

Workers' Compensation Legislative & Regulatory Update

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*Volume 7, Issue 7
October 23, 2006*

Insurance Commissioner Kevin McCarty has rejected the National Council on Compensation Insurance's rate filing calling for a statewide average 13.3 percent rate decrease in favor of a 15.7 percent rate cut. McCarty's decision means that employers will see a total savings of \$400 million. There has been an overall rate cut of over 48.3 percent since the legislature enacted the 2003 reforms. The rate change also marks the fourth consecutive rate cut approved by McCarty. Immediately following the reform bill's passage, McCarty signed off on a 14 percent rate cut that applied to all policies. He later ap-

proved a statewide average 5.1 percent rate reduction that applied to all new and renewal policies as of January 2005. That rate change was followed by a 13.5 percent rate decrease that went into effect as of January 2006. The new rates will apply to all new and renewal policies as of January 1, 2007.

NCCI Filing

NCCI's annual filing is based on the two most recent calendar-accident years, which for the current filing includes 2004 and 2005. Calendar-accident years include the premiums collected in that year along with insurers' losses. For the purposes of the filing, NCCI actuaries examine the losses from two perspec-

tives. Losses are looked at from a paid basis, meaning the dollar amount insurers of benefits and expenses paid in that year. The losses are also looked at from a paid plus case basis, which not only includes benefits and expenses paid out in that year, but also the reserves set aside by insurers to pay future benefits. NCCI then averages the two methodologies to project the premiums needed to be collected by insurers to pay 2007 claims.

The two areas of disagreement between NCCI and regulators focused on the indemnity trend factor and the loss development factor. Looking at the indemnity side of the equation, NCCI's data shows that while the cost per in-

demnity claim has risen slightly since 2002, the loss ratio has been steadily declining by a rate of minus 5.4 percent and minus 7.6 percent over the past five years. In the rate order, regulators asserted that NCCI failed to take into account the reduction in claims' frequency and severity due to the reforms. The data shows that frequency of claims has declined by 3 percent over the last eight years, but has increased to 8 percent in recent years. Regulators noted, however, that it is unrealistic to assume that the frequency of claims will continue to drop at that pace. Therefore, regulators ordered that the indemnity factor be lowered to a minus 0.4 percent as opposed to the minus 0.3 percent in the council's findings. Regulators also maintained that the loss development factor should likewise be reduced. The two changes accounted for an additional rate decrease of minus 2.4 percent. Regulators did approve NCCI's recommended medical trend factor of minus 0.5 percent, which included changes to the Florida Workers' Compensation

Health Care Provider Reimbursement Manual.

Regulators signed off on a change to NCCI's premium discount program by raising the premium level an employer must reach to qualify for the program. Florida currently provides premium discounts for manual premiums over \$5,000, an amount set in the 1980s. NCCI is calling for the program to be updated to raise the premium level to \$10,000. The filing would move the premium level to \$10,000. Some employers will no longer qualify for the discounts while other larger employers may receive lower discounts. However, the change in the program would translate into a minus 2.6% rate reduction for all employers.

Employers Benefit

There is more evidence that the 2003 changes in the law are having their intended effect. NCCI released a survey of 11 of the top Florida insurers, which represent 69 percent of the total mar-

ket. Among other things, seven of the insurers reported having fewer permanent total disability claims. Before the reforms, the state's permanent total disability claims was roughly 27 per 100 workers, which represented a figure five times higher than the countrywide average at an average cost of four times higher. Additionally, three out of the 11 insurers surveyed reported that medical costs are down because there are fewer permanent disability claims and the claims require less litigation. There has also been a drop off in request for psychiatric impairment benefits and independent medical exams. Litigation activity is also declining. The Division of Administrative Hearings reported that in fiscal year 2002-2003, claimant attorneys filed 155,000 petitions and opened 127,000 new cases. The number of new cases dropped by half in fiscal year 2003-2004 and fell even further to 36,800 in fiscal year 2005-2006.