



Pennsylvania Compensation Rating Bureau

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PENNSYLVANIA TEST AUDIT PROGRAM BULLETIN #34

PREMIUM AUDIT TREATMENT OF OUTWORKERS/HOMEWORKERS AND THEIR EXCLUSION UNDER SECTION 104 OF THE PENNSYLVANIA WORKERS' COMPENSATION ACT

Under Section 104 of the Pennsylvania Workers' Compensation Act an employee is defined as "All natural persons who perform services for another for a valuable consideration exclusive of persons to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired, or adapted for sale in the worker's own home, or on other premises, not under the control or management of the employer."

However, a review of the relevant case law by Bureau counsel indicated the definition of an "employee" is not of significance in disputes over the coverage status for individuals who are injured while working in the home. Instead the focus is on whether the injury occurred in the furtherance of the business of the employer. Therefore, the ability to resolve disputes involving coverage status for an Outworker/Homeworker as defined in the Act remains a legal question beyond the Bureau's authority.

At the December 5, 1995 Audit Committee meeting held at the offices of the Pennsylvania Compensation Rating Bureau, the Committee directed that the employee status of an Outworker/Homeworker should be left to the discretion of the individual insurance carrier and would not be subject to criticism by the Bureau's Test Audit Program.

Therefore, the subject of Outworkers/Homeworkers is hereby added to the list of items that will not be included in the determination of reportable differences for the Test Audit Program.

As per Bureau Circular #1285 that revised the Test Audit Program the list of those items now reads as follows:

1. Extraterritoriality
2. Independent Contractors
3. Owner-Operators
4. Pennsylvania Construction Classification Premium Adjustment Program
5. Delaware Construction Classification Premium Adjustment Program
6. Delaware Workplace Safety Program
7. Claims History Review
8. Outworkers/Homeworkers

Test audits found compatible but for differences attributable to the above items one through eight shall be completed by the Bureau, with the above item presented to the carrier on an information only basis. Such test audits shall be counted as compatible for purposes of the Test Audit Incentive Program.

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