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TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: E-1410 Revisions to NCCI Manual Rules Related to the Inclusion of COVID-19 (Coronavirus) Claims in Experience Rating and Merit Rating
Project Name/Number: /

Filing at a Glance

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Product Name: E-1410 Revisions to NCCI Manual Rules Related to the Inclusion of COVID-19 (Coronavirus) Claims in Experience Rating and Merit Rating
State: Texas
TOI: 16.0 Workers Compensation
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Filing Description:

This item revises rules to:

- Establish an end Accident Date of June 30, 2023, to Extraordinary Loss Event (ELE) Catastrophe Number 12 for the reporting of claims attributable to COVID-19 (coronavirus)
- Include claims attributable to COVID-19 (coronavirus) with Accident Dates on and after July 1, 2023, in experience rating calculations, except in Illinois, and merit rating plans (where applicable)
- Report COVID-19 (coronavirus) claims to ELE Catastrophe Number 12 only if these claims have Accident Dates between December 1, 2019, and June 30, 2023
- Exclude COVID-19 (coronavirus) claims from experience rating calculations and merit rating plans (where applicable) only when these claims have Accident Dates between December 1, 2019, and June 30, 2023, and are reported with ELE Catastrophe Number 12

Note: In Illinois, claims attributable to COVID-19 (coronavirus) will continue to be excluded from experience rating calculations after June 30, 2023. However, ELE Catastrophe Number 12 will not be reported after June 30, 2023.

Company and Contact

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Filing Fees

State Fees

Fee Required? No

Retaliatory? No

Fee Explanation:

State Specific

- [PII] Does this filing contain any personally identifiable information (PII)? (See SERFF General Instructions for the definition and examples of PII.) Answer either YES or NO:: No
- [Associated filing] Provide the TDI file number or SERFF tracking number for all associated filings:: S679281
- [Deemer date] Do you waive the deemer for form, endorsement, and certificate of insurance filings under 28 TAC 5.9325? Answer either YES or NO:: Yes
- Do you waive the limits on requests for information for rate/rule filings under 28 TAC 5.9336? Answer either YES or NO:: Yes
- [Replacement number] Provide the TDI file number or SERFF tracking number of the previously approved forms and endorsements or accepted rates, rules, or rate/rules that you are replacing:: S679281
- [Reference/adopt] Provide the TDI file number or SERFF tracking number that contains approved forms and endorsements or accepted rates, rules, or rate/rules that you are referencing/adopting.: N/A
- [Interline] State if this is an interline filing and list all lines of insurance the endorsement or rate/rules applies to.: N/A
- [Dual] For dual filings (monoline and multi-peril) state if this is a new program. If not, provide the TDI file number or SERFF tracking number for either the previous dual filing, or the previous monoline and multi-peril filings approved for this program:: N/A
- [Policy form] What policy form do these endorsements and forms go with? List the TDI file number or SERFF tracking number where the policy form was approved or referenced:: N/A
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Rate data applies to filing.

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Overall Percentage of Last Rate Revision:

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Effective Date of Last Rate Revision:

Filing Method of Last Filing:

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SERFF Tracking Number of Last Filing:

NCCI-133436612

Company Rate Information

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National Council on Compensation Insurance, Inc.	0.000%	0.000%	\$0	0	\$0	0.000%	0.000%

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Rate/Rule Schedule

Item No.	Schedule Item Status	Exhibit Name	Rule # or Page #	Rate Action	Previous State Filing Number	Attachments
1		Exhibit 1	3. Losses	Replacement	S679281	E-1410 Exhibit 1.pdf
2		Exhibit 2	2. Extraordinary Loss Event Claims	Replacement	S679281	E-1410 Exhibit 2.pdf
3		Exhibit 3	F. ADDITIONAL CLAIM REPORTING RULES	Replacement	S679281	E-1410 Exhibit 3.pdf

ITEM E-1410—REVISIONS TO NCCI MANUAL RULES RELATED TO THE INCLUSION OF COVID-19 (CORONAVIRUS) CLAIMS IN 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, 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

Incurred 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 that are reported with Catastrophe Number 12 are excluded from experience rating calculations. Catastrophe Number 12 claims include all claims as attributable to the COVID-19 (coronavirus) pandemic according to the *Statistical Plan* with Accident Dates of December 1, 2019 through June 30, 2023 are excluded from experience rating calculations. 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.

ITEM E-1410—REVISIONS TO NCCI MANUAL RULES RELATED TO THE INCLUSION OF COVID-19 (CORONAVIRUS) CLAIMS IN EXPERIENCE RATING AND MERIT RATING

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 through 6/30/2023, 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.

For claims attributable to COVID-19 (coronavirus) with Accident Dates on and after 7/1/2023, ELE Catastrophe Number 12 must not be reported. These claims must only be reported with Nature of Injury Code 83–COVID-19, and if applicable, these claims are also reported with Cause of Injury Code 83–Pandemic when the description of Pandemic applies to these claims, as described in Part 6 of the *Statistical Plan*.

