

**CENTRAL SAN JOAQUIN VALLEY  
RISK MANAGEMENT AUTHORITY**

**WORKERS' COMPENSATION  
CLAIMS PROCEDURES MANUAL**

**AS AMENDED**

**December 1, 2018**

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TABLE OF CONTENTS

SECTION I – INTRODUCTION.....	1
SECTION II – GENERAL INFORMATION .....	2
A.    RESPONSIBILITY.....	2
B.    DISCRIMINATION .....	3
C.    SERIOUS AND WILLFUL MISCONDUCT .....	3
D.    QUESTIONABLE CLAIMS .....	3
E.    INDEPENDENT CONTRACTORS AND SUBCONTRACTORS.....	4
F.    SUBROGATION.....	4
G.    RECORD RETENTION.....	5
SECTION III – REPORTING OF INDUSTRIAL INJURIES OR ILLNESSES .....	5
A.    DEFINITION OF INDUSTRIAL INJURY OR ILLNESS .....	5
B.    POINTS TO REMEMBER.....	6
C.    NOTIFICATION .....	7
D.    COMMUNICATION.....	7
E.    EXECUTIVE RESPONSIBILITY .....	7
F.    BENEFIT DELIVERY AND TIME LIMITATIONS .....	7
1.    Temporary Disability Waiting Period.....	8
2.    Temporary Disability Payments .....	8
3.    Permanent Disability Notices .....	8
4.    Permanent Disability Payments .....	9
5.    Penalties .....	9
SECTION IV – WORKERS' COMPENSATION FORMS .....	9
A.    DWC FORM 1, EMPLOYEE CLAIM FORM .....	9
B.    DWC FORM 5020, EMPLOYER'S REPORT OF INJURY .....	10
C.    DWC 500 FORMS.....	10
D.    NOTICE OF RETURN–TO–WORK.....	10
E.    SUPERVISOR'S REPORT OF INJURY OR ILLNESS .....	11
F.    TREATMENT AUTHORIZATION FORM .....	11
SECTION V – MEDICAL BENEFITS.....	11
A.    SELF-PROCURED MEDICAL TREATMENT .....	11
B.    TRANSPORTATION EXPENSES – LODGING, HOTEL, AND MEALS .....	11
SECTION VI – MEDICAL/LEGAL EVALUATIONS.....	12
A.    QUALIFIED MEDICAL EVALUATORS AND UNREPRESENTED EMPLOYEES .....	12
B.    AGREED MEDICAL EVALUATORS AND REPRESENTED EMPLOYEES....	13
C.    GENERAL RULES .....	13
D.    NEW AND FURTHER DISABILITY .....	14

TABLE OF CONTENTS  
PAGE 2

SECTION VII – DISABILITY BENEFITS.....	14
A.    DEFINITION.....	14
B.    TEMPORARY DISABILITY .....	14
C.    PERMANENT DISABILITY.....	15
D.    VOCATIONAL REHABILITATION/SUPPLEMENTAL JOB DISPLACEMENT BENEFITS .....	16
E.    DEATH BENEFITS .....	16
F.    MINORS .....	17
SECTION VIII – STATUTE OF LIMITATIONS.....	17
A.    THIRTY (30) DAY NOTICE.....	17
B.    ONE (1) YEAR STATUTE .....	18
C.    FIVE (5) YEAR STATUTE .....	18
D.    DEATH CLAIMS.....	18
E.    RE–OPENING CASES .....	18
F.    TOLLING, SUSPENSION, OR LOSS OF DEFENSE, ESTOPPEL.....	19
G.    LITIGATION.....	19
SECTION IX – DIVISION OF WORKERS’ COMPENSATION .....	19
SECTION X – AUDITS AND PENALTIES.....	20
A.    AUTHORITY AND STRUCTURE OF AUDIT POWER.....	20
B.    ADMINISTRATIVE DIRECTOR AUTHORITY FOR CIVIL PENALTY ASSESSMENTS.....	20
SECTION XI – ADJUDICATION, ARBITRATION, AND SETTLEMENT CONFERENCES .....	21
A.    ADJUDICATION.....	21
B.    ARBITRATION .....	21
C.    MANDATORY SETTLEMENT CONFERENCES .....	21
D.    ATTORNEY’S FEES.....	22
SECTION XII – DEFINITIONS.....	22
SECTION XIII – SAMPLE FORMS.....	23

## SECTION I – INTRODUCTION

Workers' Compensation is statutory law delineated in the Labor Code of the State of California and is designed to provide, at the expense of the employer, workers injured in the course of employment with necessary medical care, loss of wages, and supplemental job displacement benefits when they are unable to continue their work as a result of injuries or illnesses arising out of and in the course of their employment. In addition, provisions are made for the payment of permanent disability to the injured employee, regardless of the time lost from work, for permanently incurred residuals. There are several possible ways to secure workers' compensation coverage in California. Your City has chosen to self-insure its losses through the Pooled Workers' Compensation Program provided through membership in the Central San Joaquin Valley Risk Management Authority (hereinafter, the Authority). The Authority's workers' compensation claims are administered by a Third Party Administrator, Acclamation Insurance Management Services (AIMS), in Fresno, California (hereinafter, AIMS).

Your City has a high level of authority and responsibility for the coordination of the City's workers' compensation claims. This includes, but is not limited to, final authorization for the judicial appeal process, undercover activities, allocated expenses, subrogation recovery, Stipulated Awards, Compromise and Release agreements, and informal awards involving permanent disability.

AIMS is responsible for the direct payment of all workers' compensation benefits on behalf of your City. A self-insured entity is responsible for providing reasonable medical care and treatment during any period of investigative delay up to a maximum of \$10,000. In addition, they are responsible for medical care and treatment once a claim has been accepted as well as mileage reimbursement, and disability benefits to employees who incur a work-related injury or illness in accordance with the provisions set forth in the Labor Code of California. Once an incident is accepted as an industrial injury or illness or illness, an employer is required to provide medical treatment reasonably required to cure and relieve from the effects of an injury or illness or illness and may be responsible for both permanent disability and temporary disability benefits. Equally important, AIMS has the responsibility of protecting the City against unwarranted claims. The successful continuance of your self-insurance program requires that each supervisor have knowledge of and comply with the provisions of statutory laws and with the rules and regulations promulgated by the State of California and by the Office of Self-Insurance Plans. Generally speaking, this knowledge can be easily supplemented by calling on experienced Claims Examiners at AIMS. Frequent and open communication is important.

This manual is not intended to be an all-inclusive instructional manual, but is intended to inform you of your responsibilities and to provide insight in regards to our practices regarding the administration of the City's self-insurance workers' compensation program.

## SECTION II – GENERAL INFORMATION

### A. RESPONSIBILITY

While administering and managing claims for your City, AIMS' duties will consist of, but will not be limited to, the following:

1. Setting up and maintaining complete claims records;
2. Filing all required forms with the appropriate State agency;
3. Referring employees to physicians for proper medical care and obtaining current medical reports;
4. Investigating injuries or illnesses to determine compensability; and
5. Authorizing compensation and medical benefits.

All of the above-listed activities shall be initiated by the receipt of the DWC Form 5020, Employer's Report of Injury or illness. If this form is delayed for any reason by the City, AIMS will not be aware of the need for workers' compensation benefits for the injured employee.

The Authority's Pooled Workers' Compensation Program Memorandum of Coverage states that all claims must be reported to AIMS within thirty (30) days of knowledge or coverage will be denied. The following guidelines shall apply:

1. All claims must be monitored by AIMS to ensure they were reported within thirty (30) days of knowledge of a work-related injury or illness or illness.
2. If a claim is reported more than thirty (30) days after the member City had knowledge of such injury or illness, AIMS shall send a letter within five (5) business days to the City informing them that coverage for such claim is being denied based upon lack of notification pursuant to the Memorandum of Coverage.

AIMS will continue to handle the claim as would otherwise have been done. All claim payments must be made by the City out of the City's funds. In no event shall payments be made out of the Authority's funds for a claim. AIMS will issue vouchers for all payments which would have been made by the Authority as if coverage was provided. This claim will be included in the information provided for the Annual Report to the State of California, Department of Self-Insurance Plans.

The vouchers will be coded in such a way that this claim will be excluded from the information on the June 30<sup>th</sup> loss run so that it is not included when calculating the CSJVRMA's retrospective adjustments.

Although the Authority's governing documents allow for reporting of a claim up to thirty (30) days from the City's knowledge, the State of California requires all claims to be reported within five (5) days of knowledge. Failure by the City to meet the State's requirement for timely reporting of a claim may result in fines or penalties assessed against the City.

## B. DISCRIMINATION

Section 132 (a) of the Labor Code provides that it is unlawful for an employer to discharge, threaten to discharge, or discriminate against an employee as a result of making known his or her intention to file a workers' compensation claim or his or her intention to testify concerning another employee's claim.

The Authority shall provide for the defense of, but not the indemnity for, serious and willful misconduct pursuant to Labor Code 4553, discrimination, or any other actions pursuant to Labor Code 132a brought before the Workers' Compensation Appeals Board (WCAB). The Authority's duty to defend such claims shall cease upon the resolution of the underlying claim for disability.

## C. SERIOUS AND WILLFUL MISCONDUCT

Labor Code Section 4553 provides that under certain conditions where the WCAB finds the employer liable for serious and willful misconduct, the amount of compensation otherwise recoverable shall be increased by one half (1/2) together with costs and expenses not to exceed \$250. This amount is payable by the employer. Where the injury or illness is caused by the serious and willful misconduct of the injured employee, the compensation otherwise recoverable will be reduced by one half (1/2) except where the injury or illness results in death; where the injury or illness results in permanent disability of seventy (70) percent or more; where the injury or illness is caused by the failure of the employer to comply with any provision of the law or any safety order of the Division of Occupational Safety and Health with reference to the safety of places of employment; or where the injured employee is under the age of sixteen (16) at the time of the injury or illness.

The Authority shall provide for the defense of, but not the indemnity for, serious and willful misconduct pursuant to Labor Code 4553, or discrimination or any other actions pursuant to Labor Code 132a brought before the WCAB. The Authority's duty to defend such claims shall cease upon the resolution of the underlying claim for disability.

## D. QUESTIONABLE CLAIMS

In most cases, there is no question whether or not there has been an industrial injury or illness and whether liability has been clearly determined. However, there will be some incidents where liability is questionable. In such cases, AIMS must promptly call for a careful investigation to be completed to include the taking of statements from the employee, the immediate supervisor, and all witnesses to the incident. If necessary, a medical examination, without treatment, will be obtained to determine causation. Medical benefits only are payable up to \$10,000 during the period of investigation. No other benefits are payable until compensability has been determined.

Additionally, AIMS will mail a notice to the employee within fourteen (14) calendar days from the date the City had knowledge of the injury or illness. The notice will notify the employee that the claim has been placed on delay of decision status, the reason for the delay, and the reason of non-payment of benefits during the period of investigation. This notice will include the date AIMS expects to be able to make a determination regarding the benefits. In no case will this final decision date extend beyond ninety (90) days from the City's knowledge of the injury or illness.

The City and AIMS will jointly resolve the question of compensability for questionable claims. In the unlikely event that no agreement can be reached, the Authority's Administrator may be used as the arbitrator or an independent arbitrator may be retained as agreed upon by the parties. Should a member disagree with the Authority's decision, the process outlined in the Authority's Workers' Compensation Memorandum of Coverage should be followed.

Should the incident be determined to be non-industrial in nature, a letter will be sent to the employee denying liability for the incident, with a copy sent to the Member City.

Submission of the DWC Form 5020, Employer's Report of Injury or illness, should be completed by the City and sent to AIMS immediately. The DWC Form 5020 can also be completed through the use of Boomerang; an application used to monitor Structured Return-to-Work Services. Completion of this form is in no way an admission of liability. The information contained in the DWC Form 5020, along with any additional comments in regards to the known legitimacy, will determine the extent and direction of any further investigation by AIMS.

#### E. INDEPENDENT CONTRACTORS AND SUBCONTRACTORS

Every City should make certain that independent contractors and subcontractors performing work for the City provide evidence of a contractor's license and their workers' compensation coverage. Such evidence should be provided in the form of a Certificate of Insurance to the City before any work is initiated by the contractor.

