

Governing Committee

Meeting Minutes

Date	Time	Location	Staff Contact
June 11, 2020	10:00 AM	Webinar Teleconference	Eric S. Riley
1221 Broadway, Suite 900 • Oakland, CA 94612 • 415.777.0777 • Fax 415.778.7007 • www.wcirb.com • wcirb@wcirb.com			

Released: July 22, 2020

Insurer Members

Everest National Insurance Company
Hartford Accident and Indemnity Company
Pacific Compensation Insurance Company
Preferred Employers Insurance Company
State Compensation Insurance Fund
Travelers Property Casualty Company of America
Zenith Insurance Company
Zurich American Insurance Company

Public Members

Roberto Cortez (did not attend)
Jeremy Smith
Diana Rich
Mitch Steiger

California Department of Insurance

Patricia Hein
Brentley Yim

WCIRB

Bill Mudge
David Bellusci
Brenda Keys
Eric Riley
Mike Knibbs
Roger Cottman
Kristen Marsh

Counsel

Dan Brown, McDermott Will & Emery

Represented by

Michael Mulray
Gretchen Thompson
Tom Collins
Steve Gallacher
Vernon Steiner
Eric Belk
Paul Ramont
Susan Gordon

Representing

Insured Employers
Organized Labor
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Organized Labor

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The meeting of the Governing Committee held via webinar teleconference was called to order at 10:00 AM following a reminder of applicable antitrust restrictions with Chair Mike Mulray presiding.

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Item I

Approval of the Minutes

The Minutes of the Governing Committee teleconference meetings held on April 8, 2020 and April 17, 2020 were distributed to Committee members in advance of the meeting for review. As there was no discussion or corrections to the Minutes, a motion was made, seconded and unanimously passed to adopt the Minutes as written.

Item II

Additions to the Agenda

The Chair asked the Committee members if there were any items to be added to the Agenda. Hearing none, the Chair accepted the Agenda as published.

Item III

Ratification of Actions of WCIRB Committees

The Minutes of the Actuarial Committee meetings held on March 16, 2020 and April 2, 2020 were provided to Committee members in advance of the meeting for review. As there were no questions or discussion regarding the information, a motion was made, seconded and unanimously passed to ratify the actions of the Actuarial Committee.

The Minutes of the Classification and Rating Committee meeting held on April 14, 2020 were provided to Committee members in advance of the meeting for review. As there were no questions or discussion regarding the information, a motion was made, seconded and unanimously passed to ratify the actions of the Classification and Rating Committee.

Item IV

July 1, 2020 Special Regulatory Filing

Brenda Keys, WCIRB Senior Vice President and Chief Legal Officer, reminded the Committee that at the April 17, 2020 meeting, the Committee unanimously authorized the WCIRB to make a July 1, 2020 Special Regulatory Filing proposing changes to the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP) and *California Workers' Compensation Experience Rating Plan—1995* (ERP). The special filing was in response to the impact of the Coronavirus Disease 2019 (COVID-19) pandemic on California's policyholders and employees. Pursuant to the Committee's directive, on April 20, 2020, the WCIRB submitted the Special Filing to the California Department of Insurance (CDI), and on May 18, 2020, the CDI held a public hearing to consider the proposed changes. Ms. Keys advised the Committee that the CDI received numerous public comments in support of the proposed changes and none in opposition. Upon the receipt of the Insurance Commissioner's Decision, the WCIRB will publish all the necessary updates to the USRP and ERP.

Item V-A

COVID-19 Update

Dave Bellusci, WCIRB Executive Vice President and Chief Actuary, advised the Committee that the WCIRB has undertaken a number of initiatives and studies to assess the impact of the COVID-19

pandemic and Governor Newsom's stay-at-home order. Staff presented an overview of these efforts, more detailed summaries of which were included in the Agenda materials.

I. Cost Evaluations

Mr. Bellusci advised the Committee that, on April 8, 2020, the Assembly Insurance Committee requested that the WCIRB provide a cost evaluation of a potential conclusive presumption of compensability of COVID-19 claims arising from essential critical infrastructure workers as specified by Governor Newsom (Executive Order N-33-20). On April 17, 2020, the WCIRB provided its cost evaluation to the Assembly Insurance Committee. In the evaluation, the WCIRB provided a wide range of estimates depending on the percentage of workers subject to the presumption who would contract COVID-19. The WCIRB's mid-range estimate of the annual cost of a conclusive presumption of compensability for COVID-19 claims of workers subject to the presumption was \$11 billion.

