

California Commission on Health and Safety and Workers' Compensation



CHSWC 2024 Annual Report

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December 2024

**California Commission on Health and Safety
and Workers' Compensation**

2024 Annual Report

**California State Department of Industrial Relations
December 2024**

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ABOUT CHSWC

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The Commission on Health and Safety and Workers' Compensation (CHSWC) examines the health and safety and workers' compensation (WC) systems in California and makes recommendations to improve their operation.

Established in 1994, CHSWC has directed its efforts toward projects and studies to identify opportunities for improvement and to provide an empirical basis for recommendations and/or further investigations. CHSWC utilizes its own staff expertise combined with independent researchers with broad experience and highly respected qualifications.

At the request of the Executive Branch, the Legislature and the Commission, CHSWC conducts research, releases public reports, presents findings, and provides information on the health and safety and WC systems.

CHSWC activities involve the entire health, safety and WC community. Many individuals and organizations participate in CHSWC meetings, fact-finding roundtables and serve on advisory committees to assist CHSWC on projects and studies.

CHSWC projects address several major areas, including permanent disability (PD) ratings and related benefits, State Disability Insurance (SDI), return to work, carve-outs and medical fee schedules. Additional projects address benefits, medical costs and quality, fraud and abuse, streamlining of administrative functions, information for injured workers and employers, alternative WC systems, and injury and illness prevention. CHSWC also continually examines the impact of WC reforms.

The most extensive and potentially far-reaching project undertaken by CHSWC is the study of WC PD ratings. Incorporating public fact-finding hearings with studies by RAND, the CHSWC PD project analyzes major policy issues regarding the way in which California workers are compensated for PD incurred on the job.

CHSWC engages in a number of studies and projects in partnership with state agencies, foundations, and the health and safety and WC community including: the Labor and Workforce Development Agency (LWDA); the Department of Industrial Relations (DIR); the Division of Workers' Compensation (DWC); the California Department of Insurance (CDI); the Fraud Assessment Commission (FAC); the Governor's Office of Homeland Security (OHS); the Bureau of Labor Statistics (BLS); the Department of Fair Employment and Housing (DFEH); the California Health-Care Foundation (CHCF); RAND; the National Academy of Social Insurance (NASI); the National Institute for Occupational Safety and Health (NIOSH); and the International Association of Industrial Accident Boards and Commissions (IAIABC). Current CHSWC projects and studies are described in this report, and earlier projects and studies are found at:

https://www.dir.ca.gov/chswc/CHSWC_Research.html

CHSWC

Serving all Californians

- Created by the 1993 workers' compensation (WC) reform legislation.
- Composed of eight members appointed by the Governor, Senate and Assembly to represent employers and labor.
- Charged with examining the health and safety and WC systems in California and with recommending administrative or legislative modifications to improve their operation.
- Established to conduct a continuing examination of the WC system and of the State's activities to prevent industrial injuries and occupational diseases and to examine those programs in other states.
- Works with the entire health and safety and WC community—employees, employers, labor organizations, injured worker groups, insurers, attorneys, medical and disability providers, administrators, educators, researchers, government agencies, and members of the public.
- Brings together a wide variety of perspectives, knowledge, and concerns about various health and safety and WC programs critical to all Californians.
- Serves as a forum in which the community may come together, raise issues, identify problems, and work together to develop solutions.
- Contracts with independent research organizations for projects and studies designed to evaluate critical areas of key programs. This is done to ensure objectivity and incorporate a balance of viewpoints and to produce the highest-quality analyses and evaluation.

ABOUT CHSWC

CHSWC Members Representing Employers



Jen Hamelin

Jen Hamelin has been Chief Claims Officer, Worker's Compensation (WC) at Public Risk Innovation, Solutions, and Management (PRISM) since 2023 and has held several roles there since 2012, including Director of WC, WC Claims Manager, Supervising Senior WC Claims Specialist and Senior WC Claims Specialist. She has held several roles at York Insurance Services Group from 2001 to 2011, including Assistant Vice President of WC, Claims Manager, Claims Supervisor, Senior Claims Examiner, Claims Examiner and Claims Assistant.

Ms. Hamelin is a member of the board of directors of Project Go Inc. and The Perseverance Project. She is a member of the California Coalition on WC and the Association of Governmental Risk Pools.

Appointed by: Governor



Kristi Montoya

Kristi Montoya has been Director of Claim Operations at United Parcel Service (UPS) since 2023 and has held multiple roles there since 2003, including Director of Risk Management, Risk Management District Case Advisor, Finance Manager and Revenue Recovery Manager. She is a member of the California Coalition of Workers' Compensation and the Workers' Compensation Action Network. Ms. Montoya earned a Bachelor of Arts degree in Business Administration from California State University, East Bay.

Appointed by: Governor

ABOUT CHSWC

CHSWC Members Representing Employers

Nicholas Roxborough

Nicholas Roxborough is the co-managing partner of Roxborough, Pomerance, Nye & Adreani, LLP, and specializes in representing insured and self-insured employers as well as large stakeholders in complex workers' compensation insurance and regulatory issues across the country. He has obtained, over the last 30 years, numerous successful verdicts and landmark appellate decisions concerning the insurance and employment industry.

Mr. Roxborough received his Juris Doctorate from Southwestern School of Law, studied at the Institute of European Studies in Vienna, Austria, and received his Bachelor of Arts Degree from the University of California, Berkeley. Mr. Roxborough serves on various Boards and Commissions, including the California Organized Investment Network ("COIN") Advisory Board, appointed by then Insurance Commissioner Dave Jones and recently by current Insurance Commissioner Ricardo Lara. Mr. Roxborough also serves on the Board of Airport Commissioners at LAX.

Appointed by: Speaker of the Assembly



Sidharth Voorakkara

Sid Voorakkara is the Senior Vice President for San Diego at Strategies 360, a full-service research, government, public affairs, and communications firm. His client portfolio includes non-profit, academia and business entities identifying advocacy strategies at state and regional levels of government.

Throughout his career, Mr. Voorakkara has worked collaboratively with communities, businesses, non-profits, foundations, workforce investment boards, trade associations and various stakeholders to promote investment in local businesses and to build pathways into high-wage, high-growth jobs for Californians. He was appointed by then-Governor Jerry Brown to serve as the Deputy Director of External Affairs at the California Governor's Office of Business and Economic Development, is past chair of the San Diego City Ethics Commission and a Board member at Business for Good. Mr. Voorakkara received a Bachelor of Arts degree from New York University where he studied Government and American Institutions and Ideals.

Appointed by: Senate Rules Committee



ABOUT CHSWC

CHSWC Members Representing Labor



Shelley Kessler

Shelley Kessler recently retired from her position as the Executive Secretary-Treasurer of the San Mateo County Central Labor Council which represents 110 affiliated local unions and over 70,000 working member families. She worked at the Labor Council for 31 years, first as the political director and subsequently as the head of the organization until her retirement. During that time, she was also a Vice-President of the California State Labor Federation. She is a 37-year member of the International Association of Machinists and Aerospace Workers.

Her experience in working on the floor at General Motors, Fremont, CA and Westinghouse Electric, Sunnyvale, CA, compelled her to become involved in worker health and safety issues. She joined the boards of the Santa Clara Center for Occupational Safety and Health, Worksafe, and later the advisory boards of both Cal/OSHA and the Labor Occupational Health Program at UC Berkeley in order to pursue her concerns for worker protections. Ms. Kessler holds two Bachelor of Arts degrees from Sonoma State University.

Appointed by: Speaker of the Assembly



Chris Pedroza

Chris Pedroza has been Executive Director at Carpenters 46 Northern California Counties Conference Board since 2021. He is a Marketing Field Representative at the Northern California Carpenters Regional Council from 2008 to 2021. Pedroza is a member of the Carpenters Local Union 152.

Appointed by: Governor

ABOUT CHSWC

CHSWC Members Representing Labor

Evan Mitch Steiger

Mitch Steiger is a legislative advocate for the California Labor Federation, AFL-CIO. The California Labor Federation, representing over 2.1 million workers statewide, fights to defend and improve the wages, benefits and working conditions of all Californians. Mitch's role is to advocate on behalf of workers in a variety of issue areas, including occupational health and safety as well as workers' compensation, and he participated in the stakeholder discussions that produced SB 863.

Mitch has been with the California Labor Federation since 2010, and prior to that served as researcher/organizer for United Food & Commercial Workers Local 21 and legislative advocate for the Washington State Building & Construction Trades Council, AFL-CIO. He is a member of the Pacific Media Workers Guild, Local 39521, CWA.

Appointed by: Senate Rules Committee



Meagan Subers

Meagan Subers is a legislative advocate and owner of Capitol Connection, a small lobbying firm in Sacramento. Since 2010, Meagan has represented a number of labor organizations and consumer groups including the California Professional Firefighters, which represents over 30,000 rank and file firefighters in the State of California. Meagan has also been engaged and advocated for a number of health and safety protection measures, including updating the personal protective equipment standards for firefighters and ensuring access to the workers' compensation system for injured workers.

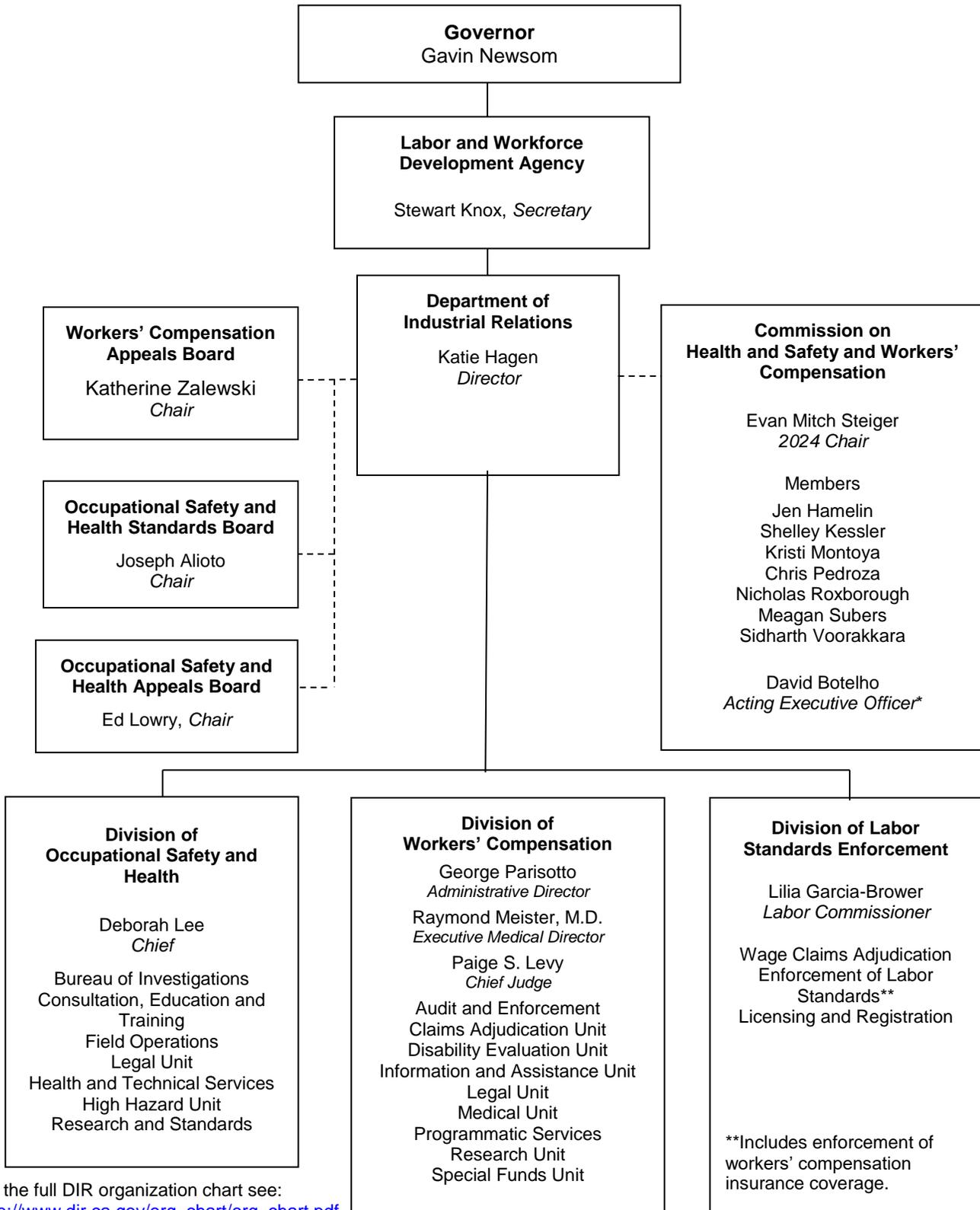
Previously, Subers was a communications specialist with Swanson Communications from 2008 to 2010. Subers is a member of the Institute of Governmental Advocates.

Appointed by: Governor



ABOUT CHSWC

State of California Health and Safety and Workers' Compensation Functions in 2024



For the full DIR organization chart see:
http://www.dir.ca.gov/org_chart/org_chart.pdf.

* Eduardo Enz served as CHSWC's Executive Officer until 09/09/2024.

CHSWC RECOMMENDATIONS

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CHSWC RECOMMENDATIONS

After several years of tremendous and unprecedented efforts to combat the COVID-19 pandemic as a public health emergency, California's COVID-19 State of Emergency was declared ended on February 28, 2023¹, followed by CDPH's issuance of a new State Public Health Officer Order on January 9, 2024, recognizing that there are now "reduced impacts from COVID-19 compared to previous years."² Although the administration of over 96 million vaccines³ has reduced the severity of symptoms, as well as prevented numerous illnesses and deaths from COVID-19 infections, hospitalizations and deaths from the virus and its variants continue to occur and some people who have had COVID-19 are experiencing additional long-term effects from the virus. The Commission on Health and Safety and Workers' Compensation (CHSWC) recommends continuing to monitor impacts from the COVID-19 pandemic, including Long-COVID, and supporting efforts to ensure that workers and employers are protected from this particularly contagious, airborne (aerosol transmissible) virus and its variants, as well as any other future unexpected or as-yet undetected hazards.

In addition, CHSWC recommends:

- Continuing implementation of proven, effective methods and procedures to prevent workplace injuries and illnesses
- Ensuring appropriate and timely delivery of indemnity and medical benefits for injured workers
- Improving methods to avoid delays in the WC claims process
- Streamlining and simplifying the WC process
- Renewing commitments to incentivize uninterrupted and undiminished payment of wages when a workplace injury or illness threatens to impact earnings.

CHSWC will continue to examine the following areas:

- Return-to-work incentives and disincentives
 - Return-to-Work Supplement
 - Supplemental Job Displacement Benefit (SJDB)
 - Information for Injured Workers and Employers on the benefits of returning to work
- Wage loss after occupational injury and illness
 - Permanent Disability (PD) Benefits
 - Presumptions
- Access to and the appropriateness and timeliness of medical care
 - Medical Provider Networks (MPNs)
 - Carve outs
 - Utilization Review (UR)
 - Independent Medical Review (IMR)
 - Medical treatment guidelines
 - Telehealth
 - Qualified Medical Evaluator (QME) Process
 - Friction, administrative delays, and backlogs

¹ <https://www.gov.ca.gov/wp-content/uploads/2023/02/COVID-SOE-Termination-Proclamation-2.28.23.pdf?emrc=1db54f>.

² <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Beyond-Blueprint.aspx>.

³ <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-Vaccine-Data.aspx#state> Data as of September 2, 2024.

CHSWC RECOMMENDATIONS

- Pharmaceuticals
 - Drug formulary
- Fraud detection
 - Medical provider suspensions and criminally charged providers (doctors)
 - Insurance company special investigation units (SIUs) and reporting suspicious claims to regulators
 - Data science and emerging artificial intelligence (AI) applications
 - Legal loopholes, profit centers, commission-driven sales, conflicts of interest, and other potential areas for abuse in a regulated industry
- Stakeholder interaction in the claims process
 - Regional differences in claimant injuries and claims handling, including applicant attorney and defense attorney involvement
- Mechanism of injury, risk factors, and cumulative effects, including age
 - High hazard occupations and injuries
 - Repetitive motion and cumulative trauma (CT) injuries
 - Time-motion analyses, range of motion assessments, physical therapies and other warm-up conditioning practices, and assistive technologies
- Health and Safety
 - Employee and employer training, retraining, and communication, Injury and Illness Prevention Program (IIPP) plans, Personal Protective Equipment (PPE), recordkeeping and reporting to authorities
 - Apprenticeship training, workplace safety culture, and roles of unions and employers in supporting health and safety
 - Best practices in job readiness and accommodation.

RETURN TO WORK

Return-to-Work Supplement

Labor Code §139.48 requires the Department of Industrial Relations (DIR) [Return-to-Work Supplemental Program](#) (RTWSP) to administer a \$120 million dollar fund, that makes supplemental payments to workers whose permanent disability benefits are disproportionately low in comparison to their earnings losses.⁴ A CHSWC study by RAND that evaluated the return-to-work fund, found a low rate of receipt of the RTWSP among eligible workers. More recently, the take-up rate of this benefit has increased, with the share of unpaid benefit decreasing from 66 percent in FY 2015-2016 to only 2 percent in FY 2022-2023⁵, and has proven to be important in shoring up benefit adequacy for injured workers⁶. In FY 2023-2024 the amount disbursed was \$128.8 million, surpassing the fund's \$120 million annual allocation and decreasing the share of the unpaid benefit to 0, the first time since the start of the program.⁷

Recommendations

- Monitor the ongoing use of this benefit

⁴ <https://www.dir.ca.gov/rtwsp/rtwsp.html>.

⁵ https://www.dir.ca.gov/chswc/Reports/2023/CHSWC_AnnualReport2023.pdf.

⁶ https://www.dir.ca.gov/chswc/Reports/2021/CHSWC_AnnualReport2021.pdf.
https://www.rand.org/pubs/research_reports/RRA964-1.html.

⁷ Labor Code 139.48 makes the funds available in the Workers' Compensation Administration Revolving Fund (WCARF) available for use by RTW Supplement Program without respect to the fiscal year.

CHSWC RECOMMENDATIONS

- Consider the recommendations of the CHSWC study by RAND “[Evaluation of the Return-to-Work Fund in the California’s Workers’ Compensation System](#),”⁸ to ensure that the take-up rate remains high which include:
 - Automating the RTWSP payment after SJDB vouchers are issued to improve participation in the program.
 - Improving the monitoring and data collection of SJDB vouchers issued to track emerging changes in the RTWSP-eligible population.
- Continue the outreach and notification efforts to ensure a high take-up rate, such as making the RTWSP website available in multiple languages
- Continue to explore all methods of increasing RTWSP application rates for unrepresented injured workers, including involvement from claims adjudicators, employers, and labor advocates.
- Continue to include benefit expenditure trend data and the number of RTWSP disbursements in the CHSWC Annual Report.

Information for Injured Workers and Employers

Injured workers, employers, and the public need easily accessible information about the workers’ compensation system

- Support DWC’s continued efforts to make the workers’ compensation system process easier to navigate.
- Support DWC’s efforts to simplify forms whenever possible, and continue to transition to a paperless, digital system consistent with healthcare and insurance industry best practices.
- Continue to provide outreach and training on the basics of the workers’ compensation system and its benefits.

Information for Injured Workers and Employers on the Benefits of Return to Work

- Continue to promote a system that effectively and safely reintegrates injured workers into the workplace at the earliest possible opportunity so that economic losses resulting from injuries can be reduced for employers and employees.
- Distribute information about benefits of return-to-work programs and adherence to timeframes for filing applications or appeals; make any statutes-of-limitations timeframes publicly known and transparent on all forms.
- Communicate research findings about the benefits of returning to work and about the experience in which the longer an injured worker stays out of work, the greater the long-term adverse economic impact on returning to the level of earnings prior to the injury or illness; promote identification of potential psychosocial risk factors in delaying the return to work.
- Continue to partner with organizations to support and promote early and safe return-to-work efforts and projects.

WAGE LOSS AFTER OCCUPATIONAL INJURY AND ILLNESS

Permanent Disability Benefits

Research on labor market outcomes showed that wage losses from injury and illness through 2017 remained larger than they were before the 2008-2009 Great Recession, but began to recover slightly starting in 2013. At least part of this recovery is related to increasing labor force participation among injured workers, who have become less likely to exit the workforce as the economy has improved. However, injured workers remain less likely to have sustained return to work at the same employer as before the injury.

⁸ https://www.rand.org/content/dam/rand/pubs/research_reports/RR2500/RR2548/RAND_RR2548.pdf.

CHSWC RECOMMENDATIONS

Additional research on the impact of the 2012 WC reforms on earnings losses suggests that despite some increases in payments after SB 863 reforms took effect, wage replacement rates have not improved as much as expected. While benefits did increase over time, the majority of the increase did not come from the growth of PD benefits, but from settlements. The research also found that wage replacement rates would have been even lower without payments from special funds administered by DIR, including RTWSP authorized by SB 863 and the Subsequent Injuries Benefit Trust Fund (SIBTF).

Recommendations

- Consider the recommendations in DIR wage loss monitoring studies by RAND⁹, which include continuing the following:
 - Monitoring earnings losses and the adequacy of permanent partial disability (PPD) benefits.
 - Researching and understanding how and why the Great Recession had such lasting effects on post-injury outcomes in order to better understand the present and future economic shocks, as well as past ones.
 - Focusing efforts on improving sustained return to work for injured workers to enhance benefit adequacy and worker well-being and reduce post-injury earnings losses.

Presumptions

The COVID-19 pandemic has had a tremendous impact on the WC and health and safety systems in California and on its economy. Although California's COVID-19 state of emergency has ended, as of October 13, 2023, there have been over 104,000 COVID-19 deaths since the start of the pandemic, and over 326,000 COVID-19 claims filed in the WC system. Several states, including California, implemented presumptions of compensability for employees' occupationally causal illnesses related to COVID-19.

Senate Bill (SB) 1159, enacted on September 17, 2020, codified the COVID-19 presumption created by Governor Newsom's executive order in May 2020, and provided two new rebuttable presumptions that an employee's illness related to COVID-19 is an occupational injury and therefore eligible for WC benefits if specified criteria are met.¹⁰ Assembly Bill (AB) 1751, signed by Governor Newsom on September 29, 2022, extended the protections of the SB 1159 presumption statutes to January 1, 2024.¹¹

In addition to a presumption related to COVID-19, several states have expanded their presumption statutes for other conditions for public safety employees. In California, the passage of SB 542 created a rebuttable presumption that, until January 1, 2025, for certain state and local firefighting personnel and peace officers, the term "injury" also includes post-traumatic stress disorder (PTSD) that developed or manifested while the injured person was in the service of the department or unit. Recent research has indicated that workers' compensation claims filed by firefighters and peace officers are more likely to involve PTSD than claims filed by the average worker in California, and mental health stigma and fear of adverse professional consequences were identified as a major barrier to care-seeking for first responders.¹² SB 623, signed into law by Governor Newsom on October 8, 2023, extended this presumption until January 1, 2029 and requires CHSWC to analyze its effectiveness.¹³

⁹ https://www.rand.org/pubs/research_reports/RRA964-1.html;
https://www.rand.org/content/dam/rand/pubs/research_reports/RR4200/RR4209/RAND_RR4209.pdf;
https://www.rand.org/pubs/research_reports/RR2807.html; https://www.rand.org/pubs/research_reports/RR2572.html.

¹⁰ <https://www.dir.ca.gov/dwc/Covid-19/FAQ-SB-1159.html>.

¹¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1751.

¹² CHSWC Study by RAND "Posttraumatic Stress in California's Workers' Compensation System-A Study of Mental Health Presumptions for Firefighters and Peace Officers Under Senate Bill 542. 2021.

https://www.rand.org/pubs/research_reports/RRA1391-1.html.

¹³ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB623.

CHSWC RECOMMENDATIONS

Recommendations:

- Continued evaluation and monitoring of the impact of the presumptions related to COVID-19.
- Continued study of the impact of extending presumptions for conditions such as PTSD and cancer for public safety employees.
- Consider the findings of the CHSWC study by RAND, “Posttraumatic Stress in California’s Workers’ Compensation System - A Study of Mental Health Presumptions for Firefighters and Peace Officers Under Senate Bill 542”, which in part supports the rationale for a PTSD presumption, but also raises concerns about costs to state and local government.
- Consider the findings from the CHSWC Study by RAND, “COVID-19 in the California Workers’ Compensation System - A Study of Covid-19 Claims and Presumptions Under Senate Bill 1159”, including that the frontline presumption appears to have contributed to broad coverage of workers and health conditions, specifically coverage of COVID-19 for some of the most exposed public safety and health care workers.¹⁴
- Consider the feasibility of designing feedback loops in presumption laws which would inform whether there is any effectiveness in streamlining the dispute and litigation process for presumption claims, including the use of codes in claims and adjudication data systems to create and follow presumption trendline statistics.
- Examine the existing State and national public health and disease monitoring systems for data collection, data accuracy, and data analysis purposes; consider whether private healthcare and private industry surveillance systems might complement public sources.

MEDICAL CARE IN WORKERS’ COMPENSATION

Monitoring Medical Care and Costs

In the past, problems in the medical-legal process included delays in selecting evaluators, obtaining examinations and producing evaluation reports. Deficiencies also existed in the content of reports when they failed to comply with the legal standards or omitted necessary components, thus necessitating the submission of supplemental reports. These problems contributed to an increase in frictional costs and delays in resolving disputes and delivering benefits to injured workers.

Significant changes in the medical care process for injured workers have resulted from the reform legislation enacted in 2012. One change is that medical necessity disputes are now resolved using Independent Medical Review (IMR). In addition, the 2012 reforms replaced the Official Medical Fee Schedule (OMFS) for physician services with a fee schedule based on Medicare’s resource-based relative value scale (RBRVS), which was phased in over four years beginning in 2014. Senate Bill 537¹⁵, signed in October 2019, requires that the Administrative Director of DWC, with input from CHSWC, issue to the Legislature, on or before January 1, 2023, a research report comparing possible payment alternatives for WC medical care providers to the Official Medical Fee Schedule (OMFS).

Additional reform legislation relating to medical care, [Senate Bill 1160](#),¹⁶ was enacted in September 2016. The bill aims to expedite medical treatment for injured workers within the first 30 days after their injury by exempting conservative treatment from UR, standardizing UR procedures, modernizing data collection in the system to improve transparency, and implement antifraud measures in the filing and collection of medical treatment liens. DWC issued proposed utilization review regulations on June 7, 2024 and held a

¹⁴ <https://www.dir.ca.gov/chswc/Reports/2022/RAND-COVID-claims-presumptions.pdf>.

¹⁵ Text of SB537. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB537.

¹⁶ Text of SB 1160, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1160.

CHSWC RECOMMENDATIONS

public hearing in July 2024 on these regulations.¹⁷ The proposed regulations include draft forms, including the IMR, the PR-1, and UR-01 forms. These forms are expected to help ensure requests for treatment are based on medical necessity rules and are traceable back to physicians who are licensed and in good standing to treat occupational illnesses and injuries in California. These forms will also help identify the role of utilization review organizations in communicating physician adherence to treatment guidelines with proper coding and documentation. SB 1160 also [requires DIR](#) to develop a system for the mandatory electronic reporting of UR decisions and the Doctor's First Report of Injury form.¹⁸

In October 2016, the California Legislature requested that CHSWC update a study of the QME process first done for the Commission by UC Berkeley in 2010. That study raised several issues about the QME process and made several recommendations for improving the efficiency and equity of evaluations. Subsequently, DWC worked with all stakeholders in the WC community to revise the medical-legal fee schedule with new reimbursement rates to providers for various medical evaluations required in the schedule.

DWC held a public hearing on the revised, proposed medical-legal fee schedule regulations on December 14, 2020, and adopted a new Medical-Legal Fee Schedule (MLFS) with an effective date of April 1, 2021.¹⁹ Regulations regarding QME process that include the delineation of QMEs appointment and reappointment process and clarification of QMEs disciplinary measures became effective on February 26, 2024.²⁰

In response to the COVID-19 pandemic, DWC made several changes to its Official Medical Fee Schedule including adopting changes to its Physician Services/Non-Physician Practitioner Services Fee Schedule to encourage greater use of telehealth services.²¹

Recommendations

- Monitor the implementation of the recommendations from the SB 537 study²², including the pay-for-performance pilot program.
- Monitor and study the use of telehealth and other medical care changes in WC given the COVID-19 pandemic and the technologies adopted going forward.
- Evaluate and monitor the implementation of SB 1160 provisions, including the rulemaking process for UR.
- Support DWC's efforts to simplify the process for medical providers, through measures such as adoption of electronic treatment authorization forms, to encourage doctors to enter the workers' compensation system.
- Continue to study and monitor the frequency, severity, and economic consequences of musculoskeletal injuries across occupations and demographics.
- Provide system monitoring data on UR decisions and the Doctor's First Report, after data become available, in the CHSWC Annual Report.
- Monitor the effectiveness of UR and IMR in the California WC system, and identify and explain instances in which guidelines and the use of hierarchical tiers of evidence are not followed, are abused, or are otherwise generating unnecessary friction and delay.
- Continue to monitor the impact of the Medical-Legal Fee Schedule that became effective in April 2021.

¹⁷ <https://www.dir.ca.gov/dwc/DWCPPropRegs/2024/Utilization-Review/Index.htm>.

¹⁸ DWC website, SB 1160 page, <https://www.dir.ca.gov/dwc/SB1160-AB1244/SB1160.htm>.

¹⁹ <https://www.dir.ca.gov/dwc/DWCPPropRegs/2020/Medical-Legal-Fee-Schedule/Med-Legal-Fee-Schedule.htm>.

²⁰ <https://www.dir.ca.gov/dwc/DWCPPropRegs/2023/QME/Index.htm>.

²¹ <https://www.dir.ca.gov/DIRNews/2020/2020-41.html>.

²² file:///C:/Users/Irina%20Nemirovsky/Downloads/RAND_RRA2481-1.pdf.

CHSWC RECOMMENDATIONS

- Promote and support the recommendations in the [RAND Medical-Legal white paper](#).²³
- Incentivize the use of Medical Provider Networks (MPNs) in post-employment claims as discussed in the RAND report "[Provider Fraud in Workers' Compensation](#)."²⁴

Pharmaceuticals

Labor Code § 5307.27 requires that DWC's Administrative Director establish a drug formulary using evidence-based medicine, as part of the medical treatment utilization schedule (MTUS). DWC's drug formulary took effect January 1, 2018.

Recommendations

- Monitor and evaluate the impact of the evidence-based drug formulary. This should include an assessment of how the drug formulary affects pharmaceutical use, expenses, IMR use, and access to medically appropriate care for injured workers.

Monitor the consultation by the Pharmacy and Therapeutics (P&T) Committee in advising on updates to the MTUS formulary based on evidence of the relative safety, efficacy, effectiveness, type of packaging, and variable cost of drugs in a class of drugs.

ANTIFRAUD EFFORTS

Underground Economy

The underground economy consists of businesses that do not comply with health, safety, WC and other tax and reporting laws in California. These businesses might not have all their employees on the official company payroll and might not report wages paid to employees that reflect their real job duties. Operators in the underground economy create an unfair advantage over their law-abiding competitors and cost the state an estimated \$8.5 billion to \$10 billion in uncollected tax revenues every year.²⁵

Recommendations

- Continue to research how to identify the underground economy and ensure compliance with WC and health and safety laws.
- Support outreach and education efforts, including publicizing the DIR booklet "[All Workers Have Rights](#)."²⁶
- Encourage reporting of alleged noncompliant business practices to protect workers and employers and promote transparency in the workplace.
- Continue to maintain Hotlines to report instances of underground economy.
- Continue to report on the number of DLSE enforcement citations for a lack of WC insurance, and related industry and geographic information for those violations.

²³ California Workers' Compensation Medical-Legal Fee Schedule, Analysis and Recommendations, RAND, 2018, https://www.rand.org/pubs/working_papers/WR1279.html.

²⁴ Provider Fraud in California Workers' Compensation, RAND, 2017, https://www.dir.ca.gov/Fraud_Prevention/Reports/Provider-Fraud-In-CA-Workers-Compensation.pdf.

²⁵ https://edd.ca.gov/siteassets/files/about_edd/joint-enforcement-strike-force-on-the-underground-economy-2022-report.pdf.

²⁶ DIR, LETF "All Workers Have Rights" booklet, 2020, https://www.dir.ca.gov/letf/What_are_your_rights_as_a_worker.pdf.

CHSWC RECOMMENDATIONS

- Support the Labor Enforcement Task Force (LETF), and its individual agency member partners, in their efforts to realign compliance incentives, identify reporting loopholes, inform on best practices, prosecute willful non-compliance, and meaningfully combat the underground economy.²⁷

Workers' Compensation Medical Provider Fraud

In recent years, criminal indictments and prosecutions have highlighted the extent of medical provider fraud in the WC system. Estimates of the cost of this fraud to participants in the WC system are as high as \$1 billion per year.²⁸

[Assembly Bill 1244](#)²⁹ and [SB 1160](#),³⁰ which were signed into law in September 2016, added Labor Code § 139.21 and 4615 and provide a mechanism for suspending perpetrators of fraud from the WC system, staying liens of criminally charged medical providers, and limiting financial recovery related to fraudulent activity.

Recommendations

- Monitor and evaluate the outcomes of Labor Code § 139.21 and 4615 and the efforts of the Anti-Fraud Unit concerning these and other provisions related to anti-fraud reforms.
- Monitor the extent of medical provider fraud in areas such as kickbacks, overbilling, and upcoding and new efforts to deter and eliminate fraudulent practices.
- Monitor the impact of medical provider suspensions in the WC system.
- Monitor progress in the filing of medical provider financial interest disclosures with DIR and support the investigation of medical provider ownership interests that may conflict with the rules.
- In the absence of a requirement, promote the voluntary use of the Department of Insurance Workers' Compensation Insurance SIU Guidelines and Protocols,³¹ which were last updated in 2011.
- Consider recommendations in the RAND report "[Provider Fraud in California Workers' Compensation](#)"³² related to provider fraud, including:
 - Keeping post-employment claims treatment under an employer's control to prevent the uncontrolled increase in medical provider liens.
 - Considering new forms of fraud detection through the use of the Workers' Compensation Information System (WCIS) database and other claims databases and exploring how advanced analytics, business intelligence, machine learning and artificial intelligence applications, and other data science techniques can be best employed.

²⁷ "Labor Enforcement Task Force Report to the Legislature," DIR, LETF, May 2023 at <https://www.dir.ca.gov/letf/LETF-Legislative-Report-2023.pdf>.

²⁸ [Senate Labor and Industrial Relations Bill Analysis of SB 1160, August 31, 2016](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160SB1160), https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160SB1160.

²⁹ Text of AB 1244, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1244.

³⁰ Text of SB 1160, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1160.

³¹ CDI, Workers' Compensation Insurance Special Investigative Unit Guidelines and Protocols, 2011, <https://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/0300-fraud-claims-and-forms/upload/WC-SIU-Guidelines-and-Protocols.pdf>.

³² Provider Fraud in California Workers' Compensation, RAND, 2017, https://www.dir.ca.gov/Fraud_Prevention/Reports/Provider-Fraud-In-CA-Workers-Compensation.pdf.

CHSWC RECOMMENDATIONS

Workers' Compensation Payroll Reporting by Employers

The cost of employers' WC insurance premiums is based on their total payroll. By misreporting payroll costs, some employers avoid the higher premiums that they would incur with accurate payroll reporting. Employers can also misreport the total payroll or the number of workers in specific high-risk, high-premium occupation classifications by reporting them in lower-risk, lower-premium occupations. A [CHSWC study](#) found that between \$15 billion and \$68 billion in payroll is underreported annually.³³ This type of underreporting also has tax consequences that both state and federal jurisdictions may regard and prosecute as criminal. A related study on split class codes found that 25 to 30 percent of low-wage payroll is underreported or misreported.³⁴

Recommendations

- Consider implementing recommendations in the "[Report on Anti-Fraud Efforts in the California Workers' Compensation System](#)" to address premium fraud.³⁵
- Consider updating the 2009 study of payroll underreporting to understand the extent of this practice in more recent years, including underreporting by employers and professional employer organizations (or PEOs).
- Examine claiming at Uninsured Employers Benefits Trust Fund (UEBTF) to better understand the industries, occupations, and other business characteristics of employers who risk not carrying any WC insurance.
- Support collaboration among labor enforcement agencies to bring employers into compliance with labor laws and overlapping tax laws.

Monitor trends listed by the Department of Insurance Workers' Compensation Fraud Convictions on its website.³⁶

Artificial Intelligence Technology

Artificial intelligence (AI) has gained widespread attention, particularly since March 2023, when ChatGPT 4 was released.³⁷ Such changes in technology raise a question of how the AI, especially its generative branch, could shape the future of WC. Taking into account the long-discussed potential benefits and risks of Generative AI (GenAI) tools, such as ChatGPT³⁸, people involved in the WC system need an educated and careful approach to using AI in the administration of WC activities. Using AI that is not based on ongoing research and design is likely to be costly and involve unintentional negative results when integrating AI. In September 2023, Governor Newsom signed an Executive Order that included directing the Government Operations Agency (GovOps), the California Department of General Services, the California Department of Technology, and the California Cybersecurity Integration Center to issue general guidelines for public sector procurement, uses, and required training for use of GenAI. The order also directed The Governor's Office of Business and Economic Development, in consultation with the GovOps, to pursue a formal partnership with the University of California, Berkeley, College of Computing, Data Science, and Society, and the Stanford University Institute for Human-Centered Artificial Intelligence to

³³ "Fraud in Workers' Compensation Payroll Reporting: How Much Employer Fraud Exists? How are Honest Employers Affected?" UC-Berkeley, January 2009,

https://www.dir.ca.gov/chswc/Reports/2011/Final_Report_FAC_Premium_Avoidance.pdf.

³⁴ https://www.dir.ca.gov/chswc/reports/split_class_codes_13aug2007.pdf.

³⁵ DIR, DWC, CHSWC, and CDI, Report on Anti-Fraud Efforts in the California Workers' Compensation System, January 2017, https://www.dir.ca.gov/Fraud_prevention/FRAUD-white-paper.pdf.

³⁶ CDI, Workers' Compensation Fraud Convictions page, <https://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/25-wc-conv/index.cfm>.

³⁷ <https://openai.com/research/gpt-4>.

³⁸ <https://hai.stanford.edu/generative-ai-perspectives-stanford-hai>.

CHSWC RECOMMENDATIONS

consider and evaluate the impacts of GenAI on California and what efforts the state should undertake to advance its leadership in this industry.³⁹

CHSWC recommends:

- Support efforts to study new developments in AI, including its potential uses and risks.
- Monitor and support the development of policies and guidelines for appropriate use of AI.
- Monitor national and state legislation that may affect the use of AI in the workplace.
- Support efforts to educate and train DIR employees on the use of AI products and about the limitations of AI, including ChatGPT.

PUBLIC SELF-INSUREDS

California law requires every employer, except the State of California, to secure payment of its WC obligations by obtaining either insurance or a certificate of consent to self-insure from the Director of DIR.

Unlike private self-insurers, public-sector employers are not legally required to post a security deposit, and no guarantee association is established by law to pay benefits to injured employees in the event that a public employer or a Joint Powers Authority defaults on its WC obligations.

SB 863 added Labor Code § 3702.4, which required CHSWC to examine the public-sector self-insured WC programs and to make recommendations for improving program administration and performance. CHSWC contracted with Bickmore for a study to assist in fulfilling this requirement in 2014.⁴⁰

In 2016, Bickmore prepared another study for DIR to identify various data reporting elements that, after having been collected by DIR's Office of Self-Insurance Plans, followed the intent of Labor Code § 3702.2. Specifically, the goal was to establish a database of WC information for use by public policymakers, regulators, public entities, and the service industry that supports public entity self-insurance in California.

The 2014 and 2016 studies were used to inform DIR's Office of Self-Insurance Plans rulemaking related to the annual reporting of public-self-insured employers. Rulemaking took place and reporting forms were created. The information from the forms required by the regulations effective July 1, 2020⁴¹ will now be used to determine the solvency of the WC programs and may be used for additional benchmarking purposes.

Recommendations

- Monitor the impact of the regulations to collect critical information on public sector claims and costs for public-sector employers and employees.
- Consider supporting the release of the results in the annual reports by (public) entity identifier.
- Report on the status of public entity self-insured data reporting as discussed in the 2016 Bickmore report.

³⁹ <https://www.gov.ca.gov/wp-content/uploads/2023/09/AI-EO-No.12--GGN-Signed.pdf>.

⁴⁰ "Examination of the California Public Sector Self-Insured Workers' Compensation Program," Bickmore, October 22, 2014.

⁴¹ https://www.dir.ca.gov/OSIP/rulemaking/Rulemaking_Approved_May_2020.html.

CHSWC RECOMMENDATIONS

HEALTH AND SAFETY

CHSWC recognizes that injury and illness prevention is the best way to preserve workers' earnings and to limit WC coverage cost increases for employers.

Recommendations

- Continue to monitor the COVID-19 cases and continue to support efforts to help keep workers and employers safe. California is issuing regular [updates on how employees can stay safe and healthy as well as help prevent the spread of COVID-19](#),⁴² including [Coronavirus resources for California employers and workers](#)⁴³ compiled by the Labor & Workforce Development Agency.
- Continue to develop and support the development of materials and resources for both workers and employers that include the most up-to-date information on guidelines related to the COVID-19 pandemic.⁴⁴
- Continue and encourage support by employers and the health and safety and WC community for the CHSWC statewide Worker Occupational Safety and Health Training and Education Program (WOSHTEP), one of CHSWC's most proactive efforts. WOSHTEP trains and educates workers, including young workers, in a wide range of workplaces and in agriculture on proven injury and illness prevention measures.
- Collaborate with DIR Communications unit and WOSHTEP's three regional UC resource centers to promote and extend WOSHTEP's reach to ensure effective outreach and to promote WOSHTEP messages and services.
- Support ongoing partnerships and continued development and outreach of educational materials for underserved groups of workers, such as those who do not speak English as their first language, workers with limited literacy, and young workers.
- Support ongoing partnerships and continued development of in-person and online training and outreach materials designed to teach the importance of implementing the required written Injury and Illness Prevention Plan and ensuring all employees are familiar with its contents.
- Collaborate with the safety and health and WC community to extend the reach of CHSWC's School Action for Safety and Health (SASH) Program, a model program to help schools statewide improve their injury and illness prevention practices for K–12 school employees, including teachers.
- Collaborate with the safety and health and WC community to develop and facilitate outreach with materials and training to address particular hazards or issues faced by school employees, particularly those caused by the impact of the COVID-19 pandemic. In particular, messages and training that help school districts balance work and family and development of individual resilience and relaxation skills should be prioritized.
- Collaborate with the safety and health and WC community to develop occupation-specific training tailored to the health and safety needs of high-risk school employees.
- Support efforts to develop and create a California Occupational Research Agenda specific to the needs of California's employers and workforce to prevent workplace injuries and illnesses, while integrating the contribution made by the National Occupational Research Agenda (NORA) at the National Institute for Occupational Safety and Health (NIOSH).

⁴² <https://covid19.ca.gov/safely-reopening/> and <https://covid19.ca.gov/>.

⁴³ <https://saferatwork.covid19.ca.gov/>.

⁴⁴For example, CHSWC supports educational materials and guides, such as "The California Workplace Guide to Aerosol Transmissible Diseases," Cal/OSHA, June 2023, at https://www.dir.ca.gov/dosh/dosh_publications/ATD-Guide.pdf.

CHSWC RECOMMENDATIONS

- Invite injured workers and employers to CHSWC meetings on a regular basis to share their stories of what they face in the WC and health and safety systems, with a view to identifying gaps, miscommunication, delays, and other disruptions that could be corrected after further consideration and verification.
- Support efforts, including total worker health, to develop training and safety strategies—including adaptive technologies—that help to prevent musculoskeletal disorders.
- Facilitate the outreach of a model training curriculum for occupational safety and health training for child-care workers and employers.
- Collaborate with the Office of the Director and the Labor Occupational Health Program to promote the [training program](#)⁴⁵ for janitorial services industry employees and employers to promote safe workplaces free from sexual harassment and sexual assault-related workplace injuries and illnesses.
- Collaborate with the Division of Occupational Safety and Health (DOSH) to promote resources on heat illness prevention and wildfire safety.
- Collaborate with DOSH to explore various solutions to any needed increases in staffing, such as the apprenticeship pipeline, to continue to protect the safety of workers.
- Consider collaborating with UCSF to explore policy solutions for implementing safer alternatives to working with engineered stone containing silica dust that can contribute to silicosis; monitor how the engineered stone industry addresses this hazardous waste and contaminated production process from factory to consumer
- Monitor the implementation of AB 1978, which requires every janitorial business in California to register annually with DLSE, and report on the number of registered janitorial providers in DLSE's License Registration database and the number of penalties for unregistered janitorial providers for the CHSWC Annual Report.
- Facilitate the development and outreach of materials related to protecting workers from hazardous air quality during wildfires and other airborne toxic or viral events.

⁴⁵ DIR, Sexual Harassment Prevention Training for Janitorial Services Employers, <https://www.dir.ca.gov/dlse/Janitorial-Training.html>.

SPECIAL REPORT: 2024 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND WORKERS' COMPENSATION

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HEALTH and SAFETY AND WORKERS' COMPENSATION LEGISLATION

The brief summaries of the legislation below provide an overview of the bills' intent and do not purport to provide an official description of the legislation or go into the complete details of the measures.

Copies of the legislation referenced in this digest, along with information, such as legislative committee analyses, are available on the Legislative Counsel of California website at www.leginfo.legislature.ca.gov. The chaptered bills take effect January 1, 2025, unless they contain an urgency clause, in which case they took effect immediately upon the Governor's signature. Alternatively, some measures specify their effective date.⁴⁶

To research legislation enacted into law or vetoed in recent years, see past annual reports at: <http://www.dir.ca.gov/chswc/AnnualReportpage1.html>.

HIGHLIGHTS OF 2024 LEGISLATION SPECIFIC TO THE COMMISSION

AB 1239 (2024)

Section 4651 of the Labor Code requires CHSWC to report to the Legislature by December 1, 2022 on indemnity payments made to prepaid card accounts belonging to employees. Employers are to provide all necessary aggregated data on their prepaid account programs to the commission upon request. CHSWC research based on the usage of a prepaid card for indemnity payments (noted in the 2022 annual report) was impacted by AB 2148 (2022)⁴⁷ and the extension of the pilot program timeframe to January 1, 2024. AB 489⁴⁸ in 2023 extended again the pilot an additional year to January 1, 2025, and necessitated an extension of the timeframe for a report. AB 1239 (2024)⁴⁹ extended the pilot to January 2027. Research on this pilot program will continue to be guided by legislative amendments and extensions related to this pilot program. (See legislative description below in the workers' compensation legislation section.)

HEALTH AND SAFETY

Health and Safety Legislation

AB 262, Assemblyperson Holden.

Children's camps: safety and regulation.

Adds Division 2.1 (commencing with Section 1796.90) to the Health and Safety Code, relating to children's camps.

Status: Enrolled on September 5, 2024, and chaptered on September 22, 2024.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB262

Existing law, the California Community Care Facilities Act, generally provides for the licensing and regulation of community care facilities, including child daycare facilities, by the State Department of Social Services. Existing law also requires the State Public Health Officer to establish rules and regulations

⁴⁶ The information on enrollment and chaptered dates for the bills in this section is found after researching a bill at: <https://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml> and then selecting the History tab.

⁴⁷ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2148.

⁴⁸ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB489

⁴⁹ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1239

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establishing minimum standards for organized camps, defined as a site with a program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for 5 days or more during one or more seasons of the year, except as specified.

This bill, subject to an appropriation by the Legislature for this purpose, requires the State Department of Social Services to prepare a report, in consultation with a wide variety of stakeholders, regarding approaches for children's camp health and safety regulation and oversight. The bill requires the stakeholder group to be composed of representatives of designated state entities, including, but not limited to, the State Department of Public Health and the State Department of Education (and the Department of Industrial Relations), and other stakeholders, such as parent advocate groups and local parks and health departments. The bill requires the department, following consultation with the stakeholder group, and within 24 months after funds are appropriated, to submit its recommendations in a report to the Legislature, as specified. The bill requires the recommendations to address a definition for a children's camp, the government agency or agencies necessary to establish and enforce rules and regulations relating to children's camps, and minimum health and safety requirements, as specified. The bill requires the report to include costs estimates for the implementation of the recommendations included in the report.

AB 610, Assemblyperson Holden.

Fast food restaurant industry: Fast Food Council: health, safety, employment, and minimum wage. Amends Section 1474 of the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

Status: Enrolled on March 21, 2024, and chaptered on March 25, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB610

Existing law, until January 1, 2029, establishes the Fast Food Council and prescribes the council's purposes, duties, and limitations, as described. Existing law establishes an hourly minimum wage for fast food restaurant employees, as described, authorizes the council to increase the hourly minimum wage pursuant to specified parameters, and sets forth requirements, limitations, and procedures for adopting and reviewing fast food restaurant health, safety, and employment standards. Existing law defines terms for these purposes, including defining "fast food restaurant" to mean a limited-service restaurant in the state that is part of a national fast food chain. Existing law exempts from the definition of "fast food restaurant" an establishment that on September 15, 2023, operates a bakery in a prescribed manner, as long as it continues to operate such a bakery. Existing law also exempts certain restaurants in grocery establishments.

This bill exempts additional restaurants from the definition of "fast food restaurant," including such restaurants in airports, hotels, event centers, theme parks, museums, and certain other locations, as prescribed.

This bill declares that it is to take effect immediately as an urgency statute.

AB 977, Assemblyperson Rodriguez.

Emergency departments: assault and battery.

Adds Section 1317.5a to the Health and Safety Code, and amends Sections 241 and 243 of the Penal Code, relating to hospital emergency departments.

Status: Enrolled on September 11, 2024 and chaptered on September 29, 2024.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB977

Existing law defines an assault as an unlawful attempt, coupled with present ability, to commit a violent injury on the person of another. Existing law defines a battery as any willful and unlawful use of force or violence upon the person of another. Under existing law, an assault or battery committed against a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health

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care facility is punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$2,000, or by both that fine and imprisonment.

This bill also makes an assault or battery committed against a physician, nurse, or other health care worker of a hospital engaged in providing services within the emergency department punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$2,000, or by both that fine and imprisonment. The bill authorizes a health facility that maintains and operates an emergency department to post a notice in the emergency department stating that an assault or battery against staff is a crime, and may result in a criminal conviction, as provided. By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill provides that no reimbursement is required by this act for a specified reason.

AB 1843, Assemblyperson Rodriguez.

Emergency ambulance employees.

Adds Chapter 12.5 (commencing with Section 1799.300) to Division 2.5 of the Health and Safety Code, relating to private employment.

Status: Enrolled on September 12, 2024, and chaptered on September 29, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1843

Under the Emergency Ambulance Employee Safety and Preparedness Act, an initiative measure enacted by the voters as Proposition 11 at the November 6, 2018, statewide general election, every emergency ambulance employee is entitled to employer-paid mental health services through an employee assistance program (EAP) and requires the EAP coverage to provide up to 10 mental health treatments per issue per calendar year.

This bill requires an emergency ambulance provider, as defined, to offer to all emergency ambulance employees, upon the employee's request, peer support services to provide peer representatives who are available to come to the aid of their fellow employees on a broad range of emotional or professional issues. The bill would require a peer support program to be implemented through a labor-management agreement negotiated separately from a collective bargaining agreement covering affected emergency ambulance employees. This bill specifies conditions under which prescribed confidential communications between an emergency ambulance employee and a peer support team member may be disclosed. The bill specifies that an emergency ambulance employee who provides peer support services as a member of a peer support team, and the ambulance agency that employs them, shall not be liable for damages unless an act, error, or omission in performing peer support services constitutes gross negligence or intentional misconduct, except for an action for medical malpractice.

AB 1976, Assemblyperson Haney.

Occupational safety and health standards: first aid materials: opioid antagonists.

Adds Section 6723 to the Labor Code, relating to occupational safety and health.

Status: Enrolled on September 10, 2024, and chaptered on September 27, 2024.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1976

Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, and the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state. Existing law, the California Occupational Safety and Health Act of 1973 (OSHA), requires employers to comply with certain safety and health standards, as specified, and charges the division with enforcement of the act.

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Existing law requires the division, before December 1, 2025, to submit to the standards board a rulemaking proposal to consider revising certain standards relating to the prevention of heat illness, protection from wildfire smoke, and toilet facilities on construction jobsites. Existing law also requires the standards board to review the proposed changes and consider adopting revised standards on or before December 31, 2025.

This bill requires the division, before December 1, 2027, to submit a draft rulemaking proposal to revise specified regulations on first aid materials and emergency medical services to require first aid materials in a workplace to include naloxone hydrochloride or another opioid antagonist approved by the United States Food and Drug Administration to reverse opioid overdose and instructions for using the opioid antagonist. The bill also requires the division, in drafting the rulemaking proposal, to consider, and provide guidance to employers on, proper storage of the opioid antagonist in accordance with the manufacturer's instructions. The bill requires the standards board to consider for adoption revised standards for the standards described above on or before December 1, 2028.

Under existing law, a person who, in good faith and not for compensation, renders emergency treatment at the scene of an opioid overdose or suspected opioid overdose by administering an opioid antagonist is not liable for civil damages resulting from an act or omission related to the rendering of the emergency treatment, except if the act or omission constitutes gross negligence or willful or wanton misconduct.

This bill expressly provides that an individual who administers naloxone hydrochloride or another opioid antagonist approved by the United States Food and Drug Administration to reverse opioid overdose in a suspected opioid overdose emergency shall not be liable for civil damages, as provided by, and subject to, the above-described provisions. The bill also provides that an individual who is licensed as part of a local emergency medical services agency shall not be held responsible for administering nasal naloxone hydrochloride or another opioid antagonist approved by the United States Food and Drug Administration to reverse opioid overdose, regardless of whether the individual was certified for that activity, unless the individual was acting as a paid first responder at the time of the action.

AB 1996, Assemblyperson Alanis.

Opioid antagonists: stadiums, concert venues, and amusement parks: overdose training.

Amends Section 11871 of the Health and Safety Code, relating to opioids.

Status: Enrolled on August 16, 2024, and chaptered on August 26, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1996

Existing law requires the State Department of Public Health, subject to an appropriation in the Budget Act of 2016, to award funding to local health departments, local governmental agencies, or on a competitive basis to other organizations, as specified, to support or establish programs that provide naloxone or another opioid antagonist to first responders and at-risk opioid users through programs that serve at-risk drug users. Existing law requires each stadium, concert venue, and amusement park to maintain unexpired doses of naloxone hydrochloride or any other opioid antagonist on its premises at all times, and to ensure that at least 2 employees are aware of the location of the naloxone hydrochloride or other opioid antagonist.

This bill requires each stadium, concert venue, and amusement park to ensure that the naloxone hydrochloride or other opioid antagonist is easily accessible, and its location is known by emergency responders on the premises or otherwise widely known.

AB 2288, Assemblyperson Kalra.

Labor Code Private Attorneys General Act of 2004.

Amends Section 2699 of the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

Status: Enrolled on June 27, 2024, and chaptered on July 1, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB2288

SPECIAL REPORT: 2024 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND WORKERS' COMPENSATION

Existing law, the Labor Code Private Attorneys General Act of 2004 (PAGA), authorizes an aggrieved employee, as defined, to bring a civil action, on behalf of that employee and other current or former employees, to enforce a violation of any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees pursuant to certain notice and cure provisions, as prescribed.

This bill, among other things, instead authorizes an aggrieved employee to bring a civil action as described above on behalf of the employee and other current or former employees against whom a violation of the same provision was committed.

With respect to a violation by a person of a provision that does not provide for a civil penalty, PAGA makes that person liable for a civil penalty of \$500 if, at the time of the alleged violation, the person does not employ one or more employees. If, at the time of the alleged violation, the person employed one or more employees, PAGA makes that person liable for a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation. PAGA requires 75% of civil penalties recovered by aggrieved employees to be distributed to the Labor and Workforce Development Agency for enforcement of labor laws, including the administration of PAGA, and for education of employers and employees about their rights and responsibilities under the Labor Code, as specified, and requires 25% of civil penalties recovered by aggrieved employees to be distributed to the aggrieved employees, except as prescribed.

This bill instead, if, at the time of the alleged violation, the person employed one or more employees, makes that person liable for a civil penalty of \$100 for each aggrieved employee per pay period, except if certain mitigating factors apply, including that the alleged violation resulted from an isolated, nonrecurring event that did not extend beyond the lesser of 30 consecutive days or 4 consecutive pay periods, in which case the bill would make the civil penalty \$25 or \$50, except as provided. The bill, subject to an exception, also reduces the civil penalties prescribed by PAGA by 15% or 30%, as specified, if a person accused of a violation has taken all reasonable steps to comply with the provisions alleged to have been violated in the required notice provided by the aggrieved employee, as prescribed.

This bill applies its provisions to a civil action brought on or after June 19, 2024, except as specified.

This bill becomes operative only if SB 92 of the 2023–24 Regular Session is enacted and takes effect on or before January 1, 2025. (SB 92 was enacted.)

This bill declares that it is to take effect immediately as an urgency statute.

AB 2364, Assemblyperson Luz Rivas.

Property service worker protection.

Amends Sections 1420 and 1429.5 of, and to add and repeal Section 1429.6 of, the Labor Code, relating to employment.

Status: Enrolled on September 9, 2024 and chaptered on September 22, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB2364

Existing law establishes the Department of Industrial Relations within the Labor and Workforce Development Agency and charges the department with specified functions, including fostering, promoting, and developing the welfare of wage earners in California. The department consists of specified divisions, boards, and commissions, including the Division of Labor Standards Enforcement, which is headed by the Chief of the Division of Labor Standards Enforcement, known as the Labor Commissioner.

Existing law requires every employer of janitors to register annually with the Labor Commissioner and requires the Division of Labor Standards Enforcement to enforce the provisions relating to the registration of those employers.

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Existing law requires an employer to use a qualified organization to provide sexual violence and harassment prevention training, as specified, and to pay the qualified organization \$65 per participant, except as specified.

This bill instead requires the employer, until January 1, 2026, to pay the qualified organization \$200 per participant for training sessions having fewer than 10 participants, and \$80 per participant for training sessions with 10 or more participants, except as specified. Each year thereafter, the employer is required to increase the rate of payment, as specified.

This bill requires the department to contract with the University of California, Los Angeles Labor Center to conduct a study evaluating opportunities to improve worker safety and safeguard employment rights in the janitorial industry. The bill authorizes the university to subcontract the responsibility for conducting the study to other specified entities. The bill requires the University of California, Los Angeles Labor Center and its subcontractors, if any, to issue a report no later than May 1, 2026, that includes certain information about the janitorial industry. The bill further requires the department, no later than June 15, 2025, to convene an advisory committee consisting of representatives from specified state agencies, labor and management groups in the janitorial industry, and other relevant subject matter experts to make recommendations regarding the scope of the above-described study, as prescribed. The bill requires the department, on or before May 15, 2026, to forward the completed report to the members of the advisory committee and specified legislative committee chairs. The bill repeals the above-described contract and reporting provisions on January 1, 2027. The bill makes various other technical and conforming changes.

AB 2499, Assemblyperson Schiavo.

Employment: unlawful discrimination and paid sick days: victims of violence.

Amends Section 214 of the Code of Civil Procedure, amends Section 48205 of the Education Code, adds Section 12945.8 to the Government Code, to amend Section 246.5 of, and repeals Sections 230 and 230.1 of, the Labor Code, amends Section 679.027 of the Penal Code, and amends Section 11320.31 of the Welfare and Institutions Code, relating to employment.

Status: Enrolled on September 9, 2024, and chaptered on September 29, 2024.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2499

Existing law prohibits retaliation against employees who serve on juries or are victims of crime or abuse. This protection is enforced by the Division of Labor Standards Enforcement (DLSE or the Division) within the Department of Industrial Relations (DIR).

AB 2499 transfers jurisdiction over such claims from DLSE to the Civil Rights Department (CRD) by repealing the relevant Labor Code sections and re-enacting them in the Government Code under the Fair Employment and Housing Act (FEHA). The bill makes numerous modifications to the existing statutes including redefining the coverage of the act to include a “*qualifying act of violence*,” as defined, and expansion of the law to unambiguously prohibit retaliation against an employee who is a victim or whose family member is a victim. (This summary is provided in addition to the Legislative Counsel’s Digest at the above URL.)

AB 2738, Assemblyperson Luz Rivas.

Labor Code: alternative enforcement: occupational safety.

Amends Sections 181, 9251, and 9252 of, and to add Section 9252.1 to, the Labor Code, relating to employment.

Status: Enrolled on September 5, 2024, and chaptered on September 29, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB2738

Existing law establishes the Department of Industrial Relations in the Labor and Workforce Development Agency, administered by the Director of Industrial Relations, and vests it with various powers and duties to foster, promote, and develop the welfare of the wage earners of California, to improve their working conditions, and to advance their opportunities for profitable employment.

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Existing law, until January 1, 2029, authorizes a public prosecutor, as defined, to prosecute an action through alternative enforcement procedures, for a violation of specified provisions of the Labor Code or to enforce those provisions independently. Existing law requires moneys recovered by public prosecutors under that code to be applied first to payments, such as wages, damages, and other penalties, due to affected workers. Existing law further requires all civil penalties recovered by a public prosecutor pursuant to those provisions to be paid to the General Fund of the State, unless otherwise specified. Existing law authorizes the court to award a prevailing plaintiff reasonable attorney's fees and costs in an action under those provisions, as specified.

This bill instead specifies that all remedies available for violations of the Labor Code may be recovered in an action by a public prosecutor under those alternative enforcement procedures. The bill requires any remedies recovered to go first to workers to cover any unpaid wages, damages, or penalties owed to those workers, and any remaining civil penalties to go the General Fund of the state. The bill further provides that a public prosecutor may enforce any other provision of the Labor Code as specifically authorized. The bill instead requires the court to award a prevailing plaintiff reasonable attorney's fees and costs in an action under those provisions, as specified.

Existing law establishes the Division of Occupational Safety and Health in the Department of Industrial Relations, and charges the division with the enforcement of various laws affecting safe working conditions, including the California Occupational Safety and Health Act of 1973. Existing law requires a contracting entity, as defined, to require an entertainment events vendor to certify for its employees and employees of its subcontractors that those individuals have complied with specified training, certification, and workforce requirements, including that employees involved in the setting up, operation, or tearing down of a live event at its public events venue, as defined, have completed prescribed trainings of the United States Department of Labor's Occupational Safety and Health Administration. Existing law requires the division to enforce those provisions by issuing a citation and a notice of civil penalty against an entertainment events vendor, as specified, and to deposit those funds in the Occupational Safety and Health Fund.

This bill requires a contract that is subject to the above provisions to provide in writing that the entertainment events vendor will furnish, upon hiring for the live event pursuant to the contract, the contracting entity with specified information about the employees of those vendors and subcontractors and the training those employees have completed. The bill subjects the contract to a provision of the California Public Records Act that makes any executed contract for the purchase of goods or services by a state or local agency, including the price and terms of payment, a public record subject to disclosure under that act, as prescribed. The bill authorizes the contracting entity to use or disclose to third parties the specified information for the purpose of carrying out the contracting entity's duties under the contract but prohibits the use or disclosure of the information for unrelated purposes. The bill expands the categories of entities subject to penalties for a violation of these provisions to also include a public events venue or contracting entity. Additionally, the bill allows these provisions to be enforced by a public prosecutor pursuant to the alternative enforcement procedures noted above, subject to certain additional conditions. To the extent the bill would impose new requirements on local agencies with respect to the treatment of these contracts as public records, the bill creates a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill makes legislative findings to that effect.

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AB 2975, Assemblyperson Gipson.

Occupational safety and health standards: workplace violence prevention plan: hospitals.

Amends Section 6401.8 of the Labor Code, relating to employment.

Status: Enrolled on September 11, 2024 and enrolled on September 27, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB2975

Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees, including the requirement that an employer establish, implement, and maintain an effective injury prevention program, and makes specified violations of these provisions a crime. Existing law also requires the Occupational Safety and Health Standards Board to adopt standards developed by the Division of Occupational Safety and Health that require specified types of hospitals to adopt a workplace violence prevention plan as part of the hospital's injury and illness prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior.

This bill requires the standards board, by March 1, 2027, to amend the standards to include a requirement that a hospital implement a weapons detection screening policy that requires the use of weapons detection devices that automatically screen a person's body at specific entrances of the hospital, a requirement that a hospital assign appropriate personnel who meet specified training standards, a requirement that a hospital have reasonable protocols for alternative search and screening for patients, family, or visitors who refuse to undergo weapons detection device screening, and a requirement that a hospital adopt reasonable protocols addressing how the hospital will respond if a dangerous weapon is detected, as specified.

Among other provisions, the bill requires that the standards include a requirement that a hospital post, in a conspicuous location, within reasonable proximity of any public entrances where weapons detection devices are utilized, a notice notifying the public that the hospital conducts screenings for weapons upon entry but that no person shall be refused medical care, pursuant to specified federal law.

The bill requires the Division of Occupational Safety and Health to set an effective date that is no longer than 90 days after the standard is adopted for hospitals to comply with these requirements.

By expanding the scope of an existing crime, this bill imposes a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill provides that no reimbursement is required by this act for a specified reason.

AB 3234, Assemblyperson Ortega.

Employers: social compliance audit.

Adds Chapter 1.5 (commencing with Section 1250) to Part 4 of Division 2 of the Labor Code, relating to private employment.

Status: Enrolled on September 3, 2024, and chaptered on September 22, 2024.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB3234

Existing law establishes the Division of Labor Standards Enforcement within the Department of Industrial Relations and authorizes the division to enforce the provisions of the Labor Code and all labor laws of the state which are not specifically vested in any other officer, board, or commission. Existing law regulates the wages, hours, and working conditions of any man, woman, and minor employed in any occupation, trade, or industry, whether compensation is measured by time, piece, or otherwise, except as specified.

This bill requires an employer who has voluntarily subjected itself to a social compliance audit, whether the audit is conducted in part, or in whole, to determine if child labor is involved in the employer's operations or practices, to post a clear and conspicuous link on its internet website to a report detailing the findings of its compliance with child labor laws. The bill defines the term "social compliance audit" to mean a voluntary,

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nongovernmental inspection or assessment of an employer's operations or practices to evaluate whether the operations or practices are in compliance with state and federal labor laws, including wage and hour and health and safety regulations, including those regarding child labor. The bill requires that report to include, among other things, whether the employer did or did not engage in, or support the use of, child labor and a copy of any written policies and procedures the employer has and had regarding child employees.

AB 3258, Assemblyperson Bryan.

Refinery and chemical plants.

Amends Sections 7851, 7852, 7853, 7855, 7856, 7872, and 7873 of the Labor Code, relating to safety in employment.

Status: Enrolled on September 5, 2024, and chaptered on September 29, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB3258

Existing law, the California Refinery and Chemical Plant Worker Safety Act of 1990, requires the Occupational Safety and Health Standards Board to adopt process safety management standards for refineries, chemical plants, and other manufacturing facilities, as prescribed. Existing law requires a petroleum refinery employer to submit an annual schedule of planned turnarounds, as defined, for all affected units for the following calendar year and to provide prescribed access onsite and to related documentation. Existing law also establishes requirements for Division of Occupational Safety and Health access to, and disclosure of, trade secrets, as defined, including information relating to planned turnarounds of petroleum refinery employers.

This bill removes references in existing law to petroleum refineries and petroleum refinery employers and, instead, refers to refineries and refinery employers. The bill defines "refinery" to mean an establishment that produces gasoline, diesel fuel, aviation fuel, or biofuel, as defined, through the processing of crude oil or alternative feedstock. The bill, by January 1, 2026, requires the division to propose, and the board to consider for adoption, regulations that implement this part for refineries.

SB 92. Senator Umberg.

Labor Code Private Attorneys General Act of 2004.

Amends Section 2699.5 of, and to amend, repeal, and add Section 2699.3 of, the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

Status: Enrolled on June 27, 2024, and chaptered on July 1, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB92

Existing law, the Labor Code Private Attorneys General Act of 2004 (PAGA), authorizes an aggrieved employee, as defined, to bring a civil action, on behalf of that employee and other current or former employees, to enforce a violation of any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees pursuant to certain notice and cure provisions, as prescribed.

This bill, among other things, authorizes, on or after October 1, 2024, an employer that employed fewer than 100 employees in total during the period covered by the required notice to, within 33 days of receipt of the notice submit to the agency a confidential proposal to cure one or more of the alleged violations and, upon completing the cure, provide a sworn notification to the employee and agency that the cure is completed, as prescribed.

By expanding the scope of the crime of perjury, this bill imposes a state-mandated local program. The bill requires the agency to verify whether the cure is completed within 20 days of receiving the employer's notification, as specified.

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This bill also authorizes an employer who employed at least 100 employees in total during the period covered by the required notice to, upon being served with a summons and complaint asserting a claim under PAGA, file a request and participate in, as prescribed, an early evaluation conference in the proceedings of the claim and a request for a stay of court proceedings before, or simultaneous with, that defendant's responsive pleading or other initial appearance in the action that includes the claim.

This bill applies its provisions to a civil action brought on or after June 19, 2024, except as specified.

SB 1105, Senator Padilla.

Paid sick leave: agricultural employees: emergencies.

Amends Section 246.5 of the Labor Code, relating to paid sick leave.

Status: Enrolled on September 10, 2024, and chaptered on September 24, 2024.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB1105

Existing law, the Healthy Workplaces, Healthy Families Act of 2014, entitles an employee who works in California for the same employer for 30 or more days within one year from the commencement of employment to paid sick days, as specified. Existing law requires an employer to, upon the oral or written request of an employee, provide paid sick days for specified purposes, including the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

Existing law prohibits an employer from denying an employee the right to use accrued sick days, or to discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using or attempting to use accrued sick days. Existing law requires the Labor Commissioner to enforce the act, including investigating an alleged violation, and authorizes the Labor Commissioner to order any appropriate relief, as specified, to an employee or other person whose rights under the act were violated.

This bill also requires paid sick days to be provided to agricultural employees, as defined, who work outside and are entitled to paid sick days, as described, to avoid smoke, heat, or flooding conditions created by a local or state emergency, as described. The bill declares that these provisions are declarative of existing law to the extent that the sick days are necessary for preventive care, as provided.

SB 1350, Senator Durazo.

Occupational safety and health: definitions.

Amends Section 6303 of the Labor Code, relating to private employment.

Status: Chaptered on September 11, 2024, and enrolled on September 28, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB1350

Existing law, the California Occupational Safety and Health Act of 1973, provides the Division of Occupational Safety and Health within the Department of Industrial Relations with the power, jurisdiction, and supervision over every employment and place of employment in this state which is necessary to enforce and administer all occupational health and safety laws and to protect employees. Existing law defines various terms for purposes of the act, including "employment," and for purposes of that term, the definition excludes household domestic service. Under specified circumstances, a violation of the act is a crime.

Beginning July 1, 2025, this bill deletes the above-referenced exclusion and, instead, expands the definition of "employment" to additionally include household domestic service performed on a permanent or temporary basis, except for specified household domestic service, including, among others, those where an individual who, in their own residence, privately employs persons to perform ordinary domestic household tasks, including housecleaning, cooking, and caregiving.

By expanding the application of criminal penalties under the act to household domestic service employers, this bill imposes a state-mandated local program.

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The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill provides that no reimbursement is required by this act for a specified reason.

Health and Safety Regulations

The regulatory activities of the Occupational Safety and Health Standards Board (OSHSB) and Division of Occupational Safety and Health (DOSH) regulations are available online as noted below. Formal rulemaking is preceded by a notice, the release of a draft rule, and the announcement of a public hearing. (DOSH and Cal/OSHA references are used interchangeably, and DOSH and Cal/OSHA enforce the OSHSB safety and health standards.)

Occupational Safety and Health Standards Board (OSHSB) approved standards are at:

<http://www.dir.ca.gov/OSHSB/apprvd.html>

Proposed OSHSB standards and rulemaking updates are at:

<http://www.dir.ca.gov/OSHSB/proposedregulations.html>

Approved Division of Occupational Safety and Health (DOSH) regulations are at:

http://www.dir.ca.gov/dosh/rulemaking/dosh_rulemaking_approved.html

Proposed Division of Occupational Safety and Health (DOSH) regulations are at:

https://www.dir.ca.gov/dosh/rulemaking/dosh_rulemaking_proposed.html

Regulations in Title 8 of the California Code of Regulations (CCR) are at:

<http://www.dir.ca.gov/samples/search/query.htm>.

Occupational Safety & Health Standards Board (OSHSB) Title 8 index at:

<http://www.dir.ca.gov/title8/index/t8index.html>

Under CCR, Title 8, Chapter 3.2, DOSH promulgates regulations for the administration of the safety and health inspection program, such as posting, certification, and registration requirements. Under CCR, Title 8, Chapter 4, OSHSB promulgates health and safety orders organized by industry, process, and equipment in subchapters, which are then enforced by DOSH (Cal/OSHA).

WORKERS' COMPENSATION

Workers' Compensation Legislation

Six (6) workers' compensation bills were signed into law in 2024. The following is a summary.

AB 171, Committee on Budget.

Employment.

Amends, repeals, and adds Section 5909 of, the Labor Code, among other amendments not listed here due to other non-workers' compensation laws impacted.

Status: Enrolled on June 27, 2024, and chaptered on July 2, 2024.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB171

This bill has nine (9) areas of interest, of which one – here numbered eight (8) - applies to workers' compensation.

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(8) Existing law authorizes a person aggrieved by an order, decision, or award made and filed by the appeals board or a workers' compensation judge under certain workers' compensation provisions to petition the appeals board for reconsideration. Existing law deems a petition for reconsideration to have been denied by the appeals board unless that petition is acted upon within 60 days from the date of filing.

This bill, until July 1, 2026, instead deems a petition for reconsideration to have been denied by the appeals board unless it is acted upon by the appeals board within 60 days from the date a trial judge transmits a case to the appeals board. The bill requires a trial judge, when it transmits a case to the appeals board, to provide notice to the parties to the case and the appeals board, as specified.

AB 1239, Assemblyperson Calderon.

Workers' compensation: disability payments.

Amends Section 4651 of the Labor Code, relating to workers' compensation.

Enrolled on September 11, 2024, and chaptered on September 28, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1239

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of the employee's employment. Existing law governs temporary and permanent disability indemnity payments. Existing law, until January 1, 2025, allows an employer to commence a program under which disability indemnity payments are deposited in a prepaid card account for employees.

This bill extends the authorization to deposit indemnity payments in a prepaid card account until January 1, 2027. CHSWC is also directed to issue a report on the usage of this pilot prepaid card program.

AB 1870, Assemblyperson Ortega.

Notice to employees: legal services.

Amends Section 3550 of the Labor Code, relating to workers' compensation.

Status: Enrolled on July 1, 2024, and chaptered on July 15, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1870

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. Employers who are subject to the workers' compensation system are generally required to keep posted in a conspicuous location frequented by employees and easily read by employees during the hours of the workday a notice that includes, among other information, to whom injuries should be reported, the rights of an employee to select and change a treating physician, and certain employee protections against discrimination. Existing law requires the administrative director to make the form and content of this notice available to self-insured employers and insurers.

This bill requires the notice to include information concerning an injured employee's ability to consult a licensed attorney to advise them of their rights under workers' compensations laws, as specified. The bill also makes technical, nonsubstantive changes to these provisions.

AB 2337, Assemblyperson Dixon.

Workers' compensation: electronic signatures.

Adds Sections 110.5 and 3206.5 to the Labor Code, relating to workers' compensation.

Status: Enrolled on September 13, 2024 and chaptered on September 22, 2024.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB2337

Existing law, the Uniform Electronic Transactions Act, applies to certain electronic transactions and provides that a record or signature may not be denied legal effect or enforceability solely because it is in

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electronic form. The act provides that if a law requires a record to be in writing, or if a law requires a signature, an electronic record satisfies the law.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of the employee's employment. Existing law establishes a Workers' Compensation Appeals Board and sets forth various proceedings that are required to be brought forth before the board. Existing law provides that the appeals board is vested with full power, authority, and jurisdiction to try and determine finally all the matters specified in those proceedings subject only to the review by the courts, as specified.

For purposes of the workers' compensation system, this bill allows documents that require a signature to be filed with an "electronic signature," defined as an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record, where the electronic signature is attributable to the person, as specified, subject to specified restrictions or requirements.

AB 2754, Assemblyperson Rendon.

Employment contracts and agreements: sufficient funds: liability.

Amends Sections 2810 and 2810.4 of the Labor Code, relating to employment.

Status: Enrolled on September 9, 2024, and chaptered on September 27, 2024.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2754

(1) Existing law prohibits a person or entity from entering into a contract or agreement for labor or services with specified types of contractors if the person or entity knows or should know that the contract or agreement does not include funds sufficient to allow the contractor to comply with all applicable local, state, and federal laws or regulations governing the labor or services to be provided. Existing law creates a rebuttable presumption affecting the burden of proof that there has been no violation of the above-described prohibition if the contract meets specified requirements, including being in a single document and containing a list of the current local, state, and federal contractor license identification numbers that the independent contractors are required to have under local, state, or federal laws and regulations.

This bill applies these provisions to port drayage motor carriers, except as specified. The bill includes in the requirements for the rebuttable presumption described above that the contract include a list of the current local, state, and federal motor carrier authority or registration and a copy of any agreement executed by an independent contractor identified pursuant to the provisions described above. The bill defines port drayage motor carriers for these purposes.

(2) Existing law requires the Division of Labor Standards Enforcement to post on its internet web page information on port drayage motor carriers with unsatisfied final court judgments, tax assessments, or tax liens relating to, among other things, the misclassification of employees as independent contractors with regard to a port drayage commercial driver. Existing law also requires the division to post on its internet web page a list of port drayage motor carriers that are prior offenders with a subsequent judgment finding that the port drayage motor carrier has violated a labor or employment law, among other information. Existing law requires a customer that, as part of its business, engages or uses a port drayage motor carrier that is on the list established by the division to share with the motor carrier or the motor carrier's successor all civil legal responsibility and civil liability owed to a port drayage driver or to the state for port drayage services obtained after the date the motor carrier appeared on the list.

This bill, on and after January 1, 2025, and except under specified circumstances, also requires a customer that, as part of its business, engages or uses a port drayage motor carrier to share with the motor carrier or their successor all civil legal responsibility and civil liability owed to a port drayage driver or the state arising out of the motor carrier's misclassification of the driver as an independent contractor, regardless of whether or not the port drayage motor carrier is on the division's list.

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SB 1455, Senator Ashby.

Contractors: licensing.

Amends Sections 7000.5, 7011, 7025, 7040, 7059, 7065, 7068.1, 7071.9, 7076, 7076.2, and 7137 of, to amend and repeal Section 7125 of, and to add Sections 7025.1 and 7125.7 to, the Business and Professions Code, relating to professions and vocations, and making an appropriation therefore.

Status: Enrolled on September 10, 2024, and chaptered on September 22, 2024.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB1455

This bill has nine (9) areas of interest, of which one – here numbered seven (7) - applies to workers' compensation.

(7) Existing law, until January 1, 2026, with certain exceptions, requires every licensed contractor, or applicant for licensure, to have on file at all times with the board a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, or to file a certificate of exemption certifying that they have no employees and are not required to provide for workers' compensation insurance coverage under state law. Under existing law, the failure to file the proper certification, as described, constitutes cause for disciplinary action, and the failure of a qualifier for a license to ensure compliance with these provisions, as specified, is a crime. Existing law, until January 1, 2026, requires the removal of specified license classifications if certification provisions are not met and requires suspension of any license that is active and has had specified classifications removed, if the licensee is found by the registrar of contractors to have employees and to lack proper certification.

This bill extends the effective date of those provisions until January 1, 2028.

Workers' Compensation Regulations

The regulatory activities of DWC to implement the provisions of the 2012 WC reform legislation can be found online. Formal rulemaking is often preceded by the release of a draft rule and the opening of an online forum for interested parties to post comments. Older regulations can be found on DWC rulemaking page at:

https://www.dir.ca.gov/dwc/Laws_Regulations.htm

Information on preliminary rulemaking activities is available at:

<http://www.dir.ca.gov/Wcjudicial.htm>

The latest formal rulemaking updates are available at:

www.dir.ca.gov/DWC/dwcrulemaking.html

DWC Approved Regulations 2023 are available at:

<https://www.dir.ca.gov/dwc/rulemaking/DWCRulemaking2023.html>

DWC Proposed Regulations 2024 are available at:

http://www.dir.ca.gov/dwc/rulemaking/dwc_rulemaking_proposed.html

DWC Approved Regulations 2024 are available at:

https://www.dir.ca.gov/dwc/rulemaking/dwc_rulemaking_approved.html

Information on WCAB preliminary rulemaking activities:

<https://www.dir.ca.gov/wcab/wcabforums.htm>

Regulations in Title 8 of the California Code of Regulations (CCR) are at:

<https://www.dir.ca.gov/samples/search/querydwc.htm>

SPECIAL REPORT: 2024 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND
WORKERS' COMPENSATION

Administration of Self-Insurance Plans Regulations

Any regulatory activities of the Office of Self-Insurance Plans (OSIP) are discussed on the pages listed below.

Proposed OSIP regulations, if any, are at:

https://www.dir.ca.gov/osip/rulemaking/osip_rulemaking_proposed.html

Approved OSIP regulations, if any, are at:

http://www.dir.ca.gov/osip/rulemaking/osip_rulemaking_approved.html

Regulations in Title 8 of the California Code of Regulations (CCR) are at:

<https://www.dir.ca.gov/samples/search/querysip.htm>

SYSTEM COSTS AND BENEFITS

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SYSTEM COSTS AND BENEFITS

This section contains estimated California Workers' Compensation (WC) costs for 2023. Most of the information reflected in this report is through December 31, 2023 and it represents the last year when all claims directly arising from COVID-19 diagnosis were excluded from computation of an employer's experience modification and therefore WC' premium rates. This exclusion was a special rule adopted by the Insurance Commissioner (IC) in an effort to protect employers from being penalized with higher premium rates due to COVID-19. In 2023, both the federally declared public health emergency and California-declared state of emergency regarding COVID-19 ended, and the special California WC COVID-19 presumption of compensability statutes were also terminated.⁵⁰ The Workers' Compensation Insurance Rating Bureau (WCIRB) proposed to treat COVID-19 claims as other work-related injuries and illnesses for purposes of experience rating going forward. The WCIRB's amendments clarify that only those COVID-19 claims with an accident date between December 1, 2019 and August 31, 2024 are excluded from experience rating. Consequently, COVID-19 claims occurring on or after September 1, 2024 would be taken into consideration for the purposes of estimating the WC costs in California.⁵¹ The impact of COVID-19 claims was significantly smaller in accident year 2023 compared to prior years due to the declining proportion of indemnity claims caused by COVID-19 and the relatively low severity of COVID-19 indemnity claims relative to all indemnity claims observed in accident year 2023. The cost of COVID-19 claims declined significantly as a share of WC incurred costs⁵² from 5.7 percent in 2020 to 0.2 percent in 2023. The COVID-19 share of paid losses for Accident Year 2023 was negligible (0.01percent).⁵³

Despite the decreasing losses from COVID-19 claims, the new COVID-19 variants, including those capable of infecting or reinfecting people who have been vaccinated or have previously had COVID-19, will continue to occur.⁵⁴ The unpredictability of the new variants' potential for transmission, infection, severity, hospitalizations, and deaths will continue to pose risks to economic activity, employment, and administration of the WC system. COVID-19 remains an established and ongoing health issue that can result in additional and prolonged medical treatment, especially in the case of long COVID-19 (Long-COVID). According to WCIRB, the long-COVID symptoms are more persistent for hospital claims. The share of hospital claims in COVID-19 claims with medical payments (including hospital care without ICU care, hospital care with ICU care, and death claims) was 8.3 percent in Accident Year (AY) 2021 and 2.4 percent in AY 2022. Among all COVID-19 claims, 20 percent of hospital claims continued to involve medical care for long-COVID symptoms after about 1 year of post-acute care and 8 percent of hospital claims - after 27 months of post acute-care. Long-COVID PD claims averaged \$79,828 compared with \$31,230 for COVID-19 claims, and long-COVID TD claims averaged \$19,694 compared with \$3,711 for COVID-19 claims. Long-COVID claims were also more likely to involve litigation and have higher allocated loss adjustment expense (ALAE) payments.⁵⁵

⁵⁰ <https://www.gov.ca.gov/wp-content/uploads/2023/02/COVID-SOE-Termination-Proclamation-2.28.23.pdf?emrc=1db54f>.

⁵¹ WCIRB September 1, 2024 Regulatory Filing, <https://www.wcirb.com/filings-and-plans/regulatory-and-pure-premium-rate-filings>.

⁵² Incurred Losses are defined by WCIRB as the total of the paid indemnity and medical losses (claim amounts already paid) plus the future reserves (claim amounts expected to be paid in the future).

⁵³ September 1, 2024 PPR Filing (WCIRB Executive Summary), Slide 17, https://www.wcirb.com/sites/default/files/2024-06/20240901_ppr_hearing_presentation.pdf.

⁵⁴ CDC, Variants of the Virus, <https://www.cdc.gov/coronavirus/2019-ncov/variants/index.html>.

⁵⁵ Long COVID in the California Workers' Compensation System – 2024 update, <https://www.wcirb.com/wcirb-document/long-covid-california-workers%E2%80%99-compensation-system-2024-update>.

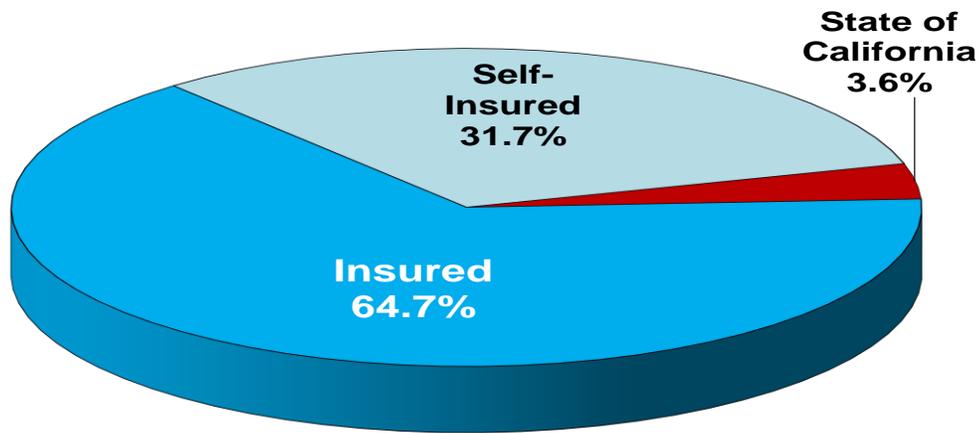
SYSTEM COSTS AND BENEFITS

The California WC system covers an estimated 16,723,000 employees⁵⁶ working for over 1,138,330 employers⁵⁷ in the state. These employees and employers generated a gross domestic product of \$3.87 trillion in 2023.⁵⁸ A total of 680,152 occupational injuries and illnesses were reported for 2023,⁵⁹ ranging from minor medical treatment cases to catastrophic injuries and deaths. The total paid cost to employers for WC in 2023 was an estimated \$22.4 billion. (see [Tables 4 and 5](#) in the box “Systemwide Cost: Paid Dollars for 2023 Calendar Year” on page 43.)

Employers range from small businesses with one or two employees to multinational corporations doing business in the state and the state government itself. Every employer in California must secure its liability for payment of compensation, either by obtaining insurance from an insurer licensed by the Department of Insurance (CDI) or by obtaining a certificate of consent to self-insure from the Department of Industrial Relations (DIR). The only lawful exception is the state, which is legally uninsured.

According to Figure 1, based on the claim counts reported to the Workers’ Compensation Information System (WCIS), 64.7 percent of injuries occur to employees of insured employers, 31.7 percent of injuries occur to employees of self-insured employers, and 3.6 percent of injuries occur to employees of the State of California.⁶⁰ (For calculations based on claim counts and paid loss data, see [Tables 1-3](#) in the box “Methods of Estimating the Workers’ Compensation System Size” on pages 41-42.)

Figure 1: Market Shares Based on Claim Counts Reported to WCIS (2021-2023 average)



Data Source: DWC - WCIS

⁵⁶ NASI Report: Workers’ Compensation: Benefits, Costs, and Coverage, 2022, November 2024.

<https://www.nasi.org/research/workers-compensation/workers-compensation-benefits-costs-and-coverage-2022-data/>.

⁵⁷ CHSWC estimates are based on an Employment Development Department report, as above, showing 1,811,844 businesses in 2023. Of these, 1,347,029 were businesses with 0 to 4 employees. For this estimate, half of those businesses are assumed to have no employees subject to workers’ compensation. $1,811,844 - (1,347,029 / 2) = 1,138,330$.

<https://labormarketinfo.edd.ca.gov/LMID/Size-Data-for-CA-Quarterly.html>.

⁵⁸ US Bureau of Economic Analysis, <https://apps.bea.gov/itable/iTable.cfm?ReqID=70&step=1&acrdrn=1>.

⁵⁹ The latest year for which WCIS reports are reasonably complete. Data are from the DWC report from the WCIS database, FROI and SROI Data Summary, by Year of Injury,” data as of May 22, 2024. Due to delayed reporting, the number of claims reported to WCIS for a given year may grow by more than 5 percent between the second and the fourth years after the end of the accident year. Boden, Leslie I. and Al Ozonoff, “Reporting Workers’ Compensation Injuries in California: How Many are Missed?” (2008), CHSWC Report.

⁶⁰ WCIS, Table 4, “Workers’ Compensation Claims by Market Share,” data run as of May 22, 2024,

https://www.dir.ca.gov/dwc/wcis/WCIS_tables/Table-4/WCIS_Reports-Table-4.html.

SYSTEM COSTS AND BENEFITS

Methods of Estimating the Workers' Compensation System Size

The overall system size for 2023 is estimated at 1.55 times the insured sector size. This multiplier is based on claims counts in the Workers' Compensation Information System (WCIS).¹ CHSWC is using a three-year moving average of WCIS claim counts because it blunts the effect of one-time aberrations. (See the market shares for 2023 in Table 1). The annually revised estimate of the multiplier is based on updated claims data provided by WCIS as well as updated paid loss amounts from the Workers' Compensation Insurance Rating Bureau (WCIRB), the Office of Self-Insurance Plans (OSIP), and the California Department of Human Resources (CDHR) in order to examine and substantiate its accuracy.

Claim Counts-Based Method

The number of claims for all sectors increased by 8.4 percent from 627,718 claims in 2013 to 680,152 claims in 2023. The market share of the insured sector ranged from a three-year moving average of 65.0 in 2020-2022 to 67.7 percent in 2018-2020. The market share of the self-insured sector was between an average of 28.9 percent in 2018-2020 to 31.5 percent in 2013-2015. The three-year moving average share of the State of California in the same period from 2013 to 2023, ranged from its minimum of 2.7 percent in 2017-2019 to the average of 3.8 percent in 2020-2022. In 2023, the three-year average market shares based on claims counts were 64.7 percent insured, 31.7 percent self-insured, and 3.6 percent state. Using these values, a multiplier for extending the insured sector information to the overall system can be calculated as $100\%/64.7\% = 1.546$ or 1.55, a .01 percentage points higher than it was in 2022.

Table 1: Number of Workers' Compensation Claims (in 000s) by Market Share

Year	Insured		Self-Insured		State of California	
	Number	Market Share	Number	Market Share	Number	Market Share
2021	466.0	65.4%	220.6	31.0%	25.6	3.6%
2022	487.2	63.4%	248.7	32.4%	32.3	4.2%
2023	444.2	65.3%	215.2	31.6	20.7	3.1%
Average for 3 years		64.7%		31.7%		3.6%

Source: WCIS.

¹ WCIS Database as of May 22, 2024.

(continued on the next page)

SYSTEM COSTS AND BENEFITS

(continued)

Methods of Estimating the Workers' Compensation System Size

Based on the convergence of market share measurements from two independent methods, the data demonstrated that the insured market share used to be 66-68 percent of the WC system in the pre-pandemic economic cycles without the effect of one-time aberrations and disruptions like COVID-19 that caused sharp downturns in the economy as the result of stay-at-home orders and closures or acute worker shortages during the pandemic and outbreaks. Similarly, depending on the method of measurement, the self-insured sector comprised 29-31 percent and the state sector was 3 or 4 percent.

Paid Loss Method

Paid loss data indicate that 62.3 percent of the market in 2023 was insured, 32.9 percent was self-insured, and 4.8 percent was the state. This was the fourth consecutive year since 2010 when the market share of insured sector was 2-4 percentage points below the average range of 66-68 percent of WC market for the sector, as shown in Tables 2 and 3. While statewide unemployment soared during the pandemic, workers of many large, private self-insured employers were less impacted than the insured work force by furloughs, layoffs, and remote work. In a normal economic cycle, these percentages would be similar when using 2023 data for the insured and private self-insured sectors and either 2022-2023 or 2023-2024 data for the State and public self-insured sector. The multiplier for extending insured sector information to the overall system can be calculated as $100\%/62.3\% = 1.605$ (is 0.059 higher than estimated 1.546 based on a three-year (2021-2023) moving average of claim counts in order to blunt the effect of one-time aberrations (see Table 1).

Table 2: Percent Distribution of Workers' Compensation Paid Costs by Sectors (excluding Administrative Expenses) using public self-insured and state data for FY 2023-2024

	Indemnity	Medical	Subtotal	% in Total
a. Private Self-Insured ¹ (2023)	\$776,543,480	\$787,836,356		
b. Public Self-Insured ² (2023/2024)	\$1,800,428,899	\$1,350,732,896		
SELF-INSURANCE PLAN (a + b)	\$2,576,972,379	\$2,138,569,252	\$4,715,541,631	32.9%
INSURED (2023)³	\$4,228,789,000	\$4,711,657,000	\$8,940,446,000	62.3%
STATE (2023/2024)⁴	\$319,786,870	\$366,804,160	\$686,591,030	4.8%
Total			\$14,342,578,661	

Table 3: Percent Distribution of Workers' Compensation Paid Costs by Sectors (excluding Administrative Expenses) using public self-insured and state data for FY 2022-2023

	Indemnity	Medical	Subtotal	% in Total
a. Private Self-Insured ¹ (2022)	\$721,637,985	\$732,184,837		
b. Public Self-Insured ² (2022/2023)	\$1,729,057,533	\$1,216,082,371		
SELF-INSURANCE PLAN (a + b)	\$2,450,695,518	\$1,948,267,208	\$4,398,962,726	32.7%
INSURED (2022)³	\$3,975,135,000	\$4,412,681,000	\$8,387,816,000	62.3%
STATE (2022/2023)⁴	\$308,279,275	\$370,094,428	\$678,373,703	5.0%
Total			\$13,465,152,429	

¹ Private Statewide Summary, <http://www.dir.ca.gov/osip/StatewideTotals.html>.

² Public Statewide Summary, <http://www.dir.ca.gov/osip/StatewideTotals.html>.

³ WCIRB, 2023 Losses and Expenses Report, Exhibit 12.1, released June 27, 2024.

https://www.wcirb.com/sites/default/files/2024-06/2023_ca_wc_losses_and_expenses_report_1.pdf.

⁴ Cost Information was provided by the CalHR Benefits Division in December 2024.

SYSTEM COSTS AND BENEFITS

Workers' compensation is generally a no-fault system that provides statutory benefits for occupational injuries or illnesses. Benefits consist of medical treatment, temporary disability (TD) payments, permanent disability (PD) payments, return-to-work assistance, and death benefits. The overall amounts paid in each of these categories systemwide are shown in Tables 4 and 5. These figures are based on insurer-paid amounts multiplied by 1.55 to include estimated amounts paid by self-insured employers and the State.

Systemwide Cost: Paid Dollars for 2023 Calendar Year

Table 4: A Claim Counts-Based Estimate of Workers' Compensation System Size (Million \$)

	Insured	Self-Insured and the State	All Employers
Indemnity*	\$4,229**	\$2,326	\$6,555
Medical*	\$4,712	\$2,592	\$7,304
Changes to Total Reserves	-\$351	-\$193	-\$544
Insurer Pre-Tax Underwriting Profit/Loss and Insurer Policyholder Dividends	\$1,345	N/A	\$1,345
Expenses (see Table 5 below: Breakdown of Expenses)	\$5,797	\$1,938	\$7,735
TOTAL for 2023*	\$15,732	\$6,663	\$22,395

* Include CIGA payments totaling \$65 million in 2023.

** Include \$41 million in indemnity payments made in 2023 for COVID-19 claims.

Note: The totals may not add up due to rounding.

Source for Insured sector figures in Tables 4 and 5 is WCIRB Losses and Expenses report released on June 27, 2024. Self-insured and state expenses are calculated by CHSWC using 0.55 multiplier for equivalent cost components. The equivalent expense components are estimated as in Table 5.

Table 5: Breakdown of Expenses (Million \$)

	<i>Insured</i>	<i>Self-Insured and State</i>	<i>All Employers</i>
<i>Loss Adjustment Expense</i>	\$2,464	\$1,355	\$3,819
<i>Commissions and Brokerage</i>	\$1,362	N/A	\$1,362
<i>Other Acquisition Expenses</i>	\$564	N/A	\$564
<i>General Expenses</i>	\$1,059	\$582	\$1,641
<i>Premium and Other Taxes</i>	\$347	N/A	\$347
Total	\$5,796	\$1,938	\$7,735

Estimate of Workers' Compensation System Size Based on Written Premium

Another way to calculate systemwide costs for employers is by using written premium.

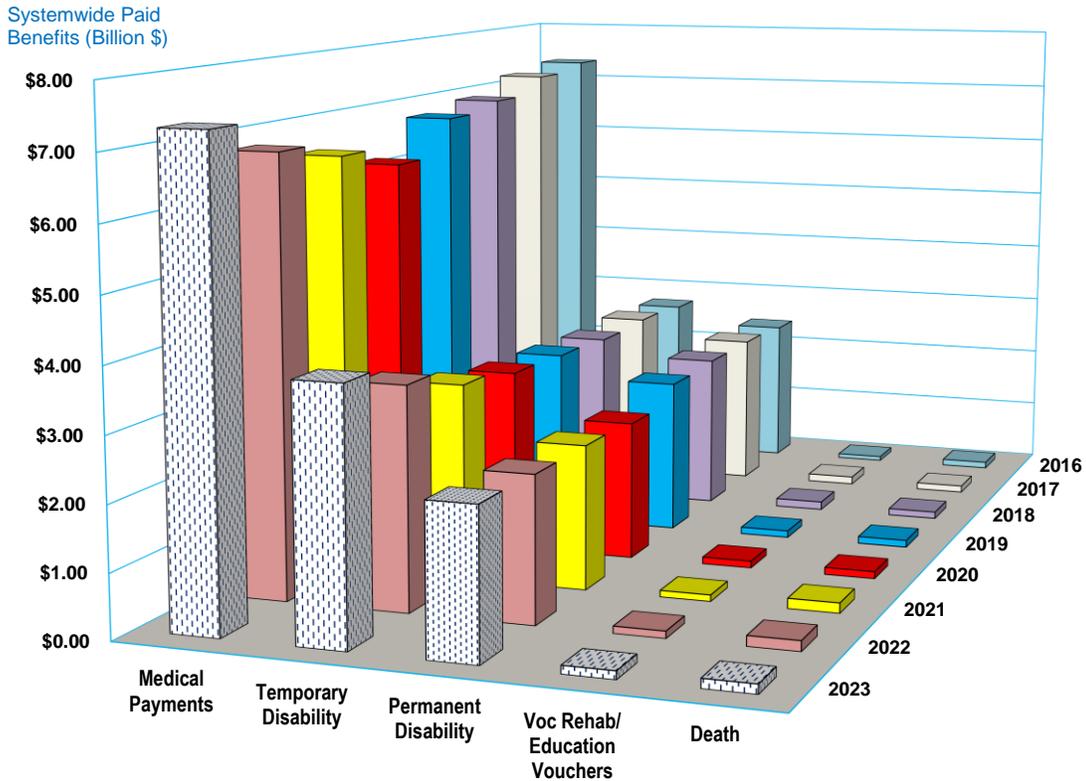
Written premium for insured employers = \$15.9 billion in calendar year 2023.⁶¹

$$\$15.9 \text{ billion} \times 1.55 = \$24.6 \text{ billion systemwide costs for employers.}$$

⁶¹ WCIRB Quarterly Experience Report as of December 31, 2023, Chart 1. <https://www.wcirb.com/sites/default/files/2024-05/quarterlyexperiencereport-2023q4.pdf>.

SYSTEM COSTS AND BENEFITS

Figure 2: Systemwide* Paid Benefits, by Year and Type of Payment (\$ in billions)



* Systemwide amounts for CY 2023 estimated at 1.55 times the amounts reported by insurers

Data Source: WCIRB

WCIS COVID-19 claim counts and characteristics ⁶²

Whereas the WCIRB’s COVID-19 claims data, as described in the previous subsection, are collected from the WC-insured sector exclusively, DWC’s WC Information System (WCIS) collects the data from the private WC-insured employers, the State of California, and private and public self-insured employers.⁶³ The data for this section was provided by DWC-WCIS based on reports ran on December 18, 2024. The figures cover 60 months or 20 quarters from January 2020 to December 2024.

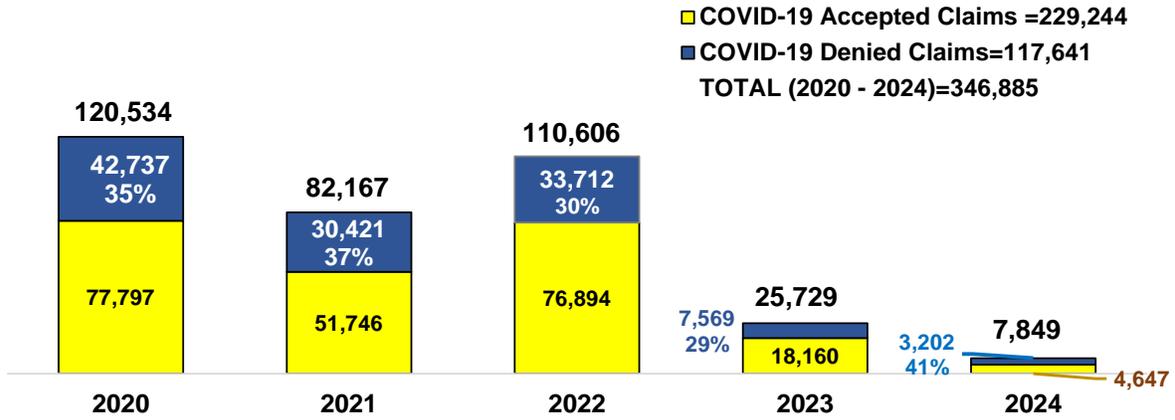
In 5 years from January 2020 through December 2024, about 346.9 thousand claims were filed for COVID-19 disease in California. Figure 3 shows the yearly numbers of accepted (compensable) and denied COVID-19 claims in 2020 through 2024. On average, almost one-third or 32 percent of all COVID-19 claims filed from January 2020 to December 2023 were denied. According to the preliminary 2024 data, about 41 percent of COVID-19 claims filed in 2024 were denied. The share of denied COVID-19 claims decreased from 37 percent in 2021 to 30 percent in 2022 and to 29 percent in 2023.

⁶² Although as of February 3, 2025, most of the COVID-19 Prevention Non-Emergency Standards have ended, COVID-19 reporting and recordkeeping requirements (Title 8 Subsection 3205(j)) remain in effect until February 3, 2026. See <https://www.dir.ca.gov/dosh/coronavirus/>

⁶³ WCIS definitions of WC market sectors, https://www.dir.ca.gov/dwc/wcis/WCIS_tables/Table-4/WCIS_Reports-Table-4.html.

SYSTEM COSTS AND BENEFITS

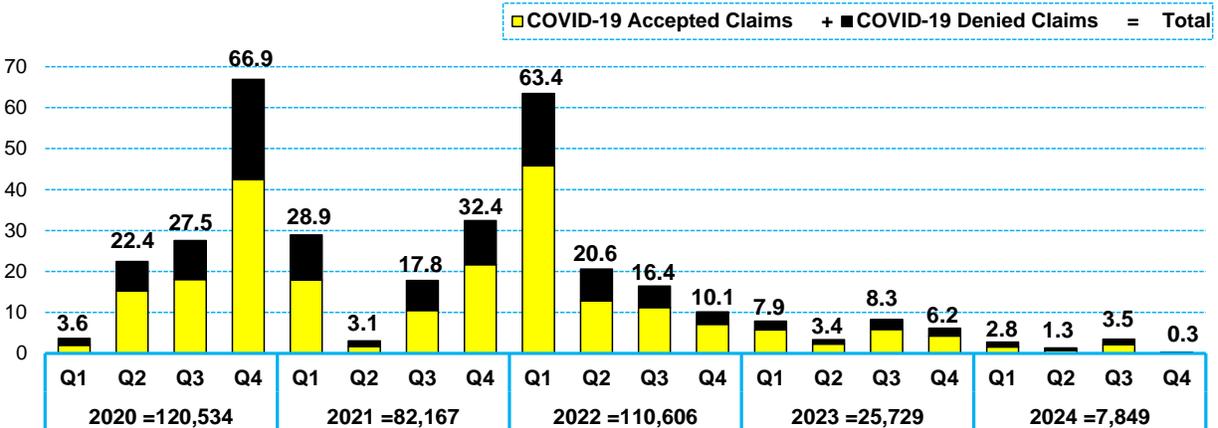
Figure 3: Total Number of Compensable and Denied COVID-19 Claims



Data Source: DWC - WCIS FROI

Figure 4 shows the number of COVID-19 WC claims filed quarterly, including accepted or denied claims from January 2020 to December 2024. At the peaks of pandemic, the COVID-19 claims filed in Quarter 4 of 2020 accounted for 19 percent and those filed in Quarter 1 of 2022 accounted for 18 percent of all COVID-19 claims filed during the entire 20-quarters or 5-years period.

Figure 4: Quarterly Numbers of Compensable and Denied COVID-19 Claims (Thousand)



Data Source: DWC-WCIS FROI

The COVID-19 pandemic presents unique conditions, in which many jobs that had not been typically considered hazardous suddenly became dangerous, and the mandatory rules of claim denials were changed by the State of California. Workers at a high risk of exposure to the virus while at work received WC insurance coverage due to efforts by Governor Newsom and his administration that started as Executive Order N-62-20 and culminated in SB 1159 on September 17, 2020 and AB 1751 on September 29, 2022. Figure 5 compares the monthly denial rates of COVID-19 cases to denials in all WC claims filed from January 2020 to August 2024 after which the COVID-19 claims have not been fully reported to WCIS to be considered complete and accurate enough for estimating rates. The average yearly denial rate for COVID-19 cases was 38-40 percent in 2020 and 2021 or about twice as high as the average yearly denial rate of 17-19 percent for all WC cases in 2020 and 2021. The average yearly denial rate for COVID-19

SYSTEM COSTS AND BENEFITS

cases decreased to 34 percent in 2022 and to 30 percent in 2023. For 8 months of 2024⁶⁴, the average denial rate increased to 44 percent of COVID-19 claims filed in that period.

Figure 5: Monthly Percent of Denials in All and COVID-19 Workers' Compensation Claims

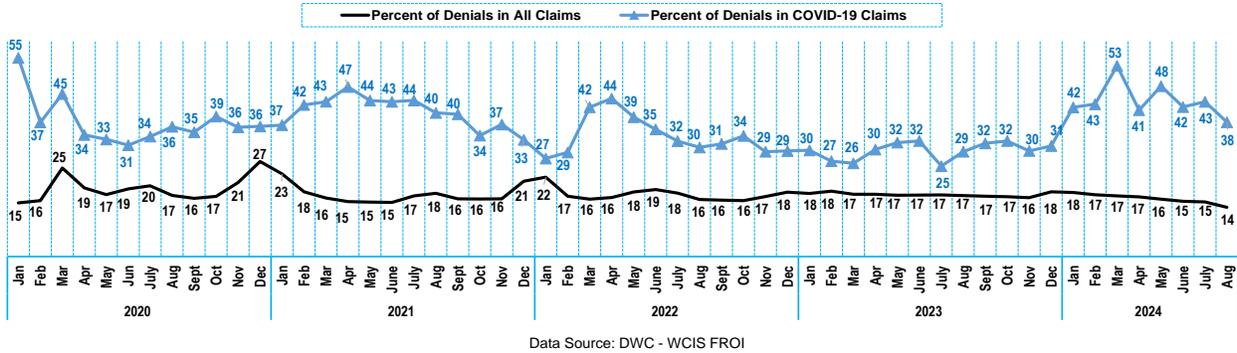
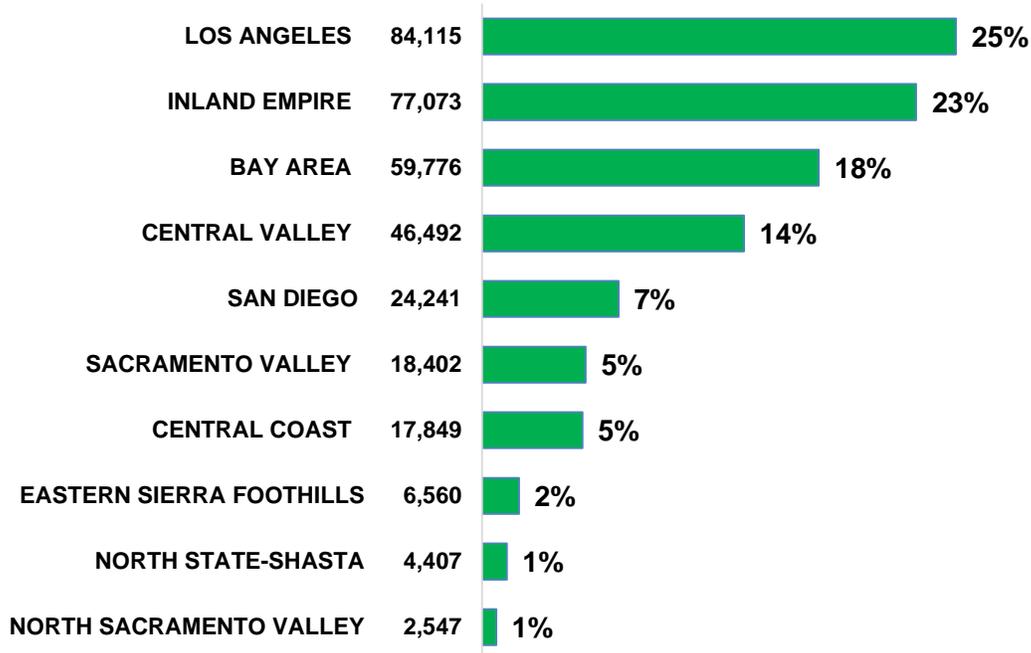


Figure 6 shows that from January 2020 to December 2024, Los Angeles (25 percent) and the Inland Empire (23 percent) regions together accounted for 48 percent of California's COVID-19 WC claims, followed by the Bay Area (18 percent), the Central Valley (14 percent), San Diego (7 percent), and the more rural Central Coast (5 percent) and the Sacramento Valley (5 percent). The Eastern Sierra Foothills, North State-Shasta, and the North Sacramento Valley regions, comprised of several counties with a small number of claims, together accounted for 4 percent of the COVID-19 WC claims filed during the same period.

