

1
2 STATE OF OREGON
3 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
4 DIVISION OF FINANCIAL REGULATION

5 IN THE MATTER OF:) FINAL ORDER AND RESPONSE TO
6) EXCEPTIONS
7 CHEHALEM YOUTH & FAMILY) OAH No. 2018-ABC-01958
8 SERVICES) Agency Case No.: INS-WCA 18-08-0024
9

10 **Procedural History**
11

12 The Director of the Oregon Department of Consumer and Business Services (Director),
13 by and through Division of Financial Regulation, (Division), commenced the above entitled
14 administrative proceeding to review a decision by the Oregon Workers' Compensation Rating
15 System & Advisory Committee (ORAC). In the decision dated July 30, 2018, ORAC denied a
16 request for a classification code change submitted by Chehalem Youth and Family Services
17 (Chehalem). On August 20, 2018, Chehalem requested a hearing through the Division of
18 Financial Regulation (DFR) of the Department of Consumer and Business Services, pursuant to
19 Oregon Revised Statutes (ORS) 737.256(1), ORS 737.505(3), and Oregon Administrative Rules
20 (OAR) 836-043-0200 *et. seq.*
21

22 On August 31, 2018, the Division referred employer's hearing request contesting the
23 billing to the Office of Administrative Hearings (OAH). The issue before OAH was whether
24 SAIF Corporation had erroneously applied classification code 8864 to Chehalem's employees
25 rather than code 8868. By Proposed Order dated April 3, 2019, Administrative Law Judge (ALJ)
26 Rick Barber affirmed the insurer's Final Premium Audit, dated May 10, 2018.
27

28 By email dated May 1, 2019, Ruth Stokesbary submitted on behalf of the employer a list
29 of exceptions to the proposed order as follows:
30

1. Whereas we maintain that we are a different company our request to have the experience modifier reset to 1 has not been addressed by this order.

2. The assigned risk pool has an incremental tax of 49%. Insurance premiums reflect risk. With our new business model this risk no longer exists. We had asked to be relieved from the assigned risk pool.

3. Our position is we still deserve to use code 8868. We know that code 8864 does not reflect our current risk. We believe that as of 7/1/16 we are primarily educators. During a transitional year till 7/17 we were primarily a licensed clinical psychology clinic which is part of the third party national medical reimbursement system (Medicaid/Obama care) and should have an NCCI code utilized by a medical clinic. Secondary to the clinical work, during the transition year we were educators. Our complaint is that we continue to be educators to this day. We object to the proposed order characterizing this as a single year complaint.

Findings of Fact, Conclusions of Law and Opinion

The Director adopts, and incorporates herein by this reference, the findings of fact, conclusions of law, and reasoning of the Proposed Order as the findings of fact, conclusions of law, and reasoning of this Final Order.

Administrator's Response to Exceptions

1. It is the employer's position that they are a different company and the experience modifier should be reset to 1.

This issue was addressed by Proposed Order of April 3, 2019. The ALJ had concluded that although the policy holder activities contain an educational component, the policyholder continues to provide social services to mentally, socio-economically, physically, or emotionally challenged persons. The policyholder is not a school and unlike a school, the policyholder provides services that have proven to be more hazardous than simply tutoring or guidance. The policyholder did not present a compelling argument to change the governing class, therefore amending the Experience Modification to 1.00 is not an option.

2. The policyholder had asked to be relieved from the assigned risk pool.

The Assigned Risk Adjustment Plan (ARAP) factor of 1.49 is an extension of Chehalem's Experience Modification. The Experience Modification has not changed and continues to apply therefore the ARAP factor of 1.49 continues to apply.

