

**PETITIONER** § **BEFORE THE**  
**STAFF OF THE TEXAS** § **COMMISSIONER OF**  
**DEPARTMENT OF INSURANCE** § **INSURANCE**

**PETITION FOR ADOPTION OF AMENDMENTS TO THE TEXAS BASIC MANUAL OF RULES, CLASSIFICATIONS AND EXPERIENCE RATING PLAN FOR WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE SECTION I. A. OF THE TEXAS EXPERIENCE RATING PLAN AND RULE D. 3. OF THE APPENDIX**

The staff of the Texas Department of Insurance (Department) files this petition to amend the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance (Basic Manual). The staff proposes the adoption of an amendment to Section I. A. of the Basic Manual Texas Experience Rating Plan and to Rule D. 3. of the Basic Manual Appendix to allow a copy of the experience modifier calculation to be "made available" to the insured rather than requiring that a copy of the experience modifier be "furnished" or "forwarded" to the insured. With the adoption of this change in wording, the experience modifier can be made available electronically or by mail.

Article 5.96 and §2053.052 of the Texas Insurance Code authorize the filing of this petition and the action requested of the Commissioner. Article 5.96 authorizes the Department to prescribe, promulgate, adopt, approve, amend, or repeal standard and uniform manual rules, rating plans, classification plans, statistical plans, and policy and endorsement forms for various lines of insurance, including workers' compensation insurance. Section 2053.052 requires the Commissioner to adopt a uniform experience rating plan for workers' compensation insurance.

## **I. Proposal for Consideration and Adoption**

- A. Staff proposes the consideration and adoption of amendments to Section I A. of the Basic Manual Texas Experience Rating Plan. The proposed amendment to the Texas Experience Rating Plan is attached as Exhibit A.
- B. Staff proposes the consideration and adoption of amendments to Rule D. 3. of the Basic Manual Appendix. The proposed amendment to the Appendix is attached as Exhibit B.
- C. Staff proposes that the amendments to Section I. A. of the Basic Manual Texas Experience Rating Plan and Rule D. 3. of the Basic Manual Appendix be made effective for distribution of all workers' compensation experience modifiers issued on or after July 1, 2011.

## **II. Background and Justification**

Currently, the Texas Experience Rating Plan in the Basic Manual states that at least 60 days prior to the anniversary rating date, the insurance company writing all or part of a risk shall furnish one copy of the experience modifier calculation, free of charge, to the insured. The Basic Manual Appendix currently states that one copy of the experience modifier shall be forwarded to the insured without charge on form ERM-1.2 or any other experience rating form that includes at least the same information as contained in form ERM-1.2.

Historically, one copy of the experience modifier calculation has been mailed to the insured. Mailing paper copies of important documents was the standard before creating and sending reliable electronic copies became feasible. Prior to that time, appropriate standardized, widely available technology to receive and verify the authenticity of such documents was not readily available. Sending the experience modifier calculation by

mail required time to transport the document, as well as other resources, such as fuel, ink, and paper. Electronic transmission allows for quicker, easier access to the experience modifier calculations than was possible at the time the current rule was enacted.

Most insurance companies contract with the National Council on Compensation Insurance (NCCI) to calculate Texas experience modifiers. NCCI has received requests from policyholders to eliminate the hard copy distribution of the experience modifier calculations. In response to those requests, on July 1, 2011, NCCI will discontinue mailing copies of the experience modifier worksheet to policyholders. Instead, NCCI will mail a letter to each policyholder, providing instructions on obtaining an electronic copy of the worksheet via a secure website, and directing policyholders who prefer to receive hard copies to contact NCCI to make that request. The changes proposed in this petition will allow Texas policyholders, whose insurance companies contract with NCCI to calculate their experience modifiers, to choose to receive their worksheets electronically or in hard copy. In either instance, the insured will receive the worksheet free of charge.

### **III. Requested Action**

Staff respectfully requests that:

- (1) The proposed revised amendment to Section I A. of the Basic Manual Texas Experience Rating Plan as specified in the attached Exhibit A be adopted by the Commissioner;
- (2) The proposed revised amendment to Rule D. 3. of the Basic Manual Appendix as specified in the attached Exhibit B be adopted by the Commissioner; and

- (3) The revisions to Section I A. of the Basic Manual Texas Experience Rating Plan and to Rule D. 3. of the Basic Manual Appendix apply to the distribution of all experience modifiers issued on or after July 1, 2011.

Respectfully submitted,

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Nancy Moore  
Deputy Commissioner  
WC Classification and Premium Calculation Division

Date \_\_\_\_\_