



Legislative Activity Report

National Council on Compensation Insurance

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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 passed the first chamber, passed the second chamber, or were 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

The following workers compensation-related bill was enacted within the one-week period ending April 8, 2016.

Florida

SB 1402 was:

- Passed by the first chamber on March 3, 2016
- Included in NCCI's March 11, 2016 *Legislative Activity Report* (RLA-2016-09)
- Passed by the second chamber on March 8, 2016
- Included in NCCI's March 18, 2016 *Legislative Activity Report* (RLA-2016-10)
- Enacted on April 8, 2016, with an effective date of July 1, 2016

SB 1402 ratifies Rule 69L-7.020, F.A.C. The *Florida Workers' Compensation Health Care Provider Reimbursement Manual* (manual), 2015 Edition, sets out the policies, guidelines, codes, and maximum reimbursement allowances for services and supplies furnished by health care providers under the workers' compensation statutes. The manual provides the reimbursement policies and payment methodologies for pharmacists and medical suppliers pertaining to workers' compensation. The current manual was adopted by Rule 67-7.020, F.A.C. The rule was adopted on July 16, 2015, and submitted for ratification on November 3, 2015. The bill authorizes the rule to go into effect. The scope of the bill is limited to this rulemaking condition and does not adopt the substance of any rule into the statutes.

NCCI estimates that the update of the Florida Workers' Compensation Health Care Provider Reimbursement Manual to the 2014 Medicare level will result in an overall Florida workers compensation system cost impact of +1.8%.

BILLS PASSING SECOND CHAMBER

The following workers compensation-related bills passed the second chamber within the one-week period ending April 8, 2016.

Maryland

HB 958 and **SB 839** are identical.

HB 958 was:

- Passed by the first chamber on March 21, 2016
- Included in NCCI's April 1, 2016 *Legislative Activity Report* (RLA-2016-12)
- Amended and passed by the second chamber on April 7, 2016

SB 839 was:

- Passed by the first chamber on March 25, 2016
- Included in NCCI's April 1, 2016 *Legislative Activity Report* (RLA-2016-12)
- Amended and passed by the second chamber on April 8, 2016

HB 958/SB 839 amend *section 11-307 Rate Filings* of the Maryland Insurance Code as follows:

11-307 Rate Filings

(a) Required.—

(1) Except as otherwise provided in this subsection, each authorized insurer and each rating organization that has been designated by an insurer for the filing of rates under subsection (b) of this section shall file with the Commissioner all rates and supplementary rate information and all changes and amendments of rates and supplementary information made by it for use in the State on or before the date they become effective.

(2) Rates and supplementary rate information need not be filed for inland marine risks that by general custom are not written according to manual rules or rating plans.

(b) Establishing rates and supplementary rate information.—

(1) An insurer may itself establish rates and supplementary rate information based on the factors in § 11-306 of this subtitle.

(2) Except for workers' compensation insurance rates, an insurer may use rates and supplementary rate information prepared and filed with the Commissioner by a rating organization of which it is a member or subscriber, with average loss factors or expense factors determined by the rating organization or with modification for its own expense and loss experience as the credibility of that experience allows.

(3) If an insurer uses rates and supplementary rate information prepared by a rating organization:

(i) the insurer shall notify the Commissioner that it uses rates and supplementary rate information prepared and filed with the Commissioner by a designated rating organization of which it is a member or subscriber and shall provide the Commissioner with information about modifications of those rates and supplementary rate information that is necessary to inform the Commissioner fully; and

(ii) subject to modifications filed by the insurer, the insurer's rates and supplementary rate information shall be those filed periodically by the rating organization, including any amendments to those filings.

(c) Public inspection.—

(1) In this subsection, "proprietary rate-related information":

(i) means a rating model; and

(ii) includes the formulas, algorithms, analyses, and specific weights given to variables used in the model.

~~(1) (2) (i) Each~~ except as provided in paragraph (3) of this subsection, each filing and any supporting information filed under this subtitle shall be open to public inspection as soon as filed.

~~(2) (ii)~~ On request and payment of a reasonable charge, a person may obtain copies of a filing and any supporting information.

(3) (i) information that an insurer files with the Commissioner and identifies as proprietary rate-related information:

1. Constitutes a trade secret and confidential commercial information;

2. Subject to subparagraph (ii) of this paragraph and except as provided in subparagraph (iii) of this paragraph, shall be kept confidential by the Commissioner; and

3. Is not subject to subpoena served on the Commissioner or any recipient of proprietary rate-related information under subparagraph (iii) of this paragraph.

(ii) 1. except as provided in subparagraph 2 of this subparagraph, if the Commissioner determines that some or all of the material that an insurer files and identifies as proprietary rate-related information does not constitute proprietary rate-related information as defined in paragraph (1) of this subsection, the Commissioner shall:

A. Give the insurer written notice of that determination; and

B. Make the material open to public inspection 10 business days after the date the Commissioner gives notice of the determination to the insurer.

