



Minnesota Workers' Compensation
Insurers Association, Inc.

7701 France Avenue South
Suite 450
Minneapolis, MN 55435-3203

952-897-1737 general
952-897-6495 fax

www.mwcia.org

May 11, 2023

ALL ASSOCIATION MEMBERS

Circular No. 23-1821

RE: NCCI ITEM B-1447— Revisions to Manual Rules Related to the COVID-19 (Coronavirus) Pandemic – Paid Furloughed Employees and Final Premium Reporting

The Minnesota Department of Commerce has approved the above filing to become effective for new, renewal, and outstanding policies effective on and after 12:01 a.m. on July 1, 2023. The purpose of this item is to establish an expiration date of June 30, 2023, for:

- Statistical Code 0012—Paid Furloughed Employees
- The exclusion of payments to paid furloughed employees during federal, state, and/or local emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic from premium and experience rating calculations
- The final premium reporting rule exception for the COVID-19 (coronavirus) pandemic

Exhibit 1

Proposes to eliminate *Minnesota Basic Manual* Rule 2-B-2-n to remove information stating that payments to paid furloughed employees are excluded from premium calculations.

MWCIA staff recommends to adopt the proposed change(s)

Exhibit 2

Proposes to revise *Minnesota Basic Manual* Rule 2-F-1 to remove furloughed employees from the definition for idle time.

MWCIA staff recommends to adopt the proposed change(s).

Exhibit 3

Proposes to remove *Minnesota Basic Manual* Rule 2-F-3 that address payments to paid furloughed employees.

MWCIA staff recommends to adopt the proposed change(s).

Exhibit 4

Proposes to revise Part 3-8-F in the *Minnesota Statistical Plan Manual* to add an expiration date to Statistical Code 0012-Paid Furloughed Employees.

MWCIA staff recommends to adopt the proposed change(s).

Exhibit 5

Proposes to revise Part 3-8-G of the *Minnesota Statistical Plan Manual* to add an expiration date to the final premium reporting rule exception due to the COVID-19 pandemic.

MWCIA staff recommends to adopt the proposed change(s).

Exhibit 6

Proposes to revise the format of Part 4-6-B in the *Minnesota Statistical Plan Manual* add an expiration date for claims reported to Statistical Code 0012.

MWCIA staff recommends to adopt the proposed change(s).

Exhibit 7

Proposes to revise the *Minnesota Statistical Plan Manual* Statistical Code 0012 in Part 7-3-A-10 for reporting payments made to paid furloughed employees.

MWCIA staff recommends to adopt the proposed change(s).

Impact

As a result of this item, payroll may shift from Code 0012 to the applicable classification codes of exposure based on audited payroll. The overall premium impact on a statewide basis is anticipated to be negligible. The extent of the shift on individual classifications is unknown because it depends on the nature of individual employers' business practices. Premiums of individual employers may increase if payments are made to employees subject to *Minnesota Basic Manual* rule, Rule 2-F-1, Wages For Time Not Worked – Idle Time.

The attached exhibits illustrate necessary changes to the *Minnesota Basic Manual* and the *Minnesota Statistical Plan Manual*. As in past filings, strikethroughs indicate deleted text while underlining indicates new or added text. A copy of National Council's original filing memorandum is also included to provide additional background information regarding Item B-1447.

Please direct any questions you may have concerning this item to MWCIA's Underwriting Department at 952.897.1737, Option 1, or email to underwriting@mwcia.org.

A NOTICE TO MEMBERSHIP:

MWCIA would like to remind our membership who have filed a Limited Power of Attorney with the Minnesota Department of Commerce that no materials referenced in this Circular Letter are required to be independently filed with the department.

Effective July 1, 2023

EXHIBIT 1

Minnesota Basic Manual

**Rule 2 – Premium Basis and Payroll Allocation
B - Payroll**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>2. Excludes:</p> <ul style="list-style-type: none"> 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 	<p>2. Excludes:</p> <ul style="list-style-type: none"> 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 	

Effective July 1, 2023

EXHIBIT 1 (cont.)

