



**THE WORKERS' COMPENSATION
RATING AND INSPECTION BUREAU**

December 16, 2005

CIRCULAR LETTER NO. 2007

To All Bureau Members and Subscribers:

**Adoption of
NCCI's 2003 *Experience Rating Plan Manual*,
Updated Massachusetts State Exception Pages, and
Updated *Massachusetts Statistical Plan Pages*
Effective July 1, 2006**

The Massachusetts Commissioner of Insurance has approved for use in Massachusetts NCCI's updated *Experience Rating Plan Manual for Workers' Compensation and Employers Liability Insurance*, as well as updated Massachusetts State Exception Pages, and corresponding revisions to the *Massachusetts Workers' Compensation Statistical Plan* ("*Statistical Plan*"). These items have been approved for use in Massachusetts effective **July 1, 2006**.

NCCI's updated *Experience Rating Plan Manual* and their new *User's Guide* can be obtained by contacting NCCI at 1-800-NCCI-123 or www.ncci.com. In rewriting their manual for the first time since 1984, NCCI focused on four themes:

- Web-Friendly—Rewrite the manual to be suitable for the electronic environment;
- Plain Language—Use simplified text to make the rules understandable for a general audience;
- Modification Evasion— Proposes responses that the rating organization can take to combat experience rating modification evasion tactics;
- *User's Guide*—Develop a *User's Guide* to provide additional information regarding the Experience Rating Plan rules.

The Massachusetts State Exception Pages and the corresponding revisions to the *Statistical Plan* are attached as **Exhibits 1 and 2**. These pages are also available under Manuals, in the Products and Services area of our website, www.wcribma.org.

Summary explanations of each of the Massachusetts State Exceptions to the *Experience Rating Plan Manual* and of the revisions to the *Massachusetts Statistical Plan* are attached as **Exhibit 3**. The revisions that will most significantly affect Massachusetts users are as follows:

Non-Compensable Claims

The definition of what constitutes a non-compensable claim has not changed. However, the placement of that definition and the treatment of non-compensable claims with regard to experience rating have changed. The definition of non-compensable claims has been removed from the *Experience Rating Plan Manual*, and can now be found only in the *Statistical Plan*, in Part I, Section III.A.2. With regard to their treatment, currently non-compensable claims are included in all experience rating calculations. However, all Experience Modifications, All Risk Adjustment Plan (ARAP) surcharges, and Merit Ratings with effective dates of July 1, 2006 or later, will *exclude from their calculations* all claims that have been properly reported to the Bureau by the carrier as being non-compensable as defined in the *Statistical Plan*.

Aggravated Inequity Rule

The meaning of the Aggravated Inequity Rule has not changed, but it has been significantly reworded as follows. The intent was to make the rule more easily understood.

d. Aggravated Inequity Rule

Experience modifications are generally based on claim reserves valued as of specific valuation dates determined by the *Massachusetts Workers' Compensation Statistical Plan*. In certain circumstances, the employer may send a written request to the Bureau to revise the experience modification to reflect a closed amount instead of a reserved amount. Such requests must be received by the Bureau within 30 days of the rating effective date or rating issue date (whichever is later), or within a reasonable time thereafter with good cause shown. The following circumstances must all be met:

- (i) One or more of the claims reflected in an issued experience modification is based on a reserve (i.e., the claim had not yet been closed); and
- (ii) The employer has learned that such claim(s) have since closed; and
- (iii) The claim(s) closed between the normal valuation date and the effective date of the experience modification; and
- (iv) The claim(s) closed for amounts less than the reserved amounts.

Ownership Changes

The definition of what constitutes an ownership change and the actions taken by the rating organization as a result of those ownership changes have not changed. However, NCCI has added language to the *Experience Rating Plan Manual* that strengthens the rating organization's ability to obtain any information needed and to ensure the proper calculation and application of experience modifications.

Eligibility Premium

In their rewritten manual, NCCI defined Subject Premium as the amount used to determine experience rating eligibility *and* the amount to which an experience rating factor is applied. Since NCCI's computer systems have always determined eligibility

based on Subject Premium, this revision was a matter of semantics for them. However, Massachusetts has historically based eligibility on exposure-based premiums, which is slightly different from Subject Premium. For purposes of consistency, we accepted NCCI's rewording and have made a minor revision to our experience rating system so that for ratings with effective dates of July 1, 2006 and later, eligibility will be based on Subject Premium.

