

April 14, 2016

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: North Carolina Basic Manual for Workers Compensation and Employers Liability Update and Revised Endorsement Forms WC 00 04 15B, WC 00 04 17B and WC 00 04 18F

The North Carolina Rate Bureau (Bureau) filed and the North Carolina Department of Insurance (DOI), approved revisions to the North Carolina Basic Manual for Workers Compensation and Employers Liability (NC Basic Manual) which became effective April 1, 2016.

In conjunction with the approval of the NC Basic Manual, changes were needed to update three (3) endorsement forms. The endorsement forms listed below have been updated to change references to the NCCI Basic Manual for Workers Compensation and Employers Liability to reference the North Carolina Basic Manual. The form numbers for the below endorsements have also been revised to reflect that they are now North Carolina state specific forms. All three (3) endorsement forms impact the Assigned Risk program and are not used in the Voluntary Market.

The WC 32 04 15 *Assigned Risk Adjustment Program Endorsement* and WC 32 04 17 *Assigned Risk Loss Sensitive Rating Plan Notification Endorsement* are required for all new and renewal assigned risk policies effective on or after July 1, 2016.

The WC 32 04 18 *Assigned Risk Loss Sensitive Rating Plan Endorsement* is required for all new and renewal assigned risk policies effective on or after July 1, 2016 that qualify for the mandatory Loss Sensitive Rating Plan.

Data reporting requirements for the above referenced endorsement forms are attached (Exhibit I).

In addition to revising the above referenced endorsement forms, the Bureau received approval from the DOI to update references in the LSRP Endorsement Table shown in NC Basic Manual Rule 4-C-6-b-2-c (Exhibit II).

The revised endorsements are now available on the Bureau's website and Rule 4-C-6-b-2-c of the NC Basic Manual will be updated effective July 1, 2016.

The National Council on Compensation Insurance (NCCI) has been notified of these changes and will update the NCCI Forms Manual as appropriate.

Along with copies of the revised endorsements, please find Exhibit I - Data Reporting Requirements and Exhibit II - NC Basic Manual updates. If you have questions, contact the NCRB Information Center at 919-582-1056 or via email at [wcinfo@ncrb.org](mailto:wcinfo@ncrb.org).

Sincerely,

Joanna Biliouris  
Chief Operating Officer

JB:dms

Attachments

C-16-7

**ASSIGNED RISK ADJUSTMENT PROGRAM ENDORSEMENT**

This endorsement is attached to your policy and incorporates the following additional provisions into Part Five (Premium) of your policy because one or more of the states shown in Item 3.A. of the Information Page have approved the Assigned Risk Adjustment Program (ARAP). ARAP adds a surcharge to the premium of assigned risk employers who meet the criteria of ARAP.

The application of ARAP is mandatory and shall apply to all assigned risk policies written in approved jurisdictions who meet the criteria of ARAP.

If your experience rating modification changes, the ARAP surcharge factor may also change.

**A. Criteria**

1. You will receive an ARAP surcharge factor calculated by the designated rating/advisory organization for your intrastate and/or interstate risk if you:
  - a. Are experience rated, and
  - b. Have an experience rating modification that includes data from at least one ARAP-approved jurisdiction, and
  - c. Have a calculated experience rating modification factor greater than or equal to 1.01, and
  - d. Meet or exceed the weighted test ratio in accordance with the applicable rules in the **North Carolina Basic Manual** or other applicable state rules.
2. You will not receive an ARAP surcharge factor calculated by the designated rating/advisory organization in an ARAP-approved jurisdiction if you:
  - a. Are not experience rated, or  
Are an intrastate and/or interstate experience rated risk that does not have any ARAP-approved
  - b. jurisdictions' data included in your experience rating modification calculation, or
  - c. Have a calculated experience rating modification equal to or less than 1.00.

