



January 3, 2022

CIRCULAR LETTER NO. 2395

To All Members and Subscribers of the WCRIBMA:

**REVISIONS TO MANUAL RULES RELATED TO THE COVID-19 PANDEMIC
EXTENSION OF EXPIRATION DATE**

On December 30, 2021, the Massachusetts Division of Insurance (“DOI”) approved the WCRIBMA’s attached Filing Memorandum and Exhibits to extend the December 31, 2021 expiration date to December 31, 2022 for rules that were established or revised as a result of the COVID-19 (coronavirus) pandemic.

The COVID-19 pandemic created unique workers’ compensation conditions that were addressed in the WCRIBMA’s Circular Letter #2372 - Revisions to Manual Rules Related to the COVID-19 Pandemic and became effective for new, renewal, and outstanding policies effective on and after March 1, 2020. The rules established or revised in the filing stated that they expired on December 31, 2020. On December 17, 2020, the Division approved our filing to extend the expiration date to December 31, 2021. At that time it was anticipated that the rules established or revised as a result of the COVID-19 pandemic would no longer be required after December 31, 2021. Considering there are still so many unresolved questions about the spread of coronavirus, the expiration date is being extended to December 31, 2022.

The Internet-based versions of the affected MA Manual pages, accessible at www.wcribma.org, will be updated soon.

Please contact Dan Crowley (617-646-7594 or dcrowley@wcribma.org) if you have any questions.

DANIEL M. CROWLEY, CPCU
Vice President - Customer Services

Attachment



FILING MEMORANDUM

REVISIONS TO MANUAL RULES RELATED TO THE COVID-19 PANDEMIC

EXTENSION OF EXPIRATION DATE

PURPOSE

The purpose of this filing is to extend the December 31, 2021 expiration date to December 31, 2022 for rules that were established or revised as a result of the COVID-19 (coronavirus) pandemic.

The following WCRIBMA manuals are impacted by these rule changes:

- Massachusetts Workers Compensation and Employers Liability Insurance Manual (MA Manual)
- Massachusetts Workers Compensation Statistical Plan (MA Stat Plan)

BACKGROUND

Rules Related to the COVID-19 (Coronavirus) Pandemic

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

The COVID-19 pandemic created unique workers compensation conditions that were addressed in the WCRIBMA's filing dated July 7, 2020 - Revisions to Manual Rules Related to the COVID-19 Pandemic and became effective for new, renewal, and outstanding policies effective on and after March 1, 2020. Most of the rules established or revised in the original filing were set to expire on December 31, 2020. On December 17, 2020, the Division approved our filing to extend the expiration date to December 31, 2021. At that time it was anticipated that the rules established or revised as a result of the COVID-19 pandemic would no longer be required after December 31, 2021.

Considering there are still so many unresolved questions about the spread of coronavirus, the WCRIBMA is proposing to extend the expiration date to December 31, 2022 for rule revisions related to the COVID-19 pandemic.



PROPOSAL

This item proposes revising the following rules to extend the expiration date to December 31, 2022:

1. MA Manual Rules V-B-3-m and V-G-7
2. MA Stat Plan Part 1, Section IV-C-15 and Part 1, Section V-C-5-d

IMPACT

As a result of this filing, exposure currently in Code 0012—Paid Furloughed Employees could remain in Code 0012 and additional employers could see a shift of exposure from various classification codes to Code 0012. The magnitude of this shift and the amount of current exposure that could remain in Code 0012 is unknown at this time because it will depend on various factors such as the nature of an individual employer's business and carrier reporting to Code 0012. To this extent, the premiums of individual employers could be lower than anticipated due to staff reductions during the COVID-19 pandemic and/or decrease because of the shift of payments to paid furloughed employees assigned to Code 0012.

IMPLEMENTATION

The attached exhibits include the proposed changes necessary to implement this filing. Upon approval by the DOI, the WCRIBMA will publish new Manual pages.

Exhibit 1: Marked up MA Manual Rule V-B-3.m and Rule V-G-7

Exhibit 2: Revised- clean MA Manual Rule V-B-3.m and Rule V-G-7

Exhibit 3: Marked up MA Stat Plan Part 1, Section IV-C-15 and Part 1, Section V-C-5-d.

Exhibit 4: Revised – clean MA Stat Plan Part 1, Section IV-C-15 and Part 1, Section V-C-5-d.

Respectfully submitted,

Daniel Crowley, CPCU
Vice President - Residual Market and Customer Services
WCRIBMA

Exhibit 1

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- l. Employer provided perquisites (perks) such as:
 - (1) An automobile;
 - (2) An airplane flight;
 - (3) An incentive vacation (e.g., contest winner);
 - (4) A discount on property or services;
 - (5) Club memberships;
 - (6) Tickets to entertainment events.

