



**THE WORKERS' COMPENSATION  
RATING AND INSPECTION BUREAU**

November 14, 2011

**CIRCULAR LETTER NO. 2188**

To All Members and Subscribers of the WCRIBMA:

**ESTABLISHMENT OF SPECIFIC CLASSIFICATIONS FOR ASSISTED LIVING  
RESIDENCES UNDER CODES 8824 AND 8826**

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The Massachusetts Division of Insurance has approved the above captioned item, effective April 1, 2012, calling for the creation of two new and distinct classifications for assisted living residences ("ALR").

The approved classification phraseologies and corresponding code numbers are as follows:

**8824 – Assisted Living Residences: Personal Care Employees**

**8826 – Assisted Living Residences: All Other Employees, Salespersons & Drivers**

The Massachusetts Executive Office of Elder Affairs ("MA Elder Affairs") describes ALRs as providing residential long term care for adults who may need some help with activities such as housecleaning, meals, bathing, dressing and/or medication reminders and who would like the security of having assistance available on a 24 hour basis in a residential and non-institutional environment. Some ALRs also provide special care units that address the specialized needs of individuals, including those who may need assistance in directing their own care due to cognitive or other impairments.

In order to obtain certification from the MA Elder Affairs, an ALR must provide personal care assistance including assistance with activities of daily living ("ADL") and self-administered medication management ("SAMM"). The ALR regulations (651 CMR 12.00 et seq.) define ADLs as tasks relating to bathing, dressing, grooming, ambulation, eating, toileting and other similar tasks relating to personal care needs. SAMM is defined as a process which includes reminding residents to take medication, opening containers for residents, opening prepackaged medication for residents, reading the medication label to residents, and observing residents while they take the medication. Additional services

**THE WORKERS' COMPENSATION RATING & INSPECTION BUREAU OF MASSACHUSETTS**

101 ARCH STREET·5<sup>TH</sup> FLOOR, BOSTON, MASSACHUSETTS 02110-1103

(617) 439-9030, FAX (617) 439-6055, [www.wcribma.org](http://www.wcribma.org)

provided by certified ALRs include assistance with Instrumental Activities of Daily Living (“IADL”). The ALR regulations define IADLs as tasks related to meal preparation, housekeeping, clothes laundering, shopping for food and other items, telephoning, use of transportation, and other similar tasks related to environmental needs.

### Nursing Homes

MA Elder Affairs takes the position that ALRs are not the same as licensed nursing facilities; ALRs do not provide medical or nursing services and are not designed for people who need serious medical care. In fact, ALRs are prohibited from providing “skilled care” such as administering injections or changing sterile dressings. It is not uncommon, however, to have an ALR and a nursing home at the same location, where the two facilities share housekeeping, maintenance, and food services. If a nursing home facility is operated in conjunction with an ALR, such nursing home operation shall be assigned to **Code 8829 – Nursing or Convalescent Home – All Employees: for nursing home accommodations**. In this context, “conjunction” means that the assisted living facility and the nursing home facility are at the same location and both facilities are owned and operated by a single insured entity.

### Interchange of Labor

**Codes 8824** and **8826** will apply to ALRs and other similar type residences, however named, and not necessarily certified by MA Elder Affairs, that reflects the nature of operations conducted and services provided. **Code 8826** will apply to the operations related to meals, laundry, housekeeping, and transportation. **Code 8824** will apply to operations related to personal care assistance with ADLs. The final allocation of payroll between the two classifications will be determined at audit in accordance with applicable Rules contained in the Massachusetts Workers’ Compensation and Employers Liability Insurance Manual (“MA Manual”). If there is an interchange of labor whereby an employee provides assistance with ADLs along with other tasks (i.e. housekeeping and laundry), such employee’s entire payroll would normally be allocated to the highest rated classification representing any part of that employee’s work. In this instance, however, where **Codes 8824 and 8826** will initially have the same rate, an “interchanging” employee’s entire payroll must be applied to the class code that applies to the majority of the employee’s work, until such time when the two class codes develop their own rates.

### Continuing Care Retirement Communities

In the past few years, Continuing Care Retirement Communities (“CCRC”) have developed as a new option for retirement living. According to MA Elder Affairs, CCRCs are different from other types of senior housing because these communities provide housing, personal services and health care usually at one location. So, as the person’s personal and health care needs change, they are able to stay at the retirement community.

According to MA Elder Affairs, CCRCs typically combine a variety of housing options on one campus, from townhouses or cottages for totally independent living, to apartments for elders who need some personal care assistance, to nursing home accommodations for elders who require more comprehensive care. Several CCRCs in Massachusetts offer assisted care or have assisted living residences or sections that have been certified by MA Elder Affairs as ALRs. All nursing homes/skilled nursing facilities that are a part of a CCRC are required to be licensed by the Department of Public Health.

