

# MARSH



April 14, 2004

## Workers' Compensation How to Apply Lessons Learned from California's Workers' Comp Reform to your Company

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Marsh & McLennan Companies

# Today's Agenda



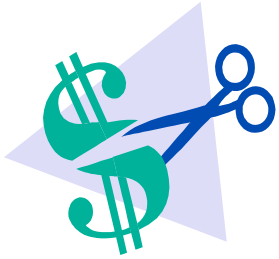
- **Background**

- **SB 899 Reform**

- **Current Outcomes**

- **Conclusions**

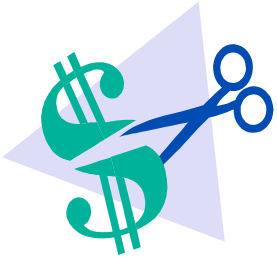
- **Questions**



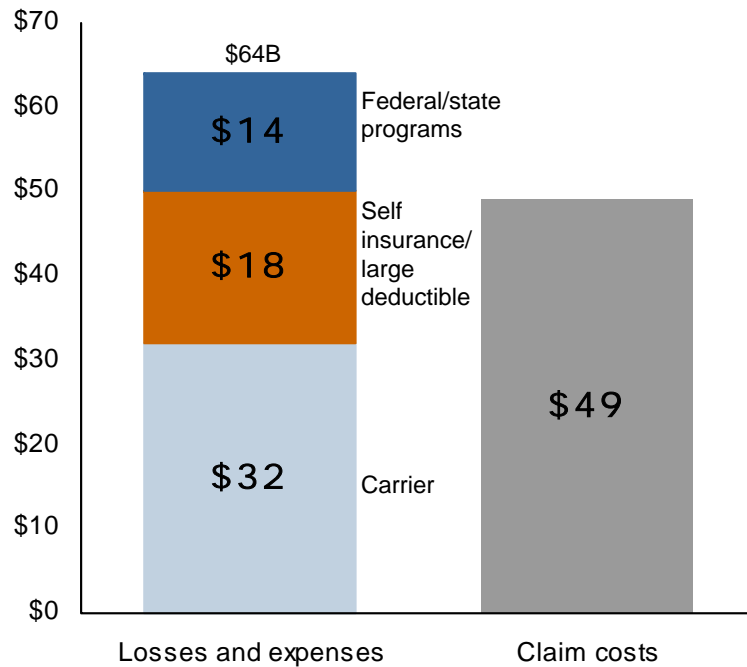


Background

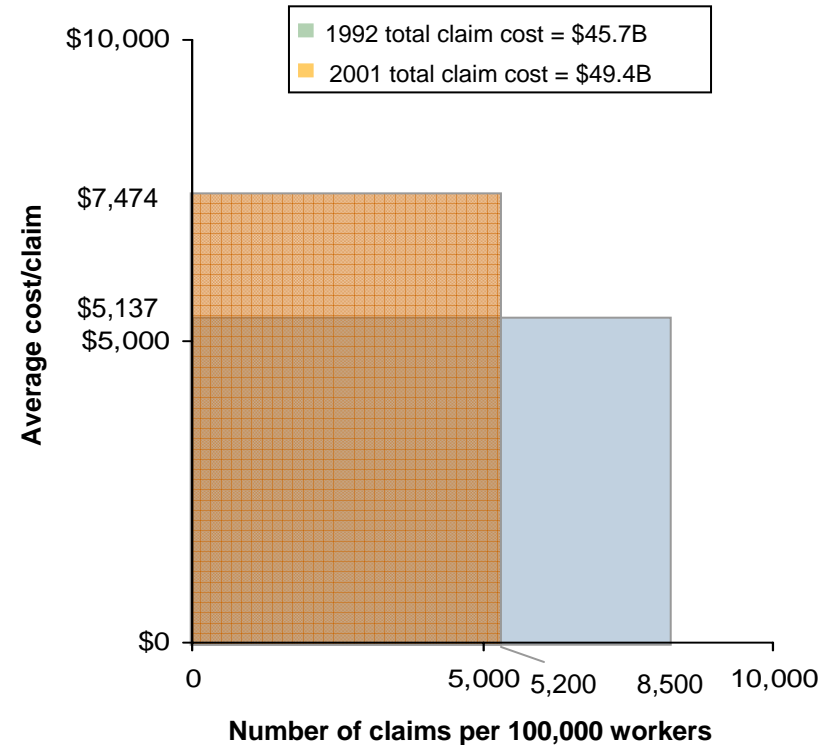
# Workers' Compensation Market Overview



Total WC losses and expenses (2001, \$B)



WC claim frequency and cost claims/100,000 workers and average claims cost)

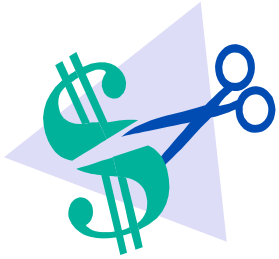


Workers' compensation cost employers \$64B in losses and expenses in 2001. Costs per claim are increasing.

