Workers' Compensation

Rating Bureau Recommends 0.9% Rate Hike

THE ORGANIZATION that helps set workers' compensation rates in California will recommend that benchmark rates increase 0.9%, with effect from Sept. 1, 2024.

While the recommendation is less than 1%, the Workers' Compensation Insurance Rating Bureau noted that it was driven by increasing medical costs for injured workers and higher claims-adjusting costs for insurers.

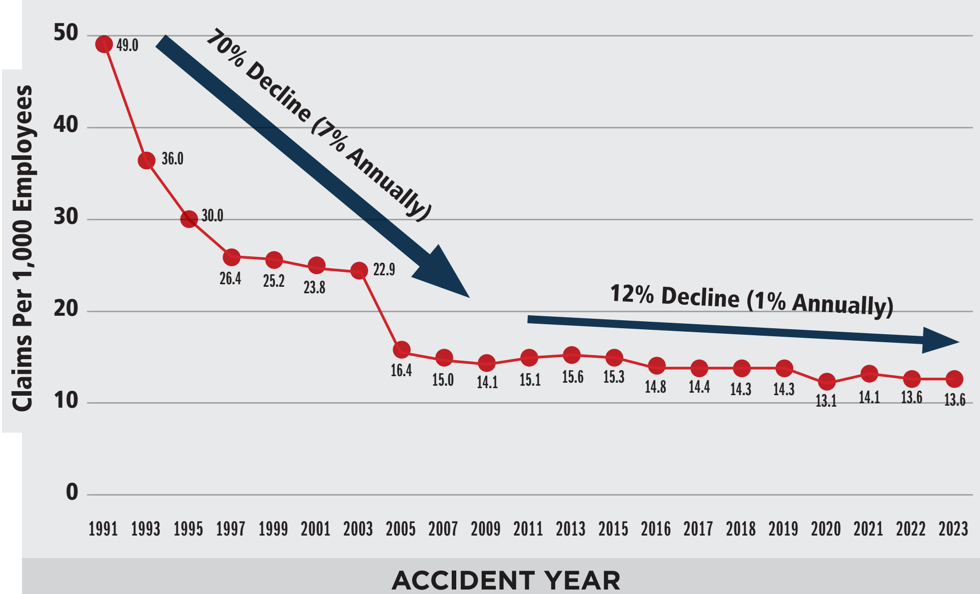
The Rating Bureau's governing committee approved the rate change recommendation, which will be sent to the state insurance commissioner, who can either approve it or order another rate adjustment.

If history is any guide, it's likely that Commissioner Ricardo Lara won't approve the rate hike and will instead recommend a lower increase or even a reduction, as he did last year and the year before.

In 2023, the Rating Bureau had recommended a rate increase of 0.3% in the average benchmark rate (also known as the pure premium rate), and the commissioner instead ordered that it be cut by 2.6%. The requested increase is an average across the WCIRB's 700 class codes, each of which has its own pure premium rate.

The pure premium rate is a base rate that includes only the cost of claims and claims-adjusting costs, and does not take into account other forms of overhead and profits. Insurers use the rate as a guidepost for pricing their policies. They are not obliged to follow the rates.

CLAIM FREQUENCY CONTINUES FALLING



EXPERIENCE MATTERS

While this year's recommendation is low, some employers may see higher rate increases or rate reductions, depending on their class code, claims experience and X-Mod, and location.

What's affecting rates

The tiny rate-increase recommendation is based on continuing downward pressure on claims costs since last year. Drivers of the Rating Bureau's recommendation include:

- Lower claims cost inflation
- Lower frequency of claims
- Lower overall claims costs
- Higher medical costs
- HIgher claims-adjusting costs.

Decision expected in June

Commissioner Lara will hold a public hearing in the coming months, after which he will issue a decision to approve the filing or set another rate. We'll keep you posted at the time. ❖

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New Rulemaking

Final Overtime Regs Raise Exempt Salary Threshold 65%

THE U.S. DEPARTMENT of Labor has issued a final rule increasing the federal salary threshold for overtime exemptions by 65%, with the full increase starting in 2025.

Currently, any worker who does not earn at least $35,568 per year ($684 per week) must be paid overtime if they work more than 40 hours in a week, regardless of if they are classified as a manager or professional. A salaried bona fide executive, administrative or professional employee must earn that amount or more if an employer wants to exempt them from federal overtime requirements.

TWO-PHASE INCREASE

The minimum exempt salary threshold will increase in two quick, successive phases from the current $684 per week.

