

WCIRB Governing Committee Meeting

June 11, 2020

Agenda

AC20-04-04: COVID-19 Update

- Cost Evaluations
- Legislation
- Research Initiatives
- January 1, 2021 Pure Premium Rate Filing

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Cost Evaluations



Cost Evaluation of Governor Newsom's Executive Order

Background & Introduction – Governor's May 6, 2020 Executive Order

■ Key Provisions

- Rebuttable presumption of compensability applied to workers contracting COVID-19 who worked outside of home at employer's direction within 14 days of diagnosis
- Presumption limited to dates of injury from March 19 to July 5
- Requires a positive test for COVID-19 or a diagnosis of COVID-19
- Temporary disability must be certified by physician and can be offset by specific COVID-19 sick leave
- Death benefits for workers with no dependents (paid to the state) is waived

■ Key Differences in Valuation of Executive Order from WCIRB April Valuation

- Fixed time frame for application of presumption vs. annual period in April valuation
- Application to all workers working outside the home is more broad
- Presumption is rebuttable vs. conclusive in WCIRB April valuation
- More information available on death and hospital COVID-19 rates in California that reflects the impact of stay-at-home orders

Cost Evaluation of Governor Newsom's Executive Order

Summary of Key Findings

Estimated System Cost of COVID-19 Claims Pursuant to Executive Order N-62-20

	Health Care Workers and First Responders – Group 1	Others Working Outside the Home – Group 2	Total System Costs
Low-Range Estimate	\$0.3 Billion	\$0.3 Billion	\$0.6 Billion
Mid-Range Estimate	\$0.8 Billion	\$0.4 Billion	\$1.2 Billion
High-Range Estimate	\$1.2 Billion	\$0.8 Billion	\$2.0 Billion

Legislation



Legislation Under Consideration

Assembly Bill No. 2043 – Agricultural Employers and Employees: COVID-19 Response

This bill requires the Occupational Safety and Health Standards Board to establish occupational safety and health standards for COVID-19 infection prevention for agricultural employers and employees. The bill requires the Division of Occupational Safety and Health to develop best practices for agricultural employers by January 1, 2021 and conduct a targeted outreach campaign to increase awareness. This provision would be repealed when the state of emergency is terminated or on January 1, 2022, whichever is later.

Status: The bill was amended on June 10, 2020 and is pending in the Senate.

Assembly Bill No. 2489 – Health Care Providers: COVID-19

This bill prohibits the application of the ABC test to determine the employment status of respiratory therapists and other medical personnel not otherwise covered by an existing exemption from the ABC test. Instead, the bill requires the use of the multifactor test set forth in the case of Borello during the timeframe in which the state of emergency is in effect due to COVID-19 and concluding 90 days thereafter.

Status: This bill was amended on May 11, 2020 to include these provisions and is pending in the Assembly Labor and Employment Committee.

Legislation Under Consideration

Assembly Bill No. 2537 – Personal Protective Equipment: Health Care Employees

This bill requires public and private employers that provide acute patient care in a hospital setting to supply employees with personal protective equipment necessary to comply with regulations related to COVID-19 and maintain a six month supply based on normal consumption of such equipment.

Status: This bill was amended on June 4, 2020 to include these provisions and is pending in the Senate.

Assembly Bill No. 196 – Workers' Compensation: Coronavirus

For employees who are employed in an occupation or industry deemed “essential” in the Governor's March 19, 2020 Executive Order (Executive Order N-33-20) or who are subsequently deemed essential, to define “injury” to include Coronavirus Disease 2019 (COVID-19) that develops or manifests itself during a period of employment of those persons in the essential occupation or industry. The bill applies to injuries occurring on or after March 1, 2020, creates a conclusive presumption that the injury arose out of and in the course of the employment, and extends that presumption following termination of service for a period of 90 days commencing with the last date actually worked.

Status: This bill was last amended on May 5, 2020 and is pending in the Senate Labor, Public Employment and Retirement Committee.

