



September 6, 2018

VIA SERFF

The Honorable Trinidad Navarro
Insurance Commissioner
Department of Insurance
State of Delaware
841 Silver Lake Boulevard
Dover, DE 19904-2465

Attention: Tanisha Merced, Deputy Insurance Commissioner

**RE: DCRB Filing No. 1804 – Proposed Effective December 1, 2018
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, 2018 and later. This proposed effective date coincides with changes resulting from DCRB's normal annual comprehensive residual market rate and voluntary market loss cost filing, which was filed with the Department of Insurance on August 3, 2018. This coordination consolidates necessary changes that our members and other constituents must make to policies, forms and systems so that they occur once annually.

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 weekly minimum and annual maximum payroll for each player, coach, manager or sports official subject to assignment to Code 970, Athletic Team – Contact Sports,
- 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 has historically reviewed the corporate officer weekly minimum and maximum payrolls and the weekly maximum musicians' or entertainers' payrolls annually. This year and going forward, the annual review will also include the weekly minimum payroll for each player, coach, manager or sports official subject to assignment to Code 970 and to Code 991.

The proposed revisions to each of these designated payrolls are a function of Delaware's Statewide Average Weekly Wage (SAWW) effective July 1, 2018 (\$1,070.48 – an increase of 3.88% in relation to the July 1, 2017 SAWW of \$1,030.49) with results rounded to the nearest \$50.00 for the maximum corporate officer payrolls.

The corporate office weekly minimum payroll is set at 100% of SAWW.

The DCRB continues to use the formula reviewed and approved by the DCRB Classification & Rating Committee in the early 1980s for calculating the maximum auditable corporate officer payroll. That formula remains at 2.5 times SAWW.

Prior to December 1, 2016, the DCRB had not proposed any revisions to the designated weekly maximum payroll to be audited for musicians or entertainers who are not independent contractors since at least December 1, 2002 pursuant to conversations with senior test audit staff which advised that it is rarely used. DCRB reconsidered this approach, observing that while rare issues pertaining to this designated payroll may arise and therefore it should be revised along with the other designated auditable payrolls discussed herein. Accordingly, beginning with the December 1, 2016 filing the DCRB proposed to implement incremental revisions to this designated payroll with the goal of phasing it to 100% of SAWW. The DCRB proposed to revise this weekly maximum payroll from \$250.00 per week to \$500.00 per week (bringing it to 48.35% of SAWW) for December 1, 2016, and from \$500.00 per week to \$750.00 per week (bringing it to 72.8% of SAWW) for December 1, 2017. The Department approved the DCRB's December 1, 2016 and December 1, 2017 revisions. For December 1, 2018 the DCRB proposes to complete the phasing of this designated payroll to 100% of SAWW.

The weekly minimum payroll for each player, coach, manager or sports official subject to assignment to Code 970 is presently set at \$600.00 per week of the policy year (including board and lodging). The weekly minimum payroll for each player, coach, manager or sports official subject to assignment to Code 991 is presently set at \$500 per policy year (including board and lodging). Staff's review has found that the National Council on Compensation Insurance, Inc. (NCCI), independent rating organization states of Massachusetts, Michigan, Minnesota and Wisconsin, and the monopolistic fund state of Ohio all use a designated auditable minimum payroll of \$500 per employee per season for their classifications that are equivalent to Delaware Codes 970 and 991. California and New York do not specify a minimum payroll for their equivalent classifications. Staff's review also suggests that the minimum payroll for these classifications is rarely invoked (Delaware Code 970 presently does not have a class book page, meaning that Code 970 has not reported any payroll over the five year period used in the DCRB's most recent comprehensive residual market rate and voluntary market loss cost filing). A review of the historical record does not clearly show why a figure of \$600.00 is used for Delaware Code 970, or why it is applied on a weekly rather than an annual basis. For December 1, 2018 the DCRB proposes that the Code 970 minimum payroll be revised from \$600.00 per week to \$500.00 per policy year. This will bring this in line with procedure in other jurisdictions (including the Pennsylvania Compensation Rating Bureau (PCRB) which uses the \$500.00 annual minimum payroll for both PCRB Codes 970 and 991) and with Delaware Code 991.

