Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 8. Office of the Director
Subchapter 2. Administration of Self-insurance
Article 6. Estimating Work Injury Claims and Medical Reports

§15300. Estimating and Reporting Work Injury Claims.

(a) A list of open indemnity claims shall be submitted with each self insurer's annual report as required by Section 15251(b)(5)(A)-(B) and (c)(7).

(b) The administrator shall set a realistic estimate of future liability for each indemnity claim listed on the self insurer's annual report based on computations which reflect the probable total future cost of compensation and medical benefits due or that can reasonably expected to be due over the life of the claim. Each estimate listed on the self insurer's annual report shall be based on information in possession of the administrator at the-ending date of the period of time covered by the annual report. Estimated future liabilities listed on the annual report must represent the probable total future cost of compensation for the injury or disease based on information documented as in possession of the administrator at the ending date of the period of time covered by the annual report. In setting estimates of future liability, the administrator shall adhere to the following principles:

(1) Each estimate of future liability shall separately reflect an indemnity component and a medical component. The indemnity component shall include the estimated future cost of all temporary disability, permanent disability, death benefits including burial costs, supplemental job displacement benefit voucher and vocational rehabilitation including vendor costs. The medical component shall include the estimated future cost of all medical treatment, including costs of medical cost containment programs if those costs are allocated to the particular claim, and the estimated future cost of medical evaluations. After January 1, 2011, the medical component shall not include the cost of medical cost containment programs incurred with respect to a particular claim or which can be allocated to a particular claim whether done by an outside vendor or by the self insurer. These costs shall be included as allocated loss adjustment expense amount. Any medical cost containment program costs that cannot be allocated to a particular claim shall be considered unallocated loss adjustment expenses.

Note: Medical cost containment program costs include but are not limited to:

(A) Bill audit expenses for any medical service rendered, such as hospital bills, nursing home bills, physician bills, chiropractic bills, medical equipment charges, pharmacy charges, physical therapy bills, and medical vendor bills;

(B) Hospital and other treatment utilization reviews including precertification/preadmission, and concurrent or retrospective reviews; and

(C) Access fees and other expenses incurred with respect to managed care organizations, such as, preferred provider networks/organizations (PPOs), medical provider networks (MPNs), and Health Care Organizations (HCOs).

Estimates of future liability shall include any increases in compensation in either the indemnity or medical component reasonably expected to be payable pursuant to Labor Code Sections 132a, 4553, and/or 5814.

(2) In estimating future permanent disability costs, where there are conflicting permanent disability ratings, the estimate shall be based on the higher rating unless there is sufficient evidence in the claim file to support a lower estimate.

(3) In estimating future medical costs where the injured worker's injury has not reached maximum medical improvement or permanent and stationary status, the estimate shall be based on projected costs for the total anticipated period of treatment throughout the life of the claim.

(4) In estimating future medical costs where the injured worker's injury has reached maximum medical improvement or permanent and stationary status, the estimate shall be based on average annual costs over the past three years since the injury reached maximum medical improvement or permanent and stationary status, or a lesser period if three years have not passed since the injury reached maximum medical improvement or permanent and stationary status, projected over the life expectancy of the injured worker. Estimates shall include any additional costs such as medical procedures or surgeries that can reasonably be expected over the life of the claim.

(5) Estimates based on average past costs shall be increased to include any costs that can reasonably be expected to occur that are not included within the averages. Estimates based on average past costs may be reduced to account for any treatment not reasonably expected to occur in the future based on medical documentation in possession of the administrator.

(6) Estimates of future medical costs based on average past costs shall not be reduced based on undocumented anticipated reductions in frequency of treatment or to reflect the substitution of treatments with a lower cost than utilized by the injured worker that may be available but that the injured worker is not utilizing. Estimates based on average past costs may be reduced based on reductions in the approved medical fee schedule and based on utilization review, except that reductions in estimates based on utilization review may not be reduced if the reductions are reasonably disputed. Estimates of future liability may be reduced based on the expectation of a third party recovery only in instances where an Order allowing credit has been issued pursuant to Labor Code Section 3861.

(7) Estimates of lifetime medical care and life pension benefits shall be determined based on the injured worker's life expectancy according to the most recent U.S. Life Expectancy Tables as reported by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. Note: the most recent life expectancy tables can be found at ~~http://www.cdc.gov/nchs/datawh/nchsdefs/lifeexpectancy.htm.~~http://www.dir.ca.gov/SIP/pubandforms.htm.

(8) Estimates of permanent disability shall not be reduced based on apportionment unless the claim file includes documentation supporting apportionment.

(9) Estimates shall not be reduced to reflect present value of future benefits.

(c) All medical-only claims reported on the self insurer's annual report shall be estimated on the basis of computations which will develop the total future cost of medical benefits due or that can reasonably expected to be due based on information documented as in possession of the administrator at the ending date of the period of time covered by the annual report.

(d) Estimates of future liability shall not be decreased based on projected third party recoveries or projected reimbursements from aggregate excess insurance, nor shall reported paid costs be decreased based on third party recoveries or aggregate excess insurance reimbursements.

(e) The incurred liability estimate on known claims may be capped at the retention level of any specific excess workers' compensation insurance policy to the extent that each claim has not been denied in writing by the carrier. The self insurer's claims administrator shall list each claim covered by a specific excess insurance policy on Part VI-B of the Self Insurer's Annual Report. An adjustment to the total deposit required to be posted shall be made for claims covered by specific excess insurance policy on the annual report to the extent that they meet the requirements in Section 15251(b)(5)(B) of these regulations.

(f) Estimates of incurred liability, payments-made-to-date and estimated future liability of all compensation benefits shall be made immediately available at the time of audit if not already documented in the claim file, or when requested by the Manager.

(g) The administrator shall adjust the estimate immediately upon receipt of medical reports, orders of the Appeals Board, or other relevant information that affects the valuation of the claim. Each estimate shall be reviewed no less than annually. Estimates set by a prior administrator shall be reviewed by the current administrator before filing the Self Insurer's Annual Report.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 54, 55, 59, 129, 132a, 3700, 3702.3, 3702.6, 3702.10, 3703, 3740-3745, 3861, 4553 and 5814, Labor Code.