2023 US WORKERS' COMPENSATION MARKET OUTLOOK

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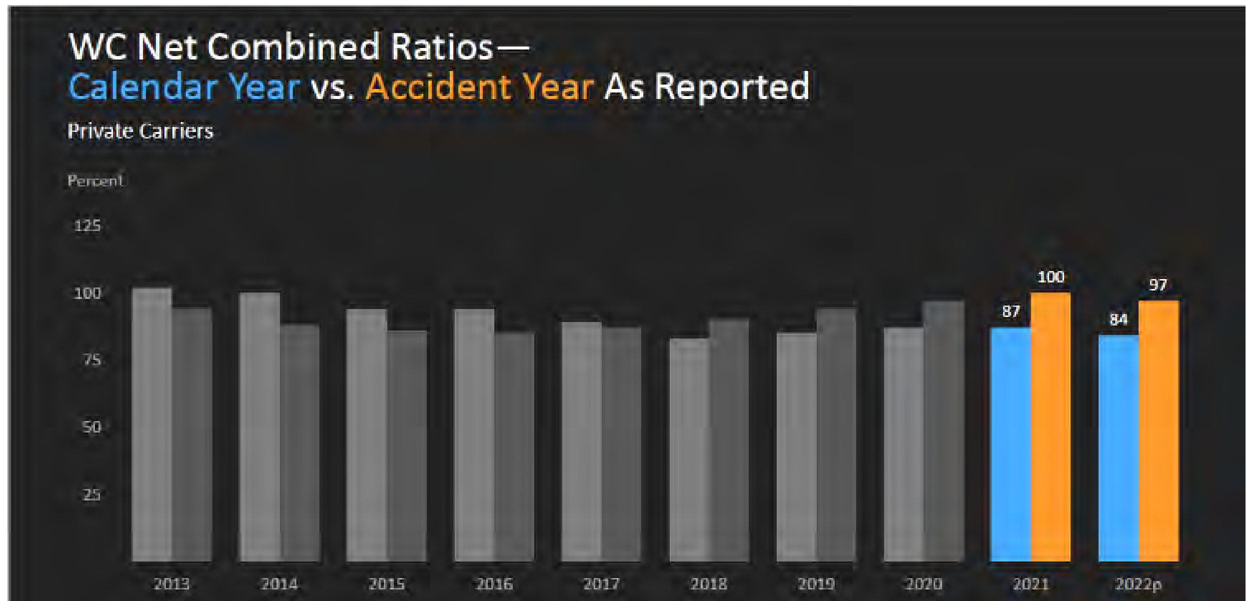
CHANGING WORKPLACES ARE CHANGING WORKERS' COMPENSATION

For the last several years, the workers' compensation market has been walking something of a tightrope — profitable and popular among US insurance companies, despite the fact that rates and premiums have been steadily decreasing. That fact has led insurance leaders to flash warning signs about the future of the market, especially as economic headwinds have started to add up.

Still, it's a mixed bag. Alongside the continued downward trend in rates, claims frequency is edging lower even as severity is creeping up due to medical inflation and the rising cost of care. There is continued legislative activity around post-traumatic stress disorder (PTSD) and other claim categories, and regulators are still working to define who qualifies as an essential employee from an insurance perspective and what that means for their coverage. In addition, we still don't know what the long-term impact of COVID-19 will be on workers' compensation. On a state-by-state basis, proposed legislation could eventually have broad impacts on the overall insurance market.

Despite continued growth in workers' compensation market capacity and competition, pricing for the workers' compensation line has taken an upwards trend. Net written premium increased 11% in 2022, according to NCCI's 2023 State of the Line report, returning to approximately the same level as 2019. The calendar-year combined ratio stands at 84%, reflecting profitable underwriting as well as claim reserve releases from prior years, while the accident year combined ratio is 97%, which is more reflective of the industry's current profitability profile. Redundant claim reserves were estimated to have grown to $17 billion over the last 12 months.



