



COMPENSATION RATING AND INSPECTION BUREAU

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MANUAL AMENDMENT BULLETIN #507

To: All Bureau Members and Subscribers

Re: Amended Process and Premium Threshold for Auditing of Policies

BACKGROUND

The Commissioner of Banking and Insurance has approved amendments to the New Jersey Workers Compensation and Employers Liability Insurance Manual (“Manual”) to reflect available technological efficiencies in the audit of payroll for the purpose of establishing policy premium. Historically, employers had been required to make payroll and tax records available through an in-person visit by an insurance company auditor after the first year a policy is written, annually for policies above \$5,000 in premium, or if a claim occurred. For policies under \$5,000 with no claims, a physical audit was required every third subsequent year. With payroll and tax records now readily available in an electronic format, records can be provided through a “virtual audit” process with the same veracity that has been achieved through a physical review. For this reason, the Rating Bureau proposed that virtual audits be permitted by an insurance company as an additional, alternative mechanism to audit an employer’s payroll and establish the basis of premium for the policy.

Additionally, the premium threshold of \$5,000 to perform an audit has not been adjusted in many years to reflect general increases in payroll. This resulted in an unnecessary increase in the number of policies that must be audited each year. The Commissioner of Banking and Insurance has approved that the premium threshold for an annual physical or virtual audit be increased from \$5,000 to \$10,000 to reflect the increase in wages over time.

MANUAL CHANGES

Part 3, Section 3, “Preparation and Auditing of Policies” of the Manual is updated to reflect these changes. The Manual changes are attached, which become effective July 1, 2022.

A handwritten signature in black ink that reads "James O'Hare". The signature is fluid and cursive, with a large initial 'J' and 'O'.

James O'Hare
Director of Underwriting

JOH:cs
Att:

Effective July 1, 2022

- (a) Determine the payroll expended during the period the policy was in force.
- (b) Extend the payroll in (a) pro rata by the application of a factor determined by dividing the number of days for which the policy was written by the number of days the policy was in force.
- (c) Determine the extended premium by applying manual rates to the payrolls in (b) divided by 100 and applying any applicable experience modification.
- (d) Calculate the extended number of days from which to determine the short rate percentage by dividing the number of days the policy was in force by the number of days for which the policy was written and multiplying the result by 365 days.
- (e) The short rate premium is calculated by applying the short rate percentage corresponding to the extended number of days in (d) to the premium in (c). The short rate percentages are set forth in the table in 2:4 of this Manual.
- (f) The final premium is determined by adding the expense constant to the short rate premium in (e). If the final premium so computed is less than the specified minimum premium, the minimum premium shall be charged.

80.1 Exceptions:

- (a) If the policy is cancelled by the insured because of retirement from the business covered by the policy or because the work insured has been completed, adjustment of premium shall be made by applying manual rates to the audited payrolls, applying any applicable experience modification, and adding thereto the expense constant. If the final premium so computed is less than the pro rata portion of the specified minimum premium, the pro rata portion of the minimum premium shall be charged. In no event, however, shall this provision operate to diminish the minimum premium for the policy below the expense constant charge.
- (b) **New Jersey Workers Compensation Insurance Plan:** In the event that a policy issued by an insurance company is cancelled because Workers Compensation and Employers Liability Insurance is to be provided by it or another insurance company as regular business, such cancellation shall be pro rata and the responsibility of the designated insurance company shall automatically terminate as of the effective date of the voluntary insurance.
- (c) If the policy is cancelled by the insured because of a downgrading of the financial strength rating of the insurer, earned premium shall, upon agreement between the insured and the insurer, be calculated in accordance with 3:3-81 of this Manual, provided that an endorsement, consistent with this Manual, has been filed with the Rating Bureau.

81. Cancellation by the Insurance Company. If the policy is cancelled by the insuring company, adjustment of premium shall be made by applying manual rates to the audited payrolls, applying any applicable experience modification, and adding thereto the pro rata portion of the expense constant. If the final premium so computed is less than the pro rata portion of the specified minimum premium, the pro rata portion of the minimum premium shall be charged.

82. Private Residence Policies. Policies covering private residences shall be cancelled in accordance with the provisions of 3:5-13 and 14 of this Manual.

