2023 Report to the Workers' Compensation Advisory Council (Rates Oversight Commission)

Workers' Compensation Rates in Minnesota

As required by Minnesota Statutes § 79.55, subdivision 10

Minnesota Department of Commerce

Mission

For more than 150 years, the Minnesota Department of Commerce and its predecessor agencies have served Minnesotans. Our mission is to protect and assist consumers, to ensure a strong, competitive and fair marketplace, and to engage people and communities across the state.

Our Strategic Priorities

• Protect the public interest through consumer protection, consumer education, assistance to consumers, safety, health and financial security, and lowering inequities.

• Serve as a trusted public resource for consumers and businesses by listening and learning from the Minnesotans Commerce services, being effective stewards of public resources, advocating for Minnesota consumers and develop a policy, programmatic, and regulatory environment that meets their needs.

• Reduce economic barriers within Commerce regulatory oversee and reduce disparities within those of all races, ethnicities, religions, economic statuses, gender identities, sexual orientations, (dis)abilities, and zip codes.

• Ensure all, especially historically disadvantaged Minnesotans, are resilient to Minnesota's climate and engaged in advancing efforts to mitigate climate change.

• Ensure a strong, competitive, and fair marketplace for Minnesotans.

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Executive Summary

Pursuant to Minnesota Statutes § 79.55, subdivision 10, the Minnesota Commissioner of Commerce (Commissioner) must issue a report by March 1 of each year that evaluates the competitiveness of the workers' compensation market in Minnesota in order to evaluate whether the competitive rating law is working.

Over the last 10 years, Minnesota Workers' Compensation Insurance Association (MWCIA) pure premiums have been drifting lower, with a few larger decreases. Most of these changes have been close to 1% - 2% decreases with the notable exceptions that in 2017 the pure premiums dropped 12%, in 2018 8% and in 2022 7% (see figure 1 on page 4). At the same time, the loss cost multipliers (LCMs) used by the companies (to convert MWCIA advisory pure premiums to rates) have been drifting down during recent years (see figure 2 on page 5). Combining the LCMs and the MWCIA loss costs, the rates charged by insurers have been drifting downwards over the ten-year period. The exceptions are the larger decreases effective January 1, 2017, January 1, 2018 and January 1, 2022. It is notable that it does not appear that the carriers adjusted their LCMs significantly in reaction to those larger MWCIA pure premium years.

Impact of 2023 Law Changes to Advisory Pure Premiums

Effective January 1, 2023, a change occurred which had a large impact on what the MWCIA could include in their advisory pure premium base rates that they publish. Prior to this law change MWCIA as the Data Service Organization (DSO) was prohibited from including any expenses in these published advisory pure premium base rates. Minnesota Session Laws - 2021, 1st Special Session in CHAPTER 4--H.F.No. 6 amended Minnesota Statutes section § 79.61, subdivision 8(b) so that the DSO could include loss adjustment expenses in the published advisory pure premium base rates. In addition, this session law allowed for expeditated rulemaking which was used to rescind rules for not allowing the DSO to include trend and loss development to ultimate in the published advisory pure premium base rates.

Starting in 2023, the MWCIA published advisory pure premium base rates which include loss adjustment expenses, trend and loss development whereas in all prior years the MWCIA published advisory pure premium base rates which excluded these elements. This results in a fairly significant discontinuity when comparing the 2023 LCMs to those used in prior years as the 2023 LCMs should be lower than those used earlier if all other things were equal, because these elements are already in the MWCIA published advisory pure premium base rates whereas in the past the companies had to load them as part of their LCM. In subsequent sections of this report, more detail will be provided explaining these differences.

Purpose

As noted above, Minnesota Statutes § 79.55, subdivision 10 requires the Commissioner to issue a report to the Minnesota Workers' Compensation Advisory Council (Rate Oversight Commission) by March 1 of each year. The statute also provides that the Rate Oversight Commission shall review the Commissioner's report and if the the Rate Oversight Commission concludes that concerns exist regarding the competitiveness of the workers' compensation market in Minnesota, the Rate Oversight Commission must recommend to the legislature appropriate modifications to this chapter.

