

June 7, 2011

CIRCULAR LETTER TO ALL ASSIGNED CARRIERS

Re: Workers Compensation Insurance

Item RM-W-8037 Revisions to Assigned Carrier
Performance Standards

NCCI has issued Item RM-W-8037 regarding enhancements to the Assigned Carrier Performance Standards, a copy of which is attached.

In 2009, by way of NCCI Item RM-W-8031, the Bureau adopted the 2009 Edition of the Assigned Carrier Performance Standards (Performance Standards). This item did not include the Coal Mine Occupational Disease Performance Standards (CMODS). NCCI has since reviewed the CMODS. This review resulted in revisions to the CMODS, the incorporation of these standards into the Performance Standards and the elimination of the CMODS as a stand-alone publication.

The attached copy of Item RM-W-8037 describes the changes which have been adopted by the Bureau to become effective January 1, 2012. The adopted changes are applicable to new and renewal assigned risk policies and for claims incurred January 1, 2012 or thereafter. The Assigned Carrier Performance Standards effective January 1, 2012 will supersede any previously filed or adopted Performance Standards for North Carolina.

Performance Standards impacted by Item RM-W-8037 are as follows:

Performance Standard – 1- Introduction
Performance Standard – 4 – Loss Prevention
Performance Standard – 5 – Claims
Appendix A

If you have any questions, please contact our Information Center at 919-582-1056 or wcinfo@ncrb.org.

Sincerely,

Sue Taylor

Insurance Operations Director

Attachment
ST:dms
C- 11 4

FILING MEMORANDUM

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

(To become effective 12:01 a.m. on January 1, 2012, applicable to new and renewal assigned risk policies only.)

PURPOSE

This item:

- Discontinues the Coal Mine Occupational Disease Performance Standards (CMODS) located on **ncci.com** and incorporates the CMODS in the **Assigned Carrier Performance Standards (Performance Standards)** where needed
- Enhances PS 1—Introduction, PS 4—Loss Prevention, PS 5—Claims, and Appendix A of NCCI's **Performance Standards** to clarify various items and update references

BACKGROUND

Item RM-W-8031 introduced NCCI's **Performance Standards** as a stand-alone publication in 2009. The CMODS were not included as part of that publication and are currently located on **ncci.com**. In 2010, NCCI, as the Plan Administrator, performed a complete review of the CMODS, which are specific to loss prevention and claims handling, and incorporated feedback from various stakeholders.

A review of the current loss control CMODS and PS 4—Loss Prevention determined that the majority of the loss control CMODS are duplicative in concept and/or content of PS 4. The current claims CMODS and PS 5—Claims were also reviewed. It was determined that many of the claims CMODS could be broadened to cover all occupational disease claims. As a result of this review, NCCI determined that some of the CMODS located on **ncci.com** should be revised and incorporated in NCCI's **Performance Standards**.

Additionally, during this review process NCCI determined the need to update references and clarify additional **Performance Standards**. These changes are described in the attached exhibits.

PROPOSAL

This item proposes to:

- Clarify that assigned carriers are responsible for complying with federal laws in addition to state laws.
- Update PS 1-A regarding references to the National Workers Compensation Reinsurance Association NFP (NWCRA) and other manuals to be used in conjunction with the **Performance Standards**.
- Clarify various items in PS 1—Introduction, PS 4—Loss Prevention, and PS 5—Claims.
- Update PS 4 and PS 5 related to the treatment of surface and underground coal exposure as well as occupational disease claims.
- Relocate PS 5-F-7 Legal Management and PS 5-F-8 Settlements to new section PS 5-G, Legal Management and Settlements
- Create section PS 5-H, Special Conditions—Occupational Disease Claims for occupational disease claims, including federal coal occupational disease claims. This section incorporates the CMODS that are not currently covered in PS 5 and broadens their application to all occupational disease claims where possible.

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ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

- Revise Appendix A—Summary Time Table to incorporate the new Special Conditions section in PS 5-H.

State-Specific Proposals

In addition to adopting the national proposals, NCCI recommends that the proposals to the state exceptions listed below be adopted to more closely align with the national treatment.

Alaska

NCCI proposes that Alaska:

- Incorporate Code 1005—Coal Mining—Surface & Drivers and Code 1016—Coal Mining NOC in their state exception to the Loss Prevention Survey Table located in PS 4-D
- Eliminate their current full version exception to the current national CMODS

Arkansas

NCCI proposes that Arkansas eliminate their current full version exception to the current national CMODS.

Delaware

NCCI proposes that Delaware:

- Continue the use of their state exception to the Loss Prevention Survey Table located in PS 4-D since Code 1005—Coal Mining—Surface & Drivers and Code 1016—Coal Mining NOC are not available in Delaware
- Adopt the national proposal to revise the Location Determination Table located in PS 4-D

Indiana

NCCI proposes that Indiana revise their state exception to PS 1-A-4-m to be consistent with the national revisions.

Kansas

NCCI proposes that Kansas eliminate their current full version exception to the current national CMODS.

Mississippi

NCCI proposes that Mississippi revise their state exception to PS 1-A-4-m to be consistent with the national revisions.

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New Hampshire

NCCI proposes that New Hampshire:

- Revise the sequence and location for their exceptions to PS 5-F-5 and PS 5-F-8 to accommodate the national revisions
- Continue the use of New Hampshire's exceptions to PS 5-E-2-a(1), PS 5-F-3-a, and PS 5-F-3-b

Oregon

NCCI proposes that Oregon:

- Incorporate Code 1005—Coal Mining—Surface & Drivers and Code 1016—Coal Mining NOC in their state exception to the Loss Prevention Survey Table located in PS 4-D
- Revise the sequence for their additional standard to PS 5-B to accommodate the national revisions
- Continue the use of Oregon's exceptions to PS 5-C-1-b, PS 5-D-3, PS 5-D-6-a, and PS 5-F-1-a(6)

IMPACT

There is no premium impact expected as a result of this item.

IMPLEMENTATION

The attached exhibits detail the changes required in NCCI's *Assigned Carrier Performance Standards*:

- **Exhibits 1–4** display the proposed changes to the national *Performance Standards*
- **Exhibit 5** displays the elimination of the national Coal Mine Occupational Disease Performance Standards located on ncci.com
- **Exhibit 6** displays the proposed changes to the state-specific *Performance Standards*, where applicable
- **Exhibit 7** displays the elimination of the Alaska, Arkansas, and Kansas full version exceptions to the Coal Mine Occupational Disease Performance Standards located on ncci.com

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ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

EXHIBIT 1
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 1—INTRODUCTION
A. GENERAL EXPLANATION
2. Assigned Carrier Compliance

a. Application

- (1) These **Performance Standards** apply to new and renewal policies effective only on or after the effective date of this publication. Changes made to the **Performance Standards** during a policy period are effective as of the next policy effective date on or after the date of change, unless otherwise specified.
- (2) The **Performance Standards** apply to all assigned carriers. Unless otherwise indicated, all **Performance Standards** apply to both direct assignment carriers and servicing carriers.
- (3) These **Performance Standards** apply whether or not the assigned carriers perform the services in-house or contract with outside vendors. In all cases, the assigned carrier is responsible for ensuring compliance with these **Performance Standards**.
- (4) While not published in these **Performance Standards**, standards that are enhanced by servicing carriers through their individual servicing carrier contracts must be applied.
- (5) The **Performance Standards** are applied separately to each legal entity of the employer, regardless of whether multiple legal entities are at the same location(s).
- (6) Assigned carriers are required to monitor and implement all manual rules, classifications, forms, and rate changes in accordance with the filing's approved effective date (e.g., replacing one classification code with another).

b. State and Federal Laws

- (1) ~~The assigned carrier is~~ Assigned carriers are responsible for complying with all applicable state and federal laws and Workers Compensation Insurance Plan (WCIP) rules, as well as the **Performance Standards**. For purposes of these **Performance Standards**, state and federal laws includes, but ~~is~~ are not limited to, statutes, regulations, and administrative laws or rules, and may be referred to as "law," "laws," or "applicable laws."
- (2) Where these **Performance Standards** conflict with the applicable state and/or federal laws and/or the WCIP rules, the more stringent applies.
- (3) Where these **Performance Standards** conflict with servicing carrier enhanced standards, as defined in PS 1-A-4-g through a bid process and/or executed contract, the more stringent applies.

