

4123-17-03

**Employer's classification rates.**

- (A) An employer's premium rates shall be the manual basic rates as provided under rules 4123-17-02, 4123-17-06, and 4123-17-34 of the Administrative Code for each of its classifications except as modified by its experience rating, and shall apply for the first two six-month periods beginning on or after the first of July for private employers and shall apply for the calendar year beginning on or after the first of January for public employer taxing districts.
- (1) In calculating the manual base rate under this rule, the bureau shall exclude the experience of an employer that is no longer active if the inclusion of the inactive employer's experience would have a significant negative impact upon the remaining active employers in a particular manual classification.
  - (2) The calculation of the base rate and the experience rate shall be applied to all employers reporting payroll in the manual classification, whether or not the premiums of the individual employers are reduced.
  - (3) Once the bureau has determined that the loss data of a specific inactive employer shall be removed from the manual classification experience, the bureau shall exclude the data of that employer from all future manual classification rate calculations. If that inactive employer reactivates its account with the Ohio state insurance fund, the bureau shall include the loss data in rate calculations for the manual classification.
  - (4) As used in this rule, an employer that is "no longer active" or is "inactive" is defined as an employer that satisfies all of the following criteria:
    - (a) The employer is assigned the policy status "bankrupt cancel," "cancel effective date," "final cancel," "canceled uncollectible," "no coverage due to claim," or "no coverage;"
    - (b) The employer is not reporting payroll;
    - (c) The employer is not paying premiums or assessments to the Ohio state insurance fund as of the rate cut off date under either its own identity, the identity of any successor entity, or as a self-insured entity; and
    - (d) The employer does not employ employees for which Ohio workers' compensation jurisdiction would apply.
  - (5) As used in this rule, a "significant negative impact" is defined as occurring when the inactive employers in the manual reported forty per cent or more of

the payroll in the manual classification in any calendar year in the experience period and when the loss rate and loss/premium ratio of the inactive employers taken as a whole are significantly higher than those of the active employers taken as a whole as measured using the data from the prior policy year's most current four years data. For private employer rates effective July 1, 1997, the bureau shall use the experience period data of the current policy year.

- (B) An experience-rated employer's manual classification rate modification (credit or debit) shall be determined by multiplying its experience modification (EM) times the basic manual rate for each assigned manual classification. The amount of the modification shall then be subtracted from or added to the respective basic rate to obtain the employer's premium rate for each classification.
- (C) The experience modification (EM) shall be determined on the basis of the employer's experience and applied to the basic rate. The experience modification is determined in accordance with the following formula:

Subtract the TLL from the TML (TML - TLL), then divide by the TLL; multiply the resulting number by the C per cent, which will equal the EM.

TML = Actual losses of the employer for the experience period as reduced in accordance with the maximum value.

TLL = Total limited losses = TEL x LLR

TEL = Total expected losses as determined by applying the national council of compensation insurance (NCCI) expected loss rate to the NCCI classification payroll of each NCCI classification in the employer's experience period, as provided in appendix A to rule 4123-17-05.1 of the Administrative Code for private employers and rule 4123-17-33.1 of the Administrative Code for public employer taxing districts. The total expected losses are then used to determine credibility group, credibility, and the maximum value of a loss.

LLR = Limited loss ratio. This ratio is calculated for each credibility group within each industry group and is published as Table 1, Part B, in rule 4123-17-05 of the Administrative Code for private employers and Part B of rule 4123-17-33 of the Administrative Code for public employer taxing districts.

C per cent = Credibility given to an employer's own experience. Credibility is assigned by applying the employer's total expected losses to Table 1, Part A, in rule 4123-17-05.1 of the Administrative Code for private employers and rule 4123-17-33.1 of the Administrative Code for public employer taxing districts.

EM = Credit or debit applied to the basic rate.

- (D) The "experience period" shall be the oldest four of the latest five calendar years immediately preceding the beginning of the payroll reporting period to which the revised rates are applicable.
- (E) Experience modification per cent (EM) shall be subject to the following conditions and limitations:
- (1) Actual losses include all incurred costs and shall be limited at the claim level to the amounts provided in Table 1, Part A, to rule 4123-17-05.1 of the Administrative Code for private employers and rule 4123-17-33.1 of the Administrative Code for public employer taxing districts according to the total expected losses of an employer;
  - (2) An employer shall not be eligible for experience modification of basic rates unless its expected losses are at least the minimum amount in the credibility table as provided in Table 1, Part A, to rule 4123-17-05.1 of the Administrative Code for private employers and rule 4123-17-33.1 of the Administrative Code for public employer taxing districts, as periodically established for the applicable rating period by rule adopted by the administrator with the advice and consent of the bureau of workers' compensation board of directors;
- (F) Commencing with the rating year beginning July 1, 1987, and all subsequent rating years, all manual classifications of the state insurance fund are subject to experience rating (i.e., merit rating).
- (G) Private employer year-to-year cap: Commencing with the rating year beginning July 1, 2009, the bureau shall cap or limit at one hundred per cent the increase to the employer's experience modification (EM) from the July 1, 2008 prior rating year published EM. The bureau will not adjust the prior rating year published EM for the purposes of determining the cap for the current rating year. The bureau will not apply a cap to any EM decreases.
- (1) Eligibility requirements:
- (a) The employer shall be current as of June first immediately prior to the policy year to which the cap will be applied (not more than forty-five days past due) on any and all premiums, assessments, penalties or monies otherwise due to any fund administered by the bureau, including amounts due for retrospective rating.
  - (b) The employer cannot have cumulative lapses in workers' compensation

coverage in excess of forty days within the twelve months preceding June first immediately prior to the policy year to which the cap will be applied.

