

**COAL MINE COMPENSATION RATING BUREAU  
OF PENNSYLVANIA**

COMMERCE BUILDING – SUITE 501  
300 NORTH SECOND STREET  
HARRISBURG, PENNSYLVANIA 17101

**CHARLES A. ROMBERGER**  
EXECUTIVE DIRECTOR

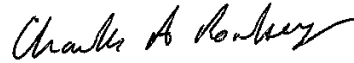
**TELEPHONE**  
717-238-5020

April 14, 2023

**COMPENSATION CIRCULAR CM-498**

To: All Coal Mine Compensation Insurance Carriers

From: Charles A. Romberger, Executive Director



RE: Proposal CM-1-2023 (Manual)  
Proposal CM-2-2023 (Statistical Plan)  
Revisions related to COVID-19 (Coronavirus) provisions  
Approved Effective: July 1, 2023

The CMCRB has filed and the Insurance Department has approved revisions to the Manual and Statistical Plan Rules regarding the topic referenced above. The CMCRB made these revisions to maintain consistency with the PCRB and NCCI. In particular, the CMCRB made these revisions in response to PCRB Filing No. 338 and PCRB Filing No. 339.

The CMCRB submitted these revisions as two filings or Proposals. Proposal CM-1-2023 consisted of a two-page cover letter and three-page attachment (Attachment A – Manual). Proposal CM-2-2023 consisted of the same two-page cover letter and two-page attachment (Attachment A – Statistical Plan). The entirety of these Proposals (i.e., the cover letter and both Attachments) is attached to this Circular for your reference.

These revisions will be incorporated into our Manual and Statistical Plan with an edition date of July 1, 2023, and posted to our website in the near future. This Circular will be available on our website in the near future as well at:

<http://www.cmcrbpa.com/Circulars.html>

Any questions should be directed to the CMCRB via email to:

[chuck.cmcrb@gmail.com](mailto:chuck.cmcrb@gmail.com)

CAR:car

Attachments: Cover Letter for the referenced Proposals  
Attachment A – Manual  
Attachment A – Statistical Plan

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EXECUTIVE DIRECTOR

**TELEPHONE**  
717-238-5020

April 5, 2023

The Honorable Michael Humphreys  
Acting Insurance Commissioner  
Pennsylvania Insurance Department  
1311 Strawberry Square  
Harrisburg, PA 17120

Attention: Mark Lersch, Director, Bureau of Property & Casualty Insurance  
Michael McKenney, Actuarial Supervisor, Property & Casualty Bureau

RE: Proposal CM-1-2023 (Manual)  
Proposal CM-2-2023 (Statistical Plan)  
Proposed Revisions related to COVID-19 (Coronavirus) provisions  
Regarding PCRB Filing No. 338 and PCRB Filing No. 339  
To Be Effective: July 1, 2023

Dear Commissioner Humphreys:

On behalf of the members of the Coal Mine Compensation Rating Bureau of Pennsylvania (Bureau), the Bureau submits revisions to the Pennsylvania Coal Mine Workers Compensation Manual (Manual). These revisions are being made to keep the Bureau's Manual as consistent as possible with the provisions in the Basic Manual and Statistical Plan Manual of the Pennsylvania Compensation Rating Bureau (PCRB).

This Proposal will be submitted as two filings in the SERFF system:

- 1) Proposal CM-1-2023 as changes to the Bureau's Manual Rules.
- 2) Proposal CM-2-2023 as changes to the Bureau's Statistical Plan.

All of these revisions reflect the changes that the PCRB made under PCRB Filing No. 338 and under PCRB Filing No. 339, except for the following.

- 1) Changing Classifications – our Bureau has not adopted this change as we initially deemed (and continue to deem) it to be unnecessary for our purposes.
- 2) Premium Algorithm – our Bureau has not adopted a formal premium algorithm.
- 3) Experience Modification – Exception – our Bureau has not adopted this change as our Experience Rating Plan only applies to our Bureau's traumatic classes and Class Code 1212 is not one of our traumatic classes.

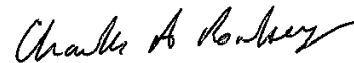
This Proposal consists of this cover letter and Attachment A – Manual or Attachment A – Statistical Plan. Attachment A provides our Bureau's proposed changes related to PCRB Filing No. 338 and PCRB Filing No. 339. We have not included copies of the PCRB's filing as we understand that they are readily available to the Department.

To maintain consistency in provisions between the PCRB and our Bureau, we request the Department's approval of this Proposal with same effective dates as those granted to the PCRB. Consequently, we request that this Proposal be approved effective July 1, 2023.

