

2012 Workers Compensation Reform In California

By: David W. Tetzlaff, Esq.

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Workers Compensation reform is on the way.

Cynics might ask, didn't we do this several years ago?

Yes we did.

In the late 1990's, overutilization of medical services, higher-than-normal indemnity benefit costs, and increased litigation plagued the system. Employers were facing double-digit insurance premium increases. [[Cal. Chamber Report](#)]

In 2004, California legislators enacted SB899, enacting broad reforms to the workers' compensation system. Shortly after passing, workers' compensation premiums dropped significantly. To many, these benefits were short lived, and since 2009, premium rates for most small businesses have been rising due to increased claim costs.

So here we are again.

On August 31, 2012, shortly before the close of the legislative session, California passed [SB863](#), revamping the current system. According to a recent article in the associated press, this bill will change how benefits are calculated and establishes a binding arbitration process to resolve coverage disputes. Significantly, this bill may eliminate coverage for conditions such as insomnia and mental health, complaints that most commonly lead to litigation.

According to the director of the California Department of Industrial Relations, this bill is intended to improve benefits and end wasteful litigation, while dealing with systemic problems that include:

- Low permanent disability benefits
- Unnecessary delays and disputes in medical delivery
- Lack of standard fee schedules
- Poor oversight of medical provider networks
- Liens overwhelming the courts

According to one [source](#) close to the negotiations on this bill, “[t]he major change is the methodology for calculating PD, the ‘weekly’ wage rate, number of weeks, age, [Future Earning Capacity] — it’s all different”.

Other changes that were proposed in SB863 include the following, noted in an [article](#) at BusinessInsurance.com:

- Professional employer organizations and temporary staffing agencies would be prohibited from self-insuring for workers comp coverage, and would be required to purchase workers comp insurance.
- Establishment of an independent medical review process for workers comp medical treatment disputes, as well as an independent bill review process.

Many of the provisions of SB863 will become effective by January of 2014.

Shortly before SB863 was passed, the Workers Compensation Bureau (WCIRB) [recommended](#) raising the average advisory rate to \$2.68 per \$100 of payroll, up from \$2.38 per \$100 of payroll, a 12.6% increase in the average pure premium rate. After the Bill's passing, the WCIRB estimated a revised recommended rate increase of 11.5%. According to the WCIRB, Workers' Compensation Reform will only account for a 1% difference in costs on the average for 2013.

An increase in premiums was probably inevitable. As one [report](#) notes, loss and expense payments for workers comp insurers rose to nearly \$12.5 billion in 2011, an increase of over \$1 billion.

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