



October 3, 2019

VIA SERFF

The Honorable Trinidad Navarro
Insurance Commissioner
Department of Insurance
State of Delaware
1351 West North Street, Suite 101
Dover, DE 19004

Attention: Tanisha Merced, Deputy Insurance Commissioner

**RE: DCRB Filing No. 1906 – Proposed Effective December 1, 2019
Revisions to Designated Auditable Payrolls and Sections 1 and 2 Manual
Amendments**

Dear Commissioner Navarro and Deputy Commissioner Merced:

On behalf of the members of the Delaware Compensation Rating Bureau, Inc. (DCRB), we hereby submit the proposed filing for revisions to the DCRB Workers' Compensation Manual of Rules, Classifications and Rating Values for Workers' Compensation and Employer's Liability Insurance (Basic Manual). These revisions are proposed for policies with effective dates of 12:01 a.m., December 1, 2019 and later. This proposed effective date will align the implementation of these changes with the DCRB's normal annual comprehensive residual market rate and voluntary market loss cost filing, which was filed with the Department of Insurance on August 2, 2019 with a proposed effective date of December 1, 2019. This coordination consolidates necessary changes that our members and other constituents must make to policies, forms and systems.

The Basic Manual designates the following auditable payrolls: 1) the corporate officer weekly minimum and maximum payrolls; 2) the weekly maximum musicians' or entertainers' payrolls; 3) the annual minimum and maximum payroll for each player, coach, manager or sports official subject to assignment to Code 970, Athletic Team – Contact Sports; and 4) the annual minimum and maximum payroll for each player, coach, manager or sports official subject to assignment to Code 991, Athletic Team: Non-Contact Sports. The corporate officer weekly minimum and maximum payrolls are also used as a sole proprietor's or a partner's auditable payroll when the sole proprietor's or partner's payroll cannot be determined. The DCRB reviews these auditable payrolls annually.

The corporate officer weekly minimum and maximum payrolls and the weekly maximum musicians' or entertainers' payrolls are a function of Delaware's Statewide Average Weekly Wage (SAWW) effective July 1, 2019 (\$1,088.84 – an increase of 1.72% in relation to the July 1, 2018 SAWW of \$1,070.48) with results rounded to the nearest \$50.00 for the maximum corporate officer payrolls.

The corporate officer weekly minimum payroll was formerly set at 50% of SAWW until the DCRB's December 1, 2013 filing. Starting with the December 1, 2013 filing, the DCRB began proposing incremental increases to the formula with the goal of phasing it to 100% of SAWW. This phasing was completed with the Insurance Department's approval of the DCRB's December 1, 2017 filing and the corporate officer weekly minimum payroll is presently set at 100% of SAWW. The current formula for determining the weekly maximum corporate officer auditable payroll (2.5 times SAWW) was established at the same time as the former formula for the weekly minimum corporate officer auditable payroll (50% of SAWW). The DCRB however did not propose increases to the corporate officer maximum concurrent with the phasing of the corporate officer minimum to 100% of SAWW. DCRB finds that it is appropriate to adjust the formula for determining the corporate officer maximum given the increase in the formula for the corporate officer minimum.

DCRB staff reviewed Bureau of Labor Statistics (BLS) data in preparing this filing. That data shows that executive officer pay has been increasing at a rate that is greater than the average for overall pay increases. That data also shows that the top 10% of all workers average more than \$4,000 per week, and that the national average executive officer weekly wage is \$3,657. The following table shows executive officers SAWWs in 8 surrounding states:

JURISDICTION	EXECUTIVE OFFICE SAWW
District of Columbia	\$4,760
New Jersey	\$4,482
Pennsylvania	\$4,445
Massachusetts	\$4,266
New York	\$4,232
Ohio	\$3,867
Maryland	\$3,813
New Hampshire	\$3,466

The BLS did not have data to report executive officer payrolls in Delaware. However, given that the Delaware SAWW is reasonably similar to the SAWW in these surrounding states, DCRB concludes that the Delaware executive officer SAWW would also be reasonably similar to the surrounding states' executive officer SAWWs.

