California Commission on Health and Safety and Workers' Compensation

DRAFT CHSWC 2022 Annual Report

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Department of Industrial Relations

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ABOUT CHSWC

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 ongoing 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.

CHSWC Members Representing Employers

Martin Brady

Martin Brady is executive director at Schools Insurance Authority, where he has worked since 1988.

Mr. Brady is a member of the California Joint Powers Authority, California Coalition on Workers' Compensation, Public Agency Risk Managers Association, Public School Risk Institute, Association of Governmental Risk Pools and the Public Risk Management Association.

Appointed by: Governor

Sean McNally

Sean McNally is President and CEO of Houchin Community Blood Banks. He has been certified by the State Bar of California as a specialist in workers' compensation law. He is a licensed general contractor and serves as a trustee for the Self Insurer's Security Fund. His community activities include serving on the Board of Directors of the Golden Empire Gleaners and the Board of Trustees for Garces Memorial High School. He is the past Vice President of Corporate and Government Affairs and past Vice President of Human Resources for Grimmway Farms; he is also past President of KBA Engineering in Bakersfield, California.

He is a graduate of the University of the Pacific, McGeorge School of Law and was a partner at the law firm of Hanna, Brophy, MacLean, McAleer and Jensen. He graduated from the University of San Francisco with Bachelor of Arts degrees in English and Theology. Following that, he did graduate studies at Hebrew University in Jerusalem Israel.

Appointed by: Governor

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

CHSWC Members Representing Labor

Doug Bloch

Doug Bloch has been the political director at Teamsters Joint Council 7 since 2010. He was the Port of Oakland campaign director for Change to Win from 2006 to 2010 and a senior research analyst at Service Employees International Union (SEIU) Local 1877 from 2004 to 2006.

Mr. Bloch was the statewide political director at the California Association of Community Organizations for Reform Now (ACORN) from 2003 to 2004 and ran several ACORN regional offices, including those in Seattle and Oakland, from 1999 to 2003. He was an organizer at the Non-Governmental Organization Coordinating Committee for Northeast Thailand from 1999 to 2003.

Appointed by: Governor

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

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

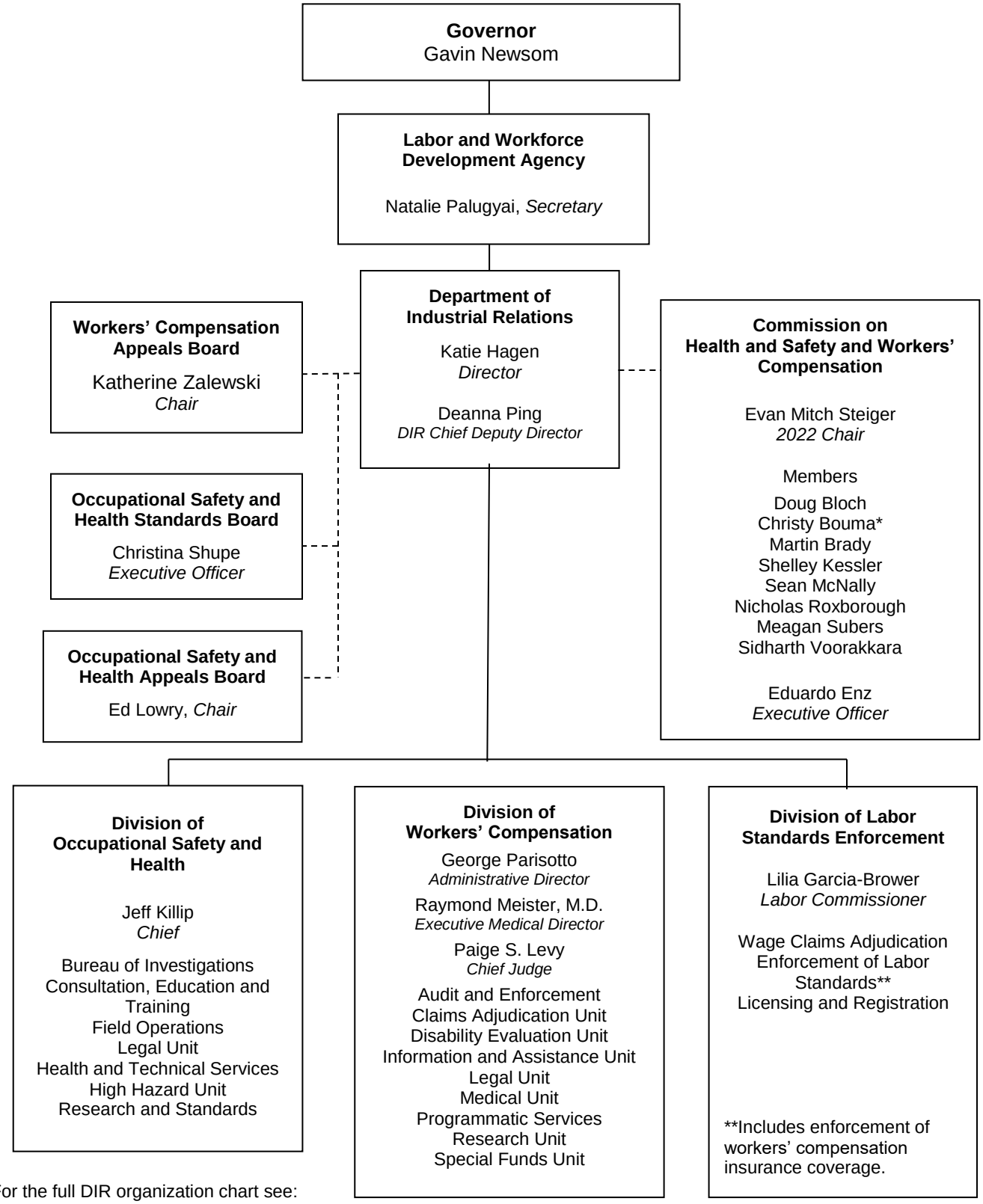
Meagan Subers

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

State of California Health and Safety and Workers' Compensation Functions in 2022



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

*Christy Bouma served as Commissioner through 4/15/2022.

CHSWC RECOMMENDATIONS

The world is entering its third year of the COVID-19 pandemic as a national and international public health emergency. Accordingly, much focus in recent years has been on this challenge. Infections from the virus resulted in numerous occupational and non-occupational fatalities, hospitalizations and illnesses, high levels of unemployment, disruptions in economic productivity, and changes in the workers' compensation (WC) and health and safety systems. Although the unemployment rate has greatly decreased since the start of the pandemic, and the administration of over 81 million vaccines[1] has prevented numerous illnesses and deaths from COVID-19 infections, about 20 percent[2] of the population remains unvaccinated and hospitalizations and deaths from the virus and its variants continue. The Commission on Health and Safety and Workers' Compensation (CHSWC) recommends continuing to monitor impacts from the COVID-19 pandemic and supporting efforts to help ensure that workers and employers are protected from this particularly contagious virus and its variants, as well as any other future unexpected 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; and
- 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
- Pharmaceuticals
    - Drug formulary

[1] https://covid19.ca.gov/state-dashboard/#todays-update. Data as of September 29, 2022.
[2] https://covid19.ca.gov/state-dashboard/#todays-update. Data as of September 29, 2022.

- 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 machine learning
  - 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
- Mechanism of injury, risk factors, and cumulative effects, including age
  - High hazard occupations and injuries
  - Repetitive motion and cumulative injuries
- Health and Safety
  - Employee and employer training and retraining, Personal Protective Equipment (PPE), and recordkeeping
  - Apprenticeship training and workplace safety culture

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.[3] 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 and has proven to be important in shoring up benefit adequacy for injured workers[4].

Recommendations

- Monitor the ongoing use of this benefit
- Consider the recommendations of the CHSWC study by RAND "Evaluation of the Return-to-Work Fund in the California's Workers' Compensation System,"[5] which include:
  - Automating the RTWSP payment after SJDB vouchers are issued to improve participation in the program.
  - Increasing outreach and notification to help increase participation in the RTWSP by eligible workers, such as making the RTWSP website available in multiple languages.
  - Improving the monitoring and data collection of SJDB vouchers issued to track emerging changes in the RTWSP-eligible population.
- 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.

[3] https://www.dir.ca.gov/rtwsp/rtwsp.html.
[4] https://www.dir.ca.gov/chswc/Reports/2021/CHSWC_AnnualReport2021.pdf; https://www.rand.org/pubs/research_reports/RRA964-1.html.
[5] https://www.rand.org/content/dam/rand/pubs/research_reports/RR2500/RR2548/RAND_RR2548.pdf.

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 prior to injury. 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 the Return-to–Work Supplemental Program (RTWSP) authorized by SB 863 and Subsequent Injuries Benefit Trust Fund (SIBTF).

Recommendations

- Consider the recommendations in DIR wage loss monitoring studies by RAND"[6], 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.

[6] 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.

Presumptions

The COVID-19 pandemic has had a tremendous impact on the WC and health and safety systems in California and on its economy. As of September 22, 2022, California had over 10.3 million positive confirmed COVID-19 cases, with deaths exceeding 95,000,[7] and over 294,000 COVID-19 claims have been filed in the WC system.[8] Several states, including California, implemented presumptions of compensability for employees' occupationally causal illnesses related to COVID-19.

In California, Governor Newsom issued an executive order in May of 2020, providing for a rebuttable presumption of compensability for all workers directed by their employer to work outside their home, that applies to the period between March 19 to July 5, 2020.[9] The Workers' Compensation Insurance Rating Bureau (WCIRB) estimated the impact of the presumption at approximately $1.2 billion.[10] SB 1159, enacted on September 17, 2020, codifies the COVID-19 presumption created by the executive order and provides 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.[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]

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 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.[13]

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[7] cdph.ca.gov/covid19

[8] https://data.ca.gov/dataset/dwc-covid-19-claims/resource/747afc27-a914-4f5f-9032-c462e9b7abb8.Data as of September 18, 2022 Accessed on September 20, 2022.

[9] https://www.gov.ca.gov/wp-content/uploads/2020/05/5.6.20-EO-N-62-20-text.pdf.

[10] https://www.wcirb.com/sites/default/files/documents/rb-covid19-cost_impact_of_governor_executive_order_0.pdf. For updated COVID-19 claims cost estimates, please see WCIRB September 1, 2022 premium filing at: https://www.wcirb.com/sites/default/files/documents/20220901_ppr_filing-complete.pdf

[11] https://www.dir.ca.gov/dwc/Covid-19/FAQ-SB-1159.html

[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://www.dir.ca.gov/chswc/Reports/2022/RAND-COVID-claims-presumptions.pdf

- 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.

- Examine the existing public health and disease monitoring systems for data collection, data accuracy, and data analysis purposes.

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 537[14], signed in October 2019, requires that the Administrative Director of the Division of Workers' Compensation (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,[15] was enacted in September 2016. The bill aims to expedite medical treatment to 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 implementing antifraud measures in the filing and collection of medical treatment liens. 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.[16]

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.[17]

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.[18]

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[14] Text of SB537. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB537
[15] Text of SB 1160, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1160.
[16] DWC website, SB 1160 page, https://www.dir.ca.gov/dwc/SB1160-AB1244/SB1160.htm.
[17] https://www.dir.ca.gov/dwc/DWCPropRegs/2020/Medical-Legal-Fee-Schedule/Med-Legal-Fee-Schedule.htm
[18] https://www.dir.ca.gov/DIRNews/2020/2020-41.html.

Recommendations

- Continue to study and evaluate potential payment alternatives for providers and compare them to the official medical fee schedule.
- 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.
- 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.
- Monitor the impact of the newly adopted Medical-Legal Fee Schedule.
- Promote and support the recommendations in the RAND Medical-Legal white paper.[19]
- Incentivize the use of Medical Provider Networks (MPNs) in post-employment claims as discussed in the RAND report "Provider Fraud in Workers' Compensation."[20]

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.[21]

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

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

[21] https://edd.ca.gov/siteassets/files/payroll_taxes/pdf/jesfreport2020.pdf

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 DIR booklet "All Workers Have Rights."[22]
- Encourage reporting of alleged noncompliant business practices to protect workers and employers and promote transparency in the workplace.
- 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.
- Support the Labor Enforcement Task Force (LETF) in its efforts to combat the underground economy.

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.[23]

Assembly Bill 1244[24] and SB 1160,[25] 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 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 with respect to 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.
- Promote the voluntary use of the Department of Insurance Workers' Compensation Insurance SIU Guidelines and Protocols,[26] which were last updated in 2011.
- Consider recommendations in the RAND report "Provider Fraud in California Workers' Compensation"[27] related to provider fraud, including:
    - Keeping post-employment claims treatment under an employer's control to prevent uncontrolled increase in medical provider liens.

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[22] DIR, LETF "All Workers Have Rights" booklet, 2020, https://www.dir.ca.gov/letf/What_are_your_rights_as_a_worker.pdf.
[23] Senate Labor and Industrial Relations Bill Analysis of SB 1160, August 31, 2016, https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160SB1160.
[24] Text of AB 1244, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1244.
[25] Text of SB 1160, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1160.
[26] 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.
[27] Provider Fraud in California Workers' Compensation, RAND, 2017, https://www.dir.ca.gov/Fraud_Prevention/Reports/Provider-Fraud-In-CA-Workers-Compensation.pdf.

- 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 other data science techniques can be best employed.

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.[28] 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. [29]

Recommendations

- Consider implementing recommendations in the "Report on Anti-Fraud Efforts in the California Workers' Compensation System" to address premium fraud.[30]
- 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.[31]

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.

[28] "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.
[29] https://www.dir.ca.gov/chswc/reports/split_class_codes_13aug2007.pdf
[30] 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.
[31] CDI, Workers' Compensation Fraud Convictions page, https://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/25-wc-conv/index.cfm.

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.[32]

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 policy makers, 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, 2020[33] will now be used to determine 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.

https://covid19.ca.gov/

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 pandemic and support efforts to help keep workers and employers safe. California is issuing regular updates on COVID-19,[34] including Coronavirus resources for California employers and workers[35] compiled by the Labor & Workforce Development Agency.
- Continue to develop materials and resources for both workers and employers that include the most up-to-date information on guidelines related to the COVID-19 pandemic.
- Continue 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.

[32] "Examination of the California Public Sector Self-Insured Workers' Compensation Program," Bickmore, October 22, 2014.
[33] https://www.dir.ca.gov/OSIP/rulemaking/Rulemaking_Approved_May_2020.html
[34] https://covid19.ca.gov/
[35] LWDA, Coronavirus 2019 (COVID-19) Resources for Employers and Workers, https://www.labor.ca.gov/coronavirus2019/.

- 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.
- 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).
- 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.
- 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[36] for janitorial services industry employees and employers to prevent sexual harassment and sexual assault-related workplace injuries and illnesses.
- 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.

[36] DIR, Sexual Harassment Prevention Training for Janitorial Services Employers, https://www.dir.ca.gov/dlse/Janitorial-Training.html.

SPECIAL REPORT: 2022 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND WORKERS' COMPENSATION

HEALTH and SAFETY AND WORKERS' COMPENSATION LEGISLATION

The brief summaries of 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, 2023, 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.[37]

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 2022 LEGISLATION SPECIFIC TO THE COMMISSION

Below are highlights from the most recent legislative year and, if applicable, highlights from any legislation in which a CHSWC report or study is requested and is in progress. There was no legislation in 2022 specific to mandated new CHSWC research. However, it is noteworthy that CHSWC research based on usage of a prepaid card for indemnity payments (noted in last year's annual report) is impacted by AB 2148 and the extension of the pilot program timeframe.

HEALTH AND SAFETY

Health and Safety Legislation

AB 257, Assemblyperson Holden.
Food facilities and employment.
Amends Section 96 of, and to add Part 4.5.5 (commencing with Section 1470) to Division 2 of, the Labor Code, relating to food facilities and employment.
Status: Enrolled on September 3, 202 and chaptered on September 5, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB257

Existing law prescribes various protections for employees and generally charges the Labor Commissioner with the enforcement of labor laws. Existing law establishes the powers and responsibilities of the Division of Occupational Safety and Health and the Division of Labor Standards and Enforcement, which are within the Department of Industrial Relations (DIR).

This bill enacts the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act. The bill establishes, until January 1, 2029, the Fast Food Council (council) within the DIR, to be composed of 10 members to be appointed by the Governor, the Speaker of the Assembly, and the Senate Rules Committee, and prescribes its powers. The purpose of the council is to establish sectorwide minimum standards on wages, working hours, and other working conditions related to the health, safety, and welfare of, and supplying the necessary cost of proper living to, fast food restaurant workers, as well as effecting interagency coordination and prompt agency responses in this regard. The bill defines the characteristics

[37] 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.

of a fast food restaurant, including that the establishment be part of a set of fast food restaurants consisting of 100 or more establishments nationally that share a common brand, or that are characterized by standardized options for decor, marketing, packaging, products, and services.

This bill requires the council to promulgate minimum fast food restaurant employment standards, including standards on wages, working conditions and training, and to issue, amend, and repeal any other rules and regulations, as necessary to carry out its duties, subject to a petition signed by 10,000 fast food restaurant employees approving the creation of the council, as specified. Under the bill, if a conflict exists between the council's standards, rules, or regulations and those issued by another state agency, the standards, rules, or regulations issued by the council would apply to fast food restaurant workers and fast food restaurant franchisees and franchisors, and the conflicting rules or regulations of the other state agency would not have force or effect with respect to these parties. The bill excepts from this application proposed standards within the jurisdiction of the Occupational Safety and Health Standards Board and prescribes a process for the council to petition the board to adopt, amend, or repeal a standard.

This bill requires the council to submit a report to the Legislature, as specified, for a standard, or repeal or amendment of a standard, to become effective, and specifies that a standard, repeal, or amendment shall not take effect before October 15 of the same year. The bill also requires the council to provide information as requested by the appropriate committees of the Legislature on labor to facilitate a review of the council's performance and standards, as specified.

This bill requires the council to conduct a full review of the adequacy of minimum fast food restaurant health, safety, and employment standards at least once every 3 years. The bill requires the council, following that review, to issue, amend, or repeal, or make recommendations to issue, amend, or repeal, any fast food employment, health or safety standard applicable to fast food restaurants, as appropriate. The bill requires the council to hold meetings or hearings no less than every 6 months that are to be open to the public, as specified, and authorizes the council to coordinate with and authorize local agencies to hold such meetings. The bill authorizes a county, or a city with a population greater than 200,000, to establish a Local Fast Food Council, and prescribes its powers and requirements for its composition. The bill authorizes a Local Fast Food Council to provide recommendations to the council.

This bill requires standards for minimum wages, maximum hours of work, and other working conditions fixed by the council to be the minimum standards for fast food restaurant employees, absent a valid collective bargaining agreement, as specified, and requires that they be enforced by the commissioner, as specified, and the Division of Labor Standards Enforcement. By expanding the application of crimes associated with those enforcement procedures, this bill imposes a state-mandated local program. The bill requires the Labor Commissioner and the commissioner's deputies to take assignments of violations of standards issued by the council upon the filing of a claim in writing by an employee or an employee's authorized representative.

This bill prohibits a fast food restaurant operator from discharging or in any manner discriminating or retaliating against any fast food restaurant employee for specified reasons, and creates a cause of action and right to reinstatement for employees in this connection, as well as a presumption of unlawful discrimination and retaliation in certain circumstances.

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 1643, Assemblyperson Robert Rivas.
Labor and Workforce Development Agency: Heat: Advisory Committee for a Study.
Adds and repeals Section 15562.5 of the Government Code, relating to state government.
Status: Enrolled on August 31, 2022 and chaptered on September 9, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1643

Existing law establishes the Labor and Workforce Development Agency under the supervision of an executive officer known as the Secretary of Labor and Workforce Development. Existing law requires the secretary to perform specified duties, including advising the Governor with respect to establishing major policy and program matters affecting each department, office, or other unit within the agency. Existing law authorizes officers or employees within the agency to exercise powers designated to them by the secretary.

This bill requires the agency, on or before July 1, 2023, to establish an advisory committee to study and evaluate the effects of heat on California's workers, businesses, and the economy. The bill requires the committee to meet to recommend the scope of a study to the agency. The bill requires the advisory committee, in considering the effects of heat on California's workers, businesses, and the economy, recommend a study that addresses prescribed topics relating to data collection, certain economic losses, injuries and illnesses, and methods of minimizing the effect of heat on workers. The bill requires the advisory committee to be composed of specified representatives from state agencies, labor and business entities, and academia. The bill authorizes the advisory committee to contract with academic institutions or other researchers to complete its work. The bill requires the advisory committee to issue a report of its findings to the Legislature no later than January 1, 2026. The bill repeals these provisions on January 1, 2027.

AB 1775, Assemblyperson Ward.
Occupational safety: live events.
Adds Part 14 (commencing with Section 9250) to Division 5 of the Labor Code, relating to occupational safety.
Status: Enrolled on August 31, 2022 and chaptered on September 29, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1775

Existing law establishes the Division of Occupational Safety and Health in DIR, and charges the division with the enforcement of various laws affecting safe working conditions, including the California Occupational Safety and Health Act of 1973.

This bill 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. The bill requires the division to enforce those provisions by issuing a citation and a notice of civil penalty, as specified, and deposit those funds in the Occupational Safety and Health Fund.

Public events venue, as defined, applies to "a state-operated fairground, county fairground, state park, California State University, University of California, or auxiliary organization-run facility that hosts live events", significantly narrowing the scope of the statute (LC 9250(o).)

AB 1857, Assemblyperson Cristina Garcia.
Solid waste.
Amends Sections 41780, 41780.05, 41783.1, and 42510 of, to add Sections 42999.5 and 42999.7 to, and repeals Sections 41783, 41784, and 41786 of, the Public Resources Code, relating to solid waste.
Status: Enrolled on September 12, 2022 and chaptered September 16, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1857

(1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste. The act requires a city, county, or city and county, or regional agency formed under the act, to develop a source reduction and recycling element of an integrated waste management plan containing specified components. The act requires those jurisdictions to divert 50 percent of the solid waste subject to the element, except as specified, through source reduction, recycling, and composting activities. The act allows the 50 percent diversion requirement to include not more than 10 percent through transformation, as defined, if specified conditions are met.

This bill repeals the provision authorizing the inclusion of not more than 10 percent of the diversion through transformation. Because the bill would require local agencies to revise the source reduction and recycling elements of their integrated waste management plans, this bill would impose a state-mandated local program.

(2) The act authorizes the department, under specified conditions, to reduce the diversion requirements for a city or county that, before January 1, 1990, disposed of 75 percent or more of its solid waste by transformation.

This bill repeals that authorization.

(3) Existing law requires the department, upon appropriation by the Legislature, to administer a grant program to provide financial assistance to promote in-state development of infrastructure, food waste prevention, or other projects to reduce organic waste or process organic and other recyclable materials into new, value-added products. Existing law establishes certain methane emissions reductions goals, including a 75 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025 to reduce the landfill disposal of organics.

This bill requires the department, upon appropriation by the Legislature, to establish and administer the Zero-Waste Equity Grant Program as a competitive grant program to support targeted strategies and investments in communities transitioning to a zero-waste circular economy. The bill requires the department to provide grants to eligible zero-waste projects, as described.

(4) This bill also requires the department, in consultation with the California Workforce Development Board and the DIR to submit policy recommendations to the Legislature on how to increase job opportunities and improve labor standards and worker pay related to the zero-waste job sector.

(5) This bill also makes other conforming changes.

(6) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

AB 2057, Assemblyperson Carrillo.
Department of Transportation: goods movement data.
Adds Section 14110.5 to the Government Code, and to add Section 157 to the Labor Code, relating to transportation.
Status: Enrolled on September 12, 2022 and chaptered on September 22, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2057

Among other items, this bill requires the Department of Transportation to create a web page on its internet website that contains links to existing registries and databases related to drayage trucks from certain sources.

Existing law establishes the DIR within the Labor and Workforce Development Agency to, among other things, 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. Existing law requires the department to collect various forms of data, statistics, and research regarding labor within the state.

This bill requires the DIR to provide the Department of Transportation with links to existing public registries and databases with information about drayage trucks, employers who are committing WC fraud, and health and safety enforcement activity, as provided.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

AB 2068, Assemblyperson Haney.
Occupational safety and health: postings: spoken languages.
Amends Sections 6318 and 6431 of the Labor Code, relating to occupational safety and health.
Status: Enrolled on September 12, 2022 and chaptered on September 23, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2068

Existing law grants the Division of Occupational Safety and Health, which is within the DIR, jurisdiction over all employment and places of employment, with 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, requires employers to comply with certain standards ensuring healthy and safe working conditions, as specified, and charges the division with enforcement of the act. Existing law makes certain violations of the act a crime.

Existing law requires citations, orders, and special orders issued by the Department, in enforcing occupational safety and health standards, to be prominently posted at or near each place a violation referred to in the citation or order occurred, in accordance with specified timeframes and procedures. Existing law makes certain violations of specified posting or recordkeeping requirements enforceable by a civil penalty.

This bill requires an employer to post an employee notification containing specified information when the above-described citations or orders are issued. The bill requires this notification, in addition to English, to be made available in specified languages. The bill makes a violation of these provisions enforceable by a civil penalty, as specified. The bill also includes related legislative findings. By expanding the scope of a crime, the 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.

AB 2243, Assemblyperson Eduardo Garcia.
Occupational safety and health standards: heat illness: wildfire smoke.
Amends Section 6721 of the Labor Code, relating to occupational safety and health.
Status: Enrolled on September 8, 2022 and chaptered on September 29, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2243

Existing law grants the Division of Occupational Safety and Health, which is within the DIR, jurisdiction over all employment and places of employment, with 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. Under OSHA, certain knowing, negligent, or willful violations of safety and health standards are punishable as a misdemeanor. The existing Maria Isabel Vasquez Jimenez heat illness standard provides for the prevention of heat-related illness of employees in outdoor places of employment, as prescribed. There is also an existing standard for workplace protection from wildfire smoke.

This bill requires the division, before December 1, 2025, to submit to the standards board a rulemaking proposal to consider revising the heat illness standard and wildfire smoke standard. The bill requires the division, in preparing the proposed regulations, to consider revising the heat illness standard to require employers to distribute copies of the Heat Illness Prevention Plan, as provided. The bill similarly requires a rulemaking proposal to consider revising the wildfire smoke standard, with regard to farmworkers, to reduce the existing air quality index threshold for PM2.5 particulate matter at which control by respiratory protective equipment becomes mandatory for farmworkers. The bill requires the standards board to review the proposed changes and consider adopting revised standards on or before December 31, 2025. The bill further requires the division to consider regulations, or revising existing regulations, relating to protections related to acclimatization to higher temperatures, as provided.

AB 2298, Assemblyperson Mayes.
Recreational water use: wave basins.
Adds Article 2.8 (commencing with Section 115960.1) to Chapter 5 of Part 10 of Division 104 of the Health and Safety Code, relating to public health.
Status: Enrolled on September 13, 2002 and chaptered on September 22, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2298

Existing law provides for the regulation of recreational water use, as specified, including, but not limited to, swimming pools and wave pools. Existing law establishes applicable construction and sanitation standards for public swimming pools, and standards pertaining to their operation, maintenance, and use. Existing law, the Permanent Amusement Ride Safety Inspection Program, provides for a state system for the inspection of permanent amusement rides, as defined.

This bill subjects a wave basin, defined as an artificially constructed body of water within an impervious water containment structure incorporating the use of a mechanical device principally designed to generate waves for surfing on a surfboard or analogous surfing device commonly used in the ocean and intended for sport, to regulation as a permanent amusement ride under the Permanent Amusement Ride Safety Inspection Program. The bill requires the State Department of Public Health to adopt regulations that may consider the federal Centers for Disease Control and Prevention guidance and that may be modeled upon the sanitation and safety regulations for swimming pools, but shall consider the unique characteristics of a wave basin, including the volume of water, chemical dispersion caused by wave action, and the size of a

typical wave basin. The bill authorizes a local health officer to enforce the wave basin sanitation and safety regulations adopted by the department in their jurisdiction.

AB 2693, Assemblyperson Reyes.
COVID-19: exposure.
Amends Sections 6325 and 6409.6 of the Labor Code, relating to occupational safety.
Status: Enrolled on September 9, 2022 and chaptered on September, 29, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2693

(1) Existing law, the California Occupational Safety and Health Act of 1973, authorizes the Division of Occupational Safety and Health to prohibit the performance of an operation or process, or entry into that place of employment when, in its opinion, a place of employment, operation, or process, or any part thereof, exposes workers to the risk of infection with COVID-19, so as to constitute an imminent hazard to employees.

Existing law requires a notice of the prohibition to be posted in a conspicuous location at the place of employment and makes violating the prohibition or removing the notice, except as specified, a crime. Existing law requires that the prohibition be issued in a manner so as not to materially interrupt the performance of critical governmental functions essential to ensuring public health and safety functions or the delivery of electrical power, renewable natural gas, or water. Existing law requires that these provisions not prevent the entry or use, with the division's knowledge and permission, for the sole purpose of eliminating the dangerous conditions.

Existing law repeals those provisions January 1, 2023.

This bill extends those provisions until January 1, 2024. By expanding the scope of a crime, this bill imposes a state-mandated local program.

(2) Under existing law, if an employer or representative of the employer receives a notice of potential exposure to COVID-19, the employer is required to take specified actions within one business day of the notice of potential exposure, including providing written notice to all employees on the premises at the same worksite that they may have been exposed to COVID-19. Existing law repeals those provisions on January 1, 2023.

This bill revises and recasts those notification requirements to, among other things, authorize an employer to satisfy the notification requirements by prominently displaying a notice in all places where notices to employees concerning workplace rules or regulations are customarily posted that includes the dates on which an employee with a confirmed case of COVID-19 was on the worksite premises within the infectious period and the location of the exposure. The bill requires the notice to remain posted for 15 days. The bill requires an employer to keep a log of all the dates the notice was posted, and requires the employer to allow the Labor Commissioner to access those records. The bill extends these provisions until January 1, 2024.

(3) Existing law requires an employer, if they are notified of the number of cases that meets the definition of a COVID-19 outbreak, to notify the local public health agency within 48 hours, except as specified. Existing law also requires the State Department of Public Health to make workplace industry information received from local public health departments pursuant to these provisions available on its internet website in a manner that allows the public to track the number and frequency of COVID-19 outbreaks and the number of COVID-19 cases and outbreaks by industry reported by any workplace. Existing law requires local health departments and the division to provide a link to this page on their internet websites.

This bill deletes those provisions.

SB 1044, State Senator Durazo
Employers: emergency condition: retaliation.
Adds Chapter 11 (commencing with Section 1139) to Part 3 of Division 2 of the Labor Code, relating to employment.
Status: Enrolled on August 30, 2022 and chaptered on September 29, 2022

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1044

Existing law establishes within the DIR the Division of Labor Standards Enforcement, under the direction of the Labor Commissioner. Existing law authorizes the division to enforce the Labor Code and all labor laws of the state the enforcement of which is not specifically vested in any other officer, board, or commission. Existing law prescribes comprehensive requirements relating to minimum wages, overtime compensation, and standards for working conditions for the protection of employees applicable to an employment relationship.

This bill prohibits an employer, in the event of an emergency condition, as defined, from taking or threatening adverse action against any employee for refusing to report to, or leaving, a workplace or worksite within the affected area because the employee has a reasonable belief that the workplace or worksite is unsafe, except as specified. The bill also prohibits an employer from preventing any employee, including employees of public entities, as specified, from accessing the employee's mobile device or other communications device for seeking emergency assistance, assessing the safety of the situation, or communicating with a person to confirm their safety. The bill requires an employee to notify the employer of the emergency condition requiring the employee to leave or refuse to report to the workplace or worksite, as specified. The bill clarifies that these provisions are not intended to apply when emergency conditions that pose an imminent and ongoing risk of harm to the workplace, the worksite, the worker, or the worker's home have ceased.

SB 1294, State Senator Cortese.
Workforce wellness center: Santa Clara Valley Transportation Authority.
Adds Article 7 (commencing with Section 14120) to Chapter 3 of Division 7 of the Unemployment Insurance Code, relating to workforce development.
Status: Enrolled on September 6, 2022 and chaptered on September 13, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1294

Even though the bill does not add or amend to the Labor code, it is relevant to health and safety laws and regulations.

(1) The federal Workforce Innovation and Opportunity Act provides for workforce development activities, including activities in which states may participate.

Existing state law provides that the California Workforce Development Board is the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system, and the alignment of the education and workforce investment systems to the needs of the 21st century economy and workforce.

Existing law, the State Budget Act of 2021, appropriates specified funds to the board for local assistance, including $10,000,000 for the Santa Clara Valley Transportation Authority (VTA) for worker support and assistance, including mental health services, worker training, retraining, trauma counseling, and reasonable accommodations. Existing law additionally requires the board to allocate $10,000,000 to the VTA for worker support and facilities improvement, and requires the VTA to first prioritize worker support and assistance, including mental health services, worker training, retraining, trauma counseling, and reasonable accommodations.

This bill requires the board, any research institution under contract with the board, the VTA, and the California Health and Human Services Agency, to perform prescribed duties, including analyzing the effectiveness of the VTA's wellness center, drafting a model plan for the development and implementation of a worker wellness center, and developing a plan to encourage the establishment of worker wellness center demonstration sites statewide in transit authorities. The bill requires the VTA to provide the board, or research institutions under contract with the board, with data and outcomes from its wellness center that are necessary for the evaluation required by this bill, as specified. The bill requires the board to consult with the Division of Occupational Safety and Health to ensure compliance with occupational safety and health laws and regulations. By imposing new duties on a local agency to report information to the board, this bill imposes a state-mandated local program. This bill makes its provisions operative only upon appropriation by the Legislature. No later than 2 years following appropriation, the bill requires the board to prepare and send to the Legislature a report on the results of its evaluation conducted and the plans developed pursuant to these provisions.

(2) This bill makes legislative related findings and declarations, including findings and declarations as to the necessity of a special statute for the VTA.

(3) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

Several WC bills were signed into law in 2022. COVID-19 WC bills were previously signed in 2020 and regulations were updated in 2021. One COVID-19 WC bill was passed in 2022, which extended the presumptions created in 2020 by an additional year. As indicated above, AB 2693 is a COVID-19-related health and safety bill.

AB 1751, Assemblyperson Daly.
Workers' compensation: COVID-19: critical workers.
Amends Sections 3212.86, 3212.87, and 3212.88 of the Labor Code, relating to workers' compensation.
Status: Enrolled on September 12, 2022 and chaptered on September 29, 2022

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

Existing law establishes a WC system, administered by the Administrative Director of DWC, to compensate an employee, as defined, for injuries sustained in the course of employment. Existing law creates a disputable presumption that specified injuries sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of the employment. Existing law governs the procedures for filing a claim for WC, including filing a claim form, and provides that an injury is presumed compensable if liability is not rejected within 90 days after the claim form is filed, as specified. Existing case law provides for how certain presumptions may be rebutted.

Existing law defines "injury" for an employee to include illness or death resulting from the 2019 novel coronavirus disease (COVID-19) under specified circumstances, until January 1, 2023. Existing law creates a disputable presumption, as specified, that the injury arose out of and in the course of the employment and is compensable, for specified dates of injury. Existing law requires an employee to exhaust their paid sick leave benefits and meet specified certification requirements before receiving any temporary disability benefits or, for police officers, firefighters, and other specified employees, a leave of absence. Existing law also make a claim relating to a COVID-19 illness presumptively compensable, as described above, after 30 days or 45 days, rather than 90 days. Existing law, until January 1, 2023, allows for a presumption of injury for all employees whose fellow employees at their place of employment experience specified levels of positive testing, and whose employer has 5 or more employees.

This bill extends the above-described provisions relating to COVID-19 until January 1, 2024. The bill also expands the above-described provisions applicable to firefighters and police officers to include active firefighting members of a fire department at the State Department of State Hospitals, the State Department of Developmental Services, the Military Department, and the Department of Veterans Affairs and to officers of a state hospital under the jurisdiction of the State Department of State Hospitals and the State Department of Developmental Services.

AB 2148, Assemblyperson Calderon.
Workers' compensation: disability payments.
Amends Section 4651 of the Labor Code, relating to workers' compensation.
Status: Enrolled on July 11, 2022 and chaptered on July 19, 2022

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

Existing law establishes a WC system, administered by the Administrative Director of the DWC, 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, 2023, 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, 2024.

AB 2848, Assemblyperson Santiago.
Workers' compensation: medical treatment.
Amends Section 4610 of the Labor Code, relating to workers' compensation.
Status: Enrolled on August 31, 2022 and chaptered on September 13, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2848

Existing law establishes a WC system, administered by the Administrative Director of DWC, to compensate an employee for injuries sustained in the course of employment. Existing law requires the administrative director to adopt a medical treatment utilization schedule. Existing law requires the administrative director to contract with an outside independent research organization to evaluate and report on the impact of the provision of medical treatment within the first 30 days after a claim is filed, for claims filed on or after January 1, 2017, until January 1, 2019. Existing law requires the report to be completed before January 1, 2020, and to be distributed to the administrative director, the Senate Committee on Labor and Industrial Relations, and the Assembly Committee on Insurance.

This bill requires the administrative director to contract with an outside independent research organization to evaluate and report on the impact of the provision of medical treatment within the first 30 days after a claim is filed for those claims filed between January 1, 2017, and January 1, 2021. The bill requires the report to be completed before July 1, 2023.

SB 1002, State Senator Portantino.
Workers' compensation: licensed clinical social workers.
Amends Sections 3209.5, 4600, 4600.3, and 4616 of, and to add Section 3209.11 to, the Labor Code, relating to workers' compensation.
Status: Enrolled on September 13, 2022 and chaptered on September 27, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1002

Existing law establishes a WC system, administered by the Administrative Director of DWC, that generally requires employers to secure the payment of WC for injuries incurred by their employees that arise out of, and in the course of, employment. Existing law requires an employer to provide medical, surgical, chiropractic, acupuncture, and hospital treatment reasonably required to cure or relieve the injured worker from the effects of the injury. Existing law includes in the meaning of medical treatment services and supplies by physical therapists, chiropractic practitioners, and acupuncturists, that are licensed and within the scope of their practice. Existing law authorizes an insurer, employer, or entity that provides physician network services to establish or modify a medical provider network for the provision of medical treatment to injured employees, and requires that a network include an adequate number and type of physicians or other providers, as defined.

This bill includes a licensed clinical social worker (LCSW) as treatment the employer is reasonably required to provide, expands the meaning of medical treatment to include the services of an LCSW, and authorizes an employer to provide an employee with access to an LCSW, as defined, acting within the scope of their practice. The bill authorizes medical provider networks to add LCSWs to the physician providers listing, authorizes an LCSW to treat or evaluate an injured worker only upon referral from a physician, as defined, and prohibits an LCSW from determining disability, as specified. This bill makes legislative findings and declarations in support of allowing licensed clinical social workers to treat work-related mental and behavioral health issues.

Existing law requires that when a self-insured employer, group of self-insured employers, or the insurer of an employer contracts with a health care organization for health care services to be provided to injured employees, those employees subject to the contract are to receive medical services in the manner prescribed in the contract. Existing law requires that each contract provide all medical, surgical, chiropractic, acupuncture, and hospital treatment that is reasonably required to cure or relieve the effects of the injury.

This bill includes an LCSW as treatment that the contract is required to provide.

SB 1127. State Senator Atkins.
Workers' compensation: liability presumptions.
Amends Sections 3761, 4656, and 5402 of, and to add Section 5414.3 to, the Labor Code, relating to workers' compensation.
Status: Enrolled on September 9, 2022 and chaptered on September 29, 2022.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1127

Existing law establishes a WC system, administered by the Administrative Director of DWC, to compensate an employee for injuries arising out of and in the course of their employment. Existing law requires an injured employee to file a claim form with the employer. Under existing law, except for specified injuries, if liability is not rejected within 90 days after the date the claim form is filed with the employer, the injury is presumed compensable and the presumption is rebuttable only by evidence discovered subsequent to the 90-day period.

For certain injuries or illnesses, including hernia, heart trouble, pneumonia, or tuberculosis, among others, sustained in the course of employment of a specified member of law enforcement or a specified first responder, this bill reduces those time periods to 75 days. The bill makes other conforming changes.

Existing law prohibits aggregate disability payments for a single injury occurring on or after January 1, 2008, causing temporary disability from extending for more than 104 compensable weeks within a period of 5 years from the date of injury, except if an employee suffers from certain injuries or conditions.

This bill, for specified firefighters and peace officers claiming illness or injury related to cancer, increases the number of compensable weeks to 240 without limitation as to time from the date of injury.

Existing law requires that certain proceedings, including proceedings for the enforcement against the employer or an insurer of any liability for compensation, be instituted before the Workers' Compensation Appeals Board (WCAB). Existing law authorizes the appeals board to fix and determine, in its award, the total amount of compensation to be paid and specify the manner of payment, or may fix and determine the weekly disability payment to be made and order payment during the continuance of disability. Existing law requires that when payment of compensation has been unreasonably delayed or refused, either prior to or subsequent to the issuance of an award, the amount of the unreasonably delayed or refused payment be increased up to 25 percent or up to $10,000, whichever is less. Existing law requires the appeals board to use its discretion to accomplish a fair balance and substantial justice between the parties.

This bill requires, if liability for an injury has been unreasonably rejected for specified claims of injury or illness, including hernia, heart trouble, pneumonia, or tuberculosis, among others, sustained in the course of employment of a specified member of law enforcement or a specified first responder, the amount of the penalty to be 5 times the amount of the benefits unreasonably delayed due to the rejection of liability. The bill limits the penalty to no more than $50,000. The bill requires the appeals board to determine the question of whether the rejection of liability is reasonable. The bill applies this provision to all injuries, without regard to whether the injury occurs before, on, or after the operative date of the bill.

Existing law requires the Administrative Director of DWC, among other duties, to develop a WC information system in consultation with the Insurance Commissioner and the Workers' Compensation Insurance Rating Bureau (WCIRB), with certain data to be collected electronically.

This bill requires the division, upon an appropriation by the Legislature, to identify and amend its existing data collection processes to include collection of the date on which a claimant is notified of acceptance, denial, or conditional denial of liability.

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 2021 are available at:

https://www.dir.ca.gov/dwc/rulemaking/DWCRulemaking2021.html

DWC Approved Regulations 2022 are available at:

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

DWC Proposed Regulations 2022 are available at:

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

Information on WCAB preliminary rulemaking activities:

https://www.dir.ca.gov/dwc/DWCWCABForum/1.asp#WCAB/

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

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

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 are at:

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

Approved OSIP regulations 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

This section contains estimated California Workers' Compensation (WC) costs for 2021. The majority of the information reflected in this report is through December 31, 2021, and, as a result, it covers a year preceded and itself marked by an unpredictably evolving workplace health and economic crisis caused by the COVID-19 pandemic. The accelerated rollout of vaccines in California in the spring of 2021 went along with emergence of new COVID-19 variants that can still infect or reinfect people who have been vaccinated or have previously had COVID-19. The unpredictability of the new variants' potential for transmission, infection, severity, hospitalizations, and deaths pose downside risks to employment, economic activity, and administration of WC system.

The California state laws and regulations initially adopted in response to the COVID-19 pandemic, including the stay-at-home executive order and the rebuttable presumptions of compensability laws, were renewed, extended, as well as modified, thereby affecting the analysis, assumptions, and estimates essential for administration of WC programs. The pandemic's ultimate impact on the WC industry may not be known for years and can only be comprehensively evaluated using data in a "new normal" environment in which COVID-19 is a constant factor that has become manageable.

The disruptive impact of COVID-19 on California's WC system described in the recommendations section of this report (see pages 10-11) includes unpredictable changes in the 2020 and 2021 environments where the main components of the WC costs emerge. Whereas the impact of COVID-19 on administrative and health and safety activities will be included in designated sections with related details, the effect of one-time aberrations like COVID-19 on WC cost methodology, based on a specific rate for every $100 of employers' payroll, will be neutralized. According to the Department of Insurance's Special Regulatory Filing Decision, the occurrence or non-occurrence of COVID-19 WC claims incurred by an employer are unlikely to be a strong predictor of that employer's future WC claim costs and therefore inclusion of such claims in experience modification calculations would not meet the intended goal of experience rating.[38] Similarly, the California Insurance Commissioner also approved rule changes to exclude from reported payroll any payments made to employees not performing duties of any kind in the service of the employer during the stay-at-home orders.[39] Excluding this payroll recognizes the extraordinary circumstances resulting from the stay-at-home order and the fact that employees not engaged in work activities have no work-related exposure.

In its September 1, 2022 regulatory filing submitted in February 2022 the WCIRB recommended incorporation of a provision to include COVID-19 claims in employers' experience ratings for new claims with the accident dates after September 1, 2022 (while claims with accident dates from December 1, 2019 to August 31, 2022 would still be excluded).[40] The Insurance Commissioner (IC) rejected the proposal.[41] As a result, COVID-19 claims remain excluded from the calculation of experience modifications.

In consideration of the COVID-19 pandemic impact, WCIRB in its September 1, 2022 Pure Premium Filing,[42] (a) largely excluded 2020 experience as the basis for projecting future cost levels (b) relied upon-pre-pandemic experience as well as 2021 experience in the projection, and (c) separately projected the cost of COVID-19 claims to be incurred on September 1, 2022 through August 31, 2023 insurance policies.

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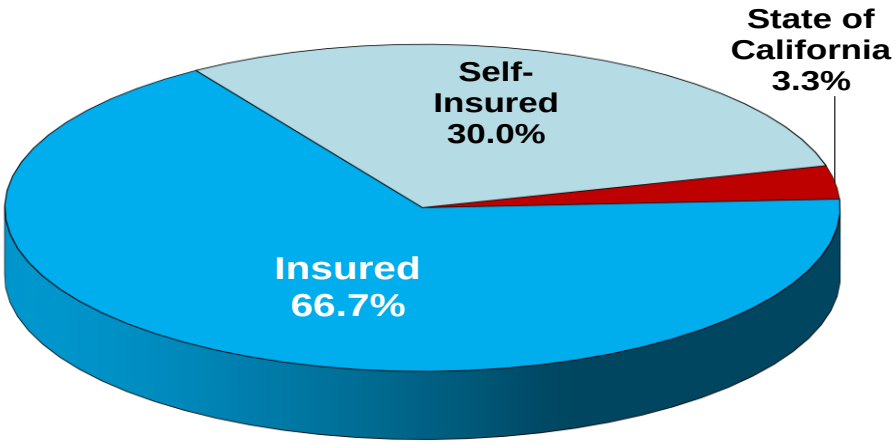
[38] Department of Insurance: Special Regulatory Filing Decision, July 1, 2020 Regulatory Filing Decision (wcirb.com).
[39] Ibid.
[40] WCIRB Regulatory Filing September 1, 2022, https://www.wcirb.com/sites/default/files/documents/sept_1_2022_regulatory_filing-complete.pdf.
[41] Department of Insurance: Regulatory Filing Decision, June 28, 2022 Regulatory Filing Decision (wcirb.com)
[42] WCIRB Pure Premium Rate Filing September 1, 2022. https://www.wcirb.com/sites/default/files/documents/20220901_ppr_filing-complete.pdf.

The California WC system covers an estimated 16,119,000 employees[43] working for over 1,039,079 employers[44] in the state. These employees and employers generated a gross domestic product of $3.01 trillion in 2020.[45] A total of 683,502 occupational injuries and illnesses were reported for 2021,[46] ranging from minor medical treatment cases to catastrophic injuries and deaths. The total paid cost to employers for WC in 2021 was an estimated $19.2 billion. (see Tables 4 and 5 in the box "Systemwide Cost: Paid Dollars for 2021 Calendar Year" on page 34.)

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), 66.7 percent of injuries occur to employees of insured employers, 30.0 percent of injuries occur to employees of self-insured employers, and 3.3 percent of injuries occur to employees of the State of California.[47] (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 32-33.)

Figure 1: Market Shares Based on Claim Counts Reported to WCIS (2019-2021 average)



Data Source: DWC - WCIS

[43] NASI Report: Workers' Compensation: Benefits, Costs, and Coverage, 2020, November 2022. https://www.nasi.org/wp-content/uploads/2022/11/2022-Workers-Compensation-Report-2020-Data.pdf.

[44] CHSWC estimates are based on an Employment Development Department report, as above, showing 1,642,918 businesses in 2020. Of these, 1,207,678 were businesses with 0 to 4 employees. For this estimate, half of those businesses are assumed to have no employees subject to workers' compensation. 1,642,918 – (1,207,678/2) =1,039,079. https://www.labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Data_for_CA.html.

[45] US Bureau of Economic Analysis, https://apps.bea.gov/itable/iTable.cfm?ReqID=70&step=1&acrdn=1.

[46] 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 12, 2022. 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.

[47] WCIS, Table 4, "Workers' Compensation Claims by Market Share," data run as of August 2022, https://www.dir.ca.gov/dwc/wcis/WCIS_tables/Table-4/WCIS_Reports-Table-4.html.

Methods of Estimating the Workers' Compensation System Size

The overall system size for 2021 is estimated at 1.5 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 2021 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 10 percent from 619,647 claims in 2013 to 683,502 claims in 2021. The market share of the insured sector ranged from a three-year moving average of 65.3 in 2013-2015 to 68.0 percent in 2018-2020. The market share of the self-insured sector decreased from the average of 31.3 percent in 2013-2015 to 29.0 percent in 2018-2020. The three-year moving average share of the State of California rose from 3.0 percent in 2018-2020 to the average of 3.3 percent in 2019-2021. In 2021, the three-year average market shares based on claims counts were 66.7 percent insured, 30.0 percent self-insured, and 3.3 percent state. Using these values, a multiplier for extending the insured sector information to the overall system can be calculated as 100%/66.7% = 1.499 or 1.5, a 0.03 points higher than it was in 2020.

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

	Insured		Self-Insured		State of California	
Year	Number	Market Share (%)	Number	Market Share (%)	Number	Market Share (%)
2019	490.9	68.4	208.2	29.0	19.1	2.7
2020	445.4	66.5	200.5	29.9	23.8	3.6
2021	445.3	65.1	213.5	31.1	24.7	3.6
Average for 3 years		**66.7**		**30.0**		**3.3**

Source: WCIS.

[1] WCIS Database as of August, 2022, https://www.dir.ca.gov/dwc/wcis/WCIS_tables/Table-4/WCIS_Reports-Table-4.html.

(continued on the next page)

(**continued**)

Methods of Estimating the Workers' Compensation System Size

Based on the convergence of market share measurements from two independent methods, the data demonstrate that the insured market share is 66-68 percent of the workers' compensation system in the normal economic cycle without the effect of one-time aberrations and disruptions like COVID-19, causing 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 is 29-31 percent and the state sector is 3 or 4 percent.

Paid Loss Method (TO BE UPDATED)

Paid loss data indicate that 64 percent of the market in 2021 was insured, 31 percent was self-insured, and 5 percent was the state. This was the first year since 2010 when the market share of insured sector was 2 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 2021 data for the insured and private self-insured sectors and either 2020-2021 or 2021-2022 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%/66.0% = 1.562 (is 0.091 higher than estimated 1.47 based on a three-year (2019-2021) 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 2021-2022

	Indemnity	Medical	Subtotal	% in Total
a. Private Self-Insured[1] (2021)	$676,397,922	$709,698,983		
b. Public Self-Insured[2] (2020/2021)	$1,467,379,653	$1,096,654,734		
SELF-INSURANCE PLAN (a + b)	$2,105,050,457	$1,732,965,121	**$3,838,015,578**	**31%**
INSURED (2021)[3]	$3,814,889,000	$4,356,731,000	**$8,171,620,000**	**64%**
STATE (2021/2022)[4]	$253,186,993	$313,091,347	**$566,278,340**	**5%**
Total			**$12,309,551,918**	

Table 3: Percent Distribution of Workers' Compensation Paid Costs by Sectors (excluding Administrative Expenses) using public self-insured and state data for FY 2020-2021

	Indemnity	Medical	Subtotal	% in Total
a. Private Self-Insured[1] (2020)	$637,670,804	$636,310,387		
b. Public Self-Insured[2] (2019/2020)	$1,467,379,653	$1,096,654,734		
SELF-INSURANCE PLAN (a + b)	$2,105,050,457	$1,732,965,121	**$3,838,015,578**	**31%**
INSURED (2020)[3]	$3,688,864,000	$4,216,394,000	**$7,905,258,000**	**64%**
STATE (2020/2021)[4]	$253,186,993	$313,091,347	**$566,278,340**	**5%**
Total			**$12,309,551,918**	

[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, 2021 Losses and Expenses Report, Exhibit 12.1, released June 29, 2022. https://www.wcirb.com/sites/default/files/documents/2021_ca_wc_losses_and_expenses_report.pdf.
[4] Cost Information, https://www.calhr.ca.gov/employees/Pages/workers-compensation-program.aspx.

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 1.5 to include estimated amounts paid by self-insured employers and the State.

Systemwide Cost: Paid Dollars for 2021 Calendar Year

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

	Insured	Self-Insured and the State	All Employers
Indemnity*	$3,815**	$1,908	$5,723
Medical*	$4,357***	$2,179	$6,536
Changes to Total Reserves	-$328	-$164	-$492
Insurer Pre-Tax Underwriting Profit/Loss and Insurer Policyholder Dividends	$433	N/A	$433
Expenses (see Table 5 below: Breakdown of Expenses)	$5,363	$1,627	**$6,990**
TOTAL for 2021*	**$13,640**	**$5,549**	**$19,189**

* Include CIGA payments totaling $85 million in 2021.
** Include $66 million in indemnity payments made in 2021 for COVID-19 claims.
*** Include $55.6 million in medical payments made in 2021 for COVID-19 claims.

Source for Insured figures in Tables 4 and 5 is WCIRB Losses and Expenses report released on June 29, 2022. Self-insured and state expenses are calculated by CHSWC using 0.5 multiplier for equivalent cost components. The equivalent expense components are estimated as in Table 5.

Table 5: Breakdown of Expenses (Million $)

	Insured	*Self-Insured and State*	*All Employers*
Loss Adjustment Expense	$2,162	$1,081	$3,243
Commissions and Brokerage	$1,270	N/A	$1,270
Other Acquisition Expenses	$541	N/A	$541
General Expenses	$1,092	$546	$1,638
Premium and Other Taxes	$298	N/A	$298
Total	$5,363	$1,627	**$6,990**

Estimate of Workers' Compensation System Size Based on Written Premium

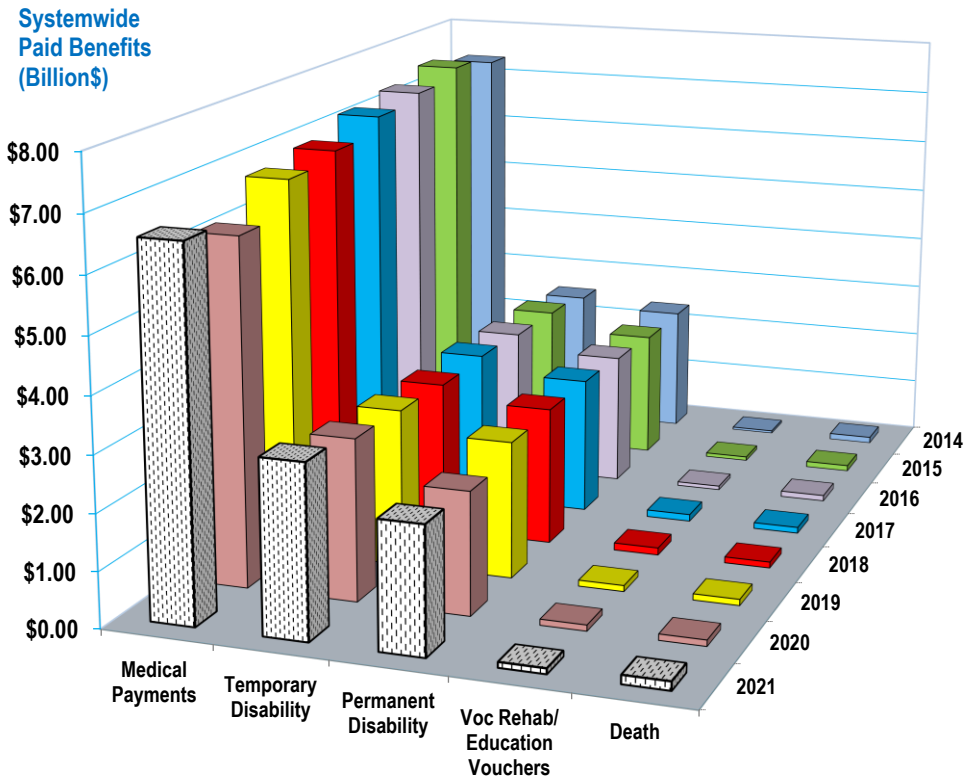
Another way to calculate systemwide costs for employers is by using written premium.

Written premium for insured employers = $13.7 billion in calendar year 2021.[48]

$13.7 billion x 1.5 = $20.6 billion systemwide costs for employers.

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

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



*** Systemwide amounts for CY 2021 estimated at 1.5 times the amounts reported by insurers**

Data Source: WCIRB

The Rebuttable Presumption of Compensability for California COVID-19 Workers' Compensation Claims

The COVID-19 pandemic and the subsequently adopted stay-at-home order have significantly affected California's economic, health-care, and WC systems. In order to alleviate the adverse impact of COVID-19 illnesses sustained in the course of employment by designated types of employees, SB 1159 (Hill) was enacted on September 17, 2020.[49] Its statutes took effect immediately and remain in effect until January 1, 2023. This bill codified the COVID-19 compensability presumption created by Executive Order N-62-20[50] that Governor Newsom signed on May 6, 2020, and provided two new rebuttable presumptions that an employee's illness related to COVID-19 was an occupational injury and therefore eligible for WC benefits if specified criteria were met.

Executive Order N-62-20 covered the California employees directed by their employers to work outside their home from March 19 to July 5, 2020, initially imposed by the stay-at-home executive order N-33-20.

Find the details of the policy implications in "Special Report: A Study of COVID-19 Claims and Presumptions under Senate Bill 1159" from 2021 included in this document on page 236.[51]

[49] SB 1159, COVID-19 Critical Workers, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1159.
[50] https://www.gov.ca.gov/wp-content/uploads/2020/05/5.6.20-EO-N-62-20-text.pdf.
[51] https://www.dir.ca.gov/chswc/Reports/2022/RAND-COVID-claims-presumptions.pdf.

DWC's COVID-19-specific changes to the Official Medical Fee Schedule(TO BE UPDATED)

In an effort to expand the access of workers with COVID-19 to medical care and to incentivize medical providers to accept WC insurance, DWC introduced changes in many sections of the Official Medical Fee Schedule (OMFS).[52] The OMFS changes include the Physician Services/Non-Physician Practitioner Services Fee Schedule, Durable Medical Equipment, Prosthetics, and Orthotics and Supplies (DMEPOS) in order to support essential services during the COVID-19 pandemic, Inpatient Hospital Section (increase in DRG weights for COVID-19 related discharges); Pathology and Clinical Laboratory section to adopt new COVID-19 testing codes and fees. The increases in medical fees are both temporary as with three CPT procedural codes that improve access to medical care through telehealth during the public health emergency and more long-term when the Labor Code § 5307.1.[53] requires adjustments in the OMFS to conform to Medicare fee schedule changes. Depending on the effective dates, these adjustments were made retroactively to the Medicare effective dates and required that WC claims administrators set up a process to reevaluate claims ex post facto when applicable, adding to the complexity of the cost evaluation process.

In order to identify, capture, and track COVID-19 injuries, DWC updated certain filing and application forms, introduced new medical and claims-related codes and data elements in WCIS and Electronic Adjudication Management System (EAMS), and adjusted the means of data and information collection through electronic filing, JET filing, paper filing by U.S. mail, and e-mail when approved. In 2021, the Workers Compensation Insurance Organizations (WCIO) has updated the Injury Description Tables with a new Nature of Injury Code 38 (Adverse reaction to a vaccination or inoculation) to reflect specific coding for adverse reactions to vaccinations.

WCIRB's Projected COVID-19 Claim Costs in the Insured Sector

In evaluating the financial impact of COVID-19 claims based on published COVID-19 infection forecasts and current cost trends, the WCIRB estimated that future COVID-19 claim costs would be about 0.5 percent of losses and loss adjustment expenses on policies incepting between September 1, 2022 and August 31, 2023 (see Figure 3). In 2020, the first year of the pandemic, COVID-19 claim costs in the insured employer system were a significant proportion of non-COVID-19 costs. In 2021, COVID-19 claim costs of 2.4 percent of losses were higher than anticipated in the WCIRB's September 1, 2021 Pure Premium Rate Filing, driven by the Delta and Omicron variants.[54] With higher population vaccination and prior infection rates as well as greater use of emerging COVID-19 therapeutics, the severity of COVID-19 claims is likely to be less during the projection period than during 2021 and early 2022. Incurred losses[55] for COVID-19 claims in 2021 comprised 2.6 percent or $199 million of total $7.8 billion insurer incurred losses, excluding payments made by CIGA.[56] In 2021, $55.6 million of total $4.4 billion medical payments and $66.0 million of total $3.8 billion indemnity payments were made for COVID-19 claims resulting in 1.5 percent of both medical and indemnity COVID-19 claims in total paid losses.

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[52] DWC emergency regulations filed with the state's Office of Administrative Law (OAL), https://www.dir.ca.gov/dwc/rulemaking/dwc_rulemaking_proposed.html and https://www.dir.ca.gov/dirnews/link_page.html.

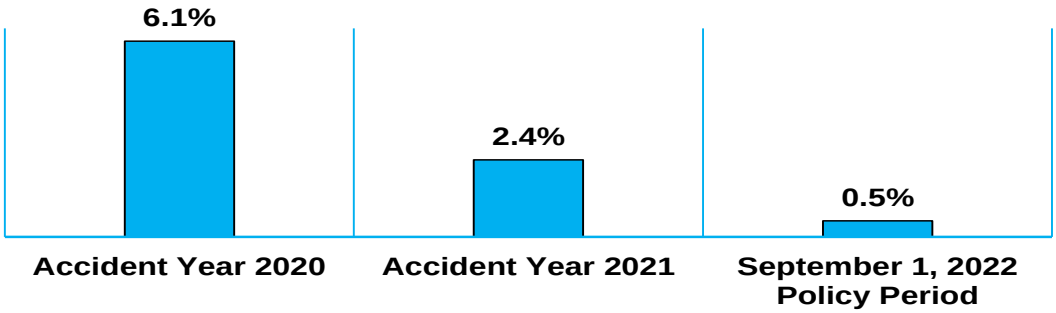
[53] Labor Code § 5307.1, http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=5307.1.&lawCode=LAB

[54] WCIRB's State of the System 2022 Report. Chart 12

[55] 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).

[56] WCIRB Losses and Expenses Report, https://www.wcirb.com/sites/default/files/documents/2021_ca_wc_losses_and_expenses_report.pdf.

Figure 3: Estimated Cost of COVID-19 Claims as Percent of Total Losses and Loss Adjustment Expenses[57]

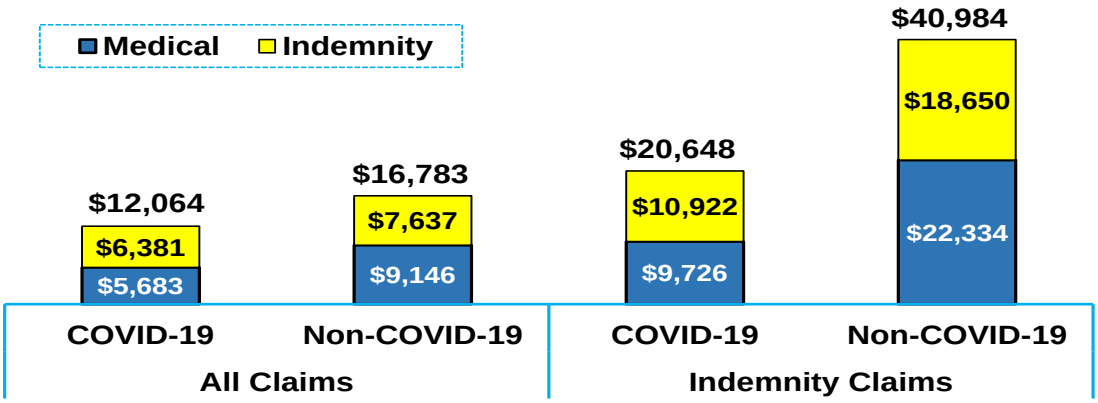


Source: WCIRB

Projections of future COVID-19 costs involve a high level of uncertainty. It is unclear what variants might emerge and how infectious or severe they might be. Changes in safety measures, such as reduced mask wearing or more employees working at the same premises, may increase exposure to COVID-19. In addition, the medical effects of "long COVID" are being examined as cases present themselves in people but are still largely unknown.

The average incurred medical cost of a COVID-19 claim of insured employers in 2020 was about 40 percent less than the average non-COVID-19 WC claim. (See Figure 4). The average incurred cost of a COVID-19 indemnity claim in the same year was about 50 percent less than the average non-COVID-19 indemnity claim. This was primarily driven by a high proportion of small COVID-19 claims with only reported indemnity losses.[58] According to WCIRB, more than 40 percent of all COVID-19 claims with incurred benefits involve only indemnity benefits most of which are small and quickly closed. Since the rollout of the vaccines in early 2021, the ratio of COVID-19 indemnity claims to all indemnity claims has been relatively low.[59]

Figure 4: Average Incurred Cost of a COVID-19 Claim in Accident Year 2020[60]

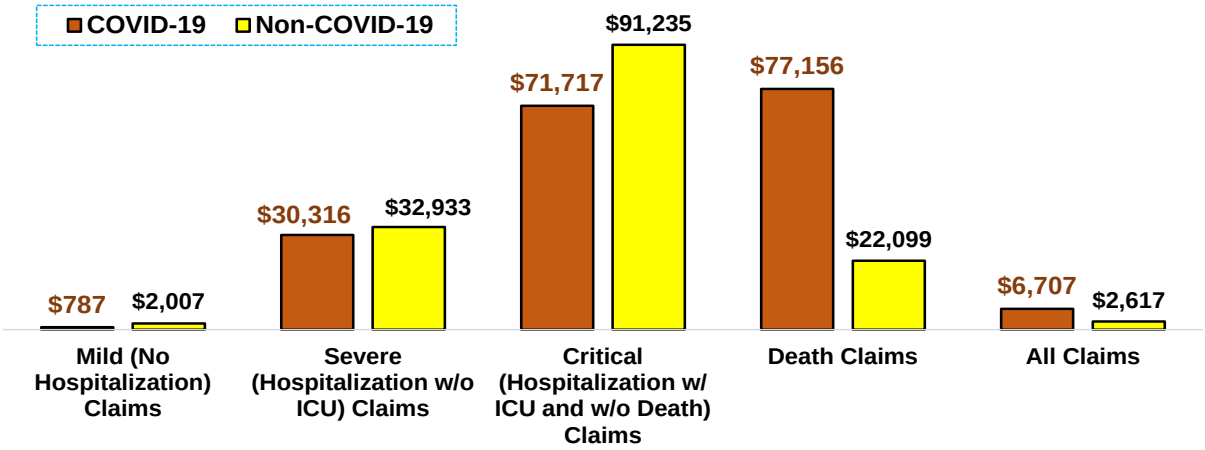


Source: WCIRB

[57] WCIRB's State of the System 2022 Report. Chart 12, https://www.wcirb.com/content/report-state-workers-compensation-insurance-system.
[58] Ibd. Page 14.
[59] WCIRB.COVID-19 in California Workers' Compensation System Report. October 2021 Update. https://www.wcirb.com/sites/default/files/documents/wcirb_report-covid-19caworkerscomp_0.pdf,
[60] WCIRB's State of the System 2022 Report. Chart 9, https://www.wcirb.com/content/report-state-workers-compensation-insurance-system.

As WCIRB's latest studies of COVID-19 medical costs in 2020 indicate, the potential impact of COVID-19 claims involving medical treatments, especially hospitalizations, could be significant. As Figure 5 shows, during the first 6 months of medical treatment, the average medical cost of a COVID-19 claim differed significantly by the severity of the illness, increasing from $787 for mild symptom cases to $77,156 for death claims. The overall average medical payments on COVID-19 claims were more than two times higher than those on non-COVID-19 claims, mostly driven by a relatively high share (10 percent) of COVID-19 claims at that time that involved hospitalization and death compared to non-COVID-19 claims (about 1 percent). About 4 percent of researched COVID-19 claims from 2020 were for severe illness requiring hospitalization without ICU, 4 percent required ICU care for critical conditions, and 2 percent were death claims.[61]

Figure 5: Six-Month Average Medical Payments for COVID-19 and Non-COVID-19 Claims



Source: WCIRB

Potential cost-related COVID-19 risks

While the early estimates of possible large-scale WC losses associated with the COVID-19 pandemic have not realized, possibly due to fewer claims filed than anticipated and claim denials, there are factors and risks for potential WC cost increases.

Although the WC system generally precludes litigation protecting the employer from big losses, some significant future awards are possible. Litigation cases have already been filed in some states,[62] with employers facing allegations of negligence resulting in illness and/or death due to COVID-19 transmission in the workplace.

The potential losses are associated with aggravation of preexisting conditions and the possibility that a claimant could become a "long-hauler" (one who continues to suffer the effects of COVID-19 long after a typical recovery course). Up to an estimated 10 percent of COVID-19 cases will experience prolonged symptoms occurring across all levels of disease severity – from mild cases to those requiring hospitalization and intensive care. Management of procedures and treatments related to long-haul COVID-19 cases are considered serious medical cost drivers. The federal National Institutes of Health launched an initiative to study the causes, means of prevention, and treatment of long-haul COVID-19 cases.[63]

The virus that causes COVID-19 is changing constantly. Since the beginning of the pandemic, several new

[61] WCIRB's Medical Treatments and Costs of COVID-19 Claims and an Early Look at "Long COVID" in the California Workers' Compensation System, https://www.wcirb.com/sites/default/files/documents/wcirb-longcovid-impactreport-ar-2.pdf. Released March 10, 2022

[62] COVID-19 Related Workplace Litigation Tracker, https://btlaw.com/insights/publications/2020/covid-19-related-workplace-litigation-tracker.

[63] NIH launches new initiative to study "Long COVID" | National Institutes of Health (NIH).

variants, including Alpha, Beta, Delta, and Omicron have emerged that have potential to avoid vaccine immunity or immunity naturally acquired after developing COVID-19. There is a potential for higher costs if a new variant is more aggressive, highly transmissible, vaccine-resistant, or able to cause more severe disease. In contrast to other vaccines against viral diseases and similar to seasonal flu shots, COVID-19 vaccines have to be constantly redeveloped and updated due to COVID-19 mutations.

In addition, the increased costs from the COVID-19 pandemic are associated with treatment delays in the WC system [64] along with more frequent ergonomic injuries for remote workers[65] resulting from the mass transition to hastily established telework programs.

WCIS COVID-19 claim counts and characteristics [66]

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.[67]

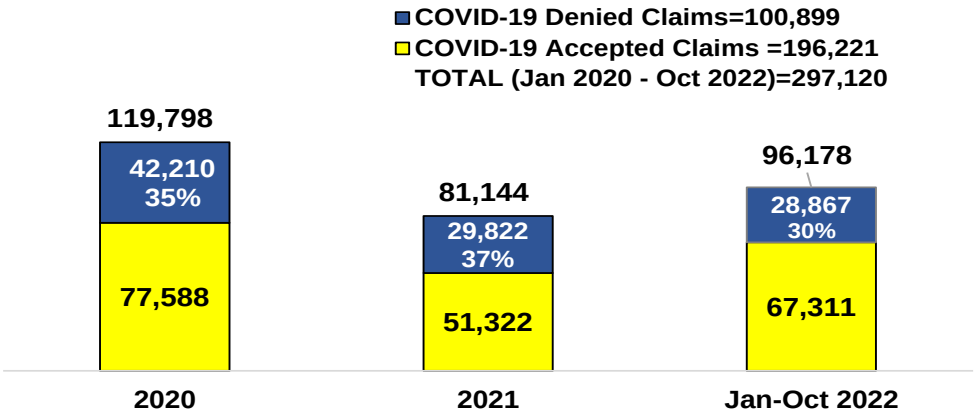
Prior to Executive Order N-62-20, the California WC program did not cover routine community-spread illnesses such as colds or the flu because they could not be directly identified as Arising out of Employment (AOE)/Course of Employment (COE) and were treated as mild and easily alleviated conditions. As COVID-19 proved to be deadly in some cases, several bills were signed into law to expand access to WC coverage in the face of the pandemic.

SB 1159 extends COVID-19 eligibility under WC and makes it easier for first responders, health-care workers, and people who test positive due to an outbreak at work to get necessary medical care and wage replacement benefits. At the same time, the intent of AB 685 (Reyes) was to enhance Cal/OSHA's enforcement of COVID-19 infection prevention requirements, including timely notification to employees and local and state public health officials of COVID-19 cases at workplaces.[68] According to Governor Newsom, these laws help California workers stay safe at work and get the support they need if they are exposed to COVID-19.

Figure 6 shows the total number of accepted (compensable) and denied COVID-19 claims in 2020, 2021, and January-October 2022. On average, one-third or 34 percent of all COVID-19 claims filed from January 2020 to October 2022 were denied. The share of denied COVID-19 claims decreased to 30 percent in January-October 2022.

[64] Cost Impacts of Medical Care Delays in the California Workers' Compensation System, https://www.wcirb.com/news/wcirb-studies-cost-impacts-delayed-medical-care-due-covid-19.
[65] Ergonomic Injury Risk, https://www.workcare.com/2021/04/02/the-future-workplace-ergonomics-for-remote-workers/
[66] The data on WCIS COVID-19 claims was provided by DWC WCIS based on reports run on October 20, 2022. The figures cover 34 months from January 2020 to October 2022.
[67] WCIS definitions of WC market sectors, https://www.dir.ca.gov/dwc/wcis/WCIS_tables/Table-4/WCIS_Reports-Table-4.html.
[68] Office of Governor Gavin Newsom, https://www.gov.ca.gov/2020/09/17/governor-newsom-signs-legislation-to-protect-californias-workforce-amid-the-covid-19-pandemic/.

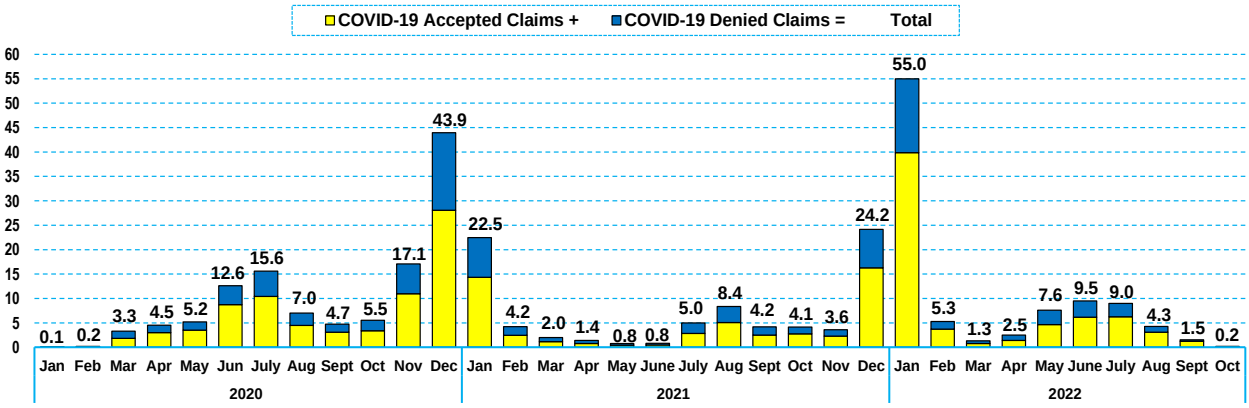
Figure 6: Total Number of Compensable and Denied COVID-19 Claims



Data Source: DWC - WCIS FROI

Figure 7 shows the number of COVID-19 WC claims filed monthly, including accepted or denied claims from January 2020 to October 2022. At the peaks of pandemic, the COVID-19 claims filed during the 3-month period between November 2020 and January 2021 accounted for 28 percent and those filed in December 2021-January 2022 accounted for 27 percent of COVID-19 claims filed during the entire 34-month period.

