Senate Bill No. 863
WCIRB Cost Monitoring Plan

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WCIRB California
525 Market Street, Suite 800
San Francisco, CA 94105-2767
Tel 415.777.0777
Fax 415.778.7007
wcirb@wcirb.com
www.wcirb.com

I. Background

Senate Bill No. 863 (SB 863) was passed by the Legislature on August 31, 2012 and signed by the Governor on September 18, 2012. SB 863 increases benefits effective January 1, 2013 and January 1, 2014 and provides for a number of structural changes to the California workers' compensation benefit delivery system.

Following the enactment of SB 863, the WCIRB reviewed the impact of SB 863 on the cost of losses and loss adjustment expenses (LAE) underlying 2013 advisory pure premium rates. The WCIRB's evaluations included a cost estimate for SB 863 amendments to permanent disability (PD) minimum and maximum weekly benefit levels; the burial allowance; supplemental job displacement benefits; the adjustments to the PD rating corresponding to future earning capacity (FEC); PD impairment "add-ons" for psychiatric impairment, sleep disorder or sexual dysfunction; the three-tiered system of PD weekly benefits based on return-to-work status; liens; reimbursements for spinal implant hardware; fee schedule values for ambulatory surgical centers (ASCs); the process for resolving medical treatment disputes through independent medical review (IMR); and provisions related to services provided outside a valid medical provider network (MPN). Attachment 1 is the WCIRB's most current prospective evaluation of SB 863, which was released on October 12, 2012. The WCIRB estimated that, in total, SB 863 will reduce the cost of losses and loss adjustment expenses on 2013 policies by 4.4%.[1]

Additionally, SB 863 included amendments which the WCIRB was not able to evaluate at the time. These include provisions related to MPN procedures and processes; independent bill review (IBR); IMR as it relates to medical treatment; fee schedules for interpreters, home health services and copy services; conversion of the California Official Medical Fee Schedule (OMFS) to a Resource Based Relative Value Scale (RBRVS) basis; and the proposed return-to-work program for the purpose of making supplemental payments to workers whose PD benefits are disproportionately low in comparison to their earnings loss; and PD advances.

The WCIRB's estimate of the impact of SB 863 on 2013 policies was reflected in its amended January 1, 2013 Pure Premium Rate Filing. Further, the January 1, 2013 advisory pure premium rates approved by the Insurance Commissioner reflected estimated savings of approximately 5.8% due to the impact of SB 863 on 2013 policies.[2]

These estimates of the cost impact of SB 863 on 2013 policies were in part based on judgmental assumptions that may or may not materialize. In addition, a number of SB 863 provisions that could not be evaluated at the time may ultimately have a significant impact on costs. As a result, the WCIRB plans to closely monitor post-SB 863 costs as they emerge and propose further adjustments to advisory pure premium rates as appropriate based on those emerging costs. Accordingly, the WCIRB has developed this SB 863 Cost Monitoring Plan that details the process by which the WCIRB will monitor and quantify emerging post-SB 863 costs.

[1] In total, the WCIRB estimated that by the 2014 injury year, the quantifiable provisions of SB 863 will decrease total system costs by 2.7%, or $0.5 billion, annually.

[2] Department of Insurance Decision and Order on File Number REG-2012-00016, issued on November 30, 2012.

II. Summary of Cost Monitoring Plan Schedule

Shown below is a summary of the cost components detailed in this Plan to be measured and the timeframe by which they will initially be measured.[3] Table 1 shows the schedule for cost components related to indemnity benefit changes (see Section IV of the Plan) and Table 2 shows the schedule for cost components related to the medical benefit delivery system (see Section V of the Plan).

Table 1: Changes to Indemnity Benefit Levels

Cost Component	Initial Valuation to be Published By
A. Minimum and Maximum PD Benefits	
Change in Average Incurred PD Benefits	Third Quarter 2014
B. Supplemental Job Displacement Benefits	
Change in Vocational Rehabilitation-Related Costs	Third Quarter 2014
Change in Supplemental Job Displacement Benefits	Fourth Quarter 2015
C. PD Ratings	
Change in Average PD Rating Due to SB 863 Changes Related to FEC	Third Quarter 2014
Change in Average PD Rating Based on Unit Statistical Data	Third Quarter 2014
Change in Average PD Rating Based on DEU Data	Third Quarter 2014
D. PD Add-ons	
Impact of PD Add-ons on PD Ratings	Third Quarter 2014
E. Three-Tiered Weekly PD Benefits	
Frequency of Return-to-Work Offers	Fourth Quarter 2015
F. Indemnity Claim Frequency	
Accident Year Indemnity Claim Frequency Changes	Third Quarter 2013
Indemnity Claim Frequency Changes by Wage Level Interval	Third Quarter 2014
G. DIR Return-to-Work Program	TBD

[3] Valuations to be published in the third and fourth quarter of a particular year are anticipated to be available for consideration in the annual WCIRB advisory pure premium rate filing proposed to be effective the subsequent January 1.

Table 2: Changes to Medical Benefit Delivery System	
Cost Component	**Initial Valuation to be Published By**
A. Liens	
The Number of Lien Filings and Lien Activations	Fourth Quarter 2013
Average Lien Costs	Fourth Quarter 2013
Petitions for Costs	Fourth Quarter 2013
B. Surgical Implant Hardware	
Change in Spinal Implant Hardware Costs	Fourth Quarter 2013
C. Ambulatory Surgical Centers	
Change in the Cost of Ambulatory Surgical Center Facility Fees	Fourth Quarter 2013
Change in the Cost of Hospital Outpatient Services	Fourth Quarter 2013
D. Independent Medical Review	
Liens Related to Medical Treatment Disputes	Fourth Quarter 2014
Changes in the Number of Expedited Hearings	Third Quarter 2014
Frequency and Cost of IMRs	Fourth Quarter 2013
Change in the Duration of TD	Third Quarter 2014
Change in the Cost of Medical-legal	Fourth Quarter 2014
Paid ALAE per Indemnity Claim	Third Quarter 2014
Paid ULAE per Indemnity Claim	Third Quarter 2014
Changes in Litigation	Fourth Quarter 2014
Paid Cost of Medical Cost Containment Programs	Third Quarter 2014
Utilization Review Costs	Third Quarter 2014
Changes in Medical Treatment Patterns	Third Quarter 2014
Paid Medical per Indemnity Claim	Third Quarter 2013
E. Medical Provider Networks	
Percentage of Medical Treatment Provided within MPNs	Fourth Quarter 2013
Cost Differentials Related to MPNs	Third Quarter 2014
F. Independent Bill Review	
Frequency and Cost of IBRs	Fourth Quarter 2013
G. Conversion of the OMFS to RBRVS Basis	
Average Physician Payment per Procedure	TBD
H. New Fee Schedules	
Average Medical Payment per Affected Procedure	TBD

III. Plan Objective

The principal objective of this Plan is to detail the WCIRB's anticipated process to monitor the cost effects of the provisions of SB 863 as implemented as those cost effects emerge in loss and loss adjustment expense experience. Specifically, the Plan will include the following:

1. The cost components to be measured;
2. The data elements needed to measure these cost components;
3. The general methodology used to measure these cost components; and
4. The scheduled timeframe by which each of the cost components will be measured.

