



Regulatory and Legislative Trends Workshop

NCCI's 2016 Annual Issues Symposium
Thursday, May 5, 2016

Channeling Change

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Regulatory and Legislative Trends

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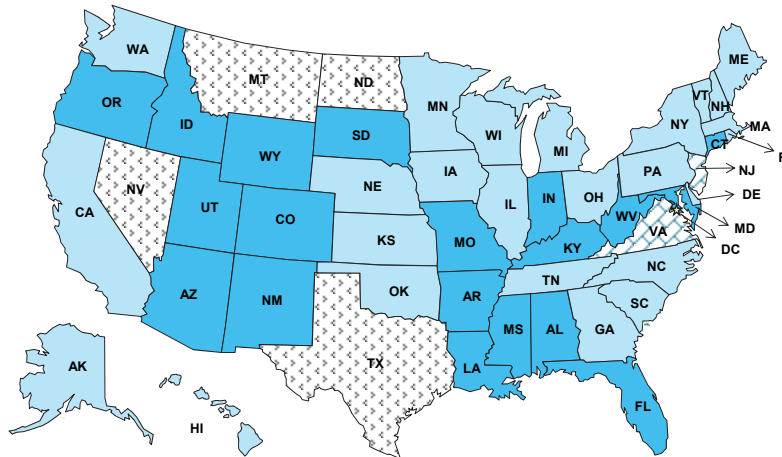
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Highlights

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2016 Legislative Sessions

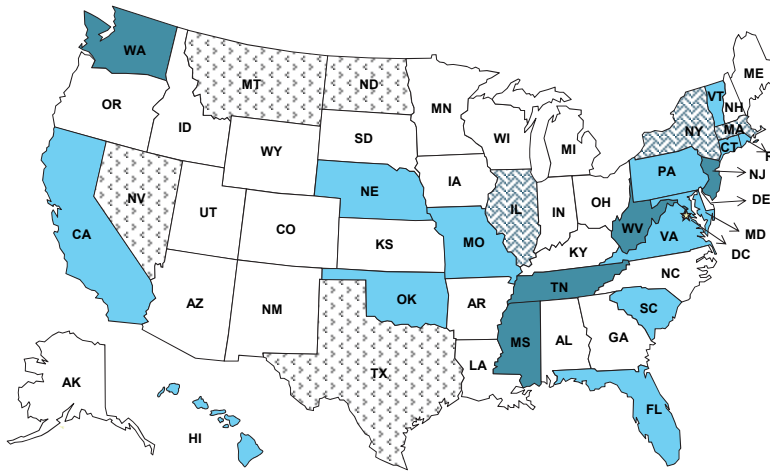


States With 2015/2016 Carryover	States With 2016/2017 Biennium	States With No Carryover	States With No Regular Session in 2016
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2016 Limited Scope Legislative Sessions

- Arkansas
- Connecticut
- Maine
- New Mexico
- North Carolina
- Wyoming

2016 WC Legislative Activity by State



Total Relevant Workers Compensation-Related Bills in 1st Quarter 2016

Relevant Workers Compensation-Related Bills	Total ¹
Monitored ²	660
Enacted	7
Defeated ³	42

¹ These numbers include bills from all states and the District of Columbia that were prefiled or introduced between January 1, 2015, and March 5, 2016 (including those measures that were prefiled or carried over from 2015)

² Includes 2015 pending, defeated, and enacted bills, as well as 2017 draft bills

³ Includes failed, failed-adjournd, or vetoed bills

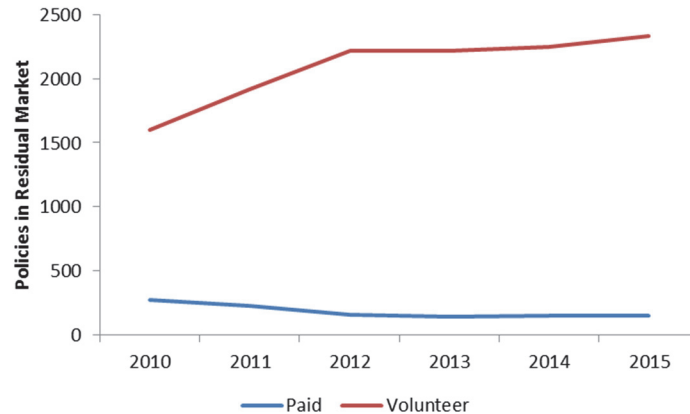
Key Workers Compensation-Related Topics in 2016 Legislation

- First Responder Presumption
- Employer/Employee Definition
- Medical Cost Management
- Independent Contractors and Misclassification
- Exclusive Remedy
- Opt-Out

First Responder Initiatives

- Broadening the definition of a first responder
 - Firefighters
 - Law enforcement officers
 - Emergency workers
 - Volunteer emergency workers
- Broadening the scope of covered diseases presumed compensable for first responders
- Clarifying terms of a rebuttal against presumption of compensability

Residual Market Policies That Cover Firefighters



For states where NCCI administers the residual market
WV was added in 2011; TN was added in mid-2015

Employer/Employee Definitions

- The employment status of volunteers
- Coverage election for executive officers and others
- Coverage for owner-operators of vehicles
- Excluded employments
- The employment status of personal care attendants and the agencies that employ them
- The employee status of leased and temporary workers

Medical Cost Management Matters

- Medical cost-related topics include:
 - Requiring the development of a medical fee schedule
 - Clarifying the applicability of a medical fee schedule
 - Addressing utilization review practices
- Different types of medical fee schedules include:
 - Physicians
 - Hospital inpatient/outpatient
 - Ambulatory surgical centers
 - Prescription drugs (and drug formularies)

