
Phase II Concept #4: Voluntary Loss Control Discounts September 19, 2006

I. Issue:

As the Task Force examined and discusses insurance issues in Phase II, questions arose as to whether contractors might be conferred rewards or incentives to adopt Phase I proposals. Discussion at the Task Force level centered around easing possible regulatory hurdles an insurer may face when offering incentives to adopts new practices or policies on their own volition.

II. Current Regulation

Generally speaking, an insurer files proposed discounts for new practices or liability coverage options with the Director of the Department of Consumer and Business Services. However, the Oregon Insurance Code requires statistical support for rating plans and rating systems. With a newly introduced discount the filing reviewer often has to use judgment to determine the reasonableness of a discount in light of limited statistical support.

III. Alternatives:

An option the Task Force could consider is to recommend changes to statute or administrative rule that would, in effect, make offering incentives to adopt beneficial construction practices and policies without providing full statistical support easier.

IV. Steps to Implement

Insurers would file voluntary loss control discounts with the Director of DCBS through the regular filing procedure.

A bulletin could be issued to clarify the Insurance Divisions rate review practice regarding voluntary loss control discounts for construction best practices. The bulletin could state discounts for contractors adopting the best practice recommendations from the CCTF would be presumed to reduce claims and related expense unless there is actuarial evidence to the contrary. Other program discounts would still be reviewed in rate filings for compliance with ORS 737.310 (statistical support) and ORS 746.015 (unfair discrimination). In practice the OID does not subject filed discounts to heavy regulatory scrutiny unless there is reason to believe the discounts are being subsidized by other insureds or the discounts are being applied in an arbitrary manner. Clarifying current regulatory practice with respect to discounts for construction contractor best practices may encourage insurers to file discounts and streamline rate filing review.