

Report on Extension of Payroll Limitations

Excerpts from the WCIRB Classification and Rating Committee Agenda and
Minutes
May 17, 2022

About this Report

The WCIRB prepares and presents reports to the WCIRB's Classification and Rating Committee to assist in the formulation of proposed changes to the Insurance Commissioner's regulations. Once adopted by the Classification and Rating Committee, the recommendations contained in the report are provided to the WCIRB Governing Committee and may be included in a WCIRB regulatory filing that is submitted to the Insurance Commissioner for approval.

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The WCIRB is California's trusted, objective provider of actuarially-based information and research, advisory pure premium rates, and educational services integral to a healthy workers' compensation system. Learn more at www.wcirb.com.

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Report on Extension of Payroll Limitations

- 4297(1), *Electronic Pre-Press – all operations – including Clerical Office Employees and Clerical Telecommuter Employees***
- 4297(2), *Graphic Design – all operations – including Clerical Office Employees and Clerical Telecommuter Employees***
- 4512, *Biomedical Research Laboratories – all employees – including Clerical Office Employees and Clerical Telecommuter Employees*¹**
- 8807, *Newspaper, Magazine or Book Publishing – no printing or distribution – editing, designing, proofreading or photographic composing – including Clerical Office Employees and Clerical Telecommuter Employees*²**
- 8834, *Physicians' Practices and Outpatients Clinics – all employees – including Clerical Office Employees and Clerical Telecommuter Employees***
- 8839, *Dental or Orthodontia Practices – including Clerical Office Employees and Clerical Telecommuter Employees*³**
- 9043, *Hospitals – all employees – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons***

Background and Objective

Payroll, also referred to as remuneration, is used as a proxy for measuring exposure to workers' compensation losses for ratemaking and experience rating purposes. In general, remuneration is reasonably correlated with losses and can be audited and validated against other documents that are reported to state or federal government agencies.

However, given the wide dispersion of payroll among highly compensated employees and concerns as to the lack of correlation of exposure to loss at very high wage levels, the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP) includes limitations on an individual's annual payroll for workers' compensation purposes for certain types of highly compensated employees. For many years, these included executive officers, partners, individual employers and members of a limited liability company as well as employees in several classifications related to entertainers and athletes.

As part of the WCIRB's continuing efforts to analyze payroll as the basis of workers' compensation premium, the WCIRB completed a study in 2018 and found that at very high wage levels there is no evidence of increasing exposure to workers' compensation losses with increasing wage levels. As a result, the WCIRB determined that it is appropriate to apply payroll limitations to classifications that (a) have unusually high levels of employees with wages above the current USRP annual payroll maximum, (b) have relatively low advisory pure premium rates that are likely driven by the high wage levels in the industry and (c) include most employees so that any payroll limitation could be administered in a relatively straightforward manner.

As these results have held in updated studies, the WCIRB used these criteria to identify potential additional classifications for which payroll limitation would be appropriate. In completing this analysis, staff used publicly available sources of wage information by industry to estimate the payroll to be eliminated in each classification due to imposition of a payroll limitation and the resultant potential adjustment to future advisory pure premium rates. This adjustment is required since the payroll history underlying the relativity for these classifications is on an unlimited basis, but the exposure basis contemplated for the period that the advisory pure premium rates would apply will be on a limited basis. The annual payroll limitation is \$144,300 per year effective September 1, 2021 through August 31, 2022.⁴

¹ The phraseology for Classification 4512 includes changes being proposed in the September 1, 2022 Regulatory Filing.

² The phraseology for Classification 8807 includes changes being proposed in the September 1, 2022 Regulatory Filing.

³ The phraseology for Classification 8839 includes changes being proposed in the September 1, 2022 Regulatory Filing.

⁴ The limit is adjusted annually for wage inflation.

Analysis and Findings

To assess the variability of losses with payroll at high wage levels, the WCIRB reviewed California wage data by industry and occupation from the American Community Survey (ACS) published by the United States Census Bureau from calendar years 2019 and 2020 and unit statistical report (USR) data from policy years 2017 through 2019.

