

State: Indiana **Filing Company:** Indiana Compensation Rating Bureau
TOI/Sub-TOI: 16.0 Workers Compensation/16.0002 Employers Liability WC
Product Name: E-1407
Project Name/Number: Exclusion of Covid-19 Claims from Experience Rating & Merit Rating/E-1407

Filing at a Glance

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Product Name: E-1407
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Author(s): Robin Eleson
Reviewer(s): Richard Beverage (primary), Kim Green
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State: Indiana **Filing Company:** Indiana Compensation Rating Bureau
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Product Name: E-1407
Project Name/Number: Exclusion of Covid-19 Claims from Experience Rating & Merit Rating/E-1407

General Information

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 Created By: Robin Eleson Submitted By: Robin Eleson
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Filing Description:

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)

Company and Contact

Filing Contact Information

Duane Schroeder, Vice President dschroeder@icrb.net
 5920 Castleway W Dr 317-842-2800 [Phone] 308 [Ext]
 Indianapolis, IN 46250

Filing Company Information

Indiana Compensation Rating Bureau	CoCode:	State of Domicile: Indiana
5920 Castleway W Dr	Group Code:	Company Type: Rating Organization
Indianapolis, IN 46250	Group Name: ICRB	State ID Number:
(317) 842-2800 ext. 301[Phone]	FEIN Number: 35-0837318	

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Company	Amount	Date Processed	Transaction #
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State: Indiana Filing Company: Indiana Compensation Rating Bureau
TOI/Sub-TOI: 16.0 Workers Compensation/16.0002 Employers Liability WC
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Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Filed	Richard Beverage	06/05/2020	06/05/2020

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Exclusion of Covid-19 Claims from Experience Rating & Merit Rating/E-1407

Disposition

Disposition Date: 06/05/2020

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Effective Date (Renewal):

Status: Filed

Comment:

Rate data does NOT apply to filing.

Schedule	Schedule Item	Schedule Item Status	Public Access
Supporting Document	80 Filing Description/Cover Letter/NAIC Transmittal		Yes
Supporting Document	Third Party Filers		Yes
Supporting Document	E-1407 Filing Memorandum		Yes

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E-1407

State:

Indiana

Filing Company:

Indiana Compensation Rating Bureau

TOI/Sub-TOI:

16.0 Workers Compensation/16.0002 Employers Liability WC

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Exclusion of Covid-19 Claims from Experience Rating & Merit Rating/E-1407

Supporting Document Schedules

Satisfied - Item:	80 Filing Description/Cover Letter/NAIC Transmittal
Comments:	Item Filing E-1407 - Exclusion of Covid-19 Claims from Experience Rating & Merit Rating
Attachment(s):	
Item Status:	
Status Date:	

Satisfied - Item:	Third Party Filers
Comments:	Per IC 27-7-2-3 through IC 27-7-2-4, the Bureau has statutory authority to file rates, rules, plans & forms on behalf of all workers compensation insurance companies in Indiana.
Attachment(s):	
Item Status:	
Status Date:	

Satisfied - Item:	E-1407 Filing Memorandum
Comments:	
Attachment(s):	Item E-1407 - Exclusion of Covid-19 Claims from Experience Rating & Merit Rating.pdf
Item Status:	
Status Date:	

FILING MEMORANDUM

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

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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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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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"> 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 In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change
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"> Details the revisions to Part 4-E-2-a(2) in NCCI's <i>Statistical Plan</i> Applies in all states except Massachusetts and North Carolina 	

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Exhibit	Exhibit Comments	Implementation Summary
3	Details the revisions to the Merit Rating Plan Alabama Miscellaneous Rule in NCCI's Basic Manual .	<ul style="list-style-type: none"> • Exhibit 3 of this item is to become effective for new and renewal policies effective on and after 12:01 a.m. on August 16, 2020, for the following states: <ul style="list-style-type: none"> • Alabama • Arkansas • Georgia • Maine • Oklahoma • Oregon • South Dakota • Vermont • In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change
3	Details the revisions to the Merit Rating Plan Arkansas Miscellaneous Rule (Applicable to Assigned Risk Policies Only) in NCCI's Basic Manual .	
3	Details the revisions to the Merit Rating Plan Georgia Miscellaneous Rule (Applicable to Assigned Risk Policies Only) in NCCI's Basic Manual .	
3	Details the revisions to the Merit Rating Plan Hawaii Miscellaneous Rule in NCCI's Basic Manual .	
3	Details the revisions to the Merit Rating Plan Maine Miscellaneous Rule in NCCI's Basic Manual .	
3	Details the revisions to the Merit Rating Plan Oklahoma Miscellaneous Rule in NCCI's Basic Manual .	
3	Details the revisions to the Merit Rating Plan Oregon Miscellaneous Rule in NCCI's Experience Rating Plan Manual .	
3	Details the revisions to the Merit Rating Plan South Dakota Miscellaneous Rule in NCCI's Basic Manual .	
3	Details the revisions to the Merit Rating Plan Vermont Miscellaneous Rule (Applicable to Assigned Risk Policies Only) in NCCI's Basic Manual .	
4	Details the revisions to the Maine Merit Rating Endorsement (WC 18 04 02 A) in NCCI's Forms Manual .	Exhibit 4 of this item is to become effective in Maine for new and renewal policies effective on and after 12:01 a.m. on August 16, 2020.

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

**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.

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EXHIBIT 2
STATISTICAL PLAN—2008 EDITION
PART 4—LOSS AND EXPENSE INFORMATION
E. CLAIM COMPONENTS

2. Conditional Claim Components

a. Catastrophe Number

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

(2) Extraordinary Loss Event Claims

An Extraordinary Loss Event (ELE) catastrophe is a significant loss event from a workers compensation (WC) perspective, which is determined by NCCI on a case-by-case basis. When an ELE catastrophe code has been established and identified by NCCI, report the specific catastrophe number for each claim. The series of ELE catastrophe numbers are 11–99.

(a) 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.

Refer to NCCI's *Unit Statistical Reporting Guidebook* for additional information.