IV. SB 863 Cost Monitoring Plan – Changes to Indemnity Benefits

A. Minimum and Maximum PD Benefits

SB 863 amended Labor Code Section 4453 to provide for increases in the minimum and maximum weekly PD benefits for workers with injuries occurring on or after January 1, 2013, with an additional increase to maximum weekly PD benefits for injuries occurring on or after January 1, 2014.

The WCIRB's prospective evaluation of the estimated cost impact of the SB 863 changes in the minimum and maximum weekly PD benefits was based on information from approximately 200,000 lost-time claims that occurred on policies incepting in 2008 and 2009 and were reported to the WCIRB in accordance with the requirements of the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (USRP). (Certain information on death claims, vocational rehabilitation, and supplemental job displacement benefits was based on survey information.) Injured worker wage information on these claims was adjusted to reflect the level of wages anticipated for 2013 and 2014 injuries, based on wage level growth estimates using wage information published by the UCLA Anderson School of Management Business.

The changes in PD minimums and maximums were evaluated in conjunction with SB 863 changes in PD ratings, the death benefit burial allowance[4] and the supplemental job displacement benefit. The incurred cost of each of the approximately 200,000 lost-time claims was restated at the 2013 cost level after reflecting the changes to (a) weekly PD benefit maximums and minimums, (b) the burial allowance, (c) the supplemental job displacement benefit, and (d) the changes in PD ratings. The restated cost of these claims was then compared to the estimated cost of these claims under the current schedule of benefits. This process was repeated for injuries occurring in 2014 to estimate the cost impact of the SB 863 amendments to the weekly PD benefit maximums effective for injuries occurring in 2014.

The WCIRB will retrospectively measure the impact of the SB 863 changes to weekly minimum and maximum PD benefits based on unit statistical reports on 2013 and 2014 accident year claims. Specifically, based on the reported weekly wage and PD rating for each claim, the PD benefits can be restated at the pre-SB 863 statutory benefit level and compared to the incurred cost under SB 863.

Cost Components to be Measured and Schedule for Valuation

1. Change in Accident Year Average Incurred PD Benefits

    a. Data Elements — PD rating and weekly wage for each PD claim reported on WCIRB unit statistical reports.

    b. General Methodology — An estimate of the changes in accident year incurred PD benefit costs due to the SB 863 changes in PD minimum and maximum weekly benefits can be computed by comparing (1) the incurred PD benefit derived based on the reported PD rating, the weekly wage and the SB 863 statutory benefit level with (2) the incurred PD benefit derived based on the pre-SB 863 schedule of minimum and maximum weekly benefits. The initial computation can be made based on the first unit statistical reports of 2013 injuries on 2012 policies and repeated for later accident periods.

    c. Schedule — The initial valuation based on the first report of 2013 injuries on 2012 policies can be made on a preliminary basis by the third quarter of 2014. The analysis can be updated regularly as more mature information becomes available.

[4] SB 863 increased the death burial allowance from $5,000 to $10,000 effective on injuries occurring on or after January 1, 2013.

B. Supplemental Job Displacement Benefits

SB 863 added Labor Code Section 4658.7 which provided that a supplemental job displacement benefit of up to $6,000 shall be offered to an injured worker who has not received a qualified return-to-work offer. SB 863 also modified the basis upon which the supplemental job displacement benefit is paid and the types of expenses that are reimbursed. For example, Labor Code Section 4658.7 provides that up to $1,000 of the benefit can be used for computer equipment and up to $500 can be used for miscellaneous expenses without requiring documentation. These changes are effective on injuries occurring on or after January 1, 2013.

The WCIRB's evaluation of the estimated cost impact of the SB 863 changes to the amount of the supplemental job displacement benefit was computed in conjunction with the change in minimum and maximum weekly PD benefits and was based on information from approximately 200,000 lost-time claims that occurred on policies incepting in 2008 and 2009. The WCIRB could not prospectively estimate the impact of the SB 863 provisions related to the basis upon which the supplemental job displacement benefit is paid and the types of expenses that will now be reimbursed.

The WCIRB will retrospectively measure the impact of the SB 863 changes to the supplemental job displacement benefit based on the calendar year paid vocational rehabilitation-related benefits that are reported on the WCIRB's annual call for indemnity and medical costs and the paid amount of supplemental job displacement benefits collected annually through the WCIRB PD Claim Survey. (Attachment 2 is a copy of the WCIRB PD Claim Survey issued in 2012.) Specifically, the impact of the SB 863 changes can be measured by comparing the average cost of paid supplemental job displacement benefits on injuries occurring in 2013 and later with those occurring prior to when SB 863 became effective.

Cost Components to be Measured and Schedule for Valuation

1. Change in Calendar Year Payments for Vocational Rehabilitation-Related Benefits

    a. Data Elements — Cost of vocational rehabilitation-related benefits paid in each calendar year from the WCIRB's annual call for calendar year indemnity and medical costs.

    b. General Methodology — An estimate of the changes in vocational rehabilitation-related benefits paid in calendar year 2013 will be made by comparing those benefit payments to those paid in prior calendar years.

    c. Schedule — Aggregate payments made in a calendar year segregated into indemnity and medical components is collected in the second quarter of the following year. As a result, the initial estimate of the SB 863 changes in the supplemental job displacement benefits can be made on a preliminary basis during the third quarter of 2014. The analysis can be updated regularly as more mature information becomes available.

2. Change in Accident Year Average Supplemental Job Displacement Benefits Paid

    a. Data Elements — Cost of supplemental job displacement benefits paid on each claim reported on the WCIRB PD Claim Survey.

    b. General Methodology — An estimate of the changes in accident year average supplemental job displacement benefits paid on 2013 and later injuries will be made by comparing the average cost of those benefits paid on claims reported on the PD Claim Survey to the average cost of supplemental job displacement benefits paid on pre-SB 863 injuries. The initial computation can be made based on claims reported on the PD Claim Survey on 2013 injuries relative to those on 2012 and prior injuries. This analysis can be updated at later survey report levels and for subsequent accident years.

c. Schedule — In the PD Claim Survey, accident year claims are initially valued, on average, at 28 months. One year later, open claims are resurveyed with an evaluation at 40 months. The initial retrospective estimate of the SB 863 changes in the supplemental job displacement benefits on 2013 injuries can be made on a preliminary basis during the fourth quarter of 2015. The analysis can be updated regularly as more mature information becomes available.

C. Changes in Permanent Disability Ratings

SB 863 added Labor Code Section 4660.1 to provide that the PD impairment produced in accordance with American Medical Association (AMA) Guides will not be modified for FEC as in the 2005 Permanent Disability Rating Schedule (PDRS). Instead, SB 863 provided that a uniform adjustment factor of 1.4 will be applied to the whole person impairment determined pursuant to the AMA Guides.[5] Additionally, by eliminating the application of the FEC factor, SB 863 in effect eliminates the impact of PD adjustments made in accordance with the 2009 WCAB decision in Ogilvie v. City and County of San Francisco.[6] These changes to the PD rating process were effective on injuries occurring on or after January 1, 2013.