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

ITEM E-1410—REVISIONS TO NCCI MANUAL RULES RELATED TO THE INCLUSION OF COVID-19 (CORONAVIRUS) CLAIMS IN EXPERIENCE RATING AND MERIT RATING

**EXHIBIT 3
STATISTICAL PLAN—2008 EDITION
PART 4—LOSS AND EXPENSE INFORMATION
(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)**

F. ADDITIONAL CLAIM REPORTING RULES

1. Claims are reportable when, as of the valuation date, there are loss values in the paid losses, incurred losses, and/or ALAE.
2. Claims closed without any payments and ALAE as of the 1st unit report valuation date are not to be reported. If these claims subsequently reopen at a future unit report valuation date with loss values in the paid losses, incurred losses, and/or ALAE, these claims are reportable.
3. An accident for one claimant with reportable losses under both Workers Compensation and Employers Liability are to be reported as one claim, with combined loss experience. These claims are to be reported with Type of Claim Code 03 (Workers Compensation Including Employers Liability). Refer to Part 6, Item D-9—Type of Claim Code.
4. Claims are reportable for traumatic injuries that occur on an accident date within the policy period.
5. Claims are reportable for disease injuries that occur on an accident date within the policy period.
6. Claims are reportable for disease injuries where the accident date is not specified, and the claimant's last date of exposure to the conditions causing or aggravating the disease injury is within the policy period.
7. Claims with accident dates outside of the policy period that are required to be paid due to an official ruling, and where there is no corresponding exposure, must not be reported.
8. An accident for one claimant with reportable losses paid or payable under different coverages or benefits of the policy (e.g., state and federal acts) must be reported as one claim, with combined loss experience. These claims are to be reported with the appropriate Loss Condition Codes. Refer to Part 6, Item D-6—Loss Coverage Act Code.
9. Statistical codes that require the reporting of premium and any corresponding losses are identified in the Notes column of Part 6, Item E—Statistical Codes.
10. For coronavirus claims attributable to COVID-19:
 - With Accident Dates of on and after 7/1/2023 ~~12/1/2019~~ and subsequent, report Nature of Injury Code 83—COVID-19 as outlined in Part 6 of the **Statistical Plan**. Additionally, report these claims with Cause of Injury Code 83—Pandemic when the description of Pandemic applies to these claims, as described in Part 6 of the **Statistical Plan**. Do not report ELE Catastrophe Number 12—COVID-19 (Coronavirus) Pandemic.
 - With Accident Dates of 12/1/2019 through 6/30/2023, report Nature of Injury Code 83—COVID-19, Cause of Injury Code 83—Pandemic, and ELE Catastrophe Number 12—COVID-19 (Coronavirus) Pandemic.

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Supporting Document Schedules

Bypassed - Item:	Does this filing contain confidential information?
Bypass Reason:	N/A
Attachment(s):	
Item Status:	
Status Date:	

Bypassed - Item:	Exhibit A
Bypass Reason:	N/A
Attachment(s):	
Item Status:	
Status Date:	

Bypassed - Item:	Exhibit C
Bypass Reason:	N/A
Attachment(s):	
Item Status:	
Status Date:	

Satisfied - Item:	Filing Memorandum (Rates/Rules)
Comments:	
Attachment(s):	E-1410 Memorandum.pdf
Item Status:	
Status Date:	

Satisfied - Item:	Side by Side
Comments:	
Attachment(s):	E-1410 National Side_by_side.pdf
Item Status:	
Status Date:	

Satisfied - Item:	Filing Narrative
Comments:	
Attachment(s):	COVID Filing Narrative.pdf
Item Status:	
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FILING MEMORANDUM

ITEM E-1410—REVISIONS TO NCCI MANUAL RULES RELATED TO THE INCLUSION OF COVID-19 (CORONAVIRUS) CLAIMS IN EXPERIENCE RATING AND MERIT RATING

PURPOSE

This item revises rules to:

- Establish an end Accident Date of June 30, 2023, to Extraordinary Loss Event (ELE) Catastrophe Number 12 for the reporting of claims attributable to COVID-19 (coronavirus)
- Include claims attributable to COVID-19 (coronavirus) with Accident Dates on and after July 1, 2023, in experience rating calculations, except in Illinois, and merit rating plans (where applicable)
- Report COVID-19 (coronavirus) claims to ELE Catastrophe Number 12 only if these claims have Accident Dates between December 1, 2019, and June 30, 2023
- Exclude COVID-19 (coronavirus) claims from experience rating calculations and merit rating plans (where applicable) only when these claims have Accident Dates between December 1, 2019, and June 30, 2023, and are reported with ELE Catastrophe Number 12

Note: In Illinois, claims attributable to COVID-19 (coronavirus) will continue to be excluded from experience rating calculations after June 30, 2023. However, ELE Catastrophe Number 12 will not be reported after June 30, 2023.

BACKGROUND

On March 11, 2020, the World Health Organization categorized the COVID-19 outbreak as a pandemic in response to the rising rates of infection in many locations around the world and across the United States. On March 13, 2020, the President of the United States declared the COVID-19 outbreak as a national emergency beginning March 1, 2020. According to the Centers for Disease Control and Prevention (CDC), by mid-March 2020, transmission of COVID-19 had become widespread in the United States. At the start of the pandemic, the COVID-19 virus was novel and there was a lack of understanding of how to mitigate transmission in the general population and the workplace. There was a lack of guidance on workplace safety measures (social distancing, temperature readings, face masks, and sanitizing), effective treatments, COVID-19 testing, and COVID-19 vaccines. There was also a shortage of personal protection equipment (PPE), and there were widespread lockdowns and business closures.