Background

In 1984, the Minnesota workers' compensation insurance rates were deregulated. At the same time, the Minnesota Legislature established the requirement for this annual report to track rates being charged by workers' compensation insurers in the new competition-based system. Minnesota Statutes § 79.55, subdivision 10 required a comparison of the rate changes made by insurance carriers with the changes in the pure premium base rates published by the MWCIA. Because a simple comparison does not include many other factors, Commerce believed that it was not be the best indicator of whether the competitive rating law is indeed making the Minnesota workers' compensation insurance market competitive. Although rate changes and pure premium changes can be expected to frequently move in the same direction, there are several reasons why they may not. A more detailed discussion of these factors is contained in the Appendix to this Report.

It should be noted that in 2021, Minnesota Statutes § 79.55, subdivision 10 was amended. Per the recommendation of Commerce the statute now states, "The report under this subdivision must: (1) compare the average rates charged by workers' compensation insurers in Minnesota with the pure premium base rates filed by the association…". Commerce believes that this wording more closely reflects the purpose of what the authors of this statute intended, as tracking this relationship over time should reveal any major concerns surrounding the competitiveness of this market.

The MWCIA Ratemaking Report may or may not be so important to an insurer in setting overall rate levels. Although it may have some merit for very small carriers, most insurers will set rate levels by looking at their own data as well as data gathered from competitors. The data needed to prepare this Report is generally too old for companies to use to make current decisions. The most likely value of the Report for insurance carriers is to establish the relationships between the occupational classifications (job class codes (JCC)). At that level of detail, insurance carriers, for the most part, lack sufficient data for individual job class code analysis. However, this Report is useful as a general indicator of what is happening to workers' compensation rates in Minnesota.

One approach is to examine whether carriers are using the MWCIA pure premiums, based upon whether a carrier's rates are moving in the same direction as the MWCIA's pure premiums. Based on information collected by the Commerce Department as of January 31, 2023, 197 of the 289 carriers had adopted the January 1, 2023, loss costs, representing 80% of the market share. However, it is important to note that if a carrier has filed for an effective date after the date of this extract, it would not appear on the tracking tool. As of August 2, 2022, 261 out of 288 carriers had adopted and had in effect the January 1, 2022, MWCIA pure premiums representing 94% of the voluntary market.

It should be noted that the Commerce Department tracks the changes in the loss cost multipliers (LCMs), not the rate changes themselves. The LCM may be a better indicator of what is happening in the market. This is because the LCM is the factor that the insurance carrier uses to adjust the pure premium to the desired rate level, with an average factor in Minnesota of 1.71. (More detail will be provided in a later section describing why the 2023 industry average LCM is so much lower than those found on prior years version's of this report).

Finally, employers are most concerned about the premiums that are paid, not the rates. Please see the section of the Appendix on "Pricing Flexibility" for additional comments about adjustments from rates to premiums.

Report on Rates Charged by Insurers versus MWCIA Pure Premium Base Rates

The Commerce Department has conducted a review of the base rates charged by insurance carriers selling workers' compensation coverage in Minnesota and compared these rates with the pure premium base rates[1] charged by the MWCIA for the time period 2014 – 2023. The results of this comparison are contained in this report. An underlying assumption of the statute is that changes in workers' compensation carrier base rates should reflect changes in the MWCIA pure premiums[2]. In general, carrier base rate changes and MWCIA pure premium changes do move in the same direction. However, there are various reasons why this may not occur and these are discussed in the Appendix.

The chart on the next page shows the changes in MWCIA pure premiums during the past ten (10) years.

