

BWC BOARD OF DIRECTORS

**ACTUARIAL COMMITTEE**

**THURSDAY, JANUARY 22, 2009, 2:00 P.M.**

**WILLIAM GREEN BUILDING**

30 WEST SPRING ST., 2<sup>nd</sup> FLOOR (MEZZANINE)  
COLUMBUS, OHIO 43215

Members Present: Charles Bryan, Chair  
David Caldwell  
James Hummel  
Thomas Pitts  
William Lhota, ex officio

Members Absent: Jim Matesich

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

Counsel Present: John Williams, Assistant Attorney General

**CALL TO ORDER**

Mr. Bryan called the meeting to order at 2 P. M. and the roll call was taken. He reported that Mr. Matesich was absent because of illness.

**MINUTES OF DECEMBER 17, 2008**

Mr. Bryan requested that the minutes of the plenary session be corrected to show the meeting occurred on "December 17, 2008 at 4 p.m." Mr. Hummel moved that the minutes of December 17, 2007, be approved as corrected. Mr. Caldwell seconded and the corrected minutes were approved by a unanimous roll call vote.

**AGENDA**

Mr. Bryan reported that the resolution of discussion items would determine which items the Actuarial Committee took action on today.

## **DISCUSSION ITEMS**

### **REPORT ON COMPREHENSIVE REFORM**

John Pedrick, Chief Actuarial Officer, reported on comprehensive reform. The plan approved by the Board in June is on schedule. Development of the split plan is currently underway. He stated that the underlying work includes analyzing the possibility of allowing the split point to vary by employer size, making it a “multi-split” plan. For the 2009 policy year the maximum discount will be 77%, and for the 2010 policy year, the maximum discount will be 65%. The deductible program will be implemented July 1, with five levels of deductible. BWC will implement group retrospective rating on July 1.

Mr. Pedrick reported that BWC had expected more progress on group continuity. The structure of the continuity proposal is currently scheduled to be presented to the Workers' Compensation Board in February. A significant question must be answered concerning which policy year will be the base-line year.

Mr. Pedrick further reported that he and Ray Mazzotta, Chief Operating Officer, were here to propose a plan to provide assistance to non-group employers for the upcoming policy year. The need for more rapid progress stems from recent events, including, but not limited to, the mandate found in Sub.H.B. 79 (127<sup>th</sup> GA) for a plan to address the equity and adequacy of premiums and to report to the legislature by September 15, 2009; and public comments from legislators indicating their preference to see more rapid progress. BWC proposes to calculate all rates by using only individual experience modifiers. This will lower base rates for non-group employers, with some class rates falling by as much as 30%. Marsha Ryan, BWC Administrator, added that the report from Deloitte Consulting LLC recommended decoupling rates for non-group and group employers. If the committee and Board approve this proposal, BWC will not present both EM caps for a second reading and a vote. Instead, only the 100% EM cap will be presented. The 30% cap would not make sense since the BWC will be accelerating premium increases for group employers

Mr. Price supported the approach, and noted that it is a part of the Director's fiduciary responsibility to make the best decision for the funds. Mr. Smith asked about the timeline for implementation. Mr. Pedrick responded that further details will be submitted at the February meeting. In March, BWC will present the private employer rate proposal for policy year 2009, giving a more complete picture of the elements of the overall change.

Mr. Bryan requested a report on the impact of this rate reduction and the relative soundness of the reduction, the maximum discount for groups, and feedback

from stakeholders on the practical impact and effect of these recommended changes. The premium reduction for non-group employers is estimated to be between \$150 and \$200 million. This reduction in revenue from non-group employers can be partially or fully funded by eliminating or reducing discount programs (\$60-70 million), and increasing premium for group employers. To the extent the shortfall is not fully funded, there would be downward pressure on net assets.

Mr. Lhota added the report should assess the actuarial soundness on non-group employers. Mr. Bryan asked Mr. Pedrick whether the rate indication for the 2009 policy year could be included in the February meeting report. Mr. Pedrick stated that the rate level analysis from Oliver Wyman is due in March, but may be ready earlier, in time for the February meeting.

Mr. Pitts moved that the Actuarial Committee of the BWC Board of Directors recommend the Board consents to the Administrator's recommendation relating to the development of the elements of a comprehensive rating plan. The motion consents to the Administrator proceeding with the development of the elements of the comprehensive rating plan presented here today. The Administrator shall provide the Board with periodic updates on the development of the rating plan, and shall present to the Board any rule changes relating to the plan at the appropriate times during the development of the plan. Mr. Hummel seconded the motion.

