



September 1, 2022

**DCRB CIRCULAR NO. 1013**

To All Members of the DCRB:

Re: **APPROVAL OF DCRB FILING NO. 2201**  
**CLASSIFICATION PROCEDURAL CHANGE – CREATION OF CODE 822,**  
**TELECOMMUTING CLERICAL EMPLOYEES**  
**BASIC MANUAL – SECTIONS 1 & 2**  
**EFFECTIVE DECEMBER 1, 2022**

The Delaware Department of Insurance has approved DCRB Filing No. 2201, which proposed the creation of a new and separate classification for telecommuting clerical employees: Code 822, Telecommuting Clerical Employees, for policies effective 12:01 a.m., December 1, 2022, or later. The effective date of this revision aligns with the DCRB's December 1, 2022, voluntary market loss cost and residual market rate revision, which was filed with the Commissioner on August 12, 2022 (see DCRB Filing No. 2202, accessed via the DCRB's website: <http://www.dcrb.com> by clicking on the home screen's "Industry Resources" tab then the "Filings" link, for reference), and remains pending as of this date. This coordination will consolidate necessary changes that members and other constituents must make to policies, forms, and systems.

Telecommuting clerical employees are employees performing office clerical work (e.g., keeping the books or records of the business, conducting correspondence, and answering telephone calls) from their home via the use of email, telephone, video conferencing, and the internet. The basis for Filing No. 2201 was the DCRB's recognition that telecommuting is increasingly common across many types of businesses.

Code 822 will be administered as a standard exception classification and authorized for all employers other than those solely assigned to a classification designated "All Employees Including Office" effective December 1, 2022. Clerical workers who interchange between telecommuting and performing clerical work at their employer's location will be classified to Code 822 when more than 50% of their time is spent telecommuting, and to Code 953, Office, when 50% or less of their time is spent telecommuting.

The DCRB did not propose the creation of a corresponding temporary staffing classification for Code 822. Telecommuting presents the same occupational characteristics and exposures whether conducted by direct employees or by temporary staff. In both a direct employment and a temporary staffing arrangement, the telecommuter performs clerical work in the telecommuter's

home. Unlike most other types of temporary staff, temporary telecommuting staff are not exposed to varied and unfamiliar work environments. The Basic Manual amendments that were part of this filing specify that Code 822 is excepted from the general classification procedure for temporary staffing.

Code 822 will be combined with Code 953 for ratemaking purposes until such time as credible payroll and loss experience can be developed for Code 822. The filed (pending) December 1, 2022, DCRB loss cost for both Code 822 and Code 953 is \$0.07; and the corresponding residual market rate for both Code 822 and Code 953 is \$0.09.

Member carriers are directed to add and attribute payroll as warranted to Code 822 for all insureds other than those solely assigned to a classification designated "All Employees Including Office" effective each impacted insured's first policy with an effective date of December 1, 2022, or later.

Please refer to DCRB Filing No. 2201, also posted under the "Filings" link of the DCRB's website, for additional details regarding this revision. Please contact Robert Ferrante, Senior Classification Analyst – Technical Services, at (215) 320-4584 or at [rferrante@dcrb.com](mailto:rferrante@dcrb.com) for any questions regarding this circular. The Basic Manual will be updated on the DCRB's website at a later date.

William V. Taylor  
President

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

*Proposed Effective December 1, 2022*

**INFORMATION PAGE**

**PREFACE** remains unchanged.

**MEMBERSHIP** remains unchanged.

**TABLE OF CONTENTS** remains unchanged.

**SECTION I – UNDERWRITING RULES**

**RULE I – GENERAL** remains unchanged.

**RULE II – EXPLANATION OF COVERAGES AND METHODS OF INSURING** remains unchanged.

**RULE III – POLICY PREPARATION – INSURED, POLICY PERIOD AND STATE OF OPERATIONS** remains unchanged.

**RULE IV – CLASSIFICATIONS**

**ITEM A.** remains unchanged.

**B. Classifications**

**ITEM 1.** through **ITEM 3.** remain unchanged.

**4. Standard Exception Classification**

No change.

