	December 31, 2008	Completed

Public Employer Taxing District Rates

Task/Function	Timeline	Status
Public Employer Taxing District Rates	July 2008 - December 2008	Completed
Summary Payroll	August 25, 2008 through September 12, 2008	Completed
Summary Losses	August 25, 2008 through September 19, 2008	Completed
Group Application Deadline	August 29, 2008	Completed
Rate Calculations	September 19, 2008 through November 14, 2008	Completed
Rate recommendation to Actuarial Committee	September 25, 2008	Completed
Rate consent from WCB	October 30, 2008	Completed
Final Rates to WCB	November 20, 2008	Completed
Mailing of Employer Rate Letters	December 30, 2008	Completed

7/1/2009 Private Employer (PA) Rates

Task/Function	Timeline	Status
Private Employer Rates	January 2009 to July 2009	In-process
Summary Payroll	January – February 2009	In-process
Summary Losses	January – February 2009	In-process
Rate Calculations	February 2009 to June 2009	
Rate recommendation to Actuarial Committee	February/March 2009	
Rate consent from WCB	March/April 2009	
Final Rates to WCB	June 2009	
Mailing of Employer Rate Letters	July 2009	

Actuarial Division Staffing

Interviews of applicants for the new Director and Manager positions are underway. We have scheduled the third interview January 27, 2009.

Actuarial Consultant Contract

We are now in the “blackout period” for the actuarial consultant contract RFP. The current contract expires December 31, 2009.

Proposed Actuarial Consultant Request for Proposal Schedule

The new contract begins after August 1, 2009 and before January 2, 2010. The contract will be for 2 years with 2 one year renewal periods.

Actuarial Consultant Contract continued

Steps	Dates
Blackout Period Begins	November 2008
2006 Actuarial consultant RFP scope provided to Actuarial Committee for review	November 20, 2008
Comments and recommendations from actuarial committee members	November and December, 2008
Scope and evaluation criteria determined	February 6, 2009
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Blackout Period ends at selection of actuarial consultant	June 19, 2009
Contract begins	August, 2009 –January, 2010
Initial contract ends	December 31, 2011
Contract renewals end	December 31, 2013

12 - Month Actuarial Committee Calendar

Date	January	Notes
1/22/2009	1. Rate Reform report	
	2. Tracking Deloitte Recommendations	
	3. RFP Plan and issuance schedule	
	4. EM Cap Rules - 2 nd read possible vote	
	5. Deductible Program Rules - 1 st read	
	6. Sponsorship Certification Rules - 1 st read	
	7. Group Rating rules - 1 st read	
Date	February	
2/19/2009	1. Quarterly reserve update as of 12/31/08	
	2. RFP progress	
	3. Deductible Program Rules - 2 nd read - possible vote	
	4. Sponsorship Certification Rules - 2 nd read - possible vote	
Date	March	
3/19/2009	1. PES Rate indication	
	2. Employer "How to Buy" guide	
	3. PA rate indication - 1st reading	
	4. Group Retrospective Rules - 1st reading	
Date	April	
4/29/2009	1. Review of Performance based discount options	
	2. PES rate approval	
	3. Ancillary fund rates and SI assessments - 1st reading	
	4. PA rate indication - 2nd reading possible vote	
	5. Group Retrospective Rules - 2nd reading possible vote	
Date	May	
5/28/2009	1. Quarterly reserve update as of 3/31/09	
	2. Ancillary fund rates and SI assessment rate approval	
	3. PEC Credibility Table Rule 4123-17-33.1 - 1st reading	
	4. PEC Capping recommendation - 1st reading	
	5. PA rate recommendations	

12 - Month Actuarial Committee Calendar

Date	June	Notes
6/18/2009	1. PEC Credibility Table Rule 4123-17-33.1 - 2nd reading	
	2. PEC Capping recommendation - 2 nd read possible vote	
	3. PA Rate Recommendations - possible vote	
	4. Admin Cost Fund - possible vote	
	5. Group rating Sponsor requirements	
	6. RFP recommended Actuarial Consultant presentation	
Date	July	
7/30/2009	1. Reserve Audit update as of 6-3-08 (assuming change in procedure)	
	2. PA Group Rules - 1st reading	
	3. PA Capping - 1st reading	
	4. PA Credibility Table Rule 4123-17-05.1 - 1st reading	
	5. Selection of actuarial consultants	
Date	August	
8/27/2009	1. Reserve Audit update	
	2. PA Group Rules - 2nd reading	
	3. PA Capping - 2nd reading	
	4. PA Credibility Table Rule 4123-17-05.1 - 2nd reading	
Date	September	
9/24/2009	1. Public Employer Taxing Districts rate change	
	2. PA Group Retrospective Rating Rules - 1st reading	
	3. First report from actuarial consultants	
	4. PEC rate indication - 1 st read	
Date	October	
10/29/2009	1. Charter changes	
	2. Projected Reserves as of 6/30	
	3. Split plan - 1 st read	
	4. PEC rate indication	

Experience Rating Reform

In June 2008, the Board of Directors approved a series of proposals to continue experience rating reform that will better align premiums with projected levels of risk. In the proposals, BWC noted the concerns expressed by sponsoring associations and third-party administrators about the potential financial impacts to employers, and recommended to cap increases in employer premiums in two ways:

- 1) **Cap per-year premium increases resulting solely from changes to the credibility table at 20%.**
- 2) **Cap year-to-year employer Experience Modifier (EM) increases at 100%.**

The BWC has continued to solicit and receive feedback to develop the detailed capping recommendations that will be presented to the Board of Directors at the October 2008 meeting.

CAPPING DESIGN RECOMMENDATION

BWC's original proposal to cap premium increases at 20-percent would require employers to initially pay their full premiums without regard to the caps. Then, after the policy year ends and premiums are received by the BWC, the premium cap would be calculated with the employers receiving a refund check as applicable. Due to the complexity and the delayed premium reduction for employers, this method of capping would be less than ideal. The BWC would like to implement a capping strategy that is easy to understand, communicate, and implement. Therefore, the BWC recommends using an EM cap at a percentage that will achieve similar results as a 20-percent premium cap. Using a 30% EM cap permits the employers to pay premiums at a capped EM rate immediately without waiting for the policy year to end to receive the benefit of the capping strategy. The BWC continues to recommend the 100% cap to moderate premium increases from one policy year to the next for individually rated employers.

CAPPING IMPACT COMPARISON

The following data compares the projected impacts of the original capping strategy (100-percent EM/20-percent premium) to that of the current recommendation (100-percent Year-to-Year EM/30-percent Single Year EM).

Group Loss Ratio Relative to Non-Group Loss Ratio				Number of Policies Capped		Average Premium of all policies		
At 85% Credibility Table	At 77% Credibility Table	20% Premium cap	30% EM cap	20% premium cap	30% EM cap	Before Capping	After 20% premium cap	After 30% EM cap
1.52	1.34	1.33	1.34	61,529	73,865	\$8,348	\$8,182	\$8,168

*Group loss ratio relative to non-group loss ratio at the 85% maximum credibility table is 1.52

CAPPING DESCRIPTION

- 1) **Implement a Within-Year EM Cap of 30-percent to moderate premium increases as a result of the July 1, 2009 credibility table change.** This cap will limit to 30-percent the EM increase that is caused solely by the change from an 85-percent maximum credibility table to a 77-percent maximum credibility table. There will be two EM's calculated for 7/1/2009. The first will be calculated using the 85-percent credibility table and the second using the 77-percent credibility table. The selected EM will be the lower of the 85-percent maximum credibility table EM increased by 30-percent or the 77-percent maximum credibility table EM. Any changes due to the employer's experience would not be included as part of this cap, since both EM calculations use the same experience period data. This capping process may be repeated in subsequent years (pending further actuarial analysis) until the uncapped premium level is achieved for the policy.

