



Pennsylvania Compensation Rating Bureau

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PCRB CIRCULAR NO. 1738

To All Members of the PCRB:

RE: CORONAVIRUS (COVID-19) – PCRB UPDATE

As the PCRB continues to work through issues surfacing from the COVID-19 impacts on the Workers Compensation marketplace, we take this opportunity to provide an update on some of the most common questions surfacing since the start of the crisis. COVID-19 has created unique workers compensation insurance issues that need to be addressed. The PCRB has identified these issues, some still needing to be addressed. As a result, the PCRB is publishing the following update in response to these questions. The comments in this update are intended to clarify and/or provide instruction on PCRB's current handling and insights. This continues to be a fluid situation and we are researching and evaluating appropriate treatment as more information becomes available.

General Questions

PAYROLL / PREMIUM HANDLING

1. Due to the pandemic, there are questions surrounding payroll adjustments and classification assignments for WC policy premium calculations. Specifically, with the implementation of governmental stay-at-home orders, job duties have changed, so what specific classification adjustments are permissible with these situations?

At present, the PCRB continues to work through provisional adjustment(s) to current rules on classification assignments and reporting.

The current classification system and Basic Manual rules do not contemplate the situation where there are temporary changes in job duties or operations due to an unusual payroll event, such as a pandemic. The Basic Manual only addresses changes or corrections in classifications due to (permanent) changes in an employer's operations. Given the unprecedented nature of this event, the temporary interruption or suspension of normal business activities caused by COVID-19 may qualify as a change in operations. For example, if a manufacturing company continues to pay employees while they are working from home, carriers may consider a change from to the employer's governing classification to Code 953 –Telecommuters or other appropriate classifications based on the duties of the employees while normal business operations are interrupted or suspended. Once normal business operations resume, appropriate classifications would be applied.

2. If payroll is adjusted due to classification changes, or excluded in certain situations (paying workers who are not working), how should it be accounted for at audit?

Additional guidance related to the reporting and handling of payroll is being developed which may require Basic Manual and Statistical Plan filings. We consider this a high priority with the intention of it being formally addressed in the near future. The PCRB is committed to trying to standardize with other state rating organizations across the country, but must also ensure that those requirements meet the needs of our state regulators and members for purposes of fulfilling our objectives as a rating organization. With that said the Basic Manual emphasizes the importance of maintaining separate payroll records for any change in operations or wages earned for employees where work has changed.

PREMIUM AUDIT

1. What is the guidance on how carriers should handle physical audits versus other types of audits such as those conducted virtually or via mail, email or telephone?

Pennsylvania does not have a physical audit requirement. Audits can be completed by mail (self-audit), virtually, or by other means as carriers see fit. Carriers, per Part Five — Premium, Section G. (Audit) of the policy, have up to three years to complete an audit.

2. If an employer is unable to comply with completing an audit because of the COVID-19 situation, is the employer considered noncompliant and subject to the Audit Noncompliance Charge (ANC)?

The Pennsylvania Insurance Department (PID) has requested that carriers and the marketplace exercise flexibility in these types of situations. Additionally, in this case, a carrier's use of the Audit Noncompliance Charge (ANC) has always been optional in PA. Therefore, a carrier could opt not to apply the ANC during this time.

POLICY CANCELLATIONS AND NON-RENEWALS

1. Are there new rules as a result of the COVID-19 situation?

In light of the ongoing COVID-19 pandemic the PID addressed the financial impact of the pandemic on Pennsylvania employers. The Department issued the following news release regarding the handling of policy cancellations and non-renewals, highlighting the importance of flexibility: [PA Insurance Department - COVID-19 statement](#). An excerpt from that statement is provided below for your convenience.

“Insurers should consider the following actions: consistent with prudent insurance practices, relaxing due dates for premiums payments, extending grace periods, waiving late fees and penalties, and allowing payment plans for premiums payments to otherwise avoid a lapse in coverage. Insurers should consider cancellation or non-renewal of policies only after exhausting other efforts to work with policyholders to continue coverage.”

At this time, there has been no specific time period communicated for this guidance. However this will likely be addressed in the future, if deemed necessary as the situation continues to evolve. The PCRB requests that all Pennsylvania workers compensation insurers follow in the spirit and intent of the PID's message. Specifically, carriers should accommodate

employers, agents and representatives on policy-related matters, particularly where the ability of an insured to make premium payments has been impacted.

CLAIMS HANDLING / REPORTING

1. Are there special COVID-19 related reporting instructions?

New coding values have been established for claims attributable to COVID-19 with accident dates of December 1, 2019, and subsequent. Extraordinary Loss Event (ELE) Code 12 (Catastrophe Number) and new code 83 for Nature of injury and Cause of injury will be required to be reported for the applicable data types. Refer to Circular [#1737](#) for more information.

GENERAL

1. Claims compensability – Are COVID-19 related claims covered?

It depends on the situation. An illness caused by work exposures can be considered an injury or an occupational disease. Occupational diseases are those identified by the PA Workers' Compensation Act, as well as the diseases that occur more often in specific jobs or industries. Exposure to COVID-19, which resulted in the worker's illness, would most likely be considered an injury, but could also be an occupational disease depending on the type of work performed. At this point, COVID-19 is not stated as an occupational disease within the PA Workers' Compensation Act for any specific classification codes, however this may change in the future.

All other diseases, not specifically enumerated as occupational diseases, may also be entitled to coverage if it meets all three of the following elements: (1) to which the employee is exposed by reason of his employment; (2) which are causally related to the industry or occupation; and (3) the incidence of which is substantially greater in that industry or occupation than in the general population.

2. Experience and Merit Rating, Loss Costs – How will these be handled in the future following the known and anticipated impacts of COVID-19?

Given the unprecedented nature of this pandemic, the PCRB will work with stakeholders to determine whether the inclusion of such claims in these various calculations would meet the intent and purpose of these computations. For now, the PCRB's ability to track and identify these claims via the established new coding, will allow flexibility needed to remove these claims, if that is deemed the appropriate course of action.

3. Pennsylvania Guidance – Is there further information offered by Pennsylvania?

State of Pennsylvania webpages dedicated to the Coronavirus issue:

<https://www.insurance.pa.gov/coronavirus/Pages/PID-News>

<https://www.health.pa.gov/topics/disease/coronavirus/Pages/Coronavirus>

We greatly appreciate your patience as we continue to develop further details on some of these items and thank you for your anticipated cooperation. Please direct your questions regarding these issues to your customary topical contact representative.

William V. Taylor
President

WVT/BP/dn

Remember to visit our web site at www.pcrb.com for more information about this and other topics.