



MAY 8, 2020

ITEM FILING APPROVAL

CIF-2020-32

## Countrywide—Approval of Item B-1441—Revisions to NCCI Manual Rules Related to the COVID-19 (Coronavirus) Pandemic in Seven States

### ACTION NEEDED

This circular announces the approval of Item B-1441—Revisions to NCCI Manual Rules Related to the COVID-19 (Coronavirus) Pandemic as filed in Arizona, District of Columbia, Illinois, Missouri, Nebraska, and Virginia, and approval with changes in Florida.

The Florida Office of Insurance Regulation has approved this item with the following changes:

Exhibit #	Rule	Change Description
7	<i>Statistical Plan</i> Part 6-E-3	Revised the Florida section of the Premium Amount Not Part of Standard Premium table
8	<i>Basic Manual</i> Rule 2-B-2	Revised the first and last paragraphs
9	<i>Basic Manual</i> Rule 2-F-1	Removed the expiration date language
10	<i>Basic Manual</i> Rule 2-F-3	Revised the second paragraph and removed the expiration date language
11 (new)	<i>Statistical Plan</i> Part 3-F-2-d	Revised the first paragraph and removed the expiration date language
12 (new)	<i>Statistical Plan</i> Part 3-F-3	Removed the expiration date language
13 (new)	<i>Statistical Plan</i> Part 4-E-1-f(2)(d)	Removed the expiration date language

### Notes:

1. The rule revisions within Item B-1441 are effective on and after March 1, 2020 for new and renewal policies and also apply to the unexpired portion of outstanding or in-force policies as of March 1, 2020.
2. The Policy Information Page Endorsement (WC 89 09 00 B) may be used to display the payments reported to Code 0012 if the code is added to a policy midterm as of March 1, 2020, or later.

Please review the revised exhibits attached to this circular for impact on your company’s systems and procedures.

A participating company may respond to an NCCI filing as follows:

### Arizona Company Response

A participating company must decide whether to adhere to the filings made on its behalf by NCCI, or make a deviation filing.

### Company Action Table

If	Then
Company decides to use NCCI's rules and other supplementary information	Company does not file anything
Company decides <b>not</b> to use rules and other supplementary information	Company must notify the Department specifying the basis for not adopting

### District of Columbia Company Response

When a company that has given NCCI filing authorization receives an approval circular of a filing containing new or revised rules and other supplementary information, the company must decide whether to revise its rules and other supplementary information and when to make any revision effective.

### Company Action Table

If	Then
Company decides to use the revisions and effective date as filed	Company does <b>not</b> file anything with the Department of Insurance, Securities and Banking
Company decides to use the revisions as filed <b>but</b> with a different effective date	Company must notify the Department of Insurance, Securities and Banking of its effective date <b>before</b> NCCI's approved effective date
Company decides <b>not</b> to use the revision	Company must notify the Department of Insurance, Securities and Banking <b>before</b> NCCI's effective date
Company decides to use the revision with modification(s)	Company must file the modification with the Department of Insurance, Securities and Banking, specifying the basis for the modification(s) and company's proposed effective date if different than the effective date filed by NCCI

### Florida Company Response

A participating company must decide whether to adhere to the filing made on its behalf by NCCI, or to make a deviation filing.

### Company Action Table

If	Then
Company decides to use NCCI's rules	Company does not file anything; the company's rules are those submitted by NCCI
Company decides <b>not</b> to use NCCI's rules	Company must submit a rule filing to the OIR to include information as required by Section 627.211, Florida Statutes; prior approval by the OIR is required

### Illinois Company Response

When a company that has given NCCI filing authorization receives a circular announcing the filing, and the company is not required to adhere to the filing, the company may respond in any of the following ways.

