

Tennessee Advisory Council on Workers' Compensation
MINUTES
October 1, 2012
Nashville Room, William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue
Nashville, Tennessee

Members present:

Voting Members

Chair Christy Allen, Assistant Treasurer, serving as State Treasurer's designee
J. Anthony Farmer via telephone
Jack Gatlin via telephone
Jerry Lee
Bob Pitts
Gary Selvy via telephone

Nonvoting Members

David Davenport
Bruce Fox via telephone
Dr. Keith Graves
Abbie Hudgens
Jerry Mayo
Dr. Samuel Murrell via telephone
Gregg Ramos
Lynn Lawyer
Mike Shinnick

Lynn Ivanick, Administrator

Also present, introduced, presenting or available to speak:
Karen Ayres, Amy Quinn, Mary Jean King, Mary Frances Miller
Ben Simpson, Claims Service Counselor, State Treasury Department

At 10:05 p.m., Chairman Christy Allen, State Assistant Treasurer, introduced herself, sent regrets from the Treasurer and welcomed everyone and called the meeting to order. Roll was called by Ms. Ivanick, and Chair Allen declared a quorum was not physically present, so a statement allowing for electronic participation via conference call was read into the record. The necessity was the Council's statutory requirement to provide recommendation to the Commissioner of the Tennessee Department of Commerce and Insurance within sixty (60) days of the August 10, 2012 loss cost filing which date would be October 9, 2012. A motion to adopt the statement of necessity was made by Mr. Bob Pitts and seconded by Mr. Jerry Lee. The Chair informed that all votes must be by roll call when the meeting is so held by conference. A vote from the members was taken by roll call which passed.

The first item of business was the approval of the minutes of August 23, 2012. Mr. Jerry Lee made a **motion** to accept the minutes, which was **seconded** by Mr. Bob Pitts with remarks about three changes that had been made from the original draft. The motion to approve the minutes as amended was approved by a **roll call** vote and the minutes thereby **adopted**.

Chairman Allen opened the next item of business. NCCI representative Amy Quinn introduced NCCI actuary Karen Ayres to provide the presentation on the Voluntary Loss Costs and Rating Values Filing proposed effective March 1, 2013. Ms. Ayres's presentation contained the following: an overview of the filing; a summarization of the methodology underlying the filing; the factors and selections that were different than used in previous filings; and the trend and loss adjustment expense, which was an area of concern raised by the reviewing actuaries in last year's filings. She also addressed the components of the 2.3% proposed increase.

Ms. Ayres responded to inquiries from Council members Jerry Mayo, Bob Pitts, Gregg Ramos and Mike Shinnick to provide further explanation and detail regarding her comments and recommendations and specifically about NCCI methodology changes.

She explained that the methodology change that NCCI incorporated into this filing was that the tail factor calculation was based on historical data that uses paid plus case losses. In previous filings, IBNR was included. The new methodology combined with the new year of data, showed a slight decrease in the tail factors.

Ms. Ayres next explained that there is actuarial judgment involved in predicting trend. Items reviewed for trend analysis include indemnity and medical loss ratios and frequency and severity. She indicated that the frequency has been declining for years and has increased for the last few years in Tennessee, which is similar to other experiences throughout the nation.

Ms. Ayres fielded questions from the Council and proceeded to explain that for the last several years, the claim severity has been declining consistent with the nationwide trend toward smaller claims. Considering the frequency and severity together, the indemnity loss ratio is still declining. On the medical side, the frequency piece is the same, while severity has been more volatile.

Council member Gregg Ramos inquired about whether the 2010 average medical is as low as it has been with the exception of the 2003 figure. Ms. Ayres responded in the affirmative and indicated that the proposal did not indicate a change in the current trends.

Council Member Mike Shinnick inquired about medical trends within eight (8) years since the 2004 reforms instead of the twelve (12) and fifteen (15) year bases presented. In response, Ms. Ayres indicated that all numbers about medical trends have been adjusted to reflect the rates (the loss costs and benefit levels) currently in effect. The numbers reflected all historical data as though the 2004 reforms had been in effect at that time.

Ms. Ayres explained NCCI's methodology for determining Loss Adjustment Expense (LAE) and explained how selections within that methodology have been modified to address concerns the other actuaries had expressed. In the current approved loss cost, there is a provision for the defense and cost containment expense (DCCE) of 12.2% and 7.5% for Adjusting and Other Expense (AOE), which produced a total LAE provision of 19.7%.

Ms. Ayres again fielded detail inquiries from Council members Mayo, Pitts and Shinnick and agreed to produce an additional report, reducing to writing her responses to the Council's questions.

The Chair thanked Ms. Ayres, asked if there were any questions and seeing none, introduced and welcomed Ms. Mary Jean King. Ms. King represented By The Numbers Actuarial Consulting, Inc. ("BYNAC"), which is the reviewing actuary for the Advisory Council. Ms. King provided her presentation on the Voluntary Loss Costs and Rating Values Filing proposed effective March 1, 2013.