Labor Code Section 2750.5 raises a rebuttable presumption affecting the burden of proof that a contractor performing services for which a license is required may be an employee rather than an independent contractor. One of the requirements to show independent contractor status is that the contractor has a license as required. There are cases which have held that if the contractor does not have the required license, the presumption applies and the contractor is deemed to be an employee.

If the contractor is deemed to be an independent contractor, workers' compensation coverage is not provided by the Authority.

#### F. SUBROGATION

When an employee is injured through the fault of a third party who is not another employee, the City will provide all necessary compensation benefits. The injured employee has the right to proceed against the third party for damages as a result of the incident, and the City has the right to recover the amount spent on workers' compensation benefits from any money received by the employee

from the third party. The City should obtain and report all the facts and circumstances surrounding the injury or illness to AIMS at the earliest possible date. All reports involving a third party should be specifically noted to draw attention to the fact that someone other than the employer is involved. It is often wise to send a cover letter indicating how the accident occurred; the name and address of the third party; the name and address of the insurance company of the third party; the names and addresses of all witnesses; and a copy of a police report if applicable. This will assist AIMS in obtaining investigative reports and statements. It will also ensure the preservation of information that might become lost if not noted until later. The maintenance or manufacturer of equipment may be vital in determining the responsibility of a third party. Discussion with AIMS should take place before the destruction or removal of any equipment involved in an injury or illness.

The employer of the injured employee also has the right to bring their own independent action against the third party if the employee has not filed a lawsuit or to join in any lawsuit filed by the injured worker.

#### G. RECORD RETENTION

All claim files and logs will be retained at the office or storage facility of AIMS. Seven years after a claim has been closed, except where there is a continuing exposure situation, the City may elect to either have such files destroyed or to have such files returned to their premises for storage.

### **SECTION III – REPORTING OF INDUSTRIAL INJURIES OR ILLNESSES**

On January 1, 1990, the method of reporting industrial injuries or illnesses changed slightly. All industrial injuries or illnesses, whether for lost time or first aid only cases, should be documented at the City level. To this end, a form was created, the DWC Form 1, Employee Claim Form. The City is obligated to give this Form to any injured employee within one (1) working day of the employer's *knowledge* of such injury or illness. However, this Form need not go any further than the employee's personnel file unless medical treatment is sought or more than one (1) day of work time is lost. If medical treatment or lost time does occur, then this form must be sent to AIMS along with the completed DWC Form 5020, Employer's Report of Injury or illness.

Self-insured employers are required to report all industrial injuries or illnesses to the Division of Labor Statistics and Research of the Department of Industrial Relations within five (5) days from their knowledge of injury or illness. This is done by completing the DWC Form 5020 and submitting it to AIMS.

Included in Section XIII is a Quick Reference Guide for filing workers' compensation claims that can be provided to all supervisors and posted at any location throughout the City.

#### A. DEFINITION OF INDUSTRIAL INJURY OR ILLNESS

The definition of injury or illness includes *any injury or illness arising out of employment*, including

injuries to artificial members, dentures, and medical braces of all types. Broken eyeglasses are **not** considered compensable unless they are broken in connection with an injury, illness, or trauma necessitating lost time from work.

The Labor Code requires that physicians report industrial injuries or illnesses directly to your City and/or AIMS on the DWC Form 5021, Doctor's First Report of Occupational Injury or Illness. AIMS will make all necessary reporting to the Division of Labor Statistics and Research. For those cases requiring extended medical care or treatment, supplemental medical reports must be provided by the attending physician to AIMS until the injured employee is released to return to work or their condition is declared to have reached permanent and stationary or maximum medical improvement status with no further treatment indicated. AIMS must also continue to receive reports until it is medically determined that there is no permanent disability resulting from the injury or illness in question.

## B. POINTS TO REMEMBER AND COMMON ERRORS

The importance of prompt reporting of work injuries or illnesses cannot be overemphasized. However, there are many other items that can cause a delay in the payment of benefits or in the processing of claims. The following is a list of errors most often made in completing records:

- The use of nicknames instead of the employee's full name;
- Omission of middle name or initials;
- Incorrect social security number;
- Handwritten reports that prove to be illegible;
- The use of abbreviations instead of spelling out words;
- Incomplete and inaccurate answers to questions.

In addition to the above-listed errors, there are certain details that are most often overlooked such as:

- Be sure to specify "right" or "left" when referring to injuries or illnesses involving eyes, hands, arms, legs, hips, etc.;
- 
- Be sure to specify which fingers or toes when referring to injuries or illnesses involving feet or hands;
- Be sure to specify the part of the body for injuries or illnesses involving neck, back, and bones. Specify weights of objects being pushed, pulled, lifted, etc.;
- **DO NOT** use adjectives such as *severe*, *serious*, *bad*, etc.

### C. NOTIFICATION

Emergency contacts for employees seriously injured or killed in industrial accidents should be notified immediately, or as soon as possible after the accident occurs. The original notification and personal visits should be coordinated between the City and AIMS in cooperation with the employer.

In the case of an industrial injury or illness causing death or serious injury or illness, a report must be made by AIMS to the Department of Labor Statistics and Research no later than twenty-four (24) hours after the death. A follow-up report must be sent to the Department of Labor Statistics and Research once a decision regarding compensability has been made.

### D. COMMUNICATION

Continued communication between all parties concerned is very important to efficient claims handling and should be considered an integral part of the job of every supervisor in the City. Too often information concerning a claim does not reach the party who needs it because it was not passed on. For example, a supervisor may not be informed that an employee's disability will continue longer than expected, or AIMS is not notified when an employee has returned to work. It is imperative that AIMS be kept apprised of all the aspects and details of the accident. The time limit set by law for denying claims is ninety (90) days from the date of knowledge of the injury or illness. The time limit set by law for making the first benefit payment for lost time is fourteen (14) days from knowledge of time loss. Communication between all persons involved in reporting claims information is vital to the timely and accurate determination of benefits.

Providing accurate and timely benefits and information to injured employees can have an important bearing with respect to labor relations and morale. An informed employee who is treated well is less likely to hire an attorney and tie up the case with unnecessary litigation.

### E. EXECUTIVE RESPONSIBILITY

It is important there is clear understanding as to who is officially responsible for the City's compliance with the workers' compensation laws. As laws become more complex and penalties for non-compliance more severe, this responsibility will become even more important. Because of this, it is best if the person with delegated executive responsibility directly supervises the person or persons who handle the details of assisting injured employees in filing claims, completing the employer's report of injury or illness, etc. This person needs to know to what extent he or she can operate on their own authority and when and who to consult when questions come up that they cannot answer. Lack of authority to obtain certain information often leads to vague and incomplete claim reports, delays, and additional work.

### F. BENEFIT DELIVERY AND TIME LIMITATIONS

Benefit delivery timelines are established per the California Labor Code. Timely and accurate provision of these benefits depends upon information provided to AIMS by the employee, the City,

and medical providers.

1. Temporary Disability Waiting Period

The first payment of temporary disability indemnity shall be made no later than fourteen (14) days after the employer has knowledge of the disability unless liability for the injury or illness is denied as per Labor Code Section 4650.

Pursuant to Labor Code Section 4652, injured employees are not entitled to temporary disability payments for the first three (3) days of disability, including the day of the injury or illness unless the employee has received full salary for that day.

Once the employee who has been charged with the three (3) day waiting period returns to work, and subsequently loses time from work due to the same injury or illness, no waiting period will be charged for later absences. The waiting period need not be the three (3) days immediately following the date of injury or illness but may consist of two (2) or more short absences.

If the employee is seen by a physician on the date of his/her injury or illness and is instructed to take time off, or if the employee has sustained an obvious injury or illness which would have precluded the ability to work on the regularly scheduled days off, then the days off are counted as part of the waiting period. If the employee does not seek medical treatment until the second or third day following the injury or illness and the injury or illness is not disabling, the attending physician's opinion regarding the employee's ability to work on the off days will determine what benefits are due.

2. Temporary Disability Payments

Payment of temporary disability shall be made every two (2) weeks following the first payment of benefits. These benefits are payable seven (7) days a week (including Saturday and Sunday) and continued every two (2) weeks until the employee returns to work or is no longer temporarily disabled.

3. Permanent Disability Notices

With the last payment of temporary disability indemnity, AIMS shall provide one of the following:

- a. A notice that no permanent disability will be paid based on the treating physician's report that indicated there is no permanent impairment or limitation;
- b. A notice that permanent disability may be or is payable, but the amount cannot be determined because the employee's condition is not yet permanent and stationary; or

- c. A notice that permanent disability is payable.

When a notice is sent, it must include the administrative procedure to contest such a decision and advise the employee of his or her right to consult an attorney as per Labor Code Section 4061.

4. Permanent Disability Payments

Payment of permanent disability shall be made every two (2) weeks on the day designated with the first payment. An exception to this is if the employer is continuing the employee's wages under a salary continuation plan or wage loss benefits are being provided.

5. Penalties

If any temporary or permanent disability payments are not made on time as required, the amount of late payment shall be increased by ten (10) percent and shall be voluntarily paid to the employee.

This penalty provision does not apply to any payment that may be due prior to or within fourteen (14) days after the claim form was submitted to the employer. If the employer is unable to determine whether benefits are due, the employee must be advised as to why the payment cannot be made, what additional information is required, and when the employer expects to have the information necessary to make the decision.

## **SECTION IV – WORKERS' COMPENSATION FORMS**

- A. DWC FORM 1 – EMPLOYEE CLAIM FORM

The present law requires that within thirty (30) days of an injury or illness, the employee must inform his or her employer that a work-related injury or illness has occurred, in a written, signed form. The form to be completed by an injured employee is the DWC Form 1. However, knowledge of an injury or illness, either verbally or in writing, or by the employer's person in authority, is considered sufficient notice as per Labor Code Sections 5400 and 5402.

Labor Code Section 5401 states that the DWC Form 1 must be given to an injured employee within one (1) working day after the employer's knowledge of injury or illness. This form shall provide the injured employee's name and address, the time and place of the injury or illness, and the nature of the injury or illness. The notice shall further include a description of the procedures and assistance available to the employee. If an employee has suffered an obvious injury or illness and has failed to submit this form, it would be in the best interest of the City to complete the DWC Form 5020 and send it to AIMS as soon as the employer receives knowledge of the injury or illness.

The City is only responsible for providing the DWC Form 1 to the employee, not for ensuring that the form is returned by the employee. However, when the form is returned to the City, the City is required to give a signed copy to the employee, and the original is to be kept by the employer.

Timely provision of the DWC Form 1 to the employee is essential as it provides the employee with necessary information regarding their potential workers' compensation rights. Additionally, an assessment by the State's Audit Unit can be made against the City for not timely providing this form.

## B. DWC FORM 5020 – EMPLOYER'S REPORT OF INJURY OR ILLNESS

An Employer's Report of Occupational Injury or Illness must be completed within five (5) days from knowledge of an injury or illness. This is called a DWC Form 5020. It is the form that is filled out for injuries or illnesses that involve medical treatment and/or lost time from work. The form can also be completed through the use of Boomerang; an application used to monitor return to work services. It should be completed as promptly and thoroughly as possible. The form should be completed as quickly and completely as possible and must be dated by the person completing the form in the box on the bottom right-hand corner. If all the information is completed accurately and clearly, it will save AIMS time in beginning the process of setting up the required file and in responding to the needs of the injured employee.

If at the onset of a claim it is not known whether the claim will result in lost time from work and it is later discovered an employee starts losing time from work because of a previously reported injury, immediately notify AIMS.

## C. DWC 500 FORMS

These forms are completed by AIMS and are used as a written notification to an injured employee of the benefits they will receive or have received. Copies of the following notices are supplied by AIMS to the City:

1. Delay of Benefits
2. Denial of Benefits
3. Temporary disability benefits have commenced or terminated

## D. NOTICE OF RETURN-TO-WORK

AIMS should be notified immediately of the of the exact day that the employee returned to work so that benefits are not overpaid, underpaid, or paid in such a way that they conflict with payroll records.

Many treating physicians do not indicate an estimated or actual return to work date. If a City does not contact AIMS immediately, benefit payments may be paid for periods of time for which the injured employee should not be paid.

#### E. SUPERVISOR'S REPORT OF INJURY OR ILLNESS

Each time there is an injury or illness or accident, the supervisor of the injured employee may fill out this type of form. This is not a mandatory form, but it can be helpful to AIMS in the handling of the claim.

