

Third of a 4 part series: OWNERSHIP CHANGES AND COMBINATION OF ENTITIES—IT'S ALL ABOUT THE MOD! (page 3)
1 page supplement: MWCIA's Annual Golf Outing

August 28, 2013



PRESIDENT'S CORNER

By **Brandon Miller, Exec. V.P.**

This is my first President's Corner article and although I am not yet officially the president, current President, Bruce Tollefson, asked me to start writing this column as we move through our transition for his retirement in January 2014.

For the past year in President's Corner columns, we have focused on historical perspectives from the MWCIA and the state of Minnesota. In this issue I want to acknowledge the past and talk about steps we are taking at the MWCIA to better serve our members, customers and the Minnesota Workers' Compensation arena in the future.

Bruce has done an excellent job moving the organization from a highly paper based system back in 1997 to an almost entirely electronic based system in which we operate today. Bruce has served as a visionary for not only MWCIA, but also is seen as a thought leader with other independent state DCOs. His work here and nationally has made the system more effective, timely and responsive for our member carriers, policyholders and their insurance agents.

Our mission is to be the preferred Data Services Organization for the state of Minnesota, and that has been the guiding vision with which Bruce has led this organization. Our collaborative efforts with other DCOs have allowed us to develop reporting applications and platforms which are much more consistent across the DCO landscape. That is the true value to our customers and to the industry. We can thank Bruce for his consistent focus in this area over the past 16 years.

This year, we are focusing on setting the stage to be even more customer oriented by setting

a solid base, reaching out to our customers and developing solutions and services which will help strengthen the Minnesota workers' compensation industry. Some examples of this are as follows:

Technology and Applications: We are focusing on updating and strengthening our infrastructure and technology to better serve our core functions and customer applications. Look for announcements on developments and enhancements as they rollout.

Operations: We are strengthening our business processes to provide strong fiduciary management and planning to ensure we efficiently serve our members.

Staffing: With the focus on new technology, we are seeing a need for different skill sets and a flatter organization. Our staff has done a great job cross-training and providing a base for succession planning as more of our long-term staff reaches retirement.

Data Analysis: In addition to the ever important annual ratemaking work we do, we plan to continue to enhance our ongoing research into claim cost trends and developments in using new data sets. We expect this will help our members more effectively manage workers' compensation underwriting, pricing and claims throughout Minnesota.

Training: We have some great tools with really powerful capabilities. We plan to reach out to user groups in the industry and re-introduce the tools to our members and help them identify ways in which our existing applications and future enhancements will make their jobs easier so they can focus on other core functions.

I am very excited to work with staff and our members over the next few years to develop a

strategic roadmap to assist MWCIA in helping our members even more in the coming decades.

IN MEMORIAM

Victor G. Lowe, Jr.

Mr. Lowe, Jr. who served as General Manager of the Minnesota Compensation Rating Bureau as well as the Automobile Assigned Risk Plans of Minnesota and the Dakotas, passed away on July 17, 2013.

Victor served as General Manager of the Organizations from June, 1953 through March, 1976. After his retirement, the Auto and Workers' Compensation Bureaus split. Prior to working at the Association, Mr. Lowe worked at St. Paul Mercury Insurance Company.

Following retirement from the Bureau, Mr. Lowe and his wife Charlotte relocated from Minnesota to Florida where they resided until 2001 when they relocated to Mahtomedi, Minnesota.

Mr. Lowe was active in various insurance organizations and served as a member on the State of Minnesota Occupational Safety and Health Advisory Board.

As the preferred provider of quality Minnesota Workers' Compensation information, we are committed to developing products, services and markets that meet our customers' evolving needs, and to providing a work environment rich in opportunities for personal and professional growth.

FROM THE ACTUARIAL CORNER

The [2014 Minnesota Ratemaking Report](#) was released via MWCIA's website the first week in August. The updated pure premiums, effective 1/1/14, reflect an **overall average decrease of 2.0%** over those effective during 2013. This is the ninth decrease in the last ten years. Pure premium levels have shown consistent, small stable decreases since 2005, with an average annual change of -1.6%.

