



NYCIRB

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

July 12, 2021

R.C. 2542

Re: New York Retrospective Rating Plan
Clarification of General Definitions
Effective Date: October 1, 2021

Members of the Rating Board:

I write to inform you that the New York State Department of Financial Services (“DFS”) has approved amendments to the Rating Board’s New York Retrospective Rating Plan (“Plan”), which are detailed herein, attached hereto, and are effective on October 1, 2021.

Specifically, DFS approved changes that clarify that the General Definitions apply to all retrospective rating plan policies, including those written under the Large Risk Rating Option, as well as those policies utilizing deductible programs written in conjunction with the Large Risk Rating Option. These revisions are reflected in attached Rule I(B)(1) – General Definitions and Rule I(F) – Deductible Programs of the Plan.

The following modified and final pages from the Plan, reflecting the approved amendments, are attached for your convenience: Rules Section - Pages R-1 and R-7.

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 'Jeremy Attie', is written over a light blue horizontal line.

Jeremy Attie
President and CEO

Enclosures

RULE I: GENERAL EXPLANATION

A. OBJECT OF THE PLAN

The application of this Plan is optional and may be used only upon election by the employer and acceptance by the insurance carrier.

A retrospective rating plan adjusts the premium for the employer’s policy on the basis of losses incurred during the term of that policy. The intent is to charge premium that reflects the actual experience of the employer based on the employer’s individual loss history during the policy term. A retrospective rating plan uses the losses incurred during the term of the policy to establish the cost of insurance, and it includes provisions for all expenses and taxes on premium.

B. DEFINITIONS

1. General Definitions

★ The following definitions apply to all retrospective rating plan policies, including those written under the Large Risk Rating Option (LRRO):

(a) Allocated Loss Adjustment Expense (ALAE)

Allocated loss adjustment expense for workers’ compensation and employers’ liability insurance, as defined in the **New York Workers’ Compensation Statistical Plan**, may also be included as part of incurred losses under a retrospective rating plan if agreed upon by the employer and carrier. This will be called the Allocated Loss Adjustment Expense Option (ALAE Option).

(b) Increased Limits for Coverage B

If the policy provides for increased limits for employers’ liability coverage, the losses may be subject to the retrospective rating loss limitation. The premium for employers’ liability increased limits is based on the percentages provided in Rule VII of the New York Workers’ Compensation and Employers’ Liability Manual.

(c) Incurred Losses

Incurred losses for workers’ compensation and employers’ liability insurance are defined in Part IV of the New York Workers’ Compensation Statistical Plan. Incurred losses include paid and outstanding losses.

If the ALAE Option is elected, then incurred losses will include ALAE.

Refer to item (B)(1)(a) of this Rule for the definition of Allocated Loss Adjustment Expense (ALAE) when including ALAE as part of incurred losses.

C. APPLICATION OF POLICY PREMIUM ELEMENTS

Refer to the New York premium algorithm from Rule VI (O) of the Rating Board's Workers' Compensation and Employers' Liability Manual for information on the application of the policy premium elements.

D. EMPLOYERS OPERATING IN MORE THAN ONE STATE

A retrospective rating plan may be applied on an intrastate or interstate basis.

For an interstate employer, an average of the specified state tax multipliers weighted by the state standard premiums is used to calculate the tax multiplier used in the determination of the retrospective rating premium.

E. EXCLUSION OF STATUTORY MEDICAL BENEFITS – EX-MEDICAL COVERAGE

1. A policy written on an ex-medical basis requires an application to be filed with the Rating Board advising that authorization was obtained from the New York State Workers' Compensation Board. Approval is not required if the employer is a hospital. Refer to Rule VIII of the New York Workers' Compensation and Employers' Liability Manual.
2. If an approved ex-medical policy is subject to a retrospective rating plan, the Retrospective Rating Plan Endorsement shall indicate the ex-medical status, loss limitations and other factors which have been selected. Refer to the Table of Loss Limitations for Ex-Medical Policies of this Plan.

F. DEDUCTIBLE PROGRAMS

The rating values developed to determine premium under a retrospective rating plan do not contemplate deductibles and are designed to be used with losses that are gross of the deductible amount. When a deductible program applies, the use of such program, in conjunction with retrospective rating, requires the agreement of both the employer and the carrier.

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The "General Definitions" contained in item (B)(1) of this Rule apply to all retrospective rating plan policies utilizing deductible programs, including those written in conjunction with the Large Risk Rating Option (LRRO).

G. AIRCRAFT CLASSIFICATIONS

- ★ If the insurance subject to the Plan includes any of the aircraft classifications, the premium and losses for such classifications may be excluded from the Plan by agreement in advance between the employer and the carrier.

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