State of California
Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, Ca 95814

Proposed Decision and Order

September 1, 2022 Workers' Compensation Claims Cost Benchmark and Advisory Pure Premium Rates

File Number Reg-2022-00004

In the Matter of: Proposed adoption or amendment of the Insurance Commissioner's ("Commissioner") regulations pertaining to the workers' compensation insurance claims cost benchmark and advisory pure premium rates. These regulations will be effective on September 1, 2022.

Summary of Proceedings

The California Department of Insurance ("Department") held a public hearing in the above-captioned matter on June 14, 2022, at the time and place set forth in the Notice of Proposed Action and Notice of Public Hearing, File Number REG-2022-00004, dated May 11, 2022 ("Notice"). A copy of the Notice is included in the record. The record closed on June 15, 2022.

The Department distributed copies of the Notice to the persons and entities referenced in the record. The Notice included a summary of the proposed changes and instructions for interested persons who wanted to view a copy of the information submitted to the Commissioner in connection with the proposed changes. The filing letter dated April 29, 2022, submitted by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB"), and related documents were available for inspection by the public at the Oakland office of the Department and were available online at the WCIRB's website, www.wcirb.com.

The WCIRB's filing proposes a change in the workers' compensation claims cost benchmark and advisory pure premium rates ("benchmark") in effect since September 1, 2021, that reflects insurer loss costs and loss adjustment expenses ("LAE").

In its filing, the WCIRB requested that the Commissioner adopt a set of advisory pure premium rates for each classification to be effective September 1, 2022. The WCIRB recommended an average pure premium rate of $1.56 per $100 of payroll, which includes a provision of $0.008 per $100 of payroll for the estimated cost of the COVID-19 claims that will incur during the September 1, 2022 policy period. This recommended rate is 7.6% more than the approved average pure premium rate as of September 1, 2021.

The Department accepted testimony and written comments at a hearing held on a virtual platform on June 14, 2022, and also received exhibits into the record. Members of the public submitted additional materials along with correspondence and documents prior to the hearing. The Commissioner announced that the record would remain open pending the receipt of additional information from the WCIRB and Bickmore Actuarial, the actuary representing the Public Members of the Workers' Compensation Insurance Rating Bureau's Governing Committee. The record closed on June 15, 2022. After the hearing and before the closure of the record, the Department received into the record additional comments from the WCIRB and Bickmore. The matter was submitted for decision at 5:00 p.m. on June 15, 2022. Having been duly heard and considered, the Department now presents the following review, analysis, Proposed Decision, and Proposed Order.

Review of Workers' Compensation Claims Cost Benchmark and Advisory Pure Premium Rates Filing

Subdivision (b) of California Insurance Code Section 11750 states that the Commissioner shall hold a public hearing within 60 days of receiving an advisory pure premium rate filing made by a rating organization pursuant to subdivision (b) of Insurance Code Section 11750.3 and either approve, disapprove, or modify the proposed rate. Subdivision (b) of Section 11750.3 states a licensed rating organization, such as the WCIRB, shall collect and tabulate information and statistics for the purpose of developing pure premium rates for its insurance company members to be submitted to the Commissioner. Pure premium rates are the cost of workers' compensation benefits and the expense to provide those benefits.

The pure premium rates approved in this process by the Commissioner are only advisory. Insurers are permitted under California law to make their own determinations as to the pure premium rates each insurer will use, as long as the ultimate rates charged do not threaten the insurer's financial solvency, are not unfairly discriminatory, and do not tend to create a monopoly in the marketplace.

The Department's actuary, Sarah Ye, provides below in the Actuarial Evaluation a review and analysis based upon the filing information presented by the WCIRB and the public's comments about the filing. The Department's actuarial review is consistent with the approach used for prior pure premium rate filings. The pure premium rate process serves as an important gauge or benchmark of the costs in the workers' compensation system, but must also reflect the reality of insurer rate filings and the premiums insurers charge to employers.

The pure premium rate process does not reflect an employer's final paid insurance rate or premium. Instead, the pure premium process is narrowly tailored to project a specific sub-component of an overall rate. For example, the pure premium rate does not include the costs associated with underwriting expenses, profit, or a return on an insurer's investments. The analysis of pure premium in California projects the cost of benefits and LAE for the upcoming policy period beginning September 1, 2022. The term "rate" can be confusing in the pure premium context since it is a measurement of average claim cost per $100 of employer payroll rather than the rates insurers may charge.

These figures are not predictive of an individual employer's insurance premium. That premium may fluctuate greatly from these figures based upon an employer's business, the mix of employees and operations, and the employer's actual claims experience. It is not possible to determine an individual employer's premium from these figures or from the Commissioner's pure premium determination because the review of pure premium rates represents just one component of insurance pricing.

Actuarial Recommendation

The WCIRB has proposed an average advisory pure premium rate of $1.56 per $100 of payroll in its September 1, 2022 filing. The proposed average pure premium rate includes a provision of $0.008 per $100 of payroll for each classification for the estimated cost of the COVID-19 claims that will incur during the September 1, 2022 policy period. The WCIRB's proposed average pure premium rate, excluding the COVID-19 adjustment, is $1.55 per $100 of payroll.

Analysis by the Department's staff actuaries, as set forth in the following Actuarial Evaluation section, resulted in an average pure premium rate of $1.49 per $100 of payroll, including the provision of $0.008 per $100 payroll for COVID-19 claims. Excluding the COVID-19 claim cost, the average pure premium rate is $1.48 per $100 of payroll. While the indicated pure premium rate represents our central estimate, and thus our recommendation, we note that other estimates are within reasonable actuarial range. Those estimates include the WCIRB's estimate of $1.56, the middle estimate of $1.44 from the Public Members' Actuary (Bickmore), and the currently approved pure premium rate of $1.45.

The California workers' compensation market appears to be competitive and financially healthy. Collected premiums in 2021 produced an average charged rate of $1.81, which compares to $1.94[1] and $2.12[1] observed in 2020 and 2019 respectively, and is showing a continuation of a downward trend in charged market rates that has been in progress since the first half of 2015. The 2021 average charged rate of $1.81 was approximately 25% higher than the September 1, 2021 average advisory pure premium rate of $1.45[1] adopted by the Insurance Commissioner. It was also approximately 29% less than the industry average filed manual rate of $2.55, thus indicating the average effect of schedule rating and other rating plan credits.

As of December 31, 2021, the WCIRB estimates overall industry combined ratios at or below 86% for accident years 2014 through 2018, 96% for accident year 2019, 105% for accident year 2020, and 112% for accident year 2021. Excluding estimated COVID-19 costs, the preliminary estimate of the accident year 2020 combined ratio is around 100% and accident year 2021 is around 111%. These seem to be significant increases from accident years prior to 2019. On the other hand, the industry's calendar year financial results remain strong, partially due to the strong accident years results prior to 2019.

Actuarial Evaluation

The actuarial evaluation will focus on the following main components of the analysis: (1) loss development; (2) loss trends; (3) loss adjustment expense ("LAE") provision, which include allocated loss adjustment expense ("ALAE"), unallocated loss adjustment expense ("ULAE") and medical cost containment programs ("MCCP"); (4) impact of legislative, regulatory and judicial actions; and (5) estimated COVID-19 cost.

In this filing, analyses rely on loss and ALAE incurred in accident year 2021 and prior, evaluated as of December 31, 2021, and ULAE incurred in calendar year 2020 and prior. COVID-19 and Non-COVID loss and ALAE are evaluated separately to develop a Non-COVID average pure premium rate and a standalone COVID-19 provision. Please note that in the development of ULAE to loss ratio, ULAE on COVID-19 claims was not able to be separated.

