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PENNSYLVANIA TEST AUDIT PROGRAM
BULLETIN #128

TEST AUDIT APPEAL DECISION

This appeal centered on the application of COVID-19 exceptions by a carrier on the final audit of a museum operation. The PCRB test audit assigned employees splitting time between the business location and at home to Code 887 and cited a difference to the carrier for assigning the same payroll to Code 953. After initial review PCRB did accept the carrier's application of the Covid-19 telecommuter exception to any employee working exclusively from home producing virtual content such as cultural dances, presentations or lectures that were viewed by patrons while the business location was closed but did not accept the carrier's use of Code 953 for an employee working both from the business location and from home.

The carrier argued, first, that the business operations changed because the building was not open to patrons. The carrier contended that because the building was not accessible to patrons due to COVID-19 this was a change in the business operations and allowed for the use of Code 953 for the entire business operation. Secondly, the carrier opined that any employee splitting time between home and the business location can be assigned to Code 953. The employee in question spent the majority of time at home engaged in work for the business and, therefore, it was believed the COVID-19 telecommuter exception should be applied to this employee.

In response PCRB argued that the COVID-19 exception for the change in business operations was not applicable as the insured continued to provide the same type of services to the community typical of a museum. The insured continued to offer cultural content, lectures and other services associated with most museum operations. The PCRB did apply the COVID-19 telecommuter exception to any employee working exclusively from home. However, the employee that interchanged between working at the museum location and at home was assigned to the appropriate, authorized business classification; Code 887. In support PCRB pointed to language in Test Audit Bulletin #127 which states "...if an employee performed their duties from home and from the employer's location, they do not qualify for the telecommuting exception."

In executive session Committee members discussed the merits of the change in business operations. Some members offered that while the services provided were reduced, the overall business operations were not significantly impacted to warrant a change in the authorized business classification. Overall, the Committee determined that the PCRB applied the telecommuter exception rule appropriately and voted unanimously to sustain the cited test audit difference.