

Another landmine for California’s workers from Christine Baker’s toxic legacy at the Department of Industrial Relations

The legacy of Christine Baker – the now-disgraced former director of the Department of Industrial Relations (DIR) who abruptly retired in March 2018 when state investigators found she had engaged in nepotism and retaliation against whistleblowers at DIR – already means that California’s labor agencies can barely hire to fill vacancies.

Now a new report from the California State Auditor finds that Baker mismanaged the state’s workers compensation system resulting in major delays for injured workers’ access to benefits during the period 2013-18. During these five years, injured workers faced significant delays when their compensation claims were contested by their employers and a “Qualified Medical Examiner” (QME) was required to decide whether the worker received any benefits. DIR is the parent agency for the Division of Workers Compensation (DWC).

The key findings of Auditor’s report 2019-102, released on November 19th, include:

- “The department has not ensured that it has enough QMEs to keep up with the demand for their services, which results in injured workers experiencing delays in resolution of their disputes, and thus possible delays in benefits for workers and increased cost for employers.
- The number of QMEs has declined steadily since fiscal year 2013–14, while requests for services have risen significantly.
- Despite the shortage of QMEs, the department has not conducted any studies or analysis to determine if accessing QMEs is a problem and has not taken steps to address the shortage.
- It has not updated the rates of its medical-legal fee schedule that QMEs use to charge for their services since 2006—the rates are 30 percent lower than what the rates would be if adjusted for inflation.
- Although required to do so, the department has not ensured that QMEs produce high-quality reports that provide medical evidence to help judges and others to resolve disputes timely—it has not tracked when judges rejected reports that failed to meet standards such as accuracy or completeness.”

The scathing report on the adverse impact of these failure of DIR/DWC under Baker was brought to light by attorney Julius Young who closely follows California’s worker compensation system in his blog “Workers Comp ZONE.”

Young noted in his blog, “While I agree that there are headwinds in attracting new QMEs, clearly the DIR/DWC has for years not been acting as if this is a priority. And the DWC response to the Auditor’s report is disturbing insofar as it seems to downplay the impact of declining QME numbers on workers receiving treatment and benefits and on timely case resolution.”

Moreover, Young pointed out, “Interestingly, comments by the State Auditor seem to document that the DIR was not forthcoming in providing requested information to the State Auditor on a timely basis.”

The *Worker Comp ZONE* blog can be found at:

<http://www.workerscompzone.com/2019/11/19/taken-to-task/>

The full State Auditor’s report, including a point by point response to the DWC’s challenges to the report’s findings, can be found at: <https://www.auditor.ca.gov/pdfs/reports/2019-102.pdf>

The 2012 reform of California’s workers comp system (Senate Bill 863) was supposed to correct the widely recognized failures of previous reforms in 2003/04 and 2008, which left injured workers worse off than before these sequential reforms.

Baker was the principle architect of the 2012/13 reforms and continues to claim it has been a great success. It certainly has been successful for the state’s employers, who have “saved” more than \$1.3 billion a year in workers comp costs over the past five years.

But the new Auditor’s report details how injured workers have been left behind – yet again – by the state agencies that have failed to competently administer the system. Injured workers and their families have paid the cost for this landmine created during Baker’s reign at DIR.

Meanwhile, the DWC, Cal/OSHA and Division of Labor Standards Enforcement are still hamstrung by another aspect of Baker’s toxic legacy as DIR Director – a frozen hiring process resulting from her nepotism and retaliation.

In 2019, both the California State Auditor and State Personnel Board issued reports detailing how Baker had “gamed” the state’s personnel hiring process to secure a “no show” job for her daughter, and then conducted reprisals against DIR employees who reported the violation to oversight agencies. The CSA and SPB reports can be found at:

<https://www.bsa.ca.gov/pdfs/reports/I2019-2.pdf>

<http://www.spb.ca.gov/reports/SIRDIR042019.pdf>

As a result, the California Department of Human Resources (CalHR) stripped DIR of its authority to conduct its own hiring for the four agencies in the Department. Instead personnel from CalHR now oversee all DIR hiring, which has caused significant delays in filling the numerous vacancies at Cal/OSHA and the other agencies.

In November 2019, there are 46 vacancies in the 249 fully funded and authorized field enforcement inspector positions (18.5% vacancy rate) at Cal/OSHA, and DOSH is barely able to keep up with ongoing retirements.

At a great cost to California's 19 million workers and their families, the toxic legacy of Christine Baker's tenure at DIR continues to be "the gift that keeps on giving."

Garrett Brown, November 25, 2019