

FACTS FOR INJURED WORKERS

What is Worker's Compensation?

Workers' Compensation is insurance that is state-mandated and is paid by your employer. It is meant to compensate an injured worker for loss of wages and medical benefits.

Prior to the passing of the California Workers' Compensation law, an employee who was injured had to sue their employer to recover their medical expenses and to cover lost wages.

Under the Workers' Compensation law, employers and employees make a trade-off. The employer agrees to provide medical and wage replacement benefits and the injured employee agrees to give up his/her right to sue the employer, regardless of who is at fault.

Who Is Covered by Workers' Compensation?

Most employees in California, with a few exceptions, are covered by workers' compensation. For example, sole owners of a business or unpaid volunteers may not be covered. Other types of employees are covered under different programs, such as Federal workers and Maritime workers.

What is Covered by Workers' Compensation?

Injuries and certain illnesses are generally covered if they are due to your job. Workers' Compensation covers injuries from minor injuries to serious injuries, either physical or mental; whether specific or cumulative – including those resulting from a workplace crime.

When Am I Covered?

Coverage starts immediately when you begin working at your job.

What To Do If You are Injured

You must notify your supervisor or the employer representative immediately. Your employer will give you a claim form to complete if the injury is more than just a simple first-aid injury. You will need to complete the form by filling out the "Employee" section of the form about when, where and how the injury occurred and what your injury is. Give a copy to your employer, who will then complete the "Employer" section. They will send a copy to the claims administrator and give you a signed and dated copy of the form. The claims administrator is responsible for handling your claim and notifying you about your eligibility for benefits.

The law requires you to report your injury to your employer within 30 days; however, your benefits do not begin until the injury has been reported to the claims administrator. Therefore, prompt reporting is important. Employers are required by law to authorize medical treatment (up to \$10,000) within one working day of receiving a claim form until your claim is accepted or rejected. If you do not file a claim within one year of the date of injury, the date you knew the injury was work related, or the date benefits were last provided, you may lose your right to benefits. Ensure your rights to benefits by reporting all injuries, no matter how slight.

Discrimination

It is illegal for your employer to punish or fire you for having a work injury or illness, for filing a claim, or testifying in another person's workers' compensation case. If proven, you may receive lost wages, job reinstatement, a 50% increase in benefits (up to \$10,000), and costs and expenses up to limits set by the state.

What Types of Benefits Can I Receive?

California Workers' Compensation Law provides for these basic benefits:

- Medical
- Lost Wages
- Supplemental Job Displacement Benefit

Medical

California law requires your employer to provide and pay for all reasonable and necessary medical care if you are injured at work. This may include, but is not limited to: treatment by a doctor, hospital services, lab tests, x-rays, physical therapy and medicines. For injuries occurring on or after 1/1/04, an employee is entitled to no more than 24 chiropractic, 24 physical therapy and 24 occupational therapy visits per industrial injury.

If emergency medical care is needed, call 911 immediately or go to the emergency room.

If first-aid is available at your workplace, seek immediate treatment.

If you need continued treatment, your claims administrator will arrange for you to receive appropriate medical care.

All medical expenses are paid directly by the claims administrator. You are not responsible for any co-payments or balance billing.

Your employer is generally the one who will select a Primary Treating Physician” (PTP) for you to treat with for the first 30 days. The PTP is the doctor who has overall responsibility for treatment of your injury or illness. The PTP will coordinate your medical care with other providers if necessary. The PTP also decides when you can return to work and what restrictions you may have, or if you have any permanent disability or will require any future medical care.

You may be able to be treated by your personal doctor immediately if you predesignated your physician. If you wish to be treated by your personal chiropractor or acupuncturist, different rules apply. Please see “Predesignation of Personal Physician” and “Notice of Personal Chiropractor or Personal Acupuncturist” below. Forms are available at the end of this document.

In most cases, you can switch to your own doctor 30 days after the injury is reported if you haven’t given your employer the name of your personal physician before the injury. If your employer is a member of a Health Care Organization (HCO) or a workers’ compensation medical provider network (MPN), other rules apply.

Medical Provider Networks (MPN)

Your employer may be using a MPN, which is a selected network of health care providers to provide treatment to workers injured on the job. If your employer is using a MPN, a MPN notice should be posted next to the poster to explain how to use the MPN. You can request a copy of this notice by calling the MPN. **If you have predesignated a personal physician prior to your work injury, then you may receive treatment from your predesignated doctor.** If you have not predesignated and your employer is using a MPN, you are free to choose an appropriate provider from the MPN list after the first medical visit directed by your employer. If you are treating with a non-MPN doctor for an existing injury, you may be required to change to a doctor within the MPN.

Lost Wages

There are different types of payments to help replace lost wages while you are temporarily disabled, if you have a permanent disability or for death. Payments are tax-free with no deductions taken.

Temporary Disability: Temporary Disability (TD) benefits are payments you receive from the claims administrator if you are injured and are unable to do your usual job. If you are unable to work at all, you will receive Temporary Total Disability benefits. If you can do some work, but earn less than before you were injured, you will receive Temporary Partial Benefits. If the doctor says you can’t do your usual job for more than three days, TD payments begin. You should receive your first payment about two weeks after reporting your injury. You will not be paid for the first three days unless you are hospitalized or you are unable to work for more than 14 days. This is called the waiting period. Payments are made every two weeks until the doctor says you are able to return to work. TD payments are generally two-thirds of your average gross (pre-tax) wages at the time of injury, subject to minimum and maximum rates set by state law. Under state law, for a single injury occurring on or after January 1, 2008, TD payments stop at 104 weeks within five years from the date of injury. For certain long term injuries such as

amputations, severe burns or chronic lung disease, TD payments can continue up to 240 weeks within five years from the date of injury.

