

WSR 23-08-065
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed April 4, 2023, 8:30 a.m.]

Title of Rule and Other Identifying Information: Chapter 296-17B WAC, Retrospective rating for workers' compensation insurance, specifically WAC 296-17B-540 Determining loss incurred for each claim.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Correcting a typographical error in the retro fatality calculation from \$33,500 to \$35,000 for the medical aid incurred loss.

Reasons Supporting Proposal: The fatality calculation will not be accurate unless this rule making is performed to correct the typographical error.

Statutory Authority for Adoption: RCW 51.18.010 (retrospective rating) and 51.04.020(1) (general authority).

Statute Being Implemented: RCW 51.18.010 (retrospective rating) and 51.04.020(1) (general authority).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Jo Anne Attwood, Tumwater, Washington, 360-902-4777; Implementation: Brenda Heilman, Tumwater, Washington, 360-902-6369; and Enforcement: Mike Ratko, Tumwater, Washington, 360-902-4997.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Correction of a typographical error to ensure the retro fatality formula calculates accurately.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jo Anne Attwood, Department of Labor and Industries, Insurance Services, Employer Services, P.O. Box 44148, Olympia, WA 98504-4148, phone 360-902-4777, fax 360-902-4988, email JoAnne.Attwood@Lni.wa.gov, AND RECEIVED BY June 5, 2023, at 5 p.m.

April 4, 2023
Joel Sacks
Director

OTS-4437.1

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

WAC 296-17B-540 Determining loss incurred for each claim. (1)

Calculating the initial loss incurred:

For each of your claims, we will multiply the case incurred loss by the appropriate discounted loss development factors to determine the initial loss incurred.

If you have a fatality, we will use \$521,600 as the claim's initial incurred loss for the claim, with \$486,600 for accident fund incurred loss and (~~(\$33,500)~~) \$35,000 for the medical aid incurred loss, regardless of the case incurred loss, and before recovery factors if applicable.

(2) Applying the single loss occurrence limit:

The initial loss incurred for a claim will be the amount we use as the loss incurred unless the single loss occurrence limit applies.

The single loss occurrence limit applies when the sum of all initial losses incurred for your claims arising out of a single event is greater than your selected single loss occurrence limit. In that case, each claim's initial loss incurred will be its proportionate share of your single loss occurrence limit.

(3) Applying the expected loss ratio factors:

The preliminary loss incurred for a claim will be the amount of the initial loss incurred, after application of the single loss limit, multiplied by the appropriate expected loss ratio factor. The accident fund and medical aid fund portions of each claim will have separate expected loss ratio factors applied.

[Statutory Authority: RCW 51.16.035, 51.32.073, 51.18.010, and 51.04.020(1). WSR 22-24-019, § 296-17B-540, filed 11/30/22, effective 1/1/23; WSR 21-24-066, § 296-17B-540, filed 11/30/21, effective 1/1/22; WSR 20-24-094, § 296-17B-540, filed 11/30/20, effective 1/1/21; WSR 19-24-029, § 296-17B-540, filed 11/25/19, effective 1/1/20; WSR 18-24-073, § 296-17B-540, filed 11/30/18, effective 1/1/19; WSR 17-24-041, § 296-17B-540, filed 11/30/17, effective 1/1/18; WSR 16-24-014, § 296-17B-540, filed 11/29/16, effective 1/1/17; WSR 15-24-103, § 296-17B-540, filed 12/1/15, effective 1/1/16; WSR 14-24-084, § 296-17B-540, filed 12/1/14, effective 1/1/15; WSR 13-24-073, § 296-17B-540, filed 11/30/13, effective 1/1/14. Statutory Authority: RCW 51.16.035, 51.32.073, 51.08.010, and 51.04.020(1). WSR 12-24-048, § 296-17B-540, filed 11/30/12, effective 1/1/13; WSR 11-24-026, § 296-17B-540, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 51.16.035, 51.16.100, 51.04.020(1), and 51.18.010. WSR 10-21-086, § 296-17B-540, filed 10/19/10, effective 11/19/10.]