Table 1 shows the components of the WCIRB's pure premium rate indications over the past several years, with a comparison to Bickmore's current indication

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[1] Adjusted for new exposure weights and payroll limitations effective in 2020 and 2022, to make it comparable to the $1.81 for 2021.

based on its middle projection. Table 2 displays the percentage impact of the differences in assumptions and methods between the WCIRB's proposal, the Department's analysis, and Bickmore's middle projection.

TABLE 1

	WCIRB Filed Rates											Bickmore	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(11)	(10)	(11)	(12)
	1/1/16	7/1/16	1/1/17	7/1/17	1/1/18	7/1/18	1/1/19	1/1/20	1/1/21	9/1/21	9/1/22	9/1/22	9/1/21
Medical $	1.10	1.00	0.95	0.87	0.84	0.76	0.70	0.65	0.62	0.60	0.61	0.54	0.50
Indemnity $	0.69	0.70	0.67	0.64	0.63	0.58	0.54	0.51	0.50	0.53	0.57	0.53	0.49
LAE $	0.63	0.61	0.60	0.51	0.49	0.46	0.46	0.42	0.38	0.37	0.38	0.36	0.35
COVID-19 $	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	0.06		0.01	0.01	-
Total $	$ 2.42	$ 2.30	$ 2.22	$ 2.02	$ 1.96	$ 1.80	$ 1.70	$ 1.58	$ 1.56	$ 1.50	$ 1.56	$ 1.44	$ 1.34
Industry Avg Filed PP Rate							$ 1.99	$ 1.80	$ 1.86		$ 1.77		
Industry Avg Filed Manual Rate (with expenses)							$ 2.82	$ 2.55	$ 2.65		$ 2.55		
Industry Avg Charged Rate (net discounts)							$ 2.04	$ 1.90	$ 1.86		$ 1.81		

TABLE 2

Impact of Difference in Assumptions & Methods
Between WCIRB and Alternative Recommendations

	Recommended 9/1/2022 Pure Premium Rates	Total	Ultimate Medical	Ultimate Indemnity	Claim Frequency	Medical Severity Trend	Inclusion of 2020 Year
WCIRB	$1.56	-	-	-	-	-	-
CDI	$1.49	-4.5%	-2.0%	0.0%	-1.9%	-0.6%	0.0%
Bickmore (Middle)*	$1.44	-7.7%	-3.3%	-1.7%	-2.8%	-0.6%	0.0%

*Bickmore percentage impacts is based on the information provided in May 25, 2022 written testimony.

1. Loss Development

Some form of the paid loss development method has consistently served as the basis for determining ultimate loss estimates for both indemnity and medical losses in the WCIRB's advisory pure premium rate filings for many years. While focusing on the paid method, the WCIRB has also reviewed the results of other methods, particularly the incurred development method, along with multiple variations on these basic methods. At the same time, Bickmore has relied on both the paid and incurred development methods in its analysis of ultimate medical losses.

In the last several years, particularly after the implementation of SB 863 in 2013, the WCIRB has incorporated a Berquist-Sherman adjustment for changes in claim settlement rates to the historical paid loss triangles for both indemnity and medical losses. While the claim settlement rates had been mostly increasing during the pre-pandemic period, following the onset of COVID-19 pandemic, claim settlement rates for more recent accident years have decreased. If left unadjusted, development factors will be overstated during periods of increase in claim settlement rates, and understated during periods of decrease in claim settlement rates.

In addition, the WCIRB has incorporated the impact of various reforms in the paid development factors. Similar to the 2021 filings, the cumulative paid medical development factors have been adjusted for the impact of SB 1160's and AB 1244's lien-related provisions.

Based on a study performed in 2019, and similar to the latest three filings, the WCIRB has made an adjustment to the paid losses underlying the paid medical development factors for the impact of the significant decline in pharmaceutical costs.

In 2020, the WCIRB conducted two studies that led to the implementation of changes in methodology and additional adjustments to late-term development factors and development tail for both indemnity and medical loss development. The results of these studies, discussed below, have been incorporated in the indemnity and medical loss development factors since the January 1, 2021 filing.

One of these studies was the WCIRB's retrospective study on late-term loss development, which showed that compared to the incurred method, the paid loss development method was significantly more accurate at projecting emerging loss development after 267 months, and produced more stable tail factors. This study resulted in a change from the incurred method to the paid method for development after 267 months.

The second study involved an analysis of the impact of acceleration in claim settlement rates on later period loss development. It showed a strong correlation between changes in the percentage of ultimate claims open at a point in time and changes in later period loss development. This study resulted in an adjustment to the paid loss development factor after 276 months for the post-SB 863 increases in claim settlement rates impacting later period loss development.

The Department appreciates the WCIRB's continued efforts to re-evaluate the impact of various reforms and the suitability of the methods underlying the projections, to monitor appropriateness of the projections, and to implement proper adjustments in order to improve the accuracy of the estimates.

Consistent with the previous filing, the WCIRB projected ultimate loss with the paid loss development method based on adjusted data. Loss development factors were selected based on the latest year for the 12-to-24 month through 96-to-108 month factors and three-year averages for the subsequent age-to-age factors. The Ultimate/444 tail factor was calculated based on an inverse power curve fit to a four-year average of the 108-to-120 through 348-to-360 factors and extrapolated to 80 development years. Data supporting the latest age-to-age development factors was evaluated at the beginning and end of calendar year 2021. The economy was recovering in 2021 and its data is generally believed to be close to a normal year. Impact of the pandemic on the older age development factors is not believed to be significant, and also the selected factors are the average of three years of experience.

In our reviews of filings prior to July 1, 2018, we had declined to give any weight to the incurred loss development method, noting that there were several drawbacks with the use of this method. While we had outlined the range of estimates produced by the various actuarial methods utilized by the WCIRB and provided our commentary on the relative merits of the alternatives, we eventually concluded that the WCIRB's reliance on the paid development method, after adjustment for changes in settlement rates and for the effects of reforms, was appropriate.

However, in the review of the July 1, 2018 filing, we found it appropriate to give some weight to the incurred loss development method for projecting ultimate medical losses, despite the impediments to properly adjust the incurred method. Given the shortcomings identified with the incurred method stated below, we chose to give 75% weight to the WCIRB's paid development method on adjusted data and 25% weight to the unadjusted incurred development method. Our selection was made in consideration of the strong evidence that the paid development method had been overestimating ultimate medical losses and that the lower projections based on the incurred method could be utilized as an offset to moderate the overstatement in projected ultimate medical losses by the paid method.

The drawbacks with the use of the incurred method lie in the challenges associated with formulating the proper adjustments to make the incurred method more accurate, which include the difficulty of adjusting incurred losses for the impacts of the various reforms that have affected the historical data. Making such adjustments to historical paid loss data is relatively straightforward, but knowing how much the reforms have influenced the setting of case reserves across the entire insurance industry would seem to be nearly impossible.