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

EXHIBIT 1
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 1—INTRODUCTION
A. GENERAL EXPLANATION

3. Administration

- a. The Plan Administrator determines the applicability of all **Performance Standards**.
- b. The Plan, ~~and~~ Pool, and Reinsurance Administrators have the authority to audit servicing carriers and, where mandated, direct assignment carriers, in order to furnish informed, objective, and independent opinions and evaluations of assigned carrier performance as outlined in the applicable WCIPs, **Performance Standards**, and data reporting guidelines.
- c. The Plan, ~~and~~ Pool, and Reinsurance Administrators use the evaluations of assigned carrier performance to ensure compliance with Plan, ~~and~~ Pool, and Association requirements and contractual obligations.

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

EXHIBIT 1
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 1—INTRODUCTION
A. GENERAL EXPLANATION
4. Definitions and Terms
i. Manuals Referenced in These Standards

(4) Servicing Carrier Reference Guide

Applies in its entirety to residual market servicing carriers and to direct assignment carriers as detailed in its Preface. Provides prescribed procedures, rules, and reporting requirements regarding workers compensation insurance plans and reinsurance pooling mechanisms. ~~of residual market policies through the National Workers Compensation Reinsurance Pool.~~

(8) Pool Data Reporting Guidebook

Applies to residual market servicing carriers only. Provides procedures and reporting requirements regarding reinsurance of residual market policies through the applicable reinsurance pooling mechanisms.

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

EXHIBIT 1
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 1—INTRODUCTION
A. GENERAL EXPLANATION
4. Definitions and Terms

m. Pool, NWCRA, or Association

~~The organization appointed, contracted, or designated to administer the affairs of the Pool. Pool refers to the National Workers Compensation Reinsurance Association NFP (NWCRA or Association), a reinsurance pooling mechanism as defined by *Basic Manual* Rule 4-A-2-m, or the applicable state reinsurance pooling mechanism.~~

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE
STANDARDS

EXHIBIT 1
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 1—INTRODUCTION
A. GENERAL EXPLANATION
4. Definitions and Terms

n. Pool or Reinsurance Administrator

The organization appointed, contracted, or designated to administer the affairs of the Pool, ~~as approved
by the regulatory authority.~~

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

EXHIBIT 1
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 1—INTRODUCTION

B. DATA REPORTING

Assigned carriers are responsible for reporting data in accordance with the *Statistical Plan*, and other appropriate manuals and materials (e.g., circulars, statutes) as directed by the appropriate advisory, rating, statistical organization, Plan Administrator, Pool Administrator, and/or Reinsurance Administrator.

1. Assigned Carriers

All assigned carriers must:

- a. Identify, distinguish, and segregate residual market data from voluntary market data.
- b. Collect and maintain residual market data required to carry out all necessary reporting requirements.
- c. Report all data to NCCI and/or other appropriate advisory, rating, statistical organization, Plan Administrator, and/or Pool Administrator.
- d. Report all assigned risk policy information to the Plan Administrator. Information includes, but is not limited to:
 - Policies
 - Endorsements
 - Binder number
 - Cancellations and reinstatements
 - Noncompliance and compliance transactions
- e. Report other required data in the form and manner specified by the Plan and/or Pool Administrator that is used for the oversight of assigned carriers (e.g., used for the selection of policy or claim data for audits).

2. Servicing Carriers

All servicing carriers must also segregate and report actuarial and financial data in accordance with the *Servicing Carrier Reference Guide*.

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE
STANDARDS

EXHIBIT 2
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION

PERFORMANCE STANDARD 4—LOSS PREVENTION ~~(NON-COAL MINE RISKS)~~

Note: The above-referenced heading will be revised accordingly throughout the *Assigned Carrier Performance Standards* to reflect the changes displayed above.

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

**EXHIBIT 2
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 4—LOSS PREVENTION (NON-COAL MINE RISKS)
A. LOSS PREVENTION SERVICES TO BE PROVIDED**

3. Loss Prevention Services Documentation

- a. Assigned carriers must document files with a sufficient level of detail indicating all:
 - LPS scheduling attempts
 - Requests for, and receipt of, information
 - LPS completion
 - Any other item or decision that impacts loss prevention
- b. File documentation must be retained in accordance with policy terms and applicable state laws.

5. Loss Prevention Survey Content

Loss prevention surveys include, but are not limited to:

- a. Definitive analysis of past accident experience to determine causes and trends, supported by loss runs or other related documentation.
- b. Review of potential employer exposures; specifically identifying conditions and operations that could cause loss.
- c. Review and documentation of major elements of employer loss prevention program and activities.
- d. Description of nature and size of operations, number of locations, and loss potential for classification and underwriting purposes.
- e. Description of all employees' job duties and their exposure to coal dust for policies with a governing code for surface or underground coal mine exposure. Under such a policy, if there is no exposure to coal dust, the description must state as such.

6. Recommendations and Additional Services

- a. Recommendations are the results of a loss prevention survey. They indicate employer control of actual or potential exposures and, where applicable, program activities or management principles.
- b. The status of recommendations submitted on prior surveys must be reviewed with the employer during the loss prevention survey visit. Such review must:
 - Be confirmed in writing, and
 - Indicate the status of these recommendations (completed or not), and
 - Include employer agreement with those recommendations not previously completed, and
 - Include the status of findings, orders, and/or citations issued by the Mine Safety and Health Administration (MSHA) for policies with a governing code for surface or underground coal mine exposure.

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

EXHIBIT 2 (CONT'D)
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 4—LOSS PREVENTION (~~NON-COAL MINE RISKS~~)
A. LOSS PREVENTION SERVICES TO BE PROVIDED

c. There are two types of recommendations:

(1) **Critical Recommendations**

(a) Critical recommendations address:

- Exposures of imminent danger
- Serious loss potential or continuing losses, which address uncontrolled exposures expected for the type of operation as indicated in *Best's Loss Control Manual* or other materials

(b) These recommendations must be identified as critical to both the employer and producer with notification stating that failure to comply with these recommendations may result in the cancellation of coverage.

(2) **Desirable Recommendations**

Desirable recommendations address minor exposures that exist but are not of pressing importance.

d. Additional loss prevention services must be provided where, at the assigned carrier's discretion, they determine the services will be effective in reducing losses. These services include one or more of the following:

- (1) Assessment of identified occupational disease exposure
- (2) Workstation ergonomic assessments
- (3) Supervisor safety training materials to supplement insurer training efforts

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE
STANDARDS

EXHIBIT 2
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 4—LOSS PREVENTION (~~NON-COAL MINE RISKS~~)
C. COMPLETION OF RECOMMENDATIONS

2. Critical Recommendations Follow-Up

The assigned carrier must follow up within 30 days and between 30 and 60 days from the submission of critical recommendations to the employer and producer, and apply PS 4-A-2-c(2) as appropriate.

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

**EXHIBIT 2-A
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 4—LOSS PREVENTION (NON-COAL MINE RISKS)
D. QUALIFYING EMPLOYERS AND SURVEY LOCATION DETERMINATION**

D. QUALIFYING EMPLOYERS AND SURVEY LOCATION DETERMINATION

LPSs are to be conducted in accordance with the following premium ranges, governing classifications, experience rating modifications, and locations for all employers except domestic servants. While these are the minimum requirements, assigned carriers are encouraged to perform LPSs for non-qualifying employers based on sound underwriting judgment.

Note: Premium Range refers to estimated annual premium developed in accordance with *Basic Manual* Rule 3-A-9. Governing classification is determined in accordance with *Basic Manual* Rule 1-B-5.

Loss Prevention Survey Table

Premium Range	Governing Classification Codes
\$50,000 and over	All employers, regardless of governing classification code.
\$20,000 to \$49,999	0037 0042 0050 0083 0106 0401 <u>1005</u> <u>1016</u> 1164 1165
	1320 1322 1438 1472 1624 1741 1803 1852 2095 2701
	2702 2709 2710 2802 2883 2916 3030 3507 3632 3724
	3821 4420 4511 4581 4583 4635 4771 4828 4829 5022
	5037 5040 5057 5059 5069 5183 5190 5213 5348 5403
	5437 5445 5474 5506 5535 5551 5610 5645 5651 6204
	6217 6235 6251 6252 6260 6319 6702 6703 6704 6834
	6836 6854 6872 6874F 6882 6884 7038 7050 7090 7098
	7099 7228 7229 7309F 7317F 7350F 7370 7403 7420 7422
	7425 7431 7515 7539 7610 7705 7710 7711 8018 8021
	8215 8227 8265 8279 8288 8292 8293 8380 8824 8826
	8829 8831 8832 8833 8835 8842 8864 8868 9014 9015
	9016 9082 9083 9088 9156 9178 9180 9186 9403
	\$1 to \$19,999
Experience Rating	
1.40 and higher, with an estimated annual premium of \$10,000 and over	All employers, regardless of governing classification code and status of experience rating modification (e.g., preliminary, final, contingent).
1.39 and lower	At assigned carrier's discretion, based on sound underwriting judgment.
Claim Frequency	The assigned carrier must develop written procedures to identify and perform LPSs by comparing claim frequency with policy premium size during the course of the policy period.