Source: NCCI State of the Line Report

P&C Industry Net Written Premium Growth—2021 to 2022

Private Carriers

Line of Business	2021 ($B)	2022p ($B)	% Change From 2021
Personal Auto	252.9	267.9	
Homeowners	103.4	113.8	
Other Liability (Incl. Product Liability)	89.1	99.4	
Commercial Auto	46.6	51.6	
Commercial Multi-Peril	43.7	48.4	
Fire & Allied Lines (Incl. Earthquake)	41.9	47.2	
Workers Compensation	38.2	42.5	11.2
All Other Lines	95.1	100.3	
Total P&C Industry	**710.9**	**771.0**	8.4

Source: NCCI State of the Line Report

Based on the previous results, it's easy to see why the statutory/primary workers' compensation is a target line of coverage sought by both commercial multi-line and mono-line carriers alike, according to Patrick Edwards, area senior vice president, workers' compensation practice leader, Risk Placement Services (RPS).

"If you look at it from a coverage standpoint, Workers' compensation is the nicest house on the block that everybody wants to buy," he says. "Ten years ago, if a multi-line carrier wanted to write the other lines of an account there was an expectation that they would write the workers' compensation placement too. As we move forward to today, there's been a shift towards — if the multi-line carrier is to consider the other lines of an account, they also need to see the workers' compensation line too. That's a big change in the mindset of the marketplace."

It should be noted that the workplace itself is changing at the same time, and at an accelerating rate, in ways that could have lasting implications for the workers' compensation market.

The very nature of work is evolving as gig workers — including independent contractors, freelance workers, rideshare drivers and the like — have begun to claim a larger share of the economy. As of 2021, 16% of American workers reported to have earned some income through the gig economy, and that figure has continued to rise in the wake of COVID-19. Since they generally are not considered employees, these workers typically aren't covered by workers' compensation insurance, and their increasing numbers have the potential to drive down employers' overall payrolls, though the regulatory framework around the gig economy is still uncertain.

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At the same time, workers are still feeling the lingering effects of the COVID-19 pandemic, as more companies are requiring employees to come back to the office on at least a part-time basis. COVID-19 has also created new risks for jobs that previously were not considered particularly dangerous, and opened employers and their carriers up to new workers' compensation exposures related to disease, illness, and disability.

Technology is helping companies and their employees adapt to these new realities — both in terms of creating safer workplaces as well as better telemedicine and care options — but the longer-term impact of these improvements on workers' compensation remains to be seen.

For Dayna Schneider, senior vice president of workers' compensation, gig work is just one part of the new landscape that workers' compensation insurers will have to reckon with in the years ahead. Based in California, where the U.S. Census Bureau estimates that as many as one in five workers are 100% remote, these new working arrangements are creating potential risks for workers' compensation as well as new opportunities.

"We're not seeing the impact of all this on claims quite yet with the work-from-home model," she says, "but we do have the pre-pandemic versus post-pandemic claims information and I do think that there will be an increase in some types of claims related to these new ways of working. It's just a different setup; the work is still getting done so the arrangement between employer and employee is generally the same."

One likely scenario Schneider expects to see is the allocation of claims to different industry segments depending on the percentage of the workforce that is remote versus in a traditional office setting with controlled ergonomics and other safety measures.

“There are definitely some holes there for exposures,” she says. “We won’t quite see it yet because of how the claims cycle works, you don’t tend to see the trend until you’re looking at it about a year behind.”