Legislation Under Consideration

Assembly Bill No. 664 – Workers' Compensation: Injury: Communicable Disease

For firefighters, peace officers, hospital employees and Office of Emergency Services personnel, this bill defines “injury” to include being exposed to or contracting a communicable disease that is the subject of a state or local declaration of state of emergency issued on or after January 1, 2020 (including COVID-19). The bill creates a conclusive presumption that the injury arose out of and in the course of employment, exempts these provisions from permanent disability apportionment requirements and takes effect immediately as an urgency statute.

Status: This bill was last amended on May 18, 2020 and is pending in the Senate Labor, Public Employment and Retirement Committee.

Legislation Under Consideration

Senate Bill No. 1159 – Workers' Compensation: COVID-19: Critical Workers

For a “critical worker” who is defined as a public or private section worker employed to combat the spread of COVID-19, this bill defines “injury” to include illness or death that results from exposure to COVID-19. The bill creates a rebuttable presumption that an injury that develops or manifests itself while a critical worker is employed arose out of and in the course of the employment. At present, there is no specified repeal date for the presumption provided within the bill. In order for the presumption to apply:

- The critical worker must have an injury that develops or occurs while in the service of an “essential critical infrastructure employer” (not yet defined within the bill);
- The injury must be confirmed by a positive laboratory test or, if a laboratory test was not available, as diagnosed and documented by the critical worker’s physician based on the symptoms; and
- The injury must result in hospitalization or significant lost time beyond the critical worker’s shift at the time of injury. (There is presently a placeholder for the required number of days of lost time).

Status: A hearing before the Senate Appropriations Committee has been scheduled for June 18, 2020.

Research Initiatives



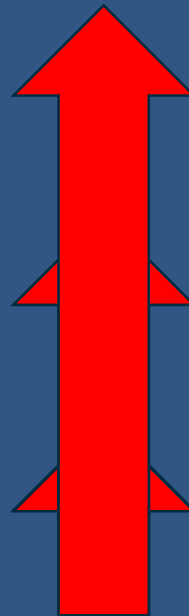
WCIRB Brief on Impact of Economic Downturn on Claim Frequency

Background

- **Prior studies suggest that with economic downturn, claim frequency declines accelerate**
- **Speed and magnitude of the current unemployment rise unprecedented**
- **Potential impacts of recent COVID-19 driven downturn on claim frequency**



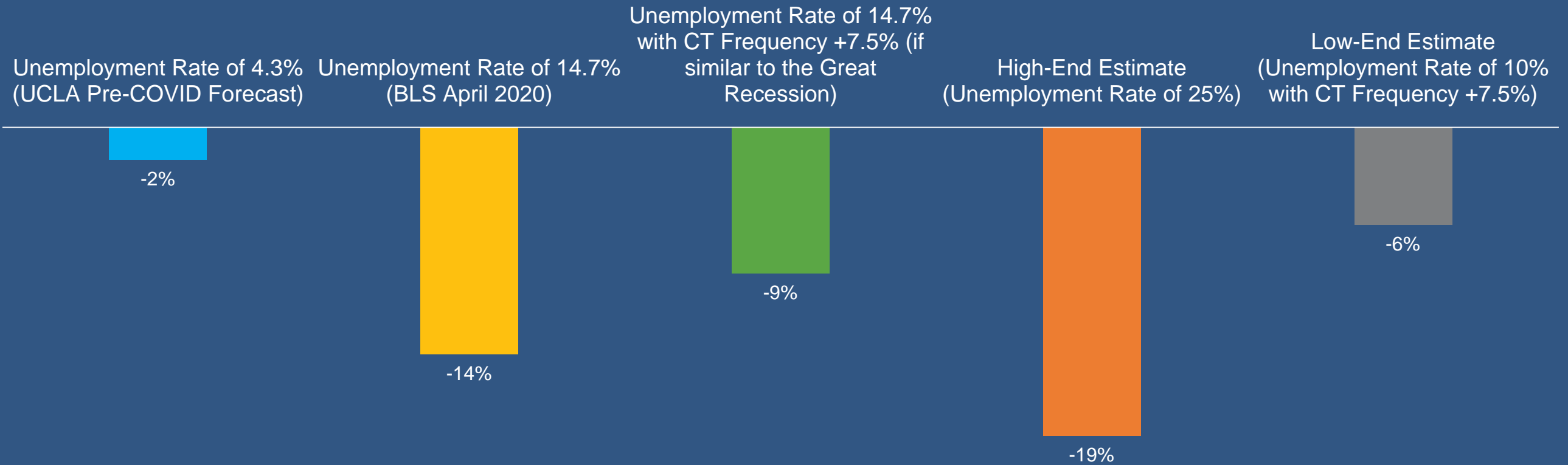
- Economic downturn may accelerate claim frequency declines
- Shift of employees to clerical and telecommuting could reduce claim frequency