Staff also reviewed the formula used for determining the corporate officer maximum in other jurisdictions. That review shows that an average of between 3.5 times SAWW and 4 times SAWW is used nationally, with most jurisdictions using a formula of 4 times SAWW. DCRB therefore proposes that the formula for determining the corporate officer maximum be revised from 2.5 times SAWW to 4 times SAWW (rounded to the nearest \$50). Staff finds that such proposal accounts for the noted increases in executive officer pay, reinstates a reasonable differential between the corporate officer minimum and the corporate officer maximum, and will align the DCRB with the national perspective on this matter.

The designated weekly maximum payroll to be audited for musicians or entertainers who are not independent contractors remains set at 100% of SAWW.

For this filing, the DCRB is not proposing any revisions to the annual minimum and maximum payroll for each player, coach, manager or sports official subject to assignment to either Code 970 or Code 991.

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This review results in the following December 1, 2019 proposals:

- The corporate officer minimum be revised from \$1,070.00 per week to \$1,089.00 per week.
- The corporate officer maximum be revised from \$2,700 per week to \$4,350 per week.
- The maximum auditable payroll for musicians or entertainers be revised from \$1,070.00 per week to \$1,089.00 per week.

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

Sincerely,

William V. Taylor
President

Enclosure: Revisions to Sections 1 & 2

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

Proposed Effective December 1, 2019

SECTION 1

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

(No change to Item A.)

B. REMUNERATION – PAYROLL

(No change to Item 1.)

2. Inclusions

(No change)

(No change Items a. through m.)

- n. Musicians or entertainers who are not independent contractors shall be included in computation of premiums of hotels or restaurants (maximum of \$~~1070~~-1089 per week for each musician or entertainer);

(No change Items o. through u.)

(No change to Item 3. through 5.)

(No change to Items C. through F.)

SECTION 1 – Underwriting Rules-Rule VI (RATING VALUES AND PREMIUM DETERMINATION) through Rule VIII (LIMITS OF LIABILITY) *remains unchanged.*

RULE IX- SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE AND PREMIUM

A. EXECUTIVE OFFICERS

(No change to Items 1. through 4.)

5. Premium Determination

(No change)

a. *(No change)*

b. The minimum individual payroll for an executive officer is \$~~1070~~-1089 per week.

c. The maximum individual payroll for an executive officer is \$~~2700~~-4350 per week.

(No change to Items d. and e.)

(No change to Items 6. Through 8.)

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

Proposed Effective December 1, 2019

(No change to Items B. through I.)

SECTION 1 – Underwriting Rules-Rule X (CANCELLATION) through Rule XVII (MEMBER CARRIER DISPUTES (DISPUTE RESOLUTION CONFERENCE) *remains unchanged.*

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(No change to Item A.)

B. REMUNERATION – PAYROLL

(No change to Item 1.)

2. Inclusions

(No change)

(No change Items a. through m.)

- n. Musicians or entertainers who are not independent contractors shall be included in computation of premiums of hotels or restaurants (maximum of \$1089 per week for each musician or entertainer);

(No change Items o. through u.)

(No change to Item 3. through 5.)

(No change to Items C. through F.)

SECTION 1 – Underwriting Rules-Rule VI (RATING VALUES AND PREMIUM DETERMINATION) through Rule VIII (LIMITS OF LIABILITY) *remains unchanged.*

RULE IX- SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE AND PREMIUM

A. EXECUTIVE OFFICERS

(No change to Items 1. through 4.)

5. Premium Determination

(No change)

a. *(No change)*

b. The minimum individual payroll for an executive officer is \$1089 per week.

c. The maximum individual payroll for an executive officer is \$4350 per week.

(No change to Items d. and e.)

(No change to Items 6. Through 8.)

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