

RICARDO LARA

INSURANCE COMMISSIONER

California Department of Insurance

Notes from Friday July 10th, 2020

**Assembly Member Eloise Gómez Reyes
Small Business Insurance Tele Town Hall**

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, along with Assembly Member Eloise Gómez Reyes, hosted the following small business experts to address issues faced by California's small businesses:

- Assembly Member Eloise Gómez Reyes , 47th Assembly District
- Michael Daniels, Regional Director, Inland Empire Small Business Development Center

Commissioner Ricardo Lara

Thank you Assembly Member Gómez Reyes, I am happy to join you all today as we talk about resources for businesses in the Inland Empire.

Along with COVID-19 and Stay at Home orders, we all have been witnessing our state and nation reckon with another huge challenge in recent weeks – the recurring injustice of police brutality that has caused much pain in the African American community for generations. We are all heartbroken with what is going on.

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

My immediate focus is making sure the insurance industry is prepared to handle claims and to help our businesses recover as quickly as possible.

I have been in contact with our insurance industry and so far, I am not hearing about problems with businesses accessing their benefits -- and I will continue to monitor the situation and we will keep you updated on that matter.

Our Community Outreach team and Consumer Services team have already begun reaching out to affected communities lending our support and have prepared a helpful fact sheet about insurance resources following the civil unrest – that is on our website at insurance.ca.gov to let businesses now what they should be looking out and insurance coverage available to them.

As we continue through this unprecedented COVID-19 emergency, we have a lot of work to do to assist businesses and their workers.

insurance.ca.gov 800.927.4357

We have seen unprecedented job losses across the state including San Bernardino County.

At my direction, the Department of Insurance has taken a number of steps to help businesses:

For example, I've ordered insurance companies to return a portion of premiums to businesses and drivers affected by the COVID-19 pandemic from March through June and any subsequent months where the "stay at home" orders result in reduced accidents and losses.

I'll be addressing that issue in a moment.

BUSINESS INTERRUPTION INSURANCE

My Department has also received a number of complaints regarding business interruption insurance.

In response to numerous complaints from businesses, public officials, and other stakeholders, I issued a Notice requiring insurance companies to comply with their contracts and California law by fairly investigating every single business interruption claims caused by COVID-19 – just as they would for any disaster such as a fire, earthquake, or flood.

My Department will be watching to make sure they do to ensure everyone is getting a fair review if their claim.

FRAUD

I also want to urge all businesses to be on the lookout for fraud and insurance scams – unfortunately during these times is when you see businesses be targeted for fraud - and report any suspicious activity to the Department of Insurance.

We have 300 sworn investigators and enforcement personnel, with 9 regional offices – including an office in Rancho Cucamonga.

I would tell businesses to 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.

We urge all businesses to be on the alert for fraudulent workers' compensation claims by employees that may occur as the result of layoffs or COVID-19 related illness.

We encourage businesses to report any suspected insurance scams and fraud by calling CDI at 800-927-4357 or through our website at insurance.ca.gov. They can also reach us for any insurance questions or concerns.

While a majority of our staff are teleworking in support of the Governor's "stay at home" directives, we continue to provide essential services for California consumers and we are available via phone at 1-800-927-4357 (HELP) and through our website – insurance.ca.gov -- to assist businesses and consumers with their claims.

Insurance can be complicated. We are here to help guide people through this process.

insurance.ca.gov 800.927.4357

We have insurance experts ready to help and answer questions in multiple languages.
I look forward to answering your questions.

Michael Daniels, Regional Director, Inland Empire Small Business Development Center

- Federally funded program, 100 consultants from 8 centers spread throughout the inland empire
- All business owners going through the same situations. They are here to help with recovery, funding, staffing, etc.
- Services are completely free
- 5 million people applied for PPP we can help you find where you are in the application process
- EDD: how to deal with your employees
- Small grants for your business: \$2,500 COVID19 compliant grant from your county
- State disaster guarantee available for those not eligible for EIDL and PPP: ex. \$50,000 loan at 4.75%
- They will sit down with you and find the right program for your business
- Visit business.ca.gov and go to the COVID compliance piece which will tell you what you need to do to open your business safely.
- (800) 616- 7232 ociesmallbusiness.org

Question and Answers

Question 1: If I lost my job and currently waiting for Unemployment Insurance Benefits, can I put my insurance premium payment on hold, if so, for how long?

