

No. **2018-5427**

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

Date: March 13, 2018

Subject Considered:

**Revised Workers' Compensation Classification Relativities
Docket No. 2804**

General remarks and official action taken:

The subject of this order is staff's recommendation to adopt revised workers' compensation classification relativities. Staff's proposed revised classification relativities would replace those adopted under Commissioner's Order No. 4959, dated February 23, 2017, and would decrease the classification relativities by an average of 15 percent overall.

The Commissioner held a hearing on staff's proposed revised classification relativities under Docket No. 2804 on January 25, 2018, in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street in Austin, Texas. TDI published notice of staff's proposed revised classification relativities and of the hearing in the January 5, 2018, issue of the *Texas Register* at 43 TexReg 119. TDI also provided notice on the TDI website and through electronic news on December 28, 2017. At the hearing, staff explained the recommended revisions.

A copy of the full text of the notice and Exhibit A, the proposed revised classification relativities, has been on file with the TDI chief clerk since December 28, 2017. Comments on the proposed revised classification relativities were due by 5 p.m., Central time, on February 1, 2018. TDI received two comments.

One commenter expressed concern that while the proposed reduction in the relativities is substantial, the majority of Texas workers' compensation insurers base rates on the National Council on Compensation Insurance (NCCI) loss costs. The commenter provided its analysis of loss ratio trends and opined that NCCI's loss costs are likely overstated, which can lead to excessive rates. The commenter encouraged a careful review of filings to ensure that rates are reasonable and not excessive.

The Commissioner appreciates the comment and notes that staff will continue to review filings to ensure that they meet rate standards, whether they are based on the relativities or on NCCI's loss costs.

Another commenter, a self-insured group, requested that TDI continue to use the current relativity for class code 0401. The commenter stated that because it provides coverage for most employers using code 0401 in Texas and because its losses are not included in the data used to develop relativities, the data underlying the relativities for code 0401 represents less than 10 percent of the industry. The commenter expressed concern that the continuing decrease in the relativity for code 0401 based on incomplete industry data may signal to insurers that the class offers "easy profitability" and that it will eventually be impossible for the commenter to compete with other insurers for this business.

The Commissioner considered the comment and declines the commenter's request to continue to use the current relativity for class code 0401. In developing the relativities, TDI appropriately used the data that is required to be provided by all admitted carriers for all class codes. All insurers may modify the relativities in accordance with their loss experience to determine an adequate rate.

BACKGROUND

Workers' compensation relativities represent the relationship between classifications—how risky the activities in a given classification are compared to other classifications. They are established by classification code. Classification codes are used to identify specific categories of work to effectively estimate workers' compensation costs for the risk associated with the work being performed.

TDI must establish classification relativities applicable to an employer's payroll in each of the classes at levels adequate to the risks to which the relativities apply, and to revise the classification system at least once every five years. TEX. INS. CODE § 2053.051. Workers' compensation insurers must use the classifications TDI establishes. TEX. INS. CODE § 2053.053.

The following findings of fact and conclusions of law are adopted:

FINDINGS OF FACT

1. The current classification relativities, which were effective on July 1, 2017, are based on experience data reflecting workers' compensation experience from policies with effective dates from 2009 through 2013.
2. The proposed revised classification relativities are based on experience data reflecting workers' compensation experience from policies with effective dates from 2010 through 2014.

Methodology

3. Staff used the same methodology as in previous years to calculate the revised classification relativities.
4. Staff's analysis used the five most recent policy years' loss experience from the Workers' Compensation Statistical Plan data, which is summarized by and obtained from NCCI, TDI's statistical agent. Staff reviewed NCCI's data for reasonableness and consistency.
5. Staff developed a revenue-neutral set of relativities in relation to the current relativities, and limited the change to +/-25 percent for any one class in order to minimize possible rate shock due to any large indicated changes in the relativities. Staff then multiplied the revenue-neutral set of relativities by an adjustment factor of 0.85.
6. This adjustment will decrease the classification relativities by an average of 15 percent overall. With this overall reduction, the change for any given classification will range from -36.3 percent to 6.3 percent of the current classification relativities.
7. Staff incorporated recent changes in the classification system resulting from the approval of NCCI's *Item B-1435—Revisions to Basic Manual Classifications and Appendix E—Classifications by Hazard Group, including Trucking and Towing*, for new and renewal policies effective on and after July 1, 2018. *Item B-1435* alters the classification system by eliminating, revising, and establishing classification codes. To maintain a uniform class system, these changes made it necessary for TDI to develop relativities for class codes that were revised or established.

8. The return on net worth for Texas workers' compensation insurers has averaged 10.6 percent for the past 10 years, compared with 6.7 percent countrywide. The accident year combined ratio has averaged 86 percent in Texas for the past five years compared with 99 percent countrywide.
9. NCCI's overall average decrease to the loss cost level effective July 1, 2017, was 7.8 percent. NCCI has proposed a 13.7 percent decrease in the overall average loss cost level effective July 1, 2018.
10. Findings of Fact 8 and 9 demonstrate that the workers' compensation market is profitable. As a result, staff determined that it is reasonable to reduce the average level of the current classification relativities by 15 percent overall, as presented at the hearing.

Effective Date

11. Staff requests that the proposed revised classification relativities be mandatory for all policies with effective dates on or after July 1, 2018, unless the insurer files an alternative classification rate basis.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter under Insurance Code § 2053.051. Section 2053.051 requires TDI to determine hazards by class and establish classification relativities applicable to the payroll in each classification for workers' compensation insurance. It further provides that TDI must revise the classification system at least once every five years.
2. Adopting the revised classification relativities in Exhibit A is reasonable and is consistent with Texas workers' compensation statutes and rules.

ORDER

It is ordered that: The revised classification relativities in Exhibit A are adopted for policies with effective dates on or after July 1, 2018. Exhibit A is incorporated by reference into this order. The

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revised classification relativities must be used for all policies with effective dates on or after July 1, 2018, unless the insurer files an alternative classification rate basis.

/s/ Kent C. Sullivan

Kent C. Sullivan
Commissioner of Insurance