On May 6, 2020, Governor Newsom issued Executive Order N-62-20 providing for a rebuttable presumption of compensability of COVID-19 claims arising from workers directed by their employer to work outside the home. The Order applies to injuries arising from March 19, 2020 to July 5, 2020. On May 22, 2020, after review by the Actuarial Committee at the May 19, 2020 meeting, the WCIRB published its cost evaluation of this Executive Order. The WCIRB's mid-range estimate of the cost impact of a rebuttable presumption that applies to workers subject to the Order from March 19, 2020 to July 5, 2020 was \$1.2 billion.

Mr. Bellusci advised the Committee that if legislation is enacted or the Governor's order is extended or amended in a way that impacts the compensability of COVID-19 claims, the WCIRB will prepare an evaluation of the cost impact of the legislation or Executive Order as soon as practical.

II. Legislation

Kristen Marsh, WCIRB Managing Counsel, provided an overview of pending California legislation related to COVID-19. Summaries of the legislation were included in the Agenda materials.

III. Research Initiatives

Mr. Bellusci advised the Committee that the WCIRB has undertaken a proactive research agenda intended to address emerging COVID-19 related issues. On June 1, 2020, the WCIRB issued a research brief summarizing the potential impact of the current economic slowdown on claim frequency. The brief not only analyzed the historical impact of prior recessions on claim frequency over the last sixty years, but also looked at the potential impact of this emerging recession on 2020 claim frequency in light of potential surges of COVID-19 claims as well as recent trends in post-termination claims.

In addition, as both premium and loss components emerging in 2020 will be heavily impacted by the pandemic, the WCIRB is planning to actively monitor emerging costs and exposures during the year. Staff will present an updated 2020 WCIRB Actuarial and Medical Research agenda to the Actuarial Committee for their consideration at the June 12, 2020 meeting. In response to the pandemic, staff is recommending several COVID-19 related studies as well as deferral of several previously planned studies that are not related to COVID-19 or highly time sensitive. As included in the Agenda materials, the COVID-19 studies being recommended to the Actuarial Committee include new and ongoing research related to:

- Presumptions of Compensability of COVID-19 Claims
- Impact of Pandemic-Related Recession on Claim Frequency
- COVID-19 Early Claim Cost Indicators
- COVID-19 Early Exposure and Premium Indicators
- Impact of Medical Treatment Delays
- Increased Usage of Telemedicine
- Increase in Telecommuting

IV. January 1, 2021 Pure Premium Rate Filing

Mr. Bellusci advised the Committee that, at the May 19, 2020 Actuarial Committee meeting, a member suggested that given the major impact the COVID-19 pandemic is having on emerging 2020 claim and exposure information, consideration should be given to deferring the WCIRB's January 1, 2021 Pure Premium Rate Filing to September. The member suggested that by deferring the Filing one month past its usual August submission date, the WCIRB would be able to consider the impact of June 30, 2020 aggregate experience as well as one additional month of information on post-COVID-19 trends.

Mr. Bellusci advised the Committee that accident year 2019 and prior experience evaluated as of March 31, 2020 was largely unaffected by the pandemic, but accident year 2020 claim experience and 2020 premium levels are greatly affected. Since the 2020 year would not normally be used in the January 1, 2021 Pure Premium Rate Filing, Mr. Bellusci suggested using the accident year 2019 and prior pre-pandemic data evaluated as of March 31, 2020 as the basis for the Filing with appropriate assumptions as to exposure, frequency and severity trend to policy year 2021. Under this approach, the Filing can be made in late August as originally scheduled. The Committee was also advised while the June 30, 2020 aggregate loss and exposure information will be badly distorted by the effects of the pandemic, additional economic and claim diagnostic information would be available by September that the Actuarial Committee could use to review the underlying trend assumptions reflected in the Filing and, if appropriate based on that review, recommend to the Governing Committee amending the proposed 2021 pure premium prior to the California Department of Insurance public hearing. The Committee was in agreement with staff's recommendation.

Item V-B

January 1, 2021 Regulatory Filing

Brenda Keys, WCIRB Senior Vice President and Chief Legal Officer, presented a summary of the changes the Classification and Rating Committee (C & R) recommended be made to the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP), *Miscellaneous Regulations for the Recording and Reporting of Data—1995* (Miscellaneous Regulations), and *California Workers' Compensation Experience Rating Plan—1995* (ERP) for inclusion in the WCIRB's January 1, 2021 Regulatory Filing. Ms. Keys reminded the Committee that this filing is the last January 1 filing as subsequent filings will be effective September 1. The WCIRB anticipates submitting the proposed January 1, 2021 changes to the California Department of Insurance before the end of June.

