

California's Subsequent Injuries Benefits Trust Fund:

Recent Trends and Policy Considerations

Michael Dworsky and Stephanie Rennane

With Nicholas M. Pace, Travis Hubble, Matthew Forbes,
and Frank Neuhauser (UC Berkeley)

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RAND EDUCATION, EMPLOYMENT, AND INFRASTRUCTURE

Research Frames SIBTF Policy Options and Tradeoffs



- ▶ **Critical inflection point for SIBTF**
- ▶ **All options come with tradeoffs**
- ▶ **RAND report provides basis for decisionmaking**
- ▶ **Methods combined administrative data on all SIBTF cases with in-depth data collection on representative sample of over 1,000 cases**

Outline

- ▶ **About SIBTF**
- ▶ **Discovery and Methods**
- ▶ **How We Got Here**
- ▶ **Financial Implications Under the Status Quo**
- ▶ **Policy Considerations**

SIBTF Was Designed to Solve a Problem Posed by Pre-Existing Disabilities in Workers' Compensation

Example

- ▶ Worker lost left hand in military service (pre-existing permanent partial disability [PPD])
- ▶ Later, loses right hand in factory accident (subsequent industrial injury [SII])
- ▶ Disabling impact of workplace injury is far greater because of pre-existing disability

The Dilemma of Compensating Workplace Injuries in Presence of Pre-Existing Disability

Option 1

Pay only for disability caused by workplace injury (SII)?

- ▶ Fair to employer
- ▶ Worker is inadequately compensated

Option 2

Pay for full extent of disability, including pre-existing disability (SII + PPD)?

- ▶ Worker is adequately compensated
- ▶ Employer pays more because of pre-existing disability
- ▶ Creates incentives for hiring discrimination

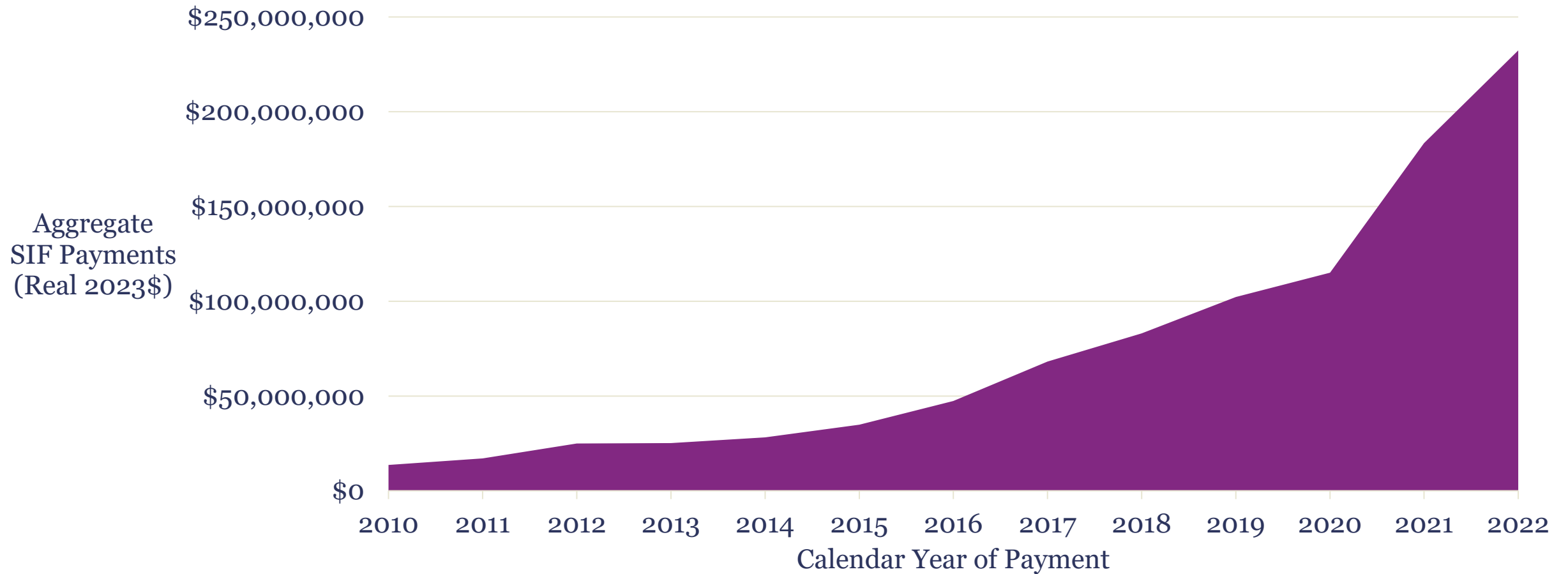
States Designed Subsequent Injury Funds to Address Dilemma

- ▶ Special fund pays difference in benefits between SII alone and SII + PPD
 - Worker fully compensated for combined disability: $(SII + PPD)$
 - Employer pays only for subsequent industrial injury: (SII)
 - Fund pays the difference: $(SII + PPD) - SII$
 - Employer not penalized for hiring disabled worker because fund pays instead
- ▶ 47 states set up a Second or Subsequent Injury Fund
- ▶ California established Subsequent Injuries Fund (LC §4751) in 1945

SIBTF Eligibility Requires Five Conditions

1. The applicant had one or more pre-existing permanent partial disabilities (PPDs) that were **actually labor disabling** at the time the applicant suffers a subsequent work injury.
2. The applicant suffered a **subsequent** compensable work injury, referred to as a subsequent industrial injury (SII).
3. The permanent disability resulting from the combination of the PPDs and the SII **is greater than** the permanent disability resulting from the SII alone.
4. The permanent disability resulting from the combined effect of the SII and PPDs together is rated **at 70 percent or higher**.
5. The permanent disability resulting from the SII alone, **without adjustment for age or occupation**, was either:
 - ▶ at least 35 percent, or
 - ▶ was at least 5 percent and affected a hand, an arm, a foot, a leg, or an eye that is “opposite and corresponding” to a body part that had prior permanent partial disability.