July 1: $844 per week ($43,888 per year)
Jan. 1, 2025: $1,128 per week ($58,656 per year)

After that, the threshold will be increased every three years, starting in 2028. The DOL will be required to provide 150 days' notice before making changes to the threshold.

White-collar exemption explained

The Fair Labor Standards Act requires that employees be paid overtime (typically a rate of 1.5 times their regular rate of pay) for any hours they work in excess of 40 per week, unless the employee falls under one of three exemptions and is paid the minimum salary under the law.

The three exemptions have different qualifying responsibilities:

Executive exemption – These employees must manage a department or division, direct the work of at least two workers and have the authority to hire and fire.

Administrative exemption – Primary duties must be office or non-manual work related to the management or general business operations, and the employee's duties must include exercising independent judgment on significant issues.

Professional exemption – The employee's primary duty must be the performance of work requiring advanced knowledge, predominantly intellectual in character, and which requires the consistent exercise of discretion and judgment.

Highly compensated employee exemption

There is also an overtime exemption for certain highly compensated employees. The new salary threshold for this group of workers is rising from $107,432 annual compensation to $132,964 starting on July 1, and to $151,164 on Jan. 1, 2025.

For the employee to qualify for this exemption:

- Their primary duty must include performing office or non-manual work; and
- They must customarily and regularly perform at least one of the exempt duties or responsibilities of an exempt executive, administrative or professional employee.

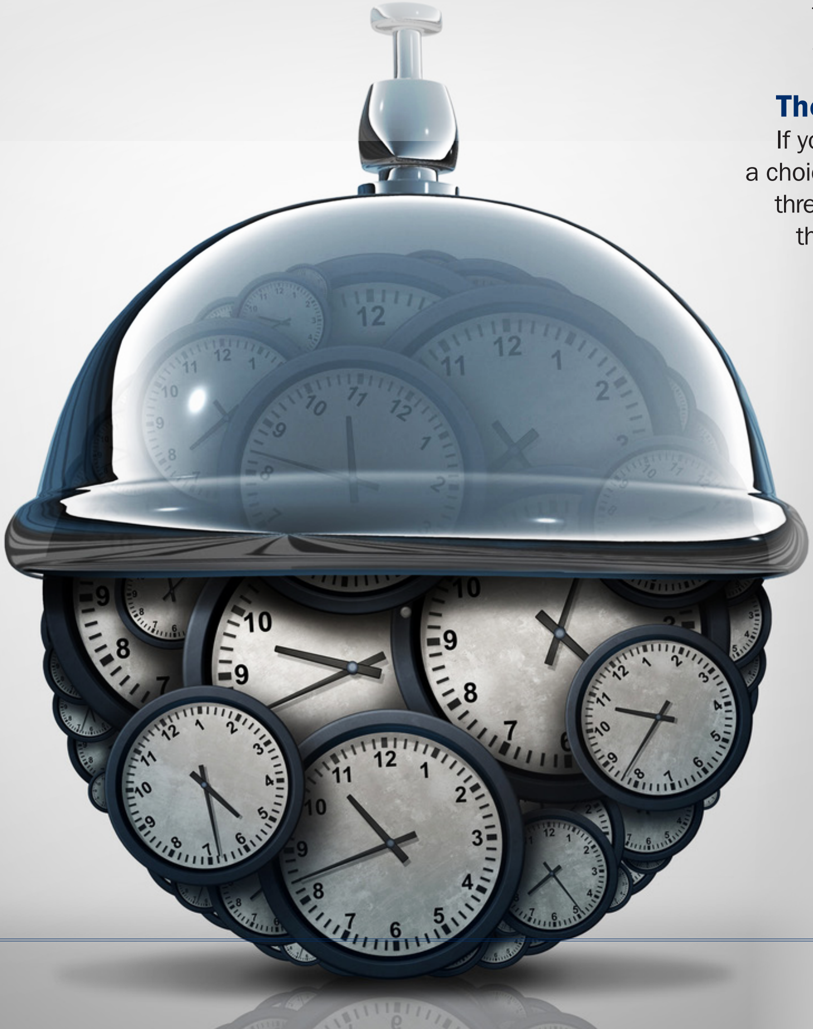
The fallout

If you have currently exempt employees on staff, you will have a choice to make come July 1: Either raise their salary to the new threshold of $43,888 or higher, or pay them overtime for any hours they work in excess of 40 a week. Then you'll have to do it again to account for the even higher threshold come Jan. 1, 2025.

Also, your benefits package may differ for non-exempt and exempt workers, so you will want to review any affected employees' packages.

You should also plan for how you will communicate these changes to your affected workers.