#### F. MEDICAL TREATMENT AUTHORIZATION FORM

This form should be filled out and given to the injured employee at the time he or she is referred to the City's designated industrial clinic or physician for a work-related injury or illness. This is not a mandatory form, but may be helpful to the medical provider. The employer does have the right to control the employee's medical treatment for the first thirty (30) days and can state which doctors will be authorized to treat their employees. The employee has the right to notify the employer in writing before to the date of injury or illness that he or she would like to pre-designate a personal physician. In such case, the employee has the right to treat with their own physician from the date of injury or illness. However, in order for an employee to pre-designate a personal physician, the physician must be a doctor of medicine or a doctor of osteopathy, must have previously directed the medical treatment of the employee, must be the custodian of the employee's medical records including the employee's medical history, and agreed in writing that they will treat the employee for industrial injuries or illnesses.

### **SECTION V – MEDICAL BENEFITS**

#### A. SELF-PROCURED MEDICAL TREATMENT

If an employee has not previously given written notice to the employer that he or she has pre-designated a personal physician, the employer has the legal right to control the medical care and treatment of its industrially injured employees for the first thirty (30) days. If the employee seeks treatment by his or her own physician without 1) giving the employer notice of injury or illness, 2) giving the employer the opportunity to provide treatment, or 3) without obtaining prior approval, such medical care is considered self-procured and may not be reimbursable by the Authority. It is important the employer understands that to require the use of a physician or facility which has been designated by the employer, the information must be posted at prominent locations and an effort should be made to ensure all employees are aware of this fact.

#### B. TRANSPORTATION EXPENSES – LODGING, HOTEL, AND MEALS

When an employee submits to a medical examination at the request of their employer, all reasonable expenses of transportation, meals, and lodging relative to reporting for such examination will be paid, together with one (1) day of temporary disability benefits for each day of wages lost as a result of the requested exam. Reasonable expenses of transportation include mileage fees from the employee's home to the place of the examination and back, at the current approved mileage rate, plus any bridge tolls and parking fees. This type of expense payment usually is handled by AIMS and paid in advance of the appointment date.

## SECTION VI – MEDICAL/LEGAL EVALUATIONS

Medical/Legal evaluations are governed by different procedures and rules for represented and unrepresented employees. Only panel Qualified Medical Evaluators (QMEs) selected from a panel of physicians supplied by the State can evaluate unrepresented employees, and either a QME or an Agreed Medical Evaluator (AME) may evaluate a represented employee.

The following information deals only with evaluations and examinations to determine permanent disability ratings.

### A. PANEL QME AND UNREPRESENTED EMPLOYEES

The treating physician's opinion is vital in determining the following issues:

1. The extent of permanent disability,
2. Whether or not the employee's condition has reached permanent and stationary status or maximum medical improvement, or
3. The need for continuing medical care resulting from the injury or illness.

If either the employee or AIMS objects to the opinion(s) of the treating physician or the physician is unable to provide an appropriate report addressing any of these issues, either party can then request assignment of a QME panel of three (3) physicians from the State. Upon receipt of the request, the Medical Director must, within five (5) working days, appoint such a panel on a random basis.

The Medical Director shall notify the employee of a QME panel by using a form which states the physicians' name, address, telephone number, specialty, and number of years in practice. The form shall also advise the employee of his or her rights to transportation expenses and temporary disability for each day necessary for the examination.

NOTE: Labor Code Sections 4601 and 4062.1 states that AIMS may not seek the use of an AME, nor can the parties obtain an AME when the employee is unrepresented.

The employee then has the responsibility for contacting the selected QME, setting an appointment, and notifying AIMS of the appointment information to allow submission of all appropriate documentation to be reviewed by the QME. At the appointment, the evaluator shall give the employee a brief description of his or her education and training. The evaluator shall also provide the employee an opportunity to ask questions concerning the evaluation process and evaluator's background. The employee shall participate in the evaluation as requested by the evaluator unless the employee has reasonable cause to discontinue the evaluation, in which case he or she has the right to terminate the evaluation. Once the evaluation is complete, the QME will submit their report to AIMS, the employee, and the Disability Evaluation Unit (DEU).

Within thirty (30) days of receipt of a rating from the DEU, the employee or the employer may request that the Office of Benefit Determination (OBD) either reconsider the rating, obtain additional information from the QME to address any issues not addressed, or to remedy any report that is not prepared in accordance with the procedures of the Industrial Medical Council (IMC). This request shall be in writing, shall specify the reasons that the ratings should be reconsidered, and shall be served on the parties involved.

If the QME selected by the unrepresented employee does not complete the formal medical evaluation report within the forty-five (45) days established by the IMC, the employee shall have the right to a new panel of three (3) QMEs. Neither the employee nor the employer shall have any liability for the formal medical evaluation which was not completed in a timely manner unless the employee waives his or her right to a new evaluation and elects to accept the original report.

#### B. AME AND THE REPRESENTED EMPLOYEE

When an employee is represented by an attorney and either party objects to a determination made by a treating physician concerning the permanent and stationary or maximum medical improvement status of the employee, the extent and scope of the medical treatment, the existence of new and further disability, permanent disability, or the employee's preclusion or likely preclusion to engage in his or her usual occupation, then the objecting party shall notify the other party in writing of this objection. They then go through an AME/QME process as outlined below.

The parties must initially seek to reach an agreement on which AME to use. They have ten (10) days plus an extended twenty (20) day period to reach such an agreement, and if they do not do so, they may not select an AME at a later date.

Any evaluation, other than from a treating physician obtained prior to the period an AME agreement was reached or attempted to be reached, will not be admissible in any WCAB proceeding unless incorporated into the treating physician's medical report(s).

The parties shall agree as to what information is to be provided to an AME. The information includes records prepared or maintained by the employee's treating physician and any medical or non-medical records relevant to the determination of the medical issue. Also, other information can be provided to the doctor if the information which a party proposes to offer is served on the opposing party twenty (20) days before the information is supplied to the evaluator. Subsequent communications can also be made, provided that it is also served on the opposing party when the material is sent.

If the parties are unable to reach an agreement to an AME, they will then select a QME from a panel of physicians supplied by the State.

#### C. GENERAL RULES FOR AME/QME EVALUATIONS

No ex parte communications with the medical, legal evaluator are allowed. The party making the

prohibited communication shall be subject to being charged with contempt before the WCAB and shall be liable for costs incurred by the aggrieved party as a result of the prohibited communication.

Upon completing an evaluation, the AME or QME shall summarize the findings on a form prescribed by the Industrial Medical Council (IMC) and serve the formal medical evaluation and the summary form on the employee or their representative, employer, and the Administrative Director.

All AMEs and QMEs shall serve a formal medical evaluation and a summary form on the Office of Benefit Determination (OBD) within forty-five (45) days of the examination. Twenty (20) days after the receipt of the form, the OBD shall calculate the permanent disability involved (where applicable) and serve both the employer and the employee or their representative with the determination.

#### D. NEW AND FURTHER DISABILITY

When a petition to reopen a claim is filed with the WCAB within five (5) years from the date of injury or illness alleging new and further disability, a formal medical evaluation shall be obtained according to the rules and regulations to determine if the injured worker has suffered additional disability. When an AME or QME has previously made a formal medical evaluation, subsequent or further evaluations shall be conducted by the same AME or QME, unless the workers' compensation judge has made a finding that he or she did not rely on the prior evaluator's formal medical evaluation or the prior evaluator is no longer qualified or readily available.

## SECTION VII – DISABILITY BENEFITS

### A. DEFINITION

An employee sustaining an injury or illness arising out of and in the course and scope of employment is considered to be temporarily disabled when determined by the treating physician to be unable to work during the recovery period.

Temporary disability payments continue during the entire time the employee is unable to work within regulatory maximum payment periods.

Permanent disability payments relate to the level of residual disability the employee suffers as a result of their injury and are generally paid for a pre-determined period of time.

Failure to pay either temporary disability or permanent disability benefits within the timeframes established in the Labor Code will result in self-imposed increases of benefits and may lead to additional penalties and assessments.

### B. TEMPORARY DISABILITY

If the employee is on a monthly salary, the actual weekly earnings equal the monthly salary times twelve (12) months divided by fifty-two (52) weeks. To obtain the disability benefit rate on a daily

basis, divide the weekly temporary disability rate by seven (7) days. The weekly benefit rates for temporary disability have varied over the years. The current minimum weekly rate is \$182.29 and the maximum of \$1,215.27.

Pursuant to Labor Code Section 4661.5, any temporary disability payment made two (2) years or more from the date of injury or illness is to be paid in accordance with the temporary disability earnings amount in effect on the date the payment is made.

Disputes or concerns may arise when the employee has been released to return to work by the treating physician to some form of modified work. In the event the employee refuses an offer of modified work within the medical restrictions set forth by the treating physician, the refusal may be the basis for terminating payments of temporary disability.

If modified work is not available, payments for temporary disability will continue until such time the employee is released by the treating physician for return to regular work or modified work becomes available. The City should be aware of modified duty work restrictions and continue evaluating their work environment for possible modified duty opportunities. Once the modified duty is identified, this information should be provided to AIMS as soon as possible.

### C. PERMANENT DISABILITY

Permanent disability represents the residuals of an injury or illness by some permanent loss of a body part, or a function of the body, or some restriction of the employee's ability to work. A permanent disability causes impairment of earning capacity, less than normal use of a body part, or a competitive handicap in the open labor market.

When an employee's condition has reached maximum improvement, or his or her condition has been determined to be permanent and stationary for a reasonable period of time, as determined by the treating physician, the remaining residual effects of the injury reflect the degree of permanent partial disability.

Permanent disability is expressed in percentages. The permanent disability rate is determined in the same manner as the temporary disability rate. The difference is the maximum amount payable. The number of weeks of permanent disability benefits for each percent of disability increases depending on the severity of the injury or illness. Depending on the date of injury or illness, the minimum weekly permanent disability rate is \$105.00, and the maximum is \$290.00. Permanent disability benefits can be reduced or increased by fifteen (15) percent on the date of injury or illness after December 31, 2004 and members who employ fifty (50) or more employees.

When permanent disability is determined to be seventy (70) percent or more, the employee is additionally entitled to a life pension benefit. The amount of this benefit is payable after permanent disability benefits have been paid and will be paid at two (2) week increments for the remainder of the injured worker's life.

Payments for advances of permanent disability may not be due until ordered by the WCAB.

Advance payments may be instituted where there is evidence of permanent or partial disability.

#### D. VOCATIONAL REHABILITATION/SUPPLEMENTAL JOB DISPLACEMENT BENEFITS

Vocational Rehabilitation benefits are no longer available to injured workers who have not received an award of these benefits prior to January 1, 2009. While there may be cases where benefits continue to be extended, these cases are rare and should be discussed with AIMS.

Vocational Rehabilitation benefits were replaced with Supplemental Job Displacement Benefits in the form of non-transferrable "vouchers" which are given to injured workers for use in education-related retraining and/or skill enhancement at state-approved or accredited schools. These vouchers are only available to injuries occurring on or after January 1, 2004. Within ten (10) days of the last payment of temporary disability, if not previously provided, AIMS provides the employee with the "Notice of Potential Right to Supplemental Job Displacement Benefit Form." This form supplies the employee with the information they may need should their injury cause permanent disability, and they are unable to return to their usual and customary occupation within sixty (60) days of the last payment of temporary disability. The amount of the voucher will range from \$4,000 to \$10,000 dependent upon the level of permanent disability related to the employee's injury or illness. The voucher is available to the employee once a Stipulated Award has approved by a WCAB judge, but may be settled as part of a Compromise and Release "lump sum" payment.

The voucher may be used for payment of tuition, fees, books, and other expenses required by the school for retraining or skill enhancement. Not more than ten (10) percent of the voucher allowance may be used for vocational or return to work counseling. Injured workers, who are eligible for this benefit and have not already settled the benefit, will receive the voucher from AIMS within twenty-five (25) calendar days from the date the permanent partial disability award is issued by the WCAB.

