



August 2010 Blog Posts

[A Brief Summary of California Workers' Compensation News](#)

Tuesday, August 31, 2010

Today's post will briefly examine workers' compensation defense news from around the state.

Report by Workers' Compensation Insurance Rating Bureau (WCIRB) Indicates that Both Premiums and Losses Rise Continue to Mount in First Quarter of 2010

According to a recent report by the Workers' Compensation Insurance Rating Bureau (WCIRB) of California, both work comp premiums and losses continue to rise throughout the state.

Specifically, the report found that in the first quarter of 2010 (a three-month period), written premiums in the state numbered nearly \$2.9 billion. This represents a 12 percent increase from the same time last year.

In addition, the WCIRB report found that for all policies written so far this year, employers are paying roughly \$2.47 for every \$100 of payroll. This represents a rate increase of five percent from the previous year.

Lastly, the report found that for every dollar of premiums collected by insurers, 73 cents is being spent on claims. This represents a five percent increase in loss ratio from the previous year.

A link to the entire WCIRB report may be found [here](#) ...

Dept. of Insurance Schedules Public Hearing Regarding Proposed 30% Increase in Work Comp Insurance Rates

Earlier this month, the WCIRB made work comp headlines when it recommended a 30 percent increase in the workers' compensation rates that insurance companies charge employers across the state.

Insurance Commissioner Steve Poizner is now free to either accept or reject these recommendations, while California's 400 licensed workers' comp companies may also accept or reject the recommendations and establish their own rates. (However, they typically use the Insurance Commissioner's recommendations as their primary benchmark.)

It is worth noting that Poizner rejected the WCIRB's recommendation for an increase of 22.8 percent last November, opting instead to advise no rate increase. Poizner's justification was that

substantial increases in workers' compensation base rates would create additional costs for employers during already perilous economic times.

A public hearing on the proposed rate increase is scheduled for September 28.

The proposed 30 percent increase would affect all new and renewed policies starting January 1.

Related Resources:

- [Workers' Comp Premium up 5%](#) (Silicon Valley San Jose Business Journal)
- [California Public Hearing Set for Proposed 30% Workers' Comp Rate Hike](#) (Insurance News Net)

[A Closer Look at BLS' Findings on 2009 Workplace Fatalities - II](#)

Friday, August 27, 2010

The previous workers' compensation defense post explored the Bureau of Labor Statistics (BLS) recent release of the 2009 National Census of Fatal Occupational Injuries (CFOI).

According to the CFOI, the total number of recorded fatal work injuries declined precipitously in 2009 thanks to the current state of the economy. Specifically, the survey found that there was a significant reduction in the total number of hours worked in 2009 (six percent), and that this reduction coupled with high unemployment rates translated into less people working and being subjected to workplace hazards.

(Please see "[A Closer Look at the BLS' Findings on 2009 Workplace Fatalities](#)" for more information.

Today's post will continue this discussion of the CFOI ...

As previously stated, the CFOI is an extensive undertaking. It uses information provided by "diverse state, federal and independent data sources to identify, verify and describe" fatal work injuries.

The survey itself encompasses a vast array of preliminary findings and profiles. For instance, it breaks the statistics regarding fatal workplace injuries down by industry/sector, occupation, types of incident, demographic characteristics and geography.

A complete analysis of the 2009 CFOI is beyond the scope of our blog. However, it is still worthwhile to examine some of the survey's more remarkable preliminary findings:

- The total number of work-related fatalities for salaried workers and wage workers declined by 20 percent
- The total number of work-related fatalities for self-employed workers declined by three percent
- The total number of work-related fatalities in the construction sector declined by 16 percent

- The construction sector had the largest number of recorded fatalities per industry: 816
- The total number of fatal transportation accidents declined by 21 percent
- Truck drivers had the largest number of recorded fatalities per occupation: 586

Why are these figures so important for employers?

