

February 27, 2025

To: Excess Workers' Compensation Program Members

From: Gina Dean, CEO

## **Re: EWC Program Stakeholder Communication**

As most of you are aware, the excess workers' compensation environment has its challenges impacting California public entities. As PRISM members begin their budgeting process, I want to take this opportunity to provide some background information on the state of the market and the status of the Excess Workers' Compensation (EWC) Program.

### **Background**

The excess workers' compensation market has its own set of challenges, some similar to excess liability and others unique to the workers' compensation system. While excess workers' compensation continues to be the more stable line of coverage, there are headwinds leading to underwriter concerns. Medical inflation, the aging workforce, workplace violence, life expectancy, mental health exposures, and presumption laws are all contributing to increased claims severity.

Rising medical costs on catastrophic workers' compensation injury claims continue to be a substantial industry concern, creating never-seen-before levels of severity despite the industry's reputation as the most stable property and casualty insurance line.<sup>1</sup>

### ***Increasing Claims from Labor Shortages***

Studies show that high rates of overtime and absenteeism in a workforce can lead to increased claim frequency, which is likely associated with fatigue and over-exertion. This is a growing challenge as employers try to maintain the same productivity levels despite employing fewer people.

### ***Eroding Exclusive Remedy***

Multiple high-profile cases last year involved plaintiffs pursuing civil litigation in workers' compensation matters. This includes workplace shootings, allegations of defamation, and disputes over unpaid medical bills. While exceptions are still rare, there is increasing evidence that the courts are willing to give plaintiffs the opportunity to prove their case rather than dismissing on motion for summary judgment.

### ***Rapidly Growing Aging Workforce***

The number of employees over the age of 65 in the workforce is growing rapidly, and workers over the age of 75 are the fastest-growing group. When injured, older workers tend to have more severe injuries and slower recovery times.

<sup>1</sup>Safety National Carrier Chronicles

### ***Rising Medical Inflation***

Due to fee schedules, medical inflation in workers' compensation tends to lag behind regular inflation. However, many states are adjusting their fee schedules because of the increasing care costs. A growing shortage of medical providers will only make this worse.

### ***Increasing Catastrophic Claims Cost***

While catastrophic injury claims are rare, they are incredibly expensive, and their costs are dramatically increasing. This is driven by higher accident survival rates, higher costs for new medical care, and increased life expectancies for seriously injured workers.

### ***Expanding Mental Health Claims***

Many states have very limited compensability when it comes to mental health claims where no physical injury is involved. Recently, Post-Traumatic Stress Disorder (PTSD) presumption laws have been passed for first responders. Since these are new claims in the workers' compensation system, it will take years to understand their full impact on increasing costs.

As one of the nation's largest excess and high deductible workers' compensation carriers, Safety National's claims over the last six years show that claims at \$2M incurred increased by 91%, and claims with \$10M incurred increased by 183%.

While PRISM has a significant pooling layer with its own challenges, we are also reliant on reinsurers to provide coverage for catastrophic claims. The factors noted above, along with projections and risk modeling results for catastrophic claims, have resulted in rate increases by reinsurers for the past few years. PRISM's Underwriting Committee has been working with Alliant and reinsurers to find creative ways to stabilize costs going forward, but increases are still likely.

### ***What advantages does PRISM have over a stand-alone open market placement?***

PRISM's EWC Program's size is an advantage. The size of the EWC Program creates stability and offers economies of scale that could not be realized without being in a large pool. Because of this, we have been able to secure unique reinsurance agreements largely due to the Program's premium volume and diversification of risk.

The EWC Program offers self-insured retentions well below the market minimum attachments. The market's minimum attachment for entities with law enforcement and/or firefighter exposure is generally \$1M and for all others is \$500k. Of the Program's 180 members, 75% have a self-insured retention of \$500k or less.

Pools have an advantage in challenging markets. If we have learned from history, we know that JPAs (self-insured pools) have benefited members in turbulent markets. All members benefit from our flexibility, economies of scale, our leverage in the insurance markets, and our sharing of best practices to help manage risk. Pooling also provides

<sup>1</sup>Safety National Carrier Chronicles

stability for the members when one might experience adverse loss development when compared to an individual self-insured bearing the costs alone. This can also be beneficial with your organization's budget year-over-year with more consistent funding expectations, versus having to fund unexpected loss developments.

### **What you can do to manage your risk**

One of the most impactful ways to control costs is to close your claims via Compromise and Release (C&R). PRISM's Data Scientist conducted a study on claims closed via C&R versus via Stipulated Awards. Findings indicated a 30%-60% lower loss ratio for members with a high C&R culture compared to those who do not. We've heard members say they don't settle by C&R if the injured worker is still employed by the entity because they might file a new claim. We found no evidence of that sort of trend. In fact, the only trend we could point to is that not utilizing a C&R ultimately costs more money. Read PRISM's [Wavelength](#) for more details on the study.