- CT claim proportions have increased in California during recessions
- Recent trends in post-termination claims could increase claim frequency
- Claims arising from a COVID-19 diagnosis

WCIRB Model Forecast of Indemnity Claim Frequency Changes Due to Economic Changes

(Excludes Impact of Potential Surges in Post-Termination & COVID-19 Claims)



Post-Termination CT Claims

1993 legislative reforms restricted the filing of post-termination claims.



1993

Estimated about **25 post-termination CT claims filed per 1,000 jobs lost** statewide (2012-2017)



2010

2011

2012

2017

2020

Limited claims filed on post-termination basis.

Several judicial decisions in 2011 enabled more workers to file post-termination CT claims.

If applying 50% of the estimated rate:
12.5 claims per 1,000 jobs lost
X
4.3 million jobs lost in California
= **54,000 post-termination CT claims** will be filed over the next year, increasing statewide claim frequency by approximately **25%**.

Planned Future WCIRB COVID-19 Related Research

COVID-19 Early Claim Cost Indicators. The COVID-19 pandemic and resultant stay-at-home orders are expected to have a major impact on accident year 2020 emerging costs as well as the loss development of earlier accident years. Among the areas potentially impacted include claim frequency, medical treatment levels, COVID-19 diagnosis claims, claim settlement rates, litigation rates, cumulative trauma claims, post-termination claims and temporary disability duration.

COVID-19 Early Exposure and Premium Indicators. The COVID-19 pandemic and resultant stay-at-home orders will have a major impact on calendar year 2020 and later exposure and premium. In addition to the impact of employment reductions by sector, the temporary reassignment to the clerical classification of employees temporarily performing clerical duties at home, the continuation of pay to employees not working and return premium on expiring 2019 and early 2020 policies will significantly impact calendar year 2020 and later premiums.

Impact of Medical Treatment Delays. With the COVID-19 pandemic and resultant stay-at-home orders, a significant level of medical treatment that would otherwise have been provided is delayed or foregone completely. At the April 2, 2020 meeting, the Actuarial Committee discussed that, with these potential delays or avoidance of medical treatments early in the life of a claim, future medical costs and return-to-work may be impacted.