Employers in all industries should take the time to review the 2009 CFOI and consider implementing measures to prevent both workplace fatalities and serious workplace injuries.

Stay tuned for further developments in the area of workers' compensation defense law ...

Related Resources:

- [National Census of Fatal Occupational Injuries in 2009 \(Preliminary Results\)](#) (Bureau of Labor Statistics)

[A Closer Look at the BLS' Findings on 2009 Workplace Fatalities](#)

Wednesday, August 25, 2010

In workers' compensation defense news, the Bureau of Labor Statistics (BLS) recently released the 2009 National Census of Fatal Occupational Injuries (CFOI).

The CFOI is a comprehensive survey of all fatal work injuries in the United States each year. It uses information provided by "diverse state, federal and independent data sources to identify, verify and describe" fatal work injuries. To illustrate the depth and breadth of this survey, BLS data gathers reviewed more than 17,000 documents over the last year.

The 2009 CFOI reveals that the total number of recorded fatal work injuries was 4,340, a fatality rate of roughly 3.3 per 100,000 full-time employees. This represents a significant drop from the 2008 CFOI, which measured the total number of recorded fatal work injuries as 5,214, a fatality rate of roughly 3.7 per 100,000 full-time employees.

According to the BLS, this decline in fatal work injuries can be largely attributed to the current state of the economy. The agency estimates that there was a six percent reduction in the total number of hours worked in 2009. This reduction in hours worked coupled with high unemployment rates (often in industries with historically higher fatality rates) translated into less people working and being subjected to workplace hazards.

Why are these figures so important for employers?

Employers in all industries should take the time to review the 2009 CFOI and consider implementing measures to prevent both workplace fatalities and serious workplace injuries. The next post will continue to examine the 2009 CFOI ...

Stay tuned for further developments in the area of [workers' compensation defense](#) law ...

Related Resources:

- [National Census of Fatal Occupational Injuries in 2009 \(Preliminary Results\)](#) (Bureau of labor Statistics)

[Employers Must Be Aware of Danger Posed by Heat-Related Illnesses](#)

Friday, August 20, 2010

Today's workers' compensation defense post will discuss an American Society of Safety Engineers (ASSE) report outlining the incredibly serious yet often inconspicuous danger posed to both employers and employees by heat exposure (i.e., heat exhaustion and heat stroke).

How does a person develop heat stroke or heat exhaustion?

An employee is at a serious risk of suffering heat exhaustion or a potentially deadly heat stroke when their body reaches the point where it cannot lower its core internal temperature by sweating.

Direct exposure to the sunlight, inadequate air circulation, excessive physical activity, extremely high temperatures/dew points and preexisting health conditions are just a few of the conditions that can contribute to heat exhaustion or heat stroke.

What are the symptoms of heat exhaustion and heat stroke?

- Common symptoms of heat exhaustion include dizziness/fainting, fatigue, nausea/vomiting, mood changes (frequently manifested by confusion or irritability) and headaches.
- Common symptoms of heat stroke include warm skin coupled with an inability to sweat, a loss of consciousness and seizures/convulsions.

According to Darryl C. Hill, president of the ASSE, "Heat and humidity can be a serious safety threat to all workers during the summer - from lifeguards to agriculture, construction, and roadway workers. People should think twice if they begin to feel these symptoms and act quickly."

Are there any steps that an employer or employees can take to prevent this serious work injury?

The ASSE recommends that employers take the following precautions when the temperature rises:

- Require employees to take additional breaks/rest periods
- Utilize both fans and/or air conditioning (if possible)
- Observe employees for any of the above-mentioned symptoms

- Consider adopting measures to block direct exposure to sunlight

The ASSE also recommends that employees take the following precautions when the temperature rises:

- Drink at least one cup of water every 15 minutes
- Avoid eating large meals and consuming excessive caffeine
- Wear sunscreen/sunblock and sunglasses
- Dress in loose, light-reflective clothes

The following post was for informational purposes only and not to be construed as legal or medical advice. Speak with a professional to learn more.

