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JULIANNE M. BOWLER
COMMISSIONER OF INSURANCE

Bulletin 2005-05

TO: **Massachusetts Workers' Compensation Self-Insurance Groups**

FROM: **Julianne M. Bowler, Commissioner Of Insurance** J Bowler

DATE: **March 24, 2005**

RE: **Workers' Compensation Self-Insurance Groups**

It has come to the Division of Insurance's ("Division") attention that some Self-Insurance Groups ("SIGs") are not properly billing their members for assessments on behalf of the Division of Industrial Accidents ("DIA") and not properly disclosing the fact that all of their members are subject to joint and several liability for the SIGs' liabilities. The Division, therefore, reminds all SIGs of the following obligations. This list is not intended to be exhaustive, but only illustrative of some of SIGs' basic obligations and requirements:

- No entity may act as a SIG unless it has received prior written approval to do so from the Commissioner of Insurance.
- No SIG may have less than $250,000 of annual gross premium or a combined provable net worth of all its members of less than $1,000,000.
- SIGs are not protected by any Guaranty Funds in the event that they become insolvent.
- SIGs are required to bill, collect and transfer certain DIA assessments to the DIA.
- DIA assessment amounts shall not be reduced as a result of any deviations or discounts initiated by a SIG, as such reductions do not affect standard premiums.
- The premiums used for the DIA assessment should not include any ARAP[1] charges.

[1] ARAP is the Massachusetts All Risk Adjustment Program, which applies a surcharge on all experience rated insurance where losses exceed expectations.

- SIGs must not suggest to the public via marketing materials or in any other manner that they are exempt from DIA assessments.

- SIGs must not include, or suggest in any marketing materials or quotes, that they can include DIA assessments within the premiums charged to their members.

- Members of a SIG (except in the case of public entities) must assume unlimited joint and several liability for all losses of a SIG that arise during the member's period of membership in the group.

- Each member of a SIG must sign a disclosure form confirming that he/she understands that he/she is subject to joint and several liability for all obligations of the SIG and its other members.

- Should a member of a SIG become insolvent, the remaining members will be responsible for that member's liabilities to pay workers' compensation benefits, including employer's liability.

- SIGs must comply with all of the same fair trade practices as insurance companies prescribed in M.G.L. c. 176D.

Failure to comply with any of the above requirements may result in a fine and/or license suspension.