

Temporary Disability Outcomes in California Workers' Compensation

Accident Years 2002 – 2008

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BACKGROUND

California workers' compensation temporary disability benefits are paid at a weekly rate during the time when a physician determines that an injured worker is unable to work due to injury, but anticipates that the worker's condition will improve with medical treatment. The compensation rate is set at two-thirds (66 percent) of the employee's gross earnings, subject to minimum and maximum amounts set by law. For injuries occurring in 2000 and 2001, the maximum rate was \$490 per week, but in 2002, state lawmakers enacted reform legislation increasing the maximum TD rate over three years. After that, the maximum weekly TD rate on claims for injuries occurring in 2006 was set at \$840 or the state average weekly wage (SAWW), and each year thereafter the minimum and maximum TD rates were tied to the percentage increases in the SAWW. For claims involving 2010 injuries, the maximum weekly temporary disability rate is \$986.69 per week.

In addition to the increases in the TD rates, reforms enacted within the last decade also revised the caps on the duration of TD. Prior to April 2004, California law capped temporary partial disability (TPD) payments for single injury claims at a maximum of 240 compensable weeks within five years from the date of injury. In 2004, SB 899 amended California Labor Code Section 4656 to expand the cap to encompass temporary total disability (TTD) payments and to revise the time limit to 104 weeks of paid temporary disability within two years of the first TD payment date. SB 899 allowed an exception for specified injuries that usually require extended medical treatment and recuperation including hepatitis, amputations, severe burns and others. These specific types of injuries are eligible for 240 weeks of TD payments within 5 years of the date of injury.

In 2007, Governor Schwarzenegger signed AB 338, once again modifying the TD cap for most injuries. The revised cap applies to all claims with dates of injury on or after January 1, 2008 and allows TD payments to continue for up to a maximum of 104 compensable weeks within five years of the injury date. The effect of AB 338's extension of the time frame in which TD benefits can be paid is beyond the scope of this analysis. In a previous report, CWC estimated that AB 338 will increase California workers' compensation TD costs by an estimated 6.5 percent.¹

This report is the third in a series of research studies to measure temporary disability outcomes following the enactment of SB 899. The first study, published in 2008, examined claims with dates of injury through June 2006. That report showed that temporary disability reform was associated with lower average TD payments, fewer paid TD days and fewer

1 Comparison of SB 899 and AB 338 2-Year Temporary Disability Caps, CWC Bulletin, November 9, 2007

claims involving injuries that are exempt from the 2-year cap on TD payments.² In 2009, CWCI extended the analysis to include claims with dates of injury through December 2007. The second report showed that TD reform continued to be associated with lower average TD payments and shorter TD duration, that there was no material change in the proportion of claims exempt from the 2-year cap and that there were fewer non-exempt claims with TD payments beyond the 2-year cap.³ This report extends the analysis of temporary disability to claims with dates of injury through March 2008.

DATA AND METHODS

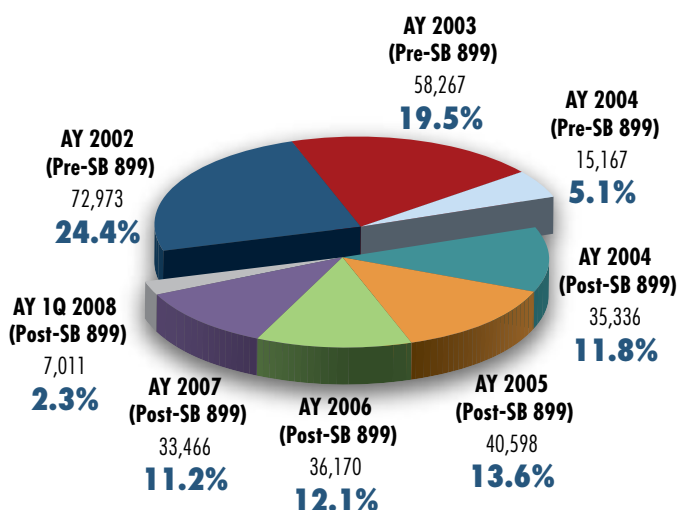
In order to analyze the association between the statutory TD reforms and changes in outcomes on TD payments and duration, the authors compiled data on TD payments and other key data on injured workers from CWCI's Industry Claim Information System (ICIS).⁴ The sample included 298,988 California workers' compensation temporary disability claims with January 2002 through March 2008 dates of injury. The ICIS data contained policy and claim detail, including the dates of all disability payments, accumulated temporary disability payments and associated disability days. The final data sets used in this study allowed the authors to calculate:

- 1) the average TD dollars paid per claim;
- 2) the average number of paid TD days; and
- 3) the average number of days from the first to the final TD payment, which was used to determine the percentage of claims with more than two years of TD payments.

