

AMENDED IN SENATE MAY 2, 2012  
AMENDED IN SENATE APRIL 16, 2012

**SENATE BILL**

**No. 1105**

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**Introduced by Senator Lieu**

February 16, 2012

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An act to amend Section 4903.1 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1105, as amended, Lieu. Workers' compensation: liens.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing workers' compensation law authorizes the Workers' Compensation Appeals Board to determine and allow specified expenses as liens against any sum to be paid as compensation. Existing law requires, before issuing an award or approval of any compromise of claim, the determination of whether any benefits have been paid or services provided by specified entities.

This bill would require the appeals board to allow a lien for benefits paid by a self-insured employee welfare benefit plan, ~~including, but not limited to, a living expense as defined.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4903.1 of the Labor Code is amended to  
2 read:

1 4903.1. (a) The appeals board, arbitrator, or settlement  
2 conference referee, before issuing an award or approval of any  
3 compromise of claim, shall determine, on the basis of liens filed  
4 with it pursuant to subdivision (b) or (c), whether any benefits  
5 have been paid or services provided by a health care provider, a  
6 health care service plan, a group disability policy, including a  
7 loss-of-income policy, a self-insured employee welfare benefit  
8 plan, or a hospital service contract, and its award or approval shall  
9 provide for reimbursement for benefits paid or services provided  
10 under these plans as follows:

11 (1) When the referee issues an award finding that an injury or  
12 illness arises out of and in the course of employment, but denies  
13 the applicant reimbursement for self-procured medical costs solely  
14 because of lack of notice to the applicant's employer of his *or her*  
15 need for hospital, surgical, or medical care, the appeals board shall  
16 nevertheless award a lien against the employee's recovery, to the  
17 extent of benefits paid or services provided, for the effects of the  
18 industrial injury or illness, by a health care provider, a health care  
19 service plan, a group disability policy, a self-insured employee  
20 welfare benefit plan, or a hospital service contract.

21 (2) When the referee issues an award finding that an injury or  
22 illness arises out of and in the course of employment, and makes  
23 an award for reimbursement for self-procured medical costs, the  
24 appeals board shall allow a lien, to the extent of benefits paid or  
25 services provided, for the effects of the industrial injury or illness,  
26 by a health care provider, a health care service plan, a group  
27 disability policy, a self-insured employee welfare benefit plan, or  
28 a hospital service contract. For purposes of this paragraph, benefits  
29 paid or services provided by a self-insured employee welfare  
30 benefit plan shall be determined notwithstanding the official  
31 medical fee schedule adopted pursuant to Section 5307.1.

32 (3) When the referee issues an award finding that an injury or  
33 illness arises out of and in the course of employment and makes  
34 an award for temporary disability indemnity, the appeals board  
35 shall allow a lien as living expense under Section 4903, for benefits  
36 paid by a group disability policy providing loss-of-time benefits  
37 and for benefits paid by a self-insured employee welfare benefit  
38 plan, *as defined in subdivision (f) of Section 10121 of the Insurance*  
39 *Code*. Such lien shall be allowed to the extent that benefits have  
40 been paid for the same day or days for which temporary disability

1 indemnity is awarded and shall not exceed the award for temporary  
2 disability indemnity. No lien shall be allowed hereunder unless  
3 the group disability policy provides for reduction, exclusion, or  
4 coordination of loss-of-time benefits on account of workers'  
5 compensation benefits ~~or unless the self-insured employee welfare~~  
6 ~~benefit plan, as defined in subdivision (f) of Section 10121 of the~~  
7 ~~Insurance Code, provides for benefits arising out of a disability;~~  
8 ~~including, but not limited to, payment of living expenses.~~

9 (4) When the parties propose that the case be disposed of by  
10 way of a compromise and release agreement, in the event the lien  
11 claimant, other than a health care provider, does not agree to the  
12 amount allocated to it, then the referee shall determine the potential  
13 recovery and reduce the amount of the lien in the ratio of the  
14 applicant's recovery to the potential recovery in full satisfaction  
15 of its lien claim.

16 (b) When a compromise of claim or an award is submitted to  
17 the appeals board, arbitrator, or settlement conference referee for  
18 approval, the parties shall file with the appeals board, arbitrator,  
19 or settlement conference referee any liens served on the parties.

20 (c) Any lien claimant under Section 4903 or this section shall  
21 file its lien with the appeals board in writing upon a form approved  
22 by the appeals board. The lien shall be accompanied by a full  
23 statement or itemized voucher supporting the lien and justifying  
24 the right to reimbursement and proof of service upon the injured  
25 worker, or if deceased, upon the worker's dependents, the  
26 employer, the insurer, and the respective attorneys or other agents  
27 of record.

28 (d) The appeals board shall file liens required by subdivision  
29 (c) immediately upon receipt. Numbers shall be assigned pursuant  
30 to subdivision (c) of Section 5500.

31 (e) The changes made to this section by Senate Bill 457 of the  
32 2011–12 Regular Session do not modify in any way the rights or  
33 obligations of the following:

34 (1) Any health care provider to file and prosecute a lien pursuant  
35 to subdivision (b) of Section 4903.

36 (2) A payor to conduct utilization review pursuant to Section  
37 4610.

1 (3) Any party in complying with the requirements under Section  
2 4903.

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