Within-Year EM Cap of 30-percent Scenarios

Employer EM Scenarios	(A) 7-1-2009 EM (85-percent maximum tables)	(B) 85% EM plus 30-percent	(C) 7-1-2009 EM (77-percent maximum tables)	(D) Selected EM (lower of column B or C)
Individual Employer not in a group – cap	0.23	0.30	0.31	0.30
Individual Employer not in a group – no cap	0.57	0.74	0.60	0.60
Individual Employer group rated for PY 7-1-2009 – cap	0.15 (group EM)	0.20 (group EM)	0.23	0.20
Individual Employer group rated for PY 7-1-2009 – no cap	0.36 (group EM)	0.47 (group EM)	0.45	0.45

2) Implement a Between-Year EM Cap of 100-percent to moderate premium increases from one policy year to the next, beginning July 1, 2009. This cap will capture any changes to an individual employer’s experience rating history. The baseline EM will be the July 1, 2008 published EM which uses experience period data calculated as of the December 31, 2007 survey date. This baseline EM will not be adjusted at any point in the future. No cap will be applied to EM decreases.

Between-Year EM Cap of 100-percent Scenarios

Employer EM Scenarios	(A) 7-1-2008 EM	(B) 7-1-2009 Capped EM (7-1-2008 EM x 2)	(C) 7-1-2009 EM (77-percent maximum tables)	(D) Selected EM for 7-1-2009 policy year (lower of column B or C)
Individual Employer – no cap	0.63	1.26	0.73	0.73
Individual Employer – no cap	0.63	1.26	0.50	0.50
Individual Employer – cap	0.63	1.26	1.55	1.26
Individual Employer- group rated in PY 7-1-2008 no longer group in PY 7-1-2009	0.15 (group EM)	0.30	1.05 (individual EM)	0.30

Between-Year EM Cap of 100-percent Exclusion

It is important to recognize that changes in exposure have an impact on premium requirements. Therefore, where more than one employer policy’s experience is used to develop an EM and the exposure is now different than was used to calculate the baseline EM, the resulting EM is not subject to the 100-percent year to year cap.

Exceptions to the Exclusion that will allow the cap to be applied:

- 1) A Debtor in Possession policy combination as a result of bankruptcy proceedings. This transaction is a change in policy number without any change in exposure.
- 2) A succeeding employer policy that is base rated as of the effective date of the transfer that wholly or partially succeeds only one other policy. This exception acknowledges the change in exposure.

In both of the exceptions above, the baseline EM of the successor policy will be the predecessor policy’s 7/1/2008 published EM.

Discount Programs

- 1) The One Claim Program (OCP) will continue to operate under the current rules and parameters. The only exception being, any employer that has a lower EM (due to the 100-percent year-to-year cap) than the .60 EM currently offered under the OCP would receive the 100-percent capped EM. The employer should still apply for the OCP as the current rules require. This will allow the BWC to use the OCP EM as the baseline EM in subsequent policy years.
- 2) The baseline EM for those employers that are currently participating in either the Premium Discount Program or the Drug Free Workplace Program will be the published EM prior to the program discounts.

Common Sense Business Regulation (BWC Rules)

(Note: The below criteria apply to existing and newly developed rules)

Rules 4123-17-03, 4123-17-71

Rule Review

1. The rule is needed to implement an underlying statute.

Citation: R.C. 4123.29, 4123.34

2. The rule achieves an Ohio specific public policy goal.

What goal(s): Rule 4123-17-03 establishes the formula for calculating the experience modification for workers' compensation rates. Rule 4123-17-71 describes the one claim program for workers' compensation. The amendments will mitigate the impact of premium fluctuations for employers caused by changes to the credibility table or group rating eligibility, providing more premium predictability for employers.

3. Existing federal regulation alone does not adequately regulate the subject matter.

4. The rule is effective, consistent and efficient.

5. The rule is not duplicative of rules already in existence.

6. The rule is consistent with other state regulations, flexible, and reasonably balances the regulatory objectives and burden.

7. The rule has been reviewed for unintended negative consequences.

8. Stakeholders, and those affected by the rule were provided opportunity for input as appropriate.

Explain: Third Party Administrators; Group rating sponsors

9. The rule was reviewed for clarity and for easy comprehension.

10. The rule promotes transparency and predictability of regulatory activity.

11. The rule is based on the best scientific and technical information, and is designed so it can be applied consistently.

12. The rule is not unnecessarily burdensome or costly to those affected by rule.

If so, how does the need for the rule outweigh burden and cost? _____

13. The Chief Legal Officer, or his designee, has reviewed the rule for clarity and compliance with the Governor's Executive Order.

4123-17-03 Employer's classification rates.

(A) An employer's premium rates shall be the manual basic rates as provided under rules 4123-17-02, 4123-17-06, and 4123-17-34 of the Administrative Code for each of its classifications except as modified by its experience rating, and shall apply for the first two six-month periods beginning on or after the first of July for private employers and shall apply for the calendar year beginning on or after the first of January for public employer taxing districts.

(1) In calculating the manual base rate under this rule, the bureau shall exclude the experience of an employer that is no longer active if the inclusion of the inactive employer's experience would have a significant negative impact upon the remaining active employers in a particular manual classification.

(2) The calculation of the base rate and the experience rate shall be applied to all employers reporting payroll in the manual classification, whether or not the premiums of the individual employers are reduced.

(3) Once the bureau has determined that the loss data of a specific inactive employer shall be removed from the manual classification experience, the bureau shall exclude the data of that employer from all future manual classification rate calculations. If that inactive employer reactivates its account with the Ohio state insurance fund, the bureau shall include the loss data in rate calculations for the manual classification.

(4) As used in this rule, an employer that is "no longer active" or is "inactive" is defined as an employer that satisfies all of the following criteria:

(a) The employer is assigned the policy status "bankrupt cancel," "cancel effective date," "final cancel," "canceled uncollectible," "no coverage due to claim," or "no coverage;"

(b) The employer is not reporting payroll;

(c) The employer is not paying or assessments to the Ohio state insurance fund as of the rate cut off date under either its own identity, the identity of any successor entity, or as a self-insured entity; and

(d) The employer does not employ employees for which Ohio workers' compensation jurisdiction would apply.

(5) As used in this rule, a "significant negative impact" is defined as occurring when the inactive employers in the manual reported forty per cent or more of the payroll in the manual classification in any calendar year in the experience period and when the loss rate and loss/premium ratio of the inactive employers taken as a whole are significantly higher than those of the active employers taken as a whole as measured using the data from the prior policy year's most current four years data. For private employer rates

effective July 1, 1997, the bureau shall use the experience period data of the current policy year.

(B) An experience-rated employer's manual classification rate modification (credit or penalty) shall be determined by multiplying its experience modification percentage (EM%) times the basic manual rate for each assigned manual classification. The amount of the modification shall then be subtracted from or added to the respective basic rate to obtain the employer's premium rate for each classification.

(C) The experience modification percentage (EM%) shall be determined on the basis of the employer's experience and applied to the basic rate. The experience modification percentage of the employer's rate is determined in accordance with the following formula:

Subtract the TLL from the TML (TML – TLL), then divide by the TLL; multiply the resulting number by the C%; then add 100 to the resulting number, which will equal the EM%.

~~TML = Actual losses of the employer for the experience period as reduced in accordance with the maximum value. For individually rated employers, the EM% calculation will use the lower of the total modified losses from either the tabular reserve system or the MIRA reserve system. The TML that will be used in the calculation of the group EM% will be the lower of the TMLs from either the tabular reserve system or the MIRA reserve system, as determined at the individual employer level.~~

TLL = Total limited losses = TEL x LLR

TEL = Total expected losses as determined by applying the national council of compensation insurance (NCCI) expected loss rate to the NCCI classification payroll of each NCCI classification in the employer's experience period, as provided in appendix A of rule ~~4123-17-04~~ 4123-17-05.1 of the Administrative Code for private employers and rule 4123-17-33.1 of the Administrative Code for public employer taxing districts. The total expected losses are then used to determine the credibility group, credibility, and maximum value of a loss, ~~credibility, and CX constant~~.