Additionally, we note that CM-2-2023 (Statistical Plan) also includes a few housekeeping changes that are described in Attachment A – Statistical Plan.

If you have any questions about this Proposal or need copies of the referenced documents, please do not hesitate to contact me.

Sincerely,



Charles A. Romberger  
Executive Director

Enclosures:

- 1) Attachment A – Manual (with CM-1-2023)
- 2) Attachment A – Statistical Plan (with CM-2-2023)

The Bureau proposes several revisions to the currently approved Pennsylvania Coal Mine Workers Compensation Manual. These changes are related to the revisions proposed by the PCRB Filing Nos. 338 & 339. Except for the changes noted below, the Bureau's Manual remains unchanged from the current version of April 1, 2023.

Item #1: The Bureau proposes the following tracked changes to Section One – Rule IV.B.3.a.

Clerical Office Employees – Code 953 – are employees whose duties are confined to keeping the books and records of the insured and conducting correspondence or who are engaged wholly in the office work where such books and records are kept of such correspondence is conducted, having no other duty of any nature in or about the insured's premises.

**COVID19 CORONAVIRUS EXCEPTION:**

An employee's job duties may be temporarily reclassified to Code 953 – 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.

This exception is applicable for new, renewal and in-force policies in force effective on March 1, 2020 through ~~December 31, 2020~~ June 30, 2023, which may be amended to an earlier or later date as circumstances warrant in consultation with Pennsylvania regulatory authorities. This exception does not apply to new or renewal policies will effective date on or after July 1, 2023.

Item #2: The Bureau proposes the following tracked changes to Section One – Rule V.B.3.

- q. Payments made by an employer or any public governmental entity to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations. However, any appropriated funds or loans received by an employer as authorized by any law or regulation, or public governmental entity, that are used by an employer specifically to retain or hire working employees are not excluded.

Item q. is applicable to new, renewal and in-force policies in force effective on March 1, 2020 through ~~December 31, 2020~~ June 30, 2023, which may be amended to an earlier or later date as circumstances warrant in consultation with Pennsylvania regulatory authorities. Item q. does not apply to new or renewal policies with effective dates on or after July 1, 2023.

Payments to Paid Furloughed Employees During Federal, State, and/or Local Emergency Orders, Laws, or Regulations Issued Due to the COVID-19 (Coronavirus) Pandemic

1. For purposes of this rule, “paid furloughed employees” and “payments to paid furloughed employees” are defined within this rule. “Paid furloughed employees” means employees who continue to receive payments during a temporary layoff or an involuntary leave and are not performing any work duties for an employer.
2. “Payments to paid furloughed employees” means payments made by an employer or any public Governmental entity to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer’s staffing or business operations. Such payments do not include any appropriated funds or loans received by an employer as authorized by any law or regulation, or public governmental entity, that are used by an employer specifically to retain or hire working employees.
3. Payments to paid furloughed employees must be assigned to Code 1212, in accordance with the Statistical Plan. Payments to paid furloughed employees made in accordance with this rule are excluded from the premium, experience rating and merit rating calculations only if the employer keeps separate, accurate, and verifiable records. If separate, accurate, and verifiable records are not maintained, payroll is assigned to the classification for work normally performed by the employee prior to any emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic.
4. If an employee is requested to perform any duties for an employer, the employee is not deemed a paid furloughed employee for any period of time they are performing duties for the employer. If the employee is not deemed a paid furloughed employee, payroll must be assigned to the classification applicable to the work being performed in accordance with Rule IV.A. of this Manual.
5. This rule is ~~effective-applicable to new, renewal and in-force for~~ policies ~~in force effective~~ on March 1, 2020 through ~~December 31, 2020, June 30, 2023, which may be amended to an earlier or later date as circumstances warrant in consultation with Pennsylvania regulatory authorities.~~ This rule does not apply to new or renewal policies with effective dates on or after July 1, 2023.

Item #3: The Bureau proposes the following tracked changes to Section Five – Section (Rule) V.4.

LOSSES

Incurred losses shall be tabulated by calendar year, described below:

- a. Total losses as reported. Losses incurred shall be on a gross basis before the application of the deductible, when such coverage is provided.
- b. Reported losses on claims up to the primary limiting value (basic).
- c. Reported losses on claims between the primary limiting value and the secondary limiting value (ratable excess).
- d. Reported losses on claims exceeding the secondary limiting value (non-ratable excess).

Exception: All claims reported with Catastrophe Code No. 12 with an accident date of December 1, 2019 through June 30, 2023, shall be excluded from experience rating calculations. Refer to Pennsylvania Coal Mine Workers Compensation Manual Statistical Plan (“Statistical Plan”) for the definition of losses included under Catastrophe Code No. 12.

