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DWCNewsline

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Regulations for administrative penalties pursuant to Labor Code § 5814.6 approved

The regulations for administrative penalties pursuant to Labor Code § 5814.6, Title 8, California Code of Regulations, sections 10225, 10225.1 and 10225.2, have been approved by the Office of Administrative Law (OAL). Labor Code section 5814.6 authorizes the Division of Workers' Compensation (DWC) administrative director to impose penalties in amounts up to \$400,000 against employers and insurers who knowingly and unreasonably delay or refuse payment of compensation to injured workers in violation of Labor Code section 5814, with a frequency that indicates a general business practice.

Unreasonable delays or denials of compensation to injured employees undermine the central purpose of California's workers' compensation system. The law provides a remedy for such abuse by authorizing workers' compensation judges to impose penalties for violations found in individual cases. These regulations provide a remedy where multiple violations by a particular claims administrator demonstrate the existence of a general business practice of knowingly causing unreasonable delays or denials.

Penalties will be assessed as specified in the regulations and all penalties collected will be deposited into the Workers' Compensation Return-to-Work Fund, established to promote the early and sustained return to work of employees following work-related injuries or illnesses.

The proposed regulations implement, interpret and make specific the provisions of Labor Code section 5814.6 by:

- Defining particular entities subject to the administrative penalties
- Specifying criteria the DWC administrative director (AD) must consider in finding that violations were committed knowingly
- Specifying the criteria the AD must consider when determining the frequency of violations indicates the existence of a general business practice
- Establishing a schedule of penalties to be imposed based upon the nature, severity, frequency and duration of the relevant violations

- Specifying administrative procedures to be followed in assessing the administrative penalties and in appealing penalty assessments, allowing for due process.

The final approved regulations were filed with the secretary of state on Apr. 26, 2007 and become effective on May 26, 2007. Approved sections 10225, 10225.1 and 10225.2, as filed with the secretary of state, can be found on the DWC Web site at http://www.dir.ca.gov/dwc/DWCPropRegs/AdminPenalties_LC5814_6Regulations/LC5814_6Regulations.htm.

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