

# RICARDO LARA

## INSURANCE COMMISSIONER

### California Department of Insurance

Senator Tom Umberg Small Business Insurance Tele Town Hall  
Wednesday, August 12, 2020

California businesses of all sizes are suffering great losses because of the COVID-19 Pandemic. While we have encountered business interruption questions in the past following wildfires or other disasters, we have seen nothing on this scale – with thousands of businesses closed and drastically reducing payroll. Insurance Commissioner Ricardo Lara in partnership with Senator Tom Umberg hosted the following small business experts to address issues faced by California's small businesses:

#### Participants:

- Senator Tom Umberg, Senate District 34
- California Insurance Commissioner Ricardo Lara
- Stephanie Nguyen-Yu, Garden Grove Chamber of Commerce
- Godfrey Hinds, U.S. Small Business Administration

#### California State Senator Tom Umberg

- Senator Umberg represents the 34<sup>th</sup> Senate District, which includes the cities of Anaheim, Fountain Valley, Garden Grove, Huntington Beach, Los Alamitos, Midway City, Orange, Rossmore, Santa Ana, Seal Beach and Westminster in Orange County as well as part of the city of Long Beach in Los Angeles County.
- One of the main concerns is that our amusement parks are not operational which is greatly affecting the tourism industry and the small businesses in the 34<sup>th</sup> district.

#### California Insurance Commissioner Ricardo Lara

- One way that the Department of Insurance is supporting Californians during this time is by ensuring accurate and timely information and services when it comes to the insurance needs of our communities.

#### **The Department of Insurance has taken a number of steps to help small businesses dealing with the COVID-19 crisis:**

- Commissioner Lara ordered insurance companies to return a portion of premiums to businesses and drivers affected by the COVID-19 pandemic.
- The order covers at least six lines of insurance where the risk of loss has fallen as a result of the pandemic.
- Because of the Commissioner's order, California automobile insurance companies have provided \$1.2 billion in savings to drivers.
- That \$1.2 billion includes:
  - More than \$1 billion in premium relief for more than 18 million policyholders while Californians struggled during the start of the COVID-19 pandemic
  - Savings from an additional \$180 million in future rate increases that insurance companies reduced in response to the orders that I issued since the beginning of this health crisis.
  - If you want to know what relief your insurance company is providing, you can go on our website and see reports that they submitted at [insurance.ca.gov](https://insurance.ca.gov).
- As a business owner, you should not have to do anything to receive the refund, and insurance companies must provide this relief as soon as possible.
- This builds on an action Commissioner Lara took last month to request insurance companies give a 60-day grace period for businesses to pay premiums through at least July 14.

**insurance.ca.gov 800.927.4357**

- Many insurance companies have honored that request by offering flexibility to consumers and businesses during this national emergency.

#### **Business Interruption Insurance:**

- Many businesses have looked to their insurance policies for possible coverage.
- Each insurance policy is a legal contract between the business owner and the insurance company -- and since early March we have seen dozens of lawsuits around the country, including California, which concern the interpretation of these policies and whether such policies cover losses due to COVID-19.
- Some insurance companies are denying business interruption claims without a thorough investigation or discouraging you from even filing a claim. That is simply unacceptable.
- In response to numerous complaints from businesses, public officials, and other stakeholders, Commissioner Lara required insurance companies to comply with their contracts and California law by fairly investigating all business interruption claims caused by COVID-19 – just as they would for any disaster.

#### **Fraud:**

- Be on the lookout for fraud and insurance scams – and report any suspicious activity to the Department of Insurance.
- We have 300 sworn investigators and enforcement personnel, with 9 regional offices across the state, including one in Orange.
- Be on the alert for those offering bogus workers' compensation policies. Verify the legitimacy of the selling agent and the policy offered. Verify the agent's license on our website and contact their insurance company directly to verify the policy.
- Contact the Department of Insurance via phone at 1-800-927-4357 and through their website – [insurance.ca.gov](https://insurance.ca.gov) – for assistance with claims

#### **Godfrey Hinds, U.S. Small Business Administration**

- The SBA developed and implemented two programs EIDL and PPP
- EIDL provided loans and financial assistance to several small businesses. This program is directly with the SBA and there are still funds available in this program. Funds are expected to last until the end of December 2020.
- Any small business in need of capital should apply for the EIDL program. The maximum is \$2 million it is a loan of 3.75% up to 30 years and your first payment is deferred for an entire year.
- PPP was created to help businesses keep employees on payroll. PPP ended on August 8<sup>th</sup>, 2020.
- The SBA has extended \$68 billion in the PPP, saving thousands of jobs in the state of California.
- Detailed report available for orange county through the SBA
- Small business are still facing challenges. SBA is available with a wide array of programs.
- All services are free

