

## **NCCI Response to the 2010 Actuarial Review of the Ratemaking Process of NCCI**

NCCI appreciates the opportunity to comment on the report compiled by American Actuarial Consulting Group LLC ("AACG"), regarding the ratemaking process of the National Council on Compensation Insurance ("NCCI") in the State of Florida. We were pleased to note that AACG concluded that the actuarial methodologies employed by NCCI are reasonable and comply with actuarial standards of practice. With regard to some of the more specific points in the AACG review, NCCI offers the following initial comments and commits to providing, at a later date, a more detailed response to the Florida Office of Insurance Regulation.

Based on a review of historical data, AACG attempts to estimate additional savings from SB 50A by assuming the loss ratio trends from the period 2003 to 2008 will carry through to policy year 2010 and then ascribing all of that substantial improvement to SB 50A.

NCCI does not agree with this approach and their conclusion for the following reasons:

1. It is not reasonable to assume that after more than six years post reform, new, additional impacts from SB 50A will emerge in 2009-2011 that will be as substantial as the initial impacts in the first few years after SB 50A became effective.
2. In fact, NCCI believes it reasonable to assume that the additional impacts of SB 50A are over, and that it is the recession which began in 2007 and continues through today that is currently having the primary impact on the Florida workers compensation system.
3. AACG is ignoring signs of a stabilization point in the market, and possibly a turn. These signs suggest that the favorable loss ratio trends of the past will not continue.

In a post reform environment, it is reasonable to expect a period of improvement and that at some point, there will be stabilization. It is also reasonable to expect that the majority of the improvement will come in the first year and that in each subsequent year the reform will have less and less additional impact. The improvement that occurs in subsequent years is typically related to stakeholder behavioral changes. Sometimes, it takes more than a year for stakeholders to learn about the changes and adjust their behavior accordingly. While post-reform stabilization is the goal, the workers compensation system is never static. Often other environmental changes interfere with stabilization.

NCCI has filed seven consecutive decreases since the enactment of SB 50A. The total cumulative overall average rate decrease associated with these seven filings is 63.2%. There have been several recent environmental changes in Florida other than SB 50A that have impacted the Florida workers compensation system. The most significant are eight hurricanes to cross Florida during 2004/2005, several years of economic boom (2002-2006) followed quickly by several years of economic decline starting in 2007 and continuing through today, and a significant court decision which has had the impact of retroactively undoing a major component of the reform for claims during the period 10/1/03 through 6/30/09 (Emma Murray).

While SB 50A was a very successful reform, it is unreasonable given other environmental changes occurring during the same time period to assume that the entire cumulative overall average rate decrease of 63.2% is attributable to SB 50A. It is also unreasonable to assume that over six years later, there would

be additional impacts of SB 50A as substantial as the initial impacts in the first few years after SB 50A became effective. In fact, a reasonable interpretation is that the additional impacts of SB 50A may have been over by 2007. This is supported by the data which reflects signs of at least stabilization or possibly a turn as early as 2007:

- For indemnity, the severity declines have flattened in the last two years (indemnity portion of average claim is stable)
- For medical, the last two years show increases in severity (medical portion of average claim is increasing)
- Claim closure rate has stabilized in the last two years
- Claim frequency has flattened in the latest calendar-accident year (incidence of lost time claims no longer declining as much)

Furthermore, we may not yet be seeing in the data the retroactive impact of the Emma Murray case and therefore loss ratios may not be as favorable as they have appeared in the past. In that case, the Florida Supreme Court returned Florida to an hourly fee system for claimant attorneys instead of the strict fee schedule implemented 10/1/03. The impact of the Emma Murray case is that for open cases with dates of accident from 10/1/03 through 6/30/09, there may be additional cases which are litigated and it may take longer to close those cases and return those injured workers back to their jobs. In fact, data from the Division of Administrative Hearings shows an 18.2% increase in petitions filed and a 9% increase in new cases during the nine month period following the Emma Murray case. While HB 903 reinstated the strict fee schedule for dates of accident from 7/1/09 forward, the retroactive impact of the Emma Murray case could negatively impact past loss ratios.

Given also that Florida entered into a recession in 2007, one of the most severe in Florida history, it is reasonable to assume that in the last two years, the recession, rather than SB 50A, is the key environmental factor influencing the Florida workers compensation system. It is also reasonable to assume that this recession will eventually end and that Florida will experience a recovery. These are the going-forward assumptions which are driving NCCI's actuarial judgments and we stand by them.

NCCI is pleased to have participated in the review process conducted under the leadership of Charles Letourneau and AACG. As we examine and adopt suggestions for improvement, NCCI will continue to make it our priority to support Florida's legislators and regulators as they seek to achieve a stable and healthy workers compensation system.