Payments from SIBTF Grew 1600% Between 2010 and 2022



Note: RAND analysis of EAMS transaction data

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We Collected and Analyzed Previously Unexamined Data from the Electronic Adjudication Management System (EAMS)

- ▶ Administrative data (EAMS) on every SIBTF case since 2010 addressed some questions:
 - Basic case information (filing date, worker age, closure date, case status, case outcomes)
 - Detailed transaction data (all payments from SIBTF)
- ▶ Some information had to be collected via eyes-on review of case documents filed with EAMS:
 - Impairments and health conditions
 - Disability ratings (for subsequent injury, or for combined SII + PPD)
 - Other disability compensation credited to SIBTF (e.g., prior WC, SSDI, VA)

We Reviewed Documents from Over 1,000 Cases to Obtain Data for the Study

- ▶ Collected data from a stratified random sample of SIBTF cases that were active between 2010-2022
- ▶ Oversampled cases with awards
 - 275 cases with awards in 2010-2019 (6.7% of all such cases)
 - 300 cases with awards in 2020-2022 (12.7% of all such cases)
- ▶ Weighted estimates are representative of all SIBTF cases between 2010-2022

Stratum (Based on Case Resolution)	Number of Cases in Population	Number of Cases Collected	% abstracted with stratified sample
Unresolved:	14,681	285	
Not abandoned	12,436	265	2.1%
Abandoned	2,245	20	0.9%
Resolved with benefits:	6,485	575	
Resolved before 2020	4,123	275	6.7%
Resolved in 2020 or later	2,362	300	12.7%
Resolved without benefits	5,881	187	3.2%
Total	27,047	1,047	3.9%

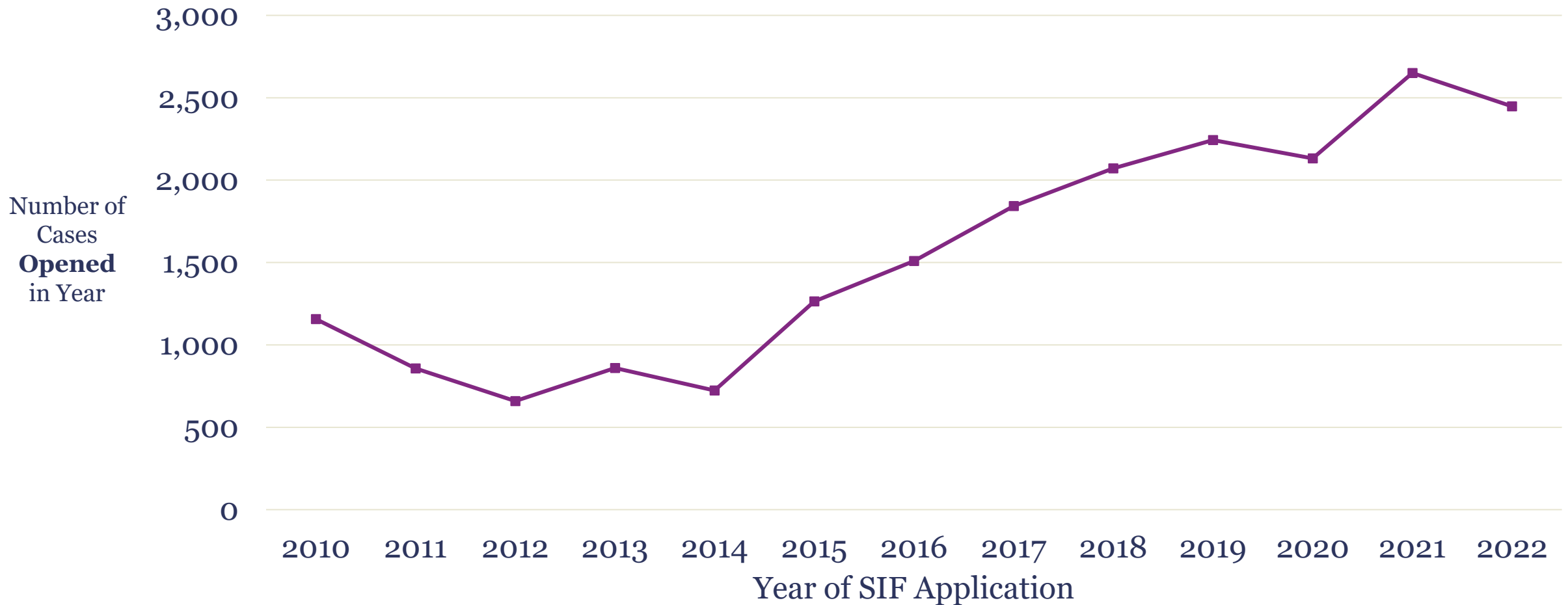
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How Did We Get Here? Key Findings on Recent Trends

