

Minutes

*Tennessee Advisory Council on Workers' Compensation
Wednesday, October 14, 2015, 10:00 a.m. Central
Legislative Plaza, Room 30
301 Sixth Avenue North
Nashville, Tennessee 37243*

Members Present:

Voting Members

Chair Designee, Christy Allen, Assistant Treasurer for Legal, Compliance & Audit

Kerry Dove

Bruce Fox – on telephone

John Garrett

Bob Pitts

Gary Selvy – on telephone

Paul Shaffer

Non-Voting Members

Abbie Hudgens

John Harris – on telephone

Lynn Lawyer – on telephone

Jerry Mayo

Sam Murrell

Gregg Ramos

Mike Shinnick

Representative Jimmy Eldridge

Lynn Schroeder, Administrator

Chair Designee, Christy Allen, Assistant Treasurer for Legal, Compliance & Audit, opened the meeting at 10:03 a.m., called for the roll, noted that a physical quorum existed and turned to the first item on the agenda which was the approval of the minutes of the Advisory Council's August 27, 2015 meeting. Council member Bob Pitts moved for approval, Council member Paul Shaffer seconded and a roll call vote resulted in a unanimous vote to approve.

The Chair then called for the first item of new business on the agenda, which was a report and presentation by David Wilstermann of the Statistical Analysis Concerning Tennessee Workers' Compensation Data for Calendar Year 2014. Mr. Wilstermann first indicated that the paradoxical difference this year is that the final report is smaller, but was deduced from more voluminous

and detailed supporting documentation to allow for future pre and post Reform 2013 analysis. Of note was that he has changed his reporting to the median from the previously used mean. He further indicated that of approximately 8,000 cases annually, only 46 cases with dates of injury post-Reform were included in 2014 data. There was an inquiry from Council member Gregg Ramos regarding new cases to which Mr. Wilstermann responded that probably less severe cases were those included since the claim itself would necessarily have to have concluded in an average of 66 weeks. Council member Abbie Hudgens noted that the cases are picking up before the Bureau of Workers' Compensation, as they have had in excess of 600 cases in 2015 to date. Mr. Pitts thanked Mr. Wilstermann for his hard work during this transitional period, since all the old impairments ratings had to be converted to new impairment ratings for his report.

Mr. Wilstermann went on to note that nothing of great consequence occurred in the pre-reform data of last year and that the post-reform data is too new to be able to draw any conclusion from any trend. Council member Kerry Dove inquired as to caseload numbers for new cases. Mr. Ramos asked whether the number of claimants who are represented versus those who are not represented by counsel could be tracked. Mr. Wilstermann indicated that would be possible and Mr. Ramos requested that be done. Ms. Hudgens informed that the employer is required now by law to have counsel unless it is a single employer or partnership. Ms. Hudgens informed Council members that post-reform Statistical Data forms (SD-1's) will be more complete than pre-reform. Mr. Wilstermann commented that the present data set does not look at reconsiderations either, so that may want to be discussed by the Council.

The Chair called for questions or comments by Council members on the phone or present and, hearing nothing further, thanked Mr. Wilstermann for his presentation and indicated that it would be made part of the record. The full report may be viewed in its entirety at the Advisory Council on Workers' Compensation website at the following link:

<http://www.treasury.state.tn.us/claims/wcac/2015-Statistical-Presentation-TDLWFD-2014-Data.pdf>

The Chair proceeded to the next item of new business, which was the presentation by NCCI State Relations representative Amy Quinn and actuary, Ann Marie Smith, of the Voluntary Loss Cost Filing proposed effective March 1, 2016 including some elements of the residual market and new Workers' Compensation Insurance Plan administration. NCCI became the new plan administrator for Tennessee on July 1, 2015. The Voluntary Coverage Assistance Program (VCAP) and Loss System Rating Plan (LSRP) were discussed. Post-July 1, 2015 policies will be part of NCCI's national pool, while prior policies will be analyzed under the Tennessee Reinsurance Mechanism. Mr. Pitts asked whether it was possible to not impose the assigned risk penalty to the small business policies that are not desired by the private market and asked

about experience in other states.

Council member Mr. Mike Shinnick brought up take-out credits, which have not been seen since 1998, and Council member Mr. Jerry Mayo led a discussion of their possible future use and why, although they did not work previously, they should now be part of the discussion. The removal of premium discount for higher polices was also discussed as something that could help make the voluntary market a better place.

The voluntary loss cost filing was discussed in general with some areas in more detail. The overall loss cost change proposed is -0.9%. Experience, development, trend, loss adjustment expense (LAE) and benefit changes were discussed. There were very small changes overall and a few of them are offsetting, which results in the small -0.9%. There are two small insolvent carriers whose data is not included, but the rest is intact. Large losses are kept out so as not to unduly affect the outcome. Experience in more recent years is stable. There have been three decreases in a row and there is a downward trend in loss time frequency. Decreases in claim frequency have been outpacing severity so overall the loss ratio trends are favorable. There is a decrease in the LAE provision based on the latest data as well as the fact that the methodology was improved this year.

