

**DEPARTMENT OF INDUSTRIAL RELATIONS
COMMISSION ON HEALTH AND SAFETY AND
WORKERS' COMPENSATION**

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DATE: November 4, 2009

TO: Health and Safety and Workers' Compensation Commission Members
Sean McNally, Chair
Catherine Aguilar
Faith Culbreath
Kristen Schwenkmeyer
Robert Steinberg
Darrel "Shorty" Thacker
Angie Wei

FROM: Christine Baker, Executive Officer
Lachlan Taylor, Workers' Compensation Judge

SUBJECT: Report of CHSWC Staff Assistance to Discussions of Potential PD Revisions and Cost Reductions

A group of employer representatives led by Sean McNally, of Grimmway Farms, and a group of labor leaders led by Angie Wei, of the California Labor Federation, held meetings together and separate conversations within each group from May, 2009 through August, 2009. These conversations addressed the labor interest in improving PD benefits and benefit delivery and the employer interest in controlling overall costs and streamlining claims administration. It was questioned whether an acceptable benefit improvement could be achieved without a net increase in cost. CHSWC staff provided technical support for these discussions.

On September 1, a confidential working draft of language for the employer group's tentative proposals was published on the website of the California State Senate Republican Caucus. The document bore a date of August 18, 2009. The document did not reflect the employer group's proposal as of that date or any other date. The document was actually a May, 2009 draft, in which an embedded field for the date was automatically updated whenever the Microsoft Word file was opened.

The May, 2009 draft was prepared at the request of the employer group. The employer group continued to revise its draft proposal after that date. As far as we are aware, the employer group's proposal was never finalized and it was never presented to the labor group. The discussions ended when the confidential working draft was published on September 1, 2009.

The Director has requested that the work product assembled by CHSWC staff, including the latest draft language and the evaluations of the proposals, be released to the public.

We have assembled the work into the two attached documents. One contains evaluations of the cost savings from a variety of potential changes and the estimated effects under several scenarios for new levels of PD benefits. We clarified some explanations, but made no substantive changes after August 26, 2009. The other is a package of draft legislative language for the potential changes, including revisions that were pending as of September 1 and incorporated on September 3, 2009..

None of these potential changes had been adopted by either the employer side or the labor side as its proposal to the other side. The best description is that they were concepts that were being explored, and we were responding to questions posed by one party or another as they explored those concepts. Our analysis was based on previous RAND research and UC Berkeley analysis done for the Commission as well as information gathered and economic modeling conducted for these requests.

None of these documents were final. All were subject to further revision. It is hoped that these drafts will contribute to the public discourse on potential improvements to California's workers' compensation system.