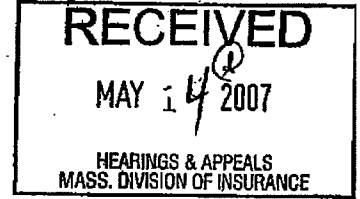


COMMONWEALTH OF MASSACHUSETTS

DIVISION OF INSURANCE

Docket No. R2007-1



*In re:*

APPLICATION OF THE WORKERS'  
COMPENSATION RATING AND INSPECTION  
BUREAU OF MASSACHUSETTS FOR APPROVAL  
OF A GENERAL RATE REVISION TO BE  
EFFECTIVE ON AND AFTER SEPTEMBER 1, 2007

**STIPULATION WITH RESPECT TO RATES,  
CLASSIFICATIONS AND RATING PLANS FOR 2007**

In order to avoid further hearings, delay, and uncertainty for insureds and insurers, and to permit orderly implementation of new workers' compensation insurance rates effective on and after September 1, 2007, but without in any way admitting or agreeing to any substantive position taken by any other party, the Workers' Compensation Rating and Inspection Bureau of Massachusetts ("WCRIB"), the Office of the Attorney General ("AG") and the State Rating Bureau ("SRB") stipulate as follows, with respect only to the pending filing by the WCRIB for a general revision of rates:

1. No party will object to or appeal from approval by the Commissioner of Insurance ("Commissioner") of the WCRIB's general rate filing dated March 1, 2007 as revised on April 9, 2007 (the "WCRIB Filing"), subject to the condition that the overall average change in the existing workers' compensation average rates, for new and renewal policies effective on and after September 1, 2007, shall be a reduction of 16.9%. These revised rates, classifications, rating programs, rating plans, rating factors and rating values shall apply to new and renewal policies

effective on and after September 1, 2007 in compliance with applicable manual and experience rating rules, as modified by the revisions to the ARAP debit factors described in paragraph "b" below, and including all such policies in the Massachusetts Workers' Compensation Assigned Risk Pool.

This Stipulation also is subject to the following additional conditions:

a. The manual rates and expected loss ratios for F-classes 6872 and 7327 shall remain unchanged from their current level as of the effective date of this Stipulation. The manual rates and expected loss ratios for all other F-classes shall be reduced by 19.4%, effective September 1, 2007.

b. The maximum debit factor under the All Risk Adjustment Program ("ARAP") shall be capped at 1.25 for new and renewal policies effective on and after September 1, 2007 and the offset factor for ARAP shall be adjusted to maintain revenue neutrality by application of the off-balance factor of 1.046 in the calculation of manual rates.

c. The "safety factor" used in calculating small deductible credits, shown in Sections VII-A and VII-B of the WCRIB's Filing, shall be increased from .7 to .9 for new and renewal policies effective on and after September 1, 2007.

d. In anticipation of its next rate filing, the WCRIB shall, with input from the AG and the SRB, reconsider the manner in which the offset for premium credits given under the Massachusetts Construction Classification Premium Adjustment Program is applied in the derivation of manual rates for those classifications that are eligible for the credits given under that Program.

e. The WCRIB shall, by March 1, 2008, make a general rate filing for revised rates to be effective for new and renewal policies on and after September 1, 2008 if, no later than December 15, 2007, either the AG or the SRB makes a written request to the WCRIB to make

such a filing. This Stipulation shall not in any way limit the ability of the WCRIB to make a rate filing on its own initiative. No later than October 15, 2007, the WCRIB shall deliver to the SRB and the AG, on the same date, the most recent Aggregate Financial data, together with a list of those companies, as compiled by the WCRIB, whose data, in the opinion of the WCRIB, are material but have not been found to be sufficiently reliable for use in ratemaking, with a statement of the reasons for any such findings. No later than November 15, 2007, the WCRIB shall deliver to the SRB and the AG, on the same date, the most recent Aggregate Financial data that the WCRIB would expect to use if it chose or was required to make a rate filing by March 1, 2008, together with a list of those companies, as compiled by the WCRIB, whose data, in the opinion of the WCRIB, are material but have not been found to be sufficiently reliable for use in ratemaking, with a statement of the reasons for any such findings.