User's Guide

As part of NCCI's effort to expand the *Experience Rating Plan Manual* into a plain language reference and informational tool, they introduced a new and distinct companion product, the *User's Guide*. As part of their rewrite, NCCI identified areas where additional explanation or examples would be beneficial to the user's understanding of the rules, and they provided those explanations and examples in the *User's Guide*. The subjects covered in the *User's Guide* that are applicable to Massachusetts users are: the dispute resolution and appeals process; premium eligibility examples; loss limitation examples; experience period examples; and ownership examples. Since no rules are provided in the *User's Guide*, and its purpose is only to provide clarification of the approved rules to the users, the Guide was not filed for approval with the Regulatory Authorities, by NCCI or by us. The Massachusetts Exceptions to NCCI's *User's Guide* are attached as **Exhibit 4**, and summary explanations of those exceptions are attached as **Exhibit 5**.

If you have any questions, please contact Sheila Annis at 617-646-7567 or sannis@wcribma.org, or Maria Casmira at 617-646-7577 or mcasmira@wcribma.org.

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STATE RULE EXCEPTIONS

RULE 1—GENERAL EXPLANATIONS

C. DEFINITIONS *Effective 01 Jul 2006*

3. Losses

Change Rule 1-C-3-a as follows:

Except for non-compensable claims, no loss is excluded from the experience of a risk even if the employer was not responsible for the accident that caused such loss. For instructions on non-compensable claims, refer to the Massachusetts Rule 4-B-2-f.

Change Exception to Rule 1-C-3-a as follows:

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 June 1, 2002 through May 31, 2006.

6. Statistical Plan

Add the following to Rule 1-C-6:

In certain circumstances, fourth and fifth reports and corrections to those reports may be used in experience rating calculations. Refer to Rule 4-B-2-e.

In Massachusetts, the *Massachusetts Workers' Compensation Statistical Plan* is used.

Add the following to Rule 1-C:

9. Massachusetts Workers Compensation and Employers Liability Insurance Manual

The *Workers' Compensation and Employers Liability Insurance Manual* ("MA Manual") is the Massachusetts equivalent to NCCI's *Basic Manual*. Massachusetts users should substitute "MA Manual" for "Basic Manual" throughout this Plan.

D. ADMINISTRATION *Effective 01 Jul 2006*

Change Rule 1-D-4 as follows:

4. The designated carrier is issued the experience rating worksheet when the rating is calculated. The WCRIB will provide a copy of the rating to the insured upon request. Other parties, such as agents, risk managers, or carriers (other than the insuring carrier) can obtain a copy of the worksheet with the permission of the insured at a cost. The permission of the insured is presented through a "Letter of Authority," which must be on the insured's stationery and must be signed by the insured. An e-mail or a fax from the insured is considered the insured's stationery.

RULE 2—EXPERIENCE RATING ELEMENTS AND FORMULA

C. ELEMENTS OF EXPERIENCE RATING FORMULA AND WORKSHEET *Effective 01 Jul 2006*

5. Actual Incurred Losses

Change Rule 2-C-5 as follows:

For purposes of experience rating, Actual Incurred Losses are those reported according to the *Statistical Plan*.

6. Actual Primary Losses

Change Rule 2-C-6 as follows:

Actual Primary Losses are the portion of the Actual Incurred Losses that are used at full value in the experience rating calculation. For each actual incurred loss, the amount up to \$5,000 is considered primary.

8. Actual Excess Losses

Change Rule 2-C-8 as follows:

Actual Excess Losses are determined by subtracting the Actual Primary Losses from the Actual Incurred Losses. Within the experience rating calculation, the excess portion of a loss reflects its severity and is given partial weight based on the size of the risk. As risk size increases, so does the amount of the actual excess losses used in the calculation.

