BWC BOARD OF DIRECTORS

ACTUARIAL COMMITTEE
WEDNESDAY, December 16, 2009, 8:00 A.M.
WILLIAM GREEN BUILDING
30 WEST SPRING ST.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, and Larry Price
Counsel present:	John Williams, Assistant Attorney General

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

MINUTES OF NOVEMBER 19, 2009
Mr. Bryan requested that on page 2, *Rules for First Reading*, paragraph 2, that the second "estimated" be stricken as redundant. On page 2, last paragraph, and throughout the minutes, the minutes should read "deductible program" and not merely "deductible." Finally, on page 5, paragraph 4, that sentence should read, "*The deductible program is optional* . . . ."

Mr. Matesich moved to approve the minutes of November 19, 2009, as amended. Mr. Hummel seconded and the minutes were approved by a roll call vote of five ayes and no nays.

AGENDA
Mr. Bryan reported there were no changes to the agenda. Mr. Matesich moved to adopt the agenda. Mr. Pitts seconded and the motion was approved by a roll call vote of five ayes and no nays.

NEW BUSINESS/ ACTION ITEMS

RULES FOR FIRST READING: LARGE DEDUCTIBLE PLAN AND INDIVIDUAL INCURRED LOSS RETROSPECTIVE RATING PROGRAM, OHIO ADMINISTRATIVE CODE RULES 4123-17-72 & 4123-17-74

John Pedrick, Chief Actuarial Officer; Joy Bush, Program Development Director; William Hansen, Oliver Wyman Consulting; Tom Prunte, Employer Management Services Director; and Tracy Valentino, Chief, Fiscal and Planning, recommended amendment of Ohio Administrative Code Rule 4123-17-72 to add a large deductible program, and enact Ohio Administrative Code Rule 4123-17-74 to add an individual incurred loss retrospective rating program. Mr. Pedrick reported that this was a continuation of the presentation at the November 19 meeting on the large deductible program. The program has raised many questions, so the second reading and vote will be delayed until the January meeting.

Ms. Bush first described the current BWC insurance programs. The oldest of them, such as group rating, drug-free workplace program, one-claim program, etc., have been incentive based. The newer programs, such as the small deductible program, involve sharing of risk. They range from the employer bearing little risk beyond State Insurance Fund premiums, to high risk with an element of self-insurance. Some employers are willing to share risk at different levels within this range. For example, in retrospective rating, the employer accepts the risk of additional premium in return for the possibility of a refund of a portion of premium after claims costs are known.

Mr. Bryan asked if any programs result in denigration of benefits to injured workers. Ms. Bush replied that BWC will still continue to manage claims for these new programs. Mr. Bryan asked if that were true of the $15,000 medical-only claim program. Mr. Pedrick responded that in the $15,000 medical-only claim program the employer has contact with the provider and makes direct payment. Marsha Ryan, BWC Administrator, added that the report from Deloitte Consulting mandated by HB100 had commented that there were concerns about the management of claims in the $15,000 program. Mr. Pedrick added that the average medical-only claim is approximately $1,200 and that level of claim raises little concern. However, if costs for a medical-only claim are larger than average, then early claim management is not available in the $15,000 program because BWC is not able to intervene at the beginning. As a result the injured worker and the employer lose the opportunity to apply the best practices to the claim and to achieve an optimal return-to-work result.

Mr. Harris asked what would be the impact if proposed legislation prohibiting payment of benefits to illegal aliens was enacted. Mr. Pedrick replied that BWC has had no discussions concerning the impact of that proposal and so he had no answer to the question.

Mr. Hansen distributed newly available draft pricing tables. Mr. Pedrick added that these tables were just completed and are being distributed to give board members the most up to date information. Each of the seven tables reflects different levels of hazard from lowest to highest. Employer credits decline for the deductible programs as the hazard group increases. Also, employers will be able to choose an aggregate stop-loss limit in the program.

Mr. Bryan asked if employers in the deductible program will be more active in the oversight of claims. Mr. Pedrick stated that data from other states showed employer behavior, including the oversight of claims, changes when they enroll in deductible programs.

Mr. Pitts asked if that behavior change included greater attention to safety. Mr. Pedrick replied that because deductible programs are new for Ohio, behavior changes had not been studied. Mr. Pitts asked if an employer has a premium of $100,000 and elects a deductible of $200,000, is the employer at risk of a financial liability greater than his premiums in the event of large claims losses. Mr. Pedrick replied that not all employers are eligible for all levels of a deductible program. When the program is in effect and the draft tables are finalized, no employer will be eligible for a deductible amount in excess of 40% of its premiums.

Mr. Hansen reported that the draft tables reflected some validation testing. The results were similar to the tables used for the existing retrospective rating program. The tables also are comparable to the programs of other states.

Mr. Bryan asked if the data is from Ohio alone, or Ohio and other states. Mr. Hansen replied the analysis used only Ohio data for claims frequency and claims size.

Ms. Bush continued with a description of the employer market at which the large deductible program is aimed. Ohio has 6,172 employers with more than $62,500 in premium each. By removing employers already in group rating, in salary continuation, with more than fifteen lapse days, and in paid loss retrospective rating programs, there are 2,116 employers who appear to be eligible for the large deductible program.

