March 15, 2005

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R.C. 2083

To the Members of the Board

RE: New York Workers Compensation
Clarification of Classification Phraseology and Procedures

The Rates Committee has adopted, and the New York State Insurance Department has approved, clarification of phraseologies and procedures for Codes 5191, 8810 and 8829 with an issue date of March 14, 2005.

The Classification Section and the Digest of the Rulings and Interpretations Section of the New York Workers Compensation and Employers Liability Insurance Manual have been updated with the following changes:

a. Office Machine Installation – Code 5191

The current phrase in New York for Code 5191 is “OFFICE MACHINE or Appliance INSTALLATION, Inspection, Adjustment or REPAIR.” The classification procedure is to assign Code 3724 “Electrical Apparatus Installation” for the installation of commercial appliances or some other classification which will depend upon the type of appliance being installed.

The phrase “or Appliance” has been removed to accurately reflect current classification procedures. An amended Page C-56 is attached.

b. Clerical Office Employees – Code 8810

Classification questions often arise as to whether or not Code 8810 can be used in conjunction with a classification code that includes clerical operations in its phraseology. The Digest of Rulings and Interpretations currently has an entry intended to clarify these situations.
The Digest has been amended to further clarify that if an insured conducts an operation that includes clerical in its classification phraseology, and also conducts another business operation at the same or another location that would otherwise be subject to Code 8810, then Code 8810 may be applied to the additional business. An amended copy of Page D-33 is attached.

c. Convalescent or Nursing Home—Code 8829

Currently there is some confusion concerning the correct classification assignment for a hospital that also operates a convalescent or nursing home.

Under current classification procedures, if a hospital operates a convalescent or nursing home, at the same location or adjacent to the hospital, the hospital codes 8833 and 9040 apply. If the convalescent or nursing home is independent of a hospital or at another location, then Code 8829 applies.

Footnotes are now included in the classification phraseology for these codes to clarify the proper classification procedures. Amended Pages C-23, C-43 and C-56 are attached.

Revised manual pages will be distributed as soon as they are available.

Very truly yours,

Monte Almer

President

CD:tg
Encl.
CONSTRUCTION or ERECTION PERMANENT YARD
Applies only to a permanent yard maintained by a construction or erection risk for the storage of material or the storage and maintenance of equipment. Not available at a construction site. May be used only upon specific assignment by the Rating Board. Mill operations or fabrication to be separately rated.

CONTRACTOR—EXECUTIVE SUPERVISOR
Applies to supervision of construction or erection exercised through superintendents or foremen, not directly. Superintendents or foremen in charge of construction or erection work, watchmen, timekeepers or cleaners shall be assigned to the governing classification. Not available for division of a single employee's payroll with any other classification.

CONTRACTORS’ MACHINERY DEALER—store or yard—& Drivers
Operations include repair of machinery and parts sales at the insured’s premises.

For operations performed at the customers’ premises, refer to the entry in Section II of the Digest of Rulings and Interpretations under “Machinery Installation, Service or Repair.”

CONVALESCENT or Nursing HOME—ALL EMPLOYEES
A convalescent or nursing home operated by a hospital, at the same location or adjacent to the hospital shall be assigned to Code 8833 “Hospital—Professional Employees” and Code 9040 “Hospital—All Other Employees.”

CONVENIENCE STORE with Self-Service Gasoline Station
Refer to Section II of the Digest of Rulings and Interpretations.

COOPERAGE ASSEMBLY
Stock mfg. to be separately rated as Code 2710 “Cooperage Stock Mfg.”

COOPERAGE STOCK MFG.
Applies to the manufacture of heads, hoops or staves. Cooperage assembly to be separately rated as Code 2759.

COPPER or Brass GOODS MFG.

CORD, Rope or Twine MFG.—cotton, linen or silk

CORRUGATED or Fiberboard CONTAINER MFG.
Includes corrugating or laminating of paper. Paper or paper board mfg. to be separately rated as Code 4239.

COTTON BATTING, Wadding or Waste MFG.

COTTON MERCHANT & Drivers
Includes warehouse or yard employees.

COTTON SPINNING AND WEAVING
HOME HEALTH CARE SERVICES:
Applies to any establishment providing health care services in the residence of individuals or families.

HOME HEALTH CARE—PROFESSIONAL EMPLOYEES 8854
Includes private duty registered and licensed practical nurses, physical, speech and/or occupational therapists.

