



Regulatory and Legislative Trends Report



July 2018



TABLE OF CONTENTS

- Executive Summary..... 4
 - Overview of 2018 Legislative and Regulatory Activity 4
 - Legislative Trends and Hot Topics 4
 - First Responders/PTSD..... 4
 - Prescription Drugs..... 5
 - Legalization of Marijuana 5
 - Marketplace Contractors 6
 - Single Payer..... 6
- 2018 Legislative Sessions 7
- 2018 Workers Compensation Legislative Activity 8
- 2018 Top 5 Workers Compensation Legislative Trends 9
- Hot Topic—First Responders 10
- Hot Topic—Prescription Drugs 11
- Hot Topic—Legalization of Marijuana 12
- Marijuana Laws as of 6/30/18 13
- Hot Topic—Marketplace Contractors 14
- Law-Only Filings in 2018 15
- Legislative, Judicial, and Other Activity by Zone..... 16
 - Western Zone..... 17
 - New Administrators 18
 - Highlights From the Western Zone..... 19
 - Recently Enacted Workers Compensation-Related Legislation in the Western Zone 20
 - Workers Compensation Judicial Decisions of Interest 22
 - Average Approved Loss Cost/Rate Change 23
 - NCCI States Indemnity Percentage of Benefits..... 24
 - Cumulative Premium Level Change Since 2008 25
 - Midwestern Zone 26
 - New Administrators 27



Highlights From the Midwestern Zone 27

Recently Enacted Workers Compensation-Related Legislation in the Midwestern Zone 28

Workers Compensation Judicial Decisions of Interest 30

Average Approved Loss Cost/Rate Change 31

NCCI States Indemnity Percentage of Benefits..... 32

Cumulative Premium Level Change Since 2008 33

Southeastern Zone..... 34

 New Administrators 35

 Highlights From the Southeastern Zone 35

 Recently Enacted Workers Compensation-Related Legislation in the Southeastern Zone 36

 Workers Compensation Judicial Decisions of Interest 39

 Average Approved Loss Cost/Rate Change 40

 NCCI States Indemnity Percentage of Benefits..... 41

 Cumulative Premium Level Change Since 2008 42

Northeastern Zone..... 43

 New Administrators 44

 Highlights From the Northeastern Zone..... 44

 Recently Enacted Workers Compensation-Related Legislation in the Northeastern Zone 45

 Workers Compensation Judicial Decisions of Interest 46

 Average Approved Loss Cost/Rate Change 47

 NCCI States Indemnity Percentage of Benefits..... 48

 Cumulative Premium Level Change Since 2008 49

Legislative Resources 50

Workers Compensation Insights..... 52

NCCI States Indemnity Percentage of Benefits—Western Zone 53

NCCI States Indemnity Percentage of Benefits—Midwestern Zone 54

NCCI States Indemnity Percentage of Benefits—Southeastern Zone 55

NCCI States Indemnity Percentage of Benefits—Northeastern Zone 56

Endnotes 57

Appendix 58

EXECUTIVE SUMMARY

Overview of 2018 Legislative and Regulatory Activity

In the first half of 2018, NCCI tracked approximately **814** state and federal workers compensation bills. **462** of the bills were in states where NCCI provides ratemaking services. **76** bills were enacted as of the end of June.

In addition, NCCI monitored **197** workers compensation-related regulations in 2018. As of June 30, **83** of those regulations were adopted. To date, medical cost management is a top theme of the regulations adopted, including medical fee schedules and treatment guidelines.

Legislative Trends and Hot Topics



Legislation impacting first responders continued to be a hot topic this year with 103 related bills considered in 2018. The first responder bills addressed compensability for certain cancers and other diseases, as well as compensability for post-traumatic stress disorder (PTSD).

Other legislative trends included bills addressing court/legal issues, such as arbitration and subrogation; medical cost containment measures, such as fee schedules and treatment guidelines; and workers compensation insurance coverage issues, such as elections and exclusions, out-of-state coverage, and coverage for certain volunteers.

First Responders/PTSD



In 2018, at least 16 states considered legislation addressing workers compensation coverage for mental-only injuries, such as PTSD. To date, two states (Florida and Washington) have passed legislation expanding benefits for first responders with PTSD. Florida Senate Bill 376, which unanimously passed both chambers, expands workers compensation benefits for first responders. Prior to this legislation, only medical benefits were provided for mental injuries/PTSD for first responders in Florida, if there was no accompanying physical injury (mental-only injuries).

Senate Bill 376 expands benefits for these mental-only injuries, so that now first responders will also receive indemnity benefits for PTSD under certain circumstances—even without a physical injury. The law becomes effective October 1, 2018.



In addition, New Hampshire passed legislation establishing a commission to study the incidence of PTSD in first responders and whether it should be covered under workers compensation. Other states, including Arizona, Kentucky, Minnesota, Missouri, Ohio, South Carolina, and West Virginia, considered, but did not pass, legislation that would provide workers compensation coverage for first responders with PTSD.

Prescription Drugs



In 2018, almost every state considered legislation addressing prescription drugs, and almost 20 states considered legislation addressing prescription drugs in workers compensation. The bills covered issues such as choice of pharmacy, compound drugs, drug formularies, prescription drug monitoring programs (PDMPs), drug rehabilitation, prescription drug fee schedules, pharmaceutical benefit management, physician dispensing, and repackaged drugs.

Arizona and Hawaii passed legislation this session to address the use of opioids in workers compensation. Arizona Senate Bill 1111 establishes requirements for prescribing, monitoring, and dispensing opioid medication in workers compensation treatment. Hawaii Senate Bill 2244, in part, requires healthcare providers in the workers compensation system that are authorized to prescribe opioids to adopt and maintain written policies for informed consent to opioid therapy in circumstances with an elevated risk of dependency. Senate Bill 2244 also establishes limits for concurrent opioid and benzodiazepine prescriptions in the workers compensation system.

Legalization of Marijuana



The legalization of marijuana was a hot topic this year with at least 25 states considering legislation to legalize marijuana for medical and/or recreational purposes. However, only a few states have enacted laws so far. Vermont passed legislation early in the year legalizing the recreational use of marijuana, becoming the first state to do so through legislation instead of a ballot measure. In June, Oklahoma voters approved a ballot measure to legalize the medical use of marijuana, and in Louisiana, the governor signed a bill expanding the state's medical marijuana program, which provided that workers compensation insurers are not required to pay or reimburse for medical marijuana.

As of June 30, nine states and the District of Columbia have legalized the recreational use of marijuana and only three states (Idaho, Kansas, and Nebraska) have not enacted laws legalizing marijuana in some form.

Marketplace Contractors



In 2018, five states (Florida, Indiana, Iowa, Kentucky, and Tennessee) passed legislation that defines the term “marketplace contractor” to classify certain on-demand workers as independent contractors. Alabama, California, Colorado, and Georgia considered, but did not pass, similar legislation this year.

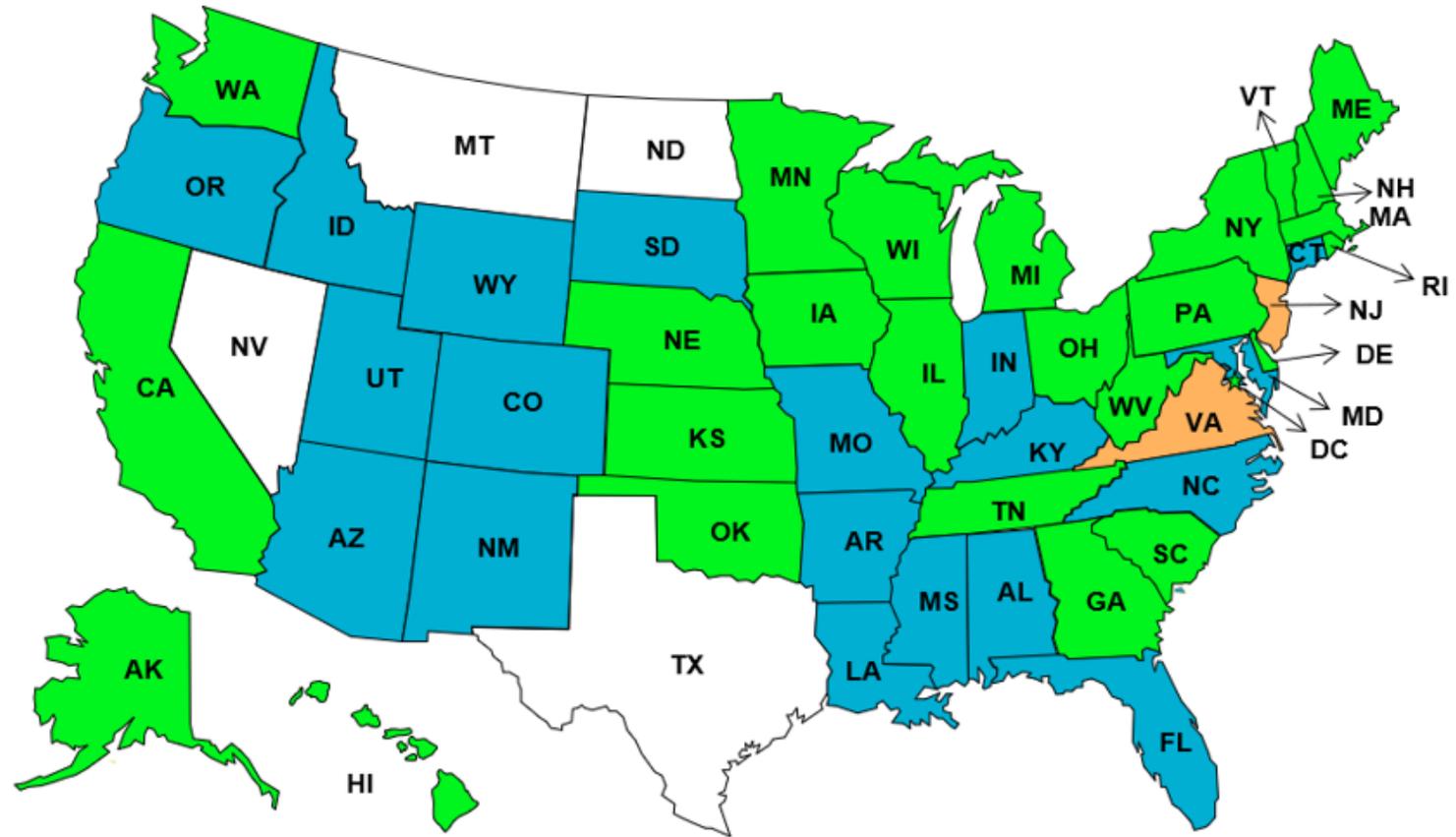
Single Payer



NCCI monitored several bills introduced in state legislatures this year that proposed creation of single-payer healthcare systems in those states. The California Senate passed legislation (Senate Bill 562) this session to create a single-payer system; however, the bill is still pending in the California Assembly. In addition, several states, including Florida, Hawaii, Iowa, Maryland, and Rhode Island proposed legislation, although none has advanced to date.

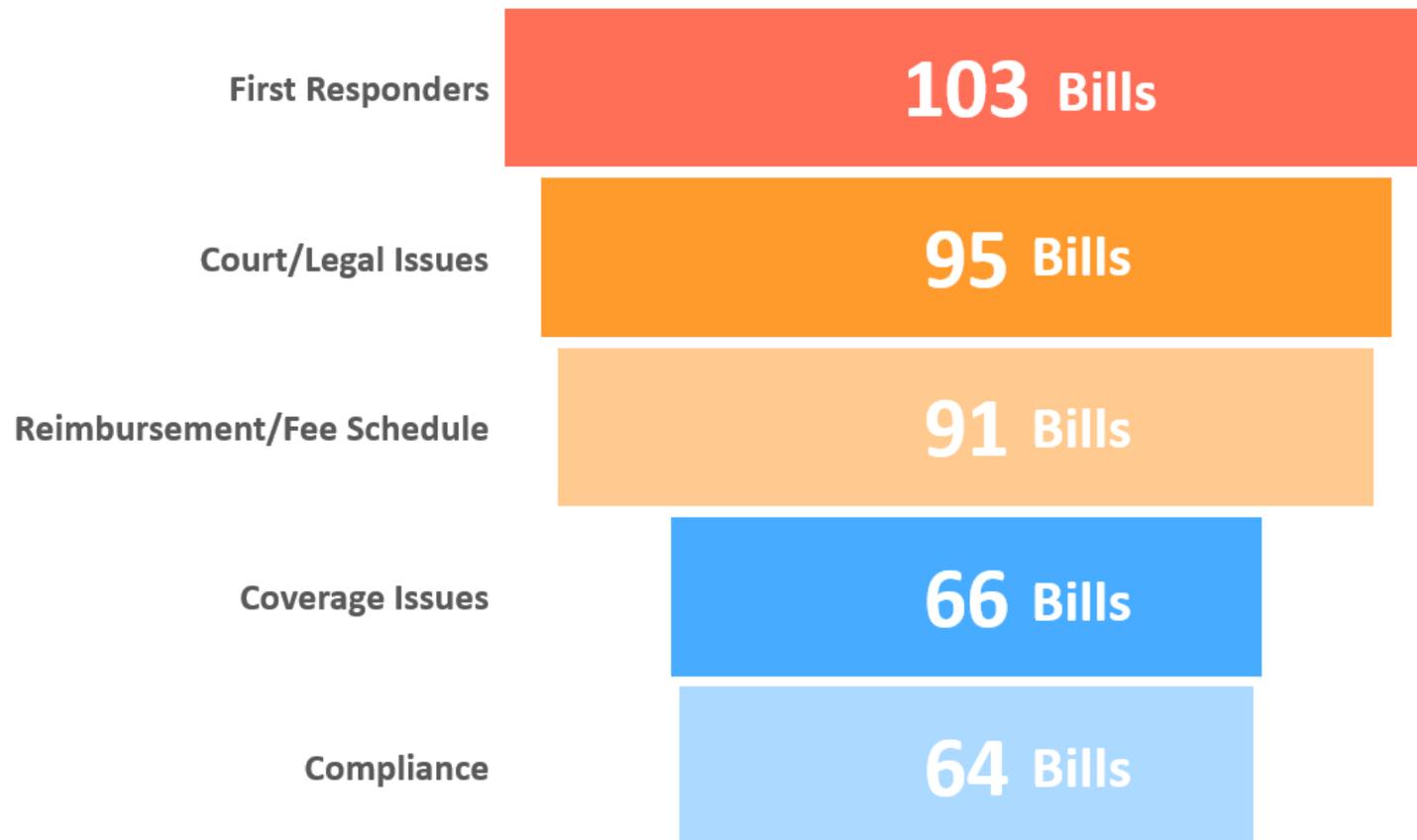


2018 LEGISLATIVE SESSIONS





2018 Top 5 Workers Compensation Legislative Trends



HOT TOPIC—FIRST RESPONDERS

- Florida
 - SB 376—Revises the standards for determining compensability of employment-related post-traumatic stress disorder (PTSD) under workers compensation for first responders. Allows first responders that meet certain conditions to access indemnity and medical benefits for PTSD without an accompanying physical injury (Enacted).
- Hawaii
 - HB 1778—Improves access for firefighters to comprehensive medical benefits under the workers compensation law upon diagnosis of cancer that is presumed to arise out of, and in the course of, employment (Enacted).
- New Hampshire
 - SB 541—Establishes presumptions of compensability under workers compensation for firefighters with cancer (Enacted).
 - SB 553—Establishes a commission to study the incidence of PTSD in first responders and whether such disorder should be covered under workers compensation (Enacted).
- Washington
 - SB 6214—Adds the presumption of coverage for PTSD as an occupational disease in certain situations for law enforcement officers and firefighters (Enacted).
- Other states considered but did not pass legislation providing for workers compensation coverage for first responders with PTSD



