

OFFICE OF THE SECRETARY OF STATE  
SHEMIA FAGAN  
SECRETARY OF STATE  
  
CHERYL MYERS  
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION  
STEPHANIE CLARK  
DIRECTOR  
  
800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**ID 5-2021**  
CHAPTER 836  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
INSURANCE REGULATION

**FILED**  
06/18/2021 11:35 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: NCCI rating manual changes in response to the national rollout of COVID-19 vaccinations

EFFECTIVE DATE: 06/18/2021 THROUGH 12/14/2021

AGENCY APPROVED DATE: 06/18/2021

CONTACT: Karen Winkel  
503-947-7694  
karen.j.winkel@oregon.gov

350 Winter Street NE  
Salem, OR 97301

Filed By:  
Karen Winkel  
Rules Coordinator

**NEED FOR THE RULE(S):**

ORS 737.205 requires workers' compensation insurers to file copies of rates, rating plans, and rating systems with the director of the Department of Consumer and Business Services (DCBS). It also allows insurers to meet filing obligations by becoming a member of or a subscriber to a licensed rating organization, which makes filings on the insurer's behalf.

ORS 737.225 states that the director shall prescribe by rule the statistical plan for workers' compensation insurance. Accordingly, OAR 836-042-0045 currently prescribes the Statistical Plan for Workers' Compensation and Employer Liability Insurance, 2008 Edition, filed by the National Council on Compensation Insurance, with revisions approved by the director to become effective on or before August 16, 2020. That date needs to be changed to the effective date of the temporary rule.

**JUSTIFICATION OF TEMPORARY FILING:**

With the national rollout of COVID-19 vaccinations, there is a need to identify claims that resulted from adverse reactions to the vaccinations to ensure these claims do not distort the unit statistical plan data. NCCI's filing will enable COVID-19 vaccination claims reported during the pandemic to be identified with Nature of Injury Code 38 and existing Cause of Injury Code 83 (Pandemic). The update to existing Cause of Injury Code 82 will be available for reporting any vaccination claims from other diseases. The filing will implement these code changes effective for claims with an Accident Date of December 1, 2020, and after.

The director finds that a failure to promptly update the prescribed statistical plan will result in prejudice to the public interest or the interest of the parties concerned. A failure to report claims from an adverse vaccine reaction could result in the inability of NCCI to identify these claims and make any necessary adjustments to the ratemaking methodology to ensure the loss costs and the classification relativities reflect current conditions. In light of the circumstances faced by insurers and the public due to the ongoing pandemic, the plan for maintaining and reporting workers' compensation insurance statistics merits adjustments accordingly. The interests of insurers and the public are subject to prejudice if

revisions to the prescribed statistical plan are not given effect in a timely and expeditious manner.

---

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Draft rules are available from Karen Winkel located at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website:

[dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx](http://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx).

---

AMEND: 836-042-0045

RULE SUMMARY: Updates the statistical plan to enable COVID-19 vaccination claims reported during the pandemic to be identified with specific codes relating to the nature and cause of injury.

CHANGES TO RULE:

836-042-0045

Workers Compensation Statistical Plan ¶¶

(1) The Statistical Plan for Workers Compensation and Employers Liability Insurance, 2008 Edition, filed by the National Council on Compensation Insurance and approved by the director to become effective January 1, 2009, and revisions approved by the director to become effective on or before ~~August 16, 2020~~ June 16, 2021, is prescribed as the statistical plan for workers compensation and employers liability insurance. ¶¶

(2) Manuals or guides referenced within the statistical plan designated in section (1) of this rule are not prescribed by this rule.

Statutory/Other Authority: ORS 731.244, ORS 737.225

Statutes/Other Implemented: ORS 737.225, 737.205, 737.265(2), 737.320