Figure 6: Number and Distribution of COVID-19 Claims Filed by California Regions from January 2020 to December 2024



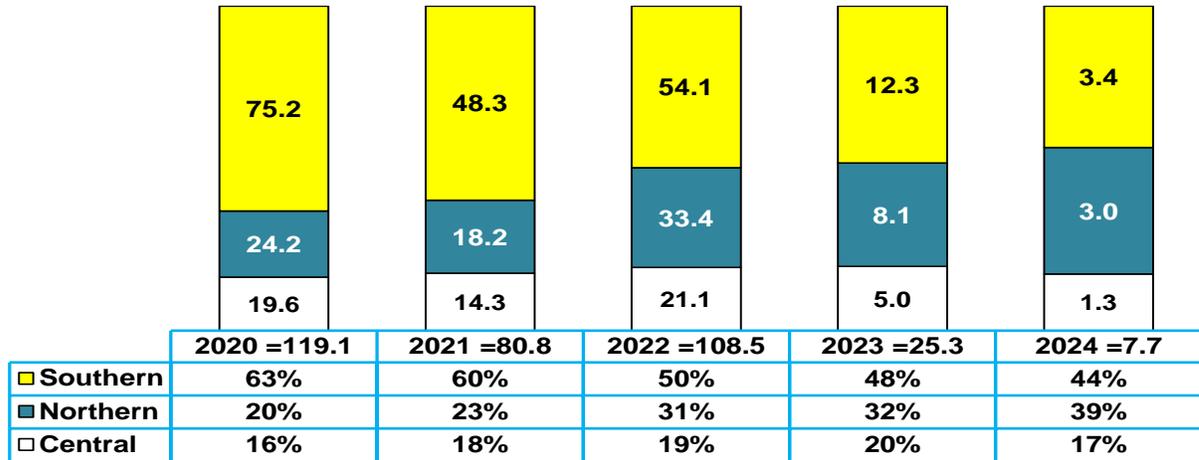
Data Source: DWC - WCIS FROI

⁶⁴ Data for September-December of 2024 were not complete for estimating the denial rate for COVID-19 claims in that period.

SYSTEM COSTS AND BENEFITS

In 5 years from 2020 through 2024, about 346.9 thousand claims were filed for COVID-19 disease in California, with 56.6 percent of those originating from Southern region and 25.4 percent and 18.0 percent filed in Northern and Central regions respectively. Figure 7 shows the yearly numbers and percent distribution of COVID-19 WC claims by three major California regions from 2020 to 2024. The biggest filer of COVID-19 claims was the Southern region that includes Los Angeles and San Diego, with its share of COVID-19 claims decreasing by 19 percentage points from 63 percent in 2020 to 44 percent in 2024 as the total number of COVID-19 claims was decreasing sharply from 2022 to 2024. The share of the Northern region that include the Bay Area, increased by 19 percentage points from 20 percent in 2020 to 39 percent in 2024, while Central region averaged 18 percent of COVID-19 claims yearly from 2020 to 2024.

Figure 7: Numbers (Thousand) and Percent Distribution of COVID-19 Claims by Three Major California Regions

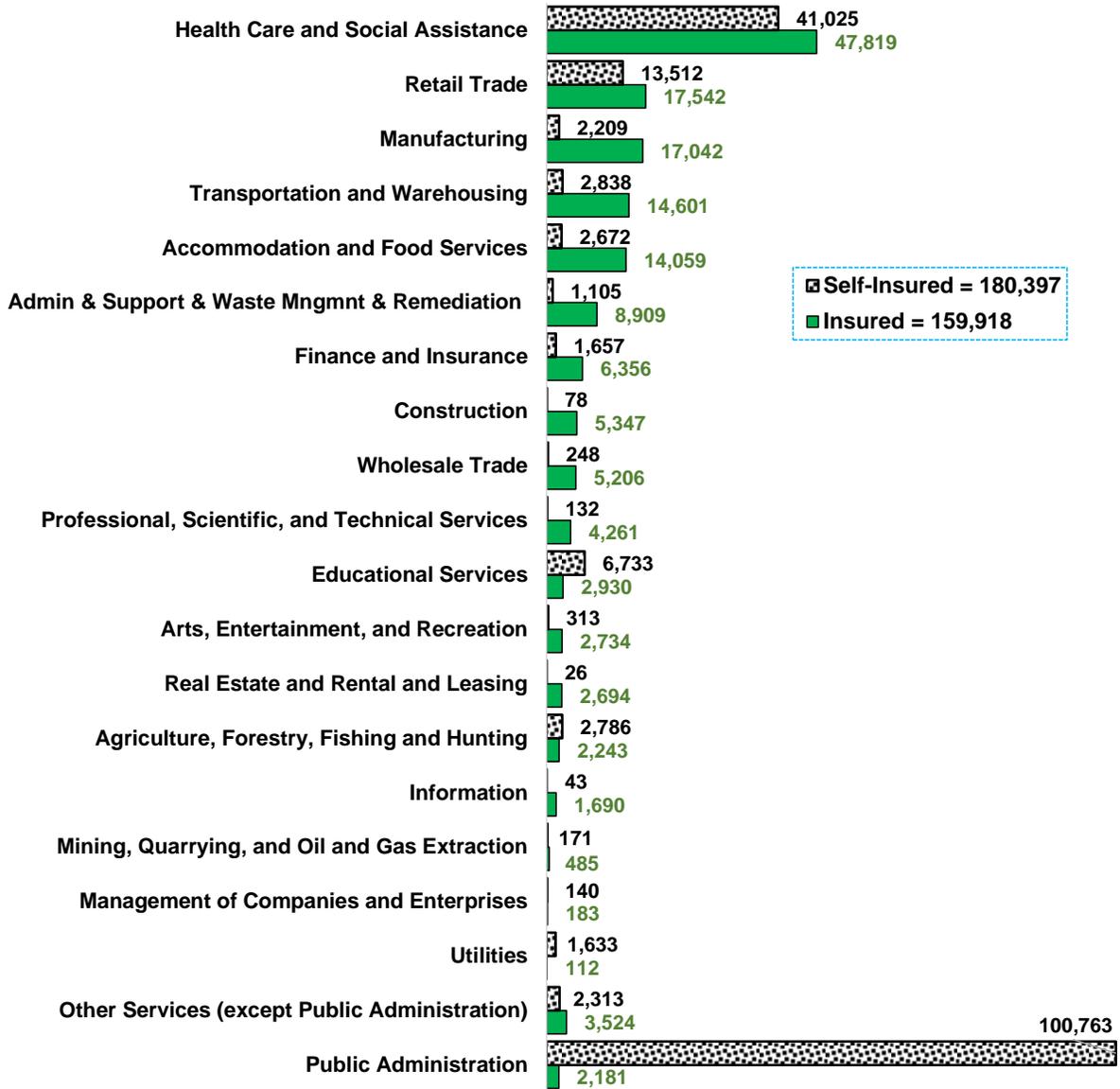


Data Source: DWC-WCIS FROI

Figure 8 shows the total number of COVID-19 claims filed by insured and self-insured employers by industry from January 2020 to December 2024. The five insured industries that filed the most COVID-19 claims were health care and social assistance, retail trade, manufacturing, transportation and warehousing, and accommodation and food services. The five self-insured industries accounting for the most COVID-19 claims were public administration, health care and social assistance, retail trade, educational services, and transportation and warehousing. The public administration sector accounted for 56 percent of COVID-19 claims filed in self-insured sector and 30 percent of all COVID-19 claims filed in a 5-years period. In general, the state and local government establishments in the public administration sector oversee governmental programs and activities that are not performed by private establishments. These agencies provide public safety, adjudicate civil and criminal legal cases, set policy, and create laws.

SYSTEM COSTS AND BENEFITS

Figure 8: Total Number of COVID-19 Claims in Insured and Self-Insured Sectors by Industry (January 2020 – December 2024)

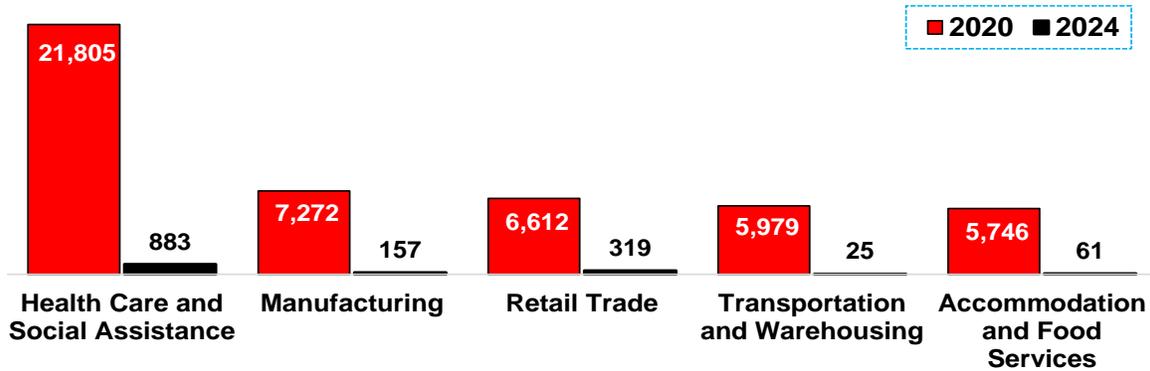


Source: DWC - WCIS

Figure 9 shows the change in the number of COVID-19 claims in the top 5 industries of the WC insured sector. The number of COVID-19 claims in insured sector decreased 239 times from 2020 to 2024 in transportation and warehousing and 94 times in accommodation and food services. The decreases in these industries from 2020 to 2024, were followed by decreases in manufacturing (46 times), the health care and social assistance (25 times), and retail trade (21 times).

SYSTEM COSTS AND BENEFITS

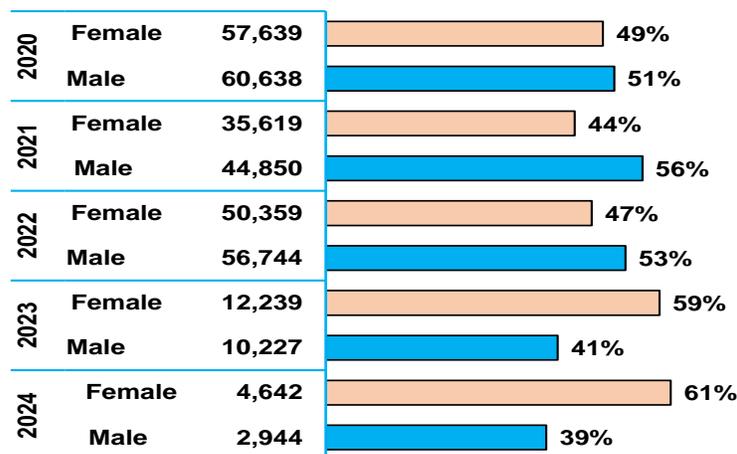
Figure 9: Change in the Number of COVID-19 Claims in Top Five Industries of the Insured Sector from 2020 to 2024



Source: DWC - WCIS

Figure 10 shows the gender of the COVID-19 WC claimants from January 2020 to December 2024. Almost half (49 percent) of all COVID-19 claims in the first year of the pandemic in 2020 were filed by women. This share was 10 percentage points higher than the average share (39-40 percent) of women in claims for all non-fatal work injuries in California (see Figure 134). Women made up a large share of the labor force on the front lines of the pandemic and in industries and occupations that have taken particularly large hits during the COVID-19 crisis. The share of women in COVID-19 WC claims started with a high of 55 percent to 60 percent in February- April of 2020, when the pandemic hit the industries hard that employ big numbers of female workers like healthcare, hotels, food, and retail industries, and then gradually went down to 47-48 percent by the end of 2020, averaging at 49 percent for the whole year. During the peaks of pandemic in November 2020-January 2021, 47 percent of COVID-19 claims were filed by women and 53 percent by men and in December 2021-January 2022, 46 percent of COVID-19 claims were filed by women and 54 percent by men. In 2021, 44 percent of COVID-19 WC claims were filed by women and 56 percent by men. There was a 3 percentage points increase from 2021 to 2022 in the share of COVID-19 claims filed by women. As the total number of COVID-19 claims fell significantly in 2023 and 2024 compared to the previous three years, the share of men in COVID-19 claims decreased from 49 percent in 2020 to 41 percent in 2023 and 39 percent in 2024.

Figure 10: Number and Distribution of COVID-19 Claims by Gender

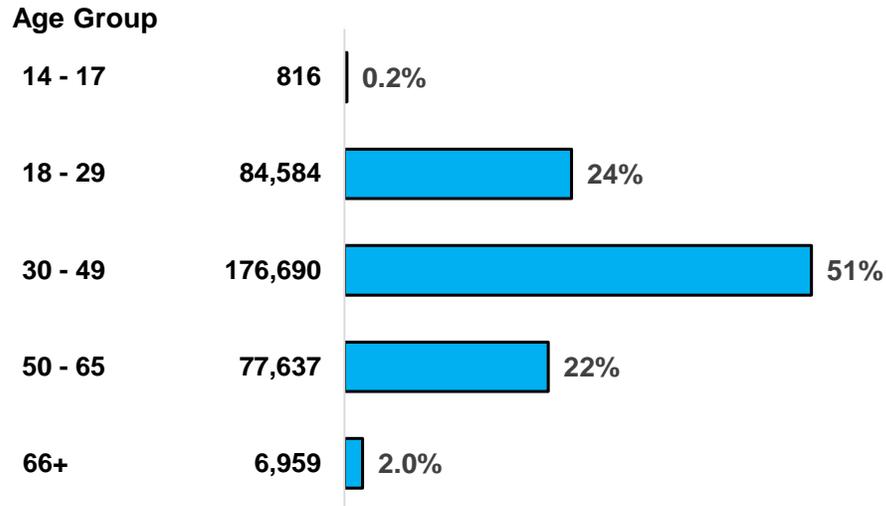


Data Source: DWC - WCIS FROI

SYSTEM COSTS AND BENEFITS

Figure 11 shows the total number and distribution of COVID-19 claims by age group from January 2020 to December 2024. The highest number of COVID-19 WC claims were filed by workers in the 30-to-49 age group, followed by the 18-to-29 and the 50-to-65 age groups.

Figure 11: Total Number and Distribution of COVID-19 Claims by Age Groups (January 2020-December 2024)



Data Source: DWC - WCIS FROI

2012-2016 Workers' Compensation Reforms: Changes in the California System

Since 2012, California made several significant reforms in the WC system that have been estimated to have saved \$3 billion annually.⁶⁵ The major reform bills are summarized as follows.⁶⁶

2012 Workers' Compensation Reforms: Senate Bill 863

One of the major reform efforts within the past several years was the enactment of Senate Bill 863 in September 2012. The goal of the reform was to improve benefits for injured workers while reducing costs. SB 863 generally makes changes in: the measurement of permanent disability; the compensation for permanent disability; the physician fee schedule; the process to resolve disputes over appropriate medical treatment, medical fees, billing and collections; the means of ensuring self-insurance program solvency and the methods of securing the payment of compensation by self-insurance; and other aspects of the WC system.

Many of the provisions of SB 863 were supported by CHSWC research and recommendations. For a summary of the key provisions of the reforms, see the "Special Report: 2012 Workers' Compensation Reforms" in the 2012 CHSWC Annual Report. For a summary of earlier reforms, see the "System Costs and Benefits Overview" section in the 2011 CHSWC Annual Report.

The WCIRB's estimates in its retrospective evaluation update of SB 863 indicate total annual statewide savings of \$2.3 billion per year, an increase of \$2.1 billion over the previous projected prospective estimates

⁶⁵ https://www.wcirb.com/sites/default/files/documents/2019_state_of_the_system_report.pdf.

⁶⁶ Information on other legislation related to WC is in CHSWC legislative reports at: <https://www.dir.ca.gov/chswc/AnnualReportpage1.html>.

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of \$200 million.⁶⁷ SB 863 medical reforms have resulted in over \$2 billion in annual savings.

Table 6 reproduced from WCIRB’s SB 863 Cost Monitoring Update⁶⁸, summarizes WCIRB’s estimates using various cost categories.

Table 6: WCIRB’s 2019 Evaluation of Senate Bill (SB) 863 Cost Impact

	Updated Cost Impact (in \$ million)	Updated Total % Impact on Losses and LAE
Indemnity Cost Components		
Changes to Weekly PD Min & Max	+\$650	+3.4%
SJDB Benefits	+\$40	+0.2%
Replacement of FEC Factor	+\$550	+2.9%
Elimination of PD Add-ons	(\$170)	-0.9%
Three-Tiered Weekly PD Benefits	(\$100)	-0.5%
Ogilvie Decision	(\$130)	-0.7%
Indirect Impact on Overall Indemnity Utilization	(\$220)	-1.2%
Med and LAE Cost Components		
Changes to Lien Filings	(\$480)	-2.5%
Spinal Implant Hardware Reimbursements	(\$110)	-0.6%
Changes to ASC Fees	(\$80)	-0.4%
IMR—Impact of Frictional Costs	+\$70	+0.4%
MPN Strengthening	(\$190)	-1.0%
IBR-Impact on Frictional Costs	\$0	0.0%
RBRVS Changes to Physician Fee Schedule	(\$330)	-1.7%
Indirect Impact on Overall Medical Utilization	(\$1,770)	-9.3%
TOTAL ESTIMATE—ALL ITEMS	(\$2,270)	-11.9%

Source: WCIRB

2015 Workers’ Compensation Reforms: Medical Treatment Utilization Schedule (MTUS) and the Drug Formulary (AB 1124)

AB 1124 required DWC’s Administrative Director to establish an evidence-based drug formulary and to update the formulary on at least a quarterly basis to allow for the provision of all appropriate medications, including those that are new to the market. The MTUS Drug Formulary has three essential parts: the ACOEM Treatment Guidelines which are the backbone of the formulary, the MTUS Drug List, which guides prospective review requirements, and the Ancillary Formulary Rules. The MTUS Drug List is not a standalone document and must be used in conjunction with the adopted American College of Occupational and Environmental Medicine (ACOEM) guidelines.⁶⁹ The formulary regulations went into effect January 1, 2018, and the actual impacts of implementing the drug formulary will be monitored. According to the WCIRB, the formulary is estimated over time to save about \$100 million per year and it has been a key factor in the 86 percent reduction in pharmaceutical costs per claim since 2012.⁷⁰

⁶⁷ Senate Bill No. 863 WCIRB Cost Monitoring Report—2016 Retrospective Evaluation
http://www.wcirb.com/sites/default/files/documents/sb_863_cost_monitoring_report_2016.pdf.

⁶⁸ https://www.wcirb.com/sites/default/files/documents/research_brief_october_2019_sb_863_cost_monitoring_update.pdf.

⁶⁹ <https://www.dir.ca.gov/dwc/MTUS/MTUS-Webinar-Transcript-Nov2017.pdf>.

⁷⁰ https://www.wcirb.com/sites/default/files/documents/2018_state_of_the_system_report_0.pdf and https://www.wcirb.com/sites/default/files/documents/wcirb_2023_state_of_the_system.pdf

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2016 Workers' Compensation Reforms: Fortifying the Anti-Fraud Changes Regarding Liens (AB 1244 and SB 1160)

SB 863 made changes regarding liens filed against an injured workers' claim, for medical treatment and other services provided in connection with the claim, but not paid for by the employer or insurance carrier. In particular, a filing fee of \$150 was required for all liens filed after January 1, 2013, and a \$100 activation fee was required for liens filed before then, but activated for a conference or trial after January 1, 2013. There were also provisions for dismissal of liens by operation of law after January 1, 2014, if no filing or activation fee has been filed, as well as an 18-month statute of limitations for filing liens for services rendered after July 1, 2013, and a three-year statute of limitations for services provided before then.

After a delay because of court challenges to a related section of the law, the workers' compensation community, in particular, district attorneys' offices throughout California, especially in San Diego and Los Angeles, realized that suspicious medical bills were still being filed and paid as liens by providers who had ongoing adverse involvement with the criminal justice system and their practice. In 2016, AB 1244 (Gray)⁷¹ passed into law and required the Administrative Director of DWC to suspend any medical provider, physician, or practitioner from participating in the workers' compensation system in any capacity if the individual or entity meets specific criteria related to fraud. Those criteria include being convicted of a felony or misdemeanor: (1) involving fraud or abuse of the Medi-Cal, Medicare, or workers' compensation systems; (2) relating to patient care; (3) involving fraud or abuse of any patient; or (4) otherwise substantially related to the qualifications and duties of the provider. The medical provider could also be suspended if their license, certificate, or approval to provide health care has been surrendered or revoked, or that individual or entity is suspended from participation in the Medicare or Medicaid programs because of fraud or abuse. The bill enabled the barring of a medical provider from submitting or pursuing claims for payment for services or supplies provided, if that provider had been suspended from participation in the workers' compensation system. AB 1244 also made changes in Labor Code section 4906 related to the Attorney Fee Disclosure Statement, including requirements to ensure that the injured worker is informed of the specific district office location at which the injured worker's case will be filed.⁷²

Until the passage of SB 1160, fraudulent medical providers could claim no knowledge of billing fraud, citing errors by their office staff as the reason for the fraud. In 2016, SB 1160 (Mendoza)⁷³ required the medical provider to sign a declaration under penalty of perjury stating that the lien is not subject to independent medical review or independent billing review, and that the lien claimant is submitting a legitimate bill for services rendered. SB 1160 also added section 4615 to the Labor Code, which automatically stays any lien filed by or on behalf of a medical treatment provider who has been criminally charged with an offense involving fraud against the workers' compensation system, medical billing fraud, insurance fraud or fraud against the Medicare or Medi-Cal programs. SB 1160 also required all lien claimants to file an original bill with their lien. These lien reforms and SB 863 have contributed to savings of \$1.4 billion per year.⁷⁴

Leading up to these reforms, CHSWC helped to convene and co-chaired a series of working group roundtable meetings addressing fraud in the workers' compensation system with multiple stakeholders. Many of the recommendations for statutory improvements from these sessions were incorporated into the SB 1160 and AB 1244 anti-fraud reforms signed into law in September 2016.⁷⁵ According to the WCIRB, the anti-fraud reforms in addition to SB 863 provisions related to lien filings have been key contributing factors in the decrease in medical severity over the past several years.⁷⁶

⁷¹ http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1244.

⁷² <https://www.dir.ca.gov/dwc/SB1160-AB1244/AB1244.htm>.

⁷³ http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1160.

⁷⁴ https://www.wcirb.com/sites/default/files/documents/2019_state_of_the_system_report.pdf.

⁷⁵ https://www.dir.ca.gov/fraud_prevention/fraud-white-paper.pdf.

⁷⁶ WCIRB 2018 report on California's WC System

https://www.wcirb.com/sites/default/files/documents/2018_state_of_the_system_report_0.pdf.

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2016 Workers' Compensation Reforms: Utilization Review (SB 1160)⁷⁷

In addition to anti-fraud provisions regarding liens, SB 1160 also addressed utilization review (UR). SB 1160 reduces UR requirements in the first 30 days following a work-related injury. Commencing July 1, 2018, SB 1160 requires each UR process to be accredited by an independent, nonprofit organization to certify that the UR process meets specified criteria, including, but not limited to, timeliness in issuing a UR decision, the scope of medical material used in issuing a UR decision, and requiring a policy preventing financial incentives to doctors and other providers based on the UR decision. It also mandates electronic reporting of UR data by claims administrators to DWC, which will enable the division to monitor claim processes and address problems. On June 7, 2024 DWC issued notice of a public hearing for regulations to implement legislative changes under SB 1160 related to utilization review.⁷⁸

⁷⁷ <https://www.dir.ca.gov/dwc/SB1160-AB1244/SB1160.htm>;
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1160.

⁷⁸ <https://www.dir.ca.gov/dwc/DWCPropRegs/2024/Utilization-Review/Index.htm>.

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Costs of Workers' Compensation in California

Employers pay the cost of workers' compensation either by paying premiums for workers' compensation insurance or by self-insuring with the consent of DIR. Only the State of California can be legally uninsured as an employer. The cost to insured employers is measured in terms of premiums. The premium is measured before discounts that are given for deductibles because no adequate data are available on the amounts paid by employers in deductibles. The cost to self-insured employers is measured mostly by incurred claims, similar to the analysis of insurance company losses and expenses. These two aspects of employer costs are discussed in this section, followed by the loss and expense analysis for insurers.

Costs Paid by Insured Employers

In 2023 WC insurers' written premium paid by California employers was \$15.9 billion, from which the earned premium recognized as a revenue for the coverage totaled \$15.74 billion.⁷⁹

In the past twenty years, the cost of WC insurance in California has undergone dramatic changes for several reasons.

The legislative reforms in the early 2000s, which were developed to control medical costs, update indemnity benefits and improve the assessment of PD had a significant impact on insurance costs. These reforms reduced WC costs in California, but the cost of insurance began to increase again after 2009.

Workers' Compensation Average Premium Rate

Figure 12 shows the average advisory rate per \$100 of payroll approved by the Insurance Commissioner (IC), the insurers' average charged premium rate per \$100 of payroll, and the average industry-filed manual rate. The WCIRB submits advisory pure premium rates to the California Department of Insurance (CDI) for approval. Insurer rates are usually derived from the advisory pure premium rates developed by the WCIRB and approved by the IC. Advisory pure premium rates expressed as a rate per \$100 of payroll, are based upon loss and payroll data submitted to the WCIRB by all insurance companies. These rates reflect the amount of losses an insurer can expect to pay in benefits due to workplace injuries as well as the cost of adjusting and settling WC claims. Pure premium rates do not account for administrative and other overhead costs that an insurer will incur and, consequently, an insurer's charged rates are typically higher than the pure premium rates. Average insurer manual rates are significantly above the rates charged to employers, indicating that insurers are, on average, applying significant pricing discounts to their filed rates as shown in Figure 12.

From 2015 to 2024, the charged rate was on average 18 percent higher than the approved advisory rate. The average charged rate is based on collected premiums and reflect all insurer expenses whereas the advisory rate approved by the IC reflects only loss and loss adjustment expenses. Both the approved advisory and charged rates have steadily declined since 2015 to 2023, before the preliminary average charged rate for 2024 (based on six months) was 2 percent higher than in 2023, suggesting the recent rate declines were flattening.

The IC has approved 12 consecutive advisory pure premium rate decreases from 2015 to 2023 that have totaled more than 50 percent.⁸⁰ The pure premium rates approved by the IC are only advisory. Under California law, insurers are permitted to make their own determinations regarding the pure premium rates they will use, as long as the ultimate rates charged do not threaten the insurer's financial solvency, are not

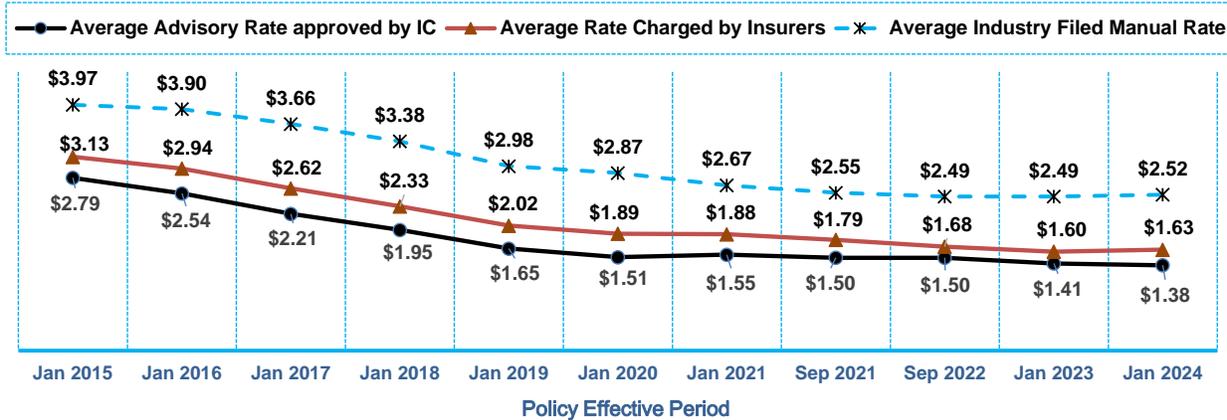
⁷⁹ WCIRB 2024 Losses and Expenses Report, Exhibit 12.1, https://www.wcirb.com/sites/default/files/2024-07/wcirb_2024_report_on_the_state_of_the_california_workers_compensation_insurance_system-2024-07-17.pdf and WCIRB Quarterly Experience Report as of December 31, 2023, Chart 1, <https://www.wcirb.com/sites/default/files/2024-05/quarterlyexperiencereport-2023q4.pdf>. Note that the earned premium is not identical to the written premium. The two measurements are related, and the choice of which measurement should be used depends on the purpose.

⁸⁰ Advisory Workers' Compensation Pure Premium Rates, A History since the 2013 Reform Legislation, pp. 243-249 of this report and WCIRB Quarterly Experience Report as of December 31, 2023, Chart 2.

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unfairly discriminatory, and do not create a monopoly in the marketplace. The charged rate decreased by 49 percent from the first period of 2015 to the first period of 2023 policy period. According to the WCIRB, the decrease from 2015 to pre-pandemic 2019 was largely due to the significant savings from SB 863.⁸¹ Beginning in early 2020, the COVID-19 pandemic sharply impacted the WC system in California. The economic aftershocks of the pandemic have sharply impacted WC exposures, premiums and losses. The accident year 2020 premium and loss experience have been distorted by the impacts of the statewide stay-at-home order, reduced availability of in-person non-urgent non-COVID medical care, elimination of in-person WC Appeals Board activities, and the sharp and sudden rise in unemployment.⁸² The economic recovery and payroll growth in 2021 were offset by continued insurer rate decreases, resulting in a 2021 premium level generally consistent with 2020. Declines in average charged rates, including the charged rates for September 1, 2023, filing period, have followed the IC's approved decreases in advisory pure premium rates, before a 2 percent increase to \$1.63 per \$100 of payroll in average charged rates in 2024 after a 2.1 percent decrease of pure premium rate approved by the IC in the same year that is considered as a possible change in the average charged rates trend.

Figure 12: Average Advisory Rate per \$100 of Payroll approved by Insurance Commissioner (IC) and Average Charged by Insurers Rate per \$100 of Payroll⁸³



Source: WCIRB

Industry Average Charged Pure Premium Rate

Largely because of the SB 863 reforms, which took effect in 2013 and saved about \$1.3 billion annually⁸⁴, the cost of insurance began to fall in 2015. Prior to 2024, the average charged rate had been declining steadily, reaching a historical low in 2023. As shown in Figure 13 by policy year, the cost of \$1.60 per \$100 of payroll in 2023 was 75 percent below the 2003 peak of \$6.40 per \$100 of payroll, 50 percent below the second peak in 2014, and 5 percent below the 2022 rate.⁸⁵ According to WCIRB, the average charged rates

⁸¹ WCIRB 2020 report on California's Workers' Compensation System, Chart 4.

https://www.wcirb.com/sites/default/files/documents/2020_state_of_the_system_report-ar.pdf.

⁸² WCIRB 2022 report on State of the System Report, Chart 1,

<https://www.wcirb.com/sites/default/files/documents/wcirb2022stateofthesystem1663968583761.pdf>.

⁸³ WCIRB 2023 State of the System Report, Chart 5 and

https://www.wcirb.com/sites/default/files/documents/wcirb_2023_state_of_the_system.pdf and Advisory Workers' Compensation Pure Premium Rates, A History since the 2013 Reform Legislation, pp. 243-249 of this report.

⁸⁴ Senate Bill No. 863 WCIRB Cost Monitoring Report—2016 Retrospective Evaluation

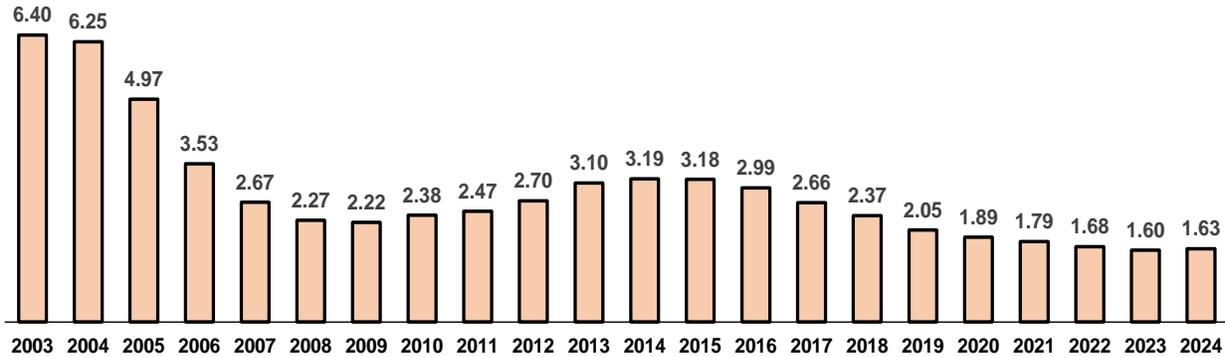
https://www.wcirb.com/sites/default/files/documents/sb_863_cost_monitoring_report_2016.pdf.

⁸⁵ WCIRB Quarterly Experience Report as of June 30, 2024, Chart 2, https://www.wcirb.com/sites/default/files/2024-10/quarterlyexperiencereport-2024q2-2024-10-04_0.pdf.

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were at the lowest level in more than 50 years, as over the long term, declining claim frequency and increasing wage levels have offset rising medical costs and increases in indemnity benefits.⁸⁶ The preliminary average charged rate for 2024 (based on six months) is 2 percent higher than 2023, suggesting the recent rate declines are flattening.

Figure 13: Industry Average Charged Pure Premium Rate per \$100 of Payroll, 2003–2024



Source: WCIRB

Workers' Compensation Written Premium

WCIRB defines written premiums as those that an insurer expects to earn over the policy period. Insurers don't immediately consider premiums as earned because the policyholders pay in advance for a contract that protects them from potential losses.

According to Figure 14, written premium increased by 22 percent from 2013 to 2016, and then declined 24 percent from its second peak in 2016 to 2021, including a 1.5 percent decline from 2020 to 2021.⁸⁷ The decreases from 2017 to pre-pandemic 2019, following seven consecutive years of increases from 2009, were driven primarily by decreases in rates charged by insurers (see Figures 13), more than by offsetting increases in employer payroll as a result of economic growth continued through 2019. The premium decline accelerated sharply in 2020 and remained low in 2021 as charged rates continued to drop and statewide employment levels also sharply declined due to the COVID-19 pandemic. According to WCIRB, the 12 percent, or almost \$2 billion, decline in statewide written premium in 2020 was the largest drop in many years. Written premium in 2021 was slightly lower than in 2020 as the impact of modest employment growth and significant average wage level growth was offset by continued declines in charged rates. Despite continued declines in insurer rates, written premium in 2023 was 17 percent higher than in 2021 and reached the pre-pandemic level. The increase in written premium is being driven by higher employee wage levels and the economic recovery.⁸⁸ As Figure 14 shows, written premium was forecast to increase modestly in 2024, driven by continued economic expansion.⁸⁹

⁸⁶ 2022 State of the System: Report on California's WC System, Chart 16, <https://www.wcirb.com/content/report-state-workers-compensation-insurance-system>

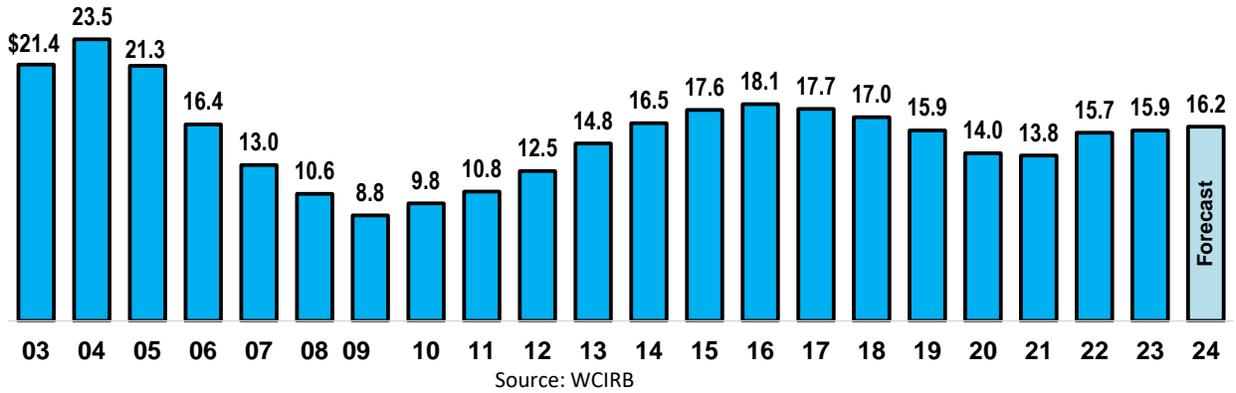
⁸⁷ WCIRB Quarterly Experience Report as of December 31, 2021, Insurer Experience, Chart 1. <https://www.wcirb.com/sites/default/files/documents/quarterlyexperiencereport-2021-4q-ar.pdf>

⁸⁸ WCIRB Quarterly Experience Report as of December 31, 2022, Chart 1. https://www.wcirb.com/sites/default/files/documents/quarterlyexperiencereport-2022q4-final_0.pdf

⁸⁹ WCIRB 2024 State of the System Report, Chart 1, https://www.wcirb.com/sites/default/files/2024-07/wcirb_2024_report_on_the_state_of_the_california_workers_compensation_insurance_system-2024-07-17.pdf

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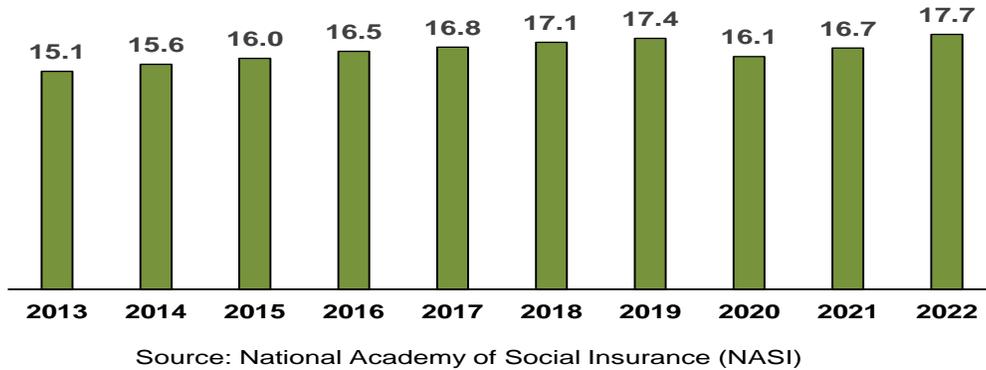
Figure 14: Workers' Compensation Written Premium, Gross of Deductible Credits as of June 30, 2024 (\$ in billions)



Workers Covered by Workers' Compensation Insurance

The estimated number of California workers covered by workers' compensation insurance grew by 15 percent from 15.1 million in 2013 to 17.4 million in 2019, decreased by 7 percent from 2019 to 2020, and then increased by 10 percent from 2020 to 2022.⁹⁰ (see Figure 15).

Figure 15: Estimated Number of Workers Covered by Workers' Compensation Insurance in California (millions)



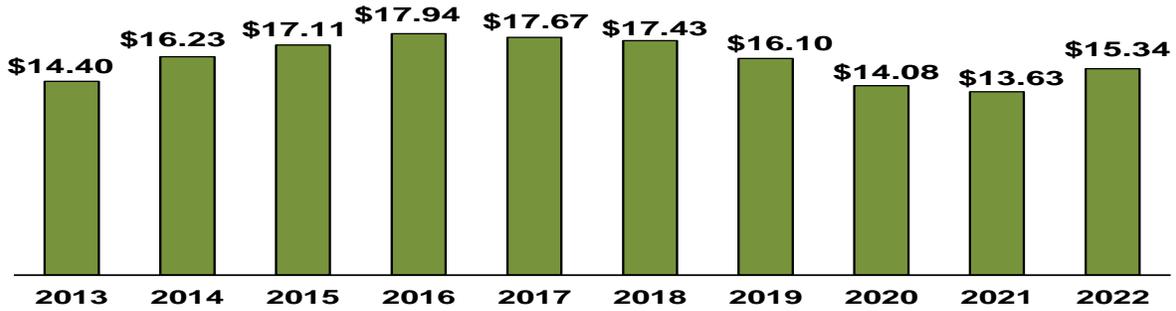
Total Earned Premium

WCIRB defines the earned premium as the portion of a premium earned by the insurer for policy coverage already provided. As shown in Figure 16, earned premium increased by 24.6 percent from 2013 to 2016, decreased by 24 percent from 2016 to 2021, including a 15 percent decrease from 2019 to 2021, and then increased by 13 percent from 2021 to 2022.

⁹⁰ Latest available data in 2024 from NASI Report: Workers' Compensation Benefits, Coverage, and Costs, 2022, posted January 2025, <https://www.nasi.org/wp-content/uploads/2024/11/2024-WC-Report-2022-Data-Final.pdf>.

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Figure 16: Workers' Compensation Earned Premium (\$ in billions)

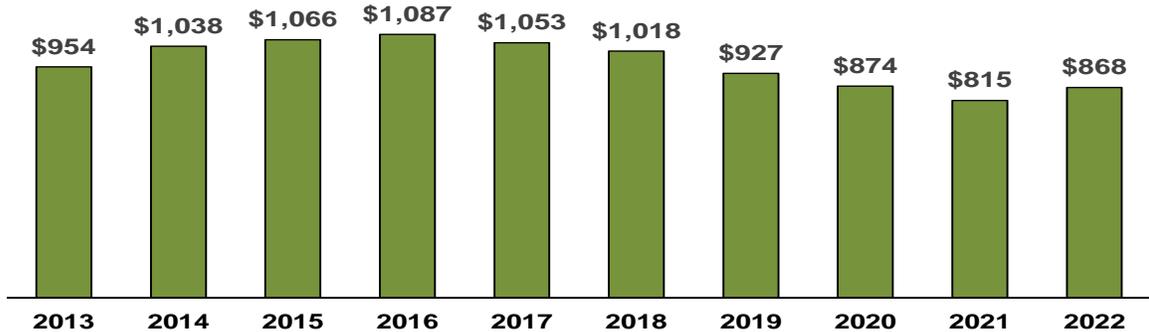


Source: WCIRB

Average Earned Premium per Covered Worker

As shown in Figure 17, the average earned premium per covered worker increased by 14 percent from 2013 to 2016 and then decreased by 25 percent from 2016 to 2021 as WC earned premium decreased by 24 percent in the same period. From 2021 to 2022, the the average earned premium per covered worker increased by 7 percent.

Figure 17: Average Earned Premium per Covered Worker



Source: WCIRB and NASI

Office of Self-Insurance Plans: Administration and Costs Paid by Self-Insured Employers⁹¹

State-wide administration of an alternative WC insurance program ⁹²

The permissible alternatives to WC insurance are private self-insurance, public self-insurance for government entities, either individually or in joint power authorities (JPAs), and legally uninsured State government.

The Office of Self-Insurance Plans (OSIP) is a program within the DIR Director's Office responsible for the oversight, regulation, and administration of the workers' compensation self-insurance marketplace in California. The self-insurance marketplace consists of more than 9,849 employers, employing more than 4

⁹¹ The information was provided by OSIP.

⁹² Information on private self-insured employers are from DIR's Office of Self-Insurance Plans correspondence received by CHSWC in July 2024.

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million workers, with a total payroll exceeding \$218 billion. One out of every four California workers is covered by self-insured workers' compensation⁹³.

During 2014, OSIP continued to expand on its many initiatives from the previous year designed to streamline its operations, reduce fees to California employers, and increase its accountability, transparency, and commitment to providing the public with a high level of responsive customer service. An example of this was the year-long project to expand a successful E-Filing platform enabling self-insured employers and actuaries to electronically file their required employer's actuarial and financial reports. In 2015, OSIP worked on further improving e-filing to make it even easier to file an employer's annual report.

Another significant accomplishment was the development and implementation of a streamlined process for California employers to become self-insured in a "speed-of-business" manner. In 2011, the total time required to complete the private self-insured application process and be issued a certificate of authority to self-insure was nearly nine months. In 2012, this was shortened to four to six months, with additional reductions during 2013 to less than 30 days. In 2014, OSIP successfully worked with private employers and completed this process consistently in less than 14 days. In April 2014, OSIP was able to facilitate and complete this process for a major California employer with more than \$1 billion in revenues and over 26,000 employees in just nine days.

OSIP was able to achieve these and many other significant accomplishments during 2015 while conserving expenditures, saving 40 percent in its FY 2015-2016 budget.

In 2016, OSIP moved to a more client-oriented culture, in which each employer had one main contact person for all questions and needs. This led to further efficiency and better communication between the stakeholders and OSIP. OSIP continued to realize the savings of the previous few years.

The focus in 2016 and 2017 was on two major projects. Enhancements to E-filing were rolled out in mid-2017, and OSIP has received numerous compliments on the changes made. The regulations changed the requirements for being self-insured from a net worth requirement to a credit-based requirement. This modern approach allows mid-size companies to become self-insured.

In 2017 and 2018, the two-phased audit process was improved. In previous years, the audit supervisors conducted the first phase, which included a general review of the profile, liabilities, and previous audit performance of employers subject to the three-year routine audit. Employers who failed to meet specific criteria were identified for the second-phase field audit. In 2017 and 2018, the responsibilities for the first-phase audit were moved from the audit supervisor to office staff, with a designated office analyst who coordinates the results from the Phase I audit with the audit supervisor who, in turn, makes the decisions on which employers will be subject to the Phase II field audit. The change enabled the audit supervisor and the senior compliance officer to have more time to focus on more complicated audits and any issues that surface.

The benefits of changes made in previous years were realized in 2018. The credit-based requirement is starting to attract more employers to be self-insured. As employers become more familiar with their main contact person, they are more comfortable asking questions and interacting with OSIP. In 2017 and 2018, OSIP focused on drafting regulations to understand the solvency, performance, and costs of public self-insurers' workers' compensation programs.

OSIP's focus in 2019 was the proposed rulemaking, which was posted in December 2018. The regulations would require financial information from public self-insurers, as well as demographic and claims profile. This would provide transparency as to the true costs of public self-insurers' workers' compensation programs and solvency of each public self-insured employer.

⁹³ <https://www.dir.ca.gov/osip/StatewideTotals.html>.

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The public entity regulations were approved on May 14, 2020 and became effective July 1, 2020.⁹⁴ Public entities are now required to submit at least two of three forms – J-1, P-1, and AR-2 addendum – in addition to the existing annual report requirements due October 1 of each year and covering the previous fiscal year. Information received from the forms will be used to determine solvency of the WC programs. In addition, information may be used for benchmarking purposes and for public entities to compare with similar entities.

In the FY 2020-2021, OSIP closely monitored the financial solvency of all private self-insured employers due to the pandemic-driven downturn of the economy and the expected high default rates forecast for many industries. This was done in collaboration with the Self-Insurers' Security Fund (SISF). There were no significant defaults in FY 2020-2021.

Self-insured employers were credited a total of \$10 million in the assessment for the Alternatives Security Program within the SISF for employers who contributed to the program that started in 2004, using excess funds collected each year. This further lowered the cost of being self-insured in California.

OSIP also focused on working closely with public self-insured employers on the new requirements to provide financial information and claims data. This was a big accomplishment, especially because OSIP analysts were working remotely from home full time and this was the first year the reports were being gathered. OSIP is currently updating the online filing portal to allow submission of new forms online.

In the FY 2021-2022, OSIP filled all but one vacancy in the Unit and focused on cross-training between the office and audit teams. OSIP is projected to double the number of field audits performed in 2022, compared to 2021, due to filling the positions.

There were no defaults in FY 2021-2022. In fact, many self-insured employers' financial status has been upgraded. The combination of lowering the assessments for the Alternatives Security Program by approximately 8 percent and providing a fair-share credit for employers who contributed to the program resulted in further lowering the cost of being self-insured in California. With the cost of workers' compensation insurance projected to increase in the coming years, self-insurance is set to be an attractive alternative to insurance and has led to an increase in applications and inquiries on how to be self-insured in California.

In FY 2022-2023, OSIP filled the last auditor position. As predicted, the number of completed field audits increased to 57 audits in 2022 compared to 38 in 2021.

There were no defaults in FY 2022-2023. This, in addition to claims closure, resulted in lowering the budgeted administrative costs, for which the private self-insured employers are assessed. The assessments were lowered by approximately 15 percent. In addition, employers were provided a fair-share credit for their contribution into the Alternative Security Program, totaling \$12 million, many times resulting in employers' assessments being lowered to zero (\$0).

For further information...

www.dir.ca.gov/osip

Costs Paid by Private Self-Insured Employers⁹⁵

Number of Employees. Figure 18 shows the number of employees working for private self-insured employers between 2013 and 2023. A number of factors affect the year-to-year changes. One striking comparison is the average cost of insurance per \$100 of payroll for insured employers, described earlier. When insurance is inexpensive, fewer employers are attracted to self-insurance, but when insurance becomes more expensive, more employers move to self-insurance. As the cost of insurance per \$100 of

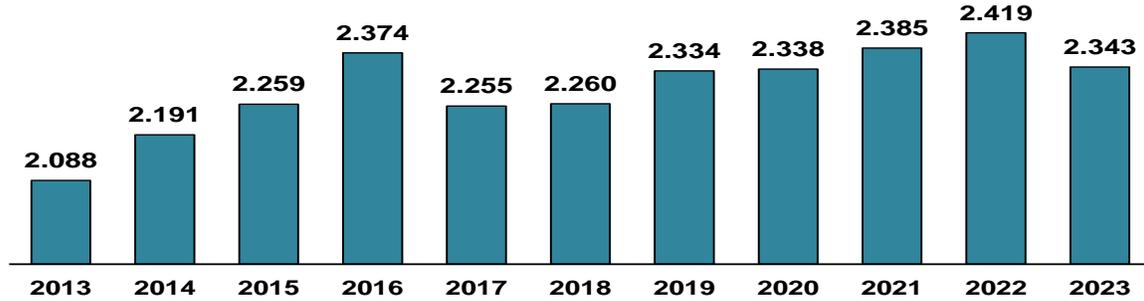
⁹⁴ https://www.dir.ca.gov/osip/rulemaking/osip_rulemaking_approved.html.

⁹⁵ Data on private self-insured employers are from DIR's Office of Self-Insurance Plans correspondence received by CHSWC in July 2024.

SYSTEM COSTS AND BENEFITS

payroll for insured employers increased from \$2.47 in 2011 to \$3.18 in 2015 (see Figure 13), more employers chose self-insurance from 2013 to 2016. Because the insurer pure premium rates per \$100 of payroll began to decline in 2015, more employers obtained WC insurance, thereby decreasing the number of employees covered by self-insurance plans by 5 percent from 2016 to 2018. The number of employees covered by self-insurance plans increased by 7 percent in six years from 2017 through 2022, before decreasing by 3 percent from 2022 to 2023.

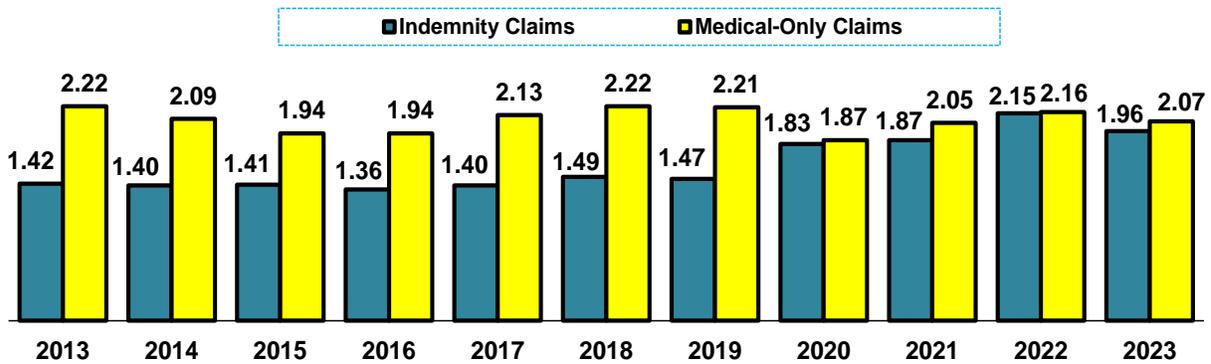
Figure 18: Number of Employees of Private Self-Insured Employers (Millions)



Source: DIR Self-Insurance Plan

Indemnity or Medical-Only Claims. Figure 19 depicts the rate of indemnity or medical-only claims per 100 employees of private self-insured employers. The rate of indemnity claims per 100 employees of private self-insured employers decreased by 4 percent from 2013 to 2016, increased overall by 8 percent from 2016 to 2019, and then after a sharp increase of 24.5 percent from 2019 to 2020, continued to increase by 17.5 percent from 2020 to 2022, before decreasing by 9 percent from 2022 to 2023. The rate of medical-only claims decreased by 13 percent from 2.22 per 100 employees in 2013 to 1.94 per 100 employees in 2016 and then increased by 14 percent from 2016 to 2018. A 16 percent decrease in the rate of medical-only claims per 100 employees from 2018 to 2020, followed by a 15.5 percent increase from 2020 to 2022, before decreasing by 4 percent from 2022 to 2023.

Figure 19: Number of Indemnity or Medical-Only Claims per 100 Employees of Private Self-Insured Employers

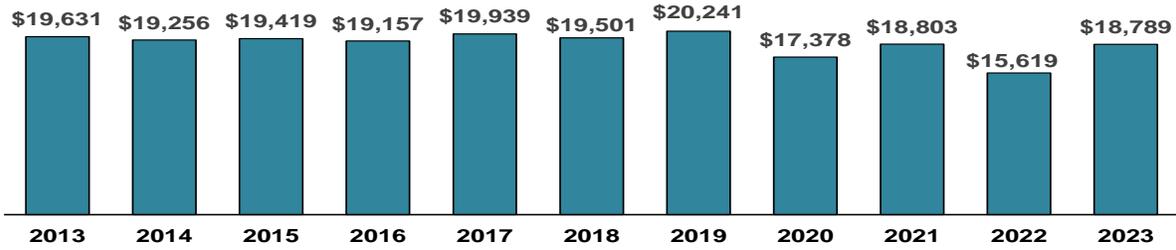


Source: DIR Self-Insurance Plan

Incurred Cost per Indemnity Claim. Figure 20 shows the incurred cost per indemnity claim for private self-insured employers. The average incurred cost per indemnity claim fluctuated by less than 6 percent between \$19,150 and \$20,240 from 2013 to 2019. The incurred cost per indemnity claim fluctuated between \$15,600 and \$18,800 from 2020 to 2023. There was a 23 percent decrease in incurred cost per indemnity claim for private self-insured employers from 2019 to 2022 followed by a 20 percent increase from 2022 to 2023.

SYSTEM COSTS AND BENEFITS

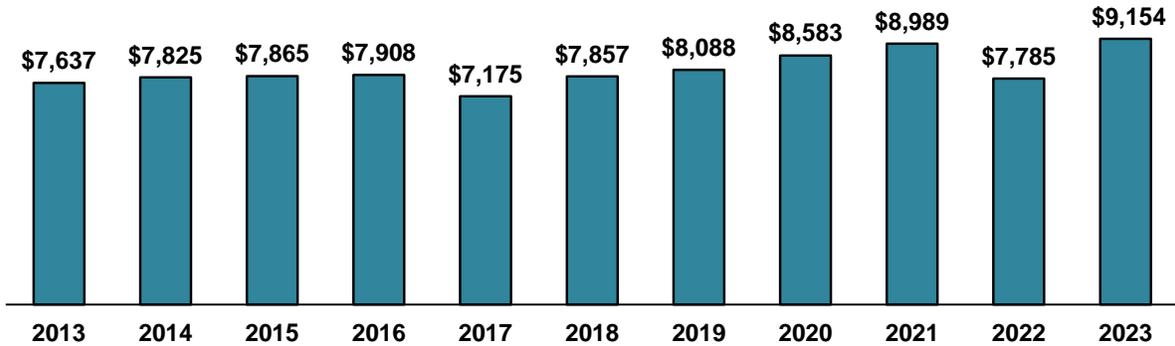
Figure 20: Incurred Cost Per Indemnity Claim of Private Self-Insured Employers



Source: DIR Self-Insurance Plan

Incurred Cost per Indemnity and Medical Claim. The average cost of all claims, including both indemnity and medical-only claims, is naturally lower than the average cost of indemnity claims. The data showed a steady overall increase of 6 percent in eight years from 2013 to 2019, with a one time 9 percent decrease from 2016 to 2017. From 2019 to 2021, the average cost of all claims, including both indemnity and medical-only claims, increased again by 11 percent, before its 13 percent drop from 2021 to 2022 and increased by 18 percent from 2022 to 2023. See Figure 21.

Figure 21: Incurred Cost per Claim, Indemnity and Medical of Private Self-Insured Employers



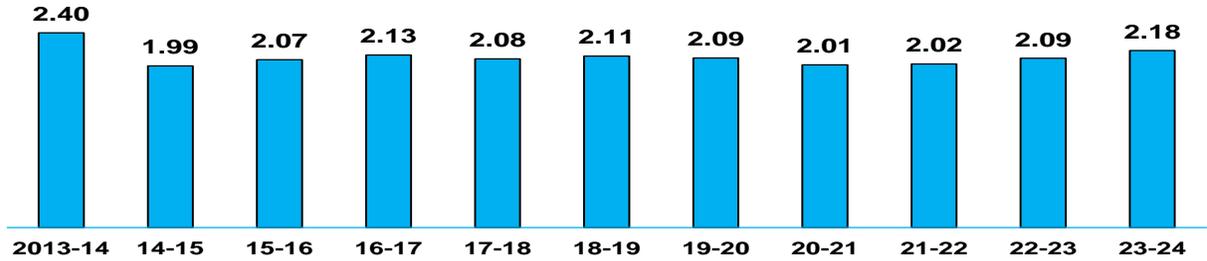
Source: DIR Self-Insurance Plan

SYSTEM COSTS AND BENEFITS

Costs Paid by Public Self-Insured Employers

Number of Employees. Figure 22 shows the number of employees of public self-insured employers between fiscal years 2013-2014 and 2022-2023. The number of employees of public self-insured employers decreased by 17 percent from 2013-2014 to 2014-2015, increased by 7 percent from 2014-2015 to 2016-2017, and then fluctuated between 2.08 and 2.13 million employees from 2016-2017 to 2019-2020. From 2019-2020 to 2020-2021, there was a 4 percent decrease in the number of employees of public self-insured employers and that number left at almost the same level in 2021-2022. From 2020-2021 to 2023-2024, the number of employees of public self-insured employers increased by 9 percent.

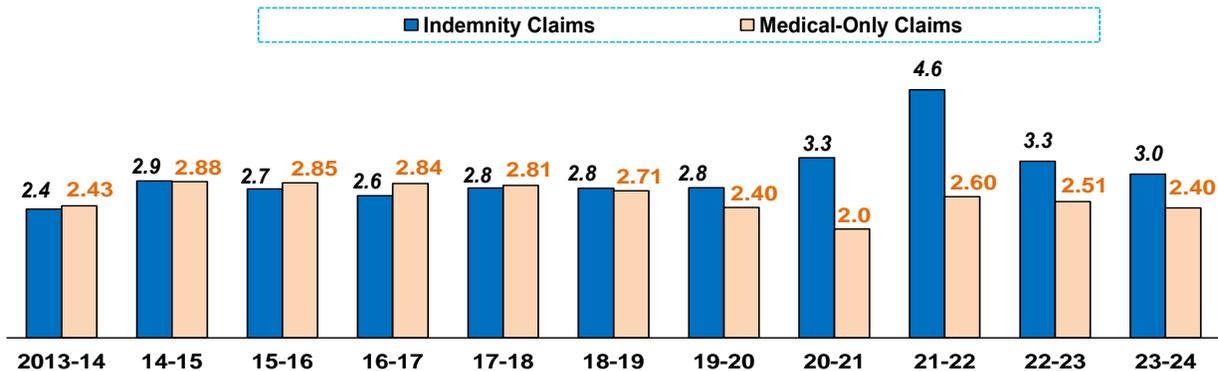
Figure 22: Number of Employees of Public Self-Insured Employers, Fiscal Year (Millions)



Source: DIR Self-Insurance Plan

Indemnity or Medical-Only Claims. The rate of indemnity claims per 100 employees working for public self-insured employers increased by 22 percent from 2013-2014 to 2014-2015, and then stabilized at an average of 2.76 indemnity claims per 100 employees working for public self-insured employers from 2014-2015 to 2019-2020. From 2013-2014 to 2019-2020, the number of indemnity claims, that are more costly compared to relatively inexpensive medical-only claims, did not exceed its 2018-2019 maximum of 58,287, but in 2020-2021 it reached 66,787, an increase of 15.5 percent, and 92,220 in 2021-2022 (an increase of 58 percent), that explains an almost 65 percent increase in the rate of indemnity claims per employees working for public self-insured employers from 2019-2020 to 2021-2022. From 2021-2022 to 2023-2024, the rate decreased by 34 percent. After a one-time 18 percent increase from 2013-2014 to 2014-2015, the rate of medical-only claims decreased by 17 percent from 2.88 per 100 employees in 2014-2015 to 2.40 per 100 employees in 2019-2020, and then decreased again by 16 percent from 2019-2020 to 2020-2021. This decrease could be explained by a 19.7 percent decrease in medical-only claims from its minimum of 50,250 since 2013-2014 to 40,374 claims in 2020-2021. From 2020-2021 to 2021-2022, the rate of medical-only claims per 100 employees working for public self-insured employers increased by 30 percent, before decreasing by 8 percent from 2021-2022 to 2023-2024. See Figure 23.

Figure 23: Number of Indemnity or Medical-Only Claims per 100 Employees of Public Self-Insured Employers, Fiscal Year

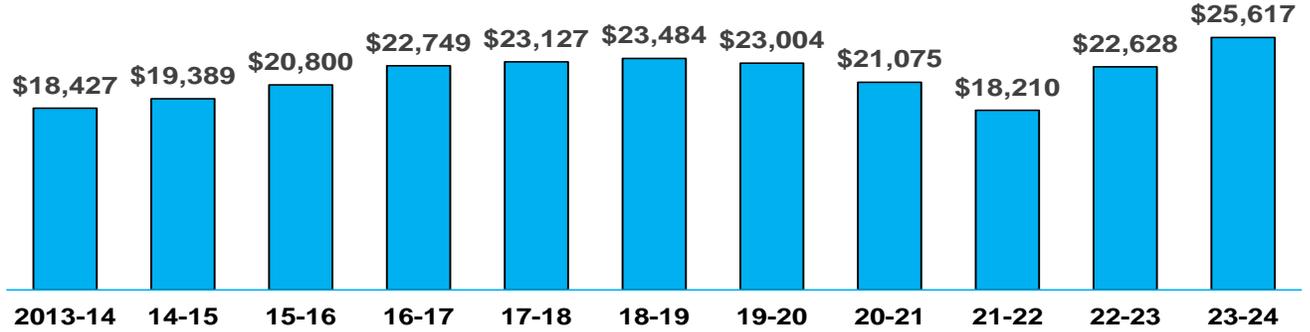


Source: DIR Self-Insurance Plan

SYSTEM COSTS AND BENEFITS

Incurring Cost per Claim. Figure 24 shows the incurred cost per indemnity claim for public self-insured employers between 2013-2014 and 2023-2024. From 2013-2014 to 2018-2019 the incurred cost per indemnity claim for public self-insured employers increased steadily by 27 percent from \$18,427 to \$23,484, declined slightly from 2018-2019 to 2019-2020, and then decreased by 21 percent from 2019-2020 to 2021-2022. From 2021-2022 to 2023-2024, the average incurred cost of an indemnity claim increased by 41 percent.

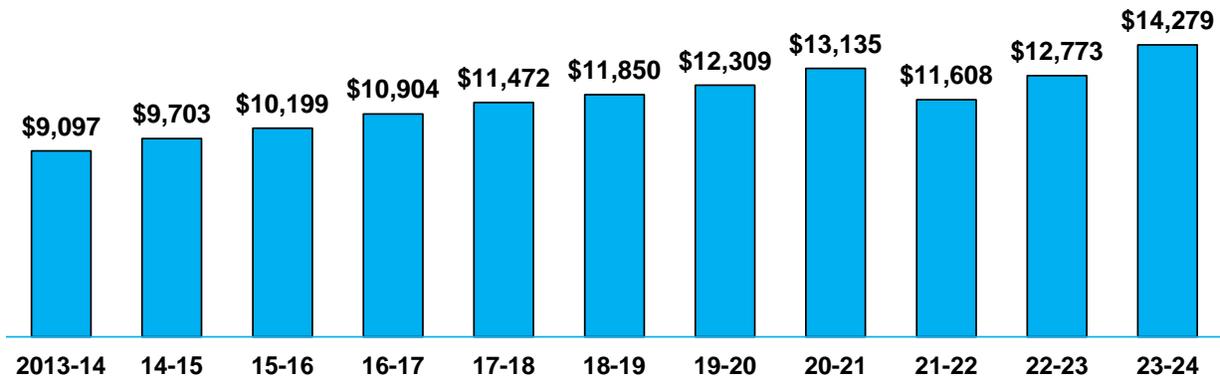
Figure 24: Incurred Cost per Indemnity Claim of Public Self-Insured Employers, Fiscal Year



Source: DIR Self-Insurance Plan

Incurring Cost per Indemnity and Medical Claim. Figure 25 shows the incurred cost per indemnity and medical claim for public self-insured employers between 2013-2014 and 2023-2024. The incurred cost per indemnity and medical claim increased steadily by 44 percent from 2013-2014 to 2020-2021 and then decreased by 12 percent from 2020-2021 to 2021-2022, before increasing by 23 percent from 2021-2022 to 2023-2024.

Figure 25: Incurred Cost per Claim—Indemnity and Medical—Public Self-Insured Employers, Fiscal Year



Source: DIR Self-Insurance Plan

SYSTEM COSTS AND BENEFITS

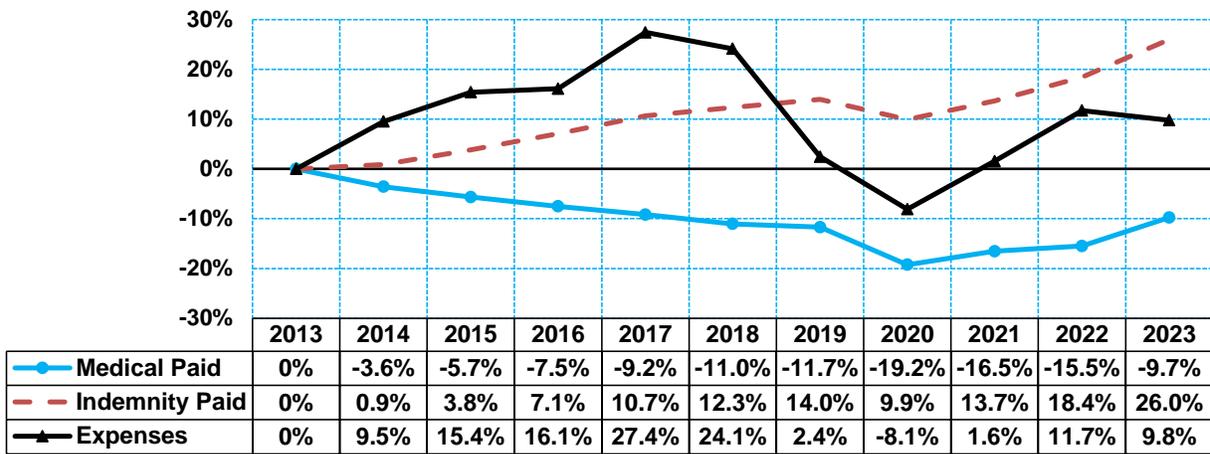
Estimated Workers' Compensation Systemwide Expenditures: Indemnity and Medical Benefits

Overall Costs

Methodology for Estimating. The estimated percentages of total systemwide costs are based on insured employer costs provided annually by the WCIRB. The assumption is that these data can also be applied to those who are self-insured. Because self-insured employers and the state are estimated to account for 35.3 percent of total California WC claims in 2023, the total systemwide costs in that year are calculated by increasing WCIRB data for insured employers by a multiple of 1.55 to reflect that proportion. (For calculations based on claim counts see [Table 1](#) in the box “Methods of Estimating the Workers’ Compensation System Size” on page 41.)

Growth of Workers' Compensation Costs

Figure 26: Workers' Compensation Costs: Annual Change Compared with 2013



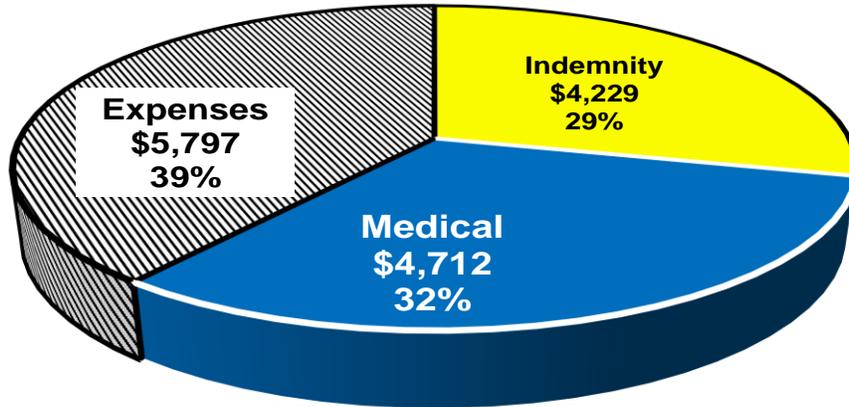
Source: WCIRB

SYSTEM COSTS AND BENEFITS

Distribution of Workers' Compensation Costs by Type.

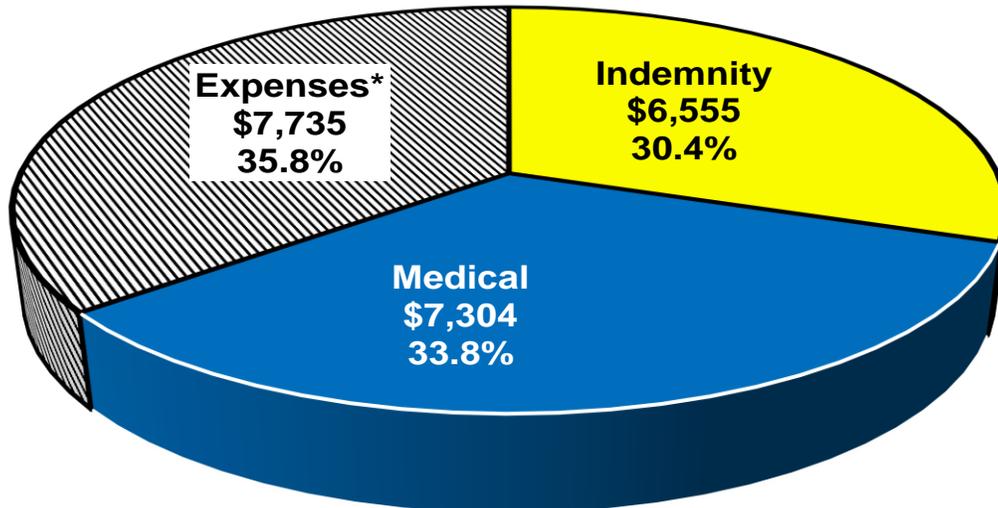
Figures 27 and 28 show the distribution of workers' compensation paid costs for insured employers and systemwide.

Figure 27: Estimated Distribution of Insured Employers' Workers' Compensation Paid Costs, 2023 (\$ in millions)



Data Source: WCIRB

Figure 28: Estimated Distribution of Systemwide Workers' Compensation Paid Costs, 2023 (\$ in millions)



* The distribution shown in this chart includes both insured and self-insured employers' costs. For insured costs, Expenses include allocated loss adjustment expenses, unallocated loss adjustment expenses, commissions and brokerage, other acquisition expenses, and premium taxes. Self-insured employers would not encounter some of those types of expenses.

Data Source: WCIRB with calculations by CHSWC

SYSTEM COSTS AND BENEFITS

Indemnity Benefits

The WCIRB provided data for the cost of indemnity benefits paid by insured employers. Assuming that insured employers comprise approximately 64.7 percent of total California workers' compensation claims, estimated indemnity benefits are shown in Table 7 for the total system, insured employers, self-insured employers, and the State of California.

Table 7: Systemwide Estimated Costs of Paid Indemnity Benefits (\$ in thousands)

INDEMNITY BENEFIT COMPONENTS BY SECTORS	2022	2023	Change
Systemwide, paid by all sectors			
Temporary Disability	\$3,445,790	\$3,851,296	\$405,506
Permanent Total Disability	\$178,811	\$194,299	\$15,488
Permanent Partial Disability	\$2,081,875	\$2,096,105	\$14,230
Death	\$161,943	\$145,598	-\$16,346
Funeral Expenses	\$7,916	\$4,294	-\$3,622
Life Pensions	\$134,587	\$136,096	\$1,509
Vocational Rehab/Nontransferable Education Voucher	\$110,788	\$126,937	\$16,150
Total	\$6,121,709	\$6,554,625	\$432,915
Paid by Insured Employers			
Temporary Disability *	\$2,237,526	\$2,484,707	\$247,181
Permanent Total Disability *	\$116,111	\$125,354	\$9,243
Permanent Partial Disability *	\$1,351,867	\$1,352,326	\$459
Death *	\$105,158	\$93,934	-\$11,224
Funeral Expenses	\$5,140	\$2,770	-\$2,370
Life Pensions	\$87,394	\$87,804	\$410
Vocational Rehab/Nontransferable Education Voucher *	\$71,940	\$81,895	\$9,955
Total	\$3,975,136	\$4,228,790	\$253,654
Paid by Self-Insured Employers and the State**			
Temporary Disability	\$1,208,264	\$1,366,589	\$158,325
Permanent Total Disability	\$62,700	\$68,945	\$6,245
Permanent Partial Disability	\$730,008	\$743,779	\$13,771
Death	\$56,785	\$51,664	-\$5,122
Funeral Expenses	\$2,776	\$1,524	-\$1,252
Life Pensions	\$47,193	\$48,292	\$1,099
Vocational Rehab/Nontransferable Education Voucher	\$38,848	\$45,042	\$6,195
Total	\$2,146,573	\$2,325,835	\$179,261

Sources: Calculated by CHSWC, based on data from the WCIRB

* Single Sum Settlement and Other Indemnity payments have been allocated to the benefit categories.

** Figures estimated based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 35.3 percent of all California workers' compensation claims that translates into a 0.55 multiplier applied to indemnity benefits paid by insured employers.

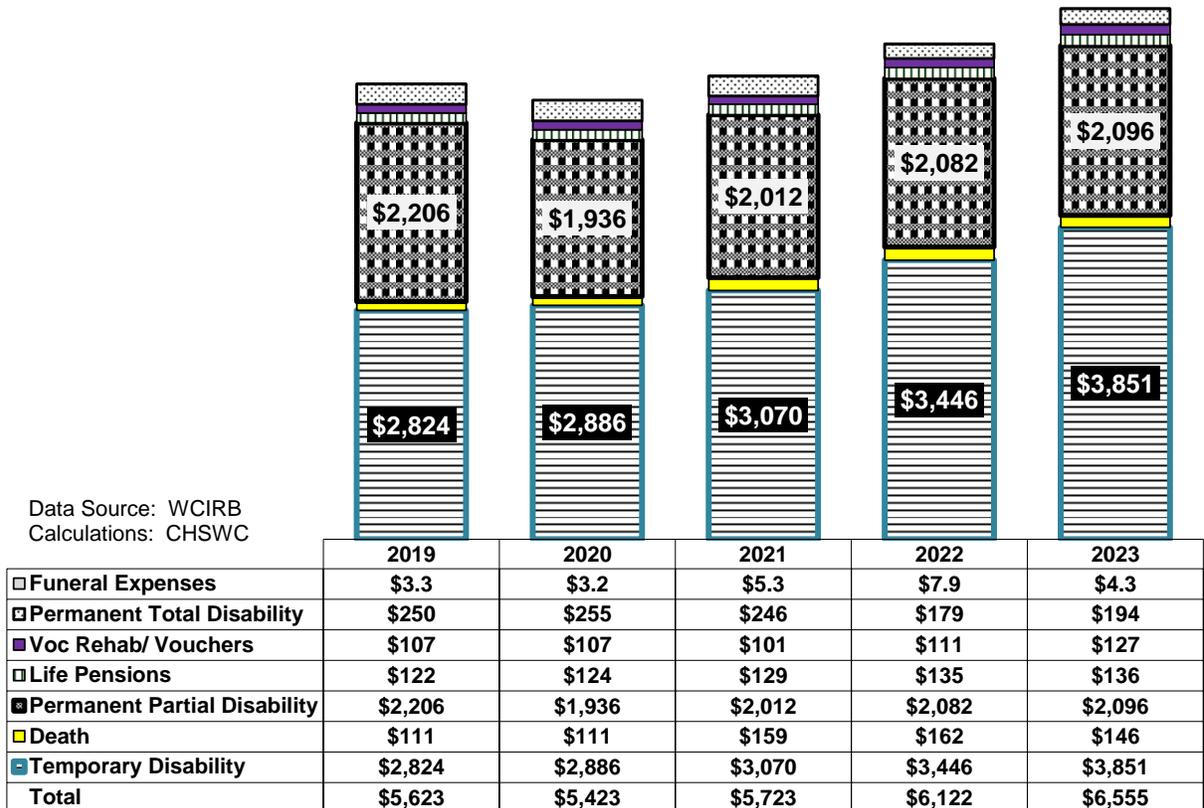
SYSTEM COSTS AND BENEFITS

Trends in Paid Indemnity Benefits.

The estimated systemwide paid indemnity benefits for 2019-2023 are displayed in Figure 29. Total paid indemnity benefits decreased by 4 percent from 2019 to 2020 as the result of SB 863 reforms and COVID-19 pandemic and then increased by 21 percent from 2020 to 2023. Total costs in 2023 were impacted by the economic recovery during 2021 through 2023 after a sharp and sudden pandemic-caused slowdown in 2020 that led to reductions in premiums and a sharp decrease in the frequency of non-COVID-19 indemnity claims.⁹⁶ After a rebound in frequency of non-COVID-19 indemnity claims in 2021 and 2022, the claim frequency in 2022 and 2023, according to WCIRB, is consistent with the pre-pandemic period of flat indemnity claim frequency.⁹⁷

Temporary disability and permanent partial disability benefits comprise approximately 90 percent of indemnity benefits. Payments for permanent partial disability decreased by 12 percent from 2019 to 2020 and then increased by 8 percent from 2020 to 2023. According to WCIRB, the share of permanent partial disability in total indemnity benefits decreased in 2017-2020 since, unlike most other types of indemnity benefits, there are no annual cost-of-living adjustments. The temporary disability benefits increased steadily by 36 percent from 2019 to 2023. Payments for funerals more than doubled from 2018 to 2022, increasing its share in medical expenses from 0.06 percent in 2018 to 0.13 percent in 2022 and then almost halved from 2022 to 2023. The death benefits stabilized at \$111 million in 2019 and 2020, increased by 46 percent from 2020 to 2022, and then decreased by 10 percent from 2022 to 2023.

Figure 29: Workers' Compensation Paid Indemnity Benefit by Type, Systemwide Estimated Costs (\$ in millions)



⁹⁶ WCIRB 2021 State of the System Report, Chart 52, https://www.wcirb.com/sites/default/files/documents/wcirb-report-2021_state_of_the_system-ho.pdf.

⁹⁷ WCIRB 2024 State of the System Report, Chart 9, https://www.wcirb.com/sites/default/files/2024-07/wcirb_2024_report_on_the_state_of_the_california_workers_compensation_insurance_system-2024-07-17.pdf.

SYSTEM COSTS AND BENEFITS

Supplemental Job Displacement Benefits Costs

The reforms of 2003 eliminated vocational rehabilitation (VR) for injuries arising on or after January 1, 2004, and replaced it with a supplemental job displacement benefit (SJDB). The VR statutes were repealed as of January 1, 2009. Consequently, the expenditures for VR decreased rapidly, as the remaining pre-2004 cases were addressed and essentially ended.

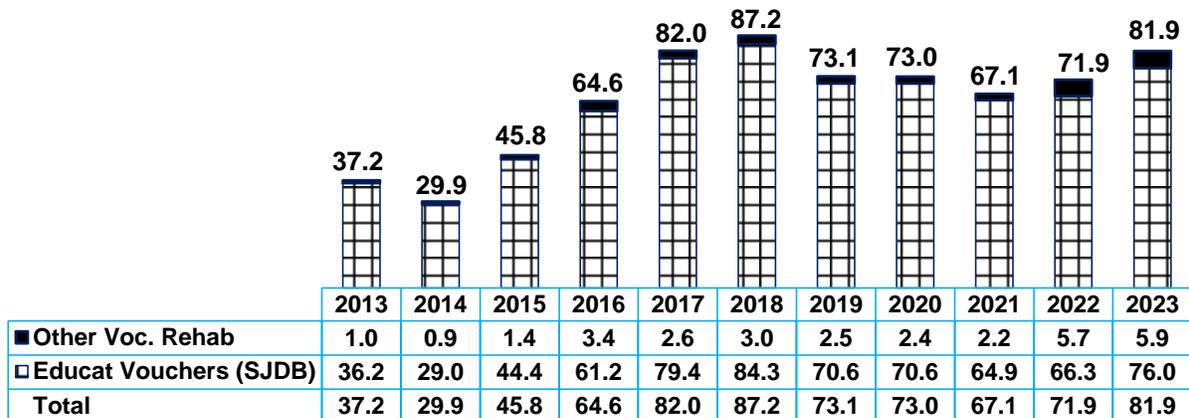
Supplemental Job Displacement Benefit Vouchers

Assembly Bill 227 created a system of nontransferable educational vouchers effective for injuries that occurred on or after January 1, 2004, resulted in a permanent partial disability and termination without an offer of return to work by at-injury employer unless the employer offers and the employee rejects or fails to accept modified work. The WCIRB’s estimate of the cost of education vouchers is based on information compiled from its most current Aggregate Indemnity and Medical Costs Call, Call for Calendar Year Experience and Permanent Disability Claim Survey.

SB 863 revised the SJDB for injuries that occurred on or after January 1, 2013, while preserving the concept of a voucher for education or training for an injured worker who does not have an opportunity to return to work for the at-injury employer. Effective with injuries that occurred on or after January 1, 2013, Labor Code Section 4658.5 was amended and Labor Code § 4658.7 was added that modified the system of supplemental job displacement benefits. According to Labor Code § 4658.7, the voucher is now a flat \$6000 for all levels of permanent disability and can be used for training at a California public school or any other provider listed on the state’s Eligible Training Provider List (ETPL) on their CalJobs website. It can also be used to pay licensing or certification and testing fees, pay up to 10 percent of the voucher amount for services of licensed placement agencies and RTW counseling, to purchase tools required by a training course, to purchase computer equipment of up to \$1,000 and to reimburse up to \$500 in miscellaneous expenses. The voucher does not expire if issued prior to January 1, 2013. After January 1, 2013, the voucher will expire within two years of being issued or five years from the date of injury, whichever comes later.

Figure 30 shows that the amounts paid for SJDB vouchers by insured employers in 2018 increased 2.3-fold compared to 2013 and almost 3-fold compared to 2014. The amounts paid for SJDB vouchers decreased by 23 percent from 2018 to 2021, and then increased by 17 percent from 2021 to 2023. The proportion of amounts paid for SJDB vouchers in total Vocational Rehabilitation was 97 percent from 2019 to 2021, decreasing to 92-93 percent in 2022 and 2023.

Figure 30: Amounts Paid for Supplemental Job Displacement Benefit (SJDB) Vouchers by Insured Employers (\$ in millions)



Data Source: WCIRB

SYSTEM COSTS AND BENEFITS

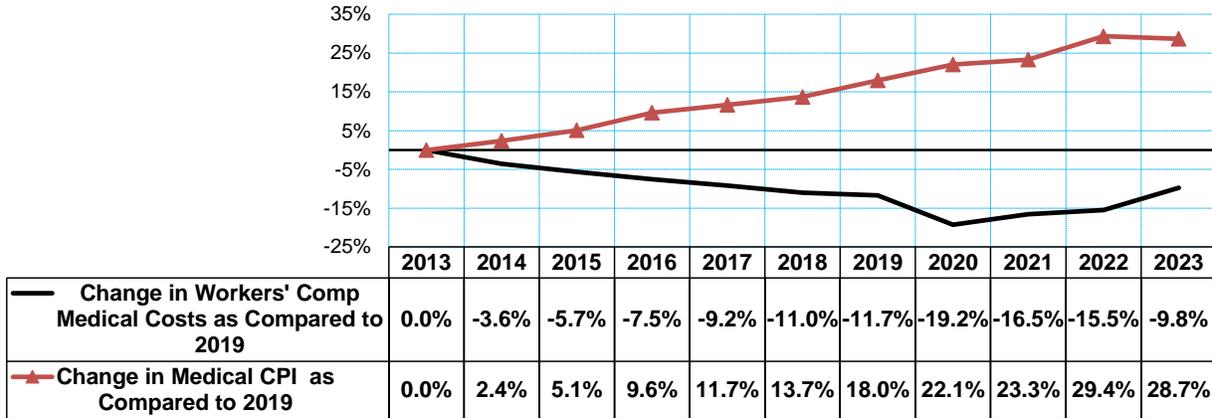
Medical Benefits

Workers' Compensation Medical Costs vs. Medical Inflation

Figure 31 compares the change in California's workers' compensation medical costs paid by insurers and self-insured employers in each consecutive year from 2013 with the change in the medical component of the Consumer Price Index (CPI) in each consecutive year over the same base year. The medical component of the CPI is also known as the "Medical CPI," an economic term used to describe price increases in health care services.

Since 2013 the WC medical costs have decreased at a cumulative rate of 19.2 percent in 2020 and an average annual 3.0 percent rate in the same period from 2013 to 2020. There was a lesser cumulative 9.8 percent decrease in WC medical costs from 2013 to 2023 as a result of an 18 percent increase in medical systemwide costs from 2020 to 2023. At the same time, the medical CPI has steadily increased since 2013. The cumulative growth in medical CPI from 2013 to 2022 was 29.4 percent, with an average annual 3 percent increase in the same period. The increase in medical CPI slowed down in 2023. Figure 31 compares the WC medical costs paid by employers and regulated through the California State WC program with Medicare and group health plan payments reflected in the medical CPI. The State program regulates the WC medical costs through the Official Medical Fee Schedule (OMFS), which also covers pharmaceutical costs, Medical Treatment Utilization Schedule (MTUS), and regulatory activities. Because consumers, as defined by the CPI concept, do not share the cost of WC claims, payments for medical services covered by WC programs are not directly reflected in measuring the medical CPI.

Figure 31: Growth in Workers' Compensation Medical Costs Compared with Growth in Medical Inflation (2013 as a base year)



Source: WCIRB; Bureau of Labor Statistics (BLS)

Distribution of Medical Benefits: Where Does the Workers' Compensation Dollar Go?

The WCIRB provided data on the cost of medical benefits paid by insured employers. Assuming that insured employers comprise approximately 64.7 percent of California workers' compensation claims, estimated medical benefits are shown in Table 8 for the total system, insured employers, self-insured employers, and the State of California.

SYSTEM COSTS AND BENEFITS

Table 8: Systemwide Estimated Costs—Medical Benefits Paid (\$ in thousands)

MEDICAL BENEFIT COMPONENTS BY SECTORS	2022	2023	Change
Systemwide, paid by all sectors			
Physicians	\$1,812,791	\$1,957,962	\$145,171
Hospital (Inpatient and Outpatient)	\$780,917	\$827,607	\$46,690
Medical Supplies and Equipment	\$353,521	\$411,265	\$57,744
Pharmacy	\$93,817	\$90,432	-\$3,385
Medical-Legal Evaluation	\$566,312	\$615,674	\$49,362
Payments Made Directly to Patients*	\$2,184,230	\$2,420,759	\$236,529
Medical Cost-Containment Programs**	\$188,960	\$174,409	-\$14,550
Medicare Set-aside and Reimbursements	\$463,712	\$378,584	-\$85,128
Capitated Medical	\$43,594	\$54,225	\$10,631
Other (Med Liens, Dental, Interpreter***, & Copy Services***)	\$307,675	\$372,155	\$64,480
Total	\$6,795,529	\$7,303,071	\$507,543
Paid by Insured Employers			
Physicians	\$1,177,137	\$1,263,201	\$86,064
Hospital (Inpatient and Outpatient)	\$507,089	\$533,940	\$26,851
Medical Supplies and Equipment	\$229,559	\$265,332	\$35,773
Pharmacy	\$60,920	\$58,343	-\$2,577
Medical-Legal Evaluation	\$367,735	\$397,209	\$29,474
Payments Made Directly to Patient*	\$1,418,331	\$1,561,780	\$143,449
Medical Cost-Containment Programs**	\$122,701	\$112,522	-\$10,179
Medicare Set-aside and Reimbursements	\$301,112	\$244,248	-\$56,864
Capitated Medical	\$28,308	\$34,984	\$6,676
Other (Med Liens, Dental, Interpreter***, & Copy Services***)	\$199,789	\$240,100	\$40,311
Total	\$4,412,681	\$4,711,659	\$298,978
Paid by Self-Insured Employers and the State****			
Physicians	\$635,654	\$694,761	\$59,107
Hospital (Inpatient and Outpatient)	\$273,828	\$293,667	\$19,839
Medical Supplies and Equipment	\$123,962	\$145,933	\$21,971
Pharmacy	\$32,897	\$32,089	-\$808
Medical-Legal Evaluation	\$198,577	\$218,465	\$19,888
Payments Made Directly to Patient*	\$765,899	\$858,979	\$93,080
Medical Cost-Containment Programs**	\$66,259	\$61,887	-\$4,371
Medicare Set-aside and Reimbursements	\$162,600	\$134,336	-\$28,264
Capitated Medical	\$15,286	\$19,241	\$3,955
Other (Med Liens, Dental, Interpreter***, & Copy Services***)	\$107,886	\$132,055	\$24,169
Total	\$2,382,848	\$2,591,412	\$208,565

Sources: Calculated by CHSWC, based on WCIRB's Medical Data Call (MDC).

* Med payments made directly to patient include amounts paid directly to injured workers on lump sum settlements for future med expenses; to a much lesser extent they may also include payments for transportation related to medical care.

** Medical cost-containment programs (MCCP) costs on claims covered by incepting July 1, 2010 and beyond are considered Allocated Loss Adjustment Expenses (ALAE). The amount of MCCP costs reported as ALAE for 2023 is \$299 million.

*** Based on WCIRB surveys of insurer medical payments.

**** Figures estimated are based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 35.3 percent of all California workers' compensation claims that translates into a 0.55 multiplier applied to indemnity benefits paid by insured employers.

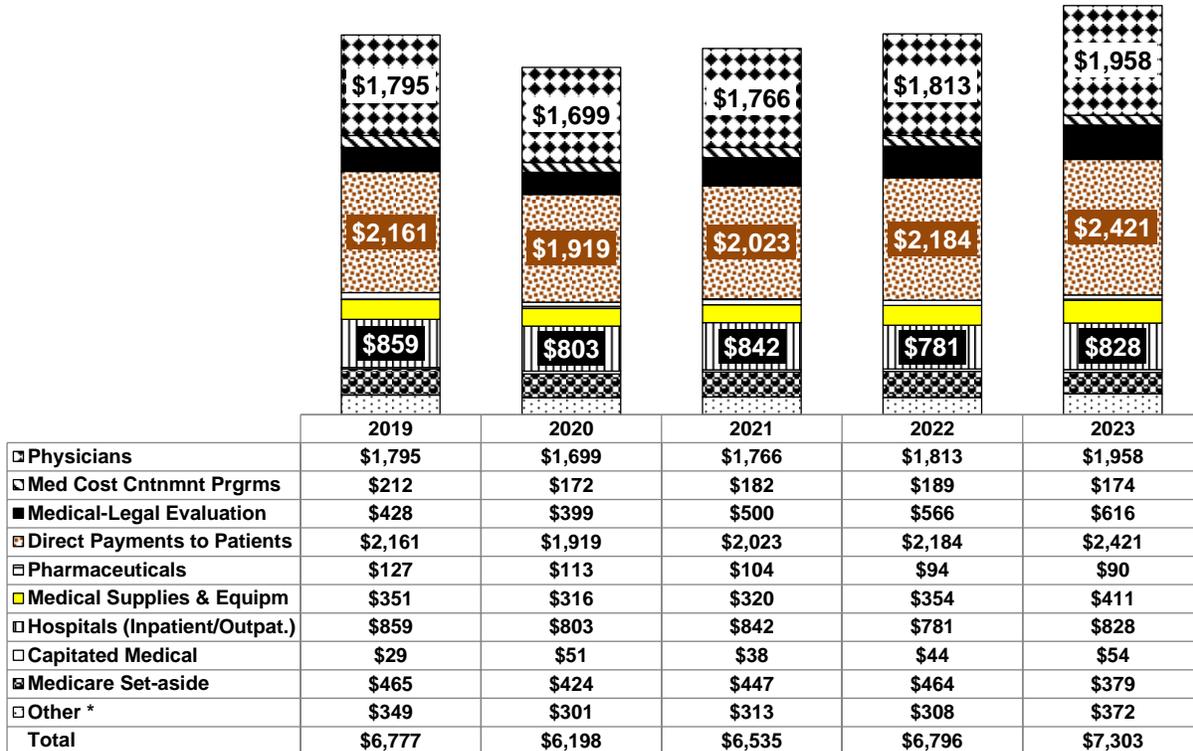
SYSTEM COSTS AND BENEFITS

Trends in Paid Medical Benefits

The estimated systemwide paid medical costs for the past five years are shown in Figure 32. The following trends may result from the impact of SB 863 reforms and from 2020-2021 contractions –the impact of the COVID-19 pandemic economic slowdown which in turn led to decreased premiums and a reduction of claims activity in that year.

The cost of the total medical benefit decreased by 9 percent from 2019 to 2020 and then increased by 18 percent from 2020 to 2023. Payments to physicians decreased by 5 percent from 2019 to 2020 and then increased by 15 percent from 2020 to 2023. Hospital costs fluctuated between \$780 million and \$860 million from 2019 to 2023. Medical supplies and equipment decreased by 10 percent from 2019 to 2020 and then increased by 30 percent from 2020 to 2023. Medical-legal evaluation costs decreased by 7 percent from 2019 to 2020 and then increased by 54 percent from 2020 to 2023, mostly due to the introduction of a new MLFS effective April 1, 2021. Pharmacy costs steadily decreased by 29 percent from 2019 to 2023 due to key factors such as IMR, reduced spinal surgeries, national trends toward reduced opioid use, changes in federal pricing guidelines for generics, and the new drug formulary. Direct payments to patients averaged \$2,072,000 from 2019 to 2022, and then increased by 11 percent from 2022 to 2023. Expenditures on medical cost-containment programs decreased by 19 percent from 2019 to 2020, increased by 10 percent from 2020 to 2022, and then decreased by 8 percent to its 2020 level.⁹⁸

Figure 32: Workers' Compensation Paid Medical Benefits by Type, Systemwide Estimated Costs (\$ in millions)



* Other includes Medical Liens, Dental, Interpreter Services, and Copy Services.

Source: WCIRB's MDC (Calculations by CHSWC)

⁹⁸ Medical cost-containment program costs on claims covered by policies incepting prior to July 1, 2010, are considered medical loss, and those covered by policies incepting July 1, 2010, and beyond are considered allocated loss adjustment expenses.

SYSTEM COSTS AND BENEFITS

Average Ultimate Total Loss⁹⁹

Figure 33 shows changes in indemnity and medical components of the projected ultimate total loss per WC indemnity claim.

Beginning with claims incurred on policies incepting on or after July 1, 2010, the cost of medical cost containment programs (MCCP) is reported to the WCIRB as allocated loss adjustment expenses (ALAE) rather than as medical loss.

The WCIRB projected the average cost or “severity” of 2023 claims, excluding COVID-19 claims, to be \$76,012, a 3 percent higher than 2022 and 22 percent above its 2017 level. After 5 years of relatively flat severities, from 2013 to 2017, the projected average indemnity cost started increasing and was the highest since 2013.

Recent growth in indemnity claim severities has been in part driven by higher-than-average wage inflation since the beginning of the pandemic. Following a period of steady increase in indemnity severity of cumulative 22 percent from 2017 to 2022, the increase in severity was a flat 1 percent from accident year 2022 to AY 2023.

Following a steady 9 percent decrease in medical severities from 2013 to 2016, driven by medical cost savings arising from SB 863, there was a 21 percent increase from 2016 to 2023. The relatively flat medical severities from 2015 to 2018 were driven by recent reforms, reduced pharmaceutical costs and efforts to fight fraud. According to WCIRB, some of the recent growth in medical severities may be attributable to claims staying open longer since the start of the pandemic and increases to medical fee schedule reimbursements effective in early 2021. The moderately increasing medical severities in 2022 and 2023 are driven by both inflationary increases in medical fee schedules and claim settlement rates remaining lower than the pre-pandemic level.

The projected average ALAE cost, excluding MCCP, has been flat from 2013 to 2022, with an average of \$9,340 per year in that period. It should be noted that, despite the flat average of projected ALAE cost per claim, California’s ratio of ALAE to losses is 70% higher than the countrywide median. According to WCIRB this is due to California’s high proportion of permanent disability claims and cumulative trauma claims, high rates of legal representation on claims, longer duration of claims, and higher costs in Southern California regions.¹⁰⁰ Following a flat period of ALAE severity from 2013 to 2021, driven by SB 863 and SB 1160 reforms, ALAE severities increased significantly in 2022 and 2023. The ALAE severity increased by 13 percent in 2023, in part driven by a slower settlement rate and increased post-pandemic prevention costs.

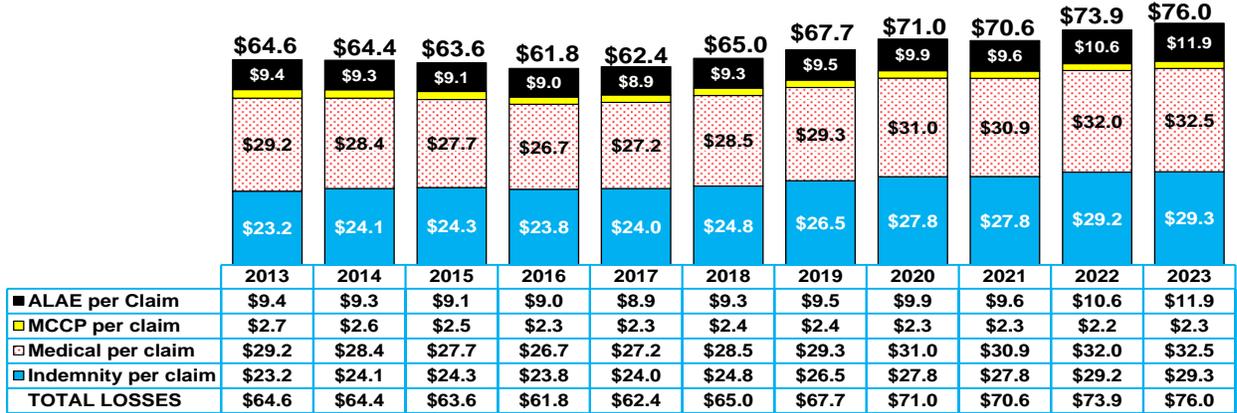
Average MCCP costs per claim increased by 5 percent from 2022 to 2023 after an overall 18 percent decrease from 2013 to 2022 that was corresponding with the decline in average medical costs following the SB 863 reforms.

⁹⁹ WCIRB Quarterly Experience Report as of June 30, 2024, Charts 7–11, https://www.wcirb.com/sites/default/files/2024-10/quarterlyexperiencereport-2024q2-2024-10-04_0.pdf.

¹⁰⁰ WCIRB 2023 State of the System Report, https://www.wcirb.com/sites/default/files/documents/wcirb_2023_state_of_the_system.pdf.

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**Figure 33: Projected Ultimate Total Loss and ALAE per Indemnity Claim as of June 30, 2024
(Thousand \$)**



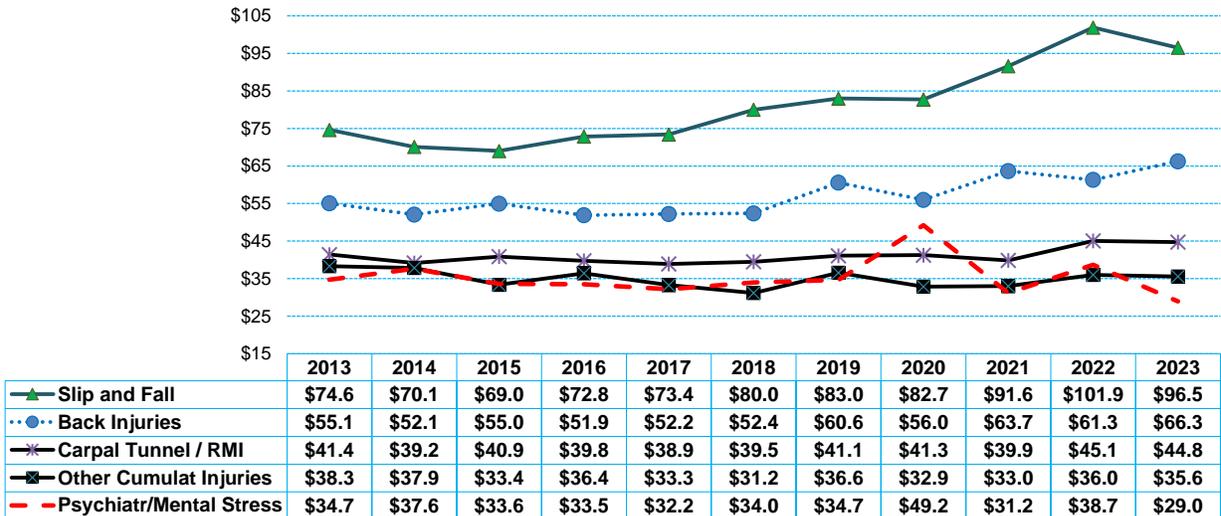
Data Source: WCIRB

Please note that the WCIRB's estimates of average indemnity claim costs have not been indexed to take into account wage increases and medical inflation.

Average Cost per Permanent Disability Claim by Type of Injury

Figure 34 shows the average medical and indemnity costs of permanent disability claims. The average cost of the most expensive type of injury, the slip and fall decreased by 7.5 percent from 2013 to 2015 and then increased overall by 48 percent from 2015 to 2022, before decreasing by 5 percent from 2022 to 2023. The average cost of back injuries fluctuated between \$52,000 and \$55,000 from 2013 to 2016, stayed relatively flat from 2016 to 2018, increased by 16 percent from 2018 to 2019, and then fluctuated in increasing trend between 2019 and 2023, reaching its peak of \$66,300 in 2023. The average cost of carpal tunnel (RMI) stabilized at around \$40,000 per year from 2013 and 2021 and then increased by 12 percent from 2021 to 2023. The average cost of psychiatric and mental stress claims was mostly around \$34,000 per year from 2013 to 2019, increased by 45 percent to \$49,200 from 2019 to 2020, and then decreased by 40 percent from 2020 to 2023 to its lowest point of \$29,000 since 2013. The average cost of other cumulative injuries went up and down between \$31,000 and \$38,000 from 2013 to 2023.

Figure 34: Average Cost per PD Claim by Type of Injury, 2013 - 2023 (Thousand \$)



Source: WCIRB

SYSTEM COSTS AND BENEFITS

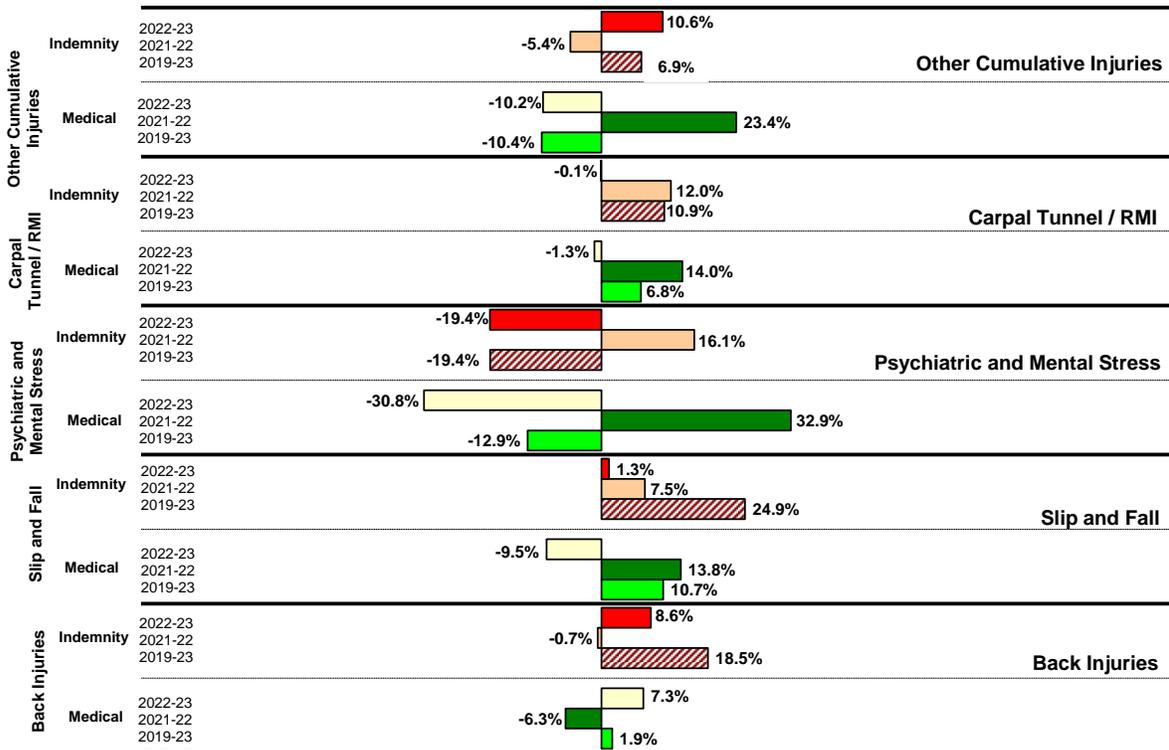
Changes in Average Medical and Indemnity Costs per Claim by Type of Injury

Figure 35 illustrates the impact of the reforms on selected types of injury. The 5-year trend from 2019 to 2023 shows increases in medical costs for slip and fall injuries (10.7 percent), carpal tunnel/RMI (6.8 percent), and back injuries (1.9 percent), while psychiatric and mental stress illnesses and other cumulative injuries showed a 12.9 percent and 10.4 percent decreases respectively during the same period. Slip and fall injuries showed the highest 5-year increase in average medical costs. The same 5-year trend for indemnity costs showed increases in indemnity costs for all types of injury except for psychiatric and mental stress illnesses (-19.4 percent), with the highest increase of 24.9 percent for slip and fall injuries.

From 2021 to 2022, medical costs increased by 32.9 percent for psychiatric and mental stress illnesses, by 23.4 percent for other cumulative injuries, by 14 percent for carpal tunnel/RMI, and by 13.8 percent for slip and fall injuries. In the same period, the medical costs decreased by 6.3 percent for back injuries. In the same year, the indemnity costs increased by 16.1 percent for psychiatric and mental stress illnesses, by 12 percent for carpal tunnel/RMI, and by 7.5 percent for slip and fall injuries, while there was a 5.4 percent decrease in the average indemnity cost of claim for other cumulative injuries and 0.7 percent decrease for back injuries.

From 2022 to 2023, medical costs increased for back injuries (7.3 percent) only, while psychiatric and mental stress illnesses (-30.8 percent), other cumulative injuries (-10.2 percent), slip and fall injuries (-9.5 percent), and carpal tunnel/RMI (-1.3 percent) experienced decreases during the same period. The indemnity costs in the same period, increased for other cumulative injuries (10.6 percent), back injuries (8.6 percent), and slip and falls (1.3 percent), while psychiatric and mental stress illnesses (-19.4 percent) and carpal tunnel/RMI (-0.1 percent) experienced decreases during the same period.

Figure 35: Percent Change in Average Medical and Indemnity Costs per Claim by Type of Injury (From 2019 through 2023, from 2021 to 2022, and from 2022 to 2023)



Data Source: WCIRB

SYSTEM COSTS AND BENEFITS

Cumulative Trauma Claims

According to Labor Code Section 3208.1, an injury may be either specific or cumulative. A specific injury is one that takes place as the result of a single incident or exposure. A cumulative injury results from repetitive trauma (mental or physical) over a period of time.¹⁰¹ The data below describe select trends in cumulative injuries. Additional information on cumulative trauma (CT) claims can be found in a 2018 WCIRB report, which includes the following findings (as of today there were no cost updates):¹⁰²

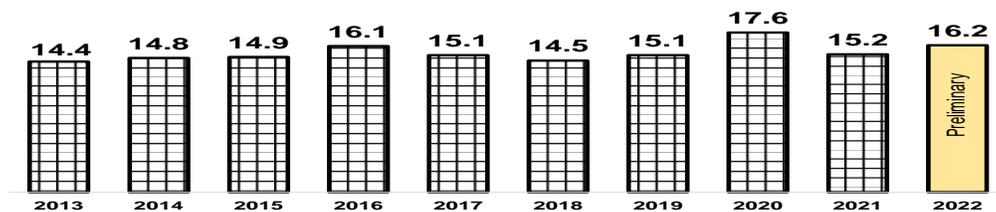
- Between 15 percent and 20 percent of all newly filed indemnity claims are CT claims.
- All recent CT claim growth is in the Los Angeles and San Diego regions, which now generate 75 percent of CT claims but only 50 percent of other claims.
- Recent CT claim growth is spread across many industries in the Los Angeles region, though the Manufacturing and Hospitality sectors have experienced the most significant growth rates.
- CT claim growth in Southern California is concentrated in lower wage workers.
- About 40 percent of recent CT claims are filed after the employee is terminated, about three-quarters are initially denied in part or in whole, and about one-quarter also involve an accompanying specific injury claim.
- CT loss payouts are much slower than those for specific injury claims and on average ultimate costs for CT claims are higher than those for specific injury claims.
- CT claims incur significantly more medical-legal and lien payments than other types of claims, particularly at early and mid-maturity levels.
- CT claims stay open longer than other claims, but claim settlement rates have accelerated across all claim types.

