



**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 15-02

Workers' Compensation Deductible Policies

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The following Bulletin is issued by the Missouri Department of Insurance, Financial Institutions and Professional Registration ("DIFP") to inform and educate the reader on the specified issue. It does not have the force and effect of law, is not an evaluation of any specific facts or circumstances, and is not binding on the Department or an insurer. See §374.015 RSMo.

To: All insurers writing workers' compensation insurance policies

From: John M. Huff, Director

Re: Individually-rated workers' compensation policies with large deductibles

The purpose of this Bulletin is to provide guidance to insurers on individually rated workers' compensation policies with large deductibles. For purposes of this Bulletin, a large deductible is any deductible of \$100,000 or more.

Section 287.947 RSMo requires that "...every insurer shall file with the director all rates and supplementary rate information which is to be used in this state..." (emphasis added). Such rate and supplementary rate information is to be filed within 30 days of the effective date in a competitive market and 30 days prior to the effective date in a non-competitive market. Missouri currently has a competitive market.

In 2002, the Department was approached by insurers and asked to allow insurers flexibility to negotiate and individually rate workers' compensation policies with large deductibles for employers operating in multiple states. This flexibility would streamline the premium computation process by permitting the use of a single multi-state credit that could be more easily adjusted at audit.

Guidelines for individually rated workers' compensation policies with large deductibles were originally set forth in Bulletin 02-01. The flexibility to individually rate and negotiate premium for these policies was separate and apart from the rating flexibility already provided to insurers through the use of an Individual Risk Premium Modification (IRPM) Plan. Under Bulletin 02-01, insurers were allowed to deviate from a rating plan and negotiate either base rates or non-IRPM rating variables and arrive at a "mutually agreed upon" premium. Bulletin 02-01 was formally rescinded on January 12, 2015.

The Department recognizes that the interstate nature of commerce today impacts all commercial insurance lines, and in particular, workers' compensation insurance. While individually negotiated rates can raise concerns of excessive, inadequate or unfairly discriminatory rates, the flexibility to individually rate workers' compensation policies with large deductibles for employers operating in multiple states is reasonable in certain limited circumstances.

Those circumstances include situations where:

1. The employer has operations in one or more states in addition to Missouri; and
2. The employer's "Total Standard Premium" (as that term is defined in the Missouri State Page of the current NCCI Basic Manual), prior to the application of the deductible credit, is \$100,000 or more in interstate premium; and
3. The individually rated premium is mutually agreed upon by the insurer and the insured; and
4. The insurer submits a separate rate filing with the Department documenting its use of an individually negotiated (or non-standard) rate as required by Section 287.947 RSMo.

To facilitate the Department's review of the foregoing filings for individually rated policies with large deductibles, such filings should include the following information:

- a. The employer's name and address;
- b. The policy number and policy period;
- c. All states for which coverage is being provided under the policy;
- d. The total premium charged for the policy and the amount specifically attributable to the Missouri exposure of the employer's operation(s);
- e. The methodology by which the premium was established;
- f. The amount of and type of deductible(s) applicable to the policy;
- g. The amount and type of collateralization of the deductible; and
- h. What entity will be responsible for the administration of claims (the employer, the insurer or a specified third party administrator).

Insurers with questions regarding this Bulletin should contact the Market Regulation Division at 573-751-3365.