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

**EXHIBIT 2-B
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 4—LOSS PREVENTION (NON-COAL MINE RISKS)
D. QUALIFYING EMPLOYERS AND SURVEY LOCATION DETERMINATION**

Location Determination Table

If . . .	Then survey . . .
Each location meets the criteria of a mandatory LPS based on premium range	All locations and active job sites
The total annual premium for a state meets the criteria of a mandatory LPS based on premium range, but no single location within the state meets the criteria	The principal location for that state
The total annual premium for a multistate policy meets the criteria of a mandatory LPS based on premium range, but no single state on the policy meets the criteria	The principal location of the employer
An employer qualifies based on its experience rating modification	Location(s) based on assigned carrier's underwriting judgment including, but not limited to: <ul style="list-style-type: none"> • High exposure, or • Frequent or severe loss history
<ul style="list-style-type: none"> • There are no active job sites, or • The operations are transient in nature, or • The operations are seasonal 	The employer's office to review operations in the state(s) covered by the policy, until the job site becomes active By telephone, until the job site becomes active
An office is not located in the state(s) covered by the policy	By telephone, until the job site becomes active
A location received a critical recommendation during a prior LPS	That location—additional locations may be surveyed at the assigned carrier's discretion.

Note: Principal location is defined as the location of the operation with the governing classification that produces the greatest amount of payroll for the business.

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE
STANDARDS

EXHIBIT 3
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION

PERFORMANCE STANDARD 5—CLAIMS ~~(NON-COAL MINE)~~

Note: The above-referenced heading will be revised accordingly throughout the *Assigned Carrier Performance Standards* to reflect the changes displayed above.

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

EXHIBIT 3
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 2—CUSTOMER SERVICE
A. GENERAL INFORMATION REQUESTS

2. Injured Worker Requests

Injured workers may directly contact the assigned carrier. Injured worker inquiries should be responded to with the same completeness and timeliness as employer inquiries, in accordance with **Performance Standard 5—Claims (Non-Coal Mine)**.

When an initial inquiry is made to the assigned carrier via telephone, the assigned carrier should require, where appropriate, that the inquiry be submitted in writing, including hard copy, fax, or e-mail, to ensure proper handling.

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

**EXHIBIT 3
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 5—CLAIMS (~~NON-COAL MINE~~)****B. FILE MANAGEMENT AND DOCUMENTATION**

1. The assigned carrier must develop reasonable standard procedures for:
 - Contacting appropriate parties
 - Obtaining pertinent information
 - Documenting the case file
 - Ensuring that claims are coded to classification codes that are on the policy at the time of the loss or upon completion of a final premium audit
2. Assigned carriers must make documented attempts to make appropriate contact and obtain information required in these **Performance Standards**. Documented initial (unless otherwise indicated) and follow-up contact attempts include:
 - Written correspondence (mail, e-mail, or fax)
 - Personal contact
 - Telephone contact
 - Other procedures
3. Assigned carriers must fully document files with a sufficient level of detail, either electronically or by hard copy, indicating all:
 - Contact attempts
 - Sources of information and dates of all activity, including date the claim was received, established, and assigned
 - Requests for, and receipt of, information
 - Copies of documents confirming relationships, dependency, investigations by public entities, etc.
 - Team review, supervision and management direction and control of file consistent with the injury severity and the extent of disability
 - Any other item or decision that impacts compensability
4. For occupational disease claims, PS 5-B-4 applies in addition to PS 5-B-1 through PS 5-B-3, and the assigned carrier must:
 - (a) Include an electronic copy or hard copy of the appropriate policy's Information Page and applicable endorsements in the claim file to document that the employer was the named insured and had a policy in force with the assigned carrier.
 - (b) For Federal Mine Safety and Health Act occupational disease claims:
 - (1) Document that the policy provided federal coverage by having either an electronic copy or hard copy of the appropriate Federal Mine Safety and Health Act endorsement contained in the claim file
 - (2) Document if the injured worker is a owner, partner, or officer and include in the claim file an electronic copy or hard copy endorsement providing coverage for the owner, partner, or officer
 - (3) Notify the Plan Administrator when two or more carriers are identified by the US Department of Labor as potential responsible parties, so a defense strategy may be coordinated
5. ~~4.~~ File documentation must be retained in accordance with policy terms and applicable state laws.

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

EXHIBIT 3
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 5—CLAIMS (~~NON-COAL MINE~~)

C. COMPLIANCE AND NOTIFICATION OF INJURY

1. Assigned carriers must:

a. Provide employers submitting an untimely report of injury or illness with a written notice or documented verbal notice explaining:

- The importance of early intervention emphasizing the benefits to the employer and the injured worker
- State and/or federal law and insurance contract obligations of employers to report injuries in a timely manner

Note: Untimely is defined as 10 or more days from the employer notice of injury to the assigned carrier, or as defined by state and/or federal law, whichever is more stringent.

b. Comply with all state and federal laws regarding claims handling and reporting requirements.

2. When assigned carriers receive a notification of an injury, the assigned carrier must review it within one business day of the notification to determine whether it is a medical-only, lost-time, or potential lost-time claim.

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**EXHIBIT 3
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 5—CLAIMS (~~NON-COAL MINE~~)****D. MEDICAL-ONLY CLAIMS AND LOST-TIME CLAIMS NOT EXCEEDING THE APPLICABLE WAITING PERIOD**

Assigned carriers must:

1. Establish objectively measurable written standards, procedures, and guidelines for appropriate handling of medical-only claims and lost-time claims not exceeding the applicable state-determined waiting period. These must include, but are not limited to, the ability to transfer the file to appropriate claims personnel based on the following as determined by the assigned carrier:
 - Medical payout limit
 - Injury severity limit
 - Lost-time or potential lost-time indicators
2. Ensure coverage and compensability. If denial of compensability and/or liability is in order, ensure that prompt and legally sufficient denial is made to proper parties, followed up with timely administrative filings where required, providing vigorous defense for nonmeritorious claims.
3. Establish timely and adequate medical reserves commensurate with all known claim factors and information developed.
4. Activate an integrated medical management program that includes, but is not limited to, where required or permitted by ~~state~~ the applicable law:
 - Preaccident medical care arrangements
 - Timely reporting of accidents
 - PPO/PPN/MCO and similar arrangements. PPO/PPN/MCO and similar entities should be accredited through recognized accreditation organizations
 - Peer review
 - Utilization review
 - Hospital precertification/preadmission review, consistent with the severity of injury
5. Obtain narrative reports from the treating physician(s) and/or other medical practitioners documenting the status of the worker's injury and disability to use in conjunction with medical bill screening.
6. Screen all medical bills to ensure that treatment is related to the injury and charges are reasonable and necessary, utilizing fee schedules, relative value studies, and/or usual and customary rates to reduce billed amounts accordingly. Where questions of compensability, liability, necessity, or reasonableness:
 - a. Do not exist, and physician reports have been received, pay all bills within 30 days of receipt or earlier if the ~~state~~ applicable law so provides.
 - b. Exist, notify the medical provider/vendor within 30 days of receipt, explaining the reasons for the need for further information or investigation.
7. Provide and update required reports to appropriate administrative agencies.
8. Immediately notify the underwriter concerning any coverage or classification issues that surface as a result of an injury or illness report.