#### **Stephanie Nguyen-Yu Executive Board Member of Garden Grove Chamber of Commerce**

- Stephanie merged her company with Burnham Benefits Insurance Services, a California-based, full-service employee benefits consulting and brokerage firm with offices throughout California with the ability to service clients nationwide.
- Burnham Benefits has over 650 clients with more than \$2 billion in premiums. It has a 19% growth rate for the past 10 years and 95% client retention rate.
- Stephanie is a member of the Garden Grove Chamber of Commerce and serves as a Board member since 2015.

## Constituent and Small Business Owners Questions

1. **If restaurants can open their business, meet all the sanitation requirements, are able to set their tables outside their restaurants, then someone gets COVID, how does a company protect themselves from any frivolous lawsuit. Is there insurance for COVID lawsuits? If yes, how costly is it? Where can they get it?**

**Commissioner Lara** - Insurance against lawsuits is part of the liability portion of your policy. And I know liability due to COVID exposure is a legitimate concern.

I understand the burdens being placed on businesses as they attempt to reopen while still keeping their employees and customers safe. It is not an understatement to say that lives are at stake here.

As you reopen, the Department of Insurance is going to be watching closely to make sure that insurance companies are giving you as much flexibility as possible and that they are fully abiding by their contracts.

Businesses should follow the Governor's Resiliency Roadmap, as well as local guidelines, for what processes the business must follow, and that will go a long way towards helping California lead the way through this pandemic.

You should also have a conversation with their agent or insurance company to get guidance regarding how to safely return to business and also to make sure businesses have the right coverage in place.

If you need an expert from the department to help you decipher your coverage or you're not satisfied with the answers you're getting from your agent/broker, please contact our Department at 800-927-4357.

2. **What if small businesses are unable to pay back their PPP loan? I heard that part of the loan can be forgiven. Have you considered forgiving all of their loans?**

**Godfrey Hinds** - Yes, the PPP loan can be forgiven 100% if you are eligible for the requirements. In order to have this loan forgiven the business should use the 60% of the loan on payroll expenses and 40% on non-payroll expenses. Access the forgiveness application here: <https://www.sba.gov/document/sba-form-paycheck-protection-program-loan-forgiveness-application>

3. **As a medical provider, I was told that the carriers will pay for COVID-19 testing at the ER and other authorized facilities, however we are having issues getting these tests paid by the carriers for patients with small group health insurance. Can the DOI work with the carriers to ensure that their billing system is updated to get these COVID-19 tests paid quicker? I'm also wondering if the DOI has any influence and can help make tests kits more available by contributing money? Is there a way to get funding to manufacture more test kits?**

**Commissioner Lara** - On March 18, 2020, I directed health insurance companies to submit emergency plans detailing how they will continue access to medically necessary health care services for the duration of the declared COVID 19 state of emergency.

If a provider is having trouble receiving payment for services, please contact the Department so that we can determine if the insurer is complying with our prompt payment law.

CDI is urging all insurers to assure adequate availability of testing, and prompt payment for tests. If this is not the case please call 800-927-4357

- 4. As for our insurance... I think we won't see the effects on that till later when insurance companies start to figure out how to manage all the changes happening that affect us and them. We have heard from State Officials that COVID can be claimed on Workers Comp. As a small business owner, it's very frustrating to hear that this would be allowed. What is the DOI position on this issue? We think it's wrong for employees to use COVID as a Work Comp injury because that will definitely increase costs each year. It should just stay under their medical insurance since that plan is supposed to be paid at 100% by the carriers.**

**Commissioner Lara** - All workers affected by COVID-19 on the job are eligible for workers' compensation benefits – whether or not they are considered essential services.

This includes workers engaged in front-line occupations such as health care, emergency services, food production, sales, and delivery, among others.

Governor Gavin Newsom signed an executive order creating a presumption that a worker contracted COVID-19 while on the job if the worker is diagnosed with COVID-19 or tests positive within 14 days of performing a labor or service at a place of work.

That executive order covered the period from March 19 to July 5.

