

## **Workers' compensation insurance cost rising**

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After falling for five years, the cost of workers' compensation coverage seems to be headed up amid debate over whether soaring medical costs or insurance industry waste is primarily to blame.

At a hearing in Sacramento this week, Insurance Commissioner Steve Poizner heard conflicting testimony over a proposal to raise the benchmark rate for workplace injury policies by 23.7 percent.

That recommendation came from the Workers' Compensation Insurance Rating Bureau, an advisory group in San Francisco that says medical costs for treating injured workers are now rising at an annual rate of more than 16 percent.

Poizner has three weeks to accept or amend that recommendation. But insurers are free to ignore the benchmark and set whatever rates they deem prudent.

California's largest workplace insurer - San Francisco's quasi-public State Compensation Insurance Fund - recently said it plans to hike rates by 15 percent, citing medical cost inflation.

With thousands of firms facing increases in policies issued or renewed after July, Poizner focused his hearings on the cost debate.

"The absolute last thing California businesses need is an unsupported added expense," he said in a statement.

The legislature overhauled workers' comp in 2003 and 2004 after soaring insurance rates, blamed on uncontrolled costs, agitated employers who pay for the coverage.

Rates peaked at \$6.45 for every \$100 of payroll in July 2003. Since then, average rates have fallen to about \$2.33 per \$100 of payroll- roughly where they were in 1999.

Now employers worry that the reforms are being undermined and that rates will soar again. But medical and legal interests that side with injured workers say insurers have profited excessively under the new rules and have padded their expenses.

### **Rising since 2007**

The Rating Bureau, which gets its data from insurers, has told Poizner that medical costs started rising in 2007.

"We saw more visits, more procedures per visit and more costs per procedure," said Rating Bureau

spokesman Jack Hannan.

During similar hearings last summer, the Rating Bureau proposed a 16 percent rise in the benchmark rate, which Poizner reduced to 5 percent.

Now the Rating Bureau sees a new threat in addition to medical inflation - a series of decisions by the Workers' Compensation Appeals Board.

That quasi-judicial body, which settles disputed claims, recently ruled that injured workers could challenge the way their permanent disability payments are calculated.

The Rating Bureau thinks those rulings could lead to more challenges, higher payments and a 5.8 percent rise in system costs. It added that to the medical inflation rate and some other factors to reach its 23.7 percent recommendation.

Medical and legal experts dispute the Rating Bureau's justifications.

Steve Cattolica, who represents the California Society of Industrial Medicine and Surgery, said the legislative reforms let workers' comp insurers create review processes and medical networks to help them curb costs. He said insurers have called these cost-control programs "medical expenses" when they should be labeled overhead.

"We need to separate out the superfluous costs and make the insurers a little more responsible for the money they spend," he said.

The California Applicants' Attorneys Association, which represents injured workers, thinks true medical costs are rising 3 to 4 percent, and argues that the big rate hike is being proposed to prop up insurer profits.

Citing Rating Bureau data, the attorneys group says that, from 2004 through 2008, insurers recorded profit of \$26.1 billion, or 31 percent of the total premiums collected.

Industry supporters slice the data differently and say that, although profit has been strong since 2004, insurers suffered deep losses before the legislative reforms. They cite a recent report from the National Association of Insurance Commissioners that measures profit in terms of return on net worth.

### **Average returns**

By that measure, California workers' comp insurers enjoyed average returns of 16.4 percent in 2006 and 12.1 percent in 2007.

But over a 10-year period starting 1998, returns averaged 2.9 percent, dragged down by results like

an 11.1 percent loss in 2002, the report said.

Broker Scott Hauge with CAL Insurance & Associates in San Francisco, said that despite the recommended 23.7 percent hike in the benchmark rate, most insurers have avoided big increases so far because the workers' comp market remains competitive.

"Except for State Fund, you're not going to see many dramatic increases," he said. "But the days of big decreases are over."

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