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SELF-INSURANCE VS. INSURED WORKERS' COMPENSATION PROGRAMS: KEY CONSIDERATIONS

In managing their workers' compensation programs, employers are often evaluating the merits of two structures: insured — guaranteed cost (GC) or large deductible (LD) — and qualified self-insured (QSI). When considering each of these options, it is important to understand:

- How a first-dollar program compares to retaining the risk, and how a deductible programs differ from self-insurance.
- The state-specific considerations related to each structure.

Marsh's Workers' Compensation Center of Excellence has developed the following overview of these different approaches, looking at a variety of key considerations.

	Insured Programs	Self-Insured Programs
LOSSES	GC: Program is fully insured and insurer pays all losses. LD: Insured is responsible for claims within the specific claims deductible.	Insured pays all losses and seeks reimbursement from excess carrier for payments above specific claims retention.
QUALIFICATION	GC: Only qualification is ability to make premium payments. LD: Each insurer determines acceptable deductible amount based on financial condition of the insured.	Must apply for approval in each state where self-insurance is desired. There are minimum requirements on both number of employees and net worth of the insured.
CLAIMS ADMINISTRATION	GC: Insurer controls all vendor selection and claims handling decisions. LD: Insured has significant influence on claim handing decisions up to specific claims retention. Some insurers allow insured to unbundle claims handling services and control other vendor selection.	Insured has full control of vendor selection and all claims handling decisions. Claims handling is almost always unbundled and some carriers will allow for self-administration.
COLLATERAL	GC: Collateral is not needed. LD: Collateral required to cover claims liabilities within deductible amount. Forms and amount of collateral vary by insurer. All collateral is held by the carrier, regardless of how many states the program operates in.	Individual states are usually flexible on forms of collateral. Certain states have alternative collateral programs, which could result in lower collateral compared to large deductible. Very little ability to negotiate the amount of collateral, and legacy collateral after QSI termination can remain in place for years. QSI loses the advantage of aggregating collateral with a single source as each state requires separate collateral.
ADMINISTRATIVE EXPENSES	GC: Insurer is responsible for making appropriate state filings and paying assessments that are contained within the guaranteed cost premium. LD: Insurer is responsible for making appropriate state filings and paying assessments that are usually contained within the fixed deductible premium. Sometimes these administrative expenses are a pass-through to the insured.	Administrative items are the responsibility of the insured including applications, certificates, and assessment payments. If assessments are loss-based, insurer must accrue future assessments based on anticipated future claim payments.

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	Insured Programs	Self-Insured Programs
CONCENTRATION OF EMPLOYEES	GC: Individual account underwriting item. LD: Individual account underwriting item.	Individual account underwriting item, but in certain cases excess policies can offer stated limits versus statutory cover. This varies by state.
EMPLOYERS LIABILITY	GC: Covered claims are fully insured, subject to policy limits, and are the responsibility of the insurer. LD: Covered claims are fully insured, subject to policy limits, excess the retention amount. There is usually coverage for defense costs on disputed cases because the duty to defend is broader than the duty to indemnify.	There is no duty to defend so disputed cases may not have coverage for defense costs. Employers liability claims have different policy limits than workers' compensation claims.
CASH FLOW	GC: The insured pays the annual premium only. LD: The insured is responsible for claims within the specific claims deductible; the carrier is responsible for amounts in excess of the deductible. Carrier dictates amount that must be deposited into the escrow account for paying claims.	Insured pays all claims and is reimbursed by excess insurer for payments above specific claims retention. TPA and insured agree on the structure of the claims payment escrow fund with zero-balance accounts being an option.
GUARANTEE FUND	GC: Ability to access guarantee funds if the insurer defaults is determined individually usually by the net worth of the employer. LD: Ability to access guarantee funds if the insurer defaults is determined individually, usually by the net worth of the employer. At times, the collateral posted by the insurer is caught up in the estate of the insurer that defaulted.	Insureds are responsible for all claim payments regardless of excess carrier's ability to pay. If individual QSI defaults, there is a separate guarantee fund. Assessments for the QSI guarantee fund are dictated by the liabilities of the fund.
MARKETS FOR COVERAGE	GC: This is usually for small to midsize employers. For larger employers there is a more limited marketplace as insurers encourage them to retain risk. LD: Most private insurers entertaining this coverage line have filed deductible plans.	There is a very limited marketplace for excess coverage, with one insurer writing approximately one-third of the standalone market. Many insurers have minimum retention and premium levels.

STATE-SPECIFIC ISSUES

Item	Advantages to Self-Insurance
CALIFORNIA	Alternative collateral program can result in significantly lower collateral compared to deductible plans.
MONTANA	Employers on a large deductible are not allowed to have control, influence, and/or knowledge of claim-specific issues. Only self-insured employers maintain this level of control.
NEW YORK	Not subject to depositing all awards into the aggregate trust fund. Deductible employers must do this. This severely inhibits the ability to settle claims.
NORTH CAROLINA	Alternative collateral program can result in significantly lower collateral compared to deductible plans.
TEXAS	Employers on a large deductible do not receive attorney-client privilege protection during litigation because they are not considered the client. Self-insured employers still receive this protection in litigation.

Marsh's detailed knowledge of the workers' compensation market and our proprietary **MPACT**[SM] approach can help our clients address their workers' compensation challenges and lower their total cost of risk. Our Workers' Compensation COE seamlessly delivers advanced analytics and modeling, pre- and post-loss strategies, claims management and advocacy, and optimal program design and placement. For more information, contact your Marsh representative or email us at wccoe@marsh.com.