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EXHIBIT 3
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
PERFORMANCE STANDARD 5—CLAIMS (~~NON-COAL-MINE~~)
E. EARLY INTERVENTION FOR LOST-TIME OR POTENTIAL LOST-TIME CLAIMS
2. Early Intervention

a. Timeliness

- (1) Assigned carriers must initiate aggressive early intervention in accordance with PS 5-E-2-b within two business days of receipt of notice of loss to establish control of lost-time cases.
- (2) If the injury was not initially reported as a lost-time claim and the injured worker subsequently loses time from work that exceeds the waiting period, assigned carriers must initiate aggressive early intervention in accordance with PS 5-E-2-b within one business day of receipt of notice of lost time.
- (3) At least two documented ~~personal or telephone~~ contacts must be attempted, assuming the first attempt is unsuccessful. Refer to PS 5-B-2 for what constitutes documented attempts.
- (4) If the second attempt is also unsuccessful, then the assigned carrier must follow up in accordance with PS 5-B-2 within one business day of the second unsuccessful attempt.

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F. LOST-TIME AND POTENTIAL LOST-TIME CLAIMS
1. Compensability and Coverage Determination

a. Investigation

- (1) The overall completeness of an investigation of a lost-time case is based on:
 - Severity of injury
 - Potential extent of disability
 - Questions of compensability, jurisdiction, and/or medical causal relationship
 - Fatal injuries
 - Employer liability actions
 - ~~State~~ Applicable claims laws
- (2) When necessary, statements must be promptly taken from the injured worker, the employer/supervisor and/or witnesses.
- (3) If recorded statements are taken, they do not need to be transcribed initially, provided a clear and legible summary detailing the relevant points is prepared at the time the statements are taken.
- (4) Verify and document that the injured worker's average wage is consistent with jurisdictional requirements using payroll and/or tax records for salaried, hourly, seasonal, or piecemeal workers, or owners, partners, and officers. For owners, partners, or officers, the average wage may also be verified using premium-based payroll.
- (5) Investigations should include "Inquiry Reports" to and/or from other insurers/administrators when appropriate.
- (6) Investigation of assigned claims must be substantially completed within 30 days following assignment.

c. Notification and Reporting

- (1) Assigned carriers must provide and update required reports to appropriate state and federal administrative agencies in accordance with the agency requirements.
- (2) Assigned carriers must ~~report~~ submit all lost-time injury claims to ~~the Index Bureau~~ the Insurance Services Office (ISO). Claims should be reindexed as appropriate, based ~~upon~~ on sound claims judgment. In addition, permanent total claims and scheduled loss awards may be reindexed based on sound claims judgment. Document any use of information developed as a result of ~~the Index Bureau~~ an ISO inquiry.
- (3) If denial of compensability and/or liability is in order, ensure that prompt and legally sufficient denial is made to proper parties, followed up with timely administrative filings where required, providing vigorous defense for nonmeritorious claims.
- (4) The underwriter must be immediately notified concerning any coverage or classification issues that surface as a result of an injury or illness report.

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F. LOST-TIME AND POTENTIAL LOST-TIME CLAIMS
1. Compensability and Coverage Determination

- (5) Any claim filed by any employee of an uninsured entity affiliated with or owned by an insured entity must be thoroughly investigated to determine proper coverage and compensability. The review must include, but is not limited to, a review of the original application for insurance to determine if the uninsured affiliate has insurance through some other source. The underwriter must be immediately notified of the results of the review in order to take immediate appropriate action under the existing policy. The action(s) includes but is not limited to:
- (a) Endorsing the policy to include or exclude coverage for the affiliate
 - (b) Initiating cancellation

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F. LOST-TIME AND POTENTIAL LOST-TIME CLAIMS

3. Initial Payment of Indemnity Benefits

- a. If a claim is compensable, the first payment must be sent either by mail or by electronic means on or before the 14th day of disability or earlier, if required by ~~state~~ applicable law.
- b. If compensability cannot be determined by or before the 14th day of disability, a strategy for promptly concluding the compensability investigation must be documented and implemented.

4. Reserving

Assigned carriers must:

- a. Establish timely and adequate medical and indemnity reserves consistent with all known claim factors and information developed.
- b. Use the tables authorized by ~~state~~ the applicable law or prescribed by the appropriate Statistical Plan to report indemnity reserves on fatal and permanent total cases that have the potential for lifetime benefits. ~~to be paid for life.~~
- c. Document the items considered when establishing cost estimates including, but not limited to:
 - (1) Proper application of:
 - Discount and escalation for state and federal cases and medical reserves
 - State and federal offsets including, but not limited to, Second Injury Fund
 - Earning offsets
 - (2) Any liability resulting from a companion claim
 - (3) Interest accrual
 - (4) Compensability
- d. ~~e.~~ Revise medical and/or indemnity reserves within a reasonable time after developments occur that change the ultimate loss exposure. Developments include, but are not limited to:
 - Changes in the tables authorized by ~~state~~ the applicable law or prescribed by the appropriate Statistical Plan
 - The claim, or any part thereof, is declared noncompensable, or other compensability considerations
 - The assigned carrier or claimant has received, or anticipates receipt of, reimbursement from a second injury fund or similar type fund
- e. ~~d.~~ Document the basis for cost estimate changes either by hard copy or electronically, using reserve worksheets or other appropriate means.

5. Medical Care and Cost Control

- a. Activate an integrated medical management program that includes, but is not limited to, where required or permitted by ~~state~~ applicable law:
 - Preaccident medical care arrangements
 - Timely reporting of accidents
 - PPO/PPN/MCO and similar arrangements. ~~These should be accredited through recognized accreditation organizations.~~
 - Peer review
 - Utilization review

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EXHIBIT 3 (CONT'D)
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F. LOST-TIME AND POTENTIAL LOST-TIME CLAIMS

- Hospital precertification/preadmission review, consistent with the severity of injury
 - Return-to-work programs
 - Physical rehabilitation case management and catastrophic case management, consistent with the severity of injury and extent of disability
- b. Obtain periodic reports from the treating physician(s) and/or other medical practitioners documenting the status of the worker's injury and disability and for use in conjunction with medical bill screening.
- c. Screen all medical bills to ensure that treatment is related to the injury and charges are reasonable and necessary, utilizing fee schedules, PPO/PPN/MCO and similar entities, relative value studies, and/or usual and customary rates to reduce billed amounts accordingly.
- d. Where questions of compensability, liability, necessity, or reasonableness:
- (1) Do not exist, and physician reports have been received, pay all bills within 30 days of receipt or earlier if ~~state~~ applicable law so provides.
 - (2) Exist, notify the medical provider/vendor within 30 days of receipt, explaining the reasons for the need for further information or investigation.
- e. For occupational disease claims, PS 5-F-5-e applies in addition to PS 5-F-5-a through PS 5-F-5-d, and the assigned carrier must:
- (1) Develop a medical history relevant to the claim including the names and addresses of all medical providers, and:
 - (a) Obtain information on all surgical procedures, hospital admissions, and, if the injured worker is deceased, obtain information on any autopsy and death certificates
 - (b) Secure the injured worker's medical examination reports including, but not limited to, the interpretation of X-rays, pulmonary function tests, and blood gas studies
 - (c) Verify the quality and accuracy of the injured worker's objective tests, and arrange for medical information relative to the claim to confirm the diagnosis
 - (d) Verify that the injured worker's medical evidence is in compliance with applicable regulations
 - (e) Consider an independent medical examination where there are questions of disability, causal relationship, reasonableness and necessity of treatment, or where reports of treating physicians do not adequately resolve these questions
 - (2) Develop relevant information about the habits and activities of the claimant including, but not limited to:
 - (a) Military service and/or other employment
 - (b) Use of tobacco products and alcohol consumption
 - (c) Hobbies

6. Indemnity and Disability Management

Assigned carriers must:

- a. Arrange for medical care consistent with diagnostic and treatment guidelines and/or current medical practice patterns to treat and cure the injury or illness.
- b. Promote, through documented preaccident medical care arrangements, treatment by physicians and/or other medical practitioners experienced in occupational medicine and managed care concepts, where permitted by ~~state~~ applicable law.

