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NewMexicoMutual.com

New Mexico Mutual is committed to making sure you pay an accurate, fair premium for your workers' compensation insurance coverage. Consistent with Part 5 of your insurance policy, the Premium Audit Department helps New Mexico Mutual honor this commitment. Following are some basic questions and answers to help you understand the premium audit process.

What is the purpose of Premium Audit?

Premium audits are conducted to ensure that the premium you pay for your workers compensation coverage accurately reflects your business's operations over the policy period being audited. The audit process allows both you and New Mexico Mutual to be assured that your workers' compensation premium has been properly and accurately calculated.

What is a Final Premium Audit?

Workers' compensation policies are issued using estimated payroll & business operation information for the upcoming policy period. A final premium audit is performed after the policy period expires to determine the actual payroll & business operations conducted, and to adjust the policy premium accordingly. We want to make sure you pay no more, or no less than the covered exposures insured during the policy period dictated.

What if my business operations change during the policy period?

Immediately notify your agent of any material changes in your business operations. Changes in ownership, covered locations and entities, increases/decreases in the size and nature of your business, etc... may greatly influence your policy premium. Addressing these types of situations when they occur will greatly decrease the likelihood of surprises on the final audit.

When are audits performed?

Audits are performed at the end of each policy period. Cancelled policies are audited as soon as possible, after coverage has been terminated.

What is a Pre-Audit Survey (Test Audit)?

A Pre-Audit Survey, or Test Audit, is a short-term audit (normally for a 2-month period) performed early in the policy period to ensure that:

- The estimated annual payrolls are adequate;
- The appropriate classifications codes for the business are being applied;
- And that other factors which could impact the policy premium (e.g., recordkeeping techniques or use of subcontractors) are addressed prior to the final audit.

What types of Premium Audits are conducted by New Mexico Mutual?

New Mexico Mutual may conduct the following types of audits:

- **Physical Audit** - In-person audit conducted by a premium auditor at the insured's place of business or at the location of a 3rd party (accountant, payroll service, etc...).



- **Mail Audit** - A self-audit form completed by the policyholder or submitted through our online site.

How are audits performed?

Most of our audits are conducted as mail self-audits. If your account qualifies for a mail audit, a self-audit form will be sent to the policy address at the end of the policy period. Those accounts selected for a physical audit will be contacted by a field auditor to schedule a time and place to meet with you in person.

Where will a physical audit take place?

You will be contacted by the auditor to schedule the audit at a time and place that is convenient to you. If your records are maintained by an outside party (e.g., accountant, payroll service, etc...) and you would prefer that the audit take place with them, please provide the auditor with the contact information of the outside party so the audit can be scheduled. Be aware; however, that the auditor may need to discuss business operations and/or employee job duties with an individual familiar with these aspects of your business.

What types of records do I have to provide to the premium auditor?

Under Part 5 of the Policy, you are required to make the following records available to the premium auditor when requested:

- **Payroll Records.** Your payroll book, journal or register that shows individual pay records, overtime totals by employee and by classification and payroll by type of work performed.
- **Income Records.** Sales and receipts records.
- **Expense Records.** Check or cash disbursement books or registers.
- **General Ledger.**
- **Tax Records.** Tax returns, reports and schedules including company income tax and quarterly payroll tax forms (federal Form 941 and state form U/E).
- **Subcontractor Records.** Original certificates of insurance and agreements for insured subcontractors and contracts, invoices and draw schedules for uninsured subcontractors.

How are Employees Classified for Workers' Compensation purposes?

The purpose of the NCCI Rate and Classification System, utilized in New Mexico, is to group employers into basic classifications so that each classification reflects the risk exposure common to those employers. Subject to certain exceptions, it is the business of the employer that is classified; not the separate occupations or duties of individual employees within the business.

How are covered executive officers, LLC members, sole proprietors, partners, and active spouses/family members classified?

These individuals are assigned to the classification(s) that applies to the business operations in which they are engaged.

How is the payroll for covered executive officers, LLC members, sole proprietors and partners calculated?

Executive officers of a Corporation and LLC members are subject to minimum and maximum payroll amounts. **For 2022**, the minimum is \$950 per week (\$49,400/year) and the maximum is \$3,800 per week (\$197,600/year). Sole proprietors and partners are subject to a flat amount, regardless if paid, of \$49,100 for 2022. ** These amounts are subject to change on an annual basis**

Can executive officers, LLC members, sole proprietors and partners be excluded from coverage on a policy?



Yes, but with the following restrictions:

- All active officers, LLC Members and sole proprietors are automatically included for coverage on the policy unless they have specifically (by name) been excluded per endorsement. Partners of a Partnership entity are automatically excluded from coverage unless they have specifically (by name) been included per endorsement.
- Executive officers of a corporation and LLC members must own at least 10% of the business to be excluded and have a signed & notarized exclusion form on file.

Can regular employees be excluded from coverage on a policy?

No, all regular employees must be covered by the policy.

Are family members covered by the policy?

All active family members, including minors, are covered by the policy, even if they receive no actual wages. The auditor will determine a “replacement” wage for these individuals based on comparable pay received by paid employees performing the same or similar work.

Can the wages of an employee be assigned to more than one basic classification code?

Yes, but with the following restrictions:

- The classifications can be properly assigned to the employer according to the rules of the NCCI classification system;
- The insured maintains proper payroll records, showing the hours of labor and applicable payroll, for each type of work performed by employee. Estimated or percentage allocation of payroll is not permitted.
- An employee’s wages cannot be split between the following classifications and any other classification. The wages associated with any of these operations must be assigned to the basic classification with the largest amount of payroll applicable to that employee’s other job duties:
 - 5606 – Contractor Executive Supervisor
 - 8720 – Construction Estimators
 - 8742 – Outside Salesperson
 - 8748 – Automobile Salesperson
 - 8810 – Clerical Office Employees
 - 8871 – Telecommuter Employees

What types of pay are included in workers' compensation premium calculations?

The following types of pay are included, but are not limited to:

- Regular pay
- Commissions
- Bonuses



- Overtime pay – (regular portion only)
- Holiday, vacation, and sick pay
- Piece work, profit sharing, incentive plans
- Allowances for use of employees' hand or power tools
- Rental value of an apartment or house provided to an employee
- Value of lodging, other than apartment or house, such as a housing allowance
- Value of meals provided to employees as a part of their pay
- Value of store certificates, merchandise, credits or any other substitute for money
- Employee contributions to cafeteria 125 plans and 401(k), Roth and other group pension plans
- Pay deducted from an employee's gross wages for health/life insurance, child support, etc.
- Davis Bacon Act Wages (if **not** diverted into a third-party pension trust)
- Automobile mileage allowances in excess of IRS guidelines
- Per diem allowances in excess of IRS guidelines

What types of pay are excluded from workers' compensation premium calculations?

The following types of pay are excluded from workers' compensation premiums:

- Tips and other gratuities
- Employer contributions to group pension plans
- Value of special rewards for invention or discovery
- Severance pay (except for accrued vacation time)
- Reimbursements for business expenses such as automobile, meals, lodging, etc.
- Davis Bacon Act wages (if diverted into third-party pension trust)

Are payments made to subcontractors subject to workers' compensation premium calculations?

If you use subcontractors or contract labor, you should obtain certificates of workers compensation coverage from these contractors to avoid having payments made to them included in the audit. Paying workers by 1099 does not necessarily make them an independent contractor, and you **may** be subject to paying workers compensation premiums on them.

Does New Mexico Mutual keep audit information confidential?

Yes. New Mexico Mutual keeps all information obtained from your financial records confidential and does not share it with any third party (including your agent) without written authorization from a principal of your business.

Can a Final Premium Audit be Disputed?

Within **thirty (30) days** of the date of the Premium Audit Worksheet, you or your independent insurance agent can submit a written request for clarification or a formal review of items contained in the Premium Audit Worksheet.

You may obtain clarification about any item contained in the Premium Audit Worksheet by the Premium Audit Department at Audit@NewMexicoMutual.com, or by phone at (505) 343-7720.

You may also formally dispute items in the Premium Audit Worksheet by submitting a completed "Premium Audit Review Request Form" (available on our website) with all necessary supporting documentation to the Premium Audit Department by:



Mail: New Mexico Mutual
Attention: Premium Audit Review
P. O. Box 27825
Albuquerque, New Mexico 87125-7825

Fax: (505) 348-9320

Email: Audit@NewMexicoMutual.com

Please be advised that while your formal premium audit review request is under review, you must submit payments for any undisputed amounts due on the Premium Audit Worksheet or due on your current policy period to maintain effective coverage and avoid cancellation.

If the necessary supporting documentation is not received, it will be presumed that you agree with the Premium Audit Work Sheet and the matter will be closed.

Any non-written, non-specific or non-supported items will not be considered an official Premium Audit Review Request. The premium audit will be reviewed for accuracy based upon the information contained in the premium audit but will not qualify for a hold on billing of the disputed items.

Should you take the premium audit seriously?

Yes. Missed premium audit appointments and late return of self-audit forms can cause problems for policyholders, including cancellation of current coverage and/or difficulty in obtaining future workers compensation coverage.