



**ARKANSAS INSURANCE DEPARTMENT
LEGAL DIVISION**

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BULLETIN 17-99

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**TO: ACCOUNTING AND UNDERWRITING DEPTS. OF WORKERS' COMPENSATION
INSURERS**

FROM: ARKANSAS INSURANCE DEPARTMENT

**GUIDELINES FOR IMPLEMENTATION OF "LARGE DEDUCTIBLE" WORKERS COMPENSATION
PROGRAMS**

Under the provisions of Ark. Code Ann. §23-67-219, 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 to disapprove large deductible workers' compensation programs.

Following 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.
2. Carriers must make a reasonable financial examination of the employer desiring a large deductible program by requiring a financial statement acceptable to the insurer 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. A follow-up financial examination must be performed before any such program may be renewed beyond the initial term. No term may exceed one year. The filing must contain a description of the financial assurance the carrier intends to require.
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 minimum premium requirement for program eligibility shall be shown in the submission .
5. If the ratings procedure to be used by the carrier is to be translated into tabular values to assist underwriters, that table must be submitted to the Department as well.
6. The program shall set forth precisely how the premium shall be calculated.

7. The deductible amount shall be prominently set forth on the policy declaration page.
8. The program, and each policy issued thereunder must clearly 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) day notice of cancellation *of the policy* as required by Ark. Code Ann. §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.

9. The program and policies 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.
10. 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.
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.
12. It has come to our attention that there has been some confusion on how workers' compensation premiums are to be reported on "Schedule WC --Computation Of Annual Workers' Compensation Commission Taxes" included in your Annual Statement packet. The definition of Written Manual Premium given on this form was written in 1983 before many of the changes common to workers' compensation programs were implemented. We want to clarify this definition for today's users.

The definition on Schedule WC is: "Written manual premium shall mean premium produced in given year by the manual rates in effect during the experience period and shall exclude the premium produced by the expense constant. Further, written manual premium for the purpose of this law means premium before any allowable deviated discounts, any experience rating modification, any premium discount, any reinsurance or deductible arrangement as common with fronting carrier, any dividend consideration or other trade discount."

Written manual premium is the premium calculated by using the [**payroll divided by 100**] **multiplied by the company's filed rates** (not loss costs). It does **not** include expense constants, or any other modification (experience modifiers, credits, debits, deductibles, etc).

<u>EXAMPLE</u>	
Payroll	= \$90,000
Rate	= 1.50
<u>\$90,000</u>	x 1.50 = \$1,350
100	

Any questions regarding this Bulletin or the implementation of a large deductible program shall be directed to either Carol Stiffler at 501-371-2807 or by E-mail at carol.stiffler@mail.state.ar.us.

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