THE WORKERS' COMPENSATION RATING AND INSPECTION BUREAU OF MASSACHUSETTS

May 10, 2022

CIRCULAR LETTER NO. 2401

To All Members and Subscribers of the WCRIBMA:

GUIDELINES FOR WORKERS' COMPENSATION RATE DEVIATION FILINGS TO BE EFFECTIVE ON OR AFTER JULY 1, 2022

Attached are the revised Guidelines for Workers' Compensation Rate Deviation Filings filed by Workers' Compensation Insurers and Self-Insurance Groups that were recently released by the Division of Insurance.

These guidelines indicate the required elements of deviation filings and other plans subject to review under the deviation statute and also provide the timeframes for filing or continuing individual carrier rate deviations, following the promulgation of workers' compensation rates, effective on or after July 1, 2022.

It is important to note that any WCRIBMA member wishing to retain any currently approved deviation or scheduled rating plan without alteration beyond June 30, 2022, may extend such deviation to any date up to and including August 31, 2022 by submitting a Note to Reviewer in its currently approved SERFF filing on or before June 30, 2022 indicating its desire for such extension. Any member wishing to offer a new or altered rate deviation or schedule rating plan to be effective on any date subsequent to June 30, 2022 should submit its completely supported filing in SERFF in accordance with these Guidelines at least 45 days prior to the proposed effective date. However, in order to allow increased flexibility in the current Massachusetts workers' compensation environment, a filing for an effective date earlier than 45 days in the future may be proposed.

No deviation or schedule rating plan filing approved to be effective on or before June 30, 2022 may be used by any company beyond that date, unless the SRB has timely received the Note to Reviewer indicated above. For all new and renewal policies effective on or after July 1, 2022, WCRIBMA member companies shall use rates and rating values calculated in accordance with the Commissioner's order relative to such policies, but shall apply any newly approved or continuing deviations or schedule rating plans to such rates and rating values as set forth in the deviation approval. Complete filings, with actuarial and other support provided in accordance with this Guidance, must be made in SERFF for any deviation from approved rates or rating values, whether such deviation is identical to or a revision from any prior program offered by a company or group.

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Any questions regarding these guidelines should be directed to Bashiru Abubakare (Bash) at the Division of Insurance, telephone number (617) 521-7781 or by e-mail bashiru.abubakare@mass.gov.

DANIEL CROWLEY
Vice President of Customer Services

Attachment

I. Rate Deviations including Schedule Credits; certain dividend plans, retention plans, installment plans, retrospective rating plans, or deferred payment plans, Self-Insurance Group rate audits

A. General

Massachusetts General Law Chapter 152, §§ 25O and 53A.
Classification of risks and premiums: distribution of premiums among employers.

1. Who May Insure Workers' Compensation Risks

* Any insurance company authorized to transact business in this Commonwealth under subclause (b) or (e) of 6th clause of M.G.L c. 175, §47, except as provided in clause (c) of M.G.L. c. 175, §54.
* Individual self-insurers authorized to transact business under M.G.L. c.152, §25A.
* Workers' compensation self-insurance groups authorized to transact business under M.G.L. c. 152, §25E-U.
* Municipal property-liability insurance groups authorized to transact business under M.G.L. c. 40M.

2. Authority for Rate Alterations

(a) Authority for workers' compensation insurance companies to make *downward* deviations in rates is provided in M.G.L. Chapter 152, §53A(9):

Any insurance company may make written application to the commissioner of insurance for permission to use, in place of premium rates approved pursuant to subsections (7) and (8), a percentage *decrease* from said premium rates which shall be uniform within any classification of risk in the commonwealth. The commissioner shall issue an order permitting the decrease for such insurance company unless he finds that the resulting premium would be inadequate or unfairly discriminatory.

(b) The authority for workers' compensation self-insurance groups ("SIGs") to make their own rates is provided in M.G.L. Chapter 152, §25O(3) and 211 CMR 67.09(4):

A group may apply to the Commissioner for authority to make its own rates. Such rates shall be filed with the Commissioner and shall be based upon at least two fund years, consisting of not less than twenty-four months, of the group's experience, to the extent actuarially credible. A public employer safety group in operation for at least two consecutive years before it applies for approval to operate as a public employer group may apply to the Commissioner to make its own rates immediately. In no event shall a group determine members' premium contributions by any method other than that prescribed herein without the prior written approval of the Commissioner. In no event shall a group make a distribution to its members, other than dividends, without the prior written approval of the Commissioner.

(c) The authority for municipal property-liability groups to make alterations in rates is provided in M.G.L. c. 40M §11, subsection A:

"A group shall file with the commissioner its rating plan."

3.**DIA Assessments**

Please note that, pursuant to M.G.L. Chapter 152, §65, Department of Industrial Accidents (DIA) assessments must be based on **standard premium** as defined by that agency (prior to the application of any ARAP [All Risk Adjustment Program] surcharge). Therefore, no deviation or schedule credit program will be approved that allows for any reduction in this assessment. In addition, all deviations or scheduled credits to premium shall be off Bureau manual rates, prior to the application of experience rating, merit rating, ARAP surcharges, construction credits, deductible credits, or premium discounts.