13. Limitation of Losses Employed in a Rating

a. Single and Multiple Claim Limitation

Change Basic Loss Limitation Table of Rule 2-C-13-a as follows:

Basic Loss Limitation Table

If . . .	Then . . .
An accident involves only one person	<ul style="list-style-type: none"> • The loss is subject to the per claim accident limitation • The actual primary loss is subject to the maximum primary value of \$5,000, even if the loss does not exceed the per claim accident limitation
An employers liability-only loss exists	<ul style="list-style-type: none"> • The loss is subject to the employers liability per claim accident limitation • The actual primary loss is subject to the maximum primary value of \$5,000, even if the loss does not exceed the employers liability per claim accident limitation

E. EXPERIENCE TO BE USED IN A RATING *Effective 01 Jul 2006*

2. Non-Affiliate Self-Insurer and Non-Affiliate Carrier Data

Add the following to Rule 2-E-2:

In Massachusetts, the terms "non-affiliate self-insurers" and "non-affiliate carriers" are not used. For the purpose of Massachusetts' users, this section applies to self-insurance groups (SIGs) and non-members carriers.

Change Rule 2-E-2-a as follows:

- a. Experience of risks insured by non-member carriers and SIGs may be included in experience ratings.

Change Rule 2-E-2-b as follows:

- b. All non-member carriers and SIGs must get approval from the MA Bureau before submitting statistical data.

Change Rule 2-E-2-c as follows:

- c. The data must be submitted to the MA Bureau according to the rules of the **Massachusetts Statistical Plan**.

Change Rule 2-E-2-d as follows:

- d. Non-member carrier and SIG data correctly submitted to the MA Bureau will be used to determine experience modification and merit rating eligibility and will be used in the calculation of Massachusetts experience modifications and merit ratings distributed to members, non-members, and SIGs.

Change Rule 2-E-2-e as follows:

- e. Massachusetts SIG data will not be used in interstate experience ratings issued by NCCI.

Add the following to Rule 2-E:

4. Self-Insurer's Data

The data of an employer who is a licensed self-insurer under Massachusetts General Law, c. 152, § 25A(2), is not used in an experience rating modification except when recommended by the Bureau Manager and approved by the Commissioner of Insurance.

RULE 3—OWNERSHIP CHANGES AND COMBINATION OF ENTITIES

F. EVASION OF EXPERIENCE RATING MODIFICATION *Effective 01 Jul 2006*

Change Rule 3-F-2 as follows:

In such circumstances, the rating organization may obtain any information that indicates evasion or improper calculation or application of experience rating modifications due to actions included, but not limited to, those listed in Rule 3-F-1.

The rating organization will act to ensure the proper calculation and application of all current and preceding experience rating modifications impacted by these actions.

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RULE 4—APPLICATION AND REVISION OF EXPERIENCE RATING MODIFICATIONS**B. INCLUSION OF PAYROLL AND LOSSES** *Effective 01 Jul 2006***2. Revision of Losses**

Add the following to Rule 4-B-2:

In certain circumstances, 4th and 5th reports and their corrections may be used in the production of experience rating modifications. *Refer to Rule 4-B-2-e for more information.*

Add Rule 4-B-2-d as follows:

d. Aggravated Inequity Rule

Experience modifications are generally based on claim reserves valued as of specific valuation dates determined by the *Massachusetts Workers' Compensation Statistical Plan*. In certain circumstances, the employer may send a written request to the Bureau to revise the experience modification to reflect a closed amount instead of a reserved amount. Such requests must be received by the Bureau within 30 days of the rating effective date or rating issue date (whichever is later), or within a reasonable time thereafter with good cause shown. The following circumstances must all be met:

- (i) One or more of the claims reflected in an issued experience modification is based on a reserve (i.e., the claim had not yet been closed); and
- (ii) The employer has learned that such claim(s) have since closed; and
- (iii) The claim(s) closed between the normal valuation date and the effective date of the experience modification; and
- (iv) The claim(s) closed for amounts less than the reserved amounts.

Add Rule 4-B-2-e as follows:

e. Recalculation Due to Change in Claim Values**1. Method of Recalculation**

For each open claim in excess of \$5,000 at third report, except those involving permanent and total disability or death, the rating organization designated by the Commissioner pursuant to M.G.L. c. 152, § 65C, shall compare the value of such claim at third report with the final incurred value of such claim reported closed at fourth report. To the extent that the final total incurred values of the aggregate of all such claims of any insured reflect a change of 20% or more from the prior total valuation of such claims at third report, the rating organization shall recalculate the experience modification which utilized such third report.