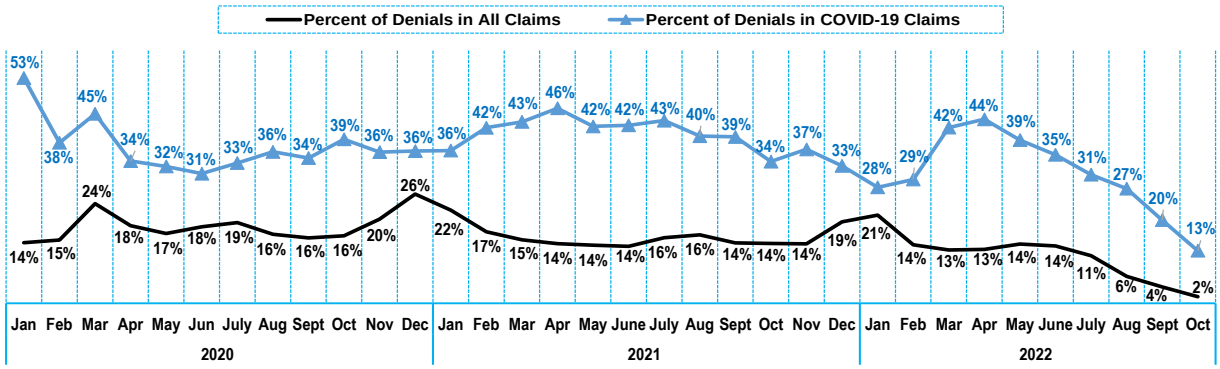
Figure 7: Monthly Numbers of Compensable and Denied COVID-19 Claims (Thousand)



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. Figure 8 compares the monthly denial rates of COVID-19 cases to denials in all WC claims filed from January 2020 to October 2022.

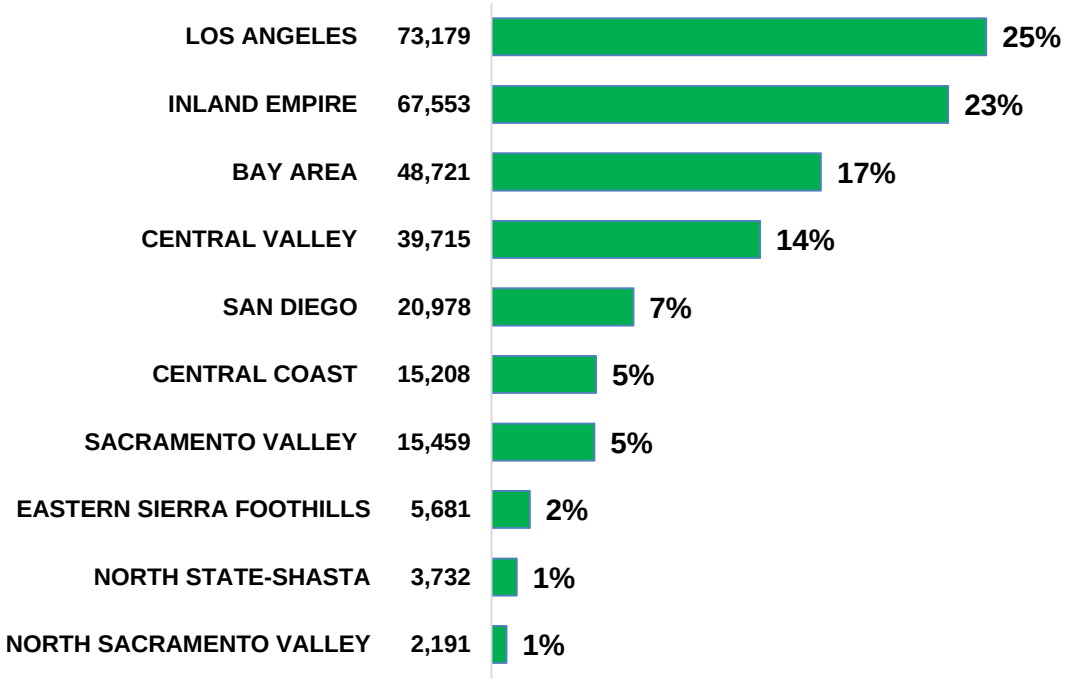
Figure 8: Percent of Denials in All and COVID-19 Workers' Compensation Claims



Data Source: DWC - WCIS FROI

Figure 9 shows that from January 2020 to October 2022, 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 (17 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 9: Number and Distribution of COVID-19 Claims Filed by California Regions from January 2020 to October 2022

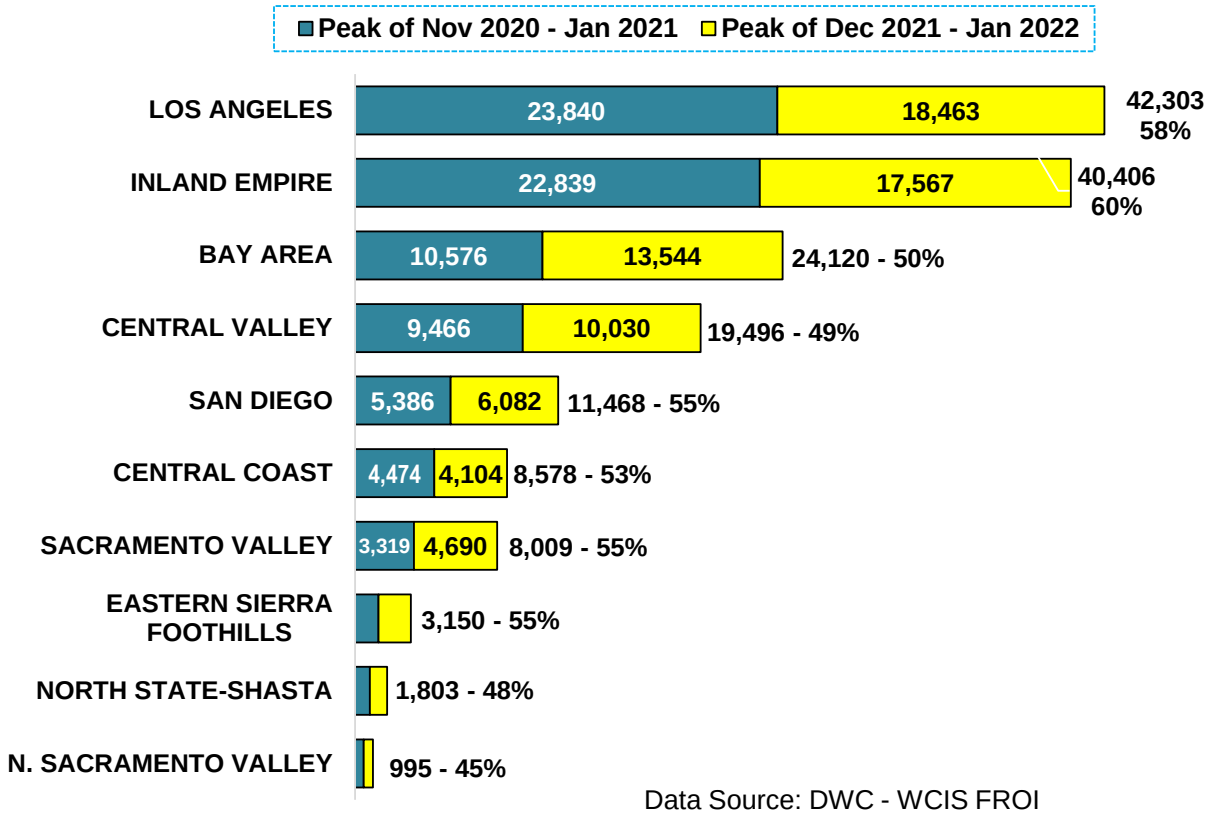


Data Source: DWC - WCIS FROI

Figure 10 shows the regional numbers of COVID-19 WC claims filed during the two peaks of the pandemic in November 2020-January 2021 and December 2021-January 2022. The biggest filers of COVID-19 claims like Los Angeles and Inland Empire filed about 60 percent of all COVID-19 claims registered to each region in 34 months from January 2020 to October 2022. Excluding the two smallest filers, during the peaks of the

pandemic, the Bay Area, Central Valley, San Diego, Central Coast, Sacramento Valley, and Eastern Sierra Foothills filed about 50-55 percent of their COVID-19 claims registered in 34 months from January 2020 to October 2022.

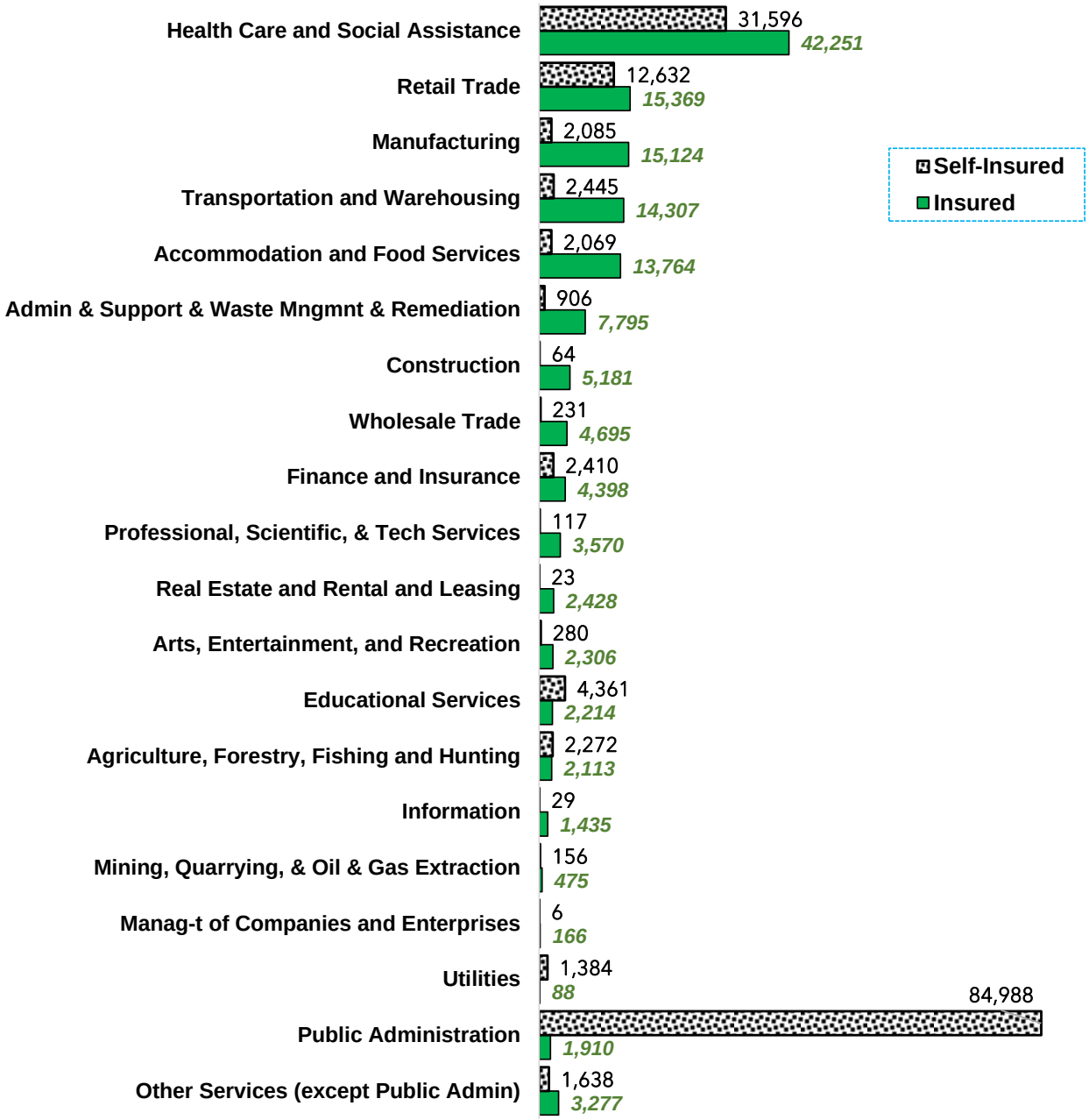
Figure 10: Number of COVID-19 Claims by California Regions During the Peaks of November 2020 – January 2021 and December 2021 - January 2022



Data Source: DWC - WCIS FROI

Figure 11 shows the total number of COVID-19 claims filed by insured and self-insured employers by industry from January 2020 to October 2022. 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, transportation and warehousing, and educational services. The public administration sector accounted for 57 percent of COVID-19 claims filed in self-insured sector and 29 percent of all COVID-19 claims filed in 34-month 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.

Figure 11: Total Number of COVID-19 Claims in Insured and Self-Insured Sectors by Industry (January 2020 – October 2022)

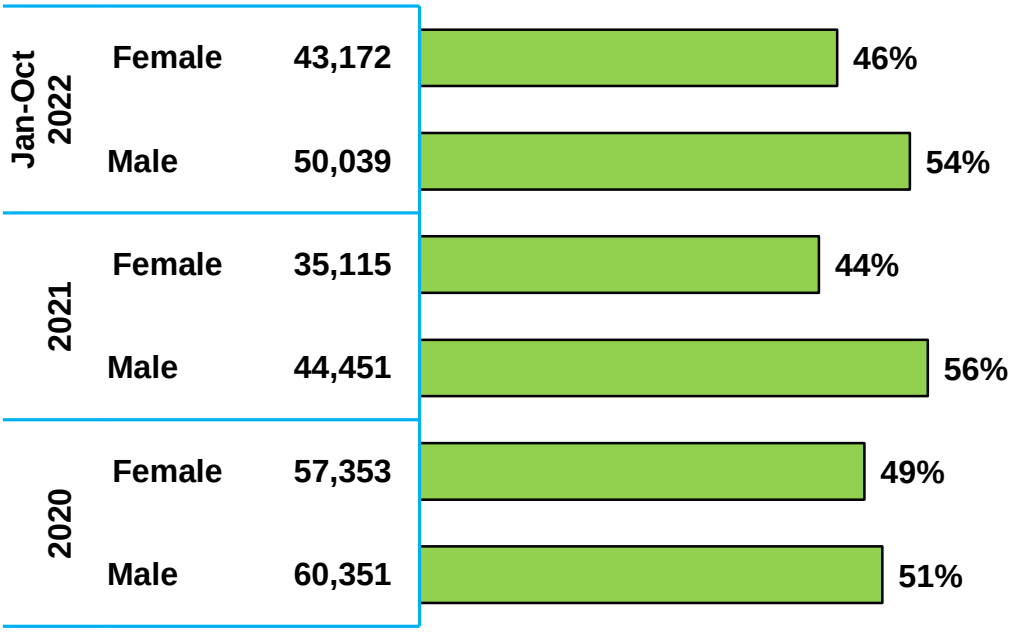


Source: DWC - WCIS

Figure 12 shows the gender of the COVID-19 WC claimants from January 2020 to October 2022. 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 133). Women make 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. In 2021, 44 percent of COVID-19 WC claims were filed by women and 56 percent by men. 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.

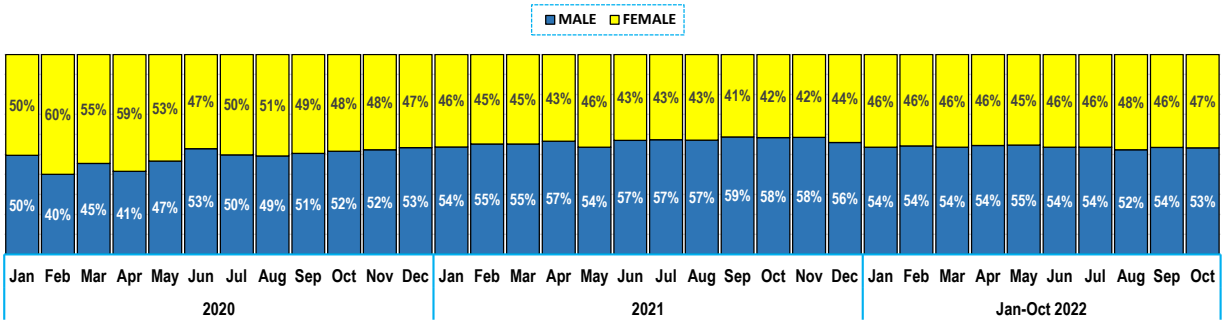
Figure 12: Number and Distribution of COVID-19 Claims by Gender



Data Source: DWC - WCIS FROI

Figure 13 demonstrates the monthly distribution of COVID-19 claims between male and female workers. 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. In 2021, the share of women gradually decreased from 46 percent in January to a monthly average of 42 percent from August to November of 2021, before the second peak of the pandemic in December 2021-January 2022. During the peak of the Omicron pandemic in January 2022, the share of women in COVID-19 claims increased again to 46 percent and, on average, stayed at that level until October 2022.

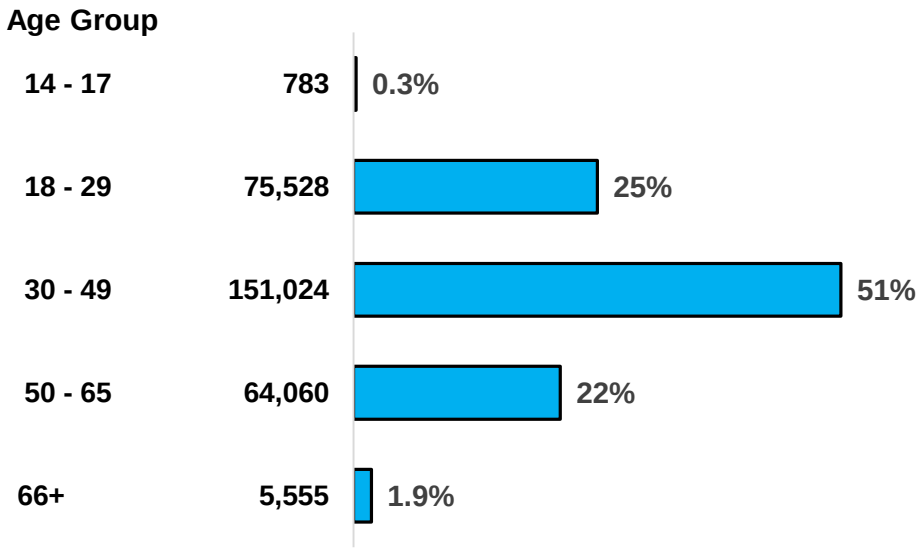
Figure 13: Monthly Distribution of COVID-19 Claims by Gender, January 2020 - October 2022



Data Source: DWC-WCIS FROI

Figure 14 shows the total number and distribution of COVID-19 claims by age group from January 2020 to October 2022. 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 14: Total Number and Distribution of COVID-19 Claims by Age Groups (January 2020-October 2022)



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.[69] The major reform bills are summarized as follows.[70]

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

[69] https://www.wcirb.com/sites/default/files/documents/2019_state_of_the_system_report.pdf
[70] Information on other legislation related to WC is in CHSWC legislative reports at: https://www.dir.ca.gov/chswc/AnnualReportpage1.html.

savings of $2.3 billion per year, an increase of $2.1 billion over the previous projected prospective estimates of $200 million.[71] SB 863 medical reforms have resulted in over $2 billion in annual savings.

Table 6 reproduced from WCIRB's SB 863 Cost Monitoring Update[72], 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.[73] 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.[74]

[71] 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
[72] https://www.wcirb.com/sites/default/files/documents/research_brief_october_2019_sb_863_cost_monitoring_update.pdf
[73] https://www.dir.ca.gov/dwc/MTUS/MTUS-Webinar-Transcript-Nov2017.pdf
[74] https://www.wcirb.com/sites/default/files/documents/2018_state_of_the_system_report_0.pdf

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)[75] 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 his or her 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.[76]

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)[77] 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 together with those of SB 863 have contributed to savings of $1.4 billion per year.[78]

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.[79] 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.[80]

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[75] http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1244
[76] https://www.dir.ca.gov/dwc/SB1160-AB1244/AB1244.htm
[77] http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1160
[78] https://www.wcirb.com/sites/default/files/documents/2019_state_of_the_system_report.pdf
[79] https://www.dir.ca.gov/fraud_prevention/fraud-white-paper.pdf
[80] WCIRB 2018 report on California's WC System https://www.wcirb.com/sites/default/files/documents/2018_state_of_the_system_report_0.pdf

2016 Workers' Compensation Reforms: Utilization Review (SB 1160)[81]

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. DWC posted the utilization review regulations on its forum for public comment in December 2018 with a public comment period closing on January 15, 2019.[82] Those public comments can be reviewed on the forum website.

[81] https://www.dir.ca.gov/dwc/SB1160-AB1244/SB1160.htm; https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1160

[82] https://www.dir.ca.gov/dwc/DWCWCABForum/UR-Regulations.htm

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 2021, workers' compensation insurers' earned premium paid by California employers totaled $13.6 billion.[83]

In the past eighteen years, the cost of workers' compensation 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 workers' compensation costs in California, but the cost of insurance began to increase again after 2009.

Workers' Compensation Average Premium Rate

Figure 15 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 for 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 15.

From 2016 to 2022, the charged rate was on average 20 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.

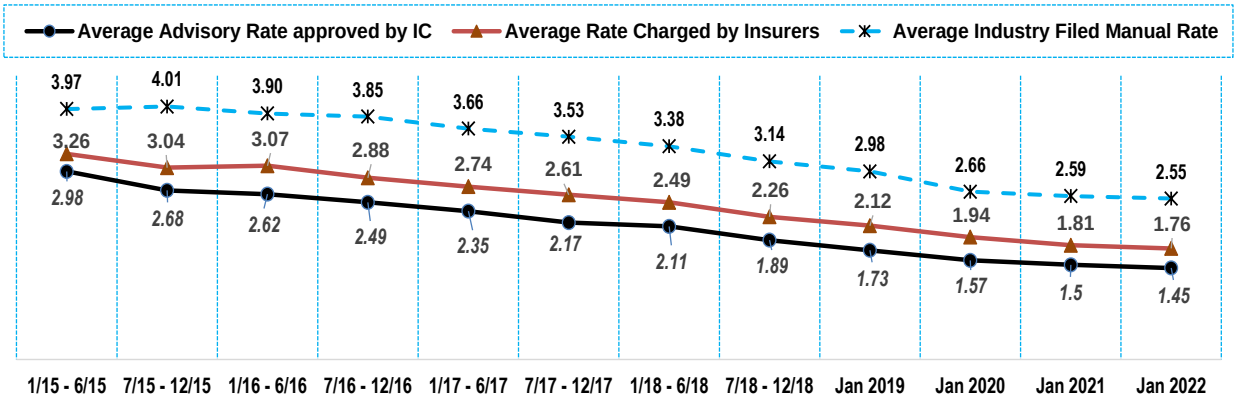
The IC has approved 11 consecutive advisory pure premium rate decreases since 2015 that have totaled more than 50 percent.[84] The pure premium rates approved by the IC are only advisory. Under California law, insurers are permitted to make their own determinations regarding the pure premium rates they will use, as long as the ultimate rates charged do not threaten the insurer's financial solvency, are not unfairly discriminatory, and do not create a monopoly in the marketplace. The charged rate decreased by 46 percent from the first period of 2015 to the first period of 2022. Declines in average charged rates have followed the Insurance Commissioner's approved decreases in advisory pure premium rates. According to the WCIRB,

[83] "2021 California's Workers' Compensation Losses and Expenses." WCIRB, June 29, 2022. 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.

[84] Advisory Workers' Compensation Pure Premium Rates, A History since the 2013 Reform Legislation, pp. 230-235 of this report.

the decrease from 2016 to pre-pandemic 2019 was largely due to the significant savings from SB 863.[85] Beginning in early 2020, the COVID-19 pandemic sharply impacted the WC system in California. A total of more than 296,888 COVID-19 claims had been filed in California by September 30, 2022[86] and 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.[87] 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.

Figure 15: Average Advisory Rate per $100 of Payroll approved by Insurance Commissioner (IC) and Average Charged by Insurers Rate per $100 of Payroll[88]



Source: WCIRB

Figure 16 shows the industry average charged rate as a result of application of most insurer rating plan adjustments, except for application of deductible credits, retrospective rating plan adjustments and terrorism charges. Whereas the level of the WC pure premium rates depends on the experience modification rate (EMR) metric that insurers use to calculate premiums, these rates are not predictive of an individual employer's insurance premium which may fluctuate greatly from these figures. The EMR takes into account the number of injuries a company experienced over certain period, their corresponding costs, and payroll and compares these individual experiences to the statistical average losses that a business of a similar size in the same industry is expected to incur. In other words, an employer's specific mix of employees and operations and its actual claims experience can result in charged rates that significantly differ from the average pure premium rates.

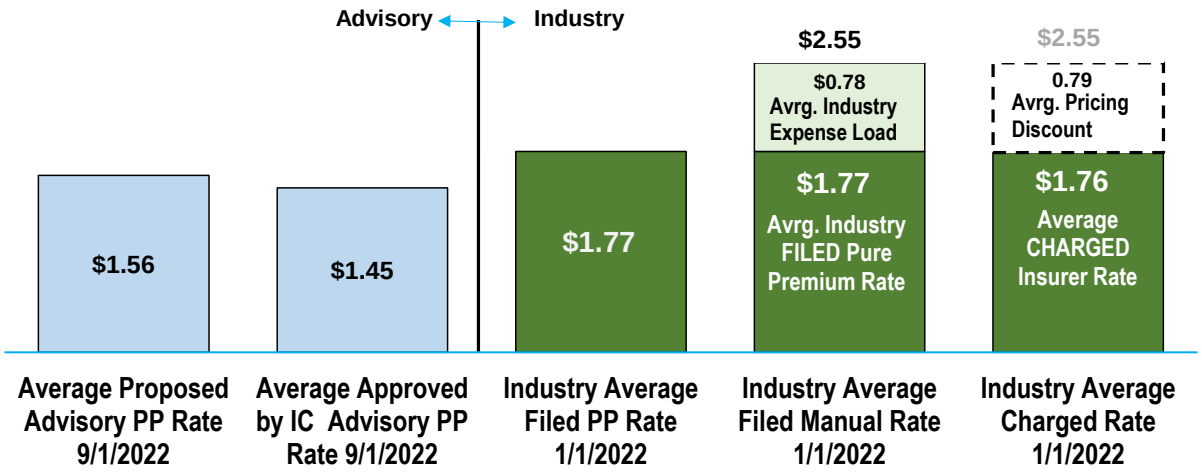
[85] WCIRB 2020 report on California's Workers' Compensation System, Chart 4. https://www.wcirb.com/sites/default/files/documents/2020_state_of_the_system_report-ar.pdf.

[86] Based on first report of injuries reported to the DWC for both insured and self-insured employers as of October 15, 2022. The totals include denied claims. https://data.ca.gov/dataset/dwc-covid-19-claims/resource/747afc27-a914-4f5f-9032-c462e9b7abb8

[87] WCIRB 2022 report on State of the System Report, Chart 1, , https://www.wcirb.com/content/report-state-workers-compensation-insurance-system.

[88] WCIRB 2022 State of the System Report, Chart 17, , https://www.wcirb.com/content/report-state-workers-compensation-insurance-system and Advisory Workers' Compensation Pure Premium Rates, A History since the 2013 Reform Legislation, pp. 230-235 of this report.

Figure 16: Development of Pure Premium Rates – Advisory Pure Premium Rates and Industry Average Rates per $100 of Payroll



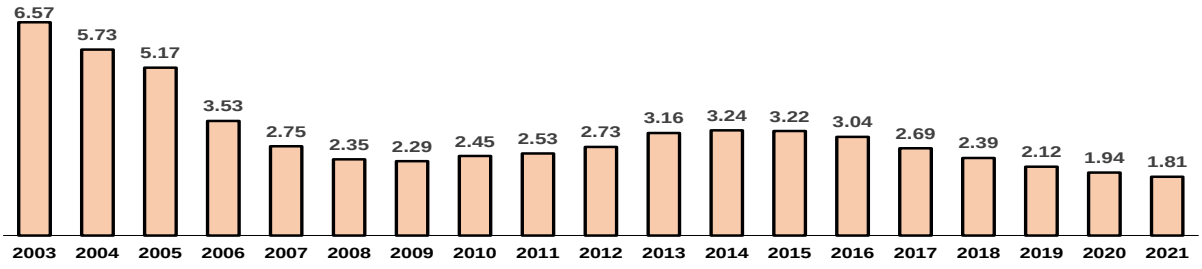
Note: All rates include adjustment for classification payroll limitations adopted effective January 1, 2020 and September 1, 2022.

Data Source: WCIRB PPR Filings, Insurer Filings Submitted to CDI, Insurer to WCIRB data

Industry Average Charged Pure Premium Rate

Largely because of the SB 863 reforms, which took effect in 2013 and saved about $1.3 billion annually[89], the cost of insurance began to fall again in 2015. In particular, as shown in Figure 17 by policy year, despite the COVID-19 pandemic, the cost of $1.81 per $100 of payroll in 2021 was about 72 percent below the 2003 peak of $6.57 per $100 of payroll, 44 percent below the second peak in 2014, and 7 percent below the 2020 rate.[90] According to WCIRB, current charged rates are 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.[91]

Figure 17: Industry Average Charged Pure Premium Rate per $100 of Payroll, 2003–2021



Source: WCIRB

[89] 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.

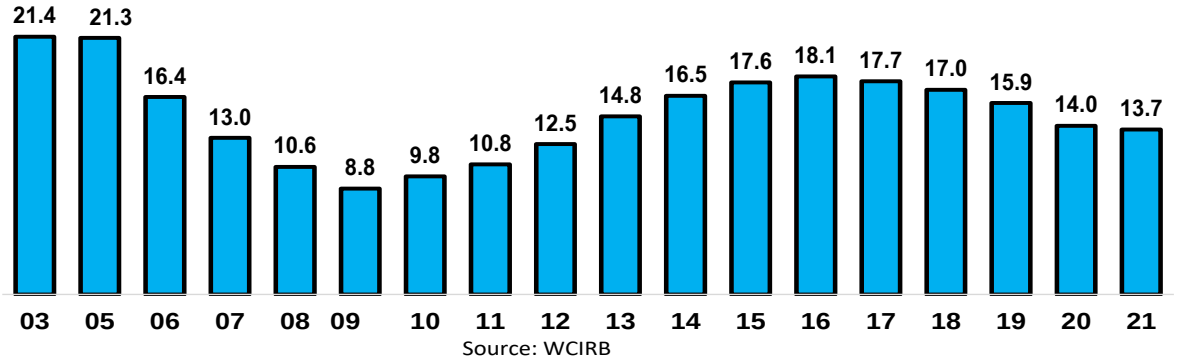
[90] WCIRB Quarterly Experience Report as of December 31, 2021, Chart 2 https://www.wcirb.com/sites/default/files/documents/quarterlyexperiencereport-2021-4q-ar.pdf.

[91] 2022 State of the System: Report on California's WC System, Chart 16, https://www.wcirb.com/content/report-state-workers-compensation-insurance-system

Workers' Compensation Written Premium

WCIRB defines written premiums as the premiums that an insurer expects to earn over the policy period. According to Figure 18, written premium more than doubled from 2009 to 2016, and then declined 24 percent from its second peak in 2016 to 2021, including a 2 percent decline from 2020 to 2021.[92] 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 15 and 17), more than by offsetting increases in employer payroll as a result of economic growth continued through 2019. The premium decline accelerated sharply in 2020 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 2020 as the impact of modest employment growth and significant average wage level growth was offset by continued declines in charged rates. Total written premium is forecast to increase significantly in 2022 with the economic recovery including higher wage levels and a moderating impact of insurer rate decreases but would still be well below the pre-pandemic level from 2014 to 2019.[93]

Figure 18: Workers' Compensation Written Premium, Gross of Deductible Credits as of December 31, 2021 ($ in billions)

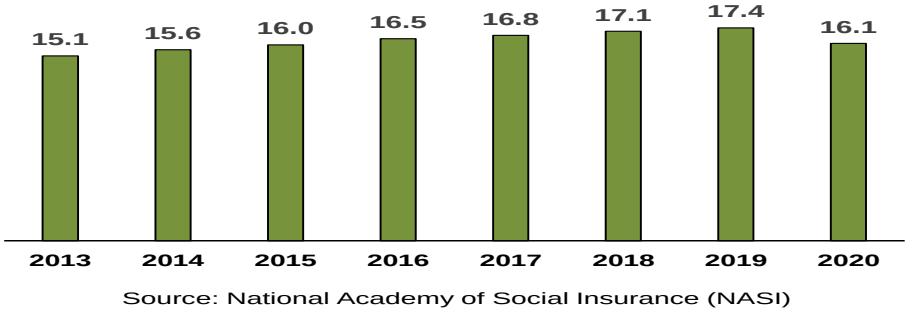


Workers Covered by Workers' Compensation Insurance

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 and then decreased by 7 percent from 2019 to 2020.[94] (see Figure 19).

[92] 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.
[93] WCIRB's State of the System 2022 Report. https://www.wcirb.com/content/report-state-workers-compensation-insurance-system.
[94] Latest available data in 2022 from NASI Report: Workers' Compensation Benefits, Coverage, and Costs, 2020, November 2022, https://www.nasi.org/wp-content/uploads/2022/11/2022-Workers-Compensation-Report-2020-Data.pdf.

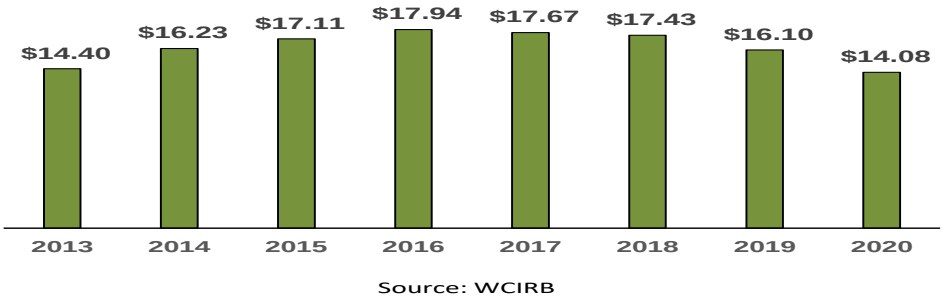
Figure 19: Estimated Number of Workers Covered by Workers' Compensation Insurance in California (millions)



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 20, earned premium increased by 24.6 percent from 2013 to 2016 and then decreased by almost 22 percent from 2016 to 2020.

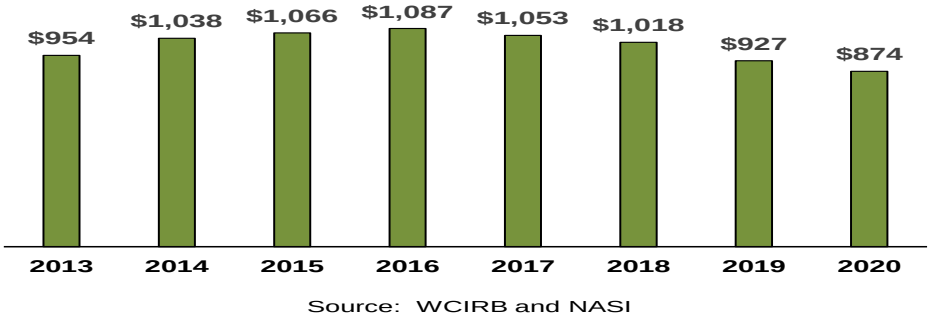
Figure 20: Workers' Compensation Earned Premium ($ in billions)



Average Earned Premium per Covered Worker

As shown in Figure 21, the average earned premium per covered worker increased by 14 percent from 2013 to 2016 and then decreased by 20 percent from 2016 to 2020 as the workers' compensation earned premium decreased by 22 percent in the same period.

Figure 21: Average Earned Premium per Covered Worker



Costs Paid by Self-Insured Private and Public Employers[95]

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 million workers, with a total payroll exceeding $218 billion. One out of every four California workers is covered by self-insured workers' compensation[96].

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 provide 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 fail 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.

[95] The information was provided by OSIP in October 2022.
[96] https://www.dir.ca.gov/osip/StatewideTotals.html.

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.

The public entity regulations were approved on May 14, 2020 and became effective July 1, 2020.[97] 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.

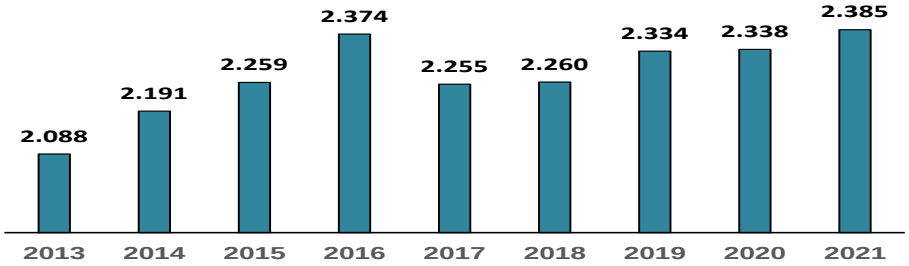
For further information…
www.dir.ca.gov/osip

[97] https://www.dir.ca.gov/osip/rulemaking/osip_rulemaking_approved.html.

Private Self-Insured Employers[98]

Number of Employees. Figure 22 shows the number of employees working for private self-insured employers between 2013 and 2021. 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 payroll for insured employers increased from $2.73 in 2012 to $3.22 in 2015 (see Figure 17), 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 workers' compensation 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 6 percent in five years from 2017 through 2021.

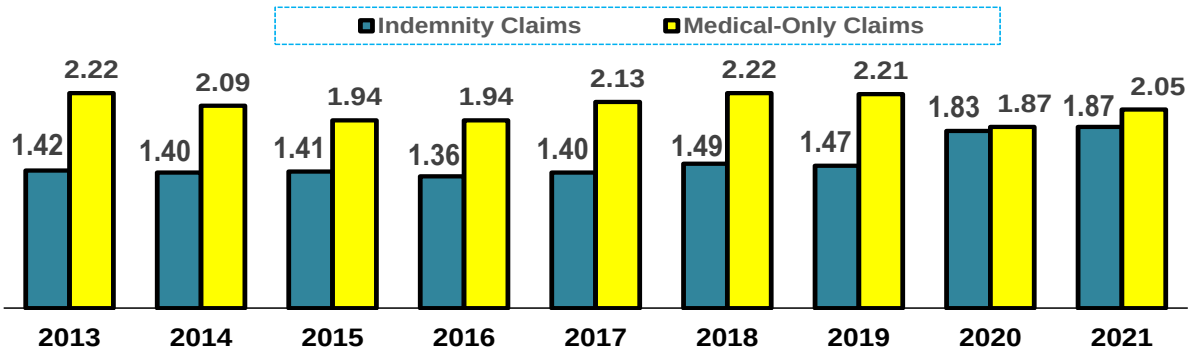
Figure 22: Number of Employees of Private Self-Insured Employers (Millions)



Source: DIR Self-Insurance Plan

Indemnity or Medical-Only Claims. Figure 23 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 increased sharply by 24.5 percent from 2019 to 2020, with an additional 2 percent increase from 2020 to 2021. 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 10 percent increase from 2020 to 2021.

Figure 23: Number of Indemnity or Medical-Only Claims per 100 Employees of Private Self-Insured Employers



Source: DIR Self-Insurance Plan

[98] Data on private self-insured employers are from DIR's Office of Self-Insurance Plans correspondence received by CHSWC in October 2022.

Incurred Cost per Indemnity Claim. Figure 24 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. From 2019 to 2020, the incurred cost per indemnity claim decreased by 14 percent and then increased by 8 percent from 2020 to 2021.

Figure 24: Incurred Cost Per Indemnity Claim of Private Self-Insured Employers

Source: DIR Self-Insurance Plan

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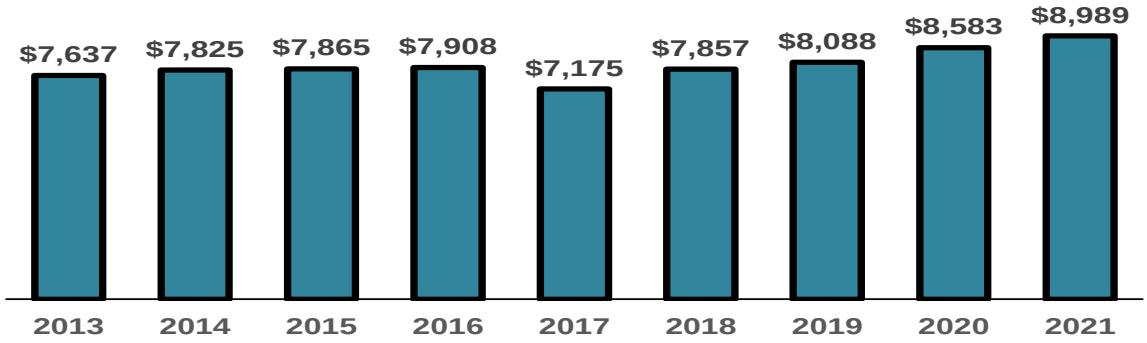
Incurred Cost per Indemnity and Medical Claim. The average cost of all claims, including both indemnity and medical-only claims, is naturally lower than the average cost of indemnity claims. The data showed a steady overall increase of 6 percent in eight years from 2013 to 2019, with a one time 9 percent 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. See Figure 25.

Figure 25: Incurred Cost per Claim, Indemnity and Medical of Private Self-Insured Employers

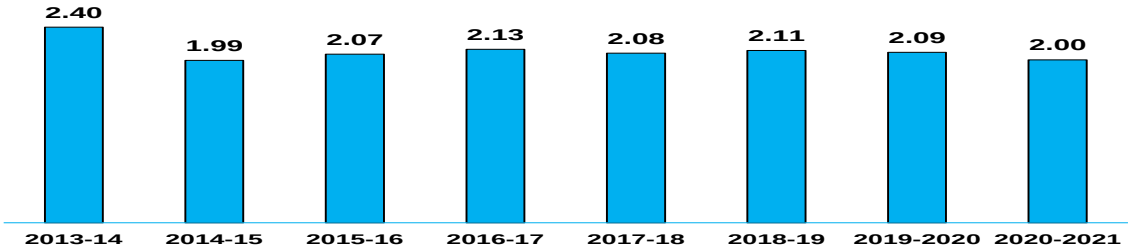


Source: DIR Self-Insurance Plan

Public Self-Insured Employers[99] (TO BE UPDATED)

Number of Employees. Figure 26 shows the number of employees of public self-insured employers between fiscal years 2013-2014 and 2020-2021. 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.

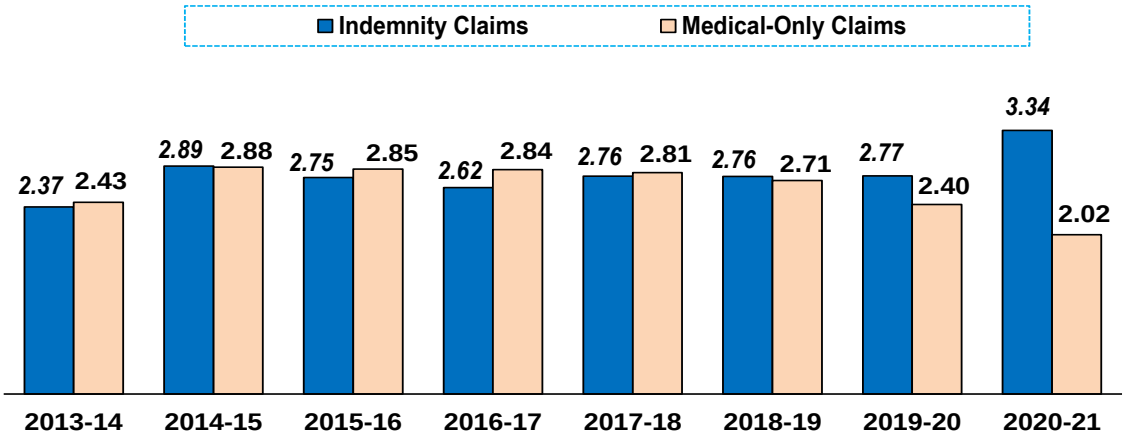
Figure 26: Number of Employees of Public Self-Insured Employers (Millions)



Source: DIR Self-Insurance Plan

Indemnity or Medical-Only Claims. The rate of indemnity claims per employees working for public self-insured employers increased by 22 percent from 2013-2014 to 2014-2015, and then decreased by 9 percent from 2014-2015 to 2016-2017. The rate increased by 5.5 percent from 2016-2017 to 2017-2018, did not change in 2018-2019, and then increased slightly in 2019-2020 from the 2017-2018 rate. 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 that explains an almost 21 percent increase in the rate of indemnity claims per employees working for public self-insured employers from 2019-2020 to 2020-2021. 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. See Figure 27.

Figure 27: Number of Indemnity or Medical-Only Claims per 100 Employees of Public Self-Insured Employers



Source: DIR Self-Insurance Plan

[99] Data on public self-insured employers are from DIR's Office of Self-Insurance Plans correspondence received by CHSWC in December 2021.

Incurred Cost per Claim. Figure 28 shows the incurred cost per indemnity claim for public self-insured employers between 2013-2014 and 2020-2021. From 2013-2014 to 2018-2019 the incurred cost per indemnity claim increased steadily by 28 percent from $18,412 to $23,484, and then decreased by 2 percent from 2018-2019 to 2019-2020. From 2019-2020 to 2020-2021, the incurred cost per indemnity claim for public self-insured employers decreased by 8 percent

Figure 28: Incurred Cost per Indemnity Claim of Public Self-Insured Employers

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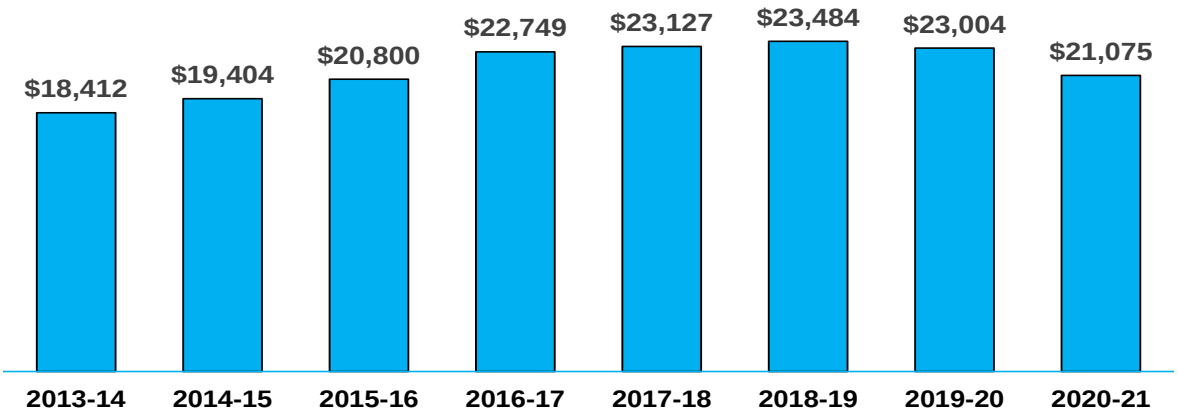
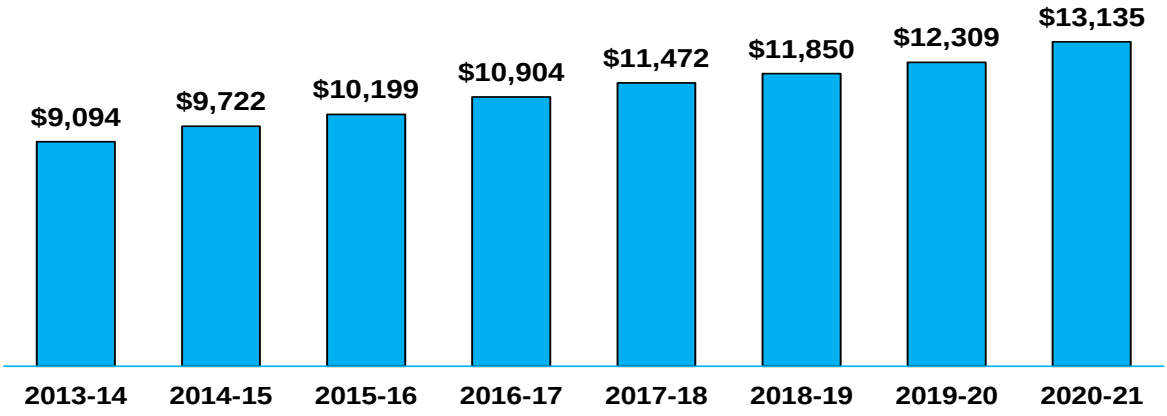


Source: DIR Self-Insurance Plan

Incurred Cost per Indemnity and Medical Claim. Figure 29 shows the incurred cost per indemnity and medical claim for public self-insured employers between 2013-2014 and 2020-2021. The incurred cost per indemnity and medical claim increased steadily from 2013-2014 to 2019-2020, rising by 35 percent, from $9,094 in 2013-2014 to $12,309 in 2019-2020 and from 2019-2020 to 2020-2021, it grew again by 7 percent.

Figure 29: Incurred Cost per Claim–Indemnity and Medical–Public Self-Insured Employers



Source: DIR Self-Insurance Plan

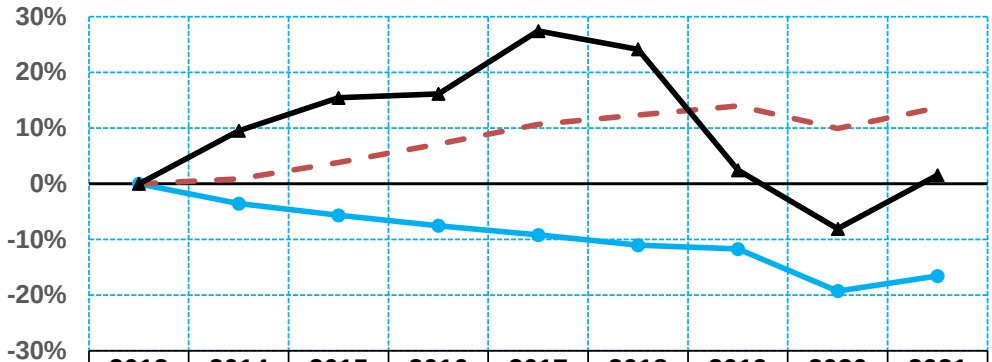
Estimated Workers' Compensation Systemwide Expenditures: Indemnity and Medical Benefits

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 33.3 percent of total California workers' compensation claims in 2021, the total systemwide costs in that year are calculated by increasing WCIRB data for insured employers by a multiple of 1.5 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 32.)

Growth of Workers' Compensation Costs

Figure 30: Workers' Compensation Costs: Annual Change Compared with 2013



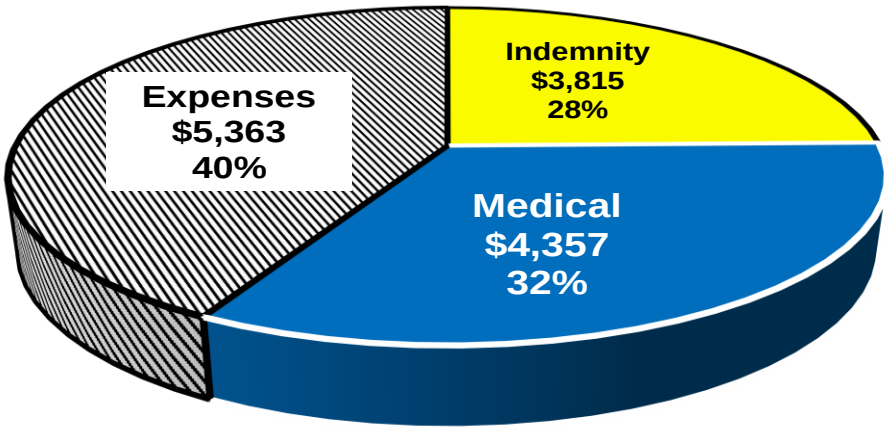
	2013	2014	2015	2016	2017	2018	2019	2020	2021
Medical Paid	0%	-3.6%	-5.7%	-7.5%	-9.2%	-11.0%	-11.7%	-19%	-17%
Indemnity Paid	0%	0.9%	3.8%	7.1%	10.7%	12.3%	14.0%	10%	14%
Expenses	0%	9.5%	15.4%	16.1%	27.4%	24.1%	2.4%	-8%	2%

Source: WCIRB

Distribution of Workers' Compensation Costs by Type.

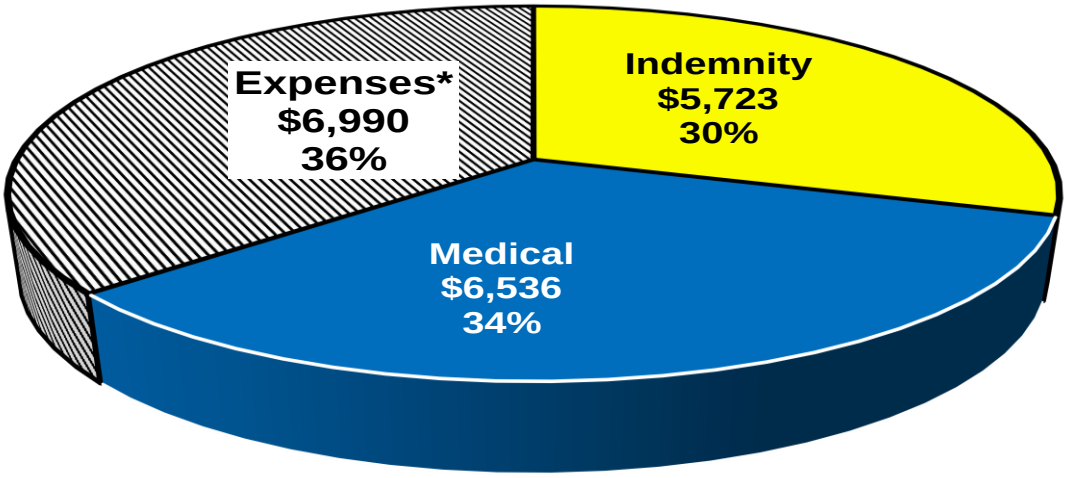
Figures 31 and 32 show the distribution of workers' compensation paid costs for insured employers and systemwide.

Figure 31: Estimated Distribution of Insured Employers' Workers' Compensation Paid Costs, 2021 ($ in millions)



Data Source: WCIRB

Figure 32: Estimated Distribution of Systemwide Workers' Compensation Paid Costs, 2021 ($ 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

Indemnity Benefits

The WCIRB provided data for the cost of indemnity benefits paid by insured employers. Assuming that insured employers comprise approximately 66.7 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	2020	2021	Change
Systemwide, paid by all sectors			
Temporary Disability	$2,886,402	$3,070,379	$183,977
Permanent Total Disability	$255,423	$246,290	-$9,134
Permanent Partial Disability	$1,935,736	$2,011,805	$76,069
Death	$110,573	$158,810	$48,237
Funeral Expenses	$3,219	$5,265	$2,046
Life Pensions	$123,945	$129,171	$5,226
Vocational Rehab/Nontransferable Education Voucher	$107,331	$100,617	-$6,714
Total	$5,422,630	$5,722,334	$299,704
Paid by Insured Employers			
Temporary Disability *	$1,963,539	$2,046,919	$83,380
Permanent Total Disability *	$173,757	$164,193	-$9,564
Permanent Partial Disability *	$1,316,827	$1,341,203	$24,376
Death *	$75,220	$105,873	$30,653
Funeral Expenses	$2,190	$3,510	$1,320
Life Pensions	$84,316	$86,114	$1,798
Vocational Rehab/Nontransferable Education Voucher *	$73,014	$67,078	-$5,936
Total	$3,688,864	$3,814,889	$126,025
Paid by Self-Insured Employers and the State**			
Temporary Disability	$922,863	$1,023,459	$100,597
Permanent Total Disability	$81,666	$82,097	$431
Permanent Partial Disability	$618,909	$670,602	$51,693
Death	$35,353	$52,937	$17,584
Funeral Expenses	$1,029	$1,755	$726
Life Pensions	$39,629	$43,057	$3,428
Vocational Rehab/Nontransferable Education Voucher	$34,317	$33,539	-$778
Total	$1,733,766	$1,907,445	-$173,679

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

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

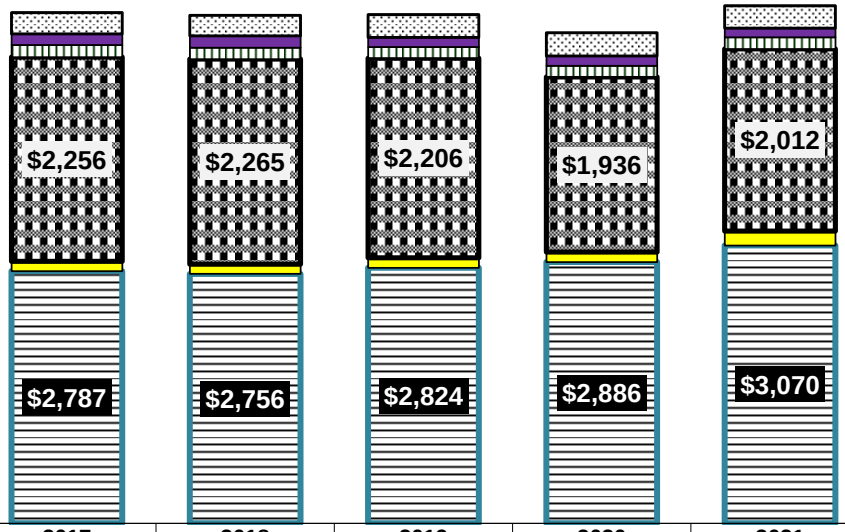
** Figures estimated based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 33.3 percent of all California workers' compensation claims that translates into a 0.5 multiplier applied to indemnity benefits paid by insured employers.

Trends in Paid Indemnity Benefits.

The estimated systemwide paid indemnity benefits for 2017-2021 are displayed in Figure 33. Total paid indemnity benefits decreased overall by 4 percent from 2017 to 2020 as the result of SB 863 reforms and then increased by 6 percent from 2019 to 2020. Total costs in 2021 were impacted by the economic recovery during that year 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.[100] After a rebound in frequency of non-COVID-19 indemnity claims in 2021, from 2021 to 2024, WCIRB forecasts an average 0 percent change in claim frequency, with increases during the economic recovery when newer, less experienced workers may be entering the work force offsetting the long-term typical frequency decline.[101]

Temporary disability and permanent partial disability benefits comprise approximately 90 percent of indemnity benefits. Payments for permanent partial disability decreased by 14 percent from 2017 to 2020, and then increased by 4 percent from 2020 to 2021. According to WCIRB, the share of the 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 overall by 10 percent from 2017 to 2021. Supplemental Job Displacement Benefits (SJDB) increased by 4 percent from 2017 to 2018 and then decreased by 23 percent from 2018 to 2021.

Figure 33: Workers' Compensation Paid Indemnity Benefit by Type, Systemwide Estimated Costs ($ in millions)



Data Source: WCIRB
Calculations: CHSWC

	2017	2018	2019	2020	2021
Funeral Expenses	$3.2	$3.5	$3.3	$3.2	$5.3
Permanent Total Disability	$233	$228	$250	$255	$246
Voc Rehab/ Vouchers	$125	$130	$107	$107	$101
Life Pensions	$133	$127	$122	$124	$129
Permanent Partial Disability	$2,256	$2,265	$2,206	$1,936	$2,012
Death	$108	$108	$111	$111	$159
Temporary Disability	$2,787	$2,756	$2,824	$2,886	$3,070
Total	$5,645	$5,617	$5,623	$5,423	$5,723

[100] 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.
[101] WCIRB 2022 State of the System Report, Chart 22, https://www.wcirb.com/content/report-state-workers-compensation-insurance-system.

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.

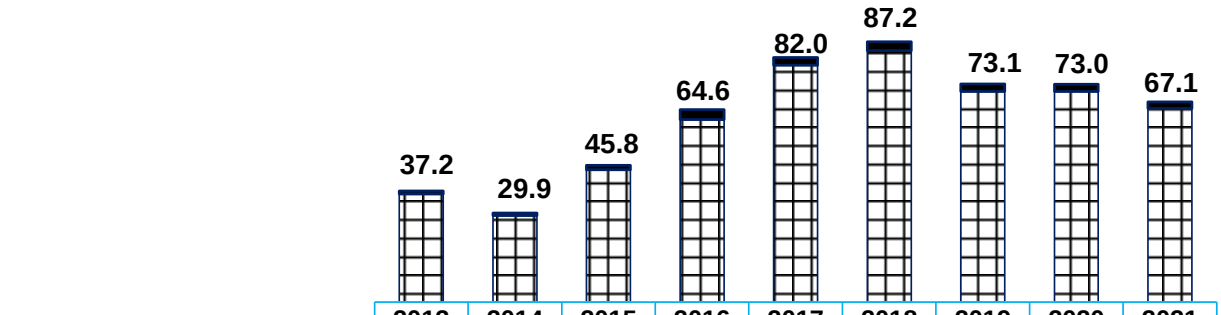
Supplemental Job Displacement Benefit Vouchers

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 34 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 16 percent from 2018 to 2019, did not change from 2019 to 2020, and then continued to decrease by 8 percent from 2020 to 2021. The proportion of amounts paid for SJDB vouchers in total Vocational Rehabilitation was 97 percent from 2013 to 2021, with a slight decrease to 95 percent in 2016.

Figure 34: Amounts Paid for Supplemental Job Displacement Benefit (SJDB) Vouchers by Insured Employers ($ in millions)



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Other Voc. Rehab	1.0	0.9	1.4	3.4	2.6	3.0	2.5	2.4	2.2
Education Vouchers (SJDB)	36.2	29.0	44.4	61.2	79.4	84.3	70.6	70.6	64.9
Total	37.2	29.9	45.8	64.6	82.0	87.2	73.1	73.0	67.1

Data Source: WCIRB

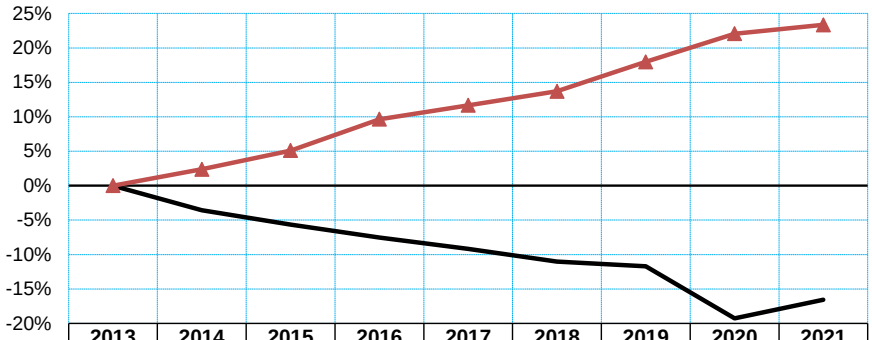
Medical Benefits

Workers' Compensation Medical Costs vs. Medical Inflation

Figure 35 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 growth 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 16.5 percent decrease in WC medical costs from 2013 to 2021 as a result of a 3 percent increase in medical costs from 2020 to 2021. At the same time, the medical CPI has steadily increased since 2013. Cumulative growth in medical CPI from 2013 to 2021 was 23.3 percent, with an average annual 2.7 percent increase in the same period. Figure 35 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 35: Growth in Workers' Compensation Medical Costs Compared with Growth in Medical Inflation (2013 as a base year)



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Change in Workers' Comp Medical Costs as Compared to 2013	0.0%	-3.6%	-5.7%	-7.5%	-9.2%	-11.0%	-11.7%	-19.2%	-16.5%
Change in Medical CPI as Compared to 2013	0.0%	2.4%	5.1%	9.6%	11.7%	13.7%	18.0%	22.1%	23.3%

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 66.7 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.

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

MEDICAL BENEFIT COMPONENTS BY SECTORS	2020	2021	Change
Systemwide, paid by all sectors			
Physicians	$1,698,510	$1,766,345	$67,834
Hospital (Inpatient and Outpatient)	$803,305	$842,046	$38,741
Medical Supplies and Equipment	$316,154	$319,803	$3,649
Pharmacy	$112,862	$104,222	-$8,641
Medical-Legal Evaluation	$398,862	$499,536	$100,674
Payments Made Directly to Patients*	$1,919,422	$2,022,977	$103,555
Medical Cost-Containment Programs**	$172,340	$181,718	$9,378
Medicare Set-aside and Reimbursements	$423,936	$446,987	$23,050
Capitated Medical	$51,309	$38,499	-$12,810
Other (Med Liens, Dental, Interpreter***, & Copy Services***)	$301,400	$312,966	$11,566
Total	$6,198,101	$6,535,097	$336,996
Paid by Insured Employers			
Physicians	$1,155,449	$1,177,563	$22,114
Hospital (Inpatient and Outpatient)	$546,466	$561,364	$14,898
Medical Supplies and Equipment	$215,071	$213,202	-$1,869
Pharmacy	$76,777	$69,481	-$7,296
Medical-Legal Evaluation	$271,335	$333,024	$61,689
Payments Made Directly to Patient*	$1,305,729	$1,348,651	$42,922
Medical Cost-Containment Programs**	$117,238	$121,145	$3,907
Medicare Set-aside and Reimbursements	$288,392	$297,991	$9,599
Capitated Medical	$34,904	$25,666	-$9,238
Other (Med Liens, Dental, Interpreter***, & Copy Services***)	$205,034	$208,644	$3,610
Total	$4,216,394	$4,356,731	$140,336
Paid by Self-Insured Employers and the State**			
Physicians	$543,061	$588,782	$45,720
Hospital (Inpatient and Outpatient)	$256,839	$280,682	$23,843
Medical Supplies and Equipment	$101,083	$106,601	$5,518
Pharmacy	$36,085	$34,741	-$1,345
Medical-Legal Evaluation	$127,527	$166,512	$38,985
Payments Made Directly to Patient*	$613,693	$674,326	$60,633
Medical Cost-Containment Programs**	$55,102	$60,573	$5,471
Medicare Set-aside and Reimbursements	$135,544	$148,996	$13,451
Capitated Medical	$16,405	$12,833	-$3,572
Other (Med Liens, Dental, Interpreter***, & Copy Services***)	$96,366	$104,322	$7,956
Total	$1,981,706	$2,178,366	$196,660

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 2021 is $299 million.

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

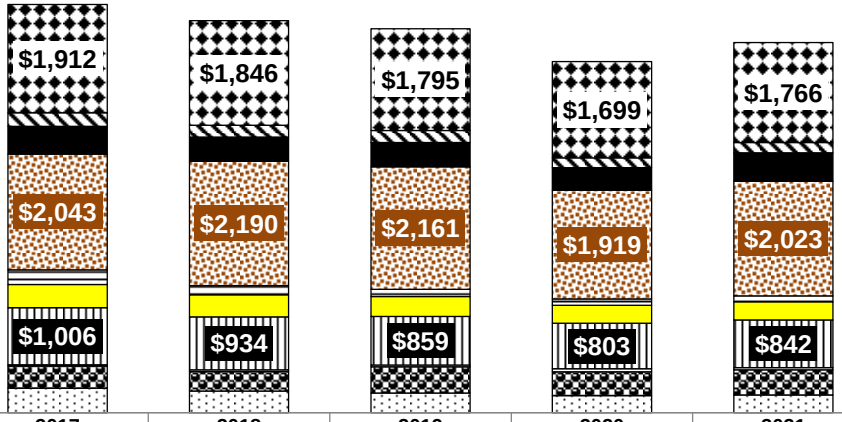
**** Figures estimated are based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 33.3 percent of all California workers' compensation claims that translates into a 0.5 multiplier applied to indemnity benefits paid by insured employers.

Trends in Paid Medical Benefits

The estimated systemwide paid medical costs for the past several years are shown in Figure 36. The following trends may result from the impact of SB 863 reforms and from 2020 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 14 percent from 2017 to 2020 and then increased by 5 percent from 2020 to 2021. Payments to physicians decreased by 11 percent from 2017 to 2020 and then increased by 4 percent from 2020 to 2021. Hospital costs decreased by 20 percent from 2017 to 2020 and then increased by 5 percent from 2020 to 2021. Medical supplies and equipment decreased by 23 percent from 2017 to 2020 and then increased slightly by 1 percent from 2020 to 2021. Medical-legal evaluation costs decreased by 18 percent from 2017 to 2020 and then increased by 25 percent from 2020 to 2021, mostly due to introduction of a new MLFS effective April 1, 2021. Pharmacy costs decreased 2.5 times from 2017 to 2021 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 $2,070,000 from 2017 to 2021. After a 14 percent decrease from 2017 to 2018, expenditures on medical cost-containment programs fluctuated between $172,000 and $212,000 from 2018 to 2021.[102]

Figure 36: Workers' Compensation Paid Medical Benefits by Type, Systemwide Estimated Costs ($ in millions)



	2017	2018	2019	2020	2021
Physicians	$1,912	$1,846	$1,795	$1,699	$1,766
Med Cost Cntnmnt Prgrms	$240	$207	$212	$172	$182
Medical-Legal Evaluation	$489	$432	$428	$399	$500
Direct Payments to Patients	$2,043	$2,190	$2,161	$1,919	$2,023
Pharmaceuticals	$260	$164	$127	$113	$104
Medical Supplies & Equipm	$408	$388	$351	$316	$320
Hospitals (Inpatient/Outpat.)	$1,006	$934	$859	$803	$842
Capitated Medical	$25	$32	$29	$51	$38
Medicare Set-aside	$388	$345	$465	$424	$447
Other *	$436	$384	$349	$301	$313
Total	$7,207	$6,921	$6,777	$6,198	$6,535

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

Source: WCIRB's MDC (Calculations by CHSWC)

[102] 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.

Average Ultimate Total Loss

Figure 37 shows changes in indemnity and medical components of the projected ultimate total loss per workers' compensation indemnity claim.

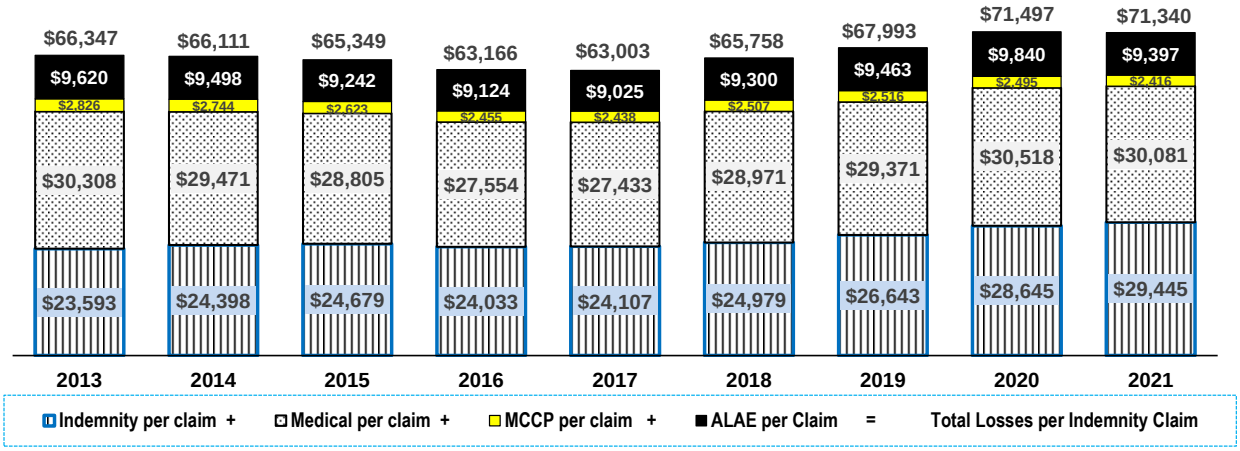
Beginning with claims incurred on policies incepting on or after July 1, 2010, the cost of medical cost containment programs (MCCP) is reported to the WCIRB as allocated loss adjustment expenses (ALAE) rather than as medical loss.

The WCIRB projected the average cost or "severity" of 2021 claims, excluding COVID-19 claims, to be $71,340, which is consistent with changes in total claim severity in 2020, but 13 percent higher than in 2017.[103] After 5 years of relatively flat severities, from 2013 to 2017, the projected average indemnity cost started increasing and showed a 22 percent increase from 2017 to 2021, including a 3 percent modest increase from 2020 to 2021. Recent growth in indemnity claim severities has been in part driven by higher than typical average wage inflation over the last two years.

Following a steady 9 percent decrease in medical severities from 2013 to 2017, driven by medical cost savings arising from SB 863, there was an 11 percent increase from 2017 to 2020 followed by a slight 1 percent decrease from 2020 to 2021. The relatively flat medical severities from 2015 to 2018 were driven by recent reforms, reduced pharmaceutical costs and efforts to fight fraud. From 2018 to 2021, the projected medical severity increased overall by 4 percent, although there was a slight 1 percent decrease from 2020 to 2021. 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 projected average ALAE cost, excluding MCCP, has been flat from 2013 to 2021, with an average of $9,390 per year in that period.[104] According to the WCIRB, generally the average ALAE costs tend to rise shortly after the implementation of reforms, even during periods when the medical costs have declined. Another factor is improving claim settlement rates that may moderate ALAE costs as well.

Figure 37: Projected Ultimate Total Loss and ALAE per Indemnity Claim as of December 31, 2021



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.

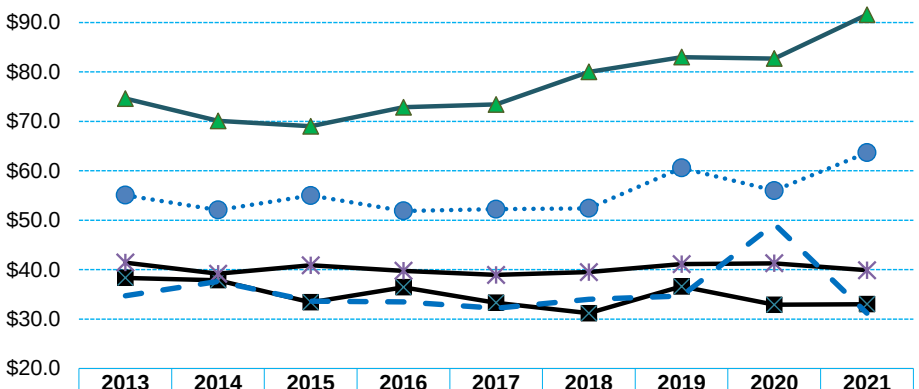
[103] WCIRB Quarterly Experience Report as of December 31, 2021, Charts 9–13, https://www.wcirb.com/sites/default/files/documents/quarterlyexperiencereport-2021-4q-ar.pdf.
[104] Ibd., Chart 12.

