

No. **2018-5569**

Official Order
of the
Texas Commissioner of Insurance

Date: July 11, 2018

Subject Considered:

National Council on Compensation Insurance
NCCI Filing *Item 01-TX-2017*
Amendments to Domestic Classifications

The Texas Department of Insurance considered amendments to the National Council on Compensation Insurance (NCCI) manuals proposed in *Item 01-TX-2017—Domestic Classifications* (TDI ECase No. 15007; SERFF Tracking No. NCCI-131272067, November 16, 2017).

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

Findings of Fact

1. NCCI filed *Item 01-TX-2017* on November 16, 2017, using the procedure adopted in Commissioner's Order No. 3142 for revisions to NCCI's workers' compensation manuals.
2. The amendments in *Item 01-TX-2017* eliminate, revise, and establish classifications and make nonsubstantive changes to formatting and text for consistency in NCCI's *Basic Manual for Workers Compensation and Employers Liability Insurance*.
3. All part-time and full-time domestic workers in Texas are currently classified based on whether the worker is rated using payroll or on a per capita basis. *Item 01-TX-2017* revises the classification treatment to be on a per capita basis by type of worker (part-time or full-time).
4. This filing:
 - a) Establishes Code 0908 in Texas for part-time domestic workers, per capita basis.

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- b) Revises Code 0913 to include only full-time domestic workers, per capita basis, by removing part-time domestic workers.
 - c) Revises two Texas Exceptions to Basic Manual Rule 3-C to include Code 0908.
 - d) Eliminates certain Texas Exceptions in Basic Manual Rule 3-C. The national rule already includes Code 0913 and 0918, so the Texas Exceptions are no longer needed.
 - e) Revises national Appendix E by adding the hazard group for Code 0908—Domestic Workers—Residences—Part-Time in Texas.
5. NCCI amended its original filing on December 4, 2017, by submitting Exhibit 4, which revises national Appendix E to establish Code 0908 in Texas.
 6. The TDI chief clerk has copies of the full text of the filing, amendment, and related exhibits since the filing date.
 7. The filing, amendments, and all related exhibits are incorporated by reference into this order.
 8. On February 7, 2018, TDI published notice of the filing on the TDI website at www.tdi.texas.gov/rules/2017/nccimanual.html and distributed notice of the filing to electronic news subscribers.
 9. TDI received one comment from Texas Mutual Insurance Company and no hearing requests on the filing by the March 9, 2018, deadline. The commenter supports NCCI's proposal to establish Code 0908—Domestic Workers—Residences—Part-Time.
 10. The commenter remains opposed to the elimination of Code 0923—Domestic Workers—Residences—Payroll Basis. The commenter stated that they are still studying the impact of eliminating Code 0923 and "feels strongly that the payroll basis is more equitable than the per capita basis due to the wide diversity in payroll and exposure in this classification and the fact that the benefits paid are based on payroll." The commenter requests that TDI reconsider the decision to eliminate Code 0923.
 11. This filing does not propose elimination of Code 0923. TDI approved the elimination of Code 0923 in NCCI's *Item 01-TX-2016* in Order 2016-4795, issued November 16, 2016. Based on comments on that item, TDI delayed eliminating Code 0923 until July 1, 2019.
 12. The changes in *Item 01-TX-2017* apply to new and renewal workers' compensation policies effective on and after July 1, 2019.

Conclusions of Law

1. TDI has jurisdiction over this matter under Insurance Code Article 5.96 and Sections 2051.002, 2051.201, 2052.002, 2053.002, 2053.011, 2053.051, 2053.053, and 36.001.
2. Commissioner's Order No. 3142, dated March 21, 2014, established a procedure for the Commissioner to consider changes to NCCI's manuals:
 - a) NCCI makes a filing;
 - b) TDI publishes notice of the filing on the TDI website and distributes notice of the filing to subscribers to TDI's electronic news, with at least a 30-day period for interested persons to submit comments or request a hearing; and
 - c) The Commissioner issues an order approving the filing, approving the filing with changes, or rejecting the filing.
3. TDI gave proper and timely notice in compliance with Commissioner's Order No. 3142.
4. The amendments to the NCCI manual are reasonable and consistent with Texas workers' compensation statutes and rules.
5. Applying the changes in *Item 01-TX-2017*, as amended, to new and renewal workers' compensation policies effective on and after July 1, 2019, is reasonable.

TDI approves NCCI's filing, *Item 01-TX-2017—Domestic Classifications*, as amended, for new and renewal workers' compensation policies effective on and after July 1, 2019.

/s/ Kent C. Sullivan

Kent C. Sullivan

Commissioner of Insurance