No. 2023-7897

Official Order
of the
Texas Commissioner of Insurance

Date: 4/20/2023

Subject Considered:

National Council on Compensation Insurance Filing
Item E-1409—Enhancement to NCCI's Experience Rating Plan Methodology

The subject of this order is the adoption of amendments to the National Council on Compensation Insurance (NCCI) *Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance* (Experience Rating Plan), as proposed in *Item E-1409—Enhancement to NCCI's Experience Rating Plan Methodology* (TDI ECase No. 30809; SERFF Tracking No. NCCI-133421360).

Background

The Experience Rating Plan consists of formulas and a methodology to calculate a risk's experience rating modification. It uses components that are updated annually to reflect newer premium and loss experience. This filing revises the calculation of some components used in the methodology in the Experience Rating Plan, but the formulas and general structure are not changing.

The revised components are the:
- Primary/excess loss split point.
- State-per-claim accident limitation and U.S. Longshore and Harbor Workers' Compensation–per-claim accident limitation.
- G value, which represents state average claim severity.
- Credibility parameters underlying the calculation of the weight and ballast values.
- Discount ratios.

After considering the filing, the commissioner of insurance adopts the following findings of fact and conclusions of law.

Findings of Fact

1. NCCI filed *Item E-1409* with TDI on October 18, 2022, under the workers' compensation manual rule filing procedure adopted in Commissioner's Order No. 3142, dated March 21, 2014.

2. NCCI made this filing to propose enhancements identified during a periodic evaluation of the Experience Rating Plan methodology and plan performance. NCCI says the updated methodology will reduce the impact of large outlier claims and improve credibility, and the changes are expected to result in more accurate experience modifications (e-mods) that better reflect state claim cost differences.

3. *Item E-1409* makes the following changes to the underlying components used in the methodology in the Experience Rating Plan:
    a. Implements a state-specific split point of $16,500 for Texas rather than a countrywide value of $18,500. This value will change annually on the basis of state-specific data instead of countrywide data. The split point is a threshold at which claims are divided into primary and excess losses.
    b. Revises the calculation of state accident limitations to reflect the 95th percentile of lost-time claims, which results in a lower cap in Texas. This would reduce the impact of an unusually large claim.
    c. Implements Discount ratios (D-ratios) by hazard group rather than by classification to reduce complexity of the formula. The D-ratio is the expected percentage of losses that falls below the split point and is used to determine expected excess losses.
    d. Revises the calculation of the G value, which represents state average claim severity, to make a more consistent calculation of each employer's expected claim count.
    e. Recalibrates the credibility parameters underlying the weighting value (W) and ballast value (B), which influence the degree to which an employer's actual losses impact the e-mod rating.

4. On November 15, 2022, TDI published notice of the filing on the TDI website at www.tdi.texas.gov/rules/2022/nccimanual.html and distributed notice of the filing to electronic news subscribers.

5. TDI received one comment letter, from Texas Mutual Insurance Company (TMIC), on the filing by the December 14, 2022, deadline. TMIC stated that some small employers are incentivized to self-pay claims to avoid having a debit e-mod

because the debit e-mod often denies them the opportunity to bid for or secure contracts with large clients.

6. TMIC also expressed concern that *Item E-1409* will cause more than 70% of experience-rated policyholders to have an increase in their e-mod rating, which would further encourage businesses to self-pay claims. TMIC says this practice is detrimental to the Texas workers' compensation system and therefore to the well-being of injured employees.

7. Regarding the impact of the proposed changes, NCCI says the experience modifications are expected to change by less than 5% for most employers. NCCI projects that a relatively small number of e-mods—about 0.1% of Texas intrastate e-mods—are expected to move from a credit e-mod to a debit e-mod, and that the vast majority of risks with credit e-mods under the current methodology will retain their credit e-mods under the updated methodology. NCCI expects that the distribution of e-mods using the updated methodology is similar to the current plan and that there will be minimal disruption to Texas policyholders.

8. NCCI proposed that the changes in Item *E-1409* apply to experience rating modifications with rating effective dates on or after 12:01 a.m. on July 1, 2024.

9. *Item E-1409* has been available for public inspection in SERFF and at TDI since the filing date.

10. The filing, including exhibits, is incorporated by reference into this order.

Conclusions of Law

1. TDI has jurisdiction over this matter under Insurance Code Article 5.96 and §§ 2051.201, 2053.002, 2053.051, and 2053.052.

2. TDI gave notice in compliance with Commissioner's Order No. 3142.

3. The amendments to the NCCI Experience Rating Plan are consistent with Insurance Code Article 5.96 and Chapters 2051 and 2053.

4. Applying the changes in *Item E-1409* to experience rating modifications with rating effective dates on or after 12:01 a.m. on July 1, 2024, is reasonable.

Order

It is ordered that NCCI's filing, *Item E-1409—Enhancement to NCCI's Experience Rating Plan Methodology*, is approved. The changes in *Item E-1409* apply to experience rating modifications with rating effective dates on or after 12:01 a.m. on July 1, 2024.

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