



August 28, 2009

CIRCULAR LETTER TO ALL MEMBER COMPANIESRe: Workers Compensation Insurance

NCCI Item RMW-8034 – Establishment of  
***Basic Manual for Workers Compensation and  
Employers Liability Insurance*** Rule 4-F  
Take-Out Credit Program

The North Carolina Rate Bureau has adopted and the North Carolina Commissioner of Insurance has approved the adoption of changes to NCCI's ***Basic Manual for Workers Compensation and Employers Liability Insurance***. The effective date of the changes is January 1, 2010.

The purpose of this filing is to: (1) create a national residual market Take-Out Credit (TOC) Program that will be defined in the NCCI ***Basic Manual for Workers Compensation and Employers Liability Insurance*** under Rule 4-F, (2) include North Carolina in the national TOC Program, and (3) identify North Carolina state rule exceptions applicable to the national TOC Program as needed.

Title	Exhibit	Pages
Rule 4.F Take-Out Credit Program	1	3-7
Rule 4.F - Take-Out Credit Program – State Rule Exceptions for North Carolina	2	9

The attached exhibits explain these changes in more detail.

This filing was made with the Department of Insurance on behalf of all member companies, and no additional filing is needed by the carrier.

Contact the Information Center at 919-582-1056 or via email at [wcinfo@ncrb.org](mailto:wcinfo@ncrb.org), if you require additional information.

Sincerely,

Sue Taylor

Director of Insurance Operations

ST:dg

C-09-21

## FILING MEMORANDUM

### ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

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#### PURPOSE

This item:

1. Creates a national residual market Take-Out Credit (TOC) Program to be located in NCCI's **Basic Manual for Workers Compensation and Employers Liability Insurance** as Rule 4-F.
2. Eliminates the state-specific Take-Out Credit Programs located in the Assigned Risk Miscellaneous Rules of NCCI's **Basic Manual**; establishes state rule exceptions for national TOC as necessary.
3. Implements a TOC Program in West Virginia.

#### BACKGROUND

The TOC Program provides carriers with financial incentives for writing residual market employers on a voluntary market basis. Each voluntary market carrier participating in the Workers Compensation Insurance Plan (WCIP) that removes an employer insured under the WCIP may be eligible for a TOC.

The current TOC Programs became effective in specific jurisdictions on various dates. Although the programs are state specific, they have many common features, such as identifiable program lengths, ratios, and other requirements.

Similar to the approach taken with the revision of other NCCI manuals, rating plans, and programs, NCCI, as Plan Administrator, initiated a complete review and update of the individual programs to:

- Create a national TOC Program to appear as **Basic Manual** Rule 4-F
- Address state exceptions to the TOC Programs in the same manner as **Basic Manual** Rule 4-A to incorporate state special rules into the national TOC Program where appropriate
- Clarify material by simplifying the rules and presentation with a plain language approach that incorporates carrier and regulator feedback

#### PROPOSAL

The revisions proposed in this item identify three themes that provide the focus for improving this program:

1. **National Approach**  
In creating a national TOC Program, all individual state programs were reviewed to determine the consistent elements among all of the states. This review determined that the vast majority of the state-specific programs were similar and often the same when compared to each other. Individual state programs have been incorporated within the new national **Basic Manual** Rule 4-F where appropriate.
2. **Accessibility and Usability**  
The creation of the national TOC Program as **Basic Manual** Rule 4-F enables the user to immediately access information without navigating through numerous state programs.
3. **Use of Plain Language**  
Customers have responded favorably to the plain language presentation of NCCI's 2001 **Basic Manual**, 2003 **Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance**, and the 2006 residual market rules incorporated as **Basic**

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**Manual** Rule 4. To continue with this approach, **Basic Manual** Rule 4-F is written in simpler language and presented in a more suitable manner.

The proposed TOC Program is clarified, where necessary, by use of simplified text.

#### IMPACT

There is no expected impact to statewide premium as a result of this item.

As in the past, NCCI will continue to issue an annual TOC circular, which includes topics such as the enrollment process and corresponding deadlines.

#### IMPLEMENTATION

For all states except Virginia, it is proposed that **Basic Manual** Rule 4-F become effective January 1, 2010. It is proposed that the TOC Program be implemented, applicable to employers' policies removed from the residual market and written on a voluntary market basis, on or after the effective date of this program as contained in the attached exhibit(s).