### Company Action Table

If	Then
Company decides to use NCCI's manuals and rating plans	The company shall notify the Department if they are adopting the filing (50 Ill. Adm. Code 2902.40).
Company decides to use the revision with modification(s)	Company must file the modification(s) with the Department specifying the basis for the modification(s) and justification for the company's deviation.
Company decides <b>not</b> to use NCCI's manuals and rating plans	Company must notify the Department within 30 days after the first of the year that it does not intend to adopt NCCI's filing and file independently effective concurrent with NCCI changes (50 Ill. Adm. Code 2902.40).

#### Missouri Company Response

Application of approved NCCI classifications, manual rules, and other supplementary information is mandatory pursuant to M.S.A. § 287.955.

#### Nebraska Company Response

When a company that has given NCCI filing authorization receives an approval circular of a filing containing new or revised rules and other supplementary information, the company must decide whether to revise its rules and other supplementary information and when to make any revision effective.

### Company Action Table

If	Then
Company decides to use NCCI's rules and other supplementary information	Company does not file anything with the Department of Insurance
Company decides to use a modification(s) of NCCI's rules and other supplementary information	Company must notify the Department of Insurance of its modification(s) before the effective date of the rules or other supplementary information

#### Virginia Company Response

When a participating company receives an approval circular of a filing containing new or revised rules and other supplementary information, the company may respond in any of the following ways.

### Company Action Table

If	Then
Company accepts the filing and wishes to adopt	No action is needed.
Company chooses <b>not</b> to adopt the filing, or retain a previously approved filed exception	Company must submit an independent filing that will be subject to a 60-day delayed effectiveness provision in accordance with Virginia statutes. Exceptions to NCCI rules must be filed, and any changes that affect premiums are subject to the 60-day delayed effect provision.

### Company Action Table

If	Then
Company chooses to deviate from a filing	Company must file any changes. Additionally, any changes that affect premiums are subject to the 60-day delayed effect provision.

The material contained herein is based on NCCI's latest research but is subject to periodic change. This information is provided as a guide to voluntary market carriers and is not intended as an interpretation of state law. Refer to state law for current and detailed information because there may be additional laws that may impact your response to an NCCI item filing. While all due effort is made to keep the material up to date, NCCI assumes no responsibility for the use of this material.

#### BACKGROUND

Circular CIF-2020-26, dated April 23, 2020, announced the filing of Item B-1441—Revisions to NCCI Manual Rules Related to the COVID-19 (Coronavirus) Pandemic. As of May 6, 2020, the following states have approved this item as filed, effective on and after March 1, 2020.

States	
Alabama	Maryland
<b>Arizona</b>	Mississippi
Arkansas	<b>Missouri</b>
Colorado	Montana
Connecticut	<b>Nebraska</b>
<b>District of Columbia</b>	Nevada
<b>Florida*</b>	New Hampshire
Georgia	New Mexico
Idaho	Oklahoma
<b>Illinois</b>	Rhode Island
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Utah
Louisiana	Vermont
Maine	<b>Virginia</b>
	West Virginia

\*Approved with changes.

Refer to the announcement circular for complete details on this item.

#### 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.

#### NCCI ACTION

NCCI will take the following actions for Item B-1441:

- Update the weekly *Status of Item Filings* circular on [ncci.com](http://ncci.com) with the approval

- Publish updated pages for NCCI's *Basic Manual for Workers Compensation and Employers Liability Insurance* and *Statistical Plan for Workers Compensation and Employers Liability Insurance* soon

If you would like to subscribe to any of our manuals, please call our Customer Service Center at 800-NCCI-123 (800-622-4123).

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**PERSON TO CONTACT**

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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.

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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		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.

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EXHIBIT 8  
BASIC MANUAL—2001 EDITION  
FLORIDA RULE EXCEPTIONS  
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION  
B. PAYROLL

**2. Excludes:**

Change Rule 2-B-2 as follows:

- 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 to the extent that an employer's records confirm that the expense was incurred as a valid business expense.

