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BULLETIN

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California's State Average Weekly Wage (SAWW) rose more than 3.6 percent from $1,164.51 to $1,206.92 in the 12 months ending March 31, 2017, which means California workers' comp claims administrators will need to increase minimum and maximum temporary total disability (TTD) and permanent total disability (PTD) rates for 2018 injuries, as well as several other workers' compensation benefits.

Labor Code §4453(a)(10) ties TTD and PTD rates to the percentage increase in the state average weekly wage (the average weekly wage paid to employees covered by unemployment insurance as reported by the Department of Labor for California for the 12 months ending March 31 of the year preceding the injury). Thus the latest increase in the SAWW announced by the Department of Labor means maximum TTD and PTD rates for accident year (AY) 2018 claims will rise to $1,215.27 per week, up 3.642 percent from the current rate of $1,172.57 per week paid on AY 2017 claims, while the weekly minimum rate will rise from $175.88 to $182.29. The latest SAWW increase will require other workers' comp benefit increases in 2018 as well:

- LC §4661.5 requires that TTD paid two or more years after the date of injury be based on the TTD rate in effect on the date of the payment unless that would reduce the amount paid, so claims administrators will need to increase payments on existing claims that are eligible for more than 104 weeks of TTD. Those include claims involving amputations, severe burns, chronic lung disease or any of nine long-term injuries noted in LC §4656(c)(3), where the injured worker may continue to be paid TTD for up to 240 compensable weeks within 5 years of the date of injury. For example, a worker who suffered an amputation while on the job on July 1, 2016, and who is still receiving TD at the 2016 weekly maximum of $1,128.43, should see that payment bump up to the 2018 maximum of $1,215.27 per week beginning July 1, 2018**,** as long as that rate is justified by their at-injury earnings. Claims organizations also may need to increase TTD payments on claims in which the initial TTD payment was delayed, or was started, stopped, and then resumed, if the injured worker is still eligible for the benefit more than two years after the injury date.

- LC §4659(c) requires cost of living adjustments (COLAs) for workers injured on or after January 1, 2003 who have either a permanent total disability (100 percent PD) or a permanent disability rated at least 70 percent but less than 100 percent, entitling them to a life pension. Thus, effective January 1, 2018, claims administrators will need to make cost of living adjustments to the life pension and permanent total disability payments to these claimants.

- LC §4702(b) requires that unless the Appeals Board has ordered otherwise, death benefit payments "shall be paid in installments in the same manner and amounts as temporary total disability indemnity would have to be made to the employee," so the weekly maximum rate for death benefit installment payments also will increase next January to reflect the new TTD maximum for 2018. Unlike TTD, however, state law sets the minimum weekly rate for death benefit installment payments at $224, so the 2018 TTD minimum of $182.29 per week should not be used to calculate the minimum weekly rate for these death claims.

There are penalties for underpaying benefits, so claims administrators should review all changes in benefit rates with counsel to assure appropriate and accurate adjustments. For reference, the Department of Labor has posted California's SAWW for the year ending March 31, 2016 along with other labor force data at workforcesecurity.doleta.gov/unemploy/content/data_stats/datasum16/DataSum_2016_1.pdf, while the SAWW for the year ending March 31, 2017 is posted at workforcesecurity.doleta.gov/unemploy/content/data_stats/datasum17/DataSum_2017_1.pdf.

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