



# **FACTS FOR INJURED WORKERS**

## Hurt On The Job?

That can be a terrible experience. But fortunately, the California workers' compensation system takes away a lot of the worry about job injuries and illnesses. It's no-fault insurance, paid for by employers and supervised by the state. This guide explains this valuable benefit.

## What's Workers' Compensation?

California's workers' compensation law, passed by the state Legislature more than 90 years ago, guarantees prompt, automatic benefits to workers injured on the job.

Before workers' compensation, injured workers had to sue their employers to recover medical costs and lost wages. Lawsuits took months and sometimes years. Juries and judges had to decide who was at fault and how much, if anything, would be paid. Too often, the injured worker got nothing. It was costly, time consuming and unfair.

Today, workers' compensation is faster and fairer. If you can't work because of a job injury or job illness, workers' compensation pays your medical bills and provides money to help replace your lost income until you can return to work.

## Who's Covered?

Nearly every working Californian is protected by workers' compensation, but there are a few exceptions. People in business for themselves and unpaid volunteers may not be covered. Maritime workers and federal employees are covered by federal laws.

## What's Covered?

Any injury caused by the job is covered—everything from minor injuries to serious accidents. Job-related illnesses are covered too. (For example, common colds and flu aren't covered, but if you catch tuberculosis while working at a TB hospital, that's covered.) Workers' compensation even covers physical or psychiatric injuries resulting from a workplace crime. The key is whether the injury or illness is caused by your job.

## When Am I Covered?

Coverage begins the first minute you're on the job and continues anytime you're working. You don't have to work a certain amount of time or earn a certain amount before you're protected. Coverage is automatic and immediate.

## How Do I Get Benefits?

Report the injury to your employer or supervisor immediately and complete a claim form if it is more than a simple first-aid injury. The claim form will ask what, where, when and how it happened.

Prompt reporting is the key because your medical bills and any other workers' compensation benefits can't be paid until your workers' compensation claims administrator knows about the injury. The claims administrator is the company responsible for handling your claim and notifying you about your eligibility for benefits. Under state law, medical treatment must be authorized within one working day of the employer's receipt of the claim form. After you return the claim form, your employer will notify the claims administrator, you will be directed to a doctor, clinic or hospital if necessary, and a claims adjuster will be assigned to handle your claim. Until a claim is accepted or rejected, up to \$10,000 in medical treatment may be covered.

You may not be able to get benefits if you don't file a claim within one year of the date of injury, the date you knew the injury was work related, or the date benefits were last provided, so ensure your right to benefits by reporting every injury, no matter how slight. If your claim or benefits are denied you have a right to challenge the decision, but there are deadlines for filing the necessary paperwork with the Workers' Compensation Appeals Board, so don't delay.

## What Are The Benefits?

California law guarantees three kinds of worker's compensation benefits:

- **Reasonable and necessary medical care to cure or relieve the effects of the injury or illness.** Not just doctor bills, but medicines, hospital costs, fees for lab tests, X-rays, crutches -- even travel expenses for required medical treatment. The state has set limits on some medical services -- for example the number of visits for chiropractic care, occupational therapy, and physical therapy are subject to caps set by state law, and non-emergency medical services are subject to preauthorization, but all costs for reasonably and necessary treatment are paid directly by the claims administrator without deductibles, so you should never see a bill.
  - **Cash payments to help replace lost wages.** Most injuries only keep you from working temporarily, and you'll receive "temporary disability" payments until the doctor says you're able to return to work or that your medical condition is "permanent and stationary." Under state law, temporary disability payments for a single injury may continue for no more than 104 compensable weeks within two years from the date of the first payment, or for a few very serious types of injuries such as amputations, severe burns, or chronic lung disease, payments may continue for no more than 240 weeks within five years from the date of injury.
  - **Additional cash payments will be made after you're able to work if the work injury or illness caused a permanent disability** -- for example, the loss of a finger or an eye -- that your doctor says will always leave you somewhat limited in your ability to work, or if you can't return to work at all. If the injury results in death, benefits and a burial allowance will be paid to your surviving dependents.
  - **Supplemental Job Displacement Benefits.** If you receive temporary disability, within 30 days after that benefit ends, your claims adjuster may send you an offer of modified or alternative work on behalf of your employer. If your work injury or illness causes permanent disability, your employer does not offer appropriate modified or alternative work, and you cannot return to work for the employer within 60 days after temporary disability ends, you will be eligible for a supplemental job displacement benefit in the form of a nontransferable voucher to use for education-related retraining and/or skill enhancement at a state-approved school. The total amount of a voucher can range from \$4,000 to \$10,000, depending on your level of permanent disability.
- Many employers are subject to laws governed by the Americans with Disabilities Act or the Fair Employment and Housing Act. An employer subject to these laws must provide reasonable accommodation -- if possible -- to qualified disabled individuals who can perform all the essential job functions. If you are not able to return to your regular job because of a disability, you may have rights under these laws. For more information call the Equal Employment Opportunity Commission at 1-800-669-4000.

