

June 16, 2020

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Workers Compensation Insurance

NCCI Item E-1407 – Exclusion of COVID-19 Claims from  
Experience Rating and Merit Rating

The North Carolina Rate Bureau (NCRB) has filed and the North Carolina Commissioner of Insurance has approved revisions to the North Carolina Workers Compensation Statistical Plan Manual (Stat Plan). The approved revisions are related to changes being made by way of NCCI Item E-1407 – Exclusion of COVID-19 Claims from Experience Rating and Merit Rating. The approved changes become effective for experience rating modifications with rating effective dates of August 16, 2020 and later.

The changes based on NCCI Item E-1407 add information to the state-specific NC Stat Plan about reporting claims attributable to the COVID-19 pandemic.

The changes based on NCCI Item E-1407 also add an exception to NCCI Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance (Experience Rating Plan Manual) excluding claims reported with Catastrophe Number 12 from experience rating calculations.

A complete copy of NCCI's Item Filing E-1407, Filing Memorandum, and exhibit outlining all NC Stat Plan changes are included for your review.

If you have any questions, contact the NCRB Information Center at 919-582-1056 or via email at [support@ncrb.org](mailto:support@ncrb.org).

Sincerely,

Joanna Biliouris

Chief Operating Officer

JB:ko  
Attachments  
C-20-21

**North Carolina Rate Bureau  
Filing Memorandum**

**NCCI Item E-1407 – Exclusion of COVID-19 Claims from Experience Rating and Merit Rating**

**PURPOSE**

The purpose of this filing is to revise rules related to:

- Excluding claims attributable to the COVID-19 pandemic from experience rating calculations
- Reporting claims attributable to the COVID-19 pandemic as an extraordinary loss event

This item revises rules in the:

- ***NCCI Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance (Experience Rating Plan Manual)***
- ***North Carolina Workers Compensation Statistical Plan Manual (Stat Plan)***

The Exhibit showing revisions to the Stat Plan follows this filing memorandum. (See NCRB Exhibit 1) In addition, we have provided the NCCI Item Filing which outlines the changes to the Experience Rating Plan Manual.

**BACKGROUND**

The World Health Organization categorized the COVID-19 outbreak as a pandemic on March 11, 2020 when the rates of infection continued to rise in many locations around the world and across the United States.

Since pandemics are rare and unpredictable, each pandemic presents its own unique catastrophic exposure to the workers compensation line. Other large catastrophic events, such as from terrorism and/or earthquakes, have a nonratable provision outside of the manual loss costs and rates. This nonratable provision represents the long-term average expected cost, and the claims arising from those events are excluded from experience rating.

In response to the COVID-19 pandemic, Catastrophe Number 12 was created for reporting claims attributable to this pandemic with Accident Dates as of December 1, 2019 and later. Claims with Catastrophe Number 12 will not be used in experience rating calculations. Since no ending Claim Accident date has been established, the latest rating effective date impacted by claims attributable to the COVID-19 pandemic cannot be determined at this time. Once an ending Accident Date has been established, a Member Company Circular will be sent informing that claims occurring after this end Claim Accident Date must not be reported with Catastrophe Number 12 and these claims will be included in experience rating calculations.

Since Experience Rating is intended to measure each employer's success in maintaining a safe workplace by factoring payroll and lost history to project that employer's propensity for future losses, NCCI has determined that it is not appropriate to include claims attributable to the COVID-19 pandemic in experience rating calculations. A higher number of COVID-19 pandemic claims may not be a good indicator of an employer's safety programs as compared to similar employers. The occurrence of COVID-19 pandemic claims is unlikely to be a reliable predictor of an employer's future claims costs or whether there will be a pandemic in the future.

NCCI Item E-1407 is a product of NCCI's ongoing process in which they review and propose modifications. While NCCI's analysis is national in scope, NCCI also recognizes the occasional need for state-specific revisions to reflect geographical differences. With some exceptions for state-specific deviations, North Carolina adheres to the NCCI national system. North Carolina Rate Bureau (Bureau) staff has reviewed NCCI Item E-1407 and given consideration to revisions as proposed by NCCI. Based on their review and research staff recommends that the Bureau seek approval for all NCCI proposed national revisions to be applicable to North Carolina.

