

FILING MEMORANDUM

ITEM B-1432—ESTABLISHMENT OF BASIC MANUAL APPENDIX G—DISPUTE RESOLUTION PROCESS

PURPOSE

This item:

- Establishes a national rule and eliminates the state-specific miscellaneous rules for NCCI's Dispute Resolution Process in NCCI's *Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual)*
- Replaces NCCI's Internal Review Panel or other process for reviewing disputes in certain states with a candidate board member list process where qualified candidates are selected as needed
- Replaces designated board members in states that have very low to nonexistent frequency of appeals with a candidate board member list process
- Revises NCCI's role in certain states from a voting member to a nonvoting technical advisor on Workers Compensation Appeals Boards

BACKGROUND

In most states, NCCI is required by state statutes and/or regulations to provide a dispute resolution mechanism that enables policyholders to obtain a review of how NCCI manual rule(s) are applied to NCCI's Workers Compensation and Employers Liability Insurance Policy. In the majority of states, those manual rules are defined as rules in NCCI's manuals, that pertain to the application of the workers compensation rating system, including but not limited to, classifications and experience rating modifications. The Dispute Resolution Process (Process) for most states is currently located in the state-specific miscellaneous rules in NCCI's *Basic Manual*.

The current Process varies by state. Some states appoint a Workers Compensations Appeals Board (Board) or a Committee to hear disputes, while other states require disputes to be heard by an Internal Review Panel (Panel). A Board or Committee is appointed by a state's Department of Insurance. NCCI facilitates the Board or Committee meetings and may be asked to provide technical advice on how NCCI manual rules are applied regarding the issue in dispute. In certain states, NCCI is a voting member. A Panel is composed of NCCI employees who have particular knowledge in the subject matter of the dispute. Regardless of the type of Process, NCCI, in most states, provides the written decision of disputes heard by a Board, Panel, or Committee to the policyholder and carrier involved in the dispute.

While the Process varies by state, there are many rules that are similar in all states. As a result, NCCI has determined that:

- A national rule must be established to replace the state-specific miscellaneous rules in NCCI's *Basic Manual*. This allows for a single, comprehensive source of information about the Process in NCCI's *Basic Manual*. Where possible, the national rule incorporates the state-specific requirements in a table format.
- The Panel Process must be replaced with a process that enables qualified external parties to review disputes. In states using the candidate board member list process, NCCI, as Administrator to the Board, will submit a list of qualified candidates for each voting member position annually to the appropriate regulatory authority for informational purposes. Qualified candidates on this list represent different groups of stakeholders, are connected to the state, and are selected by the Administrator, as Board meetings are scheduled.

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- NCCI must remove itself as a voting member of a Board or Panel in all applicable states.

PROPOSAL

This item proposes to:

1. Update the Introduction—Application of Manual Rules in NCCI's *Basic Manual*
2. Establish national Appendix G—Dispute Resolution Process in NCCI's *Basic Manual*
3. Eliminate the Dispute Resolution Process state-specific miscellaneous rules in NCCI's *Basic Manual*
4. Replace the Panel dispute mechanism with a candidate board member list process in Alabama, District of Columbia, Kansas, Kentucky, Maryland, Maine, Mississippi, Nebraska, Oklahoma, Tennessee, Utah, Virginia, and West Virginia, as detailed in Appendix G
5. Replace the existing 5-8 voting member Board in Idaho, Iowa, Rhode Island, and South Dakota with a 3 voting member Board selected on a dispute basis from a candidate board member list, as detailed in Appendix G
6. Remove NCCI as a voting Board member in Georgia, Nevada, and Vermont

Alaska, Hawaii, Louisiana, and Vermont Specific

This item:

1. Replaces any current appeals mechanism that may exist in these states
2. Proposes the NCCI's appeals mechanism be adopted and published in NCCI's *Basic Manual* Appendix G

Arizona, Colorado, Georgia, Missouri, Nevada, New Mexico, and Oregon Specific

This item establishes *Basic Manual* Appendix G that incorporates the current appeals mechanism in these states. These procedures have not previously been published in any NCCI manuals for these states.

Montana Specific

This item proposes the NCCI's appeals mechanism be adopted and published in NCCI's *Basic Manual* Appendix G.

IMPACT

There will be no statewide premium impact as a result of the changes proposed in this item.

EXHIBIT COMMENTS AND IMPLEMENTATION SUMMARY

In all states except Hawaii, this item will become effective for disputes that are pending with and/or received by NCCI on and after 12:01 a.m. on July 1, 2017.

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In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change.

The following exhibits impact NCCI's *Basic Manual*:

Exhibit	Exhibit Comments
1-Rule	Details the revision to Introduction—Application of Manual Rules
2-Rule	Details the establishment of national Appendix G—Dispute Resolution Process
3-Rule	Details the elimination of Dispute Resolution Process state-specific miscellaneous rules in AK, AL, AR, CT, DC, FL, IA, ID, IL, KS, KY, MD, ME, MS, NE, NH, OK, RI, SC, SD, TN, TX, UT, VA, and WV
4-Rule	Details the establishment of exceptions to Appendix G in AK, AL, AR, AZ, CO, FL, KY, MO, MS, MT, NE, NH, NM, NV, OR, and TN
5-Rule	<ul style="list-style-type: none">• Details the revision to Alaska's exception to Rule 4-A-10• Details the establishment of South Dakota's exception to Rule 4-A-10-b
6-Rule	Details the revision to NCCI's <i>New Mexico Workers' Compensation Assigned Risk Pool Manual</i> Rule 9-D-1-b
7-Form	Details the revision to the Texas Amendatory Endorsement (WC 42 03 01 H) in NCCI's <i>Forms Manual of Workers Compensation and Employers Liability Insurance</i>

Note: Rule and form filings must be filed separately in Texas. For filing purposes, this memorandum is being provided for both the rule and form exhibits in Texas. The rule exhibits are filed with the Texas Department of Insurance as Item B-1432-R. The form exhibit is filed with the regulatory authority as Item B-1432-F.

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