



Navigating Through Statutes, Insurance Policies, and Regulations
January 21, 2016

**Workers' Compensation and Insurance: Administration of
Claims, Excess Coverage and Subrogation**

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WORKERS' COMPENSATION & INSURANCE

Administration of Claims, Excess Coverage and
Subrogation

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TWO TYPES OF EMPLOYERS

OSIF: OHIO STATE **INSURANCE** FUND

SI: SELF **INSURED**

STATE FUNDED EMPLOYERS

State Funded employers are governed by O.R.C. Titles: 4121 & 4123
AND O.A.C Titles 4121 & 4123.

CHAPTER 4123-3-09: PROCEDURES FOR THE PROCESSING OF APPLICATIONS FOR BENEFITS

CSS ASSIGNED TO CLAIM TO DETERMINE VALIDITY OF
CLAIM

CSS has authority to publish order if
uncontested

Contested?

SI?

EMPLOYER RISK

- OAC 4123-17-03
EMPLOYER
CLASSIFICATION RATES
- State Fund Employers Charged
Premiums Based on:
 - RISK
 - EXPERIENCE

RISK NCCI MANUAL CLASSIFICATION

- LEGAL SERVICES 541199 \$0.1755/\$100.00 OF PAYROLL
- LANDSCAPER 561730 \$1.5028/\$100.00 OF PAYROLL
- LOG HAULER 2710 \$4.7609/\$100.00 OF PAYROLL

EXPERIENCE

- THE TIME PERIOD USED FOR RATE MAKING. OLDEST OF LAST FIVE (5) YEARS PRECEEDING THE EFFECTIVE DATES OF THE RATES.
- IMPACT DATE
- OUT OF THE EXPERIENCE
- MAXIMUM VALUE

SUBROGATION

- O.R.C. 4123.931 STATUTORY SUBROGEE SUBROGATED TO RIGHTS OF CLAIMANT AGAINST 3RD PARTY
- GENERALLY, THE BWC HAS A COMPLETE RIGHT OF RECOVERY
- “EXCEPT NET AMOUNT RECOVERED MAY BE DIVIDED AND PAID ON A MORE FAIR AND REASONABLE BASIS AGREE TO BY THE CLAIMANT AND THE STATUTORY SUBROGEE”

SUBROGATION ISSUES

- CLAIMANT'S DUTY TO PROTECT SUBROGEE'S RIGHT OF RECOVERY
- NO SETTLEMENT ... SHALL BE FINAL UNLESS THE CLAIMANT PROVIDES THE STATUTORY SUBROGEE WITH PRIOR NOTICE AND REASONABLE OPPORTUNITY TO ASSERT ITS SUBROGATION RIGHT
- RIGHT OF RECOVERY APPLIED TO
 - CLAIMANTS' UM
 - POLITICAL SUBDIVISION
 - INTENTIONAL TORT