

Governing Committee

Meeting Minutes

Date	Time	Location	Staff Contact
September 9, 2020	11:00 AM	Webinar Teleconference	Eric S. Riley
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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

Represented by

David Sandler
Matt Massaro
Tom Collins
Steve Gallacher
Vernon Steiner
Eric Belk
Paul Ramont
Susan Gordon

Public Members

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

Representing

Insured Employers
Organized Labor
Insured Employers
Organized Labor

California Department of Insurance

Brentley Yim

WCIRB

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

Public Members' Staff

Mark Priven

Counsel

Dan Brown, McDermott Will & Emery

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The meeting of the Governing Committee was called to order at 11:00 AM following a reminder of applicable antitrust restrictions, with Chair Paul Ramont presiding.

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Approval of the Minutes

The Minutes of the Governing Committee meeting held on August 12, 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 IV-A

January 1, 2021 Regulatory Filing

WCIRB Senior Vice President and Chief Legal Officer Brenda Keys reminded the Committee that, on June 25, 2020, the WCIRB submitted the January 1, 2021 Regulatory Filing to the CDI proposing changes to the *California Workers' Compensation Uniform Statistical Reporting Plan—1995*, *Miscellaneous Regulations for the Recording and Reporting of Data—1995* and *California Workers' Compensation Experience Rating Plan—1995* (Plans). On July 29, 2020, the CDI held a public hearing on the Regulatory Filing and on August 26, 2020, the Insurance Commissioner issued his Decision approving all the proposed amendments. Ms. Keys advised the Committee that, upon receipt of the Decision, the WCIRB began publishing the 2021 experience modifications. The WCIRB is also in the process of updating the Plans to reflect the Commissioner's Decision and will post them to the WCIRB's website before the end of the month.

Item IV-B

January 1, 2021 Pure Premium Rate Filing

WCIRB Executive Vice President and Chief Actuary Dave Bellusci reminded the Committee that at the August 12, 2020 meeting, the Committee approved the filing of proposed advisory January 1, 2021 pure premium rates that were on average 2.6% higher than the average January 1, 2020 approved advisory pure premium rates. This included the Actuarial Committee's recommended 3.8% provision (\$0.06 per \$100 of payroll) to reflect the projected impact of COVID-19 claims on January 1, 2021 to August 31, 2021 policies. On August 26, 2020, the WCIRB submitted its January 1, 2021 Pure Premium Rate Filing to the Insurance Commissioner. Mr. Bellusci then provided the Committee with a summary of the Actuarial Committee's review of: (1) the loss experience valued as of June 30, 2020, (2) the impact of Senate Bill No. 1159, (3) updated COVID-19 information and (4) proposed adjustments to COVID-19 additive amounts by classification. Mr. Bellusci reminded the Committee that the WCIRB's pure premium rate filings are typically filed in late August based on March 31 experience and are not amended prior to the time of the CDI public hearing unless the June 30 experience indicates a significant change or there is legislative, regulatory or judicial action that can significantly impact the indicated pure premium rate level.

Review of June 30, 2020 Experience:

Mr. Bellusci summarized the key elements of the Actuarial Committee's review of the June 30, 2020 experience. Mr. Bellusci's detailed review noted that the COVID-19 pandemic and resultant stay-at-home

orders had a distorting impact on second quarter 2020 experience with significant slowdowns in claim closings and in non-emergency medical services and sharp drops in non-COVID-19 claim filings and underlying exposure. As a result, the Actuarial Committee did not recommend the use of June 30, 2020 experience as a basis to determine the indicated average January 1, 2021 advisory pure premium rate.

At the conclusion of Mr. Bellusci's presentation, the consensus among the Committee members was in agreement with the recommendation of the Actuarial Committee not to update was the overall pure premium rate indication in the January 1, 2021 Pure Premium Rate Filing to reflect June 30, 2020 experience.

Re-Evaluation of Overall Cost of COVID-19 Claims on January 1, 2021 to August 31, 2021 Policies:

Mr. Bellusci reminded the Committee that the WCIRB's projected COVID-19 claim costs on policies incepting between January 1, 2021 and August 31, 2021 were based on a series of assumptions predicated on a comprehensive review of a wide range of available COVID-19-related statistics and research. In the January 1, 2021 Pure Premium Rate Filing, the WCIRB estimated that the cost of COVID-19 claims on January 1, 2021 to August 31, 2021 policies is 3.8% of total costs, or \$0.06 per \$100 of payroll. Mr. Bellusci summarized staff's updated review that involved again projecting COVID-19 cost levels for accident year 2020 and then projecting cost levels for the January 1, 2021 to August 31, 2021 policy period in relation to the COVID-19 claim costs for accident year 2020. In this update, staff reflected an additional month of COVID-19 claim experience as well as updates to several statistical model forecasts used in the cost analysis.

At part of the updated analysis, the WCIRB also reviewed the impact of Senate Bill No. 1159, which passed the Legislature on August 31 and was awaiting signature by the Governor. WCIRB Managing Counsel Kristen Marsh advised the Committees that the bill generally codifies Governor Newsom's Executive Order and creates a rebuttable presumption that certain essential employees who tested positive or were diagnosed with COVID-19 within 14 days after working at a place of employment other than a home residence between March 19, 2020 and July 5, 2020, did so in the course of their employment and are therefore eligible for workers' compensation benefits. Ms. Marsh advised that between July 6, 2020 and January 1, 2023, when this bill sunsets, (1) firefighters, police and healthcare workers who provide direct patient care who test positive within 14 days of working and (2) all other employers with five or more employees that have an employee who test positive as part of an outbreak, are presumed to have developed their injury in the course of their employment and it is therefore compensable. An outbreak is defined as occurring when, during a 14-day time period: (1) four or more employees test positive for employers with 100 or fewer employees or (2) 4% of employees test positive if the employer has more than 100 employees.