In Virginia, it is proposed that **Basic Manual** Rule 4-F become effective for policies effective on and after January 1, 2010. It is proposed that the TOC Program be implemented, applicable to employers' policies removed from the residual market and written on a voluntary market basis on or after the effective date of this program as contained in the attached exhibit(s).

Further, for all states except West Virginia, the individual state programs are discontinued effective January 1, 2010. However, a transition program is not needed because program length, ratios, and policy qualifications have not changed. Therefore, employers' policies in a state specific TOC Program effective on or before December 31, 2009 will not be impacted. Since this program is initially established in West Virginia policies effective on or before December 31, 2009 will not be impacted.

The following is a summary of the exhibits included in this item:

- **Exhibit 1** contains the national **Basic Manual** Rule 4-F
- **Exhibit 2** contains state rule exceptions for Georgia, North Carolina, and Oregon only

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**ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM**

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**EXHIBIT 1  
BASIC MANUAL—2001 EDITION  
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES**

**F. TAKE-OUT CREDIT PROGRAM****1. General Information**

- a. The Take-Out Credit Program provides carriers with financial incentives for writing residual market employers on a voluntary market basis.
- b. Each voluntary market carrier participating in the Workers Compensation Insurance Plan (WCIP) that removes an employer insured under the WCIP may be eligible for a take-out credit (TOC). The TOC is applied against the premium used to calculate the voluntary market carrier's Plan participation base as defined in *Basic Manual* Rule 4-A-5-d or applicable state workers compensation insurance plan.
- c. All carriers licensed in a TOC Program-approved jurisdiction and writing workers compensation and employers liability insurance coverage are eligible to participate in the TOC Program.
- d. It is the voluntary market carrier's responsibility to:
  - (1) Enroll with the Plan Administrator as well as update enrollment information on an annual basis as required in accordance with the enrollment procedures established by the Plan Administrator.
  - (2) Submit an annual request for TOC in accordance with Rule 4-F-5 and any procedures established by the Plan Administrator.
  - (3) Provide supporting data as may be required by the Plan Administrator.
- e. TOCs are not issued to carriers that do not enroll in the program.
- f. TOCs are not issued to enrolled carriers that do not submit an annual request for credit.
- g. The Plan Administrator determines the applicability of all TOC Program rules.

**2. General Terms****a. Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14)**

Refers to a carrier's Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14) contained in its Annual Statement.

**b. Employer**

Employer refers to an insured or a policyholder, in accordance with *Basic Manual* Rule 4-A-2-i or applicable state workers compensation insurance plan.

**c. Experience Rating Threshold Average**

A specific jurisdiction's experience rating threshold average is located in NCCI's *Experience Rating Plan Manual*. For purposes of TOC, the threshold is used as a parameter. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

**d. Individual Reported Policy Premium**

For purposes of TOC, individual reported policy premium is the amount of policy premium included for specific employers in the carrier's Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14) of the carrier's Annual Statement for the most recent calendar year. This premium is also the basis for carrier participation in the Plan. *Refer to the TOC Parameters Table in Rule 4-F-4-e.*

**ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM**

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**EXHIBIT 1 (CONT'D)**  
**BASIC MANUAL—2001 EDITION**  
**RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES**

**e. Plan**

Plan refers to NCCI's Workers Compensation Insurance Plan (WCIP), as defined in **Basic Manual** Rule 4-A-2-y or applicable state workers compensation insurance plan.

**f. Plan Administrator**

The organization designated to administer the affairs of the Plan as approved by the regulatory authority in a jurisdiction. For purposes of TOC, the Plan Administrator may also be referred to as the TOC Administrator.

**g. Plan Participation Base**

Plan participation base refers to the basis of a carrier's participation in the Workers Compensation Insurance Plan in accordance with **Basic Manual** Rule 4-A-5-d or applicable state workers compensation insurance plan.

**h. Program Length**

Program length refers to the maximum number of consecutive years that a specific employer's initial and renewal voluntary market policies may qualify for a TOC. For instance, a three year program length means that a voluntary market employer's initial policy and two subsequent renewals may qualify for TOC. Refer to the TOC Parameters Table in Rule 4-F-4-e.