Mr. Bryan asked if some self-insured employers would be eligible for these programs. Ms. Bush replied that they could be eligible but that she does not have an estimate of the number of self-insured employers who may elect to participate in these new programs.

Mr. Hummel asked about the differences between the retrospective rating plan and the deductible program. Ms. Bush replied that the employers in both programs can pay a smaller premium. The claims limit of the deductible program and the stop loss of retrospective rating are similar. The biggest difference is that the retrospective program has a ten-year limit on additional losses, whereas the deductible has monetary limits.

Mr. Matesich asked if the limit on deductible charges ends after one year, or later. Ms. Bush replied the deductible obligation may continue beyond one year. Mr. Matesich asked if the employer selects an aggregate stop loss, does it change and Ms. Bush replied it did not. Mr. Pedrick added that if an employer did not select a deductible plan in a second or later year, the deductible and aggregate limits would apply only to injuries in the year selected. He also distinguished for example purposes between an automobile liability policy, which provides a deductible plan that most people are familiar with, which is first party coverage. Workers' compensation provides third party coverage, so the insurer pays all claim amounts and bills the insured for amounts up to the deductible.

Mr. Matesich asked if an employer is in a deductible plan one year, and may want to change in the next, does BWC have a method which enables the employer to compare costs. Ms. Bush answered that BWC has an on-line offering that enables employers to enter criteria and calculate costs.

Mr. Pitts stated he was concerned that if the employer selects a deductible plan for more than one year, it may have multiple years' expense to pay simultaneously before reaching the deductible and aggregate amounts. Ms. Bush replied BWC had those concerns too and had experienced them in the paid loss retrospective program. She continued to say that BWC will educate employers so they understand the long-term implications of their participation in these programs.

Ms. Bush provided a pie chart of the identified employers and scenarios of the number of employers choosing maximum deductibles. If 10% of eligible employers shift to the deductible program, that will affect 212 employers with $35 million in premiums and a potential shift of $13.5 million in claims costs. For a new plan, BWC anticipates 3% participation of 63 employers, $10.3 million in premium, and $4 million in shifted costs. The participation in new programs is usually slow in early years, but will grow to a maximum market penetration.

Mr. Matesich asked who will market the program. Ms. Bush deferred to the presentation of Mr. Prunte. She noted, however, that BWC markets all of its programs.

Ms. Bush then began the presentation on the Incurred Loss Retrospective Program (ILR) with a comparison to the current paid loss retrospective program. First, the ILR will have the employer or group reviewed after the policy year end and the employer or group will receive a premium adjustment based on claims performance; an employer in the current paid loss retrospective program pays a minimum premium for the policy year and agrees to annually reimburse BWC for claims losses. Second, employers in the ILR program participate for four years, whereas the final settlement for the current retrospective program is after ten years. Third, the credit risk is low for the ILR program because the full premium is paid and assessments are capped. For retrospective rating, there is a small up-front premium and a long repayment window.

Mr. Matesich asked if an employer is in programs for multiple years, then could it pay multiple premiums with each year's adjustments. Ms. Bush replied she had a chart available with that very information and would provide it.

Mr. Matesich asked what happens if the adjustment costs become more than the employer expected. Ms. Bush replied that the employer should then contact a BWC business consultant to determine how to coordinate safety and other BWC programs to control costs.

Ms. Bush further reported that ILR programs are available in thirty-five states that are members of the National Council on Compensation Insurance (NCCI) and five independent bureau states. The ILR program will follow the incurred loss structure of group retrospective rating. It will be open to private employers and public employer taxing districts. Finally, evaluations will occur at twelve, twenty-four, and thirty-six months after the policy year and premium adjustments distributed accordingly. Of the four eligibility criteria, the most important is that an employer must have at least $75,000 in premium for the latest full policy year available.

Mr. Bryan asked if it was possible for employer premium to decline and disqualify that employer from eligibility for future year's ILR programs. Ms. Bush replied it could. However, if an employer leaves group for an ILR plan, then the employer's experience would be used to determine eligibility.

Mr. Harris observed that it seems likely that an employer seeing large losses would begin immediate consultation with BWC Safety and Hygiene. Ms. Bush responded that when the ILR was presented to Abe Al-Tarawneh, Superintendent of Safety and Hygiene, and his staff, they were enthusiastic because employers in the ILR program would want to participate in safety programs when they began the program. Ms. Ryan added that when she met with the chambers of commerce for Clinton, Fayette, and Highland Counties, the CFO of a local employer remarked that it was important for her personally to interface with BWC. Membership in group programs loses that contact.

Mr. Pitts observed that the deductible programs could create a problem with medical management. Employers could use the Alternative Dispute Resolution (ADR) process to delay needed diagnostics, such as an MRI.

Mr. Matesich asked whether there is a risk to an employer that must pay amounts up to the deductible for several years after the policy year of the accident. Ms. Bush replied that multi-year plans do lead to a higher risk for the employer.

