

Controlling Premium Audits to Eliminate Overcharges

By controlling the information used in the audit process, you can eliminate the possibility of overcharges and misclassification that lead to higher premium.

Due to the volume of requests received, insurance companies have developed an efficient and automated premium audit process. While insurance companies strive to be as accurate as possible, they don't have the time or resources to investigate and resolve every possible error or ambiguity. As a result, your company may experience multiple, unintentional overcharges. If you know the rules, you can take control of the process by anticipating and preparing the exact information your insurance company needs to prevent inadvertent overcharges, saving your company money in the process.

Emerging Dynamics

- Insurance companies are utilizing independent auditors to conduct annual audits, resulting in a greater need to prepare and review the information required.
- Separate companies (separate FEINs) can allow for a lower rated governing class code.
- Furloughed employees due to COVID-19 can qualify under class code 0012-Paid Furloughed Workers During a Governmental Emergency Order Impacting Employment (\$0 rate).
- Review changes in employees' duties and/or location. Companies are utilizing remote workers more than ever, which can allow those individuals to be classified under a lower-rated class code.
- As employers are getting creative on incentive plans, examine remuneration exclusions for additional cost savings opportunities.

Create an Accurate Premium Audit Package

To prevent overcharges, you need to take control of the process and create an "overcharge-proof" premium audit package that will give the auditor complete and accurate information to work with.

To begin, you will need to collect the following source material:

- Payroll records (employee-specific)
- Unemployment tax return
- 1040 Schedule C (if you are a sole proprietor)
- Federal and state payroll tax reports (940s and 941s)
- General ledger, subcontractor ledgers, and journals (or 1099s)
- Certificates of insurance from subcontractor
- Your workers' compensation insurance

You may want to highlight overtime pay for the auditors so it can easily be discounted back to normal pay.

The following pages will provide additional background. If you have questions, please contact your **M3 representative**.

Properly Classify Employees

Your business should have one primary classification that is governed by the State. Outside sales, clerical employees, and, in some states, drivers may be classified with a separate code. Any items the auditor cannot classify quickly with a lower-rated code remain in the governing code. This may result in overcharges due to the improper classification of employees who should be in standard class exemption groups (clerical, outside sales) common to all industries.

- **EXAMPLE:** In a nursing home, the governing class is 8829, however, some of the employees could be classified as 8810 (clerical). The 8810 classification is a much lower rate. Jobs potentially included in 8810 are: dietician, director of nursing, social worker, etc.

Furloughed Employees due to COVID-19

Wisconsin Compensation Rating Bureau (WCRB) has issued a directive on the handling of wages or pay for furloughed workers. Furloughed employees are to be reported under **class code 0012**-Paid Furloughed Workers During a Governmental Emergency Order Impacting Employment, which is a non-premium bearing classification (\$0 rate).

WCRB defines a furloughed employee as “one that have been given a temporary layoff, an involuntary leave or another modification or normal working hours with pay for a specific duration”. An employee requested to perform any duties during this time period is not deemed furloughed and the payroll should remain in their regular assigned class code. Employers must maintain payroll records that clearly reflect the division of payroll between pre- and post-statewide emergency. If these are not maintained, the payroll will be assigned to the employees’ regular classification.

Remote Employees

If an employee’s occupation has changed due to working remotely, the wages could be placed in a more appropriate, lower-rated class code. Class code 8871-Clerical Telecommuter Employees, applies to employees performing clerical duties in residence. This class code is the lowest rate when comparing to inclusive class codes 8810-Clerical & 8742-Sales.

If an employee’s primary location has changed from the governing state of operations, notify your M3 representative to ensure the policy accurately reflects this change.

Dual Classification

If an employee performs services in more than one classification, all payroll will be applied to the higher classification unless your payroll records separate hours by actual classification (not a percentage). If records note hours, then the employee's payroll can be split between the two classifications.

- **EXAMPLE:** A Wisconsin maintenance employee works in both Assisted Living Facility (Class Code 8826) and Skilled Nursing Home (Class Code 8829). Without separate payroll records, the higher-rated classification will apply.

Please contact your M3 representative if the auditor wants to add any classifications.

Separate FEIN

Each company (with its own FEIN) that issues payroll could have its own governing classification. If the entity had its own FEIN, but otherwise was reported under the same payroll and tax filings as other entities, they would not have their own governing class.