The WCIRB's prospective evaluation of the direct impact of the changes to PD ratings based on Labor Code Section 4660.1 was based on a WCIRB analysis of approximately 20,000 claims available from the Disability Evaluation Unit (DEU) database that had PD ratings computed by the DEU between June of 2011 and March of 2012. Using the DEU database, the estimated change in average rating by percentage of PD rating point was determined and the rating for each claim in the WCIRB database of approximately 200,000 lost-time claims previously discussed was adjusted accordingly. Using this information, the incurred cost of each of these claims at the 2013 cost level was restated and compared to the estimated cost of these claims based on their current PD ratings.

As noted in the WCIRB's evaluation of SB 863, there is no information segregating the impact of an Ogilvie adjustment to PD from that of an Almaraz v. Environmental Recovery Services/Guzman v. Milpitas Unified School District (Almaraz/Guzman) adjustment or other factors impacting the final PD rating. The WCIRB's prospective evaluation of the elimination of the impact of the Ogilvie decision on PD ratings reflected a judgmental percentage of the WCIRB's estimate of the combined impact of the Almaraz/Guzman and Ogilvie decisions on PD benefit costs.[7]

The WCIRB will retrospectively measure the impact of the SB 863 changes to the PD rating process based on updated DEU data on PD ratings issued on 2013 and later injuries. Using this information, the WCIRB will be able to re-compute the actual DEU PD rating under the pre-SB 863 process. Additionally, to measure the impact of the provisions related to Ogilvie and as well as other issues impacting the PD rating, the WCIRB will also monitor the change in the average PD ratings beginning with 2013 injuries based on the PD ratings reported on unit statistical reports. Finally, although Ogilvie adjustments are typically not reflected in the DEU database, the WCIRB will review DEU data on post-SB 863 PD ratings to assess whether the elimination of Ogilvie as well as other SB 863 provisions may have an indirect impact on PD ratings (e.g., an increase in Almaraz/Guzman adjustments).

Cost Components to be Measured and Schedule for Valuation

1. Change in Accident Year Average PD Rating Due to SB 863 Changes Related to FEC

[5] Prior to SB 863, the FEC factor ranged from 1.1 to 1.4, depending on the injury.

[6] Ogilvie allowed for the PD rating on a claim to be adjusted based on a finding that the FEC component of the PD rating did not appropriately describe the loss of future earning capacity.

[7] The WCIRB judgmentally estimated that 20% of the combined estimated impact of the Almaraz/Guzman and Ogilvie decisions on PD benefits and 33% of the combined impact on allocated loss adjustment expenses would be eliminated by the SB 863 provisions that eliminate the FEC adjustments.

a. Data Elements — The PD rating and other related descriptive information, such as disability category and impairment rating, are available from the DEU database on a relatively contemporaneous basis.

b. General Methodology — The rating on each claim rated by the DEU on 2013 injuries can be compared to the average rating re-computed using the pre-SB 863 process. The average PD rating over all DEU claims under both approaches can then be compared.

c. Schedule — DEU data on PD ratings is available on a relatively contemporaneous basis. However, given the PD claim process, PD ratings on 2013 injuries will not become available in significant volumes until 2014. An initial preliminary evaluation of ratings on 2013 injuries can be completed in the third quarter of 2014. The analysis can be updated regularly as more mature information becomes available.

2. Change in Statewide Average PD Rating Based On Unit Statistical Data

a. Data Elements — The PD rating is reported on unit statistical reports.

b. General Methodology — The average PD rating on 2013 injuries reported on 2012 policy year unit statistical reports can be computed in 2014 and compared to the average PD rating on similarly aged pre-SB 863 claims. This annual change should be compared to the average annual change in PD rating during the pre-SB 863 period. The process will be repeated for later evaluations and later accident years.

c. Schedule — Unit statistical reports are initially valued at 18 months and submitted 20 months from policy inception. Subsequent reports at annual increments are required on all open claims. First reports of accident year 2013 claims on 2012 policies can be preliminarily summarized in the third quarter of 2014. Updates can be made on a regular basis using more mature information and later accident years.

3. Change in Statewide Average PD Rating Based On DEU Data

a. Data Elements — The PD rating and other related descriptive information, such as disability category and impairment rating, are available from the DEU database on a relatively contemporaneous basis.

b. General Methodology — Based on DEU data, the final PD rating and whether an Almaraz/Guzman adjustment was applied can be determined for each claim rated by the DEU on 2013 injuries. These results can then be compared to the analogous results in the pre-SB 863 environment to assess the potential SB 863 impact.

c. Schedule — DEU data on PD ratings is available on a relatively contemporaneous basis. However, given the PD claim process, ratings on 2013 injuries will not become available in significant volumes until 2014. An initial preliminary evaluation of ratings on 2013 injuries can be completed in the third quarter of 2014. Updates can be made on a regular basis using more mature information and later accident years.

D. PD Add-ons

SB 863 amendments to Labor Code Section 4660.1 eliminated increases in impairment ratings for sleep disorder, sexual dysfunction or psychiatric impairment arising out of a compensable physical injury. However, psychiatric add-ons to permanent disability impairments are allowed for catastrophic injuries or if the injury was the result of a violent act. These changes are effective on injuries occurring on or after January 1, 2013.

The WCIRB's prospective evaluation of the SB 863 elimination of PD add-ons was based on the WCIRB analysis of approximately 20,000 claims available from the DEU database that had PD ratings computed by the DEU between June of 2011 and March of 2012. Using the DEU database, the rating on each claim that had a PD add-on for sleep disorder, sexual dysfunction or psychiatric impairment was re-computed excluding the effect of the add-ons. The DEU database of ratings did not, however, allow for the identification of claims with psychiatric add-ons associated with catastrophic injuries or injuries arising from violent acts. As a result, the WCIRB approximated the percentage of permanent disability add-ons that will not be eliminated for catastrophic injuries or injuries resulting from a violent act based on the underlying injury characteristics of reported permanent disability claims from WCIRB unit statistical data. Based on these re-computations, the impact on average PD rating was determined and the PD rating for each claim in the WCIRB database previously discussed was adjusted accordingly.

The WCIRB will retrospectively measure the impact of the SB 863 changes related to PD add-ons based on updated DEU data on PD ratings issued on 2013 and later injuries. Using this information, the WCIRB will assess the impact of the SB 863 changes by comparing the impact of the remaining add-ons for psychiatric injuries, sleep disorder and sexual dysfunction on PD ratings with their impact on pre-2013 injuries. This database can also be used to identify any new types of add-ons that are emerging in the post-SB 863 environment.

Cost Components to be Measured and Schedule for Valuation

1. Impact of PD Add-ons on PD Ratings

    a. Data Elements — The PD rating, coding for impairment add-ons and other related descriptive information, such as disability category and impairment rating, are available from the DEU database on a relatively contemporaneous basis.

    b. General Methodology — The volume and average impact of add-ons for psychiatric injuries, sleep disorder and sexual dysfunction on PD ratings can be determined from the DEU database of PD rating information on 2013 injuries. These measures can be compared to the analogous measures from DEU data on similarly-aged claims from pre-2013 injuries. In addition, the DEU database can be reviewed to assess if there is significant growth in new types of add-ons in the post-SB 863 environment.

    c. Schedule — DEU data on PD ratings is available on a relatively contemporaneous basis. However, given the PD claim process, PD ratings on 2013 injuries will not become available in significant volumes until 2014. An initial preliminary evaluation of ratings on 2013 injuries can be completed in the third quarter of 2014. The analysis can be updated regularly as more mature information becomes available.