The workers compensation industry was closely monitoring the developments surrounding COVID-19 (coronavirus), and in response to the pandemic, the Workers Compensation Insurance Organizations (WCIO) approved new nature of injury and cause of injury codes and a new ELE catastrophe number to identify and track COVID-19 pandemic claims with Accident Dates of December 1, 2019, and subsequent. The codes were implemented by NCCI and other workers compensation bureaus to promote the uniformity of code values for all workers compensation data collection organizations.

In response to the COVID-19 pandemic, NCCI made filings in 2020 that impacted the following NCCI manuals:

- ***Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual)***
- ***Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance (Experience Rating Plan Manual)***
- ***Forms Manual of Workers Compensation and Employers Liability Insurance (Forms Manual)***
- ***Statistical Plan for Workers Compensation and Employers Liability Insurance (Statistical Plan)***

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NCCI COVID-19 Pandemic Filings Related to Experience Rating and Loss Reporting

In May 2020, NCCI filed Item E-1407—Exclusion of COVID-19 Claims From Experience Rating and Merit Rating. This item:

- Established ELE Catastrophe Number 12—COVID-19 (Coronavirus) Pandemic for reporting claims attributable to the COVID-19 pandemic as an Extraordinary Loss Event beginning with Accident Dates of December 1, 2019, and subsequent
- Excluded claims reported with ELE Catastrophe Number 12 from experience rating calculations for experience rating modifications with rating effective dates of August 16, 2020, and later
- Excluded claims reported with ELE Catastrophe Number 12 from merit rating plans (where applicable) for new and renewal policies effective on and after August 16, 2020

Additionally, NCCI's Item U-1401—Nature and Cause of Injury Codes for COVID-19 (Coronavirus) Claims established Nature of Injury Code 83—COVID-19 and Cause of Injury Code 83—Pandemic in the **Statistical Plan** for claims reported with ELE Catastrophe Number 12 with Accident Dates of December 1, 2019, and subsequent.

NCCI excluded COVID-19 (coronavirus) claims from experience rating and merit rating (where applicable) because pandemics have been rare, initial cost estimates on the workers compensation industry were in the billions, and there was a lack of historical pandemic experience in the workers compensation system. Without adjustment, the presence or absence of COVID-19 (coronavirus) claims from this historical period was not a reliable predictor of whether claims would return in a given future year and was not a true predictor of employers' safety practices due to this uncertainty.

Current Environment

The COVID-19 pandemic has been affecting the workplace for more than three years. Over this period, the CDC has published workplace prevention strategies and the Occupational Safety and Health Administration (OSHA) has provided resources to help prevent COVID-19 exposure and infection in the workplace. According to OSHA, many employers have established COVID-19 prevention programs that include a number of important steps to keep unvaccinated and otherwise at-risk employees safe. Vaccines are available and, according to the Centers for Disease Control and Prevention (CDC), over 80% of the US population are vaccinated with at least one dose of a booster vaccine. There is widespread availability of PPE, accessibility of testing, and effective treatments for infected persons. The US economy is at or near full employment, has been resilient to recent COVID-19 variants, and is beginning to reflect a post-pandemic new normal.

It is unknown at this time whether the disease will ever be fully eradicated. On October 13, 2022, the US Government continued to declare the COVID-19 pandemic as a national emergency. The US Government's National COVID-19 Preparedness Plan was published to help the country move forward safely, and it focuses on four key goals:

- Protect against and treat COVID-19
- Prepare for new variants
- Prevent economic and educational shutdowns

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FILING MEMORANDUM

ITEM E-1410—REVISIONS TO NCCI MANUAL RULES RELATED TO THE INCLUSION OF COVID-19 (CORONAVIRUS) CLAIMS IN EXPERIENCE RATING AND MERIT RATING

- Continue to lead the effort to vaccinate the world and save lives

Inclusion of Future COVID-19 Claims in Experience Rating and Merit Rating (Where Applicable)

NCCI is recommending that COVID-19 (coronavirus) claims with Accident Dates on and after July 1, 2023, be included in the experience rating calculations, except in Illinois, and merit rating plans (where applicable). To support this recommendation, an end Accident Date of June 30, 2023, would be established for ELE Catastrophe Number 12—COVID-19 (Coronavirus) Pandemic. Only claims attributable to the COVID-19 (coronavirus) pandemic with Accident Dates of December 1, 2019, through June 30, 2023, would be reported with ELE Catastrophe Number 12 and would be excluded from experience rating calculations and merit rating plans (where applicable). **Note:** In Illinois, claims attributable to COVID-19 (coronavirus) will continue to be excluded from experience rating calculations after June 30, 2023. However, ELE Catastrophe Number 12 will not be reported after June 30, 2023.

NCCI is filing to update manual rules in recognition of the reality that the workforce will likely be living with COVID-19 for the foreseeable future. The special treatment of COVID-19 (coronavirus) claims as catastrophic was intended to be temporary. Actuarial Standards of Practice 39, Treatment of Catastrophe Losses in Property/Casualty Insurance Ratemaking, discusses the identification of catastrophes in property and casualty insurance as “perils or events that have the potential to generate catastrophe losses that differ materially from the expected aggregate losses or the expected distribution of losses.” As COVID-19 losses are expected to continue into the future, they are no longer a novel peril in workers compensation. NCCI anticipates the experience for accidents occurring on or after the selected date of July 1, 2023, which will be defined as the end date of the catastrophe, to produce limited aggregate losses which reflect more typical claims activity. COVID-19 (coronavirus) claims after this Accident Date no longer require special treatment and should be treated like any other workers compensation claims in experience rating calculations, except in Illinois, and merit rating plans (where applicable).

