



**THE WORKERS' COMPENSATION
RATING AND INSPECTION BUREAU OF MASSACHUSETTS**

101 ARCH STREET - 5TH FLOOR, BOSTON, MA 02110
VOICE: (617) 439-9030 FAX: (617) 439-6055

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CIRCULAR LETTER NO. 1851

To All Members and Subscribers of the Bureau:

DATA QUALITY INCENTIVE PROGRAMS

The Commissioner of Insurance recently approved data quality incentive programs to encourage the accurate and timely reporting of unit statistical data and aggregate financial data.

Attached for your review is a copy of the *Decision* approving the data quality incentive programs. It is important to note that the *Decision* changes the WCRB's proposed data quality incentive programs in three significant areas.

1. The *Decision* includes an order that, effective June 30, 2000, the Massachusetts Workers Compensation Financial Data Call Package shall become a component of the Statistical Plan.
2. The *Decision* states that the incentive program for the unit statistical data shall apply to reports on policies with an effective date of January 1, 2000, or later, and to all reports required to be submitted to the WCRB on or after September 1, 2001, regardless of policy effective date.
3. The *Decision* states that the data quality incentive program for unit statistical data (program) shall apply only to insurers licensed to write workers' compensation insurance in Massachusetts. The program will not apply to Self-Insurance Groups ("SIGs").

Attached for your information and use are:

- Section XII, which contains the incentive program of the unit statistical data and should be added to the Massachusetts Workers' Compensation Statistical Plan; and
- *Massachusetts Workers' Compensation Data Quality Incentive Program For Aggregate Financial Data*. In accordance with the *Decision*, we plan to make a filing to formally incorporate the Financial Data Call Package as a component of the Statistical Plan. After that filing is approved, we will distribute a revised Statistical Plan.

If you have any questions, please contact the undersigned at ext. 567 or Christopher Yergeau at ext. 575 with any questions or comments.

SHEILA ANNIS
Vice-President of Data Operations

SA/sf/98
Attachments



MARCO PAUL CELLUCCI
GOVERNOR

JANE SWIFT
VICE GOVERNOR

COMMONWEALTH OF MASSACHUSETTS

Office of Consumer Affairs and Business Regulation

DIVISION OF INSURANCE

One South Station • Boston, MA 02110 - 2208
(617) 521-7784 • FAX (617) 521-7758
TTY/TDD (617) 521-7490
<http://www.state.ma.us/doi>

JENNIFER DAVIS CAREY
DIRECTOR, CONSUMER AFFAIRS
AND BUSINESS REGULATION

LINDA RUTHARDT
COMMISSIONER OF INSURANCE

Proposed Revisions to the Unit Statistical Plan, Docket No. G2000-04

*Proposed Massachusetts Workers' Compensation Data Quality Program for
Aggregate Financial Data, Docket No. G2000-05*

DECISION

I. Background and Procedural History

Every insurance company licensed to write workers' compensation insurance in Massachusetts is required to file complete statistical information with the Workers' Compensation Rating and Inspection Bureau of Massachusetts ("WCRB") on every policy that affords coverage under G.L. c. 152. This requirement has been in place since January 2, 1929, when the Commissioner of Insurance ("Commissioner") first issued general instructions, known as the Massachusetts Workers' Compensation Statistical Plan. The Commissioner's Statistical Plan, currently entitled Massachusetts Workers' Compensation Unit Statistical Plan ("USP"), has been revised from time to time upon approval by the Commissioner.

In addition to collecting statistical data on a per policy basis as the Commissioner's statistical agent, the WCRB has, pursuant to G.L. c. 152, § 65A, been designated by the Commissioner as the administrator of the Massachusetts Assigned Risk Pool, and has, pursuant to G.L. c. 152, § 52C, been licensed by the Commissioner as a rating organization. As a rating organization, the WCRB has required its members to file with it aggregate financial data by issuing an annual Massachusetts Workers Compensation Financial Data Call Package ("Financial Data Call").¹

Unit statistical data and aggregate financial data are both used in the rate approval process for workers compensation insurance in Massachusetts. Aggregate financial data,

¹ The parties use the terms "aggregate financial data" and "financial aggregate data" interchangeably.

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reported by carriers on a yearly basis, are used to determine the overall rate level.² Unit statistical data, reported on a per policy basis at certain specified time periods, are used in calculations of manual rates by classification. In addition, these data are used for policyholder experience modification factor calculations, All Risk Adjustment Program surcharges, retrospective rating premium adjustments, and various parameters of individual risk rating formulas.

During the proceeding on the *Application of the Workers' Compensation Rating and Inspection Bureau of Massachusetts for Approval of a General Rate Revision to be Effective on or after August 1, 1999*, DOI Docket No. R99-34, ("1999 Rate Decision") the State Rating Bureau ("SRB") advocated for the introduction of a data quality program. In her decision, the Commissioner ordered the WCRB to file a revised USP that includes a "specific statistical data quality program with provisions for statistical submissions compliance and corresponding penalties." *1999 Rate Decision*, at 43.

On April 13, 2000, the WCRB filed proposed revisions to the USP, which include a data quality incentive program ("USP Data Program"), (Docket G2000-04). It also filed a proposed data quality incentive program for aggregate financial data ("AF Data Program"), (Docket No. G2000-5). On April 21, the Commissioner issued a notice scheduling a consolidated hearing on these filings.³ She designated Sharon S. Kamowitz, Esq., and Susan H. Unger, Esq., as presiding officers.

A prehearing conference was held on May 15. Robert C. Ross, Esq., and Norma J. Brettell, Esq., appeared on behalf of the State Rating Bureau ("SRB") of the Division of Insurance ("Division"). Ellen Keefe, Esq., represented the WCRB. In addition, Walter Horn, Ph.D., Workers' Compensation Researcher for the SRB; Donald Bashline, FCAS, Vice President and Actuary for the WCRB; and Sheila Annis, Assistant Vice President and Statistician for the WCRB, appeared and responded to questions.⁴ As a result of the issues raised at the prehearing conference, the WCRB submitted revised filings on May 23.

² The separate data calls specified in the Financial Data Call request data on different yearly bases: calendar year, calendar/policy year, policy year, calendar/accident year, and accident year.

³ The hearing notice also scheduled a hearing on *Proposed Revisions to the Massachusetts Assigned Risk Pool Plan of Operation*, (Docket No. G2000-01). A decision in that proceeding was issued on June 23, 2000.

⁴ At the prehearing conference, we posed a number of questions to the parties, and we raised concerns relating to the Gramm-Leach-Bliley Act and receivership. Most of these issues related to the Plan of Operation, and not to the filings under consideration here. On May 19, the SRB submitted a letter setting forth its and the WCRB's understanding of the issues raised at the prehearing conference and the agreed upon time frame in which to address these issues. The letter stated that all of the issues relating to Docket Nos. G2000-04 and G2000-05 could be addressed by the May 26 hearing. At that hearing, the WCRB and the SRB stated their position that the Gramm-Leach-Bliley Act does not affect the proposed data quality programs.

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The hearing was held on May 26. Susan Underwood, Esq., appeared on behalf of the WCRB and spoke in support of the filings.³ Mr. Ross stated that as a result of negotiations with the WCRB, the SRB, in general, supports both data quality programs. However, the SRB recommends that the USP Data Program be implemented for all reports received after a date certain rather than just for reports on policies with effective dates on or after January 1, 2000, as proposed by the WCRB. Mr. Ross indicated that the SRB took no position on the WCRB's proposal to apply the USP Data Program to self-insurance groups ("SIGs"). In addition, the SRB raised, what it termed, a "related issue" that arose in mid-May when Eastern Casualty Insurance Company ("Eastern Casualty"), the insurer with the largest share of the Massachusetts workers' compensation market, notified the WCRB and the Commissioner of its intention to resign from the WCRB, effective June 30, 2000. As a result of this impending resignation, the SRB recommended that the Commissioner order that the collection of aggregate financial data be made a part of the Commissioner's Statistical Plan.

No other person offered an oral statement, but it was noted that we had received written public comment. Mr. Bashline and Ms. Annis responded to technical questions directed to the WCRB. The parties agreed that there was no need for sworn oral testimony and cross-examination. However, the SRB requested permission to submit affidavits of experts. The WCRB did not object, and we granted the request. We asked the parties to brief three issues: 1) the timing of the implementation of the USP Data Program; 2) the application of the USP Data Program to SIGs; and 3) the inclusion of aggregate financial data in the Commissioner's Statistical Plan. On May 30, the WCRB submitted a letter and revised filings responding to technical issues raised at the hearing.

The parties filed briefs on June 9. Attached to the SRB's brief are several exhibits including an affidavit of Allan I. Schwartz, FCAS. The WCRB filed a reply brief on June 13, attached to which is an affidavit of Mr. Bashline.

