

**WORKERS' COMPENSATION ADVISORY COUNCIL
MINUTES ~ AUGUST 29, 2007 ~ MEETING [1:00 P.M.]
FIRST FLOOR HEARING ROOM
ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE**

The meeting was called to order at 1:10 p.m. by Mr. Dale Sims, State Treasurer. A quorum of voting members was present; therefore it was not necessary to conduct the meeting electronically. The following lists each member of the Advisory Council and indicates whether they attended the meeting:

***CHAIR:** Dale Sims, State Treasurer - Present

***VOTING MEMBERS:**

Employee Representatives

- > Jack A. Gatlin - Present
- > Jerry Lee - Present
- > Othal Smith, Jr. - Present

Employer Representatives

- > Thomas Hayes - Absent
- > Bob Pitts - Present
- > Gary Selvy - Present

***NONVOTING MEMBERS:**

- Kitty Boyte [TDLA representative] - Present
- Tony Farmer [TTLA representative] - Absent
- Kenny McBride [local governments representative] - Absent
- Jerry Mayo [insurance companies representative] - Present
- Sam Murrell, MD [health care providers representative -TMA] - Present
- A. Gregory Ramos [TBA representative] - Absent
- David Stout [health care providers representative-THA] - Absent

***EX OFFICIO MEMBERS**

- Commissioner Leslie A. Newman - Present
- Commissioner James G. Neeley - Designee Sue Ann Head, Administrator of
Division of Workers' Compensation Present

1. STATUS OF TENNESSEE WORKERS' COMPENSATION MARKET

- * Leslie Newman, Commissioner - Tennessee Department of Commerce & Insurance
- * Mike Shinnick, Workers' Compensation Manager - Tennessee Department of Commerce & Insurance

Commissioner Newman noted there is positive news regarding workers' compensation and the Department has good data post reform that show the reforms are working. She stated the Department is pleased to report good news and then introduced Mr. Mike Shinnick, who made a Power Point presentation to the members. Mr. Shinnick reported:

Voluntary Market:

- The 2006 Workers' Compensation Market premiums totaled \$1.79 Million; the biggest segment of the market is in the Large Deductible Policies (\$ 735 Million - gross/estimated - 41% of the market). The Self-Insured segment totaled \$280 Million (estimated premium)-16% of the market; Self-Insured Groups, excluding government groups, was 3% of the market at \$53 Million; the Assigned Risk Plan was 5% of the market with \$84 Million in premium; and the Voluntary Market segment was 35% of the market with \$635 Million in premium.
- For the Large Deductible policies, 31% of the premiums are reported; 69% are deductible credit.
- From 2005-2006 premium change in the market segments: Large Deductible dropped 6%; the Assigned Risk Plan dropped 19%; Self Insured Employers dropped 11%; Groups increased 4%; and the Voluntary market dropped 5%.
- Nationally in workers' compensation: overall workers' compensation calendar year ratios dropped from 107% in 2004 to 96.5% in 2006; overall property and casualty industry ratios was 92%.
- Nationally:
 - ▶ indemnity claims cost is still increasing, although not as much as it increased in 1999-2001;
 - ▶ medical claim cost trends for lost time cases continues to exceed the medical CPI - by approximately 4%;
 - ▶ lost time frequency continues to decline - NCCI has seen a decrease in lost time small claims and in large claims across all industry groups - for 2006, the preliminary data show a decrease of 6.8 percent;
 - ▶ reserve deficiencies continue to improve;
 - ▶ low investment returns in workers' compensation continues - in 2006 the estimated return is 10% which is indicative of good underwriting results;
 - ▶ workers' compensation pre-tax operating gain ratio continues to improve since 2002;
 - ▶ survey by Goldman Sachs of agents indicated in 2006, 79% said they

anticipated no change or a reduction in workers' compensation premiums and in 2007 93% indicated they anticipated no change or a reduction in premiums.

