Florida Office of Insurance Regulation

2017

Workers' Compensation Annual Report

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Insurance Commissioner

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Executive Summary

Subsection 627.211(6), Florida Statutes, mandates the Office of Insurance Regulation (Office) provide an annual report to the President of the Senate and the Speaker of the House of Representatives that evaluates competition in the workers' compensation market in the state. The purpose of the report is to contain an analysis of the availability and affordability of workers' compensation coverage and whether the current market structure, conduct and performance are conducive to competition, based upon economic analysis and tests. The report must also document that the Office has complied with the provisions of Section 627.096, Florida Statutes, which requires the Office to investigate and study the data, statistics, schedules, or other information as it finds necessary to assist in its review of workers' compensation rate filings.

As mandated, the analysis presented in this report finds the following:

1. Based on a comparative analysis across a variety of economic measures, the workers' compensation market in Florida is competitive.

    a. A large number of independent insurers serve the workers' compensation market in Florida and none of the insurers have sufficient market share to exercise any meaningful control over the price of workers' compensation insurance.

    b. The Herfindahl-Hirschman Index (HHI)—a measure of market concentration—indicates the market is not overly concentrated.

    c. Based on the record of new entrants and withdrawals with no market disruptions, there are no significant barriers for the entry and exit of insurers into the Florida workers' compensation market which signals that the Florida workers' compensation market is well capitalized and competitive.

2. Of the six most populous states, Florida is one of only two where a private market insurer is the largest insurer rather than a state-created residual market entity. This degree of private activity indicates coverage should be generally available in the voluntary market. The residual market is small, suggesting the voluntary market is absorbing the vast majority of demand.

3. Reforms to Section 440.34, Florida Statutes, which affected attorney's fee provisions, were a significant factor in the decline of workers' compensation insurance rates.[1] It is also the case, however, that most of the improvements resulting from these legislative changes may have been realized as there were four rate increases from 2010 to 2014 after seven years of decreases following the 2003 reforms. Although the dramatic decreases in rates during the seven years from 2003 to 2010 were directly attributable to action taken

[1] In *Murray v. Mariner Health*, (Florida Supreme Court October 23, 2008) (*Murray*), the Florida Supreme Court held that the statute in the workers' compensation law did not limit attorneys' fees under a separate subsection (3) of the law, and therefore a lawyer representing a workers' compensation claimant is entitled to a "reasonable fee." House Bill 903 was passed into law during the 2009 Legislative Session. It restored the cap on attorney fees and clarified related statutory language determined as ambiguous by the Florida Supreme Court. As a result, workers' compensation rates decreased further.

by the Florida Legislature in 2003, the reforms have subsequently been challenged in the courts. Notably on April 28, 2016, the Florida Supreme Court found the statutory mandatory attorney fee schedule in Section 440.34, Florida Statutes, unconstitutional as a violation of due process under both the Florida and United States Constitutions. This ruling and other court rulings have the potential to significantly impact the workers' compensation system in Florida. The initial cost impact of the *Castellanos* and *Westphal* rulings was reflected in the December 1, 2016, rate increase. As the actual post-*Castellanos* & post-*Westphal* data emerges over time, it will be evaluated to determine if any rate level changes are needed to ensure that rates are not excessive, inadequate, or unfairly discriminatory.

4. Medical cost drivers, particularly in the areas of drugs, hospital inpatient, and ambulatory surgical centers (ASC) are noticeably higher in Florida than the countrywide average. Legislative reform affecting the reimbursement of these services could produce substantial savings for Florida employers.

5. Affordability within the Florida Workers' Compensation Joint Underwriting Association, Inc. (FWCJUA), which is the residual market, has been an ongoing issue. Senate Bill 50-A enacted in 2003 and House Bill 1251 enacted in 2004 addressed affordability in the voluntary and residual market, respectively. Over time, since the legislative changes were enacted, affordability issues within the FWCJUA have abated. The FWCJUA average rate differential from the voluntary market rate level has declined to the lowest level since the reform. It is worth noting, however, that both policy count and premium within the FWCJUA increased significantly since 2009, though it still remains a very small portion of the overall workers' compensation market.

6. The Office is in compliance with the requirements of Section 627.096, Florida Statutes.

Purpose and Scope

Subsection 627.211(6), Florida Statutes, mandates:

"*The office shall submit an annual report to the President of the Senate and the Speaker of the House of Representatives by January 15 of each year which evaluates competition in the workers' compensation insurance market in this state. The report must contain an analysis of the availability and affordability of workers' compensation coverage and whether the current market structure, conduct, and performance are conducive to competition, based upon economic analysis and tests. The purpose of this report is to aid the Legislature in determining whether changes to the workers' compensation rating laws are warranted. The report must also document that the office has complied with the provisions of s. 627.096 which require the office to investigate and study all workers' compensation insurers in the state and to study the data, statistics, schedules, or other information as it finds necessary to assist in its review of workers' compensation rate filings.*"

To meet these mandates, this report provides analysis of the following areas:

1. The competitive structure of the workers' compensation market in Florida by comparing select key financial performance ratios, the number of insurers actively participating in the market along with their respective market positions, and the number of insurers entering and exiting the market.

2. The availability and affordability of workers' compensation insurance in Florida. This includes an analysis of rate changes in Florida's admitted market, as well as, the rating structure existing in the FWCJUA and other data relative to the health and size of the FWCJUA.

3. The market structure in Florida, which includes the market concentration in Florida compared with other states, the entry and exit of insurers from the Florida market, and insurer insolvencies.

4. A comparison of pure loss costs for the 10 largest workers' compensation class codes for Florida compared to the other states using the National Council on Compensation Insurance (NCCI) as their statistical rating organization.

5. Documentation of the Office's compliance with Section 627.096, Florida Statutes, by investigating all workers' compensation carriers operating in Florida.

Summary of the 2016 Annual Report

In general, the 2016 Workers' Compensation Annual Report (for calendar year 2015) reached similar conclusions as the previous 13 annual reports. Specifically, this report showed:

- Florida's workers' compensation insurance market contained a large number of independent insurers, none of which had enough market share to individually exercise market control in an uncompetitive nature.
- The HHI indicated Florida's market was not overly concentrated, and consequently exhibited a reasonable degree of competition.
- There were no significant barriers for entry and exit of insurers into and from the Florida workers' compensation insurance market.
- The residual market is small relative to the private market indicating the voluntary market offers reasonable availability.
- There may be some small segments of the market which have difficulty obtaining workers' compensation insurance, including small firms and new firms.

The 2016 annual report notes that the Office approved a rate increase of 14.5 percent on October 5, 2016, which became effective on December 1, 2016.

The 2017 Workers' Compensation Annual Report (for calendar year 2016) continues to examine the workers' compensation insurance market from the same perspective and provides the HHI to compare Florida's market concentration versus the other major workers' compensation markets by providing a comparative analysis of key market characteristics among the six most populous states. The five other states are: California, Illinois, New York, Pennsylvania, and Texas.

Additionally, the 2017 Workers' Compensation Annual Report presents findings on the cost drivers in the Florida workers' compensation system.

Snapshot of the Florida Workers' Compensation Market in 2016

Although the relative health and competitiveness of the Florida workers' compensation market has been well documented following the legislative reforms implemented in 2003, there may be reason for caution moving forward. In 2016, several court cases relating to workers' compensation have together created uncertainty in the marketplace. Most of the data contained in this report does not contemplate these recent court decisions since the court decisions occurred in mid-2016. As the data becomes available and as analysis reveals the impact of these cases more fully, the impact will be reflected in future reports.

In 2016, 245 privately-owned insurers actively wrote workers' compensation insurance in Florida. In total, private sector insurers wrote $2,769,020,557 in premium. Moreover, during 2016, nine insurers entered the Florida workers' compensation market, either as new companies or by adding the workers' compensation line of business to their certificate of authority. During 2016, 13 insurers exited the Florida market. These new entrants and voluntary withdrawals had no disruptive impact on the marketplace, as should be the case in a competitive market.

Ten Largest Insurers

The largest insurer, Bridgefield Employers Ins. Co., as measured by premium written in the chart below, had 9.25 percent of the market in 2016, and the largest 10 insurers had a cumulative 43.25 percent of the market. This spread of premium across insurers suggests no one firm can be seen to have an overly dominant impact on the market. These insurers are:

Company Name	State of Domicile	Workers' Compensation Direct Premium Written	Market Share (%)	Cumulative Market Share (%)
Bridgefield Employers Ins Co	FL	$256,099,724	9.25	9.25
Associated Industries Ins Co Inc	FL	155,185,317	5.60	14.85
FCCI Ins Co	FL	140,181,129	5.06	19.92
Zenith Ins Co	CA	139,756,749	5.05	24.96
Technology Ins Co Inc	DE	136,833,420	4.94	29.90
RetailFirst Ins Co	FL	90,854,490	3.28	33.19
American Zurich Ins Co	IL	75,827,722	2.74	35.92
Amerisure Ins Co	MI	72,744,071	2.63	38.55
FFVA Mut Ins Co	FL	68,990,887	2.49	41.04
Guarantee Ins Co	FL	61,028,121	2.20	43.25

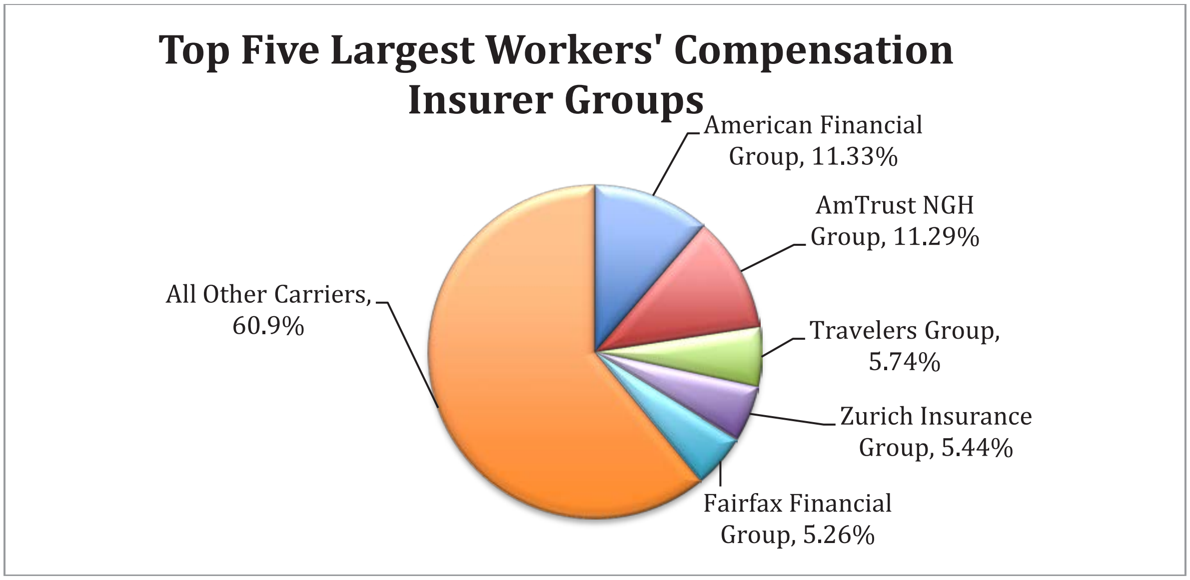
Six of these companies are domiciled in Florida with the remaining four domiciled in the eastern, mid-western and western United States. This shows the Florida workers' compensation market is not served exclusively by Florida-only companies and there is some geographical diversification.

