



February 17, 2009

BUREAU CIRCULAR NO. 849

To All Members of the Bureau:

Re: **STATUS OF BUREAU FILING NO. 0807 - DECEMBER 1, 2008 RESIDUAL MARKET RATE AND VOLUNTARY MARKET LOSS COST FILING**

This circular is to update all members with respect to the status of Bureau Filing No. 0807.

Bureau Filing No. 0807 was an annual experience review of residual market rates and voluntary market loss costs effective December 1, 2008. This filing was submitted to the Department of Insurance on August 8, 2008 and proposed overall average reductions of 8.64 percent in residual market rates and 10.03 percent in voluntary market loss costs, respectively. These proposed reductions were separate from and in addition to changes previously implemented effective October 1, 2008 in response to provisions of Senate Bill 1 of 2007 with Bureau Filing No. 0806.

Bureau Filing No. 0807 was reviewed by two different actuarial consultants retained for such purpose by the Department of Insurance. One of those consultants recommended nominally smaller reductions in residual market rates and voluntary market loss costs than those proposed by the Bureau. The second consultant presented alternative rating value reductions that were somewhat more than twice that proposed by the Bureau for residual market rates and somewhat less than twice that proposed by the Bureau for voluntary market loss costs. In addition, this consultant's review of Bureau Filing No. 0806 raised a question about savings on claims predating the implementation of Senate Bill 1 of 2007 and suggested that recognition of those savings should require reductions in future rating values of more than twice the reduction previously approved for Bureau Filing No. 0806.

Former Insurance Commissioner Matt Denn issued a Decision and Order on November 25, 2008 pertaining to Bureau Filing No. 0806, which included language anticipating future rating value reductions based on savings on claims predating Senate Bill 1 of 2007. The Bureau filed notices of appeal against portions of that Decision and Order in the Court of Chancery and the Superior Court. Former Insurance Commissioner Denn issued a second Decision and Order dated December 30, 2008, this pertaining to Bureau Filing No. 0807. This Decision and Order mandated that the Bureau submit an amended residual market rate and voluntary market loss

cost filing with overall average reductions 7.1 points greater than those originally proposed by the Bureau. Six points of the additional reductions required by the December 30, 2008 Decision and Order are attributed to savings on claims predating implementation of Senate Bill 1, and the Decision and Order would require similar suppression of rates and loss costs by six (6) points effective December 1, 2009, six (6) points effective December 1, 2010 and five (5) points effective December 1, 2011 on that same basis.

The Bureau has filed notices of appeal against portions of the December 30, 2008 Decision and Order in the Court of Chancery and Superior Court in Delaware.

Insurance Commissioner Karen Weldin Stewart took office on January 6, 2009. The Bureau has since been in contact with Commissioner Stewart, various attorneys representing and/or consulting for the Department of Insurance and other Department staff and advisors to the Commissioner in an attempt to resolve these matters. To date, those efforts have proven unsuccessful.

Calendars for processing the Bureau's appeals will soon begin to require various responses and/or filings from the parties. The course and duration of that litigation is not certain but could be at least somewhat extensive.

Unfortunately, these circumstances are attended by continuing uncertainty about when and in what amounts rating values will be revised in Delaware. The Bureau is keenly aware of the growing hardships thus visited upon insurers, producers and employers in Delaware. As soon as any significant developments occur in these cases, or if actionable items become available to our members, we will issue additional circular announcements with that information.

Questions regarding this circular may be directed to Bruce Decker, Senior Vice President, at (302) 654-1435, Extension 4411 or bdecker@dcrb.com.

Timothy L. Wisecarver
President

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