

No. **2023-8006**

**Official Order
of the
Texas Commissioner of Insurance**

Date: 06/06/2023

Subject Considered:

**National Council on Compensation Insurance Filing
*Item E-1410—Revisions to NCCI Manual Rules Related to the Inclusion of COVID-19 (Coronavirus) Claims in Experience Rating and Merit Rating***

NUNC PRO TUNC ORDER

The Texas Department of Insurance (TDI) considered an amendment to correct Finding of Fact No. 4, Conclusion of Law No. 4, and the ordering paragraph related to the effective date on Commissioner's Order No. 2023-7932. The order adopted amendments to the *NCCI Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance* and the *Statistical Plan for Workers Compensation and Employers Liability Insurance*.

Commissioner's Order No. 2023-7932 should have included the language "and any in-force policy in effect on and after July 1, 2023" in Finding of Fact No. 4, Conclusion of Law No. 4, and the ordering paragraph, but the language was left out by mistake.

The commissioner orders that Commissioner's Order No. 2023-7932 be amended nunc pro tunc to add the correct language related to the order's effective date.

Except for the changes to Finding of Fact No. 4, Conclusion of Law No. 4, and the ordering paragraph as described, the text of the original order remains the same. The text of the corrected order reads as follows:

The subject of this order is the adoption of amendments to the National Council on Compensation Insurance (NCCI) manuals, as proposed in *Item E-1410—Revisions to NCCI Manual Rules Related to the Inclusion of COVID-19 (Coronavirus) Claims in Experience Rating and Merit Rating* (TDI ECase No. 31395; SERFF Tracking No. NCCI-133543232).

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Background

NCCI filed *Item E-1410* to amend the *NCCI Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance* (Experience Rating Plan) and the *Statistical Plan for Workers Compensation and Employers Liability Insurance* (Statistical Plan).

The filing establishes an expiration date for the special treatment of COVID-19 claims as catastrophic because the treatment was intended to be temporary. The amendments revise rules to include COVID-19 claims with dates on or after July 1, 2023, in experience rating calculations.

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-1410* with TDI on February 1, 2023, under the workers' compensation manual rule filing procedure adopted in Commissioner's Order No. 3142, dated March 21, 2014.
2. On September 14, 2020, TDI approved *Item E-1407*, which revised rules to exclude COVID-19 claims from experience rating calculations and required reporting COVID-19 claims as an extraordinary loss event. This order deals with *Item E-1410*, which establishes an expiration date for the special treatment of COVID-19 claims.
3. *Item E-1410* amends the Experience Rating Plan and Statistical Plan to:
 - a. establish an end accident date of June 30, 2023, for Extraordinary Loss Event Catastrophe Number 12 for COVID-19 claims; and
 - b. include COVID-19 claims with accident dates on and after July 1, 2023, in experience rating calculations.
4. NCCI proposed that the changes in *Item E-1410* apply to new and renewal policies that are effective on or after 12:01 a.m. on July 1, 2023, and any in-force policy in effect on and after July 1, 2023.
5. *Item E-1410* has been available for public inspection in SERFF and at TDI since the filing date.
6. The filing, including exhibits, is incorporated by reference into this order.

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NCCI *Item E-1410 - nunc pro tunc*

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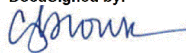
7. On February 27, 2023, TDI published notice of the filing on the TDI website at www.tdi.texas.gov/rules/2023/nccimanual.html and distributed notice of the filing to electronic news subscribers.
8. TDI received no written comments on the filing or hearing requests during the comment period.

Conclusions of Law

1. TDI has jurisdiction over this matter under Insurance Code Article 5.96 and §§ 2051.002, 2051.201, 2052.002, 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 and Statistical Plan are consistent with Insurance Code Article 5.96 and Chapters 2051, 2052, and 2053.
4. Applying the changes in *Item E-1410* to new and renewal policies that are effective on or after 12:01 a.m. on July 1, 2023, and any in-force policy in effect on and after July 1, 2023, is reasonable.

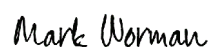
Order

It is ordered that NCCI's filing, *Item E-1410—Revisions to NCCI Manual Rules Related to the Inclusion of COVID-19 (Coronavirus) Claims in Experience Rating and Merit Rating*, is approved. The changes in *Item E-1410* apply to new and renewal policies that are effective on or after 12:01 a.m. on July 1, 2023, and any in-force policy in effect on and after July 1, 2023.


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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

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Mark Worman, Deputy Commissioner

DocuSigned by:

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Jessica Barta, General Counsel