THE REPORT

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ASURARISK
& INSURANCE SERVICES

WORKERS' COMPENSATION

Bureau Files 2.7% Rate Increase for Sept. 1

THE WORKERS' Compensation Insurance Rating Bureau of California has recommended that benchmark workers' comp rates be increased by an average of 2.7%, for policies incepting on or after Sept. 1.

The recommendation has been sent to Insurance Commissioner Ricardo Lara, who will hold a hearing in July on the filing, after which he can approve the filing or reject it and either order a different rate hike or a benchmark rate decrease.

His decision will affect California employers who are just beginning a recovery from the financial effects of the COVID-19 pandemic. If approved, the filing would be the first rate hike since 2015.

The benchmark rate – also known as the pure premium rate – is a base rate that insurers can use as a guidepost for pricing their policies. It includes the cost of claims and claims-adjusting costs, and does not take into account other expenses insurers face.

The recommended 2.7% hike from the Jan. 1 rate is an average across all class codes. Rates will vary from employer to employer.

The recommendation comes as the number of workers' compensation claims plummeted 23% during the pandemic in 2020 from 2019, according to the WCIRB.

The Rating Bureau is not using any data from COVID-19 workers' comp claims, as it considers the event a distortion to industrial accident and illness claims and costs.

WCIRB chief actuary Dave Bellusci said that, to reflect the unique impact of the COVID-19 pandemic claims, the Rating Bureau excluded all claims arising from a COVID-19 diagnosis from the analysis and largely relied upon pre-pandemic experience to project future costs.

The drivers of the rate hike request are:

- The new Medical-Legal Fee Schedule, which took effect April 2021, will increase the reimbursement rate for medical-legal reports by an average of 22%. The WCIRB estimates that will result in a 1.4% increase in the cost of the average claim.
- Changes to California's official workers' compensation Medical Fee Schedule, which lists the prices that hospitals can charge for various services. The changes are expected to increase average medical costs per claim by 2.4%, the WCIRB says.
- Expectations that injury numbers will start climbing as the economy heats up.

The COVID-19 claims story

The Rating Bureau made a decision early in the pandemic that COVID-19 workers' comp claims would be excluded when calculating employers' X-Mods.

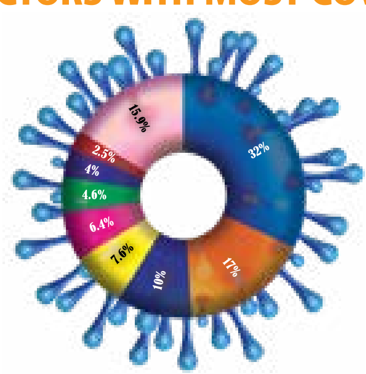
Workers who contract COVID-19 on the job are eligible for workers' compensation benefits in California, including medical treatment costs and indemnity pay for time they miss from work due to a positive diagnosis.

Despite the surge in COVID-19 claims among workers, overall workers' comp claims still plummeted in 2020.

There were 142,513 COVID-19 workers' compensation claims filed in the state between January 2020 and March 2021, according to the California Workers' Compensation Institute.

Those illness claims include 883 workers in California who died from COVID-19 complications. ❖

SECTORS WITH MOST COVID-19 WORKERS' COMP CLAIMS



(Jan. 2020 - March 2021)

- Health care: 42,535 claims
- Public sector: 23,196
- Retail: 13,816
- Manufacturing: 10,200
- Transportation: 8,658
- Food services: 6,239
- Administration and waste: 5,246
- Construction: 3,387
- Other: 29,116

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PRICING STRATEGIES

What Cyber Insurance Underwriters Look For

AS THE number of cyber attacks against businesses continues to grow, insurers that provide cyber liability and other cyber-related coverage have started intensifying their scrutiny of their clients' databases and operational security.

When a business suffers a cyber attack it could result in fraudulent wire transfers or having its systems rendered frozen, which can be unlocked only by paying a ransom. Some companies will also have their intellectual property stolen in attacks.

But while these attacks grow in number and cost, cyber insurers are expecting their policyholders to do more to protect their data and systems.