Arizona	Kentucky	Minnesota	Missouri	Ohio	South Carolina	West Virginia
---------	----------	-----------	----------	------	----------------	---------------

HOT TOPIC—PRESCRIPTION DRUGS

- Arizona
 - SB 1111—Establishes requirements for prescribing, monitoring, and dispensing opioid medication in workers compensation treatment (Enacted).
- Hawaii
 - SB 2244—In part, requires healthcare providers in the workers compensation system that are authorized to prescribe opioids to adopt and maintain written policies for informed consent to opioid therapy in circumstances that carry elevated risk of dependency. Establishes limits for concurrent opioid and benzodiazepine prescriptions in the workers compensation system (Enacted).
- Illinois
 - HB 5240—In part, requires a recipient of certain pain management medication to sign a written agreement with the prescribing physician agreeing to comply with the conditions of the prescription. Prohibits additional prescriptions while the recipient is noncompliant (Pending).
- New Jersey
 - A 1993—Restricts medical expense coverage for opioid drugs unless prescribing healthcare professional follows certain guidelines (Pending).
- New York
 - AB 11028/S 08034—Presumption of compensability when the death of an injured worker, who was prescribed opioids as a treatment for a workplace injury, occurs as the result of opioid overdose (Pending).
- The following states passed legislation impacting workers compensation drug formularies:
 - Indiana Senate Bill 369—Provides limitations on reimbursement for certain types of drugs known as “N” drugs.
 - Kentucky House Bill 2—Requires development or adoption of a pharmaceutical formulary and additional medical treatment guidelines addressing chronic pain management and opioid use.

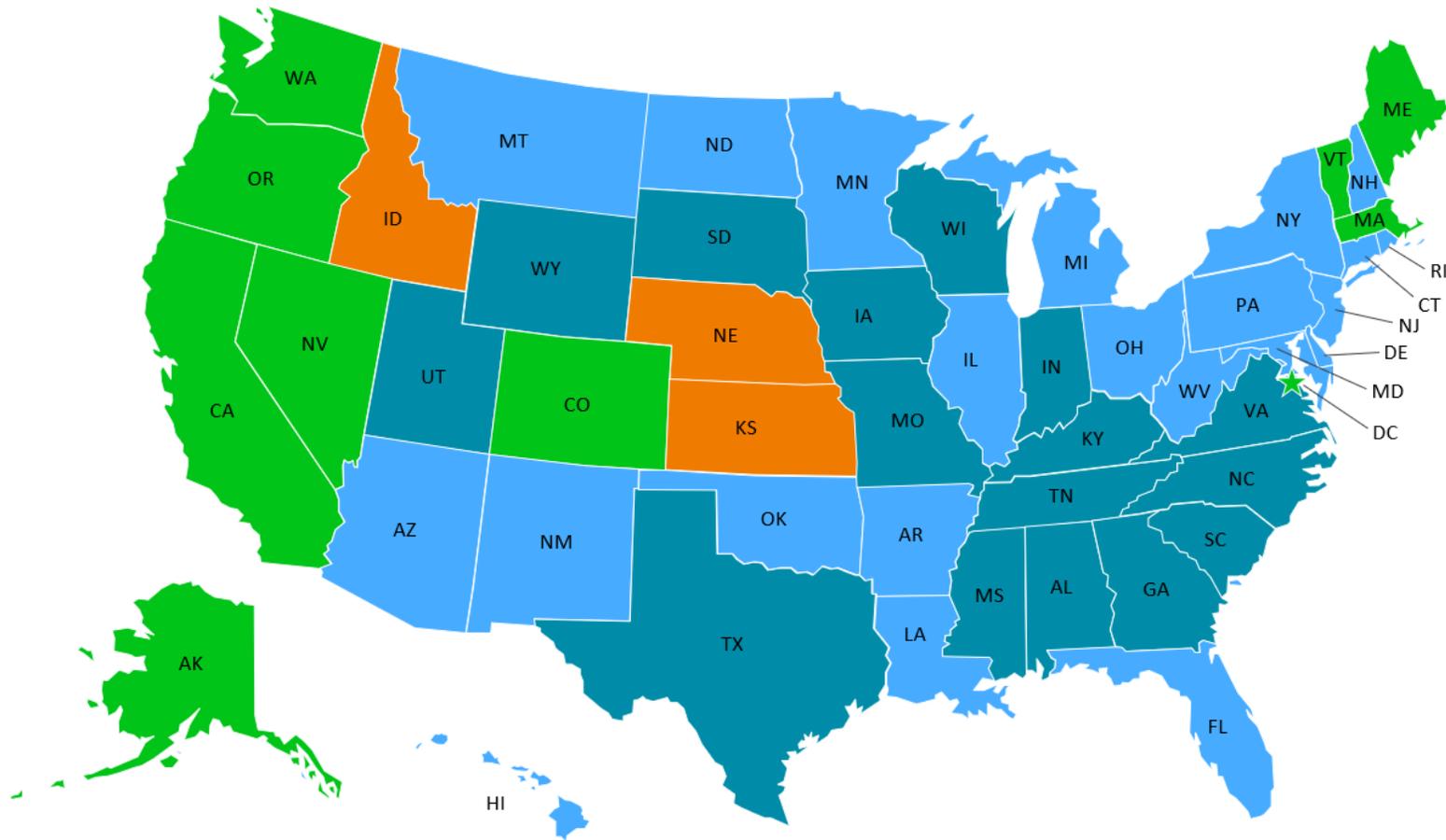


HOT TOPIC—LEGALIZATION OF MARIJUANA

- Louisiana
 - HB 579—Stipulates that workers compensation insurers are not required to pay for medical marijuana (Enacted).
- New Jersey
 - A 4097—Allows for workers compensation reimbursement for medical marijuana (Pending).
- Oklahoma
 - Ballot Measure 788—Legalizes the licensed use, sale, and growth of marijuana for medicinal purposes (Approved).
- Vermont
 - H 511—Legalized marijuana for recreational use (Enacted).



MARIJUANA LAWS AS OF 6/30/18





HOT TOPIC—MARKETPLACE CONTRACTORS

In 2018, five states passed legislation defining “marketplace contractor”

- Florida
 - HB 7087
- Indiana
 - HB 1286
- Iowa
 - SF 2257
- Kentucky
 - HB 220
- Tennessee
 - SB 1967



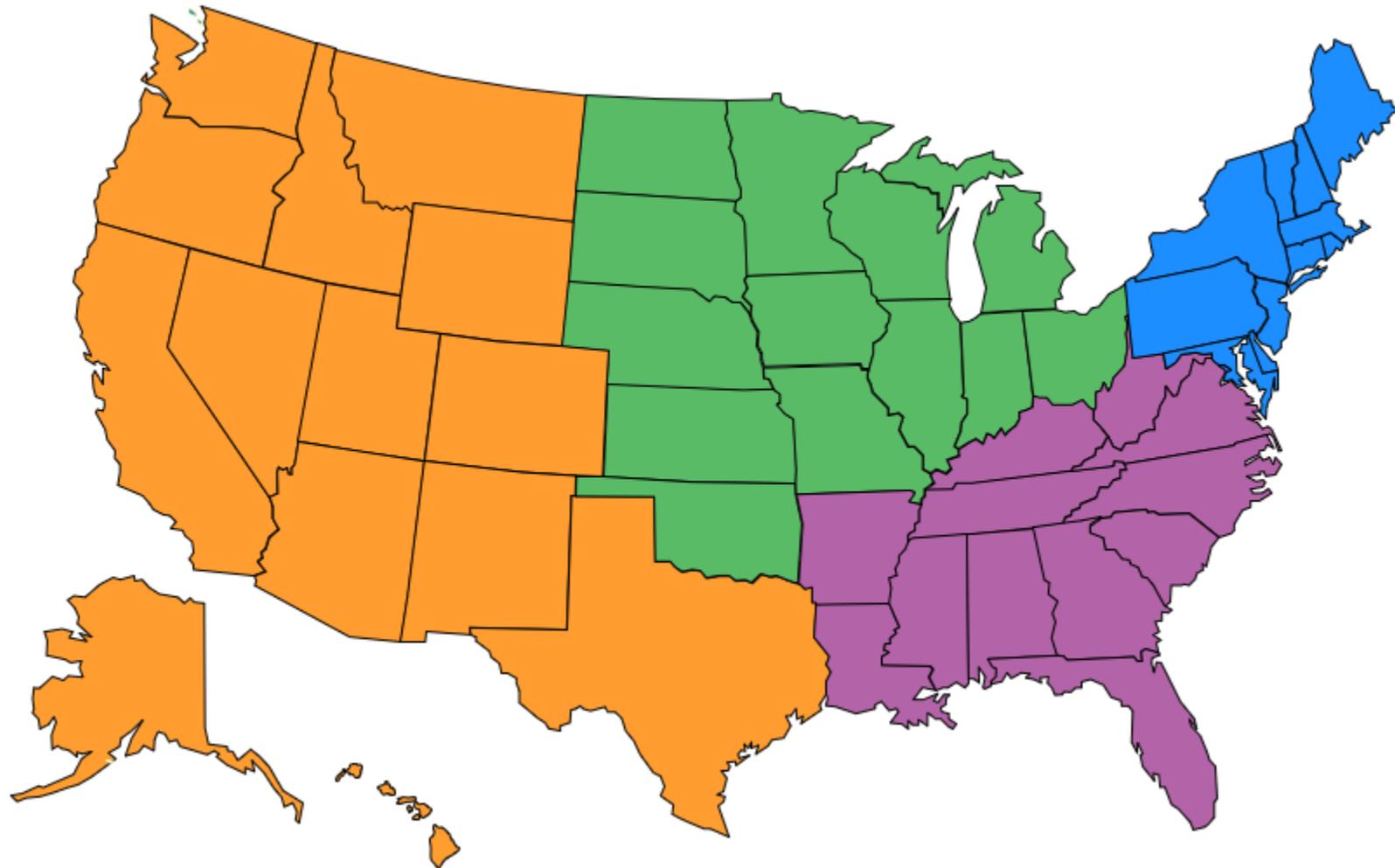
LAW-ONLY FILINGS IN 2018

- Kentucky
 - HB 2—Workers compensation system reform
 - A decrease of 5.3% was approved effective 7/14/2018
- Nevada
 - NRS 616C.495(5)—Adoption of Actuarial Annuity Table
 - An increase of 4.7% was approved effective 3/15/2018
- Federal Tax Cuts and Jobs Act (TCJA)
 - Arizona—A decrease of 4.7% was approved effective 6/1/2018
 - Florida—A decrease of 1.8% was approved effective 6/1/2018
 - Idaho—A decrease of 3.4% was approved effective 6/1/2018
 - Illinois—A decrease of 3.3% was approved effective 6/1/2018
 - Iowa—A decrease of 1.9% was approved effective 6/1/2018



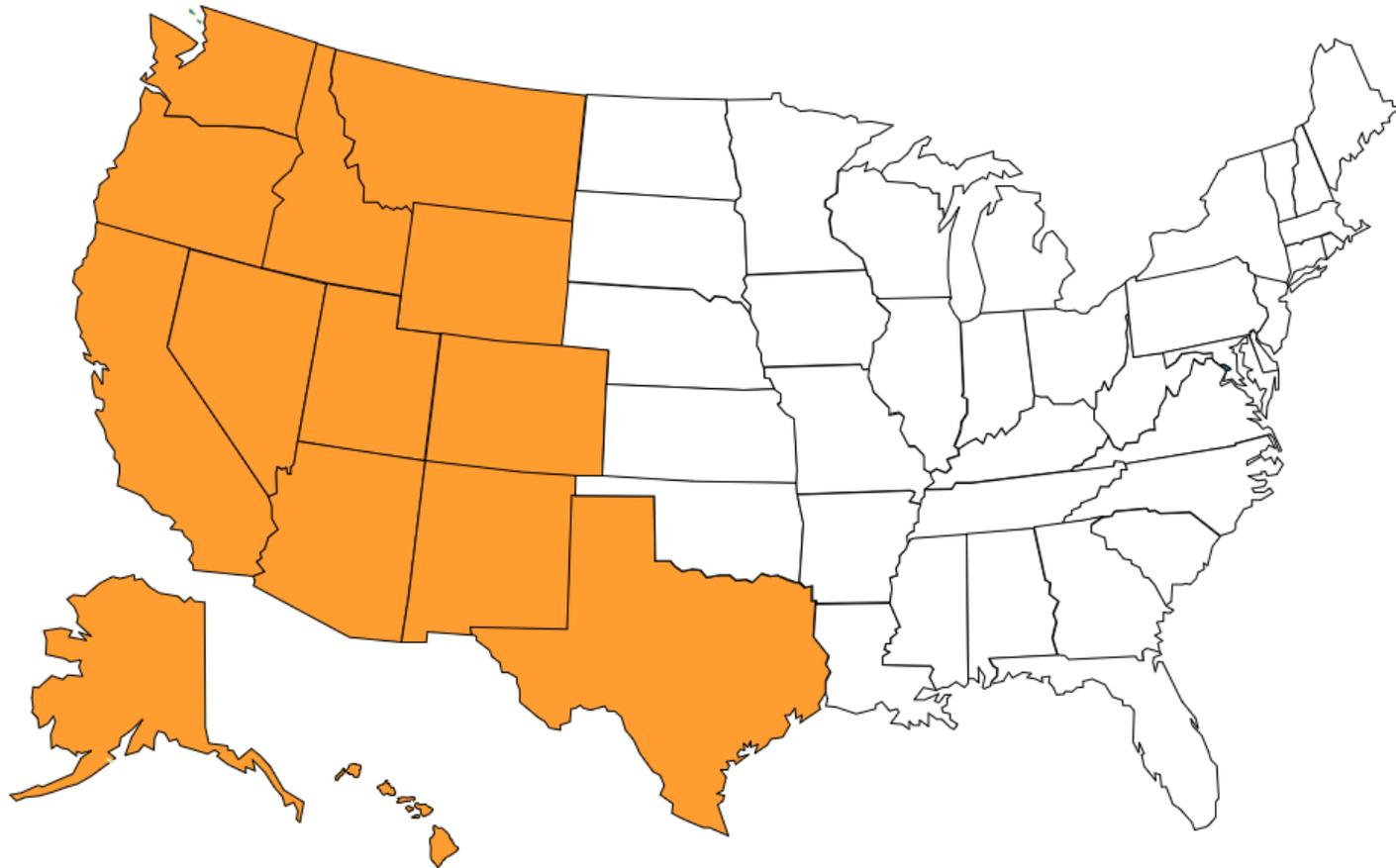


LEGISLATIVE, JUDICIAL, AND OTHER ACTIVITY BY ZONE





WESTERN ZONE





WESTERN ZONE

The Western Zone is comprised of the following states: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming.