Nothing in this stipulation shall be construed to limit or impair the WCRIB's ongoing ability to exercise actuarial judgment about the reliability of data for use in ratemaking or to attempt to reconcile or validate data. Accordingly, if on the basis of new data or new information or otherwise the WCRIB subsequently makes different findings about which Aggregate Financial data it would expect to use if it chose or was required to make a rate filing by March 1, 2008, the WCRIB shall promptly notify both the SRB and the AG of its revised findings and shall provide the SRB and the AG, on the same date, any new data or new information that the WCRIB considered in making its revised findings with a statement of the reasons for changing its findings. If, on the basis of such revised findings, either the AG or the SRB wishes to make (or withdraw) a written request of the WCRIB to make a filing in accordance with this Stipulation, they may do so by written notice delivered to the WCRIB within fifteen (15) days of receiving the WCRIB's revised findings, but the WCRIB shall not, in any event, be required to make a filing less than seventy-five (75) days' from the date of the earliest standing written request from the AG or SRB

nor shall the WCRIB be required, pursuant to this Stipulation, to make a rate filing on or after May 15, 2008. The effective date of any filing made pursuant to this Stipulation shall be no more than six months from the date the filing is made.

2. The WCRIB, AG and SRB agree that this Stipulation will have no precedential value and will not be relevant in future hearings on any line of insurance and that they will not attempt to introduce it (or the decision adopting it) as evidence or to rely on it (or the decision adopting it) for any purpose in future hearings, provided that the Stipulation may be considered in any future hearing with respect to the implementation of this Stipulation, but only on the issue of the implementation of this Stipulation. The WCRIB, AG and SRB each acknowledge that this Stipulation does not imply approval or disapproval by any party of any particular ratemaking methodology or projection. Each party reserves the right to contest in future hearings all aspects of rate-setting resolved, for present purposes only, by this Stipulation.

3. Each party enters into this Stipulation upon the condition that it is approved by the Commissioner, in its entirety, on the record of this hearing no later than May 17, 2007. If the Commissioner does not approve this Stipulation in its entirety on or before May 17, 2007, this Stipulation shall be null and void and shall not be relied upon by any party, or by the Commissioner, for any purpose whatsoever.

4. If any person not a party to this Stipulation successfully challenges the Commissioner's approval of this Stipulation and the Commissioner's approval is suspended, set aside or otherwise rendered ineffective, this Stipulation shall be null and void and shall not be relied upon by any party, or by the Commissioner, for any purpose.

5. This Stipulation may be signed in counterparts.

Scott P. Lewis  
ANDERSON & KREIGER LLP  
One Canal Park, Suite 200  
Cambridge, MA 02141  
617.621.6560  
For the WCRIB  
Dated: May 14, 2007

Thomas F. McCall, Jr.  
Matthew M. Mancini  
STATE RATING BUREAU  
Division of Insurance  
One South Station  
Boston, MA 02210  
617.521.7375  
For the SRB  
Dated: May 14, 2007

Glenn Kaplan  
Assistant Attorney General  
Commonwealth of Massachusetts  
ATTORNEY GENERAL'S OFFICE  
One Ashburton Place  
Boston, MA 02108  
617.727.2200  
For the AG  
Dated: May 14, 2007

APPROVED:

Jean F. Farrington  
Hearing Officer  
Dated: May 14, 2007

RECEIVED  
MAY 14 2007  
HEARINGS & APPEALS  
MASS. DIVISION OF INSURANCE

Stephen M. Sumner  
Hearing Officer  
Dated: May 14, 2007

AFFIRMED:

Nonnie S. Burnes  
Commissioner of Insurance  
Division of Insurance  
Dated: May 14, 2007



DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

One South Station • Boston, MA 02110-2208  
(617) 521-7794 • FAX (617) 521-7475  
TTY/TDD (617) 521-7490  
<http://www.mass.gov/doi>

