

SB863 Time Line

Effective Immediately On All Dates of Injuries

EXPEDITED HEARINGS

EH will address MPN dispute, which will take precedence over other EH issues.
EH will also address treatment and med-legal exams.

LIENS

Electronic filing requirements.

\$100 activation fee for **treatment** liens filed before 1/1/13. **Certain providers are exempted.**

\$150 filing fee for **treatment** liens filed on or after 1/1/13. **Certain providers are exempted.**

Treatment bills need to pass through IBR before filed as a lien, except to preserve SOL.

Stricter statute of limitations apply.

Lien claimants have notification rules to follow when changing representatives.

Non-physician lien claimant is not entitled to medical information w/o WCAB's approval.

Assignment of liens is restricted.

MED-LEGAL PROCEDURES

QMEs are limited to 10 locations.

Chiros no longer need 300 hours of post-graduate training for their PQME status.

If IMC does not issue panel w/in *20 working days*, unrepresented EE can obtain an eval from any QME w/in a *reasonable geographic area*.

QMEs and AMEs are not to address treatment disputes, except exams occurring before 6/30/13 for injuries predating 1/1/13.

Consults = EE can pay for a consult & show it to QME or treater, but consult report can't be sole basis for an Award.

PD notices need to contain information on whether there is a need for future treatment and whether PD payments will be deferred.

In unrepresented cases the parties have 30 days to request a supplemental PQME report to correct factual errors.

2nd opinion surgery process is gone.

Represented Cases:

The parties no longer need to offer an AME before requesting a PQME.

The timeline for requesting & striking a PQME changed.

Parties cannot switch to a PQME after agreeing to an AME unless the agreement is canceled by mutual written consent.

EE shall not unreasonably refuse to participate in the evaluation.

OK to communicate w/ AME on insubstantial matters, such as scheduling, etc. unless Board makes a specific finding of an impermissible ex parte communication.

IBR process applies to med-legal bills for services rendered on or after 1/1/13 per regs., but this process arguably applied from the inception of SB863.

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MISCELLANEOUS

Attorney fees - Filing DOR with an in pro per carries risk of attorney fees if the in pro per retains an attorney, but this is no longer the case with Applications.

Interpreters – Some clarification on interpreter for treatment & med-legal exams, and depositions.

\$120,000,000 fund for EEs not w/ disability disproportionately low compared to their loss of earnings.

Improper referrals – physicians who make improper referrals will have harsher penalties.

Fee Schedules are coming for copy services, home health care, physician & non-physician services & modifications on outpx surgery centers.

MPNs

EE may pre-designate if EE has healthcare for non-industrial injury on DOI.

If ER loses MPN dispute, then:

- a. EE can continue tx w/ non-MPN doctor at ER's expense and ER wont be able to force a transfer into the MPN
- b. ER required to pay from the date of the initial exam if the non-MPN doctor submitted a report w/in 5 working days of the initial exam. Otherwise, neither the ER nor the EE are required to pay before the non-MPN doctor submits the report.

EE not allowed to treat outside the MPN due to lack of MPN notices unless the lack of notice resulted in a denial of medical care.

MPN disputes are handled at an EH, and the MPN dispute needs to be resolved before the other EH issues are addressed.

Structural changes to MPNs:

MPNs are no longer required to contain 25% of physicians engaged in non-occupational medicine.

MPNs shall establish & follow procedures to continuously review the quality of care, performance of medical personnel, utilization of services and facilities, and costs.

Every MPN shall submit geocoding of its network for re-approval to establish that the number & geographic location of physicians in the network meets the required access standards.

The AD can investigate complaints & conduct random reviews of approved MPNs.

The AD may adopt regs that allow up to \$5,000 in penalties for MPNs that are not in compliance.

There are new disclosure rules for agents who sell MPNs & contracted reimbursement rates.

MPN plans will be approved for 4 years. Approved plans are conclusively presumed to be validly formed. 4616(b)(1).

PD:

No PDAs if ER offers EE a job that pays @ least 85% of wages & compensation paid to EE at DOI

No PDAs if EE is employed in a position that pays @ least 100% of the wages & compensation paid to EE at DOI.

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TREATMENT

A chiropractor shall not be a treating physician after the 24 cap.

ER does not waive 24 cap if ER pays for more than 24 visits.