CFC Underwriting, a global insurer, says there are six things its underwriters look for when pricing cyber insurance policies:

Close unused remote desktop protocol ports

RDP ports are for remote workers so they can access their office desktop and the company database from afar. CFC recommends that any unused RDP ports be closed, and the ones that are in use should be protected with a virtual private network and multi-factor authentication (MFA).

RDP ports are major vulnerabilities and CFC estimates that more than 50% of ransomware attacks that it sees occur thanks to open RDP ports. Close an RDP if it's not absolutely necessary.

Use multi-factor authentication

These days complex passwords are not enough to provide the security you need to protect your data. That means there should be another layer of security used to authenticate a user, such as a thumbprint or a unique code that is sent to their phone by text message and that they need to enter to proceed. This is common technology on many websites and apps today.

This can prevent brute-force attacks where criminals try multiple usernames and passwords in automated rapid succession to try to hack a system because, even if they get it right, they won't pass the second authentication. Typically, when they use this type of attack they can steal credentials and sell them on the dark web, which can in turn lead to them accessing financial accounts.

"For that reason, our cyber underwriters love when a business has MFA in use across all business email accounts and on other key business software too," CFC writes.

Have a data management strategy

Underwriters like to see that a company's data is stored and segregated properly, like splitting client records across multiple servers so that if one server is compromised not all the data is lost. That, in turn, can reduce the likelihood of a catastrophic loss.

If you're using a cloud service, it would be wise to ensure they have the proper authorized access controls in place and that they are running security checks on any third party vendors.

Run endpoint detection and response

Besides firewalls and antivirus software, cyber insurance underwriters also advise that businesses use endpoint detection and response tools. These systems continuously monitor all devices connected to your network to make sure they are secure and have not been compromised.

This is important because an employee can be using a device that gets compromised by clicking on a malicious link on their smartphone, which can unleash an attack on the company's network.

An endpoint might be anything from an employee workstation and company server to a mobile phone.

Segregate backup data from main network

Businesses need to do more than just back up their records and servers. What's important is what is done with that backup information. If you are backing up your servers and then storing that data on those same servers, it doesn't do you much good if your system is compromised.

Underwriters like to see that data is stored and segregated from the main network, and even stored offline in an offsite location. This will make recovery quick and easy if you suffer a ransomware attack.

Make risk management a priority

Cyber insurance underwriters will also look at:

- Any policies and procedures you have in place in terms of cyber risk management.
- If you have a key person in charge of these policies.
- And that the key person knows about the different kinds of data you are storing, and how it is stored. ❖

CONSTRUCTION COVERAGE

Builder's Risk, Excess Liability Rates Climbing Fast

INSURANCE RATES are rising rapidly for contractors, particularly for builder's risk and excess liability policies as the cost of claims continues to increase dramatically.

While rates for builder's risk have been averaging 10 to 20%, pricing for excess liability and umbrella coverage has in some cases doubled from the year prior.

Both lines of insurance have seen steep and unexpected losses in recent years, resulting in some insurers leaving the market and others becoming stricter in their underwriting and choosier about which builders they are willing to extend coverage to.

If you've been in the market for these lines of insurance, you know that it's become more difficult to secure similar policies to those you may have had in years past. Here's a look at what's going on.

Builder's risk

According to *Construction Executive* magazine, rates are going up between 10% and 20% for builder's risk policies.

There are a number of factors affecting rates:

- The cost of claims has increased, primarily because of the cost of rebuilding after a loss event due to the rapidly rising cost of materials, in particular lumber, the prices of which have tripled in the last year.
- The increasing cost and frequency of natural disasters. Projects that are near areas at high risk for natural catastrophes like brush fires, hurricanes, tornadoes or flooding, are all seeing higher rates and/or difficulty in securing coverage.
- Some insurers have also left the market, leaving fewer players willing to write this risk, which has driven up pricing.

Insurers are tightening eligibility guidelines and restricting how much they will cover. Some insurers are getting more selective and demanding that their insureds take extra precautions before they are willing to bind a policy. Some of the more common demands include requiring:

- Video surveillance systems on worksites.
- Guards to patrol worksites at night.
- The installation of fencing and lighting.

One of the biggest pinch points is policy extensions, which are needed when projects go beyond the time expected to complete them.

