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PENNSYLVANIA TEST AUDIT PROGRAM **BULLETIN # 99**

TEST AUDIT APPEAL DECISION

Per Bureau Circular No. 1532, the result of an insurance carrier appeal to the Audit Committee is presented to the membership for their information.

The carrier appeared before the Committee to appeal the Bureau's test audit result for their insured primarily engaged in the manufacture of fabrics and ribbons for use in the apparel and packaging industries. The appeal centered on the payroll allocation of one employee. This employee was assigned to Code 132, Ribbon Manufacturing-Textile Fabric, in the Bureau's test audit, while the carrier used the standard exception Code 953, Office.

The duties of the employee in question were described by the carrier as acting as a customer service representative working in a separate office, handling phone orders, Internet orders and entering the same into the computer system. It was further noted that the employee spends approximately 10-to-15 minutes, one-to-two days weekly, in the shipping area packaging ribbon. The vast majority of orders are packaged and shipped by other employees in the separate shipping area. Reportedly, the employee may also operate a ribbon machine in the production area, but this too is a minimal portion of her overall duties. The carrier acknowledged that prior to her office position the employee had worked on the production floor and, therefore, was familiar with the equipment should she need to help out in the production area.

The carrier stated that the assignment of Code 953 was correct based on established test audit rulings regarding regular and frequent job duties. As the employee had only minimal exposure to the production area and any packaging performed was to assist other employees, the carrier asserted that such work was not a regular and frequent part of her duties. On the contrary, the employee was principally engaged in customer service and worked in a physically separate office area and, as such, the proper classification assignment for her should be Code 953.

The Bureau's presentation began with a brief summary of the business operations of the insured. In particular, staff noted that the insured packages all orders for delivery. It uses unrelated contract carriers for delivery. Staff pointed out that the carrier's original audit indicated that the employee was exclusively engaged in office work. The Bureau's original test audit recognized that the employee was also engaged in performing work in the ribbon production area and assigned her payroll to the governing classification of Code 132. Upon appeal, the Bureau's auditor had been contacted regarding the duties of the contested employee. The Bureau's auditor advised that the employee had packaged seven orders of ribbons on the day of the original interview and that she was the person responsible for the

packaging of all ribbons. Staff believed that this exposure to the handling of the product and the employee being solely responsible for all ribbon packaging warranted the Code 132 assignment.

The Committee posed several questions to both the carrier and staff to clarify the duties and the location of the work area of the employee in question. Regarding the employee's duties, the Committee questioned how often and the length of time in which she was engaged in packaging. As neither staff at the meeting nor the carrier rep had conducted the Bureau or carrier audits first hand, the information from both audits was used to determine an approximation of these points. Ultimately, it was agreed that the timing of the actual packaging of the product would probably be a few minutes per package and might not require a significant portion of the employee's time to complete the task. However, staff noted that the amount of time spent performing the packaging was technically not relevant, as the employee was handling product in the course of that work. The employee's work area was also questioned, as a diagram provided by staff showed that outside the disputed employee's office area ribbon orders were inventoried on shelving in close proximity. Both staff and the carrier agreed that the employee did have a separate office area where the phone/fax orders were processed and computer entry work was performed. It was noted that the ribbon inventory area was immediately outside that office, and a portion of the employee's time was spent in this area on a daily basis. Further, it was confirmed that the ribbon area was included within the entire production area of the employers' facility and was not a separate office or work area.

After some additional discussion, the Committee went into executive session. A consensus quickly developed that the employee in question was not exclusively engaged in clerical functions as required for the assignment of Code 953. Though her non-clerical functions were not particularly frequent, they did appear to be regular. The Committee noted the possibility of the employee operating the risk's shop machinery in an emergency given her past experience. The relatively basic nature and small size of the insured's operations would also seem to contribute to a certain level of employee interchange, casting some doubt in the Committee's mind as to the minimal degree of non-clerical functions performed by the employee.

Upon motion made and duly seconded, it was voted to sustain the Bureau decision of assigning Code 132 to payroll developed by the employee in question. Five members voted in favor of the motion, one member voted against the motion.