However, if modified or alternative work is available, the employee will receive a Form DWC-AD 10133.53 "Notice of Offer of Modified or Alternative Work" from AIMS or the City within thirty (30) days of the termination of temporary disability indemnity payments. By providing this valid offer of modified or alternative work, the City will not be required to pay for supplemental job displacement benefits. The offer must meet the following conditions:

1. The employee has the ability to perform the essential functions of the job provided;
2. The job provided is in a regular position lasting at least twelve (12) months;
3. The job provided offers wages and compensation that are at least eighty-five (85) percent of those paid to the employee at the time of the injury; and
4. The job is located within reasonable commuting distance of the employee's residence at the time of injury.

#### E. DEATH BENEFITS

Death benefits are payable in addition to any other benefits for all of the following:

1. Reasonable expenses of the employee's burial, not exceeding state maximums.
2. A death benefit to be allowed to the dependents when the employee leaves any person dependent upon him or her for support. The maximum amounts payable for dependent benefits will be determined based upon the number of dependents, their age, full or partial dependency, as well as the state established maximums.

Occasionally, dependents ask a portion of the total amount due be paid immediately to meet emergency expenses. This should be accomplished by means of a "commutation of benefits," which is approved by the WCAB. All requests for emergency expenses should be shared with your AIMS to allow them the opportunity to request appropriate approval and process the requests timely.

#### F. MINORS

A minor, for purposes of workers' compensation, is any person under the age of eighteen (18), whether married or single, male or female. When a minor sustains an injury or illness which results in only temporary disability, the weekly benefit rate is calculated in the same manner as for an adult. A minor appearing before the WCAB must be represented by a guardian ad litem, or a general guardian, or such claimant can dispute a judgment of the WCAB when he or she reaches legal age.

If the minor's injury or illness results in permanent disability, the weekly benefit rate for payment of permanent disability benefits will be based on the weekly sum, which under ordinary circumstances would probably be earned at age eighteen (18) in the occupation to which the minor would reasonably have been promoted if the injury or illness did not occur. If such probable earnings cannot reasonably be determined, the average weekly earnings shall be taken at the maximum rate applicable on the date of injury or illness.

## SECTION VIII – STATUTE OF LIMITATIONS

For employees to receive these benefits at no expense to themselves and with minimal delays, injured workers should cooperate with the workers' compensation process by promptly reporting industrial injuries or illnesses. In the event of dissatisfaction with the action taken in their case, employees may elect to seek legal representation as outlined in Section IX.

#### A. THIRTY (30) DAY NOTICE

Service of written notice of an injury or illness on the employer is required within thirty (30) days after the occurrence of the injury or illness to maintain a claim for compensation as outlined in Labor Code Section 5400. Reliance upon a late notice of injury or illness as a sole defense to providing benefits may be considered, and lack of any direct or constructive notice of an injury or illness may represent an affirmative defense for self-procured medical treatment up to the date of the notice. Prejudice due to lack of notice is an affirmative defense and bears the burden of proof. When the WCAB does find prejudice by lack of notice, the right to maintain the claim for compensation is

barred. The defense available to an employer in asserting an injury or illness was not timely reported will rely upon the accuracy of documentation maintained by the employer.

#### B. ONE (1) YEAR STATUTE

Original proceedings for disability indemnity and medical care where no benefits have been furnished must be filed within one (1) year from the date the employee first suffered the disability and knew or, in the exercise of reasonable diligence, should have known that the disability was work-related, as per Labor Code Section 5412.

#### C. FIVE (5) YEAR STATUTE

When the employee's injury or illness has been accepted as work-related, the employee has five (5) years from the date of injury or illness to file an application claiming that the original injury or illness caused any new and further disability. The WCAB generally considers any ratable permanent disability as a new and further disability. The Board retains continuing jurisdiction over formal awards it has issued. It has no jurisdiction over new applications filed if they are filed later than five (5) years from the date of injury or illness.

#### D. DEATH CLAIMS

When death results from an industrial injury or illness, claims before the WCAB must be filed as follows:

1. Within one (1) year from the date of death, when the death occurred within one (1) year from the date of injury or illness, or
2. within one (1) year from the date of the last furnishing of any benefits when death occurred more than one (1) year from the date of injury or illness, or
3. within one (1) year of the date of death, when death occurs more than one (1) year after the date of injury or illness and compensation benefits have been furnished.

No claim may be filed more than one (1) year after the date of death, nor more than five (5) years from the date of injury or illness, except that no limitation of time runs against any dependent who is under eighteen (18) years of age at the time of injury or illness, or incompetent, unless and until a guardian or trustee is appointed.

#### E. RE-OPENING CASES

When a case has progressed to the point where a statute becomes effective, no treatment should be offered without discussion with the City and AIMS.

From a legal standpoint, the employee would require a formal order from the WCAB before treatment could be demanded after five (5) years from the date of injury or illness unless a continuing medical award has been previously made. This assumes the issue of medical care has

been decided before the five (5) years has run. If the five (5) years has run and there has not been a prior award of medical care, the employee would not have any right to reopen the case in order to amend the prior award.

The running of the statute of limitations is a valid defense. The employer may elect to waive the statute if the circumstances justify the action. These cases would generally be limited to those where the injured employee is still employed, where the injury or illness was properly reported, and where the condition needing treatment is directly related to the original injury or illness. Waiver of this statute should be coordinated with the efforts of AIMS.

#### F. TOLLING, SUSPENSION OR LOSS OF DEFENSE, ESTOPPEL

Under certain circumstances, a limitation period may be tolled or suspended and, in some rare instances, totally negated. For example, no time limitation runs against a minor (since March 4, 1974, eighteen (18) years is age of majority) or an incompetent until a guardian is approved. This would cover claims by minor dependents. The limitation period on claims by persons in military service is suspended during the time of service.

The employer may be denied the right to a statute defense if the employee was influenced to delay filing a claim.

#### G. LITIGATION

All disputed claims will be resolved either formally or informally by the WCAB. Any correspondence concerning litigation of a claim should be forwarded as soon as possible to AIMS. Anyone requesting information or serving a subpoena should be referred to AIMS. If it is necessary to accept a subpoena, do so, and notify AIMS immediately.

### **SECTION IX – DIVISION OF WORKERS' COMPENSATION**

The Division of Workers' Compensation is the name for what was formerly the Division of Industrial Accidents. Under its jurisdiction are several units providing service and resources to employers and injured workers:

- Audit & Enforcement Unit
- Claims Adjudication Unit
- Disability Evaluation Unit
- Electronic Adjudication Management System (EAMS)
- Information & Assistance Unit
- Medical Unit

- Research Unit
- Retraining and Return to Work Unit
- Special Funds Unit

## **SECTION X – AUDITS AND PENALTIES**

### **A. AUTHORITY AND STRUCTURE OF AUDIT POWER**

The Administrative Director conducts audits utilizing the State Audit Unit to review the actions of insurers, self-insured employers, and Third Party Administrators and assure they have appropriately, accurately, and timely administered benefits and services regarding workers' compensation to injured workers and their dependents.

Audits are conducted at least once every five (5) years, with the audit subjects selected at random unless prior audit results and complaints received by the Administrative Director support targeted audits. The results of the audit are reviewed by the Administrative Director and published annually. Delays in the provision of accurate benefits and benefits notices may result in monetary assessments against the insurer, self-insured employer or Third Party Administrator. Additionally, the audit may result in penalties or self-imposed increases and additional benefits payable to the injured workers.

### **B. ADMINISTRATIVE DIRECTOR'S AUTHORITY FOR CIVIL PENALTY ASSESSMENTS**

In addition to the foregoing notice of assessment and the assessment of an administrative penalty, the Administrative Director also has the power to assess a civil penalty up to \$100,000, upon finding, after hearing, that an employer, insurer, or Third Party Administrator for an employer has knowingly committed or performed with sufficient frequency so as to indicate a general business practice any of the following:

1. Induced employees to accept less than compensation due, or made it necessary for employees to resort to proceedings against the employer to secure compensation;
2. Refused to comply with known and legally indisputable compensation obligations;
3. Discharged or administered compensation obligations in a dishonest manner; or
4. Discharged or administered compensation obligations in a manner as to cause injury to the public or those dealing with the employer or insurer.

## **SECTION XI – ADJUDICATION, ARBITRATION, AND SETTLEMENT CONFERENCES**

### **A. ADJUDICATION**

Pursuant to Labor Code 5500, an Application for Adjudication of a claim may be filed by the employee or the employer any time there is a bonafide dispute after service of the claim form. The Application shall specify the nature of the dispute, the action being requested of the WCAB, the efforts previously made to resolve the issues in dispute, and shall be accompanied by medical reports and other documents indicating the basis of the dispute and supporting the action requested.

The Application is the formal filing of the claim with the WCAB. Filing of the Application is necessary before any deposition (testimony under oath) of the employee can take place. Should the best course of action be determined that the employer or AIMS will file an Application to bring the file to resolution or continue discovery processes such as a deposition, then responsibility for an unrepresented employee then seeking legal counsel and the legal charges incurred from this counsel may be the responsibility of the employer or AIMS to pay directly.

Any notice of Application received by a City should be forwarded immediately to AIMS for response and the timely filing of an appropriate answer.

### **B. ARBITRATION**

The arbitration provision provides for discretionary or voluntary and mandatory arbitration as to certain issues and only applies to employees or dependents that are represented by an attorney. Arbitration is an alternate method for dispute resolution. The rules regarding arbitration were substantially changed with Assembly Bill (AB) 749. The provision for mandatory arbitration in cases with a low permanent disability or for congested calendars regarding rehabilitation issues were repealed with the passage of AB 749.

For discretionary and voluntary arbitration, under AB 749, the parties can agree to arbitrate any and all issues under Labor Code 5275(b). Furthermore, Labor Code Section 5275 claims involving insurance coverage and right of contribution per Labor Code Section 5500.5 will be referred to arbitration.

Upon conclusion of the arbitration, the arbitrator shall have thirty (30) days to submit his or her findings and award. The findings of fact, award, order, or decision of the arbitrator shall have the same force and effect as an Award, order, or decision of a workers' compensation judge, and the same appeal procedures would apply.

### **C. MANDATORY SETTLEMENT CONFERENCES**

Mandatory settlement conferences are held before trial dates to attempt to resolve issues in dispute and will be scheduled no less than ten (10) days, and no more than sixty (60) days, after the date a Declaration of Readiness to proceed has been filed. If the dispute is not resolved, the regular hearing

shall be held within seventy-five (75) days after the declaration of readiness to proceed is filed.

The settlement conference is conducted by a WCAB judge who has the authority at the conference to resolve the dispute, including the authority to approve a Compromise and Release or issue a Stipulated Finding and Award, and if the dispute cannot be resolved, to frame the issues and stipulations for trial. Claims that do not resolve at the mandatory settlement conference then proceed to trial level. Each party will have filed their exhibits and disclosed all witnesses with discovery closing on the date of the mandatory settlement conference.

Any evidence not disclosed or obtained thereafter is not admissible unless it can be demonstrated the evidence was not available or could not have been discovered by the exercise of due diligence prior to the settlement conference date.

#### D. ATTORNEY'S FEES

Attorney fees payable to the injured worker's representative are generally awarded from the final disability award and are payable at the end of the award payments unless an Order of Commutation has been made. There are some instances where additional attorney fees may be payable:

1. Where an employer fails to pay a notice of assessment as a result of an audit and it becomes necessary for the employee or dependent to obtain an attorney to obtain the amounts due;
2. If AIMS files an application contesting a formal medical evaluation by an AME;
3. If the employer files an application when the injured employee is unrepresented and the employee "does not obtain a rebuttal report"; or
4. Fees for conducting discovery when a party makes an ex parte communication with an AME or QME (this would apply to attorneys for any party when the other side engages in such conduct).

## SECTION XII – DEFINITIONS

AME	Agreed Medical Examiner
AOE/COE	Arising out of Employment/in the Course of Employment
AWW	Average Weekly Wage
C&R	Compromise & Release
DWC	Division of Workers' Compensation

IMC	Industrial Medical Council
IVE	Independent Vocational Evaluator
PD	Permanent Disability
QME	Qualified Medical Examiner
RTW	Returned to Work
TD	Temporary Disability
WCAB	Workers' Compensation Appeals Board

### SECTION XIII – SAMPLE FORMS

The following six (6) pages of this manual contain sample forms as follows:

- 1) DWC Form 1, Employee Claim Form;
- 2) DWC Form 5020, Employer's Report of Injury or Illness;
- 3) DWC Form 7 – Notice to Employees;
- 4) Quick Reference Guide for Filing Workers' Compensation Claims;
- 5) Supervisor's Accident Report; and
- 6) Treatment Authorization Form.



## Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility Formulario de Reclamo de Compensación de Trabajadores (DWC 1) y Notificación de Posible Elegibilidad

If you are injured or become ill, either physically or mentally, because of your job, including injuries resulting from a workplace crime, you may be entitled to workers' compensation benefits. Use the attached form to file a workers' compensation claim with your employer. **You should read all of the information below.** Keep this sheet and all other papers for your records. You may be eligible for some or all of the benefits listed depending on the nature of your claim. If you file a claim, the claims administrator, who is responsible for handling your claim, must notify you within 14 days whether your claim is accepted or whether additional investigation is needed.

To file a claim, complete the "Employee" section of the form, keep one copy and give the rest to your employer. Do this right away to avoid problems with your claim. In some cases, benefits will not start until you inform your employer about your injury by filing a claim form. Describe your injury completely. Include every part of your body affected by the injury. If you mail the form to your employer, use first-class or certified mail. If you buy a return receipt, you will be able to prove that the claim form was mailed and when it was delivered. Within one working day after you file the claim form, your employer must complete the "Employer" section, give you a dated copy, keep one copy, and send one to the claims administrator.

**Medical Care:** Your claims administrator will pay for all reasonable and necessary medical care for your work injury or illness. Medical benefits are subject to approval and may include treatment by a doctor, hospital services, physical therapy, lab tests, x-rays, medicines, equipment and travel costs. Your claims administrator will pay the costs of approved medical services directly so you should never see a bill. There are limits on chiropractic, physical therapy, and other occupational therapy visits.

**The Primary Treating Physician (PTP)** is the doctor with the overall responsibility for treatment of your injury or illness.

- If you previously designated your personal physician or a medical group, you may see your personal physician or the medical group after you are injured.
- If your employer is using a medical provider network (MPN) or Health Care Organization (HCO), in most cases, you will be treated in the MPN or HCO unless you predesignated your personal physician or a medical group. An MPN is a group of health care providers who provide treatment to workers injured on the job. You should receive information from your employer if you are covered by an HCO or a MPN. Contact your employer for more information.
- If your employer is not using an MPN or HCO, in most cases, the claims administrator can choose the doctor who first treats you unless you predesignated your personal physician or a medical group.
- If your employer has not put up a poster describing your rights to workers' compensation, you may be able to be treated by your personal physician right after you are injured.

Within one working day after you file a claim form, your employer or the claims administrator must authorize up to \$10,000 in treatment for your injury, consistent with the applicable treating guidelines until the claim is accepted or rejected. If the employer or claims administrator does not authorize treatment right away, talk to your supervisor, someone else in management, or the claims administrator. Ask for treatment to be authorized right now, while waiting for a decision on your claim. If the employer or claims administrator will not authorize treatment, use your own health insurance to get medical care. Your health insurer will seek reimbursement from the claims administrator. If you do not have health insurance, there are doctors, clinics or hospitals that will treat you without immediate payment. They will seek reimbursement from the claims administrator.

### **Switching to a Different Doctor as Your PTP:**

- If you are being treated in a Medical Provider Network (MPN), you may switch to other doctors within the MPN after the first visit.
- If you are being treated in a Health Care Organization (HCO), you may switch at least one time to another doctor within the HCO. You may switch to a doctor outside the HCO 90 or 180 days after your injury is reported to your employer (depending on whether you are covered by employer-provided health insurance).
- If you are not being treated in an MPN or HCO and did not predesignate, you may switch to a new doctor one time during the first 30 days after your injury is reported to your employer. Contact the claims administrator to switch doctors. After 30 days, you may switch to a doctor of your choice if

Si Ud. se lesiona o se enferma, ya sea físicamente o mentalmente, debido a su trabajo, incluyendo lesiones que resulten de un crimen en el lugar de trabajo, es posible que Ud. tenga derecho a beneficios de compensación de trabajadores. Utilice el formulario adjunto para presentar un reclamo de compensación de trabajadores con su empleador. **Ud. debe leer toda la información a continuación.** Guarde esta hoja y todos los demás documentos para sus archivos. Es posible que usted reúna los requisitos para todos los beneficios, o parte de éstos, que se enumeran dependiendo de la índole de su reclamo. Si usted presenta un reclamo, el administrador de reclamos, quien es responsable por el manejo de su reclamo, debe notificarle dentro de 14 días si se acepta su reclamo o si se necesita investigación adicional.

Para presentar un reclamo, llene la sección del formulario designada para el "Empleado," guarde una copia, y déle el resto a su empleador. Haga esto de inmediato para evitar problemas con su reclamo. En algunos casos, los beneficios no se iniciarán hasta que usted le informe a su empleador acerca de su lesión mediante la presentación de un formulario de reclamo. Describa su lesión por completo. Incluya cada parte de su cuerpo afectada por la lesión. Si usted le envía por correo el formulario a su empleador, utilice primera clase o correo certificado. Si usted compra un acuse de recibo, usted podrá demostrar que el formulario de reclamo fue enviado por correo y cuando fue entregado. Dentro de un día laboral después de presentar el formulario de reclamo, su empleador debe completar la sección designada para el "Empleador," le dará a Ud. una copia fechada, guardará una copia, y enviará una al administrador de reclamos.

**Atención Médica:** Su administrador de reclamos pagará por toda la atención médica razonable y necesaria para su lesión o enfermedad relacionada con el trabajo. Los beneficios médicos están sujetos a la aprobación y pueden incluir tratamiento por parte de un médico, los servicios de hospital, la terapia física, los análisis de laboratorio, las medicinas, equipos y gastos de viaje. Su administrador de reclamos pagará directamente los costos de los servicios médicos aprobados de manera que usted nunca verá una factura. Hay límites en terapia quiropráctica, física y otras visitas de terapia ocupacional.

**El Médico Primario que le Atiende (Primary Treating Physician- PTP)** es el médico con la responsabilidad total para tratar su lesión o enfermedad.

- Si usted designó previamente a su médico personal o a un grupo médico, usted podrá ver a su médico personal o grupo médico después de lesionarse.
- Si su empleador está utilizando una red de proveedores médicos (*Medical Provider Network- MPN*) o una Organización de Cuidado Médico (*Health Care Organization- HCO*), en la mayoría de los casos, usted será tratado en la *MPN* o *HCO* a menos que usted hizo una designación previa de su médico personal o grupo médico. Una *MPN* es un grupo de proveedores de asistencia médica quien da tratamiento a los trabajadores lesionados en el trabajo. Usted debe recibir información de su empleador si su tratamiento es cubierto por una *HCO* o una *MPN*. Hable con su empleador para más información.
- Si su empleador no está utilizando una *MPN* o *HCO*, en la mayoría de los casos, el administrador de reclamos puede elegir el médico que lo atiende primero a menos de que usted hizo una designación previa de su médico personal o grupo médico.
- Si su empleador no ha colocado un cartel describiendo sus derechos para la compensación de trabajadores, Ud. puede ser tratado por su médico personal inmediatamente después de lesionarse.

Dentro de un día laboral después de que Ud. Presente un formulario de reclamo, su empleador o el administrador de reclamos debe autorizar hasta \$10000 en tratamiento para su lesión, de acuerdo con las pautas de tratamiento aplicables, hasta que el reclamo sea aceptado o rechazado. Si el empleador o administrador de reclamos no autoriza el tratamiento de inmediato, hable con su supervisor, alguien más en la gerencia, o con el administrador de reclamos. Pida que el tratamiento sea autorizado ya mismo, mientras espera una decisión sobre su reclamo. Si el empleador o administrador de reclamos no autoriza el tratamiento, utilice su propio seguro médico para recibir atención médica. Su compañía de seguro médico buscará reembolso del administrador de reclamos. Si usted no tiene seguro médico, hay médicos, clínicas u hospitales que lo tratarán sin pago inmediato. Ellos buscarán reembolso del administrador de reclamos.

### **Cambiando a otro Médico Primario o PTP:**

- Si usted está recibiendo tratamiento en una Red de Proveedores Médicos

your employer or the claims administrator has not created or selected an MPN.

**Disclosure of Medical Records:** After you make a claim for workers' compensation benefits, your medical records will not have the same level of privacy that you usually expect. If you don't agree to voluntarily release medical records, a workers' compensation judge may decide what records will be released. If you request privacy, the judge may "seal" (keep private) certain medical records.

**Problems with Medical Care and Medical Reports:** At some point during your claim, you might disagree with your PTP about what treatment is necessary. If this happens, you can switch to other doctors as described above. If you cannot reach agreement with another doctor, the steps to take depend on whether you are receiving care in an MPN, HCO, or neither. For more information, see "Learn More About Workers' Compensation," below.

If the claims administrator denies treatment recommended by your PTP, you may request independent medical review (IMR) using the request form included with the claims administrator's written decision to deny treatment. The IMR process is similar to the group health IMR process, and takes approximately 40 (or fewer) days to arrive at a determination so that appropriate treatment can be given. Your attorney or your physician may assist you in the IMR process. IMR is not available to resolve disputes over matters other than the medical necessity of a particular treatment requested by your physician.

If you disagree with your PTP on matters other than treatment, such as the cause of your injury or how severe the injury is, you can switch to other doctors as described above. If you cannot reach agreement with another doctor, notify the claims administrator in writing as soon as possible. In some cases, you risk losing the right to challenge your PTP's opinion unless you do this promptly. If you do not have an attorney, the claims administrator must send you instructions on how to be seen by a doctor called a qualified medical evaluator (QME) to help resolve the dispute. If you have an attorney, the claims administrator may try to reach agreement with your attorney on a doctor called an agreed medical evaluator (AME). If the claims administrator disagrees with your PTP on matters other than treatment, the claims administrator can require you to be seen by a QME or AME.

**Payment for Temporary Disability (Lost Wages):** If you can't work while you are recovering from a job injury or illness, you may receive temporary disability payments for a limited period. These payments may change or stop when your doctor says you are able to return to work. These benefits are tax-free. Temporary disability payments are two-thirds of your average weekly pay, within minimums and maximums set by state law. Payments are not made for the first three days you are off the job unless you are hospitalized overnight or cannot work for more than 14 days.

**Stay at Work or Return to Work:** Being injured does not mean you must stop working. If you can continue working, you should. If not, it is important to go back to work with your current employer as soon as you are medically able. Studies show that the longer you are off work, the harder it is to get back to your original job and wages. While you are recovering, your PTP, your employer (supervisors or others in management), the claims administrator, and your attorney (if you have one) will work with you to decide how you will stay at work or return to work and what work you will do. Actively communicate with your PTP, your employer, and the claims administrator about the work you did before you were injured, your medical condition and the kinds of work you can do now, and the kinds of work that your employer could make available to you.

**Payment for Permanent Disability:** If a doctor says you have not recovered completely from your injury and you will always be limited in the work you can do, you may receive additional payments. The amount will depend on the type of injury, extent of impairment, your age, occupation, date of injury, and your wages before you were injured.

**Supplemental Job Displacement Benefit (SJDB):** If you were injured on or after 1/1/04, and your injury results in a permanent disability and your employer does not offer regular, modified, or alternative work, you may qualify for a nontransferable voucher payable for retraining and/or skill enhancement. If you qualify, the claims administrator will pay the costs up to the maximum set by state law.

**Death Benefits:** If the injury or illness causes death, payments may be made to a

(Medical Provider Network- MPN), usted puede cambiar a otros médicos dentro de la MPN después de la primera visita.

- Si usted está recibiendo tratamiento en un Organización de Cuidado Médico (Healthcare Organization- HCO), es posible cambiar al menos una vez a otro médico dentro de la HCO. Usted puede cambiar a un médico fuera de la HCO 90 o 180 días después de que su lesión es reportada a su empleador (dependiendo de si usted está cubierto por un seguro médico proporcionado por su empleador).
- Si usted no está recibiendo tratamiento en una MPN o HCO y no hizo una designación previa, usted puede cambiar a un nuevo médico una vez durante los primeros 30 días después de que su lesión es reportada a su empleador. Póngase en contacto con el administrador de reclamos para cambiar de médico. Después de 30 días, puede cambiar a un médico de su elección si su empleador o el administrador de reclamos no ha creado o seleccionado una MPN.