83. Retrospective Rated Policies shall be cancelled in accordance with provisions of 3:12 of this Manual.

84. Audit of Payroll. The carrier shall make a physical **or virtual** audit of the employer's records to determine the premium in accordance with the following:

- (a) Each policy producing an estimated premium of less than **\$10,000** shall be audited the first year it is written by a carrier, and at least once every three years thereafter. In each year the policy is not audited, a signed payroll statement shall be obtained from the employer subject to rule 86 below.
- (b) Each policy producing an estimated premium of **\$10,000** or more.
- (c) If indemnity losses have been reported under the policy, it is expected that an audit shall be made.
- (d) If a **physical or virtual audit is** requested by the insured or the Rating Bureau.
- (e) If a physical **or virtual** audit is impracticable, it may be waived and a signed payroll statement from the employer may be accepted subject to rule 86 below.

As provided in Part Five—Premium, G. Audit of the policy, in every instance involving a physical **or virtual** audit the payroll auditor shall make up the audit report directly from the books of accounts and original payroll records of the employer. In every instance the audit report shall show the source from which the payrolls were obtained.

85. Failure to Comply with Audit of Payroll. Part Five-Premium, Section G of the policy requires that employers allow

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carriers to examine and audit all records related to the policy. If, after two attempts by the carrier, an employer does not allow the carrier to fully examine and completely audit its records, an Audit Noncompliance Charge may apply as set forth in this section. At each attempt, the carrier shall notify the employer regarding the specific, required records and the amount of the Audit Noncompliance Charge to be applied if the employer continues to refuse to comply with the audit. The carrier shall fully document its file regarding the attempts to obtain the required audit information. These rules apply to mail, email, telephone, computer and physical audits.

Application of the Audit Noncompliance Charge for policies written in the voluntary market shall be at the discretion of the carrier. In order to impose the Audit Noncompliance Charge, the carrier shall include, at the inception of the policy, the Audit Noncompliance Charge Endorsement (WC 00 04 24) and shall include New Jersey in the Schedule. The Audit Noncompliance Charge shall, at the discretion of the carrier, be up to two times the total estimated premium. If the policy includes coverage for states other than New Jersey, the Audit Noncompliance Charge shall be determined based solely on the New Jersey exposure.

All policies written through the New Jersey Workers Compensation Insurance Plan shall include, at the inception of the policy, the Audit Noncompliance Charge Endorsement (WC 00 04 24) and shall include New Jersey in the Schedule. The Audit Noncompliance Charge shall be two times the total estimated premium. Application of the Audit Noncompliance Charge shall be at the discretion of the carrier. If an employer insured through the New Jersey Workers Compensation Insurance Plan does not permit a full and complete audit, or does not provide the required records, regardless of whether the Audit Noncompliance Charge has been paid, the employer shall be deemed noncompliant with the audit and shall be ineligible for coverage through the Plan until such time as a full and complete audit has been performed or the required records have been provided.

The Audit Noncompliance Charge shall not be included as part of standard premium, and it not subject to experience rating or other premium adjustments.

Statistical data, including applicable corrections, shall be filed in accordance with 3:13 of this Manual for each policy applying the Audit Noncompliance Charge. If the employer permits a full and complete audit, or provides the required records, the carrier shall determine the final policy premium based on the results of the audit, and shall, if the employer paid the Audit Noncompliance Charge, either refund the Audit Noncompliance Charge to the employer or apply the Audit Noncompliance Charge to any outstanding balance on the policy. In addition, the carrier shall remove any Audit Noncompliance Charge previously reported in accordance with the Statistical Plan.

86. Policyholder Report. Each carrier may use its own voluntary audit request form **and virtual audit process**. The carrier, either by separate letter or in a prominent place on its audit form, shall inform the employer that the audit form must be accompanied by a WR-30 "Employer Report of Wages Paid" corresponding to the policy period.

87. Dividends. Every workers compensation insurer operating on a mutual, participating or reciprocal basis shall include the New Jersey Participating Provisions Endorsement WC 29 06 03 on every policy written. It shall be permissible to include the verbiage in the Endorsement as condition F of Section Six in the policy contract thus, eliminating the need for the Endorsement.

Where the By-Laws or Charter of the insurer permits the issuance of both participating and non-participating policies, the insurer shall elect one of the methods. The election shall remain in effect for a period of at least one year.