The primary purpose of experience rating is to improve the estimate of an employer’s expected losses in an upcoming policy period by incorporating the predictive ability of that employer’s prior loss experience. Experience rating also provides a clear financial incentive for employers to develop loss prevention and to have injured employees return to work as soon as reasonably possible. While the pandemic has not ended, NCCI has determined that it is appropriate to include claims attributable to COVID-19 (coronavirus) in experience rating calculations, except in Illinois, and merit rating plans (where applicable) going forward for the following reasons:

1. Predictor of Future Claims:

- Certain employers with workers compensation coverage, due to the nature of their occupations, have higher expected exposure to COVID-19 claims. NCCI expects that most COVID-19 claims will continue to be present in these occupations going forward. In experience rating, historical data should be used to determine future cost estimates when the historical period is believed to be a reliable predictor of future experience. Therefore, future COVID-19 claims should be treated the same as all other compensable workers compensation claims.
- Several states have passed COVID-19 presumptive workers compensation laws and regulations, increasing the likelihood of future compensable COVID-19 claims for certain classifications. Loss experience in these classifications has predictive ability.

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2. Reflective of Safety Practices:

- Many employers have made adjustments as a result of the COVID-19 pandemic and have implemented loss prevention and safety programs. Authorities such as the US Department of Labor's Occupational Safety and Health Administration (OSHA) have issued guidance and mandatory OSHA standards to help employers reduce the risk of COVID-19 transmission in their workplaces. Employers that have implemented COVID-19 loss prevention and safety measures should have premiums that accurately reflect their experience through the experience rating modification factor.
- As businesses have reopened and have become progressively less sensitive to fluctuations in infection rates, it will likely become more challenging to prove that COVID-19 infections are work-related. Continued COVID-19 workers compensation claim frequency is likely to be reflective of specific employer loss prevention and safety programs.

PROPOSAL

This item proposes to establish an end Accident Date of June 30, 2023, for the reporting of COVID-19 (coronavirus) claims to ELE Catastrophe Number 12 and the exclusion of COVID-19 (coronavirus) claims from experience rating calculations, except in Illinois, and merit rating plans (where applicable). For COVID-19 (coronavirus) claims with Accident Dates on and after July 1, 2023, these claims must continue to be reported with Nature of Injury Code 83—COVID-19. And, when applicable, these claims must be reported with Cause of Injury Code 83—Pandemic. COVID-19 (coronavirus) claims with Accident Dates on and after July 1, 2023 must not be reported to ELE Catastrophe Number 12. This item revises the following NCCI manuals:

1. **Experience Rating Plan Manual** Rule 1-C-3—Losses

Note: In addition to revising the ELE Catastrophe Number 12 claim exception, this item proposes to eliminate the exceptions in Rule 1-C-3 related to Catastrophe Numbers 48 and 87 because it is no longer necessary to maintain these exceptions for experience rating purposes. Catastrophe Number 48 is assigned to claims attributable to the September 11, 2001, attacks. Catastrophe Number 87 is assigned to claims resulting from the rescue, recovery, and cleanup work at the World Trade Center.

2. **Statistical Plan** Part 4-E-2-a(2)(a)—ELE Catastrophe Number 12—COVID-19 (Coronavirus) Pandemic
3. **Statistical Plan** Part 4-F—Additional Claim Reporting Rules by revising #10
4. **Basic Manual, Residual Market Manual for Workers Compensation and Employers Liability Insurance (Residual Market Manual), and Experience Rating Plan Manual** Merit Rating Plans in Alabama, Arkansas, Georgia, Hawaii, Maine, Oklahoma, Oregon, South Dakota, and Vermont
5. **Forms Manual** Maine Merit Rating Endorsement (WC 18 04 02 B)

The filing of this item, Item E-1410, proposes revisions to NCCI manual rules related to the reporting of COVID-19 (coronavirus) claims and their inclusion in experience rating calculations and merit rating plans (where applicable). Refer to Item B-1447—Revisions to NCCI Manual Rules Related to the COVID-19 (Coronavirus) Pandemic—Paid Furloughed Employees and Final Premium Reporting, which proposes to establish an expiration date of June 30, 2023, for Code 0012 and the final premium reporting rule exception.

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ITEM E-1410—REVISIONS TO NCCI MANUAL RULES RELATED TO THE INCLUSION OF COVID-19 (CORONAVIRUS) CLAIMS IN EXPERIENCE RATING AND MERIT RATING

Illinois Statute 820 ILCS 310/1(g)(5)

Illinois Statute 820 ILCS 310/1(g)(5) states: "Under no circumstances shall any COVID-19 case increase or affect any employer's workers' compensation insurance experience rating or modification, but COVID-19 costs may be included in determining overall State loss costs."

The rule revisions to *Experience Rating Plan Manual* Rule 1-C-3 described in this Proposal do not apply in Illinois because of the above-referenced statute. Therefore, claims attributable to COVID-19 (coronavirus), beginning on Accident Date December 1, 2019, with no end date, will continue to be excluded from experience rating calculations in Illinois. Refer to state exhibits for Illinois.