Given the lack of evidence of increasing exposure to workers' compensation losses at high wage levels, as well as potential limitations and large swings when changing advisory pure premium rates and expected loss rates for classifications for which those rates are very low, the WCIRB identified several additional classifications for which limiting each employee's annual payroll is appropriate. Specifically, the WCIRB identified the following classifications based on the study criteria:

- 4297(1), *Electronic Pre-Press – all operations – including Clerical Office Employees and Clerical Telecommuter Employees*
- 4297(2), *Graphic Design – all operations – including Clerical Office Employees and Clerical Telecommuter Employees*
- 4512, *Biomedical Research Laboratories –all employees – including Clerical Office Employees and Clerical Telecommuter Employees*⁵
- 8807, *Newspaper, Magazine or Book Publishing – no printing or distribution – editing, designing, proofreading or photographic composing – including Clerical Office Employees and Clerical Telecommuter Employees*
- 8834, *Physicians' Practices and Outpatients Clinics – all employees – including Clerical Office Employees and Clerical Telecommuter Employees*
- 8839, *Dental or Orthodontia Practices– including Clerical Office Employees and Clerical Telecommuter Employees*
- 9043, *Hospitals – all employees – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons*

Figure 1 shows the average indemnity claim severity for workers below the average weekly wage (AWW),⁶ workers with wages between the AWW and the current payroll maximum⁷ and workers with wages above the current payroll maximum for workers in the selected classifications based on USR data from policy years 2017 through 2019. In general, average indemnity and medical claim severities increase with higher wages up to the approximate level of the current USRP payroll limitation. However, the average claim severities are similar at both wage levels above the current payroll maximum and at wage levels below that amount but above the AWW. Figure 1 shows that the average claim severity for the highest wage workers is 5% lower than for workers between the AWW and the current payroll maximum.

⁵ As part of the September 1, 2022 Regulatory Filing, the WCIRB is recommending that Classification 4512 include Clerical Office Employees and Clerical Telecommuter Employees.

⁶ The average payrolls before payroll exclusion at calendar year 2019 level corresponds to a weekly wage of \$1,322.

⁷ The 2022 USRP annual payroll maximum corresponds to a weekly wage of \$2,875.

Figure 1: Average Severity on Indemnity Claims by Wage Level (Selected Classes)