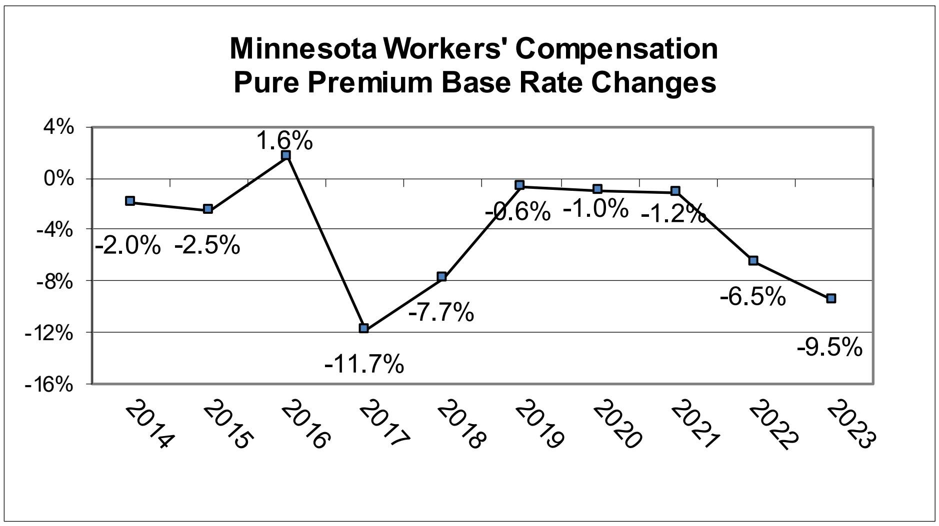

Figure 1

- Note that the 2023 MWCIA Advirsory Pure Premium change is for experience and benefis only and excludes the impact of including the new elements of loss adjustment expenses, trend and loss development to ultimate. The actual published change by MWCIA when including these elements was +5.7%.

[1] The pure premium is the amount that an insurance carrier would need to charge in order to cover only the workers' compensation benefits (losses) paid to injured workers. These pure premiums, for each employer job classification, are calculated by the MWCIA based on industry experience.

[2] Throughout this report, the terms pure premiums and loss costs are used interchangeably. Due to statutory restrictions, the pure premiums calculated by MWCIA are not quite the full amount for the loss cost, but it is most of the full amount. No expenses of any type were included until 2023. In 2023 loss adjustment expenses were included in the pure premiums calculated by the MWCIA. In addition, starting in 2023 the pure premiums calculated by MWCIA are the full amount for the loss cost as trend and loss development to ultimate is now included in the pure premiums calculated by the MWCIA. However, certain underwriting expenses including commissions, other acquisition expenses and general expenses are exclude from the MWCIA advisory pure premiums (for the 2023 RatemakingReport as well as for all exitions published in prior years). In addition, considerations for profits and contingencies, investment income and taxes are also excluded. See the Appendix for additional detail.

During this period, the annual changes to pure premiums due to loss experience have most often been modest decreases with the exceptions of 2017, 2018, 2022 and 2023 when larger decreases occurred and 2016 where an increase occurred. The cumulative effect is more significant. Since 2014, pure premium base rates based on experience have declined by 35%.

It is important to note that the 2023 change would have been -9.5%, if the new elements – loss adjustment expenses, trend, and loss development to ultimate – continued to be excluded from the MWCIA advisory pure premiums. In other words, the inclusion of these elements caused the MWCIA advisory pure premiums to be 16.8% higher than what they would have been had the 2021 session law not been implemented, which resulted in an overall increase of 5.7% to the MWCIA advisory pure premiums.

Please note that the MWCIA pure premiums represent more of the expected losses over the last eight (8) years than they did prior to that. Specifically, the rules used to not allow the MWCIA pure premiums to be developed to ultimate. Prior to 2016, they were developed to 8th report. In 2016 they were developed to 10th report, 2017 to 14th, 2018 to 18th, 2019 to 24th, 2020 through 2022 to 27th, and for 2023 to ultimate. As indicated earlier, the MWCIA pure premium includes loss adjustment expenses and trend whereas these elements were excluded in MWCIA reports for earlier years. As a result, if one compares the MWCIA loss costs in 2015 to those in 2023, the 2023 loss costs represent a greater portion of the losses a carrier would be expected to pay. For the comparison shown on the prior chart, the impact of the point to development has been adjusted to go back to the 8th report, so the loss costs for each year represent the same thing. However, because of this adjustment, the figures in this chart for the last few years will not match those published by MWCIA.