Home Health - The ER is not liable for home health care services provided more than 14 days prior to the date ER receives a **prescription from an MD or a DO.**

All providers must provide itemized billing statements, copies of all reports showing services performed, Rx or referral from PTP, & any evidence that services were authorized.

Deadlines for paying & objecting to treatment bills changed from working days to calendar days.

Once ER has issued an EOB, ER does not need to respond to duplicate submissions of the same medical bills. §4603.2(b)(4).

IBR process applies to all treatment bills for services rendered on or after 1/1/13 per regs., but this process arguably applied from the inception of SB863.

UR denials last 12 months.

UR deferred pending resolution of issues unrelated to medical necessity.

TREATMENT LIENS

\$150 filing fee if lien filed after 1/1/13.

\$100 activation fee for liens filed before 1/1/13.

Stricter SOL on treatment liens

VOC EXPERT REPORTS

If report is admissible at trial, then voc expert wont testify at trial.

VOUCHERS:

Injuries while using vouchers are not compensable.

Vouchers issued after 1/1/13 expire 2 years after date the voucher is furnished to the EE or 5 years after doi, whichever is later.

Request for Dispute Resolution on voucher benefits = form 10133.55

Effective for DOIs on or after 1/1/13

MED-LEGAL

Unrepresented cases: New PQME request form 105a for DOIs on or after 1/1/13.

Represented cases: New PQME request form 106a for DOIs on or after 1/1/13.

MISCELLANEOUS

Death Benefits increased to \$10K for burial expenses

PD

No more 15% ↑ & ↓.

The DFEC component will be removed from the rating strings. The WPI will be multiplied by a factor of 1.4. We continue to use the 2005 Schedule until the AD makes a new Schedule. The new Schedule will apply to injuries on or after the effective date of the adoption of the new Schedule.

No PD increases for sleep dysfunction, sexual dysfunction, or psych disorders.

Minimum Rate = \$160

Maximum Rates = \$230 if PD < 55%; \$270 if PD = 55% to 69%; & \$290 if PD = 70% to 99%

TREATMENT

RFA form

IMR applies

VOUCHERS

Vouchers for DOIs on or after 1/1/13 are \$6,000 and cannot be settled. IW can use the vouchers to purchase more items than the pre-1/1/13 vouchers.

ER makes the offer no later than 60 days after the claims administrator receives the 10133.36 form finding the disability has become P&S and that the injury has caused PD. If no offer, then ER offers voucher 20 days from the expiration of the 60 day period.

Voucher offer = form10133.32

Description of EE's job duties = form 10133.33 (optional)

Job offer = form 10133.35

Physician RTW & voucher report = form10133.36

Effective on or after 7/1/13

RFAs will be required on all treatment requests.

IMR will apply to all treatment requests regardless of DOI

The AD will promulgate regs governing access assistants for the MPNs.

If lien claimant provided services on or after 7/1/13, the lien claimant shall not file a lien more than 18 months after dos. LC§4903.5(a).

Effective for DOIs on or after 1/1/14

PD:

Minimum Rate = \$160

Maximum Rate = \$290 regardless of the level of PD

Effective on or after 1/1/14 regardless of DOI

LIENS

Per SB863, if activation fees were not paid by 1/1/14 for treatment liens filed before 1/1/13, then the pre-1/1/13 liens were to be dismissed by operation of law. However, activation fees were challenged and placed under a preliminary injunction. The challenge was not successful, the injunction was vacated, and the activation fee became due by 12/31/15. Angelotti Chiropractic, Inc., et al v. Baker, et al., (2015) 80 CCC 672. Further, any lien claimant who filed a lien prior to 1/1/13 and files a Declaration of Readiness or appears at a conference between 11/9/15 and 12/31/15 will be required to pay the activation fee if it has not previously been paid. Failure to pay the activation fee will result in a dismissal by operation of law. Certain providers are not required to file activation fees.

MPNs

The doctor or authorized employee of the doctor needs to affirmatively elect to be in the MPN.

MPN networks shall post roster of doctors on its website w/ quarterly updates.

The DWC website will have the website addresses for all the approved MPNs.

MPNs will have a help desk. 4616(a)(5)

MPNs approval status will last 4 years from most recent application or modification approval date.

IMR physician cannot be a QME