



AMERICAN SOCIETY OF
SAFETY PROFESSIONALS

Workers' Compensation Safety and Human Resources

Valley Coastal Chapter

American Society of Safety Professionals

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WC Risk Management Approach

- **Workers' Comp Basics**
- Financial Impact of Losses
 - WC Insurance
 - Indirect Costs
- Loss Prevention
 - Safety Programs
 - Human Resource Mgt.
- Loss Reduction
 - Accident Investigation
 - Claim Reporting
 - Communication
 - Return to Work



Workers' Compensation History

- Common Law Defenses
 - Assumption of Risk
 - Contributory Negligence
 - Fellow Servant Doctrine



Workers' Compensation **Present**

- Regulatory
- Mandatory
- Paid by Employer
- **Exclusive Remedy**
- **NO Fault**



Workers' Compensation Coverage

Coverage

- Employee / Employer Relationship
- AOE
 - Arises Out of Employment
- COE
 - In the Course of Employment

Exclusive Remedy “Exceptions”

- Self-Inflicted
- Intoxication
- Initial Physical Aggressor
- Felony
- “Voluntary” Activities
- Post Termination Claims



Workers' Compensation Benefits

- Injury
 - Specific
 - Chronic / Cumulative
- Illness
 - Occupational Disease
- Psychiatric
- Pre-Existing Condition
- Medical Payments
- Indemnity Payments
- Disability Payments
- Vocational Rehabilitation
 - Voucher
- Death Benefits



Workers' Compensation

Employer Responsibilities

- Posting Notices
- Employee MPN Notification Handouts
- Medical Treatment
- Mandatory Claims Reporting
 - including 1st Aid



CLAIMS PROCESS

- Reporting
 - DWC-1 - employee
 - 24 Hours
 - Employers Report within 5 Days to Carrier
- Carrier - Investigation
 - Accept/Deny/Delay
 - 14 Days
 - Med Coverage to \$10,000
 - 90-day max Delay
- Accepted Claim
 - Medical Control
 - Medical Provider Network (MPN) Life of the Claim
 - Pre-designated Physician
 - Modified Work



CLAIMS PROCESS

Indemnity Payments

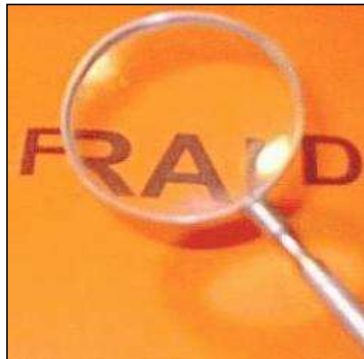
- Tax Free
- 2/3's of pay to Max
- 3 Day Waiting Period
 - Includes weekend days
 - 4 days off, pays back to first day of the claim

- Claims Status
 - Full Release
 - Temporary Total Disability
 - TTD
 - Maximum Medical Improvement - MMI
 - Disability Rating
 - PTD Permanent Total Disability
 - Closure
 - Stipulated
 - Compromise and Release



Additional & Potential Liabilities

- Serious and Willful Misconduct
- Wrongful Termination
- Americans with Disabilities
 - Interactive Process



- The majority of Workers' Compensation claimants are honest
- The Key is to recognize potential fraud at the beginning of a claim

Show me the Money \$\$\$\$ Workers' Compensation Premium



Workers' Compensation Insurance Rating Bureau, WCRIB

- Publishes Classification Rules
- Collect Unit Statistical Reports Carriers Report
 - 6 months after policy year end
- Publishes Advisory Rates
- Publishes Experience Modification

