

COVID-19 Business Updates

Dear Valued Agent,

The WCIRB and Commissioner of Insurance recently proposed changes to the USRP that will have several significant impacts on the audit process. The following changes were updated July 1, 2020 and revert to the issuance of the stay at home order issued on March 19, 2020.

New COVID-19 Rule: Basis of Payroll

Part 4, Section IV, Exposure Information, Rule 1, Classification Code and Rule 4, Exposure Amount, were amended to report payments excluded from remuneration pursuant to new Rule 7, Coronavirus Disease 2019 (COVID-19). Payments made to an employee who isn't performing duties of any kind for the employer are to be excluded from payroll when the payments are equal to or less than the employee's regular rate of pay.

Exclusion of payments to non-working employees (furlough pay) – California's stay at home order was put in place on March 19, 2020, which is the effective date for these manual rule exceptions. The rule change will expire 30 days after the stay at home order is lifted.

Payments are excludable if employees are not working at all due to COVID-19. Note that payments cannot exceed employees' regular rate of pay and the insured must maintain adequate payroll documentation.

Impact to policyholders :

This rule change recognizes that many employers continued to pay their employees during the stay at home order even though they weren't working in any capacity. Prior to this rule change, these payments (e.g., sick pay or family leave) would be included for premium computation. But as a result of the change, employers who

continued to pay their non-working employees would not be required to pay workers' compensation premiums provided they were able to separate the payments in their payroll records.

Timing is critical as these rule changes took effect on March 19, 2020, the day the Governor's stay at home order took effect and is slated to end 30 days after the order is lifted. Payments to non-working employees throughout the stay at home order must still be tracked and reported under new classification 0012, which will be added at the time of the audit (code 0012 does not need to be endorsed on the policy).

As employers and their employees return to active work, payrolls will be assigned to the appropriate workers' compensation class codes and applicable premiums will be applied. This will happen even if the Governor's order has not officially been lifted.

It is important that policyholders track these payments separately from regular payrolls beginning with the date these payments began, as well as the date when the employees return(ed) to work.

New COVID-19 Rule: Clerical Office Employees

Part 3, Section III, General Classification Procedures, was amended to add Rule 7, Coronavirus Disease 2019 (COVID-19), to permit the following during this statewide California COVID-19 stay at home order:

- The division of an employee's payroll between Classification 8810.
- Clerical office employees and a non-standard exception classification when the employee's work is exclusively clerical in nature.
- The non-standard exception classification does not include clerical office employees.

This is permitted if the employee's duties now qualify for class code 8810 and the phraseology for the employee's previous work did not include clerical employees.

Note that this is only permitted one time during this crisis.

Impact to policyholders:

This rule change allows for a one-time temporary change in an employee's job duties and workers' compensation classification as a result of COVID-19. This rule change became effective March 19, 2020 (the date the Governor's stay at home order was issued) and recognizes that many employees transitioned to work from home. It allows for the payments to employees who are still working, but have had their job duties change, and will permit their reclassification to a clerical code 8810 for the duration of the exposure change. This rule is set to expire 60 days after the stay at home order is lifted or at the time the employee transitions back to their normal/prior job duties.

It is important that policyholders track the dates that employees' job duties changed and when they resumed their regular activities within payroll records.

Employees who transitioned to a clerical role -- or are working from home and were previously classified to a regular or basic workers' compensation class code -- can be coded to the clerical classification, 8810, should their temporary job duties qualify for the use of that code. Again, it will be important for policyholders to track the dates that job duties changed and at what point normal activities resumed.

If you have any questions, please contact your CompWest business development consultant.



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