1
2 3. It is the policyholder's position that they are primarily educators and deserve to
3 use code 8868.
4

5 The director has adopted the factual findings of the ALJ as set out in the Proposed Order
6 of April 3, 2019. The factual findings do not support the argument that the petitioner's
7 employees are primarily educators.
8

9 The Exceptions proposed by Chehalem are not approved.
10


11 **Order**

12 The Proposed Order dated April 3, 2019, affirming the insurer's Final Premium Audit,
13 dated May 10, 2018, and upholding the assignment of Classification Code 8864 for the workers
14 at Chehalem, is AFFIRMED.
15

16 **Notice of Right to Judicial Review**

17 A party has the right to judicial review of this order pursuant to ORS 183.480 and
18 ORS 183.482. A party may request judicial review by sending a petition for judicial review to
19 the Oregon Court of Appeals. The court must receive the petition within 60 days from the date
20 this order was served on the party. If the order was personally delivered to a party, then the date
21 of service is the date the party received the order. If the order was mailed to a party, then the
22 date of service is the date the order was mailed to the party, not the date the party received the
23 order. If a party files a petition, the party is requested to also send a copy of the petition to the
24 Division of Financial Regulation.
25

26 Dated November 25, 2019

27 
28 _____
29 Andrew Stolfi
30 Administrator, Division of Financial Regulation
31 Insurance Commissioner
Department of Consumer and Business Services

**STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION**

IN THE MATTER OF:)	FINAL ORDER
CHEHALEM YOUTH AND FAMILY)	OAH No. 2018-ABC-01958
SERVICES)	Agency Case No: INS-WCA 18-08-0024

I certify that I sent the final order to the following person(s) on the date and by the means indicated below:

Ruth Stokesbary
Chief Administrative Officer
Chehalem Youth and Family Services
PO Box 636
Newberg, OR 97132

✓ US First Class Mail

Brittnie Holland
SAIF Corporation
400 High Street SE
Salem, OR 97312-0700

✓ US First Class Mail

Ned Boughton
Special Assistant Attorney General
SAIF Corporation
400 High Street SE
Salem, OR 97312-0700

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Michael Craddock
Regulatory Division
National Council on Compensation Insurance, Inc.
901 Peninsula Corporate Circle
Boca Raton, FL 33487

✓ US First Class Mail

Dated: December 20, 2019

Gail M. Gage
Compliance Specialist 3

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**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
DEPARTMENT OF CONSUMER & BUSINESS SERVICES DIVISION OF FINANCIAL
REGULATION
ORAC**

IN THE MATTER OF:)	PROPOSED ORDER
)	
CHEHALEM YOUTH & FAMILY)	OAH Case No. 2018-ABC-01958
SERVICES)	Agency Case No. INS-WCA 18-08-0024
)	
)	

HISTORY OF THE CASE

On July 30, 2018, the Oregon Workers' Compensation Rating System & Advisory Committee (ORAC) issued a decision denying the request for a classification code change submitted by Chehalem Youth and Family Services (Chehalem). On August 20, 2018, Chehalem requested a hearing through the Division of Financial Responsibility (DFR) of the Department of Consumer and Business Services.

On August 31, 2018, DFR referred the hearing request to the Office of Administrative Hearings (OAH). The OAH assigned Senior Administrative Law Judge (ALJ) Joe Allen to preside at hearing. ALJ Allen convened a prehearing conference on December 12, 2018, and the parties agreed to hold the hearing on March 19, 2019. Thereafter, the case was reassigned to ALJ Rick Barber for hearing.

Hearing was held as scheduled on March 19, 2019, in Tualatin, Oregon. Chehalem appeared through Deborah Cather-Seymour, who testified at hearing. NCCI representative Michael Craddock represented ORAC, and also testified.¹ Neither DFR nor SAIF Corporation, Chehalem's insurer through the assigned risk pool, appeared for the hearing.

In addition to Ms. Cather-Seymour and Mr. Craddock, the following witnesses (all for Chehalem) testified at hearing: Stacy Gingerich, Ruth Stokesbary, Charles Rice, and Ron Meyer. The hearing record closed on March 19, 2019.

ISSUE

Whether SAIF Corporation and ORAC erroneously applied classification code 8864 to Chehalem's employees rather than code 8868.

