



NYCIRB

New York Compensation
Insurance Rating Board
733 Third Avenue
New York, NY 10017
Tel: (212) 697-3535

November 25, 2020

R.C. 2527

Re: COVID-19 Claims Excluded from Merit Rating
Effective Date: December 1, 2020

Members of the Rating Board:

I write to inform you that the New York State Department of Financial Services (“DFS”) has approved an amendment to the Rating Board’s New York Experience Rating Plan (“Experience Rating Plan”), which is detailed herein, attached hereto, and is effective on December 1, 2020.

Specifically, DFS approved a change to Experience Rating Plan Rule 2(F) – Merit Rating Plan, which requires that claims attributable to the COVID-19 (coronavirus) pandemic are to be excluded from the merit rating calculations of individual employers.

DFS has previously approved the exclusion of claims attributable to the COVID-19 pandemic from experience rating, see [R.C. Bulletin 2512](#), and this latest revision clarifies that the exclusion of COVID-19 claims applies to the Rating Board’s merit rating plan as well.

Accordingly, please find enclosed the following modified and final Experience Rating Plan Page R-13, effective as of December 1, 2020, reflecting the approved amendment.

If you have any questions, please contact Mr. Mark Battistelli, Vice President of Underwriting Services at (212) 697-3535, ext. 113 or at underwritingservices@nycirb.org.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'JA Attie'.

Jeremy Attie
President and CEO

Enclosures

4. Insolvent Carriers

- a. Experience ratings may be promulgated by the Rating Board using data reported by those insolvent carriers that continue providing sufficient complete levels of unit statistical reports for experience rating purposes.
- b. When an insolvent carrier is unable to submit unit statistical reports for the policies it has written, experience ratings will be issued by the Rating Board if the experience required for rating purposes is submitted by the liquidator, an authorized Managing General Agent (MGA) or TPA, or by the insured using an ERM-6 Form.
- c. Data obtained from insolvent carriers that has been submitted later than the customary due date schedule for unit statistical reports, or insolvent carrier data obtained from third party sources, will be utilized in calculating experience ratings to the extent that the submitted data impacts the current and, if applicable, up to two preceding experience ratings. *Refer to Rule 4-B-2-a-3 of this Plan.*
- d. When absolutely no insolvent carrier unit statistical report data can be obtained, the following steps will be taken:
 - If a first report (exposure record) is unobtainable, an experience rating will be calculated without the policy that is missing the first report.
 - If a subsequent report(s) is missing, and the prior report(s) has been submitted to the Rating Board, experience ratings will be calculated using the prior report(s) data.
 - If an experience rating cannot be issued due to multiple years with missing data from an insolvent carrier, the last authorized rating factor will continue to apply.

F. MERIT RATING PLAN

When an insured's premium is less than the amount necessary to qualify for interstate or intrastate experience rating, but is greater than the minimum premium, a merit rating factor will apply to the New York manual premium. This factor is based on the number of indemnity and medical claims incurred by the insured during the most recent three-year period for which statistics are available. Cases to be counted as claims are defined as those which have been paid (totally or partially), or for which a reserve has been established. The three-year period is that which would otherwise be used for experience rating purposes.

The following schedule is used in determining the appropriate merit rating factor:

<u>Number of Claims</u>	<u>Merit Rating %</u>	<u>Merit Rating Factor</u>
0	- 8%	.92
1	0%	1.00
2	+4%	1.04
3 or more	+8%	1.08

The Rating Board determines the appropriate factors and provides the carriers with a list of their insureds for whom a merit-rating factor was calculated. Rating worksheets are not provided for merit rating factors.

The New York Merit Rating Endorsement (WC 31 04 02) and the New York Merit Rating Revision Endorsement (WC 31 04 07) must be attached to each policy that is subject to the Merit Rating Plan.

- ★ Note: Claims reported with Catastrophe Number 12 are excluded from merit rating. Catastrophe Number 12 claims include all claims attributable to the COVID-19 (coronavirus) pandemic.

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