The Bureau proposes several revisions to the currently approved Pennsylvania Coal Mine Workers Compensation Manual Statistical Plan. These changes are either housekeeping in nature or related to the revisions proposed by the PCRB Filing Nos. 338 & 339. Except for the changes noted below, the Bureau's Statistical Plan remains unchanged from the current version of January 1, 2021.

Item #1: The Bureau proposes to update our address from Suite 403 to Suite 501. These updates will occur in the following places:

- 1) Introduction – Item 2.,
- 2) Section I.A. and
- 3) Section I.G.

Item #2: The Bureau proposes to update our burial expense limit reference from \$3,000 to \$7,000. This change is related to HB 1840 or Act 111 of 2018 and aligns the Statistical Plan with current law and practice in this regard. This update will occur in Section II.C.7.a.

Item #3: The Bureau proposes to correct the reference from “Paragraph E” to “Paragraph D” in Section V.E.22.

Item #4: The Bureau proposes the following tracked changes to Section II.B.8.c.

#### Paid Furloughed Employees – Code 1212

Paid furloughed employees means employees who continue to receive payments during a temporary layoff or an involuntary leave and are not performing any work duties for an employer. Effective March 1, 2020, payments by any employer or any public governmental entity to paid furloughed employees as a result of federal, state, and/or local emergency orders, laws or regulations, issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations must be reported to Statistical Code 1212 – Paid Furloughed Employees. Such payments do not include any appropriated funds or loans received by an employer as authorized by any law or regulation, or public governmental entity, that are used by an employer specifically to retain or hire working employees.

Code 1212 may be used as a Statistical Code to report the payments only. If a carrier is unable to report this experience as a statistical code, please contact the CMCRB to discuss reporting requirements.

Payments reported to Code 1212 are excluded from premium only if the employer keeps separate, accurate and verifiable records.

For any claims attributable to an employee occurring prior to or after a temporary layoff or an involuntary leave, report losses to the classification for work normally performed by the employee that corresponds to the employee's payroll. No claim can be reported to Code 1212 – Paid Furloughed Employees.

~~Code 1212 will be applicable for new, renewal and in-force policies effective at 12:01 a.m. on March 1, 2020 through 11:59 p.m. on June 30, 2023. The expiration date of this code will be December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Pennsylvania regulatory authorities.~~

Item #5: The Bureau proposes the following tracked changes to Section II.C.11.

Catastrophe Number (Cat. No.)

Any accident resulting in two or more reported claims must be reported as a catastrophe. In reporting catastrophes, all claims (compensable as well as non-compensable and contract medical) resulting from this accident shall be designated by placing the numeral "1" in the column captioned Cat. No. opposite each claim. If there is more than one catastrophe under the policy, each succeeding catastrophe should be designated by means of a separate serial number "2", "3", etc., up to and including "10". After the number "10" is assigned the next number in the sequence will reprocess to number "1". Numbers "11" through "99" are reserved for ISO or WCIO assigned catastrophe codes. A separate series of catastrophe numbers shall be used for each policy.

Report Catastrophe Code Number 12 for claims applicable and/or attributable to Coronavirus Disease 2019 (COVID-19) with accident dates of December 1, 2019 through June 30, 2023.

Item #6: The Bureau proposes the following tracked changes to Section III.A.6.d.

Estimated Exposure Indicator

"Y" = Exposures expressed on unit report are estimated.

"N" = Exposures expressed on unit report are not estimated.

"U" = Insured has refused or not responded to requests to provide carrier with access to books and records. Audit has been closed as uncooperative. Exposures expressed on unit report are estimated.

Notes:

- (1) When the Exposure on the 1st report includes Code 9757, report the Estimated Audit Code as "U" in the applicable Policy Conditions, Estimated Audit Code field. If subsequent to reporting Statistical Code 9757, and the final policy premium is determined in accordance with the Basic Manual rules, the statistical code and its accompanying charge must be removed. Additionally, the Estimated Audit Code must be changed to "N" and the exposure and premium must reflect the final audit.
- (2) If final premium based on audited exposure cannot be reported due to federal, state and/or local emergency orders, laws, or regulations issued due to the COVID-19 (coronavirus) pandemic which impact an employer's staffing or business operations report the applicable exposure and premium in the class code(s) and the Estimated Audit Code as an "N", This code is effective March 1, 2020. The expiration date of this rule will be ~~December 31, 2020, which may be amended to an earlier or later date as circumstances warrant in consultation with Pennsylvania regulatory authorities.~~ 11:59 p.m. on June 30, 2023.