

- Policy & Procedure
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State of California

# DWCNewsline

Division of Workers' Compensation  
Carrie Nevans, Acting Administrative Director

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1515 Clay Street, 17<sup>th</sup> floor, Oakland, CA 94612 (510) 286-7100

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Internet Web Page: <http://www.dir.ca.gov>

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Newsline No. 52-09

October 07, 2009

## **Temporary total disability rate for 2010 will increase to \$986.69 per week**

The maximum temporary total disability (TTD) rate will increase to \$986.69 on Jan. 1, 2010. This increase to the maximum TTD rate marks the fourth consecutive year 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 minimum TTD rate is also subject to annual adjustment based on increases in the SAWW, and for 2010 the minimum rate will increase to \$148.00.

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 U.S. Department of Labor Web site. For the 12 months preceding March 31, 2009:

[http://ows.dolela.gov/unemploy/content/data\\_stats/datasum09/DataSum\\_2009\\_1.pdf](http://ows.dolela.gov/unemploy/content/data_stats/datasum09/DataSum_2009_1.pdf)

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Bulletin No. 66-08  
October 31, 2008

## **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.dolela.gov/unemploy/content/data\\_stats/datasum08/DataSum\\_2008\\_1.pdf](http://ows.dolela.gov/unemploy/content/data_stats/datasum08/DataSum_2008_1.pdf).

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Bulletin No. 86-07

December 19, 2007

## **Division of Workers' Compensation reminds workers' compensation community of changes slated to take effect in 2008**

### **New mileage rate, new temporary disability rate and new TD timeframe all apply Jan. 1**

The Division of Workers' Compensation (DWC) is reminding injured workers, employers, claims administrators, attorneys and others of three changes to workers' compensation law that take effect Jan. 1, 2008.

The medical mileage rate for medical and medical-legal travel expenses will increase to 50.5 cents per mile. This rate must be paid for travel on or after Jan. 1, 2008, regardless of the date of injury.

Labor Code section 4600, in conjunction with Government Code section 19820 and the Department of Personnel Administration regulations, establishes the rate payable for mileage reimbursement for medical and medical-legal expenses and ties it to the Internal Revenue Service (IRS) [published mileage reimbursement rate](#).

The mileage rate for 2007 was 48.5 cents per mile. The rate was 44.5 cents per mile between July 1, 2006 and Dec. 31, 2006, and prior to that increase, the rate had been 34 cents per mile since 2001.

In addition to the mileage rate increase, the temporary total disability (TTD) rate for 2008 increases to \$916.33 per week on Jan. 1, 2008, and the period during which injured workers are eligible for TTD benefits has been expanded from two years to five.

This increase to the maximum TTD rate marks the second 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 California SAWW for the 12 months ending March 31, 2007 was \$914.60. For the period ending March 31, 2006, this figure was \$880, amounting to an increase of 3.932 percent.

Applying this percent increase to the prior year's maximum benefit of \$881.66 brings the 2008

maximum benefit to \$916.33. Applying the increase to the minimum benefit brings it from \$132.25 to \$137.45.

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.

In addition to the increase in the TTD benefit rate brought about by changes in the SAWW, a bill signed this year by Gov. Schwarzenegger increased the window of time during which temporarily disabled employees are eligible to receive TTD benefits.

Reforms passed in 2004 made changes to the Labor Code that limited TTD payments to 104 weeks within a two-year period for a single injury occurring on or after April 19, 2004, except under certain limited conditions. The two years of eligibility were counted from the date of the first payment of temporary disability. Beginning Jan. 1, 2008, employees injured on or after that date will be eligible to receive the 104 weeks of disability payments within a five-year period. The five-year period is counted from the date of injury.

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Bulletin No. 54-06

October 10, 2006

## **Temporary total disability rate for 2007 will increase to \$881.66 per week**

The maximum temporary total disability (TTD) rate will increase to \$881.66 on Jan. 1, 2007. This marks the first year 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 Mar. 31 in the year preceding the injury.

The California SAWW for the 12 months ending Mar. 31, 2006 was \$880. For the period ending Mar. 31, 2005, this figure was \$838.42, amounting to a percentage increase of 4.959%. Applying this increase to the prior year's maximum benefit of \$840 brings the 2007 maximum benefit to \$881.66.

The minimum TTD rate is also subject to annual adjustment based on increases in the SAWW, so the minimum rate of \$126 will increase to \$132.25

SAWW rates may be verified at the US Department of Labor Web site. SAWW for the 12 months preceding Mar. 31, 2005:

[http://ows.dolela.gov/unemploy/content/data\\_stats/datasum05/1stqtr/finance.asp#California](http://ows.dolela.gov/unemploy/content/data_stats/datasum05/1stqtr/finance.asp#California). For the 12 months preceding Mar. 31, 2006:

[http://ows.dolela.gov/unemploy/content/data\\_stats/datasum06/1stqtr/DataSum\\_2006\\_1.pdf](http://ows.dolela.gov/unemploy/content/data_stats/datasum06/1stqtr/DataSum_2006_1.pdf).

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Bulletin No. 80-05  
December 20, 2005

**Cost of living adjustment increase for some permanent total disability and life pension cases triggered by increase to the California state average weekly wage**

Labor Code section 4659(c) requires that, for workers injured on or after Jan. 1, 2003, permanent total disability (PTD) and life pension payments be increased on Jan. 1, 2004 and every January 1st thereafter based on changes in the California state average weekly wage (SAWW). Therefore, according to the provisions of Labor Code section 4659(c), permanent total disability and life pension rates will be increased by 4.01 percent as of Jan. 1, 2006.