**B. Surcharge Application**

You must pay a surcharge based on a comparison of your actual and expected losses, as determined using values from your experience rating modification calculation. The ARAP surcharge factor is applied by multiplying your assigned risk total modified premium by the ARAP surcharge factor. The total modified premium of an assigned risk policy in ARAP-approved jurisdictions is determined in accordance with the applicable state assigned risk premium algorithm, or any other applicable programs or statutory requirements. The ARAP surcharge factor is included in total standard premium.

**C. Multistate Operations**

If you are an experience rated employer with multistate operations, you shall be subject to the Assigned Risk Adjustment Program in states that have approved ARAP, and as applied by your insurance carrier in those states as shown in the Schedule below.

**D. Cancellation**

If your policy is cancelled, the ARAP surcharge factor is applied in accordance with Part Five (Premium), E. of your workers compensation and employers liability insurance policy.

(Ed. 07-16)

Schedule

State

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 \_\_\_\_\_

**ASSIGNED RISK LOSS SENSITIVE RATING PLAN NOTIFICATION ENDORSEMENT****A. LSRP Mandatory Assigned Risk Retrospective Rating Plan**

This endorsement is to advise you that, during the term of this policy or upon renewal, you may become subject to the mandatory assigned risk Loss Sensitive Rating Plan (LSRP), which is a retrospective rating plan that may adjust the cost of your workers compensation and employers liability insurance policy. This endorsement must be attached to all assigned risk policies, including policies for professional employer organization (PEO) and temporary arrangements, regardless of LSRP standard premium size in states that have approved the LSRP. In the event that you meet or exceed the eligibility requirements of LSRP, an LSRP contingent deposit equal to 20% of LSRP standard premium is required.

**B. Eligibility**

1. Your insurance is written under a Workers Compensation Insurance Plan (WCIP) in a state that has approved LSRP.
2.
  - a. LSRP will apply to an individual assigned risk policy if the standard premium meets or exceeds the amount noted in the Schedule, in accordance with the **North Carolina Basic Manual**.
  - b. It may not always be possible for a single carrier to provide coverage for all requested states; additional policies issued by more than one carrier may be necessary.
  - c. WCIP policies issued in non-LSRP-approved jurisdictions are not subject to LSRP and are not combinable with WCIP policies in LSRP-approved jurisdictions for eligibility purposes.
  - d. LSRP eligibility may be impacted by ownership or combinability status in accordance with NCCI's **Experience Rating Plan Manual**.
3. LSRP standard premium is defined in accordance with the **North Carolina Basic Manual**.

**C. Deposit/Initial Premium and LSRP Contingency Deposit**

1. Deposit or initial premium is paid on all new and renewal WCIP policies, including LSRP policies, in accordance with the **North Carolina Basic Manual**. It is paid to us in addition to the LSRP contingency deposit, which secures all new and renewal LSRP policies as detailed in the LSRP rules.
2. The LSRP contingency deposit paid to us serves as collateral for premium that may be due to us as a result of losses incurred during the policy term.
3. At policy inception, the LSRP contingency deposit is calculated by multiplying the LSRP standard premium by 20%. If WCIP policies are combined for LSRP purposes, the LSRP contingency deposit is calculated by multiplying the combined LSRP standard premium for all policies by 20%.

**D. Impact of Changes in LSRP Standard Premium**

1. For all policies except for professional employer organizations (PEOs) and temporary arrangements, LSRP may be applied to a policy, or an LSRP policy may be converted to a guaranteed cost policy:
  - a. If the LSRP standard premium decreases during the first 120 days, and falls below the LSRP eligibility threshold, your policy will be converted to a guaranteed cost policy, retroactive to policy inception, and your LSRP contingency deposit will be returned.
  - b. If the LSRP standard premium increases during the first 120 days, and meets the LSRP eligibility threshold, LSRP will be applied retroactively to policy inception and the 20% LSRP contingency deposit must be paid to us within 30 days of us issuing notice to you of the application of LSRP.
  - c. If the LSRP standard premium decreases after the first 120 days and falls below the LSRP eligibility threshold, the LSRP continues to be applied to your policy(ies).
  - d. If the LSRP standard premium increases after the first 120 days, and meets the LSRP eligibility threshold, your policy(ies) will remain a guaranteed cost policy(ies) and the LSRP is applied at renewal, subject to meeting the eligibility requirements on the renewal policy(ies).
2. For all PEO and temporary arrangement WCIP policies, if the LSRP standard premium meets or exceeds the eligibility threshold **at any time**, LSRP is applied retroactively to policy inception. The 20% LSRP contingency deposit must be paid to us within 30 days of us issuing notice to you of the application of LSRP.