Mr. Bryan asked whether the other motion presented today would extend the date of the group rating deadline. Mr. Pedrick replied that it would. The deadline is extended to April 24, 2009. Ms. Falls noted that there was no timeline in the motion. Mr. Pedrick replied it would be included in the February report.

The motion was approved by a unanimous roll call vote.

### **DELOITTE CONSULTING RECOMMENDATIONS**

Mr. Pedrick reported that BWC has created a six-page spreadsheet with recommendations of Deloitte, their priority, and the need for any legislation.

Ms. Falls noted that among the items from the Deloitte presentations, which were of interest to her was the recommendation to use a 6% medical inflation rate instead of 9%. Mr. Pedrick replied that he did not believe that Deloitte recommended a lower inflation rate, but had observed that 6% would be a better assumption for calculating reserves.

Mr. Smith asked if now is the time to open the discussion on the medical inflation rate. Ms. Falls stated that it was necessary to distinguish actuarial assumptions from investment projections. A higher inflation rate assumption leads to a bias to invest in equity. Mr. Bryan asked that the consulting actuaries be given the inflation rate assumption in preparing their rate indication recommendation. Mr. Pedrick also urged the Actuarial Committee to distinguish between actuarial modeling and financial modeling in the use of inflation rates.

## **RESERVE ISSUES**

Mr. Pedrick presented a letter from Oliver Wyman in which they respond to a BWC request to compare its current reserve opinion letter with that required by the National Association of Insurance Commissioners. In summary, Oliver Wyman reports it would not be able to fully comply with some elements of the NAIC requirements.

## **ACTUARIAL SERVICES REQUEST FOR PROPOSAL**

Mr. Pedrick reported that the Request for Proposal (RFP) is on schedule. The RFP will be issued on February 27.

## **CHIEF ACTUARIAL OFFICER REPORT**

Mr. Pedrick reported that his monthly report concerns mostly the RFP and experience rating reform, which have already been covered.

## **COMMITTEE CALENDAR**

Mr. Bryan added no additional items to the committee calendar.

## **NEW BUSINESS/ACTION ITEMS**

### **EXPERIENCE MODIFICATION CAPS RULES, OHIO ADMINISTRATIVE CODE RULES 4123-17-03 & 4123-17-71**

Terry Potts, Private Employer Rate Supervisor, Actuarial Department, recommended amendment of Ohio Administrative Code Rules 4123-17-03 and 4123-17-71. The only change from the October 2008 presentation is that the 30% cap on EM changes due solely to credibility table changes is not included. The rules only implement the 100% cap on EM swings between years.

This cap will impact 5,000 employers and will not apply to those in the group rating program, professional employer organizations (PEOs), or employers with combined policies.

Mr. Bryan asked how an employer can appeal an experience modification increase of more than 100%. Mr. Potts replied that it can be appealed to the Adjudication Committee.

Mr. Potts further reported that if an employer is in the One-Claim Program, it gets the lower of the EM due to capping or the EM due to One-Claim. Ohio Administrative Code Rule 4123-17-71 sets forth the One-Claim Program.

Mr. Price asserted that a change in rule from the first reading meant that the second presentation is no longer the second reading. Mr. Pitts replied that a second reading enables the agency to take a rule back for additional changes. Mr. Caldwell commented that the Actuarial Committee can waive the requirement of two readings by majority vote.

Mr. Caldwell moved that the Actuarial Committee of the Bureau Workers' Compensation Board of Directors modify the proposal at the first reading of October 2008 and delete paragraph G from 4123-17-03 as previously read. Mr. Pitts seconded and the motion was approved by unanimous roll call vote.

Ms. Falls clarified the purpose of having two readings, which includes the ability to make changes after the first reading. It is up to the committee to determine whether the changes are so substantial that a new first reading would be necessary.

Mr. Lhota moved that the Actuarial Committee of the Bureau of Workers' Compensation Board of Directors recommend that the Board approve the Administrator's recommendation to amend Rules 4123-17-03 and 4123-17-71 of the Administrative Code. The amendments establish a cap or limit on the annual increase in an employer's experience modification. Mr. Hummel seconded and the motion was approved by unanimous roll call vote.

## **DEDUCTIBLE PROGRAM RULES, FIRST READING**

Joy Bush, Employer Management Project Manager, and Mary Yorde, Underwriting Supervisor, recommended amendment of three Ohio Administrative Code Rules and adoption of a fourth rule. Ms. Bush reported that Ohio Administrative Code Rule 4123-17-62 will be amended to make three changes and change the sponsor notification date from February 2 to March 30. Form requirements are changed by requiring group sponsors to maintain group rating Form AC-26 in their files, but only be required to produce it upon BWC's request.

