

Update: Effects of 104-week limit on TTD duration

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The 1995 Legislature enacted a provision limiting temporary total disability (TTD) benefits to 104 weeks of total duration, effective for injuries on or after Oct. 1, 1995. In October 2000, the Department of Labor and Industry's Research and Statistics unit published a report analyzing the effects of that limit and the characteristics of individuals affected by it.¹ Among other things, the report estimated the number of claimants whose TTD duration had been reduced by the 104-week limit, as far as could be detected by data for injuries after Oct. 1, 1995. This article presents an update on that estimation. As expected, the most recent data about post-law-change injuries shows a larger number of claimants affected by the duration limit than did the earlier data in the previous study. However, this number is still substantially less than a *projection* in the earlier study of what the number would be at full claim maturity. This article offers possible reasons for this.

Estimates from the October 2000 study

The October 2000 study began by projecting the number of claimants that would be affected by the duration limit at full claim maturity. It did this by analyzing TTD benefit duration for claims through September 1995 (claims unaffected by the duration limit); the projection was that as many as 240 to 310 claimants a year would be affected by the limit, or about 1 percent of the roughly 28,500 new TTD recipients each year. As the study indicated, it will take several years for the data about post-law-change injuries to reveal the actual number of claimants eventually affected, because of the amount of time necessary for claims to develop and for data to be reported to the Department of Labor and Industry (DLI). In an analysis

of post-law-change claims as of March 2000, the study also estimated that 123 claimants for injury-year 1996 had been affected by duration limit, as had 103 claimants for injury-year 1997. The numbers of claimants affected by the limit for each injury year will likely increase as claims mature and more complete data is reported to DLI.

Estimates from recent data

This article replicates the earlier analysis of March 2000 data using more recent data. In the DLI database, TTD benefits are not distinguished from permanent total disability (PTD) benefits. Therefore, this analysis, like the analysis of March 2000 data, is based on the combined duration of both benefit types, which are referred to jointly as total disability (TD) benefits.

Figure 1 (see page 15) shows the duration of TD benefits for injury-years 1995 through 1999. The numbers are as of June 26, 2001. Duration is measured in quarter-years, with partial quarters rounded upward.² The figure shows the numbers of cases with the different durations of TD benefits for each injury year. For example, for injury-year 1995, 25,169 TD cases, out of the total 28,631, had one quarter or less of TD benefits. The data for durations of three to 10 quarters is shown in the graph.

The effect of the 104-week limit can be seen by looking at the eight-quarter column in relation to adjacent columns and comparing injury-years 1996 through 1998 with 1995. In general, for each injury year, the number of cases decreases from one duration level to the next greater one. For 1996 through 1999, however, the number of cases in the eight-quarter column *increases* relative to the seven-quarter column, which

¹ *The 104-week Duration Limit for Workers' Compensation Temporary Total Disability Benefits*, Department of Labor and Industry, Research and Statistics, October 2000.

² Cases as much as two weeks above a duration quarter are counted in the lower quarter. This is to capture the cases that go slightly (a week or two) beyond 104 weeks in the eight-quarter category. Data not shown here indicates there are more cases with 105 to 106 weeks of TD benefits for injuries after Oct. 1, 1995, than for earlier injuries. This may reflect insurer leniency, lack of precision in applying the limit or data errors.

For injury years to coincide with the effective date of the 1995 law change, they are defined as Oct. 1 to Sept. 30. Injury-year 1996, for example, is Oct. 1, 1995 through Sept. 30, 1996 – the first injury-year after the effective date.

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104-week limit, continued from page 13

does not occur for 1995. For example, for injury-year 1996, there are 210 cases in the eight-quarter column compared to 101 cases at seven quarters. The increase between seven and eight quarters is less pronounced for 1999 than for 1996 through 1998, because the 1999 cases are less mature. The cases at higher duration levels (nine or more quarters) for 1996 through 1999, are either PTD cases or TTD cases that continued beyond the limit because of approved retraining. Some of these cases may also be data errors. (Some of the cases with eight or fewer quarters may also be PTD.)

Figure 2 (see page 15) shows the use of this data to estimate the constraining effect of the duration limit. The first row shows the numbers of TD cases in the eight-quarter column for injury-years 1996 through 1998. The second row shows estimates of what the corresponding numbers of cases would have been without the duration limit (see footnote in table). The third row is the estimated numbers of cases affected by the limit – that is, the numbers of cases whose duration was effectively limited by the 104-week provision. These numbers are the differences between the first two rows. The estimates are, as indicated by data reported to DLI as of June 2001, 137 claimants for injury-year 1996 had exhausted their TTD benefits under the duration limit, as had 133 claimants for injury-year 1997, 117 for 1998, and 46 for 1999.

As expected, the estimates for injury-years 1996 and 1997 (137 and 133) are higher than in the October 2000 study (123 and 103, respectively), because the more recent data is more mature. However, the current estimates are still substantially below the *projection* in the earlier study that at full maturity as many as 240 to 310 claimants would exhaust their TTD benefits under the duration limit. Although the estimated numbers of individuals who have actually exhausted their benefits will probably continue to increase as more mature data becomes available, the numbers suggest further increases may be small. Between the March 2000 and June 2001 data, the increases for 1996 and 1997 were only 14 (137 minus 123) and 30 (133 minus 103) respectively. Also, the near-equality of the estimates for 1996 and 1997 (137 and 133) suggests these numbers are almost fully mature; since the 1997

number is one year less mature than 1996, a greater difference would be expected if significant maturation were yet to occur.