In addition, for each open claim in excess of \$5,000 at third report, except those involving permanent and total disability or death, the rating organization shall compare the value of such claim at third report with the final incurred value of such claim reported closed at fifth report. To the extent that the final total incurred values of the aggregate of all such claims of any insured reflect a change of 20% or more from the total valuation of such claims at third report, the rating organization shall recalculate the experience modification which utilized such third report.

No recalculations shall be performed which included effects of change on any claim which has not been closed at the time of such recalculation.

The result of any recalculation performed under this rule shall appear as a credit or debit on the insured's bill.

2. Failure to Pay

Failure to pay any amounts owed an insurer as a result of recalculation of an experience modification pursuant to this regulation, shall constitute nonpayment of premium and be grounds for termination of the policy.

Add Rule 4-B-2-f as follows:

f. Recalculation Due to Determination of Non-Compensability

If a claim is found to be non-compensable as defined in Section III-A-2 of the *Massachusetts Workers' Compensation Statistical Plan*, then the claim should be reported at the value that the carrier actually paid out net of any recovery, as instructed by the *Statistical Plan*. An experience modification or merit rating, however, will not include the experience of any claim that was determined to be non-compensable.

C. TYPES OF EXPERIENCE RATING MODIFICATIONS *Effective 01 Jul 2006***1. Preliminary Modifications**

Change Rule 4-C-1 as follows:

A preliminary modification uses existing rating values that are expected to change pending regulatory action on a rate filing. The preliminary modification must be applied until the pending rate filing is approved and the experience rating modification is recalculated using the new rating values.

2. Final Modifications

Rule 4-C-2 does not apply in Massachusetts.

3. Contingent Modifications**a. Explanation**

Change Rule 4-C-3-a(1) as follows:

(1) A contingent modification is one that is missing some data, but still meets the minimum data requirements stated in Rule 4-C-3-b.

b. Minimum Data Requirements

The Minimum Data Requirements Table does not apply in Massachusetts.

Change Rule 4-C-3-b as follows:

- (1) No more than one 1st unit statistical report may be missing in the experience period for any given rating. If one 1st report is missing, a contingent rating will be issued. If more than one 1st report is missing, no rating will be issued.
- (2) More than one subsequent (2nd or 3rd) report may be missing in the experience period for any given rating. Ratings with more than one missing subsequent report will be issued on a contingent basis.

c. Exceptions to Minimum Data Requirements

Change Rule 4-C-3-c as follows:

Rules 4-C-3-c(2) and (3) do not apply in Massachusetts.

E. CHANGES IN EXPERIENCE RATING MODIFICATIONS *Effective 01 Jul 2006*

Changes in Experience Rating Modifications Table

Add the following to Exclusions:

Recalculation according to Rule 4-B-2-e.

RULE 5—SPECIAL RATING CONDITIONS**A. EMPLOYEE LEASING/PROFESSIONAL EMPLOYER ORGANIZATIONS** *Effective 01 Jul 2006*

Rule 5-A does not apply in Massachusetts. Refer to MA Regulation 211 CMR 111.00 contained in the *Massachusetts Workers' Compensation and Employers Liability Insurance Manual*.

B. EX-MEDICAL EXPERIENCE *Effective 01 Jul 2006*

Rule 5-B does not apply in Massachusetts.

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MISCELLANEOUS RULES

MERIT RATING PLAN *Effective 01 Jul 2006*

The *Experience Rating Plan Manual* rules apply to the Merit Rating Program, subject to the following:

1. Purpose

The object of the Merit Rating Program is to provide a revised pricing mechanism for risks too small to qualify for experience rating to share in the loss experience they generate.

2. Eligibility

A risk is eligible for the Merit Rating Program if it has an average Subject Premium over the last three policy years of \$500 or more, unless the risk is eligible for experience rating on either an intrastate or interstate basis.

3. Application

The Merit Rating Program Adjustment, expressed as a debit or credit factor, is applied to the Subject Premium. The resultant premium, if a debit or credit, is added to or subtracted from the Subject Premium. This becomes the Standard Premium. Merit Rating Program Adjustment factors will appear on all Merit Rating worksheets when applicable.