According to WCIRB, claim frequency changes in 2022 and 2023 are modest and consistent with pre-pandemic trends. The share of indemnity claims involving permanent disability has declined, but there are signs that the share of indemnity claims involving cumulative trauma is increasing.

Cumulative Trauma Claim Counts

Figure 36 shows that CT claim rates remained relatively steady up until the pandemic. The sharp increase in the CT claim rate in 2020 is likely related to the economic slowdown resulting from the pandemic and the reduction in the number of smaller non-CT claims filed in 2020. In 2021, the CT claim rate returned to approximately the pre-pandemic level. The preliminary accident year 2022 CT claim rate suggests CT claim rates may be on the rise again.

Figure 36: Cumulative Trauma Claims per 100 Indemnity Claims¹⁰³



Source: WCIRB

¹⁰¹ Labor Code Section 3208.1, p. 9, <https://www.dir.ca.gov/dwc/medicalunit/toc.pdf>

¹⁰² WCIRB's The World of Cumulative Trauma Claims Report, October 2018.

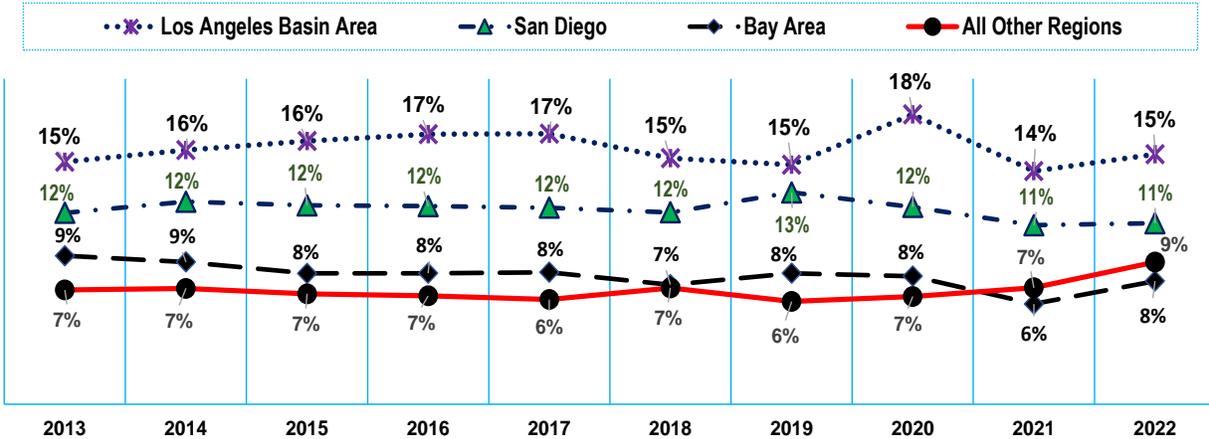
https://www.wcirb.com/sites/default/files/documents/the_world_of_cumulative_traum_claims_study_102018.pdf

¹⁰³ WCIRB 2024 State of the System Report, Chart 14, https://www.wcirb.com/sites/default/files/2024-07/wcirb_2024_report_on_the_state_of_the_california_workers_compensation_insurance_system-2024-07-17.pdf.

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As seen in Figure 37, most of the recent growth in CT claims through 2022 has been in the Los Angeles and San Diego regions. In 2022, the percentage of CT claims increased significantly in the LA Basin. The recent increase in CT claims in the preliminary accident year 2022 appears to be similar across most regions of the state.

Figure 37: Percent of Cumulative Trauma Indemnity Claims by Region¹⁰⁴



Note: 2020, 2021, and 2022 exclude COVID-19 claims.
2022 data is preliminary.

Source: WCIRB

Frequency of Cumulative Trauma Claims during Economic Downturn and COVID-19 Pandemic

According to the WCIRB, since 2012, about 25 post-termination claims, most of which were CT claims, have been filed for every 1,000 jobs lost. If only 50 percent of the rate of post-termination claims were applied to 4.3 million Californians who have lost jobs due to the COVID-19 pandemic, about 54,000 post-termination claims could be filed over 2020, increasing statewide indemnity claim frequency by approximately 25 percent.¹⁰⁵ Over the long term (1961-2017), the average annual decline in claim frequency was 0.9 percent during periods of expansion and 1.8 percent during times of economic downturn. CT claims, unlike other claims, also often increase during economic downturns in California and can partially offset declines in other claims and, consequently, in decreased costs. During the Great Recession (2007-2009), the average annual increase in CT claim frequency was 7.5 percent compared with 0.1 percent during the preceding economic expansion. Similarly, during periods of economic downturn, claims with injuries often involving less objective medical evidence, such as soft tissue and carpal tunnel injuries, tended to decrease at a slower rate, compared to claims involving more objective medical evidence, such as fracture and crushing injuries.

Figure 38 shows that while CT claims rose in most industries in 2020, the increases were generally greatest in industries with the largest job losses. According to WCIRB data, in recent pre-pandemic years, about 40 percent of all CT claims were filed following the job termination.¹⁰⁶

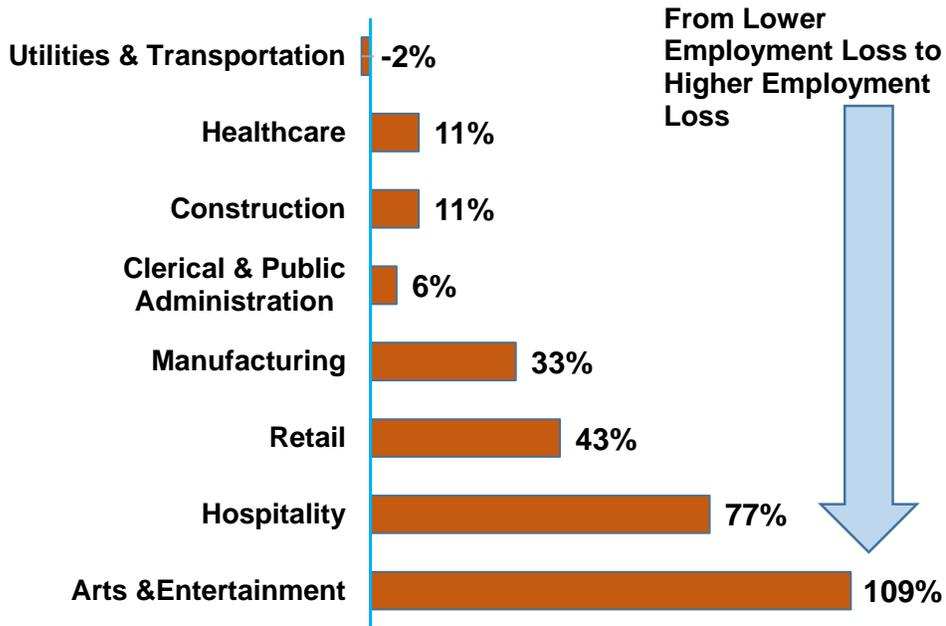
¹⁰⁴ WCIRB 2024 State of the System Report, Chart 15, https://www.wcirb.com/sites/default/files/2024-07/wcirb_2024_report_on_the_state_of_the_california_workers_compensation_insurance_system-2024-07-17.pdf.

¹⁰⁵ WCIRB Impact of Economic Downturn on California Workers' Compensation Claim Frequency, https://www.wcirb.com/sites/default/files/documents/rb-impact_of_economic_downturn-audienceready_0.pdf.

¹⁰⁶ WCIRB 2024 State of the System Report, Chart 14, https://www.wcirb.com/sites/default/files/2024-07/wcirb_2024_report_on_the_state_of_the_california_workers_compensation_insurance_system-2024-07-17.pdf

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Figure 38: Change in CT Claims by Industry from 2019 to 2020 (Excludes COVID-19 Claims)¹⁰⁷



Source: WCIRB

Cumulative Trauma Claim Costs

According to WCIRB, the CT loss payouts are much slower than for specific injury claims and on average ultimate costs for CT claims are higher than for specific injury claims. The CT claims incur significantly more medical-legal and lien payments than other types of claims, particularly at early and mid-maturity levels.

Figures 39 and 40 illustrate the indemnity and medical costs of CT claims at 1.5, 5.5, and 10.5 years of maturity. In 2017, the ten and a half year mature claims originated in the 2007 accident year as the two figures demonstrate a cost development of aging CT claims.

It takes over seven years for CT claims to be 98 percent reported or 3 times as long as for specific injury claims. In order to demonstrate better characteristics and attributes of CT claims the data have to be tracked from earlier accident years as in Figures 37 and 38.

Initially at 18 months, average CT claim and specific claim indemnity costs are similar. A number of CT claims are initially reported as a medical-only claim with the indemnity benefits paid on an associated claim. CT claims develop much higher costs than specific injury claims and on average have higher indemnity costs at later maturities.

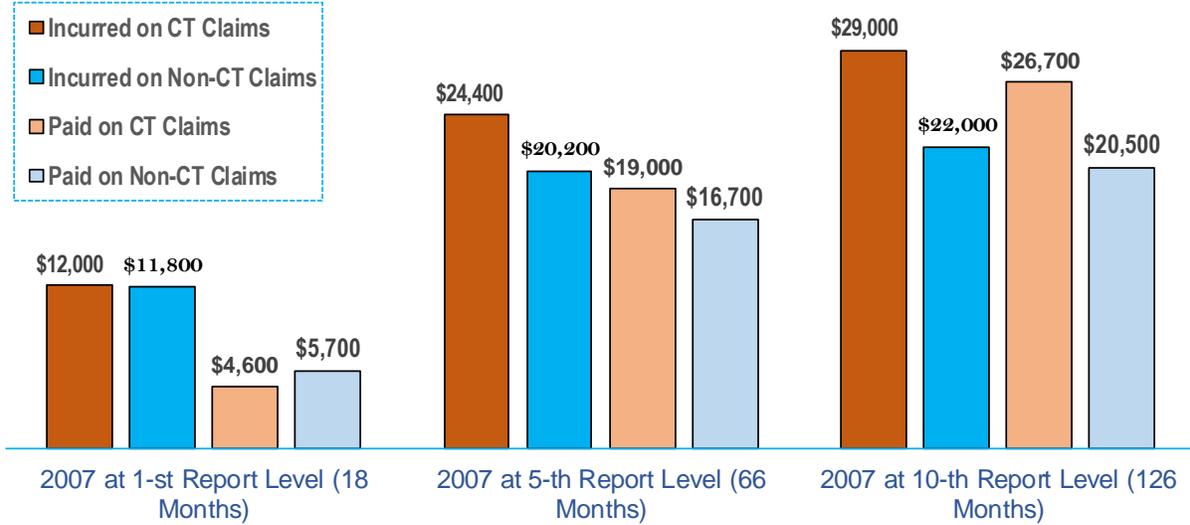
High proportion of cumulative trauma claims is one of the main causes for California being the second highest in ratios of allocated loss adjustment expenses (LAE) to losses and of that ratio being a 70 percent higher than the countrywide median. Also the high proportion of the cumulative trauma claims is one of the main reasons for California still having longer duration of medical payments compared to the rest of the country.¹⁰⁸

¹⁰⁷ WCIRB 2022 Report on the State of the California WC Insurance System, Chart 27, <https://www.wcirb.com/sites/default/files/documents/wcirb2022stateofthesystem1663968583761.pdf>.

¹⁰⁸ WCIRB 2023 Report on the State of the California WC Insurance System, Charts 30 and 39, https://www.wcirb.com/sites/default/files/documents/wcirb_2023_state_of_the_system.pdf

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Figure 39: Development of Average Indemnity (Incurred or Paid) Costs per Cumulative Trauma Claims



Source: WCIRB

Initially at 18 months, average CT claim medical costs, like their indemnity costs, are lower than those for specific injury claims. CT claim medical costs develop much higher than for specific injury claims and are on average 13 percent more expensive for incurred and 8 percent higher for paid costs by 126 months.

Figure 40: Development of Average Medical (Incurred or Paid) Costs per Cumulative Trauma Claims

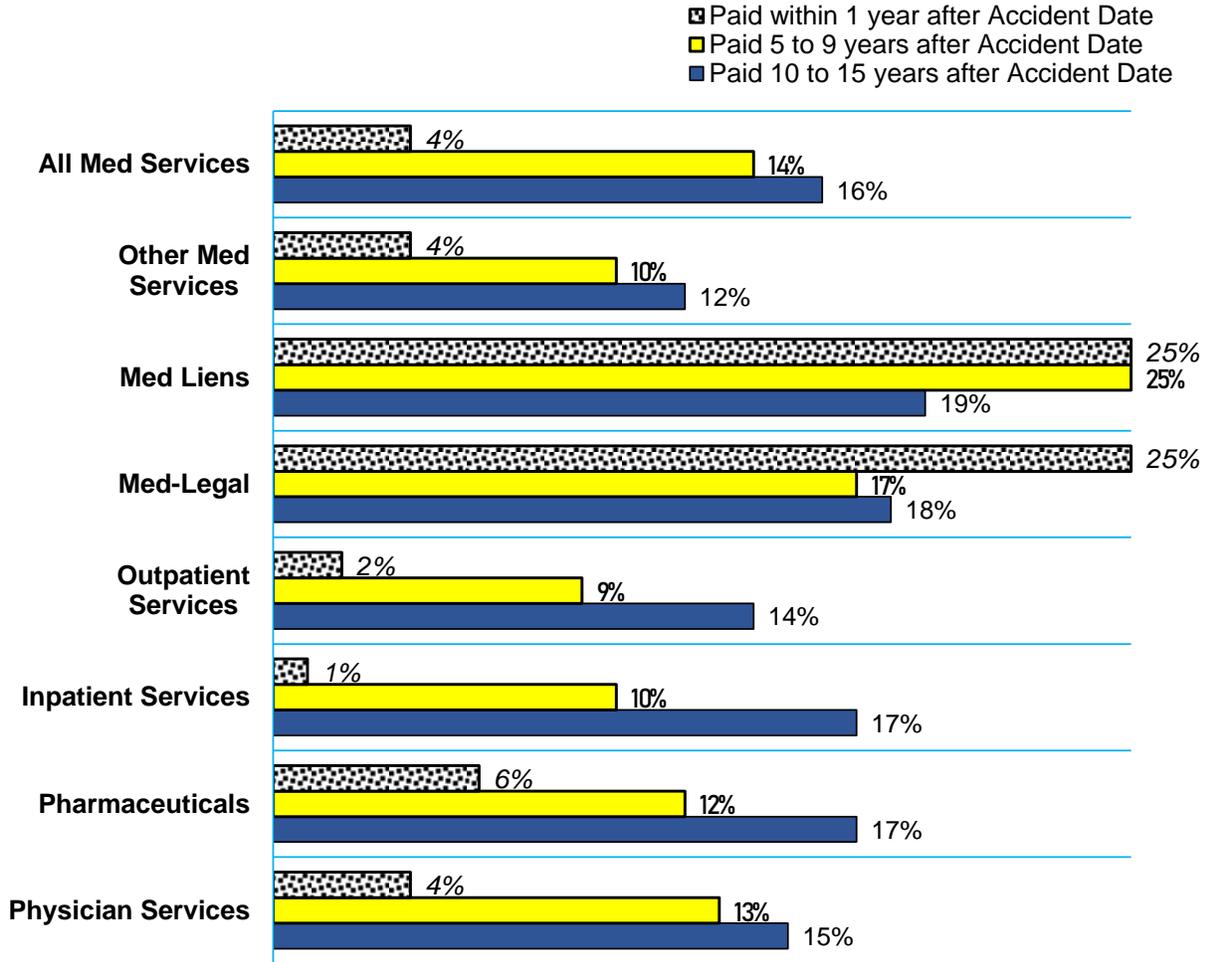


Source: WCIRB

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Figure 41 shows the share of the medical payments by type of services on CT claims in total medical payments. CT claims represent only 4 percent of all medical paid in the first year of claims, but 25 percent of medical-legal and lien payments. In later periods, CT claims account for 16 percent of all medical paid amounts with somewhat higher shares of medical-legal and lien payments.

Figure 41: Percentage of Medical Payments by Service Type on CT Claims in Total Medical Paid¹⁰⁹



Source: WCIRB

¹⁰⁹ WCIRB report “The World of Cumulative Trauma Claims”, October 17, 2018, <https://static1.squarespace.com/static/5589b2a1e4b075cc91205d5c/t/5c93d9e6b208fc2cf3f70d66/1553193456632/WCIRB+CT+Report.pdf>.

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Medical-Legal Expenses

This section contains estimated California WC medical-legal costs for 2023, which is the second year with complete annual data under the new 2021 Official Medical-Legal Fee Schedule (MLFS). For 2021, the information regarding the medical-legal costs reflects only three quarters (April 1 to December 31) of the latest changes in the MLFS that became effective for services rendered on or after April 1, 2021. Due to this change, the historical medical-legal data for services prior to April 1, 2021 are not directly comparable to the data emerging under the new fee schedule. As mentioned earlier, the ultimate impact of the COVID-19 pandemic on WC medical and medical-legal costs may not be known for years and can only be comprehensively evaluated using post-COVID-19 data.

In California's WC system, the medical-legal evaluations result in medical-legal reports addressing specific medical and legal questions based on review of all the medical information concerning a work-related injury. The medical-legal examinations do not provide any medical treatment and the medical treatment-related evaluations for resolving disputes are outside the scope of medical-legal services. A medical-legal report is conducted to determine multiple compensability and disability threshold issues:

- Worker's eligibility for benefits: Arising out of Employment (AOE)/Course of Employment (COE).
- Permanent and stationary status of injured worker.
- Existence and extent of permanent and temporary disabilities.
- Apportionment.
- Ability to return to work.
- Injured worker's ability to engage in his/her usual occupation.
- Need for future medical treatment in cases settled by Compromise and Release.

Beginning from 2016, the analyses in the CHSWC Annual Report are based on the WCIRB's medical transaction data from its Medical Data Call (MDC). The MDC began with mandatory medical transactions in the third quarter of 2012 that were reported to the WCIRB by December 31, 2012.

The historical medical-legal analysis ending in 2015 and based on the WCIRB's Permanent Disability Survey data for 2012, the latest one available, can be found in the 2015 CHSWC Annual Report:

<http://www.dir.ca.gov/chswc/allreports.html>

The new Medical-Legal Fee Schedule (MLFS) adopted by the Administrative Director in 2021 is effective for medical-legal payments for dates of service on or after April 1, 2021. Although the standard measurements related to medical-legal costs based on 2006 MLFS and 2021 MLFS are presented on the same figures those data are not directly comparable as was mentioned above. As the 2021 MLFS-based data replace the 2006 MLFS-based estimates, the historical medical-legal analysis ending in 2020 can be found in the 2020 CHSWC Annual Report:

<http://www.dir.ca.gov/chswc/allreports.html>

DWC's Permanently Adopted COVID-19 Medical-Legal Emergency Measures¹¹⁰

DWC adopted emergency regulations for medical-legal evaluations that took effect May 14, 2020 and were set to expire on October 12, 2021, as outlined in Executive Order N-40-20. These emergency regulations (36.7 and 46.2) have been extended until January 11, 2022 with two possible 90 day extensions in accordance with Government Code section 11346.1(h). These emergency regulations helped injured workers and employers continue to move their WC claims towards a resolution and avoid additional and undue delay. The issue of whether a medical-legal report is admissible or constitutes substantial medical

¹¹⁰ DWC Medical-Legal Emergency Regulations, https://www.dir.ca.gov/dwc/DWCPropRegs/2020/QME-Regulations/QME_Regs.htm.

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evidence is determined in accordance with applicable laws and is not altered by these emergency measures.

Regulation 36.7 provided a mechanism for electronic service of medical-legal reports and all documents required by section 36. To make the regulation permanent, DWC has adopted Title 8, California Code of Regulations section 36.7, Electronic Service of Medical-Legal Reports by Medical Evaluators effective April 12, 2022. DWC extended its emergency regulation Section 46.2, that allowed for medical-legal evaluations utilizing telehealth and office location flexibility resulting from various state and local public health safety measures related to COVID-19 had been extended until January 18, 2023. This was DWC's second and final re-adoption in accordance with Government Code section 11346.1(h).

DWC has permanently adopted these emergency regulations that include allowing telehealth evaluations by QMEs effective February 2, 2023.¹¹¹

The adoption and amendments of these regulations include but are not limited to the following:

- Extends the time frame to schedule a medical-legal evaluation by an additional 30 days
- Clarifies that the time frame for scheduling an evaluation is for both initial and subsequent evaluations
- Provides flexibility if the parties agree so that an initial evaluation can occur at any office listed with the DWC Medical Director
- Provides for a QME or Agreed Medical Evaluator (AME) to reschedule an evaluation within 60 days of the date of the cancellation unless the parties agree beyond the 60 days
- Provides a mechanism for remote health Medical-Legal evaluations if specific criteria are met
- Provides a definition of remote health evaluations and identification of office location when a remote health evaluation is conducted.

Telehealth options include remote visits via videoconferencing, videocalling or similar technology that allows a video connection.

All the following conditions apply to telehealth medical-legal evaluations:

1. The injured worker is able to participate in a telehealth evaluation without violating the stay-at-home order.
2. The medical issue in dispute is determined to be essential to an injured worker's benefits and must involve the following:
 - a. An evaluation is determining whether the injury is AOE/COE
 - b. Termination of an injured worker's indemnity benefit payments, or
 - c. Work restrictions
3. There is a written agreement between injured worker, carrier, or employer, and the QME.
4. The telehealth evaluation is consistent with appropriate medical practices and ethical considerations.
5. The QME attests that the evaluation of the injured worker can be performed effectively and safely with a telehealth evaluation and does not require an in-person physical examination that can better contribute to the examiner's ability to make an accurate diagnosis or to foresee the outcome of a treatment already provided.
6. When the medical-legal evaluations do not require the injured worker or others to travel and interact with anyone outside their immediate household.

¹¹¹ <https://www.dir.ca.gov/DIRNews/2023/2023-13.html>.

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Status of DWC's Implementation of the Medical-Legal Fee Schedule (MLFS)¹¹²

On April 1, 2021, DWC implemented a new MLFS. The goal of the implementation of the new MLFS was to grant a cost-of-living increase in fees for Qualified Medical Evaluators (QME) and to possibly attract more physicians into the ranks of QME. The last time the MLFS was updated was in 2006.

On February 26, 2024, the Division of Workers' Compensation (DWC) received final approval from the Office of Administrative Law for adoption of the rulemaking package entitled "QME Process Regulations", amending 15 regulations and repealing two.

The amendments were necessary to bring existing regulations into compliance with the Labor Code and to clarify the Administrative Director's authority with respect to the process related to appointment and reappointment of QMEs.

The changes to the regulations include:

- Clarification of regulatory definitions to conform to changes made by Senate Bill 863, recent changes made to the Medical Legal Fee Schedule, and the addition of electronic service of documents.
- Provisions prohibiting false information on applications and reapplications for appointment as a QME.
- Provisions conforming amended regulations with proper gender pronouns.
- Revisions decreasing the number of hours necessary for initial qualification of chiropractors as QMEs;
- Revisions increasing continuing education requirements and adding anti-bias training for QMEs.
- Provisions requiring a QME to be in compliance with all Administrative Director's regulations in order to be reappointed as a QME.
- Provisions implementing the existing discretionary authority of the Administrative Director pursuant to Labor Code section 139.2.
- Provisions clarifying the use of probation as a disciplinary sanction and allowing the Administrative Director to designate hearing officers for adjudication of disputes regarding QME appointment and reappointment applications.
- Clerical provisions relating to the regulation on QME unavailability.
- Provisions repealing regulations related to administration of disputes regarding the Supplemental Job Displacement Benefit.

The adoption of these regulations remove ambiguity from the administration of the QME program, with the goal of improving the overall functioning of the administration of the QME program.

On June 27, 2024, The California Workers' Compensation Institute (CWCI) issued an updated analysis of the Medical Legal Fee Schedule (Fee Schedule) adopted by the DWC on April 1, 2021. The CWCI called the study an in-depth look at changes in the utilization and reimbursement of California workers' compensation medical-legal services, as well as changes in the number of QMEs since adoption of the Fee Schedule. The CWCI concluded that the number of QMEs only increased by 5.9 percent from 2019 to 2023, but the average financial reimbursements to QMEs increased approximately 52 percent from April 2021 to October 2023. These results, if independently verified, bring into stark relief the effectiveness, or lack thereof, of one of the main recommendations of the State Auditor's Office following their audit of the QME program in 2019.

¹¹² Information on the Status of DWC's Implementation of the MLFS was provided by DWC.

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On June 6, 2024, the DWC contracted with RAND to undertake a comprehensive and qualitative study of all major components of the QME program. The study will take approximately 2 years to complete. It is anticipated that this independent review of the QME program, will yield results that can form the basis of implementing functional changes that will ensure the continued viability of the QME program.

Impact of SB 863 on Medical-Legal Process

The most recent reform, SB 863, which took effect January 1, 2013, did not directly address the medical-legal process, but its several provisions introduced a significant change to medical-legal evaluations in how medical treatment disputes are resolved. The reform did not change the reimbursement procedures or parameters for reimbursement of medical-legal reports. It was expected that the number of medical-legal reports would be reduced by the IMR, lien, medical provider network (MPN), and independent bill review (IBR) provisions of SB 863. As of January 1, 2013, for injuries occurring on or after that date, and as of July 1, 2013, for all dates of injury, disagreements about a specific course of medical treatment recommended by the treating physician are resolved only through a process called independent medical review (IMR). In this environment, medical-legal evaluations by QME and AME are limited to disagreements about whether a claim is covered by workers' compensation (compensability) and disability threshold issues. In addition, another SB 863 legislative change that indirectly could have had an impact on medical-legal evaluations were the California Labor Code Sections 4660.1(c)(1) and (2). These sections limited the ability of injured workers to receive a PD compensation for sleep disorders, sexual disorders and psychological/psychiatric disorders that develop as a "compensable consequence" of physical injuries. For cases after December 31, 2012, sleep disorder and sexual dysfunctions caused by a physical injury and psychiatric disorders cannot cause an increase in PD rating, unless the psychiatric disorder is due to violent acts, direct exposure to a significant violent act, or caused by catastrophic injury, including but not limited to loss of a limb, paralysis, severe burn, or severe head injury. As a result of these changes, the total paid medical-legal cost (by calendar year) declined by 20 percent from 2016 to 2020 (see Figure 45).

According to DWC, under the former system, it typically took 9 to 12 months to resolve a dispute over the treatment needed for an injury. The process required: (1) negotiating over the selection of an agreed medical evaluator, (2) obtaining a panel, or list, of state-certified medical evaluators if agreement could not be reached, (3) negotiating over the selection of the state-certified medical evaluator, (4) making an appointment, (5) waiting for the appointment to get an examination, (6) awaiting the evaluator's report, and then, if the parties still disagree, (7) awaiting a hearing with a workers' compensation judge, and (8) awaiting the judge's decision on the recommended treatment. In many cases, the treating physician could also rebut or request clarification from the medical evaluator, and the medical evaluator could be required to follow up with supplemental reports or answer questions in a deposition.

SB 863 replaced those eight steps with an IMR process similar to the one used in group health plans, which takes approximately 40 (or fewer) days to arrive at a determination to obtain appropriate treatment.

Medical-Legal Fee Schedule

Medical-Legal Fee Schedule Regulations Effective April 1, 2021

The previous fees for preparing the written reports and the rules for determining the fees had been established in CCR, Title 8, sections 9793, 9794 and 9795. As was mentioned above, the MLFS was last changed in June 2006, while the rules relating to the fees were last amended in September 2013.

The Medical-Legal Fee schedule adopted by the Administrative Director in 2006 determined the cost per medical-legal evaluation for dates of services on or after July 1, 2006. Table 9 shows the costs and description from 2006 MLFS. (The estimated medical-legal costs in this 2023 report are based on the 2006 MLFS for data provided up to the first quarter of 2021 and on the new MLFS 2021 - for the last three quarters of 2021 and the full-year data for 2022.)

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Table 9: Medical-Legal Evaluation Costs for Dates of Service on or After July 1, 2006

Evaluation Type	Amount Presumed Reasonable
ML-100 Missed Appointment	Some claims administrators will not pay
ML-101 Follow-up	\$62.50/15 minutes or \$250/hr.
ML-102 Basic (flat rate)	\$625
ML-103 Complex (flat rate)	\$937.50
ML-104 Extraordinary	\$62.50/15 minutes or \$250/hr.
ML-105 Testimony	\$62.50/15 minutes or \$250/hr.
ML-106 Supplemental	\$62.50/15 minutes or \$250/hr.

Note: Two categories ML-105 and ML-106, created by CCR Title 8, Sections 9793 & 9795, June 2006, were applicable to 2008 and later claims. The functions of medical testimony and supplemental evaluations were moved into these two new categories from their previous status.

The MLFS adopted by the Administrative Director in 2021 increases the payments per medical-legal evaluation for dates of service on or after April 1, 2021. Table 10 shows the costs and description from 2021 MLFS.

Table 10: Medical-Legal Evaluation Costs for Dates of Service on or After April 1, 2021

New Evaluation Type	Description and Amounts Presumed Reasonable
ML-200 Missed Appointment for a Comprehensive or Follow-Up Medical-Legal Evaluation	Flat fee of \$503.75
ML-201 Comprehensive Medical-Legal Evaluation	Flat fee of \$2,015 with the addition of an excess medical records review fee
ML-202 Follow-Up Medical-Legal Evaluation	Flat fee of \$1,316.25 with the addition of an excess medical records review fee
ML-203 Fees for Supplemental Medical-Legal Evaluations	Flat fee of \$650 with the addition of an excess medical records review fee (not previously reviewed records only)
ML-204 Fees for Medical-Legal Testimony	\$455.00 per hour including travel time
ML-205 Fees for review of Sub Rosa Recordings	\$325.00 per hour
ML-206 Unreimbursed Supplemental Medical-Legal Evaluations	The code is designed for communication purposes only when a supplemental report is provided to account for deficiencies in prior reporting by the physician. This code does not indicate that compensation is due for the service.
ML-PRR Record Review	A billing code used to identify charges for review of records in excess of pages included in medical-legal numerical billing codes.

The payments for services described by procedure codes ML 201–ML 203 may be modified using four old and three new modifiers that can further increase the cost of evaluations. The modifiers are not applicable to the per-page charges. Table 11 describes seven modifiers available in 2021 MLFS.

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Table 11: Modifiers adopted from 2006 MLFS and newly introduced by 2021 MLFS

MODIFIERS
-92 (Adopted from 2006 MLFS): Performed by PTP. For identification purposes only and does not change the value of the service.
-93 (Adopted from 2006 MLFS): Interpreter needed at a time of examination or other circumstances needed to conduct the exam. Requires a description of the circumstance and the increased time required for the exam. The procedure fee is modified by multiplying the normal value by 1.1. Applicable only to ML 201 and ML 202.
-94 (Adopted from 2006 MLFS): Evaluation performed by an AME. The fee for the service is modified by multiplying the fee by 1.35. If modifier -93 is also applicable for ML 201 or MO 202, then the value of the procedure is modified multiplying by 1.45.
-95 (Adopted from 2006 MLFS): Evaluation performed by a QME. For identification purposes only and does not change the procedure fee.
-96 (New modifier). For evaluation performed by psychiatrist or psychologist when psychiatric or psychological evaluation is the primary focus of the med-legal evaluation. The procedure fee is modified by multiplying by 2. If modifier -93 is also applicable for ML 201 or ML 202, the fee is modified by 2.10. If modifier -94 is also applicable to ML 201 or ML 202, the fee is multiplied by 2.45.
-97 (New modifier). For evaluation performed by a physician board certified in Toxicology, a QME in the specialty of Internal Medicine or a physician board certified in Internal Medicine when a Toxicology evaluation is the primary focus of the evaluation. The procedure fee is multiplied by 1.50. If -93 is also applicable for ML 201 or ML 202, the fee is multiplied by 1.60. If modifier -94 is also applicable for ML 201 or ML 202, the fee is modified by 1.85. If modifier -93 and -94 are applicable for an ML 201 or ML 202, the fee is modified by 1.95.
-98 (New modifier). For evaluation performed by a physician who is board certified in Medical Oncology, a QME in the specialty of Internal Medicine or a physician who is board certified in Internal Medicine, when Oncology is the primary focus of the evaluation. The procedure fee is multiplied by 1.50. If modifier -93 is also applicable for ML 201 or ML 202, the fee is modified by 1.60. If modifier -94 is applicable for ML 201 or ML 202, the fee is multiplied by 1.85. If -93 and -94 are also applicable for an ML 201 or ML 202, the fee is multiplied by 1.95.

The reimbursement for 2021 MLFS base codes ML200, ML201, ML202, and ML203 include payment for a reasonable amount of medical record review up to certain page limits after which an MLPRR code applies as shown in Table 12. The purpose of the MLPRR billing code is to provide physicians a way to receive reimbursement for review of records beyond the number of pages included in base Medical-Legal numerical billing codes ML200, ML201, ML202, and ML203. Starting with the excess page the physician may bill for every page that exceeds the 200-page or 50-page limits. Each additional page represents one billable unit of MLPRR at \$3 per unit or page.

Table 12: Medical-Legal Per-Page Record Review (MLPRR)

MLFS Evaluation Code	Page Limits for Record Review Reimbursement Included in MLFS Evaluation Code
ML-200 - Missed Appointment	200 Pages
ML-201 - Comprehensive Medical-Legal Evaluation	200 Pages
ML-202 - Follow-up Medical-Legal Evaluation	200 Pages
ML-203 - Supplemental Medical-Legal Evaluation	50 Pages

To facilitate comparison of 2006 MLFS and 2021 MLFS data, CWCI developed a crosswalk between the related procedure codes as shown in Table 13.

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Table 13: Crosswalk Between Procedure Codes in 2006 MLFS and 2021 MLFS

2006 MLFS	2021 MLFS
Missed Appointment	
ML-100 - does not imply compensation is necessarily owed	ML-200 Flat Fee \$503.75
Comprehensive Medical-Legal Evaluation (involves face-to-face examination)	
ML-102 Basic: Flat Fee \$625	ML-201 Flat Fee \$2,015 plus \$3.00 per page for records exceeding 200 pages
ML-103 Complex: Flat Fee \$937.50	
ML-104 Extraordinary: \$62.50/15 minutes (\$250/hour)	
Follow-Up Medical-Legal Evaluations (involves face-to-face examination)	
ML-101 \$62.50/15 minutes	ML-202 Flat Fee \$1,316.25 plus \$3.00 per page for records exceeding 200 pages
Supplemental Medical-Legal Evaluation Report (no face-to-face examination)	
ML-106 \$62.50/15 minutes	ML-203 Flat Fee \$650 plus \$3.00 per page for records exceeding 50 pages
Medical-Legal Testimony	
ML-105 \$62.50/15 minutes (\$250/hour)	ML-204 - \$455/hour
Review of Sub Rosa Recording	
Not Separately Paid	ML-205 - \$325/hour
Per Page Record Review	
Not Separately Paid	MLPRR - \$3.00/page

Source: CWCi

With introduction of the new MLFS, DWC implemented extensive changes to regulations governing the reimbursement of medical-legal services. The most significant changes to MLFS could be outlined as following:

- Replacing the time-based billing for ML-101, ML-104, and ML-106 with flat fees to eliminate the hourly billing components of MLFS. (See Table 9 for 2006 fees and descriptions.)
- A standardized missed appointment reimbursement (\$503.75) and a provision for payment for records reviewed in anticipation of the appointment.
- Page-based reimbursement for medical record review (\$3.00 per page in excess of certain number of pages depending on the type of report.)
- Elimination of complexity factors that were open to subjective interpretation by providers and led to disputes regarding their proper application.
- Increases in reimbursement for medical-legal testimony.
- Increases in reimbursement for reports involving psychiatric, toxicology, and cancer issues.
- Replacement of 100 series designation (ML-100 through ML-106) for the billing codes by a 200 series (ML-200 to ML-206) for purposes of clarification and comparisons between the old and new fee schedules.
- Adding ML-PRR Record Review to 200 series in order to identify charges for review of records in excess of pages included in medical-legal numerical billing codes.

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According to DWC, although the 2006 MLFS paid both flat and hourly fees to review medical records, write medical-legal reports, and testify in trials, there was a substantial increase in incidence of hourly billing in recent years that was not matched by an increase in complexity of matters reviewed by physicians.¹¹³ A flat-fee-based MLFS will eliminate the need to interpret regulations to determine the appropriate fees for medical-legal evaluations. The empirical data evidenced in the cited studies¹¹⁴ by DWC indicated that some current interpretations of the fee schedule regulations were done in a manner that completely circumvented the original intent of the fee schedule. The implementation of a new fee schedule is expected to result in objective and standardized outcomes and reduce frictional costs.

The increase in reimbursements for medical-legal evaluations provided by the new MLFS is expected to improve the quality of medical-legal reports and attract new physicians to the QME program. According to the latest available DWC data, 211 new physicians joined the pool of certified QMEs in 2021, while only 18 became inactive, resulting in 2,554 active evaluators, a 2.6 percent increase from 2020 and a 0.7 percent decrease from 2019.

Workers' Compensation Claims with Medical-Legal Expenses

The WCIRB's MDC provides two sets of medical-legal data. The first is for all claims with total and partial disabilities, temporary disabilities, medical only, and denied claims as well. The second set is only for claims with total and permanent partial disability which usually have higher severity and a longer life cycle. Claims reported to MDC include claims with any medical transaction and, for this report, are grouped by the service year of a transaction.

Figure 42 shows the number of permanent disability (PD) and all claims originating in three California regions in Service Years (SY) 2019 to 2023. Thirty four (34) percent of claims statewide in 2019 to 2021, and 31 percent in 2022 and 2023, involved a permanent disability.

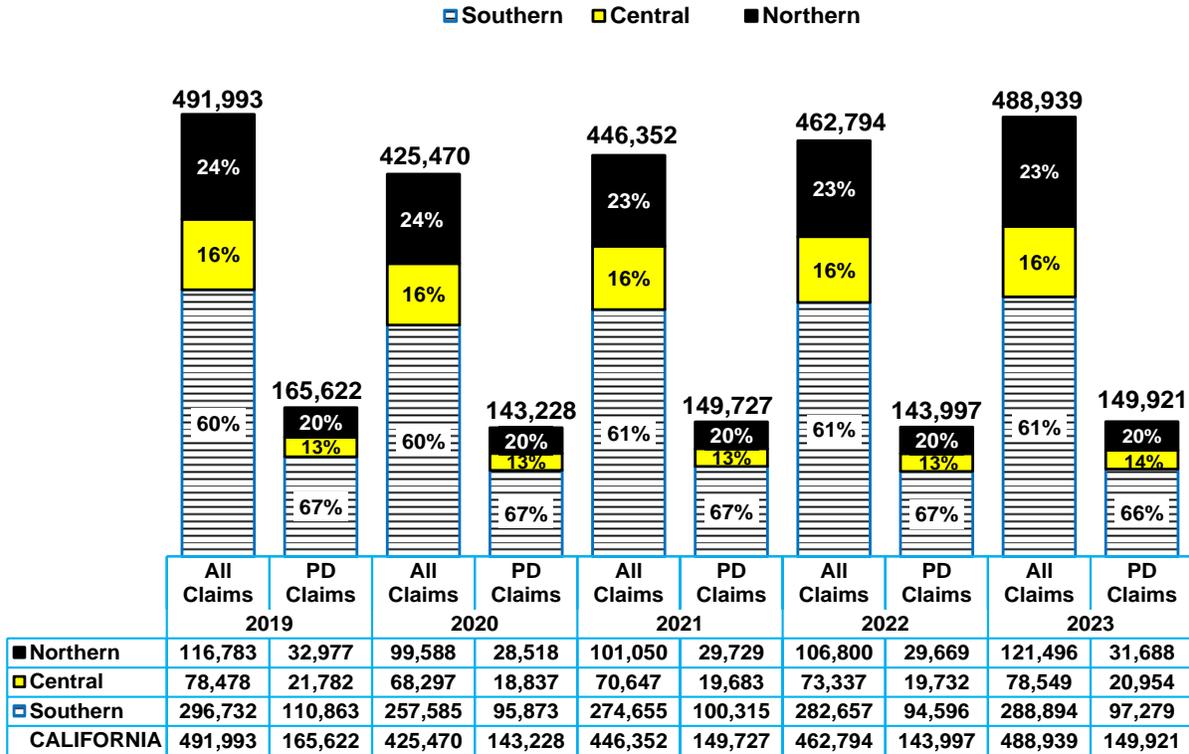
From 2019 to 2020, there was an overall 14 percent decrease in both the all claims and PD claims due to the COVID-19 pandemic. From 2021 through 2023, when a complete and more consistent medical-legal data, after the introduction of the new MLFS, became available in 2022 and 2023, the number of all claims increased by 10 percent and the number of PD claims increased by mere 0.1 percent. Since the claims reported to MDC include claims with any medical transaction it is hard to say if introducing the new MLFS was a factor in these increases in the number of claims. In 2023, around 59 percent of all claims and 65 percent of PD claims originated in Southern California and 25 percent of all claims and 21 percent of PD claims originated in Northern California. Different regions in California have different patterns of medical-legal reporting. Regions with a higher share of WC claims in the system have a bigger impact on both the average number of medical-legal evaluations per claim and the average cost of medical-legal evaluations statewide.

¹¹³ WC-Medical-Legal Fee Schedule, Initial Statement of Reasons, <https://www.dir.ca.gov/dwc/DWCPPropRegs/2020/Medical-Legal-Fee-Schedule/Med-Legal-Fee-Schedule.htm>

¹¹⁴ Ibid.

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Figure 42: Workers' Compensation Claims, All and with Permanent Disability, by California Regions, SY 2019-SY 2023



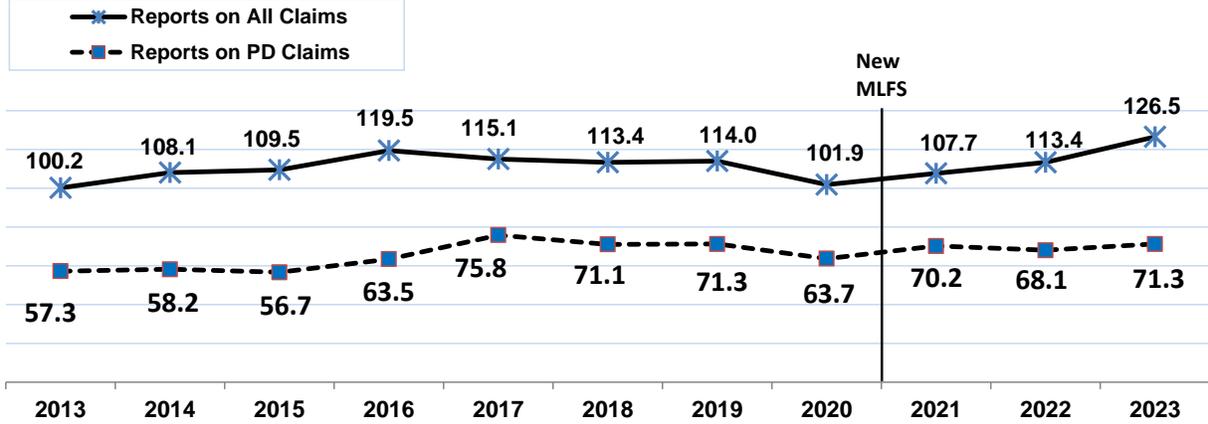
Source: WCIRB

Figure 43 shows the number of medical-legal reports conducted on PD and all claims in California for SY 2013 to SY 2023. In SY 2023, a total of 126,500 medical-legal reports on all claims were issued, of which 56 percent or 71,300 were on PD claims.

In the period between 2013 and 2020, when the old 2006 MLFS was in effect, the number of medical-legal reports on all claims increased steadily by 19 percent from SY 2013 to SY 2016 and then decreased overall by 5 percent from 2016 to 2019. The number of medical-legal reports on all claims decreased by 11 percent from 2019 to 2020 due mostly to the COVID-19 pandemic. The number of medical-legal reports on PD claims was an average of 57,400 medical-legal reports per year from 2013 to 2015, increased by 34 percent from 2015 to 2017, and then decreased by 6 percent from 2017 to 2019. The number of medical-legal reports on PD claims decreased at the same rate (11 percent) as the number of non-PD medical-legal reports from 2019 to 2020. From 2021 to 2023, the number of medical-legal reports on all claims increased by 11 percent and the number of medical-legal reports on PD claims increased slightly by 1 percent. The share of all medical-legal reports in California conducted on PD claims decreased from 57 percent in 2013 to 52-53 percent in 2015 and 2016. There was a 13 percentage points increase in the share of all medical-legal reports conducted on PD claims from 2016 to 2017, which stabilized at about 63 percent from 2017 through 2020. The share of all medical-legal reports conducted on PD claims decreased to 60 percent in 2022 and to 56 percent in 2023, as the new MLFS was in its third year.

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Figure 43: Number of Medical-Legal Evaluations on PD and All Claims (Thousands)

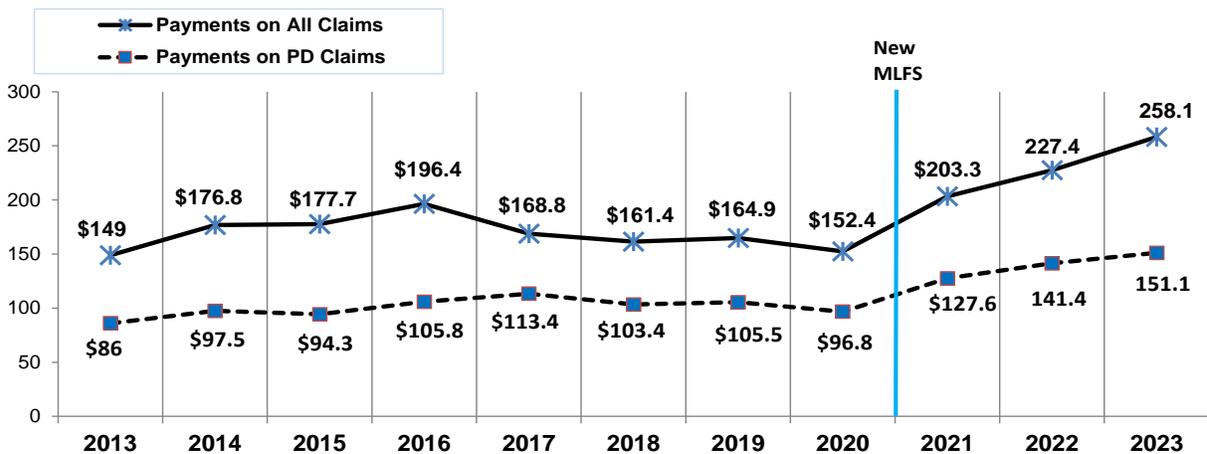


Note: Due to the implementation of the new MLFS effective April 1, 2021, the historical medical-legal data for services prior to April 1, 2021 are not directly comparable to the data emerging under the new fee schedule.

Source: WCIRB

Figure 44 shows statewide medical-legal payments on PD and all claims in California for SY 2013 to SY 2023. The medical-legal payments on all claims increased by 32 percent from SY 2013 to SY 2016, based in part on an overall 23 percent increase in medical-legal payments on PD claims during the same time period. The medical-legal payments on all claims experienced an overall decrease by 22 percent from SY 2016 to SY 2020, followed by a 69 percent increase from 2020 to 2023 due to the introduction of new 2021 MLFS. The share of medical-legal payments for PD claims decreased from 58 percent in 2013 to an average of 54 percent of all yearly medical-legal payments in SY 2014 through SY 2016. That share increased by 13 percentage points to 67 percent from SY 2016 to SY 2017, and then stabilized at about 62-64 percent from 2018 to 2022, before decreasing to 59 percent in 2023. The medical-legal payments on PD claims decreased by 8 percent from 2019 to 2020 and increased by 56 percent from 2020 to 2023. According to WCIRB, the increase in medical-legal costs was primarily driven by a significantly higher-than-initially-projected increase in the costs for record review and an increased utilization of medical-legal services per claim.

Figure 44: Medical-Legal Payments on PD and All Claims (Million \$)

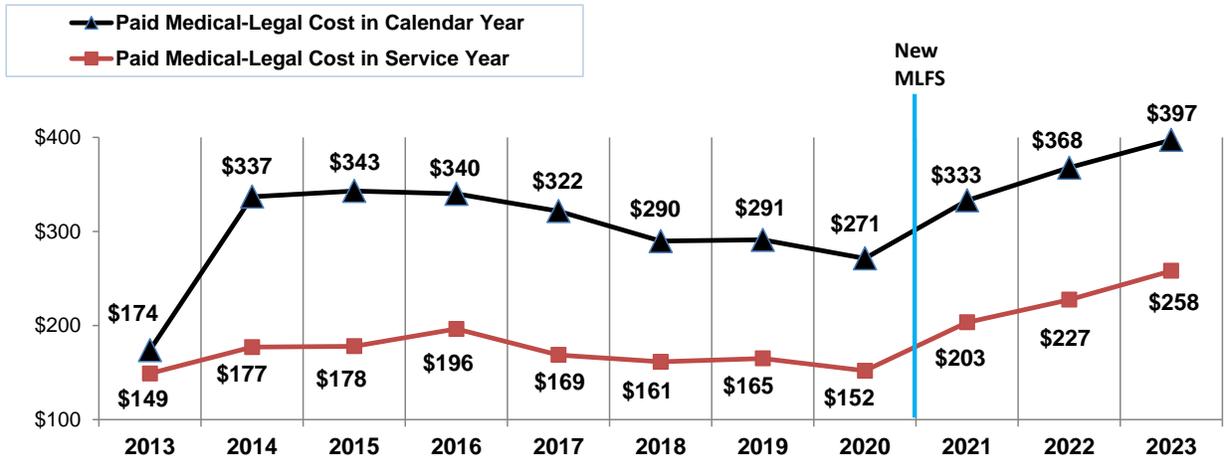


Source: WCIRB

SYSTEM COSTS AND BENEFITS

The total medical-legal cost is reported by the WCIRB as a component of the total medical cost. The WCIRB's widely used and referenced Losses and Expenses Report¹¹⁵ has estimates of the "paid medical-legal amount" or amounts paid in a certain calendar year (CY). The WCIRB's MDC, on which the total amounts in Figure 45 are based, covers medical-legal evaluations only for a certain service year. Payments reported for a calendar year are for medical-legal services with service dates in different years and therefore cover more services, while payments discussed in this report are limited to services during the same calendar year. Figure 45 shows paid medical-legal amounts in CY 2013 to CY 2023 from the Losses and Expenses Report against the paid medical-legal amounts in SY 2013 to SY 2023 from the current CHSWC report.

Figure 45: WCIRB's Medical-Legal Costs Reported in Calendar vs. Service Years (Million \$)



Source: WCIRB

The total medical-legal expenses could be of different amounts for different organizations and even within the same organization, depending on how the data are collected, the type of reporting year applied (calendar, accident, service, policy, or fiscal), methods of estimation, and on inclusion or exclusion of insured, self-insured, and legally uninsured employers.

Starting in CY 2014, the amounts paid for medical services are based on the WCIRB's Aggregate Indemnity and Medical Costs Call, Call for California Workers' Compensation Calendar Year Experience, and MDC that provide a better reporting of payments into specific categories. The Losses and Expenses Report estimated amounts paid for medical services before CY 2014 based on the WCIRB's Aggregate Indemnity and Medical Costs Call and Call for California Workers' Compensation Calendar Year Experience. These medical payments were segregated into categories, including the medical-legal category, based on the type of medical provider receiving payment and not necessarily the procedures performed, as is done in the MDC.

Another consideration when the dollar amounts of medical-legal reports are estimated as a share of medical bills is that the bill review data are based on the fee schedules and not all medical costs are captured in the databases, especially medical costs not covered by the fee schedule.

Also, the methods for calculating medical expenses could differ by the inclusion or exclusion of different categories of medical expenses, such as medical cost containment program (MCCP) expenses, thereby increasing or decreasing the total.

¹¹⁵ WCIRB, 2023 Losses and Expenses Report, Exhibit 1.1, June 27, 2024, https://www.wcirb.com/sites/default/files/2024-06/2023_ca_wc_losses_and_expenses_report_1.pdf

SYSTEM COSTS AND BENEFITS

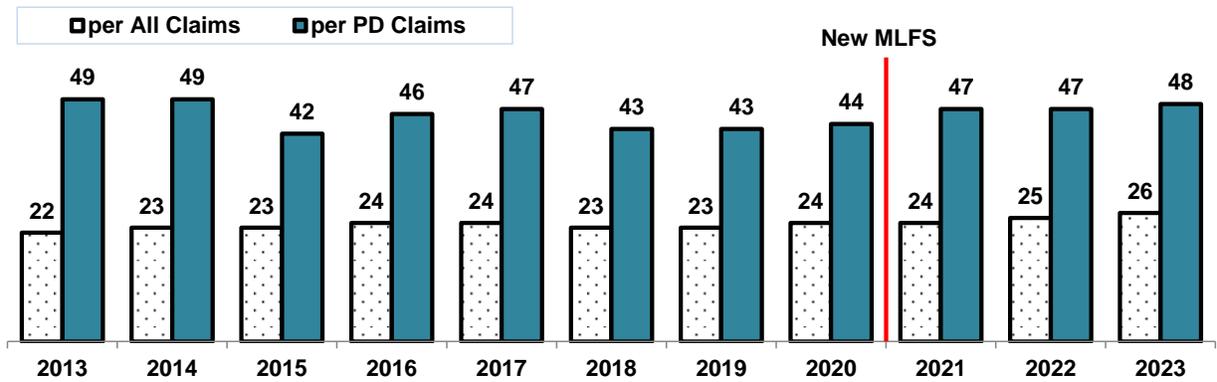
The changes in total medical-legal cost for insurers reflect changes in its three components: the number of workers' compensation claims, the average number of medical-legal evaluations per claim, and the average cost of a medical-legal evaluation.

Medical-Legal Evaluations per Claim

Figure 46 shows the frequency of medical-legal reports for all claims and PD claims statewide from SY 2013 to SY 2023. SY 2021 includes the last three quarters of 2021 covered by new MLFS. The average number of medical-legal evaluations per 100 PD claims is about double the rate for all claims. . While the average number of medical-legal evaluations per 100 all claims stabilized at 23 between the SY 2013 and SY 2020, the same rate for PD claims decreased overall by 10 percent from 49 reports per 100 PD claims in SY 2013 and SY 2014 to 43-44 reports per 100 PD claims in the last three years from 2018 to 2020.

The average number of medical-legal evaluations per 100 all claims increased by 13 percent from SY 2019 to SY 2023 and the rate for PD claims increased by 12 percent from 43 reports per 100 PD claims in SY 2019 to 48 reports per 100 PD claims in SY 2023. It will require several years of new data under the updated MLFS for the results of this change to be analyzed.

Figure 46: Number of Medical-Legal Evaluations per 100 Workers' Compensation Claims (PD and All) in California



Note: For 2021 estimates, the number of medical-legal evaluations exclude MLPRR transactions.

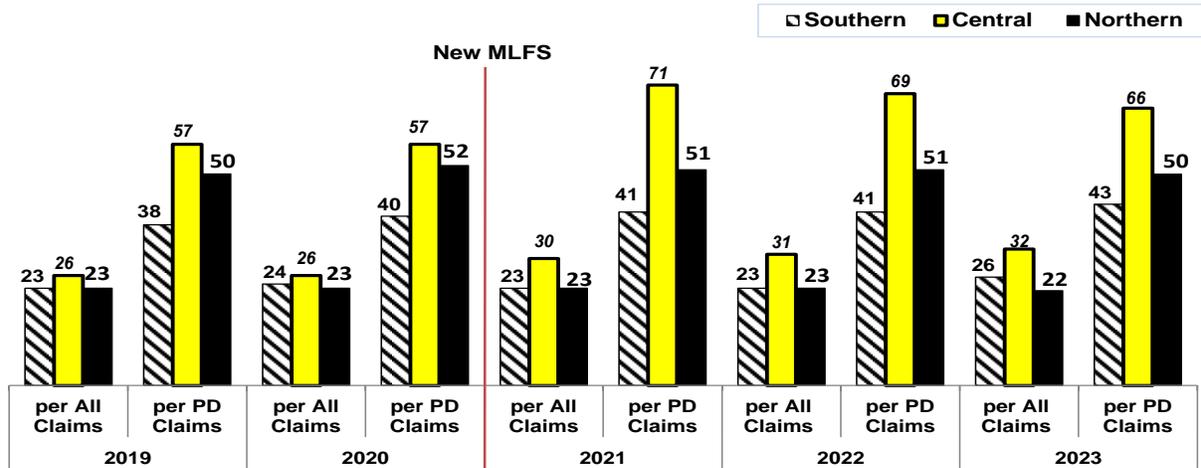
Source: WCIRB

Medical-Legal Reporting by the California Regions

Before the introduction of 2021 MLFS, the different regions in California were thought to have different patterns of medical-legal reporting. Figure 47 shows the frequency of medical-legal reports for all claims and PD claims in three California regions in the last five years from SY 2019 to SY 2023, which is the second year with complete data under the new 2021 MLFS. It will require several years under the new MLFS before reliable patterns emerge in the frequency of medical-legal reports for the three California regions. During the pre-MLFS 2021 period, all three California regions showed a similar trend in changes of the average number of medical-legal evaluations per 100 PD claims.

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Figure 47: Average Number of Medical-Legal Evaluations per 100 Claims (PD and All), by Region



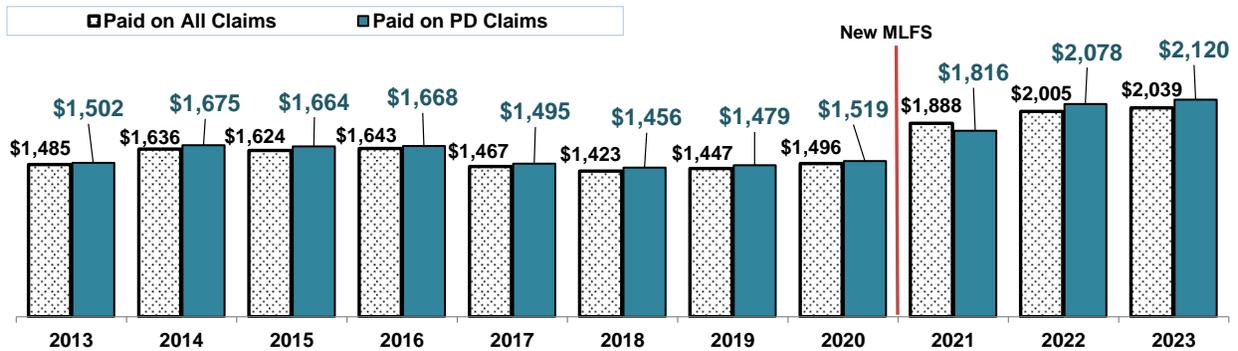
Source: WCIRB

Average Cost per Medical-Legal Evaluation

Figure 48 shows both the average cost of a medical-legal evaluation on PD claims and the average cost of a medical-legal evaluation on all claims. Under the old MLFS, the average costs paid on all claims stabilized at \$1,634 from 2014 to 2016 and at \$1,420 to \$1,490 from SY 2017 to SY 2020. The average costs paid on PD claims stabilized at \$1,670 from 2014 to 2016 and at \$1,450 to \$1,520 from SY 2017 to SY 2020. As similarly stated above, it will require several years of data under the new MLFS before the scale and patterns in average medical-legal cost developments are observed.

Starting in April 2021 when the new MLFS became effective, the average paid for medical-legal services per claim has increased significantly, mostly driven by an increase in the average payments per service as the new fee schedule increases the reimbursement allowance for most medical-legal services. In particular, the costs of additional pages (MLPRR) for record review appear to be a driver for the higher average medical-legal payments in 2023. From 2020 to 2021, the average cost paid on all claims increased by 26 percent and the average cost paid on PD claims increased by 20 percent. Under the new MLFS, the average cost paid on all claims and on PD claims increased by 8 percent and 17 percent respectively from 2021 to 2023.

Figure 48: Average Cost of a Medical-Legal Evaluation on All and PD Claims, California

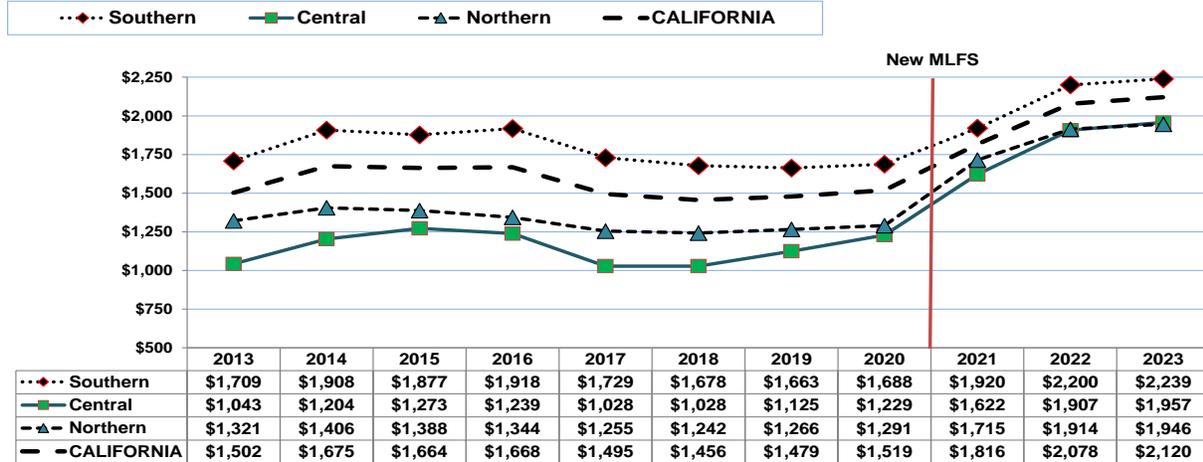


Source: WCIRB

SYSTEM COSTS AND BENEFITS

Figure 49 shows the average cost of a medical-legal evaluation on PD claims from 2013 to 2023 in three California regions. SY 2023 is the second year with the complete data under the new 2021 MLFS. It will require several years of data under the new MLFS before the scale and patterns for average medical-legal cost of evaluations on PD claims are observed.

Figure 49: Average Cost of a Medical-Legal Evaluation on PD Claim, by Region



Source: WCIRB

Trends in both the average number of medical-legal evaluations per claim and the average cost of an evaluation in California are being driven by medical-legal evaluations in Southern California, as seen in Figure 49 and Tables 14 and 15. About 58-60 percent of medical-legal evaluations originated in Southern California in SY 2013 to SY 2023, reflecting the similar share of Southern California in WC claims (see Figure 42). Similarly, a 61 percent share of Southern California in total medical-legal payments under the new MLFS in 2023 position this region as the main cost driver in California in the coming years.

Table 14: Distribution of Medical-Legal Reports on PD Claims by California Regions

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Southern	58%	60%	60%	60%	59%	58%	60%	60%	59%	58%	59%
Central	16%	16%	15%	17%	17%	18%	17%	17%	20%	20%	19%
Northern	26%	24%	25%	23%	24%	24%	23%	23%	21%	22%	22%

Source: WCIRB

Table 15: Regional characteristics of medical-legal activities, 2023

	Share of region in Total ML Payments	Share of region in Total ML Evaluations/Transactions	Share of ML Evaluations on PD Claims	Share of MLPRR (Per Page Record Review) payments	Share of ML-201 (Comprehensive Report) payments	Avg Cost of ML-201 Comprehensive Report
Southern	61%	59%	58%	26%	50%	\$2,335
Central	19%	20%	55%	24%	55%	\$2,195
Northern	20%	21%	59%	24%	49%	\$2,325

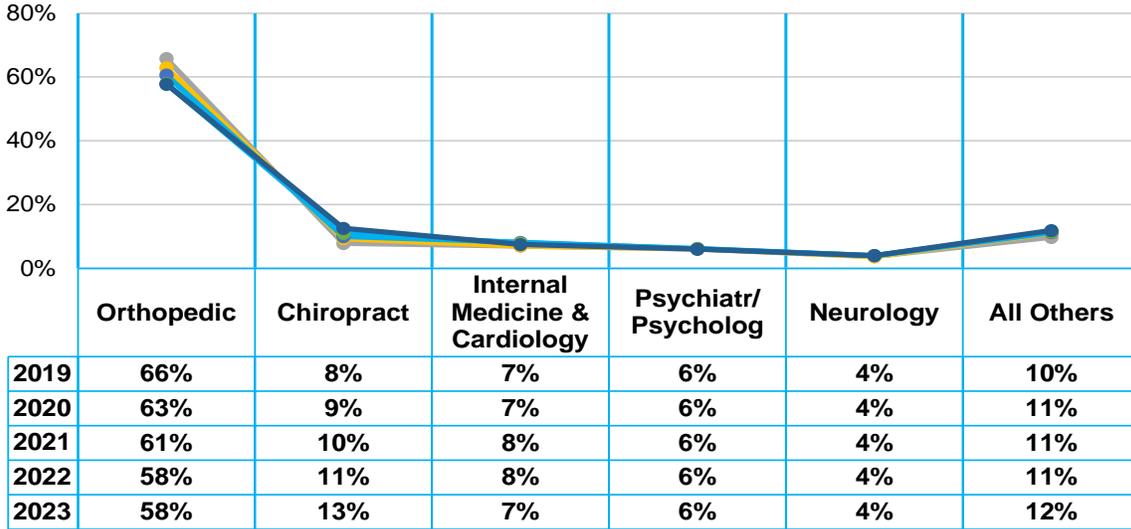
Source: WCIRB

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Potential Medical-Legal Cost Drivers

Physicians specializing in orthopedic specialty provided 58 percent of the medical-legal services during 2023, while chiropractors, internal medicine, and psychiatrists/psychologists were providing from 6 to 13 percent of services each in 2023.

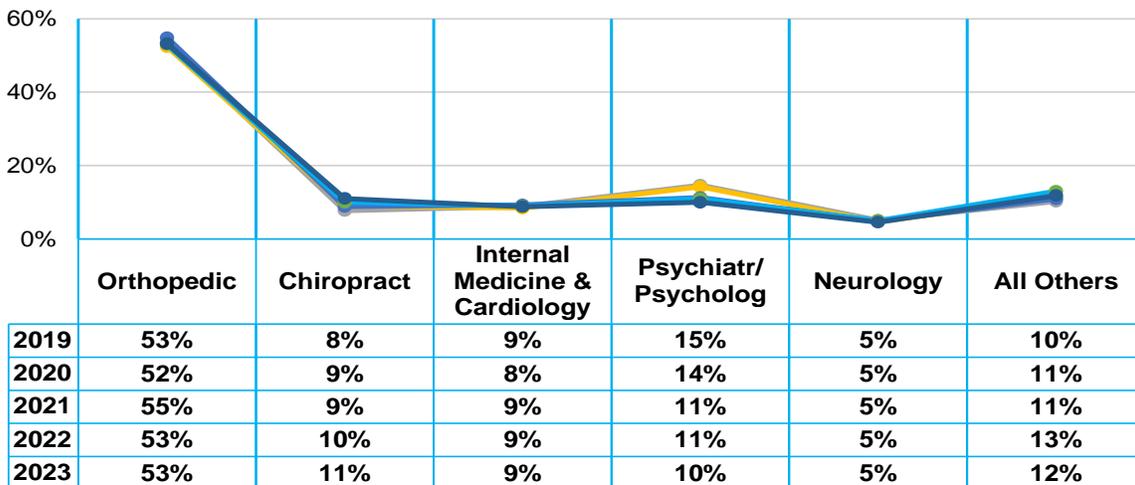
Figure 50: Distribution of Medical-Legal Evaluations by Type of Providers, 2019-2023



Data Source: WCIRB

Figure 51 shows that while 6 percent of all medical-legal evaluations were performed by psychiatric/psychological providers in 2023, those evaluations comprised 10 percent of total medical-legal paid amounts.

Figure 51: Distribution of Medical-Legal Payments by Type of Providers, 2019-2023

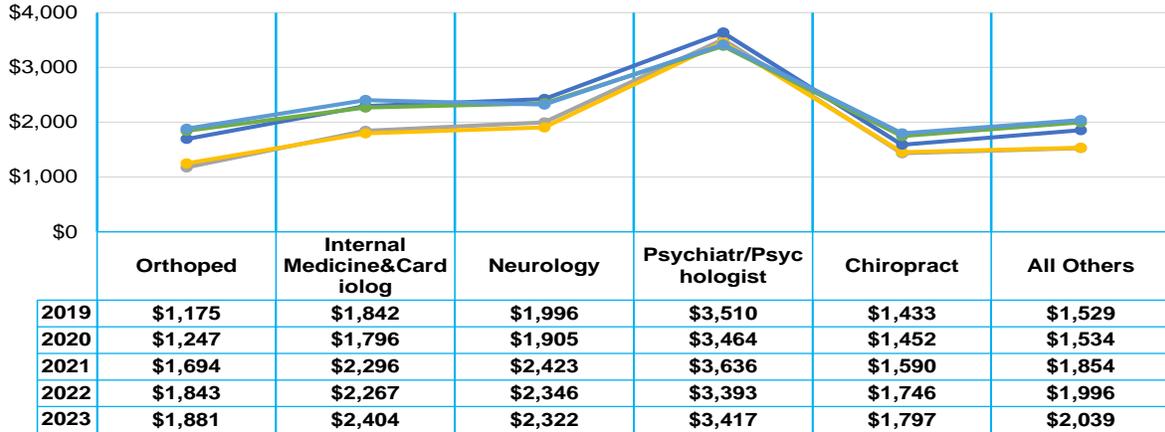


Data Source: WCIRB

SYSTEM COSTS AND BENEFITS

Figure 52 shows the average cost of a medical-legal evaluation by types of providers. The historical data showed that the differing trends in the average cost per evaluation and the increase in frequency of medical-legal evaluations in California could be explained by both the frequency and the cost of psychiatric and psychological/behavioral evaluations per claim. Increasing payments for psychiatric evaluations is one of the main goals of the new MLFS 2021.

Figure 52: Average Cost of a Medical-Legal Evaluation by Type of Providers, SY 2019- SY 2023

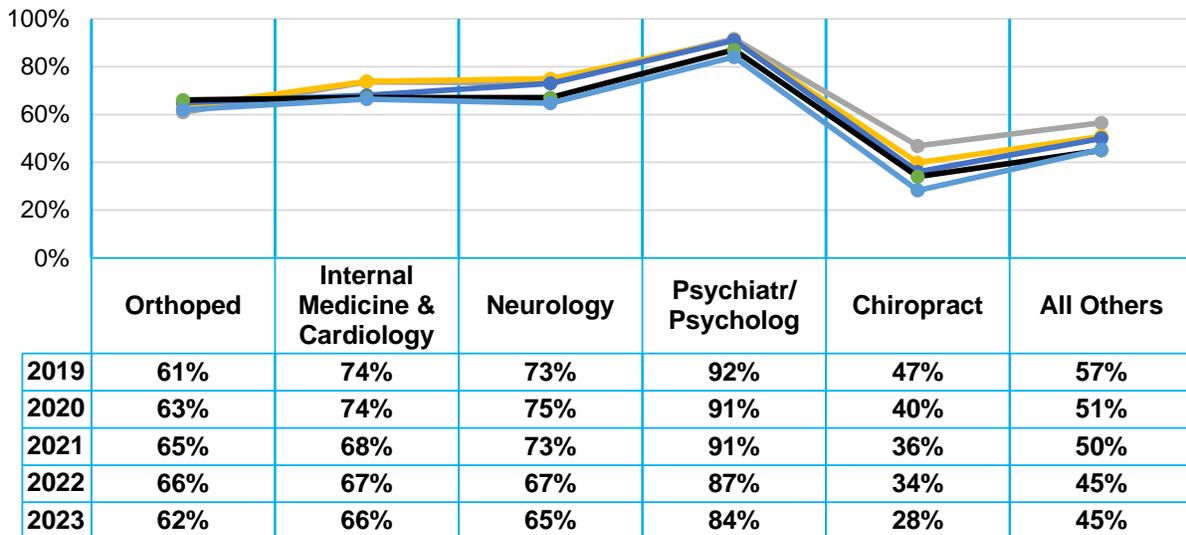


Note: From 2021, the Medical-Legal Per-Page Record Review (MLPRR) Payments are included in the estimates of the average cost.

Data Source: WCIRB

As Figure 42 showed, about 60-63 percent of all medical-legal evaluations were conducted for reports on PD claims that are more expensive and take longer time to close. Figure 53 shows that the share of medical-legal evaluations on PD claims performed by psychiatrists/psychologists, internal medicine and cardiology, and neurologists are higher compared to the average share of reports for PD claims. About 84 percent of reports performed by psychiatrists/psychologists in 2023 were performed for PD claims.

Figure 53: Share of Medical-Legal Evaluations on PD Claims in Total Medical-Legal Evaluations by Provider Type, 2019-2023



Data Source: WCIRB

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Table 16 shows that the medical-legal reports involving the per-page record reviews (PRR) add an average \$1,628 each. When included in the count of reports in order to estimate the impact of MLPRR on the total cost of medical-legal evaluations, the reports with MLPRR account for 25 percent of the total count and 27 percent of the total medical-legal cost. In 2023, MLPRR accounted for almost 69.0 million out of \$258.0 million billed for all 2023 MLFS procedure codes. According to the WC bill review specialists, when both the defense and applicant attorneys provide multiple-page documents, often with duplicative and irrelevant pages, the average Medical-Legal bill on which MLPRR was reported includes about 1,100 pages of records reviewed. Therefore, QMEs and AMEs receive many more pages of medical records to review than the pages allowed by the 2021 MLFS evaluation codes.

In cases with hundreds or even thousands of pages of records, it is important to carefully consider what records are sent for review. The best scenario would be when the defendants and applicant attorneys agree on what records to submit, submit only those records relevant to specific medical-legal issues, and avoid submitting duplicate records. Following these requirements would decrease costs for the defendants.

According to WCIRB’s data presented in this report, the \$69.0 million billed for MLPRR in 2023 represent about 23 million pages of additional medical records above 200 pages reviewed.

When extrapolated to the statewide cost, including the self-insured and state of California sectors, the number attests to a conclusion that the multiple-page records are driving the higher costs of medical-legal evaluations.

Table 16: Characteristics of Medical-Legal Per-Page Record Reviews (MLPRR), 2023

	Average cost	Share in Med-Leg Reps/ Transactions	Share in Med-Leg Payments	Share of PD claims w. MLPPR
ML-PRR Per-Page Record Review* \$3.00/page	\$1,628**	25%***	27%	69%

* MLPRR activity doesn’t create a distinctive separate report for the reason of MLPRR being paid on existing comprehensive, follow-up, and supplemental reports that involve a review of extra/excess pages.

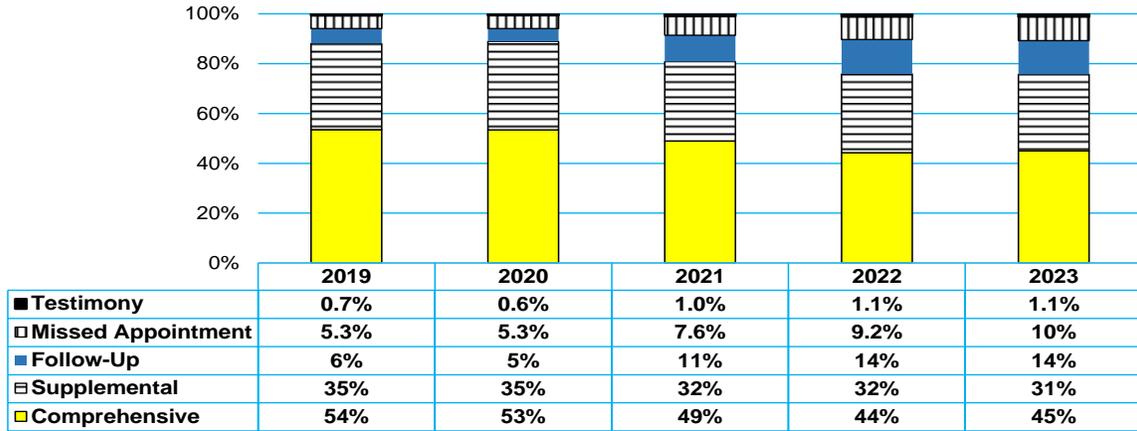
** Average Cost of MLPRR in excess of the cost of ML-200, MI-201, ML-202 and ML-203 evaluations involving a review of extra/excess pages.

***Represents MLPRR transactions that are in excess of the page limits on document review for ML-200, MI-201, ML-202 and ML-203 reports.

As Table 13 shows, the new MLFS replaced three levels of service in the old MLFS, such as M-102 basic, ML-103 complex and ML-104 extraordinary evaluations with a single comprehensive evaluation coded ML-201, for which QMEs and AMEs are paid a single \$2,015 flat fee, plus \$3 per page, for record reviews exceeding 200 pages (MLPRR), and time-based payments for sub-rosa video reviews (ML-205). Using this crosswalk between the old and new procedure codes for comparability with previous years, Figure 54 shows the distribution of medical-legal evaluations and Figure 55 – the distribution of medical-legal payments by type of MLFS procedures. Figure 54 shows that while the share of comprehensive reports declined by 10 percentage points from 2019 to 2022 and the share of supplemental reports declined by 4 percentage points in the same period, the shares of follow-up reports and missed appointments increased from 2019 to 2023.

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Figure 54: Distribution of Medical-Legal Evaluations by MLFS Procedure Type

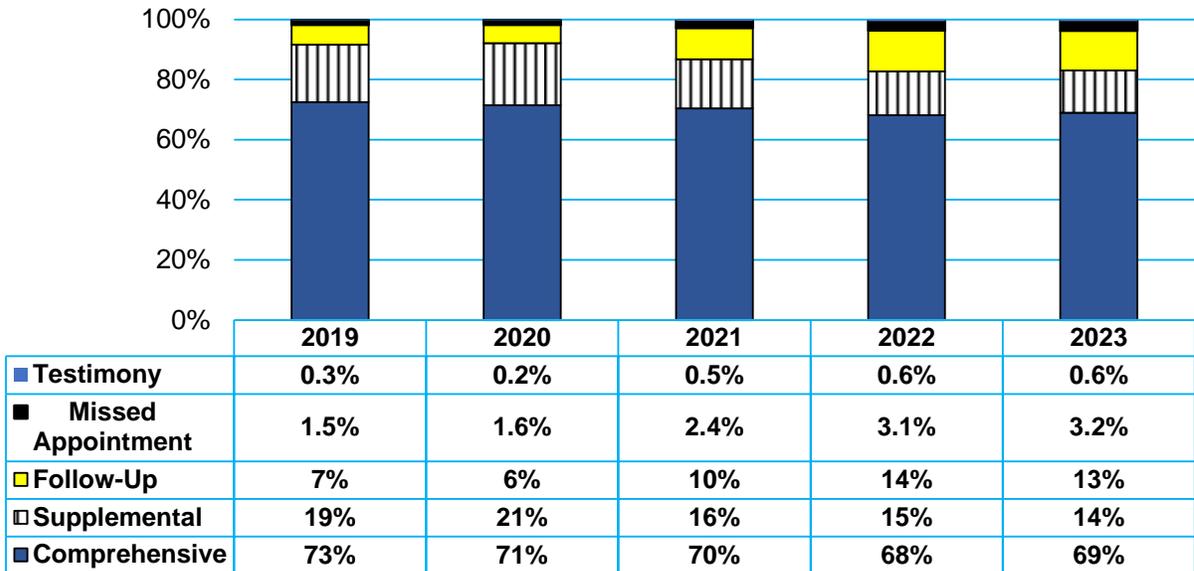


Note: For comparability purposes, the Comprehensive Evaluation adopted in new 2021 MLFS maps to the old 2006 MLFS procedure codes ML-102 Basic, ML-103 Complex and ML 104 Extraordinary.

Data Source: WCIRB

Figure 55 shows that in 2023, 96 percent of all medical-legal payments were done for preparation of the main medical-legal reports, such as comprehensive (69 percent), follow-up (13 percent), and supplemental (14 percent), with testimonies and missed appointments comprising a mere 4 percent of all payments.

Figure 55: Distribution of Medical-Legal Payments by MLFS Procedure Type



Note: For comparability between the old and new MLFS data the Medical-Legal Per-Page Record Review (MLPRR) and Sub Rosa Payments are excluded from the estimates.

Data Source: WCIRB

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

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WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

INTRODUCTION

The Commission on Health and Safety and Workers' Compensation (CHSWC) examines the overall performance of the health and safety and workers' compensation (WC) systems to determine whether they meet the State of California's constitutional objective to "accomplish substantial justice in all cases expeditiously, inexpensively, and without encumbrance of any character."

In this section, CHSWC provides performance measures to assist in evaluating the system's impact on everyone participating in the WC system, particularly workers and employers. As the organizational chart on page 6 shows the main administrative body monitoring the WC system, the Division of Workers' Compensation (DWC), is housed within the California Department of Industrial Relations (DIR). DIR administers and enforces laws governing wages, hours and breaks, overtime, retaliation, workplace safety and health, apprenticeship training programs, and medical care and other benefits for injured workers.¹¹⁶ DWC monitors the administration of WC claims and provides administrative and judicial services to assist in resolving disputes that arise in connection with claims for WC benefits.¹¹⁷

Through studies and comments from the community, as well as administrative data, CHSWC has compiled the following information pertaining to the performance of California's systems for health and safety and WC. Explanations of the data are included with the figures and tables.

- Workers' Compensation Appeals Board (WCAB) Workload
 - DWC Opening Documents
 - DWC Hearings
 - DWC Decisions
 - DWC Lien Filings and Decisions
- DWC Audit and Enforcement Program
- DWC Medical Unit (MU)
- DWC Disability Evaluation Unit
- DWC Medical Provider Networks and Health Care Organizations
- DWC Information and Assistance Unit
- DWC Information Service Center
- DWC Return-to-Work Supplement Program (RTWSP)
- DWC Uninsured Employers Benefits Trust Fund
- DWC Subsequent Injuries Benefits Trust Fund
- DWC Adjudication Simplification Efforts
 - DWC Information System (WCIS)
 - DWC Electronic Adjudication Management System (EAMS)
 - Carve-outs: Alternative Workers' Compensation Systems
- Division of Labor Standards Enforcement (DLSE)
 - DLSE Bureau of Field Enforcement
 - DLSE Registration Services-Janitorial Services
- Anti-Fraud Efforts

¹¹⁶ DIR homepage, <https://www.dir.ca.gov/aboutdir.html>.

¹¹⁷ DWC homepage, https://www.dir.ca.gov/dwc/dwc_home_page.htm.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

WCAB DISTRICT OFFICES WORKLOAD

At DWC's 22 district offices and satellites located throughout California, employers, injured workers, and others receive judicial services that assist in the resolution of disputes from WC claims. The local district offices are a major part of the WC court system, where judges make decisions about cases. These offices are called WCABs as their activities are regulated by a Workers' Compensation Appeals Board (WCAB), a seven-member, judicial body appointed by the Governor and confirmed by the Senate.¹¹⁸ In this context, the WCAB workload does not include a WCAB review of formal appeals of decisions made by district WCAB judges, and it does not include case law decisions by the seven-member WCAB.

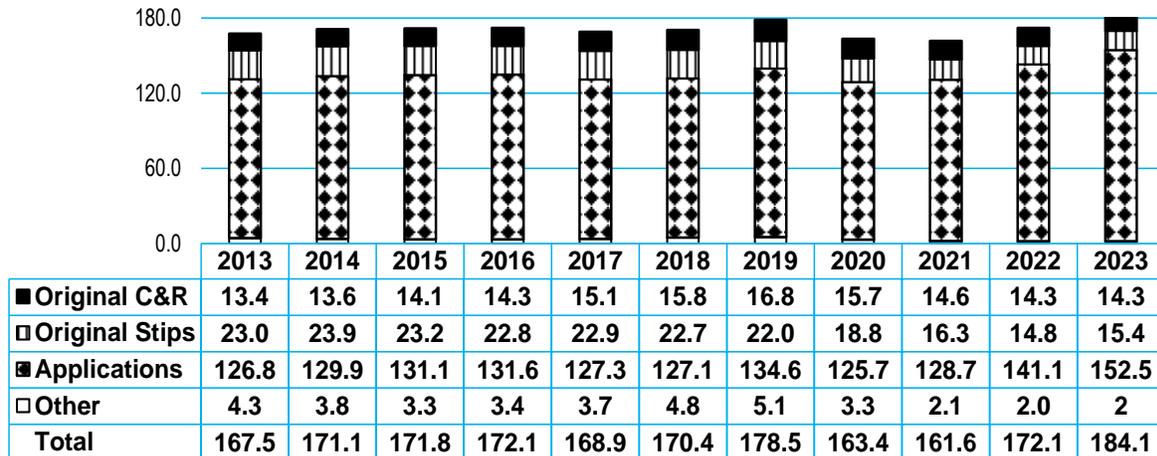
Division of Workers' Compensation Opening Documents

Three types of documents open a WCAB District Office case. Figure 56 shows the number of Applications for Adjudication of Claim (applications), Original Compromise and Releases (C&Rs), and Original Stipulations (stips) received by DWC.

DWC workload adjudication data are available from the Electronic Adjudication Management System (EAMS).

As Figure 56 shows, the total number of Opening Documents stabilized at an average of 170,300 from 2013 to 2018, increased by 5 percent from 2018 to 2019, decreased by 9.5 percent from 2019 to 2021, and then increased by 14 percent from 161,600 in 2021 to 184,100 in 2023, a slightly greater level than before the COVID-19 pandemic. The number of applications, the largest component of opening documents and therefore a trendsetting factor, increased by 4 percent from 2013 to 2016, declined to its 2013 level in 2017 and then increased by 6 percent from 2017 to 2019. The number of applications decreased by 7 percent from 2019 to 2020 during the COVID-19 pandemic before increasing by 21 percent from 2020 to 2023, while three other components of the Opening Documents decreased from 2019 to 2022, before leveling off between 2022 and 2023. The Compromise and Releases increased by 25 percent from 2013 to 2019 and decreased by 15 percent from 2019 to 2023. The Original Stipulations have increased slightly from 2013 to 2014, and have decreased since 2014 with an overall decline of 38 percent from 2014 to 2022, before increasing by 4 percent from 2022 to 2023.

Figure 56: DWC Opening Documents (as of July 2, 2024)
(Thousand)



Source: DWC

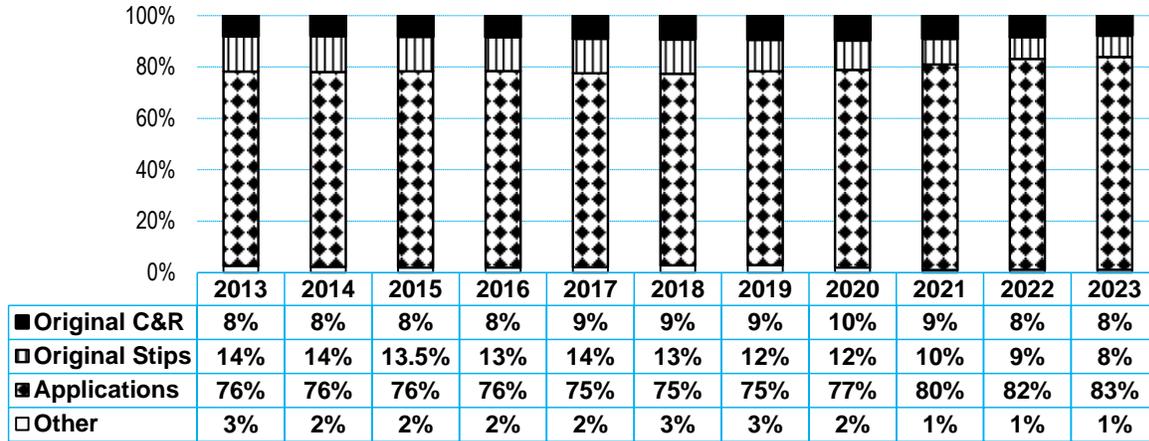
¹¹⁸ <https://www.dir.ca.gov/wcab/wcab.htm> and <https://www.dir.ca.gov/dwc/dir2.htm>.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Mix of DWC Opening Documents

As Figure 57 shows, the applications for adjudication comprised on average 75-77 percent of the opening documents yearly from 2013 to 2020, but increased by 3 to 6 percentage points to 83 percent from 2020 to 2023. The proportion of original (case-opening) stipulations leveled off at 12-14 percent per year from 2013 to 2020 and then decreased to 8 percent from 2020 to 2023. In the same period, the proportion of original C&Rs also stabilized at 8-9 percent through 2023, with a one-time increase to 10 percent during the COVID-19 pandemic.

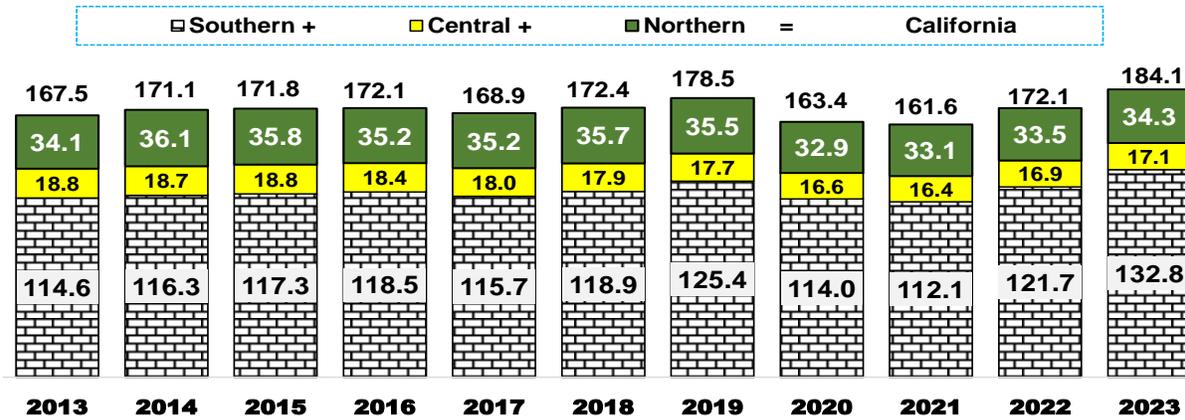
Figure 57: Percent Distribution by Type of Opening Documents (as of July 2, 2024)



Source: DWC

According to Figure 58, about 70 percent of yearly DWC opening documents originated in Southern California between 2013 and 2023. Northern and Central California comprised about 20 and 10 percent of opening documents respectively in the same period.

**Figure 58: DWC Opening Documents by California Regions (as of July 2, 2024)
(Thousand)**



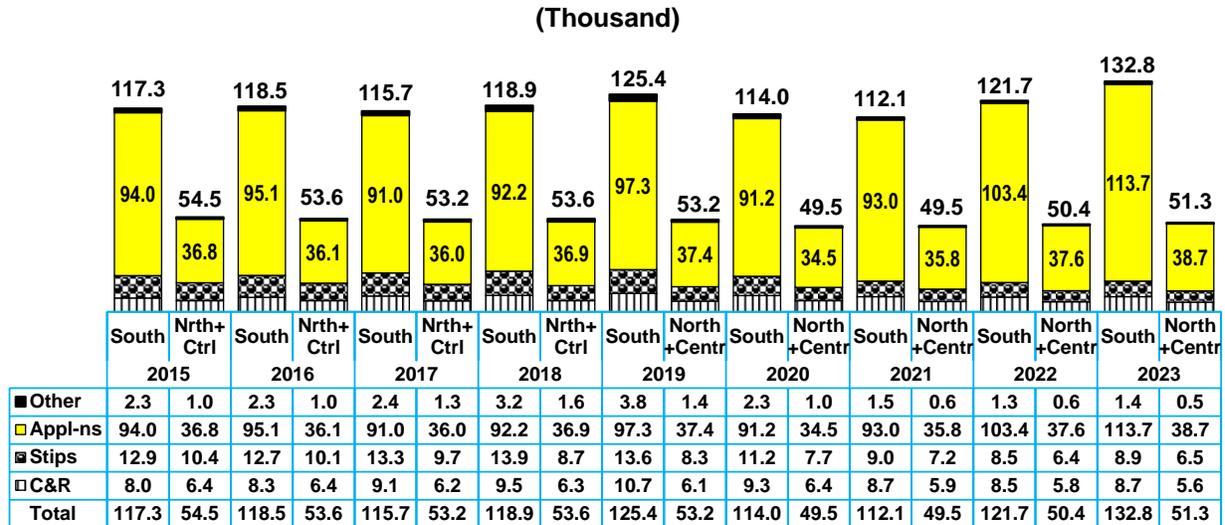
Source: DWC

Figure 59 demonstrates the geographic origin of DWC opening documents. Although the types of opening documents, such as Compromise & Release and Stipulations with Request for Award, originate in the Southern region more than in the Northern and Central regions combined, the number of Applications for Adjudication in the Southern region exceeded those of the Northern and Central regions combined

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Applications by more than 2.5 times in each year from 2013 to 2023. On average, 72 percent of the yearly Applications for Adjudication in California come from the Southern region, affecting the level of WC litigation in the state.

Figure 59: Types of DWC Opening Documents by California Regions (as of July 2, 2024)



Source: DWC

Division of Workers' Compensation Hearings

Numbers of Hearings

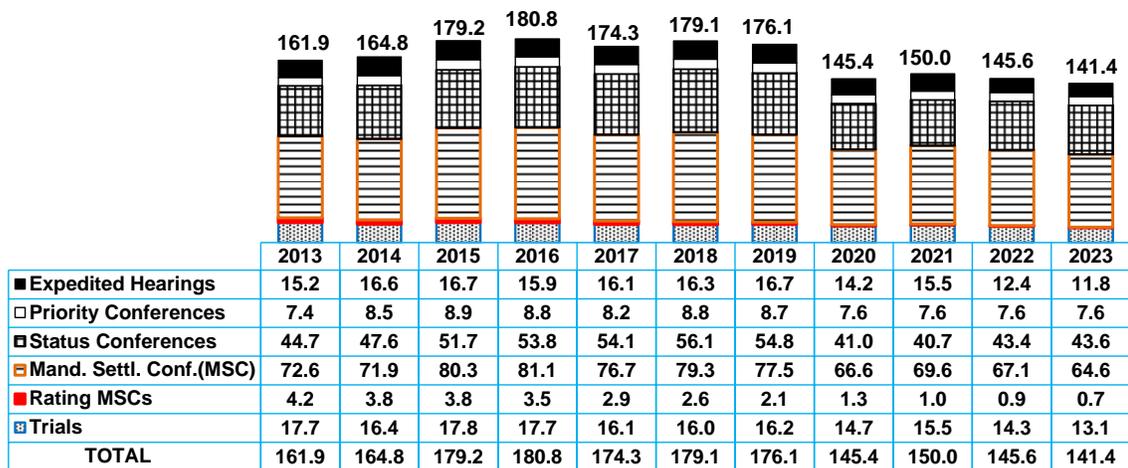
Labor Code Section 5502 hearings are the first hearings only. The hearings covered are expedited hearings, priority, status, mandatory settlement conferences, and trials that follow a mandatory settlement conference (MSC). The timelines are measured from the filing of a Declaration of Readiness to Proceed (DOR) to the hearing. The time frames for each of these hearings are prescribed as follows:

- A. Expedited Hearing and Decision. Labor Code Section 5502(b) directs the Court Administrator to establish a priority calendar for issues requiring an expedited hearing and decision. These cases must be heard and decided within 30 days following the filing of a DOR.
- B. Priority Conferences. Labor Code Section 5502(c) directs the Court Administrator to establish a priority conference calendar for cases when the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment (AOE) or in the course of employment (COE). The conference shall be conducted within 30 days after the filing of a DOR to proceed.
- C. For cases in which the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment or in the course of employment and good cause is shown why discovery is not complete for trial, then status conferences shall be held at regular intervals.
- D. MSC and Ratings MSC. Labor Code Section 5502(e) establishes time frames to schedule MSCs and trials in cases involving injuries and illnesses occurring on and after January 1, 1990. MSCs are to be conducted not less than 10 days and not more than 30 days after filing a DOR.
- E. Trials. Labor Code Section 5502(e) mandates that if the dispute is not resolved at the MSC, a trial is to be held within 75 days after filing the DOR.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 60 indicates the number of different types of LC 5502 hearings held in DWC from 2013 through 2023. The total number of hearings held increased by 12 percent from 2013 to 2016, fluctuated from 2016 to 2019 at around 2 percent yearly, decreased by 17.4 percent from 2019 to 2020, and then fluctuated between 145,500 and 150,000 hearings from 2020 to 2023. The number of expedited hearings averaged about 16,100 a year from 2013 to 2021, excluding a 15 percent decrease from 2019 to 2020. From 2021 to 2023, the number of expedited hearings decreased by 24 percent. The number of status conferences increased steadily by a total of 25 percent from 2013 to 2018, decreased by 27 percent from 2018 to 2021, including a 25 percent decline from 2019 to 2020, and then increased by 7 percent from 2021 to 2023. The number of trials ranged between 16,000 and 17,800 per year from 2013 to 2019, decreased by 9 percent from 2019 to 2020 during the pandemic, and then fluctuated at that lower level from 2020 to 2023. The priority conferences increased by 20 percent from 2013 to 2015, stabilized at 8,700 conferences per year from 2015 to 2019, and then decreased by 13 percent to 7,600 conferences per year from 2020 to 2023. Ratings MCSs in 2023 experienced a decrease of more than 6 times its 2013 volume.

Figure 60: DWC Labor Code 5502 Hearings Held (Thousand)



Source: DWC

The non-Section 5502 hearings are continuances or additional hearings after the first hearing. Figure 61 shows non-Section 5502 hearings held from 2013 to 2023.

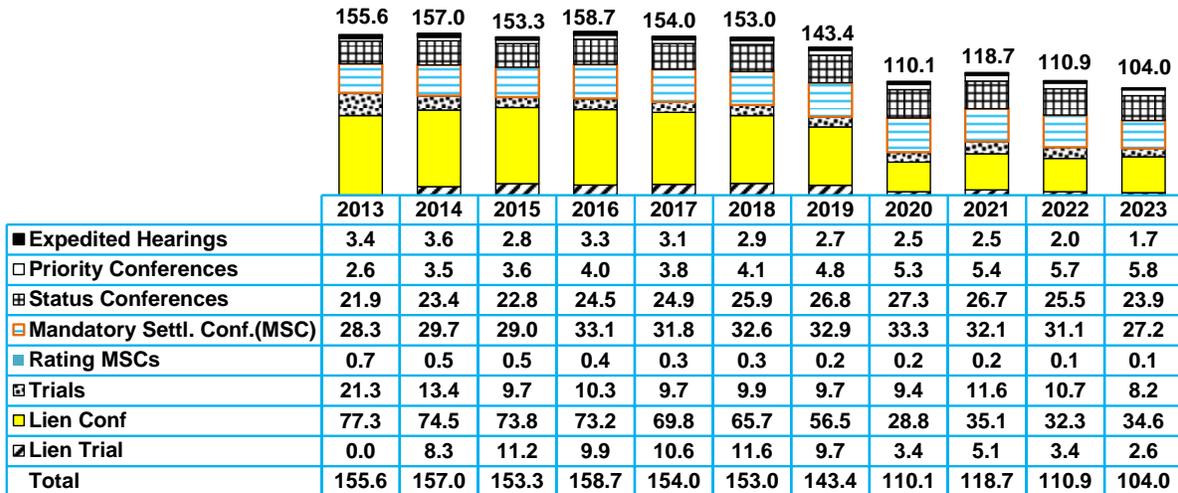
The number of MCSs fluctuated between 28,300 and 33,300 conferences between 2013 to 2021, with a 1 percent increase from 2019 to 2020, when it reached its peak of 33,264 settlements and then decreased by 13 percent from 2022 to 2023 to its minimum of 27,160 in 2023. The number of Rating MCSs in 2023 experienced a decrease of 7 times its 2013 volume. The number of status conferences increased overall by 25 percent from 2013 to 2020 and then decreased by 12 percent from 2020 to 2023. The number of priority conferences more than doubled from 2013 through 2023. The number of expedited hearings fluctuated between 2,750 and 3,600 hearings between 2013 and 2016, and then decreased by 50 percent from 2016 to 2023. The number of trials fell by half from 2013 to 2015. There were an average of 9,770 trials per year from 2015 to 2020, and then an increase to an average of 11,150 trials in 2021 and 2022. From 2022 to 2023, there was a 23 percent decrease in the number of trials. The number of lien conferences decreased steadily by 27 percent from 2013 to 2019, fell by half from 2019 to 2020, and then increased to an average of 34,000 lien conferences from 2021 to 2023. Lien trial data available from 2014 shows an overall 40 percent increase from 2014 to 2018, more than a 3-fold decline from 2018 to 2020, mostly due to a sharp decrease from 2019 to 2020, and then increased by 53 percent to 5,150 lien trials from 2020 to 2021. From 2021 to 2023, the number of lien trials decreased by 49 percent.

From 2019 to 2023, only a non-Section 5502 hearing such as priority conferences (+20 percent) experienced an increase, while all other non-Section 5502 hearings experienced a decrease in the same

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

time frame. There were decreases in lien trials (-73 percent), lien conferences (-39 percent), expedited hearings (-39 percent), rating MSCs (-51 percent), MCSs (-18 percent), status conferences (-11 percent), and trials (-16 percent).

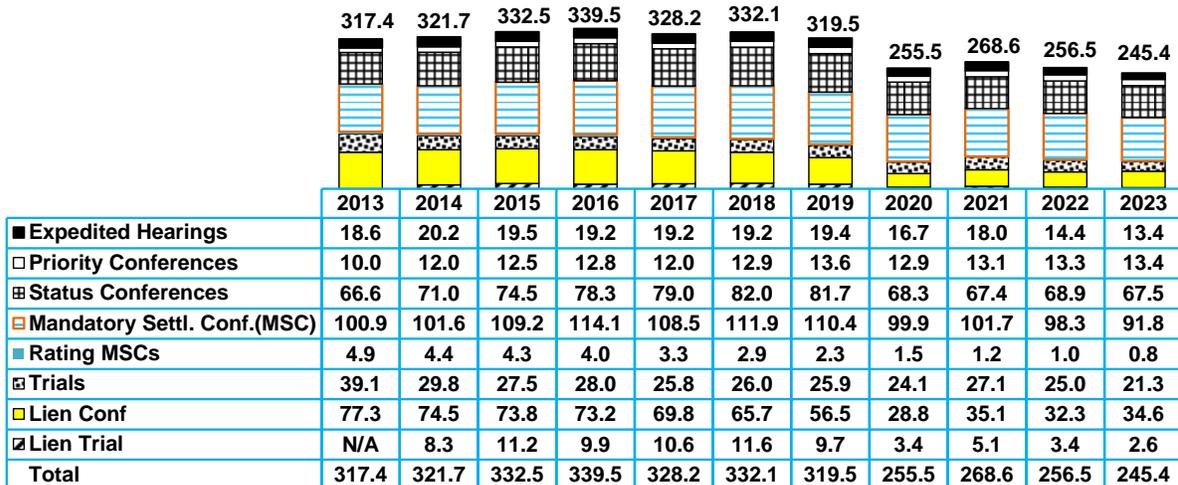
Figure 61: DWC Non-5502 Hearings Held (Thousand)



Data Source: DWC

Figure 62 shows the total hearings held from 2013 to 2023 including Labor Code Section 5502 hearings, non-Section 5502 hearings, and lien conferences.

Figure 62: DWC Total Number of Hearings Held (LC 5502 and non-5502) (Thousand)



Data Source: DWC

Timeliness of Hearings

California Labor Code Section 5502 specifies the time limits for various types of hearings conducted by DWC on WCAB cases. In general:

- An expedited hearing must be held within 30 days of the receipt of a DOR.

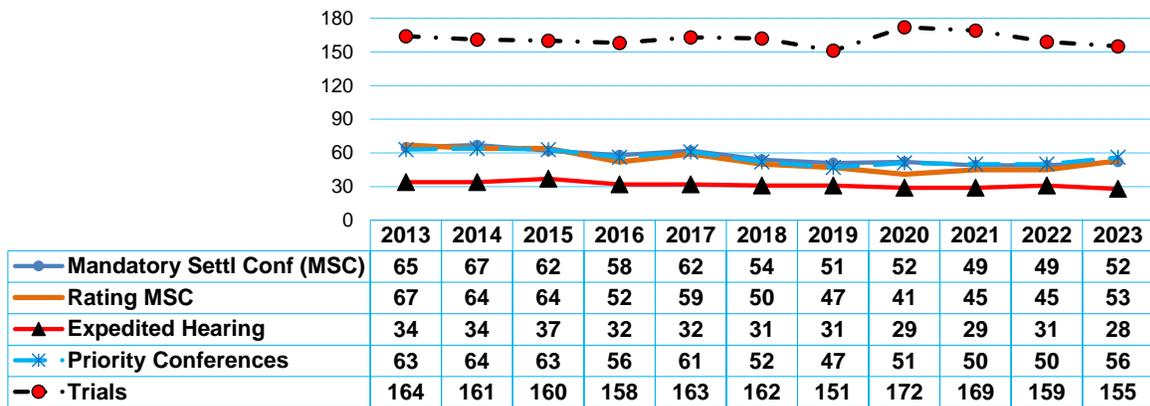
WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- The conference shall be conducted within 30 days after the filing of a DOR.
- MSCs, rating MSCs, and priority conferences are required to be held within 30 days of the receipt of a request in the form of a DOR.
- A trial must be held within 75 days of the request if a settlement conference has not resolved the dispute.

Figure 63 shows the average elapsed time from a request to a DWC hearing in the fourth quarter of each year, from 2013 to 2023.

All types of DWC hearings showed an overall decrease in average elapsed time from a request to hearing from 2013 to 2016 followed by a one-time increase from 2016 to 2017, excluding the expedited hearings, and then again—by decrease for all types of DWC hearings from 2017 to 2019. Different types of DWC hearings showed different patterns of change in average elapsed time from a request to hearing from pre-pandemic year of 2019 to 2023. For expedited hearings, the average elapsed time from a request to hearing showed an almost uninterrupted and steady 10 percent decrease, from 31 days in 2019 to 28 days in 2023 with a one-time increase from 2021 to 2022. The average elapsed time from a request to a DWC trial increased by 14 percent from 151 days to 172 days from 2019 to 2020, and then decreased steadily by 10 percent to 155 days from 2020 to 2023. The average elapsed time from a request to hearing for priority conferences increased by 6.4 percent from 2019 to 2020, decreased slightly to 50 days in 2021 and 2022, and then increased by 12 percent to 56 days from 2021 to 2023. The average elapsed time for MSCs decreased by 9 percent from 2013 to 2016, increased by 7 percent from 2016 to 2017, and then declined overall by 21 percent from 2017 to 2022. The average elapsed time for rating MSCs increased slightly from 51 days in 2019 to 52 days in 2020, stabilized at lower level of 49 days in 2021 and 2022, and then in 2023 increased back to its 2020 level.

Figure 63: Elapsed Time in Days from Request to DWC Hearing (4th Quarter)



Source: DWC

Division of Workers' Compensation Decisions

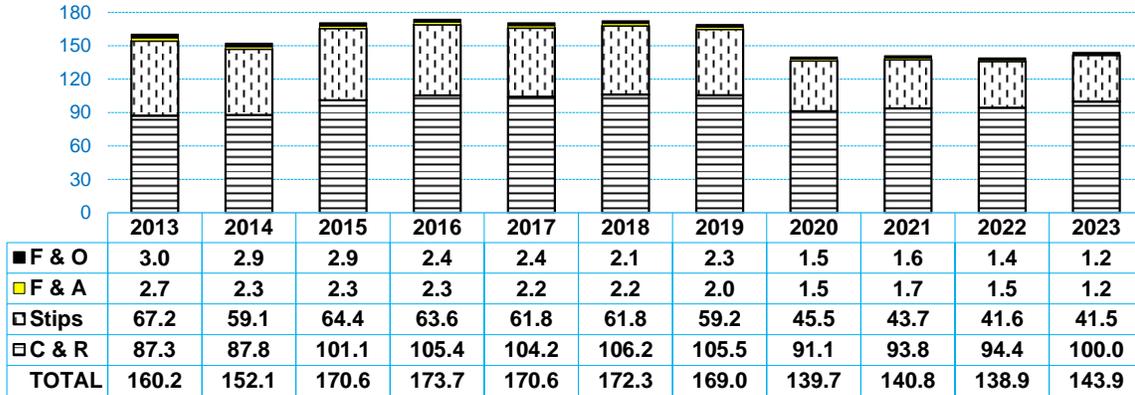
DWC Case-Closing Decisions

Figure 64 shows the number of case-closing decisions by type from 2013 to 2023. The total number of case-closing decisions decreased by 5 percent from 2013 to 2014. This decrease in the number of case-closing decisions was due to decreases in Findings & Award (F&A), in Findings & Order (F&O), and in Stipulations from 2013 to 2014. From 2014 to 2016, the total number of case-closing decisions increased by 14 percent as a result of a steady 20 percent increase in Compromise and Releases (C&Rs) from 2014 to 2016 and a 7.5 percent increase in Stipulations from 2014 to 2016. From 2016 to 2019, the total number of case-closing decisions fluctuated between 169,000 and 173,700 decisions per year. After a 17 percent decrease from 2019 to 2020, the total number of case-closing decisions averaged 140,800 from 2020 to

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

2023. A seventeen (17) percent decline in the total number of case-closing decisions from 2019 to 2020 was due to decreases in all four types of hearings, including a 14 percent decrease in Compromise and Releases (C&Rs) and a 23 percent decrease in Stipulations. There was a slight (less than 1 percent) increase in the total number of case-closing decisions from 2020 to 2021 as a result of a 3 percent increase in C&Rs and a 4 percent decrease in Stipulations in the same period. The total number of case-closing decisions decreased by 20 percent from its peak in 2016 to its lowest level in 2022 before increasing by 4 percent from 2022 to 2023.