 - m. Payments made by an employer to paid furloughed employees as a result of the COVID-19 (coronavirus) pandemic.

Refer to Rule V-G-7 for the definition of paid furloughed employees. This Rule V-B-3-m is effective March 1, 2020. The expiration date of this rule will be December 31, ~~2021~~2022, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities. This rule will be removed from this Manual automatically, upon the applicable expiration date.

4. Payroll

Payroll means remuneration.

C. ESTIMATED PAYROLLS

1. Estimated Payrolls by Classification

For each classification shown on the Information Page, the total estimated annual payroll shall be stated in the column headed "Premium Basis Total Estimated Annual Remuneration."

2. Determination of Estimated Payrolls

Estimated payrolls shown on the Information Page shall reflect actual remuneration anticipated by the insured during the policy period. Such estimates shall be subject to substantiation by the carrier through evaluation of records or inspections.

3. Approval of Estimated Payrolls

Adequacy of estimated payrolls is subject to approval by the MA Bureau or other licensed rating organization.

D. WHOLE DOLLARS - PAYROLLS

All payrolls shall be shown to the nearest dollar. A remainder of \$.50 or more shall be rounded to the next higher dollar.

E. OVERTIME

1. Definition

Overtime means those hours worked for which there is an increase in the rate of pay:

- a. For work in any day or in any week in excess of the number of hours normally worked, or
- b. For hours worked in excess of 8 hours in any day or 40 hours in any week, or
- c. For work on Saturdays, Sundays or holidays.

NOTE: Forms of incentive pay commonly referred to as "shift differential" or "premium pay" associated with working other than normal day shift hours during the standard workweek are not to be considered overtime.

In the case of guaranteed wage agreements, overtime means only those hours worked in excess of the number specified in such agreement.

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- d. Delays arising from breakdown of equipment.
 - e. "Stand-by" time where employees such as operators of cranes, hoists, or other equipment are on the job but their active services are not required continuously.
 - f. Special union requirements or agreements between employer and employees calling for pay for idle time under specified circumstances.
 - g. Time spent traveling to or from the job.
 - h. Other causes of similar nature.
4. Wages paid to key employees of construction, erection or stevedoring risks, such as superintendents, foremen, or engineers, for periods during which no jobs are in progress, shall be assigned to the classification applicable to the work that each employee actually performs during such period. If such work consists exclusively of drafting or other office work, or if such employee is completely idle, that employee's wages shall be assigned to Code 8810.

Code 8810, however, is not available for office time of an executive supervisor who qualifies for Code 5606, since it is normally expected that such an employee will spend a considerable portion of that employee's time in office work.

5. The entire amount of wages paid for idle time to an employee engaged in work other than construction, erection or stevedoring must be assigned without division to the classification that normally applied to that employee.
6. Wages paid to employees who are not on strike but who are unable to perform their normal duties because of a strike shall be assigned to the classification applicable to the work usually performed by such employees, except that if any such employees perform absolutely no work for their employer and are not present on their employer's premises during such period, such wages shall be assigned to Code 8810 - Clerical Office Employees NOC, provided the facts are clearly disclosed by the employer's records.
7. Payments to paid furloughed employees due to the COVID-19 (Coronavirus) Pandemic.

"Paid furloughed employees" means employees who continue to receive payments during a temporary layoff or an involuntary leave and are not performing any work duties for an employer.

Payments to paid furloughed employees shall be assigned to Code 0012, only if the employer keeps separate, accurate, and verifiable entries within their payroll records. An employer who is making payments to paid furloughed workers must provide to their workers' compensation carrier, within the later of 60 days of approval date of this rule or 25 days after the employer begins making payments to paid furloughed workers, a list of all paid furloughed employees, which shall also include the employee's normal workers' compensation classification, weekly wage, furloughed date, and anticipated date of return to work. If separate, accurate, and verifiable entries within the employer's payroll records are not maintained, payroll is assigned to the classification for work normally performed by the employee prior to the COVID-19 (coronavirus) pandemic.

If an employee is requested to perform any duties for an employer, the employee is not deemed a paid furloughed employee for any period of time they are performing duties for the employer. If the employee is not deemed a paid furloughed employee, payroll must be assigned to the classification applicable to the work being performed in accordance with Rule IV-A.

This Rule V-G-7 is effective March 1, 2020. The expiration date of this rule will be December 31, ~~2021~~2022, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities. This rule will be removed from this Manual automatically, upon the applicable expiration date.

