Leaderschoice INSURANCE SERVICES

April 2019 | Volume 9 | Issue 4

NEWSALERT

Human Resources

Court Makes New Pay Rules for On-Call Workers

EMPLOYERS WITH on-call workers who have to phone in to check on a scheduled shift are now required to pay them reporting pay, a California appellate court has ruled.

The court held in the precedent-setting case of *Ward vs. Tilly's, Inc.* that an employee scheduled for an on-call shift may be entitled to partial wages for that shift despite never physically reporting to work. The case hinged on what's known as "reporting pay."

Definition of 'reporting pay'

California's Industrial Welfare Commission (IWC) has wage orders that require employers to pay workers who show up for a shift and then are told they won't be working the scheduled shift.

Under the wage orders, an employer has to pay an employee who is required to report for work and does report, but is not put to work or works less than half their usual or scheduled day's work.

Reporting pay is a minimum of two hours' pay and a maximum of four hours.

The case

In the *Ward vs. Tilly's, Inc.* case, employees were required to phone in to see if they would be working that day. The plaintiff in the case said that he was owed reporting pay because calling in to see if he was scheduled was essentially the same as showing up at work and being told he didn't have to work that day, as per the IWC's wage orders.

The appellate court on Feb. 4, 2019 upheld a lower court's ruling that had sided with the plaintiff. It's unclear whether the defendant will appeal the case to the California Supreme Court, but until that time and up to any potential decision, the ruling stands.

What it means for employers

Previously, reporting pay was limited to those employees who physically reported to work. Now, any employee that has to call in to check on a scheduled shift will be due half of the wages they would have earned by working the shift they were on call for.

The amount of reporting pay is based on the number of hours the employee normally works.

EXAMPLE: Justin, an on-call worker, is usually scheduled for six-hour shifts. When he called in on Wednesday, he was told he did not need to come into work that day. Based on the appellate court ruling, Justin must receive up to one-half of his scheduled shift, or three hours' pay. ❖

WHAT YOU CAN DO

- Conduct a cost-benefit analysis of retaining or keeping on-call status for employees.
- If you have on-call workers, update your employee handbook to reflect the new policy.
- If any of your workers were on call and were told not to work a shift after the Feb. 4 court ruling, you should pay them for the reporting pay they are owed.

Leaderschoice INSURANCE SERVICES

CONTACT US

700 E Street
Sacramento, CA 95814

Phone: 866.211.2123
Fax: 866.913.7036
www.leaderschoiceins.com

License No. 0G80276

If you would like to receive this newsletter electronically, e-mail us at: info@leaderschoiceins.com

Workers' Comp

Most Common Audit Mistakes: What to Look For

NO COMPANY owner wants to undergo a workers' compensation audit, but they are a fact of life if you run a business and have employees.

Unfortunately, many audits don't go smoothly and sometimes your insurer may make mistakes. Missouri-based Workers' Compensation Consultants, which helps employers through the audit process, recently listed the 10 most common audit mistakes insurers make.

The list highlights a common problem and how you can detect the mistakes. Insurance companies allow you to review the audit with your broker. If you have received an audit bill that is obviously overstated, you should contact us.

Here are the things to look for when reviewing an audit by your insurance company:

Wrong class code – Misapplication of job classifications occurs in many audits. With hundreds of job classes to choose from, mistakes can happen. Talk to us and review your old policies to see if any of your class codes have changed.

X-Mod is changed – After your insurer finishes the audit, it will use the information to calculate your premium. When that happens, it has to include your X-Mod to get the right rate. But sometimes the insurer may use an incorrect X-Mod.

Subcontractors are counted – Sometimes insurers will include subcontractors as employees, which results in a new audit bill to account for the additional "employees." But if they are genuine subcontractors, they should not be counted.

Often, uninsured contractors will be included as employees. Make sure to use insured contractors only.

Disappearing credits – Most policies will have some sort of premium credits or other modifiers. Sometimes during audits, the insurer will remove them when recalculating the premium they think you owe. Watch out for missing credits and other modifiers if you get an audit bill, like:

- Premium discount
- Schedule credits
- Deductible credits
- State-specific credits

Audit worksheets missing – If the auditor fails to provide you with audit worksheets, which are used to compile your payroll and other audit information, you should ask to check their work.

They will provide you with the information you need to carry out such a check.

Your rates changed – The rates you are charged at the beginning of your policy period must remain the same for the entire period. If your base rates have changed, the insurer may have made a mistake.

