

DELAWARE COMPENSATION RATING BUREAU

RULES OF PROCEDURE FOR APPEALS OF THE RATING SYSTEM

A. Any policyholder aggrieved by the application of the Rating System of the Delaware Compensation Rating Bureau, Inc., (DCRB) may appeal such application to the DCRB in accordance with this appeals procedure (Procedure). "Rating System" is defined to include all workers compensation insurance pricing programs subject to rules set forth in this Manual. The appeal must be filed directly with the DCRB during the policy period with respect to which the application is made, or within twelve months after the termination thereof. Appeals filed beyond this time period will not be granted.

EXCEPTION: An appeal for revision of losses used in experience or merit rating is governed by the Revision of Losses provisions of this Manual.

B. An aggrieved party who wants to appeal a DCRB decision concerning an application of the Rating System must first submit a written request for review to the DCRB, together with all information in support of its appeal. DCRB staff will review the request and supporting information. To make certain the facts of an appeal are fully agreed upon, DCRB staff may make written inquiries to the appellant and/or survey the appellant's Delaware workplace(s). The appellant shall provide complete responses to such inquiries, and shall provide full access to such workplace(s). The DCRB will then notify the appellant in writing that the DCRB staff's review has been completed and provide to the appellant (or its designated representative) the DCRB staff's final decision.

C. If the appellant is aggrieved following completion of the DCRB staff's review and final decision, the appellant has the right to present its appeal to the DCRB's Classification and Rating Committee. An appeal may be taken to the Insurance Commissioner only after the appellant has first exhausted its rights pursuant to this Procedure.

D. A Classification and Rating Committee shall be convened to consider the appeal, none of whom may have a direct pecuniary interest in the aggrieved party's appeal.

E. All appeals must be filed with the DCRB no later than thirty (30) days from the date of the DCRB staff's final decision and meet the following requirements:

1. The appeal must be in writing.
2. The appeal must set forth in detail the nature of the complaint, including all reasons for believing the DCRB decision to be in error, all documents in support of the appeal and the specific nature of the relief desired.
3. The aggrieved party (or its designated representative) must agree to appear before the Classification and Rating Committee.

F. Following receipt of an appeal of a DCRB final decision, the DCRB will notify the appellant of the time and place in Delaware of the Classification & Rating Committee meeting at which the matter will be heard.

G. The procedure at the Classification & Rating Committee hearing is informal: The appellant may make an oral presentation of its case or rely solely upon the written material previously submitted to the DCRB in connection with the appeal. DCRB staff may present testimony and other information to the Classification & Rating Committee relevant to the appeal.

The appellant and/or the DCRB may also present third-party witnesses and documentary evidence relevant to the appeal.

The appellant and the DCRB shall have the opportunity to direct questions to any witness who has testified before the Classification & Rating Committee.

After all testimony and other evidence have been presented, the hearing shall be declared closed by the Chair of the Classification & Rating Committee.

After the hearing is closed, the Classification & Rating Committee shall arrive at its decision in executive session. Attendance at the executive session is limited to members of the Classification & Rating Committee and DCRB legal counsel.

The effective date of the decision will be specifically determined by the Classification & Rating Committee, in accordance with Manual rules.

H. A record of meeting of the Classification & Rating Committee will be kept by DCRB staff. As hearings before the Classification & Rating Committee are informal, there is no stenographic, audio or video record. The Classification & Rating Committee decision will be included in the record of meeting and retained in the records of the DCRB.

I. Travel expenses for the appellant will be reimbursed in the same manner as for members of the Classification & Rating Committee. Reimbursement is payable on a per appeal basis, i.e., multiple reimbursements will not be paid when more than one appellant representative attends the Classification & Rating Committee meeting.

J. The decision of the Classification & Rating Committee shall be set forth in writing, include the basis for the decision, and be sent to the appellant no later than thirty (30) days after the hearing.

K. An appellant is not required to be represented by an attorney. However, an appellant has the right, at the appellant's expense, to be represented by an attorney. An appellant who is represented by an attorney shall notify the DCRB of such representation in writing in advance of the hearing, and shall furnish the DCRB with the attorney's name, mailing address and e-mail address. After the DCRB has received such notification from an appellant, all subsequent correspondence related to the appeal will be directed to the attorney designated by the appellant.

L. Notice regarding the time and place of the Classification & Rating Committee hearing as well the Classification & Rating Committee decision in the matter will be provided to the appellant (or its attorney) in writing, via e-mail (if agreed upon) or first class mail.

M. Appeals from a final decision of the Classification & Rating Committee must be filed with the Insurance Commissioner in writing within thirty (30) days of the mailing date of the Classification & Rating Committee's decision. Such appeals must set forth the basis for the appeal and the grounds being relied upon by the appellant.

N. Nothing contained in this Procedure shall prevent efforts to resolve any dispute on an informal basis at any stage of these proceedings.