

Date of Hearing: March 22, 2023

ASSEMBLY COMMITTEE ON INSURANCE
Lisa Calderon, Chair
AB 489 (Calderon) – As Introduced February 7, 2023

SUBJECT: Workers' compensation: disability payments

SUMMARY: Extends the sunset, from January 1, 2024 to January 1, 2025, for an existing pilot program that allows employers to transmit disability indemnity benefits (workers' compensation) by a prepaid card, rather than a paper check.

EXISTING LAW:

- 1) Establishes a workers' compensation system that provides benefits to an employee who suffers from an injury or illness that arises out of and in the course of employment, irrespective of fault. This system requires all employers to secure payment of benefits by either securing the consent of the Department of Industrial Relations to self-insure or by securing insurance against liability from an insurance company authorized by the state.
- 2) Requires that, if an injury causes temporary disability, the first payment of temporary disability indemnity must be made not later than 14 days after knowledge of the injury and disability. Each additional payment of temporary disability indemnity benefits must be made as due every two weeks on the day designated with the first payment. (Labor Code § 4650(b)(1))
- 3) Defines "prepaid card" or "prepaid card account" as a card, code, or other means to allow a recipient access to funds, which is usable at multiple, unaffiliated merchants for goods or services, or usable at automated teller machines (ATMs). (Unemployment Insurance (UI) Code § 1339.1)
- 4) Permits employers to begin a program where disability indemnity benefits may be deposited on a prepaid card account, as defined under existing UI Code, if the injured worker has provided written consent to receive his or her benefits on a prepaid card. (Labor Code § 4651(a)(3)(A))
- 5) Requires that a prepaid card account must meet the following requirements: (Labor Code § 4651)
 - a) Allow the employee to withdraw the entire balance on the card in one transaction without incurring fees.
 - b) Allow the employee reasonable access to in-network ATMs.
 - c) Allow the employee to make point-of-sale purchases without incurring fees from the financial institution.
 - d) Prohibit a link to any form of credit, including a loan against future payments or a cash advance on future payments.

- 6) Prohibits any prepaid card account fees being charged to an injured worker, except for an expedited replacement prepaid card, out-of-network ATM fees on the third and subsequent withdrawal per deposit, and fees associated with foreign transactions. (Labor Code § 4651(a)(3)(B))
- 7) Permits either the employer or the injured worker to opt to change the method of payment to another method consistent with this section by providing 30 days' written notice to the other party. (Labor Code § 4651(a)(3)(C))
- 8) Sunsets the prepaid card account program described above on January 1, 2024. (Labor Code § 4651(c))
- 9) Requires the Commission on Health and Safety and Workers Compensation (CHSWC), on or before December 1, 2022, to issue a report to the Legislature on payments made to prepaid card accounts. (Labor Code § 4651(a)(3)(D))

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Purpose.** According to the author:

AB 489 simply extends the sunset of an existing pilot program by one year, while the legislature awaits a report relating to the program. In 2018, the legislature passed a bill to establish a pilot program that allowed employers to transmit certain workers compensation payments by a prepaid card, rather than a paper check or direct deposit. This program is particularly helpful for unbanked workers that do not have access to a checking account. This bill would extend the sunset by one year, to give stakeholders sufficient time to review the report, before any interruptions to the existing program take place.

- 2) **Pilot Program and CHSWC Report.** SB 880 (Pan, Chapter 730, Statutes of 2018) allowed employers to conduct a pilot program on transmitting workers' compensation (disability indemnity benefits) by a prepaid card, rather than a paper check. This pilot program was originally due to sunset January 1, 2023. Last year, AB 2148 (Calderon, Chapter 120, Statutes of 2022) extended the sunset date to January 1, 2024.

SB 880 also required CHSWC to issue a report to the Legislature on payments made to prepaid card accounts on or before December 1, 2022. However, that report has not yet been transmitted to the Legislature. The report shall include, at minimum the following:

- a) The number of employees who elected to receive their temporary disability indemnity payments in a prepaid card account.
- b) The cash value of the temporary disability benefits sent to prepaid card accounts.
- c) The number of employees who opted to change the method of payment from a prepaid card account to either a written instrument or electronic deposit.

This bill would again extend the sunset by one year, to give stakeholders adequate time to review the report, before any interruptions to the existing program take place.

- 3) **Disability Indemnity Benefits and Access to Banking in California.** Transmitting indemnity benefits to injured workers by either a paper check or direct deposit both pose unique challenges for households where no one in the household has a bank account. For unbanked workers, direct deposit would generally not be available. Without a relationship with a financial institutions cashing a check without significant fees would also prove challenging.

According to the 2021 Federal Deposit Insurance Corporation (FDIC) National Survey of Unbanked and Underbanked Households, 5% of all California households are unbanked.¹ However, according to the same survey, the rate of unbanked disabled households in California is 19.1% and an additional 13.9% of households are underbanked.

The FDIC survey shows that for African American households in California, the unbanked rate is 6.4% and the underbanked rate is 24.5%. For Latino households in California, the unbanked rate is 7.6% and the underbanked rate is 22.6%. This suggests that for households with injured workers, particularly injured workers of color, the unbanked and underbanked rate may be higher than average.

The pilot program created in 2018 aimed to address these issues. This pilot is modeled off of the existing UI prepaid benefit card program, where unemployed workers receive their UI benefits on a prepaid card. That program, in turn, was modeled on an existing electronic benefit transfer (EBT) program for individuals to receive CalFresh, CalWORKs, and other food and cash aid benefits.

- 4) **Prior Legislation.**

AB 2148 (Calderon), Chapter 120, Statutes of 2022, extended the sunset date on an existing pilot program that allows employers to transmit disability indemnity benefits (workers' compensation) by a prepaid card, rather than a paper check from January 1, 2023 to January 1, 2024.

SB 880 (Pan), Chapter 730, Statutes of 2018, created the pilot program to allow employers to transmit disability indemnity benefits (workers' compensation) by a prepaid card, rather than a paper check.

REGISTERED SUPPORT / OPPOSITION:

Support

American Property Casualty Insurance Association
California Association of Joint Powers Authorities (CAJPA)

¹ 2021 FDIC National Survey of Unbanked and Underbanked Households. Retrieved March 6, 2023, from <https://www.fdic.gov/analysis/household-survey/>

California Coalition on Workers Compensation
Housing Contractors of California
Public Risk Innovation, Solutions, and Management (PRISM)

Opposition

None on file.

Analysis Prepared by: Claire Wendt / INS. / (916) 319-2086