On June 22 and 23, we held telephone conferences with the WCRB and the SRB regarding the SRB's proposal that aggregate financial data be included as part of the Commissioner's Statistical Plan. An additional hearing was held on June 28, after the WCRB informed its members of the hearing. Mr. Bashline offered sworn testimony, was cross-examined by the SRB, and responded to our questions.

On June 30, 2000, we ordered that, effective immediately, the Commissioner's Statistical Plan would consist of two components: 1) unit statistical data, described in the USP; and 2) aggregate financial data, described in the Financial Data Call. In order to prepare for the next

³ Ms. Keefe appeared on behalf of the WCRB to address issues in Docket No. G2000-01.

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data calls, which are generally issued in December or January, we ordered the WCRB to make a filing, no later than September 1, 2000, that addresses concerns it expressed regarding incorporation of the aggregate financial data into the Commissioner's Statistical Plan. This decision sets forth the reasoning behind that order ("*June 30 Order*") and our conclusions on the proposed data quality programs.

II. Incorporation of Aggregate Financial Data into the Commissioner's Statistical Plan

The SRB based its recommendation that the Commissioner's Statistical Plan consist of two components, unit statistical data and aggregate financial data, primarily on Eastern Casualty's resignation from the WCRB, and the possibility that Eastern Casualty might report its aggregate financial data in a manner that could be incompatible with the process of making rates for Eastern Casualty and the industry as a whole. The SRB argued that this unprecedented resignation of a WCRB member could create problems for the collection, processing, and delivery to the Commissioner of Eastern Casualty's aggregate financial data for use in ratemaking. Emphasizing that Eastern Casualty has the largest share of the Massachusetts workers' compensation market, the SRB argued that adoption of its recommendation would simplify the process for making rates for Eastern Casualty, WCRB members and the Assigned Risk Pool.

The SRB recommended that the Commissioner act on its recommendation before July 1, 2000, because Eastern Casualty's resignation would be effective June 30. It argued that the issue could be appropriately addressed in the current proceeding because all parties who would be interested in this change were before the Commissioner, received notice of the change through the hearing process, and had an opportunity to comment. It further argued that notice was not required under the State Administrative Procedures Act because the proposed change was a reinterpretation of existing statutory and regulatory rules.

The SRB relied on Mr. Schwartz' affidavit to point out that the separate collection of unit statistical data and financial aggregate data arose as an accident of history rather than as a result of a decision by the Division. Mr. Schwartz explained that, industry-wide, the collection of unit statistical data predates the collection of aggregate data which were first used to evaluate overall rate levels in the 1970's. The SRB argued that this data collection structure has presented problems for the Division because the Commissioner's authority to order changes in the calls for aggregate financial data could be questioned. It noted that the WCRB has not always followed the SRB's suggestions for changes in these data calls.

In its initial brief, the WCRB stated that it "takes no position on this issue at this time," and it recommended that if the Commissioner chose to address the issue, she should do so in a

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separate proceeding with notice to all interested parties. (WCRB Brief, at 8). The WCRB contended that the establishment of a separate proceeding would allow a thorough review to determine which items in the aggregate financial data reports are necessary for ratemaking. It also argued that the issue was not related to the proposed data quality programs and that its consideration might delay the decision on those programs.

In its reply brief, the WCRB clarified that it took no position on the substantive issue, but again argued that the issue should not be considered as part of this proceeding. It noted that the WCRB and the Division were engaging in discussions with Eastern Casualty and it argued that no immediate action was necessary and that "hasty action may do more harm than good." (WCRB Reply Brief, at 3-4). It relied on Mr. Bashline's affidavit to argue that as long as Eastern Casualty continues to write workers' compensation insurance in Massachusetts, it will be subject to the Statistical Plan. It argued further that: 1) any action taken by the Commissioner would not apply to 1999 aggregate financial data; 2) the 2000 data will not be submitted until March 2001; and 3) Eastern Casualty would not be required to submit aggregate financial data before March 2001.⁶

The WCRB also relied on Mr. Bashline's affidavit to argue that incorporation of aggregate financial data into the Statistical Plan is complicated, would have "long-term and far-reaching effect," and would require the WCRB to submit a comprehensive filing within a few months. Therefore, it argued, any change in the data collection structure "should be made only after careful review and reflection to ensure that any new obligation . . . is not unduly burdensome and is relevant to rate making." (WCRB Reply Brief at 3, 4).

The WCRB did not question the Commissioner's authority to adopt the SRB's proposal, and it did not object to the eventual incorporation of aggregate financial data into the Commissioner's Statistical Plan. It merely raised issues relating to notice, timing, and implementation. We were not persuaded that these issues precluded immediate action in the face of potential problems arising from Eastern Casualty's resignation from the WCRB.

The Commissioner has a responsibility to ensure that the ratemaking process proceeds smoothly and that approved rates are based on complete and reliable data. This responsibility extends to all companies that write workers' compensation insurance in Massachusetts, to the Assigned Risk Pool as a whole, and to policyholders. Neither the SRB nor the WCRB could predict the implications of Eastern Casualty's resignation from the WCRB, and Mr. Bashline

⁶ At the June 28 hearing, Mr. Bashline clarified that, in fact, certain semi-annual data are due from all carriers on August 15, and quarterly data are due September 1. Under the Financial Data Call, quarterly data are also due on December 1.

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agreed that both aggregate financial data and unit statistical data are necessary for ratemaking. In addition, although he opined that neither the quarterly nor the semi-annual data should be used for ratemaking, Mr. Bashline agreed that under the Financial Data Call, carriers were expected to submit data as early as August 15. Therefore, we concluded that it was important to promptly decide this issue, and order that aggregate financial data be included in the Commissioner's Statistical Plan to ensure that all carriers writing workers' compensation insurance in Massachusetts continue to submit complete data.

We were not persuaded to delay consideration of this issue simply to consider it in a separate proceeding to be held in the future. The April 21 notice stated that the purpose of this hearing was, in part, to consider proposed revisions to the USP. As noted above, the Commissioner's Statistical Plan, prior to the issuance of the *June 30 Order*, consisted of only one part and was referenced as the USP. The SRB first raised the issue of incorporating aggregate financial data into the Commissioner's Statistical Plan at the public hearing. Anyone who attended that hearing had notice that the parties were to brief that issue, and were informed that the record of the proceeding would remain open for public comment. In addition, the WCRB informed its members that we had scheduled an additional hearing on this issue.

Further, although Mr. Bashline characterized problems with the SRB's proposal as "legion" and repeatedly stated that more time was necessary to consider the various issues that would be presented as a result of incorporating the reporting of aggregate financial data into the Commissioner's Statistical Plan, the WCRB did not identify any reason that would preclude the Commissioner from acting to preserve the complete and timely reporting of data by issuing an immediate order. It also could not point to any problems that would occur as a result of the SRB's proposal, or specify how the work of the WCRB would change. Before June 30, the WCRB, through the Financial Data Call, collected aggregate financial data from its members, which included all carriers writing workers' compensation insurance in Massachusetts. Under the USP, it collected unit statistical data from all such carriers, on behalf of the Commissioner. As a result of the *June 30 Order*, the WCRB now, on behalf of the Commissioner, collects both unit statistical data and aggregate financial data from all carriers writing workers' compensation insurance in Massachusetts. The *June 30 Order* specifically stated that no immediate change in the collection of data is anticipated, and that insurance companies and SIGs are to file the data that they were required to file prior to June 30, in the same manner as they did prior to that date.⁷

⁷ As discussed in more detail below, G.L. c. 152, § 250 requires SIGs to "adhere to the . . . uniform experience rating plan . . . filed with the commissioner of insurance by [the WCRB]." That experience rating plan requires the reporting of incurred losses "in accordance with the Unit Statistical Plan Manual." SIGs are not currently obligated to report aggregate financial data.

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We also stated that the WCRB is not expected to make immediate changes but can continue to collect the data through its current procedures.

We were also not persuaded to delay action on the grounds that the WCRB would be required to quickly submit a filing as a result of the adoption of the SRB's proposal. Mr. Bashline suggested that not all data currently reported is necessary for ratemaking, that certain instructions should be clarified, and that dates must be changed. He testified that "in the normal course of business" the necessary changes are "relatively straightforward" and could be made "within a matter of weeks." Tr. 2:26. Therefore, we ordered the WCRB to work with the SRB, and to submit a filing, no later than September 1, 2000, that addresses these concerns.

As a result of the *June 30 Order*, the Commissioner's authority to ensure the complete reporting of workers' compensation insurance data is strengthened. This change combined with the data quality programs discussed below should go a long way to ensure that the ratemaking process proceeds smoothly and that approved rates are based upon complete and reliable data.

