LEADERS' CHOICE INSURANCE

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NEWSALERT

Workers' Compensation

Proposal: X-Mods to Include COVID-19 Claims

CALIFORNIA'S WORKERS' Compensation Insurance Rating Bureau has proposed plans to start requiring COVID-19 claims to be included when calculating employer X-Mods, according to a report by an industry trade publication.

The proposal, which would have to be approved by the state insurance commissioner, would bring to an end current rules that exclude the impact of COVID-19 workers' compensation claims on X-Mods, the *Workers' Comp Executive* reports.

The current measure was put in place after Gov. Gavin Newsom in April 2020 issued an order that any workers who were reporting physically to work and who contracted COVID-19 would automatically be presumed to have contracted it in the workplace.

That in turn meant that those cases would be treated as workers' comp claims, which entitled the workers to having their medical expenses covered as well as being paid temporary disability benefits for time they missed from work due to the coronavirus.

In response, the Rating Bureau issued the temporary rule excluding COVID-19 claims from X-Mod calculations. At the time, it said that those claims did not reflect effectiveness of employers' workplace safety efforts as they likely had not contemplated the pandemic.

Rationale behind proposed rule change

According to the *Executive*, Rating Bureau staff wrote in the rule proposal: "The COVID-19 workers' compensation claim environment has changed significantly since the experience rating exclusion of COVID-19 claims was first recommended and ultimately adopted.

"In the early months of the pandemic, relatively little was known about how COVID-19 was transmitted, there was little in the way of widely accepted workplace safety protocols and tens of thousands of COVID-19 workers' compensation claims were being filed."

The Rating Bureau reasons that now that we have a better understanding about how to reduce the spread of coronavirus through mitigation measures, in widespread COVID-19 vaccinations in the state, it's time to no longer exclude these claims from X-Mod calculations.

It said one role of experience rating is to provide an incentive to keep workers safe, according to the *Executive*.

NO COVID X-MODS: *Currently all coronavirus workers' comp claims are excluded from X-Mod calculations.*

Claims Snapshot*

Total COVID-19 claims	**164,320**
COVID-19 death claims	**1,163**

**2020-Oct. 8, 2021*

The takeaway

The proposal will still need to be adopted by California's insurance commissioner. If adopted, it will take effect Sept. 1, 2022.

Any employer with workers on-site should have protocols in place to protect their workers against COVID-19 transmission in the workplace.

The rule change will provide an additional incentive to protect your employees, as any claims that require medical treatment and/or time away from work will count against your workers' compensation claims experience. ❖

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Commercial Property

Factors That Are Pushing Insurance Rates Higher

COMMERCIAL PROPERTY insurance rates are continuing to climb, as the segment faces a number of headwinds that have pushed claims costs to new heights.

A number of factors are affecting rates, including the frequency and severity of extreme weather claims. the cost of rebuilding, rates for commercial properties not keeping pace with claims costs, and more.

The end result has been a steady increase in property rates across the board, but businesses with operations in areas that are more susceptible to natural disasters are seeing the highest increases.

As a business owner with commercial property, you've probably already seen rates increase, and you should be prepared for further rate hikes in the coming year. Here are the main drivers of these increases.

Mounting natural catastrophes

The number of natural catastrophes hitting the U.S. continues increasing as does the cost of those disasters, which are affecting more properties around the country.

Depending on the part of the nation a property is located it can be exposed to hurricanes, wildfires, tornadoes, hail, flooding and more. There has also been an increase in civil unrest, which often results in property damage to businesses.

Insured property losses in the U.S. hit $74.4 billion in 2020, the second-most expensive year on record. Also, last year set the record for the most major natural catastrophe events to hit the U.S. in a single year (22 of them).

Five of the 10 most expensive catastrophe years for the insurance industry have occurred since 2011.

CIVIL UNREST: *During the last few years, there have been more public disturbances, resulting in significant property damage.*

Reconstruction costs

Reconstruction costs have skyrocketed during the past five years, averaging 5% a year, according to the Associated Builders and Contractors analysis of Bureau of Labor Statistics data.

Lumber prices rose by 73% between April 2020 and July 2021, greatly increasing rebuilding costs. On top of that, iron and steel products jumped 15% in price during the same period, and steel mill products by nearly 7%.

Construction labor shortage

The construction industry faces a serious labor crunch. And many firms have backlogs that stretch out more than six months. According to the U.S. Chamber of Commerce Commercial Construction Index, this shortage is leading to real-world setbacks for contractors:

- 68% of contractors say they are asking workers to do more work.
- 56% report a challenge in meeting project schedules.
- 50% of contractors are putting in higher bids.
- Over a third (35%) report turning down work due to skilled labor shortages.

Property rates are inadequate

Despite the fact that rates have been increasing for the last five years, insurers are still struggling to keep up with the rapidly rising cost of claims as well as the number of claims they are seeing.

Those factors have made it difficult for the industry to peg pricing at the right level, resulting in a string of losses in property insurance for most carriers.

As the industry struggles to get back to profitability, insurers will have to continue boosting rates.

Reinsurance rates

A portion of the property insurance rate gains can be attributed to insurance companies dealing with higher reinsurance costs. Insurers buy reinsurance to pass on claims costs from catastrophic events, in order to reduce their overall risk.

The takeaway

There are some steps that businesses can take to try to affect their premiums. If you have an older building, you can replace your mechanical, electrical and plumbing systems with newer, code-compliant variants.