Average Cost per Claim by Type of Injury

Figure 38 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 33 percent from 2015 to 2021. The average cost of back injuries fluctuated between $52,000 and $55,000 from 2013 to 2016, stayed relatively flat from 2016 to 2018, and then increased overall by 21 percent from 2018 to 2021. The average cost of carpal tunnel (RMI) stabilized at around $40,000 per year from 2013 and 2021. The average cost of psychiatric and mental stress claims was mostly around $34,000 from 2013 to 2021, with an exception of 2020 when it increased by 45 percent to $49,200. The average cost of other cumulative injuries went up and down between $31,000 and $38,000 from 2013 to 2021, and was $33,000 in the last two years of 2020 and 2021.

Figure 38: Average Cost per PD Claim by Type of Injury, 2013 - 2021 (Thousand $)



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Slip and Fall	$74.6	$70.1	$69.0	$72.8	$73.4	$80.0	$83.0	$82.7	$91.6
Back Injuries	$55.1	$52.1	$55.0	$51.9	$52.2	$52.4	$60.6	$56.0	$63.7
Other Cumulative Injuries	$38.3	$37.9	$33.4	$36.4	$33.3	$31.2	$36.6	$32.9	$33.0
Carpal Tunnel / RMI	$41.4	$39.2	$40.9	$39.8	$38.9	$39.5	$41.1	$41.3	$39.9
Psychiatric and Mental Stress	$34.7	$37.6	$33.6	$33.5	$32.2	$34.0	$34.7	$49.2	$31.2

Source: WCIRB

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.[105] 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):[106]

- 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.

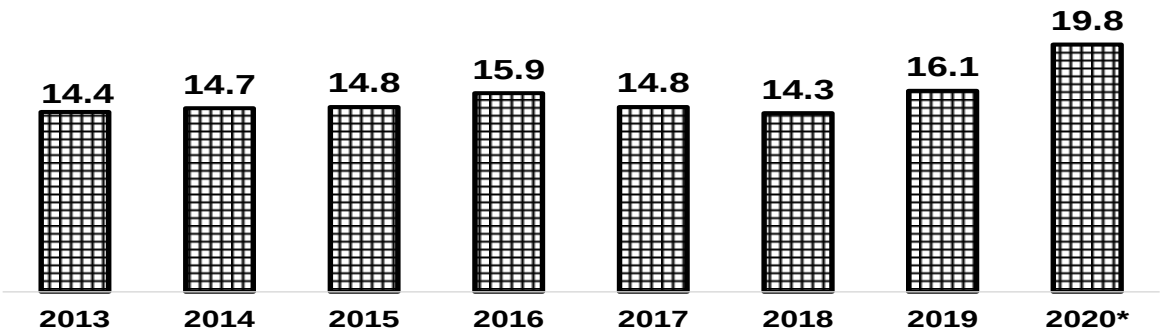
[105] Labor Code Section 3208.1, p. 9, https://www.dir.ca.gov/dwc/medicalunit/toc.pdf
[106] WCIRB's The World of Cumulative Trauma Claims Report, October 2018. https://www.wcirb.com/sites/default/files/documents/the_world_of_cumulative_traum_claims_study_102018.pdf

- 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.

Cumulative Trauma Claim Counts

Figure 39 shows that CT claim rates increased by 10 percent from 2013 to 2016. According to the WCIRB, this increase was a part of a sharp increase in CT claims in the Los Angeles and San Diego areas, as other California regions experienced decreases in CT claims. CT claim rates were relatively consistent from 2016 through 2019. Preliminary data shows a sharp 23 percent increase in CT claim rates from 2019 to 2020, likely driven by shifts in claim patterns during the pandemic period.

Figure 39: Cumulative Trauma Claims per 100 Indemnity Claims[107]



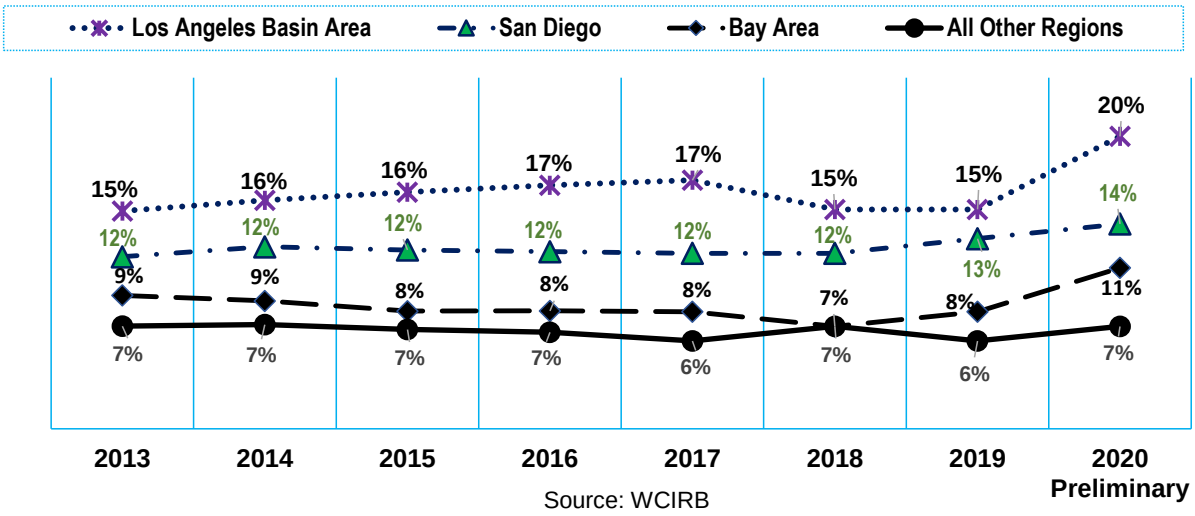
* Preliminary data and exclude COVID-19 claims.

Source: WCIRB

As seen in Figure 40, the vast majority of recent growth in CT claims through 2019 has been in the Los Angeles and San Diego regions. In 2020, the percentage of CT claims increased in all regions, with the largest increases in the LA Basin and in the Bay Area. Although not included in the Figure 40, CT claims historically trended at the same levels throughout the state, with the lowest rates in more rural areas.

[107] WCIRB Insurer Experience Report as of December 31, 2021, Chart 8
https://www.wcirb.com/sites/default/files/documents/quarterlyexperiencereport-2021-4q-ar.pdf

Figure 40: Percent of Cumulative Trauma Indemnity Claims by Region[108]



Source: WCIRB

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

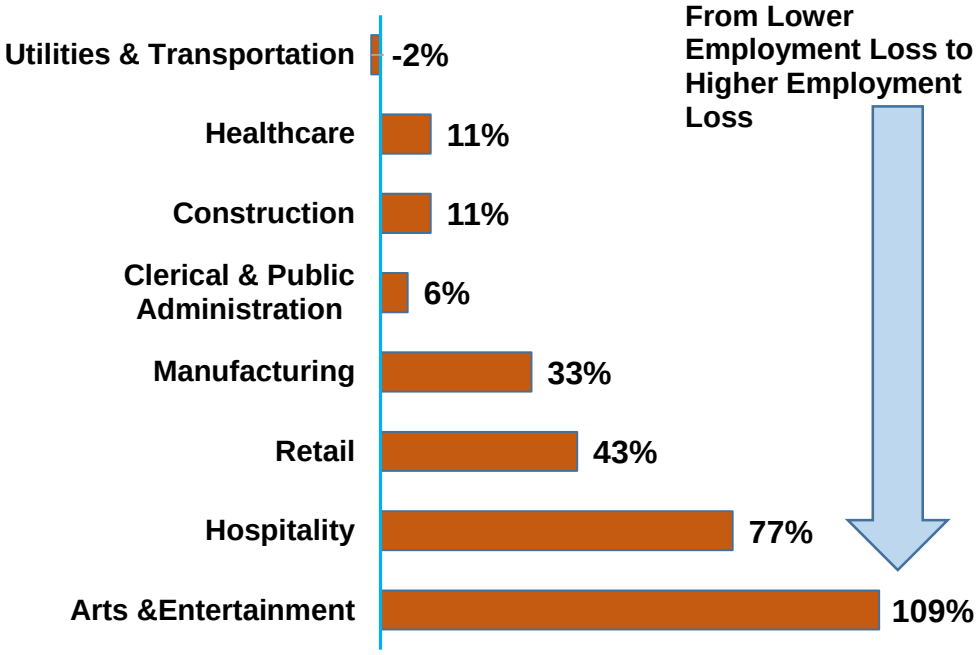
According to the WCIRB, since 2012, about 25 post-termination claims, most of which were CT claims, have been filed for every 1,000 jobs lost. If only 50 percent of the rate of post-termination claims were applied to 4.3 million Californians who have lost jobs due to the COVID-19 pandemic, about 54,000 post-termination claims could be filed over 2020, increasing statewide indemnity claim frequency by approximately 25 percent.[109] Over the long term (1961-2017), the average annual decline in claim frequency was 0.9 percent during the 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 41 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.

[108] WCIRB 2021 State of the System Report, Chart 26, https://www.wcirb.com/sites/default/files/documents/wcirb-report-2021_state_of_the_system-ho.pdf.

[109] 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.

Figure 41: Change in CT Claims by Industry from 2019 to 2020 (Excludes COVID-19 Claims)



Source: WCIRB

Cumulative Trauma Claim Costs

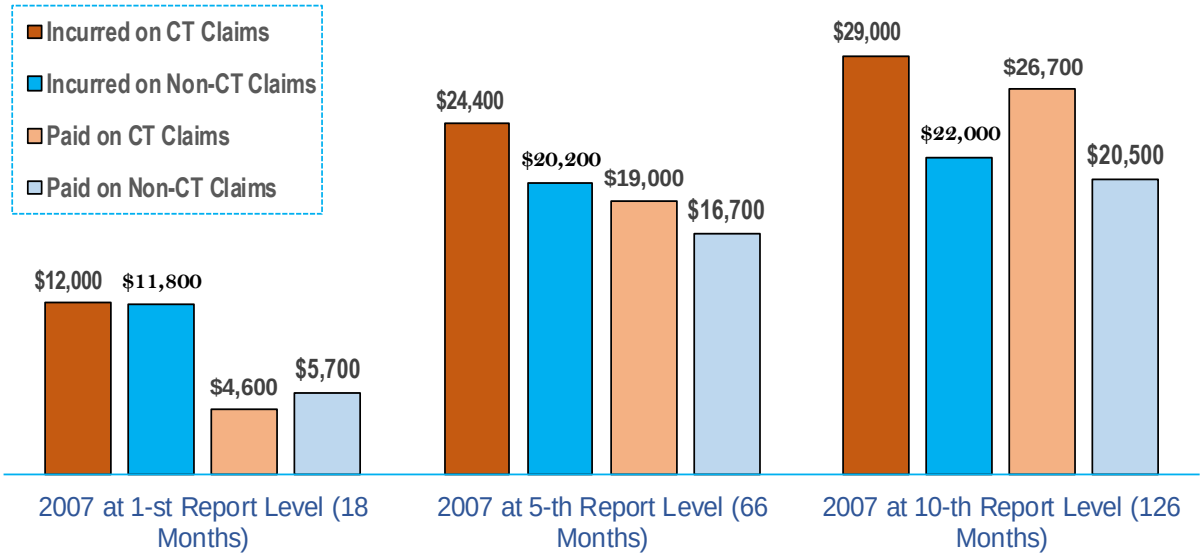
According to WCIRB, the CT loss payouts are much slower than for specific injury claims and on average ultimate costs for CT claims are higher than for specific injury claims. The CT claims incur significantly more medical-legal and lien payments than other types of claims, particularly at early and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

Figures 42 and 43 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 42 and 43.

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.

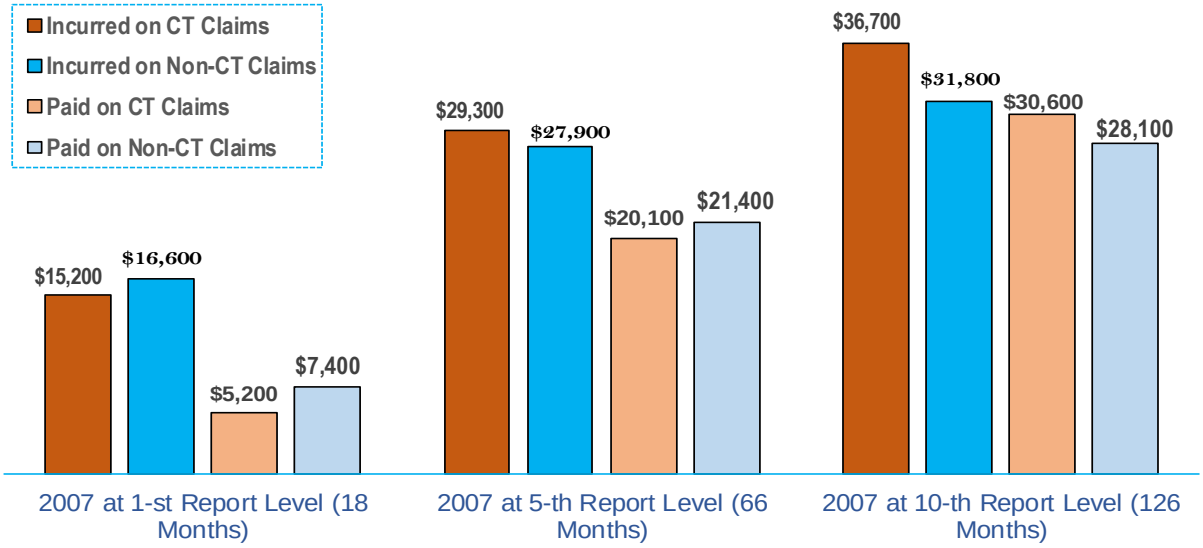
Figure 42: Development of Average Indemnity (Incurred or Paid) Costs per Cumulative Trauma Claims



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.

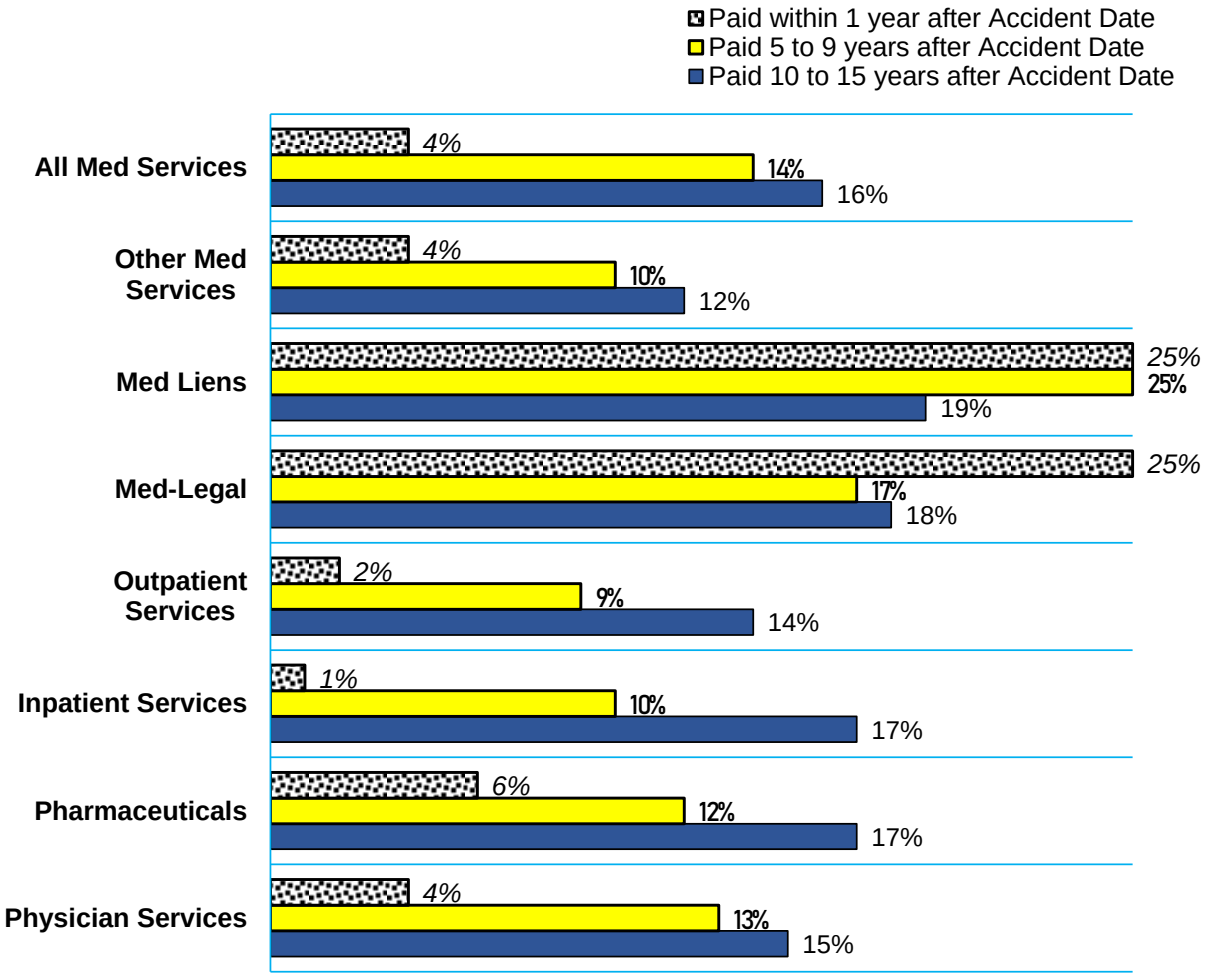
Figure 43: Development of Average Medical (Incurred or Paid) Costs per Cumulative Trauma Claims



Source: WCIRB

Figure 44 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 44: Percentage of Medical Payments by Service Type on CT Claims in Total Medical Paid[110]



Source: WCIRB

[110] WCIRB report "The World of Cumulative Trauma Claims", October 17, 2018, https://static1.squarespace.com/static/5589b2a1e4b075cc91205d5c/t/5c93d9e6b208fc2cf3f70d66/1553193456632/WCIRB+CT+Report.pdf.

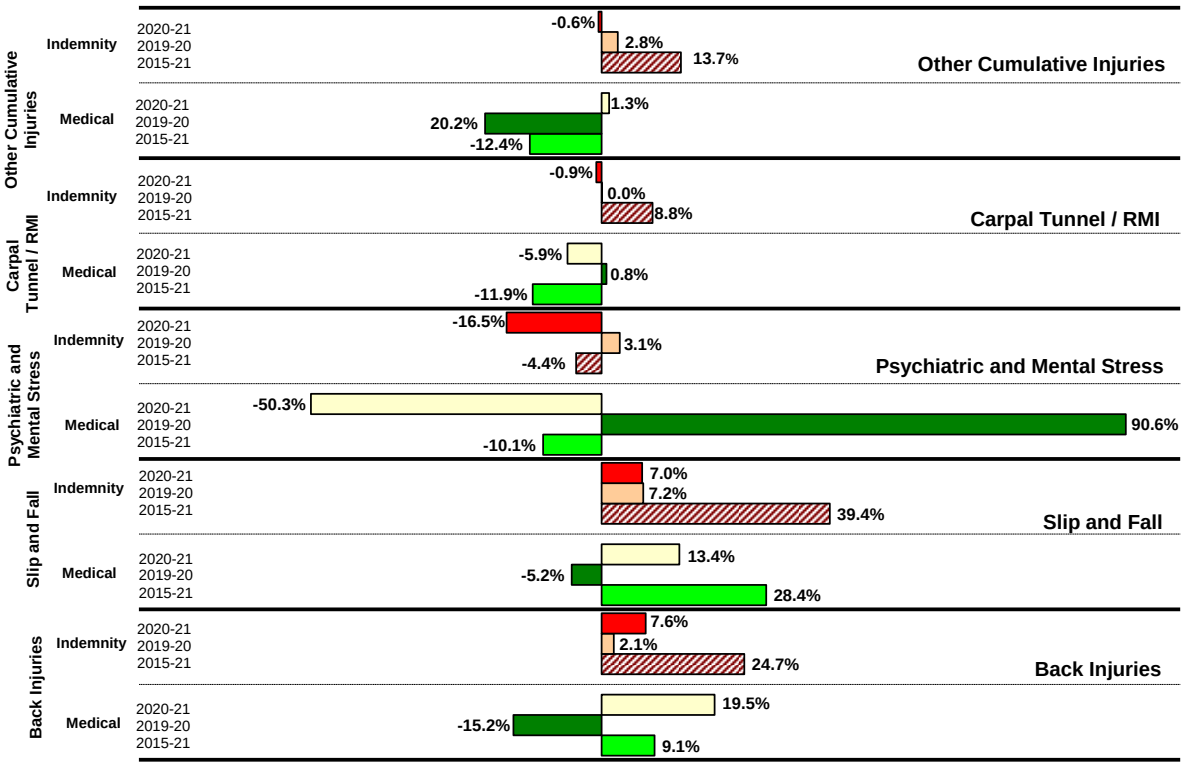
Changes in Average Medical and Indemnity Costs per Claim by Type of Injury

Figure 45 illustrates the impact of the reforms on selected types of injury. The six-year trend from 2015 to 2021 shows decreases in medical costs for other cumulative (-12.4 percent), carpal tunnel/RMI (-11.9 percent), and psychiatric and mental stress illnesses (-10.1 percent), while slip and fall injuries and back illnesses and injuries experienced 28.4 and 9.1 percent increases respectively during the same period. Slip and fall injuries showed the highest six-year increase in average medical costs.The same six-year trend for indemnity costs showed increases in indemnity costs for all types of injury except for psychiatric and mental stress illnesses (-4.4 percent), with the highest increase of 39.4 percent for slip and fall injuries.

From 2019 to 2020, medical costs increased for psychiatric and mental stress illnesses (90.6 percent) and for carpal tunnel/RMI (0.8 percent), while other cumulative (-20.2 percent), back illnesses and injuries (-15.2 percent) and slip and fall injuries (-5.2 percent) experienced decreases during the same period. The indemnity costs in the same period, increased for all types of injuries in the range from 2 to 7 percent growth, excluding carpal tunnel/RMI that showed no change.

From 2020 to 2021, medical costs increased by 19.5 percent for back injuries, by 13.4 percent for slip and fall injuries and by 1.3 percent for other cumulative injuries. In the same period, there was a 50.3 percent decrease in the average medical cost of claim for psychiatric and mental stress illnesses and 5.9 percent decrease for carpal tunnel/RMI. In the same year, the indemnity costs increased by 7.6 percent for back injuries and by 7.0 percent for slip and fall injuries, while there was a 16.5 percent decrease in the average indemnity cost of claim for psychiatric and mental stress illnesses, 0.9 percent decrease for carpal tunnel/RMI, and 0.6 percent decrease for other cumulative injuries.

Figure 45: Percent Change in Average Medical and Indemnity Costs per Claim by Type of Injury (From 2015 through 2021, from 2019 to 2020, and from 2020 to 2021)



Data Source: WCIRB

Medical-Legal Expenses

This section contains estimated California WC medical-legal costs for 2021. The information regarding the medical-legal costs in this report is through December 31, 2021 and, as a result, reflects only three quarters (April 1 to December 31) of the latest changes in the Official Medical-Legal Fee Schedule 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 workers' compensation 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 COVID-19 Medical-Legal Emergency Measures[111]

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 help injured workers and employers continue to move their WC claims towards a resolution and avoid additional and undue

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

delay. The issue of whether a medical-legal report is admissible or constitutes substantial medical evidence is determined in accordance with applicable laws and is not altered by these emergency measures.

Regulation 36.7 provides 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 allows for medical-legal evaluations utilizing telehealth and office location flexibility resulting from various state and local public health safety measures related to COVID-19 has been extended until January 18, 2023. This is DWC's second and final re-adoption in accordance with Government Code section 11346.1(h). DWC has commenced rulemaking to make this regulation permanent.[112]

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.

Status of DWC's Implementation of the Medical-Legal Fee Schedule (MLFS)[113]

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 had been updated was in 2006.

Conservative estimates of the effect of the new MLFS by some medical management companies predicted at least a 20 percent increase in income for providers. This prediction was in line with the stated goal of the DWC to increase provider compensation by 25 percent, normalize the predictability of billing and minimize underpayments and/or overpayments that were perceived elements of the former MLFS.

The increase in the provider remuneration reflected in the new MLFS was also sought to provide a long awaited cost-of-living increase for the providers and achieves one of the recommendations of the audit of the QME program that was completed by the State Auditor's Office on November 19, 2019.

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[112] https://www.dir.ca.gov/DIRNews/2022/2022-87.html.

[113] Information on the Status of DWC's Implementation of the MLFS was provided by DWC.

The fee schedule has been in effect for more than a year with mixed reviews as to its effectiveness in reaching its stated goals. One preliminary study found that payments for face-to-face evaluations increased 52.9 percent over the same time period for 2019. The study further found that after the implementation of the new MLFS the ranks of QME's increased by 3 percent over 2020 levels.

A separate preliminary study seemed to show a slight decrease in payments for medical-legal reports overall when comparing the second and third quarters of 2021 to the first quarter of 2021 under the former MLFS.

At this point, there is insufficient data to determine whether the new MLFS is accomplishing the goals envisioned by the DWC at its implementation. Further studies assessing the effects of the new MLFS will undoubtedly be forthcoming from various sources in the WC community. The DWC has plans to commission its own study of the effectiveness of the new MLFS. At the completion of that study, and taking into account any data amassed by independent sources, the MLFS will be assessed to determine if amendments are necessary to bring it within the parameters of its initial goals.

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 average cost of a medical-legal evaluation on both PD claims and all claims decreased by 9 percent (see Figure 52) and the total paid medical-legal cost (by calendar year) declined by 20 percent from 2016 to 2020 (see Figure 49). As a result of these changes the total medical-legal cost declined by 15 percent from CY 2015 to CY 2019 (see Figure 49).

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 2022 report are based on the 2006 MLFS for the first quarter of 2021 and on the new MLFS 2021 for the last three quarters of 2021.)

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

New Evaluation Type	Description and Amounts Presumed Reasonable
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.

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.

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.

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.[114] 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 studies[115] 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 to reduce the frictional costs.

The new MLFS is expected to raise the reimbursements for medical-legal evaluations by approximately 25 percent and thereby improve the quality of medical-legal reports and attract new physicians to the QME program. One goal of the new fee structure was to attract and retain more QMEs. According to DWC, 211 new physicians joined the pool of certified QMEs in 2021, while only 18 became inactive, resulting in 2,554 active evaluators, a 3 percent increase from 2020 and a 1 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 46 shows the number of permanent disability (PD) and all claims originating in three California regions in Service Years (SY) 2018 to 2021. About 34 percent of claims statewide involved a permanent disability from 2018 to 2021, including the last three quarters of 2021 under the new MLFS.

From 2020 to 2021, the number of all claims increased by 37 percent and the number of PD claims increased by 36 percent. Since the claims reported to MDC include claims with any medical transaction it is hard to say if introduction of the new MLFS was a factor in these significant increases in the number of claims. Around 60 percent of all claims and 67 percent of PD claims originated in Southern California and 23-24 percent of all claims and 20 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 workers' compensation 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.

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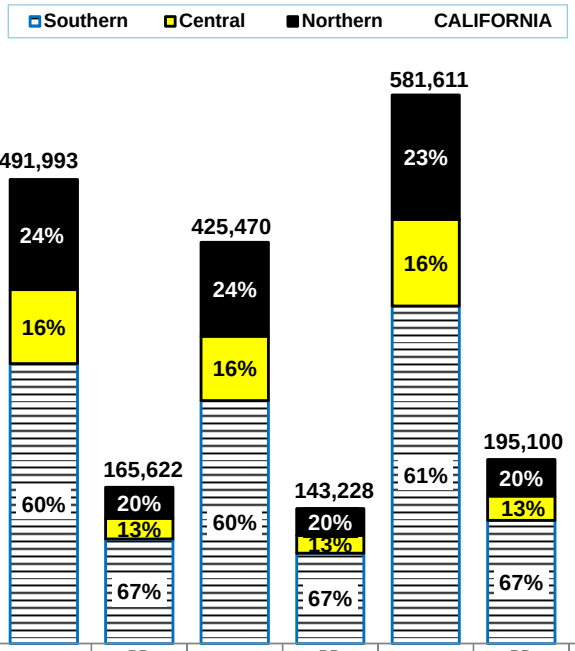
[114] WC-Medical-Legal Fee Schedule, Initial Statement of Reasons, https://www.dir.ca.gov/dwc/DWCPropRegs/2020/Medical-Legal-Fee-Schedule/Med-Legal-Fee-Schedule.htm
[115] Ibid.

Figure 46: Workers' Compensation Claims, All and with Permanent Disability, by California Regions, SY 2018-SY 2021



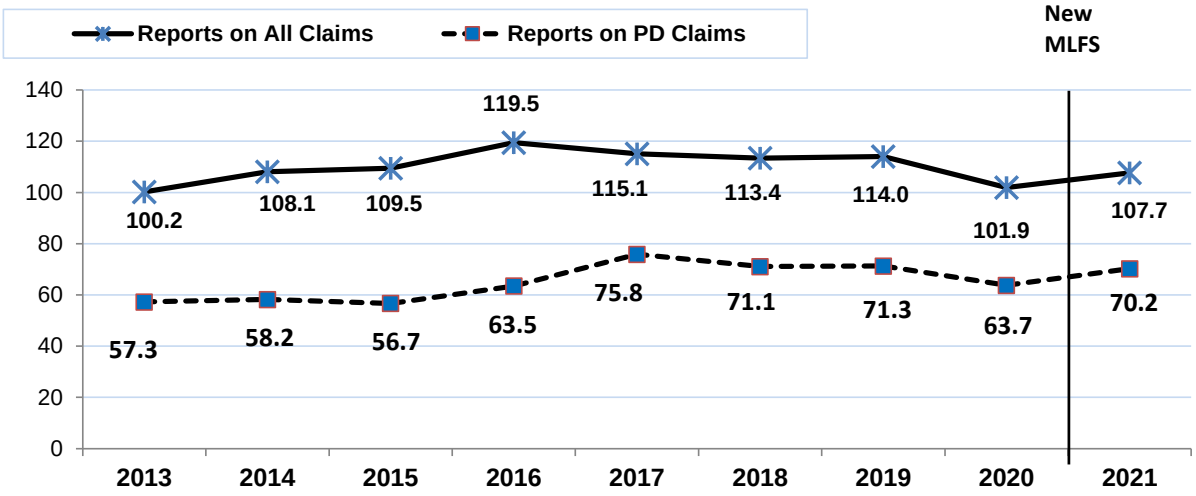
	2018		2019		2020		2021		Apr-Dec 2021	
	All Claims	PD Claims	All Claims	PD Claims	All Claims	PD Claims	All Claims	PD Claims	All Claims	PD Claims
Northern	117,113	32,572	116,783	32,977	99,588	28,518	131,672	38,738	83,422	24,543
Central	77,914	21,514	78,478	21,782	68,297	18,837	92,055	25,647	58,323	16,249
Southern	290,270	109,502	296,732	110,863	257,585	95,873	357,885	130,714	226,743	82,816
CALIFORNIA	485,297	163,589	491,993	165,622	425,470	143,228	581,611	195,100	368,488	123,608

Source: WCIRB

Figure 47 shows the number of medical-legal reports conducted on PD and all claims in California for SY 2013 to SY 2021. In 2021, when the new MLFS came into effect, a total of 107,700 medical-legal reports on all claims were issued, of which 65 percent or 70,200 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. 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.

Figure 47: Number of Medical-Legal Evaluations on PD and All Claims (Thousands)

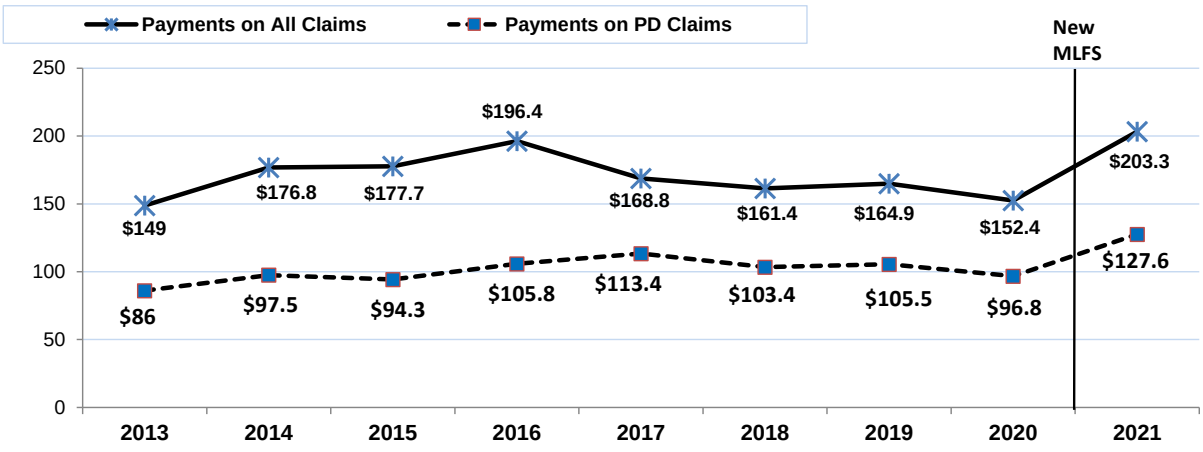


Note: Due to the implementation of the new MLFS effective April 1, 2021, the historical medical-legal data for services prior to April 1, 2021 are not directly comparable to the data emerging under the new fee schedule.

Source: WCIRB

Figure 48 shows statewide medical-legal payments on PD and all claims in California for SY 2013 to SY 2021. 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 33 percent increase from 2020 to 2021 as a result of 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 63-64 percent from 2018 to 2021.

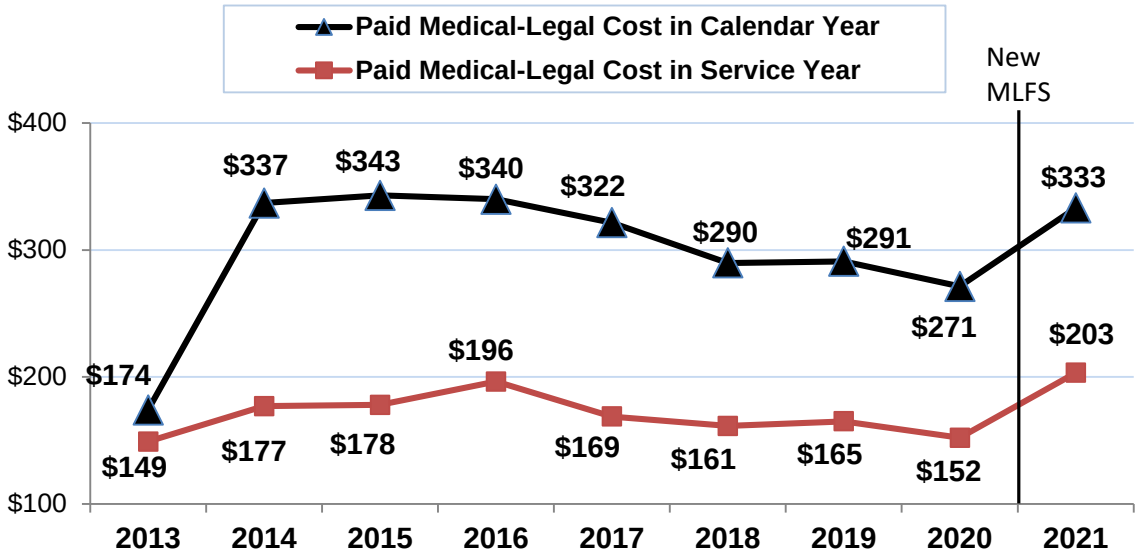
Figure 48: Medical-Legal Payments on PD and All Claims (Million $)



Source: WCIRB

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 Report[116] 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 49 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 49 shows paid medical-legal amounts in CY 2013 to CY 2021 from the Losses and Expenses Report against the paid medical-legal amounts in SY 2013 to SY 2021 from the current CHSWC report.

Figure 49: 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.

[116] WCIRB, 2021 Losses and Expenses Report, Exhibit 1.1, June 29, 2022.

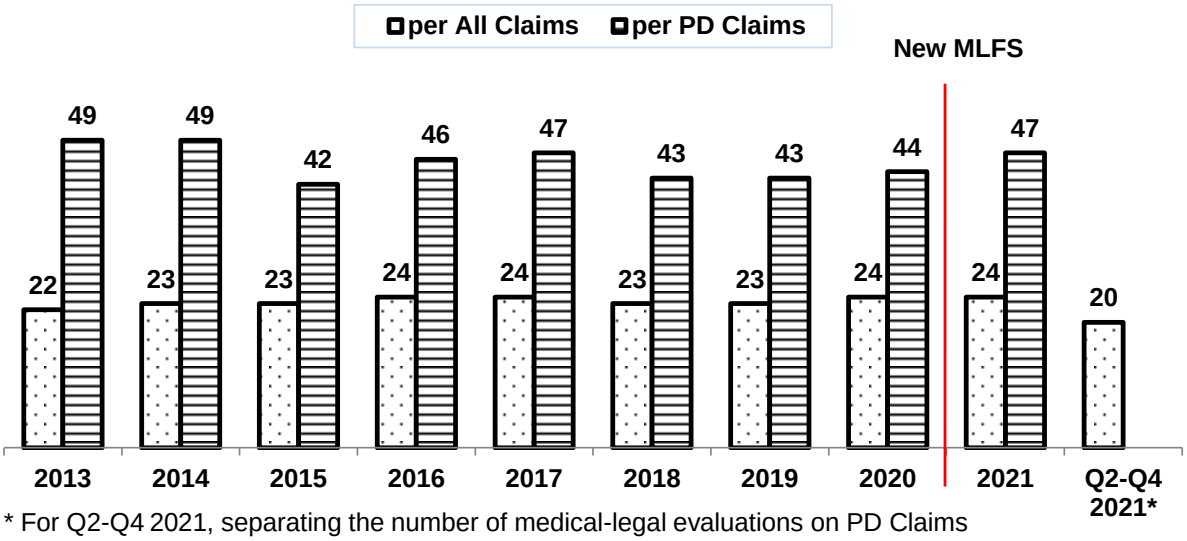
Also, the methods for calculating medical expenses could differ by the inclusion or exclusion of different categories of medical expenses, such as medical cost containment program (MCCP) expenses, thereby increasing or decreasing the total.

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 50 shows the frequency of medical-legal reports for all claims and PD claims statewide from SY 2013 to SY 2021 or 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. It will require several years of new data under the updated MLFS for the results of this change to be analyzed.

Figure 50: Number of Medical-Legal Evaluations per 100 Workers' Compensation Claims (PD and All) in California



* For Q2-Q4 2021, separating the number of medical-legal evaluations on PD Claims between Q1 and Q2-Q4 generated data that are not very reliable.

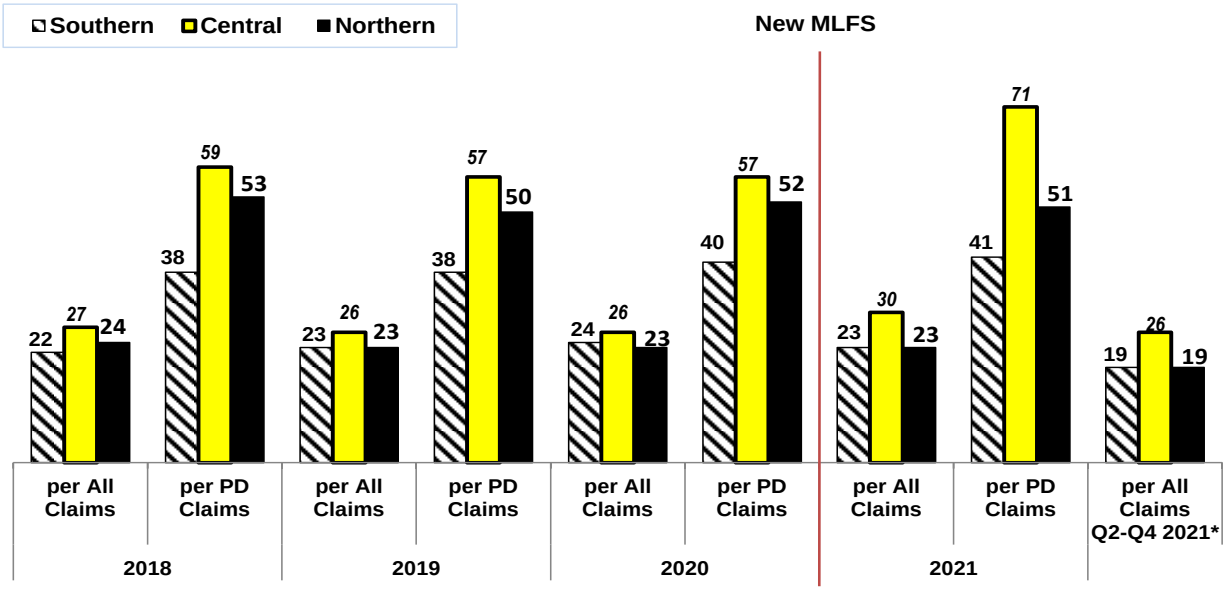
Note: For 2021 estimates, the number of medical-legal evaluations exclude MLPRR transactions.

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 51 shows the frequency of medical-legal reports for all claims and PD claims in three California regions in the last four years from SY 2018 to SY 2021, where the first quarter of 2021 was still under the old MLFS . 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. It would require several years under the new MLFS before the patterns emerge in frequency of medical-legal reports for the three California regions. Due to specific data processing required for analysis of medical-legal reports on PD claims, separation of those for Q1 and Q2-Q4 of 2021 produced unreliable counts and are excluded from Q2-Q4 period analysis as in Figure 51.

Figure 51: Average Number of Medical-Legal Evaluations per 100 Claims (PD and All), by Region



* For Q2-Q4 2021 the rates for medical-legal evaluations on PD claims were excluded since separating the number of medical-legal evaluations on PD Claims between Q1 and Q2-Q4 generated data that are not very reliable.

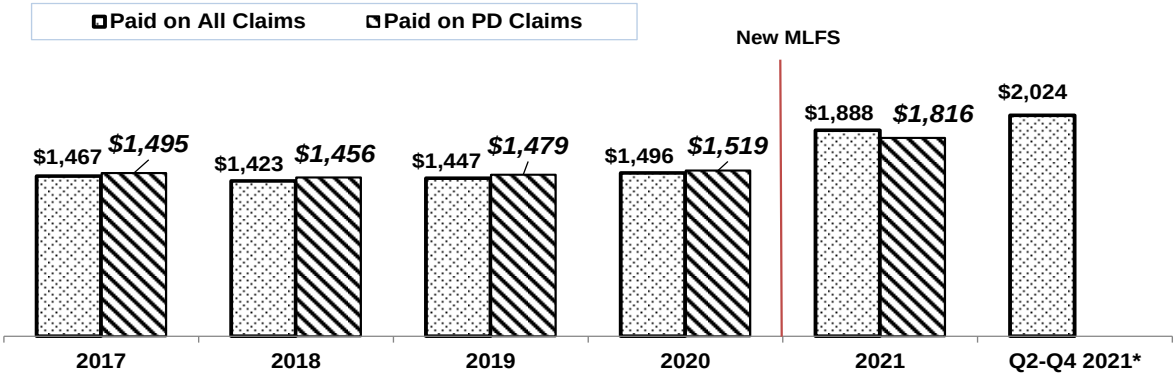
Source: WCIRB

Average Cost per Medical-Legal Evaluation

Figure 52 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, both types of average costs stabilized 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 2021.

Figure 52: Average Cost of a Medical-Legal Evaluation on All and PD Claims, California

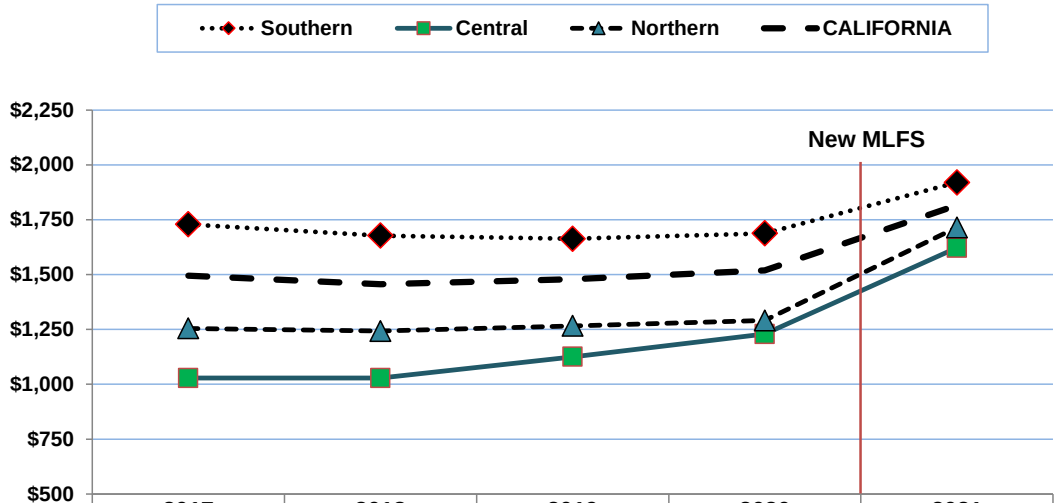


* For Q2-Q4 2021, separating the medical-legal payments on PD Claims between Q1 and Q2-Q4 generated data that are not very reliable.

Source: WCIRB

Figure 53, shows the average cost of a medical-legal evaluation on PD claims from 2017 to 2021 in three California regions. As mentioned above, a separation of data on medical-legal evaluations on PD claims for Q1 and Q2-Q4 produces unreliable data and for that reason year 2021 in Figure 53 includes the data for Q1 that was still under the old 2006 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 53: Average Cost of a Medical-Legal Evaluation on PD Claim, by Region



	2017	2018	2019	2020	2021
Southern	$1,729	$1,678	$1,663	$1,688	$1,920
Central	$1,028	$1,028	$1,125	$1,229	$1,622
Northern	$1,255	$1,242	$1,266	$1,291	$1,715
CALIFORNIA	$1,495	$1,456	$1,479	$1,519	$1,816

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 53 and Tables 14 and 15. About 60 percent of medical-legal evaluations originated in Southern California in SY 2013 to SY 2021, reflecting the similar share of Southern California in workers' compensation claims (see Figure 46). Similarly, a 60 percent share of Southern California in total medical-legal payments under the new MLFS in Q2-Q4 2021 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 – New MLFS
Southern	58%	60%	60%	60%	59%	58%	60%	60%	59%
Central	16%	16%	15%	17%	17%	18%	17%	17%	20%
Northern	26%	24%	25%	23%	24%	24%	23%	23%	21%

Source: WCIRB

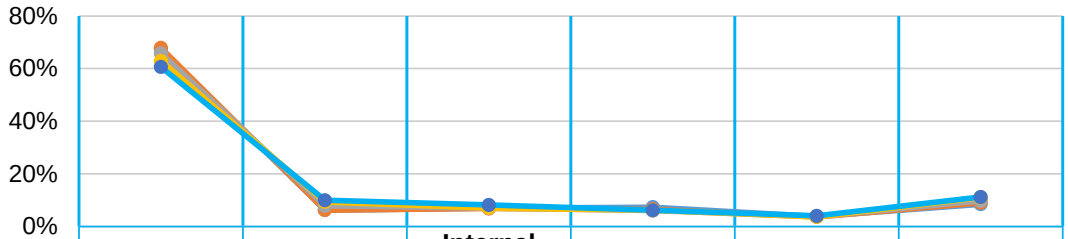
Table 15:Regional characteristics of medical-legal activities, Q2-Q4 2021

	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	60%	59%	45%	27%	52%	$2,291
Central	19%	20%	44%	22%	57%	$2,151
Northern	21%	21%	48%	23%	50%	$2,305

Potential Medical-Legal Cost Drivers

Physicians specializing in orthopedic specialty provided 61 percent of the medical-legal services during 2021, while chiropractors, internal medicine, and psychiatrists/psychologists were providing 6 to 10 percent of services each in 2021.

Figure 52: Distribution of Medical-Legal Evaluations by Type of Providers, 2017-2021

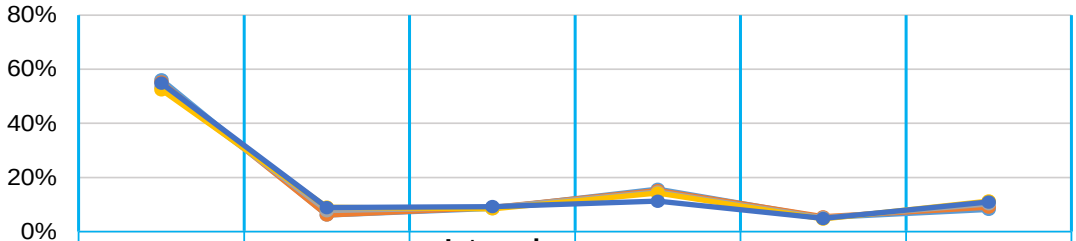


	Orthopedic	Chiropract	Internal Medicine & Cardiology	Psychiatr/ Psycholog	Neurology	All Others
2017	**67%**	**6%**	**7%**	**7%**	**4%**	**8%**
2018	**68%**	**6%**	**7%**	**7%**	**4%**	**9%**
2019	**66%**	**8%**	**7%**	**6%**	**4%**	**10%**
2020	**63%**	**9%**	**7%**	**6%**	**4%**	**11%**
2021-New MLFS	**61%**	**10%**	**8%**	**6%**	**4%**	**11%**

Data Source: WCIRB

Figure 53 shows that while 6 percent of all medical-legal evaluations were performed by psychiatric/psychological providers in 2021, those evaluations comprised 11 percent of total medical-legal paid amounts.

Figure 53: Distribution of Medical-Legal Payments by Type of Providers, 2017-2021

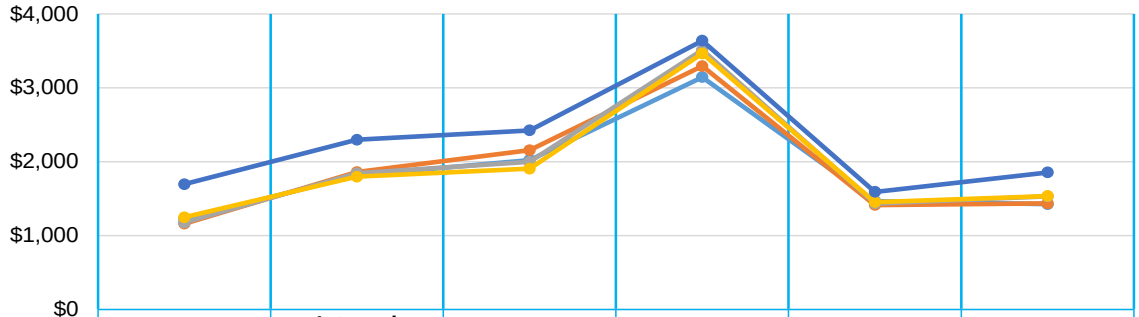


	Orthopedic	Chiropract	Internal Medicine & Cardiology	Psychiatr/ Psycholog	Neurology	All Others
2017	**56%**	**6%**	**9%**	**16%**	**5%**	**8%**
2018	**55%**	**6%**	**9%**	**15%**	**5%**	**9%**
2019	**53%**	**8%**	**9%**	**15%**	**5%**	**10%**
2020	**52%**	**9%**	**8%**	**14%**	**5%**	**11%**
2021-New MLFS	**55%**	**9%**	**9%**	**11%**	**5%**	**11%**

Data Source: WCIRB

Figure 54 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 54: Average Cost of a Medical-Legal Evaluation by Type of Providers, SY 2017- SY 2021



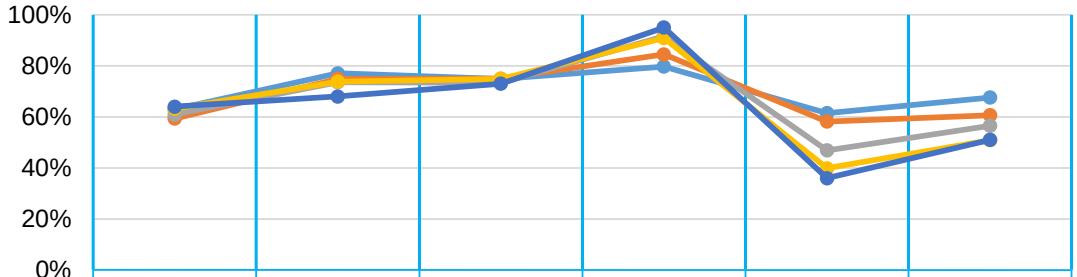
	Orthoped	Internal Medicine&Cardiolog	Neurology	Psychiatr/Psychologist	Chiropract	All Others
2017	**$1,223**	**$1,813**	**$2,021**	**$3,143**	**$1,465**	**$1,424**
2018	**$1,159**	**$1,859**	**$2,155**	**$3,293**	**$1,412**	**$1,434**
2019	**$1,175**	**$1,842**	**$1,996**	**$3,510**	**$1,433**	**$1,529**
2020	**$1,247**	**$1,796**	**$1,905**	**$3,464**	**$1,452**	**$1,534**
2021-New MLFS	**$1,694**	**$2,296**	**$2,423**	**$3,636**	**$1,590**	**$1,854**

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

Data Source: WCIRB

As Figure 47 showed, in the last 5 years about 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 54 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 95 percent of reports performed by psychiatrists/psychologists in 2021 are performed for PD claims.

Figure 54: Share of Medical-Legal Evaluations on PD Claims in Total Medical-Legal Evaluations by Provider Type, 2017-2021



	Orthoped	Internal Medicine & Cardiology	Neurology	Psychiatr/ Psycholog	Chiropract	All Others
2017	**63%**	**77%**	**75%**	**80%**	**61%**	**68%**
2018	**59%**	**75%**	**75%**	**84%**	**58%**	**61%**
2019	**61%**	**74%**	**73%**	**92%**	**47%**	**57%**
2020	**63%**	**74%**	**75%**	**91%**	**40%**	**51%**
2021-New MLFS	**64%**	**68%**	**73%**	**95%**	**36%**	**51%**

Data Source: WCIRB

Table 13 shows that comprehensive, follow-up and supplemental reports constitute 89 percent of all medical-legal reports of which those involving the per-page record reviews (PRR) add an average $1,561 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 25 percent of the total medical-legal cost. In Q2-Q4 2021, MLPRR accounted for almost 37.8 million out of $149.0 million billed for all 2021 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 include 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 requirement would increase costs for the defendants.

According to WCIRB's data presented in this report, the $37.8 million billed for MLPRR in Q2-Q4 2021 represent over 12.5 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.

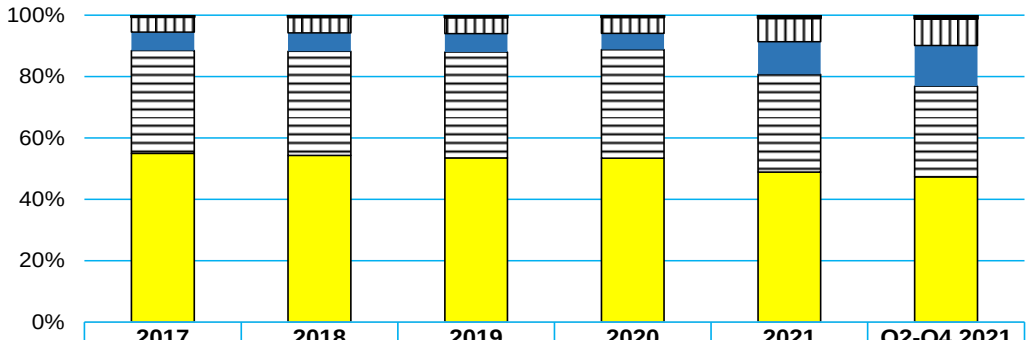
Table 13: Characteristics of Medical-Legal Evaluations by New 2021 MLFS Procedure Codes, Q2-Q4 2021

Billing Code: Name/Description and MLFS Flat Fee or Unit-Based Payment	Avrg cost of a Med-Leg Report	Distribution of Med-Leg Reps/ Transactions (including ML-PRR transactions)	Distribution of Med-Leg Payments	Share of Med-Leg Reports on PD claims
ML-200 Missed Appointment $503.75	$498	6%	2%	38%
ML-201 Comprehensive $ 2,015	$2,263	35%	53%	42%
ML-202 Follow-Up ($1,316.25)	$1,456	10%	9%	55%
ML-203 Supplemental $650	$685	22%	10%	48%
ML-204 Testimony $455.00 per hour	$771	0.8%	0.4%	63%
ML-205 Sub Rosa Recordings $325.00 per hour	$465	0.6%	0.2%	55%
ML-PRR Per-Page Record Review* $3.00/page	$1,561**	25%***	25%	48%****

* 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, Ml-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, Ml-201, ML-202 and ML-203 reports.
**** Percent of reports with MLPRR that are performed on PD Claims.

As Table 13 shows, the new MLFS replaced three levels of service in 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 55 shows the distribution of medical-legal evaluations and Figure 56 – the distribution of medical-legal payments by type of MLFS procedures. Figure 55 shows that while the share of comprehensive reports declined by 8 percentage points from 2017 to Q2-Q4 2021 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 2017 to Q2-Q4 2021.

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



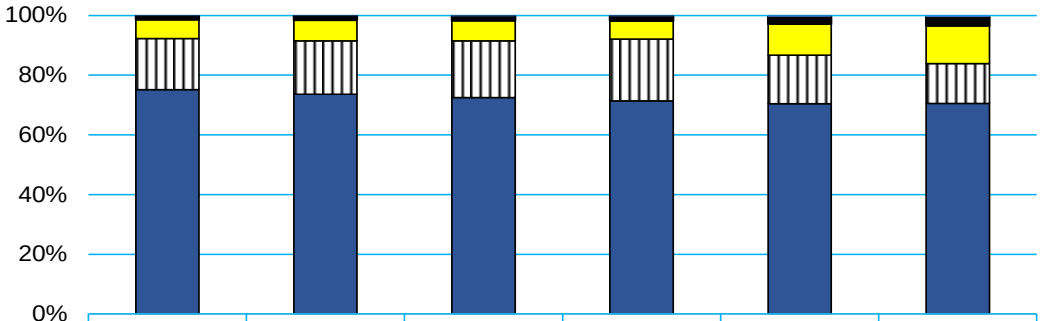
	2017	2018	2019	2020	2021	Q2-Q4 2021
Testimony	0.5%	0.6%	0.7%	0.6%	1.0%	1.1%
Missed Appointment	4.9%	5.1%	5.3%	5.3%	7.6%	8.7%
Follow-Up	6%	6%	6%	5%	11%	13%
Supplemental	34%	34%	35%	35%	32%	30%
Comprehensive	55%	54%	54%	53%	49%	47%

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 56 shows that in Q2-Q4 2021, 97 percent of all medical-legal payments were done for preparation of the main medical-legal reports, such as comprehensive (71 percent), follow-up (13 percent), and supplemental (13 percent), with testimonies and missed appointments comprising a mere 3 percent of all payments.

Figure 56: Distribution of Medical-Legal Payments by MLFS Procedure Type



	2017	2018	2019	2020	2021	Q2-Q4 2021
Testimony	0.2%	0.2%	0.3%	0.2%	0.5%	0.6%
Missed Appointment	1.3%	1.4%	1.5%	1.6%	2.4%	2.9%
Follow-Up	6%	7%	7%	6%	10%	13%
Supplemental	17%	18%	19%	21%	16%	13%
Comprehensive	75%	74%	73%	71%	70%	71%

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

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 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.[117] 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.[118]

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

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[117] DIR homepage, https://www.dir.ca.gov/aboutdir.html.
[118] DWC homepage, https://www.dir.ca.gov/dwc/dwc_home_page.htm.

Impact of COVID-19 on Division of Workers' Compensation Operations in 2022[119]

Since the beginning of the COVID-19 pandemic, the DWC has been able to maintain most of its operations without any significant delay or backlog. As in 2020, DWC was fully operational in 2021 and 2022 and provided all DWC services in some form. All DWC operations, including those performed by the Audit Unit, Medical Unit, the Subsequent Injuries Benefit Trust Fund, and the Uninsured Employers Benefit Trust Fund, remained open and functioning with no significant backlogs. Throughout 2021 and 2022, DWC maintained and improved its operations while most staff worked from home. More recently, in 2022, staff have returned to the offices in all units at least two days per week.

The DWC Adjudication Unit, which administers the litigation of workers' compensation claims throughout the state, returned to partial in-person operations at the end of 2021. Significantly, DWC resumed in-person trials at its district offices. However, in late 2021 and early 2022, in-person operations were temporarily halted with the emergence of COVID-19's Omicron variant, and all hearings returned to remote operations. All DWC employees, both at headquarters and at the district offices, returned to full time telework at that time. However, DWC public counters remained open and available for in-person operations. The Information and Assistance Unit also remained available for in-person consultations when requested.

In March of 2022, in line with the Governor's plan, DWC returned to additional in-person operations. Employees within the Adjudication Unit are now required to be in-office three days a week to assist litigants and injured workers with their workers' compensation cases. DWC employees in other units returned to the office for two days a week, maintaining all necessary safety protocols.

As a result of the lessons learned during the COVID-19 pandemic, DWC decided to create a permanent hybrid system for court litigants. This system enables all conferences and mandatory settlement conferences (MSCs) to be heard telephonically. In 2020 every judge was issued a conference line, which is published on the DWC website. Further, those numbers are now added to the hearing notices and litigants are advised to call in on those hearings at the date and time indicated on the notice. However, all trials are now set in person at the DWC district offices. Parties may still request a remote trial, however, and if the assigned workers' compensation judge agrees to it, the trial is held by video in the Lifesize platform. Parties are still requesting a significant number of trials to be held remotely. This hybrid model allows greater flexibility for litigants and injured workers, and allows DWC to take advantage of teleworking options for staff.

In September of 2022, DWC returned its walk-through calendar to in-person. DWC had been holding its walk-throughs on the virtual platform, but returned walk-throughs to in-person to support litigants. This also expanded the number of documents that could be handled by walk-through. Virtually, DWC was only able to handle settlement documents, but in-person, DWC has returned to all required documents being available for the walk-through calendar.

Further, in 2022 the WCAB's regulations[120] on virtual hearings were implemented. These regulations, that had been proposed in 2021 and went into effect on January 1, 2022, govern how parties obtain a virtual hearing, utilize virtual testimony, and address the ability to electronically service documents. These new regulations assist DWC more fully in handling remote hearings and electronic service. For this year, as has been for the last 2 years, DWC's statewide judge's training was done virtually. DWC will continue to assess if this will be made permanent or possibly be done at times in person and at times virtually.

Impact on DWC's and WCAB's Workload as a Result of COVID-19

All units within DWC have been able to maintain operations without any significant backlog.

[119] Information on the impact of COVID-19 shutdowns/interruptions was provided by DWC.
[120] https://www.dir.ca.gov/WCAB/WCABProposedRegulations/2021/WCAB-Rulemaking/Index.htm.

WCAB DISTRICT OFFICES WORKLOAD

At the 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.[121] 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.

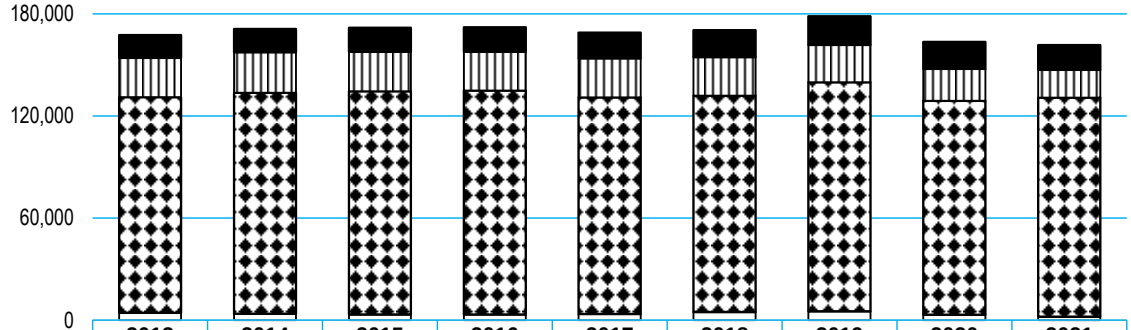
Division of Workers' Compensation Opening Documents

Three types of documents open a WCAB District Office case. Figure 57 shows the number of Applications for Adjudication of Claim (applications), Original Compromise and Releases (C&Rs), and Original Stipulations (stips) received by the DWC.

Prior to August 2008, DWC workload adjudication data were available from the legacy system. After August 2008, DWC transitioned to a new computer-based system, the Electronic Adjudication Management System (EAMS).

As Figure 57 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, and then decreased by 9.5 percent from 2019 to 2021. 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 2 percent from 2020 to 2021, while three other components of the Opening Documents decreased from 2020 to 2021. The Compromise and Releases increased by 25 percent from 2013 to 2019 and decreased by 13 percent from 2019 to 2021. The Original Stipulations have increased slightly between 2013 to 2014, and have decreased since 2014 with an overall decline of 32 percent from 2014 to 2021.

Figure 57: DWC Opening Documents (as of July 1, 2022)



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Original C&R	13,380	13,637	14,057	14,346	15,081	15,845	16,761	15,689	14,573
Original Stips	23,030	23,870	23,245	22,798	22,892	22,664	21,976	18,810	16,258
Applications	126,785	129,851	131,129	131,561	127,265	127,139	134,649	125,673	128,746
Other	4,339	3,760	3,345	3,390	3,683	4,790	5,143	3,257	2,063
Total	167,534	171,118	171,776	172,095	168,921	170,438	178,529	163,429	161,640

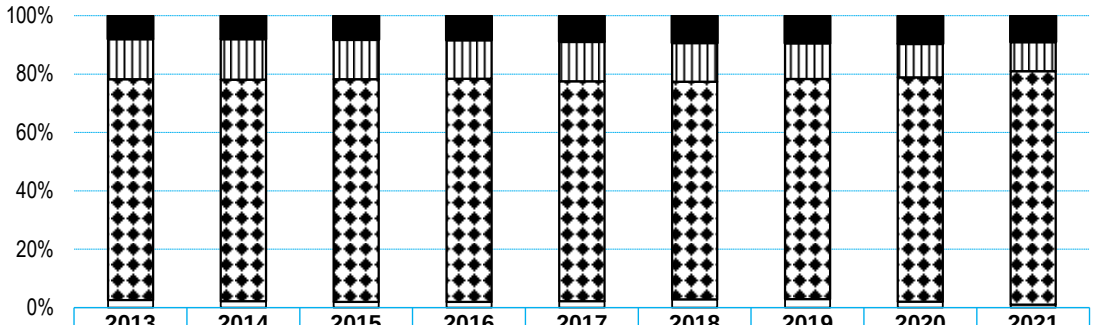
Source: DWC

[121] https://www.dir.ca.gov/wcab/wcab.htm and https://www.dir.ca.gov/dwc/dir2.htm.

Mix of DWC Opening Documents

As Figure 58 shows, the applications for adjudication comprised on average 75-77 percent of the opening documents yearly from 2013 to 2020, but increased by three percentage points to 80 percent from 2020 to 2021. The proportion of original (case-opening) stips leveled off at 12-14 percent per year from 2013 to 2020 and then decreased to 10 percent from 2020 to 2021. In the same period, the proportion of original C&Rs also stabilized at 8-9 percent through 2021, with a one-time increase to 10 percent during the COVID-19 pandemic.

Figure 58: Percent Distribution by Type of Opening Documents (as of July 1, 2022)

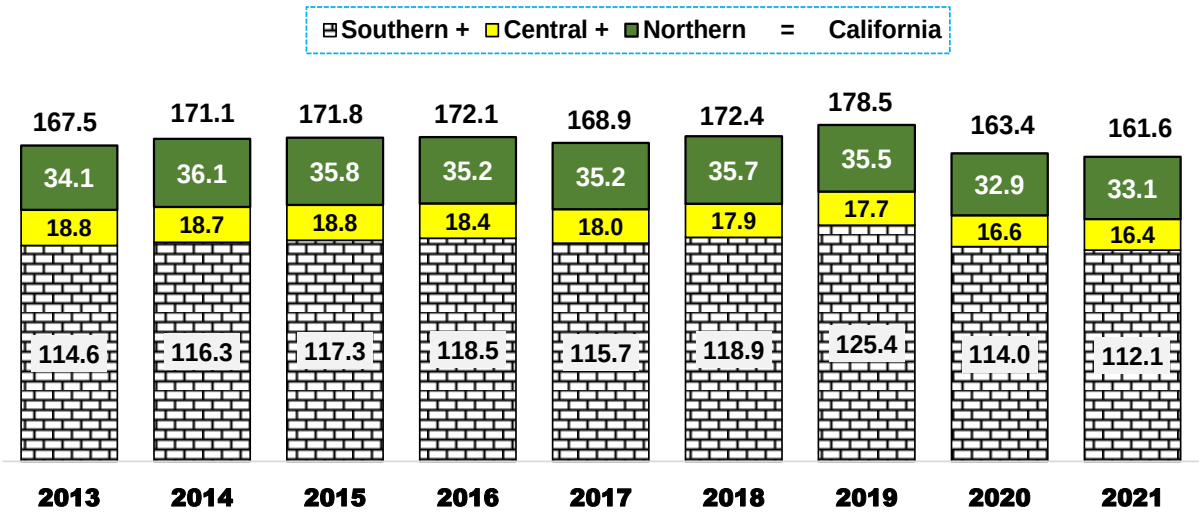


	2013	2014	2015	2016	2017	2018	2019	2020	2021
Original C&R	8%	8%	8%	8%	9%	9%	9%	10%	9%
Original Stips	14%	14%	13.5%	13%	14%	13%	12%	12%	10%
Applications	76%	76%	76%	76%	75%	75%	75%	77%	80%
Other	3%	2%	2%	2%	2%	3%	3%	2%	1%

Source: DWC

According to Figure 59, about 70 percent of yearly DWC opening documents originated in Southern California between 2013 and 2021. Northern and Central California comprised about 20 and 10 percent of opening documents respectively in the same period.

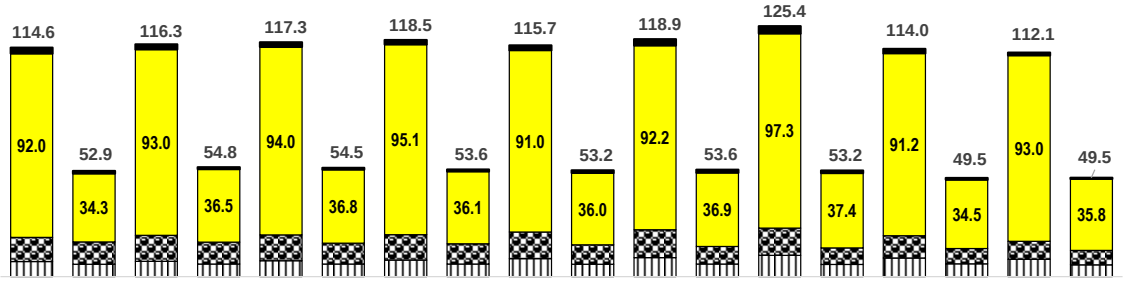
Figure 59: DWC Opening Documents by California Regions (as of July 1, 2022) (Thousand)



Source: DWC

Figure 60 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 Applications by more than 2.5 times in each year from 2013 to 2021. 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 60: Types of DWC Opening Documents by California Regions (as of July 1, 2022) (Thousand)



	South	Nrth+ Ctrl	South	Nrth+ Ctrl	South	Nrth+ Ctrl	South	Nrth+ Ctrl	South	Nrth+ Ctrl	South	Nrth+ Ctrl	South	Nrth+ Ctrl	South	Nrth+ Ctrl	Southern	Nrth+ Ctrl
	2013		2014		2015		2016		2017		2018		2019		2020		2021	
Other	3.0	1.3	2.6	1.1	2.3	1.0	2.3	1.0	2.4	1.3	3.2	1.6	3.8	1.4	2.3	1.0	1.5	0.6
Appl-ns	92.0	34.3	93.0	36.5	94.0	36.8	95.1	36.1	91.0	36.0	92.2	36.9	97.3	37.4	91.2	34.5	93.0	35.8
Stips	12.0	11.1	13.0	10.9	12.9	10.4	12.7	10.1	13.3	9.7	13.9	8.7	13.6	8.3	11.2	7.7	9.0	7.2
C&R	7.6	6.3	7.7	6.4	8.0	6.4	8.3	6.4	9.1	6.2	9.5	6.3	10.7	6.1	9.3	6.4	8.7	5.9
Total	114.6	52.9	116.3	54.8	117.3	54.5	118.5	53.6	115.7	53.2	118.9	53.6	125.4	53.2	114.0	49.5	112.1	49.5

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, and 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.

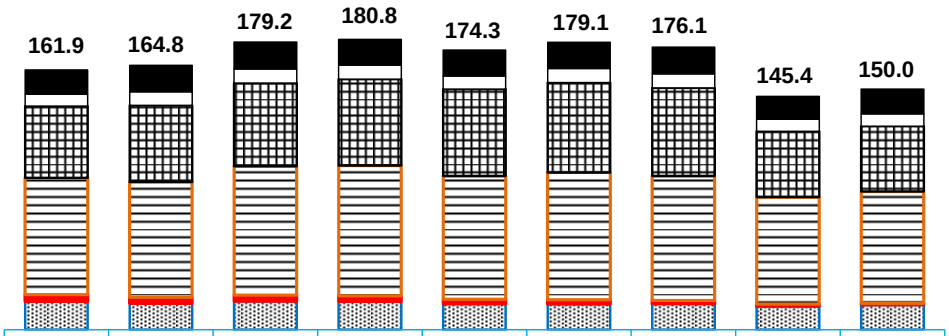
C. For cases in which the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment or in the course of employment and good cause is shown why discovery is not complete for trial, then status conferences shall be held at regular intervals.

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.

Figure 61 indicates the number of different types of LC 5502 hearings held in DWC from 2013 through 2021. 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 increased by 3 percent from 2020 to 2021. The number of mandatory settlement conferences (MSCs), the most numerous hearings, increased by 12 percent from 2013 to 2016, fluctuated from 2016 to 2019, decreased by 14 percent from 2019 to 2020, and then increased by 4 percent from 2020 to 2021. Ratings MCSs in 2021 experienced a decrease of four-times its 2013 volume. The number of expedited hearings averaged about 16,100 a year from 2013 to 2021, excluding a 15 percent decrease from 2019 to 2020. The number of status conferences increased steadily by a total of 25 percent from 2013 to 2018 and then decreased by 27 percent from 2018 to 2021, including a 25 percent decline from 2019 to 2020. 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 in 2020 and 2021. 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 started recovering with an increase by 5 percent from 2020 to 2021.

