Tennessee Advisory Council on Workers' Compensation
MINUTES
August 28, 2014, 1:00 p.m. CST
Legislative Plaza, Room 30
301 Sixth Avenue North
Nashville, Tennessee

Members present:
Voting Members
Chair Christy Allen, Assistant State Treasurer for Legal, Compliance and Audit
Kerry Dove
Jack Gatlin
James Hale via telephone
Bob Pitts
Gary Selvy

Nonvoting Members

John Burleson via telephone
Paula Claytore via telephone
Bruce Fox via telephone
Dr. Keith Graves
Troy Haley
John Harris via telephone
Lynn Vo Lawyer via telephone
Gregg Ramos
Mike Shinnick

Lynn Schroeder, Administrator

Chairman Allen called the meeting to order at 1:06 p.m. and proceeded to the first order of business, item two of the agenda, and asked Ms. Schroeder to call the roll, after which she declared that a **physical quorum was present** and that members were also participating by telephone which would require all votes to be by roll call.

Ms. Schroeder announced that voting Council member Jack Gatlin was participating in his last meeting as a voting member and had brought his successor, Paul Schaffer, to the meeting who would soon be taking his oath. She thanked Mr. Gatlin for his decades of service to the Council and the State. Voting Council member Bob Pitts has been reappointed by the Governor for another term on the Council. Council member Abbie Hudgens has been elected vice president of SAWCA and will assume the role of President in 2015. She has appointed Administrative Attorney and Legislative Liaison for the Workers' Compensation Division, Troy Haley, as her designee. Attorney and Partner of Rainey, Kizer, Reviere & Bell, John Burleson, of Jackson, Tennessee, has been appointed the representative of Local Government on the Council. Voting member Kerry Dove was recently named one of the 50 most influential people in workers' compensation by SEAK, Inc.

Chairman Allen proceeded to item three on the agenda, the approval of the minutes. A **motion** to approve the minutes of the February 27, 2014 meeting was made by Mr. Pitts, **seconded** by Mr. Selvy. The roll was taken, the **motion passed unanimously** and the minutes were approved.

Under new business, the Chair called upon Mike Shinnick, designee of the Commissioner of Commerce & Insurance and Workers' Compensation Manager for the Department for his report on the Workers' Compensation Market Conditions & Environment.

The Department of Commerce and Insurance annually provides the Council with market condition information in preparation of its October meeting where it will hear three actuarial presentations to assist in making its recommendation regarding the NCCI loss cost filing issued August 22, 2014 which indicated a -9.6% adjustment overall for the loss cost here in Tennessee. Mr. Shinnick commented that it was the largest number he had seen since his role began as the Insurance Division's Workers' Compensation manager.

Mr. Shinnick broke the market into four segments for the 2013 data discussion; Voluntary, Self-Insureds, Self Insured Groups and Tennessee Workers' Compensation Insurance Plan (TWCIP). He explained that Voluntary refers to the coverage that is placed with private insurance providers in the state of Tennessee. It went from $779 Million in 2012 to $829 Million in 2013 which represents a 6% increase. Self-insureds are handled differently because there is no premium in that arena, but it is looked at on an equivalent premium basis, based on the weighted average loss cost multiplier for the market. That equivalent premium fell from $149 Million to $138 Million for a 7% decrease. The self-insured group fell by the most, that being 13% down to $20 Million. The assigned risk plan, the TWCIP grew from $54 Million to $64 Million, an 18% increase from 2012 to 2013.

Moving to the national picture for property and casualty results, from years 2012 to 2013, in every category the calendar year combined ratios came down. There was nice improvement in workers' compensation, from 115% in 2011 to 108% in 2012 to 101% in 2013. The total property and casualty industry had a very good result in 2013 at 96%. Comparing the property and casualty with workers' compensation markets, as has been the case for years, the results for workers' compensation are 6 points less favorable.

Mr. Gregg Ramos was recognized for comment by Chairperson Allen. Mr. Ramos inquired as to what the improved 2013 figures could be attributed, and if Mr. Shinnick would continue to comment on the cause of fluctuations as he proceeded through his presentation.

Mr. Shinnick continued, informing that there was a slight increase in indemnity claims from 2012 to 2013 countrywide and that there has been a very strong indemnity improvement over the last five years. Medical losses have had a significant drop countrywide and a trend is clearly emerging. Three of the last five years were below Medical CPI which was a good result. Back to 1995, the average percentage change in medical severity was 6.7% and it was approximately that in 2008, but in 2009-2013 there were much better results.

Countrywide accident year (not calendar year) combined ratio was 99 (preliminary) in 2013. A graph depicting loss and loss adjustment expense ratio as well as expense ratios, which includes dividends, was provided. Operating gain rose sharply and united with the combined ratio produces investment gain. With the 101 calendar year countrywide combined ratio, offset by a surprisingly strong 15% operating return from investment income, it produced a surprisingly strong 14% pre-tax operating gain. Countrywide renewal rates for the first quarter of 2013 compared to 2014 show workers' compensation prices having the second largest increase of surveyed lines at 4.1%.