New Administrators

Arizona—Keith Schraad, interim Director of the Arizona Department of Insurance

Colorado—Michael Conway, interim Insurance Commissioner, Colorado Division of Insurance

Hawaii—Leonard Hoshijo, Director of the Hawaii Department of Labor and Industrial Relations

Oregon

- Cameron Smith, Director of Oregon Department of Consumer and Business Services
- Andrew Stolfi, Insurance Commissioner, Oregon Division of Financial Regulation

Texas

- Kent Sullivan, Insurance Commissioner, Texas Department of Insurance
- Cassie Brown, Commissioner of Workers' Compensation, Texas Department of Insurance





Highlights From the Western Zone

In the Western Zone, Arizona, Colorado, and Utah enacted relevant workers compensation-related legislation as of June 30. Three states (Montana, Nevada, and Texas) were not in session in 2018.

On the judicial side, decisions in Colorado and Texas addressed air ambulance reimbursement for workers compensation. Both the Federal District Court for the District of Colorado and a Texas state court of appeals ruled that the federal Airline Deregulation Act (ADA) preempts state law. The Texas decision has been appealed and is currently pending in the Texas Supreme Court.

A federal case in Texas (*Air Evac EMS, Inc. v. State of Texas, Department of Insurance*) is still pending in the District Court for the Western District of Texas. In addition to the ADA preemption issue, this case also challenges the workers compensation prohibition against balance billing, which prevents a healthcare provider from pursuing a private claim against a workers compensation claimant.



WESTERN ZONE

Recently Enacted Workers Compensation-Related Legislation in the Western Zone

- Arizona
 - HB 2025—Deviations and schedule ratings
 - HB 2047—Employee definition
 - Beginning July 1, 2019, requires a working member or shareholder with 50% or more ownership interest of an LLC or corporation to opt-in to workers compensation coverage
 - SB 1100—Claim Settlement
 - Modifies requirements for settlement of a claim in which the employee waives future entitlement to benefits on the claim
 - SB 1111—Prescribing, monitoring, and dispensing opioids
- Colorado
 - HB 1308—Exemption for out-of-state employer
 - Establishes exemption from the Workers Compensation Act for out-of-state employers whose employees are temporarily working in Colorado when certain elements are met
 - SB 178—Occupational accident coverage insurance policy requirements for commercial vehicle independent operators
 - Allows commercial vehicle operators to carry private occupational accident insurance instead of workers compensation insurance



■ Utah

■ HB 288—Claiming benefits—interference and retaliation

- Makes it unlawful for an employer to interfere with an employee’s ability to seek workers compensation benefits or retaliate against an employee for seeking workers compensation benefits

■ SB 40—Calculation of benefits paid to one or more dependents

- Modifies calculation of benefits paid to one or more dependents of an employee with a disability

■ SB 64—Hospital reimbursement

- In part, addresses the rate at which certain workers compensation carriers and self-insured employers must reimburse a hospital for covered medical services

■ SB 75—Uninsured employer penalty reduction

- In part, provides circumstances under which the Division of Industrial Accidents may waive or reduce a penalty against an employer for conducting business without securing workers compensation benefits for its employees

■ SB 92—Awarding employee attorney fees

- Provides that, to the extent allowed by court rule, an employee may be awarded reasonable attorney fees in an adjudication of a workers compensation claim where only medical benefits are at issue



Workers Compensation Judicial Decisions of Interest

- Alaska—Attorney Fees
 - *Burke v. Raven Electric, Inc.* (Alaska Supreme Court, May 2018): Held that the statute that bars the assessment of attorney fees against an injured worker in a non-prevailing claim extends to non-prevailing claims by a beneficiary/representative of a deceased claimant (also upheld constitutionality of the exclusive remedy and death benefits statute).
- Colorado—Air Ambulances
 - *Scarlett v. Air Methods Corp.* (United States District Court, District of Colorado, May 2018): Held that the federal Airline Deregulation Act (ADA) is constitutional and preempts state common law principles to determine a reasonable price for air ambulance services.
- Montana—Professional Employer Organizations (PEO)
 - *Ramsbacher v. Jim Palmer Trucking* (Montana Supreme Court, May 2018): Upheld constitutionality of a workers compensation statute that extends exclusive remedy protection to the PEO and the PEO client as the “immediate employers” of an injured PEO employee.
- Texas—Right to Recover From a Third Party
 - *Wausau Underwriters Insurance Co. v. Wedel* (Texas Supreme Court, June 2018): Held that an insurer’s waiver of the right to recover *directly* from a third party that caused work-related injuries also waived *indirect* recovery from the settlement proceeds paid by the liable third party to the injured employee.
- Texas—Air Ambulance Reimbursement
 - *PHI Air Medical, LLC v. Texas Mutual Insurance Co.* (Texas Court of Appeals, January 2018): Ruled that the ADA preempts state workers compensation laws that limit reimbursement rates and implement fee schedules for air ambulance services.
 - A similar ADA preemption case, *Air Evac EMS, Inc. v. State of Texas, Department of Insurance*, is pending in the federal District Court for the Western District of Texas. This case also challenges the workers compensation prohibition against balance billing, which prevents a healthcare provider from pursuing a private claim against a workers compensation claimant.

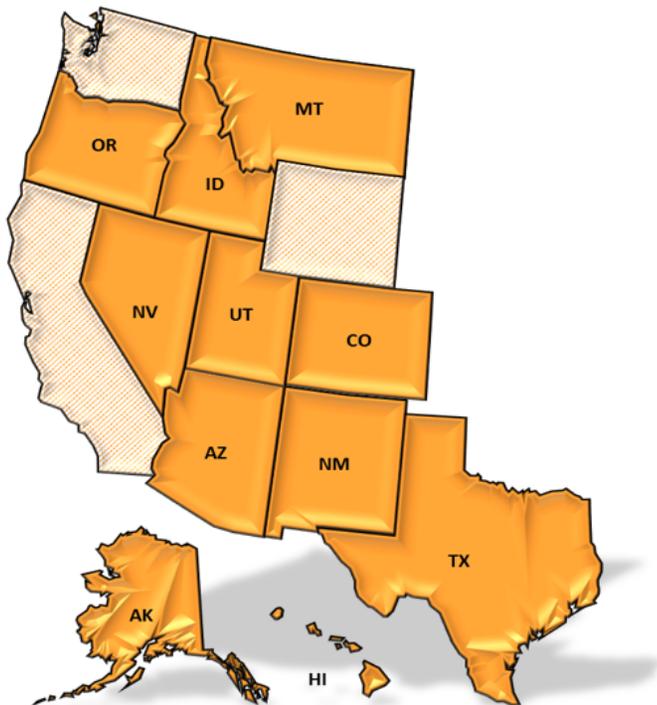




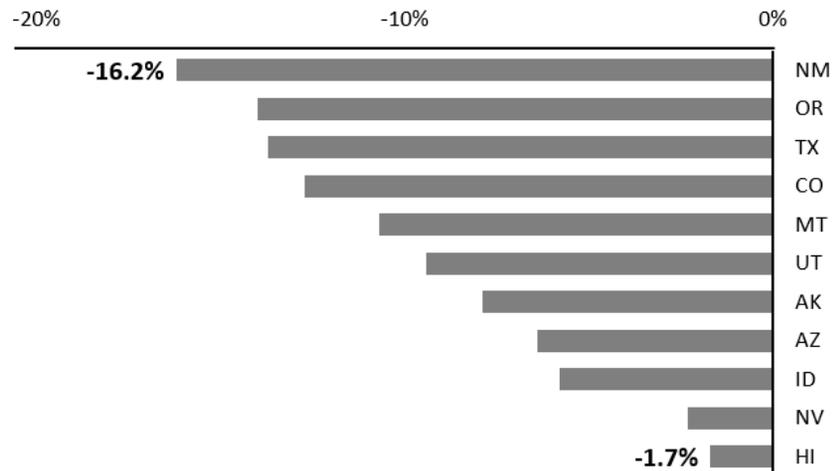
Western Zone

NCCI States Only

Based on the 2017–2018 Rate Filing Season*



Average approved loss cost/rate change:
-9.2%



*See endnotes



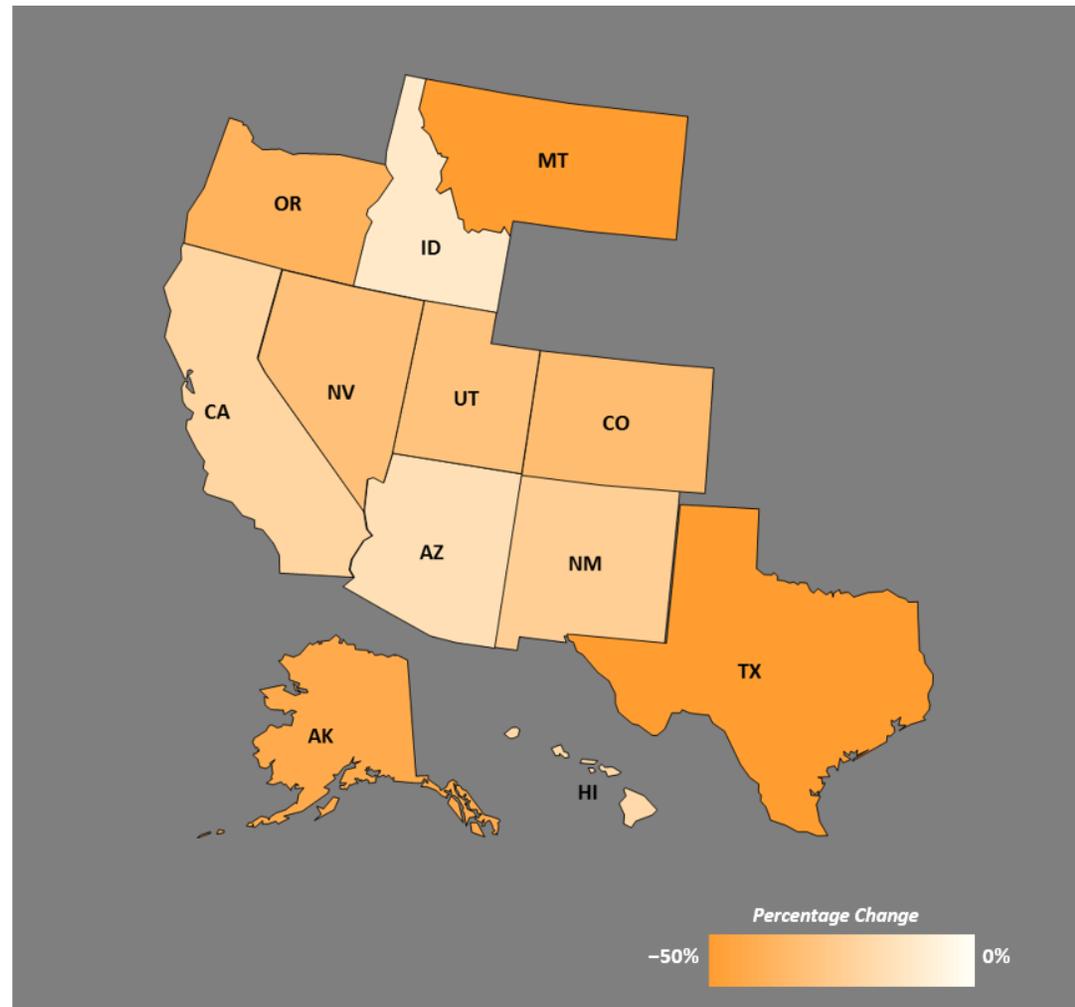
NCCI States Indemnity Percentage of Benefits Western Zone Based on the 2017–2018 Rate Filing Season*