B. **Guidelines for Workers' Compensation Rate Deviation Filings**

1. Contents of Filings

New or renewal rate deviation filings by both insurers and SIGs must include the following elements:

______(a) (1) The name of the Industry Group requesting the deviation;
(2) The name of each company in the group for which a deviation is being requested along with the specific deviation or deviations in such companies—including any requested changes to miscellaneous rating factors such as minimum premium or loss constants;
(3) The objective, non-overlapping, non-discriminatory, exhaustive criteria according to which every policyholder will be placed in each company having deviated rates within the group. These criteria apply to every policyholder, whether new or renewing; and, **for those industry groups making or wishing to make filings for multiple company sub- groups**;
(4) Where appropriate, a pdf of a letter on company group stationery, signed by an officer of the company group, certifying that each sub-group making or wishing to make a separate deviation filing employs an entirely separate distribution channel or channels from the channel(s) used by any other such sub-group, which employment makes it impossible for any single agency, brokerage or website to be used to place policyholders in more than one sub-group using or wishing to utilize a workers' compensation deviation in Massachusetts. Companies should file this letter under the SERFF "Certification of Compliance" Schedule. The company placement material required in (3) above should be filed under the SERFF Rate/Rule Schedule as a rule. Note that (1) and (2) above should be provided by insurance companies on the SERFF General Information Tab, and by SIGs in a separate exhibit. In addition, insurance companies should file rating rules for each company, consistent with the specific deviation or deviations in (2) above, under the SERFF Rate/Rule Schedule.
(5) If a company group, or sub-group per I. B.1.(a).(4) above, seeks to have in place both percentage rate deviations and schedule credits, a single filing should be submitted comprising both the percentage deviations proposed and the schedule credits plan proposed.

______ (b) A confirmation from the group or SIG that such rate deviation will not threaten the solvency of any company within the filing group. (SIG deviation filings must also include a rate review performed by a qualified actuary.) [Companies should file this confirmation, as well as all the information required under paragraphs (c)-(f) below, under the "Actuarial Memorandum" Schedule.]

______(c) Estimates of the annual Massachusetts workers' compensation standard premium expected to be written on (i) an undeviated basis for each company in the group; (ii) an after- deviation basis (company level) for each such company; (iii) an undeviated basis for the entire group; and (iv) an after-deviation basis for the entire group.

______ (d) A description of how the filed deviation will be applied to the current rates, rating values, programs, and procedures. Such rating methodology must conform to the Premium Algorithm most recently promulgated by the Workers' Compensation Rating and Inspection Bureau of Massachusetts ("WCRIB").

______ (e)* Using either the Deviation Support Templates provided in section II at the end of this document or the Excel version on our Checklist page, display both dollar values and percentages on both an *individual company* and on a *company group* basis, as specified, for each of the last three available *policy* years. (SIGs need provide the same information for at least the latest two- year period):

(1) Massachusetts standard premium at bureau Designated Statistical Reporting level;
(2) Standard earned premium at company level;
(3) All Risks Adjustment Program premium;
(4) Cumulative indemnity losses paid;
(5) Indemnity loss case reserves;
(6) Cumulative medical losses paid;
(7) Medical loss case reserves;
(8) Cumulative DCCE (ALAE) paid;
(9) DCCE (ALAE) case reserves.

The evaluation date should be the latest available year-end evaluation, and this date should be identified. All values should be defined consistent with the corresponding values reportable on Call #2 of the Massachusetts Workers' Compensation Statistical Plan Part III (see starting page 126 of https://www.wcribma.org/mass/ToolsandServices/UnderwritingToolsandForms/Manuals/MA%20Manual/MA_Manual_CurrentVersionForLinking/MA_Manual_current.pdf#page=103).

______ (f) Using either the Deviation Support Template provided at the end of this document or the Excel version on our Checklist page, on a *reporting group* or *SIG* basis, dollar values and percentages of standard earned premium for each of the last three available *calendar* years (at least two years for SIGs):

(1) Direct Written Premium; (2) Direct Standard Earned Premium; (3) Commission and Brokerage Expense; (4) Other Acquisition Expense; (5) Direct Losses Net of Deductibles; (6) Adjusting and Other Expenses (ULAE); and (7) Defense and Cost Containment Expenses (ALAE). All values should be defined consistent with the corresponding values reportable on Call #6 of the Massachusetts Workers' Compensation Statistical Plan Part II and/or with statutory Page 14 Annual Statement filings.

______ (g) A completed Workers' Compensation Rate Deviation Abstract form (referenced in the Division online checklist) for each company licensed to write Massachusetts workers' compensation in the company group (or subgroup if the subgroup is part of an entirely separate distribution channel. The information provided on such form(s) for each company must include in the top row of the Deviation History the PROPOSED DEVIATION(S) PERCENTAGE ("% Deviation" column) including any impact due to proposed modifications to such other rating factors as minimum premium and loss constant and the impact of all rate deviations (including schedule credits) that apply to each reported time period.

______(h) A signed and dated certification by an Associate or Fellow of the Casualty Actuarial Society indicating: (i) that he or she has reviewed all material supporting the rate deviation submitted to the Division; (ii) that this material is true and accurate to the best of his or her knowledge, information, and belief; and (iii) that it is his or her opinion that the premiums resulting from the proposed deviation will be: not inadequate, not unfairly discriminatory, and neither predatory nor likely to be destructive of competition in the Commonwealth. [Companies should file this justification under the SERFF "Actuarial Memorandum" Schedule.]

______(i) If the filing includes a request for greater than a -15% deviation or schedule credit for any class (including combined impacts of schedule credit and any rate deviation for any class that have the potential to exceed -15%), an actuarial justification of all such proposed deviations greater than -15% demonstrating that such a rate deviation will not result in inadequate premiums or threaten the solvency of any company within the filing group.