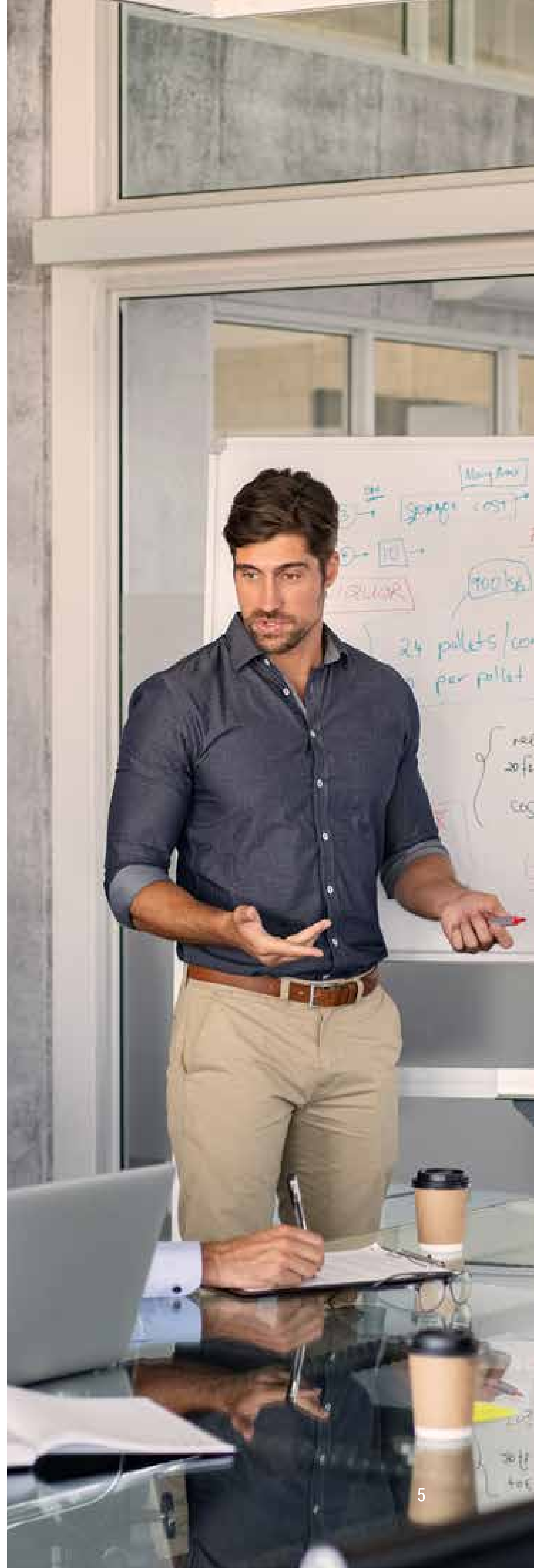
All this in the midst of one of the longest soft markets that workers’ compensation has seen.

“There are so many conflicting forces keeping rates from rising right now, though in some industries there are factors pushing them up,” says Mark Williams, area executive vice president. “Interest rates and higher bond yields are finally fully taking hold and creating tighter capital markets relative to investment, new carriers, MGAs, and insurtech products aren’t flooding into the market like they have been over the past couple of years. Medical cost inflation is starting to creep up, driving up the medical cost of claims, and, due to the tight labor market, wages have continued to steadily increase causing indemnity costs to rise. In some industries, frequency is increasing as inexperienced employees are entering the job market.”

In Williams’ view, all of this is slowly starting to have an impact on combined ratios and carrier profitability. “While there was little to no rate increase in 2023, unless carriers can continue to cut expenses by leveraging technology and data analytics, I can see the soft market rate environment starting to plateau.”

ALL EYES ON THE ECONOMY

Naturally, the state of the overall US and global economy can have a significant impact on the workers’ compensation market, and 2023 is no exception. The unemployment rate remains below historic averages, and inflation continues to trend down from recent highs. Price increases on gasoline, food, housing, and more pushed the Consumer Price Index to 8.9% in 2022, a high not seen since 1981, but it has fallen back down to 3.7% as of August 2023, according to the Bureau of Labor Statistics. US gross domestic product (GDP) increased at an annual rate of 2.1% in the second quarter of 2023, according to the Bureau of Economic Analysis. Consumer spending was up 0.5% in August 2023, while personal incomes increased by 0.2% in the month.



A strong economy typically results in increased employment and more workplace activity, leading to an uptick in workers' compensation premium development and potential claims activity.

"The increase in real GDP reflected increases in consumer spending, nonresidential fixed investment, state and local government spending, and federal government spending that were partly offset by decreases in exports, residential fixed investment, and private inventory investment," the agency said in a statement. "Imports, which are a subtraction in the calculation of GDP, decreased. Compared to the first quarter, the acceleration in real GDP in the second quarter primarily reflected a smaller decrease in private inventory investment and an acceleration in nonresidential fixed investment. These movements were partly offset by a downturn in exports, and decelerations in consumer spending and federal government spending."