Stay tuned for further developments in the area of [workers' compensation defense law](#) ...

Related Resources:

- [ASSE Offers Heat-Illness Tips](#) (Occupational Health and Safety)

[CA Approves Amendments to Work Comp Notice Materials](#)

Wednesday, August 18, 2010

In workers' compensation defense news, the state of California recently approved amendments to the basic workers' compensation notice materials. These are the resources used to notify employees of both their rights and responsibilities under state law.

Specifically, the new amendments call for the following measures to be implemented by both insured and self-insured employers by October 8:

- Provide all employees hired on or after October 8 with an updated version of the workers' compensation new hire pamphlet
- Provide all injured workers with an updated version of Division of Workers' Compensation (DWC)-1/Notice of Potential Eligibility
- Post new medical provider network (MPN) notices (if the organization utilizes one)
- Post amended workers' compensation employee posting notices

Some of the more notable amendments to the workers' compensation notice materials include removing references to vocational rehabilitation, revising references to state web sites and mandating additional MPN-related information.

Failure to comply with these new requirements can result in severe consequences for employers, including:

- Fines of up to \$7000 for every violation of the new posting requirements
- Loss of medical control
- Tolling of the statute of limitations for filing claims

Under California state law, private employers may publish and utilize their own notice materials as long as they are approved by the DWC in advance. However, many of these private employers rely on the California Workers' Compensation Institute (CWCI) to create the most current notice materials for them.

The CWCI has already updated its notice materials to reflect the necessary amendments and submitted them to the DWC for final approval. Once approved, the notice materials will be translated into Spanish (required under California law), published and shipped to employer-customers by the middle of next month.

The following post was for informational purposes only and not to be construed as legal advice. Consider speaking with a legal professional to learn more.

Stay tuned for further developments in the area of [workers' compensation defense](#) law ...

Related Resources:

- [Calif. Employers Face New Workers' Comp Posting Requirements](#) (Insurance Journal)

[The True Cost of Motor Vehicle Crashes For Employers](#)

Friday, August 13, 2010

Today's workers compensation defense post will briefly examine several strategies that employers can take in an attempt to limit their exposure to losses (legal, medical and financial) related to employee motor vehicle accidents ...

A landmark study by the United States Centers for Disease Control's National Institute for Occupational Safety and Health (NIOSH) found that approximately 13,337 civilian workers were killed in motor vehicle accidents between 1992 and 2001. During this time, motor vehicle accidents were by far the primary cause of death (22 percent), ahead of both falls (10 percent) and homicide (13 percent).

Unfortunately, the figures for serious injuries related to employee motor vehicle accidents were not much better. In the year 2000 alone, benefits for accident victims and lost wages totaled \$61 billion, while losses related to workplace absences totaled \$4.6 billion.

Given these rather staggering statistics and the fact that little has changed over the past nine years in regard to employer reliance on motor vehicle transportation, what steps (if any) can an employer take to limit their potential losses?

Employers seeking to limit their losses related to employee motor vehicle accidents may consider adopting a company-wide comprehensive safety plan.

The following are just a few examples:

Adopt Uniform Safety Policies

- Require seat belt use by all employees
- Avoid having workers drive past their normal work hours or during odd hours
- Prohibit cell phone use behind the wheel (if not already prohibited by state law)

Provide Safety Programs

- Instruct employees on how to operate any specialized equipment utilized in transportation
- Stress the importance of following safety policies
- Train employees on how to recognize the symptoms of fatigue and the dangers of distracted driving

Create Mechanisms to Review and Evaluate Driver Performance

- Keep current and comprehensive driving performance records of all employees
- Verify driving records of any potential employees
- Make certain that every employee has the appropriate licensure

The following post was for informational purposes only and not to be construed as legal advice.

Consider speaking with a dedicated legal professional to learn more.