______(j)* If the filing includes a request for greater than a -25% deviation or schedule credit for any class (or if the combined impact of schedule credit and a rate deviation for any class has the potential to exceed -25%), in the actuarial justification required by (i) above, provide an analysis that demonstrates the actuarial credibility of every deviated rate (i.e., the expected combined impact of deviations and schedule credits for affected classes) exceeding -25% that is being filed for.

______ (k)* If the filing includes a request for greater than a -25% deviation or schedule credit for any class (or if the combined impact of schedule credit and a rate deviation for any class has the potential to exceed -25%), the analysis from part (e) above must be repeated, but showing the values that WOULD HAVE BEEN had the risks been placed based on the selection criteria being proposed in the present filing.. For part (e), item (2), standard earned premium at company level, re-rate the company-level premium based on the placement criteria and proposed deviations (or combined deviations and schedule credit) proposed in this filing.

______ (l)* If the filing includes a request for greater than a -25% deviation or schedule credit for any class (or if the combined impact of schedule credit and a rate deviation for any class has the potential to exceed -25%) calculate the resulting loss ratios for part (e) above for each company and show the calculation of the credibility of the loss ratio for each company. For each company also provide a complement of credibility loss ratio and provide the source of the complement.

______ (m) If the filing includes a request for greater than a -25% deviation for any class (or if the combined impact of schedule credit and a rate deviation for any class has the potential to exceed -25%) include a complete actuarial indication supporting the requested deviation percentages and/or schedule credit percentages for the affected classes.

______ (n) No company's deviation or schedule rating plan filing may be combined with any other type of rate, rule, or form filing. See Massachusetts Division of Insurance Bulletin 2008-08: "Filings to deviate from approved rating organization rates may not be combined with any other type of filing or submission."

Filers should use either the deviation support pdf templates provided in Section III at the end of this document or the Excel version of the templates from our Checklist page as a component of the support specified above. Submissions of these support templates are necessary and may be considered sufficient to demonstrate rate adequacy; however, additional support may be submitted by the filer or required by the Division.

***A company group, individual insurer or SIG wishing to apply different deviations to different 'classes' (i.e., workers' compensation industrial classifications currently approved by the Division for the entire industry) must provide all of the relevant elements in (e), (j), (k) and (l) above separately for the affected individual classes or groups of classes.**

2. <u>Filing Procedures and Rate Implementation</u>

(a) Workers' Compensation Insurance Companies

i. Documentation of Administration of Schedule Credits and of Placement of Policyholders for Deviations

Company groups must maintain detailed underwriting information supporting both the non- discriminatory placement of each insured into a particular company and, if there is an approved schedule credit program (see below), the application of any schedule credit.

ii. Submission of Filings

All insurance company filings must be made via SERFF along with the appropriate filing fee. Failure to provide all material required by these guidelines will result, at a minimum, in delays in the processing of applications and may result in the disapproval of requested rates, effective dates or other plan parameters

iii. Frequency of Filings

All deviations are normally expected to remain in effect for at least one year (in the absence of an earlier industry-wide rate change). A workers' compensation insurance carrier may in fact seek modification of any approved deviation filing at any time to either increase or reduce the deviation. A filing to increase or decrease deviations may be based on a change in expected losses or expenses for the affected classes that results from unanticipated changes in the Massachusetts workers' compensation environment.

In this case full actuarial support for the change must be provided in SERFF. Alternatively, a filing may be submitted to uniformly reduce a deviation owing to a carrier's solvency concerns. In such a case the basis for these concerns should be communicated to the Division.

iv. Deadlines for Deviation Filings to be effective on or after July 1, 2022

Any WCRIB member wishing to retain any currently approved deviation or schedule rating plan without alteration beyond June 30, 2022, may extend such deviation to any date up to and including August 31, 2022 by submitting a Note to Reviewer in its currently approved SERFF filing on or before June 30, 2022 indicating its desire for such extension.

Any member wishing to offer a new or altered rate deviation or schedule rating plan to be effective on any date subsequent to June 30, 2022 must submit its completely supported filing in SERFF in accordance with these Guidelines. The complete and supported filing should be submitted at least 45 days prior to the proposed effective date; however, in order to allow increased flexibility in the current Massachusetts workers' compensation environment, a filing for an effective date earlier than 45 days in the future may be proposed. Approval of the proposed early effective date is conditional upon the quality and complexity of the filing.

No deviation or schedule rating plan filing approved to be effective on or before June 30, 2022 may be used by any company beyond that date, unless the SRB has timely received the Note to Reviewer indicated above. For all new and renewal policies effective on or after July 1, 2022, WCRIB member companies shall use rates and rating values calculated in accordance with the commissioner's order relative to such policies, but shall apply any newly approved or continuing deviations or schedule rating plans to such rates and rating values as are set forth in the deviation approval. Complete filings, with actuarial and other support provided in accordance with this Guidance, must be made in SERFF for any deviation from approved rates or rating values, whether such deviation is identical to or a revision from any prior program offered by a company or group.