The Merit Rating Program does not apply to an interstate rated risk with Massachusetts exposure. If the risk is eligible for interstate experience rating, an interstate experience modification that includes Massachusetts experience will be issued.

4. Merit Rating Adjustment

The merit rating credits and debits, which are based on lost-time claims (i.e., claims reported with incurred indemnity) that occurred during the experience period, are as follows:

Number of Lost-Time Claims	Merit Rating Adjustment
0	5% credit
1	No credit or debit
2 or more	5% debit

Exception: All claims reported with Catastrophe Number 48 are excluded from merit rating.

ALL RISK ADJUSTMENT PROGRAM (ARAP) *Effective 01 Jul 2006*

The *Experience Rating Plan Manual* rules apply to All Risk Adjustment Program (ARAP), subject to the following:

1. Purpose

The object of the ARAP is to provide a revised pricing mechanism for experience rated risks to share the underwriting losses they generate.

2. Eligibility

A risk is eligible for the ARAP if it is eligible for intrastate or interstate experience rating, and the "R" value for the insured is greater than 1.0 as shown in 4-c.

3. Application

The ARAP surcharge factor, expressed as a debit factor, is calculated following calculation of the experience rating modification and appears on the experience rating worksheet when applicable. This surcharge factor is applied to Standard Premium after experience rating to surcharge risks with a greater record of losses than expected under the experience rating plan.

Experience rated risks with multistate operations are subject to the ARAP for that portion of the risk in Massachusetts. The ARAP surcharge is:

- Calculated using Massachusetts losses and expected losses, and
- Applied to the Massachusetts portion of the risks

4. Calculation

The ARAP surcharge factor for eligible risks is determined as follows:

- a. After the calculation of the experience modification factor (M) for a particular risk, the weighted test ratio (R) is calculated.
- b. To determine whether the “R” value for the insured is greater than 1.0, the following information is needed from the experience rating calculation using Massachusetts data only:

W	=	Weighting value, calculated on an intrastate basis
A	=	Actual losses, as limited on a per accident basis
Ap	=	Actual primary losses
E	=	Total expected losses
Ep	=	Expected primary losses
M	=	Normal experience rating modification, calculated on an intrastate basis

- c. To determine the “R” value (weighted test ratio), the numbers derived from a. above are inserted into the formula:

$$R = \frac{((0.5 - 0.5W) \times Ap)}{(M \times Ep)} + \frac{((0.5 + 0.5W) \times A)}{(M \times E)}$$

- d. To determine the surcharge factor (called S) for qualified risks, the following formula is used:

$$S = 1 + \left[\frac{(.08 \times E \times ((R - 1)^{1.25}))}{(E + 3)^{0.5}} \right]$$

In the calculation for S, E (Total expected losses) is divided by 1,000 and may not exceed 40, while R may not exceed 2.0. The maximum ARAP surcharge factor based on this formula is 1.49.

**MASSACHUSETTS WORKERS' COMPENSATION
STATISTICAL PLAN**

Effective: *July 1, 2006*
Distributed: *October, 2005*
Part I – Unit Statistical Reporting

Section III
CORRECTIONS AND RE-VALUATIONS
Page 1

SECTION III - CORRECTIONS AND RE-VALUATIONS

A. Corrections are to be Submitted between Valuations for only the Following Situations:

1. Errors

An error occurs when the header information does not match the policy as issued or endorsed, the classes, exposure, rate and premium do not reflect the final audit of the policy, the loss record does not reflect the claim file at valuation time or the reported codes are invalid or inconsistent.

Upon identification of an error by either the Bureau or the carrier on a previously submitted unit report, a correction must be immediately filed.

The Bureau routinely requests verification of reported data. It is the responsibility of the carrier to distinguish between Bureau requests for corrections and verifications. For example, the Bureau may question the reported premium discount. If a review of the final audit indicates that the discount was reported accurately, the carrier must communicate the verification to the Bureau, and no correction is required. If the review shows an inconsistency between the unit and audit, a correction is required and must be immediately submitted to the Bureau.