Mr. Pitts was recognized for comment by the Chair and noted that while workers' compensation is still second highest, when you get to Tennessee, there was a downward trend in costs. Mr. Shinnick responded that the last 3 filings in Tennessee were resulted in a combined 21% decrease (if the current filing is approved as filed).

Tennessee has shown an increase in premium since 2010. 2007-2009 were impacted by the great recession and now Tennessee is seeing an increase in construction and manufacturing which is impacting the premium dollars. Tennessee showed a 7% increase for assigned risk and voluntary combined, or $892 Million in Direct Premiums Written. The loss ratio picture for indemnity has seen the numbers coming down substantially, a -3.5% trend factor. Tennessee was down to a 30% loss ratio for the indemnity side for the 2012 policy year result. The medical loss ratio increased to 65% in 2012, though below annual results from 2005 - 2010.

The Tennessee 2013 preliminary accident year combined ratio is a very favorable 97.1 which is a couple of points better than the country wide result. Comparing the last three years countrywide and Tennessee data, the loss adjustment expense is 2 points more favorable, as is the expense ratio. Overall, companies in the state made a 3% underwriting profit in 2013. That combined with the investment income resulted in a healthy return.

Mr. Pitts was recognized by Chairperson Allen and asked Mr. Shinnick to explain the major factor of medical costs being an increasing percentage of the paid benefits. He commented that it appeared indemnity continued to go down, there was a slight uptick in medical costs, not much indication that severity was moving adversely and yet we continue to see this ever increasing rise in the medical cost portion of expense. The new filing indicates 69% medical, the balance being indemnity.

Mr. Shinnick responded that what we are seeing is a situation where the indemnity benefits are falling at a greater pace than medical loss ratios. There was the 3.5% trend for indemnity and the 0% trend factor for medical, so the indemnity is coming down faster than the medical and for that reason the medical is a larger portion going from 64% last year to 69% this year.

Mr. Pitts commented that the legislators need to be advised that they must dig into the detail and not just assume that the medical costs are going through the roof.

Mr. Shinnick informed that the combined filings since the 2004 Reform represent a 36% decrease over the period. The last 3 years amounted to 21% of that decrease.

Mr. Ramos was recognized by the Chair and commented that he understood there has been a 36% decrease from the reform of 2004, a downward trend in medical over 5 years (2009-2013) and a general downward trend since the 2004 reform, which confused him as to the need for the 2013 reform for an industry that was obviously doing very well.

Mr. Pitts commented that the 2013 Reform was needed for the expansion of business to make Tennessee more competitive with respect to workers' compensation rates as compared to adjoining states. The second reason, also from a business perspective, was to put certainty into the system. Mr. Shinnick agreed that there was more predictability in the new administrative system where workers' compensation judges will work under tighter restrictions on awards, so be closely in line with each other.

The bulk of the market (80%) of the loss cost multipliers in Tennessee are between 1.07 and 1.70. 27% of the market is above a 1.56 which is the loss cost multiplier for the Assigned Risk Plan. The median and mean were both 1.44. The individual companies' loss cost multipliers are updated monthly on the Commerce and Insurance website. The self-insurance workers' compensation premium tax revenue is going down and the insurance revenue is going up.

The market share for the assigned risk plan has a statutory threshold of 15% under T.C.A. § 56-5-314, and has only been there once since 2002. At that time, a 3 year limit on renewals in the assigned plan was put into place. The 2013 assigned risk market share to the total volume of workers' compensation premium written in Tennessee was 7.14%. The countrywide assigned risk market share is 8%, so Tennessee fairs a bit better.

There is a fine balance between the voluntary market and assigned risk plan to not produce any surplus, to get premiums where they should be actuarially, while not competing against the voluntary market. Rate adequacy is a high priority. According to Aon actuaries, the past nine year results suggest a Loss Cost Multiplier (LCM) of 1.60. Mr. Shinnick is likely to recommend to the Commissioner of Commerce & insurance Department a 1.57 LCM for 3/1/15 based upon results in the higher premium volume years.

Mr. Pitts was recognized by Chairperson Allen and asked if anyone had ever approached the data from the standpoint of how much overlap there should be and why a more significant move would be disconcerting to the regulators?

Mr. Shinnick responded in the negative regarding the overlap approach and indicated that the average was 19%. He indicated that the Department's focus has been on reducing surplus, so it is appropriate to use a 1.57.

The self-insured groups are down to four. Insolvencies for companies with >$1 Million in claims have resulted in paid claims of about $95 Million since 2001, about $76 Million in unpaid claims remain. No guaranteed fund assessments have occurred since 2005. A.M. Best ratings by premium shares for companies in Tennessee have remained largely unchanged since 2013. The Tennessee Restaurant Association receivership has been closed with a final court order. The final word to describe the overall workers' compensation environment is "balanced".

Chairman Allen thanked Mr. Shinnick and asked members on the phone if they had any questions for the speaker, and, not hearing any, recognized Mr. Pitts who commented that there seemed to be a significant shift in the companies that are writing workers' compensation insurance.

