

THE "NUTS AND BOLTS" OF SB 863



Written by
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Senate Bill 863 (SB 863) is going to significantly change Workers' Compensation Law, and it will be operative commencing January 1, 2013; however, some of its provisions will not take immediately. The following sets forth the "Nuts and Bolts" of the Workers' Compensation Law that will be changed by SB 863.

SB 863 will eliminate technical violations of Medical Provider Network notice violations such that failure to give MPN notices in workplaces and initial MPN

handouts cannot be a basis to treat outside the MPN. To treat outside the MPN, the applicant must show that the MPN is failing to provide appropriate treatment. Also, SB 863 will limit the substantive exceptions for treating with the MPN physician, and there will be an expedited proceeding for resolving MPN disputes. In addition, a Primary Treating Physician report cannot be the sole basis for a Permanent Disability rating, as an authorized-treating report or a Panel Qualified Medical Report will be required. Additionally, the authorized-treating report or a QME report must address why it is in disagreement with the PTP report and the reasons therefore.

With regard to treatment disputes, there will be an Independent Medical Review established similar to the

Department of Managed Health Care (DMHC). The IMR will resolve medical treatment disputes. The IMR's decision will be binding on the Workers' Compensation Appeals Board and parties absent fraud or conflict. Regarding Permanent Disability, PD benefits will be increased aggregately \$740 million per year (1.4 multiplier). However, "Add-ons" such as psyche, sexual dysfunction, and sleep, will be eliminated from PD when the primary injury does not include such injuries.

With regard to liens, a new lien fee of \$150 will be required from lien claimants to file a lien, but it is recoverable if the lien claimant prevails, and, for legacy liens, a \$100 activation fee will be required from lien claimants, but it is also recoverable if the lien claimant prevails. Additionally, there will

be an expedited proceeding to determine whether the medical provider has a right to treat the injured worker.

For further information, the Division of Workers' Compensation (DWC) has posted information regarding SB 863 at frequently asked questions (FAQs) on its Web site, http://www.dir.ca.gov/dwc/dwc_home_page.htm.

Breaking News **Alert - 12/3/12**

- California Insurance Commissioner Dave Jones recommended workers compensation insurers raise their pure premium rates by an average of 2.8% beginning Jan. 1.

Read more at
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WCIRB TESTIFIES AT DEPARTMENT OF INSURANCE PUBLIC HEARING

November 16, 2012

"While no one likes increased rates, there is something far worse - insolvency of insurers, shortage of insurance and then prices rising even higher as occurred only a short time ago in California with disastrous consequences for our economy."

- Insurance Commissioner Dave Jones

Today, WCIRB President Bill Mudge and Chief Actuary Dave Bellusci testified at a public hearing held in Sacramento by California Insurance Commissioner Dave Jones with respect to the WCIRB's January 1, 2013 Pure Premium Rate Filing. The filing was submitted to the California Department of Insurance on August 21, 2012 and later amended on October 1, 2012. (See related story WCIRB Submits Amended January 1, 2013 Filing.)

The filing contains proposed January 1, 2013 pure premium rates that average \$2.38 per \$100 of payroll, the industry average filed pure premium rate as of July

1, 2012, and proposed changes to the Commissioner's regulations contained in the California Workers' Compensation Uniform Statistical Reporting Plan - 1995 and the California Workers' Compensation Experience Rating Plan - 1995.

The filing data shows a continued deterioration in insurer loss experience and, after reflecting the impact of Senate Bill No. 863 (SB 863), an actuarially indicated average pure premium rate of \$2.61 per \$100 of payroll. Despite the indication, the WCIRB did not propose an overall increase in advisory pure premium rates effective January 1, 2013. In his testimony, Mr. Mudge noted that with the enactment of comprehensive reform legislation, there is an unusually high level of uncertainty surrounding yet to be developed regulations and there is the potential for additional savings from SB 863 in the actuarial projections and the potential for significant additional cost savings beyond that which is currently quantifiable. Mr. Bellusci advised the Commissioner that the WCIRB most current insurer experience will be ac-

costs and will again review the in the first quarter of 2013 in consideration of a potential July 1, 2013 pure premium rate filing.

The public record for the hearing will close at 5:00 pm, November 19, 2012. Once closed, the Insurance Commissioner has 30 days to issue his decision, in which he may accept, reject or modify the WCIRB's recommendation.

The filing and related information is available in the Regulatory Flings section of the WCIRB website.



(Insurance Commissioner Dave Jones)

