

Senate Bill 899 (SB 899), the 2004 legislation that overhauled California's workers' compensation system, presents an opportunity for employers to rein in workers' compensation costs while helping injured workers return to employment sooner.

While the requirements of the new law may seem daunting for employers, Broadspire, a leading provider of casualty and disability claims management and risk and safety consulting, has taken a number of steps to help them comply with SB 899.

More Effective Claim Administration



Under the old law, employers were not obligated to authorize medical care while a claim was under investigation in delay status. Under SB 899, for injuries that occurred on or after April 19, 2004,

the Labor Code now requires authorization of up to \$10,000 in medical treatment within 24 hours of filing a claim, until it is accepted or denied.

To assist employers with this requirement, Broadspire completes an initial investigation within 24 hours of receipt of a claim, including making contact with the employer, injured worker, medical provider and any other applicable parties or witnesses. Broadspire asks the initial medical provider to immediately address the cause of injury. Providers must treat in accordance with the American College of Occupational and Environmental Medicine (ACOEM) guidelines.

Whenever possible, if no additional medical evaluations are needed to make decisions,

Broadspire accepts or denies claims within 14 days of receipt. When evaluation is needed to make a compensability decision on a claim, Broadspire also begins the medical-legal process within 14 days of receipt of a claim.

When a questionable claim occurs, Broadspire encourages employers to provide a claim form (DWC-1), medical authorization and a new apportionment form to an injured worker within 24 hours. When an injury is reported, Broadspire will give an injured worker a Medical Provider Network (MPN) booklet to enable the worker to select a participating provider for his or her care.

Employers should direct an injured worker to an approved medical provider for immediate care. Broadspire also recommends that employers report all new claims within 24 hours so prompt investigation can begin. They should also provide the Broadspire claim team all pertinent information about the injury, person, witnesses, records, etc., and should share any information regarding any known prior injuries, jobs, medical conditions, etc.

Broadspire recognizes that the area of questionable claims has the potential to increase costs for employers, and will work aggressively to make decisions promptly to limit this exposure.

Providing Timely, Quality Care to the Injured Worker



One of the key provisions in the new legislation requires that all medical treatment be consistent with ACOEM guidelines. Broadspire reviews treatment plans for consistency with ACOEM

CC 004-06

guidelines through use of its Utilization Management Department and Care Management nurses.

Broadspire refers many types of cases, including questionable medical requests, lifetime medical, and potentially excessive use of physical therapy, occupational therapy and chiropractic care to Utilization Review (UR) to verify consistency with ACOEM and to determine medical necessity and appropriateness.

For example, Broadspire refers cases to UR after 18 physical therapy, occupational therapy or chiropractic visits. The Broadspire Medical Bill Review (MBR) system tracks the number of visits billed to ensure payments do not exceed 24 visits unless specifically authorized.

As a result of these and other recent changes in medical treatment guidelines, the Workers' Compensation Insurance Rating Bureau (WCIRB) projects an average 33 percent reduction in medical costs to employers.

Creation of Medical Provider Network



SB 899 allows employers to create a Medical Provider Network (MPN) through which all medical treatment is to be directed, unless an injured worker has pre-designated a personal physician.

Rules for pre-designation of physicians have been

modified. An employee must already be a patient of the pre-designated physician, and that physician must agree to treat the employee in the event a work-related injury occurs. Under the MPN structure, injured workers may seek a second and third opinion within the MPN, and then must go to an Independent Medical Review (IMR) if they disagree with the

treatment or diagnosis of their primary treating physician.

Broadspire has partnered with Concentra to develop and implement an MPN comprised of credentialed, defense-oriented providers in all specialty areas. To assist employers with the implementation and utilization of their MPNs, Broadspire has provided clients with wall cards to post in their locations, and supplied handbooks to distribute in accordance with the regulations. Broadspire advises clients to provide their employees with MPN handbooks at the time of hire as well.

Employers may realize benefits from utilizing the MPN that include lower medical costs, better medical outcomes, less incentive for litigation and a lower duration of disability. The WCIRB has projected a statewide 9.4 percent reduction in medical benefit payments that may result from the new medical provider network provisions.

Temporary Disability



For most injuries on or after April 19, 2004, temporary disability benefits are subject to a two-year or 104-week cap from the first payment of disability. Exceptions include acute and chronic Hepatitis B and C, amputations, severe

burns, HIV, high-velocity and/or chemical burns to the eye, pulmonary fibrosis and/or chronic lung disease.