*See endnotes

Cumulative Premium Level Change Since 2008*

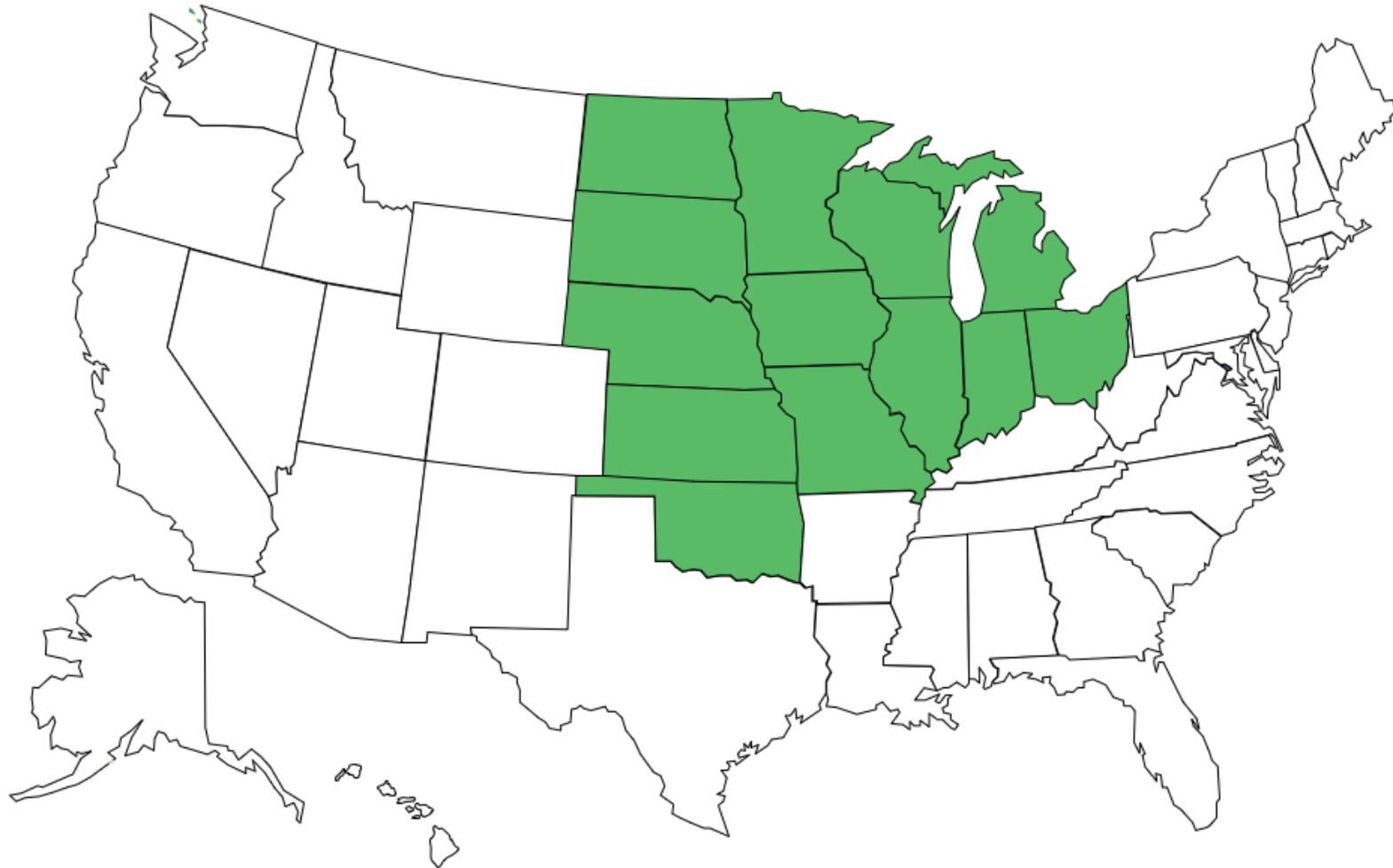
Western Zone



*See endnotes



MIDWESTERN ZONE



MIDWESTERN ZONE

The Midwestern Zone is comprised of the following states: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, and Wisconsin.

New Administrators

Missouri—Mike Parson, Governor

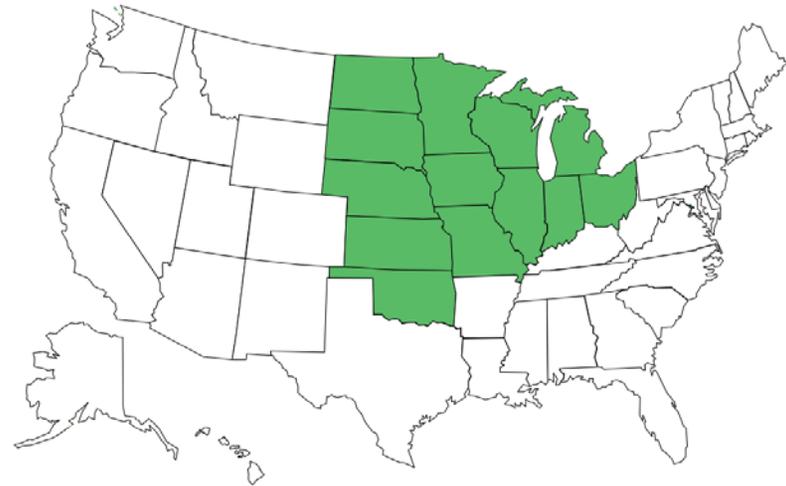
Highlights From the Midwestern Zone

Noteworthy legislation in the Midwestern Zone includes a new workers compensation drug formulary in Indiana and marketplace contractor legislation in Iowa.

In addition, Illinois Senate Bill 1737 passed both houses of the Illinois Legislature in the final hours of the regular session. The bill went to Governor Bruce Rauner (R) on June 29, and he has 60 days to act on it. Gubernatorial action is uncertain at this time.

Some of the key elements of the bill include eliminating the distinction between a “competitive market” and a “noncompetitive market” for purposes of an excessive rate; changing from “use and file” regulatory approach to “prior approval” for classifications, rules, rates, rating plans, and modifications of such; and requiring that carriers provide the director of the Illinois Department of Insurance with supporting information for deviation filings.

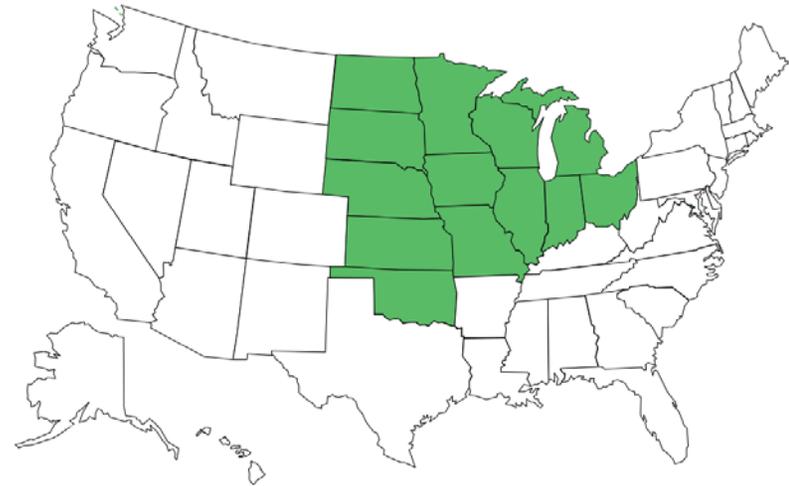
On the judicial side, two states, Kansas and Oklahoma, have addressed challenges to the 6th Edition of the *American Medical Association (AMA) Guides* (Guides). The Kansas Court of Appeals ruled that the workers compensation law requiring use of the 6th Edition of the Guides unconstitutionally deprived the claimant of an adequate remedy for his injury. However, the Oklahoma Supreme Court upheld the constitutionality of a workers compensation statute mandating the use of the “most recent edition” of the Guides to assess impairment.



MIDWESTERN ZONE

Recently Enacted Workers Compensation-Related Legislation in the Midwestern Zone

- Indiana
 - SB 290—Workers compensation reform
 - SB 369—Drug formulary
 - Provides limitations on reimbursement for certain types of drugs known as “N” drugs
- Iowa
 - SF 2257—Marketplace contractors/independent contractors
 - In part, provides that a marketplace contractor shall be treated as an independent contractor and not an employee of a marketplace platform for all purposes under state or local law if certain conditions occur
- Kansas
 - HB 2184—Death benefits
 - Increases certain death and related benefits allowed by the Workers Compensation Act



■ Missouri

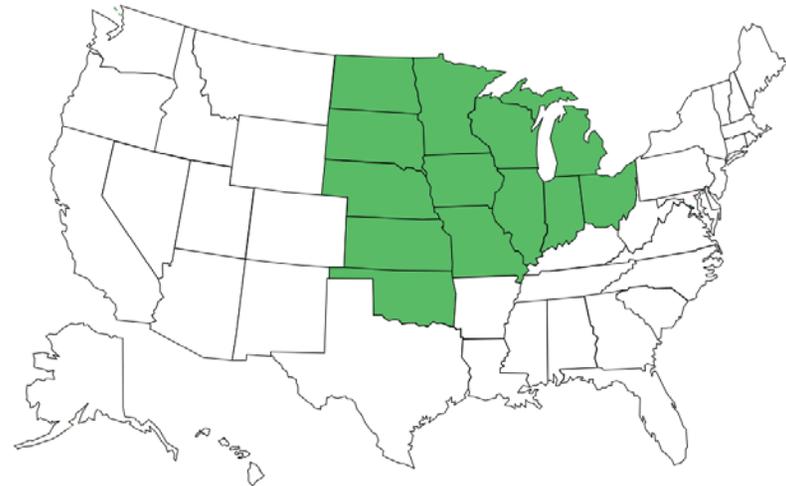
- HB 1719—Creates Professional Employer Organization Act
 - Establishes regulations and registration requirements for PEOs, including, but not limited to, providing that the responsibility to obtain workers compensation coverage shall be specifically allocated in the professional employer agreement to either the PEO or the client; and if the coemployment relationship between a PEO and a client is terminated, the client shall utilize an experience modification rating that reflects its individual experience

■ Nebraska

- LB 953—Settlements
 - Changes provisions relating to lump-sum settlements

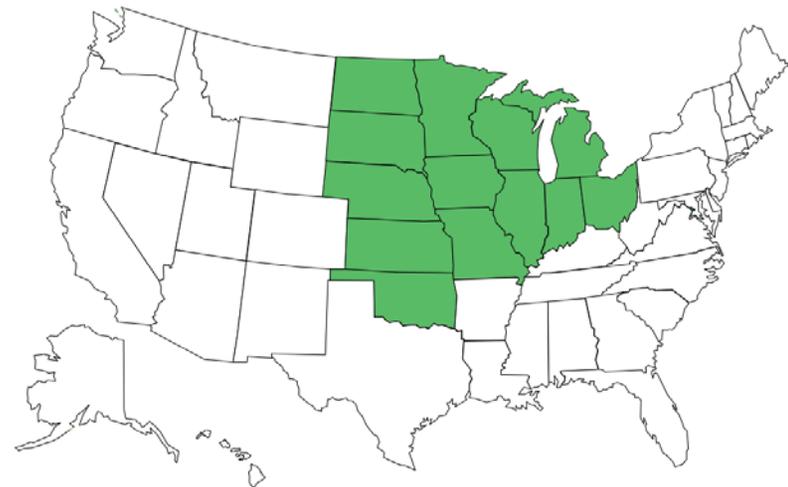
■ Oklahoma

- HB 2722—Exemption of ranching workers
 - Modifies the term “employee” to exclude any person who is employed in ranching if certain criteria are met
- HB 2993—Self-Insurance Guaranty Fund
 - Modifies sources and uses for the Self-Insurance Guaranty Fund
- SB 1249—Affidavit of exemption
 - In part, makes it a misdemeanor punishable by fine to knowingly provide false information on an executed affidavit of exempt status



Workers Compensation Judicial Decisions of Interest

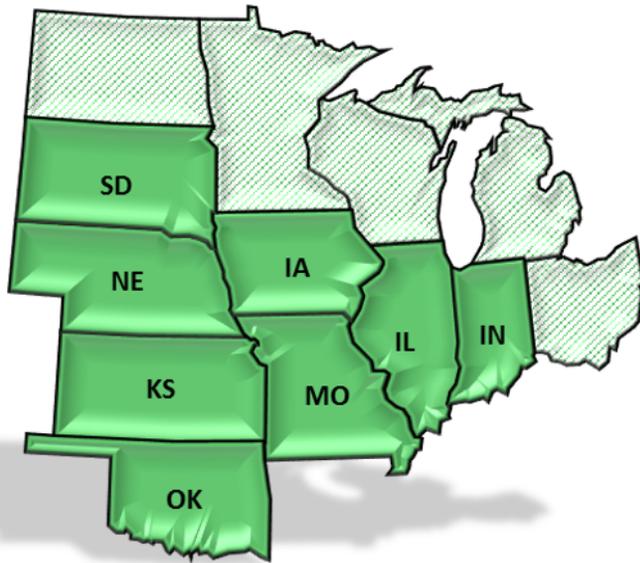
- Kansas—AMA Guides
 - *Pardo v. UPS* (Court of Appeals of Kansas, June 2018): Ruled that the workers compensation law requiring the use of the 6th Edition of the *American Medical Association (AMA) Guides* to rate disability for injuries occurring after 1/1/2015 was unconstitutional as applied to the claimant.
- Kansas—Air Ambulance reimbursement
 - *Eaglemed, LLC v. Travelers Insurance* (Court of Appeals of Kansas, June 2018): ADA preempts Kansas state laws regulating air ambulance charges.
- Kansas—Benefit Offsets
 - *Hamilton v. Walmart* (Court of Appeals of Kansas, March 2018): Upheld a state law requiring that Social Security retirement benefit payments be offset from a compensation award.
- Oklahoma—Challenges to Reform Law
 - *Strickland v. Stephens Production Co.* (Oklahoma Supreme Court, January 2018): Held a portion of a statute which granted automatic exclusive remedy protection to owner/operators of an oil and gas well site is an unconstitutional special law.
- Oklahoma—AMA Guides
 - *Hill v. American Medical Response* (Oklahoma Supreme Court, June 2018): Upheld constitutionality of a workers compensation statute mandating the use of the “most recent edition” of the *AMA Guides* to assess impairment rating.



