



Pennsylvania Compensation Rating Bureau

30 South 17th Street • Suite 1500
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August 2, 2019

VIA SERFF

The Honorable Jessica Altman
Insurance Commissioner
Commonwealth of Pennsylvania
Insurance Department
11311 Strawberry Square
Harrisburg, PA 17120

Attention: Michael McKinney, Actuarial Supervisor, Property & Casualty Bureau

**RE: PCR B Filing No. 302 – Proposed Effective April 1, 2020
Revisions to Basic Manual Rule V – Premium Basis**

Dear Commissioner Altman:

On behalf of the members of the Pennsylvania Compensation Rating Bureau (PCRB), we hereby submit the proposed filing for revisions to the Pennsylvania Workers' Compensation Manual of Rules, Classifications and Rating Values for Workers' Compensation and Employers Liability Insurance (Basic Manual). These revisions are proposed to take effect for policies with effective dates of 12:01 a.m., April 1, 2020 or later. This proposed effective date coincides with changes resulting from PCRB's normal annual comprehensive loss cost revision, which will be filed with the Insurance Department at a later date. This coordination consolidates necessary changes that our members and other constituents must make to policies, forms and systems so that they occur once annually. Nothing in the proposed Basic Manual language housekeeping revisions has impact on the PCRB loss cost value for any classification.

These revisions result from an ongoing national effort by all Rating Bureaus, known as the "Basis of Premium Working Group," where discussions have centered on establishing, where possible, consistent treatment of remuneration in the calculation of workers compensation premium. The revisions codify existing administrative procedure with one exception – the treatment of the fringe benefit component of a prevailing wage situation. Current PCRB procedure allows for the exclusion of the fringe benefit amount of a prevailing wage contract when paid directly to the employee. As part of these revisions PCRB proposes that the fringe benefit amount of a prevailing wage contract be included as remuneration unless payment is directed to a separate group insurance or pension plan or third party administrator. This revision to the treatment of the fringe benefit component of a prevailing wage situation will bring Pennsylvania in conformity with other states and the national perspective.

Details of this filing are provided in PCRB's June 12, 2019 staff memorandum, which is included as part of this package. The memorandum describes and explains the reasoning behind the proposed revisions to the Basic Manual language. The memorandum was reviewed by the PCRB Classification and Rating Committee at the Committee's June 12, 2019 meeting.

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Thank you in advance for your review and attention to this filing. The PCRB is pleased to answer any questions you or the Insurance Department staff may have regarding these proposals.

Sincerely,

William V. Taylor
President

Enclosure: Revisions to Sections 1 & 2



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TO: Pennsylvania Compensation Rating Bureau (PCR B)
Classification & Rating Committee

FROM: Vincent Dean
Director - Classification & Field Operations

DATE: June 12, 2019

RE: Basis of Premium Working Group (BOPWG)
Changes to Rule V – Premium Basis

As part of the ongoing BOPWG discussions to establish, where possible, a consistent treatment of remuneration in the calculation of premium, the PCR B is proposing the following changes to Rule V- B Remuneration, Inclusions and Exclusions, effective April 1, 2020. Note these changes basically codify existing administrative procedure with one exception - the treatment of the fringe benefit component of a prevailing wage situation (Inclusion – q; Exclusion – b). Here there is a change in procedure as evident in the change in language. Specifically, the PCR B currently allows for the exclusion of the fringe benefit amount of a prevailing wage contract when paid directly to the employee. With the approval of this proposal the PCR B will be including the fringe benefit amount unless payment is directed to a separate group insurance or pension plan or TPA. In accordance with this proposed change to Rule V the language for the Section 2 Prevailing Wage Payments entry in the General Auditing and Classification section must also be revised. This change to the fringe benefit component of a prevailing wage situation will bring Pennsylvania into conformance with the national perspective.

The PCR B will continue to monitor the recommendations and filings emanating from the BOPWG in other jurisdictions and determine the merits of implementing subsequent changes in Pennsylvania as needed.

**PENNSYLVANIA WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS
AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS
LIABILITY INSURANCE**

Proposed Effective April 1, 2020

INFORMATION PAGE *remains unchanged.*

PREFACE *remains unchanged.*

MEMBERSHIP *remains unchanged.*

TABLE OF CONTENTS *remains unchanged.*

SECTION 1 – Underwriting Rules-Rule I (General) through Rule IV (Classifications) *remains unchanged.*

RULE V – PREMIUM BASIS

A. *(No change to Item A.)*

B. REMUNERATION – PAYROLL

1. Definition

(No change)

2. Inclusions

Remuneration includes:

- a.** Wages or salaries ~~including retroactive wages or salaries;~~

(No change to Items b. and c.)

- d.** Stock bonus plans – market value of stock at the time it is given to employee (refer to Exclusions, m.) as well as employees' contribution to equity based compensation plans other than stock options.

(No change to Items e. through i.)

- j.** The rental value of housing (e.g. an apartment or a house) provided for an employee based on comparable accommodations;

(No change to Items k. through n.)