Drug Formulary

- States Recently Instituting Drug Formularies:
 - Tennessee Rule 0800-02-05, effective August 28, 2016
 - California AB 1124, effective July 1, 2017
- Recent Legislation Proposing Formularies:
 - Nebraska LB 1005, deferred due to prioritization
 - Louisiana HB 725
- Recent Regulations Proposing Formularies:
 - Arizona—Rules R20-5-1301 through 1312
 - Nevada guidelines
- Study to Explore Feasibility of Implementation:
 - North Carolina has completed the study required in HB 97, recommending further review and postponing implementation to no earlier than 7/1/2018

Independent Contractors and Misclassification

- Creating or clarifying criteria for independent contractors
- Prohibiting the misclassification of employees as independent contractors
- Prescribing penalties for misclassification
- Establishing that drivers for Transportation Network Companies are independent contractors
- Defining “Qualified Marketplace Contractor” as an independent contractor

Exclusive Remedy

Most measures introduced clarify circumstances or conditions under which workers compensation is (or is not) the exclusive remedy, such as:

- When injury stems from an abusive work environment
- Certain death cases
- Situations involving willful intent
- Under certain “opt-out” provisions
- In borrowed-employee arrangements

Opt-Out

Introduced, but no further action has been taken:*

- South Carolina Employee Injury Benefit Plan Alternative (HB 4197)
- Tennessee Employee Injury Benefit Alternative (HB 997/SB 721)

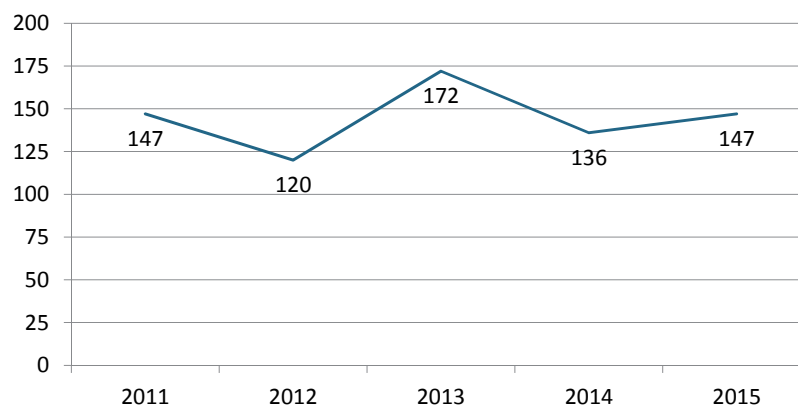
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Number of Requests to NCCI for Pricing of Law/Regulation Changes in the Last Five Years

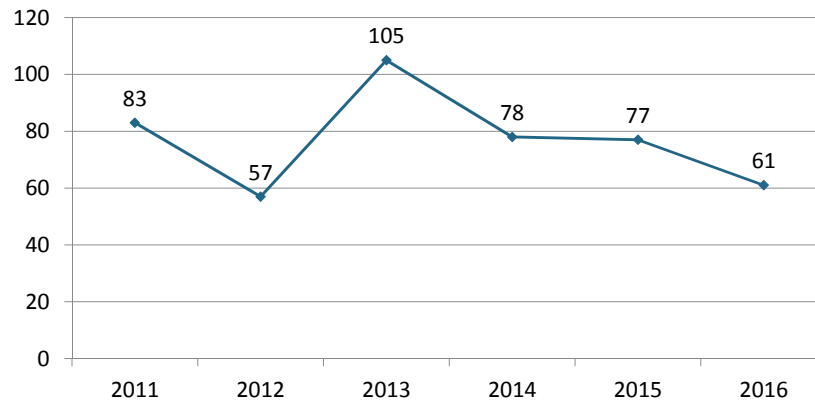


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Number of 1st Quarter Requests to NCCI for Pricing of Law/Regulation Changes in the Last Five Years



2016 Law-Only Loss Cost Filings

- Tennessee
 - 2.7% impact of Rule 0800-02-25
 - Drug Formulary and Medical Treatment Guidelines
- Alaska
 - 3.7% impact of medical fee schedule changes

Measures Calling for System Studies

- Hawaii HB 2715 calls for a closed claim study of the workers compensation system
- Vermont HB 803 creates a committee to study portable employment benefits, to address the needs of workers in an on-demand environment
- Kentucky HCR 185 creates a task force to study the state's workers compensation system and develop recommendations to enhance the system
- Connecticut HB 5506 requires a study of the liability of employers for hospital services
- Utah SB 216 requires a study of hospital costs

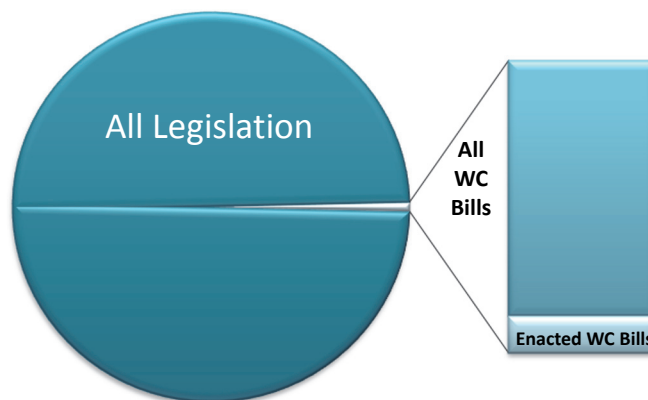
Unique but Potentially Significant Workers Compensation Measures