- a. CLERICAL OFFICE EMPLOYEES – Code 953** – are employees exclusively engaged in keeping the books or records of the insured or conducting correspondence or who are engaged wholly in office work where such books or records are kept or such correspondence is conducted.

This classification shall be applied only to employees herein described who work exclusively in separate buildings or on separate floors or in departments on such floors which are separated from all other workplaces of the employer by floor to ceiling partitions except for retail stores where a partition at least five feet high is required and within which no work is performed other than clerical office duties as defined in this rule.

~~Telecommuters i.e., employees who work from their home by use of the internet, email and telephone, shall also be considered clerical office employees.~~

Office employees shall be separately classified except in connection with those classes which are designated “all employees including office.”

If any clerical office employee (including drafting employees) has any other regular duty, the entire payroll of that employee shall be assigned in accordance with the class to which the business is assigned.

**COVID 19 CORONAVIRUS EXCEPTION:**

An employee’s job duties may be temporarily reclassified to Code ~~953-822~~ -Telecommuting Clerical Office Employees during any emergency orders, laws or regulations issued due to COVID-19 (Coronavirus), if separate, accurate, verifiable records are maintained. If such records are not maintained, the employee is assigned to the classification applicable to their duties prior to any emergency orders, laws, or regulations issued due to the COVID-19 (Coronavirus) pandemic. Once normal business operations resume, appropriate classifications should be applied.

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AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY INSURANCE**

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This exception is for policies in force on March 1, 2020. The exception will continue to remain in effect and will not expire until determined at a later date as circumstances warrant in consultation with Delaware regulatory authorities.

This classification does not apply to:

- (1) The clerk, such as a counter, front desk, lobby, mall kiosk, time, stock or tally clerk or librarian, whose work is necessary, incidental or part of any operation of the business other than clerical office. Such clerk should be assigned to the basic classification of the business.
- (2) A cashier who is responsible for accepting payment for merchandise or services rendered. The cashier's physical location may include but is not necessarily limited to: a booth, behind a counter or on a sales floor. The cashier or any employee whose regular and frequent duty is accepting payment for merchandise or services rendered should be assigned to the basic classification of the business regardless of the physical work location.

- b. **TELECOMMUTING CLERICAL EMPLOYEES – CODE 822** are employees who work from their personal residence by use of the internet, email and telephone to perform clerical office work. The personal residence of the telecommuter must be separate and distinct from the business location of the employer. Telecommuters shall be exclusively engaged in clerical office type work including but not necessarily limited to: keeping the books or records of the employer, conducting correspondence and telephone duties (including inside sales by telephone).

An employee who interchanges between performing clerical office work at the employer's place of business and performing clerical office work by telecommuting shall be assigned to Code 822 when more than 50% of the employee's time is spent telecommuting. Such employees shall be assigned to Code 953 when 50% or less of their time is spent telecommuting.

- bc. **SALESPERSONS – OUTSIDE, Code 951** are employees either exclusively engaged in sales or collection work away from the employer's premises or who regularly and frequently (as defined in Section 2 of this Manual) are engaged in sales or collection work away from their employer's premises and devote the balance of their time to clerical office duties. Salespersons, collectors or messengers shall be separately classified except in connection with those classifications designated either "all employees including office" or "all employees except office.)

This classification does not apply to:

**ITEM 1., ITEM 2., and ITEM 3.** remain unchanged.

- 4 Employees who sell or solicit exclusively by telephone. Such employees shall be assigned to Code 953 or to Code 822 except in connection with any classification designated "all employees including office."

**ITEM 5.** and **ITEM 6.** remain unchanged.

**ITEM C., ITEM D., and ITEM E.** remain unchanged.

**RULE V – PREMIUM BASIS** through **RULE VIII – LIMITS OF LIABILITY** remain unchanged.

**RULE IX – SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE**

**A. EXECUTIVE OFFICERS**

**ITEM 1.** through **ITEM 5.** remain unchanged.

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

*Proposed Effective December 1, 2022*

**6. Assignment of payroll**

Payroll assignment shall be made in the same manner as for any employee. No executive officer's payroll may be assigned to the standard exception classification unless that officer's duties fulfill the definition of either ~~Salesman~~ Code 951, Salesperson – Outside, ~~or Office~~ Code 953, Clerical Office Employees or Code 822, Telecommuting Clerical Employees. See Rule IV.