LLR = Limited loss ratio = ~~1 - CX/C%~~. This ratio is calculated for each credibility group within each industry group and is published as Table 1, Part ~~C~~ B, ~~in~~ of rule 4123-17-05 of the Administrative Code for private employers and Part B of rule 4123-17-33 of the Administrative Code for public employer taxing districts.

C% = Credibility given to an employer's own experience. Credibility is assigned by applying the employer's total expected losses to Table 1, Part A, in rule ~~4123-17-05~~ 4123-17-05.1 of the Administrative Code for private employers and rule ~~4123-17-33~~ 4123-17-33.1 of the Administrative Code for public employer taxing districts.

~~CX = Constant for each employer size group (group maximum value pool).~~

EM% = Credit or ~~penalty~~ debit applied to the basic rate.

~~(D) An employer's expected losses shall be the sum of the expected losses for each of its classifications. The expected losses for a classification shall be obtained by applying the expected loss rate of the table of rates to the employer's four-year payroll of the classification.~~

~~(E)~~ The "experience period" shall be the oldest four of the latest five calendar years immediately preceding the beginning of the payroll reporting period to which the revised rates are applicable.

~~(F)~~ (E) Experience modification per cent (EM%) shall be subject to the following conditions and limitations:

(1) Actual losses include all incurred costs and shall be limited at the claim level to the amounts ~~stated in the credibility table provided in appendix A of rule 4123-17-05.1 of the Administrative Code for private employers and rule 4123-17-33.1 of the Administrative Code for public employer taxing districts~~ according to the total expected losses of an employer;

(2) An employer shall not be eligible for experience modification of basic rates unless its expected losses are at least the minimum amount in the credibility table as provided in appendix A of rule 4123-17-05.1 of the Administrative Code for private employers and rule 4123-17-33.1 of the Administrative Code for public employer taxing districts, as periodically established for the applicable rating period by rule adopted by the administrator with the advice and consent of the bureau of workers' compensation board of directors;

~~(G)~~ (F) Commencing with the rating year beginning July 1, 1987, and all subsequent rating years, all manual classifications of the state insurance fund are subject to experience rating (i.e., merit rating).

(G) With-in year cap: Commencing with the rating year beginning July 1, 2009, the bureau shall cap or limit the increase to the employers experience modification per cent (EM%) where the increase to the employer's EM% is due solely to the change in the experience rating credibility table from the 85-per cent maximum credibility table to the 77-per cent maximum credibility table.

(1) The bureau will calculate the EM% two ways for July 1, 2009, using the July 1, 2009 experience period data. The bureau will calculate the EM% using the 85-per cent credibility table and then will calculate the EM% using the 77-per cent credibility table.

(2) The bureau will assign to the employer the lower of the following:

(a) The EM% calculated using the 85 per cent maximum credibility table EM%, increased by 30 per cent, or

(b) The EM% calculated using the 77 per cent maximum credibility table.

(H) Year-to-year cap: Commencing with the rating year beginning July 1, 2009, the bureau shall cap or limit at 100% the increase to the employer's experience modification (EM%) from the July 1, 2008 published EM%.

(1) The bureau will cap the July 1, 2009 EM% at a 100% increase from the published July 1, 2008 EM% which used the experience period data calculated as of December 31, 2007. The bureau will not adjust the July 1, 2008 published EM% for the purposes of determining the cap for the July 1, 2009 rating year. The bureau will not apply a cap to any EM% decreases.

(2) Exclusion to the 100% EM% cap: Where more than one employer policy's experience is used to develop an EM%, the resulting EM% is not subject to the 100 per cent year to year cap.

(3) Exceptions to the Exclusion.

(a) The bureau will allow the cap to be applied to a debtor in possession policy combination as a result of bankruptcy proceedings. This transaction is a change in policy number without any change in exposure. The baseline EM% of the successor will be the predecessor's July 1, 2008 published EM%.

(b) The bureau will allow the cap to be applied to a succeeding employer policy that is base rated as of the effective date of the transfer that wholly or partially succeeds only one other policy. This exception acknowledges the change in exposure. The baseline EM% of the successor will be the predecessor's July 1, 2008 published EM%.

Prior effective date: 07/21/2008

Promulgated Under: 111.15

Statutory Authority: 4121.12, 4121.121, 4121.13

Rule Amplifies: 4123.29, 4123.34

4123-17-71 One claim program for experience rated and base rated employers.

Pursuant to division (E) of section 4123.34 of the Revised Code, the administrator may grant a discount on premium rates to an eligible employer that meets the one claim program (OCP) requirements under the provisions of this rule.

(A) As used in this rule:

(1) “One claim program” or “OCP” means the bureau’s voluntary rate program which offers a private, state fund employer the opportunity to mitigate the impact of a significant claim that would be coming into the employer’s experience for the first time from the green year.

(2) “Significant claim” means a claim whose total value or maximum claim value, whichever is lower, will be greater than the employer’s total limited losses (TLL).

(B) Application and withdrawal processes. An employer’s participation in the OCP is voluntary and shall be for a maximum of four policy years in relationship to a specific significant claim. The bureau shall evaluate each application to determine the employer’s current eligibility to participate in the OCP at the time of the application and for each year of continuing participation. The bureau shall have the final authority to approve an eligible employer for initial and continued participation in the OCP.

(1) A private state fund employer shall submit a completed application by March thirty-first for the policy year beginning July first of that year.

(2) An employer may withdraw from the OCP under this rule at any time. An employer that withdraws from the OCP after receiving a discount will return to its own individual experience rating for the rest of the policy year.

(3) If the employer withdraws from the OCP and has any remaining years in which the significant claim is still in its experience, the employer may reapply for the OCP and designate the same significant claim as its one claim.

(C) Eligibility requirements. At the time of an employer’s application for the OCP, the employer shall be currently enrolled in a group rating program and shall meet the following program requirements:

(1) The employer shall have no more than four claims in the next experience period including the most recent calendar year with the total cost value of the one significant claim or the employer’s maximum claim value, whichever is lower, greater than the employer’s TLL. The four claims may include up to three medical only claims and one significant claim.

(2) The employer shall be current at the time of the application underwriting review. "Current" means that the employer is not more than forty-five days past due on any and all premiums, assessments, penalties or monies otherwise due to any fund administered by the bureau, including amounts due for retrospective rating at the time of the application deadline. The employer must continue to be current throughout its participation in OCP.

(3) The employer cannot have cumulative lapses in workers' compensation coverage in excess of fifty-nine days within the eighteen months preceding the March thirty-first application deadline or any time thereafter while participating in the OCP.

(4) An employer in the OCP shall continue to meet all eligibility requirements during each year of participation in the program.

(D) General program requirements.

(1) In signing the application form, the chief executive officer or designated management representative of the employer is certifying to the bureau that the employer will comply with all program requirements.

(2) An employer may have a maximum of three medical only claims at any time in addition to the one significant claim. As a medical only claim exits the employer's experience period, the employer may include a new medical only claim.

(3) The total number of medical only claims may not exceed three, and the total combined costs of these claims must be below the employer's TLL.

(4) An employer may participate in the OCP on no more than one claim every four years from the date of the employer's initial participation in the program. If the combined claim costs for the three medical only claims increase over the TLL, the employer would not be eligible.

(5) Once a claim has been designated as the one significant claim, an employer is not permitted to change the designated claim after the employer's initial enrollment in the program.

(6) Settled and subrogated claims will be included in the employer's total claim count.

(7) The employer shall attend the bureau's Workers' Compensation University and one other BWC-approved training class each participating policy year.

(E) Program benefits.

(1) The bureau will credit an employer that meets all the criteria with a forty per cent discount from the employer's base rate.

(a) Any employer that has a lower EM% due to the 100-per cent year-to-year cap as provided in paragraph (H) of rule 4123-17-03 of the Ohio Administrative Code than the forty per cent discount offered under this rule would receive the EM% based on the 100-per cent capped EM.

(b) The employer should still apply for the one claim program as provided in this rule to allow the employer to continue in the one claim program in subsequent policy years.

(2) The employer shall be eligible to participate in the bureau's drug-free workplace program or drug-free EZ program and may add the drug-free discount in addition to the OCP discount.

