



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Workers' Compensation Division

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BULLETIN NO. 209 (REV.)

Dec. 10, 2018

TO: Self-insured employers and self-insured employer groups

SUBJECT: Report of losses instructions and guidelines

EFFECTIVE: Jan. 1, 2019

This bulletin explains reporting requirements under Oregon Administrative Rule (OAR) 436-050-0175(3), which requires all self-insured employers to submit claim loss data to the department for calculation of annual experience rating modifications, security deposits, and retrospective rating plan adjustments. This bulletin replaces Bulletin 209 issued Dec. 4, 2017.

In 2019, self-insured employers' reporting threshold for individual claims, established by the National Council on Compensation Insurance (NCCI) split point, will increase to \$17,000.

Revisions to this bulletin include:

- Updating the 2019 NCCI split point to \$17,000
- Updating Appendix 4: Period of Life Table to reflect the 2015 Social Security Administration Actuarial Life Table
- Updating the certification page to include the contact person's email address and the organization's name
- Adding Section VI – Excess Insurance Reporting Responsibilities
- Adding definitions for excess insurance self-insured retention (SIR) level and excess insurance liability limit

Revisions to the forms accompanying this bulletin include:

Form 2809, "Self-Insured Employer Report of Losses Experience Rating Period"

- Updating the 2019 NCCI split point to \$17,000

Form 2810, "Self Insured Employer Report of Losses – Non-Experience Rating Period"

- Converting the form into a Microsoft Excel spreadsheet

Form 2937, "Excess Insurance Reporting and Reimbursement"

- Changing the title of the form
- Adding columns titled "Excess liability limit" and "Have claim payments exceeded liability limit?"
- Including instructions on how to complete the form if there are no losses to report

NOTICE: You can either submit the forms using the Workers' Compensation Division's web portal, <https://www4.cbs.state.or.us/exs/wcd/portal/>, or mail the forms to the Workers' Compensation Division/Performance Section, PO Box 14480, Salem, OR 97309-0405. Instructions for using the portal can be found in the right hand corner of the portal webpage.

I. DEFINITIONS

- A. "Closed claim" means a claim for which the employer expects no future indemnity or medical payment or litigation.
- B. "Contract medical" means the costs of employer-furnished first aid and medical facilities, including personnel or retainer fees for nurses and physicians that are not allocated to individual claims. Report the same contract medical amount for the succeeding experience rating years.
- C. "Excess insurance liability limit" means the maximum amount an excess insurer will pay on a covered claim, as determined by the provisions of the excess insurance policy.
- D. "Excess insurance self-insured retention (SIR) level" means the dollar amount specified in an excess insurance policy that must be paid by the employer before the excess insurer will respond to a loss.
- E. "Medical reimbursement" means reimbursement by an employer for medical services on accepted, non-disabling claims up to certain amount. Reimbursements are restricted to the total medical costs on the claim, and may not exceed the maximum amount. Refer to Bulletin 345, OAR 436-060-0055(7), and ORS 656.262(5) for additional detail. **Medical reimbursement is optional and may not be applied retroactively.**
- F. "Net losses" means the amount the self-insured employer incurs after receiving any recovery allowed by law or reimbursement from the Workers' Benefit Fund (WBF) program.
- G. "Open claim" means a claim for which the employer expects future indemnity or medical payments or there is current litigation.
- H. "Outstanding reserves" means estimated future payments for the life of the worker and any eligible beneficiaries.
- I. "Recoveries" means monies recovered through subrogation. See Appendix 2.
- J. "Reimbursements" means monies received from WBF programs. See Appendix 2.
- K. "Total incurred losses" means paid losses minus the medical reimbursement amount on accepted non-disabling claims, where applicable, plus outstanding reserves. Total incurred losses must be reduced by any monies recovered through subrogation or from the WBF program. Round to the nearest dollar. Submissions should not include negative values. **See Appendix 2, Report of Losses Reporting Guidelines on page seven of this bulletin.**
- L. "Total paid" means indemnity paid plus medical paid. This is the net amount paid after accounting for any recovery or reimbursed amounts.