CCRCs are to be classified in accordance with all applicable MA Manual Rules as follows:

**Code 9015 – Buildings – Operations by Owner:** for residences with no services other than building maintenance and security.

**Code 8826 – Assisted Living Residences – All Other Employees, Salespersons & Drivers:** for residences that provide services such as meals, laundry, housekeeping, and transportation without personal care assistance.

**Code 8829 – Nursing or Convalescent Home – All Employees:** for nursing home accommodations.

**Code 8824** and **Code 8826** shall apply to residences that provide personal care assistance with ADLs and/or medication administration in addition to providing services such as meals, laundry, housekeeping and transportation.

The attached Filing Memorandum indicates the Purpose, Background, Proposal, Impact and Implementation of this Item, and contains draft Massachusetts Workers Compensation and Employers Liability Insurance Manual pages.

**These changes are applicable to new and renewal policies effective on or after 12:01 A.M., April 1, 2012.**

Please contact Dan Crowley (617-646-7594 or [dcrowley@wcribma.org](mailto:dcrowley@wcribma.org)) if you have any questions.

DANIEL M. CROWLEY, CPCU  
Vice President – Customer Services

Attachments

**ESTABLISHMENT OF SPECIFIC CLASSIFICATIONS FOR  
ASSISTED LIVING RESIDENCES  
UNDER CODES 8824 & 8826**

**Purpose**

As directed by the Workers' Compensation Rating and Inspection Bureau of Massachusetts' ("WCRIBMA") Governing Committee, the WCRIBMA proposes the establishment of distinct classifications for Assisted Living Residences ("ALR").

The classification system in Massachusetts is governed by the *Massachusetts Workers' Compensation and Employers Liability Insurance Manual* ("MA Manual"), which is approved by the Commissioner of Insurance. As set forth in Rule IV A. of the MA Manual (see Exhibit I), "The object of the classification system is to group employers into classifications so that the rate for each classification reflects the exposures common to those employers".

The purpose of this filing is to obtain approval of distinct classifications that will allow for an accurate gathering of all relevant statistical data in order to develop rates and rating values that are reflective of the exposures common to ALRs.

**Background**

The object of the classification procedure is to assign the one basic classification that best describes the business of the employer within the state. Such classification should generally include all the various types of labor found in a business. (See Exhibit I: MA Manual Rule IV-D.1.) If a business is not described by any classification, that business may be assigned, by analogy, to the classification that most closely describes the business. (See Exhibit I: MA Manual Rule IV-F.2.)

Since there are no specific classification phraseologies for ALRs in Massachusetts, such residences have been assigned, by analogy, to the two existing hotel classification codes: **Code 9058- Hotel: Restaurant Employees** and **Code 9052- Hotel: All Other Employees & Salespersons, Drivers**. (See Exhibit I). The classification by analogy to hotels resulted from the WCRIBMA's inspections of elderly residences in the early 1990s. Those residences provided individual apartments with amenities such as central dining, laundry, and housekeeping services. The amenities offered by these residences were likened to the services provided by hotels. Although ALR's offered more services than those provided by hotels, the classification by analogy was appropriate because there was no classification that fully contemplated the ALR's exposure and there were not a sufficient number of ALRs to warrant a distinct classification.

Any nursing homes operated at the same location as an ALR have been separately rated to **Code 8829 - Nursing or Convalescent Home - All Employees** (see Exhibit I). because such nursing home operations are not contemplated within the scope of the **Hotel Codes 9052** and **9058**. The MA Manual defines miscellaneous employees as those who perform duties conducted in common for separate operations that are subject to more than one basic classification. The miscellaneous employees for nursing homes and ALRs who provide food service, housekeeping, or maintenance for both the ALR and nursing home, are assigned to the governing classification, which is the classification with the greatest amount of payroll. (See Exhibit I: MA Manual Rules IV-E.1 and IV-B.5.)

Massachusetts requires ALRs to obtain certification through the Massachusetts Executive Office of Elder Affairs ("MA Elder Affairs"). To obtain such certification, ALRs must, among other things, provide certain personal care assistance for its residents. The personal care assistance provided by the ALRs far

exceed the amenities provided by hotels and are not contemplated within **Hotel Codes 9052 and 9058**. In addition, since 1994, when Massachusetts enacted legislation to regulate ALRs, the number of ALRs has increased from fewer than 50 to more than 200 residences. Since ALRs now have sufficient exposures to establish distinct classifications, classification by analogy of ALRs to the Hotel Codes is no longer appropriate. It is also no longer appropriate to assign the Hotel Codes to any residence, however named or characterized (and not necessarily certified by MA Elder Affairs) that provides personal care assistance and other services.