In consideration of SB 1159 as well as an additional month of COVID-19 claims information and updated statistical model forecasts, staff's updated analysis as approved by the Actuarial Committee indicated that the cost of COVID-19 claims on January 1, 2021 to August 31, 2021 policies is approximately 4% (4.1%), or \$0.06 per \$100 of payroll.

Mr. Bellusci advised the Committee that, since the overall estimated impact of COVID-19 claims on January 1, 2021 to August 31, 2021 policies was essentially unchanged from that in the January 1, 2021 Pure Premium Rate Filing, the Actuarial Committee voted unanimously not to adjust the overall pure premium rate level as included the Filing.

At the conclusion of Mr. Bellusci's presentation, the consensus among the Committee members was in agreement with the recommendation of the Actuarial Committee not to update the overall pure premium rate indication in the January 1, 2021 Pure Premium Rate Filing for the re-evaluation of the overall cost impact of COVID-19 claims.

Re-Evaluation of Individual Classification Advisory Pure Premium Rate Adjustments to Reflect Expected COVID-19 Claim Costs:

Mr. Bellusci then reminded the Committee that since the exposure to COVID-19 claims by industry varies significantly and is different from that of other workers' compensation exposures, the Actuarial Committee had recommended that the impact be applied as an additive amount rather than a multiplicative factor and be differentiated by industry sector based upon each sector's ratio of reported COVID-19 claims to estimated payroll. At the August 12, 2020 meeting, the Committee, while generally agreeing with the approach, asked the WCIRB to explore further refinements to the groupings initially suggested. Accordingly, the WCIRB re-evaluated these additive amounts based on updated information from the Division of Workers' Compensation on COVID-19 claims filed by industry sector through August 28, 2020. Based on this updated information, the Actuarial Committee by a vote of 8-1 recommended amending the additive amounts included in advisory pure premium rates by classification to reflect six industrial sector groupings, ranging from \$0.01 per \$100 of payroll to \$0.24 per \$100 of payroll. Mr. Bellusci advised that the Actuarial Committee member voting against the change expressed the view that, given the presumptions included in SB 1159, claims arising from non-first responder non-healthcare sector employers would be less frequent than when the presumption in the Governor's Executive Order applied.

As part of the discussion regarding the rationale for the differentiated loading of COVID-19 claims in the pure premium rates, but not in the experience modification of individual risks, WCIRB President and CEO Bill Mudge reminded the Committee that the underlying goals of experience rating and classification rates differ. Mr. Mudge stressed that while pure premium rates are advisory and each insurer files its own rates, experience rating is mandatory and must be applied for premium determination purposes. Further, an experience modification reflects how a policyholder's anticipated average losses in the future differ from others in the classification to which they are assigned based on that employer's historical claim experience. In contrast, the pure premium rate for each classification reflects the average projected costs across the entire classification in the year the pure premium rate applies. The intent of excluding COVID-19 claims from an individual policyholder's experience modification, but not the underlying rates, is a reflection that the risk of COVID-19 claims is inherent across the industry and not necessarily an indication of an individual employer's safety practices or of their anticipated future overall workers' compensation losses. Mr. Mudge acknowledged that, as the pandemic has matured, the safety practices of individual employers could make a difference with respect to the risk of COVID-19 claims and the question of whether they should be included in individual experience modifications may be reconsidered in the future.

A Public Member of the Committee suggested that the approach of adding a COVID-19 load by industry but excluding COVID-19 claims from experience rating could be "upside down" with respect to the intended public policy interest. The Public Member suggested that the approach may not meet the objective of motivating individual employers to maximize safety, and that rather than differentiating the load by industry group, it might be more equitable to spread the COVID-19 load equally across all classifications.

A Committee member also asked if the impact could be more discreetly applied by individual classification rather than by industry. In response, Mr. Bellusci indicated that sufficient detailed data on COVID-19 claims by individual classification is not yet available and the proposed approach would effectively temper the impact on those classifications that might otherwise see larger increases. Mr. Bellusci also noted that since there is a significant volume of COVID-19 claims in the sector, the Actuarial Committee's recommended approach does segregate grouping of classifications within the Healthcare and Social Assistance sector into two different additive amount groupings.

Another Committee member, while acknowledging the value of the WCIRB's work in this area, suggested that the impact of SB 1159 would be to significantly limit the system costs of COVID-19 claims. The Committee member thought a more appropriate approach would be to exclude the proposed COVID-19

additive amounts and to rely on individual insurers to address the projected costs within their own rate filings. In the ensuing discussion, a Public Member of the Committee suggested that including the COVID-19 additive amounts might temper the rate increases that insurers might otherwise be inclined to file. In response to this, Mr. Mudge reminded the Committee that the WCIRB's role is to recommend advisory pure premium rates that are based on all appropriate data and methodologies and reflect the estimated cost of losses and loss adjustment expenses on policies to which they apply.

At the end of the discussion, a motion was made to amend the January 1, 2021 Pure Premium Rate Filing filed on August 26, 2020 to exclude the proposed COVID-19 additive amounts included in the proposed advisory pure premium rates. There was not a second to this motion and therefore it was not put to a vote.

A second motion was made to amend the proposed individual classification advisory pure premium rates to reflect COVID-19 additive amounts based on six industrial sector groupings as recommended by the Actuarial Committee. The motion was seconded and passed by a vote of 10 in favor and 1 opposed.

Next Meeting Date

The Committee noted that the next meeting is scheduled for December 9, 2020.

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There being no further business to come before the Committee, the meeting was adjourned at 12:30 PM.

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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 December 9, 2020 for approval and/or modification.