DANIEL O'CONNELL  
SECRETARY OF HOUSING AND  
ECONOMIC DEVELOPMENT

DANIEL C. CRANE  
DIRECTOR

NONNIE S. BURNES  
COMMISSIONER OF INSURANCE

---

**Rate Filing of the Worker's Compensation Rating and Inspection Bureau**  
**Docket No. R2007-01**

---

**Decision and Order**

**I. Introduction and Procedural History**

On March 1, 2007, the Worker's Compensation Rating and Inspection Bureau of Massachusetts ("WCRIB"), on behalf of its members, submitted a filing for worker's compensation rates to be effective September 1, 2007. The Commissioner of Insurance ("Commissioner") designated Jean F. Farrington, Esq. and Stephen M. Sumner, Esq. as hearing officers on this matter. A notice of hearing issued on March 2, 2007, scheduling a public comment hearing and a prehearing conference for April 5. On March 20, the Attorney General ("AG") filed a notice of intent to participate. Counsel representing the parties throughout this proceeding are: for the WCRIB, Scott P. Lewis, Esq. and Douglas Wilkins, Esq.; for the State Rating Bureau ("SRB"), Thomas McCall, Esq. and Michael Mancini, Esq.; and for the AG, Peter Leight, Esq., Monica Brookman, Esq., Aaron Lamb, Esq. and Glenn Kaplan, Esq.

Representatives of each party spoke at the public comment hearing on April 5. Other individuals made statements on behalf of the Massachusetts Workers' Compensation Advisory Council ("MWCAC"), the Associated Industries of Massachusetts, the Massachusetts Association of Insurance Agents, American Risk Management, representing trade associations related to the construction industry, and an insurance brokerage that works with over 475 agents in Massachusetts to place workers'

compensation insurance.<sup>1</sup> At the prehearing conference that followed public comment, the WCRIB indicated that it would be submitting a revised filing. At the request of the parties, the scheduling of cross-examination was postponed to permit review of the revised filing. During a telephone conference on April 11, dates for cross-examination of the WCRIB's witnesses were set; at the request of the parties those dates were continued because of ongoing settlement negotiations. Following a status conference on May 14, the parties submitted a stipulation (the "Stipulation") that addressed several specific aspects of the WCRIB filing. At that conference, the hearing notice, the initial WCRIB filing, and the revised filing were marked as exhibits and entered into the record of this proceeding. The parties agreed that the Stipulation, when submitted, would be marked as Exhibit 4. On May 14, the Commissioner and the presiding officers approved the Stipulation.

## II. Statutory Framework

G.L. c. 152, §53A ("§53A") sets out the statutory requirements for obtaining approval of rates for Massachusetts workers' compensation insurance. Subsection (1) requires any insurance company writing workers' compensation insurance in the Commonwealth to file its risk classifications and premiums with the Commissioner, either directly or through a rating organization authorized to act for it. The Commissioner thereafter conducts a hearing to determine whether the classifications and rates are not excessive, inadequate or unfairly discriminatory for the risks to which they effectively apply, and fall within a range of reasonableness. In addition to these general requirements, §53A(12) specifically states that the Commissioner shall not approve classifications or rates that provide for any of the following: 1) dividends, unabsorbed premium deposits, savings or other payments allowed or returned by the insurer to policyholders, members, subscribers or stockholders; 2) expenses that exceed the filing insurer's expense needs; and 3) commission allowances that are not demonstrated to be reasonable and to reflect the actual cost to the agent or broker of services they provide. The Commissioner, pursuant to §53A(13), must also make a finding, on the basis of information in the rate filing, that insurers employ acceptable cost control programs and techniques which have had or are expected to have a substantial impact on fraudulent

---

<sup>1</sup> The organizations represented by American Risk Management are the Building Trades Employers Association of Eastern Massachusetts, their affiliated trade groups, and the Associated General Contractors of Massachusetts.

claim costs, unnecessary health care costs, any other unreasonable costs and expenses, and on the collection of appropriate premium charges owed to the insurer. If the Commissioner finds that the rates are excessive, and that the excess is the result of a failure to employ adequate cost control programs, she may disapprove or limit any proposed increase in rates.