But I have to say for our business owners, this is a rebuttable presumption, meaning that employers will have a chance to prove that the illness is not work-related.

Workers' compensation also applies to undocumented workers. In 2015, when I was in the California State Senate, I authored SB 623, which was signed by Governor Brown, that expanded protections for undocumented workers in the event they are injured on the job, even if their employer does not carry workers' compensation insurance as required by law.

I issued a notice to insurance companies on April 6 to remind insurance companies about these existing legal protections for undocumented workers.

I share your concern about the cost of workers' compensation – which is why I issued emergency workers' compensation regulations to reflect the lower risk of worker injuries in light of the pandemic.

These new regulations will mandate insurance companies to recompute premium charges, and will result in savings for many policyholders as businesses.

These new regulations do several things. First, premiums will be reduced because employers can now reclassify employees whose duties have changed to a clerical classification, reflecting that employee's lower risk of injury when working from home.

Next, the regulations lower workers' compensation premiums by excluding from premium calculations sick leave and family leave payments made to furloughed employees. This change will thus lower the employer's rate by reducing the amount of payroll assessed.

And finally, the new regulation also excludes COVID-19 related claims from being included in future rate calculations so that employers are not penalized with higher rates due to COVID-19 claims.

5. **There is a large number of Vietnamese and Korean businesses in Garden Grove that do not understand how to complete the SBA loans or grants. Do you have any free translation resources to help these communities?**

**Godfrey Hinds** - The SBA does not have direct translated services. The website has a translation button that will translate the website information into multiple languages. Please visit your Small Business Development Center and SCORE for assistance in multi lingual services. Please note that applications are all in English. If you need assistance please email: [Godfrey.hinds@sba.gov](mailto:Godfrey.hinds@sba.gov)

6. **As far as our company's medical insurance is concerned, I have not heard any issues yet from anyone that works for us, no employees have revealed any infections. We are operating daily. My only question I would like to ask is if and when the COVID vaccine is created will our company's medical insurance cover these vaccinations for our employees? or the public? Will they treat this medicine the same as any other medicine under our group health Rx plan? Will it be affordable for people to purchase?**

**Commissioner Lara** - As you know, there is presently no vaccine against COVID-19 approved by the Food and Drug Administration (FDA) for use in the United States, although several candidates are in development.

At this point, we don't have information regarding cost. The federal CARES Act requires most plans to cover a COVID-19 vaccine, when available, without cost sharing, if it is recommended by the CDC's Advisory Committee on Immunization Practices.

Similarly, most plans must cover, without cost sharing, any other COVID-19 preventive services that are recommended for use by the United States Preventive Services Task Force. We anticipate that your company's health insurance will cover the cost of the vaccine.

7. **COVID has affected the hotel business greatly. For Small businesses in the event planning industry, they have converted their backyards to do weddings and host parties since they are unable to do it at a hotel, restaurant or any indoor facilities. Do these small businesses have to buy any type of insurance?**

**Commissioner Lara**- If the business is now operating from their home, instead of previous venues, they should make sure they comply with any zoning and other laws that may impact or restrict doing business in residential areas.

Every small business should have some type of liability coverage in place to protect against injury or damage.

As businesses reopen, and especially if they are changing how they operate to accommodate social distancing and other protections, they should have a conversation with their agent or insurance company to get guidance regarding how to safely return to business and also to make sure they have the right coverage in place.

So, I know many people get anxiety when I say call your insurance agent or broker and if you need help with that, we can help you.

**8. Besides SBA loans, is there any other government resources that small businesses can apply to?**  
**Godfrey Hinds** - Yes, the SBA has loans and services. In a sense the SBA is not a lender they are a guarantor. The SBA acts as a middle man in the relationship between the business and capitol (the banks). By providing the guarantee from the SBA this makes the rates and terms much more favorable to the business communities.

Many businesses use micro loans, lines of credit, and online businesses use venture capital.

The CARES act – funds were given to local cities to provide grant programs in limited amounts. Special classification businesses can get preference.

The federal government is the biggest purchaser so there is an opportunity to secure a contract even at the state level.

Receive certain classifications from the SBA – this gives businesses a competitive advantage when trying to secure a contract with the federal or state government.

**9. Question 6: Does PPP loan insurance exist? If so, is it recommended for businesses?**

**Commissioner Lara** - Generally, there are insurance products that provide protection for loans for various reasons. We are not aware of any insurance that specifically addresses PPP loans, but I would recommend you check with the bank that is handling the loan and also the SBA who may have some information on that.

