



JULY 10, 2020

ITEM FILING ANNOUNCEMENT

CIF-2020-48

## Countrywide—Announcement of Item E-1407—Exclusion of COVID-19 Claims From Experience Rating and Merit Rating in Oregon

### ACTION NEEDED

Please review the changes outlined in the attachment to this circular for impact on your company's systems and procedures. Also review the weekly *Status of Item Filings* circular for state approval of this item.

**Caution:** At the time of distribution of this circular, this filing has been filed with the regulator but is **not yet approved**. This information is provided for your convenience and analysis. Please do not use this information until the regulator has approved the filing.

### BACKGROUND

NCCI has submitted Item E-1407—Exclusion of COVID-19 Claims From Experience Rating and Merit Rating to the Oregon Department of Consumer and Business Services.

This item is proposed to become effective for experience rating modifications with rating effective dates of August 16, 2020 and later.

This item proposes to:

1. Revise *Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance (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 for Workers Compensation and Employers Liability Insurance (Statistical Plan)* Part 4-E-2-a(2) to add information about reporting claims attributable to the COVID-19 pandemic

Refer to the attachment for details on this item.

### 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.

### NCCI ACTION

NCCI will take the following actions for Item E-1407:

- Issue a circular notifying you when the item is approved as filed, approved with changes, disapproved, or withdrawn
- Update the weekly *Status of Item Filings* circular on [ncci.com](http://ncci.com) with the latest state status
- Add the downloadable version of any impacted endorsements to the weekly *Status of Item Filings* circular upon approval

- Publish updated pages for NCCI's *Experience Rating Plan Manual* and *Statistical Plan* prior to the effective date, if approved

If you would like to subscribe to any of our manuals, please call our Customer Service Center at 800-NCCI-123 (800-622-4123).

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**PERSON TO CONTACT**

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## 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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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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FILING MEMORANDUM

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

Exhibit	Exhibit Comments	Implementation Summary
3	Details the revisions to the Merit Rating Plan Alabama Miscellaneous Rule in NCCI's <b>Basic Manual</b> .	<ul style="list-style-type: none"> <li>• 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"> <li>• Alabama</li> <li>• Arkansas</li> <li>• Georgia</li> <li>• Maine</li> <li>• Oklahoma</li> <li>• Oregon</li> <li>• South Dakota</li> <li>• Vermont</li> </ul> </li> <li>• In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change</li> </ul>
3	Details the revisions to the Merit Rating Plan Arkansas Miscellaneous Rule (Applicable to Assigned Risk Policies Only) in NCCI's <b>Basic Manual</b> .	
3	Details the revisions to the Merit Rating Plan Georgia Miscellaneous Rule (Applicable to Assigned Risk Policies Only) in NCCI's <b>Basic Manual</b> .	
3	Details the revisions to the Merit Rating Plan Hawaii Miscellaneous Rule in NCCI's <b>Basic Manual</b> .	
3	Details the revisions to the Merit Rating Plan Maine Miscellaneous Rule in NCCI's <b>Basic Manual</b> .	
3	Details the revisions to the Merit Rating Plan Oklahoma Miscellaneous Rule in NCCI's <b>Basic Manual</b> .	
3	Details the revisions to the Merit Rating Plan Oregon Miscellaneous Rule in NCCI's <b>Experience Rating Plan Manual</b> .	
3	Details the revisions to the Merit Rating Plan South Dakota Miscellaneous Rule in NCCI's <b>Basic Manual</b> .	
3	Details the revisions to the Merit Rating Plan Vermont Miscellaneous Rule (Applicable to Assigned Risk Policies Only) in NCCI's <b>Basic Manual</b> .	
4	Details the revisions to the Maine Merit Rating Endorsement (WC 18 04 02 A) in NCCI's <b>Forms Manual</b> .	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**

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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.

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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.

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

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**EXHIBIT 3  
EXPERIENCE RATING PLAN MANUAL—2003 EDITION  
OREGON MISCELLANEOUS RULES**

**Merit Rating Plan**

**1. Eligibility**

A risk that fails to generate adequate premium to be eligible for experience rating but has had coverage during the minimum time that would be necessary to otherwise qualify will be subject to the Merit Rating Plan.

**2. Application**

The merit rating is based upon the number of “indemnity” (time-loss) claims of the risk during the most recent policy period, regardless of length, that constitutes the most recent year of the experience period as defined by the *Experience Rating Plan Manual*.

Oregon minimum premium is not subject to a merit rating factor.

**Note:** Claims reported with Catastrophe Number 12 are excluded from merit rating. Catastrophe Number 12 claims include all claims attributable to the COVID-19 (coronavirus) pandemic.

**3. Merit Rating Adjustment**

The merit rating factor is calculated as follows:

<b>If there . . .</b>	<b>Then apply . . .</b>
Is no indemnity claim	A 10% credit
Is one indemnity claim	No credit or debit
Are two or more indemnity claims	A 10% debit

For example, a 10% credit results in a merit rating factor of 0.90, while a 10% debit results in a factor of 1.10.

The amount of the merit rating credit or debit is subject to a maximum of \$500.

**4. Rating Organization and Carrier Responsibilities**

The rating organization will obtain indemnity loss information and will promulgate merit rating factors in those cases where the carrier does not already have the required data.

The carrier must:

- Notify the risk of the merit rating premium adjustment
- Provide an explanation to the risk for the amount of the merit rating adjustment