(b) Workers' Compensation Self-Insurance Groups

i. Effective Date of Rate Alterations

Except under circumstances approved by the Commissioner, SIG rate alterations may be effective only on a fund-year basis, (generally, January 1- December 31).

ii. Frequency of Filings

All deviations are normally expected to remain in effect for at least one year (in the absence of an earlier industry-wide rate change). A workers' compensation SIG may in fact seek modification of any approved deviation filing at any time to either increase or reduce the rate. At any time, a filing to increase or decrease rate may be based on a change in expected losses or expenses for the affected classes that results from unanticipated changes in the Massachusetts workers' compensation environment. In this case full actuarial support for the change must be provided in SERFF. Alternatively, a filing may be submitted at any time to increase rate owing to a SIG's solvency concerns. In such a case the basis for these concerns should be communicated to the Division.

iii. Timing of Filings

Any SIG rate alteration requests should be made at least 90 days prior to the fund year for which such alteration is proposed to be effective; however, in order to allow increased flexibility in the current Massachusetts workers' compensation environment, a filing for an effective date *earlier* than 90 days in the future may be proposed. Approval of the proposed early effective date is conditional upon the quality and complexity of the filing. Rate alteration requests must be submitted via email to the State Rating Bureau of the Division of Insurance. (Submit to bashiru.abubakare@mass.gov and caleb.huntington@mass.gov). All SIG rate alterations expire at the end of the SIG's fund year, but, if there has been no change in the approved overall rates, the alteration may be extended for a subsequent year by an emailed request to the Division, which will determine approvability by a review of the SIG's Annual Statement and prior rate alteration filings.

iv. Audits of Implementation of Rate

Pursuant to 211 CMR 67.09, **audits** by an independent, Division-approved auditor of each SIG's classifications, experience rating, payroll and rates must be filed with the Commissioner within six months of the last day of the group's most recent fund year. Such rate audits should be filed along with the financial audit due on the same date, but should not be integrated into such financial audit, but comprise either a separate filing or a separate section. Rate audits must be provided in a form acceptable to the Commissioner. A copy of the rate audit must be submitted by email to the State Rating Bureau of the Division of insurance. (Submit to bashiru.abubakare@mass.gov and caleb.huntington@mass.gov) Rate audits will be reviewed to confirm that any approved rate alterations are correctly applied, or to confirm that no alteration is applied in the case of those SIGs without an approved rate alteration.

Failure to timely submit audits as required by 211 CMR 67.09 (4) and these Guidelines shall disqualify a SIG from applying for any alteration in rates for 12 months and shall constitute a failure to comply with a lawful order of the Commissioner pursuant to 211 CMR 67.09 (17).

v. Regulation of Installment Plans and Dividends

Within SIGs, premium installment plans with terms allowing the member to pay less than 25% of the premium on the effective date of the policy and the balance in equal monthly or quarterly installments within the first eight months of the fund year are prohibited (211 CMR 67.06(2)(b)(11)). The only dividend plan permitted is that described in the regulation (211 CMR 67.08 (4)).

(c) Municipal Property-Liability Groups

A "40M group" is not required to obtain the approval of the Commissioner for its rates or rating plan, but must file its rating plan with the Commissioner before they may use it.

Pursuant to M.G.L. c. 40M §11, each 40M group must be audited at least annually by an auditor acceptable to the commissioner to verify proper rating. The report of the auditor must be in a form prescribed by the Commissioner.

C. PLANS SUBJECT TO REVIEW UNDER RATE DEVIATION STATUTES

Insurance companies and SIGs should be aware that the Division of Insurance regards certain rating plans, including some plans referred to as "**dividend plans**," "retention plans," "**installment plans**," "**retrospective rating plans**," or "**deferred payment plans**," as operating, at least in part, as rate deviations, and as therefore being subject to prior approval by the Division. *In particular, any program guaranteeing or otherwise promising premium reductions at any time, and any program allowing for the return of or reduction in premium during the policy period is viewed by the Division as either a retrospective rating plan or a rate deviation that must be submitted for approval prior to use.* Furthermore, premium installment plans with terms allowing for the payment of any installment after the end of the policy period will also be considered deviations. Unless otherwise permitted by the Division in writing, retrospective rating plans must be in compliance with the Retrospective Rating Plan Manual and must use rating factors approved for use by the Commissioner during the applicable period.

Schedule Rating Plans

Schedule rating-type plans for traditionally insured workers' compensation risks are allowed only pursuant to the above-quoted deviation statute [M.G.L. Chapter 152, §53A(9)] and these guidelines [viz, part I.B.1 and part I.C.1 of this document] and are subject to prior approval by the Division. [SIGs may file schedule debits and credits consistent with M.G.L. Chapter 152, §25O(3) and 211 CMR 67.09(4).] All carriers' schedule rating-type plans, regardless of the magnitude of the credits offered, may not provide for "upward deviations," non-uniformity of prospective rates within any class, or unfairly discriminatory rating. In addition to all of the requirements set forth for deviation applications above, carriers' schedule credit programs will be approved only if:

______ (i) They contain no schedule debits;

______ (ii) They are retrospective in nature (i.e., all credits are earned during the relevant policy period, and not *guaranteed* at policy inception), and the insurer, subsequent to the policy period, actually determines the appropriate credit and adjusts the premium accordingly;

______ (iii) Each employer written in any company that is offering such a plan is, at policy inception, capable of earning the maximum credit available to any risk in that industrial classification written by that company, and is informed of all plan parameters no later than policy inception;

______ (iv) All schedule credits offered are determinable by objective, unambiguous, and non- discriminatory criteria approved by the Division;

______ (v) The company's filing for such plan provides the estimated percentage and dollar impact of the requested schedule rating plan credits, to be reported by filling out the following table for the period the schedule credits are expected to be in effect. Fill in below the range of policy issue dates over which the credit is expected to be in effect. Please report in this table the estimated credit effect only of schedule credit; do not include or add in the effect of any approved rate deviation that does not take the form of a schedule credit.

