

# Cap Insurance Rates **NOT** Injured Workers' Care

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**Contact:**  
Steve Hopcraft 916/457-5546  
Steve@hopcraft.com

## **INJURED WORKERS, CONSUMERS, LABOR: REGULATE WORKERS' COMPENSATION RATES, Cut costs without cutting benefits to injured workers, Governor's proposal would harm injured workers**

SACRAMENTO, CA - Injured workers, consumer rights advocates and labor leaders today called for rate caps and regulation of workers' workers' compensation insurance. The injured workers' advocates announced their proposals for reforming California's workers' compensation insurance system, including prohibiting excessive insurance rates, and criticized Gov. Schwarzenegger's proposal, saying it "would harm thousands of injured workers."

"California must regulate workers' compensation insurers," said Azevedo. "The current situation is really an 'insurance crisis' caused by price hikes following an irresponsible price war. We should prohibit excessive insurance rates just as we do for all other types of insurance."

Azevedo pointed out that "no matter how deeply we cut benefits and medical care for injured workers, there will be no definite employer savings unless the industry is regulated. There is on requirement that insurers pass on savings to employers."

"More than \$5 billion was cut this year from injured workers' benefits and care, and many insurance carriers are increasing their rates next year."

"Any changes to our workers' compensation system must preserve the Constitutional right of injured workers to full medical treatment to be cured and relieved from on-the-job injuries," Art Azevedo, president of the California Applicants' Attorneys Association told a State Capitol news conference. "Gov. Schwarzenegger's proposal doesn't do that. Instead of making injured workers suffer, we should regulate workers' compensation insurance carriers just as all other forms of insurance are regulated. Only if we prohibit excessive rates will employers and injured workers receive the protection they deserve. Right now, only the insurance companies are benefiting."

Experts said that injured workers would be much worse off under the governor's proposed 'de-forms.' "Gov. Schwarzenegger ignores the root causes of soaring premium rates – past carrier irresponsibility and current profitability," said Azevedo. "He wrongly blames injured workers and would allow carriers to reap excessive profits. His proposals

would take away from injured workers their right to choose their doctor and put them at the mercy of company doctors, deny due process, put the power over their lives and health in the hands of doctors who would never see them, and reduce permanent partial disability benefits.”

The injured workers’ advocates released their five point agenda for change:  
Injured workers’ advocates agenda for change

1. Preserve the right of injured workers to full medical treatment
2. Fund the Division of Workers Compensation
3. Regulate workers’ compensation insurers
4. Increase penalties on employers and insurance carriers who refuse or unreasonably delay payment of injured workers’ benefits.
5. Combat fraud

(A detailed agenda for change is attached.)

(A detailed analysis of Gov. Schwarzenegger’s proposal is also attached.)

(end)

Injured workers’ advocates agenda for change

Preserve the right of injured workers to full medical treatment

Any changes to our workers’ compensation system must preserve the Constitutional right of injured workers to full medical treatment to be cured and relieved from on-the-job injuries.

Fund the Division of Workers Compensation

Employers and workers are entitled to a prompt, fair hearing on disputed claims. Budget cuts have devastated the court staff who process these cases. A recent RAND report called for increasing staffing at WCAB offices. Governor Schwarzenegger should adequately fund the Division. We await the governor’s budget proposal.

Additional judges and support staff should be hired to assure that disputes are resolved quickly and inexpensively, for the benefit of injured workers and employers.

Additional auditors should be hired to make certain claim administrators are paying claims accurately and timely.

Regulate workers’ compensation insurers

The current situation is really an “insurance crisis” caused by price hikes following an irresponsible price war. California must regulate workers’ compensation insurers.

Require prior approval of proposed rates to prevent predatory pricing

Prohibit excessive rates

Mandate a rate reduction

There will be no definite employer savings unless the industry is regulated.

Increase penalties on employers and insurance carriers who refuse or unreasonably delay payment of injured workers’ benefits.

Current penalties are not sufficient to deter late payments. One of every 4 audited claims has late payments of benefits to injured workers.

Meaningful penalties should be adopted for the audit process.

## Combat fraud

Anti-fraud efforts should be concentrated on areas where fraud has a major impact on employers' costs. Task forces should be created under the Attorney General's office to coordinate investigation and prosecution of fraud by employers and providers.

Impose penalties for employers who refuse to get workers' compensation insurance, understate their payroll or otherwise fail to meet their obligations.

(end)

## GOVERNOR'S WORKERS' COMPENSATION PROPOSALS

### PROTECT CARRIER MALFEASANCE, VICTIMIZE INJURED WORKERS

Governor Schwarzenegger ignores the root causes of soaring premium rates -- past carrier irresponsibility and current profitability. Instead he would eviscerate injured workers' rights and put benefits out of reach. His rhetoric diverts attention from the real problem -- lack of adequate rate regulation. He wrongly blames injured workers and would allow carriers to reap excessive profits. His proposals:

C Eliminate any ability to select or change physicians, leaving injured workers at the mercy of the company doctor;

C Deny due process, by eliminating WCAB jurisdiction to conduct hearings under oath within 30 days to resolve medical disputes;

C Instead, create an Independent Medical Review (IMR) process using anonymous providers dependent on carriers and employers for their fees and who would never see or examine the injured worker;

C Violate the constitution by making IMR binding and unappealable, limiting care to HMO coverage standards instead of the constitution's "full" treatment to "cure and relieve" from the consequences of injury, and imposing a presumptively correct protocol restricted to mainstream practices that exclude newly emerging treatment;

C Require fault to establish work causation, redefine permanent disability (PPD) and radically alter the basis for determining PPD so as to abolish many legitimate, commonly awarded benefits;

C Eliminate civil remedies for employment discrimination and protections against retaliation for filing a workers' compensation claim;

C Reduce to negligible amounts the only monetary penalty against carriers/employers for unreasonable delay or denial of benefits, thus removing any incentive to treat injured workers fairly and properly;

C Allow employers to force alternative dispute resolution systems that denies the right to counsel on employees who lack collective bargaining rights;

C Repeal safety programs aimed at reducing injuries and cutting costs;

C Cynically offer illusory PPD benefit increases, but actually reduce them for seriously injured workers.

(end)