## How Much Are The Cash Payments?

Temporary disability payments generally are two-thirds of your wages -- subject to minimums and maximums set by the state. For 2006 injuries the minimum temporary disability payment is \$126 per week, while the maximum is \$940 a week. For injuries occurring in each subsequent year, the minimum and maximum payments are subject to adjustments based on increases in the state average weekly wage, so the amount of your payments depends on your date of injury. For example, for injuries occurring in 2007, the minimum weekly temporary disability payment is

\$132.25 and the maximum is \$681.66. A claims adjuster who works for the claims administrator will send you a letter explaining how much your temporary disability payments will be, based on your earnings and the rate in effect at the time of injury. If you are still eligible for temporary disability payments two or more years after the injury (for example, if you have an amputation, severe burn or chronic lung disease that qualifies for up to 240 weeks of temporary disability) any TD payments made two years after the injury will be adjusted to the current rates if justified by earnings.

■ Compensation isn't paid for the first three days you're unable to work — unless you're hospitalized as an in-patient or unable to work for more than 14 days. In these instances, even the "waiting period" will be paid.

■ If you report the injury promptly, your first temporary disability check should be mailed within 14 days. After that, you'll receive a check every two weeks until the doctor says you can go back to work or that your medical condition is "permanent and stationary", or the time limit set by the state is reached.

■ After you recover to the fullest extent possible, the doctor who treated you will evaluate the permanent effects of your injury. You and your employer may agree to rely on the treating doctor's report to establish your permanent disability payment. If you have questions about the report, or disagree with the treating doctor's opinions, you may contact the claims adjuster, an information and assistance officer at the Division of Workers' Compensation, or your attorney if you are represented. They can explain your rights and the process for resolving disputes, which varies depending on a number of factors.

Your level of permanent disability will be based on the doctor's opinion about how much of the permanent disability was directly caused by your work, as well as other factors including your age, pre-injury occupation, and type of injury.

The weekly benefit amount is subject to minimums and maximums set by the state, which vary according to the date of injury, your level of permanent disability and in some cases, whether or not your employer makes an appropriate job offer so you can return to work. If you have a permanent disability, the calculation of the benefit will be fully explained in a letter.

■ Death benefit payments to survivors who were financially dependent on a deceased worker are set by state law according to the number of dependents and the date of injury. Generally, payments are made at the same rate as temporary disability benefits, however, no payments will be less than \$224 per week. Workers' compensation also pays a burial allowance.

Workers' compensation payments are tax free. There are no deductions for state or federal taxes, Social Security, union or retirement fund contributions, etc. For some workers the compensation check will be close to regular take-home pay.

## What If There's A Problem?

Fortunately most claims are handled routinely. After all, workers' compensation benefits are automatic and the amounts are set by the legislature.

But, mistakes and misunderstandings do happen. If you think you haven't received all your benefits, start by calling your employer or workers' compensation claims adjuster. Many questions can be cleared up with a phone call.

