



Minnesota Workers' Compensation
Insurers Association, Inc.

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ALL ASSOCIATION MEMBERS

Circular Letter No: 22 - 1807

RE: Minnesota Department of Commerce Workers' Compensation Procedures Update 2023 and Revised Workers' Compensation Forms

The Minnesota Department of Commerce (Commerce) released updated procedures and revised Workers' Compensation Forms for insurers to meet filing requirements set forth in Minnesota Statutes and Minnesota Administrative Rules and to provide insurers with additional information that will assist the Department of Commerce (Commerce) in expediting the filing review process for rates effective January 1, 2023 and later.

These updates are a result of changes to Minnesota Statutes and Administrative Rules which allow the inclusion of trend, development to ultimate losses, and loss adjustment expenses in the advisory pure premium rates published by MWCIA. More information about these changes is found in MWCIA circular letters 22-1804 and 22-1806.

A copy of the updated procedures and revised Workers' Compensation Forms from the Minnesota Department of Commerce are attached for review.

Workers' Compensation Procedures Update 2023

Issued August 1, 2022

These procedures update those set out in Department Bulletin 2007-7, which was issued on August 31, 2007, and should be used to expedite the review of workers' compensation filings made in Minnesota with an effective date of January 1, 2023, or later. The purpose of these instructions is to assist workers' compensation insurers in meeting the filing requirements set forth in Minnesota Statutes and Minnesota Administrative Rules; and to provide insurers with additional information that will assist the Department of Commerce (Commerce) in expediting the filing review process.

1. Limited Power of Attorney (LPOA)

Minnesota Statute §79.56, subd. 1, requires an insurer to file with the commissioner "a complete copy of its rates and rating plan, and all changes and amendments thereto." Commerce permits an insurer to elect to use Minnesota Workers' Compensation Insurers Association (MWCIA) filings by submitting a one-time Limited Power of Attorney (LPOA). A copy of the LPOA is attached for your reference. The LPOA remains in force until the insurer notifies Commerce that it intends to revoke the authorization. In the case of a name change a new LPOA should be submitted to reflect the new company name.

Please note that the LPOA does not apply to any filing to which an individual must apply a unique factor or make any other company specific revisions. Therefore, the adoption of the annual Minnesota Ratemaking Report must be independently filed as a unique multiplier must be applied to the base rates filed by the MWCIA to create the company's rates.

If your company has only recently been licensed, has been inactive, or you have other questions regarding whether the LPOA has been filed on its behalf, please contact us.

2. Filing Timeline

Minnesota Statute §79.56, subd. 1(a), requires each insurer to file with Commerce a complete copy of its rates and rating plan, as well as all supporting documentation requested by the Department, at least 60 days prior to its effective date.

Since Minnesota is a "prior approval" state for workers' compensation rates and rating plans, if you need to revise the effective date of your filing after it has been approved you must notify Commerce via Note to Filer in SERFF prior to the effective date of the original filing. The reviewing analyst will advise you as to how to submit the necessary revisions to your filing.

3. Selecting the Correct Sub-Type of Insurance (TOI) for Your Filing

16.001 – Alternative Workers' Compensation – This sub-TOI includes rate, rule, and form filings for large deductible programs, large risk filings (i.e., those submitted under Minn. Stat. §79.56, subd. 1(b)), and Self-Insured Replacement Policies.

16.002 – Employers Liability – Stand alone employers liability policies that are intended to be marketed to insureds who self-insure for workers’ compensation should be submitted as workers’ compensation filings under this Sub-TOI. To provide this coverage an insurance company must be licensed under Minn. Stat. §60A.06, subd. 1(13).

16.003 – Excess Workers’ Compensation – Only rates, rules, and forms for excess workers’ compensation policies should be submitted under this Sub-TOI.

16.004 Standard Workers’ Compensation – The following items should be filed under this Sub-TOI: adoption of the annual Minnesota Ratemaking Report (rate schedules, Miscellaneous Values, Retrospective Rating pages), schedule rating plans, drug-free workplace policy endorsements and credits, managed care policy endorsements and credits, collective bargaining policy endorsements and credits, safety program policy endorsements and credits, dividend plan endorsements and rating factors, Information Pages, Participating Plan endorsements, and any independent forms permitted under Minn. R. Part 2705.3200.