**ITEM 7.** through **ITEM 9.** remain unchanged.

**ITEM B.** through **ITEM I.** remain unchanged.

**RULE X – CANCELLATION** through **RULE XVII – MEMBER CARRER DISPUTES (DISPUTE RESOLUTION CONFERENCE)** remain unchanged.

**SECTION 2 – CLASSIFICATIONS AND PCRB RATING VALUES**

**DEFINITIONS**

**ALL EMPLOYEES EXCEPT OFFICE** remains unchanged.

**ALL EMPLOYEES INCLUDING OFFICE:** There is no payroll division between a business classification designated “all employees including office” and Codes 951, ~~and Code 953 and Code 822~~. Such business classification contemplates all salespersons employed by any business assignable to that classification. Such classification also contemplates clerical office personnel engaged in the administration of the business, regardless of whether the office personnel are located at or contiguous to the business’ location or a location separate from the business’ location.

**ALL EMPLOYEES INCLUDING OFFICE EXCEPT HOME HEALTH CARE AND/OR HOME CARE SERVICES:** through **TEMPORARY STAFFING CLASSIFICATION** remain unchanged.

**CLASSIFICATIONS**

No change to Classification Code 005 – **TREE PRUNING, SPRAYING, REPAIRING OR FUMIGATING** through

Classification Code 821 – **BEVERAGE DISTRIBUTOR, WHOLESALE.**

**822 TELECOMMUTING CLERICAL EMPLOYEES**

Applicable to employees who work from their personal residence by use of the internet, email, and telephone to perform clerical work. The personal residence of the telecommuter must be separate and distinct from the business of the employer. Telecommuters shall be exclusively engaged in clerical office type work including but not necessarily limited to: keeping the books or records of the employer, conducting correspondence and telephone duties (including inside sales by telephone).

An employee who interchanges between performing clerical office work at the employer’s place of business and performing clerical office work by telecommuting shall be assigned to Code 822 when more than 50% of the employee’s time is spent telecommuting. Such employees shall be assigned to Code 953 when 50% or less of their time is spent telecommuting. See Code 953 for information on the scope of that classification

**OPERATIONS NOT INCLUDED:**

1. Code 822 may not be applied to telecommuters working for an employer that is assigned to a classification designated “All Employees Including Office.” Such employees must be classified in accordance with the employer’s applicable field of business classification.
2. A business that operates from a personal residence shall have employees who perform clerical office work at that personal residence assigned to Code 953, provided that the employer is not classified to a classification designated, “All Employees Including Office” and the office employees fulfill the criteria for assignment to Code 953. See Code 953 for additional details.

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3. Not applicable to telecommuting employees who perform outside sales work, any duties directly related to the employer's business operations, or any work necessary, incidental or related to the employer's business operations, including but not necessarily limited to stock, tally, front desk or cashier duties.

**UNDERWRITING GUIDE:**

Telecommuting Clerical Employee.

No change to Classification Code 825 – **AUTOMOBILE STORAGE GARAGE OR PARKING STATION OR LOT – NO AUTOMOBILE REPAIR** through Classification Code 945 – **HOTEL RESTAURANT EMPLOYEES, ALL EMPLOYEES EXCEPT OFFICE. FOR USE IN CONJUNCTION WITH CODE 973 ONLY.**

**948 MAILING OR ADDRESSING COMPANY – ALL EMPLOYEES INCLUDING OFFICE**

No Change

Clerical is included within the phraseology of this classification. Code 948 does not provide for payroll division with ~~either~~ Code 951, ~~or~~ Code 953 or Code 822.

**OPERATIONS NOT INCLUDED:**

No change.

**UNDERWRITING GUIDE**

No Change.

**951 SALESPERSON – OUTSIDE**

No change.