III. The Data Quality Programs

A. Introduction

The USP Data Program and the AF Data Program are intended to ensure that data required to be reported by carriers are accurate and timely. As discussed above, the Commissioner ordered the WCRB to develop the USP Data Program. The WCRB states that it developed the AF Data Program in response to a significant decrease in the promptness and accuracy of the data reported under the annual call for experience. It states further that these problems have resulted in delays in compiling industry-wide data and errors or omissions in the data that have been included in the WCRB's rate filing.

Under the USP, premium and losses for each policy are valued as of 18 months after the policy effective date, and must be reported to the WCRB no later than 20 months after the policy effective date. Subsequent valuations are required when the first valuation contains an open claim, a claim is reopened, a previously unreported claim becomes known, or there are changes in the loss valuation of a claim. The subsequent valuations occur at 30, 42, 54, and 66 months after the policy effective date; carriers must report these valuations no later than 32, 44, 56, and 68 months, respectively. The WCRB edits the carriers' reports for accuracy and validity based on criteria specified in the USP. Under the USP Data Program, reports will be subject to penalties if they not submitted to the WCRB within the required month, and fines will accumulate for each month the data is overdue. In addition, insurers will be fined for certain data-reporting errors. Insurers will receive notification of untimely reports and data errors, and

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they will be given the opportunity to submit the report or correct the errors before a fine will be imposed.

The Financial Data Call specifies dates by which various aggregate financial data are due. Under the AF Data Program, companies will be allowed a ten-day grace period for submission of data, and will then be fined for each day that data is overdue. They will also be fined for certain reporting errors. The AF Data Program also provides for disciplinary fines in two situations. First, after providing a written warning, the WCRB can impose fines if, in regard to a filing the WCRB makes with the Division, the WCRB must "adjust, correct, or make allowances for inaccuracies in the data supplied by a carrier or group" or if the "reporting carrier or group fails to work with [WCRB] staff to provide reasonable clarification or corrections." In addition, if the WCRB has not imposed a disciplinary fine, the Commissioner can require the WCRB to do so after providing a written warning and a hearing, if she finds that a "reporting entity's aggregate financial data is unreliable, incomplete, untimely, or otherwise defective and that such defect has materially impacted a filing submitted to the Commissioner."

By imposing fines for data errors, both programs, in effect, transfer a portion of the data correction costs from the WCRB to those companies responsible for the errors. Under both programs, insurers can appeal fines imposed by the WCRB to WCRB staff, and then to the WCRB Governing Committee Appeal Subcommittee.

The SRB supports the AF Data Program in its entirety, and no disputed issues have been presented for our consideration. In regard to the USP Data Program, the WCRB proposes that it be implemented for policies effective on or after January 1, 2000, and that it apply to SIGs. The SRB recommends that this program be implemented for all reports received after a date certain, but it does not offer a recommendation on any specific date. Although the SRB takes no position on whether the USP Data Program should apply to SIGs, it has offered comments on this issue.

B. Implementation of the Unit Statistical Plan Data Quality Incentive Program

The WCRB argues that its proposal to implement the USP Data Program for reports on policies effective January 2000 or later provides the "minimum recommended lead-time" for USP revisions and a clear standard as to which reports are subject to penalties. It contends that insurers are accustomed to changes in the USP being made on a policy effective date basis, and it states that other jurisdictions have implemented similar programs based on policy effective date. In his affidavit, Mr. Bashline states that USP changes are generally made on this basis so that there will be no reporting requirement changes for a given policy, to reduce reporting errors, and to "maintain the integrity of the ratemaking database."

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The WCRB asserts that it is in the best position to determine the most effective and efficient way in which to implement the USP Data Program because it administers the USP. It argues that, administratively, it makes sense to initially implement the program for first reports which, it contends, are different from subsequent reports because they are based on the final audit of the policy and claim information, whereas subsequent reports are based on claim activity. In addition, it states that under the program, the process for notifying carriers of expected and overdue first reports differs from the notification process for later reports. It thus contends that the implementation of the program for reports on policies effective before January 1, 2000, would require the WCRB to evaluate "1996 through 1999 data" and would require "special notification" to companies in order to "establish the record of notification required."

The SRB argues that the USP Data Program should apply not only to first reports of policies with January 2000 or later effective dates, but also to subsequent reports of older policies because those reports are used in making rates and in calculating experience modifications. Relying on Mr. Schwartz' affidavit, the SRB argues that, under the WCRB's proposal, it would take almost ten years for all USP data used for ratemaking to be subject to the USP Data Program. It contends that "receiving timely and accurate subsequent reports during the next ten years is just as important as receiving timely and accurate first reports." SRB Brief at 3.

In addition, the SRB argues that it is administratively simpler to apply the program to all reports, and that applying the program only to policies with January 2000 or later effective dates will cause confusion regarding which policies are subject to the program. It points to California as precedent for immediately applying a data quality program to all unit statistical reports. Finally, it contends that the WCRB's proposal could give inappropriate incentives to insurers to devote less attention to the quality and timeliness of data that are not subject to the USP Data Program.

Mr. Bashline, in response, characterizes Mr. Schwartz's testimony, that the WCRB's proposal will result in a ten-year delay before all USP data are subject to the program, as misleading. According to Mr. Bashline, "nearly all ratemaking data will be subject to the program in six years because approximately 75 percent of the reports are first reports and second reports make up a majority of the remainder of reports." He notes also that the SRB's proposal will not apply to the majority of the data from policy years 1996 through 1999 because second reports are submitted only for policies with open claims at first report or claim activity between first and second report. Therefore, he maintains, the SRB's proposal would substantially increase the administrative burden on companies and the WCRB, and it would result in "only a

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slightly faster integration of program data into the ratemaking database."⁸ The WCRB also contends that the SRB's proposal would require the WCRB to evaluate 1996 through 1999 data and would require it to provide "special notification" to companies in order "to establish the record of notification required." WCRB Reply Brief at 2.

The primary goal of the USP Data Program is to encourage companies to timely submit accurate data. Because the data are used for ratemaking, this goal should be a priority for companies even without a data quality program and the possible imposition of fines. In her *1999 Rate Decision*, the Commissioner noted the testimony of the WCRB's witness that most states have a data reporting program, and she concluded that such a program "may be an important, effective tool in the future since timely-filed, accurate and complete data are the underpinnings of a reasonable, nonexcessive and adequate rate." *1999 Rate Decision* at 42. Implementing the USP Data Program as soon as possible for all data is thus important. Consequently, regardless of whether the WCRB's proposal would result in a six-year or a ten-year delay until all reports are subject to the program, that timeframe is too long.

We are not persuaded that it is administratively simpler to implement the USP Data Program only for reports on policies effective after January 1, 2000. Informing companies that they could be subject to fines on all reports is at least as clear as informing them that they could be subject to fines only on reports on policies effective after January 1, 2000. We agree with the SRB that not only might the WCRB's recommendation cause confusion, but it might also create an incentive for companies to focus more effort on data generated by policies subject to the USP Data Program and less effort on the quality of data from older policies. Even though the great majority of data is generated from first reports, data from the subsequent reports from earlier policies are still used in ratemaking and in the calculation of the various policyholder rate adjustments.

Mr. Bashline offered two reasons for making changes on a policy effective basis: first, that reporting requirements for a given policy will not change, and second, to reduce reporting errors and "maintain the integrity of the ratemaking database." However, overall reporting requirements will not change as a result of the implementation of the USP Data Program; companies have always been required to file timely and accurate data, and the program does not ask the companies to provide different information. Moreover, the very purpose of the program is to reduce reporting errors and to "maintain the integrity of the ratemaking database." Similarly, that first reports are based on final audits and claim information, and subsequent

⁸ In making this statement, Mr. Bashline referred to the WCRB and its member carriers. As discussed above, all companies writing workers' compensation insurance in Massachusetts must submit unit statistical data whether or not they belong to the WCRB.

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reports are based on claim activity is not a basis to exclude, from the USP Data Program, subsequent reports from policies effective before January 2000. That insurers may be accustomed to changes being made on a policy effective date basis, also does not persuade us that a program designed to ensure the timely submission of accurate should be implemented only for policies effective in January 2000 or later.

Accordingly, we conclude that the USP Data Program should apply to reports on policies with an effective date of January 1, 2000 or later. Premium and losses on those policies will be valued as of July 2001, and reports must be submitted to the WCRB by September 2001.⁹ In addition, we conclude that the USP Data Program should apply to all reports required to be submitted to the WCRB on or after September 1, 2001, regardless of policy effective date. This implementation schedule provides a clear standard as to which reports are subject to penalties. In addition, it provides sufficient lead time for the WCRB and the companies to set up procedures to comply with the program's requirements. Under the USP Data Program, as proposed, the WCRB is required to distribute expected unit reports to carriers, during the 14th month after the policy effective date. For policies effective in January 2000, the WCRB will distribute those reports in March 2001. To the extent that the WCRB or SRB considers it necessary, in regard to reports on earlier policies, to send companies "special notifications" in order to "establish the record of notification required," they should work together to draft such language for inclusion in a revised submission of the program. Because reports on policies effective from 1996 through 1999 will not be subject to the program until September 1, 2001, the WCRB should have sufficient time to conduct any necessary evaluation of data from those policies.