**Divulgación de Expedientes Médicos:** Después de que Ud. presente un reclamo para beneficios de compensación de trabajadores, sus expedientes médicos no tendrán el mismo nivel de privacidad que usted normalmente espera. Si Ud. no está de acuerdo en divulgar voluntariamente los expedientes médicos, un juez de compensación de trabajadores posiblemente decida qué expedientes serán revelados. Si usted solicita privacidad, es posible que el juez "selle" (mantenga privados) ciertos expedientes médicos.

**Problemas con la Atención Médica y los Informes Médicos:** En algún momento durante su reclamo, podría estar en desacuerdo con su PTP sobre qué tratamiento es necesario. Si esto sucede, usted puede cambiar a otros médicos como se describe anteriormente. Si no puede llegar a un acuerdo con otro médico, los pasos a seguir dependen de si usted está recibiendo atención en una MPN, HCO o ninguna de las dos. Para más información, consulte la sección "Aprenda Más Sobre la Compensación de Trabajadores," a continuación.

Si el administrador de reclamos niega el tratamiento recomendado por su PTP, puede solicitar una revisión médica independiente (*Independent Medical Review-IMR*), utilizando el formulario de solicitud que se incluye con la decisión por escrito del administrador de reclamos negando el tratamiento. El proceso de la IMR es parecido al proceso de la IMR de un seguro médico colectivo, y tarda aproximadamente 40 (o menos) días para llegar a una determinación de manera que se pueda dar un tratamiento apropiado. Su abogado o su médico le pueden ayudar en el proceso de la IMR. La IMR no está disponible para resolver disputas sobre cuestiones aparte de la necesidad médica de un tratamiento particular solicitado por su médico.

Si no está de acuerdo con su PTP en cuestiones aparte del tratamiento, como la causa de su lesión o la gravedad de la lesión, usted puede cambiar a otros médicos como se describe anteriormente. Si no puede llegar a un acuerdo con otro médico, notifique al administrador de reclamos por escrito tan pronto como sea posible. En algunos casos, usted arriesga perder el derecho a objetar a la opinión de su PTP a menos que hace esto de inmediato. Si usted no tiene un abogado, el administrador de reclamos debe enviarle instrucciones para ser evaluado por un médico llamado un evaluador médico calificado (*Qualified Medical Evaluator-QME*) para ayudar a resolver la disputa. Si usted tiene un abogado, el administrador de reclamos puede tratar de llegar a un acuerdo con su abogado sobre un médico llamado un evaluador médico acordado (*Agreed Medical Evaluator- AME*). Si el administrador de reclamos no está de acuerdo con su PTP sobre asuntos aparte del tratamiento, el administrador de reclamos puede exigirle que sea atendido por un QME o AME.

**Pago por Incapacidad Temporal (Sueldos Perdidos):** Si Ud. no puede trabajar, mientras se está recuperando de una lesión o enfermedad relacionada con el trabajo, Ud. puede recibir pagos por incapacidad temporal por un periodo limitado. Estos pagos pueden cambiar o parar cuando su médico diga que Ud. está en condiciones de regresar a trabajar. Estos beneficios son libres de impuestos. Los pagos por incapacidad temporal son dos tercios de su pago semanal promedio, con cantidades mínimas y máximas establecidas por las leyes estatales. Los pagos no se hacen durante los primeros tres días en que Ud. no trabaje, a menos que Ud. sea hospitalizado una noche o no puede trabajar durante más de 14 días.

**Permanezca en el Trabajo o Regreso al Trabajo:** Estar lesionado no significa que usted debe dejar de trabajar. Si usted puede seguir trabajando, usted debe hacerlo. Si no es así, es importante regresar a trabajar con su empleador actual tan

spouse and other relatives or household members who were financially dependent on the deceased worker.

**It is illegal for your employer** to punish or fire you for having a job injury or illness, for filing a claim, or testifying in another person's workers' compensation case (Labor Code 132a). If proven, you may receive lost wages, job reinstatement, increased benefits, and costs and expenses up to limits set by the state.

**Resolving Problems or Disputes:** You have the right to disagree with decisions affecting your claim. If you have a disagreement, contact your employer or claims administrator first to see if you can resolve it. If you are not receiving benefits, you may be able to get State Disability Insurance (SDI) or unemployment insurance (UI) benefits. Call the state Employment Development Department at (800) 480-3287 or (866) 333-4606, or go to their website at [www.edd.ca.gov](http://www.edd.ca.gov).

**You Can Contact an Information & Assistance (I&A) Officer:** State I&A officers answer questions, help injured workers, provide forms, and help resolve problems. Some I&A officers hold workshops for injured workers. To obtain important information about the workers' compensation claims process and your rights and obligations, go to [www.dwc.ca.gov](http://www.dwc.ca.gov) or contact an I&A officer of the state Division of Workers' Compensation. You can also hear recorded information and a list of local I&A offices by calling (800) 736-7401.

**You can consult with an attorney.** Most attorneys offer one free consultation. If you decide to hire an attorney, his or her fee will be taken out of some of your benefits. For names of workers' compensation attorneys, call the State Bar of California at (415) 538-2120 or go to their website at [www.californiaspecialist.org](http://www.californiaspecialist.org).

**Learn More About Workers' Compensation:** For more information about the workers' compensation claims process, go to [www.dwc.ca.gov](http://www.dwc.ca.gov). At the website, you can access a useful booklet, "Workers' Compensation in California: A Guidebook for Injured Workers." You can also contact an Information & Assistance Officer (above), or hear recorded information by calling 1-800-736-7401.

pronto como usted pueda medicamente hacerlo. Los estudios demuestran que entre más tiempo esté fuera del trabajo, más difícil es regresar a su trabajo original y a sus salarios. Mientras se está recuperando, su *PTP*, su empleador (supervisores u otras personas en la gerencia), el administrador de reclamos, y su abogado (si tiene uno) trabajarán con usted para decidir cómo va a permanecer en el trabajo o regresar al trabajo y qué trabajo hará. Comuníquese de manera activa con su *PTP*, su empleador y el administrador de reclamos sobre el trabajo que hizo antes de lesionarse, su condición médica y los tipos de trabajo que usted puede hacer ahora y los tipos de trabajo que su empleador podría poner a su disposición.

**Pago por Incapacidad Permanente:** Si un médico dice que no se ha recuperado completamente de su lesión y siempre será limitado en el trabajo que puede hacer, es posible que Ud. reciba pagos adicionales. La cantidad dependerá de la clase de lesión, grado de deterioro, su edad, ocupación, fecha de la lesión y sus salarios antes de lesionarse.

**Beneficio Suplementario por Desplazamiento de Trabajo (Supplemental Job Displacement Benefit- SJDDB):** Si Ud. se lesionó en o después del 1/1/04, y su lesión resulta en una incapacidad permanente y su empleador no ofrece un trabajo regular, modificado, o alternativo, usted podría cumplir los requisitos para recibir un vale no-transferible pagadero a una escuela para recibir un nuevo curso de reentrenamiento y/o mejorar su habilidad. Si Ud. cumple los requisitos, el administrador de reclamos pagará los gastos hasta un máximo establecido por las leyes estatales.

**Beneficios por Muerte:** Si la lesión o enfermedad causa la muerte, es posible que los pagos se hagan a un cónyuge y otros parientes o a las personas que viven en el hogar que dependían económicamente del trabajador difunto.

**Es ilegal que su empleador** le castigue o despida por sufrir una lesión o enfermedad laboral, por presentar un reclamo o por testificar en el caso de compensación de trabajadores de otra persona. (Código Laboral, sección 132a.) De ser probado, usted puede recibir pagos por pérdida de sueldos, reposición del trabajo, aumento de beneficios y gastos hasta los límites establecidos por el estado.

**Resolviendo problemas o disputas:** Ud. tiene derecho a no estar de acuerdo con las decisiones que afecten su reclamo. Si Ud. tiene un desacuerdo, primero comuníquese con su empleador o administrador de reclamos para ver si usted puede resolverlo. Si usted no está recibiendo beneficios, es posible que Ud. pueda obtener beneficios del Seguro Estatal de Incapacidad (*State Disability Insurance-SDI*) o beneficios del desempleo (*Unemployment Insurance- UI*). Llame al Departamento del Desarrollo del Empleo estatal al (800) 480-3287 o (866) 333-4606, o visite su página Web en [www.edd.ca.gov](http://www.edd.ca.gov).

**Puede Contactar a un Oficial de Información y Asistencia (Information & Assistance- I&A):** Los Oficiales de Información y Asistencia (*I&A*) estatal contestan preguntas, ayudan a los trabajadores lesionados, proporcionan formularios y ayudan a resolver problemas. Algunos oficiales de *I&A* tienen talleres para trabajadores lesionados. Para obtener información importante sobre el proceso de la compensación de trabajadores y sus derechos y obligaciones, vaya a [www.dwc.ca.gov](http://www.dwc.ca.gov) o comuníquese con un oficial de información y asistencia de la División Estatal de Compensación de Trabajadores. También puede escuchar información grabada y una lista de las oficinas de *I&A* locales llamando al (800) 736-7401.

**Ud. puede consultar con un abogado.** La mayoría de los abogados ofrecen una consulta gratis. Si Ud. decide contratar a un abogado, los honorarios serán tomados de algunos de sus beneficios. Para obtener nombres de abogados de compensación de trabajadores, llame a la Asociación Estatal de Abogados de California (*State Bar*) al (415) 538-2120, o consulte su página Web en [www.californiaspecialist.org](http://www.californiaspecialist.org).

**Aprenda Más Sobre la Compensación de Trabajadores:** Para obtener más información sobre el proceso de reclamos del programa de compensación de trabajadores, vaya a [www.dwc.ca.gov](http://www.dwc.ca.gov). En la página Web, podrá acceder a un folleto útil, "Compensación del Trabajador de California: Una Guía para Trabajadores Lesionados." También puede contactar a un oficial de Información y Asistencia (arriba), o escuchar información grabada llamando al 1-800-736-7401.



**WORKERS' COMPENSATION CLAIM FORM (DWC 1)**

**PETITION DEL EMPLEADO PARA DE COMPENSACIÓN DEL TRABAJADOR (DWC 1)**

**Employee:** Complete the "Employee" section and give the form to your employer. Keep a copy and mark it "Employee's Temporary Receipt" until you receive the signed and dated copy from your employer. You may call the Division of Workers' Compensation and hear recorded information at (800) 736-7401. An explanation of workers' compensation benefits is included in the Notice of Potential Eligibility, which is the cover sheet of this form. Detach and save this notice for future reference.

You should also have received a pamphlet from your employer describing workers' compensation benefits and the procedures to obtain them. You may receive written notices from your employer or its claims administrator about your claim. If your claims administrator offers to send you notices electronically, and you agree to receive these notices only by email, please provide your email address below and check the appropriate box. If you later decide you want to receive the notices by mail, you must inform your employer in writing.

**Empleado:** Complete la sección "Empleado" y entregue la forma a su empleador. Quédese con la copia designada "Recibo Temporal del Empleado" hasta que Ud. reciba la copia firmada y fechada de su empleador. Ud. puede llamar a la División de Compensación al Trabajador al (800) 736-7401 para oír información gravada. Una explicación de los beneficios de compensación de trabajadores está incluido en la Notificación de Posible Elegibilidad, que es la hoja de portada de esta forma. Separe y guarde esta notificación como referencia para el futuro.

Ud. también debería haber recibido de su empleador un folleto describiendo los beneficios de compensación al trabajador lesionado y los procedimientos para obtenerlos. Es posible que reciba notificaciones escritas de su empleador o de su administrador de reclamos sobre su reclamo. Si su administrador de reclamos ofrece enviarle notificaciones electrónicamente, y usted acepta recibir estas notificaciones solo por correo electrónico, por favor proporcione su dirección de correo electrónico abajo y marque la caja apropiada. Si usted decide después que quiere recibir las notificaciones por correo, usted debe de informar a su empleador por escrito.

Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony.

Toda aquella persona que a propósito haga o cause que se produzca cualquier declaración o representación material falsa o fraudulenta con el fin de obtener o negar beneficios o pagos de compensación a trabajadores lesionados es culpable de un crimen mayor "felonia".