■ If you still have questions, contact the nearest office of the State Division of Workers' Compensation. Information & Assistance Officers are employed by the state to protect your rights, review your claim, and let you know what steps you can take. For example, they can tell you about the procedures for resolving medical disputes and direct you on how to proceed. Information and Assistance Officers also can provide you with free written materials about workers' compen-

sation. Information and Assistance services are free. For the nearest office check the State Government Offices section of the phone book under "Industrial Relations Department," call 1-800-736-7401 for recorded information and the location of a local office, or visit the State Division of Workers' Compensation website at <http://www.dir.ca.gov/dwc>.

■ Some problems may need to be resolved by the Workers' Compensation Appeals Board, the state agency responsible for handling disputes. The Appeals Board is a court of law. You can represent yourself or you can hire an attorney, but you should be aware that attorneys are paid out of the injured worker's permanent disability benefits awarded by the Appeals Board. Attorney fees generally are 12 to 15 percent of your award, and must be approved by a judge. For example, if the Appeals Board awards you \$10,000 for permanent disability, less 15 percent for attorney fees, your attorney will get \$1,500 and you will get \$8,500.

■ You also need to be aware that if you hire an attorney, other people involved in your case — including your claims adjuster — may no longer be allowed to speak directly to you about important matters, and the Division of Workers' Compensation Information & Assistance Officers may be unable to advise or assist you. If you choose to stop having an attorney represent you, or you want to change lawyers, your original lawyer can still claim a portion of your benefits as attorney fees.

■ Delays in reporting may delay workers' compensation benefits, and you may not be able to get benefits if you don't file a claim within one year of the date of injury, the date you knew the injury was work related, or the date benefits were last provided. To ensure your right to benefits, report every injury, no matter how slight, and request a claim form if it's more than a simple first aid injury. You also have the right to challenge the decision if your claim or benefits are denied, but there are deadlines for filing the necessary papers at the Appeals Board, so don't delay.

■ Keep in mind, it is illegal for an employer to fire or discriminate against employees just because they file, intend to file or settle a workers' compensation claim — or because they testify for a coworker who was injured. A worker who proves this kind of discrimination will be entitled to job reinstatement, lost wages and increased benefits, plus costs and expenses up to a maximum set by the state legislature.

## Other Benefits

If the injury is very serious — one where you won't be able to work for a year or more — you may be eligible for additional benefits from Social Security. For information, contact the nearest office of the Social Security Administration (listed in the white pages of the phone book under "United States Government") or discuss it with your employer or claim adjuster.

Workers' compensation sometimes is confused with another state program, State Disability Insurance (SDI). They seem similar, but there are important differences. Workers' compensation takes care of on-the-job injuries and illnesses, and is paid for by your employer. On the other hand, SDI covers off-the-job injuries or sickness and is paid for by deductions from your paycheck. If you are not receiving workers' compensation benefits — for example, if temporary disability has been delayed or denied, or the maximum temporary disability payment period expires before you can return to work, you may be able to get State Disability benefits. There are time restrictions, however, and you need to apply in advance, so for forms and information, call the local office of the state Employment Development Department (EDD) listed in the government pages of your phone book, or 1-800-480-3287, or go to the EDD website at [www.edd.ca.gov](http://www.edd.ca.gov).

## Where Can I Get More Information?

Start by asking your employer or the workers' compensation claims administrator (the name, address and phone number are posted at your workplace). Many times problems can be solved and questions answered with a simple phone call. In addition, you can get recorded information or order free written materials about workers' compensation by calling the State Division of Workers' Compensation at 1-800-786-7401, or by visiting the Division of Workers' Compensation web site at <http://www.dir.ca.gov/dwc>. If you are not represented by an attorney and would like a State Information & Assistance Officer to explain your rights, solve problems, or provide other information, you can call and leave a message at the nearest local office of the Division of Workers' Compensation. The address and phone number are posted at your workplace and are listed in the State Government section of the phone book under "Industrial Relations Department." The state's information and assistance services are free.

