

## ICIS SAYS...

The Industry Claims Information System (ICIS) currently encompasses transaction-level data on more than 3.5 million California workers' compensation claims contributed by large and mid-sized national and regional insurers and self-insured employers for claims with dates of injury from 1993 through early 2005. The Institute built this data warehouse to meet the changing and expanding research and analysis requirements of the California workers' compensation industry and CWCi members.

The value of data depends on its practical applications. The Institute often relies on ICIS to generate "hard numbers" that can be used to advance the public policy debate on a wide variety of workers' compensation issues and concerns. The following ICIS Says analysis examines the distribution of California workers' compensation temporary disability (TD) claims by payment level, and tracks changes in the proportion of TD claims paid at the minimum weekly rate, between the minimum and the maximum rate, and at the maximum rate following benefit increases in 2003, 2004, and 2005.

## ICIS Says: *Effect of AB 749 TD Increases on 2/3 Wage Replacement*

### California Workers' Compensation Institute

**Background:** California workers' compensation law provides that injured workers who are unable to return to their jobs within three days shall receive temporary disability (TD) payments to help replace their lost wages until they can go back to work. TD benefits, which are tax-free, are generally designed to replace two-thirds of the injured worker's average weekly wage, subject to minimums and maximums set by the state Legislature. From July 1996 through 2002, however, the state made no changes in the California workers' compensation TD rates, even though wages and the cost of living continued to rise. This led to growing concern that fewer workers were receiving the intended 2/3 wage replacement.

In 2002, state lawmakers passed AB 749, which called for a series of temporary disability increases, phased in over three years, after which the minimum and maximum TD payments would be adjusted annually based on increases in the state average weekly wage. The maximum weekly TD payment on claims for injuries that occurred before 2003 had been \$490, with a minimum of \$126 per week or actual wages if less. Beginning with claims for injuries that occurred in 2003, the minimum TD payment was set at \$126 per week, while the weekly maximum rose to \$602. The maximum then increased to \$728 for injuries occurring in 2004, and to \$840 for injuries occurring in 2005.

**Question:** What proportion of California injured workers who are paid temporary disability receive at least 2/3 wage replacement, and how has that proportion changed since the AB 749 TD rate increases took effect in 2003, 2004, and 2005?

**ICIS Data Elements Needed:** Average weekly wage data for California workers' compensation TD claimants from accident years 2002 - 2005.

**Application:** Using the ICIS database, the Institute compiled a sample of 223,305 claims from accident years 2002 through 2005<sup>1</sup> that included temporary disability payments. The data for each claim included the injured workers' average weekly wage at the time of injury, which was used to determine their TD rate. The minimum and maximum TD rates [as established in LC §4453 (a)(7-10)] that were in effect during the 2002 – 2005 study period are noted in Table 1.

Table 1. Calif. WC Minimum & Maximum Avg Weekly Wage & TD Payments AY 2002–2005

	2002	2003	2004	2005
<b>Avg Weekly Wage Minimum</b>	\$189 or 1.5 x AWW from all ERs	\$189	\$189	\$189
<b>Minimum Weekly TD Pmt</b>	\$126 or actual wages if less	\$126	\$126	\$126
<b>Avg Weekly Wage Maximum</b>	\$735	\$903	\$1,092	\$1,260
<b>Maximum Weekly TD Pmt</b>	\$490	\$602	\$728	\$840

The Institute compared the TD rates for claims in the sample to the applicable minimum and maximum rates to determine the percentage of claims from each accident year that were paid at the minimum TD rate, the maximum TD rate, or somewhere in between (Table 2).

**Results:** In accident year 2002, California's maximum temporary disability rate stood at \$490 a week, which provided about 80 percent of TD claimants with at least 2/3 of their average weekly wage. However, by 2005, after three consecutive benefit hikes, the maximum TD rate had increased to \$840 per week, and more than 97 percent of TD claimants in California received at least 2/3 of their average weekly wage in temporary disability payments.

Table 2. Distribution of Calif. WC TD Claims By TD Payment Level, AY 2002 – 1Q 2005

	2002	2003	2004	1Q 2005
<b>% Paid at Minimum TD Rate*</b>	5.8%	5.5%	6.7%	4.7%
<b>% Paid &gt; Minimum and &lt; Maximum*</b>	74.1%	82.3%	87.1%	92.4%
<b>% Paid at Maximum TD Payment</b>	20.1%	12.2%	6.2%	2.9%
<b>Grand Total</b>	100.0%	100.0%	100.0%	100.0%

\* claimants received at least 2/3 wage replacement through TD

To get a more detailed picture of the distribution of TD payments among various levels of wage earners, and what, if any changes in the distributions occurred following the benefit increases, the Institute grouped the claims into eight categories. These categories ranged from those claims requiring less than \$200 per week to replace 2/3 of the injured workers' average weekly wage (i.e., average weekly wages of less than \$300) to those requiring \$800 or more per week (i.e., average weekly wages of more than \$1200). Table 3 shows the distributions by accident year.

<sup>1</sup> 2005 data was limited to claims from the first quarter of the year, the most recent data available at the time of the analysis.

**Table 3. Distribution of Calif. WC TD Claims by 2/3 Wage Replacement Amount**

Claimant's At Injury Average Weekly Wage	2/3 weekly wage replacement =	% of CLAIMS			
		2002	2003	2004	1Q 2005
<\$300	<\$200	20.4%	19.7%	19.3%	16.4%
\$300-449	\$200-299	29.2%	29.1%	29.3%	29.9%
\$450-599	\$300-399	18.1%	18.1%	18.7%	19.0%
\$600-749	\$400-499	13.2%	13.1%	13.3%	14.5%
\$750-899	\$500-599	7.9%	7.7%	7.5%	8.3%
\$900-1049	\$600-699	4.9%	5.3%	5.0%	5.8%
\$1050-1199	\$700-799	2.7%	2.8%	2.6%	2.3%
\$1200+	\$800+	3.6%	4.2%	4.4%	3.9%
	<b>Grand Total</b>	100%	100%	100%	100%
<b>State Avg Weekly Wage (U.S. Dept. of Labor)*</b>		\$794.95	\$790.50	\$806.11	\$838.42

\*state avg weekly wage as of March 31 of the calendar year. This figure is used to compute TD rates for injuries o/a 1/1/06 per LC §4453(a)(10)

The distributions based on injured worker wages and their 2/3 wage replacement rates were remarkably stable between 2002 and 2005. This result tracks with U.S. Department of Labor data that show only minor changes in the state's average weekly wage during this period. Table 3 also reveals that most TD claimants in California earn less than the state average weekly wage, which ranged from a low of \$790.50 in 2003 to a high of \$838.42 in 2005. For example, across each of the four years studied, two out of every three temporary disability claimants in California had earnings of less than \$600 per week, and thus received at least two-thirds wage replacement with weekly TD payments of less than \$400.

Because AB 749 tied the minimum and maximum earnings used to calculate TD payments to annual increases in the state average weekly wage, future TD rates will automatically increase along with wages. On the other hand, should the state average weekly wage decline, as it did in 2003, the TD rates will not change. As a result, barring an influx of disabling injuries among higher-income workers, the proportion of TD claimants receiving at least 2/3 wage replacement should remain close to the very high level noted in 2005.

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