

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE

300 Capitol Mall, 17th Floor
Sacramento, California 95814

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

**September 1, 2021 Workers' Compensation Claims Cost Benchmark
and Advisory Pure Premium Rates**

May 7, 2021

File No. REG-2021-00003

Approval of the Workers' Compensation Claims Cost Benchmark and Advisory Pure Premium Rates to be effective September 1, 2021.

NOTICE AND SUBJECT OF PUBLIC HEARING

Notice is hereby given that the Insurance Commissioner will hold a public hearing in response to a filing, submitted on April 29, 2021, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB"), to consider approval of the Workers' Compensation Claims Cost Benchmark and advisory pure premium rates developed by the WCIRB as a rating organization on behalf of its member insurers.

HEARING DATE AND LOCATION

Although the Department ordinarily prefers in-person participation, due to unique circumstances during this pandemic, the Department will use a virtual web conferencing format for this hearing.

The virtual public hearing will be conducted to permit all interested persons the opportunity to present statements or arguments, verbally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

**June 7, 2021 – 10:00 A.M.
California Department of Insurance**

TO ATTEND VIRTUAL HEARING VIA ONLINE PLATFORM

Link to Register for the Web-based Virtual Format:

https://us02web.zoom.us/webinar/register/WN_7Haq9tMgQISGHwp_MH72Bw

**Meeting Name: September 1, 2021 Workers' Compensation Claims Cost
Benchmark and Advisory Pure Premium Rates**

TO ATTEND VIRTUAL HEARING BY TELEPHONE

**To join by telephone dial:
USA 215 446 3649 US Toll
USA 888 557 8511 US Toll-free
Conference code: 832767**

Link to Presentation Materials, Available Beginning June 3, 2021:
<https://legaldocs.insurance.ca.gov/publicdocs/SearchRegulations>, search for
“REG-2021-00003” in search bar.

Any interested person(s) may present oral testimony at the virtual web conference hearing during the public comment period.

Individuals attending the virtual hearing via the online platform must register with the virtual web conference provider using a valid e-mail address in order to attend the hearing.

Individuals attending the virtual hearing by telephone only will not be able to view the hearing, and will be placed on mute. Attendees may view the presentation materials by accessing the above link. Telephonic attendees who wish to make oral comments at the public hearing must, either in advance or at the time of the hearing, notify the Department by e-mail to: CDIRegulations@insurance.ca.gov and provide the telephone number that they will use at the hearing so that the hearing officers can identify those callers who would like to comment.

The hearing will continue on the date noted above until all testimony has been submitted or until 5:00 P.M., whichever is earlier.

Access to Virtual Public Hearing

This hearing will be open to the public. To make it possible to view and participate in the public hearing online, you must register with the web-based virtual conferencing application identified above, using a valid e-mail address. We request that you provide your name(s), the name of the organization you represent, and your contact information, including email address. Providing personally identifiable information is not required to attend the hearing and all attendees are invited to participate regardless of whether such information has been provided. Alternatively, you may attend and participate telephonically. We request that if you wish to provide oral comments telephonically, that you e-mail us either in advance of or at the time of the hearing and provide the telephone number you will use at the hearing.

The public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for this hearing (listed below) in order to make specific arrangements, if necessary.

AUTHORITY AND REFERENCE

Workers' Compensation Claims Cost Benchmark and Pure Premium Rates

Pursuant to Insurance Code Section 11750.3, a rating organization may develop pure premium rates for each employee classification on behalf of its member insurers for submission to the Insurance Commissioner for issuance or approval. In addition to the

proposed changes to the individual classification pure premium rates, the WCIRB submits an average pure premium rate for all employer classifications that is intended to measure the overall costs in the California worker's compensation system, which is designated as the Workers' Compensation Claims Cost Benchmark.

The Insurance Code provisions regarding workers' compensation insurance rate supervision state that the pure premium rates issued or approved by the Insurance Commissioner are advisory only, and that the Insurance Commissioner is not authorized to require insurers to use the pure premium rates issued or approved by the Insurance Commissioner. These pure premium rates are an estimate of future workers' compensation claims costs. However, all insurers must submit their rates for review to the Insurance Commissioner prior to their use, and an insurer's filed workers' compensation rates are public information.

INFORMATIVE DIGEST

Pursuant to Insurance Code Sections 11750 and 11750.3, the WCIRB has developed and submitted for the Insurance Commissioner's approval pure premium rates for use by its member insurers. The pure premium rates are advisory only, and insurers may use any set of pure premium rates that are identified in the insurer's rate filing.

