

February 5, 2021

U.S, Department of Labor
Office of Workers' Compensation Programs
Division of Coal Mine Workers' Compensation
Washington, DC 20210

Attention: Docket Number WCPO- 2020-0002

**Re: Comments on Self-Insurance Process Guidelines under
the Black Lung Benefits Act (BLBA)**

Thank you for the opportunity to provide comments in response to the proposed Self-Insurance Process Guidelines for use under the provisions of the Black Lung Benefits Act (BLBA). UWC– Strategic Services on Unemployment & Workers' Compensation is a national non-profit membership organization representing business in workers' compensation policy and legislative advocacy.

UWC members include self-insured employers, insurance carriers and third-party administrators who may be entities or representatives of entities subject to the Black Lung Benefits Act.

The proper administration of the BLBA is critical for self-insured employers and clear guidelines under which employers may seek approval and renewal of approval to operate as self-insured employers is helpful to reduce costs associated with workers' compensation and assure financial soundness of the program.

We submit the following comments with respect to the proposed Self-Insurance Process Guidelines.

Self-Insurance Authority

The minimum criteria should recognize the volatility of the business of mining coal by providing flexibility in determining the minimum criteria whether the employer has been in the business of mining

coal for at least three consecutive years prior to the application to self-insure.

Employers may have been forced to close operations for a period prior to application due to government requirements related to COVID-19 or other factors beyond the employer's control. There should be flexibility in evaluating whether the employer continued in the business of mining and in the application of the three consecutive year criterion.

The minimum criterion that the operator must have at least five full-time employee-miners should be applied flexibly to recognize the volatility of demand for goods and services and the need to close operations due to COVID-19 or other factors beyond the control of the employer.

An employer may be fiscally sound and able to meet its obligations with respect to workers' compensation while employing fewer full time coal miners for a period of time prior to application for initial approval or renewal. Employers previously approved for self-insurance should not be denied renewal due to factors outside their control, including reduced demand for coal.

Ascertaining Security

Flexibility in the determination of "future liabilities" and the level of risk for operators is needed.

The business of coal mining can be extremely volatile. It may be impacted by unforeseen legislative changes in workers' compensation coverage and regulation. It may also be impacted by changes in demand for coal and competition from other sources of energy.

Many of these variables impact the accuracy in determining "future liabilities" and should be recognized when evaluating actuarial soundness and operator financial health.

There should also be flexibility in determining whether operators are low, medium, or high-risk operators in light of the volatility of the industry and factors beyond the control of the employer.

We appreciate the opportunity to submit these comments.

Sincerely,

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