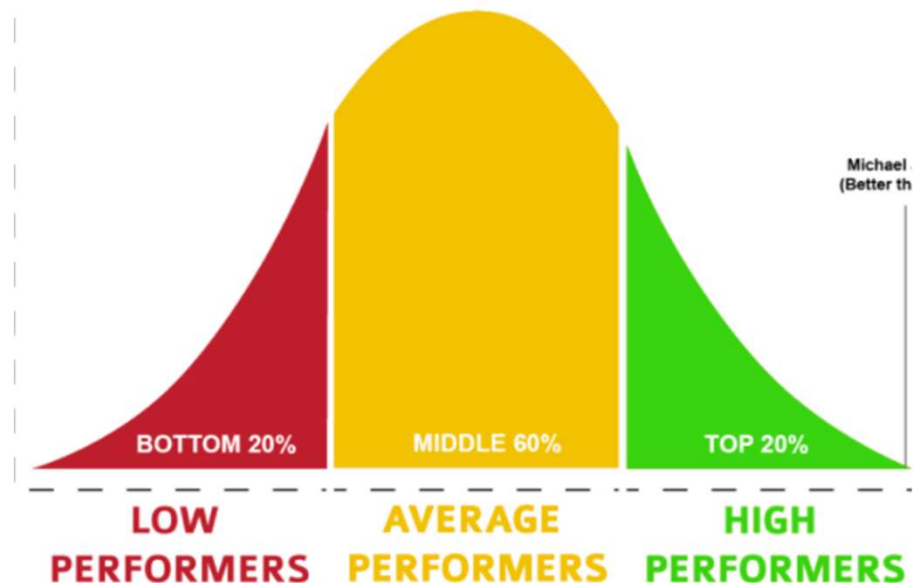
Class Code	Definition	per \$100 Payroll
8810	8810(1) Clerical Office	0.42
8021	STORES - MEAT, FISH OR POULTRY - WHOLESALE	12.17
8031	STORES - MEAT, FISH OR POULTRY - RETAIL	9.37
5552	Roofing—low wage \$18.00 avg / hour	45.40
5553	Roofing—high wage \$49,75 avg / hour	17.48

Experience Modification X Mod

Adjusts Premium to Peers

- Reflects Class Relationship
 - Average Wages
 - Total Payroll
- Reflects Loss History
 - Rating Period
 - First 3 years of Last 4

17 18 19 20 2021



X MOD Trends

Year	Payroll	Premium	Losses	Ind	Med	Claims	LR	Xmod
2015	\$1,645,463	\$200,737	\$2,126	0	2	2	0.01	1.12
2016	\$1,631,768	\$170,351	\$7,717	2	4	6	0.05	1.24
2017	\$1,724,651	\$158,116	\$21,715	2	7	9	0.14	0.85
2018	\$2,063,802	\$106,698	\$7,157	0	4	4	0.07	0.79
2019	\$2,195,238	\$96,107	\$11,426	2	10	12	0.12	0.81
2020	\$2,228,735	\$186,792	\$0	1	0	1	0	0.97
2021	\$2,228,735	\$202,567						1.32

Workers' Compensation Experience Rating Form

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

5474 PAINTING/WALLPAPER INSTALL-LOW WAGE
5482 PAINTING/WALLPAPER INSTALL-HIGH WAGE
8868 COLLEGES/SCHOOLS-PRIVATE-PROFESSIONALS
9008 JANITORIAL SERVICES
8742 SALESPERSONS-OUTSIDE
8810 CLERICAL OFFICE EMPLOYEES

Bureau Number: XXXXXX
Effective Date: 06/23/2021 **
Issue Date: 06/23/2021
Experience Modification: 97%
Insurer: XXXXXXXXXXXXXXXXXXXXXXXX
Insurer Group: XXXXXXXXXXXXXXXXXXXX
Policy Number: XXXXXXXXXXXXXXXX
Issuing Office: XXXXXXXXXXXXXXXX
Experience Period: 01/01/2016 to 01/01/2019
Rerate Number: 1
Rerate Reason: Joint Coverage ¹

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Summary of Payroll and Expected Losses