If, as current data suggests, the numbers of claimants actually exhausting their benefits under the duration limit will be less than projected in the earlier study, why would this be so?

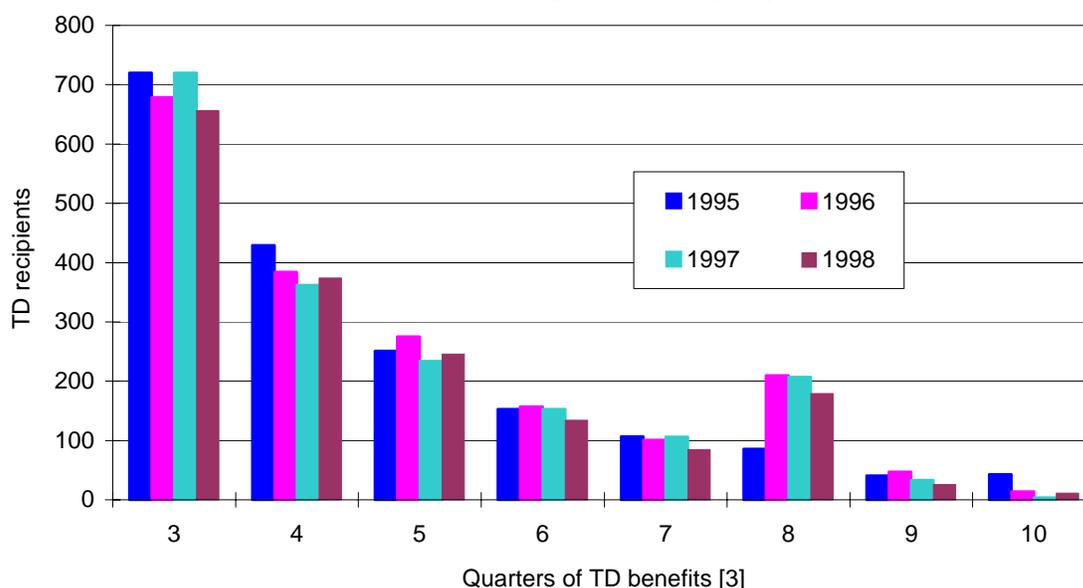
Conversion to PTD status: effect on current estimates

One possible reason is that the duration limit may have induced some TTD claimants to seek PTD status to continue their benefits. If these claimants were successful in converting to PTD status, their cases would not be revealed by the data presented here, since this data combines TTD and PTD duration. A case that converts from TTD to PTD status upon reaching the limit would have more than eight quarters of TD duration. Whether, and to what extent, the duration limit has increased the rate of conversion to PTD status is unknown.

Conversion to PTD status: effect on original projection

A second possible reason for the current estimates to fall short of the original projection is the projection (240 to 310 cases a year) could have been affected by conversions to PTD status. The projection was based primarily on an estimate of the number of TTD cases with more than 104 weeks of benefits at full maturity for pre-law-change cases (injuries through Sept. 30, 1995). That estimate used data about combined TTD/PTD duration (like the data in Figure 2), but adjusted those numbers to reflect TTD duration only, using data about PTD status available only for pre-law-change cases. If TTD cases converted to PTD status at a faster rate than estimated, the original projection would have been too large.

Figure 1
Quarters of Total Disability Benefits by Injury Year [1]



Injury Year [2]	Number of Cases										Total
	Quarters of Total Disability Benefits [3]										
	1	2	3	4	5	6	7	8	9	10	
1995	25,169	1,457	720	429	251	153	107	86	41	43	28,631
1996	24,255	1,532	679	384	275	157	101	210	47	14	27,722
1997	24,079	1,534	720	362	234	153	106	207	33	4	27,471
1998	23,905	1,486	656	374	246	134	85	179	26	11	27,131
1999	24,326	1,608	613	388	228	157	96	117	8	3	27,557

1. Data are from the DLI claims database as of June 26, 2001. Total disability benefits include TTD and PTD combined. Numbers are not fully mature and will increase in future tabulations, especially for more recent injury years.
2. In order for injury years to coincide with the effective date of the 1995 law change, they are defined here to run from October 1 through September 30. For example, injury year 1996 is October 1, 1995 - September 30, 1996.
3. The category label indicates the top of the range. For example, "8" means more than seven but not more than eight quarters. However, cases within two weeks above a duration category are counted in that lower category. For example, a case with eight quarters and two weeks of benefits is counted as having eight quarters. This is in order to capture the cases that go slightly (a week or two) beyond 104 weeks in the eight-quarter category. (Cases with seven quarters and two weeks are counted as having seven rather than eight quarters.) The numbers of cases with more than ten quarters of benefits are not shown.

Figure 2
Estimated numbers of TTD cases exhausting benefits
as of June 2001

	Injury year			
	1996	1997	1998	1999
Number of cases with 8 quarters of TD benefits	210	207	179	117
Less: expected number of cases with 8 quarters in absence of 104-week limit [1]	73	74	62	71
Estimated number of cases exhausting benefits, as reported through June 26, 2001	137	133	117	46

1. Based on numbers of cases with 6 to 8 quarters of benefits for injury-years 1990 through 1995, and with six to seven quarters of benefits for injury-years 1996 through 1999.