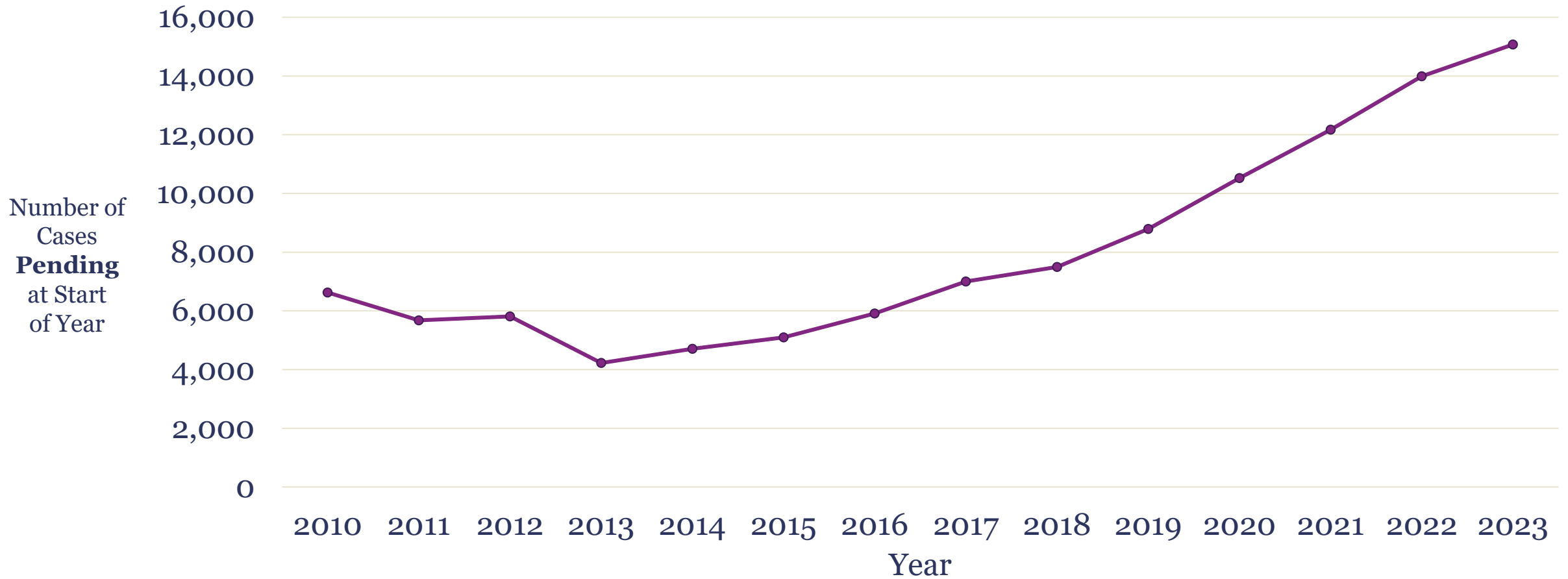
- ▶ Growing application volumes and increasing backlog of cases
- ▶ 2020 WCAB decision (*Todd v. SIBTF*) sharply increased award rates and payments
- ▶ Non-benefit payments growing faster than benefit payments

