



Pennsylvania Compensation Rating Bureau

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PENNSYLVANIA TEST AUDIT PROGRAM **BULLETIN #50**

TEST AUDIT APPEAL DECISION

As per Bureau Circular No. 1285, the results of an insurance carrier appeal to the Audit Committee is presented to the membership for their information.

“M” Painting Contractor, Inc.

The insured is a painting contractor engaged in painting interiors of new private residential dwellings for general contractors. The appeal focused on the classification of the secretary/treasurer of the corporation. The carrier assigned Code 951, Outside Salesperson, to this employee. The Bureau assigned Code 665, Painting, since the Bureau's information indicated that the executive officer directly supervised employees at job sites, delivered paint to job sites when needed and spent four days a week on the road visiting the job sites. Information on the carrier auditor's worksheets noted the employee's job duties as 50 percent clerical/administrative and 50 percent sales/estimating. This information was detailed in both the carrier worksheets and in a separate statement signed by the employee in question. In response to the Bureau's initial test audit criticism the carrier returned to the insured and obtained another signed statement confirming the original information on the carrier's description of the officer's job duties. The carrier also noted on their worksheets and follow-up letter that direct supervision of employees at the job site was performed by a working foreman.

The auditor for the carrier presented the appeal. The auditor stated that the secretary/treasurer does no painting work himself. The Committee was told this executive officer works in the office and drives a passenger car. The officer reportedly spent two days a week ordering supplies and performing payroll related functions. The carrier explained their position centered on the fact that the Bureau did not revisit the insured to confirm the information it had received. The carrier cited Bureau Circular No. 1285 (Section VII - D) which states: "In the event that specific contradictory facts are equally supported by information in the carrier and the Bureau test audits respectively, the Bureau shall either obtain additional credible information to resolve the discrepancy or shall accept the carrier's facts for purposes of the test audit." The carrier believes the Bureau did not meet the standards set forth by Bureau Circular No. 1285. The carrier's auditor did go back to the insured and confirm their initial information.

Bureau staff asked the carrier auditor if he discussed the test audit with the insured. The auditor stated he did not. The carrier stated that a second visit was made to the insured to confirm the

information received during the initial audit. The informant was reportedly dressed casually but not in work clothes and his hands did not have paint on them. The executive officer stated he would only supervise through the foreman. A Committee member asked if the officer worked as an executive supervisor for the risk's business, and the carrier auditor replied that he did not believe this was the case.

The carrier also stated that, although the salary for the foreman was not shown on the original audit, that employee made approximately \$4,000-\$5,000 more than any of the other painting employees. The Committee asked the carrier if the job duties for the officer were accurate. The carrier auditor replied that he thought the job duties were accurately reported. The carrier stated that on site supervision was done by the foreman who traveled to the two or three jobs being performed simultaneously to supervise the painters. Bureau staff asked the carrier auditor why this additional information was not included in their dispute letter. In response the carrier auditor indicated the carrier's audit manager wrote the appeal letter and its contents were his responsibility.

The carrier auditor was asked whether he examined any ratios of indirect labor payroll to the payroll of the painters. He replied that he did examine that ratio and found it acceptable, given that the insured was always in the process of looking for work for their employees. That was the reason both of the officers of the company were assigned to Code 951 on his audit.

Bureau staff presented their position to the Committee. The test audit provided a more detailed description of the job duties of the executive officer in question. None of the information presented by the carrier to the Audit Committee was documented on their work sheets or in their re-audit report. Furthermore, the information supplied on the re-audit did not supplement the carrier's initial audit, it only reiterated the brief description of job duties contained in the carrier's original audit worksheets.

In Executive Session, the Committee reviewed the facts presented in this appeal. The Committee noted the following.

- The Bureau audit provided a more detailed description of the job duties of the executive officer in question than either the carrier's initial audit or their re-audit.
- The additional information presented to the Audit Committee concerning the executive officer's job duties was not documented in either the carrier's initial audit, the subsequent re-audit or the test audit appeal letter. One Committee member noted in the audit appeal letter that the carrier "could not account for the discrepancy between the company and Bureau audits relative to the secretary/treasurers' responsibilities."
- The fact that the additional information was not presented until the appeal presentation to the Audit Committee precluded Bureau staff from receiving full and complete disclosure from the carrier about the job duties of the employee in question.

- The Committee noted that while the carrier was aware of the facts upon which the Bureau was basing its decision it nonetheless did not specifically dispute the test audit findings in its appeal letter.
- Although the insured noted in his April 23, 1998 signed statement that he “was not involved in painting applications” the insured did not clearly acknowledge or dispute the Bureau’s test audit description of his job duties.

It was the consensus of the Committee that the Bureau test audit documentation outweighed the amount of information provided in the carrier audit and the subsequent re-audit. In conclusion, after careful consideration the Audit Committee voted to sustain the Bureau’s test audit and the assignment of the secretary/treasurer’s payroll to Code 665, since the carrier did not provide sufficient documentation on either the initial audit worksheets or the re-audit to overrule the results of the test audit.