AMENDATORY SECTION (Amending WSR 10-21-086, filed 10/19/10, effective 11/19/10)

WAC 296-17B-010 Introduction and overview. Retrospective rating (retro) is a voluntary financial incentive program offered by the department of labor and industries to encourage improvements in workplace safety.

Chapter 296-17 WAC defines the standard method for determining the price of workers' compensation insurance for employers insured with the state fund. All employers insured with the state fund must pay the accident fund, medical aid fund, and supplemental pension fund premiums established in that chapter.

Employers who participate in retrospective rating bind themselves to the rules of the retrospective rating program found in this chapter. Under these sections, a participant's ultimate cost of workers' compensation insurance will be different than under chapter 296-17 WAC.

Employers participate in retrospective rating because it creates an opportunity to earn refunds of premiums they are required to pay under chapter 296-17 WAC. However, participation involves risk: Participants not successful in controlling losses can be assessed additional premiums.

Employers control losses by preventing workplace illnesses and injuries, and helping injured workers return to work.

Employers that participate in retro can enroll either individually or as members of a sponsored group. Enrollment is for a one-year coverage period, but it is possible for employers to join a sponsored group after the group's one-year coverage period has begun, at the beginning of a calendar quarter.

After a coverage period is over, the department evaluates premiums and claims losses and determines retro premiums according to these rules. If a retro group's or an individually enrolled employer's retro premiums are less than the standard premiums paid initially, that firm or group will receive a refund. If the retro premiums are more than the standard premiums initially paid, the firm or group will be assessed the additional amount. Calculation of retrospective premiums is defined further in this chapter. The department goes through this annual adjustment process three times for each coverage period.

The department will repeat the studies that resulted in the hazard group assignments and changes to retrospective plan tables that are shown in WAC 296-17-901, 296-17B-300, 296-17B-560, 296-17B-830, and 296-17B-910 through 296-17B-990. The repeated studies will determine whether the results are consistent with the expectation of improved fairness in the distribution of the retrospective rating refunds among participants. These repeated studies will be done by ((~~March 1, 2012~~)) April 1, 2014.

The department will evaluate and if necessary update the tables beginning at WAC 296-17B-910 every five years.

AMENDATORY SECTION (Amending WSR 10-21-086, filed 10/19/10, effective 11/19/10)

WAC 296-17B-500 Determining your standard premiums. Employers are required to pay accident fund, medical aid((~~,~~)) stay-at-work and supplemental pension fund premiums according to chapter 296-17 WAC. ((~~Partial payments of premiums are applied first to the liability to the supplemental pension fund, then to the medical aid fund, and finally then to the accident fund.~~)) Standard premiums are the premiums an employer pays to the accident and medical aid funds under chapter 296-17 WAC for employment during the coverage period, and do not include either stay-at-work or supplemental pension fund premiums.

For an employer enrolled in a group after the start of a group's coverage period, we will only consider the employer's standard premiums for the calendar quarters for which the employer was enrolled.

AMENDATORY SECTION (Amending WSR 10-21-086, filed 10/19/10, effective 11/19/10)

WAC 296-17B-520 Determining your losses. We determine your losses at the time of an adjustment.

To determine your losses, we first determine the case incurred losses for your claims. To these, we apply discounted loss development((~~, discount~~)) and expected loss ratio factors and your single loss occurrence limit to determine your losses incurred for each claim, as explained in these rules. The sum of your losses incurred will be your loss incurred, unless your maximum or minimum loss ratios apply.

AMENDATORY SECTION (Amending WSR 10-21-086, filed 10/19/10, effective 11/19/10)

WAC 296-17B-530 Determining case incurred losses. If a claim is closed, we will use the actual losses for the claim as defined in WAC 296-17-870(1). If the claim is open, we will use either the case reserve amounts or the actual losses, whichever are higher.

Where not in conflict with these rules, we will use the rules for valuing claims for experience rating found in WAC 296-17-870 (1), (5) through (7), and (10) through (12).

Employer reimbursements from the Washington stay-at-work program will not be included in the case incurred costs of claims.

AMENDATORY SECTION (Amending WSR 10-21-086, filed 10/19/10, effective 11/19/10)

WAC 296-17B-720 Prohibited conduct. (1) Employers and group sponsors must not engage in claims suppression as defined in RCW 51.28.010(4).

(2) Employers and group sponsors must not pay medical service providers for medical services related to an industrial injury or occupational disease. Payment of monthly direct fees made on behalf of employees to qualifying direct primary care service providers as permitted by RCW 48.150.050 does not disqualify an employer or group sponsor from participation in the retrospective rating program.

(3) Unless disclosed to the member at the time of enrollment, group sponsors must not require members to pay dues, fees, or continue membership in the retrospective rating program beyond the last date of the coverage year in order to receive their share of refunds, if any.

If we determine that you have violated any of these provisions, we will remove you from retrospective rating effective the date we notify you, and permanently bar you from further participation in the retrospective rating program. You will remain liable for any additional premium assessments related to your participation prior to your removal, but you will forfeit any right to refunds for adjustments calculated after your removal.

AMENDATORY SECTION (Amending WSR 10-21-086, filed 10/19/10, effective 11/19/10)

WAC 296-17B-810 Discounted loss development factors. At the time of adjustment, our actuaries determine discounted loss development factors by claim type. Loss development factors account for the fact that claims ultimately cost the state fund more than they have cost the state fund to date, and more than they are estimated to cost the state fund at any particular point in time.

Discounting accounts for the fact that benefits are not paid at once, but rather are paid over a period of time. Discounts vary for different types of claims based on when benefits tend to be paid.

Separate discounted loss development factors will be calculated by fund and also by enrollment period at the time of each annual retrospective rating adjustment.

AMENDATORY SECTION (Amending WSR 10-21-086, filed 10/19/10, effective 11/19/10)

WAC 296-17B-830 Expected loss ratio factors. The expected loss ratio factor is a factor applied to case incurred loss amounts of claims and discounted loss development factors ((~~and discount factor~~)) so that the ratio of discounted developed loss to standard premiums for the entire state fund used in the actuarial calculations equals the expected loss ratios. By doing this, loss ratios will not be expected to change simply because the department changed the rates for one fund significantly more than the rates for another fund. The expected loss ratios are:

Accident Fund	81.2%
Medical Aid Fund	88.0%

Separate factors will be calculated by fund and also by enrollment period at the time of each annual retrospective rating adjustment.

AMENDATORY SECTION (Amending WSR 10-21-086, filed 10/19/10, effective 11/19/10)

WAC 296-17B-840 Claim types. The following claim types are considered when calculating the discounted loss development factors ((~~and discount factors~~)):

(1) Fatality;

(2) Total permanent disability pension claim;

(3) Structured settlement claim with ongoing, lifetime payments;

(4) Structured settlement claim with fixed, periodic payments;

(5) Structured settlement claim with one-time, lump sum payments;

(6) Permanent partial disability claim;

((~~(4)~~)) (7) Time-loss claim;

((~~(5)~~)) (8) Miscellaneous accident fund claim;

((~~(6)~~)) (9) Medical only claim.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17B-820 Discount factors.