



Pennsylvania Compensation Rating Bureau

United Plaza Building • Suite 1500
30 South 17th Street • Philadelphia, PA 19103-4007
(215)568-2371 • FAX (215)564-4328 • www.pcrb.com

TO: Pennsylvania Classification & Rating Committee

FROM: Betty Ann Campbell
Director – Rating Rules & Policy Reporting

DATE: November 1, 2009

RE: Proposed Manual Revisions – Sections 2 and 3
Proposed Effective April 1, 2010

- 1) Revision to Rule IX - Professional Employer Organization (PEO) - Executive Officers Salary Limitation
- 2) Withdrawal of Endorsement WC 00 01 10 - Migrant and Seasonal Agricultural Worker Protection Act Exclusion Endorsement and Addition of New Endorsement WC 00 01 11 - Migrant and Seasonal Agricultural Worker Protection Act Coverage Endorsement
- 3) Withdrawal of Endorsement WC 00 03 18 – Amendatory Endorsement

This proposal includes Manual language changes for clarification of auditing procedures, as well as endorsement deletions and an addition intended to remove outdated endorsements and add an endorsement not previously filed. When relevant, prior PCRB circulars are provided for review and clarification.

The various proposals listed above are discussed as follows:

1) Section 2 – Revisions to Rule IX – Professional Employer Organization (PEO) – Executive Salary Limitation

Bureau staff has recognized that there exists confusion in the treatment of executive officer salaries when a corporation enters into an agreement with a Professional Employer organization (PEO) for the leasing of ALL of the entity's employees, including corporate officers. Questions have arisen as to whether a corporate officer's salary should be limited when covered by the policy of the PEO.

Staff has researched this procedure by investigating other jurisdictions handling of corporate officer salaries and has found that, in the vast majority of other states which have PEO rules, regulations and procedures, salaries of corporate officers are not limited when the entity enters into an employee leasing arrangement.

In order to clarify our procedure, staff recommends adding the following wording to the Manual.

SECTION 2

RULE IX – SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE

A. EXECUTIVE OFFICERS

9. Professional Employer Organization (PEO) – Corporate Clients

The full remuneration of an executive officer(s) shall be included in the payroll of the PEO without payroll limitation. Executive officers may elect to not to be subject to the Pennsylvania Workers Compensation Act. Refer to Rule 2. – Law and Status of this section for officer exclusion procedure. The corporate entity may also obtain a separate policy of insurance for their officer(s) and/or any employees not insured by the PEO contract agreement.

2) Withdrawal of Endorsement WC 00 01 10 – Migrant and Seasonal Worker Protection Act Exclusion Endorsement and Addition of New Endorsement WC 00 01 11 - Migrant and Seasonal Agricultural Worker Protection Act Coverage Endorsement

Migrant and Seasonal Agricultural Worker Protection Act Exclusion Endorsement – WC 00 01 10

Endorsement WC 00 01 10 was adopted and approved on a new and renewal basis effective September 19, 2001. The intent of WC 00 01 10 was to explicitly exclude damages under the Act from coverage under the policy. Bureau Circular No. 1258 is included for review.

Effective April 1, 1992, Pennsylvania adopted the revised version of WC 00 00 00 A and WC 00 00 01 A. Bureau Circular No. 1264 is included for review. The revision to the Workers Compensation and Employers Liability policy added, revised and eliminated various endorsements, including WC 00 01 10.

The withdrawal of WC 00 01 10 effective April 1, 1992 was a result of language for the exclusion of workers under the terms of the Workers Compensation and Employers Liability Policy – W 00 00 00 A being added to Part II, Employers Liability – Exclusions, Item 12.

As the endorsement was withdrawn on a new and renewal basis, WC 00 01 10 remained a part of the Manual with an annotation of its withdrawal effective April 1, 1992.

Although Endorsement WC 00 01 10 should have been replaced July 1, 1992 by WC 00 01 11 – Migrant and Seasonal Agricultural Worker Protection Act Coverage Endorsement, the removal and replacement endorsement was never filed.

Endorsement WC 00 01 11 is used to buy back coverage excluded under the terms of the Workers Compensation and Employer Liability Insurance Policy – WC 00 00 00 A, which excludes coverage under Part II, Employers Liability – Exclusions, Item 12.

Staff proposes the withdrawal of WC 00 01 10 and the approval of WC 00 01 11 to be **effective April 1, 2010**. Copies of the endorsements are attached for reference.

3) Withdrawal of Endorsement WC 00 03 18 – Amendatory Endorsement

The revised policy and endorsement forms for Workers Compensation and Employers Liability announced in Bureau Circular No. 1264 included a new Amendatory Endorsement for the purpose of permitting insurers to exhaust their supplies of previously-printed policy forms. The Pennsylvania Insurance Department approval of WC 00 03 18 was only for a short period, requiring the form to be withdrawn as of March 31, 1994. For reference, Bureau Circular No. 1283 is included for review.

Staff proposes the withdrawal of WC 00 03 18 to be **effective April 1, 2010**.