- Tennessee Specific Data:
 - ▶ Industry accident year combined ratios (losses/expenses compared to pure premiums): Preliminary data for 2006 indicate Tennessee's combined ratio is 92 which is not quite as good as Countrywide (87). The combined ratio is not a function of the loss costs; it is more a function of a competitive insurance market. For Tennessee, the combined ratio of 92 means there is 8% of pure underwriting profit for the insurance industry and this is not including any profit derived from investments.

Tennessee's combined ratio of 92 is good and is down significantly from accident year 2003 when Tennessee's combined ratio was 102. The reasons the Countrywide ratios look good is the influence of California, which is operating at 60% combined ratio due to its significant workers' compensation reform.
 - ▶ Since 2002, the loss costs in Tennessee have been an overall increase of 4.6% increase - this includes the decreases due to Law Only filings in September 2004 and July 2005. Nationally, the average approved Bureau/State rates (loss costs) were -3.3 in 2007; -6.5% in 2006; -5.1 in 2005; and -6% in 2004. However, if you delete California, the averages for those years is approximately 0%.
 - ▶ Loss Cost Multipliers:
 - In the Voluntary Market: the multipliers appear to have peaked in 2004 - they have been decreasing in the years since 2004. For the Tennessee voluntary market carriers, 80% of the filed loss costs multipliers are between 1.14 and 1.67. The Assigned Risk Plan multiplier is 1.70 and 7% of the voluntary carriers have filed multipliers that exceed the Assigned Risk Plan.
 - Makeup of a Loss Cost Multiplier: (1) loss cost modifications - the company determines they can operate with a loss cost that is lower than the NCCI filed loss cost; (2) schedule rating from prior years - reflects individual risk pricing modification not reflected in the employers' experience modification; dividend programs; and (4) projected expenses that are incurred by the carrier including profit and offsets for investment income.
 - According to the Department's analysis on Tennessee loss cost multipliers showed that the average loss cost modification is -9% i.e., Tennessee carriers are deviating from the filed loss cost on average of -9%; the average schedule credit is -4%.

- ▶ Impact of 2004 Reforms on Premiums - comparing direct premiums written (DPW) with the impact of the Reforms with the total premiums that would have been charged without the Reforms and the Net Estimated Savings:

Calendar Year	DPW with Reforms Included	DPW Without Reforms Factored In	Net Estimated Savings
2004	\$897 million	\$917 m	\$20 m
2005	\$954 million	\$1,054 m	\$100 m
2006	\$946 million	\$1,085 m	\$139 m

- ▶ In Summary...The Department's Overview of Voluntary Market Conditions
 - Profitability is continuing in the market
 - Carrier underwriting focus may have peaked in 2006
 - Prices are softening
 - Investment climate continues to be marginal
 - 13 new companies filed in Tennessee since 12/12/06 + 18 new companies filed so far in 2007 - includes subsidiary companies
 - Reinsurance catastrophe capacity is abundant
 - Softening to stable reinsurance catastrophe pricing
 - Reinsurance terms and conditions improved
- Assigned Risk Plan
 - ▶ The assigned risk results look good. The loss cost multiplier for the Assigned Risk Plan has decreased from 2004 (1.95 - approximately 25% higher on average than the voluntary market) to 2007 (1.7 - approximately 20% higher than the voluntary market).
 - ▶ The Assigned Risk Market share in 2006 was 8.8% of the volume of the voluntary market - a good continued reduction. The average NCCI Countrywide Residual Market share is 9.5% of the total market; therefore, Tennessee is better than average.
 - ▶ Assigned risk *bookings* (not audited figures) continue to fall; for 2006, it was down 19% and so far in 2007 the bookings are down 18%.
 - ▶ Assigned risk policy count is down about 6% so far in 2007 - with more of a drop in the larger accounts than in the smaller accounts.
- Self Insured Groups - 2006
 - ▶ There were 8 Self-Insured Groups covering 53,254 employees with a total premium of \$53 million.

