

SB 863 Overview



**Department of Industrial Relations
Office of the Director**

- **Permanent Disability Benefits**

- PD benefits will increase overall by 30 percent, by increasing minimum and maximum weekly rates, phased in over a two year period.
- The new rate minimum will be \$160 per week.
- For injuries on or after January 1, 2013, the maximum rates will be \$230 per week for permanent disability ratings less than 55 percent; \$270 for ratings between 55 and 69 percent; and \$290 for ratings between 70 and 99 percent.
- For injuries on or after January 1, 2014, the new maximum rates will be \$290, regardless of the rating.
- Every injured worker's impairment rating will be modified by a factor of 1.4 instead of the current range of FEC factors of 1.1 – 1.4.
- Future earnings capacity is no longer an element of the rating formula.
- Ratings will still be modified for age and occupation.
- Permanent disability add-ons no longer allowed for sleep and sexual disorders. PD add-ons for psychiatric injuries only allowed in cases of "catastrophic" injury or where the injured worker was the victim of or witness to a violent crime. Treatment is still available for these add-on injuries, if necessary.
- *Almaraz/Guzman* rating methodology is still available in appropriate cases.
- Permanent disability benefits will no longer be adjusted up or down 15% based on whether or not the injured worker was offered regular, modified, or alternative work.
- No change in determining permanent total disability under Labor Code Section 4662.

- **Medical Provider Networks (MPNs)**

- Physicians must affirmatively acknowledge their membership in an MPN.
- Rosters of treating physicians must be posted online.
- Medical access assistants must be available to help workers find physicians who can treat them.
- The Division of Workers' Compensation (DWC) will monitor performance and may conduct random audits of MPNs.
- "Stand Alone" MPNs now allowed.
- Employers/carriers will have no liability for treatment, or consequences of treatment, provided by non-MPN doctors unless there has been a determination that the injured worker is permitted to treat outside of the MPN.
- Disputes regarding applicability of MPNs in particular cases will now have to be resolved at Expedited Hearings, when they arise, and not deferred to the end of a case.

- **Designated treating physician**

- Predesignation is now available for all employees with non-industrial group health coverage.
- Chiropractors can no longer act as Primary Treating Physicians once the 24-visit cap is reached.

- **Independent Medical Review**

- Disputes between physician and claims administrator about necessary medical treatment will be resolved through independent medical review (IMR).
- IMR can only be requested by an injured worker after a Utilization Review decision denying, modifying or delaying a treatment request.
- Costs will be borne by the employer/carrier/adjuster.
- The IMR program will be administered by DWC.
- Medical professionals will make medical determinations instead of workers' compensation judges and Qualified or Agreed Medical Evaluators (QME/AME) will no longer opine on treatment disputes.
- Decisions will be issued within weeks instead of months as is the case with the current QME/AME and Expedited Hearing procedure.
- IMR does not apply to cases in which there is a dispute regarding injury AOE/COE, employment, nature and extent of the injury, or anything other than the medical necessity of the proposed treatment.

- **Supplemental Job Displacement Benefits**

- The supplemental job displacement benefit (SJDB) will be offered when the injured worker reached permanent and stationary status and the treating or evaluating physician provides opinions regarding work capacities and limitations and is set at a fixed amount of \$6,000
- Time frame in which an employer must make an offer of regular, modified or alternative work to avoid liability for the SJDB will not begin to run until the physician provides opinions regarding work capacities/limitation.

- **Additional Payment for Injured Workers with Disproportionate Wage Loss**

- Workers whose PD benefits are low compared to their lost earnings may apply for supplemental "Return to Work Fund" benefits to be administered by the Department of Industrial Relations (DIR).

- **Liens**

- \$150 filing fee for new liens as of January 1, 2013, and \$100 activation fee for liens filed prior to that date.
- Liens for which fee has not been paid by January 1, 2014, will be dismissed by operation of law.
- Lines must be filed electronically, and fees may only be paid electronically.
- 18 month statute of limitations for filing liens for dates of service on or after July 1, 2013; three years for dates of service before July 1, 2013.
- Assignments of lien claims only allowed where the original lien holder has gone out of business.

- **Independent Bill Review**

- Disputes regarding the amount billed/paid will be resolved via Independent Bill Review (IBR)
- IBR will be administered by DWC
- IBR costs will be borne by the “losing” party
- IBR is not available in cases in which the necessity of the services for which payment is sought, whether the provider was authorized, or any disputes other than the amount to be paid

- **Qualified/Agreed Medical Evaluators**

- QMEs limited to 10 office locations for performing evaluations
- No chiropractic specialty QME designations
- No requirement that the parties attempt to reach an AME agreement before requesting a QME panel in represented cases, but still must wait 10 days after objecting to a treating physician’s report before requesting the panel
- Spinal surgery second opinion process eliminated

- **Appropriate Fees for Medical and Other Services**

- Medical practitioners will be paid based on the resources required to provide services, using similar criteria as those in Medicare
- Facility fees for ambulatory surgical centers will be reduced
- Fees will be established for copy services, home health care, and interpretation services
- Fee for vocational experts may be based on flat instead of hourly rates
- Double payment for implantable spinal hardware will be eliminated

- **Self-Insured Employers**

- DIR and the Self-Insurers' Security Fund will have increased oversight over self-insured employers

- **Conflict of Interest**

- "Interested parties" (injured worker, employer, carrier, claims administrator, injured worker's attorney, agents or employees of interested parties, and medical services or products suppliers) must disclose financial interests in any entity providing services (document copying, transportation, interpreting, medical services, utilization review, bill review).
- Interested parties other than claims administrators and network providers prohibited from making referrals for services to any entity in which the interested party has a financial interest.
- Subject to exceptions for loans, leases of space, ownership of a corporate investment security, services performed by employees of interested parties, referrals for legal services, and physician referrals pursuant to Labor Code Section 139.31.