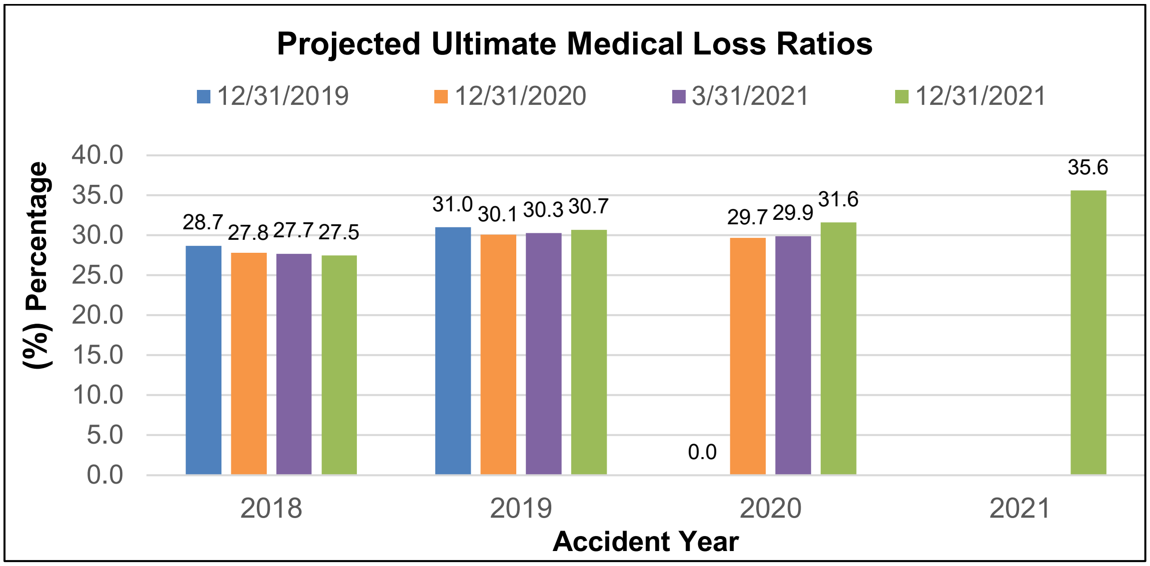
There is also difficulty in adjusting historical case reserve data to the current level of case reserve adequacy when there are likely to have been different claim handling procedures and case reserving philosophies across the industry, as well as a changing mix of insurers over time. Sorting these effects out would also be quite difficult.

On the other hand, as noted in Bickmore's written testimony, the WCIRB's retrospective evaluation of the performance of alternative loss development methodologies indicate that the latest year incurred method has performed well. In addition, the incurred method is a standard and widely used methodology in the industry.

Moreover, the WCIRB's analysis of the distortions in loss development caused by the pandemic, especially during the second quarter of 2020, showed that while the paid loss development that emerged during the pandemic-affected periods was significantly distorted, the incurred development pattern was more stable and consistent with the pre-pandemic period.

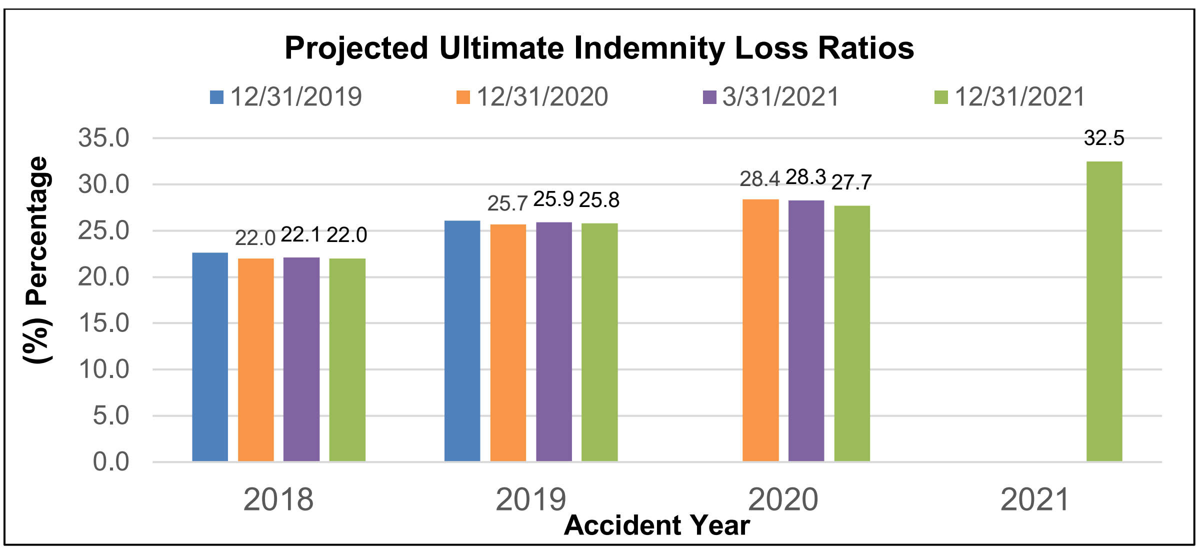
Table 3 shows successive evaluations of the accident year ultimate medical loss ratios. The accident year 2018 loss ratio has dropped from the 12/31/2019 projection by 1.3% and has been stable since the 12/31/2020 projection. The accident year 2019 loss ratio has been stable since the initial evaluation at 12/31/2019. Accident year 2020 has seen an increase since the initial projection at 12/31/2020 by almost 2 percentage points. Accident years 2019 and 2020 are not exhibiting the downward development that has been observed in older accident years. These loss ratios are all based on the latest year paid method on adjusted data, as utilized by the WCIRB in this filing.

TABLE 3



Similarly, as shown in Table 4, the successive estimates for indemnity loss ratios are generally stable for the recent accident years.

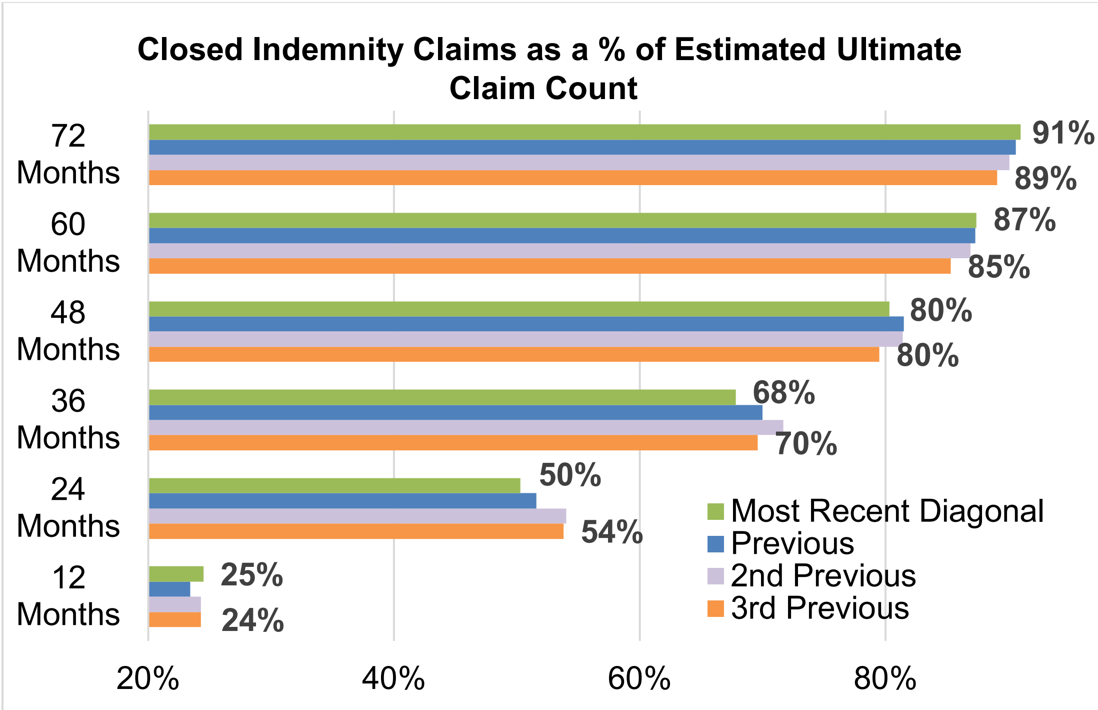
TABLE 4



Note: All loss ratios are based on the loss development methodology presented in the WCIRB 9/1/2021 Filing.

As shown in Table 5, claim settlement rates have declined in 2021 for the three less-mature accident years 2018, 2019 and 2020. While the claim settlement rates for these accident years had plateaued before the pandemic, they started to decline in 2020. On the other hand, accident year 2021 seems to have claim settlement rate on par with the pre-pandemic level. It remains to be seen if claim settlement rates will return to their pre-pandemic course of increase.