II. HOW TO SUBMIT CLAIM LOSS DATA

Submit report of losses information on [Forms 2809, 2810, and 2937](#), or in a format consistent with these forms. Service companies are expected to coordinate with the self-insured employer to reconcile data for claims, financial records, and excess information before final submission to the division. Provide loss figures for the total paid, outstanding reserves and total incurred losses. Loss figures should reflect net losses only. For specific information on reportable losses, see Part IV of the NCCI Workers' Compensation Statistical Plan.

You can request copies through NCCI Products and Services by calling 800-622-4123 or online at <http://www.ncci.com>. **Any forms with no data to report, should be clearly noted on the applicable forms as “N/A” or “NONE TO REPORT.”**

Include claim loss data for legal entities included in the self-insurance certification. Also, include claim loss data for liabilities assumed under an Assumption Agreement for Corporate Merger and Guarantee.

Submit claim loss data to the Performance Section, Self-insurance, Registration, and Reimbursements Unit, by **March 1, 2019**. Under OAR 436-050-0175(5), if a self-insured employer does not comply with reporting requirements, the director may:

- impose an increase to the self-insured’s security deposit and premium assessments by 25 percent;
- conduct an audit to obtain the necessary loss information at the self-insured employer’s expense;
- assess civil penalties; or
- revoke the employer’s self-insurance certification.

A statement certifying the claim loss data as true and accurate must accompany the report of losses.

Appendix 1: Certification, found on page six of this bulletin, provides the text that needs to be included in the certification statement.

III. EXPERIENCE RATING PERIOD

As established by NCCI, the experience rating period consists of losses from the last three completed fiscal years (July 1st through June 30th). The reporting threshold for Oregon claims is \$17,000, effective Jan. 1, 2019. Report the claims for each fiscal year on a separate [Form 2809](#), “Self-Insured Employer Report of Losses Experience Rating Period.”

Experience rating period for claim loss data, valued as of Jan. 1, 2019:

Valuation Period 1	07/01/17 <i>through</i> 06/30/18
Valuation Period 2	07/01/16 <i>through</i> 06/30/17
Valuation Period 3	07/01/15 <i>through</i> 06/30/16

IV. NON-EXPERIENCE RATING PERIOD

As established by NCCI, the non-experience rating period consists of losses with dates of injury from the effective date of the self-insurance certification to the beginning of the experience rating valuation period 3 (listed above). Report all applicable Oregon claims, whether disabling or non-disabling, that were open with outstanding reserves as of Jan. 1, 2019, on [Form 2810](#), “Self-Insured Employer Report of Losses Non-Experience Rating Period.” Do not include data for any losses incurred before the effective date of self-insurance.

Non-experience rating period for claim loss data, valued as of Jan. 1, 2019:

Self-insured employer effective date *through* 06/30/15

V. DIRECTIONS FOR THE REPORT OF LOSSES

- A. The report must list **all claims, (open, closed, accepted, deferred, denied, disabling, or non-disabling)** for all valuation periods. Round totals to the nearest dollar. Claims must be valued as of January 1 of the current year, and must include:
- i. List all claims in **alphabetical** order (worker's last name first);
 - ii. The date of injury;
 - iii. The claim number;
 - iv. The total amount paid;
 - v. Medical reimbursements;
 - vi. Outstanding reserves; and
 - vii. Total incurred losses.
- B. Identification of claims involving:
- i. Catastrophes (CAT);
 - ii. The Workers with Disabilities Program (WDP);
 - iii. Permanent total disability (PTD);
 - iv. Fatal Benefits (F);
 - v. Third-party recoveries
Do not report recoveries associated with these two programs:
 - [Employer-at-Injury Program](#) (EAIP)
 - [Supplemental Disability Benefit](#) (SDB); and
 - vi. Self-insured retention.
- C. Claims with third-party recovery (subrogation): Report net amount incurred and identify as a third-party claim.
- D. Catastrophes: If any one accident results in two or more claims where the combined incurred losses exceed \$20,000, identify each claim as CAT 1. Identify claims resulting from a second catastrophe as CAT 2, etc.
- E. Permanent total disability and fatality: Identify as PTD or F. Submit [Form 2808](#), "Claim Reserve Worksheet," if any of the following are true:
- i. With the first report of loss (experience rating period or non-experience rating period) submitted after the PTD or fatality status has been assigned.
 - ii. When PTD benefits change to fatal benefits, i.e., when a PTD worker dies and the beneficiary becomes entitled to fatal benefits.
 - iii. Upon request by the division.
- If the beneficiary of fatal benefits remarries, note this on the report of losses submitted after the remarriage occurs. Report statutory amounts paid and reserved.
- F. Workers with Disabilities Program: Identify as WDP and indicate the percentage of relief. Report the net amount incurred based on percentage relief. When a claim has 100 percent relief, report only the \$1,000 deductible as paid, \$0 as the outstanding reserve, and \$1,000 as total incurred.
- G. Self-Insurance Retention (SIR)* when applicable. Report all paid costs and outstanding reserves:
1. **When the paid costs have exceeded the SIR level, but remain within the liability limit.**
For example, a claim with a SIR level of \$100,000 and a statutory liability limit, paid costs \$175,000, and outstanding reserve \$250,000: Report total paid \$175,000, outstanding