- **EXAMPLE:** In a nursing home, the governing class code is 8829 and includes payrolls except clerical, including employees working in the pharmacy. However, if the pharmacy has a separate FEIN, then the pharmacy class code 8045 can be added.

Consider roles such as therapists, pharmacists and/or beauticians, etc. to be separated in order to have a lower rate apply.

Officers

In Wisconsin, officers of a corporation are automatically included unless they have been excluded by endorsement. When included, there is a minimum and maximum remuneration for each officer (can only include those filed with company’s articles of incorporation or organization filed with the Department of Financial Institutions). This minimum/maximum, set by the State, changes each year. Sole proprietors, partners and members of an LLC are automatically excluded from coverage unless they have been endorsed on the policy. The amount used for remuneration is set each year by the state.

Included vs. Excluded Remuneration

Certain forms of compensation are not used to determine workers' compensation premium. Tips are an example. Allowable exclusions differ from state to state, but typically fall within 18-20 categories. Once you've added up all the excluded remunerations (by employee code), make sure to deduct them from your reported payroll.

- **EXAMPLE:** An employee is normally not required to work on a holiday but is paid for the holiday at the regular rate. If the employee does work on the holiday, the employee receives additional pay at the time-and-a-half, the employee's total pay then being 2 1/2 times regular pay. One-fifth of the employee's total remuneration is deductible. The basis of premium rule includes any wages paid for unworked holidays as remuneration. Also, the portion of the time-and-a-half pay that represents straight time contains no element of deductible overtime. However, the balance of this pay (being the "1/2 of the "2 1/2") is deductible because it falls within the scope of the exception to the basic principle pertaining to work performed on Saturdays, Sundays and holidays.
- **EXAMPLE:** An employee works during the employee's paid vacation or paid holiday, in addition to receiving straight time pay to employee's regular vacation or holiday. No deduction is permissible. Under the basis of premium rule, unworked vacation or holiday pay must always be included in remuneration. In this example, only the actual pay during the worked vacation period is a factor, which does not constitute overtime.

LINGO BOOST:

Remuneration means money or substitutes for money.
Payroll means remuneration.

Subcontractors

It is recommended that you only use employee-insured subcontractors, requiring them to present relevant certificates of insurance before commencing work. In Wisconsin, if your subcontractors do not meet the 9 point independent contractor under s. 102.07(8) of the Workers' Compensation Act, then you will be assessed their payroll.

Volunteers

In Wisconsin, workers' compensation does not provide coverage for volunteers, including volunteers of nonprofit organizations that receive money or other things of value totaling not more than \$10 per week. If a volunteer receives or expects to receive almost anything of value including discounts, certificates, credits, etc. in exchange for services, then they are most likely be considered an employee for workers' compensation purposes.

If you have a program allowing employees to volunteer time at a nonprofit, on company time, their pay for the volunteered time would be included on your payroll. Instead, you may want to consider giving them a vacation day, thereby minimizing your workers' compensation and liability exposure.

Students

Students are considered employees of the organization for which they are performing service, with two minor exceptions:

- A high school student (described in Wisconsin State Statute 115.01 (l) or 115.001 (3r)) is an employee of the school district unless they are on the payroll of an employer for whom they are providing services.
- A student in a technical college district who is producing a product for the school or is performing services for which the school collects a fee is an employee of that school.

Contracts

In attempt to transfer the workers' compensation risk, some contracts have attempted to assign liability to another party. Keep in mind that the Workers' Compensation Statute will supersede any contract. For example, a training program may accept workers' compensation responsibility in a contract. However, the party that receives the services is actually responsible for the workers' compensation and therefore should include the remuneration on their Workers' Compensation policy.

