



# COMMONWEALTH OF MASSACHUSETTS

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## Rate Filing of the Worker's Compensation Rating and Inspection Bureau Docket No. R2008-01

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### Decision and Order

#### I. Introduction and Procedural History

On February 29, 2008, the Worker's Compensation Rating and Inspection Bureau of Massachusetts ("WCRIB"), on behalf of its members, submitted a filing for a worker's compensation rate revision to be effective September 1, 2008 ("the Filing"). The Commissioner of Insurance ("Commissioner") designated Jean F. Farrington, Esq. and Stephen M. Sumner, Esq. as presiding officers on this matter. A notice of hearing issued on March 5, 2008, scheduling a public comment hearing and a prehearing conference for April 3. On March 12, the Attorney General filed a notice of intent to participate in this matter as a statutory intervenor.

Representatives of the three parties to this proceeding, the WCRIB, the State Rating Bureau in the Division of Insurance, and the Attorney General, spoke at the public comment hearing on April 5. Other individuals offered statements on behalf of the Massachusetts Workers' Compensation Advisory Council, the Massachusetts Association of Insurance Agents, American Risk Management, representing trade associations related to the construction industry, and the American International Insurance Group.<sup>1</sup> A cross-examination schedule was set at the prehearing conference that followed the public comment hearing. On April 16, the parties submitted a stipulation (the "Stipulation") that

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

addressed several specific aspects of the WCRIB filing. On April 17, the Commissioner 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 on its behalf. 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), also must 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 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 2.3 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, 2008 [sic], subject to the condition that there will be a -1.00 percent overall change in the existing workers’


compensation average rates, to be effective on and after September 1, 2008, subject to the following conditions.


2. The WCRIB shall compute average and manual rates for each rating classification in the manner shown in its filing, provided that the average rate change shall be -1.00 percent and that 15 per cent shall be substituted for 20 percent for purposes of calculating maximum and minimum rate changes as set out in lines 8 and 9 of Section IX, p. 263 of the Filing.
3. The rating values in Section X, XI and XII of the Filing shall be computed in a manner consistent with the Filing, but shall reflect a -1.00 percent average rate change as a result of substituting an underwriting profit provision of -4.27 percent for the underwriting profit provision of -1.2 percent shown in Section I, p. 11 of the Filing. The stipulated profit provision reflects only the parties' agreement to use this method to implement their overall negotiated resolution of this matter. It does not reflect any party's position with respect to the underwriting profit provision calculated in the Filing.
4. The average rate level change for F-classes shall be +8.55 percent.
5. The approved Expense Constants set forth below shall be substituted for those proposed in Section I, p. 10 of the Filing, regardless of any loss of revenue resulting from those substitutions. The Expense Constants shall be: 1) \$338 for risks developing at least \$1,000 in Standard Premium; 2) \$250 for risks developing \$200 through \$999 in Standard Premium; 3) \$159 for risks developing less than \$200 in Standard Premium; and 4) \$64 for Per Capita risks. These revised Expense Constants are temporary values resulting solely from the parties' overall negotiated resolution. The parties agree that an anticipated 2009 nationwide study of industry experience by the National Council on Compensation Insurance will warrant future review of expense constants to be used in Massachusetts.
6. The recalculated excess loss factors to be used in retrospective rating shall be divided into seven hazard groups, as shown in Section XII, pp. 33-34, of the Filing, provided that a company that wishes to continue to use recalculated excess loss factors for the four hazard groups as shown in Section XII, pp. 35-36 of the Filing, rather than the seven hazard groups, may be allowed to do so for up to three consecutive policy years only. The company must make an annual written request to the WCRIB. For policies with effective dates on or after September 1, 2008, the written request must be made no later than August 1, 2008. At the company's option, the request may be renewed on or before August 1, 2009 and August 1, 2010, for the succeeding policy year. For policies effective on or after September 1, 2011, the excess loss factors for seven hazard groups shall be used for retrospective rating for all companies, unless the Commission expressly approves the use of other factors.
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, 2008, including all such policies in the Massachusetts Workers' Compensation Assigned Risk Pool
8. The parties acknowledge that the Stipulation has no precedential value and implies no approval or disapproval by any party of any particular ratemaking

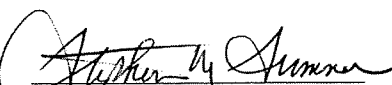
methodology or projection. Each party reserves the right to contest in future hearings all aspects of rate-setting, including those addressed in the Stipulation.

#### IV. Conclusion

We find that the Stipulation submitted by the parties will provide for classifications or premiums that are "not excessive, inadequate, or unfairly discriminatory for the risks to which they respectively apply, and fall within a range of reasonableness." We therefore approve the Stipulation this 17th day of April 2008.

  
Nonnie S. Burnes  
Commissioner of Insurance

  
Jean F. Farrington  
Presiding Officer

  
Stephen M. Sumner  
Presiding Officer