



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Workers' Compensation Division

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To: Workers' compensation self-insured employers and employer groups

Subject: Application of an "incurred but not reported" (IBNR) factor

Industry Notice

This industry notice provides information about the Workers' Compensation Division's decision to begin applying an incurred but not reported (IBNR) factor to security deposit calculations for self-insured employers and employer groups beginning in 2017. The division also plans to revise a related administrative rule in the rulemaking process for Division 050 rules, addressing self-insurance requirements.

Oregon Administrative Rule (OAR) 436-050-0180(1) states:

"The deposit a self-insured employer is required by ORS 656.407 to maintain with the director must be an amount not less than the greater of:

- (a) \$100,000; or
- (b) Future claim liability, **including losses incurred but not reported (IBNR)**, a claims processing administrative cost, and the anticipated assessments payable to the director for the employer's next fiscal year; or
- (c) The annual incurred losses for the self-insured's last fiscal year, **including IBNR**, a claims processing administrative cost, and anticipated assessments payable to the director for the employer's next fiscal year."

OAR 436-050-0180(8) explains: "**Incurred but not reported**" (IBNR) will be calculated by applying a loss development factor against the employer's annual paid losses. The loss development factor will be calculated annually by the director. An IBNR may be included in the security deposit calculation when the director identifies factors including, but not limited to, a decrease in the self-insured employer's credit rating, a negative net worth, negative cash flow, high debt-to-equity ratio, or material growth in self-insured exposure."

The above language was added to OAR 436-050-0180 in 2004. At the time, the division decided to apply an initial IBNR factor of 0 percent and that factor has not changed since that time. Since 2004, however, and especially during the 2007-2009 economic recession, a number of self-insured employers and employer groups have faced solvency and financial viability challenges. In all cases of insolvency since 2009, the self-insured employers' or employer groups' security deposit funds have not been, or are not expected to be, sufficient to cover the remaining claim obligations. This has resulted in increased reliance on the Self-Insured Employer Adjustment Reserve (SIEAR) and Self-Insured Employer Group Adjustment Reserve (SIEGAR) to cover the

remaining costs that are funded by all self-insured employers and employer groups through premium assessments. Also, under the provisions of 2014's Senate Bill 1558, the remaining claim liabilities of eligible self-insured employer groups are, or will be, paid by the Workers' Benefit Fund (WBF). All Oregon employers and workers fund the WBF through cent-per-hour assessments.

To better ensure that self-insured employers' and employer groups' security deposits are sufficient to cover their respective claim liabilities and other amounts due the director under ORS Chapter 656 in the event of default or insolvency, the division will increase the IBNR factor from its current level of 0 percent. **Starting in 2017, an IBNR factor will be applied to all security deposit calculations.** The Department of Consumer and Business Services actuaries are advising a factor of 20 percent to safely include all costs of injuries that will be filed as claims at a later date. To provide self-insured employers and employer groups time to plan and finance the resulting increases in their security deposits, **the division will likely raise the IBNR over a period of three years, reaching 20 percent of incurred claims in the third year.** The factor will remain 20 percent, thereafter, with periodic reviews of its sufficiency. The planned implementation is as follows:

	2017	2018	2019
IBNR Factor	7 percent	14 percent	20 percent

The division understands this is a significant shift in the security deposit calculation process that will require additional financial contribution from self-insured employers and employer groups. However, the division believes this change is necessary to ensure the long-term health of the self-insurance coverage option in Oregon while placing the financial burden of insolvent self-insured employers and employer groups on the responsible entities.

The division also plans to revise OAR 436-050-0180(8) to clarify that the IBNR factor will be applied each year in the security deposit calculation for all self-insured employers and employer groups, and that the factor will be applied against the self-insured employer's or employer group's annual **incurred** losses (the current rule refers to "paid losses"). Stakeholder advisory meetings to discuss proposed changes to administrative rules related to self-insurance are scheduled for Sept. 24 and Oct. 1, 5, and 13, 2015. **Your attendance at these meetings is strongly encouraged.** If attendance is not possible, you may provide written comments regarding self-insurance issues to the division. Written comments may be emailed to WCD.SelfInsurance@oregon.gov or sent by regular mail to the Workers' Compensation Division, Attn: Self-Insurance Program, P.O. Box 14480, Salem, OR 97309-0405.

If you have questions about this notice, please contact Self-Insurance, Registration, and Reimbursements Manager Adam Breitenstein at 503-947-7751 or adam.j.breitenstein@oregon.gov.



John Shilts, Administrator
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