

**§2382-D. Uniform experience rating plan; merit rating plan**

**1. Required contents.** The experience rating plan required under section 2382-C must contain:

A. Reasonable eligibility standards; [PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

B. Incentives for loss prevention; [PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

C. Sufficient premium differentials to encourage safety; and [PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

D. Provisions for reasonable and equitable limitations on the ability of policyholders to avoid the impact of past adverse claims experience through change of ownership, control, management or operation. [PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

[PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

**2. Experience rating.** The uniform experience rating plan must be the exclusive means for providing premium adjustments based on the past claim experience of an insured employer. The experience rating plan must provide that the claims experience for the 3 most recent years for which data is available be considered on the following bases.

A. The claims and exposure for the most recent year for which data is available must be given 40% weight. [PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

B. The claims and exposure for the 2nd most recent year for which data is available must be given 35% weight. [PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

C. The claims and exposure for the 3rd most recent year for which data is available must be given 25% weight. [PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

If data is available for only 2 years of experience, the weighting must be 60% for the most recent year and 40% for the 2nd most recent year.

[PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

**3. Merit rating.** If an insured is not eligible for the experience rating plan, a merit rating plan must be applied using the following guidelines.

A. A plan must provide for the following credits or debits to be applied to the otherwise applicable manual premium, based on the number of lost-time claims of the insured during the most recent 3-year period for which statistics are available:

(1) No claims or a loss ratio of less than 1.0, an 8% credit;

(2) One claim resulting in a loss ratio greater than 1.0, no credit or debit; and

(3) Two or more claims resulting in a loss ratio greater than 1.0, an 8% debit. [PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

B. The insurer shall notify the insured of the premium adjustment and the reason for the adjustment. [PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

[PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

**4. Prior lost-time work-related injury.** The experience rating or merit rating plan may not permit, in the calculation of experience modification factors, consideration of those lost-time claims attributable to work-related injuries that are aggravations of, or combine with, any prior lost-time work-related injury to produce incapacity. The superintendent shall adopt rules to protect employers from the impact of these subsequent injury claims and to equitably compensate insurers that provide coverage to these employers.

[PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

**5. Retrospective rating.** Nothing in this section prevents an insurer or an advisory organization from filing rating plans that provide for retrospective premium adjustments based on the insured's experience during the policy period. Except as provided in section 2386, subsection 8, in the voluntary market and the residual market retrospective rating plans must be voluntary and may not be used without the prior consent of the insured.

[PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

**6. Dividend plan.** Nothing in this section prohibits an insurer from developing and operating a dividend plan based on the loss experience of the insured.

[PL 1991, c. 885, Pt. B, §12 (NEW); PL 1991, c. 885, Pt. B, §13 (AFF).]

#### SECTION HISTORY

PL 1991, c. 885, §B12 (NEW). PL 1991, c. 885, §B13 (AFF).

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