



Legislative Activity Report

National Council on Compensation Insurance

The nation's most experienced provider of workers compensation information, tools, and services

Regulatory Services

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State Issues Contacts: Please refer to the list of State Relations Executives at the end of this report.

LEGISLATIVE ACTIVITY—LEGISLATIVE SESSION UPDATES

This report contains descriptions and/or excerpts of relevant bills that have passed the first chamber, passed the second chamber, or have been enacted during the specific periods. In addition, a recap of significant legislative and judicial activity impacting the workers compensation system will be included in the first report published each month. This report is issued on a weekly basis throughout the legislative season, and it provides updates on the content of these bills if and when they progress through the legislative process. This report includes bills from states where NCCI provides ratemaking services (see state list under Contact Information) and the US Congress.

BILLS ENACTED

There were no bills that were enacted within the one-week period ending August 28, 2015.

BILLS PASSING SECOND CHAMBER

There were no bills that passed the second chamber within the one-week period ending August 28, 2015.

BILLS PASSING FIRST CHAMBER

There were no bills that passed the first chamber within the one-week period ending August 28, 2015.

The following section contains monthly updates on significant legislative activity, judicial decisions, and regulatory committee activity that may impact the workers compensation system and will be included in the report the first week of every month throughout the year.

FEDERAL ISSUES

Issue	Update
Congress	After the Labor Day holiday, Congress will return to several pressing issues. In addition to adopting a funding mechanism (likely a Continuing Resolution) before the September 30 end of the federal fiscal year, consideration will also be given to the Iran nuclear agreement and transportation funding.
TRIPRA of 2015 Implementation	<p>Section 111 of the Terrorism Risk Insurance Program Act (TRIPRA) of 2015 requires the Department of the Treasury to begin collecting information on terrorism risk insurance beginning in January 2016. The Treasury will use the information it gathers to draft a report to Congress by June 30, 2016 (and annually thereafter) on the impact of TRIPRA on terrorism insurance markets. Prior to requesting information from individual carriers, the Treasury must first endeavor to obtain the information from state insurance regulators or through other publicly available sources.</p> <p>Key stakeholders including NCCI, the insurance trade associations, and individual carriers continue to work on implementation of the TRIPRA data reporting requirement. The National Association of Insurance Commissioners (NAIC) initially proposed capturing terrorism insurance data through a supplement to its Annual Statement Blank; however, the industry raised concerns with that approach for a number of reasons, most notably that it did not include the information the Treasury is required to collect under TRIPRA of 2015.</p> <p>The NAIC decided at its summer meeting that it would delay adoption of the Annual Statement Blank Supplement for Terrorism Insurance and work to develop a data call template for the states. NCCI and other stakeholders are working with the NAIC and the Federal Insurance Office to develop a data reporting mechanism that meets both organizations' objectives.</p>

Issue	Update
Federal Advisory Committee on Insurance	<p>The Federal Advisory Committee on Insurance (FACI) met in August, and its agenda included an overview of workers compensation insurance. FACI members discussed the importance of workers compensation to the economy generally, and to employers and workers specifically. They indicated that the purpose of the presentation was to frame the issue for discussion by FACI later this year.</p> <p>FACI heard a presentation from Dr. Rick Victor of WCRI. The presentation highlighted several emerging issues and pointed out the successful history and strengths of the state-based system. Issues discussed by Dr. Victor included systemic cost drivers such as prescription drugs (including physician dispensing), utilization of nonhospital medical services, and the impact of medical fee schedules.</p>

STATE COMMITTEE ACTIVITY

State	Update
Montana	<p>The Economic Affairs Interim Committee, traditionally the point of origin for workers compensation measures in the state, has not yet undertaken any potential workers compensation legislation. Since Montana's legislature does not convene in even numbered years, no activity is expected from the Committee in the near future.</p> <p>The Labor-Management Advisory Council will be meeting in September and October, and will consider workers compensation issues such as safety programs and possible changes to the state's subrogation laws.</p>

STATE LEGISLATIVE ACTIVITY

State	Update
Illinois	As the state's extended session continues, the Democrats' workers compensation package (SB 162) remains under active consideration.