Still, despite the fact that inflation is decelerating, the overall global outlook for 2023 remains slightly weaker than the historical average. The International Monetary Fund (IMG) projected in July that global growth would fall from 3.5% in 2022 to just 3.0% in 2023. Global inflation is expected to slowly unravel, falling to 6.8% worldwide this year before slipping to 5.2% in 2024.

On the insurance front, a strong economy typically results in increased employment and more workplace activity, leading to an uptick in workers' compensation premium development and potential claims activity. Conversely, during economic downturns or contractions, there might be fewer claims due to reduced workforce activity along with reduced workers' compensation premium development. Given the will-it-or-won't-it state of the pending recession — it's no surprise that the direction of the workers' compensation market remains an open question.

Joe Clifford, area president, manages self-insured group (SIG) funds for workers' compensation, sees it as the next step in an evolution that has been in the works for a while. "The market started to harden in other lines about four years ago, and, depending upon the line of insurance, it

might have been sooner than that," he says. "We've had a market that has been considered soft for more than seven to eight years in relation to other lines of insurance in the commercial sector, and we continue to see a very competitive workers' compensation market."

For Edwards, the aspect of inflation that is having a significant impact is payroll/wage inflation, which is driving prices up even as rates have continued their downward drift.

"As rates continue down the exposure base, which is based on payroll, is escalating upwards due to payroll inflation," he says. "We've seen a little bit of uptick in premiums, and most of that is related to payroll costs. That's a change for this year versus last year."

For its part, the National Council on Compensation Insurance (NCCI) remains bullish on the workers' compensation market in 2023 and beyond, given its strong recent history and the success of programs to reduce claims frequency and costs.

As NCCI President Bill Donnell wrote earlier this year, "The workers' compensation market has remained resilient and healthy through the COVID-19 pandemic and economic-related turbulence. More than a decade of low interest rates has caused insurers to focus intensely on data analysis and underwriting rigor. Long-term, we saw a decline in overall claims frequency — which we expect to continue despite recently observed year-to-year pandemic-related volatility. Claims severity is muted, but uncertainty remains. This is creating familiar challenges that require all stakeholders in the market to continue to pay close attention."

A CLAIMS EVOLUTION

On the whole, the market for workers' compensation in the US grew 4.4% in 2022 to $54.1 billion, according to IBIS World. That was after the market's revenue shrank by 2.2% per year on average between 2017 and 2022.

Since premium trends for workers' compensation insurers are connected to labor market conditions given that workers' compensation covers medical care and rehabilitation for workers injured on the job, in addition to providing death benefits to dependents of workers killed in work-related accidents, more workers in dangerous situations tends to mean more workers' compensation claims. As a result, an increase in the number of employees will boost demand for coverage, and given the hot labor market circa 2023, job growth represents "a potential opportunity for the industry."

However, despite the increasing numbers of covered employees, NCCI found that lost-time claim frequency dropped 4% since 2022, returning to its 20-year average, reflecting the work that firms are putting in to promote safer working environments. For instance, according to the Bureau of Labor Statistics, fatal accidents in the US agriculture industry dropped by 11% between 2020 and 2021, and non-fatal workplace injuries and illnesses reached a new low of 2.6 million that year, down from nearly three million a decade earlier.

In workers' compensation, proactive efforts to reduce claims frequency and minimize coverage costs are helping maintain profitability across the market, despite the headwinds.

An increase in the number of employees will boost demand for coverage, and given the hot labor market circa 2023, job growth represents "a potential opportunity for the industry.

Edwards believes that a big part of this improvement is thanks to the collaborative efforts of workers' comp carriers and their insureds to implement the necessary safety initiatives to enhance healthy and safe workplaces through improved best practices and new technologies. Companies today understand that, if they manage their operations well and provide a safe environment for their employees, their people are going to be more productive and better able to work efficiently. There will be less downtime for injuries, less workforce turnover, and, as a potential byproduct, reduced premiums to pay to their workers' compensation carrier.

"With the continued trend of reduced claims frequency, carriers are doing a really nice job of working and providing support to insureds to help them maintain healthier, safer workplaces," he says. "Companies want to have a safe environment for multiple reasons, but not wanting to pay higher insurance costs is a strong motivator, as is the 'enhanced' productivity they garner from having a safe work environment."

