

SB 899 - Comparison of changes in the Law

Old Law Provisions	Effective Date	New Law Provisions
General Disputes		
While a decision on a claim is delayed for investigation, no benefits are paid for alleged injury	4/19/2004	Employer/carrier are responsible to pay for medical treatment until a decision to accept or deny the claim is made, or they have paid \$ 10,000
Dispute over WC benefits must be liberally construed in favor of the injured worker, based upon a preponderance of the evidence	4/19/2004	Language added to say that all parties be considered equally before the law
Medical		
Medical treatment standard is to cure or relieve from the effects of an injury	4/19/2004	New standards of care are to be developed and adopted, until then, the ACOEM treatment guidelines apply
Any Employee could pre-designate a treating doctor in the event of a work injury	4/19/2004	Added restrictions that pre-designation is only available where employer provides non-occupational medical coverage, doctor has prior records and agrees to the pre-designation
Employer directs medical care only for the first 30 days, unless employee pre-designates or employer is part of an HCO	1/1/2005 or after new regulations are adopted	Employer/carrier create an Employer Physician Network and employees must choose a doctor from the network
If an employee disagrees with the treating doctor's recommendations, they are free to change treating doctor to any doctor they choose	1/1/2005 or after new regulations are adopted	2nd and 3rd request for a change must be to a physician within the Employer's Physician Network
Employee can, in writing, pre-designate a doctor to treat them for a work injury	1/1/2005 or after new regulations are adopted	Employee can only pre-designate if the employer provides group health benefits, doctor is a member of the network, has previously treated the employee and doctor must agree to the designation
Temporary Total Disability		
Temporary total disability (TTD) benefits were paid until P&S or maximum of 240 weeks	4/19/2004	TTD maximum is 2 years, except for specific types of serious injuries
A doctor could only reduce a portion of the PPD if the employee had prior disability	4/19/2004	The doctor must account for all prior injuries, illnesses or conditions when considering PPD

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Permanent Partial Disability		
If an employee disagrees with the determination of PPD, they are sent a panel of QME's, no timelines on scheduling the exam	4/19/2004	Establishes specific procedures and timelines for getting the exam scheduled and resolution of the dispute
Permanent Partial Disability (PPD) amount could only be reduced if the doctor determined a portion of disability existed prior to the work injury	4/19/2004	Limits the cumulative amount of PPD, for each of 7 major divisions of the body, so anyone of them can not exceed 100% - 700% total
No change in PPD amount whether the employee returns-to-work or not	1/1/2005 or when new regulations are adopted	PPD amount is decreased by 15% if employer offers return-to-work
No change in PPD amount whether the employee returns-to-work or not	1/1/2005 or when new regulations are adopted	PPD amount is increased by 15% if employer can not offer return-to-work
If employee is represented, the attorney can avoid an Agreed Medical Examiner (AME) by simply not agreeing to any proposed - each free to use a doctor of their choice	1/1/2005	If parties can not agree on an AME, they must request a panel of QME's and either, agree on 1, or, each party strikes one and use the remaining - last MD standing
PPD is based upon the doctor's evaluation of the restrictions, limitations and pain and applies a CA. specific PPD rating system that considers subjective factors	Injuries after 4/30/2004 and 1/1/2005 or when new regulations are adopted	PPD evaluation by the doctor must consider the provisions of the new rating plan that will include the AMA guidelines
PPD determination is based upon the existing PPD system that considers objective measurements and subjective descriptions of pain	1/1/2005 or after new regulations are adopted	A new PPD rating system will be developed that promotes uniformity, consistency and objectivity
PPD amount for all levels of PPD are included in a table based upon the % of disability between 0.25% and 99.75%	1/1/2005 or after new regulations are adopted	Adjust PPD amount to increase severe injuries, over 70%, by reducing the amount for cases with less than 15% PPD
Death Benefits		
If there is a work injury that results in death and there are no dependents, benefits are paid to the Department of Industrial Relations (\$ 250,000)	4/19/2004	Requires payment of \$ 250,000 to the estate of the employee and adds \$ 125,000 payment to the Department of Industrial Relations

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Penalties		
Penalty applies to the full amount of a species of benefit: TTD, PPD, Medical, and Vocational Rehabilitation (Voc. Rehab.)	6/1/2004	Penalty amount is capped at \$ 10,000 and allows for a 90 day "right to repair" and self-imposed 10% and a 2 year Statute of Limitation
Vocational Rehabilitation		
Voc. Rehab. responsibility was changed from a benefit paid directly to a voucher system, effective 1/1/2004	4/19/2004	Clarifies that full voc. rehab. benefits, up to \$ 16,000, for injuries prior to 1/1/2004, then converts to a voucher system for injuries on or after 1/1/2004
Premium return to the employer, if they allow an employee to return to a Permanently Modified job for 1 year	Regulations to be drafted by 7/1/2004	Establishes a Workplace Modification Fund to provide a grant to employers with 50 or less employees to aid them in making workplace modifications
Depart. of Insurance sets pure premium rate and each carrier determines their own rate and files it with the Insurance Commissioner	1/1/2006	Establishes an insurance rate study to determine the impact of savings on the market