(F) Removal from program. The bureau will remove an employer from participation in the OCP at the beginning of the next policy year and, upon removal, will return the employer to its individual experience modifier, under the following circumstances:

(1) If the employer has more than four claims, lost time or medical only, including the one significant claim;

(2) If the combined claim costs of the three medical only claims increase past the TLL;

(3) If the employer fails to meet any of the eligibility or general requirements of paragraph (C) or paragraph (D) of this rule.

(G) An employer may appeal the bureau's application rejection or the bureau's participation removal in the OCP to the bureau's adjudicating committee pursuant to section 4123.291 of the Revised Code and rule 4123-14-06 of the Administrative Code.

Prior effective date: 1/1/05

Promulgated Under: 111.15

Statutory Authority: 4121.12, 4121.121

Rule Amplifies: 4123.29, 4123.34

4123-17-03 Employer's classification rates.

(A) An employer's premium rates shall be the manual basic rates as provided under rules 4123-17-02, 4123-17-06, and 4123-17-34 of the Administrative Code for each of its classifications except as modified by its experience rating, and shall apply for the first two six-month periods beginning on or after the first of July for private employers and shall apply for the calendar year beginning on or after the first of January for public employer taxing districts.

(1) In calculating the manual base rate under this rule, the bureau shall exclude the experience of an employer that is no longer active if the inclusion of the inactive employer's experience would have a significant negative impact upon the remaining active employers in a particular manual classification.

(2) The calculation of the base rate and the experience rate shall be applied to all employers reporting payroll in the manual classification, whether or not the premiums of the individual employers are reduced.

(3) Once the bureau has determined that the loss data of a specific inactive employer shall be removed from the manual classification experience, the bureau shall exclude the data of that employer from all future manual classification rate calculations. If that inactive employer reactivates its account with the Ohio state insurance fund, the bureau shall include the loss data in rate calculations for the manual classification.

(4) As used in this rule, an employer that is "no longer active" or is "inactive" is defined as an employer that satisfies all of the following criteria:

(a) The employer is assigned the policy status "bankrupt cancel," "cancel effective date," "final cancel," "canceled uncollectible," "no coverage due to claim," or "no coverage;"

(b) The employer is not reporting payroll;

(c) The employer is not paying or assessments to the Ohio state insurance fund as of the rate cut off date under either its own identity, the identity of any successor entity, or as a self-insured entity; and

(d) The employer does not employ employees for which Ohio workers' compensation jurisdiction would apply.

(5) As used in this rule, a "significant negative impact" is defined as occurring when the inactive employers in the manual reported forty per cent or more of the payroll in the manual classification in any calendar year in the experience period and when the loss rate and loss/premium ratio of the inactive employers taken as a whole are significantly higher than those of the active employers taken as a whole as measured using the data from the prior policy year's most current four years data. For private employer rates

effective July 1, 1997, the bureau shall use the experience period data of the current policy year.

(B) An experience-rated employer's manual classification rate modification (credit or penalty) shall be determined by multiplying its experience modification percentage (EM%) times the basic manual rate for each assigned manual classification. The amount of the modification shall then be subtracted from or added to the respective basic rate to obtain the employer's premium rate for each classification.

(C) The experience modification percentage (EM%) shall be determined on the basis of the employer's experience and applied to the basic rate. The experience modification percentage of the employer's rate is determined in accordance with the following formula:

Subtract the TLL from the TML (TML – TLL), then divide by the TLL; multiply the resulting number by the C%; then add 100 to the resulting number, which will equal the EM%.

~~TML = Actual losses of the employer for the experience period as reduced in accordance with the maximum value. For individually rated employers, the EM% calculation will use the lower of the total modified losses from either the tabular reserve system or the MIRA reserve system. The TML that will be used in the calculation of the group EM% will be the lower of the TMLs from either the tabular reserve system or the MIRA reserve system, as determined at the individual employer level.~~

TLL = Total limited losses = TEL x LLR

TEL = Total expected losses as determined by applying the national council of compensation insurance (NCCI) expected loss rate to the NCCI classification payroll of each NCCI classification in the employer's experience period, as provided in appendix A of rule ~~4123-17-04~~ 4123-17-05.1 of the Administrative Code for private employers and rule 4123-17-33.1 of the Administrative Code for public employer taxing districts. The total expected losses are then used to determine the credibility group, credibility, and maximum value of a loss, ~~credibility, and CX constant.~~

LLR = Limited loss ratio = ~~1 - CX/C%~~. This ratio is calculated for each credibility group within each industry group and is published as Table 1, Part ~~C~~ B, ~~in~~ of rule 4123-17-05 of the Administrative Code for private employers and Part B of rule 4123-17-33 of the Administrative Code for public employer taxing districts.

C% = Credibility given to an employer's own experience. Credibility is assigned by applying the employer's total expected losses to Table 1, Part A, in rule ~~4123-17-05~~ 4123-17-05.1 of the Administrative Code for private employers and rule ~~4123-17-33~~ 4123-17-33.1 of the Administrative Code for public employer taxing districts.

~~CX = Constant for each employer size group (group maximum value pool).~~

EM% = Credit or ~~penalty~~ debit applied to the basic rate.

~~(D) An employer's expected losses shall be the sum of the expected losses for each of its classifications. The expected losses for a classification shall be obtained by applying the expected loss rate of the table of rates to the employer's four year payroll of the classification.~~

~~(E)~~ The "experience period" shall be the oldest four of the latest five calendar years immediately preceding the beginning of the payroll reporting period to which the revised rates are applicable.

~~(F)~~ (E) Experience modification per cent (EM%) shall be subject to the following conditions and limitations:

(1) Actual losses include all incurred costs and shall be limited at the claim level to the amounts ~~stated in the credibility table~~ provided in appendix A of rule 4123-17-05.1 of the Administrative Code for private employers and rule 4123-17-33.1 of the Administrative Code for public employer taxing districts according to the total expected losses of an employer;

(2) An employer shall not be eligible for experience modification of basic rates unless its expected losses are at least the minimum amount in the credibility table as provided in appendix A of rule 4123-17-05.1 of the Administrative Code for private employers and rule 4123-17-33.1 of the Administrative Code for public employer taxing districts, as periodically established for the applicable rating period by rule adopted by the administrator with the advice and consent of the bureau of workers' compensation board of directors;

~~(G)~~ (F) Commencing with the rating year beginning July 1, 1987, and all subsequent rating years, all manual classifications of the state insurance fund are subject to experience rating (i.e., merit rating).

(G) Year-to-year cap: Commencing with the rating year beginning July 1, 2009, the bureau shall cap or limit at 100% the increase to the employer's experience modification (EM%) from the July 1, 2008 published EM%.

(1) The bureau will cap the July 1, 2009 EM% at a 100% increase from the published July 1, 2008 EM% which used the experience period data calculated as of December 31, 2007. The bureau will not adjust the July 1, 2008 published EM% for the purposes of determining the cap for the July 1, 2009 rating year. The bureau will not apply a cap to any EM% decreases.

(2) Exclusion to the 100% EM% cap: Where more than one employer policy's experience is used to develop an EM%, the resulting EM% is not subject to the 100 per cent year to year cap.

(3) Exceptions to the Exclusion.

(a) The bureau will allow the cap to be applied to a debtor in possession policy combination as a result of bankruptcy proceedings. This transaction is a change in policy number without any change in exposure. The baseline EM% of the successor will be the predecessor's July 1, 2008 published EM%.

(b) The bureau will allow the cap to be applied to a succeeding employer policy that is base rated as of the effective date of the transfer that wholly or partially succeeds only one other policy. This exception acknowledges the change in exposure. The baseline EM% of the successor will be the predecessor's July 1, 2008 published EM%.

Prior effective date: 07/21/2008
Promulgated Under: 111.15
Statutory Authority: 4121.12, 4121.121, 4121.13
Rule Amplifies: 4123.29, 4123.34

4123-17-71 One claim program for experience rated and base rated employers.

Pursuant to division (E) of section 4123.34 of the Revised Code, the administrator may grant a discount on premium rates to an eligible employer that meets the one claim program (OCP) requirements under the provisions of this rule.

