

WCIRB Actuarial Committee Meeting

**Materials Presented at the WCIRB Actuarial Committee Meeting
September 6, 2016**

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2016 Legislation Senate Bill No. 1160

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SB 1160 – Key Provisions – Utilization Review (UR)

- For 1/1/18 and Later Injuries Accepted as Compensable, Medical Treatment Consistent with the Medical Treatment Utilization Schedule within 30 Days of Date of Injury Authorized without Prospective UR
 - Does not apply if physician not within MPN or HCO or not pre-designated by employee or “selected” by the employer
 - Does not apply to all treatments (e.g., non-emergency inpatient or outpatient surgery, home health, most imaging or radiology services, psychological treatment, \$250+ durable medical equipment)
 - Will be integrated with new drug formulary to be adopted by 7/1/17
- Requires Accreditation of Insurer UR Processes by Independent Organization by 7/1/18
- Requires AD to Develop System for Electronic Submission of Information on Each UR Decision to the DWC by 7/1/18

Impact of SB 1160 UR Provisions

Estimated Reduction in UR Costs Due to Restriction on UR

(1) MCCP as % of Total Loss & LAE (1/1/17 Filing)	4%
(2) UR as % of Total MCCP Costs (CWCI)	55%
(3) UR as a % of Total Loss & LAE (1) x (2)	2%
(4) % of UR in First 30 Days from Date of Injury (CWCI)	5%
(5) % of First 30 Days Treatment Exempted in SB 1160 (WCIRB Medical Transaction Data)	10%
(6) Estimated % Reduction in Total Loss & LAE (3) x (4) x [1 – (5)]	0.1%
■ Effective on 1/1/18 and Later Injuries	
■ Estimate Similar to Updated DWC Estimate	

Impact of SB 1160 UR Provisions

Estimated Increase in Medical Costs Due to Restriction on UR

- | | |
|---|-------------|
| (1) Medical Loss as % of Total Loss & LAE (1/1/17 Filing) | 43% |
| (2) % of Ultimate Medical Losses in First 30 Days | 9% |
| (3) % of Total Medical Services Subject to UR (CWCI) | 15% |
| (4) % of Medical Services Modified or Denied at UR (CWCI) | 28% |
| (5) % of First 30 Days Treatment Exempted in SB 1160
(WCIRB Medical Transaction Data) | 10% |
| (6) Estimated % Increase in Total Loss & LAE
$(1) \times (2) \times (3) \times (4) \times [1 - (5)]$ | 0.1% |
- Maximus Estimates that Less than 0.2% of the IMRs they have Completed are for Treatment Denied at UR within 30 Days
 - Estimate Similar to Updated DWC Estimate
 - Claims Working Group Expressed Concerns as to Potential Indirect Impact on Costs

Impact of SB 1160 UR Provisions

Summary of Potential Impact on 2017 Pure Premium Rates

- Applies to Injuries on or after 1/1/18
- Savings Related to Reduced UR Relatively Small
- Additional Costs Due to Increased Medical Treatment Within 30 Days Now Being Denied through UR Relatively Small
- Staff Recommends No Adjustment to Proposed 2017 Pure Premium Rates
- WCIRB to Monitor Indirect Impacts on Medical Treatment within First 30 Days

SB 1160 – Provisions on Liens

- Liens Filed by Provider Stayed upon Filing of Criminal Fraud Charges
 - Stay in effect until the disposition of the criminal proceedings
 - Consolidated process for liens following criminal conviction (AB 1244)
 - AD authorized to promulgate rules for implementation
- Liens Filed after 1/1/17 Require Declaration under Penalty of Perjury that Dispute is not Subject to IMR or IBR and Meets other Requirement (e.g., provider in an MPN or was acting as AME or QME, emergency treatment)
- All Liens Filed after 1/1/17 Shall not be Assigned to a Third Party
 - Exception if provider ceased doing business in the capacity the expenses were incurred and has assigned all rights to the assignee