Due to the issues mentioned in the bullet points above, policy extensions for ongoing projects have been difficult to secure, according to a report by WillisTowersWatson. The problem has been exacerbated by the COVID-19 pandemic, which disrupted many construction projects across the country and required more companies to seek out extensions for their builder's risk policies.

Excess liability

Renewals for excess liability and umbrella insurance have been running 50 to 100% higher than in 2020, according to a recent report by Marsh LLC. Excess liability and umbrella coverage kicks in after a claim breaches the limits of a primary general liability policy or auto liability.

The drivers: Increasingly large jury awards and the spiraling cost of liability claims, particularly for commercial vehicle accidents. Commercial auto insurance rates have also been climbing as the cost of auto injury and property claims continues to rise due to the increasing cost of repairs and medical costs for injured third parties..

Those claims are covered by primary auto and general liability insurers, but because more claims are exceeding limits, excess liability carriers are increasingly on the hook for those high-dollar claims.

Like in the builder's risk segment, this has resulted in fewer insurers willing to write new polices.

Those that are willing to write new business or renew polices have imposed stricter underwriting terms on the policies they are willing to accept.

Additionally, according to Marsh, primary and excess insurers are limiting the overall capacity extended to an individual buyer by capping per-project aggregate limits.

The takeaway

With the volatility in the marketplace, we recommend that you reach out to us early – and months before your policy is coming up for renewal – so we can work with you to make sure we can secure the coverage you need. ❖

EMERGING RISK

New Policy Covers Costs from Workplace Violence

AS VIOLENCE and mass shootings in American workplaces increasingly make the news, more businesses are taking added precautions to prevent these acts at their facilities, but they also face substantial costs if violence does erupt.

The Occupational Safety and Health Administration reports nearly 2 million people suffer from workplace violence every year, and the National Institute for Occupational Safety and Health estimates those incidents cost employers more than $120 billion.

While your workers' compensation policy would cover treatment for any injuries your staff sustain during an event, it does not cover other risks.

Also, general liability and property policies rarely cover acts of violence, active shooters or terrorism in the workplace.

Some of the costs that your existing policies wouldn't cover include:

- **Legal liability.** If you are sued for negligence for not doing enough to prevent violence in the workplace, your company's general liability policy would not cover any legal costs and judgments, as acts of violence are typically excluded from coverage.

While employers usually prevail in these types of lawsuits because they often cannot have predicted what was going to happen, the company will still incur legal costs that can quickly run into the hundreds of thousands of dollars, which would have to be paid out of pocket.

- **Psychiatric care for affected workers**. Your workers' compensation policy would cover any physical injuries that an employee sustains in a workplace violence episode, but what about the trauma suffered by any employee witnesses? It's not clear if it would apply, but chances are that a worker who is witness to a violent work event and suffers trauma could qualify just as much as a victim.
- **Business interruption.** Often a business will be forced to close after an act of violence in the workplace as police conduct an investigation and employees are unable to work because they are shaken by the event. The business interruption portion of your business property insurance policy will not cover lost income during that time.

The answer

Fortunately, insurers have been introducing policies that cover costs associated with these types of incidents. This workplace violence insurance is usually purchased as an endorsement to an existing general liability policy, but there are also stand-alone policies.

What policies cover

Workplace violence liability policies usually cover:

- Legal liability for lawsuits that may be filed.
- Public relations counseling costs.
- Costs of psychiatric care for traumatized employees.
- Medical or dental care costs.
- Costs for temporary security measures after an event.
- Death benefits for victims' families.
- Rehabilitation expenses for any injured parties.
- Business interruption expenses for an act of workplace violence that results in the business shutting temporarily as police investigate and if employees are too traumatized to work. It will usually cover ongoing operating expenses until the business can resume operations.

The takeaway

Workplace violence policies vary widely with regard to exclusions, terms and conditions.

Comprehensive policies will cover everything from the human costs associated with injured people, to the intangible costs of restoring business operations and reputational damage.

Coverage limits can range from $1 million to $100 million on both primary and excess liability. Premiums start at around $1,800 annually.

Employers can often qualify for lower premiums if they have certain safeguards in place, such as on-site security measures and conducting employee drills and training so staff can know how to respond in case of an incident at work. ❖