(Ed. 7-16)

**E. Evasion of LSRP**

1. If you take actions for the purpose of avoiding the application of LSRP, or for otherwise legitimate business reasons that nonetheless result in the improper calculation and/or application of LSRP, regardless of intent, any action that results in the miscalculation and/or misapplication of LSRP determined in accordance with the LSRP rules is prohibited. These actions include, but are not limited to:
  - Misrepresentation and/or miscalculation of payroll at application, audit, or renewal
  - Failure to report changes in ownership or ownership information according to the WCIP and NCCI's *Experience Rating Plan Manual*
  - Violation of any of the terms and conditions under the policy for which this insurance was issued
  - Failure to allow us and/or the Plan Administrator and/or rating organization reasonable access to your facilities or files and records for audit or inspection
  - Failure to disclose to us and/or the Plan Administrator and/or rating organization the full nature and scope of your exposure or business operations
2. In such circumstances, we and/or the Plan Administrator and/or rating organization may obtain any information that indicates evasion or improper calculation or application of LSRP due to actions including, but not limited to, those listed above. We and/or the Plan Administrator and/or rating organization will act to ensure the proper calculation and application of LSRP to inception of all current and preceding WCIP policies impacted by these actions.

This endorsement applies in the states listed in the Schedule below.

Schedule

**State**

**Premium Eligibility**

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 \_\_\_\_\_

**ASSIGNED RISK LOSS SENSITIVE RATING PLAN ENDORSEMENT**

This endorsement amends and is added to Part Five (Premium) of your Policy to explain how the mandatory assigned risk Loss Sensitive Rating Plan (LSRP) (additional/return) premium is determined.

This endorsement applies in states where the LSRP has been approved. This endorsement is attached to all assigned risk policies, including professional employer organization (PEO) and temporary arrangements that meet or exceed the LSRP eligibility requirements. A 20% LSRP contingency deposit is required.

**A. LSRP Premium Elements**

LSRP uses specific elements to determine premium. The elements are listed below and are determined in accordance with *the North Carolina Basic Manual* Rule 4-C and applicable state rating values.

1. **LSRP Standard Premium**
2. **Basic Premium Factor**
3. **Loss Conversion Factor**
4. **Converted Losses**
5. **Incurred Losses**
6. **Loss Development Factor**
7. **Maximum Premium Factor**
8. **Minimum Premium Factor**
9. **Tax Multiplier**

**B. LSRP Formula**

**1. Calculating LSRP (Additional/Return) Premium Under This Plan**

The first LSRP valuation to determine the (additional/return) premium is to be calculated as soon as practical based on losses valued six months after the WCIP policy(ies) expiration. The data used in the LSRP calculation must be the same data that is reported under the rules of the applicable statistical plan. In accordance with Section C-7 of this endorsement and *North Carolina Basic Manual* Rule 4-C, in certain cases, we may perform an early calculation of LSRP premium.