Figure 61: DWC Labor Code 5502 Hearings Held (Thousand)



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Expedited Hearings	15.2	16.6	16.7	15.9	16.1	16.3	16.7	14.2	15.5
Priority Conferences	7.4	8.5	8.9	8.8	8.2	8.8	8.7	7.6	7.6
Status Conferences	44.7	47.6	51.7	53.8	54.1	56.1	54.8	41.0	40.7
Mand. Settl. Conf.(MSC)	72.6	71.9	80.3	81.1	76.7	79.3	77.5	66.6	69.6
Rating MSCs	4.2	3.8	3.8	3.5	2.9	2.6	2.1	1.3	1.0
Trials	17.7	16.4	17.8	17.7	16.1	16.0	16.2	14.7	15.5
TOTAL	161.9	164.8	179.2	180.8	174.3	179.1	176.1	145.4	150.0

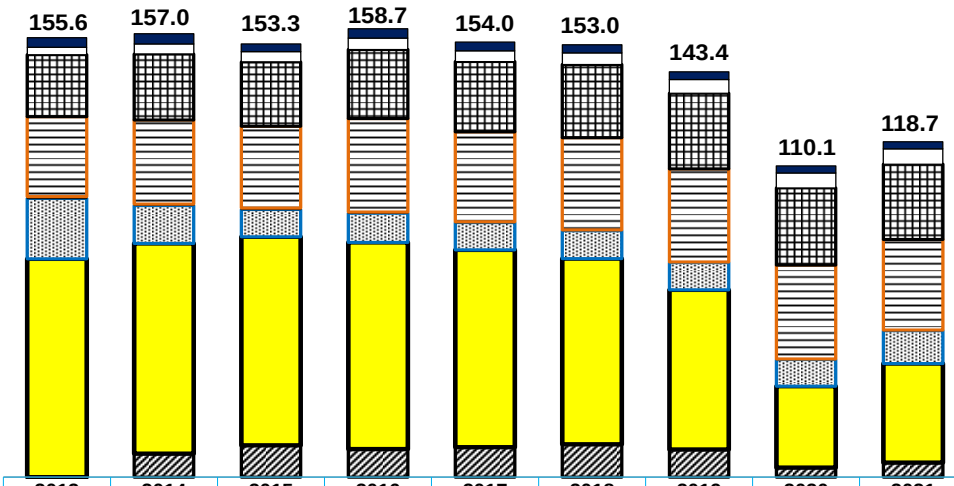
Source: DWC

The non-Section 5502 hearings are continuances or additional hearings after the first hearing. Figure 62 shows non-Section 5502 hearings held from 2013 to 2021.

The number of MCSs fluctuated between 28,300 and 33,000 conferences between 2013 to 2021, with a 1 percent increase from 2019 to 2020, when it reached its peak of 33,264 settlements. The rating MCSs in 2021 decreased by 3.5 times compared to its 2013 level. The number of status conferences increased overall by 25 percent from 2013 to 2020 and then slightly decreased from 2020 to 2021. The number of priority conferences steadily doubled from 2013 through 2021. The number of expedited hearings fluctuated between 2,750 and 3,600 hearings between 2013 and 2016, and then decreased by 25 percent from 2016 to 2021. The number of trials fell by half from 2013 to 2015, averaged 9,770 trials per year from 2015 to 2020, and then increased by 24 percent from 2020 to 2021. The lien conferences decreased steadily by 27 percent from 2013 to 2019, fell by half from 2019 to 2020, and then increased by 22 percent from 2020 to 2021. 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 a slight 5 percent increase from 2020 to 2021. From 2019 to 2020, there were decreases in lien

trials (-65 percent), lien conferences (-49 percent), expedited hearings (-8 percent), and trials (-3 percent). At the same time, such non-Section 5502 hearings as rating MSCs (+16 percent), priority conferences (+9 percent), status conferences (+2 percent), and MSCs (+1 percent) experienced an increase from 2019 to 2020.

Figure 62: DWC Non-5502 Hearings Held (Thousand)

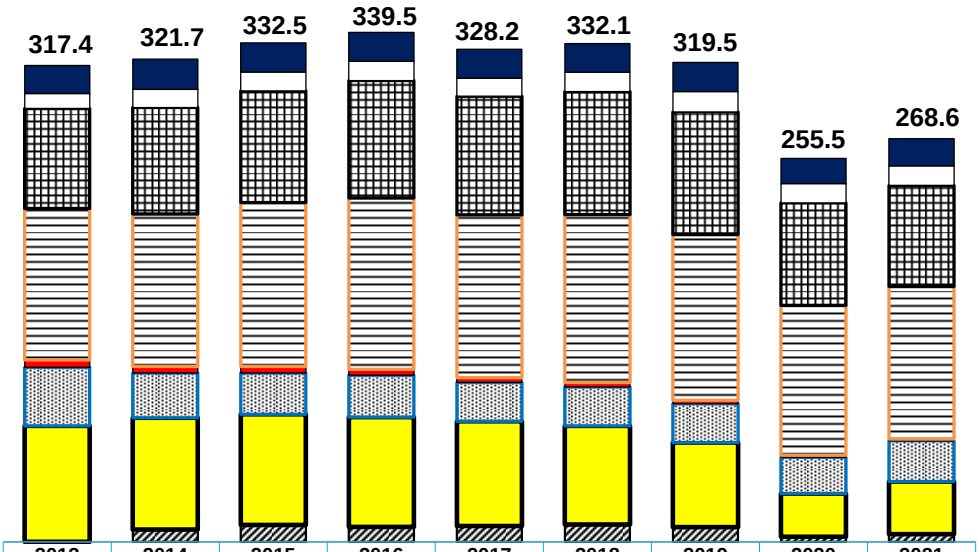


	2013	2014	2015	2016	2017	2018	2019	2020	2021
Expedited Hearings	3.4	3.6	2.8	3.3	3.1	2.9	2.7	2.5	2.5
Priority Conferences	2.6	3.5	3.6	4.0	3.8	4.1	4.8	5.3	5.4
Status Conferences	21.9	23.4	22.8	24.5	24.9	25.9	26.8	27.3	26.7
Mandatory Settlement Conferences(MSC)	28.3	29.7	29.0	33.1	31.8	32.6	32.9	33.3	32.1
Rating MSCs	0.7	0.5	0.5	0.4	0.3	0.3	0.2	0.2	0.2
Trials	21.3	13.4	9.7	10.3	9.7	9.9	9.7	9.4	11.6
Lien Conferences	77.3	74.5	73.8	73.2	69.8	65.7	56.5	28.8	35.1
Lien Trials	0.0	8.3	11.2	9.9	10.6	11.6	9.7	3.4	5.1
TOTAL	155.6	157.0	153.3	158.7	154.0	153.0	143.4	110.1	118.7

Data Source: DWC

Figure 63 shows the total hearings held from 2013 to 2021 including Labor Code Section 5502 hearings, non-Section 5502 hearings, and lien conferences.

Figure 63: DWC Total Number of Hearings Held (LC 5502 and non-5502) (Thousand)



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Expedited Hearings	18.6	20.2	19.5	19.2	19.2	19.2	19.4	16.7	18.0
Priority Conferences	10.0	12.0	12.5	12.8	12.0	12.9	13.6	12.9	13.1
Status Conferences	66.6	71.0	74.5	78.3	79.0	82.0	81.7	68.3	67.4
Mandatory Settlement Conferences(MSC)	100.9	101.6	109.2	114.1	108.5	111.9	110.4	99.9	101.7
Rating MSCs	4.9	4.4	4.3	4.0	3.3	2.9	2.3	1.5	1.2
Trials	39.1	29.8	27.5	28.0	25.8	26.0	25.9	24.1	27.1
Lien Conferences	77.3	74.5	73.8	73.2	69.8	65.7	56.5	28.8	35.1
Lien Trials	N/A	8.3	11.2	9.9	10.6	11.6	9.7	3.4	5.1
TOTAL	317.4	321.7	332.5	339.5	328.2	332.1	319.5	255.5	268.6

Data Source: DWC

Timeliness of Hearings

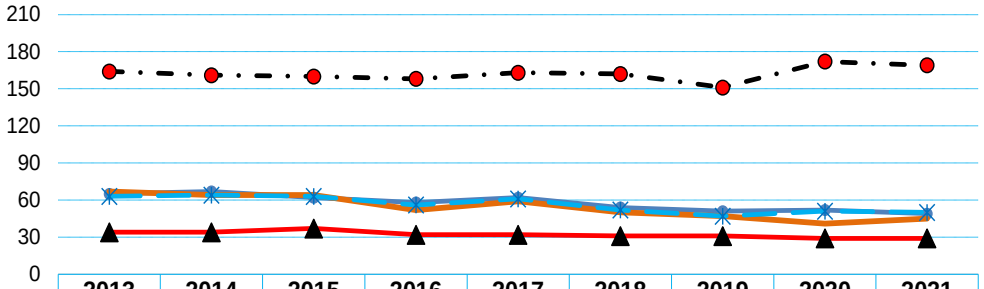
California Labor Code Section 5502 specifies the time limits for various types of hearings conducted by DWC on WCAB cases. In general:

- An expedited hearing must be held within 30 days of the receipt of a DOR.
- 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 64 shows the average elapsed time from a request to a DWC hearing in the fourth quarter of each year, from 2013 to 2021. All types of DWC hearings showed an overall decrease in average elapsed time from a request to hearing from 2012 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. For expedited hearings, the average elapsed time from a request to hearing showed an almost uninterrupted and steady 9 percent decrease, from 34 days in 2013 to 31 days in 2019, and then to 29 days in 2020 and 2021. 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 2021. The average elapsed time from a request to hearing for priority conferences decreased overall by 25 percent from 2013 to 2019 and then increased from 47 days in 2019 to 50-51 days in 2020 and 2021.

The average elapsed time from a request to a DWC trial decreased overall from 164 to 151 days from 2013 to 2019, increased 14 percent from 151 days to 172 days from 2019 to 2020, and then slightly decreased in 2021.

Figure 64: Elapsed Time in Days from Request to DWC Hearing (4th Quarter)



	2013	2014	2015	2016	2017	2018	2019	2020	2021
MSCs *	65	67	62	58	62	54	51	52	49
Rating MSC *	67	64	64	52	59	50	47	41	45
Expedited Hearing	34	34	37	32	32	31	31	29	29
Priority Conferences	63	64	63	56	61	52	47	51	50
Trials	164	161	160	158	163	162	151	172	169

* Mandatory Settlement Conferences

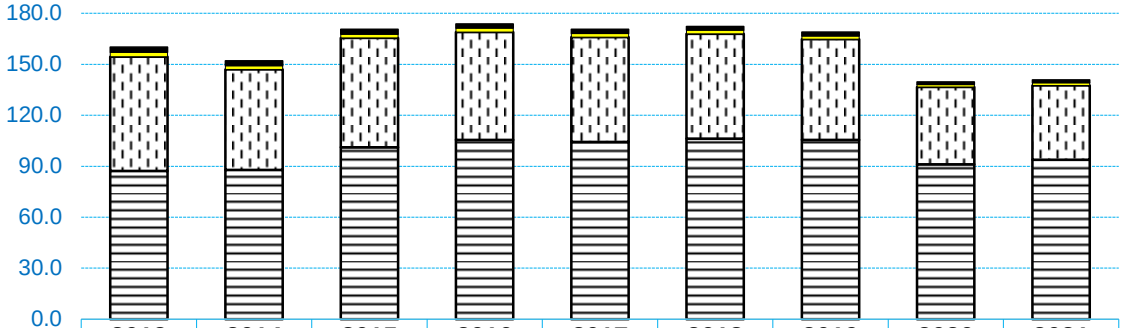
Source: DWC

Division of Workers' Compensation Decisions

DWC Case-Closing Decisions

Figure 65 shows that 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. 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 4 percent decrease in Stipulations in the same period.

Figure 65: DWC Case-Closing Decisions (Thousand)



	2013	2014	2015	2016	2017	2018	2019	2020	2021
F & O	3.0	2.9	2.9	2.4	2.4	2.1	2.3	1.5	1.6
F & A	2.7	2.3	2.3	2.3	2.2	2.2	2.0	1.5	1.7
Stipulation	67.2	59.1	64.4	63.6	61.8	61.8	59.2	45.5	43.7
C & R	87.3	87.8	101.1	105.4	104.2	106.2	105.5	91.1	93.8
TOTAL	160.2	152.1	170.6	173.7	170.6	172.3	169.0	139.7	140.8

Source: DWC

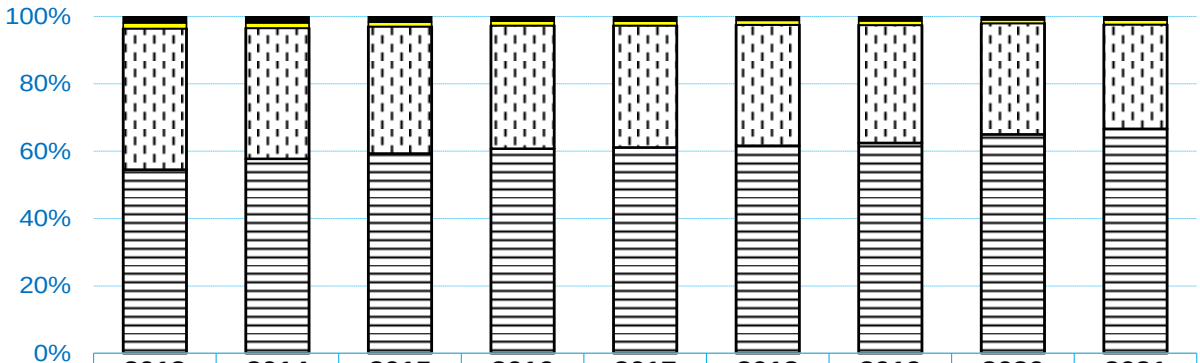
Mix of DWC Decisions

As shown in the previous figures and in the Figure 66, 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 2019, the proportion of Stips decreased from 41.9 to 35 percent with an additional decrease to 31 percent from 2019 to 2021 and the proportion of C&Rs increased from 54.5 to 62.4 percent with further growth to 66.6 percent in 2021.

Figure 66 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 2020 followed by a slight increase in 2021.

Figure 66: Percent Distribution by Type of DWC Case-Closing Decisions



	2013	2014	2015	2016	2017	2018	2019	2020	2021
F & O	1.9%	1.9%	1.7%	1.4%	1.4%	1.2%	1.4%	1.0%	1.1%
F & A	1.7%	1.5%	1.3%	1.3%	1.3%	1.3%	1.2%	1.0%	1.2%
Stips	41.9%	38.9%	37.7%	36.6%	36.2%	35.9%	35.0%	33.0%	31.0%
C & R	54.5%	57.7%	59.3%	60.7%	61.1%	61.6%	62.4%	65.0%	66.6%

Source: DWC

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:

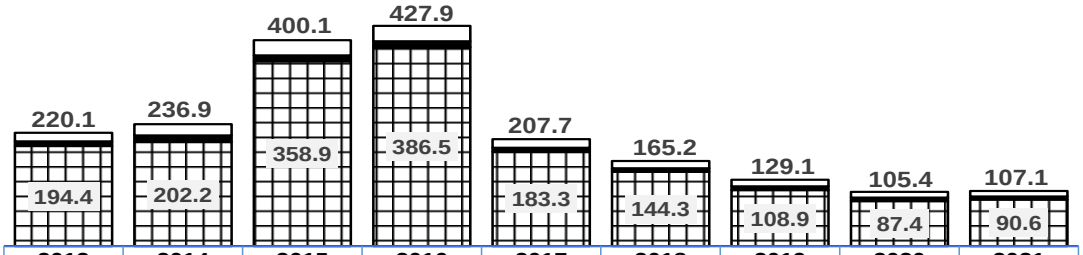
- Labor Code section 4615 places an automatic stay on liens filed by or on behalf of physicians and providers who are criminally charged with certain types of fraud. The automatic stay prevents those liens from being litigated or paid while the prosecution is pending.

- 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 who have been 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 67 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 decreased overall by 75 percent from 2016 to 2021 due to the SB 1160 and AB 1244 reforms enacted in 2016. About 85-90 percent of the filed liens originated in Southern California in 2013 through 2021. The share of the Southern region in liens filed averaged 88 percent from 2013 to 2017 and then decreased to 84-85 percent from 2019 to 2021. 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 2021. Central California also increased its share of the liens filed from an average of 4 percent in 2013 through 2018 to 6 percent from 2019 to 2021.

Figure 67: Number of Liens Filed by California Regions, 2013-2021

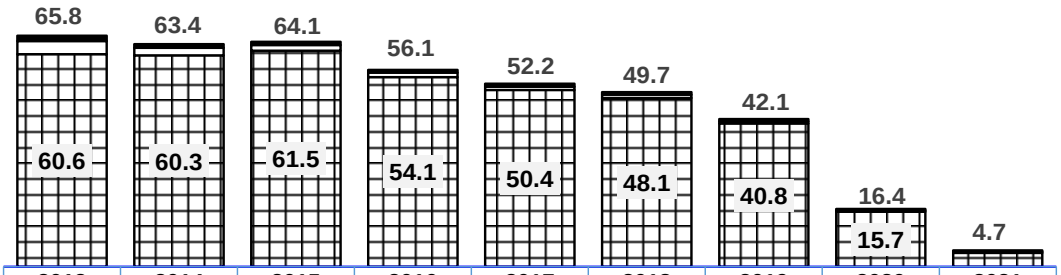


	2013	2014	2015	2016	2017	2018	2019	2020	2021
Northern	16.8	21.9	29.8	30.4	16.8	13.9	12.8	11.3	10.8
Central	8.9	12.8	11.3	11.0	7.6	7.0	7.5	6.7	5.7
Southern	194.4	202.2	358.9	386.5	183.3	144.3	108.9	87.4	90.6
California	220.1	236.9	400.1	427.9	207.7	165.2	129.1	105.4	107.1

Data Source: DWC

Figure 68 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 resolution of those liens. The number of lien decisions decreased overall by 36 percent between 2013 and 2019 and then fell 9-fold from 2019 to 2021, including a 61 percent decrease from 2019 to 2020, followed by an additional 72 percent decrease from 2020 to 2021. Because of the addition of Labor Code § 4615, many liens are stayed and cannot be decided until the criminal case is resolved.[122] 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. 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 declining to 95 percent in 2020 and to 84 percent in 2021. The Northern region comprised 6 percent of lien decisions in California in 2013. That share decreased to between 2 and 3 percent in 2014 through 2020 before increasing to 8 percent in 2021. According to these data, the liens cease to be a popular method for recovering payments for services rendered by providers in Southern California.

Figure 68: Number of DWC Lien Decisions, by California Regions in 2013-2021 (Thousand)



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Central	1.5	1.0	0.9	0.8	0.9	0.7	0.7	0.4	0.4
Northern	3.7	2.1	1.6	1.2	0.9	0.9	0.6	0.4	0.4
Southern	60.6	60.3	61.5	54.1	50.4	48.1	40.8	15.7	3.9
California	65.8	63.4	64.1	56.1	52.2	49.7	42.1	16.4	4.7

Data Source: DWC

See "Report on Liens" (CHSWC, 2011) for a complete description.

[122] https://www.dir.ca.gov/dwc/SB1160-AB1244/Special-Adjudication-Unit-Calendar.htm

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.[123]

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 a general business practice of discharging and administering compensation obligations in an improper manner.

Review of the civil penalties assessed is obtained by 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).

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

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:

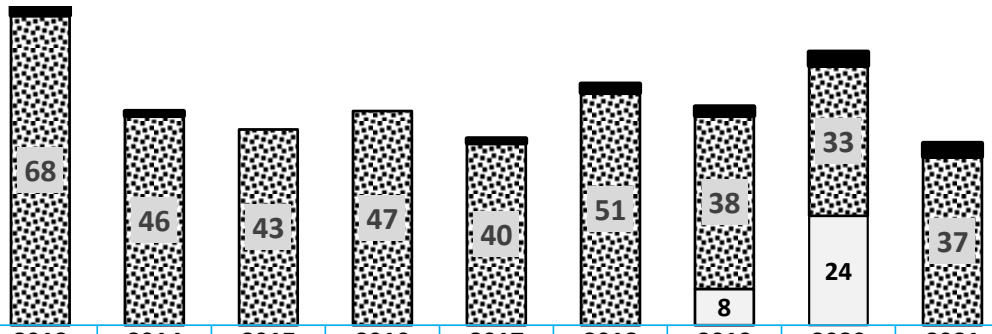
- Induced employees to accept less than compensation due or made it necessary for employees to resort to proceedings against the employer to secure compensation due.
- Refused to comply with known and legally indisputable compensation obligations.
- Discharged or administered compensation obligations 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 69 to 75 depict workload data from 2013 through 2021. Figure 69 shows the number of routine and targeted audits and the total number of audits conducted each year. In 2021, the Audit Unit completed 40 audits, of which 37 were routinely selected for PAR, 3 targeted audits were based on the failure of a prior audit, and no 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.

Figure 69: Routine and Targeted Audits and Civil Penalties Assessed



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Targeted	2	1	0	0	1	2	2	3	3
Routin	68	46	43	47	40	51	38	33	37
CPI *	0	0	0	0	0	0	8	24	0
TOTAL	70	47	43	47	41	53	48	60	40

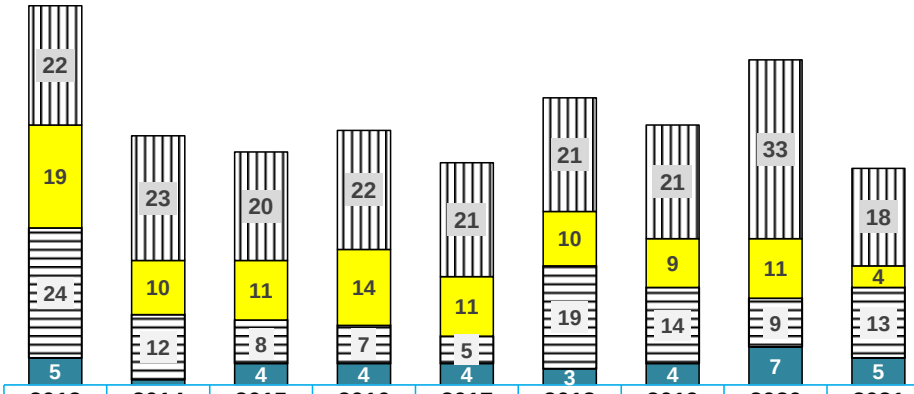
* Civil Penalty Issues

Source: DWC Audit and Enforcement Unit

Audits by Type of Audit Subject

Figure 70 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 70: DWC Audits by Type of Audit Subject



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Third-Party Admin.	22	23	20	22	21	21	21	33	18
Self-Insured Emplrs	19	10	11	14	11	10	9	11	4
Insurance Comp-s	24	12	8	7	5	19	14	9	13
Insurer and TPA	5	1	4	4	4	3	4	7	5
TOTAL	70	47	43	47	41	53	48	60	40

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:

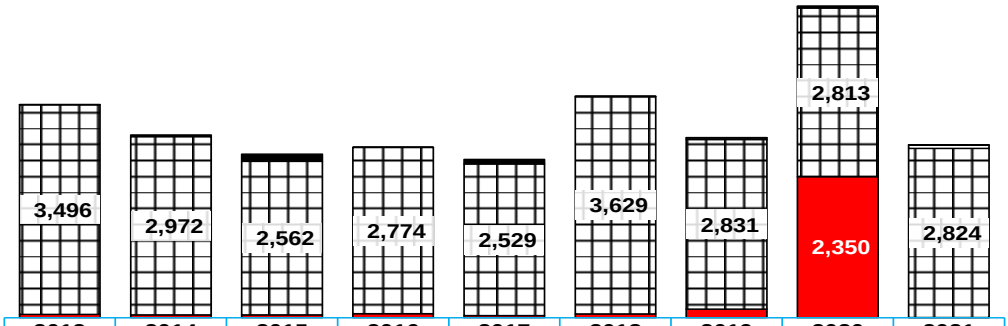
- Some valid complaint files may be selected to undergo targeted audits, and penalties may be issued.
- Additional files include claims chosen based on criteria relevant to a targeted audit but for which no specific complaints had been received.
- The number of claims audited is based upon the total 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 71 shows the total number of claim files audited each year broken down by the method used to select them. In 2021, within the PAR/FCA audits, compliance officers audited 2,883 claim files, of which 2,824 were randomly selected claims[124] in which some form of indemnity benefits was paid. Targeted claims audited included 1 file based on valid complaints received by DWC. Another 5 audited claims were 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 71: Files Audited by Method of Selection



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Additional Files	1	31	120	3	74	5	3	7	5
CCR Title 8, Sec 10107.1 Complnts	0	0	0	0	0	0	27	25	53
Random Select.	3,496	2,972	2,562	2,774	2,529	3,629	2,831	2,813	2,824
Credible Complnts	55	46	47	66	35	61	141	2,350	1
TOTAL	3,552	3,049	2,729	2,843	2,638	3,695	3,002	5,195	2,883

Source: DWC Audit and Enforcement Unit

Administrative Penalties

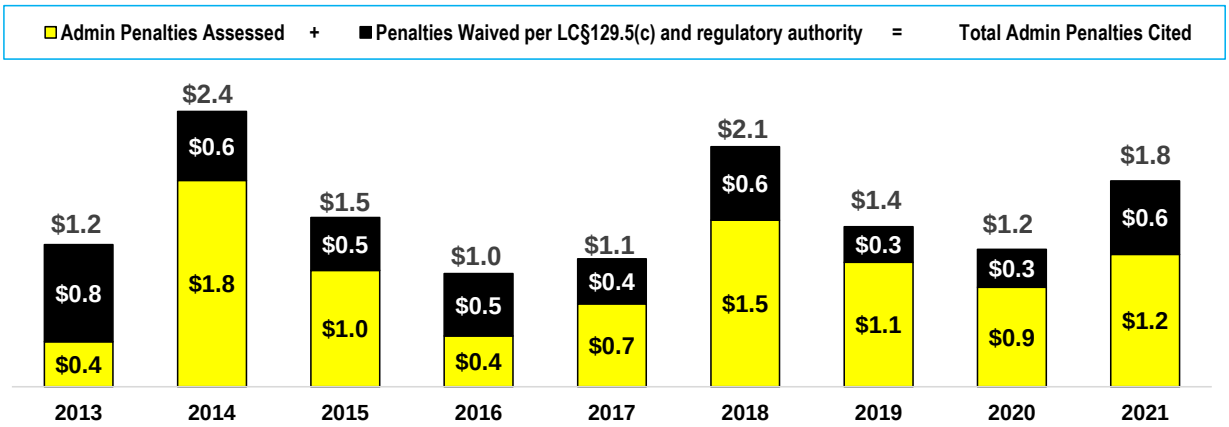
Figure 72 shows the administrative penalties cited from 2013 to 2021. As a result of PAR/FCA audits conducted during the calendar year 2020, the Audit & Enforcement Unit found and cited 5,457 violations against claims administrators, with initial administrative penalties cited totaling $1,794,708.

[124] 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.

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.[125]

In accordance with Labor Code section 129.5(c) and regulatory authority, the Audit & Enforcement Unit did not assess or waived $640,911 of the potential administrative penalties of the cited violations. The violations which, by law, were not assessed occurred within 31 of the audits that met or exceeded the PAR 2021 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 $1,153,797.

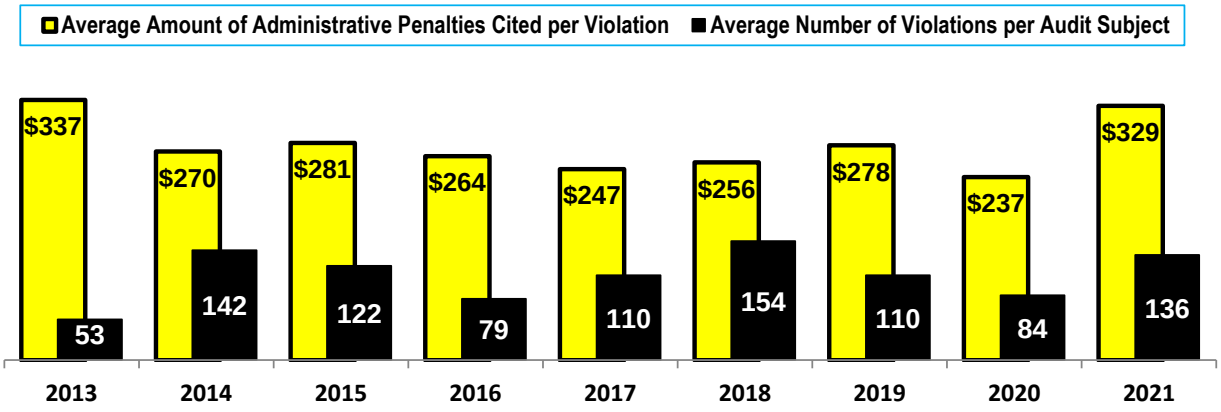
Figure 72: DWC Audit Unit—Administrative Penalties Cited (Million $)



Source: DWC Audit and Enforcement Unit

Figure 73 shows the average number of violations per audit subjects each year and the average dollar amount of administrative penalties cited per violation. In 2021, the average number of violations per 40 completed profile audits was 136 and the average penalty cited per 5,457 violations was about $329, including penalties waived.

Figure 73: Average Amount of Administrative Penalties Cited per Violation and Average Number of Violations per Audit Subject



Data Source: Audit and Enforcement Unit

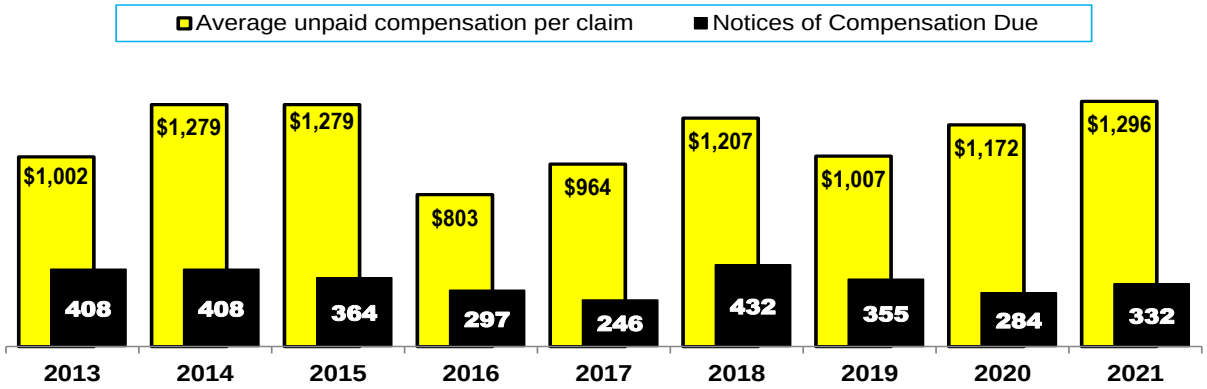
[125] DWC Annual Audit Report, page 5, https://www.dir.ca.gov/dwc/AuditUnit/Audit-Annual-Report2020.pdf.

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.

Figure 74 depicts the average number of claims per audit where unpaid indemnity compensation was found and the average dollar amount of compensation due per claim from 2013 to 2021.

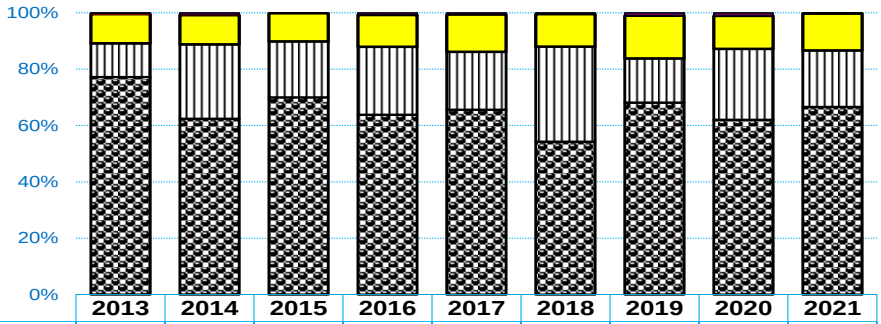
Figure 74: Average Amount of Unpaid Compensation per Claim and Number of Notices of Compensation



Data Source: Audit and Enforcement Unit

Figure 75 shows yearly distribution of unpaid compensation by specific type.

Figure 75: Distribution of Unpaid Compensation by Type



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Interest and penalty and/or unreimbursed medical expenses	0.3%	1%	0.1%	1%	0.6%	0.5%	1.0%	1%	0.3%
Death Benefits	0.1%	0.04%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Self-imposed increases for late indemnity payments	10%	10%	10%	11%	13%	12%	15%	12%	13%
Permanent Disability	12%	26%	20%	24%	21%	34%	16%	25%	20%
TD & salary continuation in lieu of TD	77%	62%	70%	64%	66%	54%	68%	62%	67%

Note: Due to rounding, percentages may exceed 100%.

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.

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 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.

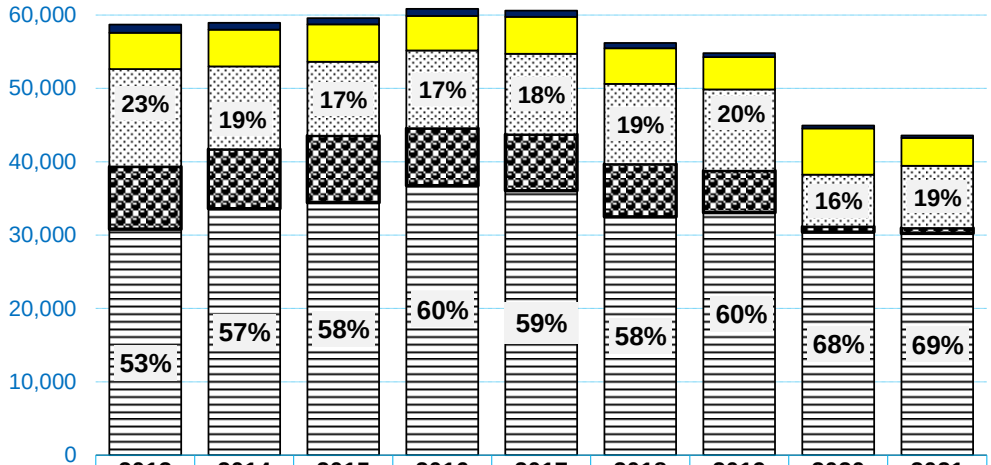
A permanent disability can range from 0 to 100 percent. Zero percent signifies no reduction of earning capacity, while 100 percent represents permanent total disability. A rating between 0 and 100 percent represents a partial loss of earning capacity. Partial permanent disability correlates to the number 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 76 illustrates DEU's workload from 2013 to 2021 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 by 28 percent between 2016 and 2021, including a 20 percent decrease from 2019 to 2021. The combined share of consultative ratings in total ratings increased from 67 percent in 2013 to 71 percent in 2021 as the share of non-walk-in consultative ratings increased overall from 53 percent in 2013 to 69 percent in 2021. The share of non-walk-in consultative ratings increased, although its yearly numbers decreased by 18 percent in the last six 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 28 percent from 2016 to 2021. The number of summary ratings by panel QMEs fell overall by 17 percent from 2013 to 2019 and again by 36 percent from 2019 to 2020 before increasing by 20 percent from 2020 to 2021. The number of summary ratings by treating doctors decreased by 11 percent from 2013 to 2019, increased by 43 percent from 2019 to 2020 and then decreased sharply by 40 percent from 2020 to 2021. From 2013 to 2020, the number of formal ratings, the smallest component of DEU written ratings, fell by more than three-fold.

Figure 76: DEU Written Ratings, 2013-2021



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Formal Ratings	1,093	934	863	966	839	715	561	379	338
Summary-Treatng Doc	4,948	5,025	5,100	4,692	5,035	4,861	4,389	6,296	3,802
Summary - Panel QME	13,290	11,277	10,069	10,607	10,978	10,923	11,067	7,084	8,474
Consultative - Walk-In	8,539	8,089	9,127	7,815	7,689	7,194	5,722	759	746
Consultative - Other	30,808	33,618	34,420	36,749	36,044	32,497	33,065	30,404	30,219
TOTAL	58,678	58,943	59,579	60,829	60,585	56,190	54,804	44,922	43,579

Data Source: DWC Disability Evaluation Unit

Table 17 shows the number of ratings issued in 1997, 2005, and 2013 by type and rating schedules in effect.

Table 16: DEU Ratings in 2021 by Type and Year when the Rating Schedules Took Effect

Type of Rating	1997	2005	2013
Summary rating based on QME report	26	3,396	5,052
Summary rating treating based on physician report	3	1,710	2,089
Walk-in consultative ratings	14	265	467
Other consultative ratings	447	14,248	15,524
Formal ratings requested by judge	18	138	182
TOTAL	**508**	**19,757**	**23,314**
Percent of each rating schedule in effect in grand total number of ratings (=43,579)	1.2%	45%	53%

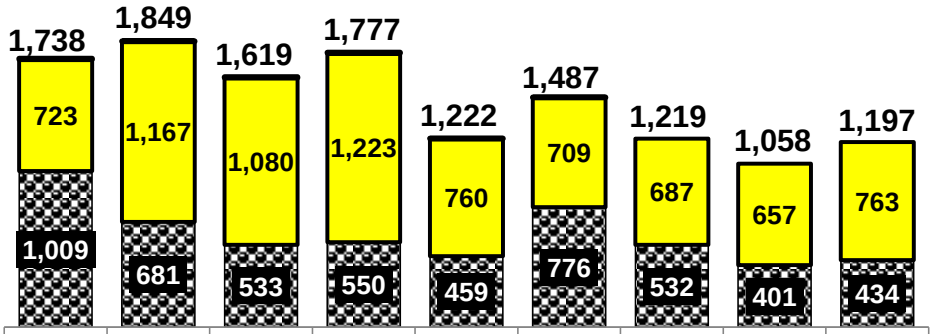
Data Source: DWC Disability Evaluation Unit

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 77, 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 total backlog from 2019 to 2021 stabilized at an average of 1,160 yearly backlogs. 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 and was the smallest since 2013.

Figure 77: Number of DEU Backlogs by Type



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Formal Ratings	6	1	6	4	3	2	0	0	0
Consult Ratings	723	1,167	1,080	1,223	760	709	687	657	763
Summary Ratings	1,009	681	533	550	459	776	532	401	434
TOTAL BACKLOG	1,738	1,849	1,619	1,777	1,222	1,487	1,219	1,058	1,197

Data Source: DWC Disability Evaluation Unit

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 1,385 commutations, averaging 115.4 commutation calculations per month in 2021.

Table 17: Number of DEU Commutations, 2015-2021

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

Staffing

Current DEU staffing levels are 40 Disability Evaluators (37 WCC and 3 WCA positions), with 2 vacancies in the hiring process, 3 supervisors, and 1 unit manager. DEU is supported clerically by staff assigned to the Adjudication Unit.

Impact of COVID-19 Pandemic

In March 2020 WCAB offices suspended hearings, with offices eventually opening to teleconferences. Claims administrators also incurred similar disruption with office closures and staff teleworking. The vast majority of DEU Staff teleworked throughout 2021. The general economy continued to be slower as a result

of COVID-19. Backlogs and ratings issued remained fairly constant between 2020 and 2021, although ratings issued in 2021 were down 20.5 percent compared to 2019. WCAB reopened public counters July 20, 2021 and returned to in person hearings October 1, 2021 for trials and expedited hearings. DWC continued to hear telephonically and to utilize the Lifesize video platform for all conferences through the end of 2021.

DIVISION OF WORKERS' COMPENSATION MEDICAL UNIT

The Medical Unit 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 Medical Unit 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 Medical Unit also reviews, certifies, monitors, and evaluates Health Care Organizations (HCOs) and Medical Provider Networks (MPNs). Additionally, the Medical Unit 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 Medical Unit recommends reasonable fee levels for various medical fee schedules.

Qualified Medical Evaluator Panels

DWC composes panels of three qualified medical evaluators (QMEs) from which an injured worker without an attorney can select an evaluator with a requested specialty to resolve a medical dispute. 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, allows the claims administrator to request a panel in an unrepresented case if the injured worker failed to do so within 10 days. 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. Additionally, this reform created a new framework for resolving current medical treatment disputes through an independent medical review (IMR) process. QMEs are also now limited to ten offices and can no longer be certified for an unlimited number of locations.[126]

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. An online system was implemented on October 1, 2015 to expedite the assignment of initial panels in represented cases. WCAB decisions such as the Romero decision (2007), the Messele decision (2011), and the Navarro decision (2014) also contributed to an increase in panel requests. These changes have contributed to the increase in the number of QME panels in pre-pandemic period.

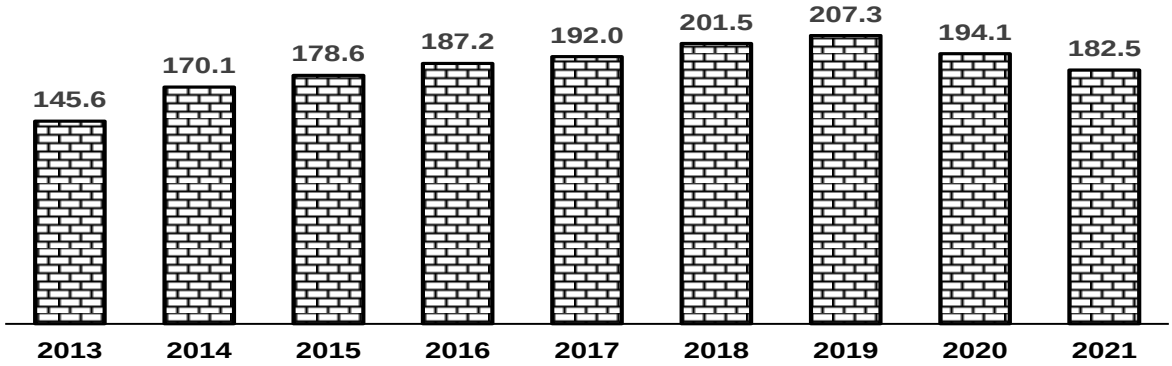
[126] This was part of the SB 863 reforms intended to prevent a small number of QMEs from being assigned a disproportionate number of panels by listing a large number of locations for exams. https://www.dir.ca.gov/chswc/reports/2017/QME_2017_Trends.pdf.

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 to represented cases with dates of injury on or after January 1, 2005. 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.[127] In a represented case, the parties mail Form 31.7[128] by jointly 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.[129] Form 31.5[130] must be mailed to the medical unit for processing, whether the case is represented or unrepresented.

QME Panel Requests

Figure 78 shows the total number of QME Panel Requests as defined above. With Panel Request counts rising in 2014, their volume increased by about 17 percent from 2013 to 2014. From 2014 to 2019, the number of QME Panel Requests increased steadily, by 22 percent. There was a 12 percent decrease in the number of QME Panel Requests from 2019 to 2021.

Figure 78: Number of Qualified Medical Evaluator (QME) Panel Requests (Thousand)



Note: Data for 2013 were incomplete and are missing a full count of all requests received.

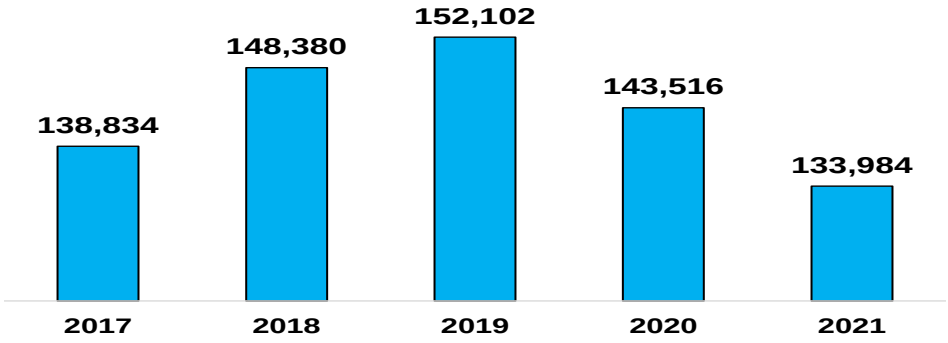
Source: DWC

QME Panels Assigned[131]

According to Figure 79, the total number of QME panels assigned increased by 9.6 percent from 2017 to 2019 and then decreased overall by 12 percent from 2019 to 2021, including a 7 percent decrease from 2020 to 2021.

[127] Obtaining Additional QME Panel in a Different Specialty, https://www.dir.ca.gov/t8/31_7.html.
[128] QME Panel Request Form 31.7, https://www.dir.ca.gov/dwc/FORMS/QMEForms/QMEForm31_7.pdf.
[129] QME Replacement Request, https://www.dir.ca.gov/t8/31_5.html.
[130] Replacement QME Panel Request Form 31.5, https://www.dir.ca.gov/dwc/FORMS/QMEForms/QMEForm31_5.pdf.
[131] The data on QME panels was provided by DWC Medical Unit as based on reports run on September 27, 2022.

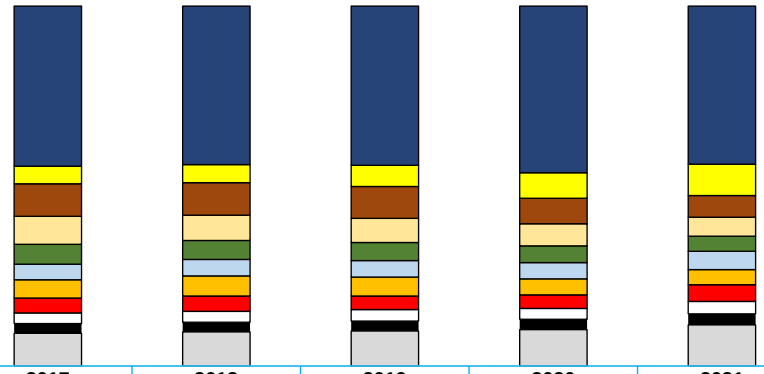
Figure 79: Total Number of QME Panels Assigned for 31 Specialties, 2017-2021



Data Source: DWC - Medical Unit

Figure 80 shows the yearly distribution of QME panels assigned by specialty from 2017 to 2021. The top 10 specialties out of a total of 31 QME specialties, demonstrated in Figure 80, account for close to 90 percent of all QME panels. The top four specialties, including orthopedic surgery, chiropractors, pain medicine, and spine specialties account for almost two-thirds or a yearly average of 65.5 percent of all QME panels from 2017 to 2021.

Figure 80: Distribution of QME Panels Assigned by top 10 QME Specialties, 2017-2021



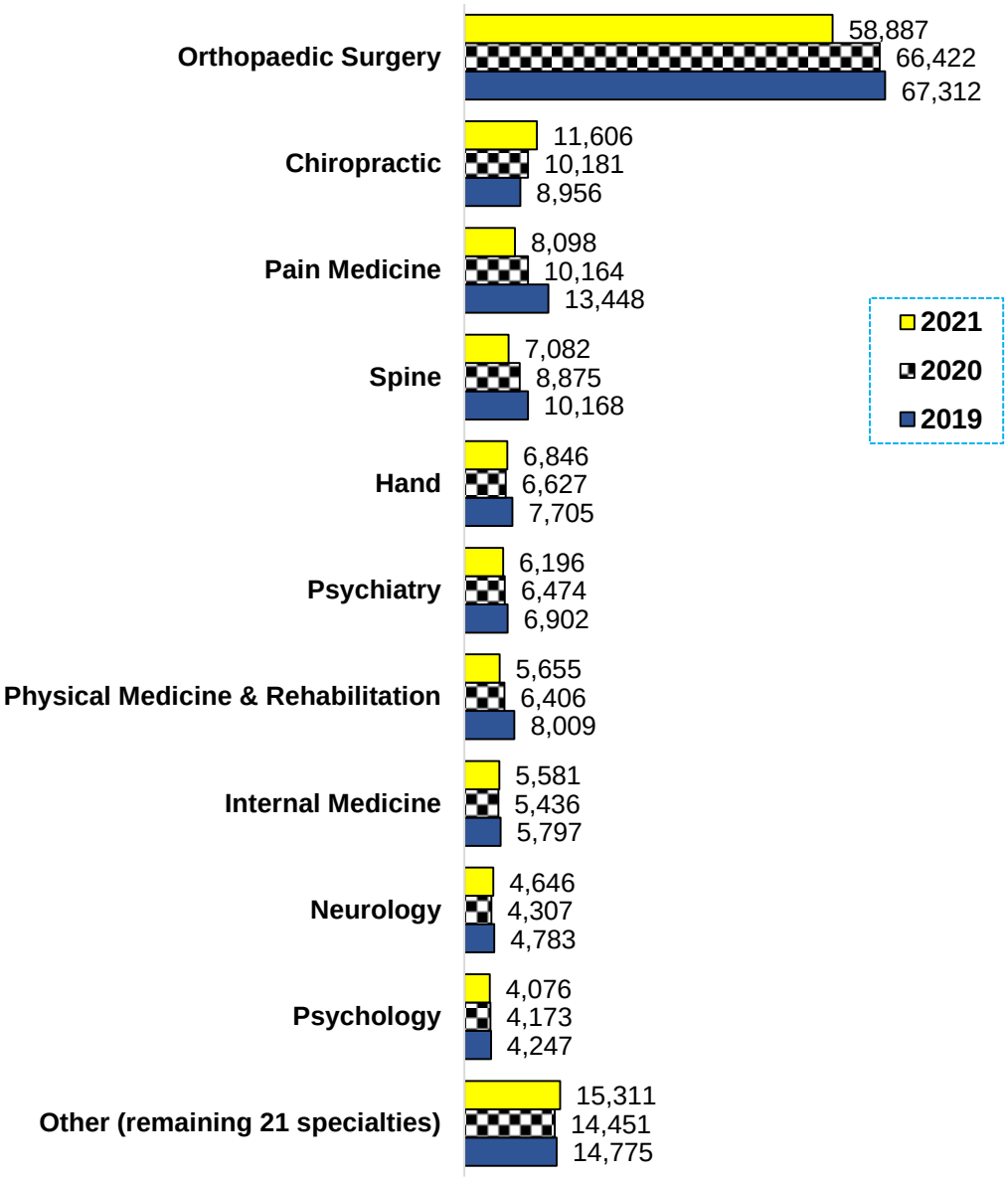
	2017	2018	2019	2020	2021
Orthopaedic Surgery	44.5%	44.0%	44.3%	46.3%	44.0%
Chiropractic	4.9%	5.0%	5.9%	7.1%	8.7%
Pain Medicine	9.1%	9.0%	8.8%	7.1%	6.0%
Spine	7.8%	7.1%	6.7%	6.2%	5.3%
Hand	5.5%	5.2%	5.1%	4.6%	4.2%
Psychiatry	4.3%	4.6%	4.5%	4.5%	5.1%
Physical Medicine & Rehabilitation	5.1%	5.5%	5.3%	4.5%	4.2%
Internal Medicine	4.2%	4.3%	3.8%	3.8%	4.6%
Neurology	2.9%	3.0%	3.1%	3.0%	3.5%
Psychology	2.7%	2.7%	2.8%	2.9%	3.0%
Other (remaining 21 specialties)	9%	9%	10%	10%	11%

Data Source: DWC-Medical Unit

Figure 81 shows the total number of QME panels assigned by specialty in 2019, 2020, and 2021. The prevailing majority of the QME panels in 2019-2021 were assigned for orthopedic surgeries followed by chiropractic, pain medicine, and spine specialties. A steady decrease in QME panels assigned from 2019 through 2021 was experienced in pain medicine (-40 percent), spine (-30 percent), physical medicine and rehabilitation (-29 percent), orthopedic surgery ((-13 percent), psychiatry (-10 percent), and psychology (-4

percent) specialties. Hand, internal medicine, neurology, and other specialties experienced a decrease from 2019 to 2020 followed by an increase from 2020 to 2021 in the number of QME panels assigned. Only chiropractic specialty showed an uninterrupted increase of 30 percent in QME panels assigned from 2019 to 2021.

Figure 81: Number of QME Panels Assigned by Top 10 QME Specialties, 2019, 2020, and 2021



Data Source: DWC-Medical Unit

Online and Mailed QME Panel Requests and QME Panels Assigned

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 82 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 2021, about 75 percent of the online panel applications were assigned panels, and 25 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 2021, the number of represented panel requests increased by close to 3 percent.

Figure 82: Online QME Panel Requests Submitted and Requests Assigned Panels

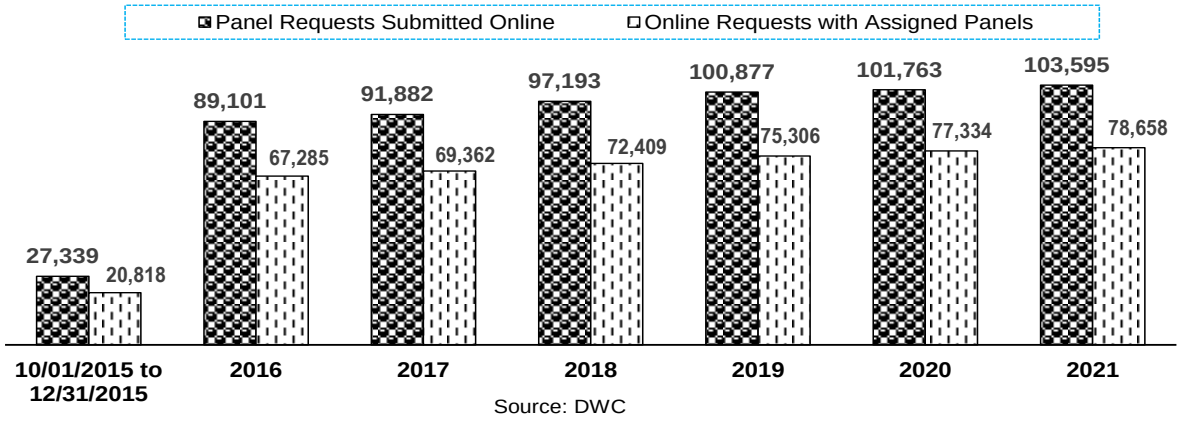


Figure 83 shows the number of rejected on-line panels that comprise about 25 percent yearly as it was described in relation to Figure 82. After reaching 21,800 in 2016 the number of rejected on-line panels increased by 14 percent from 2016 to 2018 and then averaged about 25,000 from 2018 to 2021.

Figure 83: On-Line QME Panel Requests Rejected at Submission

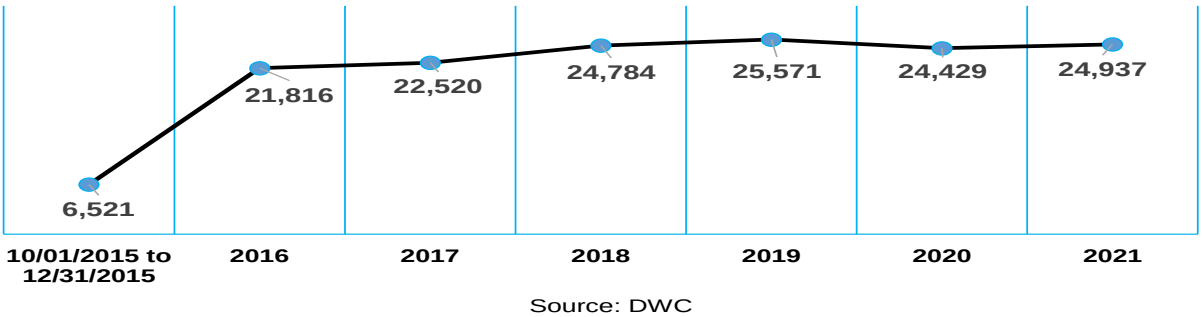
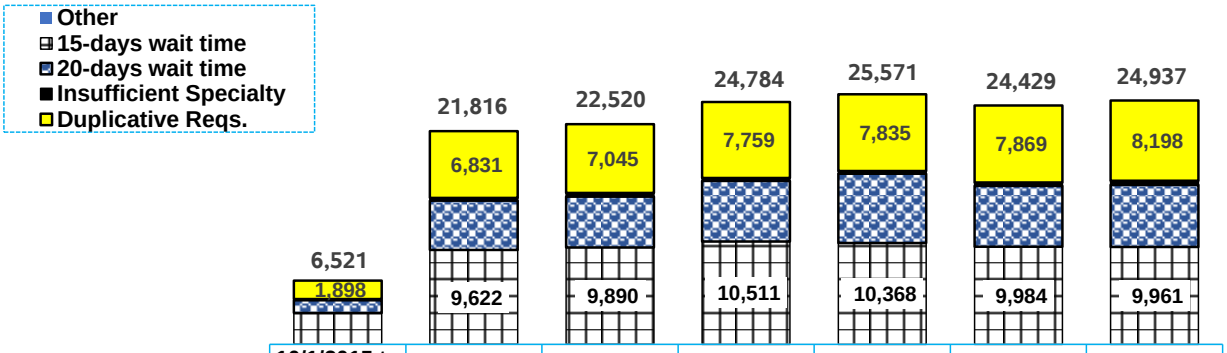


Figure 84 demonstrates the number of rejected online panels by reasons of rejection. The bigger components of the rejected online QME requests such as noncompliance with 15- or 20-day waiting times or premature requests (67 percent), and duplicative requests (31 percent) increased from 2016 to 2019 as 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. Rejections of online duplicative requests increased by 5 percent from 2020 to 2021.

Figure 84: Number of Rejected On-Line QME Panel Requests by Rejection Reasons



	10/1/2015 to 12/31/2015	2016	2017	2018	2019	2020	2021
Duplicative Reqs.	1,898	6,831	7,045	7,759	7,835	7,869	8,198
Insufficient Specialty	112	296	370	319	280	372	434
20-days wait time	1,294	5,049	5,192	6,186	7,085	6,202	6,337
15-days wait time	3,195	9,622	9,890	10,511	10,368	9,984	9,961
Other	22	18	23	9	3	2	7
Total	6,521	21,816	22,520	24,784	25,571	24,429	24,937

Source: DWC

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 8CCR section 31.7; requests for replacement of one or more QMEs on the panel list that meets the provision in Title 8CCR section 31.5; requests for a panel ordered by a WC Administrative Law Judge.

Figures 85 and 86 display the panel counts received by mail.

According to Figure 85, the number of QME panel requests received by the Medical Unit by mail decreased by 35 percent from 2015 to 2016 and then increased by about 9 percent from 2016 to 2019. From 2019 to 2021, the QME panel requests received by mail decreased by 26 percent.

Figure 85: Number of QME Panel Requests Received by Mail (Thousand)

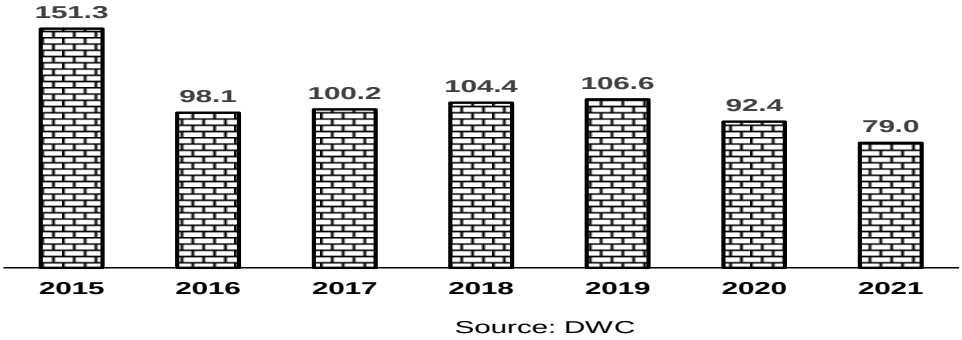


Figure 86 shows the count of mailed QME requests received by the MU and processed and issued panels or rejected from 2015 to 2021. On average, 70 percent of all processed requests are assigned panels yearly. The MU has 30 calendar days to issue a panel in represented cases.

Figure 86: Mailed QME Requests Processed by MU and Assigned Panels or Rejected (Thousand)

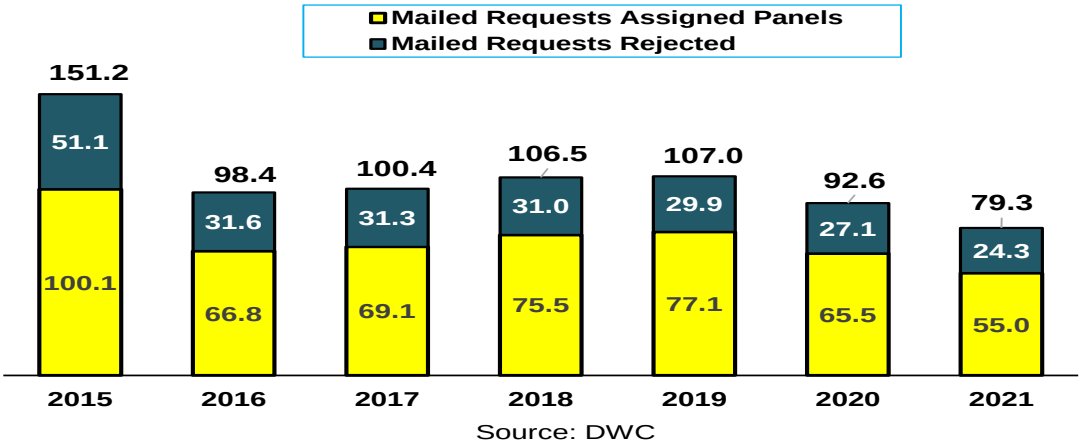
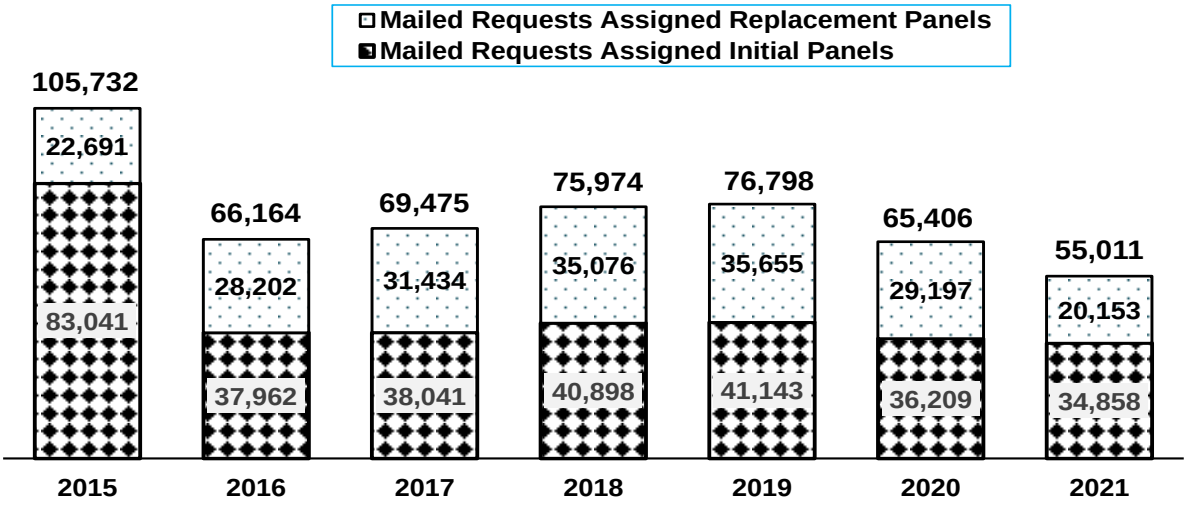


Figure 87 shows that the total number of QME requests assigned panels by MU decreased by 37 percent from 2015 to 2016, with the implementation of the online panel submissions from October 1, 2015, and then increased steadily by 16 percent from 2016 to 2019. There was a 15 percent decrease in assigned panels from 2019 to 2021 followed by an additional 16 percent decrease from 2020 to 2021. On average, about 55 percent of mailed QME requests were assigned the initial panels from 2016 to 2020, which increased to 63 percent in 2021.

Count of replacement panels averaged 35,366 in 2018 and 2019 (in pre-pandemic period) and then decreased sharply in the next two years, reaching 20,153 in 2021. In 2020 and 2021, the MU adopted an emergency regulation 46.2 that was in effect from May 14, 2020 to January 12, 2021.[132] 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.

[132] https://www.dir.ca.gov/DIRNews/2020/2020-43.html.

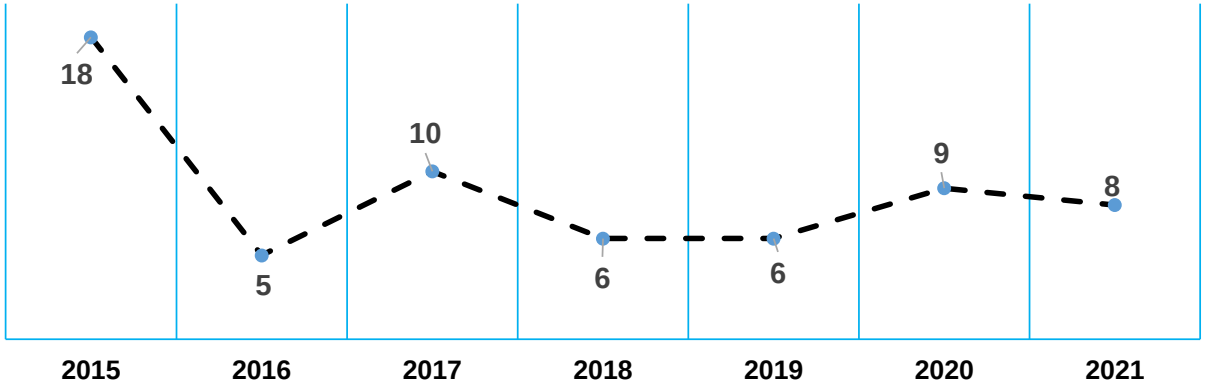
Figure 87: Mailed QME Requests Assigned Initial or Replacement Panels



Source: DWC

Figure 88 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. After reaching 18 days in 2015, the number of days required to process the panels from date of receipt to assigned date averaged 7 days from 2016 to 2021.

Figure 88: 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 available to employers or claims administrators to ensure treatment recommendations for injured workers are medically necessary. UR may apply to prospective, retrospective, or concurrent requests for authorization of treatment and 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 the MTUS is also a drug formulary (effective January 1, 2018) which DWC adopted to implement Assembly Bill 1124. The 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 named 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.

UR investigations, like audits, 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 they include a rationale?
3. Were the decisions 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.

According to Table 18, $94,450 was assessed in penalties after completing 10 UR investigations in 2021 and $175,700 in penalties after 17 investigations were completed in 2020. According to the Medical Unit, because UR investigations are done through random selection of UROs and files, penalty assessment results can vary significantly from year to year.[133]

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

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. Among other provisions, 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 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.

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. The system is still in the process of being built.

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 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. Plans are underway to develop an improved version of the current electronic DFR.

[133] The information was provided by the Medical Unit in September 2022.

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 and DFR is at:
https://www.dir.ca.gov/dwc/DWCWCABForum/UR-Regulations.htm.

Information on Electronic Reporting System for Doctor's First Report 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 tenth year. The volume of IMR application filings had previously held steady year to year for several years. In 2021, the Independent Medical Review Organization (IMRO) received a total of 178,931 applications, 3 percent fewer than previous year (184,100). As in previous years, approximately one in five applications (18.6 percent) duplicated an application previously received. After duplicate applications were subtracted, the number of "unique" applications received totaled 145,692 for the year.

In the first eight months of 2022 (January through August), the IMRO received 115,128 applications for IMR, consistent with the 14,600 average monthly application filings in 2021. Figure 89 shows the annual numbers of IMR applications with duplicates, the number of unique medical review requests, and IMR determinations between 2013 and the first eight months of 2022.

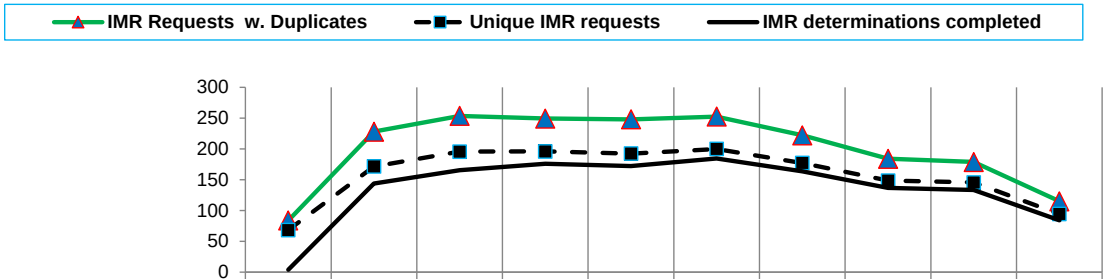
Over 2 million applications for IMR were filed (2,016,554) in the first nine years and eight months of the program (January 2013 through August 2022). By the end of 2013, the first year of the program, 83,921 IMR applications were received. From 2014 to 2019, the number of IMR applications received ranged from 222,200 to 253,800 each calendar year. Filings decreased 12 percent from 2018 to 2019 and 17 percent from 2019 to 2020 and went down only 3 percent from 2020 to 2021. Based on the number of filings in the first eight months of the current year (115,128), the total number of applications received in 2022 is projected to be equivalent to the total for 2021.

The number of unique IMR requests received from January 2013 through August 2022 totaled 1,590,126. The number of IMR determinations completed from January 2013 through August 2022 totaled 1,364,205.

The total number of IMR decisions issued per year increased each of the first four years of the program. Since 2016, when the total number reached 176,000, the number of issued decisions has fluctuated. In 2021, 133,404 decisions were issued, a two percent decrease from 2020, when the IMRO issued 136,740 decisions.

Figure 89: Number of Independent Medical Review Requests Received and Determinations Completed, 2013 –2022 (January-August)

(Thousand)

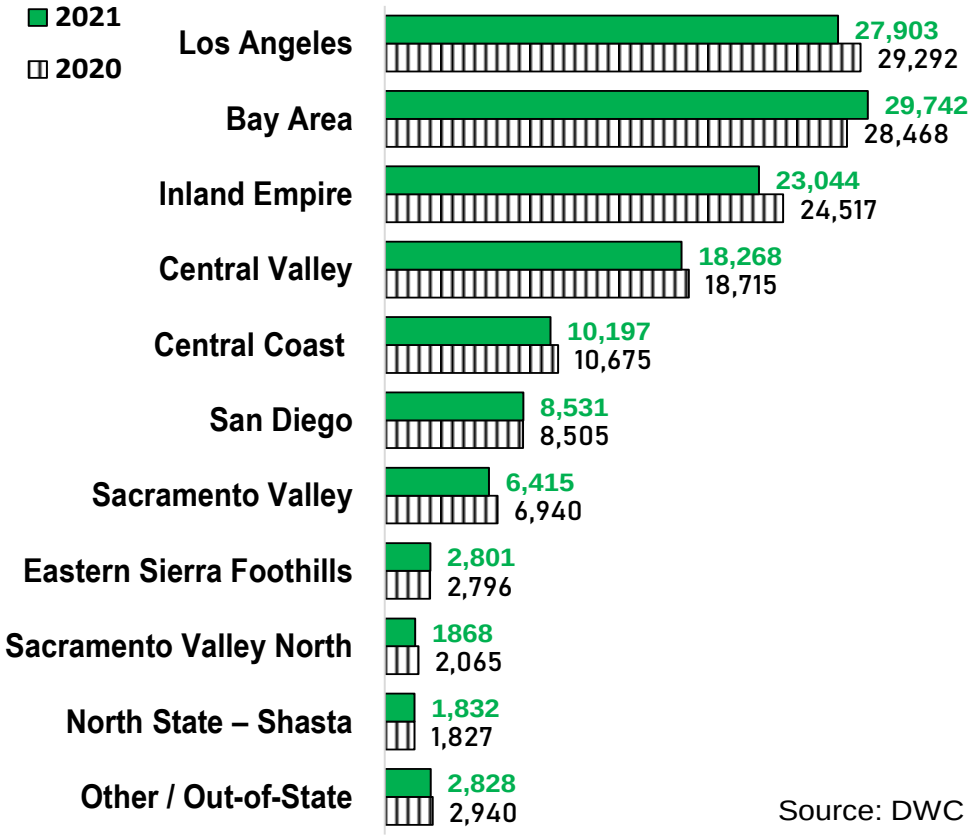


	2013	2014	2015	2016	2017	2018	2019	2020	2021	Jan-Aug 2022
IMR Requests w. Duplicates	83.9	228.2	253.8	249.4	248.3	252.6	222.2	184.1	178.9	115.1
Unique IMR requests	68.3	171.7	195.7	196.1	192.5	200.0	177.2	148.7	145.7	94.3
IMR determinations completed	3.7	144.0	165.5	176.0	172.2	184.7	163.8	136.7	133.4	84.1

Data Source: DWC

Figure 90 shows the number of IMR case decisions issued in 10 regions of California in 2020 and 2021. Southern California accounted for about 46 percent of all IMR decisions in both 2020 and 2021.

Figure 90: IMR Case Decisions Issued by Region in 2020 and 2021
(Total in 2020=136,740 and 2021=133,429)



Source: DWC

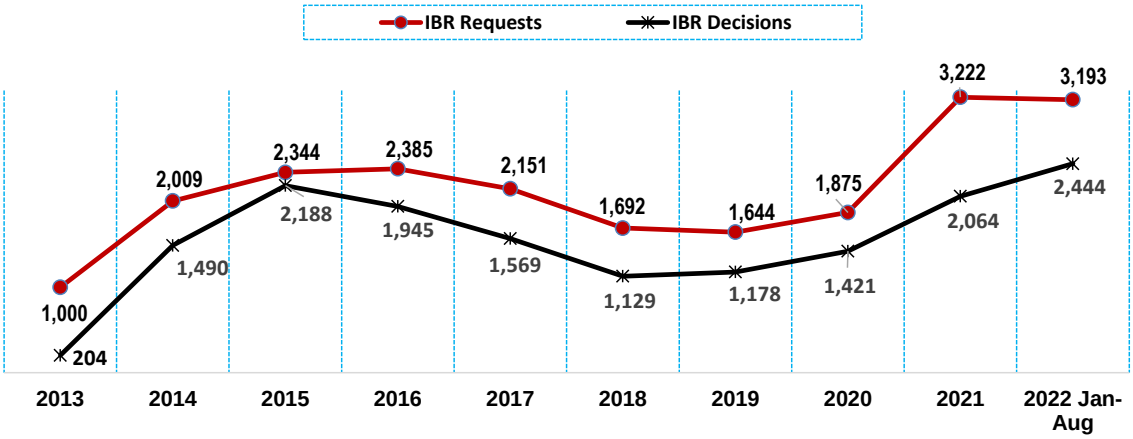
For further information …
DWC, "2021 Independent Medical Review (IMR) Report: Analysis of 2020 Data" (2021).
https://www.dir.ca.gov/dwc/IMR/reports/IMR-Annual-Report.pdf

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 91 shows the yearly numbers of IBR requests received and IBR decisions completed between 2013 and the first eight months of 2022. 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. The total number of IBR requests increased by 14 percent from 2019 to 2020 and then - by an additional 72 percent from 2020 to 2021. Based on the number of filings in the first eight months of 2022 (3,193), it could be expected to be the most IBR applications filed in the whole period included in the report. As of August 2022, the number of IBR requests received totaled 21,515, and the number of decisions completed totaled 15,632 or about 73 percent of all requests had been resolved.

