

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

Order O-21-027

ORDER OF APPROVAL OF THE NATIONAL COUNCIL ON COMPENSATION INSURANCE REQUEST FOR AN AVERAGE CHANGE IN WORKERS' COMPENSATION LOSS COSTS AND RATING VALUES.

Commissioner Michael Conway hereby makes the following findings and enters this Order approving the National Council on Compensation Insurance (NCCI) Request for an Average Change in Workers' Compensation Loss Costs and Rating Values.

1) Findings

On July 28, 2020 the National Council on Compensation Insurance (NCCI) submitted a workers' compensation loss costs and rating values filing to the Colorado Division of Insurance (Division). This filing was submitted pursuant to §10-4-405, C.R.S., and was placed before the Commissioner of Insurance for review.

This loss costs and rating values filing was placed on public review on September 16, 2020. A public hearing was scheduled for the purpose of gathering additional information and receiving public comments on the proposed loss costs and rating values.

In accordance with §10-4-406(3.5), C.R.S., the Commissioner of Insurance sought the advice of an independent actuary in making a determination. Merlinos & Associates, Inc. (Merlinos), an independent actuarial consulting firm, reviewed the filing to determine the reasonableness of the proposed loss costs and rating values.

The public hearing was held on October 7, 2020. Presentations were made by NCCI and Merlinos, and public testimony was received. Comments from the public on the proposed loss costs and rating values were requested to be submitted via email to the Division by October 12, 2020. The information filed by NCCI, the review of the NCCI filing by Merlinos, the NCCI and Merlinos presentations at the hearing, along with the public testimony and written comments submitted after the hearing, have been considered by the Commissioner in this Order.

2) Summary of the Testimony

a. National Council on Compensation Insurance, Inc. (NCCI)

The actuary for NCCI submitted NCCI's request for an average loss cost change of -8.4% in workers' compensation loss costs and rating values.

The average changes to the five industry groups are as follows:

Manufacturing:	-7.3%
Contracting:	-8.9%
Office and Clerical:	-9.2%
Goods and Services:	-8.5%
Miscellaneous:	-7.5%

The filing included the use of an indemnity loss trend of -5.5%, which was unchanged from the prior year. The filing included the use of a medical loss trend of -4.5%, which was a change from the prior year applied medical loss trend of -4.0%.

NCCI targeted a statewide average experience rating modification factor of 0.970. This remained unchanged from the prior year factor.

The filing also established upper and lower bounds for the loss costs, resulting in a limit on the amount of increase or decrease for a given individual classification. This limit is the average pure premium level change

for the industry group to which the classification is assigned, plus or minus 15% (+/-15%). These upper and lower bounds remained unchanged from the prior year.

The filing has a proposed effective date of January 1, 2021.

b. Merlinos & Associates, Inc. (Merlinos)

The actuary for Merlinos recommended approving the average change of -8.4% to the loss costs and rating values. Merlinos agreed with NCCI on the changes by industry group, and supported NCCI's continued use of the currently approved swing limits of +/-15%. Merlinos reviewed the calculation of D-ratios and expected loss rates, and believes they were calculated in accordance with the applicable approved or filed methodologies.

Merlinos also included the following among other comments and recommendations: a.

- Recommended that the \$500,000 claim limit continue to be used for the large loss methodology.
- Agreed with NCCI on increasing the split point from \$17,500 to \$18,000, which is used to allocate both actual and expected losses into primary and excess losses.
- Agreed with NCCI on increasing the Loss Adjustment Expense provision from 22.5% to 22.7%.
- Agreed with NCCI on the methodology change for excluding loss data from the formula used to calculate the countrywide Adjusting and Other Expense ("AOE") provision. The excluded data is from companies with Third-Party Administrator (TPA) agreements where there is no associated AOE.
- Recommended that, for the next filing, the NCCI determine if an adjustment is needed for first responder class codes to reflect the recent law change and Zukowski court case.

c. Public Comments

During the hearing, Chad Mathis on behalf of USI Insurance and Colorado Employers' WCC (Workers Compensation Coalition) testified that he supported the proposed filing as it was presented.

Subsequent to the hearing and within the public comment period, Sonja Guenther on behalf of the Workers' Compensation Coalition submitted comments on the disclosure of the average state experience modification factor, requesting identification of the indices utilized for adjusting the split point, noting the reduction of the maximum catastrophic injury cap, and commenting on certain deviations in the rate structure by code.

Although the public testimony and comments were reviewed and considered, the public testimony and comments did not result in changes to the proposed NCCI loss costs and rating values in this filing. The comments will continue to be considered when reviewing the next NCCI filing.

3. Orders

a. Large Loss Methodology

The Commissioner **ORDERS** NCCI to review the \$500,000 large loss threshold at least once within the next three year period, to be filed no later than with the loss cost filing to be effective January 1, 2024.

b. F Classifications

The NCCI's filed loss costs for F classifications are **APPROVED AS FILED**.

c. Experience Rating Off-Balance Target

The Commissioner **APPROVES** maintaining the statewide average experience rating factor at 0.970. This was based on a review of Colorado's current statewide average experience modification factor, the average factor effective January 1, 2021, and the analyses from NCCI. Considerations were also given to the potential implications that a higher statewide average experience modification factor may have on Colorado employers who are experience rated.

d. Swing Limits

The Commissioner **APPROVES** the upper and lower bounds for the loss cost change in any given classification to be plus or minus 15% of the average pure premium level change for the industry group to which the classification is assigned. The Commissioner **ORDERS** NCCI to review the swing limits prior to the loss cost filing to be effective January 1, 2022 and provide an updated analysis to the Commissioner during the NCCI Loss Cost hearing for the loss costs effective January 1, 2022.

e. Adjusting and Other Expense (“AOE”) Provision Methodology Change

The Commissioner **APPROVES** the methodology change of excluding certain companies’ loss data from the formula used to calculate the countrywide Adjusting and Other Expense (“AOE”) provision.

f. COVID-19 Impact

The direct and indirect impacts, if any, of the COVID-19 pandemic were not a part of the filing. The Commissioner **ORDERS** NCCI to review and consider the impact of the COVID-19 pandemic prior to the loss cost filing to be effective January 1, 2022. In the analysis, the Commissioner **ORDERS** NCCI to review whether the experience period should include more than two policy years of data, as COVID-19 is ongoing and the effects to the workers’ compensation market are not yet known.

g. Loss Cost Change

Careful consideration was given to the testimony and arguments presented at the October 7, 2020 public hearing, the loss costs and rating values filing submitted by NCCI, and the actuarial report submitted by Merlino, and the public comments submitted subsequent to the hearing. In coming to this decision, the Commissioner **APPROVES** the NCCI’s loss cost filing with no further revisions.

The filing is approved as filed, effective January 1, 2021. The final revised loss costs and rating values must be used by all insurers transacting workers’ compensation business within the state of Colorado on the effective date of the filing (January 1, 2021).

So ordered this 2nd day of November, 2020.

COMMISSIONER OF INSURANCE

Michael Conway