CA Insurance Commissioner Lara: At the beginning of the pandemic, I requested insurance companies give, at minimum, a 60-day grace period for policyholders including businesses to pay premiums.

I made this request to ensure policies are not cancelled for nonpayment of premium due to the novel coronavirus (COVID-19) public health emergency.

The request is not mandatory; however, many insurance companies have honored that request by offering flexibility to consumers and businesses during this national emergency.

I extended my grace period request for an additional 60 days because Californians continue to face unprecedented challenges due to the pandemic.

If someone is having trouble paying their premium, they should contact their insurance company and inquire about the grace period notice.

Question 2: Our small businesses have been working really hard in our community to build their business and bring employment opportunities to our region. Yet, they seem to be suffering the most during this pandemic. Can you explain how our small businesses can protect themselves during this crisis and even post COVID-19?

insurance.ca.gov 800.927.4357

Michael Daniels, Regional Director: You as a business owner have three people you must protect your employees, customers and yourself. You must make sure that you are following the standards, temperature checks making sure that your employees don't have signs of COVID 19 as they are coming in per shift if their shift oriented or do they have the ability to tele-commute, what are those options. If you are having people come into your business how do you best protect your customers, how do you at least setup social distancing cubs if you have that ability, making sure that you're at least helping people try to distant themselves, how they can touch less things, how you can have more touchless transactional pieces is really up to you to decide how to make that happen. There are guidelines and a lot of assistance for you, business.ca.gov is a great recourse to start with where it really breaks down your customers, your employees, how to take care of each one, what your mandated to do, what you don't have to do. On the insurance side making sure that you reach out to your insurance broker or your insurance company to sat are your covered if something were to happen to make sure that you have enough coverage.

CA Insurance Commissioner Lara: the time is now....You want to make sure that you know exactly what your insurance product is, what your coverage limits are, what protection you have and what exclusions exist in your commercial policy. Do not regret not knowing your coverage prepare and be ready. If you are not satisfied, call the Department of Insurance.

Question 3: My business is still not operating and is at risk of being shut down again due to the Coronavirus. If this takes place, will there be a mandated reduction in my insurance premium?

CA Insurance Commissioner Lara: My bulletin directed all insurers to make an initial premium refund to all adversely impacted California policyholders as soon as possible, but no later than 120 days from the date of the bulletin (which will be August 11, 2020). This directive applies to the following lines of insurance:

- Private passenger automobile
- Commercial automobile
- Workers' compensation
- Commercial multi-peril
- Commercial liability
- Medical malpractice
- Any other line of coverage where the risk has become substantially overstated as a result of the pandemic.

Recognizing the unique nature of each insurer's policyholder book of business and insurance coverage offered, we directed each insurance company to propose the best way from them to immediately return premium to policyholders.

My Department will validate these rebates to make sure they accurately reflect the reduced risk and you are not being short-changed.

Many businesses are still experiencing reduced payrolls and reduced risk of loss. That is why I extended my order for premium relief for businesses to include June and beyond -- as long as we are seeing reduced risk.

In addition, I issued emergency regulations regarding workers' compensation insurance that are consistent with my order for premium relief.

Question 4: I do not have medical insurance and I want to get tested, do I have to pay to get tested and pay for the treatment of COVID-19?

CA Insurance Commissioner Lara: One of my first actions in response to the crisis was to eliminate cost-sharing for COVID-19 testing -- Governor Gavin Newsom and I directed insurance companies to eliminate co-pays, deductibles and other costs related to screening and testing for COVID-19. As we expand testing and get people back to work that will be increasingly important.

I also supported Covered California's declaration of a special enrollment period to facilitate the ability of Californians who have lost their job to enroll in individual coverage through Covered California. As of June 5th, more than 155,000 consumers have signed up for coverage through Covered California since it launched a special enrollment period in response to the COVID-19 pandemic on March 20th.

Depending on their income, they may receive substantial subsidies to make health insurance affordable during this difficult time.

It's also important for Californians to remember that, if their income is substantially reduced, they may qualify for low-cost or no-cost Medi-Cal coverage.