HOME HEALTH CARE—NON-PROFESSIONAL EMPLOYEES 9051
Includes home health aides, personal care aides, all other types of home aides and home support personnel such as homemakers, companions and services to shut-ins involving shopping or assistance with personal grooming.

MEDICAL & social CASE WORKERS—traveling 8857
Applies when any portion of an employee’s time is spent in the field performing duties of a case worker, counselor, advocate for medical or social related services or other similar functions whether performed by social service agencies or similar organizations.

No medical, rehabilitation or other related services provided.

INSIDE WORK ONLY—medical & social case workers 8810

HOMELESS SHELTER—ALL EMPLOYEES—& Clerical 8865
Shall not be assigned to a facility having nursing or medical personnel on staff, other than whose only function is to train employees, such as aides, on how to properly care for the clients residing at the facility.

Operation of an assisted living facility, retirement living facility or senior citizen living facility, with no nursing or medical personnel on staff, shall be assigned to Code 8866.

HOMES FOR THE MENTALLY IMPAIRED—ALL EMPLOYEES—& Clerical 8865
Shall not be assigned to a facility having nursing or medical personnel on staff, other than whose only function is to train employees, such as aides, on how to properly care for the clients residing at the facility.

Operation of an assisted living facility, retirement living facility or senior citizen living facility, with no nursing or medical personnel on staff, shall be assigned to Code 8866.

HONEST or Oil STONE MFG. & Drivers 1748
Quarrying to be separately rated.

HORN GOODS MFG.—Fabricated Products Mfg. 4452
Applies to the mfg. of horn goods by such operations as machining, bending, buffing or polishing.

HORSE SHOE MFG. 3146
Steel making or rolling mills to be separately rated.

HORSE SHOW:

STABLE EMPLOYEES & Drivers 7201

OPERATION by owner or lessee & Drivers 9016
Includes musicians and box office employees. Operation or maintenance of amusement devices to be separately rated as Code 9180 "Amusement Device Operation NOC—Not Traveling—& Drivers."

HOSIERY MFG. 2362
Yarn mfg. to be separately rated.

HOSPITAL:

PROFESSIONAL EMPLOYEES 8833
ALL OTHER EMPLOYEES 9040
Code 8833 and Code 9040 include the operation of a convalescent or nursing home when operated by a hospital at the same or an adjacent location.

