

# WORKERS COMPENSATION ISSUES RELATED TO COVID-19 AS OF APRIL 24, 2020

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SML Capital Advisors has been monitoring the regulatory bodies that govern Workers Compensation rules and procedures. Similar to other issues related to Worker's Compensation, different jurisdictions have taken varied approaches. We will continue to monitor, and update as further guidance is issued.

Key to note for all employers is how payroll is recorded for affected workers. Recording what date that workers were reassigned to work from home, the duties of those employees before telecommuting, and if any employees are receiving any type of pay if not working. In some states vacation and sick pay are not included in auditable payroll. These payments should be recorded during work at home periods as well as overtime. Reimbursed employee expenses are excluded in some states as long as they are easily identified in the payroll records. These expenses may be adjusted at audit if an employer is now paying for high speed internet at home or the employee's cell phone, etc. If/when reporting losses to the insurance carrier, employers should identify if the sickness or death of an injured worker is due to the virus.

While there is still a great deal of uncertainty (and additional clarification will be required), some specific guidance items are listed below:

## **NCCI – PROPOSED BUT NOT IMPLEMENTED**

- ✓ Employees working from home to be classified in 8810 – Clerical
- ✓ Exclude pay for employees receiving pay but not actively working
- ✓ Proposes an additional classification code of 0012 for COVID related payments for employees not actively working
- ✓ Data reporting regarding COVID related losses will be segregated

## **HELPFUL LINKS**

<https://www.ncci.com/Articles/Pages/Insights-Coronavirus-FAQs.aspx>

[https://www.ncci.com/Articles/Pages/II\\_Covid-19-RegLeg-Activity.pdf](https://www.ncci.com/Articles/Pages/II_Covid-19-RegLeg-Activity.pdf)

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## **CALIFORNIA – PROPOSED BUT NOT IMPLEMENTED**




-  Follows NCCI Above

### **HELPFUL LINK**

<https://www.wcirb.com/news/wcirb-governing-committee-approves-special-regulatory-filing-response-covid-19>

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## **NEW JERSEY - THE NJ BUREAU HAS ISSUED BULLETIN 495 THAT WAS EFFECTIVE IMMEDIATELY**



-  Follows NCCI Above
-  Changes are effective for policies that are effective or renew on or after March 21, 2020
-  Virus related claims are not included in experience rating

### **HELPFUL LINK**

<https://www.njcrib.com/Search/ViewPDF?id=1190>

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## **NEW YORK – ISSUED BULLETIN RC 2508 THAT WAS EFFECTIVE IMMEDIATELY**

-  Established criteria for experience data reporting only
-  No guidance issued yet regarding the payroll of home-based employees

### **HELPFUL LINK**

<http://www.nycirb.org/bulletins/rc2508.pdf>

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## DELAWARE & PENNSYLVANIA – PROPOSED BUT NOT IMPLEMENTED

- ✓ Infers that "953 – Clerical" may be used for home-based workers
- ✓ COVID injuries are segregated during data reporting
- ✓ Not guidance yet if COVID injuries will be subject to experience rating

## HELPFUL LINKS

[http://www.dcrb.com/shared/p\\_contents.htm](http://www.dcrb.com/shared/p_contents.htm) Click on Circulars for 1737 and 1738

[http://www.dcrb.com/shared/d\\_contents.htm](http://www.dcrb.com/shared/d_contents.htm) Click on Circulars for 976 and 977

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To date, we have not found any differentiation in the rules regarding an employer's own workers' compensation policy or those workers' compensation policies related to project specific coverage.

Let us know how your business is adapting to this crisis, **reach out to us directly.**

Hopefully we can provide some guidance for your current situation.

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#### Designations:

CPCU - Chartered Property Casualty Underwriter  
APA - Associate in Premium Auditing  
CRIS - Construction Risk Insurance Specialist  
AAI - Accredited Advisor in Insurance  
CIPA - Certified Insurance Premium Auditor

#### Associations:

New Jersey CPCU Society - Vice President 2020/2021  
President Elect 2022/2023  
Insurance Auditors Association of New Jersey  
Vice President