Corrections must be submitted for all previous report levels (valuations) that contained the error, but it is not necessary to correct interim correction reports that may also contain the error. Corrections are applied to the report (valuation), and once a correction has been received the valuation is the corrected data. Refer to the examples in Exhibits 1 through 6.

2. *Non-compensable Claims*

A claim is determined to be non-compensable if:

- (i.) *There is an official ruling denying benefits under the Workers' Compensation Law,*
- (ii.) *A claimant fails to file for benefits during the period of limitation allowed by the Workers' Compensation Law, or*
- (iii.) *The claimant fails to prosecute his claim when a carrier contends, prior to valuation date, that the claimant is not entitled to benefits under the Workers' Compensation Law.*

If a claim is determined to be non-compensable after the first or subsequent reports have been reported to the Bureau, within 60 days of such determination a correction report must be submitted for each level (valuation) that revises the Loss Condition Code to 05 (non-compensable). If a claim is determined to be non-compensable before the first reporting, the first report and all subsequent reports must reflect a Loss Condition Code of 05. All report levels (valuations) should reflect accurate amounts paid by the carrier net of any recovery, if any.

**MASSACHUSETTS WORKERS' COMPENSATION
STATISTICAL PLAN**

Effective: *July 1, 2006*
Distributed: *October, 2005*
Part I – Unit Statistical Reporting

**Section VII
LOSS DATA
Page 21**

14. Loss Condition Settlement Code (Setl.)

- a. Characteristic: Numeric
- b. Length: 2
- c. Definition: A code that identifies certain claim settlement situations.
- d. Requirement: Report the 1-digit code that corresponds to the type of settlement:

<u>Type of Settlement</u>	<u>Description</u>
00	No settlement applicable to the claim.
<i>05</i>	<i>Claim has been determined to be non-compensable as defined in Section III-A-2.b</i>
09	All Other Settlements

Leading zeros may be suppressed on hard copy.

15. Jurisdiction State (State)

- a. Characteristic: Numeric
- b. Length: 2
- c. Definition: The governing body/territory, who will administer the claim and whose statutes will apply to the claim adjustment process.
- d. Requirement: Report the 2-digit state code of the governing territory who will administer the claim and whose statutes will apply to the claim adjustment process when that state is not Massachusetts.

**EXPLANATIONS OF MASSACHUSETTS EXCEPTIONS
TO NCCI'S
EXPERIENCE RATING PLAN MANUAL**

Rule 1-C-3-a

MA changed the Definition of Losses:

We added 'With the exception of non-compensable claims' at the beginning of the rule that states "No loss is excluded from the experience of a risk even if the employer was not responsible for the accident that caused such loss." We also referred the user to the rule for proper handling of non-compensable claims.

Exception to Rule 1-C-3-a

MA changed the Exception to the Definition of Losses:

With regards to Catastrophe Number 48 claims, MA differs from NCCI in the dates of experience modifications affected. This MA Exception is also reflected in the current *Experience Rating Plan Manual*.

Rule 1-C-6

MA added to the definition of Statistical Plan:

Our addition specifies that in certain circumstances, 4th and 5th reports and corrections to those reports can be used in experience rating calculations, and that the *Massachusetts Workers Compensation Statistical Plan* is used in Massachusetts.

Rule 1-C-9

MA added a definition of the *Massachusetts Workers' Compensation and Employers Liability Insurance Manual*:

Several times in the Plan, NCCI refers to its *Basic Manual*. Since the *Basic Manual* is not used in Massachusetts, we added a reference to our *Massachusetts Workers' Compensation and Employers' Liability Insurance Manual*.

Rule 1-D-4

MA changed the rule explaining distribution of worksheets:

We explained to whom Massachusetts-issued experience rating modification worksheets are normally distributed and how copies can be obtained by other parties.

Rule 2-C-5, 6, and 8

MA changed the definitions of Actual Incurred Losses, Actual Primary Losses and Actual Excess Losses:

We deleted the statements that medical-only claims are reduced by 70%, because Massachusetts does not reduce medical-only claims.

Rule 2-C-13-a

MA changed the Basic Loss Limitation Table:

We deleted the row that states that medical-only claims are reduced by 70%, because Massachusetts does not reduce medical-only claims.

