



DWC 15th Annual Educational Conference

Commutations

Presenters

Blair Megowan

Los Angeles Sheraton February 28-29, 2008
Oakland Marriot March 3-4, 2008

Commutations and COLA's

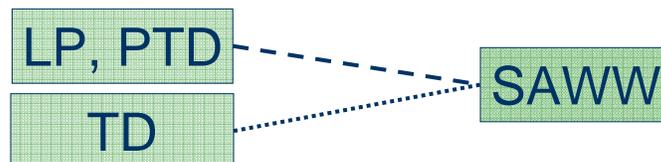
Impact of State Average Weekly Wage Changes on Present Value

DWC Statewide Conference
February/March 2008

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AB 749 Amendments

- LC 4659(c) – linked LP and PTD to State Average Weekly Wage (SAWW)
- LC 4453(a)(10) – linked TD to SAWW



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LC 4659(c) – LP/PTD Indexed to SAWW

- For injuries occurring on or after January 1, 2003, an employee who becomes entitled to receive a life pension or total permanent disability indemnity... shall have that payment increased annually commencing on January 1, 2004, and each January 1 thereafter, by an amount equal to the percentage increase in the SAWW as compared to the prior year.

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Critical Issues

- What assumption should be made about the rate of future SAWW increases?
- When is the first SAWW increase applied?
 - After LP commencement?
 - After P&S?
 - After DOI?

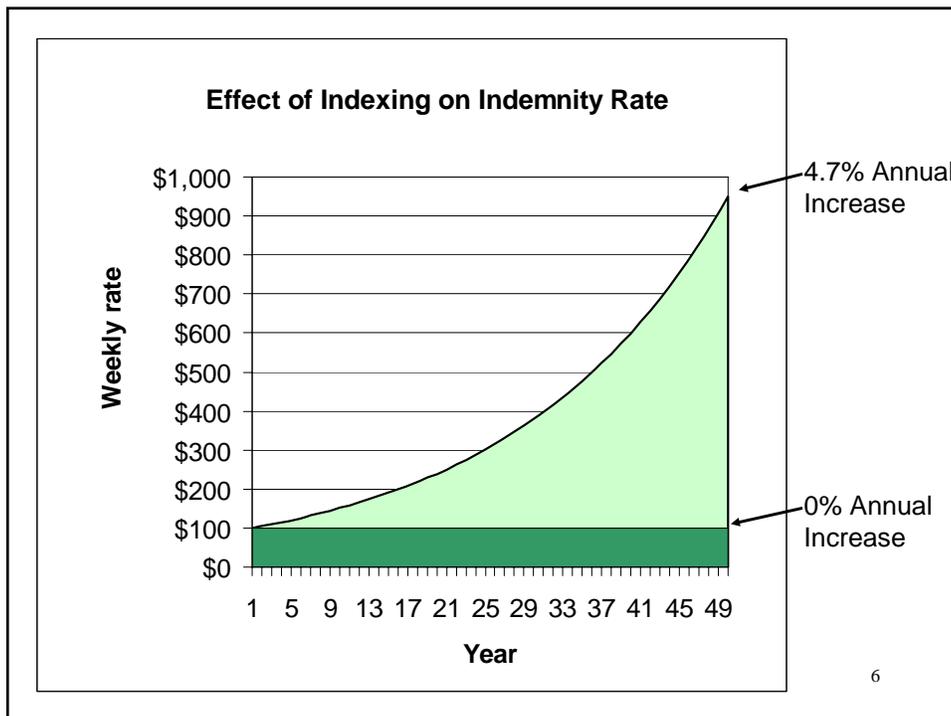


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Rate of Future SAWW Increases

- 50-year average is approximately 4.7%
- DEU will use whatever percentage is requested by judge or parties
- In absence of request, will use 4.7%