In order to go from pure premiums to rates, an insurer determines a loss cost multiplier (LCM) which adjusts for additional loss elements excluded from the MWCIA pure premiums and for insurance company expenses (other than loss adjustment expenses), taxes and expected profit (after considering investment income). These rates must be filed and approved by the Commerce Department before they can be used.

The chart below shows the average changes in insurance carrier LCMs during the past ten (10) years.

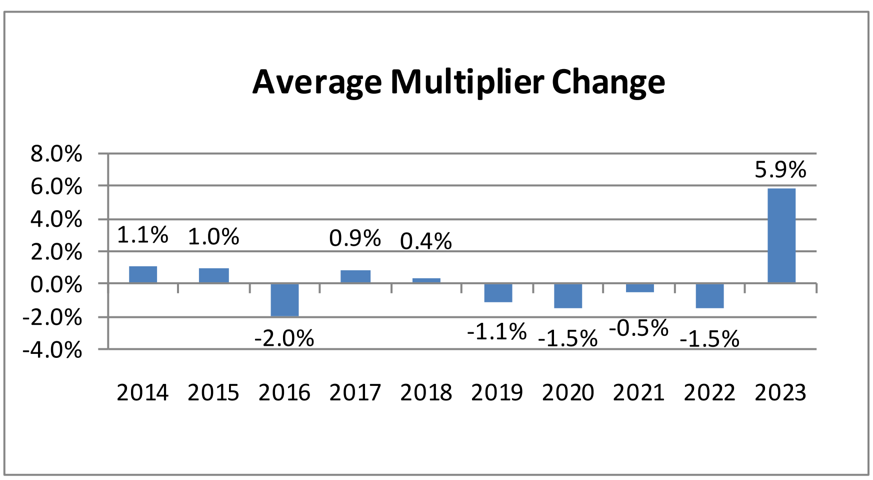

Figure 2

- Note that the 2023 Average Multiplier change is adjusted so that the impact of including the new elements elements in the MWCIA advisory pure premiums is removed. Specifically the change from 2022 to 2023 filed LCMs is -9.3%.

The rate change is the combined effect of the pure premium change and the multiplier change. For example, the MWCIA pure premium change in 2022 was -6.5%. The average LCM in the filings made during 2022 decreased 1.5%. As a result, the overall rate effect for business written in 2022 is approximately -7.9%.

Over the past ten-year period, the average change in LCMs was -1.3% each year. However, there is a major distortion for the change from 2022 to 2023 due to the inclusion of the new elements in the MWCIA pure premiums. If the latest year was excluded, the average LCM change would have been -0.4% based on the preceeding 9 year changes. (Please note that 2023 is evaluated in January, while the other years are evaluated in November (2013 through 2017) or August (2018 through 2022).

During the past nine-year period, pure premiums and multipliers – and therefore rates – drifted lower generally. In 2017, 2018 and 2022, due to the large decrease in the MWCIA pure premiums, the rates decreased by a fairly significant amount. It will be interesting to see what happens in 2023. We note that measurement is not yet provided as carriers may adjust their LCMs over the course of the year, so the January 31, 2023 LCM measurement is too immature to include in this comparison. However, early indications seem to show that for their 2023 LCMs carriers are not taking the full 9.5% indicated experience decrease as shown by MWCIA. Given that there also was a fairly large decrease based on the loss experience (which drives the MWCIA in a typical year) some of the industry participants may be skeptical that expected losses have decreased as much as MWCIA projected.

Regarding the longer term trend of decreases for the pure premiums and multipliers, there are multiple factors influencing these dynamics. Given the steady increase in medical costs, it would be expected that workers' compensation loss costs would increase. In fact, medical costs per claim have gone up, although recently at a slower rate. However, there has been a dramatic drop in the number of claims. As noted in the Minnesota Workers' Compensation System Report produced by the Minnesota Department of Labor and Industry: "In 2020, there were: "[…] 4.0 paid claims per 100 full-time-equivalent workers, down 51% from 2000." Low interest rates, with the perception by carriers that they would earn less investment income, may be putting upward pressure on LCMs. Also, concerns about the still relatively little known long term impact of COVID-19 may also be placing some upwards pressure on companies to keep their LCM levels higher.