To help employers comply with this cap requirement, Broadspire schedules termination of temporary disability at two years from the date of first payment. In addition, Broadspire is developing a report

indicating when claims are approaching the two-year disability cap, to plan ahead for the termination of temporary disability benefits.

Employers can take an active role in the management of temporary disability by immediately notifying the Broadspire claim team each time an injured worker loses time from work or returns to work. Employers are encouraged to respond to Broadspire regarding the availability of modified duties for an injured worker within 48 hours, and to have an aggressive return-to-work program to help reduce temporary disability payments.

Employers will not see benefits from changes in the area of temporary disability until 2006; however, the WCIRB projects that an average of 16 percent of temporary disability benefits would be eliminated if the cap is applied without exception.

Apportionment



SB 899 provides for changes in how apportionment is applied to permanent disability awards. An employer's liability is limited only to permanent disability directly caused by the claimed injury. Any prior disabilities, impairments

or medical conditions may be deducted out of a final award. This includes pre-existing occupational and non-occupational conditions.

Broadspire questions the employer, injured worker, physician and any other applicable parties about prior injuries or impairments during the initial investigation. Broadspire investigates existing claims using various database searches, and subpoenas medical records, depositions and similar records. In addition, Broadspire re-evaluates case

exposures by obtaining Employers should immediately notify Broadspire with updated medical evaluations where apportionment has not been addressed. Any information on past injuries or medical conditions for an injured worker. Also, employers should have an injured worker sign and complete a new apportionment form created by Broadspire at the time the claim form (DWC-1) is provided to the injured worker.

Permanent Disability and Return to Work



A significant component of SB 899 is sweeping change in the determination of permanent disability and the dollar value of a permanent disability. Broadspire has conducted comprehensive staff training for all team

managers and adjusters in relation to American Medical Association (AMA) guides for rating permanent disability of injured workers. Permanent disability has historically been measured as the injured employee's ability to compete in the open labor market. The new standard will be the diminished future earning capacity. The calculation will be based on the formula developed by the Administrative Director utilizing the *AMA Guide to the Evaluation of Permanent Impairment*, as well as information from the Rand Corporation's *Evaluation of California's Permanent Disability Rating Schedule, Interim Report* published in December 2003.

A new return-to-work incentive will increase or decrease the disability payments by 15 percent. Within 60 days of the Maximum Medical

Improvement (MMI) date, if an employer offers a regular, modified or alternate position for at least one year, permanent disability payments will be decreased by 15 percent. If not, each permanent disability payment will increase by 15 percent.

To assist employers with this change, Broadspire works with clients to develop modified or alternative jobs and other return-to-work programs utilizing such services as time and motion studies, job analysis, job description, a video job-analysis, ergonomic evaluations and functional capacity evaluations. Broadspire also has risk and safety consultants who can proactively advise clients on steps they can take in the workplace to prevent injuries and minimize risk situations before injuries occur.

Employers can participate in this process by evaluating their return-to-work programs, providing early return-to-work whenever possible, accommodating permanent work restrictions whenever possible, and responding to Broadspire within 14 days regarding ability to accommodate restrictions for the injured worker.

With an aggressive return-to-work program, permanent disability savings could be as much as 15 percent of each permanent disability award. The return-to-work rate will directly impact the amount of permanent disability paid.

Vocational Rehabilitation (Supplemental Job Displacement)



SB 899 stipulates that for injuries prior to January 1, 2004, vocational rehabilitation programs must be completed by January 1, 2009. A supplemental job

displacement benefit is in effect for injuries after January 1, 2004.

Once an employer advises Broadspire that it cannot permanently accommodate an employee, Broadspire will offer vocational rehabilitation for injuries prior to January 1, 2004, and supplemental job displacement benefits for injuries on or after that date. Broadspire requests that employers respond within 14 days (or sooner, if possible) of receipt of permanent work restrictions regarding availability of permanent placement.

The WCIRB estimates that the net result of the shift to the supplemental job displacement benefit will reduce total annual statewide benefit costs by \$1.2 billion.

Penalties



SB 899 reduces late payment penalties significantly by linking the penalty amount to the amount of the late payment. Effective June 1, 2004, only the unreasonably delayed amount of compensation

is penalized, at a rate of 25 percent or \$10,000, whichever is less.

Broadspire team managers log and track orders and awards to ensure timely payment, and team managers approve settlements to avoid mistakes and potential penalty issues. Broadspire teams work together to ensure benefit payments are made in a timely manner, even when someone is out of the office. To avoid penalties, only Broadspire team managers may approve the discontinuance of benefit payments. All potential penalties are reviewed with management and the Home Office Claim Consultants

(HOCCs) to make sure they are truly owed and to assess what caused the penalty.

