



Wisconsin Compensation Rating Bureau

Covid-19 and Worker's Compensation in Wisconsin Updates and FAQ's

Note: This is a LIVE document and subject to change as additional questions and issues arise.

1. Has WCRB established a new unit statistical code for reporting certain payroll for COVID 19?

UPDATED

Yes, **Unit Statistical Code 0012 - Paid Furloughed Workers During A Governmental Emergency Order Impacting Employment**

Carriers may implement code 0012 as a class code in their operating system.

2. Who is considered a paid furloughed employee for WI worker's compensation insurance purposes?

By definition, a paid furloughed employee is one who is still being paid where they have been given a temporary layoff, an involuntary leave or another modification of normal working hours for a specified duration. This is for payments made by the employer during the paid furloughed time under the Governmental Emergency Order regardless of when it was earned.

3. Is paid furloughed time the same as idle time?

No. Paid furloughed time is the time period where a state-wide emergency order has been issued by a public official and is for an extended period. The employee is not performing work duties for the employer.

Idle time is "down" time when an employee is waiting for materials or products in order to perform their duties. The employee is still under the total direction and control of the employer

4. If a paid furloughed employee continues to be paid by their employer, is their payroll excluded from the employer's worker's compensation insurance premium?

If an employer continues to pay furloughed employees their normal wages and the employer keeps separate, accurate and verifiable records, the payroll will not be included for the basis of premium

5. How is the payroll to be split when an employee works part of a day and is furloughed part of the day?

If the employee is performing work duties for any portion of the day, no division of payroll is acceptable.

6. What if an employer does not have documentation on the work that is furloughed versus the work that is actually being done?

If accurate, verifiable payroll records are not maintained, 100% of the wages are assigned to the employee's normal classification.

WI Basic Manual Rule IV E.2.b.2. states:

“Estimated or percentage allocation of payroll is not permitted.”

7. What if Code 0012 is used fraudulently by an employer to falsely lower WC premiums?

Code 0012 can ONLY be used if an emergency order is issued by a governmental official. Code 0012 is defined as: Paid Furloughed Workers During A Governmental Emergency Order Impacting Employment. If a governmental emergency order is not in effect, code 0012 cannot be used. During a declared government emergency order, improper use of this code or the use of false or misleading documentation in support of reallocation of payroll to this code is a violation of the law and may subject the employer/owners to fines, penalties and/or imprisonment for fraud.

8. Is a \$0.00 rate appropriate for code 0012?

Yes. The WCRB believes there is no justification for charging premium based on payroll that creates no worker's compensation exposure.

9. Is there an end date to when code 0012 can be used?

Statistical code 0012 **Paid Furloughed Workers During A Governmental Emergency Order Impacting Employment** will be a permanent reporting code and will be implemented whenever an emergency order is in effect.

10. Is the term Governmental Emergency Order defined?

Governmental Emergency Order means any order, decree, stipulation, or determination, promulgated or entered by any public official or governmental body representing the state in which a statewide emergency is declared.

11. Is the term public official defined?

Public Official means someone who has authority to exercise the power of the state government and does so in his or her official capacity as an employee of the state government.

12. Should there be a waiting period before code 0012 can be used?

No. The use of stat code 0012 is directly linked to an executive order made by a state official with the authority to do so. ~~In the case of COVID-19, it's Governor Evers' Executive Order #28, which is currently effective from March 17, 2020 through May 26, 2020.~~

UPDATED

13. What actions should we take in the following scenario?

An employer has limited operations due to COVID-19. As a result, some employees are placed into new roles for the duration of the pandemic. What classifications could be assigned to these employees?

The temporary interruption or suspension of normal business activities caused by COVID-19 may qualify as a change in operations for classification purposes.

WI Basic Manual Rule IV states:

- Changes in classification due to changes in an employer's operations will be applied as of the date the change in operations occurred,
- The reallocation of payroll among classifications on the policy is not considered a change or correction in classification(s).

The employer is responsible for maintaining separate payroll records. The payroll records must show the actual payroll, by classification, for individual employees. The records must:

1. Reflect actual time spent working within each job classification and an average hourly wage comparable to the wage rates for such employees within the employer's industry.
2. Actual payroll must be maintained. Estimated or percentage allocation of payroll is not permitted.

14. Does the definition of Paid Furloughed Employees in the filing extend to employees on leave under Federal leave programs such as FFCRA, EPSLA and EFMLEA?

No. The Paid Furlough Employee filing applies only to voluntary salary, wages or payments made by employers to their employees who are not working. The federal programs noted above address required payments made to employees who are not working for a variety of reasons. Such Federal leave programs may involve reimbursements, tax saving and other incentives for employers who are required to make such payments to their employees.

15. Should the payroll allotted to stat code 0012 – *Furloughed Workers During Emergency Governmental Orders Impacting Employment*, be included in the basis for codes 9740 – Terrorism and 9741 – Catastrophe?

No. There is no rate or premium charge filed for stat code 0012. Code 0012 is a stat code and does not affect the worker's compensation insurance premium and should not be included in the calculation of the exposure total on a unit statistical report nor used in the calculation of terrorism or catastrophe charges.

16. Do we treat stat code 0012 as a classification code but with \$0.00 rate with manual premium or does this become an adjustment later in the premium algorithm?

Stat code 0012 is not a class code and should not be treated as a class code. The code can be reported on the policy but will not be included in any premium algorithm.

17. Will COVID-19 claims be included in my future experience rating modifications?

Wisconsin procedures will be consistent with those previously applied to other Extraordinary Loss Event catastrophe codes. Valid claims coded with catastrophe code 12 and reported to Wisconsin will be excluded from experience rating calculations for any employer(s) incurring one or more such claims.

Wisconsin Experience Rating Plan Manual Section III.D.2. states:

2. Losses

The incurred losses in the experience period are those reported in accordance with the **Wisconsin Worker's Compensation Statistical Plan Manual**. No loss can be excluded from the experience of a risk on the ground that the employer was not responsible for the accident that caused such loss.

EXCEPTION:

*Losses reported with a Catastrophe number assigned as a result of an Extraordinary Loss Event are excluded from experience rating calculations. For a list of the catastrophe numbers see the **Wisconsin Worker's Compensation Statistical Plan Manual**, Section III, Loss Information Codes.*

18. Will COVID-19 data be included in ratemaking?

WCRB Actuarial Subcommittee will meet in May to discuss the 2020 rate filing.

The Subcommittee will meet again in November to begin discussion on the 2021 rate. The impact and treatment of claims reported under catastrophe code 12 will be discussed at this meeting.

19. How should the Exposure Act/Exposure Coverage code be reported?

Code 0012 is filed as a stat code only in WI. For WI the exposure coverage 00 is to be reported.

- NEW** 20. When reporting stat code 0012, will the WCRB be looking for a split audit at the effective date of stat code 0012 or is just the total reported?

Split period codes are used to indicate a change in manual/charged rates or modification factors. Since stat code 0012 has no rate or modification applied, there is no split reporting. Report the total stat code 0012 payroll on the effective date of the policy on the unit statistical report.