

HIGH DEDUCTIBLE WORKERS' COMPENSATION COVERAGE

SUMMARY

While high deductible Workers' Compensation (WC) plans may not be as prevalent as first dollar coverage, they are none the less prevalent in the public entity pooling industry. The majority of states that allow some form of WC pooling, which is virtually all states except those with monopolistic state funds, also allow deductible, large deductible, self-insured retention, and other forms of loss-responsive programs, such as retros. These plans make good sense for the public sector – they do not present the same risk as private sector plans because the risk of the members "going out of business" is remote (to say the least.) Furthermore, the value of high deductible plans, in terms of incentive employer and employee buy-in to safety and loss control efforts, should not be underestimated. In general, we view the offering of these products by pools as good business and good public policy, ultimately benefitting taxpayers.

METHODOLOGY

AGRiP contacted member pools who offer WC to gauge whether or not their state allowed high deductible WC plans, and how prevalent they were. The answers were then compiled and presented in the attached chart. We also reviewed past pooling experience, and conferred with other pooling experts. This report is the result of these inquiries.

DISCUSSION

Pool administrators from nine different states (representing over some 150 pools) responded to AGRiP's request. Of those nine states, eight of the nine allow deductible plans; seven of the nine we spoke to offer high deductible plans, and two do not. Only one state prohibits them. Of the states that offer high deductible plans, the amounts range up to \$500,000.

Michigan is the one state of those who responded that does not allow self insurance groups to offer large deductibles. The state regulates pools through one of the oldest Self Insurance Group acts in the country, administered by the Department of Labor and originally intended for the private sector, which Michigan's public sector pools utilize as is. It is AGRiP's understanding that the prohibition stems from the credit risk associated with private sector groups/their members going out of business, or insolvent. However, high deductible plans for public sector groups should not raise the same concern as private sector groups. The fact is that the credit risk of private sector group members being able to close shop, leave the state, or declare bankruptcy in order to avoid unfunded liabilities *is extremely remote in the public sector*.

Over the forty-year history of pooling, hundreds of pools providing WC coverage to tens of thousands of public entities have emerged and there is no evidence that AGRiP is aware of of WC claims going unpaid. AGRiP is aware of only two pools that ceased operations with inadequate funds on hand – one in Connecticut and one in Kentucky – and the members of the pools have paid or continue to pay their unfunded liabilities. History demonstrates that the risk of claims failing to get paid, or of this liability falling back on the state as a result of public sector pools, is non-existent.

The value of offering loss sensitive products, such as deductibles, retros and large SIR's is quite clear; for cities, counties and schools whose financial size can handle the volatility, these programs clearly incent better safety and loss control practices, reducing claim frequency and severity. This is good for employees, their employers, and the taxpayers who ultimately fund these benefits.

CONCLUSION

Deductible, large deductible, self-insured retention, and other forms of loss-responsive programs, such as retros, are offered in a majority of states as an option for providing workers' compensation coverage by a governmental risk pool. There is no reason to believe that these options present the same insolvency risks in the public sector as they do in the private sector.

RESPONSE CHART

STATE	LARGE DEDUCTIBLES ALLOWED (YES/NO)	POOL OFFERS	ADDITIONAL COMMENTS
Arizona (Multiple pools)	YES	-Ranges between \$500 and \$5,000 per claim. -Annual aggregates ranging from \$5,000 to \$25,000.	-No unique legislation or regulation addressing deductibles.
Minnesota (Multiple pools)	YES	-Ranges between \$250 to \$50,000. -No aggregate.	-No unique legislation or regulation addressing deductibles.
California¹ (Multiple pools)	YES	-Retained limits as low as \$10,000 and up to \$500,000.	-Estimate the split is 70% first dollar and 30% high deductible. -Programs have actuarially determined rates that are modified by the retention selected. -High deductible excess insurance also offered.
Texas (Texas Municipal League Intergovernmental Risk Pool)	YES	-Deductibles from \$500 to \$1,00,000 offered. -Below \$25,000 they offer: \$1,000; \$2,500; \$5,000; \$10,000; \$15,000; and \$20,000. -Above \$25,000, increments typically increase by \$25,000.	-Deductibles include the full complement of claims handling and loss prevention services. -Deductible treated simply as a monthly bill back to the member for their portion. - No unique legislation or regulation addressing deductibles.
Florida (Florida Sheriffs Risk Management Fund)	YES	-No members of the pool have elected the large deductibles, so far.	-No unique legislation or regulation addressing deductibles.
Illinois (Intergovernmental Risk Management Agency)	YES	-Deductibles offered at \$2,500; \$10,000; \$25,000; \$50,000; \$100,000; \$175,000; and \$250,000.	-No unique legislation or regulation addressing deductibles.
Oregon (City County Insurance Services)	YES	-Offers a Retro Plan with a Retro Contribution calculated as Retro Contribution = (Adjusted Contribution x Basic Factor) + (Paid Loss x LCF).	-No unique legislation or regulation addressing deductibles.
Michigan (Michigan Schools SET-SEG)	NO	NO	-Department of Labor regulates self-insurance groups and does not allow large deductibles.
Pennsylvania (County Commissioners Association of Pennsylvania)	YES	-NO, but would consider it.	-Pool is regulated and the state sees it as responsible for all payments. -Member non-payment of deductible would be the responsibility of the pool.

¹ Two pools with retained limit programs in California: CSJVRMA (<http://www.csjvrma.org/Programs/WorkersCompensation.aspx>) and BCPIA (<http://www.bcpia.org/Programs/PooledWorkersCompensationProgram.aspx>)