E. Three-Tiered Weekly PD Benefits

SB 863 amendments to Labor Code Section 4658 repealed the provision for a 15% increase or decrease in weekly PD benefits depending on whether the employer provides a qualified return-to-work offer to an injured worker. These changes are effective on injuries occurring on or after January 1, 2013.

The WCIRB's prospective evaluation of the SB 863 amendments to Labor Code Section 4658 was based on the WCIRB's PD Claim Survey which collects information on the proportion of weekly PD benefits paid at each of the three tiers.

Since the three tiers of weekly PD benefits are being eliminated by SB 863, the WCIRB is unable to directly measure the post-SB 863 PD benefits that would have been paid at different tiers if not for the enactment of SB 863. However, the WCIRB PD Claim Survey does collect information as to whether a qualified return-to-work offer was made by the employer. The proportion of survey claims on which a qualified return-to-work offer was made for accident year 2013 injuries can be compared to the proportion on pre-SB 863 injuries to assess whether the elimination of the three-tiered system has impacted the frequency of return-to-work offers.

Cost Components to be Measured and Schedule for Valuation

1. Frequency of Return-to-Work Offers

    a. Data Elements — The number and proportion of claims reported on the PD Claim Survey in which there is a qualified return-to-work offer.

    b. General Methodology — The proportion of PD claimants receiving a qualified return-to-work offer can be estimated for 2013 injuries based on PD Claim Survey information received in late 2015 and the proportion compared to that of similarly aged pre-2013 injury claims.

    c. Schedule — In the PD Claim Survey, accident year claims are initially valued, on average, at 28 months. One year later, open claims are resurveyed with an evaluation at 40 months. The initial retrospective estimate of the SB 863 changes on the frequency of return-to-work offers on 2013 injuries can be made on a preliminary basis during the fourth quarter of 2015. The analysis can be updated regularly as more mature information becomes available.

F. Indemnity Claim Frequency

SB 863 enacted increases to PD weekly minimums and maximums, changes to the process of determining final PD ratings and other changes impacting indemnity benefits. The WCIRB's prospective evaluation of SB 863 included provisions for changes in indemnity claim frequency that have historically accompanied changes in indemnity benefit levels. These provisions were based on a WCIRB econometric analysis[8] of the effect of a number of economic, demographic and claims-related variables on the frequency of indemnity claims. The study showed that changes in indemnity claim frequency are related, in part, to indemnity benefit changes. Specifically, the model shows that for every 1% change in average indemnity benefits, the frequency of indemnity claims changes by approximately 0.2%.[9]

Once post-SB 863 experience becomes available, the WCIRB can compare estimates of frequency changes based on the WCIRB model to actual changes in indemnity claim frequency based on accident year experience. Also, since benefit changes impact workers at different wage levels in different ways, frequency changes by wage level intervals based on unit statistical data can also be reviewed.

Cost Components to be Measured and Schedule for Valuation

1. Accident Year Indemnity Claim Frequency Changes

    a. Data Elements — WCIRB accident year indemnity claim counts from quarterly WCIRB aggregate financial data calls.

[8] Brooks, Ward, "California Workers Compensation Benefit Utilization – A Study of Changes in Indemnity Frequency and Severity in Response to Changes in Statutory Workers Compensation Benefit Levels," Proceedings of the Casualty Actuarial Society, Volume LXXXVI, 1999, pp. 80–262.

[9] This utilization provision is assumed to apply to temporary disability and permanent partial disability claims but not to medical-only, permanent total disability, death or vocational rehabilitation claims.

b. General Methodology — The change in reported aggregate indemnity claims to exposure from one accident year to another will be measured at quarterly evaluations and compared to the changes forecast by the WCIRB frequency model and changes in recent pre-SB 863 accident years.

c. Schedule — The initial report for the frequency change by accident year can be made on a preliminary basis shortly following the beginning of the accident year. The first preliminary evaluation of the accident year 2013 frequency change based on six months of experience can be made by the third quarter of 2013. Regular updates can be made on a quarterly basis.

2. Accident Year Indemnity Claim Frequency Changes by Wage Level Interval

a. Data Elements — Claim counts by type of injury, accident year and wage level from WCIRB unit statistical reports.

b. General Methodology — Changes in accident year indemnity claim counts by wage intervals will be estimated based on unit statistical data. Changes in claim counts at wage intervals affected by the SB 863 benefit changes will be compared to changes at wage levels that were unaffected.

c. Schedule — The first preliminary evaluation of changes in an accident year's indemnity claim counts by wage level interval can be made within one year from the end of the accident year. The first preliminary evaluation of accident year 2013 changes can be made, based on a comparison of 2013 accidents reported on 2012 policies to similarly valued earlier accident years, by the third quarter of 2014. Updates can be made on a regular basis.

G. Department of Industrial Relations (DIR) Return-to-Work Program

SB 863 added Labor Code Section 139.48, which authorized the establishment of a return-to-work program funded at $120 million annually from the non-General Funds of the Worker's Compensation Administrative Revolving Fund for the purpose of making supplemental benefit payments to workers whose PD benefits are disproportionately low in comparison to their earnings loss. Labor Code Section 139.48 also provides that determinations of the DIR shall be subject to review at the trial level at the Workers' Compensation Appeals Board (WCAB) upon the same grounds as petitions for reconsideration.

As noted in the WCIRB's prospective evaluation of SB 863, this provision, once adopted through regulation, will have a significant impact on employer costs as reflected in direct employer assessments. However, those assessments do not directly affect the costs underlying pure premium rates. As a result, the WCIRB did not include any cost assessment of this provision in its prospective evaluation. Also, while it is possible that administration of this new program may have an impact on LAE costs, the WCIRB noted that it was premature to assess the cost impact of this program until such time as the program has been developed.

Once the regulations are developed and, in particular, the potential impact of the new program on LAE costs are better understood, the WCIRB will augment its monitoring program to retrospectively assess the impact of the new program on costs.

V. SB 863 Cost Monitoring Plan – Changes to Medical Benefit Delivery System

A. Liens

SB 863 included a number of provisions related to liens. Section 4903.05 was added to the Labor Code to provide that every lien claimant is required to file its lien with the WCAB using an approved form and be charged a filing fee of $150. In addition, amendments to Labor Code Section 4903.5 provided that no liens may be filed more than three years from the date of service for liens filed before July 1, 2013 or 18 months from the date of service for liens filed on or after July 1, 2013.

The WCIRB's prospective evaluation of the impact of SB 863 on lien-related costs was based primarily on information from a 2011 report[10] published by the Commission on Health and Safety and Workers' Compensation (CHSWC) that provided information on the volume of liens as well as lien characteristics by size, type and maturity and the WCIRB's 2012 lien study that provided information on the frequency of lien filings per PD claim as well as lien demand and settlement cost information. (Attachment 3 is a copy of the WCIRB 2012 Lien Survey form.) Based on this information, the WCIRB estimated the number of liens to be eliminated by SB 863 and the average settlement cost and loss adjustment expenses related to those liens.

The WCIRB will retrospectively measure the impact of SB 863 on lien costs based on information from the DWC on lien filings and activations in 2013 and beyond in addition to updated information on lien costs from the WCIRB Lien Survey. Further, to assess concerns that some lien costs will be replaced by "petitions for costs" filings — particularly in areas such as interpreter and copy service fees, the volume and cost of petitions for costs filings will also be monitored through information from the WCIRB Lien Survey.