IMPACT

Experience Rating Calculations

Based on the July 1, 2023, Accident Date, ratings effective beginning July 1, 2024, and subsequent have the potential to be affected by COVID-19 (coronavirus) claims being reported without ELE Catastrophe Number 12 in the experience rating calculation.

Note that the earliest policy effective date under which COVID-19 (coronavirus) claims could be reported, without ELE Catastrophe Number 12, is June 16, 2022. *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 March 16, 2024, and later. To the extent that affected employers incur any COVID-19 (coronavirus) claims on or after the Accident Date of July 1, 2023, the experience rating modifications will include such claims for those employers, except in Illinois. However, the ratings with potential COVID-19 (coronavirus) claims exposure before July 1, 2024, are estimated to be less than 0.1% of all ratings.

Merit Rating Plans

COVID-19 (coronavirus) claims with Accident Dates on and after July 1, 2023, will be included in merit rating plans (where applicable).

Catastrophe (other than Certified Acts of Terrorism) Provision

NCCI is proposing no change to the Catastrophe (other than Certified Acts of Terrorism) provision, where applicable.¹ The Catastrophe (other than Certified Acts of Terrorism) provision premium is not used by NCCI in experience rating or merit rating. The Catastrophe (other than Certified Acts of Terrorism) provision is used

¹ The Catastrophe (Other Than Certified Acts of Terrorism) Premium Endorsement (WC 00 04 21 F) is effective in Texas for new and renewal policies as of July 1, 2022, and as of August 1, 2022, for new and renewal policies in AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VT, and WV.

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to account for future exposure to a single event or peril resulting in a group of claims with aggregate workers compensation losses in excess of \$50 million, which may include the exposure to new pandemics. Both the definition of “catastrophe” and the treatment of catastrophe losses in property and casualty ratemaking are addressed in the Actuarial Standards of Practice (ASOP). As defined in ASOP 39, Treatment of Catastrophe Losses in Property/Casualty Insurance Ratemaking, a catastrophe is “a relatively infrequent event or phenomenon that produces unusually large aggregate losses.” ASOP 39 also states that “consideration should be given to the impact of catastrophes and that procedures should be developed to include an allowance for catastrophe exposure in the rate.”

NCCI is proposing to treat the period of the pandemic between Accident Dates of December 1, 2019, and June 30, 2023, as a catastrophic phenomenon. ELE Catastrophe Number 12 claims reported during this period will be excluded from experience rating calculations. The claims that occurred during this period are not expected to be a reliable predictor of future years for experience rating purposes. COVID-19 (coronavirus) claims occurring on and after July 1, 2023, are expected to be predictive of future experience, without adjustment.

EXHIBIT COMMENTS AND IMPLEMENTATION SUMMARY

Exhibit	Exhibit Comments	Implementation Summary
National Exhibits		
1	<ul style="list-style-type: none"> • Details the revisions to Rule 1-C-3—Losses in NCCI’s <i>Experience Rating Plan Manual</i> • Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IN, KS, KY, LA, MD, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV • Refer to state exhibits for IL, MA, and ME 	<p>In all applicable states, except Hawaii, this item is to become effective for:</p> <ul style="list-style-type: none"> • new and renewal policies with effective dates on and after 12:01 a.m. on July 1, 2023, and • any in-force policy in effect on and after July 1, 2023.
2	<ul style="list-style-type: none"> • Details the revisions to Part 4-E-2-a(2)(a) in NCCI’s <i>Statistical Plan</i> • 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 	<p>In Hawaii, the effective date will be determined upon regulatory approval of the individual carriers’ election to adopt this change.</p>
3	<ul style="list-style-type: none"> • Details the revisions to Part 4-F-10 in NCCI’s <i>Statistical Plan</i> • 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 	

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ITEM E-1410—REVISIONS TO NCCI MANUAL RULES RELATED TO THE INCLUSION OF COVID-19 (CORONAVIRUS) CLAIMS IN EXPERIENCE RATING AND MERIT RATING

Exhibit	Exhibit Comments	Implementation Summary
State Exhibits		
4	Details the revisions to the rule, Merit Rating Plan application, in NCCI's Basic Manual for Alabama.	To become effective in Alabama for: <ul style="list-style-type: none"> • new and renewal policies with effective dates on and after 12:01 a.m. on July 1, 2023, and • any in-force policy in effect on and after July 1, 2023.
4	Details the revisions to the rule, Merit Rating Plan application, in NCCI's Residual Market Manual for Arkansas.	To become effective in Arkansas for: <ul style="list-style-type: none"> • new and renewal residual market policies only, with effective dates on and after 12:01 a.m. on July 1, 2023, and • any in-force residual market policy in effect on and after July 1, 2023.
4	Details the revisions to the rule, Merit Rating Plan application, in NCCI's Residual Market Manual for Georgia.	To become effective in Georgia for: <ul style="list-style-type: none"> • new and renewal residual market policies only, with effective dates on and after 12:01 a.m. on July 1, 2023, and • any in-force residual market policy in effect on and after July 1, 2023.
4	Details the revisions to the rule, Merit Rating Plan application, in NCCI's Basic Manual for Hawaii.	The effective date will be determined upon regulatory approval of the individual carriers' election to adopt this change.
4	Details the establishment of Illinois' exception to Rule 1-C-3 in NCCI's Experience Rating Plan Manual .	To become effective in Illinois for: <ul style="list-style-type: none"> • new and renewal policies with effective dates on and after 12:01 a.m. on July 1, 2023, and • any in-force policy in effect on and after July 1, 2023.
4	Details the revisions to the rule, Merit Rating Plan application, in NCCI's Basic Manual for Maine.	To become effective in Maine for: <ul style="list-style-type: none"> • new and renewal policies with effective dates on and after 12:01 a.m. on July 1, 2023, and • any in-force policy in effect on and after July 1, 2023.
5	Details the revisions to Maine's exception to Rule 1-C-3 in NCCI's Experience Rating Plan Manual .	
6	Details the revisions to the Maine Merit Rating Endorsement (WC 18 04 02 B) in NCCI's Forms Manual .	