Figure 64: DWC Case-Closing Decisions (Thousand)



Source: DWC

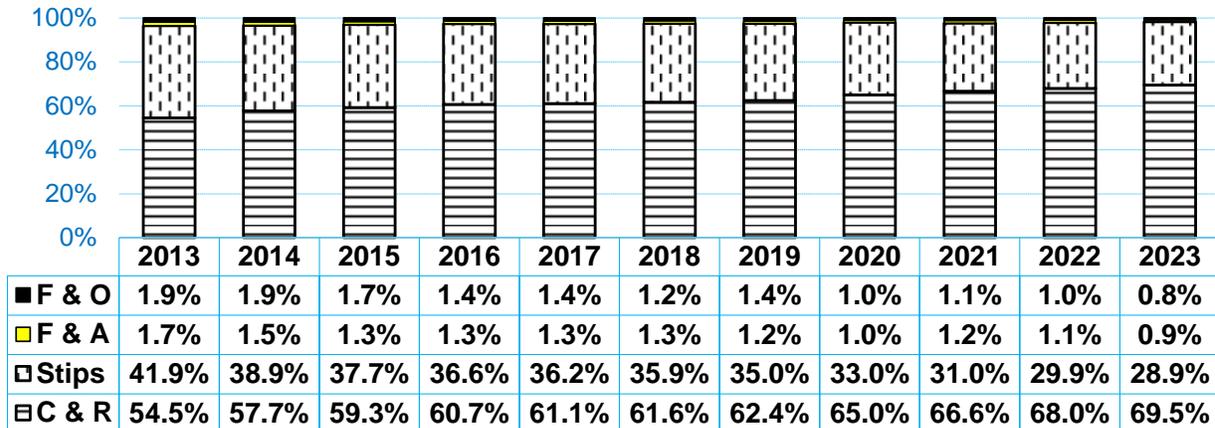
Mix of DWC Decisions

As shown in the previous figures and in Figure 65, again, the vast majority of the case-closing decisions were in the form of a WCAB judge's approval of Stips and C&Rs, which were originally formulated by the case parties.

From 2013 to 2023, the proportion of Stips decreased from 41.9 to 28.9 percent and the proportion of C&Rs increased from 54.5 to 69.5 percent.

Figure 65 shows that a small percentage of case-closing decisions evolved from a Findings & Award (F&A) or Finding & Order (F&O) issued by a WCAB judge after a hearing. That pattern continued with an overall decrease for both types of decisions from 2013 to 2023.

Figure 65: Percent Distribution by Type of DWC Case-Closing Decisions



Source: DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Division of Workers' Compensation Lien Filings and Decisions

SB 863 became effective January 1, 2013 and introduced changes regarding liens filed against an injured workers' claim, for medical treatment and other services provided in connection with the claim, but not paid for by the employer or insurance carrier. The bill introduced a filing fee of \$150 required for all liens filed after January 1, 2013 and a \$100 activation fee required for liens filed before January 1, 2013. These fees served as tools for dismissal of liens by operation of law after January 1, 2014 if no filing or activation fee has been filed. Other measures included an 18-month statute of limitations for filing liens for services rendered after July 1, 2013 and a 3-year statute of limitations for services provided before then. Assignments of lien claims were also strictly limited and allowed only where the assignor had gone out of business.

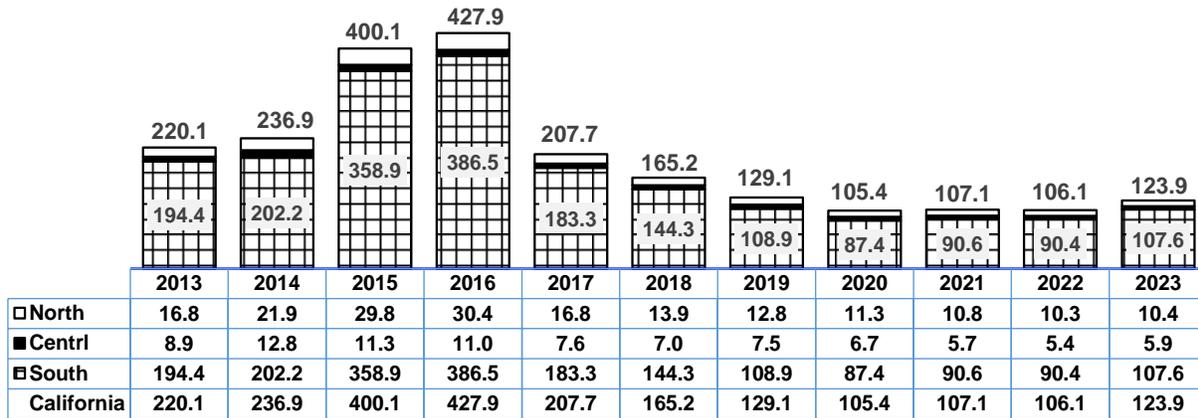
Senate Bill 1160 and Assembly Bill 1244, both of which became effective on January 1, 2017, added important new provisions that significantly decreased the number of liens filed in 2017:

- Labor Code section 4615 places an automatic stay on liens filed by or on behalf of physicians and providers who are criminally charged with certain types of fraud. The automatic stay prevents those liens from being litigated or paid while the prosecution is pending.
- Provider suspension activities undertaken pursuant to Labor Code section 139.21 include consolidation and dismissal of all pending lien claims in a special lien proceeding for providers suspended due to conviction of a covered crime. A Special Adjudication Unit (SAU) was created in DWC to conduct lien consolidation proceedings.
- Labor Code section 4903.05(c), as amended by SB 1160, introduced the lien dismissals by operation of law. This provision requires lien claimants to file a declaration verifying the legitimacy of liens for medical treatment or medical-legal expenses. Claimants who had filed liens between January 1, 2013, and December 31, 2016, were required to file the declarations by July 1, 2017, to avoid having those liens dismissed.

As Figure 66 shows, the total number of liens filed in 2013 and 2014 stabilized at an average of 228,500 liens per year following the introduction of lien filing fees and other lien provisions in SB 863. The number of liens filed increased by 69 percent from 2014 to 2015, increased further in 2016 to reach its peak, and then in 2020 decreased to one-fourth of 2016 numbers due to the SB 1160 and AB 1244 reforms enacted in 2016. The total number of liens filed averaged 106,200 liens per year from 2020 to 2022, and then increased by 17 percent from that average in 2023. About 85-90 percent of the filed liens originated in Southern California in 2013 through 2023. The share of the Southern region in liens filed averaged 88 percent from 2013 to 2018 and then decreased to 84 percent from 2019 to 2022 before increasing again to 87 percent in 2023. Northern California increased its share of the liens filed from an average of 8 percent from 2013 to 2018 to 10-11 percent from 2019 to 2022, and then decreased to 8 percent in 2023. Central California increased its share of the liens filed from an average of 4 percent in 2013 through 2018 to 5-6 percent from 2019 to 2023.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 66: Number of Liens Filed by California Regions (Thousand), 2013-2023



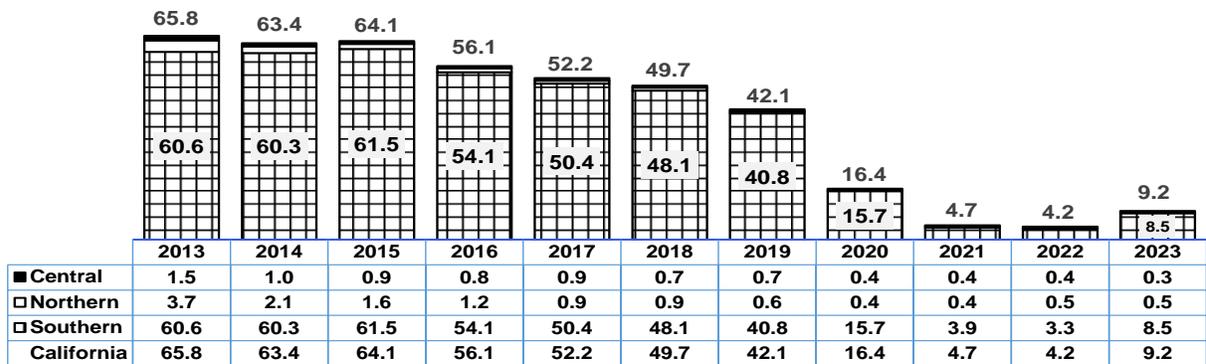
Data Source: DWC

Figure 67 shows that the number of decisions regarding liens filed on WCAB cases reached its peak in 2013, thereby increasing concomitant expenditure of DWC staff resources for the resolution of those liens.

The number of lien decisions decreased overall by 36 percent between 2013 and 2019 and then in 2022 it fell to one-tenth of the 2019 number, including a 61 percent decrease from 2019 to 2020. The number of lien decisions more than doubled from 2022 to 2023. Because of the addition of Labor Code § 4615, many liens are stayed and cannot be decided until the criminal case is resolved.¹¹⁹ When the number of liens filed in 2015 and 2016 significantly increased, only 16 and 13 percent of liens, respectively, were resolved. When the number of liens filed ranged between 129,000 and 237,000 from 2013 to 2014 and then from 2017 to 2019, about 30 percent of liens were resolved. According to figures 66 and 67, the number of liens resolved decreased from 33 percent in 2019 to 7 percent in 2023.

The lien decisions in Southern California comprised 92 percent of lien decisions in 2013. That share gradually increased to 97 percent in 2017 and stayed at that level from 2017 to 2019, before a sharp decline in total number of lien decisions in the state from 2019 to 2020. When the total number of lien decisions fell to less than 5,000 in 2021 and 2022, the share of Southern California decreased to 80-84 percent, although increasing to 92 percent from 2022 to 2023 when the number of lien decisions almost doubled. The Northern region comprised only 2 percent of lien decisions in California from 2016 to 2020. That share increased to 8 and 11 percent in 2021 and 2022 respectively, before decreasing to 5 percent in 2023.

Figure 67: Number of DWC Lien Decisions, by California Regions (Thousand), 2013-2023



Data Source: DWC

¹¹⁹ <https://www.dir.ca.gov/dwc/SB1160-AB1244/Special-Adjudication-Unit-Calendar.htm>

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

See the "Liens Report" (CHSWC, January 5, 2011) for a complete description. (No Longer Available on Live Site. Contact CHSWC directly for more information.)

DIVISION OF WORKERS' COMPENSATION AUDIT AND ENFORCEMENT PROGRAM

Background

The 1989 California WC reform legislation established an audit function within DWC to monitor the performance of WC insurers, self-insured employers, and third-party administrators to ensure that industrially injured workers are receiving proper benefits in a timely manner. DWC's Audit and Enforcement Unit conducts audits on a random selection of WC claim files.

The purpose of the audit and enforcement function is to provide incentives for the prompt and accurate delivery of WC benefits to industrially injured workers and to identify and bring into compliance those insurers, third-party administrators, and self-insured employers who do not deliver benefits in a timely and accurate manner.¹²⁰

Assembly Bill 749 Changes to the Audit Program

Assembly Bill (AB) 749, effective January 1, 2003, resulted in major changes to California WC law and mandated significant changes in the methodologies for claim file selection and assessment of penalties in the audit program.

Labor Code Sections 129 and 129.5 were amended to ensure that each audit location will be audited at least once every five years and that good performers will be rewarded. A profile audit review (PAR) of every audit subject will be done at least every five years. If a new Claims Administrator has at least three years of claims inventory, an audit may be conducted sooner. Any audit subject that fails to meet a profile audit standard established by the Administrative Director (AD) of DWC will be given a full compliance audit (FCA). Any audit subject that fails to meet or exceed the FCA performance standard will be audited again within two years. Targeted PARs or FCAs may also be conducted at any time based on information indicating that an insurer, self-insured employer or third-party administrator is failing to meet its obligations.

To reward good performers, profile audit subjects that meet or exceed the PAR performance standard will not be liable for any penalties but will be required to pay any unpaid compensation. FCA subjects that meet or exceed standards will be required to pay penalties only for unpaid or late paid compensation.

Labor Code Section 129.5(e) was amended to provide for civil penalties up to \$100,000 if an employer, insurer, or third-party administrator has knowingly committed or has performed with sufficient frequency to indicate a general business-practice act discharging or administering its obligations in specified improper manners. Failure to meet the FCA performance standards in two consecutive FCAs will be rebuttably presumed to be engaging in general business practice of discharging and administering compensation obligations in an improper manner.

Review of the civil penalties assessed is obtained by a written request for a hearing before the WCAB rather than by application for a writ of mandate in the Superior Court. Judicial review of the WCAB's F&O is as provided in Sections 5950 et seq.

Penalties collected under Section 129.5 and unclaimed assessments for unpaid compensation under Section 129 are credited to the Workers' Compensation Administration Revolving Fund (WCARF).

¹²⁰ In addition, LC 129 (f) requires an audit of the Uninsured Employers Benefits Trust Fund (UEBTF) by the claims and collections unit of DWC.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Overview of Audit Methodology

Selection of Audit Subjects

Audit subjects, including insurers, self-insured employers and third-party administrators, are selected randomly for routine audits.

The bases for selecting audit subjects for targeted audits are specified in California Code of Regulations (CCR) 8, Section 10106.1(c), effective January 1, 2003:

- Complaints regarding claims handling received by DWC.
- Failure to meet or exceed FCA performance standards.
- A high number of penalties awarded pursuant to Labor Code Section 5814.
- Information received from the Workers' Compensation Information System (WCIS).
- Failure to provide a claim file for a PAR.
- Failure to pay or appeal a Notice of Compensation Due ordered by the Audit Unit.

A claims administrator identified for a return target audit because of the failure of a PAR/FCA audit conducted in 2003 or later may be subject to a civil penalty under Labor Code § 129.5(e). The Administrative Director may assess a civil penalty upon finding, after hearing, that an employer, insurer, or third-party administrator for an employer has knowingly committed or has performed any of the following with sufficient frequency:

- Induced employees to accept less than compensation due or made it necessary for employees to resort to proceedings against the employer to secure compensation due.
- Refused to comply with known and legally indisputable compensation obligations.
- Discharged or administered compensation obligations in a dishonest manner.
- Discharged or administered compensation obligations in a manner as to cause injury to the public or those dealing with the employer or insurer.

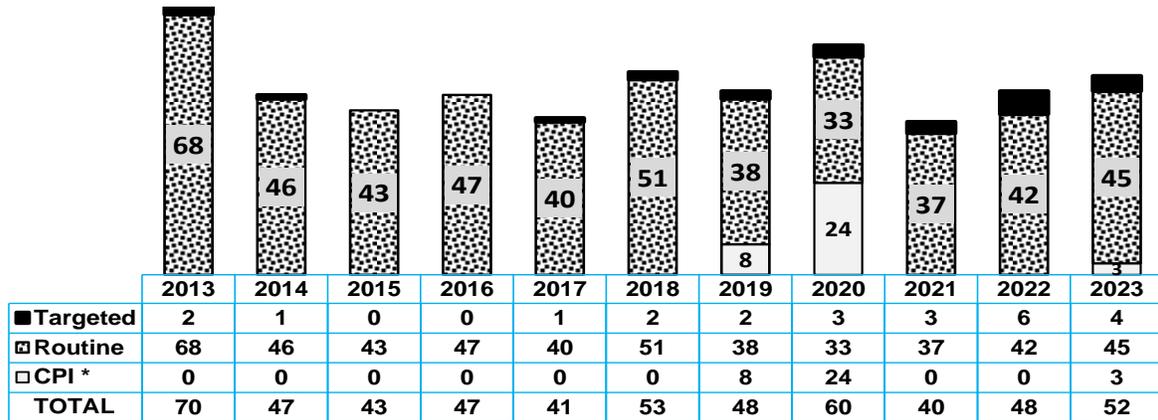
Audit and Enforcement Unit Data

Routine and Targeted Audits

Figures 68 to 74 depict workload data from 2013 through 2023. Figure 68 shows the number of routine and targeted audits, and the total number of audits conducted each year. In 2023, the Audit Unit completed 52 audits, of which 45 were routinely selected for PAR, 4 targeted audits were based on the failure of a prior audit, and 3 audits were based on credible referrals and/or complaints filed with the Unit. Civil Penalty Audits and Investigations are based on CCR, Title 8, section 10106.1(b) and include targeted claim files based on credible complaints and referrals received by DWC.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 68: Routine and Targeted Audits and Civil Penalties Assessed



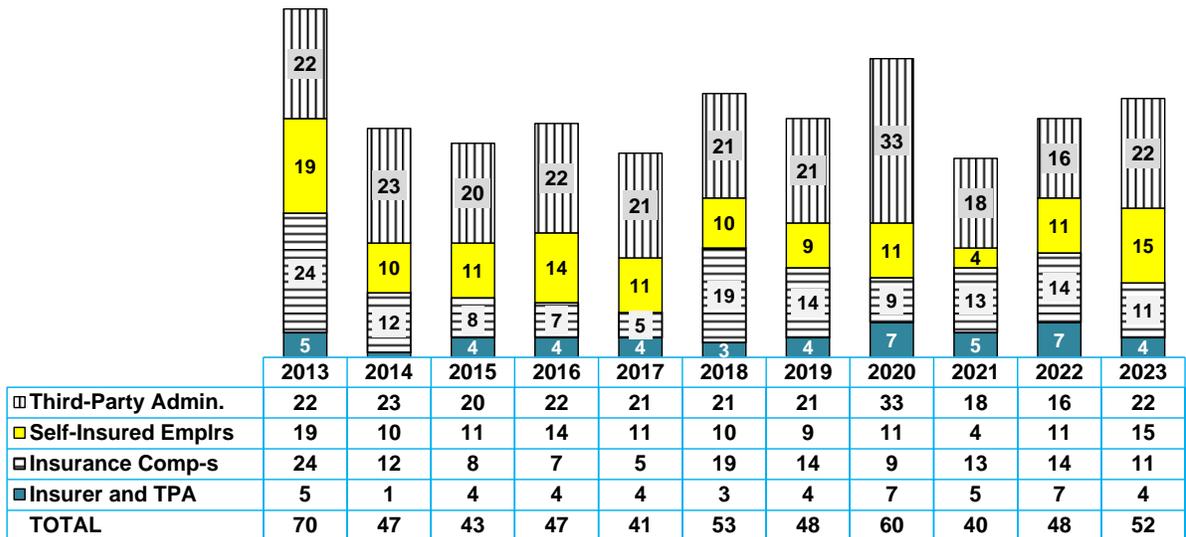
* Civil Penalty Issues

Source: DWC Audit and Enforcement Unit

Audits by Type of Audit Subject

Figure 69 depicts the total number of audit subjects each year, broken down by whether the subject is an insurance company (insurer), a self-insured employer, or a third-party administrator.

Figure 69: DWC Audits by Type of Audit Subject



Source: DWC Audit and Enforcement Unit

Selection of Files to Be Audited

The majority of claim files are selected for audit on a random basis, with the number of indemnity and denied cases selected based on the number of claims in each of those populations of the audit subject:

- Some valid complaint files may be selected to undergo targeted audits, and penalties may be issued.
- Additional files include claims chosen based on criteria relevant to a targeted audit but for which no specific complaints had been received.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

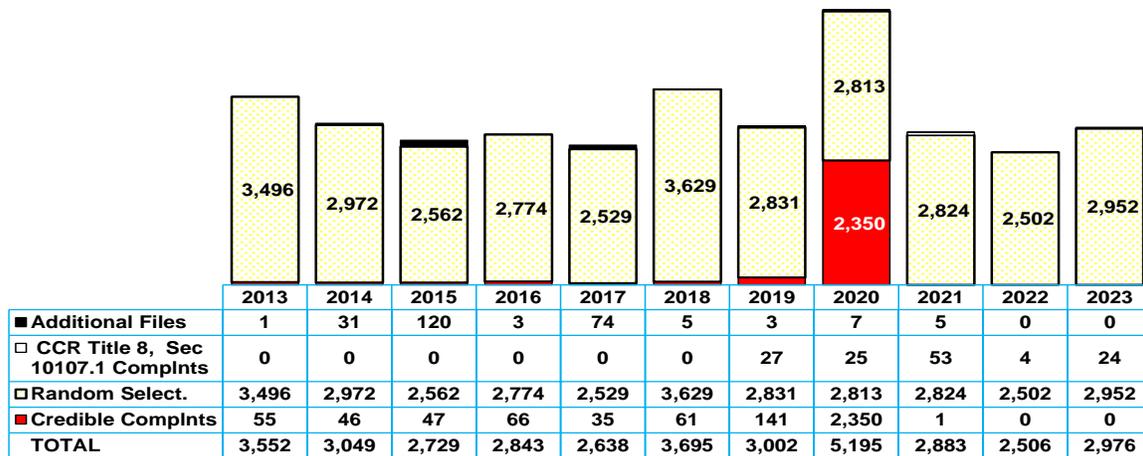
- The number of claims audited is based upon the total number of claims at the adjusting location and the number of complaints received by DWC related to claims-handling practices. Types of claims include indemnity, denied, complaint, and additional files. The Audit Unit only audits claims with indemnity benefits paid and only tracks the number of medical only files on the Annual Report of Inventory.

Figure 70 shows the total number of claim files audited each year broken down by the method used to select them. In 2023, within the PAR/FCA audits, compliance officers audited 2,976 claim files, of which 2,952 were randomly selected claims¹²¹ in which some form of indemnity benefits was paid. Twenty four (24) claim files were audited based on CCR, Title 8, Section 10107.1 complaints received by the DWC. Targeted claims audited did not include files based on valid complaints received by DWC and there were no audited claims designated as "additional" files.

"Additional" files include the following:

- Claims audited as a companion file to a randomly selected file.
- Claims chosen based on criteria relevant to a target audit but for which no specific complaints had been received.
- Claims in excess of the number of claims in the random sample, audited because the files selected were incorrectly designated on the log.

Figure 70: Files Audited by Method of Selection



Source: DWC Audit and Enforcement Unit

Administrative Penalties

Figure 71 shows the administrative penalties cited from 2013 to 2022. As a result of PAR/FCA audits conducted during the calendar year 2022, the Audit & Enforcement Unit found and cited 3,053 violations against claims administrators, with initial administrative penalties cited totaling almost \$0.7 million (\$739,519). Not all administrative penalties are subject to collection. Under the Labor Code, no penalties are assessed on those "cited" violations unless the audit subject fails the audit at a specific level.¹²²

In accordance with Labor Code section 129.5(c) and regulatory authority, the Audit & Enforcement Unit did not assess or waived \$855,512 of the potential administrative penalties of the cited violations. The violations

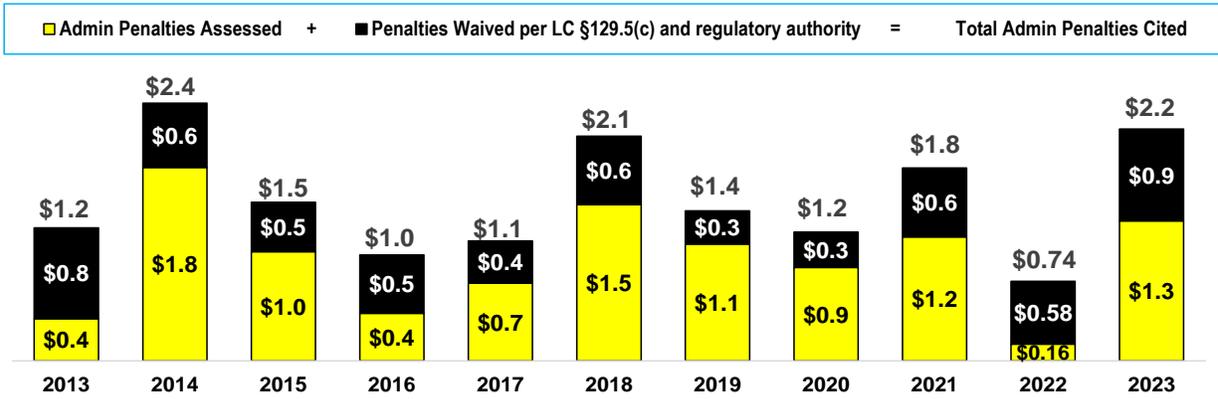
¹²¹ Some claim files may be substituted for another file if the randomly selected file does not meet the PAR audit criteria or if the files selected were incorrectly designated on the log. These files would still be counted in the original random sample number and not listed as additional files.

¹²² DWC Annual Audit Report, page 5, <https://www.dir.ca.gov/dwc/AuditUnit/Audit-Annual-Report2020.pdf>.

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which, by law, were not assessed occurred within 42 of the audits that met or exceeded the PAR 2023 performance standard. All violations cited in the audit that failed the FCA performance standard were assessed. The assessed penalties subject to collection from claims administrators for FCA audits came to a total of \$1,301,639.

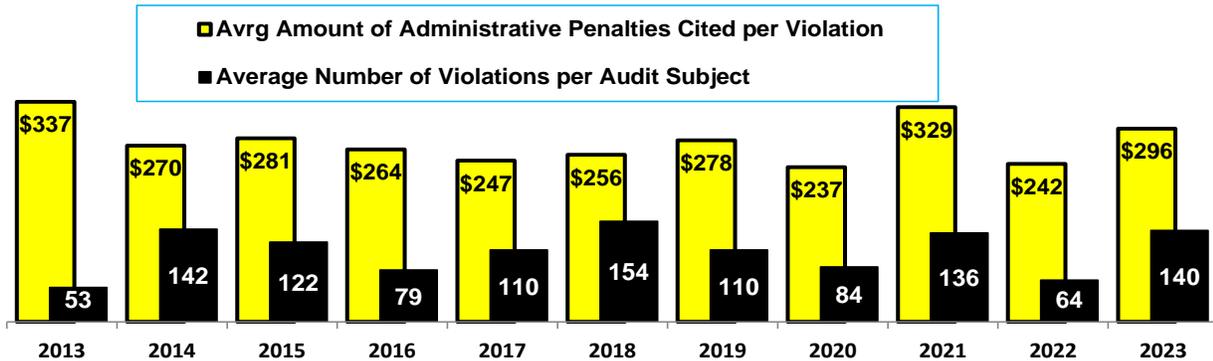
Figure 71: DWC Audit Unit—Administrative Penalties Cited (Million \$)



Source: DWC Audit and Enforcement Unit

Figure 72 shows the average number of violations per audit subjects each year and the average dollar amount of administrative penalties cited per violation. In 2023, the average number of violations per 52 completed profile audits was 140 and the average penalty cited per 7,291 violations was about \$296, including penalties waived.

Figure 72: Average Amount of Administrative Penalties Cited per Violation and Average Number of Violations per Audit Subject



Data Source: Audit and Enforcement Unit

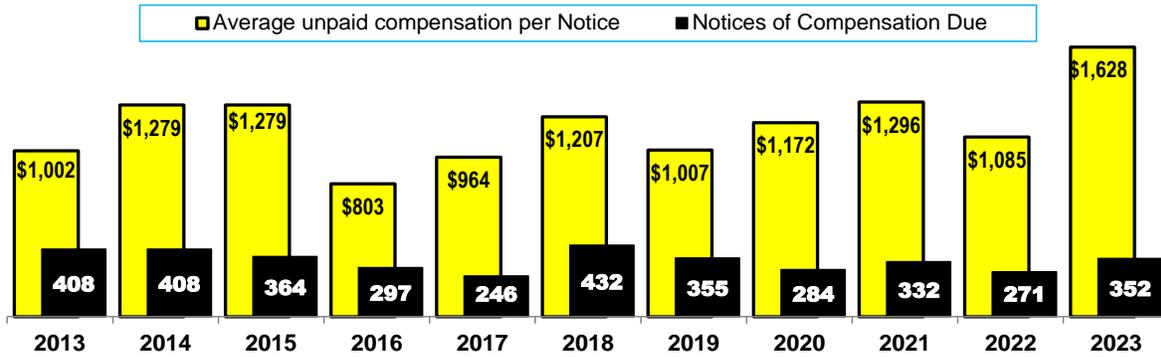
Unpaid Compensation Due to Claimants

Audits identify claim files in which injured workers were owed unpaid indemnity compensation. The administrator is required to pay these employees within 15 days after receipt of a notice from the Audit and Enforcement Unit advising the administrator of the amount due, unless a written request for a conference is filed within 7 days of receipt of the audit report. When employees due unpaid compensation cannot be located by claims administrators, the unpaid compensation is payable by the administrator to WCARF. In these instances, an application by an employee can be made to DWC for payment of monies deposited by administrators into this fund.

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Figure 73 depicts the number of notices of compensation due on claims where unpaid indemnity compensation was found and the average dollar amount of compensation cited for mandatory payments per notice of compensation due from 2013 to 2023.

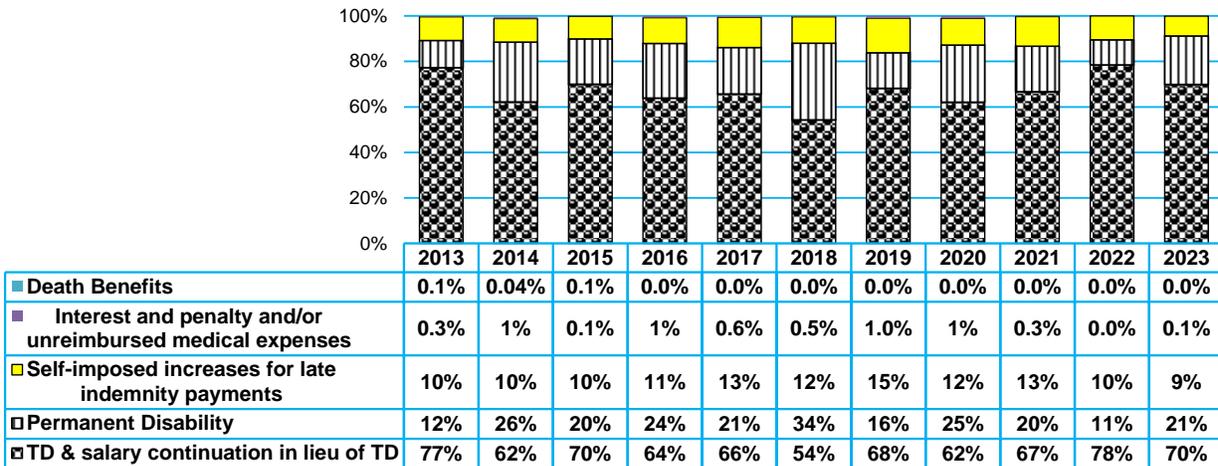
Figure 73: Average Amount of Unpaid Compensation per Claim and Number of Notices of Compensation



Data Source: Audit and Enforcement Unit

Figure 74 shows yearly distribution of unpaid compensation by specific type.

Figure 74: Distribution of Unpaid Compensation by Type



Data Source: DWC Audit and Enforcement Unit

For further information ...

DWC Annual Audit Reports are available at

<https://www.dir.ca.gov/dwc/AuditUnit/Audit-Annual-Report2021.pdf>.

CHSWC "Report on the Division of Workers' Compensation Audit Function" (1998).

<http://www.dir.ca.gov/CHSWC/FinalAuditReport.html>.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

DIVISION OF WORKERS' COMPENSATION DISABILITY EVALUATION UNIT

DWC's Disability Evaluation Unit (DEU) determines permanent disability ratings by assessing physical and mental impairments presented in medical reports. Physical impairments for injuries after 2005 are described in accordance with the *AMA Guide*, 5th ed., and disability is determined in accordance with the 2005 Permanent Disability Rating Schedule (PDRS). Adjustments with the PDRS are made for effect on future earning capacity, occupation and age at the time of injury. For injuries prior to 2005 and after April 1, 1997, the 1997 PDRS or an earlier edition is utilized, depending on the date of injury. For injuries that occur on or after January 1, 2013, the FEC modifier has been replaced with a 1.4 modifier in accordance with changes to Labor Code Section 4660.1 as a result of SB 863.

The DEU's mission is to prepare timely and accurate ratings to facilitate the resolution of WC cases. Ratings are used by WC judges, injured workers, insurance claims administrators and attorneys to determine appropriate permanent disability benefits. DEU prepares three types of ratings:

- Formal Ratings—ratings per WC judges as part of expert testimony in a litigated case.
- Consultative Ratings—ratings on litigated cases at the request of an attorney, DWC Information & Assistance Officer, or other party to the case in order to advise parties to the level of permanent disability.
- Summary Ratings—ratings on non-litigated cases done at the request of a claims administrator or injured worker.

A permanent disability can range from 0 to 100 percent. Zero percent signifies no reduction of earning capacity, while 100 percent represents permanent total disability. A rating between 0 and 100 percent represents a partial loss of earning capacity. Partial permanent disability correlates to the number of weeks that an injured employee is entitled to permanent disability (PD) benefits, according to the percentage of PD.

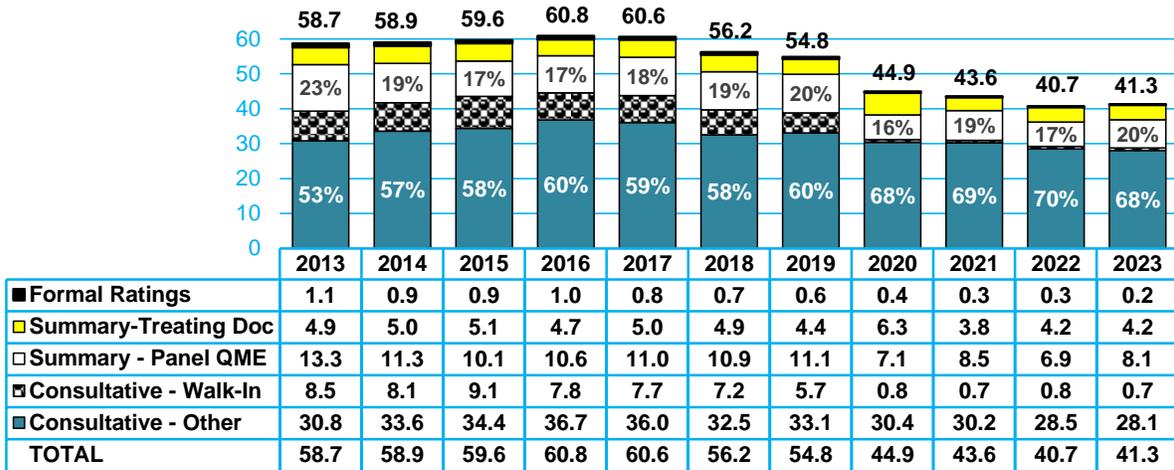
In addition to written ratings, DEU provides oral consultations on PD issues and commutations to determine the present value of future indemnity payments to assist in case settlements.

Figure 75 illustrates DEU's workload from 2013 to 2023 and shows the total ratings and ratings by type.

The total number of DEU written ratings increased by 4 percent from 2013 to 2016, declined overall by 32 percent between 2016 and 2023, including a 26 percent decrease from 2019 to 2022. The combined share of consultative ratings in total ratings increased from 67 percent in 2013 to 72 percent in 2022 and 70 percent in 2023, as the share of non-walk-in consultative ratings increased overall from 53 percent in 2013 to 70 percent in 2022 and 68 percent in 2023. The share of non-walk-in consultative ratings increased, although its yearly numbers decreased by 24 percent in the last 8 years as the total DEU written ratings have decreased since 2016. The combined share of summary ratings by panel QMEs and treating doctors in all ratings decreased from 31 percent in 2013 to 25 percent in 2016 and then increased to 30 percent from 2016 to 2023. The number of summary ratings by panel QMEs declined by 15 percent from 2013 to 2014, stabilized at an average of 11,000 ratings between 2014 and 2019, and then after a 36 percent decrease from 2019 to 2020, it fluctuated between 6,950 and 8,500 from 2020 to 2023. The number of summary ratings by treating doctors fluctuated between 4,200 and 5,100 ratings between 2013 to 2023, with the exclusion of 43 percent increase from 2019 to 6,300 ratings in 2020, and then a sharp 40 percent decrease from 2020 to 3,800 ratings in 2021. From 2013 to 2023, the number of formal ratings, the smallest component of DEU written ratings, fell by more than 5-fold.

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Figure 75: DEU Written Ratings, 2013-2023 (Thousand)

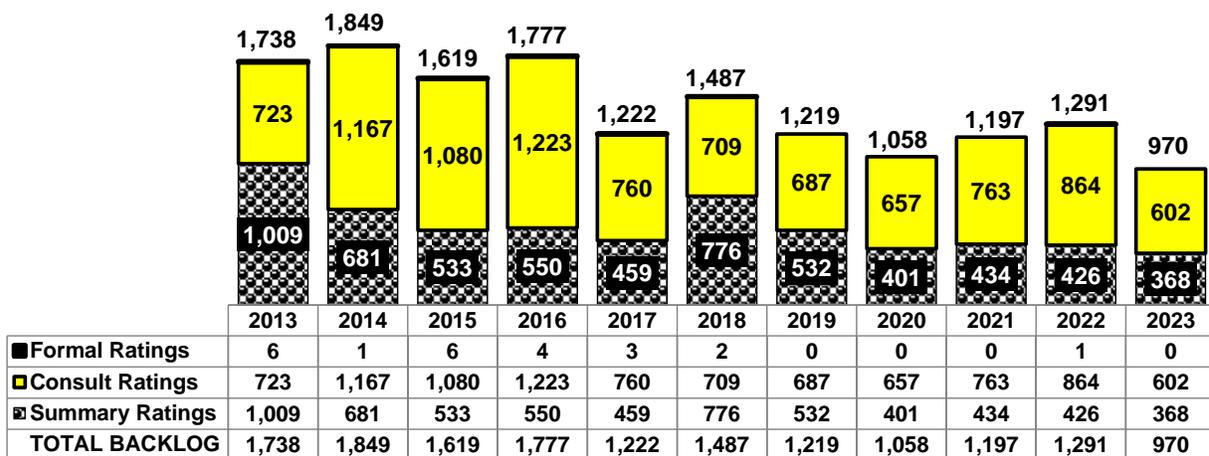


Data Source: DWC Disability Evaluation Unit

DEU Rating Backlog

A rating backlog represents rating requests of medical reports that have been received but not yet rated. Formal ratings and cases set for hearing are given priority. According to Figure 76, from 2013 to 2016, the rating backlog fluctuated between 1,600 and 1,850 backlogs per year. The DEU decreased the ratings backlog by 31 percent from 2016 to 2017. From 2017 to 2018, the rating backlog increased by 22 percent, mostly due to an increase of 69 percent in summary ratings and then declined again by 18 percent when backlogs of both consultative and summary rating fell from 2018 to 2019. The reduction in the backlog provides quicker delivery of benefits to injured workers and resolution of WC cases. Due to pandemic disruptions and a decrease in exposure to workplace injuries, the total backlog decreased by 13 percent from 2019 to 2020. From 2020 to 2022, the total backlog increased by 22 percent before decreasing by 25 percent from 2022 to 2023.

Figure 76: Number of DEU Backlogs by Type



Data Source: DWC Disability Evaluation Unit

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Commutation Calculations

DEU also performs commutations of future indemnity payments involving present-value calculations. These commutation calculations assist parties in the resolution of claims involving lump-sum settlements, including calculation of attorney fees on litigated cases.

For injuries that occurred on or after January 1, 2003, life pension and total PD payments are increased according to the annual increase of the state average weekly wage (SAWW) starting January 1 after the payment commences and each January thereafter. The increase in benefits based upon annual SAWW increases the complexity of commutation calculations. DEU performed 1,325 commutations, averaging 110.4 commutation calculations per month in 2023.

Table 17: Number of DEU Commutations, 2015-2023

	2015	2016	2017	2018	2019	2020	2021	2022	2023
Commutations	1,431	1,473	1,463	1,621	1,460	1,314	1,385	1,379	1,325

Staffing

Current DEU staffing levels are 39 Disability Evaluators (35 WCC and 4 WCA positions), with 3 vacancies in the hiring process, 2 supervisors with 1 vacancy in the hiring process, and 1 unit manager. DEU is supported clerically by staff assigned to the Adjudication Unit.

DIVISION OF WORKERS' COMPENSATION MEDICAL UNIT

The Medical Unit (MU) is responsible for the oversight of the physicians who perform disability evaluations in the WC system, educating physicians on medical-legal issues, and advising the Administrative Director on various medical issues. The Medical Unit sets standards and issues regulations governing Qualified Medical Evaluators (QMEs) and enforces the regulations governing QME disciplinary actions. The MU issues panels of three randomly selected QMEs to both represented and unrepresented injured workers who need a medical-legal evaluation in order to resolve a claim.

The MU also reviews, certifies, monitors, and evaluates Health Care Organizations (HCOs) and Medical Provider Networks (MPNs). Additionally, the MU reviews utilization review (UR) plans from insurers and self-insured employers and develops and monitors treatment guidelines. The unit also participates in studies to evaluate access to care, medical quality, treatment utilization, and costs. Finally, the MU recommends reasonable fee levels for various medical fee schedules.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Status of DWC's QME Regulations¹²³

On February 26, 2024, the Division of Workers' Compensation (DWC) received final approval from the Office of Administrative Law for adoption of the rulemaking package entitled "QME Process Regulations", amending 15 regulations and repealing two.

The amendments were necessary to bring existing regulations into compliance with the Labor Code and to clarify the Administrative Director's authority with respect to the process related to appointment and reappointment of QMEs.

The changes to the regulations include:

- Clarification of regulatory definitions to conform to changes made by Senate Bill 863, recent changes made to the Medical Legal Fee Schedule, and the addition of electronic service of documents;
- Provisions prohibiting false information on applications and reapplications for appointment as a QME;
- Provisions conforming amended regulations with proper gender pronouns;
- Revisions decreasing the number of hours necessary for initial qualification of chiropractors as QMEs;
- Revisions increasing continuing education requirements and adding anti-bias training for QMEs;
- Provisions requiring a QME to be in compliance with all Administrative Director's regulations in order to be reappointed as a QME.
- Provisions implementing the existing discretionary authority of the Administrative Director pursuant to Labor Code section 139.2.
- Provisions clarifying the use of probation as a disciplinary sanction and allowing the Administrative Director to designate hearing officers for adjudication of disputes regarding QME appointment and reappointment applications;
- Clerical provisions relating to the regulation on QME unavailability; and
- Provisions repealing regulations related to administration of disputes regarding the Supplemental Job Displacement Benefit.

The adoption of these regulations remove ambiguity from the administration of the QME program, with the goal of improving the overall functioning of the administration of the QME program.

On June 27, 2024, The California Workers' Compensation Institute (CWCI) issued an updated analysis of the Medical Legal Fee Schedule (Fee Schedule) adopted by the DWC on April 1, 2021. The CWCI called the study an in-depth look at changes in the utilization and reimbursement of California workers' compensation medical-legal services, as well as changes in the number of QMEs since adoption of the Fee Schedule. The CWCI concluded that the number of QMEs only increased by 5.9% from 2019 to 2023, but the average financial reimbursements to QMEs increased approximately 52% from April 2021 to October 2023. These results, if independently verified, bring into stark relief the effectiveness, or lack thereof, of one of the main recommendations of the State Auditor's Office following their audit of the QME program in 2019. On June 6, 2024, the DWC contracted with RAND to undertake a comprehensive and qualitative study of all major components of the QME program. The study will take approximately 2 years to complete. It is anticipated that this independent review of the QME program, will yield results that can form the basis of implementing functional changes that will ensure the continued viability of the QME program.

¹²³ The information was provided by DWC in August, 2024.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Qualified Medical Evaluator Panels

DWC composes panels of three qualified medical evaluators (QMEs) from which the party that holds the legal right to request the panel can select an evaluator with a requested specialty to resolve a medical dispute. Panel lists are obtained in both unrepresented and represented cases. The panels are randomly selected based on the applicant's residence zip code. One QME physician is selected from the list to evaluate the injured worker and write a medical-legal report addressing the disputed medical issues in the WC case. The medical-legal report is used in the adjudication of the claim to determine entitlement to benefits. Before April 19, 2004, only an injured worker unrepresented by an attorney could request a panel. SB 899, which went into effect April 19, 2004, allowed the claims administrator to request a panel in an unrepresented case if the injured worker failed to do so within 10 days from the date of the notice. Likewise, in the case of a represented worker, both the applicant's attorney and the defense could request a panel if they could not agree on an AME in cases involving a date of injury on or after January 1, 2005. Although both sides attempt to request the panel in the medical specialty of their choice, the first valid request is processed and subsequent requests are returned as a duplicate.

The assignment of panels began in 1991, and over time, changes in the law revised the process for obtaining a QME panel. Effective January 1, 2013, SB 863 no longer requires the parties to confer on using an AME before requesting a panel. This senate bill also created a new pathway for resolving current treatment disputes. This change meant that a QME could no longer address current medical treatment disputes and created a new framework for resolving current medical treatment disputes through an independent medical review (IMR) process. QMEs are also now limited to 10 offices and can no longer be certified for an unlimited number of locations.¹²⁴

An increase in the number of panel requests over the years was a result of various legislative reforms like SB 899, effective April 19, 2004 and SB 863, effective January 1, 2013, WCAB decisions, and changes in reporting requirements. WCAB decisions such as the Romero decision (2007), the Messele decision (2011), and the Navarro decision (2014) shaped the application and approval process for obtaining the QME panels. These changes have contributed to the increase in the number of QME panels in pre-pandemic period. An online system was implemented on October 1, 2015 to expedite the assignment of initial panels in represented cases. Emergency regulations were adopted in 2020 to address continuity of medical-legal evaluations in response to Covid -19 restrictions in order to help injured workers and employers move their WC claims toward a resolution and avoid undue delay.

The request for a panel in unrepresented cases must be submitted by mail for processing and be submitted online in a represented case. The total number of QME Panel Requests includes represented initial requests submitted online that became effective on October 1, 2015, and initial, additional, replacement panel requests, judge orders, and change of specialty panels received as mailed paper submissions. The initial panels are requested using either Form 105 for unrepresented or Form 106 for represented cases.

The online system applies exclusively to represented cases with dates of injury on or after January 1, 2005 and was implemented as a solution to eliminate the wait time for requesting a panel by mail to filing electronically and obtaining the panel immediately.

All other panel requests are submitted by mail to the Medical Unit for review and processing. Mailed paper submissions are processed in-house and include initial unrepresented panel requests from either the injured worker or the claims examiner, initial represented panel requests either involving a pre-2005 date of injury or an uninsured employer, and additional specialty panels and replacement panels for both the unrepresented and represented cases. An additional panel is requested when a specialty different from the one obtained in the initial panel is needed.¹²⁵ In a represented case, the parties mail Form 31.7¹²⁶ by jointly

¹²⁴ This was part of the SB 863 reforms intended to prevent a small number of QMEs from being assigned a disproportionate number of panels by listing a large number of locations for exams.

https://www.dir.ca.gov/chswc/reports/2017/QME_2017_Trends.pdf.

¹²⁵ Obtaining Additional QME Panel in a Different Specialty, https://www.dir.ca.gov/t8/31_7.html.

¹²⁶ QME Panel Request Form 31.7, https://www.dir.ca.gov/dwc/FORMS/QMEForms/QMEForm31_7.pdf.

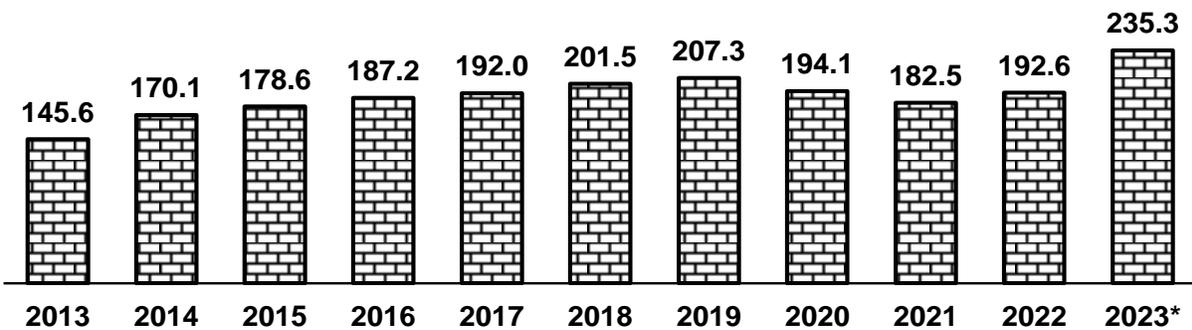
WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

agreeing on the additional specialty assignment or obtain an order from a WCALJ. In the case of an unrepresented applicant, the parties confer with an I&A officer to authorize the additional specialty panel application. A replacement panel is requested when one or more QMEs on the initial panel, additional panel, or replacement panel cannot be utilized for a qualifying reason listed under the replacement panel regulation section 31.5.¹²⁷ Form 31.5¹²⁸ must be mailed to the medical unit for processing, whether the case is represented or unrepresented.

QME Panel Requests

Figure 77 shows the total number of QME Panel Requests, including both the online submission and the panel requests mailed to the Medical Unit for processing. With Panel Request counts rising in 2014, their volume increased by about 17 percent from 2013 to 2014. The number of QME Panel Requests increased steadily by 22 percent from 2014 to 2019, decreased by 12 percent from 2019 to 2021, and then, according to the preliminary data for 2023, increased by 29 percent from 2021 to 2023, including a 22 percent increase from 2022 to 2023.

Figure 77: Number of Qualified Medical Evaluator (QME) Panel Requests Received, Online and by Mail (Thousand)



* The unusual surge in panel requests was explained as a suspicious increase in panel submissions that were not genuine. That resulted in an increased number of online panels. The source of the problem was remediated, but the occurrence may skew the total number of panel requests shown in an indeterminate amount.

Data Source: DWC

QME Panels Assigned¹²⁹

According to Figure 78, the total number of QME panels assigned increased by 9.6 percent from 2017 to 2019, decreased by 12 percent from 2019 to 2021, and increased by 17 percent from 2021 to 2023, including an 11 percent increase from 2022 to 2023.

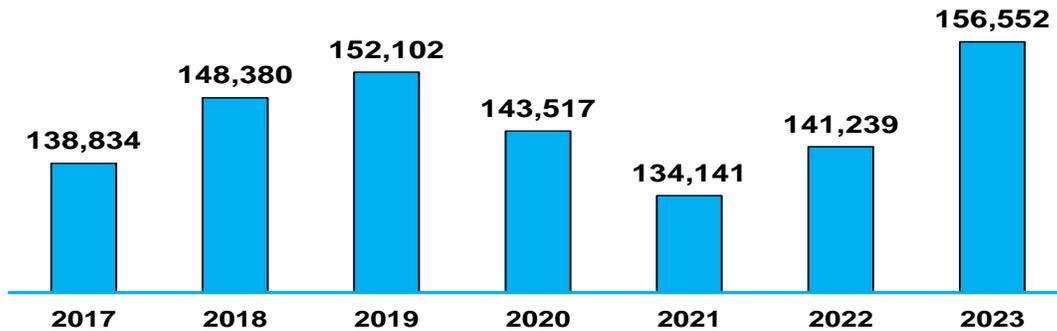
¹²⁷ QME Replacement Request, https://www.dir.ca.gov/t8/31_5.html.

¹²⁸ Replacement QME Panel Request Form 31.5, https://www.dir.ca.gov/dwc/FORMS/QMEForms/QMEForm31_5.pdf.

¹²⁹ The data on QME panels was provided by DWC Medical Unit as based on reports run on May 31, 2024.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

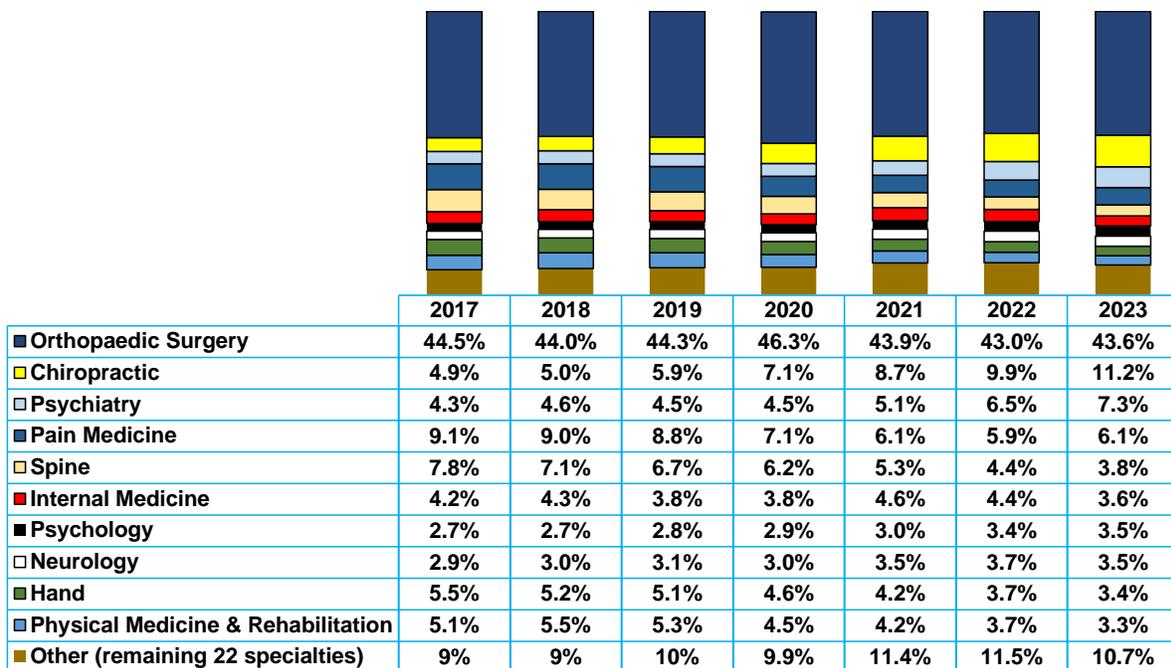
Figure 78: Total Number of QME Panels Assigned (Online and by Mail)



Data Source: DWC - Medical Unit

Figure 79 shows the yearly distribution of QME panels assigned by specialty from 2017 to 2023. The top 10 specialties out of a total of 32 QME specialties, demonstrated in Figure 79, account for close to 90 percent of all QME panels. The top four specialties in 2023, including orthopedic surgery, chiropractors, psychiatry, and pain medicine account for more than two-thirds, or a 68 percent of all QME panels in 2023.

Figure 79: Distribution of QME Panels Assigned by top 10 QME Specialties

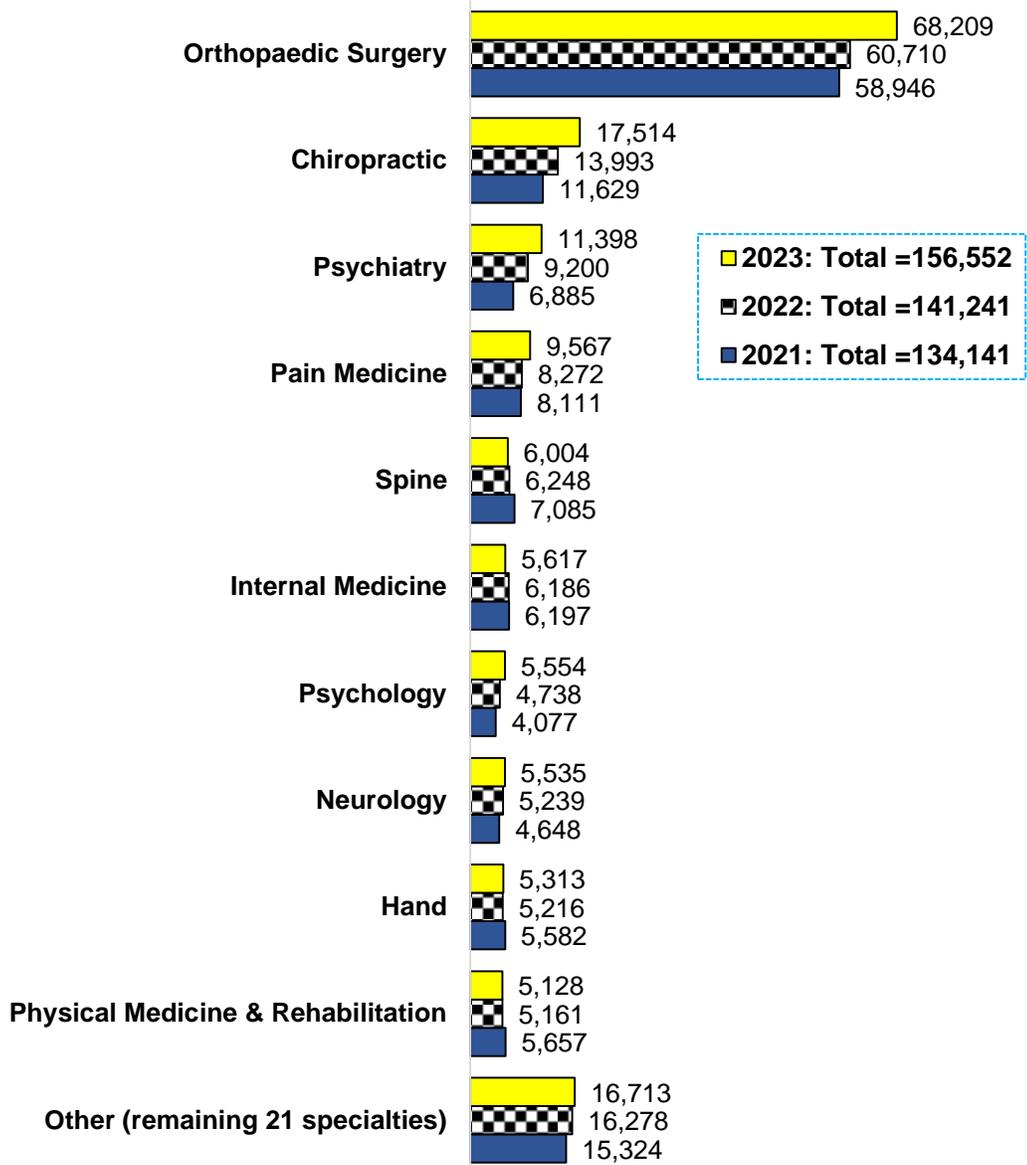


Data Source: DWC - Medical Unit

Figure 80 shows the total number of QME panels assigned by specialty in 2021, 2022, and 2023. The prevailing majority of the QME panels in 2021-2023 were assigned for orthopedic surgeries followed by chiropractic, psychiatric, and pain medicine specialties. A decrease in QME panels assigned from 2021 through 2023 was experienced in spine (-15 percent), internal medicine (-9 percent), physical medicine and rehabilitation (-9 percent), and hand (-5 percent) specialties. Psychiatric (66 percent), chiropractic (51 percent), psychology (36 percent), neurology (19 percent), pain medicine (18 percent), orthopedic surgery (16 percent), and other specialties (9 percent) experienced an increase in the number of QME panels assigned from 2021 to 2023.

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Figure 80: Number of QME Panels Assigned by Top 10 QME Specialties, 2021, 2022, and 2023



Data Source: DWC-Medical Unit

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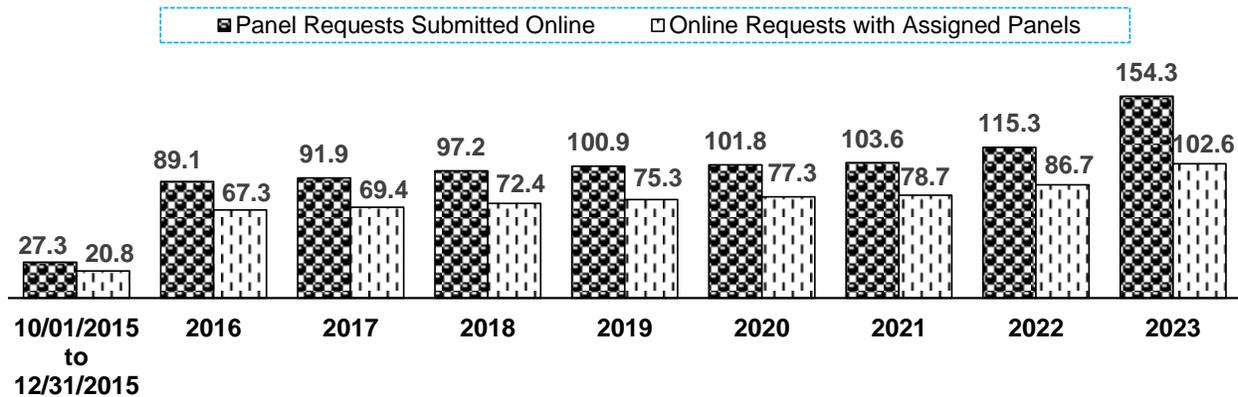
Online and Mailed QME Panel Requests and QME Panels Assigned

QME Panel Requests Submitted Online

Effective October 1, 2015, DWC implemented an online system to enable electronic completion and submission of panel requests on Form 106 and immediate provision of panels. This system applies only to initial panel requests for represented cases, involving a date of injury after December 31, 2004. This online system can be accessed 24/7 and enforces a waiting time of 15 days for mailing from the date of the dispute letter, before applying for the panel. For out-of-state cases, the waiting time is 20 days, including 10 days for mailing. The request for an online panel will result in either a panel list for eligible requests or a rejection letter for ineligible requests. Rejection letters are generated in the following instances: if a request for a panel is made within the 15/20 day wait time the request is rejected for being premature; a notice of insufficient QMEs in a specialty is issued if a specialty requested has fewer than 5 QME physicians in the specialty; if a panel list has already been assigned in the case then a duplicate letter will issue.

Figure 81 shows the number of represented initial requests submitted online, as defined above, and the requests with assigned panels. From 2015, when the online system was implemented, to 2023, about 74 percent of the online panel applications were assigned panels, and 26 percent were rejected as ineligible by the online system. Represented panel requests reached 89,101 in 2016 and since then have comprised a big share of incoming panel requests. The number of represented panel requests increased by 13 percent from 2016 to 2019, with an average 4 percent yearly increase in these panel submissions from 2016 to 2019. From 2019 to 2023, the number of represented panel requests increased by 53 percent. In 2023, 66.5 percent of the online panel applications were assigned panels.

Figure 81: Online QME Panel Requests Submitted and Requests Assigned Panels (Thousand)



Source: DWC

Figure 82 shows the number of rejected on-line panels that comprise about 25 percent yearly as it was described in relation to Figure 81. After reaching 21,800 in 2016 the number of rejected on-line panels increased by 14 percent from 2016 to 2018 and then averaged about 25,000 from 2018 to 2021. From 2021 to 2023, the number of rejected on-line panels more than doubled, increasing its share in the panel requests from the average 25 percent in previous years to 33.5 percent in 2023.

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Figure 82: On-Line QME Panel Requests Rejected at Submission

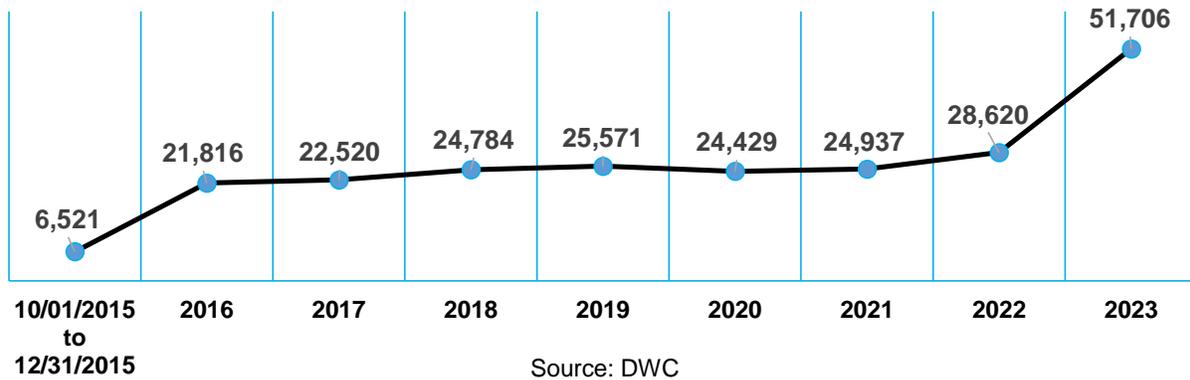
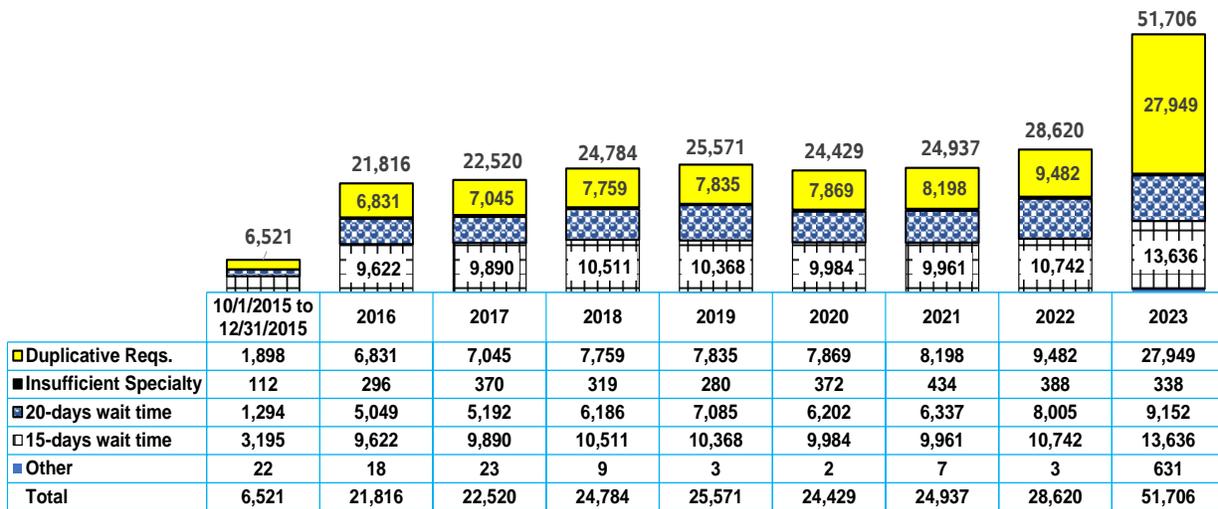


Figure 83 demonstrates the number of rejected online panels by reasons of rejection. The bigger components of the rejected online QME requests such as noncompliance with 15- or 20-day waiting times or premature requests (67 percent), and duplicative requests (31 percent) increased from 2016 to 2019 as the total number of online QME requests increased during that period. From 2019 to 2021, there were 4 percent and 11 percent decreases in rejection of online requests based on noncompliance with 15- or 20-day waiting times respectively, resulted in a 2 percent decrease in the total number of rejected online QME panel requests. From 2021 to 2023, excluding the decrease in rejections based on insufficient specialty, there were increases in all three main types of rejections. In 2023 the number of duplicative requests almost tripled from its 2022 count, increasing its share in total number of rejected panel requests from 31 percent to 54 percent.

Figure 83: Number of Rejected On-Line QME Panel Requests by Rejection Reasons



All panel types other than the initial represented panels submitted online are mailed to the MU for processing. Requests for panels mailed to the MU are reviewed for compliance by MU staff. Entry of the assigned panel and rejection letter are done by staff at the MU and the panel list or rejection letter is mailed to the parties in the case.

The various types of panel requests mailed include: unrepresented initial panel requests submitted on Form 105; request on Form 106 in a represented case involving a date of injury before January 1, 2005; requests for a panel in a case involving an uninsured employer; requests for an additional specialty panel under certain specific conditions under Title 8 CCR section 31.7; requests for replacement of one or more QMEs

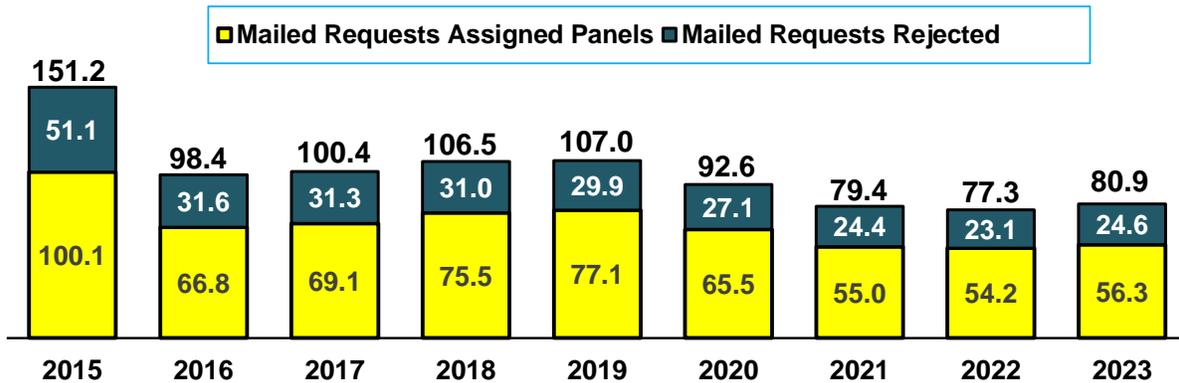
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on the panel list that meets the provision in Title 8 CCR section 31.5; requests for a panel ordered by a WC Administrative Law Judge.

QME Panel Requests Received by Mail

Figure 84 shows the count of mailed QME requests received by the MU that are processed and issued panels or rejected from 2015 to 2023. The total number of QME panel requests received by the MU by mail decreased by 35 percent from 2015 to 2016, increased by about 9 percent from 2016 to 2019, and then decreased by 28 percent from 2019 to 2022 before increasing by 5 percent from 2022 to 2023. On average, 70 percent of all processed requests are assigned panels yearly. The MU has 30 calendar days to issue a panel in represented cases.

Figure 84: QME Panel Requests Received by Mail and Assigned Panel Lists or Rejected (Thousand)



Source: DWC

Figure 85 shows that the total number of QME requests assigned panels by MU decreased by 37 percent from 2015 to 2016, with the implementation of the online panel submissions from October 1, 2015, and then increased steadily by 16 percent from 2016 to 2019. There was a 30 percent decrease in assigned panels from 2019 to 2022, followed by 4 percent increase from 2022 to 2023.

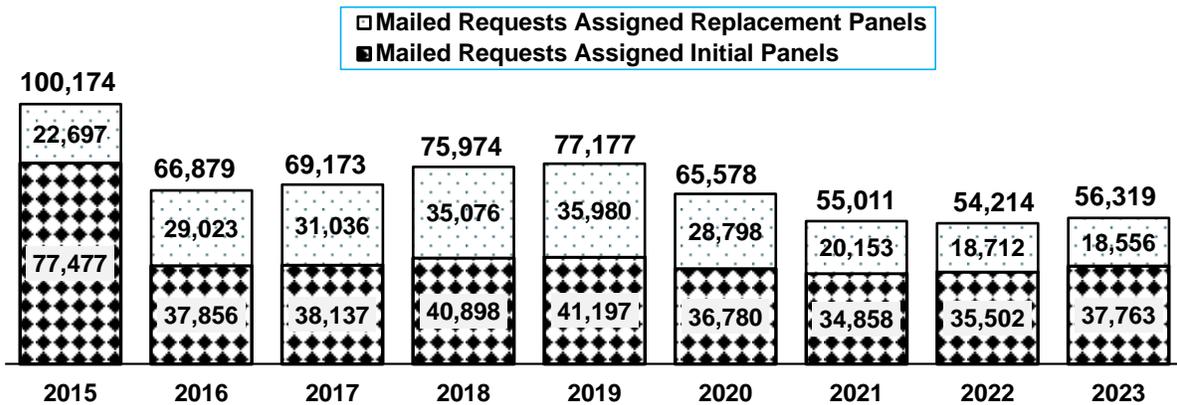
On average, about 55 percent of mailed QME requests were assigned the initial panels in 2019 and 2020, which increased to 63 percent in 2021, 65 percent in 2022, and 67 percent in 2023.

The number of replacement panels increased by 54.5 percent from 2015 to 2018, averaged 35,366 in 2018 and 2019 (in pre-pandemic period), and then decreased sharply in the next 4 years, reaching 18,556 in 2023 or almost half of its number in 2019. In 2020 and 2021, the MU adopted an emergency regulation 46.2 that was in effect from May 14, 2020 to January 12, 2021.¹³⁰ According to DWC, the purpose of the regulation was to help injured workers and employers continue to move their WC claims towards resolution by addressing the issue of how the medical-legal evaluations could proceed during the emergency period resulting from various state and local public health safety measures related to COVID-19.

¹³⁰ <https://www.dir.ca.gov/DIRNews/2020/2020-43.html>.

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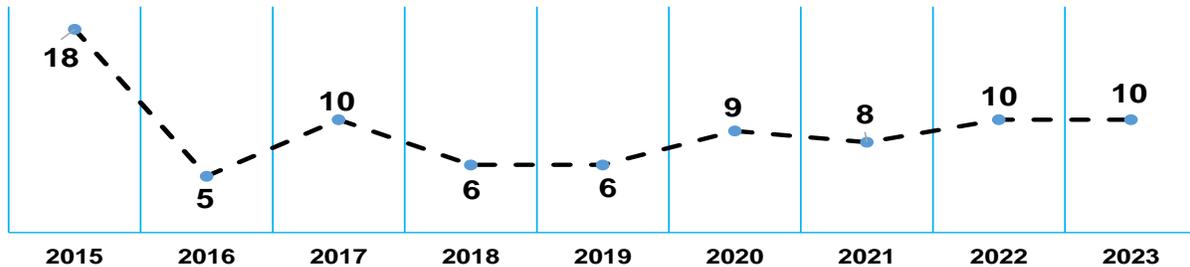
Figure 85: Mailed QME Requests Assigned Initial or Replacement Panels



Source: DWC

Figure 86 shows the number of days it takes the Medical Unit to assign an initial panel to QME requests filed by unrepresented injured workers after receipt. The MU is required to issue a panel within 20 working days from the date of receipt pursuant to Labor Code section 139.2(h)(1). The number of days required to process the panels from date of receipt to assigned date fluctuated between the minimum of 6 days in 2019 and as shown in Figure 86.

Figure 86: Number of Days Required to Assign Initial Panel in Unrepresented Cases (From the Date of Receipt)



Source: DWC

Utilization Review

Utilization review (UR) is the process by which employers or claims administrators ensure medical treatments recommended by treating physicians for injured workers are medically necessary. UR may apply to prospective, retrospective, or concurrent requests for authorization of treatment and, absent any other issues, may result in an approval, modification, or denial of the request. The utilization review process begins when a completed DWC Form RFA, or a request for authorization (RFA) accepted as complete under Chapter 8 of the California Code of Regulations, section 9792.9.1(c)(2), is first received by the claims administrator; or in the case of prior authorization, when the treating physician satisfies the conditions described in the utilization review plan for prior authorization. (See § 9792.6.1(y).)

Each employer, either directly or through its insurer or an entity with which an employer or insurer contracts for utilization review services, is required to establish a utilization review process via written policies and procedures to ensure that utilization review decisions are consistent with the Medical Treatment Utilization Schedule (MTUS). The MTUS is adopted by the Administrative Director and incorporates evidence-based, peer-reviewed, nationally recognized standards of care. (See Labor Code § 4610(c) & 5307.27(a).) Within

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the MTUS is also a drug formulary (effective January 1, 2018) which DWC adopted to implement Assembly Bill 1124. Subsequent regulations (found at 8 CCR sections 9792.27.1 – 9792.27.23) established an evidence-based drug formulary, consistent with MTUS standards.

Effective July 1, 2018, under Senate Bill 1160, entities engaging in modifying or denying requests for authorization of medical treatment via UR were required to obtain and maintain accreditation by an independent, nonprofit organization. Until and unless the Administrative Director assigns another accreditation organization, the California Legislature named URAC as the accrediting organization. The accreditation requirement certifies that the entities meet specified criteria in accordance with industry best practices. These entities are also required to submit a description of its UR policies and procedures to the DWC for approval.

UR regulations are enforced via recurring investigations on all UR organizations (UROs) that have a UR plan filed with the DWC. (See 8 CCR sections 9792.11 – 9792.15.) Investigations to enforce UR requirements have been ongoing every 5 years as required by law.

Investigations can be either routine or target. Routine investigations are done by randomly selecting files from all requests for treatment received by the URO within a three month period. The period selected is generally the previous three full months from the start of the investigation. DWC notifies the URO by sending a Notice of Utilization Review Investigation, which identifies the investigation as a routine investigation, unless it is a target investigation. Once DWC has the requested information, including a list of all RFAs for the three month period, files are randomly selected to be reviewed and a list of those files is sent to the URO with the Notice of Investigation Commencement (NIC). The URO has 14 days from receipt of a NIC to provide copies of each selected file. When the correct number of UR files is obtained, they are reviewed to determine the following:

1. Were responses to the RFAs issued on time?
2. Were UR decisions made by appropriate personnel and by applying the required criteria and did the decision include a rationale?
3. Was the decision communicated on time and to the appropriate parties?
4. Did each denial or modification decision include a properly filled-in IMR application and was it submitted to the appropriate parties?
5. Were other pertinent UR regulatory requirements followed?

Files found to have violations are assessed a set penalty. The investigation subject is assigned a score based on the number and type of violations cited. The passing score is 85 percent or higher. The URO is notified of its score by transmission of a Preliminary Report, including all exhibits, which verifies how the score was calculated, and any next steps to be taken. The URO may request a post-investigation conference and submit additional documentation to contest the penalty and demonstrate that it actually performed the utilization review correctly.

If a URO has a failing score, it may request abatement, a process in which the URO agrees to remediate its errors and submit to a return investigation within 18 months of the routine investigation in return for abatement of its penalties. If the return target investigation reflects a failure by the URO to remediate its processes, the original penalty amounts are multiplied, as specified by law. Alternatively, a mitigation process is also available upon request with respect to penalty amounts.

After any conference, review of additional documentation, abatement, and mitigation, DWC completes the investigation by issuing a Final Investigation Report. Where the investigation subject has a failing score or has been assessed any mandatory violation (see 8 CCR sections 9792.12(a)(1-17) and (c)(1-4)), DWC also sends, along with the Final Investigation Report, an Order to Show Cause (OSC) and a Stipulation and Order, which allows for a more formal appeals process, if elected.

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According to Table 18, \$36,200 was assessed in penalties after completing 8 UR investigations in 2023 and \$45,225 in penalties after 10 investigations were completed in 2022. According to the Medical Unit, because UR investigations are done through random selection of files, penalty assessment results can vary significantly from year to year.¹³¹

Table 18: Status of UR Investigations

	Completed	Pending	Failed	Penalty Assessed
2015	27	0	2	\$39,000
2016	11	0	0	\$8,000
2017	4	0	0	\$30,500
2018	6	0	0	\$2,000
2019	7	0	0	\$15,500
2020	17	0	0	\$175,700
2021	10	0	2	\$94,450
2022	10	0	0	\$45,225
2023	8	0	0	\$36,200

Source: DWC

Status on SB 1160 implementation: Utilization Review and Doctor's First Report

Utilization Review

SB 1160 was signed into law in September 2016. It revises and recasts provisions relating to UR with regard to injuries occurring on or after January 1, 2018. The bill sets forth the medical treatment services that would be subject to prospective UR. It established an exemption to prospective UR for, generally, lower-cost and/or treatments addressed in the MTUS (including exempt medications on the Drug Formulary) rendered by an authorized physician within 30 days from a date of injury. It authorizes retrospective UR for treatment provided under limited circumstances. The bill also establishes procedures for conducting prospective and retrospective UR. On and after January 1, 2018, the bill establishes new procedures for reviewing determinations regarding the medical necessity of medication prescribed pursuant to the drug formulary adopted by the Administrative Director and a faster UR timeframe for medications listed on the Drug Formulary (established under AB 1124). For such exempt treatments, retrospective UR was authorized for the purpose of determining adherence to the MTUS, and included remedies available to the claims administrator in the case of non-adherence. Formal rulemaking to implement these changes to the UR program were initiated on June 7, 2024.

The passage of SB 1160 also requires DWC's Administrative Director to develop a system for the electronic submission of information on each UR decision to DWC. The proposed system requires the secure electronic transmission directly from the Utilization Review Organizations (UROs) to DWC. Through the monitoring of this UR data, the division will be able to accurately assess timelines of requests for treatment, determine the effects of the MTUS clinical guidelines on treatment, and compare URO decisions on treatment to assess program consistency. DWC is working with the DIR IT Unit to design and build this electronic reporting system.

Doctor's First Report of Injury

Every physician who treats an injured worker must file a complete Doctor's First Report of Injury (DFR) on form 5021 with the employer's claims administrator within five days of the initial examination. Currently, the claims administrator is required to send a paper copy of the DFR (Form 5021) by mail to DIR. Recent

¹³¹ The information was provided by the Medical Unit in August 2024.

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changes require that physicians electronically file the DFR with DWC. The DWC currently has an electronic DFR available that allows for standardized data to be submitted directly to DWC. The Division is working with system stakeholders to develop an improved version of the current electronic DFR.

Text of the SB 1160 bill is at:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1160/.

Information on the rulemaking process related to SB 1160 for UR is at:

<https://www.dir.ca.gov/dwc/DWCPropRegs/2024/Utilization-Review/Index.htm>

<https://www.dir.ca.gov/dwc/DWCWCABForum/UR-Regulations.htm>.

Information on Electronic Reporting System for Doctor's First Report (DFR) of Injury at:

<https://www.dir.ca.gov/dwc/Electronic-Reporting-System-for-DFR/Index.htm>.

Independent Medical Review

Senate Bill (SB) 863 adopted several provisions that affect how medical necessity determinations are made for medical care provided to injured workers. One of the key provisions was putting in place the Independent Medical Review (IMR) process for resolving medical treatment disputes. Effective January 1, 2013, for injuries occurring on or after that date, and effective July 1, 2013, for all dates of injury, IMR is being used to decide medical necessity disputes for injured workers. The DWC administers the IMR program with costs borne by the employer, and it is similar to the group health process for medical treatment dispute resolution.

The IMR program is now in its twelfth year. The volume of IMR application filings had previously held steady year to year for several years. In 2023, the Independent Medical Review Organization (IMRO) received a total of 175,027 applications, 2.5 percent fewer than the previous year (170,855). About one in six applications (17.2 percent) duplicated an application previously received. After subtracting duplicate applications, the number of "unique" applications received totaled 144,999 for the year.

In the first five months of 2024 (January through May), the IMRO received 79,723 applications for IMR, higher than the 14,600 average monthly application filings in 2023. Figure 87 shows the annual numbers of IMR applications with duplicates, the number of unique medical review requests, and IMR determinations between CY 2013 and the first 5 months of 2024.

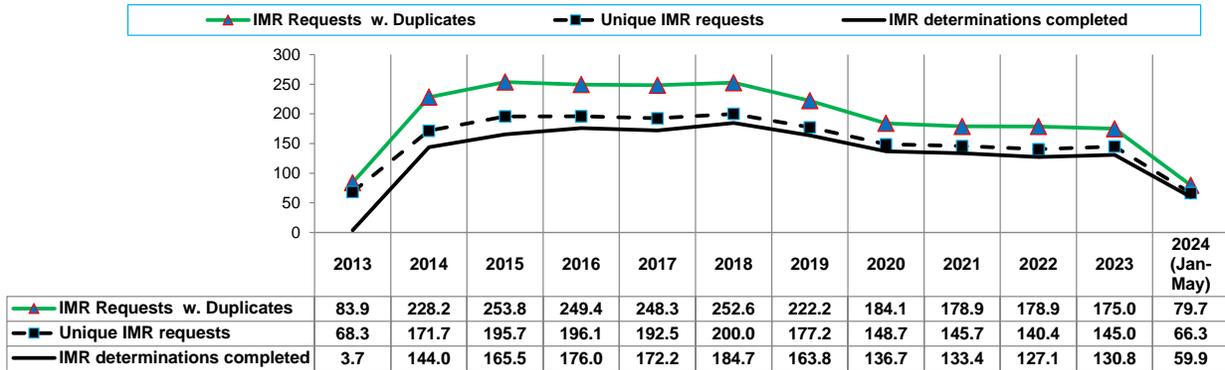
Over 2 million applications for IMR were filed (2,327,027) in the first 11 years and 5 months of the program (January 2013 through May 2024). By the end of 2013, the first year of the program, 83,921 IMR applications were received. From 2014 to 2019, the number of IMR applications received ranged from 222,200 to 253,800 each calendar year. Filings decreased 12 percent from 2018 to 2019, 17 percent from 2019 to 2020, 3 percent from 2020 to 2021, and then increased by 2.4 percent from 2022 to 2023. Based on the number of filings in the first 5 months of the current year (79,723), the total number of applications received in CY 2024 is projected to be more than the total for CY 2023.

The number of unique IMR requests received from January 2013 through May 2024 totaled 1,847,611. From its peak of 200,000 in 2018 to 2022, the number of unique IMR requests decreased by 30 percent before starting to increase from 2022 to 2023 (+ 3 percent).

The number of IMR determinations completed from January 2013 through May 2024 totaled 1,597,337. The total number of IMR decisions issued per year increased each of the first four years of the program. From 2016 to 2019, the number of issued decisions fluctuated and then decreased by 22 percent from 2019 to 2022. In 2023, 130,774 decisions were issued, a 2.9 percent increase from 2022, when the IMRO issued 127,046 decisions.

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Figure 87: Number of Independent Medical Review Requests Received and Determinations Completed, 2019 –2024 (January-May) (Thousand)

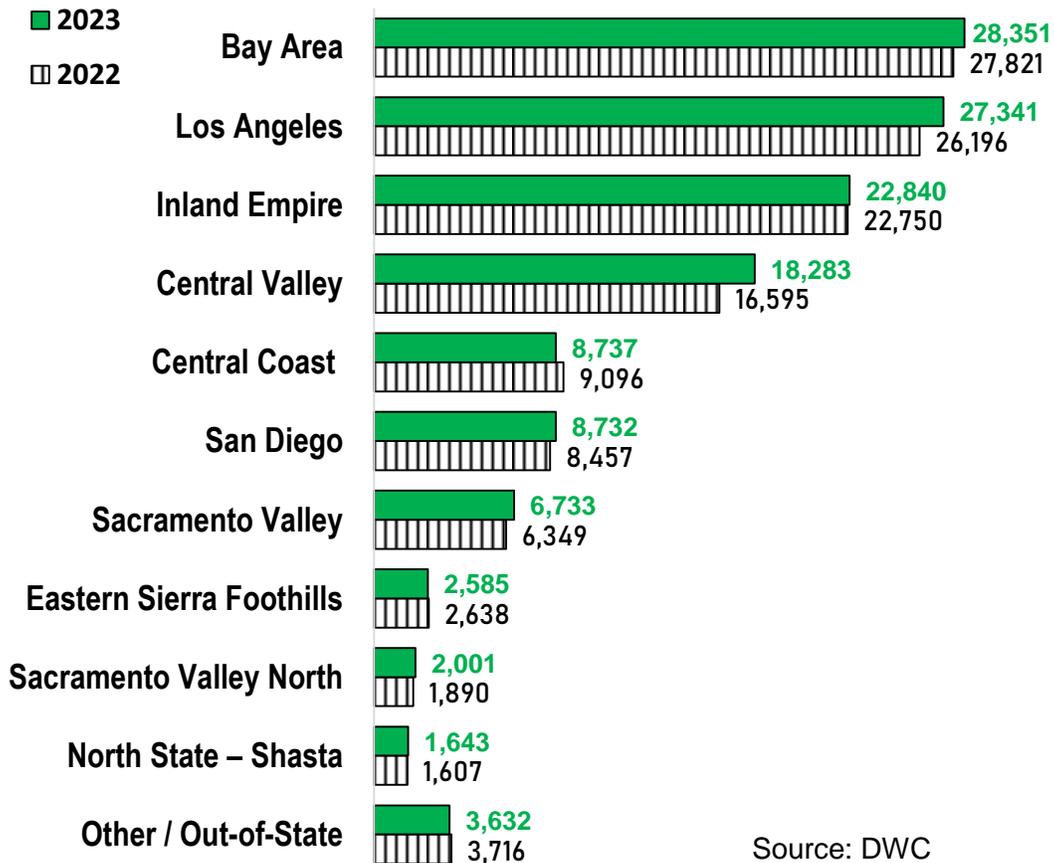


Data Source: DWC

Figure 88 shows the number of IMR case decisions issued in 10 regions of California in 2022 and 2023. Southern California accounted for 45 percent of all IMR decisions in both 2022 and 2023.

Figure 88: IMR Case Decisions Issued by Region in 2022 and 2023

(Total in 2022=127,115 and 2023=130,878)



Source: DWC

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For further information ...

DWC, "2022 Independent Medical Review (IMR) Report: Analysis of 2021 Data" (2022).

<https://www.dir.ca.gov/dwc/IMR/reports/IMR-Annual-Report.pdf>

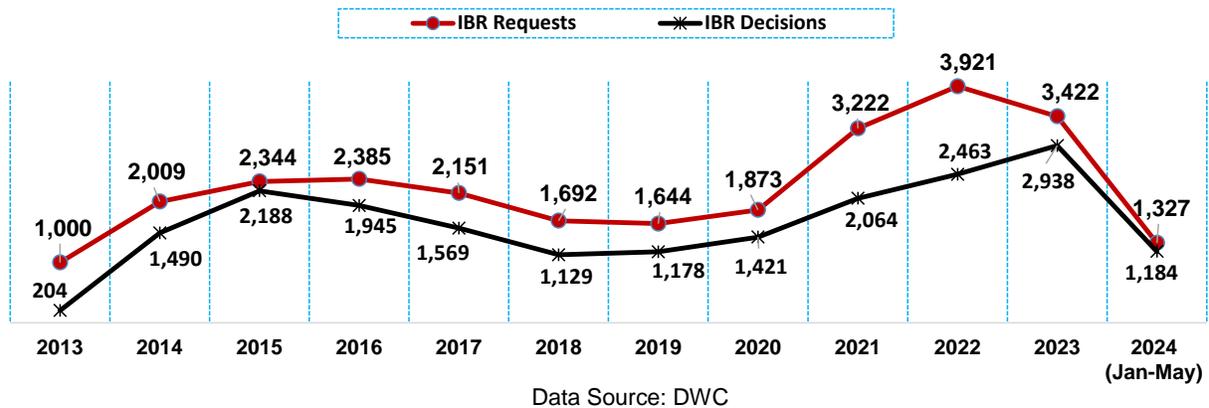
Independent Bill Review

Senate Bill (SB) 863 adopted several provisions to provide a quick, efficient way of resolving disputes over medical billing and eliminate litigation at the appeals board over billing disputes. One of the key provisions was putting in place the Independent Bill Review (IBR) process for resolving medical treatment and medical-legal billing disputes. Effective January 1, 2013, for medical services provided on or after that date and in cases in which the fee was determined by a fee schedule established by DWC, the IBR is used to decide disputes when a medical provider disagrees with the amount paid by a claims administrator. DWC administers the IBR program, which refers applicants to an independent bill review organization (IBRO). The reasonable fees for IBR are paid by the applying physician. If the independent bill reviewer determines that the claims administrator owes the physician additional payment on the bill, the claims administrator must reimburse the physician for the review fee.

Figure 89 shows the yearly numbers of IBR requests received and IBR decisions completed between 2013 and the first 5 months of 2024. In 2013, when IBR became effective, 1,000 applications were received and 204 IBR decisions were completed. The number of IBR requests received more than doubled from 2013 to 2,385 in 2016 and then decreased by 31 percent from 2016 to 2019. From 2019 to 2020, the total number of IBR requests increased by 14 percent and more than doubled from 2020 to 2022, reaching its peak in the whole period included in the report, before decreasing by 13 percent from 2022 to 2023.

As of May 2024, the number of IBR requests received for the whole period from 2013, totaled 26,990, and the number of decisions completed totaled 19,773, or more than 73 percent of all requests had been resolved.

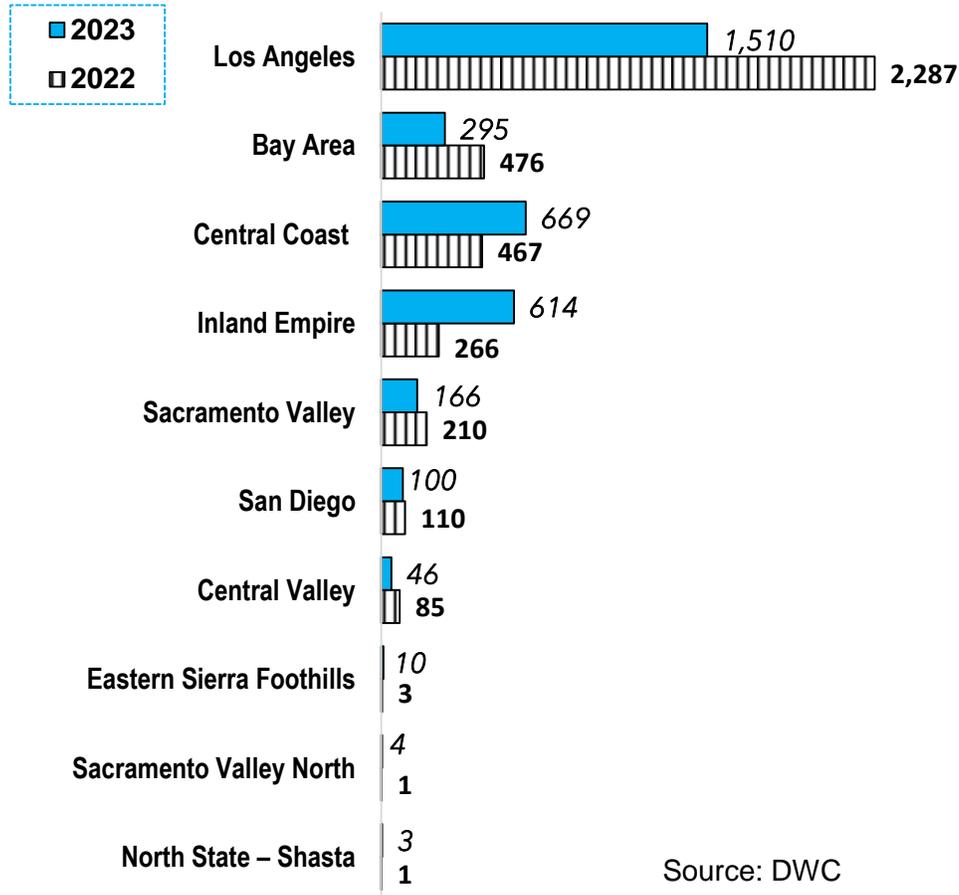
Figure 89: Number of Independent Bill Review Requests and Decisions, 2019–2024 (Jan-May)



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Figure 90 shows the number of IBR applications filed in 10 regions of California in 2022 and 2023. The Northern regions comprised 14 percent and all Southern regions – 65 percent of total IBR applications filed in 2023.

Figure 90: Number of IBR Applications Filed, by Regions in 2022 and 2023
(Total for 2022=3,906 and 2023=3,422)



Medical Provider Networks and Health Care Organizations¹³²

Medical Provider Networks

Background

Between 1997 and 2003, the California WC system had significant increases in medical costs. During that period, WC medical treatment expenses in California increased by an estimated 138 percent,¹³³ outpacing the cost of equivalent medical treatment in non-industrial settings. To slow this unregulated rise in costs, major reforms were enacted in 2003 and 2004. One such effort was the passage of Senate Bill (SB) 899 in April 2004. A major component of SB 899 was the option to establish a medical provider network (MPN), as promulgated in Labor Code Section 4616 et seq. MPNs were implemented beginning January 1, 2005.

¹³² The information in this section was provided by DWC Medical Unit, with minor edits by CHSWC staff.

¹³³ Based on the WCIRB annual report *California Workers' Compensation Losses and Expenses Report*, prepared pursuant to the California Insurance Code, Section 11759.1.

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On September 18, 2012, another round of major WC reforms was signed into law in SB 863. SB 863 incorporates significant changes to MPNs, including but not limited to: expanding who can qualify to become an MPN applicant; limiting the MPN approval period to four years and requiring MPN plans to be reapproved; providing the right to petition for MPN suspension or revocation; and authorizing the adoption of administrative penalties to ensure that MPN applicants comply with regulations. Most of these changes took effect on January 1, 2014.

On October 6, 2015, SB 542 was signed into law with additional changes, including: clarifying the MPN independent medical review process from the independent medical review process that resolves UR disputes; requiring every MPN to post on its website information on how to contact the MPN, on medical access assistance and how to obtain a copy of any notification regarding the MPN that is required to be given to an employee by regulations; creating efficiencies for approving MPNs when a modification is made during a four-year approval period; clarifying who provides for the completion of treatment when there is a continuity-of-care issue; and giving a statutory definition of an entity that provides physician network services. These changes took effect on January 1, 2016.

On October 8, 2019, SB 537 was signed into law and included the requirement that every MPN post on its internet website a roster of all participating providers. However, this provision did not take effect until July 1, 2021. The bill amended Labor Code section 4616 to require that the roster of all participating providers list all the physicians and ancillary service providers in the MPN and include the name of each individual provider, their office address and office telephone number. It further specified that, if the ancillary service is provided by an entity rather than an individual, then that entity's name, address, and telephone number shall be listed.¹³⁴

On September 27, 2022 SB 1002 was signed into law and added licensed clinical social workers (LCSWs) to the medical treatment services lists of Labor Code section 3209.5, and the medical treatments list of Labor Code sections 4600, and 4600.3. In addition, the bill added Labor Code section 3209.11, declaring that an employer, workers' compensation insurer, self-insured employer, or their agents may provide an employee with access to the services of a LCSW. Finally, SB 1002 states medical provider networks (MPNs) may add LCSWs, an ancillary service provider, to their physician providers listings, but expressly clarifies injured workers may only see a LCSW upon referral from a physician as defined in Labor Code section 3209.3.¹³⁵

An MPN is a network of providers established by an insurer, a self-insured employer, a Joint Powers Authority (JPA), the State, a group of self-insured employers, a self-insurer security fund, or the California Insurance Guarantee Association (CIGA), or entities that provide physician network services to treat work-related injuries.

The establishment of an MPN gives employers significant medical control. With the exception of employees who have a predesignated physician, according to California Labor Code Section 4600, employers that have established an MPN control the medical treatment of employees injured at work for the life of the claim, as opposed to 30 days of employer medical control they had prior to the passage of SB 899. Having an MPN means the employer has more control with regard to who is in the network and whom the injured worker sees for care for the life of the claim. The employer chooses to whom the injured worker goes on the first visit; after the first visit, the injured worker can go to a doctor of his/her choice as long as the doctor is in the MPN and is of the relevant medical specialty.

Before the implementation of an MPN, insurers, employers or entities that provide physician network services are required to file an MPN application with DWC for review and approval, pursuant to 8 CCR Section 9767.1 et seq.

DWC provides all the data on MPNs in this section.

¹³⁴ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB537.

¹³⁵ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1002.

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Application Review Process

California Labor Code Section 4616(b) mandates that DWC review and either approve or disapprove MPN plans submitted within 60 days of their submission. If DWC does not act on the plan within 60 days, the plan is deemed approved by default.

Upon receipt of an MPN application, DWC does an initial cursory review of all applications received. The result of the review is communicated to each applicant in a letter indicating whether the application is "complete" or "incomplete," as applicable. Applicants with incomplete sections in their application will be asked to fill in the missing part(s). Applicants with a complete application will receive a "complete" letter, indicating the target date for completion of the full review of their application. The 60-day time frame within which DWC should act starts the day a complete application is received by DWC.

The full review of an application involves thorough scrutiny, using a standard checklist, to see whether the application followed the statutory and regulatory requirements set forth in California Labor Code Section 4616 et seq. and CCR Sections 9767.1 et seq. The full review culminates with an approval letter if no deficiency is discovered in the submitted application. Applicants with deficient applications are sent a disapproval letter, listing deficiencies that need to be corrected. This process is repeated until the application is approved or withdrawn.

Material modification filings go through a review process similar to the one for an initial application.

Applications Received and Approved

Table 19 summarizes the number of MPN activities from their inception in November 1, 2004, to December 31, 2023. During this time, the MPN program received 2,706 MPN applications. Of these, 55 were ineligible, as they were erroneously submitted by employers, insurers, or other entities that, under the MPN regulations, are not eligible to set up an MPN. As of December 31, 2023, 2,497 applications were approved. DWC revoked 32 approved applications. The reason for revocation was the applicants' erroneous reporting of their status as self-insured when in fact they were insured entities or an insurer no longer eligible to transact WC in California. Four hundred and twelve (412) applications were withdrawn after approval. The reasons for the withdrawals were either that the applicant decided not to pursue an MPN or that a duplicate application was submitted. One thousand eight hundred and sixteen (1,816) applications were terminated after approval. The reason for the termination was the applicant's decision to stop using the MPN.

Table 19: MPN Program Activities from November 1, 2004, to December 31, 2023

MPN Application Status	Number
Received	2,706
Approved	2,497
Material Modifications	5,089
Withdrawn	412
Revoked	32
Ineligible	55
Terminated	1,816

Source: DWC

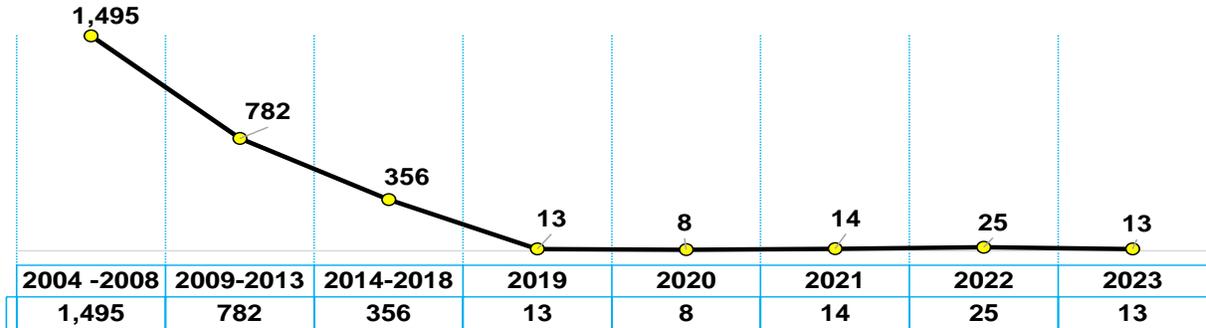
Figure 91 shows the receipt of MPN applications from the inception of the program in 2004 to 2023, with the data before 2019 aggregated over each 5 consecutive years.¹³⁶ The bulk of applications, 55 percent, were received in in the first 5 years from 2004 to 2008. The number of applications almost halved in the

¹³⁶ Please find the unaggregated yearly data from 2004 to 2018 in 2019 CHSWC Annual Report, pp. 124-125. <https://www.dir.ca.gov/chswc/AnnualReportpage1.html>.

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next 5 years from 2009 to 2013, and then averaged 71 applications per year from 2014 to 2018. From 2019 to 2023, the number of MPN applications received by DWC averaged about 15 applications per year with minimum 8 applications in 2020.

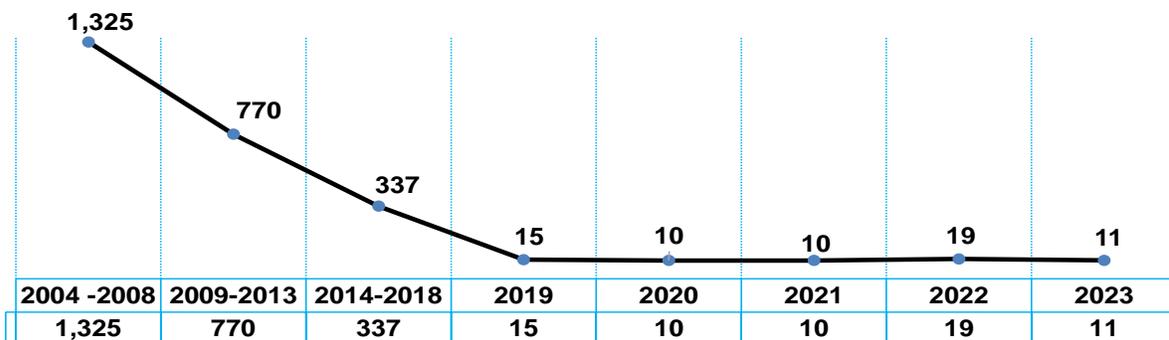
Figure 91: Number of MPN Applications Received, 2004-2023
(Total = 2,706)



Source DWC

Figure 92 shows the MPN applications approved from 2004 to 2023. To recap, about 53 percent of MPN applications were approved in in the first 5 years from the inception of the program. The number of MPN applications decreased almost 2-fold in the next 5 years from 2009 to 2013 and decreased from 265 approvals per year in 2004-2008 to 67 approvals per year from 2014 to 2018. The number of MPN applications approved averaged 13 per year from 2019 to 2023.

Figure 92: Number of MPN Applications Approved, 2004-2023
(Total = 2,497)



Source: DWC

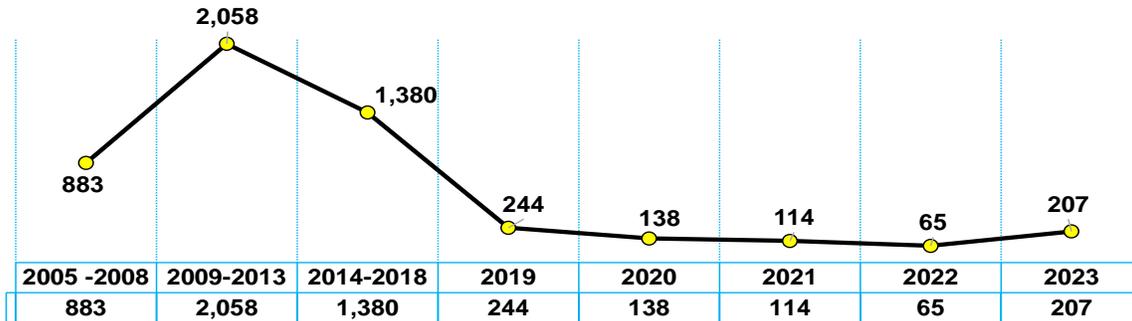
Material Modifications

MPN applicants are required by 8 CCR Section 9767.8 to provide notice to DWC for required material changes to their approved MPN application. Modifications are required when the MPN Liaison or Authorized Individual or employee notification material change, among other reasons. Modifications go through a review, and an approval process similar to the one for a new application, within the same regulatory time frame.

Figure 93 shows the number of material modification filings received by DWC from 2005 to 2023. The number of material modifications received increased from 221 per year in the first 4 years from 2005 to 2008 to 412 per year from 2009 to 2013. After the SB 863 changes took effect in 2014, the number of material modification fell to 276 modifications per year from 2014 to 2018. The number of material modifications received continued to fall and it decreased almost 4-times in 2022 compared to 2019. From 2022 to 2023, the number of material modifications more than tripled to 207.

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Figure 93: Number of MPN Material Modifications Received, 2005-2023
(Total = 5,089)



Source: DWC

Plan for Reapproval Process

Beginning January 1, 2014, SB 863 introduced the four-year approval period for existing and newly approved MPN plans. The MPN applicant is required to submit a complete plan to DWC for reapproval at least six months before the expiration of the four-year approval period. The amended MPN regulations that became effective August 27, 2014, set the expiration date for those MPN plans with a most recent application or material modification approval date prior to January 1, 2011, to December 31, 2014. For all plans with an application approval date on or after January 1, 2014, the expiration date is four years from the application approval date.

The MPN application plan for reapproval review is similar to the application review process except that the Administrative Director has 180 days rather than 60 to act from the date an MPN application plan for reapproval is received by DWC.

As in the original application review process, a full review of a plan for a reapproval application involves thorough scrutiny, using a standard checklist, to see whether the application followed the statutory and regulatory requirements set forth in California Labor Code Section 4616 et seq. and CCR Sections 9767.1 et seq. The full review culminates in an approval letter if no deficiency is discovered in the submitted application; if deficiencies are identified, the MPN applicant is sent a disapproval letter, listing the deficiencies that need to be corrected. A correct and complete resubmission is required to ensure that the MPN approval does not expire, which will result in corrective action initiated by DWC for a noncompliant plan.

Table 20 shows the number of MPN approved plans that will require a filing for a plan for reapproval through 2027. These numbers are expected to decrease as approved MPNs are terminated because of consolidation into new approved MPNs created by entities that provide physician network services. In addition, these numbers may change because MPN applicants will proactively ensure that the MPN is reapproved more than six months before the plan's expiration.

Table 20: Expiring MPN Application Plans by Quarter and Year Through December 31, 2027

Quarter	2021	2022	2023	2024	2025	2026	2027
Q1	0	1	12	16	34	13	18
Q2	0	5	16	69	36	14	15
Q3	0	0	21	17	20	18	15
Q4	10	8	9	17	12	22	45
TOTAL	10	14	58	119	102	67	93

Source: DWC

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Table 21 shows the number of MPN applications for reapprovals received and approved at DWC from 2014 through 2023.

Table 21: MPN Application Plans for Reapproval Received and Approved by Month Through December 31, 2023

		Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec	Total
2014	Received	0	0	0	0	0	0	0	0	0	15	17	42	74
	Approved	0	0	0	0	0	0	0	0	0	0	0	30	30
2015	Received	25	14	3	30	2	6	1	0	4	4	29	23	141
	Approved	6	3	1	27	3	1	4	0	2	5	37	22	111
2016	Received	12	13	10	8	5	10	11	8	9	1	4	0	91
	Approved	0	2	4	0	8	1	4	11	9	1	1	1	42
2017	Received	6	4	3	4	10	3	2	4	8	3	5	1	53
	Approved	1	8	5	2	4	4	7	9	2	2	8	7	59
2018	Received	1	4	1	1	4	12	0	4	8	0	1	3	39
	Approved	2	0	0	1	0	2	2	1	1	5	2	1	17
2019	Received	3	9	6	3	2	2	3	12	6	11	8	29	94
	Approved	1	6	7	2	3	4	7	3	8	2	2	3	48
2020	Received	8	15	3	9	3	2	2	15	6	5	3	3	74
	Approved	5	3	6	10	31	20	6	8	2	1	9	6	107
2021	Received	19	1	5	19	9	8	9	2	5	3	0	3	83
	Approved	6	15	8	7	16	12	8	4	5	3	1	2	87
2022	Received	6	3	2	10	3	6	3	2	5	5	7	3	55
	Approved	2	6	1	0	4	4	8	2	4	1	5	6	43
2023	Received	3	11	0	9	26	2	0	9	4	11	2	11	88
	Approved	2	8	6	6	3	3	7	4	2	27	3	4	75

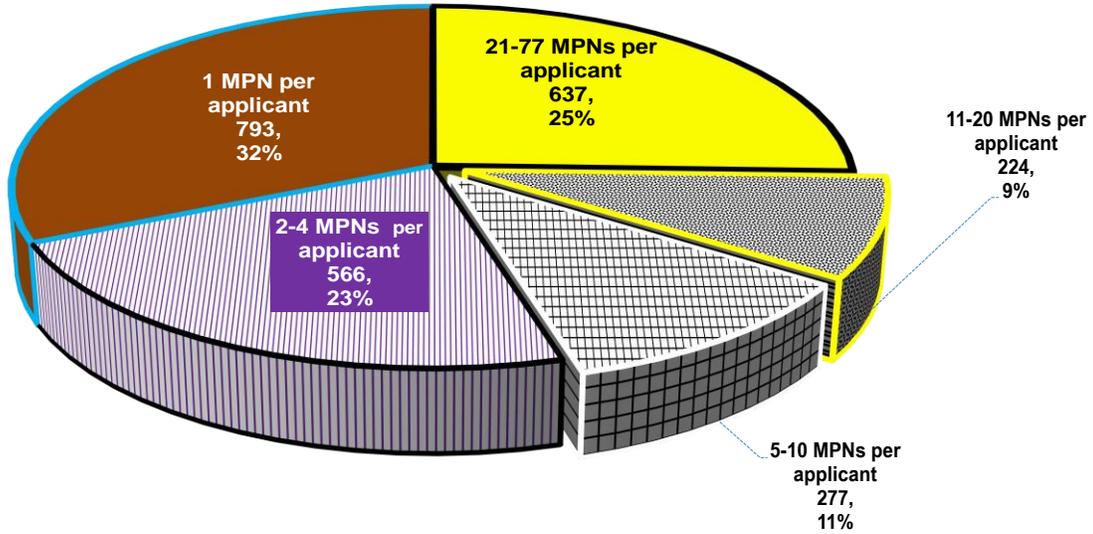
Source: DWC

MPN Applicants

MPN applicants are allowed to administer more than one MPN. As a result, MPN applicants with more than one approved MPN account for 75 percent of all MPNs, including 637 approved applicants with 21 to 77 MPNs (see Figure 94). The names of MPN applicants with 10 or more approved MPNs are shown in Table 22. ACE American Insurance Company leads with 75 MPNs, followed by OCM Coastal Acquisition Co., LLC with 52 MPNs, and Zurich American Insurance Company with 46 MPNs.