The NCCI Item E-1407 includes exhibits that identify the revisions required to the Experience Rating Plan Manual. In conjunction with these changes, Bureau staff has created an exhibit showing the

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Filing Memorandum**

**NCCI Item E-1407 – Exclusion of COVID-19 Claims from Experience Rating and Merit Rating**

corresponding changes which impact the Stat Plan.

Changes for North Carolina, along with any deviations from what has been proposed in NCCI Item E-1407 are noted and explained in the summary that follows.

**PROPOSAL**

This item proposes to:

1. Revise ***Experience Rating Plan Manual*** Rule 1-C-3 to add an exception stating that claims reported with Catastrophe Number 12 are excluded from experience rating calculations
2. Revise ***Stat Plan*** Part 2-H-13 to add information about reporting claims attributable to the COVID-19 pandemic

The Bureau proposes the adoption of changes applicable to North Carolina being proposed by way of NCCI E-1407, as well as the changes outlined in NCRB Exhibit 1.

**IMPACT**

This item will support the uniform and equitable treatment of claims reported by employers within each industry during the COVID-19 pandemic. It is recognized that proposed changes have the potential to impact affected employers with experience rating modifications with rating effective dates of August 16, 2020 and later by excluding incurred claims reported under Catastrophe Number 12.

**IMPLEMENTATION**

Since ***Experience Rating Plan Manual*** Rule 1-B-5 requires that a policy of one year and 16 days be treated as a one-year policy and ***Experience Rating Plan Manual*** Rule 2-E-1-a states that experience used in a rating is not less than 21 months before the rating effective date and not more than 57 months before the rating effective date, the revisions proposed by way of NCCI Item E-1407 become effective for experience rating modifications with rating effective dates of August 16, 2020\*, and later.

\*Based on the December 1, 2019 Accident Date, the earliest policy effective date under the Catastrophe Number 12 claims could be reported is November 16, 2018. The earliest rating effective date that could be impacted by the excluded claims is August 16, 2020.

## FILING MEMORANDUM

### ITEM E-1407—EXCLUSION OF COVID-19 CLAIMS FROM EXPERIENCE RATING AND MERIT RATING

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#### PURPOSE

This item revises rules related to:

- Excluding claims attributable to the COVID-19 (coronavirus) pandemic from experience rating calculations
- Reporting claims attributable to the COVID-19 pandemic as an extraordinary loss event
- Excluding claims attributable to the COVID-19 pandemic from merit rating plans (where applicable)

The following NCCI manuals are impacted by these rule changes:

- ***Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance (Experience Rating Plan Manual)***
- ***Statistical Plan for Workers Compensation and Employers Liability Insurance (Statistical Plan)***
- ***Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual)***
- ***Forms Manual of Workers Compensation and Employers Liability Insurance (Forms Manual)***

#### BACKGROUND

The World Health Organization categorized the COVID-19 outbreak as a pandemic on March 11, 2020, when the rates of infection continued to rise in many locations around the world and across the United States.

Pandemics have been rare and are generally considered catastrophes because of their scope and severity. The presence or absence of a pandemic in a recent historical period is not believed to be a reliable predictor of whether one will return in a given future year, after the current one runs its course. Pandemics share this aspect with other catastrophic perils in the workers compensation line, such as terrorism and earthquakes, and each peril presents a unique catastrophic exposure. Those other catastrophes have a nonratable provision outside of the manual loss costs and rates that represent the long-term average expected cost, and the claims arising from those events are excluded from experience rating.

In response to this pandemic, Catastrophe Number 12 was created for reporting claims attributable to the COVID-19 pandemic. This number applies to all claims with Accident Dates of December 1, 2019, and subsequent. Claims with Catastrophe Number 12 will not be used in experience rating calculations. At this time, no ending claim Accident Date has been established. Once established, claims occurring after the ending claim Accident Date must not be reported with Catastrophe Number 12 and such claims will be included in experience rating calculations and merit rating plans. Since no ending claim Accident Date has been established, the latest rating effective date impacted by claims attributable to the COVID-19 (coronavirus) pandemic cannot be determined at this time.

