

No. **2018-5361**

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

Date: January 11, 2018

Subject Considered:

**Amendments to the
National Council on Compensation Insurance
*Retrospective Rating Plan Manual for Workers Compensation and Employers Liability
Insurance Appendix B and All Related Rules and Endorsements*
NCCI Filing Item R-1414**

General Remarks and Official Action Taken:

The subject of this order is the amendments to the National Council on Compensation Insurance (NCCI) *Retrospective Rating Plan Manual for Workers Compensation and Employers Liability Insurance Appendix B and All Related Rules and Endorsements*, proposed in *Item R-1414* (TDI ECase No. 13865; SERFF Tracking Nos. NCCI-131092614 and NCCI-131092672; June 27, 2017).

The following findings of fact and conclusions of law are adopted:

FINDINGS OF FACT

1. NCCI filed *Item R-1414* on June 27, 2017, using the procedure adopted in Commissioner's Order No. 3142 for revisions to NCCI's workers' compensation manuals.
2. *Item R-1414* is a national filing. For Texas, *Item R-1414*:
 - a. Introduces a new methodology that improves the accuracy of the insurance charge component of the basic premium factor when there is an individual loss limitation as well as an aggregate loss limitation (a maximum or minimum limitation).
 - b. Replaces Appendix A - Table of Expected Loss Ranges in NCCI's *Retrospective Rating Plan Manual for Workers Compensation and Employers Liability Insurance (Retrospective Rating Plan Manual)* with new lookup tables.
 - c. Replaces Appendix B - Table of Insurance Charges in NCCI's *Retrospective Rating Plan Manual* with new values, an updated layout, and changes to calculations and lookup tables.

- d. Updates several national and state-specific endorsements in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance* to replace the term "insurance charge" with "net aggregate loss factor."
3. *Item R-1414* also proposes *Aggregate Loss Factors on Demand (ALFs on Demand)*, an external-facing application that will allow carriers to implement the methodology detailed in the filing in a way that reflects the state and hazard group mix of policies, which further improves the accuracy of insurance charges. In response to an inquiry from TDI:
 - a. NCCI clarified that they were not requesting that *ALFs on Demand* be adopted in Texas. The recommendation is for Texas to adopt only the proposed Table of Aggregate Loss Factors and associated lookup tables contained in Appendices A and B.
 - b. NCCI explained that *ALFs on Demand* leverages formulas and parameters underlying new methodology outlined in *NCCI's Item R-1408*, which has not been filed in Texas. *Item R-1408* relies on claim characteristics reported as part of NCCI's *Unit Report Expansion for the Statistical Plan Manual for Workers Compensation and Employers Liability Insurance (Unit Report Expansion)*.
 - c. Since NCCI's *Unit Report Expansion* was implemented in Texas beginning with policies effective on and after January 1, 2015, TDI does not yet have the prerequisite information to use *ALFs on Demand*.
 4. The TDI chief clerk has had copies of the full text of the filing, clarifications, and related exhibits available to the public since the filing date. The filing, clarifications, and all related exhibits are incorporated by reference into this order.
 5. The changes in *Item R-1414* apply to new and renewal workers' compensation policies, effective on and after January 1, 2019.
 6. On August 22, 2017, TDI published notice of the filing, clarifications, and related exhibits, on its website at www.tdi.texas.gov/rules/2017/nccimanual.html, and distributed notice of the filing to electronic news subscribers.
 7. TDI did not receive comments or hearing requests regarding the filing.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter under Insurance Code Article 5.96 and §§2051.002, 2051.201, 2052.002, 2053.002, 2053.003, 2053.006, 2053.011, 2053.013, 2053.034, 2053.052, 2053.054, 2053.055, 2053.056(d), 2053.056(e), 2053.252, and 36.001.

2. Commissioner's Order No. 3142, dated March 21, 2014, established a procedure for the Commissioner to consider changes to NCCI's manuals:
 - 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.
3. TDI gave proper and timely notice in compliance with Commissioner's Order No. 3142.
4. The Commissioner declines to adopt *ALFs on Demand* because TDI does not have the prerequisite information needed to use *ALFs on Demand*. The Commissioner, therefore, adopts only the proposed Table of Aggregate Loss Factors and associated lookup tables contained in Appendices A and B, and related rule revisions.
5. The changes to NCCI's *Retrospective Rating Plan Manual* are reasonable and consistent with Texas workers' compensation statutes and rules.
6. Applying the changes in *Item R-1414* to new and renewal workers' compensation policies effective on and after January 1, 2019, is reasonable.

ORDER

It is ordered that NCCI's filing, *Item R-1414 – Revisions to Retrospective Rating Plan Manual for Workers Compensation and Employers Liability Insurance*, except for *ALFs on Demand*, is approved for new and renewal workers' compensation policies effective on and after January 1, 2019.

/s/ Kent C. Sullivan
Kent C. Sullivan
Commissioner of Insurance