(A) As used in this rule:

(1) “One claim program” or “OCP” means the bureau’s voluntary rate program which offers a private, state fund employer the opportunity to mitigate the impact of a significant claim that would be coming into the employer’s experience for the first time from the green year.

(2) “Significant claim” means a claim whose total value or maximum claim value, whichever is lower, will be greater than the employer’s total limited losses (TLL).

(B) Application and withdrawal processes. An employer’s participation in the OCP is voluntary and shall be for a maximum of four policy years in relationship to a specific significant claim. The bureau shall evaluate each application to determine the employer’s current eligibility to participate in the OCP at the time of the application and for each year of continuing participation. The bureau shall have the final authority to approve an eligible employer for initial and continued participation in the OCP.

(1) A private state fund employer shall submit a completed application by March thirty-first for the policy year beginning July first of that year; except that for the 2009 deadline only, the employer shall file the application by April 30, 2009.

(2) An employer may withdraw from the OCP under this rule at any time. An employer that withdraws from the OCP after receiving a discount will return to its own individual experience rating for the rest of the policy year.

(3) If the employer withdraws from the OCP and has any remaining years in which the significant claim is still in its experience, the employer may reapply for the OCP and designate the same significant claim as its one claim.

(C) Eligibility requirements. At the time of an employer’s application for the OCP, the employer shall be currently enrolled in a group rating program and shall meet the following program requirements:

(1) The employer shall have no more than four claims in the next experience period including the most recent calendar year with the total cost value of the one significant claim or the employer’s maximum claim value, whichever is lower, greater than the employer’s TLL. The four claims may include up to three medical only claims and one significant claim.

(2) The employer shall be current at the time of the application underwriting review. "Current" means that the employer is not more than forty-five days past due on any and all premiums, assessments, penalties or monies otherwise due to any fund administered by the bureau, including amounts due for retrospective rating at the time of the application deadline. The employer must continue to be current throughout its participation in OCP.

(3) The employer cannot have cumulative lapses in workers' compensation coverage in excess of fifty-nine days within the eighteen months preceding the March thirty-first application deadline or any time thereafter while participating in the OCP.

(4) An employer in the OCP shall continue to meet all eligibility requirements during each year of participation in the program.

(D) General program requirements.

(1) In signing the application form, the chief executive officer or designated management representative of the employer is certifying to the bureau that the employer will comply with all program requirements.

(2) An employer may have a maximum of three medical only claims at any time in addition to the one significant claim. As a medical only claim exits the employer's experience period, the employer may include a new medical only claim.

(3) The total number of medical only claims may not exceed three, and the total combined costs of these claims must be below the employer's TLL.

(4) An employer may participate in the OCP on no more than one claim every four years from the date of the employer's initial participation in the program. If the combined claim costs for the three medical only claims increase over the TLL, the employer would not be eligible.

(5) Once a claim has been designated as the one significant claim, an employer is not permitted to change the designated claim after the employer's initial enrollment in the program.

(6) Settled and subrogated claims will be included in the employer's total claim count.

(7) The employer shall attend the bureau's Workers' Compensation University and one other BWC-approved training class each participating policy year.

(E) Program benefits.

(1) The bureau will credit an employer that meets all the criteria with a forty per cent discount from the employer's base rate.

(a) Any employer that has a lower EM% due to the 100-per cent year-to-year cap as provided in paragraph (G) of rule 4123-17-03 of the Ohio Administrative Code than the forty per cent discount offered under this rule would receive the EM% based on the 100-per cent capped EM.

(b) The employer should still apply for the one claim program as provided in this rule to allow the employer to continue in the one claim program in subsequent policy years.

(2) The employer shall be eligible to participate in the bureau's drug-free workplace program or drug-free EZ program and may add the drug-free discount in addition to the OCP discount.

(F) Removal from program. The bureau will remove an employer from participation in the OCP at the beginning of the next policy year and, upon removal, will return the employer to its individual experience modifier, under the following circumstances:

(1) If the employer has more than four claims, lost time or medical only, including the one significant claim;

(2) If the combined claim costs of the three medical only claims increase past the TLL;

(3) If the employer fails to meet any of the eligibility or general requirements of paragraph (C) or paragraph (D) of this rule.

(G) An employer may appeal the bureau's application rejection or the bureau's participation removal in the OCP to the bureau's adjudicating committee pursuant to section 4123.291 of the Revised Code and rule 4123-14-06 of the Administrative Code.

Prior effective date: 1/1/05

Promulgated Under: 111.15

Statutory Authority: 4121.12, 4121.121

Rule Amplifies: 4123.29, 4123.34

Common Sense Business Regulation (BWC Rules)

(Note: The below criteria apply to existing and newly developed rules)

Rule 4123-17-72

Rule Review

1. The rule is needed to implement an underlying statute.

Citation: R.C. 4123.29

2. The rule achieves an Ohio specific public policy goal.

What goal(s): R.C. 4123.29(A)(3) permits BWC to offer alternative premium plans.
The deductible rule is a rating plan that offers BWC employers additional options for rating.

3. Existing federal regulation alone does not adequately regulate the subject matter.

4. The rule is effective, consistent and efficient.

5. The rule is not duplicative of rules already in existence.

6. The rule is consistent with other state regulations, flexible, and reasonably balances the regulatory objectives and burden.

7. The rule has been reviewed for unintended negative consequences.

8. Stakeholders, and those affected by the rule were provided opportunity for input as appropriate.

Explain: Sponsor/TPA workgroup meetings that included approximately 30 people

9. The rule was reviewed for clarity and for easy comprehension.

10. The rule promotes transparency and predictability of regulatory activity.

11. The rule is based on the best scientific and technical information, and is designed so it can be applied consistently.

12. The rule is not unnecessarily burdensome or costly to those affected by rule.

If so, how does the need for the rule outweigh burden and cost? _____

13. The Chief Legal Officer, or his designee, has reviewed the rule for clarity and compliance with the Governor’s Executive Order.

Deductible Program – Executive Summary

Overview

BWC will offer a small deductible program to all BWC employers. BWC will pay first dollar on all claims and bill the deductible amounts back to the insured on a periodic basis. Qualification criteria would be established to verify that the employer is in good financial standing with BWC and is an acceptable credit risk.

Deductible Levels

The following deductible levels would be offered to Employers

- \$500 per claim
- \$1000 per claim
- \$2500 per claim
- \$5000 per claim
- \$10,000 per claim

Target Customer

Both group and non-group employers would be eligible to participate in the deductible program as long as they meet the qualification criteria. Individual employers within a group would have the opportunity to make their own election as to the adoption and level of a deductible plan.

PA and PEC employers would both be eligible for the deductible plans and rules would apply equally across both segments.

The premium reduction employers receive would be a percentage of premiums and will be a function of the level of deductible they chose and their NCCI hazard group. NCCI hazard groups are based on the employer's primary operating manual classification. Therefore, the higher deductible selected, the larger of a discount they will receive. We anticipate that such a small return for the additional risk of deductible charges would discourage very small employers from adopting the plan.

Qualification Criteria

The deductible level an employer chooses must be lower than 25 percent of their last year's premium. Therefore, a minimum of \$2,000 in annual premium is the lower threshold given the lowest deductible amount is \$500. The enrollment period will occur once per year and the employer will commit to participate for the full duration of the policy year. A re-enrollment process will occur annually with BWC re-verifying that the employer is an acceptable credit risk and has paid their deductible payments on time. Emphasis will be put upon simplicity so that overhead related to the deductible program will not be a deterrent to

adoption of the plan. Employers wishing to participate continuously in the program will not need to re-apply each year.

An employer must be in good standing with BWC (no pending balance, a history of timely payments, and other factors) and be considered an acceptable credit risk to participate in the Deductible Program. A further check of account standing will be made after the first half of the policy year. If they are not current on their deductible payments, BWC may remove the employer from the program for the second half of the policy year.