The 10 largest companies also display a range of product line diversification. Some, such as Bridgefield and RetailFirst write all, or nearly all, of their business in the Florida workers' compensation market, while the others write a broader mix of workers' compensation in other states, other lines of business, or both. The table below highlights the relative size of the Florida workers' compensation market to each of the 10 largest firm's portfolio mix of business. This mix of business by geography and line of business adds to the stability of the Florida market.

Company	Florida Workers' Comp Premium Written	Florida Workers' Comp/All Workers Comp Premium Written	Florida Workers' Comp /All Premium Written	All Workers' Comp/All Premium Written
Bridgefield Employers Ins Co	$256,099,724	95.23%	95.23%	100.00%
Associated Industries Ins Co Inc	155,185,317	100.00%	54.94%	54.94%
FCCI Ins Co	140,181,129	67.50%	32.06%	47.50%
Zenith Ins Co	139,756,749	22.53%	20.58%	91.34%
Technology Ins Co Inc	136,833,420	14.73%	12.15%	82.51%
RetailFirst Ins Co	90,854,490	100.00%	100.00%	100.00%
American Zurich Ins Co	75,827,722	7.87%	5.75%	73.05%
Amerisure Ins Co	72,744,071	33.63%	18.15%	53.95%
FFVA Mut Ins Co	68,990,887	60.18%	60.18%	100.00%
Guarantee Ins Co	61,028,121	22.75%	22.75%	100.00%

Largest Insurer Groups

In 2016, the five largest insurer groups comprised 39.1 percent of the market. American Financial Group is the largest provider of workers' compensation insurance in Florida with 11.33 percent of the total market based on 2016 National Association of Insurance Commissioners (NAIC) Annual Statement data. The largest individual company in Florida, Bridgefield Employers Insurance Company, is a member of the American Financial Group. Two of the top 10 writers of workers' compensation insurance belong to the AmTrust NGH Group: Associated Industries Insurance Company Inc., and Technology Insurance Company Inc. These insurer groups are displayed on the following page:



Eight of the top 10 insurers found on page seven belong to one of the top 10 insurer groups in Florida. Three of the top 10 insurer groups do not have a company in the top 10 individual insurers such as the Travelers Group. The top 10 largest insurer groups are as follows:

Insurer Group Name	Workers' Compensation Direct Premium Written	Market Share (%)	Cumulative Market Share (%)
American Financial Group	$313,719,611	11.33	11.33
AmTrust NGH Group	312,668,048	11.29	22.62
Travelers Group	158,918,626	5.74	28.36
Zurich Insurance Group	150,515,726	5.44	33.80
Fairfax Financial Group	145,694,933	5.26	39.06
FCCI Mutual Insurance Group	140,967,888	5.09	44.15
Hartford Fire & Casualty Group	126,961,982	4.59	48.73
RetailFirst Group	117,649,668	4.25	52.98
American International Group	110,070,652	3.98	56.96
Amerisure Company Group	108,310,050	3.91	60.87

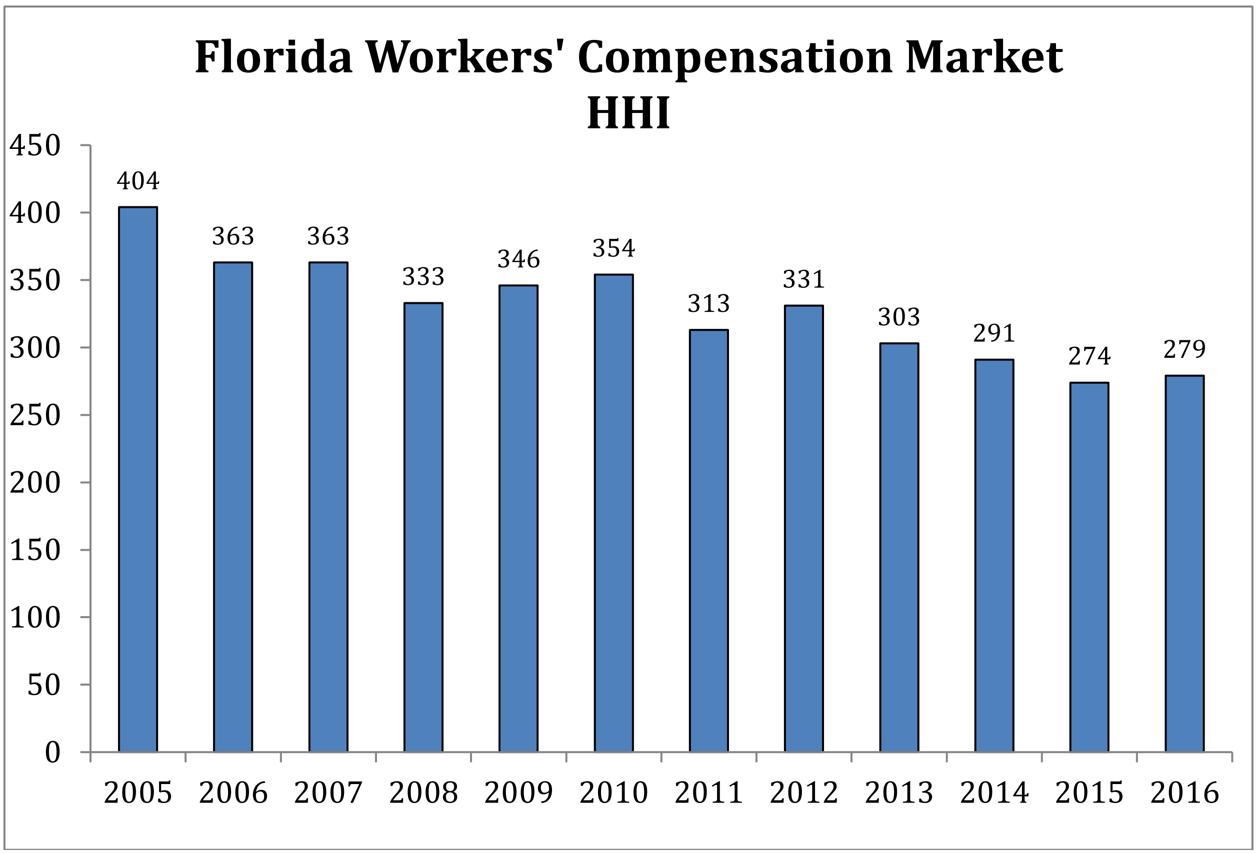
This spread of premium among insurer groups suggests no one group can be seen to have a prevailing impact on the market. This again supports the competitive aspects of the Florida workers' compensation market.

Measured Market Concentration: The Herfindahl-Hirschman Index

A widely recognized measure of market concentration can be applied to the Florida workers' compensation market. The Herfindahl-Hirschman Index is a calculation designed to determine market concentration and first appeared in A.O. Hirschman's *National Power and Structure of Foreign Trade* published in 1945.

The HHI calculation is straightforward. The measured market share of every company operating in the identified market is squared, and the HHI for any given state is equal to the sum of the squared market shares. The highest index value is then defined as 10,000 (100 percent squared—a monopoly), and the lowest outcome is close to zero. The U.S. Department of Justice (DOJ) uses this index when researching acquisitions and mergers for compliance with anti-trust legislation, most notably, the Sherman Anti-Trust Act of 1890. DOJ considers a result of less than 1,500 to be an "unconcentrated market" or a competitive marketplace. Results of 1,500 to 2,500 are considered "moderately concentrated." Results over 2,500 are considered "highly concentrated," and consequently, not very competitive.

The calculated HHI for the Florida workers' compensation insurance market in 2016 is 279. Following DOJ guidelines, this measure suggests a highly competitive market. Moreover, the HHI measure indicates the Florida workers' compensation market has become progressively more competitive following the legislative reforms. As the chart below shows, the calculated HHI of 404 in 2005 has declined to the 2016 value of 279.



Underwriting Strength

An important measure of the health of an insurance market is the underwriting performance of the insurers in the market; that is, the combination of pricing, risk management and application of effective underwriting guidelines contributing to a viable and sustainable market. Two commonly used measures are employed in this report; the loss ratio (defined as direct losses incurred divided by direct premiums earned) and a broader measure that includes direct losses incurred and defense cost containment expenses (DCCE) incurred as a percentage of direct premiums earned. Ratios approaching or exceeding 100 for either measure are not considered profitable.

For the Florida workers' compensation market in 2016, these aggregate ratios based on NAIC Annual Statement data are:

- Direct Loss Ratio 49.09%
- Direct plus DCCE Ratio 55.78%

While there is natural year-to-year variation in these ratios and too much importance should not be given to year over year changes, it is worthwhile to note both of these measures are less than the ratios (57.76% and 65.32%, respectively) based on 2015 NAIC Annual Statement data.

In addition to the loss ratio and the loss plus DCCE ratio, another ratio commonly reviewed to evaluate underwriting performance is the combined ratio. Combined ratios are reviewed to measure or evaluate underwriting profitability. Combined ratios can generally be defined as the sum of losses and expenses divided by earned premium. Often dividend payments are included as an expense item in quantifying combined ratios. According to NCCI's presentation at its 2017 State Advisory Forum, the Florida workers' compensation combined ratio for private carriers and self-insureds has been stable for the past several years. The Accident Year combined ratios for Florida based on NCCI Financial Call data and NAIC Annual Statement data are as follows:

Accident Year	Combined Ratio
2012	104%
2013	97%
2014	97%
2015	96%
2016	96%

A combined ratio less than 100 percent indicates that insurers in Florida are achieving an underwriting gain for workers' compensation. When the combined ratio is greater than 100 percent it means that insurers are paying out more in losses and expenses than they are collecting in premium. Insurers could still potentially make a profit in years where the combined ratio is greater than 100 percent because the ratio does not include the income received from investments.

Self-Insurance Funds and Other Self-Insurance

In addition to the private market described above, which writes approximately 98 percent of the workers' compensation insurance in Florida, coverage is also provided through self-insurance funds (SIFs)[2].

Pursuant to Florida law, certain employers may also self-insure their workers' compensation responsibilities and pay claims directly instead of purchasing a workers' compensation insurance policy. If an employer qualifies under Florida statutes to self-insure, the financial risk of providing workers' compensation benefits to its employees is assumed by the employer directly rather than transferring the risk to an insurance company by paying premiums to cover workers' compensation claims. If Florida's self-insured employers paid workers' compensation premiums, then they would comprise a significant portion of the Florida workers' compensation market. At the 2017 Florida State Advisory Forum, NCCI presented data demonstrating that self-insured employers would make up approximately 28 percent of the total premium volume as shown in the following table.