Employers are disqualified if there is merger, acquisition, or material misstatement in their applications.

Mr. Pitts asked what will be filed after the changes. Ms. Yorde replied group sponsors will only file Form AC-25.

Mr. Pitts moved that the Actuarial Committee waive the second reading on the recommendation to amend Ohio Administrative Code Rule 4123-17-62. Mr. Lhota seconded and the motion was approved by unanimous roll call vote.

Mr. Hummel moved that the Actuarial Committee of the Bureau of Workers' Compensation Board of Directors recommend the Board consents to the Administrator's recommendation to amend Rule 4123-17-62 relating to extending the deadline for group rating, filing the AC-26 Form, and removing an employer from a group for gross misrepresentation. The motion consents to the Administrator amending Rule 4123-17-62 as presented here today. Mr. Caldwell seconded and the motion was approved by unanimous roll call vote.

## **SPONSORSHIP CERTIFICATION RULES AND GROUP RATING RULES**

Ms. Yorde recommended that Ohio Administrative Code Rule 4123-17-61 be amended. The rule will be presented again at the February meeting. The amendments move the sponsorship rules to new Rule 4123-17-61.1 with other sponsor provisions. The substantive change is to shorten the number of cumulative lapse days from fifty-nine days in eighteen months to fifteen days in twelve months.

Ms. Bush recommended adoption of Ohio Administrative Code Rule 4123-17-61.1. This new rule consolidates all sponsor provisions of several rules. The rule will apply to private employer group retrospective rating effective July 1, 2009, and public employer taxing districts on January 1, 2010. The rule strengthens requirements by requiring sponsoring organizations to be in existence for two years; for them to have been organized for reasons other than workers' compensation group rating; safety programs; and specific documentation.

Mr. Bryan asked if there was anything new in the rule. Ms. Bush replied it is appropriate to re-certify sponsors for clarity and to achieve a level playing field. Mr. Harris asked if existing groups are grand-fathered in. Ms. Bush replied they were not and that re-certification will first be required in 2010. Mr. Harris asked what is the report required in paragraph (D)(1). Ms. Bush replied that it will be a BWC generated annual report on group performance.

Ms. Bush further recommended amendment of Ohio Administrative Code Rule 4123-17-68 on group safety programs. The change will require employers to attend a safety seminar if there is one injury. Mr. Bryan asked why this change was made. Ms. Bush replied it was proposed after many comments from stakeholders. Sponsors are required to offer safety programs; however, BWC has not required employers to attend these safety programs. The amendments also add a requirement to comply with requirements of the Occupational Safety and Health Administration (OSHA).

### **DEDUCTIBLE PROGRAM**

Ms. Bush recommended adoption of a deductible program. Ohio Revised Code §4123.29 provides that BWC shall adopt alternative rating plans. This may also include a deductible program. A majority of workers' compensation carriers have deductible programs. Deductible plans are required if a carrier is a member of the National Council on Compensation Insurance (NCCI). The plans will be available to private employers and public employer taxing districts, but not self-insurers or state agencies.

Mr. Bryan stated this is not partial self-insurance because BWC manages the claims. Ms. Bush replied there is also no stop-loss policy or aggregate for all claims. The employer must be current on its premiums and not in lapse status. The deductible available to an employer is limited to 25% of the previous year's premiums. The deductible programs are not compatible with retrospective group-rating, or the one claim program, however, it is compatible with group rating. The deductible program will have a two-month enrollment. Oliver Wyman has estimated a range of savings for the deductible program. If the employer can elect a \$500 deductible in the most hazardous class of manuals, it will save 1.5% in costs; for a deductible of \$10,000 in the least hazardous, there would be a 25% saving. BWC will present the full schedule of deductibles and corresponding credits during the February meeting.

Mr. Bryan stated that the deductible plan needs pricing before the Actuarial Committee can entertain a first reading.

Mr. Pitts asked if the deductible were per claim and Ms. Bush replied affirmatively. Mr. Caldwell asked if amounts within the deductible are still used in experience rating. Ms. Bush replied that these amounts would be included, matching a similar requirement of the NCCI.

### **ADJOURNMENT**

There was a motion by Mr. Caldwell, second by Mr. Pitts to adjourn, and adjournment by unanimous roll call vote of four ayes and no nays. Mr. Lhota had left meeting to attend the audit Committee meeting.

Prepared by: Larry Rhodebeck, Staff Counsel  
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January 29, 2009