

June 29, 2010

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: North Carolina State Rule Exceptions

The North Carolina Rate Bureau has filed and the North Carolina Commissioner of Insurance has approved effective July 1, 2010 a filing that will clarify, revise or eliminate several North Carolina State Rule Exceptions to the NCCI Basic Manual.

Over the past couple of years we have received inquiries from interested parties seeking clarification on the NC State Rule Exceptions shown in the NCCI Basic Manual. We reviewed the NC State Rule Exceptions and initiated changes that will provide clarity on how the exceptions are to be applied. We also determined in our review that some exceptions needed to be revised and others could be eliminated due to changes to the NCCI Basic Manual Rules that have occurred in recent years. Shown below is a summary of the filing and the impact of the changes:

Rule	Impact of Change	Page(s)
1. F. Changes or Corrections in Classification	Verbiage added to manual giving clarity on how the NC State Exception is to be applied	1
2. H.1. Subcontractors	NC State Exception added to rule	2
3. A.1. Advisory Loss Cost, Authorized Rate and Manual Rate	Eliminates NC State Exception to rule	2
3. A.11. Expense Constant	Eliminates NC State Exception to rule	3
3. A.13. Final Earned Premium	Revision to NC State Rule Exception	3-5
3. A.20. Standard Premium	Eliminates NC State Exception to rule	6-7
3. C.5.d. Catastrophe Provisions	Eliminates NC State Exception to rule	7

The NCCI Basic Manual will be updated to reflect all approved changes with an effective date of July 1, 2010. The attachment provides a detailed explanation of the changes to the NC State Rule Exception shown in the NCCI Basic Manual.

Inquiries regarding these changes may be directed to our Information Center at 919-582-1056 or wcinfo@ncrb.org.

Sincerely,

Sue Taylor

Director of Insurance Operations

ST:dms

Attachment

C-10-8

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Revised - State Rule Exceptions – North Carolina

RULE	CURRENT	REVISED	IMPACT
<p>Rule 1.F Changes or Corrections in Classifications</p>	<p>No application to change classifications on the ground that the risk has been improperly classified will be considered by the North Carolina Rate Bureau unless:</p> <ul style="list-style-type: none"> • The application is filed directly with the Bureau, by the insured or by the carrier, and • The application is made during the term of the policy or within twelve months after the expiration date thereof <p>As provided in the Standard Workers Compensation and Employers Liability Policy, the insurance carrier is permitted to audit or re-audit within three years after termination of the policy. The revised audit may be for the purpose of reallocation or amendment of the payroll or other premium basis, according to the rules, rates and rating plans applicable under the manual used by the carrier.</p>	<p>Add the following to Rule 1-F:</p> <p>No application to change classifications on the ground that the risk has been improperly classified will be considered by the North Carolina Rate Bureau unless:</p> <ul style="list-style-type: none"> • The application is filed directly with the Bureau, by the insured or by the carrier, and • The application is made during the term of the policy or within twelve months after the expiration date thereof <p>As provided in the Standard Workers Compensation and Employers Liability Policy, the insurance carrier is permitted to audit or re-audit within three years after termination of the policy. The revised audit may be for the purpose of reallocation or amendment of the payroll or other premium basis, according to the rules, rates and rating plans applicable under the manual used by the carrier.</p>	<p>Verbiage has been added to the NCCI Basic Manual to clarify how the North Carolina State Exception Rule is to be applied to the rule.</p> <p>There is no change to the content of the State Rule Exception for North Carolina.</p>

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<p>Rule 2.H.1 Subcontractors</p>	<p>In those states where workers compensation laws provide that a contractor is responsible for the payment of compensation benefits to employees of its uninsured subcontractors, the contractor must furnish satisfactory evidence that the subcontractor has workers compensation insurance in force covering the work performed for the contractor. The following documents may be used to provide satisfactory evidence:</p> <ul style="list-style-type: none"> • Certificate of insurance for the subcontractor’s workers compensation policy • Certificate of exemption • Copy of subcontractors workers compensation policy 	<p>Change Rule 2-H-1 as follows:</p> <p>In those states where workers compensation laws provide that a contractor is responsible for the payment of compensation benefits to employees of its uninsured subcontractors, the contractor must furnish satisfactory evidence that the subcontractor has workers compensation insurance in force covering the work performed for the contractor. The following documents may be used to provide satisfactory evidence:</p> <ul style="list-style-type: none"> • Certificate of insurance for the subcontractor’s workers compensation policy • Copy of subcontractor’s workers compensation policy 	<p>Add a State Rule Exception for North Carolina.</p> <p>Based on N.C.G.S 97.6 “Certificates of Exemption” or “Waivers” are not allowed in North Carolina.</p> <p>Chapter 97-6 of the North Carolina Workers Compensation Act states that, “No special contract can relieve an employer of obligations.”</p> <p>Eliminating the second bulleted item in the rule for North Carolina supports the statute.</p>
<p>Rule 3.A.1 Advisory Loss cost, Authorized Rate and Manual Rate</p>	<ul style="list-style-type: none"> • When the applicable manual classification carries no specific rate, the Bureau will, after investigation, establish the proper rate. 		<p>There is not a need for a State Rule Exception to the national rule for North Carolina. We no longer have classifications that do not have a specific rate.</p> <p>This State Rule Exception has been eliminated for North Carolina</p>

