

**COVID-19
KEY CONSIDERATIONS
FOR RETAINED WORKERS
COMPENSATION CLAIMS**

CONFIDENTIALITY

Our clients' industries are extremely competitive, and the maintenance of confidentiality with respect to our clients' plans and data is critical. Oliver Wyman rigorously applies internal confidentiality practices to protect the confidentiality of all client information.

Similarly, our industry is very competitive. We view our approaches and insights as proprietary and therefore look to our clients to protect our interests in our proposals, presentations, methodologies and analytical techniques. Under no circumstances should this material be shared with any third party without the prior written consent of Oliver Wyman.

© Oliver Wyman

COVID-19 KEY CONSIDERATIONS FOR RETAINED WORKERS COMPENSATION CLAIMS

The following is a list of key considerations in evaluating the impact of COVID-19 on workers compensation claims – both directly related to COVID-19 infection and indirect impacts from economic and societal changes:

- **Compensability of COVID-19 Claims**

Generally speaking, to be compensable and subject to workers compensation benefit eligibility, a claim must arise out of the course and scope of employment and be caused by conditions particular to work. The eligibility criteria leave a big question mark regarding the compensability of claims from employees infected with COVID-19. The ultimate determination depends on statutes, regulations, and court interpretations specific to an individual jurisdiction. Additional considerations:

- Some jurisdictions have different standards for different diseases.
- Some jurisdictions exclude ordinary diseases of life, such as influenza, from coverage.
- Specific employee classifications, most notably those involved in healthcare with direct patient contact, and public safety officers, may have lower thresholds of compensability than other employee classifications.
- Some jurisdictions have implemented material policy changes that impact the compensability of COVID-19 related claims. For detailed information on these changes, please review our accompanying COVID-19 WC Legislative Update document.

- **Claim Frequency and Severity**

Societal and economic impacts on workers compensation claim frequency and severity may include the following:

- **Health Care Coverage** Some states have mandated that health insurance must cover testing and emergency room/ urgent care visits related to COVID-19 without deductibles or copays. These types of measures may serve to temper workers compensation claim activity related directly to the illness. Actions taken by individual employers may have the same impact.
- **High Demand Industries and Essential Services** The hiring of new employees to meet growing demand in some industries could lead to an increase in claims, as claim incidence rates associated with new employees are typically higher than those related to longer-tenured employees. Additionally, employees performing work to which they are not accustomed may lead to higher average severity of claims. The new demand for these workers may lead to longer working hours, which may increase the number of claims. Essential businesses may also see an increase in mental stress claims. Compensability of mental stress claims varies by jurisdiction.
- **Economic Impacts** Sectors most affected by sudden job loss and furloughs may see an increase in workers compensation claims as employees seek to supplement their lost income. Potentially offsetting this increase, remaining employees may file fewer claims due to concerns over job security. The overall impact is unknown at this time. An economic downturn may also lead to an

increase in claim severity. For example, employees may be more likely to involve attorneys in their claims, and claimants who are already receiving temporary disability benefits may attempt to extend those benefits.

- **Employers Liability**

Employers liability may serve as a remedy for an employee who believes the infection was the result of employer negligence. If an employee's family member contracts COVID-19 from the employee after the employee contracted the virus at work, an employers liability claim may arise.

- **Teleworking Companies**

With a material shift to a teleworking environment, employers may see an increase in claims for injuries related to non-ergonomic work stations and other potential safety hazards in employees' homes. Compensability of incidents related to these issues will vary by jurisdiction. Less exposure to other workplace hazards may have a counter effect.

- **Claims Handling Considerations**

The claims process is likely to lengthen during this pandemic, leading to an increase in claim severity resulting from the postponement of workers compensation hearings and mediations, and limited claimant access to doctors, nurse case managers, and medical services. Reduced availability of transitional duty jobs may also serve to increase claim costs for claimants who would have otherwise been able to return to work.

