

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

**WAC 296-17A-5307 Classification 5307.**

**5307-00 State government employees - N.O.C.**

Applies to state government employees not covered by another classification (N.O.C. - not otherwise classified). This is the basic state agency classification which covers employees who have duties that support the mission of the agency and have field or hazardous exposure. For purposes of this classification field or hazardous exposure is defined as any work which involves "hands on" work. Employees reported in this classification may have jobs that include, but are not limited to, performing manual labor or supervising a work crew performing manual labor, work in the trades, construction-type work or maintenance/repair work, operating machinery or equipment, stores/stock clerks, warehouse, supplies, deliveries, food services, facilities, recreational, or general security staff with no law enforcement duties. This classification also includes, but is not limited to, personnel such as engineers, inspectors, and biologists, who have field exposure. This classification includes supervisors who work at a field site and perform supervision duties in the field. This classification includes nonpatient care employees in state operated homes, schools, detention or correctional facilities not described in another classification.

This classification excludes:

- Employees who have law enforcement power in any capacity, who are to be reported separately in classification 7103;
- Juvenile rehabilitation custody staff at institutions or homes who are to be reported in 5307-01;
- Administrative employees with field duties who are to be reported separately in classification 5300;
- Clerical and administrative office personnel who are to be reported separately in classification 4902;
- Employees who work in state hospitals, homes, schools, detention or correctional facilities who are not otherwise classified and provide care and treatment for patients or residents who are to be reported separately in classification 7201;
- Employees who provide patient or health care at state-operated mental health or acute care hospitals with a fully implemented safe patient handling program who are to be reported in classification 7200;
- Employees who provide patient or health care at state-operated mental health or acute care hospitals that do not have a fully implemented safe patient handling program who are to be reported in classification 7400; (~~administrative field employees, who are to be reported separately in classification 5300; and~~

~~clerical and administrative office personnel, who are to be reported separately in classification 4902.)~~

● Volunteers are to be reported in classification 6901((7));  
and

● Law enforcement volunteers in classification 6906.

This classification may be assigned to all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.

**5307-01 State government employees - juvenile rehabilitation custody**

Applies to employees of the department of social and health services (DSHS) at juvenile institutions and juvenile residential community facilities. Employees in this risk classification may preserve order, provide security, and have the authority to detain, revoke privileges, or impose sanctions. Other work may include, but is not limited to, providing counseling, conducting assessments, rehabilitation, coordination of services, evaluations, and transporting detainees.

This classification excludes:

● Employees who do not have custody or security duties;

● Employees who perform parole duties such as those performed by a regional office, which are away from a juvenile institution or a juvenile residential community facility who are to be reported in 5300; and

● Employees who direct athletic and recreational activities who are to be reported in 5307-00.

See classifications 4902, 5300, 5307, 7200, 7201, and 7400 for all state government operations.

AMENDATORY SECTION (Amending WSR 08-24-074, filed 12/1/08, effective 1/1/09)

**WAC 296-17-870 Evaluation of actual losses.** (1) Except as provided in ~~((the following))~~ subsections ~~((of this paragraph, actual losses shall include all payments as of the "valuation date" for each claim arising from an accident occurring during the experience period. Losses for claims open as of the valuation date may also include a reserve for future payments. Actual losses on claims for accidents occurring outside of the experience period shall not be included))~~ (3) through (12) of this section, the actual losses for claims with a date of injury during the experience period will be evaluated on the "valuation date." Losses on claims occurring outside the experience period will not be included. The actual losses for closed claims must include:

- (a) Accident and medical aid payments; and
- (b) Pension reserve amounts paid by the accident fund; and
- (c) Accident and medical aid benefits or payments that are scheduled to be paid; and
- (d) Reserve for other accident and medical aid benefits accessible by the worker while the claim is closed.

The actual losses for claims that are open may, in addition, also include a reserve for future payments.

~~((+1))~~ (2) Valuation date. The valuation date shall be June 1, seven months immediately preceding the effective date of premium rates.

~~((+2))~~ (3) Retroactive adjustments - revision of losses between valuation dates. No claim value shall be revised between valuation dates and no retroactive adjustment of an experience modification shall be made because of disputation concerning the judgment of the claims examiner or because of subsequent developments except as specifically provided in the following cases:

(a) In cases where loss values are included or excluded through mistake other than error of judgment.

(b) In cases where a third party recovery is made, subject to subsection ~~((+4))~~ (5)(a) of this section.

(c) In cases where the claim qualifies as a second injury claim under the provisions of RCW 51.16.120.

(d) In cases where a claim, which was previously evaluated as a compensable claim, is closed and is determined to be noncompensable (ineligible for benefits other than medical treatment).