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Exhibit	Exhibit Comments	Implementation Summary
4	Details the revisions to the rule, Merit Rating Plan application, in NCCI's Basic Manual for Oklahoma.	To become effective in Oklahoma for: <ul style="list-style-type: none"> • new and renewal policies with effective dates on and after 12:01 a.m. on July 1, 2023, and • any in-force policy in effect on and after July 1, 2023.
4	Details the revisions to the Merit Rating Plan Oregon Miscellaneous Rule in NCCI's Experience Rating Plan Manual .	To become effective in Oregon for: <ul style="list-style-type: none"> • new and renewal policies with effective dates on and after 12:01 a.m. on July 1, 2023, and • any in-force policy in effect on and after July 1, 2023.
4	Details the revisions to the rule, Merit Rating Plan application, in NCCI's Basic Manual for South Dakota.	To become effective in South Dakota for: <ul style="list-style-type: none"> • new and renewal policies with effective dates on and after 12:01 a.m. on July 1, 2023, and • any in-force policy in effect on and after July 1, 2023.
4	Details the revisions to the rule, Merit Rating Plan application, in NCCI's Residual Market Manual for Vermont.	To become effective in Vermont for: <ul style="list-style-type: none"> • new and renewal residual market policies only, with effective dates on and after 12:01 a.m. on July 1, 2023, and • any in-force residual market policy in effect on and after July 1, 2023.

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COMPARISON OF RULES RELATED TO THE COVID-19 (CORONAVIRUS) PANDEMIC AND ITEM E-1410*

Current	Proposed	Comments
<p>EXPERIENCE RATING PLAN MANUAL FOR WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE—2003 EDITION</p>	<p>EXPERIENCE RATING PLAN MANUAL FOR WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE—2003 EDITION</p>	
<p>RULE 1—GENERAL EXPLANATIONS C. DEFINITIONS 3. Losses Incurred losses for each classification in the experience period are those reported according to the Statistical Plan.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>RULE 1—GENERAL EXPLANATIONS C. DEFINITIONS 3. Losses Incurred losses for each classification in the experience period are those reported according to the Statistical Plan.</p> <p>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.</p> <p>Exception: Claims that are reported with Catastrophe Number 12 as attributable to the COVID-19 (coronavirus) pandemic according to the Statistical Plan with Accident Dates of December 1, 2019 through June 30, 2023 are excluded from experience rating calculations.</p> <p>Exception: Claims that are reported as noncompensable according to the Statistical Plan are excluded from experience rating calculations.</p> <p>Exception: Claims that are reported as fraudulent according to the Statistical Plan are excluded from experience rating calculations.</p> <p>Exception: Claims that are reported as coal mine disease (Black Lung) according to the Statistical Plan are excluded from experience rating calculations.</p> <p>b. Loss amounts may be limited in the experience rating calculation. For application of a loss limitation, refer to Rule 2-C-13.</p>	<p>Revised information related to Catastrophe Number 12 and eliminated information related to Catastrophe Number 87 and Catastrophe Number 48.</p>

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COMPARISON OF RULES RELATED TO THE COVID-19 (CORONAVIRUS) PANDEMIC AND ITEM E-1410*

Current	Proposed	Comments
<p>Exception: Claims that are reported as noncompensable according to the Statistical Plan are excluded from experience rating calculations.</p> <p>Exception: Claims that are reported as fraudulent according to the Statistical Plan are excluded from experience rating calculations.</p> <p>Exception: Claims that are reported as coal mine disease (Black Lung) according to the Statistical Plan are excluded from experience rating calculations.</p> <p>b. Loss amounts may be limited in the experience rating calculation. For application of a loss limitation, refer to Rule 2-C-13.</p>		
<p>STATISTICAL PLAN FOR WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE—2008 EDITION</p>	<p>STATISTICAL PLAN FOR WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE—2008 EDITION</p>	
<p>PART 4—LOSS AND EXPENSE INFORMATION E. CLAIM COMPONENTS 2. Conditional Claim Components a. Catastrophe Number (2) Extraordinary Loss Event Claims</p>	<p>PART 4—LOSS AND EXPENSE INFORMATION E. CLAIM COMPONENTS 2. Conditional Claim Components a. Catastrophe Number (2) Extraordinary Loss Event Claims</p>	
<p>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.</p> <p>(a) ELE Catastrophe Number 12—COVID-19 (Coronavirus) Pandemic</p> <p>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.</p>	<p>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.</p> <p>(a) ELE Catastrophe Number 12—COVID-19 (Coronavirus) Pandemic</p> <p>ELE Catastrophe Number 12 must be reported for claims attributable to the COVID-19 (coronavirus) pandemic with Accident Dates of 12/1/2019 through 6/30/2023. 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.</p>	<p>Updated effective date to include an end date for reporting ELE Catastrophe Number 12 and added information to clarify reporting COVID-19 (coronavirus) claims.</p>

