

Your Rights to Workers' Compensation Benefits and How to Obtain Them



 **CalChamber**
HR Expert & Business Advocate™

This pamphlet, approved by the Administrative Director of the Division of Workers' Compensation, must be given to all newly hired employees in the State of California.

WORKERS' COMPENSATION BENEFITS

What is Workers' Compensation?

If you get hurt on the job, your employer is required by law to pay for workers' compensation benefits. You could get hurt by:

One event at work. Examples: hurting your back in a fall, getting burned by a chemical that splashes on your skin, getting hurt in a car accident while making deliveries; or -

Repeated exposures at work. Examples: hurting your wrist from using vibrating tools, losing your hearing because of constant loud noise; or -

Workplace crime. Examples: you get hurt in a store robbery, physically attacked by an unhappy customer.

Discrimination is Illegal

It is illegal under Labor Code section 132a for your employer to punish or fire you because you:

- File a workers' compensation claim
- Intend to file a workers' compensation claim
- Settle a workers' compensation claim
- Testify or intend to testify for another injured worker.

If it is found that your employer discriminated against you, he or she may be ordered to return you to your job. Your employer may also be made to pay for lost wages, increased workers' compensation benefits, and costs and expenses set by state law.

What are the Benefits?

Medical care: Paid for by your employer to help you recover from an injury or illness caused by work. Doctor visits, hospital services, physical therapy, lab tests and x-rays are some of the medical services that may be provided. These services should be necessary to treat your injury. There are limits on some services such as physical and occupational therapy and chiropractic care.

Temporary Disability (TD) Benefits: Payments if you lose wages because your injury prevents you from doing your usual job while recovering. The amount you may get is up to two-thirds of your wages. There are minimum and maximum payment limits set by state law. You will be paid every two weeks if you are eligible. For most injuries, payments may not exceed 104 weeks within five years from your date of injury. *Temporary Disability (TD)* stops when you return to work, or when the doctor releases you for work, or says your injury has improved as much as it's going to.

Permanent Disability Benefits: Payments if you don't recover completely. You will be paid every two weeks if you are eligible. There

are minimum and maximum weekly payment rates established by state law. The amount of payment is based on:

- Your doctor's medical reports
- Your age
- Your occupation

Supplemental Job Displacement Benefits: This is a voucher for up to \$6,000 that you can use for retraining or skill enhancement at an approved school; books, tools, licenses or certification fees, or other resources to help you find a new job. You are eligible for this voucher if:

- You have a permanent disability.
- Your employer does not offer regular, modified, or alternative work, within 60 days after the claims administrator receives a doctor's report saying you have made a maximum medical recovery.

Death Benefits: Payments to your spouse, children or other dependents if you die from a job injury or illness. The amount of payment is based on the number of dependents. The benefit is paid every two weeks at a rate of at least \$224 per week. In addition, workers' compensation provides a burial allowance.

Other Benefits

You may file a claim with the *Employment Development Department (EDD)* to get state disability benefits when workers' compensation benefits are delayed, denied, or have ended. There are time restrictions so for more information contact the local office of *EDD* or go to their web site www.edd.ca.gov.

If your injury results in a permanent disability (PD) and the state determines that your PD benefit is disproportionately low compared to your earning loss, you may qualify for additional money from the *Department of Industrial Relation's* special earnings loss supplement program, also known as the return to work program. If you have questions or think you qualify, contact the Information & Assistance Unit by going to www.dwc.ca.gov and looking under "Workers' Compensation programs and units" for the "Information & Assistance Unit" link or visit the DIR web site at www.dir.ca.gov.

Workers' Compensation Fraud is a Crime

Any person who makes or causes to be made any knowingly false statement in order to obtain or deny workers' compensation benefits or payments is guilty of a felony. If convicted, the person will have to pay fines up to \$150,000 and/or serve up to five years in jail.

What Should I Do if I Have An Injury?

Report your injury to your employer: Tell your supervisor right away no matter how slight the injury may be. Don't delay – there are time limits. You could lose your right to benefits if your employer does not learn of your injury within 30 days. If your injury or illness is one that develops over time, report it as soon as you learn it was caused by your job.

If you cannot report to the employer or don't hear from the claims administrator after you have reported your injury, contact the claims administrator yourself.

You may be able to find the name of your employer's workers' compensation insurer at www.caworkcompcoverage.com. If no coverage exists or coverage has expired, contact the Division of Labor Standards Enforcement at www.dir.ca.gov/DLSE, as all employees must be covered by law.

Get emergency treatment if needed: If it's a medical emergency, go to an emergency room right away. Tell the medical provider who treats you that your injury is job related. Your employer may tell you where to go for follow up treatment.

Emergency telephone number: Call 911 for an ambulance, fire department or police. For non-emergency medical care, contact your employer or the workers' compensation claims administrator.

Fill out DWC 1 claim form and give it to your employer: Your employer must give you a DWC 1 claim form within one working day after learning about your injury or illness. Complete the employee portion, sign and give it back to your employer. Your employer will then file your claim with the claims administrator. Your employer must authorize treatment within one working day of receiving the DWC 1 claim form.

