

## Workers' Compensation

# COVID-19 Emergency Rating Changes Take Effect



**T**HE DEPARTMENT of Insurance has approved emergency workers' compensation rules dealing with COVID-19 and California employers.

The rules were recommended by the Workers' Compensation Insurance Rating Bureau to bring fairness for employers' experience rating during the COVID-19 pandemic amid shelter-at-home orders and for dealing with claims of workers who contract the coronavirus on the job. The following changes are retroactive to March 19, the first day of the governor's statewide stay-at-home order, and end 60 days after the order is lifted.

### 1. Classification changes for staff working from home

As a result of the California stay-at-home order, many employers have altered employees' duties so they can be accomplished from home, and often those duties are clerical-like in nature. Under the rule, an employee can be assigned payroll classification code 8810 if:

- Their duties meet the definition of a "clerical office employee" while working from home, and
- Their payroll for the balance of the policy period is not assignable to a standard classification that specifically excludes clerical office employees.

There are a number of other classifications that already include clerical operations in their definitions, and those classifications would not be eligible for a change.

### 2. Non-working, paid staff

Salaries paid to workers who are at home not working, yet still collecting a paycheck, will be excluded from payroll for workers' comp premium calculation purposes when the payments are less than or equal to the employee's regular rate of pay.

### 3. COVID-19-related claims

Under the emergency rules all workers' comp claims directly arising from a diagnosis of COVID-19 will not be included in the calculation of your experience modification.

The Rating Bureau said that since the occurrence of COVID-19 workers' compensation claims is unlikely to be a strong predictor of future claim costs incurred by an employer, their inclusion in X-Mod calculations would not reflect an employer's safety efforts and would not reflect the intended goal of the experience rating system.

### Reporting preparation

If you are affected, make sure you have your documentation in order. If you are reclassifying any employees to 8810 Clerical, keep documentation of the change in employee duties, as well as the start and end dates of the change in duties.

If you are excluding wages paid to staff on leave, maintain records of their payroll for the stay-at-home order.

You must keep documentation of the above, such as an e-mail or a memo you sent when the changes occurred.

You can also provide written notice addressed to an employee after the fact with the effective dates of the change in pay or work arrangement. ❖



# Rates Climb as Risks Add Up

**C**OMMERCIAL PROPERTY insurance rates are on the rise across the country as insurers continue wrestling with the toll of increasing natural disasters, rising social unrest around the world (including the U.S.) and the COVID-19 pandemic.

The rate increases and stricter underwriting are not a function of the COVID-19 pandemic, but the outbreak has added more pressure to rates.

According to a report in the trade publication *Business Insurance*, brokers are reporting average property insurance rate increases of 20% for policies that renewed on July 1, 2020. But rate increases are even higher for firms with complex risks, a history of losses or natural catastrophe exposure.

Insurers have taken various steps to restrict coverage, including:

- More strike, riot and civil commotion exclusions (this coverage was common in most commercial property policies).
- More stringent communicable disease exclusions for business interruption coverage.
- Reduced coverage for business interruption claims that don't include physical damage to the business.
- Reduced limits.
- Higher deductibles.

## Civil disturbance coverage

Coverage of riots and civil disturbances is a standard part of most property policies, and insurance experts estimate the insured damages could surpass \$10 billion as the rioting was not just limited to one city.

There had never previously been a civil disturbance event of the magnitude of the recent protests, riots and looting that took place in cities across the country. The U.S. and insurers had not priced the likelihood of this kind of risk happening across the nation at one time.

Globally, insurers have started introducing exclusions and raising rates after large-scale protests and civil unrest mushroomed in Hong Kong and Chile last year, causing widespread economic damage and disruption.

Lately, some insurers have started restricting or removing coverage for strikes, riots and civil commotion. The change is not industrywide.

Policy and rate changes for this coverage are also based on geography, as the risks of civil disturbances are greater in cities than in suburbs and smaller municipalities and towns.

## COVID-19

Terms and conditions are also being tightened due to the COVID-19 outbreak, after a number of insurers were sued for not paying business interruption claims on the grounds that there must be physical damage to the property.

As a result, many insurers introduced more explicit wording to make their infectious disease exclusion “bulletproof,” as one broker told *Business Insurance*.

## Catastrophe exposure

Insurance companies are re-examining how much exposure they have to natural catastrophes, and are hence scaling back coverage or pulling out of some markets. They are looking at markets that have exposure to:

- Hurricanes,
- Earthquakes,
- Wildfires,
- Floods,
- Storms.

For example, in California a number of commercial and personal property insurers are restricting the number of policies they will write in areas that are at risk from wildfire.

Some are also requiring that property owners create buffer areas around their buildings to reduce the chances of them catching fire during an event.

## The takeaway

As a business property insured, you will want to do all you can to make your organization as insurable as possible in order to enjoy the best rates. That means taking measures to mitigate risks and following insurers' recommendations.

That could include installing security cameras and alarms, as well as sprinklers and other fire prevention systems.

If your business is exposed to a regular natural catastrophe, you should also take steps to reduce the chances of your property being damaged or destroyed. ❖



# Five Steps to Protect Your Firm's and Clients' Data



**I**N THIS era of connectedness, increased telecommuting, smartphones that keep staff connected to the office and cyber criminals constantly waging attacks on businesses, you need to do all you can to protect your firm's, employees' and customers' data.

