

# Impact of social distancing on workers' compensation claims

## Frequency of claims — Down or up?

With less work, employers should anticipate a reduction in workers' compensation claims due to fewer employees actively working. However, when employers furlough or lay off employees, an increase in workers' compensation claims may follow, since statutory workers' compensation benefits are usually richer and longer than unemployment benefits. Injuries claimed may be more subjective in nature and often include cumulative trauma cases and occupational disease.

Maintenance firms continue to be called upon to keep facilities cleaned and disinfected. COVID-19 exposure claims should be evaluated on their individual merits to assess compensability as it relates to their employment and the applicable rules within the jurisdiction.

The end result will be a decrease in claim frequency.



Fear of the future can lead employees to exaggerate and sometimes fabricate their workers' compensation claims. Uncertainty around the availability of work in itself may extend the duration of a claim because the injured worker may resist being released to return to work and discharged from care when their ability to earn a living is in doubt.

## Medical treatment is less available

Medical providers are restricting access for treatment due to COVID-19. In addition to abiding by social distancing guidance, medical providers are working through anticipated room capacity availability, along with supply shortages. (Ventilators must be available, if only for backup in the case of any surgery.) The impact results in treatment being delayed.



**TELEHEALTH:** While office workers have been given a crash course on technology to facilitate virtual meetings, telehealth is quickly expanding in an effort to keep up with the current and urgent needs in the workers' compensation arena. Providers in telehealth have expanded services to include rechecks, return-to-work evaluations and physical therapy, which are available in most states. Individuals who may have been reluctant to use telehealth services in the past may be more inclined to use them currently given COVID-19 and social distancing.

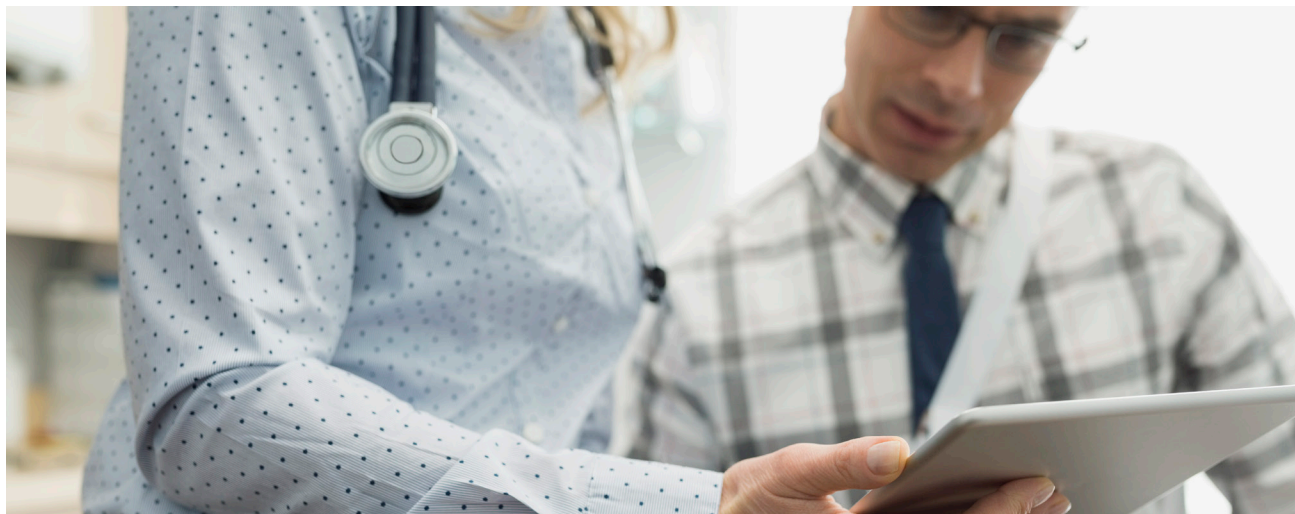
## Indemnity/wage replacement continues

When medical treatment and recovery from work-related injuries are delayed, indemnity (wage replacement) payments continue and will ultimately be greater due to the delays in treatment. These types of delays can result in an increase of workers' compensation total claim cost.

