

MONTANA

Property and Casualty Rates and Rules Filings

General Information

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FILING LAW for other than Workers Compensation

<ul style="list-style-type: none">• <u>All Lines except Reinsurance, Certain Aviation-Related Rates, Ocean Marine and Surplus Lines</u> FILE AND USE. Filing must be submitted to the insurance division on or before the effective date. <i>Statutory Reference: Montana Code Annotated 33-16-203</i>• <u>Reinsurance, Certain Aviation-Related Rates, Ocean Marine and Surplus Lines</u> NO FILING REQUIREMENTS. Rates for these lines are not required to be filed. <i>Statutory Reference: Montana Code Annotated 33-16-103</i>• <u>Crop-Hail Insurance</u> Crop-hail rate filings must be filed yearly and must be received by the office on or before March 15.
<ul style="list-style-type: none">• <u>Credit Scoring or other Scoring Processes</u> Scoring models must be filed. <i>Statutory Reference: Montana Code Annotated 33-18-609</i> The Montana Credit Scoring Checklist must be completed and can be found at http://csimt.gov/wp-content/uploads/credithistorychecklist.pdf The DOI looks for a distribution of insureds by credit score and the average score for Montana and countrywide along with an explanation as to how no hits and no scores are treated neutrally.• <u>Uninsured Motorists(UM), Underinsured Motorists (UIM) and Medical Payments (Med-Pay) auto rates</u> Must be filed and certified by a qualified actuary. <i>Statutory Reference: Montana Code Annotated 33-23-203</i> The Montana UM, UIM and Med-Pay Checklist must be completed and can be found at http://csimt.gov/wp-content/uploads/08292007_Stacking.pdf

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WHAT TO FILE

1. Filing fees are not required.
2. Rates and/or rating rules filings and forms filings should be submitted separately.
3. When adopting advisory/rating organization pricing components filed by an organization, the company should clearly identify the organization submission (the organization's filing number, date submitted, etc.)
4. If an advisory/rating organization treats the classification as "A"rated, or as “refer to company”, the company needs to file a set of rates, range of rates or make individual risk submissions. The rates/rules must reflect that individual risk submissions will be made when rates are refer to company or individual risk rated.
5. The corresponding SERFF form filing tracking number, prior SERFF rate filing tracking number(s) and the SERFF company rate information (overall % indicated change, overall % rate impact, written premium change for this program, number of policyholders affected for this program, written premium for this program, maximum % change, minimum % change, etc.) must be provided.
6. For guidance on support to be provided provide the applicable items within the PDF "Montana-standard-support" which can be found at <https://login.serff.com/serff/viewFilingRulesAttachment.do?attachId=125063499> (note: PDF also available via SERFF under Filing Rules) or <https://csimt.gov/wp-content/uploads/montana-standard-support.pdf>.

COMMON AREAS OF NON-COMPLIANCE

The most common areas of concern or non-compliance, which are not related to a specific line of insurance, are discussed below.

1. Lack of or inadequate supporting data.
2. Inadequately completed or no loss cost adoption forms. The filing must include completed NAIC or NCCI loss cost adoption forms separately for each company and for each loss cost multiplier. The supporting data requirement does apply. Loss cost adoption filings must include an expense exhibit showing at least the latest three years of expense ratios. Filings must also include statistical justification for any loss cost modifications or deviations. The sole rationale of underwriting judgment for loss cost modifications is not sufficient.
3. Inappropriate use of or reliance on national statistics as the primary or complementary database in ratemaking. Use of data from such other states could result in excessive or inadequate rates in the state. Companies should use ratemaking methods and/or databases which do not result in premium penalties to insureds in the state based on incompatible judicial climates in other states.
4. Schedule of rates not filed. A schedule of rates must be filed with the Department or individual risk submissions must be submitted. A large risk considered for individual rating is allowed for risks with \$100,000 or more in premium.
5. Non-compliance with the non-gender law or marital status rule. Rates cannot vary based upon gender or marital status.
6. Schedule rating plans with a maximum modification greater than +/- 40%.