4. Basic Schedule of Rates – Please note: Commerce recommends that insurers base their filings on the most recent Minnesota Ratemaking Report. Each Pure Premium Base Rate Schedule expires after two years. For example, the 2023 Minnesota Ratemaking Report is effective January 1, 2023, and will expire on December 31, 2024.

- a. The Workers’ Compensation Rate Filing Form (DOC-WC-1) (ed. 8/1/22)
- b. A company filing a rate change should provide data and analysis to establish that the proposed rates are adequate and not excessive. (Minn. Stat. §79.55)
- c. Commerce recommends that five years of loss and expense experience be submitted. If the company has not been writing workers’ compensation coverage in Minnesota for five years, as much Minnesota experience as is available should be submitted. If five years of countrywide experience as is available, that should also be submitted (Minn. R. Part 2705.2500, Subp. 1).
- d. An exhibit describing how the company’s pure premium base rate multiplier was developed must be submitted (Minn. R. Part 2705.1800(E)). Commerce does not require the format of the company’s exhibit to be identical to the sample format, but the company’s exhibit should not neglect any of the items included in the sample. For example, if the company chooses not include a separate provision for the Credit for investment income because it was already included in the Profit & contingencies provision, such a choice should be explained and appropriately documented.
- e. If the company is deviating any classification codes, the Class Code Deviation Filing Form (DOC-WC-2 (Rev. 8/1/22)) and the Average Effective Multiplier Calculation (DOC-WC-7 (Rev. 8/1/22)) must be submitted. A copy of each of these forms is attached.
- f. Final manual pages must be submitted (Minn. Stat. §79.56, Subd. 1). When calculating your rates for classification codes for which Minnesota Contractors Premium Adjustment Program (MCPAP) pure premium base rates appear, those are the base rates that must be used. Use of the DSR pure premium base rates will result in artificially low rates.

5. Special Compensation Fund Assessment – Minnesota Statute §176.129, subd. 2a(c) requires that the Special Compensation Fund assessment be collected as a policy surcharge and not as a part of the rate. Therefore, it should not be included in the Development of the Pure Premium Multiplier exhibit. Do not include your company surcharge in your rate filings with Commerce.

Additional information on the Special Compensation Fund assessment can be found in Appendix 8 of the Minnesota Ratemaking Report. Questions regarding these materials should be directed to Andrea Everling, MWCIA Vice President of Actuarial Services, at andrea.everling@mwcia.org or 952-897-6405.

6. Schedule Rating Plans – Minnesota Rules Part 2705.3000 precludes any schedule rating plan from utilizing a maximum debit in excess of 25 percent.

7. Additional Credits – Historically, Commerce has approved the types of additional credits discussed below. To expedite the review process, if a maximum credit is referenced it can be approved without actuarial support. Filings requesting higher maximum credits will be considered on the basis of the loss experience and other actuarial support provided.

- a. **Drug-Free Workplace** – Insurers who file drug-free workplace programs must meet the requirements of Minn. Stat. §181.950 – 181.957 may offer a 5 percent credit. An insurer may file a larger credit if it can provide adequate actuarial support.

Commerce recommends, but does not require that insurers attach an amendatory endorsement to the policy that contains a statement similar to the following:

“Employers insured under this coverage should be aware of the Drug and Alcohol Testing In The Workplace provisions contained in Minn. Stat. §181.950 – 181.957. An insured employer that violates this law may have exposure for damages, attorney fees, and injunctive relief that will not be covered by this policy.”

- b. **Managed Care** – Commerce will approve a 5 percent credit for insurers who have contracted with a managed care organization that is certified under Minn. Stat. §176.1351. An insurer may file a larger credit if it can provide adequate actuarial support. If the insurer is offering a managed care program, but has not contracted with a certified managed care organization, a credit may be offered if the company can provide actuarial support for the amount of the credit being requested. The maximum that has been approved to date has been 3 percent.

Commerce recommends, but does not require, that insurers attach an amendatory endorsement clarifying the type of managed care coverage that is being offered. Two sample endorsements are included in the bulletin, one for use when a certified managed care organization has been contracted with and the other for use when an uncertified managed care plan is being utilized. Insurers who choose to utilize either of these endorsements must independently file them with Commerce.

- c. **Collective Bargaining Dispute Resolution** – Commerce will allow a credit of 5 percent to be offered to an employer that is a party to a collective bargaining agreement that has been approved by the Minnesota Department of Labor and Industry (DLI) in accordance with Minn. Stat. §176.1812. An insurer may file a larger credit if it can provide adequate actuarial support.

