

February 2010

WORKERS' COMPENSATION NEWS

Drug-Free Safety Program

During the Medical Services and Safety Committee, held on January 21st, BWC representatives updated the Committee Board Members on their progress in “re-tooling” the Drug-Free Workplace Program. The program recommendations and draft rules are scheduled to be proposed for a first reading in February and second reading in March to the BWC Board of Directors. The “re-tooling” and launch of new program is expected for the July 01, 2010 Policy Year.

The Bureau’s objective was to “research and develop a compatible, evidence-based, contemporary drug free workplace safety program (DFSP) that is designed specifically to help Ohio employers prevent occupational injuries attributed to substance abuse.”

The Drug-Free Safety Program project team has proposed the following recommendations:

- Combine the Drug-Free and Drug-Free EZ into one program with two levels:
 - Basic Program Level
 - Advanced Program Level
- The proposed design to incorporate drug-free into employers’ holistic approach to safety for both levels.
- Participation Elements included in both levels are:
 - Safety
 - Written Substance Policy
 - Employee Substance Awareness
 - Supervisor Training
 - Drug and Alcohol Testing
 - Employee Assistance
- Safety Elements included in both levels are:
 - Online Safety Self-Assessment
 - Accident Analysis Training for Supervisors
 - Online accident reporting
 - BWC Safety services available upon request or as indicated (increasing loss ratios, injury trends, inadequate accident analysis, catastrophic claim, fatality, etc.)

The Basic and Advanced Levels will require participants to move from a 5-panel to 9-panel drug test plus expanded opiates. The Advanced Level will require participants to randomly drug test 25% of their total workforce.

During discussion the questions was raised regarding the discount percentage offered to participants, which BWC has not determined yet. BWC did inform the committee members that most states offer a discount at 5% or lower to participate in a drug-free program.

Further information will be provided to you in future Business Bulletins.

Group Retrospective Rating

Group Retrospective Rating is a BWC performance-based incentive program designed to reward participants that are able to keep their claims cost below a predetermined level. Employers are required to pay their individual premiums as normally scheduled, however participants can realize an additional premium refund or assessment, depending on the overall performance of the group. If the group is able to maintain claims cost lower than what the BWC expects them to spend, they may qualify for a refund. However, if the group as a whole realizes actual claim costs that are higher than what is expected, they may incur an assessment that is in addition to their individual premium payments. The deadline to participate in this program for the January 1, 2011 start date is the last Friday in September.

Sheakley is pleased to offer employers the opportunity to join a Group Retro Program. If you are interested in being evaluated and learning more about this premium savings opportunity please [Contact Us](#).

BWC Board of Directors Meeting

On Friday, January 22nd the BWC Board of Directors convened for their monthly meeting and unanimously passed the BWC's Large Deductible Program for the Policy Year beginning July 01, 2010. The Individual Incurred Loss Retrospective Program rules did not go to the BWC Board of Directors this month because BWC received the initial pricing for the program late in December and need time to review proposed basic premium factors. BWC is hopeful that the Individual Incurred Loss Retro Program will be proposed in the March or April Board meeting.

BWC reported that as of December their Net Assets are at \$3.95 billion.

Large Deductible Plan offers deductible level options of \$25,000, \$50,000, \$100,000, & \$200,000. The program also offers employers the choice of a "stop loss" option, which limits an employers' claims cost exposure at three times the per claim limit chosen. These options 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

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

SAFETY NEWS

10-Step Business Plan of Safety, BWC Step 6 Requirement

Sheakley Health and Safety Services provide employers with the knowledge and skills necessary for creating a safer work environment and, in turn, help reduce injury and illness claims. Our certified trainers are excited to provide you with opportunities to fulfill the Step-6 requirement of the 10-Step Business Plan. If your company participates in the One Claim Program, Drug-Free Workplace Program **Level 2 or 3**, retrospective rating plan, or 100% EM Capping program, the Bureau of Workers Comp (BWC) may require you meet the educational requirements outlined in Step-6 of the 10-Step Business Plan.

We are proud to be a BWC approved Step-6 provider. It is required that an accident-prevention coordinator must attend at least one BWC approved safety and health management course each year. SHSS is offering courses that will meet this requirement. We want to invite your accident prevention coordinator as well as an additional attendee to attend Sheakley's Health and Safety Services Step-6 course.

For those enrolled in the Drug-Free Workplace or 100% EM Capping Program that have a report due date of March 31, 2010, please remember that your Step-6 course must be attended no later than March 31, 2010! If you should need further assistance with submission of these reports, please [Contact us](#) for direction.

