

**COAL MINE COMPENSATION RATING BUREAU
OF PENNSYLVANIA**

COMMERCE BUILDING – SUITE 403
300 NORTH SECOND STREET
HARRISBURG, PENNSYLVANIA 17101


CHARLES A. ROMBERGER
EXECUTIVE DIRECTOR

TELEPHONE/FAX
717-238-5020

January 24, 2014

COMPENSATION CIRCULAR CM-455

To: All Coal Mine Compensation Insurance Carriers

From: Charles A. Romberger, Executive Director 

RE: Proposal CM-1-2014
Manual Revisions – Section Five – Experience Rating Plan
– Section V – Tabulation of Experience
Approved Effective: April 1, 2014

On January 21, 2014, the Coal Mine Compensation Rating Bureau of Pennsylvania (“Bureau”) submitted the captioned filing for approval to the Pennsylvania Insurance Commissioner. The Bureau submitted these revisions to maintain consistency with the Pennsylvania Compensation Rating Bureau as announced in PCRB Circular No. 1623.

Section V – Tabulation of Experience is found on pages 8 and 9 of the Pennsylvania Coal Mine Workers Compensation Manual: Section Five – Experience Rating Plan. These two pages are attached for your consideration with changes identified in tracked formatting. All other portions of the Bureau’s Manual remain unchanged.

The Bureau notes that the captioned changes apply to correction reports received on or after April 1, 2014. Also, the Bureau anticipates incorporating these changes into our Manual to be effective April 1, 2014, that will be updated after the resolution of our annual loss cost filing.

If you have any questions about this proposal, please contact the Bureau by calling 717-238-5020 or by emailing cromberger.cmcrb@verizon.net.

CAR

Attachment: Pages 8 and 9 of the Pennsylvania Coal Mine Workers Compensation Manual:
Section Five – Experience Rating Plan

2. POLICY RISK

If a risk is covered by a single policy or more than one policy, the following procedure shall apply:

- a. The experience mod effective as of the anniversary rating date shall apply for the full term of the policy.
- b. If a policy is written for a period of one year, but is extended for a period of not more than 16 days, the carrier's manual rates and experience mod in effect as of the normal termination date shall remain in effect until the termination date of the extended policy. The carrier's manual rates and experience mod which would have become effective shall apply for a period of one year.
- c. If a policy is written for a period of one year, but is extended for a period of more than 16 days but not in excess of 60 days, the carrier's rates and experience mod shall apply as of the anniversary rating date for the unexpired portion of the extended policy period, and shall also apply for a period of one year from the effective date of the renewal policy.

SECTION V – TABULATION OF EXPERIENCE

1. EXPERIENCE USED FOR RATING

The experience used for rating purposes shall be the individual risk's traumatic experience valued and reported in accordance with the provisions of the Coal Mine Compensation Rating Bureau of Pennsylvania Workers' Compensation Statistical Plan.

2. RATING FORMS

To determine the experience mod, the prescribed experience shall be tabulated by the Bureau on approved rating forms.

3. PAYROLLS

The audited payrolls or other exposures for each classification for the experience period shall be tabulated by calendar year. The three (3) year total of modified traumatic payroll for all coal classifications shall determine the risk's credibility.

4. LOSSES

Incurred losses shall be tabulated by calendar year, described below:

- a. Total losses as reported, ~~except as provided for in Rule 5 below.~~ Losses incurred shall be on a gross basis before the application of the deductible, when such coverage is provided.
- b. Reported losses on claims up to the primary limiting value (basic).
- c. Reported losses on claims between the primary limiting value and the secondary limiting value (ratable excess).
- d. Reported losses on claims exceeding the secondary limiting value (non-ratable excess).

5. MORAL RESPONSIBILITY

No loss shall be excluded from the experience of a risk on the ground that the employer was not morally responsible for the accident that caused such loss.

6. REVISION OF LOSSES

It shall not be permissible to revise values because of department or judicial decision or because of developments in the nature of injury between two valuation dates. ~~Provided, however, that~~ except in cases:

- a. ~~in cases~~ where loss values are included or excluded through mistake other than error of judgment, or
- b. where a claim is declared non-compensable (see note below), or
- c. where the claimant or carrier has recovered in an action against a third party, ~~it shall be permissible to submit a revised reporting requesting adjustment of the affected rating or~~

~~ratings, provided such request is made within 24 months of the expiration of the period to which the experience rating applied.~~

In the above circumstances, revised statistical report(s) are required to be submitted in accordance with the approved Statistical Plan. When a change to a claim value due to the above circumstances is known to the insurer with certainty within 48 months of the expiration of an experience rating which included loss values for that claim, such revised statistical report(s) shall be used to adjust that experience rating. Such adjustments to experience ratings shall be made regardless of when the correction report(s) reflecting the cited event(s) is/are submitted to or received by the Bureau.

Note: For purposes of this rule, the term “non-compensable” refers to:

- (i) an official ruling specifically holding that a claimant is not entitled to benefits under the provisions of the Pennsylvania Workers’ Compensation or Occupational Disease Act.
 - (ii) a case where no claim was filed during the period of limitation provided by the Pennsylvania Workers’ Compensation or Occupational Disease Act for the filing of such claim and the carrier therefore closes the case.
 - (iii) a case where the carrier contends, prior to the valuation date, that a claimant is not entitled to benefits under the Pennsylvania Workers’ Compensation or Occupational Disease Act and the claim is officially closed because of the claimant’s failure to prosecute their claim.
7. THIRD PARTY CASES
- a. Pending Cases. When a negligence claim or suit has been instituted by a claimant against a third party, the procedure shall be as follows:
If the claim or suit against the third party has not been settled or finally adjudicated, the incurred loss shall be included in the rating, since failure to recover against a third party is no bar to compensation and the insurance carrier may eventually be obliged to indemnify the claimant in whole or in part for the loss sustained.
 - b. Settled Cases. In cases where the carrier has received reimbursement under subrogation rights, or where the injured employee or his dependents have recovered from a third party, the procedure shall be as follows:
In cases where the total incurred cost prior to recovery is less than the accident limitation value, only the net loss shall be used in the rating. In cases where the total incurred cost prior to recovery exceeds the accident limitation value, the amount to be used in the rating shall be such proportion of the limiting value as the net loss bears to the total incurred cost prior to recovery.

SECTION VI – MODIFICATION CALCULATION

The experience mods shall be calculated as follows:

1. The Bureau shall calculate and publish one mod per policy. The mod shall be based upon the data of all coal mine traumatic classifications under the Bureau’s jurisdiction.
2. Total traumatic losses reported for the policy shall be segregated by the Bureau into the basic, ratable excess, and non-ratable excess losses by year as defined in Section V.
3. For determining the value of each loss, the indemnity, medical and funeral components for each individual loss must be combined.
4. The basic, ratable excess, and non-ratable excess losses shall be tabulated separately by class. The sum across all classes shall be used to calculate the policy’s mod.