

Tennessee Advisory Council on Workers' Compensation

MINUTES

August 23, 2012

Legislative Plaza, Room 30

Nashville, Tennessee

Members present:

Voting Members

Chairman David H. Lillard, Jr.

Kerry Dove

J. Anthony Farmer via telephone

Jerry Lee

Bob Pitts

Gary Selvy via telephone

Nonvoting Members

Sandy Fletchall

Bruce Fox via telephone

Abbie Hudgens

Jerry Mayo

Gregg Ramos

Mike Shinnick

Lynn Ivanick, Administrator

Also present, introduced, presenting or available to speak:

Tom Redel, AON Risk Services Central, Inc.

David Wilstermann

Ben Simpson, Claims Service Counselor, State Treasury Department

At 1:05 p.m., Chairman David H. Lillard, Jr., State Treasurer, called the meeting to order.

Roll was called by Ms. Ivanick, and Chairman Lillard declared a quorum was present.

The Chairman introduced and welcomed everyone to the meeting.

He congratulated Council Members Mr. Gary Selvy and Mr. Jerry Mayo on their reappointments to the Council and thanked them for their continued good service. He congratulated and welcomed new member Mr. Kerry Dove to the Council and recognized Mr. Dan Pohlgeers, whose term had expired, for his years of good service to State and to the Council.

The first item of business was the approval of the minutes of August 23, 2012. A few amendments were made. On page 4, second to last paragraph, clarifying language was added, specifically "to reflect a possible change in the effective date", and two typos of no substantive significance on page 3 were corrected. Mr. Bob Pitts made a **motion** to accept the minutes as so amended, which was **seconded** by Mr. Lee. The minutes were unanimously approved as amended.

Chairman Lillard opened the next item of business, the Presentation by Mike Shinnick, designee of the Commissioner of Commerce and Insurance and Workers' Compensation Manager for the Department of Commerce and Insurance.

Mr. Shinnick presented information regarding the workers' compensation market conditions and environment. He explained that the combined ratio equals the expense ratio plus loss and LAE (Loss Adjustment Expense) ratio. Any results under 100 equate to an underwriting profit. Mr. Shinnick explained that nationwide, workers' compensation results are approximately 6 points less favorable than property and casualty.

Mr. Shinnick continued in his reporting that the numbers indicate that the industry had significant realized capital gains which were generated from repositioning bond portfolios. Mr. Shinnick reported that the operating loss on a bottom line basis is still very poor, but there are some changes in the landscape, including that prices are increasing.

Comparing nationwide and Tennessee data there was an improved result from 2010 in Tennessee where the combined ratio was 122. The Tennessee combined ratio on an actual year basis for 2011 was 109. This compares favorably to the 114 countrywide and is a 13 point improvement from 2010. There was further general discussion regarding the Tennessee data in the report.

Mr. Shinnick also discussed the apparent decline in workers' compensation premium tax revenues and explained that with respect to the premium history of the Assigned Risk Plan, it is cyclical with the marketplace. The Council discussed the market trend relative to writing accounts and the correlation to price. Mr. Shinnick also explained the statutory duty of the Commissioner of Commerce and Insurance to establish the loss cost multiplier on an annual basis and to estimate the cost of providing the assigned risk plan and its services, as well as recognizing the level of loss cost multipliers in the voluntary market.

Mr. Shinnick reported on reducing the tabular surcharge and explained the effect thereof. He further explained that there is no anticipated need for adverse selection or adverse deviation. The Department of Commerce and Insurance recently implemented a tail plan as a retrospective rating plan designed for policies with \$250,000 standard premium or more, which is similar to an NCCI program in effect in 17 states.

Mr. Shinnick reported that there have been no additions this year to the listing of carriers with insolvencies of \$1 million or more.

Mr. Shinnick reported that the Commissioner of Commerce and Insurance suspended Lumberman's Mutual Group (previously known as the Kemper Group) in 2005 and that the premium has been running off. The company was placed in formal rehabilitation as of June 26, 2012, which terminated the runoff program. The unpaid losses as of December 31, 2011 for Tennessee are \$7 million.

Mr. Mayo informed that an assessment is not anticipated and that the \$7 million is expected to go into the guaranty fund.

Mr. Shinnick summarized his presentation by reporting that the negative aspects of the market condition are the underwriting results, but the positive aspects are the premium increases. Severity growth is moderate. The overall loss cost impact nationwide due to frequency and severity is minimal. The Department has observed the market firming, some slight changes in pricing, bigger green flags due to what is going on in the assigned risk plans; the voluntary market is moving business to the assigned risk plan, and this is expected to continue as the market firms up.