Safeguard your building against location-specific hazards (for example, creating a defensible space and using fire-resistant roofing in wildfire areas and upgraded cladding in hurricane areas).

Also, electrical fires are the number-one cause of property damage, so you should consider installing fire-protection systems such as sprinklers and fire hose cabinets. ❖

Supply Chain Disruptions Keep Growing

AS THE COVID-19 pandemic drags on globally, supply chain disruptions continue to worsen. Most main U.S. ports are logjammed with vessels waiting more than two weeks to load and unload, while a shortage of truckers means containers are piling up at port facilities.

On top of that, each new wave of coronavirus infections results in more factories suspending operations, particularly in Asia. In addition, material shortages are forcing U.S. factories to stop production as they are missing much-needed parts and materials.

Most notably, the shortage of microchips has forced makers of cars, appliances and industrial machinery to halt operations.

All of these factors have upended supply chains, leaving many companies without materials and products.

Prudent companies address these challenges by building safeguards and contingencies into their supply chains ahead of time.

They enhance those risk management efforts by purchasing contingent business interruption insurance, which will cover lost profits if an event shuts down critical suppliers or major customers.

It's important that you create a solid plan for dealing with disruptions to your supply chain.

Understanding your supply chain

You'll be best able to reduce the effects of supply chain disruptions on your business by identifying the risks within your supply chain and developing ways to mitigate them.

You should document this process in your risk management plan, which is part of your overall business continuity plan.

External supply chain risks

- **Flow interruptions.** Problems caused by interruptions to the movement of finished goods, raw materials or parts.
- **Environmental risks.** Economic, social, political, terrorism threat and climate factors that can affect the supply chain.
- **Business risks.** Problems caused by a supplier's poor financial stability, or the purchase or sale of suppliers by other entities.
- **Physical plant risks.** Problems caused by issues at a supplier's facility. For example, a supplier could suffer a machinery breakdown or regulators may shut the facility down.

Developing a plan

The best way to manage a supply chain disruption is to prepare for it. Start by undertaking a business impact analysis to prepare your company.

Form a team of key personnel that should include shipping and receiving, and management and supervisors involved in your key processes. The team should:

- Identify alternatives to key suppliers in advance. You don't want to be scrambling in the midst of a crisis. One option is to contract with an alternative supplier in advance, so you can certify them and ensure they can ramp up if you lose a critical supplier.
- Model the impact of disruptions on your sourcing and inventory strategies for the four supply chain risks listed above. Under each of the scenarios, think about how non-delivery of a key part or material would affect your operations. ❖

JAM-PACKED: *Busy container traffic at the Port of Los Angeles.*

Credit: Port of Los Angeles

New Rules Cast Shadow over Ransomware Payments

A RECENT U.S. Treasury announcement on ransomware has put cyber insurance companies and their policyholders in a bind.

If the targeted business doesn't pay the ransom, it can't operate. If it and its insurer do pay the ransom, the government may penalize them both, and the fines could be hefty – as much as $250,000 per violation in "non-egregious" cases, under new U.S. Treasury guidelines.

This news comes as ransomware attacks are increasingly hitting small businesses. A recent study by cyber security firm NetDiligence showed that, over the past five years, small and medium-sized businesses have made insurance claims for ransomware attacks at three times the rate of hacking events, with insured ransom payments averaging $247,000 plus $350,000 in recovery costs.

The fallout and what's happening

An insurance company that wants to operate in good standing may not be willing to risk incurring penalties by paying the ransom as part of their coverage.

The announcement has already caused insurers to reject applicants who have been hit with certain ransomware strains, according to one cyber-security expert.

He said insurers and the Treasury Department communicate frequently to determine the risk that certain payments may violate the law.

The Treasury Department has historically discouraged victims from paying ransoms, saying that ransoms enable criminals and adversaries to "profit and advance their illicit aims."

Recently, the department went a step further: It will start penalizing anyone who pays or facilitates payment of ransoms to certain individuals, groups and countries. That could include the victimized businesses and their insurance companies.

The department believes that some ransom payments have gone to individuals and entities named on the Specially Designated Nationals and Blocked Persons List. This list, created after the September 11, 2001 terrorist attacks, identifies those suspected of terrorist activity.

Federal law prohibits making or facilitating payments to anyone named on the list or to countries on the terrorist watch list, such as Cuba, North Korea and Iran. Those who make payments to these individuals, entities or countries face civil penalties even if they were unaware that the recipient was on the lists.

The department's Office of Foreign Assets Control is authorized to fine everyone involved in making an illegal payment, including the insured business and the insurer.

Advice from the Feds

The Treasury Department has urged businesses to take mitigation steps to prevent attacks. Businesses that implement cyber-security practices such as employee training, system monitoring, multi-factor authentication and installing anti-malware protection on their servers are less likely to be victimized.

In addition, the department said it would look more favorably on businesses that have these protections in place and end up having to pay ransoms anyway. Organizations that self-report possible impermissible payments to law enforcement will also be considered as having mitigated the risk.

Ransomware has become a plague for all kinds of organizations. Taking defensive measures is the best way to avoid having to make an insurance claim and accidentally breaking the law. ❖

The Ransomware Scourge

If current trends continue, 2021 will have a higher total ransomware-related transaction value than all previous 10 years combined.

Total ransomware payments January 2021 to June 2021	**$590 million**
Average ransom demand January 2021 to June 2021	**$570,000**
Average ransom demand 2020	**$312,000**
Average ransom demand 2019	**$182,450**

Sources: U.S. Treasury Department, and 2021 Unit 42 Ransomware Threat Report