

**Discussion of any limitations that may have had a substantive impact on the unpaid claims estimates included in the filing as noted in the Statement of Principles Regarding Property and Casualty Unpaid Claims Estimates promulgated by the Casualty Actuarial Society regarding the PCRB's April 1, 2020 Loss Cost Filing.**

### **Introduction**

Since the submission of the April 1, 2015 loss cost filing, the Casualty Actuarial Society revised the Statement of Principles Regarding Property and Casualty Loss and Loss Adjustment Expense Reserves. As part of subsequent loss cost filings, the PCRB offered a discussion of limitations that may have a substantive impact on the unpaid claims estimates included in the filing as noted in the Statement of Principles Regarding Property and Casualty Unpaid Claims Estimates promulgated by the Casualty Actuarial Society. The April 1, 2020 loss cost filing likewise includes such a discussion.

The PCRB notes that the estimates for unpaid claims included in the referenced filing are inherently uncertain. This uncertainty stems from a dependence of the amount of future claims payments on facts and circumstances that are unknown at this time. The PCRB believes that the following additional limitations may also apply.

### **Aggregate Data**

The PCRB's filing contains data and information for the combined experience of carriers in the PCRB's database. The policy year data valued as of December 31, 2018 used to calculate the overall loss cost indication in the April 1, 2020 filing was based on a majority of companies in the PCRB's database. The total Pennsylvania workers compensation market share of those companies was approximately 97.0%. This compared to market shares of 94.0%, 94.0% and 98.4% in the April 1, 2019, January 1, 2019 Interim and April 1, 2018 loss cost filings, respectively. Not all companies' financial call data is used in the filing due to data quality issues or because certain companies/groups did not submit financial calls to the PCRB.

As noted elsewhere in this filing, a member's financial data containing issues noted in previous filings has again been excluded for valuation dates December 31, 2016, December 31, 2017, and December 31, 2018. However, the member's unit statistical data was included in this filing as with previous filings.

Data by carrier or insured is not disclosed in the filing to protect the proprietary and trade secret information of these entities. However, the PCRB acknowledges that the experience of the PCRB's individual member companies or insureds may be different (or may be perceived to be different) from the aggregate experience of the PCRB's total membership.

### **Pennsylvania Supreme Court ruling in *Protz v. WCAB (Derry Area School District)***

On June 20, 2017, the Pennsylvania Supreme Court issued its decision in *Protz v. WCAB (Derry Area School District)*, Nos 6 WAP 2016, 7 WAP 2017, holding that Section 306(a.2) of the Workers' Compensation Act (77 P.S. § 511.2) is an unconstitutional delegation of legislative authority. The Court concluded that the entirety of Section 306(a.2) was unconstitutional. Specifically, the Court upheld the Commonwealth Court order declaring that the portion of the Act requiring physicians to apply the methodology set forth in "the most recent edition" of the American Medical Association *Guides to the Evaluation of Permanent Impairment* violates the constitutional requirement that all legislative power "be vested in a General Assembly which shall consist of a Senate and a House of Representatives."

The PCRB performed an analysis of this Supreme Court ruling that resulted in an overall proposed increase to Pennsylvania loss costs of 6.06 percent (see PCRB Proposal C-369). A factor of 1.1337 was applied to indemnity losses in this filing's loss cost indication based on the analysis in Proposal C-369. Proposal C-369 did not contain an impact on medical losses.

### **House Bill 1840 of 2017 (HB1840)**

As noted above, in the Protz decision, the Pennsylvania Supreme Court concluded that the entirety of Section 306(a.2) was unconstitutional. This meant that the criteria related to an employee's impairment

rating was no longer available to determine whether an employee was considered totally disabled and could receive total disability compensation benefits. HB1840 reinstated the use of impairment rating evaluations in determining whether an injury was classified as Permanent Total or Permanent Partial. However, the impairment threshold percentage to determine permanent disability was reduced from 50% to 35% as a result of the legislation.

Further, the legislation increased the burial benefits for claimants from \$3,000 to \$7,000. When an employee in Pennsylvania dies from a work-related illness or injury, the employee's spouse, children, and other dependents may be eligible for death benefits under the state's workers compensation laws. Pennsylvania workers compensation insurance includes burial benefits as part of its death benefits, and, under the new law, pays the family of an eligible worker up to a \$7,000 burial benefit.

The PCRB performed an analysis of HB1840 that yielded an overall proposed decrease to Pennsylvania loss costs of 5.24 percent (see PCRB Proposal C-373). A factor of 0.8961 was applied to indemnity losses in this filing's loss cost indication based on the analysis in Proposal C-373. Similar to the Protz filing, Proposal C-373 contained no impact to medical losses.