The exact text of the subdivision is: "(c) For injuries occurring on or after January 1, 2003, an employee who becomes entitled to receive a life pension or total permanent disability indemnity as set forth in subdivisions (a) and (b) shall have that payment increased annually commencing on January 1, 2004, and each January 1 thereafter, by an amount equal to the percentage increase in the "state average weekly wage" as compared to the prior year. For purposes of this subdivision, "state average weekly wage" means the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending March 31 of the calendar year preceding the year in which the injury occurred."

The SAWW for the twelve months preceding Mar. 31, 2004 is \$806.11, and for the 12 months preceding Mar. 31, 2005 it is \$838.42. Thus, the SAWW has increased by \$32.31, or 4.01 percent.

SAWW rates may be verified at these US Department of Labor Web pages:

SAWW for the 12 months preceding Mar. 31, 2005:

[http://atlas.doleta.gov/unemploy/content/data\\_stats/datasum05/1stqtr/finance.asp#California](http://atlas.doleta.gov/unemploy/content/data_stats/datasum05/1stqtr/finance.asp#California)

SAWW for the 12 months preceding Mar. 31, 2004:

[http://atlas.doleta.gov/unemploy/content/data\\_stats/datasum04/1stqtr/finance.asp#California](http://atlas.doleta.gov/unemploy/content/data_stats/datasum04/1stqtr/finance.asp#California)

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Bulletin No. 63-04  
December 15, 2004

### **California state average weekly wage (SAWW) increases 1.97 percent between 2003 and 2004**

Labor Code section 4659(c) requires that, for workers injured on or after Jan. 1, 2003, permanent total disability (PTD) and life pension payments be increased on Jan. 1, 2004 and every January 1st thereafter based on changes in the California state average weekly wage (SAWW).

The exact text of the subdivision is: "(c) For injuries occurring on or after January 1, 2003, an employee who becomes entitled to receive a life pension or total permanent disability indemnity as set forth in subdivisions (a) and (b) shall have that payment increased annually commencing on January 1, 2004, and each January 1 thereafter, by an amount equal to the percentage increase in the "state average weekly wage" as compared to the prior year. For purposes of this subdivision, "state average weekly wage" means the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending March 31 of the calendar year preceding the year in which the injury occurred."

The SAWW for the twelve months preceding March 31, 2004 is \$806.11, and for the twelve months preceding March 31, 2003 it is \$790.50. Thus the SAWW has increased by \$15.61 or 1.97 percent. According to the provisions of Labor Code section 4659(c), permanent total disability and life pension rates will be increased by 1.97 percent as of Jan. 1, 2005.

SAWW rates may be verified at these US Department of Labor web pages:

SAWW for the twelve months preceding March 31, 2003: [http://atlas.doleta.gov/unemploy/content/data\\_stats/datasum03/1stqtr/finance.asp#California](http://atlas.doleta.gov/unemploy/content/data_stats/datasum03/1stqtr/finance.asp#California).

SAWW for the twelve months preceding March 31, 2004 [http://atlas.doleta.gov/unemploy/content/data\\_stats/datasum04/1stqtr/finance.asp#California](http://atlas.doleta.gov/unemploy/content/data_stats/datasum04/1stqtr/finance.asp#California)

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Bulletin No. 18-03  
December 22, 2003

### **California state average weekly wage (SAWW) declines between 2002 and 2003**

Labor Code Section 4659(c) requires that, for workers injured on or after Jan. 1, 2003, permanent total disability (PTD) and life pension payments be increased on Jan. 1, 2004 and every January 1st thereafter based on changes in the California state average weekly wage (SAWW).

The exact text of the subsection is: "(c) For injuries occurring on or after January 1, 2003, an employee who becomes entitled to receive a life pension or total permanent disability indemnity as set forth in subdivisions (a) and (b) shall have that payment increased annually commencing on January 1, 2004, and each January 1 thereafter, by an amount equal to the percentage increase in the "state average weekly wage" as compared to the prior year. For purposes of this subdivision, "state average weekly wage" means the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending March 31 of the calendar year preceding the year in which the injury occurred."

The SAWW for the twelve months preceding March 31, 2003 is \$790.50, and for the twelve months preceding March 31, 2002 it is \$794.95. Thus the SAWW has actually decreased by \$4.45 or .56 percent. As there is no provision for a decrease in rates, no change in PTD or life pension rates will be required on Jan. 1, 2004 under Labor Code Section 4659(c).

SAWW rates may be verified at these US Department of Labor web pages:

Average SAWW for the twelve months preceding March 31, 2002: [http://atlas.doleta.gov/unemploy/content/data\\_stats/datasum02/1stqtr/finance.asp#California](http://atlas.doleta.gov/unemploy/content/data_stats/datasum02/1stqtr/finance.asp#California).

Average SAWW for the twelve months preceding March 31, 2003: [http://atlas.doleta.gov/unemploy/content/data\\_stats/datasum03/1stqtr/finance.asp#California](http://atlas.doleta.gov/unemploy/content/data_stats/datasum03/1stqtr/finance.asp#California).

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