

# Governing Committee

April 17, 2020



# Agenda

- A. Item I-A: Coronavirus Disease 2019 (COVID-19)
  - i. Claims Reporting and Experience Rating
  - ii. Impact on Basis of Payroll

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# COVID-19 – Claims Reporting and Experience Rating

## Identification of COVID-19 Claims

- The Workers Compensation Insurance Organizations (WCIO) has established a:
  - Nature of Injury code
  - Cause of Injury code
  - Catastrophe Number
- For reporting COVID-19 claims with accident dates on or after December 1, 2019
- Applies to claims with a required date of reporting on or after August 1, 2020

# COVID-19 – Claims Reporting and Experience Rating

## Exclusion of COVID-19 Claims from Experience Rating

- Current Rules
  - Experience Rating includes all compensable claims for workplace injuries
  - Claims included without consideration of fault
- Consideration of COVID-19 Claims
  - Pandemic nature of COVID-19 is statewide crisis
  - COVID-19 claims likely not predictive of employer's future claim costs
  - Experience rating pure premium neutral – excluding COVID-19 claims has no overall pure premium impact

# COVID-19 – Claims Reporting and Experience Rating

## Exclusion of COVID-19 Claims from Experience Rating

### Recommendation

- Exclude from individual employer's experience modification calculations all claims directly arising from a diagnosis of COVID-19
- Applies to claims directly arising from a diagnosis of COVID-19 where *all* of following apply:
  - Accident date on or after December 1, 2019;
  - Claim due to be reported on or after August 1, 2020; and
  - Reported with Catastrophe Number 12.
- Does not apply to the COVID-19 “compensable consequence” of another workplace injury

# COVID-19 – Impact on Basis of Payroll

- Governor Newsom issued **Stay-at-Home Order** effective Thursday, March 19, 2020
- Major disruption to California’s employers and workers
- Impacts Workers’ Comp’s normal basis of payroll assumptions
  - Workers’ compensation exposure of employees changing significantly during stay at home period
    - Employees duties transitioning to clerical in nature
    - Employees not working but continuing to receive pay

# COVID 19 – Basis of Payroll

## Clerical Office Employees – Classification 8810

- Current Rules

  - Division of payroll between clerical (8810) and another class only permitted if a single, permanent job reassignment

- Impact of Stay-at-Home Order

  - Due to increase in work from home and other workplace disruptions, new temporary job duties may meet definition of Classification 8810, *Clerical Office Employees*

  - Employers facing assignment of these now clerical activities to classification with higher pure premium rates

# COVID 19 – Basis of Payroll

## Clerical Office Employees – Recommendation

Effective as of the statewide stay-at-home order and concluding when the employee returns to regular duties or 60 days after the order is lifted, whichever occurs first:

An employee's payroll is temporarily assignable to 8810 if:

- Employee's duties meet the definition of a Clerical Office Employee for the entire period payroll is to be re-assigned;
- Employee's payroll for the balance of the policy period is not assignable to a standard classification that specifically includes Clerical Office Employees; and
- Appropriate records are maintained



# COVID 19 – Basis of Payroll

## Clerical Office Employees – Proposed New Rule

Effective as of the date of a California statewide stay-at-home order and concluding sixty (60) days after the order is lifted, the payroll of an employee who meets the definition of a Clerical Office Employee, as detailed in Rule 4a, Clerical Office Employees, and whose payroll for the balance of the policy period is not assignable to a standard classification that specifically includes Clerical Office Employees, shall be assigned to Classification 8810, *Clerical Office Employees*.

A single employee's payroll may be divided between Classification 8810 and another classification only once during this time period. Once the employee's duties are no longer exclusively clerical in nature, Classification 8810 shall not be assigned.

# COVID 19 – Basis of Payroll

## Employees on Paid Leave

- Current Rules

Payroll during time not working, including sick and family leave, is included in the basis of payroll

- Impact of Stay-at-Home Order

- Some employers with disrupted operations continue to pay their employees to “staying at home” with no active duties
- Recently passed legislation allows for additional paid sick or family leave
- Employers facing an audited basis of payroll that is not consistent with work exposures or ratemaking assumptions

# COVID 19 – Basis of Payroll

## Employees on Paid Leave – Recommendation

Effective as of the statewide stay-at-home order and concluding 30 days after the order is lifted:

- Payments are excluded from basis of payroll if:
  - Employee is performing no duties of any kind in service of the employer
  - Excluded amounts do not exceed the employee's regular rate of pay
  - Appropriate records are maintained
- Excluded payments to be reported under new code for data collection purposes only

# COVID 19 – Basis of Payroll

## Employees on Paid Leave – Proposed New Rule

Effective as of the date of a California statewide stay-at-home order and concluding thirty (30) days after the order is lifted, payments made to an employee, including but not limited to sick or family leave payments, while the employee is performing no duties of any kind in service of the employer shall be excluded from remuneration; however, the excluded amounts shall be no greater than the employee's regular rate of pay.



# COVID 19 – Basis of Payroll

## Effective Date of Proposed Rules

The proposed changes to the Basis of Payroll are effective for exposure information with a required date of reporting on or after November 1, 2020.

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