- ▶ The Department continues its examination of these groups. Most exams have gone well.
- ▶ TN Association of Business Company Owners' Managed Program (ABCOMP) and the Tennessee Road Builders Association are no longer insuring any risk - no premiums generated in 2007..
- Self-Insured Employers - 2006
 - ▶ There were 126 Self-Insured individual employers covering 282,268 employees and the total "Premium Equivalent" was \$280 million.
- Insolvency Data
 - ▶ As of June 30, 2007:
 - *Reliance Insurance Company:1738 claims; unpaid claims = \$24,585,710
 - *Home Insurance Company: 118 claims; unpaid claims = \$3,665,666
 - *Reciprocal of America: 310 claims; unpaid claims = \$4,201,280
 - *Legion & Villanova Ins Co:1854 claims; unpaid claims = \$26,142,801
 - *Casualty Reciprocal: 51 claims; unpaid claims = \$2,287,469
 - *Realm National Ins. Co.: 48 claims; unpaid claims = \$1,747,986
 - *Kemper Group (has been suspended but is not in liquidation - the Department is watching the company): premium as of 12-31-06 was \$302,246; has \$13.5 million in unpaid losses
 - ▶ The number of workers' compensation carrier insolvencies have been going down since 2004; In 2006, there were two small insolvencies with only 4 claims.
 - ▶ There were no assessments in 2006 for the Tennessee Guaranty Fund.
 - ▶ Tennessee Trucking Association Self-Insurance Group - 306 open claims as of date of liquidation, February 6, 2004, and now only 51 claims open. There is a \$7.8 million dollar deficiency and two assessments totaling that amount have been made, requiring collection actions against the members of the Group.
 - ▶ Tennessee Restaurant Association Self-Insurance Group - Petition for liquidation was filed December 9, 2005; the estimated deficiency as of October, 2006 was over \$1.3 million with 138 open claims. One assessment totaling \$1.5 million - approximately 70% has been collected. Collection actions are being pursued against the non-paying members and further assessments are anticipated.

In closing Mr. Shinnick stated market results are very favorable; frequency continues to decline; industry reserve deficiency is almost gone; and there have been significant reductions in the population of the residual market; however, medical severity continues rapid growth and low investment returns continue to pressure underwriting results.

>ACTION: No specific action was required to be taken by the members regarding this agenda item.

**[Note: A copy of Mr. Shinnick's presentation can be obtained at:
www.state.tn.us/commerce/insurance/workcompresources]**

▶ **STATUS OF TENNESSEE ASSIGNED RISK PLAN**

- * Tom Redel, CPCU, ARM, Are, AIC
- Kim Zersen, ARM
- Aon Risk Services

Mr. Redel made a PowerPoint presentation concerning the status of the Tennessee Assigned Risk Plan for the years that Aon has held the contract to administer the Plan.

>ACTION: No action was required to be taken by the members regarding this agenda item.

▶ **KIDS CHANCE, INC. OF TENNESSEE**

Ms. Kathy Kirby, President of Kids Chance, Inc. of Tennessee explained the organization is a nonprofit corporation that exists to provide educational scholarships to the children of Tennessee workers who have been seriously, catastrophically or fatally injured in work-related accidents. Kids' Chance, Inc. was begun in 1988 by the Workers' Compensation Section of the State of Georgia Bar. The Tennessee Chapter of Kids' Chance, Inc. was begun in September, 2003. Ms. Kirby distributed an information sheet to the members and urged the Council to share the information with others so the workers' children can benefit from the program.

ACTION: No action was required to be taken by the members regarding this agenda item.

▶ **CONSIDERATION OF DRAFT "ANNUAL REPORT - CALENDAR YEAR 2006" & APPROVAL FOR PUBLICATION**

The draft "Annual Report" had been sent to the members of the Council prior to the meeting. The members had no additions or corrections to the draft report.

ACTION: The voting members of the Council unanimously approved the draft report for publication.