The list of steps that carriers are taking is long, including the implementation of new safety technologies, enhanced loss prevention efforts, as well as helping to facilitate an employer culture of "safety and trust," and more.

However, NCCI flagged a rise in severity, with medical claim severity increasing about 5% and indemnity claim severity rising about 6% over the last year. This level of increase is "manageable," in the organization's view, but reflects the longer-term implications of rising healthcare costs and inflation. Worth noting, however, that medical inflation is not the same as the overall inflationary forces measured by the Consumer Price Index (CPI), and has only increased at roughly half the rate of overall CPI over the last few years.

Edwards sees the drop in frequency, despite the increase in severity, as positives for the market, but is surprised by what is happening with the increase in estimated redundant claims reserves, which reached $17 billion over the last year. "I really wasn't anticipating the continued increase," he says. "I actually believed we would see a reduction in reserve redundancy with claims frequency continuing its downward trend. I understand why workers' compensation carrier claims adjustors may 'build in' a small amount of redundancy to help offset any deficient claim reserves due to medical and healthcare inflation that may occur." However, an over-estimation of redundant claims reserves does limit a workers' compensation carrier's ability to invest those premium dollars at today's higher market rates for enhanced ROI.

He says, "It's interesting that up until about four or five years ago, it seemed the standard was a deficient claims reserving practice among carriers versus a redundant claims reserving approach; which carriers are utilizing today."

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A SAFE HAVEN IN EXCESS LINES

Excess workers' compensation is somewhat unique in the world of workers' compensation since it is a reinsurance product, but as a result, it has remained fairly stable over the last five-plus years, according to Rafael Olivares, area vice president at RPS for excess workers' compensation. Despite that, he says his average rate today is probably 50% of what it was in the mid-2000s, when the market was less competitive.

"There's been a shift recently with large accounts that have a good track record," he says. "Carriers have become a little more competitive in trying to write that business, in part because of the increase in interest rates as well as looking forward to potential investment income opportunities for them."

Those large accounts — which he pegs at those with premiums over $1 million as well as those with a self-insured retention, like a deductible, at over $750,000 per occurrence — leave carriers further removed from a loss, so they tend to be more interested in that business. That, and the longer-term nature of excess workers' compensation, mean it is often more stable than the broader market.

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In excess workers' compensation, Olivares estimates that roughly every 7–12 years, there is a shift in the marketplace during which new carriers enter the space and things turn over. We're right in the middle of that timeline now, so as a result, the market has been stable.

"I think we're in a good balance right now," he says, "but if we lost one of the current markets, I think the market would harden significantly. In my career of 35 years in this product line, I've seen situations that ranged from as many as 30 carriers writing excess compensation through the very soft market period of the late-'80s and mid-'90s, to dropping down to less than 10 consistent players when the market shifts, which can change quickly in the excess workers' compensation space."

SELF INSURERS ADAPTING

The self-insured side of workers' compensation is a unique segment of the market that, despite having taken some rate reductions in recent years, is still giving back an average of 40% of every dollar it collects because its limited scope means it can be very careful about who it accepts.

Clifford believes this is an advantage and is what sets the self-insured market apart. "Self insurers tend to have lower losses and lower overhead than most carriers. As a result, our value comes from profit returns rather than significant premium and rate reductions when the market's soft."

He sees self-insured group funds in Michigan, where he is based, as having to be more competitive on their upfront premium but not to the same degree as the standard market. The long-term result is that self-insured workers' compensation can't afford to jeopardize its underwriting results for short-term market trends. When the market hardens, as long as self-insured group funds are maintaining their proper loss ratios, they don't have to follow suit.