Planned Future WCIRB COVID-19 Related Research

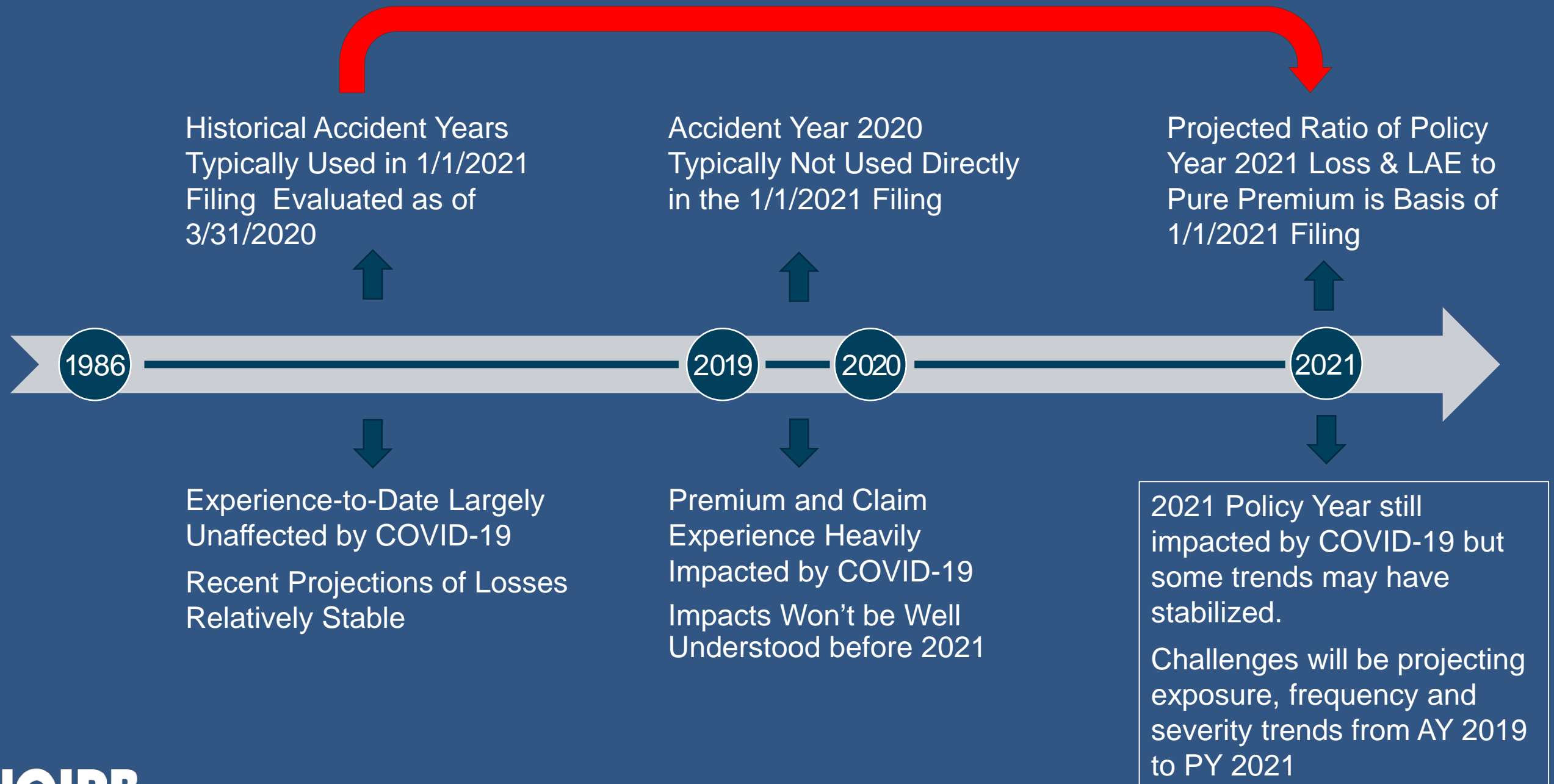
Increased Usage of Telemedicine. With the COVID-19 pandemic and resultant stay-at-home orders, the use of telemedicine in workers' compensation is increasing. In recent months, the DWC has adopted a number of changes to fee schedules to address telemedicine.

Increase in Telecommuting. With the COVID-19 pandemic and resultant stay-at-home orders, many employees have begun working from home and significant level of telecommuting is likely to continue even after stay-at-home orders expire.