- Hawaii HB 2715 originally called for the creation of a monopolistic state fund, but was amended to require a closed claim study
- Illinois SB 2598 calls for the premium for contractors classifications to be based on hours worked rather than payroll
- Illinois HB 2552 and HB 5925 create a private, not-for-profit workers compensation insurance company
- Vermont SB 213 creates a new category of benefit—parental leave—to be provided as a workers compensation benefit
- Virginia HB 1108 prohibits the use of a specific experience modification as a criteria for awarding contracts

General Observations on 2016 Workers Compensation Legislation

- Legislative activity for 2016 is about normal for an election year
- No significant workers compensation measures have progressed
- Opt-out proposals in South Carolina and Tennessee have thus far failed to advance
- The financial impact on the state workers compensation system of legislation priced in 2016 ranged from -3.7% to +6.0%
- New terminology has emerged regarding the gig economy and independent contractors: "*Qualified Marketplace Contractor*"

For Perspective: Countrywide Legislative Activity in 2015



Regulations Proposed and/or Adopted in 2016

- The majority of regulations proposed or adopted thus far in 2016 address medical costs:
 - Medical fee schedules
 - Medical treatment guidelines
 - Billing procedures
- Other topics include:
 - Reporting requirements
 - Dispute resolution
 - Attorney fees
 - Large deductibles

Why Does NCCI Monitor Regulatory and Legislative Changes?

- To understand/explain fluctuations in system costs
- To serve as a resource to stakeholders
- To provide objective cost-impact information to stakeholders during the decision-making process
- To develop filings, which make any necessary changes to rating plans, rules, and forms
- To adjust rates/loss costs as necessary to comply with rate standards: that rates shall be reasonable and neither excessive, nor inadequate, nor unfairly discriminatory



Case Law Highlights

Workers Compensation Litigation That Inspired Legislation in 2016

- *Wheeler v. Cinna Bakers*
Aggregation of benefits from multiple employments (South Dakota HB 1084 was enacted effective [retroactive to] 5/5/2015)
- *Greer v. Sysco Foods*
Maximum Medical Improvement as a factor in the termination of Temporary Total Disability benefits (Missouri SB 1027, pending as of 4/1/2016)
- *Quad/Graphics, Inc. v. Mario Holguin*
Modified-duty wages in addition to Temporary Total Disability Benefits (Kentucky SB 151, pending as of 4/1/2016)
- *Neel v. Western Construction, Inc.*
No obligation to pay more for medical services than the fee schedule or rule applicable on the date of service requires (Idaho HB 435, which died)
- *Rodriguez v. Brand West Dairy*
Constitutionality of the farm and ranch workers exclusion (New Mexico SB 283, which died)

Key State Supreme Court Decisions Pending in 2016

- **Ramirez-Trujillo v. Quality Egg, LLC**
Iowa—Payment of medical costs for nonwork-related treatment
- **Rodriguez v. Brand West Dairy**
New Mexico—Constitutionality of the farm/ranch laborer exclusion
- **Westphal v. City of St. Petersburg**
Florida—Constitutionality of limitation on benefits
- **Castellanos v. Next Door Company**
Florida—Attorney fees
- **Stahl v. Hialeah Hospital**
Florida—Exclusive remedy

Key Judicial Decisions in 2016

- **Vasquez v. Dillards**
The Oklahoma Workers Compensation Commission declared Opt-Out unconstitutional. Appeal to the Oklahoma Supreme Court is pending.
- **Maxwell v. Sprint, PCS**
The Oklahoma Supreme Court declared a provision of the state's workers compensation act that defers benefits for injured employees who return to work is unconstitutional.
- **Sturgess v. OA Logistics Services, Inc.**
The Georgia Court of Appeals ruled on exclusive remedy that death from an injury sustained outside of the office was not work-related. A petition for discretionary review is pending before the Georgia Supreme Court.
- **Nebraska and Oklahoma v. Colorado**
The US Supreme Court refused to hear this suit regarding Colorado's legalization of marijuana.

As of April 13, 2016



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Election 2016

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2016 Commissioner Changes

- Arizona
- Kentucky
- Nevada
- New York
- Rhode Island

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2016 Governor Elections

States Where Commissioners Are Appointed	States Where Commissioners Are Elected
Indiana	Delaware*
Missouri*	Montana
New Hampshire*	North Carolina
Oregon	North Dakota*
Utah	Washington
Vermont*	
West Virginia*	

Information as of April 1, 2016

*Open races—Incumbent is termed out or not running for reelection

2016 Commissioner Elections

Incumbents Running	Open Election
Delaware	Montana
North Carolina	North Dakota
Washington	

Information as of April 1, 2016

Key 2016 Ballot Initiatives

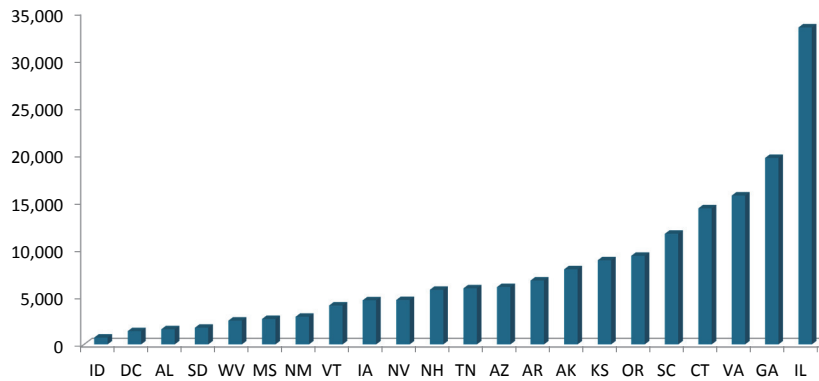
- Certified for November 2016 ballot:
 - Colorado Initiative 20, creating Amendment 69, a universal healthcare system including medical portion of workers compensation
 - Florida Right to Medical Marijuana Initiative, Amendment 2
 - Nevada Initiative to Regulate and Tax Marijuana
- In addition, across the country there are more than 50 potential marijuana initiatives awaiting certification for the November 2016 ballot