Class Code	Payroll	Expected Loss Rate per \$100 payroll	Expected Losses	D-Ratio	Expected Primary Losses	Expected Excess Losses
5474	1,101,645	3.68	40,541	0.407	16,500	24,041
5482	156,175	1.42	2,218	0.365	810	1,408
8742	140,286	0.16	224	0.455	102	122
8810	183,988	0.11	202	0.498	101	101
8868	400,334	0.36	1,441	0.519	748	693
9008	81,374	4.27	3,475	0.533	1,852	1,623
Totals	2,063,802		48,101		20,113	27,988

Insurer: 748 Policy Period : 10/01/2018 to 10/01/2019

Summary of Claims and Actual Losses

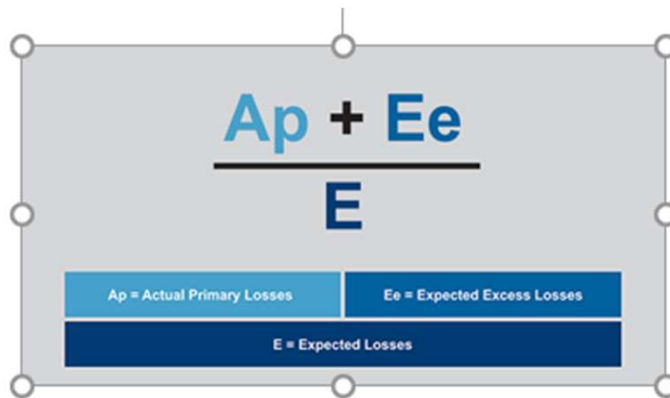
Primary Threshold: 24,500

Claim Number	Injury Type	Open / Closed	Actual Losses	Actual Primary Losses
000006870568	06	Closed	3,737	3,487
000006970666	06	Closed	590	340
000006972959	06	Closed	2,052	1,802
000006984060	06	Closed	430	180
Totals	4		6,809	5,809

Insurer: 748 Policy Period : 10/01/2017 to 10/01/2018



X Mod Worksheet



The first \$250 of every claim is excluded - **Reporting the cost of minor workplace injuries helps everybody.**

Experience Period Totals	Expected Losses C	Expected Primary Losses 50,379	Expected Excess Losses B 70,111	Number of Claims 18	Actual Losses 89,750	Actual Primary Losses A 47,286
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Actual Primary Losses	Expected Excess Losses	Expected Losses		
[^A 47,286 + ^B 70,111] / [^C 120,490] =	97%	Experience Modification		

Loss-Free Rating: 58%

¹ Rerate due to reporting of joint coverage claim(s) for year(s) 2017

(S) Subrogation; (J) Joint Claim; (P) Partially Fraudulent, if any

^{**} Rerate Y-Mod eff. 10/01/2020 per Experience Rating Plan, Sec. V, Rule 6, Experience Modification Corrections-Effective Dates



Workers Compensation Premium

$$\frac{\text{Payroll}}{\$100} \times \text{Manual Rate} \times \text{E Mod} = \text{Premium}$$

Code	Classification	Est Annual Payroll	Manual Rate / \$100 of Payroll	Est Annual Premium
4511	Analytic Labs	\$4,000,000	\$6.00	\$240,000

Manual Premium = \$ \$240,000
 E-Mod Factor = x 1.53
 Total Premium = \$367,200



What Can an Employer Do?



Communication Activities

- Select MPN, Medical Provider Network
- Initiate Communications with Claims Rep / Agent/Broker
- Schedule Routine Claims Review Meetings
- Employee / Supervisor Education
 - Claims Reporting
- Prompt Reporting all Claims