If the injury is from repeated exposures, you have one year from when you realized your injury was job related to file a claim.

In either case, you may receive up to \$10,000 in employer-paid medical care until your claim is either accepted or denied. The claims administrator has up to 90 days to decide whether to accept or deny your claim. Otherwise your case is presumed payable.

Your employer or the claims administrator will send you "benefit notices" that will advise you of the status of your claim.

More About Medical Care

What is a Primary Treating Physician (PTP)? This is the doctor with

overall responsibility for treating your injury or illness. He or she may be:

- The doctor you name in writing *before* you get hurt on the job
- A doctor from the medical provider network (MPN)
- The doctor chosen by your employer during the first 30 days of injury if your employer does not have an MPN or
- The doctor you chose after the first 30 days if your employer does not have an MPN.

What is a Medical Provider Network (MPN)? An MPN is a select group of health care providers who treat injured workers. Check with your employer to see if they are using an MPN.

If you have not named a doctor before you get hurt and your employer is using an MPN, you will see an MPN doctor. After your first visit, you are free to choose another doctor from the MPN list.

What is Predesignation? Predesignation is when you name your regular doctor to treat you if you get hurt on the job. The doctor must be a medical doctor (M.D.), doctor of osteopathic medicine (D.O.) or a medical group with an M.D. or D.O. You must name your doctor in writing *before* you get hurt or become ill.

You may predesignate a doctor if you have health care coverage for non-work injuries and illnesses. The doctor must have:

- Treated you
- Maintained your medical history and records before your injury and
- Agreed to treat you for a work-related injury or illness before you get hurt or become ill.

You may use the "predesignation of personal physician" form included with this pamphlet. After you fill in the form, be sure to give it to your employer.

If your employer does not have an approved MPN, you may name your chiropractor or acupuncturist to treat you for work related injuries. The notice of personal chiropractor or acupuncturist must be in writing *before* you get hurt. You may use the form included in this pamphlet. After you fill in the form, be sure to give it to your employer.

With some exceptions, state law does not allow a chiropractor to continue as your treating physician after 24 visits. Once you have received 24 chiropractic visits, if you still require medical treatment, you will have to select a new physician who is not a chiropractor. The term "chiropractic visit" means any chiropractic office visit, regardless of whether the services performed involve chiropractic manipulation or are limited to evaluation and management.

Exceptions to the prohibition on a chiropractor continuing as your treating physician after 24 visits include postsurgical physical medicine

Notice of Personal Chiropractor or Personal Acupuncturist Predesignation Form

If your employer or your employer's insurer does not have a Medical Provider Network, you may be able to change your treating physician to your personal chiropractor or acupuncturist following a work-related injury or illness. In order to be eligible to make this change, you must give your employer the name and business address of a personal chiropractor or acupuncturist in writing prior to the injury or illness. Your claims administrator generally has the right to select your treating physician within the first 30 days after your employer knows of your injury or illness. After your claims administrator has initiated your treatment with another doctor during this period, you may then, upon request, have your treatment transferred to your personal chiropractor or acupuncturist.

NOTE: If your date of injury is January 1, 2004 or later, a chiropractor cannot be your treating physician after you have received 24 chiropractic visits unless your employer has authorized additional visits in writing. The term "chiropractic visit" means any chiropractic office visit, regardless of whether the services performed involve chiropractic manipulation or are limited to evaluation and management. Once you have received 24 chiropractic visits, if you still require medical treatment, you will have to select a new physician who is not a chiropractor. This prohibition shall not apply to visits for postsurgical physical medicine visits prescribed by the surgeon, or physician designated by the surgeon, under the postsurgical component of the Division of Workers' Compensation's Medical Treatment Utilization Schedule.

You may use this form to notify your employer of your personal chiropractor or acupuncturist.

Your Chiropractor or Acupuncturist's Information:

Name of Chiropractor or Acupuncturist

Chiropractor's or Acupuncturist's Street Address

Chiropractor's or Acupuncturist's City, State, ZIP

Chiropractor's or Acupuncturist's Telephone Number

Employee Name (please print)

Employee's Address

Employee's City, State, ZIP

Employee's Signature

Date

WORKERS' COMPENSATION BENEFITS

Predesignation of Personal Physician

In the event you sustain an injury or illness related to your employment, you may be treated for such injury or illness by your personal medical doctor (M.D.), doctor of osteopathic medicine (D.O.) or medical group if:

- on the date of your work injury you have health care coverage for injuries or illnesses that are not work related;
- the doctor is your regular physician, who shall be either a physician who has limited his or her practice of medicine to general practice or who is a board-certified or board-eligible internist, pediatrician, obstetrician-gynecologist, or family practitioner, and has previously directed your medical treatment, and retains your medical records;
- your "personal physician" may be a medical group if it is a single corporation or partnership composed of licensed doctors of medicine or osteopathy, which operates an integrated multispecialty medical group providing comprehensive medical services predominately for nonoccupational illnesses and injuries;
- prior to the injury your doctor agrees to treat you for work injuries or illnesses;
- prior to the injury you provided your employer the following in writing: (1) notice that you want your personal doctor to treat you for a work-related injury or illness, and (2) your personal doctor's name and business address.