- **Cost Shifting: Workers Compensation and General Healthcare/Disability**

For larger firms that retain risk, a significant portion of workers compensation costs as well as a significant portion of general healthcare/disability costs may both be retained by the firm as self-insurance (or some financial equivalent). In these situations, the emergence of COVID-19 creates a real and material additional cost to firms due to employee illness, regardless as to whether that cost materializes as a workers compensation cost, or as a general healthcare/disability cost.

The specific "bucket," workers compensation or general healthcare/disability, where the cost of an employee's illness falls, as well as the portion of that cost which is funded by the firm, will depend on workers compensation law as well as the firm's specific general healthcare/disability benefits program. Therefore, as various jurisdictions amend their workers compensation laws to accommodate COVID-19 as a workers compensation claim for certain employees, it is important to remember that estimates of the additional workers compensation costs of these law amendments do not necessarily represent new additional costs to the firm. Rather, at least a portion of these additional workers compensation costs would likely have been paid for by the firm as a general healthcare/disability cost prior to the law amendment.

How should you respond? While the direction and degree of impact are uncertain, there are many steps you can take to identify leading indicators and be proactive in managing your risks.

- **Exposure volume changes**

Provided estimates of your go-forward exposures – in total or ideally by class code – these changes can be incorporated into an updated reserve analysis. Oliver Wyman can work with you to test ranges of exposure estimates.

- **Scenario testing**

While the ultimate impacts of the pandemic on the total cost of risk are currently unknown, it may be helpful to “scenario-test” differing levels of changes in exposure level, frequency, and severity. Oliver Wyman can work with you to estimate differing combinations of each. For instance, if payroll drops 40%, but the frequency rate increases 10%, and the average claim size increases 10%, what would be the impact on your total reserve estimate at various evaluations? As time goes on, you can learn from observed data and narrow the ranges of estimated impacts.

- **Collateral evaluations**

During a time when insurance carriers’ reactions to these changes are difficult to anticipate (in response to credit rating changes or changes to loss experience), an independent actuarial analysis can help you make the most persuasive case possible for reasonable collateral need evaluations, provided one is warranted. Oliver Wyman can help “fight your corner.”

- **Close monitoring of results and data visualization**

It is critical to monitor how the number and size of claims are developing month-to-month throughout this period. Using the most current data available, it is important to demonstrate how claim numbers and size are comparing to expectations. Using tools to investigate what is driving the deltas is equally important – different types of claims, types of work, locations, and workers driving changes. Oliver Wyman Lighthouse is a solution that provides powerful visualizations to demonstrate these drivers to your teams and management and identify which pockets of claims are leading to different experiences.

QUALIFICATIONS, ASSUMPTIONS AND LIMITING CONDITIONS

This report is for the exclusive use of the Oliver Wyman client named herein. This report is not intended for general circulation or publication, nor is it to be reproduced, quoted or distributed for any purpose without the prior written permission of Oliver Wyman. There are no third party beneficiaries with respect to this report, and Oliver Wyman does not accept any liability to any third party.

Information furnished by others, upon which all or portions of this report are based, is believed to be reliable but has not been independently verified, unless otherwise expressly indicated. Public information and industry and statistical data are from sources we deem to be reliable; however, we make no representation as to the accuracy or completeness of such information. The findings contained in this report may contain predictions based on current data and historical trends. Any such predictions are subject to inherent risks and uncertainties. Oliver Wyman accepts no responsibility for actual results or future events.

The opinions expressed in this report are valid only for the purpose stated herein and as of the date of this report. No obligation is assumed to revise this report to reflect changes, events or conditions, which occur subsequent to the date hereof.

All decisions in connection with the implementation or use of advice or recommendations contained in this report are the sole responsibility of the client. This report does not represent investment advice nor does it provide an opinion regarding the fairness of any transaction to any and all parties. In addition, this report does not represent legal, medical, accounting, safety or other specialized advice. For any such advice, Oliver Wyman recommends seeking and obtaining advice from a qualified professional.