

January 2010

WORKERS' COMPENSATION NEWS

BWC Board of Directors Meeting

On Thursday, December 16, 2009 the BWC Actuarial Committee and Friday, December 17, 2009 the BWC Board of Directors convened for their monthly meetings and the Bureau of Workers' Compensation staff presented two programs that BWC expects the Board of Directors to vote on in January.

Individual Incurred Loss Retrospective Program will allow individual private employers and public employer taxing districts to participate in retrospective rating by receiving a premium adjustment (refund/assessment) based on performance. The program is strictly performance-based and an employer's claim performance will determine if an employer receives a refund or assessment at each evaluation period.

- One year program with evaluations periods occurring at 12, 24, and 36 months after the policy year end
- Employers must have \$75,000 in standard premium (total premium excluding the assessments for disabled workers' relief fund and the administrative cost fund) for the last full policy year to participate in program
- Program is incompatible with: Individual Retrospective Rating, \$15K Medical-Only Program, Deductible Program, One Claim Program, Group Rating, Drug-Free Workplace Program or Group Retrospective Rating.
- Employer cannot have cumulative lapses in coverage in excess of 40 days within the 12 months preceding the application deadline date

Large Deductible Plan would add deductible level options of \$25,000, \$50,000, \$100,000, & \$200,000. These options will have a more restrictive eligibility criterion:

- No cumulative lapses in coverage in excess of 15 days within the 5 years preceding the original application deadline
- Deductible Level must be 40% of Standard Premium
- More restrictive Dun & Bradstreet score screening
- Must submit reviewed (\$25K or \$50K level) or audited (\$100K or \$200K level) GAAP financials
- Higher deductible levels are incompatible with Group Rating, Individual & Group Retro Rating, \$15,000 Medical-Only Program, and Salary Continuation

Changes to Claim Reserving

BWC "rate reform" changes to the current workers' compensation system are on their way:

Reserving all lost time claims from date of injury of January 01, 2011 for private employers

- Claims with date of injury prior to January 01, 2011 will continue to have the reserve suppressed if *salary continuation* is the only compensation being paid on the claim.
- Employers may continue *salary continuation* on a claim, but this will only eliminate the compensation cost out of the experience rating calculation.

Apply a reserve to all medical-only claims beginning July 1, 2010

The introduction of reserving medical-only claims will impact private employers for policy year 2011.

SAFETY NEWS

OSHA Recordkeeping

Recordkeeping is one of the most critical requirements of the Occupational Safety and Health Administration (OSHA) 29 CFR 1904. Under the Occupational Safety and Health Act of 1970, covered employers are required to maintain records of occupational injuries and illnesses.

Did you know:

- Most employers must maintain an OSHA 300 log, an OSHA 300A summary and an OSHA 301 form on all recordable occupational injuries and illnesses.
- Employers need to enter each recordable injury and illness on the log and summary as early as possible, but no later than 6 working days after receiving information of occurrence.
- Employers are required to post the 300A summary of occupational injuries and illnesses for each establishment annually.
- Employers are required to retain the current records plus records from the previous five years.

Key Points:

- It is important to first determine if your company meets reporting requirements, as some industries are exempt.
- It can be difficult to determine whether a work related injury or illness is recordable according to OSHA standards.
- The creation and maintenance of this documentation must be a top priority for the employer.

It is important to remain in compliance with your recordkeeping and reporting requirements to avoid any citations from OSHA. Sheakley Health and Safety Services can assist you with the completion of your OSHA injury and illness recordkeeping logs. [Contact us](#) today for more information!

Also, please visit [Sheakley Health & Safety Services Virtual University](#) for your on-line safety training opportunities.

UNEMPLOYMENT NEWS

Unemployment Rates – November

Ohio unemployment rises from 7.1% in November 2008 to 10.6% for November 2009. The United States unemployment rate has rose from 6.8% in November 2008 to 10.0% for November 2009.