C. Application of the Unit Statistical Plan Data Quality Improvement Program to Self-Insurance Groups

Chapter 152, § 25B of the Massachusetts General Laws defines a workers' compensation STG as:

a public employers group or a not-for-profit unincorporated association or a corporation formed under the provisions of chapter one hundred and eighty consisting of five or more employers who are engaged in the same or similar type of business who are members of the same bona fide industry, trade or professional association which has been in existence for not less than two years who are parties to the same or related collective bargaining agreements, and who enter into

⁹ The WCRB's initial brief stated that the initial units to be subject to the USP Data Program will be the first reports due in July 2001. WCRB Brief at 6. Its reply brief stated that those reports be due in September 2001. WCRB Reply Brief at 1.

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agreements to pool their liabilities for workers' compensation benefits and employer's liability in this state.

Pursuant to G.L. c. 152, § 25E, a SIG that is issued a certificate of approval by the Commissioner is not deemed to be an insurer or insurance company, and is not subject to Massachusetts insurance laws or regulations except as specifically provided. G.L. c. 152, § 25O specifically requires SIGs to "adhere to the . . . uniform experience rating plan . . . filed with the commissioner of insurance by [the WCRB]." That experience rating plan requires the reporting of incurred losses "in accordance with the Unit Statistical Plan Manual."

The WCRB proposes that the USP Data Program should apply to SIGs as well as to insurers. The WCRB argues that because SIGs are subject to the same USP reporting requirements as insurers, SIGs should be subject to the same penalties if they fail to meet the requirements. It states that the timeliness and accuracy of SIGs' data is "vital to the WCRB's ability to calculate accurate experience modifications," and that accurate experience modifications are essential for market stability and to ensure that accurate premiums are charged and collected. In addition, the WCRB states that an employers' ability to explore other insurance options would be hindered if experience rating data are not accurate. The WCRB also emphasizes that one purpose of the program is to place the cost of data correction on those entities responsible for the delays and inaccuracies in reported data.

The WCRB contends that the application of the USP Data Program to SIGs would not have any anti-competitive effects because SIGs would be subject to penalties under the program only after failure to timely and accurately report the required data; are subject to the same procedures and fines as the carriers; and would have an unfair advantage over carriers if not subject to such penalties. To the contrary, the WCRB argues, it would be anti-competitive to exclude SIGs from the USP Data Program, because insurers, who contribute to the WCRB's administrative expenses, would be unfairly disadvantaged because they would pay for any added costs attributable to SIGs' late or inaccurate reporting.

Finally, the WCRB argues that no laws or regulations preclude applying the USP Program to SIGs, and it contends that the lack of opposition by any SIG indicates there is a sound legal and equitable basis to apply the program to SIGs.¹⁰

The SRB takes no position on the WCRB's proposal to apply the USP Data Program to SIGs, stating that there are reasons for and against the proposal. However, it offers several

¹⁰ MIA Property and Casualty Group, Inc., ("MIAA") filed a letter stating its position that, even if the USP Data Program were to apply to SIGs, MIAA would not be subject to that program because it is not required to submit unit statistical data to the WCRB. The WCRB agrees that MIAA would not be subject to the USP Data Program.

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comments on this issue. First, the SRB agrees with the WCRB that SIGs should be required to submit reliable data that will allow for the calculation of accurate experience modifications. It notes that in the event a SIG enters the traditional market, reliable data will be a useful indicia of expected losses. Nonetheless, the SRB states that because SIG data are not utilized for rate-making, the reasons to apply the program to SIGs are not as strong as they are for insurers.

In addition, the SRB points out that individual SIGs have contractual arrangements with the WCRB to calculate experience modifications and to "handle" the USP Data. It contends that application of the USP Data program may not be permissible under these contracts.¹¹ Further, the SRB comments that if the WCRB seeks to utilize the USP Data Program to generate increased revenue from SIGs, it could do so by increasing the fees under the contracts.

Finally, the SRB notes that the WCRB's general operations are paid for by insurers, and that fines paid under the data quality incentive programs will likely be used to reduce data administration expenses. The SRB states that if the USP Data Program were applied to SIGs, and if the WCRB were to combine the fines imposed on SIGs with those imposed by insurers, there could be an anti-competitive effect because such action "will shift the costs that would otherwise be borne by insurers to individual SIGs." Thus, the SRB recommends that if the Commissioner decides to apply the USP Data Program to SIGs, she should order the WCRB to segregate the fines received from SIGs from those received from insurers in order to avoid any potential anti-competitive effect.

After reviewing the arguments and comments of the parties, we are not persuaded that the USP Data Program should apply to SIGs. As discussed above, the primary purpose of the USP Data Program is to ensure that the submission of USP Data is timely and accurate. The Commissioner's order that the WCRB submit a USP data quality incentive program was made in the context of an industry-wide rate making proceeding. We agree that timely submission of accurate data by SIGs is important. However, because SIGs do not participate in industry-wide ratemaking, there are not as many reasons for applying the program to them as there are for applying it to insurers. That SIGs are required, by G.L. c. 152, § 25O, to adhere to the uniform experience rating plan, and that they therefore submit USP data to the WCRB, are not sufficient bases to apply the USP Data Program to them. The WCRB has not alleged that data submitted by SIGs have been untimely or inaccurate, or have in any other way, prevented the WCRB from accurately calculating experience modifications for SIGs.

¹¹ One of the exhibits attached to the SRB's brief is an unsigned agreement between the WCRB and MITA Workers' Compensation Group, Inc. The WCRB has not commented on this exhibit.

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Moreover, the WCRB has alternative means by which to ensure the timely submission of accurate data from SIGs, and to shift the administrative costs associated with late or inaccurate data to those responsible for the increased costs. The Commissioner has, pursuant to 211 CMR 67.09 designated the WCRB to calculate the experience modifications and All Risk Adjustment Program ("ARAP") adjustments for all SIG members. The terms of the relationship between the WCRB and each SIG is governed by an individual contract that establishes the fees that the SIG will pay the WCRB to perform the required calculations. The sample contract attached to the SRB's brief provides a remedy to the WCRB for any failure of the SIG to timely provide accurate data. Thus, the issue of ensuring that SIGs timely file accurate data falls within the scope of these contracts. To the extent that the WCRB seeks to increase the fees it charges SIGs or specify a method to allocate data correction costs among SIGs, the WCRB can seek to address these issues by contract. We are not persuaded that a blanket application of the USP Data Program to SIGs is necessary. We note further, that the WCRB has not disputed the SRB's contention that application of the USP Data Program to SIGs might, in fact, be prohibited by these contracts as currently written.

In addition, we conclude that application of the USP Data Program to SIGs could produce an unfair result. The imposition of fines under the program effectively reduces the amount the WCRB must expend to deal with these errors. Even though the USP Data Program does not expressly include a positive incentive for compliance by insurers, it effectively includes one: Because the WCRB's general operations are funded by assessments on insurers, the USP Data Program benefits insurers that comply by effectively reducing the amount they would otherwise be required to contribute to the WCRB's operating expenses. However, if the program were to apply to SIGs, the results would not be comparable: Although SIGs which do not comply would be subject to comparable fines, those that do comply would receive no benefit from those fines, as their fees, set by contract, would not vary downward. SIGs do not have the option of becoming members in the WCRB, because pursuant to G. L. c. 152, §25E, SIGs are not insurers, and the WCRB's constitution limits membership to insurers. To the extent that the WCRB is concerned that not applying the USP Data Program to SIGs would require insurers to pay for WCRB expenses attributable to SIGs' late or incorrect reporting of data, as discussed above, it may address those concerns by contract with the individual SIGs. Accordingly, we conclude that the USP Data Program should apply only to insurers licensed to write workers' compensation insurance in Massachusetts.

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IV. Conclusion

As discussed above, we previously ordered that, effective June 30, 2000, the Commissioner's Statistical Plan is to consist of two components: 1) unit statistical data, which are described in the USP; and 2) aggregate financial data, described in the Financial Data Call. We also ordered the WCRB to make a filing, no later than September 1, 2000, that addresses concerns it expressed regarding incorporation of the aggregate financial data into the Commissioner's Statistical Plan.

