
**Rate Filing of the Worker's Compensation Rating and Inspection Bureau
Docket No. R2005-06**

Decision and Order

I. Introduction and Procedural History

On March 1, 2005, the Worker's Compensation Rating and Inspection Bureau of Massachusetts ("WCRIB"), on behalf of its members, submitted a filing for worker's compensation rates to be effective September 1, 2005. The Commissioner of Insurance ("Commissioner") designated Jean F. Farrington, Esq. and Stephen M. Sumner, Esq. as hearing officers on this matter. A notice of hearing issued on March 4, 2005, scheduling a public comment hearing and a prehearing conference for March 30. On March 14, the Attorney General ("AG") filed a notice of intent to participate. Counsel representing the parties throughout this proceeding are: for the WCRIB, Scott P. Lewis, Esq. and Michael S. Rabeih, Esq.; for the State Rating Bureau ("SRB") Thomas McCall, Esq. and T. Jane Gabriel, Esq.; and for the AG, Peter Leight, Esq. and Monica Brookman, Esq.

Representatives of each party, including the chair of the WCRIB Governing Committee, spoke at the public comment hearing on March 30. Other individuals made statements on behalf of the Massachusetts Workers' Compensation Advisory Council ("MWCAC"), the Associated Industries of Massachusetts, the Massachusetts Association of Insurance Agents, American Risk Management, representing three trade associations related to the construction industry, and an insurance agency that writes a substantial

amount of workers' compensation insurance.¹ At the prehearing conference that followed public comment, dates were set for cross-examination, submission of advisory filings, and post-hearing briefs.

Cross-examination of the WCRIB witnesses took place on April 15, 25, and 26. Thereafter, the parties requested suspension of the hearing schedule because of on-going settlement negotiations. On May 13, the parties submitted a stipulation (the "Stipulation") that addressed several specific aspects of the WCRIB filing. On that same day, the Commissioner and the presiding officers approved the Stipulation. During a telephone conference, it was marked and entered into the record of this proceeding as Exhibit 19.

II. Statutory Framework

G.L. c. 152, §53A ("§53A") sets out the statutory requirements for obtaining approval of rates for Massachusetts workers' compensation insurance. Subsection (1) requires any insurance company writing workers' compensation insurance in the Commonwealth to file its risk classifications and premiums with the Commissioner, either directly or through a rating organization authorized to act for it. The Commissioner thereafter conducts a hearing to determine whether the classifications and rates are not excessive, inadequate or unfairly discriminatory for the risks to which they effectively apply, and fall within a range of reasonableness. In addition to these general requirements, §53A(12) specifically states that the Commissioner shall not approve classifications or rates that provide for any of the following: 1) dividends, unabsorbed premium deposits, savings or other payments allowed or returned by the insurer to policyholders, members, subscribers or stockholders; 2) expenses that exceed the filing insurer's expense needs; and 3) commission allowances that are not demonstrated to be reasonable and to reflect the actual cost to the agent or broker of services they provide. The Commissioner, pursuant to §53A(13), must also make a finding, on the basis of information in the rate filing, that insurers employ acceptable cost control programs and techniques which have had or are expected to have a substantial impact on fraudulent claim costs, unnecessary health care costs, any other unreasonable costs and expenses, and on the collection of appropriate premium charges owed to the insurer. If the

¹ The three organizations are the Building Trades Employers Association of Eastern Massachusetts, their affiliated trade groups, and the Associated General Contractors of Massachusetts.

Commissioner finds that the rates are excessive, and that the excess is the result of a failure to employ adequate cost control programs, she may disapprove or limit any proposed increase in rates.

III. The Recommendations

The WCRIB, in its initial filing, sought an overall rate increase of 1.0 percent. The Stipulation, in summary, provides the following:

1. The overall average change in the existing workers' compensation average rates, to be effective on and after September 1, 2005, shall be a reduction of three percent (3.0 percent.)
2. In calculating the average rates, the WCRIB shall cap the rate level change for each rating classification on a revenue neutral basis and as shown in the document attached to the Stipulation as Exhibit A, but otherwise in the manner shown in Section X of the WCRIB filing.
3. The expected loss rates to be used in the experience rating plan for new and renewal policies effective on and after September 1, 2005 shall be calculated by applying the ratios of experience rating ELR to the average rate shown in the document attached to the Stipulation as Exhibit B, multiplied by the average rates by class produced by the stipulation.
4. In calculating the D-Ratios to be used in the experience rating plan for new and renewal policies effective on and after September 1, 2005, the WCRIB shall use the Partial D-Ratios shown in the document attached to the Stipulation as Exhibit C, and the loss elimination ratios shown in the document attached to the Stipulation as Exhibit D, but otherwise in the manner shown in Section X of the WCRIB filing.
5. The tables of expense ratios for retrospective rating shown in Section IX-D of the WCRIB filing shall be revised as shown in the document attached to the Stipulation as Exhibit E. The tax multiplier, expected loss ratios and loss conversion factors used for retrospective rating also shall be as shown in Exhibit E.
6. Exhibits A through E to the Stipulation revise, respectively, five exhibits in the WCRIB filing: 1) Exhibit A revises Section X, subsection I, Exhibit 1; 2) Exhibit B revises Section XI, subsection B Exhibit 1; 3) Exhibit C revises Section XI, subsection C, Exhibit 1, page 1; 4) Exhibit D revises Section XI, subsection B, Exhibit 2; and 5) Exhibit E (four pages) revises Section IX, subsection D, pages 1 through 4.
7. The revised rates, classifications, rating programs, rating plans, rating factors and rating values shall apply to new and renewal policies effective on and after September 1, 2005, including all policies in the Massachusetts Workers' Compensation Assigned Risk Pool.
8. Entry into this Stipulation is undertaken for the sole purpose of resolving this proceeding, and implies no approval by any party of any particular ratemaking methodology or projection; each party reserves the right to contest in future

hearings all aspects of rate-setting, including those addressed in the Stipulation.

IV. Conclusion

We find that the stipulation submitted by the parties will provide for classifications or premiums that can be approved as “not excessive, inadequate, or unfairly discriminatory for the risks to which they respectively apply, and fall within a range of reasonableness.” We have therefore approved the stipulation this 19th day of May 2005.

/s/

Jean F. Farrington
Presiding Officer

/s/

Stephen M. Sumner
Presiding Officer

/s/

Julianne M. Bowler
Commissioner of Insurance