

May 7, 2020

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Workers Compensation Insurance

Revisions to North Carolina Basic Manual Rules
Related to the COVID-19 (Coronavirus) Pandemic

The North Carolina Rate Bureau (Bureau) has filed and the North Carolina Commissioner of Insurance has approved revisions to the North Carolina Basic Manual for Workers Compensation and Employers Liability (NC Basic Manual). The approved revisions are to NC Basic Manual rules related to the COVID-19 pandemic.

NCCI Item B-1441 – *Revisions to NCCI Manual Rules Related to the COVID-19 (Coronavirus) Pandemic* revises and establishes rules to add information stating that payments to paid furloughed employees are excluded from premium calculations. Payments made to furloughed employees will be reported as exposure in a statistical code, and no premium will be applicable. The approved changes will be applicable to all policies in effect on or after March 1, 2020 until December 31, 2020*.

Separate, accurate, and verifiable records must be maintained for furloughed employees.

In addition to the changes addressed by the NCCI item filing, a North Carolina state-specific filing temporarily revises the NC Basic Manual rules to allow employees, whose duties were previously assigned to a higher-rated governing classification, to be reassigned to Classification Code 8871 – Clerical Telecommuter Employees. This reclassification is intended for employees now working in a stay-at-home environment and performing duties consistent with clerical operations, when the higher-rated governing classification does not include clerical operations. The approved payroll reclassification will be applicable to policies in effect on or after March 30, 2020 – the day the North Carolina stay-at-home order was issued – until 45 days after the order is lifted to allow employers flexibility to implement their own return-to-work-plan.

If separate, accurate, and verifiable records are not maintained, payroll is assigned to the classification for work normally performed by the employee prior to any emergency orders, laws, or regulations issued due to the COVID- 19 (coronavirus) pandemic.

In either the case of furloughed employees, or the case of temporary reassignment to Classification Code 8871, payroll records must clearly reflect the division of payroll between pre and post North Carolina stay-at-home order.

A complete copy of NCCI's Item Filing B-1441, Bureau Filing, Filing Memorandums, and exhibits outlining all NC Basic Manual changes are included for your review.

If you have any questions, contact the NCRB Information Center at 919-582-1056 or via email at support@ncrb.org.

Sincerely,

Joanna Biliouris

Chief Operating Officer

*Date may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.

JB:ko
Attachments
C-20-17

**North Carolina Rate Bureau
Filing Memorandum**

NCCI Item B-1441 – Revisions to Basic Manual Rules Related to the COVID-19 (Coronavirus) Pandemic

PURPOSE

The purpose of this filing is to revise and establish rules related to:

- Definitions, treatment, and reporting of payments by an employer to paid furloughed employees due to the COVID-19 (Coronavirus) pandemic federal, state, and/or local emergency orders, laws or regulations
- Claims attributable to paid furloughed employees
- Final premium reporting for employers affected by Coronavirus pandemic

This item revises rules in the:

- ***North Carolina Basic Manual for Workers Compensation and Employers Liability Insurance (NCBM)***
- ***North Carolina Workers Compensation Statistical Plan Manual (Stat Plan)***

Exhibits showing revisions to the NCBM follow this filing memorandum. (See NCRB Exhibits 1-7)

BACKGROUND

The World Health Organization categorized the COVID-19 outbreak as a pandemic when the rates of infection continued to rise in many locations around the world and across the United States.

The President of the United States declared the COVID-19 outbreak a national emergency beginning March 1, 2020. The effective date of these rule revisions coincides with the President's declaration date. The expiration date of these rule revisions will tentatively be December 31, 2020. This expiration date may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.

NCCI Item B-1441 is a product of NCCI's ongoing process in which they review and propose modifications. While NCCI's analysis is national in scope, NCCI also recognizes the occasional need for state-specific revisions to reflect geographical differences. With some exceptions for state-specific deviations, North Carolina adheres to the NCCI national system. North Carolina Rate Bureau (Bureau) staff has reviewed NCCI Item B-1441 and given consideration to rule revisions as proposed by NCCI. Based on their review and research staff recommends that the Bureau seek approval for all NCCI proposed revisions to national rules be applicable to North Carolina.

The NCCI Item B-1441 includes exhibits that identify rule revisions. Bureau staff has created exhibits showing how these changes impact the NCBM and Stat Plan.

Changes to the rules for North Carolina, along with any deviations from what has been proposed in NCCI Item B-1441 are noted and explained in the summary that follows.

PROPOSAL

This item proposes to:

1. Establish ***Basic Manual*** Rule 2-B-2-n to add information stating that payments to paid furloughed employees are excluded from premium calculations
2. Revise ***Basic Manual*** Rule 2-F-1 to add a definition for idle time
3. Establish ***Basic Manual*** Rule 2-F-3 to define and address payments to paid furloughed employees
4. Establish Part 3-F-2-d in the ***Statistical Plan*** to add information about reporting payments and zero rate/premium if applicable for payments made to paid furloughed employees to Statistical Code 0012–Paid Furloughed Employees

**North Carolina Rate Bureau
Filing Memorandum**

NCCI Item B-1441 – Revisions to Basic Manual Rules Related to the COVID-19 (Coronavirus) Pandemic

5. Revise the format of **Statistical Plan** Part 3-F and add part 3-F-3 to address instances when final premium cannot be reported due to COVID-19 pandemic
6. Establish Part 4-E-1-f(2)(d) in the **Statistical Plan** to address that no claims can be reported to Statistical Code 0012
7. Establish Statistical Code 0012 in Part 6-E-3 in the **Statistical Plan** for reporting payments made to paid furloughed employees

The Bureau proposes the adoption of changes applicable to North Carolina being proposed by way of NCCI B-1441 as outlined in NCRB Exhibits 1-7.

IMPACT

This item will support the uniform and equitable treatment of employers within each industry during the COVID-19 pandemic. It is recognized that some exposures will shift from various classification codes to Code 0012 resulting in a decrease premium.

IMPLEMENTATION

Rule revisions for North Carolina state-specific rules and National rule revisions proposed by way of NCCI Item B-1441 are applicable to new, renewal, and outstanding voluntary and assigned risk policies in effect on or after March 1, 2020 until December 31, 2020*.

*Date may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.

FILING MEMORANDUM

ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19 (CORONAVIRUS) PANDEMIC

PURPOSE

This item revises and establishes rules related to:

- Definitions, treatment, and reporting of payments by an employer to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations
- Any claims attributable to paid furloughed employees
- Reporting final premium for employers affected by the COVID-19 pandemic

The following NCCI manuals are impacted by these rule changes:

- ***Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual)***
- ***Statistical Plan for Workers Compensation and Employers Liability Insurance (Statistical Plan)***

BACKGROUND

The World Health Organization categorized the COVID-19 outbreak as a pandemic when the rates of infection continued to rise in many locations around the world and across the United States.

The President of the United States declared the COVID-19 outbreak a national emergency beginning March 1, 2020. The effective date of these rule revisions coincides with the President's declaration date. The expiration date of these rule revisions will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.