Stay tuned for further developments in the area of [workers' compensation defense law](#) ...

Related Resources:

- [Roadway Crashes Are the Leading Cause of Occupational Fatalities in the U.S.](#) (NIOSH)

[WCIRB to Recommend Significant Increase in Work Comp Base Rates](#)

Tuesday, August 10, 2010

In recent workers' compensation defense news, the organization that advises California's insurance commissioner on workers' compensation base rates is currently considering a substantial rate increase.

According to several sources, the Workers' Compensation Insurance Rating Bureau (WCIRB) is more than likely going to recommend a 30 percent increase in the workers' compensation rates that insurance companies charge employers across the state.

The Actuarial Committee of the WCIRB met last Wednesday to assess the pertinent information (indemnity losses and medical losses) and came away with the opinion that an increase of at least 30 percent was necessary. Their final recommendation will more than likely be submitted to the Governing Committee of the WCIRB for approval sometime this week.

According to Jack Hannan, a WCIRB spokesman, the Governing Committee is expecting to submit its final recommendation to raise workers' compensation base rates to Insurance Commissioner Steve Poizner by August 17.

The Insurance Commissioner is free to either accept or reject the recommendations of the WCIRB. In addition, California's 400 licensed workers' comp companies may also accept or reject WCIRB's recommendations and establish their own rates. (They typically use the Insurance Commissioner's recommendations as their primary benchmark.)

The proposed 30 percent increase would affect all new and renewed policies starting January 1.

In November, Poizner rejected the WCIRB's recommendation for an increase of 22.8 percent, opting instead to advise no rate increase. Poizner's justification was that substantial increases in workers' compensation base rates would create additional costs for employers during already perilous economic times.

It is worth noting that the last time the insurance commissioner recommended an increase in workers' compensation base rates was January 2009, at a rate of 5 percent. This was 11 percent lower than the original recommendations of the WCIRB.

Stay tuned for further developments in the area of [workers' compensation defense law](#) ...

Related Resources:

- [Panel Urges 30% Workers' Comp Rate Hike](#) (Sacramento Business Journal)
- [California Workers' Comp Bureau to Suggest 30% Rate Increase](#) (Insurancenews.net)

[Effective Resolution of a Workers' Compensation Claim - I](#)

Wednesday, August 4, 2010

A vital component of any effective workers' compensation defense is strong negotiation skills. Attorneys must be able to reach a fair settlement without causing their employer- client to sustain unnecessary costs/losses in the form of increased insurance premiums.

How can this be accomplished?

A successful [workers' compensation defense](#) attorney will typically develop a negotiation strategy that can be customized to meet the unique needs of his or her client.

The following is a general outline of some effective negotiation strategies utilized by attorneys in workers' compensation claim resolution. It is designed to shed some light on the settlement process.

Develop a strong plan of action

An attorney must take the time to carefully study the workers' comp claim and develop an efficient plan of action. This means identifying both the strengths and weaknesses of the workers' comp claim at issue, and determining how to proceed based on the settlement range provided by the employer's insurance adjustor.

Utilize effective negotiation tactics

The attorney will typically initiate negotiations with a more modest settlement offer. As negotiations progress, the attorney will more than likely slowly work their way up the settlement range, being careful not to make any successive offers until the injured employee's attorney has made a counteroffer.

In the event it becomes evident that the workers' comp claim cannot be settled within the acceptable range provided by the employer's insurance adjustor, the attorney may choose to bring the negotiations to a halt.

The injured employee or their attorney may then be informed that their settlement demands are outside the scope of acceptable payments and that no further offers will be extended until these demands are lowered.

The next post will explore the steps a workers' compensation defense attorney typically takes once a fair settlement has been reached ...

Contact a California workers' compensation defense attorney to learn more ..

Related Resources:

- [Claims Resolution and Settlements: Knowing When and How to Settle a Workers Compensation Claim](#) (WorkersCompensation.com)