Cost Components to be Measured and Schedule for Valuation

1. The Number of Lien Filings and Lien Activations

    a. Data Elements — Counts of lien filings and lien activations based on DWC data from the Electronic Adjudication Management System (EAMS).

    b. General Methodology — An estimate of the changes in the number of lien filings in 2013 can be made by comparing filings for the first half of 2013 with the comparable number of lien filings made in the first half of 2012. The total number of active liens can be approximated by the number of new lien filings in the first six months of 2013 with information on lien activations from the DWC EAMS database.

    c. Schedule — An initial preliminary evaluation based on the lien activity in the first six months of 2013 can be completed by the fourth quarter of 2013. The analysis can be updated regularly based on later time periods.

2. Average Lien Costs

    a. Data Elements — The average cost of lien demands and settlements by type of lien and lien defense costs from WCIRB Lien Survey data.

    b. General Methodology — The average demand and settlement cost by type of lien and lien defense costs for liens filed and activated in the first six months of 2013 can be compared to the comparable amounts for liens filed and activated in the pre-SB 863 period to estimate the impact of SB 863.

[10] *Liens Report*, CHSWC, January 2011.

c. Schedule — The WCIRB will issue its Lien Survey in the beginning of the third quarter of 2013 for information on liens filed and activated in the first half of 2013. The preliminary analysis based on that information can be completed by the fourth quarter of 2013. The analysis can be updated at regular intervals based on later time periods.

3. The Number and Cost of "Petitions for Costs"

   a. Data Elements — The number and cost of settlements on "petitions for costs" from WCIRB Lien Survey data.

   b. General Methodology — The number, average demand and settlement cost for "petitions for costs" by type for petitions filed in the first six months of 2013 can be determined to help estimate the impact of the SB 863 lien provisions.

   c. Schedule — The WCIRB will issue its Lien Survey for information on liens filed and activated and petitions for costs filed in the first half of 2013 in the beginning of the third quarter of 2013. The preliminary analysis based on that information can be completed by the fourth quarter of 2013. The analysis can be updated at regular intervals based on later time periods.

B. Surgical Implant Hardware

SB 863 repealed Labor Code Section 5318, which provided for separate reimbursement for implantable medical devices, hardware and instrumentation. These changes are effective on dates of service on or after January 1, 2013. Additionally, SB 863 added Labor Code Section 5307.1(m), which requires that on or before July 1, 2013 the Administrative Director adopt a regulation specifying an additional reimbursement for certain diagnostic-related groups pertaining to spinal surgery to ensure that aggregate reimbursement is sufficient to cover costs, including implantable hardware.[11]

The WCIRB's prospective evaluation of the provisions of SB 863 related to surgical implant hardware was based on a California Workers' Compensation Institute (CWCI) estimate of the cost of duplicate reimbursements for spinal implant hardware in California workers' compensation injuries.[12] No adjustment was made to the WCIRB estimate to reflect potential future adjustments to the fee schedule pursuant to Labor Code Section 5307.1(m).

The WCIRB will retrospectively measure the impact of the SB 863 changes related to spinal implant hardware based on medical transaction records from WCIRB medical data call (MDC) or CWCI Industry Claim Information System (ICIS) data by comparing the paid cost related to spinal implant hardware on 2013 and later dates of service with those on pre-SB 863 dates of service. The initial evaluation based on dates of service in early 2013 can be completed in late 2013 with updates in subsequent periods based on later dates of service.

Cost Components to be Measured and Schedule for Valuation

1. Change in Spinal Implant Hardware Costs

   a. Data Elements — Paid amounts related to spinal implant hardware based on medical transaction data from WCIRB and CWCI.

[11] The regulation would be repealed January 1, 2014 unless extended by the Administrative Director.

[12] *Preliminary Estimate of California Workers Compensation System-Wide Costs for Surgical Instrumentation Pass-Through Payments for Back Surgeries*, CWCI, June 2012.

b. General Methodology — An estimate of the changes in average reimbursements for spinal implant hardware on 2013 and later dates of service can be made by comparing those costs based on medical transaction data from the WCIRB and CWCI with the costs paid on pre-2013 dates of service.

c. Schedule — The initial evaluation based on the dates of service in early 2013 can be completed by the fourth quarter of 2013. The analysis can be updated regularly based on later time periods.

C. Ambulatory Surgical Center Fees (ASC)

SB 863 amendments to Labor Code Section 5307.1(c) provide that the maximum facility fee for services performed in ASC should not exceed 80% of the Medicare fee for the same service in a hospital outpatient department. Currently, maximum ASC facility fees are set at 120% of the Medicare rate for hospitals.

The amendments to Labor Code Section 5307.1(c) would have resulted in a one-third reduction in ASC facility fee payments if it was assumed that the change in the maximum fee schedule allowance would translate directly to ASC facility fee costs. However, many ASC fees are reimbursed under contract at levels different from those contemplated in the fee schedule.

The WCIRB's prospective evaluation of the provisions of SB 863 related to ASC fees was based on a RAND Corporation analysis that estimated the cost of ASC facility fee payments.[13] The estimate also reflected a judgmental reduction of 25% in ASC facility fees rather than the one-third indicated based on the change in maximum fee schedule allowances inasmuch as review of WCIRB medical transaction data indicated that prior to SB 863, a significant number of ASC facility fees were being reimbursed at contract amounts that were well below the maximum allowed under the fee schedule.

The WCIRB will retrospectively measure the impact of the SB 863 changes related to ASC facility fees, based on a sample of medical transaction records from the WCIRB or the CWCI, comparing the paid cost related to ASC facility fees on 2013 and later dates of service to both the SB 863 fee schedule amounts and the actual reimbursements on claims with pre-SB 863 dates of service. The initial evaluation based on dates of services in early 2013 can be completed in late 2013 with updates in subsequent periods based on later dates of service. The WCIRB will also monitor outpatient hospital costs to assess if there has been any potential shift to outpatient hospital services with the new schedule for ASC facility fees.

Cost Components to be Measured and Schedule for Valuation

1. Change in the Cost of ASC Facility Fees

   a. Data Elements — Paid amounts related to ASC facility fees based on medical transaction data from WCIRB and CWCI.

   b. General Methodology — An estimate of the changes in the cost of ASC facility fees for 2013 and later dates of service can be made by comparing those costs, based on a sample of medical transaction data from the WCIRB or the CWCI, to both the SB 863 fee schedule amounts and the actual average reimbursements on claims with pre-SB 863 dates of service.

[13] *CHSWC Staff Estimates for Labor and Employer Discussions,* CHSWC, November 2009.

c. Schedule — The initial evaluation based on the dates of service in early 2013 can be completed by the fourth quarter of 2013. The analysis can be updated regularly based on later time periods.

2. Change in the Cost of Hospital Outpatient Services

a. Data Elements — Paid amounts related to outpatient fees based on medical transaction data from WCIRB and CWCI.

b. General Methodology — An estimate of the changes in the cost of hospital outpatient fees for 2013 and later dates of service can be made by comparing those costs based on medical transaction data from the WCIRB or the CWCI to outpatient costs during the pre-SB 863 period. If there is a significant shift in outpatient costs, the data can be analyzed by type of diagnosis to assess whether this change may be due to a shift in services from ASC facilities to outpatient hospital services.

c. Schedule — The initial evaluation based on the dates of service in early 2013 can be completed by the fourth quarter of 2013. The analysis can be updated regularly based on later time periods.