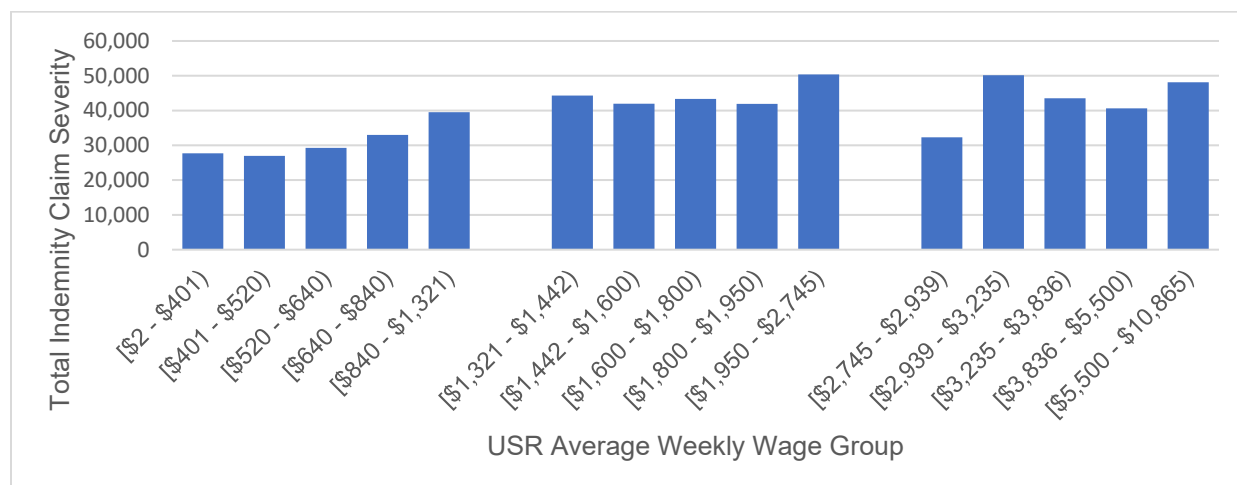
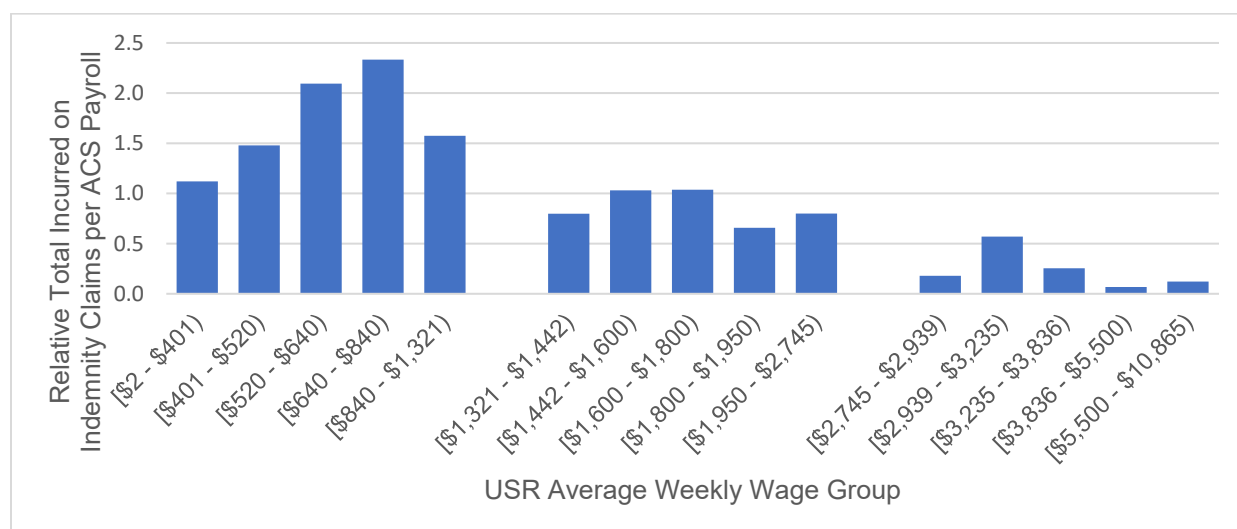


Figure 2 shows an estimated distribution of total losses on indemnity claims per ACS payroll by wage level interval for the selected classes based on ACS and USR data. As shown, when considering the impact of claim frequency differences, claim costs generally decreased as wage levels increased, particularly at high wage levels. Staff reviewed similar data for all industries combined and saw relatively similar results.

Figure 2: Relative Total Incurred per ACS payroll by Wage Level Interval (Selected Classes)



The WCIRB evaluated available data sources to develop factors to adjust historical insured payrolls used in the classification relativity process to a basis with a maximum payroll limitation. The ACS data provides sufficiently refined data to estimate the shares of wages and salaries expected to be above given annual salary thresholds for select occupations and industries. The data is available at both occupation and industry levels and can be used either independently or in combination.

