

4123-17-42 Eligibility for retrospective rating.

(A) An employer that is not a public employer as defined in division (B)(1) of section 4123.01 of the Revised Code may be eligible for either the Tier I or Tier II retrospective rating plan depending upon satisfying the eligibility requirements for either the Tier I or Tier II retrospective rating plan as described in this rule.

(B) For both the Tier I and Tier II retrospective rating plans, the employer must satisfy the following requirements:

(1) The employer must be current on any and all undisputed premiums, administrative costs, assessments, fines or moneys otherwise due to any fund administered by the Ohio bureau of workers' compensation, including amounts due for retrospective rating.

(2) The employer cannot have any unpaid, undisputed audit findings or other unpaid billings as of the application deadline.

(3) The employer cannot have cumulative lapses in workers' compensation coverage in excess of fifteen days within the last five rating years.

(4) The employer must be in an active status on the first day of the policy year. The administrator may waive this requirement for new business entities moving into Ohio.

(5) The employer's estimated experience-rated premium for the retrospective rating year must be greater than or equal to the minimum experience-rated premium threshold listed on the "Retrospective Rating Minimum Premium Percentages Table." If estimated premium is less than the minimum experience-rated premium threshold listed on the "Retrospective Rating Minimum Premium Percentages Table," the bureau will reject the application. In the event the estimated experience-rated premium is equal to or greater than the minimum premium threshold but the actual premium is less than the minimum experience-rated premium threshold, the retrospective rating plan remains in effect for that risk and the minimum premium is based on the minimum experience-rated premium threshold multiplied by the appropriate minimum premium percentage for the hazard group and the claim limit/maximum premium percentage selected.

(C) In addition to the requirements of paragraph (B) of this rule, for the Tier I retrospective rating plan, the employer must submit audited financial statements prepared in accordance with generally accepted accounting principles (GAAP) to satisfy the following requirements:

(1) The employer must satisfy financial standards demonstrating strength and stability. In reviewing the financial requirements of the employer, the bureau shall consider, but is not limited to, the following criteria, as applicable:

- (a) The employer's trend of operating profit for a minimum of three years.
- (b) The employer's trend of net income for a minimum of five years.
- (c) The employer's consistent return on equity, of ten per cent or better.
- (d) Significant asset size of the employer in the state of Ohio.
- (e) A total liabilities/equity ratio of no greater than four to one.
- (f) The employer's debt structure, including current versus long term debt, recent drastic changes in debt, etc.
- (g) The employer's retained earnings trend.
- (h) Whether the employer has significant fluctuations in specific balance sheet numbers from one year to the next.

(i) The employer's bond rating.

(2) The employer shall demonstrate that if it sustains a catastrophic or severe workers' compensation loss, it has the ability to maintain its financial viability and to cover all costs of the retrospective rating plan through closure.

(3) The employer shall maintain a safety program approved by the bureau's division of safety and hygiene.

(4) The employer cannot have entered into a part-pay agreement for payment of assessments due the state insurance fund for the past three rating years preceding the beginning date of the retrospective policy year.

(D) In addition to the requirements of paragraph (B) of this rule, for the Tier II retrospective rating plan, the employer must submit audited financial statements prepared in accordance with generally accepted accounting principles (GAAP) to satisfy the following requirements:

(1) For an employer that does not demonstrate the ability to satisfy the financial criteria of paragraph (C)(1) of this rule, the employer must demonstrate the ability to sustain losses that are at the maximum claim limit for the retrospective rating plan and still maintain its financial viability.

(2) Within one year of entering a retrospective rating plan, the employer must implement the bureau's ten step business plan for safety as defined in rule 4123-17-70 of the Administrative Code. The employer must agree to meet quarterly with a bureau representative to discuss the retrospective rating program and to discuss risk management strategies that other employers are successfully using to control their workers' compensation costs.

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