In the past few years, Continuing Care Retirement Communities (“CCRC”) have developed as a new option for retirement living. According to MA Elder Affairs, CCRCs are different from other types of senior housing because these communities provide housing, personal services and health care usually at one location. So, as the person’s personal and health care needs change, they are able to stay at the retirement community. In this filing, the WCRIBMA will also propose appropriate classifications for CCRCs.

### **Assisted Living Residences**

The WCRIBMA proposes the establishment of distinct Massachusetts specific classification phraseologies for ALRs. Specifically, the WCRIBMA proposes to adopt two currently existing “National” classification codes, with amendments to reflect Massachusetts distinctions. The proposed classification phraseologies and corresponding code numbers are as follows:

**Code 8824-Assisted Living Residences: Personal Care Employees**

**Code 8826-Assisted Living Residences: All Other Employees, Salespersons & Drivers**

MA Elder Affairs describes ALRs as providing residential long term care for adults who may need some help with activities such as housecleaning, meals, bathing, dressing and/or medication reminders and who would like the security of having assistance available on a 24 hour basis in a residential and non-institutional environment. Some ALRs also provide special care units that address the specialized needs of individuals, including those who may need assistance in directing their own care due to cognitive or other impairments.

In order to obtain certification from the MA Elder Affairs, an ALR must provide personal care assistance including assistance with activities of daily living (“ADL”) and self administered medication management (“SAMM”). The ALR regulations (651 CMR 12.00 et seq.) define ADLs as tasks relating to bathing, dressing, grooming, ambulation, eating, toileting and other similar tasks relating to personal care needs. SAMM is defined as a process which includes reminding residents to take medication, opening containers for residents, opening prepackaged medication for residents, reading the medication label to residents, and observing residents while they take the medication. Additional services provided by certified ALRs include assistance with Instrumental Activities of Daily Living (“IADL”). The ALR regulations define IADLs as tasks related to meal preparation, housekeeping, clothes laundering, shopping for food and other items, telephoning, use of transportation, and other similar tasks related to environmental needs.

MA Elder Affairs takes the position that ALRs are not the same as licensed nursing facilities; ALRs do not provide medical or nursing services and are not designed for people who need serious medical care. In fact, ALRs are prohibited from providing “skilled care” such as administering injections or changing sterile dressings. It is not uncommon, however, to have an ALR and a nursing home at the same location, where the two facilities share housekeeping, maintenance, and food services. If a nursing home facility is operated in conjunction with an ALR, such nursing home operation shall be assigned to **Code 8829**. In this context, “conjunction” means that the assisted living facility and the nursing home facility are at the same location and both facilities are owned and operated by a single insured entity.

## Continuing Care Retirement Communities

According to MA Elder Affairs, CCRCs typically combine a variety of housing options on one campus, from townhouses or cottages for totally independent living, to apartments for elders who need some personal care assistance, to nursing home accommodations for elders who require more comprehensive care. Several CCRCs in Massachusetts offer assisted care or have assisted living residences or sections that have been certified by MA Elder Affairs as ALRs. All nursing homes/skilled nursing facilities that are a part of a CCRC are required to be licensed by the Department of Public Health.

The WCRIBMA proposes that CCRCs be classified in accordance with all applicable MA Manual Rules as follows:

**Code 9015- Buildings – Operations by Owner:** for residences with no services other than building maintenance and security.

**Code 8826- Assisted Living Residences – All Other Employees, Salespersons & Drivers:** for residences that provide services such as meals, laundry, housekeeping, and transportation without personal care assistance.

**Code 8829 - Nursing or Convalescent Home – All Employees:** for nursing home accommodations.

**Code 8824 and Code 8826** shall apply to residences that provide personal care assistance with ADLs and/or medication administration in addition to providing services such as meals, laundry, housekeeping and transportation.

### Proposal

WCRIBMA's proposed classifications for ALRs will account for and track the levels of services offered by such residences. ALRs and other similar type residences, however named, and not necessarily certified by MA Elder Affairs, will be assigned to the two classification codes that reflect the nature of operations conducted and services provided. **Code 8826** will apply to the operations related to meals, laundry, housekeeping, and transportation. **Code 8824** will apply to operations related to personal care assistance with ADLs. The final allocation of payroll between the two classifications will be determined at audit in accordance with applicable MA Manual Rules. If there is an interchange of labor whereby an employee provides assistance with ADLs along with other tasks (i.e. housekeeping and laundry), such employee's entire payroll would normally be allocated to the highest rated classification representing any part of that employee's work. (See Exhibit I: MA Manual Rule IV-E.2.) In this instance, however, where **Codes 8824** and **8826** will initially have the same rate, an "interchanging" employee's entire payroll must be applied to the class code that applies to the majority of the employee's work, until such time when the two class codes develop their own rates.