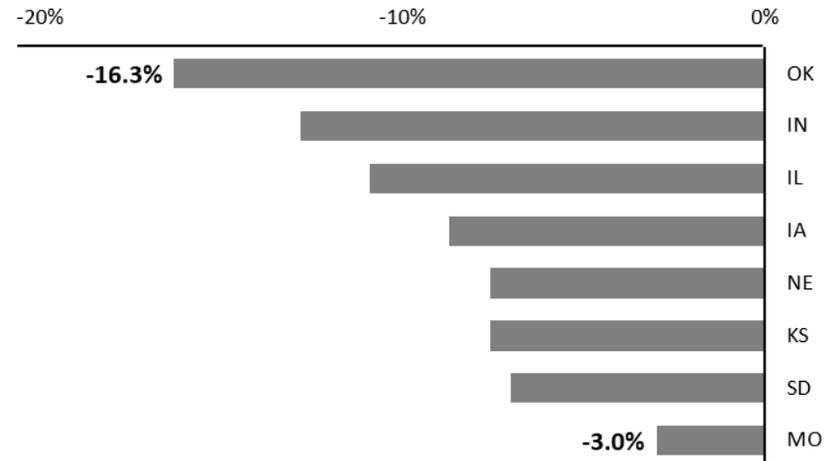
Midwestern Zone

NCCI States Only

Based on the 2017–2018 Rate Filing Season*



Average approved loss cost/rate change:
-9.2%



*See endnotes



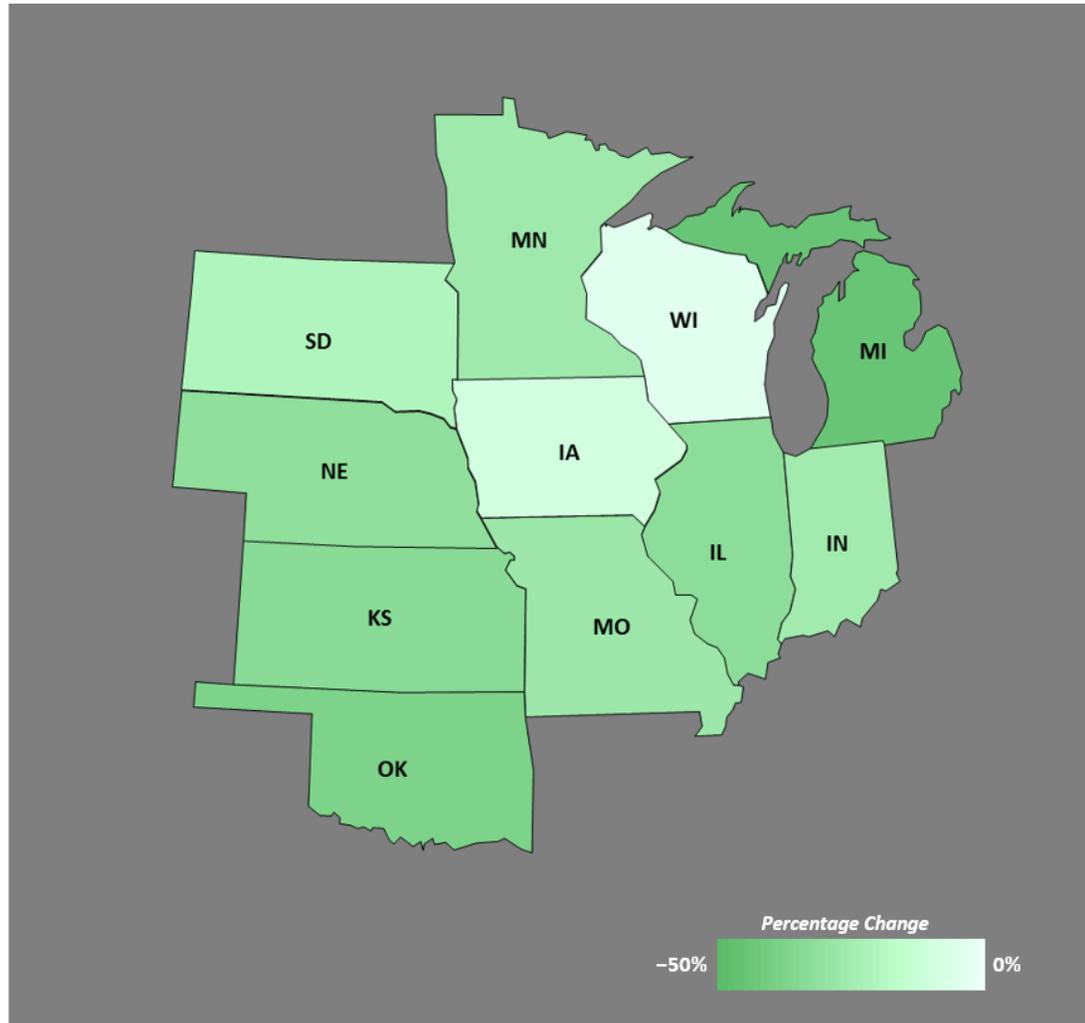
NCCI States Indemnity Percentage of Benefits Midwestern Zone Based on the 2017–2018 Rate Filing Season*



*See endnotes

Cumulative Premium Level Change Since 2008*

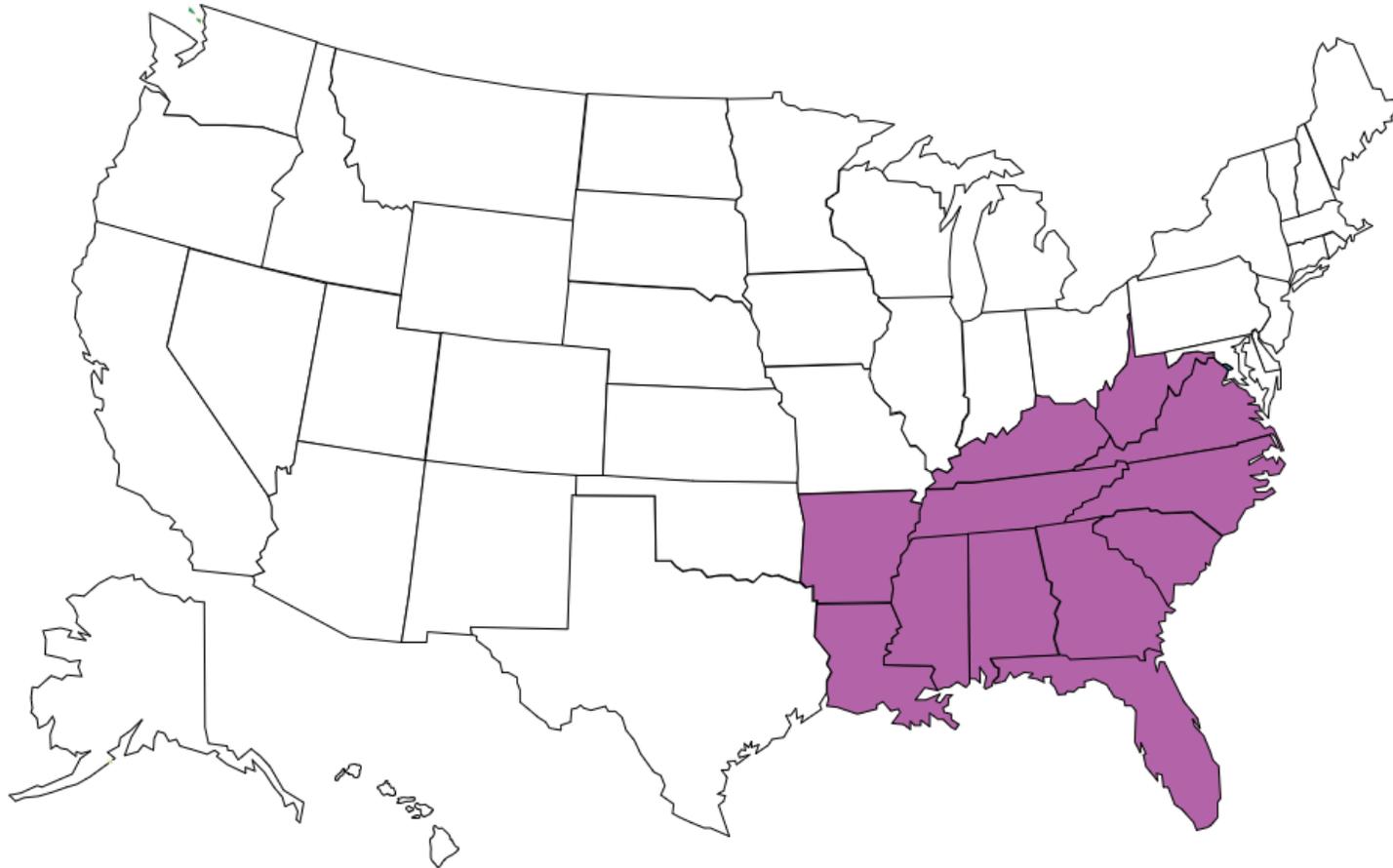
Midwestern Zone



*See endnotes



SOUTHEASTERN ZONE



SOUTHEASTERN ZONE

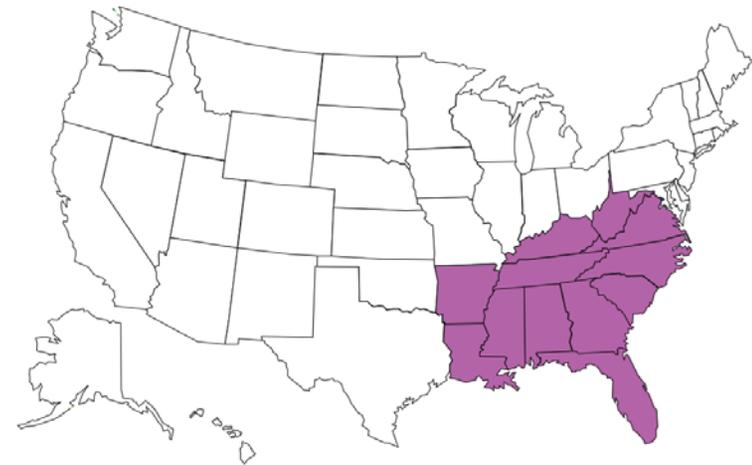
The Southeastern Zone is comprised of the following states: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

New Administrators

Alabama—Steve Garrett, Acting Director, Alabama Department of Labor—Workers’ Compensation Division

Arkansas—David Greenbaum, Chief Executive Officer, Arkansas Workers’ Compensation Commission

Virginia—Scott White, Commissioner of Insurance, Virginia Bureau of Insurance



Highlights From the Southeastern Zone

Of the nine states that considered marketplace contractor legislation this year, five of them were in the Southeastern Zone (Alabama, Florida, Georgia, Kentucky, and Tennessee). The legislation passed in Florida, Kentucky, and Tennessee. Several states also passed legislation related to first responders (Alabama, Florida, and West Virginia).

Kentucky was the only state to pass significant workers compensation reform legislation (House Bill 2) in 2018. The legislation addressed the 2017 Kentucky Supreme Court ruling in *Parker v. Webster County Coal* by eliminating Social Security retirement as the trigger for terminating indemnity benefits. Instead, benefits will terminate at age 70 or four years after the date of injury occurring after age 66.

Kentucky House Bill 2 also changed medical expenses and benefits, created a drug formulary and additional medical treatment guidelines addressing chronic pain management and opioid use. It also increased maximum compensation rates for employee temporary total disability, permanent total disability, and permanent partial disability, improved access to vocational rehabilitation, and made improvements to dispute resolution.

In Florida, the issue of attorney fees in workers compensation was a legislative theme again in 2018. However, the legislature adjourned without any of the proposed bills becoming law.

SOUTHEASTERN ZONE

Recently Enacted Workers Compensation-Related Legislation in the Southeastern Zone

- Alabama
 - HB 192—Law enforcement/firefighter death benefits
 - Provides that the surviving spouse of a law enforcement officer or firefighter killed in the line of duty shall continue to receive workers compensation benefits after remarriage and a surviving dependent child shall continue to receive workers compensation benefits until he or she reaches the age of majority
 - SB 283—Alabama Insurance Guaranty Association
 - Provides for the obligation of the Association to pay covered claims before an order of liquidation of an insolvent insurer, to raise the statutory cap for statutory benefits available for a covered claim from \$150,000 to \$300,000, and to provide for an aggregate cap
- Florida
 - HB 7087—Marketplace contractors/independent contractors
 - Provides that a marketplace contractor is considered an independent contractor of the marketplace platform for purposes of state and local laws, regulations, and ordinances, including the Workers Compensation Law, if certain conditions are met



- SB 376—Compensability of PTSD for first responders
 - In part, provides that, under certain circumstances, PTSD suffered by a first responder is an occupational disease compensable by workers compensation benefits, specifies the evidentiary standard for demonstrating such disorder, and specifies that benefits do not require a physical injury and are not subject to certain apportionment or limitations
- Georgia
 - HB 760—Notice of reduction in coverage
 - In part, clarifies notification required for reduction in coverage
 - HB 878—Policy cancellation
 - In part, changes certain provisions regarding cancellation of an insurance policy by an insured
- Kentucky
 - HB 2—Workers compensation reform
 - HB 220—Marketplace contractors/independent contractors
 - Establishes criteria in which a marketplace contractor shall not be deemed to be an employee of a marketplace platform
 - HB 323—Fraud
 - Amends insurance fraud provisions
 - HB 388—Deductibles and assessments
 - In part, defines “deductible program adjustment” and specifies items to be considered on policies with provision for deductibles; clarifies when assessments for the coal workers pneumoconiosis fund cease and when the fund is abolished



- Louisiana

- HB 579—Employer/Insurer not obligated to pay for medical marijuana
 - In part, stipulates that employers and their workers compensation insurers shall not be obligated or ordered to pay for recommended or prescribed medical marijuana in claims arising under present law relative to workers compensation

- Tennessee

- HB 2304—Attorney/Legal fees
 - Revises provisions governing attorney fees and costs in certain workers compensation claims cases
- SB 1615—Workers compensation insurer requirements
 - Deletes requirement that every workers compensation insurer that provides insurance for Tennessee workers compensation claims or self-insured employers maintain a claims office or contract with a claims adjuster located within Tennessee
- SB 1967—Marketplace contractors/independent contractors
 - Specifies that a marketplace contractor is an independent contractor and not an employee of the marketplace platform for all purposes under state and local laws, rules, ordinances, and resolutions if certain conditions are set forth in a written agreement
- SB 2141—Agricultural workers
 - Allows farm and agricultural employers to accept the workers compensation law by purchasing a workers compensation insurance policy; allows a farm or agricultural employer to withdraw acceptance of the law at any time by cancelling or not renewing the policy and providing notice to its employees



- Virginia
 - HB 82—Uninsured Employer’s Fund
 - Repeals clause that provides that the maximum tax rate that may be assessed on uninsured or self-insured employers for the purpose of funding workers compensation benefits awarded against such employers from the Uninsured Employer’s Fund will revert from 0.5% to 0.25% on July 1, 2018
 - HB 531—Proof of coverage information
- West Virginia
 - SB 82—Rebuttable presumptions for firefighters
 - Includes rebuttable presumptions for certain injuries and diseases for professional firefighters
 - SB 625—Volunteer fire departments
 - Amends provisions regarding surcharges on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments and emergency medical services; requires study and report from the insurance commissioner regarding issues related to workers compensation for volunteer and part-volunteer fire departments



