

No. **2020-6464**

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

Date: **09/14/2020**

Subject Considered:

**National Council on Compensation Insurance Filing
*Item E-1407—Exclusion of COVID-19 Claims from Experience Rating and Merit
Rating***

The subject of this order is the adoption of amendments to the National Council on Compensation Insurance (NCCI) manuals, as proposed in *Item E-1407—Exclusion of COVID-19 Claims from Experience Rating and Merit Rating* (TDI ECase No. 24798; SERFF Tracking No. NCCI—132378669).

Background

NCCI filed *Item E-1407* 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 amendments revise rules related to excluding claims attributable to the COVID-19 pandemic from experience rating calculations and reporting claims attributable to the COVID-19 pandemic as an extraordinary loss event.

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

Findings of Fact

1. NCCI filed *Item E-1407* with TDI on May 15, 2020, under the workers' compensation manual rule filing procedure adopted in Commissioner's Order No. 3142, dated March 21, 2014.
2. *Item E-1407*:

2020-6464

Commissioner's Order

NCCI *Item E-1407*—Exclusion of COVID-19 Claims from Experience Rating and Merit Rating

Page 2 of 3

- a. Revises Experience Rating Plan Rule 1-C-3 to add an exception stating that claims reported with Catastrophe Number 12 (COVID-19 pandemic claims) are excluded from experience rating calculations
 - b. Revises the Statistical Plan Part 4-E-2-a(2) to add information about reporting claims attributable to the COVID-19 pandemic
3. Exclusion of claims attributable to the COVID-19 pandemic from experience rating calculations is appropriate because these claims are unlikely to be a reliable predictor of an employer's future claims costs or whether there will be a pandemic in the future.
4. NCCI proposed that *Item E-1407* be effective for experience rating modifications with rating effective dates of August 16, 2020, and later.
5. *Item E-1407* 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.
7. On July 8, 2020, TDI published notice of the filing on the TDI website at www.tdi.texas.gov/rules/2020/nccimanual.html and distributed notice of the filing to electronic news subscribers.
8. TDI received no written comments on the filing and no hearing requests by the August 10, 2020, deadline.

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, 2053.011, 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-1407* to experience rating modifications with rating effective dates of August 16, 2020, and later, is reasonable.

2020-6464

Commissioner's Order

NCCI *Item E-1407—Exclusion of COVID-19 Claims from Experience Rating and Merit Rating*

Page 3 of 3

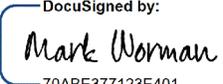
Order

It is ordered that NCCI's filing, *Item E-1407—Exclusion of COVID-19 Claims from Experience Rating and Merit Rating*, is approved. The changes in *Item E-1407* apply to experience rating modifications with rating effective dates of August 16, 2020, and later.

Kent C. Sullivan
Commissioner of Insurance

By:  _____
Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

Recommended by:

 _____
Mark Worman, Deputy Commissioner

Reviewed by:

 _____
Richard Gober, Staff Attorney