D. Independent Medical Review (IMR)

SB 863 added Labor Code Sections 139.5, 4610.5, and 4610.6 and amended Labor Code Sections 4061, 4062, 4062.2, 4610.1, and 4903 to provide for a newly-created process of IMR. The SB 863 provisions related to IMR are effective on January 1, 2013 for injuries occurring on or after January 1, 2013 and on July 1, 2013 for all injuries.

The WCIRB's prospective evaluation of the SB 863 provisions related to IMR was segregated into several components. The WCIRB evaluated the impact of the IMR provisions on lien costs based on CHSWC data on liens related to medical treatment and WCIRB data on medical treatment lien costs. The WCIRB evaluated the impact of the SB 863 IMR changes related to Qualified Medical Evaluator (QME) reports based on CHSWC data on the number of QME reports and WCIRB data on the cost of medical-legal reports. The WCIRB evaluated the impact of the changes on the number of expedited hearings based on CHSWC data on the number of expedited hearings and WCIRB survey information on the cost of expedited hearings. The WCIRB evaluated the impact on temporary disability duration based on a judgmentally assumed reduction in the post-2005 deterioration in temporary disability duration based on WCIRB and CWCI data on temporary disability duration. Similarly, the estimated impact of the SB 863 IMR provisions on litigation costs was judgmentally estimated by assuming a percentage reduction in the post-2005 deterioration of allocated loss adjustment expense (ALAE) costs per indemnity claim based on WCIRB data.

The WCIRB's prospective evaluation of SB 863 noted that the SB 863 IMR provisions had the potential to significantly affect medical treatment costs. However, given the uncertainty as to how often IMR will be utilized, how often the IMR process will overturn utilization review decisions, and how the IMR process will ultimately affect medical treatment practices, the WCIRB did not reflect a cost estimate for the impact of IMR on medical treatment costs. The approved January 1, 2013 advisory pure premium rates did, however, reflect a judgmental estimate of potential savings in medical treatment costs due to the SB 863 IMR provisions based on the savings that resulted in Texas following a series of reforms impacting medical treatment.

The WCIRB will retrospectively measure the impact of the SB 863 IMR changes by analyzing post-SB 863 experience related to a number of components impacted by the bill. These components include liens related to medical treatment, expedited hearings, frequency and cost of IMRs, temporary disability

duration, medical-legal reports, ALAE, unallocated loss adjustment expenses (ULAE), litigation, medical cost containment program costs, utilization review costs, medical treatment levels, and average medical severities. Since SB 863 provisions regarding IMR become effective for all injuries on or after July 1, 2013, the WCIRB's initial preliminary evaluation of most to these components based on services provided in the second six months of 2013 will not occur until 2014. These preliminary evaluations can be updated as appropriate based on later information.

Cost Components to be Measured and Schedule for Valuation

1. Liens Related to Medical Treatment Disputes

    a. Data Elements — Liens filed on or after July 1, 2013 on medical treatment issues and their cost based on WCIRB Lien Survey data.

    b. General Methodology — To estimate the change in the number and cost of liens for medical treatment issues, the WCIRB will compare the number and cost of liens on medical treatment issues for services provided on or after July 1, 2013 based on WCIRB Lien Survey information with those from prior periods. (See Section V-A.)

    c. Schedule — The WCIRB will issue its Lien Survey for information on liens filed and activated in the second six months of 2013 and the first six months of 2014 in the beginning of the third quarter of 2014. The preliminary analysis based on that information can be completed by the fourth quarter of 2014. The analysis can be updated at appropriate intervals based on later time periods.

2. Changes in the Number of Expedited Hearings

    a. Data Elements — Counts of expedited hearings from DWC EAMS data.

    b. General Methodology — Most expedited hearings relate to medical treatment disputes. The number of expedited hearings in quarters subsequent to the July 1, 2013 effective date of the application of the IMR provisions to all injuries from EAMS data can be compared to the totals for prior periods when the IMR process was not in effect.

    c. Schedule — DWC information on expedited hearings in the second six months of 2013 and the first six months of 2014 will be available in the third quarter of 2014. The analysis can be updated at appropriate intervals based on later time periods.

3. Frequency and Cost of IMR

    a. Data Elements — The number, cost, decisions and related information from the IMR records provided to the DWC by the IMR vendor.

    b. General Methodology — The number, cost and typical outcomes of IMRs subsequent to SB 863 from DWC data on the individual IMR occurrences can be compared to similar information on the expedited hearing process gathered in the pre-SB 863 environment in part from a special WCIRB survey being issued in the first quarter of 2013.

    c. Schedule — Quarterly DWC information on IMRs should be available shortly following the end of the quarter. A preliminary summary of the IMR process in the first six months of 2013 as compared to similar information on expedited hearings in the pre-SB 863 period can be made by the fourth quarter of 2013. The analysis can be updated regularly for subsequent periods.

4. Changes in the Duration of Temporary Disability

a. Data Elements — ICIS transactional level data on the distribution of the duration of temporary disability by type of injury and accident year.

b. General Methodology — The distribution of the duration of temporary disability benefits by type of injury for 2013 and later injuries from ICIS data can be compared to the distributions for comparably aged pre-SB 863 accident years.

c. Schedule — CWCI anticipates collecting ICIS transactional data through year-end 2013 in 2014. As a result, preliminary estimates of any change in average temporary disability duration can be made by the third quarter of 2014. The analysis can be updated for subsequent periods.

5. Change in the Cost of Medical-Legal

a. Data Elements — The number and average cost of medical-legal reports by physician specialty is available from the WCIRB's annual PD Claim Survey.

b. General Methodology — The number and average cost of medical-legal reports by specialty and requesting party is determined for each accident year from the WCIRB's PD Claim Survey. The number and average cost of reports for periods subsequent to SB 863 can be compared to those for earlier periods. To the extent there are significant changes, further analysis will be considered.

c. Schedule — In the PD Claim Survey, accident year claims are initially valued, on average, at 28 months. One year later, open claims are resurveyed with an average evaluation at 40 months. The initial estimate of the number and average cost of medical-legal reports on 2012 injuries can be made during the fourth quarter of 2014. Updates can be made on an annual basis.

6. Paid ALAE per Indemnity Claim by Accident Year

a. Data Elements — Accident year paid ALAE per indemnity claim from WCIRB quarterly aggregate financial data calls.

b. General Methodology — The change in the average paid ALAE for accident years 2013 and later can be compared to the change in comparably aged average paid amounts for prior years to assess the extent to which trends in ALAE appear to be changing subsequent to SB 863. While changes in overall ALAE cost trends subsequent to SB 863 can be determined, it will likely not be possible to attribute specific changes in ALAE cost trends to IMR or any other specific SB 863 reform component.

c. Schedule — Paid ALAE by accident year for each quarter is available within ninety days subsequent to the end of the quarter. The WCIRB will prepare an analysis of paid ALAE for the 2013 accident year by the third quarter of 2014. This analysis can be updated in subsequent years.