It's a heavy lift to try to set up protocols for the various areas where hackers can infiltrate your company's database. But if you approach your cyber security by focusing on the following five main vulnerabilities, you can put together an effective cyber defense:

## Physical space

A rogue employee or outsider who gains access to your network hardware can steal data, sabotage your network or plant malicious software.

**What you can do:** Always lock your network room and other sensitive locations. Use high-security locks and numbered, physical keys with restrictions on duplication. If it makes sense for your business, install video surveillance at entrances and exits.

## People

Numerous people encounter your firm's data, including employees, vendors, interns and clients. Anyone who has access to business devices, spaces and apps is vulnerable to unwittingly giving away information.

**What you can do:** Call us to confirm that your cyber liability insurance reflects your actual risks and that you have the correct coverage and riders you may need.

Hold security-awareness sessions for your staff (and new hires) regularly to show them what you expect in terms of protecting your company's data. This can include theft prevention and minimizing data leakage, to protecting sensitive data and what to do in the event of a suspected breach.

Also, train them how to detect social-engineering hacking scams, which try to trick people into clicking on links in e-mails that contained phishing, malware or ransomware.

## Apps

If one of your employees installs a malicious app on their company-issued smartphone or their own device that they use for work and which accesses your network, it can disable your system, steal data or more.

**What you can do:** Ensure that all apps that your staff use on company-issued phones and laptops use two-factor authentication (and strongly urge them to follow this practice if they are using their own devices for work).

Also, set the apps to automatically update to ensure they have the latest security patches.

## Mobile devices

Smartphones and tablets hold most – if not all – of your most sensitive data, which is at risk if the device is lost or stolen.

**What you can do:** Enable remote wipe and location tracking on your employees' tablets and smartphones in case the devices are lost or stolen. Do not use public Wi-Fi. Require passwords to unlock phones and enable data encryption.

## Networks

If your network is hacked, you could lose data, have your operations held for ransom, put intellectual property at risk and more.

**What you can do:** For visitors and vendors who occasionally need to use your network or internet connection, create separate guest and private networks.

Know which employee has what equipment by logging and auditing access to devices. Don't wait for disaster to strike; proactively monitor, manage, update and secure devices, along with creating strong passwords. ❖

## GETTING STARTED

There are a number of effective tools that you can access to protect your company's data and systems, but like most organizations your IT resources are possibly limited.

If that's the case, you can start with the following to address all of the issues raised in the article:

- Having processes in place for handing out equipment (keys, laptops, mobile devices) when hiring, and how to handle technology during terminations.
- Planning and holding scheduled cyber security training.
- Using a password management tool for all of your staff.
- Calling us about cyber insurance.



# OSHA's Guidance for PPE and COVID-19

**W**HILE FED-OSHA has not issued specific regulations regarding personal protective equipment for COVID-19, employers are still required under existing rules to conduct hazard assessments to determine PPE requirements for their worksite.

Before employers consider PPE though, they should follow workplace safety best practices by following this hierarchy of safety controls:

1. Engineering controls
2. Administrative controls
3. PPE.

## Engineering controls

You should first use engineering controls like improving air filtration, increasing ventilation and installing physical barriers such as plexiglass shields between workers.

## Administrative controls

After engineering controls have been put in place, the next step in workplace safety is administrative controls such as:

- Requiring workers to stay 6 feet apart from one another.
- Staggering shifts.
- Training workers about COVID-19 risk factors and behaviors they can adopt to protect themselves.
- Providing resources such as hand soap, hand sanitizers, disinfectants, and disinfectant wipes to clean work surfaces.

## OSHA's PPE advice

PPE includes:

- Gloves
- Gowns
- Surgical masks
- Face shields.

You should require PPE based on a hazard assessment of your workplace and workers' specific job duties.

If you, the state or your local municipality are requiring workers to wear PPE, you should provide it for them or reimburse them for buying their own.

California law requires employers to reimburse employees "for all necessary expenditures or losses incurred by the employee" while completing work duties.

Federal OSHA's guidance for returning to work during the COVID-19 pandemic has the following PPE advice for employers:

- Cloth face coverings are not PPE, but they can reduce the spread of COVID-19 from workers to others.
- Cloth face coverings may be commercially produced or improvised (i.e., homemade) garments, scarves, bandanas or items made from t-shirts or other fabrics.
- If you are requiring your staff to wear masks, you should provide specific written rules about when they must be worn.
- When disposable gloves are used, workers should typically use a single pair of nitrile exam gloves. Change gloves if they become torn or visibly contaminated with blood or body fluids.
- When eye protection is needed, use goggles or face shields. Personal eyeglasses are not considered adequate eye protection.
- After removing PPE, always wash hands with soap and water for at least 20 seconds, if available. ❖

## GETTING THE CORRECT PROTECTION



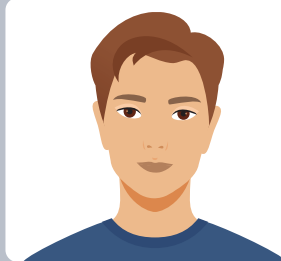
### High exposure risk

Workers in high-risk jobs such as health care, medical transport and lab workers. They need to wear gloves, a gown, a face shield or goggles and either a face mask or a respirator.



### Moderate exposure risk

These workers have frequent or close contact with the general public, such as retail or restaurant workers. OSHA recommends that these workers wear a combination of masks, face shields or gloves, depending on their level of potential exposure.



### Low exposure risk

OSHA does not recommend PPE for workers who are not working in close proximity to others or are working remotely or outdoors if not around too many other people.