reserve \$250,000, and total incurred \$425,000. Identify as SIR and the amount of the SIR level. The division will make the necessary adjustment for deposit purposes.

2. **When the paid costs have not exceeded the SIR level, but are expected to.** *For example, a claim with an SIR level of \$100,000 and a statutory liability limit, paid costs \$75,000, and outstanding reserve \$350,000: Report total paid \$75,000, outstanding reserve \$350,000, and total incurred \$425,000. Identify as SIR and the amount of the SIR level. The division will make the necessary adjustment for deposit purposes.*

VI. EXCESS INSURANCE REPORTING RESPONSIBILITIES

Under the terms and conditions of most excess insurance policies, the excess insurer requires the self-insured employer to promptly and sufficiently report claims that exceed or are likely to exceed the SIR level. In most cases, failure to meet the terms and conditions of an excess insurance policy can result in the denial of coverage.

Claim costs that meet or exceed the SIR level and have not been previously reported on Form 2937 must be accompanied by proof of the self-insured's notification to the excess insurer. Claim costs subject to reimbursement by the excess insurer must be accompanied by evidence of ongoing reporting and reimbursement records:

- The SIR level and liability limit for relevant claims will be applied by the division, when provided with all relevant notifications and reported paid costs with outstanding reserves data on a complete [Form 2937](#), "Excess Insurance Reporting and Reimbursement."
- Failure to complete Form 2937, if applicable, will impact the security deposit as calculated by the Workers' Compensation Division.

Excess insurance policies issued for self-insured municipalities may have separate SIR levels for particular NCCI classification codes (e.g., police and firefighters). When a separate SIR level applies to a claim identified on Form 2937 for this reason, ensure that the appropriate SIR level is used.

Refer to **Appendix 2: Report of Losses Reporting Guidelines. Claims should be reserved for the ultimate probable cost for the life of the claim.** Factors which may affect the ultimate probable cost are detailed under **Appendix 3: Factors to Consider When Estimating Outstanding Reserves** on page eight of this bulletin. If you have questions about this bulletin or related forms, email WCD.SelfInsurance@oregon.gov or call 503-947-7057.

/s/ Louis Savage

Louis Savage, Administrator
Workers' Compensation Division

Distribution: WCD-LY, electronic mailing lists

Attachments: [Form 2808](#), "Claim Reserve Worksheet" (Rev. 1/17)
[Form 2809](#), "Self-Insured Employer Report of Losses Experience Rating Period" (Rev. 1/19)
[Form 2810](#), "Self-Insured Employer Report of Losses Non-Experience Rating Period" (Rev. 1/19)
[Form 2937](#), "Excess Insurance Reporting and Reimbursement" (Rev. 1/19)

Appendix 1: Certification

Include the following statement with each self-insured employer's report of losses, signed by an authorized representative of the self-insured employer:

I certify this is a true and accurate statement of all claims occurring during the experience rating period, and includes all open claims occurring before the experience rating period with outstanding reserves as of Jan. 1, 2019.

Self-insured employer: _____
(Organization)

(Signature)

(Date)

(Printed name)

(Title)

(Name of contact person)

(Phone number of contact person)

(Email address of contact person)

Failure to provide a signed certification page will be considered an incomplete submission and may result in sanctions under OAR 436-050-0175(5).