Pricing Structure

For opting to participate in the Deductible Program, the employer will receive a discount on their premium. The amount of discount will be dependent upon the NCCI Hazard Group the employer falls within and the level of deductible chosen.

Upon the confirmation of the high-level structure of the deductible program, BWC will work with Oliver Wyman to develop a detailed pricing structure. Actuarial best practices and NCCI resources will be utilized to determine the appropriate deductible discount levels.

Aggregate or stop-loss coverage is not a feature of the BWC deductible program at this time. Research shows that most deductible programs are offered without an aggregate limit, however BWC is still researching the demand and marketability in the Ohio market.

Allowing group employers into deductible plans may have the effect of lowering the upfront discounts. If this theory bears out, we may consider separate deductible tables for group versus non-group employers.

Billing Structure

BWC paying first dollar on each claim will necessitate additional billing to employers. Billing for deductibles will occur monthly so that BWC does not have a significant cash flow or receivable issues. Also, employers will be able to pay down their deductible costs with greater frequency instead of building up one large bill.

All recorded costs under the defined deductible level will be charged to the employer each month, even if the claim remains open.

It will be evaluated whether an automatic withdrawal system would be appropriate to assist in the collection of deductible billing.

Draft rule
Deductible Program

4123-17-72 Deductible program.

(A) As used in this rule:

(1) "Coverage period" means the twelve month period beginning July 1 through June 30 for private employers, and January 1 through December 31 for public employers. The deductible selected by the employer will apply only to claims with a date of injury within the coverage period defined in the deductible agreement.

(2) "Deductible" means a specified amount of money that the insured must pay on a claim before the bureau covers the costs of a workers' compensation claim.

(3) "Modified rate" means the rate that employers who are experience rated pay as a percentage of their payroll. This rate is calculated by taking the base rate and multiplying it by the employer's experience modification (EM) factor.

(4) "NCCI base rate" means the rate that employers who are not experience rated pay as a percentage of their payroll.

(5) "Policy in good standing" means the employer is current on all payments due to the bureau and is in compliance with bureau laws, rules, and regulations at the time of enrollment or reenrollment.

(6) "Premium" means money paid (due) from an employer for workers' compensation insurance. It does not include money paid as fees, fines, penalties or deposits.

(7) "Qualified employer" means an employer that has a bureau policy that is in good standing at the time of enrollment or reenrollment. Although the employer may be a qualified employer, the bureau may not accept the employer into the deductible program for other reasons set forth in this rule.

(B) Eligibility requirements.

Each employer seeking to enroll in the bureau deductible program shall have active workers' compensation coverage and shall meet the following standards:

(1) The employer shall have a bureau policy that is in good standing at the time of enrollment.

(2) The employer shall be a private state funded employer or public employer taxing district. A self-insuring employer or a state agency public employer shall not be eligible for participation in the deductible program.

(3) The employer shall be current on all premium payments and deductible billings as of the original application deadline or anniversary date of participation.

(4) The employer shall have active coverage as of the original application deadline or anniversary date of participation.

(5) The employer shall demonstrate the ability to make payments under the deductible program based upon a credit score established by the bureau on an annual basis which will be applicable to all applicants for the program year. The bureau shall obtain the credit reports from an established vendor of such information.

(6) The employer may not have cumulative lapses in workers' compensation coverage in excess of fifteen days within the twelve months preceding the original application deadline or subsequent anniversary deadline wherein the employer seeks renewal in the deductible program.

(C) In selecting an employer deductible program under this rule, the employer must select, on an application provided by the bureau, a per claim deductible amount, which shall be applicable for all claims with dates of injury within a one year coverage period. The employer shall choose one deductible level from the following:

(1) \$500.00.

(2) \$1,000.00.

(3) \$2,500.00.

(4) \$5,000.00.

(5) \$10,000.00.

(D) In choosing a deductible amount under paragraph (C) of this rule, the employer may not choose a deductible amount that exceeds twenty-five per cent of the total premium paid by the employer during the most recent full policy year. For a new employer policy, the deductible amount shall not exceed twenty-five per cent of the employer's expected premium.

(E) The employer shall file the application provided by the bureau and any other paperwork required for enrollment in the deductible program by the bureau by the appropriate enrollment period as follows:

(1) For a private employer, between April 1 and May 31 preceding a policy year that begins on July 1.

(2) For a public employer taxing district, between October 1 and November 31 preceding a policy year that begins on January 1.

(a) Where the due date falls on a weekend or holiday, the application and any related documentation must be received no later than the next business day following the deadline.

(b) Applications and any supporting documentation may be submitted by U.S. Postal Service, fax, e-mail containing scanned documentation, or online submission, so long as such paperwork is received by the bureau on or before the due date.

(3) The bureau shall not permit an employer to enroll in a deductible program outside of the deadlines set forth in this rule, except that the bureau will consider a new employer, establishing a policy in Ohio for the first time, for participation where the employer submits its deductible program application to the bureau within thirty days of obtaining coverage.

(F) Renewal in the deductible program at the same level for each subsequent year shall be automatic, subject to review by the bureau of the employer's continued eligibility under paragraph (B) of this rule, unless the employer notifies the bureau in writing that the employer does not wish to participate in the program or that the employer wants to change the deductible amount for the next coverage period. The employer shall provide such notice to the bureau within the time and in the manner provided in paragraph (E) of this rule.

(G) An employer shall not be permitted to withdraw from the deductible program during the policy year, and no changes shall be made with respect to any deductible amount selected by the employer within the policy year. However, the bureau shall have the option of removing an employer from the deductible program for any of the reasons described in paragraph (L) of this rule.

(H) The bureau shall pay the claims costs under a deductible program and the employer shall reimburse to the bureau the costs under the deductible program as follows:

(1) The bureau shall pay all claims costs in accordance with the laws and rules governing payment of workers' compensation benefits. The bureau shall include the entire cost in the employer's experience for the appropriate policy year.

(2) The bureau shall bill the employer on a monthly basis for any claims costs paid by the bureau for amounts subject to the deductible as elected by the

employer for the policy year. In addition to amounts paid by the bureau for which the bureau is seeking reimbursement from the employer, such monthly billings shall also reflect the payments to date for any claims to which a deductible is applicable.

(3) The employer shall pay all deductible amounts billed by the bureau within twenty-eight days of the invoice date. The employer will be subject to any interest or penalty provisions to which premiums are subject, including certification to the attorney general's office for collection.

(4) The employer shall continue to be liable beyond any deductible program period for billings covered under a deductible program for injuries that arose during any period for which a deductible is applicable, regardless of when payment was made by the bureau.

(I) The bureau will apply the premium reduction calculation under the deductible program directly to the NCCI base rate established for the policy year for base-rated employers, or after the modified premium rate is established for experience-rated employers, but prior to any other premium discounts, as well as DWRF and administrative expenses. An individual employer participating in both group rating under rules 4123-17-61 to 4123-17-68 of the Administrative Code and the deductible program under this rule may implement the deductible program and receive the associated premium discounts in addition to the group discount; provided, however, the combined discounts may not exceed the maximum discount allowed under the group rating plan. The bureau will calculate the reduction in accordance with appendix A of this rule, which takes into account both the deductible amount chosen by the employer and the applicable hazard group under the most current version of NCCI as established by the primary manual classification of the employer as determined at the end of the enrollment period for that year.

(1) In determining the primary manual classification and appropriate hazard group, the bureau shall utilize payroll for the rating year beginning two years prior to the period in which the employer is seeking to enroll in the deductible program.

(2) For new employers, the bureau shall base the appropriate primary manual classification and hazard group upon estimated payroll.

(J) Where there is a combination or experience transfer of an employer within a deductible program policy period, following the application of any other rules applicable to a combination or experience transfer, the employer may be eligible to remain in a deductible program as follows:

(1) Successor: Entity not having coverage

Predecessor: Enrolled in deductible program currently or in prior policy years

Where there is a combination or experience transfer, where the predecessor was a participant in the deductible program and the successor is assigned a new policy with the bureau, the successor shall make application for the deductible program within thirty days of obtaining a bureau policy, as set forth in paragraph (E)(3) of this rule. Notwithstanding this election, the successor shall be responsible for any and all existing or future liabilities stemming from the predecessor's participation in the deductible program prior to the date that the bureau was notified of the transfer as provided under paragraph (C) of rule 4123-17-02 of the Administrative Code.