Separation of payroll – Depending on your industry, you may or may not be able to split your employees' payroll between job classifications (like cabinet installers and sheetrock hangers). This is a pinch point when errors can occur. If the auditor says you are not allowed to split job classifications even though you have in the past, your audit may be in error.

Unexpected large premium due – If you get a significant bill for your insurance company after your audit, the auditor may have made mistakes, particularly if you know that your employment has remained relatively stable and you've had no significant claims, if any. If it seems out of whack, call us.

Payroll data doesn't match – If there is a discrepancy between your payroll data and what you see on the audit, a mistake may have been made. Try to match the payroll on the audit with that generated from your accountant. If the insurer made a mistake, you could end up paying for phantom payroll numbers.

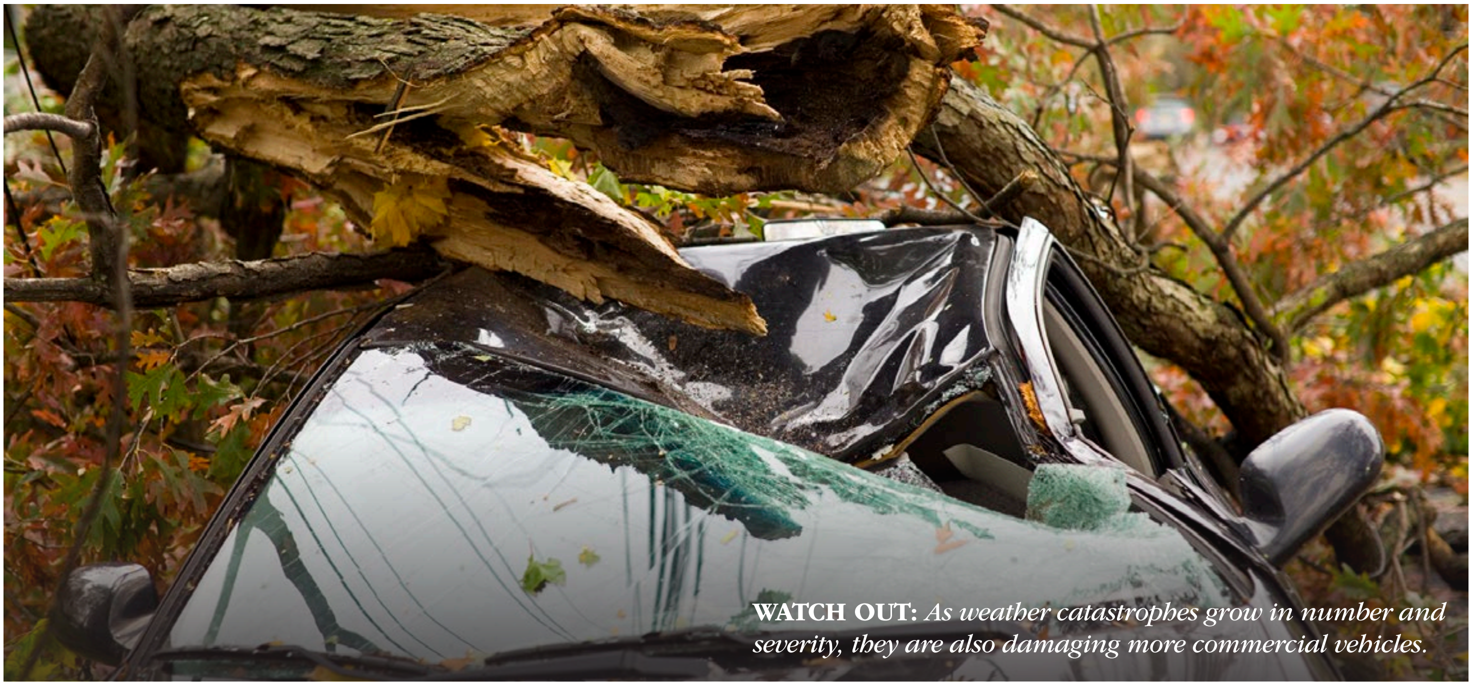
No physical audit – There are three types of audits:

- Mail audit
- Phone audit, and
- Physical audit

The mail and phone audits are prone to errors, since neither you nor your staff likely have any experience in premium auditing. If you have a big bill after a mail or phone audit, mistakes could have been made. ❖

Developing Risks

Commercial Auto Rates Face New Headwinds



WATCH OUT: *As weather catastrophes grow in number and severity, they are also damaging more commercial vehicles.*

MORE ACCIDENTS attributed to smartphone use while driving, coupled with much higher costs of repairs, have led to double-digit increases in commercial auto insurance rates over the past few years.