TABLE 5



Consistent with the methodology used in the review of the WCIRB pure premium rate filings since the July 1, 2018 filing, we believe it is appropriate to continue to give some weight to the incurred loss development method for projecting ultimate medical losses in this filing because the incurred loss development has proven to be less affected by the distortions caused by the pandemic. The WCIRB's retrospective analysis also shows that latest year incurred development method performed well, compared to the paid method. The Department chose to give 60% weight to the WCIRB's paid development method, and 40% weight to the unadjusted latest year incurred development method. The 60/40% weight selection is consistent with the Department's recommendation in the last filing and reflects the Department's continued higher reliance on the paid method.

2. Loss Trends

The WCIRB analyzes a range of trending assumptions to roll forward the estimates of ultimate losses to the future time period during which the filing's proposed pure premium rates will be in effect.

The various trend assumptions differ in terms of (1) the particular historical time period used to determine severity and frequency trends and (2) the experience period that these trends are applied to, in order to roll forward to the future time period of the filing.

The preferred method of the WCIRB has been the use of separate trends for frequency and severity and the application of these trends to the projection from each of the latest two years of experience, giving 50% weight to each year. In this filing, the WCIRB has not found the experience of accident year 2020 appropriate for use as the basis of indications because of the significant impacts caused by COVID-19. Instead of applying the trends to accident years 2021 and 2020, the WCIRB applied the trends to accident years 2021 and 2019.

In contrast, Bickmore applied trends to accident year 2020 believing that accident year 2020 has predictive value despite the distortions from the pandemic. Projections from each of the recent accident years, 2019, 2020 and 2021, are assigned 25%, 25% and 50% weight, respectively.

Similar to the WCIRB, Bickmore has selected trends separately for frequency and severity. This practice started with the January 1, 2021 filing, prior to which Bickmore had used a loss ratio trend in its indications.

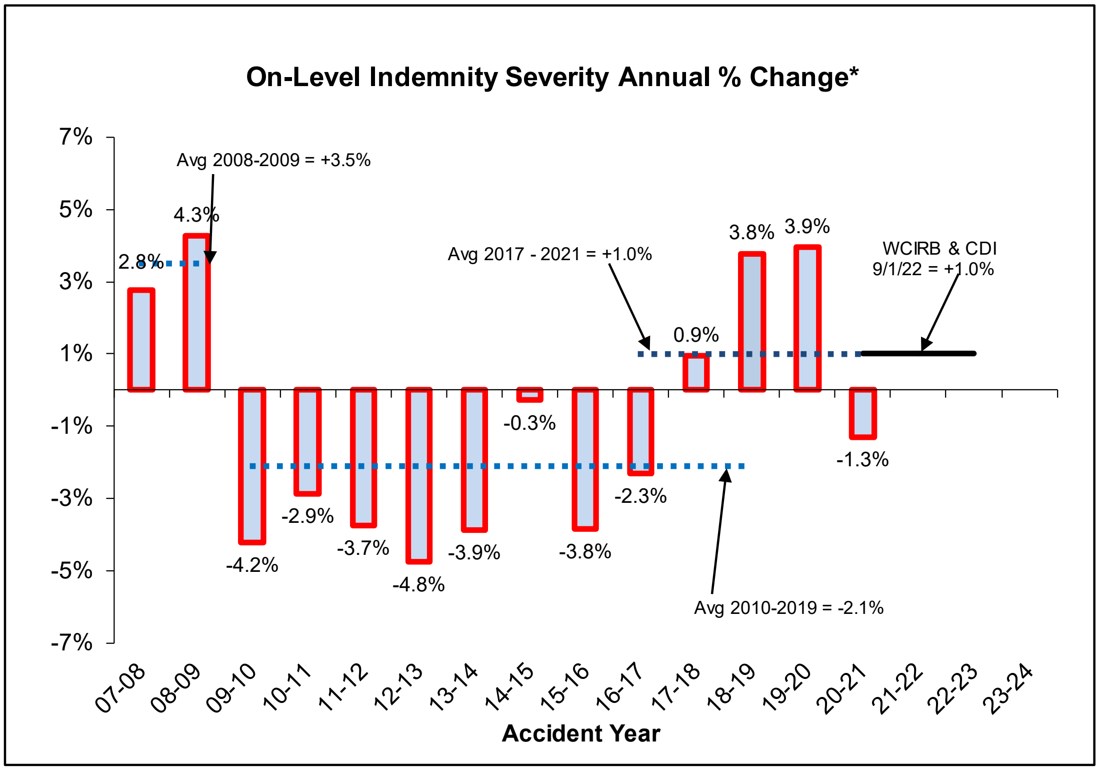
We agree with the WCIRB that the use of two years of experience for the application of the trends in general is appropriate, as it has also outperformed alternative assumptions based on the WCIRB's recent study. Furthermore, we agree with the WCIRB regarding not assigning any weight to the 2020 accident year as the basis for projecting the September 1, 2022 pure premium rates, given the distortions caused by the pandemic.

In examining the merits of the loss ratio trend versus separate frequency and severity trends in various environments, we recognize that separate severity and frequency trends may better reflect the underlying causes in this changing environment.

Indemnity and Medical Severity Trend

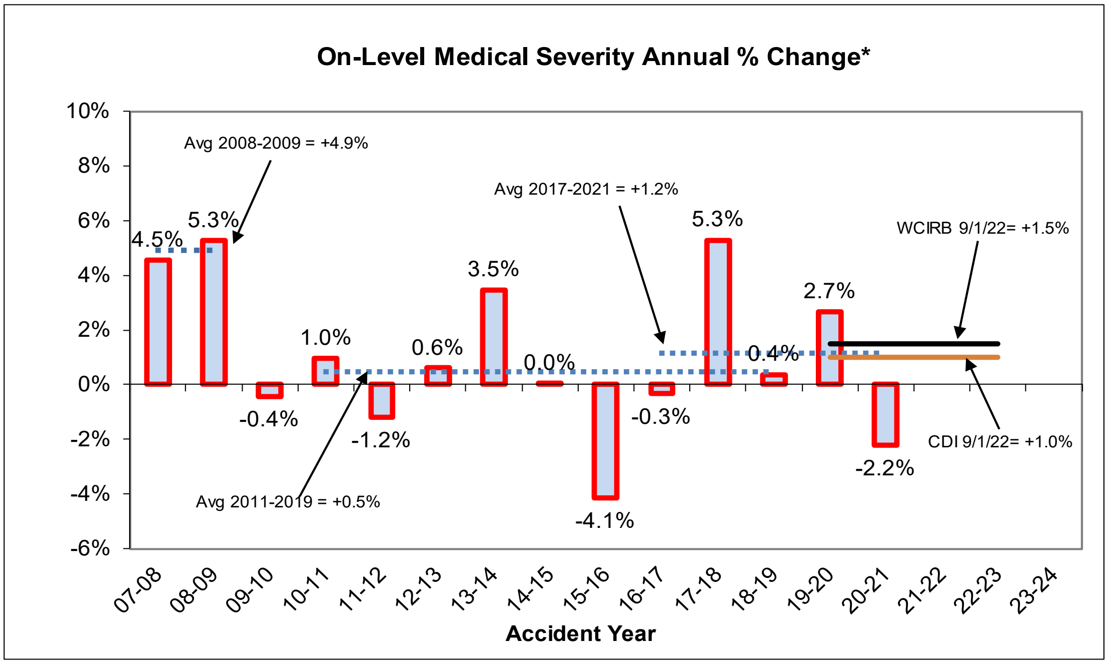
As shown in Tables 6 and 7, indemnity and medical severities experienced a high growth period prior to accident year 2010, followed by a low growth period over accident years 2010 through 2017. In the case of indemnity, severity decreased year-over-year during the period of 2010 through 2017. For medical, the severity trend was near flat, only slightly positive. Starting 2018, severity trends have been hovering in the positive territory with the exception of accident year 2021, which has small negative trend for both indemnity and severity.

