

Order 91-8

Workers compensation rate filing made by the national council on compensation insurance

February 8, 1991

On the 9th day of January, 1991, a hearing commenced in the hearing room of the Arkansas Insurance Department at the University Tower Building, Little Rock, Arkansas, pursuant to the provisions of Arkansas Code Annotated s 23-67-119 and s 23-61-303 on the matter of the rate filing made by the National Council on Compensation Insurance (NCCI) seeking approval of an increase in advisory rates for Workers Compensation insurers in the State of Arkansas. The requested increase was 35.1% in the overall premium level.

The hearing was held before the Honorable Lee Douglass, Insurance Commissioner for the State of Arkansas. The Petitioner, NCCI, was represented by its attorneys, W.H.L. Woodyard, III and Doak Foster, of Mitchell, Williams, Selig and Tucker, Little Rock, Arkansas. Also, present on behalf of the Petitioner were Ken Kennamer, Director, Government Consumer & Industry Affairs for NCCI; Bruce Spidell, Assistant Vice President and Southern Regional Actuary for NCCI; and Edward Dew of NCCI. The Insurance Department was represented by Ron Sheffield, Deputy Commissioner, and Jean Langford, Chief Counsel. The hearing was concluded and the record closed on January 9, 1991. Based upon the evidence and testimony received at the hearing, the Commissioner finds as follows:

FINDINGS OF FACT

1. The Commissioner has jurisdiction over the Petitioner and the rate filing considered at the hearing.
2. The rate filing was filed with the Department on October 1, 1990 requesting an overall premium level increase of 24.4%.
3. The rate filing was amended November 30, 1990 requesting an overall premium level increase of 35.1%.
4. By letter of October 16, 1990, Martin Simons, ACAS, MAAA, MCA from Columbia, South Carolina, was retained to review the rate filing on behalf of the Arkansas Insurance Department.
5. Notice of hearing was given to Petitioner by letter dated December 28, 1990 from Deputy Commissioner Ron Sheffield. Said notice was received by Petitioner January 2, 1991.

6. The Petitioner is a licensed advisory rate service organization pursuant to Arkansas Code Annotated s 23-67-101, et seq.
7. The Petitioner used three (3) principal components to promulgate the requested rate increase: experience, trend, and benefit change.
8. Bruce Spidell testified that the change in experience was 20.9%; the change in trend was 10.8%; and the change in benefit was .8%.
9. The Assigned Risk Adjustment Program (ARAP) approved by the Department in 1990 resulted in a decrease of approximately 4% in the overall requested rate increase that would have been necessary.
10. That there are five (5) methodologies typically used to arrive at the experience indication: (1) incurred losses, including IBNR; (2) incurred losses, excluding IBNR; (3) paid plus case reserves; (4) paid losses to the fourth report; and (5) paid losses to the eighth report.
11. Petitioner compared the various methodologies used to determine the experience change and used the "paid to the eighth" methodology to determine the experience change in Arkansas, which was the most conservative method. The other methods would produce experience changes ranging from 27.5% to 24.5%.
12. That the change in the trend factor is needed to adjust the rates to take into account the rising cost of indemnity and medical benefits. The trend factor was based on five (5) policy years of loss ratios for indemnity and medical costs; that indemnity and medical costs are going up much faster than payroll and premiums.
13. That an expense constant is the cost of certain fixed items, such as printing, postage and policy issuance that doesn't depend on the size of the policy premium; that a change in the expense constant from \$120.00 to \$140.00 is necessary; that the manual rates will be offset by three tenths of one percent downward in recognition of this change.
14. That a profit and contingencies provision of 2.5% is contained in the proposed rates, which would produce a rate of return of 12%.
15. The NCCI's investment income calculation does not include income on current loss reserves, unearned premium reserves, current loss adjustment expense reserves, expense reserves or any other current reserves.
16. There is no rate differential between the voluntary market and the assigned risk plan; that based on five (5) years of losses, the assigned risk plan's loss ratio is 42% higher than the voluntary plan's loss ratio.
17. Martin Simons, an independent actuary retained by the Department to review Petitioner's filing, found that due to the volatile nature of paid loss development, it is

appropriate to use a longer experience period in order to calculate the applicable loss development factors; therefore, a four (4) year average of experience (calculated by averaging six (6) years of experience exclusive of the highest and lowest years) instead of the two (2) year averages used by NCCI produces a more valid loss development factor of 20%.

18. Simons testified that the change in trend was 5.2% using NCCI's methodology.

19. Simons also testified that accounting for income from all sources and a 16% target rate of return, the profit and contingencies should be a minus 5.5% instead of the +2.5% NCCI used.

20. Simons concluded that the requested premium level change of 35.1% made by NCCI would produce rates that were excessive but that an increase ranging from 11% to 16% would be justified and would produce rates that are not excessive, inadequate or unfairly discriminatory.

CONCLUSIONS OF LAW

1. An increase in the experience factor of 20.9% and 10.8% for change in trend is not justified.

2. A profit and contingencies factor of 2.5% is not substantiated as it would produce an excessive rate.

3. An overall premium level increase of 35.1% would be excessive.

4. That the lack of a rate differential between the voluntary market and the assigned risk plan is one factor in the over-population of the assigned risk plan.

5. That an overall rate increase of 15% would not be excessive, inadequate or unfairly discriminatory.

6. The Petitioner should bear the cost of the Insurance Department's actuarial review pursuant to Ark. Code Ann. s 23-67-119.

IT IS THEREFORE ORDERED that the requested overall premium level increase of 35.1% filed by the Petitioner is hereby DENIED.

The Petitioner may, in lieu of an appeal, file an amended rate filing with the Arkansas Insurance Department to reflect an overall rate increase of 15% within thirty (30) days of this order.

It is so ordered this 8th day of February, 1991.

Lee Douglass

Insurance Commissioner
