



California Applicants Attorneys Association

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**Injured Workers' Advocates Oppose Rate Increase:
Insurers failed to Account for 50% drop in Claims;
Overstate Impact of Court Cases**

SAN FRANCISCO – California Applicants' Attorneys Association (CAAA) President Todd McFarren, whose members represent Californians injured at work, today opposed the insurance industry's proposal to increase workers compensation premiums by 24%. At a hearing called by the California Insurance Commissioner, McFarren noted that insurance premium rates continued to decline through the end of 2008, dropping to \$2.25 per \$100 of payroll. "This is the lowest rate in several decades, and is down over 65% from its peak of \$6.45 at the end of 2003," said McFarren, who also disputed the insurance industry's claim that recent court decisions are a basis for the proposed rate increase. "The insurance industry failed to account for an unprecedented drop in the number of workers compensation claims for permanent disability compensation since SB 899 took effect. The number of workers compensation claims has been cut in half since SB 899."

McFarren noted, "Insurance companies are proposing to raise rates again, claiming that the cost of medical care has skyrocketed. However, looking at the industry's own numbers shows that the fastest-growing medical cost is not the cost of treatment for injured workers, but the costs of denying and delaying medical care (such as utilization review or bill review)."

"Much of the industry's proposed increase, would actually pay for insurers' expenses to review, and usually deny, requests for medical care, not the care injured workers need so that they can return to work," said McFarren. "Much of the unprecedented decline in injured workers' claims represents workers who are

fed up with the workers' compensation system and are making claims under group health policies, Social Security, and other public programs.”

“Since the majority of treatment is provided through medical networks established by employers or insurers, and virtually all fees are subject to a fee schedule, why is so much money going to cost control?” McFarren asked.

McFarren wrote to Commissioner Poizner, “It is folly to believe insurance industry claims that the reforms are no longer reducing costs. Statutory limits on physical therapy and chiropractic treatment are still in place, medical treatment authorization requests are still judged against nationally developed treatment guidelines and are subject to utilization review, outpatient facility fees are still subject to the Medicare fee schedule, injured workers can still receive a maximum of 104 weeks of temporary disability, penalties for unreasonable delay are still minuscule, and permanent disability awards are still subject to apportionment.”

“There is considerable misunderstanding regarding the impact of two recent *en banc* decisions from the Workers’ Compensation Appeals Board,” McFarren wrote. “The estimated impact of these cases accounts for only a small part of the proposed increase, 5.7% out of the overall requested increase of 24.4%. However, because the WCAB recently granted reconsideration on both cases, any attempt to quantify their eventual impact – if any – on claim costs is grossly premature. What is certain is that these cases will not and cannot reverse the unintended 50% reduction in permanent disability benefits caused by adoption of the 2005 PDRS. Should these cases be upheld upon reconsideration, some workers will have the right to attempt to rebut a disproportionate, unfair, or inadequate rating. However, because permanent disability benefits comprise only about 10% of overall benefits, any eventual cost impact will be minor. And in any case it is absurd to contend that a disabled worker should not have the right to rebut a disproportionate or unfair rating simply because a proportionate and fair rating will increase costs!”

“Because so many smaller claims are leaving the system,” McFarren said, “only the more serious claims are left to be covered under workers' compensation. This makes it appear that costs are going up, when in fact it simply means that the average injury covered by workers' compensation is more severe.”

*For the complete text of the letter to Commissioner Poizner, visit:
www.denialofcare.org*

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