



October 17, 2013

Dear Members of the Governor's Workers' Compensation Task Force:

Thank you for your letter dated October 14, 2013 regarding the Delaware Compensation Rating Bureau's (DCRB) Filing No. 1305. As the individual elected by the people of Delaware to head the largest consumer protection agency in the state, I have serious concerns about the very large increases in prospective loss costs and residual market rates proposed by the DCRB. As soon as the filing arrived on October 10, 2013 I brought in independent actuarial experts to thoroughly analyze it and to provide their expert opinion regarding the level of change supported by the underlying data. That analysis is nearing completion. At the same time, the filing was posted on the Department of Insurance website.

At this preliminary stage in the rate-making process, a few facts are clear. The cost of providing workers' compensation insurance to Delaware's employers has been rising dramatically, and continues to do so. As Delaware's Insurance Commissioner, I must look at all aspects of this problem, and include all participants in this insurance market in the conversation about a solution. Delaware employers, injured workers, medical service providers, insurers, elected officials, and workers compensation attorneys bring different but important perspectives. Rather than one segment pointing fingers at another, I believe we must get to the true facts and identify long term solutions. Legislation over the last several years has made headway in containing costs, but it is likely that more action is needed.

Like all elected officials, I must uphold the laws of this state. By statute, the DCRB submission is subject to the Delaware Insurance Code and Administrative Procedures Act. A final decision must be based on the evidence and applicable legal standards, and in accordance with timelines contained in the statute. Under this process, the DCRB presents data and actuarial analysis to the Department of Insurance in support of changes that DCRB contends are necessary. In accordance with statutory guidelines, the Department then must carefully examine the DCRB submission to insure that it is

complete, includes reliable data and accurate calculations, and to the extent that necessary information has not been provided, obtain such additional information.

We will soon have public sessions across the state to discuss the DCRB's filing. A formal hearing will follow. In your letter you ask that I delay the rate setting process until a full examination of many of the insurance carriers writing this business in the state is concluded. Whether it may be appropriate to consider the results of examinations of one or more individual carriers as part of the rate-making process remains to be seen. As you may know, the DCRB provided to the Data Collection Committee, as Lt. Governor Denn recently requested, data on the 78 insurance companies included in the nine groups for which data was provided on August 1, 2013. At its recent meeting, the Data Collection Committee set up a subcommittee to begin examining this data immediately, and to report back promptly to the full committee.

Ultimately, after considering input from all interested parties, including the public, Department, DCRB, DCC, and the rate-payer advocate, the Commissioner's duty is to reach a result that meets the standard in Delaware law that, "rates shall not be excessive, inadequate, or unfairly discriminatory." In doing so, the Department must not unduly delay the process and must follow all applicable statutory guidelines. Any other course could result in costly litigation detrimental to policyholders. Please be assured I do not intend to make any decision until I am satisfied that I have all of the information necessary to render an appropriate decision in this matter.

You also ask me to eliminate insurers from the discussion. Giving them voice in the discussion does not mean I will follow their wishes blindly, nor will I be unduly influenced by their participation on the DCC that ultimately affects Delaware's workers' compensation insurance market. My role is to see the facts, to weigh them fairly, and to take appropriate action as required by law. It is the role I have sworn to uphold.



Karen Weldin Stewart
Insurance Commissioner, CIR-ML