2. The Commissioner may not disclose the material if:

A. The insurer has not put the rate filing into effect; and

B. Within the time period described in subparagraph 1b of this subparagraph, the insurer withdraws the rate filing and notifies the Commissioner that the rate filing is withdrawn.

(iii) this paragraph does not prohibit the Commissioner from disclosing an insurer's proprietary rate-related information:

1. In furtherance of a regulatory or legal action that the Commissioner undertakes in performing the Commissioner's duties under this article;

2. If the recipient enters into a written agreement to maintain the confidentiality of the proprietary rate-related information, to:

A. An outside consultant that the Commissioner engages to assist the Commissioner in reviewing the insurer's rate filing;

B. Another state's insurance regulatory agency;

C. The National Association of Insurance Commissioners; or

D. A state or federal law enforcement authority, including the United States Department of Justice and the Maryland Attorney General, if acting in a law enforcement capacity; or

3. If the proprietary rate-related information is part of a homeowner's insurance or medical malpractice insurance rate filing, to the People's Insurance Counsel Division acting under § 6-306 of the state government article.

(iv) 1. except as provided in subparagraph 2 of this subparagraph, the People's Insurance Counsel Division shall maintain the confidentiality of proprietary rate-related information disclosed to the division under subparagraph (iii)3 of this paragraph.

2. The people's insurance counsel may disclose proprietary rate-related information to an outside consultant that the division engages

to assist the division in reviewing a homeowner's insurance rate filing, provided that the outside consultant enters into a written agreement to maintain the confidentiality of the proprietary rate-related information.
(v) the Commissioner shall notify the insurer in writing at least 10 business days before the Commissioner discloses any of the insurer's proprietary rate-related information under subparagraph (iii) of this paragraph.
(vi) in addition to any other rights an insurer may have under any other applicable law, the insurer may seek to have any disclosure of the insurer's proprietary rate-related information under subparagraph (iii)1 of this paragraph be made under seal or other protection of confidentiality.
(vii) there is no waiver of any applicable privilege or claim of confidentiality with regard to any proprietary rate-related information that is disclosed under subparagraph (iii) of this paragraph.
(4) This subsection may not be construed to:
(i) authorize an insurer to designate the rating factors used to calculate the premium as proprietary rate-related information; or
(ii) authorize the Commissioner to keep the rating factors confidential.

(d) Action by Commissioner.—

(1) The Commissioner may investigate and determine whether or not rates in the State are excessive, inadequate, or unfairly discriminatory.
(2) In an investigation and determination under this subsection, the Commissioner shall give due consideration to the factors specified in § 11-306 of this subtitle.

Tennessee

SB 1758 was:

- Passed by the first chamber on February 29, 2016
- Included in NCCI's March 11, 2016 *Legislative Activity Report* (RLA-2016-09)
- Passed by the second chamber on April 7, 2016

SB 1758 adds a new subsection to *section 50-6-215. Rental and assignment of PPO network rights.* of the Tennessee Code as follows:

50-6-215. Rental and assignment of PPO network rights. [Applicable to injuries occurring both prior to and on and after July 1, 2014.]

...

(e)(1) The administrator shall assess a civil penalty for violations of this section in an amount of not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000) per violation. Each separate incident shall be considered a violation for purposes of assessing a civil penalty. Appeals of any civil penalty assessed pursuant to this subdivision (e)(1) shall be in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(2) (A) In addition to any civil penalty assessed pursuant to subdivision (e)(1), if the administrator finds a violation of this section that caused an underpayment to a healthcare provider, the administrator shall require the workers' compensation payor to compensate the healthcare provider for the difference between the amount paid and the amount that should have been paid, and one percent (1%) interest per month accruing from the date the initial payment was made or the date of the denial of any payment.

(B) The administrator shall assess a civil penalty against a workers' compensation payor for the payor's failure to compensate a healthcare provider in a timely manner, as determined by the administrator. The civil penalty shall be in addition to the civil penalty assessed pursuant to subdivision (e)(2)(A) and shall be not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000) per violation.

SB 1758 also contains the following clause:

This act shall take effect July 1, 2016, the public welfare requiring it, and shall apply to claims dated on or after that date.

BILLS PASSING FIRST CHAMBER

There were no relevant workers compensation-related bills that passed the first chamber within the one-week period ending April 8, 2016.

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
CT, ME, NH, RI, VT	Laura Backus Hall	802-454-1800
FL, IA	Chris Bailey	850-322-4047
AL, GA, KY, LA, MS	Cathy Booth	205-655-2699
AZ, CO, NM, NV, UT	Maggie Karpuk	818-707-8374
DC, MD, VA, WV	David Benedict	804-380-3005
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IN, NC, SC, TN	Amy Quinn	803-356-0851
AR, IL, KS, TX	Terri Robinson	501-333-2835
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This report is informational and is not intended to provide an interpretation of state and federal legislation.