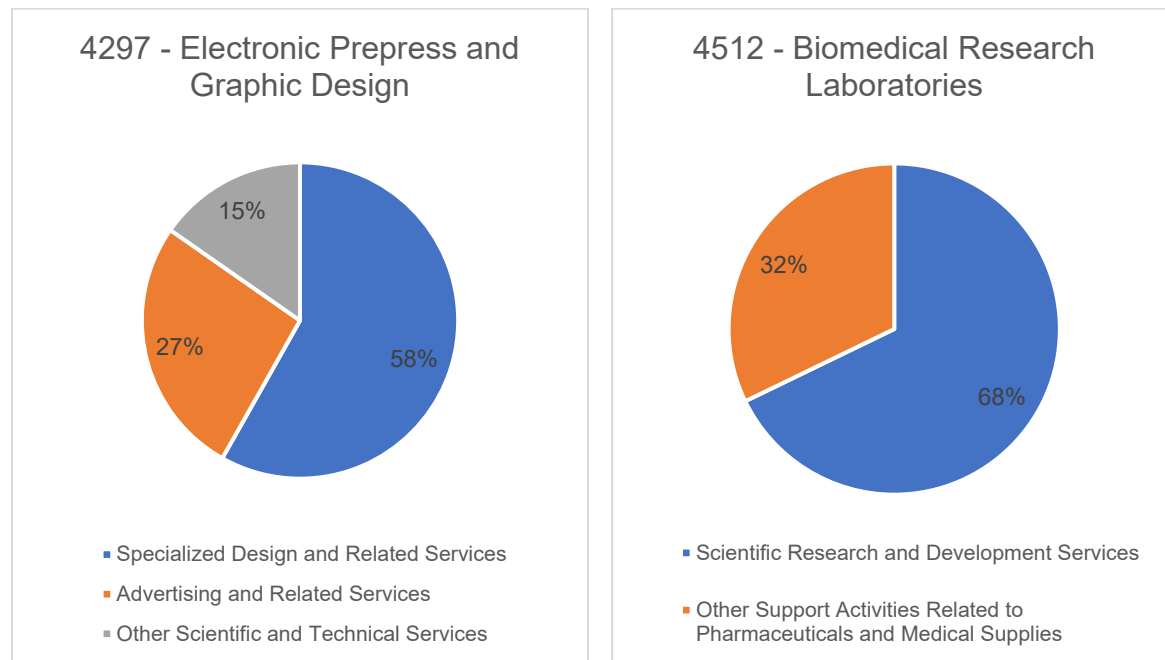
The WCIRB's preliminary analysis of ACS wage data suggests that the amount of payroll for each of the identified classifications in excess of the current USRP payroll limitation is significant, ranging from approximately 13% to 35%. As a result, in order for the implementation of a payroll limitation in these classifications to be pure premium neutral, significant adjustments to the advisory pure premium rates for

these classifications will be needed if a payroll limitation is applied. The WCIRB reviewed the methodology used to compute the adjustments at the February 1, 2022 Classification and Rating Committee meeting as well as at the February 15, 2022 Actuarial Committee meeting and both committees supported continuing to use this methodology for future adjustments for new payroll limited classifications. Figure 3 shows the preliminary estimates of the portion of payroll which would be eliminated for each classification that the WCIRB is proposing to have a payroll limitation.

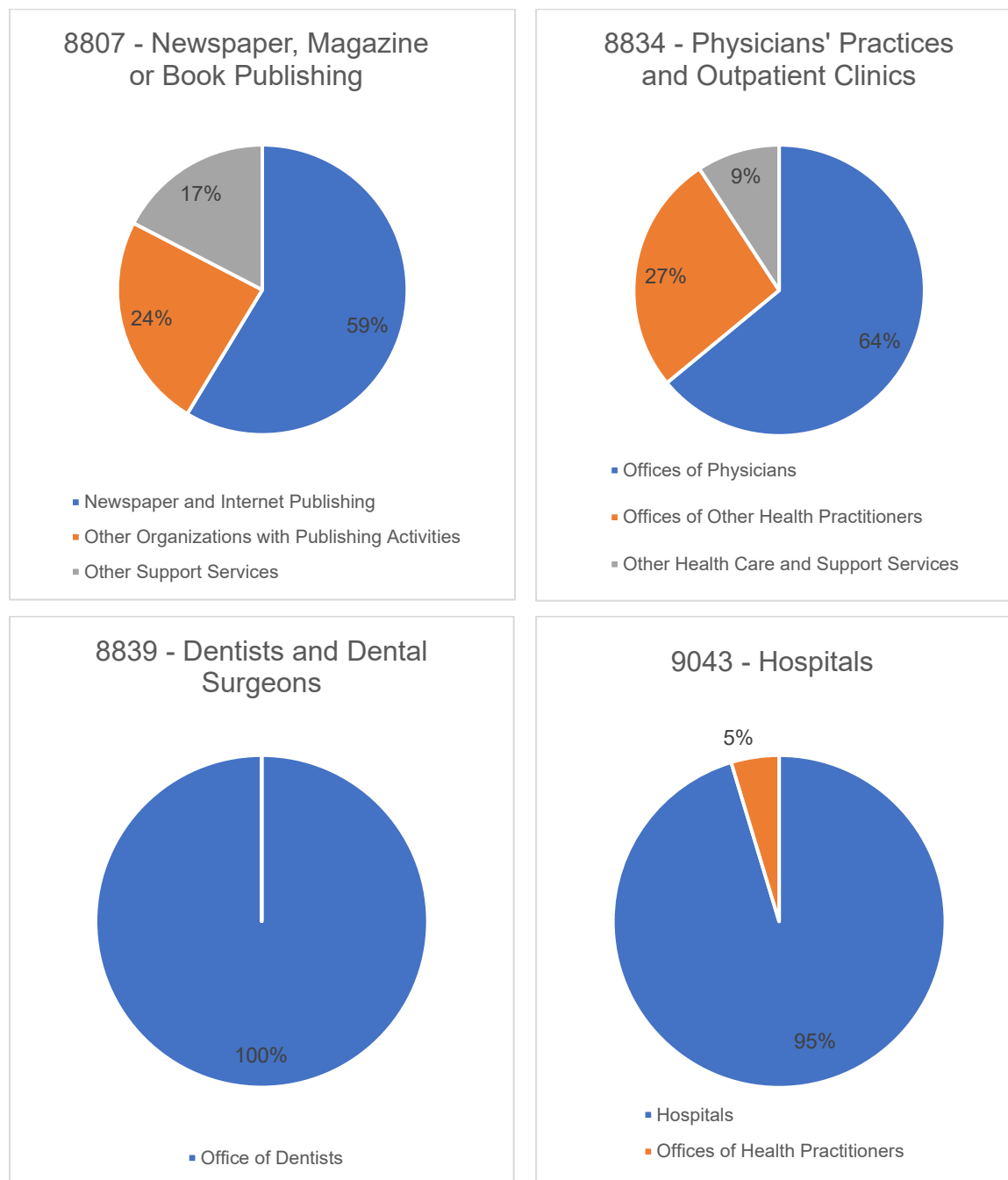
Figure 3: Preliminary Estimated Share of Payroll to be Eliminated by Class

