

**Texas Department of Insurance
Exempt Filing Notification under Texas Insurance Code
Chapter 5, Article 5.96**

**Adoption of Amendments to Experience Rating Plan Manual for Workers
Compensation and Employers Liability Insurance, and Statistical Plan for
Workers Compensation and Employers Liability Insurance**

The Texas Department of Insurance adopts the amendments proposed by the April 26, 2018, petition filed by the Independent Insurance Agents of Texas (IIAT) (Petition No. W-0418-01) to extend the expiration date of negotiated experience modifiers for employers from July 1, 2018, to July 1, 2019.

The petition asks TDI to amend Rule 4-C-4 of the National Council on Compensation Insurance (NCCI) *Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance* (NCCI Experience Rating Plan Manual). Without the amendment, the use of negotiated experience modifiers in Rule 4-C-4 would expire on July 1, 2018. TDI adopts the proposed amendment to Rule 4-C-4 and corresponding amendments to the *Statistical Plan for Workers Compensation and Employers Liability Insurance* (Statistical Manual).

TDI published a notice of hearing on IIAT's proposal in the May 18, 2018, issue of the *Texas Register* (43 TexReg 3247). The comment period closed at 5 p.m. on June 20, 2018. TDI received seven written comments, and four individuals provided oral comments at the hearing held on June 20, 2018. All the comments supported IIAT's petition.

The amendment to Rule 4-C-4 will extend the expiration date for the negotiated modifications rule in the NCCI Experience Rating Plan Manual from July 1, 2018, to July 1, 2019. Conforming amendments to reflect the change of the effective date in the NCCI Experience Rating Plan Manual will be made in Part 3-U-5-c (Texas Exception) and Part 6-H-2 (National Rule) in the Statistical Manual.

A copy of the full text of the petition has been on file with the TDI Office of the Chief Clerk since April 26, 2018. The petition is incorporated by reference into this order.

The Commissioner has jurisdiction over this matter under Insurance Code Article 5.96, and Sections 2051.002, 2051.201, 2052.002, 2053.002, 2053.011, 2053.051, 2053.052, 2053.053, and 36.001.

Commissioner's Order No. 3142, dated March 21, 2014, states that proposed changes to the NCCI manuals will be considered under either the procedure established in Insurance Code Article 5.96 or by the following procedure:

- a) NCCI makes a filing;
- b) TDI publishes notice of the filing on the TDI website and distributes notice of the filing to subscribers to TDI's electronic news, with at least a 30-day period for interested persons to submit comments or request a hearing; and
- c) the Commissioner issues an order approving the filing, approving the filing with changes, or rejecting the filing.

TDI adopts IIAT's proposed amendment to Rule 4-C-4 and makes other conforming changes to the Statistical Manual under Insurance Code Article 5.96. Article 5.96 exempts actions taken under this article from the requirements of the Administrative Procedure Act (Government Code Chapter 2001), and authorizes TDI 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.

TDI certifies that the amendments to the manuals have been reviewed by legal counsel and found to be a valid exercise of TDI's authority.

Issued in Austin, Texas, on June 25, 2018.

/s/ Norma Garcia

Norma Garcia, General Counsel
Texas Department Insurance

IIAT's petition (No. W-0418-01) is granted and it is ordered that the amendments to the *Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance*, proposed by the April 26, 2018, petition, and conforming amendments to the *Statistical Plan for Workers Compensation and Employers Liability Insurance* in Part 3-U-5-c (Texas Exception) and Part 6-H-2 (National Rule) be effective for the period beginning July 1, 2018, and ending July 1, 2019. For workers compensation policies effective on and after July 1, 2019, Rule 4-C-4 – Negotiated Modifications will no longer apply in Texas, and the Texas State Rule Exception will be removed from the manual without further notice to any party.

It is further ordered that NCCI revise the *Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance*, and make conforming revisions to the *Statistical Plan for Workers Compensation and Employers Liability Insurance* to implement this order.

/s/ Kent C. Sullivan

Kent C. Sullivan
Commissioner of Insurance

Commissioner's Order No. **2018-5555**