

LMAC Funding Subcommittee Recommendation - Workers' Compensation Regulatory & Safety Functions – July 22, 2014

RECOMMENDATION:

The LMAC Funding Subcommittee recommends the statutory requirements of ERD continue to be funded with an administrative assessment and the authorized safety functions be funded with a separate safety assessment. The Subcommittee further recommends that the current 3% cap for the administrative assessment be eliminated and that both the administrative assessment and safety assessment be based on the legislative approved budget needs of ERD. Finally, the Subcommittee recommends that the current medical cap be increased where all medical costs up to \$400,000 per claim are included in the amount available for assessment.

MEETING SUMMARY:

On June 10, 2014 the LMAC Funding Subcommittee met via conference call to discuss the current ERD funding shortfall that is occurring due to decreasing claim costs in Montana. ERD is currently allowed to collect up to 3% of all indemnity and medical costs, less medical costs in excess of \$200,000 per claim, from workers' compensation policyholders to fund the administration of the Workers' Compensation Act. The total amount available for assessment has decreased from a high of \$236,058,128 in FY 2011 to \$209,361,632 in FY 2015. This change has decreased ERD's annual funding from \$7,081,744 to \$6,280,849. The amount available for assessment is expected to continue to decline as the five year hard claim closure legislation passed in 2011 is set to take effect in 2016, further decreasing the level of funding available to ERD. During this same time frame, ERD's annual budget required to administer the statutory requirements and authorized safety functions in Montana has increased at the same rate of the Consumer Price Index.

At the Subcommittee meeting, ERD presented research and data that compared how states across the country fund their workers' compensation administration costs and provided Montana specific information on how those various options would affect the state's workers' compensation policy holders. The most commonly used funding mechanisms based assessments on workers' compensation premiums, policyholder payroll, or workers' compensation claim costs. Some states cap the amount that could be collected and others allow a budget to determine the amount that could be collected. Montana's current funding mechanism based on cost of claims was found to be the most equitable way to distribute the costs of administering the Worker's Compensation Act across all policyholders, regardless of whether they were enrolled in Plan 1 (Self-Insurance), Plan 2 (Private Insurance) or Plan 3 (Montana State Fund).

After discussion of several options proposed to alleviate ERD's funding shortfall, ERD presented this recommendation on behalf of the Funding Subcommittee to the full LMAC on June 17, 2014.