Experience rating is intended to measure an individual employer's success in maintaining a safe workplace by factoring the employer's payroll and loss history into a formula designed to project that employer's propensity for future losses. After careful consideration, NCCI determined that it is appropriate to exclude claims attributable to the COVID-19 pandemic from experience rating calculations for the following reasons:

- COVID-19 Pandemic Claims as a Predictor of Safety Practices—The primary purpose of the Experience Rating Plan (Plan) is to encourage safety practices by giving employers an incentive to keep a safe workplace as compared to other similar businesses. Employers with a higher number of COVID-19

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## FILING MEMORANDUM

### ITEM E-1407—EXCLUSION OF COVID-19 CLAIMS FROM EXPERIENCE RATING AND MERIT RATING

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pandemic claims may not be a good indicator of that employer's safety program as compared to similar employers.

- COVID-19 Pandemic Claims as a Predictor of Future Claims—The occurrence of COVID-19 pandemic claims is unlikely to be a reliable predictor of an employer's future claims costs or whether there will be a pandemic in the future.

Similar to the reasons mentioned above, it is also appropriate to exclude claims attributable to the COVID-19 pandemic from various state merit rating plans (where applicable) because these plans base the applicable credit or debit percentage on the number of claims reported during a specified period of time.

The COVID-19 pandemic has created unique workers compensation conditions that need to be addressed within NCCI manuals. As a result, NCCI has determined that it is necessary to revise the following rules/endorsement:

- **Experience Rating Plan Manual** Rule 1-C-3
- **Statistical Plan** Part 4-E-2-a(2)
- **Basic Manual** Miscellaneous Rules for merit rating plans (where applicable)
- **Forms Manual** Maine Merit Rating Endorsement (WC 18 04 02 A)

We are currently evaluating other state pricing programs; any other identified changes will be included in separate filing(s).

## PROPOSAL

This item proposes to:

1. Revise **Experience Rating Plan Manual** Rule 1-C-3 to add an exception stating that claims reported with Catastrophe Number 12 are excluded from experience rating calculations
2. Revise **Statistical Plan** Part 4-E-2-a(2) to add information about reporting claims attributable to the COVID-19 pandemic
3. Revise **Basic Manual** Miscellaneous Rules for Merit Rating Plans in Alabama, Arkansas, Georgia, Hawaii, Maine, Oklahoma, South Dakota, and Vermont to:
  - Add a note stating that claims reported with Catastrophe Number 12 are excluded from merit rating
  - Make minor format changes and grammatical updates
4. Revise the **Experience Rating Plan Manual** Merit Rating Plan in Oregon's Miscellaneous Rules to add a note stating that claims reported with Catastrophe Number 12 are excluded from merit rating
5. Revise the **Forms Manual** Maine Merit Rating Endorsement to:
  - Add information about the type of claims that are excluded from the Maine Merit Rating Plan
  - Make minor format changes and grammatical updates

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**ITEM E-1407—EXCLUSION OF COVID-19 CLAIMS FROM EXPERIENCE RATING AND MERIT RATING**

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**IMPACT**

*Experience Rating Plan Manual* Rule 1-B-5 requires that a policy of one year and 16 days be treated as a one-year policy. *Experience Rating Plan Manual* Rule 2-E-1-a states that experience used in a rating is not less than 21 months before the rating effective date and not more than 57 months before the rating effective date. Based on these rules, the proposed changes have the potential to impact affected employers with experience rating modifications with rating effective dates of August 16, 2020, and later. To the extent affected employers incur any claims reported under Catastrophe Number 12, the experience rating modifications will exclude such claims for those employers.

Based on the December 1, 2019 Accident Date, the earliest policy effective date under which Catastrophe 12 claims could be reported is November 16, 2018. The earliest rating effective date that could be impacted by the excluded claims is August 16, 2020.

Because Catastrophe Number 12 claims will be excluded from merit rating plans, no merit ratings should be impacted by COVID-19 pandemic claims.

