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OHIO REPORT

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BWC's New Drug-Free Program Again Allows Discount Stacking, Removes Duration Limit

A proposed change to the Bureau of Workers' Compensation drug-free program will reduce the overall financial incentive for employers but will again allow group discounts to be stacked with those for substance abuse safety measures.

The BWC Board of Directors at a recent meeting heard details of the proposed Drug-Free Safety Program – a program that would replace the Drug-Free Workplace Program.

BWC officials said the change was suggested by a 2009 study of the workers' compensation program by Deloitte Consulting Inc. that identified ways to enhance the drug-free program and improve its effectiveness in preventing substance abuse-related injuries.

The study, mandated by legislation (HB100, 127th General Assembly), found that premium discounts associated with the program in Ohio were much larger than those offered in other states. The old program benefits included a limited five-year premium discount in the range of 10-20% depending on program participation level.

The new program offers both basic and advanced participation with premium discounts in the range of 4-7%.

Rep. Lynn Wachtmann (R-Napoleon) said the premium discount, although reduced from the former program, shows the BWC administration has listened some to those who were against the bureau dropping the incentive for employers being involved in program.

"Drug abuse and drug problems is a huge problem in the workplace," he said, referring to the reduction in incentives as a "bad, bad thing."

The premium discount extends even to those employers that receive group discounts, a subject of some contention last year.

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BWC eliminated discount stacking in 2009, which prevented employers from receiving a premium discount for both the DFWP and being a group member. BWC administrator Marsha Ryan said last year the change would bring more premium equity to all employers.

Sen. Keith Faber (R-Celina) sponsored related legislation (SB 213.00) that would put a moratorium on changes to the BWC group-rating program, which was drafted in light of changes that prompted opposition among most statewide business groups. That bill has passed the Senate and has undergone a first hearing in the House.

Group experience employers implementing an advanced level of the program will receive the incremental benefit between the basic and advanced levels, BWC spokeswoman Michelle Gatchell said in an email.

"Currently, the group experience program have certain safety as well as accident and injury prevention elements that are comparable to the safety elements in the new basic drug-free safety program," she said. "Consequently, group experience employers are expected to improve their accident and injury experience by implementing the advanced program elements."

Lisa Schaff, CEO of the Ohio Manufacturers Association, said a lot of employers and employer organizations that were taking advantage of the DFWP discount were concerned about its reduction, but the Deloitte study revealed the discount through the program was too big for the benefits the program accrued.

"(BWC) stepping back to get the math right is totally appropriate in my opinion," she said, commending Ms. Ryan for having the courage to completely redesign the program.

Rep. Wachtmann said he wanted more information before commenting on the details of the program changes, but urged BWC to be cautious with policy modifications.

"If they have data that shows the one level of participation is not accomplishing the goal, that's one thing," he said. "In general I think the bureau needs to be very careful ... about the dramatic changes they made and making sure they don't dismantle good things ... that have been hopefully working."

BWC officials denied employer complaints inspired the change allowing for discount stacking, saying the new approach is the result of BWC's ongoing improvement of its programs to make them more effective, measurable and actuarially sound.

Working Partners president Dee Mason said BWC conducted the necessary due diligence when creating the new program.

"I really do salute them for the work that they've done," she said. "I think there are some fabulous things for employers here with the new program."

The discounts are very consistent with national discounts, she said. For those states that offer discount programs, the average deduction is 5%.

In the new program, employers can receive premium discount benefits for as long as they participate in the program. Ms. Gatchell said. They are no longer limited to five years of discounts as they were under DFWP.

Ms. Mason said she appreciates this change and that they can now re-enter the program if at any point they withdraw. Mr. Wachtmann also said the removal of the five year limit is a positive change.

The Deloitte study concluded there was no way to measure the program's performance or success, Ms. Gatchell said.

Consultants also recommended BWC come up with a way to measure the success of the program's objective of reducing workplace accidents and injuries related to alcohol and drug abuse, and to simplify the program structure by combining the Drug-Free and Drug-Free-EZ in one program, she said.

The new DFSP is a loss prevention program directed at assisting employers in preventing accidents and injuries that are attributed to the use and abuse of alcohol and drugs, Ms. Gatchell said. It simplifies the process for employers to join and implement a program that will provide measurable results by tracking drug or substance abuse related accidents.

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"The program will have better data reporting and analysis components for measurement and evaluation," she said.

Additionally, the new program is intended to be more streamlined with safety components and program elements that are more consistent with the employer's safety needs, and employee education and supervisors training that is less complicated, Ms. Gatchell said.

Ms. Mason said she hopes the bureau will emphasize in its marketing its responsible efforts to improve productivity by cutting back the hours required for the training and education of supervisors.

She also said she appreciates safety requirements are part of the rule and now will be more thoroughly integrated. Additionally, she said streamlining efforts include better articulation of details, reducing the participation levels from three to two and making the program more user friendly.

Pending board approval at the March 26 meeting, the new program will go into effect July 1.

"A solid substance abuse program in the workplace is essential to preventing injuries and limiting associated increases in workers' compensation premiums," Ms. Ryan said in a release. "The comprehensive study performed by Deloitte Consulting Inc. clearly demonstrates the need for a redesigned program that is more consistent with similar programs in other states, and places a greater emphasis on maintaining drug-free work environments through safety and prevention."

Minimum requirements for employers that would participate in the basic level of programming include submitting an online safety assessment, ensuring each supervisor completes accident-analysis training, and utilizing online accident-analysis reporting on the bureau's website following an accident, according to BWC.

Additionally, employees shall be educated about the program and the issues of substance abuse in the workplace. Drug testing will be conducted for new-hires, after accidents, for reasonable suspicion and when an employee returns to duty.

Advanced level participants shall fulfill the basic requirements plus ensure it conducts 25% or greater random drug testing of the employer's workforce each policy year, submit a safety action plan outlining specific safety process improvements the employer intends to implement, and commit to not terminate an employee who tests positive for the first time, who comes forward voluntarily to indicate a substance problem, or who is referred by a supervisor for an assessment, according to BWC.