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F. LOST-TIME AND POTENTIAL LOST-TIME CLAIMS

- c. Depending on the case circumstances and consistent with sound claims ~~practice judgment~~ and ~~state~~ the applicable law, initiate, determine, and/or implement the following:
- (1) Establish a working relationship with all parties to control disability through:
 - Ongoing contact with the injured worker, employer, and physician at intervals consistent with the injury severity and the extent of disability.
 - Establishing a return-to-work target date.
 - Promptly adjusting return-to-work strategies as conditions change. Consult with the employer, nurse case managers, or other physical rehabilitation managers to formulate a strategy to return the injured worker to the workforce.
 - Immediate involvement of medical case management on severe injuries.
 - Providing the treating physician with a complete job description and/or videotape of the job, when necessary, to facilitate an objective evaluation of the injured worker's ability to return to the work.
 - (2) Document consideration of, or use of, independent medical examinations (where allowed ~~by state~~ the applicable law) when reports from the treating physician are not forthcoming or questions exist regarding:
 - Disability
 - Causal relationship
 - Need for surgery
 - Existing treatment
 - (3) Document consideration of, or conduct, activity checks due to:
 - Length of disability
 - Suspicion of the injured worker exaggerating or prolonging disability, if the potential for intervening events exists (e.g., another injury, other employment)
 - (4) Investigate the availability of return to other employment, modified- or light-work duties consistent with medical restrictions if:
 - A safe return of the injured worker to the preinjury job position with the employer does not appear medically feasible, or
 - The job is unavailable
 - (5) Provide assistance to the employer in the development of a transitional and/or modified job, when necessary.
 - (6) Consistent with the applicable ~~state~~ law, provide vocational rehabilitation in the form of:
 - Alternative work
 - Modified work
 - Job placement
 - On-the-job training
 - Education
- d. Document and timely pay all benefit payments made in accordance with applicable ~~state~~ laws.

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F. LOST-TIME AND POTENTIAL LOST-TIME CLAIMS

- e. Conduct dependency checks at least every 12 months to determine, if applicable, whether the:
- (1) Injured worker is still alive
 - (2) Widow/widower has remarried
 - (3) Current dependents still qualify to be dependent

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PERFORMANCE STANDARD 5—CLAIMS (~~NON-COAL MINE~~)****G. LEGAL MANAGEMENT AND SETTLEMENTS****1. ~~7~~ Legal Management**

- a. Assigned carriers must ~~review~~ the file to determine that all efforts to resolve disputes have been exhausted before litigation. Litigated issues must be clearly identified and all claims must be asserted in a timely manner.
- b. Once it has been determined that litigation is necessary, assigned carriers must ensure that all cases are properly prepared to defend or resolve all outstanding issues before conference, hearing, alternative dispute process, or trial including, but not limited to, the following:
 - (1) Have documentation of complete pretrial preparation in the areas at issue, such as coverage, liability, medical, and disability.
 - (2) Have available all necessary lay and professional witnesses or their depositions prior to formal hearing or trial.
 - (3) If litigation encompasses issues of extent of disability and/or permanency, have medical reports and opinions and witnesses available and ready for testimony or deposition, depending on the applicable state law requirements.
 - (4) The possibility of a negotiated settlement should be evaluated on a continual basis throughout the litigation process. Do not wait until day of pretrial conference or hearing to initiate negotiations. For more information on settlements, *refer to PS 5-F-8-b.*
 - (5) When ~~if~~ litigation is ~~to be~~ handled by an attorney:
 - (a) The assigned carrier must ~~provide~~ the necessary material and direction, issues to be litigated, and actions needed to resolve those issues.
 - (b) The assigned carrier must ~~document~~ attorney's receipt of the claim file and opinion about the merits of the issues to be litigated and the probable success of the litigation.
 - (c) If an adverse finding is made, the attorney must comment about the costs and merits of an appeal, including the potential impact on future claims costs.
 - (6) Consistent with the assigned carrier/attorney agreement, assigned carriers must review and adjust attorney bills to ensure that they reflect authorized billing practices and expense controls.

Refer to NCCI's ***Servicing Carrier Reference Guide*** for more information about litigation.

2. ~~8~~ Settlements

- a. Before settlement negotiations, ensure that the medical and/or indemnity reserves reflect medical and/or indemnity settlement value.
- b. Conduct settlement negotiations promptly after completion of investigation, assuming plaintiff's ~~attorney's~~ and employer's willingness (or lack of response by employer), consistent with sound claims judgment and the applicable state laws.
- c. Base all permanency or compromise settlements on sound claims judgment consistent with liability and medical evidence developed, in accordance with the applicable state laws and benefit structure.

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PERFORMANCE STANDARD 5—CLAIMS (~~NON-COAL MINE~~)****H. SPECIAL CONDITIONS—OCCUPATIONAL DISEASE CLAIMS****1. General Information**

- a. For occupational disease claims, PS 5-H applies in addition to PS 5-A through PS 5-G.
- b. For federal coal occupational disease claims that can be denied within 30 days due to no coverage documented, only the following claims **Performance Standards** apply:
 - PS 5-B for file management and documentation
 - PS 5-H-2 for compensability and coverage determination
 - PS 5-H-3-b for verification of employment
- c. State act and/or federal act claims for occupational disease must be handled by the assigned carrier in accordance with state and/or federal laws.

2. Compensability and Coverage Determination

In accordance with state and federal law, the assigned carrier must:

- a. Assign cases to the correct in-force policy, and
- b. Determine the date that the claim was first filed and the date of the injured worker's last exposure with the policyholder.

3. Investigation**a. Timeliness**

- (1) All claims must have a claim number assigned and the date of loss established within one business day of receipt.
- (2) Within five days of receipt of the claim or reopening, the assigned carrier must:
 - (a) Verify coverage
 - (b) Report the claim to ISO
 - (c) Cross-reference federal and state occupational disease claims by the same injured worker

b. Verification of Injured Worker's Employment with Employer

- (1) Assigned carriers must verify the employment of the injured worker with the employer, based on the date that the claim was first filed, by obtaining the injured worker's profile including, but not limited to:
 - Occupation
 - Age
 - Marital status
 - A copy of the application for employment
 - Social Security record
 - Actual payroll information, including cash payments or housing, in accordance with NCCI's **Basic Manual** and the policy terms and conditions
 - Other documentation of coal mine employment
 - Number of dependents and their:
 - Name(s)

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**EXHIBIT 3 (CONT'D)
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- Occupation(s)
 - Age(s)
 - Marital status(es)
- (2) Assigned carriers must develop a complete work history of the injured worker with the employer including, but not limited to:
- Job duties
 - Type of work performed
 - Specific dates of employment
 - State and location of last employment
 - Type of mine (surface or underground), if applicable
- c. Independent Verification**
- (1) Assigned carriers must independently verify information provided by the employer as well as the injured worker, widow, and/or dependents. The assigned carrier should:
- (a) Request birth records, marriage certificates, Social Security awards for disabled dependents, or divorce decrees, if applicable
 - (b) Obtain signed authorizations from the injured worker, widow, dependents, and/or other appropriate parties
- (2) Social Security disability determinations must be investigated and documented in the claim file for all federal claims where benefits are claimed for disabled dependents. Acceptance of the Social Security Administration's disability determinations, without independent collaboration, is not a basis for payment of benefits.
- d. Post-Exposure Employment**
- (1) When a claim is accepted and/or awarded, assigned carriers must:
- (a) Determine the injured worker's job and job requirements since the date of loss and determine whether the injured worker's post-exposure employment causes or contributes to the injured worker's condition that was accepted and/or awarded
 - (b) Verify dates of such employment
- (2) At least once a year, for claims filed after January 1, 1982, verify the injured worker's actual earnings on a monthly or annual basis for any period after the date of loss.
- e. Continuing Items of Investigation**
- (1) When a claim is accepted and/or awarded:
- (a) Activity checks must be performed at least once every three years in person, and should also be considered annually via telephone or written correspondence (mail, e-mail, or fax), to determine, if applicable, whether the:
 - 1) Injured worker is still alive
 - 2) Injured worker is working, disabled, or retired
 - 3) Widow/widower has remarried
 - 4) Current dependents still qualify to be dependent
 - (b) Determine if the initial and ongoing payments were made in accordance with the applicable laws

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- (c) At least once a year, assigned carriers must review and document a plan of action for awarded claims
- (2) At least every 90 days, assigned carriers must review nonaccepted and/or nonawarded active claims, and document a plan of action identifying outstanding issues as well as plans for future handling. If a nonaccepted and/or nonawarded active claim is not reviewed every 90 days, document the reason(s) for the exception.

