

**WORKERS' COMPENSATION ADVISORY COUNCIL
MINUTES ~ ~ OCTOBER 5, 2006 MEETING [9:30 A.M.]
710 JAMES ROBERTSON PARKWAY
HEARING ROOM, FIRST FLOOR
ANDREW JOHNSON TOWER
NASHVILLE, TENNESSEE**

The meeting was called to order at 9:40 a.m. by Mr. Dale Sims, State Treasurer. A quorum of voting members was present; therefore it was not necessary to conduct the meeting electronically. The following lists each member of the Advisory Council and indicates whether they attended the meeting:

***CHAIR:** Dale Sims, State Treasurer - Present

***VOTING MEMBERS:**

Employee Representatives

- > Jack A. Gatlin - Present
- > Jerry Lee - Present
- > Othal Smith, Jr. - Present (via telephone conference call)

Employer Representatives

- > Ronnie Hart - Present
- > Thomas Hayes - Absent
- > Bob Pitts - Present

***NONVOTING MEMBERS:**

- Kitty Boyte [TDLA representative] - Present
- Tony Farmer [TTLA representative] - Absent
- Kenny McBride [local governments representative] - Absent
- Jerry Mayo [insurance companies representative] - Present
- Sam Murrell, MD [health care providers representative -TMA] - Present
- A. Gregory Ramos [TBA representative] - Present
- David Stout [health care providers representative-THA] - Absent

***EX OFFICIO MEMBERS**

- Senator Joe Haynes - Absent
- Representative Jere Hargrove - Absent
- Commissioner Paula Flowers - Absent
- *Designee, Deputy Commissioner John F. Morris - Present
- Commissioner Jim Neeley - Present

**1. PRESENTATIONS re: LOSS COSTS FILING EFFECTIVE MARCH 1, 2007
FILED BY THE NATIONAL COUNCIL ON COMPENSATION
INSURANCE, INC.**

- **NCCI - Cathy S. Booth (State Relations Executive, Regulatory Services Division) and Carolyn J. Bergh, FCAS, MAAA (Practice Leader and Senior Actuary, Actuarial and Economic Services)**

Ms. Bergh explained the process by which the NCCI prepares and files the advisory prospective loss costs. She explained the filing requests an overall change of +1.4%. Ms. Bergh and noted the change in the actual loss costs will vary depending on the classification. This year's filing proposes to lower the indemnity loss ratio trend to -1.0%; to keep the medical trend factor at +3.0% (unchanged from last year); and to increase the overall loss adjustment expense from the current level of 16.5% of losses to 16.8% of losses. Thus, the average change proposed by the NCCI for the five industry groups is: Manufacturing (0.0%); Contracting (+4.5%); Office and Clerical (+2.5%); Goods & Services (-1.4%); and Miscellaneous (+3.6%). Ms. Bergh stated within each of the five industry groups the individual classification change could vary + or - 25%. She said this range is the NCCI's recommended standard, although some states have modified that to + or - 15%.

- **Advisory Council Consulting Actuary - Gregory Alff, FCAS, MAAA
(Senior Vice President, Actuarial Division of Willis of Tennessee, Inc.)**

Mr. Gregory N. Alff, FCAS, MAAA, Senior Vice President, reviewed the filing and prepared a written report that was forwarded to all members of the Advisory Council prior to the October 5, 2006 meeting.

Mr. Alff stated the NCCI's methodology is unchanged from the previous filing. Mr. Alff stated the decrease of 1.0% in indemnity trend is reasonable given the supporting data. He explained that in his opinion the continuation of the +3.0% for net medical trend seems conservative. He proposed a reduction to 1.022 (or +2.2 %) instead of the 1.030 (+3.0%) proposed by the NCCI. Finally, Mr. Alff explained the NCCI's proposed increase in loss based expenses from 1.165 to 1.168 is due to an increase in the estimated country wide defense and cost containment expense (DCCE) and an increase in the Tennessee relativity. Mr. Alff explained he recommends the current 1.165 factor be retained; i.e., the LAE should not be increased from the current level. Therefore, Mr. Alff recommended that no change (0.0%) should be made in premium level of the current loss costs (effective on March 1, 2006). This would necessitate the recalculation of the medical trend and Mr. Alff estimated it would be between +2.5% and +2.7% rather than the +3.0% requested by the NCCI.

- **Department of Commerce and Insurance Consulting Actuary - Mary F. Miller (Select Actuarial Services)**

Ms. Mary F. Miller, the consultant to the Department of Commerce and Insurance, also addressed the Advisory Council. Ms. Miller stated that the NCCI filing is very reasonable and she is more comfortable with +3.0% increase for medical. She reminded the Advisory Council members it is too soon to know the extent to which the changes in the law are going to affect trend. She stated given the assumed effects of trends, the range of reasonableness for loss costs would be from -1.0% to +2.5%.

ACTION: No specific action was required to be taken by the members regarding this agenda item.

2. DISCUSSION AND RECOMMENDATION(S) BY ADVISORY COUNCIL re: LOSS COSTS FILING

ACTION: After discussion of the various presentations and comments of the members, the voting members of the Workers' Compensation Advisory Council unanimously approved the following recommendation be submitted to the Commissioner of Commerce and Insurance regarding the advisory prospective loss costs that are to be effective on March 1, 2007:

The indemnity trend factor of -1.0% requested in the NCCI filing be approved; the current LAE of 16.5% should not be changed (i.e., the requested increase in the NCCI filing should not be approved); and the medical trend factor of +3.0% requested in the NCCI filing should be revised downward in order to achieve a *0.0% overall average change from the current loss costs*. In addition, the Council recommended the adjustment of the class code relativities as a result of the +0.0% overall average change from the current loss costs.

3. OTHER ISSUES

A. Discussion re: Promulgated Rules

During Ms. Bergh's presentation regarding the loss costs filing, she commented on the NCCI's current analysis of the medical fee schedule rules that are currently in effect. She stated that until recently the NCCI had been unaware of changes that had been made by the Department of Labor and Workforce Development to the medical fee schedule rules. Ms. Bergh stated the NCCI's review is to determine whether the changes made to the rules since the NCCI submitted the original law only filing would merit a new law only filing this year.

The discussion included questions regarding the increases in reimbursement to the physicians and other providers since the original public necessity rules had been promulgated. Commissioner Neeley stated some of the changes resulted from negotiations with the medical partners.

Members of the Advisory Council expressed concern that the NCCI had not known of the promulgation of revised medical fee schedule rules and indicated it would also be helpful if the Council had advance notice of the promulgation of the rules.

ACTION: The Advisory Council requested Commissioner Neeley to commit that he commit to sharing advance copies of rules and regulations promulgated by the Department. Commissioner Neeley agreed to do so.

B. Discussion of Quarterly Report re: NCCI Filings

The Department of Commerce and Insurance is required to report quarterly to the Advisory Council all filings made by the NCCI. A letter from Commissioner Flowers containing the third quarter report was distributed to the members at the meeting. The report contained a summary of one filing, which Mr. Mike Shinnick, Workers' Compensation Manager, indicated had been approved by the Department. Mr. Shinnick explained the purpose of the filing was to revise hazard groups by increasing them in number from four (4) to seven (7) and to update retrospective rating plan parameters.

ACTION: No specific action was required to be taken by the members regarding this agenda item.

Chairman Sims declared the meeting adjourned at 11:50 a.m.