California Workers' Compensation Institute
1999 Harrison St., Suite 2100, Oakland CA 94612
(510) 251-9470
www.cwci.org

BULLETIN

No. 23-17 **November 22, 2023**

U.S. Department of Labor data released today show that California's State Average Weekly Wage (SAWW) edged down from $1,650 to $1,642 (-0.48%) in the 12 months ending March 31, 2023, the first decline since 2010, so as of next January, workers' compensation temporary total disability (TTD) and permanent total disability (PTD) rates, as well as other benefits subject to cost of living adjustments, will not need to be increased to account for recent wage growth.

Statutory requirements that workers' compensation indemnity benefits be adjusted regularly date back to workers' compensation reforms (AB 749 and AB 486) enacted in 2002. Those reforms included amendments to LC §4453 (a)(10) which ties TTD and PTD rates to the percentage *increase* in 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.

Adjustments based on increases in the SAWW since then – including a record 13.521 percent increase in 2022 and a 5.159% increase last January -- have steadily pushed TTD and PTD rates up, so as of January 1 of this year, minimum weekly TTD and PTD rates for 2023 injury claims stands at $242.86 while the maximum weekly rates stand at $1,619.15. The California Division of Workers' Compensation has confirmed that the recent decline in the SAWW means that the maximum weekly TTD and PTD rates for accident year (AY) 2024 claims will remain unchanged from the 2023 level.

The decline in the SAWW also means that the annual cost of living adjustments (COLAs) to life pension and permanent total disability payments of workers injured on or after January 1, 2003 [LC §4659(c)] will not apply next January, and an adjustment of the weekly maximum rate for death benefit installment payments required under LC §4702(b) will not be required next year.

Although TD rates for 2024 injuries will remain unchanged from the 2023 levels, claims administrators should note that depending on the rate now being paid, some existing older claims that are eligible for more than 104 weeks of TD [e.g., claims involving amputations, hepatitis or any of 9 long-term injuries noted in LC §4656(c)(3)] will qualify for an increase in 2024 as LC §4661.5 requires that any TTD payment made two or more years after the injury date be based on the TTD rate in effect on the date of the payment, unless that would reduce the amount paid. Thus, a worker who suffered an amputation on April 1, 2022, and who is still receiving TD at the 2022 maximum of $1,539.71, should see that payment increase to the current maximum of $1,619.15 on April 1, 2024 (assuming that rate is justified by their at-injury earnings).

Benefit adjustments can be tricky, and because significant penalties attach for failure to pay correct amounts, claims administrators should always review benefit amounts with legal counsel to confirm that appropriate adjustments are made. For reference, California's SAWW for the 12 months ending 3/31/23 can be found in the U.S. Department of Labor Unemployment Insurance database, which is posted here.

BY/