The COVID-19 pandemic has created unique workers compensation conditions that need to be addressed within NCCI manuals. As a result, NCCI has determined that it is necessary to take the following actions:

- An additional rule must be established in ***Basic Manual*** Rule 2-B-2
- ***Basic Manual*** Rule 2-F-1 must be revised
- An additional rule must be established in ***Basic Manual*** Rule 2-F—Wages for Time Not Worked
- An additional rule must be established in ***Statistical Plan*** Part 3-F-2
- An additional rule must be established in ***Statistical Plan*** Part 3-F-3
- An additional rule must be established in ***Statistical Plan*** Part 4-E-1-f(2)
- New Statistical Code 0012—Paid Furloughed Employees must be established in ***Statistical Plan*** Part 6-E-3

PROPOSAL

This item proposes to:

1. Establish ***Basic Manual*** Rule 2-B-2-n to add information stating that payments to paid furloughed employees are excluded from premium calculations
2. Revise ***Basic Manual*** Rule 2-F-1 to add a definition for idle time
3. Establish ***Basic Manual*** Rule 2-F-3 to define and address payments to paid furloughed employees

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FILING MEMORANDUM

ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
 (CORONAVIRUS) PANDEMIC

4. Establish Part 3-F-2-d in NCCI's **Statistical Plan** to add information about reporting payments and zero rate/premium if applicable for payments made to paid furloughed employees to Statistical Code 0012—Paid Furloughed Employees
5. Revise the format of **Statistical Plan** Part 3-F and add Part 3-F-3 to address instances when final premium cannot be reported due to the COVID-19 pandemic
6. Establish Part 4-E-1-f(2)(d) in NCCI's **Statistical Plan** to address that no claims can be reported to Statistical Code 0012
7. Establish Statistical Code 0012 in Part 6-E-3 in NCCI's **Statistical Plan** for reporting payments made to paid furloughed employees

IMPACT

As a result of this item, it is expected that exposure will shift from various classification codes to Code 0012. The extent of this shift is unknown at this time because it will depend on the nature of the individual employer's business and reporting by carriers. To this extent, the premiums of individual employers could decrease based on the payments made to paid furloughed employees.

EXHIBIT COMMENTS AND IMPLEMENTATION SUMMARY

Exhibit	Exhibit Comments	Implementation Summary
National Exhibits		
1	<ul style="list-style-type: none"> • Details the establishment of Rule 2-B-2-n in NCCI's Basic Manual • Applies in all states except Florida; refer to state exhibit for Florida • All state exceptions will continue to apply unless otherwise noted in the state-specific exhibits 	<ul style="list-style-type: none"> • In all states except Hawaii, this item is to become effective for new, renewal, and outstanding policies effective on and after 12:01 a.m. on March 1, 2020 • In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change
2	<ul style="list-style-type: none"> • Details the revisions to Rule 2-F-1 in NCCI's Basic Manual • Applies in all states except Florida; refer to state exhibit for Florida 	

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FILING MEMORANDUM

ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
 (CORONAVIRUS) PANDEMIC

Exhibit	Exhibit Comments	Implementation Summary
National Exhibits		
3	<ul style="list-style-type: none"> Details the establishment of Rule 2-F-3 in NCCI's Basic Manual Applies in all states except Florida; refer to state exhibit for Florida 	<ul style="list-style-type: none"> In all states except Hawaii, this item is to become effective for new, renewal, and outstanding policies effective on and after 12:01 a.m. on March 1, 2020 In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change
4	Details the establishment of Part 3-F-2-d in NCCI's Statistical Plan .	
5	Details the revisions to Part 3-F and the establishment of Part 3-F-3-c in NCCI's Statistical Plan .	
6	Details the establishment of Part 4-E-1-f(2)(d) in NCCI's Statistical Plan .	
7	Details the establishment of Statistical Code 0012 in Part 6-E-3 in NCCI's Statistical Plan .	
State Exhibits		
8	Details the revisions to Alaska's exception to Statistical Plan Part 3-F-3.*	To become effective for new, renewal, and outstanding policies effective on and after 12:01 a.m. on March 1, 2020.
8	Details the revision to Arkansas' exception to Basic Manual Rule 2-B-2.*	
8	Details the revision to Connecticut's exception to Statistical Plan Part 3-F-2.*	
8	Details the revisions to Florida's exception to Basic Manual Rule 2-B-2.	
9	Details the establishment of Florida's exception to Rule 2-F-1 in NCCI's Basic Manual .	
10	Details the establishment of Florida's exception to Rule 2-F-3 in NCCI's Basic Manual .	
8	Details the revision to Illinois' exception to Basic Manual Rule 2-B-2.*	
8	Details the revision to Indiana's exception to Basic Manual Rule 2-B-2.*	
9	Details the revisions to Indiana's exception to Statistical Plan Part 3-F-3.*	
8	Details the revision to Kansas's exception to Basic Manual Rule 2-B-2.*	

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ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
 (CORONAVIRUS) PANDEMIC

Exhibit	Exhibit Comments	Implementation Summary
State Exhibits		
9	Details the revision to Kansas's exception to Statistical Plan Part 3-F-2.*	To become effective for new, renewal, and outstanding policies effective on and after 12:01 a.m. on March 1, 2020.
8	Details the revision to Kentucky's exception to Basic Manual Rule 2-B-2.*	
8	Details the revision to Louisiana's exception to Basic Manual Rule 2-B-2.*	
8	Details the revision to Maryland's exception to Basic Manual Rule 2-B-2.*	
8	Details the revision to Montana's exception to Statistical Plan Part 3-F-2.*	
9	Details the revision to Montana's exception to Statistical Plan Part 4-E-1-f(2).*	
8	Details the revision to New Hampshire's exception to Statistical Plan Part 3-F-2.*	
9	Details the revision to New Hampshire's exception to Statistical Plan Part 4-E-1-f(2).*	
8	Details the revision to New Mexico's exception to Basic Manual Rule 2-B-2.*	
8	Details the revision to Oklahoma's exception to Basic Manual Rule 2-B-2.*	
8	Details the revisions to Oregon's exception to Basic Manual Rule 2-B-2.*	
9	Details the establishment of Oregon's exception to Part 3-F-3-c in NCCI's Statistical Plan .	
8	Details the revision to South Dakota's exception to Basic Manual Rule 2-B-2.*	
8	Details the revision to Tennessee's exception to Basic Manual Rule 2-B-2.*	

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ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
 (CORONAVIRUS) PANDEMIC

Exhibit	Exhibit Comments	Implementation Summary
State Exhibits		
8	Details the revisions to Texas's exception to Statistical Plan Part 3-F-3.*	To become effective for new, renewal, and outstanding policies effective on and after 12:01 a.m. on March 1, 2020.
8	Details the revision to Utah's exception to Basic Manual Rule 2-B-2.*	

* This exhibit is included only to adjust numbering due to reformatting.

