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**Office of Consumer Affairs and Business Regulation**  
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**Rate Filing of the Workers' Compensation Rating and Inspection Bureau**  
**Docket No. R2013-02**

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**Decision and Order**

**I. Introduction and Procedural History**

On December 27, 2013, 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 January 1, 2014 ("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 was issued on January 7, 2014, scheduling a public comment hearing for January 30, 2014. On January 10, 2014, an order issued addressing discovery and scheduling a prehearing conference for January 30, following the public comment hearing. The Attorney General ("AG") filed a notice of intent to appear and participate on January 17, 2014.

Representatives of the AG, the State Rating Bureau ("SRB") in the Division of Insurance, the Massachusetts Association of Insurance Agents and the Building Trades Employers Association spoke at the public comment hearing. A schedule for cross-examination of the WCRIB's witnesses was established at the prehearing conference. Subsequently, the parties moved to continue the scheduled dates.

On March 20, 2014, the WCRIB, the AG and the SRB submitted a stipulation executed by the parties (the "Stipulation") representing a negotiated settlement of matters addressed in the Filing.

## **II. Statutory Framework**

Massachusetts General Laws Chapter 152, §53A (“Section 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, Section 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 Section 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 Stipulation**

The WCRIB, in its initial Filing, sought an overall rate increase of 7.7 percent. The Stipulation, in pertinent part, provides the following:

1. No party will object to or appeal from an order by the Commissioner that, except as provided in the Stipulation, there will be no change in the workers’ compensation rates, classifications, rating programs, rating plans, rating factors and rating values to be effective on and after April 1, 2014;

2. These rates, classifications, rating programs, rating plans, rating factors and rating values shall apply to new and renewal policies effective on and after April 1, 2014, including all such policies in the Massachusetts Workers' Compensation Assigned Risk Pool;
3. The new classification pricing methodology proposed by the WCRIB in Section IX of the Filing shall be approved for use in setting rates to be effective on and after April 1, 2014, provided that the "swing limits" applicable to the rates for individual rating classifications shall be those displayed in Exhibit I to the Stipulation;
4. The Massachusetts Construction Classification Premium Adjustment Program ("Construction Credit Program"), described in Section XI-F of the Filing shall be approved for use in setting rates to be effective on and after April 1, 2014, provided that the credit percentages appearing on page XI-15 of the Filing are revised as shown in Exhibit II to the Stipulation. To preserve the revenue neutrality of the Construction Credit Program, the offset in the rates to be effective on and after April 1, 2014 shall be .968;
5. Because the Stipulation provides for no change in statewide average rates, the implementation of the classification pricing methodology referred to in Paragraph 3 of the Stipulation and the revised Construction Credit Program referred to in Paragraph 4, the manual rates for most classifications and various experience rating and retrospective rating factors will change effective April 1, 2014. Revised manual pages reflecting the provisions of the Stipulation that are applicable to new and renewal policies effective on and after April 1, 2014 are attached to the Stipulation as Exhibit III;
6. The WCRIB, in collaboration with the AG and the SRB, shall develop and implement a survey to obtain adequate data relating to commission payments on large deductible and retrospectively rated policies and data on the allocation in such policies of loss adjustment expenses between insurers and policyholders;
7. The parties each acknowledge that the Stipulation has no precedential value and will not be relevant in future hearings on any line of insurance, and that they will not attempt to introduce it, or the decision adopting it, as evidence or to rely on it or the decision for any purpose in future hearings, provided that the Stipulation may be considered in any future hearing that is limited to the issue of implementation of the Stipulation; and
8. The parties each acknowledge that the Stipulation does not imply approval or disapproval by any party of any particular ratemaking methodology or projection, and that each party reserves the right to contest in future hearings all aspects of rate-setting, including those resolved for present purposes only 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.” Therefore, we approve the Stipulation, and herein ORDER that except as provided for in the Stipulation: 1) there will be no change in the current workers’ compensation rates, classifications, rating programs, rating plans, rating factors and rating values to be effective on and after April 1, 2014; and 2) that these current rates, classifications, rating programs, rating plans, rating factors and rating values shall apply to new and renewal policies effective on and after April 1, 2014, including all such policies in the Massachusetts Workers’ Compensation Assigned Risk Pool.

ENTERED this 20th day of March 2014.

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Stephen M. Sumner  
Presiding Officer

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Jean F. Farrington  
Presiding Officer

AFFIRMED:

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Joseph G. Murphy  
Commissioner of Insurance

March \_\_\_\_, 2014