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Figure 94: Distribution of Approved MPNs by Number of MPNs per Applicant, 2023
(Total=2,497)



Data Source: DWC

Table 22: Names of MPN Applicants with 10 or More Approved MPNs

Name of Applicant	Number of MPNs
ACE American Insurance Company	75
OCM Coastal Acquisition Co., LLC	52
Zurich American Insurance Company	46
National Union Fire Insurance Company Of Pittsburgh, PA	43
American Home Assurance Company	42
Safety National Casualty Corporation	37
Federal Insurance Company	35
The Insurance Company Of The State Of Pennsylvania	35
Medex Healthcare	33
Old Republic Insurance Company	32
Arch Insurance Company	29
Discover Property & Casualty Insurance Company	27
Hartford Accident and Indemnity Company	27
New Hampshire Insurance Company	26
United States Fidelity and Guaranty Company	26
XL Specialty Insurance Company	26
American Zurich Insurance Company	25

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Name of Applicant	Number of MPNs
Hartford Insurance Company of the Midwest	21
Fidelity & Guaranty Insurance Company	19
Commerce And Industry Insurance Company	18
Travelers Property Casualty Company of America	18
Hartford Fire Insurance Company	16
Twin City Fire Insurance Company	16
Granite State Insurance Company	15
Hartford Underwriters Insurance Company	15
Fidelity & Guaranty Insurance Underwriters, Inc.	13
Greenwich Insurance Company	13
Praetorian Insurance Company	13
Continental Casualty Company	12
Landmark Insurance Company	12
Fidelity and Guaranty Insurance Company	11
The North River Insurance Company	11
XL Insurance America, Inc.	11
Zurich American Insurance Company of Illinois	11
AIU Insurance Company	10
American Casualty Company of Reading, Pennsylvania	10
American Guarantee and Liability Insurance Company	10
Hartford Casualty Insurance Company	10
SPARTA American Insurance Company	10
SPARTA Insurance Company	10

Source: DWC

Table 23 shows the number of MPN applicants by type of applicant. From 2004 to 2013, the majority (on an average of 65 percent per year) of MPN applications were filed by insurers, followed by self-insured employers (29 percent). SB 863 added the option for the MPN applicant to change the type of applicant to an entity that provides physician network services, which is reflected in the numbers reported in this table. The share of MPN applications filed by insurers fell to 45 percent in a transitional year of 2014 and then decreased to an average of 29 percent from 2014 to 2022 (see Figure 92). At the same time, the number of MPN applicants filed by entities that provide physician network services increased from 15 in 2014 to an average of 35 per year from 2015 to 2018 and then decreased to an average of 13 per year from 2019 to 2023.

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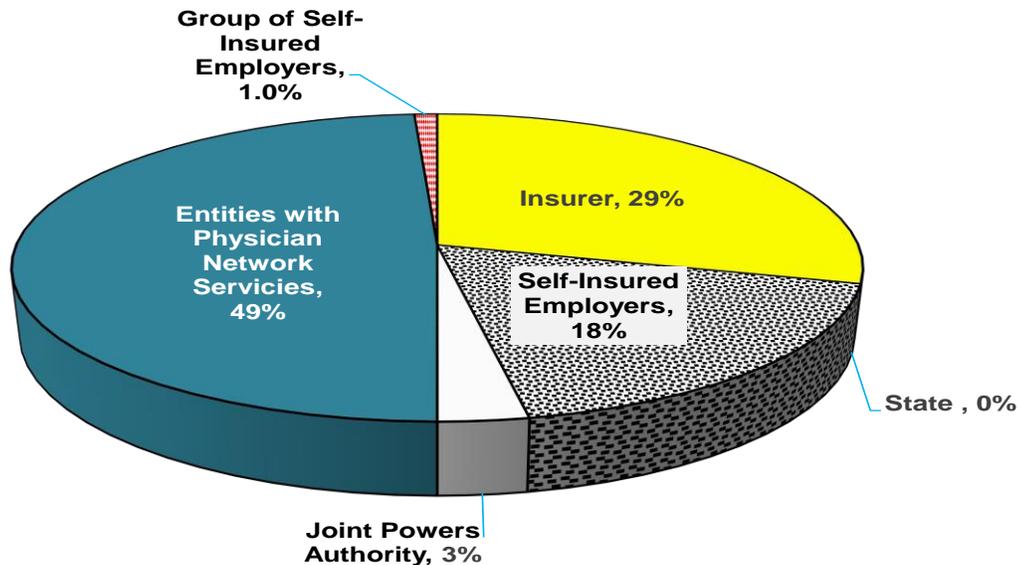
Table 23: Number of Approved MPN Applications by Type of Applicant, 2004–2023

	Insurer	Self-Insured Employers	Entities with Physician Network Services	Joint Powers Authority	Group of Self-Insured Employers	State	Total
2004-2013	1,372	612	11	56	40	4	2,095
2014	38	29	15	3	0	0	85
2015	17	9	32	3	1	0	62
2016	24	4	46	4	0	0	78
2017	17	12	35	0	0	0	64
2018	7	12	28	1	0	0	48
2019	5	0	10	0	0	0	15
2020	2	0	8	0	0	0	10
2021	1	3	6	0	0	0	10
2022	3	5	8	0	3	0	19
2023	1	0	8	2	0	0	11
TOTAL	1,488	685	207	69	44	4	2,497

Source: DWC

Figure 95 shows the distribution of MPN applications approved from 2014 through 2023 by the type of applicant when the entities providing physician network services prevailed. On average, 49 percent of approved MPN applications were submitted by entities providing physician network services, followed by 29 percent of insured employers and 18 percent of self-insured employers.

Figure 95: Distribution of All Approved MPN Applications by Type of Applicant, 2014 - 2023



Source: DWC

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MPN Plans Using HCO Networks

Health Care Organizations (HCOs) networks are used by 71 (2.6 percent) of the approved MPNs. This number of MPNs using HCOs excludes MPNs that were revoked, terminated, or withdrawn after approval. The distribution of MPNs by HCOs is shown in Table 24. CorVel HCO has an MPN market share of 1.8 percent, followed by MedEx, which has a share of 0.5 percent.

Table 24: Number of MPN Applicants Using HCO Networks

Name of HCO	Approved MPN Plans Using HCONetwork	Percentage of Applications Received	Percentage of Applications Approved
CorVel	48	1.8%	1.9%
MedEx	14	0.5%	0.6%
MedEx 2	7	0.3%	0.3%
Promesa	2	0.1%	0.1%
Total Using HCO	71	2.6%	2.8%

Source: DWC

Status of the MPN Program

The MPN program is in its eighteenth year and continues to develop. The MPN plan monitoring and review processes have evolved with the regulations and as agency resources permit. SB 863 brought about important changes to the MPNs to improve efficiencies, promote greater accuracy, and ensure regulatory compliance. Effective January 1, 2016, SB 542 has added clarifying information regarding MPN requirements.

To implement the important changes brought about by the passage of SB 863, the MPN regulations were amended, and these amendments took effect August 27, 2014. The changes in the MPN regulations include a more efficient streamlined application process that allows electronic submission of MPN applications, modifications, and reapprovals. The regulatory amendments also include the requirements for an MPN to qualify as an entity that provides physician network services. Allowing these entities to qualify as an MPN applicant better aligns legal with operational responsibility. Additional changes in the MPN regulations include the assignment of unique MPN identification numbers to each MPN in order to easily identify a specific MPN. The amended MPN regulations establish the standards MPNs must meet with the MPN Medical Access Assistants to properly assist injured workers to find and schedule medical appointments with MPN physicians. The amended regulations clarify access standards and now require an MPN to have at least 3 available physicians from which an injured worker can choose, and if the time and location standards are not met, MPNs shall have a written policy permitting out-of-network treatment. Moreover, the amended MPN regulations set forth the physician acknowledgment requirements to ensure physicians in the MPN have affirmatively elected to be a member of the network and a streamlined process for obtaining acknowledgments from medical groups. To promote greater accuracy and ensure statutory and regulatory compliance, MPNs are approved for a period of four years and must file a reapproval before the expiration of this four-year period. Finally, DWC's oversight of MPNs is strengthened with the formal complaint process, the Petition for Suspension or Revocation of MPNs, the ability to conduct random reviews of MPNs and the authority to assess administrative penalties against MPNs to ensure regulatory compliance.

Health Care Organization Program

Health Care Organizations (HCOs) were created by the 1993 WC reforms. The laws governing HCOs are California Labor Code, Sections 4600.3 through 4600.7, and Title 8 CCR Sections 9770 through 9779.8.

HCOs are managed care organizations established to provide occupational-related health care to employees injured at work. A health care service plan (sometimes referred to as a Health Maintenance Organization

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or HMO), disability insurer, WC insurer, or a WC third-party administrator (sometimes referred to as a WC Health Care Provider Organization or WCHPO) can be certified as an HCO.

Qualified employers who contract with an HCO can direct treatment of injured workers from 90 to 180 days depending on whether the employer offers qualified health-care coverage to its employees for non-occupational injuries or illnesses.

An HCO must file an application and be certified by DWC according to Labor Code Section 4600.5 et seq. and Title 8 CCR Sections 9770 et seq. Due to regulatory changes in 2010, HCOs now pay a fee of \$2,500 at the time of initial certification and a fee of \$1,000 thereafter at the time of each three-year certification. In addition, HCOs are required to pay an annual assessment of \$250, \$300, or \$500 based on their enrollments of covered employees as of December 31 of prior calendar year.

Currently, the HCO program has four certified HCOs. The list of certified HCOs and their most recent date of certification/recertification are provided in Table 25. Even though there are four certified HCOs, only three have enrollees and one HCO retains its certification so that its HCO provider network can be used as a deemed entity network for an MPN program.

Table 25: Currently Certified HCOs by Date of Certification/Recertification, 2023

Name of HCO	Date of Certification/Recertification
CorVel Corporation	12/30/2020
MedEx	03/16/2022
MedEx 2	10/10/2021
Promesa Health, Inc.	04/16/2022

Source: DWC

HCO Enrollment

At its maximum in mid-2004, HCO enrollment reached approximately half a million enrolled employees. However, with the enactment of MPNs, enrollment of employees under the large HCOs has declined considerably. The total enrollment of employees under HCOs fell by 66 percent from 481,337 in 2004 to 153,476 in December 2023. The table below shows the number of enrollees as of December 31 of each year from 2004 through 2023.

Table 26: HCOs by Number of Enrolled Employees for 2004 through 2023

	MedEx / MedEx2	Kaiser Permanente On the Job	Comp Partners	Promesa	CorVel	Intra corp	Net Work	First Health Comp America Primary/ Select	Prudent Buyer (Blue Cross)	Sierra	Total
2004	62,154	30,086	60,935	-	100,080	6,329	1,204	218,919	1,390	240	481,337
2005	66,304	67,147	61,403	-	20,403	3,186	0	2,403	0	0	220,846
2006	46,085	66,138	53,279	-	3,719	2,976	0	0	0	0	172,197
2007	69,410	69,602	13,210	-	3,050	2,870	0	0	0	0	158,142
2008	69,783	77,567	1,765	21,197	3,384	0	0	0	0	0	173,696
2009	34,378	72,469	1,729	16,467	1,983	0	0	0	0	0	127,026
2010	46,838	74,223	2,884	17,602	435	0	0	0	0	0	141,982
2011	61,442	76,263	4,200	19,041	467	0	0	0	0	0	161,413

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	MedEx / MedEx2	Kaiser Permanente On the Job	Comp Partners	Promesa	CorVel	Intra corp	Net Work	First Health Comp America Primary/ Select	Prudent Buyer (Blue Cross)	Sierra	Total
2012	67,606	75,253	11,561	23,772	405	-	0	0	-	-	178,597
2013	75,183	74,122	554	28,222	0	-	0	0	-	-	178,081
2014	86,550	73,939	396	30,701	0	-	0	0	-	-	191,586
2015	145,352	77,521	422	29,448	0	-	0	0	-	-	252,743
2016	182,034	84,637	486	26,397	0	-	-	0	-	-	293,554
2017	175,387	88,260	729	23,859	0	-	-	0	-	-	288,235
2018	173,175	94,519	500	17,659	0	-	-	0	-	-	285,853
2019	170,123	92,752	-	14,095	0	-	-	0	-	-	276,970
2020	153,013	97,620	-	10,671	0	-	-	0	-	-	261,304
2021	152,432	-	-	9,185	0	-	-	0	-	-	161,617
2022	140,375	-	-	9,348	0	-	-	-	-	-	149,723
2023	153,476	-	-	8,058	0	-	-	-	-	-	161,534

Source: DWC

Health Care Organization Program Status

HCO enrollment has increased by about 7 percent between 2022 and 2023. Currently, 3 HCOs continue to operate for the direct provision of health care to injured workers while the remaining 1 HCO exists as a deemed network entity for MPN program.

For further information ...

www.dir.ca.gov/dwc and http://www.dir.ca.gov/dwc/MPN/DWC_MPN_Main.html

Medical Treatment Utilization Schedule Updates

MTUS and Formulary Update

The MTUS treatment guidelines are regularly updated to include the latest treatment guidance from the American College of Occupational and Environmental Medicine (ACOEM). Similarly, the MTUS Drug List portion of the MTUS Formulary is updated regularly to remain current with the latest medication recommendations from ACOEM.

MTUS and Treatment Guidelines:

<https://www.dir.ca.gov/dwc/MTUS/MTUS.html>

MTUS Drug Formulary:

<https://www.dir.ca.gov/dwc/MTUS/MTUS-Formulary.html>.

MTUS Drug List:

<https://www.dir.ca.gov/dwc/MTUS/MTUS-Formulary-Orders.html>

The MTUS has adopted the following treatment guidelines developed by ACOEM for 2023 and 2024 through Administrative Director Orders:

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Administrative Director Orders (Lab. Code, § 5307.27) for 2023:

- [Shoulder Disorders](#) - ([AD Order Effective August 10, 2023](#))
- [Hand, Wrist and Forearm Disorders](#) - ([AD Order Effective November 10, 2023](#))
- [Coronavirus \(Covid-19\)](#) - ([AD Order Effective November 10, 2023](#))
- [Work Disability Prevention and Management](#) - ([AD Order Effective August 10, 2023](#))

Administrative Director Orders (Lab. Code, § 5307.27) for 2024¹³⁷:
Opioids - ([AD Order Effective March 27, 2024](#))

Pharmacy and Therapeutics Committee

The Administrative Director appointed an independent Pharmacy and Therapeutics Committee (P&T Committee) to review and consult with the Administrative Director on available evidence of the relative safety, efficacy, and effectiveness of drugs within a class of drugs, for purposes of updating the MTUS Drug List. The P&T Committee meets publicly on a quarterly basis and Agendas, Minutes, and Meeting Materials are available at <https://www.dir.ca.gov/dwc/mtus/MTUS-Pharmacy-and-Therapeutics-Committee.html>.

Physician Training

MTUS Training Modules

Physicians treating in the California workers' compensation system are required to follow the evidence-based recommendations in DWC's medical treatment utilization schedule (MTUS). The online course below provides an excellent introduction to the MTUS with helpful instructions on its use. In 2016, DWC introduced a free online Continuing Medical Education (CME) course for treating physicians, qualified medical examiners, physician reviewers, other health care providers, as well as anyone else interested in learning how to use the MTUS. In 2019, DWC released a revised and expanded online MTUS course to include the Formulary and information on obtaining free MTUS-ACOEM guidelines access.

Topics covered include:

- What the MTUS is and how to use it
- How to navigate the MTUS/ACOEM treatment guidelines and apply recommendations via case scenarios
- Free provider access to the MTUS/ACOEM treatment guidelines
- When to consider recommendations outside of the MTUS guidelines for the care of your patient
- How to use the MTUS Formulary and Drug List
- The role of utilization review (UR) and independent medical review (IMR) physicians

Qualified Medical Evaluator (QME) Training Module

Qualified Medical Evaluators (QMEs) play a critical role in resolving disputes within the workers' compensation system and DWC has a free online Continuing Medical Education (CME) course on this topic. This course was developed for current QMEs, those who are interested in becoming a QME, or anyone interested in the QME process. In October 2021, the DWC released an updated QME course covering an expanded list of topics as noted below.

Topics covered include:

- How to prepare for a QME evaluation
- The components of a complete report and potential pitfalls
- The concept of apportionment, and how it applies in the California workers' compensation system

¹³⁷ Orders for 2024 are as of 10/11/24.

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- How to differentiate between causation of permanent disability and causation of injury, and a description of the types of allowable factors in determining causation of permanent disability
- The legal requirements for substantial medical evidence, and how to apply these standards to a medical-legal determination on apportionment
- How the law requires impartiality and prohibits discrimination against injured workers based on protected characteristics including sexual orientation, race, gender, age, national origin, and religion
- Applicable Administrative Rules including how to schedule QME appointments, how to add or close a QME office, and how to place your QME status as unavailable or inactive
- The importance of issuing timely reports and the consequences of late reporting

Additional DWC Online Educational Resources:

- Learn about Apportionment and relevant case law:
<https://www.dir.ca.gov/dwc/Appportionment-Webinar.htm>

This course is open to the public and may also be useful for attorneys, claims administrators, and medical providers participating in the California WC system.

- Medical-Legal Report Writing Course:
<https://www.coeh.berkeley.edu/23qmecl>

This on-demand course is intended for Qualified Medical Evaluators (QMEs), clinicians including MD/DO, physician assistants, registered nurses, nurse practitioners, and others involved in the California Workers' Compensation system.

The online courses can be found at the following website:
<https://www.dir.ca.gov/dwc/CaliforniaDWCCME.htm>

DIVISION OF WORKERS' COMPENSATION INFORMATION & ASSISTANCE UNIT

DWC's Information & Assistance (I&A) Unit provides information and assistance to employees, employers, labor unions, insurance carriers, physicians, attorneys and other interested parties concerning rights, benefits and obligations under California's WC laws. The I&A Unit, often the first DWC contact for injured workers, plays a major role in reducing litigation before the WCAB. The Unit received approximately 1,456 calls a week on its toll-free line, 800-736-7401, or a total of 75,723 calls in 2023. These callers get prerecorded messages in English and Spanish about the WC system and can request forms, fact sheets, or guides.

Table 27: Information & Assistance Unit Workload

	Calls from public handled	Outgoing calls placed	Settlements reviewed and assisted	Face-to-face meetings with walk-ins	Injured Worker Workshop (IWW) presentations	Number of IW that attended IWW presentations	Correspondence written	Conference with WC Judge	Audit Unit referrals	RTWSP
2013	300,515	33,965	13,055	24,588	243	3,013	13,005	NA	NA	
2014	308,221	33,015	14,129	25,105	239	2,615	12,996	9,125	70	
2015	307,242	34,017	14,535	26,858	245	2,377	11,557	9,334	58	

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	Calls from public handled	Outgoing calls placed	Settlements reviewed and assisted	Face-to-face meetings with walk-ins	Injured Worker Workshop (IWW) presentations	Number of IW that attended IWW presentations	Correspondence written	Conference with WC Judge	Audit Unit referrals	RTWSP
2016	311,473	31,985	13,988	25,715	229	2,714	13,511	9,313	NA	
2017	299,674	29,922	10,841	20,987	238	1,593	14,805	7,314	46	
2018	201,050	27,578	9,332	18,900	185	1,053	14,700	7,700	25	
2019	190,647	26,772	8,509	16,666	183	899	14,765	7,329	2	
2020	157,294	25,773	7,346	5,497	50	548	42,869	5,563	0	
2021	126,344	35,434	7,411	1,881	0*	0*	55,310	5,244	0	1,148
2022	73,925	32,969	7,754	7,163	6	252	62,530	6,043	0	1,959
2023	75,723	35,675	8,235	5,403	24	789	65,523	5,746	0	11,638

* Workshops for injured workers were virtual since October 2022. For additional information see:

https://www.dir.ca.gov/dwc/workshop/workshop_english.htm

Source: DWC

Spanish Outreach Attendance data by the type of outreach was available only since 2017 (see Table 28). In 2021, all 24 DWC district offices were closed to the public. Small numbers of injured workers continued visiting the district offices and getting assistance from the I&A Officers.

Table 28: Spanish Outreach Attendance

		Mexican consulates	Radio	Workshops*	Farmworker-related fairs/events
No. of Events	2017	27	1	3	27
	2018	40	1	6	29
	2019	40	1	3	10
	2020	5	0	1	3
	2021	0	0	0	0
	2022	1	1	3	1
	2023	17	8	12	21
	2024	7	0	9	29
Avg No. of Attendees per Event	2017	60	NA	50-75	200-300
	2018	50	NA	25-50	200-300
	2019	45	NA	25-50	200-300
	2020	45	NA	10	200-300
	2021	0	NA	22	NA
	2022	80	NA	80	50
	2023	3,557	NA	201	5,433
	2024	1,609	NA	306	13,216

* Workshops for injured workers are virtual since October 2022. For additional information see:

https://www.dir.ca.gov/dwc/workshop/workshop_spanish.htm

Source: DWC

The annual DWC Educational Conference is the largest WC training in the state and allows claims administrators, attorneys, medical providers, return-to-work specialists, employers, human resources, and others to learn firsthand about the most recent developments in the system, including any new laws or requirements. Speakers from DWC and the private sector address topics pertinent to claims administrators,

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medical providers, attorneys, rehabilitation counselors, and others involved in WC. Due to the COVID-19 pandemic, the March 24-March 26, 2021 and March 23-March 25, 2022, DWC Educational Conferences took place on a virtual platform without activities reported by specific locations. In 2023, DWC went back to holding the educational conference in-person. The conference took place in Oakland on March 9-March 10, 2023 and in Los-Angeles on March 23-March 24, 2023. DWC's 2024 educational conference took place in-person on March 7-March 8, 2024 in Oakland and on March 21-March 22, 2024 in Los Angeles.

Table 29: DWC Educational Conferences Attendance, 2013–2024

		Attendees	Exhibitors
Los Angeles	2013	1,091	87
	2014	1,058	85
	2015	1,162	89
	2016	1,191	95
	2017	1,190	91
	2018	1,039	74
	2019	1,045	74
	2020	Cancelled due to COVID-19	
	2021*	Virtual (LA and OAK): see footnote	
	2022**	Virtual (LA and OAK): see footnote	
	2023	675	48
	2024	575	39
Oakland	2013	762	53
	2014	740	53
	2015	836	61
	2016	878	59
	2017	803	66
	2018	733	54
	2019	800	50
	2020	559	41
	2021*	Virtual (LA and OAK): see footnote	
	2022**	Virtual (LA and OAK): see footnote	
	2023	377	31
	2024	366	23

*2021: 7 conference sponsors, 1,125 attendees and 15 exhibitors.

**2022: 6 conference sponsors, 864 attendees and 12 exhibitors.

Source: DWC

DIVISION OF WORKERS' COMPENSATION INFORMATION SERVICE CENTER

DWC's Information Service Center (ISC) is located in San Bernardino. The main function of the ISC is to screen all incoming calls for all 24 DWC District offices. Any combination of a district office's main number and I&A Unit, Disability Evaluation Unit, and Rehabilitation Unit lines are directed through ISC, which answers questions and provides information in both English and Spanish on WC and EAMS issues for the general public. In addition, all EAMS help desk emails and Notice of Representation (NOR) questions go through ISC. ISC staff members monitor and resolve questions sent via email to EAMS Help Desk, process NOR updates received through the e-File system, and answer Virtual EAMS Support Team (VEST Issue Tracker) questions sent by both internal and external users. In September 2014, some members of DWC ISC's staff started participating in the new DIR Cloud call center several days a week. No statistics are available yet on DIR Cloud call center's workload.

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Table 30: DWC's Information Service Center Workload

Activities	2013 to 2017	2018	2019	2020	2021	2022	2023
Incoming calls	868,865	177,281	163,119	155,072	136,354	139,502	146,528
Outgoing calls*	13,453	264	133	149	195	416	316
Calls in Spanish	63,036	11,798	11,766	9,985	10,115	10,223	12,555
Calls in Spanish for Return to Work Unit**	na	na	1,256	1,132	1,055	1,378	1,172
Calls transferred to district offices	184,836	39,514	39,102	23,969	9,646	25,261	28,820
EAMS Help Desk emails	89,380	22,594	18,724	16,009	18,326	15,908	14,112
Correspondence mailed out	25,844	4,477	3,490	3,736	4,044	3,803	3,691
NOR/SOA-related questions processed	185,985	25,045	27,381	16,730	9,648	6,973	5,647
VEST/Issue tracker of EAMS related problems	499	30	13	10	0	9	0

* Decrease in manual outgoing calls due to new phone system.

** Spanish calls for Return-to-Work Supplement Program (RTWSP) became available in June 2019.

Source: DWC

RETURN-TO-WORK SUPPLEMENT PROGRAM

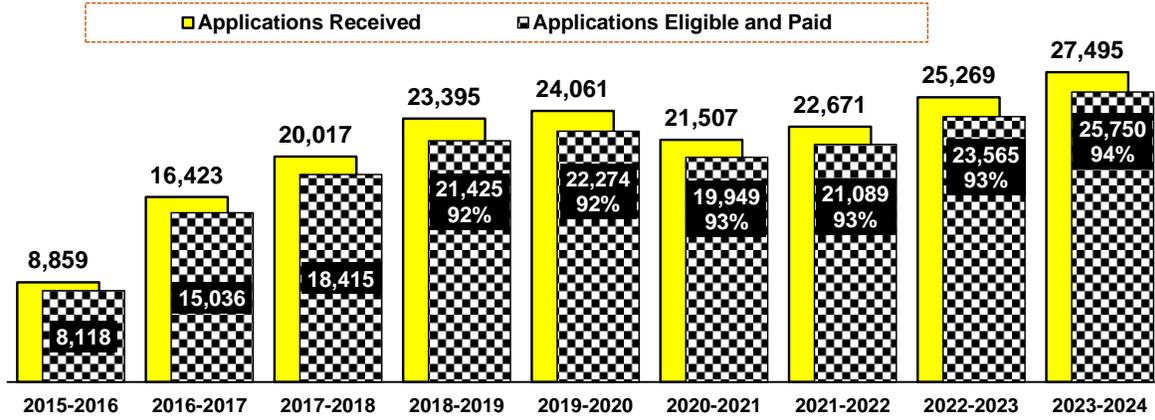
The Return-to-Work (RTW) Fund was created under Labor Code Section 139.48 as one of the components of SB 863 enacted in September 2012. This section requires that DIR's Return-to-Work Supplement Program (RTWSP) administer a \$120 million fund for the purpose of making supplemental payments to workers whose permanent disability benefits are disproportionately low in comparison to their earnings losses. Injured workers may be eligible for a one-time \$5,000 Return-to-Work supplement if they have a date of injury on or after January 1, 2013, and have received a Supplemental Job Displacement Voucher (SJDB) because of that injury. The benefit is administered by DIR's RTWSP in accordance with the regulations implemented on April 13, 2015, and amendment effective March 20, 2017¹³⁸. The RTWSP application is only available online. For those with no access to a computer, every DWC district office has a kiosk equipped with a computer, scanner, and printer enabling them to apply.

As shown in Figure 96, on average 93 percent of the RTWSP applications received were eligible for payment from FY 2015-2016 to FY 2023-2024. When excluding FY 2015-2016, on average 92-93 percent of the RTWSP applications received were eligible for payment. Similarly, the number of eligible RTWSP nearly tripled from FY 2015-2016 to FY 2019-2020. According to the RTWSP staff, the increase in applications could be explained by the collaborative efforts between RTWSP staff, vocational schools, Vocational Return to Work counselors (VRTW), claims administrators, applicant attorneys, and the injured workers. From FY 2018-2019 to FY 2019-2020, the number of applications received increased slightly by 3 percent and the number of eligible RTWSP increased by 4 percent. From FY 2019-2020 to FY 2020-2021, mainly due to the COVID-19 pandemic, the number of applications received decreased by 11 percent and the number of eligible RTWSP applications decreased by 10 percent. As the economy began reopening in 2021, the number of applications received increased by 28 percent from FY 2020-2021 to FY 2023-2024 and the number of eligible RTWSP applications increased by 29 percent in the same period.

¹³⁸ <http://www.dir.ca.gov/ODRegulations/ReturnToWorkRegulations/ReturnToWork.html>;
<http://www.dir.ca.gov/ODRegulations/ReturnToWork/ReturnToWork.html>.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 96: Total RTWSP Applications Received and the Share of Applications Eligible and Paid



Source: DWC

According to Figure 96, 6-8 percent of the applications received from FY 2016-2017 to FY 2023-2024 were ineligible according to the RTWSP rules and standards. The reasons for ineligibility from FY 2016-2017 to FY 2023-2024 are detailed in Table 31 and included those falling under 8 CCR Sections: 17302(a), 17302(b), 17304, and 17306.

Table 31: Reasons for ineligibility of RTWSP Applications

8 CCR Sections	Reasons
§17302 (a)	Date of Injury before 1/1/2013
§17302 (b)	Same person applying more than once (System Processed or Reviewer Processed)
§17304	Timeliness (application submitted past the deadline)
§17306	Incomplete voucher, SJDB proof of service missing, wrong voucher

Source: DWC

As the volume of RTWSP eligible applications expanded from FY 2015-2016 to FY 2019-2020, thus increasing the time and resources needed for processing the applications and issuing RTWSP checks, the average days of benefit issuance from application received date increased as well. See Table 32. During the COVID-19 pandemic, DWC office closures slowed down the application processing time, increasing the Average Days of Benefit Issuance from Application Received Date from 44 days in FY 2019-2020 to 59 days in FY 2020-2021 and FY 2021-2022. In 2022-2023, the Average Days of Benefit Issuance from Application Received Date continued to increase up to 61 days. In 2023-2024, the Average Days of Benefit Issuance from Application Received Date decreased to 55 days although both the number of applications received and the number of eligible RTWSP applications increased by 9 percent according to Figure 96.

Table 32: Duration of RTWSP Benefit Issuance

	Average Days of Benefit Issuance from Application Received Date (days)	Average Days of Benefit Issuance from Decision of Eligibility (days)
FY 2015-2016	11	5
FY 2016-2017	13	5
FY 2017-2018	20	5
FY 2018-2019	33	5

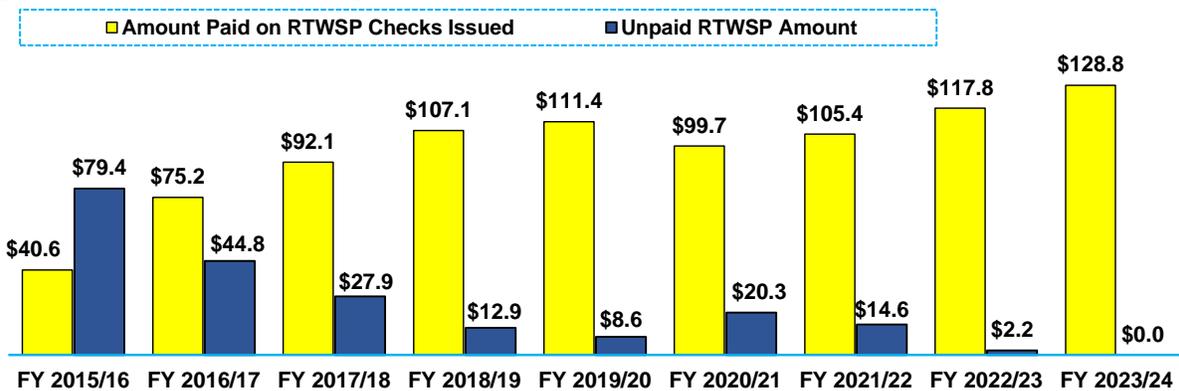
WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

	Average Days of Benefit Issuance from Application Received Date (days)	Average Days of Benefit Issuance from Decision of Eligibility (days)
FY 2019-2020	44	5
FY 2020-2021	59	5
FY 2021-2022	59	5
FY 2022-2023	61	5
FY 2023-2024	55	4

Source: DWC

The total yearly amount to be distributed by the RTW Supplement Program is \$120 million for a total of 24,000 eligible applications, and each eligible applicant is issued a \$5,000 check. Figure 97 shows that, excluding the pandemic years of 2020 and 2021 when the unpaid RTWSP amounts reached from 12 to 17 percent of the \$120 million annual fund, up to 90 percent of it is disbursed to eligible injured workers. The share of the RTWSP that was not distributed decreased to 2 percent in FY 2022-2023.¹³⁹ In FY 2023-2024 the amount disbursed was \$128.8 million, surpassing the limit of \$120 million, decreasing the share of the unpaid benefit to 0 the first time in the reviewed period. The additional \$8.8 million in payments (over the \$120 million) were funded from unused funds from prior fiscal years. Labor Code 139.48 makes the funds available in the Workers' Compensation Administration Revolving Fund (WCARF) available for use by RTW Supplement Program without respect to the fiscal year. If, with \$120 million allotted each year, the payments in that year total less than \$120 million, then the balance remains for subsequent years, thus allowing subsequent years' payments to exceed \$120 million.

Figure 97: Amount Paid on Eligible RTWSP Applications and the Share of Unpaid Balance



Source: DWC

¹³⁹ See the RAND discussions on RTWSP take-up rate in https://www.rand.org/content/dam/rand/pubs/research_reports/RR2500/RR2548/RAND_RR2548.pdf.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

DIVISION OF WORKERS' COMPENSATION UNINSURED EMPLOYERS BENEFITS TRUST FUND

Introduction

All California employers except the State are required to provide WC coverage for their employees through the purchase of WC insurance or by being certified by the State as permissibly self-insured. However, not all employers comply with the law to obtain WC coverage for their employees, and inspection and investigation by DLSE, Cal/OSHA, or LETF might reveal that they lack this coverage.

The Uninsured Employers Benefits Trust Fund (UEBTF) was established to provide payment of WC benefits to injured employees of illegally uninsured employers. Labor Code Sections 3710-3732 describe the operation of the Fund, and Labor Code Section 62.5 describes the funding mechanism for UEBTF.

The director of the DIR administers the UEBTF. Claims are adjusted for DIR's director by the Special Funds Unit in DWC. UEBTF pursues reimbursement of expenditures from the responsible employers through all available avenues, including filing liens against their property. Litigation for UEBTF is conducted in the name of the director of DIR represented by the Office of the Director Legal Unit.

The analyses of UEBTF activities in the CHSWC Annual Report are based on DWC/DIR Electronic Adjudication Management System (EAMS). EAMS provides UEBTF business analytics and maintains document processing workflows supporting the judicial review process, and expands document processing for UEBTF. EAMS' yearly extracts of UEBTF data reflect changes in numbers and amounts for all years depicted in this report. These UEBTF claims-based data demonstrated in this report for all years, including the last fiscal year, are final and not subject to further adjustments. Please note that the values of the UEBTF expenditures and revenue for the last fiscal year demonstrated in this report are estimates done while the fiscal year is open. Therefore, the values of the UEBTF expenditures and revenue are subject to final adjustments after DIR accounting books are closed. The accounting data for UEBTF expenditures and revenue is the official information reported to the Governor.

Funding Liabilities and Collections

UEBTF Funding Mechanisms

UEBTF funding comes from:

- Annual assessments on all insured and self-insured employers, required by Labor Code Section 62.5(e). According to Labor Code Section 62.5(e), the "total amount of the assessment is allocated between the employers in proportion to the payroll paid in the most recent year for which payroll information is available."¹⁴⁰ The assessment for insured employers is based on a percentage of the premium, while the percentage for self-insured employers is based on a percentage of indemnity paid during the most recent year. The total assessment collected pursuant to Labor Code Section 62.5 was \$32.4 million in FY 2023-2024.
- Fines and penalties collected by DIR. These include Division of Labor Standards Enforcement (DLSE) penalties and Labor Code Section 3701.7 penalties on self-insured employers.
- Recoveries from illegally uninsured employers per Labor Code Section 3717.

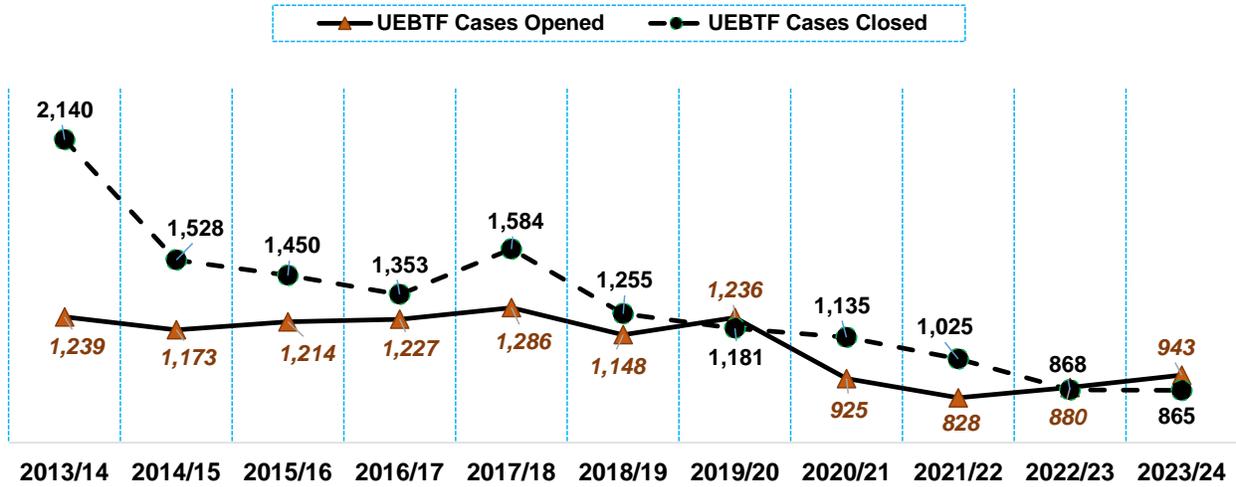
The number of new and closed UEBTF cases is shown in Figure 98. Over the period FY 2013-2014 to FY 2022-2023, excluding FY 2019-2020, more UEBTF cases were closed than opened. . In FY 2013-2014, on average, 2 cases were closed for each case opened, and from FY 2014-2015 to FY 2021-2022, excluding FY 2019-2020, this rate decreased to an average of 1.2 yearly closed cases for each UEBTF case opened.

¹⁴⁰ Prior to the workers' compensation reforms of 2004, the funding for UEBTF came from the General Fund.

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This rate of closed UEBTF cases to newly opened cases decreased from 1.2 cases closed in FY 2021-2022 and FY 2022-2023 to 0.9 cases closed in FY 2023/24.

Figure 98: UEBTF Cases Opened and Closed, FY 2013-2014 to FY 2023-2024

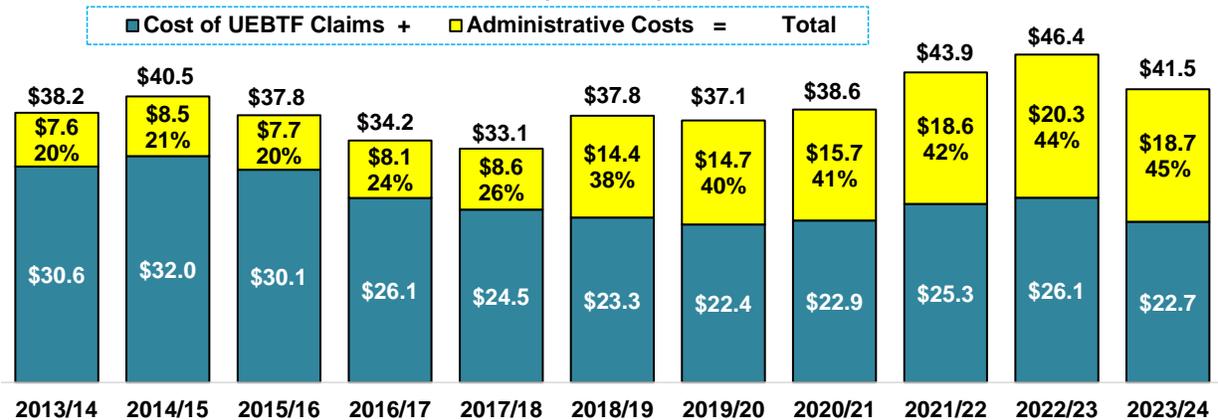


Source: DWC

Cost of the Uninsured Employers Benefits Trust Fund

Figure 99 shows that after a 6 percent increase from FY 2013-2014 to FY 2014-2015, the total amount paid on UEBTF claims decreased by 18 percent from FY 2014-2015 to FY 2017-2018. The total amount paid on UEBTF went back to FY 2015-2016 level of \$37.8 million in FY 2018-2019 and then increased by 23 percent from FY 2018-2019 to FY 2022-2023, before decreasing by 11 percent from FY 2022-2023 to FY 2023-2024. Overall, the administrative costs associated with claim payment activities almost tripled from FY 2013-2014 to FY 2022-2023 before decreasing by 8 percent from FY 2022-2023 to FY 2023-2024. The share of UEBTF administrative costs increased from 20 percent of total costs in FY 2013-2014 to 45 percent in FY 2023-2024.

Figure 99: Payments and Administrative Costs on UEBTF Claims, FY 2013-2014 to FY 2023-2024 (\$ million)



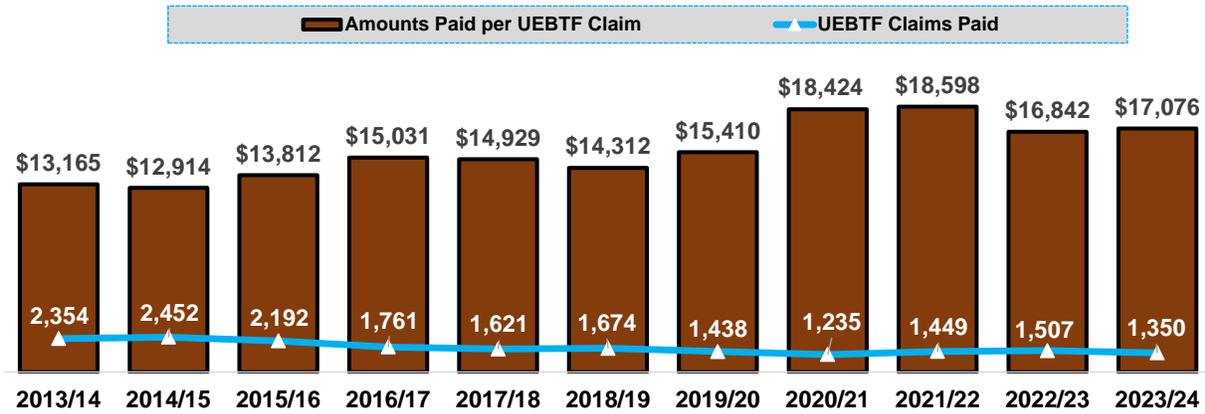
Source: DWC

As shown in Figure 100, the average amount paid per UEBTF claim increased overall by 14 percent from FY 2013-2014 to FY 2016-2017, averaged \$15,000 from FY 2016-2017 to FY 2019-2020, and then increased by 20 percent from FY 2019-2020 to FY 2020-2021. After stabilizing at an average amount paid

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\$18,500 in FY 2020-2021 and FY 2021-2022, that amount decreased by 9 percent to an average amount paid \$17,000 in FY 2022-2023 and FY 2023-2024 as the number of paid claims increased by 4 percent from FY 2021-2022 to FY 2022-2023.

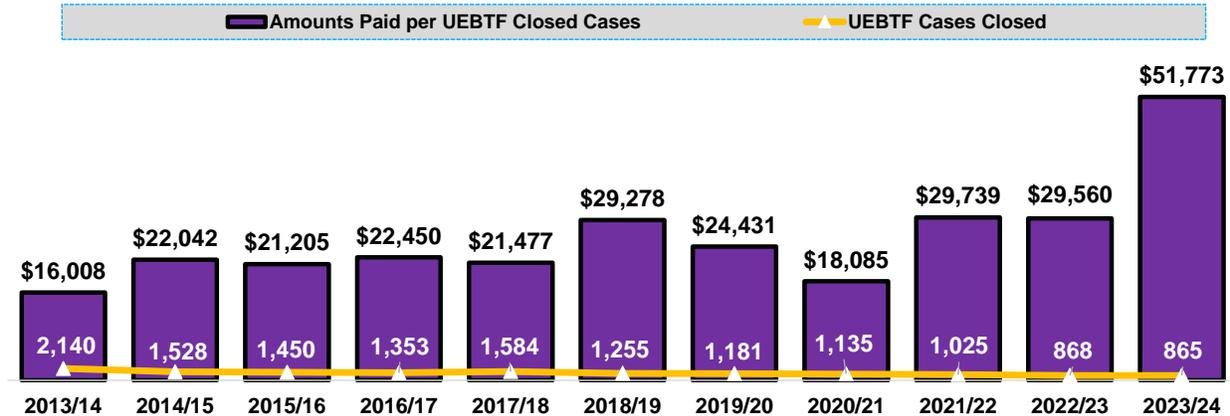
Figure 100: Average Amount Paid per UEBTF Claim and the Number of UEBTF Claims Paid, FY 2013-2014 to FY 2023-2024



Source: DWC

Figure 101 shows the number and the average amount paid on UEBTF closed cases. UEBTF closes a case after it has either been paid off or settled or it has not settled but has been inactive for one year.¹⁴¹ Between FY 2013-2014 and FY 2023-2024, the number of UEBTF cases closed decreased overall by 2.5 times, excluding a one-time increase by 17 percent from FY 2016-2017 to FY 2017-2018. The average amount paid per closed case increased by 38 percent, from FY 2013-2014 to FY 2014-2015, and then averaged \$22,000 per closed case from FY 2014-2015 to FY 2018-2019. From FY 2018-2019 to FY 2020-2021, both the number of cases closed, and the amount paid per closed case declined by about 20 percent before the average paid per closed case recovered by 21 percent from FY 2020-2021 to FY 2022-2023 with the number of closed cases decreasing by 18 percent. The average amount paid per closed case increased sharply by 75 percent from FY 2022-2023 to FY 2023-2024.

Figure 101: Average Amount Paid per UEBTF Closed Case and the Number of UEBTF Cases Closed, FY 2013-2014 to FY 2023-2024



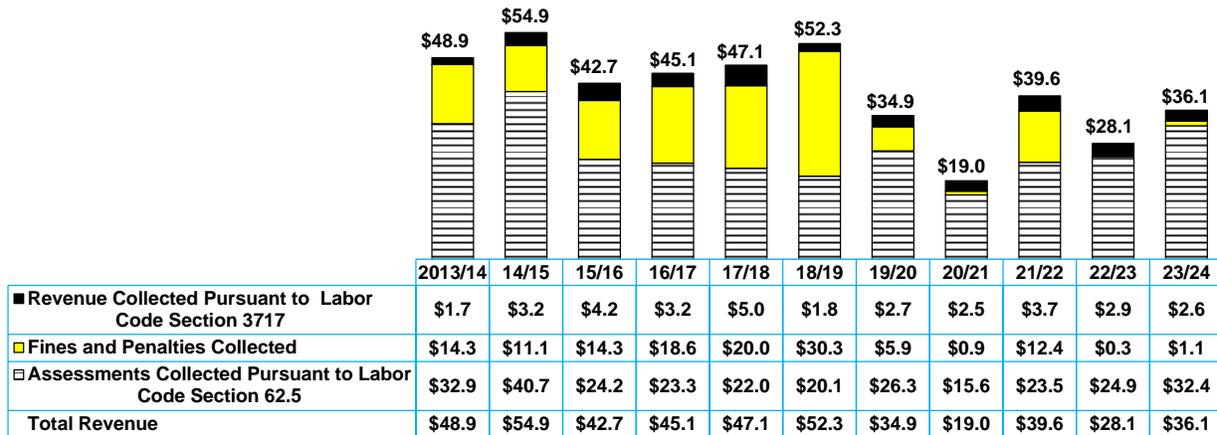
Source: DWC

¹⁴¹ UEBTF normally closes a case on the grounds of inactivity for one year at the discretion of the adjuster. However, the case could be reopened if the applicant reappears for reasons such as medical treatment or case settlement.

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Figure 102 shows the monies collected by the source of the revenue. Values for the two components of UEBTF revenue such as revenue collected pursuant to Labor Code § 3717 and fines and penalties for the last fiscal year are estimates based on previous fiscal year results and are subject to final adjustments after DIR accounting books are closed. The value of assessments collected pursuant to Labor Code § 62.5 include assessments collected by OSIP and DWC and are final as reported in Figure 102. The total UEBTF revenue collected was in the range of \$43.0 million to \$55.0 million per year from FY 2013-2014 to FY 2018-2019, followed by a 33 percent decline from FY 2018-2019 to FY 2019-2020, and an additional sharp decrease by 45 percent from FY 2019-2020 to FY 2020/2021. The decrease in total UEBTF revenue collected from FY 2018-2019 to FY 2019-2020 was mostly due to a 5-fold decline in fines and penalties collected, and the reduction from FY 2019-2020 to FY 2020-2021 was a result of a sharp decline in both its largest component, as the assessments collected pursuant to Labor Code § 62.5, and fines and penalties collected. The total UEBTF revenue collected experienced more than a 2-fold increase from FY 2020-2021 to FY 2021-2022, with fines and penalties increasing more than 12-times in the same period. The preliminary data for FY 2022-2023 are subject to change. The total UEBTF revenue collected was fluctuating from FY 2021-2022 to FY 2023-2024 as the assessments collected pursuant to Labor Code § 62.5 were increasing steadily and fines and penalties collected decreased sharply in the same period.

Figure 102: UEBTF Revenues, FY 2013-2014 to FY 2023-2024 (in \$ million)



Data Source: DWC

DIVISION OF WORKERS' COMPENSATION SUBSEQUENT INJURIES BENEFITS TRUST FUND

The Subsequent Injuries Benefits Trust Fund (SIBTF) is a fund established and administered by the California DWC in the DIR and governed by Labor Code Section 4751. The legislative intent behind Labor Code Section 4751 is:¹⁴²

- to encourage employers to offer employment to workers with pre-existing disabilities without taking economic responsibility for that condition if the worker incurs a work-related injury that causes the pre-existing disabilities to worsen
- to encourage workers with pre-existing disabilities to seek employment and have mechanisms in place to assist them in case their disabilities increase after a workplace injury

SIBTF accomplishes these two goals by providing benefits to qualified injured workers. The subsequent injury must be an industrial injury whereas the pre-existing disability can be either industrial or non-industrial

¹⁴² <https://www.dir.ca.gov/dwc/claims.html>.

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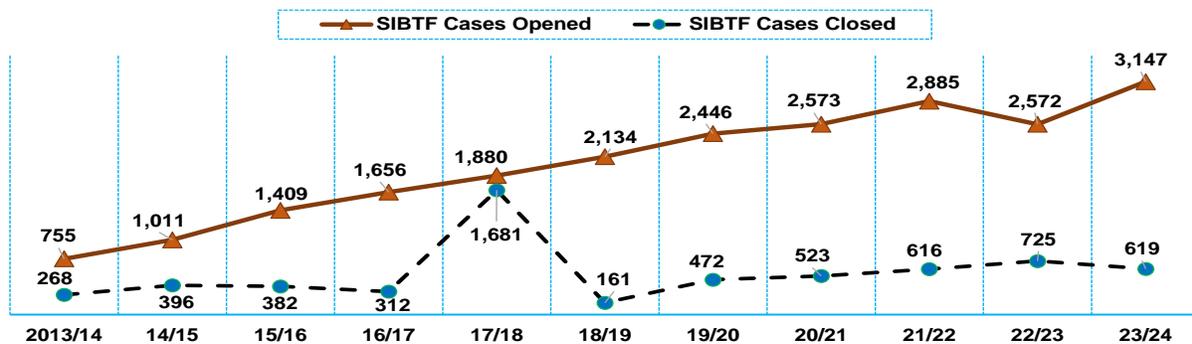
but must be “labor disabling,” meaning it limits them in the open competitive labor market. To qualify for SIBTF benefits, the following conditions must be met.¹⁴³

1. The employee must have a prior permanent partial disability and a subsequent compensable injury
2. The degree of disability caused by the combination of both disabilities must be greater than that which would have resulted from the subsequent injury alone
3. The combined effect of the pre-existing disability and subsequent injury must be equal to or more than 70 percent.
4. The employee’s condition must be one of the following:
 - o The previous disability or impairment affected a hand, an arm, a foot, a leg or an eye; and the permanent disability resulting from the subsequent injury affects the opposite and corresponding member; and the disability from the subsequent injury, when considered alone and without regard to or adjustment for the occupation or age of the employee, is equal to 5 percent or more of the total.
 - o The permanent disability resulting from the subsequent injury, when considered alone and without regard to or adjustment for the occupation or the age of the employee, is equal to 35 percent or more of the total.

The analyses of SIBTF activities in the CHSWC Annual Report are based on the DWC/DIR Electronic Adjudication Management System (EAMS). EAMS provides SIBTF business analytics and maintains document processing workflows supporting the judicial review process, updates classifications for case participants to match the current needs, and expands document processing for SIBTF.¹⁴⁴

The number of WC cases involving SIBTF have been steadily increasing during almost the entire period since FY 2013-2014, totaling 22,468 SIBTF cases opened in 11 years. Figure 103 shows that, from FY 2013-2014 to FY 2021-2022, the number of SIBTF cases opened almost quadrupled before decreasing by 11 percent from FY 2021-2022 to FY 2022-2023 and then increasing by 22 percent from FY 2022-2023 to its peak of 3,147 cases in FY 2023-2024. Over the same period, 6,155 cases or 27 percent were closed, with a spike of 1,681 cases closed in FY 2017-2018 because of the identification of abandoned cases.¹⁴⁵

Figure 103: Number of SIBTF Cases, Opened and Closed, Fiscal Year



Source: DWC

¹⁴³ https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB§ionNum=4751.

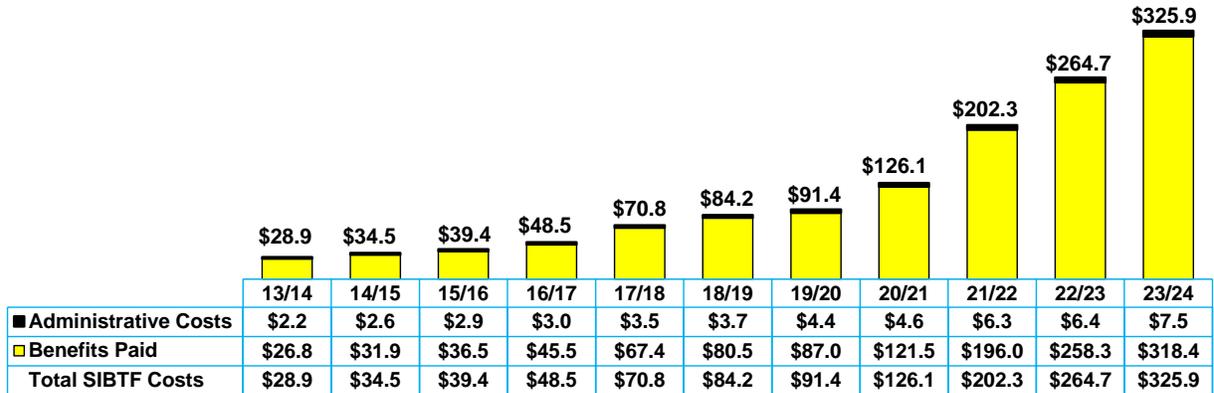
¹⁴⁴ See DWC Electronic Adjudication Management System (EAMS) section in this chapter for a more detailed description of EAMS activities.

¹⁴⁵ In FY 2017-2018, the number of cases closed was high because a special examination was conducted (via overtime by a staff person in another unit) of all open cases in order to identify abandoned cases (i.e. the applicant passed away prior to finalizing case against SIBTF); https://esd.dof.ca.gov/Documents/bcp/1920/FY1920_ORG7350_BCP2832.pdf.

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From FY 2013-2014 to FY 2021-2022, not only did the number of SIBTF opened cases almost quadruple, but as shown in Figure 104, the SIBTF costs increased by 7 times. The number of SIBTF cases and the value of claims increased in part because of changes in apportionment rules according to WC legislation such as SB 899 and Labor Code Sections 4663 and 4664.¹⁴⁶ As a result, applications for SIBTF benefits and benefit payouts increased from \$8 million in FY 2003-2004, the last fiscal year before 2004 reforms (not included in the period examined in this report and in the figures), to \$123.3 million in FY 2020-2021.¹⁴⁷ There was a 61 percent increase in SIBTF costs from FY 2021-2022 to FY 2023-2024, while the number of SIBTF opened cases increased by 9 percent in the same period after a one-time decrease of 11 percent from FY 2021-2022 to FY 2022-2023 (see Figure 100).

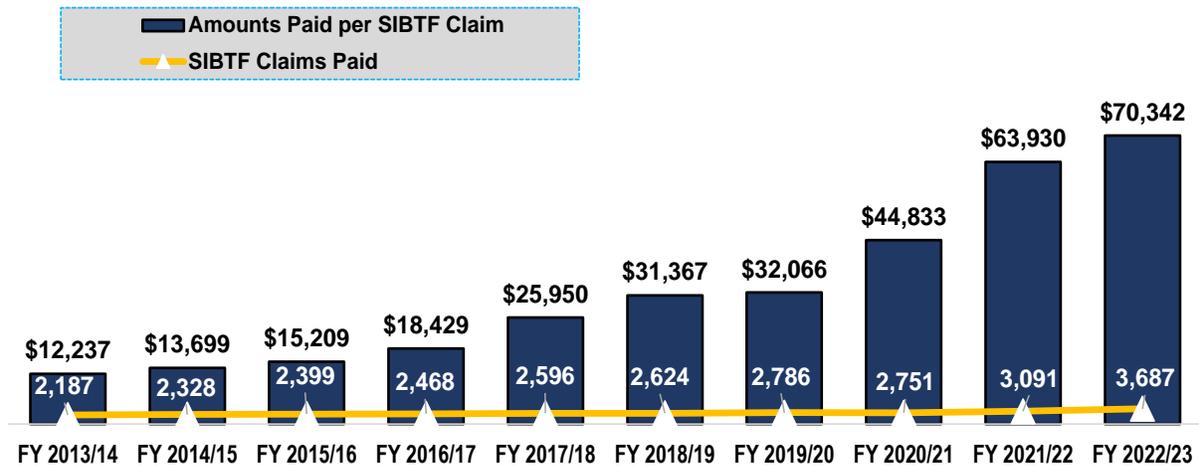
Figure 104: SIBTF Total Costs, Fiscal Year (in \$ million)



Data Source: DWC

According to Figure 105, while from FY 2013-2014 to FY 2021-2022 the number of SIBTF claims paid increased 1.7 times, the average paid amount per SIBTF claim increased almost 6 times, from an average of \$12,237 in FY 2013-2014 to \$70,342 in FY 2022-2023.

Figure 105: Number of SIBTF Claims Paid and Average Amount Paid per SIBTF Claim



Source: DWC

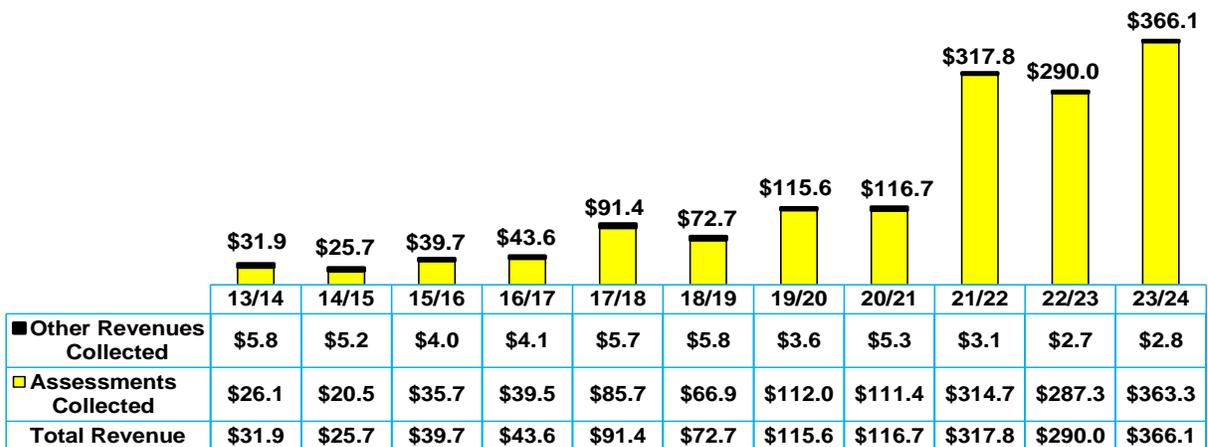
¹⁴⁶ According to these amended provisions of Labor Code § 4663 and 4664, the apportionment of permanent disability was based on the causation of disability. This means that workers were not entitled to compensation for the worsening of a pre-existing condition.

¹⁴⁷ https://esd.dof.ca.gov/Documents/bcp/1920/FY1920_ORG7350_BCP2832.pdf

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SIBTF funding comes mainly from annual assessments collected from insured and self-insured employers with the share of other revenues collected in total revenue falling from about 20 percent in FY 2013-2014 and FY 2014-2015 to 5 percent in FY 2020-2021 and 1 percent in FY 2021-2022 and FY 2022-2023 . As Figure 106 shows, total SIBTF revenue from FY 2013-2014 to FY 2020-2021 almost quadrupled overall after some fluctuation and spikes, and then tripled from FY 2020-2021 to FY 2021-2022. After a 9 percent decrease from FY 2021-2022 to FY 2022-2023, the total SIBTF revenue increased again by 26 percent. Among the reasons for this significant increase in revenue assessments from about \$117 million in FY 2020-2021 to an average of \$325 million from FY 2021-2022 to FY 2023-2024, could be increases in both the number of paid claims and the amount paid per claim, changes in the timing of permanent disability (PD) payments in which DIR must start paying SIBTF benefits to qualifying workers at the same time that the employer starts paying PD benefits, SIBTF benefits paid in addition to PD payments from the employer, instead of upon a declaration of permanent and stationary status, and overall increases in PD benefits, which make it more feasible for injured workers to pursue payments from the SIBTF fund.

Figure 106: SIBTF Total Revenues Recovered (in \$ million)



Data Source: DWC

SIBTF Study

According to DIR’s presentation at the CHSWC’s March 4, 2021 meeting, DIR noted several concerns about the SIBTF program including a sharp increase in the numbers of new claims filed and total liabilities (amounts paid out), as also depicted in the above charts, for the program in recent years.¹⁴⁸ DIR subsequently issued an RFP in early 2022 to take a deep dive into the numbers and trends and practices of SIBTF and the contract for the SIBTF study was awarded to Rand Corporation. The study was launched in late November 2023 and a final report was issued in August of 2024. Among other findings, the report noted a significant increase in annual total payments from the SIBTF fund, and an estimated \$7.9 billion in SIBTF potential liabilities for cases filed or pending between 2010 and 2022.

The report can be found at:

<https://www.dir.ca.gov/dwc/SIBTF-Report.pdf>

ADJUDICATION SIMPLIFICATION EFFORTS

Division of Workers’ Compensation Information System

WCIS handles an average of 700,000 First Reports of Injury and Subsequent Reports of Injury (FROI/SROI) claims annually, along with 11 million medical bills comprising 32 million bill lines from WC claims

¹⁴⁸ CHSWC Minutes of March 4, 2021 meeting. https://www.dir.ca.gov/chswc/Meetings/2021/Minutes_03-04-21.pdf.

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administrators. The trend in WC claims was significantly impacted by the COVID-19 pandemic. After a decline in claims filed during the pandemic, the number of claims in 2022 surged to 768,220—surpassing pre-pandemic levels and marking the highest claim volume in the last 15 years. In 2023, claims decreased to 680,152, returning to pre-pandemic levels. Additionally, the denied claim rate has dropped from 19 percent during the pandemic to 15 percent post-pandemic.

The WCIS team has been working diligently to establish business requirements for the IAIABC FROI/SROI Release 3.1. The WCIS data is extensively used in:

- Evaluating the efficiency and adequacy of benefit delivery
- Monitoring COVID-19 exposures in the workplace and identifying high COVID-19 exposure risk occupations and industry groups
- Assisting the department and CalOSHA in the safety and health rulemaking process
- Supporting the department in its evaluation of health and safety hazards
- Analyzing the impact of assembly and senate bills
- External inquiries and research requests coming from universities, research organizations, state holders, trading partners and the media

Since April 6 of 2016, 90.6 million medical bills with 258.8 million bill lines were collected in WCIS Medical Version 2.0. Pre-pandemic medical bills averaged 11 million per year. During the pandemic, medical bill count increased to 11.5 million in 2020, 12.1 million in 2021 and went back down to 11.7 million by 2022 and 2023, which is lower than the pandemic period but still higher than pre-pandemic levels .

The medical billing data is used by DIR, other CA state entities, bona fide researchers and the public at large. State agencies such as the California Department of Public Health continue to use WCIS data in their health surveillance efforts including the monitor of Coronavirus disease. While most data is provided via data sharing agreements between DWC and data requestors, the WCIS team also publishes aggregated data on the DWC WCIS website.

WCIS medical data continues to provide supportive evidence for California's:

- Combat against medical fraud and abuse
- Occupational disease analysis such as Asthma, Pesticide and COVID-19
- MTUS drug formulary
- Measuring the timeliness and utilization of treatment for injured workers.

Division of Workers' Compensation Electronic Adjudication Management System

Senate Bill (SB) 863 requires electronic lien filing as well as electronic payment of filing or activation fees on some liens. The DWC/DIR Electronic Adjudication Management System (EAMS) team successfully deployed the lien filing and activation fee processes to e-Forms, JET, and Public Search on January 1, 2013.

Upgrades to the new payment processes, including a shopping cart function and increased capacity, were rolled out in March, April, and June 2013. Improvements to these processes are continuing.

The electronic Notice and Request for Allowance of Lien and the Declaration of Readiness forms have been revised, and a new form, the Request for Factual Correction of an Unrepresented Panel Qualified Medical Examiner (QME) Report, was created.

EAMS regulations for e-Form filing, JET filing, and lien fees were approved. Due to a preliminary injunction ordered by a federal district judge in *Angelotti Chiropractic, Inc., et al. v. Baker, et al.*, effective November

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

19, 2013, DWC/DIR EAMS team suspended the collection of activation fees for liens filed before January 1, 2013. Resolution of the appeal of the injunction are discussed below. Through EAMS, DWC continues to collect the filing fee for liens filed after January 1, 2013.

Check processing for the Uninsured Employers Benefit Trust Fund (UEBTF) shifted from DIR Accounting to the State Controller's Office.

Check processing for the Subsequent Injuries Benefit Trust Fund (SIBTF) shifted from DIR Accounting to the State Controller's Office.

To better track Senate Bill (SB) 863 changes, modifications were made to Expedited Hearings, Liens, and reasons for filing Liens.

Tools were created to reschedule multiple court hearings at the same time and change Uniform Assigned Name addresses on multiple cases. The improved Notice of Hearing data mailer shows all cases set for hearing when companion cases are scheduled.

New software tools enable EAMS staff to systematically add or change law firms and claims administrators on multiple cases.

EAMS venue adjustments allow case assignment and hearing scheduling at the Santa Barbara satellite district office.

The upgraded EAMS Case Participants list shows internal and external users the complete addresses of all case parties on a single page.

EAMS staff is working to better incorporate other portions of SB 863, including Independent Medical Review (IMR) and Independent Bill Review (IBR). Many requests for changes to improve EAMS have been implemented.

In 2015 and 2016, DIR created a more robust and secure network for EAMS by refreshing servers, adding security features, and updating infrastructure software and Cognos reporting software.

Activities in 2015:

- DIR enriched workflows for document processing for judge review, lien processing (to systematically add the lien claimant and lien claimant representative as case participants), and expanded workflows for the Uninsured Employers Benefits Trust Fund (UEBTF). Document processing was improved by adding document titles and updating classifications for case participants to our current needs. The ability to match a new case to a previously injured worker was improved by adding a portion of the worker's first name in the matching criteria.
- In November, DIR made changes in the Declaration of Readiness and resumed the collection of lien activation fees in compliance with a ruling issued by Judge George Wu of the US District Court for the Central District of California in *Angelotti Chiropractic, Inc., et al. v. Baker, et al.*
- In December, DIR implemented changes to halt the collection of lien activation fees, in compliance with the ruling issued in *Angelotti Chiropractic, Inc., et al. v. Baker, et al.*

Activities in 2016:

- DIR enlarged the comment fields in EAMS, created additional case participant roles, and enhanced the Public Information Search Tool. DIR streamlined the workflow for settlement notification to the judges. JET filing internal processes were improved. DIR enhanced document processing by updating zip code lists, adding more document titles and enforcing the lien claimant UAN (Uniform Assigned Name) on all lien submissions.

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- DIR streamlined the process for setting hearings before judges and developed new UEBTF and SIBTF processes for those hearings. The department improved UEBTF document processing, data reliability, and communication templates.

In 2017, DIR began implementation of Assembly Bill 1244 and Senate Bill 1160.

Activities in 2017:

- EAMS support for the Special Adjudication Unit (SAU) was designed and implemented to conduct lien consolidation proceedings.
- Processes were created in EAMS to identify liens of medical providers that have been criminally indicted or suspended in EAMS. Those changes are displayed in EAMS and in the Lien Search results of the Public Information Search Tool.
- DIR revised the electronically filed Notice and Request for Allowance of Lien form to include medical provider information, created the Supplemental Lien Form and Section 4903.05(c) Declaration and updated DWC Document Cover and Separator Sheets to allow submission of SAU case documents into EAMS.
- In August, DIR processed liens that were dismissed by operation of law that did not meet the statutory requirements of Labor Code Section 4903.05.
- DIR improved SIBTF and UEBTF business analytics.

In 2018, DIR completed implementation of Assembly Bill 1244 and Senate Bill 1160 and updated EAMS software and hardware, FileNet storage and scanning software.

2018 DIR activities:

- Expanded workflows in document processing for SAU judge review. It improved scheduling of hearings and created communication templates for SAU and gave e-filers access to SAU screens.
- Reduced redundancy and increased efficiency in EAMS software by updating Curam case management software according to current industry standards.

In 2019, DIR updated EAMS software and hardware and expanded JET filing.

2019 DIR activities:

- Enriched workflows for document processing for judicial review, updated classifications for case participants to meet its current needs, and expanded document processing for UEBTF and SIBTF by adding document titles.
- Continued to improve SIBTF and UEBTF business analytics while enhancing tracking capabilities for case outcomes.
- Increased efficiency in EAMS software for internal staff by adding bulk case reassignment processing.
- Upgraded EAMS electronic service, FileNet's search application, and data transfer software to meet current industry standards.
- Expanded the number of forms and documents to be submitted through JET filing.
- Began adding upfront UAN validations for structured E-form submissions.

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In 2020, DIR updated EAMS software and hardware and expanded the JET filing.

2020 DIR activities:

- Expanded the number of forms and documents to be submitted through JET filing and updated the internal processing of erred case opening documents.
- Completed the process of updating E-forms to remove watermark comments and populate information entered into previously blocked fields.
- Completed upfront UAN validations for structured E-form submissions and improved processing of the Answer to Application for Adjudication of Claim by automatically adding new defendants.
- Continued to enrich workflows for document processing for judges' review, added document titles for better classification, and created an internal template for use when rejecting medical reports pursuant to Labor Code § 139.2(d)(2).
- Upgraded EAMS reporting software and document repository and viewing software to current industry standards.
- Improved the ease of viewing scheduled hearings.
- Collected data on employment disputes to conform to AB 5.
- Added and updated Orders, work queues, related workflows and Communications templates.
- Updated security roles for SAU and UEBTF.
- Improved the processing of unstructured documents.
- Added access to DEU forms by Claims Administrators.
- Created the ability to view, add and modify the Judge Conference Lines in EAMS to integrate ADJ and SAU virtual conferences.
- Modified hearing notices to provide notice of virtual conferences.
- Updated processing of ADJ, UEBTF and SIBTF forms.

2021 DIR activities:

- Migrated to a new JET software and enhanced the JET incomplete filing queue.
- Enhanced the registration of employers and employer roles.
- Automated some repetitive portions of the UEBTF Lien Recovery Process and adjusted payment schedule editing.
- Updated security roles for ADJ and UEBTF.
- Revised the EDD Golden Rod Lien.
- Expanded SIBTF workflows.
- Amended the hearing schedule to allow options for in-office or virtual hearings as well as sending out the appropriate hearing notices.

2022 DIR activities:

- Provided alternative Internet Explorer settings for use in the Microsoft Edge browser due to Microsoft no longer supporting Internet Explorer.
- Continued migrating from physical servers to virtual servers.

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- Began preparing for upgrade to Curam version 7.0.9.
- DIR completed the FileNet database migration.
- Started upgrading eForms to be more accessible and user friendly.
- Enhanced system outage tracking tools.
- DIR updated JET File to allow filers to submit unstructured forms using additional document formats.
- DIR completed the 15-character database passwords update

2023 DIR activities:

- DIR continued to focus on technical infrastructure improvements, such as migrating from physical servers to virtual servers, database updates, and operating system upgrades.
- DIR held EAMS Modernization outreach meetings with internal and external stakeholders.
- DIR continued the on-going upgrade of eForms and included this as part of the EAMS Modernization project plan.
- DIR added online self-guided training tools for prospective and current e-filers to the EAMS eForms webpage.
- DIR updated and increased access to resources related to filing in EAMS.
- DIR continued to update JET File and FileNet to increase access and usability for internal and external stakeholders.

2024 DIR activities:

- DIR physically relocated the Stockton (STK) DWC district office to Lodi (LOD) in December 2023, which required the creation of a new LOD hearing location in EAMS in March 2024. The electronic bulk transfer of cases was also completed in March 2024, although additional manual transferring of select cases between these venues will continue through 2024.
- DIR physically relocated the San Jose (SJO) district office from its former location on 100 Paseo de San Antonio, Suite 241 to 224 Airport Parkway, Suite 600 in February 2024, and applied the address change to the existing SJO location in EAMS at that time.
- DIR added the "Closing Order: Order of Dismissal of Case" event entry to the Public Information Case Search Function tool on the DIR website.
- DIR updated the JET File application to adjust the programming related to the conditional attachment requirements for the Declaration of Readiness and the Notice and Request for Allowance of Lien forms.
- DIR continued to apply security patches and recommended updates in order to maintain a secure working environment for internal and external stakeholders.

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Carve-Outs: Alternative Workers' Compensation Systems

The Legislature has enacted reforms to California's statutory WC system by authorizing employers and unions to review, negotiate and settle the WC claims of union-represented workers through an approved alternative dispute resolution program (ADR)¹⁴⁹ that has been approved by DIR/DWC.

A provision of the WC reform legislation in 1993, implemented through Labor Code Section 3201.5, allowed construction contractors and unions, via the collective bargaining process, to establish ADRs. In 2002, the Legislature extended the program to cover alternative dispute resolution labor-management agreements to include members of the aerospace and timber industries and shortly thereafter to include members of all non-construction industries as of January 1, 2004. This is codified in Labor Code § 3201.7.

CHSWC is monitoring the carve-out program (Labor Code Section 77), which is administered by DWC. DIR/DWC administers the ADR program, ensuring that individual participants meet the requirements for participation set out in statute and regulation (Labor Code § 54, 111, 133, and 3201). DWC has promulgated regulations pursuant to Labor Code sections 3201.5 and 3201.7; those regulations are codified at Title 8, section 10200 et seq. of the California Code of Regulations (CCR).¹⁵⁰

CHSWC Study of Carve-Outs

CHSWC engaged in a study to identify the various methods of alternative dispute resolution (ADR) which are being employed in California carve-outs and to begin the process of assessing their efficiency, effectiveness and compliance with legal requirements.

The study team found indications that: the most optimistic predictions about the effects of carve-outs on increased safety, lower dispute rates, far lower dispute costs, and significantly more rapid return to work (RTW) have not occurred, but that the most pessimistic predictions about the effect of carve-outs on reduced benefits and access to representation have not realized either.

For further information ...

How to Create a Workers' Compensation Carve-out in California: Practical Advice for Unions and Employers, CHSWC (2006). <http://www.dir.ca.gov/CHSWC/carve-out1.pdf>

Impact of Senate Bill 228 (2003)

Senate Bill 228 (2003) added Labor Code Section 3201.7, establishing the creation of a new carve-out program for any unionized industry that meets the requirements. This was in addition to the existing carve-out program in the construction industry (already covered under Labor Code Section 3201.5).

Only the union may initiate the carve-out process by petitioning the Administrative Director (AD). The AD will review the petition according to the statutory requirements and issue a letter allowing each employer and labor representative a one-year window for negotiations. The parties may jointly request a one-year extension to negotiate the labor-management agreement.

¹⁴⁹ These programs are sometimes colloquially referred to as "carve outs" because they are an approved exception to the WC claims system created and governed by the Labor Code and corresponding regulations. See also:

<https://www.dir.ca.gov/dwc/carveout.html>

¹⁵⁰ Collective Bargaining Agreements Under Labor Code Sections 3201.5 and 3201.7:

[https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I59F299E0D47F11DE8879F88E8B0DAAAE&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I59F299E0D47F11DE8879F88E8B0DAAAE&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

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In order to be considered, the carve-out must meet several requirements including:

- The union has petitioned the AD as the first step in the process.
- A labor-management agreement has been negotiated separate and apart from any collective bargaining agreement covering affected employees.
- The labor-management agreement has been negotiated in accordance with the authorization of the AD between an employer or groups of employers and a union that is recognized or certified as the exclusive bargaining representative that establishes any of the following:
 - An ADR system governing disputes between employees and employers or their insurers that supplements or replaces all or part of those dispute resolution processes contained in this division, including, but not limited to, mediation and arbitration. Any system of arbitration shall provide that the decision of the arbiter or board of arbitration is subject to review by the Appeals Board in the same manner as provided for reconsideration of a final order, decision, or award made and filed by a workers' compensation administrative law judge.
 - The use of an agreed list of providers of medical treatment that may be the exclusive source of all medical treatment provided under this division.
 - The use of an agreed, limited list of Qualified Medical Evaluators (QMEs) and Agreed Medical Evaluators (AMEs) that may be the exclusive source of QMEs and AMEs under this division.
 - A joint labor-management safety committee.
 - A light-duty, modified job or return-to-work program.
 - A vocational rehabilitation or retraining program utilizing an agreed list of providers of rehabilitation services that may be the exclusive source of providers of rehabilitation services under this division.
- The minimum annual employer premium for the carve-out program for employers with 50 employees or more is \$50,000, and the minimum group premium is \$500,000.
- Any agreement must include right of counsel throughout the ADR process.

Impact of Senate Bill 899 (2004)

In 2004, construction industry carve-outs were amended per Labor Code Section 3201.5 and carve-outs in other industries were amended per Labor Code Section 3201.7 to permit the parties to negotiate “any aspect of the delivery of medical benefits and the delivery of disability compensation to employees of the employer or group of employers who are eligible for group health benefits and non-occupational disability benefits through their employer.”¹⁵¹ As of the date of this annual report, no subsequent legislation has amended the substantive rights or obligations of parties to an authorized ADR program.

Recognizing that many cities and counties, as well as private industries, were interested in knowing more about carve-outs and about health and safety training and education within a carve-out, CHSWC hosted a conference devoted to carve-outs/alternative dispute resolution on August 2, 2007, in Emeryville, California. The conference was for all stakeholders in the WC system including: those in existing carve-outs; those considering establishing a carve-out; unions and employers; risk managers; government agencies; third-party administrators; insurers; policymakers; attorneys; and health care providers.

The conference provided an opportunity for the health and safety and WC communities and the public to share ideas for establishing carve-outs which have the potential to: improve safety programs and reduce injury and illness claims; achieve cost savings for employers; provide effective medical delivery and

¹⁵¹ Sen. Bill No. 899 (2003 – 2004 Reg. Sess.) §6 & §7 [Stats. 2004, ch. 34, §6]

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improved quality of medical care; improve collaboration between unions and employers; and increase the satisfaction of all parties.

SB 863 Carve-out Expansion (2012)

SB 863 amended Labor Code § 3201.7 to permit the State of California to enter into a carve-out. As of 2019, no state agency has pursued this option.

Requirements of ADR program reports to DWC under 8 CCR Section 10203

Employer participants in authorized ADR programs are obligated to make regular reports to DWC. Section 10203 of title 8 of the California Code of Regulations details those obligations. Section 10203 requires that every employer participating in an authorized ADR program provide DWC with specified information about WC claims for the previous calendar year on or before March 31 of each year. For each claim with a date of injury on or after January 1, 2004, the information is to be updated annually for the previous four calendar years, thereby allowing longer-term claims trajectories and costs to be determined. In order to fulfill the reporting requirement, groups of employers must, on behalf of their employer-members, either submit data directly to DWC, or “provide the Administrative Director with written authorization to collect the information from the appropriate claims administrator. However, if the Administrative Director is unable to obtain the information with the written authorization, the employer shall remain responsible for obtaining and submitting the information.” (Cal. Code Regs., tit. 8, § 10203, subd. (a)(2).)

Person hours and payroll covered by agreements filed

As Table 33 shows, for calendar year 2023, 77 reporting programs reported payroll and person-hours. Carve-out programs reported that for the 2023 calendar year, they covered 157 million work hours and \$6.1 billion in payroll. The reported average wage per carve-out person-hours worked was \$39 per hour.

Table 33: Estimated Person-Hours Worked and Payroll, 2008–2023

Calendar Year (Reporting Year)	Reporting Programs	Employers	Payroll (Million\$)	Person-Hours Worked (Millions)	FTE (estimated)	Average Hourly Wage
2008	19	1,274	\$2,782	93	46,500	\$30
2009	21	876	\$3,393	100	50,000	\$34
2010	19	1,177	\$1,976	67	33,500	\$29
2011	22	1,586	\$2,418	78	39,000	\$31
2012	25	1,508	\$1,849	69	34,500	\$27
2013	22	1,815	\$1,226	51	25,600	\$24
2014	27	1,901	\$3,255	122	60,900	\$27
2015	23	1,552	\$2,553	89	44,600	\$29
2016	34	NA	\$3,203	159	79,400	\$20
2017	28	NA	\$3,000	94	47,000	\$32
2018	19	187	\$3,597	101	50,500	\$36
2019	59	360	\$4,210	126	63,000	\$33
2020	64	150	\$3,406	126	62,800	\$27
2021	68	144	\$6,457	164	81,914	\$39
2022	71	394	\$5,416	149	74,742	\$36
2023	77	416	\$6,070	157	78,690	\$39

Data Source: DWC

Status of Carve-out Agreements

The following websites are updated regularly and show the current status of carve-out agreements pursuant to Labor Code Sections 3201.5 and 3201.7, as reported by DWC.

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Construction Industry Carve-out Participants Labor Code Section 3201.5

<http://www.dir.ca.gov/dwc/Carveout/ConstructionCarveOut.htm>.

Non-Construction Industry Carve-out Participants Labor Code Section 3201.7

<http://www.dir.ca.gov/dwc/Carveout/NonConstructionCarveOut.htm>.

For further information ...

The latest information on carve-outs may be obtained at:

<http://www.dir.ca.gov/dwc/carveout.html>.

Labor Code Section 3201.5.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3201.5.&lawCode=LAB.

Labor Code Section 3201.7.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3201.7.&nodeTreePath=5.1.1&lawCode=LAB.

How to Create a Workers' Compensation Carve-out in California: Practical Advice for Unions and Employers. CHSWC (2006). <http://www.dir.ca.gov/CHSWC/carve-out1.pdf>.

Carve-outs: A Guidebook for Unions and Employers in Workers' Compensation. CHSWC (2004).

Carve-Outs in Workers' Compensation: An Analysis of Experience in the California Construction Industry (1999). <http://www.dir.ca.gov/CHSWC/CarveOutReport/Carveoutcover.html>.

DIVISION OF LABOR STANDARDS ENFORCEMENT BUREAU OF FIELD ENFORCEMENT¹⁵²

The Bureau of Field Enforcement (BOFE) in the Division of Labor Standards Enforcement (DLSE) is responsible for investigation and enforcement of statutes covering WC insurance coverage, child labor, cash pay, unlicensed contractors, and Industrial Welfare Commission orders, as well as group claims involving minimum wage and overtime claims. BOFE also handles criminal investigations involving these group claims.

Table 34 lists the violations and related penalties from FY 2021–2022 enforcement actions.¹⁵³ It illustrates the Bureau's performance inclusive of all special programs, such as non-public works field enforcement and prevailing wage enforcement through the Public Works Unit.

Table 34: BOFE (including Public Works) Violations and Penalties by Category, FY 2021–2022

Citation Category	Number of Violations	Penalties Assessed	Wages Assessed
Workers' Compensation	453	\$11,112,094.12	\$0.00
Itemized Statement (L.C. 226)	89	\$4,038,250.00	\$2,376,635.70
Overtime	37	\$162,950.00	\$1,128,852.32
Rest and Meal Period	23	\$211,100.00	\$770,540.36
Minimum Wage	35	\$908,400.00	\$1,325,436.91
Child Labor	54	\$392,000.00	\$0.00
Split Shift	11	\$31,300.00	\$47,788.25
Liquidated Damages	0	\$0.00	\$1,608,533.92
Garment Registration	32	\$29,600.00	\$0.00
Garment	82	\$693,000.00	\$0.00
Janitorial Registration	9	\$42,000.00	\$0.00

¹⁵² In 2024, the latest available data for BOFE were for FY 2021-2022.

¹⁵³ Bureau of Field Enforcement (BOFE) Report (when its final version is available), <https://www.dir.ca.gov/dlse/DLSEReports.htm>.

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Citation Category	Number of Violations	Penalties Assessed	Wages Assessed
Car Wash Registration	22	\$214,300.00	\$0.00
Unlicensed Farm Labor Contractor	6	\$58,800.00	\$0.00
Unlicensed Construction Contractor	1	\$600.00	\$0.00
Paid Sick Leave (LC 246)	0	\$0.00	\$7,612,506.00
Paid Sick Leave (LC 248)	0	\$0.00	\$3,792,995.68
Paid Sick Leave Poster Requirements	35	\$18,800.00	\$0.00
Violation of Payment of Wages Provision (L.C. 204)	7	\$877,541.85	\$0.00
Failure to Provide Training	4	\$10,000.00	\$0.00
Failure to Rehire Covid-19	1	\$5,300.00	\$3,080,000.00
Violation of Recordkeeping Requirement (LC 247.5(a))	0	\$0.00	\$84,850.00
Contract Wages Above Minimum Wage	0	\$0.00	\$591,721.99
Waiting Time Penalties	0	\$0.00	\$6,687,732.92
Total	894	\$18,806,035.97	\$29,107,594.05
Public Work Totals	514 ^a	\$12,847,695.33 ^b	\$8,240,155.17
GRAND TOTAL	1,408	\$31,653,731.30	\$37,347,749.22

^a The Public Works Unit does not conduct inspections but, rather, measures performance based on cases opened for audit purposes. The data in this table should be understood as 1,964 audits conducted, with 514 civil wage and penalty assessments (CWPA's) issued (rather than the number of citations/violations). These measurements are included here to provide a full picture of the Division's performance.

^b Includes Labor Code Sections 1775, 1777.7, 1813, and 1776 penalty collections.

Source: DLSE

For further information ...

<https://www.dir.ca.gov/dlse/DLSEReports.htm>

DLSE REGISTRATION SERVICES—JANITORIAL SERVICES

Labor Code Sections 1420-1434, the Property Services Workers Protection Act, establish registration requirements for janitorial employers and protection for property service workers in the form of sexual harassment prevention training.

Effective July 1, 2018, all janitorial service provider employers were required to register with DLSE by mail or online by October 1, 2018. The registration fee is \$500 annually and pursuant to L.C. section 1423, failure to register is subject to a fine of \$100 per day, up to \$10,000. DLSE is required to maintain a public database of registered employers, available at <https://cadir.my.salesforce-sites.com/RegistrationSearch>. Fines are also levied for hiring unregistered janitorial service providers, and the registration database can be used to confirm which registered service providers are in compliance.¹⁵⁴

Pursuant to AB 547, beginning in January 1, 2019, after janitorial service provider employers are registered, they were also required to provide employees with DLSE-developed in-person sexual harassment prevention training at least once every two years. DIR and CHSWC contracted with the Labor Occupational Health Program at UC Berkeley to develop this training.

¹⁵⁴ https://www.dir.ca.gov/DLSE/Janitorial_Registration_FAQs.html.

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Employers must provide the training as required by the adopted [regulations](#) effective July 15, 2020, by using complimentary materials developed by the Labor Occupational Health Program at UC Berkeley for DIR and CHSWC, and working with a [qualified organization](#) to meet the training requirements. These materials, available below in [English](#) and [Spanish](#), will be updated as needed to help employers meet Fair Employment and Housing Act requirements for sexual harassment and abusive conduct training as well.¹⁵⁵ As of January 1, 2024, the list of qualified organizations that employers must work with to meet the training requirements established by AB 547 can be found at: <https://www.dir.ca.gov/dlse/qualified-organization-search.asp>.

To disincentivize businesses from hiring unregistered janitorial services, any person or entity that contracts with a janitorial employer lacking a current and valid registration can be fined between \$2,000 and \$10,000 for the first violation, and between \$10,000 and \$25,000 for a subsequent violation under the L.C. section 1432(b).

As for the latest update regarding the implementation of AB 547 which expands on AB 1978 (2016), DIR-DLSE continues convening the Janitorial Advisory Committee (JAC) since 2019. There was a delay in implementing AB 547 due to the COVID-19 pandemic. The JAC is in the process of vetting its initial round of Qualified Organization applicants. The application and supporting documents were forwarded to the Office of the DIR Director on August 18th. The application to be shared with the JAC that will participate in the vetting process. Once approved, the Qualified Organization(s) to be listed on the Labor Commissioner's website. The JAC approved one Qualified Organization (QO). There was a recent QO applicant who was not approved, but was trying to fulfill the requirements to obtain the approval. The QO list is posted on DLSE website: <https://www.dir.ca.gov/dlse/Qualified-Organization-Search.asp>.

The data in the Table 35 represent the first six full years of the registration requirement:

Table 35: Janitorial Service Providers: Registration and Labor Code Sections 1423 and 1432(b) Penalties

	Number of new janitorial service providers and contractors registered.	Number of newly registered janitorial service providers who incurred a penalty.	Total Labor Code § 1423 penalties incurred by janitorial service providers and contractors for failure to register by required date.	Total Labor Code § 1432(b) penalties incurred by persons or entities contracting with unregistered janitorial services	Number of janitorial service providers and contractors who renewed their registration in one year.
FY 2018-2019	1,669	5	3 employers were assessed a civil penalty of a total of \$30,000	NA	NA
FY 2019-2020	1,283	2	8 companies were assessed a civil penalty of a total of \$62,600 and \$2,600 had been received.	2 companies were assessed a civil penalty of a total of \$12,000.	0
FY 2020-2021	1,006	2	2 companies were assessed a civil penalty of a total of \$23,900	\$0.00	1,001

¹⁵⁵ <https://www.dir.ca.gov/dlse/Janitorial-Training.html>

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	Number of new janitorial service providers and contractors registered.	Number of newly registered janitorial service providers who incurred a penalty.	Total Labor Code § 1423 penalties incurred by janitorial service providers and contractors for failure to register by required date.	Total Labor Code § 1432(b) penalties incurred by persons or entities contracting with unregistered janitorial services	Number of janitorial service providers and contractors who renewed their registration in one year.
FY 2021-2022	994	2	3 companies were assessed a civil penalty of a total of \$30,000	6 companies were assessed a civil penalty of a total of \$12,000.	834
FY 2022-2023	698	2	1 company was assessed a civil penalty of a total of \$10,000	\$0.00	1,321
FY 2023-2024	618	10	6 companies were assessed a civil penalty of a total of \$55,700	12 companies were assessed a civil penalty of a total of \$48,000.	1,413

Source: DLSE

- Number of new janitorial service providers and contractors registered in FY 2023-2024: 618
- Number of new janitorial service providers and contractors who registered in FY 2023-2024 and incurred a penalty: 10
- Total Labor Code § 1423 penalties incurred by janitorial service providers and contractors in FY 2023-2024 for failure to register by required date: \$55,700
- Total Labor Code § 1432(b) penalties incurred in FY 2023-2024: \$48,000.

For further information ...

https://www.dir.ca.gov/dlse/Janitorial_Providers_Contractors.html

ANTI-FRAUD ACTIVITIES

Background

During the past years, there has been a dedicated and rapidly growing campaign in California against WC fraud. This report on the nature and results of that campaign is based primarily on information obtained from the California Department of Insurance (CDI) Fraud Division, as well as applicable Insurance Code and Labor Code sections, and data published in periodic Bulletin[s] of the California Workers' Compensation Institute (CWCI).

The former Insurance Commissioner Steve Poizner convened an Advisory Task Force on Insurance Fraud in May 2007 to address major issues relating to insurance fraud. Christine Baker, a former executive officer of CHSWC and now the retired director of DIR, chaired the Task Force's Workers' Compensation Expert Working Group. The Task Force completed a comprehensive review of the anti-fraud insurance programs and identified 18 recommendations to consider in reducing insurance fraud in California.

The recommendations are consolidated into the following five categories identified by the Task Force:

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- Organization and Efficiency of the CDI Fraud Division Enforcement Branch.
- Industry Role in Fighting Fraud.
- Public Role in Fighting Fraud.
- Fraud Statutes and Regulations.
- Technologies.

The Fraud Division is currently implementing the following recommendations:

- Placing personnel in existing fusion centers in the State so that law enforcement can share information more efficiently and quickly identify emerging trends and crime patterns.
- Developing and providing better training for the Special Investigation Units (SIU) on the recognition, documentation and reporting of suspected insurance fraud claims.
- Recognizing insurance companies that go beyond compliance for their greater commitment to fighting fraud.
- Increasing the CDI's outreach efforts about the consequences of fraud and how the public can recognize and report it.

Suspected Fraudulent Claims

Suspected Fraudulent Claims (SFCs) are reports of suspected fraudulent activities received by CDI from various sources, including insurance carriers, informants, witnesses, law enforcement agencies, fraud investigators, and the public. The number of SFCs represents only a small portion reported by the insurers and does not necessarily reflect the whole picture of fraud since many fraudulent activities have not been identified or investigated.

According to CDI Fraud Division data, the quality of SFCs continues to improve each fiscal year. Several reasons for this trend include:¹⁵⁶

- The extensive efforts to provide training to the insurance claim adjusters and SIU personnel by the Fraud Division and District Attorneys.
- Changing submission of SFCs by filling out the FD-1 Form electronically on the Internet.
- Promulgating new regulations to help insurance carriers step up their anti-fraud efforts and become more effective in identifying, investigating and reporting workers' compensation fraud. A work plan to increase the number of audits performed by the Fraud Division SIU Compliance Unit was established and continues with an aggressive outreach plan to educate the public on anti-fraud efforts and how to identify and report fraud. This has ensured a more consistent approach to the oversight and monitoring of the SIU functions with the primary insurers as well as the subsidiary companies.
- CDI is strengthening its working relationship with the Workers' Compensation Insurance Rating Bureau (WCIRB) to support the Department's anti-fraud efforts.

The total number of SFCs reported in fiscal year 2022-2023 is 2,846.

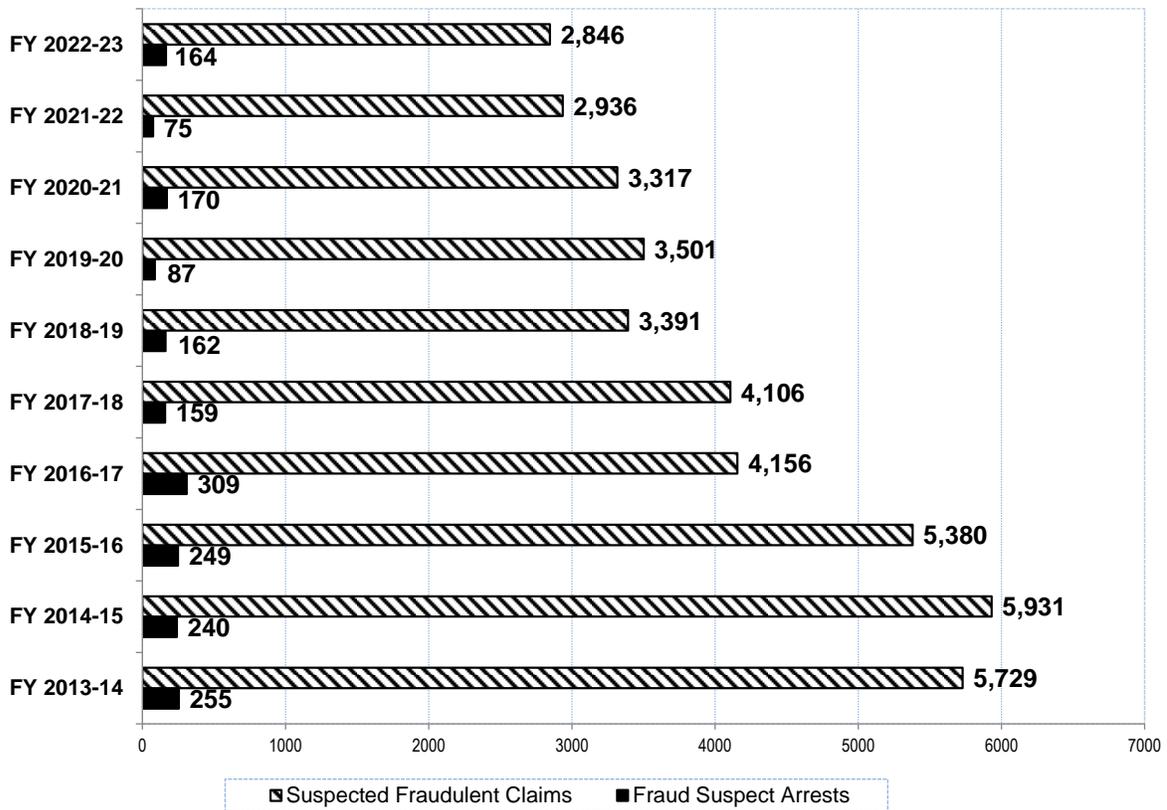
¹⁵⁶ 2014 Annual Report of the Insurance Commissioner, August 1, 2015.
<http://www.insurance.ca.gov/0400-news/0200-studies-reports/0700-commissioner-report/>.

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Workers' Compensation Fraud Suspect Arrests

After a fraud referral, an investigation must take place before any warrants are issued or arrests are made. The time for investigation ranges from a few months to a few years depending on the complexity of the caseload. For this reason, the number of arrests does not necessarily correspond to the number of referrals in a particular year (see Figure 107). From FY 2013-2014 to FY 2015-2016, the Fraud Division identified and reported from 5,380 to 5,900 SFCs per fiscal year, with about 250 arrests per fiscal year on average. In FY 2016-2017 and FY 2017-2018, the number of identified and reported SFCs fell to about 4,100 cases per fiscal year, with 309 arrests (7 percent of SFCs) in FY 2016-2017 and 159 arrests (4 percent of SFCs) in FY 2017-2018. In FY 2018-2019, there was a 43 percent decline in SFCs from the peak in FY 2014-2015 and 17 percent decrease from the previous year. From FY 2018-2019 to FY 2022-2023, the number of identified and reported SFCs decreased overall by 16 percent as the number of arrests fluctuated between 75 and 170 in that period.

Figure 107: Suspected Workers' Compensation Fraudulent Claims and Suspect Arrests



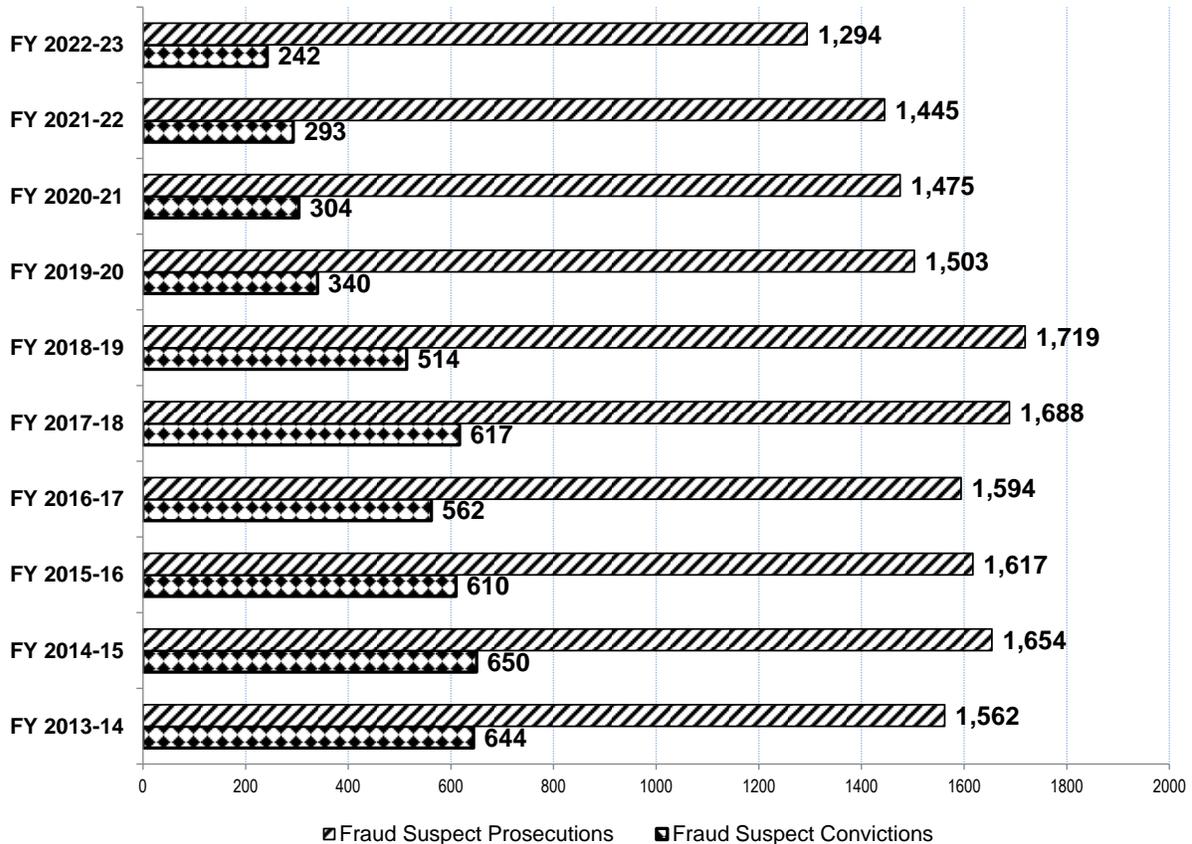
Data Source: CDI - Fraud Division and CWCI

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Workers' Compensation Fraud Suspect Convictions

Based on information from the Fraud Division and CWCI Bulletin(s), the number of WC fraud suspects convicted annually while many cases are still pending in court is reported in Figure 108. From FY 2012-2013 to FY 2018-2019, district attorneys prosecuted about 1,560 to 1,720 suspects per fiscal year, with an overall increase of 10 percent, and convictions decreasing by 20 percent from 644 in FY 2013-2014 to 514 in FY 2018-2019.¹⁵⁷ In FY 2019-2020, both prosecutions and convictions decreased by 13 and 34 percent, respectively, compared to FY 2018-2019. From FY 2019-2020 to FY 2022-2023, the number of prosecutions decreased by 14 percent and number of convictions decreased by 29 percent.

Figure 108: Workers' Compensation Fraud Suspect Prosecutions and Convictions



Data Source: CDI - Fraud Division and CWCI

Workers' Compensation Fraud Investigations

Types of Workers' Compensation Fraud Investigations

Figures 109 and 110 indicate the number and type of investigations opened and carried from fiscal years FY 2013-2014 to FY 2022-2023 reported by district attorneys. Claimant, also named applicant, fraud appears to be the area generating the most cases followed by premium fraud and uninsured employer fraud.

¹⁵⁷ For case-by-case information regarding specific workers' compensation fraud convictions, see <http://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/25-wc-conv/>

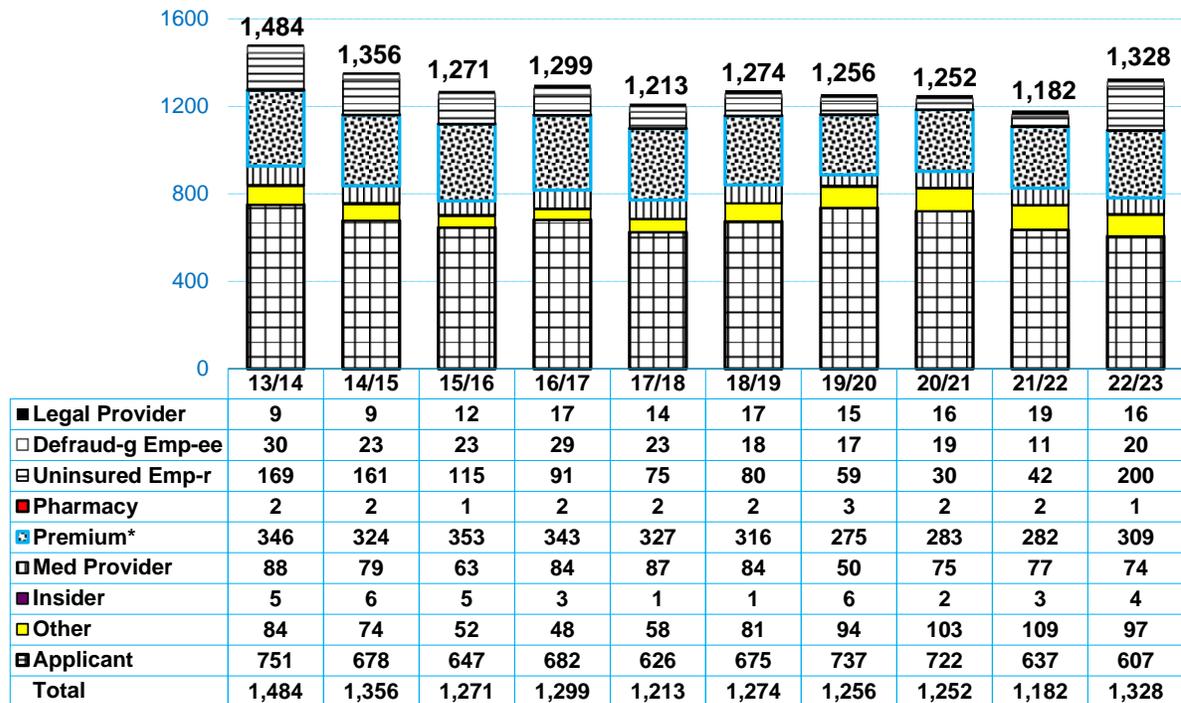
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Some of the categories for fraud-related investigations were changed in FY 2005-2006, FY 2006-2007, and FY 2007-2008. In FY 2008-2009, two new categories, Legal Provider and Pharmacy, were introduced as separate categories.

Trends in Workers' Compensation Fraud Investigations

Figure 109 shows that the number of WC fraud investigations decreased by 18 percent from FY 2013-2014 to FY 2017-2018 and then slightly increased by 2 percent from FY 2017-2018 to an average of 1,240 investigations yearly from FY 2018-2019 to FY 2021-2022. The decrease from FY 2013-2014 to FY 2017-2018 was mostly due to a 17 percent decrease in claimant fraud (also called applicant fraud) and more than a two-fold decline in uninsured employer investigations. A slight decrease in the number of WC fraud investigations beginning from FY 2018-2019 was due to decreases in premium, medical providers, and uninsured employer frauds and a 13.5 percent decrease in claimant/applicant fraud from FY 2019-2020 to FY 2021-2022. From FY 2021-2022 to FY 2022-2023, there was a 12 percent increase in the number of WC fraud investigations when there was a 5-fold increase in uninsured employer fraud.

Figure 109: Caseload by Type of Fraud Investigations, FY 2013-2014–FY 2022-2023



* Includes Misclassification, Underreported Wages, and X-Mod Evasion

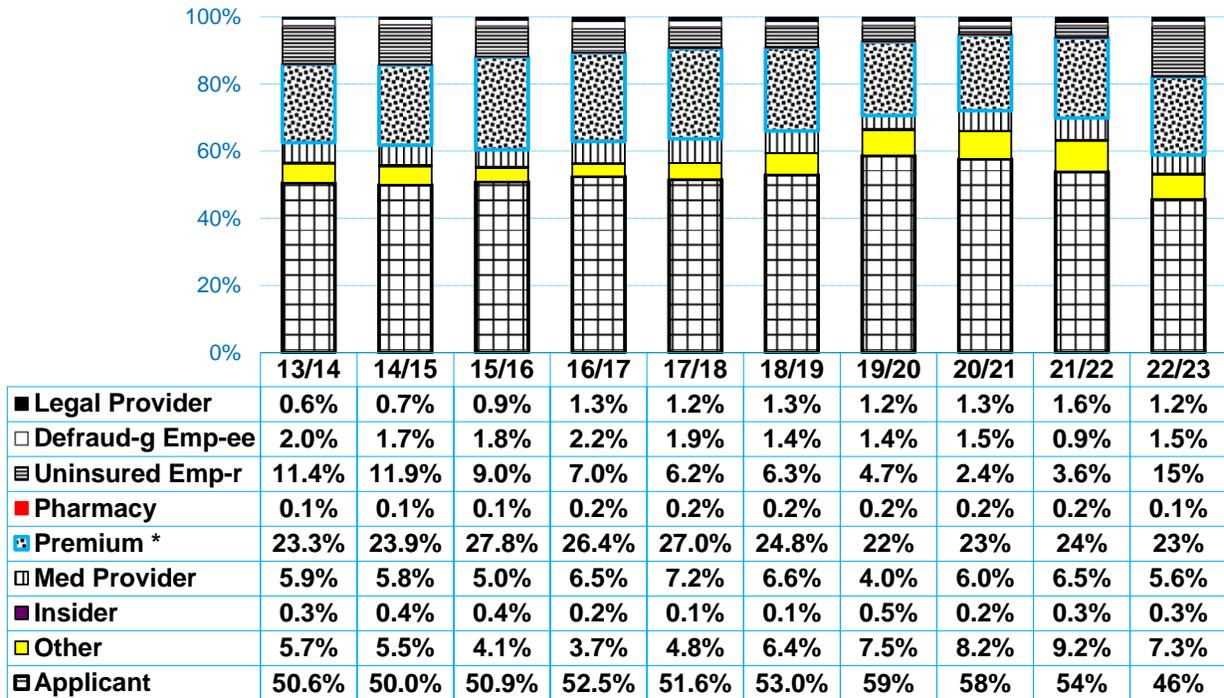
Data Source: California Department of Insurance, Fraud Division

As seen in Figure 110, the focus of the investigations experienced some changes during the observed period. Claimant/applicant fraud investigations averaged 51 percent yearly from FY 2013-2014 to FY 2018-2019 and then increased by 6 percentage points from FY 2018-2019 to FY 2019-2020, with a 4 percentage points decrease from FY 2020-2021 to FY 2021-2022, and 13 percentage points decrease from FY 2021-2022 to FY 2022-2023. The percentage of investigations of premium fraud increased overall from 23 percent in FY 2013-2014 to 27 percent in FY 2017-2018, and then decreased again to an average of 23 percent from FY 2019-2020 to FY 2022-2023. From FY 2013-2014 to FY 2021-2022, investigations of uninsured employer fraud decreased from about 10 percent to 3.6 percent respectively before increasing

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sharply to 15 percent in FY 2022-2023 and decreased for defrauding employees from 2.8 percent to 0.9 percent in the same period before going back to 1.5 percent in FY 2022-2023.