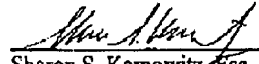
At this time, we also approve the revisions to the USP proposed by the WCRB, including the USP Data Program. That program shall apply to reports on policies with an effective date of January 1, 2000, or later, and to all reports required to be submitted to the WCRB on or after September 1, 2001, regardless of policy effective date. To the extent that the WCRB or SRB considers it necessary, in regard to reports policies effective prior to January 1, 2000, to send companies "special notifications" as discussed above, they should work together to draft such language for inclusion in a revised submission of the USP Data Program. The USP Data Program shall apply only to insurers licensed to write workers' compensation insurance in Massachusetts.

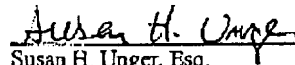
Finally, we approve the proposed AF Data Program in its entirety.

SO ORDERED.

DATE:

July 31, 2000


Sharon S. Karnowitz, Esq.
Presiding Officer


Susan H. Unger, Esq.
Presiding Officer

AFFIRMED.

DATE: July 31, 2000


Linda Ruthardt
Commissioner of Insurance

Checklist of Changes to The Massachusetts Workers Compensation Unit Statistical Plan

Section	Page(s)	Reason for Update
Section XII	Pages 1-9	Adds the Data Quality Incentive Program to the Statistical Plan, Section XII.
Table of Contents	Page viii	Adds Section XII – Data Quality Incentive Program
Table of Contents	Pages i-vii	Repagination
Index	Page 1	Added Appeal of Penalties Levied Under the Data Quality Incentive Program
Index	Page 2	Added Expected Unit Report
Index	Page 3	Added Final Report for Units Without Corresponding Policies Added First Overdue Unit Fine Report Added Follow-up Fine Reports
Index	Page 5	Added Overdue Unit Report Added Preliminary Error Fine Report Added Preliminary Report for Units Without Corresponding Policies
Index	Page 6	Added Subsequent Monthly Unit Error Fine Report
Index	Page 7	Added Unit Error Reports Added Units Without Corresponding Policies Report

Data Quality Incentive Program for Aggregate Financial Data

Page(s)	Reason for Update
Pages 1-8	Data Quality Incentive Program for Aggregate Financial Data

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A. Introduction

The Data Quality Incentive Program was developed in response to an order of the Commissioner of Insurance to ensure that the unit statistical data is reported promptly and accurately as required by this Plan. A committee of Bureau staff and several carrier representatives worked to modify other jurisdictions' existing plans to suit the needs of Massachusetts.

The reports and tools described in this section will be available in electronic format after the implementation of the Data Quality Incentive Program.

B. Timeliness of Unit Statistical Data

The promptness of unit statistical reporting is based on the policy effective date, so the reporting and penalty determination will also be based on the number of months past the effective and due dates of the units.

1. Expected Unit Report

During the 14th month from the effective date of the policy, the Bureau will distribute reports of the policies on our files to notify the carriers of the policy information, where unit statistical reports are expected within the next 6 months. Carriers can minimize the risk of fines by reviewing the Expected Unit Report to see that the policy number, effective date and carrier codes are accurate as well as submitting to the Bureau any policy, or coverage transactions that are absent from the report.

Although, there will be no obligation for carriers to respond to the Expected Unit Report, the Expected Unit Report can be treated as a turn around document. A turn around document in either paper or electronic media is a report the Bureau makes available to the carriers and where the carriers can respond on the document with appropriate codes and information. The response will be recorded in the Bureau's files. The appropriate response and corrective action may prevent an overdue unit report and fines. However, coverage verification issues can only be corrected with the appropriate coverage transactions.

The response codes are as follows:

<i>Response Code</i>	<i>Description</i>	<i>Corrective Action</i>
<i>DEE</i>	<i>Bureau data entry error on policy information</i>	<i>Attach copy of policy or endorsement showing correct data</i>
<i>PFC</i>	<i>Policy flat canceled</i>	<i>Attach copy of cancellation notice</i>
<i>PNT</i>	<i>Policy not taken</i>	<i>Attach copy of cancellation or non renewal notice</i>

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Bureau will notify the carrier if the corrective action did not resolve the overdue unit report issue.

Report Distribution Example: A policy effective any day during January, 2000 will appear on the Expected Unit Report distributed in March, 2001.

2. Overdue Unit Report

During the 21st month from the policy effective date the Bureau will distribute the Overdue Unit Report. Carriers must respond to the Overdue Unit Report within 30 calendar days or be subject to fines. It is possible for policies to have missed the Overdue Unit Report distributed in the 21st month and to therefore appear on an Overdue Unit Report within any given month more than 21 months after the policy effective date. For example if the policy is received during the 25th month after the policy effective date the policy would appear on a later Overdue Unit Report. Also if corrections remove a unit report from our files the policy might appear on a later Overdue Unit Report.

The Overdue Unit Report can also be treated as a turn around document. The appropriate response and corrective action may resolve the overdue unit report situation and prevent fines. However, coverage verification issues can only be corrected with the appropriate coverage transactions.

The response codes are as follows:

<i>Response Code</i>	<i>Description</i>	<i>Corrective Action</i>
<i>UPS</i>	<i>Unit report previously sent</i>	<i>Attach copy of unit report</i>
<i>DEE</i>	<i>Bureau data entry error on policy information</i>	<i>Attach copy of policy or endorsement showing correct data</i>
<i>PFC</i>	<i>Policy flat canceled</i>	<i>Attach copy of cancellation notice</i>
<i>PNT</i>	<i>Policy not taken</i>	<i>Attach copy of cancellation or non renewal notice</i>
<i>OTH</i>	<i>Another situation not accounted for above</i>	<i>Attach brief explanation of the circumstances</i>

Bureau will notify the carrier if the corrective action will not resolve the overdue unit report issue.

It is possible for items to appear for the first time on the Overdue Unit Report without appearing on the Expected Unit Report. Policies received after the 14th month will be on the Overdue Unit Report but not the Expected Unit Report. If between the 18th and 21st months either the unit report was removed (offset) or the unit report's link data was changed, the policy may appear for the first time on the Overdue Unit Report. The

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unit report link data is policy id number, policy effective date, carrier code, and exposure state.

Report Distribution Example: A policy effective any day during January, 2000 without corresponding statistical data will appear on the Overdue Unit Report distributed in October, 2001.

3. First Overdue Unit Fine Report

Thirty (30) calendar days after the distribution of the Overdue Unit Report, a First Overdue Unit Fine Report will be distributed and unit reports still overdue will be subject to a fine based on the risks rating status. Rated risks will be fined \$100, and non-rated risks will be fined \$50. A rated risk, is a risk that has had any type of rating at any time within the three years prior to the policy effective date of the missing unit report. A rating could be intrastate merit or experience rated as well as interstate rated.

All policies on the First Overdue Unit Fine Report must have been on an Overdue Unit Report.

The First Overdue Unit Fine Report can also be used as a turn around document to prevent additional fines. The appropriate response and corrective action may resolve the overdue unit report situation and prevent fines. However, coverage verification issues can only be corrected with the appropriate coverage transactions. Also note that corrective action following distribution of the First Overdue Unit Fine Report may prevent additional penalties but will not eliminate this first penalty charge.

Response codes are as follows:

<i>Response Code</i>	<i>Description</i>	<i>Corrective Action</i>
<i>UPS</i>	<i>Unit report previously sent</i>	<i>Attach copy of unit report</i>
<i>DEE</i>	<i>Bureau data entry error on policy information</i>	<i>Attach copy of policy or endorsement showing correct data</i>
<i>PFC</i>	<i>Policy flat canceled</i>	<i>Attach copy of cancellation notice</i>
<i>PNT</i>	<i>Policy not taken</i>	<i>Attach copy of cancellation or non renewal notice</i>
<i>OTH</i>	<i>Another situation not accounted for above</i>	<i>Attach brief explanation of the circumstances</i>

If corrective action was taken based on a prior fine report and the carrier was not notified of a problem with the correction, please contact the Bureau in accordance with the appeals process outlined in Section E.

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Report Distribution Example: A policy effective any day during January, 2000 without corresponding statistical data will appear on the Overdue Unit Report distributed in October, 2001, and if the unit report or corrective action is not received in 30 days the policy will appear on the First Overdue Unit Fine Report distributed in November, 2001.

4. Follow-up Fine Reports

Policies that appear on the First Overdue Unit Fine Report that are not resolved within 30 calendar days of the distribution of the First Overdue Unit Fine Report will be fined each month until the unit report is submitted or the issue is resolved. Rated risks will be fined \$100 per month, and non-rated risks will be fined \$50 per month. A rated risk, is a risk that has had any type of rating at any time within the three years prior to the policy effective date of the missing unit report. A rating could be intrastate merit or experience rated as well as interstate rated.

All policies on a Follow-up Fine Report must have appeared on the First Overdue Unit Fine Report.