The reduction in the average pure premium level was comprised of a 3.3% decrease due to experience indications, and a 1.3% increase due to benefit adjustments:

- 1 The impact of SF 1234, which
 - increased the maximum weekly benefit from \$850 to 102% of the statewide average weekly wage,
 - increased the escalation cap from 2.0% to 3.0%,
 - reduced the escalation deferral from four years to three.
- 2 The automatic adjustment in the minimum weekly permanent total benefit threshold from \$595.40 to \$614.25.

Annual medical severities continue to increase, but at a lower expected rate: 6.5-7.0%. Annual expected changes in case frequency continues to decline, and that rate is slowing as well: 2.0-2.5%. Average pure premium levels will tend to stay fairly constant as long as there are no major benefit changes, and case frequency is predictable. This has been the case in Minnesota during the last decade.

FROM THE IT CORNER

CDX Rewrite Coming Soon

ACCCT (American Cooperative Council on Compensation Technology) is close to completing a rewrite of the CDX (Compensation Data Exchange) website. This rewrite will make CDX easier to use for carriers, third party administrators, and Data Collection Organizations.

As a result of the changes, CDX will have a new look and feel, including a new drop-down menu structure for ease of navigation

among functions. Other changes that affect navigation include a tab view with a "breadcrumb trail" feature to easily access pages previously viewed.

The area of the system with the most change is user management and administration. User management screens will have a new visual grid structure, allowing administrators to see and modify permissions and access more easily than before. This grid will have filtering options to group the data in different ways, and will be more easily configurable. Other screens will include search boxes for finding information quickly.

As a part of the user management functional changes, the new CDX will introduce the concept of "User Management Groups" (UMGs). UMGs are the primary units of management for users and carriers and their rights to access applications and send or receive files.

Other changes include a new Carrier Request process function for the addition of a new carrier or UMG. FTP (File Transfer Protocol) settings have also been improved. Locations are the new way to specify how files are sent and received to and from the DCOs. TPA (Third Party Administrator) management has been improved, making it easier for carriers and TPAs alike.

BEEP, PEEP, and EXR have not been significantly changed, but the access to these applications has been improved by the drop down menu structure of the new site.

The changes will be going live later this year. More details and information (including training opportunities) will be provided when the launch date is announced. We hope the new CDX will make your life easier!

FROM THE UNDERWRITING CORNER

Circulars & Filings

Since our last issue of [MWCIA News](#), the following circulars have been filed and approved for use in MN:

[Circular Letter 13-1635](#)
[MWCARP-Construction Contractor Registration Program-Warning Notice](#)

This circular from the Minnesota Workers' Compensation Assigned Risk Plan serves as a reminder regarding the construction contractor registration pilot program.

[Circular Letter 13-1636](#)
[Rollout for Manage USR and Web Membership Changes](#)

This circular announces changes scheduled for release on August 19, 2013, to the Manage USR and Web Membership systems on the MWCIA website.

[Circular Letter 13-1637](#)
[NCCI Filing Item P-1410 — Establishment of Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Program Reauthorization Act of 2007](#)

This circular announces the potential impact of the pending law change to the Terrorism Risk Insurance Program Reauthorization Act of 2007.

[Circular Letter 13-1638](#)
[2014 Minnesota Ratemaking Report](#)

This circular announces approval and availability of the 2014 Minnesota Ratemaking Report.

[Circular Letter 13-1639](#)
[Reminder on discontinuing PEEP-Policy Entry and Edit Package](#)

This circular serves as a reminder that PEEP will be discontinued on December 31, 2014.

Subcontractors and Certificates of Insurance

If I hire a subcontractor, why do I need a certificate of insurance or copy of the subcontractor's WC policy?

[MN statute 176.041](#)
Subdivision 1: *Employments excluded.*
This chapter does not apply to any of the following:

(12) persons who are independent contractors as defined by sections 176.043 and 181.723, and any rules adopted by the commissioner pursuant to section 176.83 except that these exclusions do not apply to an employee of an independent contractor.

[MN statute 176.215](#),
Subdivision 1: *Liability for payment of compensation.* *Where a subcontractor fails to comply with this chapter, the general contractor, or intermediate contractor, or subcontractor is liable for payment of all compensation due an employee of a subsequent subcontractor who is engaged in work upon the subject matter of the contract.*

What we see here embedded in statute, is those who meet the definition of an “independent contractor” are not considered employees of the entity for whom they are performing the work (i.e. general contractor, intermediate contractor, or other subcontractor). This potentially frees the general contractor, intermediate contractor, or other subcontractor of the responsibility for providing workers compensation coverage to these persons (independent contractors).