You can find locations and contact information for SBA's 68 District Offices, as well as their Resource Centers, including Small Business Development Centers, Women's Business Centers, SCORE volunteers and Veterans Business Outreach Centers at [www.sba.gov/local](http://www.sba.gov/local).

**Godfrey Hinds** - there should not be a need for insurance on the PPP since the loan is 100% guaranteed by the SBA

**10. My business insurance doesn't renew until November. So, I contacted my insurance agent and asked her what my next year's premium will be. I know there's going to be an increase, I just don't know how much yet. What is the expected increase for business insurance such as liability, workers comp, etc?**

**Commissioner Lara** - It will take some time to see the impact of COVID-19 on our insurance system – and on the premiums businesses pay.

Businesses that are closed or have drastically reduced payrolls due to stay at home orders may see their workers' compensation insurance costs reduced in the short term.

That is why I ordered insurance companies to return a portion of workers' compensation premiums to businesses.

As I mentioned before, I issued emergency workers' compensation regulations to make changes to reflect the lower risk of worker injuries in light of the pandemic.

These new regulations will mandate insurance companies to recompute premium charges for policyholders to reflect reduced risk of loss consistent with my Bulletins, and will result in savings for many policyholders as businesses.

Also, as I discussed earlier regarding liability, it is important businesses have a conversation with their agent or insurance company to get guidance regarding how to safely return to business and also to make sure businesses have the right coverage in place.

If you need an expert from the department to help you decipher your coverage or you're not satisfied with the answers you're getting from your agent/broker, please contact our Department at 800-927-4357.

**11. For small group health insurance under 100 in CA, I noticed medical rates for 4th quarter 2020 are lower than rates in 3rd quarter. We checked with the carriers if they would allow the small companies to change their anniversary date to 10/1/20 to get the lower rates. However, we were told it's on a case by case basis. I'm sure at this time, all small businesses would like to see any savings to their group health plans. Can the DOI ask the carriers to give these companies an exception to change their renewal date to 10/1 or 11/1 for savings with a 1 year rate guarantee?**

**Commissioner Lara** - Legal requirements confine the term of any health insurance policy to no longer than one year, so the renewal date cannot ordinarily be extended as described in the question.

The Department is carefully reviewing all insurer rate filings in the small group market to assure that the rates accurately reflect current experience, as well as reasonable assumptions regarding COVID-19 related costs.

## Additional Resources

### Senator Umberg's Contact Information

- Capitol Office  
State Capitol, Room 3076  
Sacramento, CA 95814  
Phone: (916) 651-4034  
Fax: (916) 651-4934
- District Office  
1000 E. Santa Ana Blvd., Ste. 220B  
Santa Ana, CA 92701  
Phone: (714) 558-3785

### CA Insurance Commissioner Ricardo Lara and the Department of Insurance Contact information:

- Phone: 800-927-4357
- Website: [insurance.ca.gov](http://insurance.ca.gov)
- Link: <http://www.insurance.ca.gov/01-consumers/140-catastrophes/Coronavirus.cfm>

### U.S. Small Business Administration Orange County Inland Empire Office

5 Hutton Center Dr., Suite 900  
Santa Ana CA 92707  
(714) 550-7420

<http://www.sba.gov/ca/santa>

Office Email: [OCIEDO-DSUP@sba.gov](mailto:OCIEDO-DSUP@sba.gov)

### Federal resources through U.S. Small Business Administration (SBA)

- SBA Paycheck Protection Program (PPP) – The SBA is currently unable to accept new applications for the Paycheck Protection Program based on available appropriations funding. During this time, in preparation of the event that additional appropriations are made to the PPP, contact a lender to discuss your options, and/or work with a small business center to get ready.
- SBA Economic Injury Disaster Loans (EIDL) and EIDL Advance – the SBA is unable to accept new applications at this time for the Economic Injury Disaster Loan (EIDL)- COVID-19 related assistance program (including EIDL Advances) based on available appropriations funding. Applicants who have already submitted their applications will continue to be processed on a first-come, first-served basis.
- SBA Small Business Debt Relief - if you are a current borrower under SBA 7(a) not through PPP, 504-loan program or a microloan, you are eligible for debt relief and SBA will cover all loan payments for 6 months. Contact your lender directly to confirm if funds are still available.