

TEXAS – THE ADOPTION OF NCCI RULES AND WHAT IT MEANS FOR WORKERS’ COMPENSATION COSTS



IN 2014, Texas state insurance administrators made the decision to begin using the rules and regulations developed by the National Council on Compensation Insurance (NCCI), with a few Texas exceptions. NCCI is the state-appointed administrator of workers’ compensation rules in thirty-eight states. Their broad scope of rules applies to classification codes assignment, premium audits, ownership/combinability and experience rating modification factors. Of great importance to Texas business-owners is that with this change to NCCI, also comes major changes in how experience modification factors (“mods”) are calculated.

These mod factors typically contain historical experience over the most recent three expired workers’ comp. policies. They hold data on your company payrolls, industry group and detailed information on injuries your company has sustained. Using actuarial formulas, this data is blended to develop what injury dollars your company is expected to have and then compares that to the injuries that actually occurred within your firm. The results are then used to develop a “modification factor.” Those factors greater than 1.00 suggest that actual injuries were greater than expected and produce a debit (surcharge) to your workers’ compensation premium. Those factors less than 1.00 are the result of injury experience that is better than expected and create a premium credit for your business. For companies working in the energy or construction industries, a mod factor greater than 1.00 can result in their being disqualified from bidding on project opportunities.

Over the past three years, NCCI has been gradually integrating a change into the formula used to produce experience modification factors. For more than twenty years, NCCI considered the first \$5,000 of every claim the “primary” portion of the injury. These first primary loss dollars receive the greatest weighting in the mod factor calculation and so impact the mod factor to the greatest degree.

Dollar amounts over \$5,000 were the “excess” portion of the claim and had weights and ballasts placed against it to lessen the impact of larger, more severe claims. This threshold between the primary and the excess portion of a claim is called the “split point.”

With prior approval from each state, NCCI began, in 2013, to adjust this split point amount. In 2013, the amount doubled from \$5,000 to \$10,000 for the primary portion of each claim. In 2014, the primary portion of each loss became \$13,500. In 2015, the amount has more than tripled, in most NCCI states, to the first \$15,500 of each injury being used as the “primary” portion of a claim and weighted the heaviest in the mod factor calculation. But, remember, this amount has been introduced over three years in all other NCCI states. This is not the case in Texas.

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Texas split point amounts used in the experience mod factor will more than **TRIPLE** after July 1

Like NCCI’s past formula, Texas has historically calculated their experience modification factor using the first \$5,000 as the split point for primary loss dollars. However, with the adoption of NCCI as their state workers’ compensation administrator, this will change. Effective July 1, 2015, the amount of primary loss dollars used in the calculation of Texas experience mod factors will be \$15,500 per claim. While other

states have adjusted their split point dollar amount, gradually, over three years, this is not the case for Texas. The amount of primary loss dollars (weighted the heaviest in the mod calculation) will more than triple, moving from \$5,000 to the first \$15,500 of every claim that will be used in the calculation of experience mods for employers with policy renewals July 1, 2015 and later.

NCCI is expected to offset some of the inflationary impact of this formula change, through other mechanisms in the mod factor formula, such as through the D ratio factor, (discount ratio). They will also introduce

the Experience Rating Adjustment Plan in Texas, which will automatically remove 70% of all dollars for medical-only injuries, from the mod factor calculation.

In addition to these changes, every state has a maximum cap for a single injury that may be used in the calculation of an experience mod factor. For decades, the maximum cap for Texas has been \$107,000, per injury. Effective July 1, 2015, that cap will raise to \$230,500. For example, a Texas employer who has only had \$107,000 of a \$300,000 injury being used on their past mod factor, will instead, after 7/1/15, have \$230,500 of the dollars used for that same claim, in the calculation of their future mod factors.

These three mod factor formula changes could have a drastic impact to your experience modification factor. They could have an even greater impact to small or mid-sized employers. In addition, some Texas employers in the past have been able to “negotiate” their experience mod factor. Per NCCI, these negotiated mod factors will cease on July 1, 2018.

Texas employers with workers’ compensation policies renewing after July 1, 2015 will begin seeing the impact of these changes to their experience mod factors and have raised valid concerns about increased experience mod factors as a result. We at IMA highly encourage you to have your agent or broker review your experience modification factor for accuracy. IMA can also assist you with introducing new safety programs and equipment. Visit with your agent or carrier about claims management resources to help you manage the cost of your workers’ compensation claims. Discuss alternative insurance programs and inquire which options may be a practical and financial fit for your company. Agencies like IMA, will have the ability to project your experience mod, in advance, so you can see the impact of this change to your company, prior to NCCI releasing your mod factor.

We encourage Texas business-owners to share feedback regarding your experience with the impact of this new program on your mod factor and business costs with the Texas Department of Insurance, your broker, insurance carrier and state legislators.

Source: NCCI Texas Circular October 1, 2014. This document has been produced as an informative guide only and is not intended to provide legal opinion and should not be relied upon as legal advice.