**2. LSRP Formula**

The LSRP formula is designed to allow for premium that is not less than the LSRP minimum premium or more than the LSRP maximum premium in accordance with the *North Carolina Basic Manual* Rule 4-C. The formula is:

$$LSRP \text{ (Additional/Return) Premium} = \{[(SP \times BPF) + (ICL \times LCF) + (SP \times LDF \times LCF)] \times TM\} - SP$$

Where ...	Equals ...
SP	LSRP Standard Premium
BPF	Basic Premium Factor
ICL	Incurred Losses
LCF	Loss Conversion Factor
LDF	Loss Development Factor
TM	Tax Multiplier

**3. LSRP Minimum and Maximum Premium**

You will not pay less than the LSRP minimum premium or more than the LSRP maximum premium. The LSRP minimum premium is determined by multiplying the LSRP standard premium by the applicable minimum premium factor. The LSRP maximum premium is determined by multiplying LSRP standard premium by the applicable maximum premium factor. The minimum premium factor and the maximum premium factor are shown in the Schedule. If this policy is combinable with another LSRP policy, the LSRP minimum and maximum premiums are based on the combined LSRP standard premium for all combinable policies.

**C. Premium Calculation and Payments**

1. You will pay a premium in accordance with the approved Workers Compensation Insurance Plan (WCIP) rules, rates, and rating values.

(Ed. 7-16)

2. You will pay an LSRP contingency deposit that will equal 20% of the LSRP standard premium.
3. Your LSRP (additional/return) premium is determined after the policy period ends.
4. The first valuation of LSRP premium is determined using all loss information valued as of six months after policy expiration or as soon as practical. Three additional annual premium adjustment calculations shall be made based on losses valued at 30, 42, and 54 months after the month in which the policy became effective.
5. We must value the policy annually after the first valuation and subsequent valuations as needed (up to four valuations). We will not need to do subsequent valuations if there are no open losses.
6. If we are notified that the employer has declared bankruptcy, we must file for Proof of Claim.
7. We may make a special adjustment for the purpose of calculating LSRP premium to determine if additional or return premium is due when the policy is cancelled and/or you:
  - Are in noncompliance with policy terms and conditions
  - Have declared bankruptcy
  - Have defaulted on your premium
  - Are involved in any liquidation, reorganization, or receivership
  - Disposed of all, or substantially all, of your assets

You or the bankruptcy estate, if applicable, is responsible for any additional premium due as a result of any special valuations or other applicable remaining valuations.

8. After each valuation, you will pay to us the amount due within 30 days. If you fail to pay all LSRP premium due, your current policy will be cancelled in accordance with the WCIP rules, state law, or NCCI's **Assigned Carrier Performance Standards**, whichever is more restrictive. You will no longer be in good faith eligible for coverage under the applicable WCIP.

#### D. Evasion of LSRP

1. If you take actions for the purpose of avoiding the application of LSRP, or for otherwise legitimate business reasons that nonetheless result in the improper calculation and/or application of LSRP, regardless of intent, any action that results in the miscalculation and/or misapplication of LSRP determined in accordance with the LSRP rules is prohibited. These actions include, but are not limited to:
  - Misrepresentation and/or miscalculation of payroll at application, audit, or renewal
  - Failure to report changes in ownership or ownership information according to the WCIP and NCCI's **Experience Rating Plan Manual**
  - Violation of any of the terms and conditions under the policy(ies) for which the WCIP policy(ies) was issued
  - Failure to allow us and/or the Plan Administrator and/or rating organization reasonable access to your facilities or files and records for audit or inspection
  - Failure to disclose to us and/or the Plan Administrator and/or rating organization the full nature and scope of your exposure or business operations
2. In such circumstances, we and/or the Plan Administrator and/or rating organization may obtain any information that indicates evasion or improper calculation or application of LSRP due to actions including, but not limited to, those listed above. We and/or the Plan Administrator and/or rating organization will act to ensure the proper calculation and application of LSRP to inception of all current and preceding WCIP policies impacted by these actions.

#### E. Cancellation

1. If your policy is cancelled, LSRP is applied in accordance with Part Five (Premium), E. of your workers compensation and employers liability insurance policy.
2. Cancellation of LSRP policies are subject to pro rata or short rate calculation of LSRP standard premium in accordance with LSRP rules located in the **North Carolina Basic Manual**.
3. We must report noncompliance and any subsequent compliance to the Plan Administrator.
4. Cancelled LSRP policies are subject to all LSRP rules, as applicable.



