

## **BULLETIN 98-4**

TO: Company Workers' Compensation Underwriting Managers

FROM: Therese M. Vaughan, Commissioner of Insurance

RE: Workers' Compensation Dividend Plans

DATE: October 21, 1998

The Division has been informed that some companies are using unapproved rating plans, often labeled as dividend plans, in workers' compensation insurance.

As stated in Bulletin 96-11, dividends are a return of profit to consumers and are not guaranteed. Dividend plans need not be filed with the Insurance Division, nor are they subject to prior approval. However, review of dividend plans is within Division jurisdiction and violations are actionable. The following provisions must be observed:

- Dividends are payable only on approval of the Board of Directors.
- Dividends shall only be paid out of earnings during the year or an accumulation of earnings from prior years. This amount shall be calculated based on the policies issued under the dividend plan. Dividends may be flat or experience based.
- Dividends shall not be contingent upon the renewal of the policy.
- No dividend may be declared or paid if after payment of the dividend the capital and surplus would be less than the minimum capital and surplus required to transact business in this state.

A company may offer both participating and non-participating policies for workers' compensation. Compliance with Iowa's Unfair Trade Practices laws, specifically §507.B.4(7)(b), must be maintained.

Dividends may be offered in conjunction with deviated and/or schedule rated workers' compensation rates.

Marketing of dividend plans must be in compliance with Iowa's Unfair Trade Practices laws. No implication that a dividend will necessarily be paid may be made to policyholders or potential policyholders. Review of marketing practices is within Division jurisdiction and violations are actionable.

Workers' compensation rating plans are subject to Division prior approval. For companies using the approved National Council of Compensation Insurance (NCCI)

manual, the filing is done on their behalf. All proposed deviations from the NCCI manual and separate rating procedures must be submitted for approval. The following are items that must be submitted for prior approval:

- Premium payment plans,
- Provisions for deferred payment of premium,
- Distribution of any funds before policy expiration,
- Advance payments or credits against premium,
- Use of any payroll or estimated payroll other than actual payroll or estimated actual payroll for rating purposes,
- Deviations and schedule rating plans,
- Every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing.

The use of unapproved rating plans is in violation of Iowa Code §515A.4(8), and is actionable. Information required to determine a company's compliance with the Iowa Code, including the records and payrolls of each employer insured by the company, shall be made available to the Division on request.

Any questions or comments regarding this bulletin should be directed to [Ramona C. Lee](#), Actuarial Administrator, Iowa Insurance Division, 330 Maple Street, Des Moines, IA 50319.

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*October 21, 1998.*