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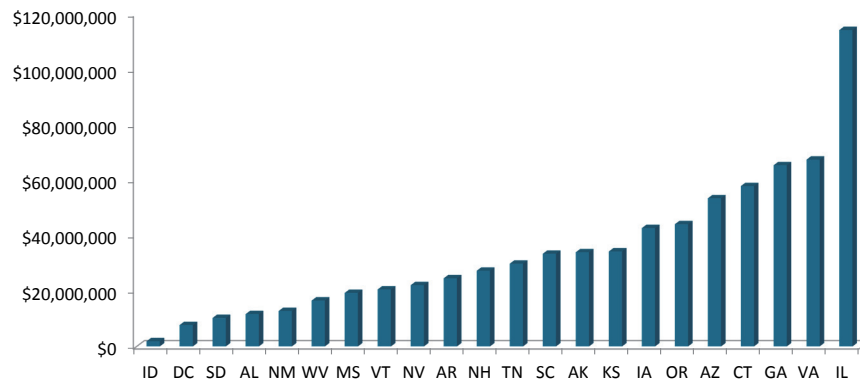
Residual Markets

Residual Market States by Policy Count



Annual data for policies reported through December 31, 2015
Total number of all Assigned Risk Plan policies with effective dates during 2015 in states where NCCI is the Plan Administrator

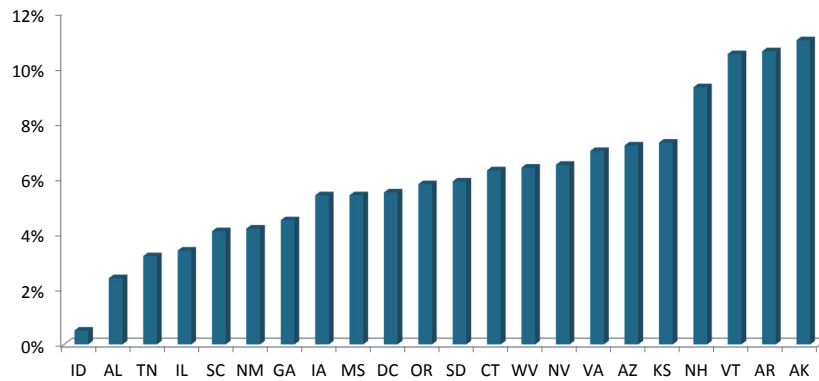
Residual Market States By Premium



Annual data for policies reported through December 31, 2015
Total number of all Assigned Risk Plan policies with effective dates during 2015 in states where NCCI is the Plan Administrator

Residual Market Share

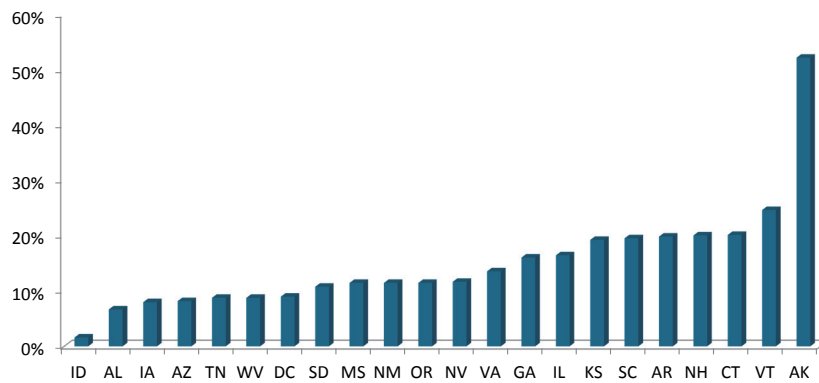
As a Percentage of Total Written Premium



