

No. **2023-7932**

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

**Date: 05/04/2023**

**Subject Considered:**

**National Council on Compensation Insurance Filing  
*Item E-1410—Revisions to NCCI Manual Rules Related to the Inclusion of COVID-19 (Coronavirus) Claims in Experience Rating and Merit Rating***

The subject of this order is the adoption of amendments to the National Council on Compensation Insurance (NCCI) manuals, as proposed in *Item E-1410—Revisions to NCCI Manual Rules Related to the Inclusion of COVID-19 (Coronavirus) Claims in Experience Rating and Merit Rating* (TDI ECase No. 31395; SERFF Tracking No. NCCI-133543232).

**Background**

NCCI filed *Item E-1410* to amend the *NCCI Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance* (Experience Rating Plan) and the *Statistical Plan for Workers Compensation and Employers Liability Insurance* (Statistical Plan).

The filing establishes an expiration date for the special treatment of COVID-19 claims as catastrophic because the treatment was intended to be temporary. The amendments revise rules to include COVID-19 claims with dates on or after July 1, 2023, in experience rating calculations.

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

**Findings of Fact**

1. NCCI filed *Item E-1410* with the Texas Department of Insurance (TDI) on February 1, 2023, under the workers' compensation manual rule filing procedure adopted in Commissioner's Order No. 3142, dated March 21, 2014.

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2. On September 14, 2020, TDI approved *Item E-1407*, which revised rules to exclude COVID-19 claims from experience rating calculations and required reporting COVID-19 claims as an extraordinary loss event. This order deals with *Item E-1410*, which establishes an expiration date for the special treatment of COVID-19 claims.
3. *Item E-1410* amends the Experience Rating Plan and Statistical Plan to:
  - a. establish an end accident date of June 30, 2023, for Extraordinary Loss Event Catastrophe Number 12 for COVID-19 claims; and
  - b. include COVID-19 claims with accident dates on and after July 1, 2023, in experience rating calculations.
4. NCCI proposed that the changes in *Item E-1410* apply to new and renewal policies that are effective on or after 12:01 a.m. on July 1, 2023.
5. *Item E-1410* 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 February 27, 2023, TDI published notice of the filing on the TDI website at [www.tdi.texas.gov/rules/2023/nccimannual.html](http://www.tdi.texas.gov/rules/2023/nccimannual.html) and distributed notice of the filing to electronic news subscribers.
8. TDI received no written comments on the filing or hearing requests during the comment period.

### 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, 2053.051, and 2053.052.
2. TDI gave notice in compliance with Commissioner's Order No. 3142.
3. The amendments to the NCCI Experience Rating Plan and Statistical Plan are consistent with Insurance Code Article 5.96 and Chapters 2051, 2052, and 2053.
4. Applying the changes in *Item E-1410* to new and renewal policies that are effective on or after 12:01 a.m. on July 1, 2023, is reasonable.

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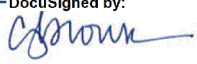
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## Order

It is ordered that NCCI's filing, *Item E-1410—Revisions to NCCI Manual Rules Related to the Inclusion of COVID-19 (Coronavirus) Claims in Experience Rating and Merit Rating*, is approved. The changes in *Item E-1410* apply to new and renewal policies that are effective on or after 12:01 a.m. on July 1, 2023.

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Cassie Brown  
Commissioner of Insurance

Recommended and reviewed by:

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Mark Worman, Deputy Commissioner

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Jessica Barta, General Counsel