Class Code	Estimated Payroll Eliminated
4297	13%
4512	18%
8807	20%
8834	35%
8839	18%
9043	17%

The appropriateness of developing adjustment factors from the ACS data relies on an adequate mapping between WCIRB classifications and ACS industries or occupations for which statewide worker wage information is available.⁸ The WCIRB determined a mapping that they believe appropriate for each of the selected classifications. These mappings are summarized below.



⁸ In addition to an appropriate mapping between classifications and industries or occupations, there are definitional differences among the available data sources on California wages. The WCIRB reviewed the definitions of wages and salaries in the available data sources and determined that the Bureau of Labor Statistics (BLS) wage series most closely approximates insured payrolls. The BLS series is also used to on-level wages in aggregate ratemaking and for which the UCLA Anderson Forecast provides forecasts but does not include information showing a distribution of wages within an industry. The BLS wage series includes income items such as profit sharing and stock bonuses that are not included in the ACS wage data but, for the most part, are included in insured payrolls. If needed, the WCIRB could correct for this in the advisory pure premium rate adjustment for each classification to be limited by adjusting the ACS source data to bring the average ACS wage level to the BLS level in the development of proposed advisory pure premium rates for each of the limited classifications.



Recommendations

Based on the analysis summarized above, the WCIRB recommends that individual employee's annual payroll developed in Classifications 4297(1), 4297(2), 4512, 8807, 8834, 8839 and 9043 be subject to the USRP annual payroll limitation. Given the impact of this change on employers with operations in the affected classifications, as well as on producers, premium auditors and underwriters, the WCIRB recommends that these changes be included in the September 1, 2023 Regulatory Filing with a proposed effective date of September 1, 2024. If adopted by the Insurance Commissioner, this will allow the WCIRB to conduct extensive outreach prior to the September 1, 2024 effective date and propose adjusted advisory pure premium rates in the September 1, 2024 Pure Premium Rate Filing to reflect the estimated reduction in reported exposure in each classification resulting from the application of the limitation as outlined above.