**i. TOC**

TOC refers to the Take-Out Credit Program. The term is also used to refer to the actual credit (e.g., a carrier may qualify for a TOC to be applied to its Plan participation base). TOC is a residual market depopulation incentive program, with state-specific program parameters.

**j. Program Year**

Program year refers to the individual year that an employer's initial and renewal voluntary market policies may participate in TOC. For instance, an eligible initial voluntary market policy would be Program Year 1. The consecutive renewals would be Program Years 2 and 3, respectively.

**k. TOC Ratio**

Each jurisdiction has a ratio that is multiplied against the individual reported policy premium. Refer to the TOC Parameters Table in Rule 4-F-4-e.

**l. Voluntary Market Carrier**

For purposes of TOC, a voluntary market carrier removes an employer from a specific jurisdiction's residual market and writes the employer on a voluntary basis. For purposes of TOC, voluntary market carrier(s) will be referred to only as carrier(s).

**3. TOC Requirements**

- a. Any carrier, other than the last voluntary carrier of record, may remove an employer without any restriction on the length of time that the employer was written in the residual market. For purposes of TOC, these requirements apply to a carrier's group/affiliate as well as the carrier.
- b. A carrier will not receive a TOC for any employer removed from the residual market within 12 months of that carrier, or a member of that carrier's group, writing the employer in the voluntary market.

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**EXHIBIT 1 (CONT'D)  
BASIC MANUAL—2001 EDITION  
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES**

- c. In no instance may a carrier receive a TOC for employers returned to the residual market within 12 months of being removed from the residual market.
- d. If the enrolled carrier keeps the employer out of the residual market for the full program length, that carrier will receive the TOC for premium relating to each of the program years of voluntary market coverage.
- e. A carrier is not eligible for a TOC for an employer’s remaining program years if:
  - (1) A carrier does not enroll in TOC for an employer’s first program year, or
  - (2) A carrier does not request a TOC for an employer’s first program year, or
  - (3) A carrier requests a TOC for an employer’s first program year, but subsequently decides not to accept the TOC, or
  - (4) An enrolled carrier accepts a TOC for a specific program year, but not its subsequent program years, in accordance with the specific jurisdiction’s program length as detailed in the TOC Parameters Table in Rule 4-F-4-e.
- f. Subject to Rule 4-F-3-a through e., if the enrolled carrier does not write the employer for the full program length, it will receive TOC only for that consecutive period of time that it covered the employer in the voluntary market.

**4. TOC Calculation**

- a. Individual reported policy premium is used to determine the Individual Policy TOC and is subject to subsequent adjustments.

$$\frac{\text{Individual Policy TOC}}{\text{TOC}} = \frac{\text{Individual Reported Policy Premium}}{\text{Policy Premium}} \times \frac{\text{TOC Ratio}}{\text{Ratio}}$$

- b. Total Carrier TOC is calculated by jurisdiction as follows:

$$\frac{\text{Total Carrier TOC}}{\text{TOC}} = \text{Sum of Individual Policy TOC}$$

- c. Subsequent adjustments made to TOC (such as audit premiums, retro adjustments, etc.) are developed and reported in the calendar year in which they are made.
- d. Regardless of when a policy adjustment is made by the carrier, a TOC adjustment is applied if it is related to a policy within the program length.
- e. The TOC parameters used in the calculation are as follows:

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EXHIBIT 1 (CONT'D)  
 BASIC MANUAL—2001 EDITION  
 RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