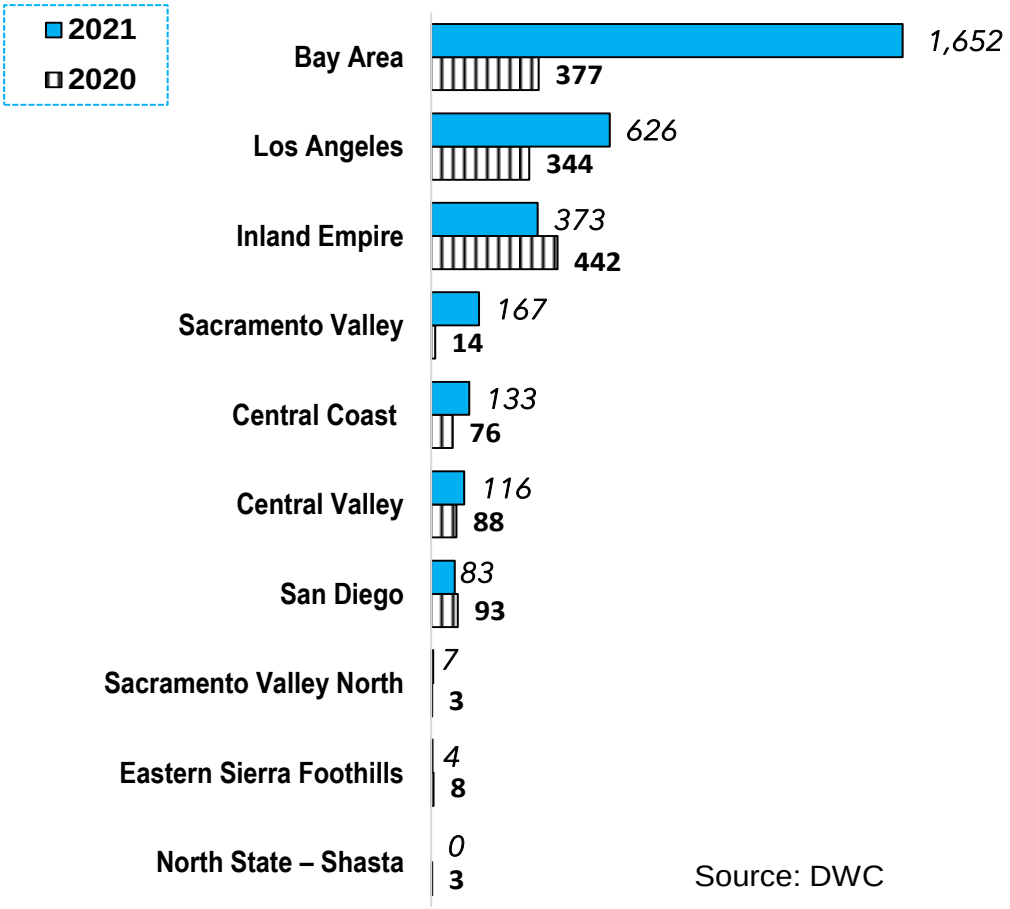
Figure 91: Number of Independent Bill Review Requests and Decisions, 2013–2022



Data Source: DWC

Figure 92 shows the number of IBR applications filed in 10 regions of California in 2020 and 2021. The Bay Area comprised 52 percent and all Southern regions – 34 percent of total IBR applications filed in 2021.

Figure 92: Number of IBR Applications Filed, by Regions in 2020 and 2021 (Total for 2020=1,875 and 2021=3,161)



Medical Provider Networks and Health Care Organizations[134]

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,[135] 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.

[134] The information in this section was provided by DWC Medical Unit, with minor edits by CHSWC staff.
[135] Based on the WCIRB annual report *California Workers' Compensation Losses and Expenses* Report, prepared pursuant to the California Insurance Code, Section 11759.1.

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.

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.

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. Except in cases in which an MPN application was approved prior to January 1, 2014, the material modification must include all updates to ensure that the MPN complies with the current regulations.

Applications Received and Approved

Table 20 summarizes the number of MPN activities from their inception in November 1, 2004, to December 31, 2020. During this time, the MPN program received 2,668 MPN applications. Of these, 53 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, 2021, 2,467 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 eight (408) 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 seven hundred and sixty seven (1,767) applications were terminated after approval. The reason for the termination was the applicant's decision to stop using the MPN. In 2021, DWC reached out to expired MPNs that were past their four-year approval period. In response, DWC received confirmation that over 61 MPNs were no longer being used and were terminated because the majority of networks were consolidated into MPNs established by an entity that provides physician network services.

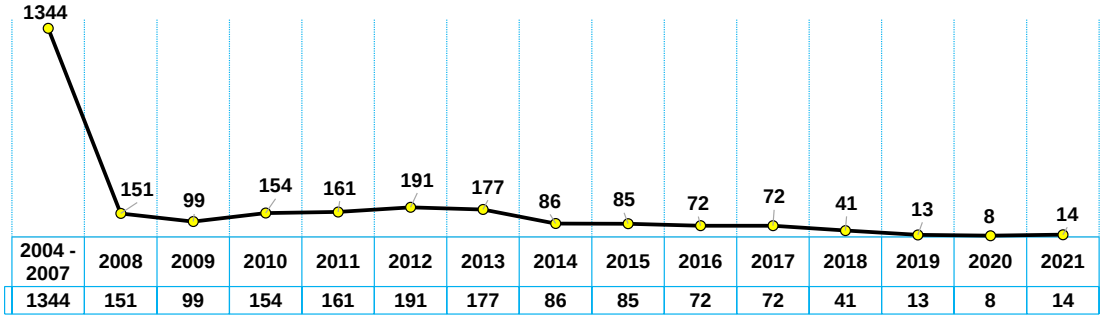
Table 19: MPN Program Activities from November 1, 2004, to December 31, 2021

MPN Application Status	Number
Received	2,668
Approved	2,467
Material Modifications	4,817
Withdrawn	408
Revoked	32
Ineligible	53
Terminated	1,767

Source: DWC

Figure 93 shows the receipt of MPN applications from 2004 to 2021. The bulk of applications, 28 percent, were received in 2005 (751). The number of applications decreased almost 10 times from 751 in 2005 to 77 in 2007 and then averaged 155 applications per year from 2008 to 2013. From 2014 to 2017, the number of MPN applications received by DWC averaged 78 applications per year, before falling to 41 applications in 2018 and then to 14 applications in 2021.

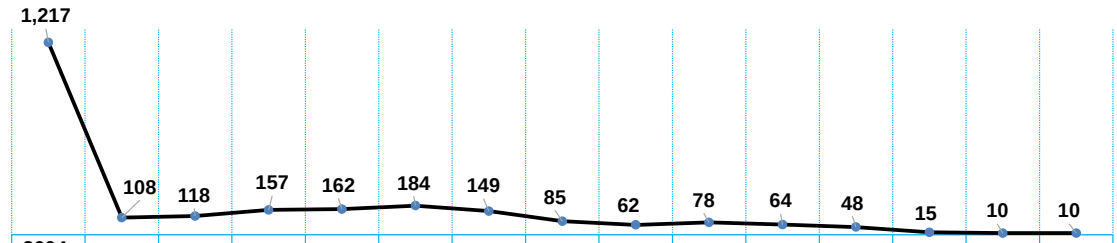
Figure 93: Number of MPN Applications Received, 2004-2021
(Total = 2,668)



Source DWC

Figure 94 shows the MPN applications approved from 2004 to 2021. To recap, about 41 percent (994) of MPN applications were approved in 2005. As the number of MPN applications decreased 10-fold from 2005 to 2007, the number of approved applications decreased accordingly. From 2008 to 2013, the number of approved MPN applications averaged 146 per year, decreased by 43 percent from 2013 to 85 approvals in 2014 and then steadily decreased to 10 approvals per year in 2020 and 2021.

Figure 94: Number of MPN Applications Approved, 2004-2021
(Total = 2,467)



2004-2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
1,217	108	118	157	162	184	149	85	62	78	64	48	15	10	10

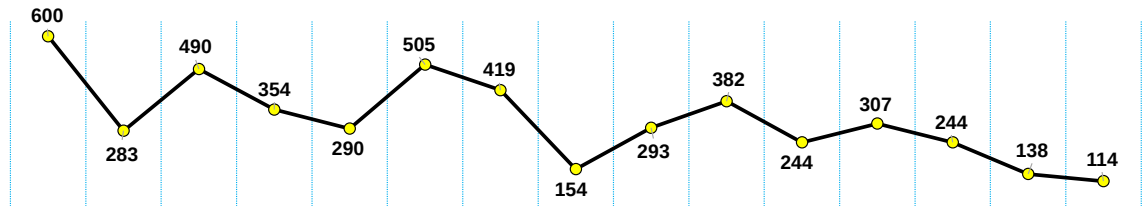
Source: DWC

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 95 shows the number of material modification filings received by DWC from 2005 to 2021. The number of material modifications received increased from 65 to 357 from 2005 to 2007 (the time range is not detailed by yearly data on Figure 95) and then fluctuated between 280 and 500 from 2008 to 2013. After the SB 863 changes took effect in 2014, the number of material modification filings decreased by 63 percent from 2013 to 154 in 2014, fluctuating between 240 and 380 per year from 2016 to 2019 and then decreased to an average of 126 in the last two years.

Figure 95: Number of MPN Material Modifications Received, 2005-2021
(Total = 4,817)



2005-2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
600	283	490	354	290	505	419	154	293	382	244	307	244	138	114

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 21 shows the number of MPN approved plans that will require a filing for a plan for reapproval through 2025. 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, 2025

Quarter	2021	2022	2023	2024	2025
Q1	0	19	16	17	37
Q2	0	15	16	71	38
Q3	0	16	22	17	20
Q4	10	23	10	17	12
TOTAL	**10**	**73**	**64**	**122**	**107**

Source: DWC

Table 22 shows the number of MPN applications for reapprovals received and approved at DWC from 2014 through 2021.

Table 21: MPN Application Plans for Reapproval Received and Approved by Month Through December 31, 2021

		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**

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 74 percent of all MPNs, including 693 approved applicants with 21 to 77 MPNs (see Figure 96). The names of MPN applicants with 10 or more approved MPNs are shown in Table 22. ACE American Insurance Company leads with 77 MPNs, followed by Zurich American Insurance Company with 46 MPNs, and OCM Coastal Acquisition Co., LLC with 45 MPNs.

Figure 96: Distribution of Approved MPNs by Number of MPNs per Applicant, 2021 (Total=2,467)

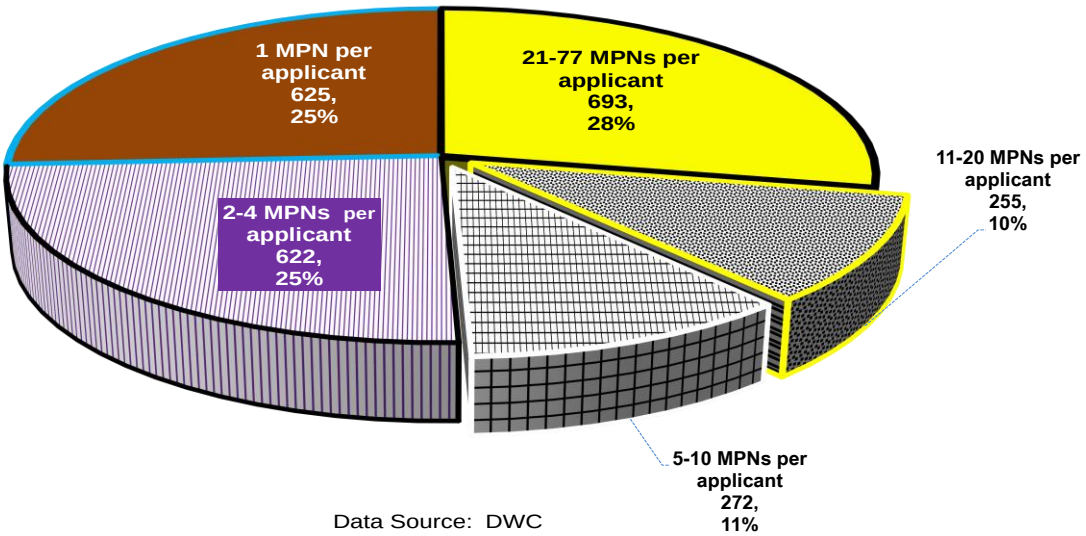


Table 22: Names of MPN Applicants with 10 or More Approved MPNs

Name of applicant	No. of MPNs
Ace American Insurance Company	77
Zurich American Insurance Company	46
OCM Coastal Acquisition Co., LLC	45
National Union Fire Insurance Company Of Pittsburgh, PA	43
American Home Assurance Company	41
Safety National Casualty Corporation	36
The Insurance Company Of The State Of Pennsylvania	35
Federal Insurance Company	35
Old Republic Insurance Company	32
Fidelity And Guaranty Insurance Company	32
Medex Healthcare	32
New Hampshire Insurance Company	31
Arch Insurance Company	29
Discover Property & Casualty Insurance Company	27
Hartford Accident And Indemnity Company	27
United States Fidelity And Guaranty Company	26
XL Specialty Insurance Company	26
American Zurich Insurance Company	25
Fidelity And Guaranty Insurance Underwriters, Inc.	25
Hartford Insurance Company Of The Midwest	21
Commerce And Industry Insurance Company	19

Name of applicant	No. of MPNs
AIG Property Casualty Company	18
Travelers Property Casualty Company Of America	18
American Guarantee And Liability Insurance Company	16
Hartford Fire Insurance Company	16
Twin City Fire Insurance Company	16
Continental Casualty Company	15
Granite State Insurance Company	15
Hartford Underwriters Insurance Company	15
Praetorian Insurance Company	14
United States Fire Insurance Company	13
Greenwich Insurance Company	13
Landmark Insurance Company	12
American Casualty Company Of Reading, Pennsylvania	11
Sentinel Insurance Company, Ltd.	11
Indemnity Insurance Company Of North America	11
The North River Insurance Company	11
Zurich American Insurance Company Of Illinois	11
Sparta Insurance Company	10
Hartford Casualty Insurance Company	10
Tokio Marine & Nichido Fire Insurance Co., LTD	10
St. Paul Fire and Marine Insurance Company	10
XL Insurance America, Inc.	10
SPARTA American Insurance Company	10

Source: DWC

Table 24 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 2021. 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 435 per year from 2015 to 2018 and then decreased to an average of 8 per year from 2019 to 2021.

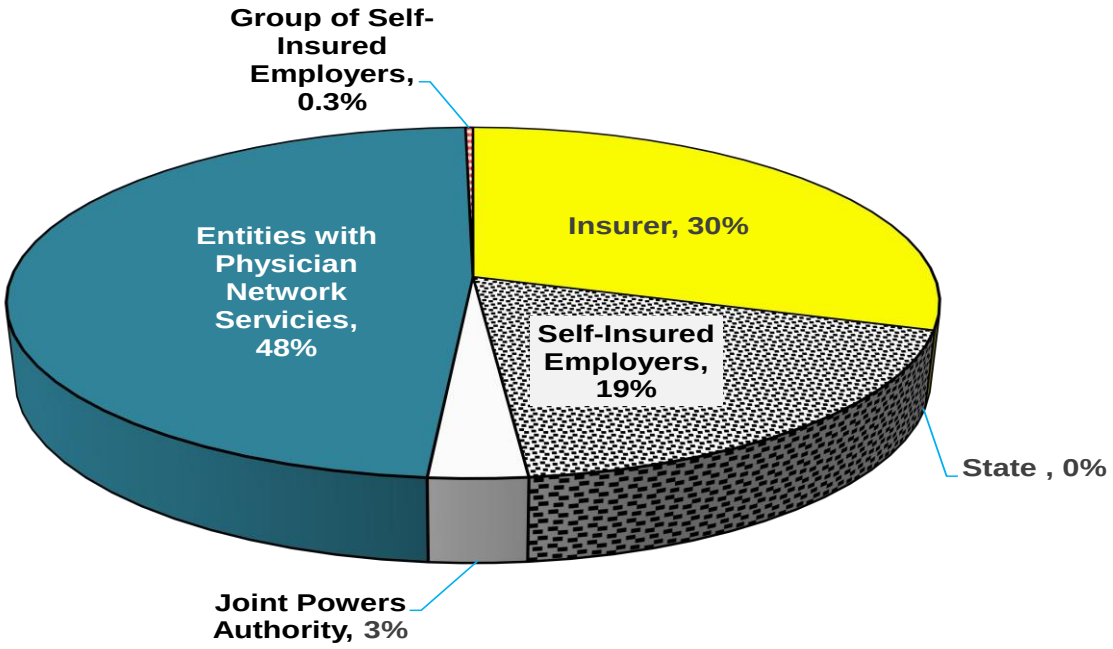
Table 23: Number of Approved MPN Applications by Type of Applicant, 2004–2021

	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**
TOTAL	**1,483**	**681**	**191**	**67**	**41**	**4**	**2,467**

Source: DWC

Figure 97 shows the distribution of MPN applications approved from 2014 through 2021 by the type of applicant when the entities providing physician network services prevailed. On average, 48 percent of approved MPN applications were submitted by entities providing physician network services, followed by 30 percent of insurer employers and 19 percent of self-insured employers.

Figure 97: Distribution of All Approved MPN Applications by Type of Applicant, 2014 - 2021



Source: DWC

MPN Plans Using HCO Networks

Health Care Organizations (HCOs) networks are used by 114 (4.3 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 2.4 percent, followed by Medex, which has a share of 1.0 percent, and CompAmerica (First Health), which has a share of 0.8 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	64	2.4%	2.6%
CompAmerica (First Health)	22	0.8%	0.9%
MedEx	26	1.0%	1.1%
Promesa	2	0.07%	0.08%
Total Using HCO	**114**	**4.3%**	**4.6%**

Source: DWC

Status of the MPN Program

The MPN program is in its fourteenth year and continues to develop as more MPNs are being used. 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

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 six certified HCOs. The list of certified HCOs and their most recent date of certification/recertification are provided in Table 26. Even though there are six certified HCOs, only three have enrollees; the remaining retain their certification and use their HCO provider network as a deemed entity network for a MPN program.

Table 25: Currently Certified HCOs by Date of Certification/Recertification, 2021

Name of HCO	Date of Certification/Recertification
Corvel Corporation	12/30/2017
First Health/CompAmerica Primary	10/05/2019
First Health/ CompAmerica Select	10/05/2019
MedEx	03/16/2019
MedEx 2	10/10/2018
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, such as First Health and Corvel, has declined considerably. The total enrollment of employees under HCOs fell by 66 percent from 481,337 in 2004 to 161,617 in December 2021. The table below shows the number of enrollees as of December 31 of each year from 2004 through 2021.

Table 26: HCOs by Number of Enrolled Employees for 2004 through 2021

	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

	MedEx / MedEx2	Kaiser Permanente On the Job	Comp Partners	Promesa	CorVel	Intracorp	Net Work	First Health Comp America Primary/ Select	Prudent Buyer (Blue Cross)	Sierra	Total
2011	61,442	76,263	4,200	19,041	467	0	0	0	0	0	161,413
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

Source: DWC

Health Care Organization Program Status

HCO enrollment has decreased by about 6 percent between 2019 and 2020. Currently, three HCOs continue to operate for the purpose of functioning as a vehicle for the provision of health care to injured workers while the remaining three HCOs exist as deemed network entities for MPN programs.

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

Since a significant update in late 2017, the MTUS treatment guidelines have been regularly updated to include the latest published treatment guidance from the American College of Occupational and Environmental Medicine (ACOEM). Since its January 2018 release, the MTUS Drug List portion of the MTUS Formulary has been 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

ACOEM Coronavirus (COVID-19) Guide

The American College of Occupational and Environmental Medicine (ACOEM) and MDGuidelines® have released a Coronavirus (COVID-19) Clinical Practice Guideline.

During 2020, the evidence base on the management of this viral disease was evolving at such a rapid pace that updates to this guideline were being published frequently. As a result, DWC waited to adopt and incorporate ACOEM's COVID-19 Guideline into the MTUS until the frequency of updates had slowed to the point that the formal California guideline adoption process could be completed. The ACOEM COVID-19 treatment guideline was formally adopted into the California MTUS in June 2021.

Other Guides were adopted in 2021, in addition to the COVID-19 Guide.

ACOEM Anxiety Disorders Guide

Formally adopted into the MTUS in July 2021.

ACOEM Low Back Disorders Guide

Formally adopted into the MTUS in November 2021.

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). In 2016, DWC introduced a free online Continuing Medical Education (CME) course for treating physicians, qualified medical examiners, physician reviewers and other health care providers, as well as anyone else interested in learning how to use the MTUS. The online course below provides an excellent introduction to the MTUS with helpful instructions on its use. 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

The online course can be found at the following website:
https://www.dir.ca.gov/dwc/OnlineEducationalModules/MTUS.htm.

Qualified Medical Evaluator (QME) Training Module

Qualified Medical Evaluators (QMEs) play a critical role in resolving disputes within the WC 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 WC system
- 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:

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.

The online courses can be found at the following website:
https://www.dir.ca.gov/dwc/CaliforniaDWCCME.htm

Learn about Apportionment and relevant case law:
https://www.dir.ca.gov/dwc/Apportionment-Webinar.htm

DIVISON 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 workers' compensation 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 2,430 calls a week on its toll-free line, 800-736-7401, or a total of 126,344 calls in 2021.

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 presentations	Workshops for injured workers attended	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	
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

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 continue 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	1	0
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

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, 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 will go back to holding the educational conference in-person. The conference will take place in Oakland on March 9-March 10, 2023 and in Los-Angeles on March 23-March 24, 2023.

Table 29: DWC Educational Conferences Attendance, 2013–2022*

		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	
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: 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.

Table 30: DWC's Information Service Center Workload

Activities	2013 to 2015	2016	2017	2018	2019	2020	2021
Incoming calls	486,170	198,232	184,463	177,281	163,119	155,072	136,354
Outgoing calls*	12,957	184	312	264	133	149	195
Calls in Spanish	36,962	13,465	12,609	11,798	11,766	9,985	10,115
Calls in Spanish for Return to Work Unit**	na	na	na	na	1,256	1,132	1,055
Calls transferred to district offices	91,714	47,271	45,851	39,514	39,102	23,969	9,646
EAMS Help Desk emails	53,147	16,208	20,025	22,594	18,724	16,009	18,326
Correspondence mailed out	15,655	5,492	4,697	4,477	3,490	3,736	4,044
NOR-related questions processed	126,195	30,243	29,547	25,045	27,381	16,730	9,648
VEST/Issue tracker of EAMS related problems	434	18	47	30	13	10	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

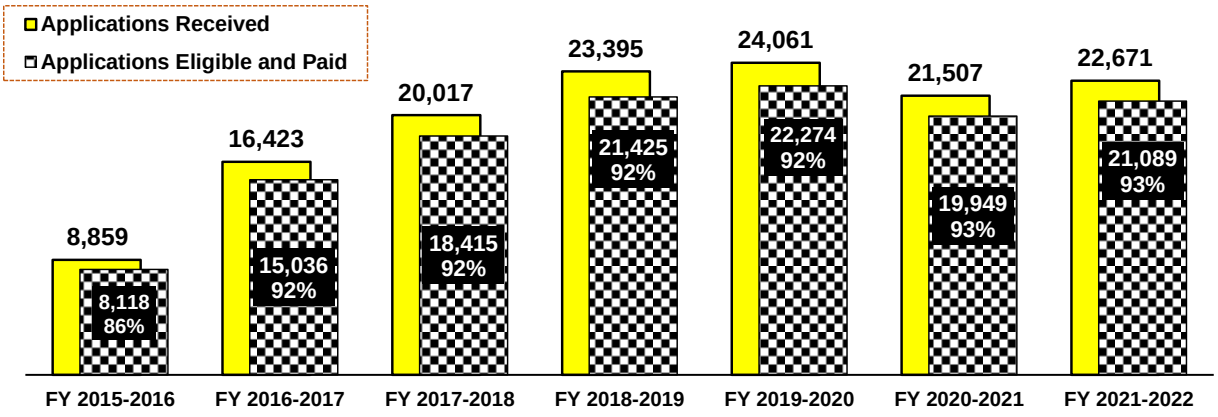
RETURN-TO-WORK SUPPLEMENT PROGRAM

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, 2017[136]. 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 98, the number of applications received almost tripled from FY 2015-2016 to FY 2019-2020, when excluding FY 2015-2016, on average 92 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 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 5 percent from FY 2020-2021 to FY 2021-2022 and the number of eligible RTWSP applications increased by 6 percent in the same period.

[136] http://www.dir.ca.gov/ODRegulations/ReturnToWorkRegulations/ReturnToWork.html; http://www.dir.ca.gov/ODRegulations/ReturnToWork/ReturnToWork.html.

Figure 98: Total RTWSP Applications Received and the Share of Applications Eligible and Paid



Source: DWC

According to Figure 98, 7-8 percent of the applications received from FY 2016-2017 to FY 2021-2022 were ineligible according to the RTWSP rules and standards. The reasons for ineligibility from FY 2016-2017 to FY 2021-2022 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.

Table 32: Duration of RTWSP Benefit Issuance

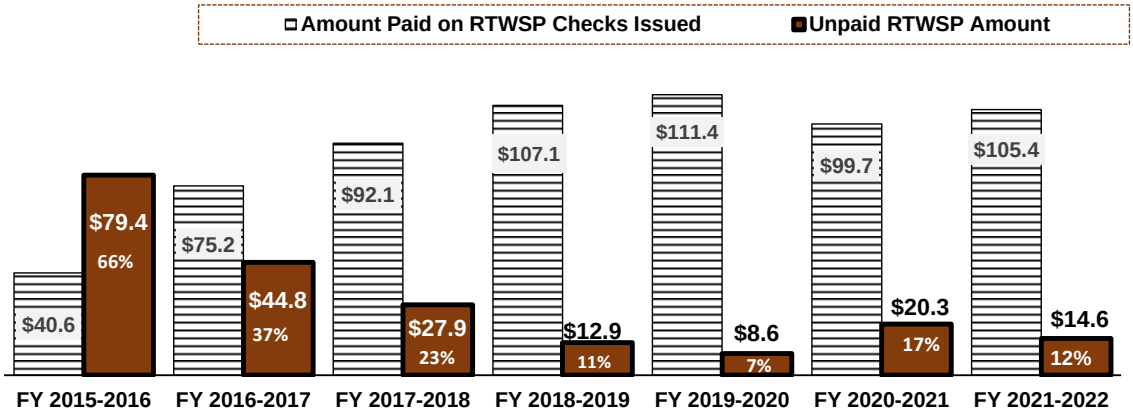
	FY 2015-2016	FY 2016-2017	FY 2017-2018	FY 2018-2019	FY 2019-2020	FY 2020-2021	FY 2021-2022
Average Days of Benefit Issuance from Application Received Date (days)	11	13	20	33	44	59	59
Average Days of Benefit Issuance from Decision of Eligibility (days)	5	5	5	5	5	5	5

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 applicant is issued a $5,000 check. Figure 99 shows that in FY 2015-2016, only 34 percent of the $120 million annual fund, or $40.6 million, was disbursed to eligible injured

workers. The amount disbursed in FY 2015-2016 increased almost 3 times to $111.4 million from FY 2015-2016 to FY 2019-2020. The share of the RTWSP that was not distributed decreased from 66 percent in FY 2015-2016 to 7 percent in FY 2019-2020.[137] During the pandemic, the amount disbursed in FY 2020-2021 decreased by 10 percent compared to FY 2019-2020, with the share of the unpaid benefit increasing from 7 to 17 percent in that period. From FY 2020-2021 to FY 2021-2022, the amount disbursed increased by 6 percent, decreasing the share of the unpaid benefit to 12 percent in the same period.

Figure 99: Amount Paid on Eligible RTWSP Applications and the Share of Unpaid Balance



Source: DWC

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

[137] 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.

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:

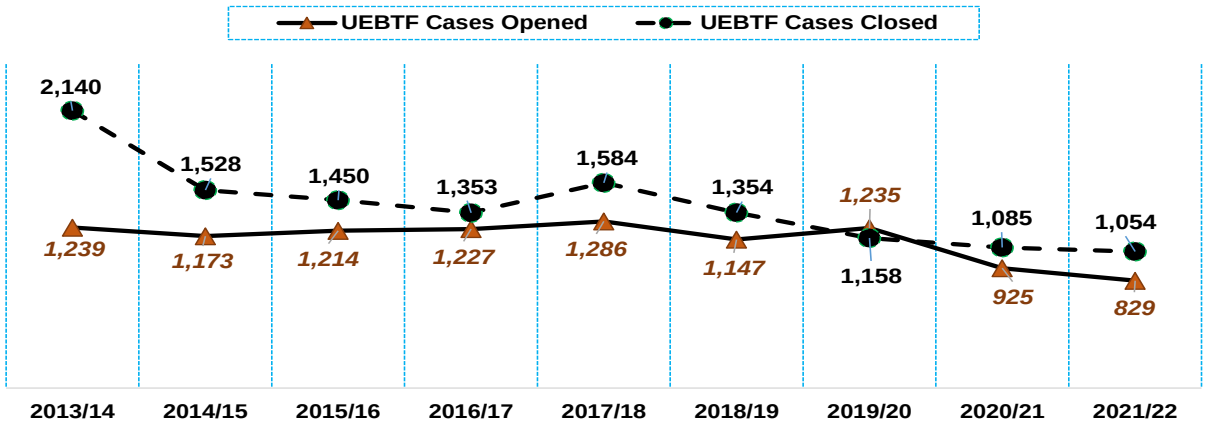
- Annual assessments on all insured and self-insured employers, required by Labor Code Section 62.5(e). According to Labor Code Section 62.5(e), the "total amount of the assessment is allocated between the employers in proportion to the payroll paid in the most recent year for which payroll information is available."[138] 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 $22.0 million for FY 2017-2018 and $21.2 million for FY 2018-2019.

- 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 100. Over the period FY 2013-2014 to FY 2021-2022, 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.

Figure 100: UEBTF Cases Opened and Closed, FY 2013-2014 to FY 2021-2022



Source: DWC

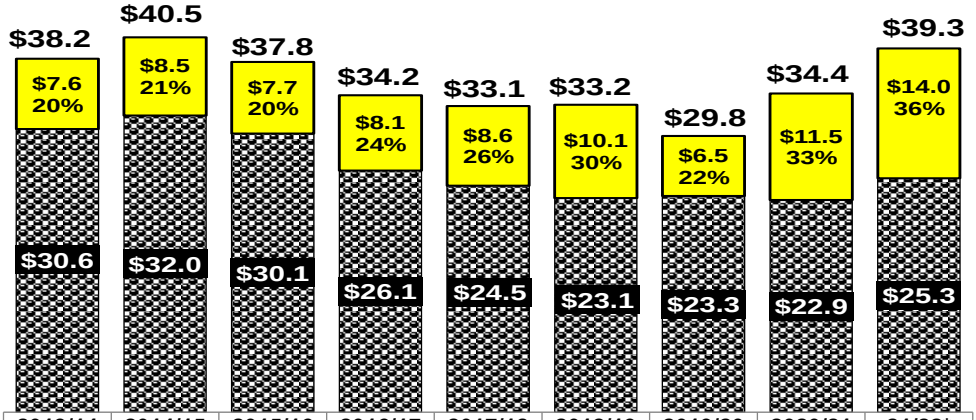
Cost of the Uninsured Employers Benefits Trust Fund

Figure 101 shows that the total amount paid on UEBTF claims decreased overall by 22 percent from FY 2013-2014 to FY 2019-2020 and then increased by 15 percent from FY 2019-2020 to FY 2020-2021. Administrative costs associated with claim payment activities fluctuated between $7.6 million and $8.5 million from FY 2013-2014 to FY 2016-2017, and then increased overall by 41 percent from FY 2016-2017 to FY 2020-2021, excluding a one-time 36 percent decrease from FY 2018-2019 to FY 2019-2020 during the COVID-19 pandemic. The share of UEBTF administrative costs increased from 20 percent of total costs

[138] Prior to the workers' compensation reforms of 2004, the funding for UEBTF came from the General Fund.

in FY 2013-2014 to 33 percent in FY 2020-2021, except for a decline in its share to 22 percent in FY 2019-2020. Amounts for FY 2021-2022 are preliminary and subject to final adjustments.

Figure 101: Payments and Administrative Costs on UEBTF Claims, FY 2013-2014 to FY 2021-2022 (in $ million)



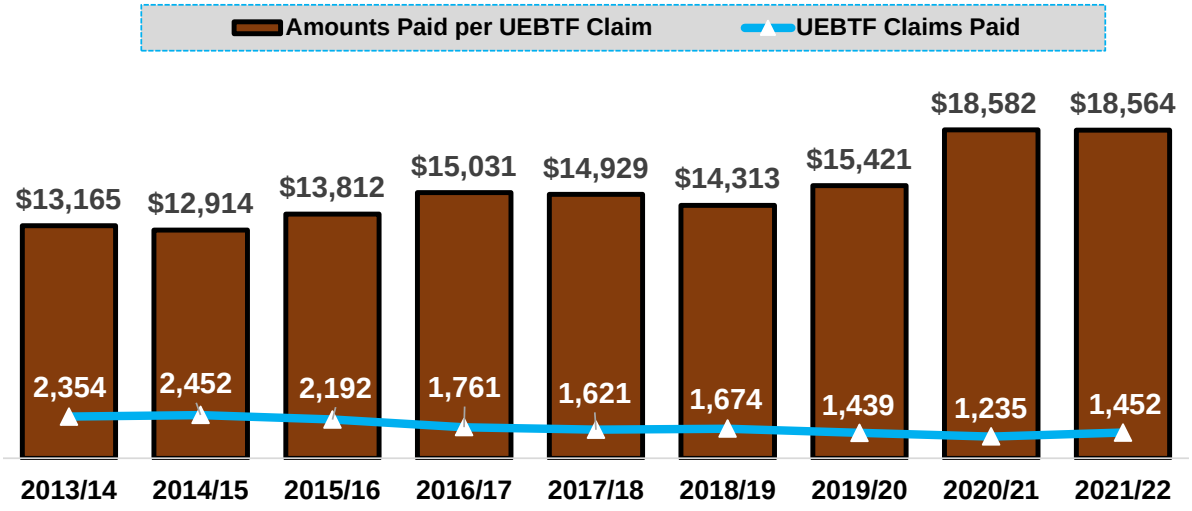
	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	21/22*
Admin. Costs	$7.6	$8.5	$7.7	$8.1	$8.6	$10.1	$6.5	$11.5	$14.0
Claims Paid	$30.6	$32.0	$30.1	$26.1	$24.5	$23.1	$23.3	$22.9	$25.3
Total Cost	$38.2	$40.5	$37.8	$34.2	$33.1	$33.2	$29.8	$34.4	$39.3

* Data for FY 2021-2022 are preliminary.

Data Source: DWC

As shown in Figure 102, 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, without changing in FY 2021-2022. As the average amount paid per UEBTF claim increased overall by 41 percent from FY 2013-2014 to FY 2021-2022, the number of unpaid claims decreased by 38 percent in the same period.

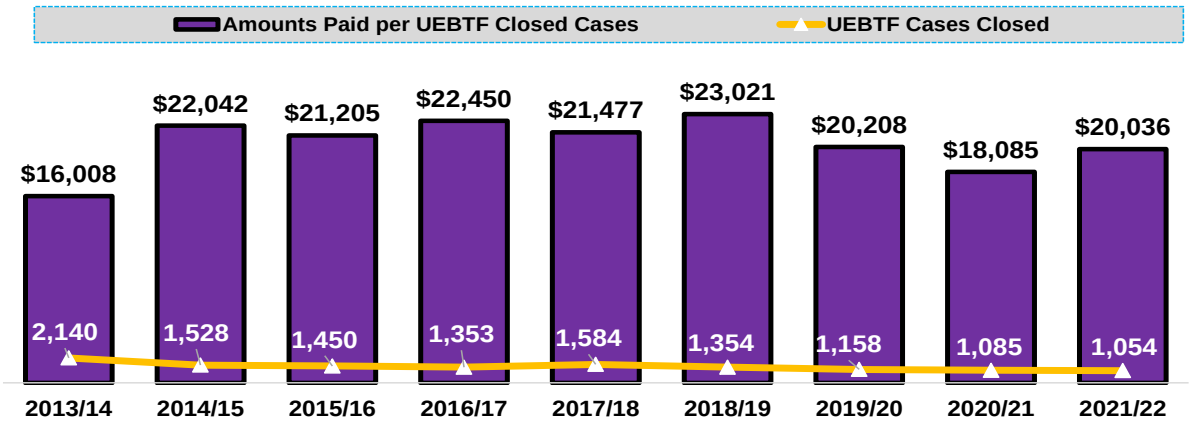
Figure 102: Average Amount Paid per UEBTF Claim and the Number of UEBTF Claims Paid, FY 2013-2014 to FY 2021-2022



Source: DWC

Figure 103 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.[139] Between FY 2013-2014 and FY 2021-2022, the average number of cases closed decreased overall by 51 percent, 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 average 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 11 percent from FY 2020-2021 to FY 2021-2022.

Figure 103: Average Amount Paid per UEBTF Closed Case and the Number of UEBTF Cases Closed, FY 2013-2014 to FY 2021-2022

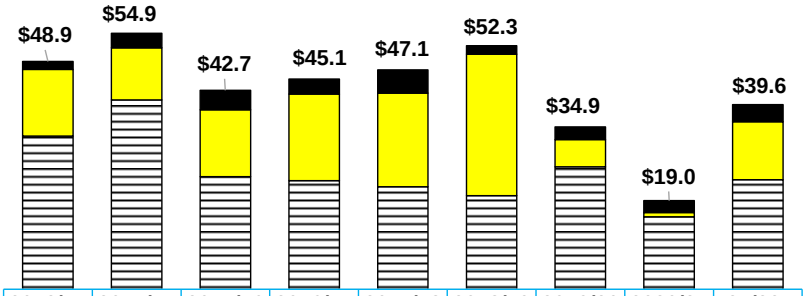


Source: DWC

Figure 104 shows 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 101. 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 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 preliminary data for FY 2021-2022 shows more than a 2-fold increase in total UEBTF revenue collected when compared to FY 2020-2021, growth expected from its all three components.

[139] 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.

Figure 104: UEBTF Revenues, FY 2013-2014 to FY 2021-2022 (in $ million)



	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	21/22*
Revenue Collected Pursuant to Labor Code Section 3717	$1.7	$3.2	$4.2	$3.2	$5.0	$1.8	$2.7	$2.5	$3.7
Fines and Penalties Collected	$14.3	$11.1	$14.3	$18.6	$20.0	$30.3	$5.9	$0.9	$12.4
Assessments Collected Pursuant to Labor Code Section 62.5	$32.9	$40.7	$24.2	$23.3	$22.0	$20.1	$26.3	$15.6	$23.5
Total Revenue	$48.9	$54.9	$42.7	$45.1	$47.1	$52.3	$34.9	$19.0	$39.6

* Data for FY 2021-2022 are preliminary

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:[140]

- 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 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.[141]

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:
    - 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.

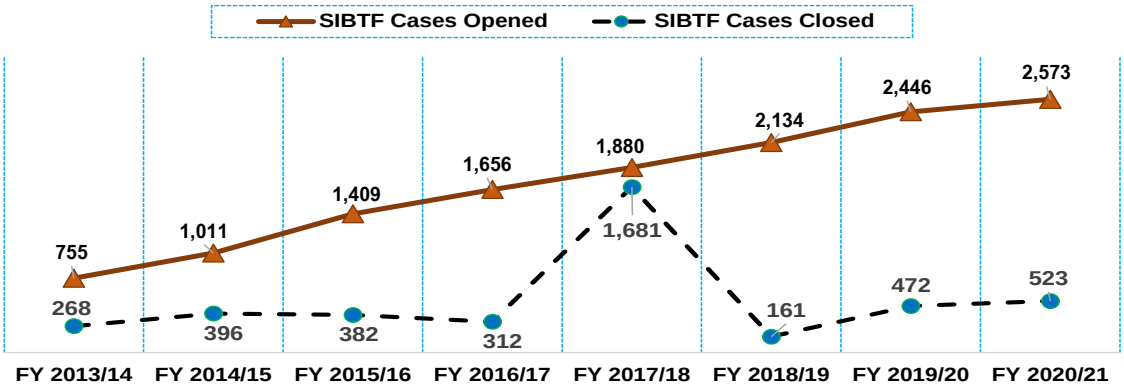
[140] https://www.dir.ca.gov/dwc/claims.html.
[141] https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=4751.

- 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.[142]

The number of WC cases involving SIBTF have been steadily increasing since FY 2013-2014. Figure 105 shows that, from FY 2013-2014 to FY 2020-2021, the number of SIBTF cases opened more than tripled, totaling 13,864 cases in 8 years. Over the same period, 4,195 cases were closed, with a spike of 1,681 cases closed in FY 2017-2018 because of identification of abandoned cases.[143]

Figure 105: Number of SIBTF Cases, Opened and Closed



Source: DWC

As shown in Figure 106, from FY 2013-2014 to FY 2020-2021 not only did the number of SIBTF cases increased, but the SIBTF costs more than quadrupled as well. 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.[144] 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.[145] The preliminary data shows that more than a 60 percent increase in SIBTF costs is expected from FY 2020-2021 to FY 2021-2022.

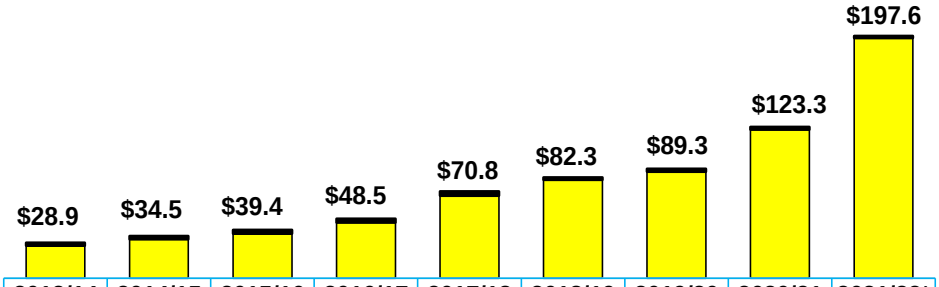
[142] See DWC Electronic Adjudication Management System (EAMS) section in this chapter for a more detailed description of EAMS activities.

[143] 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.

[144] 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.

[145] https://esd.dof.ca.gov/Documents/bcp/1920/FY1920_ORG7350_BCP2832.pdf

Figure 106: SIBTF Total Costs (in $ million)



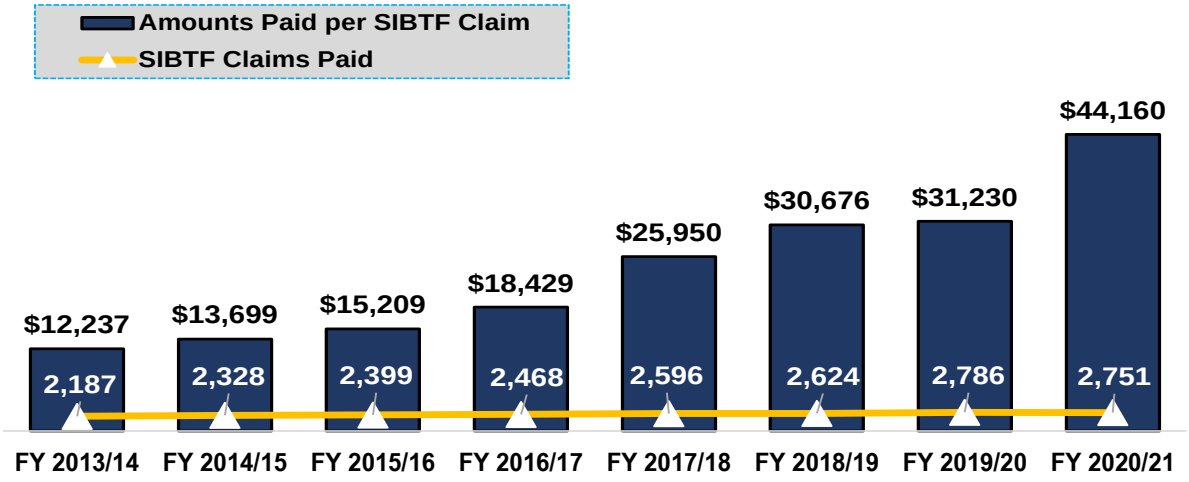
	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22*
Administrative Costs	$2.2	$2.6	$2.9	$3.0	$3.5	$1.8	$2.3	$1.8	$1.6
Claims Paid	$26.8	$31.9	$36.5	$45.5	$67.4	$80.5	$87.0	$121.5	$196.0
Total SIBTF Costs	$28.9	$34.5	$39.4	$48.5	$70.8	$82.3	$89.3	$123.3	$197.6

* Data for FY 2021-2022 are preliminary.

Data Source: DWC

According to Figure 107, from FY 2013-2014 to FY 2020-2021 the number of SIBTF claims paid increased 1.3 times, and the average paid amount per SIBTF claim increased 3.6 times, from an average of $12,237 in FY 2013-2014 to $44,160 in FY 2020-2021.

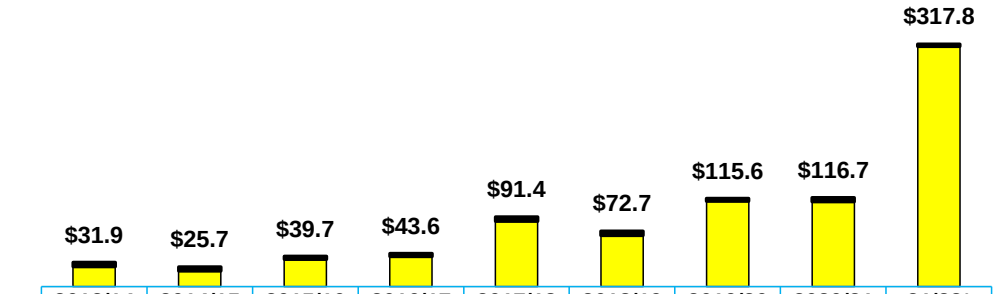
Figure 107: Number of SIBTF Claims Paid and Average Amount Paid per SIBTF Claim



Source: DWC

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 . As Figure 108 shows, total SIBTF revenue from FY 2013-2014 to FY 2020-2021 almost quadrupled overall after some fluctuation and spikes and then, according to preliminary data, will triple from FY 2020-2021 to FY 2021-2022 . Among the reasons for this significant increase in revenue assessments 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 108: SIBTF Total Revenues Recovered (in $ million)



	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	21/22*
Other Revenues Collected	$5.8	$5.2	$4.0	$4.1	$5.7	$5.8	$3.6	$5.3	$3.1
Assessments Collected	$26.1	$20.5	$35.7	$39.5	$85.7	$66.9	$112.0	$111.4	$314.7
Total Revenue	$31.9	$25.7	$39.7	$43.6	$91.4	$72.7	$115.6	$116.7	$317.8

* Data for FY 2021-2022 are preliminary.

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.[146] 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 is anticipated to begin by late November and a final report will be issued approximately late May of 2024.[147]

ADJUDICATION SIMPLIFICATION EFFORTS

Division of Workers' Compensation Information System (TO BE UPDATED)

WCIS receives about 700,000 First Reports of Injury and Subsequent Reports of Injury (FROI/SROI) claims per year and 12 million medical bills with 35 million bill lines per year from WC claims administrators. Due to the impact of COVID-19, the number of FROI claims received in 2020 was about 40,000 less than a regular year, and among the claims received in 2020, 18 percent were COVID-19 claims. This similar pattern is continuing in 2021. WCIS data is being used more than ever to help monitor and improve the WC system in California. The quality of the data has enabled rigorous empirical research and provided a real, data-informed foundation for policy. WCIS staff provides research, regulatory and educational outreach support through one-on-one training and consultation with reporting entities to improve the FROI/SROI and medical billing data set.

The adoption of new WCIO cause and nature codes enables WCIS FROI/SROI to track COVID-19 exposures and Covid-19 vaccine side effect claims when possible.

WCIS FROI/SROI data is used for:

- Evaluating the efficiency and adequacy of benefit delivery

[146] CHSWC Minutes of March 4, 2021 meeting. https://www.dir.ca.gov/chswc/Meetings/2021/Minutes_03-04-21.pdf.
[147] Email correspondence from Kim Card, DIR's Office of Director, Legal Unit.

- Monitoring COVID-19 exposures in workplace and identifying high COVID-19 exposure risk occupation 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, stakeholders, trading partners and the media.

Since switching to California Medical Version 2.0 on April 6, 2016 to September 8, 2021, 64.5 million bills with 187.5 million bills lines were collected. This data is being used by DIR, other CA state entities, and bona fide researchers and the public at large. State agencies such as the California Department of Health Services continue to use the WCIS data in their health surveillance efforts including the current Coronavirus and its variants. While most data is provided via an MOU between DWC and data requestors, the WCIS team also makes aggregated data available through DWC's website.

WCIS medical data provides supportive evidence for California's:

- Battle against medical fraud and abuse
- COVID-19 legislative analysis
- MTUS drug formulary
- Medical access evaluation, 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 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.
- 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.

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.
- Began preparing for upgrade to Curam version 7.0.9.
- Started upgrading eForms to be more accessible and user friendly.
- Enhanced system outage tracking tools.

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)[148] 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).[149]

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.

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.

[148] 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

[149] 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).

- 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."[150] 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 improved quality of medical care; improve collaboration between unions and employers; and increase the satisfaction of all parties.

[150] Sen. Bill No. 899 (2003 – 2004 Reg. Sess.) §6 & §7 [Stats. 2004, ch. 34, §6]

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 2021, 68 reporting programs reported payroll and person-hours. Carve-out programs reported that for the 2021 calendar year, they covered 164 million work hours and $6.5 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, 2008–2021

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

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.

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 ENFORCEMENT (TO BE UPDATED)

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 35 lists the violations and related penalties from FY 2019–2020 enforcement actions.[151] 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.

[151] Bureau of Field Enforcement (BOFE) Report, https://www.dir.ca.gov/dlse/DLSEReports.htm.

Table 34: BOFE (including Public Works) Violations and Penalties by Category, FY 2019–2020

Citation Category	Number of Violations	Penalties Assessed	Wages Assessed
Workers' Compensation	**888**	**$16,016,021.74**	**NA**
Itemized Statement (L.C. 226)	297	$8,633,250	$5,565,799.97
Overtime	102	$ 665,700	$ 8,523,972.70
Rest and Meal Period	74	$628,950	$3,693,262.99
Minimum Wage	141	$1,511,750	$28,182,627.48
Child Labor	66	$162,000	NA
Garment Registration	9	$24,060.33	NA
Garment	27	$135,000	NA
Janitorial Registration	8	$72,600	NA
Car Wash Registration	23	$168,600	NA
Unlicensed Farm Labor Contractor	1	$10,000	NA
Unlicensed Construction Contractor	17	$341,800	NA
Violation of Payment of Wages Provision (L.C. 204)	12	$1,540,305.45	NA
Misclassification	9	$1,605,000	NA
Reimbursable Business Expenses	2	$9,300	$12,611.34
Failure to Maintain Records	3	$1,500	NA
Violation of Reporting Time	1	$150	$105.49
Contract Wages Above Minimum Wage	NA	NA	$7,296,228.65
Waiting Time Penalties	NA	NA	$10,275,429.27
Total	**1,680**	**$31,525,987.52**	**$63,550,037.89**
Public Work Totals	659[a]	$23,952,406.10[b]	$23,197,217.39
GRAND TOTAL	**2,339**	**$55,478,393.62**	**$86,747,255.28**

[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 1,660 audits conducted, with 659 civil wage and penalty assessments (CWPAs) 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.secure.force.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.[152]

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.

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. 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.[153]

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).

The data in the Table 35 represent the first four 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

[152] https://www.dir.ca.gov/DLSE/Janitorial_Registration_FAQs.html.
[153] https://www.dir.ca.gov/dlse/Janitorial-Training.html

	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	1	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

Source: DLSE

- Number of new janitorial service providers and contractors registered in FY 2021-2022: 994
- Number of new janitorial service providers and contractors who registered in FY 2021-2022 and incurred a penalty: 1
- Total Labor Code § 1423 penalties incurred by janitorial service providers and contractors in FY 2021-2022 for failure to register by required date: 3
- Total amount of Labor Code § 1423 penalties assessed in FY 2021-2022: $30,000.00.
- Total Labor Code § 1432(b) penalties incurred by companies contracting with unregistered janitorial services in FY 2021-2022: $12,000.00.
- Total penalties assessed related to Paid Sick Leave written notices in FY 2021-2022: $100.00

For further information …

https://www.dir.ca.gov/dlse/Janitorial_Providers_Contractors.html

ANTI-FRAUD ACTIVITIES (TO BE UPDATED)

Background

During the past decade, 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.[154] 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:

- Organization and Efficiency of the CDI Fraud Division Enforcement Branch.

[154] She is currently serving on the Fraud Assessment Commission at the Department of Insurance as an appointee of former Governor Jerry Brown.

- 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:[155]

- 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.

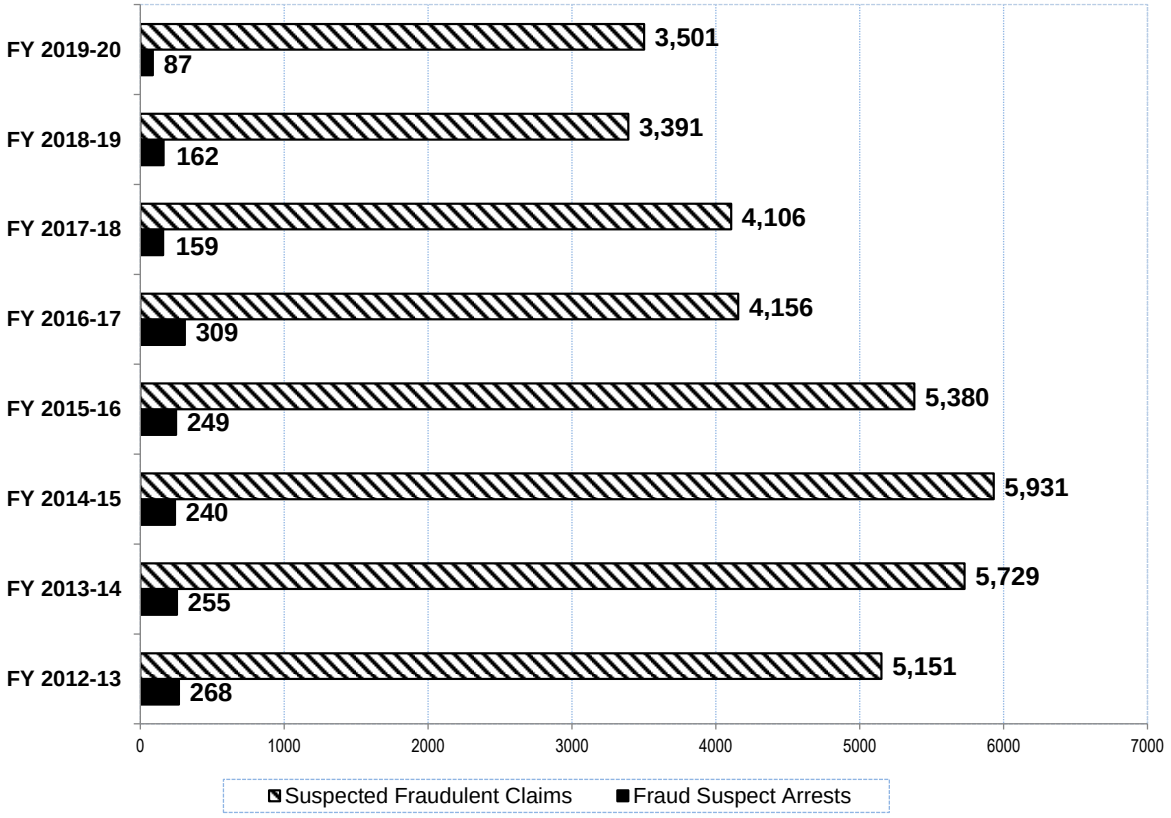
The total number of SFCs reported in fiscal year 2019-2020 is 3,501.

[155] 2014 Annual Report of the Insurance Commissioner, August 1, 2015. http://www.insurance.ca.gov/0400-news/0200-studies-reports/0700-commissioner-report/.

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 109). From FY 2012-2013 to FY 2015-2016, the Fraud Division identified and reported from 5,100 to 5,900 SFCs per fiscal year, with 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. There was a 42 percent decline in SFCs from the peak in FY 2014-2015 to FY 2018-2019. From FY 2018-2019 to FY 2019-2020, the number of identified and reported SFCs increased slightly by 3 percent as the number of arrests fell by almost half in that period.

Figure 109: Suspected Workers' Compensation Fraudulent Claims and Suspect Arrests

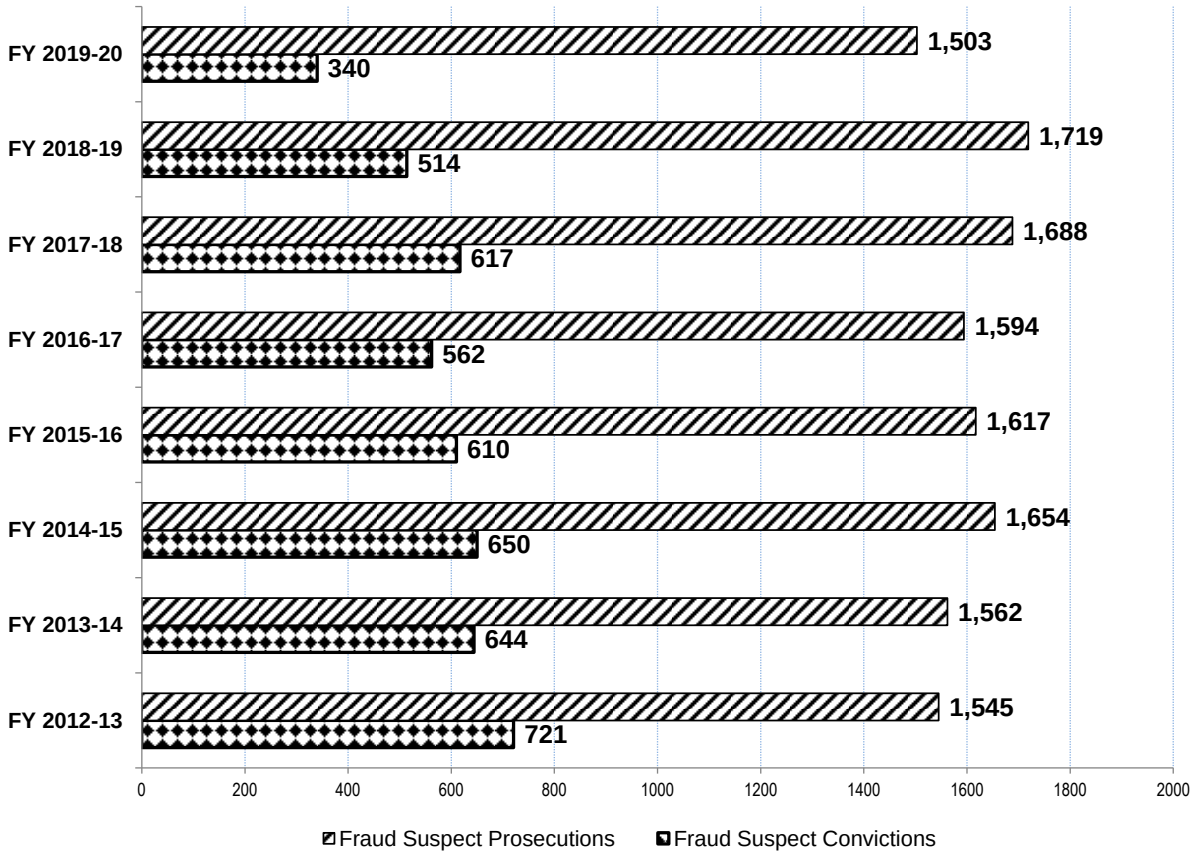


Data Source: CDI - Fraud Division and CWCI

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 110. From FY 2012-2013 to FY 2018-2019, district attorneys prosecuted about 1,550 to 1,720 suspects per fiscal year, with an overall increase of 11 percent, and convictions decreasing by 29 percent from 721 in FY 2012-2013 to 514 in FY 2018-2019.[156] In FY 2019-2020, both prosecutions and convictions decreased by 13 and 34 percent, respectively, compared to FY 2018-2019.

Figure 110: 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 111 and 112 indicate the number and type of investigations opened and carried from fiscal years FY 2012-2013 to FY 2019-2020 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.

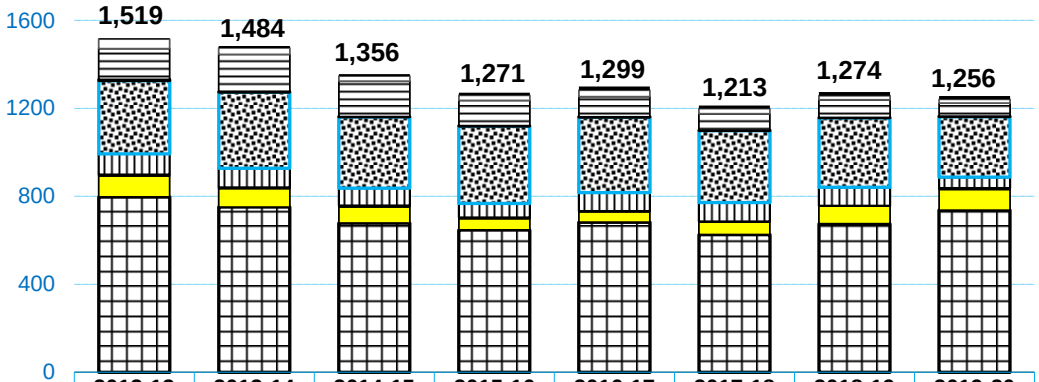
[156] For case-by-case information regarding specific workers' compensation fraud convictions, see http://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/25-wc-conv/

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 111 shows that the number of WC fraud investigations decreased by 20 percent from FY 2012-2013 to FY 2017-2018 and then slightly increased by 4 percent from FY 2017-2018 to an average of 1,265 investigations in FY 2018-2019 and FY 2019-2020. The decrease from FY 2012-2013 to FY 2017-2018 was mostly due to a 21.5 percent decrease in claimant fraud (also called applicant fraud) and an almost two-fold decline in uninsured employer investigations. The increase in the number of WC fraud investigations from FY 2017-2018 to FY 2019-2020 was due to an 18 percent increase in claimant fraud.

Figure 111: Caseload by Type of Fraud Investigations, FY 2012-2013–FY 2019-2020



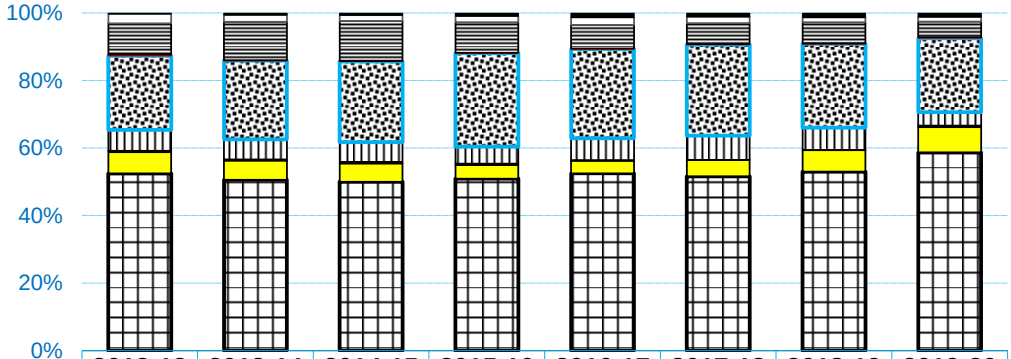
	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Legal Provider	4	9	9	12	17	14	17	15
Defrauding Empl-ee	43	30	23	23	29	23	18	17
Uninsured Empl-r	140	169	161	115	91	75	80	59
Pharmacy	6	2	2	1	2	2	2	3
Premium*	333	346	324	353	343	327	316	275
Medical Provider	94	88	79	63	84	87	84	50
Insider	6	5	6	5	3	1	1	6
Other	96	84	74	52	48	58	81	94
Applicant	797	751	678	647	682	626	675	737
Total	1,519	1,484	1,356	1,271	1,299	1,213	1,274	1,256

*** Includes Misclassification, Underreported Wages, and X-Mod Evasion**

Data Source: California Department of Insurance, Fraud Division

As seen in Figure 112, the focus of the investigations experienced some changes during the observed period. Claimant/applicant fraud investigations averaged at 52.0 percent yearly from FY 2012-2013 to FY 2018-2019 and then increased by 6 percentage points from FY 2018-2019 to FY 2019-2020. The percentage of investigations of premium fraud increased overall from 22 percent in FY 2012-2013 to 27 percent in FY 2017-2018, and then decreased again to 22 percent from FY 2017-2018 to FY 2019-2020. From FY 2012-2013 to FY 2019-2020, investigations of uninsured employer fraud decreased from about 10 percent to 5 percent respectively and decreased for defrauding employees by 1.4 percentage points.

Figure 112: Distribution by Type of Fraud Investigations, FY 2012-2013–FY 2019-2020



	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Legal Provider	0.3%	0.6%	0.7%	0.9%	1.3%	1.2%	1.3%	1.2%
Defrauding Employee	2.8%	2.0%	1.7%	1.8%	2.2%	1.9%	1.4%	1.4%
Uninsured Employer	9.2%	11.4%	11.9%	9.0%	7.0%	6.2%	6.3%	4.7%
Pharmacy	0.4%	0.1%	0.1%	0.1%	0.2%	0.2%	0.2%	0.2%
Premium *	21.9%	23.3%	23.9%	27.8%	26.4%	27.0%	24.8%	22%
Medical Provider	6.2%	5.9%	5.8%	5.0%	6.5%	7.2%	6.6%	4.0%
Insider	0.4%	0.3%	0.4%	0.4%	0.2%	0.1%	0.1%	0.5%
Other	6.3%	5.7%	5.5%	4.1%	3.7%	4.8%	6.4%	7.5%
Applicant	52.5%	50.6%	50.0%	50.9%	52.5%	51.6%	53.0%	59%

*** Includes Misclassification, Underreported Wages, and X-Mod evasion.**

Data Source: California Department of Insurance, Fraud Division

In addition, the 2020 Annual Report of the Insurance Commissioner[157] notes that the majority of suspected fraudulent claims in calendar year 2020 came from Los Angeles County (1,249, or 37 percent of total cases) followed by Orange County (342, or 10 percent), and Riverside (206, or 6 percent) or San Bernardino (201, 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.[158]

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 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/.

[157] https://www.insurance.ca.gov/0400-news/0200-studies-reports/0700-commissioner-report/index.cfm.
[158] https://www.edd.ca.gov/payroll_taxes/underground_economy_cost.htm.

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.[159]

In the period 2020-2021, 86 remaining criminally charged individuals[160] 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.[161] 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[162] 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/.

[159] Data for 2020-2021 were provided by DIR, Office of the Director Anti-Fraud Unit.
[160] https://www.dir.ca.gov/Fraud_Prevention/List-of-Criminally-Charged-Providers.pdf.
[161] https://www.dir.ca.gov/dwc/SB1160-AB1244/Calendar.htm
[162] https://www.dir.ca.gov/Fraud_Prevention/Suspension-List.htm.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES
(TO BE UPDATED on pages 171 to 204)

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 number 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.

Please note that "lost-work-time" occupational injury and illness cases involve days away from work, job transfer, or days of restricted work activity, and that days-away-from-work cases involve days away from work, regardless of whether there is also job transfer or restricted work activity.

It should also be noted that the fatality counts do not reflect any COVID-19 work-related illness deaths. The Bureau of Labor Statistics (BLS) fatality surveillance system does not include the tracking of illness deaths.

The National Academy of Social Insurance (NASI) estimated that in 2020[163] 135.6 million workers were covered by workers' compensation in the U.S., including 16.1 million in California.

Claim Counts and Incidence Rates during the COVID-19 pandemic

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 2019 to 2020, while the number of days-away-from-work cases increased sharply by 32 percent from 2019 to 2020, altering the general pattern of changes in all recordable cases, lost-work-time, and days-away-from-work cases. According to the BLS, which has a capability to separate injuries from illnesses, this decline in the total number of injury and illness cases was due to a drop in injury cases. Private industry employers in the U.S. reported 2.7 million nonfatal workplace injuries and illnesses in 2020, down from 2.8 million in 2019, a decrease of 5.7 percent. The rate of injury cases in the U.S. also decreased in 2020, with private industry employers reporting a rate of 2.2 cases per 100 full-time equivalent (FTE) employees compared to 2.6 cases in 2019. At the same time, the total reported illness cases in the U.S. more than quadrupled to 544,600 cases, up from 127,200 cases in 2019. This increase was driven by a nearly 4,000 percent increase in employer reported respiratory illness cases in 2020 at 428,700, up from 10,800 in 2019. As for the days-away-from-work cases versus all recordable cases, there were 1,176,340 nonfatal injuries and illnesses that caused a private industry worker to miss at least one day of work in 2020, 32.4 percent higher than in 2019. Of these cases, 33.2 percent (390,020 cases) were categorized as other diseases due to viruses not

[163] 2020 is the latest available year for which these data were available from NASI.

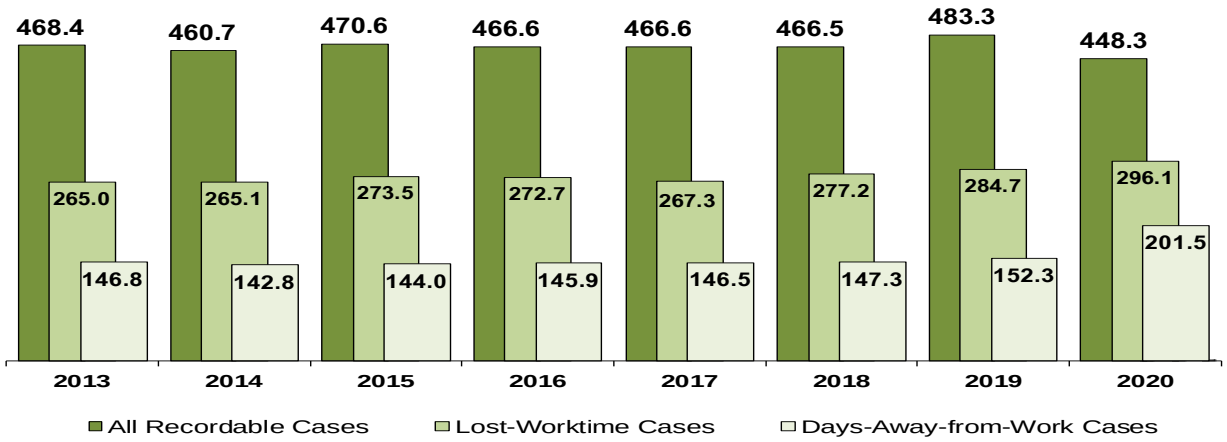
elsewhere classified, which includes reported COVID-19-pandemic related illnesses.[164] The same explanation is applicable to the 2019-2020 patterns of all recordable cases and days-away-from-work cases for non-fatal injuries and illnesses in California shown in Figures 113, 115, and 119 for claim counts and Figures 121, 122, and 123 for incidence rates.

Comparison of the Public and Private Sectors

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 all recordable cases 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 all recordable cases decreased by 7 percent. 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 11 percent from 2017 to 2020, including a 4 percent increase from 2019 to 2020. 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.

Figure 113: California Non-Fatal Occupational Injuries and Illnesses: Private Industry and State and Local Governments (Thousands)



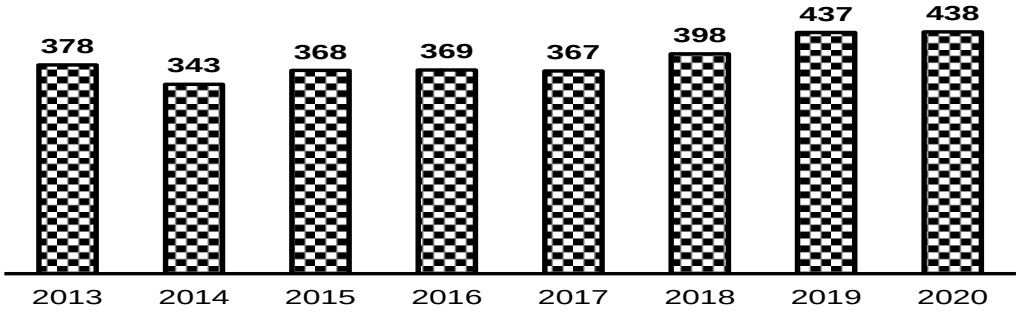
Source: DIR, Office of the Director-Research

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in California are shown in Figure 111. The number of fatal occupational injuries and illnesses in California, excluding the federal government, 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 2020, the number of fatal occupational injuries and illnesses in California increased by 19 percent with almost the same number of fatalities in 2019 and 2020.

[164] Bureau of Labor Statistics (BLS), "Employer-Reported Workplace Injuries and Illnesses – 2020", https://www.bls.gov/news.release/archives/osh_11032021.pdf.

Figure 114: California Fatal Occupational Injuries and Illnesses—Private Industry and State and Local Governments



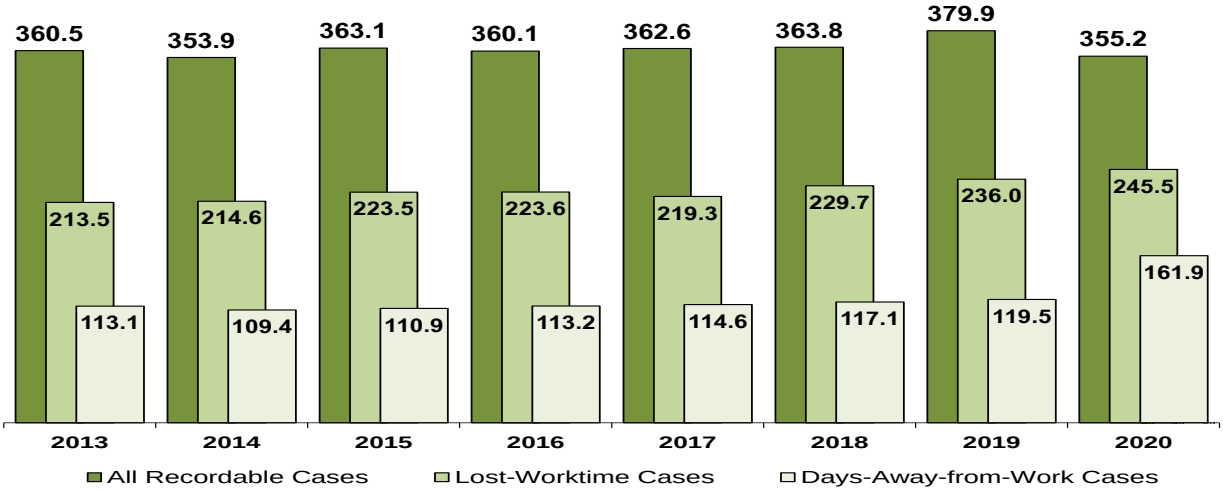
Data Source: BLS and DIR, Office of the Director-Research

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 2020, the number of all recordable cases decreased by 6.5 percent. 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. The number of days-away-from-work cases decreased by 3 percent from 2013 to 2014, increased by 9 percent from 2014 to 2019, and then increased further by 35.5 percent from 2019 to 2020

Figure 115: California Non-Fatal Occupational Injuries and Illnesses: Private Industry (Thousands)

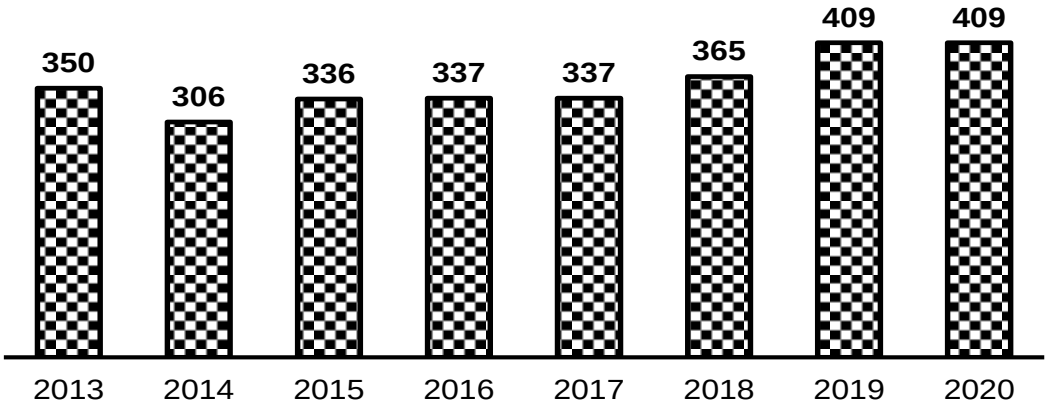


Source: DIR, Office of the Director-Research

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses 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 2020, the number of fatal occupational injuries and illnesses in private sector increased by 21 percent with the same number of fatalities in 2019 and 2020.