NEW ENDORSEMENT

**WORKERS COMPENSATION AND EMPLOYERS LIABILITY
INSURANCE POLICY**

WC 00 01 11

**MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT COVERAGE
ENDORSEMENT**

Part Two (Employers Liability Insurance), C. Exclusions., exclusion 12, does not apply to work subject to the Migrant and Seasonal Agricultural Worker Protection Act.

This endorsement applies only to the work described in Item 4 of the Information Page or in the Schedule as subject to the Migrant and Seasonal Agricultural Worker Protection Act (29 USC Sections 1801–1872). The policy applies to that work as though that work were in a state listed in Item 3.A. of the Information Page.

This policy will cover damages payable under the Migrant and Seasonal Agricultural Worker Protection Act (29 USC Sections 1801–1872) or any amendment to that law in effect during the policy period.

Schedule

Description and Location of Work

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement
Insured

Effective Policy No.

Endorsement No.
Premium

Insurance Company

Countersigned by _____

DELETED IN ENTIRETY

MIGRANT AND SEASONAL AGRICULTURAL WORKER
PROTECTION ACT EXCLUSION ENDORSEMENT

WC 00 01 10 –

DELETED IN ENTIRETY

WC 00 03 18

AMENDATORY ENDORSEMENT

AMENDATORY ENDORSEMENT

General Section C. **Workers Compensation Law** is replaced by the following:

C. Workers Compensation Law

Workers' Compensation Law means the workers or workmen's compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page. It includes any amendments to that law which are in effect during the policy period. It does not include any federal workers or workmen's compensation law, any federal occupational disease law or the provisions of any law that provide Non-occupational disability benefits.

The insurance afforded by Part Two (Employers Liability Insurance) is subject to the following additional provisions:

C. Exclusions

This insurance does not cover:

7. damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions.
8. bodily injury to any person in work subject to the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950), the Nonappropriated Fund Instrumentalities Act (5 USC Sections 8171-8173), the Outer Continental Shelf Lands Act (43 USC Sections 1331-1356), the Defense Base Act (42 USC Sections 1651-1654), the Federal Coal Mine Health and Safety Act of 1969 (30 USC Sections 901-942), any other federal workers or workmen's compensation law or other federal occupational disease law, or any amendments to these laws.
9. bodily injury to any person in work subject to the Federal Employers' Liability Act (45 USC Sections 51-60), any other federal laws obligating an employer to pay damages to an employee due to bodily injury arising out of or in the course of employment, or any amendments to those laws.
10. bodily injury to a master or member of the crew of any vessel.
11. fines or penalties imposed for violation of federal or state law.
12. damages payable under the Migrant and Seasonal Agricultural Worker Protection Act (29 USC Sections 1801-1872) and under any other federal law awarding damages for violation of those laws or regulations issued thereunder, and any amendments to those laws.

- I. **Actions Against Us** is subject to the following additional provision:

The bankruptcy or insolvency of you or your estate will not relieve us of our obligations under this Part.

Part Three (Other States Insurance) is changed as follows:

A. How This Insurance Applies

2. If you begin work in any one of those states after the effective date of this policy and are not insured or are not self-insured for such work, all provisions of the policy will apply as though that state were listed in Item 3.A. of the Information Page.
4. If you have work on the effective date of this policy in any state not listed in Item 3.A. of the Information Page, coverage will not be afforded for that state unless we are notified within thirty days.

Schedule

This endorsement applies in the states listed below:



Pennsylvania Compensation Rating Bureau

The Widener Building • 6th Floor

One South Penn Square • Philadelphia, PA 19107-3577 • (215) 568-2371 • FAX (215) 564-4328

October 30, 1991

BUREAU CIRCULAR NO. 1258

To All Members of the Bureau:

Re: NEW AND AMENDED POLICY AND ENDORSEMENT FORMS

- A) Migrant and Seasonal Agricultural Worker Protection Act Endorsement - WC 00 01 10 [NEW]
- B) General Information Page Notes - WC 00 00 01 A [AMENDED]
- C) Voluntary Compensation and Employers Liability Coverage Endorsement - WC 00 03 11 A [AMENDED]

A) Migrant and Seasonal Agricultural Worker Protection Act Endorsement - WC 00 01 10

The Classification & Rating Committee has adopted and the Insurance Commissioner approved the attached Migrant and Seasonal Agricultural Worker Protection Act Endorsement (WC 00 01 10) effective September 19, 1991 on a new and renewal basis. This endorsement is intended to explicitly exclude damages under the Act from coverage under the policy and, in effect, adds an exclusion to the seven existing exclusions in Part 2. C. of the policy. Workers compensation coverage will still be available when authorized under state law. Employers liability coverage for common law tort damages will also continue to apply as to migrant and seasonal agricultural employees.

B) General Information Page Notes - WC 00 00 01 A

The Classification & Rating Committee has adopted and the Insurance Commissioner approved a revision to the General Information Page Notes (WC 00 00 01 A) effective September 19, 1991 on a new and renewal basis. The second paragraph of Note 1. of the General Information Page Notes will be numbered as Note 3., and a new Note 2. will be substituted. The revision will give the carrier clear authority to eliminate the attachment of endorsements to a renewal certificate if the carrier has already provided those endorsements to that insured. A copy of the revised General Information Page Notes is attached.