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ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
(CORONAVIRUS) PANDEMIC

EXHIBIT 1
BASIC MANUAL—2001 EDITION
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION
B. PAYROLL

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

(Exhibit comment: All current state exceptions will continue to apply unless otherwise noted in the state-specific exhibits)

2. Excludes:

- a. Tips or other gratuities received by employees.
- b. Payments by an employer to group insurance or group pension plans for employees, other than those covered by Rule 2-B-1-f and Rule 2-B-1-m.
- c. Payments by an employer into third-party trusts for the Davis-Bacon Act or a similar prevailing wage law provided the pension trust is qualified under IRC Sections 401(a) and 501(a).
- d. The value of special rewards for individual invention or discovery.
- e. Dismissal or severance payments except for time worked or vacation accrued.
- f. Payments for active military duty.
- g. Employee discounts on goods purchased from the employee's employer.
- h. Expense reimbursements to employees if the employer's records confirm that the expense was incurred as a valid business expense.

Reimbursed expenses and flat expense allowances paid to employees may be excluded from the audit only if all three of the following conditions are met:

- (1) The expenses or allowances are incurred for the business of the employer
- (2) The amount of each employee's expense or allowance is shown separately in the records of the employer
- (3) The amount of the expense or allowance approximates the actual expense incurred by the employee in the conduct of their work

*Refer to NCCI's **User's Guide** for an example.*

Note: If an employer did not maintain verifiable receipts for incurred expenses for an employee that was away from home overnight on the business of an employer a maximum expense allowance is permitted to be excluded. *Refer to Rule 2-B-1-p Exception for the maximum employee expense allowance.*

Allowable travel expenses permitted by any contract with a federal, state, or local government entity, including, but not limited to, a city, borough, or village, are excluded from payroll. In lieu of verifiable receipts for incurred expenses, the employer must produce a copy of the contract provision permitting the travel expenses at audit. The allowable travel expenses must be in addition to the current wage of the employee.

- i. Meal money for late work.
- j. Work uniform allowances.
- k. Sick pay paid to an employee by a third party such as an employer's group insurance carrier that is paying disability income benefits to a disabled employee.
- l. Employer-provided perks such as:
 - Use of company-provided automobiles
 - Airplane flights
 - Incentive vacations (e.g., contest winners)

ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
(CORONAVIRUS) PANDEMIC

EXHIBIT 1 (CONT'D)
BASIC MANUAL—2001 EDITION
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION
B. PAYROLL

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

(Exhibit comment: All current state exceptions will continue to apply unless otherwise noted in the state-specific exhibits)

- Discounts on property or services
 - Club memberships
 - Tickets to entertainment events
 - Educational assistance
 - Relocation and moving expenses
- m. Employer contributions to employee benefit plans such as:
- Employee savings plans
 - Retirement plans
 - Cafeteria plans (IRC 125)
 - Health savings accounts
 - Flexible spending accounts
- These include contributions made by the employer, at the employer's expense, which are determined by the amount contributed by the employee.
- n. Payments made by an employer or any public governmental entity to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations. However, any appropriated funds or loans received by an employer as authorized by any law or regulation, or public governmental entity, that are used by an employer specifically to retain or hire working employees are not excluded.
- Refer to Rule 2-F-3 for the definitions of paid furloughed employees and payments to paid furloughed employees.
- This Rule 2-B-2-n is effective March 1, 2020. The expiration date of this rule will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities. This rule will be removed from the **Basic Manual** automatically, upon the applicable expiration date.

ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
(CORONAVIRUS) PANDEMIC

EXHIBIT 2
BASIC MANUAL—2001 EDITION
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION
F. WAGES FOR TIME NOT WORKED

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

1. Idle Time

Idle time is downtime that occurs when employees are not working and the employer pays the employees for the time not worked.

~~Some employers pay employees for time not worked.~~ All wages paid to the employee for such idle time must be included in payroll. ~~These wages paid during this time~~ are assigned to the classification for work normally performed by the employee under the following circumstances:

- Suspension or delay of work due to weather conditions
- Delays while waiting for materials
- Delays while waiting for another party to complete certain work
- Delays arising from breakdown in equipment
- “Stand-by” time where employees such as operators of cranes, hoists or other equipment are on the job, but their active services are not required continuously
- Special union requirements or agreements between employer and employees calling for pay for idle time under specific circumstances
- Inability of non-striking employees to perform normal duties due to other employees who are on strike. If non-striking employees perform absolutely no work for their employer and are not present at their employer’s premises or job sites during a strike period, their payroll must be assigned to Code 8810—Clerical Office Employees, provided adequate records are maintained by the employer.
- All other causes of a similar nature

For purposes of this Rule 2-F-1, idle time does not include “paid furloughed employees” or “payments to paid furloughed employees” as provided in **Basic Manual** Rule 2-F-3. The expiration date of this paragraph will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities. This paragraph in this Rule 2-F-1 will be removed from the **Basic Manual** automatically, upon the applicable expiration date.

Refer to **User’s Guide** for an example.

Refer to Rule 2-F-2 for the treatment of idle time by construction, erection or stevedoring risks.

ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
(CORONAVIRUS) PANDEMIC

EXHIBIT 3
BASIC MANUAL—2001 EDITION
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION
F. WAGES FOR TIME NOT WORKED

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

3. Payments to Paid Furloughed Employees During Federal, State, and/or Local Emergency Orders, Laws, or Regulations Issued Due to the COVID-19 (Coronavirus) Pandemic

For purposes of this Rule 2-F-3, "paid furloughed employees" and "payments to paid furloughed employees" are defined within this rule. "Paid furloughed employees" means employees who continue to receive payments during a temporary layoff or an involuntary leave and are not performing any work duties for an employer.

"Payments to paid furloughed employees" means payments made by an employer or any public governmental entity to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations. Such payments do not include any appropriated funds or loans received by an employer as authorized by any law or regulation, or public governmental entity, that are used by an employer specifically to retain or hire working employees.

Payments to paid furloughed employees must be assigned to Code 0012, in accordance with the **Statistical Plan**. Payments to paid furloughed employees made in accordance with this Rule 2-F-3 are excluded from the premium and experience rating calculations only if the employer keeps separate, accurate, and verifiable records. If separate, accurate, and verifiable records are not maintained, payroll is assigned to the classification for work normally performed by the employee prior to any emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic.

If an employee is requested to perform any duties for an employer, the employee is not deemed a paid furloughed employee for any period of time they are performing duties for the employer. If the employee is not deemed a paid furloughed employee, payroll must be assigned to the classification applicable to the work being performed in accordance with **Basic Manual** Rule 1-A.

This Rule 2-F-3 is effective March 1, 2020. The expiration date of this rule will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities. This rule will be removed from the **Basic Manual** automatically, upon the applicable expiration date.

ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
(CORONAVIRUS) PANDEMIC

EXHIBIT 4
STATISTICAL PLAN—2008 EDITION
PART 3—EXPOSURE INFORMATION
F. EXPOSURE AMOUNT

2. Nonpayroll Exposure

(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

d. **Paid Furloughed Employees**

Paid furloughed employees means employees who continue to receive payments during a temporary layoff or an involuntary leave and are not performing any work duties for an employer. Effective March 1, 2020, payments by an employer or any public governmental entity to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations must be reported to Statistical Code 0012—Paid Furloughed Employees. Such payments do not include any appropriated funds or loans received by an employer as authorized by any law or regulation, or public governmental entity, that are used by an employer specifically to retain or hire working employees.

The expiration date of this code will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.

Code 0012 may be used as a Statistical Code to report the payments only; or it may be used as a Classification Code to report the payments with a zero rate and zero premium.

Payments reported to Code 0012 are excluded from premium and experience rating calculations only if the employer keeps separate, accurate, and verifiable records.

**ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
(CORONAVIRUS) PANDEMIC**

**EXHIBIT 5
STATISTICAL PLAN—2008 EDITION
PART 3—EXPOSURE INFORMATION
F. EXPOSURE AMOUNT**

(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

3. Final or Estimated Premium**a. Audited or Estimated Exposure**

When the exposure reported on the 1st report corresponds to the final premium amount by class code, report as follows:

- The exposure and class code(s) corresponding to the final premium
- “N” for the Estimated Audit Code—Policy Conditions

When the exposure reported on the 1st report is based on estimated exposure, report as follows:

- The estimated exposure and class code(s) corresponding to the estimated premium
- “Y” for the Estimated Audit Code—Policy Conditions

When the exposure reported on the 1st report was based on estimated exposure and subsequently the final premium is determined, a correction to the 1st report must be reported as follows:

- The exposure and class code(s) corresponding to the final premium
- “N” for the Estimated Audit Code—Policy Conditions

b. Audit Noncompliance Charge

When the exposure reported on the 1st report includes Statistical Code 9757—Audit Noncompliance Charge, report the Estimated Audit Code as an “N” in the applicable Policy Condition Indicator field.

If subsequent to reporting Statistical Code 9757, and the final policy premium is determined in accordance with NCCI’s *Basic Manual* rules, the statistical code and its accompanying charge must be removed. Additionally, the Estimated Audit Code must continue to be reported as “N,” and the exposure and premium must reflect the final audit. Refer to Part 5, Item A-1 for correction reports.

c. COVID-19

If final premium based on audited exposure cannot be reported due to federal, state, and/or local emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic which impact an employer’s staffing or business operations, report the applicable exposure and premium in the class code(s) and the Estimated Audit Code as an “N.”

This rule is effective March 1, 2020. The expiration date of this rule will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.

ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
(CORONAVIRUS) PANDEMIC

EXHIBIT 6
STATISTICAL PLAN—2008 EDITION
PART 4—LOSS AND EXPENSE INFORMATION
E. CLAIM COMPONENTS

1. Required Claim Components

f. Classification Code

(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

(2) Additional Classification Code Loss Reporting

Additional classification code reporting rules apply as follows:

(a) Aircraft Operation Losses

For Policies Effective January 1, 2015, and Subsequent:

For policies that include Classification Code 7421—Aviation—Transportation of Personnel in Conduct of Employer's Business—Flying Crew, report all exposure and any losses for members of the flying crew to Classification Code 7421.

For all other employees covered on the policy, all exposure and any losses are reported to the classification code to which the injured worker's payroll is assigned.

For Policies Effective Prior to January 1, 2015:

Losses incurred under the policy—other than to members of the flying crew—must be reported under Statistical Code 9108—Aircraft Operation—Passenger Seat Surcharge.

(b) Losses Resulting From Black Lung and Supplementary Disease

Losses resulting from Black Lung and supplementary disease exposure must be reported to the appropriate statistical code.

Refer to Part 1, Item L—Coal Mine and Black Lung Disease Experience for reporting losses resulting from Black Lung disease.

Refer to Part 3, Item F-2-c—Other Miscellaneous Exposures for a listing of supplemental disease statistical codes.

(c) Contract Medical

A class code is not required for contract medical claims.

Note: Contract medical claims are medical-only claims covered entirely by a medical contract.

(d) Paid Furloughed Employees

For any claims attributable to an employee occurring prior to or after a temporary layoff or an involuntary leave, report losses to the classification for work normally performed by the employee that corresponds to the employee's payroll. No claim can be reported to Code 0012—Paid Furloughed Employees.

This rule is effective March 1, 2020. The expiration date of this rule will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.

ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
(CORONAVIRUS) PANDEMIC

EXHIBIT 7
STATISTICAL PLAN—2008 EDITION
PART 6—CODING VALUES

(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

E. STATISTICAL CODES

3. Premium Amount *Not Part* of Standard Premium

Phraseology	Stat Code	Premium Credit (-) or Debit (+)	Applicable States	Effective Date	Discontinued Date	Notes (If Applicable)
Paid Furloughed Employees	0012	N/A	AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV	03/01/2020	12/31/2020*	Refer to Part 3-F-2—Nonpayroll Exposure for details on Paid Furloughed Employees. Code 0012 may be used as a Statistical Code to report the payments only; or it may be used as a Classification Code to report the payments with a zero rate and zero premium. *Code 0012 will expire on December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.

ITEM B-1441—REVISIONS TO NCCI MANUAL RULES RELATED TO THE COVID-19
(CORONAVIRUS) PANDEMIC

EXHIBIT 7 (CONT'D)
STATISTICAL PLAN—2008 EDITION
PART 6—CODING VALUES

(Applies in: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

Phraseology	Stat Code	Premium Credit (-) or Debit (+)	Applicable States	Effective Date	Discontinued Date	Notes (If Applicable)
Paid Furloughed Employees	0012	N/A	FL	03/01/2020	12/31/2020*	Refer to Part 3-F-2—Nonpayroll Exposure for details on Paid Furloughed Employees. Code 0012 must be displayed on the policy Information Page with a zero rate and zero premium. *Code 0012 will expire on December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with the Florida Office of Insurance Regulation.

Rule Revisions Related to COVID-19 (Coronavirus) Pandemic – North Carolina Basic Manual
Part I – Rules
Rule 2-B-2-n
Effective March 1, 2020

Rule 2 – PREMIUM AND PAYROLL

B. Payroll

2. Excludes

- a. Tips or other gratuities received by employees.
- b. Group insurance or group pension payments made by an employer for employees, other than those covered by [Rule 2-B-1-f](#) and [Rule 2-B-1-m](#).
- c. Payments by an employer into third-party trusts for the Davis-Bacon Act or similar prevailing wage laws, provided the pension trust is qualified under the Internal Revenue Code, Sections 401(a) and 501(a).
- d. The value of special rewards for individual invention or discovery.
- e. Payments for dismissal or severance except for time worked or vacation accrued.
- f. Payments for active military duty.
- g. Employee discounts on goods purchased from the employee's employer.
- h. Expense reimbursements to employees if the employer's records confirm that the expense was incurred as a valid business expense.

