

No. 2022-7655

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

Date: 12/05/2022

Subject considered:

Average Annual Employee Salary Rates and Overhead Assessment Rates

General remarks and official action taken:

The subject of this order is the establishment of the average annual examiner's and other Texas Department of Insurance (TDI) employee's salary rates and overhead assessment rates, under 28 Texas Administrative Code (TAC) § 7.1001(e), to ensure that TDI has sufficient funds to cover its examination expenses.

The following Insurance Code, Labor Code, and Administrative Code provisions provide for examination expenses and overhead assessment rates to be collected from each domestic and foreign insurance company, health maintenance organization, and self-insurance group providing workers' compensation insurance examined during calendar year 2023:

Insurance Code §§ 401.151; 401.152; 401.155; and 843.156(h);

Labor Code § 407A.252; and

28 TAC § 7.1001.

TDI adopted 28 TAC § 7.1001 on December 9, 2020, providing for the Commissioner to set average annual examiner and employee salary rates and overhead assessment rates by order each year. TDI held a stakeholder meeting to discuss this year's proposed rates on November 2, 2022.

Methodology

Under Insurance Code §§ 401.151, 401.152, 401.155, and 843.156, domestic and foreign insurance companies, health maintenance organizations, and workers' compensation self-insurance groups must reimburse TDI for the salary and examination expenses of each

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examiner and other TDI employee participating in an examination of the insurance company allocable to an examination of the company. To determine the allocable salary, including benefits, for each examiner and other participating department employee, TDI divides the average annual examiner's and other TDI employee's salary, including benefits, by the number of working hours in a year. TDI assesses the company the part of the annual salary, including benefits, attributable to each working hour that the examiner and other TDI employee examines the company during calendar year 2023. The expenses TDI assesses are those incurred by examiners and other TDI employees to the extent permitted by law.

Under Insurance Code § 401.152(a-1), a foreign insurance company examined in calendar year 2022 entirely, or examined beginning in calendar year 2022 but completed in calendar year 2023, must pay an annual assessment in an amount sufficient to meet all other expenses and disbursements necessary to comply with the laws of this state relating to the examination of insurers. The amount is computed in the same manner as the amount for domestic insurers.

The overhead assessment revenue need is calculated as the amount of revenue needed to reach the targeted fiscal 2023 year-end fund balance, considering the beginning balance, expected direct billing revenues, and estimated expenditures. To calculate the assessment rates, TDI allocates 50% of the revenue need to admitted assets and 50% to gross premium receipts, the assessment bases. TDI then divides the revenue need allocated to each assessment base by the assessment base.

TDI bases the overhead assessments on the assets and premium receipts, including direct written and assumed premiums, reported in the annual statements. To apply the overhead assessment, the term "gross premium receipts" does not include insurance premiums for insurance contracted for by a state or federal government entity to provide welfare benefits to designated welfare recipients or contracted for in accordance with or in furtherance of the Human Resources Code, Title 2, or the federal Social Security Act (42 U.S.C. §§ 301 et seq.).

TDI uses the budgeted salary information for fiscal year 2023 to set the average annual examiner and department employee salary rates. Also, the applicable Insurance Code and Labor Code provisions and Administrative Code regulations provide for the rates of overhead assessment to be collected from each domestic and foreign insurer, based on 50% admitted assets and 50% gross premium receipts for calendar year 2022.

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Rates

Under Insurance Code §§ 401.151, 401.152, 401.155, 843.156(h); and Labor Code § 407A.252, as applicable, the Commissioner assesses the examination expenses for a domestic insurance company, a foreign insurance company, a health maintenance organization, and a workers' compensation self-insurance group as follows:

- (1) The hourly rate for examiners for calendar year 2023 is \$54.00; and
- (2) The hourly rate for other department employees for calendar year 2023 is \$82.00.

Under Insurance Code §§ 401.151, 401.152, 401.155, 843.156(h); and Labor Code § 407A.252, as applicable, the Commissioner sets the rates of overhead assessment for a domestic insurance company, a foreign insurance company, a health maintenance organization, and a workers' compensation self-insurance group as follows:

- (1) Except as provided in the following paragraphs (2) and (3), as applicable, the overhead assessment to cover administrative departmental expenses attributable to examination of companies is:
 - a. 0.00076 of 1% of the admitted assets of the company as of December 31, 2022, taking into consideration the annual admitted assets that are not attributable to 90% of pension plan contracts as defined in § 818(a) of the Internal Revenue Code of 1986 (26 U.S.C. § 818(a)); and
 - b. 0.00265 of 1% of the gross premium receipts of the company for the year 2022, taking into consideration the annual premium receipts that are not attributable to 90% of pension plan contracts as defined in § 818(a) of the Internal Revenue Code of 1986 (26 U.S.C. § 818(a)).
- (2) Except as provided in the following paragraph (3), if a company was a domestic insurance company for less than a full year during calendar year 2022, the overhead assessment for the company is the overhead assessment divided by 365 and multiplied by the number of days the company was a domestic insurance company during calendar year 2022.
- (3) If the calculation for overhead assessment for a company is less than \$25, the company must pay a minimum overhead assessment of \$25.

TDI will send domestic insurance companies, foreign insurance companies, health maintenance organizations, and workers' compensation self-insurance groups a written statement of amounts due by June 30, 2023.

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Order

It is ordered that the salary rates and overhead assessment rates set in this order are adopted. The Commissioner certifies that the rates are just and reasonable.

The Commissioner further orders that domestic insurance companies, foreign insurance companies, health maintenance organizations, and workers' compensation self-insurance groups must pay any invoices or itemized bills for overhead assessments and examination expenses sent by TDI within 30 days from the date of the invoice or itemized bill.

The Commissioner further orders that the assessments in this order are in addition to any other charges that may be applicable under the Insurance Code or Labor Code.

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:

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Nancy Clark, Chief of Staff

DocuSigned by:

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Allison Eberhart, Deputy General Counsel