



# California's Workers' Compensation Permanent Disability Ratings System

## A Pre-Reform and Post-Reform Evaluation

**W**hen workers suffer a permanently disabling injury at the workplace, they are usually eligible to receive workers' compensation permanent partial disability (PPD) benefits. In California and in other states, workers with injuries considered to be severe are entitled to higher benefits than workers with injuries considered to be less severe. This characteristic of PPD benefits necessitates a system for ranking the severity of disabilities. This ranking, called the *permanent disability rating*, is used to distribute PPD benefits to workers with various types of impairments. In California, injured workers with higher disability ratings are entitled to more benefits than those with lower ratings.

The disability rating process sparks controversy in every state, but nowhere has it been more controversial than in California. California has historically relied on its own system for measuring disability, a system that has been criticized by many observers as being inconsistent, prone to promote disputes, and conducive to fraud.

The study on which this briefing is based is part of an extensive RAND Corporation evaluation of how well the California workers' compensation PPD system assesses permanent disabilities from workplace injuries and assigns benefits to injured workers. The evaluation was requested by the California Commission on Health and Safety and Workers' Compensation and was conducted by the RAND Institute for Civil Justice (ICJ). An interim ICJ report (DB-443-ICJ, 2003; at <http://www.rand.org/publications/DB/DB443/>) helped to inform the policy debates that ultimately resulted in Senate Bill (SB) 899, a 2004 bill that reformed many aspects of the state's workers' compensation system, including the permanent disability rating system.

Before SB 899, the California permanent disability rating system produced a disability measure

### Abstract

The rating system that California used until recently to rank the severity of permanently disabling workplace injuries and to assign workers' compensation benefits was highly controversial. RAND evaluated California's system and found that it worked well in that those who were most severely impaired received the highest ratings and thus the most benefits. However, the ratings were not consistent for impairments that were judged to be similarly severe but that affected different body parts. And ratings were inconsistent among physicians examining the same impairment. Recent reforms might improve the system, but they should be monitored to ensure that both workers and employers benefit from the reforms.

that combined both the severity of an impairment and the effect of the impairment on work. The use of subjective criteria (as well as objective criteria) to measure disability was the most controversial feature of the California system and what most distinguished it from the systems used in other states. Supporters of the system contended that California's unique approach better targeted benefits to workers, and that some disabilities, while real, cannot be objectively measured using medical criteria. Critics of the system countered that the use of subjective criteria led to excessive PPD claiming and to an inappropriate distribution of benefits.

### How Healthy—or Ill—Was California's Permanent Disability Rating System?

In its evaluation of the system, RAND found the following:

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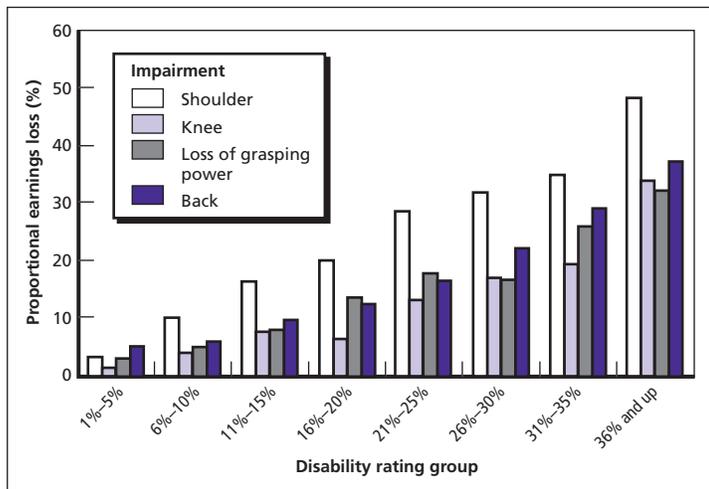
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- The rating system appeared to function reasonably well in that the highest ratings (and therefore the most benefits) went to the most severely impaired individuals.
- The system targeted disability benefits appropriately to workers who had more-severe impairments on average to the same body part. However, the ratings (and therefore the benefits) were not distributed equitably for impairments to different parts of the body. For example, a worker with a shoulder disability that was rated with the same severity as another worker's back injury suffered a higher earnings loss on average (see the figure below). The use of wage losses to evaluate impairment severity provides a common standard of comparison across impairment types and could reduce these inequities.
- At every level of injury severity, workers who return to work at the same employer even for a short period of time experience much lower proportional earnings losses over the long term than those who do not.
- There were large differences in evaluations by different physicians examining the same impairment (especially in Southern California), and these inconsistencies in physician ratings appeared substantial enough to provide parties with incentives to litigate. However, it is not clear to what extent the discrepancies reflect the use of subjective factors in the old rating system, before the reforms adopted with SB 899, or other factors, such as workers' ability to select sympathetic physicians.