(e) In cases where a claim is closed and is determined to be ineligible for any benefits.

In the above specified cases retroactive adjustment of the experience modification shall be made for each rating in which the

claim was included. Retroactive adjustments will not be made for rating periods more than ten years prior to the date on which the claim status was changed.

((+3)) (4) Average death value. Each fatality occurring to a worker included within the mandatory or elective coverage of Title 51 RCW shall be assigned the "average death value." The "average death value" shall be the average incurred cost for all such fatalities occurring during the experience period. The average death value is set forth in WAC 296-17-880 (Table II).

((+4)) (5) Third-party recovery - effect on experience modification.

(a) For claims with injury dates prior to July 1, 1994, a potential claim cost recovery from action against a third party, either by the injured worker or by the department, shall not be considered in the evaluation of actual losses until such time as the third-party action has been completed. If a third-party recovery is made after a claim had previously been used in an experience modification calculation, the experience modification shall be retroactively adjusted. The department shall compute a percentage recovery by dividing the current valuation of the claim into the amount recovered or recoverable as of the recovery date, and shall reduce both primary and excess losses previously used in the experience modification calculation by that percentage.

(b) For claims with injury dates on or after July 1, 1994, if the department determines that there is a reasonable potential of recovery from an action against a third party, both primary and excess values of the claim shall be reduced by fifty percent for purposes of experience modification calculation, until such time as the third-party action has been completed. This calculation shall not be retroactively adjusted, regardless of the final outcome of the third-party action. After a third-party recovery is made, the actual percentage recovery shall be applied to future experience modification calculations.

(c) For third-party actions completed before July 1, 1996, the claim shall be credited with the department's net share of the recovery, after deducting attorney fees and costs. For third-party actions completed on or after July 1, 1996, the claim shall be credited with the department's gross share of the recovery, before deducting attorney fees and costs.

(d) Definitions:

(i) As used in this section, "recovery date" means the date the money is received at the department or the date the order confirming the distribution of the recovery becomes final, whichever comes first.

(ii) As used in this section, "recoverable" means any amount due as of the recovery date and/or any amount available to offset case reserved future benefits.

((+5)) (6) Second injury claims. The primary and excess values of any claim which becomes eligible for second injury relief under the provisions of RCW 51.16.120, as now or hereafter amended, shall be reduced by the percentage of relief granted.

((+6)) (7) Occupational disease claims. When a claim results

from an employee's exposure to an occupational disease hazard, the "date of injury," for the purpose of experience rating, will be the date the disability was diagnosed and that gave rise to the filing of a claim for benefits. The cost of any occupational disease claim, paid from the accident fund and medical aid fund and arising from exposure to the disease hazard under two or more employers, shall be prorated to each period of employment involving exposure to the hazard. Each insured employer who had employed the claimant during the experience period, and for at least ten percent of the claimant's exposure to the hazard, shall be charged for his/her share of the claim based upon the prorated costs.

~~((7))~~ (8) **Maximum claim value.** No claim shall enter an employer's experience record at a value greater than the "maximum claim value." The maximum claim value is set forth in WAC 296-17-880 (Table II).

~~((8))~~ (9) **Catastrophic losses.** Whenever a single accident results in the deaths or total permanent disability of three or more workers employed by the same employer, costs charged to the employer's experience shall be limited as required by RCW 51.16.130.

~~((9))~~ (10) **Acts of terrorism.** Whenever any worker insured with the state fund sustains an injury or occupational disease as a result of an incident certified to be an act of terrorism under the U.S. Terrorism Risk Insurance Act of 2002, the costs of the resulting claim shall be excluded from the experience rating computation of the worker's employer.

~~((10))~~ (11) **Claims filed by preferred workers.** The costs of subsequent claims filed by certified preferred workers will not be included in experience calculations, as provided in WAC 296-16-010.

~~((11))~~ (12) **Life and rescue phase of emergencies:** This provision applies to "emergency workers" of nongovernmental employers assigned to report in classification 7205 (WAC 296-17A-7205) who assist in a life and rescue phase of a state or local emergency (disaster). The life and rescue phase of an emergency is defined in RCW 51.16.130(3) as being the first seventy-two hours after a natural or man-made disaster has occurred. For an employer to qualify for this special experience rating relief, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing survivors. This special relief is only applicable to nongovernmental employers during this initial seventy-two hour phase of the declared emergency unless the emergency has been extended by the official who declared the emergency. The cost of injuries or occupational disease claims filed by employees of nongovernmental employers assisting in the life and rescue phase of a declared emergency will not be charged to the experience record of the nongovernmental state fund employer.