

COMPENSATION NEWS

MONTHLY REPORT

Court of Appeal indicates 104 weeks of temporary disability includes IDL and enhanced IDL

This is an appellate decision that was not published.

This is a significant decision involving interpretation of Labor Code section 4656 (c) (1), which limits temporary disability for a single injury to 104 weeks within a two year period.

The applicant was injured at work by an inmate. The applicant worked for the California Department of Corrections and Rehabilitation. Instead of collecting temporary disability, the applicant elected to collect

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Industrial Disability Leave (IDL). This applicant was entitled to "enhanced" IDL which is full net take-home salary.

The applicant collected enhanced IDL for one year and then temporary disability (TD) for one year. The carrier cut off benefits to the applicant claiming the applicant had reached the 104 week level for TD under Labor Code section 4656, subdivision c (1).

The applicant took this issue to trial. The Workers' Compensation Judge (WCJ) found the enhanced IDL was in addition to TD. The carrier filed a petition for reconsideration and the Workers' Compensation Appeals Board (WCAB) overruled the WCJ.

The applicant filed this writ. The appellate court looked at the

case of Brooks v. WCAB 161 Cal. App 4th 1522 (2008) which found regular IDL fell within the 104 week rule. That court concluded that employees were entitled to two years of TD which included IDL.

Here the applicant argued that enhanced IDL should be like section 4850 time and not be counted as TD. This court indicated salary continuation under section 4850 is different than enhanced IDL. Therefore enhanced IDL is within the two year rule.

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