

WSR 23-07-045
OFFICE OF THE
INSURANCE COMMISSIONER
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Technical Assistance Advisory 2023-03¹

TO: All Disability Insurers Operating in the State of Washington
FROM: Insurance Commissioner, Mike Kreidler
DATE: March 8, 2023
SUBJECT: Single Case Filings for Experience Rated Groups

BACKGROUND AND AUTHORITY: Disability insurers in the state of Washington are required to file with the office of the insurance commissioner the rates charged for disability income prior to use.²

If appropriate, each rate filing must include rates, manuals of classification, manuals of rules and rates and modifications thereof.³ WAC 284-58-033 (2)(a). Importantly, the term "rate" or "rates" are defined by rule to mean "all classification manuals, rate or rule manuals, rating plans, rating schedules, minimum rates, class rates, and rating rules that insurers must file under RCW 48.19.010(2) ..."⁴ Group disability income products are exempt from the minimum loss ratio requirements of Ch. 284-60 WAC.

Under RCW 48.18.110(2), the commissioner may disapprove any form of disability insurance policy if the benefits provided therein are unreasonable in relation to the premium charged. To prove that rates are reasonable, justification and actuarial demonstration of anticipated loss ratio are also required. WAC 284-58-033 (2)(c).

For group disability insurance, carriers can file a rate manual filing that encompasses rates for many groups. The rate manual includes standard rating methodology. A group's rate covered under this rate manual filing is developed through the standard rating methodology without using the group's partial or entire disability claim experience. The rate manual must account for all rules and formulas the company uses to calculate the premium charged. In other words, if a group's rate was developed from the rate manual, when given the demographics of this group, the OIC would be able to replicate the group's rate from the rate manual. A group's rate that cannot be duplicated exactly using the rate manual is not filed through a rate manual filing.

By nature, "experience-rating" is the development of premium rates for a single (employer) group based on that particular group's experience. As such, an insurer filing rates for experience rated groups cannot legally file one rate which applies to all experience-rated groups, as each group's rate depends on the unique group experience and the rate must be justified accordingly.

These experience rating groups, when used by an insurer to rate coverage, require particular documentation and justification of the experience rating.⁵ The OIC calls this a single case filing, or employer group filing. A company offering an experience-rated product must therefore submit a single case rate filing which is unique to that group, as they are relying on that group's unique experience to develop the rates. For rate filing instructions of a single case employer group rate filing, see Washington State SERFF Life, Health and Disability Rate Filing General Instructions (version dated 5/5/2022), Section VI (c)(ix)(3.2): For single employers. To be transparent and to ensure the single case filing requirements were broadly known, OIC,

beginning in 2019, included its expectations in its new disability filing Speed to Market tools, as well as in updates to the general filing instructions for disability insurers in 2020.

The OIC has become aware, through litigation and through review of specific filings, that not all insurers are complying with requirements pertaining to experience rating groups.

This publication is intended to remind disability insurers in Washington of these requirements, in order that any covered filings be supplemented and updated. The OIC intends for this guidance to promote fairness in the insurance marketplace as well as to improve regulatory compliance.

EXPECTATION: Each disability insurer in the state of Washington that rates any disability product on the basis of the experience of a specific group must file a single case rate filing for each such experience rating group.

Single case filing requirements apply to insurers even if their rate manual was approved and permitted experience rating in setting rates. A rate manual by itself is not sufficient to justify experience rating of a particular group. A separate single case filing is required for each experience rating group. Insurers that use experience rating must verify whether their approved filings meet the single case filing requirement and make any additional filings necessary to reach compliance.

A single case filing does not need to repeat the justification of rating factors that already provided in the approved rate manual. Instead, it should be focused on the justifications for the experience rating and incorporate the rate manual and other aspects of the filing by reference only. The OIC expects a single case rate filing to be not more than a few pages and include an actuarial certification. Adhering to this guidance will also expedite OIC review of such filings.⁶ In order to comply with this TAA 2023-03 and the filing requirements for experience rated group disability income products stated herein, regardless of whether there is any approved rate manual that might imply or include certain rating discretion, all disability insurers offering such coverage must review the current rate filings and notify the OIC of their compliance status by July 1, 2023.

In the event that a disability insurer must update filings to ensure compliance with these guidelines, the disability insurer must include in the notification to the OIC the estimated timeline by which the revised filings will be submitted for review. The estimated timeline must be no later than January 1, 2024. Insurers must email such compliance notification to Rates, Forms, and Provider Networks (RFPN) Help Desk: rfhelpdesk@oic.wa.gov with a subject line: [Insurer's Name] Notification of Compliance of Disability Income Insurance Single Case Employer Group Experience Rating Requirement. An insurer's failure to provide such notification to the OIC regarding the update of a non-compliant filing may result in enforcement action for failure to respond to an inquiry from the OIC.

Please direct the above referenced notification and any questions about this advisory to Lichiou Lee, Chief Actuary, at Lichiou.Lee@oic.wa.gov or 360-725-7128.

1 This advisory is an interpretive policy statement released to advise the public of the OIC's current opinions, approaches, and likely courses of action. It is advisory only. RCW 34.05.230(1).

2 RCW 48.19.010(2).

3 WAC 284-58-033 (2)(a).

4 WAC 284-58-005(11).

5 RCW 48.19.010(2); WAC 284-58-033 (2)(a); WAC 284-58-005(11).

6 This advisory does not modify existing filing requirements or instructions for rates or forms, which must be followed as applicable.