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**Rate Filing of the Worker's Compensation Rating and Inspection Bureau**  
**Docket No. R2007-01**

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**Decision and Order**

**I. Introduction and Procedural History**

On March 1, 2007, 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, 2007. 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 2, 2007, scheduling a public comment hearing and a prehearing conference for April 5. On March 20, 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 Douglas Wilkins, Esq.; for the State Rating Bureau ("SRB"), Thomas McCall, Esq. and Michael Mancini, Esq.; and for the AG, Peter Leight, Esq., Monica Brookman, Esq., Aaron Lamb, Esq. and Glenn Kaplan, Esq.

Representatives of each party spoke at the public comment hearing on April 5. 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 trade associations related to the construction industry, and an insurance brokerage that works with over 475 agents

in Massachusetts to place workers' compensation insurance.<sup>1</sup> At the prehearing conference that followed public comment, the WCRIB indicated that it would be submitting a revised filing. At the request of the parties, the scheduling of cross-examination was postponed to permit review of the revised filing. During a telephone conference on April 11, dates for cross-examination of the WCRIB's witnesses were set; at the request of the parties those dates were continued because of ongoing settlement negotiations. Following a status conference on May 14, the parties submitted a stipulation (the "Stipulation") that addressed several specific aspects of the WCRIB filing. At that conference, the hearing notice, the initial WCRIB filing, and the revised filing were marked as exhibits and entered into the record of this proceeding. The parties agreed that the Stipulation, when submitted, would be marked as Exhibit 4. On May 14, the Commissioner and the presiding officers approved the Stipulation.

## **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

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<sup>1</sup> The organizations represented by American Risk Management are the Building Trades Employers Association of Eastern Massachusetts, their affiliated trade groups, and the Associated General Contractors of Massachusetts.

premium charges owed to the insurer. If the 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 decrease of 13.4 percent; its revised filing proposed a decrease of 14.6 percent. The Stipulation, in summary, provides the following:

1. No party will object to or appeal from the Commissioner's approval of the WCRIB's general rate filing dated March 1, 2007 as revised on April 9, 2007, subject to the condition that the overall average change in the existing workers' compensation average rates, for new and renewal policies effective on and after September 1, 2007, shall be a reduction of 16.9 percent. The revised rates, classifications, rating programs, rating plans, rating factors and rating values shall apply to new and renewal policies effective on and after that date, including all such policies in the Massachusetts Workers' Compensation Assigned Risk Pool, in compliance with the applicable manual and experience rating rules, as modified by the revisions to the All Risk Adjustment Program ("ARAP") debit factors described in paragraph 3 below and to the other provisions in the Stipulation.
2. The manual rates and expected loss ratios for F-classes 6872 and 7327 shall remain unchanged from their current level as of the effective date of the Stipulation. The manual rates and expected loss ratios for all other F-classes shall be reduced by 19.4 percent, effective September 1, 2007.
3. The maximum debit factor under the ARAP shall be capped at 1.25 for new and renewal policies effective on and after September 1, 2007, and the offset factor for ARAP shall be adjusted to maintain revenue neutrality by application of the off-balance factor of 1.046 in the calculation of manual rates.
4. The "safety factor" used in calculating small deductible credits, shown in Sections VII-A and VII-B of the WCRIB's Filings, shall be increased from 0.7 to 0.9 for new and renewal policies effective on an after September 1, 2007.
5. In anticipation of its next rate filing, the WCRIB, with input from the AG and the SRB, shall reconsider the manner in which the offset for premium credits given under the Massachusetts Construction Classification Premium Adjustment Program is applied in the derivation of manual rates for those classifications that are eligible for credits provided under that program.
6. The stipulation establishes conditions for submission of a general rate filing for revised workers' compensation rates to be effective on and after September 1, 2008 for new and renewal policies. If, on or before December 15, 2007, the AG or the SRB makes a written request to the WCRIB to make a general rate filing for revised rates to be effective on and after September 1, 2008, for new and renewal policies the WCRIB shall make such a filing by March 1, 2008.
7. The Stipulation also establishes a timetable for the submission of Aggregate Financial data by the WCRIB to the AG and the SRB, together with an analysis of the reasons,

- if any, why, in the WCRIB's opinion, the data from any company are material but not sufficiently reliable for use in ratemaking.
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 14th day of May 2007.

/s/\_\_\_\_\_  
Jean F. Farrington  
Presiding Officer

/s/\_\_\_\_\_  
Stephen M. Sumner  
Presiding Officer

/s/\_\_\_\_\_  
Nonnie S. Burnes  
Commissioner of Insurance