If a policy appears on a Follow-up Fine Report even though corrective action was taken based on a prior fine report, and the carrier was not notified of a problem with the correction, please contact the Bureau in accordance with the appeals process outlined in Section E.

Payment of the additional monthly fines does not relieve the carrier of the obligation to report the statistical data. If data is needed for either an experience rating or for rate making, Bureau staff will continue to pursue the data.

Report Distribution Example: A policy effective any day during January, 2000 without corresponding statistical data, will appear on the Overdue Unit Report distributed in October, 2001, and the First Overdue Unit Fine Report which is distributed in November, 2001 and continue to appear monthly on the Follow-up Fine Reports until the unit report or corrective action is received.

C. Timeliness of Coverage Data

1. Units without Corresponding Policies Report

Reports of unit statistical data without previously submitted policy data will be distributed to the carriers on a regular basis. These reports will provide carriers the opportunity to provide the missing policy and coverage information.

Fines are not implemented at this time. Charges will be levied if the reporting of coverage does not improve with the distribution reports described in this section.

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The Units without Corresponding Policies Report can be treated as a turn around document. The appropriate response and corrective action will resolve missing data in the statistical database. However, coverage verification issues can only be corrected with the appropriate coverage transactions.

The response codes are as follows:

<i>Response Code</i>	<i>Description</i>	<i>Corrective Action</i>
<i>PRS</i>	<i>Policy previously submitted</i>	<i>Attach copy of Policy</i>
<i>DEE</i>	<i>Bureau data entry error on unit report information</i>	<i>Attach copy of unit report</i>
<i>EXP</i>	<i>The unit report is a segment of an extended or 3 year policy</i>	<i>Note policy #, effective date, and policy period effective date on the fine report</i>
<i>MAE</i>	<i>Endorsement or audit adding Massachusetts after policy effective date</i>	<i>Attach copy of endorsement or audit along with original policy declarations page</i>
<i>OTH</i>	<i>Another situation not accounted for above</i>	<i>Attach brief explanation of the circumstances</i>

Bureau will notify the carrier if the corrective action did not resolve the issue.

2. Preliminary Report for Units without Corresponding Policies

Items on the Units without Corresponding Policies Report that remain unresolved for more than 60 days will appear on the Preliminary Report for Units without Corresponding Policies. All carriers will receive a Preliminary Report for Units without Corresponding Policies to advise the carriers of the reporting situation.

The Preliminary Report for Units without Corresponding Policies can also be treated as a turn around document. The appropriate response and corrective action will resolve the missing data in the statistical database. However, coverage verification issues can only be corrected with the appropriate coverage transactions.

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The response codes are as follows:

<i>Response Code</i>	<i>Description</i>	<i>Corrective Action</i>
<i>PRS</i>	<i>Policy previously submitted</i>	<i>Attach copy of Policy</i>
<i>DEE</i>	<i>Bureau data entry error on unit report information</i>	<i>Attach copy of unit report</i>
<i>EXP</i>	<i>The unit is a segment of an extended or 3 year policy</i>	<i>Note policy #, effective date, and policy period effective date on the fine report</i>
<i>MAE</i>	<i>Endorsement or audit adding Massachusetts after policy effective date</i>	<i>Attach copy of endorsement or audit along with original policy declarations page</i>
<i>OTH</i>	<i>Another situation not accounted for above</i>	<i>Attach brief explanation of the circumstances</i>

Bureau will notify the carrier if the corrective action did not resolve the issue.

3. Final Report for Units without Corresponding Policies

A Final Report for Units without Corresponding Policies will be issued which lists the unit reports that remain unmatched to a corresponding policy 60 days after the distribution of the Preliminary Report for Units without Corresponding Policies.

All unit reports on the Final Report for Units without Corresponding Policies must have been on the Preliminary Reports for Units without Corresponding Policies.

D. Accuracy of Unit Statistical Data

1. Unit Error Reports

- a. Error reports, unit report criticisms, and correction requests will be distributed at least monthly to the reporting carriers. The following listed errors impact either the experience rating or the rate making process and are subject to a fine:*
- i. An invalid Exposure or Loss Class Code*
 - ii. An invalid Policy Number such as all or imbedded blanks, or special characters within the policy number*
 - iii. An Accident Date which is outside of the Policy Term*
 - iv. Either an invalid Plan Type or a Plan Type which is inconsistent with policy information*

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- v. *A unit report term (policy effective to unit report expiration) which is longer than 1 year and 16 days*
- vi. *An invalid Injury Kind*
- vii. *Indemnity incurred loss amounts on fatal or permanent total claims that do not reflect the appropriate benefit calculation.*

It should be noted that several data elements from the Individual Case Report of the claim are needed to complete this edit. Average Weekly Wage, Beneficiary Codes, Pension Indemnity Paid to Valuation date and Present value Future Indemnity Payment are examples of data required from the ICR.

*Refer to Section VIII for ICR reporting definitions and instructions.
Refer to Section IX for the appropriate pension table.*

- b. *The error report can be treated as a turn around document with response codes written next to the applicable unit reports. The response codes are as follows:*

<i>Response Code</i>	<i>Description</i>	<i>Corrective Action</i>
<i>CPS</i>	<i>Correction previously submitted</i>	<i>Attach copy of correction</i>
<i>DEE</i>	<i>Bureau data entry error on unit report information</i>	<i>Attach copy of the unit report</i>
<i>BED</i>	<i>The Bureau edit is incorrect</i>	<i>Attach a brief explanation of why the edit is incorrect</i>
<i>CAT</i>	<i>Correction attached</i>	<i>Attach hardcopy correction report</i>
<i>CED</i>	<i>Correction will be sent electronically</i>	<i>Place correction in next electronic submission. Note date of submission and applicable tape or submission numbers</i>
<i>OTH</i>	<i>Another situation not accounted for above</i>	<i>Attach brief explanation of the circumstances</i>

Bureau will notify the carrier if the corrective action did not resolve the issue.

2. Preliminary Error Fine Report

Unit report errors that remain unresolved for more than 30 days will appear on the Preliminary Error Fine Report. The Preliminary Error Fine Report is the last opportunity for a carrier to correct finable errors prior to the penalty.

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The Preliminary Error Fine Report can also be treated as a turn around document with response codes written next to the applicable unit reports.

The response codes are as follows:

<i>Response Code</i>	<i>Description</i>	<i>Corrective Action</i>
<i>CPS</i>	<i>Correction previously submitted</i>	<i>Attach copy of correction</i>
<i>DEE</i>	<i>Bureau data entry error on unit report information</i>	<i>Attach copy of the unit report</i>
<i>BED</i>	<i>The Bureau edit is incorrect</i>	<i>Attach a brief explanation of why the edit is incorrect</i>
<i>CAT</i>	<i>Correction attached</i>	<i>Attach hardcopy correction report</i>
<i>CED</i>	<i>Correction will be sent electronically</i>	<i>Place correction in next electronic submission. Note date of submission and applicable tape or submission numbers</i>
<i>OTH</i>	<i>Another situation not accounted for above</i>	<i>Attach brief explanation of the circumstances</i>

All unit reports on the Preliminary Error Fine Report must have previously appeared on the Unit Error Reports.

Report Distribution Example: all unit reports processed into the Bureau's files in July, 2001 appear on the suitable error reports and unit report criticism letters by August 7, 2001. Uncorrected unit errors will appear on the Preliminary Error Fine Report between October 7, 2001 and October 14, 2001.

3. Subsequent Monthly Unit Error -Fine Report

Unit reports with the identified errors which remain uncorrected 30 days after the distribution of the Preliminary Error Fine Report will appear on the Subsequent Monthly Unit Error Fine Report until the error is corrected. These uncorrected unit report errors will be subject to a monthly fine of \$50 for non-rated risks and \$100 for rated risks. A rated risk, is a risk that has had any type of rating at any time within the three years prior to the policy effective date of the missing unit report. A rating could be intrastate merit or experience rated as well as interstate rated.

All unit reports on the fine list must have been on the Preliminary Error Fine Report.

The Unit Error Fine Report can be used as a turn around document to correct errors, but corrective action following distribution of each Subsequent Monthly Unit Error Fine Report will not prevent the penalty charge.

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If a unit report appears on Subsequent Monthly Unit Error Fine Report even though corrective action was taken and the carrier was not notified of a problem with the correction, please contact the Bureau in accordance with the appeals process outlined in Section E.

Payment of an error fine does not relieve the carrier of the obligation to correct the statistical data. If data is needed for either an experience rating or for rate making, Bureau staff will continue to pursue the necessary correction.

Report Distribution Example: all unit reports processed into the Bureau's files in July, 2001 appear on the suitable error reports and unit report criticism letters by August 7, 2001. Uncorrected unit report errors appear on the Preliminary Error Fine Report between October 7, 2001 and October 14, 2001. Errors that remain uncorrected 30 calendar days after distribution of the Unit Error Fine Report and are subject to additional penalties and will appear on Subsequent Monthly Unit Error Fine Reports until the error is corrected.

