



Workers' Compensation Section

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COLAs for Permanent Total Disability (PTD) and Death Benefits

The 2019 Nevada Legislature passed two workers' compensation bills that provide for an increase in benefits for some injured workers and their dependents starting January 1, 2020:

- [Senate Bill 377 \(SB 377\)](#), Permanent Total Disability (PTD) Benefits
- [Assembly Bill 370 \(AB 370\)](#), Death (Survivors') Benefits

Insurers and TPAs are encouraged to familiarize themselves with the specific language in [SB 377](#) and [AB 370](#), and verify the accuracy of monthly PTD rates and Death (Survivors') benefit rates prior to January 2020 to avoid inaccurate calculations and payments. Insurers seeking reimbursement for the increase in payments as described in items 3 below for either PTD or Death benefits paid will be required to submit verification of accurate rates and payments that may include the D-5 Form, the D-8 Form, and correspondence to the injured employee or survivor regarding the Average Monthly Wage, the Permanent Total Disability or Death benefits, or other documentation establishing the correct benefit rate to which the increases may apply.

WCS will provide additional information regarding instructions for requesting reimbursements and possible training opportunities related to SB 377 and AB 370 as they become available.

PTD COLA - [Senate Bill 377 \(SB 377\)](#), effective July 1, 2019:

Injured employees receiving Permanent Total (PT) Disability benefits resulting from an injury or disablement that occurred **prior to January 1, 2004** are now entitled to a **2.3% annual increase in their monthly benefits paid by insurers** starting in January 2020. These injured workers join the injured workers that are receiving PT benefits as a result of injuries or disablements occurring on or after January 1, 2004 that are already entitled to the annual increase pursuant to NRS 616C.473.

[SB 377](#) does 3 things:

- 1) Repeals NRS 616C.453 thereby **eliminating the annual payment from DIR** to injured employees who are receiving PT benefits as a result of an injury or disablement occurring prior to January 1, 2004;
- 2) Amends NRS 616C.473 to include **all PT injured employees in providing for a 2.3% annual increase in the monthly benefit paid by insurers** starting on January 1, 2020 and every January 1 thereafter; and
- 3) Provides **insurers the opportunity to request reimbursement from DIR** for the costs associated with the increase in payments to those injured employees who receive PT benefits as a result of an **injury or disablement occurring prior to January 1, 2004**. Reimbursement requests can be made prior to March 31, 2021 for the payments made in 2020 and will be subject to WCS verification and approval.

COLAs for Permanent Total Disability (PTD) and Death Benefits, cont.

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WCS notified insurers and TPAs of the changes resulting from SB 377 via email on July 3, 2019. A copy of the notice can be found on our website under “What’s Hot!” – [SB 377 \(2019\) – Notice of Suspension of Annual PT Data Call \(7/3/19\)](#). Injured workers that had received an annual payment from the DIR in 2018 pursuant to NRS 616C.453 and would likely be affected by SB 377 were notified by US Mail in August 2019 that they would not be receiving an annual payment from DIR in 2019 but can expect an annual increase in their monthly benefits from their insurer starting in January 2020.

Death Benefits COLA - [Assembly Bill 370 \(AB 370\)](#), effective July 1, 2019:

Widows, widowers, surviving children or surviving dependent parents who are entitled to death benefits pursuant to NRS 616C.505 are now entitled to a **2.3% annual increase in their monthly benefits paid by insurers** starting on January 1, 2020.

[AB 370](#) does 3 things:

- 1) Provides a **2.3% annual increase in the monthly benefit paid by insurers to all survivors** receiving death benefits starting on January 1, 2020 and every January thereafter;
- 2) Provides a **“catch up” provision** for establishing the benefit amount for which the 2.3% annual increase is applied starting in January 2020 for 2 groups of survivors:
 - a) for those receiving benefits related to an injury or disablement occurring **prior to January 1, 1989: 2.3% compounded 3 times**; and
 - b) for those receiving benefits related to an injury or disablement occurring **on or after January 1, 1989 and before January 1, 1994: 2.3% compounded 2 times**.
- 3) Provides **insurers the opportunity to request reimbursement from DIR** for the costs associated with the increase in payments to those survivors who receive death benefits as a result of an **injury or disablement occurring prior to July 1, 2019**. Reimbursement requests can be made prior to March 31, 2021 for the payments made in 2020 and will be subject to WCS verification and approval.

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