Minnesota Basic Manual

**Rule 2 – Premium Basis and Payroll Allocation
B - Payroll**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>expense was incurred as a valid business expense.</p> <p>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:</p> <p>(1)The expenses or allowances are incurred for the business of the employer</p> <p>(2)The amount of each employee's expense or allowance is shown separately in the records of the employer</p> <p>(3)The amount of the expense or allowance approximates the actual expense incurred by the employee in the conduct of their work</p> <p>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</p>	<p>expense was incurred as a valid business expense.</p> <p>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:</p> <p>(1)The expenses or allowances are incurred for the business of the employer</p> <p>(2)The amount of each employee's expense or allowance <u>is</u> shown separately in the records of the employer</p> <p>(3)The amount of the expense or allowance approximates the actual expense incurred by the employee in the conduct of their work</p> <p>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. <i>Refer to Rule 2-B-1-p</i></p>	

Effective July 1, 2023

EXHIBIT 1 (cont.)

Minnesota Basic Manual

**Rule 2 – Premium Basis and Payroll Allocation
B - Payroll**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p><i>Exception for the maximum employee expense allowance.</i></p> <p>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.</p> <p>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.</p> <p>i. Meal money for late work.</p> <p>j. Work uniform allowances.</p> <p>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.</p> <p>l. Employer provided perks such as:</p> <ul style="list-style-type: none"> • Use of company provided automobiles • Airplane flights 	<p><i>Exception for the maximum employee expense allowance.</i></p> <p>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.</p> <p>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.</p> <p>i. Meal money for late work.</p> <p>j. Work uniform allowances.</p> <p>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.</p> <p>l. Employer-provided perks such as:</p> <ul style="list-style-type: none"> • Use of company-provided automobiles • Airplane flights 	

Effective July 1, 2023

EXHIBIT 1 (cont.)

Minnesota Basic Manual

**Rule 2 – Premium Basis and Payroll Allocation
B - Payroll**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<ul style="list-style-type: none"> • Incentive vacations (e.g., contest winners) • Discounts on property or services • Club memberships • Tickets to entertainment events • Educational assistance • Relocation and moving expenses <p>m. Employer contributions to employee benefit plans such as:</p> <ul style="list-style-type: none"> • Employee savings plans • Retirement plans • Cafeteria plans (IRC 125) • Health savings accounts • Flexible spending accounts <p>These include contributions made by the employer, at the employer’s expense, which are determined by the amount contributed by the employee.</p> <p>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</p>	<ul style="list-style-type: none"> • Incentive vacations (e.g., contest winners) • Discounts on property or services • Club memberships • Tickets to entertainment events • Educational assistance • Relocation and moving expenses <p>m. Employer contributions to employee benefit plans such as:</p> <ul style="list-style-type: none"> • Employee savings plans • Retirement plans • Cafeteria plans (IRC 125) • Health savings accounts • Flexible spending accounts <p>These include contributions made by the employer, at the employer’s expense, which are determined by the amount contributed by the employee</p>	

Effective July 1, 2023

EXHIBIT 1 (cont.)

Minnesota Basic Manual

**Rule 2 – Premium Basis and Payroll Allocation
B - Payroll**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>which impact an employer's staffing or business operations.</p> <p>—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.</p> <p>—Refer to Rule 2-F-3 for the definitions of paid furloughed employees and payments to paid furloughed employees.</p> <p>This Rule 2-B-2-n is effective March 1, 2020. This rule will continue to remain in effect and will not expire until determined at a later date as circumstances warrant and in consultation with state regulatory authorities. A future filing will be made to establish an expiration date to this rule as determined and approved by the regulator.</p>		

