



October 15, 2020

VIA SERFF

The Honorable Trinidad Navarro
Insurance Commissioner
Department of Insurance
State of Delaware
1351 West North Street, Suite 101
Dover, DE 19004

Attention: Harding Drane, Deputy Insurance Commissioner

**RE: DCRB Filing No. 2010 – Proposed Effective January 1, 2021
Proposed Revisions to COVID-19 Rule Exceptions**

Dear Commissioner Navarro and Deputy Commissioner Drane:

On behalf of the members of the Delaware Compensation Rating Bureau (DCRB), we hereby submit the proposed filing for revisions to the DCRB Workers' Compensation Manual of Rules, Classifications and Rating Values for Workers' Compensation and Employers Liability Insurance (Basic Manual). These revisions are proposed for policies with effective dates of 12:01 a.m., January 1, 2021 or later. This proposed effective date coincides with the expiration date of previously filed and approved manual amendments.

As background for this filing, DCRB submitted DCRB Filing No. 2002 to address manual language amendments in response to the COVID – 19 (Coronavirus) Pandemic in April 2020. These revisions addressed impacts that the COVID – 19 (Coronavirus) Pandemic was having regarding the administration of Basic Manual rules. Most of the rule revisions were applicable to in force policies with effective dates of March 1, 2020 through December 31, 2020, since it was anticipated at that time that the rules established or revised, as a result of COVID-19, would likely not be necessary after December 31, 2020.

Considering that there are still many unresolved questions regarding the spread of coronavirus and no confirmed date of availability for a coronavirus vaccine, DCRB has determined and concluded that an expiration date of December 31, 2020 is not reasonable for rule revisions related to COVID-19 at this time. Once an expiration date for the COVID-19 (Coronavirus) pandemic rules is more conclusively determined, in consultation with Delaware regulatory authorities, a future filing will be made to establish the expiration date of the respective rules.

Thank you in advance for your review and attention to this filing. The DCRB is pleased to answer any questions that you or the Department of Insurance Staff may have regarding these proposals.

Sincerely,

William V. Taylor
President

Enclosures: Revisions to Section 1 – Basic Manual

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

Proposed Effective January 1, 2021

INFORMATION PAGE

PREFACE remains unchanged.

MEMBERSHIP remains unchanged.

TABLE OF CONTENTS remains unchanged.

SECTION I – UNDERWRITING RULES

RULE I through **RULE III** remains unchanged.

RULE IV – CLASSIFICATIONS

ITEM A remains unchanged.

ITEM B.1 remains unchanged.

2. Standard Exception Classification

Remains unchanged.:

a. Remains unchanged.

COVID19 CORONAVIRUS EXCEPTION:

An employee's job duties may be temporarily reclassified to Code 953 – Clerical Office Employees during any emergency orders, laws or regulations issued due to COVID-19 (Coronavirus), if separate, accurate, verifiable records are maintained. If such records are not maintained, the employee is assigned to the classification applicable to their duties prior to any emergency orders, laws, or regulations issued due to the COVID-19 (Coronavirus) pandemic. Once normal business operations resume, appropriate classifications should be applied.

This exception is for policies in force on March 1, 2020, ~~through December 31, 2020~~ The exception will continue to remain in effect and will not expire until determined which may be amended to an earlier or at a later date as circumstances warrant in consultation with Delaware regulatory authorities.

This classification does not apply to:

Item 1. and **Item 2.** remain unchanged.

ITEM B.2.b through **ITEM B.4.** remain unchanged.

ITEM C. ASSIGNMENT OF CLASSIFICATIONS remains unchanged

ITEM C.1 through **ITEM C.7** remain unchanged.

ITEM C.8 – Changing Classifications remains unchanged.

Item a.1 through **Item b.3** remain unchanged.

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

Proposed Effective January 1, 2021

- (4) When the temporary interruption or suspension of normal business activities caused by COVID-19 results in a change in business operations, an employer may be temporarily reassigned to an alternate classification if separate, accurate, verifiable records are maintained. If such records are not maintained, the operations are assigned to the classification applicable to the business prior to any emergency orders, laws, or regulations issued due to the COVID-19 (Coronavirus) pandemic. Once normal business operations resume, appropriate classifications should be applied.

This exception is for policies in force on March 1, 2020, ~~through December 31, 2020~~. The exception will continue to remain in effect and will not expire until determined at a later date as circumstances warrant in consultation with Delaware regulatory authorities.

Item c. through **Item e.** remain unchanged.

ITEMS C.9 through **ITEM E.** remain unchanged.

RULE V – PREMIUM BASIS

ITEM A. remains unchanged.

ITEMS B. 1 and **ITEM B.2** remain unchanged.

ITEMS B.3.a. through **ITEMS B.3.p.** remain unchanged.

- q. Payments made by an employer or any public governmental entity to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations. However, any appropriated funds or loans received by an employer as authorized by any law or regulation, or public governmental entity, that are used by an employer specifically to retain or hire working employees are not excluded.

Refer to Rule V.F.10 for the definitions of paid furloughed employees and payments to paid furloughed employees.

Item q. is applicable to policies in force on March 1, 2020. Item q. will continue to remain in effect and will not expire through December 31, 2020 which may be amended to an earlier or until determined at a later date as circumstances warrant in consultation with Delaware regulatory authorities.

ITEM B.4 through **ITEM E.** remain unchanged.

ITEM F.1 through **ITEM F.5** remain unchanged.

- 6. Payments to Paid Furloughed Employees During Federal, State, and/or Local Emergency Orders, Laws, or Regulations Issued Due to the COVID-19 (Coronavirus) Pandemic**

Item a. through **Item d.** remain unchanged.

- e. Rule V.F.10 is effective for policies in force on March 1, 2020. This rule will remain in effect and will not expire through December 31, 2020, which may be amended to an earlier or until determined at a later date as circumstances warrant in consultation with Delaware regulatory authorities.

RULE VI – RATING VALUES AND PREMIUM DETERMINATION through **RULE XVII – MEMBER CARRIER DISPUTES (DISPUTE RESOLUTION CONFERENCE)** remains unchanged.

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

Proposed Effective January 1, 2021

SECTION 2 – CLASSIFICATIONS & RATING VALUES through **SECTION 6– MERIT RATING PLAN** remain unchanged.

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Item c. through **Item e.** remain unchanged.

ITEMS C.9 through **ITEM E.** remain unchanged.

RULE V – PREMIUM BASIS

ITEM A. remains unchanged.

ITEMS B. 1 and **ITEM B.2** remain unchanged.

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