- o.** Adjustments necessary to bring employees, such as tipped employees, to federal minimum wage as reported by the United States Department of Labor ~~shall be included;~~

(No change to Item p.)

- q.** Prevailing wage payments and fringe benefits paid directly to employees based on required government-specified minimum wage rates, including but not limited to the Davis-Bacon Act or the Pennsylvania Prevailing Wage Act; (see Section 2 – General Auditing and Classification Prevailing Wage Payments);

(No change to Items r. through u.)

- v.** Deferred or retroactive compensation paid to current employees at time of payment.

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Proposed Effective April 1, 2020

3. Exclusions

Remuneration excludes:

(No change to Item a.)

- b.** Payments made by the employer to a Group Insurance, Pension Plan or [a third party administrator as part of a prevailing wage requirement](#) ~~to an employee directly in lieu of the foregoing because of the Provisions of a prevailing wage statute, including but not limited to the Pennsylvania Prevailing Wage Act or the Davis-Bacon Act.~~ For additional information please see the Section 2 General Auditing and Classification Information of this Manual.

(No change to Items c. through o.)

- p.** [Deferred or retroactive compensation paid to retired or terminated employees not employed during the policy period, provided that records adequately show these employees were no longer employees during the policy period.](#)

SECTION 1 – Underwriting Rules-Rule VI (RATING VALUES AND PREMIUM DETERMINATION) through Rule XVIII (PROFESSIONAL EMPLOYER ORGANIZATIONS, PROFESSIONAL EMPLOYER AGREEMENTS AND PROFESSIONAL EMPLOYER SERVICES) remains unchanged.

**PENNSYLVANIA WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS
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Proposed Effective April 1, 2020

SECTION 2

RATING VALUES *through CLASSIFICATIONS remains unchanged.*

SECTION 2 – GENERAL AUDITING & CLASSIFICATION INFORMATION (Automobile Dismantling through Prefabricated Metal Building Erection –Prefabricated Sheet Metal and Silo Erection – Metal) *remains unchanged.*

PREVAILING WAGE PAYMENTS

Prevailing wage statutes, including but not necessarily limited to the Davis-Bacon Act or the Pennsylvania Prevailing Wage Act stipulate that contractors under Federal or State government contracts, respectively, are required to pay specific minimum wage rates and specified fringe benefits ~~that may be paid into an approved fund for distribution at a later date or paid directly to the employee. Where an employer is unionized, the payments will normally go into a fund. However, if the employer is not unionized, the payments will often be made directly to the employee.~~ When auditing these types of employers, all wages paid to the employees are included for premium calculation. Fringe benefits that are required may only be excluded from premium calculation when paid to group insurance plans, pension plans or third party administrators. If fringe benefit payments are paid directly to an employee the fringe benefit amount is treated like wages and is included for premium calculation.

SECTION 2 – GENERAL AUDITING & CLASSIFICATION INFORMATION (Product Assembly Definition through Coal Mines) *remains unchanged.*

SECTION 2- CLASSIFICATION UNDERWRITING GUIDE *remains unchanged.*

**PENNSYLVANIA WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS
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B. REMUNERATION – PAYROLL

1. Definition

(No change)

2. Inclusions

Remuneration includes:

a. Wages or salaries;

(No change to Items b. and c.)

d. Stock bonus plans – market value of stock at the time it is given to employee (refer to Exclusions, m.) as well as employees' contribution to equity based compensation plans other than stock options.

(No change to Items e. through i.)

j. The rental value of housing (e.g. an apartment or a house) provided for an employee based on comparable accommodations;

(No change to Items k. through n.)

o. Adjustments necessary to bring employees, such as tipped employees, to federal minimum wage as reported by the United States Department of Labor;

(No change to Item p.)

q. Prevailing wage payments and fringe benefits paid directly to employees based on required government-specified minimum wage rates, including but not limited to the Davis-Bacon Act or the Pennsylvania Prevailing Wage Act; (see Section 2 – General Auditing and Classification Prevailing Wage Payments);

(No change to Items r. through u.)

v. Deferred or retroactive compensation paid to current employees at time of payment.

**PENNSYLVANIA WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS
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3. Exclusions

Remuneration excludes:

(No change to Item a.)

- b.** Payments made by the employer to a Group Insurance, Pension Plan or a third party administrator as part of a prevailing wage requirement . For additional information please see the Section 2 General Auditing and Classification Information of this Manual.

(No change to Items c. through o.)

- p.** Deferred or retroactive compensation paid to retired or terminated employees not employed during the policy period, provided that records adequately show these employees were no longer employees during the policy period.

SECTION 1 – Underwriting Rules-Rule VI (RATING VALUES AND PREMIUM DETERMINATION) through Rule XVIII (PROFESSIONAL EMPLOYER ORGANIZATIONS, PROFESSIONAL EMPLOYER AGREEMENTS AND PROFESSIONAL EMPLOYER SERVICES) remains unchanged.

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SECTION 2- CLASSIFICATION UNDERWRITING GUIDE *remains unchanged.*