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7. Premiums are fully earned up front. Premiums must be subject to cancellation and some sort of earnings schedule.
8. Expense adjustment plans that allow for commission adjustment. This is considered unfairly discriminatory and not allowed.
9. Risk purchasing group not registered.
10. The ELR's for use with ISO Experience and Schedule Rating Plan are incorrect.
11. Violations of premium financing laws by companies that charge interest. Only companies "which provide installment premium payments programs at no interest to policyholders" are exempted from the premium finance company licensing requirement.
12. Service, installment, late, policy inspection or other fees are not considered premium. Based upon Montana law so need to be treated as premium and premium tax paid on them.
13. The Montana Use of Credit Information in Personal Insurance Act requires that carriers file their insurance scoring model and their treatment of no hits and no scores insureds with the Department. In addition, the Act prohibits the use of a number of different variables in the insurance scoring models. For rates, rules rates/rules filings where credit history is utilized in rating and/or underwriting risks, the Montana credit history checklist must be completed and can be found at the following website: <http://csimt.gov/wp-content/uploads/credithistorychecklist.pdf>
14. For rates, rules rates/rules private passenger automobile and commercial automobile filings where uninsured motorists, underinsured motorists rates, rules, rates/rules or premiums are included in the submission, the Montana uninsured motorists, underinsured motorists and medical payment checklist must be completed and can be found at the following website: http://csimt.gov/wp-content/uploads/08292007_Stacking.pdf
15. Lack of providing histograms on both a capped and uncapped basis. When rates are being revised please provide the number of insureds that fall in each of the following premium/rate change ranges as a result of this revision WITH rate capping/transition if it exists and WITHOUT separately: -50% or more, -40% to -49.9%, -30% to -39.9%, -20% to -29.9%, -15% to -19.9%, -10% to -14.9%, -5% to -9.9%, 0 to -4.9%, 0 to +4.9%, +5.0% to +9.9%, +10% to +14.9%, +15% to +19.9%, +20% to +29.9%, +30% to +39.9%, +40% to +49.9%, +50% to +59.9%, +60% to +69.9%, +70% to +79.9%, +80% to +89.9%, +90% to +99.9%, +100% and over.
16. Lack of information on rate capping. Please state whether or not rate capping/transition exists. If it does please provide the rate capping/transition rating rules, state how long they have been in place, explain the continued need for them and state when it will cease and be removed from the rate/rule plan. The ending date needs to be incorporated into the rates/rules.
17. Lack of compliance with Montana's Defense Within Limits provided at http://csimt.gov/wp-content/uploads/01232013_LimitingDefenseExpense.pdf.

COMMON AREAS OF NON-COMPLIANCE FOR PRIVATE PASSENGER AUTO

1. Companies are prohibited from using driving records, which are 3 years old or older. Pricing structures which contemplate the use of adverse information contained in a driving record older than 3 years are not permitted. See Montana Code Annotated § 33-18-210 (11)(a).
2. Companies cannot unfairly discriminate against previously uninsured risks per 6.6.3301-6.6.3304 ARM.

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3. An insurer can only exclude family members on auto policies. See Montana Code Annotated § 61-6-301 through 61-6-303.
4. An insurer cannot negatively treat an insured in pricing due to a not at fault accident. See Montana Code Annotated § 33-18-120, (12).
5. Unfair discrimination where the companies' "ineligible risks lists" violate state laws regarding race, color, creed, religion, national origin, mental or physical impairment.
6. Non-compliance with Montana's Requirement for rate reduction for insureds age 55 and older or members of the Montana National Guard. Upon completion of a highway traffic safety program, a discount must be applied for three years effective October 1, 2019 for an insured who has completed an approved safety course either before or after October 1, 2019. See Montana Code Annotated § 33-16-222 through 33-16-230.
7. Non-compliance with Montana Code Annotated § 33-23-217 which requires that if an insurer cancels a motor vehicle policy covering a commercial or private motor vehicle for nonpayment of a premium, the insurer shall process the cancellation on a pro rata basis.
8. Companies are prohibited from increasing an insured's premium due to a seat belt violation. See Montana Code Annotated § 61-13-103 and 61-13-104.
9. Companies can only increase an insured's premium for certain speeding violations. See Montana Code Annotated § 61-8-725.

WHAT TO FILE for ADVISORY/RATING ORGANIZATION FILINGS

Other than Workers Compensation

- All filings by company which refer to a reference filing of prospective loss costs made by an advisory/rating organization shall include, in the order listed, the following documents *Reference Filing Adoption Form* and *Summary of Supporting Information*.
- Any participating company of an advisory/rating organization may continue to use all rates and deviations in effect until such rates are disapproved or until the company makes its own filing to change its rates, either by making an independent filing or by filing a reference filing adopting the advisory/rating organization's prospective loss costs, or the company's modification of them.
- For the company's initial adoption of an advisory/ rating organization's reference filing or if a company has NOT elected to have its loss cost adjustments remain on file automatically applicable to prospective loss cost reference filings, and a new reference filing is filed:
 - IF:** the company decides to use the prospective loss costs to revise its rates
 - THEN:** the company must file a *Reference Filing Adoption Form* and *Summary of Supporting Information* including its effective date and indicate whether its loss cost adjustments will apply to future advisory/rating organization's prospective loss cost reference filings.
 - IF:** the company decides not to use revisions and has already initially filed
 - THEN:** the company does not file anything with the insurance division.
- If the company has filed to have its loss cost adjustments remain on file, automatically applicable to subsequent reference filings, and a new reference filing is filed:
 - IF:** the company decides to use the revision of the prospective loss costs and effective date as filed
 - THEN:** the company does not file anything with the insurance division. Rates are the combination of the prospective loss costs and on-file loss cost adjustments and

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become effective on the effective date of the advisory/rating organization's loss cost reference filing.

