

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Business Regulation

INSURANCE DIVISION

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April 9, 2010

Laura Backus Hall

State Relations Executive

National Council on Compensation Insurance, Inc. (NCCI)

1493 Maple Hill Road

Plainfield, VT 05667

Re: NCCI 2010 Rhode Island Advisory Loss Cost Filing

Dear Ms. Hall:

On November 17, 2009, NCCI made a filing requesting an overall increase in advisory loss costs of 0.6% effective June 1, 2010.

Implemented with NCCI's 2008 filing, the Rhode Island Department of Business Regulation ("the Department") adopted a procedure to allow for input from the Attorney General and the public. Consistent with the last NCCI filing, the Department collected comments from interested parties and the public. The goal of this procedure is to obtain public input while at the same time reducing costs, increasing timeliness, and eliminating legal technicalities. On December 3, 2009, the Department held a conference call with representatives of NCCI, the Attorney General, and Beacon Mutual Insurance Company ("Beacon Mutual") to discuss this procedure and set a timeline for commentary.

The Department posted a notice on its website soliciting public comment on the filing. The Attorney General conducted discovery concerning the filing, including a data request to NCCI on February 2, 2010, and provided the Department with written recommendations on February 16, 2010. NCCI responded to those recommendations on February 23, 2010. The Attorney General provided additional comments in response on March 2, 2010. NCCI provided final comments on March 12, 2010.

The Attorney General raised five issues which are discussed in detail below. Combining these five discussion points, the Attorney General recommends a rejection of NCCI's proposed average loss cost increase of 0.6% and, instead, recommends approval of loss costs with a proposed average decrease of 4.7%.

Beacon Mutual, who had been included on all communications in this matter, filed public comment on February 23, 2010 indicating that it supported NCCI's filing. On March 2, 2010, the Attorney General filed a "Motion to Strike" Beacon Mutual's public comment on the basis that Beacon Mutual declined to be a party to the proceedings and that "none of the generalization contained in Beacon Mutual's response are supported by an actuarial expert." Under current guidelines, this is not an Administrative Procedures Act ("APA") proceeding and, therefore, "motions" are not appropriate. Beacon Mutual is not the filer and is not, therefore, required to file actuarial data to support its position. The Department will accept what was filed by Beacon Mutual as public comment.

The issues raised by the Attorney General and considered by the Department and the findings determined with regard to this filing are as follows.

Selected Off-Balance Adjustment Factors

The Attorney General believes that NCCI's selected off-balance adjustment factors are inadequate and result in excessive loss costs. The Attorney General recommends that the Department require NCCI to use the off-balance adjustment factors derived from the same Average Expected Mod as was the basis of NCCI's filing approved effective June 1, 2008. The Average Expected Mod used in NCCI's 2008 filing was 0.972. NCCI is proposing to use an Average Expected Mod of 0.969. This adjustment by itself changes the proposed average increase in loss costs of 0.6% to an average increase of 0.3%.

The Attorney General contends that the NCCI did not follow the same methodology as it had used in the past (specifically the 2008 filing) to calculate the Average Expected Mod. In rebuttal, NCCI indicates that they have employed the same methodology for selecting the off-balance for a number of years.

In addition, the Attorney General filed a "Motion to Strike" evidence which it claimed was used by NCCI to support its position on this issue but not included in the filing or previously provided. NCCI provided a response to this motion indicating that it withdrew any "new evidence" and believed its position was supported by the documents submitted in conjunction with the filing.

Notwithstanding the Attorney General's statements to the contrary, the Department did not determine that this matter was a "major" filing and order a hearing under R.I. Gen. Laws § 42-35-9, and the Department did not appoint a hearing officer in this matter and there was no "waiver" of a public hearing under Central Management Regulation 2. Rather, the Department is utilizing an informal procedure to allow input from the Attorney General and interested parties without the formalities and cost of a rate hearing under the APA. Regardless, the Departments' informal procedure is intended to afford all interested parties notice of the data upon which NCCI relies and an ability to challenge that data. In this case, the matter is moot because NCCI has indicated that the Department should rely solely on the data in its filing for a determination on this issue and the Department will do so.

The Department has carefully considered this issue and reviewed prior NCCI filings. After reviewing prior filings the Department concludes that NCCI has not changed its methodology in calculating off-balance factors. The process used by NCCI is appropriate and the selected off-balance factor is sound.

Selected Indemnity Paid Loss Development Factors for the 1st through 19th Report

The Attorney General argues that NCCI's selection of indemnity paid loss development factors ("LDFs") for 1st through 19th report are excessive. The Attorney General recommends that the Department require NCCI to use the 5-year excluding high/low average for indemnity LDFs. This adjustment by itself changes the proposed average increase in loss costs of 0.6% to an average decrease of 0.9%.