TABLE 6



*Ultimate Indemnity Loss Projections are Based on the Paid Method, and Data Evaluated as of December 31, 2021

TABLE 7



*Ultimate Medical Loss Projections are Based on the Paid Method, and Data Evaluated as of December 31, 2021

Consistent with the two 2021 filings, the WCIRB-selected annual severity trend for indemnity is +1.0%, which is also Bickmore's selection in this filing. This selection reflects the consideration for the general growth in on-level indemnity severities over the most recent years, as well as increased temporary disability duration and slower claim settlement process observed in the post-pandemic period.

The Department's staff believe the 1% selection is reasonable and agrees with considerations regarding the impact from the economic recovery on the indemnity severity, as well as impacts from wage inflation.

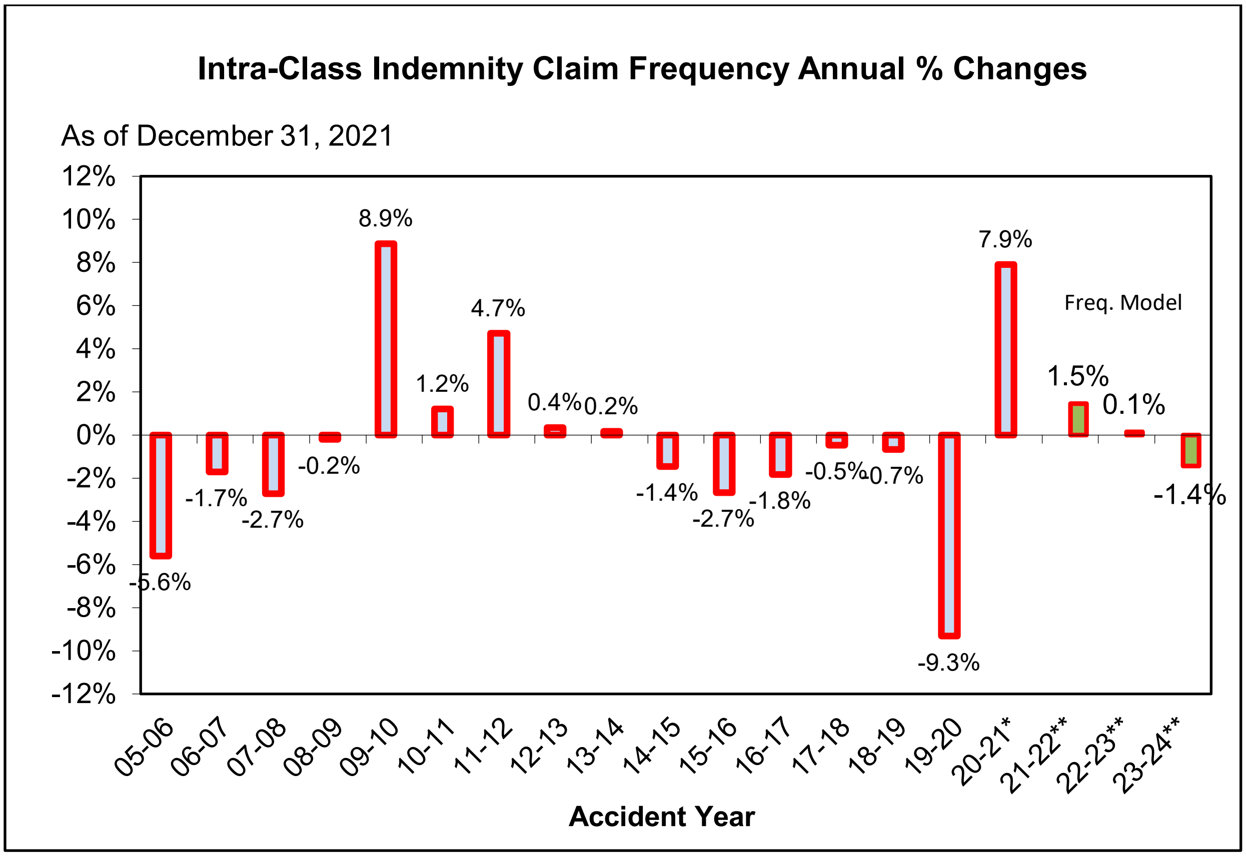
For medical severity trend, the WCIRB selected 1.5% in this filing, slightly higher than the 1.0% in September 1, 2021 filing. The WCIRB cites the need to have a very long-term view of the growth of average medical costs because medical costs for policies incepting between September 1, 2022 and August 31, 2023 will be paid out in many years in the future. The average trend from 1990 to 2021 is 4.9%.

As shown in Table 7, medical trends have been stable in general. The average over 2008 through 2021 is 1.1%; the short term average over 2017 and 2021 is 1.2%. The average of the low growth period from 2011 to 2019 is 0.5%. The Department's staff agrees with Bickmore that a trend selection of 1.0% is appropriate and reflects both the history and concerns about the uncertainty in the impact of transition to the post-pandemic environment on medical costs.

Frequency Trend

Table 8 below shows the historical changes in indemnity claim frequency since 2005, as well as the WCIRB-projected frequency changes using the WCIRB econometric model. The historical annual frequency changes shown in this table are based on unit statistical plan data for accident year 2020 and earlier periods. For 2021, the latest complete accident year, the estimate relies on proxies for changes in frequency (i.e., changes in reported aggregate indemnity claim counts compared to changes in statewide employment).

TABLE 8



*The 2020-2021 estimate is based on comparison of claim counts based on WCIRB accident year experience as of December 31, 2021 relative to the estimated change in statewide employment. Prior years are based on unit statistical data.
**Projections based on Frequency Model.

Historical indemnity frequency was generally declining for more than a decade with two exceptions. The first was the post-recession recovery period from 2010 through 2012. Such an increase could be expected during an economic recovery. The second exception was in 2021 after a sharp decline in accident year 2020. Considering 2020 and 2021 years in combination, frequency declined from 2019 to 2021.

For many years, the WCIRB's econometric claim frequency model has been the primary source that the WCIRB has relied on to project future changes in indemnity claim frequency. The model's performance has been reliable. Before accident year 2020, the difference between the initial estimate of the model at the December 31 evaluation and the estimate based on the 12-month actual reported claim count has been relatively modest with a maximum absolute difference of 2%. However, for accident year 2020, there was a significant difference between these two estimates. The estimate by the model was a -11.1% change while the estimate based on the 12-month reported claim count was -4.9%. The current evaluation validates the model's result. The frequency change of accident year 2020 estimated with 24-month reported claim is at -9.3%. It is less than 2% different from the model output of -11.1%.

The model proved to have reliable performance even with the unusual economic conditions of accident year 2020. The Department's staff believe that the model output should not be disregarded in the projection of frequency change for accident year 2021. On the other hand, while the reported claim count at the 12-month age is indicative of ultimate claim count, there is still uncertainty in the payroll which will lead to uncertainty in the frequency calculation. Weighting the two options, the Department's staff decided to take the average of the two estimates as the frequency trend, consistent with the methodology in September 1, 2021 filing.

Bickmore's selection of frequency trend also comes from the WCIRB's econometric model. The difference between Bickmore's and the WCIRB's selection is in the constant used in the regression model. Bickmore used the unadjusted constant of -3.3% output from the model. The WCIRB adjusted the constant to -2.0%. As result, Bickmore's selected frequency is 1.3% lower than the WCIRB's in each accident year.

3. Loss Adjustment Expenses

In its determination of the provision for LAE in the proposed rates, the WCIRB developed separate indications for the ALAE, ULAE, and medical cost containment programs ("MCCP").

A comparison of the components of LAE projected by the WCIRB in the previous and the current filing is shown below in Table 9. Compared to the September 1, 2021 filing, ALAE has decreased as a percentage of losses, MCCP has stayed flat, and ULAE has increased.