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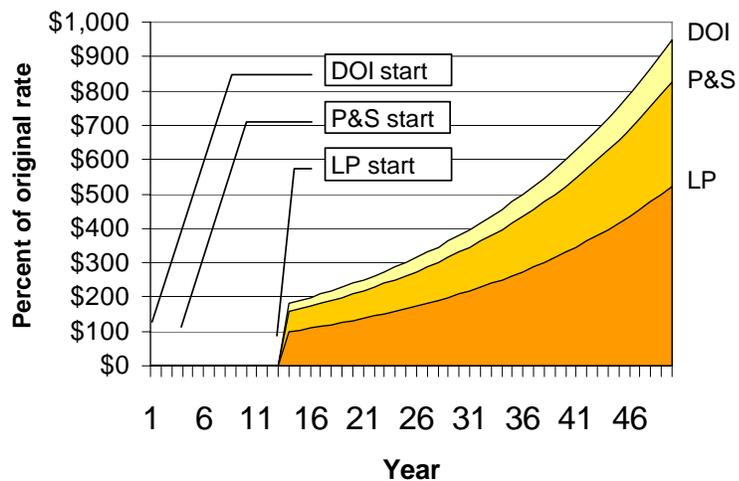
Timing of First SAWW Increase

- Possible choices
 - After LP commencement?
 - After P&S?
 - After DOI?
- DEU will use “After LP Commencement” unless otherwise directed by parties or judge

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Life Pension Payment Possibilities

(compares 4.7% rate increases starting in years #1 and #4 and #14)



Test Scenario

- Female
- Age 30 on date of commutation (DOC)
- Max earner for 2006 DOI

Compare present values (PV) for:

SAWW changes of 0% and 4.7%

Initial SAWW adjustments after DOI, P&S, and LP commencement

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Present Value of LP/PTD Relationship to SAWW Rate

	70%	99%	100%
Starting LP/PTD rate	\$77.31	\$301.50	\$840
Annual SAWW changes of 0%	\$76K	\$200K	\$1.1M
Annual SAWW changes of 4.7%	\$209K	\$461K	\$3.6M

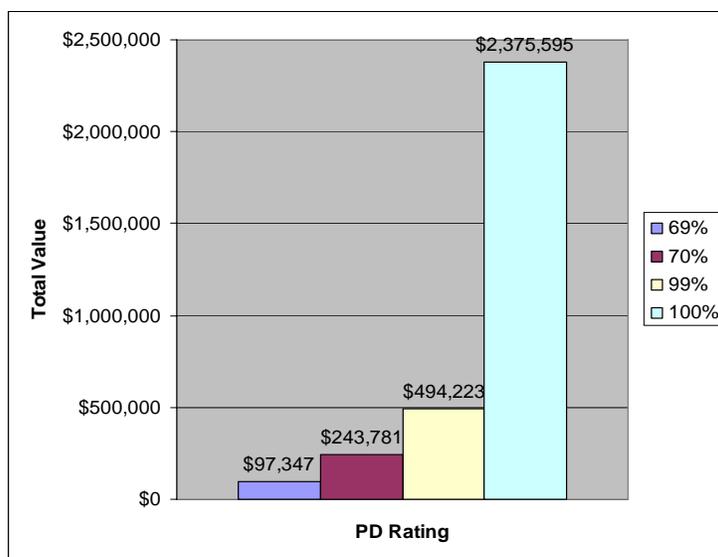
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Present Value of Life Pension Relationship to Beginning of Adjustments

First LP adjustment occurs:	70%	99%
After LP starts	\$209K	\$461K
After P&S	\$299K	\$1.00M
After DOI	\$314K	\$1.05M

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Comparison of Value for Ratings Between 69% and 100%



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How Much is Enough?

- What is a reasonable percentage for attorney's fees in a SAWW environment? Should 15% be automatic?
 - The 15% fee paid to his attorney by a 30-year-old male with a 100% disability would be roughly \$475,000

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How Should Atty Fee Be Generated?

