

No. **2020-6418**

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

Date: 08/04/2020

Subject Considered:

**National Council on Compensation Insurance Filing
*Item B-1441—Revisions to NCCI Manual Rules Related to the COVID-19
(Coronavirus) Pandemic***

The subject of this order is the adoption of amendments to the National Council on Compensation Insurance (NCCI) manuals, as proposed in *Item B-1441—Revisions to NCCI Manual Rules Related to the COVID-19 (Coronavirus) Pandemic* (TDI ECase No. 24610; SERFF Tracking No. NCCI-132346734).

Background

NCCI filed *Item B-1441* to amend the NCCI *Basic Manual for Workers Compensation and Employers Liability Insurance* (Basic Manual) and *Statistical Plan for Workers Compensation and Employers Liability Insurance* (Statistical Plan).

The amendments revise and establish rules related to:

- definitions, treatment, and reporting of payments by an employer to paid furloughed employees as a result of federal, state, or local emergency orders, laws, or regulations issued because of the coronavirus or COVID-19 pandemic;
- claims attributable to paid furloughed employees; and
- reporting final premium for employers affected by the pandemic.

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

2020-6418

Commissioner's Order

NCCI *Item B-1441*

Page 2 of 4

Findings of Fact

1. NCCI filed *Item B-1441* with TDI on April 21, 2020, under the workers' compensation manual rule filing procedure adopted in Commissioner's Order No. 3142, dated March 21, 2014.
2. *Item B-1441* amends the Basic Manual and Statistical Plan to:
 - a. establish Basic Manual Rule 2-B-2-n to add information stating that payments to paid furloughed employees are excluded from premium calculations;
 - b. revise Basic Manual Rule 2-F-1 to add a definition for "idle time";
 - c. establish Basic Manual Rule 2-F-3 to define and address payments to paid furloughed employees;
 - d. establish Part 3-F-2-d in the Statistical Plan to add information about reporting payments to furloughed employees using Statistical Code 0012—Paid Furloughed Employees;
 - e. revise the format of Statistical Plan Part 3-F and add Part 3-F-3 to address instances when final premium cannot be reported because of the COVID-19 pandemic;
 - f. establish Part 4-E-1-f(2)(d) in the Statistical Plan so claims cannot be reported using Statistical Code 0012; and
 - g. establish Statistical Code 0012 in Part 6-E-3 in the Statistical Plan for reporting payments to paid furloughed employees.
3. The COVID-19 pandemic has created unique workers' compensation circumstances that need to be addressed in the NCCI manuals.
4. NCCI proposed that the changes in *Item B-1441* apply to new, renewal, and outstanding policies effective on or after 12:01 a.m. on March 1, 2020.
5. The effective date of these amendments coincides with President Donald Trump's order on March 13, 2020, declaration of COVID-19 as a national emergency beginning March 1, 2020.

2020-6418

Commissioner's Order

NCCI *Item B-1441*

Page 3 of 4

6. *Item B-1441* has been available for public inspection in SERFF and at TDI since the filing date.
7. The filing, including exhibits, is incorporated by reference into this order.
8. On May 22, 2020, TDI published notice of the amended filing on the TDI website at www.tdi.texas.gov/rules/2020/nccimanual.html and distributed notice of the filing to electronic news subscribers.
9. TDI received no comments or hearing requests on the filing by the June 22, 2020, deadline.

Conclusions of Law

1. TDI has jurisdiction over this matter under Insurance Code Article 5.96 and Insurance Code §§ 2051.002, 2051.201, 2052.002, 2053.002, 2053.011, 2053.051, and 2053.052.
2. TDI gave notice in compliance with Commissioner's Order No. 3142.
3. The amendments to the NCCI Basic Manual and Statistical Plan are consistent with Insurance Code Article 5.96 and Chapters 2051, 2052, and 2053.
4. Applying the changes in *Item B-1441* to new, renewal, and outstanding policies effective on or after 12:01 a.m. on March 1, 2020, is reasonable.

Order

It is ordered that NCCI's filing, *Item B-1441—Revisions to NCCI Manual Rules Related to the COVID-19 (Coronavirus) Pandemic*, is approved.

2020-6418

Commissioner's Order

NCCI *Item B-1441*

Page 4 of 4

The changes in *Item B-1441* apply to new, renewal, and outstanding policies effective on or after 12:01 a.m. on March 1, 2020.

Kent C. Sullivan
Commissioner of Insurance

DocuSigned by:
By: Doug Slape
C77A87C8C21B435...
Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

Recommended by:

DocuSigned by:
Mark Worman
70ABE377123E401...
Mark Worman, Deputy Commissioner

Reviewed by:

DocuSigned by:
Richard Guber
0A63430443994C2...
Richard Guber, Staff Attorney