



Pennsylvania Compensation Rating Bureau

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March 19, 2021

VIA SERFF

The Honorable Jessica Altman
Insurance Commissioner
Commonwealth of Pennsylvania
Insurance Department
1311 Strawberry Square
Harrisburg, PA 17120

Attention: Michael McKenney, Actuarial Supervisor, Property & Casualty Bureau

**RE: PCRB Filing No. 323 – Proposed Effective May 1, 2021
Proposed Revisions to the Experience Rating Plan Manual Rules**

Dear Commissioner Altman:

On behalf of the members of the Pennsylvania Compensation Rating Bureau (PCRB), we hereby submit the proposed filing for two revisions to the PCRB Workers' Compensation Manual of Rules, Classifications and Rating Values for Workers' Compensation and Employers Liability Insurance (Basic Manual). These revisions are proposed for experience ratings published by the PCRB with issuing dates of May 1, 2021 or later. The proposed effective date of May 1, 2021 coincides with the implementation of a new internal processing system for the PCRB which further streamlines and automates the calculation and issuance of experience ratings.

Proposed Change 1 – Subrogation Recovery Credit Calculation

The experience rating programs in all states require an incurred loss limit with some states having variable loss limits and others having a single loss limit. In Pennsylvania, the ratable losses are limited to a single limit of \$42,500. The capping process is straightforward but becomes complicated when recoveries are received. In the Experience Rating Plan section of the Basic Manual, Section V.8.(b) outlines how recoveries under subrogation rights or from third parties are currently handled for experience rating. Under this rule, the ratable losses are capped at \$42,500, however this limit is reduced based on the amount of those recoveries compared to the total incurred losses. For example, if a \$100,000 claim received \$25,000 in subrogation, the ratable loss limit of \$42,500 would be decreased by $\$25,000/\$100,000$, to \$31,875. Based on this, if a claim remains open or reopens, and additional payments are made, the incurred losses would be limited based on a reduced limit even with the existence of incurred loss development. This secondary cap is counterintuitive when additional loss development is possible and over the last ten years, all states, except for Pennsylvania and Delaware, have eliminated this rule. Based on these factors, the PCRB believes it is appropriate to eliminate this secondary cap where subrogation recoveries exist. This would ensure that ratable losses for all risks are consistently limited to \$42,500. The numbers below show very minimal impact of this change. For example, using employers with rating effective dates in Calendar Year 2020, less than 0.2% of the total experience modifications would be impacted by this rule change. These 2020 experience

modifications would utilize unit statistical report (USR) experience from Policy Years 2016, 2017, and 2018 and would result in a negligible overall premium impact of less than 0.01%. Attached is the revised rule containing this proposed change.

Proposed Change 2 – Clarification of Minimum Data Requirements

Timely submission of unit statistical data is essential to ensure that the experience modifications are promulgated by the PCRB. When all the USR data for an employer is available, the PCRB can calculate an experience modification that provides a complete snapshot of the insured's experience (payroll and losses) for the experience period. Experience ratings are issued 60 days prior to the rating effective date. All USR data used to calculate the experience ratings should be reported by that time. However, in some instances, all the necessary data has not been received. Currently, in these situations, the PCRB works to use all the available information to promulgate an experience modification. This industry practice is commonly referred to as contingent rating. The PCRB looks to formalize this procedure and to ensure processing consistency as we automate the issuance of contingent modifications. Accordingly, the PCRB is filing a minimum data requirements table. This table will be included in the Experience Rating Plan section of the Manual, Rule IV and will outline the minimum data requirements necessary for the calculation of the experience modification. Experience modifications will not be produced if the minimum data requirements are not achieved. Inclusion of the table in the Manual will ensure that all stakeholders are aware of the minimum data required for each experience period.

Note that once the missing USR data is received, the experience modification is recalculated to include the missing data and reissued.

In addition to the minimum data requirements table, the PCRB is filing the Contingent Experience Modification Endorsement – WC 00 04 12. This endorsement notifies policyholders that their experience modification is contingent based on the experience. The Contingent Experience Modification is used countrywide and accordingly, this filing will align Pennsylvania with other states that issue contingent modifications. The attached endorsement will be included in the Endorsements section of the Manual.

The PCRB is pleased to answer any questions or provide any available supplementary information that you or your staff may require. Please direct all questions to Delisa Fairley, Vice President of Underwriting Services.

William V. Taylor
President

Enclosures:

**PENNSYLVANIA WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES
FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

Proposed Effective May 1, 2021

INFORMATION PAGE remains unchanged.

PREFACE remains unchanged.

MEMBERSHIP remains unchanged.

TABLE OF CONTENTS remains unchanged.

SECTION 1 – UNDERWRITING RULES through **SECTION 4 – RETROSPECTIVE RATING** remains unchanged.

SECTION 5 – EXPERIENCE RATING PLANS

SECTION I – INSTRUCTIONS through **SECTION II – DEFINITIONS** remain unchanged.

SECTION III – GENERAL PROVISIONS

Items **1.** through **4.** remain unchanged.

- 5. Experience to be Used.** The ~~entire~~ experience of the risk (except as otherwise provided in [Rule 5 of Section IV and](#) Rule 1 of Section V of this Plan) incurred within the experience period on all its operations, whether such operations are normal to the business or otherwise, shall be reported and used in determining the experience modification. The ~~PCRB Bureau may, at its discretion,~~ [will](#) verify any or all the data from which the experience modification is to be determined.

Items **6.** Through **10.** remain unchanged.

SECTION IV – APPLICATION OF EXPERIENCE MODIFICATION

Item **1.i.** through **vii.** remain unchanged.

