

# California Workers' Compensation Institute

# BULLETIN

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An Institute task force has waded through AB 749, the workers' compensation benefit increase bill passed by the legislature and signed by Governor Davis early this year, and developed the attached analysis of the issues and outstanding questions surrounding specific provisions.

The Rating Bureau estimates that after accounting for increased utilization, the benefit increases will add \$1.064 billion (+7 percent) in costs next year, with that amount rising to \$3.455 billion (+22.7 percent) by 2006, when the increases are completely phased in. In signing the measure, the governor said it was basically the same benefit increase he vetoed three years ago, but that provisions in the bill will save \$1.5 billion to help pay for the benefit hikes.

Under the legislation, maximum weekly payments for temporary disability and permanent total disability will jump from the current \$490 to \$602 next January 1, then rise to \$728 in 2004, and \$840 in 2005. As of January 1, 2006, the minimum and maximum rates will be indexed to the annual increase in the state average weekly wage. Weekly permanent partial disability payments will ratchet up over four years as well, with increases varying based on the level of permanent disability. For injuries occurring on or after January 1, 2004, workers with permanent disabilities rated under 20 percent also will receive one extra week of PD payments for each one percent of permanent disability. In addition, beginning in January 2004, life pension benefits for injuries on or after January 1, 2003 will increase annually to reflect increases in the state average weekly wage. Death benefits double from current levels beginning in 2006, and as of January 2003, the parents of a deceased employee will be presumed to be total dependents of the employee and eligible for death benefits, and the system will extend a new \$250,000 benefit payable to the estate of any claimant who has no total or partial dependents.

Beyond the benefit increases, the bill contains several key provisions, many of which the governor says will generate cost savings, including:

- Restricting the primary treating physician presumption of correctness to the personal physician or personal chiropractor predesignated by the injured worker prior to the injury.
- Introduction of fee schedules for pharmaceuticals and outpatient surgery facilities.
- Streamlined approval for Health Care Organizations – state certified medical plans that employ managed care elements, including up to 180 days of employer medical control.
- New rules allowing termination of vocational rehabilitation benefits via settlements of up to \$10,000 for pre-approved, self-directed VR plans.

- A state-sponsored Return-to-Work Program to promote injured workers' early and sustained return to work. The program, slated to begin July 1, 2004 and sunset July 1, 2009, hinges on wage, premium and workplace modification reimbursements from the state's General Fund and cannot be implemented unless lawmakers appropriate funding.
- Creation of a Court Administrator position to develop uniform Appeals Board forms and procedures, establish a priority calendar and manage workers' compensation judges.
- A new state program to target illegally uninsured employers and a doubling of penalties for employers that were illegally uninsured for more than one week of the prior year.
- Replacement of the Loss Control Certification program with an insurer-paid safety and health training and education program at the Commission on Health and Safety and Workers' Compensation, expansion of the scope of loss control services, and creation of a Loss Control Services Coordinator position at the Department of Industrial Relations.

Click the following link <http://www.cwci.org/document.php?file=372.pdf> for access to the full analyses. As the analysis makes clear, the devil is in the details, and implementation of many of the AB 749 provisions will require development of rules and regulations, structural changes to the system, and funding – so the ultimate impact remains difficult to gauge. The Institute will continue to monitor and research issues, costs and practical aspects relating to AB 749 as details emerge, and will conduct a seminar this fall to help the community prepare for the changes that begin next January.

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