

CHAPTER 2705

DEPARTMENT OF COMMERCE

DATA SERVICE ORGANIZATIONS

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2705.0200 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Classification plan; classification.** "Classification plan" or "classification" means the same as it is defined in Minnesota Statutes, section 79.52, subdivision 4.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subp. 4. **Data service organization; organization.** "Data service organization" or "organization" means the same as it is defined in Minnesota Statutes, section 79.52, subdivision 3.

Subp. 5. **Insurer.** "Insurer" means the same as it is defined in Minnesota Statutes, section 79.52, subdivision 13.

Subp. 6. **Pure premium.** "Pure premium" means that portion of a premium, as defined in Minnesota Statutes, section 79.52, subdivision 7, designated for claim payments.

Subp. 7. **Pure premium base rate schedule.** A "pure premium base rate schedule" is a set of pure premium rates with no adjustments for trend and with only partial loss development reflecting some additional development but not developed to the ultimate expected loss level.

Subp. 8. **Pure premium rate.** "Pure premium rate" means that portion of a rate designated for claim payments.

Subp. 9. **Pure premium relativities.** "Pure premium relativities" means the mathematical relationship of pure premium rates for each reporting classification one to another, to a base class or classes, or to some common index or indices.

Subp. 10. **Rates.** "Rates" means the same as it is defined in Minnesota Statutes, section 79.52, subdivision 5.

Subp. 11. **Rating association.** "Rating association" means the Workers' Compensation Insurers Rating Association of Minnesota.

Subp. 12. **Rating plan.** "Rating plan" means the same as it is defined in Minnesota Statutes, section 79.52, subdivision 15.

Statutory Authority: *MS s 79.51; 79.55 to 79.61*

History: 8 SR 2273

LICENSING OF DATA SERVICE ORGANIZATIONS

2705.1000 APPLICATION INFORMATION.

A data service organization shall apply to the commissioner for a license. The rating association shall submit an application to be licensed as a data service organization by July 1, 1983. An application to be a data service organization shall include all information required by Minnesota Statutes, section 79.62. In addition, the application shall include:

A. the organization's plan of operation including:

- (1) a description of the applicant's operating premises and computer capabilities;
- (2) a description of the management and operation of the organization, including a description of major staff positions and necessary qualifications for the positions;
- (3) a list of members and their responsibilities; and
- (4) a procedure by which insureds and any other interested party may challenge the action of the data service organization; and

B. a plan for data collection and analysis, and other activities of the data service organization, including:

- (1) A statistical plan for the collection and reporting of exposure base and loss data of individual insureds from each member;
- (2) A system for the classification of risks to be used for reporting by member insurers, and for calculating pure premium relativities, and all other rate-related or data analytic activities it proposes to undertake;
- (3) Manual rules reasonably related to the recording and reporting of data pursuant to the statistical plan and the classification system;
- (4) Data reporting requirements for members and monitoring procedures. A data service organization may not collect or report expense or profit data from its members but may collect loss adjustment costs. Premium data may be reported to the extent needed to monitor the quality and integrity of the data bases. Following the approval of a pure premium base rate schedule, the data service organization may require premium data to be reported at that level, provided that reporting need not be required of companies writing a small volume of Minnesota workers' compensation premiums. The criteria for being excused from reporting will be determined by the data service organization;
- (5) a plan for the collection of any other data not prohibited in subitem (4) and a description of these data;
- (6) A plan for and description of the ratemaking report required by Minnesota Statutes, section 79.61;
- (7) Plans for disseminating information to members of the organization and to the commissioner;
- (8) Plans for audit procedures to ensure that data reporting requirements are met by organization members;
- (9) A plan for compiling expense data reported to the commissioner for development of advisory rates, rating plan values, and discount factors; and
- (10) A description of any changes from the uniform statistical plan, classification system, and related rules which are in effect at the time the application is made.

Statutory Authority: *MS s 79.51; 79.55 to 79.61*

History: 8 SR 2273

2705.1100 MANUALS.

A. There are five manuals currently filed by the rating association and in force in Minnesota. The rating association must file similar manuals as part of their application to become a data service organization. The application must include a list of any changes in the current manuals.

B. The commissioner shall approve a uniform classification system and a uniform statistical plan and manual rules related to the classification system and the statistical plan.

C. The commissioner shall disapprove changes in the manuals which would substantially lessen competition or which would lead to premiums which are unfairly discriminatory.

