

# MILLER HEALTH LAW GROUP

2029 Century Park East, Third Floor  
Los Angeles, CA 90067

Website: [WWW.MILLERHEALTHLAW.COM](http://WWW.MILLERHEALTHLAW.COM)

Telephone: 310.277.9003  
Facsimile: 310.277.8214  
Email: [INFO@millerhealthlaw.com](mailto:INFO@millerhealthlaw.com)

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## **California's New Workers' Compensation "Reform" Law**

A package of legislation intended to "reform" the California workers' compensation system and reduce the insurance premiums and costs paid by California employers, went into effect January 1, 2004. While many observers question how much employers will actually save, the new law will clearly have a significant impact upon healthcare providers who treat workers' compensation patients. This article highlights several important provisions in the new law.

1. Surgery Centers. The number of surgery centers catering to workers' compensation patients dramatically increased over the past few years. Because of the lack of a fee schedule, many surgery centers have been able to collect for services rendered to workers compensation patients at rates 500% or more than what the Medicare program pays. Under the new law, rates are slashed to a maximum of 120% of the amount Medicare pays for the same services if performed at a hospital outpatient department. As Medicare rates are sometimes below a surgery center's actual costs, centers which are heavily dependent upon workers' compensation patients may have to take drastic steps to reduce their operating costs and attract better paying private insurance cases. The alternatives are dramatically reduced profitability, a "fire sale" or shut down of the surgery center. The new law does permit surgery centers to attempt to contract with workers' compensation payors for higher reimbursement rates. If enough surgery centers close down, or refuse to treat workers' compensation patients, this may occur.

Contrary to some reports, physicians will still be able to refer their workers' compensation patients to surgery centers that they own. In order to do so physicians can either (a) disclose their ownership interest and obtain a service pre-authorization from the insurance company or self-insured employer, (b) qualify for the "physician's office" or "office of a group practice" exception or (c) not accept compensation for the referral and ensure that any equipment lease between the physician and the surgery center meets certain requirements.

2. Fees for Physician Services. For calendar years 2004-2005, the existing official medical fee schedule for physician services will remain in effect but the rates will be reduced by 5% unless the current fees are already at or below the Medicare rates for the same service. It is unclear what will happen as of January 1, 2006.

3. Physical Therapy and Chiropractic Visits. For injuries occurring on or after January 1, 2004, injured workers will be entitled to a maximum of 24 chiropractic and 24 physical therapy visits per industrial injury. However, an insurance carrier can give written authorization for additional visits.

4. Drugs. Physicians who dispense drugs in their office to workers' compensation patients will now be paid at Medi-Cal rates. Medi-Cal pays physicians for only the actual cost of the drugs; there is no markup allowed or separate handling or dispensing fee paid. Thus, physicians would have little or no financial incentive to dispense drugs to workers' compensation patients. However, there is some question as to whether the backers of the new law fully understood the Medi-Cal payment system when they adopted it. It appears they may not have intended to completely eliminate the drug markup, as opposed to reducing it. This issue may be clarified in future "reform" legislation.