Insurers who choose to offer such a credit must file a Minnesota Dispute Resolution Endorsement similar to the one included in this bulletin. DLI recommends the attached endorsement.

- d. **Safety Programs** – Minnesota Statute §79.085 requires that all insurers writing workers’ compensation insurance in Minnesota shall provide safety and occupational health loss control consultation services to

each of their policyholders requesting the services in writing. An insurer may file a credit if it can provide adequate actuarial support.

- e. **Return-To-Work Programs** – Commerce has approved credits of up to 2 percent for insurers that want to provide an incentive for insureds to comply with the statutory return-to-work requirements. An insurer may file a larger credit if it can provide adequate actuarial support.

8. Deductibles

- a. Minnesota Statute §79.081, subd. 1 requires each insurer writing workers compensation in Minnesota to make a deductible available to a policyholder upon request. An insurer is not required to offer a deductible to an employer if, as a result of a credit investigation, the insurer determines that the employer is not sufficiently financially stable to be responsible for the payment of deductible amounts. This exception is found in Minn. Stat. §79.081, subd. 3.
- b. Minnesota Statute §79.081, subd. 2 requires that if an insured employer chooses a deductible, the insurer shall administer the claim as provided in the terms and conditions of the insurance policy and seek reimbursement from the insured employer for the deductible.
- c. Newly licensed Minnesota workers' compensation insurers should be aware of the following requirement contained in Minn. Stat. §79.081, subd. 2. Each insurer shall notify its agents authorized to write workers' compensation insurance about the availability and terms and conditions of deductibles required by this section, using a brochure in a format approved by the commissioner.

9. Large Deductible

- a. Any company offering a large deductible plan must include a statement in its rating manual certifying that no deductible limit will be offered or written that exceeds the company's retention limit with the Workers' Compensation Reinsurance Association (WCRA). Minnesota Statute §79.34, subd. 2 states as follows:

"The reinsurance association shall provide and each member shall accept indemnification for 100 percent of the amount of ultimate loss sustained in each loss occurrence relating to one or more claims arising out of a single compensable event, including aggregate losses related to a single event or occurrence which constitutes a single loss occurrence, under chapter 176 on and after October 1, 1979, in excess of a low, a high, a super, or a jumbo retention limit, at the option of the member."
- b. Coverage applies on a per occurrence basis, except in the case of occupational disease where coverage applies on a per person per occurrence basis. This requirement is contained in Minn. Stat. §79.34, subd. 2. If your company is using a per person limit for bodily injury other than that caused by occupational disease, claims will need to be carefully tracked to ensure that all persons injured as part of the same occurrence are linked so that your company's retention limit with the WCRA is not invaded.
- c. Minnesota Statute §79.081, subd. 2 requires that if an insured employer chooses a deductible, the insurer shall administer the claim as provided in the terms and conditions of the insurance policy and seek reimbursement from the insured employer for the deductible. If you currently are using a large deductible for that contains language indicating that the employer will or may pay claims directly and seek reimbursement from the insure, you must revise your form to comply with the statutory language.

- d. Please note that if you are using mutually agreed upon terms to rate your large deductible program, the insured must meet the statutory threshold of \$250,000 in countrywide workers' compensation premium set out in Minn. Stat. §79.56, subd. 1(b) and the Large Risk Rating Filing Form (DOC-WC-10, Rev. 8/1/22) must be filed with Commerce on a per employer basis upon each renewal of the employer's policy. The filing fee for this type of large risk filing is \$125 per employer.

10. Dividend Plans - If more than one dividend plan is being filed, the various plans must be accompanied by objective and logical mutually exclusive assignment criteria. It must be demonstrated that the process does not permit the possibility of different final premiums for identical policyholders (Minn. Stat. §79.074, subd. 2).

11. Form Filings - Insurers must use the forms filed on their behalf by the MWCIA, unless it is a rating related endorsement for which the MWCIA has not made a suitable filing. The applicable administrative rule is Minn. R. Part 2705.3200. The rule states as follows:

"Workers' compensation insurance must be written using policy forms filed by the data service organization of which the insurer is a member except that if the insurer files a rating plan requiring a policy provision or endorsement for which the data service organization has made no usable filing, then the insurer may file its own policy forms needed to implement its rating plans."