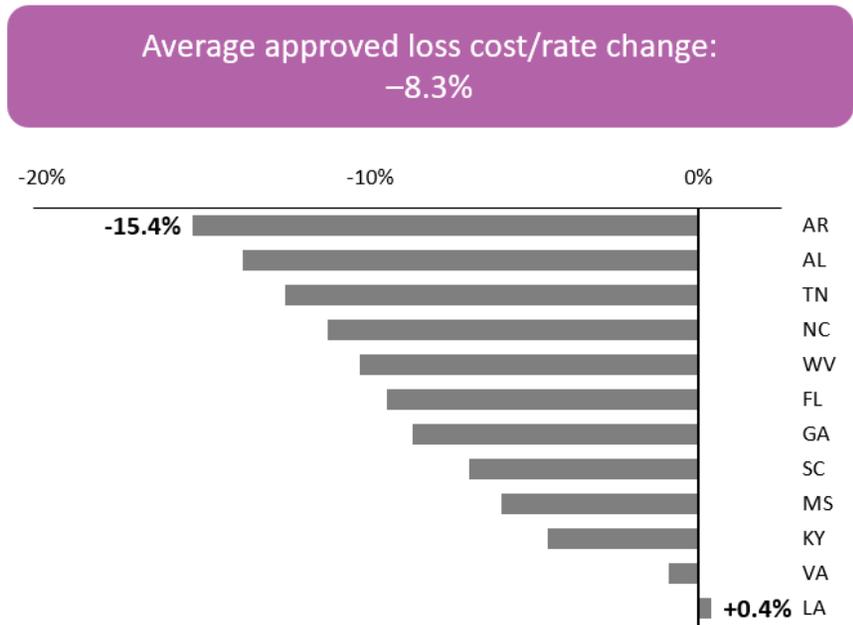
Workers Compensation Judicial Decisions of Interest

- Arkansas—Attorney Fee Challenges
 - *Arkansas Game and Fish Commission v. Gerard* (Arkansas Supreme Court, March 2018): Ruled that the employer/carrier is responsible for the full award of attorney fees, including the portion commonly paid by the claimant, when the benefit-offset statute reduced the claimant’s receipt of indemnity benefit payments to \$0

Southeastern Zone

NCCI States Only

Based on the 2017–2018 Rate Filing Season*



*See endnotes



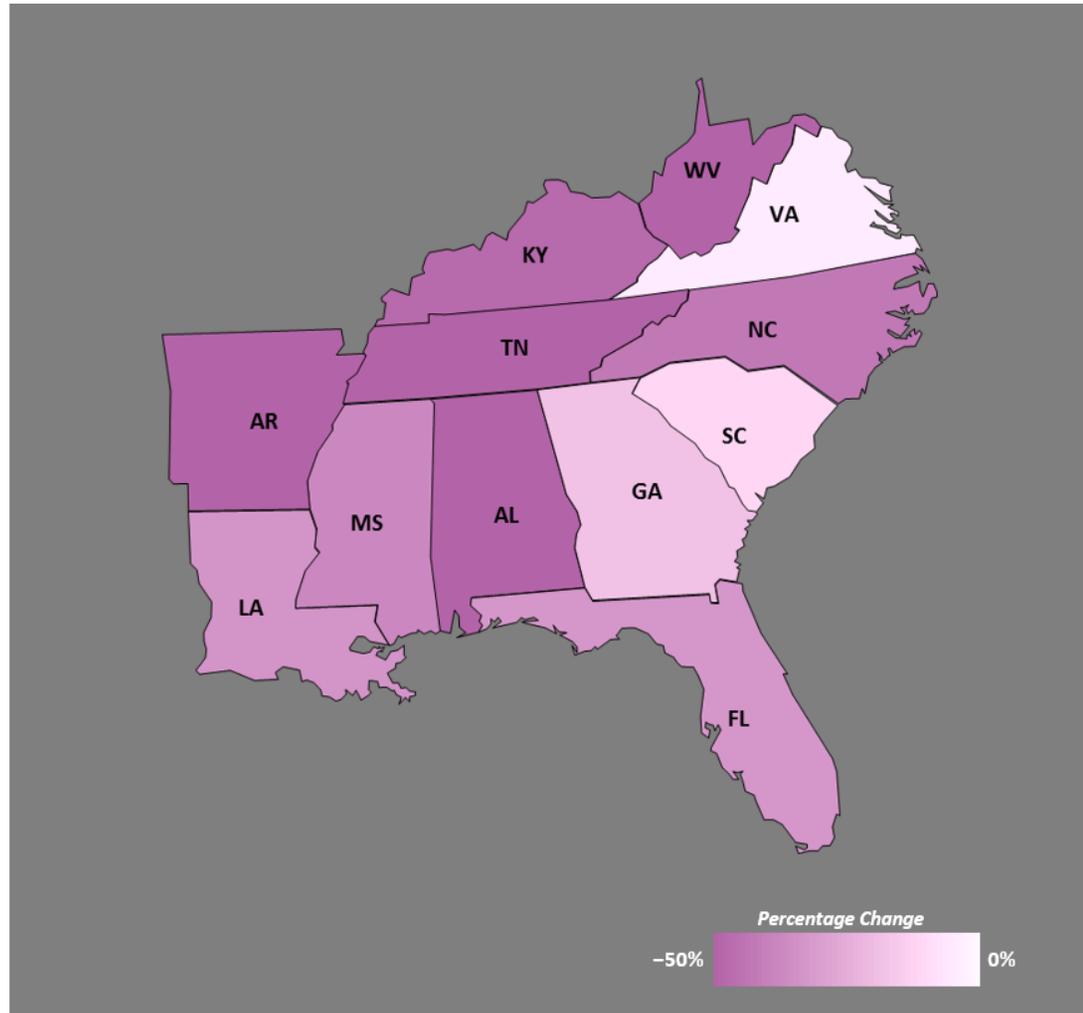
NCCI States Indemnity Percentage of Benefits Southeastern Zone Based on the 2017–2018 Rate Filing Season*



*See endnotes

Cumulative Premium Level Change Since 2008*

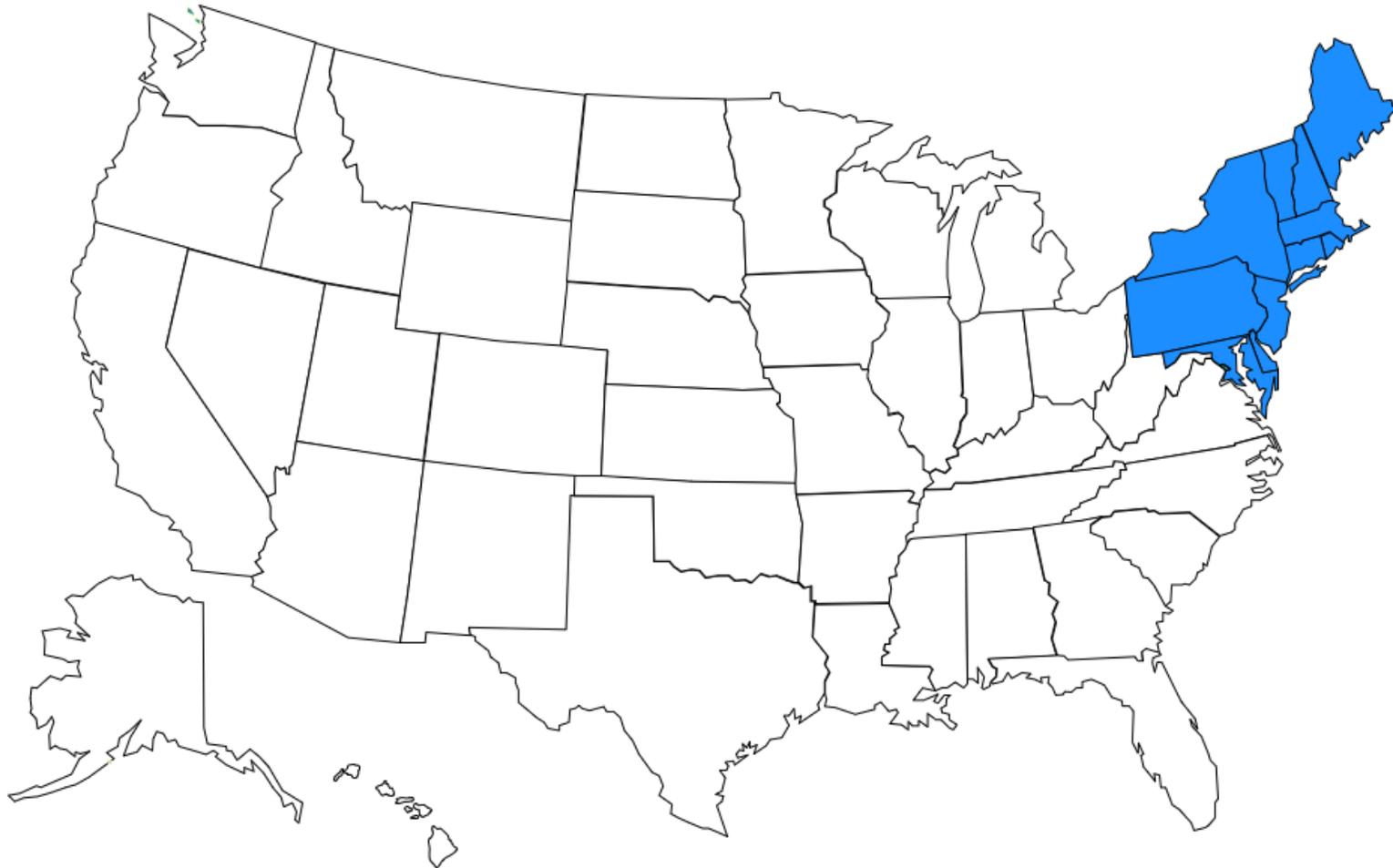
Southeastern Zone



*See endnotes



NORTHEASTERN ZONE



NORTHEASTERN ZONE

The Northeastern Zone is comprised of the following jurisdictions: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

New Administrators

Connecticut

- Stephen Morelli, Chairman, Connecticut Workers' Compensation Commission
- Kurt Westby, Commissioner, Connecticut Department of Labor

New Hampshire—John Elias, Commissioner, New Hampshire Insurance Department



Highlights From the Northeastern Zone

In addition to Vermont's passage of House Bill 511, which legalized the recreational use of marijuana, several states in the Northeastern Zone grappled with the issue of medical marijuana reimbursement under workers compensation. The Maine Supreme Court recently ruled that employers are not required to reimburse for marijuana as a workers compensation treatment. The court determined that because marijuana remains illegal under the federal Controlled Substances Act, Maine's medical marijuana law is preempted and cannot be used as the basis to require reimbursement.

A similar case was pending before the Connecticut Supreme Court (*Petrini v. Marcus Dairy, Inc.*) reviewing a workers compensation commission decision that the use of medical marijuana is reimbursable and constitutes reasonable and necessary medical treatment. However, the case was settled in March before the Court rendered a decision.

The Vermont Department of Labor has also denied reimbursement for marijuana treatment for a workers compensation claimant, finding that although marijuana would constitute necessary medical treatment, the state medical marijuana law should not be construed to require employers to reimburse for the cost of medical marijuana.

NORTHEASTERN ZONE

Recently Enacted Workers Compensation-Related Legislation in the Northeastern Zone

- Maryland
 - HB 205/SB 48—Enhanced Permanent Partial Disability (PPD) benefits for correctional officers
 - Provides for enhanced workers compensation benefits for a state correctional officer for a compensable PPD of less than 75 weeks
 - HB 1499—Fraud reporting and investigation
 - HB 1500/SB 979—Subsequent Injury Fund and third-party damages
- Maine
 - LD 1888—Group self-insurance requirements
- New Hampshire
 - HB 407—Coverage for prophylactic treatment
 - Requires workers compensation to cover prophylactic treatment for an identified occupational exposure
 - HB 1740—Costs of certain blood testing orders
 - Clarifies the provision of law relating to the costs of blood testing orders when certain individuals have been exposed to another person’s bodily fluids



- Rhode Island
 - H 8215/S 2924—Waiver of claim of common law rights/Payments to employees of uninsured employers
 - In part, allows all corporate and limited liability officers to waive their previously claimed common law right of action
- Vermont
 - H 731—Retaliation and assessments



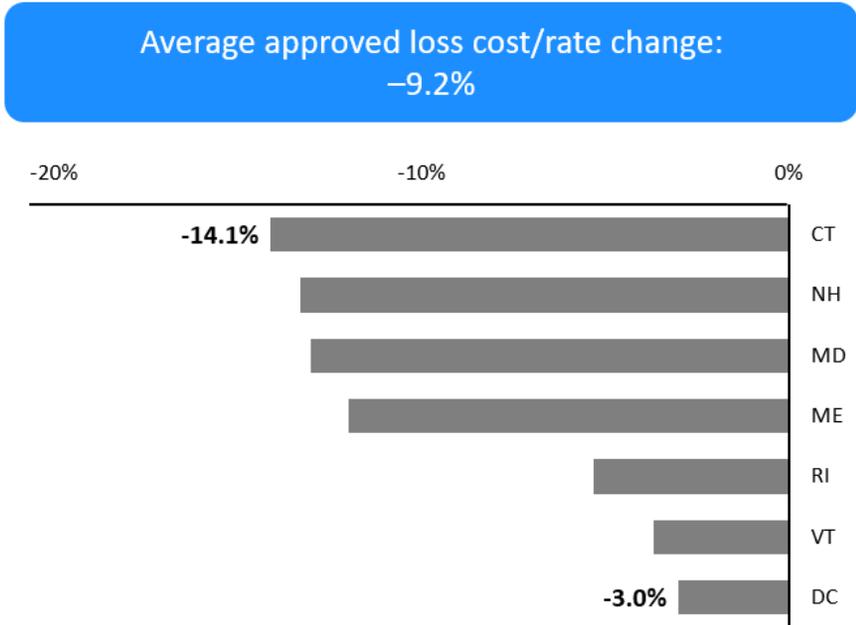
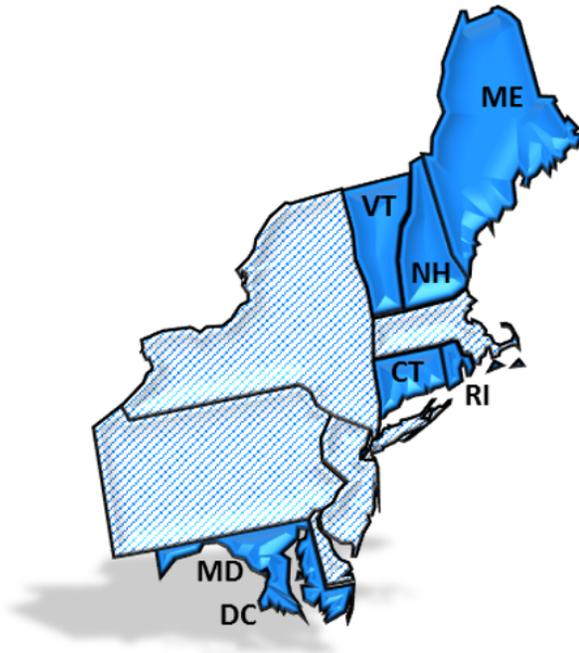
Workers Compensation Judicial Decisions of Interest

- Maine—*Bourgoin v. Twin Rivers Paper Co.* (Maine Supreme Court, June 2018): Held that an employer is not required to reimburse for medical marijuana as a workers compensation treatment.
- Vermont—*Hall v. Safelite Group, Inc.* (Vermont Department of Labor and Industry, March 2018): Denied reimbursement for marijuana treatment to a workers compensation claimant.
- New York—*Vornado Realty* (New York Workers’ Compensation Board, May 2018): Board held that it has the authority to require that insurers reimburse for marijuana as a workers compensation treatment when marijuana is prescribed by a certified medical provider.
- Vermont—Workers Compensation for Interns and Volunteers
 - *Lyons v. Chittenden Central Supervisory Union* (Vermont Supreme Court, March 2018): Held that student teaching experience required to obtain a state license is considered “wages” so as to qualify an unpaid student teaching intern as a “worker or employee” eligible for workers compensation.
 - *Perrault v. Chittenden County Transportation Authority* (Vermont Supreme Court, May 2018): Held that a driver providing public transportation services was a volunteer and not an employee eligible for workers compensation benefits. The driver’s receipt of per-mile payment for services constituted a reimbursement of expenses and did not qualify as “wages.”

