

No. **2021-6845**

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

**Date: 05/26/2021**

**Subject considered:**

**National Council on Compensation Insurance Filing  
*Item 01-TX-2020—Texas Negotiated Deductible***

The subject of this order is the adoption of amendments to the National Council on Compensation Insurance (NCCI) *Statistical Plan for Workers Compensation and Employers Liability Insurance* (Statistical Plan), as proposed in *Item 01-TX-2020—Texas Negotiated Deductible* (TDI ECase No. 26311; SERFF Tracking No. NCCI-132584608).

**Background**

*Item 01-TX-2020* corrects an error in NCCI's Statistical Plan by removing the expiration date for Type of Deductible Plan Code 13—Negotiated Deductible. This deductible type has been, and continues to be, an available deductible option.

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

**Findings of Fact**

1. NCCI filed *Item 01-TX-2020* with TDI on October 29, 2020, under the workers' compensation manual rule filing procedure adopted in Commissioner's Order No. 3142, dated March 21, 2014.
2. *Item 01-TX-2020* removes the July 1, 2018, expiration date in the Additional Rules and/or Exceptions column for Type of Deductible Plan Code 13—Negotiated Deductible in Part 6.B.2.b. of the Statistical Plan.
3. The expiration date was inadvertently added for Code 13 in NCCI *Item U-1400*, which was approved by Commissioner's Order 2017-5241. *Item 01-TX-2020* removes the

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expiration date because this code should not expire. This deductible type has been, and continues to be, an available deductible option.

4. NCCI proposed that *Item 01-TX-2020* apply to new and renewal policies effective on or after 12:01 a.m. on July 1, 2018. The retroactive effective date avoids a gap in time where Code 13 would not apply. A gap would not be appropriate since the rules allowing the negotiated deductible option have remained in place without interruption.
5. *Item 01-TX-2020* 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 March 23, 2021, TDI published notice of the filing on the TDI website at [www.tdi.texas.gov/rules/2020/nccimanual.html](http://www.tdi.texas.gov/rules/2020/nccimanual.html) and distributed notice of the filing to electronic news subscribers.
8. TDI received one written comment on the filing by the April 22, 2021, deadline. The commentor supported continuing the Texas negotiated deductible.

### 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, and 2053.011.
2. TDI gave notice in compliance with Commissioner's Order No. 3142.
3. The amendment to the NCCI Statistical Plan is consistent with Insurance Code Article 5.96 and Chapters 2051, 2052, and 2053.
4. Applying the changes in *Item 01-TX-2020* to new and renewal policies that are effective on or after 12:01 a.m. on July 1, 2018, is reasonable.

### Order

It is ordered that NCCI's filing, *Item 01-TX-2020—Texas Negotiated Deductible*, is approved. The changes in *Item 01-TX-2020* apply to new and renewal policies that are effective on or after 12:01 a.m. on July 1, 2018.

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Doug Slape  
Chief Deputy Commissioner  
Tex. Gov't Code § 601.002  
Commissioner's Order No. 2018-5528

Recommended by:

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Mark Worman, Deputy Commissioner

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