7. Paid ULAE per Indemnity Claim by Calendar Year

a. Data Elements — Calendar year paid ULAE per indemnity claim based on the WCIRB's annual call for calendar year expenses and quarterly accident year experience calls.

b. General Methodology — The calendar year paid ULAE per indemnity claim subsequent to SB 863 can be compared to that of prior years. While changes in overall ULAE cost trends can be determined, it will likely not be possible to attribute specific changes in ULAE cost trends to IMR or any other specific SB 863 reform component.

c. Schedule — Calendar year expense payments are collected and summarized by June of the following year. As a result, an initial estimate of the effect of SB 863 on ULAE in 2013 based on this aggregate information can be made by the third quarter of 2014. This analysis can be updated in subsequent years.

8. Changes in Litigation

a. Data Elements — The rate of attorney representation on PD claims is available from the WCIRB's annual PD Claim Survey.

b. General Methodology — The rate of attorney representation will be determined for each accident year from the WCIRB's PD Claim Survey. The rate of representation for periods subsequent to SB 863 can be compared to that for earlier periods. While changes in overall trends in representation can be determined, it may not be possible to attribute specific changes in those trends to IMR or any other specific SB 863 reform component

c. Schedule — In the PD Claim Survey, accident year claims are initially valued, on average, at 28 months. One year later, open claims are resurveyed with an average evaluation at 40 months. The initial estimate of the rates of attorney representation on 2012 injuries can be made during the fourth quarter of 2014. Updates for subsequent periods can be made on an annual basis.

9. Calendar Year Paid Cost of Medical Cost Containment Programs

a. Data Elements — The annual amount of paid costs of medical cost containment programs by calendar year from the WCIRB's annual call for calendar year indemnity and medical costs and by accident year from WCIRB quarterly calls for experience.

b. General Methodology — Compare the changes in the calendar year cost of medical cost containment in years subsequent to SB 863 to those costs in pre-SB 863 periods.

c. Schedule — Aggregate calendar year payments for medical cost containment programs are collected and summarized by June of the following year. As a result, an initial estimate of the effect of the legislation on the cost of medical cost containment programs in 2013 based on this information can be made by the third quarter of 2014. This analysis can be updated in subsequent years.

10. Utilization Review Costs

a. Data Elements — The amount of utilization review costs by accident year can be determined from CWCI ICIS data.

b. General Methodology — Compare the cost of utilization review for post-SB 863 accident years to that for pre-SB 863 accident years to assess whether the introduction of IMR has impacted the use of utilization review.

c. Schedule — ICIS medical transaction data through year-end 2013 should be available by the middle of 2014. As a result, a preliminary estimate of any changes in the cost and use of utilization review can be made by the third quarter of 2014. This analysis can be updated in subsequent periods as more information becomes available.

11. Changes in Medical Treatment Patterns

a. Data Elements —WCIRB MDC and CWCI ICIS transaction level data on a number of utilization measures, such as the number of visits and number of procedures by type (e.g., physical medicine, chiropractic, evaluation and management) and by diagnosis

(e.g., lower back injury without radiculopathy) for different durations of treatment (e.g., the first 90 days, the first 180 days) for both pre-SB 863 and post-SB 863 injuries.

b. General Methodology — For a number of the key diagnoses that generate significant workers' compensation costs, compare the changes in various average utilization measures at comparable treatment intervals for later injuries impacted by the SB 863 reforms with the patterns on pre-SB 863 injuries to assess the extent to which treatment patterns have changed. This procedure will be updated as additional transaction level data becomes available.

c. Schedule — Medical transaction data through year-end 2013 should be available by the middle of 2014. As a result, a preliminary estimate of any changes in utilization patterns can be made by the third quarter of 2014. This analysis can be updated in subsequent periods as more information becomes available.

12. Accident Year Average Paid Medical per Indemnity Claim

a. Data Elements — Accident year paid medical per indemnity claim by quarter from WCIRB quarterly aggregate financial calls.

b. General Methodology — The change in the average paid medical per indemnity claim by accident year for quarters in 2013 can be compared to the change in comparably aged average paid medical amounts for prior years to assess if trends in medical severities appear to be changing subsequent to the effective date of SB 863.

c. Schedule — The WCIRB can prepare an initial analysis of medical paid severities for the first and second quarters of 2013 by the third quarter of 2013. This analysis can be updated in subsequent quarters.

E. Medical Provider Networks(MPNs)

SB 863 amended Labor Code Section 4605 to provide that reports prepared by a consulting or attending physician chosen by the injured worker and outside the MPN shall not be the sole basis of compensation. These amendments address the Valdez[14] decision, which relates to the admissibility of reports completed outside a valid MPN. In addition, SB 863 amendments to Labor Code Section 4603.2 provided that the employer is not liable for treatment or the consequences of treatment obtained outside a valid MPN.

The WCIRB's prospective evaluation of the impact of the SB 863 provisions related to treatment provided outside a valid MPN was based on judgmental assumptions that were predicated on CWCI data on cost differentials between costs incurred within a valid MPN to those incurred outside a valid MPN. Separate estimates were developed for medical treatment, temporary disability and permanent disability.

The WCIRB will retrospectively measure the impact of the SB 863 changes related to treatment provided outside a valid MPN based on CWCI data on utilization of networks as well as information on the changes in cost differentials between services provided within a valid MPN and those based on services provided outside a valid MPN. As with the WCIRB's prospective evaluation, cost differentials will be analyzed separately for medical treatment, temporary disability and permanent disability. An initial preliminary evaluation based on services provided in the first six months of 2013 can be completed by the fourth quarter of 2013. Updates can be completed on a regular basis.

[14] Valdez v. WCAB (Demo Warehouse). The WCAB, in an en banc decision issued on April 20, 2011, held that if the injured worker obtains unauthorized treatment outside a validly established and properly noticed MPN, the reports from any non-MPN doctors are inadmissible in court. The California 2nd District Court of Appeals, in a published decision issued on May 29, 2012, overturned the decision of the WCAB, holding that the Labor Code does not prohibit the admission of medical reports from non-MPN doctors. The case is now pending before the California Supreme Court.

Cost Components to be Measured and Schedule for Valuation

1. Percentage of Medical Treatment Provided within MPNs

    a. Data Elements — The percentage of medical procedures provided within a MPN can be obtained from CWCI's ICIS database.

    b. General Methodology — The proportion of services provided within a MPN for post-SB 863 periods can be compared to the proportion of services for periods prior to SB 863 based on ICIS data.

    c. Schedule — ICIS medical transaction data for the first six months of 2013 should be available by the fourth quarter of 2013. As a result, an initial preliminary analysis of the change in the volume of services provided within a valid MPN can be completed by that time. The analysis can be updated for subsequent periods.

2. Cost Differentials Related to MPNs

    a. Data Elements — The average cost differential in medical treatment, temporary disability and permanent disability for claims with medical services provided within a valid MPN compared to those with services provided outside a valid MPN from ICIS data.

    b. General Methodology — The average post-SB 863 cost differentials in medical treatment, temporary disability, and permanent disability for claims with medical services provided within a valid MPN from that on services provided outside a valid MPN can be compared to similar measures for pre-SB 863 periods. The analysis can use appropriate controls for differences in claim types.

    c. Schedule — An analysis of ICIS medical transaction data for 2013 injuries should be available by the third quarter of 2014. The analysis can be updated on a regular basis based on more mature information.