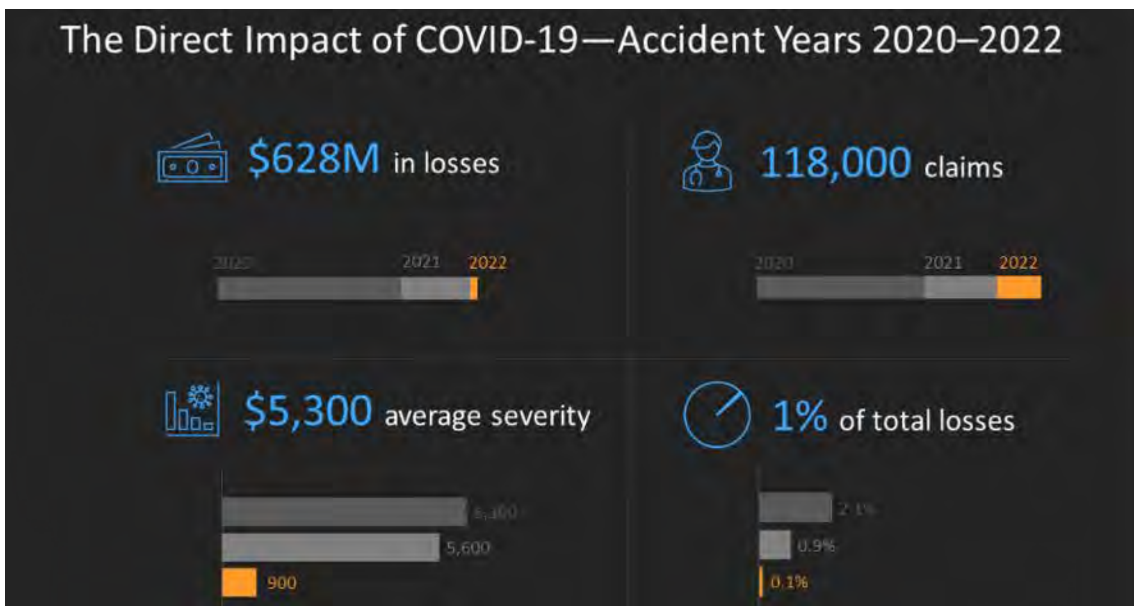
Says Clifford, "We end up becoming an oasis for workers' compensation and our niches when other carriers can't afford to do it anymore. The market hardens up and people start looking for alternatives. That's when they start looking to form these captive groups when the market hardens, which we might be seeing here at some point."

On the whole, the self-insured market is experiencing many of the same forces as the rest of workers' compensation, though much of the impact varies from state to state. While COVID-19 had broad impacts on insurance, many states handled mandates and responses differently, and as a result many of the doomsday predictions for the workers' compensation market didn't pan out as feared.

L.J. Battagliese, area president at RPS Monument, believes that this split between prediction and reality in terms of the pandemic has skewed the market for workers' compensation since 2020. In states that passed strict COVID-19 restrictions, he says, there is basically a new class of claims that are throwing off the frequency and severity numbers because of the volume of COVID-19 cases that were reported and treated.

"Now that we're a few years removed from the beginning of the pandemic we're starting to see frequency levels and severity levels of claims starting to get back in line with where they were pre-pandemic," says Battagliese. "That's along with the inflationary forces that have driven up the average wages of workers. So, there's been some increases in the amount of premium being collected, but it's not necessarily because rates have increased."

It will likely be years before the insurance industry can fully grasp the long-term impact of COVID-19 on the workers' compensation market, especially in states that determined that COVID-19 represented a compensable



Source: NCCI State of the Line Report

claim. You might have an employee contract COVID-19, get better, and then have other medical complications down the line as a result. Do they reopen their claim at that point? Do the same coverages still apply? And what percentage of people who contracted COVID-19 will be out with permanent disability related to the symptoms of Long COVID-19? There are a lot of different possibilities given how differently the virus affects individuals and how challenging it can be for insurers to verify.

He's been seeing this uncertainty play out in the self-insured market, as employers have increased wages in order to keep employees, boosting the premiums they're paying as a result, and considering new risk factors.

"There really hasn't been a lot of upheaval in the self-insured groups in California since the regulatory change in SB 863 went into effect back in 2013," he says. "Since then, the market has been relatively stable as far as the number of active self-insured groups go. And, in terms of financial health, when they increased the security requirements for self-insured groups it addressed some of the issues with the groups that had been mismanaged over the prior 10 years or so. Now the market is in a stronger place."

