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October 9, 2013

DCRB CIRCULAR NO. 891

To All Members of the DCRB:

Re: **BACKGROUND, CLARIFICATION AND NEXT STEPS CONCERNING DCRB FILING NO. 1304**

The rising cost of workers' compensation insurance in Delaware and the role of the Delaware Compensation Rating Bureau, Inc. (DCRB) in establishing rates for workers' compensation insurance have been the subject of recent press articles and op-eds. As the organization assigned to evaluate the past costs and to project the future costs of insuring Delaware's employers against workers' compensation claims, we want to clarify our role and some of the considerations that have been raised in those recent publications.

Delaware law, like that of most states, regulates the rates charged for workers' compensation insurance. Under Delaware law, rates are not to be "excessive, inadequate, or unfairly discriminatory."

- Rates are required not to be excessive so that in the aggregate policyholders receive fair value for their premiums.

- Rates are required not to be unfairly discriminatory so that the cost of securing insurance is allocated to industries and employers in proportion to their respective exposures and potential for loss.

- Rates are required not to be inadequate so that, when claims are made, the insurance companies have adequate revenue and available funds to pay those claims.

In order to estimate the long-term costs that will be paid by the workers' compensation insurance companies under policies to be written in Delaware in any upcoming year, it is necessary to know what costs have been paid and incurred in past years and how those costs are changing from year-to-year. To ensure that this information is available, Delaware law requires that all insurance companies writing workers' compensation insurance in Delaware be members of and report their losses to a "rating bureau" licensed and appointed by the Delaware Department of Insurance to collect and analyze this information. The DCRB is the only workers compensation rating bureau licensed in Delaware.

By law, the DCRB is heavily regulated by the Delaware Department of Insurance. Among other things, the Department of Insurance conducts periodic examinations of the DCRB, during which every aspect of the DCRB's operations is subject to detailed scrutiny.

Once a year, as required by law, the DCRB makes a "filing" with the Department of Insurance. These filings are supported by hundreds of pages of data and calculations. The calculations are ones that, by law, must be in keeping with professional actuarial standards. A central purpose of these annual filings is to identify the total losses that the insurance companies (as a group) can expect to incur under all policies to be written during the upcoming year. With the benefit of the DCRB's estimates of such future losses, individual insurance companies are required to make their own individual and competitive rate filings. Individual insurance company filings present rates that, subject to review and approval by the Department of Insurance, can be charged by those companies in a fair and open marketplace. Depending on such things as the operating costs and profit goals of the individual companies, the rates that are filed with the Department of Insurance and charged to policyholders differ significantly from insurance company-to-insurance company.

Every year, the Department of Insurance, the Delaware Department of Labor, and other interested parties, most recently including the Ratepayer Advocate, are invited to attend a discussion meeting held by the DCRB in advance of making that year's filing. During this meeting, the DCRB's draft filing is presented, and questions and comments about it are welcome and addressed.

Last year (2012) the DCRB assembled all of the data that had been submitted to it by all of the insurance companies writing workers' compensation insurance in Delaware. The DCRB then applied standard actuarial methods to project losses to be incurred under the next year's insurance policies. The DCRB determined that, if the insurance companies (as a group) were to have enough money to pay all of the costs (near-term and long-term) expected to be incurred under the following year's policies, then the loss component of rates ("loss costs") would need to increase by 38 percent.

In August 2012, the DCRB made a filing that presented the 38 percent loss cost increase indication. The Department of Insurance hired two different actuaries to review that filing. Those actuaries accepted and used the data that the DCRB had collected from the insurance companies but applied some actuarial methods that had not been used in prior years' DCRB filings. By using those methods, the actuaries hired by the Department of Insurance calculated that loss costs would need to increase on the order of 18-to-24 percent, rather than 38 percent, in order for insurance companies to earn sufficient premium to pay forecasted costs. Ultimately, however, an increase of slightly less than 15 percent in loss costs was approved by the Department of Insurance.

After making the 2012 filing, the DCRB collected another year's worth of data. In September 2013, again using the standard actuarial processes that it had used when preparing prior years' filings, the DCRB determined that loss costs needed to increase on the order of 43 percent from current levels in order for premium income to cover the costs anticipated under the policies to be written over the coming 12 months (starting December 1, 2013).

However, in anticipation that the Governor, Lieutenant Governor, Legislature, Department of Insurance and other leaders and stakeholders – all of whom share an understandable concern about the increasing costs of insuring Delaware employers – might rapidly identify and implement meaningful, cost-saving reforms of the workers' compensation system in Delaware, the DCRB made a filing on September 25, 2013 that did two things:

- **First**, it identified and explained the need (<u>in the absence of further reforms</u>) for a 43 percent increase in current loss costs.

- **Second**, it proposed an interim increase of 17 percent in loss costs based on an anticipation of the near-term implementation of meaningful reforms.

Since receiving the September 25, 2013 filing, the Department of Insurance has asked the DCRB to withdraw it and to replace it with a filing presenting the full 43 percent loss cost indication but not including the DCRB's proposal of a lower 17 percent increase. We understand that the requested withdrawal and replacement are intended to facilitate the Department's review of the 43 percent loss cost indication.

The DCRB will comply with this request, but it has also communicated to the Department of Insurance that it remains committed to participating in and contributing to a productive review of the workers' compensation system in Delaware and to working with the Department of Insurance to identify appropriate loss costs for the upcoming year.

To summarize, there should be no uncertainty about the following:

1. The costs of insuring Delaware employers against workers' compensation claims have been increasing over the course of the past several years.

2. Neither the filing made on September 25, 2013 nor the replacement filing that the DCRB will make include any component of "recoupment" of the rate increase requested but not granted in 2012. (The September 25, 2013 filing is available at www.dcrb.com for review by anyone who wishes to see it, and the replacement filing will be posted there shortly after that filing is made.)

3. Over the many decades during which it has been dutifully serving as Delaware's rating bureau, the DCRB has done its work objectively. When the data and the standard actuarial methods have indicated that loss costs should go down, the DCRB has said so. (As examples, the DCRB filed for a reduction of 12 percent in 1998, a reduction of seven percent in 2000, and a reduction of ten percent in 2008.) When loss costs need to increase in order to generate sufficient premium to cover anticipated claims, the DCRB must also say so.

4. The data indicated that an increase of 43 percent in loss costs is required unless workers' compensation system costs are reduced. The DCRB's proposal to reduce the 43 percent indication for the coming year's policies to 17 percent was made solely with the best of intentions – to assist the government and the employer community by building a bridge to a lower cost environment and to lower insurance premiums as a result.

Although the Department of Insurance has asked that the 17 percent proposal be withdrawn from consideration at this time, the DCRB's agreement to do so should not be viewed as a change of position or intention on the part of the DCRB. The DCRB remains committed to doing its job – collecting data, responsibly analyzing it, and submitting objective filings with the Department of Insurance. It also remains committed to helping those who want to reduce system costs, and, to that end, it will continue to share its information and knowledge and to work side-by-side with other leaders and stakeholders to find solutions.

Timothy L. Wisecarver
President

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