Question 5: The federal government has just announced the re-opening of the Paycheck Protection Program (PPP), which lets businesses get direct government subsidies for payroll, rent, and other costs. Small businesses have until August 8, 2020 to apply for assistance. After August 8th and with the continued rise in COVID cases, is the federal government going to provide more assistance to small businesses?

Michael Daniels, Regional Director:

- If you have not applied for PPP, figure out if it is right for your business.
- Great opportunity for a forgivable loan for a lot of people
- It also turns into a loan at 1% which is an amazing rate
- We are hearing a lot of back and forth between another round of PPP or a whole third type of program, might find out in august
- There are 100 billion dollars left in PPP... under applied
- If this is something you are thinking of reach out to Mike Daniels at (951) 781-2345

Question 6: How will COVID-19 affect workers' compensation insurance for companies?

CA Insurance Commissioner Lara: Workers compensation insurers cannot exclude COVID-19 from their coverage.

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.

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.

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.

The order applies to all workers, whether or not they are deemed “essential.”

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.

The presumption will stay in place until July 5, unless Governor Newsom extends his executive order.

It will take some time to see the impact of COVID-19 on our workers’ compensation 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.

And, on June 17 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 April 13 and May 15, Bulletins, and will result in savings for many policyholders as businesses.

Under these emergency regulations, employers are permitted to reclassify an employee if the employee’s duties have changed to a clerical classification, reflecting that employee’s lower risk of injury when compared to the employee’s previous classification.

This reclassification will reduce the employer’s premiums for employees who are a lower risk because they are now working from home even though they may not have previously done so.

This change would be retroactive to March 19, 2020, the first day of the Governor’s statewide stay-at-home order and conclude 60 days after the order is lifted.

These emergency regulations also will lower premiums for some employers by excluding from premium calculations the payments made to an employee, including sick or family leave, while the employee is not performing duties of any kind for the employer.

Typically, these payments would be used as a basis for the employer’s workers’ compensation premium. This change will lower the employer’s rate by reducing the amount of payroll assessed, and the employer will not pay premium for paid workers who are otherwise being furloughed.

These new regulations also excludes claims related to a COVID-19 diagnosis from being included in future rate calculations so that employers are not penalized with higher rates due to COVID-19 claims.

I have also adopted rules that will permit my statistical agent to collect COVID-19 related claims data so that I can continue to monitor the overall effect of this pandemic on the workers’ compensation market.

Question 7: I am a small business owner and interested in expanding my business during this pandemic. Although I need assistance for equipment, I also need assistance to pay wages. Does the PPP allow for this type of use or is it to just be used for making my company whole from how we been affected from COVID?

Michael Daniels, Regional Director:

- PPP does not allow you to take that money and expand it to another location. It's meant for that single location and to keep your employees and they wouldn't go on unemployment.
- There are other loan programs out there that are available to you, SBA Loan, State of California has their own loan programs.
- People looking to purchase commercial property, and operate at least 51% of that commercial property with their own business there is something called a SBA 504 loan, 10% down fixed rate at 2.5% for 25 years.

Question 8: What is the department doing regarding business interruption insurance complaints? Can insurance agencies ignore business interruption complaints?

CA Insurance Commissioner Lara: If a business has Business Interruption coverage, but their insurance company is telling them that these losses are not covered due to exclusions in their policy, we recommend that you file a formal claim with their insurance company and start creating that paper trail.

Insurance companies are legally required to fairly investigate a claim and formally respond back with their coverage decision and the reason for any denials they may make.

While it is more complicated than this, many commercial policies have exclusions for loss due to contamination by virus and similar perils.

Many policies also require that a loss be caused by direct physical damage or loss to the insured property that results from a cause covered by the policy. These conditions and exclusions do create hurdles to obtaining coverage.

However, we would need to see the entire policy as well as the circumstances applicable to the loss event to know what conditions or exclusion may or may not exist for a particular business.

If a business has not filed a formal claim, it should do so immediately. If the business has filed a formal claim and that claim has been denied, we recommend they file a "Request for Assistance" with my Department by calling us at (800) 927-4357 or through our website at: www.insurance.ca.gov.