To control for the statutory increases in TD benefit levels that occurred from 2002 through 2009, the authors adjusted all TD payments in the study sample to 2009 levels.⁵ Each claim in the study was assigned to one of two subsamples (pre-SB 899 or post-SB 899) based on the month and year of the injury.

Chart 1 shows the distribution of the pre- and post-SB 899 TD claims used in the analysis by accident year.

Chart 1: Distribution of TD Claims by Date of Injury
Pre- vs. Post-SB 899



RESULTS

Table 1 shows the average adjusted TD payments and the average number of paid TD days at 12 and 24 months after the first payment for each of the years in the study.

Table 1: Percent Difference in Pre- and Post-Reform Temporary Disability Payments and Paid Temporary Disability Days

Accident Year	Average Adjusted TD Payments		Paid TD Days	
	12 Months	24 Months	12 Months	24 Months
Pre-SB 899				
2002	\$6,514	\$8,609	97.5	121.4
2003	\$5,825	\$8,173	101.9	130.6
2004 (Jan 1 – Apr 19)	\$6,245	\$8,226	111.8	135.3
Pre-SB 899 Subtotal	\$6,212	\$8,396	100.7	129.0
Post-SB 899				
2004 (Apr 19 – Dec 31)	\$5,897	\$7,717	93.0	125.4
2005	\$5,611	\$7,690	88.6	125.8
2006	\$5,964	\$8,174	93.3	131.9
2007	\$5,903	\$7,827	94.0	128.7
2008	\$5,838		94.1	
Post-SB 899 Subtotal	\$5,836	\$7,707	92.3	125.8
Post-SB 899 Difference	-6.1%	-8.2%	-8.3%	-2.5%

2 Analysis of California Workers' Compensation Reforms Part 2: Temporary Disability Outcomes Accident Years 2002 – 2006 Claims Experience. CWCI Research Update, January 2008

3 Reform Monitoring Series Part 3: Temporary Disability Outcomes Accident Years 2002 – 2007 Claims Experience. CWCI Research Update, January 2009

4 ICIS is a proprietary database maintained by the California Workers' Compensation Institute that contains detailed information, including employer and employee characteristics, medical service information, and benefit and other administrative cost information on more than 3 million workplace injuries with dates of injury between 1993 and 2009 (v11A). The datasets were evaluated as representative of the California insured population of injured workers (58.1 percent of the insured market in 2008).

5 Factors used to adjust average TD benefits to the AY 2009 level were: 2002 – 1.147, 2003 – 1.065, 2004 – 1.043, 2005 – 1.028, 2006 – 1.018, 2007 – 1.012, 2008 – 1.005, 2009 – 1.000 (WCIRB, 2010)

After adjusting for statutory benefit increases, the average amount paid in TD benefits in the first 12 months following the initial payment fell 6.1 percent under the reforms (from \$6,212 to \$5,836), while at the 24-month benchmark, the average paid in TD fell 8.2 percent (from \$8,396 to \$7,707). The average number of TD days at the 12-month valuation decreased by 8.3 percent after reform (from 100.7 days to 92.3 days), while at the 24-month valuation the average number of TD days fell 2.5 percent (from 129.0 days to 125.8 days).

Comparing the payment data from the post-reform start and end points shows the average amount of TD paid at 12 months post injury was virtually unchanged (from \$5,897 on AY 2004 claims to \$5,836 on AY 2008 claims), while the average amount of TD paid at the 24-month benchmark rose only 1.4 percent (from \$7,717 on AY 2004 claims to \$7,827 on AY 2007 claims). The average amount of TD paid did increase 6.3 percent between AY 2005 and AY 2006, with first-year TD payments rising from \$5,611 to \$5,964 and TD payments at 24 months rising from \$7,690 to \$8,174, but that uptick was short-lived, with average adjusted TD payments declining in the subsequent accident years.

As noted earlier, SB 899 included an exception to the two-year cap for specific injuries⁶ that can require extended medical treatment including amputation, burns, eye burns, eye injury, hepatitis, HIV, lung disease and pulmonary fibrosis. Table 2 shows the percentage of claims that fall into these exempt injury categories in the pre- and post-reform years.

