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Study finds disabled workers losing benefits under new system

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SACRAMENTO - Gov. Arnold Schwarzenegger's overhaul of the workers' compensation system has saved California employers billions of dollars over the last two years, but it also has led to a significant drop in benefits paid to disabled workers, according to a new report.

The analysis from the state Commission on Health and Safety and Workers' Compensation found that the regulations adopted in 2004 have reduced the average cash award given to permanently disabled workers by 50 percent.

Critics of the governor's reforms said the study's findings are proof the system does not treat injured workers fairly and that changes should be made.

Administration officials, however, said the study is premature and potentially flawed, in part because it based its findings on a relatively small number of claims. They said the centerpiece of the new system is a requirement that doctors use a more restrictive method for evaluating injuries

and benefit payments and that it's too soon to say the new system needs refining.

"The old system was based on subjective factors and was fundamentally flawed," Susan Gard, spokeswoman for the state Division of Workers' Compensation, said Friday.

The division has undertaken its own study, which will recommend whether the benefit level is adequate. Changes to the system, if warranted, could be handled administratively, Gard said.

California's workers' compensation system once had the highest rates in the nation, but changes pushed through the Legislature during Schwarzenegger's first year in office have dramatically cut costs.

A report from the state Department of Industrial Relations issued earlier this month estimated the changes have saved employers as much as \$8.1 billion since the high mark for premiums in July 2003.

Democratic leaders, however, said the study shows workers are getting shortchanged.

"This report confirms what we've been hearing for more than a year: Injured workers got the short end of the stick when workers' comp was 'reformed,'" Assembly Speaker Fabian Nunez, D-Los Angeles, said in a statement.

He said he was confident the state could find a solution that will hold down rates while providing adequate benefits.

The commission study provides adequate evidence that workers are not getting fair benefits, said David Rockwell, president of the California Applicants' Attorneys Association, whose members represent

injured workers. He said his group would pursue changes in the Legislature and, if necessary, the courts.

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Senate President Pro Tem Don Perata, D-Oakland, said he does not believe the system needs another overhaul but also is concerned that injured workers are not being treated fairly.

"Seriously injured workers shouldn't find themselves being harmed all over again," he said in a statement.

Perata and Nunez requested the study last year.

At issue is the method used by doctors throughout California to evaluate the severity of job-related injuries. The evaluation is key because it determines how much disabled workers receive in compensation to help make up for their inability to earn a living.

In the past, doctors were allowed to rely on subjective methods for analyzing injuries, such as a worker's pain. Under the new system, guidelines developed by the American Medical Association provide guidelines that are more narrowly defined.

Gard said the commission report relied on a relatively small sample size. She said the state receives about 1 million new workers' compensation claims a year, of which about 120,000 involve permanent disabilities. She said the study was based on only 3,400 claims from permanently disabled workers.

The study being conducted by her department of benefits paid to the permanently disabled will be drawn from 18 months of data. She said the commission study used cases drawn from just a nine-month period.