

Test Audit Program – last update 11/29 AM

737.318 Premium audit program for workers' compensation insurance; rules; penalties. (1) A workers' compensation insurer shall maintain a premium audit program to aid in achieving equitable premium charges to Oregon employers and for the collection of credible statewide data for ratemaking.

(2) The Director of the Department of Consumer and Business Services shall prescribe by rule a premium audit program system for workers' compensation insurance.

(3) The premium audit system shall include provisions for:

(a) Employer education of the audit reporting function of the rating system;

(b) A continuing test audit program providing for auditing of all insurers;

(c) A continuous monitoring of the audit program system pursuant to ORS 737.235;

(d) An appeal process pursuant to ORS 737.505 for employers to question the results of a premium audit. This process must include written notification to the employer that is included in the final premium audit billing that informs the employer of appeal rights to the director under ORS 737.505, of the requirement that a written request to initiate an appeal must be received by the director not later than the 60th day after the employer receives the final premium audit billing and of any other information the director may request by rule; and

(e) Civil penalties pursuant to ORS 731.988 for violations of prescribed standards of the premium audit system.

(4) Notwithstanding ORS 737.505, the provisions of this section apply to all premium audit disputes between employers and insurers in existence on July 20, 1987, regardless of the policy year involved or the date of the final audit billing. [1987 c.884 §8; 1999 c.1020 §5]

836-043-0125

Purpose

A Test Audit Program shall be conducted by the bureau to carry out ORS 737.318. To perform this function, the bureau shall maintain the test audit staff for examining pertinent records of a number of Oregon insureds and insurers established according to the schedule referenced as Exhibit 1 in Exhibit 4 of ~~in~~ -OAR 836-043-0130 which is posted on the Division website at dfr.oregon.gov, or other appropriately credible audit levels as determined by the director. The purposes of the test audit program are as follows:

(1) To check the accuracy and reliability of each insurer's audits, verify the classifications assigned, and assure that the premiums charged are based upon filed rates, rating plans and rating systems on file with and approved by the director;

(2) To establish minimum auditing standards and to develop a program for monitoring insurer performance toward the achievement of established standards; and

(3) To improve audit proficiency through the evaluation of insurer auditing practices.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 731.244 & 737.318

Stats. Implemented: ORS 737.318

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 7-1997(Temp), f. & cert. ef. 5-30-97; ID 18-1997, f. 11-25-97, cert. ef. 11-26-97; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0130

Selection of Risks for Test Audit

(1) All insurers or insurer groups shall be test audited on a continuous basis. Each quarter, the bureau shall send a list of policies selected for test audit to each insurer's Oregon policy issuing office or other office designated by the insurer.

(2) The number of policies to be selected for each insurer shall be determined based on ~~the schedule posted on the division website at dfr.oregon.gov Exhibit 4~~, using the insurer's current policy premium distribution and the error ratio from the insurer's previous test audits. The policy premium distribution shall be based on estimated annual standard premium reported by the insurer for policies subject to selection. For each insurer, the error ratio shall be the number of policies found to have audit errors divided by the total number of policies test audited during the latest six quarters. The error ratio shall be assigned a credibility weight, as described in ~~the schedule posted on the division website at dfr.oregon.gov Exhibit 4~~, and the complement weight shall be assigned to the statewide error ratio of all insurers for the latest six quarters. The credibility weighted error ratio for the insurer shall be used to determine the policy sample rates in ~~the schedule posted on the division website at dfr.oregon.gov Exhibit 4~~.

(3) The quarterly list of policies selected for test audit shall be randomly drawn from an insurer's entire book of workers' compensation business, subject to [a maximum premium of \\$500,000 from the most recent available statistical unit report on file with WCD](#) ~~the~~ and the requirements of section (2) of this rule. ~~The dDirector may increase the test audits for policies that have risk factors identified by the director (may include specific classification codes, industry groups, or other employer characteristics identified by the director s who have changed insurer frequently).~~ ~~The director will inform the bureau of any risk factors that are identified and develop a timeline to implement increased test audit.~~ Additional policies may be added at the request of the director. The list shall indicate, for each insurer or insurer group, the insured, the policy number, the issuing office (if available) and the policy dates. This list shall only include policies with expiration dates not less than 90 days prior to the date of selection. Unless otherwise requested by the director, this list shall exclude:

(a) Wrap-up policies approved under ORS 737.602 or Sections 1 and 2, Chapter 336, Oregon Laws 1995;

(b) Policies for risks that have been test audited within the ~~five~~^{four}-year period prior to the date of selection; and

(c) Policies canceled by either the insured or the insurer prior to the expiration date of the policy.