Flat expense allowances and reimbursed expenses paid to employees may be excluded from the audit if all three of the following conditions are met:

- 1) The expenses or allowances are incurred for the business of the employer
- 2) The amount of each employee's expense or allowance is shown separately in the records of the employer.
- 3) The amount of the expense or allowance approximates the actual expense incurred by the employee in the conduct of their work.

NOTE: If an employer did not maintain verifiable receipts for incurred expenses for an employee that was away from home overnight on the business of an employer a maximum expense allowance is permitted to be excluded. Refer to [Rule 2-B-1-p](#) exception for the maximum employee expense allowance.

Allowable travel expenses permitted by any contract with a federal, state, or local government entity, including, but not limited to, a city, borough, or village, are excluded from payroll. In lieu of

Rule Revisions Related to COVID-19 (Coronavirus) Pandemic – North Carolina Basic Manual
Part I – Rules
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verifiable receipts for incurred expenses, the employer must produce a copy of the contract provision permitting the travel expenses at audit. The allowable travel expenses must be in addition to the current wage of the employee.

Example of payroll exclusions:

Consider an employer that allows a \$0.55 per mile reimbursement for an employee that uses a personal vehicle for company business. The employer considers the \$0.55 per mile reimbursement a fair estimate of actual incurred expenses. The employee drives 100 miles in a personal vehicle for the company. The \$55.00 reimbursement (100 miles x \$0.55) is a fair estimate and is excluded from payroll.

- i. Meal money for late work
- j. Work uniform allowance
- k. Disability income benefits paid to an employee by a third party such as an insured's group insurance carrier
- l. Employer-provided perks including, but not limited to:
 - 1) Use of company car
 - 2) Airplane flights
 - 3) Incentive vacations (e.g., contest winners)
 - 4) Discounts on property or services
 - 5) Club memberships
 - 6) Tickets to entertainment events
 - 7) Educational assistance
 - 8) Relocation and moving expenses
- m. Employer contributions to employee benefit plans such as:
 - 1) Employee savings plans
 - 2) Retirement plans
 - 3) Cafeteria plans (Internal Revenue Code 125)
 - 4) Health savings accounts
 - 5) Flexible spending accountsThese include any contributions made by the employer, at the employer's expense, which are based upon the amount contributed by the employee.

n. Payments made by an employer or any public governmental entity to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations.

However, any appropriated funds or loans received by an employer as authorized by any law or

Rule Revisions Related to COVID-19 (Coronavirus) Pandemic – North Carolina Basic Manual
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Effective March 1, 2020

regulation, or public governmental entity, that are used by an employer specifically to retain or hire working employees are not excluded.

Refer to Rule 2-F-3 for the definitions of paid furloughed employees and payments to paid furloughed employees.

This Rule 2-B-2-n is effective March 1, 2020. The expiration date of this rule will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities. This rule will be removed from the **Basic Manual** automatically, upon the applicable expiration date.

Rule Revisions Related to COVID-19 (Coronavirus) Pandemic – North Carolina Basic Manual

Part I – Rules

Rule 2-F-1

Effective March 1, 2020

Rule 2 – PREMIUM AND PAYROLL

F. Wages for Time Not Worked

1. Idle Time

Idle time is downtime that occurs when employees are not working and the employer pays the employees for the time not worked.

~~If an employer pays employees for time not worked, this is considered idle time.~~ All wages paid to the employee for ~~such~~ idle time must be included in payroll. ~~These w~~Wages paid during this time are assigned to the classification for work normally performed by the employee under the following circumstances:

- Delay or suspension of work due to weather conditions
- Delays while waiting for materials
- Delays while waiting for another party to complete its portion of the work
- Delays arising from breakdown in equipment
- “Stand by” time where employees such as operators of cranes, hoists, or other equipment are on the job but their active services are not continuously required
- Union requirements or special agreements between employer and employees calling for pay for idle time under specific circumstances
- Inability of non-striking employees to perform normal duties due to other employees who are on strike. If non-striking employees perform absolutely no work for their employer and are not present at their employer’s premises or job sites during a strike period, their payroll must be assigned to Code 8810 – Clerical Office Employees, provided adequate records are maintained by the employer.
- All other causes of a similar nature

For purposes of this Rule 2-F-1, idle time does not include “paid furloughed employees” or “payments to paid furloughed employees” as provided in **Basic Manual** Rule 2-F-3. The expiration date of this paragraph will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities. This paragraph in this Rule 2-F-1 will be removed from the **Basic Manual** automatically, upon the applicable expiration date.

NOTE: For idle time by construction, erection, or stevedoring risks refer to [Rule 2-F-2](#).

Example of wages paid for time not worked:

An insured’s employees regularly work 8 hours per day, 5 days a week. In a given week, there were two work stoppages for a total of 3 hours, because of delays in delivering of materials to the site. The employees were paid their regular rate of pay while idle for the 3 hours. The payroll is assigned to the classification for the work normally performed and is included in the policy’s payroll audit.

Rule Revisions Related to COVID-19 (Coronavirus) Pandemic – North Carolina Basic Manual
Part I – Rules
Rule 2-F-3
Effective March 1, 2020

Rule 2 – PREMIUM AND PAYROLL
F. Wages for Time Not Worked

3. Payments to Paid Furloughed Employees During Federal, State, and/or Local Emergency Orders, Laws, or Regulations Issued Due to the COVID-19 (Coronavirus) Pandemic

For purposes of this Rule 2-F-3, "paid furloughed employees" and "payments to paid furloughed employees" are defined within this rule. "Paid furloughed employees" means employees who continue to receive payments during a temporary layoff or an involuntary leave and are not performing any work duties for an employer.

"Payments to paid furloughed employees" means payments made by an employer or any public governmental entity to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations. Such payments do not include any appropriated funds or loans received by an employer as authorized by any law or regulation, or public governmental entity, that are used by an employer specifically to retain or hire working employees.

Payments to paid furloughed employees must be assigned to Code 0012, in accordance with the **Statistical Plan**. Payments to paid furloughed employees made in accordance with this Rule 2-F-3 are excluded from the premium and experience rating calculations only if the employer keeps separate, accurate, and verifiable records. If separate, accurate, and verifiable records are not maintained, payroll is assigned to the classification for work normally performed by the employee prior to any emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic.

If an employee is requested to perform any duties for an employer, the employee is not deemed a paid furloughed employee for any period of time they are performing duties for the employer. If the employee is not deemed a paid furloughed employee, payroll must be assigned to the classification applicable to the work being performed in accordance with **Basic Manual** Rule 1-A.

This Rule 2-F-3 is effective March 1, 2020. The expiration date of this rule will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities. This rule will be removed from the **Basic Manual** automatically, upon the applicable expiration date.