**OPERATIONS NOT INCLUDED:**

**ITEM 1.** through **ITEM 3.** remain unchanged.

4. Assign Code 953 or Code 822 to employees who sell or solicit exclusively by telephone except in connection with any classification designated "all employees including office."

**ITEM 5.** through **ITEM 7.** remain unchanged.

**UNDERWRITING GUIDE:**

No change.

No change to Classification Code 952 – **OFFICE MACHINE SERVICE REPAIR**

**953 CLERICAL OFFICE EMPLOYEES**

No change.

**OPERATIONS NOT INCLUDED:**

**ITEM 1.** through **ITEM 4.** remain unchanged.

5. An employee who interchanges between performing clerical office work at the employer's place of business and performing clerical office work by telecommuting shall be assigned to Code 822 when more than 50% of the employee's time is spent telecommuting. Such employees shall be assigned to Code 953 when 50% or less of their time is spent telecommuting. See Code 822 for information on the scope of that classification.

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**UNDERWRITING GUIDE:**

**Telecommuter**

No change to Classification Code 954 – **SECURITY AGENCY** through Classification Code 9741 – **CATASTROPHE (OTHER THAN CERTIFIED ACTS OF TERRORISM)**.

**GENERAL AUDITING & CLASSIFICATION INFORMATION**

No change to **AUTOMOBILE DISMANTLERS** through **DRIVERS (Payroll Allocation)**.

**EXCEPTIONS:**

**ITEM 1.** through **ITEM 5.** remain unchanged.

- 6. CLERICAL** – all temporary clerical staff, other than telecommuting clerical employees, shall be assigned to Code 2953 regardless of the client’s applicable direct employment classification. See Rule IV.B.2 (“Standard Exception Classification”) in Section 1 of this Manual for the definition of clerical staff. Telecommuting clerical employees shall be classified to 822. Refer to Code 822 for information regarding the scope of that classification.

**ITEM 7.** remains unchanged.

- 8.** The following classifications are not available as a guide in classifying temporary staffing contractors: 822, 972, 985, 993, 994, 996, 0901, 0902, 0908, 0909, 0912 and 0913.

**ITEM 9.** remains unchanged.

No change to **EXECUTIVE OFFICERS - CLASSIFICATION ASSIGNMENT** through **WRECKING OR DEMOLITION OR BUILDING MOVING OR RAISING PROJECT**.

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**RULE III – POLICY PREPARATION – INSURED, POLICY PERIOD AND STATE OF OPERATIONS** remains unchanged.

**RULE IV – CLASSIFICATIONS**

**ITEM A.** remains unchanged.

**B. Classifications**

**ITEM 1.** through **ITEM 3.** remain unchanged.

**4. Standard Exception Classification**

No change.

- a. CLERICAL OFFICE EMPLOYEES – Code 953** – are employees exclusively engaged in keeping the books or records of the insured or conducting correspondence or who are engaged wholly in office work where such books or records are kept or such correspondence is conducted.

This classification shall be applied only to employees herein described who work exclusively in separate buildings or on separate floors or in departments on such floors which are separated from all other workplaces of the employer by floor to ceiling partitions except for retail stores where a partition at least five feet high is required and within which no work is performed other than clerical office duties as defined in this rule.

Office employees shall be separately classified except in connection with those classes which are designated “all employees including office.”

If any clerical office employee (including drafting employees) has any other regular duty, the entire payroll of that employee shall be assigned in accordance with the class to which the business is assigned.

**COVID 19 CORONAVIRUS EXCEPTION:**

An employee’s job duties may be temporarily reclassified to Code 822 -Telecommuting Clerical Employees during any emergency orders, laws or regulations issued due to COVID-19 (Coronavirus), if separate, accurate, verifiable records are maintained. If such records are not maintained, the employee is assigned to the classification applicable to their duties prior to any emergency orders, laws, or regulations issued due to the COVID–19 (Coronavirus) pandemic. Once normal business operations resume, appropriate classifications should be applied.

This exception is for policies in force on March 1, 2020. The exception will continue to remain in effect and will not expire until determined at a later date as circumstances warrant in consultation with Delaware regulatory authorities.

