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Memorandum

Date: **January 26, 2007**
To: **Christine Baker, Executive Officer, CHSWC**
cc:
From: **Frank Neuhauser, UC Berkeley**
Alex Swedlow, CWCI
Re: **Impact of relaxing restrictions on eligibility for temporary disability payments beyond the current 2 years from commencement of benefit payment**

Issue

Recent reforms to the workers' compensation system (SB 899 Poochigian) limited payment of temporary disability to a maximum of 104 weeks from the start of temporary disability payments. Specifically the legislation amended the Labor Code to read as follows:

> "Section 4656 (C)(1) Aggregate disability payments for a single injury occurring on or after the effective date of this subdivision, causing temporary disability shall not extend for more than 104 compensable weeks within a period of two years from the date of commencement of temporary disability payment."

Some policymakers have questioned whether this is unnecessarily restrictive for workers who did not exhaust 104 weeks of benefits but need disability time during a period beyond two years. For example, a worker may have had several months of disability following a shoulder injury, returned to work, and more than two years after injury the doctor recommend follow-up surgery to correct chronic problems. That worker would not be eligible under the new law for temporary disability payments to cover the post-surgical disability period.

The Commission on Health and Safety and Workers' Compensation (CHSWC) requested a study examining the potential costs and benefits of relaxing the restriction that the 104 weeks of benefits be paid within the first to years after commencement of benefits. Specifically, what would be the additional benefit cost of extending the time frame to 3, 4, or 5 years from benefit commencement while maintaining the limit of a maximum of 104 weeks off aggregate benefit payments.

This policy brief is in response to the Commission's request.

Results

- Extending the period during which a worker was eligible for temporary disability payments beyond the current two years from payment commencement would only increase the cost of the temporary disability benefit by 3% or less.
- Because nearly all of these payments would occur in the 3rd year, it makes virtually no difference in direct benefit costs if eligibility is extended to 3 year or as long as 5 years.
- If temporary disability payments represent 20% of benefit payments, the effect on total workers compensation costs would be an increase of 0.6% or less.

The reasons for the limit impact of the relaxation of the eligibility period on total TD costs are:

- Only approximately 8 percent of workers' compensation claims involve payments beyond 104 weeks of the initial payment. (These claims often have extended disability periods and prior to the legislation represented approximately 34 percent of total TD payments.)
- Prior to the reforms a large fraction of these claims extending beyond 104 weeks had disability payments continuously during the period, most claims extending beyond 104 weeks would not be eligible for additional payments if the time frame for eligibility was relaxed by extending it to 3, 4, or 5 years.

Methods

The University of California, Berkeley, in conjunction with the California Workers' Compensation Institute examined a large data base of claims involving temporary disability. The claims covered a period prior to the introduction of the limits on temporary disability imposed by SB 899. The claim data was made available for the Commission study from the Industry Claims Information System (ICIS) data base maintained by CWCI

1. Claims were restricted to those receiving at least one temporary disability payment.
2. The date of the first TD payment was identified
3. Dates 2, 3, 4, and 5 years from the date of first payment were calculated
4. Using the weekly benefit rate for each claim, a 104 week aggregated total was calculated.
5. For each claim with TD benefits paid for periods beyond the 104 week initial period, the payments in each period, 2-3 years, 3-4 years, and 4-5 years, after injury were totaled.
6. Finally, we compared the payments in years 3 through 5 and excluded any payments beyond the aggregate total of 104 weeks.

The data in ICIS is most representative of the experience of insured employers. The analysis is across all employers in the database and experience of individual employers or industry segments, or for self-insured employers may vary from the results listed above.