Table 2: Distribution of Temporary Disability Claims Exempt from the 2-Year Cap

Exempt Categories	Pre-SB 899	Post-SB 899
Amputation	1.8%	2.0%
Burns	1.3%	1.5%
Eye Burns	0.1%	0.1%
Eye Injury	0.6%	0.7%
Hepatitis	0.1%	0.2%
HIV	0.0%	0.0%
Lung Disease	1.0%	1.2%
Pulmonary Fibrosis	0.1%	0.1%
Sub-total: Exempt	5.1%	5.8%
Non-Exempt	94.9%	94.2%
Total	100%	100%

The percentage of TD claims that are exempt from the 2-year cap increased marginally from 5.1 percent of claims prior to SB 899 to 5.8 percent of claims after SB 899.

Table 3 shows the percent of non-exempt TD claims in which TD benefits were paid beyond two years from the initial TD payment.

Table 3: Non-Exempt Temporary Disability Claims with More Than 2 Years of Temporary Disability Benefit Payments

	Pre-SB 899	Post-SB 899
Less than 2 Years Paid TD Days	93.5%	97.3%
Two Years+ Paid TD Days	6.5%	2.7%
Total	100%	100%

The percent of non-exempt TD claims with payments that extended for more than 104 weeks following the initial TD benefit payment decreased from 6.5 percent prior to SB 899 to 2.7 percent after SB 899. Non-exempt claims with more than two years of TD payments could reflect loss-time payments made for medical exams and/or initial uncertainty over the trigger date for the cap.

SUMMARY

This analysis extends the work of previous studies and shows that SB 899 continues to be associated with lower TD payments and fewer paid TD days. Furthermore, the updated data in this study noted the post-reform increase in average TD payments only occurred between AY 2005 and AY 2006 and did not extend to AY 2007 or AY 2008 claims. This finding indicates a stabilization of TD payment savings resulting from SB 899.

ABOUT CWCI

The California Workers' Compensation Institute, incorporated in 1964, is a private, non-profit organization of insurers and self-insured employers conducting and communicating research and analyses to improve the California workers' compensation system. Institute members include insurers that collectively write more than 87 percent of California workers' compensation direct written premium, as well as many of the largest public and private self-insured employers in the state.

⁶ The list of ICD-9 diagnosis codes used to categorize the exempt categories can be found in Appendix 1.

Appendix A: Exempt Injury Categories and Associated ICD9 Codes		
Exempt Category	Associated ICD-9s	ICD-9 Description
Acute and chronic hepatitis B	070.30	Hepatitis, viral, type B (acute)
	070.20	Hepatitis, viral, type B (acute), with hepatic coma
	V02.61	Hepatitis, viral, type B (acute), with carrier status
	070.32	Hepatitis, viral, type B, chronic
	070.41	Hepatitis, viral, type B, chronic with hepatic coma
Acute and chronic hepatitis C	070.51	Hepatitis, viral, type C (acute)
	070.41	Hepatitis, viral, type C (acute), with hepatic coma
	V02.62	Hepatitis, viral, type C (acute), with carrier status
	070.54	Hepatitis, viral, type C, chronic
	070.44	Hepatitis, viral, type C, chronic with hepatic coma
Amputations	997.6-997.69	Amputation, stump (surgical or posttraumatic), abnormal, painful or with late complication
	885-885.1	Amputation, traumatic, of thumb
	886-886.1	Amputation, traumatic, of other finger
	887-887.7	Amputation, traumatic, of arm and hand
	895-895.1	Amputation, traumatic, of toe
	896-896.3	Amputation, traumatic, of foot
	897-897.7	Amputation, traumatic, of legs
	878-878.9	Amputation, traumatic, of external genitals
	874.9	Amputation, traumatic, of head
Severe burns	940-940.9	Burn confined to eye
	941-941.5*	Burn of face, head or neck
	942-942.5*	Burn of trunk
	943-943.5*	Burn of upper limb, exc. wrist and hand
	944-944.5*	Burn of wrist and/or hand
	945-945.5*	Burn of lower limb
	946-946.5*	Burn of multiple specified sites
	948.2-948.9**	Burn, by extent of body surface
Human immunodeficiency virus (HIV)	949.2-949.5**	Burn, unspecified site
	042	HIV disease
	V08	HIV infection, without overt disease
	079.53	HIV, type 2 disease
High-velocity eye injuries	870.3-870.4	Penetrating wound of orbit of eye
	871-871.9	Open wound of eyeball, with laceration or penetration
	921.3, 921.9	Contusion of eyeball
Chemical burns to the eyes	940-940.9	Chemical burn of eye or eye area
Pulmonary fibrosis	515	Post-inflammatory pulmonary fibrosis



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