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This Rule V-G-7 is effective March 1, 2020. The expiration date of this rule will be December 31, 2022, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities. This rule will be removed from this Manual automatically, upon the applicable expiration date.

Exhibit 3

**MASSACHUSETTS WORKERS' COMPENSATION
STATISTICAL PLAN**

Effective: *March 1, 2020*
Distributed:
Part I – Unit Statistical Reporting

**Section IV
HEADER INFORMATION
Page 5**

8. Replacement Report Code

When replacing a previously submitted unit statistical report enter code “R” in the replacement report code field. For all unit statistical reports other than replacements this field should be blank. Submission of a replacement will delete previously reported unit statistical reports from the WCRIBMA's data base. Replacements can be submitted for unit statistical reports which are accepted, rejected or failed. A replacement unit statistical report can be used instead of a correction report.

9. Business Segment Identifier

Carriers, at their option, may report a business segment identification number. For additional information refer to [Circular Letter 2159](#).

10. Correction Type Code

Report the code that indicates the type of correction report being submitted. See [Section III – Corrections, Subsection C](#) for a list of correction type codes.

11. State Effective Date

Report the endorsement effective date if the Massachusetts coverage was endorsed mid-term, otherwise zero-fill the field.

12. Federal Employer Identification Number (FEIN)

Report the Federal employer identification number of the insured as shown on the Policy Information Page. If the policy has been endorsed to change the FEIN, report the FEIN from the latest endorsement.

13. Multistate Policy Indicator

Y = If more than one state is listed in Item 3A of the Policy Information Page.
N = If only Massachusetts is listed in Item 3A of the Policy Information Page.

14. Interstate Rated Policy Indicator

Y = Policy is interstate rated in accordance with the [Experience Rating Plan Manual](#).
N = Policy is not interstate rated.

15. Estimated Audit Code

Y = Policy has estimated exposure(s).
N = Policy does not have estimated exposure(s).
U = Uncooperative. The insured has not cooperated with the carrier for purposes of auditing exposure(s).
COVID-19
If final premium based on audited exposure cannot be reported due to federal, state, and/or local emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic, which impact an employer's staffing or business operations, report the applicable exposure and premium in the class code(s) and the Estimated Audit Code as a “Y.”

This rule is effective March 1, 2020. The expiration date of this rule will be December 31, ~~2024~~2022, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.

**MASSACHUSETTS WORKERS' COMPENSATION
STATISTICAL PLAN**

Effective: *March 1, 2020*
Distributed:
Part I – Unit Statistical Reporting

**Section V
EXPOSURE RECORD DATA
Page 3**

- a. No-Exposure Developed
 - If a policy does not develop any Massachusetts exposure, report zero for the exposure amount on the exposure record containing statistical class code 1111 in the class code field.

- b. Payroll Exposure
 - Report the payroll amount. Do not divide the payroll by 100.

 - Report exposures for supplemental disease loads (statistical class codes 0059, 0065, 0066, 0067, 0133, 0179)

Note: The statistical class codes 0133 and 0179 were discontinued effective as of January 1, 2008.

 - Report exposures for Non-Ratable Elements (statistical class codes 0771, 7445, 7453).

- c. Non-Payroll Exposure
 - Per Capita Classifications (statistical class codes 0908, 0909, 0912 and 0913):
Report the number of employees covered, based on the duration of coverage. An employee covered under a per capita class code for a period of one year must be reported as an exposure of 1.0. If an employee is covered for a period other than one year, the reported exposure should be calculated by dividing the number of days of coverage by 365, and rounding the result to the nearest tenth of a year. For example, if an employee is covered for 130 days, the exposure amount will be equal to 0.4 (=130/365 rounded to the nearest tenth).

- d. Paid Furloughed Employees (statistical class code 0012):
 - Paid furloughed employees means employees who continue to receive payments during a temporary layoff or an involuntary leave and are not performing any work duties for an employer. Effective March 1, 2020, payments by an employer to paid furloughed employees as a result of the COVID-19 (coronavirus) pandemic must be reported to Statistical Code 0012—Paid Furloughed Employees.
The expiration date of this code will be December 31, ~~2021~~2022, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.
Payments are only reported to Code 0012 when the employer keeps separate, accurate, and verifiable entries within their payroll records.

6. Premium Amount

Report the premium amount corresponding to each classification.

Exhibit 4

**MASSACHUSETTS WORKERS' COMPENSATION
STATISTICAL PLAN**

Effective: *March 1, 2020*
Distributed:
Part I – Unit Statistical Reporting

**Section IV
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