This classification does not apply to:



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- (1) The clerk, such as a counter, front desk, lobby, mall kiosk, time, stock or tally clerk or librarian, whose work is necessary, incidental or part of any operation of the business other than clerical office. Such clerk should be assigned to the basic classification of the business.
- (2) A cashier who is responsible for accepting payment for merchandise or services rendered. The cashier's physical location may include but is not necessarily limited to: a booth, behind a counter or on a sales floor. The cashier or any employee whose regular and frequent duty is accepting payment for merchandise or services rendered should be assigned to the basic classification of the business regardless of the physical work location.

- b. **TELECOMMUTING CLERICAL EMPLOYEES – CODE 822** are employees who work from their personal residence by use of the internet, email and telephone to perform clerical office work. The personal residence of the telecommuter must be separate and distinct from the business location of the employer. Telecommuters shall be exclusively engaged in clerical office type work including but not necessarily limited to: keeping the books or records of the employer, conducting correspondence and telephone duties (including inside sales by telephone).

An employee who interchanges between performing clerical office work at the employer's place of business and performing clerical office work by telecommuting shall be assigned to Code 822 when more than 50% of the employee's time is spent telecommuting. Such employees shall be assigned to Code 953 when 50% or less of their time is spent telecommuting.

- c. **SALESPERSONS – OUTSIDE, Code 951** are employees either exclusively engaged in sales or collection work away from the employer's premises or who regularly and frequently (as defined in Section 2 of this Manual) are engaged in sales or collection work away from their employer's premises and devote the balance of their time to clerical office duties. Salespersons, collectors or messengers shall be separately classified except in connection with those classifications designated either "all employees including office" or "all employees except office.)

This classification does not apply to:

**ITEM 1., ITEM 2., and ITEM 3.** remain unchanged.

- 4 Employees who sell or solicit exclusively by telephone. Such employees shall be assigned to Code 953 or to Code 822 except in connection with any classification designated "all employees including office."

**ITEM 5.** and **ITEM 6.** remain unchanged.

**ITEM C., ITEM D., and ITEM E.** remain unchanged.

**RULE V – PREMIUM BASIS** through **RULE VIII – LIMITS OF LIABILITY** remain unchanged.

**RULE IX – SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE**

**A. EXECUTIVE OFFICERS**

**ITEM 1.** through **ITEM 5.** remain unchanged.

**6. Assignment of payroll**

Payroll assignment shall be made in the same manner as for any employee. No executive officer's payroll may be assigned to the standard exception classification unless that officer's duties fulfill the definition of either Code 951, Salesperson – Outside Code 953, Clerical Office Employees or Code 822, Telecommuting Clerical Employees. See Rule IV.

**ITEM 7.** through **ITEM 9.** remain unchanged.

**ITEM B.** through **ITEM I.** remain unchanged.

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**RULE X – CANCELLATION through RULE XVII – MEMBER CARRER DISPUTES (DISPUTE RESOLUTION CONFERENCE) remain unchanged.**

**SECTION 2 – CLASSIFICATIONS AND PCRB RATING VALUES**

**DEFINITIONS**

**ALL EMPLOYEES EXCEPT OFFICE** remains unchanged.

**ALL EMPLOYEES INCLUDING OFFICE:** There is no payroll division between a business classification designated “all employees including office” and Code 951, Code 953 and Code 822. Such business classification contemplates all salespersons employed by any business assignable to that classification. Such classification also contemplates clerical office personnel engaged in the administration of the business, regardless of whether the office personnel are located at or contiguous to the business’ location or a location separate from the business’ location.

**ALL EMPLOYEES INCLUDING OFFICE EXCEPT HOME HEALTH CARE AND/OR HOME CARE SERVICES:** through **TEMPORARY STAFFING CLASSIFICATION** remain unchanged.

**CLASSIFICATIONS**

No change to Classification Code 005 – **TREE PRUNING, SPRAYING, REPAIRING OR FUMIGATING** through Classification Code 821 – **BEVERAGE DISTRIBUTOR, WHOLESALE.**

**822 TELECOMMUTING CLERICAL EMPLOYEES**

Applicable to employees who work from their personal residence by use of the internet, email, and telephone to perform clerical work. The personal residence of the telecommuter must be separate and distinct from the business of the employer. Telecommuters shall be exclusively engaged in clerical office type work including but not necessarily limited to: keeping the books or records of the employer, conducting correspondence and telephone duties (including inside sales by telephone).