Current Workers' Compensation Environment in Minnesota

The workers' compensation insurance market in Minnesota appears to be competitive. There are over 285 insurance carriers and the largest market share of any one insurer is 10%. It is important to note that many of these companies are affiliated within one group, but usually each company has a different LCM.

The Commerce Department has reviewed the LCMs that were in effect and available as of January 31, 2023. As demonstrated by the table below, there is significant variation in the LCMs filed by insurance carriers in Minnesota. If the company does not use the MWCIA 2023 advisory pure premiums by January 31, 2023 for their rates as of January 31, 2023, the LCM for that company is adjusted for the changes in the MWCIA advisory pure premiums in order to put it on the same level as the companies which did adopt the MWCIA advisory pure premiums.

2023 Loss Cost Multipliers for the Ten Largest Workers' Compensation Writers in Minnesota (Based on 2021 Written Premium)

		LCM
1	SFM Mutual Insurance Company	1.900
2	West Bend Mutual Insurance Company	1.671
3	Zurich American Insurance Company	1.393
4	SECURA Insurance Company, WI	1.798
5	Federated Mutual Insurance Company	1.784
6	Owners Insurance Company	1.599
7	Western National Mutual Insurance Company	2.220
8	LM Insurance Corporation	1.300
9	ACUITY, A Mutual Insurance Company	1.363
10	SFM Safe Insurance Company	2.120

Please note that a higher filed rate does not necessarily mean that a higher premium will be charged to the employer. There are various discounts available. Schedule rating is typically thought of as the most significant discount. Most insurers have filed schedule rating plans with credits up to 40%.

The Minnesota Assigned Risk Plan writes 4% of the market. The table on the next page shows market share information (as a percent of voluntary market) for the Assigned Risk Plan, the voluntary market as a whole, and the top ten carriers for both 2020 and 2021.

Market Shares for the Ten Largest Workers' Compensation Writers in Minnesota (Based on 2021 Written Premium)			
	2021 Written Premium	Market Share *	2020 Written Premium
Total Voluntary Market	$951,468		$933,321
Total Vol. Market Plus Assigned Risk	$986,694		$966,569
Change in Premium *	2%		
Number of Insurers *	295		284
Assigned Risk Plan	$35,226		$33,248
SFM Mutual	96,539	10%	95,994
West Bend Mutual	31,829	3%	26,897
Zurich American	31,574	3%	34,580
Secura Ins A Mutual Co	26,876	3%	24,207
Federated Mutual	24,610	3%	23,010
Owners Ins Co	22,623	2%	21,106
Western Natl Mutual	22,266	2%	24,558
LM Ins Corp	22,254	2%	16,627
Acuity A Mutual Ins Co	19,986	2%	20,129
SFM Safe Ins Co	19,825	2%	17,473

*Of Voluntary Market

Self-insurance is also a viable option in Minnesota. The 2020 *Workers' Compensation System Report*, issued by the Minnesota Department of Labor and Industry, states that, based on paid indemnity claims, 38% of the total workers' compensation market is self-insured. In prior years this percentage was closer to 25%. Part of the reason that this measurement appears distorted is that the Workers' Compensation System Report produced by the Minnesota Department of Labor and Industry uses paid indemnity claims to measure the market shares. The 2020 *Workers' Compensation System Report* notes, "Many of the workers covered by the COVID-19 presumption – first responders, corrections workers and health care workers – had self-insured employers."

Voluntary market losses have been close to break-even the past five years. Based on industry average expenses, an insurance carrier typically pays 65% of its premium in losses and has enough left to cover loss settlement costs and expenses. The loss ratio average for the industry for the past five years is 50%. This is two points lower the figure given in last year's version of this report. These results vary significantly by carrier. Within the top ten voluntary writers, five-year loss ratios vary from 35% to 80%. For future results, the Commerce Department would expect to see more rate decreases than increases in the immediate future.

