

2012 WORKERS' COMPENSATION MID-YEAR PROPOSED LEGISLATION UPDATE

In April 2012 Keenan issued a *Briefing* that provided a summary of significant proposed workers' compensation legislation as well as additional legislation that has the potential to impact California's health care industry. That briefing is available at:

http://www.keenan.com/news/brief_hc/2012/BRF_20120423_WC2012Legislation_KHC.pdf

Following is the updated status of proposed legislation.

AB 808 – Hospital Employee Presumption for MRSA (Skinner)

Summary: This bill would provide, with respect to hospital employees who provide direct patient care in an acute care hospital, that the term “injury” includes methicillin-resistant *Staphylococcus aureus* (MRSA) that develops or manifests itself during the period of the person's employment with the hospital. This bill would create a presumption that MRSA arises out of and in the course of the person's employment if MRSA develops or manifests as specified. This bill would prohibit attributing MRSA that develops or manifests in those cases to any disease or skin infection existing prior to that development or manifestation.

Status: This bill was initially introduced 02/17/2011. The hearing was cancelled at the requested of the author on 02/27/12. The bill was re-referred to the Senate Labor & Industrial Relations Committee on 06/07/2012. Referred to the Senate Appropriations Committee; no hearing currently scheduled.

AB 1145—Permanent Disability Benefits (Cedillo-D)

Summary: This bill would provide that the Supplemental Job Displacement Benefit (SJDB) apply to injuries occurring on or after January 1, 2004, and before January 1, 2013, and require that within 10 days of the last payment of temporary disability, the employer provide to the employee a notice of rights pursuant to SJDB. This measure expands the purposes the voucher may be used for and provides that an agreement to settle or release a claim for SJDB is only valid if approved by a workers' compensation judge.

Status: Placed in Senate Appropriations Committee suspense file on 06/25/2012.

AB 1454—Audiologists (Solorio-D)

Summary: Under this bill, doctors of audiology and with five years of post-doctoral experience in practice may apply and be appointed by the Administrative Director of the Division of Workers' Compensation as Qualified Medical Evaluators (QME).

Status: Passed the Senate Labor & Industrial Relations Committee on 06/28/2012. Referred to Senate Appropriations Committee; scheduled hearing date of 08/06/2012.

AB 1687—Utilization Review (Fong-D)

Summary: This bill would require that a prominently visible notification of the options for objecting to a modification, delay, or denial of medical treatment services requested by physicians appear on the first page of communication or responses of such medical treatment decisions. The bill would also expand the circumstances under which an applicant could be awarded attorney's fees to include the enforcement of a medical award following a dispute arising during the utilization review process.

Status: Passed the Senate Labor & Industrial Relations Committee on 06/27/2012. Referred to Senate Appropriations Committee; scheduled hearing date of 08/06/2012.

AB 2449—Independent Contractors (Norby-R)

Summary: This bill would require the courts to strictly construe what constitutes an independent contractor, as defined for purposes of limiting the inappropriate extension of these benefits to persons not intended to receive them. The impact of this measure would be to better protect employers from paying workers' compensation benefits to individuals who are not employees.

Status: Hearing on the bill in the Senate Labor & Industrial Relations Committee was cancelled at the request of the author.

AB 2493—Administrative Hearings (Hernandez-D)

Summary: This bill would authorize the Administrative Director of the Division of Workers' Compensation or an independent organization designated by the Administrative Director to establish, maintain, administer, and publish annually an updated list of certified administrative hearing interpreters it has determined meet certain minimum standards, for purposes of administrative hearings and medical examinations conducted in connection with workers' compensation and appeals to the Workers' Compensation Appeals Board. The effect of this bill would be to make it easier to identify available certified interpreters and potentially reduce delays in proceedings and appeals.

Status: Passed the Senate Labor & Industrial Relations Committee on 07/02/12. Referred to Senate Appropriations Committee; scheduled hearing date of 08/06/2012.

SB 923—Fee Schedule for Physician Services (De Leon-D)

Summary: This bill was initially introduced February 2011. This bill would require the Administrative Director to adopt an official medical fee schedule for physician services based on the Resource-Based Relative Value Scale (RBRVS), to revise the official medical fee schedule for physician services not less than biennially, and would delete obsolete provisions relating to the adoption of a medical fee schedule for inpatient facility fees for burn cases. This bill would also require the initial (RBRVS) official medical fee schedule to use a conversion factor or set of factors that is

determined by the Administrative Director, to result in no overall increased costs to the workers' compensation system.

Status: Failed passage in the Assembly and suspended on 09/08/2011. Motion to reconsideration continued.

SB 959 – Provider Reimbursement (Lieu-D)

Summary: Existing law requires reimbursement for certain implantable medical devices, hardware, and instrumentation, at the provider's documented paid cost, plus an additional 10%, plus sales tax, as specified. This bill would delete these reimbursement specifications relating to implantable medical devices, hardware, and instrumentation.

Status: Ordered to inactive file on request of Assembly Member Allen on 06/25/12.

SB 1105 —Liens (Lieu-D)

Summary: This bill would require the lien of a self-insured employee welfare benefit plan, upon any compensation benefits awarded to the applicant, to be allowed as a living expense lien. The lien shall be in the full amount of benefits paid to the applicant after the date of injury.

Status: Passed in the Assembly on 06/20/12. Referred to Senate Appropriations Committee; no hearing currently scheduled.

SB 1177—Restitution for Crime Victims (Leno-D)

Summary: This bill would amend the Penal Code. Existing law requires the court to order a person who is convicted of a crime to pay a restitution fine. If an employer is convicted of a crime against an employee, this bill would prohibit a payment to the employee or the employee's kin that is made by the employer's workers' compensation insurance carrier from being used to offset the restitution owed.

Status: Passed in the Senate. Bill referred to Committees on Public Safety and Insurance on 06/19/12; ordered to third reading.

If you have any questions about the information contained in this briefing, please feel free to contact your Account Executive, Claims Analyst or Carmella Claridy, Assistant Vice President at (310) 212-0363, ext. 3738 or cclaridy@keenand.com.

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