

# Workers' Compensation Legislative & Regulatory Update

from McConnaughay, Duffy, Coonrod, Pope & Weaver, P.A.

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*Volume 8, Issue 8  
October 22, 2007*

The workers' compensation market is awaiting Insurance Commissioner Kevin McCarty's decision on the National Council on Compensation Insurance's proposed rate filing, which calls for a statewide average 16.5 percent rate decrease. If approved as filed, employers would see an overall savings of \$650 million and the fifth consecutive rate decrease since the 2003 reforms. The five rate decreases would equal a total reduction of 50.4 percent. Taking into account this year's proposed rate filing, the overall cumulative decreases have been evenly distributed over the five major industrial groups. Manufacturing classes will have fallen by a total 50.4 percent and contracting classes by 50.6 percent. Office and clerical classes will see a total 55.1 percent decrease while goods and services will have

dropped by 55.7 percent and miscellaneous classes by 55.2 percent.

The new rates will apply to all new and renewal policies as of Jan. 1., 2008. Each individual employer's premiums will be based on their class codes, experience modification factor, and any discounts, deductibles, or premium credits. Under the law, employers can receive a five percent premium credit for instituting a drug-free workplace program and/or a two percent credit for implementing a safety program.

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## Claims' Frequency Key

The main factor influencing the rate filing is the change in claims' frequency. Over the past three years, claims' frequency has declined by 10 percent annually.

For purposes of the current filing, NCCI actuaries examined indemnity and

medical trends going back eight years. During that period, indemnity rates have stayed relatively stable while medical trends have continued to climb. But those numbers computed against the backdrop of claims' frequency has led to historically low numbers. As a result of the analysis, the filing calls for a minus 6 percent indemnity trend and a minus one percent medical trend. Addressing the indemnity trend, NCCI noted that it is the most negative trend every filed in Florida.

A complete summary of the proposed rate change is as follows:

- Experience, trend, and benefits: minus 12.5%
- Trend: minus 5.7%
- Benefits: minus 0.6%
- Loss Adjustment Expenses: plus 2.1%
- Production and General: plus 0.1%
- Taxes and Assessments: 0.0%

- Profit and Contingencies: 0.0%
- Overall Premium Level Change: minus 16.2%
- Overall Rate Level Change Requested: minus 16.5 percent

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## Market Going Forward

There are other factors that could affect the final decision on the rate filing and have an impact on the market going forward. One factor is the change in the economic activity in the state. Due to the 2004 and 2005 hurricanes, along with the robust housing market, construction activity reached record high levels. Between 2003 and 2005, the construction's industry payroll increased by 38.2 percent and the number of covered employers by 23.8 percent. That is one reason the state's total direct written premiums jumped from \$3.1 billion in 2003 to \$3.3 billion. Along with the increase in construction activity, rates have fallen. In the proposed filing, construction rates would fall by a statewide average 16 percent. When combined with the prior years' decreases, contracting classes will have fallen by a total 50.6 percent.

A substantial beneficiary of the construction trends has been the roofing industry. If regulators approve NCCI's

proposed decrease of 16.5 percent, roofers would see their lowest rates in 25 years at \$22.7 per \$100 of payroll. Even with the positive financial news, roofers cautioned regulators about rate cuts going forward. With the bursting of the housing bubble, residential construction is expected to decline by as much as 50 percent next year. This could possibly result in contractors seeing more small claims from employees who previously kept working with a minor injury because they were earning hirer wages and overtime pay.

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## State Rankings Improve

Florida rates, when compared to other states, have improved since the 2003 reforms. The Oregon Department of Consumer and Business Services, which conducts one of the most well known surveys in the nation, consistently ranked Florida among the highest states in the years before the reforms. In January 2006, Florida was ranked 46 with a loss cost premium rate of \$3.32 per \$100 of premiums. NCCI calculated that if the current rate filing is approved as filed, Florida's ranking would drop to 22 with a loss cost premium rate of \$2.34 per \$100 of premiums, before other states incorporated their rate changes, if any.

When it comes to Florida's rates as compared to neighboring states the same trends hold true. In 2003, Florida's average pure loss cost based on the state's payroll distribution stood at 2.62 percent, as compared to the 1.69 percent posted by Alabama and the 1.30 percent in Georgia. As of 2007, the state's pure loss cost fell below Alabama and is nearly equal to Georgia.

In terms of marketshare, the top companies have significantly expanded their piece of the market over the past six years. Liberty Mutual Insurance Group has increased their premiums by 23.7 percent between 2000 and 2006. Likewise, AIG Insurance has grown by 14.7 percent and Zenith Insurance Company by 5.3 percent. The top ten carriers now account for 68 percent of the market. In addition to the carriers mentioned above, the carriers rounding out the top ten include FCCI Insurance Group (5.4 percent), Hartford Insurance Company (4.1 percent), Zurich Insurance Company (3.4 percent), Travelers Insurance Company (3.3 percent), CNA Insurance Company (3.1 percent), Amerisure Insurance Company (2.8 percent), and AMComp Insurance Company (2.7 percent).