Ms. Hudgens inquired as to whether the projected impact that the closed formulary would have is included as part of this trend. Ms. Smith responded that the projected -2.7% is not included.

The Chair thanked Ms. Smith for her remarks, inquired if there were any questions from the Council members, and, seeing none, noted that the presentation would be made part of the record. The full report may be viewed in its entirety at the Advisory Council on Workers' Compensation website at the following link:

<http://www.treasury.state.tn.us/claims/wcac/NCCIPresentation3-1-16Filing.pdf>

The Chair called the next item on the agenda, that being a presentation by the Advisory Council on Workers' Compensation Actuary, By The Numbers Actuarial Consulting, Inc. ("BYNAC"), Mary Jean King, concerning the Voluntary Loss Cost Filing proposed effective March 1, 2016.

Ms. King commended NCCI's Ms. Smith on her report and stated that rather than repeat what Ms. Smith said, she indicated that she would highlight some of the places where she used a little bit different judgment in making selections, those being the two areas of trend and LAE. Trend is difficult to see what is going on, and LAE for 2014 versus 2013 caused the discussion. Paid development method was a positive addition to the NCCI methodology and something that BYNAC advocated for last year. Having two methods provides a check. Ms. King observed a significant improvement in this year's filing. She stated that frequency trend is decreasing, and ratio has been a consistent decrease. A 19% LAE is recommended by BYNAC, while a 19.8% LAE was used by NCCI. Since they are slightly different figures, BYNAC's overall indication is a - 1.1%

as opposed to NCCI's -0.9%.

Mr. Mayo inquired if Ms. King could live with NCCI's proposed -0.9%, to which Ms. King responded positively.

The Chair called for other questions from the Council members present and then those by phone, and, hearing none, she thanked Ms. King for her presentation and indicated that her report would be made part of the record. The full report may be viewed in its entirety at the Advisory Council on Workers' Compensation website at the following link:

<http://www.treasury.state.tn.us/claims/wcac/BYNACpresentation3-1-16Filing.pdf>

The Chair proceeded to the next item on the agenda, that being a presentation by the Commerce & Insurance Department Actuary, Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries ("BWRB"), Chris Burkhalter, concerning the Voluntary Loss Cost Filing proposed effective March 1, 2016.

Mr. Burkhalter began by stating that of note this year is the remarkable stability in the Tennessee workers' compensation market as well as the actuaries having provided the Council with a tight cluster of indications, both of which are usually the exception rather than the rule. He discussed loss development factors, loss ratio trends, LAE provision selection, the experience period (2 or 5 years) and the paid method which should provide stability. BWRB also noted that there is some type of emergent trend from about three years out, indicating that something systemic is happening; there is an economically driven three year drop of 18%.

Mr. Ramos inquired if these figures include the year 2013 to which Mr. Burkhalter replied affirmatively, that it included policy year 2013, so all policies that were written in calendar year 2013 until the end of their expiration in 2014 are included. BWRB's LAE figure was 18.5% using a 5 year weighted experience period, and their final indication was -0.4% compared to NCCI's -0.9%.

Mr. Mayo asked if Mr. Burkhalter could live with NCCI's -0.9% indication to which he responded positively.

The chair called for questions from the Council members present, then on the phone, and, hearing none, thanked Mr. Burkhalter for his presentation, indicated that it would be made part of the record. The full report may be viewed in its entirety at the Advisory Council on Workers' Compensation website at the following link:

<http://www.treasury.state.tn.us/claims/wcac/BWRBPresentation3-1-16Filing.pdf>

The chair proceeded to inquire of the Advisory Council members if they had questions for any of the actuaries or if anyone wished to make a motion concerning the Council's recommendation to the Department of Commerce and Insurance Commissioner Julie Mix-McPeak, pursuant to

TCA § 50-6-402(b) which was read into the record.

A Motion was made by Bob Pitts to change the LAE portion of the indication to 19.5% and recommend a recalculated figure to the Commissioner based upon that change. Gary Selvy seconded the motion. The motion passed. Rough figures from the meeting suggested a -1.2% indication, which were to be followed by proper calculations and reporting from NCCI to the Administrator of the Council.

The Chair thanked all the parties, asked if there was any other business to come before the Council, and seeing none, adjourned the meeting subject to the call of the chair.



Lynn Schroeder, Administrator
Advisory Council on Workers'
Compensation



Christy Allen, Assistant State Treasurer
Chair Designee, Advisory Council on
Workers' Compensation