

Bulletin 242

Use of self insurance for experience rating by insurers

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Recently, a question has arisen regarding the utilization of a self-insured's experience and experience modification factor when going from self-insurance to the commercial insurance market for workers' compensation insurance. This Bulletin is intended to clarify the Bureau's position on the utilization of the self-insured's experience.

Title 24-A Section 2382-B and Rule Chapter 250 Section III, B2c require that insurers and self-insurers adhere to a uniform experience rating system that, in Maine, is currently the National Council on Compensation Insurance (NCCI) Experience Rating Plan (Plan).

As long as adequate information is available, the latest experience modification factor, including when self-insured, shall be used by the insurance company (insurer) issuing the policy. The experience developed while self-insured shall be used in promulgating the experience modification factors by the rating organization. The self-insured shall make the data available to the prospective insurer, which shall submit the data, as required by the Plan, to the rating organization on the prescribed forms.

Although the Plan does allow a carrier the option to not use the self-insured's experience, this is permitted only when there are substantial and unresolved questions or concerns with the accuracy or the reliability of the data. When there are questions related to the accuracy or reliability of the data, the self-insured shall make the supporting information available to the carrier and the advisory organization, and the carrier shall make a concerted effort to resolve the problems. However, if after a good faith effort has been made to resolve the problems, or the information is not submitted in a timely manner to the appropriate rating organization through no fault of the self-insured, the insurer may utilize a unity mod of 1.00.

When the problem is the result of the self-insured's failure to cooperate or provide timely information and assistance, Rule Chapter 450 Section 2 D shall apply.

There is an ongoing responsibility on employers to report updated information to their current insurer, as required by the advisory organization's statistical plan (NCCI's Unit Statistical Plan), for the self-insured years at the intervals prescribed by the statistical plan throughout the entire period this information is relevant to the experience modification calculations.

Questions regarding this Bulletin should be directed to the Supervisor of the Bureau's Workers' Compensation Section.

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