Figure 110: Distribution by Type of Fraud Investigations, FY 2013-2014–FY 2022-2023



* Includes Misclassification, Underreported Wages, and X-Mod evasion.

Data Source: California Department of Insurance, Fraud Division

In addition, the [2023 Annual Report of the Insurance Commissioner](#)¹⁵⁸ notes that the majority of suspected fraudulent claims in calendar year 2023 came from Los Angeles County (1,121, or 39 percent of total cases) followed by Orange County (282, or 10 percent), Riverside (167, or 6 percent), and San Bernardino and San Diego (165, or 6 percent).

Underground Economy

Although most California businesses comply with health, safety, and WC regulations, some do not and operate in the “underground economy.” Such businesses may not have all their employees on the official company payroll or may not report wages paid to employees that reflect their real job duties. Businesses in the underground economy are therefore competing unfairly with those that comply with the laws. The underground economy costs the California state economy an estimated \$8.5 billion to \$10 billion in tax revenues every year.¹⁵⁹

Potential Areas for Improvement in Workers’ Compensation Anti-Fraud Efforts

CHSWC has conducted many studies that focus on improving WC anti-fraud efforts and co-chaired stakeholder meetings on fraudulent activity in the WC system. In September 2016, Governor Brown signed Assembly Bill 1244 and Senate Bill SB 1160 that provide a mechanism for suspending perpetrators of fraud

¹⁵⁸ <http://www.insurance.ca.gov/0400-news/0200-studies-reports/0700-commissioner-report/index.cfm>.

¹⁵⁹ https://www.edd.ca.gov/payroll_taxes/underground_economy_cost.htm.

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from the WC system and for limiting financial recovery related to fraudulent activity. More information on DIR efforts related to AB 1244 and SB 1160 can be found at http://www.dir.ca.gov/fraud_prevention/.

The Administrative Director of DWC is now required to suspend any medical provider, physician, or practitioner from participating in the WC system in any capacity when the individual or entity meets specific criteria as related to fraud. Those criteria include conviction of a felony or misdemeanor: (1) involving fraud or abuse of the Medi-Cal, Medicare, or WC systems; (2) relating to patient care; (3) involving fraud or abuse of any patient; or (4) otherwise substantially related to the qualifications and duties of the provider. The medical provider is also to be suspended when his or her license, certificate, or approval to provide health care has been surrendered or revoked, or when that individual or entity has been suspended from participation in the Medicare or Medicaid programs due to fraud or abuse. A medical provider is now barred from submitting or pursuing claims for payment for services or supplies provided, if that provider has been suspended from participation in the WC system.

In the period 2019-2020, 166 remaining criminally charged individuals had their liens stayed under Labor Code § 4615, representing 633,094 remaining liens stayed. There were 28 lien consolidation orders issued pursuant to LC 139.21(f), among which 17 are still in process and 11 were resolved. Nineteen providers have had 50,144 liens dismissed. The Anti-Fraud Unit (AFU) does not reveal the dollar amounts related to liens and does not break down by year the number of suspensions or criminally charged individuals with liens stayed under Labor Code § 4615. Four hundred and sixty seven providers have been suspended, and 8 providers have been sent a suspension notice with no Order of Suspension issued under Labor Code § 139.21.¹⁶⁰

In the period 2020-2021, 86 remaining criminally charged individuals had their liens stayed under Labor Code § 4615, representing 516,795 remaining liens stayed. There were 45 lien consolidation orders issued pursuant to LC 139.21(f), among which 32 are still in process and 13 were resolved. There have been 60,165 liens dismissed pursuant to LC § 139.21 amounting to \$669,718,116.56 payment. Five hundred and eighty six providers have been suspended under Labor Code § 139.21.

In the period 2021-2022, 74 remaining criminally charged individuals¹⁶¹ had their liens stayed under Labor Code § 4615, representing 534,000 remaining liens stayed with an estimated value of \$4.5 billion. There were 40 lien consolidation orders issued pursuant to LC 139.21(f), among which 19 are still in process and 21 were resolved. There have been 68,000 liens dismissed pursuant to LC § 139.21 amounting to \$773 million payment.¹⁶² One thousand and thirty-one providers (1,031)¹⁶³ have been suspended under Labor Code § 139.21.

In the period 2022-2023, 67 remaining criminally charged individuals¹⁶⁴ had their liens stayed under Labor Code § 4615, representing 458,000 remaining liens stayed with an estimated value of \$3.65 billion. There were 47 lien consolidation orders issued pursuant to LC 139.21(f), among which 17 are still in process and 30 were resolved. There have been 158,000 liens dismissed pursuant to LC § 139.21 amounting to \$1.34 billion payment.¹⁶⁵ One thousand and thirty-one providers (1,468)¹⁶⁶ have been suspended under Labor Code § 139.21.

More information on DIR efforts related to AB 1244 and SB 1160 can be found at: http://www.dir.ca.gov/fraud_prevention/.

¹⁶⁰ Data for 2022-2023 were provided by DIR, Office of the Director Anti-Fraud Unit.

¹⁶¹ https://www.dir.ca.gov/Fraud_Prevention/List-of-Criminally-Charged-Providers.pdf.

¹⁶² <https://www.dir.ca.gov/dwc/SB1160-AB1244/Calendar.htm>

¹⁶³ https://www.dir.ca.gov/Fraud_Prevention/Suspension-List.htm.

¹⁶⁴ https://www.dir.ca.gov/Fraud_Prevention/List-of-Criminally-Charged-Providers.pdf.

¹⁶⁵ <https://www.dir.ca.gov/dwc/SB1160-AB1244/Calendar.htm>

¹⁶⁶ https://www.dir.ca.gov/Fraud_Prevention/Suspension-List.htm.

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WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

OCCUPATIONAL INJURY AND ILLNESS PREVENTION EFFORTS

Workplace health and safety are of primary importance and the shared goal of all Californians. Ongoing cooperative efforts among workers, employers, employer and labor organizations, government agencies, health and safety professionals, independent researchers, and the public have resulted in significant reductions in workplace injuries, illnesses and deaths.

This section discusses the number and incidence rate of occupational injuries and illnesses, injuries and illnesses by occupation and other factors, and the efforts to prevent occupational injuries and illnesses. Also included is an overview of the requirements and methods to record and report occupational injuries and illnesses in the United States and California.

Where data are available, comparisons among private industry and state and local government are also included.

Occupational Injuries, Illnesses, and Fatalities

The estimates of numbers and incidence rates of occupational injuries, illnesses, and fatalities in the private sector (private industry) and the public sector (state and local government) for the past several years are listed and discussed in this subsection.

The estimates of numbers and incidence rates of injuries and illnesses for both the selected industries and case and demographic data are aggregated as follows:

- DAFW: Days away from work (with or without days of job transfer or restriction).
- DJTR: Days of job transfer or restriction (only)
- DART: Cases involving days away from work, job transfer, or restriction. DART is the sum of days away from work and days of job transfer or restriction ($DART = DJTR + DAFW$). Also, the DART cases are defined as “lost-worktime” cases for the purposes of this report.
- In addition to the previous three categories, the estimates of counts and incidence rates of injuries and illnesses for the selected industries has the Total Recordable Cases (TRC) category named sometimes as All Injuries, where $TRC = DJTR + DAFW + \text{Other Recordable cases}$. TRC is not estimated for case and demographic data.

There was an important change in how the case and demographic data are estimated and released by the Bureau of Labor Statistics (BLS) beginning with 2021 non-fatal injury and illness cases. There was no release of case and demographic data for reference year 2021 in the fall of 2022. Instead, BLS published the Survey of Occupational Injuries and Illnesses (SOII) case and demographic data with the biennial (2-year) estimates for combined data from reference years 2021 and 2022 for cases involving days-away-from-work, job transfer, or restriction in the fall of 2023.¹⁶⁷ The next series of the data for the 2023-2024 period will be released in 2025. As a result of these changes, this 2024 report has the latest case and demographic characteristics and related figures for 2021-2022 non-fatal cases in contrast with demographic characteristics for fatal cases in 2022, which are being released annually.

¹⁶⁷ <https://www.bls.gov/iif/notices/2022/data-collection.htm> and <https://www.bls.gov/iif/nonfatal-injuries-and-illnesses-tables.htm#djtr>.

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The purpose of these changes for case and demographic data¹⁶⁸ was to compare the case circumstances and worker characteristics of injuries and illnesses that require days away from work (DAFW) to recuperate and those that lead to days of job transfer or restriction (DJTR) only, without time away from work. The SOII historically included only data on the case circumstances and worker characteristics for DAFW cases; in 2021 the study expanded SOII estimates to include the same detail for DJTR cases in some industries.

According to BLS, DJTR cases have become more prevalent since 1992 when detailed data were first collected only for DAFW cases. In 1992, DJTR cases accounted for 21 percent of total days away from work, days of restricted work activity, or job transfer cases (DART) in private industry. By 2011, DJTR accounted for 41 percent of these cases and, in 2019, 43 percent of private industry cases. Detailed data on DJTR cases leads to a better understanding of how occupational injuries and illnesses are managed and gives a more complete accounting of the types of injuries and illnesses that occur to workers and how they occurred.

Please note that “lost-worktime” occupational injury and illness cases (as described and shown in the figures of this section) are equivalent to cases with DART, involving days away from work, job transfer, or days of restricted work activity.

It should also be noted that the fatality counts do not reflect any COVID-19 work-related illness deaths. The BLS fatality surveillance system does not include the tracking of illness deaths.¹⁶⁹

The National Academy of Social Insurance (NASI) estimated that in 2022¹⁷⁰ 146.3 million workers were covered by workers’ compensation in the U.S., including 17.7 million in California.

Patterns of Claim Counts and Incidence Rates during and after the COVID-19 pandemic, 2019-2023

Figure 113 shows that the number of all recordable cases of non-fatal occupational injuries and illnesses in California’s private industry and state and local government decreased by 7 percent from 483.3 thousand cases in 2019 to 448.3 thousand cases in 2020, while the number of days-away-from-work cases (that caused a worker to miss at least one day of work) increased sharply by 32 percent from 152.3 thousand cases in 2019 to 201.5 thousand cases in 2020, altering the general pattern of changes in total recordable cases (TRC), lost-work-time (DART), and days-away-from-work cases (DAFW). The share of days-away-from-work cases in total recordable cases increased from 31-32 percent in the period from 2013 through 2019 to 44-45 percent in 2020 and 2021, and to 49 percent in 2022 (see Figure 113). When occupational injuries are considered separately from workplace illnesses, this decline in the total number of injury and illness cases in 2020 and 2021 was due to a drop in injuries. The number of non-fatal occupational injuries in all of California’s industries, including state and local government decreased by 26.4 percent from 458.4 thousand cases in 2019 to 337.3 thousand cases in 2020. Private industry employers in California, that account for about 80 percent of all WC claims, reported 269.2 thousand nonfatal workplace injuries in 2020, down from 362.0 thousand in 2019, a decrease of 25.6 percent¹⁷¹. At the same time, the total reported illness cases in private industry increased by almost five-times to 86 thousand cases in 2020, up from 17.9 thousand cases in 2019 (see Figure 111) and the incidence rate of total nonfatal occupational illnesses in the private sector also increased from 15.3 cases per 10,000 full-time workers to 77.4 per 10,000 full-time workers from 2019 to 2020 (see Figure 112). This increase was driven by a more than 4,000 percent increase in employer reported respiratory illness cases in 2020 at 75,800, up from 1,800 in 2019, including a 4,357 percent increase in private industry-reported respiratory illness cases from 1,400 in 2019 to 62,400 in 2020. The incidence rate of respiratory conditions in the private sector also increased from 1.2 cases per 10,000 full-time workers to 56.2 per 10,000 full-time workers from 2019 to 2020. The share of cases

¹⁶⁸ BLS: changes related to the data on Case and Demographic Characteristics, <https://www.bls.gov/iif/nonfatal-injuries-and-illnesses-tables/soii-case-and-demographic-characteristics-historical-data/days-of-job-transfer-or-restriction.htm>.

¹⁶⁹ BLS’s Census of Fatal Occupational Injuries (CFOI) includes deaths from heat illness, fatal overdoses and deaths by suicide and violence in the fatality counts.

¹⁷⁰ 2022 is the latest available year for which these data were published by NASI.

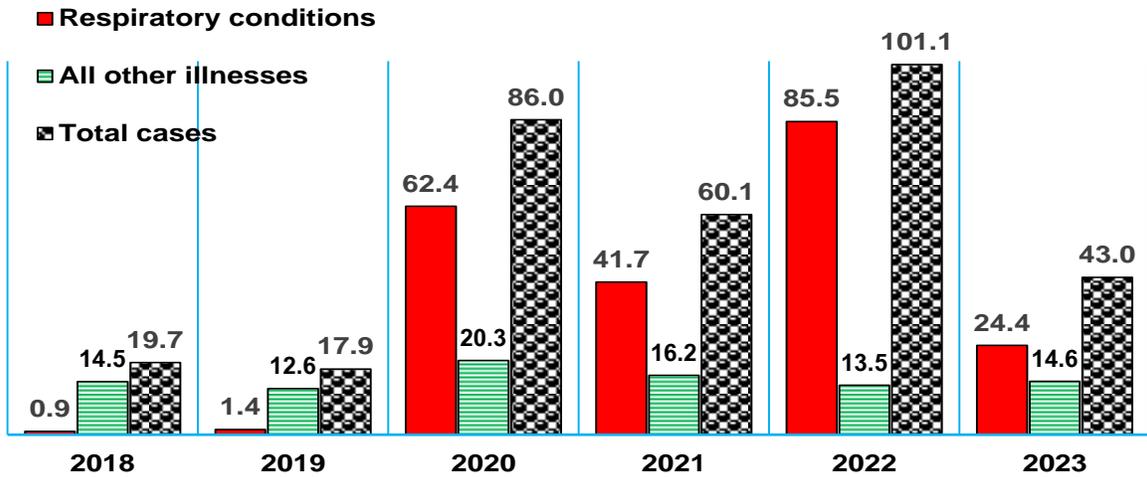
¹⁷¹ <https://www.dir.ca.gov/oprli/Injuries/2020/2020Table4.html> and <https://www.dir.ca.gov/oprli/Injuries/2019/2019Table4.html>.

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categorized as respiratory conditions in total recordable cases (TRC) increased from 0.4 percent in 2019 to 17 percent in 2020. The BLS includes the reported COVID-19 related illnesses in respiratory conditions¹⁷². The same explanation is applicable to the 2019-2022 patterns of all recordable cases and days-away-from-work cases for non-fatal injuries and illnesses in California shown in Figures 113, 115, 117, and 119 for claim counts and Figures 121, 122, and 123 for incidence rates. In 2023, the numbers and proportions between the total recordable cases (TRC), lost-work-time (DART), and days-away-from-work cases (DAFW) started going back to its general pre-pandemic pattern as the number and incidence rate of respiratory conditions decreased significantly from 2022 to 2023.

According to Figure 111, private industry reported 101,100 nonfatal workplace illnesses in 2022, a 68 percent increase from 2021. This growth was driven by more than a doubling in respiratory conditions while all other illnesses decreased by 17 percent from 2021 to 2022. This comes after a 30 percent decrease in total workplace illnesses and a 33 percent decrease in respiratory conditions from 2020 to 2021. In 2023, the number of respiratory conditions were three times less than its number in 2022.

Figure 111: Numbers of Non-Fatal Occupational Illnesses in Private Industry¹⁷³



Note: All Other Illnesses do not include Skin Disorders, Poisoning, and Hearing Loss.

Data Source: OPRL - DIR

Although the incidence rate of non-fatal occupational injuries in all industries and the private sector, increased only slightly from 2021 to 2022¹⁷⁴, Figure 112 shows that the incidence rate of total nonfatal occupational illnesses in all industries, including state and local government also increased from 70.5 cases per 10,000 full-time workers to 121.7 per 10,000 full-time workers from 2021 to 2022. In private industry, the incidence rate of total nonfatal occupational illnesses increased from 54.9 per 10,000 full-time workers to 86.5 per 10,000 full-time workers from 2021 to 2022. These increases were driven by growth in the rate of respiratory conditions in the same period. In 2023, the incidence rate of respiratory illnesses in both state and local government and private industry decreased by almost four times their incidence rates in 2022.

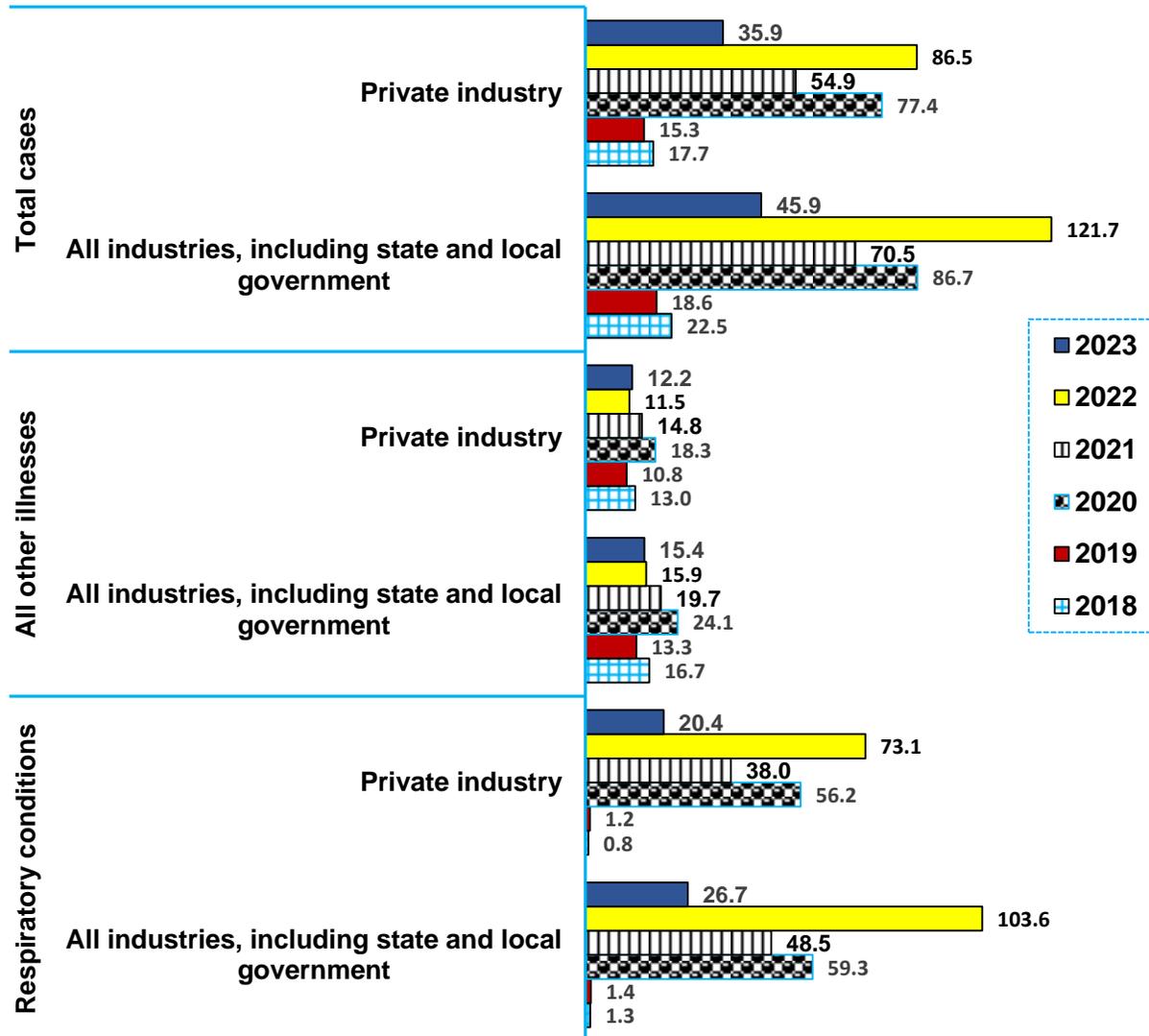
¹⁷² Bureau of Labor Statistics (BLS), "How COVID-19 is reflected in the SOII data", <https://www.bls.gov/iif/factsheets/how-covid-19-is-reflected-in-the-soii-data.htm>.

¹⁷³ Summary Table 5 at <https://www.dir.ca.gov/oprl/nonfatal.htm>,

¹⁷⁴ Summary Table 4 for 2022 and 2023 at <https://www.dir.ca.gov/oprl/nonfatal.htm>.

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Figure 112: Incidence Rates per 10,000 full-time Workers for Non-Fatal Occupational Illnesses in All Industries, Including Private industry and State and Local Governments



Note: All Other Illnesses do not include Skin Disorders, Poisoning, and Hearing.

Data Source: OPRL-DIR

Comparison of the Public and Private Sectors¹⁷⁵

Non-Fatal Occupational Injuries and Illnesses

Figure 113 shows the number of occupational injuries and illnesses in California’s private industry and state and local government. The number of total recordable cases (TRC) for occupational injury and illness in California fluctuated between 460,700 and 470,600 cases from 2013 to 2016, stabilized at around 466,600 cases from 2016 to 2018, and then increased by 4 percent from 2018 to 2019. From 2019 to 2020, the number of TRCs decreased by 7 percent, before growing slightly by 0.5 percent from 2020 to 2021 and

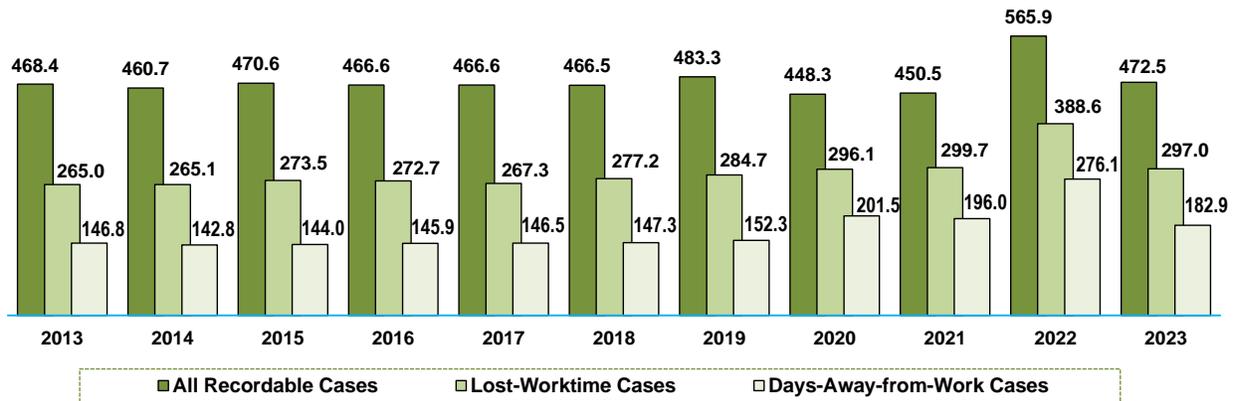
¹⁷⁵ Data in this subsection are not a part of case and demographic cases and available on an annual bases.

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then increasing sharply by 26 percent from 2021 to 2022. There was a 16.5 percent decrease in TRCs from 2022 to 2023.

The number of lost-work-time cases increased by 3 percent from 2013 to 2015, decreased by 2 percent from 2015 to 2017, and then increased by 45 percent from 2017 to 2022, including a 30 percent increase from 2021 to 2022. From 2022 to 2023, the number of lost-work-time cases decreased by 24 percent. The days-away-from-work cases decreased by 3 percent from 2013 to 2014, increased by 7 percent from 2014 to 2019, and then increased sharply by 32 percent from 2019 to 2020. Before increasing sharply by 41 percent from 2021 to 2022, the days-away-from-work cases decreased by 3 percent from 2020 to 2021. From 2022 to 2023, the number of days-away-from-work cases decreased by 34 percent.

Figure 113: California Non-Fatal Occupational Injuries and Illnesses: Private Industry and State and Local Governments (Thousands)

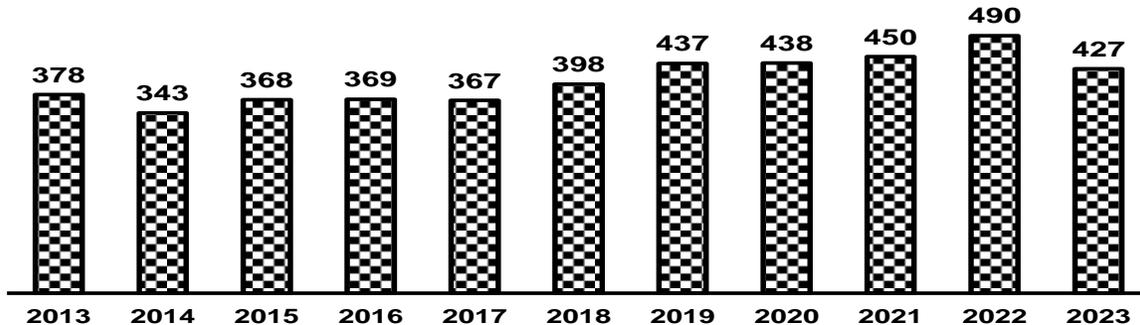


Source: DIR, Office of the Director- Research

Fatal Occupational Injuries

Fatal occupational injuries in all industries in California are shown in Figure 114. The number of fatal occupational injuries in California, excluding the federal government (14 in 2022), decreased by 9 percent from 2013 to 2014, and then after increasing again by 7 percent from 2014 to 2015, it stabilized at an average of 368 fatal injuries per year from 2015 to 2017. From 2017 to 2022, the number of fatal occupational injuries in California increased by 33.5 percent, including a 9 percent increase from 2021 to 2022 and then decreased by 13 percent from 2022 to 2023.

Figure 114: California Fatal Occupational Injuries—Private Industry and State and Local Governments



Data Source: BLS and DIR, Office of the Director-Research

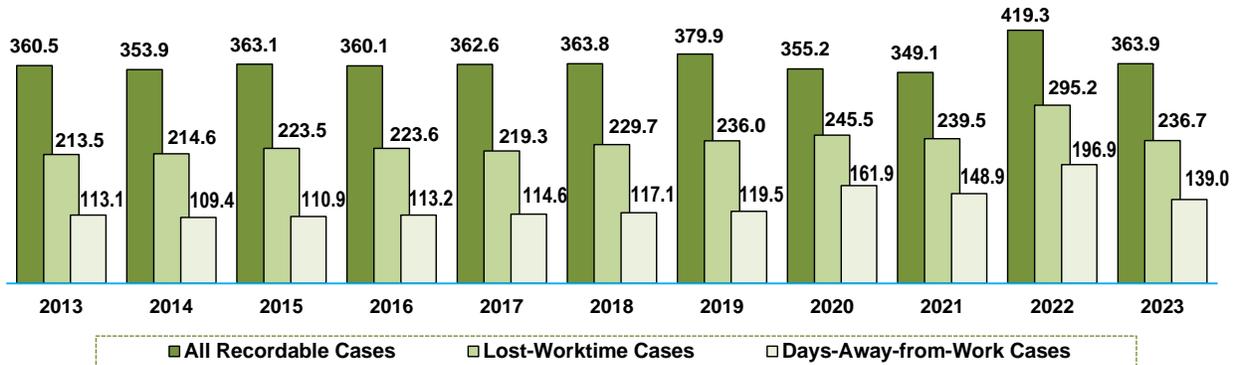
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Private Sector

Non-Fatal Occupational Injuries and Illnesses

The total number of recordable injury and illness cases fluctuated between 353,900 and 363,100 cases between 2013 and 2016 and then increased by 5.5 percent from 2016 to 2019. From 2019 to 2021, the number of TRCs decreased by 8 percent, increased by 20 percent from 2021 to 2022, and then fell by 13 percent from 2022 to 2023. The number of lost-work-time cases increased overall by 15 percent from 2013 to 2020, including a 4 percent increase from 2019 to 2020. From 2020 to 2021, the number of lost-work-time cases decreased by 2.4 percent and then increased by 23 percent from 2021 to 2022, before decreasing by 20 percent from 2022 to 2023 to its 2019 level. The number of days-away-from-work cases averaged 112,000 cases from 2013 to 2017, increased by 41 percent from 2017 to 2020, including 35.5 percent increase from 2019 to 2020 at the start of the COVID-19 pandemic. The number of days-away-from-work cases fluctuated sharply between 2019 and 2023, decreasing by 8 percent from 2020 to 2021, increasing by 32 percent from 2021 to 2022, and decreasing again by 29 percent from 2022 to 2023.

Figure 115: California Non-Fatal Occupational Injuries and Illnesses: Private Industry (Thousands)

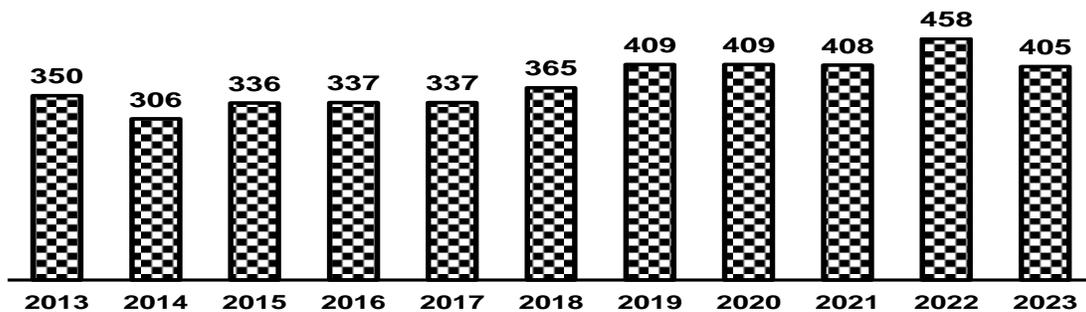


Source: DIR, Office of the Director- Research

Fatal Occupational Injuries

Fatal occupational injuries in California private industry decreased by 13 percent from 2013 to 2014, and then after a 10 percent increase in the number of fatal injuries from 2014 to 2015, it stabilized at an average of 337 fatalities per year from 2015 to 2017. From 2017 to 2019, the number of fatal occupational injuries in private sector increased by 21 percent and stabilized at 408-409 fatalities from 2019 and 2021. From 2021 to 2022, the number of fatal occupational injuries in private industry increased by 12 percent before decreasing by 12 percent from 2022 to 2023.

Figure 116: California Fatal Occupational Injuries—Private Industry



Source: BLS and DIR, Office of the Director-Research

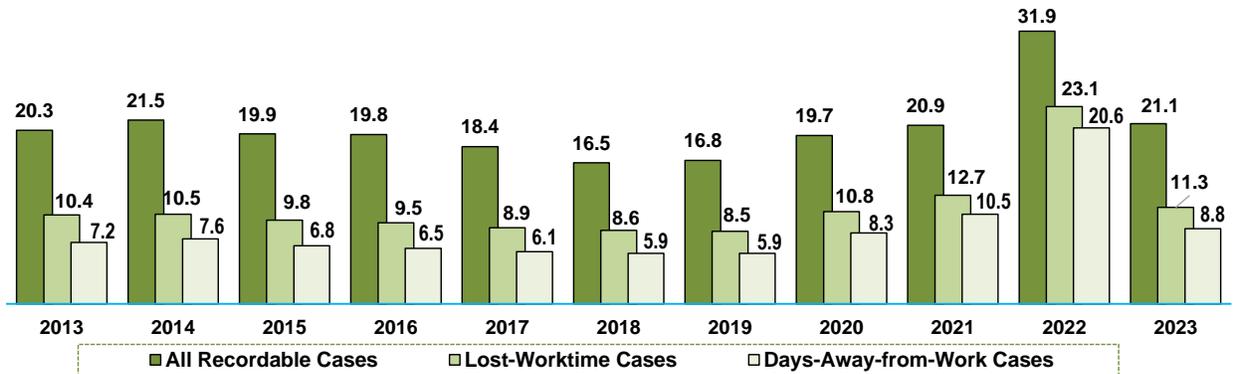
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Public Sector: State Government

Non-Fatal Occupational Injuries and Illnesses

The number of all recordable injury and illness cases in California state government increased by 4 percent from 2013 to 2014, decreased by 23 percent from 2014 to 2018, and increased slightly from 2018 to 2019. From 2019 to 2022, the number of TRCs increased sharply by 90 percent, including a 53 percent increase from 2021 to 2022, before decreasing by 34 percent from 2022 to 2023. It should be noted that many state and local government occupations are high risk, such as law enforcement, firefighting, rescue, and other public safety operations. After 6 years of a steady decline in both the lost-worktime and days-away-from-work cases in the state government, the lost-work-time cases almost tripled from 2019 to 2022, including a growth by 82 percent from 2021 to 2022 and days-away-from-work cases more than tripled from 2019 to 2022, including an increase of 96 percent from 2021 to 2022. Both the lost-work-time and days-away-from-work cases more than halved from 2022 to 2023.

Figure 117: California Non-Fatal Occupational Injuries and Illnesses: State Government (Thousands)

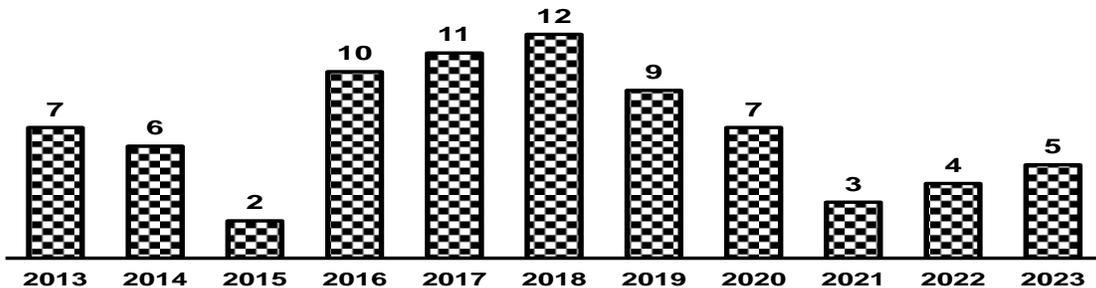


Source: DIR, Office of the Director- Research

Fatal Occupational Injuries

Fatal occupational injuries in California state government decreased from 7 in 2013 to a minimum of 2 fatalities in 2015, increased to an average of 11 fatalities annually from 2016 to 2018, and then decreased from 12 fatalities in 2018 to an average of 4 fatalities per year from 2021 to 2023.

Figure 118: California Fatal Occupational Injuries—State Government



Source: BLS and DIR, Office of the Director-Research

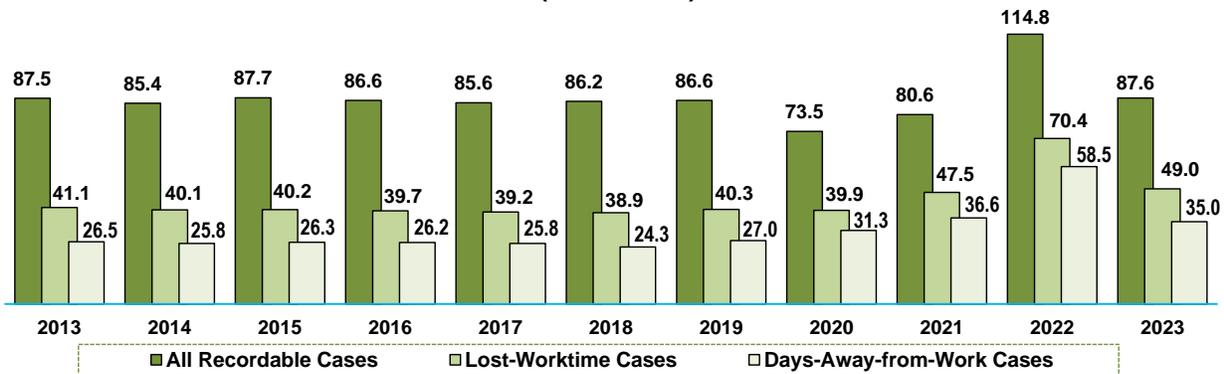
WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Public Sector: Local Government

Non-Fatal Occupational Injuries and Illnesses

The total number of non-fatal occupational injuries and illnesses in local government fluctuated between 85,400 and 87,700 cases between 2013 and 2016 and then averaged 86,300 cases per year from 2016 to 2019. The number of all recordable cases decreased by 15 percent from 2019 to 2020 and then increased by 56 percent from 2020 to 2022, including 42 percent growth from 2021 to 2022. From 2022 to 2023, there was a sharp 24 percent decrease in TRCs. The number of lost-worktime cases in local government averaged 40,000 cases from 2013 to 2020, before increasing 1.5 times from 2020 to 2022, including a 50 percent increase from 2021 to 2022. From 2022 to 2023, the number of lost-worktime cases decreased by 30 percent. The number of cases with days-away-from-work decreased overall by 8 percent from 2013 to 2018, and then increased by 141 percent from 2018 to 2022, including a 60 percent growth from 2021 to 2022. From 2022 to 2023, the number of cases with days-away-from-work decreased by 40 percent.

Figure 119: California Non-Fatal Occupational Injuries and Illnesses: Local Government (Thousands)

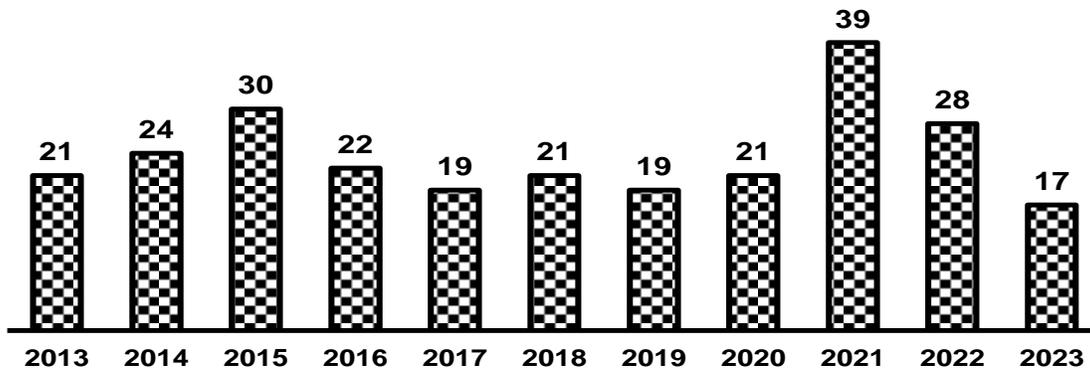


Source: DIR, Office of the Director- Research

Fatal Occupational Injuries

The number of fatal occupational injuries in California's local governments increased by 43 percent between 2013 and 2015, decreased by 27 percent from 2015 to 2016, and then stabilized at an average of 20 fatalities per year from 2016 to 2020. The number of fatalities in the local government almost doubled from 2020 to 2021 before decreasing by more than twice from 2021 to 2023.

Figure 120: California Fatal Occupational Injuries—Local Government



Source: BLS and DIR, Office of the Director-Research

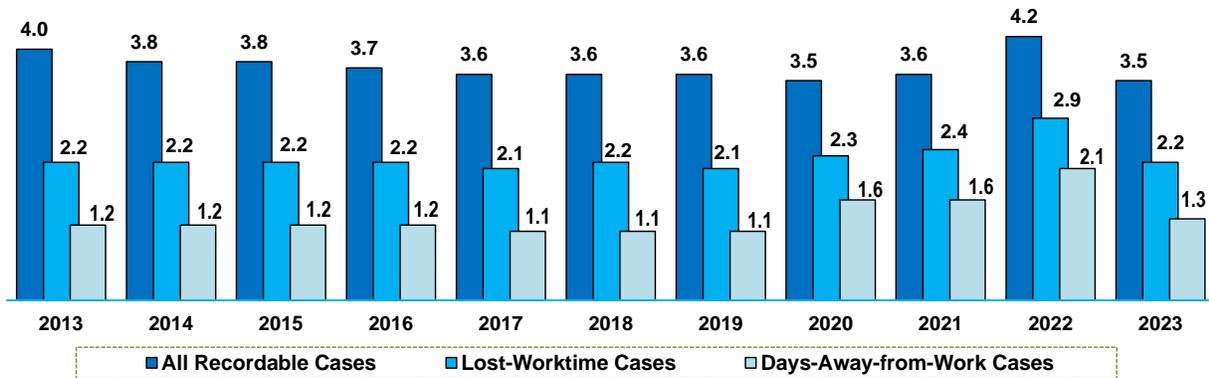
WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Occupational Injury and Illness Incidence Rates¹⁷⁶

Comparison of Public and Private Sectors

The incidence rates for all cases in California declined from 2013 to 2017 and stabilized at 3.6 per 100 FTE workers from 2017 through 2021 with a slight decrease to 3.5 per 100 FTE workers in 2020. There was a 17 percent increase in the incidence rates for all cases from 2021 to 2022, before decreasing to its 2020 level of 3.5 cases per 100 FTE workers. The incidence rates for lost-work-time cases remained prevailingly at 2.2 cases per 100 FTE from 2013 to 2019, decreasing to a rate of 2.1 in 2017 and 2019. The incidence rates for lost-work-time cases increased by 9.5 percent from 2019 to 2020 and then continued to increase by 26 percent from 2020 to 2022, before going back to its rate of 2.2 cases per 100 FTE in 2023. The incidence rate for days-away-from-work cases stabilized at 1.2 per 100 FTE from 2013 to 2016, decreased to 1.1 from 2016 to 2017, and remained at that level from 2017 to 2019. From 2019 to 2020, the incidence rate for days-away-from-work cases increased by 45 percent from 1.1 per 100 FTE in 2019 to 1.6 per 100 FTE in 2020, did not change from 2020 to 2021, and then increased by 31 percent from 2021 to 2022. The incidence rate for days-away-from-work cases went back close to its prevailing rate of 1.1 to 1.2 cases per 100 FTE in previous years in 2023 (1.3 per FTE).

Figure 121: California Occupational Injury and Illness Incidence Rates: Private, State and Local Government (Cases per 100 Full-Time Employees)



Source: DIR, Office of the Director- Research

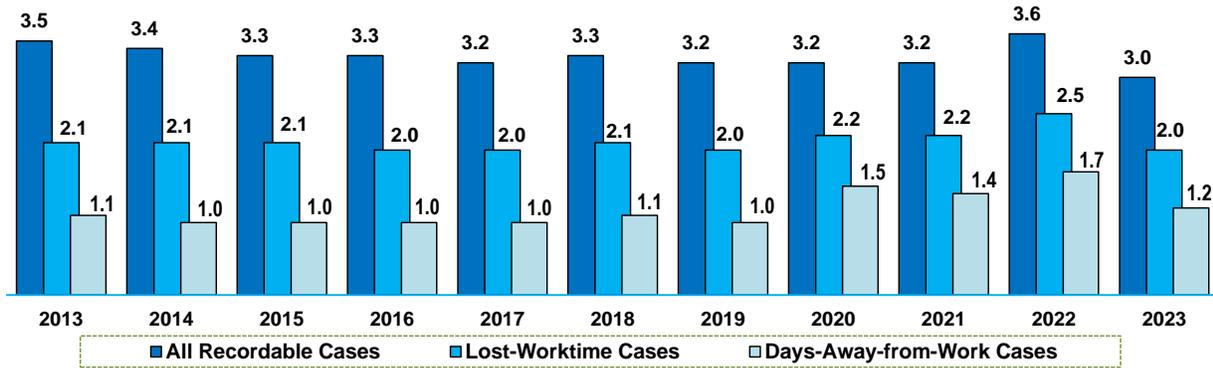
Private Sector

According to Figure 122, the incidence rate for all cases in private industry declined from 2013 to 2015, stabilized at 3.2 or 3.3 cases per 100 FTE from 2015 to 2021, and then increased by 12.5 percent from 2021 to 2022 to its peak of 3.6 cases per 100 FTE, before falling by 17 percent to its minimum of 3.0 cases per 100 FTE. After stabilizing at 2.0 or 2.1 cases per 100 FTE from 2013 to 2019, the incidence rate for lost-work-time cases increased to 2.2 cases per 100 FTE in 2020 and 2021, and then increased again by 79 percent from 2021 to 2022. From 2022 to 2023, the incidence rate for lost-work-time cases went back to its 2016 and 2017 level. After stabilizing at 1.0 or 1.1 cases per 100 FTE from 2013 to 2019, the incidence rates for days-away-from-work cases increased by 50 percent to 1.5 cases per 100 FTE from 2019 to 2020, decreased slightly to 1.4 cases per 100 FTE in 2021, and then increased by 21 percent from 2021 to 2022. From 2022 to 2023, the incidence rates for days-away-from-work cases decreased by 29 percent.

¹⁷⁶ Data in this subsection are not a part of case and demographic cases and available on an annual bases.

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**Figure 122: California Occupational Injury and Illness Incidence Rates: Private Industry
(Cases per 100 Full-Time Employees)**

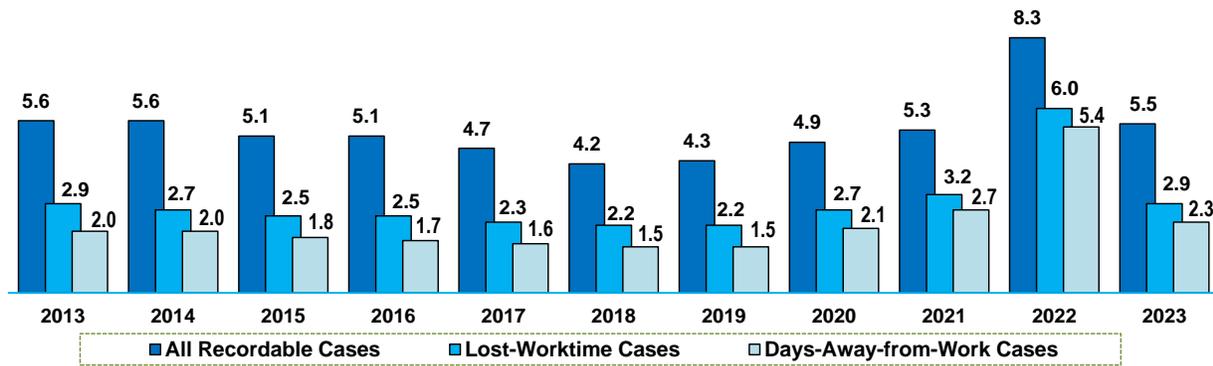


Source: DIR, Office of the Director- Research

Public Sector: State Government

California state government occupational injury and illness incidence rates for all cases decreased by 25 percent from 2013 to 2018, doubled from 2018 to 2022, including an increase by 14 percent from 2019 to 2020 and by 57 percent from 2021 to 2022. From 2022 to 2023, the incidence rate for all cases decreased by 34 percent to its 2013 level. The incidence rate for lost-time cases decreased by 24 percent between 2013 and 2019 and then increased by 23 percent from 2019 to 2020 and by 122 percent from 2020 to 2022. From 2022 to 2023, the incidence rate for lost-time cases more than halved. The incidence rate for days-away-from-work cases decreased by 25 percent from 2013 to 2019 and then increased by 40 percent from 2019 to 2020 and by 157 percent from 2020 to 2022. From 2022 to 2023, the incidence rate for days-away-from-work cases also more than halved.

**Figure 123: California Occupational Injury and Illness Incidence Rates: State Government
(Cases per 100 Full-Time Employees)**



Source: DIR, Office of the Director- Research

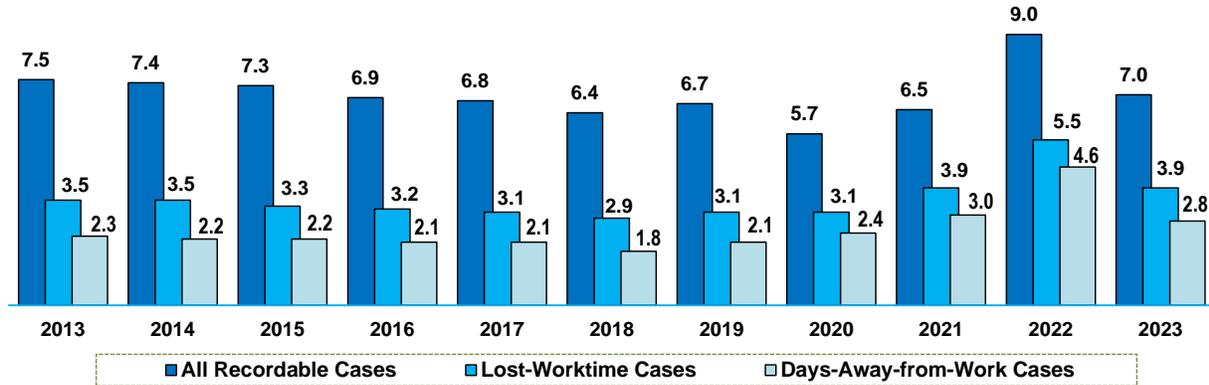
Public Sector: Local Government

Local government occupational injury and illness incidence rates for all cases averaged 7.4 cases per 100 FTE from 2013 to 2015, decreased by 12 percent from 2015 to 2018, and then increased by 5 percent from 2018 to 2019. The incidence rates for all cases decreased by 15 percent from 2019 to 2020, went back to its pre-pandemic level in 2021 and then increased by 38.5 percent from 2021 to 2022, before falling by 22 percent from 2022 to 2023. The incidence rate for lost-time cases decreased from 3.5 to 2.9 cases per 100 full-time employees from 2013 to 2018, went up to 3.1 in 2019 and 2020 and then increased sharply by 26 percent from 2020 to 2021, and again by 41 percent from 2021 to 2022, before decreasing by 29 percent from 2022 to 2023. The incidence rate for days-away-from-work cases decreased by 22 percent from 2013 to 2018 and then increased by 156 percent from 2018 to 2022. That 156 percent increase in incidence rate

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for days-away-from-work cases included 14 percent growth from 2019 to 2020 and an increase by 53 percent from 2021 to 2022. From 2022 to 2023, the incidence rate for days-away-from-work cases decreased by 39 percent.

Figure 124: California Occupational Injury and Illness Incidence Rates: Local Government (Cases per 100 Full-Time Employees)

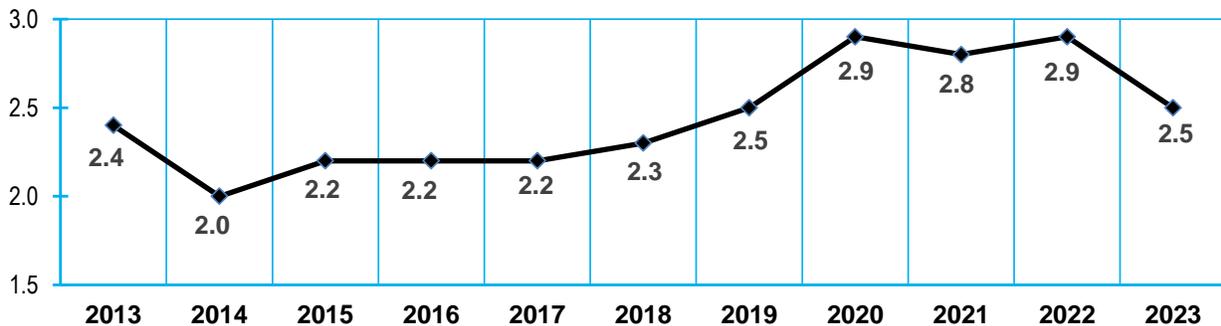


Source: DIR, Office of the Director- Research

California Fatality Incidence Rates

Fatality per employment rates can be used to compare the risk of incurring injury among worker groups with varying employment levels. The fatality rates in California decreased from 2.4 per 100,000 FTE workers in 2013 to a minimum of 2.0 fatalities in 2014. The rate did not change in three consecutive years after increasing to 2.2 fatalities per 100,000 FTE workers in 2015. The fatality rates in California increased by 32 percent from 2.2 in 2017 to 2.9 fatalities per 100,000 FTE workers in 2020, including a 16 percent increase from 2019 to 2020. From 2020 to 2022, the fatality rates stabilized at 2.8-2.9 per 100,000 FTE workers, before decreasing by 14 percent from 2022 to 2023.

Figure 125: California Fatal Occupational Injuries*—Incidence Rate (per 100,000 employed)**



* California Fatal Occupational Injuries: 1) don't include the illness deaths except for deaths from heat illness, fatal overdoses and deaths by suicide and violence; 2) exclude military personnel and workers under age 16 and include all self-employed, family business, and wage and salary workers.

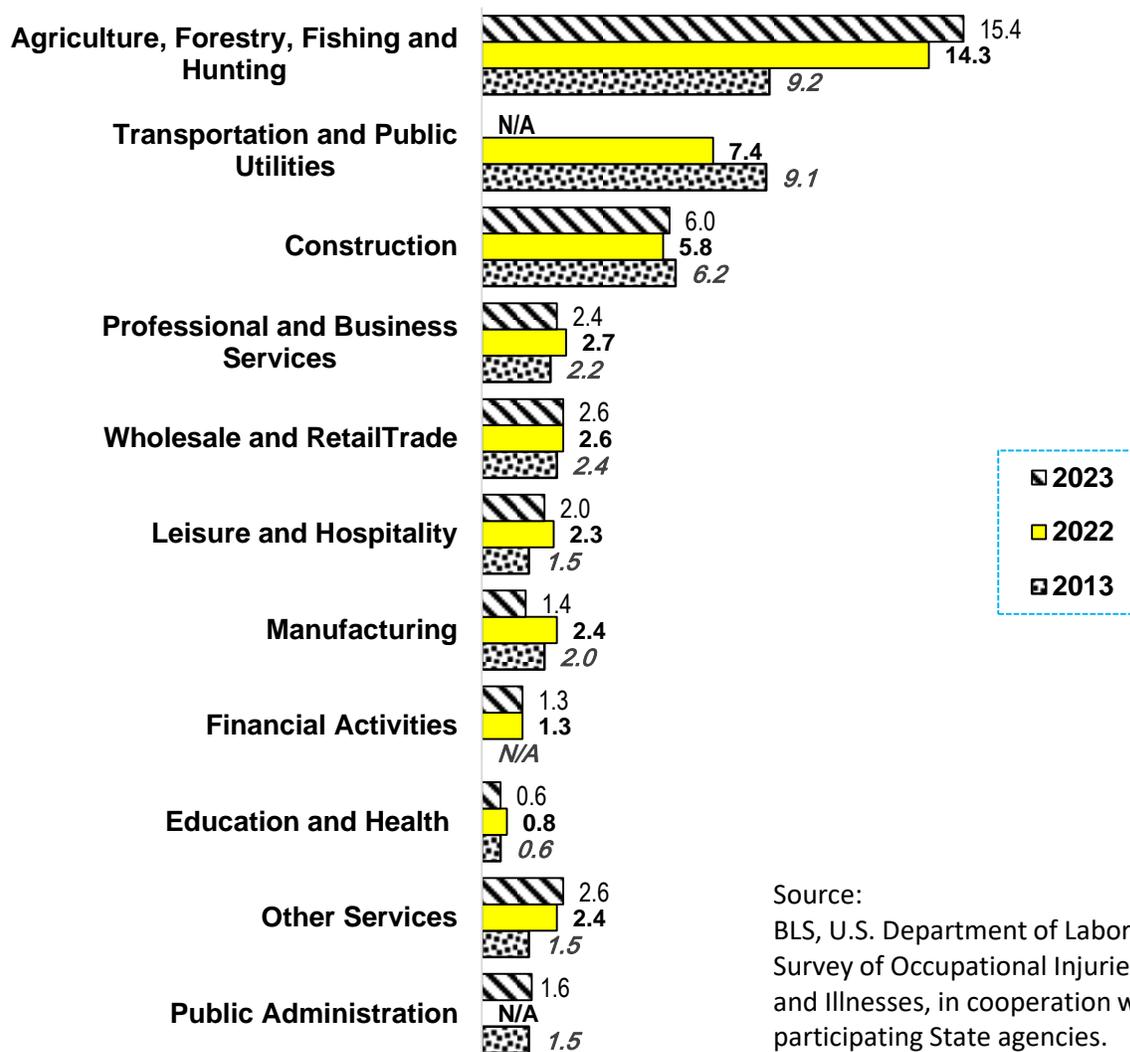
** Incidence Rates for Fatal Occupational Injuries computed using estimates of civilian workers (age 16 and older) from the Current Population Survey (CPS) and are expressed as the number of fatalities per 100,000 employed.

Data Source: U.S. Department of Labor, BLS, in cooperation with State and Federal agencies, Census of Fatal Occupational Injuries.

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Figure 126 shows the fatality incidence rates by major industries in 2013, 2022, and 2023. For the three years depicted in the figure, agriculture, forestry, fishing, and hunting, transportation and public utilities, and construction were the top three industries with highest fatality rates in California. While not completely comparable because of differences in industrial mix, despite the fact that agriculture, forestry, fishing, and hunting and construction industries had the highest fatality rates in California, they had lower rates in comparison to their national levels. For example in 2023, agriculture, forestry, fishing, and hunting, and construction had California and national fatality incidence rates of 15.4 and 6.0 and 20.3 and 9.6 per 100,000 FTE respectively.¹⁷⁷ The industries with the greatest decrease in fatality rates between 2022 and 2023 were manufacturing (-42 percent), education and health (-25 percent), and leisure and hospitality (-13 percent).

Figure 126: California Fatality Rates by Industries (per 100,000 employed), 2013, 2022, and 2023*



Source:
BLS, U.S. Department of Labor,
Survey of Occupational Injuries
and Illnesses, in cooperation with
participating State agencies.

* Note: The source is released annually and doesn't have separate or specific incidence rates for healthcare-related industries.

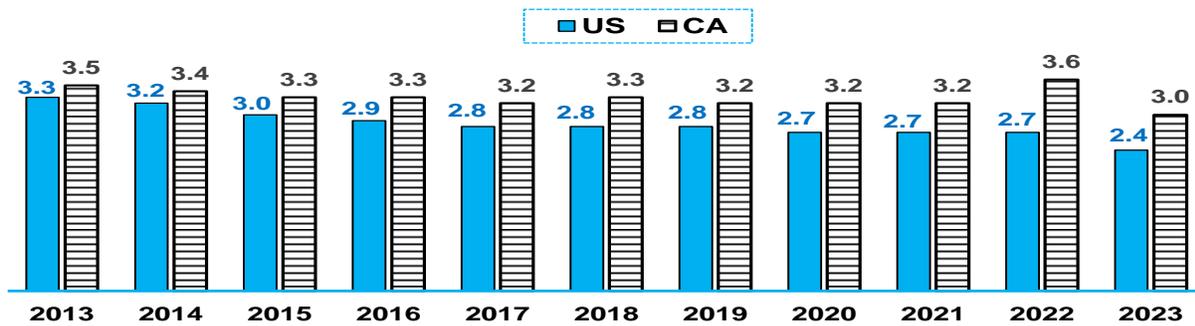
¹⁷⁷ The U.S. data in the same group of industries compared to the California rate has "Transportation and Warehousing" in 2023 instead of "Transportation and Public Utilities", <https://www.bls.gov/charts/census-of-fatal-occupational-injuries/number-and-rate-of-fatal-work-injuries-by-industry.htm>.

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Comparison of Incidence Rates in the United States and California

Both the U.S. and California experienced a decrease in occupational injury and illness incidence rates of total recordable cases (TRC) in private industry from 2013 through 2017. From 2017 to 2019, the U.S. incidence rate did not change, but the incidence rate in California increased slightly in 2018 before going back to the 2017 level. The U.S. incidence rates dropped by about 18 percent from 2013 to 2017, remained at 2017 level until 2019, and then decreased slightly to 2.7 cases per 100 full-time workers from 2019 to 2020, with no changes from 2020 to 2022. In 2023, the U.S. incidence rate of TRC in private industry was 2.4 cases per 100 FTE workers, a decrease of 11 percent from its 2022 level. This was the lowest TRC rate since 2003. The California incidence rates decreased by about 9 percent from 2013 to 2015, stabilized at 3.2-3.3 cases per 100 full-time workers from 2015 to 2021, and then increased by 12.5 percent from 2021 to 2022. The incidence rate of TRC in private industry decreased by 17 percent from its peak of 3.6 cases per 100 FTE workers in 2022 to its lowest level of 3.0 in 2023, both since 2013 levels. From 2013 to 2021, the incidence rate in California has been 0.2-0.5 points above the national average with slower decreasing trend during that period. When compared to the national incidence rate, the incidence rate in California has been 0.9 points or 33 percent above the national average in 2022 and 25 percent above the U.S. average in 2023.

Figure 127: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry, Total Recordable Cases. U.S. and California



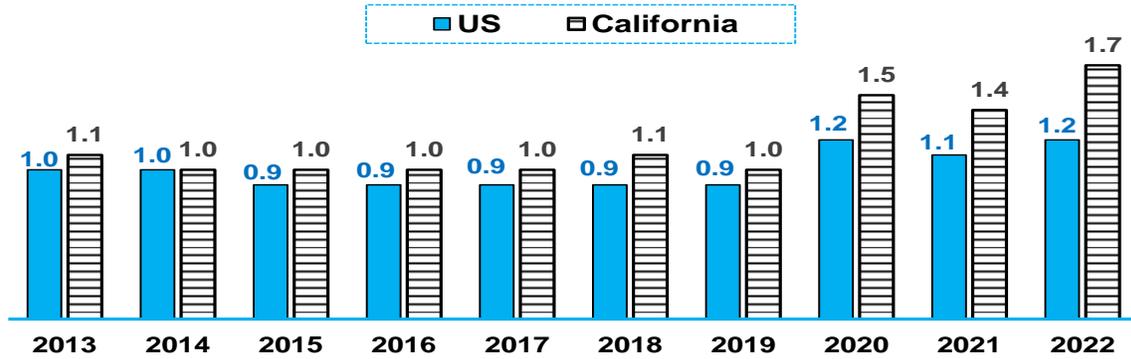
Data Source: DIR, Office of the Director - Research

In the U.S., the incidence rate of occupational injury and illness days-away-from-work (DAFW) cases in private sector stabilized at 0.9-1.0 cases per 100 full-time workers from 2013 to 2019, and then increased to 1.2 cases per 100 full-time workers from 2019 to 2020. From 2020 to 2022, the incidence rate of days-away-from-work cases in the U.S. changed slightly between 1.1 and 1.2 cases per 100 full-time workers. The rate of DAFW cases in the U.S. went back to its pre-pandemic rate of 0.9 per 100 FTE workers in 2023, a decrease of 25 percent from its 2022 level.

In California, after stabilizing at 1.0 -1.1 cases per 100 full-time workers from 2013 to 2019, the incidence rate increased from 1.0 in 2019 to 1.5 in 2020, the surge explained by growth of illnesses during the COVID-19 pandemic rather than workplace injuries. The incidence rate of days-away-from-work cases in California declined slightly from 2020 to 2021, increased by 21 percent from 1.4 cases per 100 full-time workers in 2021 to 1.7 in 2022, and then decreased by 29 percent from 2022 to 1.2 cases per 100 full-time workers in 2023, that was close to its pre-pandemic level.

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Figure 128: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry Cases with Days Away from Work. U.S. and California



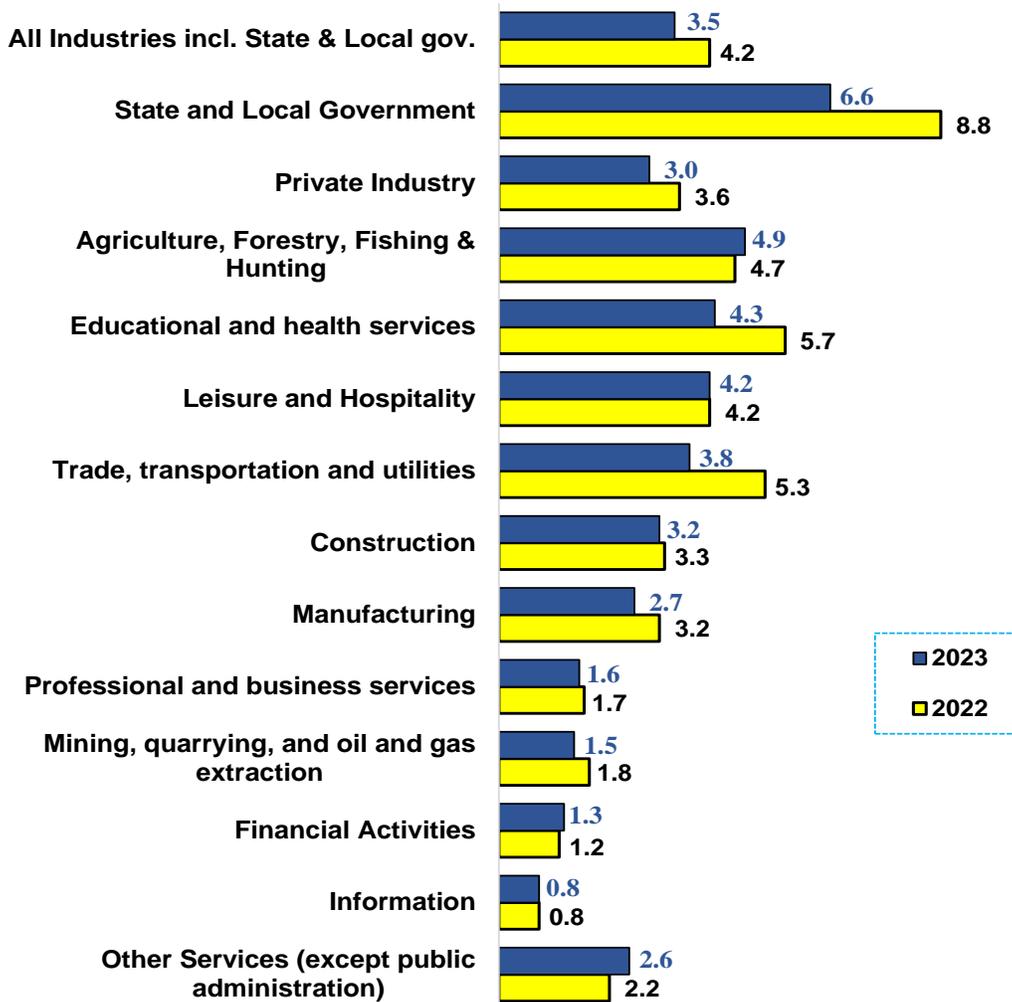
Data Source: DIR, Office of the Director - Research

Characteristics of California Occupational Injuries and Illnesses

Figure 129 compares incidence rates for total recordable cases (TRC) in 2022 and 2023 by major industries in private sector, state and local governments, and all industries, including the state and local government. The overall California occupational injury and illness incidence rates for all industries, including state and local government decreased by 17 percent from 2022 to 2023. In the same period the occupational injury and illness incidence rates for the state and local government decreased by 25 percent. And while the private industry, as a total, showed a 17 percent decrease in the incidence rate from 2022 to 2023, the incidence rates in its 6 out of 11 major industries also decreased, in 3 industries increased, and in 2 industries left at the same level. During this period, the biggest decrease in incidence rates was in trade transportation and utilities (-28 percent), educational and health services (-25 percent), and mining, quarrying, and oil and gas extraction (-17 percent), followed by manufacturing (-16 percent), professional and business services (-6 percent) and construction (-3 percent). From 2022 to 2023, the increase in incidence rates was in other services (except public administration) (18 percent), financial activities (8 percent), and agriculture, forestry, fishing and hunting (4 percent). Information and leisure and hospitality experienced no change in incidence rates for total recordable cases (TRC) from 2022 to 2023.

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Figure 129: Incidence rates of nonfatal occupational injuries and illnesses per 100 FTE workers by major industries, Private Sector and State and Local Government, 2022 and 2023 (Total Recordable Cases)

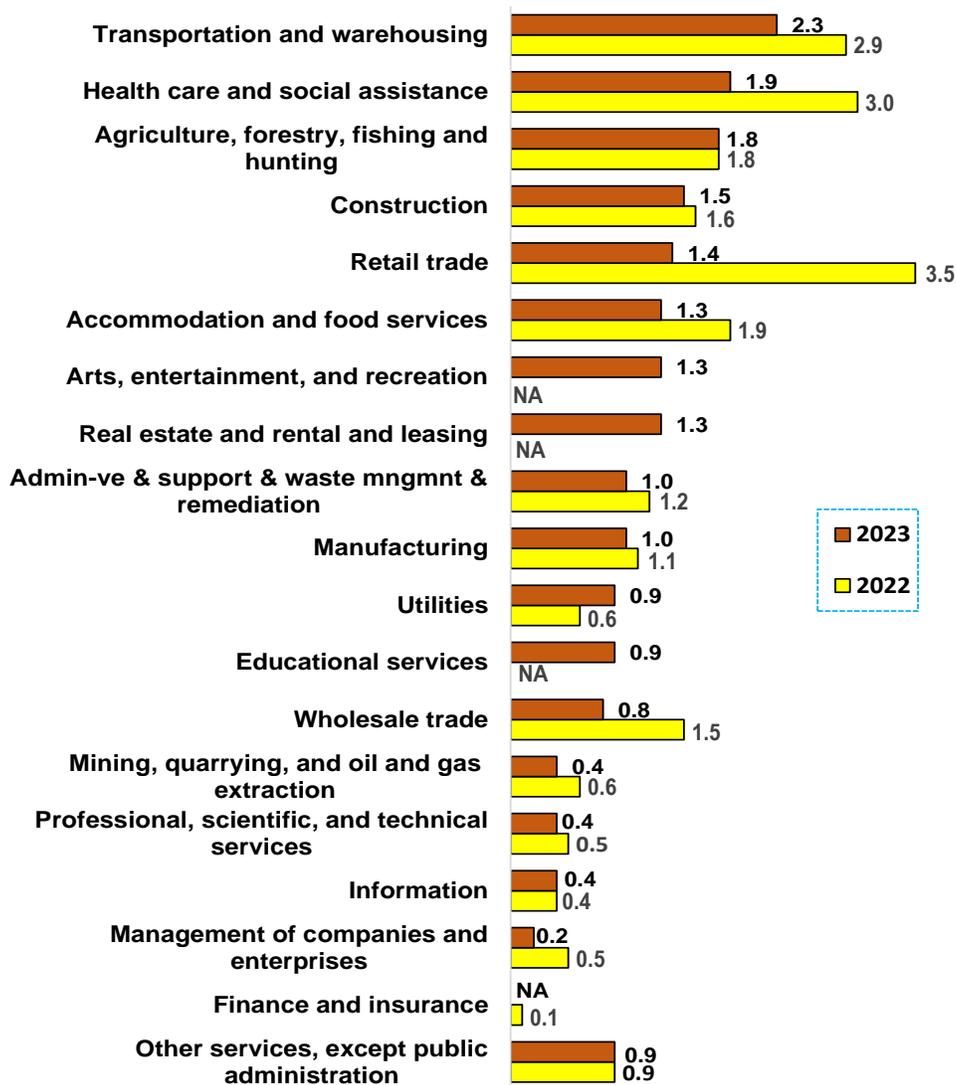


Data Source: DIR, Office of the Director- Research

Figure 130 compares non-fatal occupational incidence rates for days away from work (DAFW) cases in 2022 and 2023 in private sector. In 2023, the top three industries by incidence rates were transportation and warehousing, health care and social assistance, and agriculture, forestry, fishing and hunting. The top three industries by incidence rates in 2022 were retail trade, health care and social assistance, and transportation and warehousing. From 2022 to 2023, only one industry with data available for both years, experienced an increase in non-fatal occupational incidence rates for days away from work (DAFW) cases. In that period, the incidence rates for DAFW cases in utilities increased by 50 percent. The biggest decreases in incidence rates for DAFW cases from 2022 to 2023 were in retail trade (-60 percent), management of companies and enterprises (-60 percent), wholesale trade (-47 percent), followed by healthcare and social assistance (-37 percent), mining, quarrying, and oil and gas extraction (-33 percent), and accommodation and food services (-32 percent). Three industries that experienced no change in incidence rates for DAFW cases from 2022 to 2023 were agriculture, forestry, fishing and hunting, information, and other services except public administration.

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Figure 130: Incidence rates of nonfatal occupational injuries and illnesses per 100 FTE workers by selected industries, Private Sector (Cases with days away from work), 2022 and 2023

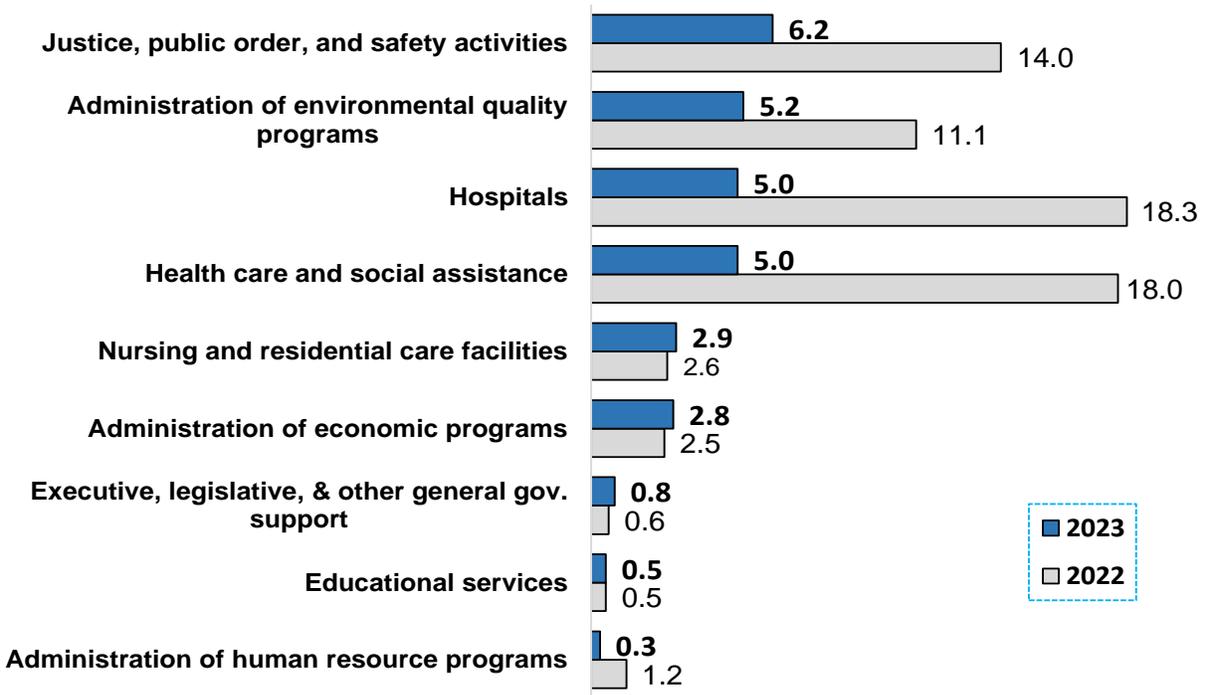


Data Source: DIR, Office of the Director-Research

Figure 131 compares non-fatal occupational incidence rates for days away from work cases in 2022 and 2023 in the state government. The industries with the greatest decrease in incidence rates for DAFW cases from 2022 to 2023 were administration of human resource programs (-75 percent), hospitals (-73 percent), health care and social assistance (-72 percent), justice, public order, and safety activities (-56 percent), and administration of environmental quality programs (-53 percent). Executive, legislative, and other general governmental support (+33 percent), administration of economic programs (+12 percent), and nursing and residential care facilities (+12 percent) showed increases in incidence rates for DAFW cases from 2022 to 2023. Educational services experienced no change in incidence rates for DAFW cases from 2022 to 2023.

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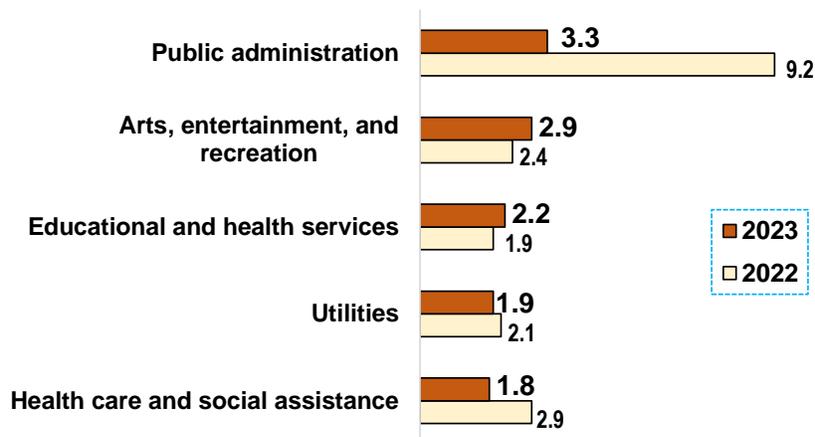
Figure 131: Incidence rates of nonfatal occupational injuries and illnesses per 100 FTE workers by selected industries, State Government (Cases with days away from work), 2022 and 2023



Data Source: DIR, Office of the Director-Research

Figure 132 compares non-fatal occupational incidence rates for days away from work (DAFW) cases in 2022 and 2023 in the local government. From 2022 to 2023, the public administration experienced the biggest decrease (-64 percent) in non-fatal occupational incidence rates for DAFW cases followed by health care and social assistance (-38 percent), and utilities (-10 percent). The arts, entertainment, and recreation industry (+21 percent) and educational and health services (+16 percent) experienced increases in non-fatal occupational incidence rates for DAFW cases from 2022 to 2023.

Figure 132: Incidence rates of nonfatal occupational injuries and illnesses per 100 FTE workers by selected industries, Local Government (Cases with days away from work), 2022 and 2023



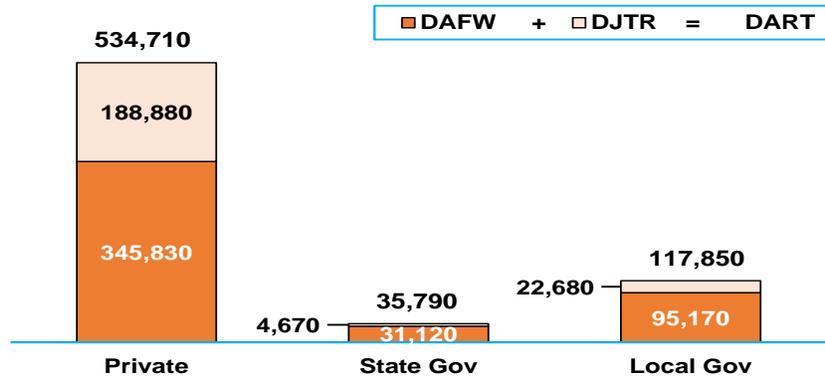
Data Source: DIR, Office of the Director-Research

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Characteristics of California Non-Fatal Occupational Injuries and Illnesses¹⁷⁸

Figure 133 shows the number of non-fatal occupational injuries and illnesses involving days away from work (DAFW) and job transfer or restriction cases (DJTR) cases in Private Industry, State, and Local Government in 2021-2022.

Figure 133: Number of Non-Fatal Occupational Injuries and Illnesses involving DAFW and DJTR in Private Industry and State and Local Governments, 2021-2022



Data Source: DIR, Office of the Director - Research

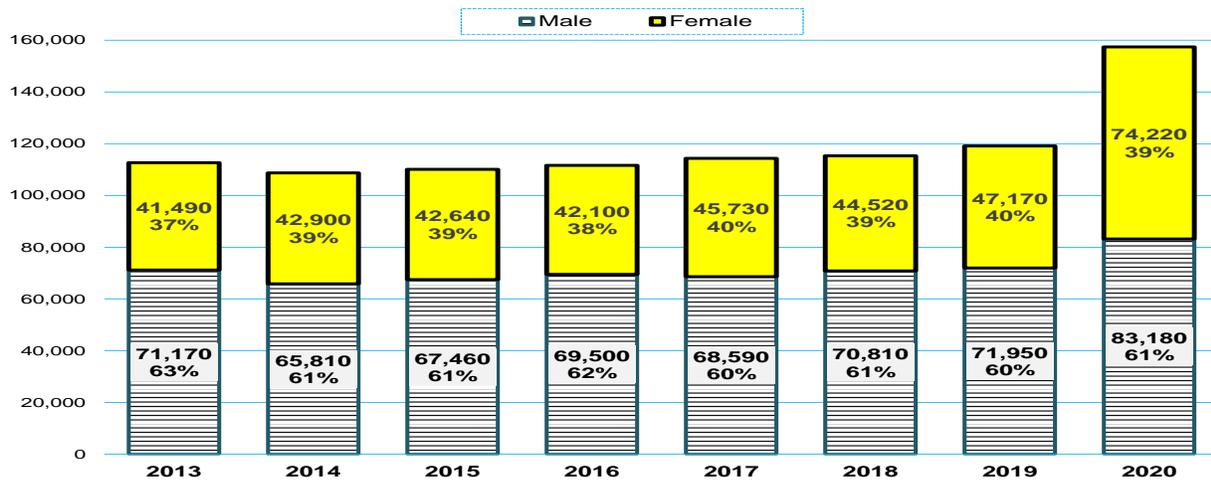
Figures 134-141 illustrate various demographic characteristics of non-fatal occupational injuries and illnesses in private industry in California.

According to Figure 134 based on annual estimates performed prior to biennial changes starting with 2021, the largest increase for females (57 percent) and males (16 percent) in the number of non-fatal occupational injuries and illnesses from 2013 through 2020 was between 2019 and 2020 at the start of the COVID-19 pandemic. As Figure 135 shows, in 2021-2022 biennial estimates, the share of males in DAFW cases was 53.2 percent and the share of females was 43.7 percent. For DJTR cases in 2021-2022, that constituted 35 percent of DART cases, the share of males was 56.7 percent and the share of females – 41.5 percent.

¹⁷⁸ Please note that the demographical, occupational, and injury characteristics with their related figures for non-fatal cases in this subsection are biennial estimates starting from 2021-2022 data as indicated on pages 181-182 and are not comparable with previous years' estimates. After skipping 2024, the next BLS report will be released in 2025.

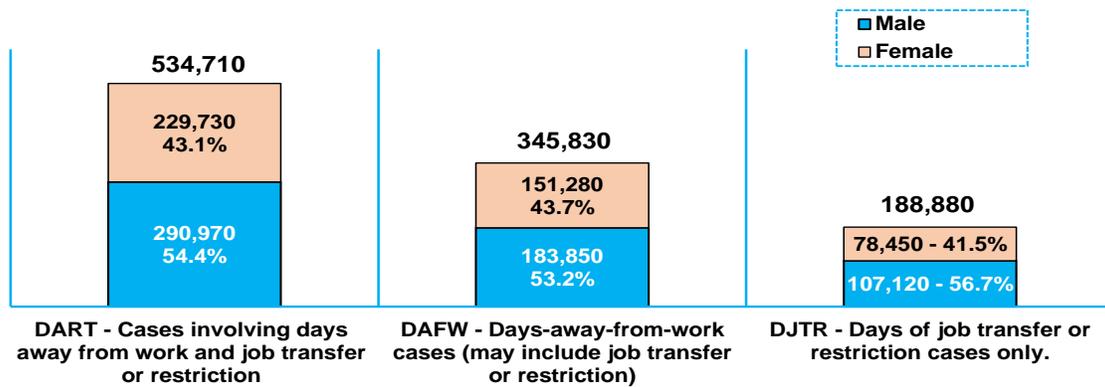
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Figure 134: Number of Non-Fatal Occupational Injuries and Illnesses involving days away from work cases by Gender, Private Industry, 2013-2020



Source: DIR, Office of the Director-Research

Figure 135: Number and Distribution of Non-Fatal Occupational Injuries and Illnesses involving DAFW and DJTR cases by Gender, Private Industry, 2021-2022



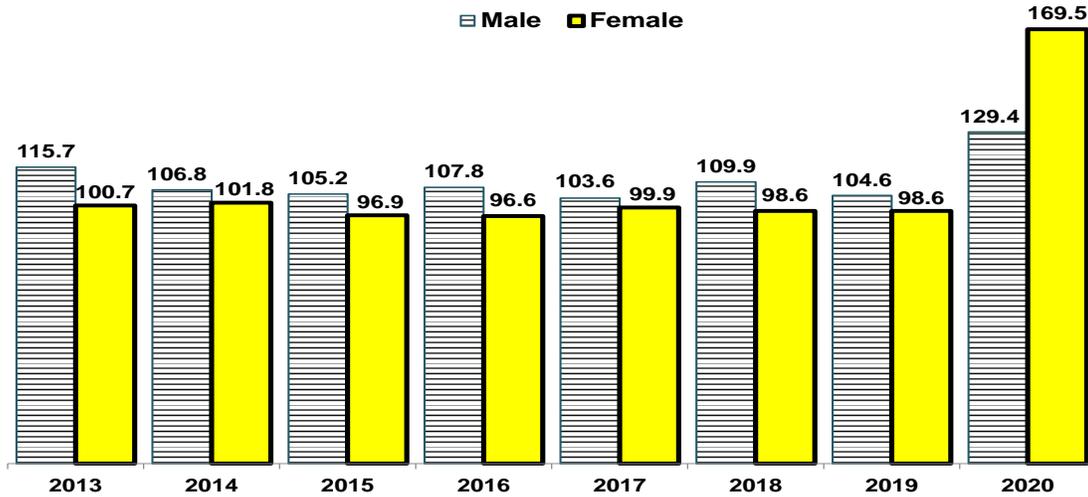
Note: Because of rounding and data exclusion of nonclassifiable responses, data may not sum to the totals.

Data Source: DIR, Office of the Director - Research

Figure 136 show the historical incidence rates of non-fatal occupational injuries and illnesses per 10,000 full-time employees by gender from 2013 through 2020, before the introduction of biennial estimates starting with 2021 data.

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Figure 136: Non-Fatal Occupational Injuries and Illnesses Incidence Rates by Gender, Private Industry, 2013-2020 (Days Away from Work Cases per 10,000 full-time employees)

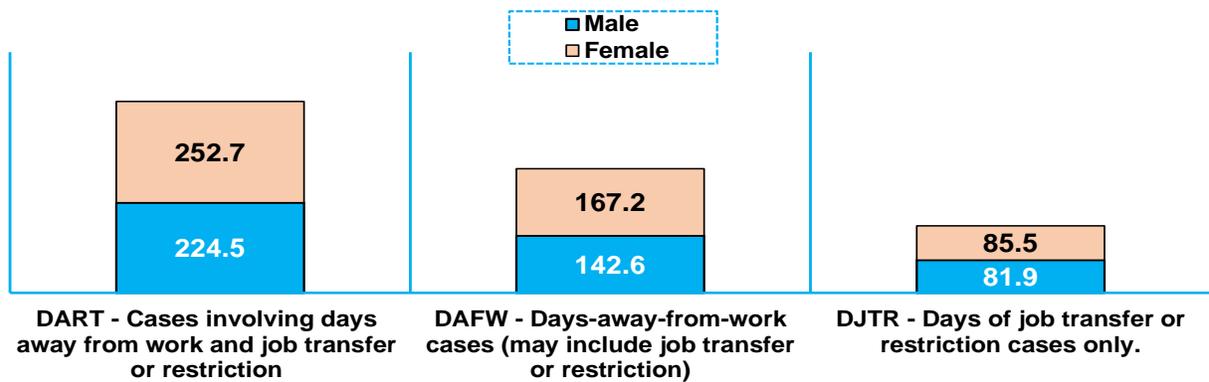


* With days away from work with or without job transfer or restriction.

Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies.

Figure 137 shows the non-fatal occupational injuries and illnesses incidence rates per 10,000 full-time employees by gender for DART, DAFW, and DJTR cases in 2021-2022.

Figure 137: Non-Fatal Occupational Injuries and Illnesses Incidence Rates per 10,000 full-time employees by Gender, Private Industry, 2021-2022

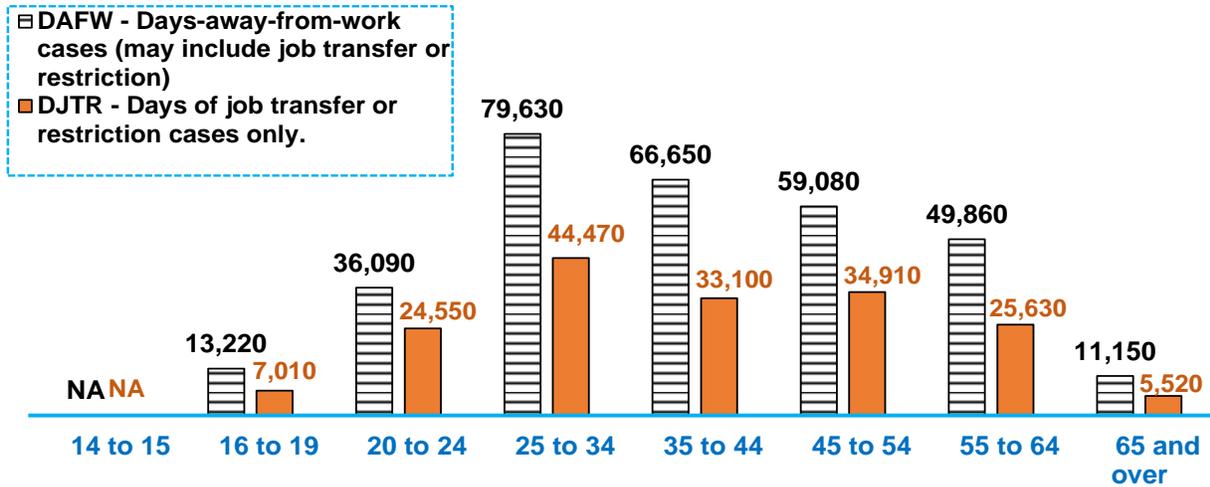


Data Source: DIR, Office of the Director - Research

Figures 138 and 141 demonstrate the numbers and incidence rates for non-fatal occupational injuries and illnesses per 10,000 full-time employees by age groups for DAFW and DJTR cases in 2021-2022.

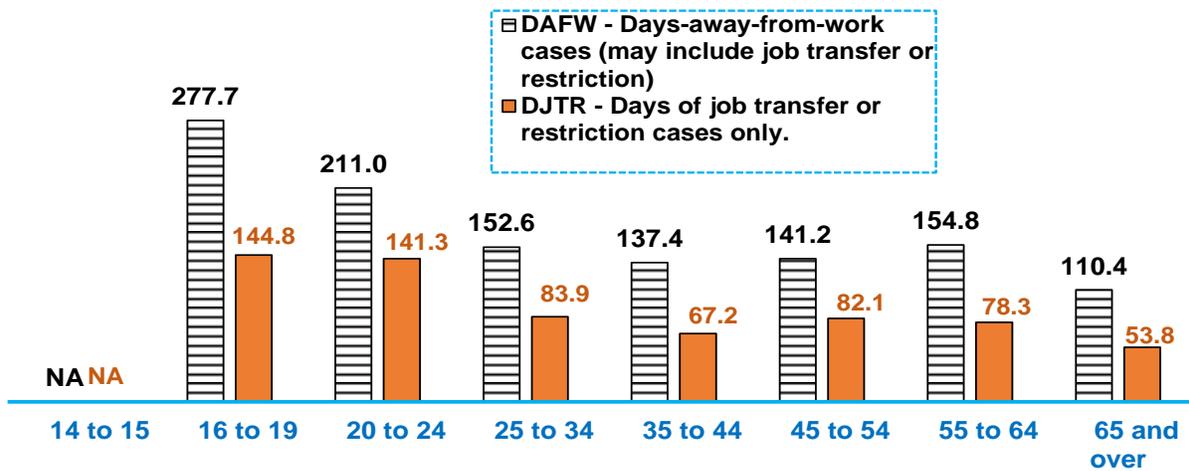
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Figure 138: Number of Non-Fatal Occupational Injuries and Illnesses with DAFW and DJTR by Age, Private Industry, 2021-2022



Data Source: DIR, Office of the Director - Research

Figure 139: Occupational Injury and Illness Incidence Rates per 10,000 Full-Time Workers by Age, Private Industry (with DAFW and DJTR)

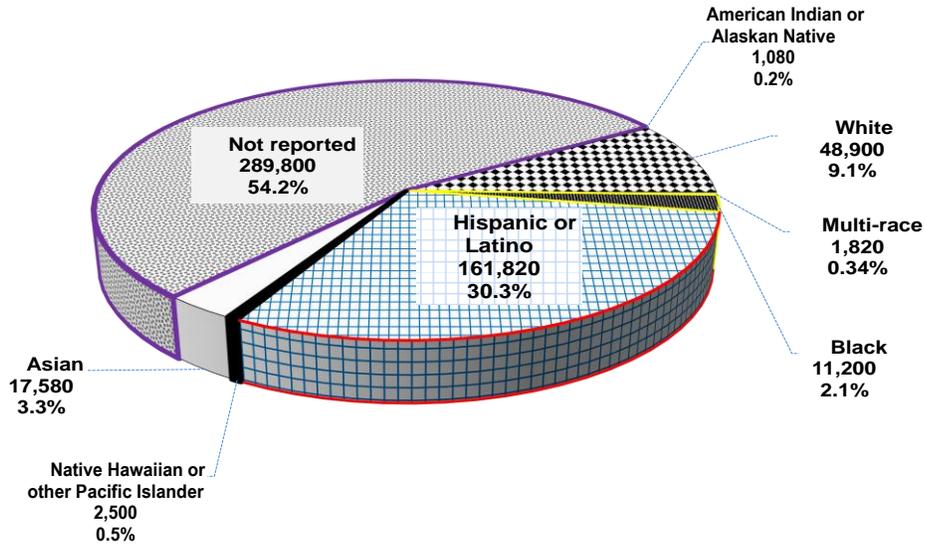


Data Source: DIR, Office of the Director - Research

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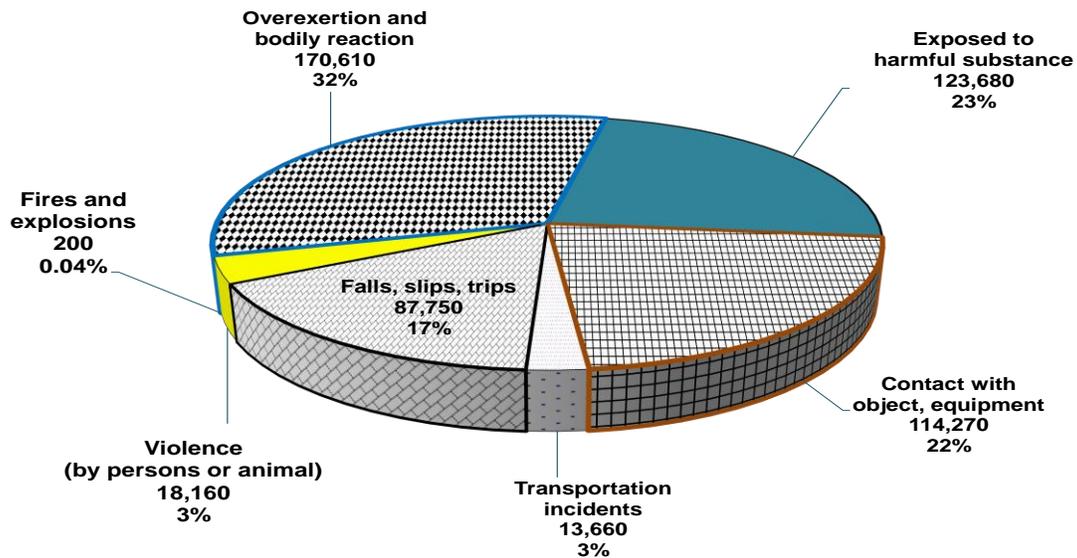
Figures 140 and 141 demonstrate the numbers and distribution of non-fatal occupational injuries and illnesses by race or ethnic origin and by event and exposure for DART cases in 2021-2022.

Figure 140: California Non-Fatal Occupational Injuries and Illnesses by Race or Ethnic Origin, Private Industry (Total DART=534,710), 2021-2022



Data Source: DIR, Office of the Director-Research

Figure 141: California Non-Fatal Occupational Injuries and Illnesses by Event and Exposure, Private Industry (Total DART=528,330), 2021-2022

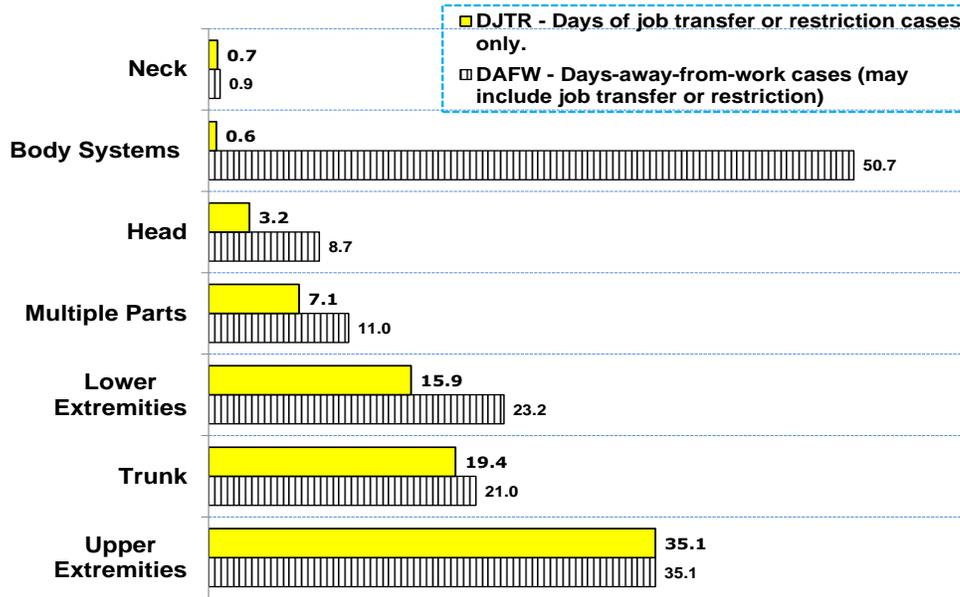


Data Source: DIR, Office of the Director-Research

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Figure 142 shows that the upper extremities, lower extremities, and trunk were the major body parts with the highest incidence rates in 2021-2022. DWC and WCAB forms¹⁷⁹ were changed to identify injuries related to COVID-19 by using body part code “900”¹⁸⁰, and likely where this choice was not included in a form, body systems was used instead to report the illness.

Figure 142: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Parts, Private Industry, 2021-2022 (per 10,000 Full-Time Workers)



Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

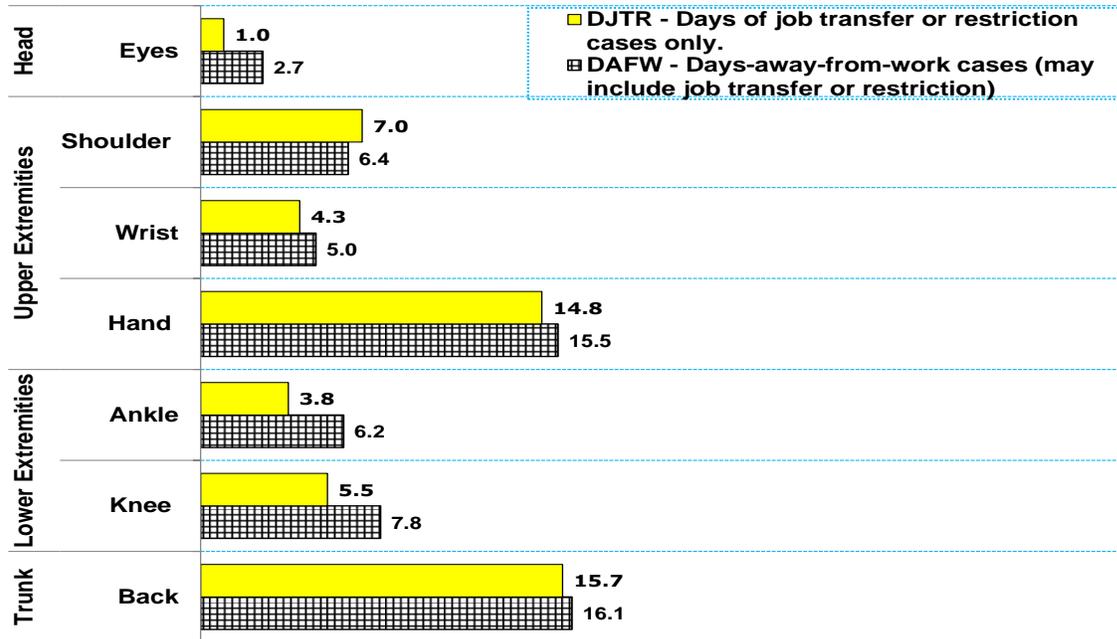
¹⁷⁹ DWC, WCAB Update Forms to Identify Injuries Related to COVID-19, <https://www.dir.ca.gov/DIRNews/2020/2020-44.html>.

¹⁸⁰ EAMS Body Part Codes List, https://www.dir.ca.gov/dwc/EAMS/EAMS_BodyPartsCodeList.pdf.

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Figure 143 shows that the back was the body part with the highest incidence rate in 2021-2022.

Figure 143: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Selected Elements of Major Body Parts, Private Industry, 2021-2022 (per 10,000 FTE Workers)

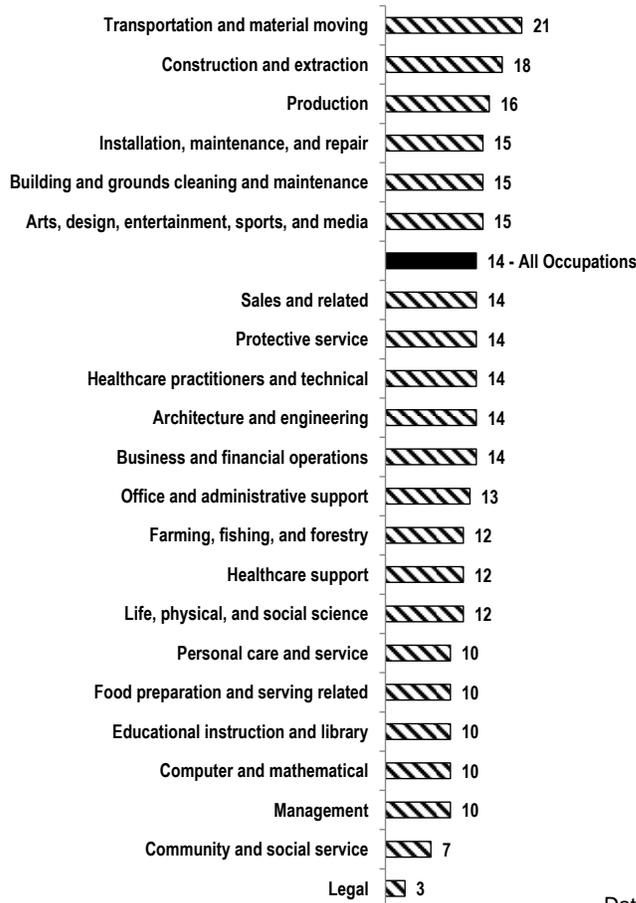


Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

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Figures 144 to 146 compare the median days away from work for cases involving days away from work, job transfer, or restriction (DART) in private industry, state government, and local government occupations. Transportation and material moving, construction and extraction, and production occupations in private industry had the greatest median days away from work in 2021-2022.

Figure 144: Median Days Away from Work: Non-Fatal Injuries and Illnesses by Major Occupational Group, Private Industry, 2021-2022

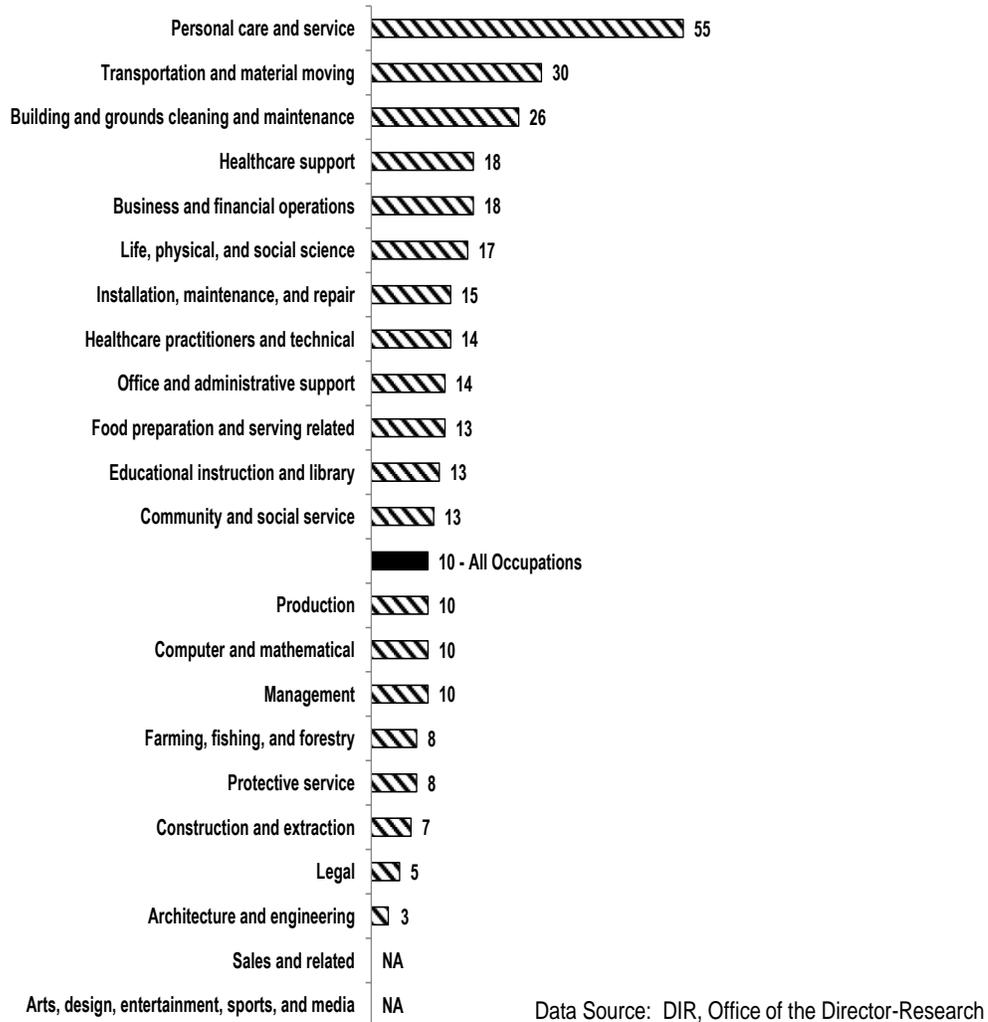


Data Source: DIR, Office of the Director-Research

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Figure 145 shows the median days away from work for cases involving days away from work, job transfer, or restriction (DART) in state government occupations for 2021-2022.

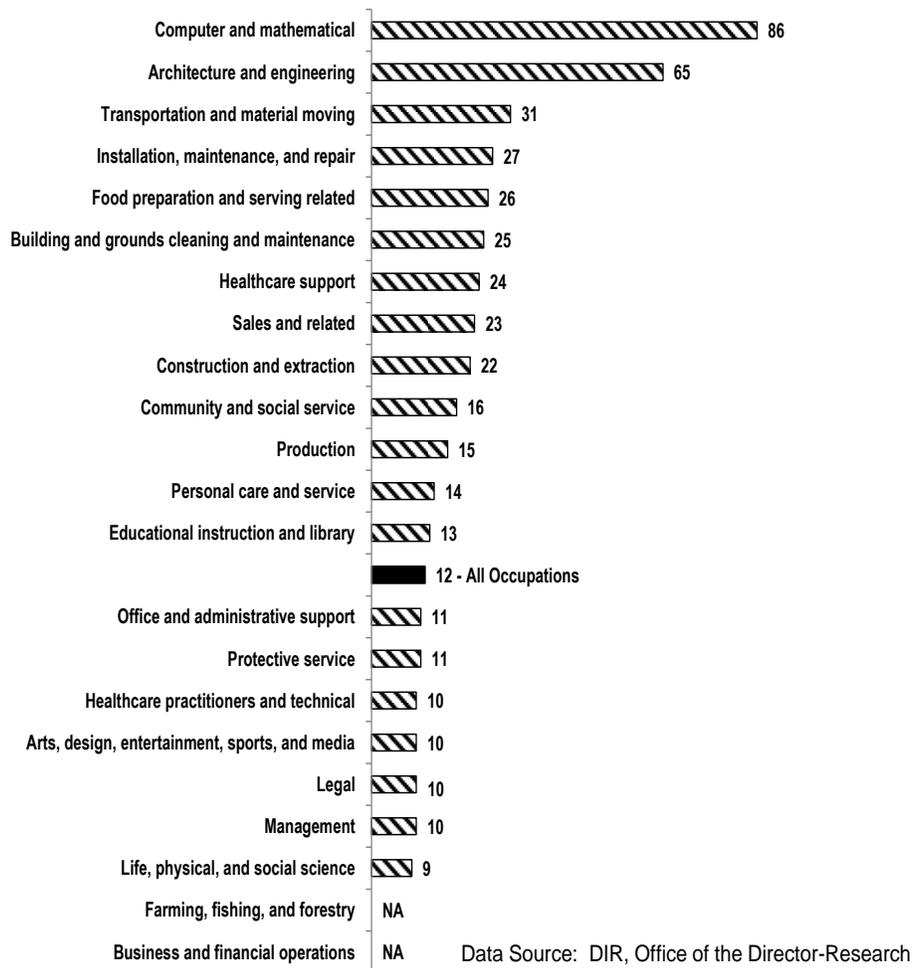
Figure 145: Median Days Away from Work: Non-Fatal Injuries and Illnesses by Major Occupational Group, State Government, 2021-2022



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Figure 146 shows the median days away from work for cases involving days away from work, job transfer, or restriction (DART) in local government occupations for 2021-2022.