Internal Activities

- Proper Hiring
 - Job Descriptions
 - Includes Physical Demands
 - Verify Work History
 - Evaluate any gaps in employment
 - Reference Checks
 - Safety Performance Criteria
- Effective Onboarding
 - General Safety Orientation
 - Job Specific Training
 - Job Promotion / Transfer
- To ensure candidates can perform job duties develop
 - Job Description with 'Key Essential Functions of the Job' and has specific Physical Demands
- Find a clinic that will perform the evaluation
 - Post -Offer/Pre-Placement
 - Physical Agility
 - Drug/Alcohol
 - Background Criminal Check
 - Job Specific – Non-Discriminatory
 - All warehouse, All dockworkers, All drivers



Claims Management Internal Controls

- Employee Notification
 - MPN documentation and Posting notices
- Reporting Procedures
 - 1st aid
 - Work Injury Reporting
 - Cal OSHA Notification
 - Serious Injury
 - Within 8 Hours
 - Hospitalization 24 + hours
- Accident Investigation
 - Review
 - Follow up as necessary
 - Corrective Action – Retraining
 - Fraud?
- Claims follow up / Progress Reports
- Return to Work
 - Transitional Positions



Return to Work Program

■ Return to Work

- Transitional Work
 - Interactive review of job description with physical demands
 - Time linked and specific
- Update After Each Dr. Visit
- Follow Restrictions
 - Supervisor Training
- Offsite Transitional Duty Program

■ Return to Work Program

- Benefits
- Reduces Time off
- Reduces associated Costs
 - Retraining
 - Replacement
 - Reduce Litigation
 - Increases Morale
- Formal
 - Job Descriptions and Physical Requirements



Return to Work Program Elements

- Develop Job Descriptions:
 - with specific physical demands
- Provide Job Descriptions to your Industrial Clinic
 - Provide in advance or with the injured employee
- Create a job bank
 - use when an employee needs alternative duties.
- Review employee restriction after each medical visit
 - Adjust to reflect changes
- All offers of transitional work should be time-linked
 - if progress stalls –
 - consider taking off
 - reevaluate work strinctions

**I have never met
anyone as clumsy
as you!**



Get Well Soon!

Physical Demands

PHYSICAL DEMANDS ANALYSIS WORKSHEET

CLAIMANT NAME	POLICY NUMBER	CERTIFICATE NUMBER
JOB TITLE	JOB LOCATION	

INDICATE NUMBER OF TIMES PER DAY THE LISTED ACTIVITY IS PERFORMED:

LIFTING

(Includes pushing and pulling effort while stationary)

- ☐ 1 but less than 5 lbs. (0.5 but less than 2.3 kgs.)
- ☐ 5 but less than 10 lbs. (2.3 but less than 4.5 kgs.)
- ☐ 10 but less than 25 lbs. (4.5 but less than 11.3 kgs.)
- ☐ 25 but less than 50 lbs. (11.3 but less than 22.7 kgs.)
- ☐ 50 but less than 100 lbs. (22.7 but less than 45.4 kgs.)
- ☐ 100 lbs. and over (45.4 kgs. and over)

CARRYING

(Includes pushing and pulling effort while walking)

- ☐ 1 but less than 5 lbs. (0.5 but less than 2.3 kgs.)
- ☐ 5 but less than 10 lbs. (2.3 but less than 4.5 kgs.)
- ☐ 10 but less than 25 lbs. (4.5 but less than 11.3 kgs.)
- ☐ 25 but less than 50 lbs. (11.3 but less than 22.7 kgs.)
- ☐ 50 but less than 100 lbs. (22.7 but less than 45.4 kgs.)
- ☐ 100 lbs. and over (45.4 kgs. and over)



Physical Demands

Table 1. Determining strength level based on duration of lifting or carrying

Strength level	Duration of lifting or carrying			
	Seldom	Occasionally	Frequently	Constantly
Light work	11-25 pounds	11-25 pounds	1-10 pounds	Negligible weight
Medium work	26-50 pounds	26-50 pounds	11-25 pounds	1-10 pounds
Heavy work	51-100 pounds	51-100 pounds	26-50 pounds	11-25 pounds
Very heavy work	>100 pounds	>100 pounds	>50 pounds	>25 pounds

Source: U.S. Bureau of Labor Statistics, Occupational Requirements Survey.



