

OAR 836-042-0025

(1) Except for revisions solely attributable to legislative enactments, changes in administrative rules or orders, or approved by the Director to prevent an impairment, or applying to state agencies, workers' compensation insurance rates, rating plans, rating systems or provisions for claim payment are unfairly discriminatory if either:

- (a) Revision of a rate, rating plan or rating system is filed to become effective within six months of the effective date of a corresponding rate, rating plan or rating system previously established pursuant to OAR 836-042-0015 by the filing insurer; or
- (b) The rating system does not contain rules specifying that a revision of a rate, rating plan or system shall not apply to an insured until an anniversary rating date at least 11 months and 16 days subsequent to the earlier of the preceding anniversary rating date or the preceding policy effective date established for an insured unless approved by the Director to apply to all policies in force on a common date; or
- (c) Premium rates are based on provisions for claim payment filed by a licensed rating organization which are not the provisions most recently approved or premium rates are determined by multiplying superseded provisions by a factor; or
- (d) Provisions for claim payment to be used by an insurer as a basis for premium rates are revised to be effective on a date other than the date of a revision approved for a licensed rating organization.

(2) Workers' compensation insurance rating plans or rating systems are presumed to be unfairly discriminatory, unless demonstrated otherwise, if either:

- (a) A rating plan or rating system which produces only credit modifications to an insured's premiums is offered at the option of the insurer;
- ~~(b) The modification of the premium or premium rates applicable to an insured cannot be quantitatively determined by the Commissioner except for the uncertainty of estimated exposures; or~~
- (c) An insurer has filed two or more schedules of premium rates without providing a clear rule for deciding which schedule is to be applied to an insured.

(3) Premiums are unfairly discriminatory if differentials between insureds fail to reasonably reflect the differences in expected losses and expenses to the insurer attributable to the insureds. Workers' compensation insurance rates, rating plans or rating systems are not unfairly discriminatory when different premiums result or different rates apply to insureds if:

- (a) Differences in loss exposures, expense factors or investment income opportunity to an insurer can be attributed to the insureds; and
- (b) The differences are reasonably reflected by the rates, rating plan or rating system.