COLAs FOR PERMANENT TOTAL DISABILITY & SURVIVORS’ BENEFITS

PTD COLA: SB 377 Amends NRS 616C.473
Survivors’ Benefits COLA: AB 370 (Sec. 3.5) - Not yet codified
Why are we here?

• Overview of AB 370 and SB 377: Similarities and Differences

• Review calculation methods and examples

• Overview of Steps for Reimbursement and the monthly Rate Verification Process
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
What is a COLA?

COLA = Cost of Living Adjustment

- AB 370 and SB 377 do not include “COLA” language.
- We will use “COLA” to refer to the 2.3% annual increases described in the legislation.
Prior COLA Laws

- PTD Claims: Dates of Injury 1/1/04 and later received COLA pursuant to NRS 616C.473
- Survivors’ Benefits Claims: Did not receive a COLA
AB 370 & SB 377 Similarities

- Effective date: **July 1, 2019**
- Provide for a 2.3% annual increase in monthly benefits
- Annual increases start January 1, 2020
- Allows insurers to be reimbursed for the additional costs associated with the increase for **certain claims**
# AB 370 & SB 377 Differences

<table>
<thead>
<tr>
<th>AB 370 (Survivors’ Claims):</th>
<th>SB 377 (PTD Claims):</th>
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<tbody>
<tr>
<td>• One-time “catch-up” calculation must be applied to monthly benefit rate prior to the January 2020 increase, if applicable (Secs. 5 &amp; 6).</td>
<td>• No “catch-up” calculation: PTDs already had either annual payment from DIR (NRS 616C.453) or ongoing 2.3% COLA (NRS 616C.473)</td>
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<tr>
<td>• Reimbursement applies only to Survivors’ claims with dates of injury prior to July 1, 2019 (Sec. 4).</td>
<td>• Reimbursement applies only to PTD claims with dates of injury prior to January 1, 2004.</td>
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<td>• Repeals NRS 616C.453</td>
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Beginning January 1, 2020 and every January 1 thereafter:

All Survivors’ Claims and PTD Claims receive an annual increase of 2.3% to their monthly benefit rate.
Monthly Rate Calculation
NRS 616C.440 (1)(a) – PTD Claims
NRS 616C.505(2) – Survivors’ Benefits

• PTD & Survivors’ Benefits – both 66 2/3 percent of the Average Monthly Wage (AMW).

  ✓ PTD/Survivors’ Monthly Rate = AMW x 2 \( \div 3 \)

• AMW Calculation (NAC 616C.432)

  ✓ Average Daily Wage (ADW) = Gross Earnings / Days in Period

  ✓ AMW = ADW \times 30.44 \text{ days}
Survivors’ Claims
“Catch-up” Calculation
Prior to January 1, 2020

AB 370 (Sec. 6)

Claims with Dates of Injury/Occupational Disease Disablement on or after 1/1/1989 and before 1/1/1994:
2.3% compounded 2 times

Monthly Rate X 2.3% compounded 2 times (4.653%)

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Monthly Rate x 4.6%
EXAMPLE: 1
Monthly Rate of $1000

DOI: 1/1/1989 TO 12/31/1993 – ENTITLED TO COLA OF 2.3% COMPOUNDED 2 TIMES

$1000 x 2.3% = $1023
$1023 x 2.3% = new monthly rate of $1046.53

INCORRECT: $1000 x 4.6% = $1046.00
Survivors’ Claims
“Catch-up” Calculation
Prior to January 1, 2020

AB 370 (Sec. 5)
Claims with Dates of Injury/Occupational Disease Disablement before 1/1/1989:
2.3% compounded 3 times

Monthly Rate X 2.3% compounded 3 times (7.06%)
≠
Monthly Rate x 6.9%
EXAMPLE : 2
Monthly Rate of $1000

DOI: PRIOR TO 1/1/1989 – ENTITLED TO COLA OF 2.3% COMPOUNDED 3 TIMES
$1000 \times 2.3\% = $1023
$1023 \times 2.3\% = $1046.53
$1046.53 \times 2.3\% = \text{new monthly rate of $1070.60}