IF: the company decides to use the revision of the prospective loss costs as filed but with a different effective date

THEN: the company must notify the insurance division of its effective date before the effective date of the advisory/rating organization's loss cost reference filing.

IF: the company decides to use the revision of the prospective loss costs as filed but wishes to change its loss cost adjustments

THEN: the company must file for approval the *Reference Filing Adoption Form Summary of Supporting Information*.

IF: the company decides not to use the revision of the prospective loss costs

THEN: the company must notify the insurance division before the effective date of the advisory/rating organization's loss cost reference filing.

- If a company has authorized advisory/rating organizations to file on its behalf, and a new filing of rules, relativities and supplementary rating information is filed:
 - IF:** the company decides to use the revision and effective date as filed
 - THEN:** the company does not file anything with the insurance division.
 - IF:** the company decides to use the revisions as filed but with a different effective date
 - THEN:** the company must notify the insurance division of its effective date before the approved advisory/rating organization's effective date.
 - IF:** the company decides to use the revision with modification
 - THEN:** the company must file the modification with the insurance division specifying the basis for the modification.
 - IF:** the company decides not to use the revision
 - THEN:** the company must notify the insurance division before the advisory/rating organization's effective date.

WORKERS COMPENSATION FILING LAW

- Advisory Organization Loss Cost Adoption

FILE AND USE. Workers' compensation rate filings that adopt the designated advisory organization loss costs with or without modification, that result in rates that are at or above the designated advisory organization loss costs are subject to the "file and use" laws.

PRIOR APPROVAL. Rate filings that adopt the designated advisory organization loss costs that result in rates that are below the designated advisory organization loss costs are subject to prior approval and must be filed 30 days before the effective date. A filing is considered approved unless it is disapproved by the insurance division within the waiting period or any extension of that period. Upon written application of the company, the insurance division may authorize a filing to become effective before the expiration of the waiting period.
- Rates and Rating Plans other than Advisory Organization Loss Cost Adoption

PRIOR APPROVAL with statutory deemer provisions. Workers' compensation rates and rating plans other than adoption of advisory organization loss costs must be filed **30 days** before the effective date and are subject to prior approval. A filing is considered approved unless it is disapproved by the insurance division within the waiting period or any extension of that period. Upon written application of the company, the insurance division may authorize a filing to become effective before the expiration of the waiting period.

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WORKERS COMPENSATION WHAT TO FILE

- Please see the Work Comp LCM instructions, LCM Form Page 1 and LCM Form Page 2 on the website.

WORKERS COMPENSATION COMMON AREAS OF NON-COMPLIANCE

- See what to file and common areas of non-compliance sections above

WORKERS COMPENSATION OTHER REQUIREMENTS

- National Council on Compensation Insurance (NCCI) is currently the designated advisory organization for Montana. Montana has a competitive state fund and it is the carrier of last resort. There is no assigned risk mechanism
- Every company shall be a member of the designated workers' compensation advisory organization selected by the insurance division.
- Each company shall record and reports its workers' compensation experience to the designated advisory organization as set forth in the uniform statistical plan.
- Each company shall adhere to the uniform classification system and uniform experience rating plan that has been filed by the designated advisory organization and approved by the insurance division.
- Each company must use the manual rules filed by the designated advisory rating organization.
- Companies may file rating plans with the insurance division that provide for prospective or retrospective premium adjustment based on the insured's expected or actual loss experience.
- Each company shall file with the insurance division all rates, supplementary rate information and any changes and amendments made by it. Advisory/rating organization may not file this information on behalf of the company.
- Companies may adopt by reference, with or without deviation, the prospective loss costs filed by the designated advisory organization or the rates and supplementary rate information filed by another company, but must provide supporting information to substantiate such use.
- If a company receives a notice regarding the approval of a new reference filing of rates and rating plans that are limited to prospective loss costs:
 - IF:** The company has an LCM of 1.000 or greater and has filed to have its LCM apply to all future revisions of the loss costs and is **NOT** revising its LCM.
 - THEN:** the company does not need to file anything.
 - IF:** the company has an LCM less than 1.000
 - THEN:** the company must file a *Reference Filing Adoption Form and Summary of Supporting Information*.
 - IF:** the company decides to use the prospective loss costs to revise its rates and revises its LCM.
 - THEN:** the company must file a *Reference Filing Adoption Form and Summary of Supporting Information*.
 - IF:** the company decides not to use prospective low costs.
 - THEN:** the company must file its own rates and supplementary rate information.

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- Dividend Plans

The insurance division prohibits unfair discrimination in the payment of dividends. Dividends must be provided for in the company's articles of incorporation, dividends must not be guaranteed in advance, must be declared by the Board of Directors, must be paid out of earned surplus and may not be “recaptured” from the insured.