- Although claims frequency is decreasing, both medical and indemnity costs have been increasing

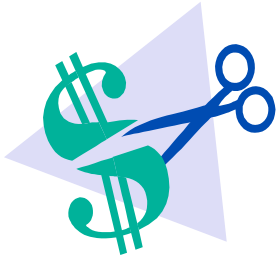
Source: National Academy of Social Insurance, AM Best, NCCI, Liberty Mutual, Casualty Actuary Society

# Why SB899 and Workers' Comp Reform in California



- Spiraling costs with no end in sight
  - WCRI studies
- Perception of jobs leaving state
- Reduce cost for employers
- Improve care for injured workers
  - WCRI studies
- Perception of fraud
  - Injured employee
  - Vendors

# Why SB899 and Workers' Comp Reform in California



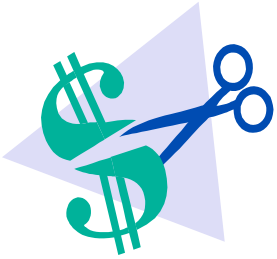
- In 2004, California WC cost:
  - \$30 billion
  - \$880 per person
- Permanent Partial Disability:
  - 1,221 per 100,000 employees
  - National average 434
- Litigation from 1992 to 1999
  - 30% of claims litigated
  - 14% nationally
- California vs. the remainder of the USA
  - 20% of WC premiums
  - 14% of population

Marsh, Employers that Pay Workers' Compensation Costs in California, December 4, 2003b



# SB 899: The Current State

# SB899 Reform Highlights



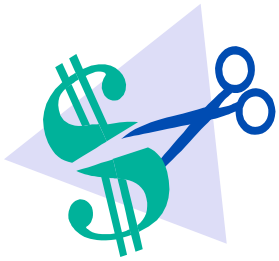
- Immediate Access to Medical Care
- Predesignation of a Primary Care Physician
- Managed Care (UR, Bill Review, Treatment Guidelines)
- Presumption of Correctness
- Medical - Legal evaluation processes
- Temporary Total Disability and Permanent Disability
- Apportionment
- Return to Work
- Vocational Rehabilitation
- Medical Provider Networks

# Immediate Access to Medical Treatment



Questionable claims can be delayed for up to 90 days for investigation

Effective for claims filed on or after 4/19/2004



- Medical treatment must be authorized within 1 working day of employee filing a claim with the employer
- Medical treatment provided within the MPN
- Employers liable for up to \$10,000 in medical expenses until claim is accepted or denied
- ACOEM guidelines apply to treatment
- Treatment does not create liability presumption

# Predesignation of Primary Care Physician



Effective 4/19/04

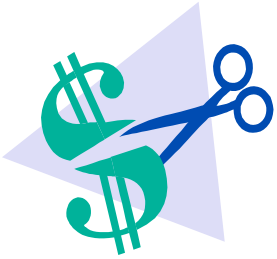
- Provisions allowing employees to pre-designate a personal physician prior to date of injury has been modified and tightened
  - Employer must sponsor a health care service plan or a group health insurance policy
  - Employee must notify the employer in writing *prior to* the date of the injury
  - Must retain employee's medical records
  - The physician must agree to be pre-designated
  - Physician must treat to approved treatment guidelines and is subject to medical fee schedules



# Presumption of Correctness of Treating Physician



- Repeals this presumption for all dates of injury
- ACOEM guidelines now presumed correct
- Revises provisions on pre-designation

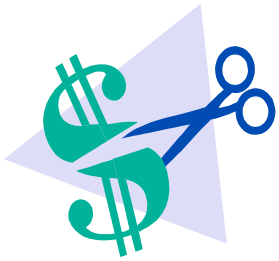


# Medical Legal Process



## Effective 4/19/04: Non-Represented Injured Workers

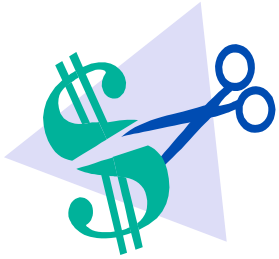
- Panel QME for all disputes
- Once a panel physician has been obtained, no further medical evaluations allowed



## Effective 1/1/2005: Represented Injured Workers

- Panel QME will be in effect for dates of injury on or after 1/1/05.