Physical Demands

INDICATE % OF DAY EACH ACTIVITY IS PERFORMED:

<input type="text"/> % Sitting	<input type="text"/> % Kneeling	<input type="text"/> % Right Finger Dexterity
<input type="text"/> % Total Time on Feet	<input type="text"/> % Inside	<input type="text"/> % Left Finger Dexterity
<input type="text"/> % Standing	<input type="text"/> % Outside	<input type="text"/> % Right Below Shoulder - Reaching
<input type="text"/> % Walking	<input type="text"/> % Working with Others	<input type="text"/> % Left Below Shoulder - Reaching
<input type="text"/> % Legs Only (i.e. stairs)	<input type="text"/> % Working around Others	<input type="text"/> % Right Above Shoulder - Reaching
<input type="text"/> % Legs and Arms (i.e ladders)	<input type="text"/> % Working Alone	<input type="text"/> % Left Above Shoulder - Reaching
<input type="text"/> % Stooping		
<input type="text"/> % Other (Explain)	<input type="text"/>	

T

Physical Demands

OCCUPATIONAL REQUIREMENTS:

	Yes	No
Far Vision	<input type="checkbox"/>	<input type="checkbox"/>
Near Vision	<input type="checkbox"/>	<input type="checkbox"/>
Depth/Perception	<input type="checkbox"/>	<input type="checkbox"/>
Hearing	<input type="checkbox"/>	<input type="checkbox"/>
Talking	<input type="checkbox"/>	<input type="checkbox"/>
Other (Explain) _____	<input type="checkbox"/>	<input type="checkbox"/>
<div></div>		

DOES OCCUPATION INVOLVE EXPOSURE TO THESE CONDITIONS:

	Yes	No
Hazardous Machinery	<input type="checkbox"/>	<input type="checkbox"/>
Electrical Hazards	<input type="checkbox"/>	<input type="checkbox"/>
Poor Lighting	<input type="checkbox"/>	<input type="checkbox"/>
Wet Quarters	<input type="checkbox"/>	<input type="checkbox"/>
Noise	<input type="checkbox"/>	<input type="checkbox"/>
Cluttered Floors	<input type="checkbox"/>	<input type="checkbox"/>
Exposure to Burns	<input type="checkbox"/>	<input type="checkbox"/>
Poor Ventilation	<div>T</div> <input type="checkbox"/>	<input type="checkbox"/>
Vibration	<input type="checkbox"/>	<input type="checkbox"/>

Support Workplace Safety Programs

- Injury Prevention
 - Safety Training
- Self Inspection and follow up
- Accident Investigation
 - Review for inter-department issues
 - Adhering to policies and procedures
- Supervisor Training
 - Coaching
 - Progressive Discipline





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Workers Comp, Safety, HR and Return to Work

Nov 17, 2021

Workers' Compensation Rate Comparison

<http://www.insurance.ca.gov/01-consumers/105-type/9-compare-prem/wc-rate/#desc>

WCIRB Learning Center

<https://www.wcirb.com/learning-center>

WCIRB Experience Modification Estimators

<https://www.wcirb.com/estimator>

Answers to frequently asked questions about workers' compensation for employees

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

DWC glossary of workers' compensation terms for injured workers

<https://www.dir.ca.gov/dwc/wcglossary.htm>

How to Create a Return-to-Work/Light-Duty Program

SHRM's

<https://www.shrm.org/resourcesandtools/tools-and-samples/how-to-guides/pages/howtocreateareturn-to-worklight-dutyprogram.aspx>

EEOC Enforcement Guidance: Workers' Compensation and the ADA

<https://www.eeoc.gov/laws/guidance/enforcement-guidance-workers-compensation-and-ada>

BLS Occupational Requirements Survey

<https://www.bls.gov/ors/factsheet/home.htm>