



Minnesota Workers' Compensation  
Insurers Association, Inc.  
7701 France Avenue South • Suite 450  
Minneapolis, MN 55435-3200

August 17, 2005

**ALL ASSOCIATION MEMBERS**

Circular Letter No. 05-1461

**RE: Experience Modification Factor Revision for Certain Closed Claims**

The Minnesota Department of Commerce has approved the above filing to become effective 12:01 a.m., August 1, 2005.

The Minnesota Legislature has passed a new law superseding the Aggravated Inequity Rule directing how the Minnesota Workers' Compensation Insurers Association, Inc. (MWCIA) and carriers should handle experience modifications when a claim is settled between its normal valuation date and the next rating effective date. The prior rule was contained in Minn. Rules 2705.2700.

The new law is contained in Minn. Stat. 79.211, subd. 4. and became effective August 1, 2005. Under this new law, an insurer or an employer with a workers' compensation policy that is subject to an experience rating plan may request the MWCIA to re-compute the most recently issued experience rating if the conditions outlined below are met. This change may either raise or lower the experience modification factor on the policy. The conditions which must be met for the experience modification factor to be changed are as follows:

- (a) the request must be made in writing and directed to MWCIA;
- (b) the workers' compensation claim under the policy must be closed between the normal valuation date for that claim and the next time that valuation is used in computing the experience modification factor on the policy;
- (c) the MWCIA must receive a revised unit statistical report containing data on the closed claim in a form consistent with its filed unit statistical plan; and
- (d) inclusion of the closed claim in the revised experience modification factor calculation must impact that factor by five percentage points or more.

Exhibit I illustrates the changes needed to implement this filing into the Minnesota Exception pages of the ***Experience Rating Plan Manual***. Please note that the proposed language contains underlined and strikethrough text. The underlining represents new or added text while the strikethroughs indicate deleted text.

Please direct any questions you may have regarding this filing item to one of MWCIA's Member & Customer Services staff by calling 952.897.1737 (Option 1) or via email at [info@mwcia.org](mailto:info@mwcia.org).

## EXHIBIT I

### EXPERIENCE RATING PLAN MANUAL

<b>PRESENT MINNESOTA EXCEPTION PHRASEOLOGY:</b>	<b>PROPOSED MINNESOTA EXCEPTION PHRASEOLOGY:</b>
<b>PART TWO</b>	<b>PART TWO</b>
<b>PAYROLLS AND LOSSES</b>	<b>PAYROLLS AND LOSSES</b>
<b>4. REVISION OF LOSSES</b>	<b>4. REVISION OF LOSSES</b>
Submission of revised unit reports to the <del>rating organization</del> , for purposes of automatically recalculating the current and up to two preceding experience modifications is required under the following circumstances:	Submission of revised unit reports to the <u>Minnesota Workers' Compensation Insurers Association, Inc. (MWCIA)</u> for purposes of automatically recalculating the current and up to two preceding experience modifications is required under the following circumstances:
a. Originally reported loss values were incorrect due to a clerical error.	Same
b. The claimant or carrier has made a third party recovery and the third party has not filed a liability-over claim.	Same
c. The third party in b. above does file a liability-over claim but settlement of such claim does not result in its recovery against the insured.	Same
d. Where the originally reported claim is noncompensable as determined by: (1) Official ruling denying benefits under the Workers' Compensation Law. (2) A claimant's failure to file for benefits during the period of limitation allowed by Workers' Compensation Law. (3) A claimant's failure to prosecute his claim when a carrier contends, prior to valuation date, that the claimant is not entitled to benefits under the Workers' Compensation Law.	Same
e. A paid or anticipated recovery from a special fund becomes known to the carrier.	Same
For purposes of this rule's application to subrogation and special fund recovery situations: (1) The current experience	Same

## EXHIBIT I

### EXPERIENCE RATING PLAN MANUAL

<p>modification is that in effect when the revised loss value is determined by the insurance provider.</p> <p>(2) The recalculation of experience modifications is limited to the five most recent modifications for a given risk.</p>	<p style="text-align: center;">Same</p>
<p><del>f. If a claim is settled between a normal valuation date and the next rating effective date and if the settlement results in an aggravated inequity, then the experience modification factor must be revised if requested by either the insurer or insured. An "aggravated inequity" includes, but is not limited to the following situations:</del></p> <p><del>(1) The expected loss for the insured</del></p> <ul style="list-style-type: none"> <li><del>— is less than \$50,000 and the</del></li> <li><del>— primary value of the claim</del></li> <li><del>— changed by more than \$2,500 or</del></li> </ul> <p><del>(2) The expected loss for the insured</del></p> <ul style="list-style-type: none"> <li><del>— is greater than \$50,000 and</del></li> <li><del>— either the primary value of the</del></li> <li><del>— loss has changed by more than</del></li> <li><del>— five percent of the expected loss</del></li> <li><del>— or the total value of the claim</del></li> <li><del>— has changed by more than</del></li> <li><del>— \$50,000.</del></li> </ul>	<p>f. <u>As specified in Minnesota Statute 79.211 subd. 4, an insurer or an employer insured under a workers' compensation policy subject to an experience rating plan may request in writing of the data service organization computing the policy's experience modification factor that the most recent factor be revised if each of the following criteria is met:</u></p> <p>(1) <u>a workers' compensation claim under that policy is closed between the normal valuation date for that claim and the next time that valuation is used in computing the experience modification factor on the policy;</u></p> <p>(2) <u>the Minnesota Workers' Compensation Insurers Association, Inc. (MWCIA) receives a revised unit statistical report containing data on the closed claim in a form consistent with its filed unit statistical plan; and</u></p> <p>(3) <u>inclusion of the closed claim in the experience modification factor calculation would impact that factor by five percentage points or more.</u></p>
<p>g. Where a claim should have been reported with Catastrophe Number 48.</p>	<p style="text-align: center;">Same</p>
<p>Application of revised experience modifications calculated according to a., b., c., d., e., f. and g. above is subject to Rule E.6 of Part Three of this Plan.</p>	<p style="text-align: center;">Same</p>