(2) Successor: Enrolled In the deductible program
Predecessor: Not enrolled in the deductible program

Where there is a combination or experience transfer involving two or more entities, each having Ohio coverage at the time of the combination or experience transfer, and the successor policy is enrolled in the deductible program for the program year, the successor shall automatically remain in the deductible program for the program year and is subject to renewal in accordance with paragraph (F) of this rule.

(3) Successor: Not enrolled in deductible program
Predecessor: Enrolled In deductible program

Where there is a combination or experience transfer involving two or more entities, each having Ohio coverage at the time of the combination or experience transfer, and the successor policy is not enrolled in the deductible program, the predecessor shall not be automatically entitled to continue in the deductible program. The successor may make a formal application should it desire to participate in the deductible program for the next policy year. Whether or not the successor chooses or is otherwise eligible to participate in a deductible program, under paragraph (C) of rule 4123-17-02 of the Administrative Code, the successor remains liable for any existing and future liabilities resulting from a predecessor's participation in the deductible program.

(K) An employer participating in the deductible program shall be entitled to participate in any other bureau rate program, including group rating, concurrent with its participation in the deductible program, except that an employer cannot utilize or participate in, with respect to any injuries which occur during a period for which the employer is enrolled in a deductible program, the following bureau rate programs:

- (1) Retrospective rating, whether group or individual.
- (2) The \$15,000 medical-only program.
- (3) Salary continuation.

(L) The bureau may remove an employer participating in the deductible program from the program, effective the second half of the program year, with thirty days written notice to the employer based upon any of the following:

(1) Where the employer participates in any plan or program prohibited under paragraph (K) of this rule.

(2) Where the bureau certifies a balance due from the employer to the Attorney General during the program year.

(3) Where the employer makes direct payments to any medical provider for services rendered or supplies or to any injured worker for compensation associated with a workers' compensation claim.

(4) Where the employer engages in misrepresentation or fraud in conjunction with the deductible program application process.

(M) An employer who is removed from the deductible program under paragraph (L) of this rule shall be barred from participation in the deductible program for the following year, and shall be required to complete the application process thereafter should it desire to again participate in the deductible program.

Common Sense Business Regulation (BWC Rules)

(Note: The below criteria apply to existing and newly developed rules)

Group Sponsor Rules

4123-17-61, 4123-17-61.1, 4123-17-62, and 4123-17-68

Rule Review

- 1. The rule is needed to implement an underlying statute.
Citation: R.C. 4123.29
- 2. The rule achieves an Ohio specific public policy goal.

What goal(s): R.C. 4123.29(A)(4) permits BWC to offer group rating plans. The group rating rules are revised to clarify responsibilities of sponsoring organizations and to improve the group rating rules.

- 3. Existing federal regulation alone does not adequately regulate the subject matter.
- 4. The rule is effective, consistent and efficient.
- 5. The rule is not duplicative of rules already in existence.
- 6. The rule is consistent with other state regulations, flexible, and reasonably balances the regulatory objectives and burden.
- 7. The rule has been reviewed for unintended negative consequences.
- 8. Stakeholders, and those affected by the rule were provided opportunity for input as appropriate.

Explain: BWC worked on the rules with input from a committee of the following: Central Ohio BX, CCI, COSE, CompManagement, County Commissioners' Association, Comprehensive Risk Management, Farm Bureau, Frank Gates, Greater Cleveland Auto Dealers' Association, Greater Cleveland Auto Dealers' Association, Gates McDonald, NFIB, Sheakley, Ohio Association of School Board Officials, Spooner, Ohio Manufacturers' Association, Workers' Comp Management Solutions, Ohio Retail Merchants, Ohio School Board Association.

- 9. The rule was reviewed for clarity and for easy comprehension.
- 10. The rule promotes transparency and predictability of regulatory activity.
- 11. The rule is based on the best scientific and technical information, and is designed so it can be applied consistently.
- 12. The rule is not unnecessarily burdensome or costly to those affected by rule.
If so, how does the need for the rule outweigh burden and cost? _____
- 13. The Chief Legal Officer, or his designee, has reviewed the rule for clarity and compliance with the Governor's Executive Order.

4123-17-61.1 Sponsorship Certification Requirements

(A) The following certification requirements shall apply to all sponsoring organizations that seek to make application for either the group rating plan effective January 1, 2010, as provided for in rule 4123-17-61 or the group retrospective rating plan effective July 1, 2009 as provided in rule 4123-17-XX, known collectively as group programs.

(B)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.

(C) The organization must be formed for a purpose other than that of obtaining group workers' compensation coverage. The bureau shall require the organization to demonstrate this through submission of required evidence and documentation. As 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 purposes of group programs. A sponsoring organization may sponsor more than one group.

(D) The formation and operation of a 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.

(1) Following the conclusion of the July 1, 2008 to June 30, 2009 policy year, the bureau will report annually on the aggregate performance of all groups.

(E) A sponsoring organization 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 sponsorship. The bureau shall review the information and shall register the sponsoring organization if it meets the requirements. A sponsoring organization shall be registered and be certified by the bureau prior to marketing to or soliciting employers for membership in a group under the group programs.

(1) The bureau shall re-certify all sponsoring organizations between March 1, 2009, and June 30, 2009. If the bureau certifies a sponsoring organization, the sponsoring organization shall be permitted to sponsor a group retrospective rating program under rule 4123-17-xx of the Administrative Code beginning July 1, 2009, and to sponsor groups in the current group rating program under this rule beginning January 1, 2010. The bureau shall review the certification of a sponsoring organization at least once every three years or on a more frequent basis as determined by the bureau.

(2) A sponsoring organization that seeks to be certified by the bureau shall provide to the bureau the following:

(a) The sponsoring organization's workers' compensation policy number and proof of active workers' compensation coverage;

(b) The name of the sponsoring organization's third party administrator, if applicable;

(c) A copy of the sponsoring organization's marketing materials (web site, brochures, etc.);

(d) A list of all sponsoring organizations affiliated with the sponsoring organization. For the purpose of this rule, an "affiliated" organization is an organization in which members are brokered, borrowed, shared, or co-opted for inclusion in the certified sponsoring organization's group. All affiliated organizations are required to be certified sponsors as provided in this rule.

(e) A copy of the sponsoring organization's bylaws and articles of incorporation;

(f) A copy of the sponsoring organization's table of organization, a list of corporate officers and board of directors including their names, titles and terms, and board minutes for the previous calendar year;

(g) A description of the sponsoring organization's member dues structure;

(h) Access to the sponsoring organization's financial information including revenue sources, upon the bureau's request;

(F) The sponsoring organization shall provide to the bureau a signed statement certifying the accuracy of the information provided to the bureau. A sponsoring organization's failure to provide accurate information or submission of false information may be grounds for the bureau to refuse to certify the sponsoring organization or to decertify the sponsoring organization. The bureau reserves the authority to use all the listed information above and any other information available to make the certification approval.

(G) Should the bureau deny the certification of the sponsoring organization, the applicant may appeal to the bureau adjudicating committee. After exhausting all administrative appeals and correction of sponsorship requirement deficiencies, the applicant may reapply one year after the latest certification denial.

(H) The bureau will collect this information and retain it or ask that a sponsoring organization maintain the information for bureau inspection upon request.

Common Sense Business Regulation (BWC Rules)

(Note: The below criteria apply to existing and newly developed rules)

Group Sponsor Rules

4123-17-61, 4123-17-61.1, 4123-17-62, and 4123-17-68

Rule Review

1. The rule is needed to implement an underlying statute.
Citation: R.C. 4123.29
2. The rule achieves an Ohio specific public policy goal.

What goal(s): R.C. 4123.29(A)(4) permits BWC to offer group rating plans. The group rating rules are revised to clarify responsibilities of sponsoring organizations and to improve the group rating rules.