To help avoid penalties, employers should notify Broadspire as soon as an employee misses time from work due to an injury. This is especially important when an employee returns to work and then goes out on disability again. Broadspire requests that clients respond promptly to any requests to return the employee to modified or alternate work, either on a permanent or temporary basis.

Broadspire also encourages clients to accurately report wage information, as penalties can accrue if hours or rates are incorrect. Finally, employers should keep Broadspire informed of any changes in the work status and medical condition of an injured worker.

Adherence to Broadspire's recommendations may result in lower costs for both clients and Broadspire.

For Best Results



Broadspire advises clients that prompt reporting and investigation are critical components to controlling the workers' compensation liability on new claims. Broadspire ensures active management of medical treatment according to

ACOEM guidelines. Broadspire recommends that its clients maintain an open line of communication for the life of the claim.

Further, Broadspire advocates that its clients manage their formal return-to-work policies aggressively and consistently to reduce temporary disability, permanent disability and supplemental job

displacement benefit costs. To provide optimal service to its clients, Broadspire continues to offer its California adjusters comprehensive training on SB 899 and the company will continue to ensure that its claim team is fully aware of all changes the new legislation requires. Broadspire staff members serve on a number of legislative committees as well as the AIA California Compensation Issues Committee.

Broadspire is well positioned to assist clients with all the requirements set forth in SB 899, and is able to provide consultation and recommendations that will help clients comply with the new legislation, while returning injured workers to their jobs sooner and recovered from their occupational injury or illness.

The courts have not yet made decisions on how some provisions of SB 899 will be interpreted. Broadspire continues to monitor any and all court decisions involving SB 899 to keep its clients well-informed on how to fully comply with the law.

For more information on how Broadspire can assist your company with the requirements of SB 899, please contact:

Harriet Evnin, Broadspire's claim administrative manager at 714-935-5990 or hevnin@choosebroadspire.com

Provisions of the law and its impact on employers	Broadspire's response	What employers must do to comply
Injured workers required to select doctors from Broadspire's MPN, which enables employers to retain medical control for the life of the claim.	Established Medical Provider Network (MPNs) and direct treatment to providers within the network	Direct employees to the MPN for treatment, and provide an injured worker with the DWC-1 and Broadspire apportionment form
All treatment must be consistent with American College of Occupational and Environmental Medicine (ACOEM) guidelines, which helps employers to better control treatment, including 24-visit limitations on chiropractic care, physical and occupational therapy.	Treatment plan review, including review by Utilization Management experts for limitations and to assess consistency with ACOEM	Advise Broadspire immediately if an injured worker has pre-designated a physician.
New guidelines and dollar values for the rating of permanent disability based on AMA guidelines, which may increase or decrease employer costs.	Training staff to accurately rate permanent disability, apply new rating schedule, and evaluate reserves.	
Employer incentive for accommodation of permanent work restrictions. Employers who provide a job within the work restrictions for a minimum of 12 months are entitled to a 15 percent reduction on permanent disability payments. If the employer cannot provide a job, there is a 15 percent increase in each permanent disability payment.	Working with employers to develop return to work programs which will include modified or alternative positions.	Evaluate your return-to-work programs, provide early return-to-work whenever possible, and accommodate permanent work restrictions whenever possible.
Capped payments for temporary disability at two years, helping to decrease the number of extended temporary disability cases.	Scheduling to terminate temporary disability at two years from date of first payment	Notify Broadspire immediately each time an injured worker loses time from work or returns to work, have an aggressive return-to-work program to reduce temporary disability payments.
Permits injured workers to seek immediate medical attention, the employer must authorize up to \$10,000 in medical treatment within 24 hours of filing a claim until the claim is accepted or denied.	Accelerated investigation; compensability decision within 14 days if possible	Provide DWC-1 form, medical authorization and new apportionment form to an injured worker within 24 hours, and report all new claims to Broadspire within 24 hours so prompt investigation can begin.
Apportionment changes limit the employer's liability only to permanent disability directly caused by a claimed injury.	Broadspire questions the employer, injured worker, physician and other parties about prior injuries or impairments during initial investigation. We also ask for a form to be completed regarding prior conditions. We use CIB and other sources to obtain additional information.	Provide Broadspire all known information regarding past injuries, medical conditions for an injured worker.