# Permanent Disability Apportionment



Effective 4/19/04 for claims with no PD award (all injury dates):

- Physicians to apportion percentage of PD caused as direct result of industrial injury, and percent caused by other factors
- Employees required to disclose previous permanent disabilities
- Employer only liable for the percent of permanent disability directly caused by work-related activities
- Prior PD awards are conclusively presumed to exist at time of subsequent injury
- Cumulative PD award for any one region of the body can not exceed 100% over employee's lifetime unless conclusively presumed total

# Return to Work

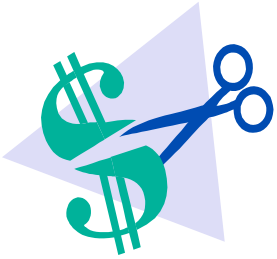


- SB899 provides a 15% reduction on permanent disability payments if the employer offers regular, modified or an alternate position if criteria are met:



- 85% of pre-injury wages will be paid for return to modified or alternate duty
  - job offer is made within 60 days after P&S determination
  - During the first 60 days of PD payments, no reduction or increase is applied until an offer of a suitable position is made or advisement of lack of a suitable position
  - With no offer, remaining payments increased 15%

# Vocational Rehabilitation



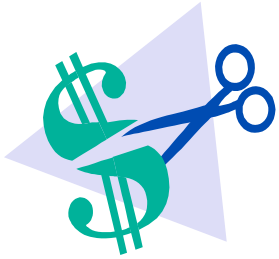
- Current vocational rehabilitation repealed in favor of nontransferable education vouchers of \$4,000-\$10,000 (depending on the level of disability) for injured workers who are not back at work within 60 days after the termination of temporary disability benefits and have not received a qualified offer of modified work.
- Only 10% of the voucher can be used for counseling services.
- SB 899 reinstated Vocational Rehab for injuries which occurred prior to 1/1/04. Rehab must be completed no later than 12/31/2009.

# Medical Provider Networks

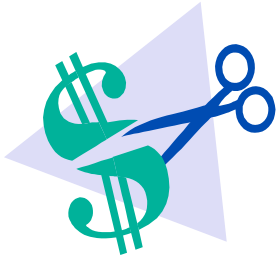


Effective Jan. 1, 2005

- With an approved MPN, employers maintain control over treatment for life of claim. Without, employers can lose control after 30 days
- MPNs will operate very similarly to an HMO, with the injured worker selecting a primary treating provider after the initial visit to direct their care within the network
- The MPN provides a framework for effective medical treatment



# What Do the Reforms Mean?



- The MPN provides a framework for effective medical treatment
- Treatment guidelines ensure necessary and effective
- Disability rating schedule provides objective and consistent methodology
- Incentives for return to work reduce disability
- Reduced incentives to hold out for higher awards
- Ultimately, cost savings to the system and the State

# Lessons Learned

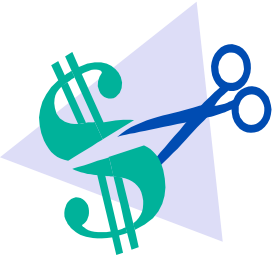


- Work with your Claim Administrator and evaluate use of MPN
- Establish metrics to measure effectiveness of medical treatment
- Communicate with primary physicians
- Incorporate post-offer functional capacity testing to create baseline
- Ensure timely reporting of claims – allocation programs
- Assist Claim administrator in investigation to reduce timeframe
- Invigorate return-to-work programs