**Employee—complete this section and see note above**

**Empleado—complete esta sección y note la notación arriba.**

1. Name. *Nombre.* \_\_\_\_\_ Today's Date. *Fecha de Hoy.* \_\_\_\_\_
  2. Home Address. *Dirección Residencial.* \_\_\_\_\_
  3. City. *Ciudad.* \_\_\_\_\_ State. *Estado.* \_\_\_\_\_ Zip. *Código Postal.* \_\_\_\_\_
  4. Date of Injury. *Fecha de la lesión (accidente).* \_\_\_\_\_ Time of Injury. *Hora en que ocurrió.* \_\_\_\_\_ a.m. \_\_\_\_\_ p.m.
  5. Address and description of where injury happened. *Dirección/lugar dónde ocurrió el accidente.* \_\_\_\_\_
  6. Describe injury and part of body affected. *Describe la lesión y parte del cuerpo afectada.* \_\_\_\_\_
  7. Social Security Number. *Número de Seguro Social del Empleado.* \_\_\_\_\_
  8.  Check if you agree to receive notices about your claim by email only.  *Marque si usted acepta recibir notificaciones sobre su reclamo solo por correo electrónico.* Employee's e-mail. \_\_\_\_\_ *Correo electrónico del empleado.* \_\_\_\_\_
- You will receive benefit notices by regular mail if you do not choose, or your claims administrator does not offer, an electronic service option. *Usted recibirá notificaciones de beneficios por correo ordinario si usted no escoge, o su administrador de reclamos no le ofrece, una opción de servicio electrónico.*
9. Signature of employee. *Firma del empleado.* \_\_\_\_\_

**Employer—complete this section and see note below. Empleador—complete esta sección y note la notación abajo.**

10. Name of employer. *Nombre del empleador.* \_\_\_\_\_
11. Address. *Dirección.* \_\_\_\_\_
12. Date employer first knew of injury. *Fecha en que el empleador supo por primera vez de la lesión o accidente.* \_\_\_\_\_
13. Date claim form was provided to employee. *Fecha en que se le entregó al empleado la petición.* \_\_\_\_\_
14. Date employer received claim form. *Fecha en que el empleado devolvió la petición al empleador.* \_\_\_\_\_
15. Name and address of insurance carrier or adjusting agency. *Nombre y dirección de la compañía de seguros o agencia administradora de seguros.* \_\_\_\_\_
16. Insurance Policy Number. *El número de la póliza de Seguro.* \_\_\_\_\_
17. Signature of employer representative. *Firma del representante del empleador.* \_\_\_\_\_
18. Title. *Título.* \_\_\_\_\_ 19. Telephone. *Teléfono.* \_\_\_\_\_

**Employer:** You are required to date this form and provide copies to your insurer or claims administrator and to the employee, dependent or representative who filed the claim within one working day of receipt of the form from the employee.

**Empleador:** Se requiere que Ud. feche esta forma y que provéa copias a su compañía de seguros, administrador de reclamos, o dependiente/representante de reclamos y al empleado que hayan presentado esta petición dentro del plazo de un día hábil desde el momento de haber sido recibida la forma del empleado.

SIGNING THIS FORM IS NOT AN ADMISSION OF LIABILITY

EL FIRMAR ESTA FORMA NO SIGNIFICA ADMISION DE RESPONSABILIDAD

Employer copy/Copia del Empleador  Employee copy/Copia del Empleado  Claims Administrator/Administrador de Reclamos  Temporary Receipt/Recibo del Empleado

State of California <b>EMPLOYER'S REPORT OF OCCUPATIONAL INJURY OR ILLNESS</b>		Please complete in triplicate (type if possible) Mail two copies to:		OSHA CASE NO.	
				FATALITY <input type="checkbox"/>	
Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers compensation benefits or payments is guilty of a felony.		California law requires employers to report within <b>five days</b> of knowledge every occupational injury or illness which results in lost time beyond the date of the incident <b>OR</b> requires medical treatment beyond first aid. If an employee subsequently dies as a result of a previously reported injury or illness, the employer must file within <b>five days</b> of knowledge an amended report indicating death. In addition, every serious injury, illness, or death must be <b>reported immediately</b> by telephone or telegraph to the nearest office of the California Division of Occupational Safety and Health.			
EMPLOYER	1. FIRM NAME			1a. Policy Number	
	2. MAILING ADDRESS: (Number, Street, City, Zip)			2a. Phone Number	
	3. LOCATION if different from Mailing Address (Number, Street, City and Zip)			3a. Location Code	
	4. NATURE OF BUSINESS; e.g.. Painting contractor, wholesale grocer, sawmill, hotel, etc.			5. State unemployment insurance acct.no	
6. TYPE OF EMPLOYER:		Private                      State                      County                      City                      School District		<input type="checkbox"/> Other Gov't, Specify: _____	
7. DATE OF INJURY / ONSET OF ILLNESS (mm/dd/yy)		8. TIME INJURY/ILLNESS OCCURRED _____ AM _____ PM		9. TIME EMPLOYEE BEGAN WORK _____ AM _____ PM	
10. IF EMPLOYEE DIED, DATE OF DEATH (mm/dd/yy)		11. UNABLE TO WORK FOR AT LEAST ONE FULL DAY AFTER DATE OF INJURY? Yes No		12. DATE LAST WORKED (mm/dd/yy)	
13. DATE RETURNED TO WORK (mm/dd/yy)		14. IF STILL OFF WORK, CHECK THIS BOX:		15. PAID FULL DAYS WAGES FOR DATE OF INJURY OR LAST DAY WORKED? Yes No	
16. SALARY BEING CONTINUED? Yes No		17. DATE OF EMPLOYER'S KNOWLEDGE /NOTICE OF INJURY/ILLNESS (mm/dd/yy)		18. DATE EMPLOYEE WAS PROVIDED CLAIM FORM FORM (mm/dd/yy)	
19. SPECIFIC INJURY/ILLNESS AND PART OF BODY AFFECTED, MEDICAL DIAGNOSIS if available, e.g.. Second degree burns on right arm, tendonitis on left elbow, lead poisoning					AGE
20. LOCATION WHERE EVENT OR EXPOSURE OCCURRED (Number, Street, City, Zip)			20a. COUNTY		21. ON EMPLOYER'S PREMISES? Yes No
22. DEPARTMENT WHERE EVENT OR EXPOSURE OCCURRED, e.g.. Shipping department, machine shop.			23. Other Workers injured or ill in this event? Yes No		
24. EQUIPMENT, MATERIALS AND CHEMICALS THE EMPLOYEE WAS USING WHEN EVENT OR EXPOSURE OCCURRED, e.g.. Acetylene, welding torch, farm tractor, scaffold					DAILY HOURS
25. SPECIFIC ACTIVITY THE EMPLOYEE WAS PERFORMING WHEN EVENT OR EXPOSURE OCCURRED, e.g.. Welding seams of metal forms, loading boxes onto truck.					DAYS PER WEEK
26. HOW INJURY/ILLNESS OCCURRED. DESCRIBE SEQUENCE OF EVENTS. SPECIFY OBJECT OR EXPOSURE WHICH DIRECTLY PRODUCED THE INJURY/ILLNESS, e.g.. Worker stepped back to inspect work and slipped on scrap material. As he fell, he brushed against fresh weld, and burned right hand. USE SEPARATE SHEET IF NECESSARY					WEEKLY HOURS
					WEEKLY WAGE
					COUNTY
					NATURE OF INJURY
					PART OF BODY
ATTENTION This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes. See CCR Title 8 14300.29 (b)(6)-(10) & 14300.35(b)(2)(E)2. Note: Shaded boxes indicate confidential employee information as listed in CCR Title 8 14300.35(b)(2)(E)2*.					SOURCE
					EVENT
					SECONDARY SOURCE
35. OCCUPATION (Regular job title, NO initials, abbreviations or numbers)					
37. EMPLOYEE USUALLY WORKS _____ hours per day, _____ days per week, _____ total weekly hours		37a. EMPLOYMENT STATUS regular, full-time part-time temporary seasonal		37b. UNDER WHAT CLASS CODE OF YOUR POLICY WHERE WAGES ASSIGNED	
38. GROSS WAGES/SALARY \$ _____ per _____		39. OTHER PAYMENTS NOT REPORTED AS WAGES/SALARY (e.g. tips, meals, overtime, bonuses, etc.)? Yes No			
Completed By (type or print)		Signature & Title			Date (mm/dd/yy)
* Confidential information may be disclosed only to the employee, former employee, or their personal representative (CCR Title 8 14300.35), to others for the purpose of processing a workers' compensation or other insurance claim; and under certain circumstances to a public health or law enforcement agency or to a consultant hired by the employer (CCR Title 8 14300.30). CCR Title 8 14300.40 requires provision upon request to certain state and federal workplace safety agencies.					



## Notice to Employees--Injuries Caused By Work

You may be entitled to workers' compensation benefits if you are injured or become ill because of your job. Workers' compensation covers most work-related physical or mental injuries and illnesses. An injury or illness can be caused by one event (such as hurting your back in a fall) or by repeated exposures (such as hurting your wrist from doing the same motion over and over).

**Benefits.** Workers' compensation benefits include:

- **Medical Care:** Doctor visits, hospital services, physical therapy, lab tests, x-rays, medicines, medical equipment and travel costs that are reasonably necessary to treat your injury. You should never see a bill. There are limits on chiropractic, physical therapy and occupational therapy visits.
- **Temporary Disability (TD) Benefits:** Payments if you lose wages while recovering. For most injuries, TD benefits may not be paid for more than 104 weeks within five years from the date of injury.
- **Permanent Disability (PD) Benefits:** Payments if you do not recover completely and your injury causes a permanent loss of physical or mental function that a doctor can measure.
- **Supplemental Job Displacement Benefit:** A nontransferable voucher, if you are injured on or after 1/1/2004, your injury causes permanent disability, and your employer does not offer you regular, modified, or alternative work.
- **Death Benefits:** Paid to your dependents if you die from a work-related injury or illness.

**Naming Your Own Physician Before Injury or Illness (Predesignation).** You may be able to choose the doctor who will treat you for a job injury or illness. If eligible, you must tell your employer, in writing, the name and address of your personal physician or medical group *before* you are injured. You must obtain their agreement to treat you for your work injury. For instructions, see the written information about workers' compensation that your employer is required to give to new employees.

### If You Get Hurt:

1. **Get Medical Care.** If you need emergency care, call 911 for help immediately from the hospital, ambulance, fire department or police department. If you need first aid, contact your employer.
2. **Report Your Injury.** Report the injury immediately to your supervisor or to an employer representative. Don't delay. There are time limits. If you wait too long, you may lose your right to benefits. Your employer is required to provide you with a claim form within one working day after learning about your injury. Within one working day after you file a claim form, your employer or claims administrator must authorize the provision of all treatment, up to ten thousand dollars, consistent with the applicable treatment guidelines, for your alleged injury until the claim is accepted or rejected.
3. **See Your Primary Treating Physician (PTP).** This is the doctor with overall responsibility for treating your injury or illness.
  - If you predesignated your personal physician or a medical group, you may see your personal physician or the medical group after you are injured.
  - If your employer is using a medical provider network (MPN) or a health care organization (HCO), in most cases you will be treated within the MPN or HCO unless you predesignated a personal physician or medical group. An MPN is a group of physicians and health care providers who provide treatment to workers injured on the job. You should receive information from your employer if you are covered by an HCO or a MPN. Contact your employer for more information.
  - If your employer is not using an MPN or HCO, in most cases the claims administrator can choose the doctor who first treats you when you are injured, unless you predesignated a personal physician or medical group.
4. **Medical Provider Networks.** Your employer may be using an MPN, which is a group of health care providers designated to provide treatment to workers injured on the job. If you have predesignated a personal physician or medical group prior to your work injury, then you may go there to receive treatment from your predesignated doctor. 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. For more information, see the MPN contact information below:

MPN website: \_\_\_\_\_

MPN Effective Date: \_\_\_\_\_ MPN Identification number: \_\_\_\_\_

If you need help locating an MPN physician, call your MPN access assistant at: \_\_\_\_\_

If you have questions about the MPN or want to file a complaint against the MPN, call the MPN Contact Person at: \_\_\_\_\_

**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, increased benefits, and costs and expenses up to limits set by the state.