### SB 899 Brought Substantial System Changes

The new approach to rating permanent disability in California abandons the old rating schedule and adopts the "objective" criteria

### Three-Year Losses by Disability Rating Category and Injury Type



used by the American Medical Association's *Guides to the Evaluation of Permanent Impairment (AMA Guides)*. While the *AMA Guides* are not uncontroversial, and have problems of their own, proponents of the new system hope that the adoption of the *AMA Guides* will increase the system's reliance on objective medical evidence of disability, reduce costly litigation, and increase confidence that the system is performing fairly and efficiently. In addition, following ICJ's recommendations in the interim report, SB 899 called for the new system to incorporate empirical data on the long-term loss of income by workers with injuries to different body parts.

While California's disability rating system incorporated a number of important factors that might indicate an individual's earnings capacity, one factor that it did not previously consider in rating a disability was the observed return to work<sup>1</sup> by an individual. Other states use two-tier benefits systems to factor in return to work when assigning PPD benefits. Two-tier systems provide relatively lower benefits to workers who receive a legitimate employment offer from the at-injury employer and higher benefits to those who do not. Thus, these systems provide employers with incentives to offer their disabled employees modified employment opportunities and have the potential to boost disabled workers' participation in the labor market. SB 899 adopted a two-tier system for California, which provides a 30-percent difference in PPD benefits based on whether or not disabled workers are offered a suitable employment opportunity at the at-injury employer.

The California's workers' compensation permanent disability system has faced, and continues to face, significant changes. It seems likely that the changes will result in lower costs to employers, which is desirable to the extent that high costs are the result of inefficiencies in the system. However, it is important to consider the impact of the reforms on the adequacy of benefits. A number of past studies by ICJ have suggested that California's PPD benefits consistently fall short of the benchmark adequacy standard of two-thirds wage replacement. Certain elements of the new system, such as provisions that promote the return to work of injured workers, may improve the adequacy of the system. On the other hand, the reforms to the permanent disability rating system may lead to reductions in benefits and may eliminate benefits entirely for some claimants. Administrators of the California workers' compensation system should make it a priority to closely monitor these features of the system to ensure that both workers and employers benefit from the recent reforms. ■

<sup>1</sup> *Return to work* refers to various aspects of employment following injury. Sometimes also called the *return to work rate*, the term as used here refers to both return to work rates for injured employees and other characteristics of post-injury employment, such as retention and subsequent employment.

This research brief describes work done for the RAND Institute for Civil Justice and documented in *An Evaluation of California's Permanent Disability Rating System* by Robert T. Reville, Seth A. Seabury, Frank W. Neuhauser, John F. Burton, Jr., and Michael D. Greenberg, MG-258-ICJ, 2005, 168 pages, \$24, ISBN: 0-8330-3813-3. MG-258-ICJ is available online at <http://www.rand.org/publications/MG/MG258/>. Copies of this research brief and the complete report on which it is based also are available from RAND Distribution Services (phone: 310-451-7002; toll free: 877-584-8642; or email: [order@rand.org](mailto:order@rand.org)). The RAND Corporation is a nonprofit research organization providing objective analysis and effective solutions that address the challenges facing the public and private sectors around the world. RAND's publications do not necessarily reflect the opinions of its research clients and sponsors. RAND® is a registered trademark.



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