SIBTF Application Volumes Have Grown Steadily Since 2014



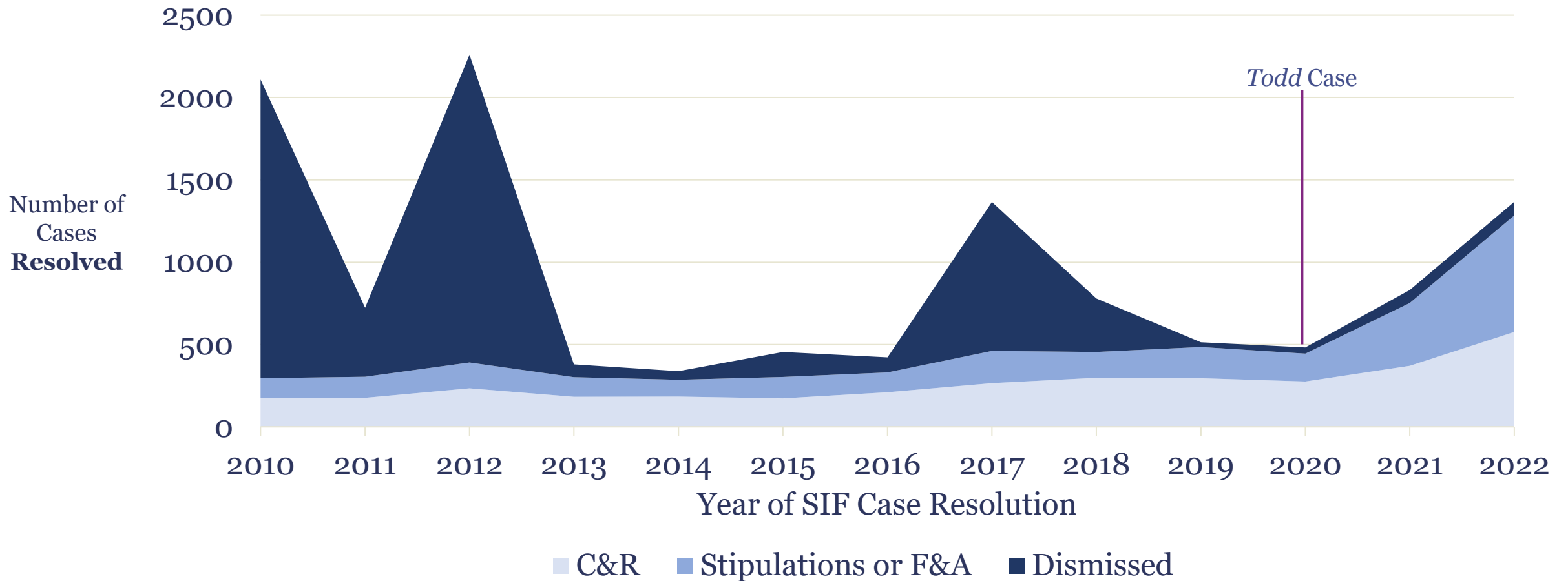
Note: RAND analysis of EAMS data

Typical Case Resolution Takes Years, so the Backlog of Pending Cases Has Grown



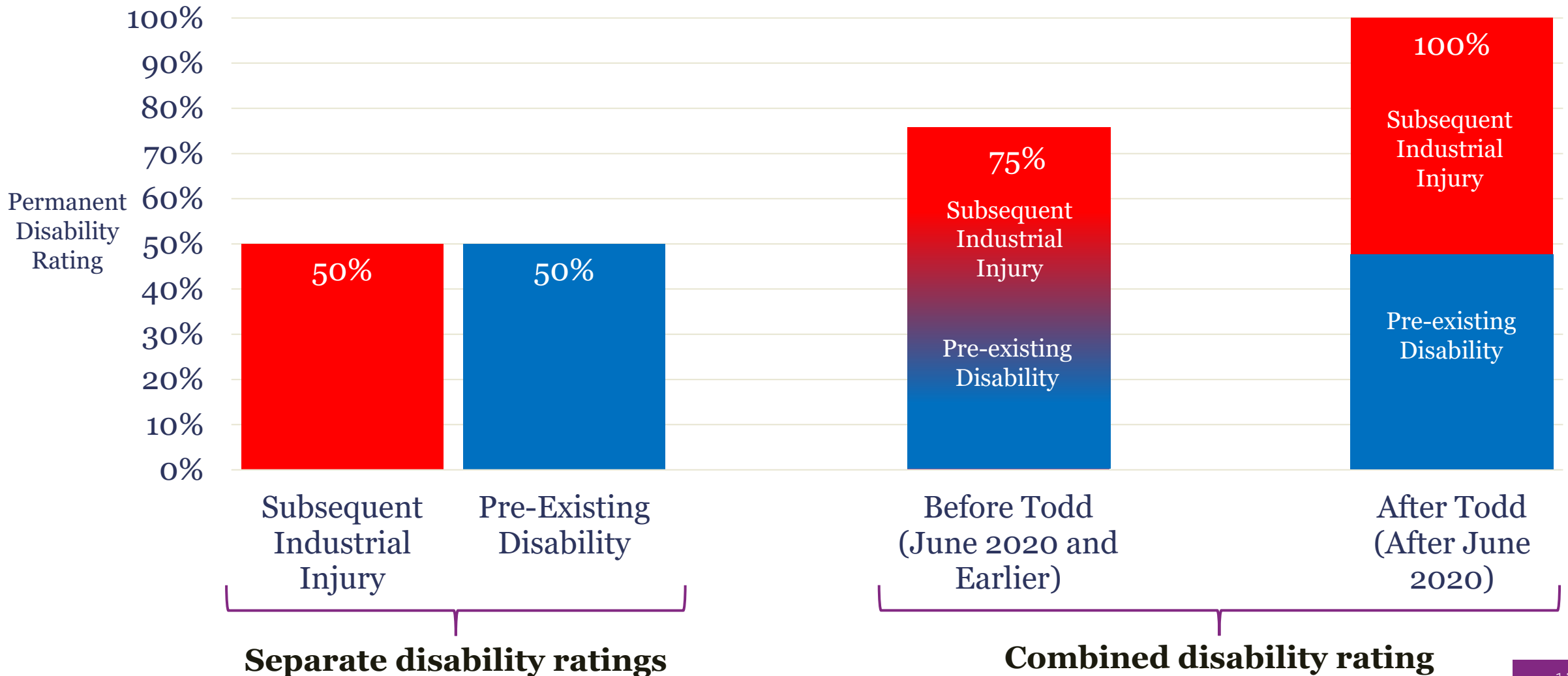
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More Cases Resolved with Awards Since 2020