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

UNEMPLOYMENT NEWS

Unemployment Rates – December

Ohio unemployment rises from 7.4% in December 2008 to 10.9% for December 2009. The United States unemployment rate has rose from 7.4% in December 2008 to 10.0% for December 2009.

Reasonable Assurance

It is important to remember that providing reasonable assurance to any non-contracted employees that will be returning at the end of your summer break will help to minimize unemployment costs. Ohio Unemployment law reads “ Benefits based on an instructional, research, or principal administrative capacity in an institution of higher education ... shall not be paid to any individual for any week of unemployment that begins during the period between two successive academic years or terms, if the individual performs such services in the first of those academic years or terms and has a contract or a reasonable assurance that the individual will perform services in any such capacity for any such institution in the second of those academic years or terms.” It further states that this also applies to individuals whose services are other than instructional, research, or principal administrative capacity shall also not be eligible for benefits between. What this means for you, the educational employer, is that by providing the employees you intend to have return with written proof of your intentions you have the ability to protest any benefits they may try to receive during the summer break period.

LEGISLATIVE NEWS

[Senate Bill 102 – School Dropout Programs \(Turner\)](#)

The Senate Bill (introduced April 4, 2009) would require the State Board of Education to recommend performance standards for dropout programs operated by school districts. The bill was assigned to the Education Committee on April 21st and has had no testimony the last four committee hearing meetings. The bill was scheduled for a committee hearing on January 26th, but was canceled.

[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.

The Ohio Workers’ Compensation Council (WCC), under their Ohio Revised Code (ORC 4121.78) duties, submitted their preliminary bill analysis regarding Senate Bill 213 on January 20, 2010.

The analysis reported that a suspension of the Break-Even Factor for a two year period effective the date the bill is approved would create a shortfall in maintaining revenue neutrality for BWC. Staff at BWC identified two methods to remedy the shortfall: increase the off-balance factor (base rates), which would be spread across all employers, or drawing down net assets (surplus fund). “The break-even factor is expected to generate \$133.9 million in premium from group-rated employers for Policy Year 2010.” The amount of premium generated from the break-even factor for Policy Year 2009 is projected to be \$203 million. BWC reported that as of December their Net Assets are at \$3.95 billion.

The analysis goes on to recommend that the bill “explicitly makes the suspension of the break-even factor concurrent with PY 2010 and PY 2011.”

The members of the Senate Insurance, Commerce & Labor Committee discussed amending SB 213 on January 27th. The amendment would prevent BWC from granting cash refunds or rebates to employers without legislative approval during a gubernatorial election year. The committee also adopted an amendment that revised the effective date to July 01, 2010 to ensure that the legislation coincides with BWC’s calendar. The Senate passed the bill 20 – 11 and the bill was referred to the House Insurance Committee on February 2nd.

[House Bill 249 – BWC Records \(Heard, Letson\)](#)

The House Bill (introduced July 7, 2009) 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. The second proponent hearings at the Civil & Commercial Law Committee occurred on January 19, 2010.

[House Bill 330 – School District Purchasing \(Patten\)](#)

The House Bill (introduced October 27, 2009) would authorize the director of transportation to include school districts in purchase contracts for machinery, materials, supplies and other articles. The bill was assigned to the Transportation & Infrastructure Committee on December 16, 2009 and is scheduled for a hearing on January 26th.

[House Bill 342 – Overdraft Fees \(Yates\)](#)

The House Bill (introduced October 29, 2009) would limit overdraft fees chargeable by financial institutions and establish certain requirements for overdraft protection services. The House Bill is proposing that banks charge an account holder an overdraft fee of no more than five dollars per transaction for any check or debit authorized transaction which there were insufficient funds in the specified account. Representative Yates had his first sponsor hearing in front of the Financial Institutions, Real Estate, & Securities Committee on January 20th.

House Bill 387 – School District Ratings (Lehner)

The House Bill (introduced December 3, 2009) is requesting that performance ratings be revised for school districts and buildings. The bill has been assigned to the Education Committee and the committee performed their first sponsor hearing on January 12th.

House Bill 415 – Text Messaging (DeBose, Garland)

The House Bill (introduced January 19th) prohibits driving a vehicle while text messaging on a mobile communication device. Those found guilty of the offense would be charged with a minor misdemeanor and could pay a fine of up to \$150. This bill has been assigned to the Public Safety and Homeland Security Committee, who performed their first sponsor hearing on January 26th.

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.