



June 25, 2021

DCRB CIRCULAR NO. 998

To All Members of the DCRB:

Re: **APPROVAL OF DCRB FILING NO. 2103**
REVISIONS TO THE EXPERIENCE RATING PLAN MANUAL RULES AND
CONTINGENT EXPERIENCE RATING MODIFICATION ENDORSEMENT
EFFECTIVE JULY 1, 2021

The Delaware Insurance Commissioner has approved the DCRB Filing No. 2103, which revises two components of the Delaware Workers Compensation Manual of Rules, Classifications and Rating Values for Workers Compensation and for Employers Liability Insurance (Basic Manual), Experience Rating Plan. These revisions are approved for experience ratings issued on or after July 1, 2021.

Subrogation Recovery Credit Calculation and Ratable Losses

With the approval of DCRB Filing No. 2103, ratable losses included in the calculation of any experience modification issued on or after July 1, 2021, will no longer have a secondary cap applied when subrogation recovery credits are received. This change ensures that ratable losses for all risks are consistently limited. The amended Basic Manual rule is attached.

Contingent Experience Rating Modification Minimum Data Requirements

Experience ratings are issued 60 days prior to the rating effective date. Timely submission of unit statistical data is essential to this process. Specifically, in some instances, if all the necessary data is not received, an experience modification may be promulgated based on all available data. Accordingly, the DCRB has now established minimum data requirements that will allow this process to be automated. The Minimum Data Requirements Table has been added to the Experience Rating Plan section of the Basic Manual, Section IV. Note that an experience modification will not be produced if the minimum data requirements are not achieved. Also, once any missing unit statistical report data is received, the experience modification will be recalculated to include the missing data and is immediately reissued. To signify that an experience rating is a Contingent Rating, the WCRATING file will include the Contingent Rating Record Type 07. The WCRATING Specifications Manual located on the WCIO website at <http://www.wcio.org> contains more information about this record layout.

Contingent Experience Rating Modification Endorsement

Within this filing the DCRB also received approval for the Contingent Experience Rating Modification Endorsement – WC 00 04 12. This endorsement is effective for use beginning on 12:01 a.m., July 1, 2021, with respect to new and renewal policies. This endorsement notifies policyholders that their experience modification is contingent based on the reported experience. The Contingent Experience Rating Modification Endorsement is used countrywide and aligns Delaware with other states that issue contingent experience modifications. The attached endorsement will also be provided and shown in the Endorsements section of the Basic Manual.

New Experience Rating and Merit Rating Computer System

The DCRB will be implementing a new rating system in July 2021. This new system will be used to promulgate all new ratings and allow the DCRB to streamline operations and enhance the distribution process. A separate circular will be published to address these new features and changes.

For specific questions regarding the experience rating plan or experience rating processes, contact Delisa Fairley – VP, Underwriting Services at (215) 320 – 4411 or at dfairley@dcrb.com.

William V. Taylor
President

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

Approved Effective July 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 PLAN

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 DCRB ~~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.** remains 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 DCRB Experience Rating Plan. Refer to Rule 3, Section III of this Plan for additional information regarding the experience period.](#)

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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 value 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** 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 DCRB 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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Item **1.i.** through **vii.** remains unchanged.

- viii. Premium developed under Code 1212 – Payments to Paid Furloughed Employees Due to Covid-19

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- (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 DCRB Experience Rating Plan. Refer to Rule 3, Section III of this Plan for additional information regarding the experience period.

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Months of Data included in calculation	Minimum Number of Months of 1st Report Unit Statistical Data Required	Months of Data included in calculation	Minimum Number of Months of 1st Report Unit Statistical Data Required
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		

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 value in Table B, column (3).

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

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SECTION 3 – ENDORSEMENTS

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Agreement by Executive Officer(s)/LLC Member(s) Not To Be Subject to the Delaware Workers' Compensation Law through **Delaware Merit Rating Plan Endorsement** remains unchanged.

[Contingent Experience Rating Modification Endorsement](#)

[WC 00 04 12](#)

Employers Liability Coverage Endorsement through **Delaware Merit Rating Plan Endorsement** remains unchanged.

Workers Compensation and Employers Liability Policy Forms remains unchanged.

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

Approved Effective July 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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**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND RATING VALUES FOR
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Approved Effective July 1, 2021

SECTION 4 – RETROSPECTIVE RATING remains unchanged

SECTION 5 – EXPERIENCE RATING PLAN remains unchanged.

SECTION 6 – MERIT RATING PLAN remains unchanged.

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

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