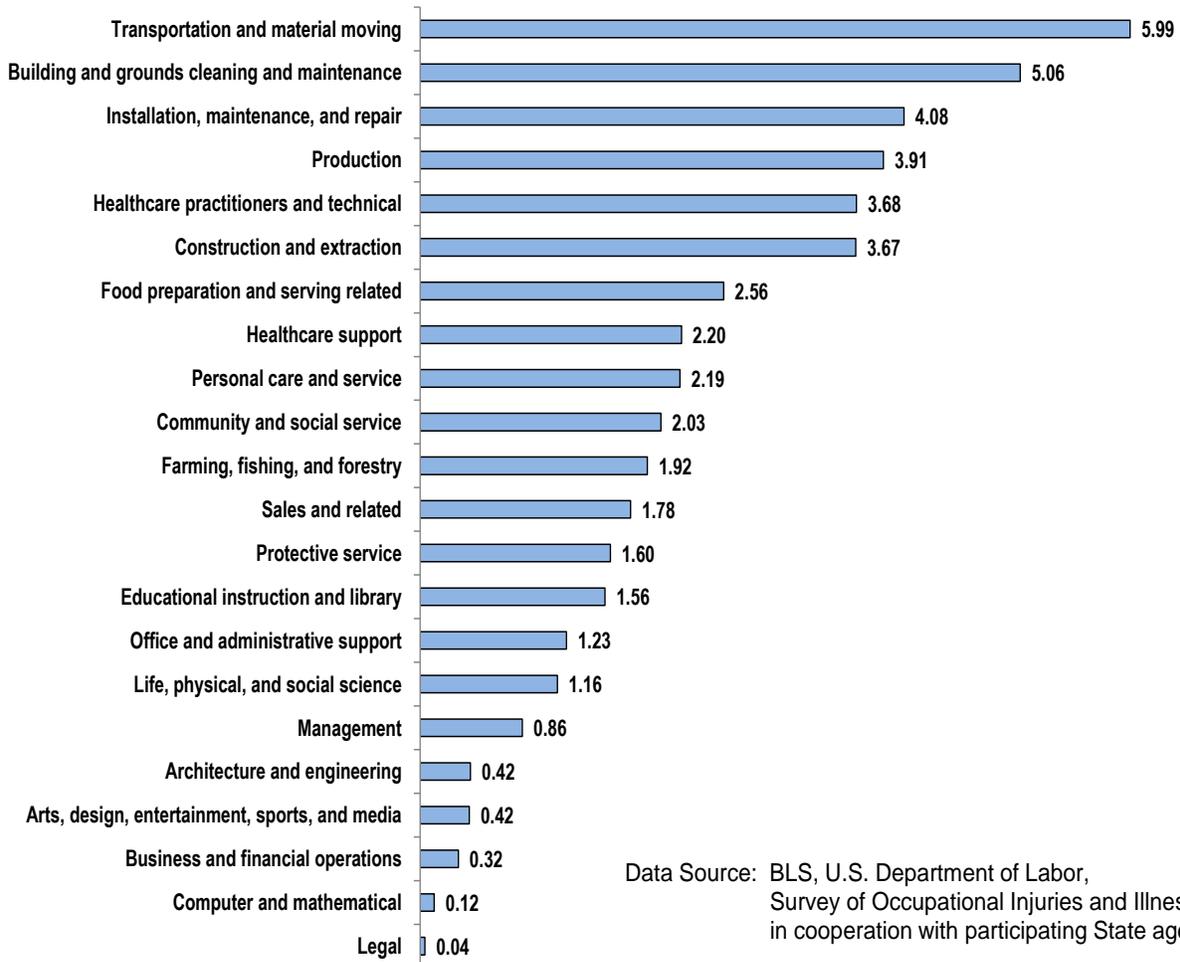
Figure 146: Median Days Away from Work: Non-Fatal Injuries and Illnesses by Major Occupational Group, Local Government, 2021-2022



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Figures 147 and 148 compare the injury and illness incidence rates for cases involving days away from work, job transfer, or restriction (DART) in private industry for major occupations. The healthcare practitioners and technical occupations had the highest incidence rate in 2021-2022, followed by building and grounds cleaning and maintenance occupations and healthcare support.

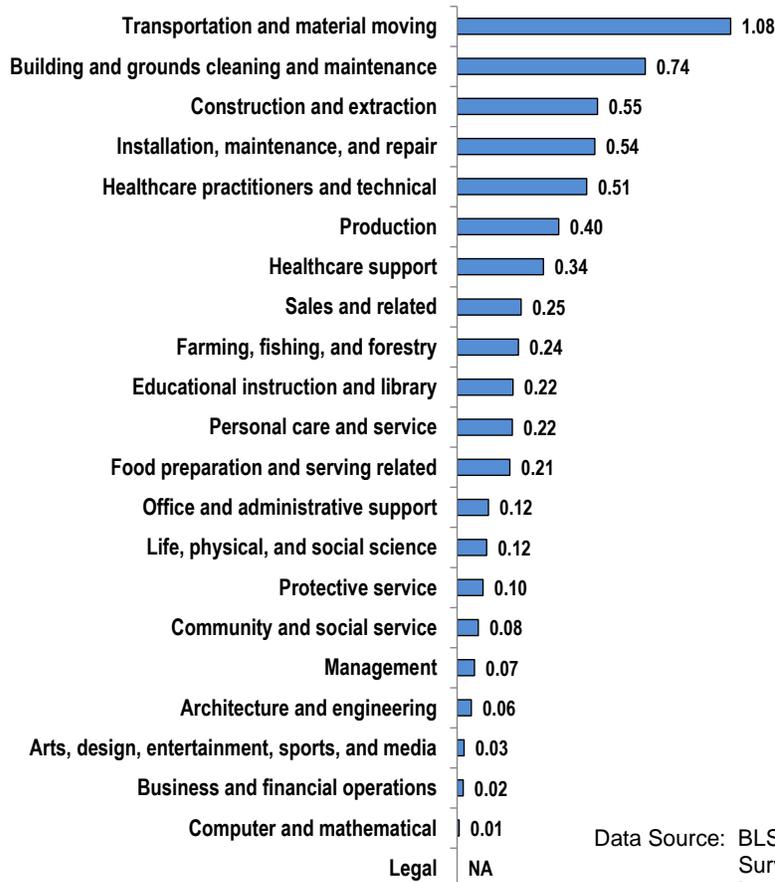
Figure 147: Non-Fatal Injury and Illness Incidence Rates per 100 Full-Time Workers by Major Occupational Group, Private Industry, 2021-2022



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Figure 148 compares the back injury incidence rates for non-fatal cases involving days away from work, job transfer, or restriction (DART) for major occupations in private industry for 2021-2022.

Figure 148: Back Injury Non-Fatal Incidence Rates per 100 Full-Time Workers by Major Occupational Group, Private Sector, 2021-2022



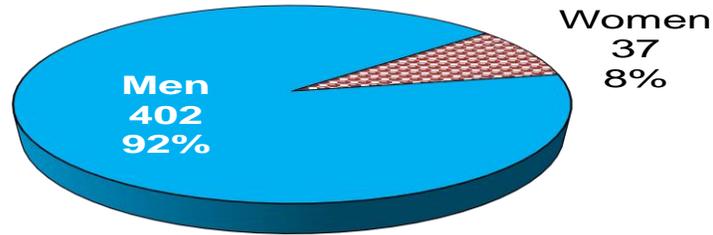
Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies

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Characteristics of California Fatal Occupational Injuries

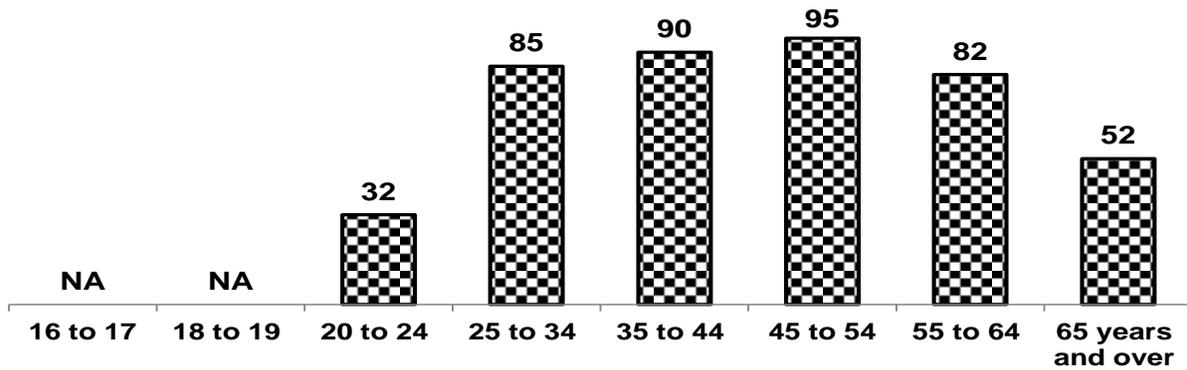
Figures 149-151 illustrate various characteristics of fatal occupational injuries in private industry and federal, state, and local governments in California.

Figure 149: California Fatal Occupational Injuries by Gender, 2023



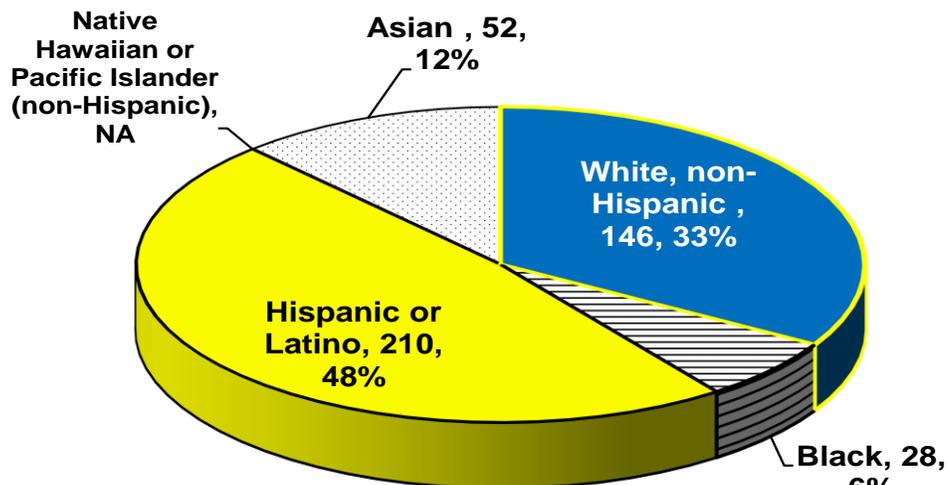
Data Source: BLS

Figure 150: California Fatal Occupational Injuries by Age of Worker, 2023



Source: BLS

Figure 151: California Fatal Occupational Injuries by Race and Ethnic Origin, 2023



Source: BLS

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Figure 152 compares the number of fatalities for various occupations. The transportation and material moving occupations had the highest number of fatalities in 2023 followed by the construction and extraction occupations.

Figure 152: Fatal Occupational Injuries by Selected Occupations, All Ownerships, 2023

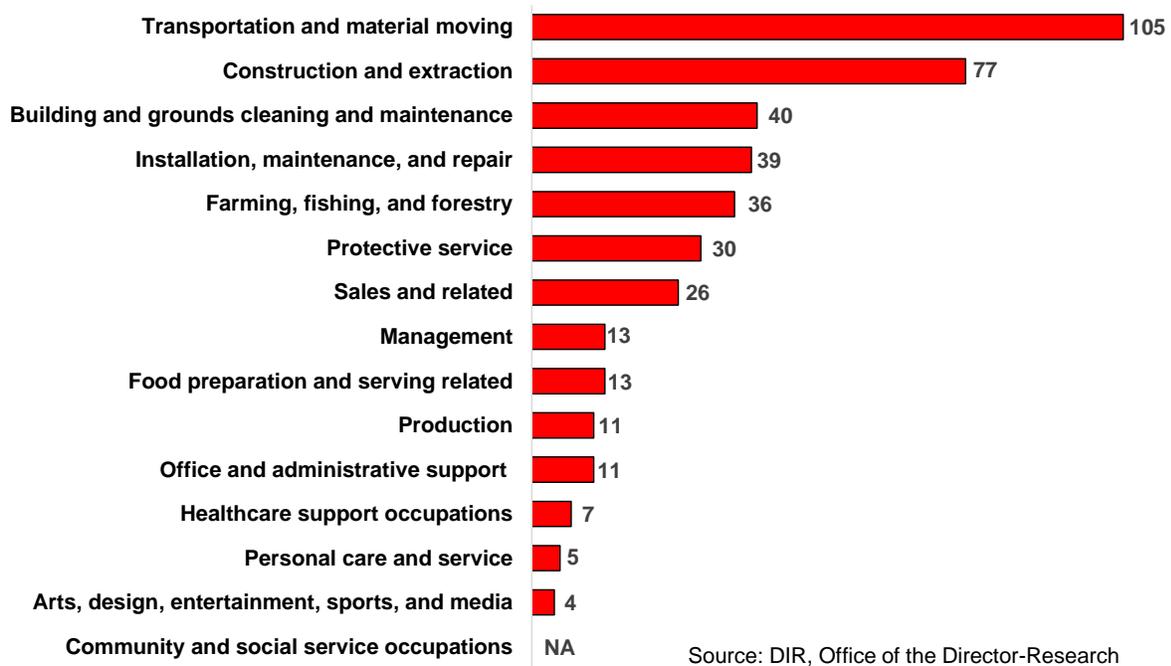
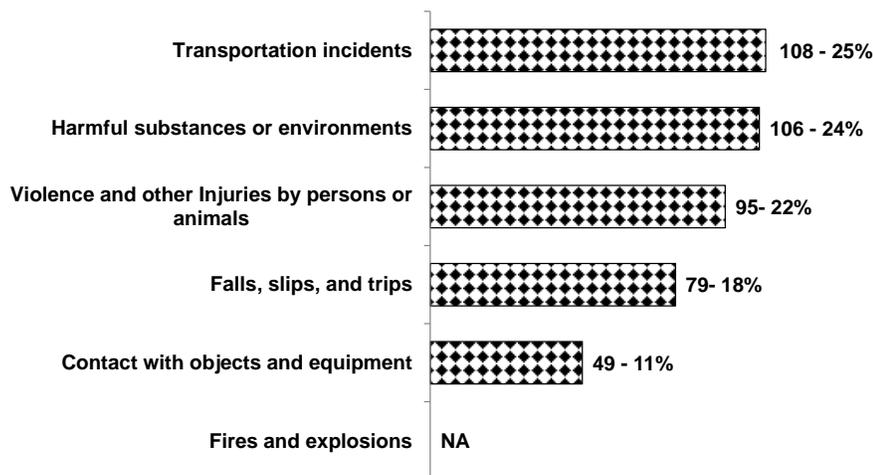


Figure 153 shows the numbers and the percent distribution of fatal cases by event and exposure. The transportation incidents and harmful substances or environments were the main reasons of fatalities by event and exposure in 2023.

Figure 153: California Fatal Occupational Injuries by Event and Exposure, 2023



Note: The data exclude the Federal government.

Source: BLS

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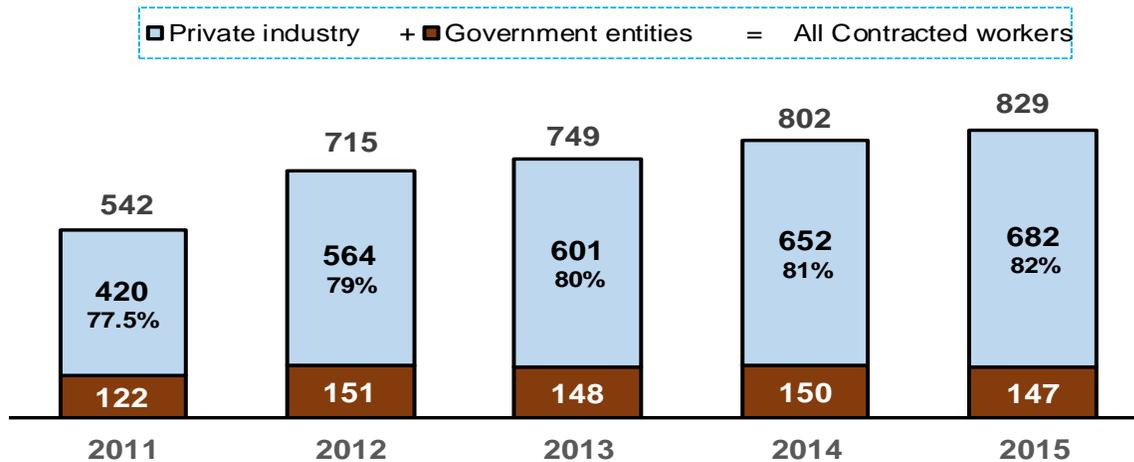
Fatal Injuries among Contracted and Independent Workers¹⁸¹

In the Census of Fatal Occupational Injuries (CFOI), a contracted worker is defined as someone employed by one firm but working for another firm that is responsible for operations at the site where a worker is killed. CFOI first collected data on contracted workers in 2011, and the latest data available for U.S. contractor fatalities are for 2015. CFOI collects two types of industry data for contracted workers. The contracting industry is the industry of the firm that contracts the worker. The employer industry is the industry of the firm that directly employs the worker.¹⁸² Unlike contractors, as defined in this section, independent workers are temporarily employed and paid directly by the employer. According to the BLS, independent workers generally have short-term jobs that involve a discrete task, have no guarantee of future work based on their current contract, have no guarantee that work will be available when they are able to work, and have the ability to decide which work they undertake.

According to BLS, data available for the U.S. as of May 2017, workers with alternative arrangements—that is, not permanent jobs—comprised 10.1 percent of total employment. Independent contractors make up the largest of four alternative arrangements, responsible for 6.9 percent of total employment in May 2017. The second-largest category was on-call workers, at 1.7 percent. Temporary help agency workers accounted for 0.9 percent of total employment, and workers provided by contract firms made up 0.6 percent of total employment.¹⁸³

Figure 154 shows that from 2011 to 2015, the number of fatal occupational injuries among contracted workers in the U.S. increased by 53 percent.

Figure 154: Number of Fatal Occupational Injuries by Contracted Workers in the U.S., 2011—2015



Source: BLS

Table 36 depicts the number of fatal injuries among independent workers nationally and in California from 2016 to 2018.

¹⁸¹ Data in this section were created on an ad hoc basis by the Bureau of Labor Statistics (BLS) and have not been updated for subsequent years.

¹⁸² <https://www.bls.gov/iif/oshwc/cfoi/contractor.htm>.

¹⁸³ https://www.bls.gov/opub/ted/2018/independent-contractors-made-up-6-point-9-percent-of-employment-in-may-2017.htm?view_full.

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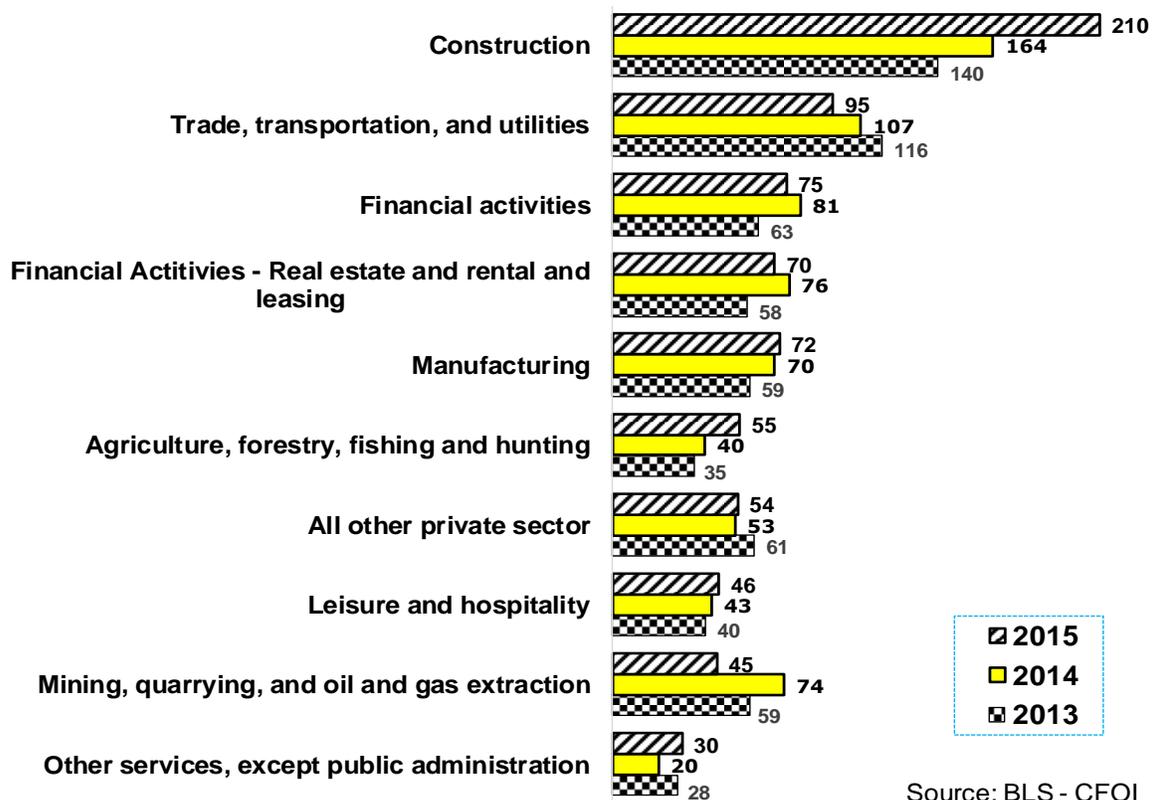
Table 36: Number of Fatal Occupational Injuries by Independent Workers in the U.S. and California, 2016–2018

	2016	2017	2018
U.S.	662	613	621
California	52	75	60

Source: BLS

As Figure 155 shows, the largest contracting industries in the U.S for fatally injured contracted workers in private industry were construction, trade, transportation, utilities, and financial activities.

Figure 155: Number of Fatal Occupational Injuries by Contracted Workers in the U.S., by Contracting Industry, 2013–2015



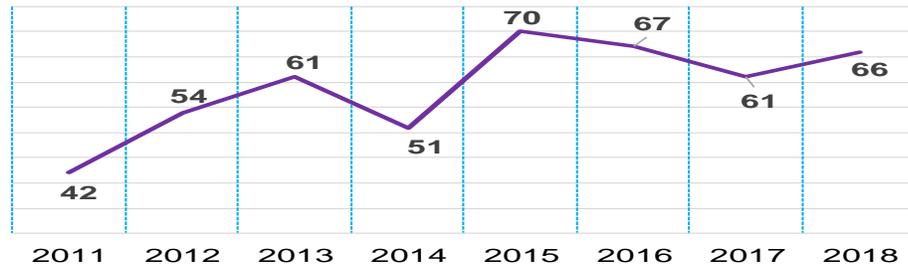
Source: BLS - CFOI

Similar to the pattern nationally, the contractor-based economy has been increasing in California since the Great Recession. The distinction between those who qualify as independent contractors and those who are considered permanent employees is extremely significant. Contractors are excluded from protections for permanent employees in many laws, including coverage by workers' compensation statutes, workplace discrimination laws, eligibility for overtime pay, collection of post-termination unemployment, eligibility for health insurance, and other employee benefits.

Figure 156 shows that the number of fatal occupational injuries for contracted workers in California fluctuated from 42 to 70 fatalities between 2011 and 2015, decreased by 13 percent between 2015 and 2017, and increased by 8 percent from 2017 to 2018.

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Figure 156: Number of Fatal Occupational Injuries Incurred by Contracted Workers in California



Source: BLS—CFOI

Profile of Occupational Injury and Illness Statistics: California and the Nation

Data for the following analyses, except where noted, came from the Department of Industrial Relations (DIR), Office of the Director-Research (OD-Research) and the U.S. Department of Labor (DOL) Bureau of Labor Statistics (BLS).

Incidence Rates

- California's work injury and illness statistics for 2023 indicate a non-fatal injury and illness incidence rate of 3.0 cases per 100 full-time employees in the private sector. This is a 14 percent decrease from the 2013 level of 3.5 and a 17 percent decrease from the previous 2022 year's rate.
- From 2013 to 2023, the trend in California mirrored a national trend except for its diversion from that trend in 2022. DOL figures for private employers show that from 2013 to 2017, the work injury and illness rate across the U.S. fell from 3.3 to 2.8 cases per 100 employees in the private sector and then remained flat from 2017 to 2021 with a slight decrease from 2.8 in 2019 to 2.7 in 2020 through 2022, before decreasing further by 11 percent to 2.4 cases per 100 employees in 2023. The reduced incidence rate of job injuries from 2013 to 2017 was likely due to factors including a greater emphasis on job safety and the continuing shift from manufacturing to service jobs in the U.S. When compared to the national incidence rate in 2022, the incidence rate in California has been 0.9 points or 33 percent above the national average because of a 12.5 percent increase in the incidence rate from 2021 to 2022, before dropping to its minimum of 3.0 cases per 100 employees in 2023.
- In contrast to the private sector rates, California's public sector incidence rates are significantly higher than in the private sector. California's state and local government rate for 2023 is 6.6 cases per 100 full-time employees. This is a 7 percent decrease from its 2013 rate of 7.1 per 100 FTE workers and when compared to the national rate of 4.3 for state and local government in 2023, the state and local government rate of 6.6 in California is 35 percent higher than the national rate.
- The national fatality rate increased by 6 percent between 2013 and 2023, from 3.3 to 3.5 cases per 100,000 employed, and California's fatality rate increased slightly by 4 percent from 2.4 per 100,000 employed in 2013 to 2.5 cases in 2023.¹⁸⁴
- Among the Western region states (Alaska, Arizona, California, Hawaii, Nevada, Oregon, and Washington) in 2023, the private industry incidence rates per 100 full-time equivalent (FTE) workers in Arizona (2.4), California (3.0), Hawaii (3.1), and Alaska (3.1) were the lowest. Nevada (3.3), Oregon (3.4), and Washington (3.4) had higher private industry rates for non-fatal occupational injuries and illnesses in 2023.¹⁸⁵ The 2023 fatality rates per 100,000 FTE workers among these states were the

¹⁸⁴ Beginning in 2007, the Census of Fatal Occupational Injuries (CFOI) adopted hours worked estimates to measure fatal injury risk per standardized length of exposure, which is generally considered more accurate than previously used employment-based rates.

¹⁸⁵ The comparisons of industry rates have not been adjusted for industry mix in each state.

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lowest for California (2.5), Hawaii (2.6), Washington (2.7), and Oregon (2.8), while the fatality rate in Alaska was 7.4 per 100,000 FTE workers.¹⁸⁶

Duration

- Days-away-from-work (DAFW) cases in California's private sector, including those that result in days away from work with or without a job transfer or restriction, increased by 9 percent from 1.1 case per 100 full-time employees in 2013 to 1.2 case per 100 full-time employees in 2023. However, a rate of 1.2 per 100 full-time employees was close to its pre-pandemic level of 1.0-1.1 per 100 full-time employees in the period from 2013 to 2019. In contrast with 2023, the DAFW incidence rate increased by 54.5 percent from 1.1 cases per 100 full-time employees in 2013 to 1.7 cases per 100 full-time employees in 2022, after a higher incidence rates of 1.5 cases per 100 full-time employees in 2020 and 1.4 cases in 2021. The national rate of the days-away-from-work cases per 100 full-time employees in the private sector decreased by 10 percent from 1.0 in 2013 to 0.9 cases per 100 full-time employees in 2023.
- Nationally, the overall DAFW rate decreased by 25 percent from 1.2 to 0.9 cases per 100 full-time employees from 2022 to 2023. California's DAFW rate decreased by 29 percent from 1.7 to 1.2 cases per 100 full-time employees from 2022 to 2023.

Industry Data

- In 2023, injury and illness incidence rates varied greatly among private industries ranging from 0.8 injury/illness per 100 full-time workers in the information industry to 4.9 in agriculture, forestry, fishing and hunting. California's private industry rates for total cases were higher than the national rates in every major industry division in 2023, except for information (0.8 and 1.0) and manufacturing (2.7 and 2.8).
- The California private industry total case rate for non-fatal injuries experienced a 17 percent decrease from 3.6 cases per 100 full-time workers in 2022 to 3.0 in 2023, and the rate for the public sector (state and local government) decreased by 25 percent from 8.8 in 2022 to 6.6 in 2023.
- According to the OD-Research, and the Office of Legislative Affairs, the largest decrease in injury and illness by major industry category from 2022 to 2023, was in the trade transportation and utilities (-28 percent), from 5.3 to 3.8 per 100 full-time worker, educational and health services (-25 percent), from 5.7 to 4.3, and mining, quarrying, and oil and gas extraction (-17 percent), from 1.8 to 1.5, followed by manufacturing (-16 percent), from 3.2 to 2.7 cases per 100 full-time workers, and professional and business services (-6 percent) from 1.7 to 1.6.¹⁸⁷
- According to the OD-Research, the largest increase in injury and illness by industry was in other services, except public administration (18 percent), from 2.2 to 2.6 per 100 full-time worker injuries in 2022 and 2023 respectively, followed by financial activities (8 percent), an increase from 1.2 to 1.3, and agriculture, forestry, fishing and hunting (4 percent), from 4.7 cases in 2022 to 4.9 cases per 100 full-time workers in 2023.¹⁸⁸
- From 2013 to 2023, the number of fatal injuries increased by 13 percent, from 378 to 427.¹⁸⁹ From 2022 to 2023, there was a 13 percent decrease in the number of fatal injuries from 490 to 427 respectively. In 2023, the highest number of fatal injuries in the private sector was in construction (78), followed by transportation and warehousing (66), and administrative and support and waste management and remediation services (58).

¹⁸⁶ <https://www.bls.gov/iif/oshwc/cfoi/staterate2019.htm>.

¹⁸⁷ DIR, Office of the Director-Research, Table 1: Incidence rates of non-fatal occupational injuries and illnesses by selected industries and case types, 2022, 2023.

¹⁸⁸ Ibid.

¹⁸⁹ The number of fatalities excludes those for the Federal government.

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- In private industry, the top ten occupations with the most non-fatal injuries and illnesses involving days away from work, job transfer, or restriction (DART) in 2021-2022 were: laborers and freight, stock, and material movers, hand; stockers and order fillers; heavy and tractor-trailer truck drivers; retail salespersons; registered nurses; nursing assistants; light truck drivers; farmworkers and laborers, crop, nursery, and greenhouse; janitors and cleaners, except maids and housekeeping cleaners; construction laborers.
- In California's state government, the top ten occupations with the most non-fatal injuries and illnesses involving DART in 2021-2022 were: correctional officers and jailers; psychiatric technicians; firefighters; police and sheriff's patrol officers; registered nurses; non-restaurant food servers; janitors and cleaners, except maids and housekeeping cleaners; first-line supervisors of correctional officers; forest and conservation workers; first-line supervisors of firefighting and prevention workers.
- In local government, the top ten occupations with the most non-fatal injuries and illnesses involving DART in 2021-2022 were: police and sheriff's patrol officers; firefighters; correctional officers and jailers; janitors and cleaners, except maids and housekeeping cleaners; teaching assistants, preschool, elementary, middle, and secondary school, except special education; elementary school teachers, except special education; first-line supervisors of police and detectives; first-line supervisors of firefighting and prevention workers; bus drivers, transit and intercity; landscaping and groundskeeping workers.
- Transportation and material moving (132), construction and extraction (80), and building and grounds cleaning and maintenance (48) occupations accounted for 52 percent of the fatal injuries in 2022. Farming, fishing, and forestry (41), protective services (35), installation, maintenance, and repair (34), sales and related (24), production (22), and management (13) were the other occupations with the greatest number of fatal injuries in 2022. Transportation and material-moving occupations were the top cause of fatal injuries accounting for 26 percent of fatal injuries in 2022.
- Transportation incidents (including the federal government) accounted for 26 percent of fatal injuries in 2023 and were a major cause of fatalities among: transportation and material moving (50); building and grounds cleaning and maintenance(11); and farming, fishing, and forestry (10) and construction and extraction service (10) occupations.

Establishment Size and Type

- The lowest incidence rate for the total recordable non-fatal cases (TRC) in 2023 was experienced by the private employers having fewer than 50 employees. Smallest employers with 1 to 10 and 11 to 49 employees had incidence rates of 1.1 and 2.7 cases, respectively, per 100 full-time employees. Employers with 50 to 249 employees experienced a 20 percent decrease in incidence rate for the TRC followed by employers with 1,000 or more employees (-11 percent) and a 10 percent decrease for both the 11 to 49 and 250 to 999 employers from 2022 to 2023.
- Establishments with 50 to 249 employees reported the highest incidence rate of 3.9 per 100 full-time employees, followed by 3.7 and 3.2 cases per 100 full-time employees respectively for establishments with 250 to 999 and 1,000 or more employees in 2023. No establishments experienced increases from 2022 to 2023.

Types of Injuries

- Five out of eleven types of work illnesses and injuries (by nature of injury, illness) accounted for 95 percent of non-fatal injuries and illnesses in 2021-2022 in the private sector. Sprains, strains, and tears (43 percent), soreness and pain (24 percent) had the biggest share of cases involving days away from work, job transfer, or restriction (DART), followed by cuts, lacerations, punctures (12 percent), bruises and contusions (11 percent), and fractures (5 percent).

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- In the private sector, exposure to harmful substances or environment were the leading causes of days-away-from-work (DAFW) injuries, cited in 35 percent of cases in 2021-2022. Overexertion and bodily reaction were the second-most common causes of injury, accounting for 24 percent of injuries.
- In California state government, the two main causes of injury were exposure to harmful substances or environment and overexertion and bodily reaction, accounting for 62.5 and 16 percent of days-away-from-work cases (DAFW), respectively, in 2021-2022.
- In local government, the main causes of injury were exposure to harmful substances or environment and overexertion and bodily reaction, accounting for 49 and 23 percent of days-away-from-work cases (DAFW), respectively, in 2021-2022.
- The most frequently injured body part involving days-away-from-work (DAFW) was the body systems, accounting for 62 percent of the cases in state government and 48 percent of the cases in local government in 2021-2022. In the private sector, the body systems account for 34 percent of the non-fatal cases.

Demographics¹⁹⁰

- In 2021-2022, in the California private sector, the share of cases involving days away from work, job transfer, or restriction (DART) was 44 percent for women and 56 percent for men. Days-away-from-work (DAFW) cases showed 55 percent for men and 45 percent for women. For cases involving job transfers or restriction (DJTR) in 2021-2022, men accounted for 58 percent and women – for 42 percent.
- In 2021-2022, in the California private sector, for cases involving days away from work, job transfer, or restriction (DART), the age group 16–19, accounting for 4 percent of DART cases, experienced the highest incidence rate of 4.2 per 100 full-time workers followed by the 20-24 age group with incidence rate of 3.5 (12 percent of DART cases) and the age group 25-34 with incidence rate 2.4 (25 percent of DART). The lowest rate of 1.6 cases per 100 full-time workers occurred among the smallest age group 65 and over (3 percent of DART cases). The incidence rate per 100 full-time workers in 2021-2022, for the 55-64 age group was 2.3 (15 percent of DART), 2.2 per 100 full-time workers for 45-54 age group (19 percent of DART), and 2.0 rate for the 35-44 age group (20 percent of DART).
- In 2023, out of 439 fatalities (including 12 in the federal government), 91.6 percent were male, and 8.4 percent were female. The age groups that experienced the biggest increase in the number of fatalities was the 20 to 24 age group (52 percent increase) from 21 to 32 cases, followed by a 49 percent increase from 35 to 52 in 65 years and over age group, a 23 percent increase from 69 to 85 in the age group of 25 to 34, and a 9 percent increase from 75 to 82 in the 55 to 64 age group. The age groups that experienced a decrease in the number of fatalities was a 3 percent decrease from 98 to 95 in the 45 to 54 age group and a 2 percent decrease from 92 to 90 in the 35 to 44 age group.
- The highest number of fatalities by race or ethnic origin categories in 2023 was experienced by “Hispanic or Latino” (210) and “White, non-Hispanic” (146) groups, accounting for 48 percent and 33.5 percent of the fatalities respectively. The highest increase in fatal injuries from 2013 to 2023, 160 percent, was in the “Asian” group (from 20 to 52 cases), followed by 75 percent increase from 16 to 28 cases in the “Black, non-Hispanic” group, and an 8 percent increase in fatal injuries, from 194 cases in 2013 to 210 cases in the “Hispanic or Latino” ethnic group. There was a 10 percent decrease from 163 to 146 cases in “White, non-Hispanic” ethnic group.

Occupational Injury and Illness Reporting

Occupational injury and illness information is the responsibility of BLS in the U.S. and DOL and the OD-Research in the California DIR. Occupational injuries and illnesses are recorded and reported by California

¹⁹⁰ The number of fatalities excludes those for the Federal government.

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employers through several national surveys administered by DOL with DIR assistance.

OSHA Reporting and Recording Requirements

The U.S. Occupational Safety and Health Act (OSH Act) of 1970 requires covered employers to prepare and maintain records of occupational injuries and illnesses. It provides specific recording and reporting requirements that comprise the framework for the nationwide occupational safety and health recording system. The Occupational Safety and Health Administration (OSHA) in DOL administers the OSH Act recordkeeping system.

Although some employers are exempt from keeping Cal/OSHA injury and illness records, all California employers must report injuries to the OD-Research. Every employer must also report any serious occupational injuries, illnesses or deaths to California OSHA (Cal/OSHA) in DIR.

The data assist employers, employees, and compliance officers in analyzing the safety and health environment at the employer's establishment and are the source of information for the BLS *Annual Survey of Occupational Injuries and Illnesses* and the OSHA *Occupational Injury and Illness Survey*.

BLS Annual Survey of Occupational Injuries and Illnesses

To estimate the number of occupational injuries and illnesses in the U.S., BLS established a nationwide annual survey of employers' occupational injuries and illnesses. The state-level statistics on non-fatal and fatal occupational injuries and illnesses come from this survey. In California, the OD-Research conducts the survey for BLS.

Non-fatal Injuries and Illnesses

The BLS *Annual Survey* develops frequency counts and incidence rates by industry and also profiles worker and case characteristics¹⁹¹ of non-fatal workplace injuries and illnesses that result in lost work time or days away from work with or without days of job transfer or restriction (DAFW) and in days of job transfer or restriction only (DJTR). Each year, BLS collects employer reports from about 173,800 randomly selected private industry establishments.

Fatal Injuries

The estimates of fatal injuries are compiled through the Census of Fatal Occupational Injuries (CFOI), which is part of the BLS occupational safety and health statistics program. CFOI uses diverse state and federal data sources to identify, verify, and profile fatal work injuries. Fatalities from COVID-19 or other illnesses, other than acute heat illness are not included. Fatal overdoses and deaths by suicide and violence are included 1) if the incident occurred on the employer's premises, and the person was there to work; or 2) if the incident occurred off the employer's premises, and either the person was there to work, or the incident was related to the person's work or status as an employee.

OSHA Occupational Injury and Illness Survey

Federal OSHA administers the annual *Occupational Injury and Illness Survey*. OSHA utilizes this collection of employer-specific injury and illness data to improve its ability to identify and target agency interventions to employers that have serious workplace problems. For this survey, OSHA collects data from 80,000 non-construction establishments and from up to 15,000 construction establishments.

¹⁹¹ BLS: changes related to the data on Case and Demographic Characteristics, <https://www.bls.gov/iif/nonfatal-injuries-and-illnesses-tables/soii-case-and-demographic-characteristics-historical-data/days-of-job-transfer-or-restriction.htm>.

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Occupational Injury and Illness Prevention Efforts

Efforts to prevent occupational injury and illness in California take many forms, but all are derived from cooperative efforts between the public and private sectors. This section describes Cal/OSHA's consultation and compliance programs, health and safety standards, and education and outreach designed to prevent injuries and illnesses in order to improve worker health and safety.

Cal/OSHA Program

Cal/OSHA's program is responsible for enforcing California's laws and regulations pertaining to workplace health and safety and for providing assistance to employers and workers about workplace safety and health issues.

[Cal/OSHA's Enforcement Unit](#) conducts investigations of workplaces in California primarily based on worker complaints, accident reports, and planned inspections in high hazard industries. Twenty-eight [Cal/OSHA district](#) offices are located throughout California including enforcement, [Mining and Tunneling](#) and [Process Safety Management](#). Specialized enforcement units, such as the High Hazard Unit and the [Labor Enforcement Task Force](#), focus on protecting California's workers from workplace hazards in high hazard industries.

Other specialized units, such as the [Crane Certifier Accreditation Unit](#), the [Asbestos Contractors' Registration Unit](#), the [Asbestos Consultant and Site Surveillance Technician Unit](#), and the [Asbestos Trainers Approval Unit](#), are responsible for enforcing regulations on crane safety and the prevention of exposure to asbestos. The [Cal/OSHA Process Safety Management \(PSM\) Unit](#) is responsible for enforcement at refineries and chemical plants that handle large quantities of toxic and flammable materials.

[Cal/OSHA's Consultation Services](#) Branch provides assistance to employers and workers about workplace safety and health issues through on-site assistance, telephone inquiries, high hazard consultation, and other programs with a particular emphasis. Consultation Services also develops educational materials on workplace safety and health topics.

Information on COVID-19 illnesses reported, complaints received, and inspections and investigations conducted by Cal/OSHA could be found on California's Open Data Portal, in regularly-updated posting of citations for COVID-19 related violations, and in *COVID-19 Complaints, Fatalities, and Illnesses (Update)*¹⁹² presentation.

¹⁹² <https://data.ca.gov/dataset/dosh-covid-19/resource/465980a9-fdd2-4328-9924-6c2a565f41e1>, <https://www.dir.ca.gov/DOSH/covid19citations.asp>, and <https://www.dir.ca.gov/chswc/Meetings/2020/CalOSHA-Presentation-12-03-2020.pdf>.

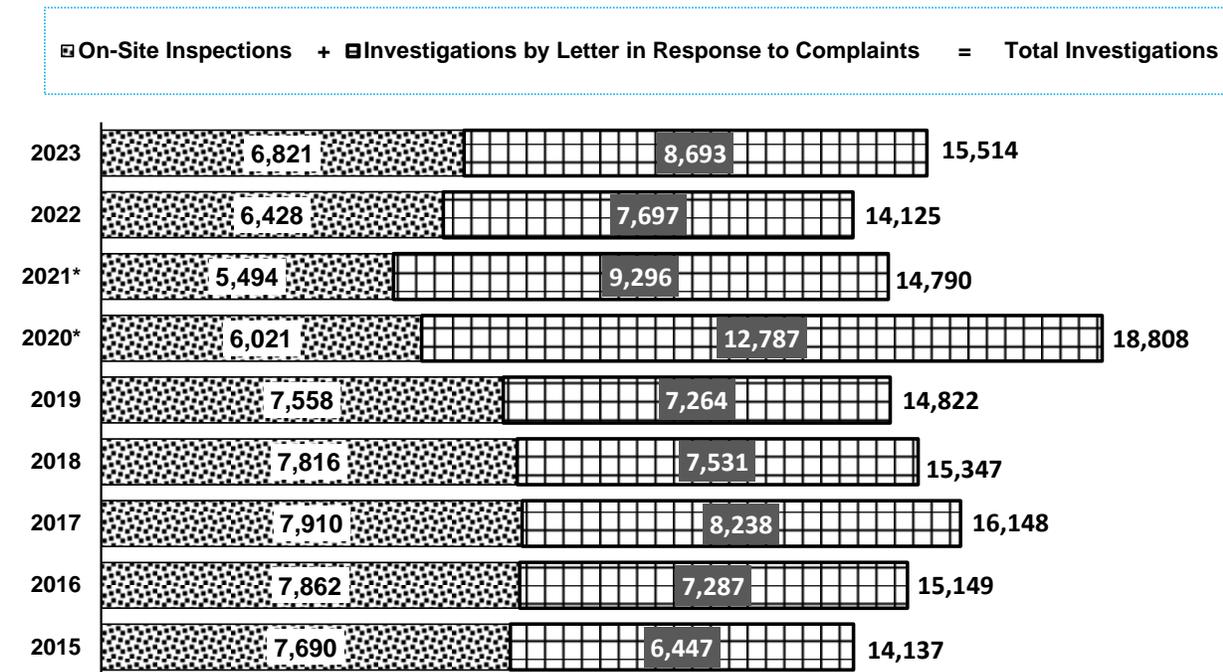
WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Profile of Division of Occupational Safety and Health (DOSH)¹⁹³ Investigations and Violations Cited¹⁹⁴

Figure 157 shows the number of on-site inspections and letter investigations conducted for the period from calendar year (CY) 2015 to CY 2023. On-site inspections increased by 3 percent from 2015 to 2017, decreased by 31 percent from 2017 to 2021, and then grew by 24 percent from 2021 to 2023. Letter investigations increased by 28 percent from 2015 to 2017, decreased by 12 percent from 2017 to 2019, and then grew by 76 percent from 2019 to 2020. Conducting investigations by letter in lieu of on-site inspections, as shown in Figure 159, allowed Cal/OSHA to respond to hazards at more workplaces than it could have reached in person during the height of the COVID-19 pandemic. As a result, total investigations increased by 27 percent from 2019 to 2020 despite the 20 percent decrease in on-site inspections during the same period. From 2020 to 2022, the number of letter investigations decreased by 40 percent before increasing by 13 percent from 2022 to 2023. Over time, the proportion of letter investigations relative to on-site inspections has increased.

In 2021, the total number of investigations decreased by 21 percent compared to 2020, but remained close to pre-pandemic levels. From 2022 to 2023, the total number of investigations increased by 10 percent.

Figure 157: Cal/OSHA Enforcement Activities, 2015–2023



* 2020 and 2021 - peak of the COVID-19 pandemic.

Note: **On-site inspections** include Comprehensive, Partial, and Records Only inspections. Do not include inspections marked with "No Inspection".

Letter investigations are based on the date the letter was sent and may result from complaints received in a previous calendar year. This may include letter investigations that later led to an on-site inspection.

Source: Cal/OSHA

¹⁹³ The Division of Occupational Safety and Health (DOSH) is also known as Cal/OSHA, <https://www.dir.ca.gov/dosh/>.

¹⁹⁴ DOSH has changed the methods of extracting the CalOSHA enforcement data beginning from 2015.

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Figure 158 shows the distribution of DOSH on-site inspections with and without violations from CY 2015 to CY 2023. On-site inspections include Comprehensive, Partial, and Records Only inspections and exclude inspections marked with “No Inspection”.

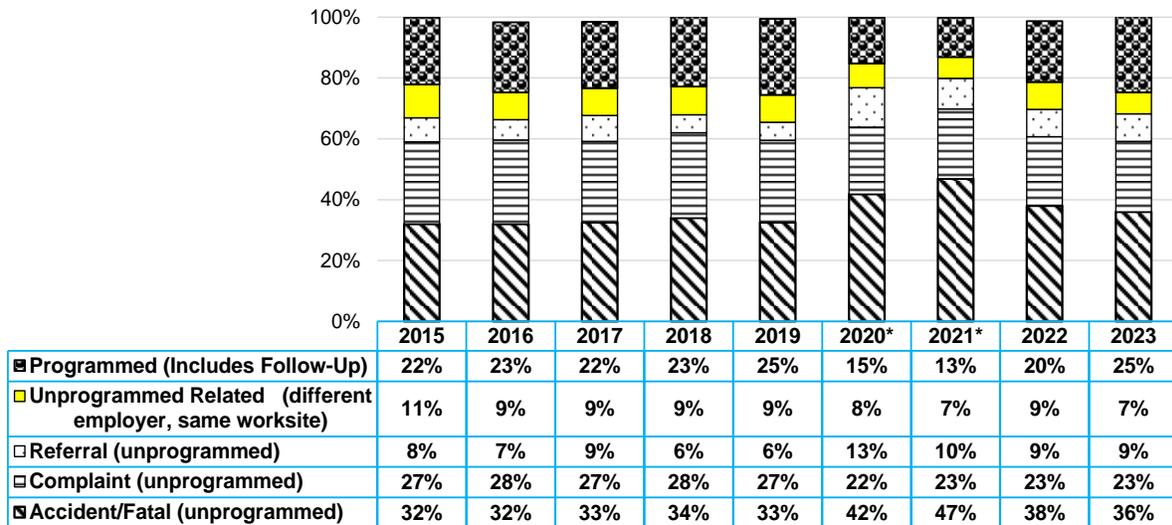
Unprogrammed Related inspections are initiated as a result of notifications of a fatality, accident, complaint, or referral. Unprogrammed inspections triggered by accidents and fatalities accounted for 32 to 34 percent of total on-site inspections between 2015 and 2019. The COVID-19 pandemic led to a rise in occupational accidents and fatalities, resulting in a sharp increase of accident/fatality inspections. In 2020, 42 percent of total on-site inspections were triggered by accidents and fatalities, with this figure rising further to 47 percent in 2021. As the COVID-19 pandemic waned, the share of inspections triggered by accidents and fatalities declined, falling to 38 percent in 2022 and 36 percent in 2023.

Unprogrammed inspections triggered by complaints made up 27 to 28 percent of total on-site inspections between 2015 and 2019. However, this figure decreased slightly to a steady 22 to 23 percent between 2020 and 2023.

Programmed inspections are planned inspections of worksites selected based on objective criteria. Total Programmed inspections remained steady at 22 to 23 percent of total on-site inspections between 2015 and 2018. That share rose to 25 percent in 2019, before dropping sharply to 15 percent in 2020 and 13 percent in 2021. The share of programmed inspections increased 20 percent in 2022 and returned to the pre-pandemic high of 25 percent in 2023.

From 2015 to 2023, inspections triggered by accidents/fatalities and complaints were consistently the predominant types of inspections.

**Figure 158: Distribution of Cal/OSHA on-Site Inspections by Type
(All Inspections, with and without Violations), 2015–2023**



* Peak of COVID-19 pandemic

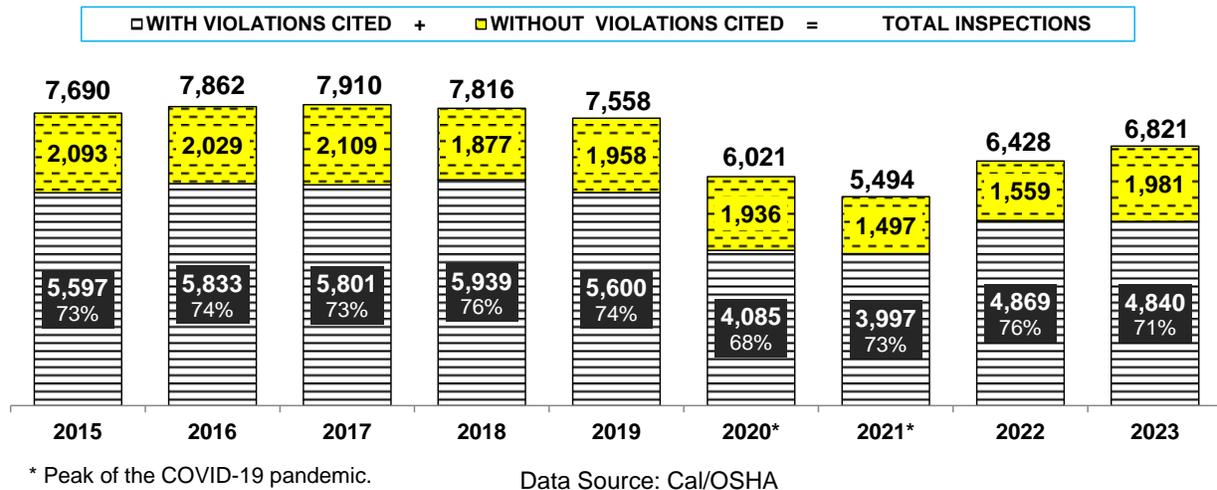
Source: Cal/OSHA

According to Figure 159, the number of on-site inspections without violations stabilized at an average of 2,000 from 2015 to 2020, decreased by 23 percent from 2020 to 2021, and then grew by 32 percent to its pre-pandemic level. The number of inspections with violations remained steady at an average of 5,754 from 2015 to 2019, fell by 27 percent from 2019 to 2020, and then increased overall by 21 percent between 2021 and 2023.

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The share of on-site inspections that resulted in violations remained steady at an average 74 percent between 2015 to 2019. In 2020, this share dropped by 6 percentage points to 68 percent but has since almost returned to pre-pandemic levels, averaging 73 percent from 2021 to 2023.

Figure 159: Cal/OSHA On-Site Inspections (with and without Violations Cited), 2015–2023



The number of violations exceeds that of inspections because most inspections of places where violations occur yield more than one violation. Violations are further broken down into two categories Serious, Willful, or Repeat (SWR), and other-than-SWR (OTS), which includes General, Regulatory, and Notice in Lieu violations.

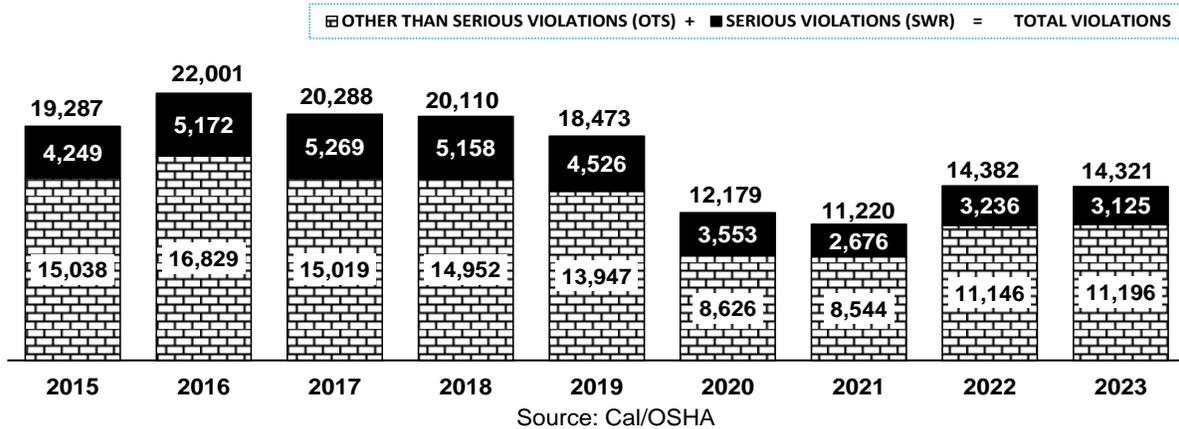
The number of Cal/OSHA violations cited and their breakdown by type from 2015 to 2023 are shown in Figure 160.

According to Figure 160, the total number of violations increased by 14 percent from 2015 to 2016, decreased by 14 percent from 2016 to 2019, and then fell sharply by 34 percent from 2019 to 2020, at the onset of COVID-19 pandemic, followed by an additional decrease of 8 percent from 2020 to 2021. From 2021 to 2023, the total number of violations rebounded, increasing by 28 percent.

The number of SWR violations rose by 24 percent from 2015 to 2017, declined by 14 percent from 2017 to 2019, and then dropped by 21 percent from 2019 to 2020, followed by another sharp decrease of 25 percent from 2020 to 2021. From 2021 to 2022, SWR violations increased by 21 percent but showed a slight decrease of 3 percent in 2023.

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Figure 160: Cal/OSHA Violations Cited (SWR* and OTS*), 2015-2023



* “Serious” (SWR) violations includes Serious, Willful, and Repeat violations. “Other than serious” (OTS) violations includes General, Regulatory and Notice in Lieu violations.

Figure 161 shows the share of SWR violations as a percentage of total violations from 2015 to 2023. The percentage of violations classified as SWR increased from 22 percent in 2015 to an average of 25 percent between 2016 and 2019. This percentage further increased to 29 percent in 2020, before falling to an average of 23 percent between 2021 and 2023.

Figure 161: Serious (SWR) Violations as a Share of Total Cal/OSHA Violations, 2015-2023

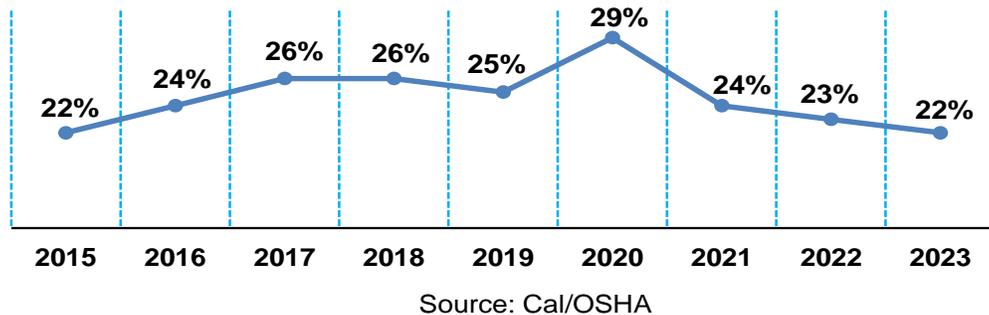
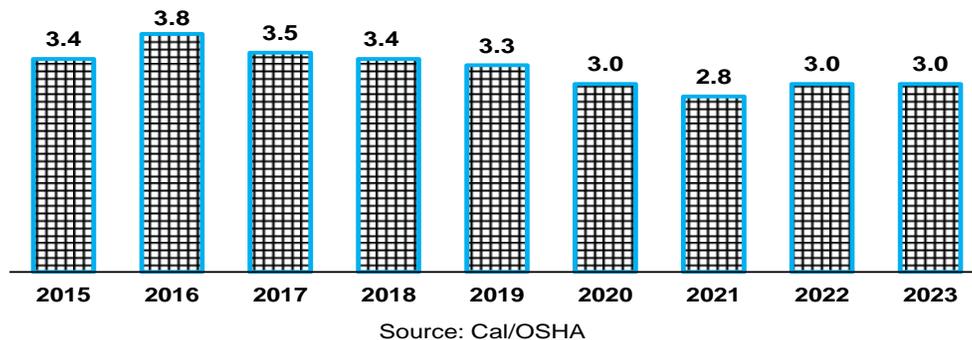


Figure 162 shows the average number of violations cited per inspection with violations for each calendar year. The average number of violations per inspection increased by 12 percent from 2015 to 2016, declined steadily with a decrease of 26 percent between 2016 and 2021, increasing by 7 percent from 2021 to 2022, and then stabilized at 3.0 in 2022 and 2023.

Figure 162: Average Number of Cal/OSHA Violations per Inspection, 2015–2023



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Table 37 lists the top twenty-five most frequently cited CCR Title 8 standards in 2023.

Table 37: Twenty-Five Most Frequently Cited CCR Title 8 Standards, 2023

Standard	Description	Total Violations	SWR Violations	Percent SWR
3203	Injury and Illness Prevention Program (IIPP)	1,779	177	9.9%
3395	Heat Illness Prevention (HIPP)	1257	133	10.6%
1509	Construction Injury and Illness Prevention Program	713	50	7.0%
342	Reporting Work-Connected Fatalities and Serious Injuries	631	14	2.2%
6151	Portable Fire Extinguishers	464	4	0.9%
3314	Control of Hazardous Energy, Including Lockout/Tagout	399	168	42.1%
5162	Emergency Eyewash and Shower Equipment	386	194	50.3%
5194	Hazard Communication	383	7	1.8%
5144	Respiratory Protection	365	36	9.9%
3650	Industrial Trucks: General Requirements	271	93	34.3%
2340.16	Work Space About Electric Equipment	257	0	0.0%
3205	COVID-19 Prevention	255	5	2.0%
3276	Portable Ladders	253	68	26.9%
1512	Construction: Emergency Medical Services	246	5	2.0%
461	Permits to Operate Air Tanks	205	3	1.5%
3328	Safe Practices, Personal Protection: Machinery and Equipment	180	71	39.4%
3668	Powered Industrial Truck Operator Training	172	21	12.2%
1670	Personal Fall Arrest Systems, Personal Fall Restraint Systems and Positioning Devices	153	99	64.7%
2500.8	Flexible Electrical Cords and Cables: Uses Not Permitted	134	0	0.0%
3380	Personal Protective Devices	115	12	10.4%
5189	Process Safety Management of Acutely Hazardous Materials	108	21	19.4%
2473.2	Covers for pull boxes, junction boxes and fittings.	103	1	1.0%
1712	Requirements for Impalement Protection	100	70	70.0%
4650	Compressed Gas and Air Cylinders: Storage, Handling, and Use	99	27	27.3%
3273	Working Area Maintenance.	97	17	17.5%

Note: SWR stands for Serious, Willful, and Repeat Violations, where Repeat violations are not serious.

Source: DOSH Budget and Program Office.

Figure 163 demonstrates the trends in penalties and collections. Total penalties assessed were \$37.7 million in 2023, a decrease of 28 percent from its 2019 pre-pandemic level and a 37 percent decrease from

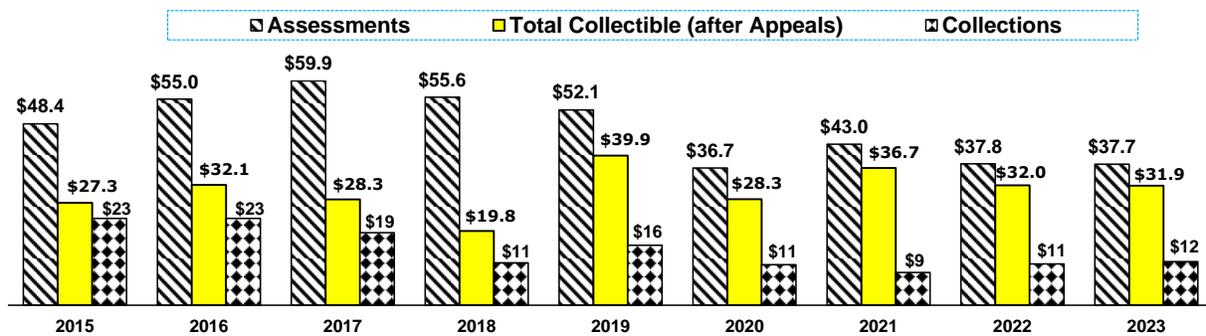
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its peak of about \$60 million in 2017. The total penalties assessed increased by 17 percent as economic activities started recovering from 2020 to 2021, although it was followed by a 12 percent decrease in penalties assessed from 2021 to 2023. Many employers appeal those “recommended” penalties with Cal/OSHA’s Appeals Board, and they may be ordered to pay in full, pay a reduced amount, or have penalties eliminated due to procedural issues. Because of the appeals process, penalties collectible and collected are almost always less than the initial recommended penalties assessed.

Total penalties collectible after appeals and collections were about \$32 million and \$12 million, respectively, in 2023, both remaining at the same level as in 2022. In post-pandemic recovery period from 2021 to 2023, the total penalties collectible decreased by 13 percent, while penalties collected increased by 33 percent from about \$9 million in 2021 to \$12 million in 2023.

Although Figure 163 demonstrates the trends in penalties and collections, it cannot be viewed entirely as an indicator of progress in health and safety at places of employment, due to related impacts on the data from DOSH staffing changes and resource changes from year to year, as well as activities at the Appeals Board. The number of original assessments that remain collectible change if penalties are reduced by settlement or decision. Likewise, assessed penalties become due when appealed matters are resolved, so the total amount collected rises with time. Nevertheless, the data give a sense of the general magnitude and accounting of penalties and collections, as well as provide a starting point for further analysis.

**Figure 163: Total DOSH Penalties Assessed and Collected, 2015–2023
(Million \$)**



Source: DOSH

Figure 164 shows the rate of violations cited per Cal/OSHA inspection for each major industry group as classified by NAICS¹⁹⁵ in 2023. Major industry sectors are defined by the first two digits of the Inspection Site NAICS code. Figure 164 focuses on the top 10 major industry sectors where Cal/OSHA primarily conducts inspections, as these sectors account for the majority of inspections. The “All Sectors” category represents the overall average of violations per inspections with violations across all sectors. The “All Other Sectors” category includes the remaining NAICS codes like Major Sectors 21, 22, 51, 52, 53, 54, 55, 61, 71, and 92. Please note that violation totals and classifications, as initially issued citations, may subsequently have been reclassified or deleted as part of a decision by an administrative law judge or a settlement. Other Services (except Public Administration), include a variety of service-oriented industries such as repair and maintenance, personal care service, and civic and social organizations. This sector is distinct from the “All Other Sectors” category, which aggregates smaller industry groups that do not account for a significant portion of total inspections, falling outside of the top 10 major sectors.

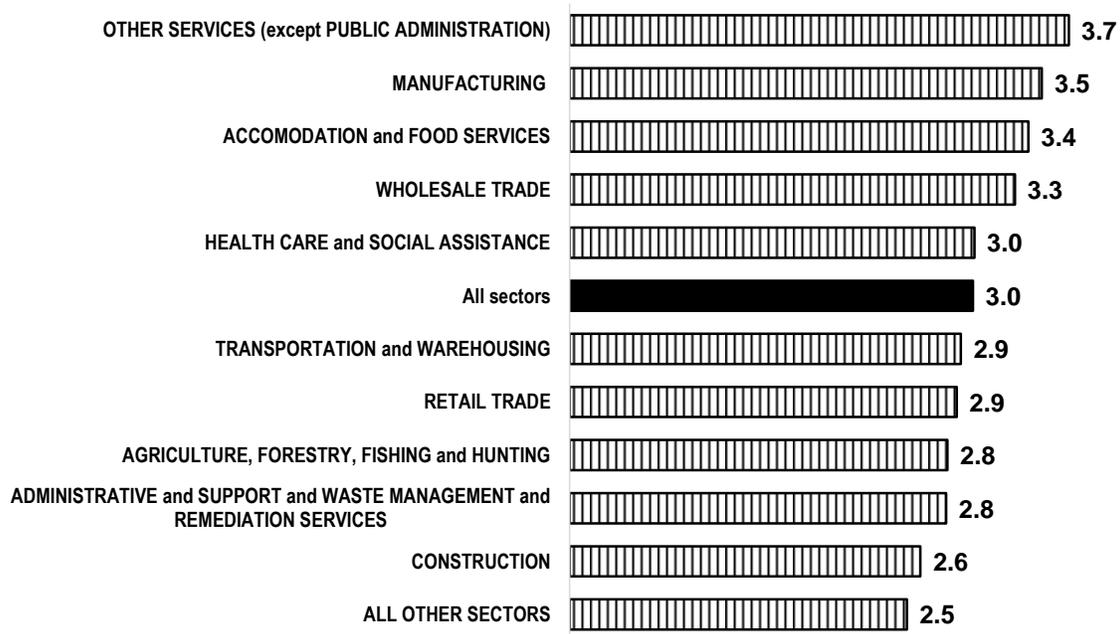
The average across all sectors was 3.0 violations per inspection. Industry groups such as Other Services, Manufacturing, Accommodation and Food Services, and Wholesale Trade had higher-than-average

¹⁹⁵ North American Industry Classification System (NAICS) code is a six-digit numeric code that categorizes a business's primary economic activity into one of 20 industry sectors

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violations per inspection. Construction, Administrative and Support Services, and Agriculture, Forestry, Fishing and Hunting had rates closer to or below the average.

Figure 164: Rate of Violations per On-Site Cal/OSHA Inspection, by Major NAICS Sectors, 2023



Source: Cal/OSHA

Figures 165 and 166 display the distribution of on-site inspections and the distribution of on-site violations respectively by major NAICS sectors in 2023. On-site inspections include Comprehensive, Partial, and Records Only inspections and do not include inspections marked with “No Inspection”. The figures demonstrate that industry group proportions for inspections and violations are closely aligned with the overall average, reflecting the greater risks present in certain sectors.

As shown in Figure 165, Cal/OSHA conducted a total of 6,821 health and safety inspections across worksites in 2023, with 1,988 inspections (29 percent) in the construction sector and 959 (14 percent) in manufacturing. Figure 166 highlights that the highest percentage in a total of 14,321 violations was in construction (27 percent) and manufacturing (17 percent), followed by accommodation and food services (10 percent). Together, the construction, manufacturing, and accommodation and food services sectors accounted for a significant portion of enforcement activity, representing 51 percent of all on-site inspections and 54 percent of all violations cited in 2023. These figures suggest that higher-risk industries, such as construction and manufacturing, tend to result in more violations due to the nature of work and associated hazards.

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Figure 165: Distribution of Cal/OSHA On-Site Inspections by Major NAICS Sectors, 2023
(Total Inspections = 6,821)

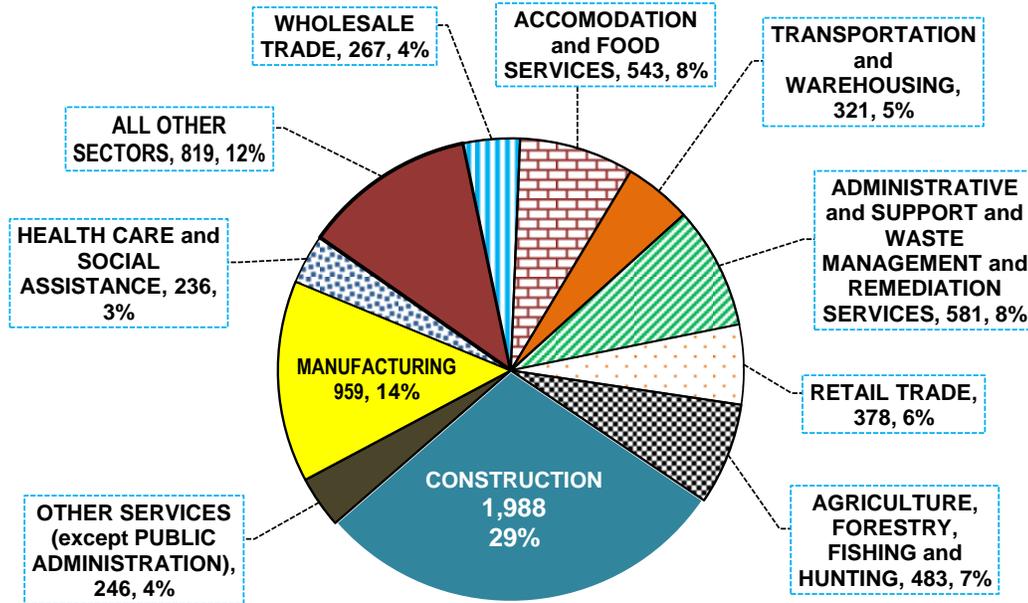
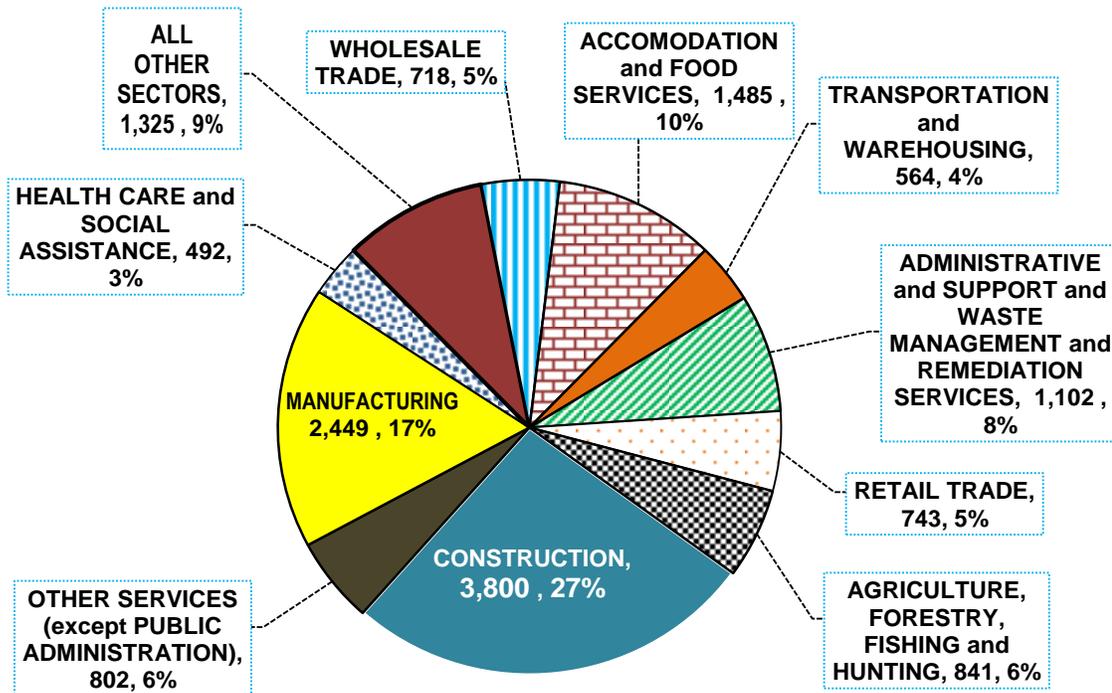


Figure 166, displays the distribution of on-site violations by major NAICS sectors in 2023.

Figure 166: Distribution of Violations by Major NAICS Sectors, 2023
(Total Violations = 14,321)



Data Source: Cal/OSHA

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High Hazard Identification, Consultation, and Compliance Programs

The 1993 reforms of the California workers' compensation system required Cal/OSHA to focus its consultative and compliance resources on "employers in high hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses."

High Hazard Employer Program

The High Hazard Employer Program (HHEP) is designed to:

- Identify employers in hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses.
- Offer and provide consultative assistance to those employers to eliminate preventable injuries and illnesses and workers' compensation losses.
- Inspect those employers on a random basis to verify that they have made appropriate changes in their health and safety programs.
- Develop appropriate educational materials and model programs to aid employers in maintaining a safe and healthful workplace.

In 1999, the passage of Assembly Bill (AB) 1655 gave DIR the statutory authority to levy and collect assessments from employers to support the targeted inspection and consultation programs on an ongoing annual basis. The collection of the Targeted Inspection Consultation Fund ceased with the passage of Assembly Bill (AB) 1389 in 2008.

In 2008, the passage of Assembly Bill (AB) 1389 gave DIR the statutory authority to levy and collect assessments from employers to fund DOSH's operations.

High Hazard Consultation Program

Using workers' compensation data, Cal/OSHA's Consultation Services Branch identifies employers in hazardous industries with the highest incidence of preventable occupational injuries and illnesses and WC losses. "Hazardous industries" are identified using published annual workers' compensation pure premium rates. Individual employers are identified using WC experience modification (ExMod) rate data.

Cal/OSHA's Consultation Services Branch reports that in 2023, it provided on-site high hazard consultative assistance to 792 employers. During consultation with these employers, 6,955 Title 8 violations were observed and corrected as a result of the provision of consultative assistance (see Figure 167).

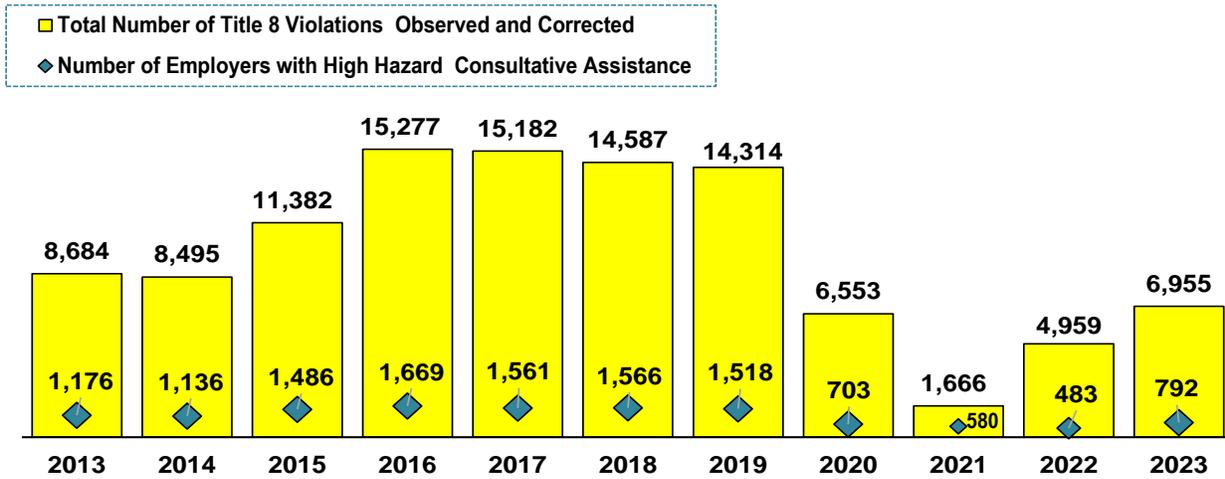
From 1994, 31,061 employers have been provided direct on-site consultative assistance, and 213,316 Title 8 violations have been observed and corrected. Of these violations, 34.4 percent were classified as "serious." It should be noted that for 2002 and 2003, all Consultative Safety and Health Inspection Projects (SHIPs) were included in the High Hazard Consultation Program figures. Effective 2004, only employers with ExMod rates of 125 percent and above are included in the High Hazard Consultation Program figures.

Figure 167 shows that the number of Title 8 violations observed and corrected averaged 8,590 per year with an average of 1,156 employers receiving high hazard consultative assistance in 2013 and 2014, increased by 80 percent from 2014 to 2016 with a 47 percent increase in assisted employers during that period, and then gradually decreased by 6 percent from 2016 to 2019 before falling almost 9 times in 2021 from its 2019 level. The number of employers who received high hazard consultative assistance decreased overall by 9 percent from 2016 to 2019, and in 2020 accounted for about one-third of the number of employers that received high hazard consultative assistance in 2019. There were two major reasons for a sharp decrease in both the number of Title 8 violations and number of employers who received high hazard consultative assistance: 1) due to the pandemic, consultation staff, who were previously performing high hazard consultative assistance, were shifted from their usual tasks to assist with COVID-19 matters, and

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2) Consultation Services experienced an increase in retirements during the pandemic, which reduced staffing levels. According to DOSH representatives, DOSH is currently focused on hiring within all units to address the reduced staffing levels. The number of employers who received high hazard consultative assistance increased overall by 37 percent from 2021 to 2023 and the number of Title 8 violations observed and corrected more than quadrupled compared to its lowest level in 2021.

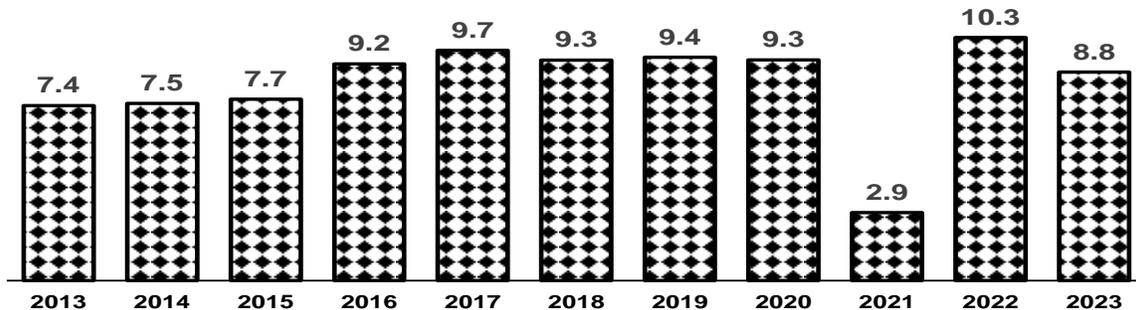
Figure 167: High Hazard Consultation Program, 2013-2023



Source: DOSH

In 2022, the rate of the Title 8 violations observed and corrected to employers who received high hazard consultative assistance reached its peak of 10.3, before decreasing by 14.5 percent in 2023 (see Figure 168).

Figure 168: Average Number of Title 8 Violations per Employer with High Hazard Consultative Assistance, 2013-2023



Source: DOSH

High Hazard Enforcement Program

It is the policy of DOSH to protect California’s workers from serious injury and illness and to establish and implement a program for inspecting high hazard businesses operating in California. The High Hazard Unit, which consists of two offices (Northern and Southern) and a regional office, is dedicated to conducting targeted programmed inspections in “High Hazard Industries” throughout California.

In 2023, the High Hazard Unit opened 364 inspections and Regions 1-4 opened 37 inspections. Most of inspections, a total of 401 (95 percent), were targeted programmed-planned. Other types of inspections

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opened by the High Hazard Unit were programmed-related, follow-up, accidents, complaints, unprogrammed related, and referrals. A total of 1,785 violations were identified and cited during these inspections. Violations were identified in 93 percent of the inspections conducted. The violation per inspection ratio for targeted programmed-planned inspections in 2023 was 4.5.

The high hazard enforcement program activity measures are shown in Tables 38-40 and Figure 169. During the pandemic, DOSH had at times shifted employees from High Hazard enforcement and Process Safety Management (PSM) to assist district offices with COVID-19 response, especially during surges.

The distributions of high hazard targeted inspections by North American Industrial Classification System (NAICS) from 2020 to 2023 are shown in Table 38.

Table 38: Number and Percent of High Hazard Inspections by NAICS Code, 2020- 2023

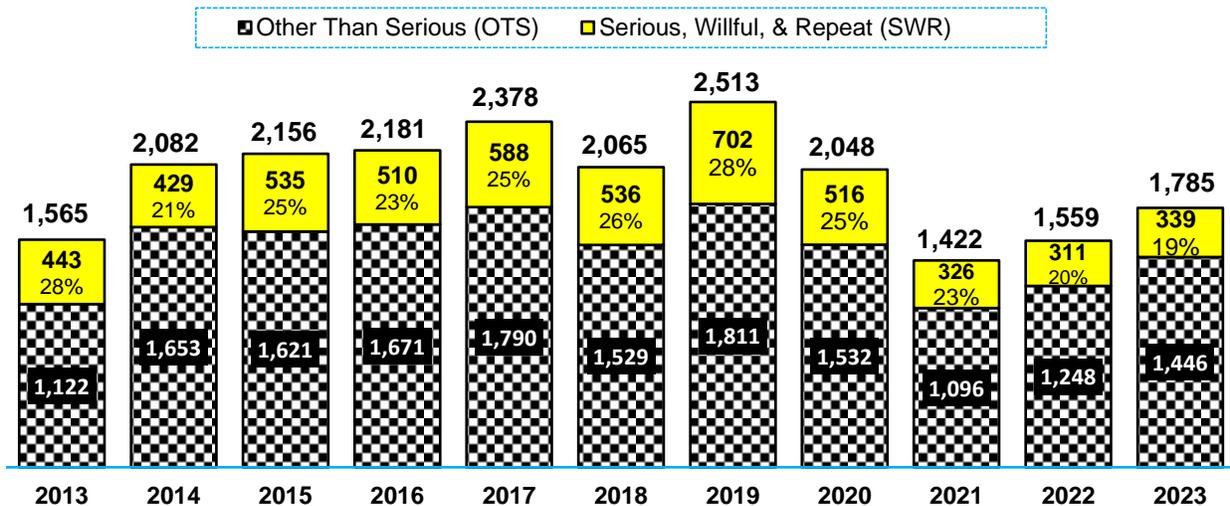
NAICS Code	Description	2020		2021		2022		2023	
		Number	%	Number	%	Number	%	Number	%
11	Agriculture, Forestry, Fishing and Hunting	26	7%	24	9%	28	8%	28	7%
21	Mining, Quarrying, and Oil and Gas Ext.	0	0%	0	0%	0	0%	0	0%
22	Utilities	0	0%	0	0%	0	0%	0	0%
23	Construction	0	0%	9	3%	11	3%	0	0%
31-33	Manufacturing	219	58%	109	41%	76	21%	56	14%
42	Wholesale Trade	3	1%	6	2%	19	5%	42	10%
44-45	Retail Trade	20	5%	49	18%	100	27%	70	17%
48-49	Transportation and Warehousing	37	10%	25	9%	34	9%	2	0%
51	Information	0	0%	0	0%	0	0%	0	0%
52	Finance and Insurance	0	0%	0	0%	0	0%	0	0%
53	Real Estate and Rental/Leasing	1	0%	0	0%	1	0%	1	0%
54	Professional, Scientific, and Technical Services	0	0%	1	0%	1	0%	1	0%
56	Admin and Support and Waste Management and Remediation	54	14%	15	6%	27	7%	33	8%
61	Educational Services	0	0%	0	0%	0	0%	0	0%
62	Health Care and Social Assistance	2	1%	14	5%	29	8%	89	22%
71	Arts, Entertainment, and Recreation	0	0%	0	0%	0	0%	1	0%
72	Accommodation and Food Services	10	3%	1	0%	19	5%	77	19%
81	Other Services	4	1%	12	5%	20	5%	1	0%
92	Public Administration	0	0%	0	0%	1	0%	0	0%
	Total	376		265		366		401	

Source: DOSH

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Violations observed¹⁹⁶ during high hazard targeted inspections are divided into two categories: “serious, willful, and repeat (SWR)” and “other than serious” (OTS) violations. According to Figure 169, the total number of violations observed increased overall by 60.5 percent from 2013 to 2019, decreased by 18.5 percent from 2019 to 2020, and then – by an additional 30.6 percent from 2020 to 2021. From 2021 to 2023, the total number of violations observed increased by 25.5 percent. The share of SWRs decreased from 28 percent of all High Hazard inspection violations in 2013 to 21 percent in 2014. From 2014 to 2019, the share of SWRs in High Hazard inspection violations increased steadily from 21 to 28 percent. From 2019 to 2023, the share of SWRs in High Hazard inspection violations decreased to 19 percent or to its lowest level in 11 years. The number of SWRs averaged 325 per year from 2021 to 2023, being the lowest in the same 11 years period.

Figure 169: Violations Observed during High Hazard Inspections, 2013-2023



Source: DOSH

Table 39 shows the number of enforcement actions taken during high hazard inspections by type from 2012 to 2023.

Table 39: Types of Enforcement Actions during High Hazard Targeted Inspections, 2013-2023

Types of enforcement actions	2013-2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Warrants	0	0	0	0	0	0	1	0	1	1
Order Prohibiting Use (Stop Order)	20	8	12	5	1	1	0	0	0	2
Information Memorandums	128	71	25	14	40	19	8	4	5	3
Violations	4,551	2,156	2,181	2,378	2,065	2,513	2,048	1,422	1,559	1,785

Source: DOSH

Table 40 shows the most frequently observed violations during high hazard inspections in 2023.

¹⁹⁶ Classification of Violations and Definitions, <https://www.dir.ca.gov/title8/334.html> and DOSH Policy and Procedures Manual, <https://www.dir.ca.gov/DOSHPol/P&PC-2.htm>.

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Table 40: Most Frequently Cited Violations during High Hazard Targeted Inspections, 2023

Title 8 Section	Description
6151	Portable Fire Extinguishers
5162	Emergency Eyewash and Shower Equipment
2340.16	Work Space about Electric Equipment
3203	Injury and Illness Prevention Program
2500.8	Flexible Cords and Cables (Uses Not Permitted)
5194	Hazard Communication
2473.1	Conductors Entering Boxes, Cabinets, or Fittings
2340.2	Requirements for Electrical Installations: Examination, Installation, and Use of Equipment
461	Permits to Operate Air Tanks
2473.2	Covers for Electrical Pull Boxes, Junction Boxes and Fittings

Source: DOSH

Safety Inspections

DOSH has three major public safety programs devoted to conducting inspections to protect the public from safety hazards:

- The Amusement Ride and Tramway Unit conducts public safety inspections of amusement rides, both portable and permanent, and aerial passenger tramways (ski lifts).
- The Elevator Unit conducts public safety inspections of different conveyances, including power-cable driven passenger and freight elevators, manlifts, and escalators.¹⁹⁷
- The Pressure Vessel Unit conducts public safety inspections of boilers and pressure vessels to ensure their safe operation in places of employment.

Cal/OSHA's Highest Hazard Industries List

Pursuant to Labor Code 6401.7(e)(3)(A), Cal/OSHA issues the Highest Hazard Industry List annually. The methodology for Cal/OSHA's High Hazard Industry threshold is based on >200 percent of the annual private sector average DART (Days Away, Restricted, and Transferred) rate. The DART rate in 2021, serving as a basis for the FY 2023-2024 High Hazard Industry threshold, was 2.2. Accordingly, the high hazard industry threshold for that fiscal year is 4.4.

For further information ...

Cal/OSHA's Highest Hazard Industry List for FY 2023-2024,
<https://www.dir.ca.gov/dosh/documents/hhu-list-2023-2024.pdf>
<https://www.dir.ca.gov/dosh/high-hazard-unit.html>

Safety and Health Standards

The Occupational Safety and Health Standards Board (OSHSB), a seven-member body appointed by the Governor, is the standards-setting agency within Cal/OSHA's program. The mission of OSHSB is to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthy workplace for California workers.

¹⁹⁷ For a list of conveyances, see <http://www.dir.ca.gov/Title8/sub6.html>.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

To meet DIR's goal to ensure that California workplaces are lawful and safe, the Board shall pursue the following goals:

- Adopt and maintain effective occupational safety and health standards.
- Evaluate petitions to determine the need for new or revised occupational safety and health standards.
- Evaluate permanent variance applications from occupational safety and health standards to determine if equivalent safety will be provided.

OSHSB also has the responsibility to grant or deny applications for variances from adopted standards and respond to petitions for new or revised standards. The OSHSB safety and health standards provide the basis for Cal/OSHA enforcement.

For further information ...

<http://www.dir.ca.gov/oshsb/apprvd.html>

Occupational Safety and Health Appeals Board (OSHAB)

The Occupational Safety and Health Appeals Board (OSHAB) consists of three members appointed by the governor for four-year terms. By statute, the members are selected from among management, labor, and the general public. The chairman is selected by the governor.

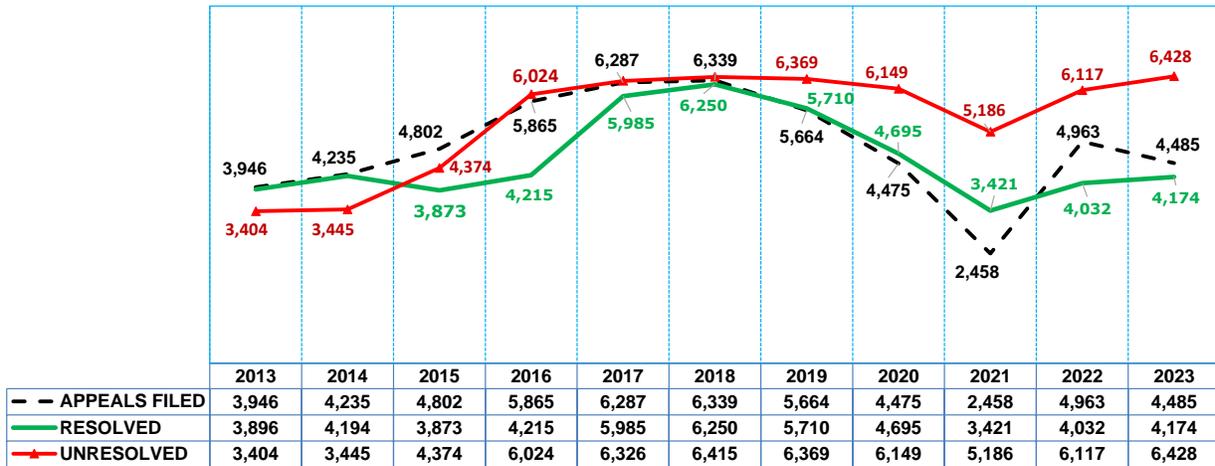
The mission of OSHAB is to resolve appeals and to provide clear, consistent guidance to the public, thereby promoting workplace health and safety fairly, efficiently, and in a timely manner. OSHAB handles appeals from private and public sector employers regarding citations issued by DOSH for alleged violations of workplace health and safety laws and regulations.

Figure 170 shows the OSHAB workload: appeals filed, appeals resolved, and unresolved that are defined as "all appeals unresolved at a year's end" and include balances accumulated from previous years. The number of appeals filed yearly increased by 61 percent from 3,946 in 2013 to 6,339 in 2018, decreased by 11 percent from 2018 to 2019, and then continued decreasing sharply by 57 percent from 2019 to 2021, including a decline by 21 percent from 2019 to 2020, and a drop by 45 percent from 2020 to 2021. As the economy started recovering in 2022, the number of appeals filed doubled from 2021 to 2022, before decreasing by 10 percent from 2022 to 2023.

In 2013 and 2014, almost 100 percent of filed appeals were resolved each year; therefore, the average number of unresolved appeals per year reached its minimum of 3,400 cases on average in 2013 and 2014. In 2015 and 2016, the number of resolved appeals slowed down to 81 and then to 72 percent of filed appeals respectively. The number of unresolved cases increased from 2015 to 2017. Resolved appeals as a share of yearly filed appeals increased to 95 percent in 2017 and to 99 percent in 2018, as the number of unresolved cases leveled out. In 2019, almost 100 percent of the filed appeals were resolved, but the number of unresolved cases, accumulated from previous years, reached almost 6,400. As the activities of the OSHAB contracted due to the COVID-19 pandemic and fewer appeals were filed in 2020 and 2021. In 2020, about 105 percent of appeals had been resolved with the number of unresolved appeals decreasing only by 3.5 percent. As the number of appeals filed dropped by 45 percent and 139 percent of those appeals were resolved, the number of unresolved appeals in 2021 decreased by 16 percent from 2020 to 2021. In 2022 compared to 2021, the number of appeals filed doubled, the number of cases resolved increased only by 18 percent. As a result, the number of unresolved cases increased by 18 percent. Although the number of appeals filed decreased in 2023, the rate of cases resolved and the number of unresolved cases accumulated from previous years did not slow down an increase (+5 percent) in unresolved cases from 2022 to 2023.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 170: Occupational Safety and Health Appeals Board (OSHAB) Workload, 2013-2023

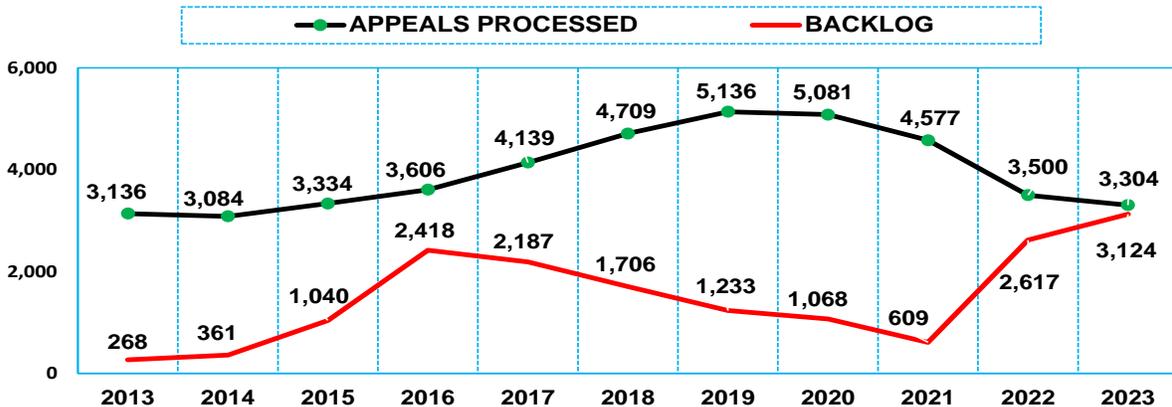


Data Source: OSHAB

The trend and level of backlogged citation appeals reflect changes in unresolved cases as they accumulate from previous years and a methodology of estimating backlogs based on a cumulative three-year moving average of processing the citations appealed (appeals filed). The formula for estimating yearly backlogs considers 10 months of incoming averaged appeals as the target process time for estimating the number of processed appeals against the unresolved cases.

Figure 171 shows that the number of backlogged appeals increased from 268 in 2013 to 2,418 cases in 2016. This growth in the backlog was the result of an increase in filing appeals and the accumulation of unresolved cases in 2015 and 2016 (see Figure 170). The number of filed appeals and unresolved cases leveled out from 2016 to 2018 and then the number of appeals filed decreased by 29 percent from 2018 to 2020. While the number of appeals processed increased by 42 percent from 2016 to 2019, the backlog decreased by 49 percent from 2016 to 2019. Due to a decrease in appeals filed and a levelling off in the number of appeals processed from 2019 to 2020, the backlog fell by 13 percent from 2019 to 2020. There was a 56 percent overall decrease in the number of backlogged appeals from 2016 to 2020. From 2020 to 2021, the number of backlogged appeals almost halved to 609 due to the decrease in unresolved cases and a 10 percent decrease in the appeals processed in that time frame. With the number of appeals filed doubling from 2021 to 2022 (see Figure 170), and the appeals processed decreasing by 24 percent in the same period, the number of backlogged cases in 2022 more than quadrupled from its 2021 level and continued to increase by 19 percent to its peak of 3,124 from 2022 to 2023.

Figure 171: Occupational Safety and Health Appeals Board Backlogs, 2013-2023



Data Source: OSHAB

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Educational and Outreach Programs

In conjunction and in cooperation with the health and safety and workers' compensation community, CHSWC administers and participates in several major efforts to improve occupational health and safety through education and outreach programs.

Worker Occupational Safety and Health Training and Education Program

The Commission on Health and Safety and Workers' Compensation (CHSWC) is mandated by Labor Code Section 6354.7 to maintain the Worker Occupational Safety and Health Training and Education Program (WOSHTEP). The purpose of WOSHTEP is to promote injury and illness prevention programs. For further information about WOSHTEP and its activities, see the "Special Report: CHSWC's Health and Safety Programs."

School Action for Safety and Health

Per the mandate set forth in the Labor Code 6434, CHSWC is to assist school districts and other local education agencies (LEAs) in implementing effective occupational injury and illness prevention programs (IIPPs). CHSWC has established a model program, California's School Action for Safety and Health (SASH) program, to help schools statewide improve their injury and illness prevention programs. For further information about SASH and its activities, see the "Special Report: CHSWC's Health and Safety Programs."

The California Partnership for Young Worker Health and Safety

CHSWC has convened the California Partnership for Young Worker Health and Safety. The Partnership is a statewide task force that brings together government agencies and statewide organizations representing educators, employers, parents, job trainers, and others. The Partnership develops and promotes strategies to protect youth at work and provides training, educational materials, technical assistance, and information and referrals to help educate young workers. For further information about the Partnership see the "Special Report: CHSWC's Health and Safety Programs."

In addition, DIR oversees these educational and outreach programs through Cal/OSHA:

Cal/OSHA Consultation

Consultative assistance is provided to small employers through on-site visits, telephone support, publications and educational outreach. All services provided by Cal/OSHA Consultation are provided free of charge to California employers.

Partnership Programs

California has developed several programs that rely on industry, labor, and government to work as partners in encouraging and recognizing workplace health and safety programs that effectively prevent and control worker injuries and illnesses. These partnership programs include the Voluntary Protection Program (VPP), Golden State, SHARP, Golden Gate, and special alliances formed among industry, labor, and OSHA.

UPDATE: THE 2023-2024 CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY

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UPDATE: THE 2023-2024 CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY

Background

In California, approximately two-thirds of the total State payroll is covered for workers' compensation (WC) through insurance policies, while the remainder is through self-insurance.¹⁹⁸ There are more than 200 private for-profit insurers and one public nonprofit insurer, the State Compensation Insurance Fund (SCIF).

The California Department of Insurance (CDI) oversees these insurers, as well as providers of all other non-federal lines of insurance within the jurisdiction of California. To accomplish its principal objective to protect insurance policyholders in the state, the CDI examines and regulates insurance companies to ensure that operations are consistent and comply with Insurance Code requirements.

Minimum Rate Law and Open Rating

In 1993, WC reform legislation repealed California's 80-year-old minimum rate law and in 1995 replaced it with an open-competition system of rate regulation, in which insurers set their own rates based on "pure premium advisory rates" developed by the Workers' Compensation Insurance Rating Bureau (WCIRB). These rates, approved by the Insurance Commissioner (IC) and subject to annual adjustment, are based on historical loss data for more than 500 job classification categories.

Under this "open rating" system, these recommended, non-mandatory pure premium rates are intended to cover the average costs of benefits and loss-adjustment expenses for all employers in an occupational class and thus provide insurers with benchmarks for pricing their policies. Insurers typically file rates intended to cover other costs and expenses, including unallocated loss-adjustment expenses, as well as an operating profit.

Workers' Compensation Advisory Premium Rates

As a result of the 2003 legislative reforms, WCIRB recommended changes and the Insurance Commissioner (IC) either approved them or declared no changes in the pure premium advisory rates. The pure premium rates, which reflect loss costs, including loss adjustment expenses per unit of exposure, are only advisory in that an insurer is not required to use either the proposed or the approved pure premium rates in establishing the rates that it will charge.

The WCIRB did not submit its July 1, 2014, July 1, 2019, and July 1, 2020 pure premium rate filings, and the IC did not issue the interim advisory rates for these periods. Recognizing that mid-year filings and adjustments to advisory pure premium rates can be disruptive to employers, agents, and brokers as well as insurers, the Committee established a guideline in 2011 stating that midyear filings would generally not be made by the WCIRB unless there was highly unusual volatility in experience or major legislative, regulatory, or judicial action.

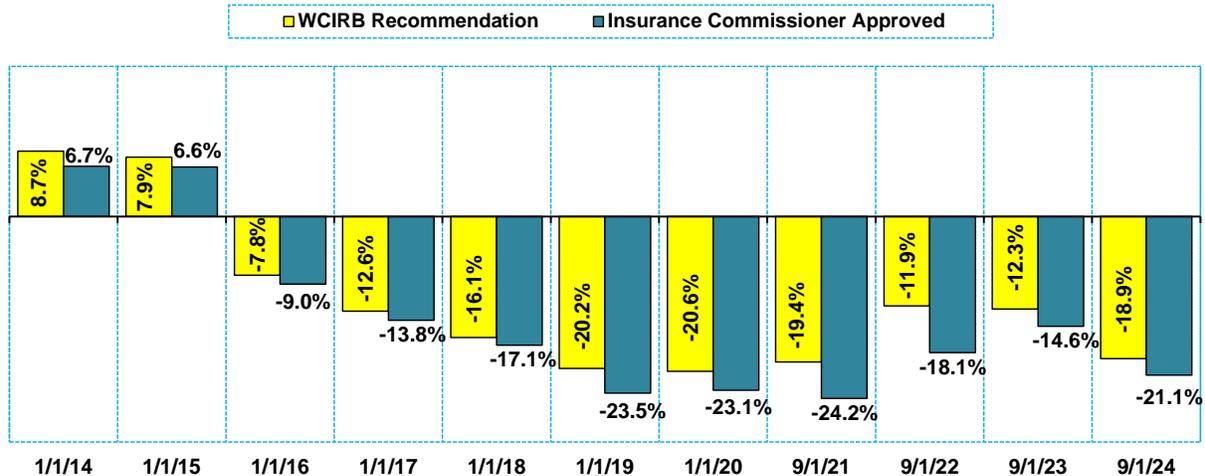
Figure 172 shows the percentage changes in WC's Advisory Premium Rates, including both the WCIRB's recommendations and the IC's decisions, compared to the industry-filed average pure premium rate in the previous filing period of each year from 2014 to 2024. This comparison, according to the WCIRB, provides an appropriate basis for assessing both the industry's ability to adapt to the proposed pure premium rate level and the size of the potential market impact of such an adjustment. According to Figure 172, when the decisions were issued, the IC approved increases for two periods of January 1, 2014, and January 1, 2015, filings. The IC approved decreases in the pure premium advisory rates in nine consecutive years beginning from January 1, 2016, through September 1, 2024.

The proposed WCIRB's September 1, 2024, advisory pure premium rates averaged \$1.42 per \$100 of payroll, which was 0.7 percent higher than the average of the approved September 1, 2023, advisory pure

¹⁹⁸ Please note that the state of California is legally uninsured.

premium rates of \$1.41, and 18.9 percent less than the industry average filed pure premium rate of \$1.75 as of January 1, 2024. The IC approved September 1, 2024, pure premium rate averaged \$1.38 which was 21.1 percent less than the industry average filed pure premium rate of \$1.75 as of January 1, 2024.¹⁹⁹

Figure 172: Percentage Changes in Workers' Compensation Advisory Premium Rates: WCIRB Recommendation and Insurance Commissioner's Decision Compared to Corresponding Industry Average Filed Pure Premium Rate



Source: WCIRB

The proposed September 1, 2024 advisory pure premium rates are based on (1) insurer losses incurred during accident year 2023 and prior accident years valued as of December 31, 2023, (2) insurer allocated loss adjustment expenses for 2023 and prior years, (3) insurer unallocated loss adjustment expenses for 2022 and prior years, (4) classification payroll and loss experience reported for policies incepting in 2021 and prior years and (5) the September 1, 2024, experience rating off-balance correction factor proposed in the WCIRB's September 1, 2024, Regulatory Filing.²⁰⁰

While COVID-19 WC claims continue to be filed in California, the proportion of COVID-19 claim-counts and the average severity of COVID-19 indemnity claims has declined significantly over the last year. As COVID-19 has shifted from pandemic to endemic, the underlying costs of COVID-19 claims are being included in pure premium rates similar to all other types of claims. As such, the WCIRB's September 1, 2024 Pure Premium Rate Filing includes COVID-19 experience in the portion of the projection that is developed from accident year 2023.²⁰¹

(A [history](#) of pure premium rates since 2013 appears later in this section on page 243.)

Workers' Compensation Written Premium

After elimination of the minimum rate law in 1993, the total written premium declined from a high of \$8.9 billion in 1993 to a low of \$5.7 billion (\$5.1 billion net of deductible) in 1995. The written premium grew slightly from 1996 to 1999 due to growth of insured payroll, an increase in economic growth, movement from self-insurance to insurance, and other factors, rather than due to increased rates. However, even with well over a million new workers covered by the system, the total premium paid by employers remained below the level seen at the beginning of the 1990s.

¹⁹⁹ <https://www.insurance.ca.gov/0400-news/0100-press-releases/2024/release029-2024.cfm>.

²⁰⁰ September 1, 2024 Pure Premium Rate Filing, https://www.wcirb.com/sites/default/files/2024-05/sept_1_2024_pp_rate_filing-complete.pdf.

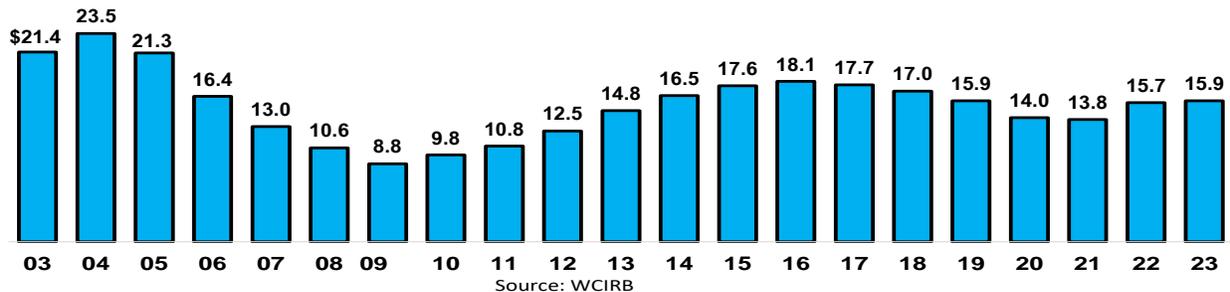
²⁰¹ Ibid.

UPDATE: THE 2023-2024 CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY

At the end of 1999, the IC approved an 18.4 percent pure premium rate increase for 2000, and the market began to harden after five years of open rating, though rates remained less than two-thirds of the 1993 level. Since then, the market has continued to firm, with the IC approving a 10.1 percent increase in the advisory rates for 2001 and a 10.2 percent increase for 2002.

Figure 173 shows the California WC written premium gross of deductible credits between 2003 and 2023. Note that these amounts also exclude dividends. The total written premium in 2003 was \$21.4 billion, a 37 percent increase from 2002 and it grew by about 10 percent to a peak of \$23.5 billion from 2003 to 2004. That amount declined by almost 63 percent from \$23.5 billion to \$8.8 billion between 2004 and 2009 due to rate decreases. From 2009 to 2016, the written premium more than doubled and then declined almost 23 percent from its second peak in 2016 to 2020 due to the economic downturn resulting from the COVID-19 pandemic combined with insurer rate decreases and reduced employer payroll. A slight 1.5 percent decline in written premium from 2020 to 2021 was driven by continued insurer rate decreases offsetting growth in employer payroll. In 2021, the written premium reached a six-year low and was 24 percent below its 2016 peak of \$18.1 billion. A 14 percent increase in written premium from 2021 to 2022 and a 1 percent increase from 2022 to 2023 were driven by higher employee wage levels and economic recovery.²⁰²

Figure 173: Workers' Compensation Written Premium (Billion \$)



Combined Loss and Expense Ratio

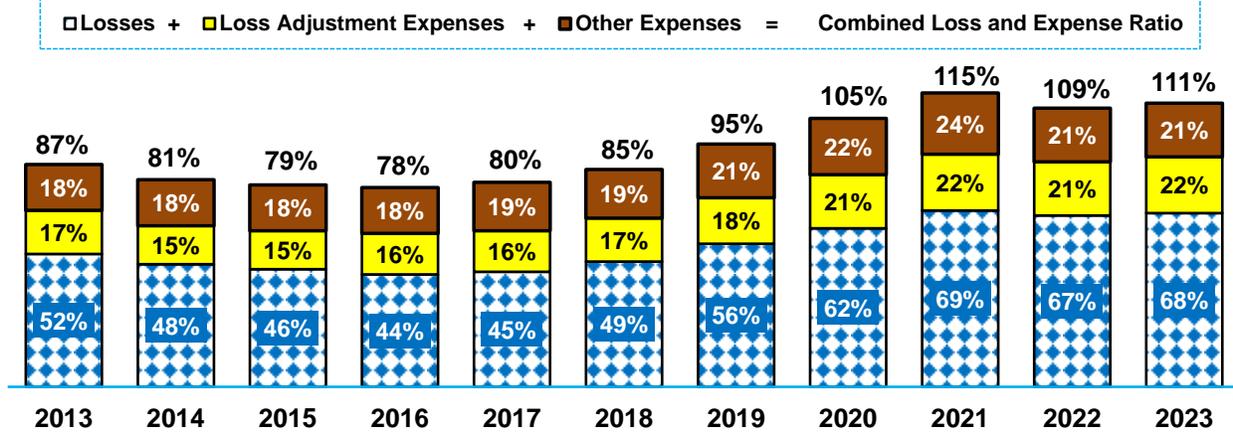
The accident year combined loss and expense ratio measures WC claims payments and administrative expenses against the earned premium.