Finally, although business groups have vowed to challenge the final rule in court, companies will need to ramp up their payroll systems to comply with the new rule. There is no guarantee that a court would stay the final rule until legal challenges are exhausted. ❖



Groundbreaking Decision

New FTC Rule Bans Non-Compete Agreements

THE FEDERAL Trade Commission on April 23 approved a new rule that bans employers from requiring new employees to sign non-compete agreements. The rule will take effect in August 2024, after the commission voted 3-2 to approve it.

Besides banning future non-compete agreements, the new rule also nullifies all existing non-competes and requires employers to inform current and past employees that they will not be enforced.

Obviously, employers will need to scramble to comply with the new rule as the ramping up period is relatively short. However, it should be noted that the day after the regulations were announced, the U.S. Chamber of Commerce and other business groups filed lawsuits to block the rule from taking effect.

This new federal rule comes after four states — California, Minnesota, North Dakota and Oklahoma — banned non-competes and 13 others have laws limiting their use.

Under the FTC's new rule, existing non-compete agreements for the vast majority of workers will no longer be enforceable after its effective date.

Existing agreements for senior executives — who represent less than 0.75% of workers — can remain in force under the final rule. The rule defines senior executives as workers earning more than $151,164 annually and who are in policy-making positions.

That said, employers are banned from entering into or attempting to enforce any new non-competes, even if they involve senior executives.

Employers will be required to provide notice to workers other than senior executives who are bound by existing non-competes that they will not be enforcing the agreements.

The next step

Since the rule has already been challenged in court, a judge may put a stay on it while litigation proceeds, but employers can't count on that.

Time is quite short to prepare for the new rule. If you have any current non-competes, or if you require new employees to sign one, you should consult with your legal counsel to discuss your procedures going forward and the steps you'll have to take to comply with the new rule.

To help employers adhere to the requirement that they inform current and former employees that their non-compete agreements are null and void, the FTC has included model language in the final rule.

The commission said that employers have several alternatives to non-compete agreements that still enable firms to protect their investments without having to enforce a non-compete.

Trade secret laws and non-disclosure agreements both provide employers with well-established means to protect proprietary and other sensitive information. Researchers estimate that over 95% of workers with a non-compete already have an NDA. ❖

GPS Tracking: Monitor, Protect Your Assets

FOR ANY business — big or niche — protecting your assets is key to protecting your company.

A lost or stolen company-issued laptop, for example, poses the risk of exposing trade secrets and confidential information, and a company car or equipment used in a crime may damage your business's name forever.

With theft and shrinkage on the rise, it's important that businesses embrace GPS tracking technology to keep track of their company-owned vehicles and high-value assets, including inventory.

From food service to construction, waste management, field services or whatever business you have, you can have complete control and peace of mind with a GPS asset-tracking system. Combine this with value-adding features such as fleet management and telematics, and you will have an investment that pays for itself.

GPS tracking can increase efficiency, reducing costs, enhancing security, improving customer service — and providing valuable data for decision-making and compliance. However, it's essential to implement GPS tracking ethically and transparently, addressing any employee concerns about privacy and data usage.

Fleet management benefits

Interval-based reporting: GPS asset trackers provide regular reporting about a vehicle's location in intervals or when it moves.

Route optimization: GPS systems can suggest the most efficient routes, reducing costs and improving on-time performance.

Driver behavior monitoring: GPS tracking can record driver behavior such as speeding, harsh braking and excessive idling.

Stolen vehicle recovery: Tracking can assist in quickly locating and recovering stolen vehicles or assets.

Asset tracking and management

Inventory control: GPS tracking can help monitor the location and movement of valuable items, reducing theft and improving inventory management.

Maintenance alerts: Systems can schedule maintenance based on actual usage and location data, reducing downtime and extending the lifespan of assets.

Historical data: Systems store historical location data, which can be analyzed to identify trends, optimize operations and make data-driven decisions.

Other benefits

Accurate ETAs: By knowing your vehicles' exact locations and estimated arrival times, you can provide customers with accurate information, enhancing their experience.

Proof of service: GPS tracking can prove service or delivery, reducing disputes and improving customer trust.

'Geofencing': You can set up geofences and receive alerts when vehicles or assets enter or exit specific areas, helping to prevent unauthorized use or movement. Geofences are perimeters that, if crossed, will alert the system that an asset has left a certain area.

The takeaway

With a quick online search, you can find hundreds of asset-tracking vendors and websites that rank the different systems.

Apart from comparing prices and functions, consider the geographic coverage, after-sales support and maintenance, and other services that GPS asset-tracking vendors offer.

Research which service providers other companies in your industry prefer to use and seek reviews and recommendations from experienced GPS users. ❖