Manage Your EMR:
Why Ex Mods Are A Poor Safety Measurement And What You Can Do About It!

The EMR (Workers Compensation Insurance Experience Modification Rating) continues to be used to evaluate safety performance. This session explores the background of the EMR and why the EMR is a poor safety management metric. Since vendors and subcontractors are evaluated by the EMR, key steps in managing the process are outlined.

1. EMR
   A. What is an EMR? How does it work?
   B. Experience Rating and Workers Compensation

2. EMR A Poor Measure of Safety “Performance”
   A. Contractor Prequalification
   B. OSHA Enforcement
   C. Insurance Underwriting

3. Problems with the EMR System
   A. Variations in state programs
   B. Self-Insured Employers
   C. Discrimination Against Smaller Employers
   D. Trailing Indicator

4. Manage Your EMR
   A. Process Goal:
      Reduce actual losses, Increase expected losses
   B. Employer Controls
   C. Workers Compensation Claims Management
   D. Workers Compensation Payroll Management

5. Alternatives to the EMR For Safety Evaluation
   A. Leading Indicators
   B. Management Systems
Top Ten Ways to Manage Experience Modification Rates (EMR)

1. Continue safety and injury prevention efforts. Educate all managers and supervisors that the injury prevented today will save their employer money for four or more years into the future. Make your IIPP a real program.

2. Consider working with an insurance agent/broker or independent claims expert.

3. Get the workers’ compensation EMR worksheet from your insurance broker/agent or the Workers Compensation Insurance Rating Bureau (WCIRB) or the National Council on Compensation Insurance (NCCI). Verify all data, payroll amounts and claims data. Make sure that all of the claims on your list are in fact your claims.

4. Conduct regular claim reviews. Encourage claim adjusters to close files prior to the unit statistical filing (unit stat) six months after the expiration of each workers’ compensation policy. These are the numbers used to calculate future experience modification factors. Work closely with your insurance claims administrator and facilitate communication.

5. Verify unit stat data prior to filing. Claims experts state errors are common.

6. Project future EMRs and use in budgeting. Make certain that your budgets and financial projections will be accurate in the future.

7. Provide modified work for all injured employees to eliminate lost time or disability claims. Be creative about what a person can do, rather than what they can’t do. Make it real work not “make work”.

8. Improve triage of injuries at the worksite. Do more first aid, either with employees or a mobile first aid service. Use first aid claim payment programs allowed under the California Labor Code. Do not hide claims or fail to report medical treatment or lost time cases as required.

9. Pursue subrogation (or where the employer ‘stands in the shoes of others’ legally), particularly in vehicle and product liability claims. Make sure that any dollar recoveries are credited to the claim file as soon as possible. Calculate re-ratings on old policies and get refunds as permitted.

10. If your EMR is greater than 1.25, prepare for possible review by the Cal OSHA high hazard employer program. Conduct an internal safety management systems review, and implement feasible improvements. Consider the use of the Cal/OSHA consultation service in advance of a compliance inspection.
Manage Your Experience Modification Rate

Why the Ex Mod is a Poor Safety Measure and What you Can Do About It

Average View Of Insurance

Actual
What Is The EMR?
- Workers Compensation Experience Modification Rate

Other Names:
- EMF: Experience Modification Factor
- Mod
- Mod Factor
- Mod Rate
- Ex Mod

EMR

\[
\text{Actual Losses} \div \text{Expected Losses} = \text{EMR}
\]

EMR Used To Measure Safety Performance
- Contractor Prequalification
- OSHA Enforcement
- Insurance Underwriting
Workers Compensation Basics

- Established in 1914 in California
- Others states 1910s
- Social Insurance Program
  - Employee Injuries and Illnesses
  - Arising out of employment (AOE)
  - In the course of employment (COE)

Workers Comp Elements

- No Fault
  - The original no fault insurance
- Exclusive Remedy
- Mandatory (with some Exceptions)
- All states plus federal programs

