



**COLORADO**  
**Department of**  
**Regulatory Agencies**  
Division of Insurance

Michael Conway  
Commissioner of Insurance

BEFORE THE DIVISION OF INSURANCE  
STATE OF COLORADO

Order O-20-019

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

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On July 31, 2019 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 10, 2019. 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 September 24, 2019. Presentations were made by NCCI and Merlinos, and public testimony was received. The results of the presentations provided by Merlinos and NCCI, along with one oral testimony at the hearing, have been considered by the Commissioner in this Order. Comments from the public on the proposed loss costs and rating values were requested to be submitted via email to the Division by September 27, 2019.

The NCCI filing along with the results of the review of the NCCI filing by Merlinos and all public comments have been considered by the Commissioner in this Order.

**TESTIMONY**

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

The actuary for NCCI submitted NCCI's request for an average loss cost change of -8.5% in workers' compensation loss costs and rating values.

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



Manufacturing:	-8.0%
Contracting:	-10.5%
Office and Clerical:	-9.2%
Goods and Services:	-7.7%
Miscellaneous:	-6.7%

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 -4.0%, which was a change from the prior year applied medical loss trend of -3.0%.

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, 2020.

#### Merlinos & Associates, Inc. (Merlinos)

The actuary for Merlinos recommended approving the average change of -8.5% 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:

- 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 \$17,000 to \$17,500, 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 22.3% to 22.5%.
- Agreed with NCCI on the selected OD provisions for the two coal mining class codes (1005 and 1016) that were a result of the updated analysis of the OD component.
- Agreed with NCCI on the selected United States Longshore and Harbor Workers' ("USL&HW") relativity, which was updated based on the first full study of the relativity since 2003.
- 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.

#### Public Comments

During the hearing, a public testimony was provided by Sonja J. Guenther from WCC (Workers Compensation Coalition). Among the comments she made, she indicated concern regarding the split point increase adversely impacting the experience modification calculation for small employers. Additionally, she voiced concern that these modification factors were being used inappropriately as a prequalifier to bid on projects in the construction and energy industries.

There were no other public comments submitted after the hearing. No changes to the proposed NCCI loss costs were made as a result of public comments.

#### FINDINGS, CONCLUSIONS AND ORDERS

##### Large Loss Methodology

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

##### F Classifications

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

##### 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, 2020, 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.

##### 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. Additionally, the Commissioner APPROVES the change in methodology for low loss costs swing limits, by allowing the lost cost to change by \$0.01 if the classification and corresponding industry group changes are in the same direction. The Commissioner ORDERS NCCI to review the swing limits prior to the loss cost filing to be effective January 1, 2021.

##### Loss Cost Change

Careful consideration was given to the testimonies and arguments presented at the September 24, 2019 public hearing, the loss costs and rating values filing submitted by NCCI, and the actuarial report submitted by Merlino. In coming to this decision, the Commissioner APPROVES the NCCI's lost cost filing with no further revisions.

The filing is approved as filed, effective January 1, 2020. 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, 2020).



Michael Conway  
Commissioner of Insurance



Signed This Date