(4) Within 45 days after receipt of the selection list, each issuing office shall provide the bureau the following audit material on those risks for which it is responsible:

(a) If an audit is performed, a non-returnable copy of the auditor's work sheets and the premium invoice;

(b) Correspondence pertinent to proper completion of the audit;

(c) If the insured's payroll report has been utilized, a copy of the insured's payroll report and the premium invoice; and

(d) A list of all compensable indemnity claims. The claim listing should also reflect each compensable medical-only claim with reported loss amounts of \$5,000 or more. The bureau must receive at least the name of the injured employee and the date of accident, although the following information must also be submitted if available; job title, nature of injury, Basic Manual classification to which claim is assigned, claim file number and a brief description of what the employee was doing when the accident occurred. ~~(See Exhibit 1.)~~

(5) ~~At least 10 days before the test auditor's planned date of call, the auditor must inform the insured in writing of the planned date of call~~^[CMN1].

(6) The written notice ~~required~~^[CMN2] by section (5) of this rule must include certain information. An example of acceptable written notice is located on the Department of Consumer and Business Services, ~~Insurance Division~~ ~~Division of Financial Regulation~~-website at ~~dfr.oregon.gov~~^{www.insurance.oregon.gov}. The notice must include the following information:

(a) Identification of the insurer, the insured, the policy number, and the policy period being audited;

(b) The scheduled date and time of the test audit;

(c) Explanation of the test audit program and the statutory authority to conduct test audits;

(d) Identification of the bureau responsible for conducting the test audit;

- (e) Explanation of the bureau's authority under the policy to examine the insured's records;
- (f) Explanation of the types or specific records the insured must make available to the auditor; and
- (g) Contact information for the auditor.

(7) The bureau shall complete the test audits within six months ~~of receipt of insurers audit information of the date of selection. Test audits not completed within the six month period may not be included in the insurer's result. Nevertheless, the insurer shall submit a revised unit statistical report for any late test audits that would~~ [CMN3] ~~have otherwise constituted an error.~~ The director may request the bureau to provide a quarterly report of test audits that are not completed in a timely manner.

(8) The following must be obtained from bureau files:

- (a) A policy data sheet providing all necessary information shown on the insurer's policy; and
- (b) A copy of the latest bureau inspection.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 731.244 & 737.318

Stats. Implemented: ORS 737.318

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 11-1994, f. 12-19-94, cert. ef. 1-1-95; ID 7-1997(Temp), f. & cert. ef. 5-30-97; ID 18-1997, f. 11-25-97, cert. ef. 11-26-97; ID 12-1998, f. & cert. ef. 9-14-98; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0135

Test Audits

- (1) A Analysis of Test Audit Results shall be completed on each test audit.
- (2) The test auditor shall interview the insured or an authorized representative of the insured in order to solicit the insured's cooperation and also to obtain all factual data necessary for proper completion of the test audit.
- (3) If a current inspection is in the file, the test auditor shall verify data contained in that report.
- (4) Each test audit ~~may be performed on site or electronically and, using the audit detail form,~~ shall contain the following:
 - (a) A reconciliation of payroll subject to premium charge, which must be made with the independent control records of the State Unemployment Insurance quarterly reports and FICA quarterly report;
 - (b) A review of the cash disbursements journal to develop the remuneration paid to contract labor and casual labor;
 - (c) A detailed review of at least one pay period to verify proper classification;
 - (d) A review of time cards to verify proper treatment of overtime remuneration;
 - (e) A review of original entry records to verify proper application of the "division of single employee's payroll" rules (OAR 836-042-0050 to 836-042-0060);
 - (f) A listing by name, duties and earnings of all persons assigned to the "standard exceptions" classifications. When size of the risk makes the listing impractical, spot checks must be made;

(g) A listing by name, title, duties and earnings of all covered executive officers, partners or individuals;

(h) A summary, by classification, of all chargeable payrolls;

(i) A summary of differences between the test audit and the insurer audit.

(5) Examples of the templates and forms described in this rule are located on the Department of Consumer and Business Services, ~~Division of Financial Regulation Insurance Division~~ website at dfr.oregon.gov ~~www.insurance.oregon.gov~~.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 731.244 & 737.318

Stats. Implemented: ORS 737.318

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0145

Disposition of Test Audits

(1) The bureau shall submit individual results of each test audit to the office or offices designated by the insurer as soon as the bureau audit is completed.