Effective July 1, 2023

EXHIBIT 2

Minnesota Basic Manual

**Rule 2 – Premium Basis and Payroll Allocation
F. Wages for Time Not Worked**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>1. Idle Time</p> <p>Idle time is downtime that occurs when employees are not working and the employers pays the employees for the time not worked.</p> <p>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:</p> <ul style="list-style-type: none"> • 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 	<p>1. Idle Time</p> <p>Idle time is downtime that occurs when employees are not working and the employer pays the employees for the time not worked. <u>You must include in payroll all wages paid to the employee for idle time. Assign wages paid during this time to the classification for work normally performed by the employee under the following circumstances:</u></p> <ul style="list-style-type: none"> • <u>delays</u> or <u>suspension</u> of work due to weather conditions • <u>d</u>elays while waiting for materials • <u>d</u>elays while waiting for another party to complete certain work • <u>d</u>elays <u>due to</u> breakdown in equipment • “<u>s</u>tand-by” time where employees such as <u>e</u>quipment operators are on the job, but their active services are not required continuously • <u>s</u>pecial union requirements or agreements between employer and employees calling for pay for idle time under specific circumstances • <u>i</u>nability of non-striking employees to perform normal duties due to other employees who are on strike, <u>or</u> • <u>a</u>ll other causes of a similar nature. 	

Effective July 1, 2023

EXHIBIT 2 (cont.)

Minnesota Basic Manual

**Rule 2 – Premium Basis and Payroll Allocation
F. Wages for Time Not Worked**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>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.</p> <ul style="list-style-type: none"> All other causes of a similar nature <p>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 Minnesota Basic Manual Rule 2-F-3. This paragraph will continue to remain in effect and will not expire until determined at a later date as circumstances warrant and in consultation with state regulatory authorities. A future filing will be made to establish an expiration date to this paragraph as determined and approved by the regulator.</p> <p><i>Refer to the Minnesota User’s Guide for an example.</i></p> <p><i>Refer to Rule 2-F-2 for the treatment of idle time by construction, erection or stevedoring risks.</i></p>	<p><u>Rule for idle nonstriking employees unable to perform normal duties due to other employees who are on strike</u></p> <p><u>If nonstriking employees perform absolutely no work for their employer and are not present at their employer’s premises or jobsites during a strike period, you must assign their payroll to Code 8810, provided adequate records are maintained by the employer.</u></p> <p><i>Refer to the Minnesota User’s Guide for an example.</i></p> <p><i>Refer to Rule 2-F-2 for the treatment of idle time by construction, erection or stevedoring risks.</i></p>	

Effective July 1, 2023

EXHIBIT 3

Minnesota Basic Manual

**Rule 2 – Premium Basis and Payroll Allocation
F. Wages for Time Not Worked**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>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</p> <p>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.</p> <p>“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,</p>	<p>NONE</p>	

Effective July 1, 2023

EXHIBIT 3 (cont.)

Minnesota Basic Manual

**Rule 2 – Premium Basis and Payroll Allocation
F. Wages for Time Not Worked**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>that are used by an employer specifically to retain or hire working employees.</p> <p>Payments to paid furloughed employees must be assigned to Code 0012, in accordance with the Minnesota 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.</p> <p>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 Minnesota Basic Manual Rule 1-A.</p>		

Effective July 1, 2023

EXHIBIT 3 (cont.)

Minnesota Basic Manual

**Rule 2 – Premium Basis and Payroll Allocation
F. Wages for Time Not Worked**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>This Rule 2-F-3 is effective March 1, 2020. This rule will continue to remain in effect and will not expire until determined at a later date as circumstances warrant and in consultation with state regulatory authorities. A future filing will be made to establish an expiration date to this rule as determined and approved by regulator.</p>		