Rule 2-E-2 (a-e)

MA changed the section that explains the inclusion of Non-Affiliate Carrier and Non-Affiliate Self-Insurer data:

Since MA has 'members' rather than 'affiliates' and uses data reported by Self Insurance Groups, we revised this section to explain that data reported by non-member carriers and Self Insurance Groups (SIGs) may be included in ratings distributed to non-members and members alike.

Rule 2-E-4

MA added a section called Self Insurer's Data:

This section explains that the data of an employer who is a licensed self insurer is not used in experience ratings, except when recommended by the Bureau Manager and approved by the Commissioner of Insurance. This MA Exception is also reflected in the current ***Experience Rating Plan Manual***.

Rule 3-F-2

MA deleted the list of actions that can be taken by the rating organization in order to prevent the evasion of experience rating modifications.

We felt it was sufficient to say "The rating organization will act to ensure the proper calculation and application of all current and preceding experience rating modifications impacted by these actions."

Rule 4-B-2

MA added to the Revision of Losses introductory paragraph:

This section was revised to explain that 4th and 5th reports, in certain circumstances, may be used to calculate experience modifications.

Rule 4-B-2-d

MA added the 'Aggravated Inequity Rule':

This rule explains under what circumstances an employer can request that his experience modification be revised because his claim closed between the normal valuation date and the mod effective date for less than the reserved amount. This MA exception, which was in the current ***Experience Rating Plan Manual***, was reworded to make it more understandable, but the meaning did not change.

Rule 4-B-2-e

MA added a section called Recalculation Due to Change in Claim Values:

This rule explains the circumstances under which experience modifications are revised to use claims reported as closed at 4th or 5th report. This MA Exception is also reflected in the current ***Experience Rating Plan Manual***.

Rule 4-B-2-f

MA added a section called Recalculation Due to Determination of Non-Compensability:

This rule describes where the definition of non-compensable claims can be found and how non-compensable claims are handled with regards to experience ratings in Massachusetts.

Rule 4-C-1

MA changed the definition of Preliminary Modifications:

Since MA does not change the status of preliminary ratings to 'final' upon recalculation, we changed the wording to remove the reference to final ratings, and simply stated that the modifications are recalculated using the new rating values.

Rule 4-C-2

MA deleted the definition of Final Modifications:

Since MA does not issue 'final' ratings, this definition does not apply to us.

Rule 4-C-3 (a-c)

MA revised the definition of Contingent Modifications:

In (a), Explanation, we removed the reference to the Minimum Data Requirements Table, which does not apply in MA.

In (b), Minimum Data Requirements, since MA handles contingent experience modifications differently than NCCI does, we needed an exception to explain how contingent ratings are handled in MA.

In (c), Exceptions to Minimum Data Requirements, exceptions (2) and (3) do not apply in MA.

Rule 4-E

Changes in Experience Modification Table

MA added an Exclusion to the Table. In MA, experience modifications revised using 4th or 5th report (per Rule 4-B-2-e) may be applied retroactively to the effective date of the rating. This MA Exception is also reflected in the current ***Experience Rating Plan Manual***.

Rule 5-A

Employee Leasing / Professional Employer Organizations

This national rule does not apply in Massachusetts. The exception refers the user to the ***Massachusetts Workers Compensation and Employers Liability Insurance Manual***.

Rule 5-B

Ex-Medical Experience

This national rule does not apply in Massachusetts.

Miscellaneous Rules

NCCI eliminated the Miscellaneous Rules for other states by moving the Merit Rating and ARAP pages to the Basic Manual. MA felt that the details of ARAP and Merit Rating belonged in the MA pages to the Experience Rating Plan Manual, so we maintained our Miscellaneous Rules pages.

Merit Rating, Rule 2, Eligibility

To reflect the overall change in eligibility to Subject Premium, the basis for eligibility for the Merit Rating Plan was revised from 'average annual premium' to 'Subject Premium'.

EXPLANATIONS OF REVISIONS TO THE *MASSACHUSETTS WORKERS' COMENSATION STATISTICAL PLAN*

Section III-A-2

Currently in MA, the definition of Non-Compensable Claims is found only in the *Experience Rating Plan Manual*. NCCI has removed their definition of Non-Compensable Claims from the *Experience Rating Plan Manual* and reflected it only in their Statistical Plan. MA has decided to do the same, so we have added the definition of non-compensable claims to the *Massachusetts Workers Compensation Statistical Plan*.