An employee who interchanges between performing clerical office work at the employer’s place of business and performing clerical office work by telecommuting shall be assigned to Code 822 when more than 50% of the employee’s time is spent telecommuting. Such employees shall be assigned to Code 953 when 50% or less of their time is spent telecommuting. See Code 953 for information on the scope of that classification

**OPERATIONS NOT INCLUDED:**

1. Code 822 may not be applied to telecommuters working for an employer that is assigned to a classification designated “All Employees Including Office.” Such employees must be classified in accordance with the employer’s applicable field of business classification.
2. A business that operates from a personal residence shall have employees who perform clerical office work at that personal residence assigned to Code 953, provided that the employer is not classified to a classification designated, “All Employees Including Office” and the office employees fulfill the criteria for assignment to Code 953. See Code 953 for additional details.
3. Not applicable to telecommuting employees who perform outside sales work, any duties directly related to the employer’s business operations, or any work necessary, incidental or related to the employer’s business operations, including but not necessarily limited to stock, tally, front desk or cashier duties.

**UNDERWRITING GUIDE:**

Telecommuting Clerical Employee.

No change to Classification Code 825 – **AUTOMOBILE STORAGE GARAGE OR PARKING STATION OR LOT – NO AUTOMOBILE REPAIR** through Classification Code 945 – **HOTEL RESTAURANT EMPLOYEES, ALL EMPLOYEES EXCEPT OFFICE. FOR USE IN CONJUNCTION WITH CODE 973 ONLY.**

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*Proposed Effective December 1, 2022*

**948 MAILING OR ADDRESSING COMPANY – ALL EMPLOYEES INCLUDING OFFICE**

No Change

Clerical is included within the phraseology of this classification. Code 948 does not provide for payroll division with Code 951, Code 953 or Code 822.

***OPERATIONS NOT INCLUDED:***

No change.

**UNDERWRITING GUIDE**

No Change.

**951 SALESPERSON – OUTSIDE**

No change.

***OPERATIONS NOT INCLUDED:***

**ITEM 1.** through **ITEM 3.** remain unchanged.

**4.** Assign Code 953 or Code 822 to employees who sell or solicit exclusively by telephone except in connection with any classification designated “all employees including office.”

**ITEM 5.** through **ITEM 7.** remain unchanged.

***UNDERWRITING GUIDE:***

No change.

No change to Classification Code 952 – **OFFICE MACHINE SERVICE REPAIR**

**953 CLERICAL OFFICE EMPLOYEES**

No change.

***OPERATIONS NOT INCLUDED:***

**ITEM 1.** through **ITEM 4.** remain unchanged.

**5.** An employee who interchanges between performing clerical office work at the employer’s place of business and performing clerical office work by telecommuting shall be assigned to Code 822 when more than 50% of the employee’s time is spent telecommuting. Such employees shall be assigned to Code 953 when 50% or less of their time is spent telecommuting. See Code 822 for information on the scope of that classification.

***UNDERWRITING GUIDE:***

No Change

No change to Classification Code 954 – **SECURITY AGENCY** through Classification Code 9741 – **CATASTROPHE (OTHER THAN CERTIFIED ACTS OF TERRORISM).**

**GENERAL AUDITING & CLASSIFICATION INFORMATION**

No change to **AUTOMOBILE DISMANTLERS** through **DRIVERS (Payroll Allocation).**

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**ITEM 1** through **ITEM 5**. **remain** unchanged.

**6. CLERICAL** – all temporary clerical staff, other than telecommuting clerical employees, shall be assigned to Code 2953 regardless of the client’s applicable direct employment classification. See Rule IV.B.2 (“Standard Exception Classification”) in Section 1 of this Manual for the definition of clerical staff. Telecommuting clerical employees shall be classified to 822. Refer to Code 822 for information regarding the scope of that classification.

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