Prior to 2006, NCCI had consistently selected the 5-year excluding high/low average for both paid indemnity and medical LDFs. In the rate decision related to the 1/1/2006 filing, the Department required NCCI to use a 3-year average LDF for indemnity losses. NCCI employed this same methodology for the current filing, on the basis that it was required for the prior filing and that the 3-year average is more responsive to an upward trend in development factors.

The Attorney General contends that the NCCI should revert back to the prior methodology and use the 5-year excluding high/low average for indemnity LDFs, consistent with the medical LDF selections. The Attorney General correctly recalls that the 2006 decision was based on the circumstance that the 5-year excluding high/low average resulted in excluding the most recent diagonal at all evaluation points.

The 2006 Decision relating to the appropriate LDF average selection was based on unique circumstances that are not duplicated in this filing. As a result, the Department concludes that NCCI should adopt the prior methodology of selecting a 5-year excluding high/low average for paid indemnity LDFs. The selection of the appropriate LDFs will vary from time to time as circumstances and the underlying data change.

Selected Factor to Adjust Limited Losses to Unlimited Basis

The Attorney General argues that NCCI's selected factor to adjust limited losses to an unlimited basis is excessive. The Attorney General recommends that the Department instruct NCCI to develop a different procedure in limiting large losses, and, in the meantime, exclude the large loss limitation factor in the filing. This adjustment by itself changes the proposed average increase in loss costs of 0.6% to an average decrease of 2.0%.

As in prior years, the Department finds that NCCI's method for dealing with large losses is reasonable, and reasonably applied. The Attorney General raises no new issues that would change that position.

Offset of Additional Premium to be Charged as a Result of Decrease in D-Ratios

The Attorney General disagrees with NCCI's practice of not offsetting proposed changes in loss costs by additional premium that will be charged as a result of NCCI's proposed decrease in D-ratios. The Attorney General recommends that the Department instruct NCCI to calculate the average change in loss costs including a factor of 0.991 to offset the additional premium that results from the lower D-ratios. This adjustment by itself changes the proposed average increase in loss costs of 0.6% to an average decrease of 0.3%.

The Attorney General contends that the proposed D-ratio is lower than the current D-ratio, which will result in an increase in premium that employers will pay. Therefore, an adjustment to the proposed loss costs should be made to offset the additional premium.

NCCI believes that the D-ratios reflect changes in actual experience. Actual and expected primary losses change as a proportion of total losses, and thus, an increase in the experience mod is not anticipated. Furthermore, the experience rating values – including the ELRs – have been computed so as to ensure that the targeted off-balance is achieved.

The Attorney General maintains that D-ratios are not balanced or directly related to any change in loss costs or expected losses, including any relationship to ELRs. Furthermore, the Attorney General asserts that it is unlikely that the targeted off-balance will be achieved, as it is dependent on a variety of factors.

The Department accepts NCCI's position and finds that the filed loss costs appropriately reflect the target off-balance and the proposed experience rating values, and no additional premium adjustment is warranted.

Recalculation of F-Classification Loss Costs

The Attorney General requests that the loss costs for F-classifications be recalculated. The process for calculating loss costs for F-classifications includes a ratio of manual to earned premium. This factor is the reciprocal of the Average Expected Mod. As noted above, the Attorney General is proposing to change this factor to 0.972, which would result in an F-classification adjustment of 1.032 (reciprocal of 0.972).

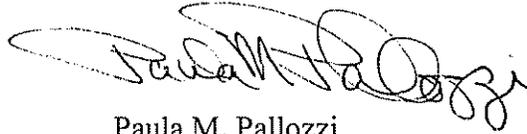
Consistent with the above, the Department finds that the selected off-balance factor is sound, and an adjustment to the F-classification loss costs is not warranted.

Conclusion

The Department hereby approves an overall decrease in advisory loss costs of 0.9% for use in Rhode Island beginning June 1, 2010, consistent with the discussion in this correspondence. NCCI is hereby directed to make a compliance filing consistent with this approval no later than April 23, 2010. NCCI shall issue a Circular advising member

insurers to notify the Department no later than June 25, 2010 of its intention to adopt NCCI advisory loss costs along with proposed loss costs multipliers. Any insurer electing to not adopt the 2010 Advisory Loss Costs, to delay adoption of the new loss costs, and/or to maintain its current lost cost multiplier must provide an explanation to the Department supporting its position, including statistical support. If there is any other reason why an insurer is not adopting, or delaying adoption of the -.9% change in loss costs, or not amending its loss cost multiplier, that insurer must fully explain this reason to the Department. All notices and filings must be submitted in SERFF.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Paula M. Palozzi", written over a horizontal line.

Paula M. Palozzi
Chief Property & Casualty Insurance Rate Analyst

- cc. Joseph Torti III, Superintendent of Insurance
Elizabeth Kelleher Dwyer, Esq.
Genevieve Martin, Assistant Attorney General
Brian Spero, Esq., Beacon Mutual Insurance Company