TABLE 9

Provision Underlying WCIRB Pure Premium Rate Filings

	9/1/21 Filing		9/1/22 Filing	
(ALAE ex/MCCP)/Loss	15.9%	-	14.3%	-
MCCP/Loss	3.9%	-	3.9%	-
Total ALE/Loss	19.8%	$0.23	18.2%	$0.21
ULAE/Loss	13.7%	$0.16	14.2%	$0.16
Total LAE/Loss	33.5%	$0.38	32.4%	$0.37
Indicated Pure Premium Rate*	-	$1.54	-	$1.55

Note: 9/1/2021 Filing Pure Premium Rate has been adjusted to new exposure weights and payroll limitations to make it comparable to 9/1/2022 indicated Pure Premium Rate

The projected LAE as a percentage of losses in the Department's analysis is 33.2%, compared to the WCIRB's selection of 32.4%. The higher LAE ratio is partially attributable to lower ultimate loss in the denominator. The Department's selection of a lower frequency trend and a lower average ALAE per indemnity claim trend projects lower overall expenses. However, the reduction in the numerator is not enough to offset from the reduction in the denominator. The resulting LAE-to-loss ratio is slightly higher than the projection by the WCIRB.

Bickmore highlighted two main differences in its assumptions from the WCIRB's in their written testimony. First, Bickmore has lower projected losses which increases the ratio by impacting the denominator. Second, Bickmore projected a lower indemnity count based on a lower frequency trend. The combined impact is a LAE-to-loss ratio at 34.1%, which is higher than the WCIRB's.

The WCIRB's consistency in using the selected frequency trends and the periods that the trends apply to in the projection of both the losses and LAE components provides comparable bases for a determination of the LAE-to-loss ratio, and the Department's staff agrees with this approach.

The Department's staff believes that the continued monitoring of direct and indirect impacts of recent reforms and legislation, as well as the economic environment, on LAE costs require particular attention, and appreciates the WCIRB's and Bickmore's efforts in this regard.

ALAE

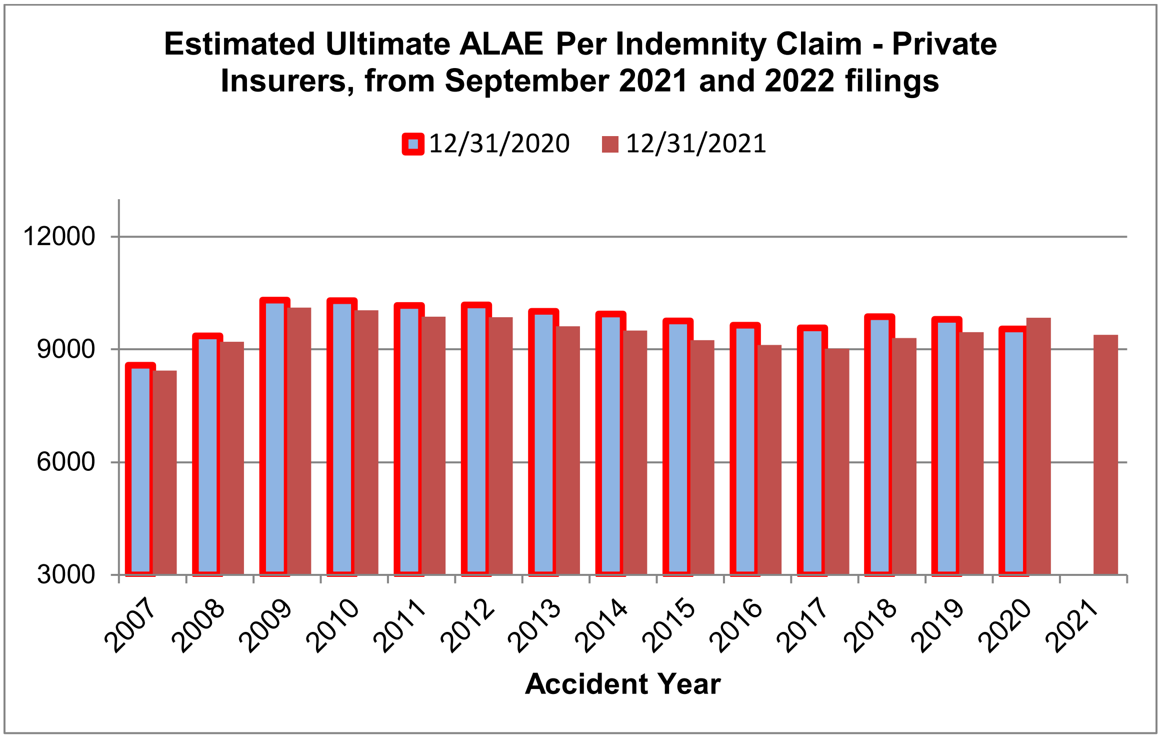
The WCIRB projects the ALAE-to-loss ratio using a methodology that projects future ALAE as the product of the anticipated future statewide number of indemnity claims and average private insurer ALAE per indemnity claim, which is consistent with the methodology reflected in the latest several pure premium rate filings.

The WCIRB's projection of ultimate ALAE follows a similar methodology to projection of ultimate loss. The paid method is used to develop ALAE to ultimate. Latest age-to-age factors are selected as loss development factors. Separate frequency and severity trends are applied to accident year 2019 and 2021 indemnity claim count and average ALAE per indemnity claim. The same frequency trend used in loss projection is used in ALAE projection. The WCIRB's selected annual ALAE severity trend in this filing is +1.0%, the same as the September 1, 2021 filing.

The Department's staff is selecting an average ALAE per indemnity annual trend based on the approximate average of the rates of growth from 2017 to 2021 in (a) estimated ultimate ALAE per indemnity claim for private insurers, and (b) incremental paid ALAE per open indemnity claim for private insurers. The resulting annual trend is +0.65%, a slight decrease from the +0.8% selected in the September 1, 2021 filing.

Table 10 below shows the ALAE per indemnity claim by accident year, as well as the comparison of Ultimate ALAE per indemnity claim evaluated at December 31, 2021 and December 31, 2020.

Table 10



Based on Data as of December 31, 2021 and December 31, 2020.

After a period of rapid increase, the estimated ultimate ALAE per indemnity claim showed slight year-over-year decline from 2012 to 2017. The pattern was reversed by accident year 2018 and the estimated ultimate ALAE per indemnity claim seem to be increasing between 2018 and 2020 per current evaluation. Prior evaluation and current evaluation have trended in opposite directions in recent years.

In 2019 and 2020, the WCIRB studied the potential impact of claim settlement rate changes on paid ALAE development. It determined there is a negative correlation between changes in claim settlement rates in earlier periods and the ALAE development that emerges in later periods for a given accident year. For example, during a period of significant claim settlement increase, the WCIRB's study found that future paid ALAE development for that accident year emerged lower than otherwise projected. As a result, the WCIRB started to reflect an adjustment to paid ALAE development for the impact of claim settlement rate changes.

In this filing the WCIRB incorporated an adjustment to the ALAE age-to-age development factors of accident year 2019 because there was a more than 1.5% decline in claim settlement rates at 36 months.

Given that the ALAE development factors are highly leveraged, the Department's staff recommend continued evaluation of the development patterns for the ALAE, as it appears that the persistent downward trend in successive evaluations of ALAE have continued despite the adjustments that the WCIRB has made. The Department appreciates the WCIRB's efforts in researching the various impact to the ultimate ALAE projection.

ULAE

As in the last several pure premium rate filings, the WCIRB is basing the ratio of ULAE- to-paid loss on the average of (1) a method that relates ULAE to the number of open indemnity claims and (2) a method that relates ULAE to paid losses. In 2020, the WCIRB conducted a study of these approaches and found that paid ULAE amounts continue to be correlated with both open indemnity claim counts and paid loss amounts.