Estimated Impact of Schedule Credits on Future Policies Issued from_______to ________

Range of Projected Credit Percentage	Estimated Number of Policies	Estimated Earned Premium*	Estimated Average Percent Credit**	Estimated Incurred Losses***	Est. Loss Ratio
0%****					
-1% to –5%					
-6% to –15%					
-16% to –25%					
Bigger than –25%					
Total / Average					

* Premium is the standard earned premium at the company rate level after experience rating, deviations and **estimated** schedule credits, but before premium discount and retrospective rating.

** The average credit expected to be received in each "Credit Percentage" range. This credit should be reflected in estimated earned premiums and estimated loss ratios.

*** Incurred losses are the case-incurred losses consisting of paid losses plus case reserves. Do not include incurred but not reported losses (IBNR).

**** Exclude any servicing carrier or VDAC business.

______ (vi) A completed Workers' Compensation Rate Deviation Abstract form (referenced in the Division online checklist) for each company licensed to write Massachusetts workers' compensation in the company group (or subgroup if the subgroup is part of an entirely separate distribution channel. The information provided on such form(s) for each company must include in the top row of the Deviation History the proposed deviation(s) percentage ("% Deviation" column). Note that all rows must incorporate the total impact of schedule credits and rate deviations, including any impact due to proposed modifications to rating factors, such as minimum premium and loss constant. The proposed deviation amount (top row of Deviation History) the4refore should show in the

"% Deviation" column the expected amount of schedule credit to be awarded *plus the impact of any non- schedule credit rate deviation amount requested*.

______ (vii) The filer has submitted a signed certification by an Associate or Fellow of the Casualty Actuarial Society indicating that he or she has reviewed the material submitted to the Division; that this material is true and accurate to the best of his or her knowledge, information, and belief; and that it is his or her opinion that, based on company-specific or other relevant information, the proposed schedule credits are actuarially justified in the sense that reductions in losses that are commensurate with the credits offered can reasonably be expected to result from the various credited activities, and that the premiums resulting from the proposed schedule rating plan will be adequate and not unfairly discriminatory, and will not threaten the solvency of the company. The filer should include all supporting documentation and analysis for the opinion of the actuary that the plan is actuarially justified; and

______ (viii) Any insurer for whom workers' compensation schedule rating is not new in Massachusetts must also include in its filing a grid that indicates how much premium volume has received the various available credits, as well as the loss ratios obtained by each group of risks. This grid must be of the following form and must include data from all policies written in the company for the most recent available three calendar years.

Actual Historical Impact of Schedule Rating Plan

Range of Actual Credit Percentage Granted	Number of Policies	Earned Premium*	Average Estimated % Credit at Inception**	Incurred Losses ***	Loss Ratio
0%****					
-1% to –5%					
-6% to –15%					
-16% to –25%					
Bigger than –25%					
Total / Average					

* Premium is the standard earned premium at the company rate level after experience rating, deviations and **actual** schedule credits, but before premium discount and retrospective rating.

** The average credit estimated at policy inception for all policyholders in each "Credit Percentage" range. Please report in this table the credit effect only of schedule credit; do not include or add in the effect of any approved rate deviation that does not take the form of a schedule credit. This value may be different from the average credit actually received as specified in the left-most column above. **[NB: This differs from the 4th column in the projection grid by containing the average percentage credit actually applied to policyholder premiums prior to recalculation at audit. This percent should *not* be used to calculate earned premiums or loss ratios unless the credits actually received after audit match those estimated at policy inception.]**

*** Incurred losses are the case incurred losses consisting of paid losses plus case reserves. Do not include incurred but not reported losses (IBNR).

**** Exclude any servicing carrier or VDAC business.

II. Large Deductible Rating Plans

A.- Authority for Large Deductible Rating Plans

The Massachusetts Commissioner of Insurance has the authority to determine the premium reduction for a large deductible plan per MGL Chapter 152 Section 25a (4) d: "Premium reductions for deductibles shall be determined by the Commissioner of insurance." Insurers do not have authority to file their own large deductible rating plan for approval by the Commissioner.

Pursuant to 211 CMR 115.05, the Commissioner has the obligation to provide insurers with an example of a large deductible rating plan that may be used: "…The Division shall make available to Insurers an example of an approvable rate structure." Insurers who wish to implement a large deductible rating plan must file endorsements to adopt part or all of the Commissioner's approvable rate structure and must submit the Commissioner's approvable rate structure, to which the endorsements will apply.

B. Requirements Applicable to Large Deductible Plan Filings

The following features must be included in all large deductible policies:

_____(a) Only those Massachusetts insureds whose workers' compensation full coverage standard premium plus ARAP would otherwise exceed $375,000 of Massachusetts premium are eligible, provided, however, that insureds with either (i) at least $50,000 of annual non- Massachusetts workers' compensation premium or (ii) at least $10,000 of annual non- Massachusetts workers' compensation premium and payroll in at least two states other than Massachusetts, need have only $100,000 or more in countrywide workers' compensation premium to be eligible to be written on large deductible plans.

_____(b) The policies may not provide cancellation provisions that differ in any respect from those contained in the standard Massachusetts workers' compensation policy.

_____(c) A reasonable aggregate deductible limit must be included. For insureds having less than $500,000 in countrywide workers' compensation premium, such aggregate limit may not exceed three times standard premium.