- (c) The bureau will only apply the cap to a policy that has an initial published EM of 1.01 or greater. Any subsequent adjustments to the initial published EM will not affect the employer's cap eligibility, including an employer that does not initially qualify for the cap.
- (d) To be eligible for the cap in the first policy year, an employer must complete steps one, two, six, and any other two steps of the ten step business plan for safety of rule 4123-17-70 of the Administrative Code. The employer shall submit the required documentation by March thirty-first of the year in which the cap applies. To be eligible for the cap in the second year, an employer must complete the remaining steps of the ten step business plan for safety of rule 4123-17-70 of the Administrative Code. The employer shall submit the required documentation by March thirty-first of the second policy year. If the employer fails to comply with these requirements, the bureau will remove the cap for the policy year in which the requirements were not met.

(2) Opt-out provision:

The bureau will automatically apply the cap to an employer that meets the eligibility requirements of paragraphs (G)(1)(a) to (G)(1)(c) of this rule. If an employer wishes to not have the cap applied, the employer must notify the bureau in writing by September thirtieth of the policy year.

~~(3) The bureau will cap the July 1, 2009 EM at a one hundred per cent increase from the published July 1, 2008 EM which used the experience period data calculated as of December 31, 2007. The bureau will not adjust the July 1, 2008 published EM for the purposes of determining the cap for the July 1, 2009 rating year. The bureau will not apply a cap to any EM decreases.~~

~~(4)~~(3) Exclusion to the one hundred per cent EM cap: Where more than one employer policy's experience is used to develop an EM, the resulting EM is not subject to the one hundred per cent year to year cap.

~~(5)~~(4) Exceptions to the exclusion:

- (a) The bureau will allow the cap to be applied to a debtor in possession policy combination as a result of bankruptcy proceedings. This

transaction is a change in policy number without any change in exposure. The baseline EM of the successor will be the predecessor's ~~July 1, 2008~~ prior rating year published EM.

- (b) The bureau will allow the cap to be applied to a succeeding employer policy that is base rated as of the effective date of the transfer that wholly or partially succeeds only one other policy. This exception acknowledges the change in exposure. The baseline EM of the successor will be the predecessor's ~~July 1, 2008~~ prior rating year published EM.

(H) Public employer taxing district year-to-year cap: Commencing with the rating year beginning January 1, 2010, the bureau shall cap or limit at one hundred per cent the increase to the employer's experience modification (EM) from the ~~January 1, 2009~~ prior rating year published EM. The bureau will not adjust the prior rating year published EM for the purposes of determining the cap for the current rating year. The bureau will not apply a cap to any EM decreases.

(1) Eligibility requirements:

- (a) The employer shall be current as of December first immediately prior to the policy year to which the cap will be applied (not more than forty-five days past due) on any and all premiums, assessments, penalties or monies otherwise due to any fund administered by the bureau, including amounts due for retrospective rating.
- (b) The employer cannot have cumulative lapses in workers' compensation coverage in excess of forty days within the twelve months preceding December first immediately prior to the policy year to which the cap will be applied.
- (c) The bureau will only apply the cap to a policy that has an initial published EM of 1.01 or greater. Any subsequent adjustments to the initial published EM will not affect the employer's cap eligibility, including an employer that does not initially qualify for the cap.
- (d) To be eligible for the cap in the first policy year, an employer must complete steps one, two, six, and any other two steps of the ten step business plan for safety of rule 4123-17-70 of the Administrative Code. The employer shall submit the required documentation by September thirtieth of the year in which the cap applies. To be eligible for the cap in the second year, an employer must complete the remaining steps of the ten step business plan for safety of rule 4123-17-70 of the

Administrative Code. The employer shall submit the required documentation by September thirtieth of the second policy year. If the employer fails to comply with these requirements, the bureau will remove the cap for the policy year in which the requirements were not met.

(2) Opt-out provision:

The bureau will automatically apply the cap to an employer that meets the eligibility requirements of paragraphs (H)(1)(a) to (H)(1)(c) of this rule. If an employer wishes to not have the cap applied, the employer must notify the bureau in writing by March thirty-first of the policy year.

~~(3) The bureau will cap the January 1, 2010 EM at a one hundred per cent increase from the published January 1, 2009 EM which used the experience period data calculated as of June 30, 2008. The bureau will not adjust the January 1, 2009 published EM for the purposes of determining the cap for the January 1, 2010 rating year. The bureau will not apply a cap to any EM decreases.~~

~~(4)~~(3) Exclusion to the one hundred percent EM cap: Where more than one employer policy's experience is used to develop an EM, the resulting EM is not subject to the one hundred per cent year to year cap.

~~(5)~~(4) Exceptions to the exclusion:

(a) The bureau will allow the cap to be applied to a debtor in possession policy combination as a result of bankruptcy proceedings. This transaction is a change in policy number without any change in exposure. The baseline EM of the successor will be the predecessor's January 1, 2009 prior rating year published EM.

(b) The bureau will allow the cap to be applied to a succeeding employer policy that is base rated as of the effective date of the transfer that wholly or partially succeeds only one other policy. This exception acknowledges the change in exposure. The baseline EM of the successor will be the predecessor's January 1, 2009 prior rating year published EM.

Effective: 03/22/2010

CERTIFIED ELECTRONICALLY

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Certification

03/11/2010

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Date

Promulgated Under: 111.15  
Statutory Authority: 4121.12, 4121.121, 4121.13  
Rule Amplifies: 4123.29, 4123.34  
Prior Effective Dates: 8/19/77, 7/2/78, 7/1/79, 7/1/80, 7/1/82, 7/1/83, 7/1/87,  
7/1/88, 1/1/92, 7/1/97, 9/8/97, 7/1/02, 7/21/08, 2/7/09,  
5/21/09, 1/1/10