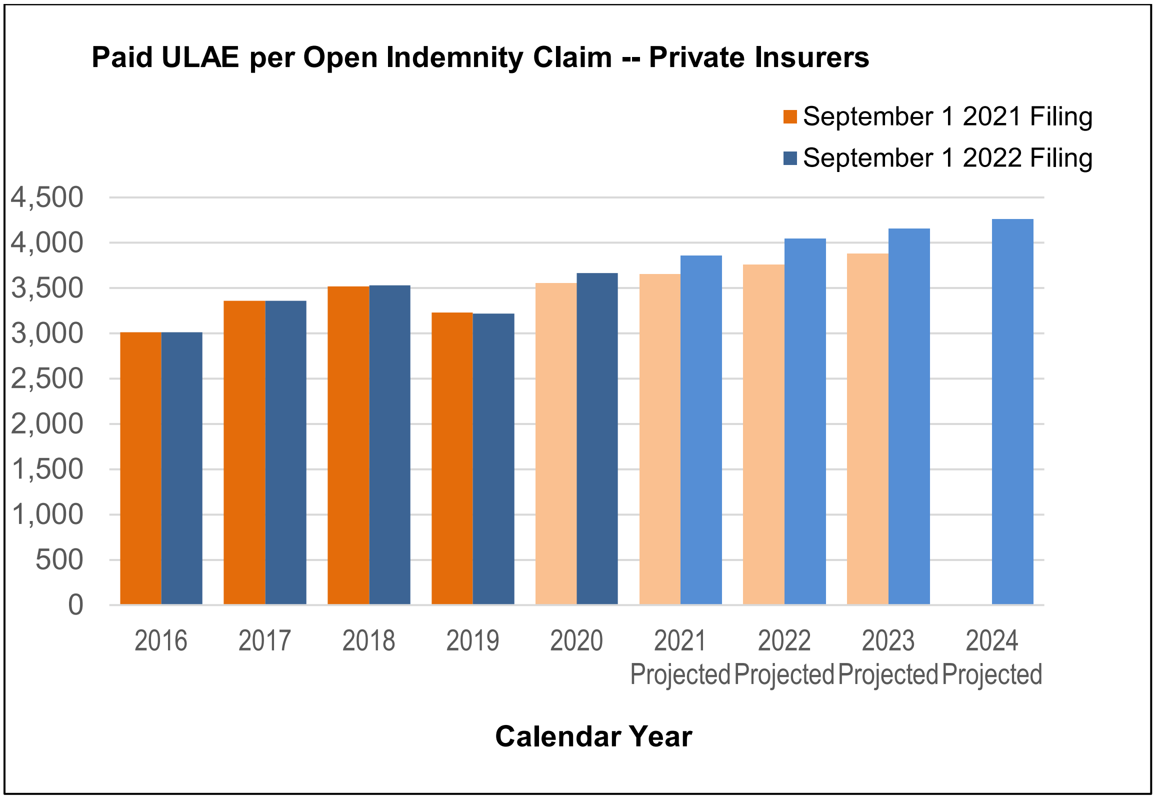
Table 11 below compares the WCIRB's projections in their September 1, 2021 filing and their current filing. The paid ULAE-to-paid losses method produced very similar results in the two filings. This could be attributed to the fact that both filings used data from calendar year 2018 and 2019.

TABLE 11

Method	September 1, 2021 Filing ULAE Projection	September 1, 2022 Filing ULAE Projection
Paid ULAE per Open Indemnity Claim	13.5%	14.5%
Paid ULAE to Paid Losses	14.0%	13.9%
Average of Two Projection Methods	**13.7%**	**14.2%**

Results from the paid ULAE per open indemnity claim method increased by one percentage point since the last filing. Table 12 shows historical and projected paid ULAE per open claim by calendar year. The decline in ULAE per open claim in 2019 acted in reverse to increases before 2019. The ULAE per open claim is significantly higher in year 2020 than in 2019. The 2020 ULAE was likely impacted by the pandemic. In addition, ULAE on COVID-19 claims cannot be separated from other ULAE amounts. The WCIRB concluded that year 2020 data is not appropriate to be used in the projection. Projection of future average ULAE per open claim is based on calendar year 2018 and 2019.

TABLE 12



Source: WCIRB aggregate financial data for private insurers only and projections.

The WCIRB incorporates wage inflation in its projection of paid ULAE per open indemnity claim, with the assumption that the average ULAE costs grow at a rate comparable to that of statewide average wages. The ULAE costs have been trended to the prospective period by applying California average annual wage level changes from UCLA and California Department of Finance forecasts. Expected higher wage inflation contributes to the higher projected ULAE in coming years.

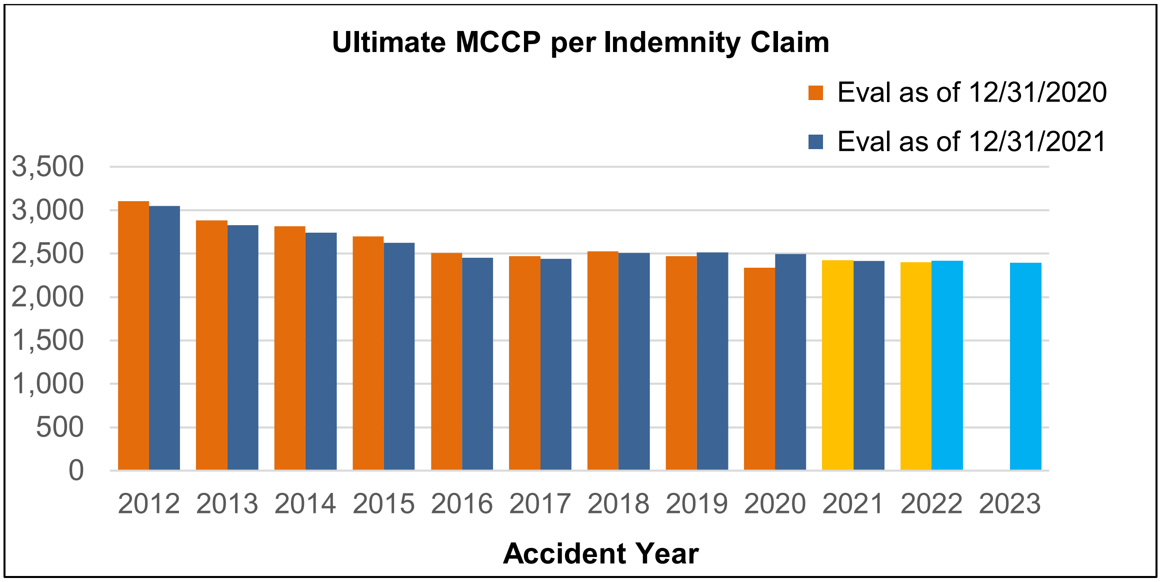
MCCP

The WCIRB's methodology used to project MCCP costs is very similar to the its methodology used to project ALAE. It applies, to the accident years 2019 and 2021, (1) frequency trends to ultimate indemnity claim counts and (2) severity trends to the ultimate MCCP per indemnity claim.

The WCIRB adjusted the MCCP data to exclude the cost of IMR and IBR, which are included in ALAE.

The period between 2012 and 2017, as shown in Table 13 below, shows a steady decline in ultimate MCCP per indemnity claim. Starting in 2018, the Average MCCP per Indemnity Claim has been stable.

TABLE 13



Source: WCIRB aggregate financial data and projections. Excludes the cost of IMR and IBR from all years.

Note: Lighter color bars represent projected values.