- 5. If your LSRP policy is cancelled by you or us, you are responsible for any LSRP additional premium due for reasons including, but not limited to:
  - a. Premium endorsements
  - b. Audits
  - c. An ownership change or change in combinability status in accordance with NCCI's **Experience Rating Plan Manual**
  - d. Your retirement from business
  - e. Any applicable and/or remaining LSRP valuations

Schedule

- 1. Basic Premium Factor \_\_\_\_\_
- 2. Loss Conversion Factor \_\_\_\_\_
- 3. Tax Multiplier \_\_\_\_\_
- 4. Minimum Premium Factor \_\_\_\_\_
- 5. Maximum Premium Factor \_\_\_\_\_
- 6. Loss Development Factor: \_\_\_\_\_
  - 1st Adjustment \_\_\_\_\_
  - 2nd Adjustment \_\_\_\_\_
  - 3rd Adjustment \_\_\_\_\_
  - Subsequent Adjustments \_\_\_\_\_

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 32 04 18**  
(Ed. 07-16)

**Data Reporting Requirements and Endorsement Form Number Changes**

The table lists data reporting requirements for endorsement forms referenced in NCRB Member Company Circular WC-16-??. Edits will not be implemented for these endorsements forms if they are missing or incorrect for any policy received before January 01, 2017):

<b>Previous Form/Endorsement Number</b>	<b>Form/Endorsement Number Effective 7/1/2016</b>	<b>Form/Endorsement Description</b>	<b>Policy Issuance Guidelines</b>	<b>Edit</b>	<b>Finable</b>
WC 00 04 15B	WC 32 04 15	Assigned Risk Adjustment Program Endorsement	Must be attached to all new and renewal Assigned Risk policies with a policy effective date on or 07/01/16.	Endorsement WC 32 04 15 is required for all assigned risk policies.	Y
WC 00 04 17B	WC 32 04 17	Assigned Risk Loss Sensitive Rating Plan Notification Endorsement	Must be attached to all new or renewal policies Assigned Risk policies with a policy effective date on or after 07/01/16.	Endorsement WC 32 04 17 is required for all assigned risk policies.	Y
WC 00 04 18F	WC 32 04 18	Assigned Risk Loss Sensitive Rating Plan Endorsement	Must be attached to all new and renewal Assigned Risk policies meeting the eligibility threshold for LSRP with a policy effective date on or after 7/1/2016.	Endorsement WC 32 04 18 is required for all assigned risk policies meeting the LSRP eligibility threshold.	Y

North Carolina Basic Manual – Workers Compensation and Employers Liability  
 Part 1 – Rules  
 Rule 4-C-6-b-2-c

c) Endorsements

The following endorsements are applied to all new and renewal assigned risk policies in accordance with the LSRP rules.

LSRP Endorsements Table

<b><i>Endorsement</i></b>	<b><i>Instructions and Purpose</i></b>
<b>WC 00-32 04 17 B</b> - Assigned Risk Loss Sensitive Rating Plan Notification Endorsement	<ul style="list-style-type: none"> <li>Assigned carriers must attach this endorsement to all new and renewal assigned risk policies regardless of premium size</li> <li>This endorsement ensures that all assigned risk employers, regardless of premium size, are notified of the intent and details of the LSRP as well as possible application of LSRP if the employer meets the eligibility requirements</li> </ul>
<b>WC 0032 04 18 F</b> – Assigned Risk Loss Sensitive Rating Plan Endorsement	<ul style="list-style-type: none"> <li>All assigned carriers must attach this endorsement to all new and renewal assigned risk policies meeting the LSRP eligibility requirements</li> <li>This endorsement advises policyholders meeting the eligibility requirements of the applicable LSRP factors and how LSRP premium is calculated</li> </ul>