_____(d) The per claim deductible must be at least $75,000.

_____(e) Rates, policy forms and deductible endorsements must be filed with and approved by the Division of Insurance. Rates should be consistent with retrospective rating parameters that have been approved by the Division and may not contain "judgmental adjustments" or be combined with any Large Risk Alternative Rating Plan. An example of an acceptable rating formula is set forth on the following pages.

______(f) The rating plan should be filed as a rating rule under the Rate/Rule tab in SERFF.

______(g) The effect of mid-term cancellation on the aggregate deductible must conform with the following requirements: (i) Cancellation of the policy by the insurer for any reason except for non-payment of premium, fraud, or misrepresentation, will result in the aggregate deductible being reduced to a pro rata amount based on the time the policy is in force. (ii) If the policy is cancelled for fraud or material misrepresentation or non-payment of premium, the aggregate deductible amount will not be reduced. (iii) If the policy is cancelled as a result of the policyholder retiring from business, the aggregate deductible amount will be reduced to a pro rata amount based on the time this policy was in force. (iv) If the policyholder cancels the policy for any reason other than retiring from business, the aggregate deductible amount will not be reduced. (v.) If the policy is issued for a term of less than one year, the aggregate deductible amount will not be correspondingly reduced.

______(h) The example of an approvable rating plan in part C below must be submitted in its entirety as a rule in SERFF. (Carriers may submit additional large deductible rule language that is consistent with the commissioner's approvable large deductible rate structure.)

______(i) The large deductible endorsement forms must indicate which of the options allowed under the commissioner's approvable rate structure are offered to the policyholder (ALAE within deductible versus wholly paid by insurer, policyholder contracts for third party claims administration versus insurer provides claims administration.)

______(j) If the forms endorsing large deductible coverage include the option of the policyholder contracting for third party claims administration, then the endorsement forms must specify that the claims administrator must be a bona fide third party and must also specify that the policyholder: (i) agrees to disclose the identity of the claims administrator to the insurer; and (ii) the insurer agrees to confirm the bona fide third party status of the administrator.

______(k) "Bona fide third party" as used in the forms referenced in checklist item "(j)" above does not include in its meaning any entity that is either: (1) the insurer or a company owned or partially owned by the insurer or a company under common ownership with the insurer; or, (2) any entity that pays or credits a "commission," an "administration fee" or any other fee conditional upon receiving business from the policyholder contracting for claims administration-- such payment being made or credited to the insurer, to a company owned or partially owned by the insurer, or to a company under common ownership with the insurer.

______(l) Large deductible rate/rule filings must include sample step-by-step calculations of the deductible premium for each of the commissioner's four deductible options. If the endorsements do not allow for a particular deductible option, then the sample calculation for that option need not be provided.

Deductible options:

(1) ALAE paid entirely by insurer, claims administration provided by insurer

(2) ALAE and losses paid by policyholder up to deductible levels, claims administration provided by insurer

(3) ALAE paid entirely by insurer, claims administration provided by TPA contracted by

policyholder

(4) ALAE and losses paid by policyholder up to deductible levels, claims administration provided by TPA contracted by policyholder

C. Example of Approvable Rate Structure for Workers' Compensation Large Deductible Policies Pursuant to 211 CMR 115 (to be copied and submitted in filing)

Rating Plan

1. Parameters

Per Claim Deductible. The per claim loss (and allocated loss adjustment expense –"ALAE"– amount, if elected) that will be paid by the insured. This amount is agreed upon by insurer and insured and is subject to the minimum amount listed in 211 CMR 115.02

Aggregate Deductible. The aggregate loss (and ALAE amount, if elected) that will be paid by the insured. This amount is agreed upon by insurer and insured and is subject to the maximum amount listed in 211 CMR 115.05(2). All large deductible policies are required to include an aggregate deductible in accordance with 211 CMR 115.05(2)

2.Formulas

$$\text{Deductible Premium} = \left\{ \begin{array}{c}\text{Per Claim}\\\text{Deductible}\\\text{Charge}\end{array} + \begin{array}{c}\text{Aggregate}\\\text{Deductible}\\\text{Charge}\end{array} + \begin{array}{c}\text{Expense}\\\text{Provision}\end{array} + \begin{array}{c}\text{Residual}\\\text{Market}\\\text{Provision}\end{array} + \begin{array}{c}\text{Insolvency}\\\text{Fund}\\\text{Provision}\end{array} \right\} \times \begin{array}{c}\text{Adjusted}\\\text{Tax}\\\text{Multiplier}\end{array}$$

$$\text{Deductible Credit} = 1 - \{ \text{Deductible Premium} \,/\, \text{Standard Premium} \}$$

3.Values

Per Claim Deductible Charge. This is the premium charge associated with the portion of losses (and ALAE, if subject to the deductible) expected above the per claim deductible amount. It is equal to the excess loss factor (or the excess loss and allocated expense factor, if ALAE is subject to the deductible) associated with the agreed upon per claim deductible amount, as found on the current approved Retrospective Rating Plan Manual Massachusetts Special Rating Values pages times the standard premium.

Aggregate Deductible Charge. This is the premium charge associated with the portion of losses (and ALAE if subject to the deductible) expected above the aggregate deductible amount. It is equal to the insurance charge for the entry ratio associated with the selected aggregate deductible amount, found in the state approved Retrospective Rating Plan, times the expected limited losses (and ALAE, if subject to the deductible). The expected limited losses are equal to standard premium times the difference between the expected loss ratio and the excess loss factor, associated with the per claim deductible amount, found on the current approved Retrospective Rating Plan Manual Massachusetts Special Rating Values pages (or equal to standard premium times the difference between the expected loss and allocated expense ratio and the excess loss and allocated expense factor, if ALAE is subject to the deductible) as shown below.

$$\text{Aggregate Deductible Charge} = \text{Standard Premium} \times \text{Insurance Charge} \times \left\{ \text{Expected Loss Ratio} - \text{Excess Loss Factor} \right\}$$

The insurance charge is derived from Appendix B (Table M) of the Retrospective Rating Plan Manual. It is a function of the entry ratio and the expected loss group.