HOSPITAL—VETERINARY—& Drivers 8831

HOT HOUSE ERECTION—ALL OPERATIONS 5402
<table>
<thead>
<tr>
<th>Classification</th>
<th>Description</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>NET MFG.</td>
<td>Not applicable to wire nets. Cordage or twine mfg. to be separately rated as Code 2302.</td>
<td>2380</td>
</tr>
<tr>
<td>NEWS AGENT</td>
<td>or Distributor of Magazines or Other Periodicals—NOT RETAIL DEALER—&amp; Outside Salespersons, Drivers</td>
<td>8745</td>
</tr>
<tr>
<td>NEWSPAPER CARRIERS</td>
<td>—including use of bicycles</td>
<td>4312</td>
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<tr>
<td></td>
<td>Applies to newspaper carriers who are employed by publishers or dealers and who are engaged in selling and delivering newspapers to customers at their homes or business places. The actual earnings of the carriers, but excluding the value of tips, shall be used as payroll for the purpose of determining the premium under this classification.</td>
<td></td>
</tr>
<tr>
<td>NEWSPAPER PUBLISHING</td>
<td>Artists or designers engaged exclusively in creative work or original design, proofreaders, editors or clerical office employees to be separately rated as Code 8810 &quot;Clerical Office Employees.&quot; Reporters, advertising or circulation solicitors to be separately rated as Code 8742 &quot;Salespersons—Outside.&quot;</td>
<td>4304</td>
</tr>
<tr>
<td>NIGHTCLUB</td>
<td>Bar, Dance Club, Lounge or Tavern—including entertainers and/or musicians</td>
<td>9074</td>
</tr>
<tr>
<td></td>
<td>Applies to the operation of a bar, dance club, lounge, nightclub or tavern where the gross receipts of alcoholic beverages exceed 50% of the total receipts of food and non-alcoholic beverages.</td>
<td></td>
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<tr>
<td></td>
<td>Refer to Section III of the Digest of Rulings and Interpretations to determine the application of the appropriate restaurant and/or bar classification</td>
<td></td>
</tr>
<tr>
<td>NOTEBOOK</td>
<td>or Loose-Leaf Ledger MFG.</td>
<td>4251</td>
</tr>
<tr>
<td></td>
<td>Mfg. of metal rings, posts, screws, separators or fittings to be separately rated as Code 3146 &quot;Hardware Mfg. NOC&quot;.</td>
<td></td>
</tr>
<tr>
<td>NURSERY EMPLOYEES &amp; Drivers</td>
<td>Includes incidental landscape gardening.</td>
<td>0005</td>
</tr>
<tr>
<td>NURSERY</td>
<td>or Convalescent HOME—ALL EMPLOYEES</td>
<td>8829</td>
</tr>
<tr>
<td></td>
<td>A nursing or convalescent home operated by a hospital, at the same location or adjacent to the hospital shall be assigned to Code 8833 “Hospital—Professional Employees” and Code 9040 “Hospital—All Other Employees.”</td>
<td></td>
</tr>
<tr>
<td>NUT</td>
<td>or Bolt MFG.</td>
<td>3132</td>
</tr>
<tr>
<td></td>
<td>Steel making or rolling mills to be separately rated.</td>
<td></td>
</tr>
<tr>
<td>NUT CLEANING</td>
<td>or SHELLING</td>
<td>6504</td>
</tr>
<tr>
<td>OFFICE</td>
<td>Computing or Recording MACHINE MFG. NOC</td>
<td>3574</td>
</tr>
<tr>
<td>★ OFFICE MACHINE INSTALLATION, Inspection, Adjustment or REPAIR</td>
<td>Includes shop. Mfg. operations to be separately rated.</td>
<td>5191</td>
</tr>
<tr>
<td>OFFICE</td>
<td>or Factory Cost SYSTEMATIZER, Accountant or Auditor—TRAVELING</td>
<td>8803</td>
</tr>
<tr>
<td></td>
<td>Includes insurance company premium auditors.</td>
<td></td>
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<tr>
<td>OIL CLOTH MFG.</td>
<td></td>
<td>4493</td>
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</tbody>
</table>
Clerical Office Employees

The payroll of clerical office employees on a multiple classification risk, in which one or more classifications specifically include "clerical" and others do not include "clerical" shall be assigned to the predominant classification to which their work pertains if such classification includes clerical, otherwise to Code 8810.

If an insured conducts an operation that includes clerical, such clerical employees would be inclusive under that class. However, if the insured also conducts another business operation, at the same or another location, that would otherwise be subject to Code 8810, then Code 8810 applies to the additional business.

In the case of a classification which specifically includes clerical office employees, such employees shall be included under that classification regardless of whether their work is conducted at the same or a separate location.

When a classification includes clerical office employees in its phraseology, Code 8871 “Clerical Telecommuter Employees” cannot be assigned to such employees even if such work is performed from their residence office. The payroll of clerical telecommuter employees, on a multiple classification risk, in which one or more classifications specifically include “clerical” and others do not include “clerical,” shall be assigned to the predominant classification to which their work pertains if such classification includes clerical, otherwise to Code 8871.

Clothes Pole Erection—wood ................................................................................... 5403

Clubs:

Beach Clubs—Operation of ................................................................. 9061
Golf Pros selling and repairing equipment at golf courses ........................................ 9060
Social Clubs ................................................................................... 9061
Tennis Clubs .................................................................................. 9065

To determine if tennis, handball, paddleball, racquetball or squash is the "principal activity" of the club, it must be demonstrated that:

1. For profit-making clubs the gross receipts generated by court use must predominate over receipts from other activities.
2. For non-profit clubs the square footage of the court area must exceed the footage of areas used for other activities.
3. Serving food, beverages or snacks as well as operating a pro shop is included under this classification but receipts from these operations are not to be used in determining the "principal activity" of the club.

Coin Wrappers and Currency Strap Mfg. ........................................................................ 4251

Colleges or Schools:

Attendance Supervisors ................................................................. 8868
Auto Driving Instructors & Clerical .................................................... 8868
Policies written to insure only the clerical office employees ........................................ 8868
Restaurant Concessions—See Restaurants
Summer schools operated as an incident to resort or seasonal hotels or camps shall be assigned to the appropriate hotel or camp classification.
Trade or Vocational Schools ........................................................... 8868-9101

Note: These classifications do not apply in the case of a school where the students perform work on or for the general public for which a charge is made.