Ms. Valentino reported that with several new programs, BWC is incurring higher risks. So BWC is evaluating its current processes in establishing program eligibility and consolidating them. The Dun and Bradstreet reports have proven excellent tools for evaluating the financial capabilities of small employers. For self-insurance and retrospective rating, BWC has used financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) for determining eligibility. BWC also uses financial ratios derived from these statements.

Mr. Matesich asked if the absence of GAAP statements automatically disqualifies an employer from programs. Ms. Valentino replied that GAAP statements are required for the large deductible program.

Mr. Bryan asked if it does not cost more to use these additional tools to determine program eligibility. Ms. Valentino replied right now BWC does not charge an application fee. Ms. Valentino further reported that the Administrative Cost Fund (ACF) assessment process can build in these costs. Mr. Bryan commented that the BWC should consider how to charge the additional costs of these programs back to the employers that use these programs. Ms. Ryan added that the HB100 study recommends consolidation of financial expertise in one unit for evaluating programs.

Mr. Prunte reported on employer education. The ILR has an educational schedule planned and will be conducting educational programs. The eleven BWC business consultants will lead in marketing and education. They will also bring in the employer service specialists. BWC has identified a set of employers who will be eligible for ILR and will focus on marketing to them.

Mr. Hummel asked how BWC would know which employers will qualify. Ms. Bush reported BWC will reach out to the Ohio Manufacturer’s Association and other stakeholder representatives.

Mr. Price asked what the negatives of the ILR program are. Mr. Prunte stated the employer may miscalculate its risk assessment. BWC will return to this topic in later meetings.

Mr. Bryan reminded the committee members that both these programs are scheduled for a vote at the January meeting. He stated he believed there are two major issues in this area: protection of injured workers and thorough education of employers, including not only the upfront premiums but future financial obligations as well. He believes we must provide a full array of programs to employers while maintaining protection of employee benefits.

RESERVING EDUCATIONAL SESSION

Mr. Pedrick; Zia Rehman, Director of Actuarial Analysis; and Jon Turnes, Actuarial Analysis Reserving Manager, conducted an education session on reserving.

Mr. Bryan observed that reserve estimation will be an important topic for the Workers' Compensation Board. First, there is an imminent change of actuarial consultants. Second, the recent history of low inflation may not continue and inflation will affect the reserves, financial statements and pricing. This educational session is preparation for the first Deloitte Consulting quarterly reserve report.

CHIEF ACTUARIAL OFFICER REPORT

Mr. Pedrick reported that he had testified at the hearing for SB213 at the Senate Committee for Insurance, Commerce, and Labor. The bill would require that BWC set all discount programs by September 1 for the next year they would go into effect. For example, this would nullify the large group deductible rules to be adopted in January. He testified to the committee for one and one-half hours.

Mr. Pedrick further reported that HB259 will prescribe the forms of investment that BWC may undertake. If BWC investments were restricted, the restrictions will likely increase the price of workers' compensation coverage if the restrictions result in lower investment returns.

As for all bills, Ohio Revised Code § 4121.125 requires an actuarial review of legislation that would have a "measurable financial impact" on the BWC. BWC has not done an actuarial review for SB213, and has done some work analyzing HB259. For SB94, which would create a rebuttable presumption for certain diseases contracted by police and firefighters, BWC has collected much data and has asked Deloitte for assistance.

Mr. Bryan asked what is the role of the Actuarial Committee in the Ohio Revised Code § 4121.125 evaluation. Mr. Pedrick answered that the role should be active because the law requires this review be done at the request of the Workers' Compensation Board.

Mr. Price stated he thought there was legislation requiring the Workers' Compensation Council to review all legislative proposals before action by the General Assembly. Ms. Ryan stated that there has been a debate in the General Assembly as to whether that requirement exists. BWC has assumed that when the legislation requires "any and all" workers' compensation proposed laws be reviewed, that it refers to "any and all." There has been the same debate at the Workers' Compensation Council along party lines on the requirement.

Mr. Pitts asked would a BWC study of HB94 include occupational disease claims covered by existing legislation with a rebuttable presumption. Mr. Pedrick replied a BWC study would include Ohio experience as it exists and especially the experience of other states.

Mr. Pedrick further reported that BWC is meeting extensively with Deloitte Consulting. BWC also expects to report the July 1, 2010, rate indication for private employers by March.

Mr. Pedrick commended Oliver Wyman Consulting for its assistance. The presence of William Hansen at today's meeting is an example of the professionalism that all consultants from Oliver Wyman have demonstrated over their years of service to the BWC. Mr. Bryan thanked Oliver Wyman for its many years of service.

COMMITTEE CALENDAR

Mr. Bryan solicited suggestions on any modifications to the Actuarial Committee calendar. None were made, so Mr. Bryan stated that the calendar would be used as submitted.

EXECUTIVE SESSION

There was no executive session.

ADJOURNMENT

Mr. Matesich moved to adjourn and Mr. Caldwell seconded. Mr. Bryan adjourned the meeting after the motion was approved by a roll call vote of five ayes and no nays.

Prepared by: Larry Rhodebeck, Staff Counsel
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December 23, 2009