4. Impact of legislative, regulatory and judicial actions

Official Medical Fee Schedule (OMFS)

Effective March 1, 2021, the DWC has adopted significant changes to the Evaluation & Management (E&M) section of the OMFS related to office visits. In the September 1, 2021 Pure Premium Rate Filing, the WCIRB prospectively estimated that these changes would increase E&M office visit service costs by 15%. Earlier this year, the WCIRB performed a retrospective evaluation of the March 1, 2021 OMFS changes based on medical payments made subsequent to implementation of the changes. The review showed that E&M office visit service costs increased by 10% compared to the 15% reflected in the WCIRB's prospective estimate, resulting in an approximate 1.6% increase in total medical costs compared to the +2.4% in the initial estimate. The WCIRB is reflecting impact in adjustments to the medical loss development projection for accident years 2013 and later, and in on-level factors for accident years 2012 and prior.

Medical-Legal Fee Schedule (ML)

Effective April 1, 2021, the DWC has adopted a significant update to the Medical-Legal Fee Schedule (MLFS). In the September 1, 2021 Pure Premium Rate Filing, the WCIRB prospectively estimated that the April 1, 2021 changes to the MLFS would increase medical-legal service costs by 22%. Earlier this year, the WCIRB performed a retrospective evaluation of the April 1, 2021 MLFS changes based on payments made during the first nine months the new MLFS was in effect. The review showed that medical-legal costs increased by 39% compared to the 22% reflected in the WCIRB's prospective estimate, resulting in an approximate 2.5% increase in total medical costs, compared to the initial estimate of 1.4%. The sharp increase in medical-legal costs compared to the WCIRB's prospective estimate was primarily driven by a significantly higher-than-projected increase in the costs for record review. The WCIRB is reflecting impact in adjustments to the medical loss development projection for accident years 2013 and later and in on-level factors for accident years 2012 and prior.

Impact of SB 863, SB 1160, AB 1244, and AB 1124

The WCIRB has been persistently evaluating impact from legislative changes and judicial actions. The WCIRB made the same adjustment to reflect the impact from SB 863 as in the last filing. For details of the changes as well as the adjustments, please reference pages 31-35 of the Actuarial Recommendation for September 1, 2021 filing.

5. COVID–19 Claim Cost

The WCIRB is recommending a COVID-19 provision of $0.008 per $100 of payroll to be included in the pure premium rates, which amounts to about 0.5% of non-COVID pure premium rates. This is a change from the September 1, 2021 filing which did not include a provision for COVID-19 claim cost. On the other hand, compared to the $0.06 average per $100 payroll recommended in the January 1, 2021 filing, the current provision is much lower, amounting to approximately an 87% reduction.

Since the onset of COVID-19, the WCIRB has been monitoring the impact from COVID-19 claims in the state's workers' compensation system. A recent study by the WCIRB has shown that the current estimated cost of COVID-19 claims is lower than that initially anticipated for both accident years 2020 and 2021

(COVID-19 claims are currently estimated to reflect 6.1% and 2.4% of total California workers' compensation loss and loss adjustment expense dollars, respectively).

It is worth noting that the emergence of the Delta and Omicron variants resulted in more than 100,000 workers' compensation COVID-19 claims being filed in California after the September 1, 2021 pure premium rate filing, which compares with approximately 450,000 non-COVID workers' compensation claims during the same time period. Most infectious disease experts currently expect COVID-19 to become endemic, with the emergence of new variants continuing to infect individuals for the foreseeable future. The WCIRB relied on recent research from the Institute of Health Metrics and Evaluation (IHME) and the Rockefeller Foundation, and their judgment, in the selection of the COVID-19 provision for the 9/1/2022 -8/31/2023 policy period.

The WCIRB is recommending a fixed charge of $0.008 to each class, as opposed to a 0.5% multiplier to the non-COVID pure premium rate. Given the small amount of the COVID-19 provision and the fact that COVID-19 claim costs do not necessarily vary by classification proportionately with other workers' compensation claim costs, this proposal seems reasonable.

The Department appreciates the WCIRB's continued effort in assessing impacts from COVID-19 claims and believes the WCIRB's recommendation is appropriate.

Determination of Workers' Compensation Claims Cost Benchmark Based Upon Current Filing

It is the determination of this Hearing Officer, based upon the current filing and public comments received, that the Commissioner should adopt an advisory pure premium rate of $1.49 per $100 of employer payroll, which includes an advisory COVID-19 charge on average of $.008 per $100 of employer payroll. This recommended average pure premium rate is proposed to be effective with respect to new and renewal policies as of the first anniversary rating date of a risk on or after September 1, 2022. The recommended average COVID-19 adjustment is proposed to be effective with respect to new and renewal policies as of the first anniversary rating date of a risk on or after September 1, 2022. The change in the benchmark is based upon the hearing testimony and an examination of all materials submitted in the record, as well as the Actuarial Recommendation and Evaluation set forth above by the Department's actuary, Sarah Ye.

Order

IT IS ORDERED, by virtue of the authority vested in the Insurance Commissioner of the State of California by California Insurance Code sections 11734, 11750, 11750.3, 11751.5, and 11751.8, that the WCIRB's filed advisory workers' compensation pure premium rates and Sections 2353.1 and 2318.6 of Title 10 of the California Code of Regulations shall be amended and modified in the respects specified in this Proposed Decision;

IT IS FURTHER ORDERED that the advisory pure premium rates for individual classifications shall change based upon the classification relativities reflected in the WCIRB's filing to reflect an average workers' compensation claims cost benchmark and advisory pure premium rate of $1.49 per $100 of employer payroll, which includes an advisory COVID-19 charge on average of $.008 per $100 of employer payroll, to be adjusted to the relative classifications consistent with this Proposed Decision;

IT IS FURTHER ORDERED that these advisory pure premium rates, and advisory COVID-19 adjustment, shall be effective September 1, 2022 for all new and renewal policies.

I CERTIFY that this is my Proposed Decision and Order as a result of the hearing held on June 14, 2022, as well as additional written comments entered into the record, and I recommend its adoption as the Decision and Order of the Insurance Commissioner of the State of California.

Date: July 15, 2022 Yvonne Hauscarriague

Yvonne Hauscarriague, Attorney IV

State of California
Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, Ca 95814

Decision and Order

September 1, 2022 Workers' Compensation Claims Cost Benchmark and Advisory Pure Premium Rates

File Number Reg-2022-00004

In the Matter of: Proposed adoption or amendment of the Insurance Commissioner's regulations pertaining to the Workers' Compensation Insurance Claims Cost Benchmark and Advisory Pure Premium Rates. CDI File Number REG-2022-00004. The benchmark will be effective on **September 1, 2022**.

As noted by CDI actuarial staff in the Actuarial Recommendation, the average pure premium rate indications (excluding a COVID-19 provision) of $1.55 developed by the WCIRB, $1.48 developed by CDI actuarial staff, and $1.43 developed by Bickmore, as well as the currently approved rate of $1.45, all fall within the reasonable actuarial range. In light of the ongoing uncertainty in economic conditions, including those due to COVID-19, I believe it is appropriate to keep the approved advisory pure premium rate unchanged at $1.45. Regarding a provision for COVID-19, the WCIRB and Bickmore suggest a minimal amount of $0.008 be added to the rate. Taking into account the unpredictability around COVID-19's future impact on the workers' compensation insurance system, and given the very modest indication, I do not believe an additional charge for COVID-19 is warranted at this time.

Decision and Order

I hereby decline to adopt the pure premium rate recommendation in the attached Proposed Decision and Proposed Order of Hearing Officer Yvonne Hauscarriague in the above-entitled matter. Based upon my review of the Proposed Decision and record in this matter, including the analyses performed by the Workers' Compensation Insurance Rating Bureau and Bickmore, I have determined that there exist a number of issues in the record that remain uncertain and warrant further monitoring before an adjustment to the Pure Premium Rates needs to be made. It is ordered that the Pure Premium Rates remain unchanged.

IT IS SO ORDERED THIS 15TH DAY OF JULY, 2022.

RICARDO LARA
Insurance Commissioner