Another way to mitigate your risk is to prevent the injury from happening in the first place. PRISM Risk Control wants you to know that you are not alone while managing the multitude of risks facing your agency. Our team of specialists is here to help, whether by providing direct consultation or connecting you with one of our trusted partners. There are over 40 master service agreements for members to take advantage of, so see our [Quick Start Guide](#) for reference. Regardless of the topic, we encourage you to reach out to the Risk Control team for assistance with your organization's risk management challenges.

Following are a few services and resources specific to your workers' compensation risk that we think you should take advantage of:

- Returning employees to work early in the life of a claim can be one of the most effective cost-control techniques available, while also improving employee morale and aiding in the employee's ultimate recovery from their injury. PRISM has partnered with [Norm Peterson and Associates](#) to offer a discounted rate on return to work services.
- The [Workplace Violence Prevention](#) guide describes methods public agency employers can adopt to both prevent and protect employees from workplace violence, as well as protect the members of the public they interact with.
- [Safety Talks: A Tailgate/Toolbox Resource](#) is a selection of safety meeting topics which may be used to plan safety meetings. The guide includes over 200 topics to choose from such as: safe driving, portable ladders, working safely, hazard communication, and emergency preparedness.
- PRISM has partnered with [Company Nurse](#), a first call, first reporting system that provides both a medical needs triage at the time of injury and a means of completing the first report documents for the member. As a result, more injuries are designated as first-aid, while others are immediately directed to the appropriate level of medical care.

To assist members with providing this message to your stakeholders, attached is a one-page information sheet that summarizes much of this material. We are prepared to also have individual calls/meetings with members who may want assistance in preparing communications to their stakeholders. In the meantime, myself and the rest of the PRISM and Alliant staff stand ready to answer questions and assist any way that we are able.

As previously noted, the collective financial strength, expertise, and resources continue to make PRISM the best solution even, and perhaps especially, through these hard market conditions.

Please don't hesitate to reach out to us for assistance.

Sincerely,

A handwritten signature in black ink that reads "Gina Dean". The signature is written in a cursive, flowing style.

Gina Dean

JANUARY 2025



# EXCESS WORKERS' COMPENSATION PROGRAM: STATE OF THE MARKET

Empowering PRISM Members



The Excess Workers' Compensation (EWC) market has its own set of problematic issues to hurdle, some similar to the excess liability programs, and others unique to the workers' compensation system.

## EWC Market:

1. Is the more stable line of coverage compared to excess liability and property.
2. Disruptions to the workers' compensation environment include:
  - Aging workforce
  - Medical inflation
  - Presumptions (cancer, heart, PTSD)
  - COVID-19 pandemic
  - Rising catastrophic claims
  - Home health care
  - Skilled care facilities
  - Workplace Violence

According to Safety National:

- Over the last six years claims at \$2 million incurred increased by 91%, and claims with \$10 million incurred increased by 138%.

## Power of Pooling:

- Advantages and benefits in challenging and turbulent markets.
- Ability to leverage the insurance markets with our flexibility and economies of scale.
- Provides stability to members for individual adverse loss development.
- Beneficial to member's budget with more consistent funding expectations vs. funding unexpected losses throughout the year.

## Catastrophic Claims

### Major Impact on the EWC Market

1. Accident Survivability: Increased due to better care on the scene, air ambulances, Level 1 trauma centers.
2. Life Expectancy: Increased due to improved medical science used to prevent complications associated with burns or quadriplegia.
3. Medical Advances: Improved outcomes and quality of life.

With the common goal of optimal recovery, this often results in significant costs, along with changes to projections, risk modeling, and reinsurance market.

# Top 5 Ways to Manage Your Risk

## C&R!

### PRISM's Data Scientist Study:

- Members with a high C&R culture indicate a 30% - 60% lower loss ratio, compared to those who do not.
- Myths: If they are still working, they will file another claim. False. The study showed no evidence of a high recidivism rate.

## Return to Work

### Early Return to Work Benefits:

- Cost effective
- Improves employee morale
- Improves outcome of ultimate recovery from injury

## Company Nurse

### Injury Reporting/Triage:

- First call/reporting system
- Medical triage
- Directed to appropriate medical care, if indicated

## PRISM Risk Control Services

### PRISM Team

- Direct consultation
- Coordination with one of our trusted partners for services

## Safety Talks:

### A tailgate/Toolbox Resource

### Guide Includes:

- Selection of safety meeting topics
- Over 200 topics

