

LACN LEGISLATIVE UPDATE

Legislative and Regulatory E-mailed news and information
from the Lumber Association of California & Nevada

Ken Dunham, Executive Director Telephone: 916/369-7501 E-mail: kend@lumberassociation.org

This E-mailed report is a service of your Lumber Association of California & Nevada with current information on legislative and regulatory matters. In most instances there will be additional information attached with this report. If there are others in your firm who should receive this report, please contact kend@lumberassociation.org.

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Workers' Compensation Benefit Increases

LACN has joined other California employers in a coalition to comment on the Administration's changes to the permanent disability rating schedule. Employers have long argued that any changes to permanent disability benefits be based on empirical evidence. The regulations being proposed are the result of an ongoing process at the Division of Workers' Compensation. Upon the recommendation of LACN lobbyists and government affairs consultants, California Advocates, LACN is part of the employer coalition. Below is an analysis of the proposed regulations prepared by Julianne Broyles, an associate at California Advocates.

The California Department of Industrial Relations, Division of Workers' Compensation (DWC) is proposing changes to the permanent disability rating schedule (PDRS), which will increase benefits for injured workers by an average of 16 percent. The DWC has indicated that it would like to expedite the formal rulemaking process in order to implement the increase by early 2009.

The proposal is contained in draft regulations posted to the DWC online forum at <http://www.dir.ca.gov/Wcjudicial.htm> for review and comment. Comments will be accepted on the DWC forum until Friday, May 23. Once the formal rulemaking is initiated, further opportunities to submit official comments will be available.

By way of background, the DWC invited representatives of all stakeholder groups – employers, injured workers, applicant attorneys, insurers, and more – to attend advisory committee meetings at the end of 2007.

At the meetings, all stakeholders were provided with every opportunity to review and comment on various studies that have been conducted by the DWC and other qualified organizations regarding the impact the 2002-2003 reforms to the workers' compensation system. Stakeholders were also given the opportunity to provide additional information and ideas to the group for consideration.

The employer community has consistently maintained the position that any changes to the PDRS must be based on empirical evidence. Many major employer organizations, such as the California Chamber of Commerce, believe that there is sufficient data that provides justification for two of the changes proposed:

Age Adjustment: This adjustment will address benefit equity in that it ensures that benefit dollars go to those injured workers most impacted by their industrial injuries.

Ranking of Body Parts: Based on the data provided by the DWC during the advisory committee meetings, employers are also supporting this PD schedule revision as proposed. There is justification for this change and this change, like the age adjustment, addresses benefit equity.

Both of the proposed modifications to the PDRS outlined above are based on empirical evidence that was presented and discussed by the DWC stakeholder meetings. The DWC utilized the empirical evidence to make adjustments to the PDRS is consistent with current law and to maintain the accuracy of the PDRS.

Employer representatives are still analyzing the last aspect of the proposed changes, increasing of the future earnings capacity (FEC) multiplier. While a number of studies have been completed with regards to both PD ratings and wage loss, none of the reports set out an acceptable explanation of how that empirical evidence justifies the proposed increase. This modification to the PDRS differs from the other two adjustments in that it targets benefit adequacy instead of benefit equity.

The DWC has indicated that it will set out their reasoning for the increase to the FEC multiplier in the Initial Statement of Reasons filed with the official regulatory package.