

How to utilize the California workers' compensation system

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If you have been injured at work, you have a right to have medical assistance and many other benefits. However, please be advised that it is a felony to commit fraud or intentional misrepresentation in the claim. If you are the employer, you have a duty to provide the medical assistance or access.

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Opening Steps

The employee-worker must notify the employer of the injury within 24 hours. The employer must provide medical assistance, even if the employee was at fault, but the employer can dispute the injury later. The employee should report the injury to the employer by telling his supervisor right away. If the injury or illness developed over time, the employee should report it as soon as he learns or believes it was caused by his job. Prompt reporting helps prevent problems and delays in receiving benefits. If the employer does not learn about the injury within 30 days and this prevents the employer from fully investigating the injury and how the employee was injured, the employee could lose his right to receive workers' compensation benefits. The employee should fill out a claim form, called a DWC form 1, and give it to the employer. The employer must give or mail the claim form within one working day after learning about the injury or illness.

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Types of Injury

A work injury may be either (a) specific - occurring as a result of one injury or exposure which causes disability or need for medical treatment, such as hurting your back in a fall, getting burned by a chemical that splashes on your skin or getting hurt in a car or (b) cumulative - occurring as repetitive physically or mentally traumatic activities over a period of time, the combined effect of which causes any disability or need for medical treatment, such as hurting your wrist from doing the same motion over and over or losing your hearing because of constant loud noise. (See California Labor Code Section 3208.1). If your medical treatment for your injury has been denied you can request an expedited hearing before a workers' compensation administrative law judge to get the situation resolved. Contact the information & assistance officer at your local DWC office or an attorney for help.

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Types of Benefits

Workers' comp insurance provides six basic benefits: Medical care: Paid for by your employer to help you recover from an injury or illness caused by work Temporary disability benefits: Payments if you lose wages because your injury prevents you from doing your usual job while recovering Permanent disability benefits: Payments if you

don't recover completely Supplemental job displacement benefits (if your date of injury is in 2004 or later): Vouchers to help pay for retraining or skill enhancement if you don't recover completely and don't return to work for your employer Vocational rehabilitation (if your date of injury is before 2004): Job placement counseling and possibly retraining if you are unable to return to your old job and your employer doesn't offer other work Death benefits: Payments to your spouse, children or other dependents if you die from a job injury or illness.

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Employer Defenses

Some bases for employer dispute are horseplay, intoxication, intentionally self-inflicted injury (California Labor Code Section 3600) and, in the case of a psych claim, good faith personnel actions or pre-existing problems which constitute the predominant cause of the psychiatric injury. (California Labor Code Section 3208.3). The Coming and Going Rule prevents the worker from obtaining benefits for an injury that occurred while he or she was going to work or going home from work, unless the worker was on the employee's work premises at the time of the injury during regular work hours. There can be no benefits if the employee is injured during the commission of a crime against the employee or while engaged in an altercation on the job which he or she initiated.

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About temporary disability benefits

Temporary disability (TD) benefits are payments you get if you lose wages because your injury prevents you from doing your usual job while recovering. There are two types of temporary disability benefits. If you cannot work at all while recovering, you receive temporary total disability (TTD) benefits. If you can do some work while recovering, you receive temporary partial disability benefit (TPD) payments. As a general rule, temporary disability pays two-thirds of the gross (pre-tax) wages you lose while you are recovering from a job injury. However, you cannot receive more than the maximum weekly amount set by law, which is \$840 for 2006. Beginning Jan. 1, 2007, the maximum goes up to \$881.66. Your wages are figured out by using all forms of income you receive from work: wages, food, lodging, tips, commissions, overtime and bonuses. Wages can also include earnings from work you did at other jobs at the time you were injured. Give proof of these earnings to the claims administrator.

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About permanent disability benefits

Most workers fully recover from job injuries but some continue to have medical problems. Permanent disability is any lasting disability that results in a reduced earning capacity after maximum medical improvement is reached. If your injury or illness results in permanent disability you are entitled to permanent disability (PD) benefits, even if you are able to go back to work. PD benefits are limited. If you lose income, PD benefits may not cover all the income lost. If you experience losses unrelated to your ability to work, PD benefits will not cover those losses. A doctor determines if your injury or illness caused permanent disability. After your doctor decides your injury or illness has stabilized and no change is likely, permanent disability is evaluated. At that time, your condition has become permanent and stationary (P&S). Your doctor might use the term maximal medical improvement (MMI) instead of P&S.

Returning to Work

Soon after your injury, the treating doctor examines you and sends a report to the claims administrator about your medical condition. If the treating doctor says you are able to work, he or she should describe: Clear and specific limits, if any, on your job tasks while recovering. These are called work restrictions. They are intended to protect you from further injury (example: no work that requires repetitive bending or stooping) Changes needed, if any, in your schedule, assignments, equipment or other working conditions while recovering (example: provide headset to avoid awkward positions of the head and neck) If the treating doctor reports that you cannot work at all while recovering, you cannot be required to work. If your treating doctor reports that you can return to work under specific work restrictions, any work your employer assigns must meet these restrictions. Your employer might, for example, change certain tasks or provide helpful equipment.

Additional Resources

The Labor Code of California; Title 8, California Code of Regulations; Hanna on Workers Compensation

[Department of Workers' Compensation](#)