- Uniform Reduction
 - 100% Example: reduce all payments by \$383/week
 - Effect: large up front impact – about 45%
 - Relative impact initially large but lessens over time
- Uniform Increase of Reduction
 - Example: reduce initial payment of \$840 by \$126 (equivalent to 15% of initial rate) and increase reduction by 4.7% each year
 - Relative impact remains relatively constant over time

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Caveat on Future Rate Increases

- Attorney fee is based on assumption that future rate increases will be based on LP/PTD benefit before reduction for fees
 - PTD rate paid to IW after 50 years if rate increase applied before reduction = \$7973
 - PTD rate paid to IW after 50 years if applied after reduction = \$4338



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Summary of Key Issues

- Rate of future SAWW changes
- Trigger for first increase in LP rate
- Appropriate percentage of attorney fees
- Method of commuting attorney fees

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Impact of AB 749 on Death Benefits

- Death benefits paid in same manner as TD [LC 4702(b)]
- TD rate is subject to minimum and maximum in effect on date of payment for payments made two or more years past injury [LC 4661.5]
- TD min/max tied to SAWW [LC 4453(a)(10)]

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LC 4453(a)(10) – TD/PTD min/max Indexed to SAWW

- “Commencing on January 1, 2007, the **limits** specified in this paragraph [pertaining to minimum and maximum TD/PTD rates] shall be increased by an amount equal to the percentage increase in the state average weekly wage as compared to the prior year.” (LC 4453(a)(10))

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TD/PTD Minimums/Maximums

DOI in:	Min	Max	
• 2006	\$126.00	\$840.00	4.96%
• 2007	\$132.25	\$882.66	
• 2008	\$137.45	\$916.33	3.93%
• 2009	?	?	

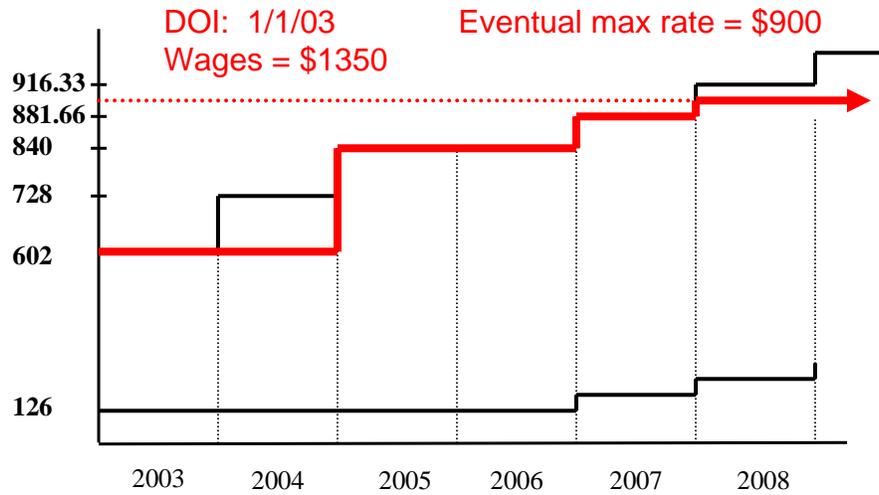
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Possible Scenarios

- High wage earner – Death benefit increases after two years, and each succeeding year until TD maximum exceeds 2/3's of earnings
- Medium wage earner – never affected by changes in TD min/max
- Low wage earner – Death benefit increases when minimum catches up to TD rate

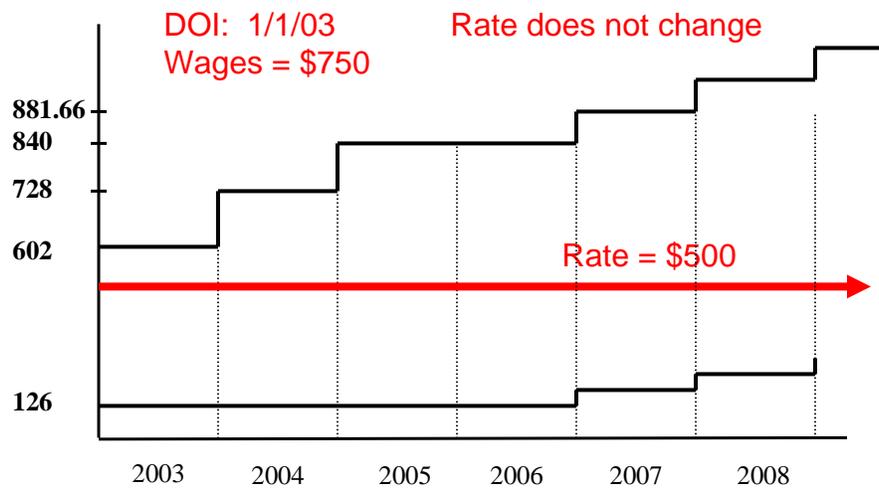
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Death benefit – high wage earner