D. Every workers' compensation insurer shall report its data in accordance with the classification code manual, and the unit statistical plan manual, and the related rules in the basic manual. In the current basic manual these rules consist of the following:

- (1) in part one, rules I, II, III, IV, V, VIII (A.1, A.2a, A.2.b.1, A.2.c-e, B.1, B.2, B.6, C.1, C.2, C.4), IX, XI (A, B), XII, XIII, XIV (A-D), XV (A and C);

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- (2) all of part two on classifications; and
- (3) in part three, pages 9–17 on classifications; pages 18–19, special rules (IV, V, IX); and pages 20–23.

E. Insurers may use the premium factors, the experience rating plan, or the retrospective rating plans developed by the rating association. They may also develop and use their own factors and plans. In the current basic manual, the rules which insurers will not be required to use consist of the following:

- (1) in part one, rules VI, VII, VIII (A.2.b.2–4, B.3–5, C.3) X, XI (C–H), XIV (E–G), XV (B); and
- (2) in part three, pages 1–8; pages 18–19, special rules VI and VII; and appendix B.

Statutory Authority: *MS s 79.51*

2705.1150 AMENDMENTS TO APPLICATION.

Subpart 1. **Commissioner notified.** A data service organization which has applied for a license must notify the commissioner of every change in the plan of operation on which its application was based. Any amendment to a document filed under this paragraph is effective 30 days after filing unless disapproved by the commissioner.

Subp. 2. **Changes filed.** A data service organization must file with the commissioner every proposed change in the uniform classification system, the uniform statistical plan, or associated manual rules. Any change must be approved by the commissioner who shall also establish an effective date for the change. If a change is ordered by the commissioner, it must be used by every workers' compensation insurer in reporting data to the data service organization of which it is a member.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

2705.1200 GRANTING OF LICENSE.

A. The commissioner shall issue a license if the commissioner finds that:

- (1) the applicant meets the requirements of Minnesota Statutes, section 79.62 and part 2705.1000;
- (2) the applicant demonstrates staff competence and technical qualifications necessary to provide the services proposed;
- (3) the applicant's premises and computer capabilities are sufficient to provide the services proposed; and
- (4) the applicant's plan for data collection and analysis will result in a reliable, credible data base.

B. The commissioner shall issue a notice of the acceptance or rejection of the application for licensure as a data service organization within 90 days of receipt of a complete application.

Statutory Authority: *MS s 79.51*

RATEMAKING REPORT

2705.1600 DATA SERVICE ORGANIZATIONS.

Subpart 1. **Initial outline and report.** In 1983 licensed data service organizations must prepare their first ratemaking report. The outline of the report should be submitted to the commissioner for comment by September 1, 1983. A draft of the report should be submitted to the commissioner for comment by November 1, 1983. The final ratemaking report must be submitted no later than January 1, 1984.

Subp. 2. **Subsequent outlines and draft reports.** After 1984, licensed data service organizations must submit an outline of their annual ratemaking report to the commissioner for comment by July 1 of each year. A draft of the report should be submitted to the commissioner for comment by October 1. The final ratemaking report must be submitted no later than January 1 of the succeeding year. Interim reports on the effect of changes in the law on rates may be submitted at any time during a year.

Subp. 3. **Annual reports.** Beginning in 1984, licensed data service organizations shall make yearly ratemaking reports to the commissioner. Insurers may not make reference to a report in their filings until it has been filed with the commissioner.

Statutory Authority: *MS s 79.51*

2705.1700 CONTENTS OF RATEMAKING REPORT.

Subpart 1. **Statutory and other data.** A ratemaking report shall meet all requirements of Minnesota Statutes, section 79.61, subdivision 1, clause (c) and, in addition, may contain information useful to data service organization members regarding factors pertinent to Minnesota workers' compensation business such as legislative concerns, Workers' Compensation Reinsurance Association operations, loss control programs, and programs developed by insurers that may be of interest and applicability to workers' compensation insurers.

Subp. 2. **Minimum content.** A ratemaking report shall include:

A. A compilation of financial data collected under Minnesota Statutes, section 79.61 without adjustments for either premium or loss development or trend. Financial data must be reconcilable to that reported by insureds in their annual financial statements to the commissioner;

B. A compilation of reporting classification data collected under Minnesota Statutes, section 79.61 without adjustments for either premium development or loss development or premium trend or loss trend;

C. A calculation of factors to adjust reported loss data to a common development level. The development level is subject to approval by the commissioner;

D. A calculation of factors to reflect any benefit level changes mandated by statute or by the courts;

E. The development of a schedule of pure premium base rates using the data reported by insurers and the factors calculated in item C;

F. A schedule of pure premium relativities, based on the pure premium base rate schedule;

G. An analysis and calculation of factors to adjust reported premium and loss data to an expected ultimate level. The analysis shall be in detail so as to permit insurers to select and modify the factors based on their own interpretations of underlying data;