Rule Revisions Related to COVID-19 (Coronavirus) Pandemic – North Carolina Statistical Plan
Part 3 – Exposure Information
Part 3-F-4-c
Effective March 1, 2020

Rule F – Exposure Amount
4. Non-Payroll Exposure

c. Paid Furloughed Employees

Paid furloughed employees means employees who continue to receive payments during a temporary layoff or an involuntary leave and are not performing any work duties for an employer. Effective March 1, 2020, payments by an employer or any public governmental entity to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations must be reported to Statistical Code 0012—Paid Furloughed Employees. Such payments do not include any appropriated funds or loans received by an employer as authorized by any law or regulation, or public governmental entity, that are used by an employer specifically to retain or hire working employees.

The expiration date of this code will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.

Code 0012 may be used as a Statistical Code to report the payments only; or it may be used as a Classification Code to report the payments with a zero rate and zero premium.

Payments reported to Code 0012 are excluded from premium and experience rating calculations only if the employer keeps separate, accurate, and verifiable records.

Rule Revisions Related to COVID-19 (Coronavirus) Pandemic – North Carolina Statistical Plan
Part 3 – Exposure Information
Part 3-F-1
Effective March 1, 2020

Rule F – Exposure Amount

1. Payroll Exposure

Exposures are required for all classification codes. The exposure reported shall be the audited exposure corresponding to the charged premium amount.

a. Audited or Estimated Exposure

If the final audit has been completed by the USR valuation date, the Estimated Audit Code field should contain the value "N" when the unit is submitted to the Bureau.

If the final audit has not been completed by the USR valuation date, the Estimated Audit Code field should contain the value "Y" when the unit is submitted to the Bureau. Without further request from the Bureau, a correction to the USR must be submitted updating the value to "N" as soon as audited payrolls are available.

b. Audit Noncompliance Charge

If the final audit has not been completed by the USR valuation date due to the insured being uncooperative with the audit; the Estimated Audit Code filed must contain the value "U" when the unit is submitted to the Bureau. Statistical Code 9757 - Audit Noncompliance Charge may be reported when conditions have been met to apply the audit noncompliance charge as outlined in the Basic Manual. Without further request from the Bureau, the USR must be replaced by a correction report as soon as audited payrolls are available.

Note:

When the exposure reported on the 1st report includes Statistical Code 9757 - Audit Noncompliance Charge, the Estimated Audit Code must be reported as "U".

If, at any time, a final audit is successfully completed, a correction must be submitted to remove statistical code 9757 and update the value of the Estimated Audit Code to "N".

c. COVID-19

If final premium based on audited exposure cannot be reported due to federal, state, and/or local emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations, report the applicable exposure and premium in the class code(s) and the Estimated Audit Code as an "N."

This rule is effective March 1, 2020. The expiration date of this rule will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.

Rule Revisions Related to COVID-19 (Coronavirus) Pandemic – North Carolina Statistical Plan
Part 4 – Losses and Expense Information
Part 4-H-5
Effective March 1, 2020

H. Claim Components

5. Classification Code

Submit the classification code corresponding to the injured employee's payroll determined in accordance with the rules of the *Basic Manual for Workers Compensation and Employers Liability Insurance*.

No claim may be assigned to any classification unless exposure has also been reported for that classification. Report the classification code under which the injured employee's payroll is assigned, even if, at the time of injury, the employee may have been involved in an activity that would be classified differently.

Note:

Paid Furloughed Employees

For any claims attributable to an employee occurring prior to or after a temporary layoff or an involuntary leave, report losses to the classification for work normally performed by the employee that corresponds to the employee's payroll. No claim can be reported to Code 0012— Paid Furloughed Employees.

This rule is effective March 1, 2020. The expiration date of this rule will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.

Rule Revisions Related to COVID-19 (Coronavirus) Pandemic – North Carolina Statistical Plan
Part 6 – Coding Values
Part 6-I-3
Effective March 1, 2020

I. Statistical Codes

3. Premium Amount Not Subject to Standard Premium (Non-Standard)

g. Paid Furloughed Employees

Statistical Code	Description	Effective Date	Discontinued Date	Notes
0012	Paid Furloughed Employees	03/01/2020	12/31/2020*	<p>Refer to Part 3-F-2—Nonpayroll Exposure for details on Paid Furloughed Employees. Code 0012 may be used as a Statistical Code to report the payments only; or it may be used as a Classification Code to report the payments with a zero rate and zero premium.</p> <p>*Code 0012 will expire on December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with state regulatory authorities.</p>

**North Carolina Rate Bureau
Filing Memorandum**

**ASSIGNMENT OF CLASSIFICATION CODE 8871–CLERICAL TELECOMMUTER EMPLOYEES FOR
TEMPORARY CHANGE IN DUTIES DURING CORONAVIRUS PANDEMIC**

PURPOSE

The purpose of this filing is to revise rules related to the:

- Classification of employees working remotely due to the COVID-19 (Coronavirus) pandemic state emergency orders, laws or regulations

This item revises rules in the:

- ***North Carolina Basic Manual for Workers Compensation and Employers Liability Insurance (NCBM)***

Exhibits showing revisions to the NCBM follow this filing memorandum. (See NCRB Exhibits 1-4)

BACKGROUND

The World Health Organization categorized the COVID-19 outbreak as a pandemic when the rates of infection continued to rise in many locations around the world and across the United States.

The President of the United States declared the COVID-19 outbreak a national emergency beginning March 1, 2020.

The Governor of North Carolina issued a stay-at-home-order, effective March 30, 2020, to slow the spread of COVID-19. The effective date of these rule revisions coincides with the Governor's stay-at-home order date. The expiration date of these rule revisions will tentatively be 45 days after the expiration of the stay-at-home order.

The North Carolina Rate Bureau (NCRB) has been closely monitoring the development and spread of COVID-19 (Coronavirus). Having modified operations to accommodate staff working remotely, several of our own processes have changed in order to maintain normal business operations. We recognize this is true statewide for the industry as well.

This state-specific proposal to temporarily allow the assignment of Classification Code 8871 – Clerical Telecommuter Employees during the COVID-19 pandemic is a product of the NCRB's ongoing process of state-specific review and modification proposals. Based on review and research, staff recommends that the Bureau seek approval for proposed revisions to North Carolina rules.

Bureau staff has created exhibits showing how these changes impact the NCBM.

Changes to the rules for North Carolina are noted and explained in the summary that follows.

PROPOSAL

This item proposes to add temporary rules allowing assignment of Code 8871 for clerical telecommuter employees during the COVID-19 pandemic to:

1. ***Basic Manual*** Rule 1-B-4
2. ***Basic Manual*** Rule 1-F-4
3. ***Basic Manual*** Rule 2-B-1
4. ***Basic Manual*** Rule 2-G-4

The Bureau proposes the adoption of changes to North Carolina being proposed as outlined in NCRB Exhibits 1-4.

**North Carolina Rate Bureau
Filing Memorandum**

**ASSIGNMENT OF CLASSIFICATION CODE 8871—CLERICAL TELECOMMUTER EMPLOYEES FOR
TEMPORARY CHANGE IN DUTIES DURING CORONAVIRUS PANDEMIC**

The Bureau proposes to allow the temporary assignment of a higher rated classification to Classification Code 8871—Clerical Telecommuter Employees (Code 8871) to the payroll of operations performing duties consistent with this classification's definition during the duration of the North Carolina stay-at-home order that took effect on March 30, 2020. This provision would apply to the operations that meet the definition of Code 8871, while North Carolina's stay-at-home order is in place, and for up to 45 days after North Carolina's stay-at-home order has been lifted. This provision would **not** apply to the payroll of operations that meets the definition of a classification code that includes Clerical Office Employees.