	Direct Written Premium in Billions**		
Calendar Year	Private Carriers	Self-Insureds	Total
2012	$ 2.013	$ 0.850	$ 2.863
2013	2.297	0.913	3.210
2014	2.537	1.015	3.552
2015	2.625	1.020	3.645
2016*	2.769	1.026	3.795

*Preliminary
**Data obtained from NCCI State Advisory Forum on September 19, 2017; NAIC Annual Statement Data

Some of the largest employers in the state of Florida are self-insured. The Florida Department of Financial Services, Division of Workers' Compensation, publishes a list of active and approved private self-insurers on their website[3].

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[2] "Self-Insurance" groups are a broadly defined group of entities that include group self-insurance funds, commercial self-insurance funds and assessable mutual organizations. By the early 1990's, self-insurance funds were a dominant part of the Florida workers' compensation insurance market, capturing more than half of the voluntary market. Legislative reforms in 1993 transferred the regulation of group self-insurance to the Department of Insurance, which later became the Office of Insurance Regulation. This legislative change occurred concurrently with the formation of the FWCJUA. Together, these two changes transformed the Florida workers' compensation insurance market as self-insurance funds began converting into insurance companies. In 1994 there were 35 defined self-insurance funds, but by 2000 there were only four of these entities. There were four group self-insurance funds at the start of 2010 but the largest fund, Florida Retail Federation Self Insurer's Fund converted to a stock company in November 2010. As a result of legislation passed in 2009, the Florida Rural Electric SIF is governed by section 624.4626, F.S., which does not require the Fund to file an annual statement with OIR. Thus, the Florida Rural Electric SIF is no longer included in this report. See Appendix A for the Florida Statutes governing SIFs not subject to OIR regulation. The remaining SIFs are the Florida Citrus, Business, & Industries Fund and the FRSA Self Insurer's Fund.

[3] https://www.myfloridacfo.com/division/wc/insurer/PRIVATE%20(Active)%2011-7-16.pdf

Comparison of the Six Major Market States

Florida is a large economically and demographically diverse state. To provide meaningful context on the Florida workers' compensation market as described above, it is instructive to provide a comparison to similarly situated states. This section of the report focuses on the six most populous states, and excludes SIFs. In addition to Florida, the five most populous states used here are California, New York, Illinois, Pennsylvania, and Texas.

The table below highlights some of the key comparisons between the Florida workers' compensation insurance market and those of the other five states considered in this peer group.

State	Direct Premium Written 2016	Rank By Direct Premium Written	HHI	Number of Entities Collecting Premium in 2016	Largest Provider	Largest Provider Market Share (%)	State Population Rank
CA	$12,960,735,781	1	331.95	230	State Fund	12.4	1
NY	5,893,910,568	2	1770.32	275	State Fund	41.4	4
FL	2,769,020,557	3	279.05	245	Private Insurer	9.2	3
IL	2,720,458,107	4	101.77	328	Private Insurer	3.3	5
PA	2,668,867,668	5	155.89	332	State Fund	7.0	6
TX	2,364,886,588	7*	1661.44	295	[1]	40.1	2

Based on 2016 NAIC Annual Statement Data.

[1] The largest writer is Texas Mutual Insurance, an insurer created originally by the Texas Legislature in 1994. It was granted independence in 2001, but is still responsible for the residual market.

* New Jersey ranks sixth with $2,494,824,725 in Direct Premiums Written.

As expected, there is a positive correlation between state population and workers' compensation insurance written premiums—the top six states in population rank in the top seven for workers' compensation premium.

In terms of the number of insurance entities writing in each market, Florida ranks fifth with 245 private firms (not considering the FWCJUA or the two SIFs identified earlier). Florida has a comparable number of entities operating within its borders relative to other populous states.

From the perspective of market competition, the six states are compared using their calculated HHI's. For the purposes of this report, comparing the HHI among states is difficult, as the data for the self-insurance trust funds for other states must be calculated. Moreover, while some states have their state funds (market of last resort) report financial information to the NAIC, other states, such as Florida with its FWCJUA, do not. This report includes a calculation of Florida's HHI without the SIFs included to be comparable to the other populous states. Of the six most populous states, only Illinois (101.77) and Pennsylvania (155.89) have lower HHI indices than Florida (279.05), suggesting Florida has one of the three most competitive workers' compensation markets of the major populous states.

Dominant Firms and Competition

A particularly interesting comparison is to review the largest competitor in each of the six most populous states to determine if there is a "dominant firm." This review yields only Florida and Illinois with markets where the largest insurer is a private entity. In the other four states, the largest provider is either a state fund, or in the case of Texas, a mutual company originally created by the state and still responsible for residual market workers' compensation insurance.

Bridgefield Employers Insurance Co.'s business in Florida has the largest market share of any private insurer in the six most populous states. However, at 9.2 percent of the market, it is unlikely this is enough market share to create an uncompetitive marketplace.

Underwriting Strength in the Most Populous States

Finally, to provide context for the Florida market results presented earlier, a comparison of direct loss ratios across the six most populous states was conducted. The results are presented below:

State	Direct Loss Ratio	Direct Loss +DCCE
NY	62.74%	68.02%
PA	61.75%	70.01%
IL	54.05%	61.39%
CA	51.52%	60.91%
FL	49.06%	55.78%
TX	39.91%	48.18%

For 2016, Florida's loss ratios, using either measure, are the second lowest among the six most populous states. As such, the Florida market compares favorably to the other largest states as a healthy, likely profitable market for insurers.

Workers' Compensation Rates

A comprehensive slate of reforms was passed into law during the 2003 Legislative Session. The package known as Senate Bill 50-A (Chapter 2003-412 Laws of Florida) dramatically impacted Florida's workers' compensation insurance rates. Some of these reforms included a reduction (cap) in attorneys' fees, tightening of construction industry requirements, doubling impairment benefits for injured workers, increasing the medical fee schedule, and eliminating the Social Security disability test.[4]

[4] "Florida Cracks Down on Construction Sites without Workers' Compensation Insurance," *Best Wire*, August 2, 2005, which utilizes information from an earlier article in *BestWire*, July 15, 2003.

Subsequently, Florida's workers' compensation rates declined by 64.7 percent as of July 1, 2010. In 2000, Florida had the highest workers' compensation insurance rates in the country[5]. In 2003, the Office approved a 14 percent rate reduction, with an additional reduction of 5.1 percent effective January 1, 2005. These annual rate reductions continued unabated through the rate reduction of 6.8 percent that took effect on January 1, 2010. The rate changes during this seven-year period include the three largest decreases ever in Florida, namely -18.6 percent for 2009, -18.4 percent for 2008, and -15.7 percent for 2007. These seven filings represent the state's largest consecutive cumulative decrease on record for workers' compensation rates—dating back to 1965.

Before the reforms, Florida consistently ranked as the first or second state with the highest workers' compensation rates in the country. Post-reform, Florida dropped out of the top 10 rankings. By 2008, Florida dropped to 28th place and by 2010 Florida had fallen to 40th place according to the biennial report, *Oregon Workers' Compensation Premium Rate Ranking,* published by the Oregon Department of Consumer and Business Services. However, with rate increases from 2011 to 2014, Florida has moved in the opposite direction in more recent reports. The latest Oregon report released in 2016 and based on January 1, 2016 Florida rates shows a fall to 33rd highest from 28th highest; thus, there are 18 states with a lower average rate than Florida. The 2016 report also reflects that while Florida has risen in the rankings since 2010, the average Florida rate of $1.66 remains below the national median rate at 90 percent of the study median rate of $1.84.

On May 27, 2016, NCCI proposed[6] an overall workers' compensation rate level increase of 17.1 percent for the voluntary market to be effective August 1, 2016, for new, renewal, and outstanding policies for non-federal classifications as a result of the combined impact of the Florida Supreme Court's decision on April 28, 2016, in *Marvin Castellanos v. Next Door Company, et al. (Castellanos)*, Case No. SC13-2082, and Senate Bill 1402 (Chapter 2016-203, Laws of Florida) that ratified the *Florida Workers' Compensation Health Care Provider Reimbursement Manual*, 2015 Edition. On June 30, 2016, NCCI amended this filing to propose a combined 19.6 percent rate level increase to address the Florida Supreme Court's decision on June 9, 2016 in *Bradley Westphal v. City of St. Petersburg, etc., et al. (Westphal)*, Case No. SC13-1930.

The Office conducted a hearing[7] on August 16, 2016, and heard testimony from NCCI, industry experts, and the public about NCCI's law-only rate filing. On September 27, 2016, Commissioner David Altmaier issued an order finding the 19.6 percent rate increase was not justified and requested NCCI submit an amended filing for a 14.5 percent overall rate level increase for new and renewal policies effective December 1, 2016, in the voluntary market.

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[5] *Oregon Workers' Compensation Premium Rate Ranking Calendar Year 2000* – report published by the Research & Analysis Section, Oregon Department of Consumer & Business Services

[6] To download a copy of the NCCI rate filing, access the I-File Forms & Rates Filing Search on www.floir.com and enter File log #16-12500 into the "Quick Search" function or to visit the search site directly go to https://apps8.fldfs.com/IFileExternalSearch?_ga=1.94976153.481322718.1444825485 where other historical NCCI filings can be downloaded also.

[7] For more information regarding the public rate hearing, visit the Office's "NCCI Public Rate Hearing" webpage at http://www.floir.com/Sections/PandC/NCCIHearing.aspx

NCCI submitted the amended filing on October 4, 2016, and the Office reviewed and approved it via a final Order on October 5, 2016.

On August 28, 2017, based on an annual review of the most recent data available (Policy Years 2014 and 2015 valued as of year-end 2016) NCCI proposed an overall workers' compensation rate level decrease of 9.3 percent for the voluntary market to be effective January 1, 2018, for new and renewal policies for non-federal classifications. NCCI also proposed a decrease to the fixed expense cost applicable to every workers' compensation policy (expense constant) in Florida from $200 to $160 which when combined with the proposed rate level decrease of 9.3 percent resulted in a proposed overall average premium decrease of 9.6 percent. While some of the experience used as the basis for this filing occurred before the recent Florida Supreme Court decisions, a portion of the experience period includes claims that occurred after the decisions. Even after considering the impact of the *Castellanos* and *Westphal* decisions other factors at work in the marketplace combined to contribute to the indicated decrease, which included reduced assessments, increases in investment income, decline in claim frequency, and lower loss adjustment expenses.

The Office conducted a hearing on October 18, 2017, and heard testimony from NCCI, industry experts, and the public about NCCI's experience based rate filing. On October 31, 2017, Commissioner David Altmaier issued an order finding the 9.3 percent rate decrease was not justified and ordered NCCI to further decrease the rate level. NCCI submitted an amended filing on November 7, 2017, in accordance with the Office's Order. The Commissioner approved the amended filing for an average rate level decrease of 9.5 percent on November 9, 2017 (9.8 percent premium level decrease). With the rate decrease effective January 1, 2018, Florida's rates are 59 percent below what the rates were prior to the 2003 reforms.

Florida rates remain competitive with neighboring states. However, Florida's recent advantage over other states in attracting employers based on the lowest workers' compensation rates has disappeared.

Cost Drivers for Workers' Compensation

There are several cost drivers in the Florida workers' compensation system that could be addressed legislatively to induce cost savings. NCCI compared the medical cost distributions for Florida versus countrywide to show that, based on recent experience, Florida has a higher portion of cost paid for drugs, hospital inpatient, and ambulatory surgical centers (ASC). A summary of the NCCI findings is provided in the table on the following page with data from Service Year 2016.

Medical Cost Distributions
Florida vs. Countrywide

	Florida[1]	Countrywide[2]	Difference
Physicians	29.9%	39.4%	-9.5%
Drugs	14.8%	10.3%	+4.5%
Supplies	6.9%	7.7%	-0.8%
Other	1.7%	4.5%	-2.8%
Hospital Inpatient	19.9%	12.4%	+7.5%
Hospital Outpatient	17.3%	19.0%	-1.7%
Ambulatory Surgical Centers	9.5%	6.7%	+2.8%
Total	**100%**	**100%**	**0.0%**

[1] Source: Derived from data provided by the Florida Division of Workers' Compensation (FLDWC) for Service Year 2016
[2] Source: *Derived from NCCI Medical Data Calls for Service Year 2016 for the following states: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MI, MN, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, WI, and WV*

Substantial rate reductions would occur if the costs in Florida were brought in line with other states for drugs, inpatient hospital, and ASC reimbursement rates. The *2017 Three-Member Panel Biennial Report* outlines areas where potential cost saving changes could be introduced such as implementing a drug formulary or adjusting facility reimbursement rates.

Physician Drug Dispensing

Since 2011, more than 97 percent of the reimbursement dollars spent on repackaged drugs in Florida has been the result of physician dispensing.[8]

A by-product of repackaging/relabeling has been the average unit price of a repackaged drug can be many times that of the drug in its non-repackaged form.[9] A July 2013 study released by the Workers Compensation Research Institute (WCRI) titled *Physician Dispensing in Workers' Compensation* shows that in states like Florida and Illinois, physician dispensed drugs have been priced between 60 percent and 300 percent more than what is charged by pharmacies.

Since 2007, a number of states have addressed this developing issue by placing either an outright ban on physicians dispensing drugs (e.g. Massachusetts, New York, Texas, Montana, and Utah) or by placing price controls and using other regulatory tools to address the price disparity between repackaged and non-repackaged drugs (e.g. Arizona, California, Colorado, Georgia, and South Carolina).

In Florida, the drug repackaging issue was partially addressed by passing Senate Bill 662 effective July 1, 2013, which reduced rates by 0.7 percent. The primary cost reducing component

[8] See *Florida Division of Workers' Compensation 2016 Results and Accomplishments*, at page 45.
[9] The per unit markup can be as much as 679% according to the NCCI testimony provided at the August 18, 2011 workers' compensation public rate hearing. This same testimony was again provided at the November 16, 2011 Three-Member Panel meeting.

of Senate Bill 662 linked the reimbursement rate of 112.5 percent for repackaged or relabeled drugs dispensed by a dispensing practitioner to the Average Wholesale Price (AWP) set by the original manufacturer of the underlying drug plus an $8.00 dispensing fee.

The *Florida Division of Workers' Compensation 2014 Results and Accomplishments Report* showed the total payments for repackaged drugs declined considerably in 2013 when compared to prior years, 2008 through 2012. Pharmacy repackaged total payments fell to $684,832 in 2013 compared to average payments of $1,579,600 for prior years. Physician repackaged total payments fell to $30,599,651 in 2013 compared to average payments of $50,960,414 for prior years. The *Florida Division of Workers' Compensation 2015 Results and Accomplishments Report* illustrates that total payments for repackaged drugs further declined in 2014 by approximately 50 percent for pharmacies and approximately 60 percent for physicians when compared to 2013. The 2015 report shows in 2014, pharmacy repackaged total payments fell to $337,437 and physician repackaged total payments fell to $13,530,606. The *Florida Division of Workers' Compensation 2016 Results and Accomplishments Report* displays an increase in repackaged drug payments in 2015; pharmacy repackaged total payments were $370,523 and physician repackaged total payments were $14,375,182 for 2015 in the latest report.

Other options to reduce drug costs are:

- Restrict physician dispensing
- Lower reimbursement rate
- Lower dispensing fee
- Introduce drug formulary
- Strengthen prescription drug monitoring program

Hospital Reimbursement

Florida has a charge-based system for reimbursing hospital outpatient services. Currently, these services are, by statute, reimbursed at 75 percent of "usual and customary charges" for non-scheduled surgeries and 60 percent for scheduled surgeries[10]. The term "usual and customary charge" is not defined by Florida Statute and its meaning can and does vary from state to state and among insurers. In addition, Florida workers' compensation law provides the maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates to be approved by the Three-Member Panel no later than March 1, 1994.[11]

Per Section 440.13(12)(a), Florida Statutes, the Three-Member Panel is charged with adopting schedules of maximum reimbursement allowances (MRAs) for physicians, hospital inpatient care, hospital outpatient care, ambulatory surgical centers, work-hardening programs, and pain programs. The *Florida Workers' Compensation Reimbursement Manual for Hospitals* contains the schedule of MRAs adopted by the Three-Member Panel for hospitals and establishes policy, procedures, principles and standards for implementing statutory provisions regarding reimbursement for medically necessary services and supplies provided to injured workers' in a hospital setting.

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[10] Section 440.13(12)(a) and (b), Florida Statutes
[11] Section 440.13(12)(a), Florida Statutes

Since 2007, the Division of Workers' Compensation (Division), in conjunction with the Three-Member Panel, has attempted to revise the *Florida Workers' Compensation Reimbursement Manual for Hospitals* in order to synchronize case law and statute relating to the calculation of "usual and customary charges" for hospital outpatient services. Numerous "usual and customary charge" methodologies were developed and subsequently challenged by various hospital interests[12]. However, in July 2014, a settlement agreement was reached between the Division and the hospital interests, which resulted in the hospital interests withdrawing their rule challenge. The 2014 edition of the manual, effective on January 1, 2015, replaced the 2006 edition and was adopted by reference as part of Rule 69L-7.501, Florida Administrative Code. Highlights of the revised manual include:

- Establishing MRAs for certain qualifying procedure codes for hospital outpatient services. The maximum reimbursement allowances incorporate the major components of the Division's and the Three-Member Panel's methodology for calculating a "usual and customary charge" approved at a January 9, 2013 meeting held by the Three-Member Panel.
- For hospital inpatient services, the per-diem reimbursement amount increased at trauma centers from \$3,305 to \$3,850.33 for surgical stays, and from \$1,986 to \$2,313.69 for non-surgical stays,
- For hospital inpatient services, the per-diem rates at acute care hospitals increased from \$3,304 to \$3,849.16 for surgical stays, and from \$1,960 to \$2,283.40 for non-surgical stays; and,
- For hospital inpatient services, the Stop-Loss Reimbursement threshold was increased from \$51,400 to \$59,891.34.

For more details regarding the "usual and customary charge" methodology, see the *Three-Member Panel Biennial Report*, 2015 Edition.

Other states have moved away from charge-based reimbursement and have adopted other methodologies seen to provide more predictability and offer greater opportunity for cost containment. States such as Oregon, California, Colorado, North Dakota, South Carolina, Tennessee, and Washington use the Medicare Outpatient Prospective Payment System (OPPS) as a basis for reimbursement.

In March 2014, based on proposed Florida Senate Bill 1580/House Bill 1351[13], NCCI estimated rates could be reduced by 3.8 percent if Florida reimbursed hospital outpatient care at 140 percent of the Medicare OPPS rates. Additionally, NCCI estimated that if Florida were to reimburse hospital inpatient care at 140 percent of the Medicare inpatient prospective payment system (IPPS) rates, workers' compensation rates could be reduced by 3.2 percent. The total estimated cost savings to the system of both changes is -7.0 percent [= -3.8 percent + -3.2 percent], but note NCCI issued this cost estimate prior to the approval of the 2014 edition of the *Florida Workers' Compensation Reimbursement Manual for Hospitals*; therefore, NCCI's estimated cost savings does not reflect any savings from the revised hospital manual.

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[12] See *Three-Member Panel 2013 Biennial Report*, at page 6

[13] Senate Bill 1580 and House Bill 1351 did not pass.

More details on all the medical issues can be found in the *Three-Member Panel 2013 Biennial Report*[14]. The Report contains additional scenarios of using Medicare OPPS and IPPS rates as a basis for reimbursing hospital inpatient, hospital outpatient and ASC care. The reduction to Florida workers' compensation rates depends on the percentage above Medicare used for each type of care. According to the Report, the savings would be 7.5 percent [= -3.0% + -4.5%] at 140 percent of Medicare OPPS for hospital outpatient and ASC services and 140 percent of Medicare IPPS for hospital inpatient services. The savings would be 8.3 percent [= -3.4% + -4.9%] at 120 percent of Medicare OPPS for hospital outpatient and ASC services and 120 percent of Medicare IPPS for hospital inpatient services. Appendix C and Appendix G in the *Three-Member Panel 2013 Biennial Report* contain the NCCI cost estimates for the alternate scenarios. Again, since these cost estimates were developed prior to the approval of the 2014 edition of the *Florida Workers' Compensation Reimbursement Manual for Hospitals*, the NCCI estimated cost savings do not reflect any savings from the revised hospital manual.

Workers' Compensation Court Cases

Several court cases affecting workers' compensation made their way through the judicial system in 2016. Three noteworthy cases are summarized as follows:

1) *Westphal v. City of St. Petersburg*[15]. In September 2013, on rehearing en banc, the First District Court of Appeal withdrew a panel decision in which the court declared the 104-week statutory cap on temporary total disability (TTD) benefits unconstitutional and revived prior law allowing up to 260 weeks of TTD benefits.[16] The court held that "a worker who is totally disabled as a result of a workplace accident and remains totally disabled by the end of his or her eligibility for temporary total disability benefits is deemed to be at maximum medical improvement (MMI) by operation of law and is therefore eligible to assert a claim for permanent and total disability benefits."[17] In this case, the claimant exhausted TTD benefits without having reached MMI, creating a "gap" period where the injured claimant would no longer receive benefits, but also not be at MMI for purposes of receiving permanent disability benefits. In its opinion, the en banc court certified this case to the Florida Supreme Court for review. The Supreme Court accepted jurisdiction over the case on December 9, 2013, and held oral arguments on June 5, 2014. On June 9, 2016, the Florida Supreme Court found the 104-week statutory limitation on temporary total disability benefits in Section 440.15(2)(a), Florida Statues, unconstitutional because it causes a statutory gap in benefits in violation of an injured worker's constitutional right of access to courts. The Supreme Court reinstated the 260-week limitation in effect prior to the 1994 law change.

2) *Castellanos v. Next Door Company.*[18] In October 2013, the First District Court of Appeal declared the statutory attorney fee formula (s. 440.34, F.S.) unconstitutional and certified the question for review by the Florida Supreme Court. In this case, the judge of compensation

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[14] See *Three-Member Panel 2013 Biennial Report*, at page 6, Appendix C at page 24, Appendix G at page 76
[15] Westphal v. City of St. Petersburg, 122 So.3d 440 (Fla. 1 DCA 2014) Rev. SC13-1930
[16] Westphal v. City of St. Petersburg, 2013 WL 718653 (Fla. 1st DCA February 28, 2013)
[17] Westphal v. City of St. Petersburg, 122 So.3d 440, 442 (Fla. 1st DCA 2013)
[18] Castellanos v. Next Door Company, 124 So. 3d 392 (Fla. 1 DCA 2013), Rev. Granted, SC 13-2082

claims, constrained by the statutory formula set forth in Section 440.34(1), Florida Statutes (2009), awarded claimant's counsel an attorney's fee of only $164.54 for 107.2 hours of legal work.

> *440.34(1) … Any attorney's fee approved by a judge of compensation claims for benefits secured on behalf of a claimant must equal to 20 percent of the first $5,000 of the amount of the benefits secured,…. . The judge of compensation claims shall not approve a compensation order… which provides for an attorney's fee in excess of the amount permitted by this section…*

The award was calculated in strict accordance with the statutory formula applied to the $822.70 value of benefits secured by the claimant's attorney. The court upheld the constitutionality of the statute and affirmed the fee award. However, the court certified the question of "whether the award of attorney's fees in this case is adequate, and consistent with the access to courts, due process, equal protection, and other requirements of the Florida and federal constitutions." The Supreme Court accepted jurisdiction over the case on March 14, 2014[19], and held oral arguments on November 5, 2014. In 2008, the Supreme Court vacated the 2003 law in the *Murray* case. In 2009, the legislature changed one word and restored it. On April 28, 2016, the Florida Supreme Court found the statutory mandatory attorney fee schedule in Section 440.34, Florida Statutes, unconstitutional as a violation of due process under both the Florida and United States Constitutions.

3) *Stahl v. Hialeah Hospital*.[20] On October 13, 2015, the Florida Supreme Court accepted jurisdiction in this case on appeal from the First District Court of Appeal. Appellant Stahl challenged the constitutionality of the Workers' Compensation Law as an inadequate replacement for the tort system. Specifically, appellant asserted that the 1994 addition of a $10 copay for medical visits after a claimant attains maximum medical improvement, and the 2003 elimination of permanent partial disability (PPD) benefits, renders the Workers' Compensation Law an inadequate exclusive replacement remedy for a tort action. The First District Court of Appeal disagreed, stating that the copay provision furthers the legitimate stated purpose of ensuring reasonable medical costs after the injured worker has reached a maximum state of medical improvement, and PPD benefits were supplanted by impairment income benefits.[21] On April 28, 2016, the Florida Supreme Court decided not to hear the case and discharged jurisdiction. The case was petitioned to the U.S. Supreme Court (docketed on July 21, 2016), which declined to review the case and discharged jurisdiction on October 31, 2016.

Comparative Rates and Premiums

Comparing rates and premiums among states for the workers' compensation line of business is complicated by several factors. State law varies as to coverage and payment for claims, tort restrictions, and the basis for rate determination. Nonetheless, such a comparison, noting the above difficulties, can be useful.

[19] Castellanos v. Next Door Company, 124 So. 3d 392 (Fla. 1 DCA 2013), Rev. Granted, SC 13-2082
[20] 167 So. 3d 500 (Fla. 3 DCA 2015), Rev. SC15-1355
[21] Stahl v. Hialeah Hospital, 167 So. 3d 500 (Fla. 3 DCA 2015). SC 15-725

In 2017, the Office requested from NCCI a comparison of loss cost estimates for the 10 largest class codes of workers' compensation insurance in force in the Florida market with the loss costs for the same class codes in the other 37 jurisdictions for which NCCI is the statistical rating agent. The pure loss cost was considered the metric of choice as it is calculated in a consistent manner across class codes and jurisdictions. Final allowed rates begin with the loss costs as a foundation, and are then modified for risk loads and profit factors in different manners across jurisdictions.

Initially, there are two commonly used definitions of calculating the "largest" class codes; by exposure amounts (e.g. the amount of insured payroll in dollars) and by policy count. The analysis below is repeated for each definition.

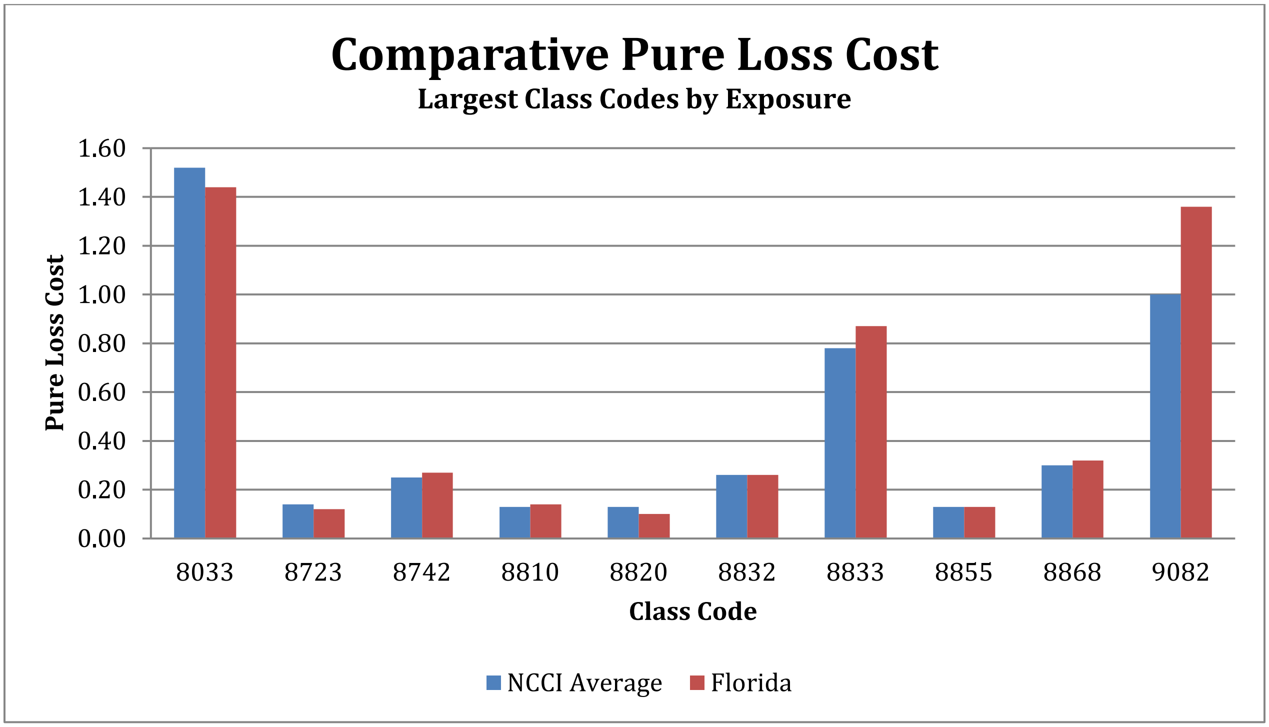
When measured by exposure, the following are reported in the next chart:

- The 10 largest class codes based on Florida exposure for Policy Years 2014 and 2015 with a description of the class code,
- The average loss cost across NCCI jurisdictions based on the most recently approved loss cost or rate filings available as of November 16, 2017, including the approved January 1, 2018 Florida rate filing,
- Florida's loss cost; and,
- Florida's rank among jurisdictions (1 being highest, 37 being lowest)

Comparative Pure Loss Cost: Largest Class Codes by Exposure				
Class Code	**Class Description**	**NCCI Average**	**Florida**	**Florida Rank**
8033	STORE: MEAT, GROCERY AND PROVISION STORES COMBINED-RETAIL NOC	1.52	1.44	22
8723	INSURANCE COMPANIES - INCLUDING CLERICAL & SALESPERSONS	0.14	0.12	20
8742	SALESPERSONS OR COLLECTORS-OUTSIDE	0.25	0.27	14
8810	CLERICAL OFFICE EMPLOYEES NOC	0.13	0.14	14
8820	ATTORNEY-ALL EMPLOYEES & CLERICAL, MESSENGERS, DRIVERS	0.13	0.10	24
8832	PHYSICIAN & CLERICAL	0.26	0.26	13
8833	HOSPITAL: PROFESSIONAL EMPLOYEES	0.78	0.87	13
8855	BANKS AND TRUST COMPANIES - ALL EMPLOYEES, SALESPERSONS, DRIVERS & CLERICAL	0.13	0.13	16
8868	COLLEGE: PROFESSIONAL EMPLOYEES & CLERICAL	0.30	0.32	13
9082	RESTAURANT NOC	1.00	1.36	4

For this report's top 10 by exposure, class code 8033 is a new addition, while class code 8017 (Store: Retail NOC) has dropped out.

Graphically, this data shows only three of the 10 class codes where Florida's loss cost is below the NCCI average and two class codes where Florida's loss cost is equal to the NCCI average. The movement in the Florida rankings for this report when compared to last year's report is mixed, and the change in ranking for all codes was relatively minor (0 to 5 rankings). Four class codes had their rank deteriorate (8742, 8832, 8833, 9082), two class codes experienced no change in their rank (8810, 8855), and three class codes had their rank improve (8723, 8820, 8868). While there is natural year-to-year variation in loss costs, these comparisons will be observed for future trend.

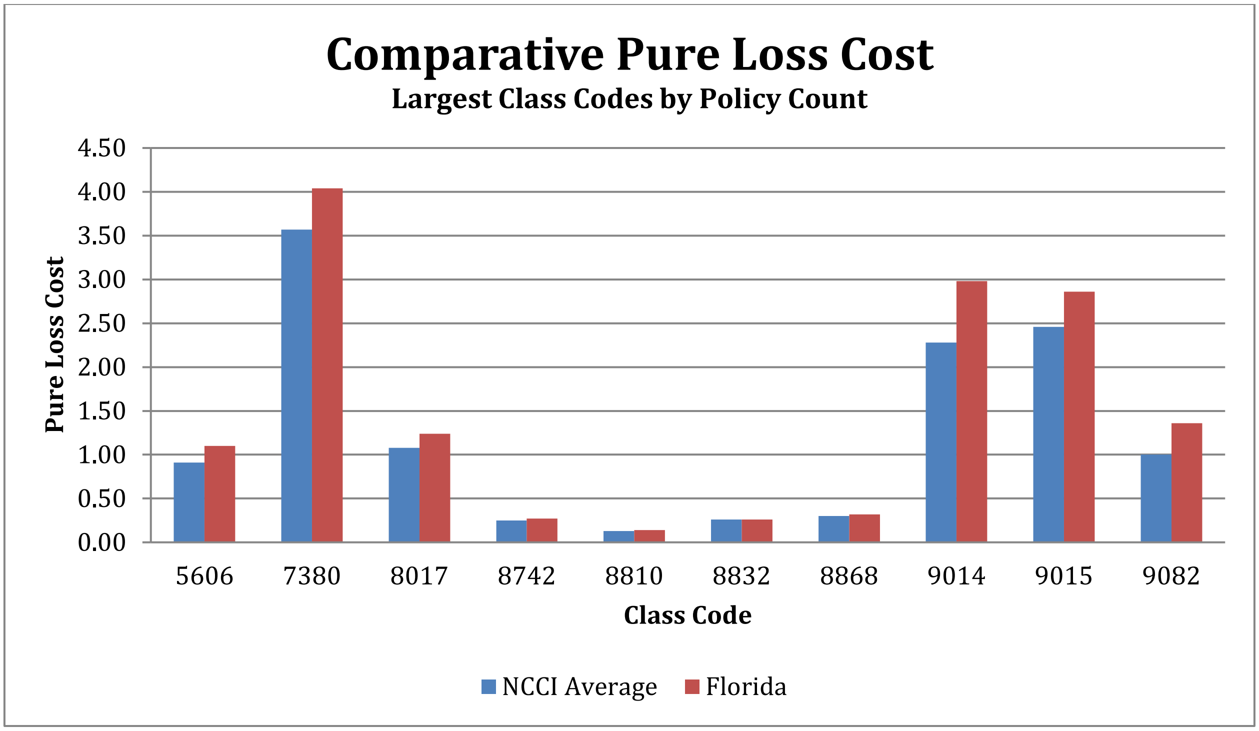


The same analysis is completed using the results generated by defining the 10 largest classes by policy count based on Florida data for Policy Years 2014 and 2015 and the results are displayed on the following page.

Comparative Pure Loss Cost: Largest Class Codes by Policy Count				
Class Code	Class Description	NCCI Average	Florida	Florida Rank
5606	CONTRACTOR--PROJECT MANAGER, CONSTRUCTION EXECUTIVE, CONSTRUCTION MANAGER OR CONSTRUCTION SUPERINTENDENT	0.91	1.10	9
7380	DRIVERS, CHAUFFEURS, MESSENGERS AND THEIR HELPERS NOC-COMMERCIAL	3.57	4.04	11
8017	STORE: RETAIL NOC	1.08	1.24	13
8742	SALESPERSONS OR COLLECTORS-OUTSIDE	0.25	0.27	14
8810	CLERICAL OFFICE EMPLOYEES NOC	0.13	0.14	14
8832	PHYSICIAN & CLERICAL	0.26	0.26	13
8868	COLLEGE: PROFESSIONAL EMPLOYEES & CLERICAL	0.30	0.32	13
9014	JANITORIAL SERVICES BY CONTRACTORS - NO WINDOW CLEANING ABOVE GROUND LEVEL & DRIVERS	2.28	2.98	7
9015	BUILDING OR PROPERTY MANAGEMENT - ALL OTHER EMPLOYEES	2.46	2.86	12
9082	RESTAURANT NOC	1.00	1.36	4

For this report's top 10 by policy count, the top class codes remain the same as identified in the 2016 Workers' Compensation Annual Report.

The data for the 10 largest classes by policy count reveals Florida's loss cost is greater than the NCCI average in nine of 10 class codes. This is similar to last year's analysis which showed eight of 10 class codes had greater loss costs in Florida relative to the NCCI average loss cost. The movement in the Florida rankings for this report when compared to last year's report is mixed, and the change in ranking for all codes was relatively minor (0 to 4 rankings). Five class codes had their rank deteriorate (5606, 7380, 8742, 8832, 9082), one class code experienced no change in rank (8810), and four class codes had their rank improve (8017, 8868, 9014, 9015).



For both of the analyses presented above, the NCCI average pure loss cost includes the data for Florida. For all class codes, the NCCI average pure loss cost and the Florida pure loss cost decreased relative to the data presented in the 2016 report. Florida's pure loss costs remain higher than the NCCI average pure loss costs for most class codes presented in the analysis. This could be a cause for concern regarding the competitive nature of Florida workers' compensation market.

Florida Workers' Compensation Joint Underwriting Association

One of the most significant indicators of an availability problem in an insurance market is the size of the residual market mechanism. In Florida, the Florida Workers' Compensation Joint Underwriting Association (FWCJUA) is the market of last resort for workers' compensation insurance. Only employers that cannot find coverage in the voluntary market are eligible for coverage in the FWCJUA. Thus, the size of the FWCJUA is a measure of availability of coverage in the voluntary market.

While the FWCJUA had significant increases in the number of policies and in written premium from 2009 to 2013, the growth in premium and policy count slowed from 2014 to 2016, and the FWCJUA is still a very small portion of the total workers' compensation market in Florida. Based on calendar year 2016 data, only 2,570 Florida policyholders obtained coverage through the FWCJUA, which represents slightly more than one percent of the Florida direct written premium. Going forward, the residual market could grow if voluntary writers are no longer willing to write certain risks, in part, due to the recent legal changes in 2016 which could have the potential to shift the market and more policyholders may have to obtain coverage through the residual market.

The Florida Workers' Compensation Insurance Plan (FWCIP) was the residual market for Florida until the FWCJUA was created on January 1, 1994. All insurance companies writing workers' compensation in Florida funded the FWCIP. If there was a deficit in the FWCIP, then those workers' compensation carriers were assessed to cover the deficit. In 1993, the FWCIP issued 48,430 policies with written premiums of $328 million. The FWCJUA in contrast has varied from 13,933 policies in calendar year 1994 to only 522 policies in calendar year 2000, with written premium varying from $77.5 million in calendar year 2005 to $1.2 million in calendar year 2009. At the end of November 2017, the FWCJUA had 2,305 in-force policies on its book with corresponding premiums of $30.5 million. The FWCJUA's written premium as a percentage of the total market has not exceeded two percent since 1995 and has been below one percent for most years since its creation in 1994.

From 1994 to 2003, the rate differential for FWCJUA rates versus voluntary market rates varied from 1.26 to 3.278 and was 1.429 in 2003 prior to the reforms. The creation of Tiers 1, 2, and 3 by House Bill 1251 resulted in a restructuring of the rates and surcharges used by the FWCJUA. Tier 1 is for employers with good loss experience; Tier 2 for employers with moderate loss experience and non-rated new employers; and, Tier 3 for employers not eligible for Tiers 1 or 2 (specific eligibility requirements can be obtained from the FWCJUA). Post-reform, the rate differential has varied considerably. From 2004 to 2016, the Tier 1 rate differential varied from 1.05 to 1.35, Tier 2 varied from 1.20 to 2.26, and Tier 3 varied from 1.43 to 3.10.

There are surcharges in addition to the rate differential affecting the total premium paid by FWCJUA policyholders. There was a 99 percent surcharge applied to Sub-plan "C" premiums in excess of $2,500, an Assigned Risk Adjustment Program (commonly known as "ARAP") surcharge for experience rated policies and a $475 flat surcharge added to every policy. At the end of November 2017, the in-force policy count by tier is as follows: Tier 1 has 564 policies, Tier 2 has 946 policies, and Tier 3 has 795 policies. While Tier 3 accounts for 34 percent of the total FWCJUA policies, it accounts for 54 percent of the total premium. In June 2015, Tier 2 overtook Tier 3 for the most policies, but Tier 3 continues to dominate the tier distribution with regard to premium volume. As of November 2017, Tier 3 has $16.5 million in total premium.

As of January 1, 2016, the premium for Tier 1 is 5 percent above voluntary rates, Tier 2 is 20 percent, and Tier 3 is 46 percent (1.46 times the voluntary rates). Tier 3 is also subject to the ARAP surcharge. Additionally, all three tiers have a flat surcharge of $475. Tier 3 policyholders have a burden Tiers 1 and 2 do not have. Tier 3 policies are assessable if premiums are not sufficient to cover losses and expenses. The tier surcharges effective January 1, 2016, are the lowest since the creation of the tier structure in 2004. The FWCJUA modified their rating plan effective December 1, 2016, to account for the recent legal changes—Senate Bill 1402 and two court cases (*Castellanos* and *Westphal*) as described previously—but the overall increase was dampened by improving experience, resulting in an overall average premium level increase of 6.3 percent.

It is unrealistic to expect an actuary's best estimate, which is a prediction of future contingent events, will always coincide with future results. It is understood and usually explicitly acknowledged that the results for a particular year can be higher or lower than the actuary's estimate. The consequences of the results being higher or lower than the estimate affect the actuary's judgment and ultimate selections.

In a situation where an insurance entity has substantial financial resources, it may be acceptable for the actuary's estimate to be high half of the time and low half of the time, as long as over time the predictions coincide with the average result. In other words, if there is a billion dollars in surplus, the company may not be concerned if the actuary's estimate is $50 million high or low in a particular year as long as it balances over a number of years.

If, however, there is only $10 million in surplus, the company cannot afford for the estimate to be $10 million lower than the actual because they will be bankrupt. In this latter situation, the consequences of being low are more important than the consequences of being high and this will impact the degree of conservatism appropriate in the actuary's selection.

The FWCJUA has been in a situation where the consequences of reserving too low or having rates too low (i.e. retroactive assessments to policyholders) have been greater than the consequences of reserves being too high or rates too high. If the rates are too high, there may be some complaints from policyholders and others but, if there are assessments due to the rates being too low, more policyholders are affected, even those whose policy has expired. At the extreme, some of the policyholders could face severe financial distress or even be put out of business because of the assessment.

As a result of these circumstances, the degree of conservatism used in determining FWCJUA rates and surcharges has contributed to the level of rates needed. The main contributor to the FWCJUA rates, however, has been the level of expenses and losses incurred. Both of these were adversely impacted when the volume of FWCJUA business decreased in the late 1990s. Because of all these factors and others, the FWCJUA rates have historically been very high in comparison to the residual markets in other states where the residual market is administered by NCCI. In recent years, the FWCJUA rate differentials by tier have declined and other states have increased the rate differentials/surcharges for their residual market such that at least 16 states now have higher rate differentials/surcharges than the weighted average FWCJUA rate differential for all three tiers effective January 1, 2016.