H. An analysis and calculation of trended data to reflect future conditions through the use of factors or some other method. The analysis shall be in detail so as to permit insurers to select and modify the factors or utilize other trending methods based on their own interpretations of underlying data;

I. A calculation of any other quantitative factor or modifications and a description of any subjective considerations reflected in the determination of pure premiums in a manner so as to permit insurers to evaluate and modify the factors and considerations based on their own interpretations of underlying data; and

J. A calculation of any other quantitative factors required to maintain advisory discount factors as defined in Minnesota Statutes, section 79.52, subdivision 8 and advisory merit rating plans as defined in Minnesota Statutes, section 79.52, subdivision 9.

Subp. 3. **Dissemination.** The ratemaking report shall be disseminated to all members of the data service organization. In addition, the data service organization and the commissioner shall each make a copy of the ratemaking report available for public inspection during normal working hours.

Statutory Authority: *MS s 79.51; 79.55 to 79.61*

History: 8 SR 2273

2705.1800 USE OF RATEMAKING REPORT.

A. After the ratemaking report has been filed with the commissioner, insurers may develop and use rates based upon the pure premium base rates contained in the report. Effective January 1, 1984, insurers may also develop and use rates based upon any reasonable factors which are not inconsistent with Minnesota Statutes, sections 79.50 to 79.62.

B. If an insurer uses the pure premium base rates contained in the ratemaking report, then the insurer may calculate rates by:

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(1) application of trend factors based on the analysis provided by the data service organization or on the insurer's own interpretations of underlying data;

(2) application of loss development factors reflecting expected development beyond that in the pure premium base rate schedule to the ultimate loss level;

(3) application of a factor to reflect the insurer's expected expense requirements;

(4) application of any other factor based on the analysis provided by the data service organization or on the insurer's own interpretation of underlying data.

C. Insurers may adjust premiums by application of discount factors as defined in Minnesota Statutes, section 79.52, subdivision 8 and merit rating as defined in Minnesota Statutes, section 79.52, subdivision 9. Insurers may use their own plans or plans developed by a data service organization in which they maintain membership.

D. An insurer shall not refuse to write insurance for an employer solely because:

(1) the employer was denied coverage by another insurer, whether by cancellation or nonrenewal or refusal to offer coverage; or

(2) the employer was insured through the assigned risk plan.

E. All data and calculations used to calculate rates from the pure premium base rate schedule shall be clearly documented.

Statutory Authority: *MS s 79.51; 79.55 to 79.61*

History: 8 SR 2273

2705.1900 REVIEW BY COMMISSIONER.

Subpart 1. **Nonconforming ratemaking report.** If the commissioner finds upon review that the ratemaking report is not as prescribed, then the commissioner shall issue an order specifying in which respects it fails to meet the requirements of Minnesota Statutes, section 79.61 and parts 2705.1600 to 2705.1900, and stating a reasonable period within which the defects shall be corrected.

Subp. 2. **Hearing.** The data service organization shall be given a hearing to review the commissioner's order upon a written request made within 30 days after the order.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

UNIFORM DATA BASE

2705.2000 UNIFORM CLASSIFICATION AND STATISTICAL PLAN.

Subpart 1. **Commissioner approves.** The commissioner shall approve a uniform classification system, a uniform statistical plan, and manual rules related to the classification system and the statistical plan. Every workers' compensation insurer must report its data in accordance with the approved uniform plans and rules.

Subp. 2. **Manual rules.** No insurer shall agree with any other insurer or with any data service organization to adhere to manual rules which are not reasonably related to the recording and reporting of data pursuant to the uniform classification system or the uniform statistical plan.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

2705.2100 AMENDMENTS TO UNIFORM CLASSIFICATION OR STATISTICAL PLANS.

Any data service organization may file with the commissioner a petition to change the uniform classification system or the uniform statistical plan. Any change must be approved by the commissioner who shall also establish an effective date for the change. If a change is ordered by the commissioner, it must be used by every workers' compensation insurer in reporting data to the data service organization of which it is a member.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

2705.2200 INSURER VARIATIONS.

An insurer may develop variations of the uniform classification system upon which a rate may be made. A variation must be filed with the commissioner 30 days prior to its use. The commissioner shall disapprove variations if the insurer fails to demonstrate that the data produced by the variation can be reported consistent with the uniform statistical plan and classification system.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

MONITORING COMPETITION**2705.2300 INFORMATION AND ANALYSIS.**

In determining whether a competitive market exists, the commissioner shall monitor the degree of competition in this state. In doing so, the commissioner shall utilize existing relevant information, analytical systems, and other sources, or cause or participate in the development of new relevant information and analytical systems. The commissioner shall require insurers to provide additional data or reports as necessary to develop new information systems.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

2705.2400 CRITERIA.

In determining whether a reasonable amount of competition exists, the commissioner shall consider the criteria listed in items A to F.