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COMPARISON OF RULES RELATED TO THE COVID-19 (CORONAVIRUS) PANDEMIC AND ITEM E-1410*

Current	Proposed	Comments
<p>Refer to NCCI's <i>Unit Statistical Reporting Guidebook</i> for additional information.</p>	<p>For claims attributable to COVID-19 (coronavirus) with Accident Dates on and after 7/1/2023, ELE Catastrophe Number 12 must not be reported. These claims must only be reported with Nature of Injury Code 83–COVID-19, and if applicable, these claims are also reported with Cause of Injury Code 83–Pandemic when the description of Pandemic applies to these claims, as described in Part 6 of the <i>Statistical Plan</i>.</p> <p>Refer to NCCI's <i>Unit Statistical Reporting Guidebook</i> for additional information.</p>	
<p>STATISTICAL PLAN FOR WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE—2008 EDITION</p>	<p>STATISTICAL PLAN FOR WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE—2008 EDITION</p>	
<p>PART 4—LOSS AND EXPENSE INFORMATION F. ADDITIONAL CLAIM REPORTING RULES</p> <ol style="list-style-type: none"> 1. Claims are reportable when, as of the valuation date, there are loss values in the paid losses, incurred losses, and/or ALAE. 2. Claims closed without any payments and ALAE as of the 1st unit report valuation date are not to be reported. If these claims subsequently reopen at a future unit report valuation date with loss values in the paid losses, incurred losses, and/or ALAE, these claims are reportable. 3. An accident for one claimant with reportable losses under both Workers Compensation and Employers Liability are to be reported as one claim, with combined loss experience. These claims are to be reported with Type of Claim Code 03 (Workers Compensation Including Employers Liability). Refer to Part 6, Item D-9—Type of Claim Code. 4. Claims are reportable for traumatic injuries that occur on an accident date within the policy period. 5. Claims are reportable for disease injuries that occur on an accident date within the policy period. 6. Claims are reportable for disease injuries where the accident date is not specified, and the claimant's last date of exposure to the conditions causing or aggravating the disease injury is within the policy period. 7. Claims with accident dates outside of the policy period that are required to be paid due to an official ruling, and where there is no corresponding exposure, must not be reported. 8. An accident for one claimant with reportable losses paid or payable under different coverages or benefits of the policy (e.g., state and federal acts) must be reported as one claim, with combined loss 	<p>PART 4—LOSS AND EXPENSE INFORMATION F. ADDITIONAL CLAIM REPORTING RULES</p> <ol style="list-style-type: none"> 1. Claims are reportable when, as of the valuation date, there are loss values in the paid losses, incurred losses, and/or ALAE. 2. Claims closed without any payments and ALAE as of the 1st unit report valuation date are not to be reported. If these claims subsequently reopen at a future unit report valuation date with loss values in the paid losses, incurred losses, and/or ALAE, these claims are reportable. 3. An accident for one claimant with reportable losses under both Workers Compensation and Employers Liability are to be reported as one claim, with combined loss experience. These claims are to be reported with Type of Claim Code 03 (Workers Compensation Including Employers Liability). Refer to Part 6, Item D-9—Type of Claim Code. 4. Claims are reportable for traumatic injuries that occur on an accident date within the policy period. 5. Claims are reportable for disease injuries that occur on an accident date within the policy period. 6. Claims are reportable for disease injuries where the accident date is not specified, and the claimant's last date of exposure to the conditions causing or aggravating the disease injury is within the policy period. 7. Claims with accident dates outside of the policy period that are required to be paid due to an official ruling, and where there is no corresponding exposure, must not be reported. 8. An accident for one claimant with reportable losses paid or payable under different coverages or benefits of the policy (e.g., state and federal acts) must be reported as one claim, with combined loss experience. 	

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COMPARISON OF RULES RELATED TO THE COVID-19 (CORONAVIRUS) PANDEMIC AND ITEM E-1410*

Current	Proposed	Comments
<p>experience. These claims are to be reported with the appropriate Loss Condition Codes. Refer to Part 6, Item D-6—Loss Coverage Act Code.</p> <p>9. Statistical codes that require the reporting of premium and any corresponding losses are identified in the Notes column of Part 6, Item E—Statistical Codes.</p> <p>10. For claims attributable to COVID-19 with Accident Dates of 12/1/2019 and subsequent, report Nature of Injury Code 83—COVID-19 as outlined in Part 6 of the Statistical Plan. Additionally, report Cause of Injury Code 83—Pandemic when the description of Pandemic applies, as described in Part 6 of the Statistical Plan.</p>	<p>These claims are to be reported with the appropriate Loss Condition Codes. Refer to Part 6, Item D-6—Loss Coverage Act Code.</p> <p>9. Statistical codes that require the reporting of premium and any corresponding losses are identified in the Notes column of Part 6, Item E—Statistical Codes.</p> <p>10. For coronavirus claims attributable to COVID-19:</p> <ul style="list-style-type: none"> • With Accident Dates on and after 7/1/2023, report Nature of Injury Code 83—COVID-19 as outlined in Part 6 of the Statistical Plan. Additionally, report these claims with Cause of Injury Code 83—Pandemic when the description of Pandemic applies to these claims, as described in Part 6 of the Statistical Plan. Do not report ELE Catastrophe Number 12—COVID-19 (Coronavirus) Pandemic. • With Accident Dates of 12/1/2019 through 6/30/2023, report Nature of Injury Code 83—COVID-19, Cause of Injury Code 83—Pandemic, and ELE Catastrophe Number 12—COVID-19 (Coronavirus) Pandemic. 	<p>Added information to clarify reporting information related to COVID-19 (coronavirus).</p>