Only NCCI-managed residual markets are reflected
Preliminary for 2015

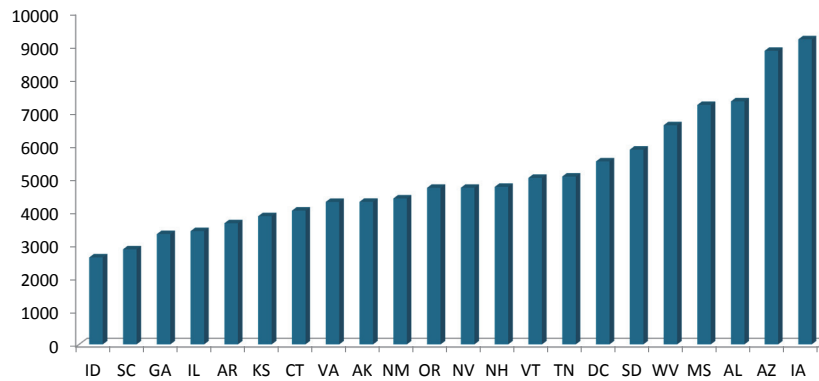
Residual Market Share

As a Percentage of Total Policies



Only NCCI-managed residual markets are reflected
Preliminary for 2015

Average Residual Market Policy Size



Only NCCI-managed residual markets are reflected
Preliminary for 2015

Residual Market Demographics Top Five Classification Codes

As of 12/31/2015

Policy Count

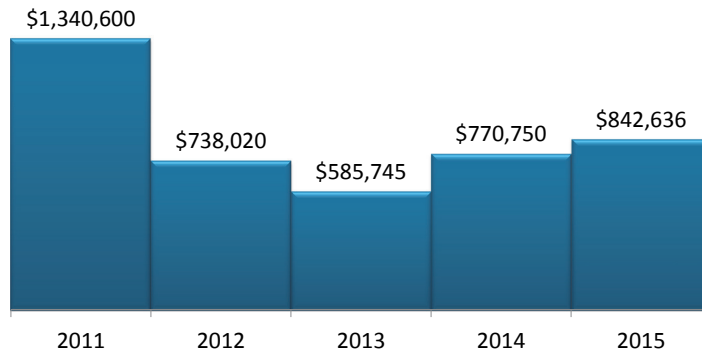
- 5645—Carpentry (8.4%)
- 5437—Carpentry, Interior Trim (5.3%)
- 5474—Painting (4.8%)
- 7228—Trucking, Local (4.0%)
- 5551—Roofing (2.9%)

Premium

- 5645—Carpentry (6.0%)
- 7228—Trucking, Local (3.8%)
- 5551—Roofing (3.6%)
- 7229—Trucking, Long Distance (3.0%)
- 5474—Painting (2.3%)

Voluntary Coverage Assistance Program (NCCI's VCAP® Service)

Overall Savings



As of April 1, 2016

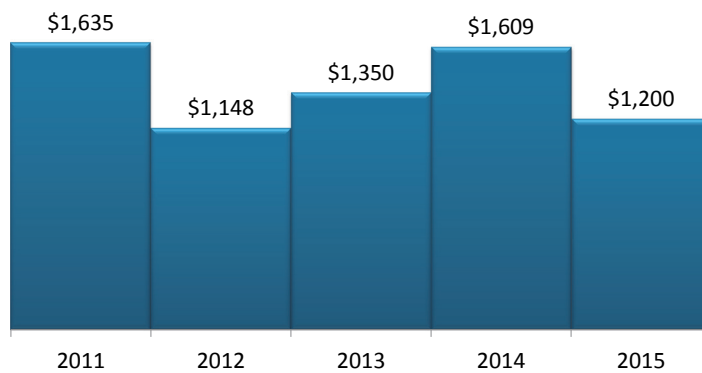
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Voluntary Coverage Assistance Program (NCCI's VCAP® Service)

Average Savings per Application



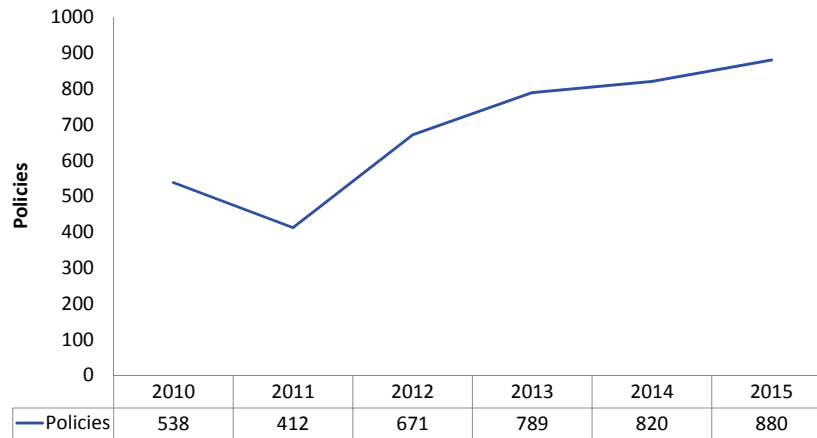
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PEO and Other Staffing Accounts Bound in the Residual Market



Residual Market Turnover All NCCI Plan States

Policy Year	AR Policy Count	Policies Transitioned to Voluntary—Percentage	Policies Unidentified—Percentage	Overall Market Turnover
2012	131,929	6.4%	26.8%	33.2%
2013	148,256	7.1%	25.2%	32.3%
2014	162,511	7.9%	25.6%	33.5%

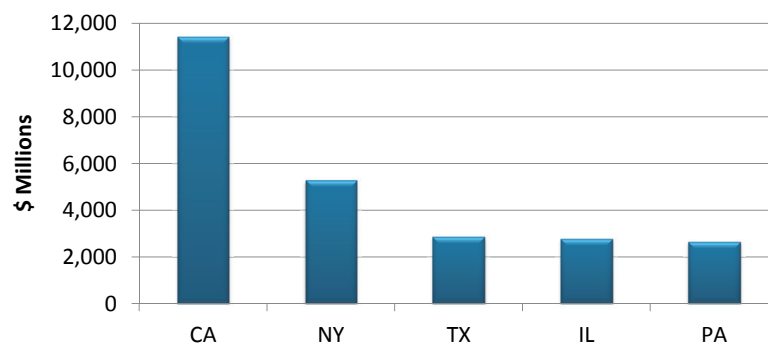


Premium

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Top Five States With Largest Workers Compensation Direct Written Premium Calendar Year 2014