## Return-to-work availability (i.e., light duty/transitional duty)

The ability of employers to accommodate light-duty positions has been impacted to a great degree. When injured workers are removed from light-duty positions, indemnity benefits are reinstated in most jurisdictions. Employer payroll cost of the injured associate working light duty is then shifted back to the workers' compensation claim, increasing the ultimate claim cost.

Further exacerbating the issue is that some jurisdictions require continuation of indemnity benefits to the employee, even after they reach maximum medical improvement and have recovered from the injury, if the employer is unable or unwilling to return them to a similar position at their pre-injury wages. (This circumstance may not impact all employers and is dependent on workers' compensation rules and regulations within each state.)



### Impact on permanent impairment ratings

Permanent impairment ratings assigned in some jurisdictions are intended to reflect the injured workers' post-injury loss of function once the workers reach maximum medical improvement.

Delays in treatment and likelihood that injured workers do not follow physicians' recommendations (e.g., postponing surgery, not caring for their wound or not consistently performing prescribed home exercises) will prolong, complicate and potentially hinder a full recovery, resulting in increased permanency and settlement on the claims.

### Settlements — Slowing or accelerating?

**Slowing:** While workers' compensation commissions in many states are closed for face-to-face hearings, most are still accepting phone conferences and allowing settlements to proceed. That said, they are not hearing as many cases as they would under full capacity.

**Accelerating:** Economically distressed claimants may be more motivated to settle.



**WARNING:** However, since settlements require cash, employers with higher retentions/deductibles concerned about cash flow may not be as eager for resolution of the claim via settlement despite a favorable resolution and lower ultimate cost.

An opportunity exists to accelerate the closure of claims, assuming it agrees with the objectives and present constraints facing the employer.

## Closing

Years from now, we will likely look back at 2020 workers' compensation claim costs and observe a coronavirus spike. Part of this spike will be a function of a shift in the type of placements, and the magnitude of the spike is dependent upon how long it takes to contain the virus, which is driving the duration of the social distancing restrictions.

For now, stay in close contact with your Lockton workers' compensation claim consultants, who can offer support:



Communicating with furloughed or laid off employees.



Leveraging telehealth services.



Approaching settlements during trying times.



Understanding the implications of the challenges you're facing.

## Related resources and articles

- Lockton's Coronavirus Advisory Practice webpage: <https://www.lockton.com/coronavirus>
- National Council on Compensation Insurance (NCCI) "COVID-19 and Workers' compensation: What You Need to Know — Frequently Asked Questions": <https://www.ncci.com/Articles/Pages/Insights-Coronavirus-FAQs.aspx>
- Property & Casualty 360 article titled: "The real impact of COVID-19 on workers' compensation: COVID-19 will impact the workers' compensation industry well beyond claims related to the virus": <https://www.propertycasualty360.com/2020/03/26/the-real-impact-of-covid-19-on-workers-compensation/>
- Risk & Insurance article titled: "COVID-19 and Injured Workers: Telehealth Provides Digital Access to Recovery: As COVID-19 forces business closures, telemedicine programs are stepping up to keep injured worker care on track": <https://riskandinsurance.com/covid-19-no-match-for-injured-workers-telehealth-provides-digital-access-to-recovery/>
- Business Insurance article titled: "Telemedicine offerings to rise with coronavirus quarantine": <https://www.businessinsurance.com/article/20200318/NEWS08/912333584/Telemedicine-offerings-to-rise-with-coronavirus-quarantine-CDC-Ohio-Bureau-of-Wo>
- Gallagher Bassett's interactive map provides guidance to navigate state-by-state issues during the COVID-19 pandemic: <https://links.gallagherbassett.com/covid-19-legal-update-map>
- Sedgwick's Coronavirus preparedness and response: <https://www.sedgwick.com/coronavirus>
- Broadspire's COVID-19 Crisis Support Solution: <https://www.crawco.com/covid-19/broadspire-crisis-support-solution>