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**EXHIBIT 4
ASSIGNED CARRIER PERFORMANCE STANDARDS—2009 EDITION
APPENDIX A**

A. SUMMARY TIME TABLE

The following table summarizes some of the frequently referenced *Performance Standards*. This chart is not a complete listing of all *Performance Standards*. In accordance with PS 1-A-2-c(2), except where otherwise indicated, all time periods are calendar days. Assigned carriers must refer to the applicable *Performance Standards* for complete details of the specific item below and all other national and state specific applicable *Performance Standards*.

ITEM	TIME FRAME	PERFORMANCE STANDARD REFERENCE
PERFORMANCE STANDARD 1—INTRODUCTION		
Report all noncompliance transactions	5 business days	1-C-4-a
Report all compliance transactions	5 business days	1-C-7-a
PERFORMANCE STANDARD 2—CUSTOMER SERVICE		
General employer requests except loss records	14 days	2-A-1-a and b
Employer requested loss records	20 days	2-A-1-c
Other employer requests	<ul style="list-style-type: none"> • 14 days (initial response) • 45 days (resolution) 	<ul style="list-style-type: none"> • 2-B-1 • 2-B-3
PERFORMANCE STANDARD 3—UNDERWRITING		
New business welcome letter	5 business days	3-A-2-a
New business policy issuance	30 days	3-A-2-d
Renewal proposal Nonrenewal notice	60 days 60 days	3-A-3-a(1)
Renewal policy issuance	30 days	3-A-3-c(1)
Midterm policy endorsement <ul style="list-style-type: none"> • Employer initiated • Carrier determination • Carrier initiated 	<ul style="list-style-type: none"> • 20 days • 30 days • 50 days 	<ul style="list-style-type: none"> • 3-C-2-a(1) • 3-C-1-c • 3-C-2-b(1)
Cancellation	5 business days	3-D-1-a and 3-D-2-a
Reinstatement/rescission of cancellation notices	5 business days	3-E
Certificates of Insurance	5 business days	3-F-1

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ITEM	TIME FRAME	PERFORMANCE STANDARD REFERENCE
PERFORMANCE STANDARD 4—LOSS PREVENTION (NON COAL MINE RISKS)		
Cancellation due to: • Scheduling • Critical recommendations	• 2 attempts within 60 days • 61–90 days	• 4-A-2-c(1) • 4-A-2-c(2)
Employer requested services	• 14 days (initial response) • 45 days (completion)	• 4-B-1-a • 4-B-1-b
Completion of LPS	120 days	PS 4-B-2-b and c
Recommendations • Provide to employer • Follow-up on critical recommendations	• 30 days • 30 days (initial)/ 30-60 days (follow-up)	• 4-C-1-a • 4-C-2
PERFORMANCE STANDARD 5—CLAIMS (NON COAL MINE RISKS)		
Determine claim type	1 business day	5-C-2
Medical-only and lost-time claims not exceeding the applicable waiting period—pay or request more information	30 days	5-D-6
Early intervention for lost-time or potential lost-time claims • Assignment • Early Intervention	• 1 business day • 2/1/1 business days	• 5-E-1 • 5-E-2-a
Substantially complete compensability and coverage investigation	30 days	5-F-1-a(6)
Initial payment of indemnity benefits on compensable claim	14 days	5-F-3
Medical care and cost control—pay or request more information	30 days	5-F-5-d
Dependency checks	Every 12 months	5-F-6-e

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**EXHIBIT 4 (CONT'D)
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ITEM	TIME FRAME	PERFORMANCE STANDARD REFERENCE
<p><u>Special Conditions—Occupational Disease Claims</u></p> <ul style="list-style-type: none"> • <u>Assign claim number and establish date of loss</u> • <u>Verify coverage</u> • <u>Accepted and/or awarded claims</u> <ul style="list-style-type: none"> • <u>Perform activity checks</u> • <u>Review and document a plan of action</u> • <u>Review nonaccepted/nonawarded active claims and document a plan of action</u> 	<ul style="list-style-type: none"> • <u>1 business day</u> • <u>5 days</u> • <u>At least once every three years</u> • <u>At least once a year</u> • <u>At least every 90 days</u> 	<ul style="list-style-type: none"> • <u>5-H-3-a(1)</u> • <u>5-H-3-a(2)</u> • <u>5-H-3-e(1)(a)</u> • <u>5-H-3-e(1)(c)</u> • <u>5-H-3-e(2)</u>
PERFORMANCE STANDARD 6—AUDITS		
Employer requested audits	90 days	6-A-1-b
Completion of PPA	<ul style="list-style-type: none"> • 90 days (policy effective date or receipt) • 75 days (endorsement) 	<ul style="list-style-type: none"> • 6-A-2-a(1) • 6-A-2-a(2)
Completion of Final Audits	75 days	6-A-3-b
PERFORMANCE STANDARD 7—BILLING AND COLLECTION OF PREMIUM		
Billing cycle	45 days	7-A-1
<p>Billing statements</p> <ul style="list-style-type: none"> • Additional premium of \$100 or greater • Installments • Renewal deposit premium 	<ul style="list-style-type: none"> • 15 days • 30 days • 30 days 	<ul style="list-style-type: none"> • 7-A-2-c • 7-A-2-d • 7-A-2-e
Receipt of premium	See Receipt of Premium Tables	7-A-3
Collection attempts	1 within billing cycle	7-A-4
Cancellation	5 business days	7-A-5
Return premium	15 days	7-A-6
Collection agency referral	10 business days	7-B-1-b

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ITEM	TIME FRAME	PERFORMANCE STANDARD REFERENCE
PERFORMANCE STANDARD 8—BILLING AND COLLECTION FOR DEDUCTIBLES		
Billing cycle	45 days	8-A-1
Billing statements	Quarterly	8-A-2-b
Receipt of funds	See Receipt of Funds Tables	8-A-3
Collection attempts	1 within billing cycle	8-A-4
Cancellation	5 business days	8-A-5-a
In-house collections	60 days	8-B-1-b(2)

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EXHIBIT 5**COAL MINE OCCUPATIONAL DISEASE SERVICING CARRIER PERFORMANCE STANDARDS****E. ~~Coal Mine Occupational Disease Servicing Carrier Performance Standards~~**

~~The minimum performance standards, applicable for coal mine occupational disease(s), were created to provide residual market stakeholders with quality services while reducing the overall loss ratio for the Pool in a highly specialized line of business. These standards apply whether the carriers perform the services in house or contract with outside service providers. Ultimate responsibility for complying with all statutes, regulations, and Plan rules is with the assigned carrier. If these standards conflict with state law or regulation, the more stringent rule applies.~~

~~We developed these standards based on retrospective and prospective processes, input and discussion of "best practices," and on what we believe will produce the best possible results for all stakeholders. If the carrier fails to maintain these standards, it constitutes a failure to fulfill the requirements of the servicing carrier contract and the contract may be terminated or other penalties may be imposed at the Plan Administrator's discretion.~~

~~As a general rule, the day following the date of receipt, issuance, or other required action is counted as the first day. Additionally, all time periods are calendar days except where specifically indicated.~~

~~In addition to these standards, carriers will write their own standards and procedures for servicing policyholders. The carrier's standards and procedures should be objectively measurable and establish an ongoing, monitored team approach. This team approach will require communication, interaction, and training between Underwriting, Audit, Loss Control, and Claims staff to ensure understanding and the proper handling of each policy and claim.~~

1. ~~Coal Mine Occupational Disease Claims~~**a. ~~File Setup~~**

- ~~(1) All claims must have the date of receipt clearly documented.~~
- ~~(2) All claims must have a claim number assigned and the date of loss established within 1 working day of receipt.~~
- ~~(3) The following investigative forms must be completed within 10 days of receipt, or reopening:
 - ~~(a) The claim must be reported to the Central Index Bureau.~~
 - ~~(b) Federal and state occupational disease claims by the same claimant must be cross-referenced.~~
 - ~~(c) Coverage for the policyholder must be either verified or refuted.~~~~
- ~~(4) Check for prior reported claims, overpayments in federal claims, and document the file with the results.~~

b. ~~Coverage~~

- ~~(1) In order to assign claims to the correct policy year:
 - ~~(a) Determine the date the claim was first filed and the date of the last exposure with the insured.~~
 - ~~(b) Verify applicable policy in force for policyholder:
 - ~~1) For federal claims, if the date of last exposure for the policyholder is prior to 7/1/73, the date when the claim was first filed with the Department of Labor determines coverage.~~
 - ~~2) If the date of last exposure for the policyholder is subsequent to 7/1/73, the date of last exposure for the named policyholder determines coverage.~~~~~~