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Death benefit – medium wage earner

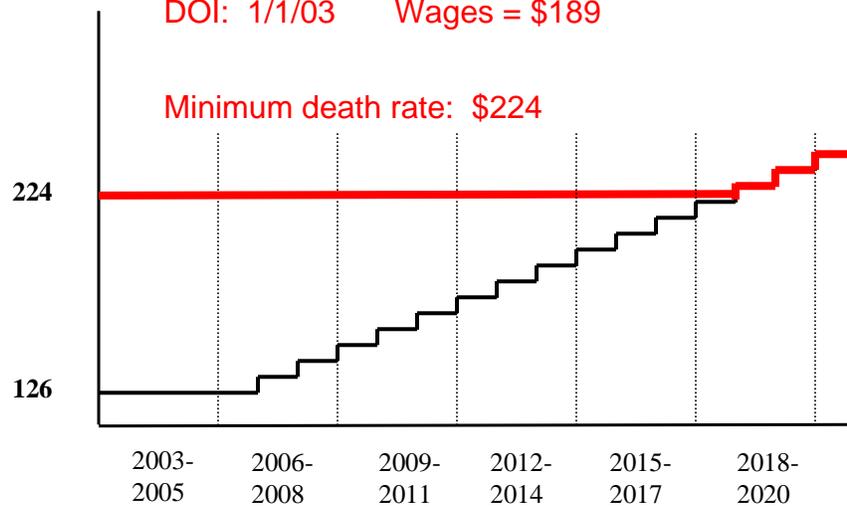


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Death benefit – low wage earner

DOI: 1/1/03 Wages = \$189

Minimum death rate: \$224



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Scenarios

- Date of death: 12/31/05
- Date of birth of youngest child: 12/21/05
- Date of commutation: 6/21/07
- Compare present values (PV) for:
low wage earner (\$189/wk) and high wage earner (\$3000/wk) assuming annual SAWW changes of 0% and 4.7%

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Present Value of Death Benefits

	0% SAWW	4.7% SAWW
Low wage earner \$189/week	\$152,540	\$157,220
High wage earner \$3000/week	\$572,027	\$870,813

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Key Points to Remember

- SAWW changes will impact
 - All LP and PTD cases with DOI's o/a 1/1/03
 - All maximum earner death cases for all DOI's
 - Some minimum earner death cases for all DOI's

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Commutation Questions?



DEU Headquarters
Clover D. Bear
Help Desk

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COMMUTATION REQUEST

Directions: Fill in the section under All Cases as completely as possible. Remaining sections only need to be filled in if you are requesting a commutation of those benefits.

All cases:

IW: _____
WCAB#: _____
Request Date: _____

Requested by: _____
Contact number: _____

DOI: _____
P&S date: _____

If DOI is o/a 1/1/03, then any LP or PTD benefits would be subject to annual SAWW-based increases.

Attorney fee% (if applicable): _____
Annual SAWW increase (if appl.): _____

Will use 4.7% unless otherwise specified.

Permanent Disability:

PD Rating: _____
PD duration (in weeks): _____
Initial PD weekly rate: _____

If DOI is o/a 1/1/05, then PD may be subject to adjustment under LC 4658(d). If applicable, enter the effective date of adjustment and rate after adjustment in Additional Comments section below.

Is PD subject to $\pm 15\%$ adjustment under LC 4658(d)? (Y/N) _____

Life Pension:

Date of birth: _____
PD start date (P&S): _____
PD duration (in weeks): _____
Initial rate of LP benefits: _____
Gender: _____

Death Benefit:

Average weekly earnings: _____
Start date of benefits: _____
Initial benefit rate: _____
Death benefit am't (LC 4702): _____
DOB of youngest child: _____

100% Permanent Total Disability:

Date of birth: _____
PTD start date (P&S): _____
Initial rate of PTD benefits: _____
Gender: _____

Additional Comments:

