West Virginia Employers' Information Meeting – Frequently Asked Questions

1. What is NCCI?

NCCI is West Virginia's designated rating organization for workers compensation insurance. NCCI provides industry participants with critical information regarding rates, filings, data reporting requirements, policy forms and endorsements, classifications, and other

2. Can employers purchase NCCI's Basic Manual and other underwriting manuals?

Yes; however, NCCI's manuals are technical tools written for insurance professionals. NCCI encourages employers to work with their insurers and agents for help with questions about their workers compensation policy.

3. When will the Proof of Coverage system be available in West Virginia? Will this system be available for employers to use?

The Proof of Coverage system is scheduled to be available later this year. An employer will be able to access this system through the West Virginia Offices of the Insurance Commissioner's website.

4. How does Part 3, Other States Coverage of the Workers Compensation Policy apply?

When there are states listed in section 3.C of the Information page of a workers compensation policy, and the insured begins any operations or work in any of the states listed (including any minimal contact that might trigger the application of that state's workers compensation law), the policy applies as though that state were listed in section 3.A of the Information Page.

Because Part Three coverage is not intended to apply to ongoing or anticipated operations of the employer, there is no premium collected up front for coverage under that section, regardless of the extent of the insured's known operations or the number of states listed in Part 3.C of the Information Page. Only if the insured actually begins operations in a state listed in Part 3.C of the Information Page will there be a payroll base or other exposure base for premium, and in that event the appropriate state rate or rates will be used to calculate the premium for coverage under Part 3. The insured must advise the carrier within thirty days of beginning any work in any state not listed in section 3.A or the carrier may be able to exclude coverage for the employer's exposure in that state.

5. Has West Virginia employers' historical data been provided by BrickStreet to NCCI?

Yes, NCCI has received employers' historical premium and loss data. This information was critical in the development of NCCI's initial loss cost filing impacting all employers under the new classification system filed by NCCI and approved by the West Virginia Office of Insurance Commission.

6. What is Employers Liability insurance? What limits will be available?

Part Two of the workers compensation insurance policy provides "Employers Liability" insurance coverage. Part One of the policy covers those statutory benefits an employer is required to provide to injured employees under the state's workers compensation law; Part Two covers other claims recoverable in damages by third parties from the insured.

Under NCCI's Basic Manual, increased limits for employers liability coverage are available up to $500,000 for "Bodily Injury by Accident"; $500,000 for "Bodily Injury by Disease for each employee"; and $500,000 for "Bodily Injury by Disease (policy limit)".

7. When will NCCI's Experience Rating Plan rules become effective in West Virginia?

NCCI anticipates filing the Experience Rating Plan rules to be effective in West Virginia for policies effective on and after July 1, 2007.

8. How will experience modification factors be calculated for employers with multi-state operations? Will these factors include West Virginia experience?

For an employer with multi-state operations, NCCI will combine the employer's West Virginia experience with its experience in other states using the NCCI Experience Rating Plan to calculate a single experience modification factor.

9. How will temporary staffing agencies be written July 1, 2006 and after? Currently, there is one class code that is applied to the policy.

Employees of temporary staffing agencies assigned to a client company, will be classified the same as the direct employees of the client company who perform the same or similar duties. If the client company has no direct employees performing the same or similar duties, then the employees of the temporary staffing agencies will be classified as if they were the direct employees of the client company.

10. What is a "standard exception" and how is it applied to a policy?

Standard exception classification codes describe occupations or duties that are common to many businesses such as clerical and drafting duties, drivers, chauffeurs, messengers, and their helpers, outside salespersons or collectors, and automobile salespersons. Payroll for standard exception classification codes is generally not included in calculating the premium for a basic classification code. However, some basic classification codes by definition do include activities that would otherwise be broken out into a standard exception code.

Standard exception classification codes are assigned when all of the following conditions are met:

- The basic classification(s) wording applicable to the business does not include one of the standard exceptions; and
- Other rules do not prohibit the assignment of the standard exception code(s); and
- The payroll meets the conditions for the application of the standard exception code in question.

Under what conditions can an employer's payroll be assigned multiple classification codes?

More than one basic classification may be assigned to the payroll of an insured who meets the following conditions:

- The insured's principal business is described by a basic classification code that requires payroll for certain operations or employees to be separately rated;
  The insured conducts one or more of the following operations:
  - Construction or erection
  - Farming
  - Employee leasing, labor contracting, temporary labor services
  - Mercantile business
- The insured conducts more than one operation in a state

11. When volunteers elect to be covered, how is their payroll determined and how are they classified?

Typically, volunteers are classified as if they were regular paid employees of a business. Premium is based on the payroll normally received by regular employees doing the same or similar work.