The WCRIBMA's actuarial department has determined that there is sufficient exposure at ALRs, other similar type residences, and CCRCs, in Massachusetts to establish distinct classifications for such residences. At this time, it is proposed that the rates and rating values for the new classification **Codes 8824** and **8826** be equivalent to those for **Codes 9058** and **9052** until such time as the WCRIBMA has collected sufficient data under **Codes 8824** and **8826** to develop rates that reflect the ALR exposures.

It is further proposed that this item become applicable with respect to **new and renewal policies effective on or after 12:01 A.M., April 1, 2012.**

**Impact**

The proposed rates and rating values for classification **Codes 8824 and 8826** will be the same as those applied to **Codes 9058 and 9052**, which have the same rate and have always been combined for rate making purposes. Accordingly, there will be no premium impact for ALRs that were previously assigned to **Codes 9058 or 9052**. There will also be no premium impact for ALRs that operate nursing homes in conjunction with their ALR; as such nursing home facilities will continue to be assigned to **Code 8829**.

**Implementation**

In order to implement this item, the proposed changes, as detailed in the attached Exhibits II, III and IV will be included in the following manuals.

1. Massachusetts Workers' Compensation and Employers Liability Insurance Manual – Appendix G – Massachusetts Table of Classification by Hazard Group. Part II: Classification and Part III: Rate Section.
2. Experience Rating Plan Manual for Workers' Compensation and Employers Liability Insurance – Table of Expected Loss Rates and Discounts Ratios [MA].

## EXHIBIT I

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The MA Manual rules and classification phraseologies referenced in this filing Item, “**Establishment Of Specific Classifications For Assisted Living Residences Under Codes 8824 and 8826**”, taken from the *Massachusetts Workers Compensation And Employers Liability Insurance Manual*, are attached to and form a part of this filing as follows:

- ❶ Page R-8: Rule IV-A.-General Information
- ❷ Page R-12: Rule IV-D.1.-Object of Classification Procedure
- ❸ Page R-16: Rule IV-F.2.-Business Not Described By Any Classification
- ❹ Page R-16: Rule IV-E.1. - Miscellaneous Employees
- ❺ Page R-9: Rule IV-B.5. - Governing Classification
- ❻ Page R-16: Rule IV-E.2.-Interchange of Labor
- ❼ Page C- 60: Hotel: Restaurant Employees.....9058  
All Other Employees & Salespersons, Drivers.....9052
- ❽ Page C- 79: Nursing or Convalescent Home - All employees.....8829

# EXHIBIT I – Attachments

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**RULE IV – CLASSIFICATIONS**

Item 4. of the Information Page

**A. GENERAL INFORMATION**

The object of the classification system is to group employers into classifications so that the rate for each classification reflects the exposures common to those employers. Subject to certain exceptions described later in this rule, it is the business of the employer within a state that is classified, not the separate employments, occupations or operations within the business.

**B. EXPLANATION OF CLASSIFICATIONS****1. Basic Classifications**

All classifications in the manual are basic classifications, other than the standard exception classifications. Basic classifications describe the business of an employer, such as:

<u>Business</u>	<u>Classification</u>
Manufacture of a product	Furniture Mfg.
A process	Engraving
Construction or erection	Carpentry
A general type or character of business	Hardware Store
A service	Beauty Parlor

Classifications are listed alphabetically in Part Two of this manual. Notes following a classification are part of that classification.

**2. Standard Exception Classifications**

Some occupations are common to so many businesses that special classifications have been established for them. They are called standard exception classifications. Employees within the definition of a standard exception classification are not included in a basic classification unless the basic classification specifically includes those employees. The standard exception classifications are defined below:

- a. **Clerical Office Employees - Code 8810** - are employees engaged exclusively in bookkeeping, in record keeping, in correspondence, or in other office work where books and other records are kept or correspondence is conducted. This classification applies only to employees who work in areas physically separated from other operations by structural partitions and in which work of clerical office employees as defined in this rule is performed exclusively. If such an employee has any other duty, the total payroll of that employee shall be assigned to the highest rated classification of operations to which the employee is exposed.
- b. **Drafting Employees - Code 8810** - are employees engaged exclusively in drafting and confined to office work. The entire payroll of any such employees exposed to any other operations shall be assigned to the highest rated classification of operations to which they are exposed.
- c. **Drivers, Chauffeurs and Their Helpers - Code 7380** - are employees engaged in such duties on or in connection with a vehicle. This classification also includes garage employees and employees using bicycles in their operations.
- d. **Salespersons, Collectors or Messengers - Outside - Code 8742** - are employees engaged in such duties away from the employer's premises. This classification shall not apply to employees who deliver merchandise. Employees who deliver merchandise shall be assigned to the classification applicable in that risk to drivers even though they also collect or sell. If they walk or use public transportation, they shall be assigned to the governing classification.

