



California Workers' Compensation Institute

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January 23, 2019

VIA E-MAIL – OSIPRulemaking@dir.ca.gov

Lyn Asio Booz, Chief
Department of Industrial Relations
Office of Self-Insurance Plans
11050 Olson Drive, Suite 230
Rancho Cordova, CA 95670

Re: Proposed Amendments to OSIP Regulations

Dear Ms. Asio Booz:

On behalf of its members, California Workers' Compensation Institute (Institute) offers these comments on the proposed modifications to the Office of Self-Insurance Plans regulations. The Institute members include insurers writing 81% of California's workers' compensation premium, and self-insured employers with \$69.8B of annual payroll (31.5% of the state's total annual self-insured payroll).

Insurer members of the Institute include AIG, Alaska National Insurance Company, Allianz Global Corporate and Specialty, AmTrust North America, Berkshire Hathaway, CHUBB, CNA, CompWest Insurance Company, Crum & Forster, EMPLOYERS, Everest National Insurance Company, The Hartford, ICW Group, Liberty Mutual Insurance, Pacific Compensation Insurance Company, Preferred Employers Insurance, Republic Indemnity Company of America, Sentry Insurance, State Compensation Insurance Fund, Travelers, XL America, Zenith Insurance Company, and Zurich North America.

Self-insured employer members include Adventist Health, Albertsons/Safeway, BETA Healthcare Group, California Joint Powers Insurance Authority, California State University Risk Management Authority, Chevron Corporation, City and County of San Francisco, City of Los Angeles, City of Pasadena, City of Torrance, Contra Costa County Risk Management, Contra Costa County Schools Insurance Group, Costco Wholesale, County of Alameda, County of Los Angeles, County of San Bernardino Risk Management, County of Santa Clara Risk Management, Dignity Health, Foster Farms, Grimmway Farms, Kaiser Permanente, Marriott International, Inc., North Bay Schools Insurance Authority, Pacific Gas & Electric Company, Schools Insurance Authority, Sempra Energy, Shasta County Risk Management, Shasta-Trinity Schools Insurance Group, Southern California Edison, Special District Risk Management Authority, Sutter Health, University of California, and The Walt Disney Company.

Recommendations:

The Institute understands and appreciates that the Office of Self-Insurance Plans (OSIP) is mandated by SB 863 to interpret and implement amended Labor Code section 3702.2(a), requiring public self-insurers to “provide detailed information as the director determines necessary....” The Institute encourages the Office of Self-Insurance Plans to carefully balance regulatory amendments for obtaining necessary information while ensuring that these new requirements impose the least administrative and financial burden to public self-insureds.

Use Existing Financial Reporting Processes for Determining Solvency¹

The Institute recommends that OSIP make use of existing financial reporting processes where possible instead of creating new reporting processes.

In addition to the Form AR-2, municipalities are already required to file a Comprehensive Annual Financial Report (CAFR) in accordance with the [Governmental Accounting Standards Board \(GASB\)](#). Government Code 53890, *et seq.*, requires every city, county, district, and community redevelopment agency to furnish a “complete and accurate financial report” to the State Controller in compliance with Section 12463.1 or 12463.2. This detailed financial data is publicly available at: <https://bythenumbers.sco.ca.gov>.

An additional source to consider is utilizing an independent accreditation process such as that offered by the California Association of Joint Powers Authorities (CAJPA).² On page 17 of their 2014 report, Bickmore summarizes CAJPA, characterizing the CAJPA Accreditation Program as maintaining “a continually evolving set of very extensive professional standards for risk management pools (refer to Appendix C).”³

Additionally, the OSIP should consider whether there is overlap between requirements for Workers’ Compensation Information System (WCIS) reporting and the reporting requirements mandated by these amended regulations.

Form P-1 Part B:

Employer Demographics:

2. a. (2): “Top 5 Zip Codes in which largest number of employees work”: There may be an easier way to determine the intended information from this question (*e.g.*: Are your claim demographics primarily Southern California or Northern California?).

3. Workers’ Compensation Claims Administrative Staffing Type:

A third category of staffing type is needed for those public self-insurers with a combination of self-insured administration and third-party administration.

¹ Section 15203.11 (“Continuing Financial Capacity for Self-Insurers”) and Section 15251(c)(4) (“Self-Insurer’s Annual Report”)

² <http://www.cajpa.org/accreditation>

³ [Examination of the California Public Sector Self-Insured Workers’ Compensation Program](#) (Bickmore, 10/22/14)

4. d. Number of Volunteers:

Standing alone, this information seems unlikely to be useful. Some self-insured's volunteers may be covered for workers' compensation, while others may not. If the intent of the question is to determine the number of volunteers entitled to the self-insured's workers compensation coverage, consider an alternative question that best reaches the intended information (*e.g.*: (d)(1): Estimated number of volunteers, and (d)(2): Estimated percentage of volunteers covered under your self-insured's workers' compensation coverage).

Form J-1 Part B:

2. a. (2) Employer Demographics: See comments above *in re*: Form P-1

3. Workers' Compensation Claims Administrative Staffing Type: See comment above *in re*: Form P-1

5. d. Number of Volunteers: See comments above *in re*: Form P-1

New section 15203.11(a) & (b): The proposed language of these sections requires completion of the applicable form (Form P-1 or J-1) even when the Certificate of Consent to Self-Insure is revoked. Why is continuing financial capacity information required or necessary, when the Certificate of Consent has already been revoked? Indeed, the entity may no longer be in operation.

Section 15251(c)(4): The proposed language of this section requires that the Aggregate Claims Information include "number of claims and vouchers, as specified on Form AR-2..." A review of an AR-2 from last fiscal year, 2017-2018, shows no reference to "vouchers." Is the term "vouchers" here meant to refer to SJDB Vouchers?

In public self-insurance, the term "voucher" is typically used to refer to the amount assigned to a department / self-insured employer when their injured worker is being paid salary continuation in lieu of workers' compensation temporary disability, either pursuant to a negotiated labor contract or in accordance with Labor Code 4850. But since "voucher" also commonly refers to the Supplemental Job Displacement Benefit under Labor Code sections 4658.5 and 4658.7, clarification is needed.

Summary

In summary, the Institute recognizes the need for financial solvency as well as transparency *vis-a-vis* public self-insured workers' compensation programs. The Institute suggests OSIP make use of existing reporting processes to avoid creating unnecessary administrative burden and cost for public self-insurers, thereby benefiting California taxpayers.

Thank you for the opportunity to comment.

Sincerely,

Denise Niber
Claims and Medical Director

DN/pm

cc: Executive Director, Department of Industrial Relations
CWCI Claims Committee
CWCI Medical Care Committee
CWCI Legal Committee
CWCI Regular Members
CWCI Associate Members