Private carrier data compiled from 2014 Annual Statements as reported to NAIC

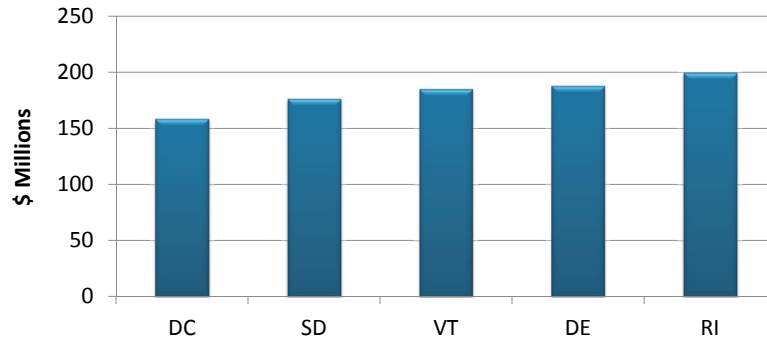
State Fund data compiled from Annual Statements and as published in A.M. Best's Aggregates and Averages, monopolistic states excluded

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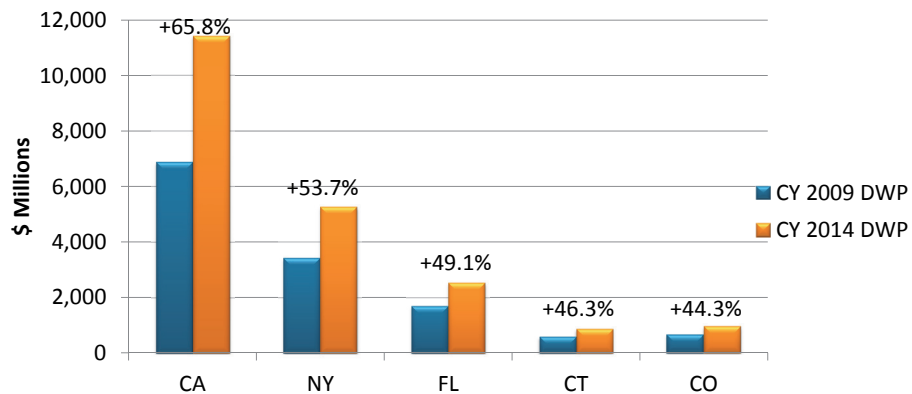
Top Five States With Smallest Workers Compensation Direct Written Premium

Calendar Year 2014



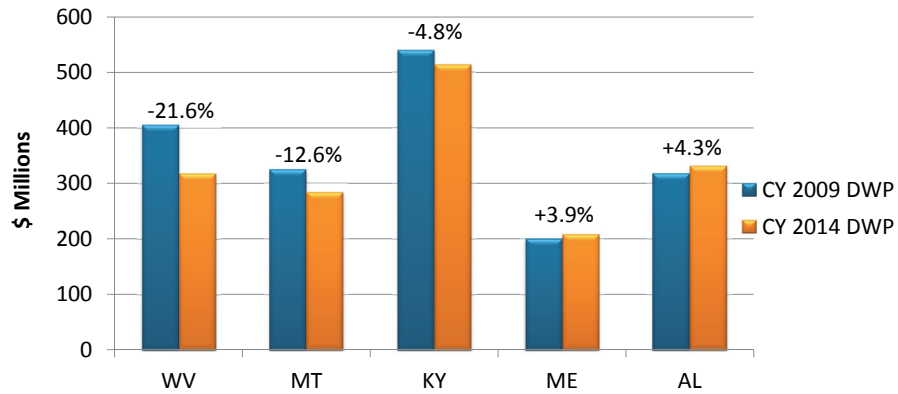
Private carrier data compiled from 2014 Annual Statements as reported to NAIC
State Fund data compiled from Annual Statements and as published in A.M. Best's Aggregates and Averages, monopolistic states excluded

Top Five States With the Largest Five-Year Change in Direct Written Premium (DWP)



Private carrier data compiled from 2014 Annual Statements as reported to NAIC
State Fund data compiled from Annual Statements and as published in A.M. Best's Aggregates and Averages, monopolistic states excluded

Top Five States With the Lowest Five-Year Change in Direct Written Premium



Private carrier data compiled from 2014 Annual Statements as reported to NAIC
 State Fund data compiled from Annual Statements and as published in A.M. Best's Aggregates and Averages, monopolistic states excluded



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Underwriting Results

Top Five NCCI States With Highest Combined Ratios

Accident Year 2014

State	Combined Ratio
Oregon	134
Maine	122
Maryland	113
Alaska	110
Kentucky	110

Top Five NCCI States With Lowest Combined Ratios

Accident Year 2014

State	Combined Ratio
West Virginia	78
Texas	83
Oklahoma	83
Arkansas	85
Kansas	89



Rate Filings

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Top Five NCCI States With Largest Approved Voluntary Increases

2015–2016 Rate Filing Season*

State	Voluntary Change
South Carolina**	4.1%
Virginia	3.4%
Georgia	2.8%
Iowa	2.7%
Vermont	2.6%

*Filings with effective dates between October 1, 2015, and September 1, 2016

**Pending approval as of April 13, 2016

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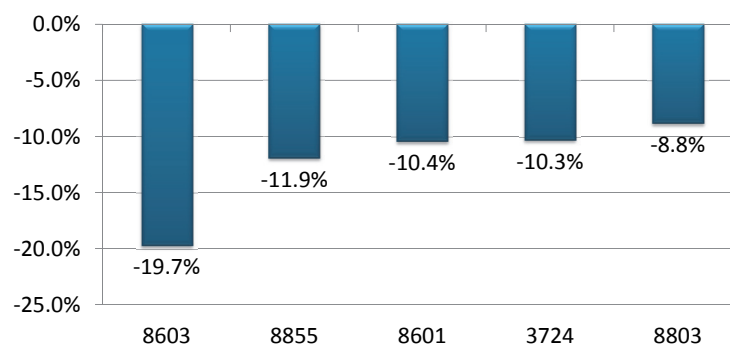
Top Five NCCI States With Largest Approved Voluntary Decreases