Some examples of the types of independent forms that may be filed are dividend plan endorsements, large deductible program endorsements, managed care endorsements, drug-free workplace endorsements, and collective bargaining dispute resolution endorsements.

12. Minnesota Statute §79.56, subd. 1(b) - This statute provides an exception to the normal filing requirements for an employer who generates \$250,000 in annual countrywide written workers' compensation premium under the rates and rating plan of an insurer before the application of any large deductible rating plans. Such an employer may be written by an insurer using rates or rating plans that are not subject to disapproval, but which have been filed with Commerce. Premium for other lines of coverage cannot be combined with workers' compensation premium to meet the \$250,000 threshold. All \$250,000 must be workers' compensation premium. Large risk filings included under this statute are not limited to large deductible plans, but can include any policy that meets the premium threshold and is being rated using mutually agreed upon terms. For example, this can include large risk alternative rating option (LRARO), deviated loss cost multipliers, and other deviated rating factors.

A Large Risk Rating Certification Form (DOC-WC-10) (Rev. 8/1/22) must be filed for every employer being rated under this statutory provision upon each renewal of the employer's policy.

13. Excess Workers' Compensation Insurance - Any company offering an excess workers' compensation insurance policy must include a statement in its rating manual certifying that no excess retention will be offered or written that exceeds the low retention set by the Workers' Compensation Reinsurance Association (WCRA). This requirement is found in Minn. Stat. §79.34, subd. 2.

WORKERS' COMPENSATION RATE FILING FORM

NAIC Company Number

Company Name

Proposed Effective Date: _____

Overall Effect of Rate Change: _____

This filing is based on the 202____ Minnesota Ratemaking Report

If the company uses the pure premium base rates with NO deviations by class, complete the following:

the multiplier is: _____
the expense constant is: _____
the largest rate increase for any class is: _____
the smallest rate change for any class is: _____

If the company has different multipliers for different classes, complete the following:

the lowest multiplier is: _____
the highest multiplier is: _____
the average effective multiplier is: _____
the expense constant is: _____
the largest rate increase for any class is: _____
the smallest rate change for any class is: _____

The company must attach

- The Class Deviation Filing Form DOC-WC-2(a)
- The Average Effective Multiplier Calculation DOC-WC-2(b)

If the company is using some other methodology, a complete explanation of the rates and methodology must be attached.

**MINNESOTA WORKERS' COMPENSATION
AVERAGE EFFECTIVE MULTIPLIER CALCULATION**

This form must be completed by any company that deviates its multiplier for one or more classes.

(1)	(2)	(3)	(4)	(5)	(6)
code number	current pure premium multiplier	proposed pure premium multiplier	prior year written premium	relative exposure [(4)/(2)]	relative proposed premium [(3)x(5)]
Average effective pure premium multiplier [(6) total/(5) total]					

**MINNESOTA WORKERS' COMPENSATION
CERTIFIED MANAGED CARE PLAN ENDORSEMENT**

The insurer has contracted with _____, a workers' compensation managed care plan certified by the Minnesota Department of Labor and Industry under Minn. Stat. §176.1351. Under this contract medical treatment for your employee's work-related injuries will be delivered and managed according to the managed care plan as certified and applicable state law.

The certified managed care plan must provide medical case management by licensed health care professionals, to ensure appropriate medical care and promote a prompt return to work. The managed care plan must also provide a process for resolving medical disputes. This dispute resolution process must be exhausted before the medical dispute may be filed with the Minnesota Department of Labor and Industry.

Your employees are covered by certified managed care for work injuries that occur after they have been given specific information about their rights and responsibilities under the managed care plan. A covered employee may be required to receive treatment for a work injury from a health care provider who is part of the plan's provider network. There are exceptions to this requirement, such as in emergency and in some cases where the employee has a history of treatment with another health care provider. The managed care plan will help you notify your employees of coverage and will explain these and other exemptions to managed care coverage.

**MINNESOTA WORKERS' COMPENSATION
UNCERTIFIED MANAGED CARE PLAN ENDORSEMENT**

The insurer has contracted with _____, a health care provider network, to provide health care services for employees with work-related injuries. [*If applicable:* These health care providers may be paid for their services at discounted or negotiated payment rates.]

This program is not a workers' compensation managed care plan certified by the Minnesota Department of Labor and Industry under Minn. Stat. §176.1351. Therefore, the employer or insurer may not require an employee to receive treatment for a work injury from any health care provider within this network.