- j. Story in Height:** This manual contains several classifications that refer to "stories in height." A representative sampling of classifications of this nature includes:

Code 5037 - Painting: Metal Structures – Over Two Stories In Height - & Drivers

Code 5059 - Iron or Steel: Erection – Frame Structures Not Over Two Stories In Height

Code 5651 - Carpentry - Dwellings – Three Stories or Less

For structures, a "story" is defined as being fifteen (15) feet in height.

- k. To Be Separately Rated:** If a classification requires operations or employees "to be separately rated," all such operations or employees shall be separately classified when the conditions of Rule IV-D.4. exist.

Example of 3.k. above

Code 4131 - Mirror Mfg.

Mfg. of glass, frames, backs or handles to be separately rated.

In a risk which makes mirrors, the work of producing glass, or fabricating frames, backs or handles, shall be separately classified.

## **D. ASSIGNMENT OF CLASSIFICATIONS**

### **1. Object of Classification Procedure**

The object of the classification procedure is to assign the one basic classification that best describes the business of the employer within a state. Subject to certain exceptions described in this rule, each classification includes all the various types of labor found in a business. It is the business that is classified, not the individual employments, occupations or operations within a business. Additional classifications shall be assigned as provided below.

### **2. Classification of Separate Legal Entities**

Each separate legal entity insured under a policy shall be assigned to the basic classification that describes its entire business within a state. This assignment procedure applies even if the business is conducted at more than one location.

### **3. Business Not Described by a Manual Classification**

If there is no classification that describes the business, the classification that most closely describes the business shall be assigned. *Refer to Rule IV-F.2.*

### **4. Assignment of Additional Basic Classification**

If a classification requires operations or employees to be separately rated or if an employer operates a secondary business within a state, an additional basic classification shall be assigned only if all the following conditions exist:

- a. The secondary business is conducted as a separate undertaking or enterprise. This condition does not apply if the classification wording requires the assignment of an additional classification for specified employees or operations. For example, some classifications direct that certain operations are to be separately rated.
- b. Separate payroll records are maintained for each business.
- c. Each business is physically separated by structural partitions and is conducted without interchange of labor.
- d. The assignment of the separate classification is not prohibited by wording of that classification or any other classification assigned to the policy.

**E. PAYROLL ASSIGNMENT – MULTIPLE CLASSIFICATIONS – INTERCHANGE OF LABOR****1. Miscellaneous Employees**

Miscellaneous employees are those who perform duties conducted in common for separate operations that are subject to more than one basic classification. The payroll of any miscellaneous employees shall be assigned to the governing classification. Such employees include general superintendents, maintenance or power plant employees, elevator operators, shipping or receiving clerks and yard workers.

Example of E.1. above

Four story factory - two floors general job machine shop and two floors plastic goods manufacturing:

Code 3632 - Machine Shop NOC applies to machine shop.

Code 4452 - Plastics Mfg. applies to plastic goods manufacturing.

The elevator operators, porters and cleaners serving all four floors shall be assigned to the governing classification for the location.

**2. Interchange of Labor**

Some employees, who are not miscellaneous employees, may perform duties directly related to more than one classification. An example is an employee who from time to time interchanges between operations subject to more than one classification. When there is such an interchange of labor, the entire payroll of employees who interchange shall be assigned to the highest rated classification representing any part of their work.

Exceptions to E.2. above

For construction, erection, stevedoring, part-time aircraft operations in connection with Code 7421 – **Aviation**, or trucking, when such operations constitute a secondary business conducted as a separate undertaking or enterprise, the payroll of an individual employee may be divided and allocated to more than one classification, provided the entries on the original records of the insured disclose an allocation of each such individual employee's payroll. An estimated or percentage allocation of payroll is not permitted.

Code 8810 - Clerical and Code 8742 – Outside Salespersons are not available for division of payroll under this rule.

**F. HOW TO SHOW A CLASSIFICATION IN ITEM 4. OF THE INFORMATION PAGE****1. Business Described by a Classification**

For a business described by a classification, show the classification wording, with or without notes, show any caption that precedes several related classifications and show the code number. Underlined, capitalized classification wording may be used instead of the entire wording.

**2. Business Not Described by Any Classification**

For a business not described by any classification, show wording that describes the business. With this wording, show the code number of the classification that most closely describes the business. Such an assignment is controlled by all of the rules applicable to the assigned classification.