Impact of SB 1160 Lien Provisions

Current Estimated Cost of Liens

- Medical Cost of Liens as % of Total Medical Losses (WCIRB Report on 2015 Insurer Losses and Expenses): 6.1%
- Medical Cost of Liens as % Total Loss & LAE (1/1/17 Filing): 2.6%
- Approx. Total Lien Cost (incl. LAE) as % Total Loss & LAE: 6%
- Latest Estimate of SB 863 Lien Savings (2015 SB 863 Cost Monitoring Report): 2.5% or \$480 Million Annually (Equates to 40% Reduction in Lien Filings)
- 100%+ Increase in Lien Filings in 2015 & 2016 Eroding Savings
 - Medical liens at pre-SB 863 level
 - Some of increase due to change in statute of limitations on filings
 - Sharp increase in lien filings from top 10 lien claimants

Impact of SB 1160 Lien Provisions

Summary of Considerations Discussed at 9/1/16 Meeting

Impact on Pre-1/1/17 Liens

- Stay on Liens Filed by Lien Claimants Under Fraud Indictment
 - Per DWC: 10% of liens filed between 2011-2015 filed by providers with fraud indictments/convictions (9% of lien demand amounts)
 - Total demands of providers with fraud indictments/convictions adjusted for LAE and interest: approximately \$1 Billion.
 - Regulations on lien resolution process following fraud conviction pending
 - Savings on existing claims depends on percent of liens dismissed: if 50% of liens dismissed assuming 30% average recovery and \$3K per lien in LAE costs on pre-1/1/17 claims: \$250 Million in savings
- Declaration Under Penalty of Perjury Required by 7/1/17
 - Approximately 1 million liens filed since 1/1/13
 - Bill Author Indicated May Revisit 7/1/17 Effective Date
 - Impact uncertain but potentially significant

Impact of SB 1160 Lien Provisions

Summary of Considerations Discussed at 9/1/16 Meeting

Impact on 2017 Policies – Factors Suggesting Reductions in Lien Filings

- Stay on Lien Filed by Lien Claimants Under Fraud Indictment
 - Criminal indictments of lien filers of 10% of historical liens likely to affect future lien filings
 - Could impact other system costs
 - Impacts on future claim costs uncertain
- Declaration Required on all Liens Filed after 1/1/17
 - Per DWC: liens will be automatically dismissed at filing if not accompanied by declaration
 - Should impact “zombie” and “balanced billing” liens
 - Works in conjunction with lien filing fee, 18-month statute of limitations and new restrictions on lien assignments

Impact of SB 1160 Lien Provisions

Summary of Considerations Discussed at 9/1/16 Meeting

Impact on 2017 Policies – Factors Suggesting Reductions in Lien Filings

- Restrictions on Assignments of Liens
 - Per DWC: declaration must be from provider and settlement payment must be made to provider
 - DWC estimates that 18% to 25% of liens filed in 2013 through 2015 were assigned
 - Significant increase in lien concentration in 2015 (approximate increase of 10% of liens filed by top 10 lien claimants in 2015)

Impact of SB 1160 Lien Provisions

Summary of Considerations Discussed at 9/1/16 Meeting

Impact on 2017 Policies – Offsetting Factors

- Some Lien Filers May Transition from Lien Assignees to Lien Collection Agents
- Declaration Requirements May Result in Increases in IBR & IMR
- Liens Initially Dismissed Potentially Re-filed with Declarations
- If Liens Without Declaration Not Dismissed at Time of Filing LAE Costs May not be Impacted
- Liens Can be Filed if Medical Treatment has been Neglected or Unreasonably Refused (May Pertain to Disputed Claims or Body Parts)
- Potential Legal Challenges to SB 1160 Provisions (e.g., restriction on assignments)
- Liens Can be Assigned if Provider Ceased Doing Business in Capacity in which Expenses were Incurred

Impact of SB 1160 Lien Provisions

Summary of Potential Impact on 2017 Pure Premium Rates

- Current Cost of Liens
 - Based on 2015 calendar year data the cost of liens estimated at 6%
 - May understate impact of sharp increase in lien filings in 2015 and 2016
 - Some of increase may be artificial due to change in statute of limitations
- Impact on Pre-2017 Liens
 - Provisions related to fraud and declaration may impact pre-2017 liens and medical and LAE development of pre-2017 accident years
 - Staff recommends no adjustments at this time
- Impact on Post-2017 Liens
 - Provisions related to fraud, declaration and assignment may impact the volume of post-2017 liens
 - A number of factors may offset potential savings
 - No direct basis of evaluation
 - Some modest judgmental adjustment to projected lien filings may be appropriate