



ARKANSAS INSURANCE DEPARTMENT

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Lee Douglass
Insurance Commissioner

501-686-2900

September 16, 1993

BULLETIN NO. 14-93

TO: ALL PROPERTY AND CASUALTY INSURERS WRITING WORKERS COMPENSATION INSURANCE; THE ARKANSAS WORKERS' COMPENSATION COMMISSION; THE NATIONAL COUNCIL ON COMPENSATION INSURANCE; THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS; INSURER TRADE ASSOCIATIONS

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: GUIDELINES FOR IMPLEMENTATION OF "LARGE DEDUCTIBLE" WORKERS' COMPENSATION PROGRAMS

Under the provisions of Ark. Code § 23-67-119, this Department has the authority to approve or disapprove "rating plans" of carriers as they relate to workers compensation and employers liability insurance. This authority over rating plans includes the right to approve or disapprove large deductible workers compensation programs.

Following for your illumination and instruction are the criteria or "guidelines" that the Property and Casualty Division will apply in reviewing such filings by rate service organizations or by individual workers compensation carriers, viz:

1. Deductibles may be offered in such amounts and ranges as the carrier may desire and for which it obtains approval from the Department. All available deductibles must be displayed in the rules manual. [A "small deductible" program may later be implemented, but that is not pertinent to the matters herein being considered.]

2. Carriers must make a reasonable financial examination of the employer desiring a large deductible program by requiring no less than an audited financial statement completed by licensed Certified Public Accountant as of the employer's most recently completed fiscal year in order to determine whether the employer is fiscally sound and responsible enough to bear the economic burdens of such a program. An identical follow-up financial examination must be performed before any such program may be renewed beyond the initial term. No term may exceed one year.

3. Carriers must receive irrevocable financial guarantees of indubitable value and unquestionable right of recourse. Such guarantees must be provided by the employer and placed under the sole control of the carrier in a sum equal to no less than three months of the carrier's bona fide, reasonable anticipated claim exposure posed by the particular risk. The financial guarantee must consist of:

(i) cash;

(ii) securities designated by the Securities Valuation Office of the National Association of Insurance Commissioners as Class 1 or Class 2;

(iii) an irrevocable letter of credit from a State or Federally - chartered banking institution that is insured by the Federal Deposit Insurance Corporation, which said banking institution may not have any affiliation or common ownership with the employer risk; or

(iv) certificates of deposit issued by banking institutions as delimited above, which said certificates must either be issued in the name of the carrier or be properly endorsed and assigned to the carrier.

4. The program, and each policy issued thereunder must state that all claims, beginning with the first dollar, will be paid by the carrier and that the employer shall reimburse the carrier for all amounts within the deductible no later than thirty (30) days from the billing therefor.

Since failure to reimburse deductible amounts has the same effect as not paying premium, the carrier shall issue a ten (10) notice of cancellation of the policy as required by Ark. Code § 11-9-408 (b)(2) if any employer does not re-pay any sums within the deductible within the required period. The carrier may not apply any part of the deposit discussed in paragraph 3 above to the payment of premium or the reimbursement of deductible.

5. The minimum premium requirement for program eligibility shall be shown in the submission.

6. If the ratings procedure to be used by the carrier is to be translated into tabular values to assist underwriters and producers, that table must be submitted to the Department as well.

7. The program shall set forth precisely how the premium shall be calculated.

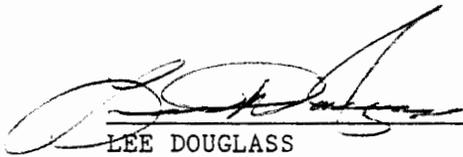
8. It must clearly state that the carrier shall handle and administer all claims even within the deductible amount and that the carrier will be responsible to and have the right to defend all claims, even within the deductible amount.

9. The program and policies issued thereunder must specifically state that all claims must be reported and paid by the carrier regardless of the amount thereof.

10. The deductible amount shall be prominently set forth on the policy declaration page.

11. All traditional premium and claim statistical reporting will be made to the National Council on Compensation Insurance on these policies just as it is on all other workers compensation policies.

Any questions regarding this Bulletin or the implementation of a large deductible program shall be directed to either Dianne Rail or Carol King of the Property and Casualty Division at (501) 686-2975.



LEE DOUGLASS
INSURANCE COMMISSIONER