WEST VIRGINIA CODE: §23-2C-18

§23-2C-18. Ratemaking; Insurance Commissioner.

(a)(1) Rates for workers' compensation insurance are subject to the provisions of this section, §23-2C-18a of this code, and §33-20-1 *et seq*. of this code.

(2) In the event of any conflict, the provisions of this article shall have paramount effect, but the provisions in this chapter and Chapter 33 of this code shall be construed as complementary and harmonious unless so clearly in conflict that they cannot reasonably be reconciled.

(b) An insurer shall file its rates by filing a multiplier or multipliers to be applied to prospective loss costs that have been filed by the designated advisory organization on behalf of the insurer in accordance with §23-2C-18a of this code and may also file carrier specific rating plans.

(c) Rates must not be excessive, inadequate, or unfairly discriminatory, nor may an insurer charge any rate which if continued will have or tend to have the effect of destroying competition or creating a monopoly.

(d) The Insurance Commissioner may disapprove rates if there is not a reasonable degree of price competition at the consumer level with respect to the class of business to which they apply. In determining whether a reasonable degree of price competition exists, the Insurance Commissioner shall consider all relevant tests, including:

(1) The number of insurers actively engaged in the class of business and their shares of the market;

(2) The existence of differentials in rates in that class of business;

(3) Whether long-run profitability for private carriers generally of the class of business is unreasonably high in relation to its risk;

(4) Consumers' knowledge in regard to the market in question; and

(5) Whether price competition is a result of the market or is artificial. If competition does not exist, rates are excessive if they are likely to produce a long-run profit that is unreasonably high in relation to the risk of the class of business, or if expenses are unreasonably high in relation to the services rendered.

(e) Rates are inadequate if they are clearly insufficient, together with the income from investments attributable to them, to sustain projected losses and expenses in the class of business to which they apply.

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(f) One rate is unfairly discriminatory in relation to another in the same class if it clearly fails to reflect equitably the differences in expected losses and expenses. Rates are not unfairly discriminatory because different premiums result for policyholders with similar exposure to loss but different expense factors, or similar expense factors but different exposure to loss, so long as the rates reflect the differences with reasonable accuracy. Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, franchise, or blanket policy.

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