Distracted driving is just one of many factors that have converged on commercial auto insurance claims, resulting in sustained premium increases. Now there are new factors that are coming into play that will ensure that rates continue climbing, at least in the near term.

Commercial auto rates are increasing for companies with large fleets as well as for businesses with just a few vehicles and drivers. Here's what's at play and what you need to be aware of in the future:

New and future risks

Weather-related property claims – A recent report in the insurance publication *National Underwriter* noted that commercial auto insurers say that the increasing frequency and severity of large hurricanes, floods, hailstorms and wildfires has led to more auto physical damage claims in the past decade.

As these events grow, more vehciels are flooded or damaged, leading to an increase in rates.

Lack of experienced drivers – As the economy expands, it's become more difficult to find experienced drivers. Many experienced commercial drivers are retiring, and there are not enough job candidates with the skills and expertise needed to drive commercial vehicles.

The American Trucking Associations estimates that the industry is understaffed by more than 50,000 drivers, and this could increase more than threefold within eight years if current trends continue.

Security with onboard systems – As more vehicle functions become automated, new risks could surface from system failures that may result in accidents.

There are a number of technologies that come into play in new vehicles and a highly automated vehicle will rely on array of devices, including radar, light detection and ranging, cameras, graphics-processing units and central processing units.

Continuing factors

Distracted driving– This is the biggie. Starting a few years after the advent of smartphones in 2009, the steady decline in vehicle accidents and claims costs began to reverse when vehicular deaths started increasing for the first time in decades. The culprit, say many transportation safety experts, is distracted driving.

Repair costs – The cost of repairing vehicles has skyrocketed as cars have become more technologically advanced.

A 2018 research paper by AAA found that vehicles equipped with advanced driver-assistance systems (ADAS) can cost twice as much to repair following a collision, due to expensive sensors and calibration requirements.

AAA cited the cost of repairing a car with windshield damage if it has an ADAS. The system uses cameras that are installed behind the windshield.

These cameras need to be recalibrated after a windshield is replaced. This has increased the cost of replacing such windshields to about $1,500, compared to $500 for a standard windshield.

Medical costs – Medical costs have been rising at a steady clip. Those increases carry over into the costs auto insurance companies incur when drivers and passengers are injured in an accident.

More miles driven – According to AAA, Americans are spending more time on the road.

Driving more miles increases motorists' likelihood of having an accident. ❖

Risk Management

Don't Overlook Equipment Breakdown Insurance

IMAGINE IT'S a typical hot July day. You own a 30,000-square-foot office building that is 85% occupied. And the air conditioning and ventilation systems stop working. The outside temperature is in the 100's. It doesn't take long before the tenants start to complain.

The contractor you summon determines that an electrical arc fried the circuit board that controls the systems.

The board must be replaced, but it will take up to five business days for it to arrive. In the meantime, the building is unfit for people to work in, and the leases oblige you to credit tenants' rents for periods when the building in uninhabitable for more than a day. In short, you face thousands of dollars in repairs and much more in lost rents.

Worse, your property insurance does not cover the equipment or lost rent. What you need is equipment breakdown insurance.

Property insurance policies will cover the resulting property damage from fires, explosions or other damage caused by these events. But it won't cover the equipment or lost income from the downtime during repairs like equipment breakdown insurance will.

EQUIPMENT BREAKDOWN POLICY EVENTS

- Mechanical breakdown in equipment that generates, transmits or uses energy, including telephone and computer systems.
- Electrical surges that damage appliances, devices or wiring.
- Boiler explosions, ruptures or bursts.
- Events inside steam boilers and pipes or hot water heaters and similar equipment that damages them.

WHAT IT COVERS

- Cost of repairing or replacing the equipment.
- Lost business income from a covered event.
- Extra expenses you incur due to a covered event.
- Limited coverage for losses like food spoilage in freezers that break down.

Equipment breakdown insurance is not a substitute for other property coverage.

It will not pay for damage caused by fire, lightning, explosions from sources other than pressure vessels, floods, earthquakes, vandalism, and other causes of loss covered elsewhere.

Equipment breakdown policies are designed to fill in the gaps left by other policies, not to replace them. Also, they do not cover mechanical breakdowns that result from normal wear and tear as a device ages.

Business owners often overlook equipment breakdown coverage. Bur, virtually all of them have some need for this insurance.

Most businesses rely heavily on machines in their daily operations, from computers to refrigeration equipment and elevators to manufacturing equipment.

For some, the cost of repairs to this equipment and resulting downtime can have a serious impact. Such businesses should seriously consider buying equipment breakdown insurance. ❖