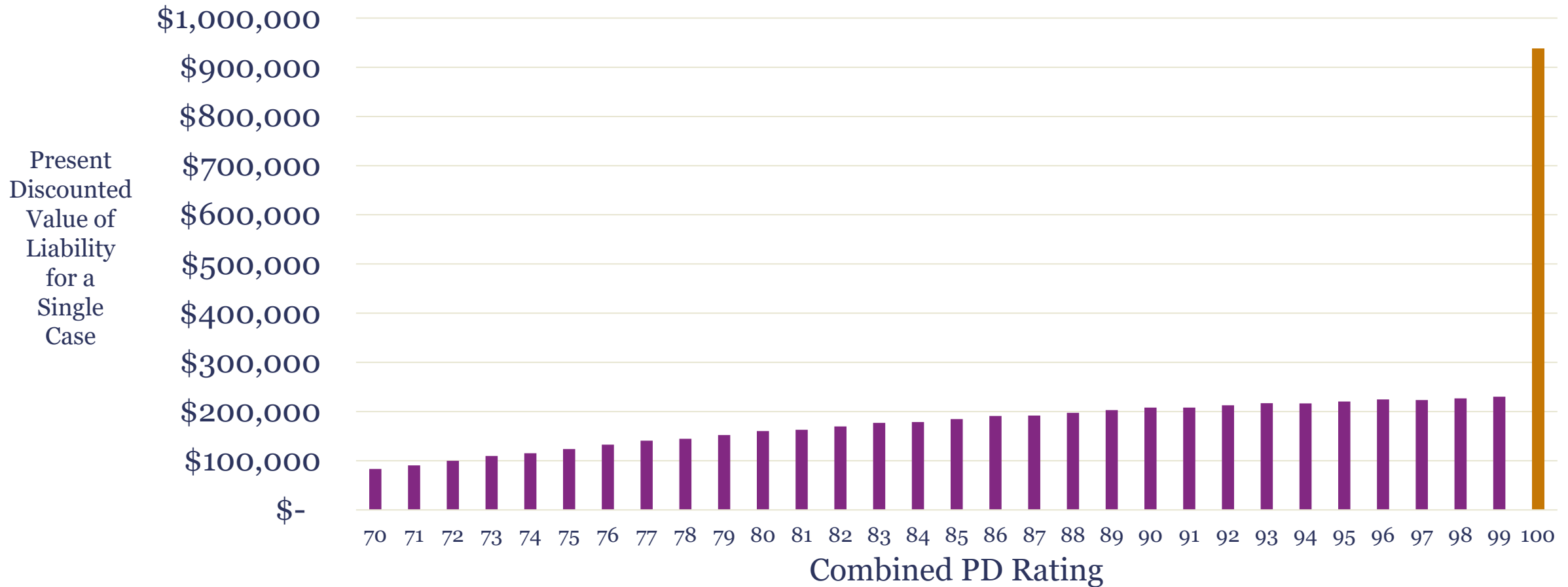
Note: RAND analysis of EAMS data

Todd v. SIBTF Changed Method for Combining SII and PPD, Increasing Combined Ratings and SIBTF Awards



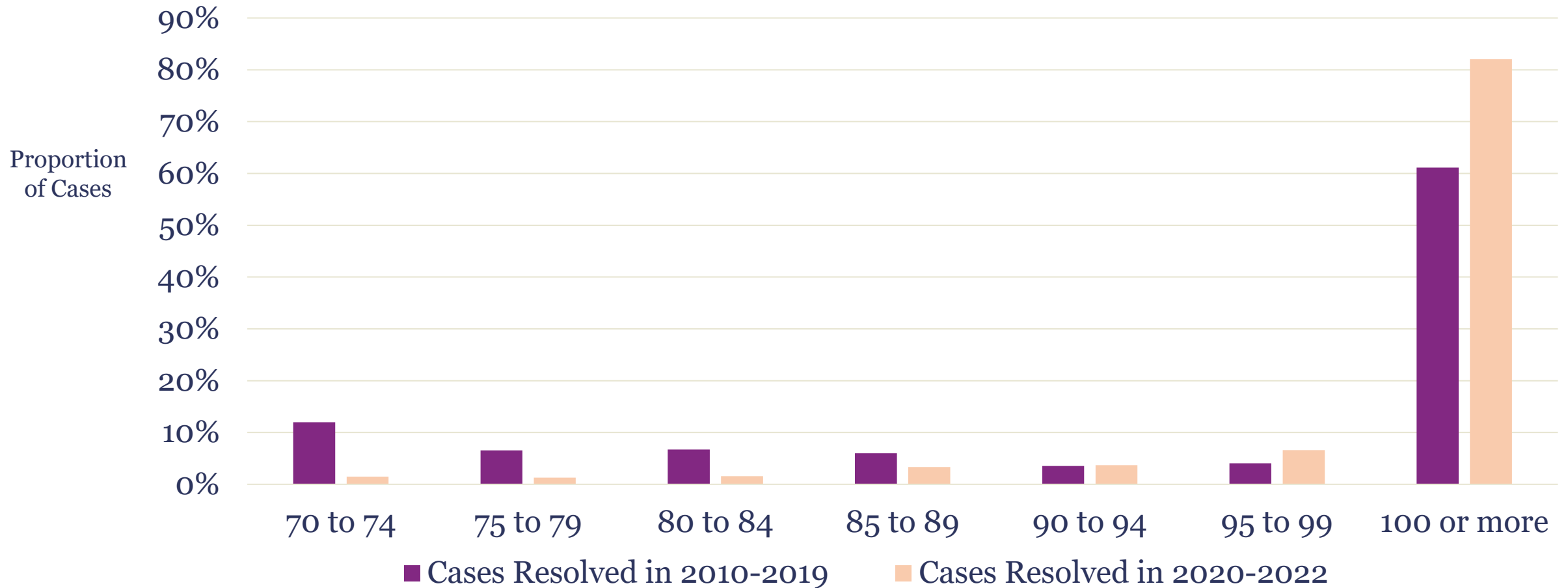
Note: Hypothetical case

Permanent Total Disability Benefits (100% Rating) Far More Generous than Permanent Partial Disability + Life Pension (99% or Less)



Note: Calculation assumes worker is 50 years old at the time of injury, has an SII rating of 53 and a pre-injury weekly wage of \$850. We assume no credits were applied. Calculations reflect present values discounted to the year of resolution, based on a discount rate of 3%. Future COLAs for LP and PTD benefits assumed to be 3.9% beginning in 2025. Present value shown in 2023\$.