Example of F.2. above

An employer manufactures flags. There is no classification in the manual that describes or mentions flag manufacturing. The classification in the manual that most closely describes flag manufacturing is Code 2501 - Furnishing Goods Mfg., which states in its footnote that it includes wearing apparel, draperies or household furnishings manufactured from textile

**E. PAYROLL ASSIGNMENT – MULTIPLE CLASSIFICATIONS – INTERCHANGE OF LABOR****1. Miscellaneous Employees**

Miscellaneous employees are those who perform duties conducted in common for separate operations that are subject to more than one basic classification. The payroll of any miscellaneous employees shall be assigned to the governing classification. Such employees include general superintendents, maintenance or power plant employees, elevator operators, shipping or receiving clerks and yard workers.

Example of E.1. above

Four story factory - two floors general job machine shop and two floors plastic goods manufacturing:

Code 3632 - Machine Shop NOC applies to machine shop.

Code 4452 - Plastics Mfg. applies to plastic goods manufacturing.

The elevator operators, porters and cleaners serving all four floors shall be assigned to the governing classification for the location.

**2. Interchange of Labor**

Some employees, who are not miscellaneous employees, may perform duties directly related to more than one classification. An example is an employee who from time to time interchanges between operations subject to more than one classification. When there is such an interchange of labor, the entire payroll of employees who interchange shall be assigned to the highest rated classification representing any part of their work.

Exceptions to E.2. above

For construction, erection, stevedoring, part-time aircraft operations in connection with Code 7421 – **Aviation**, or trucking, when such operations constitute a secondary business conducted as a separate undertaking or enterprise, the payroll of an individual employee may be divided and allocated to more than one classification, provided the entries on the original records of the insured disclose an allocation of each such individual employee's payroll. An estimated or percentage allocation of payroll is not permitted.

Code 8810 - Clerical and Code 8742 – Outside Salespersons are not available for division of payroll under this rule.

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**2. Business Not Described by Any Classification**

For a business not described by any classification, show wording that describes the business. With this wording, show the code number of the classification that most closely describes the business. Such an assignment is controlled by all of the rules applicable to the assigned classification.

Example of F.2. above

An employer manufactures flags. There is no classification in the manual that describes or mentions flag manufacturing. The classification in the manual that most closely describes flag manufacturing is Code 2501 - Furnishing Goods Mfg., which states in its footnote that it includes wearing apparel, draperies or household furnishings manufactured from textile

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**Note: Automobile Salespersons – Code 8748** - are employees engaged in such duties on or away from the employer's premises. Such employees are treated as Salespersons, Collectors or Messengers - Outside for purposes of this rule, but are assigned to Code 8748.

### 3. General Inclusions:

- a. Some operations appear to be separate businesses, but they are included within the scope of all classifications other than the standard exception classifications. These operations are called general inclusions and are:
  - (1) Commissaries and restaurants for the insured's employees. Such operations shall be assigned to a separate classification if conducted in connection with construction, erection, lumbering or mining operations.
  - (2) Manufacture of containers such as bags, barrels, bottles, boxes, cans, cartons, or packing cases by the employer for use in the operations insured by the policy.
  - (3) Hospitals or medical facilities operated by the insured for its employees.
  - (4) Maintenance or repair of the insured's buildings or equipment by the insured's employees.
  - (5) Printing or lithographing by the insured on its own products.
- b. A general inclusion operation shall be separately classified only if:
  - (1) Such operation constitutes a separate and distinct business of the insured as provided in Rule IV-D. below, or
  - (2) It is specifically excluded by the classification wording, or
  - (3) The principal business is described by a standard exception classification.

### 4. General Exclusions

Some operations in a business are so unusual for the type of business described by the basic classification applicable to the business that they are separately classified. These operations are called general exclusions and are classified separately unless specifically included in the basic classification wording. General exclusions are:

- a. **Aviation** - all operations of the flying and ground crews.
- b. New construction or alterations by the insured's employees.
- c. Stevedoring, including tallying and checking incidental to stevedoring.
- d. Sawmill operations - sawing logs into lumber by equipment such as circular carriage or band carriage saws, including operations incidental to the sawmill.
- e. Employer-operated day care service.

### 5. Governing Classification

The governing classification at a specific job or location is the classification, other than a standard exception classification, that produces the greatest amount of payroll.

**E. PAYROLL ASSIGNMENT – MULTIPLE CLASSIFICATIONS – INTERCHANGE OF LABOR****1. Miscellaneous Employees**

Miscellaneous employees are those who perform duties conducted in common for separate operations that are subject to more than one basic classification. The payroll of any miscellaneous employees shall be assigned to the governing classification. Such employees include general superintendents, maintenance or power plant employees, elevator operators, shipping or receiving clerks and yard workers.

Example of E.1. above

Four story factory - two floors general job machine shop and two floors plastic goods manufacturing:

Code 3632 - Machine Shop NOC applies to machine shop.

Code 4452 - Plastics Mfg. applies to plastic goods manufacturing.

