

COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation 7 CCR 1101-6

RULES GOVERNING THE ISSUANCE OF COST CONTAINMENT CERTIFICATES UNDER THE WORKERS' COMPENSATION ACT TITLE 8, ARTICLE 14.5

PART 1

(A) STATEMENT OF BASIS AND PURPOSE

- (1) These rules are amended by the Workers' Compensation Cost Containment Board of the Division of Workers' Compensation under authority pursuant to §8-14.5-105(1)(h), C.R.S. The Amendment brings the wording of the rules into conformity with existing legislation and more accurately reflects existing practices under the rules and regulations governing the Workers' Compensation Cost Containment Board.
- (2) The amendment to these rules follows a public hearing held in accordance with §24-4-103, C.R.S. to codify procedures and conform to existing legislation.

PART 2

DEFINITIONS

"Approved Program" means a cost containment or risk management program which includes all of the elements listed in Part 3 (A)(2) a. through g.

"Board" means the Workers' Compensation Cost Containment Board established pursuant to §8-14.5-104, C.R.S.

"Cost Containment Certification" under § 8-14.5-107, C.R.S., requires a cost containment or risk management program which has been in place for one (1) year, conforms to the specific standards of an approved program, and is certified by the Board.

"Division" means the Division of Workers' Compensation in the Department of Labor and Employment.

"Initial Renewal" means extending a year old certificate for one year.

"New Certification" means a risk management program that has been in place for one year, conforms to the specific standards of an approved program and is initially certified by the Board for one year.

"Subsequent Renewal" means extending an initial or ensuing renewal for three years.

PART 3

APPLICATION PROCESS AND CERTIFICATION REQUIREMENTS

(A) PROGRAM EVALUATION AND CERTIFICATION

- (1) An employer seeking certified status pursuant to § 8-14.5-107, C.R.S. must furnish to the Board affirmative verification that all requirements of the approved program have been, or will have been, in force for at least one year at the time of certification. In order for a certificate to be issued to the employer the application for certification, as well as further information the Board may require as described in Section (A)(3), must be received in the offices of the Board on or before the 20th day of the month prior to the next Board meeting.
- (2) In evaluating the application for certification the Board shall consider the following specifications plus loss history:
 - (a) Formal declaration of a company-wide loss prevention and loss control policy including designation of a representative responsible for overseeing the policy.
 - (b) Formal creation of a documented safety committee and/or coordinator.
 - (c) Clearly defined and conspicuously posted loss prevention rules.
 - (d) All employees undergo initial and ongoing job/task training.
 - (e) A cost containment program in cooperation with a designated medical provider who has knowledge of work injuries, fee schedules, employer's operations, and is decisive on maximum-medical-improvement determinations, and communicates with the employer.
 - (f) Written policies and procedures on claims management which include accident investigation and an early return to work/modified duty program.
 - (g) A copy of the insurance carrier's loss reports covering the last three full policy years and the current policy year-to-date together with the total number of hours worked by all employees during each of those policy years.
- (3) In consideration of the applicant's loss and payroll information, the Board may require further information from those employers showing a poor or deteriorating history of accidents and costs, and may hold in abeyance the decision of granting or renewal of cost containment certification status until such time as the applicant employer has responded. Upon receipt of the applicant's response, the application will then be considered at the next regularly scheduled Board meeting, whereupon the Board may decide by majority vote to approve or deny certification. The Board reserves the right to direct on-site employer inspections to verify compliance.

- (4) Cost containment certification shall remain in force for an initial certification period of one year, an initial renewal period of one year, and upon subsequent renewals for a period of three years unless revoked by the Board, or cancelled, by the request of the employer or by ownership transfer.

PART 4

RENEWAL REQUIREMENTS

In the cost containment renewal process, compliance with the seven requirements for certification as set forth in Part 3 must be confirmed by the Board, with loss records for the last three full policy years and the current policy year-to-date being presented for consideration as part of that compliance. A signed affidavit by the employer stating that all of the program requirements remain in force may be considered by the Board in lieu of a new submission of program documentation. In order to process the renewal in a timely manner, the Request for Recertification shall be submitted 30 days prior to the expiration of the Cost Containment certificate.

PART 5

DENIAL OF CERTIFICATION

If an employer or other entity is denied cost containment certification or recertification, they may appeal, in writing, to the Board within 30 days of the date of denial by the Board. Appeals shall be made by the employer before the Board at the next regularly scheduled Board meeting, whereupon the Board may decide by majority vote to approve or deny certification. If the employer does not appeal the denial or if denied by the Board on appeal, a one-year waiting period, from the date the employer was denied, shall be imposed upon the employer. At the end of the waiting period the employer must meet the requirements in Part 3 of these rules before re-applying for certification. Under §24-4-106, C.R.S the appeal decision by the Board is final agency action.

PART 6

TRANSFER OF OWNERSHIP

When there is an ownership transfer of a certified employer which necessitates a change in workers' compensation coverage to a new policyholder, who does not have cost containment certification, certified status is not transferable. The new policyholder may, however, apply for certification immediately if no changes affecting compliance with the requirements in Part 3(A)(2)(a) through (g) have been made to the existing risk management/cost containment program.

PART 7

CERTIFICATION REVOCATION

The Board, by majority vote, may revoke an employer's certification at any time for good cause. Revocation may be appealed in writing to the Board within 30 days of the date of revocation by the Board. Appeals shall be made by the employer before the Board at the next regularly scheduled Board meeting,

whereupon the Board may decide by majority vote whether to uphold the revocation. If the employer does not appeal the revocation or if the revocation is upheld by the Board on appeal, a one-year waiting period from the date the employer was revoked shall be imposed upon the employer. At the end of the waiting period the employer must meet the requirements in Part 3 III of these rules before re-applying for certification. Under §24-4-106, C.R.S. the appeal decision by the Board is final agency action.