Figure 116: California Fatal Occupational Injuries and Illnesses—Private Industry



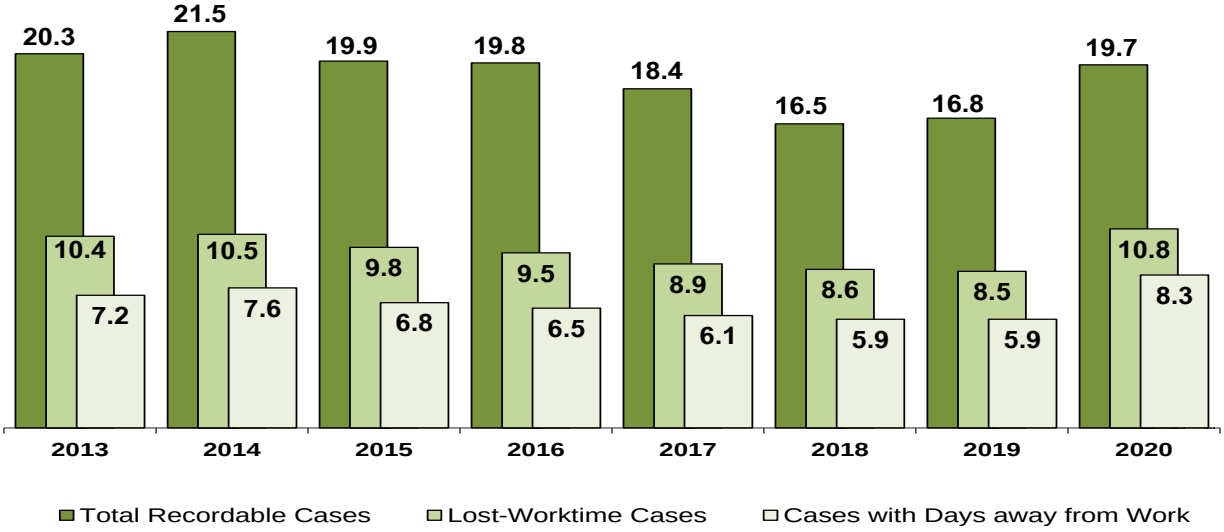
Source: BLS and DIR, Office of the Director-Research

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 2020, the number of all recordable cases increased sharply by 17 percent. 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 5 years of a steady decline in both the lost-work-time and days-away-from-work cases in the state government, the lost-work-time cases increased by 27 percent and days-away-from-work cases increased by 41 percent from 2019 to 2020.

Figure 117: California Non-Fatal Occupational Injuries and Illnesses: State Government (Thousands)

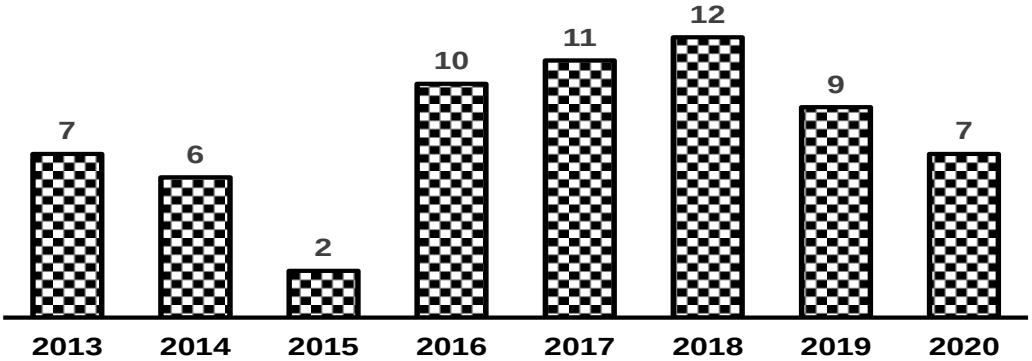


Source: DIR, Office of the Director-Research

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses 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 to 9 fatalities in 2019 and 7 fatalities in 2020.

Figure 118: California Fatal Occupational Injuries and Illnesses—State Government



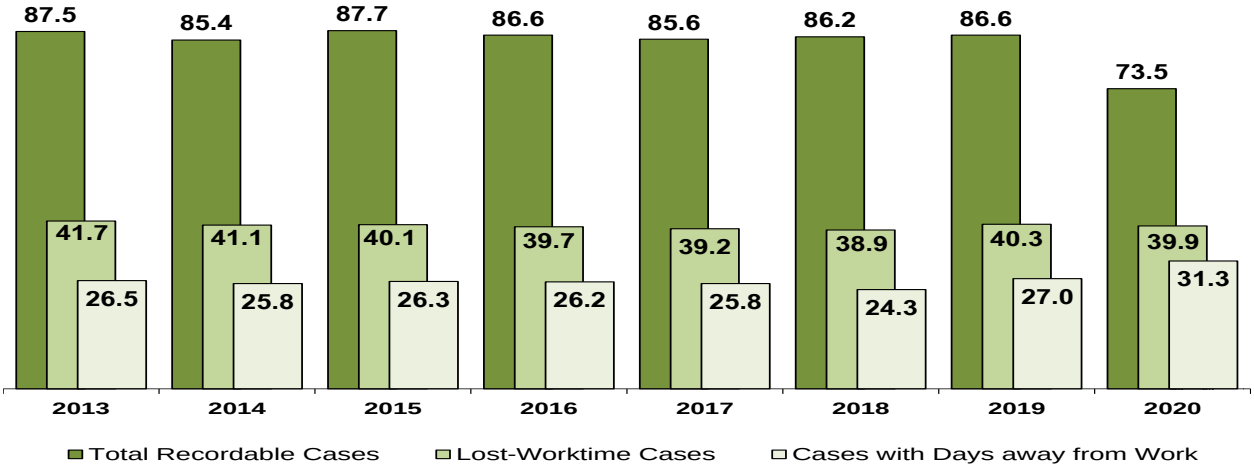
Source: BLS and DIR, Office of the Director-Research

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. From 2019 to 2020, the number of all recordable cases decreased by 15 percent. From 2013 to 2018, the number of lost-worktime cases in this sector decreased steadily by 5 percent before increasing by 4 percent from 2018 to 2019. From 2019 to 2020, the number of lost-worktime cases decreased slightly by 1 percent. The number of cases with days away from work decreased overall by 8 percent from 2013 to 2018, increased by 11 percent from 2018 and 2019, and then increased again by 16 percent from 2019 to 2020.

Figure 119: California Non-Fatal Occupational Injuries and Illnesses: Local Government (Thousands)

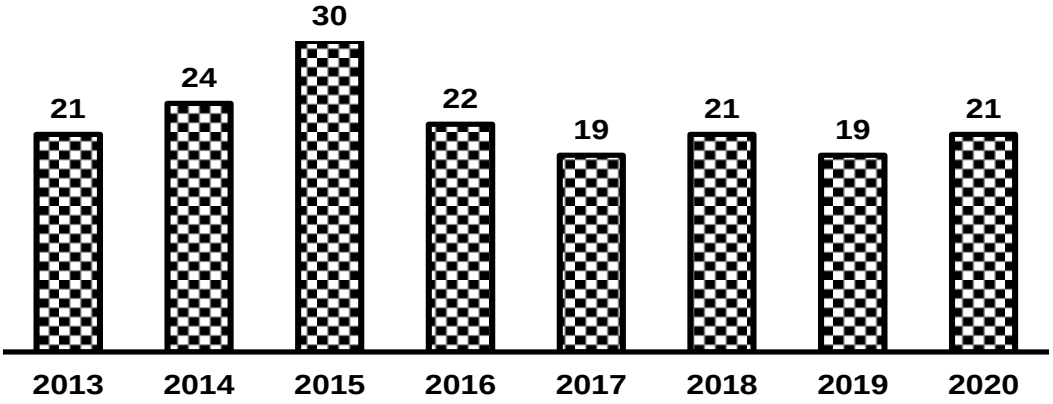


Source: DIR, Office of the Director-Research

Fatal Occupational Injuries and Illnesses

The number of fatal occupational injuries and illnesses in California's local governments increased by 43 percent between 2013 and 2015 and then decreased overall by 30 percent from 2015 to 2020.

Figure 120: California Fatal Occupational Injuries and Illnesses—Local Government



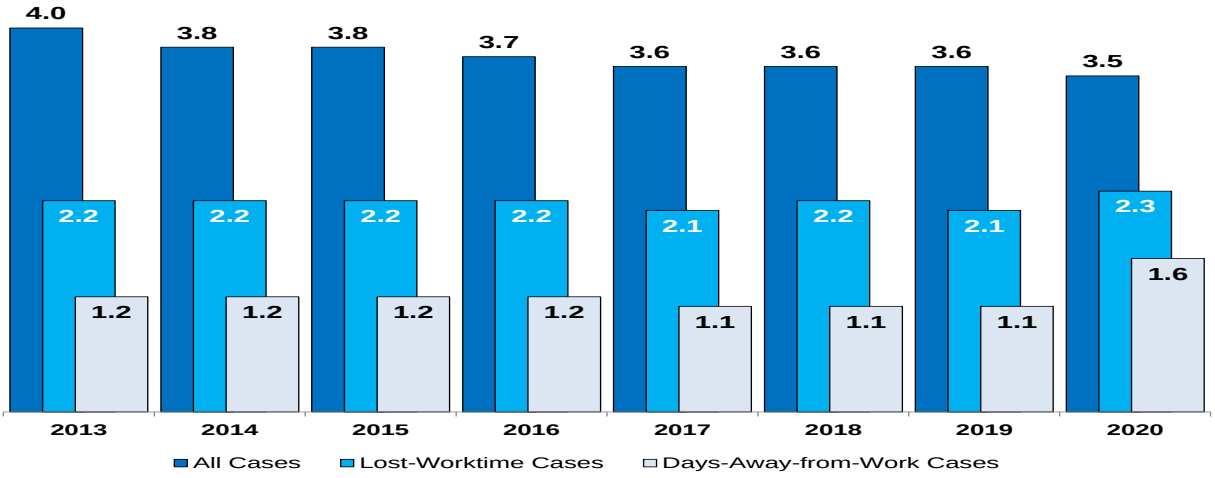
Source: BLS and DIR, Office of the Director-Research

Occupational Injury and Illness Incidence Rates

Comparison of Public and Private Sectors

The incidence rates for all cases in California declined from 2013 to 2017 and stabilized at 2017 level in 2018 and 2019. There was a 3 percent decrease in the incidence rates for all cases from 2019 to 2020. The incidence rates for lost-work-time cases remained prevailingly at 2.2 cases per 100 FTE from 2013 to 2018, decreasing to a rate of 2.1 in 2017 and 2019. From 2019 to 2020, the incidence rates for lost-work-time cases increased by 9.5 percent. 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.

Figure 121: California Occupational Injury and Illness Incidence Rates: Private, State and Local (Cases per 100 Full-Time Employees)

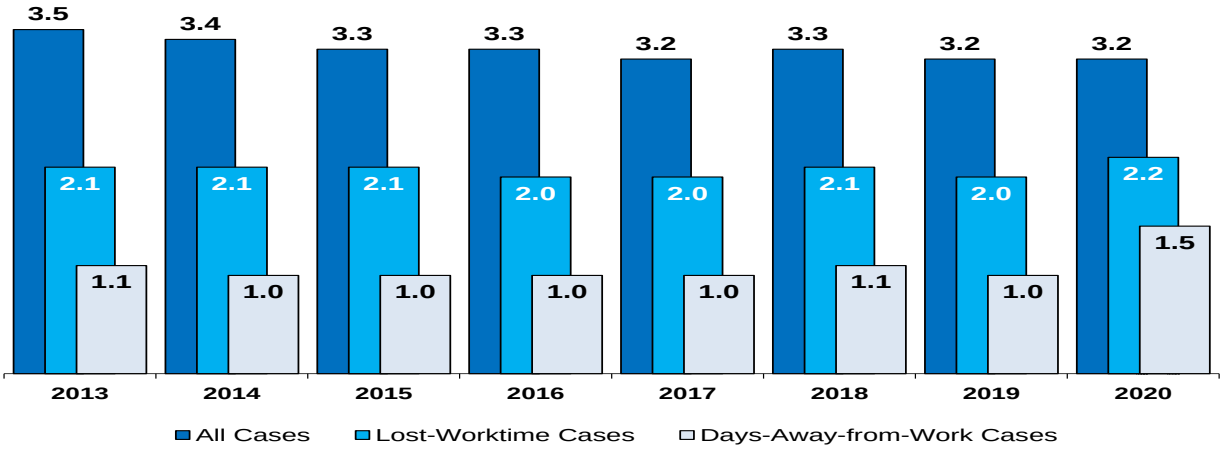


Data Source: DIR, Office of the Director-Research

Private Sector

According to Figure 119, the incidence rate for all cases declined from 2013 to 2017, increased from 2017 to 2018, and then returned to the 2017 level in both 2019 and 2020. 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. After stabilizing at 1.0 cases per 100 FTE from 2013 to 2019, the incidence rates for days-away-from-work cases increased by 50 percent from 2019 to 2020.

Figure 122: California Occupational Injury and Illness Incidence Rates: Private Industry (Cases per 100 Full-Time Employees)

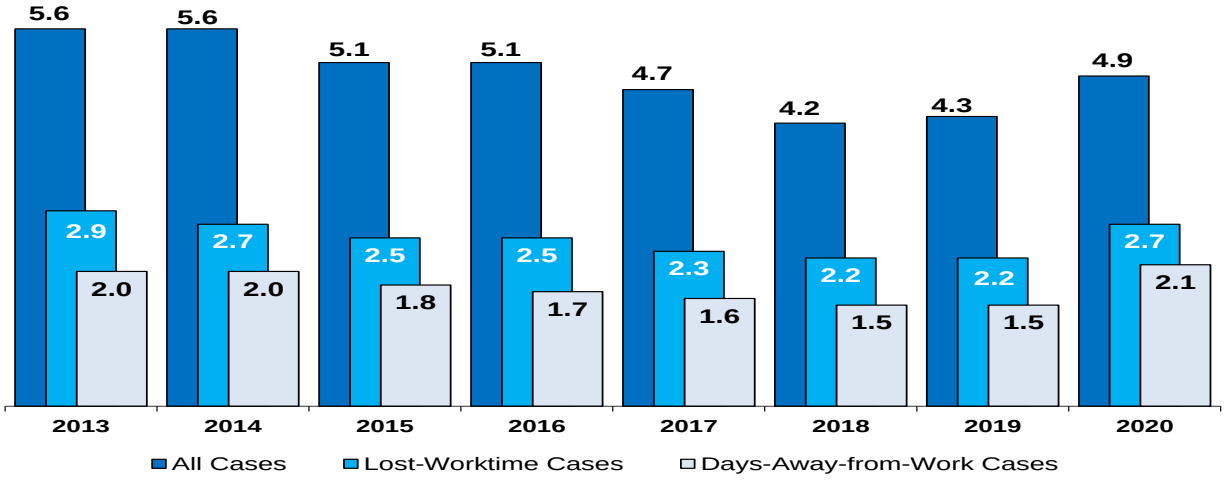


Data Source: DIR, Office of the Director-Research

Public Sector: State Government

California state government occupational injury and illness incidence rates for all cases decreased by 25 percent from 2013 to 2018, increased by 2 percent from 2018 to 2019, and then increased again by 14 percent from 2019 to 2020. The incidence rate for lost-time cases decreased by 24 percent between 2013 and 2019 and increased by 23 percent from 2019 to 2020. 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.

Figure 123: California Occupational Injury and Illness Incidence Rates: State Government (Cases per 100 Full-Time Employees)

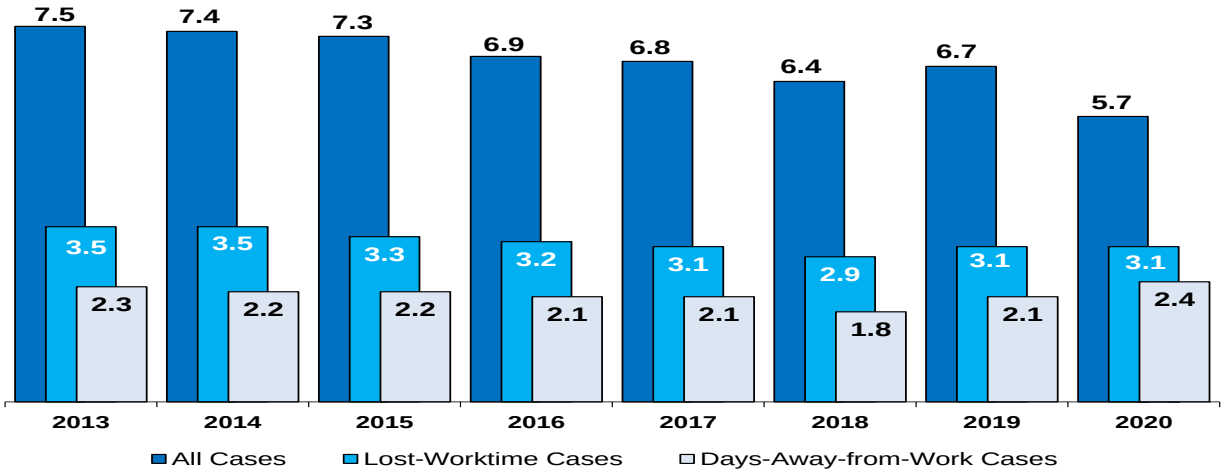


Source: DIR, Office of the Director-Research

Public Sector: Local Government

Local government occupational injury and illness incidence rates for all cases averaged at 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. From 2019 to 2020, the incidence rates for all cases decreased by 15 percent. The incidence rate for lost-time cases decreased from 3.5 to 2.9 cases per 100 full-time employees from 2013 to 2018 and increased again to 3.1 in 2019 and 2020. The incidence rate for days-away-from-work cases decreased by 22 percent from 2013 to 2018 and then increased by 17 percent from 2018 to 2019. From 2019 to 2020, the incidence rate for days-away-from-work cases increased by 14 percent.

Figure 124: California Occupational Injury and Illness Incidence Rates: Local Government (Cases per 100 Full-Time Employees)

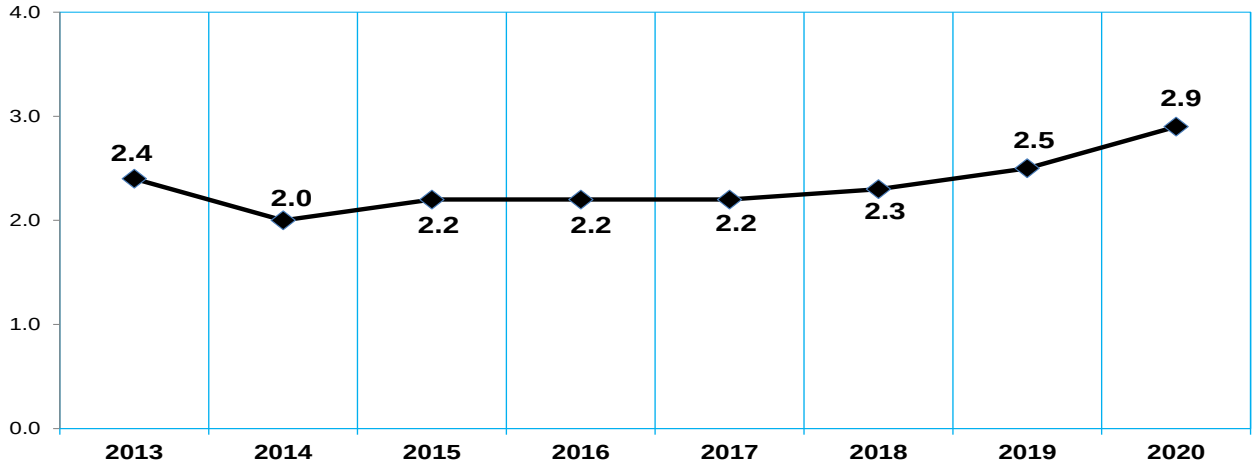


Source: DIR, Office of the Director-Research

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.

Figure 125: California Fatal Occupational Injuries*—Incidence Rate (per 100,000 employed)**



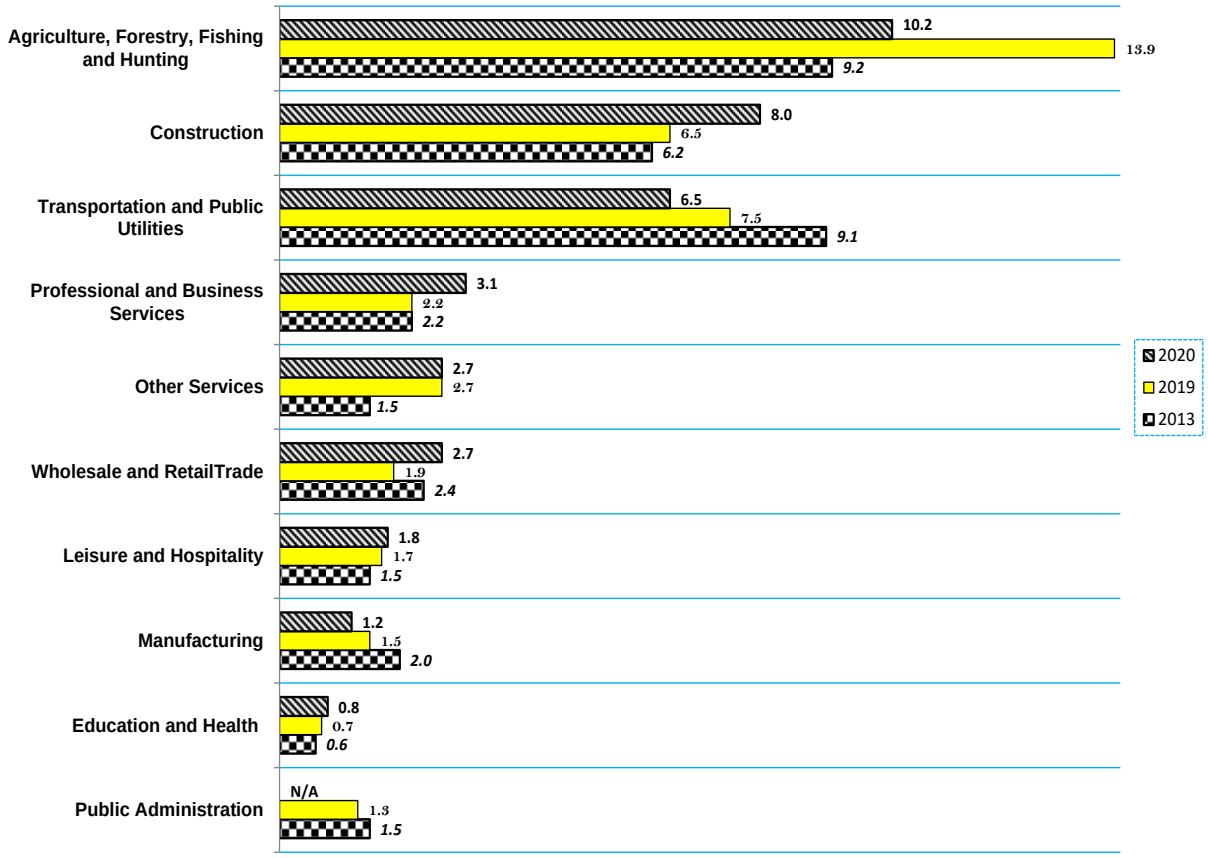
* California Fatal Occupational Injuries exclude military personnel and workers under age 16 and include all self-employed, family business, and wage and salary workers.

** 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.

Figure 123 shows the fatality incidence rates by major industries in 2013, 2019, and 2020. For the three years depicted in the figure, agriculture, forestry, fishing, and hunting, construction, and transportation and public utilities were the top three industries with highest fatality rates in California. The industries with the greatest increase in fatality rates between 2019 and 2020 were wholesale and retail trade (42 percent), professional and business services (41 percent), and construction (23 percent).

Figure 126: California Fatality Rates by Industries (per 100,000 employed), 2013, 2019, and 2020*



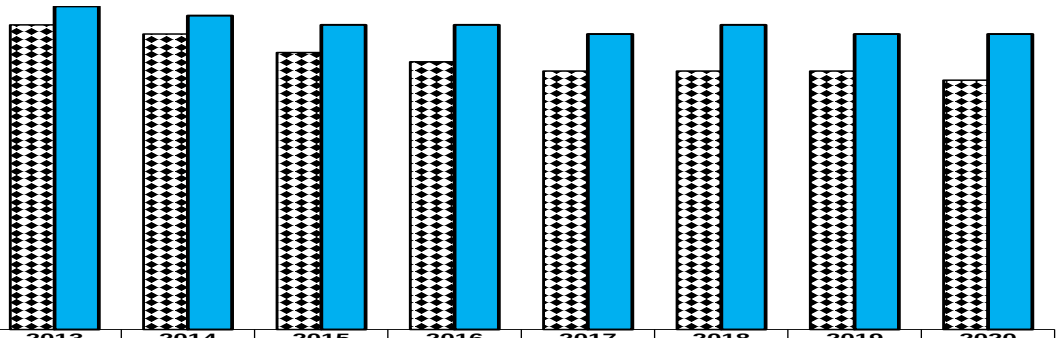
Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, in cooperation with participating State agencies.

* Note: The source is released annually and doesn't have separate or specific incidence rates for healthcare-related industries.

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 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. The California incidence rates decreased by about 9 percent from 2013 to 2017, increased by 3 percent from 2017 to 2018, and then decreased again by 3 percent from 2018 to 2019, remaining at 2019 level in 2020. Since 2013, the incidence rate in California has been slightly above the national average with slower decreasing trend during the whole period.

Figure 127: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry, Total Recordable Cases. U.S. and California

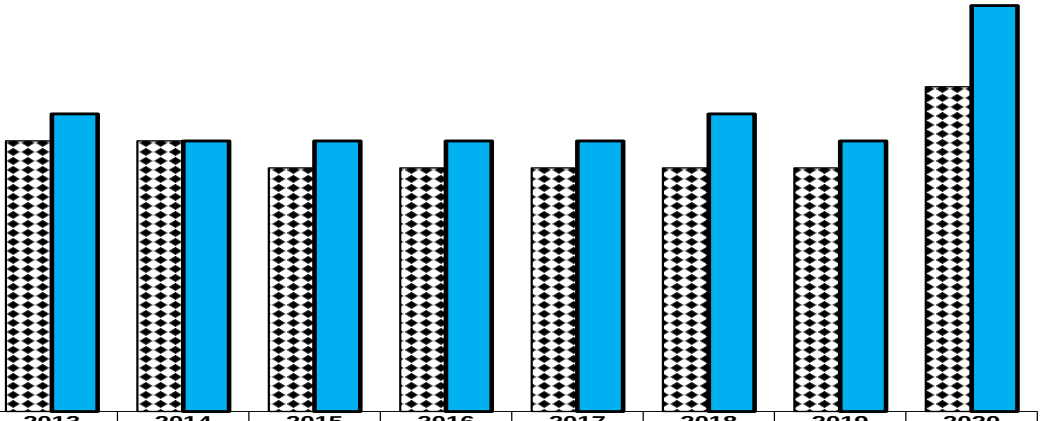


	2013	2014	2015	2016	2017	2018	2019	2020
USA	3.3	3.2	3.0	2.9	2.8	2.8	2.8	2.7
California	3.5	3.4	3.3	3.3	3.2	3.3	3.2	3.2

Source: US Department of Labor, Bureau of Labor Statistics

The incidence rate of occupational injury and illness days-away-from-work cases declined in the U.S. from 2013 to 2015, stabilized at 0.9 cases per 100 full-time workers from 2015 to 2019, and then increased to 1.2 cases per 100 full-time workers from 2019 to 2020. In California, after a decrease from 1.1 in 2013 to 1.0 from 2014 to 2019, with an exception of 1.1 cases per 100 full-time workers in 2018, 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.

Figure 128: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry Cases with Days Away from Work. U.S. and California



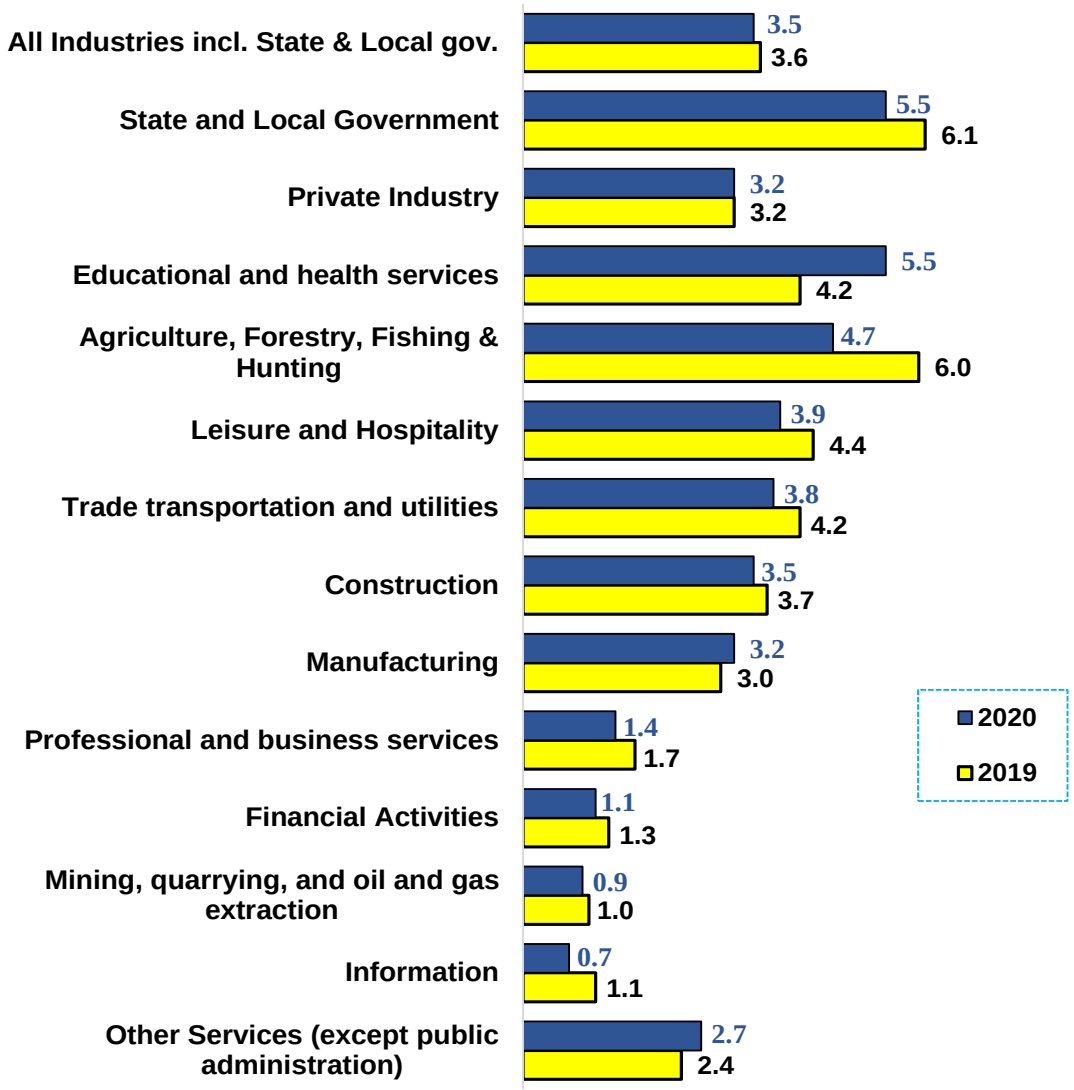
	2013	2014	2015	2016	2017	2018	2019	2020
USA	1.0	1.0	0.9	0.9	0.9	0.9	0.9	1.2
California	1.1	1.0	1.0	1.0	1.0	1.1	1.0	1.5

Source: US Department of Labor, Bureau of Labor Statistics

Characteristics of California Occupational Injuries and Illnesses

Figure 126 compares incidence rates for total recordable cases in 2019 and 2020 by major industries, private sector and state and local governments. The incidence rates in 10 out of 14 major industries, declined from 2019 to 2020. The overall California occupational injury and illness incidence rates for all industries, including state and local government declined by 3 percent from 2019 to 2020. During this period, the biggest decline in incidence rates (-36 percent) was in information followed by agriculture, forestry, fishing, and hunting (-22 percent), professional and business services (-18 percent), financial activities (-15 percent), leisure and hospitality (-11 percent), mining, quarrying, and oil and gas extraction (-10 percent), and trade, transportation and utilities (-10 percent). State and local government experienced a decline of 10 percent from 2019 to 2020. From 2019 to 2020, the biggest increase in incidence rates (31 percent) was in educational and health services followed by other services, except public administration (13 percent), and manufacturing (7 percent).

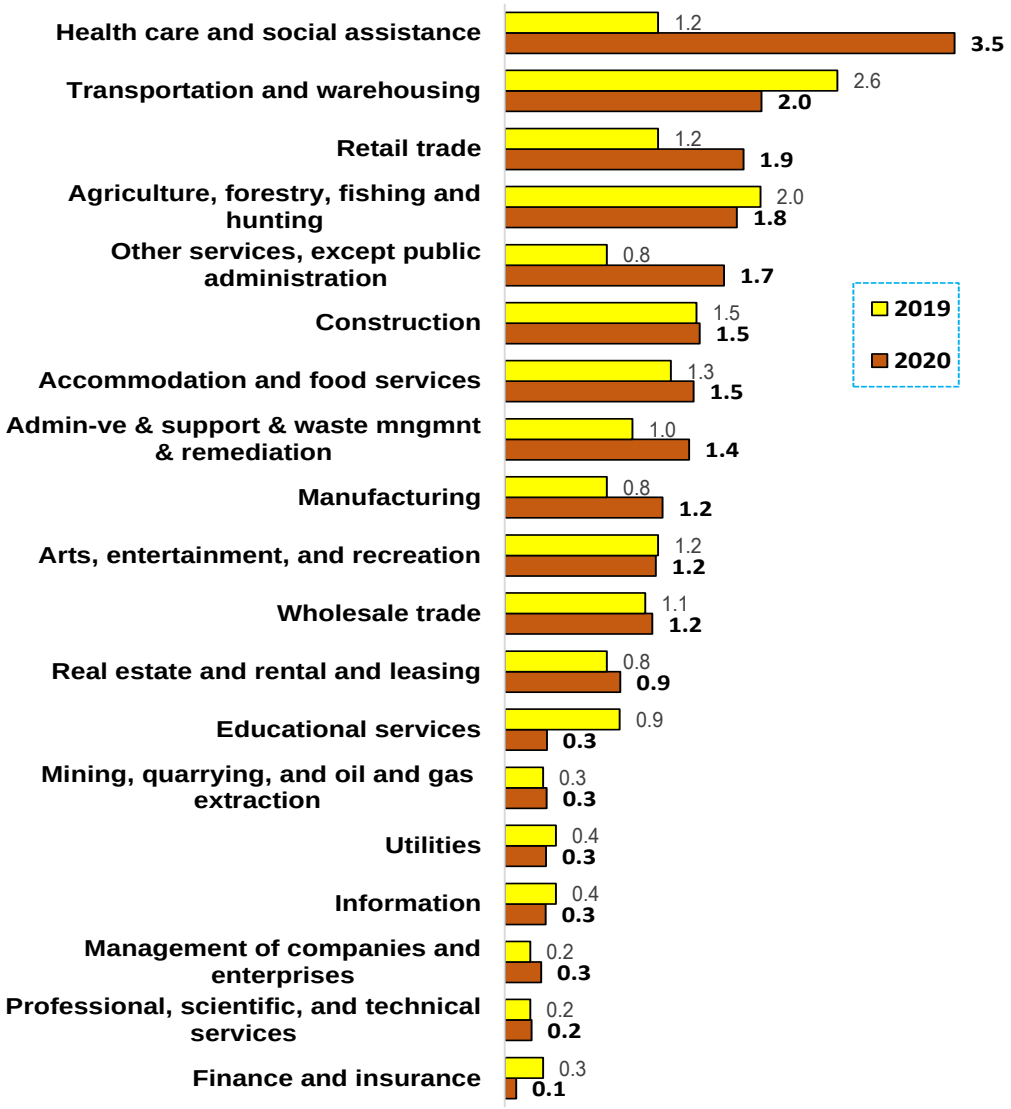
Figure 129: Incidence rates of nonfatal occupational injuries and illnesses per 100 FTE workers by major industries, Private Sector and State and Local Government, 2019 and 2020 (Total Recordable Cases)



Data Source: DIR, Office of the Director- Research

Figure 127 compares non-fatal occupational incidence rates for days away from work (DAFW) cases in 2019 and 2020 in private sector. The top three industries by incidence rates in 2019 were transportation and warehousing, agriculture, forestry, fishing, and hunting, and construction. In 2020, the top three industries were health care and social assistance, transportation and warehousing, and retail trade. The biggest increases in incidence rates for DAFW cases from 2019 to 2020 were in health care and social assistance (193 percent), other services, except public administration (114 percent) followed by retail trade (56 percent), manufacturing (54 percent), administrative and support and waste management and remediation (44 percent), and management of companies and enterprises (43 percent). Finance and insurance (-70 percent) and educational services (-63 percent) experienced the biggest decreases in incidence rates from 2019 to 2020, followed by transportation and warehousing (-23 percent), information (-20 percent), utilities (-19 percent), and agriculture, forestry, fishing and hunting (-9 percent). Despite the decrease in its incidence rate from 2019 to 2020, the transportation and warehousing was still among the top 3 major industries by incidence rates in 2020.

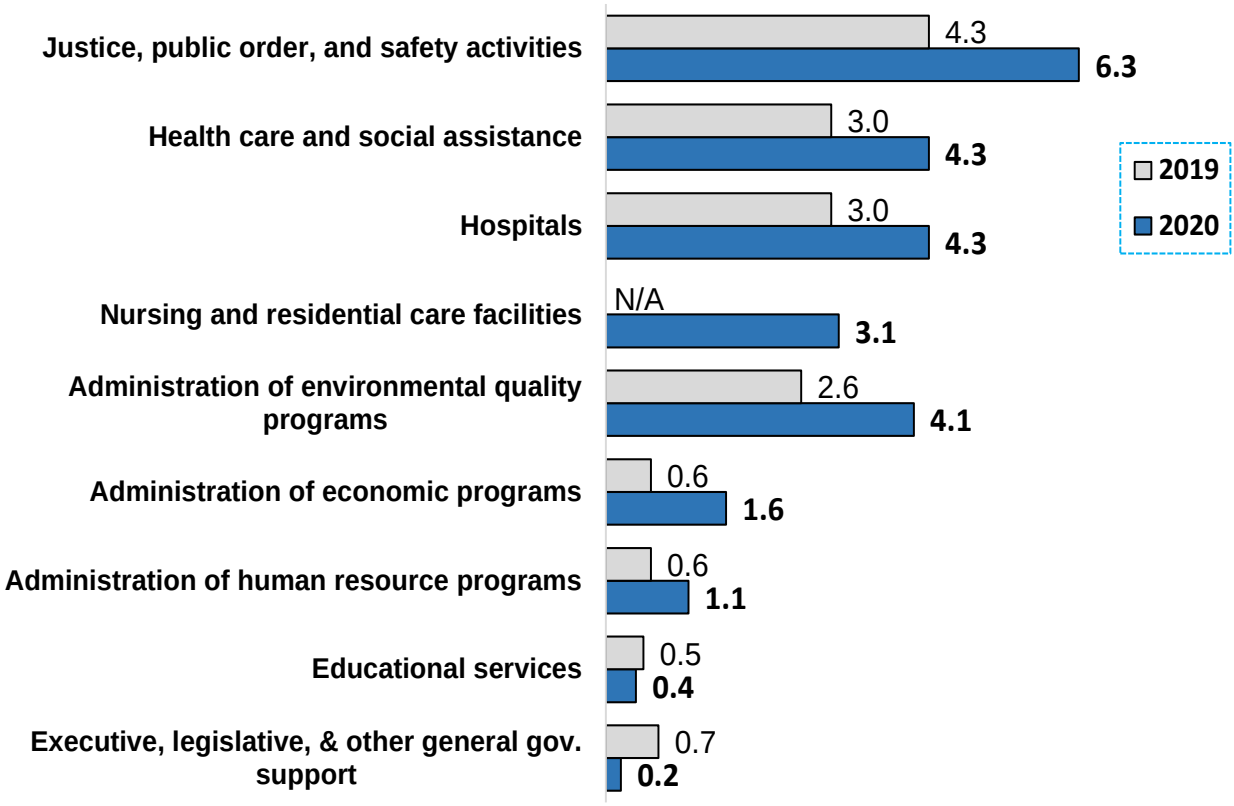
Figure 130: Incidence rates of nonfatal occupational injuries and illnesses per 100 FTE workers by selected industries, Private Sector (Cases with days away from work), 2019 and 2020



Data Source: DIR, Office of the Director-Research

Figure 128 compares non-fatal occupational incidence rates for days away from work cases in 2019 and 2020 in the state government. The biggest increases in incidence rates for DAFW cases from 2019 to 2020 were in administration of economic programs (167 percent), administration of human resource programs (83 percent), administration of environmental quality programs (58 percent) followed by justice, public order, and safety activities (47 percent), health care and social assistance (43 percent), and hospitals (43 percent). Executive, legislative, and other general government support (-71 percent) and educational services (-20 percent) experienced a decrease from 2019 to 2020.

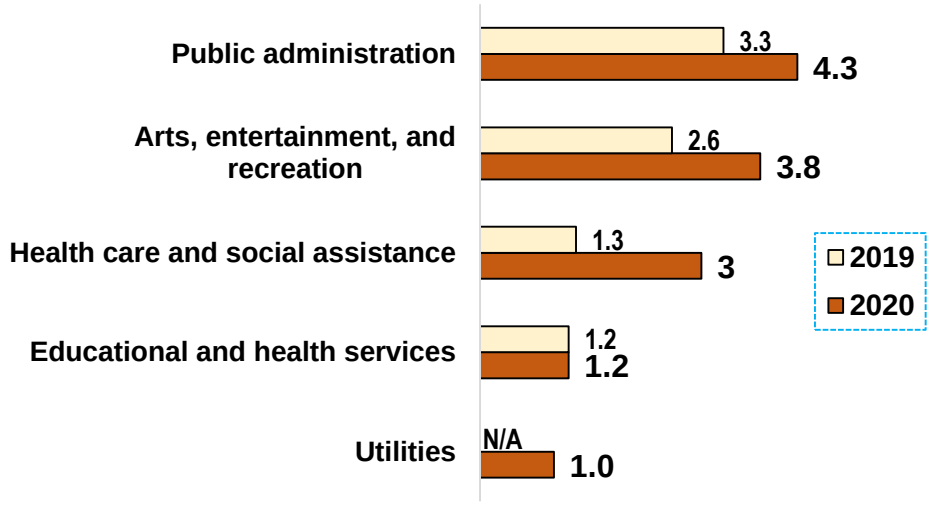
Figure 131: Incidence rates of nonfatal occupational injuries and illnesses per 100 FTE workers by selected industries, State Government (Cases with days away from work), 2019 and 2020



Data Source: DIR, Office of the Director-Research

Figure 129 compares non-fatal occupational incidence rates for days away from work cases in 2019 and 2020 in the local government. From 2019 to 2020, the health care and social assistance experienced the biggest increase (131 percent) in non-fatal occupational incidence rates for days away from work cases followed by arts, entertainment, and recreation (46 percent), and public administration (30 percent).

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), 2019 and 2020

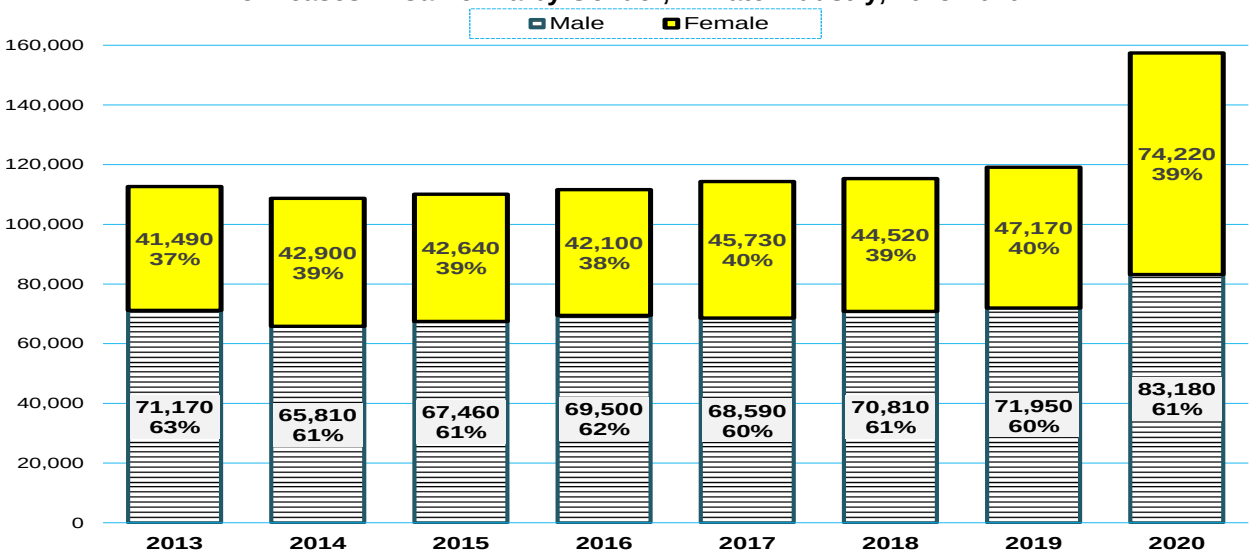


Data Source: DIR, Office of the Director-Research

Characteristics of California Non-Fatal Occupational Injuries and Illnesses

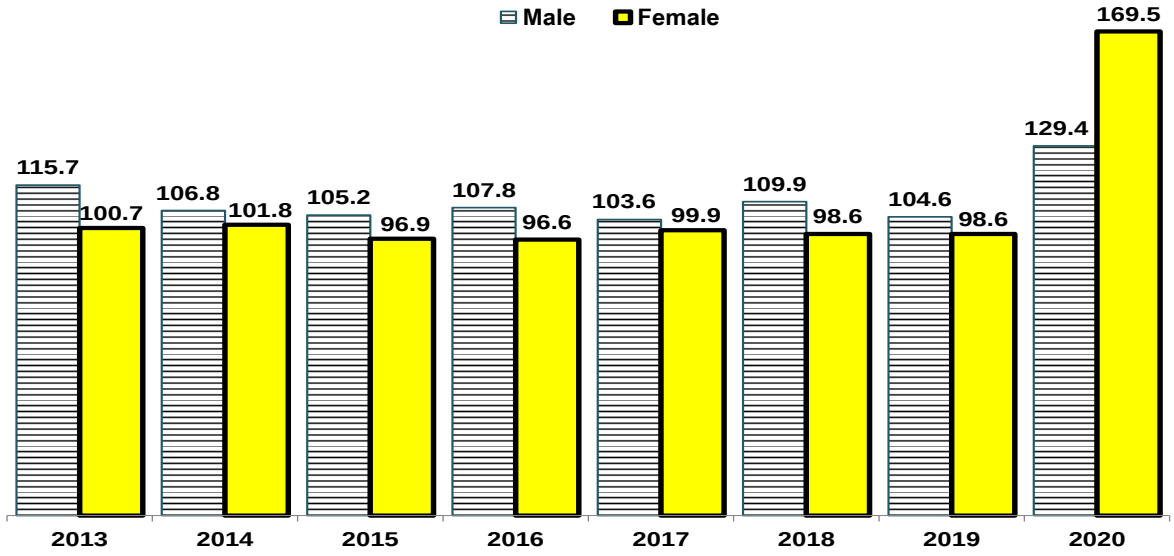
Figures 130-135 illustrate various demographic characteristics of non-fatal occupational injuries and illnesses in private industry in California. According to Figure 130, the largest increase for females (57 percent) and males (16 percent) in the number of non-fatal occupational injuries and illnesses over the past eight years was between 2019 and 2020.

Figure 133: Number of Non-Fatal Occupational Injuries and Illnesses involving days away from work cases in California by Gender, Private Industry, 2013-2020



Source: DIR, Office of the Director-Research

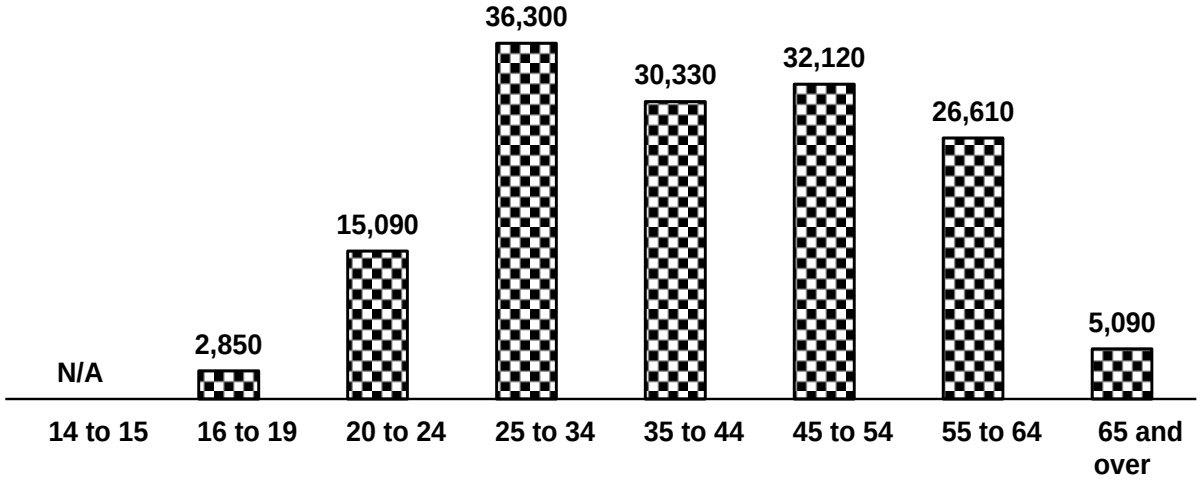
Figure 134: California Non-Fatal Occupational Injuries and Illnesses Incidence Rates by Gender, Private Industry, 2013-2020 (Days Away from Work Cases per 10,000 full-time employees)



* With days away from work with or without job transfer or restriction.

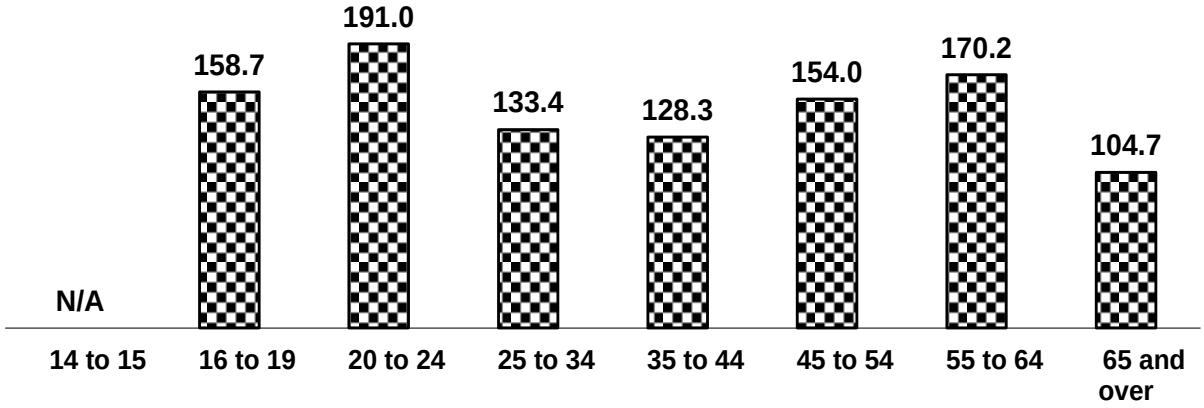
Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies.

Figure 135: Number of Non-Fatal Occupational Injuries and Illnesses in California by Age, Private Industry, 2020



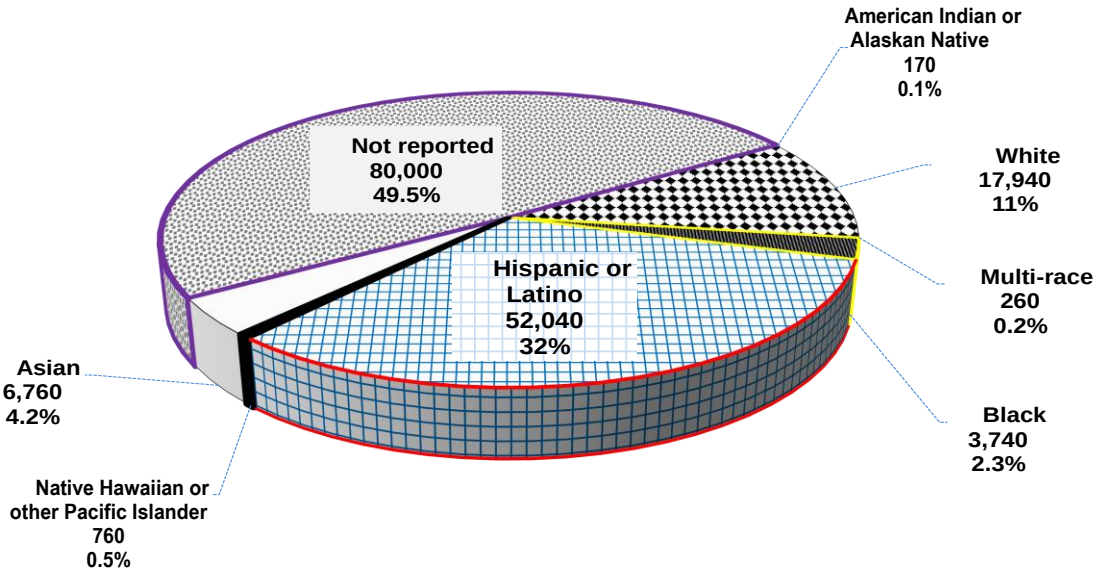
Data Source: DIR, Office of the Director-Research

Figure 136: California Occupational Injury and Illness Incidence Rates by Age, Private Industry 2020 (Days Away from Work Cases per 10,000 Full-Time Workers)



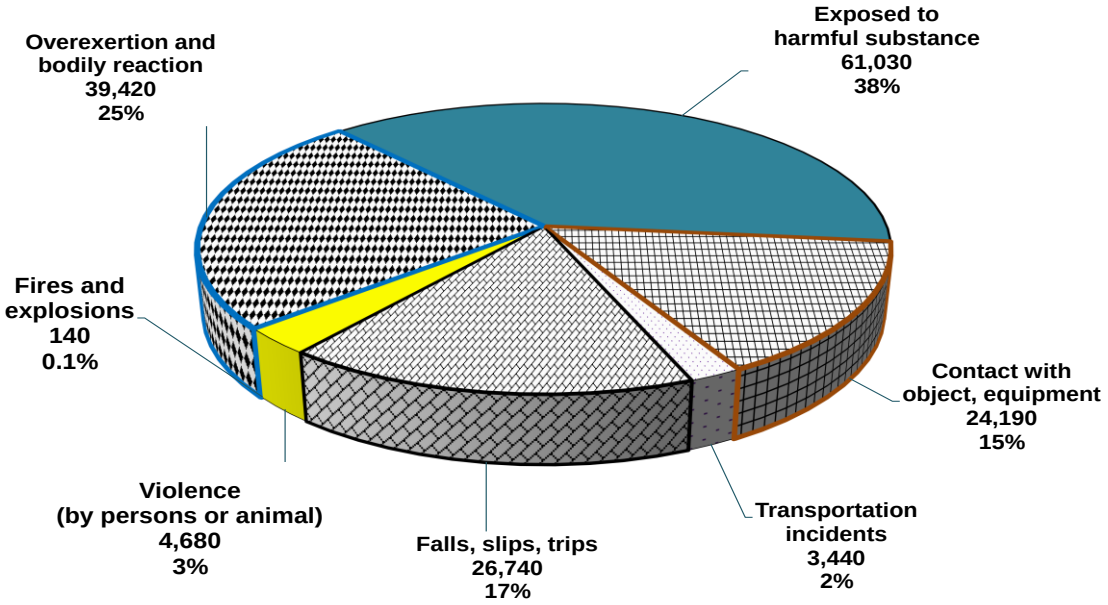
Data Source: BLS, Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State Agencies

Figure 137: California Non-Fatal Occupational Injuries and Illnesses by Race or Ethnic Origin, Private Industry, 2020



Data Source: DIR, Office of the Director-Research

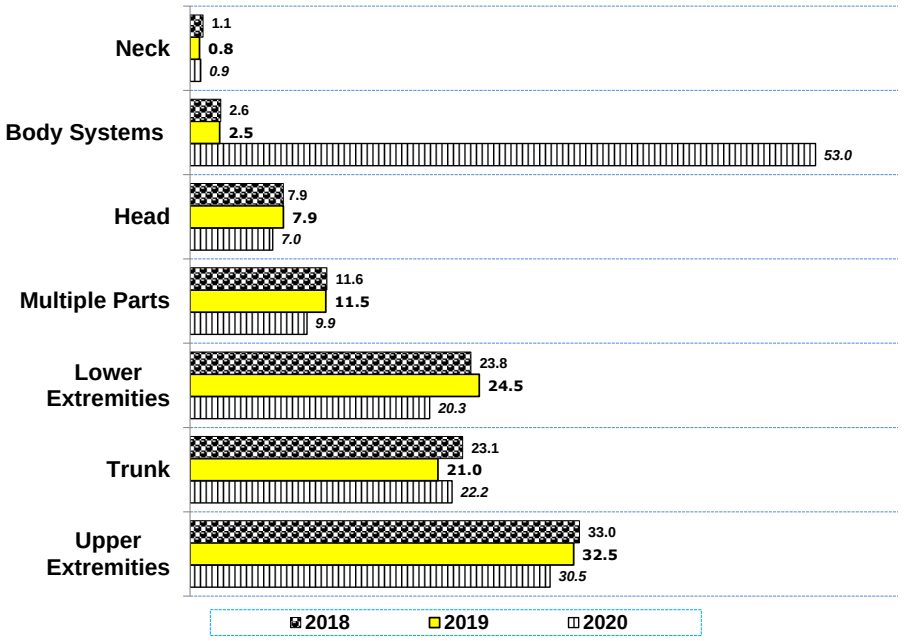
Figure 138: California Non-Fatal Occupational Injuries and Illnesses by Event and Exposure, Private Industry, 2020



Data Source: DIR, Office of the Director-Research

Figure 136 shows that the upper extremities, lower extremities, and trunk were the major body parts with the highest incidence rates in 2018, 2019, and 2020. DWC and WCAB forms[165] were changed to identify injuries related to COVID-19 by using body part code "900"[166], and likely where this choice was not included in a form, body systems was used instead to report the illness.

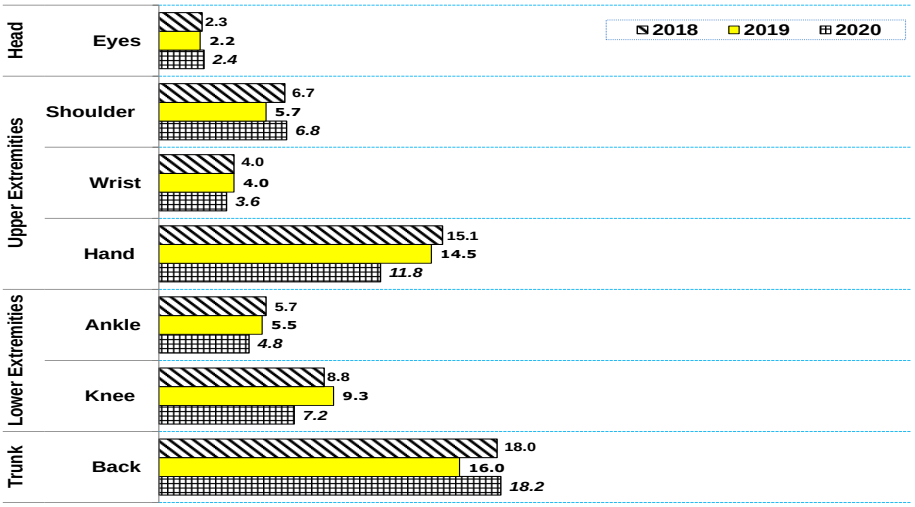
Figure 139: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Parts, Private Industry, 2018, 2019, and 2020 (per 10,000 Full-Time Workers)



Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

Figure 137 shows that the back was the body part with the highest incidence rate in 2018, 2019, and 2020.

Figure 140: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Selected Elements of Major Body Parts, Private Industry, 2018, 2019, and 2020 (per 10,000 FTE Workers)

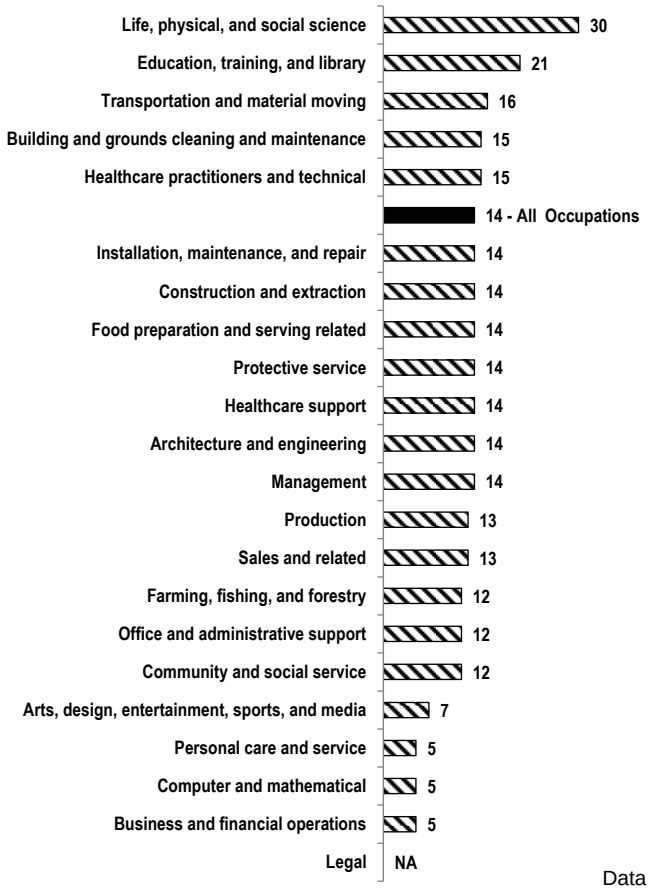


Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

[165] DWC, WCAB Update Forms to Identify Injuries Related to COVID-19, https://www.dir.ca.gov/DIRNews/2020/2020-44.html.
[166] EAMS Body Part Codes List, https://www.dir.ca.gov/dwc/EAMS/EAMS_BodyPartsCodeList.pdf.

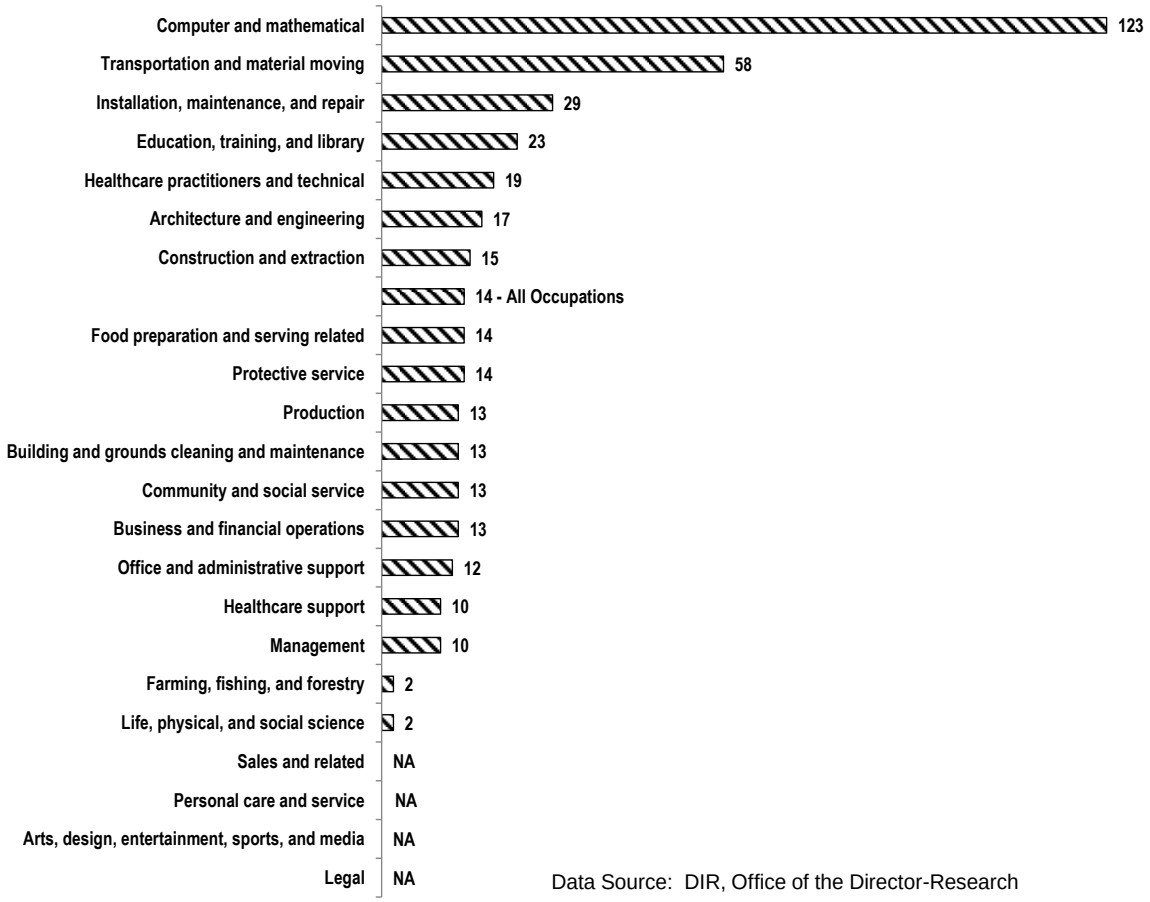
Figures 138 to 140 compare the median days away from work for private industry and state and local government occupations. Life, physical, and social science, education, training, and library, and transportation and material moving, had the greatest median days away from work in 2020.

Figure 141: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work, Private Industry, 2020



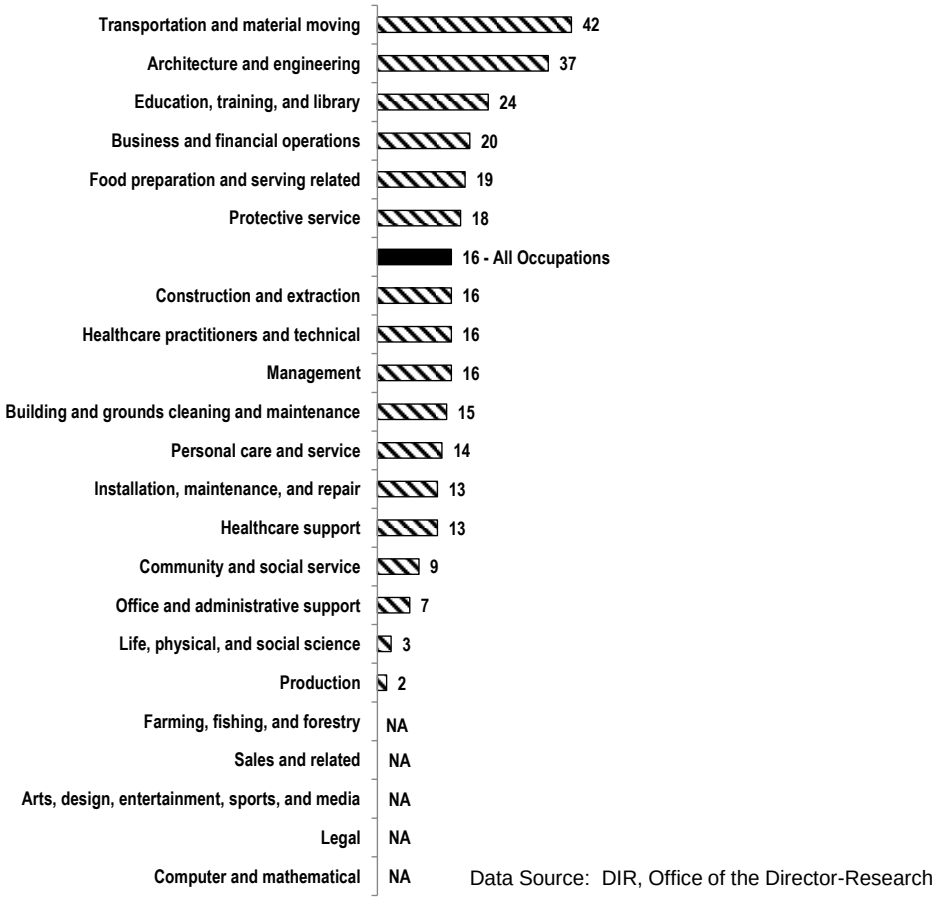
Data Source: DIR, Office of the Director-Research

Figure 142: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work, State Government, 2020



Data Source: DIR, Office of the Director-Research

Figure 143: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work, Local Government, 2020



Data Source: DIR, Office of the Director-Research

Figures 141 and 142 compare the injury and illness incidence rates, including back injury, for various occupations. The healthcare practitioners and technical occupations had the highest incidence rate in 2020, followed by building and grounds cleaning and maintenance occupations and healthcare support.

Figure 144: Incidence Rates by Private Sector Occupational Group (per 100 Full-Time Workers) Non-Fatal Occupational Injuries and Illnesses with Days Away from Work, 2020

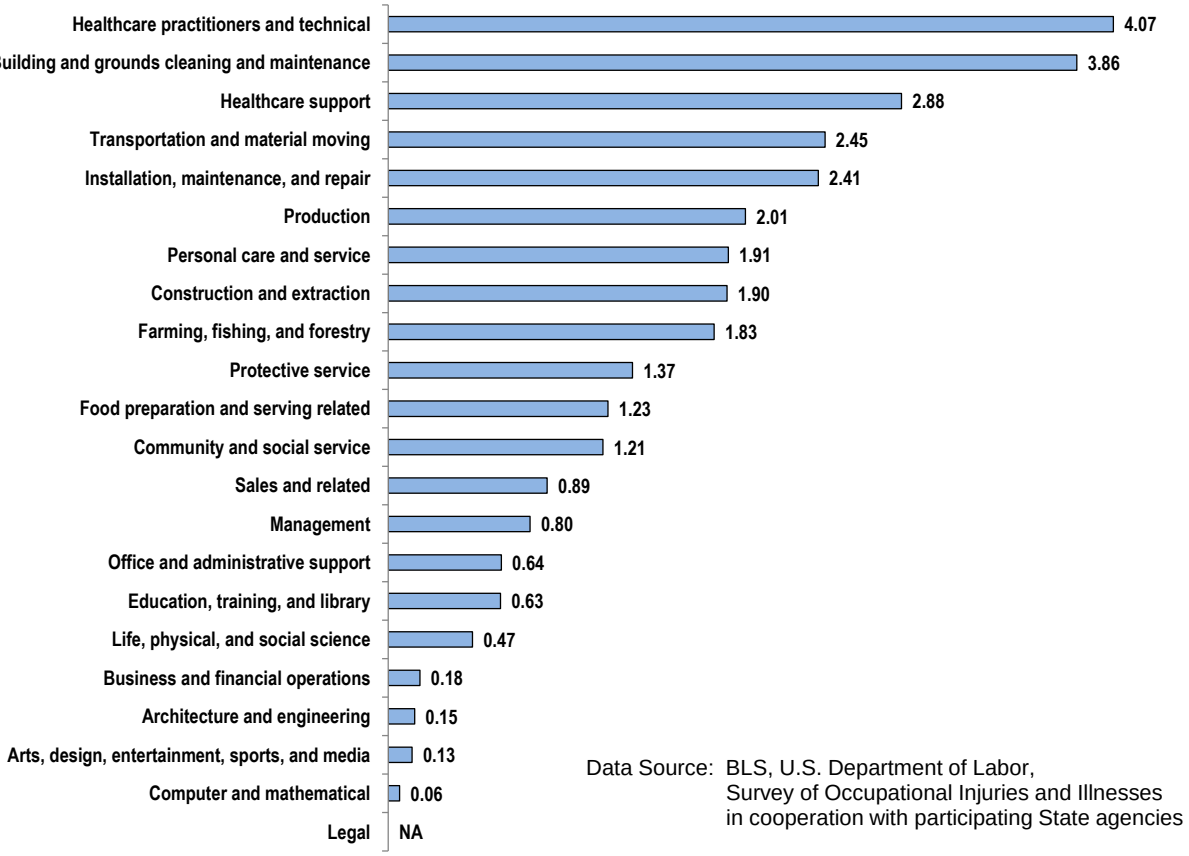
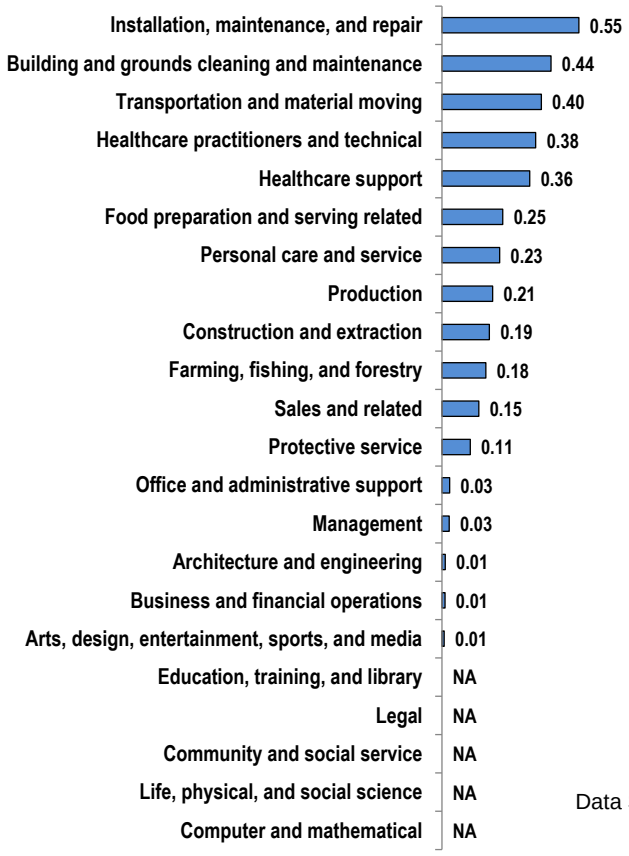


Figure 145: Back Injury Incidence Rates by Private Sector Occupational Group (per 100 Full-Time Workers) Non-Fatal Occupational Injuries and Illnesses with Days Away from Work, 2020

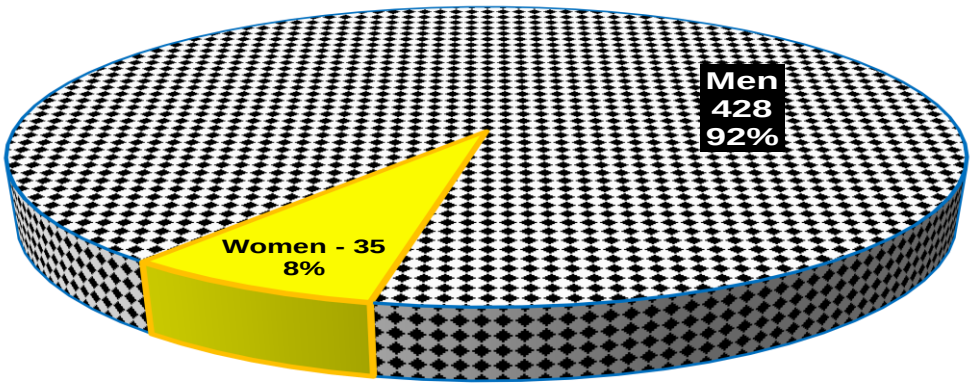


Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies

Characteristics of California Fatal Occupational Injuries and Illnesses

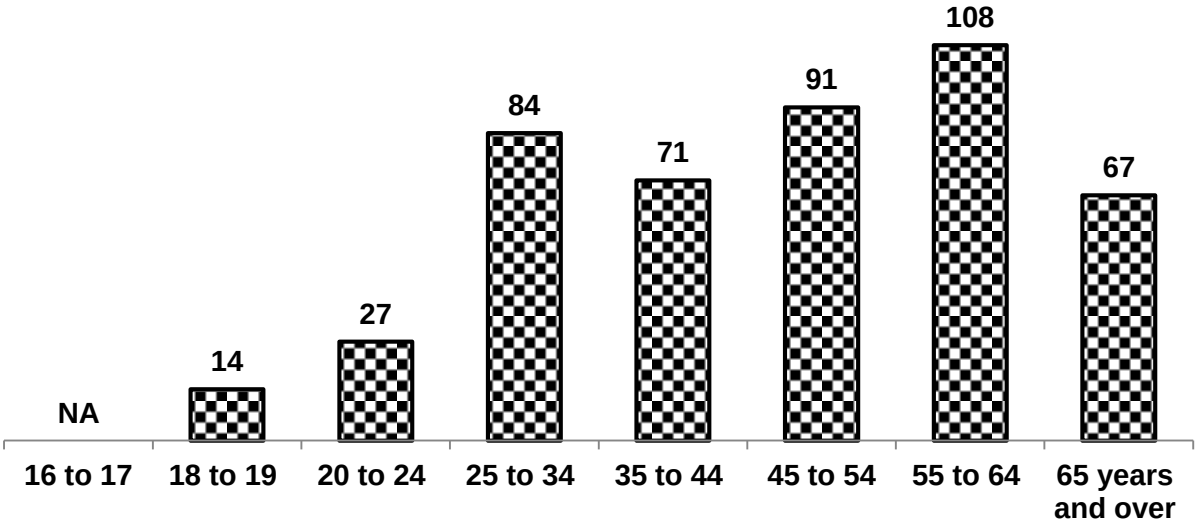
Figures 143-147 illustrate various characteristics of fatal occupational injuries and illnesses in private industry and federal, state, and local governments in California.