Appendix 2: Report of Losses Reporting Guidelines

	Include in Losses	Reduce from Losses
	<ul style="list-style-type: none"> • Statutory benefits: Any benefits payable to or on behalf of the worker under the law in effect at the time of the injury 	<ul style="list-style-type: none"> • Recoveries (after subtracting recovery expenses, such as legal costs for pursuing subrogation)
Indemnity costs:	<ul style="list-style-type: none"> • Time loss compensation* • Awards • Remarriage allowance • Stipulation amounts and fees, settlement amounts and fees (Claims Disposition Agreement and Disputed Claims Settlement) • Penalties, if the reason for the penalty was within the self-insured employer's control 	<p>Amounts reimbursed or reimbursable from the <u>Workers Benefit Fund</u> (WBF):</p> <ul style="list-style-type: none"> • <u>Retroactive Program (PTD and Fatal)</u> • Social Security offset (SSO) • Reopened Claims Program/Own Motion (RCP)
Medical costs:	<ul style="list-style-type: none"> • Scheduled exams for closure/rating, e.g., independent medical exams, worker requested medical exams, arbiter exams • Physical therapy, work hardening • Prosthetic appliance purchase/replacement • Prescriptions • Surgeries • Transportation • Burial • All other medical care as provided under <u>ORS 656.245</u> 	<ul style="list-style-type: none"> • Medical costs to determine compensability of the injury or condition • Nurse case management fees • Bill audit fees • <u>Independent medical exam</u> for compensability or management
Legal costs:	<ul style="list-style-type: none"> • Fees paid to worker attorneys 	<ul style="list-style-type: none"> • Defense attorney costs • Legal costs to determine compensability of the injury or condition • Settlement costs for termination/release agreements • Legal costs for pursuing subrogation
Vocational assistance costs:	<ul style="list-style-type: none"> • Include if the date of injury was on or after Jan. 1, 1986. Also include if the injury was before Jan. 1, 1986 and reimbursement was not approved by WCD 	<ul style="list-style-type: none"> • <u>Preferred Worker Program</u> qualifying for claims cost reimbursement

***Note:** *If, under ORS 656.262(4)(b) and OAR 436-060-0025(2), the self-insured employer continues to pay the same wage at the same pay interval that the worker received at the time of injury, in lieu of issuing separate time-loss payments, the employer must include indemnity costs in the paid and outstanding reserve amount (also known as salary continuation). Report the indemnity costs in the same amounts as would otherwise be due if temporary total disability or temporary partial disability were paid.*

Appendix 3: Factors to Consider When Estimating Outstanding Reserves

- A. Pre-existing medical conditions that may extend disability or length of treatment.
- B. Age of worker.
- C. Level of education/training.
- D. Prior claims history.
- E. If a hearing request has been received or there is a likelihood of litigation (the worker is represented by an attorney or has had an attorney in prior claims), reserves should reflect the potential for additional claims costs. Refer to file notes, attorney correspondence, investigative reports, etc.
- F. Refer to Claim Reserve Worksheet, Form 2808, which may be used for establishing outstanding reserves for those self-insured employers that may not have an existing claims reserving procedure or reserve worksheet. All self-insured employers are to use the Claim Reserve Worksheet, Form 2808, for reporting PTD and fatal claims, as indicated on page three of this bulletin.
- G. If a claim file indicates the worker will be granted PTD, or PTD has been granted, reserves should include:
 - 1. Statutory benefits to the worker for his or her remaining life expectancy, based on the attached period life table. If the worker has received a Social Security offset (SSO), reduce future PTD benefits by the amount of future SSOs, starting at the worker's full retirement age.
 - 2. Maximum potential benefits to the spouse, based on the attached **Appendix 4: Period Life Table 2015** on page nine of this bulletin. This will include widow(er) benefits if the spouse's life expectancy exceeds the worker's life expectancy. For example, if a worker's remaining life expectancy is 30 years and the spouse's remaining life expectancy is 40 years, reserves should include PTD for the worker for 30 years and widow(er) benefits for 10 years.
 - 3. Burial allowance should be included under the law in effect at the date of injury.
 - 4. Upon the death of a worker, reserve for future benefits as a fatal claim.
- H. Fatal claim reserves should include:
 - 1. Benefits to a widow(er) for his or her remaining life expectancy, based on the attached period life table. Do not estimate for remarriage.
 - 2. Maximum potential benefits to other beneficiaries. For example, for dates of injury on or after July 1, 1973, if a child/dependent is currently in a post-secondary education or training program, benefits should be reserved for up to 48 months through age 26.
 - 3. For dates of injury on or after Sept. 20, 1985 through June 6, 1995, statutory widow(er) benefits will increase approximately \$300/month after the last child's eligibility for benefits has expired. In those cases, it will be necessary to allocate future widow(er) benefits between the two applicable rates. For example, if the youngest child is eligible for benefits an additional 18 months and the widow's remaining life expectancy is 43 years, reserves for the widow should include benefits for 1.5 years as a widow with children and 41.5 years as a widow without children.

