Workers' Compensation
Legislative & Regulatory Update
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Florida employers will see over $700 million in savings after Insurance Commissioner Kevin McCarty approved a statewide average 18.4 percent workers' compensation rate decrease. The approved rate reduction is the largest one-year decrease in the state's history and the fifth consecutive rate cut since the passage of the 2003 reforms. Employers have now seen their rates slashed by more than half since the law changes. McCarty's decision came after a public hearing that resulted in the disapproval of the National Council on Compensation Insurance's proposed 16.5 percent rate decrease. The commissioner also rejected the recommendation of the state Consumer Advocate that called for a rate cut of 36.2 percent.

The latest rate change comes as there are some concerns about the economy and its possible impact on the workers' compensation market. One economic trend that assisted in the recovery of the market since 2003, was the boom in construction due to the demand for new housing and the repairs necessitated by the damage caused in the 2004 and 2005 hurricane seasons. Over that period of time, the construction industry's payroll increased by 38 percent and the number of covered employers by 23.8 percent. Roofers have been a substantial beneficiary of the upswing in construction and the decline in rates. As of now, roofers' rates are at their lowest point in 25 years. Still, at a public hearing, roofers cautioned against cutting rates too low. Due to changes in mortgage rates, residential construction is expected to decline by roughly 50 percent next year and there is no longer the demand to repair hurricane-related damage.

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 state 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.

OIR Changes

NCCI's analysis of the market found that the majority of the rate decrease is due to a decline in accident frequency, which is both a state and countrywide trend. Between 1991 and 2005, countrywide accident frequency has dropped by 50 percent including an average change of 6.6 percent over the past two years. Florida's performance has exceeded the countrywide average in many cases. In 1999, the state's accident frequency was 15.6 percent per million of premium as compared to the 10.9 percent posted last year. Over the past three years, the state's accident frequency has dropped by 10 percent annually.

NCCI actuaries note that the drop in accident frequency cannot be directly attributable to the reforms. While the workers' comp law can set benefit schedules, medical reimbursements, attorney fees, and even define what constitutes a compensable claim, it cannot control how many on-the-job injuries are sustained by workers. Due to these factors, NCCI actuaries calculated indemnity and medical trends going back eight years instead of three stating that it is an unreasonable assumption that accident frequency would continue to decline by 10 percent annually. Even so, NCCI's proposed indemnity trend of minus six percent was the lowest ever filed in Florida. NCCI also proposed a minus one percent medical trend. State regulators didn't substantially disagree with NCCI's reasoning, but approved lower indemnity and medical trends at minus 6.5 percent and minus 1.5 percent, respectively. This accounted for 1.3 percent of the difference between NCCI's proposed rates and the rates approved by regulators.

The two other areas where regulators disapproved portions of NCCI's filing addressed the profit and contingency factor and the expense constant. The profit factor is the amount of money carriers should expect to earn that by law is "adequate, fair, and not excessive." NCCI's proposed factor was zero percent. Regulators approved a minus 0.8 percent, which reflects the regulator's belief that insurers will receive a slightly higher return on investment income. This accounted for a 0.9 percent change in the final rates.

The other factor under dispute was the expense constant, which reflects a per policy charge related to fixed expenses for policy underwriting and issuance. Based on a number of studies, NCCI asked for an increase from $200 to $240. In order to make this revenue neutral, the council's initially proposed filing was adjusted downward from 16.2 percent to 16.5 percent. Regulators disapproved the change in the expense constant, which led to a minor increase of 0.3 percent. All three changes taken together equaled 1.9 percent that resulted in the final 18.4 percent rate reduction.

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

- Experience, trend, and benefits: minus 19.3%
- Loss Adjustment Expenses: plus 2.1%
- Production and General: plus 0.1%
- Taxes and Assessments: 0.0%
- Profit and Contingencies: minus 1.1%
- Overall Rate Level Change Requested: minus 18.4%

Classification Changes

Industry Classifications	Approved 1/1/08 Rates	Cumulative since 2003
Manufacturing	-17.5%	-47.6%
Contracting	-17.9%	-52%
Office and Clerical	-21.3%	-50.8%
Goods and Services	-19%	-51.5%
Miscellaneous	-15.2%	-53%
Total Changes	-18.4%	-51.4%