

Covid-19 and Workers' Compensation

UPDATE

As if Workers' Compensation wasn't complex enough already, the COVID-19 crisis has created a whole new level of complexity.

Below are some frequently asked questions we have received on the impact of COVID-19 on Workers' Compensation in California:

My business has temporarily laid-off/furloughed employees, although we are still paying them. How will this impact my Workers' Compensation premium?

The Workers' Compensation Insurance Rating Bureau of California (WCIRB) filed new rules on April 20 that allow for the exclusion of monies you pay your employees not to work.

Important notes:

- 1) This filing has been submitted to the Insurance Commissioner, but has not yet been approved. While we anticipate full approval in mid-May, this information could change if the Insurance Commissioner does not approve the rules as filed.
- 2) To exclude this pay from your premium, you must "maintain records that document the change in duties and that segregate such payments" to provide the insurance company auditor when your policy expires.

Without these records, the insurance company will have to include the pay in your premium calculation.

- 3) This rule is only applicable when an employee is not performing ANY duties for you. If the worker is performing tasks in service of the employer, the payroll will be reported to the appropriate classification, and premium will be charged appropriately.
- 4) This rule will be effective retroactively to the date of the California statewide stay-at-home order (March 16, 2020) and will expire thirty days after the order is lifted.
- 5) This includes paid sick leave or paid FMLA approved by congressional action in response to the crisis.

My employees are now working from home. Can their Workers' Compensation Class Code assignment change?

The answer to this question will depend on the specific circumstances of each situation. If the employee was already classified in



8810 (Clerical Office), nothing will change.

In order for other employees to qualify for a change in classification, their job must also change.

For example: You operate a manufacturing facility and have an employee who programs CNC machines for your manufacturing process. Their job consisted of not only writing programs but inspecting parts to ensure the program is working correctly.

As a result of the crisis, this employee is now working from home writing programs.

This employee could have their payroll re-classified into 8810 because they are currently doing a purely clerical job, with no exposure to the manufacturing shop.

Some classifications include clerical employees in their definition. In these cases, reclassifying employees who are now working from home would not be allowed.

It's critical you discuss your specific situation with a Certified WorkComp Advisor to find the correct answer for your business.



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