Reimbursed expenses and flat expense allowances (except for hand or hand-held power tools) paid to employees may be excluded from the audit only if all three of the following conditions are met:

- (1) The expenses are incurred for the business of the employer
- (2) The amount of each employee's expense payments or allowances are shown separately in the records of the employer
- (3) The amount of each employee's expense reimbursement is a fair estimate of the actual expenses incurred by the employee in the conduct of his/her work

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

**Note:** When it can be verified that the employee was away from home overnight on the business of the employer, but the employer did not maintain verifiable receipts for incurred expenses, a reasonable expense allowance, limited to a maximum of \$30 per day, is permitted.

- i. Supper money for late work.
- j. Work uniform allowances.
- k. Sick pay paid to an employee by a third party such as an insured'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)
  - Discounts on property or services
  - Club memberships
  - Tickets to entertainment events
- m. Employer contributions to employee benefit plans such as:
  - Employee savings plans
  - Retirement plans
  - Cafeteria plans (IRC 125)

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EXHIBIT 8 (CONT'D)  
BASIC MANUAL—2001 EDITION  
FLORIDA RULE EXCEPTIONS  
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION  
B. PAYROLL

These include contributions made by the employer, at the employer's expense, which are determined by the amount contributed by the employee.

When gratuities or "tips" received from persons other than the employer make up part of an employee's earnings, payroll must include the actual wages paid by the employer and the value of board and lodging, if any. The payroll per employee must not be less than the Average Weekly Wage value appearing on the state rate sheet, which is equal to the wage upon which a minimum award for compensation under the particular State Act is based. If an employee works less than a full week, the Average Weekly Wage must be prorated. The proportion is determined by the ratio of number of days worked to five days. Partial days are considered full days. The proportion is subject to the value of the Average Weekly Wage as a maximum.

The entire payroll cannot include any of the following provided these or any of them are not part of the contract of employment or an actual consideration for employment.

- Special reward for meritorious achievements or discovery, or
  - Pure gratuities, or
  - Result of voluntary profit sharing arrangements
- n. Payments made 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. Such payments made by a public governmental entity directly to paid furloughed employees also are excluded.

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.

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EXHIBIT 9  
BASIC MANUAL—2001 EDITION  
FLORIDA RULE EXCEPTIONS  
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION  
F. WAGES FOR TIME NOT WORKED

1. **Idle Time**

Change Rule 2-F-1 as follows:

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

All wages paid to the employee for idle time must be included in payroll. 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.

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.

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EXHIBIT 10  
BASIC MANUAL—2001 EDITION  
FLORIDA RULE EXCEPTIONS  
RULE 2—PREMIUM BASIS AND PAYROLL ALLOCATION  
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

Change Rule 2-F-3 as follows:

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 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 include payments made by a public governmental entity directly to paid furloughed employees. However, 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.

Display the payments reported to Code 0012 on the policy Information Page with a zero rate and zero premium.

This Rule 2-F-3 is effective March 1, 2020.

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EXHIBIT 11  
STATISTICAL PLAN—2008 EDITION  
FLORIDA STATE EXCEPTIONS  
PART 3—EXPOSURE INFORMATION  
F. EXPOSURE AMOUNT  
2. Nonpayroll Exposure

**d. Paid Furloughed Employees**

Change Part 3, Item F-2-d as follows:

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 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 include payments made by a public governmental entity directly to paid furloughed employees. However, 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.

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.

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EXHIBIT 12  
STATISTICAL PLAN—2008 EDITION  
FLORIDA STATE EXCEPTIONS  
PART 3—EXPOSURE INFORMATION  
F. EXPOSURE AMOUNT

**3. Final or Estimated Premium**

Change Part 3, Item F-3-c as follows:

**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.

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EXHIBIT 13  
STATISTICAL PLAN—2008 EDITION  
FLORIDA STATE EXCEPTIONS  
PART 4—LOSS AND EXPENSE INFORMATION  
E. CLAIM COMPONENTS  
1. Required Claim Components  
f. Classification Code

**(2) Additional Classification Code Loss Reporting**

Change Part 4, Item E-1-f(2) as follows:

Additional classification code reporting rules apply as follows:

**(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.