12. How are volunteer firefighters classified and what payroll amount is used in the calculation of premium for them?

Volunteer firefighters are classified to code 7704 – Firefighters & Drivers. When part-time or volunteer firefighters are employed, the actual payroll of all such persons is included with the payroll of regular firefighters in calculating the premium. In no case, however, is the payroll of a volunteer firefighter calculated at less than $300 per person on an annual basis.

13. How are domestic workers covered?

Statutory workers compensation benefits for a domestic worker may be insured as follows:

- By the Standard Policy, or
- By attaching the West Virginia Compensation and Employers Liability Coverage For Domestic Service Employees Endorsement (WC 47 03 14)

Premium for coverage of a domestic worker is determined on a per capita basis, meaning it is based upon the number of domestic workers being covered rather than the payroll for those workers.

14. How should overtime pay be reported?

Extra pay for overtime is excluded if the insured maintains separate records of overtime pay by employee and by classification code. The following table illustrates some common situations and how payroll should be reported for each:

If the employer has maintained separate records for. . .	**Then . . .**
Extra pay earned for overtime separately by employee and by class code	The entire extra pay is excluded
Total pay earned for overtime (regular pay plus overtime pay) in one combined amount, and time and one-half is paid for overtime	1/3 of the total pay should be excluded
Double time is paid for overtime and the total pay for such overtime is recorded separately	1/2 of the total pay for double time should be excluded

Examples:

1. The normal working day is 7 hours. The hourly wage is $10 per hour. If any employee works more than 7 hours, he or she receives $20 per extra hour.
   - An employee works 7 hours and receives $70. There is no overtime payroll to exclude.
   - An employee works 8 hours and receives $90. The excluded overtime amount is $10. It is the increment over the basic hourly wage of $10, which is excluded from the wage paid for the 8th hour.

A night-shift employee works longer hours than usual and consequently receives an increase in rate of pay above the regular night-shift rate for extra hours. Provided the increase is paid at the traditional overtime rate of pay, the increased rate of pay over the regular night-shift rate for the extra hours is excluded.

2. An employee's normal work week is 40 hours for which he is paid $10 per hour. The employee worked 44 hours in a particular week. For the 4 overtime hours (the 41st through 44th), the employee earned $15 per hour. The extra pay earned by the employee for overtime is $20 and is excluded.

   44 hours for the week less 40 hours regular work week = 4 hours overtime

   4 x $15 overtime pay less 4 x $10 normal hourly wage = $20 extra pay for overtime

   An employee works during his or her paid vacation period or on a paid holiday and receives straight time pay in addition to his or her regular vacation or holiday pay. Under the basis of premium rule, unworked vacation pay or holiday pay must always be included in the payroll. In this case we are dealing only with the actual pay during the worked vacation period, none of which constitutes overtime.

15. Are “cafeteria plans” included or excluded in premium determination?

All payments made or due employees prior to a cafeteria plan reduction are included in payroll determination if the amount of the contribution is included in the wages paid to the employee prior to any deductions. Conversely, an employer's matching funds for 401K contributions are not be included in determining premium.

16. If an employee is paid less than minimum wage and also receives tips, what payroll amount would be used for that employee?

The actual wage amount paid to an employee is the basis of payroll for the purpose of determining premium for workers compensation. Tips are excluded from payroll.

17. What type of documentation is an employer required to maintain with regard to its payroll?

The type of documentation for payroll verification required varies by carrier and the operations of the business of a given employer. Typically, carriers will require an employer to maintain records that prove the amount of time each employee worked and how much each was paid in a given time period (time sheets and general ledgers). State statutes, administrative rules and court cases may also establish record keeping requirements, especially if the employer utilizes the services of “independent contractors.” Employers should check with their agent at the beginning of the policy period for guidance on the specific records their carrier will expect the employer to maintain.

18. What is the residual market and how is it funded?

In general, most states require employers to provide workers compensation benefits for their employees. Those benefits include payment for medical care and compensation for lost wages due to injury, occupational disease, or death arising out of employment. Most employers purchase workers compensation insurance to meet their statutory obligation to provide such benefits.

Sometimes employers cannot obtain workers compensation insurance in the voluntary market. Some of the reasons coverage may not be available to an employer in the voluntary market include:

- financial history of the employer,
- loss experience of the employer is greater than industry-average,
- nature of the employer’s business (such as ultra-hazardous industries),
- insufficient premium generated by a small payroll, or
- the employer is a brand new business.

Many states have created a residual market to guarantee all eligible employers have access to workers compensation insurance. A residual market is also sometimes called the market of last resort, the assigned risk market, or the involuntary market. Eligible employers generally will not be refused coverage by a carrier who is initially assigned to them in the residual market.

NCCI's Workers Compensation Insurance Plan (WCIP) is filed and approved in those states in which NCCI administers the residual market. The WCIP contains the rules for administration of the residual market and those rules require the residual market to be self funded. Assigned risk rates and additional pricing programs, which are filed and approved by the state's regulatory authority, assist in achieving the objective of a self-funded residual market mechanism.