California Workers' Compensation Institute
1111 Broadway Suite 2350, Oakland CA 94607
(510) 251-9470

BULLETIN

No. 15-07 June 16, 2015

California's State Average Weekly Wage (SAWW) rose from $1,095.70 to $1,120.67 in the 12 months ending March 31, 2015, an increase of just under 2.2789 percent that will boost minimum and maximum temporary total disability (TTD) and permanent total disability rates for 2016 injuries, life pension and PTD payments for workers injured on or after January 1, 2003, and maximum weekly rates for death benefit installment payments.

Labor Code §4453(a)(10) ties California workers' compensation weekly TTD and PTD rates to the annual percentage increase in the state average weekly wage, which is the average weekly wage paid to employees covered by unemployment insurance as reported by the Department of Labor for California for the 12 months ending March 31 of the year preceding the injury. That means that for 2016 injury claims, the maximum weekly TTD and PTD rates will rise to $1,128.43 (2.2789 percent more than the current rate of $1,103.29 per week paid on 2015 injury claims), while the weekly minimum rate will increase from $165.49 to $169.26.

In addition, LC §4661.5 requires that TTD paid two or more years after the date of injury be based on the TTD rate in effect on the date of the payment unless that would reduce the amount paid, so claims administrators also will need to increase payments on existing claims that are eligible for more than 104 weeks of TTD. Those include claims involving amputations, severe burns, chronic lung disease or any of nine long-term injuries noted in LC §4656(c)(3), where the injured worker may continue to be paid TTD for up to 240 compensable weeks within 5 years of the date of injury. For example, a worker who suffered an amputation while on the job on March 1, 2014, and who is still receiving TD at the 2014 weekly maximum of $1,074.64, will see that payment bump up to the 2016 maximum of $1,128.43 per week beginning March 1, 2016, as long as that rate is justified by their at-injury earnings. Claims organizations also may need to increase TTD payments on claims in which the initial TTD payment was delayed, or was started, stopped, and then resumed, if the injured worker is still eligible for the benefit more than two years after the injury date.

Other workers' compensation benefits also will be affected by the recent increase in the SAWW. Labor Code §4659(c) requires cost of living adjustments (COLAs) for workers injured on or after January 1, 2003 who have either a permanent *total* disability (100 percent PD) or a permanent disability rated at least 70 percent but less than 100 percent (entitling them to a life pension). Thus the latest increase in the SAWW means that effective January 1, 2016 claims administrators will need to make cost of living adjustments to the life pension and permanent total disability *payments* to these claimants. In addition, LC Section 4702(b) requires that unless the Appeals Board has ordered otherwise, all death benefit payments "shall be paid in installments in the same manner and amounts as temporary total disability indemnity would have to be made to the employee." Thus, the weekly maximum rate for death benefit installment payments also will increase as of next January to reflect the new TTD maximum for 2016. Unlike TTD, however, state law sets the minimum weekly rate for death benefit installment payments at $224, so the 2016 TTD minimum of $169.26 per week should not be used in calculating minimum weekly rate for these death claims.

There are penalties for underpaying benefits, so claims administrators should review all changes in benefit rates with counsel to assure appropriate and accurate adjustments. For reference, California's SAWW for the year ending March 31, 2014 is posted with other labor force data at http://workforcesecurity.doleta.gov/unemploy/content/data_stats/datasum14/DataSum_2014_1.pdf and the SAWW for the year ending March 31, 2015 is posted at http://workforcesecurity.doleta.gov/unemploy/content/data_stats/datasum15/DataSum_2015_1.pdf.

BY/