2015–2016 Rate Filing Season*

State	Voluntary Change
Oklahoma	–14.8%
Kansas	–11.6%
West Virginia	–11.1%
North Carolina	–10.2%
Texas	–9.9%

*Filings with effective dates between October 1, 2015, and September 1, 2016

Top Five Lowest Average Loss Cost/Rate Changes Countrywide



Based on the latest approved loss costs and rates for the 50 class codes with the highest aggregate payroll countrywide

Top Five Lowest Average Loss Cost/Rate Changes Countrywide —Class Code Descriptions

Class Code

8603—ARCHITECTURAL OR ENGINEERING FIRM—CLERICAL

8855—BANKS AND TRUST COMPANIES—ALL EMPLOYEES, SALESPERSONS, DRIVERS & CLERICAL

8601—ARCHITECTURAL OR ENGINEERING FIRM—INCLUDING SALESPERSONS & DRIVERS

3724—MACHINERY OR EQUIPMENT ERECTION OR REPAIR NOC & DRIVERS

8803—AUDITOR, ACCOUNTANT, OR COMPUTER SYSTEM DESIGNER OR PROGRAMMER—TRAVELING

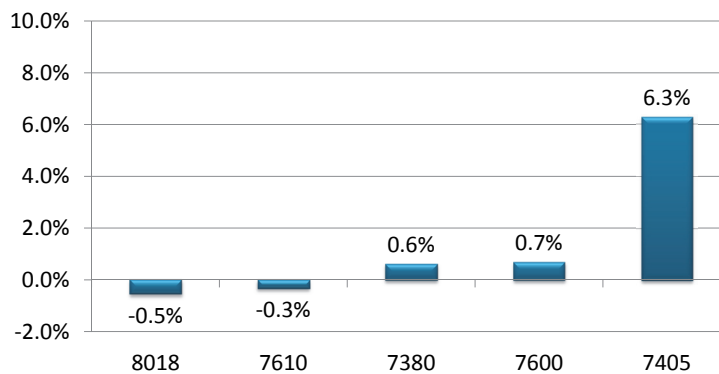
Based on the latest approved loss costs and rates for the 50 class codes with the highest aggregate payroll countrywide

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Top Five Highest Average Loss Cost/Rate Changes Countrywide



Based on the latest approved loss costs and rates for the 50 class codes with the highest aggregate payroll countrywide

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Top Five Highest Average Loss Cost/Rate Changes Countrywide—Class Code Descriptions

Class Code

8018—STORE: WHOLESALE—NOC

7610—RADIO OR TELEVISION BROADCASTING STATION—ALL EMPLOYEES & CLERICAL, DRIVERS

7380—DRIVERS, CHAUFFEURS, MESSENGERS AND THEIR HELPERS NOC—COMMERCIAL

7600—TELECOMMUNICATIONS CO.—CABLE TV, OR SATELLITE—ALL OTHER EMPLOYEES & DRIVERS

7405—AVIATION—AIR CARRIER—SCHEDULED, COMMUTER, OR SUPPLEMENTAL—FLYING CREW

Based on the latest approved loss costs and rates for the 50 class codes with the highest aggregate payroll countrywide

Top Five States With Smallest Cumulative Claim Frequency Decrease

Lost-Time Claims

State	10 Policy Year Frequency Change
Georgia	–3%
Oregon	–6%
Maine	–10%
South Carolina	–11%
North Carolina	–12%

Based on data through December 31, 2014, developed to ultimate; equal to the Policy Year 2013 frequency divided by the Policy Year 2004 frequency for the 37 NCCI states with available data

Top Five States With Largest Cumulative Claim Frequency Decrease

Lost-Time Claims

State	10 Policy Year Frequency Change
Texas	-41%
Arkansas	-38%
Utah	-36%
Oklahoma	-36%
Louisiana	-33%

Based on data through December 31, 2014, developed to ultimate; equal to the Policy Year 2013 frequency divided by the Policy Year 2004 frequency for the 37 NCCI states with available data

Top Five NCCI States With Largest Policyholder Dividends Percentages

Calendar Year 2014

State	Policyholder Dividend
Maine	8.5%
Iowa	2.9%
Florida	2.6%
Nebraska	1.8%
Alaska	1.3%

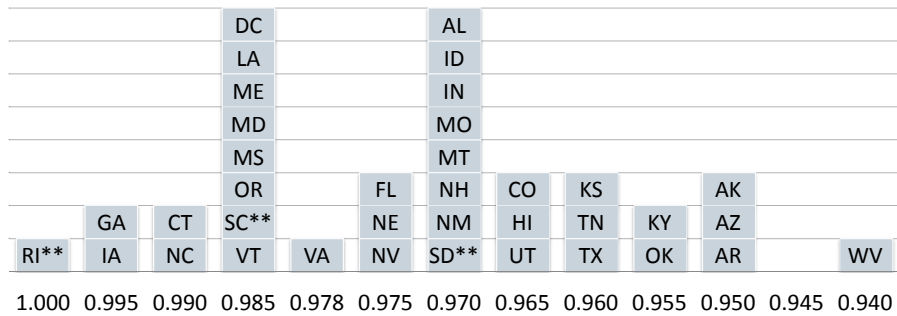
Calculated by NCCI from NAIC Annual Statement page 14 data
Based on private carrier data only