Workers Compensation Benefits

- Medical
  - Lifetime
- Indemnity
  - Temporary disability
  - Permanent disability
- Vocational Rehabilitation
- Death
Workers Compensation Pricing

- Classification
- Type of work exposures
- Rates
- Expected losses by class
- "Manual" rate

Experience Modification Rate (EMR)

- "Ex Mod" or "Mod"
- Experience Modification Rate
- Actual losses / expected losses
- Average = 1.0 or 100%
- Good: Less than 1.0
- "Bad": Greater than 1.0
- The EMR is a multiplier for premium pricing
- Manual Premium x EMR

Workers Comp Premium

1. Manual premium
   (Rate) times ($100 of Payroll)
2. Apply EMR
3. Standard premium
4. Apply Adjustments
   Discounts/Credits
   Surcharges
5. Estimated Annual Premium
Workers Comp Pricing

- How are rates determined?
  - Vary by State
  - Losses in class vs. payroll (exposure)

- Manual Rating –
  - Also called the “Pure Premium Rate,”
  - Applied to all industries of the same type

Dollars per $100 dollars of payroll

XYZ Contractors

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ABC Contractors

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Why Experience Rating?

- Compensate for variations in WC classifications
- Collect sufficient premium to pay losses
- Provide incentives for safety
- Redistribute Costs Between Employers:
  - Employers with more losses pay more
  - Employers with less losses pay less

How does the mod work?

EMR

\[
\text{Actual Losses} = \text{EMR} = \frac{\text{Expected Losses}}{\text{Actual Losses}}
\]
Actual Losses

- Claims During Rating Period
  - California Plan
  - Claims $1-7000: Actual Value
  - Claims $7000+: Discounted
- Open (Incurred) Amounts
  - Paid plus reserves
  - Usually more than closed
- Closed Amounts
  - Reduced by claim recoveries (Subrogation)

Expected Losses

- Expected = (ELR) (Payroll)
- Expected Loss Rate by Class (ELR)
  - Higher loss classes have higher ELRs
  - Lower loss classes have lower ELRs
- Payroll
  - Premium Audit of concluded policies
  - Recession has decreased payrolls

Who Calculates EMRs?

- California
  - Workers Compensation Insurance Rating Bureau
- Most states use the National Council on Compensation Insurance (NCCI) to collect data and calculate the experience modification factor. NCCI is a private corporation funded by member insurance companies.
- Other State Plans separate from the NCCI: Delaware, Indiana, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Pennsylvania, Texas, and Wisconsin.
Numbers

- Three Years of data - Skipping the most recent policy year
- Claims and payroll
- Submitted by the insurer 6 months after the policy expiration in a unit statistical filing ("unit stat")

Bad Data = Bad Mods
Three Years Completed Experience

Year 1 Year 2 Year 3 Year 4 Year 5 Year 6

EMR in Yr 6

EMR: A Poor Measure of Safety Performance

- High Mod Example
  - Now a Safe Company
  - Losses occurred at least 2 years ago
- Low Mod Example
  - Been lucky
  - Terrible now but losses aren’t in the rating formula yet
Problems with the EMR System

- Variations in state programs
- Self-Insured Employers
- Discrimination Against Smaller Employers
- Trailing Indicator
- Insurance Payroll Auditing
- Insurance claim reserving
- Rating Plan Changes

More Problems With the EMR

- Failed insurance companies
- Late reported claims
- Fraudulent Claims
- Negligence/Liability Claims and workers comp
  - Vehicle accidents
  - Product defect injuries
  - Delayed Subro Recoveries

WCIRB Task Force

- Report issued July 11, 2008
- Recognizes Problems
  - Expected Loss Rates raised mods
- Recommends changes
  - Simplification
  - Educational Outreach

Any Changes will not stop the use of the mod as a qualifier.
**WCIRB Changes in 2010**

- Actual Loss Threshold increased to $7000 from $2000

**WCIRB:**

“A Single $7,000 claim for a small employer could cause the credit experience modification of 90% to jump to 128%.”

