COVID-19'S IMPACT ON WC COSTS & WHAT PEOS CAN DO

BY FRANK HUANG

As the novel coronavirus continues to change the way we live and work, uncertainty continues to grow for PEOs providing workers' compensation (WC) coverage. To understand how PEOs can move forward, I will first look at WC costs during a more traditional recession and then discuss how this recession may be different. I will conclude with thoughts about what PEOs can do now to prepare for the future.

WHAT WE KNOW ABOUT RECESSIONS

Despite the lack of historical precedent, our understanding of the current recession can nonetheless be improved by studying past recessions.

History has shown that frequency tends to decrease in times of recession. While frequency could theoretically increase if payroll declines faster than the number of claims, the general trend is that claims decrease faster than payroll. This is typically attributed to a last-in, first-out philosophy, where less tenured, less experienced workers are likely the first to get laid off during a recession. An analysis by the National Council on Compensation Insurance's (NCCI's) former chief economist Harry Shuford shows that these less-experienced workers were 46 percent more likely to have WC claims.

While the direction of WC frequency during a recession has historical precedent, the understanding of WC severity is less clear. Severity may increase as workers stay on claim longer because of lack of job security or lower hours when they return. On the other hand, increases in severity may be minimized as recessions tend to limit wage growth, which would limit an increase in indemnity costs.

Overall, if a COVID-19-induced recession were to resemble past recessions, we might expect a continuation of downward pre-Coronavirus frequency trends and severity increases that may somewhat offset the frequency decrease.

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HOW THIS RECESSION IS DIFFERENT

While WC costs will likely still be impacted by influences and behaviors seen in past recessions, there are three mains reasons why COVID-19 produces tremendous additional uncertainty about the future: scale, compensability, and government response.

First, the scale of COVID-19's impact on the workforce is immense, both in the number of employed worksite employees and the WC costs. The latest projected unemployment rates (as of this article's writing) are estimated to exceed 20 percent and impact both blue- and white-collar workers. Further, the short-term and long-term medical costs are still unknown, with the possibility of future cycles of infections.

Second, the actual WC compensability of COVID-19 claims is uncertain. Initially, states and insurers denied claims, stating lack of proof that workers were infected in the course of employment. But as the scale of the virus grew, insurers and regulators began expanding the definition of compensability from just front-line workers to essential occupations and beyond. It seems likely that insurers will ultimately, on their own or under protest, expand compensability definitions to more than they anticipated.

It is worth noting the magnitude of potential financial costs to the WC industry. For example, the Workers' Compensation Insurance Rating Bureau of California (WCIRB) recently estimated the potential cost of COVID-19 claims to be $11.2 billion, with a range between $2.2 and $33.6 billion. If accurate, the best-case scenario would be a 12 percent increase in statewide rates, while the worst-case scenario would prompt the insolvency of many private insurers across the entire state. Given California's size relative to the broader WC industry, it stands to reason that COVID-19 exposure, if fully compensable, is a very real threat to both insurers and insureds alike throughout the entire country.

How the cost and compensability issues are resolved will likely be heavily impacted by our third factor: the government's response. In past macroeconomic events, such as the 9/11 terrorist attacks and Hurricane Katrina, the federal government chose to enact backstops to protect the stability and viability of the insurance industry. However, in both of these cases, the government did not need to dictate an interpretation of the coverage in question. Based on recent legislative developments in other lines (e.g., business interruption), it seems likely that the federal government will ultimately intervene to not just resolve these disputes about compensability but also to potentially fund related costs. In the present partisan climate, however, and in an election year to boot, this may not be a foregone conclusion.

Ultimately, the combination of these three elements makes for a very complex problem. The solution is outside the realm of insurance expertise and potentially in the hands of policymakers who must consider the role of insurance to society, as well as overall societal good.

NEXT STEPS FOR PEOS

PEOs can move forward by facing the unknown, addressing the known, and re-assessing their current strategies:

- **Face the unknown by staying updated.** Stay connected with NAPEO's around-the-clock updates and continue to read the latest news from NCCI and other agencies.
- **Address the known through rigorous data management.** As judicial rulings and NCCI rule changes emerge, PEOs need to be able to manage and monitor these risks well. Whether from COVID-19 data being excluded from experience mod calculations or insurers allowing for payroll reclassification, PEOs will benefit from collecting as much information as possible on COVID-19 claims.
- **Re-assess your risk management strategy.** Revisit your risk management philosophy from the top down, especially as your policy renewal approaches. Confirm that all risk management groups are prepared to handle potential changes from new COVID-19 risks.

By focusing on fundamental risk management practices and staying abreast of changes in the industry, the PEO industry should be poised to weather the storm and emerge from this recession in solid shape. ■

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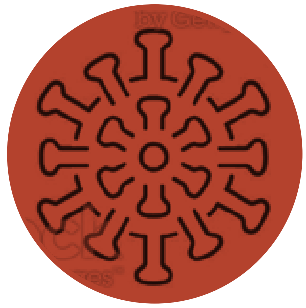

COVID-19 & OSHA REPORTING

Last month, the Occupational Safety and Health Administration (OSHA) released enforcement guidance for recording cases of COVID-19. The guidance will remain in effect until further notice and is intended to be time-limited to the current crisis.

COVID-19 is a recordable illness and employers are responsible for recording cases if:

- They are confirmed cases of COVID-19, as defined by Centers for Disease Control and Prevention (CDC);
- They are work-related as defined by 29 CFR Section 1904.5 (if the event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness); and
- They involve one or more of the general recording criteria set forth in 29 CFR Section 1904.7 (if they result in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness.)

Visit **https://bit.ly/2XVk4t8** for more information.