



MEMORANDUM



**DATE:** November 23, 2010

**TO:** Return to Work Coordinators

**FROM:** **Greg Beatty, Chief**  
**Benefits Division**

**SUBJECT:** Disclosures from Personnel Files to State Compensation Insurance Fund

This memo comes to you to address the need for a current letter regarding the issue of providing information to State Compensation Insurance Fund from personnel files.

When an employee files a claim for workers' compensation benefits, the agency may provide information from the employee's personnel file to State Compensation Insurance Fund to aid in processing the claim and determining eligibility for benefits. As a public employer, the agency has a duty to provide all information that may be useful in the investigation of the claim, not only to protect itself, but to protect the public interest by assuring that benefits are only provided when the employee is legally entitled to them.

Under the Information Practices Act of 1977, this is a permissible use of the information. Personal information is kept in the employee's file for the purpose of administering to their needs and the needs of the employer. When employees claim that they have been injured or made ill in the course of their employment, disclosure of all relevant information to the claims administrator or insurance investigator is compatible with this purpose.

Failure to disclose information to State Fund, could result in the improper expenditure of public funds. Conversely, it is the State's intention to promptly provide all workers' compensation benefits that are due and the information in the personnel file might support the provision of workers' compensation benefits to the employee. It is important that all information that might be relevant is promptly provided to State Fund.

If there is material of a sensitive nature in a personnel file that does not appear to be relevant to the claim, the agency may consider removing it from the file. The agency should, however, promptly release the rest of the information to State Fund so that the progress of its investigation is not interrupted, and let State Fund know that some information was withheld. If State Fund requests the information that was withheld, an internal legal opinion should be sought by the agency to determine if the material can be released to State Fund.

The adjuster or State Fund attorney assigned to the file can be consulted to determine if the information that was withheld is needed to provide a defense on the particular claim in question. The adjuster should be consulted if the topic can be discussed without revealing the sensitive information. Otherwise, the agency should speak with the State Fund attorney assigned to the file. The attorney-client privilege attaches to the communication between the agency and the State Fund attorney, providing protection from disclosure on discussions about legal strategy.

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When making determinations regarding the release of information to State Fund, please remember that a wide range of information may be relevant to a claim, and it is not always apparent what is relevant or not. If State Fund does not receive the complete information in a timely manner, its ability to properly evaluate the claim and defend the agency's interests may be compromised.

This letter reiterates the position outlined in the letters issued by Justin Keay on September 20, 1979 and Bob Painter on January 22, 2002.

If you have any questions, please contact:

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