Ohio Extended Benefits

On April 1, 2009, Ohio law was amended so that individuals may receive up to 20 weeks of state-extended benefits (known as "Ohio Extended Benefits" or "Ohio EB") after their federal-extended benefits expire. The first payable week of Ohio EB was the week beginning March 15, 2009. The last payable week of Ohio EB is the week ending December 26, 2009. Ohio law requires that the Ohio EB program begin to phase out three weeks before the last payable week. This means that Ohio EB applications effective prior to December 6, 2009, may be approved for payment of benefits through the week ending December 26, 2009.

Emergency Unemployment Compensation Program

Federal legislation that would extend deadlines for the Emergency Unemployment Compensation program has been approved, extending the deadline until February 28, 2010. Before the approved extension, the law stated that claimants who exhaust their regular 26 weeks of unemployment benefits after December 19 will not be eligible for any federal extended benefits. In addition, claimants who exhaust their extended benefits after December 26 will not be eligible for any additional extended benefits.

LEGISLATIVE NEWS

Potential Measures of the Desirability of Legislation as a Matter of Public Policy

The Workers' Compensation Council (WCC), under their Ohio Revised Code (ORC 4121.78) duties, has created a new state panel to review and analyze legislation impacting the Ohio workers' compensation system adopting a set of guidelines that will be used to scrutinize future legislation:

- Technical qualities of the legislative proposal
- Congruence with basic tenets of the workers' compensation system
- Historical precedent
- Cost-benefit analysis
- Potential effects on stakeholders
- Impact on the stated goals of the Bureau of Workers' Compensation
- Impact on the Industrial Commission's ability to perform its duties
- Experiences in other states and nationwide best practices

The state panel delayed consideration of Senate Bill 213, which seeks to block administrative changes to the group rating program. Although the bill has been delayed, the panel has included the measure in the following prioritized BWC related legislation that will be reviewed in early 2010:

Senate Bill 213 – Workers' Compensation (Faber)

The Senate Bill (introduced November 19th) requires the BWC administrator to adopt a rule that sets the discount for programs or alternative premium plans no later than the first day of September prior to the policy year in which the discount for programs or alternative premium plans is to be in effect; establishes a moratorium on BWC's use of the break-even factor for a two-year period; and prohibits lowering the maximum group premium discount below sixty-five percent.

House Bill 249 – BWC Records (Heard, Letson)

The House Bill (introduced July 7th) requires BWC Records to clarify the method by which journalists may request Bureau of Workers' Compensation records for multiple claimants, add to the definition of "journalist," and allow a person to solicit authority from a claimant or employer to represent the claimant or employer in any claim or appeal filed with the Bureau.

House Bill 259 – Workers' Compensation Investments (Batchelder)

The House Bill (introduced July 29th) requires Workers' Compensation Investments to specify the classes of investments in which the Administrator of Workers' Compensation may invest funds specified in the Workers' Compensation Law and to require the Administrator to have criminal records checks conducted for employees of investment consultants with whom the Administrator contracts to facilitate the investment of those funds.

Senate Bill 3 – Small Business (Faber)

The Senate Bill (introduced February 10th and referred to State & Local Government & Veterans Affairs Committee) requires a rule-making agency to prepare a cost-benefit report for, and regulatory flexibility analysis of, rules that may have any adverse impact on small businesses and submit them to the new Ohio Small Business Ombudsperson in the Office of Small Business, to create the Small Business Regulatory Review Board to review objections to those rules and make recommendations to the Joint Committee on Agency Rule Review regarding the rules, to require the Ombudsperson annually to submit a rule impact report to the Governor and General Assembly, to promote improved customer service in state agencies, and to require the Director of Administrative Services to establish customer service performance standards for non-elected officers and employees of state agencies.

To learn more about these changes and how they will impact your business, please contact our office at 513-326-4675 x2044 or visit our website at www.sheakley.com.