State: Calif.

WCIRB Analysis Finds Reforms Living Up to Promises: Top [2018-12-03]

What in effect is the final report card before California Gov. Jerry Brown leaves office shows that the workers' compensation reforms he championed have performed beyond expectations.

David Bellusci

A legislative cost monitoring report by the Workers' Compensation Insurance Rating Bureau shows that passage of Senate Bill 863 in 2012 and of three reform measures in following years trimmed costs more than expected or held increases to less than expected in almost every area.

It is the first comprehensive analysis of the impact of the legislation since 2016, although WCIRB has issued updates on the impact of specific components of the reforms since then.

According to the report, medical costs decreased a cumulative 17% from 2011 through 2015, a savings driven largely by lower utilization of services.

The report shows that the cost savings were far more than projected in several specific areas. For example, the per-claim cost of radiology services declined 14.9% from 2013 to 2014, instead of the 3.4% that WCIRB projected. Over the next two years, radiology costs also declined at a greater rate than expected, although the differences were more moderate.

Similarly, the WCIRB had projected a 15.8% increase in payments for evaluation and management services from 2013 to 2014, but the actual increase was only 10.8%. The next year, E&M costs tricked up 2.1%, whereas the bureau had projected a 6.1% increase.

"There's no major bad news there," said David Bellusci, chief actuary for the WCIRB. "The reforms appear to be working well. That's the reason we keep lowering the pure premium rate. The pure premium rate is 40% below where it was in 2015."

While SB 863 had numerous provisions that aimed to bring down medical costs, it also increased permanent disability rates and changed the way PD is calculated. The WCIRB analysis found, though, that claims are settling more quickly, which dampened the impact of larger awards.

There were two areas where the reform bill did not perform as well as expected.

SB 863 eliminated add-ons for sleep disorders and sexual dysfunction from permanent disability awards. The report says that "a somewhat larger than expected proportion of ratings continue to involve these add-ons," but declines in the overall average PD rating and increasing settlement rates have prevented those from significantly increasing average PD ratings.

A provision of SB 863 created a flat $6,000 Supplemental Job Displacement Benefit, and the change had increased costs, the report says. In calendar year 2012, $36.2 million in SJDB benefits were paid, comprising 1.1% of total indemnity paid. That climbed to $82 million in 2017 and 2.2% of indemnity. Nonetheless, the bureau said the numbers do not give it reason to revise its estimate of the bill's impact on total system costs.

The analysis also touches on reforms that were passed after SB 863, including legislation that required lien filers to pay fees and file declarations, and a measure that suspends liens filed by convicted fraudsters. Bellusci said the staff will also present preliminary findings on the impact of the drug formulary that took effect this year during a Wednesday meeting of the bureau's Actuarial Committee, although it has only six months' worth of data.

Bellusci said that in the coming months, the bureau will write a report that shows the financial impact of each major component of the reform measure. The report included in the Actuarial Committee's agenda documents is a less comprehensive narrative report.

Cost savings that come in above projections may increase pressure on lawmakers to deliver more benefits to workers. That is especially true given that Democrats increased the size of their majority in the Legislature after the Nov. 6 election. Democrats will outnumber Republicans 28-12 in the Senate and 57-23 in the Assembly in 2019, according to the National Conference on State Legislatures.

Diane Worley, director of policy implementation for the California Applicants' Attorneys Association, said worker-friendly changes to the system are overdue. Specifically, she noted that the state does not fully spend the $120 million allocated each year for supplemental return-to-work benefits for the most seriously disabled workers. She noted that Rand Corp. has recommended that the state eliminate the application process and award the supplemental benefits to all eligible workers.

"CAAA believes these recommendations can be swiftly and easily implemented by the new administration to benefit workers," she said in an email.

Similarly, Worley noted that the Workers Compensation Research Institute found that it took California injured workers longer to obtain specific medical services than their counterparts in 17 other states studied. California applicants waited 54 days for major radiology, compared to median of 26 days. Major surgery took 118 days in California, compared to the 74-day median for the 18 study states.

She gave several other examples.

"In fact, California is the lowest ranked of all 18 states in the study for number of days from injury to treatment being provided other than for the initial medical visit and the specialty of physical medicine," Worley said.

Mark Webb, owner of the Prop 23 Advisors consulting firm, said lawmakers should be careful about upsetting the apple cart. Webb said the workers' compensation market is entering into a soft phase, as evidenced by insurers' growing combined loss ratios. Any legislation that makes the system less predictable may prompt insurers to "slam on the brakes," he said, and in effect accelerate the insurance cycle back to a hard market.

"In some people's rear-view mirrors you see a rate of $6 per $100 in payroll," he said. "If I want to take five points off by doing something with the approval process or the independent medical review process, be careful what you ask for."

Phil Milhollon, executive director of the California Self-Insurers Association, said self-insured employers have seen the same reductions in medical costs as insurers. He said the consensus among his group's members is that the system is stable and performing well for both employers and employees.

"I don't think we are looking for any wholesale changes," he said.

The WCIRB analysis can be found in the Actuarial Committee's meeting documents, here.