Effective July 1, 2023

EXHIBIT 4

Minnesota Statistical Plan Manual

PART 3 – REPORTING INSTRUCTIONS – EXPOSURE AND PREMIUM

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>8. Exposure Amount</p> <p>F. Paid Furloughed Employees</p> <p>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.</p> <p>This code will continue to remain in effect and will not expire until determined at a later date as circumstances warrant and in consultation with state regulatory authorities. A future filing will be made to establish an expiration date to</p>	<p>8. Exposure Amount</p> <p>F. Paid Furloughed Employees</p> <p><u>Statistical Code 0012—Paid Furloughed Employees and its associated rules are not applicable for new and renewal policies with effective dates on and after 12:01 a.m. on July 1, 2023.</u></p> <p><u>Statistical Code 0012—Paid Furloughed Employees and its associated rules are applicable for new, renewal, and in-force policies effective March 1, 2020 through June 30, 2023.</u></p> <p>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 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</p>	<p>Adding effective dates to Statistical Code 0012</p>

Effective July 1, 2023

EXHIBIT 4 (cont.)

Minnesota Statistical Plan Manual

PART 3 – REPORTING INSTRUCTIONS – EXPOSURE AND PREMIUM

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>this code as determined and approved by the regulator.</p> <p>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>Payments reported to Code 0012 are excluded from premium and experience rating calculations only if the employer keeps separate, accurate, and verifiable records.</p>	<p>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.</p> <p>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>Payments reported to Code 0012 are excluded from premium and experience rating calculations only if the employer keeps separate, accurate, and verifiable records.</p>	

Effective July 1, 2023

EXHIBIT 5

Minnesota Statistical Plan Manual

PART 3 – REPORTING INSTRUCTIONS – EXPOSURE AND PREMIUM

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>8. Exposure Amount G. COVID-19</p> <p>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.”</p> <p>This rule is effective March 1, 2020. This rule will continue to remain in effect and will not expire until determined at a later date as circumstances warrant and in consultation with state regulatory authorities. A future filing will be made to establish an expiration date to this rule as determined and approved by the regulator.</p>	<p>8. Exposure Amount G. COVID-19</p> <p><u>COVID-19 final premium rule is not applicable for new and renewal policies with effective dates on and after 12:01 a.m. on July 1, 2023.</u></p> <p><u>COVID-19 final premium rule is applicable for new, renewal, and in-force policies effective March 1, 2020 through June 30, 2023.</u></p> <p>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.”</p>	<p>Adding effective dates.</p>

Effective July 1, 2023

EXHIBIT 6

Minnesota Statistical Plan Manual

PART 4 – REPORTING INSTRUCTIONS – LOSSES

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>6. Classification Code</p> <p>B. Paid Furloughed Employees</p> <p>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.</p> <p>This rule is effective March 1, 2020. This rule will continue to remain in effect and will not expire until determined at a later date as circumstances warrant and in consultation with state regulatory authorities. A future filing will be made to establish an expiration date to this rule as determined and approved by the regulator.</p>	<p>6. Classification Code</p> <p>B. Paid Furloughed Employees</p> <p><u>Statistical Code 0012—Paid Furloughed Employees and its associated rules are not applicable for new and renewal policies with effective dates on and after 12:01 a.m. on July 1, 2023.</u></p> <p><u>Statistical Code 0012—Paid Furloughed Employees and its associated rules are applicable for new, renewal, and in-force policies effective March 1, 2020 through June 30, 2023.</u></p> <p>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.</p>	

Effective July 1, 2023

EXHIBIT 7

Minnesota Statistical Plan Manual

PART 7 — CODING VALUES AND STATISTICAL CODES

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTES
<p>3. Statistical Codes</p> <p>A. Premium Subject to Experience Modification</p> <p>10. Paid Furloughed Employees Code 0012</p> <p>Refer to Part 4-8-F 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>This code will continue to remain in effect and will not expire until determined at a later date as circumstances warrant and in consultation with state regulatory authorities. A future filing will be made to establish an expiration date to this code as determined and approved by the regulator.</p>	<p>3. Statistical Codes</p> <p>A. Premium Subject to Experience Modification</p> <p>10. Paid Furloughed Employees Code 0012</p> <p>Refer to Part 4-8-F 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>	