TOC Parameters Table

Jurisdiction	(Years) Program Length	All Policies  TOC Ratio	Individual Reported Policy Premium			
			Less Than Experience Rating Threshold Average	Equal to or Greater Than Experience Rating Threshold Average	Less Than \$5,000	Equal to or Greater Than \$5,000
			TOC Ratio	TOC Ratio	TOC Ratio	TOC Ratio
Alabama	3	N/A	2:1	1:1	N/A	N/A
Alaska	3	N/A	N/A	N/A	2:1	1:1
Arkansas	3	1.5:1	N/A	N/A	N/A	N/A
Connecticut	3	1:1	N/A	N/A	N/A	N/A
District of Columbia	3	1:1	N/A	N/A	N/A	N/A
Georgia	2	Refer to State Pages				
Illinois	3	N/A	2:1	1:1	N/A	N/A
Indiana	3	1:1	N/A	N/A	N/A	N/A
Iowa	3	1:1	N/A	N/A	N/A	N/A
Kansas	3	N/A	2:1	1:1	N/A	N/A
Mississippi	3	N/A	2:1	1:1	N/A	N/A
New Hampshire	3	N/A	N/A	N/A	2:1	1:1
North Carolina	3	1:1	N/A	N/A	N/A	N/A
Oregon	3	N/A	N/A	N/A	3:1	1:1
South Carolina	3	1:1	N/A	N/A	N/A	N/A
South Dakota	3	N/A	3:1	2:1	N/A	N/A
Vermont	3	N/A	N/A	N/A	2:1	1:1
Virginia	3	N/A	2:1	1:1	N/A	N/A
West Virginia	3	N/A	N/A	N/A	2:1	1:1

**5. Carrier Submission of Request for Take-Out Credit**

If a carrier wishes to have a TOC applied to its Plan participation base, it must request the TOC in accordance with the following:

- a. Carriers must enroll in the TOC Program in accordance with the enrollment procedures established by the Plan Administrator.
- b. In order to receive a TOC for the entire program length, policies of employers taken out of the residual market must be identified as voluntary and accurately reported every year to the appropriate rating/advisory/statistical organization.

**ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM**

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**EXHIBIT 1 (CONT'D)**  
**BASIC MANUAL—2001 EDITION**  
**RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES**

- c. The Plan Administrator performs a systematic review and provides enrolled carriers with an electronic detailed report of eligible policies by program year. The report includes only voluntary market policies as reported by the enrolled carrier for employers that were previously written in the residual market.
  - d. Enrolled carriers must review and change the report (if change is necessary) to ensure that only eligible policies are included in the calculation of the TOC. The report changes must be provided in accordance with the procedures established by the Plan Administrator.
  - e. Enrolled carriers must ensure that the individual reported policy premium is the amount included in the Direct Premiums Written in the Exhibit of Premiums and Losses (Statutory Page 14) of the carrier's Annual Statement for the most recent calendar year.
  - f. If no changes are necessary, refer to Rule 4-F-5-h.
  - g. Upon receipt of a modified report, the Plan Administrator reviews the submitted changes to ensure agreement. The Plan Administrator has the discretion to eliminate policies from the report that were inaccurately reported or whose changes cannot be confirmed.
  - h. The enrolled carrier must review and provide final approval of the policies on the report. The approval and corresponding official request to receive a TOC must be sent electronically to the Plan Administrator for final processing.
- 6. Total Carrier TOC Application to Plan Participation Base**
- a. A total carrier TOC will be given only to enrolled carriers that provide electronic acceptance by the authorized TOC contact as provided in accordance with the established enrollment procedures.
  - b. The developed total carrier TOC is applied to the carrier's Plan participation base.
  - c. There is no maximum limit on the total carrier TOC amount, but a carrier's Plan participation base will not be reduced below zero as a result of the TOC.
  - d. Total carrier TOCs are applied to each individual carrier's Plan participation base, and are not rolled up to an aggregate TOC for the carrier's group.
  - e. If a carrier disagrees with the final total carrier TOC, it may dispute the TOC in accordance with **Basic Manual** Rule 4-A-10-c or applicable state workers compensation insurance plan.



ITEM RM-W-8034—ESTABLISHMENT OF BASIC MANUAL RULE 4-F—TAKE-OUT CREDIT PROGRAM

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EXHIBIT 2  
BASIC MANUAL—2001 EDITION  
NORTH CAROLINA STATE EXCEPTION  
RULE 4—WORKERS COMPENSATION INSURANCE PLAN RULES

F. TAKE-OUT CREDIT PROGRAM (TOC)

2. **General Terms**

e. **Plan**

Change Rule 4-F-2-e as follows:

Plan refers to the North Carolina Workers Compensation Insurance Plan (WCIP).

f. **Plan Administrator**

Change Rule 4-F-2-f as follows:

The North Carolina Rate Bureau, the organization which has been designated to administer the affairs of the Plan. For purposes of TOC, the Plan Administrator may also be referred to as the TOC Administrator.