Lastly, a relevant question may be simply: "Is the Minnesota workers' compensation market competitive?" Several observations can be made to answer this question:

1. The market appears to be largely stable. Other than the 2017, 2018 and 2022 MWCIA pure premium changes, there have not been large changes in the pure premiums or in the LCMs. Of course, in 2023, the new elements included in the MWCIA advisory pure premiums caused a significant distortion to this pattern. For the most part, for years prior to 2023, the pure premiums have been trending slowly downward, and the company LCMs have not moved significantly.
2. The market appears to be competitive. There are 289 insurance carriers writing workers' compensation coverage in Minnesota and the largest market share of any one company is 10%. There is a wide range in the LCMs. Among the top 20 carriers, the LCMs range from 0.852 to 2.40. This range may reflect different pricing policies. For example, a carrier with a high LCM may rely on discounts to be competitive.
3. One of the significant concerns related to the workers' compensation insurance system in Minnesota is the impact of the residual market, known as the Workers' Compensation Assigned Risk Plan (ARP), which can fluctuate in size. In September 2011, the premium written in the ARP was $32.1 million. By January 2014, the earned premium for the calendar year ending in September of 2014 had grown to $64.9 million. It gradually decreased until it hit a low point of $30.2 million for the calendar year ending in June of 2021. Since then it has started increasing again. As of September 30, 2022, the 12-month rolling calendar year earned premium was $39.0 million.
4. The Workers' Compensation Reinsurance Association's (WCRA) accumulated capital continues to grow. At year-end 2016, the surplus was $674 million versus the $453 million surplus the year before. At year-end 2017, it increased to $1,035 million. At year-end 2018, it was at $904 million. At year-end 2019 it again increased to $1,406 million. Again, in 2020 it increased this time to $1,915 million. At year-end 2021 it was $1,875 million, even after booking a $600 million surplus distribution. This strong position is good for the workers' compensation insurance system in Minnesota, since the WCRA stabilizes results for Workers' Compensation insurers by paying excess losses on all of the workers' compensation claims given the entity's chosen per occurrence attachment point.
5. The National Association of Insurance Commissioners (NAIC) annually publishes a competition database report. This report indicates that Minnesota workers' compensation is not concentrated based on the market shares of the largest four groups and the Herfindahl-Hirschman index.

Appendix

Why the pure premiums and the rates may move in different directions

Both the pure premiums and the rates charged by insurance carriers are measures of the workers' compensation loss experience. Although these measures will frequently move in the same direction, there are various factors that could cause one to move up and the other to move down.

- **Data Differences.** The MWCIA pure premium analysis compares actual losses with *hypothetical* premiums, calculated by the MWCIA using the most recent set of pure premiums and payrolls reported by the insurers. However, when a carrier determines its rate level, it compares its actual losses with the premiums it actually collected (usually brought up to the current benefit and rate level). If an insurer has had more losses than expected, then the insurer will need to increase rates, no matter what the pure premium analysis indicates. The pure premium analysis is a "what if" estimate of the number. The insurance carrier analysis is grounded more firmly in actual results.

  The analysis in the MWCIA pure premium report provides the individual insurance company with a perspective on industry-wide experience. However, the MWCIA pure premium report for insurance carriers has more value in providing information about the relationship between the approximately 500 classes of employers. Insurers do not have enough data to set these relationships based on their own data and need an industry base to have a credible analysis of the differences between the job class codes.

- **Age of Data.** The pure premiums are based on industry data. Because the data is collected from all insurers, it is on average more than two years old when compiled and analyzed by the MWCIA. In contrast, an insurance carrier determining a rate level change is using data that often is less than six months old. If anything, company rate changes, instead of *following* the MWCIA pure premium changes, are a *forecast* of what each individual company believes will happen.

- **Reinsurance.** By law, all workers' compensation insurance carriers in Minnesota must purchase reinsurance from the Workers' Compensation Reinsurance Association (WCRA). The MWCIA pure premiums do not include any reinsurance charges. The insurance carrier rates must, of course, consider the costs of reinsurance, making adjustments if they believe that they will incur higher or lower than average costs in the Minnesota workers' compensation market when compared to what WCRA compiles. In Minnesota, the WCRA makes most of the investment income as opposed to the individual insurance carriers. An additional complication is that the WCRA reinsures the entire workers' compensation market, including the Assigned Risk Plan (ARP) as well as government and private self-insured employers. The ARP, in particular, has had poor reinsurance experience. The voluntary market subsidizes a small portion of the ARP's reinsurance costs although with the ARP selecting the highest WCRA attachment point in recent years, the impact of this subsidy has been mitigated.

