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To: The Members of the Board

Volunteer Remuneration – For-Profit Organizations
Effective Date: October 1, 2014

In accordance with the authorization of the Underwriting Committee, and approval by the New York State Department of Financial Services, an amendment to the Manual regarding clarification on payroll associated with volunteers working at for-profit organizations, has been implemented with an effective date of October 1, 2014.

Coverage for volunteer workers in a for-profit company is required under the Workers’ Compensation Law. Up to this point, the WC&EL Manual has been silent on this coverage as well as how payroll is determined, since there are no wages for workers who are volunteers. This change, therefore, introduces a new entry in the Digest of Rulings Interpretations section of the manual, Page D-5, clarifying how payroll is determined for these volunteers. Additionally language was also added to page D-5 regarding volunteers in hospitals, who are covered regardless of whether the hospital is a for-profit or not-for-profit entity.

The revised page is attached and also reflected in an updated version of the New York Workers Compensation & Employers Liability Manual which is available on the Board’s website at: www.nycirb.org.

Very truly yours,
Monte Almer
President

WVT:tg
Encl.
8. Hospitals – Volunteer Workers

When insurance is provided for volunteer workers performing duties in hospitals, whether for-profit or not-for-profit, the premium for these volunteer workers is to be based upon the same wage rate that would be paid to a regular employee performing the same or similar work. Such volunteer workers shall also be assigned to the classification applicable to such regular employees.

9. Volunteer Remuneration

If a volunteer in a for-profit corporation is employed by such entity to perform work in connection with the operations of the employer, the work performed is subject to a minimum amount equal to the wages that would ordinarily be paid to another employee performing the same or similar work. If no other employees perform similar work, the carrier is to charge an appropriate replacement wage. This amount shall be included in the basis of premium computation.

10. Maintenance of Records

When performing an audit, the words "are maintained," as used in the manual, mean that the books and records used in the premium verification must be the same books and records that were maintained during the policy period being audited. If the books and records were revised for auditing purposes, the employer is not entitled to any exclusions of remuneration for the policy period(s) being audited.

11. Payroll Limitation – Interstate Risks

The excess payroll deduction is determined by state, by classification and by individual employee, combining the gross payroll for the states approving such limitation and computing a total percentage excess deduction factor to be applied to such payrolls by classification.

12. Period of Employment

For the purpose of applying the payroll limitation rule, the "total time employed during the policy period" of any employee shall be considered to be the sum of the portions of all contracts of employment of such employee falling within the policy period. Refer to Rules V.F. and V.G.

13. Relatives of Individuals, Copartners or Corporate Officers

If a spouse or relative of an individual proprietor, member of a copartnership, or an officer of a corporation is employed by such entity to perform work in connection with the operations of the employer, the actual payroll of such relative or spouse, subject to a minimum amount equal to the wages that would ordinarily be paid to another employee performing the same or similar work, shall be included in the basis of premium computation. If the records fail to disclose payroll, the minimum specified above shall be included as payroll.

14. Strikes

Wages paid to employees who are not on strike, but who are present on the employer's premises and are unable to perform their normal duties because of a strike, are to be assigned to the classification applicable to the work they usually perform. However, if any of these employees do not perform any work for their employer and are not present on their employer's premises during the strike, any wages paid to these employees are to be assigned to Code 8810 "Clerical Office Employees."

15. Subsistence Allowance, On-The-Job Training

Subsistence allowance paid by the federal government, to a veteran-in-training, has been held by the Workers' Compensation Board to not constitute wages within the meaning of the Workers' Compensation Law and therefore should not be included in the premium computation.
16. Travel Time

Payments made by an employer to an employee representing compensation for time spent in traveling to or from work, or to or from a specific job, are to be considered as payroll and assigned to the manual classification which applies to the work normally performed by such employee.

17. Vacation and Welfare Funds

Amounts for vacation, medical, hospitalization, pension, educational or social welfare purposes, paid by an employer to a special fund administered by a labor union, by a board representing both labor and employers, or by any trustee, are to be treated as follows for premium computation purposes:

a. These amounts are not to be included as payroll for any of the funds named above except for vacation funds which are explained in b. and c. below.

b. These amounts are to be included if they are vacation funds which are credited on the records of the fund to each individual employee.

c. These amounts are not to be included as payroll if they are vacation funds that have not been credited on the records of the fund to the individual employee, but are paid out at the discretion of the administrators of the fund or in accordance with a plan under which an employee is only entitled to benefits when certain specified requirements are met.

18. Vacation Wages

When an employee works during his/her vacation period and receives regular wages in addition to vacation pay, the vacation pay, as well as the regular wages, are to be included as payroll.