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State of California

DWCNewsline

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Bulletin No. 86-07
December 19, 2007

Division of Workers' Compensation reminds workers' compensation community of changes slated to take effect in 2008

New mileage rate, new temporary disability rate and new TD timeframe all apply Jan. 1

The Division of Workers' Compensation (DWC) is reminding injured workers, employers, claims administrators, attorneys and others of three changes to workers' compensation law that take effect Jan. 1, 2008.

The medical mileage rate for medical and medical-legal travel expenses will increase to 50.5 cents per mile. This rate must be paid for travel on or after Jan. 1, 2008, regardless of the date of injury.

Labor Code section 4600, in conjunction with Government Code section 19820 and the Department of Personnel Administration regulations, establishes the rate payable for mileage reimbursement for medical and medical-legal expenses and ties it to the Internal Revenue Service (IRS) [published mileage reimbursement rate](#).

The mileage rate for 2007 was 48.5 cents per mile. The rate was 44.5 cents per mile between July 1, 2006 and Dec. 31, 2006, and prior to that increase, the rate had been 34 cents per mile since 2001.

In addition to the mileage rate increase, the temporary total disability (TTD) rate for 2008 increases to \$916.33 per week on Jan. 1, 2008, and the period during which injured workers are eligible for TTD benefits has been expanded from two years to five.

This increase to the maximum TTD rate marks the second year in a row that the TTD rate will be affected by a change in the state average weekly wage (SAWW).

Beginning in 2006, Labor Code section 4453(a)(10) required the rate for TTD be increased by an amount equal to the percentage increase in the SAWW as compared to the prior year.

The California SAWW for the 12 months ending March 31, 2007 was \$914.60. For the period ending March 31, 2006, this figure was \$880, amounting to an increase of 3.932 percent. Applying this percent increase to the prior year's maximum benefit of \$881.66 brings the 2008

maximum benefit to \$916.33. Applying the increase to the minimum benefit brings it from \$132.25 to \$137.45.

Under Labor Code section 4659(c), workers with dates of injury on or after Jan. 1, 2003 who are receiving life pensions (LP) or permanent total disability (PTD) benefits are also entitled to have their weekly LP or PTD rate adjusted based on changes in the SAWW. Claims administrators should be aware that many LP and PTD awards are reduced (by uniform reduction) in order to produce a lump sum for paying attorney's fees. To adjust for the SAWW in cases where there's been a prior commutation of attorney's fees, the new rate should be based on the previous year's rate before deduction for attorney's fees, multiplied by the percentage change in the SAWW.

In addition to the increase in the TTD benefit rate brought about by changes in the SAWW, a bill signed this year by Gov. Schwarzenegger increased the window of time during which temporarily disabled employees are eligible to receive TTD benefits.

Reforms passed in 2004 made changes to the Labor Code that limited TTD payments to 104 weeks within a two-year period for a single injury occurring on or after April 19, 2004, except under certain limited conditions. The two years of eligibility were counted from the date of the first payment of temporary disability. Beginning Jan. 1, 2008, employees injured on or after that date will be eligible to receive the 104 weeks of disability payments within a five-year period. The five-year period is counted from the date of injury.

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