



Pennsylvania Compensation Rating Bureau

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September 7, 2017

PCRB CIRCULAR NO. 1687

To All Members of the PCRB:

Re: **APPROVAL OF PCRB FILING NO. 285**
BASIC MANUAL REVISIONS - SECTION 2 - CLASSIFICATIONS
PROCEDURAL CHANGE – CODE 972 ATTENDANT CARE SERVICES
EFFECTIVE OCTOBER 1, 2017

The Insurance Commissioner has approved the PCRB's proposal to revise the classification procedure for Attendant Care Services for policies **effective on or after 12:01 a.m., October 1, 2017**. The intended effective date was chosen to promptly correct what the PCRB considered to be an improper and unsustainable classification procedure. This procedural change does not impact the loss cost for any classification but will impact the premiums of those employers who will be reclassified as a result of the change.

BACKGROUND

Code 972, Attendant Care Services, was created effective for policies issued on or after 12:01 a.m., April 1, 2013. Code 972 was intended primarily to address workers compensation insurance pricing and data reporting concerns for policies covering attendant care consumers receiving governmental funding for the services they receive and who are considered to be the employer of the caregiver (consumer as employer model). Prior to the creation of Code 972, attendant care services under the consumer as employer model were classified to the applicable domestic worker classifications i.e., Code 0913, Domestic Workers – Inside, for full time caregivers and Code 0908, Domestic Workers – Inside – Occasional, for part time caregivers. Code 0913 and Code 0908 are per capita classifications, meaning that a specified amount is applied on a per employee basis for the policy year. PCRB staff believed that a transition from a per capita charge to a payroll exposure base would eliminate the pricing and data reporting concerns for attendant care under the consumer as employer model. Code 972 did not include any commercial home care agencies at its inception.

Subsequent to the creation of Code 972, the PCRB began receiving inquiries from commercial home care agencies or representatives thereof requesting to reclassify the commercial home care agency from Code 943, Home Health Care Services – Non-Professional Staff, the longstanding classification for commercial home care agencies, to Code 972 due to the lower Code 972 PCRB loss costs in relation to Code 943. These inquiries were generally predicated on the commercial home care agency receiving funding for the services provided from the state funded Attendant Care Act Program and/or one of the five Medicaid Waivers used to pay for attendant care services. PCRB staff approved such requests when a commercial home care agency received more than 50 percent of their funding from one or more of these sources, due in part to inadequacies in the Code 972 Manual language in place at the time which did not provide a basis for disapproving such requests. The assignment of Code 943 was sustained for those commercial home care agencies that received less than 50 percent of their funding from one or more of these sources. This led to the existence of two classifications – Code 943 and

Code 972 – being applied to commercial home care agencies based solely on how an individual home care agency obtains its funding.

PROCEDURAL CHANGE SUMMARY

This classification procedural change is intended to end the assignment practice based solely on funding and to bring the classification of commercial home care agencies in line with the principal objectives of the classification procedure which is to assign the one basic classification which best describes an employer's field of business, and to classify all similarly situated employers uniformly by classifying all commercial home care agencies to Code 943. Consequently, Code 972 is now focused to attendant care services under the consumer as employer model.

Any commercial home care agency that was reclassified from Code 943 to Code 972 as a result of the above referenced inquiries will be reclassified from Code 972 back to Code 943 effective upon each individual employer's first policy issued on or after October 1, 2017. As of this writing, this classification procedural change will impact 80 employers. The PCRB will advise those 80 employers and the employers' current workers compensation insurers of the reclassification via individual classification reassignment notice. The current PCRB loss costs for Codes 943 and 972 are \$2.85 and \$1.72, respectively. The 866 active employers currently and correctly classified to Code 943 will not be impacted.

For additional information, please refer to Filing No. 275, via the "Filings" tab of the PCRB's website (<http://www.pcrb.com>). Please contact Robert Ferrante, Senior Classification Analyst – Technical Services, at (215) 320-4584 or by email (rferrante@pcrb.com) for any questions regarding this circular. Section 2 – Classifications, of the Basic Manual will be updated on the PCRB's website at a later date.

William V. Taylor
President

WT/RF/jf
Attachment

**PENNSYLVANIA WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND
RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY
INSURANCE**

Proposed Effective October 1, 2017

INFORMATION PAGE remains unchanged.

PREFACE remains unchanged.

MEMBERSHIP remains unchanged.

SECTION 1 remains unchanged

SECTION 2 – Rating Values remain unchanged

SECTION 2 - Classifications

972 ATTENDANT CARE

Attendant care is intended to allow individuals who have been diagnosed with a medically determinable physical impairment to remain in their homes in lieu of placement in a residential care facility. Attendant care workers assist individuals with activities of daily living, including but not necessarily limited to: eating and drinking, walking, transferring (i.e., getting in and out of bed or a chair), personal hygiene, dressing and using the bathroom.

This classification shall apply only to attendant care recipients (consumers) who: (1) qualify for federal and/or state attendant care funding programs (including but not limited to the Attendant Care Act Program) AND (2) are considered to be the employer of the caregiver for workers compensation insurance purposes (i.e., consumer as employer model). Attendant care services under the consumer as employer model are coordinated through a fiscal employer agent. The fiscal employer agent is responsible for administrative tasks such as assisting consumers in applying for services, maintaining payroll records and securing workers' compensation insurance. Commonwealth regulations require workers compensation insurance for attendant care under the consumer as employer model.

OPERATIONS NOT INCLUDED:

1. Assign Code 943 to home care agencies providing attendant care services to their clients regardless of funding source. See Code 943 for additional information.

UNDERWRITING GUIDE

Attendant Care– Consumer As Employer Model

942 HOME HEALTH CARE SERVICES– all employees except office

Applicable to commercial agencies providing home health care services to clients. Home health care is clinical medical care provided by skilled medical professionals and includes but is not necessarily limited to: nursing care, home infusion therapy, and physical, speech and/or occupational therapy.

OPERATIONS ALSO INCLUDED:

1. Outside salespersons employed by a home health care provider.

OPERATIONS NOT INCLUDED:

1. Assign Code 943 to separate staff providing home care services. See Code 943 for additional information.
2. Assign Code 928 to separate staff selling or renting durable medical equipment or supplies such as hospital beds, wheelchairs, commodes, and walkers.

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UNDERWRITING GUIDE

Community Nursing Services
Home Health Care Services
Hospice Care Performed In Client's Residence
Nurse - Private Duty
Nurses - Visiting Patients in Private Homes
Private Duty Nurse
Public Health Nurse
Visiting Nurse

943 HOME CARE SERVICES - all employees including office

Applicable to commercial agencies providing home care services to clients. Home care is unskilled, non-clinical care provided by home health aides, attendant care aides, companions, live-ins and/or home support personnel. Services provided involve assistance with activities of daily living, including but not necessarily limited to: eating and drinking, walking, transferring (i.e., getting in and out of bed or a chair), personal hygiene, dressing, and using the bathroom.

OPERATIONS ALSO INCLUDED:

1. Attendant care services provided by a home care agency.

OPERATIONS NOT INCLUDED:

1. Assign Code 942 to separate staff providing home health care services. See Code 942 for additional information.
2. Assign Code 942 to the outside sales staff of a home care provider, whether or not the home care provider also provides home health care services.
3. Assign Code 972 to attendant care services using the consumer as employer model. See Code 972 for additional information.
4. Assign Code 928 to separate staff selling or renting durable medical equipment or supplies such as hospital beds, wheelchairs, commodes and walkers.

UNDERWRITING GUIDE

Chore Worker - Home Care Services
Home Health Aide
Home Care Services
Homemaker Service
Hospice Care Performed In Client's Residence – Home Care Services

SECTION 2 – Underwriting Guide through **SECTION 6 – Merit Rating Plan** remain unchanged