The elevator operators, porters and cleaners serving all four floors shall be assigned to the governing classification for the location.

**2. Interchange of Labor**

Some employees, who are not miscellaneous employees, may perform duties directly related to more than one classification. An example is an employee who from time to time interchanges between operations subject to more than one classification. When there is such an interchange of labor, the entire payroll of employees who interchange shall be assigned to the highest rated classification representing any part of their work.

Exceptions to E.2. above

For construction, erection, stevedoring, part-time aircraft operations in connection with Code 7421 – **Aviation**, or trucking, when such operations constitute a secondary business conducted as a separate undertaking or enterprise, the payroll of an individual employee may be divided and allocated to more than one classification, provided the entries on the original records of the insured disclose an allocation of each such individual employee's payroll. An estimated or percentage allocation of payroll is not permitted.

Code 8810 - Clerical and Code 8742 – Outside Salespersons are not available for division of payroll under this rule.

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An employer manufactures flags. There is no classification in the manual that describes or mentions flag manufacturing. The classification in the manual that most closely describes flag manufacturing is Code 2501 - Furnishing Goods Mfg., which states in its footnote that it includes wearing apparel, draperies or household furnishings manufactured from textile

**MASSACHUSETTS WORKERS COMPENSATION  
AND EMPLOYERS LIABILITY INSURANCE MANUAL**

**PART TWO  
CLASSIFICATIONS**

Page C-60

Issued January 1, 2008

1<sup>st</sup> Reprint

**HORSE SHOE MFG ..... 3146**  
Steel making or rolling mills to be separately rated.

**HORSE SHOW:**

**OPERATION BY OWNER OR LESSEE & DRIVERS..... 9016**  
Includes musicians and box office employees. Operation or maintenance of amusement devices to be separately rated as Code 9180 amusement device operation NOC.

**STABLE EMPLOYEES & DRIVERS ..... 8279**

**HOSE MFG - WOVEN FIRE HOSE FROM LINEN THREAD ..... 2402**

**HOSIERY DYEING AND FINISHING ..... 2501**

**HOSIERY MFG. .... 2501**  
Yarn mfg. to be separately rated.

**HOSPITAL:**

**PROFESSIONAL EMPLOYEES ..... 8833**

**ALL OTHER EMPLOYEES ..... 9040**

**HOSPITAL - VETERINARY - & DRIVERS ..... 8831**

**HOTEL:**

**RESTAURANT EMPLOYEES ..... 9058**

**ALL OTHER EMPLOYEES & SALESPERSONS, DRIVERS ..... 9052**

The two classifications applicable to hotel operations, Codes 9058 - hotel: restaurant employees and 9052 hotel: all other employees, salespersons, drivers include only those workers directly employed by the hotel or motel and do not include employees of concessionaires or independent contractors operating on the premises.

Code 9058 contemplates employees engaged in food service or beverage operations only, such as, but not limited to, waiters, waitresses and their assistants, cooks, kitchen help, bartenders, cashiers, restaurant managers, etc., and includes musicians and entertainers. All other employees of the hotel or motel, such as desk clerks, maids, housemen, telephone operators, inside and outside maintenance, store workers, barbers, laundry workers, etc., are to be assigned to Code 9052.

**HOTEL AND RESTAURANT KITCHEN EQUIPMENT MFG - SHEET METAL ..... 3066**

**HOTHOUSE ERECTION - ALL OPERATIONS ..... 5402**

**HOUSE FURNISHINGS INSTALLATION NOC & UPHOLSTERING..... 9521**

Includes:

1. The installation of house furnishings such as slipcovers, curtains or draperies, window shades, venetian blinds and interior wooden shutters.
2. Upholstery operations performed away from shop if incidental to and in conjunction with house furnishings installation.