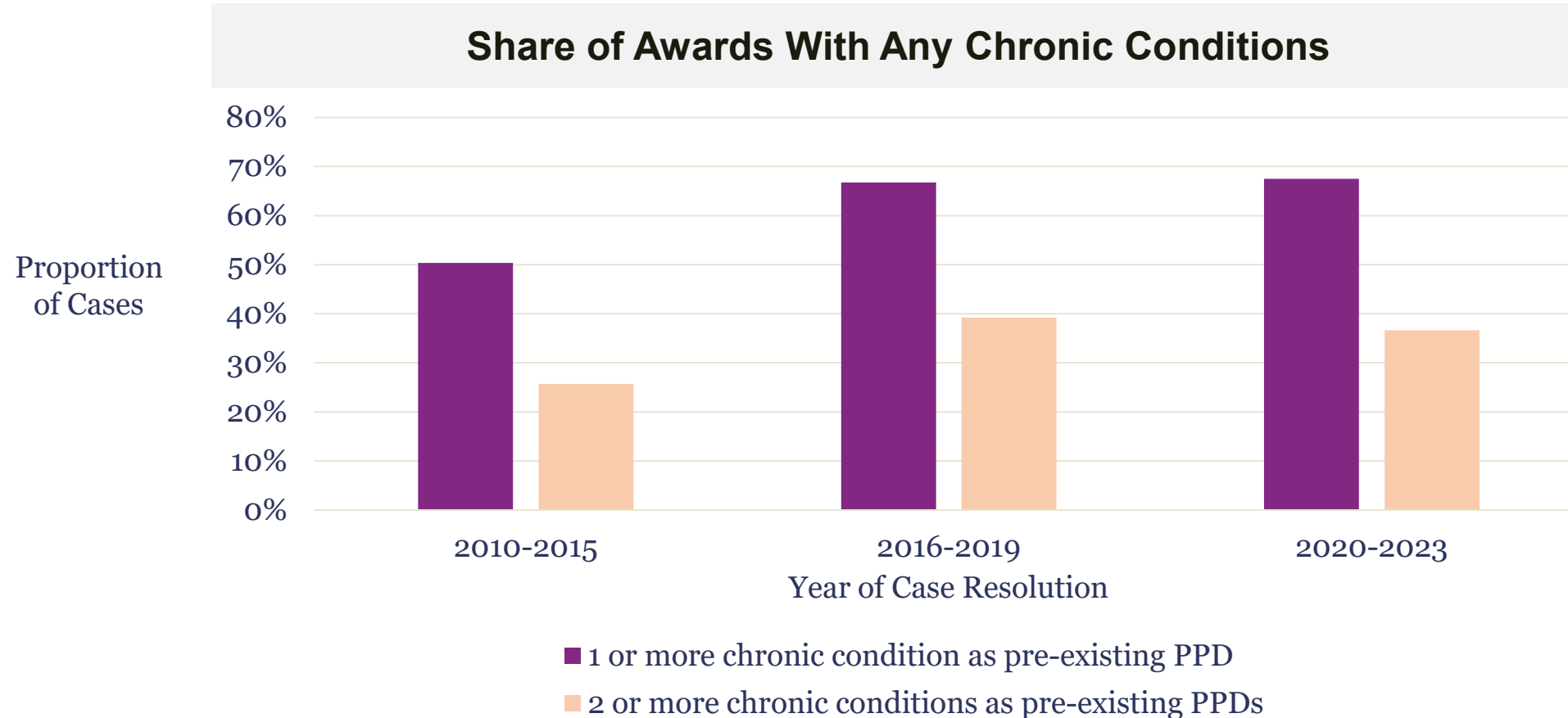
Since *Todd*, Cases are More Likely to Be Resolved with 100% Combined Disability Ratings



Groupings of Percentage Disability Ratings

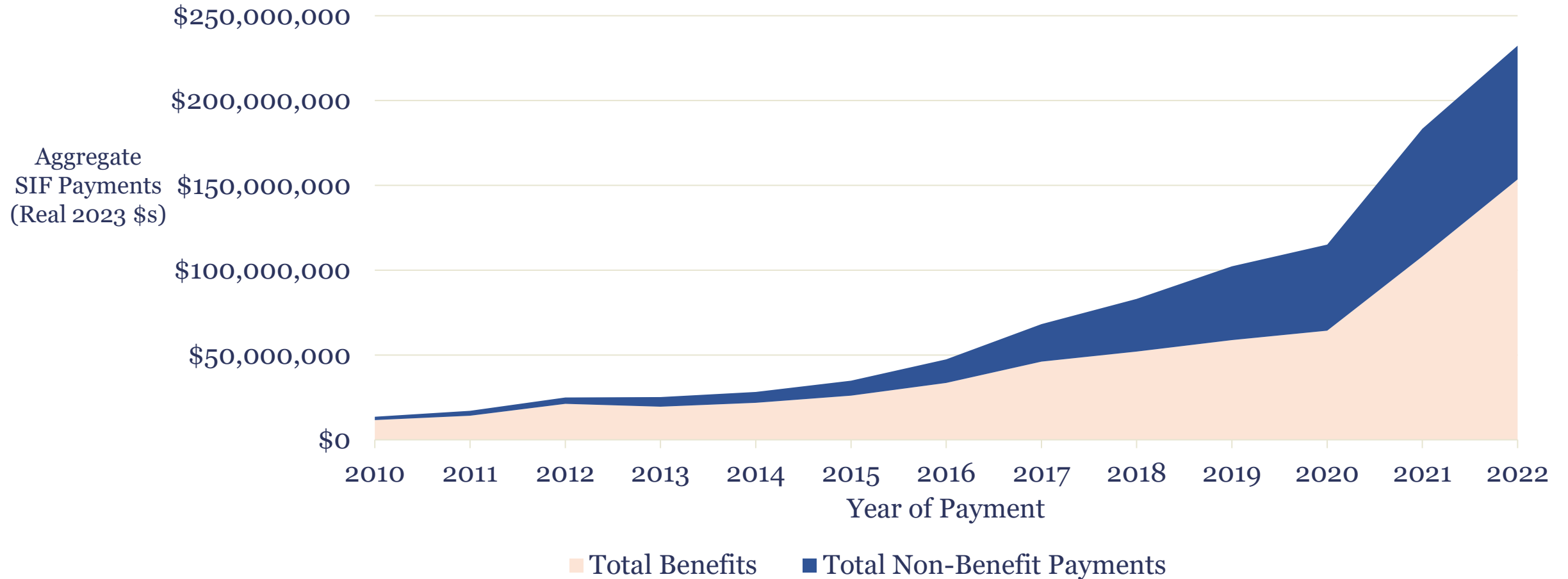
Notes: Weighted estimates based on cases resolved with Award (C&R or Stipulation or F&A) that had combined rating reported in case-resolving document (C&R form, Stipulations form, or F&A). Unweighted N = 332.