Currently, the Tier 1 and Tier 2 rates for most employers are much more affordable than the previous sub-plans A, B, and C. In addition, the Tier 3 rates have become much more affordable in recent years relative to prior years when the rate differential reached a high of more than three times the voluntary rates.

A small residual market is desirable, but it needs to be balanced with having an affordable residual market. The FWCJUA has been small in comparison to the total voluntary market from 1997 to the present. In the recent past, the residual market share was low because the FWCJUA rates were not very affordable to many employers and the voluntary market was very competitive. The high premiums in the FWCJUA discouraged many employers from even applying to the FWCJUA. These employers decided to close their business, go without coverage (which may be unlawful), or sought the services of a Professional Employer Organization (PEO). Coupled with a very competitive market by insurers who aggressively sought new policyholders, this created an extremely small residual market.

Ultimately, availability should not be an issue as coverage can be found in either the voluntary market, the FWCJUA, or through a PEO, although affordability may be somewhat of an issue for employers utilizing the FWCJUA.

Florida Workers' Compensation Insurance Guaranty Association

The Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) was formed in 1997 due to the merger of the former Florida Self-Insurance Fund Guaranty Association (FSIFGA) and the workers' compensation insurance account of the Florida Insurance Guaranty Association (FIGA). Upon the effective date of the merger, the predecessor organizations ceased to exist and were succeeded by the FWCIGA. FWCIGA provides for the payment of covered claims for insurance companies or group self-insurance funds which are declared insolvent and unable to continue making payments to injured workers. All insurance companies and group self-insurance funds are members of the FWCIGA.

According to the *Florida Workers' Compensation Insurance Guaranty Association 2016 Annual Report*, there was one new insolvency in 2016 that impacted the FWCIGA—Lumbermen's Underwriting Alliance, Missouri domiciled with liquidation date of May 23, 2016. The insolvency of this company generated 125 claims as of the date of publication of the report with an expected loss and expense claim payout of approximately $15 million. There were no policies in force at the time of liquidation as the company was in rehabilitation prior to being liquidated. Additionally, FWCIGA ended 2016 with only 454 open claims, a slight increase over year-end 2015, which had the lowest claim count (427) since it was formed in 1997.

For the 11th straight year in 2016, the FWCIGA Board of Directors determined no assessment was needed to fund the cash needs for the upcoming calendar year. The Assessment has been 0.0 percent for insurance companies and self-insurance funds from 2006 through 2016.[22]

During the 2016 Legislative Session, the Florida legislature passed Senate Bill 828 effective July 1, 2016. The legislation retained FWCIGA's ability to obtain funds quickly (not less than 30 days), but also introduced an option for insurers to collect and remit assessments in installments over 12 months. Bill highlights[23] are as follows:

- Moves assessment from a component of premium rates to a policyholder surcharge
- Increases self-insurance fund assessment cap from 1.5 percent to 2.0 percent, consistent with insurance carriers
- Allows the Board to recommend collecting insurer assessments in installments rather than receiving assessment payments upfront
- Creates specific assessment start and stop dates by quarter

[22] http://fwciga.org/assessments
[23] 2016 Assessment change information: http://fwciga.org/node/295. FWCIGA letter to member companies: http://fwciga.org/sites/fwciga.org/media/files/Member%20Letter.pdf. The FWCIGA also published FAQs regarding the change to the assessment which can be found on their website: http://fwciga.org/sites/fwciga.org/media/files/Assessment%20FAQ.pdf

- Requires an assessment year true up to 1) reconcile estimated assessment payments based on prior year premium to actual premium results; or 2) reconcile actual premiums written to assessments paid
- Eliminates premium tax on assessments
- Establishes the admissibility of assessment recoupment receivable assets

Composition of the Buyer

Analysis of the workers' compensation market is typically done at a high level, either at the insurer level or in market aggregates. In reality, the workers' compensation market is segmented based on a number of characteristics, such as size of employer, type of industry, past experience of the employer or the lack of experience. The market for large employers versus small employers can be markedly different. The market for construction risks is different from employers with office workers. New businesses typically face noticeable frictions in obtaining coverage owing to their lack of historical experience, which can be a measure of not only the insurance exposure but also the credit worthiness of the insured.

Employers with a combination of these characteristics can sometimes be difficult to place in the voluntary market. In some cases, coverage is related to the availability of agents in the local area and the number of insurers the local agents represent.

The Division of Workers' Compensation (Division), within the Department of Financial Services, monitors and enforces compliance with the workers' compensation laws. In fiscal year 2015-2016, the Division's Bureau of Compliance conducted 33,681 on-site inspections of an employer's job-site or business location to determine compliance with workers' compensation coverage requirements. The Bureau also issued 2,690 enforcement actions against non-compliant employers, which resulted in $5.8 million in insurance premium generated and 7,825 in new employees covered by workers' compensation insurance. The Bureau conducts free training sessions and webinars on workers' compensation coverage, compliance requirements and workplace safety to thousands of employers statewide each fiscal year.

The Bureau of Workers' Compensation Fraud, within the Division of Insurance Fraud, investigates suspected criminal violations of Florida's Workers' Compensation laws. The Bureau made 455 workers' compensation fraud-related arrests and had 386 successful prosecutions for fiscal year 2015-2016[24].

Professional Employer Organizations

According to the National Association of Professional Employer Organizations (NAPEO)[25], "Professional employer organizations (PEOs) provide comprehensive HR solutions for small businesses. Payroll, benefits, HR, tax administration, and regulatory compliance assistance are

[24] *Joint Report to the President of the Florida Senate and the Speaker of the Florida House of Representatives by The Florida Department of Financial Services Investigative and Forensic Services/Bureau of Workers' Compensation Fraud and Division of Workers' Compensation*, January 15, 2017

[25] See http://www.napeo.org/what-is-a-peo/about-the-peo-industry/overview

some of the many services PEOs provide to small and mid-sized businesses across the country." NAPEO states the following regarding "co-employment": "The PEO relationship involves a contractual allocation and sharing of certain employer responsibilities between the PEO and the client, as delineated in a contract typically called a client service agreement (CSA). For the obligations a PEO agrees to take on with respect to its clients, the PEO assumes specific employer rights, responsibilities, and risks through the establishment and maintenance of a relationship with the workers of the client."[26]

The PEO industry has grown rapidly since its inception several decades ago. According to the *NAPEO 2013 Annual Report*, NAPEO estimates the PEO industry grew by $8 billion to $92 billion in gross revenues in 2012. According to the September 2015 NAPEO white paper, *An Economic Analysis: The PEO Industry Footprint,* the industry defines gross revenues as the total of its clients' payrolls and the fees PEOs charge them for taking on their human-resource activities, and they "calculate the current size of the PEO industry to be between $136 and $156 billion, as measured in gross revenues."[27] Additionally, the report asserts that "PEOs provide services to between 2.7 and 3.4 million worksite employees for 156,000 to 180,000 clients, and employ between 21,000 and 27,000 internal employees." The report estimates "there are between 780 and 980 PEOs currently operating in the United States."

PEOs have been a part of the Florida workers' compensation market since the early 1990s, especially for small employers. The PEO market is not, however, always without challenges regarding availability of coverage from workers' compensation insurers (see the *Workers' Compensation Large Deductible Study*, National Association of Insurance Commissioners/ International Association of Industrial Accident Boards and Commissions Joint Working Group, March 2006). PEOs have had an erratic history of being able to obtain coverage in the workers' compensation insurance market. In the early 1990s, coverage was difficult to obtain. By the mid-1990s, coverage was broadly available and relatively easy to obtain. In the early 2000s, coverage became scarce, and in 2003, after CNA stopped writing PEOs, coverage was nearly impossible to find. Additionally, PEOs were also a factor in several recent insurer insolvencies in Florida due to insufficient collateral on large deductible policies.

PEOs are a source of workers' compensation coverage for many employers in Florida unable to obtain coverage in the voluntary market, particularly small employers. When the premiums for the FWCJUA are considered too high by employers, the PEO market is often the only option for many employers who want to remain in business and comply with the law. A survey, conducted by the Florida Association of Professional Employment Organizations (FAPEO) in 2010 found they provided more than 900,000 work-site employees to more than 69,000 companies representing a payroll in excess of $25 billion.[28]

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[26] See http://www.napeo.org/what-is-a-peo/about-the-peo-industry/what-is-co-employment
[27] See https://www.napeo.org/docs/default-source/white-papers/napeo-white-paper-3-sept-2015-final.pdf?sfvrsn=10
[28] The Florida Association of Professional Employer Organizations (FAPEO) 2010 Census Brochure

Market Structure, Conduct and Performance to Promote Competition

The previous sections of this report do not suggest any obvious impediments to a workers' compensation market found to be reasonably competitive. This section concentrates on the market's ability to promote competition.

Mandatory Rating Plans

Before discussing the methods workers' compensation insurers use to compete in the marketplace, it is useful to summarize the rating and premium pricing variations resulting from the mandatory rating plans currently in effect. The following rating plans are required of all insurers in the state of Florida:

- Coinsurance – For a reduced premium, the employer agrees to reimburse the insurer 20 percent of each claim up to $21,000. This option is required by Section 440.38(5), Florida Statutes. An insurer may refuse to issue a policy with a coinsurance amount based on the financial stability of the employer.
- Drug-Free Workplace Premium Credit – A five percent premium credit provided to employers certifying the establishment of a drug-free workplace program.
- Employer Safety Premium Credit – A two percent premium credit provided to employers certifying the establishment of a safety program.
- Experience Rating Plan – This plan recognizes differences between individual employers by comparing the actual experience of an individual employer with the average expected experience of employers in the same classification. The plan produces an experience modification factor that may increase or decrease premiums. An employer is eligible for this program if the average annual premium is at least $5,000 for June 30, 2017 and before, and at least $5,250 for July 1, 2017 and after.
- Florida Contracting Classification Premium Adjustment Program – A premium credit is provided for employers with one or more contracting classifications paying above average hourly wages. The credit amount increases as the average wage paid increases. The credit is calculated based on payroll and hours worked information submitted by the employer to NCCI.
- Premium Discounts by Size of Policy – The premium discount plan adjusts the employer's premium to reflect the relative expense of servicing large premium policies as a percentage of premium is less than that for small premium policies. For example, the policy issuance costs for a $200,000 policy may be higher than those for a $20,000 policy, but the costs are not 10 times as high.
- Small Deductibles – For a reduced premium, the employer agrees to reimburse the insurer for each claim up to the deductible amount. Small deductibles range from $500 to $2,500 and are required by Section 440.38(5), Florida Statutes. An insurer may refuse to issue a policy with a deductible based on the financial stability of an employer because the insurer is responsible from first dollar of loss (i.e. losses below the deductible).