The pure premium rates recommended by the WCIRB, to be effective September 1, 2021, are detailed in the WCIRB's filing and summarized below.

APPROVAL OF PURE PREMIUM RATES

Pursuant to California Insurance Code Section 11750.3, the WCIRB has proposed advisory pure premium rates for approval by the Insurance Commissioner to be effective September 1, 2021 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after September 1, 2021. The average indicated September 1, 2021 advisory pure premium rate reflecting the December 31, 2020 experience is \$1.50 per \$100 of payroll. This indication reflects the WCIRB's actuarial estimate of the costs to be incurred against policies issued on or after September 1, 2021.

PROCEEDINGS NOT SUBJECT TO ADMINISTRATIVE PROCEDURE ACT

The Workers' Compensation Claims Cost Benchmark and Advisory Pure Premium Rates approved by the Commissioner pertain to the establishment of workers' compensation insurance rates. Subdivision (g) of section 11340.9 of the Government Code states that the Administrative Procedure Act [Chapter 3.5] shall not apply to regulations that establish or fix rates, prices, or tariffs, and the Office of Administrative Law has determined that these proceedings are excluded from the requirements of the Administrative Procedure Act.

The public hearing in this matter is required pursuant to subdivision (b) of section 11750

of the Insurance Code. Upon conclusion of the public hearing, the Commissioner shall issue a final Order approving, disapproving, or modifying the rate proposed by the WCIRB.

PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS

Presentation of Written or Oral Comments; Contact Persons

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at **5:00 P.M. on Monday, June 7, 2021**. Please direct all written comments to the following contact person:

Brentley Yim, Attorney
California Department of Insurance
1901 Harrison St., 4th Floor
Oakland, CA 94612
Telephone: (415) 538-4113
Brentley.Yim@insurance.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. If he is unavailable, inquiries may be addressed to the following backup contact person:

Yvonne Hauscarriague, Attorney
California Department of Insurance
1901 Harrison St., 6th Floor
Oakland, CA 94612
Telephone: (415) 538-4417
Yvonne.Hauscarriague@insurance.ca.gov

Please note that under the California Public Records Act (Government Code Section 6250, et seq.), your written and oral comments, and associated contact information (e.g., your address, phone number, e-mail, etc.) become part of the public record and can be released to the public upon request.

DEADLINE FOR WRITTEN COMMENTS

All written material, unless submitted at the hearing, must be received at the address, FAX number, or email address listed above no later than 5:00 P.M. on June 7, 2021. Any written materials received after that time may not be considered.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: brentley.yim@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Brentley Yim and sent to the following facsimile number: (415) 904-5490. **Comments sent to e-mail addresses or facsimile numbers other than those designated in this notice will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

ACCESS TO FILE

Any interested person may inspect, or request copies at the statutory cost of duplication, of the public portions of the Workers' Compensation Claims Cost Benchmark and Pure Premium Rates file and the WCIRB's filing by making a request to the contact person listed above. The file will be available for inspection and copying by prior appointment at 1901 Harrison St., 4th Floor, Oakland, California 94612, between the hours of 9:00 A.M. and 5:00 P.M., Monday through Friday.

The express terms of the proposed amendments as contained in the WCIRB's filing may also be viewed or downloaded from the Regulatory and Pure Premium Rate Filings section of the WCIRB website: www.wcirb.com/filings-and-plans/filings.

INTERNET ACCESS

Documents concerning these proposed regulations are available on the Department's website at the following link: www.insurance.ca.gov/0250-insurers/0500-legal-info/0200-regulations/proposed-regulations.cfm. Click on "Search for Proposed Regulations," and enter "REG-2021-00003" into the search bar.

Questions regarding access to the presentation materials may be directed to:

Randi Bovard, Analyst
California Department of Insurance
E-mail: CDIRegulations@insurance.ca.gov

AUTOMATIC MAILING

A copy of this Notice, including the informative digest that contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's Bulletins and Rulings, and California Government Code mailing lists.

**ADOPTION AND NOTICE OF WORKERS' COMPENSATION CLAIMS COST
BENCHMARK AND PURE PREMIUM RATES**

Following the hearing, the Insurance Commissioner shall approve, disapprove, or modify the proposed rate. Notice of the Insurance Commissioner's action will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings mailing list, the California Government Code mailing lists, and to those persons who have otherwise requested notice of the Commissioner's action.