Figure 146: California Fatal Occupational Injuries and Illnesses by Gender, 2020



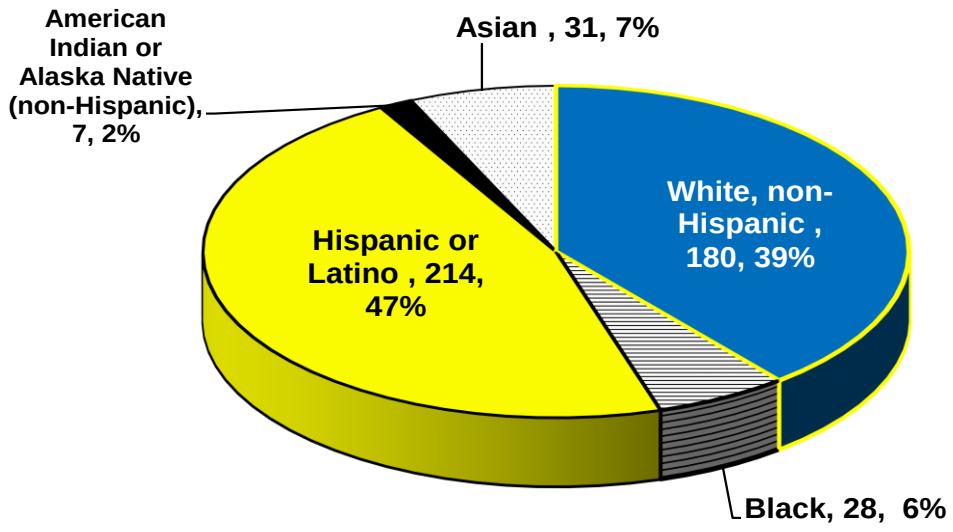
Data Source: BLS

Figure 147: California Fatal Occupational Injuries and Illnesses by Age of Worker, 2020



Source: BLS

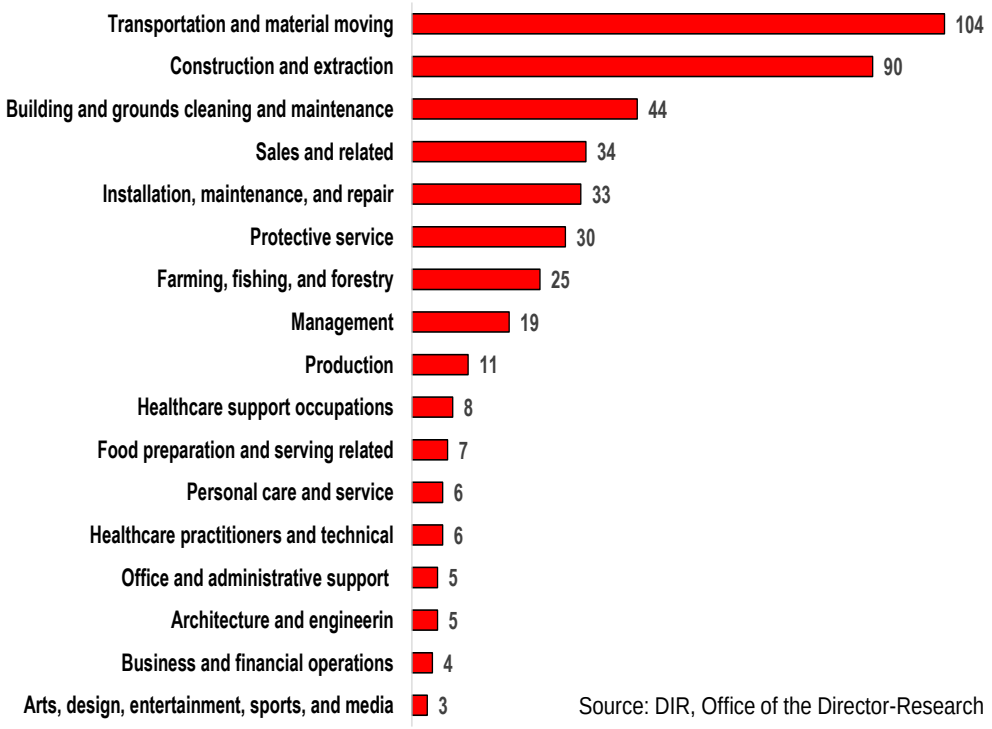
Figure 148: California Fatal Occupational Injuries and Illnesses by Race and Ethnic Origin, 2020



Source: BLS

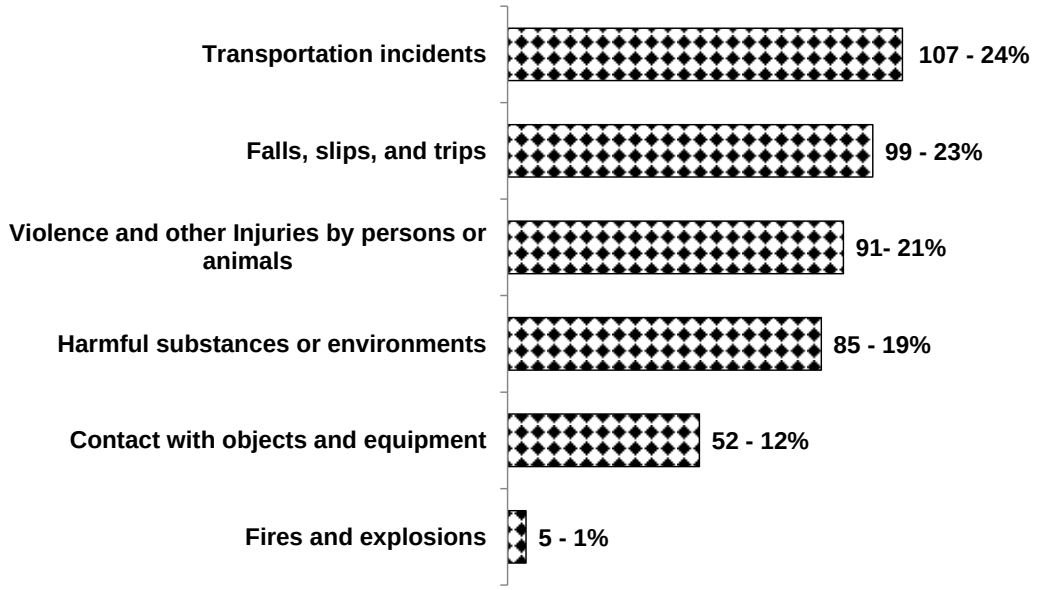
Figure 146 compares the number of fatalities for various occupations. The transportation and material-moving occupation had the highest number of fatalities in 2020, followed by the construction and extraction occupations.

Figure 149: Fatal Occupational Injuries by Selected Occupations, All Ownerships, 2020



Source: DIR, Office of the Director-Research

Figure 150: California Fatal Occupational Injuries and Illnesses by Event and Exposure, 2020



Note: The data exclude the Federal government.

Source: BLS

Fatal Injuries among Contracted and Independent Workers[167]

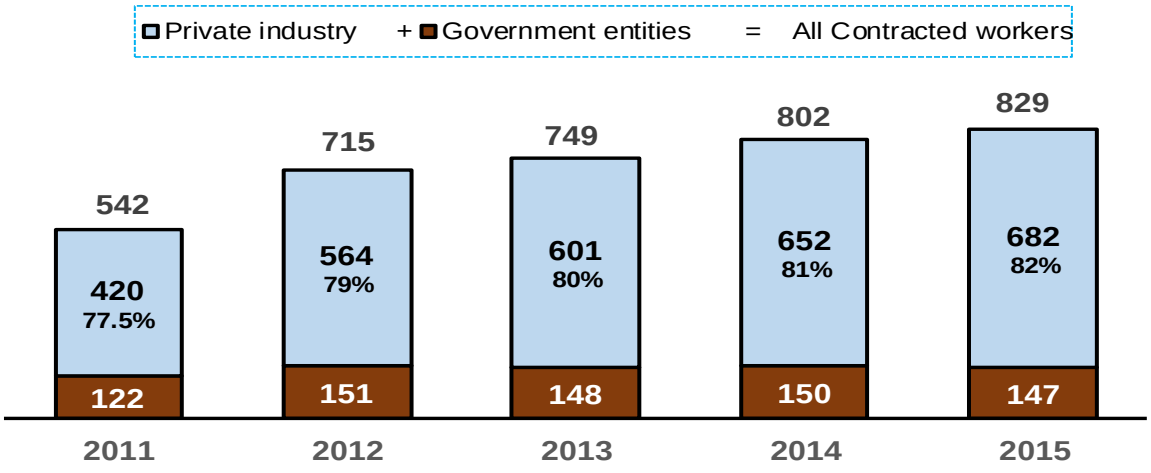
In the Census of Fatal Occupational Injuries (CFOI), a contracted worker is defined as someone employed by one firm but working for another firm that is responsible for operations at the site where a worker is killed. CFOI first collected data on contracted workers in 2011, and the latest data available 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.[168] 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.[169]

Figure 148 shows that from 2011 to 2015, the number of fatal occupational injuries among contracted workers in the U.S. increased by 53 percent.

[167] Data in this section were created on an ad hoc basis by the Bureau of Labor Statistics (BLS) and not updated in 2020.
[168] https://www.bls.gov/iif/oshwc/cfoi/contractor.htm.
[169] https://www.bls.gov/opub/ted/2018/independent-contractors-made-up-6-point-9-percent-of-employment-in-may-2017.htm?view_full.

Figure 151: Number of Fatal Occupational Injuries by Contracted Workers in the U.S., 2011—2015



Source: BLS

Table 37 depicts the number of fatal injuries among independent workers Nationally and in California from 2016 to 2018.

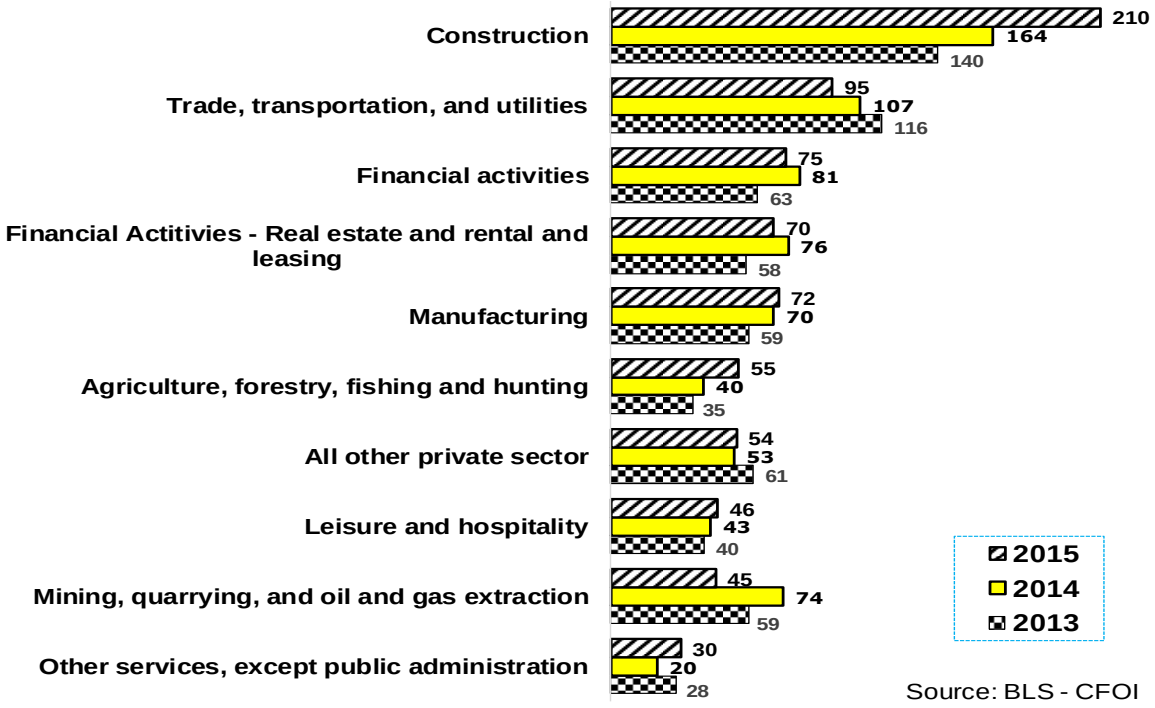
Table 36: Number of Fatal Occupational Injuries by Independent Workers in the U.S. and California, 2016—2018

	2016	2017	2018
U.S.	662	613	621
California	52	75	60

Source: BLS

As Figure 149 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.

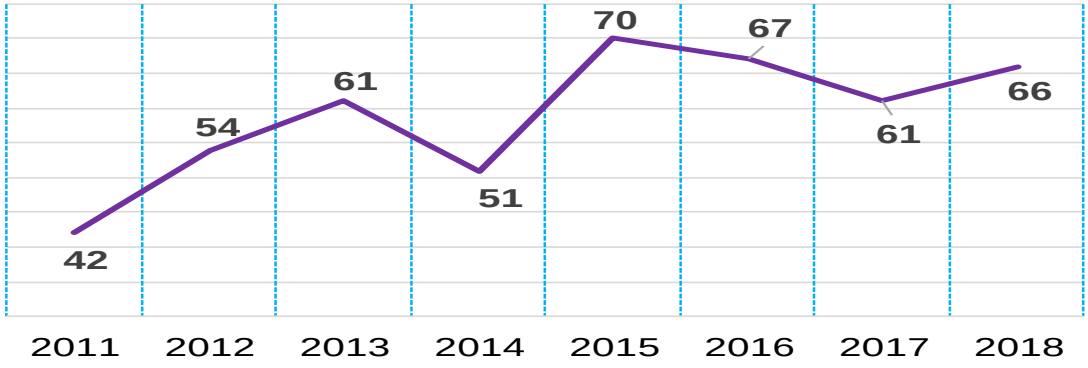
Figure 152: Number of Fatal Occupational Injuries by Contracted Workers in the U.S., by Contracting Industry, 2013–2015



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 150 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.

Figure 153: 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 2020 indicate a non-fatal injury and illness incidence rate of 3.2 cases per 100 full-time employees in the private sector. This is an about 9 percent decline from the 2013 level of 3.5 and the same as the previous 2019 year's rate.
- The trend in California mirrored a national trend from 2013 to 2020. 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 2020 with a slight decreases from 2.8 in 2019 to 2.7 in 2020. 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.
- 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 2020 is 5.5 cases per 100 full-time employees. While this is a 22.5 percent decline from the 2013 rate of 7.1, in 2020, the state and local government rate of 5.5 in California is almost 29 percent higher than the national rate of 3.9 for state and local government.
- The national fatality rate increased by 3 percent between 2013 and 2020, from 3.3 to 3.4 cases per 100,000 employed, and California's fatality rate increased by 21 percent from 2.4 per 100,000 employed in 2013 to 2.9 cases in 2020.[170]
- Among the Western region states (Alaska, Arizona, California, Hawaii, Nevada, Oregon, and Washington), Arizona's (3.0), Hawaii's (3.0), and both California's and Nevada's (3.2) private industry rates in 2020 for non-fatal occupational injuries and illnesses were the lowest.[171] The 2020 fatality rates among these states were the lowest for Washington (2.5), California and Hawaii (2.9 each) and Nevada (3.0).[172]

Duration

- Days-away-from-work cases in the private sector, including those that result in days away from work with or without a job transfer or restriction, increased by 36 percent from 1.1 case per 100 full-time employees in 2013 to 1.5 case per 100 full-time employees in 2020. The national rate of the days-away-from-work cases per 100 full-time employees increased from 1.0 to 1.2 cases in the private sector during the same period.
- Nationally, the overall days-away-from-work rate increased from 0.9 to 1.2 cases per 100 full-time employees from 2019 to 2020. California's days-away-from-work rate increasing from 1.0 to 1.5 cases per 100 full-time employees from 2019 to 2020 during the COVID-19 pandemic.

Industry Data

- In 2020, injury and illness incidence rates varied greatly among private industries ranging from 0.7 injury/illness per 100 full-time workers in the professional, scientific, and technical services and information industries to 6.1 in health care and social assistance. California's private industry rates for total cases were higher than the national rates in every major industry division, except for mining,

[170] 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.
[171] The comparisons of industry rates have not been adjusted for industry mix in each state.
[172] https://www.bls.gov/iif/oshwc/cfoi/staterate2019.htm.

quarrying, and oil and gas extraction (0.9 and 1.2), educational services (0.9 and 1.1), and information (0.7 and 0.8).

- The California private industry total case rate for non-fatal injuries experienced no change from 3.2 cases per 100 full-time workers in both 2019 and 2020, and the rate for the public sector (state and local government) decreased by 10 percent from 6.1 in 2019 to 5.5 in 2020.
- According to the OD-Research, and the Office of Legislative Affairs, the largest decrease in injury and illness by major industry category from 2019 to 2020, was in the educational services (64 percent), from 2.5 to 0.9, in both professional, scientific, and technical services and information (36 percent), from 1.1 to 0.7 per 100 full-time worker injuries, followed by a decrease in transportation and warehousing (25 percent) from 5.9 to 4.4 per 100 full-time worker injuries in 2019 and 2020, and by a decrease in agriculture, forestry, fishing and hunting (22 percent), from 6.0 to 4.7 per 100 full-time worker injuries in 2019 and 2020.[173]
- According to the OD-Research, the largest increase in injury and illness by industry sectors was in management of companies and enterprises (43 percent), from 0.7 to 1.0 per 100 full-time worker injuries in 2019 and 2020 respectively, followed by health care and social assistance (39 percent), with an increase from 4.4 to 6.1, real estate and rental and leasing, with a 13 percent increase from 2.3 to 2.6 per 100 full-time worker injuries in 2019 and 2020, and other services (except public administration) (13 percent), from 2.4 to 2.7 between 2019 and 2020.[174]
- From 2013 to 2020, the number of fatal injuries[175] increased by almost 16 percent, from 378 to 438.[176] From 2019 to 2020, there was a very slight increase in the number of fatal injuries from 437 to 438 respectively. In 2020, the highest number of fatal injuries in the private sector was in construction (80), followed by transportation and warehousing (74) and administrative and support and waste management and remediation services (52).
- In private industry, the top ten occupations with the most non-fatal injuries and illnesses in 2020 were: registered nurses; laborers and freight, stock and material movers, hand; nursing assistants; stockers and order fillers; personal care aids; heavy and tractor-trailer truck drivers; retail salespersons; farmworkers and laborers, crop, nursery, and greenhouse; maids and housekeeping cleaners; janitors and cleaners, except maids and housekeeping cleaners.
- In California's state government, the top ten occupations with the most non-fatal injuries and illnesses in 2020 were: correctional officers and jailers; police and sheriff's patrol officers; registered nurses; firefighters; highway maintenance workers; psychiatric technicians; first-line supervisors of correctional officers; janitors and cleaners, except maids and housekeeping cleaners; first-line supervisors of firefighting and prevention workers; health information technologists, medical registrars, surgical assistants, and healthcare practitioners and technical workers, all other.
- In local government, the top ten occupations with the most non-fatal injuries and illnesses in 2020 were: police and sheriff's patrol officers; correctional officers and jailers; firefighters; janitors and cleaners, except maids and housekeeping cleaners; first-line supervisors of police and detectives; first-line supervisors of firefighting and prevention workers; landscaping and groundskeeping workers; registered nurses; maintenance and repair workers, general; nursing assistants.
- Transportation and material moving (104), construction and extraction (90), and building and grounds cleaning and maintenance (44) occupations accounted for 51 percent of the fatal injuries in 2020. Sales and related (34), installation, maintenance, and repair (33), protective services (30), farming, fishing, and forestry (25), management (19), and production (11), were the other occupations with the most number of fatal injuries in 2020. Transportation and material-moving occupations were the top cause of fatal injuries accounting for 22.5 percent of fatal injuries in 2020.

[173] DIR, Office of the Director-Research, Table 1: Incidence rates of non-fatal occupational injuries and illnesses by selected industries and case types, 2019, 2020.
[174] Ibid.
[175] BLS preliminary data.
[176] The number of fatalities excludes those for the Federal government.

- Transportation incidents (including the federal government) accounted for 24 percent of fatal injuries in 2020 and were a major cause of fatalities among: transportation and material moving (56); construction and extraction (14), and building and grounds cleaning and maintenance (7) occupations.

Establishment Size and Type

- The lowest rate for the total recordable non-fatal cases in 2020 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 1.4 and 2.6 cases, respectively, per 100 full-time employees. Establishments with 11 to 49 and 250 to 999 employees experienced 13 percent and 5 percent decreases respectively in incidence rates from 2019 to 2020.
- Establishments with 50 to 249 employees reported the highest rate of 4.2 per 100 full-time employees, followed by 3.7 and 3.3 cases per 100 full-time employees respectively for establishments with 250 to 999 and 1,000 or more employees in 2020. Employers with 1 to 10, 1,000 or more, and 250 to 999 employees experienced 27 percent, 18 percent, and 5 percent increases respectively from 2019 to 2020.

Types of Injuries

- Eight out of eleven types of work illnesses and injuries decreased from 2013 to 2020 in the private sector. The number of sprains, strains, and tears decreased by 8 percent from 2013 to 2020; these injuries remain by far the most common type of work injury accounting for 40 percent of days-away-from-work cases in the private sector in 2020. The biggest decrease of 64 percent from 470 cases in 2013 to 170 in 2020 was in tendonitis, followed by carpal tunnel syndrome (-15 percent), multiple traumatic injuries (-11 percent), and equally decreased heat (thermal) burns (-10 percent) and cuts, lacerations, punctures (-10 percent). The biggest increase (39 percent) from 180 cases in 2013 to 250 cases in 2020 was in chemical burns and corrosions. Soreness and pain increased 35 percent and fractures increased 9 percent between 2013 and 2020.
- In the private sector, exposure to harmful substances or environment were the leading causes of days-away-from-work injuries, cited in 38 percent of cases in 2020. Overexertion and bodily reaction was the second-most common cause 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 44 and 19 percent of days-away-from-work cases, respectively, in 2020.
- In local government, the main causes of injury were overexertion and bodily reaction and exposure to harmful substances or environment, accounting for 32.4 and 32.2 percent of days-away-from-work cases, respectively, in 2020.
- The most frequently injured body part was the body systems, accounting for 45 percent of the cases in state government and 30 percent of the cases in local government in 2020. In the private sector, the body systems account for 37 percent of the non-fatal cases.

Demographics

- Over the period from 2013 to 2020 in the California private sector, the number of days-away-from-work cases for women increased by 21 percent. Days-away-from-work cases for men increased by 20 percent. Some of the increase (28 percent and 16 percent for women and men respectively) from 2013 to 2019 can be attributed to an increase in employment and total hours worked. From 2019 to 2020, there was a 3 percent increase in the number of fatalities for men and 3 percent decrease for women.
- Between 2013 and 2020, in private industry, all the age groups experienced increase in the number of cases with days away from work. The biggest increase (78 percent and 60 percent) occurred among workers 65 and over and 55-64 age group respectively. The 16–19 age group increased 50 percent

and the 20-24 age group grew 49 percent from 2013 to 2020. The 25-34 age group increased 37 percent, 45-54 age groups increased 31 percent, and 35-44 age group increased 26 percent from 2013 to 2020.

- In 2020, out of 463 fatalities (including the federal government), 92 percent were male and 8 percent were female. Compared to 2013, the biggest and decrease in the number of fatalities (23 percent) was in the 35–44 age group (from 92 to 71 cases), followed by the 45-54 age group with a 7 percent decrease from 98 fatalities in 2013 to 91 fatalities in 2020. The age groups that experienced the biggest increase in the number of fatalities was the 18 to 19 age group (133 percent increase) from 6 to 14 cases, followed by a 91 percent increase from 35 to 67 in the 65 and over age group, a 44 percent increase from 75 to 108 in the age group of those 55 to 64, a 29 percent increase from 21 to 27 in the 20 to 24 age group, and 22 percent increase from 69 to 84 in the 25 to 34 age group.
- The highest number of fatalities by race or ethnic origin categories in 2020 was experienced by “Hispanic or Latino” (214) and “White, non-Hispanic” (180) groups, accounting for 47 percent and 39 percent of the fatalities respectively. From 2013 to 2020, all ethnic groups experienced an increase in the number of fatalities. The highest increase in fatal injuries from 2013 to 2020, 75 percent, was in the group “Black, non-Hispanic” (from 16 to 28 cases), followed by 55 percent increase from 20 to 31 cases in the “Asian” group. The “White, non-Hispanic” ethnic group experienced a 10.4 percent increase in fatal injuries, from 163 cases in 2013 to 180 cases in 2020 and there was another 10.3 percent increase from 194 in 2013 to 214 cases in 2020 in the “Hispanic or Latino” 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 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 characteristics of non-fatal workplace injuries and illnesses that result in lost work time. Each year, BLS collects employer reports from about 173,800 randomly selected private industry establishments.

Fatal Injuries and Illnesses

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.

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.

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 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 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.

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.

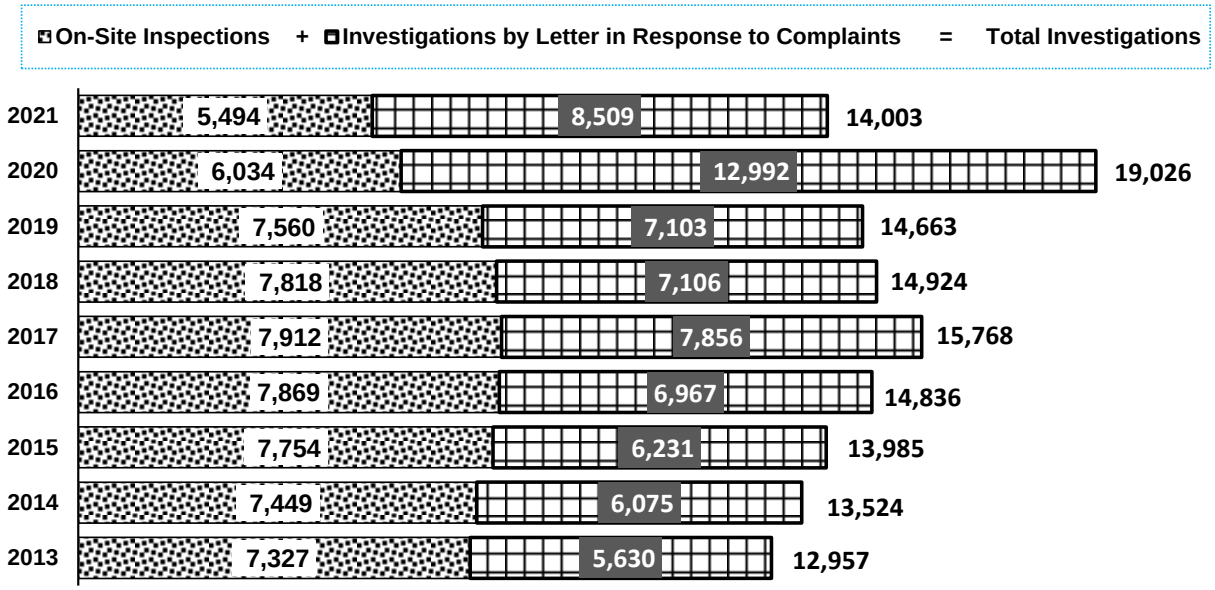
Information on COVID-19 illnesses reported, complaints received, and inspections and investigations conducted by Cal/OSHA could be found on California's Open Data Portal and in *COVID-19 Complaints, Fatalities, and Illnesses (Update)*[177] presentation.

[177] https://data.ca.gov/dataset/dosh-covid-19/resource/465980a9-fdd2-4328-9924-6c2a565f41e1 and https://www.dir.ca.gov/chswc/Meetings/2020/CalOSHA-Presentation-12-03-2020.pdf.

Profile of Division of Occupational Safety and Health (DOSH) Investigations and Violations Cited

Figure 154 shows the number of on-site inspections and investigations by letter[178] in response to complaints for the period from calendar year (CY) 2013 to CY 2021.[179] The on-site inspections increased by 8 percent from 2013 to 2017, decreased by 4 percent from 2017 to 2019, and then fell by 27 percent from 2019 to 2021. Investigations by letter in response to complaints increased by 40 percent from 2013 to 2017, decreased by 10 percent from 2017 to 2019, and increased by 83 percent from 2019 to 2020. Sending a letter instead of an on-site inspection, according to Figure 154, might have been a preferred way of conducting investigations during the COVID-19 pandemic. From 2020 to 2021, investigations by letter in response to complaints decreased by 35 percent. Accordingly, reflecting DOSH enforcement activities, the total number of investigations increased by 22 percent from 2013 through 2017, decreased by 7 percent from 2017 to 2019, and increased by 30 percent from 2019 to 2020. From 2020 to 2021, the total number of investigations decreased by 26 percent.

Figure 154: DOSH Enforcement Activities, 2013–2021



Source: DOSH

Figure 155 shows the distribution of DOSH on-site inspections with and without violations from 2013 to 2021.

Unprogrammed inspections triggered by accidents increased from 26 percent of all programmed and unprogrammed inspections in 2013 to 33 percent in 2015 and stabilized at 32-33 percent from 2015 to 2019. From 2019 to 2021, the share of inspections triggered by accidents increased by 14 percentage points to 47 percent.

Unprogrammed inspections triggered by complaints fluctuated slightly around an average of 28 percent from 2013 to 2019, and then decreased to 23 percent from 2019 to 2021.

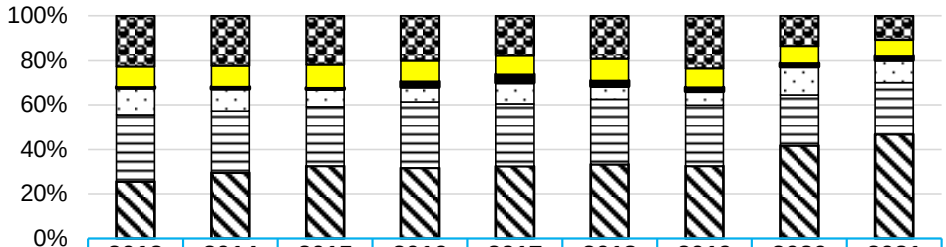
[178] Investigations by letter are conducted in response to non-formal complaints alleging nonserious (general or regulatory) hazards. Investigations by sending a letter require the employer to conduct an investigation and correct any hazards discovered. https://www.dir.ca.gov/dosh/caloshacomplaintflowchart.html; items 3D and 3E

[179] The number of investigations, on-site inspections, and violations for calendar years could differ from those in fiscal years below in this section.

Programmed inspections decreased from an average of 22 percent per year from 2013 through 2016 to 18 percent in 2017 and then increased to 24 percent in 2019. From 2019 to 2021, the share of programmed inspections decreased by 13 percentage points to 11 percent.

From 2013 to 2021, accidents and complaints were consistently the predominant types of inspections.

Figure 155: Distribution of DOSH on-Site Inspections by Type (All, with and without Violations), 2013–2021

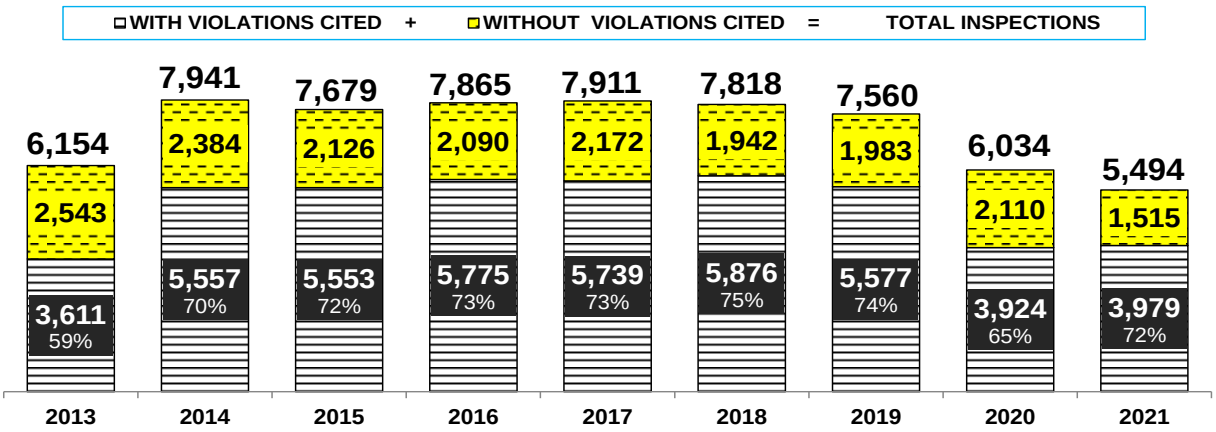


	2013	2014	2015	2016	2017	2018	2019	2020	2021
Programmed	23%	22%	22%	20%	18%	19%	24%	14%	11%
Unprogrammed Related (different employer, same worksite)	9%	9%	11%	9%	8%	10%	9%	8%	7%
Follow-up (unprogrammed)	1%	1%	1%	3%	4%	3%	2%	2%	2%
Referral (unprogrammed)	12%	10%	8%	7%	10%	6%	6%	13%	10%
Complaint (unprogrammed)	30%	28%	27%	30%	28%	29%	27%	23%	23%
Accident (unprogrammed)	26%	30%	33%	32%	32%	33%	33%	42%	47%

Source: DOSH

According to Figure 156, the number of inspections without violations decreased overall by 22 percent from 2013 to 2019, increased by 6 percent from 2019 to 2020, and then dropped by 28 percent from 2020 to 2021. The number of inspections with violations increased 63 percent from 2013 to 2018, decreased 5 percent from 2018 to 2019, and then fell by 28 percent from 2019 to 2021. The share of DOSH inspections that resulted in violations cited increased from 59 percent of the inspections in 2013 to 70 percent in 2014, and then increased to an average of 74 percent from 2017 to 2019. From 2019 to 2020, the share of DOSH inspections that resulted in violations cited decreased by almost 10 percentage points to 65 percent of all inspections in 2020, but returned to over 70 percent in 2021.

Figure 156: DOSH Inspections (with and without Violations Cited), 2013–2021



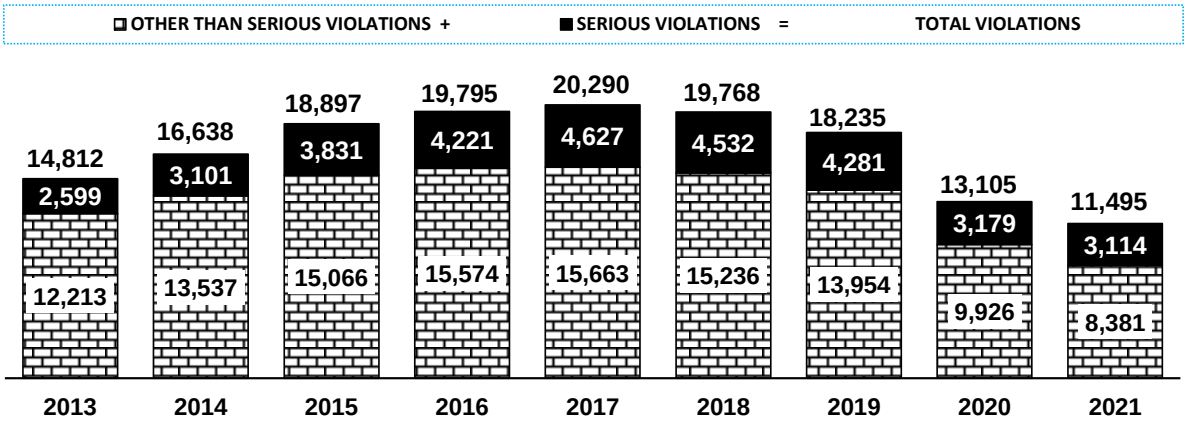
Data Source: DOSH

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 serious and other-than-serious.

The number of DOSH violations and their breakdown by type from 2013 to 2021 are shown in Figure 157.

According to Figure 157, the number of all violations increased by 37 percent from 2013 to 2017, decreased by 10 percent from 2017 to 2019, and then fell by 37 percent from 2019 to 2021. The number of serious violations increased by 78 percent from 2013 to 2017, decreased by 7.5 percent from 2017 to 2019, and then declined by 27 percent from 2019 to 2021. (See Figures 170 and 171 for OSHAB statistics on the number of appeals of DOSH violations that were filed and resolved.)

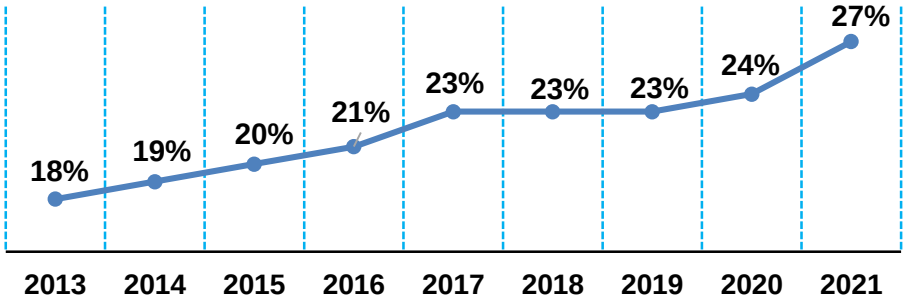
Figure 157: DOSH Violations (Serious and Other Than Serious), 2013-2021



Source: DOSH

Figure 158 shows the trend in serious DOSH violations as a share of all violations from 2013 to 2021. The share of serious DOSH violations gradually increased from 18 percent in 2013 to 23 percent yearly from 2017 to 2019, and increased to 27 percent in 2021.

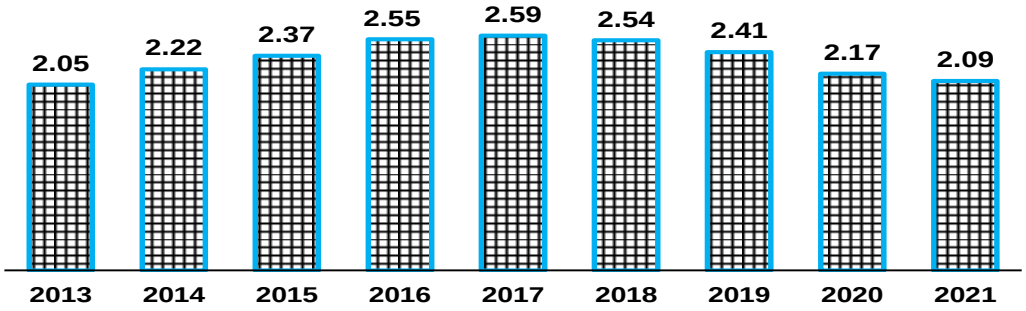
Figure 158: Serious Violations as a Share of Total DOSH Violations, 2013-2021



Source: DOSH

The average number of DOSH violations per inspection increased by 24 percent from 2013 to 2016, averaged 2.55 from 2016 to 2018, and after a slight decrease from 2018 to 2019, it declined by 13 percent to 2.09 DOSH violations per inspection in 2021.

Figure 159: Average Number of DOSH Violations per Inspection, 2013–2021



Source: DOSH

Table 38 lists the top twenty-five most frequently cited CCR Title 8 standards in 2021.

Table 37: Twenty-Five Most Frequently Cited CCR Title 8 Standards, 2021

Standard	Description	Total Violations	Serious Violations	Percent Serious
3203	Injury and Illness Prevention Program	1,804	367	20.3%
3395	Heat Illness Prevention	974	160	16.4%
5199	Aerosol Transmissible Diseases	902	527	58.4%
342	Reporting Work-Connected Fatalities and Serious Injuries	710	24	3.4%
1509	Construction Injury and Illness Prevention Program	581	34	5.9%
3205	COVID-19 Prevention	501	182	36.3%
3314	Control of Hazardous Energy, Including Lockout/Tagout	368	154	41.8%
5144	Respiratory Protection	242	28	11.6%
3276	Portable Ladders	233	73	31.3%
5162	Emergency Eyewash and Shower Equipment	170	82	48.2%
5194	Hazard Communication	170	9	5.3%
6151	Portable Fire Extinguishers	169	0	0.0%
1512	Construction: Emergency Medical Services	143	2	1.4%
3650	Industrial Trucks: General Requirements	132	53	40.2%
3328	Safe Practices, Personal Protection: Machinery and Equipment	127	61	48.0%
3668	Powered Industrial Truck Operator Training	120	16	13.3%
14300.29	Employer Records of Occupational Injury or Illness: Forms	109	0	0.0%
461	Permits to Operate Air Tanks	109	1	0.9%
1670	Personal Fall Arrest Systems, Personal Fall Restraint Systems and Positioning Devices	108	53	49.1%
2340.16	Work Space About Electric Equipment	103	1	1.0%
341	Permit Requirements: Excavations, Trenches, Construction and Demolition and the	89	4	4.5%

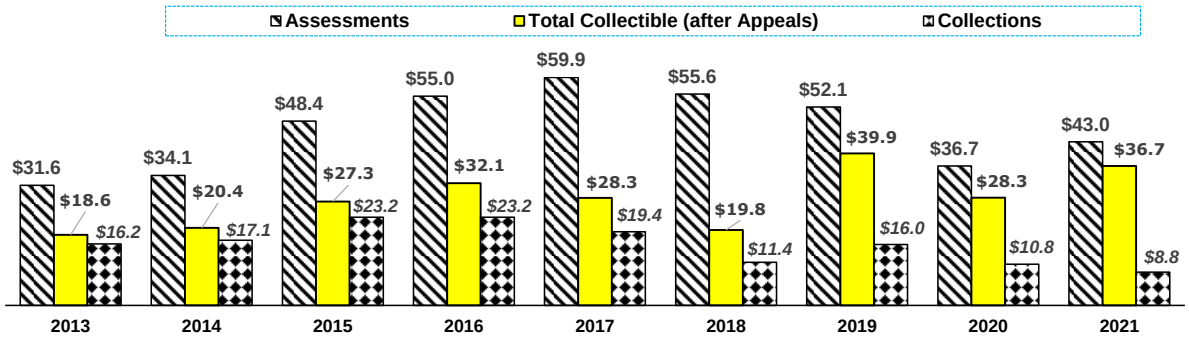
Standard	Description	Total Violations	Serious Violations	Percent Serious
	Underground Use of Diesel Engines in Work in Mines and Tunnels			
3421	Tree Work, Maintenance or Removal. General	88	23	26.1%
4002	Moving Parts of Machinery or Equipment	68	56	82.4%
3380	Personal Protective Devices	66	9	13.6%
1712	Requirements for Impalement Protection	64	36	56.3%

Note: "Serious" includes Serious, Willful, and Repeat Violations
Source: DOSH Budget and Program Office.

Figure 160 demonstrates the trends in penalties and collections. Total penalties assessed were $36.7 million in 2020, a decrease of 30 percent from its 2019 pre-pandemic level and a 39 percent decrease from 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. 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 $28 million and $11 million, respectively, in 2020. From 2020 to 2021, penalties collectible increased by 29 percent while penalties collected decreased by 19 percent.

Although Figure 160 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. 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.

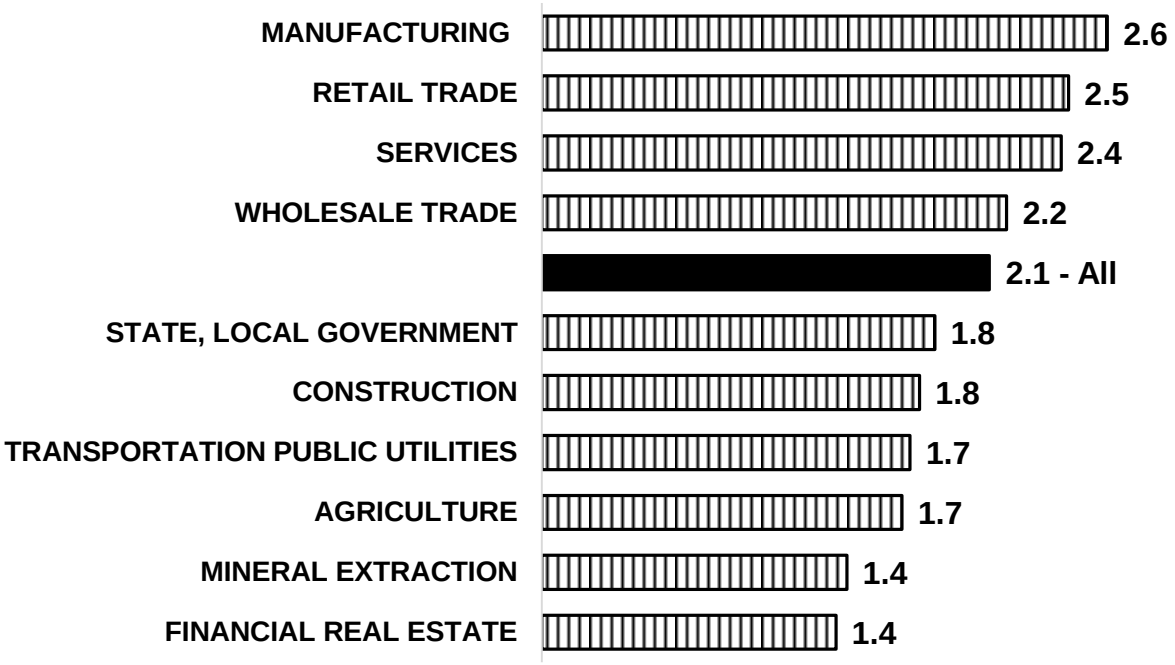
Figure 160: Total DOSH Penalties Assessed and Collected, 2013–2021 (Million $)



Source: DOSH

Figure 161 shows the rate of DOSH violations per on-site inspection for each major industry group in 2021. Except for the higher-than-average rate in manufacturing and lower-than-average rate in industries with a small proportion of both inspections and violations such as mineral extraction and financial real estate, the industry groups with a bigger share of inspections and violations have a close to average rate of DOSH violations per on-site inspection, which explains the similar industry group proportions in on-site inspections and DOSH violations. (See Figures 162 and 163).

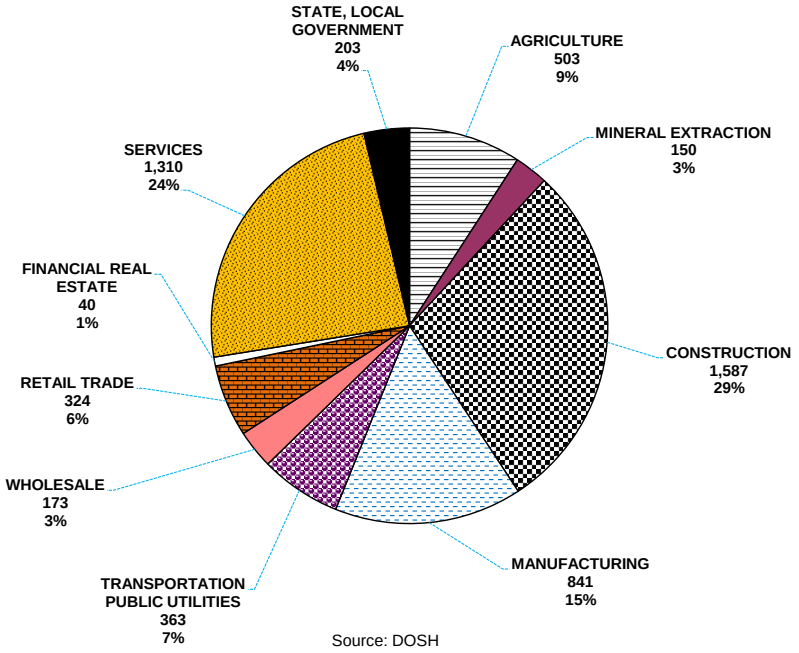
Figure 161: Rate of DOSH Violations per on-Site Inspection, by Major Industry Groups, 2021



Source: DOSH

Figure 162 illustrates the proportion of on-site inspections in major industrial groups. Of the 5,494 workplace health and safety inspections conducted in 2021, 1,587 (29 percent) were in construction and 3,907 (71 percent) were in non-construction.

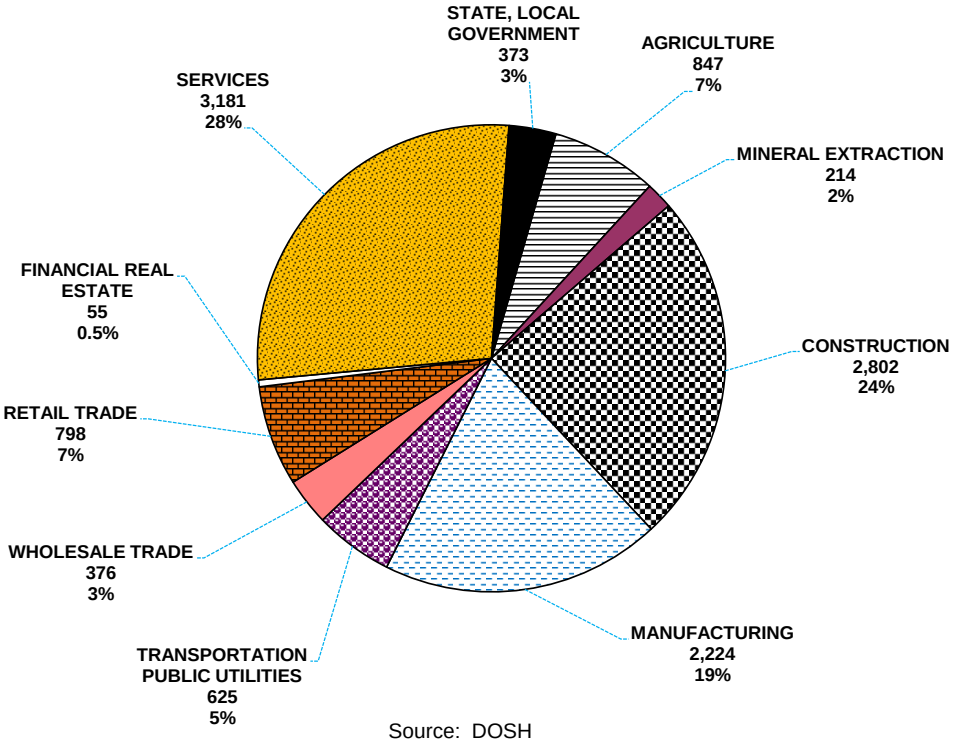
Figure 162: Distribution of on-Site Inspections by Major Industry, 2021
(Total Inspections = 5,494)



Source: DOSH

As shown in Figure 163, the highest percentage of violations was in services (28 percent) and construction (24 percent), followed by manufacturing (19 percent).

Figure 163: Distribution of Violations by Major Industry, 2021
(Total Violations = 11,495)



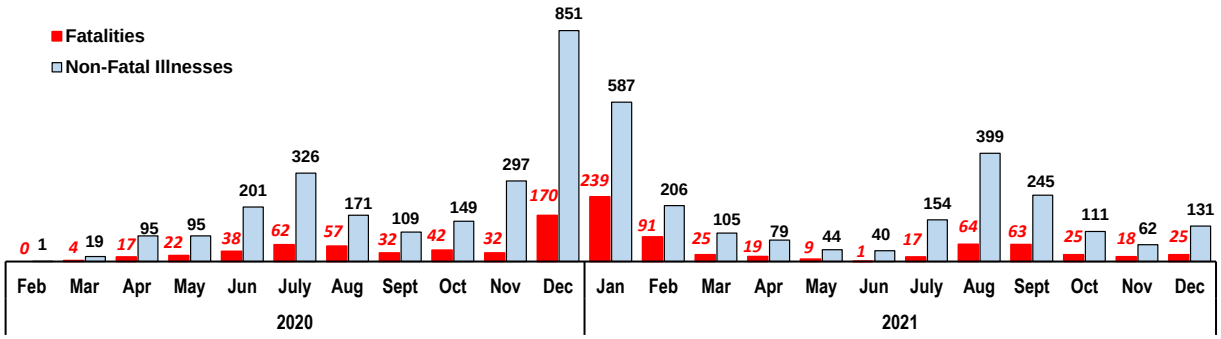
Source: DOSH

COVID-19-related DOSH Investigations and Inspections[180]

As a result of the COVID-19 pandemic, there was a significant increase in the demand for DOSH enforcement. DOSH enforcement activities related to identification and prevention of COVID-19 hazards are reflected in Figures 164-166. The data covers 23 months of DOSH COVID-19-related activities starting from February 2020 to December 31, 2021, based on reports run on August 2022. These data come with the caveat that the numbers of COVID-19 non-fatal illnesses and fatalities and related complaints in 2020 and 2021 may not be complete or may include duplicates when more than 1 employee calls in similar complaints for the same employer, or a reported illness results in an additional report when the illness leads to a fatality, and those also may include invalid complaints, unprocessed complaints, illnesses, fatalities, and referrals. The complaints and reports of non-fatal illnesses and fatalities may include both the confirmed and unconfirmed cases in terms of work-relatedness.[181] According to DOSH, despite the caveats, the general data trends reflected in the figures below are correct.

Figure 164 shows the numbers of COVID-19 non-fatal illnesses and fatalities reported to DOSH in 2020 and 2021. Over the 23 months, 4,477 non-fatal illnesses and 1,072 fatalities were reported to DOSH, with 39 percent of all non-fatal cases reported in November and December of 2020 and January of 2021 with a one month lag for fatalities, when 47 percent of all fatalities were reported in December of 2020 and January and February of 2021.

Figure 164: Numbers of COVID-19 Non-Fatal Illnesses and Fatalities Reported to DOSH



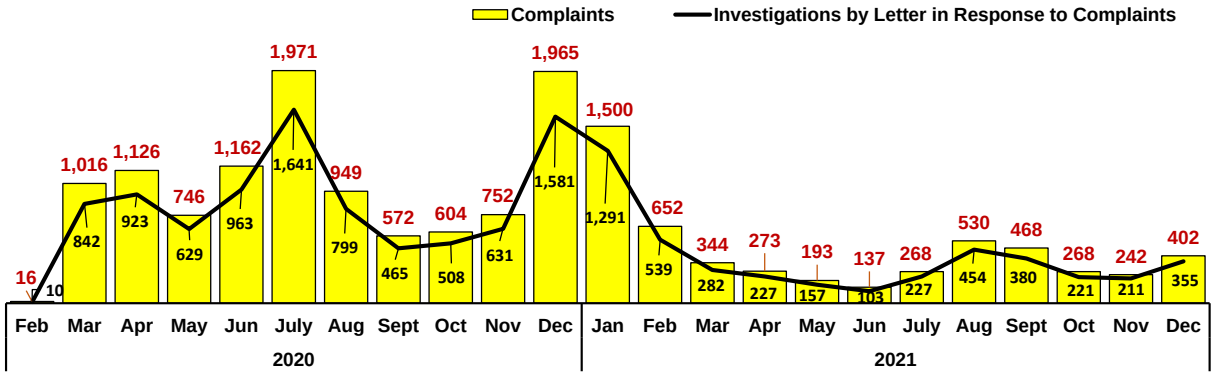
Data Source: DOSH

Figure 165 shows the numbers of COVID-19-related complaints received and DOSH investigations by letter conducted in 2020 and 2021. In the first months of the pandemic, DOSH developed and implemented a revised complaint response procedure for COVID-19 cases to ensure that the hazards reported were addressed. The procedure consists of an investigation by letter of most complaints that require the employer to conduct an investigation and correct any hazards discovered. The investigation by letter is supplemented by an offer to the employer to provide assistance in correcting the hazards. Investigations by letter are conducted in response to non-formal complaints, but in response to pandemic conditions, many formal complaints were also investigated in this manner. Over the 23 months, 13,439 letters have been sent in response to 16,156 complaints with 76 percent of all the letters sent from March 1, 2020 to February 1, 2021. The monthly numbers of COVID-19-related complaints received and DOSH investigations by letter in Figure 165 mirror the patterns of non-fatal reported illnesses and fatalities.

[180] The data on COVID-19-related DOSH Investigations and Inspections was provided by DWC Medical Unit based on reports run on August 1, 2022.

[181] Reporting is required if the fatality or serious injury/illness occurs "in connection with any employment." (8 CCR 342)

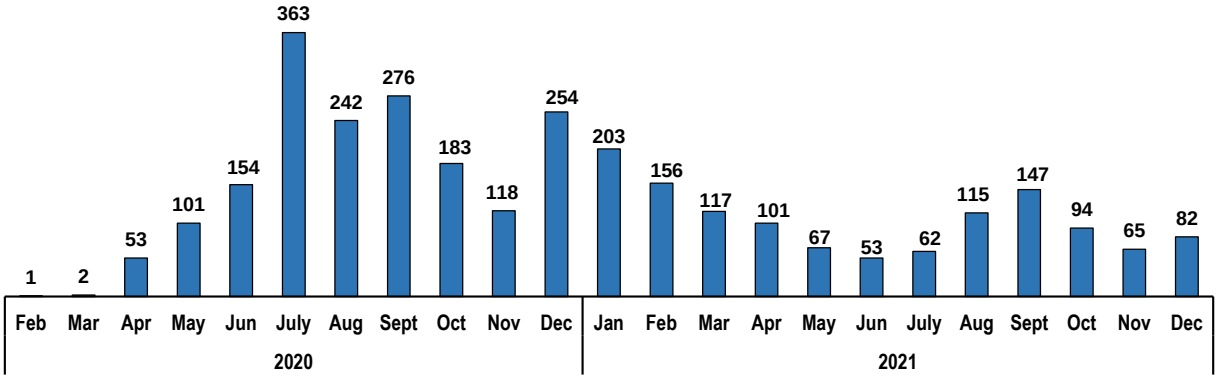
Figure 165: Number of COVID-19-Related Complaints and DOSH Investigations by Letter



Data Source: DOSH

Figure 166 shows the number of COVID-19 on-site inspections in 2020 and 2021. DOSH on-site COVID-19 inspections take place for some of the following reasons: in response to reported illnesses and deaths, complaints and referrals, as part of un-programmed and programmed inspections, and follow-up inspections. Onsite inspections resulting from complaints are prioritized by the most serious hazards, including complaints alleging COVID-19 outbreaks and complaints of potentially serious hazards in higher risk industries, as well as instances where employers do not cooperate with DOSH or address workplace hazards. In 2020 and 2021, a total of 3,009 DOSH COVID-19 on-site inspections have been conducted, with 65 percent of inspections taking place in nine months from June 1, 2020 to March 1, 2021.

Figure 166: Number of COVID-19 DOSH On-Site Inspections



Data Source: DOSH

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 2021, it provided on-site high hazard consultative assistance to 580 employers. During consultation with these employers, 1,666 Title 8 violations were observed and corrected as a result of the provision of consultative assistance (see Figure 167).

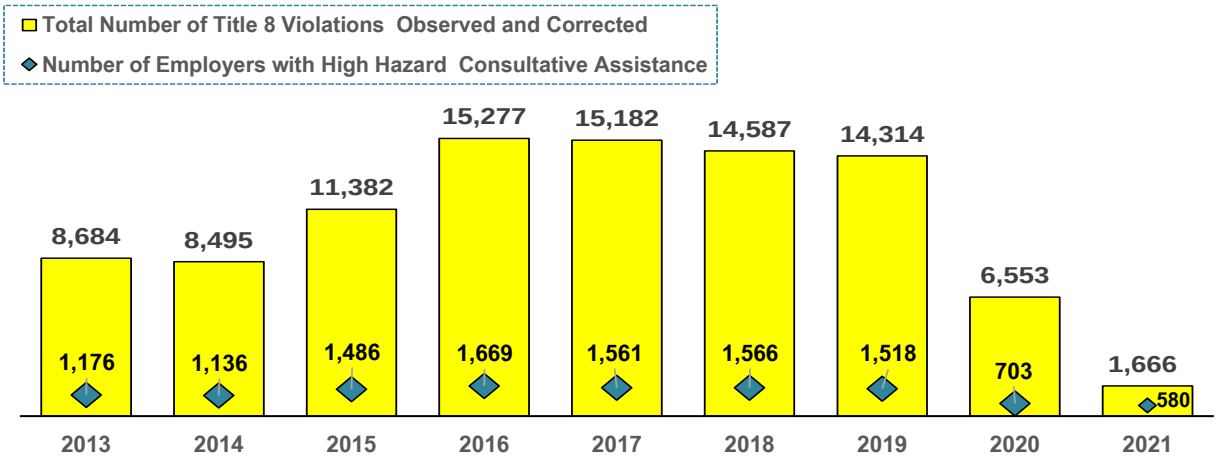
From 1994, 29,779 employers have been provided direct on-site consultative assistance, and 201,402 Title 8 violations have been observed and corrected. Of these violations, 34.6 percent were classified as "serious." It should be noted that for 2002 and 2003, all Consultative Safety and Health Inspection 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.

Cal/OSHA's Consultation Services Branch conducts annual surveys to measure the efficacy of the services provided. One of the efficacy measures is the comparison of employer lost-and-restricted-workday data (DART) before and after receiving on-site consultative assistance. The other efficacy measure compares individual employer's WC ExMod rate data again before and after receiving onsite consultative assistance.

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 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 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. Also on the enforcement side, 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.

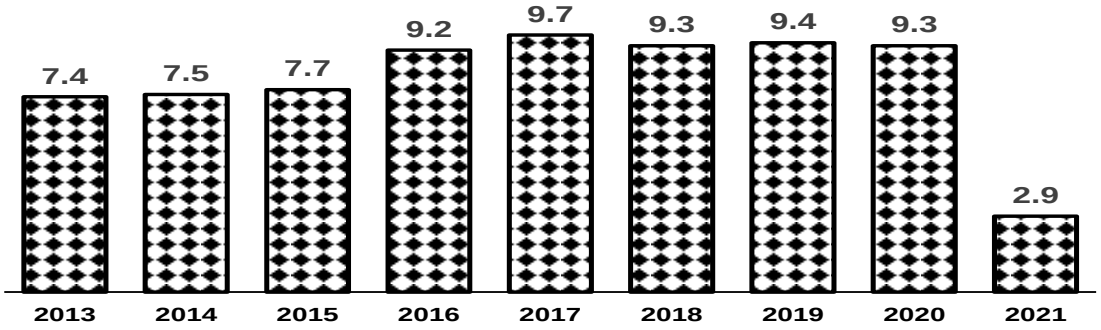
Figure 167: High Hazard Consultation Program, 2013-2021



Source: DOSH

The efficacy of High Hazard Consultation is measured by comparing employer lost-and-restricted-workday data. In 2001, Log 300 replaced Log 200 as the source for lost-and-restricted-workday data. The use of the Lost Work Day Case Incidence (LWDI) rate was replaced with the Days Away, Restricted, or Transferred (DART) rate. Additionally, High Hazard Consultation uses ExMod rates to measure efficacy.

Figure 168: Average Number of Title 8 Violations per Employer with High Hazard Consultative Assistance, 2013-2020



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 2021, the High Hazard Unit opened 248 inspections and Regions 1-4 opened 17 inspections. The majority of inspections, a total of 248 (94 percent), were targeted programmed-planned. Other types of inspections opened by the High Hazard Unit were programmed-related, follow-up, accidents, complaints, and referrals. A total of 1,422 violations were identified and cited during inspections. Violations were identified in 90 percent of the inspections conducted. The violation per inspection ratio for targeted programmed-planned inspections in 2021 was 5.6.

The high hazard enforcement program activity measures are shown in Tables 38-40 and Figure 169.

The distributions of high hazard targeted inspections by North American Industrial Classification System (NAICS) from 2019 to 2021 are shown in Table 38.

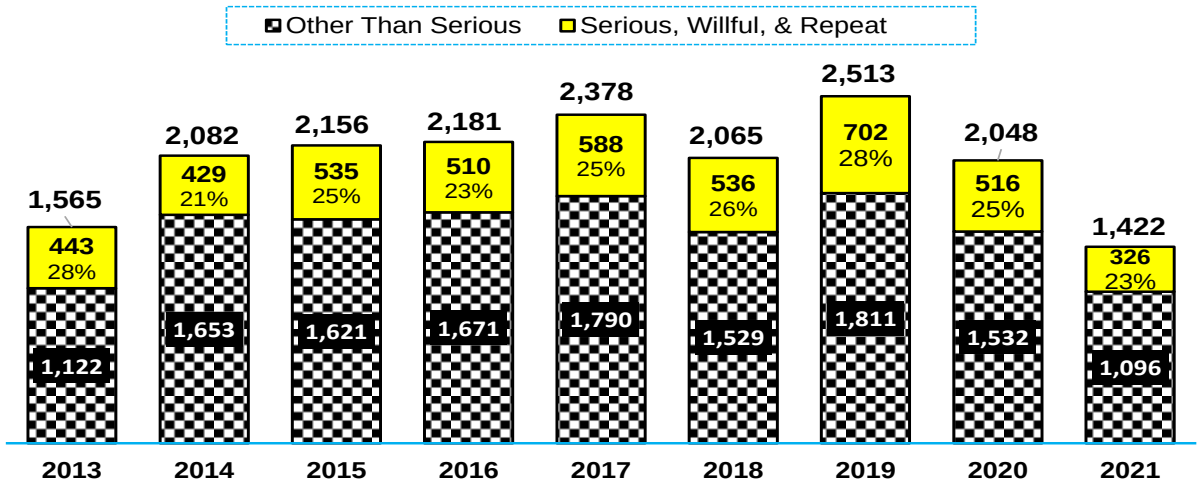
Table 38: Number and Percent of High Hazard Inspections by NAICS Code, 2019- 2021

NAICS code	Description	2019		2020		2021	
		Number	%	Number	%	Number	%
11	Agriculture, Forestry, Fishing and Hunting	59	12%	26	7%	24	9%
21	Mining, Quarrying, and Oil and Gas Ext.	0	0%	0	0%	0	0%
22	Utilities	0	0%	0	0%	0	0%
23	Construction	1	0%	0	0%	9	3%
31-33	Manufacturing	230	48%	219	58%	109	41%
42	Wholesale Trade	3	1%	3	1%	6	2%
44-45	Retail Trade	4	1%	20	5%	49	18%
48-49	Transportation and Warehousing	58	12%	37	10%	25	9%
51	Information	0	0%	0	0%	0	0%
52	Finance and Insurance	0	0%	0	0%	0	0%
53	Real Estate and Rental/Leasing	1	0%	1	0%	0	0%
54	Professional, Scientific, and Technical Services	0	0%	0	0%	1	0%
56	Admin and Support and Waste Management and Remediation	41	9%	54	14%	15	6%
61	Educational Services	0	0%	0	0%	0	0%
62	Health Care and Social Assistance	48	10%	2	1%	14	5%
71	Arts, Entertainment, and Recreation	3	1%	0	0%	0	0%
72	Accommodation and Food Services	2	0%	10	3%	1	0%
81	Other Services	25	5%	4	1%	12	5%
92	Public Administration	0	0%	0	0%	0	0%
	Total	475		376		265	

Source: DOSH

Violations observed[182] during high hazard targeted inspections are divided into two categories: "serious, willful, and repeat (SWR)" and "other than serious" violations. According to Figure 169, the total number of violations observed increased overall by 60.5 percent from 2013 to 2019 and decreased by 43 percent from 2019 to 2021. 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 2021, the share of SWRs in High Hazard inspection violations decreased to 23 percent or close to the prevailed average from 2014 to 2016.

Figure 169: Violations Observed during High Hazard Inspections, 2013-2021



Source: DOSH

Table 39 shows the number of enforcement actions taken during high hazard inspections by type from 2012 to 2021.

Table 39: Types of Enforcement Actions during High Hazard Targeted Inspections, 2012-2021

Types of enforcement actions	2012-2014	2015	2016	2017	2018	2019	2020	2021
Warrants	0	0	0	0	0	0	1	0
Order Prohibiting Use (Stop Order)	95	8	12	5	1	1	0	0
Information Memorandums	143	71	25	14	40	19	8	4
Violations	5,420	2,156	2,181	2,378	2,065	2,513	2,048	1,422

Source: DOSH

Table 40 shows the most frequently observed violations during high hazard inspections in 2021.

[182] 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.

Table 40: Most Frequently Cited Violations during High Hazard Targeted Inspections, 2021

Title 8 Section	Description
6151	Portable Fire Extinguishers
5162	Emergency Eyewash and Shower Equipment
461	Permits to Operate (Air Tanks)
3203	Injury and Illness Prevention Program
3668	Powered Industrial Truck Operator Training
2340.16	Work Space about Electric Equipment
2473.1	Conductors Entering Boxes, Cabinets, or Fittings
3314	The Control of Hazardous Energy
2500.8	Flexible Cords and Cables (Uses Not Permitted)
5185	Changing and Charging Storage Batteries
4300.1	Table Saws - Manual Feed
5144	Respiratory Protection
5194	Hazard Communication
2340.2	Requirements for Electrical Installations (Examination, Installation, and Use of Equipment)
3241	General Physical Conditions and Structures: Special Design Requirements, Live Loads

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 and ski lifts.
- The Elevator Unit conducts public safety inspections of different conveyances, including power-cable driven passenger and freight elevators, manlifts, and escalators.[183]
- 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 2019, serving as a basis for the FY 2021-2022 High Hazard Industry threshold, was 2.0. Accordingly, the high hazard industry threshold for that fiscal year is 4.0.

For further information …
Cal/OSHA's Highest Hazard Industry List for FY 2021-2022,
https://www.dir.ca.gov/dosh/documents/hhu-list-2021-2022.pdf
https://www.dir.ca.gov/dosh/high-hazard-unit.html

[183] For a list of conveyances, see http://www.dir.ca.gov/Title8/sub6.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.

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)

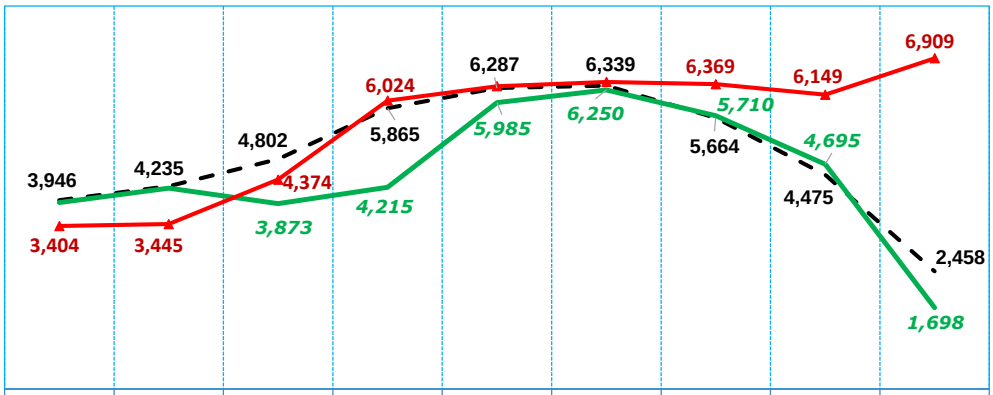
The Occupational Safety and Health Appeals Board (OSHAB) consists of three members appointed by the governor for four-year terms. By statute, the members are selected from among management, labor, and the general public. The chairman is selected by the governor.

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.

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 only 69 percent of those appeals were resolved, the number of unresolved appeals in 2021 increased by 12 percent from 2020 to 6,909 cases.

Figure 170: Occupational Safety and Health Appeals Board (OSHAB) Workload, 2013-2021



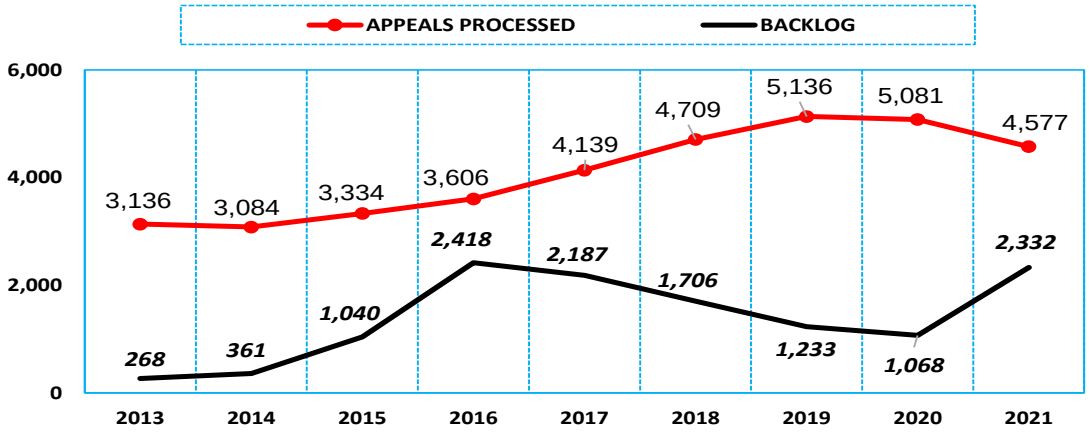
	2013	2014	2015	2016	2017	2018	2019	2020	2021
APPEALS FILED	3,946	4,235	4,802	5,865	6,287	6,339	5,664	4,475	2,458
RESOLVED	3,896	4,194	3,873	4,215	5,985	6,250	5,710	4,695	1,698
UNRESOLVED	3,404	3,445	4,374	6,024	6,326	6,415	6,369	6,149	6,909

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 more than doubled and went back to its 2016 peak level due to the increase in unresolved cases and a 10 percent decrease in the appeals processed in that time frame.