Pre-Existing Disabilities That Serve as Basis of Awards Often Include Widespread Chronic Conditions



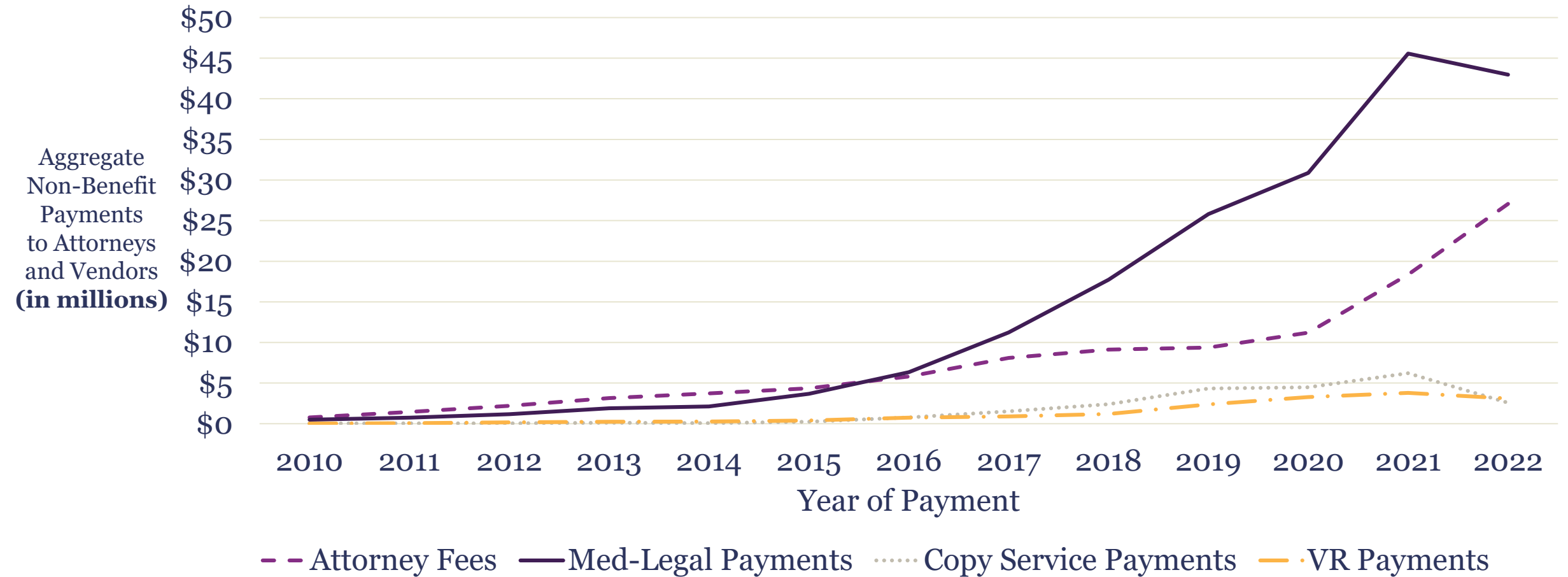
Notes: Weighted estimates based on 174 cases with at least 1 PPD and 1 SII identified in Stipulation or F&A case resolving document. Chronic conditions included in Figure include GERD or other gastrointestinal conditions, circulatory conditions, hypertension, hearing loss, sleep disorders, vision problems or eye conditions, diabetes, headache, arthritis or non-specific orthopedic conditions, sexual dysfunction, and obesity or weight gain.

Non-Benefit Payments Account for a Growing Share of All Payments From the SIBTF



Note: RAND analysis of EAMS transaction data

Growth in Non-Benefit Payments Was Most Pronounced for Medical-Legal Evaluations



Note: RAND analysis of EAMS transaction data

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Liability Estimates Accounted for Complex Interactions of SIBTF, SII, SSDI, Other Credits

- ▶ Present Discounted Value (PDV) is needed to evaluate benefits over long time period
- ▶ SIBTF pays for combined benefit, less
 - What employer pays for SII
 - Other disability income
- ▶ We modeled SIBTF benefits, accounting for reductions from SII and other credits
- ▶ Resolution of pending cases predicted based on cases resolved after *Todd*

Assumptions	
Discount rate	3%
PTD and LP COLA after 2024	3.9%
DI COLA after 2024	2.6%
Life expectancy	SSA period life expectancy tables (2020)
Gender distribution	42% female (Dworsky et al. 2022)

Majority of Liabilities Associated with 2010-2022 Caseload Have Not Been Paid Yet



- ▶ Modeled sensitivity to assumptions
- ▶ Lower costs:
 - Reduced life expectancy
 - Discount rate equal to COLA
- ▶ Higher costs:
 - Assign mean instead of median wage when wage data missing
- ▶ Total liabilities range from \$6.3bn–\$8.4bn
- ▶ Liability estimates do not include cases filed in 2023 or later

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Report Describes Reforms to Make SIBTF More Sustainable

► Reform Eligibility to Reduce Benefits or Number of Awards

- Eliminate *Todd* and apply CVC from regular WC system?
- Exclude Future Earnings Capacity (1.4x) adjustment from SII rating?
- Narrow definition of eligible PPDs (specific listing, or restrict chronic conditions)?
- Statute of limitation to file SIBTF claim?