TECHNOLOGY IMPACTING ALL PARTS OF THE MARKET

In the midst of all this, new technologies are changing the game for all aspects of workers' compensation, from telehealth and telemedicine practices to expand the reach of healthcare services, to new technology platforms improving efficiencies on the carrier side. Telehealth, in particular, has been expanding rapidly since the pandemic and is providing employees with access to instant treatments, personalized healthcare, better access to medications, and even improving mental health support. All of this can not only help injured employees return to work faster than before, but it can also help reduce their total medical costs and claim costs.

And that's just the beginning. Artificial intelligence (AI) has been getting a lot of attention across a wide range of industries, but is also starting to make inroads at the claims processing and risk assessment level for workers' compensation. The hope is that this new technology could lead to more accurate underwriting and better claims management.

"It goes back to the conflicting forces that can impact rate. A strong economy with low unemployment can cause an increase in frequency and increased wages can cause increased payouts on the claims side, then there is the offset with technology," explains Williams. "All these technological advancements, including AI and analytic systems, are helping to counterbalance that."

Beyond revolutionary technologies like AI, however, the industry has been going through an ongoing digital transformation for the last several years, especially focused on digital platforms for underwriting, policy management, claims processing, and distribution. This shift aims to enhance efficiencies, streamline operations, and provide a better overall customer experience. It's not just carriers, either. Managing general agents (MGAs) are increasingly leveraging data analytics to improve underwriting accuracy, risk assessment, and decision-making, helping them set themselves apart by uncovering areas where they can be an expert and provide value. These types of advanced tools can help identify trends, predict risks, and, most importantly, setting appropriate pricing levels, opening up underserved areas or industries that might not be well served by traditional insurance right now.

Williams says his day-to-day is now grounded in the use of business intelligence tools that enables him to incorporate powerful data analytics tools to dive into near-endless data points and then extract usable insights out of the aggregate.

"AI really hasn't made a big difference in the industry yet," he says, "but data analytics really has. Being an MGA and trying to build programs or find niche industry segments, in a soft market, having your data analytics locked down is going to set you apart from the competition while still giving you access to the carriers who want to support you."

Brokers are also leveraging technology to guide their market selections, quickly obtaining quotations, determining which markets they want to place business with, as well as the appetite from that market. Brokers are also getting on board with faster ways to make their decisions, utilizing platforms to increase their ability to reach the marketplace.

Says Williams, "There are two conflicting forces going on right now. There's the increase in the medical cost and indemnity payout of claims so these are costing more. But, when you lower your expenses that will offset your combined ratio. By leveraging technology, insurers need less people to do these jobs, while making more informed decisions, so you're continually driving the expense side of your ratio down."

California continues to lead the way when it comes to "market trends" nationwide for workers' compensation coverage.

STATE BY STATE

When it comes to workers' compensation on a national scale, there is no arguing that California is a significant workers' compensation market. The state alone accounts for 24% of the US marketplace for workers' compensation insurance, while the so-called All Other States (AOS) make up the rest.

"California is a massive workers' compensation market unto itself and is a strong and vibrant market," says Edwards.

The reason why is no mystery:

- Largest US state by population
- High rate of payroll/wage inflation due to the high cost of living
- Largest worker/employee base
- An economy that is larger than that of many countries in the world

For the above reasons, Edwards explains, California continues to lead the way when it comes to "market trends" nationwide for workers' compensation coverage.

Beyond the Golden State, however, many of the trends impacting workers' compensation happen on a state-by-state basis since each US state is effectively its own market. The Midwest on the whole is currently a little bit softer than the national average in 2023, with Illinois being the exception, but there remains market strength across the Southeast in states such as Georgia and Florida.

Despite the continued dominance of California as it relates to the US workers' compensation marketplace, Kenny Palmer, RPS' area assistant vice president of workers' compensation in Chicago, is watching other regions on the rise, to include states such as New York, Georgia, and Arizona.

"In every state, you need to have a different strategy about how you're going to approach each account," he says. "You need to understand the market and the layout of which markets are aggressive and where we can add value compared to other states."

For example, in California, the state's population is just under 40 million as of the end of 2022, meaning it accounts for about 12% of the total US population of around 330 million. A state like Michigan, where Clifford is based, with its 10 million residents represents about 3% of the country. Although there are other differentiators that can result in higher rates per dollar of payroll between states, such as more employer-friendly workers' compensation systems or other regulatory differences, population remains the primary factor in driving premiums in workers' compensation and make some states more expensive than others, generally speaking.