The entry ratio is calculated by dividing the aggregate deductible amount by the product of standard premium and the expected limited loss ratio (or expected limited loss and allocated expense ratio, if ALAE is subject to the deductible).

The expected loss group is based on the product of the expected unlimited losses, the hazard group differential, and the loss group adjustment factor (LGAF). The loss group adjustment factor is calculated as shown below:

$$LGAF = \frac{1.0 + (0.8\, x\, LER)}{(1.0 - LER)}$$

$$LER = \frac{\text{Excess Loss Factor}}{\text{Expected Loss Ratio}}$$

Expense Provision*. This is the premium charge that covers expenses, profit and contingencies associated with the large deductible policy. The expense provision is equal to the standard premium times the expense factor found in the Table of Expense Ratios – Excluding Taxes and Including Profit and Contingencies table in the state approved Retrospective Rating Plan. (If ALAE is subject to the deductible, the expense ratio found on the Table of expense Ratios – Excluding Allocated Loss Adjustment Expense and Taxes and Including Profit and Contingencies should be referenced instead.)
*If the policyholder is given the option and accepts the option to pay a bona fide third party administrator for claims handling, then the Expense Provision is modified as follows:
1. Set "A" equal to the Loss Conversion Factor for ALAE Option ("LCF") from the Retrospective Rating Plan Manual Massachusetts State Special Rating Values, RRI.
2. Subtract 1.000 from A to yield "B".
3. Set "C" equal to the Expected Loss and Allocated Loss Adjustment Expense Ratio from the Retrospective Rating Plan Manual Massachusetts State Special Rating Values, RR1.
4. Set "D" equal to B times C.
5. Subtract D from the expense value from the applicable Table of Expense Ratios (Table of Expense Ratios – Excluding Taxes and Including Profit and Contingencies table, or, if ALAE is subject to the deductible, the expense ratio found on the Table of expense Ratios – Excluding Allocated Loss Adjustment Expense and Taxes and Including Profit and Contingencies) to yield the modified Expense Provision.

Residual Market Provision. This is the premium charge that covers the residual market subsidy, which is applicable to full coverage premium for large deductible policies. The residual market provision is equal to the residual market subsidy provision shown on the current approved Retrospective Rating Plan Manual Massachusetts Special Rating Values pages multiplied by standard premium.

Insolvency Fund Provision. This is the premium charge that covers the insurers' insolvency fund assessment, which is applicable to full coverage premium for large deductible policies. The insolvency fund provision is equal to the insolvency fund assessment provision shown on the current approved Retrospective Rating Plan Manual Massachusetts Special Rating Values pages multiplied by standard premium.

Adjusted Tax Multiplier. The adjusted tax multiplier is applied in order to cover taxes associated with the large deductible policy. Since the residual market subsidy and the insurer's insolvency fund assessment is separately accounted for in the calculation, the tax multiplier found on the current approved Retrospective Rating Plan Manual Massachusetts Special Rating Values pages must be adjusted using the formula below to remove the residual market subsidy and the insurer's insolvency fund assessment before being applied. The following formula is used to calculate the adjusted tax multiplier.

$$Adjusted\ Tax\ Multiplier = \frac{1}{\left(\frac{1}{Tax\ Multiplier}\right) + Residual\ Market\ Subsidy\ Provision + Insolvency\ Fund\ Assessment\ Provision}$$

Standard Premium. The standard premium referred to in the large deductible calculations includes any All Risk Adjustment Program ("ARAP") Surcharge.

D. Sample Premium Calculations

For each deductible option (#1 through #4, below) that is offered by endorsement, sample step-by-step calculations of the deductible must be based on the following inputs:

(1) If carrier files forms for deductibles applicable to loss only (i.e., carrier pays all ALAE) and carrier provides claims administration
Standard Premium (including ARAP surcharge) = $1,000,000
Per claim deductible (ALAE not included within deductible) = $250,000
Aggregate deductible (ALAE not included within deductible) = $1,225,000
Hazard Group B

(2) If carrier files forms for deductibles applicable to loss and ALAE (i.e., policyholder reimburses loss plus ALAE up to deductibles) and carrier provides claims administration
Standard Premium (including ARAP surcharge) = $1,000,000
Per claim deductible (ALAE included within deductible) = $250,000
Aggregate deductible (ALAE included within deductible) = $1,225,000
Hazard Group B

(3) If carrier files forms for deductibles applicable to loss only (carrier pays all ALAE) with policyholder contracting for third party claims administrator
Standard Premium (including ARAP surcharge) = $1,000,000
Per claim deductible (ALAE not included within deductible) = $250,000
Aggregate deductible (ALAE not included within deductible) = $1,225,000
Hazard Group B

(4) If carrier files forms for deductibles applicable to loss and ALAE (policyholder reimburses loss plus ALAE up to deductibles) with policyholder contracting for third party claims administrator

Standard Premium (including ARAP surcharge) = $1,000,000
Per claim deductible (ALAE included within deductible) = $250,000
Aggregate deductible (ALAE included within deductible) = $1,225,000
Hazard Group B

III.