A. Premium and loss experience which includes, but is not limited to, consideration of movement in premium and losses over time, changes in premium relative to losses, and comparisons with other states.

B. Ease of entry which includes, but is not limited to, consideration of barriers to entry and the number of firms entering and exiting from the market.

C. Market share which includes, but is not limited to, consideration of the number, size, and dispersion of firms writing workers' compensation insurance.

D. Class rates which include, but are not limited to, consideration of comparison of changes in rates with changes in costs, variation in rates, and frequency of rate changes.

E. Residual market which includes, but is not limited to, change in size, percent of total market, and composition of the residual market.

F. Any other reasonable criteria if they are enumerated in the commissioner's eventual determination.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

REVIEW OF RATE FILINGS**2705.2500 RATING CRITERIA.**

Subpart 1. Determining compliance. In determining whether rates and rating plans comply with Minnesota Statutes, section 79.55 and part 2705.1800, the commissioner shall consider the criteria in subparts 2 to 4.

Subp. 2. Loss experience and other rate factors. The commissioner shall consider past and prospective loss and expense experience within and outside of Minnesota, catastrophe hazards and contingencies, events or trends within and outside of the state, loadings for leveling premium rates over time or for dividends or savings to be allowed or returned by insurers to their policyholders, members, or subscribers, and any other relevant factors if they are enumerated in the commissioner's eventual determination.

Subp. 3. Expenses. The expense provisions included in the rates to be used by an insurer shall reflect the operating methods of the insurer and, so far as it is credible, its own actual and anticipated expense experience.

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Subp. 4. **Profits.** The rates may contain provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of profit, consideration shall be given to all investment income attributable to premiums and the reserves associated with those premiums.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

2705.2600 EXPERIENCE RATING PLANS.

An insurer may use the experience rating plan developed by the data service organization of which it is a member. An insurer may also develop and use its own experience rating plan. Any experience rating plan is subject to the conditions in parts 2705.2700 to 2705.2900.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

2705.2700 AGGRAVATED INEQUITY.

If a claim is settled between a normal valuation date and the next rating effective date and if the settlement results in an aggravated inequity, then the experience modification factor must be revised if requested by either the insurer or the insured. An aggravated inequity includes, but is not limited to, the following situations:

A. the expected loss for the insured is less than \$50,000 and the primary value of the claim has changed by more than \$2,500; or

B. the expected loss for the insured is greater than \$50,000 and either the primary value of the loss has changed by more than five percent of the expected loss or the total value of the claim has changed by more than \$50,000.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

2705.2800 LOSS INFORMATION.

Each insurer or the data service organization to which it belongs must annually provide the following loss information to each insured eligible for experience rating:

A. the insured's experience modification factor;

B. the payrolls and incurred losses used to calculate the experience modification factor; and

C. whom to contact if the insured desires more information.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

2705.2900 FORMS.

The forms for providing this information may be developed by either the insurer or by the data service organization to which the insurer belongs. The forms must be filed as part of the experience rating plan.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

2705.3000 SCHEDULE RATING PLANS.

The maximum credit and maximum debit which can be developed by schedule rating shall be determined by the commissioner and shall be no more than 25 percent of manual premium, after application of any experience modification.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

2705.3100 FAILURE TO COMPLY.

Subpart 1. **Notice.** If the commissioner finds upon review of the insurer's rate filing that the rates or rating plans do not comply with the requirements of Minnesota Statutes, sections

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79.55 to 79.61 and this chapter, or that the filing lacks the necessary information to determine whether the rates comply with the cited statutes and rules, then the commissioner shall notify the insurer in what respects the rates or rating plans fail to comply and specify a reasonable period within which the defects shall be corrected.

Subp. 2. **Failure to correct; penalty.** If the insurer fails to correct the specified defects within the time period specified, the insurer is in violation of Minnesota Statutes, section 79.56 and subject to a fine as provided in Minnesota Statutes, section 79.56, subdivision 3.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273

POLICY FORMS

2705.3200 POLICY FORMS.

Workers' compensation insurance must be written using policy forms filed by the data service organization of which the insurer is a member except that if the insurer files a rating plan requiring a policy provision or endorsement for which the data service organization has made no usable filing, then the insurer may file its own policy forms needed to implement its rating plans.

Statutory Authority: *MS s 79.55 to 79.61*

History: 8 SR 2273