[viii. Premium developed under Code 1212 – Payments to Paid Furloughed Employees Due to Covid-19](#)

Items **2.** through **4.** remain unchanged.

5. Contingent Experience Modifications

- (a) [A contingent experience modification is one that is missing some data but still meets the minimum data requirement displayed in the Minimum Data Requirements Table.](#)
- (b) [Contingent experience modifications are subject to the premium eligibility requirements and must attain the minimum data requirements displayed in the Minimum Data Requirements Table.](#)
- (c) [Minimum Data Requirements](#)
[The following table provides the possible minimum data requirements for all experience periods under the PCRB Experience Rating Plan. Refer to Rule 3, Section III of this Plan for additional information regarding the experience period.](#)

**PENNSYLVANIA WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES
FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

Proposed Effective May 1, 2021

Minimum Data Requirements Table

<u>Months of Data included in calculation</u>	<u>Minimum Number of Months of 1st Report Unit Statistical Data Required</u>	<u>Months of Data included in calculation</u>	<u>Minimum Number of Months of 1st Report Unit Statistical Data Required</u>
<u>Less than 12</u>	<u>All Data</u>	<u>35</u>	<u>23</u>
<u>12-24</u>	<u>12</u>	<u>36</u>	<u>24</u>
<u>25</u>	<u>13</u>	<u>37</u>	<u>25</u>
<u>26</u>	<u>14</u>	<u>38</u>	<u>26</u>
<u>27</u>	<u>15</u>	<u>39</u>	<u>27</u>
<u>28</u>	<u>16</u>	<u>40</u>	<u>28</u>
<u>29</u>	<u>17</u>	<u>41</u>	<u>29</u>
<u>30</u>	<u>18</u>	<u>42</u>	<u>30</u>
<u>31</u>	<u>19</u>	<u>43</u>	<u>31</u>
<u>32</u>	<u>20</u>	<u>44</u>	<u>32</u>
<u>33</u>	<u>21</u>	<u>45</u>	<u>33</u>
<u>34</u>	<u>22</u>		

SECTION V – TABULATION OF EXPERIENCE

Items 1. through 7. remain unchanged.

8. Third Party Cases.

Item (a) remains unchanged.

(b) Settled Cases. In cases where the carrier has received reimbursement under subrogation rights, or where the injured employee or his dependents have recovered from a third party, only the net losses shall be used in the rating and will not exceed the maximum accident limitation values in Table B, column (3). ~~the procedure shall be as follows:~~

~~In cases where the total incurred cost prior to recovery is less than the accident limitation value shown in Table B, column (3), only the net loss shall be used in the rating. In cases where the total incurred cost prior to recovery exceeds the accident limitation value shown in Table B, column (3), the amount to be used in the rating shall be such proportion of the limiting value as the net loss bears to the total incurred cost prior to recovery.~~

SECTION VI – RATING PROCEDURE through **TABLE B – CREDIBILITY** remains unchanged.

SECTION 6 – MERIT RATING PLAN remains unchanged.

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Items **1.** through **4.** remain unchanged.

- 5. Experience to be Used.** The experience of the risk (except as otherwise provided in Rule 5 of Section IV and Rule 1 of Section V of this Plan) incurred within the experience period on all its operations, whether such operations are normal to the business or otherwise, shall be reported and used in determining the experience modification. The PCRB will verify any or all the data from which the experience modification is to be determined.

Items **6.** Through **10.** remain unchanged.

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The following table provides the possible minimum data requirements for all experience periods under the PCRB Experience Rating Plan. Refer to Rule 3, Section III of this Plan for additional information regarding the experience period.

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Less than 12	All Data	35	23
12-24	12	36	24
25	13	37	25
26	14	38	26
27	15	39	27
28	16	40	28
29	17	41	29
30	18	42	30
31	19	43	31
32	20	44	32
33	21	45	33
34	22		

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SECTION VI – RATING PROCEDURE through **TABLE B – CREDIBILITY** remains unchanged.

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SECTION 1 – UNDERWRITING RULES and **SECTION 2 – CLASSIFICATIONS** remain unchanged.

SECTION 3 – ENDORSEMENTS

TABLE OF CONTENTS

90-Day Reporting Requirement – Notification Change of Ownership through Church Endorsement – Pennsylvania remains unchanged.

[Contingent Experience Rating Modification Endorsement](#)

[WC 00 04 12](#)

Deductible Endorsement through Waiver of Our Right to Recover From Others remains unchanged.

Workers Compensation and Employers Liability Policy Forms remains unchanged.

**PENNSYLVANIA WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES
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Proposed Effective May 1, 2021

Workers Compensation and Employers Liability Insurance Policy

WC 00 04 12

CONTINGENT EXPERIENCE RATING MODIFICATION ENDORSEMENT

The premium for this policy will be adjusted by an experience rating modification factor. The factor shown in the schedule is the Contingent Experience Rating Modification factor based on the appropriate experience data available and replaces any prior experience modification factor. We will issue an endorsement to show a revised factor if appropriate additional experience data becomes available. The contingent factor will apply unless a revised factor is subsequently issued.

Schedule

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective
Insured

Policy No.

Endorsement No.
Premium

Insurance Company

Countersigned by _____

WC 00 04 12
(Ed. 1-90)

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**PENNSYLVANIA WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES
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SECTION 4 – RETROSPECTIVE RATING remains unchanged.

SECTION 5 – EXPERIENCE RATING PLANS remains unchanged.

SECTION 6 – MERIT RATING PLAN remains unchanged.

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