Indemnity/Medical

NCCI States Approved Indemnity Loss Ratio Trend

2015–2016 Rate Filing Season*



*Filings with effective dates between October 1, 2015, and September 1, 2016

**Pending approval as of April 13, 2016

NCCI States Approved Medical Loss Ratio Trend

2015–2016 Rate Filing Season*

				AK									
				FL	CO			AL					
				HI	MD			AR					
				ID	NE			ME					
				MO	NM	DC		MS					
	CT	AZ		MT	OR	GA		NV					
	IN	LA		NC	TN	SC**		OK					
IA	NH	RI**	VA	SD**	VT	WV	UT	KS			KY		TX

1.015 1.010 1.005 1.003 1.000 0.995 0.990 0.985 0.980 0.975 0.970 0.965 0.960 0.955

*Filings with effective dates between October 1, 2015, and September 1, 2016

**Pending approval as of April 13, 2016

Top Five NCCI States With Highest Lost-Time Indemnity Severity

Policy Year 2013
2015–2016 Rate Filing Season*

State	Indemnity Average Lost-Time Claim Severity
District of Columbia	\$42,242
Louisiana	\$40,289
North Carolina	\$36,213
Georgia	\$36,173
South Carolina	\$34,039

Source: NCCI financial data evaluated as of December 31, 2014

*Filings with effective dates between October 1, 2015, and September 1, 2016

Top Five NCCI States With Lowest Lost-Time Indemnity Severity

**Policy Year 2013
2015–2016 Rate Filing Season***

State	Indemnity Average Lost-Time Claim Severity
Utah	\$12,582
Oregon	\$13,534
Indiana	\$13,857
Florida	\$14,953
West Virginia	\$15,169

Source: NCCI financial data evaluated as of December 31, 2014
*Filings with effective dates between October 1, 2015, and September 1, 2016

Top Five NCCI States With Highest Lost-Time Medical Severity

**Policy Year 2013
2015–2016 Rate Filing Season***

State	Medical Average Lost-Time Claim Severity
Alaska	\$54,190
Virginia	\$51,075
Louisiana	\$49,863
Alabama	\$47,716
Arizona	\$45,487

Source: NCCI financial data evaluated as of December 31, 2014
*Filings with effective dates between October 1, 2015, and September 1, 2016

Top Five NCCI States With Lowest Lost-Time Medical Severity

Policy Year 2013
2015–2016 Rate Filing Season*

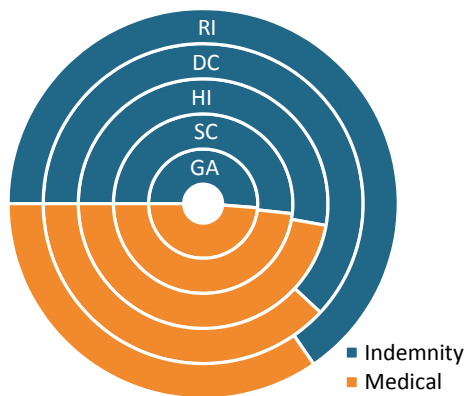
State	Medical Average Lost-Time Claim Severity
Rhode Island	\$10,753
Hawaii	\$13,636
Oregon	\$17,936
West Virginia	\$18,325
District of Columbia	\$20,241

Source: NCCI financial data evaluated as of December 31, 2014

*Filings with effective dates between October 1, 2015, and September 1, 2016

Top Five NCCI States With Largest Indemnity Percentage of Benefits

Based on the 2015–2016 Rate Filing Season*

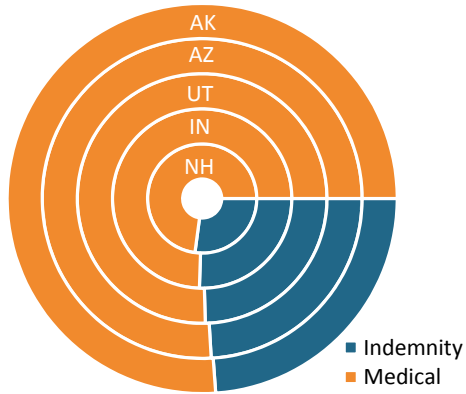


State	Indemnity Percentage
Rhode Island	65%
District of Columbia	62%
Hawaii	53%
South Carolina	52%
Georgia	51%

*Filings with effective dates between October 1, 2015, and September 1, 2016

Top Five NCCI States With Largest Medical Percentage of Benefits

Based on the 2015–2016 Rate Filing Season*



State	Medical Percentage
Alaska	76%
Arizona	76%
Utah	75%
Indiana	75%
New Hampshire	73%

*Filings with effective dates between October 1, 2015, and September 1, 2016

Top Five NCCI States With Biggest Shifts in Indemnity/Medical Splits

Based on the 2014–2015* and 2015–2016** Rate Filing Seasons

State	Indemnity/Medical Last Season	Indemnity/Medical Current Season
Maine	48% / 52%	50% / 50%
Oklahoma	46% / 54%	44% / 56%
Nevada	44% / 56%	45% / 55%
Arizona	25% / 75%	24% / 76%
Georgia	50% / 50%	51% / 49%

*Filings with effective dates between October 1, 2014, and September 1, 2015

**Filings with effective dates between October 1, 2015, and September 1, 2016

Questions?

- Lori Lovgren, JD, CPCU
Division Executive—State Relations
lori_lovgren@ncci.com
- Ann M. Bok, FCAS, MAAA
Practice Leader and Senior Actuary
ann_bok@ncci.com



901 Peninsula Corporate Circle
Boca Raton, FL 33487-1362
800-**NCCI**-123 (800-622-4123)
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