However, MN statute goes on to state that a general contractor, intermediate contractor, or other subcontractor is **responsible** for the payment of compensation benefits to **employees** of its **uninsured subcontractors**.

Since it is a widely accepted truth that a general contractor, intermediate contractor, or other subcontractor does not want to assume the additional burden and cost of workers’ compensation coverage for those uninsured subcontractor’s employees, or the potential that the “independent contractor” would be found to be an employee and not an “independent contractor”, proof of workers’ compensation coverage for the subcontractor is usually requested by the general contractor, intermediate contractor, or other subcontractor. The accepted form of “proof” is either a Certificate of Insurance of the subcontractor’s workers’ compensation policy or a copy of the subcontractor’s policy.

Bottom line, workers’ compensation coverage written for the subcontractor, albeit a “minimum premium policy” or “if any” policy, creates another layer of insurance. The intent is to further distance the general contractor, intermediate contractor, or other subcontractor from the subcontractor and the potential for additional workers’ compensation cost to the general contractor, intermediate contractor, or other subcontractor.

For further details, refer to subject matter contained within the DOLI website (<http://www.dli.mn.gov>), or Rule 2 H of the *Minnesota Basic Manual* found on the MWCIA website (www.mwcia.org).

How to Classify a Risk

The purpose of the classification system is to group employers with similar operations into classifications so that:

1. The assigned classification reflects the exposures common to those employers
2. The rate charged reflects the exposure to loss common to those employers

Subject to certain exceptions, it is the business of the employer within a state that is classified, not separate employments, occupations or operations within the business.

Ownership Changes and Combination of Entities—it’s all about the mod

This is part 3 of a 4 part series on the subject of ownership changes and combination of entities and the impact those changes can have on an entity’s loss experience and experience modification.

In part 1, we discussed the ownership reporting requirements and reporting tools and defined the various types of ownership changes along with a high level look at their impact.

In part 2, we explored the subject of Combination of Entities including qualifications for combinability, determination of combinability (aka “rulings”), and multiple combinations.

In part 3, we discuss what happens to the experience (loss experience) when there is a change in ownership or combination of entities. This is extremely important information to know and can be a significant factor in one’s decision (due diligence) to purchase or not purchase a business.

In part 4, we’ll identify those conditions under which the loss experience of an entity undergoing a change in ownership is excluded from future experience ratings. We’ll also review the recalculation and application of experience rating modifications and the rules regarding the application of an experience rating modification when a change occurs.

We hope you find this 4 part series to be of value whether this is new information to you or simply a review.

Part 3

Transfer of Experience

Changes in ownership or combination status may or may not result in revisions of experience rating modifications. MWCIA may issue, retract and/or revise the current and up to two preceding modifications due to ownership or combination status changes.

The experience for any entity undergoing a change in ownership will be retained or transferred to the experience ratings of the acquiring, surviving or new entity unless specifically excluded by the Plan.

The conditions, under which experience is transferred, are set forth in the **Transfer of Experience Tables 1 & 2**. Click [here](#) for a review of these tables.

Taking a very broad brush approach to the topic of ownership and ownership changes, here are two things to remember:

1. **You buy the business, you buy the mod;**
2. **The mod has to go somewhere.**

Again, there are exceptions to these two corollaries but they characterize *on a high level* the impact of ownership changes.

Are there exceptions that would have the experience of an entity undergoing a change in ownership excluded from future ratings? We’ll discuss that very topic in the next edition of **MWCIA News**.

Note: For a complete discussion of **“Ownership Changes & Combination of Entities”** refer to the **Minnesota Experience Rating Plan Manual**, Rule 3. This manual is easily accessible from the MWCIA website (www.mwcia.org).

Have a WC question?

The **CompAsk** and **Learning Center** features of the MWCIA website host a wealth of workers’ compensation information from “a to z” (e.g. **Actuarial; Underwriting; State of the Market; Technical Support; Unit Statistical Reporting**; to name a few). Click [here](#) for a quick review.