3. Existing federal regulation alone does not adequately regulate the subject matter.
4. The rule is effective, consistent and efficient.
5. The rule is not duplicative of rules already in existence.
6. The rule is consistent with other state regulations, flexible, and reasonably balances the regulatory objectives and burden.
7. The rule has been reviewed for unintended negative consequences.
8. Stakeholders, and those affected by the rule were provided opportunity for input as appropriate.

Explain: BWC worked on the rules with input from a committee of the following: Central Ohio BX, CCI, COSE, CompManagement, County Commissioners' Association, Comprehensive Risk Management, Farm Bureau, Frank Gates, Greater Cleveland Auto Dealers' Association, Greater Cleveland Auto Dealers' Association, Gates McDonald, NFIB, Sheakley, Ohio Association of School Board Officials, Spooner, Ohio Manufacturers' Association, Workers' Comp Management Solutions, Ohio Retail Merchants, Ohio School Board Association.

9. The rule was reviewed for clarity and for easy comprehension.
10. The rule promotes transparency and predictability of regulatory activity.
11. The rule is based on the best scientific and technical information, and is designed so it can be applied consistently.
12. The rule is not unnecessarily burdensome or costly to those affected by rule.
If so, how does the need for the rule outweigh burden and cost? _____
13. The Chief Legal Officer, or his designee, has reviewed the rule for clarity and compliance with the Governor's Executive Order.

Common Sense Business Regulation (BWC Rules)

(Note: The below criteria apply to existing and newly developed rules)

Group Sponsor Rules

4123-17-61, 4123-17-61.1, 4123-17-62, and 4123-17-68

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If so, how does the need for the rule outweigh burden and cost? _____
13. The Chief Legal Officer, or his designee, has reviewed the rule for clarity and compliance with the Governor's Executive Order.

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.~~

The bureau may 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

4123-17-61.1 Sponsorship Certification Requirements

(A) The following certification requirements shall apply to all sponsoring organizations that seek to make application for either the group rating plan effective January 1, 2010, as provided for in rule 4123-17-61 or the group retrospective rating plan effective July 1, 2009 as provided in rule 4123-17-XX, known collectively as group programs.

(B)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.

(C) The organization must be formed for a purpose other than that of obtaining group workers' compensation coverage. The bureau shall require the organization to demonstrate this through submission of required evidence and documentation. As 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 purposes of group programs. A sponsoring organization may sponsor more than one group.

(D) The formation and operation of a 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.

(1) Following the conclusion of the July 1, 2008 to June 30, 2009 policy year, the bureau will report annually on the aggregate performance of all groups.

(E) A sponsoring organization 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 sponsorship. The bureau shall review the information and shall register the sponsoring organization if it meets the requirements. A sponsoring organization shall be registered and be certified by the bureau prior to marketing to or soliciting employers for membership in a group under the group programs.

(1) The bureau shall re-certify all sponsoring organizations between March 1, 2009, and June 30, 2009. If the bureau certifies a sponsoring organization, the sponsoring organization shall be permitted to sponsor a group retrospective rating program under rule 4123-17-xx of the Administrative Code beginning July 1, 2009, and to sponsor groups in the current group rating program under this rule beginning January 1, 2010. The bureau shall review the certification of a sponsoring organization at least once every three years or on a more frequent basis as determined by the bureau.

(2) A sponsoring organization that seeks to be certified by the bureau shall provide to the bureau the following:

(a) The sponsoring organization's workers' compensation policy number and proof of active workers' compensation coverage;

(b) The name of the sponsoring organization's third party administrator, if applicable;

(c) A copy of the sponsoring organization's marketing materials (web site, brochures, etc.);

(d) A list of all sponsoring organizations affiliated with the sponsoring organization. For the purpose of this rule, an "affiliated" organization is an organization in which members are brokered, borrowed, shared, or co-opted for inclusion in the certified sponsoring organization's group. All affiliated organizations are required to be certified sponsors as provided in this rule.

(e) A copy of the sponsoring organization's bylaws and articles of incorporation;

(f) A copy of the sponsoring organization's table of organization, a list of corporate officers and board of directors including their names, titles and terms, and board minutes for the previous calendar year;

(g) A description of the sponsoring organization's member dues structure;

(h) Access to the sponsoring organization's financial information including revenue sources, upon the bureau's request;

(F) The sponsoring organization shall provide to the bureau a signed statement certifying the accuracy of the information provided to the bureau. A sponsoring organization's failure to provide accurate information or submission of false information may be grounds for the bureau to refuse to certify the sponsoring organization or to decertify the sponsoring organization. The bureau reserves the authority to use all the listed information above and any other information available to make the certification approval.

(G) Should the bureau deny the certification of the sponsoring organization, the applicant may appeal to the bureau adjudicating committee. After exhausting all administrative appeals and correction of sponsorship requirement deficiencies, the applicant may reapply one year after the latest certification denial.

(H) The bureau will collect this information and retain it or ask that a sponsoring organization maintain the information for bureau inspection upon request.

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~~ verify 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

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January 20, 2009

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.~~

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(c) Fully or partially combines with another employer.

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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.

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~~(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;

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~~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.

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HISTORY: Eff 10-2-90; 11-11-91; 9-14-92; 11-8-99; 7-1-01

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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.

(1) Following the conclusion of the July 1, 2008 to June 30, 2009 policy year, the bureau will report annually on the aggregate performance of all groups.

(E) A sponsoring organization 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 sponsorship. The bureau shall review the information and shall register the sponsoring organization if it meets the requirements. A sponsoring organization shall be registered and be certified by the bureau prior to marketing to or soliciting employers for membership in a group under the group programs.

(1) The bureau shall re-certify all sponsoring organizations between March 1, 2009, and June 30, 2009. If the bureau certifies a sponsoring organization, the sponsoring organization shall be permitted to sponsor a group retrospective rating program under rule 4123-17-xx of the Administrative Code beginning July 1, 2009, and to sponsor groups in the current group rating program under this rule beginning January 1, 2010. The bureau shall review the certification of a sponsoring organization at least once every three years or on a more frequent basis as determined by the bureau.

(2) A sponsoring organization that seeks to be certified by the bureau shall provide to the bureau the following:

(a) The sponsoring organization's workers' compensation policy number and proof of active workers' compensation coverage;

(b) The name of the sponsoring organization's third party administrator, if applicable;

(c) A copy of the sponsoring organization's marketing materials (web site, brochures, etc.);

(d) A list of all sponsoring organizations affiliated with the sponsoring organization. For the purpose of this rule, an "affiliated" organization is an organization in which members are brokered, borrowed, shared, or co-opted for inclusion in the certified sponsoring organization's group. All affiliated organizations are required to be certified sponsors as provided in this rule.

(e) A copy of the sponsoring organization's bylaws and articles of incorporation;

(f) A copy of the sponsoring organization's table of organization, a list of corporate officers and board of directors including their names, titles and terms, and board minutes for the previous calendar year;

(g) A description of the sponsoring organization's member dues structure;

(h) Access to the sponsoring organization's financial information including revenue sources, upon the bureau's request;

(F) The sponsoring organization shall provide to the bureau a signed statement certifying the accuracy of the information provided to the bureau. A sponsoring organization's failure to provide accurate information or submission of false information may be grounds for the bureau to refuse to certify the sponsoring organization or to decertify the sponsoring organization. The bureau reserves the authority to use all the listed information above and any other information available to make the certification approval.

(G) Should the bureau deny the certification of the sponsoring organization, the applicant may appeal to the bureau adjudicating committee. After exhausting all administrative appeals and correction of sponsorship requirement deficiencies, the applicant may reapply one year after the latest certification denial.

(H) The bureau will collect this information and retain it or ask that a sponsoring organization maintain the information for bureau inspection upon request.

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 July 1, 2009 for private employer groups and January 1, 2010 for public employer taxing district 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; except that for 2009 only, the sponsoring organization shall notify the employer in writing by March 30, 2009. 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; except that for 2009 only, the application for group coverage shall be filed on or before April 24, 2009.

(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

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~~ verify 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

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