We have also revised the handling of noncompensable claims so that non-compensable claims continue to be reported at the paid amount net of any recovery, if any, but are excluded from experience rating calculations.

Section VII-14

MA revised the Loss Condition Settlement Code

Under Type of Settlement, '05' was revised to read, "Claim has been determined to be non-compensable as defined in Section III-A-2." Previously it read, "Claim has been determined to be non-compensable by either the carrier or the Department of Industrial Accidents as defined in the Experience Rating Manual."

ADDITIONAL INFORMATION

A. GENERAL EXPLANATIONS *Effective 01 Jul 2006*

2. Dispute Resolution and Appeals Process

Change A-2 as follows:

An employer whose interstate experience modification was issued by National Council on Compensation Insurance, Inc. ("NCCI") who believes that the rules of the ***Experience Rating Plan Manual*** have not been properly applied should follow NCCI's dispute resolution procedures. If NCCI determines that Massachusetts is the governing state on an interstate rated risk, then NCCI will refer the appellant to the MA Bureau for the appeal. In this case, MA will review NCCI's ruling to make sure it agrees with all MA rules and laws. Any appeal heard in Massachusetts will be based on the Massachusetts Workers' Compensation Rating and Inspection Bureau ("WCRIB") ruling, and will follow the process stated below for experience modifications issued by the WCRIB.

An employer whose intrastate experience modification was issued by the WCRIB who believes that the rules of the ***Experience Rating Plan Manual*** have not been properly applied, should first try to resolve their dispute with their carrier.

If these efforts are unsuccessful, the employer should send a written request to the WCRIB Data Operations Department (101 Arch Street, 5th Floor, Boston, MA 02110) giving the details of all issues in dispute and requesting the assistance of the WCRIB in resolving the dispute. Data Operations will research the dispute, make any necessary corrections, and provide a written explanation regarding the correct application of the rule(s) in dispute.

If the employer is not satisfied with the results of the WCRIB's attempts to resolve the dispute, the employer may request an appeal. This is done by sending a written request, including a complete description of the dispute and copies of all correspondence with the carrier and the Bureau, to the Director of Customer Services of the WCRIB (see address above). The employer will be contacted regarding the scheduling of the Appeals Subcommittee Meeting.

The Appeals Subcommittee is a subcommittee of the Bureau's Governing Committee, which consists of insurance company representatives, insurance agency representatives, and employer representatives. The appeal itself is an informal process in which the appellant can discuss with the Appeals Subcommittee the reasons why he feels he has been aggrieved by the Bureau's application of the rating system. Following discussion, the Subcommittee renders a decision, which is communicated to the appellant in writing.

If the appellant is not satisfied with the action taken by this Subcommittee, he has thirty (30) days after receipt of written notice, during which he may appeal to the Commissioner of Insurance.

C. ELEMENTS OF EXPERIENCE RATING FORMULA AND WORKSHEET *Effective 01 Jul 2006*

1. Loss Limitation for Single and Multiple Claims—Example for Rule 2-C-13-a

a. Medical-Only Loss Limitation

Change C-1-a as follows:

Examples of Rule 2-C-13-a do not apply in Massachusetts.

G. SPECIAL RATING CONDITIONS *Effective 01 Jul 2006*

1. Employee Leasing—Examples for Rules 5-A

Change G-1 as follows:

Examples of Rule G-1 do not apply in Massachusetts.

RESERVED FOR FUTURE USE

**EXPLANATIONS OF MASSACHUSETTS EXCEPTIONS
TO NCCI'S
*USER'S GUIDE***

User's Guide A-2

MA changed the Dispute Resolution and Appeals Process

We revised NCCI's description of their dispute resolution and appeals process so that it gave information about the process for Massachusetts-issued ratings as well as NCCI-issued ratings.

User's Guide C-1-a

MA deleted the examples that displayed Medical-Only Loss Limitation

Since Massachusetts does not reduce medical-only claims, those examples are not applicable.

User's Guide G-1

MA deleted the Employee Leasing Examples

Since the national employee leasing rules do not apply in Massachusetts, the national examples are not applicable.