

**COAL MINE COMPENSATION RATING BUREAU
OF PENNSYLVANIA**

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August 24, 2011

COMPENSATION CIRCULAR CM-440

To: All Coal Mine Compensation Insurance Carriers

From: Dale W. Broadwater, Executive Director



RE: Approval of CM-4-2011
Revisions to the Pennsylvania Coal Mine Workers Compensation Manual

Act 20 of 2011(House Bill #440, pr. # 2084) has been approved by the Legislature and signed by Governor Corbett to become effective August 29, 2011. Act 20 permits members of the CMCRB to offer coverage on an elective basis to sole proprietors, partners of a partnership, and members of a Limited Liability Company.

CM-4-2011 has been approved by the PA Insurance Department effective August 29, 2011. CM-4-2011 amends our Manual Rules to permit the issuance of Workers Compensation policies that provide coverage to sole proprietors, partners of a partnership, and members of a Limited Liability Company, exposures previously prohibited from obtaining statutory coverage.

Attached please find the changes to our Manual Rules as approved by the Insurance Department. The revisions are shown in a “tracked-changes” format. Revised Manual pages reflecting this approval will be posted on our web site for review and reference in the near future.

Should any questions arise regarding this approval or the revised Manual pages, please contact the CMCRB.

DWB: jb

MANUAL REVISIONS
(New wording underlined and deleted wording in strikethrough format)

RULE II – EXPLANATION OF COVERAGES AND METHODS OF INSURING

B. COVERAGE REQUIREMENTS

1. Compulsory as to all employments

- a. Exceptions under the PA Workers Compensation Act ~~—Exclusions~~: Individual proprietors, partners of a partnership (including members of a Limited Liability Company (LLC)); and elected officers of the Commonwealth or any political subdivision. Also, coverage is elective for members of certain religious sects whose tenets prohibit benefits from insurance, provided the sect makes provisions for its members. Refer to Section 302(a) of the Pennsylvania Workers Compensation Act for more details.

Note: Pursuant to Act 20 of 2011, a sole proprietor, partner of a legal partnership or member of a Limited Liability Company (LLC) may be able to purchase and/or be insured under a standard workers compensation insurance policy. If a sole proprietor, partner or LLC member wishes to obtain such coverage, a written request must be submitted directly to the carrier providing the existing or new policy under which coverage for the individual in question will be provided. Use WC 00 03 10 – Sole Proprietors, Partners, Officers and Others Coverage Endorsement. Refer to Rule V. E. and Rule IX. B. for purposes of determining remuneration in computing the premium charge.

- b. Federal Coal Mine Health and Safety Act – The PA Workers Compensation Act ~~exclusions~~ “exceptions” referenced in Rule II. B. 1. a. above do not apply to Federal Coal Mine Health and Safety Act coverage as amended.

RULE V – PREMIUM BASIS

A. BASIS OF PREMIUM – TOTAL REMUNERATION

Premium shall be computed on the basis of the total remuneration paid or payable by the insured for services of employees covered by the policy. ~~(See Item F of this Rule for exception)~~

E. PAYROLL LIMITATION

1. How Payroll Limitation Applies

For executive officers, sole proprietors, partners and members of a Limited Liability Company (LLC) that have obtained coverage and classifications with notes which indicate payroll limitation, the payroll on which premium is based shall exclude that part of the employee's average weekly pay in excess of the applicable weekly limitation, which has been approved and published in the Pennsylvania Compensation Rating Bureau Manual, provided:

- a. Books and records are maintained to show separately the total payroll earned by each employee whose average weekly pay for the total time employed during the policy period exceeds the weekly payroll limitation, and
- b. Separate records are maintained in summary by classification for such employees.
2. Partial Week

A part of a week shall be treated as a full week in determining average weekly pay.

~~F. PARTNERS AND SOLE PROPRIETORS~~

- ~~1. The payroll for partners and sole proprietors shall be zero for inclusion in the Traumatic and State OD premium determinations.~~
- ~~2. The payroll for partners and sole proprietors shall be determined by the following for Federal OD premium determination. Each partner and sole proprietor is presumed to be earning the effective Statewide Average Weekly Wage (SAWW). On the Anniversary Rating Date (ARD) of each policy issued to a partnership or sole proprietor, the effective SAWW shall be the basis of payroll to include each partner or sole proprietor. The number of weeks, or fraction thereof, during the policy period which the individual served as a partner or sole proprietor, shall be extended by the SAWW in effect on the policy ARD, to determine that individual's payroll for Federal OD premium determination.~~

RULE IX – SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE AND PREMIUM

A. 3. Premium Determination

Premium for executive officers, other than the exceptions noted in A.2 above, shall be based on their total payroll, subject to the following:

- a. The requirements of Rule V-E.
- b. The minimum individual payroll for an executive officer is the value published and approved in the Pennsylvania Compensation Rating Bureau Manual.
- ~~a-c.~~ The maximum individual payroll for an executive officer is the value published and approved in the Pennsylvania Compensation Rating Bureau Manual.

B. ~~SOLE PROPRIETORS AND~~ PARTNERSHIPS AND MEMBERS OF A LIMITED LIABILITY COMPANY

~~Sole proprietors and~~ partners and members of a Limited Liability Company (LLC) are not mandatorily covered by the Pennsylvania Workers' Compensation Act or the Pennsylvania Occupational Disease Act, nor may they elect to be covered. A sole proprietor, partner or member of a Limited Liability Company (LLC) may be able to purchase and/or be insured under a standard workers compensation insurance policy. When such coverage is provided, attach WC 00 03 10 – Sole Proprietors, Partners, Officers and Others Coverage Endorsement, to the policy, naming the individual(s) so insured.

Premium Determination

Premium for sole proprietors, partners and members of a Limited Liability Company (LLC) shall be based on their total payroll, subject to the following:

- a. The requirements of Rule V-E.
- b. The minimum individual payroll for a sole proprietor, partner or member of a Limited Liability Company is the value published and approved in the Pennsylvania Compensation Rating Bureau Manual.
- ~~a-c.~~ The maximum individual payroll for a sole proprietor, partner or member of a Limited Liability Company is the value published and approved in the Pennsylvania Compensation Rating Bureau Manual.