### III. The Recommendations

The WCRIB, in its initial filing, sought an overall rate decrease of 13.4 percent; its revised filing proposed a decrease of 14.6 percent. The Stipulation, in summary, provides the following:

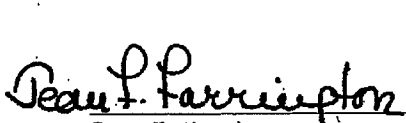
1. No party will object to or appeal from the Commissioner's approval of the WCRIB's general rate filing dated March 1, 2007 as revised on April 9, 2007, subject to the condition that the overall average change in the existing workers' compensation average rates, for new and renewal policies effective on and after September 1, 2007, shall be a reduction of 16.9 percent. The revised rates, classifications, rating programs, rating plans, rating factors and rating values shall apply to new and renewal policies effective on and after that date, including all such policies in the Massachusetts Workers' Compensation Assigned Risk Pool, in compliance with the applicable manual and experience rating rules, as modified by the revisions to the All Risk Adjustment Program ("ARAP") debit factors described in paragraph 3 below and to the other provisions in the Stipulation.
2. The manual rates and expected loss ratios for F-classes 6872 and 7327 shall remain unchanged from their current level as of the effective date of the Stipulation. The manual rates and expected loss ratios for all other F-classes shall be reduced by 19.4 percent, effective September 1, 2007.
3. The maximum debit factor under the ARAP shall be capped at 1.25 for new and renewal policies effective on and after September 1, 2007, and the offset factor for ARAP shall be adjusted to maintain revenue neutrality by application of the off-balance factor of 1.046 in the calculation of manual rates.
4. The "safety factor" used in calculating small deductible credits, shown in Sections VII-A and VII-B of the WCRIB's Filings, shall be increased from 0.7 to 0.9 for new and renewal policies effective on and after September 1, 2007.
5. In anticipation of its next rate filing, the WCRIB, with input from the AG and the SRB, shall reconsider the manner in which the offset for premium credits given under the Massachusetts Construction Classification Premium Adjustment Program is applied in the derivation of manual rates for those classifications that are eligible for credits provided under that program.
6. The stipulation establishes conditions for submission of a general rate filing for revised workers' compensation rates to be effective on and after September 1, 2008 for new and renewal policies. If, on or before December 15, 2007, the AG or the SRB makes a written request to the WCRIB to make a general rate

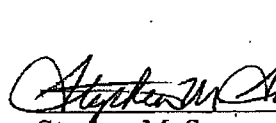


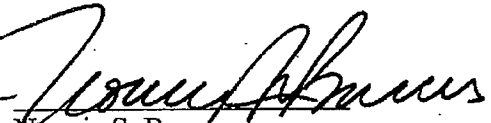
- filing for revised rates to be effective on and after September 1, 2008, for new and renewal policies the WCRIB shall make such a filing by March 1, 2008.
7. The Stipulation also establishes a timetable for the submission of Aggregate Financial data by the WCRIB to the AG and the SRB, together with an analysis of the reasons, if any, why, in the WCRIB's opinion, the data from any company are material but not sufficiently reliable for use in ratemaking.
  8. Entry into this Stipulation is undertaken for the sole purpose of resolving this proceeding, and implies no approval by any party of any particular ratemaking methodology or projection; each party reserves the right to contest in future hearings all aspects of rate-setting, including those addressed in the Stipulation.

#### IV. Conclusion

We find that the stipulation submitted by the parties will provide for classifications or premiums that can be approved as "not excessive, inadequate, or unfairly discriminatory for the risks to which they respectively apply, and fall within a range of reasonableness." We have therefore approved the stipulation this 14th day of May 2007.

  
Jean F. Farrington  
Presiding Officer

  
Stephen M. Sumner  
Presiding Officer

  
Nonnie S. Burnes  
Commissioner of Insurance