Northeastern Zone

NCCI States Only

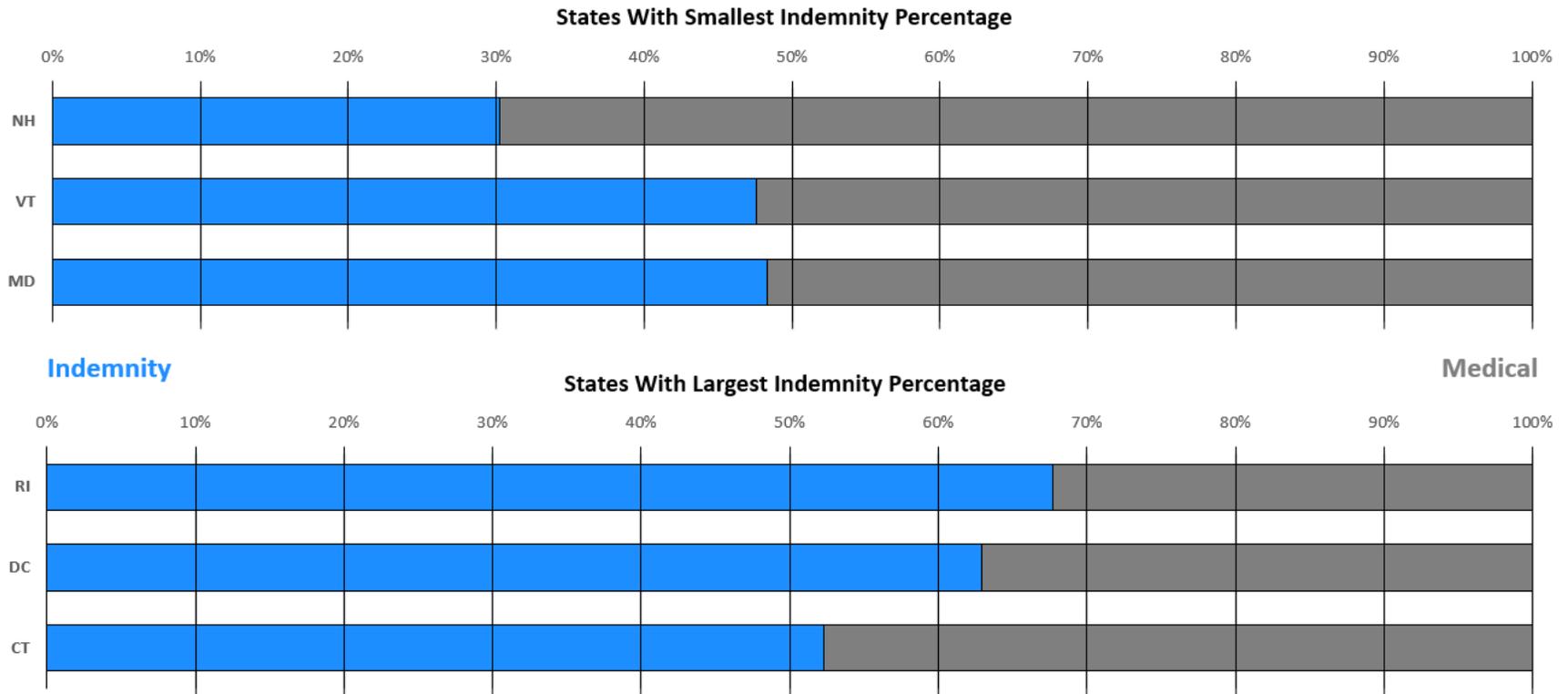
Based on the 2017–2018 Rate Filing Season*



*See endnotes



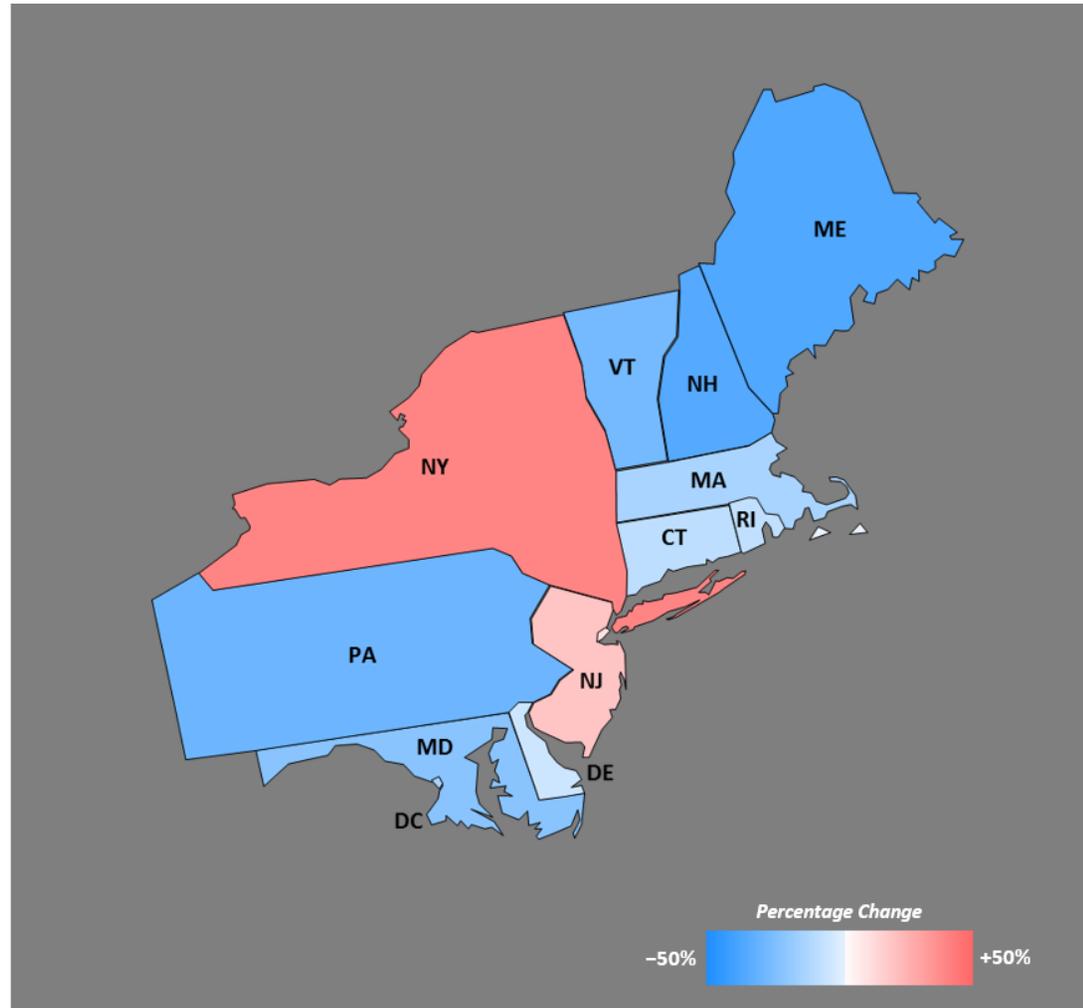
NCCI States Indemnity Percentage of Benefits Northeastern Zone Based on the 2017–2018 Rate Filing Season*



*See endnotes

Cumulative Premium Level Change Since 2008*

Northeastern Zone



*See endnotes



LEGISLATIVE RESOURCES



[About Us](#) | [Careers](#) | [Contact Us](#) | [Learning Center](#) | [Log In](#) | [My Profile](#) ▼

Data Reporting

Industry Information

Residual Markets

Underwriting

Agents/Brokers

Search... 🔍

REGISTER NOW!
STATE ADVISORY
FORUMS
2018

NOW PAPERLESS!

Gain State
Insight

View
Legislative
Activity

View PEO
Information

Get a Rate

Access
Circulars

Access
Manuals

TOOLS

- Annual Statistical Bulletin
- Circulars
- Excess Loss Factors
- Loss Development Exhibits
- Manuals Library
- Residual Market Expiration List
- State Insight
- WorkComp Workstation

REGULATORY & LEGISLATIVE ACTIVITIES



- Legislative Activity **Updated**
- Terrorism Risk Insurance Act
- Federal Issues
- Professional Employer Organizations (PEO)

RESEARCH

LEARNING CENTER

- State of the Workers Compensation Line 2018
- Watch NCCI President and CEO Bill Donnell's Complete Presentation from AIS 2018
- Manuals Library - Webinar on Demand
- State Insight - Webinar on Demand
- NCCI Ratemaking: How Fresh is the Data? - Webinar on Demand

[Complete Listing](#)



Legislative Activity



LEGISLATIVE ACTIVITY WEEKLY REPORT

The **Legislative Activity Report** contains descriptions and/or excerpts of relevant workers compensation-related 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 is included in the first report published each month. The report includes bills from states where NCCI provides ratemaking services and the US Congress.

The **Legislative Activity Report** is published weekly if and when bills have met the criteria to be included in the report.

- [Weekly Report—Legislative Activity—RLA-2018-26 \(PDF\)](#)
New

2018
[Archive](#)

2017
[Archive](#)



ENACTED LEGISLATION REPORT

The Enacted Legislation Report contains descriptions and/or excerpts of relevant workers compensation-related bills enacted year to date as of the publication date of the report. The report includes bills from states where NCCI provides ratemaking services and the US Congress.

This report will be published monthly throughout the legislative season if and when new bills have been enacted.



LEGISLATIVE ANALYSIS

One of NCCI's core services is providing cost analyses of proposed legislation. Completed NCCI cost analyses of enacted legislation for states where NCCI provides ratemaking services are available below.

Cost Analysis by state:



Select a State

Disclaimer

NCCI's estimated cost impact of this enacted legislation or effective change in workers compensation benefit costs is preliminary. NCCI's final estimated impact may differ from what is provided in this analysis based on additional information that becomes available or if data necessary to analyze provisions that were not explicitly quantified previously becomes available.

Related Links

- [State Insight](#)

Submit Questions

Questions regarding any item on the Legislative Activity Page?

Please email:
Legislative_Activity@ncci.com



WORKERS COMPENSATION INSIGHTS

Workers Compensation

INSIGHTS

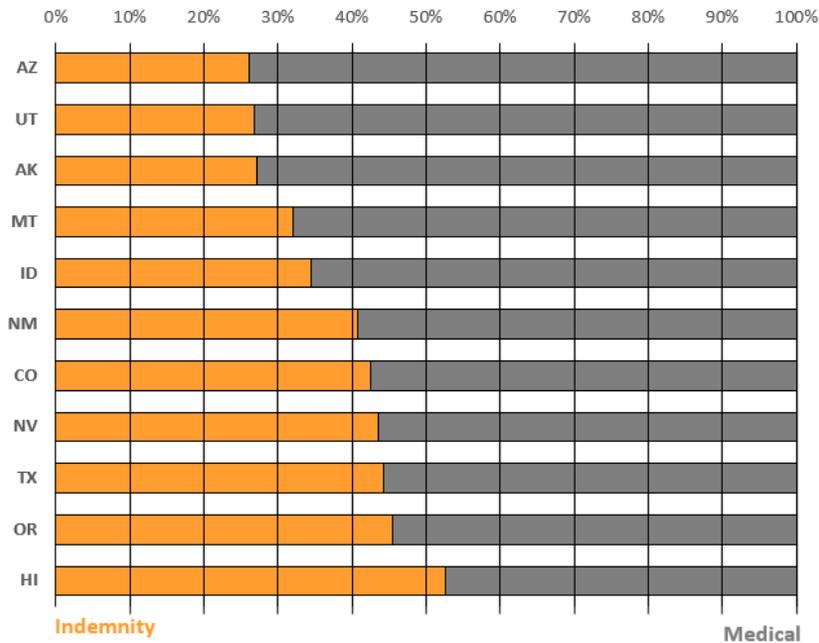
Introducing a new online source for cutting-edge research, thought-provoking articles, and unmatched analysis.