Ms. King explained that her purpose was to analyze the methodology used by NCCI in calculating this change in loss cost and adjustment expense. Although she found the NCCI's proposed 2.3% increase was reasonably calculated in accordance with the actuarial standards of practice, there was one area in which she suggested that the Advisory Council may consider making a different recommendation. Ms. King suggested 19.0% as a more appropriate LAE allowance than the 19.8% allowance proposed by NCCI. The overall indication using BYNAC's allowance was 1.6% as compared to the 2.3% of NCCI. She further advocated for a greater number of years of information to be included in NCCI's technical supplements in the future.

The Chair thanked Ms. King for her presentation, asked if there were any further questions for the presenter and seeing none, introduced the next speaker, Ms. Mary Frances Miller. Ms. Miller represented Select Actuarial Services, the actuary for the Department of Commerce and Insurance. Ms. Miller provided her presentation on the Voluntary Loss Costs and Rating Values Filing proposed effective March 1, 2013

Ms. Miller indicated that she found that NCCI's overall methodology appropriately reflected the changes in benefits that have occurred over time, but concurred in the request to include information for a longer span of years. NCCI used the latest two (2) policy years, averaging +7% and -2.3%, or 9.3 percentage points apart. She indicated that was a huge gap considering the average is under 5%. Accordingly, this gap should have been considered a "red flag", and should have caused NCCI to consider looking beyond the two (2) most recent policy years.

Ms. Miller explained that the indemnity loss ratios trend shows a steady decline of a little over 3% for a very long period of time. On the other hand, medical loss ratios show considerable volatility, and there is no positive trend since 2004, which was when the law was amended enacting reforms to applicable workers' compensation laws. One of the

stated purposes of the workers' compensation reform that was effective in 2004 was to curb the increase of medical loss ratios in this state. The experience since 2004 has a very slight negative trend, not significantly different from zero, so there is no medical loss ratio trend since the reforms.

In order to obtain an increasing or decreasing trend in medical loss ratios, one would have to seek data prior to the 2004 amendments to the workers' compensation laws. Prior to the 2004 law reform, medical loss ratios were steadily increasing. After the 2004 amendments to workers' compensation laws, there was a 7% decrease in medical loss ratios. Despite this decrease, there was no effect on the trend because NCCI adjusts the years accordingly. Currently, enough data has been obtained for those years post-reform to indicate that there is no measurable trend. Because there is no positive trend, if one were to use a 0% change, meaning no trend, rather than a .5% medical loss ratio trend, that would change the indication from +2.3% to +1.1%.

Even though Ms. Miller's recommendation is close to BYNAC's, she recommended taking a five (5) year average of the developed ratios which produces 19.1% rather than 19.0%. That alone would reduce the indication to +1.7% rather than the +1.6% of BYNAC or +2.3% of NCCI. Ms. Miller indicated that various combinations of those things would cause an increase as much as 1.5 points, and the filed 2.3% is outside the range of reasonable estimates of what the experience is going to be in 2013; she would have selected something between a .5 decrease and nothing.

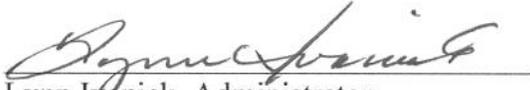
Ms. Miller fielded questions from Council member Pitts regarding the lack of a medical trend, to which she responded that she was surprised that we don't have a medical trend, which, in her opinion, makes Tennessee a "gold star state". Ms. Miller indicated that Tennessee has a fee schedule that has been consistently enforced, which may account for the lack of a medical trend. Ms. Miller indicated that because there is an absence of data about a medical loss ratio trend, and because one would have to obtain data before the 2004 workers' compensation law reform in order to obtain a positive trend, one could reasonably conclude that the 2004 law reform was meaningful legislation.

Chairman Allen inquired if there was a motion as to a recommendation from the Council to the Commissioner of Commerce and Insurance, due on or before October 9, 2012, as to the NCCI Voluntary Loss Costs and Rating Values Filing proposed effective March 1, 2013.

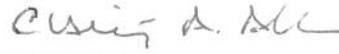
A **motion** was made by Mr. Pitts and **seconded** by Mr. Lee to use .5 on the medical and 19.0 on the LAE which produced a recommendation of 1.6% to the Commissioner.

Chairman Allen opened for discussion, **roll was called** and the **motion passed**. She indicated that the staff of the Council would have that recommendation to the Commissioner before the October 9th deadline.

A **motion** to adjourn was made by Mr. Lee, **seconded** by Mr. Pitts, and the Council was **adjourned** subject to the call of the chair. The chair thanked everyone for their participation and attendance.



Lynn Ivanick, Administrator
Advisory Council on Workers'
Compensation



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