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► **Reform Med-Legal Process to Reduce Non-Benefit Costs**

- Apply QME process to SIBTF?
- Stop new med-legal evaluations for SIBTF?
- Require documentation that PPD was labor-disabling at time of SII?

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► **SIF Unit and OD Legal need resources to address backlog**



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Backup Slides

Policy Options, Potential Effects, and Financial Impacts

Policy Option	Potential effect	Financial Impact
Eliminate <i>Todd</i> and adopt CVC used in regular WC system	Reduce combined rating → reduce likelihood of PTD benefits	Reduce expected value of benefits for beneficiaries
Exclude Future Earnings Capacity (FEC) from SIBTF eligibility	Lower rating on SII → fewer workers qualify	Reduce number of potential beneficiaries
Clarify definition of eligible PPDs	Reduce eligibility based on widespread chronic conditions	Reduce number of potential beneficiaries
Statute of limitation for SIBTF filing	Target PPDs which are labor disabling at time of subsequent injury (not time of filing)	Reduce number of potential beneficiaries
Expand QME process to SIBTF	Reduce strategic behavior to seek higher ratings and duplicative med-legal evaluations	Lower non-benefit costs
Stop new med-legal evaluations reports for SIBTF	Focus on existing reports of labor-disabling injuries	Lower non-benefit costs
Require documentation that PPD was labor-disabling at time of onset	Reduce need for additional QME reports, lower non-benefit costs	Narrow scope of eligible beneficiaries, reduce benefit costs

Pre-Existing Disabilities That Serve as Basis of Awards Often Include Widespread Chronic Conditions

Prevalence of Specific Chronic Conditions

Health Condition or Body System	% with body part in PPD	% with body part in SII
Gastrointestinal	23%	9%
Circulatory/Hypertension	22%	9%
Hearing	9%	7%
Lungs	8%	3%
Sleep Disorder	8%	5%
Vision	6%	1%
Diabetes	5%	1%
Headaches	5%	3%
Sexual Dysfunction	2%	0%
Obesity or Weight Gain	2%	1%
Other	42%	27%

Notes: Weighted estimates based on 174 cases with at least 1 PPD and 1 SII identified in Stipulation or F&A case resolving document.

Liability Estimates Accounted for Complex Interactions of SIBTF, SII, SSDI, Other Credits

Time periods	Net SIBTF Payments
Scenario 1: Combined SIBTF rating 100% (PTD payments); SII rating range: 35-69% (Permanent Partial Disability only)	
P&S to end of SII Permanent Partial Disability	SIBTF PTD – SII Permanent Partial Disability
End of SII Permanent Partial Disability to death	SIBTF PTD
Scenario 2: Combined SIBTF rating 100% (PTD payments); SII rating range: 70-99% (PPD + Life Pension)	
P&S to end of SII Permanent Partial Disability	SIBTF PTD – SII Permanent Partial Disability
End of SII Permanent Partial Disability to death	SIBTF PTD – SII LP
Scenario 3: Combined SIBTF rating range 70-99%; (Life Pension); SII rating range: 35-69% (Permanent Partial Disability only)	
P&S to end of SII Permanent Partial Disability	SIBTF Permanent Partial Disability – SII Permanent Partial Disability
End of SII Permanent Partial Disability to end of SIBTF Permanent Partial Disability	SIBTF Permanent Partial Disability
End of SIBTF Permanent Partial Disability to death	SIBTF LP
Scenario 4 Combined SIBTF rating range 70-99%; SII rating range 70-99% (Permanent Partial Disability and Life Pension)	
P&S to end of SII Permanent Partial Disability	SIBTF Permanent Partial Disability – SII Permanent Partial Disability
End of SII Permanent Partial Disability to end of SIBTF Permanent Partial Disability	SIBTF Permanent Partial Disability – SII LP
End of SIBTF Permanent Partial Disability to death	Max(0, SIBTF LP – SII LP)

Types of Disability Benefits, Eligibility, Maximum Values, and Duration

Benefit Type	Eligibility (ratings)	Benefit Rate	Minimum AWW	Maximum AWW	Start Date	Duration	COLA Applied?
Permanent Partial Disability (PPD)	1-99 percent	2/3 of AWW Currently the max payment is \$290/week	\$240 ^a	\$435	P&S date ^b	3-897.25 weeks, depending on rating	No
Life Pension (LP)	70-99 percent	1.5%*(PD rating - 60)*AWW Currently the max is \$301.50 for a worker with a PD rating of 99 who earned above \$515.38 per week	None	\$515.38	After PPD benefits end	Life	Yes
Permanent Total Disability (PTD)	100 percent	2/3 of AWW Currently, the max payment is \$1,619.15	\$364.29 ^a	\$2428.72 ^a	P&S date ^b	Life	Yes

Notes: AWW = worker's average pre-injury weekly wage. COLA = cost of living adjustment. P&S = Permanent and Stationary. ^a Table reports minimum and maximum AWW in effect for injury dates on 1/1/2024 or later. Available at <https://www.dir.ca.gov/dwc/WorkersCompensationBenefits.htm#TDPD>, Accessed March 13, 2024. ^b PD benefits must commence after 104 weeks of TD based on reasonable estimate of PD, even if the worker is not yet P&S.