¹ ORAC is the local body applying the rating system of the National Council on Compensation Insurance (NCCI). Mr. Craddock, an NCCI employee and the Secretary of ORAC, prepared the ORAC decision and presented the ORAC position at hearing.

EVIDENTIARY RULINGS

Exhibits 1 through 10, offered by Chehalem, were admitted into evidence without objection. Exhibits 8, 9 and 10, which purport to be affidavits, are not notarized and are considered unsworn statements by the three authors of the documents.

FINDINGS OF FACT

1. Chehalem Youth and Family Services (Chehalem) is an organization that is insured for workers' compensation purposes by SAIF Corporation (SAIF). SAIF did not voluntarily insure Chehalem; it was assigned to provide coverage to Chehalem through the Oregon Assigned Risk Pool.² When insurers provide coverage through the pool, the insurance is more expensive because it is surcharged. (Test. of Meyer, Stokesbary, Craddock).

2. Chehalem attempted to purchase workers' compensation insurance outside the pool, and at least two insurers offered to write the policy as part of an insurance "package" deal, which would have required Chehalem to purchase other insurance policies as well. Chehalem declined to purchase the package insurance. (Test. of Meyer).

3. Before June 30, 2016, Chehalem was a larger organization with more than 100 employees, providing several social services such as residential services, supervised parenting, clinical & counseling services, contracts with DHS, operating a thrift store, in addition to its educational work with school dropouts. (Test. of Meyer; Ex. 1). After a decline in revenue, Chehalem now has eleven employees and has either reduced or discontinued many of its former programs. (Test. of Meyer, Stokesbary, Cather-Seymour).

4. Chehalem looks to June 30, 2016 as the date upon which its business changed from providing social services to education only. (Test. of Meyer). Between that date and the end of 2018, Chehalem continued to receive income and provide services for Residential Bed Days, Ancillary Residential Services, DHS contracts, Supervised Parenting, Clinical & Counselling Services, Yoop! Service Revenue and Thrift Store Sales. (Ex. 1).

5. Ron Meyer, the accountant for Chehalem (now retired and receiving no income from Chehalem), prepared the Profit and Loss Statement (Ex. 1), attributing the transactions to the time period when it occurred rather than to the time period when payment for the transaction was received. (Test. of Meyer).

6. With the decline in Chehalem's finances, Meyer is concerned that Chehalem will be unable to continue providing services, especially with the expense of workers' compensation insurance with the employees being assigned the 8864 classification code. (Test. of Meyer).

7. Several of Chehalem's employees are professional educators. For instance, Stacy Gingerich and Ruth Stokesbary have Masters in Education. (Test. of Gingerich, Stokesbary). Charles Rice, the leader of the Youth Opportunities (YOOP!) Program, has a degree in Education and is licensed through the Teacher Standards and Practices Commission (TSPC).

² See, ORS 656.730.

(Test. of Rice).

8. Chehalem is not licensed as a school in Oregon, does not offer any degrees or General Educational Development (GED) certificates, and is not accredited. It will help participants obtain GEDs through Chemeketa Community College, and it provides tutoring services to them using online curricula. Currently, there are approximately 138 participants in the programs at Chehalem, between the ages of 17 and 25. (Test. of Rice).

9. Chehalem's participants have come to the programs primarily because of experiencing barriers to education in traditional schools. Chehalem sees a "barrier" as anything that prevents a participant from continuing his or her education. Common barriers include dropping out, pregnancy, learning disabilities or styles, school structure, and other social issues. (Test. of Stokesbary).

10. When a participant arrives at Chehalem, staff members will informally assess the status of the barriers the participant is facing that inhibit full participation, and will direct the participant to any appropriate social service or other help as needed. (Test. of Stokesbary).

11. Chehalem staff members work with the participants to either return them to the schools for a degree or to obtain a GED certificate. Staff members tutor students, proctor assessments, teach life and occupational skills, help develop resumes and hold mock interviews. (Test. of Gingerich).

12. The YOOP! Program, operated by Rice, helps participants with educational and career readiness goals, helping them either go back to school or prepare for a vocation. (Test. of Rice).

13. Chehalem operates a thrift store, Lucky Finds, both to generate income and to allow participants (as interns) to obtain work experience. Four of Chehalem's staff members work part time in the thrift store along with student interns. (Test. of Stokesbary).

14. Chemeketa Community College and the Newberg School District's Catalyst Program both offer similar programs to what Chehalem offers. Chemeketa reports "[a]ll subject payroll dollars for employees of the school working in positions of College/Schools-Professional employees/Teacher/Clerical" to code 8868. (Ex. 9). Ms. Stokesbary investigated the code used by Catalyst through a conversation with Nancy Poetzman from the Newberg School District, and was told it reported under code 8868. (Test. of Stokesbary).

15. After Chehalem requested a reclassification, NCCI performed an audit at Chehalem to determine the correct code. The auditor concluded that the existing code of 8864 more closely described the duties performed at Chehalem. (Test. of Craddock). Based upon that audit, and after taking testimony from Ms. Stokesbary and Ms. Cather-Seymour at the ORAC hearing, ORAC determined that code 8864 remained the correct code. (Ex. 7; Test. of Craddock). As Chehalem's insurer, SAIF declared a conflict in the ORAC decision making and did not participate in the ORAC decision. (Test. of Craddock). ORAC's decision found in part:

- The Committee discussed Code 8864, social services organization—all employees and drivers. *The code does contain an educational component in addition to providing social services to mentally, socio-economically, physically, or emotionally challenged persons. The policyholder provides more services than just tutoring or guidance.*
- Code 8868 is applied to professional employees of academic, trade or vocational institutions of learning. *The policyholder is not operating an institution of learning but guiding clients through the process and ensuring that there is support and/or services as needed.*

(Ex. 7; emphasis added).

CONCLUSIONS OF LAW

SAIF and ORAC did not erroneously apply classification code 8864 to Chehalem’s employees.

OPINION

Chehalem contends that ORAC erred when it rejected its request for reclassification for Chehalem’s employees to classification code 8868 from the more expensive code 8864.³ Chehalem has the burden of proof to establish that the code designated by SAIF Corporation and affirmed by ORAC is incorrect. *Salem Decorating v NCCI*, 116 Or App 166 (1992), *rev den* 315 Or 643 (1993); ORS 183.450(2) and (5); *Reguero v. Teachers Standards and Practices Commission*, 312 Or 402, 418 (1991) (burden is on Commission in disciplinary action); *Dixon v. Board of Nursing*, 291 Or App 207, 213 (2018) (in administrative actions, the standard of proof that generally applies in agency proceedings, including license-related proceedings, is the preponderance standard.) Proof by a preponderance of the evidence means that the fact finder is convinced that the facts asserted are more likely true than false. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).⁴

Chehalem’s Procedural Arguments

Before addressing the actual merits of the appropriate class code, there are several ancillary issues that Chehalem has raised in support of the code change. I will address those arguments at the outset and explain why I have concluded they do not apply in this case.

Affordability. First, Chehalem argues that SAIF Corporation is not meeting “the original and core purpose” of its role in workers’ compensation in Oregon. Citing language from SAIF’s website that discusses its intent to make workers’ compensation insurance affordable for Oregon businesses, Chehalem contends that SAIF has failed to do so in this case. Contending that the

³ Code 8864 is entitled Social Services and Drivers; code 8868 is for Professional Teachers.

⁴ Although the cited case law has arisen in the context of cases involving an agency action and there are no agencies involved here, nevertheless the preponderance standard applies to this case.

effects of using code 8864 costs Chehalem “ten times more” in premium than code 8868, Chehalem also argued that the number of possibly applicable codes for their business has decreased in recent years from four to two. Chehalem argues they are being damaged by SAIF’s alleged failure to follow its own stated intent in the website.

However, Chehalem seeks to apply SAIF’s general statements on a website to the specific facts of this organization. There is nothing in SAIF’s general intent to make workers’ compensation insurance more affordable⁵ that requires it to use an incorrect and less expensive classification code merely to save a specific employer’s costs, just as an auto insurance company that promises low rates may, in certain cases, either decline to cover a person or offer considerably higher rates due to the driver’s history. Chehalem’s argument is not persuasive.

The issue in this case is whether the assigned classification code is correct for this particular insured, not whether SAIF is ultimately living up to the promises on its website. Even if there were problems with SAIF’s promises, the remedy for those problems would be found with the legislature rather than in this specific ORAC decision involving Chehalem.

Definition of “School.” The second and third arguments are essentially the same—that Chehalem meets the definition of a “school” under Oregon law. Interestingly, the statute Chehalem cites is ORS 433.235, which involves a one-line definition of “school” for purposes of Disease Control.⁶

Whether or not this statute applies and whether or not Chehalem might qualify as a school is ultimately not pertinent to the decision here. Chehalem is not currently licensed as a school, and even if it were a school, the workers’ compensation insurer would be looking at the activities of the employees rather than their titles. The ORAC audit and subsequent decision was based on the jobs being performed, not the name of the business or the education level of its employees.

Inconsistent and Discriminatory. Fourth, Chehalem argues that SAIF is being inconsistent and discriminatory because it is allegedly applying code 8868 at two similar schools (Chemeketa Community College and the Catalyst Program at Newberg School District), but applying code 8864 at Chehalem. However, Chehalem’s evidence of comparison to Chemeketa and Catalyst is inconclusive.

Chehalem has presented evidence to show that both Catalyst and the community college have similar programs to help dropouts and others obtain additional education. What Chehalem has failed to prove is that they are similar enough to justify—on the basis of comparison alone—applying the same class code. Chemeketa Community College, while having a similar program to Chehalem at one level, is a multi-program accredited community college that offers degrees. Likewise, while Catalyst has similar programs it is also part of the Newberg School District, which again is accredited and offers diplomas. Both undoubtedly have different workers

⁵ Mr. Craddock testified that, in his review of insurance through several states, that Oregon’s rates are comparably low. (Test. of Craddock).

⁶ Chehalem’s citation to this statute is understandable, given the use of Google or other search engines. A clear definition of “school” is not easily found in the Oregon Revised Statutes.

reported using different class codes in addition to those reporting under class code 8868.

Additionally, the audit performed by NCCI focused specifically on the work performed at Chehalem. There is no evidence that SAIF discriminated against Chehalem in any way; SAIF did not perform the audit. Chehalem is part of the “assigned risk pool,” meaning that none of the workers’ compensation insurers in Oregon were willing to write Chehalem’s business. ORS 656.730. As a result, SAIF was assigned to provide coverage for Chehalem and has done so. There is no evidence of discrimination by SAIF in this case. In fact, although SAIF is a voting member of ORAC, it did not participate in the vote because it recognized it had a conflict of interest.

The only possible argument of discrimination in this case, therefore, is the argument that SAIF discriminated against Chehalem when it assigned the 8864 classification code. If that was a discriminatory act—that is a decision by the insurer based on something other than the actual facts—that would have become evident when Chehalem contested the correctness of that code at the ORAC hearing. However, ORAC agreed with SAIF’s application of the code. No discrimination has been shown by Chehalem.

Inflexibility. Fifth, Chehalem argues that SAIF is unnecessarily inflexible, and has obstructed the updating of assigned classification codes which are important to the State of Oregon. The argument presents statistical information about the number of high school dropouts in Oregon, and argues that SAIF Corporation’s gross profits are too high. This conflation of high school dropout rates and high insurance profits is a logical *non sequitur*.

The work that Chehalem performs, and the importance of helping students to remain in schools instead of dropping out is, for this fact-finder, very important. However, it is not the issue in this case, and neither is the undoubtedly fine work that Chehalem does to keep students in the educational system or its alternatives. There is no evidence of inflexibility on SAIF’s part.

On the Merits

The record shows that Chehalem’s size and purpose has been changing over a period of years, from a large corporation involved in a variety of social services to a much smaller corporation with a smaller purpose. Exhibit 1 shows that Chehalem previously had residential services, contracts with the Department of Human Services, supervised parenting, clinical and counseling services, and thrift store sales. Although Chehalem contends that all of that changed as of June 30, 2016, its own profit and loss statement shows that several of those services continued well into 2017 and 2018, the period of time in which this ORAC decision arose.

Examples from the profit and loss statement show that supervised parenting and clinical and counseling income continued through 2018. Although one witness contended that those services were due to late billing issues, Mr. Meyer, Chehalem’s accountant, testified that the profit and loss statement corrected the year of the transaction even if paid later. Thus, it is clear that several of these services continued beyond June 30, 2018.

Chehalem contends that code 8868, the “teacher code,” best describes the work that its

employees perform. ORAC disagreed, and in its decision found in part:

- The Committee discussed Code 8864, social services organization—all employees and drivers. *The code does contain an educational component in addition to providing social services to mentally, socio-economically, physically, or emotionally challenged persons. The policyholder provides more services than just tutoring or guidance.*
- Code 8868 is applied to professional employees of academic, trade or vocational institutions of learning. *The policyholder is not operating an institution of learning but guiding clients through the process and ensuring that there is support and/or services as needed.*

(Ex. 7; emphasis added). Based on the evidence provided at the ORAC hearing by Chehalem’s representatives and based on the audit, ORAC remained convinced that the social services code, and not the teacher’s code, applied.

As noted by ORAC, this does not mean that Chehalem’s work does not involve some educational activities. Several of their witnesses are highly skilled educators who undoubtedly use their skills when working with the participants.⁷ However, some of those workers perform other duties more in keeping with social services. They assist the participants to address the barriers to education that sidelined their education, whether it was dropping out, teenage pregnancy, school structure, learning disabilities, or other issues. Some interact with the teens in the context of Chehalem’s thrift store, Lucky Finds. They lead and participate in the Youth Opportunities (YOOP!) program, and in the FAST program, which helps participants with specific needs. The evidence supports ORAC’s conclusion in this case.

SAIF Corporation assigned code 8864, a social services code that includes education, to Chehalem’s employees. ORAC agreed that the code was correct. Chehalem disagrees, but has not presented sufficient evidence to overturn the ORAC decision. Accordingly, the July 30, 2018 ORAC decision must be affirmed.

ORDER

I propose the Department of Consumer & Business Services Division of Financial Regulation, ORAC issue the following order:

The July 30, 2018 ORAC decision, which upheld the assignment of Classification Code 8864 for the workers at Chehalem, is AFFIRMED.

Rick Barber

Administrative Law Judge
Office of Administrative Hearings

⁷ It was of interest to me that Chehalem’s witness referred to the persons being educated as “participants” rather than “students.” This, along with the fact that Chehalem has apparently not attempted to be designated a “school” under the statute it relies upon, strengthens my conviction that Chehalem, while involving education, is not a school.

EXCEPTIONS TO PROPOSED ORDER

Pursuant to ORS 183.460, the parties are entitled to file written exceptions to this Proposed Order and to present written argument concerning those exceptions to the Director. Written exceptions must be received by the **Division of Financial Regulation** within 30 days following the date of service of this Proposed Order. You may send exceptions via email to, or via mail to:

Gail M. Gage
Compliance Specialist 3
Division of Financial Regulation
PO Box 14480
Salem, OR 97309-0405

CERTIFICATE OF MAILING

On April 3, 2019, I mailed the foregoing Proposed Order issued on this date in OAH Case No. 2018-ABC-01958.

By: First Class Mail

Deborah Cathers- Seymour
Chehalem Youth & Family Services
PO Box 636
Newberg OR 97132

Michael Craddock
NCCI
2436 SE Caruthers
Portland OR 97214

By: Electronic Mail

Gail Gage, Agency Representative
Division of Financial Regulation
350 Winter Street NE
Salem OR 97301

Lucy M Garcia
Hearing Coordinator



Michael Craddock
Regulatory Division

(P) 561-893-3820 (F) 561-893-5365
Email: Michael_Craddock@ncci.com

July 30, 2018

Ms. Ruth Stokesbary
Chehalem Youth & Family Services
P.O. Box 636
Newberg, OR 97132

Re: Chehalem Youth & Family Services
Workers Compensation Dispute

Dear Ms. Stokesbary:

The Oregon Workers Compensation Rating System & Advisory Committee heard the workers compensation dispute for Chehalem Youth & Family Services on Tuesday, July 17, 2019. The meeting was held at the Embassy Suites Hotel, Washington Square, 9000 SW Washington Square Rd., Tigard, OR 97223. This letter includes the Committee's decision.

CASE SUMMARY

Policy Information:

Carrier: SAIF Corporation
Policy Information: Policy # C921791R171
Market Type: Residual Market
NCCI Case: 36092

Issue in Dispute:

The dispute concerns the classification codes assigned to the operations and the experience modification. The policyholder contends that operations have changed and the current classification codes, Codes 8864 and 8877, do not accurately describe the operations. Also, the experience modification is based on the prior operations and does not reflect the operations today.

Action requested of the Committee:

- Permit Chehalem to use the teacher code, Code 8868 that aligns best with the nature of the current work.
- Relief on the experience modifier since it pertains to a risk that no longer exists ie: we no longer do BRS services which was the high-risk service. We have a new 2-year history that does not include those high-risk services.
- We want reinstatement of workers comp coverage retroactive to the date we were terminated on July 1.
- During the tendency of the dispute period our agreement with saif was to pay \$500 per month on the disputed amount. We wish to continue that to avoid bankruptcy and the loss of important services to children and families.

General Discussion:

The policyholder stated that the operations changed beginning July 1, 2016. At that time, the main operation changed from a social service agency to more of an educational focused organization. Employee duties are more in line with a high school counselor or a special education tutor. The goal is to assist struggling students to break down barriers and obtain educational success.

Employees conduct intake assessments of potential clients. Employees will refer clients to mental and/or emotional support services. Other programs include working with the business community to provide internships for the clients. An additional program is a supervised parenting program. One employee acts as a facilitator and assists non-custodial parents to see their children.

In executive session, Committee members reviewed the documents and testimony presented during the meeting.

- The Committee discussed the four actions items that the policyholder had listed. Only the first two which involved classification and the experience rating were within the jurisdiction of the Committee.
- The Committee discussed Code 8864, Social services organization--all employees & drivers. The code does contain an educational component in addition to providing social services to mentally, socio-economically, physically, or emotionally challenged persons. The policyholder provides more services than just tutoring or guidance.
- Code 8868 is applied to professional employees of academic, trade or vocational institutions of learning. The policyholder is not operating an institution of learning but guiding clients through the process and ensuring that there is support and/or services as needed.
- The rules allow for a revision of the modification to unity (1.00) in the event of a change of operations which results in a change to the governing classification and a ownership/management change.

After further discussion, a motion was duly made, seconded and passed by majority vote and it was, **Resolved**, to uphold the current classification assignments and the published experience modification.

By copy of this decision to SAIF Corporation, they are advised of the Committee's decision.

Right to Appeal the Committee Decision

Any party to a dispute heard by the Committee may appeal a decision of the Committee by sending a written request to the Director for review within thirty (30) days of the date of the Committee's decision to:

Oregon Insurance Division
350 Winter Street NE, Room 300
Salem, OR 97301-3880

Prepared by Michael Craddock, NCCI, Inc.
ORAC Secretary