E. Appeal of Penalties Levied under the Data Quality Incentive Program

If an item appears on a fine report, which in the opinion of the carrier should not be subject to a fine, the carrier should contact the Data Quality Services Department to the attention of the unit appeal process.

Copies of all pertinent written communication and a brief explanation of the circumstances should be provided in a written request to waive the fine.

Examples of situations where fines may be waived are as follows:

- 1. The carrier corrected the situation prior to distribution of the fine report.*
- 2. The Bureau has made an error in assigning the fine to the carrier.*
- 3. The carrier was not provided proper notification that a penalty situation was pending.*
- 4. The carrier cannot provide or correct statistical data due to circumstances beyond their control such as fire or natural disaster.*

If the carrier is not satisfied with the results of the appeal to the Bureau, then the carrier can make a written request to put the appeal before the Bureau's Governing Committee Appeals Subcommittee. Bureau staff will schedule a review at the next meeting of Appeals Subcommittee.

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**MASSACHUSETTS WORKERS' COMPENSATION
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DATA QUALITY INCENTIVE PROGRAM

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A. Introduction

Over the past several years there has been a significant decrease in the promptness and accuracy of the data reported under the annual call for experience. The result is that the availability of the compiled data is delayed or the final data contains errors or omissions, which must be acknowledged and explained in the rate filing.

The Data Quality Incentive Program is a means to encourage the prompt and accurate reporting of the year end data. The fines levied under the program will also direct a portion of the data correction costs to the carriers with reporting difficulties.

The Data Quality Incentive Program will be reviewed and may be revised in the future as circumstances warrant. Edits will be added and revised as areas of improvement are identified. The penalty amounts will be adjusted as reporting options are improved and as incentives are needed.

The Massachusetts Workers Compensation Financial Data Call Package (Annual Call) contains the data call forms, definitions of the data elements, and reporting instructions referred to in this program.

B. Calendar Year Bureau Standard Earned Premium

The Calendar Year Bureau Standard Earned Premium used in the program cap and disciplinary fine is based on the prior calendar year data calls. For example the program caps and disciplinary fines levied on the data valued 12/2000 is based on the Bureau Standard Earned Premium reported on the data calls valued 12/1999. The Calendar Year Bureau Standard Earned Premium is the sum of the Calendar Year Total (line Z) Bureau Standard Premium(first data column) from the Policy Year, Large Deductible by Policy Year and "F" Class calls. The sum of these amounts is also recorded on page 2 line 4 of the Massachusetts Reconciliation report. Refer to the Policy Year Call (call #3) the "F" Class Call (call #14), and the Reconciliation Report (call #15) in the Annual Call.

C. Program Penalty Cap

The penalty on each data call is limited to the lesser of \$5000 or .001 (.1%) of the reporting carrier or group's Bureau Standard Earned Premium. The total fine for all calls is limited to the smaller of \$ 40,000 or .005 (.5%) of the Calendar Year Bureau Standard Earned Premium. The penalty cap applies to the sum of the timeliness and accuracy fines but does not apply to the disciplinary fine.

D. Timeliness of Aggregate Financial Data

- 1. *The Policy Year Call, the Accident Year Call, the Expense Call, the Direct Written Premium for Voluntary Direct Assigned Risk Experience, the Large Deductible Written Experience, the Assigned Risk United States Longshore and Harbor Workers Act Data, and the Assigned Risk Large Claim Call are identified as the most important***

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of the annual data calls. These essential calls are subject to a fine of \$100 per day when more than 10 business days overdue. Refer to the Policy Year Call (call #3), Accident Year Call (call #10), Calendar Expense Data (call #16), Direct Written Premium for Voluntary Assigned Risk Experience (call #1), Large Deductible Written Experience (call #6), Assigned Risk United States Longshore and Harbor Workers Act (call #9), and Assigned Risk Large Claim Call (call #8).

- 2. The remaining 13 data calls in this call package are subject to a fine of \$25 per day when more than 10 business days overdue.*
- 3. Carriers will be notified of overdue submissions when the data is five, ten, and twenty business days overdue and again when the data is thirty business days overdue.*

E. Accuracy of the Aggregate Financial Data

- 1. Each occurrence of the following basic errors on each data call is subject to a \$100 fine. Refer to the Annual Call, Section V for data element definitions.*

a. Negative Totals

Negative amounts reported in policy year premium values, policy or accident year paid loss values, or policy or accident year case reserves. The edit applies to each of the fields on the policy and accident year calls that require aggregate totals. For example, since years prior to 1989 are optional on the residual market calls, policy year and accident year 1985 on the residual market data calls would not be subject to the "Negative Total" edit.

Calendar year values are not subject to this edit.

Premium credits, bulk reserves, and incurred but not reported are not subject to this edit.

b. Losses without Corresponding Premium

Paid loss or case reserves reported in any accident or policy year without a corresponding policy year premium.

Example a: Policy Year 1995 Indemnity Paid loss of \$5,233 reported with Policy Year 1995 Standard Premium at Company Level reported as \$0 is an error.

Example b: Accident Year 1995 Indemnity Paid loss of \$2,344 reported with both Policy Years 1994 and 1995 Standard Premium at Company Level reported as \$0 is an error.

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c. Incurred Loss Total Does Not Balance

An accident or policy year Total Incurred Loss that is not equal to the sum of the loss components. Total Incurred Losses not equal to Indemnity Paid + Indemnity Case + Indemnity Bulk + Indemnity Incurred But Not Reported + Medical Paid + Medical Case + Medical Bulk + Medical Incurred But Not Reported is an error.

d. Column Total Does Not Balance

For any column that requires full aggregate reporting Line X total (aggregate to 12/31 of the year for which the call is being prepared) is not equal to the sum of Lines A through W.

e. Indemnity Loss Amount and Claim Count Conflict

Zero Indemnity Claim Count with non-zero indemnity paid or case reserves is an error. Also zero indemnity paid, and zero indemnity case with non-zero Indemnity Claim Count is an error.

Example a: 1997 Policy Year Indemnity Claim Count of 0 reported with either a non-zero 1997 Policy Year Indemnity Paid or a non-zero 1997 Policy Year Indemnity Case is an error.

Example b: 1995 Accident Year Indemnity Claim Count of 156 reported with zeros in both 1995 Accident Year Indemnity Paid and Indemnity Case is an error.

- 2. *The data calls are edited to ensure consistency between the calls, reasonableness in the change between valuations and consistency of related data contained in the calls. These edits are generally termed "actuarial edits". Edit failures do not necessarily indicate incorrect data. If values fall outside of the expected parameters, further investigation is needed to verify the accuracy of the data, and to provide an explanation of why the data falls outside of the norm.***

Since the Policy Year Data and Accident Year Data are extremely important to the Data Quality Incentive Program, failure to respond to the Bureau's notification of an actuarial edit failure within 20 business days will result in a daily fine of \$100 until an adequate response is submitted.

An adequate response is a correction to the data that eliminates the actuarial edit failure or a written explanation of the situation. The explanation must describe the circumstances that caused the anomaly and satisfy the Bureau's actuarial staff of the accuracy of the reported data. Explanations that simply identify the source of the error will not prevent the fine. Verification of the accuracy of the reported data without

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sufficient written detail to allow for the Bureau's evaluation will not prevent the fine. Refer to the Annual Call, Section V for data element definitions.

The actuarial edits pertinent to the Data Quality Incentive Program are as follows:

a. Compare Standard & Net Premium

- i. Standard Premium at Bureau & Company levels should not equal the Net Premium.*
- ii. The ratio of the Standard Premium at Company Level to Net Premium should fall between 2.00 and .500.*
- iii. The ratio of the Standard Premium at Bureau Level to Net Premium should fall between 2.00 and .500.*

b. Development of Premium – Policy Year Call

The ratio of the premium on the Current Policy Year Call for a specific policy year to the premium on the Prior Policy Year Call for the same policy year should fall within the listed ranges, if the change exceeds \$200,000. This edit applies to Standard Earned Premium at Company Level, Standard Earned Premium at Bureau Level and Net Earned Premium.

<i>Report Level on Current Calendar Year Data Call**</i>	<i>Lowest Usual Change Factor</i>		<i>Highest Usual Change Factor</i>
<i>5th & Prior Reports</i>	<i>.93</i>		<i>1.07</i>
<i>3rd & 4th</i>	<i>.80</i>		<i>1.25</i>
<i>2nd</i>	<i>.75</i>		<i>1.33</i>
<i>1st</i>	<i>1.00</i>		<i>4.00</i>

*** On 1999 Calendar Year Calls 98 effective is 1st report, 97 is 2nd, 96 is 3rd, 95 is 4th and 94 - 78 is 5th & prior.*

c. Development of Paid Plus Case - Policy Year Call

The ratio of the Paid + Case losses on the Current Policy Year Call for a specific policy year to the Paid + Case losses on the Prior Policy Year Call to the same policy year should fall within the listed ranges, if the change exceeds \$ 200,000. This edit applies to Paid +Case Indemnity, Medical, Gross Indemnity, Gross Medical, Net Indemnity, and Net Medical.