Exhibit showing this proposed revision to the NCBM follow this filing memorandum. (See NCRB Exhibits 1-4)

IMPACT

This item will support the uniform and equitable treatment of employers within each industry during the COVID-19 pandemic. It is recognized that some exposures will shift from various classification codes to Code 8871 resulting in a decrease in premium.

IMPLEMENTATION

The allowance for temporary assignment of Code 8871 for North Carolina operations proposed by the Bureau is applicable to all policies in effect on or after March 30, 2020 until 45 days after North Carolina's stay-at-home order has been lifted.

**ASSIGNMENT OF CLASSIFICATION CODE 8871—CLERICAL TELECOMMUTER
EMPLOYEES FOR TEMPORARY CHANGE IN DUTIES DUE TO DURING CORONAVIRUS
PANDEMIC
Rule 1-B-4
Effective March 30, 2020**

PART 1 - RULES

B. Classification Explanation

4. General Exclusions

Some operations in the business are so unusual for the business described in the basic classification they must be separately classified even though the operations are not conducted as a secondary business. These operations are called general exclusions. They are classified separately unless they are specifically included in the basic classification. General exclusions are:

- Aviation – all operations of ground and flying crews, including piloting of drone aircraft with a combined weight (including its attached systems, payload, and cargo) of 55 pounds or more
- New construction or alterations
- Stevedoring
- Sawmill operations

Example of a General Exclusion:

An internet service provider, classified to the standard exception Code 8810 – Clerical Office Employees NOC, maintains a private plane, pilot and flight crew for the use of executives traveling to various work locations. The employer-provided aviation services are considered a general exclusion. This means that unless a classification applicable to the business includes aviation, this service is separately classified. Therefore, the aviation services provided by the internet service provider must be separately classified to the appropriate aviation classification(s).

Note:

COVID-19 Pandemic – Assignment of Classification Code 8871—Clerical Telecommuter Employees for Temporary Change in Duties

Operations of a higher-rated classification that have been amended to clerical telecommuting due to the North Carolina governor-declared stay-at-home order qualify to be assigned to Classification Code 8871 – Clerical Telecommuter Employees for the duration of the stay-at-home order. This provision shall apply while the operations perform duties consistent with Code 8871's definition, from when North Carolina's stay-at-home order took effect on March 30, 2020 and for up to 45 days after the stay-at-home order has been lifted. This provision shall **not** apply to operations that meet the definition of a classification code that includes Clerical Office Employees.

**ASSIGNMENT OF CLASSIFICATION CODE 8871—CLERICAL TELECOMMUTER
EMPLOYEES FOR TEMPORARY CHANGE IN DUTIES DUE TO DURING CORONAVIRUS
PANDEMIC
Rule 1-F-4
Effective March 30, 2020**

PART 1 – RULES

F. Classification Changes or Corrections

1. Classification changes due to changes in an insured’s operations will be applied as of the date the change in operations occurred.
2. Classification corrections that result in a decrease in premium, whether determined during the policy period or at audit, must be applied retroactively to the effective date of the policy.
3. Classification corrections that result in an increase in premium, must be applied as follows:

If the correction in classification is effective...	Then the correction is applied...
During the first 120 days of the policy term...	Retroactively to the inception of the policy.
After the first 120 days of the policy term, but before the final 90 days...	As of the date the carrier discovers the cause for that correction.
During the last 90 days of the policy term...	Only to a renewal policy, if any.

The effective date of change, for purposes of the time periods noted in the table above, is the date a carrier applies a classification change.

Exceptions to the table above:

- a. If the classification correction is the result of an omission or misrepresentation by the insured, its agents, employees, officers, or directors, then the correction must be applied from the date on which the change would have applied if such omission or misrepresentation had not occurred.
- b. The above rules do not apply to the following types of operations; therefore, classifications are assigned and applied at any time during the term of the policy or at audit:
 - Construction or erection
 - Employee leasing
 - Labor contracting
 - Temporary labor services
 - Professional employer organizations
 - Operations assigned to standard exception classifications
 - General exclusions

**ASSIGNMENT OF CLASSIFICATION CODE 8871—CLERICAL TELECOMMUTER
EMPLOYEES FOR TEMPORARY CHANGE IN DUTIES DUE TO DURING CORONAVIRUS
PANDEMIC
Rule 1-F-4
Effective March 30, 2020**

4. For purposes of Rule 1-F, the reallocation of payroll among classifications on the policy is not considered a change or correction in classification(s).

Example of reallocation of payroll:

- An insured has Codes 8810 and 3632 on its policy. Jane Doe has been reported in 8810 by the insured. The auditor discovers that she cleans the office and reassigns her payroll in 3632. This is permissible because Code 3632 was already on the policy.
- An insured has Codes 3179 and 3076 on its policy. John Doe has been reported in 3179. The auditor discovers that John Doe interchanges between 3076 and 3179 operations and there is no division of payroll. Code 3076 is the higher rated code. It is permissible to reassign all payroll from 3179 to 3076 because 3076 was already on the policy.

Note:

COVID-19 Pandemic – Assignment of Classification Code 8871—Clerical Telecommuter Employees for Temporary Change in Duties

Operations of a higher-rated classification that have been amended to clerical telecommuting due to the North Carolina governor-declared stay-at-home order qualify to be assigned to Classification Code 8871 – Clerical Telecommuter Employees for the duration of the stay-at-home order. This provision shall apply while the operations perform duties consistent with Code 8871's definition, from when North Carolina's stay-at-home order took effect on March 30, 2020 and for up to 45 days after the stay-at-home order has been lifted. This provision shall **not** apply to operations that meet the definition of a classification code that includes Clerical Office Employees.

5. No application to change classification(s) on the grounds that the risk has been improperly classified will be considered by the NCRB unless:
- The application is filed directly with the Bureau, by the insured or by the carrier, and
 - The application is made during the term of the policy or within twelve months after the expiration date thereof.

As provided in the standard workers compensation and employers liability policy, the insurance carrier is permitted to audit or re-audit within three years after termination of the policy. The revised audit may be for the purpose of reallocation or amendment of the payroll or other premium basis, according to the rules, rates, and rating plans applicable under the manuals used by the carriers at the time the policy was terminated.