Find it at ncci.com/Insights

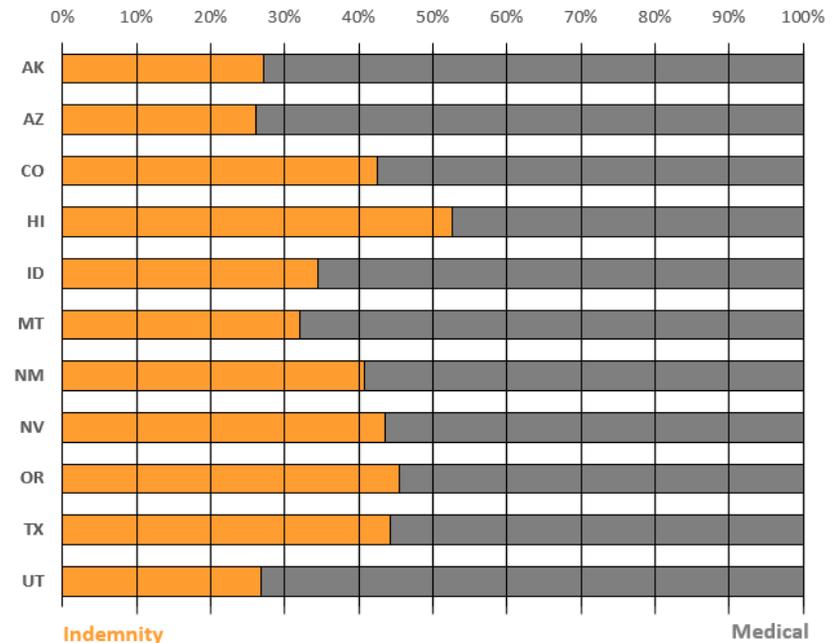


NCCI States Indemnity Percentage of Benefits Western Zone Based on the 2017–2018 Rate Filing Season*

Sorted By Indemnity Percentage



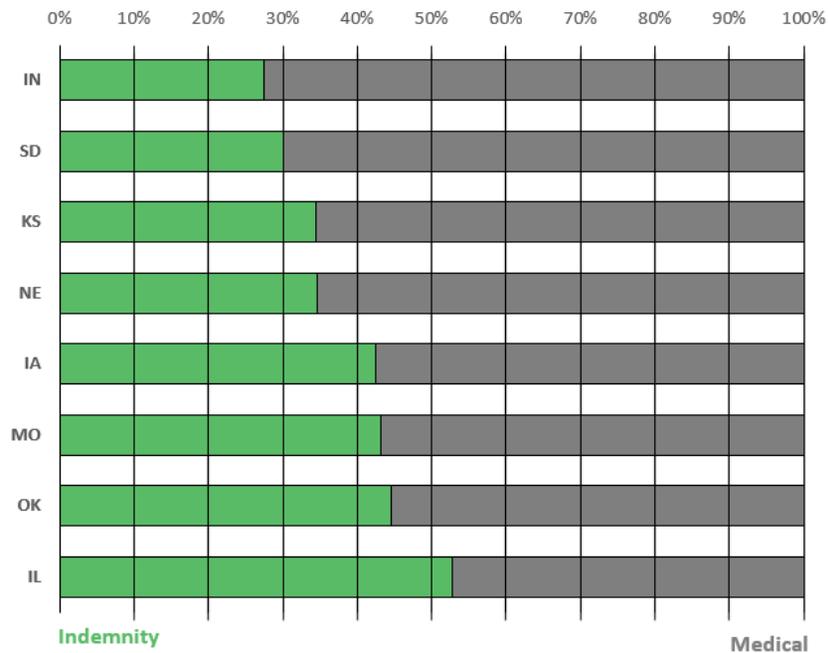
Sorted Alphabetically by Abbreviation



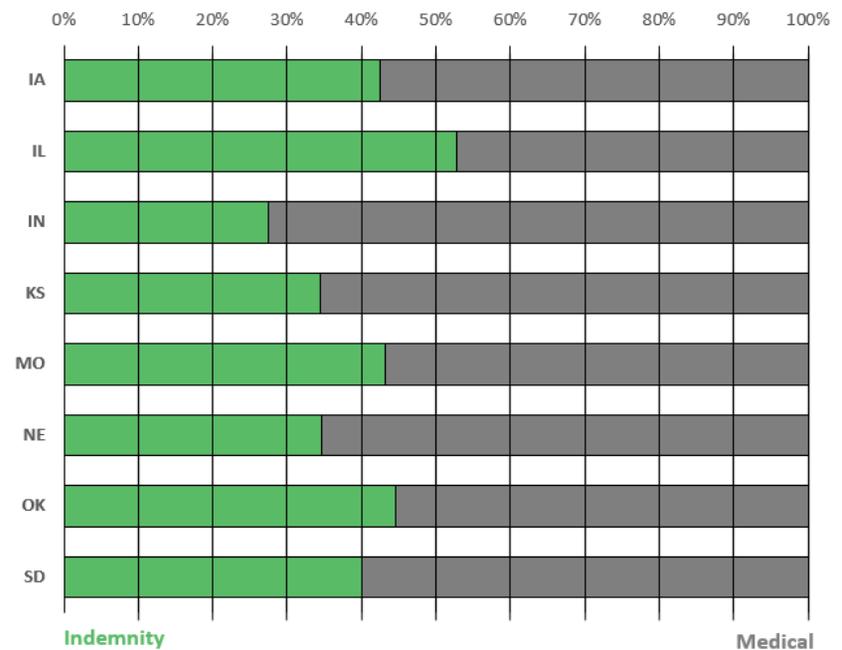
*See endnotes

NCCI States Indemnity Percentage of Benefits Midwestern Zone Based on the 2017–2018 Rate Filing Season*

Sorted By Indemnity Percentage



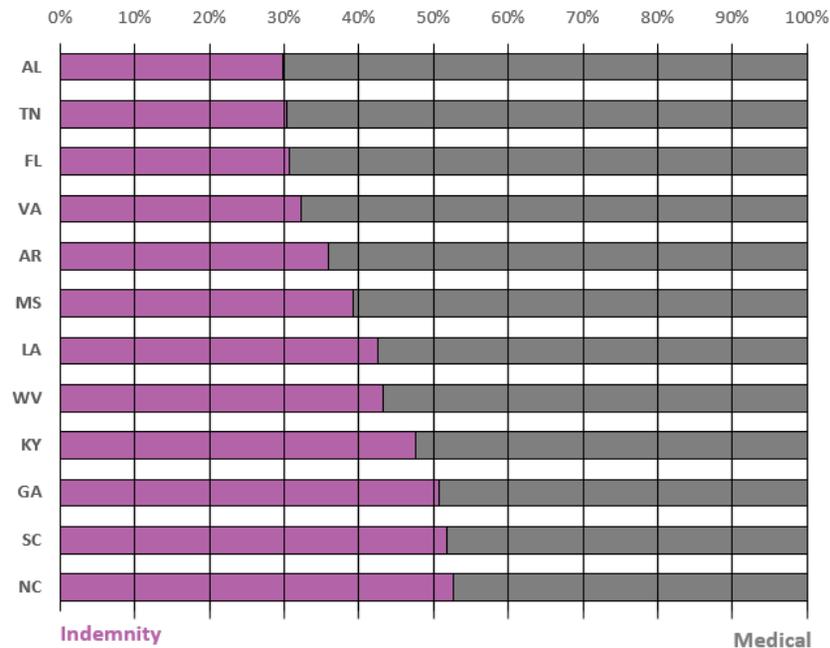
Sorted Alphabetically by Abbreviation



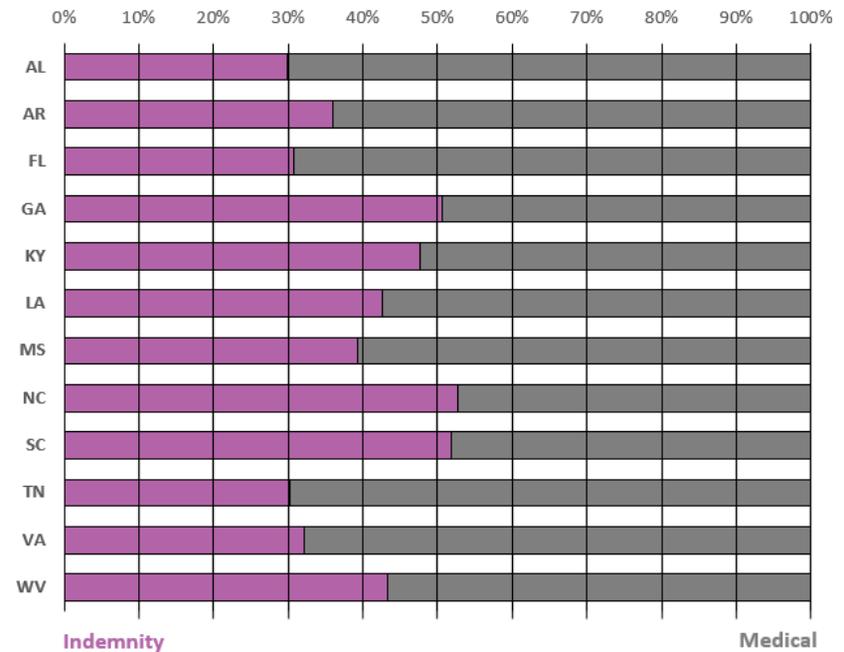
*See endnotes

NCCI States Indemnity Percentage of Benefits Southeastern Zone Based on the 2017–2018 Rate Filing Season*

Sorted By Indemnity Percentage



Sorted Alphabetically by Abbreviation

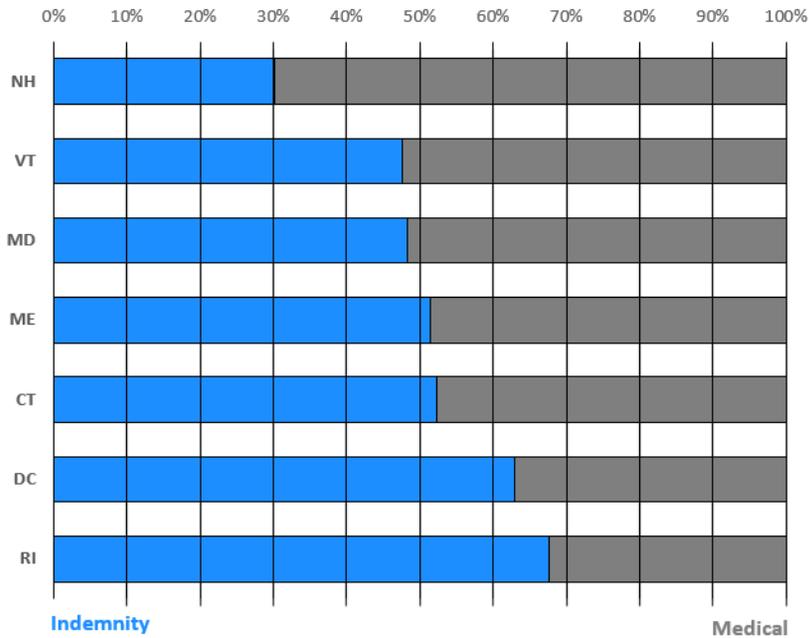


*See endnotes

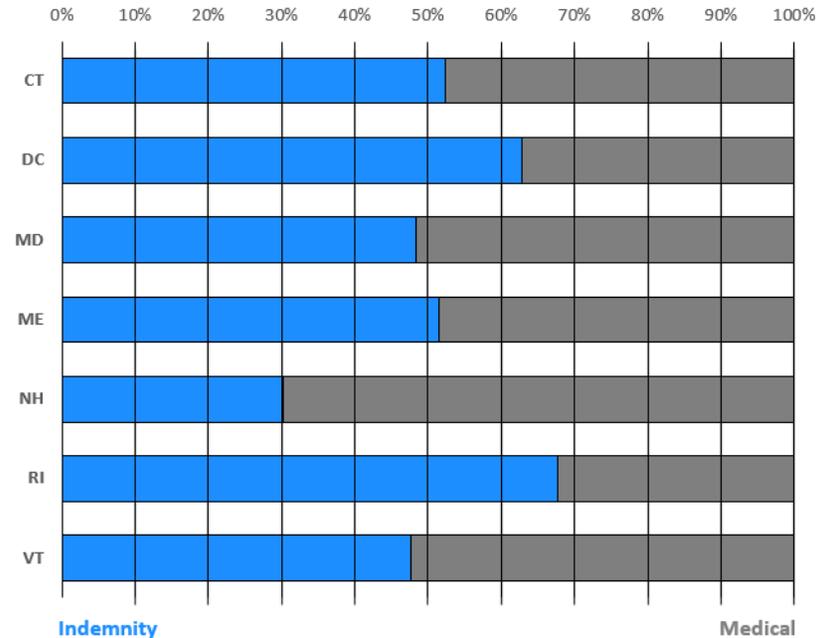


NCCI States Indemnity Percentage of Benefits Northeastern Zone Based on the 2017–2018 Rate Filing Season*

Sorted By Indemnity Percentage



Sorted Alphabetically by Abbreviation



*See endnotes



ENDNOTES

Loss Cost/Rate Changes by Zone

Source: NCCI financial data evaluated as of December 31, 2016.

2017–2018 Rate Filing Season refers to experience filings with effective dates between October 1, 2017, and September 1, 2018.

Included in relevant zones are North Carolina and Indiana, which are independent bureau states where NCCI provides actuarial services.

Average change for each zone reflects a straight average of state changes.

All changes reflect changes to the Voluntary Market.

The changes for Arizona, Florida, Idaho, Illinois, Indiana, and Iowa are Voluntary Rate changes.

Indemnity Percentage of Benefits by Zone

2017–2018 Rate Filing Season refers to experience filings with effective dates between October 1, 2017, and September 1, 2018.

Included in relevant zones are North Carolina and Indiana, which are independent bureau states where NCCI provides actuarial services.

Cumulative Premium Level Change Since 2008 by Zone

Includes all approved experience and law-only premium level changes effective since January 1, 2008, as of June 30, 2018.

Source: NCCI's 2018 *Annual Statistical Bulletin*, Exhibit 2, updated for approved changes as of June 30, 2018.

Excludes monopolistic states.



APPENDIX

Below is a list of references where additional information can be found on **ncci.com**.

- Frequency and Severity: Frequency and Severity Results by State
www.ncci.com/Articles/Pages/II_Frequency-Severity.aspx
- Summary of Voluntary Loss Cost/Rate Filing Information by State
www.ncci.com/Articles/Pages/II_Summary_Filing_Information_by_State.aspx
- Underwriting Results by State
www.ncci.com/Articles/Pages/II_Underwriting_Results_by_State.aspx
- Residual Market Management Summary
www.ncci.com/Articles/Pages/RM_ResidualMarketManagementSummary.aspx
- Residual Market State Activity Reports
www.ncci.com/Articles/Pages/RM_ResidualMarketStateActivityReports.aspx
- State Insight
www.ncci.com/ServicesTools/Pages/STATEINSIGHT.aspx
- State Advisory Forums
www.ncci.com/Articles/Pages/II_StateAdvisoryForums.aspx
- Circulars
www.ncci.com/ServicesTools/Pages/CIRCULARS.aspx

This report is provided solely as a reference tool to be used for informational purposes only. The information in this report shall not be construed or interpreted as providing legal or any other advice. Use of this report for any purpose other than as set forth herein is strictly prohibited.