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EXHIBIT 5 (CONT'D)
COAL MINE OCCUPATIONAL DISEASE SERVICING CARRIER PERFORMANCE STANDARDS

3) ~~For state claims, use the date of last exposure for the named policyholder to determine coverage.~~

(2) ~~Investigation and documentation of coverage:~~

- (a) ~~A paper or scanned copy of the Information Page and applicable endorsements must be included in the claim file to document that the employer was the named insured and had a policy in force with the carrier. In federal claims, document that the policy provided federal coverage by having either a scanned or a hard copy of the Federal Coal Mine Health and Safety Act Endorsement contained in the claim file.~~
- (b) ~~In federal claims, when two or more carriers are identified by the Department of Labor as potential responsible parties, notification must be provided to the Plan Administrator in order to coordinate a defense strategy.~~
- (c) ~~If the injured miner in a federal claim is a partner or sole proprietor, the claim file must be documented with a copy of the endorsement that documents that coverage was extended.~~

c. ~~Employer Liability Under 1981 Amendments~~

~~Identify federal claims transferred to Black Lung Disability Trust Fund:~~

- (1) ~~Verify the status of all claims filed under the 1969 or 1972 Act as of 3/1/78. Review the file documents for an "election card." Carriers are no longer liable for claims that were finally denied prior to 3/1/78, and subsequently approved under Section 435 of the 1977 Act. For the purposes of a transfer, a claim should be considered "finally denied" if:~~
 - (a) ~~It was denied by the Social Security Administration under the 1972 Act.~~
 - (b) ~~It was filed with the Department of Labor under the 1972 Act and was administratively or informally denied before 3/1/77, and the claimant did not within one (1) year from the date of notification either:~~
 - 1) ~~Request a hearing~~
 - 2) ~~Submit additional evidence, or~~
 - 3) ~~Indicate an intention to submit additional evidence~~
- (2) ~~It was denied under the 1972 Act by an Administrative Law Judge, the Benefits Review Board, or a Circuit Court.~~
- (3) ~~Request reimbursement of benefits paid by the carrier from the Black Lung Disability Trust Fund if liability for benefits is "transferred" under the 1981 Amendments.~~

d. ~~Claims Handling~~

~~All activity on file must be documented via claim notes.~~

(1) ~~Denied Claims~~

~~For any claim which is initially denied by the Department of Labor, or can be denied within thirty (30) days due to documented no coverage, investigation can be limited to all the mandated subparts of **File Setup, Coverage, and Verification of Employment With the Named Insured.**~~

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

**EXHIBIT 5 (CONT'D)
COAL MINE OCCUPATIONAL DISEASE SERVICING CARRIER PERFORMANCE STANDARDS****(2) ~~Investigation~~****(a) ~~Verification of Employment With Named Insured~~**

- 1) ~~Obtain the claimant's profile including occupation, age, marital status, number of dependents and similar information on dependents. A copy of the application for employment will satisfy this requirement.~~
- 2) ~~Obtain the claimant's Social Security record, actual payroll information, or other documentation of coal mine employment.~~
- 3) ~~Develop a complete work history of the claimant with the named policyholder including job duties, type of mine (surface or underground), type of work performed, specific dates of employment, and the state of last employment.~~

(b) ~~Post Exposure Employment~~

- 1) ~~Determine the claimant's job requirements at other possible "coal/trucking operations" which employed the claimant subsequent to the policyholder. Verify dates of subsequent employment.~~
- 2) ~~For claims filed after 1/1/82 and which are awarded, verify the claimant's actual earnings on a monthly or yearly basis for any period subsequent to the date of loss.~~

(c) ~~Contact With Miner~~

- 1) ~~Request birth records, marriage certificates, Social Security awards for disabled dependents, or divorce decrees, if applicable. Obtain signed authorizations from the miner or widow.~~
- 2) ~~Social Security disability determinations must be investigated and documented in the claim file for all federal claims where benefits are claimed for disabled dependents. Acceptance of the Social Security Administration's disability determinations, without independent collaboration, is not a basis for payment of benefits.~~

(d) ~~Medical History and Examination~~

- 1) ~~Develop a medical history relevant to the claim including the names and addresses of all medical providers.~~
- 2) ~~Obtain information relevant to the claim on all surgical procedures, hospital admissions and, if the miner is deceased, information on any autopsy and death certificates.~~
- 3) ~~Develop relevant information about the habits and activities of the claimant, including:~~
 - ~~(a) Use of tobacco products, and alcohol consumption~~
 - ~~(b) Hobbies and other employment~~
- 4) ~~Secure the miner's medical examination reports, including interpretation of X rays, pulmonary function tests and blood gas studies, verify the quality and accuracy of claimant's objective tests, and arrange for medical information relative to the claim to confirm the diagnosis and to settle any controversy. Verify that claimant's medical evidence is in compliance with applicable regulations.~~
- 5) ~~An independent medical examiner should be considered where there are questions of disability, causal relationship, reasonableness and necessity of treatment, or where reports of treating physicians do not adequately resolve these questions.~~

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**EXHIBIT 5 (CONT'D)
COAL MINE OCCUPATIONAL DISEASE SERVICING CARRIER PERFORMANCE STANDARDS****(e) ~~Continuing Items of Investigation~~**

- 1) ~~Activity checks should be considered annually via telephone or mail and at least once every three (3) years in person to determine the following:~~
 - a) ~~Does the claimant exist?~~
 - b) ~~Is the claimant working, disabled, or retired?~~
 - c) ~~Do any dependents still exist?~~
 - d) ~~If there is a widow/widower, is she/he remarried?~~
 - e) ~~If there are children, do they still qualify as dependents?~~
- 2) ~~If the claim is compensable, determine if the initial and ongoing payments were made in accordance with the provisions and spirit of the law.~~
- 3) ~~Every ninety (90) days, document nonawarded claims with a plan of action identifying outstanding issues as well as plans for future handling, so long as the claim is active. If the period exceeds ninety (90) days, specify the reason(s) for time extension.~~
- 4) ~~Document a plan of action for awarded claims at least annually, or on an as needed basis.~~

(f) ~~Litigation~~

- 1) ~~If a claim is litigated, the litigated issues must be clearly identified and preserved in a timely manner. In federal claims, contested issues must be asserted before the claim is transmitted for a hearing.~~
- 2) ~~The transmittal to defense counsel should summarize the adjuster's investigative efforts to date, as well as any ongoing efforts. Defense counsel should acknowledge receipt of the litigated claim file.~~
- 3) ~~If a conference, hearing, alternative dispute process, or trial is to be handled by an attorney, provide the necessary material and direction of the issues to be litigated, and actions needed to resolve those issues. Document the attorney's opinion about the merits of the issues to be litigated and the probable success of the litigation. If an adverse finding is made, the attorney should comment about the costs and merits of an appeal, including the potential impact on future claims costs. Document all ongoing conversations.~~
- 4) ~~Consistent with the carrier/attorney agreement, all defense bills must be reviewed to ensure that services billed were performed and documented in the claim file, and that the bills reflect authorized billing practices and expense controls. Any "adjusting" duties performed by defense counsel should be separated, and those costs are to be borne solely by the servicing carrier.~~

(g) ~~Medical Care and Cost Control~~

- 1) ~~Screen all medical bills to ensure that treatment is related to injury/occupational diseases and that charges are reasonable and necessary and based on the prevailing charges.~~
- 2) ~~Periodic reports must be obtained from the treating physician and/or other medical practitioners for the status of the worker's injury and disability and for use in conjunction with medical bill screening.~~

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

**EXHIBIT 5 (CONT'D)
COAL MINE OCCUPATIONAL DISEASE SERVICING CARRIER PERFORMANCE STANDARDS****(h) ~~Reserving~~**

- ~~1) Establish timely medical and indemnity reserves that are accurate and commensurate with the evaluation of all known factors and documented evidence contained in the claim file.~~
- ~~2) Revise loss cost estimates as developments occur that necessitate a need for change(s).~~
- ~~3) Use procedures or tables authorized by the Plan Administrator or by applicable law when reporting reserve estimates on fatal and permanent total cases or for medical reserves.~~
- ~~4) Document reserve standards considered in establishing loss cost estimates including:
 - ~~a) Proper application of discount and escalation for federal cases and medical reserves~~
 - ~~b) Proper application of state or federal offsets, including Second Injury Fund~~
 - ~~c) Proper application of earnings offsets~~
 - ~~d) Escalation crossover for federal liability on state cases~~
 - ~~e) Interest accrual~~
 - ~~f) Compensability considerations~~~~
- ~~5) Document the basis for loss cost estimate changes either by paper or electronically, using reserve worksheets or other appropriate means.~~

