

- Policy & Procedure
- Take Note
- Milestones

State of California

DWCNewsline

Division of Workers' Compensation
Carrie Nevans, Administrative Director

1515 Clay Street, 17th floor, Oakland, CA 94612 (510) 286-7100

Internet Web Page: <http://www.dir.ca.gov>

Bulletin No. 28-08

May 9, 2008

Division of Workers' Compensation proposes changes to permanent disability rating schedule

The California Department of Industrial Relations, Division of Workers' Compensation (DWC) is proposing changes to the permanent disability rating schedule (PDRS), which will increase benefits for injured workers by an average of 16 percent. The proposal is contained in draft regulations posted to the DWC online forum at <http://www.dir.ca.gov/Wcjudicial.htm> for review and comment. Comments will be accepted on the forum until Friday, May 23.

“Workers’ compensation reforms require the disability rating schedule to be based on empirical data that ties wage loss to injury type,” said DWC Administrative Director Carrie Nevans. “We’ve been studying how those two factors intersect under the 2005 schedule and now have enough data and analysis to support this increase. We look forward to receiving input on this proposal.”

Under the DWC’s proposal, the future earnings capacity (FEC) multiplier—a key factor in determining benefit amounts received by injured workers—would be adjusted to reflect data on wages lost by workers with specific injury types, such as injuries to the spine, hand and knee. The proposal would increase the FEC range—the total spread of the numeric FEC formula—from the existing range of 1.1 to 1.4 to a new range of 1.2 to 1.5, reflecting DWC’s updated wage loss information. The DWC estimates this change will increase disability ratings—the percentage of disability from which benefit dollars are derived—overall by 12 percent on average.

In addition to increasing the FEC range, injury types would be re-ranked within the range to correlate with wage loss: Injuries with higher wage loss (such as spine or wrist injuries) would receive a greater upward adjustment, while those with lower wage loss (such as knee injuries) would receive less of an upward adjustment.

“This proposal will provide more money in benefits for workers with the highest wage loss,” said Nevans. “This includes increases for some of the most common injuries, like those to the back, wrist, hand and ankle.”

The proposal would also change age adjustment factors in the PDRS to reflect the latest data. Under the current schedule workers below age 37 receive a decrease in their rating and those

over 41 get an increase. This proposal would delete the decrease and only provide an increase for those under age 21 and over age 52.

Permanent disability benefits are paid to injured workers whose injuries result in permanent impairment. SB 899, the workers' compensation reform law of 2004, made several changes to how permanent disability benefits are determined.

First, the method for rating permanent disability was changed to use the American Medical Association (AMA) Guides to Evaluation of Permanent Impairment, which provide objective measurement of disability, resulting in ratings that are more uniform and objective. Use of the objective criteria in the AMA guides also resulted in ratings approximately 40 percent lower than they were under the 1997 rating method.

Second, the underlying goal of the PDRS was changed to compensate workers for their diminished future earning capacity (FEC). The FEC is a numeric formula, based on empirical data linking wage loss to injury type, which adjusts ratings upward from the initial AMA guide rating. The formula is based on how much wage loss is estimated, on average, for a worker with a specific type of injury.

SB 899 also decreased the number of weeks benefits are paid for lesser injuries, increased the weeks for the most serious injuries and changed the way disability is apportioned to ensure the employer is only paying for permanent disability caused by the current work injury.

And the law included return-to-work incentives, which put the focus in the system on getting better and getting back to the job as quickly as possible, which research shows provides the best result for injured workers and employers.

Following adoption of the 2005 PDRS, the DWC gathered 18 months of data on return-to-work and wage loss and conducted a comprehensive study, which showed return-to-work rates are up by about five percent overall, the current FEC in the PDRS needs to be adjusted to reflect empirical data on wage loss and the current age adjustment should be changed to reflect empirical data on wage loss.

The proposed regulations are authorized by Labor Code section 4660 and are posted on the DWC Web site at <http://www.dir.ca.gov/Wcjudicial.htm>. Due to a database problem on the DWC forum server, comments on the proposed regulations must be submitted to the forum via email at dwcrules@dir.ca.gov. The forum moderator will review the comments in accordance with the [comment policy](#) and the comments will be posted to the forum in a document format by the Webmaster each day.

Proposed FEC range and rank chart:

Part of Body	2005 PDRS FEC factor	Average PD rating under 2005 PDRS	FEC 1.1-1.4 Compensation for average rating under 2005 PDRS	<u>Recommended</u> FEC Based on 2000 to 2003 wage loss information	<u>Recommended</u> FEC 1.2-1.5 Average PD rating under recommended 2009 PDRS	<u>Recommended</u> Compensation for average rating under recommended 2009 PDRS

OVERALL	-	18.1	\$15,180	-	20.2	\$17,595
Spine	5	18.3	\$15,410	8	21.8	\$19,435
Shoulder	7	10.8	\$7,693	7	11.3	\$8,153
Elbow	2	6.0	\$4,140	4	6.8	\$4,692
Wrist	4	10.8	\$7,693	8	13.3	\$9,993
Hand	1	6.7	\$4,623	7	8.7	\$6,003
Grip strength	4	13.7	\$10,361	3	14.6	\$11,189
Arm	5	13.6	\$10,269	8	15.6	\$12,305
Hip	5	17.5	\$14,490	5	18.6	\$15,755
Knee	2	9.7	\$6,693	1	10.1	\$7,049
Ankle	2	8.7	\$6,003	8	11.7	\$7,521
Toes	5	4.9	\$3,381	5	5.2	\$3,588
Leg	5	14.1	\$10,729	8	16.6	\$13,455
Hearing	8	14.7	\$11,281	8	15.6	\$12,305
Soft tissue	6	17.9	\$14,950	6	18.6	\$15,755
Heart	5	40.6	\$47,196	5	42.0	\$49,450
Eyes	1	18.2	\$15,295	1	20.2	\$17,595
Pulmonary	7	32.7	\$34,477	7	34.2	\$36,892
Psych	8	32.3	\$33,833	4	31.1	\$31,901
Multiple	-	27.9	\$27,174	-	31.0	\$31,740

###