



STATE OF NEW YORK  
INSURANCE DEPARTMENT  
25 BEAVER STREET  
NEW YORK, NEW YORK 10004

Andrew M. Cuomo  
Governor

James J. Wrynn  
Superintendent

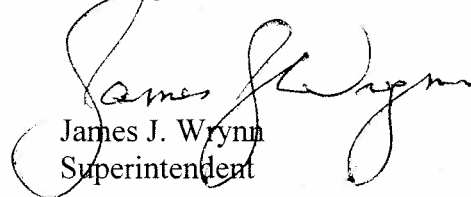
July 15, 2011

Mr. Monte Almer  
President  
New York Compensation Insurance  
Rating Board  
733 3rd Avenue  
New York, NY 10017

Dear Mr. Almer:

Enclosed please find the Opinion and Decision, dated July 15, 2011, approving NYCIRB's lost cost filing, as amended, for a 9.1% increase in lost costs with an effective date of October 1, 2011.

Best regards,

  
James J. Wrynn  
Superintendent

Encl.

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In the Matter of  
Workers' Compensation Insurance Loss Cost  
Application of the New York  
Compensation Insurance Rating Board

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**OPINION AND DECISION**

On May 13, 2011, a rate filing application for a proposed 10.7% increase in manual loss costs was submitted to the Insurance Department (Department) by the New York Compensation Insurance Rating Board (NYCIRB). This change, along with no change in the provision for catastrophes, produces an overall loss cost increase of 10.4%. A public hearing concerning the loss cost filing was held on June 23, 2011 at the New York State Insurance Department in New York City. On July 14, 2011, NYCIRB filed an amendment to the filing which reduced the overall loss cost increase from 10.4% to 9.1%. The Superintendent reviewed NYCIRB's application, as amended, and hereby approves the amended filing with an effective date of October 1, 2011.

**DISCUSSION**

The NYCIRB serves as the private rate service organization for Workers' Compensation in New York State and is licensed pursuant to Section 2313 of the Insurance Law. By statute, all Workers' Compensation insurers must report statistics to a licensed statistical agent. In turn, NYCIRB compiles and evaluates the data and proposes loss cost changes, which must have the Department's prior approval before implementation. Pursuant to Section 2305 of the Insurance Law, a public hearing must be held if the loss cost request is for an increase of 7% or more. In view of the fact that the NYCIRB filed for a loss cost increase of greater than 7%, a public hearing was held on June 23, 2011 in New York City.

The table below summarizes the rate / loss cost changes from 2000 to the present.

<u>Year</u>	<u>Rate / Loss Cost Level Change</u>
2000	-2.5%
2001	0.0%
2002	0.0%
2003	1.7%
2004	0.0%
2005	5.0%
2006	0.0%
2007	-18.4%
2008	-6.4%
2009	4.5%
2010	7.7%

The overall effect of the foregoing rate changes have resulted in an overall average rate / loss cost decrease of 10% as compared to the rates in effect prior to October 1, 2000.

#### A. Experience

In this revision, the NYCIRB has submitted case basis loss experience for Policy Years 2008 and 2009. (Case basis losses consist of paid losses plus reserves on specific claims and do not include bulk or Incurred But Not Reported loss reserves.) The submission shows a loss cost indication for Policy Year 2008 of +4.9% and a loss cost indication for Policy Year 2009 of +4.2%. Both indications rely on the use of premium and loss development factors and on-level factors to project data to ultimate values and adjust data to the current loss cost level, respectively. Such factors must be evaluated each year to assure that they are reasonable projections of past development patterns, and appropriate to apply to the current data.

This task was complicated by the gradual inclusion over time of reserves based on the post-reform environment. According to survey conducted by NYCIRB in early 2011, many carriers still are not fully reflecting the 2007 reform legislation. For this filing, NYCIRB made the following assumptions: (1) all reserves reflect post-reform maximum

weekly benefits; (2) all reserves valued as of December 31, 2010 do not reflect the elimination of the Special Disability Fund; and (3) 25% of Permanent Partial Disability (PPD) losses reflect the elimination of lifetime benefits and the application of duration caps, and 75% do not. For the portion of PPD losses estimated to reflect duration caps, the indemnity loss development pattern was accelerated to reflect the lower anticipated development for these claims. The claims still reserved at pre-reform levels were adjusted downward to fully reflect the duration caps. Finally, the medical on-level factors were decreased by 5% for policy years 2008 and 2009 to reflect the shift from voluntary to mandatory implementation of medical treatment guidelines relative to four body parts (neck, shoulder, lower back, and knee) by the Workers' Compensation Board on December 1, 2010.

#### B. Loss and Wage Trend Factor

The trend factor is based on an analysis of exponential regression lines of claim costs and frequencies. Wage data are analyzed separately, and the severity trends are shown separately for indemnity and medical claims. The indemnity and medical claim frequencies are identical, as only lost time claims are considered in the claim frequency analysis. The indemnity and medical indications are combined using a weighted average based on Policy Year 2009 ultimate on-level losses valued as of December 31, 2010.