Note: **Benefits for a dependent adult will remain in effect for the life of that individual. See the claims reserve tab at <http://wcd.oregon.gov/worker/Pages/death-benefits.aspx>.**

Appendix 4: Period Life Table 2015

Exact Age	Male	Female	Exact Age	Male	Female	Exact Age	Male	Female
0	76.15	80.97	50	29.60	33.15	100	2.11	2.42
1	75.63	80.41	51	28.75	32.26	101	2.00	2.27
2	74.67	79.44	52	27.90	31.37	102	1.89	2.14
3	73.69	78.45	53	27.07	30.49	103	1.79	2.00
4	72.71	77.47	54	26.25	29.61	104	1.69	1.88
5	71.72	76.48	55	25.43	28.74	105	1.59	1.76
6	70.73	75.48	56	24.63	27.88	106	1.50	1.64
7	69.74	74.49	57	23.83	27.02	107	1.41	1.53
8	68.75	73.50	58	23.05	26.17	108	1.33	1.43
9	67.76	72.51	59	22.27	25.32	109	1.25	1.33
10	66.76	71.51	60	21.51	24.48	110	1.17	1.24
11	65.77	70.52	61	20.75	23.64	111	1.10	1.15
12	64.78	69.53	62	20.00	22.81	112	1.03	1.06
13	63.79	68.53	63	19.27	21.99	113	0.96	0.98
14	62.80	67.54	64	18.53	21.17	114	0.89	0.90
15	61.82	66.56	65	17.81	20.36	115	0.83	0.83
16	60.84	65.57	66	17.09	19.55	116	0.77	0.77
17	59.88	64.59	67	16.38	18.76	117	0.71	0.71
18	58.91	63.61	68	15.68	17.98	118	0.66	0.66
19	57.96	62.63	69	14.98	17.20	119	0.61	0.61
20	57.01	61.65	70	14.30	16.44			
21	56.08	60.67	71	13.63	15.69			
22	55.14	59.70	72	12.97	14.96			
23	54.22	58.73	73	12.33	14.24			
24	53.29	57.76	74	11.70	13.54			
25	52.37	56.79	75	11.08	12.85			
26	51.44	55.82	76	10.48	12.17			
27	50.52	54.85	77	9.89	11.51			
28	49.59	53.88	78	9.33	10.86			
29	48.67	52.92	79	8.77	10.24			
30	47.75	51.95	80	8.24	9.63			
31	46.82	50.99	81	7.72	9.04			
32	45.90	50.03	82	7.23	8.48			
33	44.98	49.07	83	6.75	7.93			
34	44.06	48.11	84	6.30	7.41			
35	43.14	47.16	85	5.87	6.91			
36	42.22	46.20	86	5.45	6.43			
37	41.30	45.25	87	5.06	5.98			
38	40.38	44.30	88	4.69	5.54			
39	39.46	43.35	89	4.35	5.14			
40	38.54	42.41	90	4.03	4.76			
41	37.63	41.46	91	3.73	4.41			
42	36.72	40.52	92	3.46	4.09			
43	35.81	39.59	93	3.21	3.80			
44	34.90	38.65	94	2.99	3.54			
45	34.00	37.72	95	2.80	3.30			
46	33.11	36.80	96	2.63	3.09			
47	32.22	35.88	97	2.48	2.90			
48	31.34	34.96	98	2.34	2.73			
49	30.46	34.06	99	2.22	2.57			