Bureau Circular No. 1258
Page 2

C) Voluntary Compensation and Employers Liability Coverage Endorsement -
WC 00 03 11 A

The Classification & Rating Committee has adopted and the Insurance Commissioner approved a revision to the Voluntary Compensation and Employers Liability Coverage Endorsement (WC 00 03 11 A) effective September 19, 1991 on a new and renewal basis. The endorsement language has been changed to specifically reflect the intent of its originators, adding the phrase "arise out of and" to paragraph A. 2. A copy of the revised endorsement is attached.

Timothy L. Wisecarver
President

kg
D
Attachments

MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT EXCLUSION ENDORSEMENT

This policy does not cover damages payable under the Migrant and Seasonal Agricultural Worker Protection Act (29 USC § 1801-1872) or any amendment to that law.

Notes:

1. The Migrant and Seasonal Agricultural Worker Protection Act makes agricultural employers, agricultural contractors and agricultural associations liable for bodily injuries sustained by an employee due to intentional violation of the Act or regulations under the Act.

2. Use this endorsement if the insured has an exposure under the MSAWPA that is to be excluded.

3. To exclude coverage in some but not all states, the insurer may add the following statement:

This endorsement applies only to work in these states:

or

This endorsement does not apply in these states:



Pennsylvania Compensation Rating Bureau

The Widener Building • 6th Floor

One South Penn Square • Philadelphia, PA 19107-3577 • (215) 568-2371 • FAX (215) 564-4328

March 23, 1992

BUREAU CIRCULAR NO. 1264

To All Members of the Bureau:

Re: REVISED POLICY & ENDORSEMENT FORMS - WORKERS COMPENSATION & EMPLOYERS
LIABILITY INSURANCE POLICY - WC 00 00 00 A & ATTACHMENTS

The Classification & Rating Committee has adopted and the Insurance Commissioner has approved revisions to the Workers Compensation and Employers Liability Insurance Policy and Attached Endorsements to coincide with the national approach effective April 1, 1992 with respect to new and renewal business only. This revision will clarify the Workers Compensation and Employers Liability Insurance Policy and add, revise and withdraw endorsements as follows:

- NEW: Amendatory Endorsement - WC 00 03 18
- REVISED: Defense Base Act Coverage Endorsement - WC 00 01 01 A
Longshore and Harbor Workers' Compensation Act Coverage
Endorsement - WC 00 01 06 A
Nonappropriated Fund Instrumentalities Act Coverage
Endorsement - WC 00 01 08 A
Outer Continental Shelf Lands Act Coverage Endorsement -
WC 00 01 09 A
Maritime Coverage Endorsement - WC 00 02 01 A
Employers Liability Coverage Endorsement - WC 00 03 03 B
- WITHDRAWN: Federal Employers' Liability Act Exclusion Endorsement -
WC 00 01 05
Longshore and Harbor Workers' Compensation Act Exclusion
Endorsement - WC 00 01 07 A
Migrant and Seasonal Workers Protection Act Exclusion
Endorsement - WC 00 01 10
Maritime Exclusion Endorsement - WC 00 02 02
Employers Liability Insurance Endorsement - WC 00 03 16

Sample copies of the new and revised endorsements are available from National Council on Compensation Insurance (NCCI) and Uniform Printing Company.

Timothy L. Wisecarver
President

kg
D



Pennsylvania Compensation Rating Bureau

The Widener Building • 6th Floor

One South Penn Square • Philadelphia, PA 19107-3577 • (215) 568-2371 • FAX (215) 564-4328

April 12, 1993

BUREAU CIRCULAR NO. 1283

To All Members of the Bureau:

Re: EXTENSION OF AMENDATORY ENDORSEMENT - WC 00 03 18

Bureau Circular No. 1264, dated March 23, 1992, announced revised policy and endorsement forms for Workers Compensation and Employers Liability Policy - WC 00 00 00 A and attached endorsements, approved effective April 1, 1992 in Pennsylvania. This included a new amendatory endorsement, WC 00 03 18, which was a new standard endorsement containing all of the revisions to the policy. This endorsement permitted insurers to exhaust supplies of previously printed policy forms by using this endorsement to amend those policies to match the revised policy. Approval of the revised policy and this endorsement also constituted approval to withdraw the endorsement one year after its effective date, i.e., March 31, 1993, as per the National Council on Compensation Insurance Item Filing P-28.

Coverage to insureds does not change by virtue of whether a policy is issued using the new policy form or an old form with the amendatory endorsement, WC 00 03 18. NCCI has recently requested extension of the effective period of this endorsement for one year beyond March 31, 1993. As the language of the original filing regarding withdrawal of the endorsement was sufficiently permissible in this respect, the Bureau has proposed and the Pennsylvania Insurance Department has approved extension of endorsement WC 00 03 18 to March 31, 1994, effective April 5, 1993.

Timothy L. Wisecarver
President

kg
D