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State of California

DWCNewsline

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Temporary total disability rate for 2009 will increase to \$958.01 per week

The maximum temporary total disability (TTD) rate will increase to \$958.01 on Jan. 1, 2009. This increase to the maximum TTD rate marks the third 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 SAWW is defined as the average weekly wage paid to employees covered by unemployment insurance as reported by the U.S. Department of Labor for California for the 12 months ending March 31 in the year preceding the injury.

The California SAWW for the 12 months ending Mar. 31, 2008 was \$956.20. For the period ending March 31, 2007 this figure was \$914.60. So the 2008 TD rate of 916.33 is multiplied by $956.20/914.60$ or 1.045484365, which equals \$958.01 for 2009.

The minimum TTD rate is also subject to annual adjustment based on increases in the SAWW, so the minimum rate of \$137.45 will increase to \$143.70.

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.

SAWW rates may be verified at the US Department of Labor Web site. For the 12 months preceding Mar. 31, 2008: http://ows.doleta.gov/unemploy/content/data_stats/datasum08/DataSum_2008_1.pdf.

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