ASSIGNED RISK NOTABLES

**Assigned Risk Plan Volume
(As of July, 2013)**

<u>Policy Count</u>	26,594	(0.2%)
<u>Premium</u>	\$56,335,664	(1.81%)
<u>Policy Average</u>	\$2,118	

**MWCIA HOSTS ITS ANNUAL GOLF
OUTING**

It was hot and steamy this year on the Crystal Lakes Golf Course. With temperatures approaching 95 degrees, the wind kept things tolerable and enjoyable. Thanks to everyone for coming out to the 31st annual MWCIA golf outing on July 18th.

Inside the air-conditioned banquet room, we had approximately 100 people join us for dinner. What a great turnout at an event that allows us to meet and spend time with our members and their guests. Again this year, we had fantastic prizes, including a golf bag which went to Dave Hennes. Delicious food and great company capped off the day.

For the first time, we had some “skill” contests with longest putt, most putts and closest to the pin. Winners this year were Rita Stott, Ben Wasche, Alison Khan, Greg Bangs, Dawn Soleta and Lee Hartwell, each of whom won a gift card to the pro-shop.

Catch some of the camaraderie in the attached one page supplement.

We look forward to seeing you at our next event which is the 2014 annual luncheon scheduled for Monday, April 21, 2014.

REMINDERS

Experience Rating Split Point Change

In accordance with the approved filing effective January 1, 2013, (refer to [Circular Letter No. 12-1614](#)) the primary/excess split

point will change to \$13,500 effective January 1, 2014. It is expected that only 5% of rated insureds will see modification increases of more than 5% from 2014 through 2015.

2014 Experience Ratings

MWCIA has begun the annual process of sending policyholders their 2014 MCPAP calculation results. Once this process has been completed, all pending 2014 experience modifications will be calculated and distributed (this includes posting the results to the MWCIA website). We expect that all pending 2014 experience ratings will be released by late September to early October.

Training and Education

MWCIA continues to offer and conduct workers’ compensation training and educational classes throughout the state. These classes have been presented to agents, brokers, employers, trade associations, and insurance carriers. Topics presented have included: **Experience Rating; Revisions to the Experience Rating Plan Primary/Excess Split Point Value and Maximum Debit Modification Formula (eff. 1/1/13); MN Ratemaking Report; How to Classify a Risk; Classification Changes; Independent Contractors vs. Employee; Ownership; Employer Paid Claims, Legal or Not Legal; Controlling and Minimizing WC Costs through Loss Prevention and Loss Reduction Techniques; WC Pricing Tools, etc.**

The presentations have been enhanced with the participation of Philip Moosbrugger, JD, Ombudsman, MN Department of Labor and Industry. Phil’s role in the presentations has been invaluable as Phil brings with him a wealth of seasoned workers’ compensation legal expertise.

If these or any other WC topics are of interest to you, please contact Glenn Colby, CPCU, Senior Communications and Underwriting Specialist, at glenn.colby@mwcia.org, tel. (952) 897-6411.

There is no charge for this training so why not take advantage of this opportunity to expand your workers’ compensation knowledge base?

FYI, MWCIA continues to participate in quarterly workshops for small business sponsored by the MN Department of Employment and Economic Development, discussing MN employment tax and workers’ compensation insurance. These workshops are held at convenient locations throughout the Twin Cities. The sessions are 8 hours in length and are free of charge. Refer to <http://www.uimn.org/uimn/employers/help-and-support/educational-seminars/seminar-schedule.jsp> for the upcoming seminar schedule.

***MWCIA News** is a periodic publication of the Minnesota Workers’ Compensation Insurers Association as a service to its members and the workers’ compensation industry. Please direct any questions, comments or suggestions you may have concerning this publication to Glenn Colby, CPCU, editor of MWCIA News, c/o MWCIA; 7701 France Avenue South, Suite 450; Minneapolis, MN 55435. You may also contact Glenn by phone (952 897-6411), fax (952 897-6495), or e-mail (glenn.colby@mwcia.org).*



MWCIA PURPOSE

As the preferred provider of quality Minnesota Workers’ Compensation information, we are committed to developing products, services and markets that meet our customers’ evolving needs, and to providing a work environment rich in opportunities for personal and professional growth.



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