While it is true that many commercial policies have provisions that may exclude coverage for business interruption under the circumstances, the CDI will review the claim to ensure that the insurer is properly investigating your claim and following all laws and the provisions in the contract.

Question 9: Our liability insurance will not cover claims related with customers contracting COVID, while engaging with our business. Our business needs certainty that we are not liable for just operating our business, especially when we are making sure we follow CDC recommendations to keep employees and customers safe. What advice or recommendation can you provide us while we operate in this volatile environment?

CA Insurance Commissioner Lara: I am extremely sympathetic to our businesses.

Even when you reopen, businesses are going to need time to recover. And, I know liability due to COVID exposure is a legitimate concern.

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.

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.

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.

As businesses reopen, 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 businesses have the right coverage in place.

If the business is not satisfied with these answers, they should contact our Department at 800-927-4357.

Question 10: Even though I have reduced my driving to nearly zero during the COVID-19 pandemic, my auto insurance premiums have stayed the same. It's my understanding that if an insurance agencies risk has reduced significantly due to stay-at-home orders I should have received a reduction on my insurance premium, but I have not received any such reduction. Are auto insurance agencies mandated to return some of that premium to their customers?

CA Insurance Commissioner Lara: I ordered premium refunds because for many people the risk of accident or loss is much lower due to the statewide stay-at-home order. We are seeing:

- Fewer accidents or injuries on the road
- Falling business payroll and receipts
- Reductions in liability exposure due to the temporary closures

Premium reductions and refunds should reflect that.

The risk has not gone away completely – but my Department will be watching to make sure that the amount insurance companies are returning is adequate, and they are not short-changing our businesses and our consumers.

The amount people get back will vary by company and policy.

In many cases the credit, reduction or refund will be a percentage of premiums for March, April and May as these stay at home rules continue.

This will not be a 100% refund of their premium; the reductions will be tied to the change in risk during the months Californians are subject to "stay at home" orders.

We have already seen a number of insurance companies announce premium refunds, reductions and credits.

Persons who have not received premium relief in spite of a reduction in the covered risks under a policy are strongly encouraged to contact their insurance company.

insurance.ca.gov 800.927.4357

If you are not satisfied with the answers you get or have other questions, please contact us at (800) 927-4357 or through our website at: www.insurance.ca.gov.

Question 11: Are there any resources available to small churches in San Bernardino? Finances have been limited due to closing of the church and COVID-19.

Michael Daniels, Regional Director:

- For nonprofits that is differently a tough one and unfortunately for the Economic disaster loan and PP they wouldn't qualify.
- Helped the County of Orange push out a program where nonprofits were allowed to apply
- What you are going to see is Cities and counties are receiving funding from different buckets...
- There is not a lot of funding for nonprofits unfortunately

Question 12: Because you have been one of California's most effective environmental champions, I would like to know your position on creating public / private partnerships for landfills and taking them from waste to energy via recycling.

CA Insurance Commissioner Lara: I wrote the Super Pollutant Reduction Act, recognizing that Methane is a super pollutant that is thought to be responsible for 20 percent of current climate forcing and setting California's goals to reduce methane emissions by 40% by 2030 are -- the most ambitious in the world.

The Air Resources Board and Department of Agriculture have created incentives for dairies to capture methane and take it out of the air.

The key to this question is whether the air coming out of a waste to energy plant can meet our air quality standards. Ultimately it is up to clean air regulators and the Legislature to determine if this is part of our future strategy.

Additional Resources

Assembly Member Eloise Gómez Reyes, 47th Assembly District

Capitol Office

State Capitol
P.O. Box 942849
Sacramento, CA 94249-0047
Tel: (916) 319-2047

District Office

290 North D Street, Suite 903
San Bernardino, CA 92401
Tel: (909) 381-3238

Satellite Office

By Appointment Only
Tel: (909) 381-3238

Michael Daniels, Inland Empire Small Business Development Center

Regional Director
<https://inlandempiresbdc.org>
(951) 781-2345

Request Assistance with the Department of Insurance:

(800) 927-4357 www.insurance.ca.gov

FAQs and complete PPP information can be found here:

<https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>

Government-backed loan programs are available, including special disaster assistance at the state and federal levels:

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.

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