

Changes to New York state experience rating

Effective October 1, 2022

The New York State Department of Financial Services approved a new edition of the NY Compensation Insurance Rating Board's (NYCIRB) Experience Rating Plan Manual effective for experience modification factors (ex mods) with a rating date on or after **October 1, 2022**.

The new rating plan is part of a multi-year evaluation of the experience rating program that the NYCIRB started in 2017. The review found that the credits and debits issued under the current experience rating program are insufficient to adjust premium for individual risks and adequately incentivize workplace safety. They found that well-performing risks were not receiving enough credit, and risks with worse than expected experience were not receiving enough debit. After testing several alternative methodologies, a new plan was developed.

A SIMPLIFIED EXPERIENCE RATING FORMULA

The new NY experience rating formula is simplified and easier to understand. It eliminates the excess loss ballast value, weighting value, actual excess losses, and ratable excess limitation used in the old credibility weighting calculation. The merit rating plan has also been discontinued. All workers' compensation risks in New York state with exposure during the experience period will be experience rated.

The split point is now variable to accomplish the credibility weighting. A split point is a dollar value that divides each actual claim into primary (actual primary losses) and excess components (that are typically excluded from the rating formula). Split points

vary by risk and are a function of each risk's expected losses in the experience period (note: expected losses are a function of payroll). Split points vary from as little as \$1,000 for the smallest risks to as high as \$170,000 for the largest risks. Previously, the split point was \$18,000 for all risks.

Only NY payroll and claims will be included in the NY mod, and will be excluded from National Council on Compensation Insurance (NCCI) interstate mods.

$$\text{Experience rating modification} = \frac{\text{Actual primary losses} + \text{Expected excess losses}}{\text{Expected losses}}$$

Upon implementation of the new plan, New York withdrew from the NCCI interstate rating plan. All New York risks will be rated based on their New York experience only and receive a New York mod that will apply only to their New York exposure.

Under the new plan, NY mods are subject to two capping methods: maximum debit modification and transitional modification factor.





MAXIMUM DEBIT MODIFICATION

The new plan caps the mod based on the number of claims for employers with up to three claims during the experience period. For those with four or more claims, the formula cap is based on the total expected losses in the mod calculation. This approach protects smaller employers from overly punitive mods due to a small number of claims and larger employers from excessive mods.

Number of claims	Maximum debit mod
1	1.2
2	1.4
3	1.75
4+	$2 + .000003 \times \text{expected losses}$
Example, 4+ claims with \$100,000 expected loss	2.3
Example, 4+ claims with \$1 million expected loss	5

TRANSITIONAL MODIFICATION FACTOR

A temporary transitional modification factor may apply to risks with rating effective dates from October 1, 2022, through September 30, 2023.

Specifically, if the modification resulting from the new formula and rates exceeds the prior formula modification by more than 0.3, a transitional modification will be promulgated equal to the prior formula modification + 0.3.

The prior formula modification is based on the prior NY plan's formula and factors applied to the employer's updated NY-only claims and payroll for the current experience period. Note, the prior formula modification is not based on last year's modification factor for all NCCI states, including NY.

DISPLAY ON THE NY RATING WORKSHEET

In cases where the calculated experience modification is above the cap, the maximum capped debit modification amount is calculated and displayed on the NYCIRB worksheet exhibit. If the calculated experience modification is below the cap, the capped debit modification is displayed as *not applicable*. The worksheet displays the number of claims underlying the capped debit modification.

Similarly, the transitional modification factor is calculated and displayed on the NYCIRB worksheet exhibit if the calculated experience modification is above the cap. If the calculated experience modification is below the transitional cap, the transitional modification factor is displayed as not applicable. The worksheet does not display details of the calculation.

The Marsh experience mod estimator's NY worksheet displays details of the transitional modification factor calculation. The Marsh exhibit shows the components of the transitional modification factor. For more information or to request an experience mod estimator, contact your Marsh representative.

IMPACT OF THE NEW PLAN

The new formula's impact to a particular employer's mod will depend on the employer's circumstances, namely, the nature of payroll and claims that enter the mod calculations. In addition to the major mod formula change, the new plan revises provisions that apply to situations that are more specific, for example, multiple claim accident limitation.

The impact of the new NY plan versus the prior plan's NCCI interstate mod can be difficult to predict given that the NY experience now stands alone from other states, the experience period moves forward, and claims develop. Generally, if NY experience is better than all other states, then the NY mod will likely be lower than the prior NCCI mod and the NCCI mod is likely to increase; however, other issues can cause a different outcome. Performing an updated calculation is the best way to assess the effect on the mods.

Companies with WC insurance programs that are not experience rated — for example, high deductible or self-insured programs — may still be affected. This is because the experience mod is an element of determining standard premium used in deriving assessments or fees.

On average, companies with low prior mods will have lower new mods and lower premium. Companies with high prior mods will likely have higher new mods and a higher premium. This should make premium more equitable and incentivize safety.

The new formula places more emphasis on claim frequency and less on claim severity. The prior per claim accident limit was \$574,000, but the new maximum primary split point is \$170,000 — this reduces the impact of random large losses.

The variable split point should contribute to additional stability for smaller risks and allow more of the actual experience to be reflected in the mod determination of larger risks.

The new plan caps the mod based on the number of claims for risks with up to three claims during the experience period. This approach is intended to protect smaller employers from overly punitive mods, while also allowing higher mods than under the prior formula to incentivize safety. For larger employers, the maximum cap is reduced to be relevant. For example, a risk with four or more claims and \$1 million expected loss has a maximum debit mod of 5.



INDUSTRIAL CODE RULE (ICR) 59

With the recent changes to the experience rating formula, it is important to be aware of the [NY Workplace Safety and Loss Prevention Program](#) (WSLPP) that was created in 1996 with the intent to:

- Reduce workplace injuries
 - Lower workers' compensation costs for employers
- Employers may receive a notification from NYCIRB if they have:
- Over \$800,000 in payroll
 - An experience modification rating (EMR) over 1.20

The ICR59 rules apply to public and private businesses that employ workers in NYS. It does not apply to self-insured employers.

The WSLPP requires employers who receive a notification from the NY Compensation Insurance Rating Board (NYCIRB) to have a safety evaluation with a certified consultant. Note that this evaluation has specific timeframes and requirements.

The details of the program are listed in Section 134 of the New York Workers Compensation Law and the Department of Labor's Industrial Code (ICR) Rule 59. You can access both the statute and the regulations from the DOL web site at www.labor.ny.gov.

FOR MORE INFORMATION

NYCIRB's www.nycirb.org provides information to assist in understanding the changes:

- ["Changes to the Experience Rating Program Explained"](#) includes the rationale for the revisions, a description of the new plan's components, examples of experience rating mod calculations, and a sample of the redesigned experience rating worksheet.
- The following information is also available on the [experience rating transition page](#):
 - The updated manual with comprehensive procedures
 - An interactive version of a sample redesigned experience rating worksheet
 - A technical actuarial support memorandum, which provides detailed information related to the rating board's experience rating research behind the resulting methodology



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