**PART TWO  
CLASSIFICATIONS**

**MASSACHUSETTS WORKERS COMPENSATION  
AND EMPLOYERS LIABILITY INSURANCE MANUAL**

1<sup>st</sup> Reprint

Issued January 1, 2008

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<u><b>Classification</b></u>	<u><b>Code Number</b></u>
<b>NAIL MFG</b> .....	<b>3270</b>
Steel making or rolling mills to be separately rated.	
<b>NAILHEAD ORNAMENTATION - ATTACHING NAIL HEADS OR SIMILAR ARTICLES TO TEXTILE FABRICS BY MEANS OF FOOT PRESSES</b> .....	<b>2501</b>
<b>NECKTIE MFG - KNITTED</b> .....	<b>2362</b>
<b>NEEDLE MFG</b> .....	<b>3119</b>
<b>NET MFG</b> .....	<b>2380</b>
Not applicable to wire nets. Cordage or twine mfg. to be separately rated as Code 2220.	
<b>NEWS AGENT OR DISTRIBUTOR OF MAGAZINES OR OTHER PERIODICALS - NOT RETAIL DEALER &amp; SALESPERSONS, DRIVERS</b> .....	<b>8745</b>
<b>NEWSPAPER PUBLISHING</b> .....	<b>4304</b>
Artists, designers, proofreaders, editors or clerical office employees to be separately rated as Code 8810 clerical. Reporters, advertising or circulation solicitors to be separately rated as Code 8742 salespersons.	
News carriers shall be assigned to the governing classification of the risk by which they are employed, except that news carriers using motor vehicles or bicycles in connection with their operations shall be separately rated as Code 7380 drivers.	
Selling or delivering of newspapers to customers for their personal use and not for resale shall be separately rated!	
<b>NOTEBOOK OR LOOSE-LEAF LEDGER MFG</b> .....	<b>4251</b>
Mfg. of metal rings, posts, screws, separators or fittings to be separately rated.	
<b>NURSERIES - DAY:</b>	
<b>PROFESSIONAL EMPLOYEES &amp; CLERICAL</b> .....	<b>8868</b>
<b>ALL OTHER EMPLOYEES</b> .....	<b>9101</b>
<b>NURSERYPERSONS - See Farm</b>	
<b>NURSING - HOME HEALTH, PUBLIC AND TRAVELING - ALL EMPLOYEES</b> .....	<b>8835</b>
<b>NURSING OR CONVALESCENT HOME - ALL EMPLOYEES</b> .....	<b>8829</b>
Applies to any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for persons admitted thereto for the purpose of nursing or convalescent care.	
Institutions categorized by the Commonwealth of Massachusetts Department of Public Health as Nursing or Convalescent Homes shall be rated as Code 8829.	
Institutions categorized by the Commonwealth of Massachusetts Department of Public Health as Rest Homes shall be rated as professional employees - Code 8833 and all other employees - Code 9040.	
<b>NUT CLEANING OR SHELLING</b> .....	<b>6504</b>

**EXHIBIT II**

**Massachusetts Workers' Compensation and Employers Liability Insurance Manual**

<p align="center"><b>Present Phraseology</b> Part Two - Classifications</p>	<p align="center"><b>Proposed Phraseology</b> Part Two – Classifications</p>
<p>None</p>	<p><b>Assisted Living Residences: Personal Care Employees.....8824</b></p> <p>Applies to all residences, however named, certified, or characterized that provide personal care assistance to residents relating to activities of daily living including, but not limited to tasks related to bathing, dressing, grooming, ambulation, eating, toileting, and medication administration.</p> <p>Nursing homes operated in conjunction with a qualifying assisted living residence are assigned to Code 8829. In this context, “conjunction” means that the assisted living residence and the nursing home facility are at the same location and both facilities are owned and operated by a single insured entity.</p> <p>Separately classify all other employees engaged in services that are not personal care assistance relating to activities of daily living to <b>Code 8826</b>.</p> <p><b>Assisted Living Residences: All Other Employees, Salespersons &amp; Drivers.....8826</b></p> <p>Applies to all employees providing food service, housekeeping, laundry, building maintenance and all other services to residents other than personal care assistance related to activities of daily living or administration of medications.</p> <p>Independently operated elderly apartments or retirement community residences that offer no services other than building maintenance or security are properly assigned to <b>Code 9015</b>.</p> <p>Separately classify all employees providing personal care assistance relating to activities of daily living including, but not limited to tasks related to bathing, dressing, grooming, ambulation, eating, toileting, and medication administration to <b>Code 8824</b>.</p>

## **EXHIBIT III**

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### **Massachusetts Workers' Compensation and Employers Liability Insurance Manual**

#### **Appendix G**

##### **Massachusetts Table of Classifications by Hazard Group**

<b>Code No.</b>	<b>Hazard Group A-G</b>	<b>Hazard Group 1-4</b>
<b>8824</b>	<b>C</b>	<b>2</b>
<b>8826</b>	<b>B</b>	<b>1</b>

**EXHIBIT IV**

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**MASSACHUSETTS WORKERS COMPENSATION  
CLASSIFICATION CODES  
8824 & 8826**

**Proposed Rates & Rating Values Codes 8824 & 8826**

**Effective April 1, 2012**

<b>CODE</b>	<b>RATE</b>	<b>LOSS CONSTANT</b>	<b>MINIMUM PREMIUM</b>	<b>ELR</b>	<b>D RATIO</b>
<b>8824</b>	<b>1.49</b>	<b>20.00</b>	<b>231.00</b>	<b>.68</b>	<b>.20</b>
<b>8826</b>	<b>1.49</b>	<b>20.00</b>	<b>231.00</b>	<b>.68</b>	<b>.20</b>