

SENATE BILL 899

THE NEWEST CALIFORNIA WORKERS COMPENSATION REFORM LAW

Senate Bill 899, which makes a number of significant changes to the California workers compensation system, was signed into law by Governor Schwarzenegger on April 19, 2004.

Major Provisions of SB899

Medical Provider Networks

SB899 section 27, Labor Code Article 2.3

An insurer or employer can establish a Medical Provider Network (MPN) as of January 1, 2005. The Administrative Director must adopt regulations defining the process for creating MPNs by November 1, 2004. MPNs must include licensed occupational and non-occupational physicians competent to treat common work injuries, in sufficient number and locations to provide ready access to timely treatment. That insurer's or employer's injured workers are then required to obtain all medical treatment from providers that belong to the MPN.

Medical Disputes

SB899 sections 12 through 21, Labor Code sections 4060 through 4062.9

Previously, if an insurer or employer believed a treating physician was in error, they could require the claimant to attend a medical evaluation with a physician selected by them. Examples include a dispute about whether the injury was caused by work, the extent of the injury, whether the claimant is disabled, and the extent of permanent disability. Now, all medical disputes must be resolved through a process using a state-appointed medical evaluator.

Immediate Medical Treatment

SB899 section 40, Labor Code section 5402

Once a claim has been reported to the employer, the claimant is free to obtain medical treatment up to the date the claim is either accepted or denied, and the insurer must pay the costs of that treatment up to a maximum of \$10,000 even if the injury is successfully denied.

Temporary Total Disability Cap

SB899 section 29, Labor Code section 4646

Most claims will now be limited to 104 weeks of temporary total disability (TTD) payments paid out within two years. This is a substantial reduction from the existing TTD cap of 240 weeks of payments paid out within five years. An exception is created providing that nine specific types of injuries and illnesses still qualify for the old cap, including hepatitis, amputations, severe burns, certain eye injuries, and certain lung conditions.

Permanent Disability Awards

SB899 sections 30 through 34, Labor Code sections 4658 through 4664

Under a new rating schedule to issued by January 1, 2005, the degree of physical disability must be evaluated in accordance with the American Medical Association's (AMA) Guide to the Evaluation of Permanent Impairment, Fifth Edition. The extent of the loss caused by the permanent disability will be based upon the claimant's estimated actual loss of future earnings rather than on the claimant's decreased ability to compete in an open labor market. For serious permanent disabilities exceeding 70%, the number of weeks for which permanent disability is paid is increased, while the weeks of payment for less serious disabilities are decreased.

Return-to-Work Incentives

SB899 section 30, Labor Code section 4658

If an employer with 50 or more employees fails to offer a claimant work that meets certain qualifications, or if the employer offers the work but then later withdraws it, the claimant's permanent disability payments will be increased by 15%. If an employer of any size does offer qualifying work to the claimant, each permanent disability payment will be decreased by 15%.