



**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

1000 Washington Street, Suite 810 • Boston, MA 02118-6200  
(617) 521-7794 • FAX (617) 521-7475  
TTY/TDD (617) 521-7490  
<http://www.mass.gov/doi>

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

GREGORY BIALECKI  
SECRETARY OF HOUSING AND  
ECONOMIC DEVELOPMENT

BARBARA ANTHONY  
UNDERSECRETARY

JOSEPH G. MURPHY  
COMMISSIONER OF INSURANCE

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**Rate Filing of the Worker's Compensation Rating and Inspection Bureau**  
**Docket No. R2010-01**

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**Decision and Order**

**I. Introduction and Procedural History**

On March 1 2010, 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, 2010 ("the Filing").<sup>1</sup> The Commissioner of Insurance ("Commissioner") designated Jean F. Farrington, Esq. as presiding officer on this matter. A notice of hearing was issued on March 5, 2010, scheduling a prehearing conference for April 16, 2010 and a public comment hearing for April 30. On March 12, the Attorney General filed a notice of intent to participate in this matter as a statutory intervenor.

At the April 16 prehearing conference, a schedule was set for cross-examination of the WCRIB's witnesses. Representatives of the three parties to this proceeding, the WCRIB, the State Rating Bureau in the Division of Insurance, and the Attorney General (the "Parties"), spoke at the April 30 public comment hearing. Other statements were offered on behalf of the Massachusetts Workers' Compensation Advisory Council, American Risk Management, representing trade associations related to the construction industry, and the Associated Industries of Massachusetts.<sup>2</sup> On May 11, the Parties

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<sup>1</sup> On April 7, the WCRIB filed a set of corrected pages to section IV of the Filing.

<sup>2</sup> American Risk Management represents the Building Trades Employers Association of Eastern Massachusetts, their affiliated trade groups, and the Associated General Contractors of Massachusetts.

submitted a stipulation (the "Stipulation") that addressed several specific aspects of the WCRIB filing. On May 12, 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, he may disapprove or limit any proposed increase in rates.

## **III. The Recommendations**

The WCRIB, in its initial filing, sought an overall rate increase of 4.5 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, 2010, subject to the condition that there will be a -2.4 percent overall change in the existing workers'

- compensation average rates, to be effective on and after September 1, 2010, subject to the following conditions.
2. The rating values in Sections IX, X, XI and XII of the Filing shall be computed in a manner consistent with the Filing, but shall reflect: 1) a -2.4 percent overall average rate change as a result of substituting an underwriting profit provision of zero percent for the underwriting profit provision shown in Section VII-B, Exhibit 1 of the Filing; and 2) and 1.002 as the Factor to Remove the Large Deductible Contribution to the Residual Market Subsidy in Section I-D, Exhibit 1 of the Filing. These substitutions reflect only the parties' agreement to use this method to implement their overall negotiated resolution of this matter rather than any party's position with respect to the underwriting profit provision or other provisions calculated in the Filing.
  3. 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, 2010, including all such policies in the Massachusetts Workers' Compensation Assigned Risk Pool.
  4. The WCRIB will provide revised manual pages reflecting the stipulation to the State Rating Bureau and the Attorney General for their review before publishing those pages to the industry.
  5. These rates shall be in effect for one year only. On March 1, 2011, the WCRIB will submit a general revision of workers' compensation insurance rates and rating values for rates applicable to policies effective on or after September 1, 2011. At the direction of the Division of Insurance the WCRIB, as the Commissioner's statistical agent, shall provide a copy of the data base underlying its filing to the Attorney General on January 2, 2011.
  6. The WCRIB will conduct a study of industry experience to obtain data suitable for the purposes of verifying or revising its expense constant recommendations.
  7. 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**

I 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." I therefore approve the Stipulation this 12th day of May 2010.

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Jean F. Farrington  
Presiding Officer

Affirmed:

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Joseph G. Murphy  
Commissioner of Insurance