OTHER ITEMS OF INTEREST

State	Update
Alaska	<p>The Medical Fee Schedule recently developed by the Medical Services Review Committee in compliance with 2014's HB 316 (and 2015's HB 178) is scheduled for public hearing on September 17 and 18 in Anchorage. The deadline for submitting written comments is September 8.</p> <p><i>NCCI estimates that this Medical Fee Schedule, if enacted as proposed, would result in an estimated overall impact on workers compensation system costs of -3.6%.</i></p>
Florida	<p>On August 26, the Florida Division of Workers' Compensation (DWC) held a public meeting to solicit input from stakeholders regarding the Uniform Permanent Impairment Rating Schedule, treatment guidelines, and the DWC's role in overutilization.</p> <p>Impairment Rating Schedule—The consensus among speakers was that an update is warranted and suggestions included updating with American Medical Association (AMA) standards or developing a hybrid of AMA's 6th edition and state standards.</p> <p>Treatment Guidelines—The DWC posed the question of whether more specific guidelines are necessary and whether moving to Official Disability Guidelines as a standard of care may be warranted since the current standard of care was implemented in 1996. Speakers suggested multiple guidelines are necessary due to the changing nature of treatment by doctors.</p> <p>Overutilization—Following a brief explanation of how the DWC reviews allegations of overutilization, the DWC requested ideas from stakeholders about how to address overutilization. The DWC stated that Florida law provides carriers autonomy to identify overutilization and deny payment. Some speakers disagreed, blaming the workers compensation system because a carrier cannot deny treatment, while others suggested that carriers can do more to police overutilization and discontinue referring workers to doctors whom they identify.</p>
New Mexico	On September 2, officials with the New Mexico Workers' Compensation Administration held a public forum to discuss a recent appellate court decision that now requires agricultural employers to carry workers compensation insurance coverage for their workers. Section 52-1-6(A) of the New Mexico Workers' Compensation Act excludes farm and ranch laborers from the benefits (and burdens) of workers compensation. On June 22, the New Mexico Court of Appeals held that this exclusion violates the equal protection clause of the New Mexico Constitution in <i>Rodriguez v. Brand West Dairy</i> . The Court ruled that its decision will apply to workers' claims that were pending as of March 30, 2012 (the date that the Second Judicial District Court ruled the exclusion unconstitutional in <i>Griego v. New Mexico Workers' Compensation Administration</i>) and that were filed thereafter.

State	Update
Tennessee	The Tennessee Division of Workers' Compensation has proposed rule changes that would implement a closed drug formulary and treatment guidelines. A hearing was held on August 25 to receive oral comments, and written comments will be received for 15 days. Several representatives of carriers and pharmacy benefits managers opined that retrospective evaluation should be permitted for pharmacy benefits. Additionally, several providers from various disciplines offered comments requesting that their specialties be included in the definition of providers.
Virginia	An HB 1820 Stakeholder Work Group Meeting was held on August 19 in the Virginia General Assembly building. The presentations included those from the Workers Compensation Research Institute (WCRI) and American International Group, Inc. (AIG). The WCRI presentation provided details on the data that it collects and its sources. The AIG representative gave a pro/con presentation for fee schedules. There was discussion among the panel members regarding the actual need for a fee schedule in Virginia. There was also testimony from an injured worker who detailed her experience dealing with a workers compensation claim. The next meeting has been set for September 18.

Contact Information

If you have any questions about the legislation or proposals mentioned, please contact the appropriate NCCI state relations executive (listed below) or a representative of your local insurance trade association.

State	State Relations Executive	Phone Number
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This report is informational and is not intended to provide an interpretation of state and federal legislation.