

## **Premium Audit Tips for Maintaining Proper Payroll Records During the COVID-19 Crisis:**

During this unique time of the COVID-19 pandemic and state of emergency and stay-at-home orders, there is a need to account for furloughed workers. A furloughed worker is generally understood to be an employee who is still being paid where they have been given a temporary layoff, an involuntary leave, or another modification of normal working hours for a specified duration. Payments are made by the employer for the paid furloughed time during a governmental emergency order.

There are two distinctive types of furloughed employees in the premium audit scope.

- 1) The employee who continues to be paid while at home but is performing no duties for the employer. These wages are likely to be coded by most states as 0012 (see also e.g., 8873 in NY, 1212 in DE & PA, or as “Vacation Time” in OR).
- 2) The employee who continues to be paid while at home but is now performing some modified duties from their home. Due to a one-time change in duties of an employee within one policy period, these wages may be allowed to be re-classified within code 8810 – Office Clerical (or 8871 – Telecommuting, where applicable in certain states), as long as the insured’s main code does not contain “and clerical” in its phraseology. Description of the new duties will be needed to warrant a change in class code.

This will be a new challenge for premium auditors when conducting their final audits. Auditors are required to identify, accumulate, classify and report this payroll on their worksheets. The new procedures allow the wages to be applied to lower rated codes and potentially even at a \$0 rate, thus reducing premium for insureds. Therefore, if an insured continues to pay wages to furloughed employees and the insured maintains separate, accurate and verifiable records, this payroll may not be included for the basis of premium resulting in reduced premium charges.

Payroll records should clearly reflect the division of payroll between the periods of time before and after a governmental emergency order was issued in a state. Reporting should show employee’s names, paid dates, any newly described duties, and paid furlough amounts. This can be accomplished by, among other things, setting up a new payroll pay code, accumulating in a new pay type, and/or separately tracking these wages per another report. Records should show these paid wages separately from pre-COVID payroll, without use of estimates or percentages. Please note that bonuses paid in this time period are to be included as wages and classified within the class code of employee when the employee earned the bonus.

Generally, the starting date of reporting these furloughed wages is from each state’s declared emergency or stay-at-home order date(s), and should cease when normal operations resume. In addition to federal laws and regulations, each state has its own set of state and/or local emergency orders, laws or regulations issued due to the COVID-19 pandemic.

If an employee is requested to perform any duties for their employer during this time period, they are not deemed furloughed while the task is being completed. If the employee is not deemed furloughed, the payroll will be assigned to the classification applicable to the work performed.

### Some FAQ's:

If a paid furloughed employee continues to be paid by their employer, is their payroll excluded from the employer's worker's compensation insurance premium?

If an employer continues to pay furloughed employees their normal wages and the employer keeps separate, accurate and verifiable records, the payroll may not be included for the basis of premium.

How is the payroll to be split when an employee works part of a day and is furloughed part of the day?

If the employee is performing work duties for any portion of the day, no division of payroll is acceptable.

What if an employer does not have documentation on the work that is furloughed versus the work that is actually being done?

If accurate and verifiable payroll records are not maintained, 100% of the wages are assigned to the employee's normal classification. Estimated or percentage allocation of payroll is not permitted.

In premium audit test states, what will the state be seeking from insureds in order to track these wages?

States will likely ask the policyholder for any relevant documentation or payroll records, including but not limited to company memos or emails, payment codes reflected in payroll records, or employee timecards or time sheets to show the payments for the difference in exposure wages. Insurers and policyholders are encouraged to work together on the way changes to employee duties during a statewide COVID-19 stay-at-home order are documented.

Are the wages paid to COVID-19 necessary to track and report?

Yes, many states that allow amounts to be excluded from an employer's reportable payroll, will continue to report on the applicable policy's Unit Statistical Report (USR) under code 0012 or other ways as determined by a state. These excluded amounts will likely be used for data tracking purposes only and will not be used in the policyholder's experience rating.

Is there an end date to when code 0012 can be used?

Statistical code 0012 **Paid Furloughed Workers During A Governmental Emergency Order Impacting Employment** may be a permanent reporting code and may be implemented whenever an emergency order is in effect.

Is the term governmental emergency order defined?

**Governmental emergency order** refers to a law, order, regulation, decree, stipulation, or determination, promulgated or entered by any public official or governmental entity at the federal, state or local level.

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Summary: In order for insureds to obtain this premium relief on premium audits, they must maintain detailed records of furloughed payroll to such employees. This includes maintaining detailed descriptions of duties of employees performing work at home. Please refer to this document as a guide to start maintaining furloughed wages during the pandemic.