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**Division of Workers' Compensation preparing balanced approach to SB 863
implementation
Information on all changes will be posted on website**

The Division of Workers' Compensation (DWC) is on target for implementation of Senate Bill 863's effective date of Jan. 1, 2013. The division is taking a balanced approach that will reflect the bill's intention to balance substantial benefit increases to injured workers with efficiencies and cost savings to employers.

Some aspects of SB 863 will become law on Jan. 1, 2013 without any regulatory action. For example, for injuries on or after Jan. 1, 2013, permanent disability indemnity benefits will automatically increase by approximately 30 percent overall. The new minimum rate will be \$160 per week and the new maximum rate will also increase, based on the level of permanent disability indemnity, as follows:

- \$230 per week for PD ratings from 1 to 54 percent
- \$270 per week for PD ratings from 55 to 69 percent
- \$290 per week for PD ratings between 70 and 99 percent.

For injuries on or after Jan. 1, 2014, the new maximum rate will be \$290 per week for all PD levels.

For an injury on or after Jan. 1, 2013 that causes the employee's death, reasonable expenses for the employee's burial will increase up to \$10,000.

Other aspects of SB 863 require implementation through regulations. To meet the Jan. 1, 2013 implementation deadline, DWC's legal staff initiated the emergency rulemaking process overseen by the

Office of Administrative Law (OAL). Regulations required to effectuate the independent medical review process, the independent bill review process, lien activation and lien filing fee payment, qualified medical evaluator changes, supplemental job displacement benefits, and interpreter certification have been submitted to OAL for approval. Each of these emergency regulatory actions will be followed by the full rulemaking process, also overseen by OAL, over the next year.

DWC will continue to make improvements to its website to help stakeholders navigate the changes in the law. Informative content has now been posted that explains the efficiencies brought to the system through the following changes:

[Independent Medical Review \(IMR\)](#)

- For injuries on or after Jan. 1, 2013, and effective July 1, 2013 for all dates of injury, medical treatment disputes will be resolved by physicians through an efficient process known as independent medical review (IMR), rather than through the often cumbersome and costly adjudication system. If utilization review denies, delays or modifies a treating physician's request for a specific course of medical treatment for the reason that the treatment is not medically necessary, the injured employee can ask for a review of that decision by IMR conducted by a physician. The physician review will be expeditious and based upon evidence-based standards to ensure that injured employees receive timely and appropriate medical treatment.

[Independent Bill Review \(IBR\)](#)

- Medical service billing disputes for dates of service on or after Jan. 1, 2013, will be resolved through a non-judicial process of independent bill review (IBR). IBR applies to any medical service bill where the fee is determined by a fee schedule adopted by DWC. If the medical provider disagrees with the amount paid by a claims administrator on a properly documented bill following a second review, he or she can request IBR.

[Lien Filing and Activation fees](#)

- Any initial lien for reasonable medical expenses incurred by or on behalf of the injured employee (*except* disputes subject to independent medical review or independent bill review) and filed on or after Jan. 1, 2013, is subject to a lien filing fee of \$150.

For medical treatment expense lien claims filed before Jan. 1, 2013, a \$100 lien activation fee must be *prior* to filing a Declaration of Readiness to Proceed to request a lien conference or *prior* to appearing at a lien conference. If the \$100 lien activation fee is not paid by Jan. 1, 2014, the lien claim is dismissed as a matter of law.

[Return to Work](#)

SB 863 also brings significant changes regarding injured workers' ability to return to work. Among those changes are:

- The 15% increase or decrease in the permanent disability (PD) rate, based on whether or not the employer was able to offer the employee regular, modified or alternative work has been eliminated for injuries occurring on or after Jan. 1, 2013.
- The [Supplemental Job Displacement Benefit](#) voucher value, which is currently linked to the injured worker's PD rating, will be a fixed amount of \$6,000, regardless of the PD rating, for injuries occurring on or after Jan. 1, 2013.
- Newly-added Labor Code Section 139.48 creates a \$120 million "Return to Work Fund," to be established and administered by the Department of Industrial Relations.

The fund will be available to individuals who are injured at work on or after Jan. 1, 2013 and whose PD benefits are disproportionately low in comparison to their earnings loss. The department will issue proposed regulations regarding the fund in the near future.

We encourage everyone to check the [DWC website](#) for frequent updates on [SB 863](#). Once the first parts of the law are implemented on Jan. 1, 2013, the information will reflect the changes and help stakeholders prepare for the next steps in this important reform package.