According to Figure 174, in accident year 2023, insurers' claim projected costs and expenses amounted to \$1.11 for every dollar of premium collected. Although the combined ratios in California have historically been volatile, the industry ratio was fairly stable between 2013 and 2019, and 2019 was the seventh consecutive year with a combined ratio below 100 percent. Combined ratios since 2016 have been increasing primarily due to lower premium levels driven by lower insurer rates and higher expense ratios. The combined ratios for 2020 through 2023 are the first above 100 percent since 2013. In 2020 and 2021, higher-than-100-percent combined ratios were driven in part by COVID-19 claims, volatile changes in premium levels, and claim frequency during the pandemic. After decreasing modestly in 2022, the combined ratio increased slightly in 2023, which was driven by increases in average claim severities offsetting the premium increases.²⁰³

²⁰² WCIRB Quarterly Experience Report as of June 30, 2024, https://www.wcirb.com/sites/default/files/2024-10/quarterlyexperiencereport-2024q2-2024-10-04_0.pdf.

²⁰³ WCIRB's State of the System 2024 Report, https://www.wcirb.com/sites/default/files/2024-07/wcirb_2024_report_on_the_state_of_the_california_workers_compensation_insurance_system-2024-07-17.pdf.

Figure 174: California Workers' Compensation Combined Loss and Expense Ratios

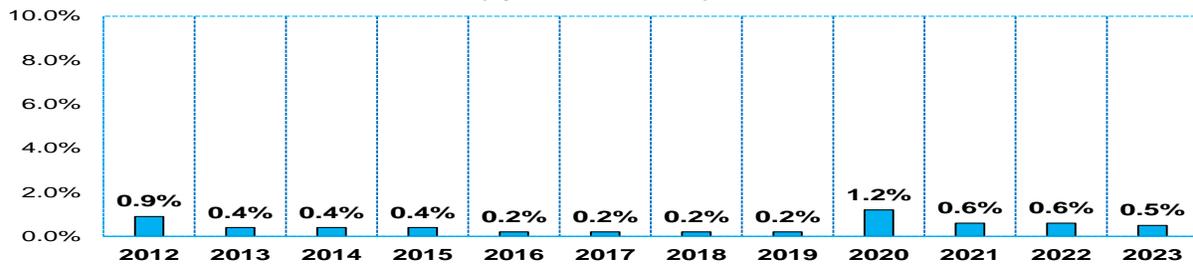


Source: WCIRB

Policy Holder Dividends

Dividends to policyholders were not paid in 2004 and were then reinstated from 2005 through 2011 at a very low rate. Dividends paid to policyholders increased up to 0.9 percent in 2012 and then decreased to 0.4 percent in 2013. From 2013 to 2019, dividends paid to policyholders decreased steadily, from 0.4 to 0.2 percent of the earned premium. These estimated insurer policyholder dividends totaled \$32 million incurred in 2019, or 0.2 percent of earned premium, as shown in Figure 175. Based on insurer statutory Annual Statement information, the WCIRB estimates policyholder dividends incurred in 2020 to be 1.2 percent of 2020 earned premium and those incurred in 2023 to be 0.5 percent of 2023 earned premium, resulting in an underwriting profit of \$1.3 billion, or 8.5 percent of 2023 earned premium.

Figure 175: Insurer Policy Holder Dividends as a Percentage of Earned Premium (by Calendar Year)



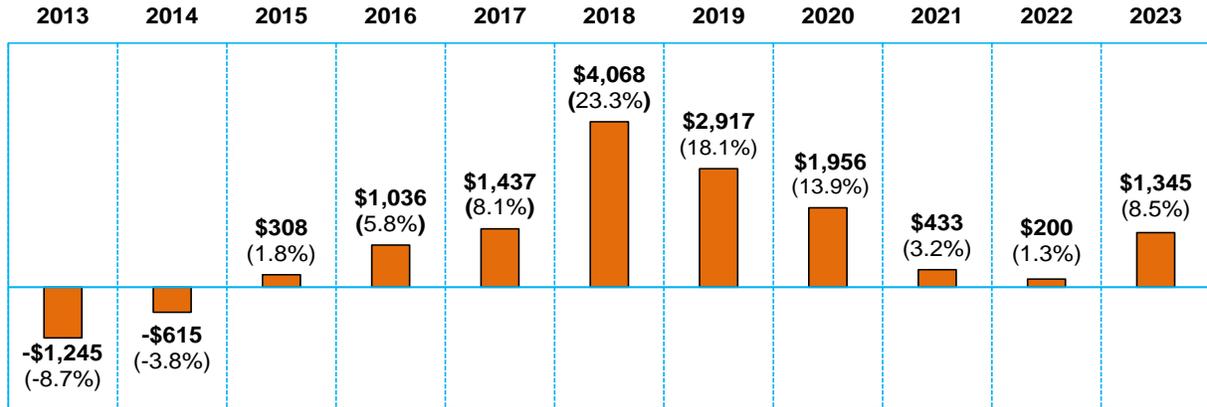
Source: WCIRB

Insurer Profit/Loss

WC insurers experienced large fluctuations in profits and losses during the past decade, as measured by actual dollars and percentage of earned premium. From the implementation of the reforms of 2004 until 2008, insurer underwriting profits were uncharacteristically high. Investment income typically was the main source of insurer profits, but underwriting profits from policies was a new development. In 2008, WC insurers experienced losses for the first time since 2004. The pre-tax underwriting losses increased to 17 percent in both 2009 and 2010, and then according to Figure 176, were 8.7 percent of earned premium in 2013, declining again from 2013 to 2014. In 2015, insurers experienced the underwriting profits of 1.8 percent after 7 years of losses. In 2023, the underwriting profits were 8.5 percent or \$1.345 million.²⁰⁴

²⁰⁴ Data reflects underwriting results only and not overall profitability as figures shown do not contemplate any measure of investment income or federal income taxes. See the National Association of Insurance Commissioners' Report on *Profitability By Line By State*, which is published annually at <https://content.naic.org/>, for an estimate of the overall profitability of California WC.

**Figure 176: Insurer Pre-Tax Underwriting Profit/Loss²⁰⁵, 2013-2023
(Million \$ and as a Percentage of the Earned Premium)**



Source: WCIRB

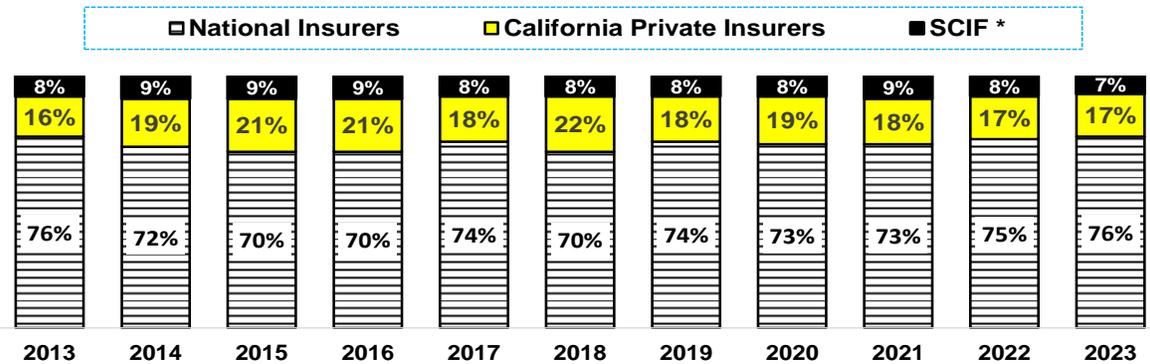
Current State of the Insurance Industry

Market Share

A number of California insurers left the market or reduced their underwritings as a result of the decrease in profitability, contributing to a major redistribution of market share among insurers since 1993. Figure 177 shows changes in the WC insurance market share from 2013 to 2023.

According to WCIRB, from 2013 to 2023, SCIF attained between 8 to 9 percent of the California WC insurance market. The share of private insurers that focus most of their WC business in California has been relatively consistent since 2013. The market share of these domestic insurers, excluding SCIF, increased overall, from 16 percent in 2013 to 22 percent in 2018, and then declined to an average of about 17-18 percent per year from 2019 to 2023. The SCIF market share considered as a relatively stable since 2013.

**Figure 177: Workers' Compensation Insurance Market Share in California by Type of Insurer
Based on Written Premium Prior to Deductible Credits, 2013 - 2023**



* State Compensation Insurance Fund

Note: California Insurers are defined as private insurers who write at least 80 percent of their workers' compensation business in California.

Data Source: WCIRB

²⁰⁵ Underwriting profits or losses in this report represent only insured policies prior to reinsurance assumed or ceded and before the application of deductible credits or advisory retrospective rating plan adjustments. Also these numbers reflect underwriting results only, not overall profitability, taking into account measures of investment income or federal income taxes.

Impact of September 11, 2001, on Insurance Industry

The problems in the reinsurance market caused by the tragic events of September 11, 2001 significantly affected the cost and availability of catastrophe reinsurance and, correspondingly, had a significant effect on the cost of workers' compensation insurance. This effect extended to more than acts of terrorism and is a critical component of any evaluation of the California workers' compensation insurance marketplace. The insurance industry remained concerned about the renewal of the Terrorism Risk Insurance Act, often known as TRIA, which was reauthorized in 2007 and extended to December 2014. Now known as TRIPRA, the Terrorism Risk Insurance Program Reauthorization Act of 2015 amended the expiration date of the Terrorism Risk Insurance Program (TRIP) to December 31, 2020. On December 20, 2019, the President signed into law the Terrorism Risk Insurance Program Reauthorization Act of 2019 (Pub. L. 116-94, 133 Stat. 2534) which extended TRIP through December 31, 2027.²⁰⁶

²⁰⁶ <https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/terrorism-risk-insurance-program>

**Advisory Workers' Compensation Pure Premium Rates
A History since the 2013 Reform Legislation**

January 1, 2013

WCIRB recommendations:

On October 1, 2012, the WCIRB submitted its January 1, 2013, pure premium rate filing to the California Insurance Commissioner. The WCIRB did not recommend a January 1, 2013, increase in the advisory pure premium rate level. Instead, the WCIRB proposed January 1, 2013, pure premium rates that average \$2.38 per \$100 of payroll, which is the industry average filed pure premium rate as of July 1, 2012. The amended January 1, 2013, Pure Premium Rate Filing incorporated new proposed advisory pure premium rates as well as proposed changes to the reporting requirements of the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* and to the eligibility threshold of the *California Workers' Compensation Experience Rating Plan—1995*.

Insurance Commissioner action:

On November 30, 2012, the Commissioner issued a decision approving new advisory pure premium rates effective January 1, 2013, that average \$2.56 per \$100 of payroll which is 2.8 percent higher than the industry average filed pure premium rate of \$2.49 per \$100 of payroll as of November 9, 2012.

July 1, 2013

WCIRB recommendations:

On April 3, 2013, after some discussion, the WCIRB Governing Committee unanimously agreed not to submit a July 1, 2013, Pure Premium Rate Filing. Instead, the Actuarial Committee agreed to continue reviewing insurer experience in preparation for the regular January 1, 2014, Pure Premium Rate Filing to be submitted in August.

Insurance Commissioner action:

The Insurance Commissioner did not issue an interim advisory rate for this period.

January 1, 2014

WCIRB recommendations:

On October 23, 2013, the WCIRB and public members voted unanimously to amend the WCIRB's January 1, 2014, Pure Premium Rate Filing to propose an additional 1.8 percent increase in pure premium rates to reflect the increased costs of the new physician fee schedule recently adopted by the Division of Workers' Compensation (DWC). With this amendment, the WCIRB proposed January 1, 2014, advisory pure premium rates that average \$2.75 per \$100 of payroll which is 8.7 percent greater than the industry average pure premium rate of \$2.53 as of July 1, 2013. (The original Filing submitted on September 13, 2013, proposed an industry average pure premium rate of \$2.70, which is 6.9 percent higher than the July 1, 2013, industry average pure premium rate.)

Insurance Commissioner action:

On November 22, 2013, the California Department of Insurance (CDI) issued a decision regarding the WCIRB's January 1, 2014, Pure Premium Rate Filing approving advisory pure premium rates effective January 1, 2014, that average \$2.70 per \$100 of payroll, which is 6.7 percent higher than the average filed pure premium rate as of July 1, 2013.

July 1, 2014

WCIRB recommendations:

On April 3, 2014, after some discussion, the WCIRB Governing Committee unanimously agreed not to submit a July 1, 2014, Pure Premium Rate Filing.

Insurance Commissioner action:

The Insurance Commissioner did not issue a decision with respect to the pure premium rate for this period.

January 1, 2015

WCIRB recommendations:

On September 4, 2014, the WCIRB voted to amend the WCIRB's January 1, 2015, Pure Premium Rate Filing to propose advisory pure premium rates that average \$2.77 per \$100 payroll in lieu of the advisory pure premium rates averaging \$2.86 per \$100 of payroll that were proposed in the WCIRB's initial August 19, 2014, Filing. The new proposed average pure premium rate of \$2.77 is 7.9 percent higher than the corresponding industry average filed pure premium rate of \$2.57 as of July 1, 2014.

Insurance Commissioner action:

On November 14, 2014, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2015, Pure Premium Rate Filing approving advisory pure premium rates effective January 1, 2015, that average \$2.74 per \$100 of payroll, which is 6.6 percent higher than the average filed pure premium rate as of July 1, 2014, of \$2.57 per \$100 of payroll and 2.2 percent above the average approved January 1, 2014, pure premium rate of \$2.68 per \$100 of payroll.

July 1, 2015

WCIRB recommendations:

On April 6, 2015, the WCIRB submitted a July 1, 2015, Pure Premium Rate Filing to the California Department of Insurance (CDI) proposing advisory pure premium rates effective July 1, 2015, that average \$2.46 per \$100 of payroll. The average proposed advisory pure premium rate is 5.0 percent lower than the corresponding industry average filed pure premium rate of \$2.59 as of January 1, 2015, and 10.2 percent less than the approved average January 1, 2015, advisory pure premium rate of \$2.74.

Insurance Commissioner action:

On May 7, 2015, the Commissioner approved the WCIRB's proposed advisory pure premium rates that average \$2.46 per \$100 of payroll. The approved pure premium rates are, on average, 5.0 percent less than the industry average filed pure premium rate as of January 1, 2015, of \$2.59 and 10.2 percent less than the average of the approved January 1, 2015, advisory pure premium rates of \$2.74. The approved advisory pure premium rates are effective July 1, 2015, for new and renewal policies.

January 1, 2016

WCIRB recommendations:

On August 19, 2015, the WCIRB submitted its January 1, 2016, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates for the 491 standard classifications proposed to be effective January 1, 2016, average \$2.45 per \$100 of payroll, which is \$0.21, or 7.8 percent, less than the corresponding industry average filed pure premium rate of \$2.66 as of July 1, 2015, and \$0.02 or 0.8 percent less than the average approved July 1, 2015, advisory pure premium rate of \$2.47

Insurance Commissioner action:

On October 20, 2015, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2016, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$2.42 per \$100 of payroll. The approved pure premium rates were, on average, 9.0 percent less than the industry average filed pure premium rate as of July 1, 2015, of \$2.66 and 2.0 percent less than the average of the approved July 1, 2015, advisory pure premium rates of \$2.47.

July 1, 2016

WCIRB recommendations:

On April 11, 2016, the WCIRB submitted its July 1, 2016, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective July 1, 2016, average \$2.30 per \$100 of payroll, which is 10.4 percent lower than the corresponding industry average filed pure premium rate of \$2.57 as of January 1, 2016, and 5.0 percent less than the average approved January 1, 2016, advisory pure premium rate of \$2.42.

Insurance Commissioner action:

On May 31, 2016, the Insurance Commissioner issued a decision regarding the WCIRB's July 1, 2016, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$2.30 per \$100 of payroll. The approved pure premium rates were, on average, 10.4 percent less than the industry average filed pure premium rate as of January 1, 2016, of \$2.57 and 5.0 percent less than the average of the approved January 1, 2016, advisory pure premium rates of \$2.42.

January 1, 2017

WCIRB recommendations:

On August 19, 2016, the WCIRB submitted its January 1, 2017, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective January 1, 2017, averaged \$2.26 per \$100 of payroll. On October 3, 2016, after completing evaluations of June 30, 2016 experience, the WCIRB submitted an amended advisory pure premium rate averaging \$2.22 per \$100 of payroll. The proposed rate is 12.6 percent less than the corresponding industry average filed pure premium rate of \$2.54 as of July 1, 2016 and 4.3 percent less than the average approved July 1, 2016 advisory pure premium rate of \$2.32.

Insurance Commissioner action:

On October 27, 2016, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2017, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$2.19 per \$100 of payroll. The approved pure premium rates were, on average, 13.8 percent less than the industry average filed pure premium rate as of July 1, 2016, of \$2.54 and 5.6 percent less than the average of the approved July 1, 2016, advisory pure premium rates of \$2.32 per \$100 of payroll.

July 1, 2017

WCIRB recommendations:

On April 11, 2017, the WCIRB submitted its July 1, 2017, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective July 1, 2017, averaged \$2.02 per \$100 of payroll. The average proposed rate is 16.5 percent less than the corresponding industry average filed pure premium rate of \$2.42 as of January 1, 2017 and 7.8 percent less than the average approved January 1, 2017 advisory pure premium rate of \$2.19.

Insurance Commissioner action:

On May 22, 2017, the Insurance Commissioner issued a decision regarding the WCIRB's July 1, 2017, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$2.02 per \$100 of payroll. The approved advisory pure premium rates were, on average, 16.5 percent less than the corresponding industry average filed pure premium rate as of January 1, 2017, of \$2.42 and 7.8 percent less than the average of the approved January 1, 2017, advisory pure premium rates of \$2.19 per \$100 of payroll.

January 1, 2018

WCIRB recommendations:

On August 18, 2017, the WCIRB submitted its January 1, 2018, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective January 1, 2018, averaged \$2.01 per \$100 of payroll. On September 8, 2017, the WCIRB submitted an amended January 1, 2018 Pure Premium Rate Filing. The proposed amended rate average \$1.96 and is 16.1 percent less than the corresponding industry average filed pure premium rate of \$2.00 as of July 1, 2017 and 2 percent less than the average approved July 1, 2017 advisory pure premium rate of \$2.00.

Insurance Commissioner action:

On October 26, 2017, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2018, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$1.94 per \$100 of payroll. The approved pure premium rate was, on average, 17.1 percent less than the industry average filed pure premium rate as of July 1, 2017, of \$2.34 and 3 percent less than the average of the approved July 1, 2017, advisory pure premium rates of \$2.00 per \$100 of payroll.

July 1, 2018

WCIRB recommendations:

On April 9, 2018, the WCIRB submitted its July 1, 2018, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective July 1, 2018, averaged \$1.80 per \$100 of payroll. The proposed advisory pure premium rate was 7.2 percent less than the average approved January 1, 2018 advisory pure premium rates.

Insurance Commissioner action:

On May 29, 2018, the Insurance Commissioner issued a decision regarding the WCIRB's July 1, 2018, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$1.74 per \$100 of payroll. The approved pure premium rate was, on average, 21.6 percent less than the industry average filed pure premium rate as of January 1, 2018, of \$2.22 and 10.3 percent less than the average of the approved January 1, 2018, advisory pure premium rates of \$1.94 per \$100 of payroll.

January 1, 2019

WCIRB recommendations:

On August 20, 2018, the WCIRB submitted its January 1, 2019, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective January 1, 2019, averaged \$1.70 per \$100 of payroll. The proposed advisory pure premium rate was 4.5 percent less than the average approved July 1, 2018 advisory pure premium rates.

Insurance Commissioner action:

On November 7, 2018, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2019, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$1.63 per \$100 of payroll. The approved pure premium rate was, on average, 23.5 percent less than the industry average filed pure premium rate as of July 1, 2018, of \$2.13 and 8.4 percent less than the average of the approved July 1, 2018, advisory pure premium rates of \$1.78 per \$100 of payroll.

July 1, 2019

WCIRB recommendations:

On April 3, 2019, the WCIRB Governing Committee agreed not to submit a July 1, 2019, Pure Premium Rate Filing. Recognizing that midyear filings and adjustments in advisory pure premium rates can be disruptive for employers, agents, and brokers as well as insurers, the Committee established a guideline in 2011 stating that midyear filings would generally not be made by the WCIRB unless there was highly unusual volatility in experience or major legislative, regulatory, or judicial action. Based on the December 31, 2018, experience and analysis, the Committee determined that the overall improvement in experience since the January 1, 2019, approved pure premium rates was more moderate, approximately \$0.06 per \$100 of payroll or less than 4 percent than in recent years.

Insurance Commissioner action:

The Insurance Commissioner did not issue a decision with respect to the pure premium rate for this period.

January 1, 2020

WCIRB recommendations:

On August 20, 2019, the WCIRB submitted its January 1, 2020, Pure Premium Rate Filing to the California Insurance Commissioner. The pure premium rates proposed to be effective January 1, 2020, averaged \$1.58 per \$100 of payroll. The proposed advisory pure premium rate is 5.4 percent less than the average current January 1, 2019, advisory pure premium rates.

Insurance Commissioner action:

On November 13, 2019, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2020, Pure Premium Rate Filing, approving advisory pure premium rates that averaged \$1.52 per \$100 of payroll. The average approved pure premium rate is about 23.6 percent lower than the industry filed average pure premium rate of \$1.99 as of July 1, 2019 and 9.0 percent lower than the average approved January 1, 2019 advisory pure premium rate of \$1.67 per \$100 of payroll.

January 1, 2021

WCIRB recommendations:

On September 15, 2020, the WCIRB amended its January 1, 2021, Pure Premium Rate Filing submitted to the California Insurance Commissioner on August 26, 2020. The overall average pure premium rate proposed to take effect January 1, 2021, was not amended and averaged \$1.56 per \$100 of payroll, reflecting the average provision of \$0.06 per \$100 of payroll COVID-19 adjustment, based on the relative frequency of COVID-19 claims by industry sector. Projected average PPR prior to the impact of COVID-19 claims is \$1.50 per \$100 of payroll. The WCIRB amended individual proposed advisory pure premium rates by classification to reflect updated information on the frequency of COVID-19 claims by industry sector. The proposed advisory pure premium rate is 2.6 percent above the average approved January 1, 2020, advisory pure premium rates. The regulatory filing for January 1, 2021, PPR includes a new classification for Clerical Telecommuter Employees approved by the IC on June 25, 2020, which applies to Clerical Office Employees who work more than 50 percent of their time at home or any office space other than the location of their employer.

Insurance Commissioner action:

On November 24, 2020, the Insurance Commissioner issued a decision regarding the WCIRB's January 1, 2021, pure premium rate filing, approving advisory pure premium rates that averaged \$1.45 per \$100 of payroll. The average approved 2021 advisory pure premium rate, which does not reflect a provision for projected COVID-19 claim costs, is 4.6 percent below the average approved January 1, 2020 advisory pure premium rate. While the approved advisory pure premium rates do not reflect a provision for projected COVID-19 claim costs on 2021 policies, the IC's decision directed insurers to clearly identify any filed rate or rating plan component that includes an adjustment for COVID-19 in rate filings submitted to the CDI and directed the WCIRB to collect data on the aggregate premium charged for any rate or rating plan component that includes an adjustment for COVID-19.

September 1, 2021

WCIRB recommendations:

On April 29, 2021, the WCIRB submitted its September 1, 2021 Pure Premium Rate Filing to the California Department of Insurance proposing advisory pure premium rates that are, on average, 2.7 percent above the average approved January 1, 2021 advisory pure premium rates. The average of the proposed September 1, 2021 advisory pure premium rates is \$1.50 per \$100 of payroll.

Insurance Commissioner action:

On July 21, 2021, the Insurance Commissioner issued a decision regarding the WCIRB's September 1, 2021 pure premium rate filing, approving advisory pure premium rates that averaged \$1.41 per \$100 of payroll. The average approved September 1, 2021 advisory pure premium rate is 3.4 percent below the average approved January 1, 2021 advisory pure premium rate. The difference between the WCIRB proposed and CDI approved advisory pure premium rates is due to somewhat different assumptions regarding medical loss development, future indemnity claim frequency and future claim severity trends.

September 1, 2022

WCIRB recommendations:

On April 29, 2022, the WCIRB submitted its September 1, 2022 Pure Premium Rate Filing to the California Department of Insurance proposing advisory pure premium rates that are, on average, 7.6 percent above the average approved September 1, 2021 advisory pure premium rates of \$1.45 per \$100 of payroll and 11.9 percent less than the industry average filed pure premium rate of \$1.77 per \$100 of payroll as of January 1, 2022. The average of the proposed September 1, 2022 advisory pure premium rates was \$1.56 per \$100 of payroll which included a provision of \$0.008 per \$100 of payroll for the estimated cost of COVID-19 claims that will incur during the September 1, 2022 policy period.

Insurance Commissioner action:

On July 15, 2022, the Insurance Commissioner issued a decision regarding the WCIRB's September 1, 2022 pure premium rate filing that indicated the approved advisory pure premium rate averaging \$1.45 per \$100 of payroll should remain unchanged from approved September 1, 2021 PPR.

September 1, 2023

WCIRB recommendations:

On April 28, 2023, the WCIRB submitted its September 1, 2023, Pure Premium Rate Filing to the California Department of Insurance proposing advisory pure premium rates that are, on average, 0.3 percent above the average approved September 1, 2022, advisory pure premium rates of \$1.45 per \$100 of payroll and 12.2 percent less than the industry average filed pure premium rate of \$1.71 per \$100 of payroll as of January 1, 2023. The average of the proposed September 1, 2023, advisory pure premium rates was \$1.50 per \$100 of payroll.

Insurance Commissioner action:

On July 11, 2023, the Insurance Commissioner issued a decision regarding the WCIRB's September 1, 2023, pure premium rate filing that indicated the approved advisory pure premium rate averaging \$1.46 per \$100 of payroll, which is 2.6 percent below the average of the approved September 1, 2022, PPR of \$1.50 per \$100 of payroll. The difference between the WCIRB proposed and CDI approved advisory pure premium rates is due to different assumptions regarding loss development, claim frequency and claim severity trends. The average approved September 1, 2023 advisory pure premium rate of \$1.46 has been restated to \$1.41 based on updated payroll weights by classification.

September 1, 2024

WCIRB recommendations:

On April 25, 2024, the WCIRB submitted its September 1, 2024, Pure Premium Rate Filing to the California Department of Insurance proposing advisory pure premium rates that are, on average, 0.9 percent above the average approved September 1, 2023, advisory pure premium rates of \$1.41 per \$100 of payroll and 18.9 percent less than the industry average filed pure premium rate of \$1.75 per \$100 of payroll as of January 1, 2024. The average of the proposed September 1, 2024, advisory pure premium rates was \$1.42 per \$100 of payroll.

Insurance Commissioner action:

On July 12, 2024, the Insurance Commissioner issued a decision regarding the WCIRB's September 1, 2024, pure premium rate filing that indicated the approved advisory pure premium rate averaging \$1.38 per \$100 of payroll, which is 2.1 percent below the average of the approved September 1, 2023, PPR of \$1.41 per \$100 of payroll. The difference between the WCIRB proposed and CDI approved advisory pure premium rates is due to different assumptions regarding loss development, claim frequency and claim severity trends.

Source: WCIRB

SPECIAL REPORTS

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SPECIAL REPORT: A STUDY OF COVID-19 CLAIMS AND PRESUMPTIONS UNDER SENATE BILL 1159

Introduction

On September 17, 2020, Governor Gavin Newsom signed into law Senate Bill (SB) 1159²⁰⁷, which took effect immediately as an urgency statute. SB 1159 codified the Governor's previous Executive Order N-62-20²⁰⁸ assigning COVID-19 a presumption and created two new presumptions dependent on testing positive, as defined, for COVID-19. The first covers public safety workers²⁰⁹ as well as health-care providers. The second covers all other workers, during an "outbreak,"²¹⁰ as defined. They cover all new claims from July 6, 2020, to January 1, 2023, for both public and private sector employees.

SB 1159 also required CHSWC to conduct a study of the impacts of COVID-19 claims on California's workers' compensation system, including an assessment of differences in the impacts across differing occupational groups and of the presumption statutes. In May 2021 CHSWC contracted with RAND to conduct this study.

Objectives

The objectives of the study include:

- Evaluate the overall impacts of COVID-19 claims on California's workers' compensation system.
- Evaluate the overall impacts of COVID-19 claims on California's workers' compensation indemnity benefits, medical benefits, and death benefits, including differences in the impacts across differing occupational groups.
- Assess the overall and cost impacts of the specific presumptions created by SB 1159 on California workers' compensation system.
- Present a framework for evaluation of SB 1159, including information on outbreaks, timeframes and costs for care.

Project Team

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²⁰⁷ Text of SB 1159 at https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1159.

²⁰⁸ Text of order at <https://www.gov.ca.gov/wp-content/uploads/2020/05/5.6.20-EO-N-62-20-text.pdf>.

²⁰⁹ See Labor Code Section 3212.87 (a) of SB 1159 at https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1159/.

²¹⁰ A condition of 4 percent of employees testing positive for Covid-19 or otherwise closed by public health officials for risk of Covid-19 infection.

SPECIAL REPORT: A STUDY OF COVID-19 CLAIMS AND PRESUMPTIONS UNDER SENATE BILL 1159

Methods

To address the above study objectives, RAND conducted a literature review of COVID-19 issues. The researchers used a mixed-methods approach, including rigorous quantitative analysis, using data from the Workers' Compensation Information System (WCIS), and 32 qualitative interviews with workers, employers, and public health officials²¹¹ to capture diverse perspectives on COVID-19 claims and SB 1159.

A Technical Advisory Group (TAG) meeting was held on July 1, 2021, to solicit key stakeholders' feedback on both qualitative and quantitative aspects of this study. A second TAG meeting was held on October 26, 2021.

Key Findings:

- From the start of 2020, 142,033 COVID-19 infection WC claims were filed over 18 months, accounting for 15 percent of all WC claims. COVID-19 claim volume fluctuated drastically month to month, with peak periods creating administrative challenges for claims administrators and employers.
- Initial denial rates on COVID-19 claims fell after presumptions were adopted, but COVID-19 claims remained more likely to be denied than other WC claims, potentially due to the requirement that a worker show a positive COVID-19 test.
- Access to state and federal pandemic benefits for medical care and lost wages strongly influenced workers' decisions to file workers' compensation claims for COVID-19. Interview findings indicated that workers who contracted COVID-19 relied first on COVID-19 sick leave mandated by the federal and state governments (as required by SB 1159) before filing a workers' compensation claim.
- Dramatically expanded coverage of COVID-19 medical care by public and private health insurers likely contributed to unusually high proportions of COVID-19 workers' compensation claims with no paid medical care.
- Employers and claims administrators reported that responding to COVID-19 workers' compensation claims added complexity and administrative burden. They identified the primary burdens as having to adapt information systems to track outbreaks and report cases, deal with shortened claims investigation timelines, and collect information about COVID-19 exposures related to some claims.

Policy Implications

- If one goal of the SB 1159 presumptions was to encourage WC claiming and facilitate access to benefits for workers at high risk of COVID-19, the policy appears to have succeeded. The presumptions helped workers obtain benefits for work-related illness from the WC system, promoting broad coverage of workers and health conditions.
- SB 1159 shortened claims investigation time frames for employers from the normal 90 days to 30 to 45 days for claims covered by its presumptions. Shortened timelines and quicker initial decisions did not appear to meaningfully assist workers per the WC system's normal goals. This is likely because workers were able to get paid leave and access medical care through other policies.
- Other federal and state policies that were in effect during the study period likely did more than SB 1159 to support the WC system's goals of protecting workers from medical spending and the risk

²¹¹ Additional information on the types of stakeholders interviewed can be found on pages 28-29 of the report available at: <https://www.dir.ca.gov/chswc/Reports/2022/RAND-COVID-claims-presumptions.pdf>

SPECIAL REPORT: A STUDY OF COVID-19 CLAIMS AND PRESUMPTIONS UNDER SENATE BILL 1159

of lost income. Many of these policies and actions have ended, however, suggesting that WC may be more important to workers in the future. Although paid sick leave was viewed as more important in the majority of cases, the findings of the study do not rule out the possibility that WC benefits for permanent disability or death could be very important to workers who experience the worst outcomes from COVID-19.

Recommendations for Further Research

- Estimation of long-term medical costs, temporary and permanent disability costs, and litigation costs related to both SB 1159 presumptions.
- Analysis of how COVID-19 claims outcomes (i.e., acceptance, denial, reversal, conditional denial, and litigation and settled outcomes) changed over the course of a given claim, as well as how COVID-19 claims outcomes and processes varied during the different surges of COVID-19 over time.
- Investigation into what workers—across California and by industry and occupation—who contracted COVID-19 did to maintain their income, stay safe, and seek medical care when needed

Status: Completed

A final study report to the Legislature and the Governor was provided in April 2022.

For further information..

Denise D. Quigley, Michael S. Dworsky, Nabeel Qureshi, Shannon Prier, and Courtney Gidengil, COVID-19 in the California Workers' Compensation System-A Study of COVID-19 Claims and Presumptions Under Senate Bill 1159, RAND 2021.

<https://www.dir.ca.gov/chswc/Reports/2022/RAND-COVID-claims-presumptions.pdf>

Denise D. Quigley, Michael S. Dworsky, Nabeel Qureshi, Shannon Prier, and Courtney Gidengil COVID-19's Impacts on California's Workers' Compensation System - Evaluating the Effects of Senate Bill 1159, RAND Research Brief, 2022.

https://www.dir.ca.gov/chswc/Meetings/2022/ResearchBrief_CovidClaims_SB1159.pdf

Denise D. Quigley, Michael S. Dworsky, Nabeel Qureshi, Shannon Prier, and Courtney Gidengil, COVID-19 in the California Workers' Compensation System-A Study of COVID-19 Claims and Presumptions Under Senate Bill 1159, RAND, Pre-Publication, January 2022.

https://www.dir.ca.gov/chswc/Reports/2022/RAND_RRA1430-1.pdf

Denise D. Quigley, Nabeel Qureshi, Grace Gahlon, and Courtney A. Gidengil, Worker and Employer Experience with COVID-19 and the California's Workers' Compensation System: A Review of the Literature. American Journal of Industrial Medicine, January 29, 2022.

<https://onlinelibrary.wiley.com/doi/10.1002/ajim.23326>

SPECIAL REPORT: EVALUATION OF INCIDENCE OF MENTAL HEALTH CONDITIONS OR ILLNESSES AMONG FIREFIGHTERS AND PEACE OFFICERS

Introduction

On October 1, 2019, Governor Gavin Newsom signed into law Senate Bill (SB) 542, which created a rebuttable presumption that posttraumatic stress disorder (PTSD) in firefighters and peace officers is a work-related injury and thus compensable under workers' compensation.²¹² Department chiefs noted the significant impacts of suicide being a primary motivator to improving mental health supports for firefighters and peace officers. On the other hand, having a healthy workforce was noted as being among the biggest cost-savers that would result from the presumption. The rebuttable presumption, according to Labor Code § 3212.15 added by SB 542, is in effect for specified injuries occurring between January 1, 2020, and January 1, 2025.

Assemblymember Tom Daly requested that the Commission on Health and Safety and Workers' Compensation (CHSWC) undertake a study evaluating a wide range of topics from differences in mental health and suicide risk across occupations to cost impact of SB 542, all condensed in 12 research questions posed in his letter.²¹³ CHSWC has contracted with RAND to conduct this study that would guide future policymaking.

Research Questions

The study addresses the main research questions with its final report providing a designated appendix of question-by-question answers in addition to detailed analysis of each question in designated sections. The answers to the 12 research questions listed below are generalized in the summary of findings section of this special report:

1. Do firefighters and peace officers have a higher incidence of traumatic stress injuries than people in non-public employment that poses similar exposure to traumatic stress, such as emergency room personnel, security guards, and private ambulance service employees?
2. Do firefighters and peace officers experience a significantly higher incidence of suicide, attempted suicide, or other serious mental health conditions than other employees in general?
3. Are claims by firefighters and peace officers for mental health conditions denied when the condition appears to be job related but the employee had difficulty in proving that fact, and was the rate of denial statistically different from denial of other claims by firefighters (or peace officers) that are subject to presumptions of compensability?
4. Do firefighters and peace officers file claims for mental health conditions at a rate statistically different from that of other employees?

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²¹² <https://www.gov.ca.gov/2019/10/01/governor-newsom-signs-bills-to-support-firefighters-and-first-responders/>.

²¹³ https://www.dir.ca.gov/chswc/Meetings/2019/Assembly-Letter-Tom-Daly_091119.pdf.

SPECIAL REPORT: EVALUATION OF INCIDENCE OF MENTAL HEALTH CONDITIONS OR ILLNESSES AMONG FIREFIGHTERS AND PEACE OFFICERS

5. Are claims by firefighters and peace officers for mental health conditions denied when the condition appears to be job related but the employee has difficulty in proving that fact, and is the rate of denial statistically different from that for other claims and from other types of employees?
6. In addition to quantifying the data for #4, consult with the professional mental health community to determine the feasibility of proving or disproving whether these mental health conditions are job related.
7. To the extent that claims for mental health conditions filed by firefighters (or peace officers) are denied by employers, does this occur after prior treatment that was covered by employer-sponsored or other health-care coverage, when the treating provider(s) concluded the condition was job related or when there was no prior treatment or diagnosis?
8. Of the claims that involve mental health conditions, what was the percentage of these claims primarily for mental health issues, and what was the percentage of these claims that involved a mental health claim as a compensable consequence of a claim for physical injuries?
9. To what extent are mental health claims filed by public safety officers' post-separation/termination claims, as opposed to claims for which the employer had notice during the term of employment?
10. In the case of denied WC claims by firefighters and peace officers for mental health conditions, is there evidence that the claimant later sought and obtained care through employer-sponsored or other health-care coverage?
11. What is the estimated cost to state and local governments for each of the next five years, under SB 542 as enacted?
12. What is the estimated cost to state and local governments of applying SB 542 retroactively?

Methods

To address the research questions posed by CHSWC, RAND used a mixed-methods approach that included rigorous quantitative analysis of data from the Workers' Compensation Information System (WCIS) for 2008–2019 accident years and the California Health Interview Survey (CHIS) from the 2013–2019 period, projection of the costs to state and local government that may result from SB 542, and 51 qualitative interviews with first responders (13), department chiefs (8), mental health professionals (8), applicants' attorneys (9), and claims administrators (8). Additional 5 interviews were conducted with chiefs (3) and mental health providers (2) who worked for departments that had arranged means other than WC to support mental health treatment for first responders.²¹⁴

A Technical Advisory Group (TAG) containing various stakeholders and experts was convened to gather input on study design and research questions in an October 13, 2020, meeting and then to gain stakeholder community's feedback on preliminary qualitative and quantitative findings towards the end of the project on May 11, 2021.

The quantitative analyses in this study reflect the pre-SB 542 status quo and not the events since SB 542 took effect on January 1, 2020, although some qualitative research findings on stakeholders' experiences since SB 542 took effect are discussed in this study.

The estimates in the study do not directly address the question of how PTSD prevalence varies across occupations, since the PTSD was not measured as the mental distress was. The study includes requests to interpret most findings with caution and to take into account the limitations of the preliminary information and data.

²¹⁴ https://www.dir.ca.gov/chswc/Meetings/2021/RAND_mentalhealth_report.pdf, pp. 10-13.

SPECIAL REPORT: EVALUATION OF INCIDENCE OF MENTAL HEALTH CONDITIONS OR ILLNESSES AMONG FIREFIGHTERS AND PEACE OFFICERS

Summary of Key Findings

- Mental distress and suicidality are not more prevalent among California's first responders than among workers in other occupations who are exposed to trauma on the job.
- Claims filed by firefighters and peace officers are more likely to involve PTSD than are claims by the average worker in California but are also denied more often.
- First responders' PTSD claims are denied more often than claims for other conditions (e.g., cancer or heart trouble) with a presumption of being work-related.
- Although it is often feasible to prove that a mental health condition is job-related, there are barriers that contribute to potentially avoidable claim denials.
- Firefighters and peace officers also face barriers to care-seeking — primarily, mental health stigma, fear of professional consequences, and lack of access to culturally competent mental health providers who understand the realities and exceptional demands of their work.
- Nearly all workers interviewed filed workers' compensation claims for mental health conditions, but almost none received PTSD care paid for by workers' compensation; rather, nearly all paid for care out-of-pocket, sometimes causing severe financial strain.
- Without SB 542, first responders' workers' compensation claims involving PTSD would cost state and local governments an average of \$20 million per year in benefit costs. Under SB 542, costs for claims involving PTSD may increase substantially. Costs under SB 542 are highly uncertain, however, and could range from \$48 million to \$347 million per year.
- A retroactive presumption covering PTSD with 2017–2019 injury dates might cost \$79 million, although these costs are also highly uncertain.

Summary of Key Recommendations for Future Research:

- Revisit the questions discussed in this report closer to the expiration of the SB 542 presumption, perhaps in 2023. A retrospective evaluation could provide clearer evidence on care-seeking patterns, claims denial rates, and claims costs with the presumption in place.
- Conduct a qualitative investigation to examine whether SB 542 succeeded in reducing mental health stigma or promoting other changes in department culture.
- Scope an *ex post* evaluation to measure the effects of first responder turnover, training, and early retirement and to quantify their implications for the net costs of SB 542.
- Gather more information about what details and evidence are requested by claims administrators and examine claim denials resulting from disconnects in mental health provider documentation.
- Further examine the availability of culturally competent mental health providers and explore ways to provide first responders with a wider choice of providers, care, and treatment.
- Start building an evidence base for better-integrated systems that help to deliver and finance mental health care for first responders with work-related trauma exposure.
- Instead of making piecemeal improvements to employee assistance programs, employer-sponsored insurance, or workers' compensation programs, investigate the costs and benefits of alternative models used in some police departments for delivering mental health care through direct care provision.
- Consult policymakers, departments, labor unions, and providers to find avenues for improving and accelerating first responder access to mental health treatment.
- Consider the mental health effects of occupational trauma exposures and working conditions across a much wider set of occupations and industries.

SPECIAL REPORT: EVALUATION OF INCIDENCE OF MENTAL HEALTH CONDITIONS OR ILLNESSES
AMONG FIREFIGHTERS AND PEACE OFFICERS

Status: Complete.

For Further Information...

“Posttraumatic Stress in California's Workers' Compensation System: A Study of Mental Health Presumptions for Firefighters and Peace Officers Under Senate Bill 542”, RAND, 2021.

https://www.dir.ca.gov/chswc/Meetings/2021/RAND_mentalhealth_report.pdf

“First Responder Claims for PTSD in Workers' Compensation: Assessing the Effects of Senate Bill 542 in California”, Research Brief, RAND, September 20, 2021.

https://www.dir.ca.gov/chswc/Meetings/2021/RAND_mentalhealth_brief.pdf

<https://www.dir.ca.gov/chswc/Meetings/2021/Rand-PTSD-Study-Comments-Commissioners-Kessler-Bouma-Roxborough.pdf>

SPECIAL REPORT: STUDY ON THE EFFECTIVENESS OF POST-TRAUMATIC STRESS DISORDER (PTSD) PRESUMPTION AND CLAIMS FILED FOR PTSD

Background

According to the Centers for Disease Control and Prevention, public safety workers including firefighters and law enforcement officers are at high risk of exposure to traumatic events and stress on the job.²¹⁵ In California, [SB 542](#) created a rebuttable presumption of PTSD injury under Labor Code Section 3212.15 for active firefighters, peace officers, and fire and rescue service coordinators, as defined, under the Office of Emergency Services. Other public safety workers such as public safety dispatchers also face traumatic events as part of their duties, but are currently not covered by the presumption.²¹⁶ [As included earlier](#) in this annual report, the first effort to evaluate a wide range of topics from differences in mental health to cost impact of SB 542 was undertaken by RAND.²¹⁷ Based on CHSWC commissioners' recommendations²¹⁸ and the fact that the impacts of SB 542 were not yet observable in data used by the RAND study, it was decided that the additional research conducted on PTSD presumption was required. While the initial study did not achieve its primary objectives, its findings remain valuable as they highlighted crucial factors that need to be addressed. By understanding the limitations identified in the earlier study, a more robust research approach could be designed in the future project.

Project Team

To be determined

[SB 623](#), Chaptered on October 8, 2023, postponed the current sunset date of Labor Code Section 3212.15 from January 1, 2025 to January 1, 2029 and required CHSWC to study and report on the effectiveness of the PTSD presumption. In addition, the bill required CHSWC to also study and review claims filed by certain types of employees, not included in the presumption.

Study Objectives

The purpose of the study is to analyze the effectiveness of PTSD presumption and to review claims filed by specified type of employees, not included in the presumption, such as public safety dispatchers, public safety telecommunicators, and emergency response communication employees.

CHSWC is required to provide two reports as follows:

- A report analyzing claims filed for PTSD injury for which compensation is claimed by public safety dispatchers, public safety telecommunicators, and emergency response communication employees, from January 1, 2020, through December 31, 2023. In particular, the report shall review data, including, but not limited to, the total number of claims, frequency of claim acceptance, frequency of claim denial, the initial claim determination, and the average time between the filing of a claim and the final determination of compensability. The report was required to be provided to the Senate Committee on Labor, Public Employment and Retirement and the Assembly Committee on Insurance no later than January 1, 2025.²¹⁹

²¹⁵ <https://blogs.cdc.gov/niosh-science-blog/2024/05/09/mental-health-public-safety-sector/>.

²¹⁶ file:///C:/Users/Irina%20Nemirovsky/Downloads/202320240SB623_Senate%20Floor%20Analyses.pdf.

²¹⁷ "Posttraumatic Stress in California's Workers' Compensation System: A Study of Mental Health Presumptions for Firefighters and Peace Officers Under Senate Bill 542", RAND, 2021.
https://www.dir.ca.gov/chswc/Meetings/2021/RAND_mentalhealth_report.pdf.

²¹⁸ <https://www.dir.ca.gov/chswc/Meetings/2021/Rand-PTSD-Study-Comments-Commissioners-Kessler-Bouma-Roxborough.pdf>

²¹⁹ Since the contractor has not been identified at this time, it is not feasible for this study to have been completed by January 1, 2025.

SPECIAL REPORT: STUDY ON THE EFFECTIVENESS OF POST-TRAUMATIC STRESS DISORDER
(PTSD) PRESUMPTION AND CLAIMS FILED FOR PTSD

- A report on the effectiveness of the PTSD presumption. The report shall review data from PTSD injuries for which compensation is claimed under the Labor Code Section 3212.15 from January 1, 2020, through December 31, 2025. The report needs to be provided to the Senate Committee on Labor, Public Employment and Retirement and the Assembly Committee on Insurance no later than January 1, 2027.

Status: CHSWC issued a Request for Information in 2024 to help collect information from the potential contractor community that may be used to develop the RFP for the study.

SPECIAL REPORT: JANITORIAL TIME MOTION STUDY

Background

On December 11, 2020, Assemblymember Miguel Santiago submitted a request for CHSWC to work with the University of California (UC) to study the role of janitors in the safe re-opening of California during the Covid-19 epidemic.

In the submitted request, Assemblymember Santiago noted that California's public health guidelines recommend all high touch surfaces be disinfected at least daily and those with high traffic be disinfected more often. However, he also cited the 2017 CHSWC study, "Excessive Workload in the Janitorial Industry"²²⁰, which states that janitors are already stretched thin because they are required to clean tens of thousands of square feet nightly. In the request, other limitations on janitors' performance were mentioned. The letter underlines the need for development of clear science-based standards for janitorial services. Assemblymember Santiago requested that CHSWC partner with a research team led by the following UC Departments: the UC San Francisco Department of Medicine's Division of Occupational and Environmental Medicine; the UC Ergonomics Research and Graduate Training Program; the UC Berkeley School of Public Health's Division of Environmental Health Sciences; and the UC Berkeley School of Public Health's Labor and Occupational Health Program.²²¹

At the March 2021 CHSWC virtual meeting, the University of California principal research staff and advisors presented a proposal for discussion to the assembled Commissioners.²²² The presentation showed that in the U.S. the occupation of janitors and cleaners ranked third in the number of nonfatal injuries and illnesses with days away from work, with 35,260 cases reported in 2018²²³, and that janitors and cleaners are exposed to high physical demands that increase the risk of musculoskeletal and cardiovascular conditions. Ergonomic workload, measured by task frequencies, posture risk assessment tools and perceived exertion scores, have also been described as positively associated with injury occurrence. CHSWC subsequently contracted with the UC to methodically examine the cleaning productivity standards in the janitorial services industry, as well as the working conditions and productivity expectations of janitorial employees both during and after the Covid-19 pandemic.²²⁴

Project Purpose and Approach

The overall purpose of this project is to determine safe and effective workloads for California janitors that are specific to square footage, cleaning tasks and venue. A statewide survey will assess current working conditions (prevention measures, productivity requirements, etc.) and workers' knowledge of Centers for Disease Control and Prevention (CDC) recommendations for cleaning and disinfecting during the COVID-19 pandemic. Focus groups and key informant interviews will solicit feedback on productivity guidelines and adjustments to contracts. A detailed time motion study and ergonomic analysis will provide physical exposure measurements and time on-task information while assessing for risk of musculoskeletal disorders.

Project Team

CHSWC Staff

David Botelho
CHSWC Acting Executive Officer

Eduardo Enz*
CHSWC Executive Officer
CHSWC Staff

UCSF Staff

Carisa Harris-Adamson, *Ph.D.*
Melissa Afterman
Meg Honan,
Alan Barr

UC-Davis Staff

Fadi Fathallah, *Ph.D.*

UC Berkeley, LOHP

Laura Stock
Suzanne Teran

*Since 9/9/24, Eduardo Enz is no longer with CHSWC

²²⁰ https://www.dir.ca.gov/chswc/Reports/2017/Janitor_Report_LOHP_3-10-17.pdf.

²²¹ <https://www.dir.ca.gov/chswc/Meetings/2021/SantiagoLetter.pdf>.

²²² <https://www.dir.ca.gov/chswc/Meetings/2021/JanitorTimeMotionPropPrezo.pdf>.

²²³ <https://www.dir.ca.gov/chswc/Meetings/2021/JanitorTimeMotion.pdf>.

²²⁴ Ibid. <https://www.dir.ca.gov/chswc/Meetings/2021/JanitorTimeMotion.pdf>.

SPECIAL REPORT: JANITORIAL TIME MOTION STUDY

Project Goals

The primary project aims/goals of the study are to:

- 1) Assess the knowledge and implementation of worksite CDC Cleaning & Disinfection Recommendations among janitors.
- 2) Determine the types of COVID-19 prevention measures implemented at janitorial workplaces, including: engineering controls (i.e., ventilation), administrative controls (e.g., symptom screening, six foot separation markings), and personal protective equipment (e.g., provision and use of masks/gloves/hand sanitizer).
- 3) Describe the relationship between janitor workload, work climate, prevention measures, organizational policies and health (mental and physical) while working during the COVID-19 pandemic.
- 4) Describe janitor's experiences with the COVID-19 modified tasks, work culture and impact on physical and mental health; solicit feedback on productivity guidelines based on findings from the online survey.
- 5) Describe the experience of contractors and building owners/managers in adjusting contracts to ensure adequate staffing and providing janitors with the time, training and tools needed to fulfill the cleaning standards requirements.
- 6) Quantify biomechanical exposures and risk of injury while performing various tasks at different venues.
- 7) Quantify the time required to clean and disinfect different types of spaces, according to CDC recommendations, to develop safe production rates for janitorial work by venue type; determine reasonable production rates based on tasks per square foot (density) and task duration (rate) by venue.

Methods

This project utilizes a mixed methods approach that incorporates qualitative and quantitative data from janitors in the Northern California region.

1) Online Survey

An online survey was sent to over 30,000 janitors statewide to assess workers' experiences with COVID-19 prevention measures at their worksites. This survey was distributed by the Service Employees International Union (SEIU) United Service Workers West (SEIU-USWW) to their members, by the Maintenance Cooperation Trust Fund to non-union workers, and by Building Skills Partnership and others who are interested and able to promote this effort with janitors. The researchers expect approximately 2,000 responses.

- Questions include inquiries into the impact of COVID-19, exposures, and physical and mental health aspects, such as:
 - The knowledge of worksite CDC Cleaning & Disinfection Recommendations among janitors.
 - The types of COVID-19 prevention measures implemented at janitorial workplaces.
 - The relationship between janitor workload, work climate, prevention measures, organizational policies and health (mental and physical) while working during the COVID-19 pandemic.

SPECIAL REPORT: JANITORIAL TIME MOTION STUDY

2) Qualitative Study

Methods will include one focus group and six key informant interviews with workers (estimated eight to ten workers in the focus group plus six interviews = 16 worker participants) and four to five interviews with employer representatives.

- Questions will focus on work changes since COVID-19, changes in productivity requirements, how productivity requirements are being handled, and management challenges. Topics include:
 - Time, training, and support needed to accomplish tasks
 - Impact of the new protocols on the physical and mental health of janitors
 - Staffing or scheduling impact
 - COVID-19 prevention measures
 - Challenges workers have faced in implementing protocols or prevention strategies (including interactions with building occupants or others)

3) Quantitative Job Analysis & Time Motion Study

A quantitative time and motion study will determine the task durations and frequency, magnitudes of physical exposures and the physiological workload for cleaning and disinfecting over typical eight-hour shifts. This psychophysical study will involve observations of workers carrying out their tasks at a pace that they can sustain for the duration of their shifts. Workers will be video taped while wearing biomechanical and physiological measurement tools. Production rates will be compared and contrasted.

- Questions include:
 - What are the tasks, durations, and rates per venue, location, and area?
 - What are the durations, frequency and magnitudes of biomechanical exposures and risk for musculoskeletal disorders (MSDs)?
 - What is the physiological workload and risk for cardiovascular strain?
 - How does the actual work rate compare to the International Sanitary Supply Association (ISSA) production rates and COVID-19 production rates?

September 27, 2024 Update

At the September 27, 2024 CHSWC public meeting, Carissa Harris-Adamson, Ph.D. and Principal Investigator (P.I.) on the study, gave an update on the UCSF study. She noted that there are 278,000 janitors in California, with a high prevalence for pain and injuries (191.6 per 10,000 FTE workers). The objective of the study at this stage is to compare ISSA measures with the actual time spent at four (4) venues by space and task. The venues were a mall, an airport, an event/convention location, and an office. The experiment/examination relied primarily on video taped observations, as the intended wearable devices were largely refused. The video tape analysis was very detailed, using a Multi-Video Task Analysis (MVTA) tool.

Dr. Harris-Adamson discussed the preliminary results of the experiment. In general, the ISSA measures varied with actual time spent on certain specific activities, at times underestimating and at other times overestimating times, with unclear evidence of compensation when inadequate time was provided for some tasks over others. In addition, some tasks, spaces and tools used by janitors were not described by the ISSA measures.

The results of the experiment showed large discrepancies between ISSA times on tasks, particularly for disinfecting, wiping, walking and vacuuming tasks. Workers spent less time cleaning bathrooms and removing trash, but times varied based on usage/building capacity. The allocation of janitorial work needs

SPECIAL REPORT: JANITORIAL TIME MOTION STUDY

revision to incorporate building capacity and tasks currently ignored, such as restocking supplies. The next steps include examining a workload calculator to refine overall measures and discrepancies. The work continues on the overall study and the other sections not discussed at the September 27th presentation.

Updated Status Timeline

Researchers expect to submit a final report to CHSWC before June 2025.

Status: In process.

For further information...

Presentation: "The California Janitor Workload Study, Using Time Motion Methods to Compare Actual Time Spent on Tasks with Industry Recommended Time Allocations," September 2024. <https://www.dir.ca.gov/chswc/Meetings/2024/09-27-2024-CAjanitorWorkloadStudy.pdf>

Status update presentation, "The California Janitor Workload Study: The impact of precarious work and psychosocial stress on physical and mental health of California janitors," July 2023. https://www.dir.ca.gov/chswc/Meetings/2023/CAjanitorWorkloadStudy_CHSWC-230714.pdf

Status update presentation, "Cleaning and disinfection during the COVID-19 pandemic: Determining safe and effective workloads for California Janitors," UCSF, October 2022. https://www.dir.ca.gov/chswc/Meetings/2022/COVID19JanitorTimeMotionStudy_Update_October2022.pdf

Initial proposal: "Safe cleaning and disinfection during the COVID-19 pandemic: The role of Janitors in the safe re-opening of California," undated, University of California letterhead, posted in March 2021. https://www.dir.ca.gov/chswc/Meetings/meeting_index.html and <https://www.dir.ca.gov/chswc/Meetings/2021/JanitorTimeMotion.pdf>

Presentation of Time & Motion Study with Human Factors Framework – Janitors, March 4, 2021. <https://www.dir.ca.gov/chswc/Meetings/2021/JanitorTimeMotionPropPrezo.pdf>

Presentation of Time & Motion Study "Cleaning and disinfection during the COVID-19 pandemic: Determining safe and effective workloads for California Janitors" December 9, 2021. <https://www.dir.ca.gov/chswc/Meetings/2021/COVID19-Janitor-Time-Motion-Study-Update12-2021.pdf>

See also minutes of March 4, 2021 meeting starting on page 5 at https://www.dir.ca.gov/chswc/Meetings/2021/Minutes_03-04-21.pdf and Minutes of December 9, 2021 meeting starting on page 13 at <https://www.dir.ca.gov/chswc/Meetings/2021/Minutes-12-09-21.pdf>

SPECIAL REPORT: IDENTIFYING, CHARACTERIZING AND MITIGATING CANCER AND OTHER OCCUPATIONAL HEALTH RISKS AMONG MECHANICS AND CLEANERS OF FIREFIGHTING VEHICLES

Background and Purpose

Under existing law, occupational safety and health regulations protect employees from harmful exposures to dusts, fumes, mists, vapors, and gasses, including internal combustion engine exhaust. The regulations cover the handling of hazardous substances, and they set exposure limits for specified airborne contaminants and certain carcinogens. Many fire department employees handle equipment and safety gear that have been exposed to and contaminated with toxic materials. These employees – fire department mechanics who clean, maintain and repair vehicles such as fire trucks or helicopters and the equipment used by firefighters to battle active fires – have limited protective gear and no protocols to ensure that equipment or vehicles they are servicing have gone through a decontamination process prior to their work on the equipment.

Project Team

To be determined

Assembly Bill 1400, sponsored by California Assembly Member Sydney Kamlager-Dove, added Section 77.7 to the Labor Code and required the Commission on Health and Safety and Workers' Compensation (CHSWC), in partnership with the County of Los Angeles and relevant labor organizations, to submit a study to the California Legislature, the Occupational Safety and Health Standards Board (OSHSB), and the Los Angeles County Board of Supervisors on or before January 1, 2021 on cancer and other health risks associated with exposure to toxic materials among fire mechanics who repair and clean firefighting vehicles. In May 2020, CHSWC contracted with ToxStrategies, a multidisciplinary scientific consulting firm, to conduct this study. However, the study was not accepted by CHSWC, and a new Request for Proposal (RFP) was issued on September 12, 2024²²⁵, to solicit competitive proposals from experienced and qualified contractors to conduct a study, titled: *Identifying, Characterizing and Mitigating Cancer and other Occupational Health Risks Among Mechanics and Cleaners of Firefighting Vehicles*. The new study will be administered by CHSWC with input from OSHSB, a seven-member body appointed by the Governor, and is the standards-setting agency within the Cal/OSHA program.

Objectives

The study will assess the risk of exposure to carcinogenic and toxic materials and assess the incidence of occupational cancer among mechanics and cleaners of firefighting vehicles. The study will include the following tasks:

Task 1: Prepare Literature Review The Contractor shall conduct a thorough literature review of exposures to carcinogens and other toxic materials among firefighting vehicle mechanics and cleaners, and among diesel engine repair workers and general vehicle repair workers, including body shop workers.

Task 2: Conduct Site Visits, Interviews and Surveys and Report Results The Contractor shall conduct site visits to a representative sample of facilities, located throughout the State of California and including facilities in Northern and Southern California. The County of Los Angeles and Napa County where firefighting equipment is routinely cleaned and repaired must be included in the site visits.

²²⁵ <https://caleprocure.ca.gov/event/7350/S23CHSWC01>.

SPECIAL REPORT: IDENTIFYING, CHARACTERIZING AND MITIGATING CANCER AND OTHER OCCUPATIONAL HEALTH RISKS AMONG MECHANICS AND CLEANERS OF FIREFIGHTING VEHICLES

Task 3: Conduct Qualitative and Quantitative Observations and Analysis and Summarize Findings to the Department of Industrial Relations. The Contractor shall make qualitative observations and analyses, and quantitative measurements, of the current uses of, and levels of exposure to carcinogenic and other toxic material among mechanics who repair and clean firefighting vehicles in the County of Los Angeles and other facilities included in the study.

Task 4: Technical Assistance. In addition to conducting a cancer and non-cancer health risk assessment among mechanics and cleaners of firefighting vehicles, the Contractor shall respond to DIR Contract Manager requests for technical assistance on legislative and/or regulatory issues related to occupational cancer and other health risks among mechanics and cleaners of firefighting equipment.

Task 5: Monthly Progress Reports. The Contractor shall provide monthly written progress reports to DIR Contract Manager or his designee(s), until the projects are completed.

Task 6: Draft and Final Report. The Contractor shall provide a draft report of the study, on or before April 30, 2026, with the final report due on September 30, 2026. The final study report must include, at a minimum detailed information on the topics discussed under the Scope of the study and in Work Approach.

Status: In Progress

SPECIAL REPORT: THE USE OF PREPAID CARDS FOR WORKERS' COMPENSATION INDEMNITY BENEFITS AND SENATE BILL (SB) 880 ENABLING LEGISLATION AND PILOT EXTENSIONS

In 2018, SB 880²²⁶ was introduced to provide for the transfer of workers' compensation indemnity benefits with prepaid cards in the cases of injured workers and worker households that are "unbanked" and have no access to direct deposit of paychecks. Unbanked workers, who lack access to financial institutions, often incur significant fees when cashing checks. According to Senate and Assembly analyses²²⁷, although some entities (employers and insurers) already use prepaid cards, most other employers and insurers assumed these cards were not allowed since they were not expressly authorized in statute. SB 880 expressly authorized the use of prepaid cards, making it less expensive and easier for all people – not just the unbanked – to receive their benefits via prepaid cards.

Project Team

To be determined

According to the Legislature's analysis of the bill, authorization for use of the prepaid cards is considered a pilot program that expired on January 1, 2023. This pilot program was modeled on the existing Unemployment Insurance (UI) prepaid benefit card program that provides unemployed workers with UI benefits on a prepaid card. That program, in turn, was modeled on an existing electronic benefit transfer (EBT) program for individuals to receive CalFresh, CalWORKs, and other food and cash aid benefits. The legislative analysis further explains that SB 880 required that an injured worker provide written consent prior to receiving his or her benefits on a prepaid card. Since the bill did not address written consent, it may require clarification through regulations from the Department of Workers' Compensation. The program would have ended on January 1, 2023 if it had not been extended or made permanent by a new law.

SB 880 was believed to help reduce financial burdens by barring nearly all vendor fees incurred by injured workers. As part of this enabling legislation, the Legislature requested a study on the deposit of disability indemnity payments for employees in a prepaid card account with reasonable access to in-network automatic teller machines. To facilitate an impact study, SB 880 amended Labor Code Section 4651 and required employers that use prepaid card programs to provide all necessary aggregated data requested by CHSWC. This study will examine the prepaid account program created by SB 880 in 2018. In particular, the study will examine the adoption of a prepaid card account system by employers and insurers, using available data provided by employers and/or other data sources such as the DWC's WCIS.

Impact of Other Legislation on the Study Timeline

Any CHSWC research based on the usage of a prepaid card for indemnity payments (noted in the 2022 annual report) was impacted by Assembly Bill (AB) 2148²²⁸ (2022) and the extension of the pilot program to January 1, 2024. Another bill, AB 489²²⁹ in 2023, extended the pilot again an additional year to January 1, 2025, and necessitated an extension of the timeframe for any report. Once again, AB 1239²³⁰ (2024) extended the pilot to January 2027. Research on this pilot program will continue to be guided by legislative amendments and extensions related to this pilot program.

Status: In process.

²²⁶ See copy of original bill at https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB880.

²²⁷ See California government legislature's website for SB 880 in 2018 and their bill analyses at https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180SB880.

²²⁸ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2148.

²²⁹ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB489.

²³⁰ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1239.

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

Introduction

The mission of the Labor Enforcement Task Force (LETF) is to combat the underground economy in order to ensure safe working conditions and proper payment of wages for workers, create an environment in which legitimate businesses can thrive, and support the collection of all California taxes, fees, and penalties due from employers. Task force members include:

- Labor & Workforce Development Agency (LWDA)
- Department of Industrial Relations (DIR), including the Division of Labor Standards Enforcement (DLSE) and the Division of Occupational Safety and Health (Cal/OSHA)
- Employment Development Department (EDD)
- Contractors State License Board (CSLB)
- California Department of Insurance (CDI)
- California Department of Tax and Fee Administration (CDTFA)
- California Bureau of Automotive Repair (BAR)
- California Department of Alcoholic Beverage Control (ABC)
- State Attorney General and district attorneys throughout California

Established in January 2012, LETF is administered by DIR. DIR developed executive and strategic operations teams to operate, evaluate, and monitor the program. This report describes activities conducted in Fiscal Year (FY) 2023-2024.

Targeting Methods: Value Added by LETF

LETF is tasked with ensuring efficacy, resource maximization, and the avoidance of overlap in agency enforcement. Targeted inspections are the most effective approach for meeting these central objectives. To accurately target non-compliant businesses, DIR continually refines its methods, which are both data driven (proactive) and complaint driven (responsive).

LETF teams comprise staff from the member agencies listed above, customized for inspections in each industry. On its own, each agency does not have access to the full range of data and other information that the LETF teams can access collectively.

- DLSE uses wage claim data, Bureau of Field Enforcement (BOFE) data, and has contacts with local district attorneys and community-based organizations.
- Cal/OSHA uses contacts with the local Agricultural Commissioner's office, the local US Department of Agriculture's office, and community-based organizations.
- EDD uses complaint data and their Automated Collection Enhancement System (ACES) that includes multiple databases, including tax and DMV records. Their data on taxpayers are protected by federal privacy laws.
- CSLB uses complaint data, licensing data, and contacts with industry partners.

In addition, LETF receives complaints and tips submitted directly by the public to identify potential targets. DIR has issued news releases and targeted email notifications in order to proactively solicit complaints and tips. This [news release](#) is an example of a proactive outreach effort to solicit public engagement and

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

submission of complaints for public works projects. The public may report through the LETF hotline, the LETF online form, or the LETF email address, as provided online on the [Labor Enforcement Task Force webpage](#).

LETF targeting protocol involves a multiphase process that all inspectors follow. Teams identify potential targets and conduct research to develop a business profile. Lists of potential targets are sent to EDD for screening to learn if the employer is registered with EDD and to determine how many employees the employer has reported. The target lists are screened through the Workers' Compensation Insurance Rating Bureau (WCIRB) to determine if the employer is adequately insured. In addition, LETF screens business names using other agency databases to match on a variety of fields that may indicate areas of noncompliance. The results are added to the business profile and used to prioritize and prepare inspectors for joint enforcement action.

Table 41: LETF Inspection Results in FY 2023-2024

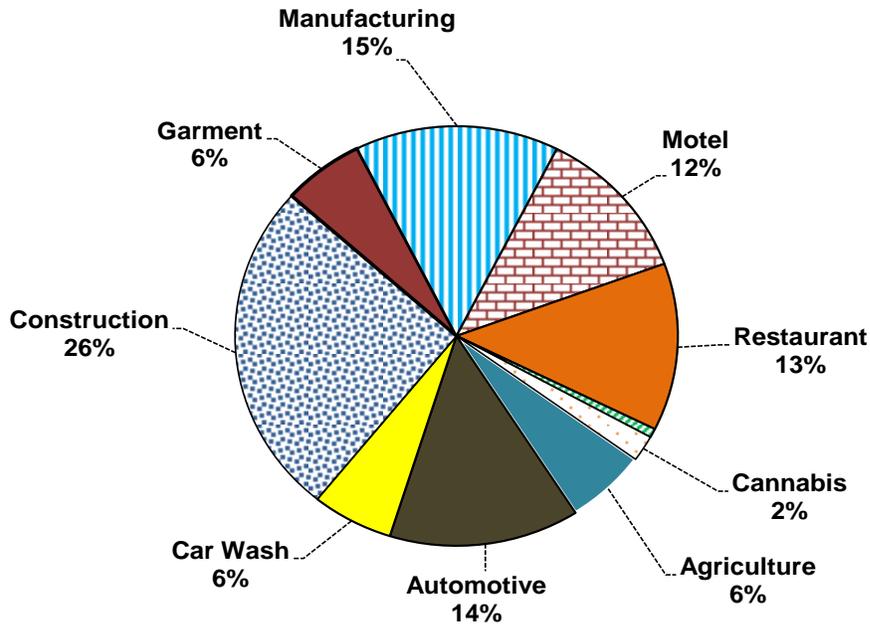
Total number of businesses inspected	695
Total amount of initial assessments*	\$2,422,026

*The total amount assessed by Cal/OSHA, DLSE, and CSLB at the time of the initial inspection; the amount is subject to change.

In FY 2023-2024, LETF inspected 695 businesses. Enforcement resulted in initial assessments exceeding \$2 million.

LETF uses a targeted joint enforcement approach to leverage interagency authority and maximize resource use. LETF has demonstrated high and steadily increasing effectiveness in targeting noncompliant businesses for inspection since the program began (see Figure 178).The program focuses on specific industries in which underground economy activity is most prevalent, including the agriculture, automotive repair, car wash, construction, garment, manufacturing, motel, and restaurant industries. The scope of enforcement efforts in these industries is determined in part by their contribution to California's workforce. Enforcement strategy is guided by several factors, such as geographical, seasonal, and other considerations. The composition of inspections by industry type for FY 2023-2024 is shown in Figure 178.

Figure 178: Industry Composition of Business Inspected by LETF in FY 2023-2024



SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

Joint Enforcement Activity: Value Added by the LETF

Working together with combined authority, LETF teams have access to a fuller range of enforcement tools than does each agency on its own:

- DLSE has the authority under Labor Code section 90 to access all places of employment. Other LETF partners do not have this full authority. DLSE may also issue stop orders requiring employers to cease illegal operations immediately.
- Cal/OSHA has the authority to issue citations for serious, willful, and repeat (SWR) violations. Cal/OSHA may also issue an order prohibiting use where a condition or practice exists that creates an imminent hazard to the safety and health of employees.
- EDD has authority under Section 1092 of the California Unemployment Insurance Code to require employers to provide records for inspection at any time during the employing unit's business hours.
- CSLB is able to suspend contractors' licenses until penalties issued by DLSE and state payroll taxes, penalties, and interest due to EDD are paid or formal arrangements have been made to pay off the liability due in installments. Penalties are far more likely to be paid promptly when the license is suspended until payment is made.

Joint enforcement has two key comparative advantages for the business community. First, because LETF inspection teams comprise members from multiple agencies, one LETF inspection has less impact on business operations than multiple separate inspections by the individual agencies. Second, when several agencies working together find egregious employer misconduct, the ensuing publicity has a deterrent effect that is much more powerful than that of a single agency's enforcement. This [news release](#) has details of the Labor Commissioner citing a construction company more than \$7.2 Million for wage theft violations as a result of an LETF inspection.

LETF Leads and Referrals

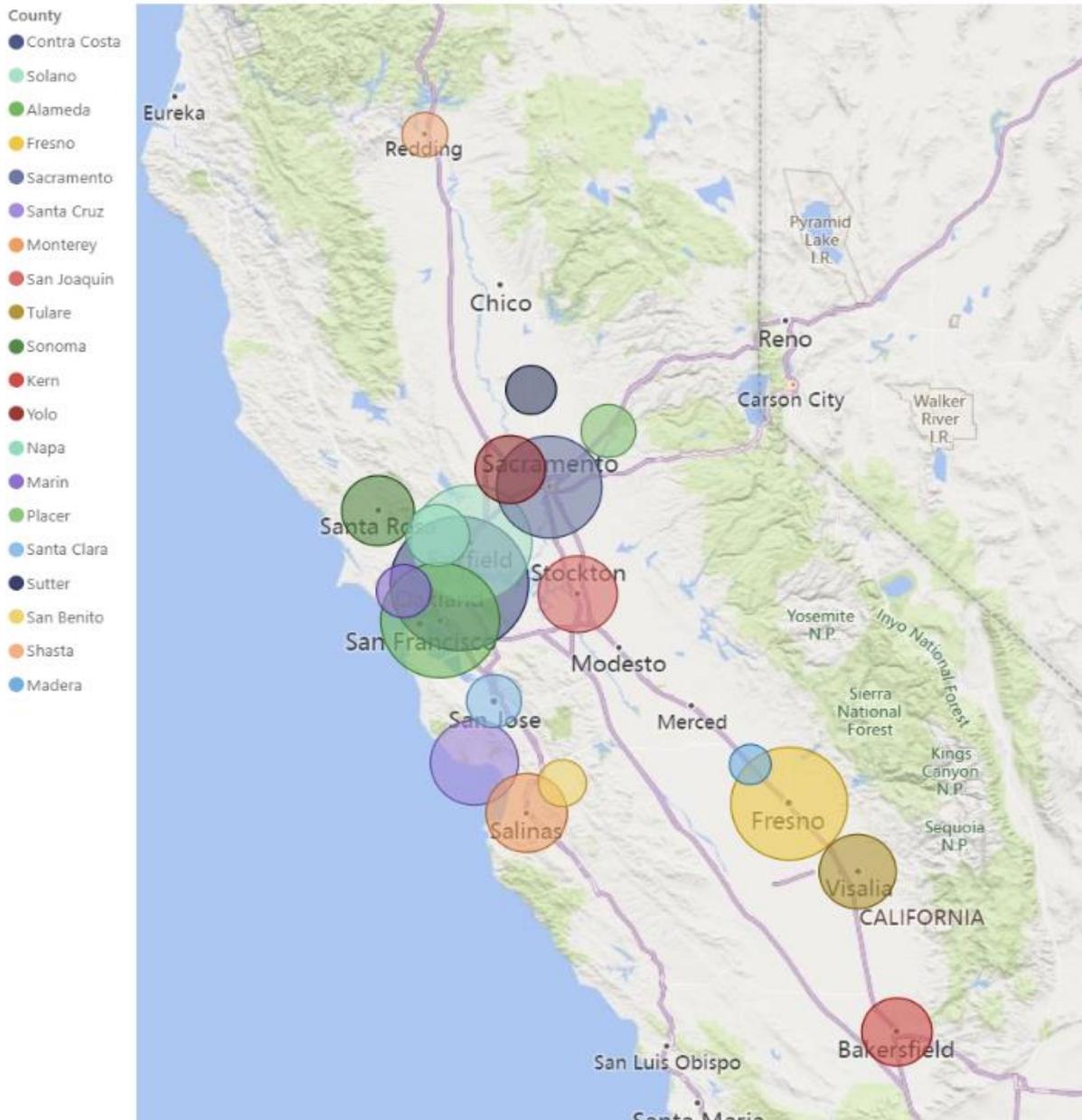
The public reports underground economy activity to LETF using the hotline (855-297-5322), email (letf@dir.ca.gov), and an [online form](#). Following LETF's protocol, staff review and refer leads to LETF inspectors, other task forces, or partner agencies as appropriate, based on the nature of the reported violations. In FY 2023-2024, 3,281 leads received from the public were referred to LETF teams or other enforcement programs.

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

Monitoring Performance Results

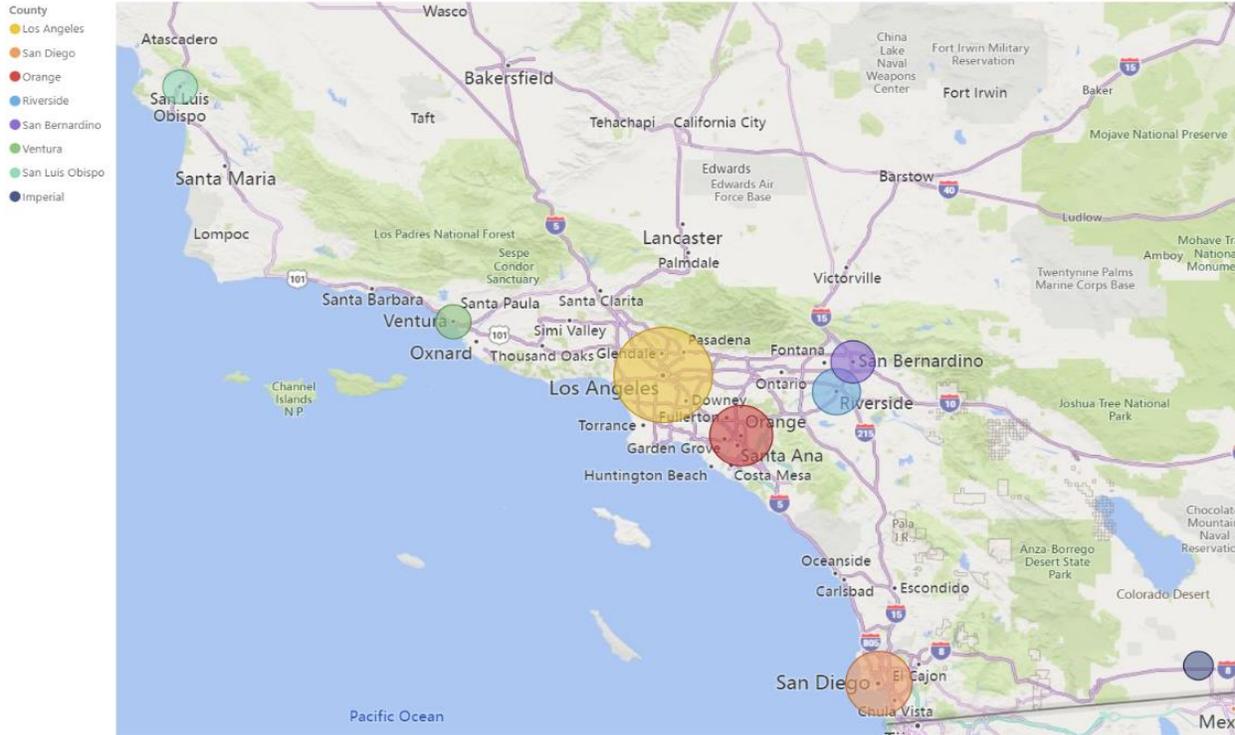
LETf uses spatial analysis and activity mapping to monitor trends in team performance. The enclosed maps (see Figures 179 and 180) document the wide-ranging field presence in California.

Figure 179: Counties Inspected in Northern California for Fiscal Year 2023-2024



SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

Figure 180: Counties Inspected in Southern California for Fiscal Year 2023-2024



Education and Outreach

LETF uses multiple education and outreach methods to ensure that employers know their responsibilities and workers know their rights. LETF has designed and produced effective educational materials for workers and employers in coordination with other agencies. LETF produced the widely referenced employee handbook “All Workers Have Rights in California”, which is available in English, Spanish, Chinese, Korean, and Vietnamese, and covers topics such as minimum wages and overtime, rest and meal breaks, workplace safety and health, and benefits for those injured or unemployed. LETF has also produced fact sheets to help employers understand and follow labor, licensing, and payroll tax laws. The fact sheets have been designed for employers in specific industries, including agriculture, automotive, construction, garment, landscaping, and restaurants. Printable and mobile versions of these materials for workers and employers have been recently updated to reflect the minimum wage increases in 2023 and other important labor law updates. The mobile versions are readable on smartphones and other mobile devices. All the LETF educational materials are available on the LETF website under [Information for Workers and Employers](#).

The [LETF website](#) is available in English and Spanish. DIR publicizes LETF’s efforts and notable cases via speaking engagements, press releases, website features, and email alerts. The public can subscribe to get LETF email alerts at [Get Email Notices](#).

LETF representatives participate regularly in the Labor Commissioner’s Office Prevailing Wage Seminars. These educational seminars provide an overview of prevailing wage and apprenticeship standards compliance. LETF representatives provide updates of joint enforcement efforts focused on public works projects. This [webpage](#) shows details of upcoming seminars.

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

Partnerships

To tackle the multifaceted nature of the underground economy, LETF works in partnership with other agency enforcement programs to share information and draw upon each program's respective strengths.

To help combat California's underground economy and protect workers' rights, DIR and EDD have joined efforts through their respective enforcement programs, namely, LETF and JESF, to coordinate activity and share effective strategies.

The LETF/JESF Collaborative Enforcement Partnership merges best practices based on a wide range of experiences and innovation. The joint effort draws upon both programs' respective strengths through training, refinement of targeting methods, and strategic planning. While LETF and JESF remain under the guidance of their respective agencies, enforcement coordination has allowed a streamlining of administration to leverage resources and mitigate overlap. The results include broader statewide operations, stronger communications, and knowledgeable cross-trained staff.

DIR has hosted four annual LETF/JESF joint training sessions, where investigators and supervisors from around the state come together to share best practices on joint enforcement operations. Additionally, DIR has hosted a series of webinar training sessions for LETF and JESF staff.

Strategic Enforcement of Public Works Projects

Pursuant to Assembly Bill 175 (Chapter 255, 2021), the sum of \$30,000,000 was appropriated from the Labor and Workforce Development Fund for support of DIR for strategic enforcement focused on construction, alteration, and repair projects, subject to the provisions of Section 1785 of the Labor Code. The \$30 million provides enhanced strategic enforcement to target employers in the construction industry working on public works projects who are noncompliant with various labor laws. LETF is leading strategic enforcement efforts for this project. LETF has provided focused leadership to develop a pro-active and reactive joint enforcement focus incorporating various strategies, including: interagency and cross divisional data sharing, on-site surveillance and reviewing of complaints submitted by stakeholders. One of the main focuses of this strategic enforcement effort is Homekey, a statewide effort to sustain and rapidly expand housing. LETF has implemented a strategic enforcement plan focused on Homekey and other publicly funded residential housing projects. These efforts promote a level playing field for contractors to bid and operate fairly on these publicly funded projects and will furthermore enhance the enforcement of labor laws to protect the health & safety and economic wellbeing of employees working on-site at the projects.

Conclusion

Going forward, LETF will continue its existing collaborations and engage in new partnerships to further the state's efforts to combat the underground economy. Using data and surveillance to effectively target investigative resources, LETF has led the state in efficient, innovative enforcement, with demonstrated success. The partner agencies are committed to detecting and stopping bad actors in support of profitable business, thriving jobs, and a prosperous economy in California.

SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

In conjunction and in cooperation with the health and safety and workers' compensation community, CHSWC administers and participates in several major efforts to improve occupational health and safety through its various training and education programs.

Worker Occupational Safety and Health Training and Education Program

Description

Labor Code Section 6354.7 establishes a Workers' Occupational Safety and Health Education Fund (WOSHEF) for the purpose of establishing and maintaining a statewide worker-training program. CHSWC developed the [Worker Occupational Safety and Health Training and Education Program \(WOSHTEP\)](#) to raise awareness and promote injury and illness prevention through training and dissemination of materials by a statewide network of providers. This program is designed to prepare workers in California to take a leadership role in health and safety programs at work.

CHSWC steps in implementing WOSHTEP include:

- *Created a labor-management Advisory Board that meets annually to oversee program activities and identify emergent issues.*
 - The WOSHTEP Advisory Board consists of employers and workers or their union representatives who assist in guiding development of curricula and broadening partnerships.
- *Conducted needs assessments with stakeholders.*
 - The needs assessments proceed on an ongoing basis, as emerging issues dictate.
- *Designed a core curriculum and supplemental training materials based on the results of the needs assessment.*
 - The standardized 24-hour curriculum for a Worker Occupational Safety and Health (WOSH) Specialist course is aimed at training workers to take a leadership role in injury and illness prevention in their workplaces.
 - The training consists of six core modules and three to four supplemental modules (selected from a total of eight that are available). Participants who attend the full training receive a certificate of completion.
 - Training is currently conducted statewide in English and Spanish. Materials are available in English and Spanish as well as in Chinese.
 - The WOSH Specialist training program is a unique worker training program and serves as a local, state, and national model.
 - The curriculum is updated on an ongoing basis as needed.

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SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

- *Identified and continue to deepen relationships with three regional Centers of Excellence:*
 - *The Labor Occupational Health Program (LOHP) at the University of California, Berkeley*
 - *The Labor Occupational Safety and Health (LOSH) Program at the University of California, Los Angeles, and*
 - *The Western Center for Agricultural Health and Safety (WCAHS) at the University of California, Davis, consisting of trainers, curriculum developers, and resource specialists in occupational safety and health.*
 - *These three Northern, Southern, and Central California Resource Centers have libraries and distribution systems of occupational health and safety training materials to provide information and technical assistance to the workers' compensation community, to support trained WOSH Specialists and WOSHTEP trainers, and ensure consistent and coordinated coverage for the entire state.*
- *Established, and continue to support a statewide network of trainers to offer the WOSH Specialist curriculum.*
 - *WOSH training is taught primarily by LOHP, LOSH, and WCAHS trainers, and training-of-trainer courses have been offered to WOSH Specialist trainers to broaden the reach of the program. These trainers receive ongoing mentoring from experienced trainers from LOHP and LOSH. Due to the changes brought about by the COVID-19 pandemic, an online interactive version of the in-person training was developed in 2020.*
- *Established, and support a network of community educators to help WOSHTEP trainers deliver short awareness classes to vulnerable working populations.*
 - *Training of trainer (TOT) courses are conducted to prepare WOSH Specialists and community educators/promotoras to teach awareness classes on such topics as chemical hazards, hazard communication, heat illness prevention, and the best practices for reaching and educating low-wage immigrant workers.*
- *Created and continue to update a [small business health and safety training resources](#) program across a range of industries, with materials adapted for use nationwide by employers and other health and safety advocates.*
 - *WOSHTEP developed industry-specific training for restaurant owners and managers on identifying and controlling hazards in their workplace in partnership with the State Compensation Insurance Fund (SCIF) and the California Restaurant Association (CRA). WOSHTEP also created materials and provided training for employees in the janitorial, restaurant, and dairy industries.*
- *Developed, disseminated, and continue to update [materials on creating and implementing an Injury and Illness Prevention Program \(IIPP\)](#) for both small and large businesses in general industry to assist with compliance and effectiveness.*
 - *The materials are available in multiple languages.*
 - *The training has also been adapted for staffing agencies to include guidance on protecting workers in dual-employer situations, as well as for the agricultural industry.*
 - *In addition, an online version of the training was developed in 2020 to offer the training remotely to extend the reach of the program and to adapt to the changed circumstances created by the COVID-19 pandemic. This training was updated in 2024 to include an overview and resources on the Workplace Violence Prevention law and the Cal/OSHA indoor heat standard.*

SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

- Developed a [Multilingual Health and Safety Resource Guide](#) to address the need for easily accessible multilingual materials.
 - This guide is updated regularly. It includes worker training materials in over 20 languages, including factsheets, checklists, and other educational resources that are available online in the WOSHTEP section of CHSWC's website.
- Developed a [Construction Case Study Training Guide](#) for the construction industry for apprenticeship and pre-apprenticeship programs.
 - WOSHTEP also developed additional materials on health and safety topics, such as indoor and outdoor heat illness, motor vehicle safety, and emergency preparedness.
- Created and continue to host and deliver a successful Young Worker Leadership Academy (YWLA) for youth statewide to develop leadership skills and provide training on health and safety issues and their rights and responsibilities in the workplace.
 - The three-day Academy is conducted once a year with participants from throughout the state. Academy youth learn how to take a leadership role in promoting workplace health and safety in their communities during Safe Jobs for Youth Month in May. WOSHTEP staff also developed a guide for use by other states to implement similar Young Worker Leadership Academies and to encourage further collaboration and sharing.²³¹
- Developed a [guide](#) for integrating occupational health and safety with workplace wellness programs.
- Developed a day-laborer handout to serve as a concise guide to basic laws and best practices for health and safety.
 - The handout is for day-labor centers to give to employers hiring day laborers. Day laborers also benefit by learning about their rights. The handout is available in [English](#) and [Spanish](#).
- Developed two Wildfire Factsheets to accompany outreach and education activities to protect workers from hazardous air quality during wildfires and to protect workers engaged in debris cleanup operations.
 - The factsheet "Worker Protection from Wildfire Smoke" is available in [English](#) and [Spanish](#).
 - The factsheet "Worker Protection During Cleaning and Rebuilding After a Wildfire" is also available in [English](#) and [Spanish](#).
- Conducted a webinar in collaboration with COEH with other expert panelists for WOSH Specialists and others on "What Does it Take to Prevent and Address Workplace Violence?" The webinar was conducted on June 5th in English.
 - The recording of the webinar can be accessed at: <https://www.coeh.berkeley.edu/24web0605>
- Disseminated training announcements, promotions and registration information through DIR's social media channels appropriate to the demographics, target audiences, and users of social media tools, specifically LinkedIn, Instagram, Twitter (X), and Facebook.

²³¹ <https://youngworkers.org/ywla/>.

SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

Next Steps

Every year, CHSWC assesses fees to California workers' compensation insurance carriers pursuant to Labor Code § 6354.7 in order to fund the Workers' Occupational Safety and Health Education Fund (WOSHEF) for the next fiscal year and thereby fund WOSHTEP and its programs.

The next steps for WOSHTEP include:

- Continuing and expanding training, both in-person and online, in a variety of industries for participants in diverse occupations and work settings
- Developing, maintaining, and expanding a statewide network of trainers, and ongoing development and dissemination of materials on health and safety topics
- Continuing and expanding training for small businesses and young workers
- Broadening outreach for all aspects of the program
- Ongoing evaluation.

Status: Ongoing.

For further information ...

The WOSHTEP materials are available at <http://www.dir.ca.gov/chswc/woshtep.html>

The WOSHTEP Advisory Board Annual Reports are available at <http://www.dir.ca.gov/chswc/WOSHTEP.html#1>

The IIPP resources and materials are available at <https://www.dir.ca.gov/chswc/WOSHTEP/iipp/>

Notice of upcoming WOSH Specialist and IIPP Trainings are available at https://www.dir.ca.gov/chswc/WOSHTEP/WOSHTEP_workshops.htm

School Action for Safety and Health Program

Per the mandate set forth in Labor Code section 6434, CHSWC is to assist school districts and other Local Education Agencies (LEAs) in establishing effective occupational injury and illness prevention programs (IIPPs), with a priority on high-risk schools or districts.

CHSWC established a model program for LEAs called the California School Action for Safety and Health (SASH) program, to help schools statewide improve their injury and illness prevention practices to protect school employees. The program is administered by CHSWC through an interagency agreement with the Labor Occupational Health Program at UC Berkeley and with the collaboration of the Labor Occupational Safety and Health (LOSH) Program at UCLA.

The program includes training and resources to enable schools or school districts to develop or improve their IIPPs and to make other health and safety improvements that will help protect school or school district employees from workplace injuries and illnesses. The target audience is K–12 schools and school districts at high risk of occupational injury and illness. The SASH program is also helpful as Cal/OSHA enforcement can and does cite violations of health and safety standards at schools, primarily arising from complaints, and expects remediation of hazardous conditions and other deficiencies.

Program Components

The SASH Program offers:

- A free training program to help build the capacity of district-level health and safety coordinators to act as resources to other employees and develop an IIPP to identify, prevent, and eliminate hazards.
- Written materials that support injury and illness prevention activities.
- Ongoing problem-solving assistance provided by a statewide SASH Resource Center, including a network of trained safety staff in schools.

The free one-day SASH training program is designed for school district staff responsible for employee safety and health. These employees are typically from County Offices of Education (just under 60 offices), School Districts (of which there are almost 1,000) and individual schools' human resources/administration and/or the maintenance and operations departments. Training is provided by University of California trainers.

Participants learn valuable skills in how to identify and solve safety problems, prepare, update, and improve written IIPPs, record training activities, and involve other employees in carrying out prevention activities. After participants complete the training, they become "SASH coordinators" in their district and receive a certificate from CHSWC and the University of California. SASH materials are free and designed to help school employees identify and address health and safety issues in the school environment. Materials include:

- An online template for writing an IIPP, with an accompanying guidebook.
- Factsheets on hazards commonly found in schools.
- Checklists and other tools to help identify problems, investigate, and learn from accidents, and keep track of safety activities.

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SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

- Tip sheets for employees on hazards and solutions for their particular occupation, including:
 - Teachers and teaching aides
 - Maintenance staff
 - Groundskeepers
 - Food service employees
 - Custodians
 - Administrative and office staff
 - Bus drivers
- A poster for school employees promoting their involvement in safety activities.
- An online Resource Guide that provides additional school-related materials on particular hazards/issues and a list of agencies and organizations.

The SASH Resource Center is located at LOHP. In collaboration with UCLA's LOSH Program, the Resource Center is available to help school districts find additional information and obtain assistance after the training.

Accomplishments

CHSWC has expanded the reach of the program over the years by increasing the number of training sessions and webinars offered, and by updating the SASH curriculum and materials, as needed, to include information about new health and safety issues identified by the SASH Advisory Committee and course participants, including any new Cal/OSHA standards that apply to schools.

In addition to the materials described above, training classes have been offered and will continue to be offered statewide. To date, 121 SASH training classes have been conducted for 2,415 attendees from school districts in at least 39 counties with school district and county office of education staff, including two pilot training sessions. Post-training surveys indicate that the content has been well received. In 2021, an online version of the SASH IIPP training was developed to offer remote training during the pandemic. These online classes were a half-day in length and maintained the interactivity of the in-person classes. The activities kept the participants engaged and provided the opportunity to practice key skills. In 2024, the program began to offer two training options, an in-person class option that is all day as well as an online option with two morning or two afternoon classes with a day in between. Notice of upcoming SASH training is at <https://lohp.berkeley.edu/trainings/>. Training announcements, promotions and registration information are also disseminated through DIR's social media channels appropriate to the demographics, target audiences, and users of social media tools, specifically LinkedIn, Instagram, Twitter (X), and Facebook.

Follow-up activities after attending a SASH class include sending attendees a class roster so that they can stay in touch and use one another as resources and sending out a newsletter. Two-page SASH newsletters for SASH coordinators (SASH training attendees) have been distributed by email. The newsletters include the answers to common questions asked during training sessions as well as other relevant information.

A number of new factsheets have been developed over the past few years for school employees:

- How to Be Protected from COVID-19 at Work
- Worker Protection from Wildfire Smoke
- Protecting School Employees from Stress at Work

In addition, the program has also developed factsheets for special education paraeducators on how to handle harmful behavior by students in distress, and what to do in the event of an active shooter on school grounds.

SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

These factsheets can be found at: <https://www.dir.ca.gov/chswc/> and <https://www.dir.ca.gov/chswc/SASH/index.htm>

A number of webinars were conducted over the past years for school employees. These included the following:

- Keeping Cool at School: Addressing Indoor and Outdoor Heat Standards to Protect Workers
- Managing Stress and Building Resilience Among School Employees
- Improving Indoor Air Quality in Classrooms
- School Is Out, but the Hazards Are Still In

The notices of upcoming webinars and recording of past webinars can be found at: <https://lohp.berkeley.edu/webinar-directory/>.

Next Steps:

The SASH IIPP training curriculum and materials will continue to be updated to incorporate information about school-related health and safety issues and recommended solutions including Cal/OSHA's guidance of employee protections related to COVID-19.

LOHP has developed a workshop curriculum and conducted a pilot training and will teach workshops to reach teachers and paraeducators - an occupation identified as being at high risk of injury on the job - on managing risks presented by behaviors of students in distress.

Status: Ongoing.

For further information ...

- The SASH materials, SASH IIPP trainings dates, and webinars are available at <https://www.dir.ca.gov/chswc/SASH/index.htm>

SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

California Partnership for Young Worker Health and Safety

Description

The Commission on Health and Safety and Workers' Compensation (CHSWC) continues to put California in the forefront as a nationwide leader in protecting and educating teen workers. For more than 20 years, CHSWC has sponsored and convened the California Partnership for Young Worker Health and Safety, formalized by Assembly Bill (AB) 1599 in September 2000. The Partnership is coordinated by the Labor Occupational Health Program (LOHP) at the University of California (UC), Berkeley, with key support from the Labor Occupational Safety and Health Program (LOSH) at the University of California, Los Angeles (UCLA), and other members of the partnership. In addition to serving California, these efforts have inspired similar activity throughout the United States and internationally.

The California Partnership for Young Worker Health and Safety is composed of agencies and organizations dealing with youth employment and education issues, as well as others that can play a role in educating and protecting young workers. Members represent educators, parents, employers, youth training programs, government agencies, and others.

The purpose of the partnership is to identify potential strategies to reduce work-related injuries and illnesses among youth in the California workforce, foster awareness and skills in health and safety that youth will retain throughout their working lives and allow them to take an active role in shaping safe work environments, and promote positive, healthy employment for youth.

During the past year, the partnership implemented the following activities:

- *Promoted the annual California Safe Jobs for Youth Month public awareness campaign in May*, established in 1999 by the then-Governor Gray Davis. This year's public awareness and education activities included a teen poster contest (posters were distributed to 1645 schools and hundreds of other organizations that serve youth), a social media campaign for youth and youth-serving organizations, development and promotion of materials for teachers to support the teaching about health and safety and the child labor crisis, and distribution of the current Safe Jobs for Youth Month Resource Kit to educators and community groups (via the website), plus resource kit materials from past years (available on the website).
- *Held the annual Young Worker Leadership Academy*. A statewide Young Worker Leadership Academy (YWLA) was held in-person on February 15-17, 2024. The Academy is a part of the CHSWC Worker Occupational Safety and Health Training and Education Program (WOSHTEP). The Leadership Academy was coordinated by LOHP and supported by the active participation of other partnership members, including UCLA-LOSH, Cal/OSHA, LiUNA, State Compensation Insurance Fund, and the Equal Employment Opportunity Commission (EEOC). Young people from six different organizations around the state attended, along with five YWLA alumni who served as youth mentors. This year, each of the six YWLA teams created an in-person event to share workplace safety information with audiences that ranged from their peers to a high school Superintendent and a community board. The YouthBuild team held a health and safety trivia contest within a larger community event and the Garment Workers' team hosted a two-hour basic labor rights community presentation. One YWLA participant said, "Being a part of this academy

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has been a wonderful experience. I learned about workers' rights and it will help me in the future when I get a job. I can pass on what I learned to the workforce, especially young people."

- The goals of the Academy are to teach youth about workplace health and safety and their rights on the job, to help youth start thinking about how to help ensure that young people do not get hurt on the job, and to provide a forum for these youth to plan specific actions that they can take in their own communities to promote safety among young workers. Academy alumni youth-led many of the activities at the Academy.
- *Promoted the institutionalization of health and safety education for California students.* Partnership members guided LOHP efforts to promote health and safety education in a variety of programs, including work experience, career technical education, WorkAbility, and Linked Learning and Career Pathway Programs. LOHP has continued to partner with CAWEE presenting at a concert at Catalina. LOHP traveled to national conferences, The Labor Notes Conference to facilitate a panel of young worker health and safety and organizing and to The Arkansas Law Review Child Labor Symposium. In addition, LOHP, in partnership with the California Department of Education, traveled around the state to deliver Talking Safety Youth @ Work train the trainer workshops to 500 work-based learning teachers around the state. LOHP also presented at the Educating for Careers Conference in Sacramento, sharing the Talking Safety Youth @ Work curriculum with teachers from counties around Northern California. The Partnership is very pleased that on September 30, 2023, Governor Newsom signed AB 800²³² that requires all public high schools to observe the "Workplace Readiness Week" each year on April 28th by providing information to students on their rights as workers and would include topics such as local, state, and federal laws regarding workplace safety, child labor, and wage and hour protections. LOHP has been proud to be part of the Statewide coordinator effort to create curriculum and provide resources to school districts around California to participate in [Workplace Readiness Week](#).

Partnership accomplishments include:

- Provided more than 320 teachers and youth with direct training or presentations through Zoom or online conference workshops to date.
- Distributed factsheets with information on young worker health safety to thousands of teachers, employers, and youths through our own or partnership member outreach platforms, including social media, listserv postings, email announcements and newsletters, radio and video public service announcements, and distribution of the posters. For example, the annual [Work Permit Quiz](#) has been taken over 6,789 times to date.
- About 20 teachers, employers, and youth received direct technical assistance via phone or email.
- Published at least three articles in newsletters, newspapers, and on the Internet.
 - The [youngworkers.org](#) website: during 2023-2024 (12 months of tracking), the website had **91,919** page views, comprising a broad range of webpages.
 - The most frequently visited pages are the Home page (**17,378 views**), "Young Worker Posters" page (**7,464 views**), the "Work Permits" (**6,789 views**), the "Teen Workers" page (**4,722 views**), and the "Hazards Activity Page" page (**4,190 views**).
- Continued to integrate health and safety information into ongoing statewide activities by many of the partners, including regular in-service training for work experience educators, widespread use of health and safety curricula in job training and work experience programs, and organizational links to the website <https://www.youngworkers.org>. The WorkAbility program, which places youth

²³² https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB800.

SPECIAL REPORT: CHSWC'S HEALTH AND SAFETY PROGRAMS

with learning and cognitive disabilities in the workplace, requires that all its staff receive training on how to teach participants in the program about health and safety.

Status: Ongoing.

For further information ...

Young Worker Websites for information for teens, teen workers in agriculture, employers, parents, and educators:

<https://www.dir.ca.gov/YoungWorker/YoungWorkersMain.html>

<https://www.youngworkers.org>

<https://youngworkers.org/ywla/>

LIST OF PROJECTS AND STUDIES

[\(Back to the main Table of Contents\)](#)

CHSWC Projects and Studies are numerous and often build on work initiated in prior years. As CHSWC refines its approach to the study of the workers' compensation and health and safety systems, the projects incorporate that knowledge to develop more sophisticated lines of inquiry and research. This Annual Report lists CHSWC projects and studies for 2021, 2022, 2023 and 2024. The lists of CHSWC projects and studies for prior years are in earlier reports, with a historical list last printed in the 2017 Annual Report.²³³

CHSWC divides projects and studies on workers' compensation topics into eleven categories:

- I Permanent Disability and Temporary Disability Studies
- II Return to Work
- III Workers' Compensation Reforms
- IV Occupational Safety and Health
- V Workers' Compensation Administration
- VI Information for Workers and Employers
- VII Medical Care
- VIII Community Concerns
- IX Disaster Preparedness and Terrorism
- X CHSWC Issue Papers
- XI Other

The following projects and studies were produced or were in process in 2021, 2022, 2023 and 2024:

Study of the impacts of COVID-19 claims and the 2020 Senate Bill (SB) 1159 presumptions of compensability on the California workers compensation system (Category III)

Initiated by a legislative request written into Senate Bill (SB) 1159 in 2020.

Status: Completed

“COVID-19 in the California Workers' Compensation System. A Study of COVID-19 Claims and Presumptions Under Senate Bill 1159,” RAND, January 2022.

<https://www.dir.ca.gov/chswc/Reports/2022/RAND-COVID-claims-presumptions.pdf>

https://www.rand.org/pubs/research_reports/RRA1430-1.html (RAND pre-publication) or https://www.dir.ca.gov/chswc/Reports/2022/RAND_RRA1430-1.pdf (pre-publication for CHSWC website)

https://www.dir.ca.gov/chswc/Meetings/2022/ResearchBrief_CovidClaims_SB1159.pdf
(Research Brief)

Related literature review article from RAND:

Worker and employer experiences with COVID-19 and the California Workers' Compensation System: a review of the literature. Quigley, DD, Qureshi, N, Gahlon, G,

²³³ CHSWC projects and studies for recent years are listed in their proper section for each year at <https://www.dir.ca.gov/chswc/AnnualReportpage1.html>; and all previous CHSWC projects and studies up to and including 2017 (inventory) are listed in the 2017 Annual Report: https://www.dir.ca.gov/chswc/Reports/2017/CHSWC_AnnualReport2017.pdf, 174. (Please note that where there are also URL links, many have been disabled on the internet and the reports have been archived.)

LIST OF PROJECTS AND STUDIES

Gidengil, C. Am J Ind Med. 2022; 1- 11. doi:10.1002/ajim.23326
https://www.rand.org/pubs/external_publications/EP68841.html

Evaluation of Incidence of Mental Health Conditions or Illnesses Among Firefighters and Peace Officers Study, RAND (Category IV)

Initiated by a legislative request written into Senate Bill (SB) 542 in 2019.

Status: Completed

“Posttraumatic Stress in California's Workers' Compensation System: A Study of Mental Health Presumptions for Firefighters and Peace Officers Under Senate Bill 542,” RAND, September 2021.

https://www.rand.org/pubs/research_reports/RRA1391-1.html or
https://www.dir.ca.gov/chswc/Meetings/2021/RAND_mentalhealth_report.pdf with shorter research brief at
https://www.dir.ca.gov/chswc/Meetings/2021/RAND_mentalhealth_brief.pdf.

Public comments on First Responder Mental Health Presumption study from CHSWC Commissioners Kessler, Bouma, and Roxborough, submitted October 5, 2021
<https://www.dir.ca.gov/chswc/Meetings/2021/Rand-PTSD-Study-Comments-Commissioners-Kessler-Bouma-Roxborough.pdf>

RAND Response to Commissioner Comments
https://www.dir.ca.gov/chswc/Meetings/2021/RAND_Response-to-Comments.pdf

Health and Safety Training for Childcare Workers (in English and Spanish) (Category IV)

Training curriculum requested by Assemblyperson Monique Limón

Status: Completed

“Occupational Health and Safety Training: Center-Based Early Care & Education Workers Peer Educator Training Guide,” LOHP, UC Berkeley, 2021.

<https://www.dir.ca.gov/chswc/Reports/2021/Childcare-OSH-Curriculum.pdf>
<https://www.dir.ca.gov/chswc/Reports/2021/Childcare-OSH-Curriculum-SP.pdf>

Assessment of Risk of Carcinogens Exposure and Incidents of Occupational Cancer among Mechanics and Cleaners of Firefighting Vehicles, ToxStrategies (Category IV)

Initiated by a legislative request written into Assembly Bill (AB) 1400 in 2019²³⁴.

Status: Draft report available, but not approved by the Commission.²³⁵ An RFP for a new study to meet the AB 1400 mandate has been released. ²³⁶ Currently in process.

“AB 1400 Draft Study Report,” ToxStrategies, February 2021 (not approved).

https://www.dir.ca.gov/chswc/Meetings/2021/FireMechanicsCancer_draft.pdf

Janitorial Time Motion Study with Emphasis on Janitorial Workloads During Covid-19 Prevention and Precautions (Category IV)²³⁷

Study requested by Assemblymember Miguel Santiago on December 11, 2020.
(see <https://www.dir.ca.gov/chswc/Meetings/2021/SantiagoLetter.pdf>)

²³⁴ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1400.

²³⁵ Additional discussion of issues by Cal/OSHA in final minutes of 9/30/2021 CHSWC public meeting minutes posted at https://www.dir.ca.gov/chswc/Meetings/2021/Minutes_09-30-21.pdf.

²³⁶ See CaleProcure listing at <https://caleprocure.ca.gov/event/7350/S23CHSWC01>.

²³⁷ See Special Report section in annual report on this study with links to presentation updates.

LIST OF PROJECTS AND STUDIES

Status: In Process.

Study on Skin Cancer Prevalence in our Wildlife Officers and Park Rangers (Category IV)

Study requested by Assemblymember Mullin on February 20, 2020.
(See also February 14, 2022 letter at
<https://www.dir.ca.gov/chswc/Meetings/2022/wildlife-worker-cancer-letter.pdf>)

Status: In Process.

Study on the deposit of disability indemnity payments for employees in a prepaid card account with reasonable access to in-network automatic teller machines. (Category V)

Report request initiated by SB 880, effective 2019 as Labor code 4651.²³⁸

Status: In process.

The report is also subject to repeated amendments and pilot deadline extensions since 2019: AB 2148²³⁹ (2022) extended the pilot program timeframe for disability indemnity payments to be deposited in a prepaid card account for employees to January 1, 2024. Another bill, AB 489²⁴⁰ in 2023, extended again the pilot an additional year to January 1, 2025. In 2024, AB 1239²⁴¹ extended the pilot to January 2027. Research on this pilot program will continue to be guided by legislative amendments and extensions related to this pilot program.

Study on PTSD Injury Claims Filed by Public Safety Employees

Study request initiated by a legislative request written into Senate Bill (SB) 623²⁴² of 2023. Claims data to be used from injury dates of January 1, 2020 through December 31, 2025.

Status: A Request for Information (RFI) is expected to be released by December 2024. The report is due to the Senate Committee on Labor, Public Employment and Retirement and the Assembly Committee on Insurance no later than January 1, 2027.

Resource Guide: If Your Employer is Illegally Uninsured: How to Apply for Workers' Compensation Benefits - (Updated September 2023)²⁴³ (Category VI)

Status: Update reposted on CHSWC website.
<https://www.dir.ca.gov/chswc/Reports/2024/UninsuredEmployers.pdf>.

²³⁸ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB880.
²³⁹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2148.
²⁴⁰ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB489.
²⁴¹ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1239.
²⁴² https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB623.
²⁴³ <https://www.dir.ca.gov/chswc/Reports/2024/UninsuredEmployers.pdf>.

CHSWC AND THE COMMUNITY

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For Information about the Commission on Health and Safety and Workers' Compensation (CHSWC) and its activities:

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Oakland, CA 94612

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510-286-0499

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chswc@dir.ca.gov

Internet:

In 2012, most government departments and agencies were asked by the office of Governor Brown to redesign their public website so that information can be located more efficiently. CHSWC participated in the redesign process and, according to its mandate, continues to post useful information for the public and related stakeholders.

Check out www.dir.ca.gov/chswc for:

. Research Studies and Reports by Topic and by Year

- Information Bulletins
- Commission Members
- Meeting Schedules and Minutes
- DIR/CHSWC Young Workers' Program
- Information for Workers and Employers
- Worker Occupational Safety and Health Training and Education Program (WOSHTEP)
- Past Conferences
- Public Comments and Feedback
- Injury and Illness Prevention Program (IIPP) Resources
- School Action for Safety and Health (SASH) Program
- Other Resources

CHSWC Publications

In addition to the many reports listed in the CHSWC List of Projects and Studies section of this report, CHSWC has published:

CHSWC Annual Reports, 1994–2023
CHSWC Strategic Plan, 2002
Worker Occupational Safety and Health Training and Education Program (WOSHTEP) Advisory Board Annual Reports, 2004–2023

CHSWC AND THE COMMUNITY

Acknowledgments

CHSWC is pleased to acknowledge and thank the following individuals and organizations from the California health, safety and workers' compensation communities.

Their willingness to share the insights and knowledge derived from their years of experience has assisted CHSWC immeasurably in its mission to examine and recommend improvements in the health and safety and workers' compensation systems in California.

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CHSWC AND THE COMMUNITY

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The Honorable Anthony Rendon, Speaker Emeritus of the Assembly

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CHSWC AND THE COMMUNITY

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CHSWC AND THE COMMUNITY

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Participants in CHSWC meetings, fact-finding hearings, and public forums
Participants in CHSWC project advisory committees

Special appreciation is owed to injured workers and employers in the system who have come forward to suggest improvements to the system and provide their insights and comments.

Finally, CHSWC acknowledges and thanks its staff:

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