Recommendation

Amend Classification 4512, *Biomedical Research Laboratories*, to limit an employee's annual payroll to \$XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

BIOMEDICAL RESEARCH LABORATORIES – all employees – including outside operations 4512 **Clerical Office Employees and Clerical Telecommuter Employees**

The entire remuneration of each employee shall be included, subject to a maximum of \$XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to biomedical research, including outside operations, in fields such as medicine, pharmacology, pathology, toxicology and microbiology. The research may be performed on a contract basis or in connection with the proprietary development of new products, medications or procedures to treat or cure diseases or conditions that cause illness.

This classification does not apply when the biomedical research is in connection with, or in support of, the commercial production of products or medications by the employer. Biomedical research in connection with other operations of the same employer is a General Inclusion. See Section III, Rule 5, *General Inclusions*.

The manufacturing, blending or packaging of drugs, medicines or pharmaceutical preparations that are intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease shall be classified as 4611, *Drug, Medicine or Pharmaceutical Preparations Mfg.*

The manufacture of serums, antitoxins, viruses or medical diagnostic test kits shall be classified as 5951, *Serum, Antitoxin or Virus Mfg.*

The diagnostic testing of human tissues, blood or other biologic specimens on a fee basis shall be classified as 8834, *Physicians' Practices and Outpatient Clinics*.

* Changes proposed to Classification 4512 in the September 1, 2022 Regulatory Filing are noted with double underlines.

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Recommendation

Amend Classification 8839, *Dentists and Dental Surgeons*, which is part of the Health and Human Services Industry Group, to limit an employee's annual payroll to \$XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

HEALTH AND HUMAN SERVICES

DENTISTS AND DENTAL SURGEONS OR ORTHODONTIA PRACTICES – all employees – including Clerical Office Employees and Clerical Telecommuter Employees **8839**

The entire remuneration of each employee shall be included, subject to a maximum of \$XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to dental practices or clinics that provide general, restorative or cosmetic dental services or teeth whitening or straightening procedures. This classification also applies to ~~orthodontists and periodontists~~ periodontal or oral surgery practices. This classification includes the manufacture or customization of dental products, including but not limited to crowns, dentures, inlays and bridges when performed in connection with the dental services provided.

~~This classification includes the manufacture or customization of dental products, including but not limited to crowns, dentures, inlays and bridges when such operations are primarily in support of the dental services provided.~~ Physicians' practices or clinics that provide outpatient medical services shall be classified as 8834, *Physicians' Practices and Outpatient Clinics*.

The manufacture ~~or customization~~ of dental products primarily for other concerns shall be separately classified as 4692, *Dental Laboratories*.

* Changes proposed to Classification 8839 in the September 1, 2022 Regulatory Filing are noted with double underlines.

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Recommendation

Amend Classification 9043, *Hospitals*, which is part of Health and Human Services Industry Group, to limit an employee's annual payroll to \$XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

HEALTH AND HUMAN SERVICES

HOSPITALS – all employees – including Clerical Office Employees, Clerical Telecommuter Employees and Outside Salespersons 9043

The entire remuneration of each employee shall be included, subject to a maximum of \$XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

The payroll for student nurses and interns shall be included at an average wage of at least \$100 per week.

This classification applies to facilities that are licensed by the California Department of Public Health as a General Acute Care Hospital, Acute Psychiatric Hospital or Special Hospital. Hospitals retain medical staff with the capability to provide 24-hour inpatient care. This classification includes skilled nursing facilities operated by the acute care hospital when both facilities operate under a single license as an acute care hospital.

Skilled nursing facilities operated under a separate license shall be classified as 8829(1), *Skilled Nursing Facilities*.

A medical clinic that operates at a location separate from the hospital shall be classified as 8834, *Physicians' Practices and Outpatient Clinics*, provided the clinic does not provide 24-hour inpatient care.

Hospitals operated by municipal, state or other public agencies shall be classified as 8830, *Institutional Employees*.

Hospitals operated in connection with jails or prisons shall be classified as 7720, *Police, Sheriffs, Marshals, Animal Control Officers, Fish and Wildlife Officers and Correctional Officers – including deputies – not volunteers*.