(2) For those audits that do not result in a significant difference, defined as in excess of \$500 in premium or in excess of two percent of the total standard premium, whichever is greater, the bureau must notify the insurer by letter of the name of the insured, the policy number and the fact that the test audit was closed without change from the original audit.

(3) For those audits that do develop a significant premium difference, the bureau must provide the insurer with a report explaining the difference and the effect of such difference upon the total premium. An example of this report template is located on the Department of Consumer and Business Services, ~~Division of Financial Regulation Insurance Division~~ website at dfr.oregon.gov ~~www.insurance.oregon.gov~~.

(4) Results of test audits of individual insurers shall be confidential data under ORS 731.264.

(5) Immediately upon receipt of the bureau's report, the insurer shall determine whether it agrees with the bureau's findings, auditing the insured if necessary. If the insurer agrees with the bureau's findings, the insurer shall file the corrected information on the original or, if necessary, on a revised unit statistical report. When the net premium difference is not sufficient to qualify as an "error" but a single difference is sufficiently large to qualify as an error prior to any offsetting premium amounts, the insurer shall be advised of such differences by an "advisory" notice. Also, when individual claims have been assigned to an incorrect classification an "advisory" notice shall also be submitted to the insurer. Upon receipt of the "advisory" notice, the insurer shall report such payrolls or losses on the initial or, if necessary, a "C" (corrected) Unit Statistical Report. All test audit differences must be closed within sixty days of notification unless the insurer requests an extension and the request is approved by the bureau.

(6) When classifications utilized by the insurer are found to be in error, the bureau shall take the normal appropriate action to secure compliance.

(7) Findings resulting from test audits shall not be utilized in any action by an insurer to enforce premium collections.

(8) If there is disagreement with the bureau's findings, the insurer shall communicate with the designated contact at the National Council on Compensation Insurance office to resolve areas of contention.

(9) When an insurer is unable to resolve test audit differences with the bureau staff, the insurer may present an appeal to the committee.

(10) When an insurer is unable to resolve test audit differences with the committee, the insurer may present an appeal to the director for final determination.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 731.244 & 737.318

Stats. Implemented: ORS 737.318

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 11-1994, f. 12-19-94, cert. ef. 1-1-95; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0150

Summary of Test Audit Results

(1) Test audit results shall be summarized quarterly for the individual insurer or insurer group, as well as for the industry as a whole. The summary must include all prior quarters up to but not exceeding a total of six quarters. The summary must reflect separately the results of field audits, desk audits, and reviews of payroll reports. An example of this report template is located on the Department of Consumer and Business Services, [Division of Financial Regulation Insurance Division](http://www.insurance.oregon.gov) website at [dfr.oregon.gov](http://www.insurance.oregon.gov).

(2) The summary of test audit results must be reported quarterly to the insurer's home office to the attention of the designated contact. If the insurer's home office is located outside Oregon, a copy of the summary results must also be forwarded to the Oregon branch or division office that reports directly to the home office. It shall be the insurer's responsibility to keep the bureau advised of the responsible contact to whom the summary results should be directed.

(3) The bureau shall meet with each insurer to review its results and when requested, may offer remedial suggestions when such action is indicated.

(4) The bureau shall maintain sufficient records to permit accurate reporting to the insurer and the director.

(5) Copies of all individual insurer and summary reports shall be submitted to the director upon completion.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 731.244 & 737.318

Stats. Implemented: ORS 737.318

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 11-1994, f. 12-19-94, cert. ef. 1-1-95; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0155

Test Audit Standards

(1) An insurer that fails to achieve the Minimum Standard of the Test Audit Performance for six consecutive quarters shall meet with the director, or the director's designated representative, to provide a detailed explanation of the remedial measures the insurer is taking to restore overall audit proficiency to an acceptable level. An insurer meets the Minimum Standard when the insurer satisfies the requirement that the number of premium differences in excess of \$500 or two percent of the insured's standard premium, whichever is greater, must not exceed the critical number shown in the Table of Minimum Standards Exhibit 2.

(2) If an insurer still fails to achieve the Minimum Standard following presentation of remedial measures to the director, as required in section (1) of this rule, the director may impose a penalty, including possible suspension of the insurer's certificate of authority.

~~(3) For the purposes of this rule, only policies that exceed \$5,000 in annual standard premium after test audit will be used to determine whether an insurer achieves the Minimum Standard.~~

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 731.244 & 737.318

Stats. Implemented: ORS 737.318

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 11-1994, f. 12-19-94, cert. ef. 1-1-95; ID 7-1997(Temp), f. & cert. ef. 5-30-97; ID 18-1997, f. 11-25-97, cert. ef. 11-26-97; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13