Loss trend data comes from policy year financial data valued as of December 31, 2010 submitted to NYCIRB. Data from private carriers (excluding large deductible experience) and the State Insurance Fund (SIF) are separately adjusted to ultimate, and brought to current levels. Trends derived from this review of private carrier and SIF data are then weighted by Policy Year 2009 ultimate claim counts (for severity trends) and Policy

Year 2009 on-level premium (for frequency trend) for the trend analysis. The eight years of trend data in the current filing are 2002-2009. There is no available data for 2010.

Trend lines are calculated using exponential regression based on five and eight years of data. Historically, the trend indication has generally been based on five year exponential trend lines. The selected claim frequency and medical severity trend lines were based on the five year exponential trends, while the indemnity severity trend was based on an eight year exponential trend.

The wage factor is designed to account for rising payrolls, which exceed the corresponding increase in exposure to loss. The wage factor is based on published annual Department of Labor statistics for the historical experience period, as well as projections made in the New York State Assembly's 2011 Economic Report to trend from the historical to the prospective experience periods.

The filed indemnity claim cost trend is similar to the indication from last year's filing, while the medical claim cost trend has moderated somewhat when compared with last year's indication. The frequency numbers continue to decline, although at a lesser rate than the 2010 indication.

### C. Loss Adjustment Expense

The loss adjustment expense (LAE) provision was based on developing an ultimate ratio of paid Defense and Cost Containment Expense (DCCE) to paid losses, and a review of historical calendar year ratios of paid Adjusting and Other Expense (AOE) to paid losses. Private carrier financial data excluding large deductible experience on both policy year and accident year bases were used to determine the DCCE provision, while the AOE provision was based on a review of Insurance Expense Exhibit data. The selected DCCE provision of 0.100 was based on an average of the latest three years of policy year and accident year

ratios of ultimate DCCE to ultimate paid losses. An average of three, five, and fifteen years of ratios of calendar year paid AOE to losses all indicate an AOE provision of 0.080.

The change in the LAE factor from 1.189 to 1.180 results in a decrease of 0.8% to the loss cost level.

#### D. Legislative and Regulatory Changes

A number of legislative changes have been considered in this filing. As a result of New York Legislative Bill A.6163/S.3322, the maximum weekly benefit for injured workers is set to two-thirds of the statewide average weekly wage (SAWW) effective July 1, 2010, with additional annual revisions effective July 1 of each subsequent year tied to the change in the SAWW. The maximum weekly benefit increased from \$739.83 to \$772.96 effective July 1, 2011. NYCIRB estimates the loss cost impact of these actual and anticipated indemnity benefit changes from October 1, 2010 to average +1.4% over the prospective experience period.

Items affecting medical losses have also been reflected in this filing. The hospital inpatient fee schedule was revised effective December 2009 from a Diagnostic Related Group (DRG) to a new system based on All Patients Refined Diagnostic Related Groups (APR-DRG). The overall loss cost impact of the Hospital Inpatient Fee Schedule was stated as +0.5% in the filing. Evaluation and Management physician service fees were raised 30% by the Workers' Compensation Board on December 1, 2010. The estimated loss cost impact, which includes changes to the Chiropractor Fee Schedule, is +1.4%.

The combined effect of these legislative changes is a loss cost increase of 3.3%.

### E. Large Deductibles

In response to legislation effective July 1, 1990 the Department approved Large Deductible Programs for Workers' Compensation insurers in the State. Business written on a large deductible basis has grown significantly. When these programs were first introduced, it was believed by the industry that this business might be significantly better (in terms of underwriting results) than the business not written on this basis, and therefore should not be included with the rest of the ratemaking data. This could result from better claim control methods or the likelihood of superior risks choosing such a program. Data from recent years seem to show the reverse, that the experience indications from large deductible experience are now markedly worse than those from other business. It has always been the Department's position that large deductibles represented a portion of a continuum of risk characteristics. With this view the Department believes that large deductible experience should be included in the annual loss cost revision filing. This year, NYCIRB's filing contains large deductible data.

### F. Catastrophes

In December 2007, the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) extended the federal backstop for terrorism exposure through December 31, 2014. In response to the increased carrier retentions required by the Act (20% of earned premium compared to 15% of earned premium through December 31, 2005), the loss cost provision for terrorism was increased to \$0.038 per \$100 of payroll as part of the October 1, 2008 loss cost filing. The current loss cost provision for natural disasters and catastrophic industrial accidents is \$0.008 per \$100 of payroll. For these hazards, payroll is a better

reflection of risk than premium, as the exposure to these hazards appears to be independent of the inherent risk of a given employment.

NYCIRB did not file for any changes in these factors in the 2011 filing.

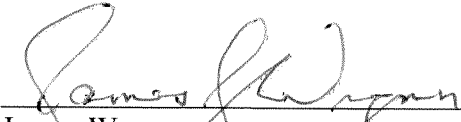
G. Assessments

A revision of the New York State Assessment was not included in this filing, as the information necessary to calculate this policy charge was not available from the Workers' Compensation Board. However, a revision to the New York State Assessment Charge will occur effective October 1, 2011.

**DECISION**

Based on the review of the loss cost filing as amended on July 14, 2011, and pursuant to the public hearing held on June 23, 2011, the Superintendent approves NYCIRB's request for an increase of 9.1% with an effective date of October 1, 2011.

DATED: July 15, 2011  
New York, New York

  
James Wrynn  
Superintendent of Insurance