This review results in the following December 1, 2018 proposals:

- The corporate office minimum be revised from \$1,030.00 per week to \$1,070.00 per week.
- The corporate officer maximum be revised from \$2,575.00 per week to \$2,700.00 per week.
- The maximum auditable payroll for musicians or entertainers be revised from \$750.00 per week to \$1,070.00 per week.
- The minimum auditable payroll for each player, coach, manager or sports official subject to assignment to Code 970 is revised from \$600.00 per week to \$500.00 per policy year.

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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, 2018

INFORMATION PAGE *remains unchanged.*

PREFACE *remains unchanged.*

MEMBERSHIP *remains unchanged.*

SECTION 1 – General through Classifications *remains unchanged.*

RULE V – PREMIUM BASIS

(No change to Item A.)

B. REMUNERATION – PAYROLL

1. Definition

(No change Item.)

2. Inclusions

Remuneration includes:

(No change to 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 \$~~1,070,750~~ per week for each musician or entertainer);

(No change to Items o. through t.)

(No change Items C. through F.)

SECTION 1 – Rating Values and Premium Determination through Limits of Liability *remains unchanged.*

RULE IX – SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE

A. EXECUTIVE OFFICERS

(No change to Items 1. through 5.)

6. Premium Determination

(No change)

a. *(No change.)*

b. The minimum individual payroll for an executive officer is \$~~1,070,030~~ per week.

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

Proposed Effective December 1, 2018

- c. The maximum individual payroll for an executive officer is ~~\$2,700~~2,575 per week.
- d. *(No change.)*
- e. *(No change.)*

(No change to Items 6. through 8.)

(No change to Items B. through D.)

E. PROFESSIONAL OR SEMIPROFESSIONAL ATHLETIC TEAMS – CLASS CODES 970 AND 991

(No change to Items 1. through 3.)

- 4. The remuneration of an individual player, coach, manager or sports official is subject to a minimum of ~~\$500~~600 per week of the policy year, including board and lodging. [(Limited to Code 970.)] For more details refer to the Classification and Rating Values Section.

(No change to Items F. through I.)

SECTION 1 – Cancellation through Member Carrier Disputes (Dispute Resolution Conference) remains unchanged.

SECTION 2 – Classifications and Rating Values

970 ATHLETIC TEAM – CONTACT SPORTS –PROFESSIONAL AND SEMI-PROFESSIONAL

(No change.)

The remuneration of an individual player, coach, manager or sports official is subject to a minimum of ~~\$500~~600 per week of the policy year, including board and lodging.

OPERATIONS ALSO INCLUDED:

(No change to Item 1.)

OPERATIONS NOT INCLUDED:

(No change to Items 1. through 6.)

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

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INFORMATION PAGE *remains unchanged.*

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(No change to Item A.)

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1. Definition

(No change to Item.)

2. Inclusions

Remuneration includes:

(No change to 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 **\$1,070** per week for each musician or entertainer);

(No change to Items o. through t.)

(No change to Items C. through F.)

SECTION 1 – Rating Values and Premium Determination through Limits of Liability *remains unchanged.*

RULE IX – SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE

A. EXECUTIVE OFFICERS

(No change to Items 1. through 5.)

6. Premium Determination

(No change.)

a. *(No change.)*

b. The minimum individual payroll for an executive officer is **\$1,070** per week.

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

Proposed Effective December 1, 2018

- c. The maximum individual payroll for an executive officer is **\$2,700** per week.
- d. *(No change.)*
- e. *(No change.)*

(No change to Items 6. through 8.)

(No change to Items B. through D.)

E. PROFESSIONAL OR SEMIPROFESSIONAL ATHLETIC TEAMS – CLASS CODES 970 AND 991

(No change to Items 1. through 3.)

- 4. The remuneration of an individual player, coach, manager or sports official is subject to a minimum of **\$500** per week of the policy year, including board and lodging. [(Limited to Code 970.)] For more details refer to the Classification and Rating Values Section.

(No change to Items F. through I.)

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(No change.)

The remuneration of an individual player, coach, manager or sports official is subject to a minimum of **\$500** per week of the policy year, including board and lodging.

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(No change to Item 1.)

OPERATIONS NOT INCLUDED:

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