Mr. Shinnick reported that with respect to the experience rating plan, the primary and excess split has been \$5,000 for over 20 years, and during that period of time, the average claim increase has tripled, so there was a need for an adjustment of this plan. The split point beginning next year is \$10,000 to be transitioned over a 3 year basis from \$10,000 to \$13,500 indexed to \$15,000, from March 1, 2013. Mr. Shinnick also reported on the tail plan, which is the large account incurred loss premium adjustment plan, as another significant filing.

The Chair thanked Mr. Shinnick, asked if there were any questions and seeing none, introduced and welcomed Mr. Thomas Redel of AON Risk Services Central, Inc. for presentation of a summary of the annual assigned risk plan data.

Mr. Thomas Redel thanked the Treasurer and Council for the opportunity to speak and explained AON's role as the plan administrator of the Tennessee Workers' Compensation Insurance Plan (TWCIP).

Some general background information was supplied including that all insurance companies who write workers' compensation plans have to participate and support the Assigned Risk Plan. The direct assignment carriers are approved by the Tennessee Department of Commerce and Insurance for that purpose and are responsible for all the losses that are incurred under those policies. The servicing carriers go through a competitive bid process, and they are hired to service the business on behalf of the assigned risk plan, but all the losses and the premium (less the servicing expenses) goes to the TWCIP.

Mr. Redel explained the sources of data to ensure the proper allocation between direct assignment carriers and servicing carriers. He further presented information concerning the premium level, the number of policies, the reporting methodology and the historical and projected amounts of assessed deficit or surplus.

The Chair thanked Mr. Redel for his presentation, asked if there were any questions for the presenter and seeing none, introduced the **next speaker**, Mr. Wilstermann for his presentation of the statistical analysis and report concerning Tennessee's workers' compensation data for the 2011 calendar year, which was the next item on the agenda.

Mr. David Wilstermann thanked the Treasurer and Council members for the opportunity to speak and explained his experience in analyzing workers' compensation data. He

informed that all data consisted of closed cases and comes from SD1 forms followed up by data from the Tennessee Department of Labor and Workforce Development (TDLWFD). Department-approved settlements are consistent at approximately 60% of the cases. Settlements where a complaint has been filed are decreasing, and trials are less than 1%.

The number of weeks from the date of injury to the date of conclusion remains consistent. Some of the factors that go into the permanent partial disability amount are all slowly increasing. The average age is slowly going up, the compensation rate remains consistent with inflation, and the level of education is also increasing. The number of cases at the maximum compensation rate was at 11.5% in 2011, the lowest since 2004; thus the numbers at the maximum are not as high as they used to be.

The data translates to about \$10,000 per case on average for 2011. There is a continued steady decline in permanent partial disability amounts due in part to Changes in the AMA guides and 2004 statutory changes to a 1.5 multiplier. The total number of cases with permanent disability has declined (in 2004 there were 12,000 cases; in 2011, there were approximately 7,900 cases). The total dollar amount going toward permanent disability cases in Tennessee is much less than when the reform was enacted.

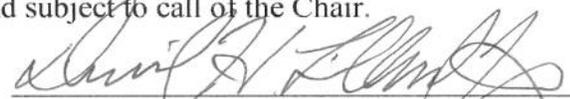
After a brief discussion of the analysis of benefits to workers in relation to medical expenses, Mr. Wilstermann asked if there were any other questions and thanked the Council. Chairman Lillard inquired as well if there were any questions of Mr. Wilstermann, and seeing none, thanked him for his presentation and recognized Mr. Pitts for comment.

Mr. Pitts recognized the good work of Mr. Shinnick and Mr. Redel and expressed a special compliment regarding Mr. Wilstermann's report. Mr. Pitts asked the Council to consider carefully the data presented and consider the length of time from the point of injury until a settlement or resolution in the court system or administrative process and asked the Council to consider ways to improve the process.

Chairman Lillard calls for further comments or discussion. Seeing none, the Chairman inquired if there was other business to come before the Council today. Seeing none, he thanked everyone for being there and reiterated as Mr. Pitts pointed out there is a lot of information to absorb. Discussion was held concerning the scheduling of the next meeting and the change of venue due to the renovation of the audio visual systems in the Legislative Plaza.

The Chair acknowledged a motion to adjourn from Mr. Pitts, which was seconded and adjourned the meeting without objection and subject to call of the Chair.


Lynn Vanick, Administrator
Advisory Council on Workers'
Compensation


David H. Lillard, Jr., State Treasurer
Chairman, Advisory Council on Workers'
Compensation