INCORRECT: $1000 \times 6.9\% = $1069.00
Survivors’ Claims
“Catch-up” Calculation
Prior to January 1, 2020

**DOI Prior to 1/1/1989**

**Compound 3 times**
Monthly Rate x 2.3% = MR1
MR1 x 2.3% = MR2
MR2 x 2.3% = MR3
MR3 = New Base Rate

**DOI 1/1/1989-12/31/1993**

**Compound 2 times**
Monthly Rate x 2.3% = MR1
MR1 x 2.3% = MR2
MR 2 = New Base Rate

**DOI 1/1/1994 and later**

Monthly Rate
(No catch-up)
Monthly Rate = Base Rate
Survivors’ Claims
2.3% COLA Calculation
January 2020

DOI before 1/1/1989:
MR3 (New Base Rate) x 2.3% =
New Monthly Rate starting Jan 2020

DOI between 1/1/1989 and 12/31/1993:
MR2 (New Base Rate) x 2.3% =
New Monthly Rate starting Jan 2020

DOI on or after 1/1/1994:
MR (Base Rate) x 2.3% =
New Monthly Rate starting Jan 2020
All PTD Claims:
Monthly Rate x 2.3% = New Monthly Rate for 2020

- DOI or Occ Disease Disablement before 1/1/2004:
  First 2.3% annual increase pursuant to NRS 616C.473 (2) (new language)

- DOI or Occ Disease Disablement on or after 1/1/2004:
  Continue annual 2.3% increases pursuant to NRS 616C.473(1)
EXAMPLE: 4 Catchup
Monthly Rate of $1070.60 (monthly rate after 2.3% compounded 3 times calculation)

ENTITLED TO 2.3% COLA, *after being caught up *

$1070.60 \times 2.3\% = \text{new monthly rate of } $1095.22

EXAMPLE: 5 No Catchup
Monthly Rate of $1000

$1000 \times 2.3\% = \text{new monthly rate of } $1023
Reimbursement:
(AB 370 – Sec. 3.8)
(SB 377 – Sec. 2.5)

What costs are reimbursable?

– Only amount that is the result of the COLA

Example:
Monthly Rate after COLA applied: $1023
Monthly Rate before COLA applied: $1000
Reimbursable: $1023-$1000 = $23/month
Which claims are reimbursable?

- Only the claims with certain DOI or Occ Disease Disablement

  - PTD Claims: DOI or Occ Disease Disablement prior to January 1, 2004

  - Survivors’ Claims: DOI or Occ Disease Disablement prior to July 1, 2019
When are the costs reimbursable?

- On or before March 31 each year for the prior calendar year costs

  For payments made January 1 - December 31, 2020:
  On or before 3/31/2021

  For payments made January 1 - December 31, 2021:
  On or before 3/31/2022
Steps to Reimbursement

Verification
– One-time verification of correct monthly rate calculation by WCS
    Verification Checklist (Form)
    Supporting Documentation

Reimbursement Request
– AMW must be verified (one-time)
– Annual submission of reimbursement requests
  (Complete reimbursement process will be discussed at a later date)
Claim documents for verifying PTD and Survivors Monthly Rate Benefits may include but are not limited to:

- D-5 and D-8 Forms
- AMW determination
- Decision and Orders and/or Stipulations regarding PTD or Survivors’ Benefits status
- PTD or Survivors’ Benefits determination letter
- Permanent Total Disability Report of Employment (D-14) (7/99)
- Any determinations suspending or denying PTD or Survivors’ Benefits payments to the injured worker or survivor
- Case notes
AMW/MONTHLY RATE VERIFICATION FORMS
PROCESS FOR VERIFICATION
A one-time process that is required before a request for reimbursement will be considered

- Submit appropriate Verification Form and supporting documentation to WCS at COLAS@business.nv.gov
- WCS staff will review documents submitted
- WCS determine if any additional information is needed
- WCS will verify AMW and Monthly Rate calculations are correct
- WCS will provide a response to the verification request
- If verified, request for reimbursement may be considered
Questions?
Contacting WCS

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