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<i>Report Level on Current Calendar Year Data Call**</i>	<i>Lowest Usual Change Factor</i>		<i>Highest Usual Change Factor</i>
<i>6th & Prior Reports</i>	<i>.80</i>		<i>1.25</i>
<i>3rd 4th & 5th</i>	<i>.80</i>		<i>1.40</i>
<i>2nd</i>	<i>.75</i>		<i>1.70</i>
<i>1st</i>	<i>1.00</i>		<i>5.00</i>

*** On 1999 calendar Year Calls 98 effective is 1st report, 97 is 2nd, 96 is 3rd, 95 is 4th, 94 is 5th and 93 - 78 is 6th & prior.*

d. Claim Count Development – Policy Year Call

The ratio of the Incurred Indemnity Claim Counts on the Current Policy Year Call for a specific policy year to the Incurred Indemnity Claim Counts on the Prior Policy Year Call to the same policy year should fall within the listed ranges, if the compared claim counts exceeds 20.

<i>Report Level on Current Calendar Year Data Call**</i>	<i>Lowest Usual Change Factor</i>		<i>Highest Usual Change Factor</i>
<i>6th & Prior Reports</i>	<i>.99</i>		<i>1.01</i>
<i>4th & 5th</i>	<i>.98</i>		<i>1.05</i>
<i>3rd</i>	<i>.94</i>		<i>1.20</i>
<i>2nd</i>	<i>.90</i>		<i>1.30</i>

*** On 1999 calendar Year Calls 98 effective is 1st report, 97 is 2nd, 96 is 3rd, 95 is 4th, 94 is 5th and 93-80 (claim counts are not required for 78 & 79) is 6th & prior.*

e. Decrease in Paid Loss Totals - Policy Year Call

Total (sum of all policy years) Indemnity Paid Losses, Total Medical Paid Losses, and Total Indemnity + Medical Paid can not decrease more than \$200,000.

f. Loss Development - Accident Year Call

The ratio of the Paid + Case losses on the Current Accident Year Call for a specific accident year to the Paid + Case losses on the Prior Accident Year Call to the same accident year should fall within the listed ranges, if the change exceeds \$200,000. This edit applies to Indemnity, Medical, Gross Indemnity, Gross Medical, Net Indemnity and Net Medical Paid + Case losses.

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<i>Report Level on Current Calendar Year Data Call**</i>	<i>Lowest Usual Change Factor</i>		<i>Highest Usual Change Factor</i>
<i>5th & Prior Reports</i>	<i>.75</i>		<i>1.33</i>
<i>3rd & 4th</i>	<i>.75</i>		<i>1.40</i>
<i>2nd</i>	<i>.80</i>		<i>1.50</i>
<i>1st</i>	<i>.90</i>		<i>2.30</i>

*** On 1999 calendar Year Calls 98 accident is 1st report, 97 is 2nd, 96 is 3rd, 95 is 4th and 94-78 is 5th & prior.*

g. Claim Count Development – Accident Year Call

The ratio of the Incurred Indemnity Claim Counts on the Current Accident Year Call for a specific accident year to the Incurred Indemnity Claim Counts on the Prior Accident Year Call to the same accident year should fall within the listed ranges, if the claim count exceeds 20.

<i>Report Level on Current Calendar Year Data Call**</i>	<i>Lowest Usual Change Factor</i>		<i>Highest Usual Change Factor</i>
<i>5th & Prior Reports</i>	<i>.99</i>		<i>1.02</i>
<i>4th</i>	<i>.98</i>		<i>1.05</i>
<i>3rd</i>	<i>.94</i>		<i>1.20</i>
<i>2nd</i>	<i>.88</i>		<i>1.40</i>
<i>1st</i>	<i>.88</i>		<i>2.50</i>

*** On 1999 calendar Year Calls 98 effective is 1st report, 97 is 2nd, 96 is 3rd, 95 is 4th, 94 is 5th and 94 -80 (claim counts are not required for 78 & 79) is 6th & prior.*

h. Decrease in Paid Loss Totals – Accident Year Call

Total (sum of all policy years) Indemnity Paid Losses, Total Medical Paid Losses, and Total Indemnity + Medical Paid can not decrease more than \$200,000.

i. Check consistency between the Policy & Accident Year Losses.

- i. Current Accident year losses should be greater than Current Year Policy Year losses. For Calendar year 1999 this edit would compare the ½ year 99 policy and accident year losses. Accident year 99 losses CAN include claims from a 99 and 98 policy effective year while 99 policy year losses only include losses from 99 effective policies. This edit applies to all loss subtotals. I.e. Paid, Case, Bulk, and Incurred But Not Reported for both medical and indemnity.*

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- ii. *The Accident Year losses should be less than or equal to the corresponding policy year + the prior policy year. For example, 97 (Accident Year) Paid Indemnity should be less than or equal to 96 + 97 (Policy Years) Paid Indemnity. This edit applies to all loss subtotals. I.e. Paid, Case, Bulk, and Incurred But Not Reported for both medical and indemnity.*
- iii. *Prior to 78 (line A) policy year losses should be greater than Prior to 78 accident year losses. Prior to 78 policy losses includes claims with policies with 77 effective dates and 78 accident dates, but prior to 78 accident year losses do not include the 77 effective with 78 accidents.*

F. Disciplinary Fine

If, in any filing the Workers Compensation Rating and Inspection Bureau of Massachusetts makes with the Division of Insurance, it becomes necessary for the Bureau's actuarial staff to adjust, correct, or make allowances for inaccuracies in the data supplied by a carrier or group, the reporting carrier or group shall be subject to a disciplinary fine. The disciplinary fine can also be levied when a reporting carrier or group fails to work with Bureau staff to provide reasonable clarification or correction. Written warning must be provided a reasonable time prior to levying any disciplinary fine upon such entity. For each filing affected by such a deficiency, the disciplinary fine shall be the greater of \$5000 or .05% of the reporting carrier or group's Bureau Standard Earned Premium for every rate filing or potential rate filing impacted by the error. This fine is in addition to any of the other fines accrued under the Data Quality Incentive Program, and not subject to the penalty cap.

In addition to any authority the Commissioner of Insurance already has, the Commissioner may, at his or her discretion, require the Workers Compensation Rating and Inspection Bureau of Massachusetts to impose a fine upon a reporting carrier or group in the amount set forth in paragraph (I), above if, after written notice and a hearing, the Commissioner finds that any reporting entity's aggregate financial data is unreliable, incomplete, untimely or otherwise defective and that such defect has materially impacted a filing submitted to the Commissioner. The Commissioner may not, however, impose such a fine if the Workers Compensation Rating and Inspection Bureau of Massachusetts has already imposed any fine for such defect under this data quality incentive program before the Commissioner issues a notice of hearing for this disciplinary fine. The Workers Compensation Rating and Inspection Bureau of Massachusetts shall provide a list of the fines imposed under this data quality incentive program when the Workers Compensation Rating and Inspection Bureau of Massachusetts submits each calendar years aggregate financial data to the director of the State Rating Bureau.

G. Implementation

The Calendar Year 2000 (data valued as of 12/31/2000 and 6/30/2001) and reported in March through September 2001 will be subject to charges accrued in accordance with the Data Quality Incentive Program.

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The provisions of the program will be applied to the Calendar Year 1999 data, for illustrative purposes only, to provide each carrier with an estimate of the impact of this program.

H. Appeal of Penalties Levied under the Data Quality Incentive Program

If an item appears on a fine list, which in the opinion of the carrier should not be subject to a fine, the carrier should contact the Data Quality Services Department to the attention of the incentive appeals process. Copies of all pertinent written communication and a brief explanation of the circumstances should be provided in a written request to waive the fine.

Examples of situations where fines may be waived are as follows:

- 1. The error was not in the carrier's submission.*
- 2. The Bureau made an error in assigning the fine to the carrier.*
- 3. The Bureau received the call before the data was subject to a fine.*
- 4. The carrier was not provided proper notification that a penalty situation was pending.*
- 5. The carrier cannot provide or correct data due to circumstances beyond their control such as fire or natural disaster.*

If the carrier is not satisfied with the results of the appeal to the Bureau, then the carrier can make a written request to put the appeal before the Bureau's Governing Committee Appeals Subcommittee. Bureau staff will schedule a review at the next meeting of Appeals Subcommittee.