Optional Plans Used by Insurers to Compete Based on Price

Insurers use the following plans to compete on price:

- Consent to Rate – The insurer and employer agree to a rate in excess of the approved rate. The insurer must limit this option to no more than 10 percent of policies written or renewed in each calendar year.
- Deviations – Section 627.211, Florida Statutes, allows insurers to file a uniform percentage increase or decrease applicable to all rates an insurer charges or to rates for a particular class or group of classes of insurance.
- Intermediate Deductibles – For a reduced premium, the employer agrees to reimburse the insurer for each claim up to the deductible amount. Intermediate deductibles range from $5,000 to $75,000. Similar to small deductible policies the insurer is responsible from first dollar of loss (i.e. losses below the deductible).
- Large Deductibles – Large deductible policies operate similarly to the small and intermediate deductible, but have a deductible amount of $100,000 and above. In order to qualify for the large deductible program, an employer must have a standard premium of at least $500,000.
- Large Risk Alternative Rating Option (LRARO) – In most states, LRARO is defined as a flexible retrospective rating plan mutually agreed to by the employer and carrier. In Florida, LRARO is a provision within the currently approved retrospective rating plan that allows for negotiation of a premium between the employer and the insurer.[29]
- Policyholder Dividends – Insurers reward their policyholders by returning some of their profit at the expiration of the policy by issuing policyholder dividends, which may be based on the policyholder's experience, the carrier's experience, and other factors.
- Retrospective Rating Plans – The final premium paid by the employer is based on the actual loss experience of the employer during the policy, plus insurer expenses and an insurance charge. If the employer implements effective loss control measures, which reduce the frequency of the number of claims and/or severity of the value of claims, they pay lower premiums. Before there were large deductible programs, retrospective rating plans were the dominant rating plan for large employers.
- Waiver of Subrogation – For an additional premium, the insurer may waive its right of recovery against parties liable for injury covered by the policy.

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[29] Prior to Florida House Bill 785 becoming law effective July 1, 2014, LRARO could not be used in Florida despite being available for use in most, if not all, other states. The bill revised Section 627.072(2), Florida Statutes, to allow a retrospective rating plan to contain a provision for negotiation of a workers' compensation premium between an employer and insurer if the employer has: (1) exposure in more than one state; (2) an estimated annual standard workers' compensation premium in Florida of $100,000 or more; and (3) an estimated annual countrywide standard workers' compensation premium of $750,000 or more. Only insurers with at least $500 million in surplus may engage in the negotiation of premiums with eligible employers.

Non-Price Competition

In addition, insurers compete in ways unrelated to the determination of premium such as:

- Offering premium payment plans that vary the amount of money paid initially and through installments;
- Demonstrating the availability and effectiveness of specialized loss control;
- Demonstrating the effectiveness of their claims handling, including fraud detection;
- Paying higher agent commissions or providing other incentive programs; and/or,
- Emphasizing policyholder service in auditing, policy issuance or certificates of insurance.

Deviations

In the mid 1980's, the use of deviations as a means of competing was commonplace. From 1983 to 1985, over 40 percent of the market was written at deviated rates. However, by 1989 only nine percent of the market was written at deviated rates. After the two-year legislatively required moratorium (1990 and 1991) on deviations, the use of deviations ceased to be a meaningful factor in the workers' compensation marketplace in Florida.

Despite the changes in Section 627.211, Florida Statutes, made by chapter law 2004-82 (Senate Bill 1926) to allow for easier approval of deviations, only three insurers have been approved for a new deviation since the law became effective on July 1, 2004. One of these was for the transfer of an existing deviation. The Office has disapproved seven deviations since July 1, 2004, for lack of justification. Three insurance companies had approved deviations in 2016 (two of the deviations are downward 10 percent and the other is downward five percent).

Large Deductibles

In the early 1990's, insurers approached the Department of Insurance (Department) about filing a rating plan for large employers (defined as having $500,000 in standard premium) with more flexibility in how the premium would be determined. The justification for the flexibility would be based on the following general concepts:

- The rating plan would be used only for very large employers. Generally, these employers would be eligible to be individually self-insured.
- Rating is similar to rating for excess insurance purchased by individual self-insureds.
- The minimum deductible is $100,000 and could be in the millions. Thus, the employer would be responsible for reimbursing the insurance carrier for the vast majority of claims.

The Department ultimately agreed to these types of plans with restrictions incorporated in Rule 69O-189.006, Florida Administrative Code (formerly 4-189.006).

As large deductible programs have been implemented, there has been a dramatic shift in premiums. The typical large deductible policy could have a deductible credit ranging from 30 percent to 90 percent. Thus, the premiums paid by employers and reported by insurers will be a fraction of premiums paid for other rating plans. This means premiums in the annual statement and premiums reported for assessments and taxes are much lower than they were previously.

As the volume of large deductible policies written in Florida increased, the effect has been to lower the base for assessment and taxes such that Section 440.51(1)(b), Florida Statutes, has been revised to require reporting premiums without the deductible credit.

An ancillary effect of large deductibles has been the movement for very large employers to cease being individually self-insured and to buy an insurance policy from an insurance company with a large deductible program.

Based on NCCI Financial Call Data for Policy Years 2014 and 2015 valued as of December 31, 2016, large deductible policies represent 11.2 percent of net earned premium and 42.1 percent of standard earned premium. Net earned premium is the premium after it has been reduced for the large deductible premium credit which employers receive for assuming the risk for losses in the deductible layer of the policy. Large deductible policies make up a significantly greater portion of the premium volume when reviewing this statistic on a standard premium basis. Standard earned premium is gross of the deductible credit for the large deductible policies; therefore, the premium volume these policies contribute to the total is much greater since the deductible credits can be large (e.g. 30%-90%).

In recent insolvencies from 2009-2011, there have been problems with large deductible policies and the lack of collectible collateral. This will result in the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) paying over $50 million that will ultimately be assessed to all workers' compensation policyholders in the state of Florida. During 2012, the FWCIGA established a workgroup to study this problem and make recommendations for corrective action. The FWCIGA Board adopted the workgroup's report and submitted recommendations for legislative changes to strengthen the collateral requirements and limit the size of the deductible assumed by policyholders.

Conclusion

Based on the number of companies and market shares of companies actively writing this type of insurance, the number of companies entering and exiting the market and their financial performance, Florida's workers' compensation market can readily be characterized as competitive.

Availability does not appear to be a significant concern in the aggregate. The residual market is small, suggesting the voluntary market is absorbing the vast majority of demand. While not without risk, the growth of PEO usage among smaller employers has also helped with availability by making coverage more affordable.

For an employer, availability is not particularly important if the coverage is not affordable. As of January 1, 2018, the voluntary market rates have declined by 59 percent since the 2003 reform legislation was passed indicating the reform has delivered the desired result and lowered costs dramatically in the state. It is likely the impact of these reforms has reached its limit.

An additional concern is medical cost drivers in the system, particularly in the areas of drug costs, hospital inpatient costs, and ASC costs. These costs are noticeably higher in Florida than the countrywide average. NCCI estimates substantial savings could be achieved with legislative reforms for the reimbursement of hospital inpatient care, hospital outpatient care, and ASC care. Furthermore, Senate Bill 662 was passed in 2013 and partially addressed the drug repackaging issue, but there are additional legislative options that could be explored to further reduce drug costs in Florida. The *2017 Three-Member Panel Biennial Report* outlines areas where potential cost saving changes could be introduced such as implementing a drug formulary or adjusting facility reimbursement rates.

Lastly, several court cases decided by the Florida Supreme Court in 2016 have together created uncertainty in the marketplace. Workers' compensation rates were increased as a result of two of the Court's decisions[30], but cost impacts related to other court cases such as the First District Court of Appeal's decision in *Miles v. City of Edgewater Police Department* (April 20, 2016), which addressed claimant-paid attorney fees, were not included in the December rate increase. There is also reason to be concerned regarding the unfunded liability that may have been created by the court decisions. NCCI estimates that the combined total statewide unfunded liability related to the Florida Supreme Court decisions in *Murray*, *Castellanos*, and *Westphal* could potentially exceed $1 billion[31]. This cost cannot be included in future rate level increases and could impact the solvency of effected insurers. The recent workers' compensation court cases have the potential to increase costs materially beyond the initial December rate increase which could create solvency concerns, perhaps threaten the affordability and availability of workers' compensation coverage, and may erode the high level of competition in Florida's workers' compensation market. Much of the data contained in this report does not entirely contemplate these recent court decisions since this data is not yet fully available, and thus any additional impacts will be included in future reports.

[30] Effective December 1, 2016, rates were increased 10.1% as a result of the *Castellanos* decision and 2.2% as a result of the *Westphal* decision.
[31] NCCI press release dated August 8, 2016.

Office Certification of Compliance with Section 627.096, Florida Statutes

Section 627.096, Florida Statutes, was created in 1979 as part of the "wage loss" reform of the workers' compensation law. This statute has three basic requirements as it pertains to this report:

1. An investigation and study of all insurers authorized to write workers' compensation in Florida. The Office has accomplished this objective by its thorough review of the quality and integrity of the data submitted in the most recent NCCI filing.

2. A study of the data, statistics, or other information to assist and advise the Office in its review of filings made by or on behalf of workers' compensation insurers. Also, there are public hearings regarding the NCCI filing which further allow an opportunity for third parties to register their opinions and input. As of 2016, NCCI's rate filings are also available for public review and download via the Office's I-File Forms and Rates Filing Search System at: https://apps8.fldfs.com/IFileExternalSearch?_ga=1.199837100.348162416.1365536846.

3. The statute gives the Financial Services Commission the authority to require all insurers to submit data to the Office. The NCCI has been collecting workers' compensation data in Florida for more than 50 years; therefore, the Office has contracted with NCCI to perform these statistical services for the state of Florida.

Appendix A: Florida Statutes Governing Workers' Compensation Self-Insurance Funds Not Subject to Office Regulation[32]

Section 624.4622 – Local government self-insurance funds

- Must be comprised entirely of local elected officials
- Limited financial reporting only

Section 624.46226 – Public housing authorities self-insurance funds

- Must be a public housing authority as defined in Chapter 421
- Has a governing body which is comprised entirely of commissioners of public housing authorities who are members of the fund
- Limited financial reporting only

Section 624.4623 – Independent educational institution self-insurance funds

- Must be an independent nonprofit college or university accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or independent nonprofit accredited secondary educational institution
- Has a governing body which is comprised entirely of independent educational institution officials
- Limited financial reporting only

Section 624.4625 – Corporation not-for-profit self-insurance funds

- Must be a not-for-profit corporation located in and organized under Florida law
- Must receive at least 75 percent of revenue from local, state or federal governmental sources
- Has a governing body which is comprised entirely of officials from not-for-profit corporations that are members of the fund
- Limited financial reporting only

Section 624.4626 – Electric cooperative self-insurance funds

- Must be an electric cooperative organized pursuant to Chapter 425 and operates in Florida
- Must subscribe to or be a member of a rating organization prescribed in Section 627.231
- Has a governing body comprised of a representative from each member of the fund
- No reporting requirements

[32] Not a complete summary of the Statutes. Refer to Florida Statutes for complete information: http://www.flsenate.gov/Laws/Statutes

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