Not that everything is clear-cut in California when it comes to workers' compensation.

Schneider in San Diego has seen premium levels in the state increase by 14% in the last year driven by wage inflation and economic recovery. She is expecting California premiums to be above 2022 for the year and notes that the Q1 2023 results for the state, at $4.4 billion, reflect a 7% increase in written premiums compared to the same time period in 2022. On the claims side, Schneider notes indemnity claim costs continue to increase as driven by wage inflation and the fact that average severity in California is at its highest level in over 10 years, though medical claims costs have been relatively flat for carriers in the state.

Amanda Ikari, RPS' area senior vice president in Thousand Oaks, California, has even seen some carriers decreasing rates this year. "The high I saw was 10% across all class codes, and then they added a few new class codes," she says. "Everybody just seems to be very competitive right now. I get a target and then almost immediately I'm beating that target. Then I hear of another carrier beating the quote I had."

Battagliese is, in particular, watching the combined ratios of California insurers which recently increased after hovering in the high '70s and '80s from 2013 to 2018. Meaning that they were paying out significantly less in claims costs and expenses than they were collecting in premiums and creating significant underwriting profits.

Starting in 2020, combined ratios in the state jumped to 105, 112, and 105, respectively and typically when that happens over a prolonged period insurers will start to raise rates to make their underwriting more profitable.

"Coupled with how the markets performed last year, we are likely approaching a tipping point and a sign that maybe there's going to be a shift in the market here in the next 12 to 24 months," he says.

LOOKING AHEAD

What's next for workers' compensation? For a market that's been enjoying generally stable conditions and strong profitability for the better part of the last decade, we are approaching several turning points that could have lasting impacts on the space.

Interest rates, in particular, will likely be part of the conversation throughout 2023 and beyond. If the Federal Reserve maintains higher rates for an extended period so that carriers can make more investment income on their bond portfolios, Olivares expects to see greater competition on larger accounts with higher self-interest retention.

There are also pending changes coming on the regulatory front, including legislation in Michigan that would make it easier for injured employees to file workers' compensation claims against their employers and be able to collect workers' comp coverage longer. Clifford expects that these types of changes will drive coverage cost higher in the state.

For a market that's been enjoying generally stable conditions and strong profitability for the better part of the last decade, we are approaching several turning points that could have lasting impacts on the space.

"How much we don't know yet," he says. "It takes a while for these types of changes to work through and into the system, but in the next 12 months, we anticipate there is going to be a more employee-friendly compensation system in place from that standpoint."

But that is just one example in one state. A potential economic slowdown could result in contraction for workers' compensation nationwide. As the payroll pool, or aggregate number of employed Americans, shrinks, that will have a direct effect on how much premium is being collected in workers' comp accounts.

"If the economy shrinks, it impacts a lot of areas of insurance, but the most acute effect is in workers' compensation," Clifford says.

That's because the economy has a direct and rapid impact on employment levels that isn't the same as in other lines. A slowdown likely won't drag property values down, meaning that property premiums will stay the same. The same holds true for health insurance. Those costs aren't going down and neither are premiums. But a downturn hits the workers' comp market almost immediately and dollar for dollar.

"Right now there are people still out there working, in offices and at home, and they're garnering high wages," he says. "But if the economy takes a hit those employees won't be working as much, there will likely be payroll reductions because there won't be enough work for people to do, and employers' needs when it comes to workers' comp will change. We'll have to wait and see what happens with that, but it's possible."

From a coverage standpoint, workers' Comp is the nicest house on the block that everybody wants to buy.

CONTRIBUTORS

Patrick Edwards, Area Senior Vice President, Workers Compensation Practice Leader

Amanda N. Ikari, Area Senior Vice President

Rafael Olivares, Area Vice President

Joe Clifford, Area President

L.J. Battagliese, Area President

Dayna Schneider, Area Senior Vice President of Underwriting

Mark Williams, Executive Vice President of Business Development

Kenny Palmer, Area Assistant Vice President

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