Mr. Shinnick agreed and stated that Liberty Mutual used to be biggest, but is now #2 or #3 and Travelers is the largest. Accident Fund out of Michigan has moved into the top 5, but no one company has in excess of 10% of the market. Mr. Shinnick's presentation may be viewed in its entirety here: http://treasury.tn.gov/claims/wcac/2014WorkCompMarket.pdf

Chairperson Allen again thanked Mr. Shinnick, acknowledged receipt of the report into the record of the meeting, and called the next speaker, that being Mr. Thomas Redel, Senior Vice President, AON Risk Services Central, Inc. reporting on the Annual Assigned Risk Plan Data.

AON is the plan administrator of the Tennessee workers' compensation insurance plan (TWCIP). He explained the structure of the Plan and the differences in servicing carriers and direct assignment carriers which TWCIP oversees.

Servicing carriers have gone through an AON bid process to act as the service providers of the employers who have to acquire their insurance through the TWCIP. They issue policies under their own insurance company names, but they are not at risk for the financial losses that occur. They are reinsured 100% by the TWCIP. The insurance companies that write workers' compensation insurance in Tennessee have to financially support the financial results of the TWCIP. If there is a surplus they get a part of it, if there is a deficit, they will be assessed a part of that, based on their voluntary market share.

In Tennessee, there is a provision that allows workers' compensation insurers in the voluntary market to take their share of accounts that come to the TWCIP on a direct basis. They are called direct assignment carriers. They get their percentage of the market in premium from the TWCIP. They issue their own policy, but live with their own financial results. So, they use the TWCIP rates, live up to the TWCIP servicing standards and they are subject to annual audits. Assignment of policies is random. There has been a 5.5% reduction in incoming phone calls and applications from 2013 to 2014. The premium volume and the amount of business in the TWCIP are leveling off.

The size of accounts, number of accounts, and how much premium they represent in various categories was presented in detail. For premium accounts over $100,000, there has been a 3% decrease in premium, but a 9.8% increase in the number of policies. In the $100,000-249,999 range, it went from 52 policies in 2012 to 59 policies in 2013. The premium between $1,000-10,000 saw an 18.9% increase in premium and a 13.3% increase in the number of policies possibly because the economy is improving and newer, smaller businesses are acquiring workers' compensation coverage with TWCIP since the voluntary market sometimes doesn't take new businesses without a financial track record. The average premium numbers from 2012 to 2013 have shown a small increase.

Mr. Redel broke down by policy count and premium the types of employers in the TWCIP. The top 20 classification codes in priority order were compared between 2012 and 2013. There was a large increase for machine shops, construction executive supervisors, masonry and adult day care centers. The construction industry was broken down into further detail to show what types of construction employers were predominant. When just looking at construction class codes, there was not much change.

Mr. Redel provided a written premium report for all plan years detailing servicing carriers and direct assignment carriers' respective totals. Financial results for the plan and policy years were provided, each year standing on its own financially. Surpluses and deficits were detailed by year and apply only to their own year. The assignment database from which the data is derived does not contemplate cancellations or audits, but gives an idea of what type of employer is predominant in the assigned risk pool. Mr. Redel's presentation may be viewed in its entirety here: http://treasury.tn.gov/claims/wcac/2014AssignedRiskPlan.pdf

Chairman Allen asked if there were any questions or comments from the Council members present or on the telephone, and recognized Mr. Pitts.

Mr. Pitts remarked that since Tennessee's low point of premium written (2010) in the assigned risk plan, the premium appears to be up in the range of $25-30 Million. He had three questions for the presenters; 1) if that caused anyone concern, 2) if the incentives previously put into place to reduce the number in the assigned risk pool were still in effect, and 3) what might be done to pull down the business in the pool further?

Mr. Redel stated that a new strategy had not been discussed, but the 3 year non-renewal requirement was still in effect. There is also a planned population initiative wherein the carrier agrees to meet certain standards and gives AON some general underwriting guidelines for accounts they are willing to insure for less than the TWCIP. If an account gets flagged, the information is sent to the carrier and there is a 3 day period to determine if they want to offer voluntary market coverage to that policy holder. He suggested that it has not proven to be a great success and may need to be tweaked to help depopulate the pool.

Mr. Shinnick talked about the equivalent of the LSRP, the tail plan, which is Tennessee's large risk plan designed for risk of $250,000 in standard premium (prior to premium discount). That puts the company on a retro and it has a maximum of 165 and it was intentionally designed to be not attractive. The premium segment from $250,000-500,000 is 11.2% down and for $500,000 and above, it is 62% down. That is a depopulation plan that has been put into place that is working quite well. It motivates the company to get back into the voluntary market and to find a large deductible policy, for example. It has helped and is continuing to help.

Chairperson Allen thanked Mr. Redel for his report and acknowledged receipt of this report into the record of the meeting.

Chairman Allen called for any other business to come before the Council, and, seeing none, a **motion** to adjourn was made by Mr. Pitts, **seconded** by Mr. Selvy, and the Council was **adjourned** at 2:52 p.m., subject to the call of the chair.

Lynn Schroeder
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