



Pennsylvania Compensation Rating Bureau

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August 27, 2003

PENNSYLVANIA TEST AUDIT PROGRAM

BULLETIN #81

TEST AUDIT APPEAL DECISION

Per Bureau Circular No. 1415, the result of an insurance carrier appeal to the Audit Committee is presented to the membership for their information.

The carrier was appealing a test audit difference related to an insured who was primarily a surface coal mine operation but would also perform snow plowing in the winter. Initially, the carrier had requested that the PCRB rescind the test audit of this employer because the insured's business was primarily a coal mine operation subject to the Coal Mine Compensation Rating Bureau (CMCRB) rules and procedures. This request had been denied by the PCRB because the insured's business operation also included non-coal mine operations (snow plowing) and at least one PCRB classification (Code 601).

After the test audit had been completed and the comparison to the carrier's audit made, it was determined that there were three sources of differences between the test audit and the carrier, as set forth below:

- The carrier's use of Code 608, Flat Cement Work, instead of Code 601, Snow Plowing, for the employer's snow plowing operations.
- The carrier's inclusion of the firm's president in its audit.
- The test audit developed lower payroll than the carrier's audit after verifying payroll information using the quarterly Social Security tax returns and the quarterly Unemployment Compensation returns. This difference was the result of the PCRB's test auditor separating the payroll of employees who interchanged labor between coal mining and snow plowing. The portion of those employee's payroll attributable to coal mining had been excluded from the test audit.

Subsequent to the test audit difference notification, the carrier had determined after consultation with the CMCRB that the entire payroll of employees who interchanged labor between coal mining operations and snow plowing should be placed in the appropriate coal mine classification, contrary to the PCRB audit that had segregated their payroll between the coal mine classification and the snow plowing classification, Code 601.

In later correspondence with the carrier, the Bureau's test audit had been revised to include the insured's president at the executive minimum limitation and to exclude the payroll of the employees who interchanged labor between the coal mining operation and the snow plowing.

These revisions notwithstanding, the difference involving the improper classification of the insured's snow plowing operation remained, and this difference was of a sufficient magnitude that the test audit continued to be non-compatible.

The written appeal to the Bureau focused on two factors.

- The jurisdictional concerns given that the employer was subject to both the CMCRB as a coal mine operation and the PCRFB based on its snow plowing operations.
- The overall intent of the Test Audit Program which the carrier described as improving the audit process.

The carrier acknowledged that its auditor had incorrectly assigned payroll to Code 608 and that at the time of the original audit the carrier auditor had improperly segregated payroll between coal and non-coal classifications. Nonetheless, the carrier objected to the non-compatible status of their audit, arguing that, since both the carrier auditor and the Bureau auditor had not correctly performed their respective audits, particularly with respect to the handling of the insured's interchanging personnel, a difference citation was unfair. The carrier believed it was being penalized for its willingness to preemptively (i.e., independent of Bureau direction) correct its audit.

Bureau staff responded that the basis for the test audit difference was the improper use of Code 608 instead of Code 601. Essentially deferring to the carrier's position on all other matters, staff indicated that the incorrect use of Code 608 for those employees who were exclusively engaged in snow plowing resulted in the test audit difference. The Bureau took the position that the assignment of interchanging personnel was irrelevant since the Bureau test audit had ultimately conceded to the carrier on the classification of interchanging personnel by removing their payroll from Code 601.

In executive session the Committee reviewed the facts presented in this appeal. The Committee noted the following:

- The carrier used the incorrect classification on its audit and presented no documentation to indicate that it had recommended a change in the insured's business classification from Code 608 to Code 601.
- There was no evidence to support the carrier's claim that the snow plowing performed by the insured's employees was a temporary exposure. The fact that the insured owned a number of pick-up trucks, snow plows and loaders indicated that the snow plowing conducted by the insured was an ongoing business operation.
- The failure of the carrier to recommend a classification change resulted in a test audit premium difference by itself, regardless of the disposition of other jurisdictional issues and payroll allocation questions raised by the carrier.

- There was a lack of detail in the carrier's audit worksheets about the existence of the snow plowing exposure, as well as documentation about the job duties of the individual employees of the insured.
- The Bureau, through the Test Audit Program, has the responsibility for administering the proper assignment of all rating values, classifications and payrolls under its jurisdictional authority.
- The matter regarding the CMCRB's interpretation of the payroll division between coal mining classifications and the regular state worker's compensation classifications had been presented in a manner by the carrier that was subject to different interpretations.

After some further discussion, upon motion made and duly seconded, the Audit Committee voted to sustain the Bureau's test audit and deny the carrier's appeal.