January 1, 2021 Pure Premium Rate Filing



January 1, 2021 Pure Premium Rate Filing



COVID-19 Ratemaking and Research Issues - Claim Frequency

Issue	Information Source to Evaluate	Timing of Information Availability	Critical for 1/1/21 Filing (Y/N)
Claim Frequency			
COVID-19 Claims	Transactional Indemnity (TI) Data	Preliminary data currently available	Y
	Transactional Medical (TM) Data	Preliminary data currently available	
	Unit Statistical Report (USR) Data	Available starting Q4 2020	
	Division of Workers' Compensation (DWC)	Preliminary data currently available (by request)	
Post-Termination Claims	TI Data	Preliminary data currently available	N
	Permanent Disability Claim Survey	Available Q4 2021	
CT Claims	TI Data	Preliminary data currently available	Y
	TM Data	Available starting Q3 2020	
	USR Data	Available starting Q4 2020	
Economic Impact	UCLA	Latest data as of March 2020, next update in June	Y
	CA Dept of Finance	Latest data as of April 2020, next update in November	
	Other Government Sources	Data currently available although later projections likely more reliable	
	WCIRB Claim Frequency Model	Currently available	
"Stay-at-Home" Period Drop in Claims	Aggregate Data	Q1 2020 available in June, Q2 2020 in Sep.	N
	TI Data	Preliminary data currently available	
Clerical Working at Home	TI Data	Preliminary data currently available	N
	Special Survey of Audits	Available in September 2020	
	USR Data	Available starting Q4 2020	
Furloughed but Paid	Special Survey of Audits	Available in September 2020	N
	USR Data	Available starting Q4 2020	
Shifts in Class/Industry Mix	UCLA	Latest data as of March 2020, next update in June	Y
	Government Sources	Data currently available although later projections likely more reliable	
	USR Data	Available Q3 2021	

COVID-19 Ratemaking and Research Issues - Claim Severity

Issue	Information Source to Evaluate	Timing of Information Availability	Critical for 1/1/21 Filing (Y/N)
Claim Severity			
“Stay-at-Home” Period Drop in Medical Services	Aggregate Data	Q1 2020 available in June, Q2 2020 in September	N
	TM Data	Preliminary data available Q3 2020	
Slowdown in Settlement	Aggregate Data	Q1 2020 available in June, Q2 2020 in September	Y
	TI Data	Preliminary data available Q3 2020	
	DWC Data	Preliminary data available Q3 2020 (by request)	
Change in Litigation Practices	Aggregate Data	Q1 2020 available in June, Q2 2020 in September	Y
	TI Data	Preliminary data available Q3 2020	
	DWC Data	Preliminary data available Q3 2020 (by request)	
	PD Survey	Available Q4 2021	
Impact of Medical Service Drop on Future Medical	Research Brief	September	N
COVID-19 Claim Severity	TI Data	Preliminary data available Q3 2020	Y
	TM Data	Preliminary data available Q3 2020	
	DWC Data	Preliminary data available Q3 2020 (by request)	
	USR Data	Available starting Q4 2020	
Post-Termination and CT Claim Severity	TI Data	Preliminary data available Q3 2020	Y
	TM Data	Preliminary data available Q3 2020	
	USR Data	Available starting Q4 2020	
Shifts in Class Mix (Clerical, etc.) on Severity	TI Data	Preliminary data available Q3 2020	Y
	TM Data	Preliminary data available Q3 2020	
	USR Data	Available starting Q4 2020	
Temporary Disability Duration	TI Data	Preliminary data available Q3 2020	N
	PD Survey	Available Q4 2021	

COVID-19 Ratemaking and Research Issues – Exposure, Premiums & Class Relativities

Issue	Information Source to Evaluate	Timing of Information Availability	Critical for 1/1/21 Filing (Y/N)
Exposure and Premium			
Return Premiums on Policy Years 2019-20	Aggregate Data	Q2 2020 data available in September, Q3 2020 in December	N
	Special Survey of Audits	Available in September 2020	
Clerical Working at Home	Special Survey of Audits	Available in September 2020	N
	USR Data	Available starting Q4 2020	
Furloughed but Paid	Special Survey of Audits	Available in September 2020	N
	USR Data	Available starting Q4 2020	
Unemployment	UCLA	Latest data as of March 2020, next update in June	Y
	Government Sources (BLS, EDD, CA DoF)	Data currently available although later projections likely more reliable	
Average Wage Trend	UCLA	Latest data as of March 2020, next update in June	Y
	CA Dept of Finance	Latest data as of April 2020, next update in November	
	Other Government Sources	Data currently available although later projections likely more reliable	
Shifts in Class Mix	UCLA	Latest data as of March 2020, next update in June	Y
	Government Sources	Data currently available although later projections likely more reliable	
	USR Data	Available Q3 2021	
Classification Pure Premium Rate Relativities			
COVID-19 Impacts by Class	TI Data	Preliminary data currently available, but later is better	Y
	DWC Data	Preliminary data currently available (by request), but later is better	

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