

Commissioner Lara issues Order resulting in workers' compensation premium savings for California businesses affected by COVID-19

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Media Calls Only: 916-492-3566

Email Inquiries: cdipress@insurance.ca.gov

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Commissioner's action mandates workers' compensation carriers reflect reduced risk of loss in premiums due to "stay-at-home" orders

LOS ANGELES, Calif. — Insurance Commissioner Ricardo Lara today issued an [Order](#) adopting emergency workers' compensation regulations in response to the COVID-19 pandemic. These new regulations will mandate insurance companies to recompute premium charges for policyholders to reflect reduced risk of loss consistent with Commissioner Lara's [April 13](#) and [May 15](#), 2020 Bulletins, and will result in savings for many policyholders as businesses continue to struggle financially during the COVID-19 pandemic.

"California's business owners have been hit hard by COVID-19," said Commissioner Lara.

"Workers' compensation premiums should reflect that many employees are performing less risky duties, and my [Order](#) will provide some financial relief for employers when they need it most."

Under these emergency regulations, employers are permitted to reclassify an employee if the employee's duties have changed to a clerical classification that has reduced risk than the employee's previous classification. This reclassification will reduce the employer's premiums for employees who are a lower risk because they are now working from home even though they may not have previously done so. This change would be retroactive to March 19, 2020, the first day of the Governor's statewide stay-at-home order, and conclude 60 days after the order is lifted.

"We applaud Commissioner Lara's efforts to meet the needs of California's small businesses as they continue to navigate the COVID-19 crisis," said Mark Herbert, Vice President, California for Small Business Majority. "These new rules will allow small business owners to correctly reclassify their workforce if their duties have changed, helping businesses keep more money in their pockets as they respond to a decline in revenue and adapt their business models. These rules will also ensure small businesses are better positioned for the long-term by protecting them from future increases in workers' compensation premiums due to COVID-19. This kind of smart action will ensure our state's job creators and innovators have the tools they need to succeed after this crisis."

These emergency regulations also exclude from premium calculations the payments made to an employee, including sick or family leave, while the employee is not performing duties of any kind for the employer. Typically, these payments would be used as a basis for the employer's workers' compensation premium. This change will lower the employer's rate by reducing the amount of payroll assessed, and the employer will not pay premium for paid workers who are otherwise being furloughed.

"These changes provide clarity to employers while helping to share any financial costs of work-related COVID-19 cases among all employers—not just those who found themselves at the center of the epidemic," said Mitch Steiger, Advocate for the California Labor Federation, who is also a member of the Workers' Compensation Insurance Rating Bureau (WCIRB) Governing

Board. “In doing so, both workers and employers most affected by this crisis can more quickly begin the process of recovery.”

This new regulation will also exclude claims related to a COVID-19 diagnosis from being included in future rate calculations so that employers are not penalized with higher rates due to COVID-19 claims.

Insurers will also be required to report injuries involving a diagnosis of COVID-19 which will allow the Commissioner’s statistical agent—the WCIRB—to keep track of COVID-19 injuries, and will aid in the WCIRB’s future analyses of the workplace and market impacts.

The new regulations will go into effect on July 1, 2020.