

**California Applicants Attorneys Association**  
**VotersInjuredatWork.org**  
[www.DenialofCare.org](http://www.DenialofCare.org)

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**Injured Workers, Labor, Advocates Oppose  
“Unprecedented” Workers Comp. Insurance Rate Increase:  
Insurers failed to Account for 50% drop in Claims;  
Insurance Companies Doubled Spending to Deny Medical Care**

SACRAMENTO – Injured workers and their advocates, labor, consumer and medical leaders today opposed the insurance industry’s unprecedented proposal to increase workers compensation premiums by 23%. At a news conference preceding a hearing to examine insurance companies’ claims of increased “medical costs,” the advocates said the insurance industry has misleadingly labeled the costs of denying and delaying medical care as “medical costs.” The insurance industry’s own data show that “cost controls” and “medical-legal” expenses doubled in recent years, while payments to physicians dropped by 40% from 2003 to 2007.

Workers compensation insurance rates have declined through 2008, and at \$2.25 per \$100 of payroll, are down 65% from their peak of \$6.45 at year-end 2003, the lowest rate in several decades. This drop has cut insurers’ premium by more than half, from \$23.5 billion in 2003 to \$10.4 billion in 2008. Employers are saving \$14 to \$15 billion per year, and insurers have recorded tens of billions in profits.

“The industry is no longer earning the obscene profits it recorded in 2004 through 2006. Now, insurers want to increase their premiums, and are hiding behind claimed ‘medical cost’ increases,” said Jesse Cenicerros, president of VotersInjuredatWork.org, an advocacy group of Californians injured on the job. “The industry’s own numbers show the fastest-growing medical cost is not the cost of treatment for injured workers, but the costs of delaying, reducing and denying medical care.”

The insurance carriers ignored the fact that workers compensation claims have dropped by 50% and that permanent disability compensation has been cut by 50% to 70%. “Because so many smaller claims are leaving the system,” noted Todd McFarren, president of the California Applicants Attorneys Association (CAAA),

whose members represent Californians injured at work, “only the more serious claims are left to be covered under workers' compensation. This makes it appear that medical costs are going up, when in fact it simply means that the average injury covered by workers' compensation is more severe.”

“The number of workers compensation claims has been cut in half since SB 899. Those injured workers are turning to group health policies, social security, disability and other public providers – because they can't get medical care from the insurance companies,” said Cenicerros. “Taxpayers are paying the bills for on-the-job injuries that insurance carriers should cover. Insurance companies now want employers to make up for the poor economy and investment returns. These insurance companies have pocketed \$26 billion in profits since 2005, and they should absorb cost increases as are workers, our families, and most businesses.”

Medical cost increases justify only a small increase – 3% of 4%. The public members of the Workers Compensation Insurance Rating Board (WCIRB) proposed a 6.7% increase. “Instead of raising rates, insurers should be increasing compensation to disabled workers. Disability compensation in California is at or near the bottom of the United States,” said Cenicerros.

California workers' compensation insurers posted a “healthy 12.1% return” in 2007, according to figures released this month by the National Association of Insurance Commissioners. The figures show that workers' compensation insurers posted solid profits from 2004-2007, peaking at 16.4% in 2006.

The advocates noted that insurers have the ability to control costs through medical treatment guidelines, utilization review and medical provider networks. “Much of the industry's proposed increase would actually pay for insurers' expenses to review, and almost always reduce, delay or deny recommended medical care, not to pay for medical care injured workers need so they can return to work,” said McFarren. “Why is so much being spent to overrule medical care recommended by the insurers' own handpicked doctors? Injured workers are required to see doctors chosen by the company, so why are they overruling these doctors? 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 said, “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.”

*Insurance industry grossly overstates the impact of recent court decisions that could increase costs, and failed to include those that will reduce costs*

McFarren disputed the insurance industry’s claim that recent court decisions are a basis for the proposed rate increase. “There is considerable misunderstanding regarding the impact of two recent *en banc* decisions from the Workers’ Compensation Appeals Board,” McFarren said. “The two decisions will have only a minor impact on permanent disability compensation. The estimated impact of these cases accounts for only 5.7% of the proposed 23% increase. 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.”

McFarren said, “Should these cases be upheld upon reconsideration, they will provide much needed guidance on how to apply the 2005 Schedule. That can help eliminate unnecessary disputes and actually save costs. 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.”

McFarren also pointed out that other recent court decisions will reduce both benefit and expense costs, and urged the Commissioner to consider these cases when he analyzes the proposed rate increase.

*For more information, visit: [www.denialofcare.org](http://www.denialofcare.org)*

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