**Questions?** Learn more about workers' compensation by reading the information that your employer is required to give you at time of hire. If you have questions, see your employer or the claims administrator (who handles workers' compensation claims for your employer):

Claims Administrator \_\_\_\_\_ Phone \_\_\_\_\_

Workers' compensation insurer \_\_\_\_\_ (Enter "self-insured" if appropriate)

You can also get free information from a State Division of Workers' Compensation Information (DWC) & Assistance Officer. The nearest Information & Assistance Officer can be found at location: \_\_\_\_\_ or by calling toll-free (800) 736-7401. Learn more information about workers' compensation online: [www.dwc.ca.gov](http://www.dwc.ca.gov) and access a useful booklet "Workers' Compensation in California: A Guidebook for Injured Workers."

**False claims and false denials.** Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony and may be fined and imprisoned.

Your employer may not be liable for the payment of workers' compensation benefits for any injury that arises from your voluntary participation in any **off-duty, recreational, social, or athletic activity** that is not part of your work-related duties.



## Aviso a los Empleados—Lesiones Causadas por el Trabajo

Es posible que usted tenga derecho a beneficios de compensación de trabajadores si usted se lesiona o se enferma a causa de su trabajo. La compensación de trabajadores cubre la mayoría de las lesiones y enfermedades físicas o mentales relacionadas con el trabajo. Una lesión o enfermedad puede ser causada por un evento (como por ejemplo lastimarse la espalda en una caída) o por acciones repetidas (como por ejemplo lastimarse la muñeca por hacer el mismo movimiento una y otra vez).

**Beneficios.** Los beneficios de compensación de trabajadores incluyen:

- **Atención Médica:** Consultas médicas, servicios de hospital, terapia física, análisis de laboratorio, radiografías, medicinas, equipo médico y costos de viajar que son razonablemente necesarias para tratar su lesión. Usted nunca deberá ver un cobro. Hay límites para visitas quiroprácticas, de terapia física y de terapia ocupacional.
- **Beneficios por Incapacidad Temporal (TD):** Pagos si usted pierde sueldo mientras se recupera. Para la mayoría de las lesiones, beneficios de TD no se pagarán por más de 104 semanas dentro de cinco años después de la fecha de la lesión.
- **Beneficios por Incapacidad Permanente (PD):** Pagos si usted no se recupera completamente y si su lesión le causa una pérdida permanente de su función física o mental que un médico puede medir.
- **Beneficio Suplementario por Desplazamiento de Trabajo:** Un vale no-transferible si su lesión surge en o después del 1/1/04, y su lesión le ocasiona una incapacidad permanente, y su empleador no le ofrece a usted un trabajo regular, modificado, o alternativo.
- **Beneficios por Muerte:** Pagados a sus dependientes si usted muere a causa de una lesión o enfermedad relacionada con el trabajo.

**Designación de su Propio Médico Antes de una Lesión o Enfermedad (Designación previa).** Es posible que usted pueda elegir al médico que le atenderá en una lesión o enfermedad relacionada con el trabajo. Si elegible, usted debe informarle al empleador, por escrito, el nombre y la dirección de su médico personal o grupo médico, *antes* de que usted se lesione. Usted debe ponerse de acuerdo con su médico para que atienda la lesión causada por el trabajo. Para instrucciones, vea la información escrita sobre la compensación de trabajadores que se le exige a su empleador darle a los empleados nuevos.

**Si Usted se Lastima:**

1. **Obtenga Atención Médica.** Si usted necesita atención de emergencia, llame al 911 para ayuda inmediata de un hospital, una ambulancia, el departamento de bomberos o departamento de policía. Si usted necesita primeros auxilios, comuníquese con su empleador.
2. **Reporte su Lesión.** Reporte la lesión inmediatamente a su supervisor(a) o a un representante del empleador. No se demore. Hay límites de tiempo. Si usted espera demasiado, es posible que usted pierda su derecho a beneficios. Su empleador está obligado a proporcionarle un formulario de reclamo dentro de un día laboral después de saber de su lesión. Dentro de un día después de que usted presente un formulario de reclamo, el empleador o administrador de reclamos debe autorizar todo tratamiento médico, hasta diez mil dólares, de acuerdo con las pautas de tratamiento aplicables a su presunta lesión, hasta que el reclamo sea aceptado o rechazado.
3. **Consulte al Médico que le está Atendiendo (PTP).** Este es el médico con la responsabilidad total de tratar su lesión o enfermedad.
  - Si usted designó previamente a su médico personal o grupo médico, usted puede consultar a su médico personal o grupo médico después de lesionarse.
  - Si su empleador está utilizando una Red de Proveedores Médicos (MPN) o una Organización de Cuidado Médico (HCO), en la mayoría de los casos usted será tratado dentro de la MPN o la HCO a menos que usted designó previamente un médico personal o grupo médico. Una MPN es un grupo de médicos y proveedores de atención médica que proporcionan tratamiento a trabajadores lesionados en el trabajo. Usted debe recibir información de su empleador si está cubierto por una HCO o una MPN. Hable con su empleador para más información.
  - Si su empleador no está utilizando una MPN o HCO, en la mayoría de los casos el administrador de reclamos puede escoger el médico que lo atiende primero, cuando usted se lesiona, a menos que usted designó previamente a un médico personal o grupo médico.
4. **Red de Proveedores Médicos (MPN):** Es posible que su empleador use una MPN, lo cual es un grupo de proveedores de asistencia médica designados para dar tratamiento a los trabajadores lesionados en el trabajo. **Si usted ha hecho una designación previa de un médico personal antes de lesionarse en el trabajo, entonces usted puede recibir tratamiento de su médico previamente designado.** Si usted está recibiendo tratamiento de parte de un médico que no pertenece a la MPN para una lesión existente, puede requerirse que usted se cambie a un médico dentro de la MPN. Para más información, vea la siguiente información de contacto de la MPN :

Página web de la MPN: \_\_\_\_\_

Fecha de vigencia de la MPN: \_\_\_\_\_ Número de identificación de la MPN: \_\_\_\_\_

Si usted necesita ayuda en localizar un médico de una MPN, llame a su asistente de acceso de la MPN al: \_\_\_\_\_

Si usted tiene preguntas sobre la MPN o quiere presentar una queja en contra de la MPN, llame a la Persona de Contacto de la MPN al: \_\_\_\_\_

**Discriminación.** Es ilegal que su empleador le castigue o despida por sufrir una lesión o enfermedad en el trabajo, por presentar un reclamo o por testificar en el caso de compensación de trabajadores de otra persona. De ser probado, usted puede recibir pagos por pérdida de sueldos, reposición del trabajo, aumento de beneficios y gastos hasta los límites establecidos por el estado.

**¿Preguntas?** Aprenda más sobre la compensación de trabajadores leyendo la información que se requiere que su empleador le dé cuando es contratado. Si usted tiene preguntas, vea a su empleador o al administrador de reclamos (que se encarga de los reclamos de compensación de trabajadores de su empleador):

Administrador de Reclamos \_\_\_\_\_ Teléfono \_\_\_\_\_

Asegurador del Seguro de Compensación de trabajador \_\_\_\_\_ (Anoté "autoasegurado" si es apropiado)

Usted también puede obtener información gratuita de un Oficial de Información y Asistencia de la División Estatal de Compensación de Trabajadores. El Oficial de Información y Asistencia más cercano se localiza en: \_\_\_\_\_ o llamando al número gratuito (800) 736-7401. Usted puede obtener más información sobre la compensación del trabajador en el Internet en: [www.dwc.ca.gov](http://www.dwc.ca.gov) y acceder a una guía útil "Compensación del Trabajador de California Una Guía para Trabajadores Lesionados."

**Los reclamos falsos y rechazos falsos del reclamo.** Cualquier persona que haga o que ocasione que se haga una declaración o una representación material intencionalmente falsa o fraudulenta, con el fin de obtener o negar beneficios o pagos de compensación de trabajadores, es culpable de un delito grave y puede ser multado y encarcelado.

Es posible que su empleador no sea responsable por el pago de beneficios de compensación de trabajadores para ninguna lesión que proviene de su participación voluntaria en cualquier **actividad fuera del trabajo, recreativa, social, o atlética** que no sea parte de sus deberes laborales.



# CSJVRMA

## QUICK REFERENCE GUIDE UPON NOTICE OF AN INDUSTRIAL INJURY OR ILLNESS

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### SUPERVISORS / MANAGERS

Have trained staff administer first aid if appropriate. In case of life threatening or serious limb injuries, immediately call 911.

- 1) Direct employees to report their injury or illness to the Nurse Triage Hotline at Allied Managed Care (AMC) Call Connect at 1-844-691-4111. Injured employees requiring emergency medical care are to call in after their condition is stable or their supervisor may call on their behalf. A Registered Nurse (RN) will assist the employee in determining the level of medical care needed. Regardless of the RN's recommendation, the employee retains the right to seek medical care. Please note, reporting the claim to AMC does not relieve the employer from providing the necessary workers' compensation benefit form to the employee.
- 2) Regardless if the employee seeks medical treatment, the employer shall give the employee the Workers' Compensation Claim Form (DWC 1) **within one (1) working day of knowledge of the incident or illness.** If the employee is unavailable to accept the form, it should be mailed to the employee via certified mail within one (1) working day. The city should record the date when the form was provided or mailed to the employee for future reference if necessary.
- 3) Please note the employee is not required to return the completed DWC 1 and only the employee should complete the top portion of the form. If the employee completes the DWC 1 and the Department Manager/Supervisor is unable to complete the bottom section of the form immediately, mark the box at the bottom that indicates it is the employee's temporary receipt. The Department Manager/Supervisor should complete the form as soon as possible and provide the employee with a copy of the completed DWC 1.
- 4) Immediately report the incident to the individual designated by the City to report the claim to the City's third party administrator, Acclamation Insurance Management Services (AIMS).
- 5) The supervisor shall complete the supervisor's accident investigation form within one (1) working day of knowledge of the incident or illness. This form should include only the facts surrounding the incident or illness and should not include any diagnosis or supposition of the resulting injury.
- 6) The Supervisor's Report of Injury, completed DWC 1, and if the Form 5020, Employers' Report of Injury Form, is completed should be sent to AIMS immediately and not later than five (5) calendar days from the notice of injury or illness.
- 7) As a reminder, do not wait for a report from the doctor before reporting the injury to AIMS. Complete the process when all injuries or illness are reported to a supervisor or manager.

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**Please report the claim to the following office via phone, e-mail, or fax:**

AIMS  
P.O. Box 28100  
Fresno, CA 93729  
Phone: 1-800-559-9891  
Fax: 559-227-1579





# Medical Treatment Authorization

## Work Status Report – Employee Accident or Illness

<b>TREATMENT AUTHORIZATION</b> <i>To be completed by Supervisor or Employer Contact:</i>		<b>Employer Name:</b>	
		<b>Employer Address:</b>	
		<b>Phone:</b>	<b>Fax:</b>
Employee:	Site Phone Number:	Employee Job Title:	
Date of Injury:	Type of Injury or Illness:		
Treatment Authorized By:	Date:		
Designated Medical Facility for Treatment:			
<b>RETURN TO WORK STATUS</b> <i>To be completed by Physician:</i>		Light duty is usually available to employees who are released by a physician with limitations that permit them to be productive and to work without undue risk of aggravation or re-injury.	
Diagnosis:			
Treatment:			
Is Treatment Complete?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Date and time of Next Appointment:	
<b>RESTRICTIONS:</b>			
<input type="checkbox"/> Return to Regular Duties (no restrictions) on:			
<input type="checkbox"/> Unable to Return to Work Until:			
<input type="checkbox"/> Return to Work on: _____ With the following restrictions:			
<input type="checkbox"/> No lifting over 15 25 35 50 pounds (circle applicable amount)			
<input type="checkbox"/> Keep the injured area clean and dry			
<input type="checkbox"/> Limit use of affected body parts (outline body part(s) and applicable limitations			
<input type="checkbox"/> Other (please be specific what employee <i>can</i> and <i>cannot</i> do:			
Expected Duration of Restrictions:			
Special Instructions/Remarks:			
<b>Medical Facility:</b>		Physician Signature:	
Name:		Date of Treatment:	
Address:			
Phone Number:			

**Medical Provider: Send billing directly to Acclamation Insurance Management Services (AIMS)**

**P.O. Box 28100, Fresno, CA 93729**

**(559) 227-9972**