You may use this form to notify your employer if you wish to have your personal medical doctor or a doctor of osteopathic medicine treat you for a work-related injury or illness and the above requirements are met.

Notice of Predesignation of Personal Physician

Employee: Complete this section.

To: _____ (name of employer)

If I have a work-related injury or illness, I choose to be treated by:

Name of Doctor (M.D., D.O., or medical group)

Doctor's Street Address

Doctor's City, State, ZIP

Doctor's Telephone Number

Employee Name (please print)

Employee's Address

Name of Insurance Company, Plan, or Fund providing health coverage for nonoccupational injuries or illnesses

Employee's Signature

Date

Physician: I agree to this Predesignation:

Signature (Physician or Designated Employee of the Physician or Medical Group)

Date

The physician is not required to sign this form; however, if the physician or designated employee of the physician or medical group does not sign, other documentation of the physician's agreement to be predesignated will be required pursuant to Title 8, California Code of Regulations, section 9780.1(a)(3).

visits prescribed by the surgeon, or physician designated by the surgeon, under the postsurgical component of the Division of Workers' Compensation's Medical Treatment Utilization Schedule, or if your employer has authorized additional visits in writing.

What If There Is A Problem?

If you have a concern, speak up. Talk to your employer or the claims administrator handling your claim and try to solve the problem. If this doesn't work, get help by trying the following:

Contact the Division of Workers' Compensation (DWC) Information and Assistance (I&A) Unit. All 24 DWC offices throughout the state provide information and assistance on rights, benefits and obligations under California's workers' compensation laws. I&A officers help resolve disputes without formal proceedings. Their goal is to get you full and timely benefits. Their services are free.

To contact the nearest I&A Unit, go to www.dwc.ca.gov and under "Workers' Compensation programs and units", click on "Information & Assistance Unit." At this site you will find fact sheets, guides and information to help you.

Consult With An Attorney: Most attorneys offer one free consultation. If you decide to hire an attorney, his or her fees may 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. You may get a list of attorneys from your local I&A Unit or look in the yellow pages.

Warning: Your employer may not pay workers' compensation benefits if you get hurt in a voluntary off-duty recreational, social or athletic activity that is not part of your work-related duties.

Additional Rights: You may also have other rights under the Americans with Disabilities Act (ADA) or the Fair Employment and Housing Act (FEHA). For additional information, contact FEHA at (800) 884-1684 or the Equal Employment Opportunity Commission (EEOC) at (800) 669-4000.

Workers' Compensation Temporary Total Disability (TD) Benefits

FOR DATES OF INJURY ON OR AFTER:	2015	2016	2017	2018	2019	2020	2021	2022
Maximum Weekly Benefit	\$1,103.29	\$1,128.43	\$1,172.57	\$1,215.27	\$1,251.38	\$1,299.43	\$1,356.31	\$1,539.71
Minimum Weekly Benefit	\$165.49	\$169.26	\$175.88	\$182.29	\$187.71	\$194.91	\$203.44	\$230.95

Workers' Compensation Maximum Permanent Disability Benefits

Disability Rating	2013	2014 - 2022
Below 55%	\$160 - 230	\$160 - 290
55 - 69-3/4%	\$160 - 270	\$160 - 290
70 - 99%	\$160 - 290	\$160 - 290

Death Benefits*

Maximum Aggregate Death Benefit	After 1/1/2013
Single Total Dependent	\$250,000
No total dependents and one or more partial dependent	\$250,000
Two total dependents	\$290,000
Three or more total dependents	\$320,000

Burial Expenses Paid to a Maximum of \$10,000 for injuries on or after January 1, 2013.

*Benefits paid to a totally dependent minor will be continued until the age of 18 regardless of the maximum benefit.

You can hand write the information below or you can create stickers: go to www.calchamber.com/support and click on Workers' Compensation pamphlets.

Claims Administrator Pegasus Risk Management
Address PO Box 5038
City Modesto State Ca Zip 95352
Phone 209-574-2800 Policy Expiration Date _____
Non-emergency facility _____

The employer is insured for workers' compensation by
Permissibly Self- Insured
(Enter "self-insured" if appropriate)

The nearest Information and Assistance Officer is located in
Stockton WCAB Phone 1-800-736-7401
(To find a local office, refer to *Workers' Compensation Information and Assistance Offices* found at www.calchamber.com/wcform)

Current MPN's toll free number 888-312-5246
MPN website: <https://secure.simon-companies.com/PPO/>
(Enter only if employer has MPN)

You may be able to find the name of your employer's workers' compensation insurer at www.caworkcompcoverage.com.

The information contained in this pamphlet conforms to the informational requirements found in Labor Code sections 3551 and 3553 and California Code of Regulation, Title 8, sections 9880 and 9883. This document is approved by the Division of Workers' Compensation administrative director.

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