[https://wcirbonline.org/wcirb/spotlight/spotlight_2010_07.html](https://wcirbonline.org/wcirb/spotlight/spotlight_2010_07.html)

**Costs in Workers Compensation**

- Medical cost inflation
- Permanent Disability

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**Impact of Experience Rating Formula Changes on 2010 Experience Modifications**

- Percentage Point Change in Modification

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**Life is unfair sometimes**
Manage Your EMR

Process Goal:
- Reduce Actual Losses
- Increase Expected Losses

Employer Controls

Workers Compensation Claims Management
- Actual Losses

Workers Compensation Payroll Management
- Expected Losses

Life Of A Workers Comp Claim

1. Injury/Illness Occurs that is AOE/COE
2. Employer Knowledge
3. Insurance Filing & Set Up
4. Accept or Deny
5. Reserving
6. Pay Benefits and Bills
7. Closure
Work With Your Insurer

- Workers Compensation Insurance Company Org Chart
  - Marketing
  - External (Broker/Agent)
  - Internal (’Direct Writer’)
  - Underwriting
  - Risk Control
  - Safety/Health
  - Loss Control
  - Loss Prevention
  - Claims
  - Premium Audit

- Places coverage with underwriters

- Services Provided
  - Safety
  - Claims Consulting
  - EMR Analysis
  - Premium Audit Review

Work With Your Broker/Agent

- Places coverage with underwriters
- Services Provided

Top 10 Ways to Manage EMR

1. Continue safety efforts – the injury prevented is a claim that does not increase the mod!
2. Work with your broker and/or engage a claims expert
3. Get your mod worksheet every year. Check everything on it
4. Conduct regular claim reviews keeping in mind unit stat deadlines
Top 10 Ways to Manage EMR

5. Verify unit stat filings prior to submittal
6. Project future Ex Mods and use in budgeting
7. Provide modified work for all injured workers. Make it real work not “make work”.
8. Improve triage of injuries at the worksite. Do more first aid, either with employees or a first aid service. Use first aid claim payment programs allowed under CA Law.

Top 10 Ways to Manage EMR

9. Pursue subrogation recoveries and make sure they are credited to claim reserves.
10. If more than 1.25 (125%) prepare for the Cal/OSHA High Hazard Employer Program

So What Should Be Used?

Alternatives to the EMR For Safety Evaluation:

Leading Indicators

Management Systems
Better Metrics to Measure Safety Performance

Activity Based – Measures Processes
Processes are in Control of Individual or Team

*Measure what is done not what happened*

Management Activity Safety Metrics

- IIPP – Documented?
- Employee Safety Meetings – Percent Complete
- Employee Safety Suggestions – Reward Good ideas
- Accident Investigation – Accident Reporting Timing
- Safety Inspections – Percent Complete
- Safety Recognition & Communication Programs
- Modified work – Percent complete. Ratio of LWD:RWD

Figure 1 The OHSMS Model

- Plan
- Do
- Check
- Act

Continual improvement

Hazard risks incidents comp cost lost time

Employee H&S productivity satisfaction image

8.0 Mgmt Review

7.0 Checking & Corrective Action

6.0 Implementation & Operation

5.0 P
DO NOT BREAK THE LAW

☐ Commit Premium Fraud
  ■ Understate/hide payroll
  ■ Deliberate misclassification
☐ Deprive injured workers of benefits
☐ Suppress reporting of compensable injuries to insurers
☐ Lie about your mod
☐ Set up fake companies to obtain a lower mod (Premium Evasion)
☐ Commit knowing illegal acts

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National Council on Compensation Insurance (NCCI) (www.ncci.com)
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Roberts, Karen, “The Structure of and Incentives from Workers Compensation Pricing” in Workplace Injuries and Disease: Prevention and Compensation (Kalamazoo Mt: Upjohn Institute) 2005

Dave Smith & Co Inc

Safety Ergonomics & Risk Control

Dave K Smith, CSP, ARM, REA

www.davesmithco.com
1.925.283.3025
dks@davesmithco.com