**EXHIBIT COMMENTS AND IMPLEMENTATION SUMMARY**

| Exhibit | Exhibit Comments  | Implementation Summary   |
|---------|---|--|
| 1       | Details the revision to Rule 1-C-3 in NCCI's <i>Experience Rating Plan Manual</i> .   | <ul style="list-style-type: none"> <li>• For all states, where applicable, except Hawaii, Exhibits 1 and 2 of this item are to become effective for experience rating modifications with rating effective dates of August 16, 2020, and later</li> <li>• In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change</li> </ul> |
| 1       | Details the revisions to Maine's exception to NCCI's <i>Experience Rating Plan Manual</i> Rule 1-C-3.   |  |
| 1       | Details the revisions to Massachusetts' exception to NCCI's <i>Experience Rating Plan Manual</i> Rule 1-C-3.  |  |
| 2       | <ul style="list-style-type: none"> <li>• Details the revisions to Part 4-E-2-a(2) in NCCI's <i>Statistical Plan</i></li> <li>• Applies in all states except Massachusetts and North Carolina</li> </ul> |  |

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**EXHIBIT 1  
EXPERIENCE RATING PLAN MANUAL—2003 EDITION  
RULE 1—GENERAL EXPLANATIONS****C. DEFINITIONS**

(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

**3. Losses**

Incurring losses for each classification in the experience period are those reported according to the **Statistical Plan**.

- a. No loss is excluded from the experience of a risk even if the employer was not responsible for the accident that caused such loss.

**Exception:** Claims reported with Catastrophe Number 12 are excluded from experience rating calculations. Catastrophe Number 12 claims include all claims attributable to the COVID-19 (coronavirus) pandemic with Accident Dates of December 1, 2019, and subsequent. This rule applies to experience rating modifications with rating effective dates of August 16, 2020, and later.

**Exception:** Losses reported with Catastrophe Number 87 are excluded from experience rating calculations. Catastrophe Number 87 claims include all workers compensation occupational disease claims resulting from the rescue, recovery, and clean-up work at the World Trade Center occurring between the dates of September 11, 2001 and September 12, 2002. This rule applies to experience rating modifications with rating effective dates of May 27, 2002 through June 12, 2007.

**Exception:** Losses reported with Catastrophe Number 48 are excluded from experience rating calculations. Catastrophe Number 48 claims include all workers compensation claims directly attributable to the September 11, 2001 attacks with accident dates of September 11 through September 14, 2001. This rule applies to experience rating modifications with anniversary rating dates of May 27, 2002 through June 14, 2006.

**Exception:** Claims that are reported as noncompensable according to the **Statistical Plan** are excluded from experience rating calculations.

**Exception:** Claims that are reported as fraudulent according to the **Statistical Plan** are excluded from experience rating calculations.

**Exception:** Claims that are reported as coal mine disease (Black Lung) according to the **Statistical Plan** are excluded from experience rating calculations.

- b. Loss amounts may be limited in the experience rating calculation. For application of a loss limitation, refer to Rule 2-C-13.

**Rule Revision Related to Exclusion of COVID-19 Claims from Experience Rating and Merit Rating  
North Carolina Statistical Plan  
Part 4 – Losses and Expense Information  
H. Claim Components  
13. Catastrophe Number**  
**Effective for Experience Rating Modifications with Rating Effective Dates of August 16, 2020 and later**

**H. Claim Components**

**13. Catastrophe Number**

Any accident resulting in two or more reported claims must be reported as a catastrophe. All claims resulting from the accident are assigned a number beginning with 01. If there is more than one catastrophe under the policy, each succeeding catastrophe should be increased by one with the highest number available being 10. In the event the number of catastrophes under the policy exceeds 10, report another set of catastrophes beginning with 01. A separate set of catastrophe numbers beginning with 01 must be used for each policy. Numbers 11 through 99 are reserved for Extraordinary Loss Event Catastrophe Numbers.

**ELE Catastrophe Number 12—COVID-19 (Coronavirus) Pandemic**

ELE Catastrophe Number 12 must be reported for claims attributable to the COVID-19 (coronavirus) pandemic beginning with Accident Dates of 12/1/2019 and subsequent. For claims reported with Catastrophe Number 12, the Nature of Injury Code 83—COVID-19 and Cause of Injury Code 83—Pandemic must also be reported.