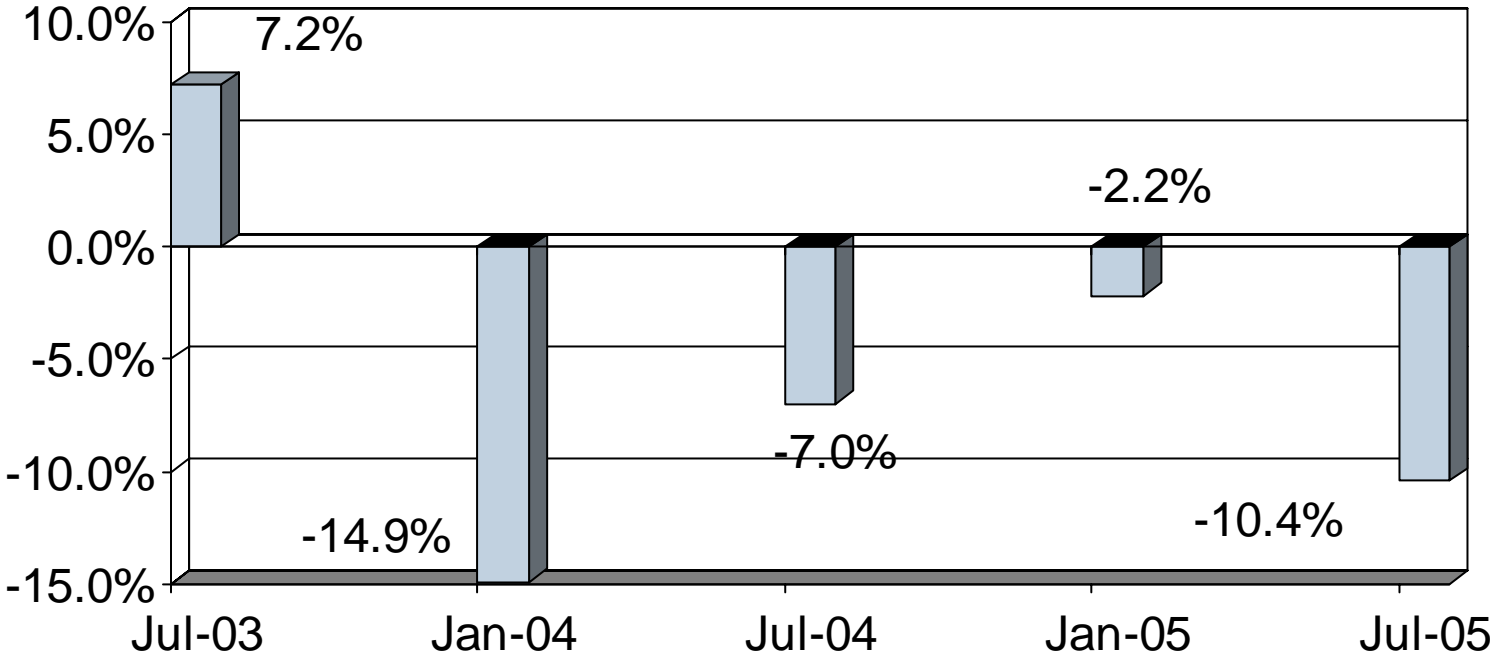


Current Outcomes

# Reforms Showing Positive Results



## Rate Adjustments by WC Insurance Rating Bureau



California Division of Workers' Compensation, Workers' Compensation reforms under Senate Bill 899, First Annual Report of Progress

# Reforms Showing a Positive Result



- Insurance rates peaked at \$6.35 in 4<sup>th</sup> quarter 2003
- If changes passed on, rates will be \$5.22 in early 2005
- \$4.68 in late 2005, a 26 % reduction from peak rates
- “California business owners saw the average annual premium for workers’ compensation insurance drop between 13.9% and 16.6 % in the past six months”

*Sacramento Bee, January 2005*

- 17,104 new disputed claims in April 2003
- 10,878 new disputed claims in January 2005
- 36% reduction

California Division of Workers’ Compensation, Workers’ Compensation reforms under Senate Bill 899, First Annual Report of Progress

# Reforms Showing a Positive Result



- Reform has inspired renewed interest
  - Employer control increased
  - Employer involvement has increased
  - Take advantage to create a win-win scenario
  
- Los Angeles County has reduced its WC costs by 10.5% thanks to last year’s reforms and an increased emphasis on return-to-work programs. *Work Comp Central April 15, 2005*
  
- “I think the reforms had a major impact – and the fact that the departments are getting more active in terms of return-to-work and in terms of getting more involved in their own claims” *Los Angeles County WC Chief Program Specialist Alex Rossi*



Conclusions

# Workers' Compensation Cost Containment Conclusion

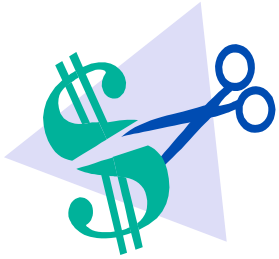
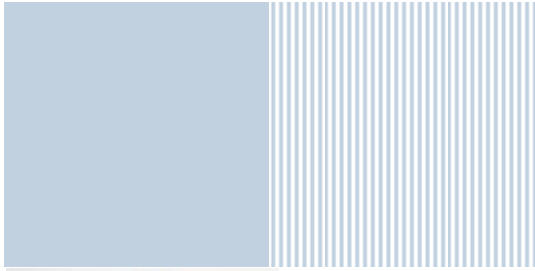


## Workers' Compensation Loss Cost Continuum

Diagnostics	Pre-Loss	Post-Loss
<ul style="list-style-type: none"><li>• Benchmarking</li><li>• Data Quality</li><li>• Trends</li></ul>	<ul style="list-style-type: none"><li>• Culture</li><li>• Education</li><li>• Behavioral Ergonomics</li></ul>	<ul style="list-style-type: none"><li>• Medical Management</li><li>• Vendor Management</li><li>• Return to Work</li></ul>

**Employers must control the process!**

**Win – Win is the successful solution.**



# MARSH



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