- **Insurance carrier expenses and investment income.** The MWCIA pure premiums cannot, by statute, include any underwriting or general expenses or adjustments for investment income. Insurers must consider both of these items. An insurance carrier must collect enough to pay its expenses and must also consider the amount of investment income that will be earned on the reserve funds held to pay losses. (In Minnesota, a great deal of the investment income is earned by the WCRA, not the individual insurance carriers.) Changes in the insurer's company expenses and potential investment income affect the filed rates but not the MWCIA pure premiums.

- **Market share.** The average multiplier is calculated by weighting each carrier's multiplier against the carrier's premium for the most recent year. Consequently, the average multiplier will be affected by premium movement between the voluntary market and the ARP and the self-insured market as well as movement between the carriers (from those who heavily use schedule credits to compete versus having a lower LCM and fewer credits available). In theory, if the ARP is being depopulated, then the average multiplier will rise as employers that are somewhat costlier than average are written in the voluntary market at rates that are higher than average. This may cause the average multiplier to increase even when no employer actually gets an increase. On the other hand, self-insured employers generally have better than average experience. If the voluntary market writes more of these employers, the average multiplier will probably decline. In recent years, both the self-insured market and the assigned risk plan market share have stabilized have stabelized.

- **National Perceptions.** Insurance carriers do not look at Minnesota workers' compensation experience in a vacuum; instead, they consider what is happening to the line of insurance in total. Other than SFM Mutual Insurance Company, none of the other carriers of significance have most of their premium exposure in Minnesota. Forecasts for the entire market more likely have a larger impact on carrier behavior than Minnesota results, particularly for the industry.

- **Impact of COVID-19.** Since the data that MWCIA based their primary analysis upon was prior to the emergence of COVID-19, and this report's focus is whether the carriers are for the most part following the MWCIA forecasts, for this version of the report we have not seen significant departures in loss cost multipliers. For the 2021 loss costs MWCIA built into their pricing model an estimate of the impact due to COVID-19 and have made adjustments in subsequent rate filings. If carriers for the most part believed that MWCIA significantly underestimated the impact due to COVID-19 one might expect to see average LCMs increasing. Another possibility could be that carriers would avoid certain job class codes. However, if that was to happen, it would be likely that the ARP would grow significantly in those classes as it would be unlikely that those employers would choose to self-insure. It should be noted that the presumption legislation has expired. However, it would be prudent to monitor growth in the assigned risk plan for job classes that are perceived as being more vunerable to COVID-19 claims.

- **Pricing flexibility.** It is possible in many instances for an insurance carrier to change an employer's premium without changing the manual rate. An employer's premium calculation begins with the manual rate filed by the insurance carrier. This amount is then adjusted for the employer's loss experience, via the experience modification factor. If the employer chooses to have a deductible, they receive a premium credit for assuming that portion of the loss. After these basic adjustments, the insurer may also offer a schedule credit or debit, reflecting the condition of the premises, the training and selection of employees, safety programs and return-to-work options and/or other characteristics as determined by the insurance carrier. Schedule credits and debits are loosely defined and depend, to some extent, on the underwriter's judgment and perception of risk. Consequently, it is possible for employers to have premium adjustments even if the manual rates do not change. Schedule credits can be as high as 40% of premium, so the possible magnitude of these adjustments is quite significant. By statute, the Commerce Department cannot regulate the size of discounts and the Department does not track either the size or use of schedule credits. In addition, some carriers offer dividend programs which are not guaranteed but must be filed with the department in order to assure the program(s) are not unfairly discriminatory. Employers will be more concerned about the actual premiums that they pay (such as per employee or amount of payroll after considering the job classification mix) rather than whether their rate went up.