Ms. Keys highlighted the key January 1, 2021 C & R Committee recommendations which include a new classification for Clerical Telecommuter Employees who spend more than 50% of their time at their home or other office space away from any location of their employer. Ms. Keys advised the Committee that many other states have a similar classification for clerical telecommuter employees and, with the notable exception of New York, other state's rates for the telecommuter classification are lower than that of clerical office employees. In that the WCIRB does not have isolated payroll and loss experience for employees that would fall within this new classification, staff is recommending that its advisory pure premium rate be linked Classification 8810, *Clerical Office Employees*, until such time as data is available to generate a statistically credible rate.

Ms. Keys summarized additional recommendations including changes to: (1) 18 classifications for clarity and consistency with the restrictions outlined in the Standard Exceptions Rule; (2) Dual Wage Procedures to provide clarity and direction regarding the calculation of regular hourly wages for employees, (3) expected loss ranges in the Experience Rating Plan corresponding to each primary threshold to reflect the most current experience; (4) hard copy policy reporting requirements and (5) non-substantive amendments for clarity and consistency with related regulations.

Ms. Keys advised the Committee that WCIRB staff had done extensive outreach on the proposed changes and that none of the recommendations appear to be opposed by any of the affected industries.

Ms. Keys also advised the Committee that due to the economic impact of the COVID-19 pandemic and resulting stay-at-home order on wage growth in 2020, WCIRB staff recommends that the Actuarial Committee review the recommended wage adjustment factor for the 2021 standard payroll limitations included in the USRP and that the Governing Committee delegate to the Actuarial Committee, which was scheduled to meet the following day, the decision as to the appropriate 2021 adjustment.

In the ensuing discussion of the Regulatory filing, and in response to a WCIRB Public Member's question about the proposed telecommuter classification and the rate for Classification 8810, *Clerical Office Employees*, staff advised that the January 1, 2020 pure premium rate for Classification 8810 is \$0.23 per one hundred dollars of payroll. Another WCIRB Public Member requested that, given that in many states the rate for the telecommuting classification is less than the clerical classification, the WCIRB file a rate for the proposed telecommuter classification that is lower than the rate for Classification 8810. In response, Ms. Keys indicated that staff would explore the matter and advised the Committee that the pure premium rate for the telecommuter classification would be considered as part of the WCIRB Pure Premium Rate filing, which is scheduled to be presented to the Committee at the August meeting.

With respect to staff's recommendation that the Committee delegate to the Actuarial Committee the decision regarding the recommended wage adjustment factor for the 2021 standard payroll limitations, a Committee member asked if there was precedent for the Governing Committee to delegate a decision to another committee. Ms. Keys indicated that while she was not aware of a prior occurrence of this, it was within the Committee's authority to do so. Mr. Bellusci advised the Committee that staff suggested Actuarial Committee review of this issue inasmuch as emerging post-pandemic 2020 wage inflation is much less than reflected in the adopted 2020 changes to the USRP payroll limitations and, as a result, further adjustment of those payroll limitations for projected 2021 wage inflation may not be appropriate. Following further discussion, it was suggested that the Committee adopt staff's recommendation to not further adjust the 2020 USRP payroll limitations effective January 1, 2021 and to authorize the WCIRB to advise the Actuarial Committee of its recommendation. If the Actuarial Committee does not agree with this recommendation, a special meeting of the Governing Committee could be called to re-consider the change.¹

At the conclusion of the discussion, a motion was made and seconded to include all of the recommended changes, as amended, to the USRP, Miscellaneous Regulations and ERP in the WCIRB's January 1, 2021 Regulatory Filing. There being no further questions or discussion, the motion passed unanimously.

Item VI

Next Meeting Date

The Committee noted that the next meeting is scheduled for August 12, 2020.

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There being no further business to come before the Committee, the meeting was adjourned at 11:00 AM.

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Note to Committee Members: These Minutes, as written, have not been approved. Please refer to the Minutes of the meeting scheduled for August 12, 2020 for approval and/or modification.

¹ At the June 12, 2020 meeting, the Actuarial Committee concurred with staff's recommendation to not change the payroll limitation amounts in the USRP that were adopted effective January 1, 2020.