Inclusions

- a) Wages or salaries including retroactive wages or salaries
- b) Total cash received by employees for commissions and draws against commissions
- c) Bonuses including stock bonus plans
- d) Extra pay for overtime work except as provided in Rule V-E. *Rule V-E in the Work Comp; "Overtime means hours worked for which there is an increase in the rate of pay: a. For work in any day or in any week in excess of the hours normally worked; or b. For hours worked in excess of 8 hours in any day or 40 hours in any week, or; c. For work on Saturdays, Sundays or Holidays."*
- e) Pay for holidays, vacations, periods of sickness, or unused accrued sick and vacation time
- f) Payment by an employer of amounts otherwise required by law to be paid by employees to statutory insurance or pension plans, such as the Federal Social Security Act
- g) Payment to employees on any basis other than time worked such as piecework, profit sharing, or incentive plans
- h) Payment or allowance for hand tools or power tools used by hand provided by employees either directly or through a third party and used in their work or operations for the insured
- i) The rental value of an apartment or a house provided for an employee based on comparable accommodations
- j) The value of lodging, other than an apartment or house, received by employees as part of their pay will be the amount shown in the Miscellaneous Values page
- k) The value of meals received by employees as part of their pay will be the amount shown in the Miscellaneous Values page
- l) The value of school tuition, store certificates, merchandise, credits, or any other substitute for money received by employees as part of their pay (refer to exclusions below for certain fringe benefits [substitutes for money] not considered to be remuneration)
- m) Payments for salary reduction, retirement, Wisconsin Retirement Plan, or cafeteria plans (IRC 125) that are made through deductions from the employee's gross pay
- n) Wages paid to employees as salary in conjunction with the Davis-Bacon Act or other prevailing wage laws
- o) Annuity plans
- p) Expense reimbursements to employees to the extent that an employer's records do not substantiate that the expense was incurred as a valid business expense
Exception: When it can be verified that the employee was away from home overnight on the business of the employer, but the employer did not maintain verifiable receipts for incurred expenses, a reasonable expense allowance, limited to IRS per diem guidelines, will be permitted.
- q) Payment for filming of commercials excluding subsequent residuals which are earned by the commercial's participant(s) each time the commercial appears in print or is broadcast

Exclusions

- a) Tips and other gratuities received by employees
- b) Payments by an employer to group insurance or group pension plans for employees, other than payments covered by *Inclusions (f) & (m)*
- c) Payments by an employer into third-party trusts for the Davis-Bacon Act or a similar prevailing wage law provided the pension trust is qualified under IRC Section 401(a) and 501(a)
- d) The value of special rewards for individual invention or discovery
- e) Dismissal or severance pay except for time worked or accrued vacation
- f) Payments for active military duty
- g) Employee discounts on goods purchased from the employee's employer
- h) Expense reimbursements to employees to the extent that an employer's records substantiate the expense was incurred as a valid business expense; reimbursed expense and flat expense allowances, except for hand or power tools, paid to employees may be excluded from the audit, provided that all three of the following conditions are met:
 - i. The reimbursed expenses or expenses for which allowances were paid were incurred upon the business of the employer, and
 - ii. The amount of each employee's expense payments or allowances is shown separately in the records of the employer, and
 - iii. The amount of each expense reimbursement or allowance payment approximates the actual expenses incurred by the employee in the conduct of the employee's work
- i) Meal money for late work
- j) Work uniform allowances
- k) Sick pay paid to an employee by a third party such as an insured's group insurance carrier that is paying disability income benefits to a disabled employee
- l) Employer provided perquisites (perks) such as:
 - i. An automobile
 - ii. An airplane flight
 - iii. An incentive vacation (e.g., contest winner)
 - iv. A discount on property or services
 - v. Club memberships
 - vi. Tickets to entertainment events
- m) Employer contributions to employee benefit plans such as:
 - i. Employee savings plan
 - ii. Retirement plans
 - iii. Cafeteria plans (IRC 125)
 - iv. Health savings accounts
 - v. Flexible spending accounts

These include contributions made by the employer, at the employer's expense, determined by the amount contributed by the employee.

Once the Audit is Complete

Once the audit is completed, you will want to review the auditors' worksheets. (These can be requested directly from the auditor or ask M3 to have them sent to you.)

- M3 will assist you in comparing the audit statement with your original policy.
- Balance the total audited payroll figures to the documentation provided. Check for any significant changes between the total estimated payroll shown on the policy and the actual figures on the audit.
- Compare the payroll by classification code on the policy to that on the audit. The payroll by classification codes shown on the audit should not contain any significant fluctuations in comparison to the policy.
- Compare the experience modification factor on the original policy to the one shown on the audit. Make sure the auditor applied the factor for the audited period.
- Review the rates charged for each classification code. There should be no changes between the rates on the audit versus the original rates on the policy.
- Officers' payroll should be adequately capped.

A NOTE ABOUT: DEFERRED COMPENSATION

If the deferred amounts are reported as taxable in the current term, they should be included for payroll. If the amounts are deferred, paid and taxed in a future year, though, the amount should not be included for remuneration in the current term.

If you have questions on or would like clarification about the information presented in this whitepaper, please contact your **M3 representative**.

About M3

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