F. Independent Bill Review (IBR)

SB 863 added Labor Code Section 4603.6 to create a new process for IBR when there is a bill payment dispute. Specifically, Labor Code 4603.6 provided that if there is a dispute on the amount of payment and that dispute was not resolved by the employer's second review, the provider may request an independent bill review within thirty days of the second review. If the provider fails to request IBR within thirty days, the bill will be deemed satisfied. These provisions are effective on medical services provided on or after January 1, 2013.

In the WCIRB's prospective evaluation of SB 863, it was noted that there were a number of outstanding issues related to the IBR process that needed to be resolved through regulation. As a result, the WCIRB did not include a cost estimate for the impact of the new IBR provisions in its SB 863 evaluation.

The WCIRB's retrospective evaluation of the SB 863 provisions related to liens (see Section V-A) will incorporate the impact of the IBR provisions on reduced lien costs. The WCIRB will also retrospectively measure the frequency and cost of IBR as well as prepare an analysis of their results based on information to be provided by the DWC. An initial summary of IBR related costs in the first six months of 2013 can be prepared by the fourth quarter of 2013. The analysis can be updated regularly based on more current information.

Cost Components to be Measured and Schedule for Valuation

1. Frequency and Cost of IBR

    a. Data Elements — The number, cost, decisions and related information from the DWC IBR records provided to the DWC by the IBR vendors.

    b. General Methodology — The number, cost and typical outcomes of IBRs subsequent to SB 863 from DWC data on individual IBRs can be compiled. The costs of the IBR process will be reviewed in the context of reduced lien costs in part that may be attributable to fewer bill disputes being resolved by the lien process.

    c. Schedule — Quarterly DWC information on IBRs should be available shortly following the end of the quarter. A preliminary summary of the IBR process based on the first six months of 2013 can be made by the fourth quarter of 2013. The analysis can be updated regularly for subsequent periods.

G. Conversion of the OMFS to RBRVS Basis

SB 863 amended Labor Code Section 5307.1 to provide that the DWC Administrative Director shall adopt a fee schedule based on a Resource-Based Relative Value Scale RBRVS) basis for physician services, with the maximum reasonable fees paid set at a level not to exceed 120% of Medicare. The amendments provide for a four-year transition period beginning in 2014.

The WCIRB's prospective evaluation of SB 863 did not include an estimate for the impact of this change inasmuch as it was believed premature to assess the cost impact of fee schedule revisions until such time as the specific revisions have been promulgated. Once the revised schedule values are promulgated, the WCIRB will assess their cost impacts and, to the extent appropriate, reflect those cost impacts in proposed advisory pure premium rates.

The WCIRB's retrospective evaluation of the SB 863 provisions related to RBRVS will be based on medical transaction data from the WCIRB's MDC database. The impact of the new schedule can be assessed by comparing the average per procedure cost for the affected procedures with dates of service subsequent to the effective date of the new schedule with those with effective dates prior to the new schedule. The data will also be reviewed for significant shifts in the types of services that may be attributable to the changes in the schedule.

Cost Components to be Measured and Schedule

1. Average Physician Payment per Procedure

    a. Data Elements — WCIRB MDC data on the paid cost of physician services by procedure by date of service.

    b. General Methodology — The average cost of physician services per procedure provided in the six months following implementation of the new schedule can be compared with those provided in the prior twelve-month period. The analysis will also review any potential shifts in the type of physician services provided that may be attributable to the new schedule.

    c. Schedule — MDC data for a particular quarter is required to be reported by ninety days from the end of the quarter. The WCIRB can compute an initial retrospective estimate of the impact of the new RBRVS-based fee schedule based on the services provided in the first six months following implementation of the new schedule. This can be completed within one year

of the new schedule's effective date. Updates based on later information can be made on a regular basis.

H. New Fee Schedules

SB 863 added Labor Code Section 5307.8 to authorize the DWC Administrative Director to adopt a fee schedule for home health services by July 1, 2013 and adds Labor Code Section 5307.9 to authorize the DWC Administrative Director to adopt a fee schedule for copy services by December 31, 2013. In addition, SB 863 amendments to Labor Code Section 5307.7 and Labor Code Sections 4600(g) and 5811 authorize the DWC Administrative Director to adopt changes to the fee schedules for vocational services and interpreters, respectively.

The WCIRB's prospective evaluation of SB 863 did not include an estimate for the impact of these new fee schedules and fee schedule changes inasmuch as it was premature to assess the cost impact of fee schedule revisions until such time as the specific revisions have been promulgated. Once the revised schedule values are promulgated, the WCIRB will assess their cost impacts and, to the extent appropriate, reflect those cost impacts in proposed advisory pure premium rates.

The WCIRB's retrospective evaluation of the SB 863 provisions related to the new fee schedules will be based on medical transaction data from the WCIRB's MDC database. The impact of the new schedules can be assessed by comparing the average per procedure cost for the affected procedures with dates of service subsequent to the effective date of the new schedule with those with effective dates prior to the new schedule. The data will also be reviewed for significant shifts in the types of services that may be attributable to the new schedules and schedule changes.

Cost Components to Be Measured and Schedule for Valuation

1. Average Medical Payment per Affected Procedure

    a. Data Elements — MDC data on the paid cost of medical services by procedure by date of service period.

    b. General Methodology — For each of the new schedules adopted, the average cost of services per procedure provided in the six months following implementation can be compared with those provided in the prior twelve-month period. The analysis will also review any potential shifts in the type of services provided that may be attributable to the new schedules.

    c. Schedule — MDC data for a particular quarter is required to be reported within ninety days from the end of the quarter. The WCIRB can compute an initial retrospective estimate of the impact of new schedules based on the services provided in the first six months following implementation of the new schedule. This evaluation can be completed within one year of the new schedule's effective date. Updates based on later information can be made on a regular basis.

VI. Conditions and Limitations

A. Other System Components

In addition to the areas discussed above, the costs of other system components may well be affected by SB 863. Although not specifically addressed in this Plan, to the extent the WCIRB becomes aware of the potential of other significant impacts on costs resulting from SB 863 in areas not specifically addressed in this Plan, we will implement additional cost monitoring procedures.

B. Subsequent Legislation

Future legislation or unrelated regulation may affect cost components that were impacted by SB 863. It may be difficult to differentiate the impact of the enumerated bills from that of subsequent legislation.

C. Other Factors Affecting Benefit Costs

The California workers' compensation benefit delivery system is a complex, multi-dimensional system impacted by many economic, demographic, societal and claims-related factors, including legislative changes. In many cases, it can be very difficult to distinguish the specific impact of legislation from other influences on the cost of benefits.

D. Interpretation

The WCIRB's prospective cost evaluation of SB 863, as well as this Cost Monitoring Plan, is based on the WCIRB's interpretation of the legislation as written. If legislation is subsequently interpreted differently in regulations or by the courts, those interpretations may not be reflected in the WCIRB's initial cost evaluation or in this Cost Monitoring Plan.

WCIRB California®
Objective.Trusted.Integral.

525 Market Street, Suite 800
San Francisco, CA 94105-2767

Voice 415.777.0777
Fax 415.778.7007

www.wcirb.com
wcirb@wcirb.com