(i) ~~Settlements~~

~~Settlement should be considered, when appropriate, based on sound claims judgment. Such settlements should be consistent with liability and medical evidence developed in accordance with the State Act and benefit structure.~~

(j) ~~Supervision~~

~~Via claim notes, document supervisory/management direction and control of claim handling consistent with the injury severity and the extent of disability.~~

2. ~~Loss Control—Coal Mines~~

Note: ~~These standards apply to surface and underground coal mines unless otherwise noted. (Codes 1005 and 1016).~~

~~The purpose of these standards is to provide effective, results-oriented services to the residual market insureds with the greatest need, and to provide those services in the most cost effective manner. The carrier must augment these standards with objectively measurable and enforceable written standards and procedures for the establishment and ongoing monitoring of a "team" approach for servicing each policy. This team approach requires communication, interaction, and training between Loss Control, Claims, Audit, and Underwriting staff to ensure understanding and the proper handling of each policy.~~

a. ~~Consultation~~

- ~~(1) The carrier must notify the policyholder and producer of record in writing, at time of policy issuance of available loss control services and safety information, including carrier contacts and instructions for obtaining services and information.~~

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

**EXHIBIT 5 (CONT'D)
COAL MINE OCCUPATIONAL DISEASE SERVICING CARRIER PERFORMANCE STANDARDS**

- ~~(2) Each assigned risk policyholder may request reasonable loss control services from the servicing carrier regardless of its size or operations.~~
- ~~(3) The carrier will provide appropriate consultation regarding accident prevention programs, accident trends, safety seminars, safety literature, and other administrative aids that will support the loss control efforts of the policyholder.~~

b. ~~Loss Control Services to Be Provided~~

~~Physical survey of operations will be performed for all policyholders meeting the following criteria:~~

- ~~(1) For policyholders with estimated annual payroll of \$300,000 or greater, they will receive an initial survey and additional surveys once every three (3) years.~~
- ~~(2) For policyholders with estimated annual payroll less than \$300,000 and for policyholders with \$300,000 or greater in estimated annual payroll without a scheduled survey for that policy year, the following applies:~~
- ~~(a) If an individual claim exceeds \$10,000 total payout (defined as losses actually paid) during a policy term, the loss control representative must review the claim file and discuss the circumstances of the accident with the claims department. The loss control representative then has the discretion to order a physical survey of operations.~~
- ~~(b) If the number of claims per an individual policy period is more than three (3) and has a combined total payout (defined as losses actually paid) greater than \$25,000, the loss control representative must contact the policyholder to discuss the accidents in detail. After completing the accident analysis, the loss control representative has the discretion to order a physical survey of operations.~~
- ~~(3) The carrier will conduct a physical survey if Underwriting and/or Loss Control Management deems a survey appropriate.~~
- ~~(4) Each assigned risk policyholder may request reasonable loss control services from the servicing carrier regardless of its size and operations.~~

c. ~~Continuing Service~~

~~Physical resurveys will include the requirements outlined in 2 b 2 a, 2 b 2 b, 2 b 3, and 2 b 4.~~

d. ~~Loss Control Services—Timing and Procedure~~

- ~~(1) When a policyholder requests loss control assistance, the carrier will contact the risk within twenty (20) calendar days of the receipt of request and will complete the survey within forty five (45) calendar days from the date of contact (90 calendar days for remote locations).~~
- ~~(2) If the policy meets the above mandatory loss control survey eligibility criteria, the survey must be completed within one hundred fifty (150) calendar days of policy effective date or receipt of assignment, whichever is later.~~
- ~~(3) If the policy subsequently meets the eligibility criteria, within one hundred eighty (180) calendar days of policy effective date, based upon an endorsement to the policy, the survey is to be completed within ninety (90) calendar days of the endorsement issuance date or within one hundred fifty (150) calendar days of the policy effective date, whichever is later.~~
- ~~(4) Loss control is to be provided only for active job sites meeting the requirements for a consulting survey and located within the state(s) where coverage is offered under the policy.~~
- ~~(5) Adequate documentation of all scheduling attempts and survey completion must be maintained in file.~~

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

**EXHIBIT 5 (CONT'D)
COAL MINE OCCUPATIONAL DISEASE SERVICING CARRIER PERFORMANCE STANDARDS**

~~(6) For any risk subject to loss control services due to claim counts within the first six (6) months of the policy period, surveys must be completed within one hundred twenty (120) calendar days of the date a policy becomes eligible. For any risk subject to loss control services due to claim counts within the last six (6) months of the previous policy period, surveys must be completed within one hundred fifty (150) calendar days of the renewal effective date.~~

e. ~~Loss Control Survey Content~~

~~Loss control services must be adequately documented and maintained in file and must include, but not be limited to:~~

- ~~(1) Definitive analysis of past accident experience to determine causes and trends.~~
- ~~(2) Review of potential policyholder exposures; specifically identify conditions and operations that could cause loss.~~
- ~~(3) Review and document major elements of policyholder loss control program and activities.~~
- ~~(4) Recommendations for policyholder control of actual or potential exposures and, where applicable, program activities or management principles.~~
- ~~(5) Description of nature and size of operations, number of locations, and loss potentials for classification and underwriting purposes, a description of the employees' job duties, and their exposure to coal dust (if applicable).~~
- ~~(6) The status of recommendations submitted on prior surveys completed by the carrier and the Mine Safety and Health Administration (MSHA) will be reviewed with the policyholder during the loss control consulting survey. Such review must be confirmed in writing and will indicate the status of these recommendations (completed or not) and policyholder agreement with those recommendations not previously completed.~~

f. ~~Underground Service~~

- ~~(1) Review two most recent underground federal or state mine reports/inspections with mine management.~~
- ~~(2) If the loss control representative deems an underground inspection is required, the inspection should be made by qualified personnel.~~

g. ~~Record Maintenance~~

~~Documentation must be maintained for a minimum three (3) years per policyholder.~~

h. ~~Recommendations~~

- ~~(1) Recommendations will be provided to the policyholder and the producer in writing within thirty (30) calendar days of completion of the survey. The completion date is defined as the date the survey is performed in the field. Recommendations are defined as follows:~~

~~(a) Critical Recommendations~~

~~These recommendations addressing exposures of imminent danger, serious loss potential, or continuing losses, which address uncontrolled exposures expected for the type of operation as indicated in Best's Loss Control Manual or other materials. These recommendations must be labeled to both the policyholder and producer with notification stating that failure to comply with these recommendations may result in the cancellation of coverage.~~

~~(b) Desirable Recommendations~~

ITEM RM-W-8037—REVISIONS TO NCCI'S ASSIGNED CARRIER PERFORMANCE STANDARDS

EXHIBIT 5 (CONT'D)
COAL MINE OCCUPATIONAL DISEASE SERVICING CARRIER PERFORMANCE STANDARDS

~~Minor exposures exist but not of pressing importance.~~

- ~~(2) The carrier must follow up at thirty (30) calendar days and at sixty (60) calendar days by mail from the submission of critical recommendations to determine if the policyholder has implemented or demonstrated substantial evidence of intent to implement reasonable recommendations for purposes of determining the need to cancel the policy.~~
- ~~(3) For desirable recommendations, carriers should use sound underwriting judgment with regard to follow up.~~
- ~~(4) The carrier will issue a notice of cancellation in accordance with the applicable state laws for violation of the good faith provisions of the WCIP and/or regulations if:
 - ~~(a) After sixty (60) calendar days but no later than ninety (90) calendar days from submission of critical recommendations, the policyholder has failed to implement or demonstrate substantial evidence of intent to implement.~~
 - ~~(b) After at least two good faith attempts at contact by the carrier, one of which must be by mail, the policyholder fails to afford reasonable access to its operations within sixty (60) calendar days of the last attempt.~~~~

~~i. Loss Records~~

~~Loss records will be maintained and made available by the carrier to the policyholder and producer of record within thirty (30) calendar days of request to allow for analysis of accident causes and to assist the policyholder to identify accident trends.~~