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Summary of the Proposed Revisions to NCCI Manual Rules Related to the Inclusion of COVID-19 Claims in Experience Rating and Merit Rating, Paid Furloughed Employees, and Final Premium Reporting

This summary explains The National Council on Compensation Insurance's (NCCI)¹ proposed workers compensation (WC) insurance countrywide item filings related to COVID-19 claims, E-1410 and B-1447, that were filed with the majority of NCCI jurisdictions under separate cover on February 1, 2023, for their review and approval.

Background

In response to the COVID-19 pandemic, NCCI decided to designate the COVID-19 pandemic as a catastrophe. This decision enabled NCCI to collect data for all COVID-19-related WC claims under a designated catastrophe code. In spring 2020, NCCI made filings² in all NCCI states to establish the framework necessary to exclude

- all claims data related to COVID-19 from experience rating, and
- payments to paid furloughed employees due to COVID-19 from premium.

Current Environment

More than three years into the pandemic, much has changed relative to the general US population and the WC environment. As of December 1, 2022, more than 80% of the US population received at least one dose of a COVID-19 vaccine. In addition, more than two-thirds of Americans are fully vaccinated. Relative to the WC environment, employers have implemented several strategies to mitigate the impact of COVID-19 on US workers, including wearing PPE, working remotely when possible, implementing workspace layout changes, conducting health/symptom screenings, and cleaning and disinfecting.

While the general US population remains in a pandemic, it is expected that the prevalence of vaccinations combined with multifaceted workplace mitigation strategies, mentioned above, will continue to have the intended impact of mitigating the risk of COVID-19 transmission in the workplace. In fact, COVID-19 claims data collected by NCCI shows that all of these measures seem to be having the intended impact of mitigating the workplace hazard. NCCI also has seen evidence of WC COVID-19 claims becoming more consistent and less impactful to overall WC system costs. Recently, NCCI performed an analysis comparing WC COVID-19 claims to total COVID-19 cases in the general population. In 2020, there was a fairly strong relationship between WC COVID-19 claims and the surges in US COVID-19 cases. However, as we moved into 2021 and 2022, the level of WC COVID-19 claims did not match the intensity of the surges in total COVID-19 cases brought on by new variants.

Inclusion of COVID-19-related claims

Items E-1410 and B-1447 propose an expiration date of June 30, 2023, for the special treatment of COVID-19 (coronavirus) claims and reporting rules because NCCI has observed sufficient evidence that COVID-19's relative impact on WC is no longer expected to be catastrophic. If approved, COVID-19-

¹ NCCI is a licensed rating organization authorized to make recommended workers compensation infrastructure filings on behalf of workers compensation insurance companies in 38 jurisdictions. NCCI's filings are objectively prepared, utilizing widely accepted actuarial methodologies.

² In April 2020, NCCI filed Items B-1441 and U-1401; in May 2020, NCCI filed Item E-1407.



Summary of the Proposed Revisions to NCCI Manual Rules Related to the Inclusion of COVID-19 Claims in Experience Rating and Merit Rating, Paid Furloughed Employees, and Final Premium Reporting

related claims with Accident Dates on and after July 1, 2023, would be included in the experience rating calculations, except in Illinois³, and merit rating plans (where applicable).

Components of the item filings revise rules to

- Establish an end Accident Date of June 30, 2023, to Extraordinary Loss Event (ELE) Catastrophe Number 12 for the reporting of claims attributable to COVID-19 (coronavirus)
- Include claims attributable to COVID-19 (coronavirus) with Accident Dates on and after July 1, 2023, in experience rating calculations, except in Illinois, and merit rating plans (where applicable), and
- Establish an expiration date of June 30, 2023, for
 - Statistical Code 0012—Paid Furloughed Employees
 - The exclusion of payments to paid furloughed employees during federal, state, and/or local emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic from premium and experience rating calculations, and
 - The final premium reporting rule exception for the COVID-19 (coronavirus) pandemic in NCCI's **Statistical Plan**.

Conclusion

It is reasonable to expect that COVID-19 claims will continue—perhaps for many years into the future—given COVID-19's ability to mutate. However, it is important to revisit the reason why these COVID-19 claims were excluded from experience rating in the first place. Early in the pandemic, there was much uncertainty about COVID-19 itself, as well as how it would impact WC claims. Different scenarios showed a wide range of possible WC system impacts, and it was uncertain whether actual WC claims at the time would be indicative of future claim activity. From an actuarial perspective, during that time of significant uncertainty, it was more appropriate to treat COVID-19 as a catastrophe until typical claim activity could be expected. Now that typical claim activity is expected, it is important to reintroduce the incentives that motivate employers to promote safety in their workplaces. This can be accomplished by including COVID-19 claim experience in experience ratings going forward.

³ In Illinois, per statute 820 ILCS 331/1(g)(5), "Under no circumstances shall any COVID-19 case increase or affect any employer's workers' compensation insurance experience rating or modification, but COVID-19 costs may be included in determining overall State loss costs."