**ASSIGNMENT OF CLASSIFICATION CODE 8871—CLERICAL TELECOMMUTER
EMPLOYEES FOR TEMPORARY CHANGE IN DUTIES DUE TO DURING CORONAVIRUS
PANDEMIC
Rule 2-F-1
Effective March 30, 2020**

PART 2 – PREMIUM AND PAYROLL

F. Wages For Time Not Worked

1. Idle Time

If an employer pays employees for time not worked, this is considered idle time. All wages paid to the employee for such idle time must be included in payroll. These wages are assigned to the classification for work normally performed by the employee under the following circumstances:

- Delay or suspension of work due to weather conditions
- Delays while waiting for materials
- Delays while waiting for another party to complete its portion of the work
- Delays arising from breakdown in equipment
- “Stand by” time where employees such as operators of cranes, hoists, or other equipment are on the job but their active services are not continuously required
- Union requirements or special agreements between employer and employees calling for pay for idle time under specific circumstances
- Inability of non-striking employees to perform normal duties due to other employees who are on strike. If non-striking employees perform absolutely no work for their employer and are not present at their employer’s premises or job sites during a strike period, their payroll must be assigned to Code 8810 – Clerical Office Employees, provided adequate records are maintained by the employer.
- All other causes of a similar nature

NOTE: For idle time by construction, erection, or stevedoring risks refer to [Rule 2-F-2](#).

Example of wages paid for time not worked:

An insured’s employees regularly work 8 hours per day, 5 days a week. In a given week, there were two work stoppages for a total of 3 hours, because of delays in delivering of materials to the site. The employees were paid their regular rate of pay while idle for the 3 hours. The payroll is assigned to the classification for the work normally performed and is included in the policy’s payroll audit.

Note:

COVID-19 Pandemic – Assignment of Classification Code 8871—Clerical Telecommuter Employees for Temporary Change in Duties

Operations of a higher-rated classification that have been amended to clerical telecommuting due to the North Carolina governor-declared stay-at-home order qualify to be assigned to

**ASSIGNMENT OF CLASSIFICATION CODE 8871—CLERICAL TELECOMMUTER
EMPLOYEES FOR TEMPORARY CHANGE IN DUTIES DUE TO DURING CORONAVIRUS
PANDEMIC
Rule 2-F-1
Effective March 30, 2020**

Classification Code 8871 – Clerical Telecommuter Employees for the duration of the stay-at-home order. This provision shall apply while the operations perform duties consistent with Code 8871’s definition, from when North Carolina’s stay-at-home order took effect on March 30, 2020 and for up to 45 days after the stay-at-home order has been lifted. This provision shall **not** apply to operations that meet the definition of a classification code that includes Clerical Office Employees.

2. Wages Paid to Key Employees

Wages paid to key employees of construction, erection, or stevedoring risks must be classified based on the work that each one actually performs during the periods where no jobs are in progress.

Exception:

If the job duties of the key employees for construction, erection, or stevedoring risks consist exclusively of drafting or other office work, or if these employees are completely idle, the wages must be assigned to Code 8810. Code 8810 is not available for the office time of an employee assigned to classification code 5606. It is expected that an employee assigned to classification code 5606 will spend a considerable portion of time engaged in duties typically assigned to Code 8810.

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PART 2 – PREMIUM AND PAYROLL

G. Interchange of Labor

If an employee performs duties directly related to more than one properly assigned classification, per [Rule 1-D-3](#), his or her payroll may be divided among properly assigned classifications provided that:

1. The classifications can be properly assigned to the employer according to the rules of the classification system, and
2. The employer maintains proper payroll records which show the actual payroll by classification for each employee.
 - a. Records must document the actual time spent working within each job classification and an average hourly wage comparable to the wage rates for other employees within the employer's industry.
 - b. Estimated or percentage allocation of payroll is not permitted.

NOTE: If payroll records do not document the actual payroll applicable to each classification, the entire payroll of the individual employee must be assigned to the highest rated classification that represents any part of his or her work.

3. Payroll for holiday, vacation, sick pay, overtime, and all other forms of payroll that are not directly attributable to a specific classification code must be allocated to the classification code with the greatest amount of payroll applicable to the individual employee.

If none of the classification codes applicable to the employee have the greatest amount of payroll, the payroll for holiday, vacation, sick pay, overtime, and all other forms of payroll not directly attributable to a specific classification code must be allocated to the highest rated classification code applicable to the employee.

4. Some employees qualify for division of payroll between two or more basic classification codes and also engage in operations that are standard exception classifications 8810, 8742, 8748, and/or 8871. The payroll of these standard exception operations must be allocated to the basic classification code with the greatest amount of payroll applicable to that employee.

Exceptions to Rule 2-G:

- Code 8810 – Clerical Office Employees, Code 8871 – Clerical Telecommuter Employees, Code 8742 – Salespersons or Collectors – Outside, and Code 8748 – Automobile Salespersons are not available for division of payroll under this rule. However, when an interchange of labor exists between Code 8810 and Code 8871:
 - Code 8871 will be used when the employee spends more than 50% of work time telecommuting per [Rule 1-B-2-a](#).

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- Code 8810 will be used when the employee spends 50% or less of work time telecommuting per [Rule 1-B-2-a](#).
- The distribution of payroll for the employee may result in no single basic classification code that represents the highest amount of that employee's payroll. In such cases, the payroll included in the standard exception codes (8810, 8742, 8748, and 8871) will be assigned to the highest rated classification code that represents any part of the employee's work.
- This rule does not apply to miscellaneous employees. For additional information, refer to [Rule 1-E](#).

Examples of instances of interchange of labor where an employee's payroll may be divided between two or more classifications:

- *In a business that manufactures clocks, all employees must be assigned to Clock Mfg. (Code 3385), Clerical (Code 8810), Salespersons – Outside (Code 8742) or Drivers (Code 7380). In this example, division of payroll is only allowed for employees whose work is divided between activities described by Codes 3385 and 7380. Codes 8810 and 8742 are not eligible for division of payroll.*
- *In a business that sells furniture, all employees must be assigned to Store: Furniture & Drivers (Code 8044), Clerical (Code 8810) or Salespersons – Outside (Code 8742). No division of payroll is allowed in this example because drivers are already included in the basic classification. Codes 8810 and 8742 are not eligible for division of payroll.*
- *In a business that manufactures paper and also further processes this paper into wallpaper, all employees must be assigned to Paper Mfg. (Code 4239), Wallpaper Mfg. (Code 4279), Clerical (Code 8810), Salespersons – Outside (Code 8742) or Drivers (Code 7380). A division of payroll is allowed for employees whose work is divided among activities described by Codes 4239, 4279, and 7380. Codes 8810 and 8742 are not eligible for division of payroll.*

Note:

COVID-19 Pandemic – Assignment of Classification Code 8871—Clerical Telecommuter Employees for Temporary Change in Duties

Operations of a higher-rated classification that have been amended to clerical telecommuting due to the North Carolina governor-declared stay-at-home order qualify to be assigned to Classification Code 8871 – Clerical Telecommuter Employees for the duration of the stay-at-home order. This provision shall apply while the operations perform duties consistent with Code 8871's definition, from when North Carolina's stay-at-home order took effect on March 30, 2020 and for up to 45 days after the stay-at-home order has been lifted. This provision shall **not** apply to operations that meet the definition of a classification code that includes Clerical Office Employees.