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Recommendation

Amend Classification 8834, *Physician's Practices and Outpatient Clinics*, which is part of Health and Human Services Industry Group, to limit an employee's annual payroll to \$XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

HEALTH AND HUMAN SERVICES**PHYSICIANS' PRACTICES AND OUTPATIENT CLINICS – all employees – including Clerical Office Employees and Clerical Telecommuter Employees 8834**

The entire remuneration of each employee shall be included, subject to a maximum of \$XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to physicians' practices or clinics that provide outpatient medical services that are less than 24 hours in duration to treat patients for illness, disease or disorders. Outpatient medical services also include but are not limited to surgery; medical weight loss treatment; physical therapy; acupuncture; chiropractic care; dialysis; X-ray laboratory services; and blood, body fluid or tissue collection or testing. This classification includes the dispensing or provision of medication or medical equipment exclusively to patients by physicians' practices or outpatient clinics, including but not limited to eyeglasses, braces, supports, mobility aids and home testing or monitoring equipment.

This classification also applies to blood banks or blood donor centers.

Physicians employed by facilities, including but not limited to hospitals, skilled nursing facilities and residential care facilities shall be assigned to the classification applicable to the facility.

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Recommendation

Amend Classification 4297(1), *Electronic Pre-Press*, which is part of the Printing, Publishing and Duplicating Industry Group, to limit an employee's annual payroll to \$XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

PRINTING, PUBLISHING AND DUPLICATING**ELECTRONIC PRE-PRESS – all operations – including Clerical Office Employees and Clerical Telecommuter Employees 4297(1)**

The entire remuneration of each employee shall be included, subject to a maximum of \$XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to the production of computer generated typeset materials or color separations, including all incidental camera work, that are used by separate concerns in connection with commercial printing operations.

This classification does not apply when electronic pre-press operations are performed by an employer in connection with its own operations. Such operations shall be assigned to the applicable classification.

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Recommendation

Amend Classification 4297(2), *Graphic Design*, which is part of the Printing, Publishing and Duplicating Industry Group, to limit an employee's annual payroll to \$XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

PRINTING, PUBLISHING AND DUPLICATING**GRAPHIC DESIGN – all operations – including Clerical Office Employees and Clerical Telecommuter Employees 4297(2)**

The entire remuneration of each employee shall be included, subject to a maximum of \$XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

This classification applies to the production of camera-ready layouts by combining text, photographs, artwork and graphics for use in commercial printing operations performed by separate concerns.

This classification does not apply when graphic design operations are performed by an employer in connection with its own operations. Such operations shall be assigned to the applicable classification.

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Amend Classification 8807, *Newspaper, Magazine or Book Publishing*, which is part of the Printing, Publishing and Duplicating Industry Group, to limit an employee's annual payroll to \$XXX,XXX and direct that the maximum payroll amount shall be prorated based upon the number of weeks in the policy period when the policy is in force for less than a 12-month period.

PROPOSED

PRINTING, PUBLISHING AND DUPLICATING

NEWSPAPER, MAGAZINE OR BOOK PUBLISHING – no printing or distribution – editing, designing, proofreading, and/or photographic composing – including Clerical Office Employees and Clerical Telecommuter Employees **8807**

The entire remuneration of each employee shall be included, subject to a maximum of \$XXX,XXX per year. When the policy is in force for less than a 12-month period, the maximum payroll amount shall be prorated based upon the number of weeks in the policy period.

* This classification applies to pre-press activities ~~and Clerical Office Employees~~ of employers engaged in publishing printed newspapers, magazines or books where all printing and distribution is conducted by separate concerns. Pre-press activities include editing, designing, proofreading, and photographic composing, including negative stripping and plate making.

Newspaper reporters, photographers and advertising or circulation solicitors employed by newspaper publishers or printers shall be separately classified as 8746, *Newspaper Publishing or Printing – reporters or photographers – including Outside Salespersons*.

Newspaper printing operations shall be classified as 4304, *Newspaper Publishing or Printing – all other employees*, or 8818, *Newspaper Publishing or Printing – editing, designing, proofreading and photographic composing*.

Magazine or book printing operations shall be classified as 4299(1), *Printing Operation – all other employees*, or 8813(1), *Printing Operation – editing, designing, proofreading and photographic composing*.

* Changes proposed to Classification 8807 in the September 1, 2022 Regulatory Filing are noted with double underlines.

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