SAMPLE DEVELOPMENT OF PURE PREMIUM MULTIPLIER

A. Loss cost modification factor	0.955
B. Commission and brokerage	0.094
C. Other acquisition	0.038
D. General expenses	0.191
E. Taxes, licenses & fees	
1. premium taxes	0.020
2. Other	0.003
F. Total premium-related expenses (sum of B through E)	0.346
G. Profit and contingencies	0.060
H. Credit for investment income	-0.044
I. Total premium-related expenses and profit (F+G+H)	0.362
J. Expected lost and LAE ratio (1.0-I)	0.638
K. Formula Loss Cost Multiplier (A/J)	1.497
L. Selected Loss Cost Multiplier	1.500

NOTE: The Department does not require the format of the company's exhibit to be identical to the sample format, but the company's exhibit should not neglect any of the items shown above. **The numbers used in this sample exhibit are illustrative only.** The company should be able to explain and support its numbers.

LIMITED POWER OF ATTORNEY FOR PURPOSE OF REGULATORY FILINGS

TO: Minnesota Department of Commerce, Insurance Product Filing Unit

RE: Workers' Compensation Rating Plan Filings

Effective Date: _____

This limited power of attorney is filed on behalf of the following insurers licensed to write workers' compensation in Minnesota.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

The above insurers hereby designate and appoint the Minnesota Workers' Compensation Insurers Association, Inc. (MWCIA) as their attorney-in-fact for the following limited purposes only.

- (a) To file with the Minnesota Department of Commerce in the name and behalf of each of the above-named insurers all rating plan filings and modifications filed by MWCIA with the Department of Commerce and approved by the Department for use in Minnesota.
- (b) This limited power of attorney does not apply to any filings made by one or more of the above insurers which further modify or elect not to use any of the filings made by the MWCIA and does and does not apply to rate schedules filed by the insurers. Such individual insurer filings are filed as an exception to the MWCIA filed plans and those filings, together with individual insurer rates upon approval by the Department of Commerce or as provided by statute, will supersede any applicable MWCIA filings.
- (c) This limited power of attorney is filed to effect partial compliance with Minnesota Stat. §79.56, subd. 1 (each insurer shall file with the commissioner a complete copy of its rates and rating plan, and all changes and amendments thereto) and for no other purpose. The authority granted by this document is specifically and explicitly limited to that purpose and may be withdrawn at any time by the above-named insurers upon written notice to the Department of Commerce and the MWCIA.

(d) The above-named insurers specifically acknowledge that each filing must be in conformance with the filing procedures of the Minnesota Department of Commerce and must be accompanied by a filing fee where appropriate. Each insurer acknowledges that it has the individual liability to assure that each and every filing complies with its obligations under applicable Minnesota law. This document does not shift these obligations to the MWCIA. Neither the above-named insurers nor the Department should look to the MWCIA as a guarantor that these obligations are met. Under this limited power of attorney, the MWCIA serves solely as the empowered filing agent for the above-named insurers.

Signature

Print Name

Title

STATE OF _____)

COUNTY OF _____)

Subscribed and sworn to before me this
_____ day of _____, 20____.

Notary Public

MINNESOTA DISPUTE RESOLUTION ENDORSEMENT

This endorsement modifies insurance under the following:

Workers' Compensation and Employers Liability Insurance Policy

Name of Insured: _____ Policy Number: _____

Endorsement Effective Date: _____ Endorsement Number: _____

This endorsement is issued by the company named on the Information Page. It forms a part of the policy as of its effective date, at the hour stated on the Information Page.

We agree all Workers' Compensation claims with employees who are subject to collective bargaining agreements with the Insured will be resolved in accordance with the rules and regulations of said agreements as authorized under Minn. Stat., §176.1812 provided that such agreement(s) have been approved by the Commissioner of Labor and Industry. The Named Insured will provide us with copies of all such agreements and the Commissioner's approval of each agreement.

LARGE RISK RATING FILING

[Pursuant to Minnesota Statutes §79.56, subd. 1(b)]

Name and address of insurer:

Name and address of insured employer:

Policy Period: _____

I certify that the employer named above generates \$250,000 or more in annual countrywide written workers' compensation premium, and that the calculation of this threshold is based on the rates and rating plans that have been approved by the appropriate state regulatory authority. The filing of this certification authorizes the use of this rate and/or rating plan only for the named employer.

Name of responsible officer: _____

Title: _____

Signature: _____