Figure 171: Occupational Safety and Health Appeals Board Backlogs, 2013-2021



Data Source: OSHAB

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 2021-2022 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.[184] 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 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.

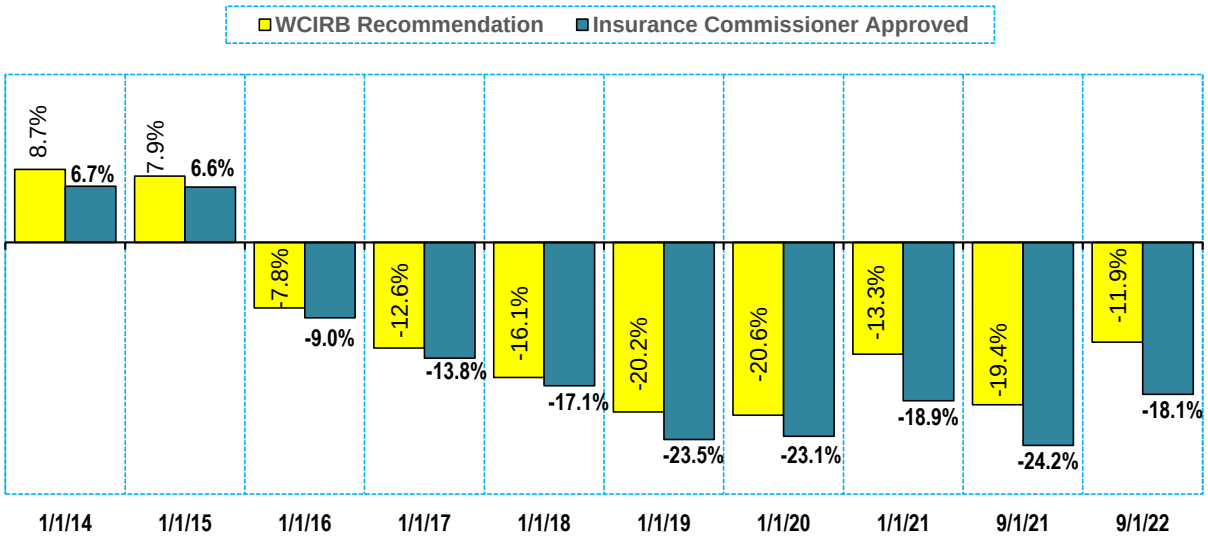
Workers' Compensation Advisory Premium Rates

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 2021. 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 six consecutive years and for the September 1, 2022 period, beginning from January 1, 2016 to September 1, 2022.

[184] Please note that the state of California is legally uninsured.

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, 2022 advisory pure premium rates are based on (1) insurer losses incurred during accident year 2021 and prior accident years valued as of December 31, 2021, (2) insurer allocated loss adjustment expenses for 2021 and prior years, (3) insurer unallocated loss adjustment expenses for 2020 and prior years, (4) classification payroll and loss experience reported for policies incepting in 2019 and prior years and (5) the September 1, 2022 experience rating off-balance correction factor proposed in the WCIRB's September 1, 2022 Regulatory Filing.[185] The proposed September 1, 2022 advisory pure premium rates average $1.56 per $100 of payroll, which is 7.6 percent higher than the average of the approved September 1, 2021 advisory pure premium rates of $1.45, and 11.9 percent less than the industry average filed pure premium rate of $1.77 as of January 1, 2022.

Both for January 1, 2021 and September 1, 2021 Pure Premium Rate Filings, the WCIRB analyzed the potential cost of future COVID-19 WC claims. The January 1, 2021 Pure Premium Rate Filing included an average provision of $0.06 per $100 of payroll to reflect the projected cost of COVID-19 claims to be incurred on 2021 policies. These amounts ($0.06 per $100 of payroll) ranged from $0.01 per $100 of payroll in the information industry sector to $0.24 per $100 of payroll for segments of the healthcare and social assistance industry sector.[186] In the September 1, 2021 Pure Premium Filing, in light of the relatively low COVID-19 claim rates at the time when the filing was made (April 2021), the initial success of the COVID-19 vaccines, and that external models and published research at the time were indicating that the U.S. population would potentially be nearing herd immunity by the summer of 2021 and COVID-19 fatalities would plateau, the WCIRB did not recommend that a provision be included to reflect the estimated costs of COVID-19 claims to be incurred on September 1, 2021 and later policies. However, subsequent to the time the September 1, 2021 Pure Premium Rate Filing was made, with the emergence of the Delta and Omicron variants, more than 100,000 workers' compensation COVID-19 claims have been filed in the state.[187] In addition, most experts now expect COVID-19 to transition to an endemic state and continue to infect individuals for the foreseeable future. Based largely on several model projections of future COVID-19 fatality

[185] September 1, 2022 Pure Premium Rate Filing, https://www.wcirb.com/sites/default/files/documents/20220901_ppr_filing-complete.pdf.

[186] WCIRB Submits Amended January 1, 2021 Pure Premium Rate Filing to CDI, https://www.wcirb.com/news/wcirb-submits-amended-january-1-2021-pure-premium-rate-filing-cdi.

[187] Based on Division of Workers' Compensation information as of April 21, 2022. Includes insured and self-insured claims and denied claims.

rates, the advisory pure premium rates proposed in September 1, 2022 Regulatory Filing, which average $1.56 per $100 of payroll, include a provision for the projected cost of COVID-19 claims to be incurred on policies incepting between September 1, 2022 and August 31, 2023 of $0.008 per $100 of payroll.[188]

The IC 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 the approved September 1, 2021 pure premium rate.

(A history of pure premium rates since 2013 appears later in this section.)

California Workers' Compensation Rate Changes (TO BE UPDATED)

Workers' compensation legislative reforms enacted in 2003 and subsequent decisions by the IC on advisory claims cost benchmarks and pure premium rates led insurers to file a series of significant manual rate reductions from 2004 through 2008. Despite manual rate increases filed by insurers, which helped lead to additional legislative reforms passed in 2012 (SB 863), the top ten California workers' compensation insurers still maintain greatly reduced filed manual rates from those in 2003 (see Table 41).

Since the first reform package was chaptered in 2003, new insurers have continued to enter the California market and existing private insurers have increased their underwritings. The significant rate reductions since the first reforms were enacted, and SCIF's declining market share from its peak of 53 percent in 2003 to 10.65 percent in 2020 point to the dramatic initial success of the 2003 cost containment reforms and a stabilizing market with increased capacity and greater rate competition.

The impact of savings from the latest reform, SB 863 passed in 2012 and effective January 1, 2013, are being realized as the advisory pure premium rates effective January 1, 2020, averaged $1.52 per $100 of payroll and were 7.2 percent less than the average of the approved January 1, 2019, advisory pure premium rates of $1.63. Approved pure premium rates effective January 1, 2021, averaged $1.45 per $100 of payroll and were 4.6 percent lower than the approved January 1, 2020, pure premium rate of $1.52 per $100 of payroll. (See "Advisory Workers' Compensation Pure Premium Rates. A History since the 2013 Reform Legislation" on pages 222-227.)

In response to the COVID-19 pandemic, on April 13, 2020, Commissioner Ricardo Lara ordered California WC insurers to provide a premium credit, reduction, return of premium, or other appropriate premium adjustment to all adversely impacted California policyholders with reduced exposure. In addition, the Insurance Commissioner indicated in his decision issued on November 24, 2020 that, "insurance companies are encouraged to take under advisement the actuarial analyses provided in the proposed decision as well as ongoing developments when evaluating whether and to what extent an adjustment or the costs of COVID-19 should be incorporated into a given insurer's rate filing." The CDI's proposed decision includes a *Table of Recommended COVID-19 Additive Adjustment per $100 of Payroll* that average $0.05 per $100 of payroll.[189] 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. At this time, the impact of COVID-19 has not been reflected in current WC rate filings submitted to the Department of Insurance as of April 1, 2021.

[188] September 1, 2022 Pure Premium Rate Filing, https://www.wcirb.com/sites/default/files/documents/20220901_ppr_filing-complete.pdf

[189] https://www.wcirb.com/news/insurance-commissioner-issues-decision-regarding-2021-pure-premium-rate-filing.

Table 41: California Workers' Compensation Top 10 Insurers Rate Filing Changes

COMPANY NAME	GROUP NAME	Market Share 2020	Cumulative Rate Change 1-04 to 4-21	4-1-2021 % Filed Rate Change*	4-1-2020 0% Filed Rate Change*	4-1-2019 % Filed Rate Change*	4-1-2018 % Filed Rate Change*
State Compensation Insurance Fund	N/A	*10.65%*	*-56.88%*	*0.00%*	*-10.0%*	*-10.00%*	*-8.00%*
Insurance Company of the West	American Assets Group	*6.86%*	*-59.52%*	*-1.30%*	*-9.00%*	*-17.80%*	*-10.60%*
Travelers Property Casualty Company of America	Travelers Group	*5.33%*	*-55.26%*	*0.00%*	*-17.39%*	*-10.00%*	*-6.40%*
Zurich American Insurance Co.	Zurich Ins. Group	*3.15%*	*-51.62%*	*-1.50%*	*-0.20%*	*-7.00%*	*-9.10%*
Zenith Insurance Company	Fairfax Financial	*2.48%*	*-25.23%*	*-6.52%*	*-6.52%*	*-8.50%*	*-2.50%*
Cypress Insurance Company	Berkshire Hathaway Group	*2.29%*	*-61.93%*	*0.00%*	*-4.30%*	*-16.70%*	*-7.00%*
Pacific Compensation Insurance Co	Copperpoi nt Group	*2.27%*	*-55.07%*	*2.00%*	*-4.66%*	*-2.60%*	*-9.40%*
Technology Insurance Co.	Am Trust NGH Group	*2.01%*	*-23.19%*	*0.00%*	*-1.22%*	*-0.60%*	*-9.10%*
Ace American Insurance Co.	Chubb Group	*1.98%*	*-84.70%*	*-2.20%*	*-14.30%*	*-11.50%*	*-7.70%*
Benchmark Insurance Company	Benchmark Grp	*1.90%*	*-31.00%*	*0.80%*	*0.00%*	*-17.80%*	*-3.00%*

* Indicated % filed rate change reflects cumulative rate change(s) in effect as of that date from the rates in effect on the preceding date.

Workers' Compensation Written Premium

After elimination of the minimum rate law, 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.

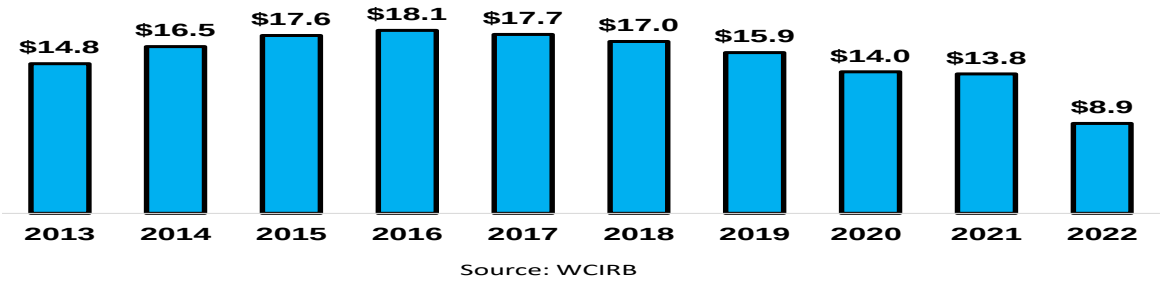
At the end of 1999, the IC approved an 18.4 percent pure premium rate increase for 2000, and the market began to harden after five years of open rating, though rates remained less than two-thirds of the 1993 level. Since then, the market has continued to firm, with the IC approving a 10.1 percent increase in the advisory rates for 2001 and a 10.2 percent increase for 2002. The total written premium increased by 37 percent to $21.4 billion from 2002 to 2003 and increased by about 10 percent to a peak of $23.5 billion from 2003 to 2004. The written premium 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.

Figure 173 shows the California WC written premium gross of deductible credits between 2013 and 2021. Note that these amounts exclude dividends. Written premium declined sharply beginning in the second quarter of 2020 due to the economic downturn resulting from the COVID-19 pandemic combined with insurer rate decreases and reduced employer payroll. The written premium reached a six-year low and was 24 percent below its 2016 peak of $18.1 billion in 2021. A slight decrease in written premium from 2020 to 2021 was driven by continued insurer rate decreases offsetting growth in employer payroll. Written premium for the first six months of 2022 was 27 percent higher than its level for the first six months of 2021.[190]

[190] WCIRB Quarterly Experience Report as of June 31, 2022, Insurer Experience. https://www.wcirb.com/sites/default/files/documents/quarterlyexperiencereport-2022-2q.pdf.

According to WCIRB, much of this increase is being driven by higher employee wage levels and the continued economic recovery.

Figure 173: Workers' Compensation Written Premium as of June 31, 2022 (Billion $)

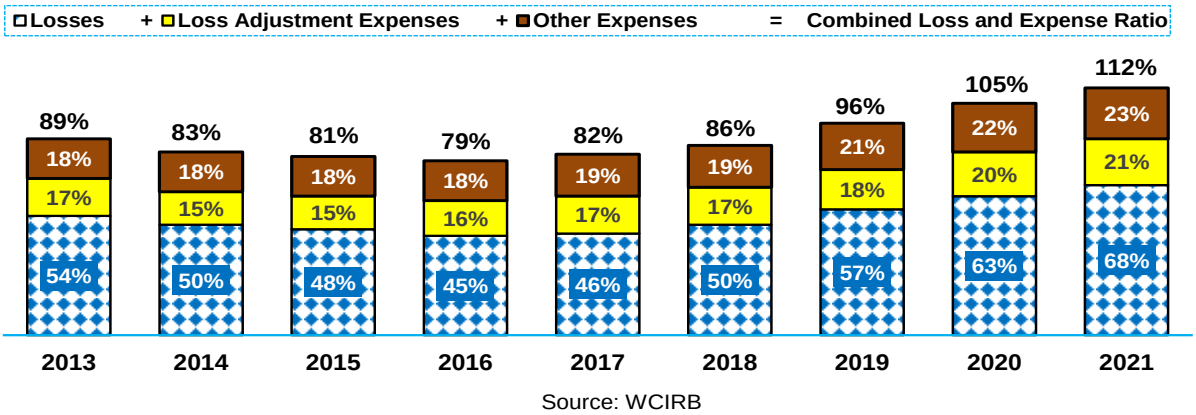


Combined Loss and Expense Ratio

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 2021, insurers' claim projected costs and expenses amounted to $1.12 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 and 2021 are the first above 100 percent since 2012, driven in part by COVID-19 claims, lower insurer rates and higher claim frequency in 2021.[191]

Figure 174: California Workers' Compensation Combined Loss and Expense Ratios

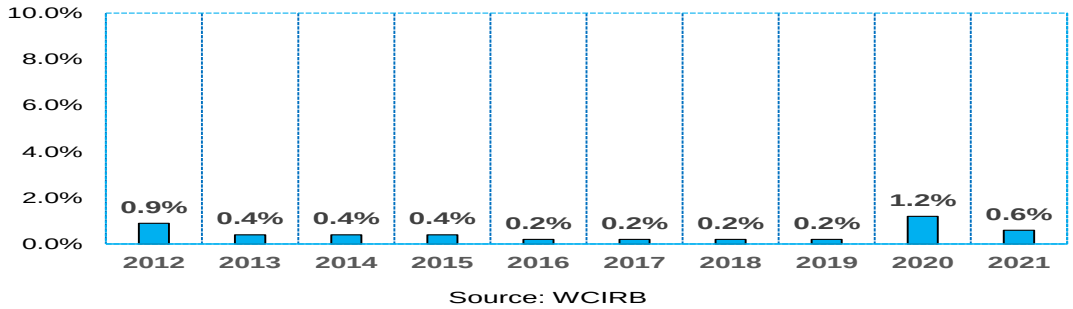


Policy Holder Dividends

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 2021 to be 0.6 percent of 2021 earned premium, resulting in an underwriting profit of $0.4 billion, or 3 percent of 2021 earned premium.

[191] WCIRB's State of the System 2022 Report, https://www.wcirb.com/content/report-state-workers-compensation-insurance-system.

Figure 175: Insurer Policy Holder Dividends as a Percentage of Earned Premium (by Calendar Year)



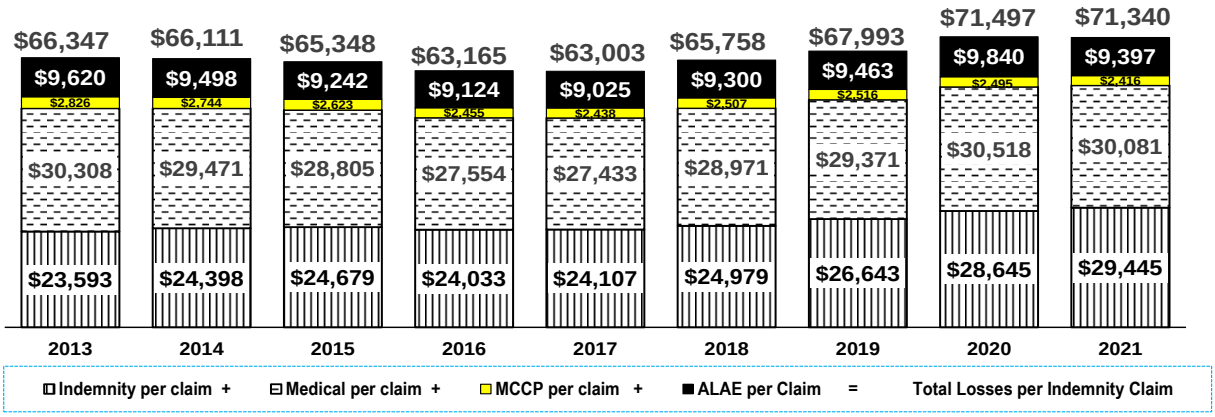
Projected Ultimate Total Loss

Figure 176 shows changes in the projected average indemnity, medical, and allocated loss adjustment expense (ALAE) cost components of the projected ultimate total loss or projected average cost ("severity") 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 WCIRB as allocated loss adjustment expenses (ALAE) rather than as medical loss.

The WCIRB projected the average cost or "severity" of a 2021 claim, excluding COVID-19 claims, to be $71,340, which is consistent with 2020 total claim severity, but 13 percent higher than its 2017 level.[192] The projected average indemnity cost flattened between 2013 and 2017 and then increased by 18 percent from 2017 to 2021, including a 1 percent increase from 2020 to 2021. Following a steady 9 percent decrease in medical severities from 2013 to 2017, driven by medical cost savings arising from SB 863 and accelerated rate of claim closures, there was a 9 percent overall increase from 2017 to 2021, including a 3 percent decrease from 2020 to 2021. 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 projected average ALAE cost, excluding MCCP, was flat from 2013 to 2021, with an average of $9,390 per year in that period.[193] According to the WCIRB, improving claim settlement rates might moderate ALAE costs.

Figure 176: Projected Ultimate Total Loss and ALAE per Indemnity Claim, as of December 31, 2021



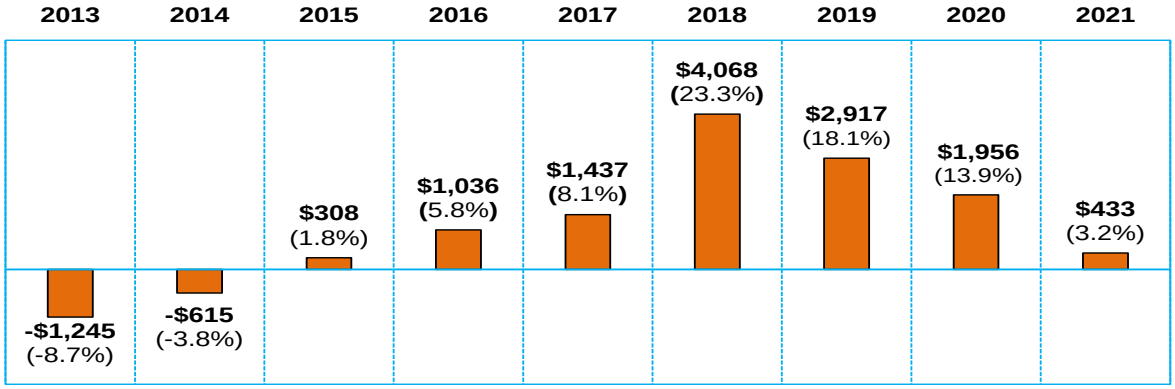
Source: WCIRB

[192] WCIRB Quarterly Experience Report as of December 31, 2021, Charts 9–13.
[193] Ibd., Chart 12.

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, workers' compensation 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 177, 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 2021, the underwriting profits were 3.2 percent or $433 million.[194]

Figure 177: Insurer Pre-Tax Underwriting Profit/Loss[195], 2013-2021
(Million $ and as a Percentage of the Earned Premium)



Source: WCIRB

Current State of the Insurance Industry

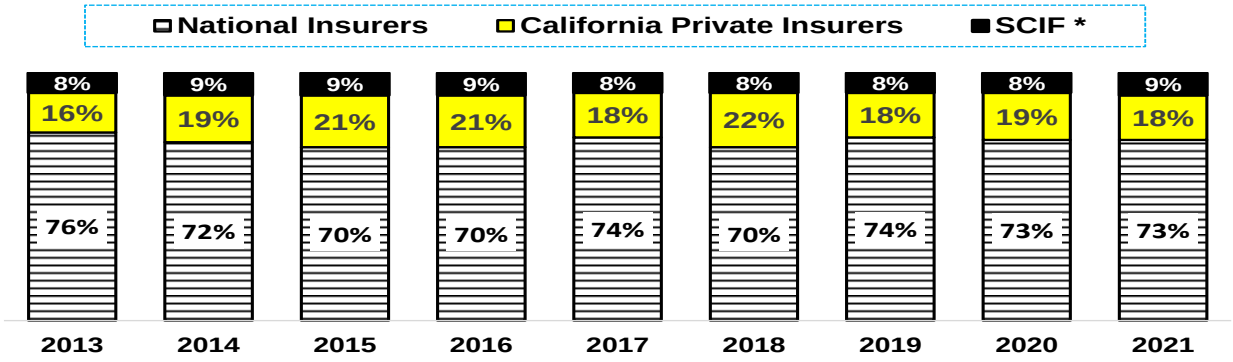
Market Share

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 178 shows changes in the workers' compensation insurance market share from 2013 to 2021.

According to WCIRB, from 2013 to 2021, SCIF attained between 8 to 9 percent of the California workers' compensation insurance market. The share of private insurers that focus most of their workers' compensation 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 18 percent per year from 2019 to 2021.

[194] 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.
[195] 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.

Figure 178: Workers' Compensation Insurance Market Share in California by Type of Insurer Based on Written Premium Prior to Deductible Credits, 2021



* State Compensation Insurance Fund

Note: California Insurers are difined as private insurers who write at least 80 percent of their workers' compensation business in California.

Data Source: WCIRB

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. [196]

[196] 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.

Source: WCIRB

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) 1159[197], which took effect immediately as an urgency statute. SB 1159 codified the Governor's previous Executive Order N-62-20[198] assigning COVID-19 a presumption and created two new presumptions dependent on testing positive, as defined, for COVID-19. The first covers public safety workers[199] as well as health-care providers. The second covers all other workers, during an "outbreak,"[200] 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.

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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.

[197] Text of SB 1159 at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1159.
[198] Text of order at https://www.gov.ca.gov/wp-content/uploads/2020/05/5.6.20-EO-N-62-20-text.pdf.
[199] See Labor Code Section 3212.87 (a) of SB 1159 at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1159/.
[200] 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.

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 qualitative interviews 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 risk 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.[201] 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.[202] CHSWC has contracted with RAND to conduct this study that would guide future policymaking.

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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?

[201] https://www.gov.ca.gov/2019/10/01/governor-newsom-signs-bills-to-support-firefighters-and-first-responders/.
[202] https://www.dir.ca.gov/chswc/Meetings/2019/Assembly-Letter-Tom-Daly_091119.pdf.

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 qualitative interviews with first responders, department leaders, mental health professionals, attorneys, and claims administrators.

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.

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.pdfl

"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: JANITORIAL TIME MOTION STUDY (TO BE UPDATED)

Background

On December 11, 2020, Assemblymember Miguel Santiago submitted a request for CHSWC to work with the University of California 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 cites the 2017 CHSWC study, "Excessive Workload in the Janitorial Industry"[203], 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.[204]

Project Team

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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.[205] 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 2018[206], 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 University of California to more 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 beyond the Covid-19 pandemic.[207]

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.

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[203] https://www.dir.ca.gov/chswc/Reports/2017/Janitor_Report_LOHP_3-10-17.pdf
[204] https://www.dir.ca.gov/chswc/Meetings/2021/SantiagoLetter.pdf
[205] https://www.dir.ca.gov/chswc/Meetings/2021/JanitorTimeMotionPropPrezo.pdf
[206] https://www.dir.ca.gov/chswc/Meetings/2021/JanitorTimeMotion.pdf
[207] Ibid. https://www.dir.ca.gov/chswc/Meetings/2021/JanitorTimeMotion.pdf

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 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.

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 and 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 videotaped 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 ISSE production rates and COVID-19 production rates?

Updated Status Timeline

While the study is in progress the number of respondents participating in the survey has increased to 729[208]. Recruitment for survey participants continued through the summer and into the fall. Some venues for observation and interviews of janitors have presented access challenges for various reasons and are being reconsidered. CHSWC Commissioners will be briefed on the progress of the study at CHSWC public meetings before submitting to CHSWC a report in a final status or advanced draft report status.

Status: In process.

For further information…

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

[208] The number of survey participants is as of October 2022.

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: ASSESSMENT OF RISK OF EXPOSURE TO CARCINOGENS AND INCIDENTS OF OCCUPATIONAL CANCER AMONG MECHANICS AND CLEANERS OF FIREFIGHTING VEHICLES

Background

Project Team

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Eduardo Enz
CHSWC Executive Officer

Assembly Bill 1400, sponsored by California Assembly Member Sydney Kamlager-Dove, requires the Commission on Health and Safety and Workers' Compensation, in partnership with the County of Los Angeles and relevant labor organizations, to submit a study to the Legislature, the Occupational Safety and Health Standards Board, and the Los Angeles County Board of Supervisors on or before January 1, 2021. The subject of the study is an examination of the risk of exposure to carcinogenic materials and the incidence of occupational cancer among 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) will be issued to conduct another study.

Objectives

The objectives of this study should include at a minimum the following:

- Site visits to a representative sample of facilities, including, but not limited to, facilities in the County of Los Angeles, where firefighting equipment is cleaned and repaired.
- Interviews and surveys with current and former mechanics of firefighting equipment in a sample of facilities regarding the frequency of exposure to potential carcinogens, the use and availability of safety equipment, and experience or knowledge of cancer incidence among current or former mechanics who cleaned or repaired firefighting equipment.
- Measurement of the current levels of exposure to carcinogenic material by mechanics who repair and clean firefighting vehicles in the County of Los Angeles as well as other designated facilities noted in this study, to develop a baseline exposure to carcinogenic materials.

Status: In Progress

SPECIAL REPORT: THE USE OF PREPAID CARDS FOR WORKERS' COMPENSATION INDEMNITY BENEFITS AND SENATE BILL (SB) 880 ENABLING LEGISLATION

In 2018, SB 880[209] 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 of access to financial institutions, often incur significant fees when cashing checks. According to Senate and Assembly analyses[210], 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 cheaper and easier for all people – not just the unbanked -- to receive their benefits via prepaid cards.

According to the legislature's analysis of the bill, authorization for use of the prepaid cards is considered a pilot program that expires on January 1, 2023. This pilot program is 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 requires that an injured worker provide written consent prior to receiving his or her benefits on a prepaid card. Since the bill was silent on what constitutes written consent, it may require clarification through regulations from the Department of Workers' Compensation. The program will sunset on January 1, 2023 if not extended or made permanent by a new law.

SB 880 can 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 requires 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 and required by law.

> Status: In process in alignment with pilot program rollout. Study due to the Legislature on or before December 1, 2022.

[209] See copy of original bill at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB880
[210] See California government legislature's website for SB 880 in 2018 at https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180SB880

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE[211]

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 the following:

- Labor & Workforce Development Agency (LWDA)
- 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)
- Bureau of Automotive Repair (BAR)
- Alcoholic Beverage Control (ABC)
- State Attorney General and district attorneys throughout California

In January 2012, DIR assumed responsibility for administering the newly formed LETF. Executive and strategic operations teams were established to plan, evaluate, and monitor the program. This report describes activities conducted in Fiscal Year (FY) 2021-2022..

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 noncompliant businesses, DIR continually refines its methods, which are both data driven (proactive) and complaint driven (responsive).

LETF teams include different strategic combinations of inspection staff from the member agencies listed above, depending on the 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 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.

[211] Labor Enforcement Task Force (LETF) Activity Report, Fiscal Year 2021-2022.

In addition, DIR receives complaints and tips submitted directly by the public to identify potential targets. The public may report through the LETF hotline, the LETF online referral form, or the LETF email address, as provided online at http://www.dir.ca.gov/letf/.

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.

Prior to the joint inspections, teams conduct physical surveillance to confirm the information obtained in the targeting process and gather additional information. Physical surveillance can include both visual examination from a distant location and on-site visits to the premises.

Table 42: LETF Inspection Results in FY 2021-2022

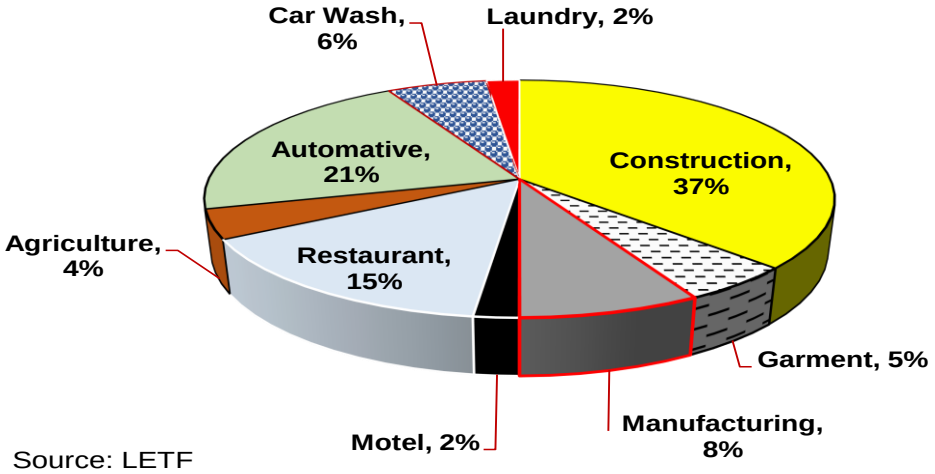
Total number of businesses inspected	777
Total amount of initial assessments*	$2,125,041

*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 2021-2022, LETF inspected 777 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 179).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 2021-2022 is shown in Figure 179.

Figure 179: Industry Composition of Businesses Inspected by LETF in FY 2021-2022



Source: LETF

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:

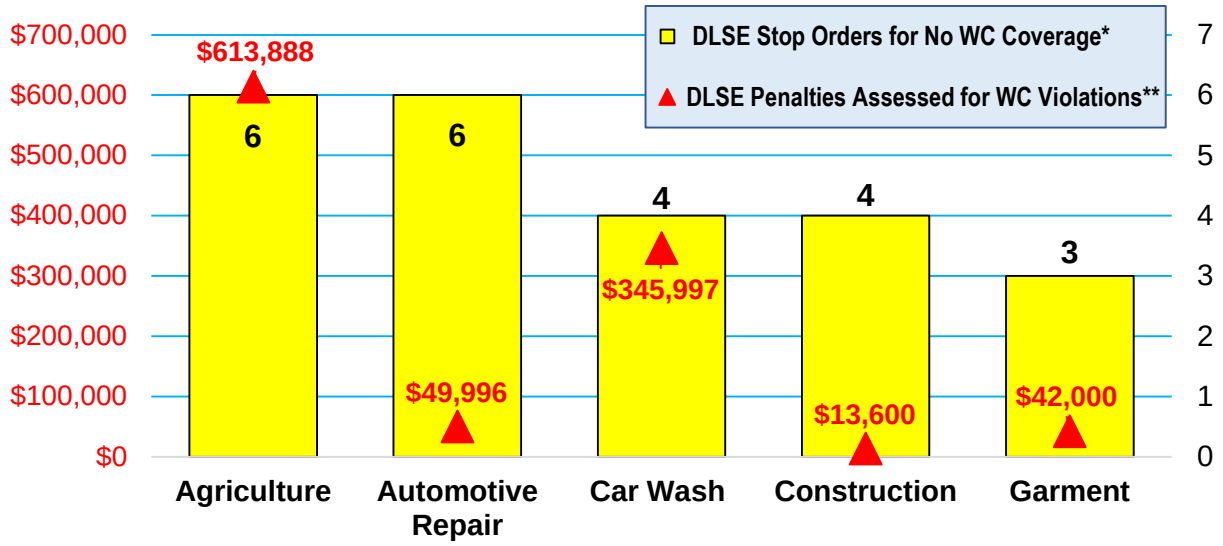
- DLSE has the authority under Labor Code section 90 to access all places of employment. Other LETF partners do not have this full authority. DLSE may also issue stop orders requiring employers to cease illegal operations immediately.
- Cal/OSHA has the authority to issue citations for serious, willful, 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.

Analysis of Workers' Compensation Coverage in the Underground Economy

Employers' failure to carry a workers' compensation policy is a common violation in the underground economy. A key step in LETF targeted enforcement protocol includes digital surveillance. As detailed above, investigators match across partner agencies' databases to screen for potential violations and complaints. To determine whether an employer is adequately insured, inspectors consult the WCIRB database. LETF prioritizes inspection of businesses that appear to have no workers' compensation policy. Figure 180 shows the number of workers' compensation coverage violations and related penalties across the industries LETF inspected in FY 2021-2022.

Figure 180: Workers' Compensation Violations and Penalties in FY 2021-2022



*The number of violations (right axis) issued to employers for failure to cover employees with workers' compensation (WC) insurance.

** The initial penalty amounts (left axis) for failure to cover employees with WC insurance assessed at the time of the initial inspection. These amounts are subject to change.

Source: LETF

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 2021-2022, 2,185 leads received from the public were referred to LETF teams or other enforcement programs.

Monitoring Performance Results

LETF uses spatial analysis and activity mapping to monitor trends in team performance. The enclosed maps (see Figures 181 and 182) document the wide-ranging field presence in California.

Figure 181: Counties Inspected in Northern California for Fiscal Year 2021-2022

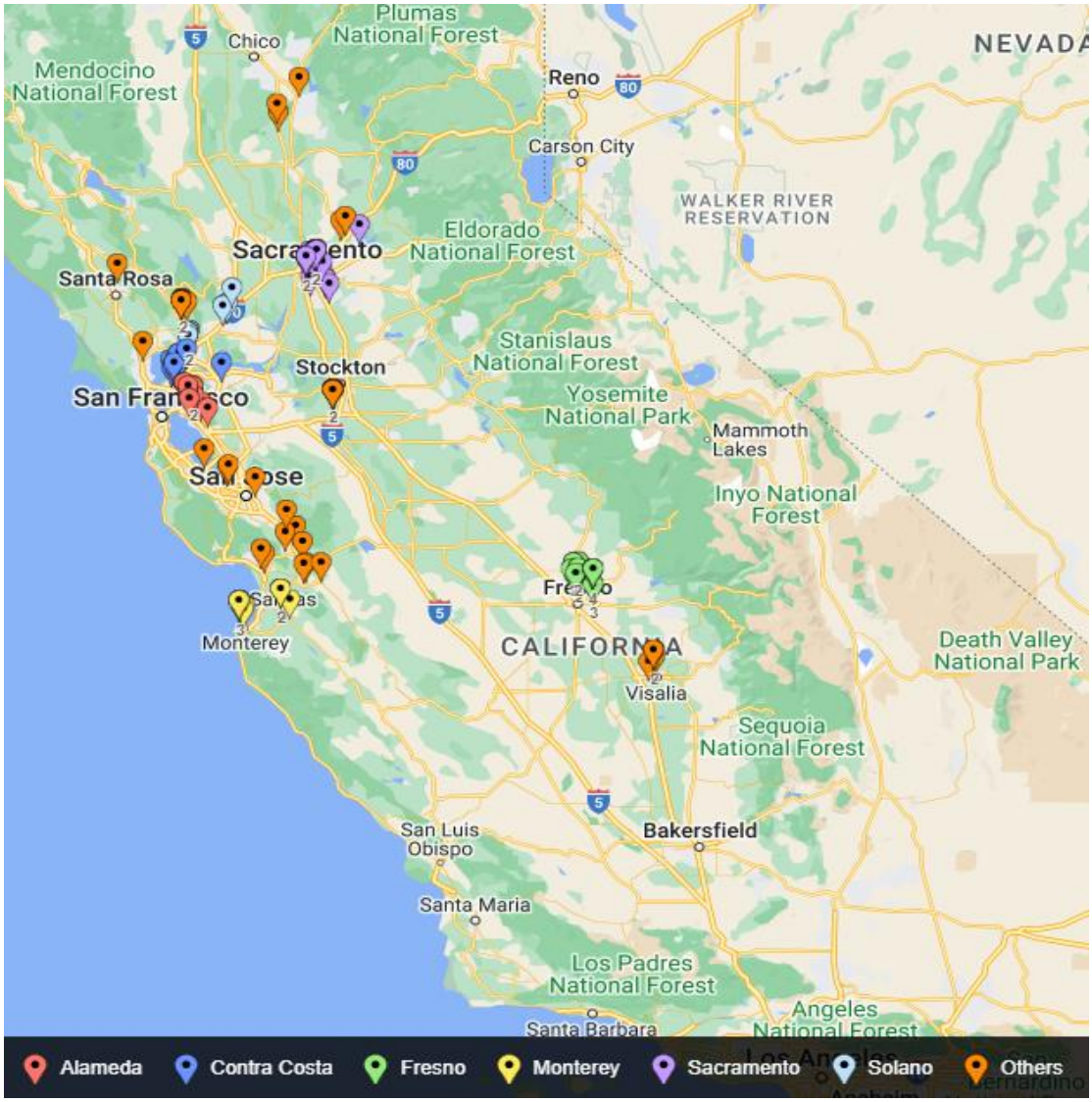
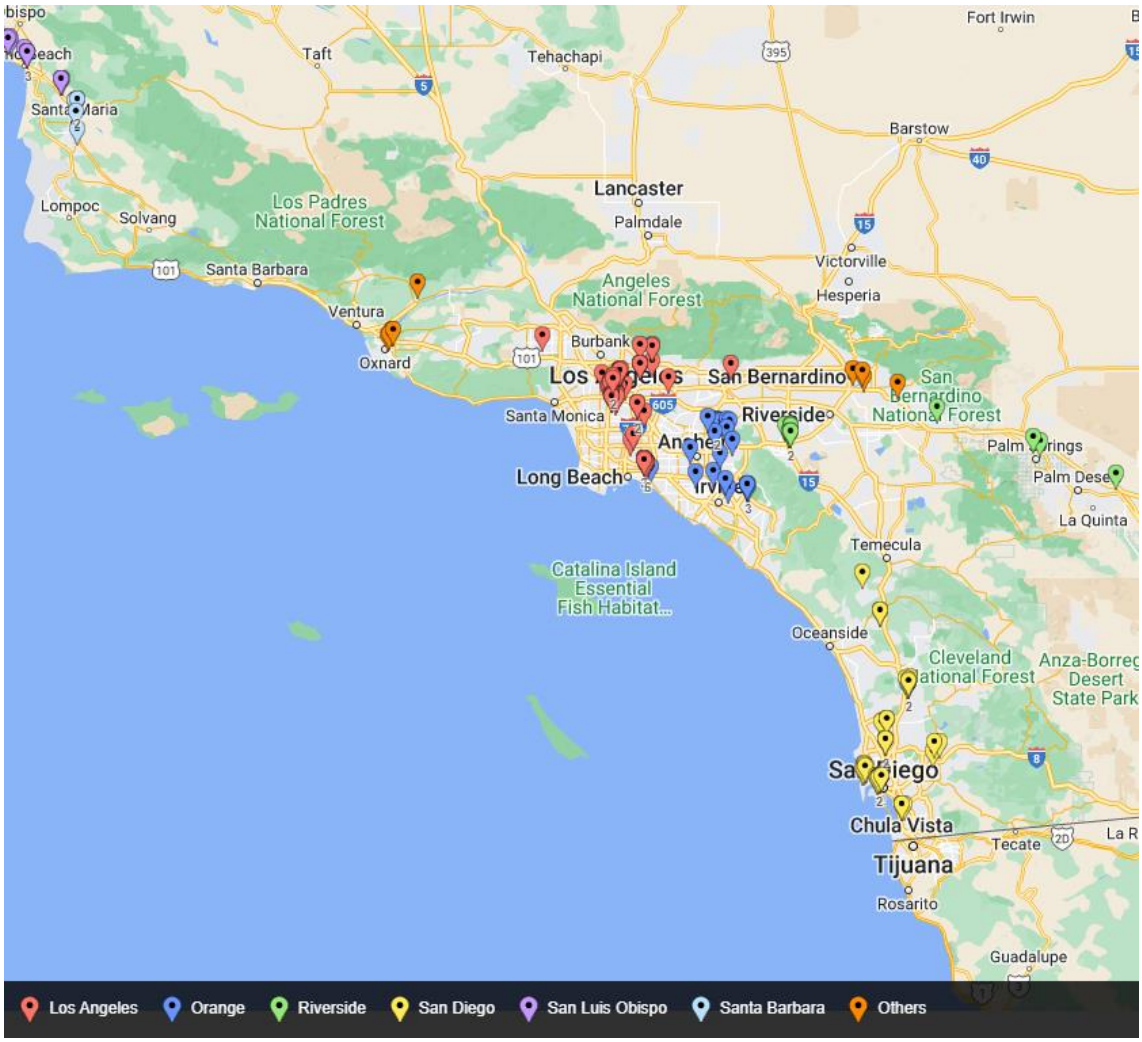


Figure 182: Counties Inspected in Southern California for Fiscal Year 2021-2022



Education and Outreach

LETF is committed to outreach and education to ensure that employers know their responsibilities and workers know their rights.

LETF produced the widely referenced employee handbook All Workers Have Rights in California in English, Spanish, Chinese, Korean, and Vietnamese. The material covers minimum wages and overtime, rest and meal breaks, workplace safety and health, benefits for those injured or unemployed, and new legislative mandates, such as paid sick leave. LETF also produced industry-specific, employer-focused fact sheets covering relevant labor, licensing, and payroll tax laws for agriculture, automotive, construction, garment, landscaping, and restaurants.

Printable and mobile versions of these materials for workers and employers are available online.

LETF initiated a statewide program in collaboration with UC Berkeley to achieve the following:

- Design and produce effective educational materials for workers and employers in coordination with other agencies
- Translate educational materials into the languages commonly spoken by employers and employees in specific low-wage industries across California
- Inform and train local and regional organizations serving low-wage workers using enhanced materials and industry-specific information
- Publicize the campaign and enforcement efforts via speaking engagements, press releases, website features, television, radio, email news releases, and newspapers, as well as social media, such as Facebook and Twitter

DIR makes continuous improvements in the LETF website, including a Spanish-language version of the website at www.dir.ca.gov/letf/Spanish/LETF.html and offering an online LETF referral form at https://www.dir.ca.gov/LETF/Referral/LETFReferral.asp. The public can use this online form, available in English and Spanish, to report leads to LETF on activity in the underground economy.

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.

Effects of COVID-19 Emergency

In March of 2020, LETF inspections were postponed indefinitely due to the COVID-19 emergency and the statewide stay-at-home order issued by the State Public Health Officer on March 19, 2020. Because of this, LETF did not conduct joint inspections from April to June 2020, and conducted few inspections in March. However, during this time period, DIR staff in DLSE and Cal/OSHA did participate in the COVID-19 "strike teams" created by the Governor to provide education and enforcement efforts related to employers' COVID-19 requirements. In addition to these efforts, LETF staff within Cal/OSHA assisted Cal/OSHA district offices in performing heat illness and COVID-19 inspections. LETF staff within DLSE assisted with phone

operations and remote audits. LETF inspections resumed in July 2021 on a limited basis, and were gradually expanded in the fall of 2021 and early 2022.

Public Works Initiative

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. DIR is currently implementing a plan to expend the $30 million allocated over three years. The $30 million would provide enhanced strategic enforcement to target employers in the construction industry working on public works projects who are noncompliant with various labor laws. Those Labor Codes sections include 90.5, 98.6, 245, 1720, 1771, 1777.5, 1777.7, 1860, 3700, 3700.5, and 6300. This effort would ensure that employers provide workers compensation insurance, adhere to; applicable prevailing wage on public works projects, general wage and hour laws, sick leave laws and rules, apprenticeship laws and rules, appropriate classification of workers, ensure employers are following applicable health and safety requirements, and that no retaliation occurs because of a complaint.

LETF is leading strategic enforcement efforts for this project. LETF is providing 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 complaints submitted by stakeholders.

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: EVALUATION OF SB 863 MEDICAL CARE REFORMS

Introduction

California's workers' compensation (WC) program provides medical care and wage-replacement benefits to workers who suffer on-the-job injuries and illnesses. Injured workers are entitled to receive all medical care reasonably required to cure or relieve the effects of their injury with no deductibles or copayments. Over the years, WC medical care expenses have fluctuated. Total medical expenses increased by 24 percent from 2007 to 2011, with particularly significant increases in medical cost containment expenses and medical-legal costs. The latest WC medical care reforms were enacted by Senate Bill 863 in 2012.

The intention of SB 863 provisions was to constrain the rate of increase in medical expenses through a combination of measures designed to improve the quality, efficiency, and timeliness of medical care given to injured workers through improvements in the fee schedules and dispute resolution processes and increased accountability and oversight

Key SB 863 provisions include:

- *Fee Schedule Changes*. Changes in the Official Medical Fee Schedule (OMFS) were designed to promote the efficient delivery of medical care. These changes include modifications to the inpatient hospital and ambulatory surgery facility fee schedules effective January 1, 2013, replacement of the existing OMFS for physician services with a Resource-Based Relative Value System (RBRVS) fee schedule effective January 1, 2014, and development of new fee schedules for home health care, copying services, and interpreter fees.

- *Medical Provider Networks (MPN).* SB 863 aimed to improve the operation and oversight of medical provider networks (MPNs). Since January 1, 2004, injured workers of employers with MPNs have been required to use network providers throughout the course of the treatment. The SB 863 provisions, including medical access assistants for injured workers, written contracts between MPNs and providers including language that providers will follow Medical Treatment Utilization Schedule (MTUS) guidelines, and additional oversight by the Division of Workers' Compensation (DWC) over MPN lists of providers, took effect January 1, 2014.

- *Medical-Legal Evaluations*. Improving the process of medical-legal evaluation included addressing deficiencies in the composition of qualified medical evaluator (QME) panels, streamlining the process and timelines for evaluations by agreed medical evaluators (AME) and QMEs, and increasing DWC oversight of the evaluators and their decisions; these regulatory changes took effect September 16, 2013. With respect to medical necessity disputes, the Independent Medical Review (IMR) process replaced the AME/QME process. Effective July 1, 2013, an evaluator no longer provides an opinion on any disputed medical treatment issue; evaluators continue to be needed to provide an opinion about whether the injured worker will require future medical care to mitigate the effects of an industrial injury.

- *Independent Medical Review (IMR).* Replacing the existing dispute resolution process with IMR was intended to improve the quality and timeliness of the process for resolving medical necessity determinations. The IMR process took effect January 1, 2013, for injuries that occurred in 2013 and on July 1, 2013, for any adverse utilization review (UR) decisions communicated on or after that date, regardless of the year in which the injury took place.

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Rosalie Malsberger

Brian Phillips

Spencer Case

- *Independent Bill Review (IBR).* SB 863 provisions established requirements for bill submissions and processing to improve the timeliness of payment for medical treatment and implemented the IBR process to resolve payment disputes. The IBR process was effective for services furnished on or after January 1, 2013.

Study Objectives

The report presents results from two types of analyses. The first type includes analyses of specific SB 863 provisions, for example, specific fee schedule changes, with the goal of describing how the provision in question is related to changes in WC-paid medical care use and spending. The second type is an analysis evaluating SB 863 as a whole. This "consolidated" analysis relies on pre-post comparisons with control groups to identify changes in medical care use and spending.

Research Questions

The report addresses the following main research questions:

1. How has medical care utilization and spending changed over the SB 863 implementation period in terms of both overall levels (i.e., utilization and spending per injury) and the mix of services?

2. How have utilization and spending changed for specific medical care services affected by the implementation of RBRVS? What are the overall impacts of the transition to RBRVS?

3. Did other specific fee schedule changes introduced in SB 863—including changes to inpatient hospital and ambulatory surgery center services and the medical-legal fee schedule—change utilization and spending on these and related services?

4. How did changes in the IMR process affect IMR and UR frequency and other outcomes?

5. Was SB 863 associated with changes in medical care utilization and spending for injured workers, after controlling for unrelated trends through comparison to control patients?

Data Source

The primary data source for the study comes from the Workers' Compensation Information System (WCIS) database maintained by DWC for services provided from 2007 to 2015.

Summary of Findings

Medical care use and spending. There were significant changes in the use of and spending on medical services affected by SB 863, including marked increases in spending on evaluation and management (E&M) services for which RBRVS fee schedule changes raised payment rates and declines in laboratory and pathology service use and payments (reflecting RBRVS changes). Researchers found some changes that were not anticipated, for example, increases in spending within 12 months of injury on physical medicine services. In 2014, spending on E&M increased to nearly 30 percent of total payments in the year of injury and to approximately 35 percent in 2015. They found that two-thirds of this growth can be attributed to RBRVS changes and the rest to an increase in E&M service utilization. However, most of the increase in utilization appears to have been due to consultation visits that were billed as office visits in 2014 because consultation visits were no longer paid under RBRVS.

RBRVS implementation and transition. When the RBRVS was fully implemented in 2017, payments under RBRVS were set at 120 percent of Medicare payment rates in July 1, 2012, before application of an inflation factor and a relative value scale adjustment factor.

The transition to RBRVS increased payments for E&M services, which are commonly delivered by general practitioners, and lowered payments for specialists. From the perspective of an individual provider, the net impact of the transition to RBRVS depends on the provider's mix of services before the transition and the change in rates for these services. The transition to RBRVS from 2013 to 2014 shifted the distribution of payments and volume of WC services in California. E&M visits accounted for a larger share of total payments and spending in 2013 and 2014.

The change in volume and payment for medical services varied significantly from 2013 to 2014 across different types of services. Payments for E&M services accounted for a larger share of total payments in 2014 than in 2013 (36.2 percent versus 29.5 percent). The volume for E&M services increased much more modestly (by less than 1 percentage point), which suggests that the increase in payment was driven by higher prices under RBRVS.

Other Specific Fee Schedule Changes

Inpatient hospital schedule. RAND found a reduction in inpatient hospital stays per claim from 2012 to 2014. Across all inpatient stays in acute care hospitals subject to the OMFS for inpatient hospital services, from 2012 to 2014 total discharges decreased 12.6 percent, whereas the average allowance per discharge decreased 8.7 percent.

Ambulatory Surgery Center (ASC) schedule. The fee schedule comparison also highlights the generosity of the OMFS ASC facility allowances relative to other Medicare-based fee schedules. In addition to the overall finding that estimated payments are 138 percent of the Medicare ASC allowances, the differences across types of procedures are of concern. SB 863 reduced the aggregate allowance for ASC facility services to 80 percent of Medicare's hospital outpatient prospective payment system (OPPS) rate.

The Medicare ASC fee schedule is designed to create neutral incentives regarding where services are rendered. In contrast, the current OMFS provides incentives that are inconsistent with the efficient delivery of medically appropriate services in the least costly setting. These incentives drive device-intensive procedures to take place in the hospital and shift services commonly performed in an office setting to ASCs. Both incentives potentially increase WC expenditures for ambulatory surgery.

RAND analyzed the potential alternatives to current policies on OMFS facility fees for ASC surgical services. It considered the following options for refining the OMFS:

- Continue to pay using the OPPS framework, including the Comprehensive Ambulatory Payment Classifications (C-APC) bundling policies. This represents no change in OMFS policies for ASC facility fees.
- Continue to pay using the OPPS framework but determine allowances for procedures without the C-APC bundling policies. This would continue to use the current OMFS policies to determine the other factors that affect the allowances and represents the smallest change from pre-C-APC policies.
- Determine the allowances for ASC services based on 120 percent of the Medicare fee schedule for ASC facility services. This would conform the OMFS allowances for ASC facility services to the Medicare ASC fee schedule.

Medical-Legal Fee Schedule. The medical-legal (ML) fee schedule has not been updated since 2007, whereas estimated payments for E&M services were projected to increase when the RBRVS was fully implemented, before further adjustments for inflation. Instead, RAND found that the cost of $250 per hour used to determine the ML allowances is significantly higher than the fully transitioned 2017 allowances for E&M services, which consist of similar activities. Despite these increases, the number of subsequent follow-up evaluations has also increased significantly. Together, the trends suggest that the allowances for extraordinarily complex evaluations should be restructured.

RAND discusses several considerations that might motivate the efficient completion of high-quality evaluations, including flat rates for complex ML 104 evaluations, limitation of supplemental reports, performing all diagnostic testing before an evaluation, and orderly control over medical documentation.

Medical Necessity Dispute Resolution Process and IMR and UR frequency. The medical necessity dispute resolution process begins with UR of medical care provided to an injured worker. Only a physician can issue an adverse UR decision to modify or deny the requested treatment. SB 863 streamlined the medical necessity dispute resolution process and shifted responsibility for resolving the disputes from WC administrative law judges to medical experts. DWC contracted with Maximus to perform the independent medical review organization functions.

The issues that occurred when the IMR process was implemented have largely been addressed. Maximus has eliminated the initial backlog of IMR reviews and is issuing IMR decisions in a timely fashion after the supporting documentation is submitted by the claims administrator. Effective January 1, 2018, SB 1160 revised the Labor Code to require that the employer electronically submit the required medical documentation within 10 days of being notified that a request for IMR has been approved and has been assigned to the independent medical review organization, with copies to the employee and the requesting physician. The penalties for not complying with the IMR notice and reporting requirements were also strengthened.

Most claims administrators are processing UR requests in a timely way, but some are not doing so or issuing UR decisions for a significant percentage of their UR requests, and the same is true for some UROs. Claims administrator practices vary widely in terms of the proportion of requests for authorization approved at the claims adjuster level, and prior authorization policies are fairly limited. Both policies have implications for administrative costs and medical cost containment expenses.

The SB 1160 provision requiring the electronic submission of UR documents to DWC offers an opportunity to introduce more performance accountability to the system and more transparency about how the UR process actually functions.

Recommendations

The report's recommendations include

- For ambulatory surgery facility services, consideration should be given to replacing the OPPS-based fee schedule with an ASC-based fee schedule.
- For medical-legal services, consideration should be given to converting the allowance for an extraordinarily complex evaluation into a flat rate based on the complexity of the issues that need to be addressed by the evaluator.
- For medical-legal services, consideration should be given to establishing policies that provide incentives for completing high-quality reports that address the issues outlined in the cover letter(s) from the parties requesting the evaluation. For example, timely completion of reports and comprehensive reporting could be incentivized by establishing a higher payment for timely submissions and by not paying for an initial evaluation unless the issues have been addressed respectively.
- Continue to monitor trends in utilization and spending for different medical service categories.
- Continue to monitor trends in work-related outcomes for injured workers.
- Pursue additional analyses comparing changes in outcomes for California injured workers to comparison groups, including possibly injured workers in other states or patients in California with injuries that are not work related.

For further information…

"Evaluation of California Senate Bill 863 Medical Care Reforms. State of California Department of Industrial Relations," RAND, September 2020.
https://www.rand.org/pubs/research_reports/RR2045.html.

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

SPECIAL REPORT: WAGE LOSS MONITORING FOR INJURED WORKERS IN CALIFORNIA'S WORKERS' COMPENSATION SYSTEM

Introduction

Occupational injury and illness poses a major risk to the health and financial well-being of workers. Each year in California, 600,000 to 700,000 workers file workers' compensation claims as a result of on-the-job injuries. In California and other states, the workers' compensation system bears primary responsibility for providing injured workers with needed medical treatment and compensation for lost earnings. Workers' compensation systems also promote favorable labor market outcomes for injured workers because employment and earnings of disabled workers have been shown to reflect successful recovery, rehabilitation, or adaptation and, thus, are potential indicators of worker well-being after injury.

Poor labor market outcomes, which often lead to more substantial earnings losses, also make it more difficult and costly for the workers' compensation system to meet its objective of providing adequate disability benefits to workers. To provide policymakers and system stakeholders with an understanding of how workplace injuries affect workers' labor market outcomes and economic security, the California Department of Industrial Relations (DIR) contracted with RAND to develop a program of ongoing wage loss monitoring for injured workers in California between 2013 and 2017.

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Background

This Wage Loss Monitoring project was initiated in 2017 and produced three interim reports that described historical trends in labor market outcomes for workers injured between 2013 and 2017, including comparisons to labor market outcomes for workers injured in earlier years (2005-2012). Those reports showed that labor market outcomes—earnings, employment, and return to work at the employer where the injury took place—for workers with lost-time injuries improved slowly for cohorts injured between 2013 and 2017, but these outcomes have not fully returned to the levels observed before the 2008-2009 Great Recession (using a similarly-situated control group method). The project's final policy report provides a deeper exploration of key findings and trends identified in the interim reports. In particular, it answers four key research questions (identified below) that may inform future policy changes.

Research Questions

The topics and research questions addressed in the final policy report include:

1. How did earnings losses experienced by injured workers evolve over time for workers injured between 2005 and 2017?
2. What explains earnings loss trends and the slow recovery after the Great Recession?
3. What factors drive the regional differences in earnings losses after cumulative trauma injuries?
4. How do benefits paid to injured workers compare to their earnings losses, and how has the adequacy of benefits changed over time for workers injured between 2005 and 2017?

Key Findings

- Wage losses from injury and illness through 2017 remain larger than they were before the Great Recession, but have started 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 prior to injury.
- RAND explored the role of several factors in explaining the overall trends that were observed, including changes in the case mix or composition of injured workers across cohorts, the role of local labor market conditions, and changes in the rates of sustained return to work.
    - While much of the initial drop in relative earnings was associated with the business cycle around the onset of the Great Recession, the recovery for injured workers has been incomplete, even as unemployment rates in the general population have fallen. Some of this incomplete recovery can be explained by the fact that the characteristics of workers in more recent cohorts are different, particularly those with permanent disability (PD). RAND speculated that the incomplete recovery may also reflect broader and more permanent demographic and economic changes, including an aging workforce and a decline in demand for lower-skilled workers that is unlikely to be reversed in the future.
- The report highlights that outcomes for some groups of workers are especially poor, particularly those with multiple injuries and workers with cumulative trauma.
    - Outcomes for workers with cumulative trauma were particularly poor for workers in Southern California in the early years of the economic recovery, but have improved in the later cohorts in our analyses (2016-2017).
    - The timing of improvements for workers with cumulative trauma in Southern California coincides with new anti-fraud activities. This improvement in outcomes for workers with cumulative trauma in Southern California is a bright spot in the workers' compensation policy landscape, and future study should seek to verify if removing fraudulent providers directly contributed to improved economic outcomes for these workers.
- RAND found that benefit adequacy declined during the Great Recession, particularly for workers with permanent disability (PD). Despite some increases in payments after SB 863 reforms took effect, wage replacement rates have not improved as much as expected given these statutory increases in benefit generosity. While benefits did increase over time, the majority of the increase did not come from growth of PD benefits.
    - Much of the increase in benefits came from settlements, and medical settlements in particular. RAND found that wage replacement rates would have been even lower without payments from special funds administered by DIR, including the Return-to-Work Supplement Program (RTWSP) and Subsequent Injuries Benefit Trust Fund (SIBTF).
- A comparison of replacement rates across body part of injury and type of injury suggested that California's long-standing challenges with horizontal equity also have not been resolved by SB 863 reforms. In many ways, the findings in the report highlight the importance of continued monitoring for outcomes of injured workers.
- After the Great Recession, RAND's monitoring effort revealed that outcomes for injured workers were improving more slowly than the overall economy. For many subgroups, relative earnings and employment have not yet returned to pre-recession levels.
- The California workers' compensation system (WC) is becoming increasingly complex, meaning that there are additional components to incorporate into a comprehensive monitoring effort. According to the RAND study, the ideal monitoring environment would have one comprehensive data source with all WC benefits including special funds, disability ratings, medical care, disputes and earnings information all in one place, or the correct identifiers in place across all of these data sources in order to easily link them.

Status: Completed.

For further information …

Michael Dworsky, Stephanie Rennane, and Nicholas Broten, Earnings Losses and Benefit Adequacy in California's Workers' Compensation System: Estimates for 2005-2017 Injury Dates, RAND, 2021.
https://www.rand.org/pubs/research_reports/RRA964-1.html
Michael Dworsky, Stephanie Rennane, and Nicholas Broten, Wage Loss Monitoring in California's Workers' Compensation System, RAND September 26, 2019,
https://www.dir.ca.gov/chswc/Meetings/2019/RAND-Wage-Loss-prezo_91919.pdf

Wage Loss Monitoring in California's Workers' Compensation System: 2016-2017 Injury Year Findings (Third Interim Report),
https://www.rand.org/content/dam/rand/pubs/research_reports/RR4200/RR4209/RAND_RR4209.pdf

Wage Loss Monitoring in California's Workers' Compensation System: 2014-2015 Injury Year Findings (Second Interim Report),

https://www.rand.org/pubs/research_reports/RR2807.html

Wage Loss Monitoring in California's Workers' Compensation System: 2013 Injury Year Findings (First Interim Report),
https://www.rand.org/content/dam/rand/pubs/research_reports/RR2500/RR2572/RAND_RR2572.pdf

SPECIAL REPORT: THE FREQUENCY AND ECONOMIC IMPACT OF MUSCULOSKELETAL DISORDERS FOR CALIFORNIA FIREFIGHTERS

Introduction

Firefighters play a vital role in protecting the public, often placing their own lives at risk in order to protect the health and safety of others. Firefighting is one of the most dangerous occupations in the United States in terms of workplace injury risk. The Bureau of Labor Statistics reports approximately 508 nonfatal injuries per 10,000 full-time equivalent (FTE) firefighters in 2017. This is more than 5 times the rate of injury per 10,000 FTE that workers face, on average, in the private sector (89.4).[212] In California, the risks of firefighting have become even more salient in the past few years, with the record wildfires and resulting deaths.

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Discussion

The health risks facing firefighters go beyond burns, automobile crashes, and other acute trauma. Firefighters are widely believed to face an elevated risk of cancer due to smoke inhalation and exposure to other hazardous materials. Additionally, the strenuous nature of the work and its rigorous physical demands can take a physical toll, including wear and tear that increases the risk of back injury, joint pain, or other forms of musculoskeletal disorders (MSDs), particularly for older workers.

As in most occupations, in firefighting the most common type of occupational injury or illness is MSDs, which creates concern that the strenuous physical demands of firefighting could put workers at greater risk of work loss and disability. Moreover, rigorous job requirements often dictate that even a relatively minor work restriction prevents firefighters from performing the full range of activities required of them to remain on active duty. Thus, the risk of an MSD injury can make it more difficult or costly to maintain fully staffed fire departments capable of protecting the public at an optimal level. This has led to considerable interest among policy makers and stakeholders about how to best monitor, prevent, and treat MSDs among firefighters.

A 2010 study by the RAND Corporation compared the frequency and economic consequences of work-related MSDs among firefighters to those for other workers in the public and private sectors. [213] This study found that firefighters experienced MSDs at a significantly higher rate than other workers, even those in other high-risk jobs, such as police or corrections work. Moreover, firefighters were more likely than other workers to experience lost time because of an MSD, when they are older. However, the study also found that the economic impact of MSDs—back injuries, in particular—was more moderate on average for firefighters than for other employees.

In this 2020 study, RAND updated the analyses from its 2010 study and considered the impacts of the SB 863 workers' compensation reforms and the economic shocks of the late 2000s on outcomes for firefighters with MSDs compared to other injured workers. Following the approach used in the prior report, RAND analyzed administrative data from the California Workers' Compensation Information System (WCIS) linked to data on earnings for injured workers, tailoring the results to the reforms and taking advantage of

[212] Bureau of Labor Statistics, Survey of Occupational Illnesses and Injuries, https://data.bls.gov/gqt/InitialPage/ (accessed October 15, 2020).

[213] Seabury, Seth A., and Christopher F. McLaren. 2010. "The Frequency, Severity, and Economic Consequences of Musculoskeletal Injuries to Firefighters in California." Santa Monica, CA: RAND Corporation. https://www.rand.org/pubs/monographs/MG1018.html.

previously unavailable data. Where necessary, or to provide context, RAND also examined data in the published literature or national data.

Findings:

- Firefighters continue to face high risk of work-related MSDs, especially injuries to the lower extremities and trunk.
- Earnings losses for firefighters worsened after the Great Recession of 2008-2009, yet firefighters face fewer economic consequences from MSDs than other workers in similar occupations.
- After the implementation of 863, Disability Evaluation Unit ratings and statutory permanent disability benefits for firefighters rose.
- Firefighters with MSDs rarely receive treatment or permanent disability benefits for post-traumatic stress disorder or other psychiatric conditions.
- No evidence was found that treatment caps on chiropractors, occupational therapy, and physical medicine had a substantial impact on most workers, including firefighters.

Status: Completed

For further information…

Michael Dworsky, Seth A. Seabury, and Nicholas Broten, *The Frequency and Economic Impact of Musculoskeletal Disorders for California Firefighters: Trends and Outcomes Over the Past Decade*, RAND, 2020. https://www.rand.org/pubs/research_reports/RR3037.html

Seth A. Seabury and Christopher F. McLaren, *The Frequency, Severity, and Economic Consequences of Musculoskeletal Injuries to Firefighters in California*, RAND, 2010. https://www.rand.org/pubs/monographs/MG1018.html

SPECIAL REPORT: JANITORIAL TRAINING PROJECT

Introduction

On September 15, 2016, California Governor Jerry Brown signed into law AB 1978, a bill that established protection against harassment and sexual violence in the workplace for custodial staff. The law focuses on addressing sexual assault and harassment of workers, mainly undocumented female janitors, at night in empty buildings who often do not report the incidents out of fear of deportation or losing their job. AB 1978 protects janitorial workers by requiring employers to register annually with the Labor Commissioner to ensure employer compliance with this bill, starting July 1, 2018, and mandating that the Division of Labor Standards Enforcement (DLSE) establish a biennial in-person sexual violence and harassment prevention training program requirement for employees and employers.

DIR, in collaboration with the Commission on Health and Safety and Workers' Compensation (CHSWC), contracted with the Labor Occupational Health Program (LOHP) at UC Berkeley to develop the janitorial training program for janitors and supervisors on sexual harassment. To develop the training programs, LOHP used written materials developed by DIR, which include a factsheet for workers and a factsheet for supervisors on sexual harassment and AB 1978 requirements. LOHP provided suggestions on the content of the written materials developed by DIR, based on its work with janitors on this issue. The training program uses interactive methods and is aimed at helping workers play an active role in preventing and addressing workplace issues. The training format and delivery methods are designed with an eye toward feasibility and practicality.

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Project Objectives

The main objectives of this project are to:

- Develop a training program and short video for janitors on sexual harassment and assault, based on the requirements of the new regulations in AB 1978, and provide four "Training-of-Trainers" (TOT) sessions for worker leaders, worker representatives, and others so that they are prepared to train workers.
- Develop two training activities that can be included in the supervisor training program.
- Develop a lesson plan for a supervisor training program on sexual harassment.

Status: Completed

For further information…

https://www.dir.ca.gov/dlse/Janitorial-Training.html
https://www.dir.ca.gov/dlse/Spanish/Janitorial-Training.html
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1978.

SPECIAL REPORT: HEALTH AND SAFETY TRAINING FOR CHILD-CARE WORKERS

Background

According to the Labor Occupational Health Program (LOHP), in 2015-2016 the Service Employees International Union (SEIU), with funding from the California Community College Chancellor's Office and the California Workforce Development Board, developed a curriculum for teaching child-care workers in family day-care settings about workplace health and safety.[214]

In 2017, Assemblyperson Monique Limón sponsored Assembly Bill (AB) 676 which proposed an Early Educators' Occupational Safety and Health Training Program. She also requested that CHSWC develop a model-training curriculum for occupational safety and health training for early care and education workers and employers, with the goal of prevention and reduced costs for employers and employees.

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Training Curriculum

In 2018, CHSWC funded a study for LOHP to assess the effectiveness of the SEIU-created curriculum and training and to develop and pilot a proposed expanded curriculum for center-based and school-based child-care centers in California, adopting some training elements from AB 676 and acknowledging the work of the California Childcare Health Program at the University of California, San Francisco.

That study had the following objectives:

- Review and assess the effectiveness of existing health and safety curriculum for family day-care providers developed by SEIU.
- Adapt that curriculum for child-care workers in center- and school-based settings.
- Provide two training of trainer (TOT) programs in English and Spanish to prepare trainers to conduct the health and safety training.
- Develop a dissemination plan and begin a limited rollout.
- Assess effectiveness of TOT and of initial dissemination/outreach plan.

The curriculum was developed in both English and in Spanish.

Status: Completed

For further information…

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

[214] https://www.dir.ca.gov/chswc/Meetings/2017/Childcare_worker_proposal.pdf

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.
- *Identified and continue to deepen relationships with three regional Centers of Excellence:*

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- *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 offer 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 in order to extend the reach of the program and to adapt to the changed circumstances created by the COVID-19 pandemic.

- *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.
- *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.*

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
- https://lohp.berkeley.edu/trainings/

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.

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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.
- 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

In addition to the materials described above, training classes have been offered and will continue to be offered statewide. To date 109 SASH training classes have been conducted for 2,205 attendees from school districts in 31 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. Notice of upcoming SASH training is at https://lohp.berkeley.edu/trainings/.

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 were developed this year 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 also developed factsheets for special education paraeducators on handling uncontrolled aggressive student behaviors, and on addressing safety in the event of an active shooter on school grounds.

These factsheets can be found at: https://www.dir.ca.gov/chswc/

A number of webinars were conducted over the past year for school employees. These included the following:

- 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/.

SASH Expansion

Although the injury rate among school district employees has declined to some degree since the SASH program began, it is still high relative to the overall injury rate. Consequently, additional training and support are needed to accomplish the goals of this statewide initiative. Therefore, CHSWC has expanded the reach of the program 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. Expansion of the SASH program also includes an evaluation of the training program.

Next Steps:

> The SASH IIPP training curriculum will 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.

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

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.

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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*, which was 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 1,600 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 online teaching about health and safety and COVID-19 prevention, 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 as a hybrid in-person and virtual encounter on February 25, March 5, and March 18, 2022, due to the COVID-19 pandemic. 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 active participation of other partnership members, including UCLA-LOSH, Cal/OSHA, the Labor Commissioner's Office, the California Department of Public Health's Occupational Health Branch, WorkSafe, and the Equal Employment Opportunity Commission (EEOC). Young people from four different organizations around the state attended, along with four YWLA alumni who served as youth mentors.

- 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. This year, all four teams and youth mentors also attended a "YWLA zoom reunion" in June to reconnect and share the results of their community activities. The California partnership seeks opportunities for building the skills of YWLA young leaders, including those in public speaking.

- *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 the California Industrial Hygiene Council (CIHC), as a keynote presenter at their annual conference and working with regional CIHC leads to promote outreach on young workers, as well as with the national AIHA Teen Workplace Task Force. In addition, LOHP joined a network of professional development providers at UC Berkeley to promote training for work-based learning educators. LOHP also developed partnerships with two local youth employment programs—Richmond YouthWorks and Berkeley YouthWorks, including developing and piloting a short online workshop with the Richmond program focused on workplace discrimination and harassment for young workers.

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 6,683 times to date.
- About 25 teachers, employers, and youth received direct technical assistance via phone or email.
- The *www.youngworkers.org* website: During 2021-2022 (12 months of tracking), the website had 58,594 page views, comprising a broad range of webpages. The most frequently visited pages are the "Work Permits" page (7,908 views), the "Homepage" (7,870 views), the "Teacher Materials" page (3,240 views), the "Teen Workers Rights" page (4,634 views), and the "Hazards Activity Page" (3,503 views).
- Published at least three articles in newsletters, newspapers, and on the Internet.
- 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 *http://www.youngworkers.org*. The WorkAability program, which places youth 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
http://www.youngworkers.org
https://youngworkers.org/ywla/

LIST OF PROJECTS AND STUDIES

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 and 2022. 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.[215]

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 and 2022:

Study of the impacts of COVID-19 claims and the 2020 SB (Senate Bill) 1159 presumptions of compensability on the California workers compensation system (Category III)

Initiated by a legal request written into 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, Gidengil, C. Am J Ind Med. 2022; 1- 11. doi:10.1002/ajim.23326
https://www.rand.org/pubs/external_publications/EP68841.html

[215] 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.)

Evaluation of Incidence of Mental Health Conditions or Illnesses Among Firefighters and Peace Officers Study, RAND (Category IV)

Initiated by a legal 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 legal request written into Assembly Bill (AB) 1400 in 2019.

Status: Draft report available, but not approved by the Commission. RFP for a new study to meet AB 1400 mandate will be undertaken. [216]

"AB 1400 Draft Study Report," ToxStrategies, February 2021.
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)

Study requested by Assemblymember Miguel Santiago on December 11, 2020.
(see https://www.dir.ca.gov/chswc/Meetings/2021/SantiagoLetter.pdf)

Status: In Process

Study on Skin Cancer Prevalence in our Wildlife Officers and Park Rangers (Category IV)

[216] 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.

Study requested by Assemblymember Mullin on February 20, 2020.

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.

Report request initiated by SB 880, effective 2019 as Labor code 4651.

Status: In Process

CHSWC AND THE COMMUNITY

For Information about the Commission on Health and Safety and Workers' Compensation (CHSWC) and its activities:

Write:

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Oakland, CA 94612

Phone:	***FAX***:	***Email***:
510-622-3959	510-286-0499	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:

What's New

- 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, 1994–2021
CHSWC Strategic Plan, 2002
Worker Occupational Safety and Health Training and Education Program (WOSHTEP) Advisory Board Annual Reports, 2004–2021

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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American Property Casualty Insurance Association (APCIA)
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Participants in CHSWC meetings, fact-finding hearings, and public forums
Participants in CHSWC project advisory committees

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Finally, CHSWC acknowledges and thanks its staff:
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