Massachusetts Division of Insurance

Workers' Compensation Rate Deviation/Alteration Support Template - 1a

Group or SIG Massachusetts Experience Data

Group or SIG:	
Projected Annual Standard Premium (Undeviated Basis):	
Projected Annual Company Level Premium (Deviated Basis):	
Experience data below as of what date:	

	(1) Policy Year	(2) Standard Earned Premium at DSRL*	(3) Standard Earned Premium at Company Level	(4) ARAP Premium	(5) Standard Earned Premium at DSRL + ARAP (2) + (4)	(6) Cumulative Indemnity Losses Paid	(7) Indemnity Loss Case Reserves	(8) Indemnity Paid + Case (6) + (7)	(9) Cumulative Medical Losses Paid	(10) Medical Loss Case Reserves	(11) Medical Paid + Case (9) + (10)	(12) Cumulative DCCE Paid	(13) DCCE Case Reserves	(14) DCCE Paid + Case (12) + (13)
1st Prior PY					-			-			-			-
2nd Prior PY					-			-			-			-
3rd Prior PY					-			-			-			-
	Total	-	-	-	-	-	-	-	-	-	-	-	-	-

	(1) Policy Year	(15) Total Losses Paid (6)+(9)	(16) Total Paid + Case (8)+(11)	(17) Total Paid+Case +DCCE (14)+(16)	(18) Total Paid Loss Ratio (15)/(5)	(19) Total Paid + Case Loss Ratio (16)/(5)	(20) Total Paid + Case+DCCE Loss Ratio (17)/(5)
1st Prior PY		-	-	-	-	-	-
2nd Prior PY		-	-	-	-	-	-
3rd Prior PY		-	-	-	-	-	-
	Total	-	-	-	-	-	-

Notes: Data should be consistent with definitions on Massachusetts Workers' Compensation Rating and Inspection Bureau (WCRIBMA) Call #2.

Data should be provided for the group or SIG.

*Designated Statistical Reporting Level

Massachusetts Division of Insurance

Workers' Compensation Rate Deviation/Alteration Support Template - 1b

Individual Company Massachusetts Experience Data

Individual Company: ______ Group: ______

Projected Annual Standard Premium (Undeviated Basis): ______

Projected Annual Company Level Premium (Deviated Basis): ______

Experience data below as of what date: ______

	(1) Policy Year	(2) Standard Earned Premium at DSRL*	(3) Standard Earned Premium at Company Level	(4) ARAP Premium	(5) Standard Earned Premium at DSRL + ARAP (2) + (4)	(6) Cumulative Indemnity Losses Paid	(7) Indemnity Loss Case Reserves	(8) Indemnity Paid + Case (6) + (7)	(9) Cumulative Medical Losses Paid	(10) Medical Loss Case Reserves	(11) Medical Paid + Case (9) + (10)	(12) Cumulative DCCE Paid	(13) DCCE Case Reserves	(14) DCCE Paid + Case (12) + (13)
1st Prior PY					-			-			-			-
2nd Prior PY					-			-			-			-
3rd Prior PY					-			-			-			-
	Total	-	-	-	-	-	-	-	-	-	-	-	-	-

	(1) Policy Year	(15) Total Losses Paid (6)+(9)	(16) Total Paid + Case (8)+(11)	(17) Total Paid+Case +DCCE (14)+(16)	(18) Total Paid Loss Ratio (15)/(5)	(19) Total Paid + Case Loss Ratio (16)/(5)	(20) Total Paid + Case+DCCE Loss Ratio (17)/(5)
1st Prior PY		-	-	-	-	-	-
2nd Prior PY		-	-	-	-	-	-
3rd Prior PY		-	-	-	-	-	-
	Total	-	-	-	-	-	-

Notes: Data should be consistent with definitions on Massachusetts Workers' Compensation Rating and Inspection Bureau (WCRIBMA) Call #2.

A separate Form 1b should be provided for each member company of the group.

*Designated Statistical Reporting Level

Massachusetts Division of Insurance

Workers' Compensation Rate Deviation/Alteration Support Template - 2

Group** or SIG Massachusetts Expense Data

Group or SIG*:

	(1) Calendar Year	(2) Direct Premiums Written[1] (DPW)	(3) Direct Premiums Earned[1] (DPE)	(4) Direct Losses Paid[1]	(5) Other Acquisition Expense[2]	(6) Other Acqusition Expense % of DPW	(7) Adjusting & Other Expense[2]	(8) Adjusting & Other Expense % of Direct Losses	(9) General Expenses[2]	(10) General Expenses % of DPE	(11) Commission & Brokerage Expense[1]	(12) Commission & Brkg. Expense % of DPW	(13) Taxes, Licenses & Fees[1]	(14) Taxes, Licenses & Fees % of DPW
						(5)/(2)		(7)/(4)		(9)/(3)		(11)/(2)		(13)/(2)
1st Prior CY						-		-		-		-		-
2nd Prior CY						-		-		-		-		-
3rd Prior CY						-		-		-		-		-
	Total	-	-	-	-	-	-	-	-	-	-	-	-	-

Notes: Data should be consistent with Statutory Page 14 definitions and Massachusetts Workers' Compensation Rating and Inspection Bureau (WCRIBMA) Call #6 definitions.

[1] Massachusetts Statutory Page 14 basis

[2] WCRIBMA Call #6 basis

*SIGs need present only two years of experience.

**Group - Company expense data should be reported even if there is only one company in the group.