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<p>Rule 3.A.11 Expense Constant</p>	<p>a. The expense constant is:</p> <ul style="list-style-type: none"> • Not subject to premium discount, experience rating modification, retrospective rating adjustment, or additional charges for the catastrophe provisions detailed in Rule 3-A-24 • Included in the minimum premium for each classification and must not be added to the minimum premium if the minimum premium becomes the final premium for the policy • Shown on the Information Page of the policy. For details, refer to <i>User's Guide D-2-g(6)</i>. <p>Refer to <u>the <i>User Guide</i></u> for an example.</p>		<p>The National rule includes all language shown in the North Carolina exception.</p> <p>This State Rule Exception has been eliminated for North Carolina.</p>
<p>Rule 3.A.13 Final Earned Premium</p>	<p>a. Audit of Payroll and Adjustment of Premium The rules, classifications and rates in this manual govern the audit of payroll and adjustments of premiums subject to the following requirements:</p> <ol style="list-style-type: none"> 1. The carrier must make an actual 	<p>Add the following to Rule 3-A-13:</p> <p>a. Audit of Payroll and Adjustment of Premium The rules, classifications and rates in this manual govern the audit of payroll and adjustments of premiums subject to the following requirements:</p>	<p>The State Rule Exception for North Carolina has been revised to bring audit rules for voluntary policies in line with those of assigned risks policies.</p>

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	<p>audit of the employer’s records for the purpose of determining the premium in accordance with the following:</p> <p>(a) Each risk producing an annual premium of \$5,000 or more must be audited at least once a year.</p> <p>(b) Except as provided in subdivision c. following, each risk producing an annual premium of less than \$5,000 must be audited the first year it is written by a particular carrier, and at least once every three years thereafter. In each year when such a risk is not audited, a signed payroll statement must be obtained from the employer.</p> <p>(c) In instances where an audit is clearly impracticable, such as private residences or building operations risks served by one or two employees, an actual audit may be waived and a signed payroll statement from the employer may be accepted.</p> <p>2. Upon failure of the insured to return voluntary audit request or refusal to cooperate in completing a final physical audit, the workers compensation carrier may utilize</p>	<p>1. The carrier must make an actual audit of the employer’s records for the purpose of determining the premium in accordance with the following:</p> <p>(a). For each risk producing an annual premium of less then \$50,000, the carrier must complete a mail or telephone audit of the employer’s records at least once a year.</p> <p>(b) For each risk producing an annual premium of \$50,000 or more, the carrier must make a final physical audit of the employer’s records at least once a year.</p> <p>2. Failure of the insured to respond to audit request or refusal to cooperate in completing a voluntary or physical audit may result in the workers compensation carrier utilizing payroll up to a maximum of three times the estimated payroll for purposes of determining the final premium subject to the following conditions:</p> <p>(a) The carrier must make two good faith efforts to obtain the voluntary audit report or complete the physical audit.</p>	
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	<p>payroll up to a maximum of three times the estimated payroll for purposes of determining the final premium subject to the following conditions:</p> <p>(a) The carrier must make two good faith efforts to obtain the voluntary audit report or complete the physical audit.</p> <p>(b) The carrier must document the audit file regarding the above attempts to obtain the required audit information.</p> <p>(c) After two good faith attempts to obtain information, the carrier must send a letter certified mail to the insured advising them of the specific records that are required and the premium that will be charged if the insured continues to refuse access to the records. A cancellation notice for the renewal policy should be issued. The cancellation notice may be rescinded if the audit is performed.</p>	<p>(b) The carrier must document the audit file regarding the above attempts to obtain the required audit information.</p> <p>(c) After two good faith attempts to obtain information, the carrier must send a letter certified mail to the insured advising them of the specific records that are required and the premium that will be charged if the insured continues to refuse access to the records. A cancellation notice for the renewal policy should be issued. The cancellation notice may be rescinded if the audit is performed.</p>	
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<p>Rule 3.A.20 Standard Premium</p>	<p>Standard Premium is the premium before the application of the premium discount. It is the state premium determined on the basis of:</p> <ul style="list-style-type: none"> • Authorized rates • Disease loadings • Nonratable elements • Aircraft seat surcharges • Premium for increased limits of liability • Experience rating modification • Applicable schedule rating modification • Minimum premiums <p>Total Standard Premium is the total premium for all states covered by the policy excluding expense constant, additional charges for catastrophe provisions detailed in Rule 3-A-24, and any disease charges subject to the Federal Coal Mine Health and Safety Act before the application of the premium discount.</p> <p><i>Refer to state pages concerning the application of the above rating elements, or any state special rating elements.</i></p> <p>Note: The Annual Financial Calls for</p>		<p>The National rule includes all language shown in the North Carolina exception.</p> <p>This State Rule Exception has been eliminated for North Carolina.</p>
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	experience, which are used for ratemaking, contain a different definition of standard premium.		
Rule 3.C.5.d Catastrophe Provisions	Premium for catastrophe provisions as detailed in Rule 3-A-24 does not apply to per capita classifications		The National rule includes all language shown in the North Carolina exception. This State Rule Exception has been eliminated for North Carolina.