## More About Medical Care

Good medical care is important — to you, your family and your employer. Quality medical treatment is the quickest way to recovery, so report all work injuries and illnesses to your employer as soon as possible so appropriate medical care can be arranged.

If it's more than a first-aid injury, your employer will give you a claim form. To make sure you get all your benefits, complete the "Employee" section of the form and return it to your employer as soon as possible. Within one working day, your employer will give you a signed and dated copy, send a copy to the claims administrator, and your medical treatment will be authorized. If additional treatment is necessary, your claims adjuster will arrange for medical care that meets applicable treatment guidelines for your injury. The doctor with overall responsibility for treating your injury or illness is your "primary treating physician" (PTP). The PTP decides what kind of medical care you need and when you can return to work. If necessary, he or she will review your job description with you and your employer to define any limitations

or restrictions that you may have when you go back to work. This doctor also will coordinate the care you receive from other medical providers, and will write reports about your medical condition and treatment, temporary disability, permanent disability and other issues that will affect your benefits.

If your employer provides group health coverage, you can be treated right away by your own doctor if you gave your employer the doctor's name and business address prior to the injury, and they have treated you before, have your medical records, and agreed to treat you for work injuries or illnesses prior to the injury.

This is called pre-designating a personal physician. The state requires that a pre-designated physician must have limited his or her practice of medicine to general practice, or that they be a board-certified or board-eligible internist, pediatrician, obstetrician-gynecologist, family practitioner, or a multispecialty group of licensed doctors of medicine or osteopathy (M.D.s or D.O.s) that provides comprehensive medical services primarily for nonoccupational injuries and illnesses. Different rules apply if you gave your employer the name of your personal chiropractor or acupuncturist before the injury, and you may need to see a doctor selected by the claims adjuster first, so check with your claims adjuster.

If, prior to the injury, you did not pre-designate a personal doctor or multispecialty group that meets the state requirements, you may be sent to a doctor you don't know, but that does not mean it's a "company doctor." The doctor may be a specialist for the specific injury. In addition, the doctor will be familiar with workers' compensation requirements and will report promptly so your benefits will be paid.

Generally if you did not pre-designate a personal physician prior to the injury, and you are not covered by a workers' compensation Medical Provider Network (MPN) or Health Care Organization (HCO), your employer will select the PTP you will see for the first 30 days, so if you want to switch doctors within the first 30 days, your claims adjuster will give you a list of doctors to choose from.

If you are covered by an MPN or an HCO, different rules apply. For example, if you are covered by an MPN, a network doctor will generally be your PTP for the duration of treatment, though you may switch to another doctor in the network any time after your first visit, but if you want to switch to a chiropractor or acupuncturist, including one named prior to the injury, he or she must be in the MPN. If you are in an MPN or HCO and you have questions, ask your employer or claims adjuster for more information about the network and about your rights under your plan.

In any event, if you're thinking of changing doctors, consider this decision carefully. If you want advice about specialists, or want to change doctors for some other reason, talk to your claims administrator and always report your choice as soon as you make it so your bills will be paid for you.

Above all, report promptly. Even minor injuries need expert care, and prompt, quality medical treatment is the best investment for you and your employer.

## WORKERS' COMPENSATION FRAUD IS A FELONY

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 punished by imprisonment in county jail for one year, or in state prison for up to five years, and/or fined up to \$150,000 or double the value of the fraud (whichever is greater), and ordered to pay restitution for any medical evaluation or treatment. (IC §18714) If you are being provided a temporary disability check, please note the following:

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

Si se le está proporcionando un cheque por incapacidad temporal, por favor note lo siguiente:

**ADVERTENCIA:** Es necesario que usted le avise a su patron o a su compañía de seguro todo dinero que usted ha ganado por trabajar, durante el tiempo cubierto por este cheque, y antes de cambiar este cheque. Si usted no sigue estos reglamentos, usted puede estar en violación de la ley y el castigo podría ser cárcel o prisión, una multa, y pérdida de beneficios.

This pamphlet is available in Spanish. For a free copy, please write to the California Workers' Compensation Institute.

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