Permanent Disability: Permanent Disability (PD) benefits are payments you may receive if your doctor says you will have a lasting disability that affects your ability to earn wages. After your doctor determines that your injury has stabilized and no further change is likely, the doctor will evaluate any permanent disability. Your PD payment amount is based on several factors including but not limited to your occupation, age at time of injury and future earning capacity and are subject to the minimums and maximums set by state law. Once your doctor determines you have PD, the claims administrator will estimate your benefit and begin making payments to you within 14 days after TD ends. Payments continue every 2 weeks until a reasonable estimate of your disability amount has been paid or your case is settled.

In many cases, you and your employer may agree to rely on the treating doctor's report to establish your permanent disability benefit payment. However, if you disagree with the report or have questions, you may contact your claims administrator, an Information and Assistance Officer at the Division of Workers' Compensation, or your attorney (if you have one). Your benefit may vary according to the date of injury and your level of permanent disability. Your claims administrator will send you a letter that explains how your benefit was calculated.

Death Benefits: Death Benefits are paid to surviving dependents if a work-related injury or illness results in death. The benefit amount is based on the number of dependents and is paid at the employee's TD rate, up to state minimum and maximum rates. A burial allowance is also payable up to the state set maximum.

Supplemental Job Displacement Benefit:

For injuries on or after January 1, 2004, if your injury or illness causes permanent disability, your employer doesn't offer appropriate modified or alternative work, and you don't return to work for the employer within 60 days of when TD ends, you may be eligible for a supplemental job displacement benefit. This is a nontransferable voucher for education-related retraining and/or skill enhancement payable to a state approved school. The amount ranges from \$4,000 to \$10,000 in vouchers, depending on the level of permanent disability.

<u>PD Award</u>	<u>Voucher Amount</u>
Less than 15%	Up to \$4,000
Between 15% and 25%	Up to \$6,000
Between 26% and 49%	Up to \$8,000
Between 50% and 99%	Up to \$10,000

What If I Disagree With the Benefits being Provided?

Workers' compensation benefits are intended to be automatically provided. The benefit amounts are set by the Legislature.

If you feel you haven't been provided with all the benefits you are entitled to, call your employer or workers' compensation claims administrator. If you still have questions, contact the nearest office of the State Division of Workers' Compensation. (See "*Where To Get Additional Information*" below.

If after speaking with your employer or claims administrator, you still feel you have not been provided with the proper benefit, you may need to have your dispute resolved by the Workers' Compensation Appeals Board. An Information and Assistance Officer can assist you in requesting a hearing in front of a workers' compensation judge.

You can represent yourself at the hearing or you can hire an attorney. If you hire an attorney, some people involved in your case may no longer be allowed to speak directly to you and the Division of Workers' Compensation Information & Assistance Officers may be unable to advise or assist you.

Your attorney is paid out of any permanent disability benefits awarded to you by the Appeals Board. In general, attorney fees generally are about 12 to 15 percent of your award, and must be approved by a judge. If you decide you no longer wish your attorney to represent you, or you want to change lawyers, your original lawyer can still claim a portion of your benefits as attorney fees.

You have the right to challenge the decision if your claim or benefits are denied, but there are deadlines for filing the necessary papers at the Appeals Board

Other Benefits

State Disability Insurance. (SDI) pays temporary disability benefits for off-the-job injuries or illnesses and is paid by deductions from your wages. If you are not receiving workers' compensation benefits, because they were delayed, denied or terminated, you may be able to get State Disability benefits. For information, call the local office of the state Employment Development Department listed in the government pages of your phone book.

Social Security. If you are seriously injured and expect to be off from work for a year or more, you may be eligible for additional benefits from Social Security. Contact the closest Social Security Administration Office, listed in the white pages of the phone book under "United States Government."

Where To Get Additional Information

Information & Assistance Officers are employed by the state to answer questions and help injured workers resolve problems with their claims and can provide you with written materials about workers' compensation. These services are free. If you would like a State Information & Assistance Officer to explain your rights, solve problems, or provide other information, you can call the nearest local office of the Division of Workers' Compensation.

For the nearest office call 1-800-736-7401 for recorded information and the location of a local office or visit the State Division of Workers' Compensation website at

http://www.dir.ca.gov/dwc/dwc_home_page.htm

Anyone who makes or causes to be made any knowingly false or fraudulent material statement for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony, and may be punished by imprisonment in county jail for one year, or in state prison for up to 5 years, and/or fined up to \$150,000 or double the value of the fraud (whichever is greater), and ordered to pay restitution as determined by the court. (Ins. Code 1871.4)

WARNING: If you are being provided a temporary disability check you are required to report to your employer or the insurance company any money that you earned for work during the time covered by the check, and before cashing the check. If you do not report your earnings, you may be in violation of the law and the penalty may be jail or prison, a fine, and loss of benefits.