

The Employer's Role: When your Employee is Injured on the Job

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Every State department has (at least) one Return-to-Work Coordinator (RTWC) who manages your workers' compensation program. That person is your expert. This booklet provides a summary of the State's Workers' Compensation Program and outlines your responsibilities in the event that one of your employees has an on-the-job injury or illness. It provides a generic explanation of a complex system. For specific questions, please consult with your RTWC or your department's written policies and procedures.

Workers' Compensation Definitions

Workers' Compensation

The workers' compensation system was established to provide benefits to employees who sustain a work-related injury or illness. Benefits include medical treatment, payments for lost wages, payments to compensate any permanent impairment, retraining costs, and death benefits to the employee's dependent(s). Under workers' compensation law, benefits are paid regardless of fault.

All State employees are covered by workers' compensation. The cost of this protection is completely paid by your department, the employer. Benefits are tax-free and not subject to Social Security deductions.

Work-Related Injury

"Injury" is described in Labor Code section 3208 as any injury or disease arising out of employment.

Example of an injury: A sprained back while lifting a heavy box at work.

Example of a disease: A skin rash as a result of exposure to chemicals or solvents used at the work site.

State Compensation Insurance Fund (State Fund)

State Fund administers workers compensation claims on behalf of the State of California, the employer. State Fund makes all liability determinations and ensures that your injured employee receives all benefits that they are lawfully entitled. State Fund offices are located throughout the state. For forms and more workers' compensation information, please visit their website at:

<http://www.statefundca.com/statecontracts/Index.asp>

Return-to-Work Coordinator (RTWC)

The RTWC is responsible for managing the workers' compensation cases for your department, and for assisting injured employees in returning to work as soon as medically feasible. The RTWC often relies on the employee's supervisor to provide updated medical slips and to get information on the availability of transitional light duty assignments, or permanent modified duty.

Transitional Duty Assignments

When injured employees have medical restrictions that prohibit returning to their regular work activities, the employer can temporarily modify the employee's normal job or assign the employee to another position to facilitate rapid return to work. Such temporary assignments should be encouraged and allowed without loss of pay. By minimizing the disability time in this way, the injured employee can ease back into a regular work routine. Ideally, the employee will make a full recovery and return to their normal work activities. The RTWC, the first-line supervisor, and the State Fund claims representative can collaborate to determine the feasibility of a transitional duty assignment.

Your Responsibilities

Before an Injury Occurs

Post the Notice to Employees (DWC 7), or equivalent form, in a conspicuous location. The notice should contain the name and phone number of the State Fund MPN as well as the nearest Information and Assistance Officer.

The law requires each employer to provide a safe place of employment. Each department is required to have a comprehensive Injury and Illness Prevention Program (IIPP) (Labor Code section 6401.7). The IIPP focuses on preventing the types of injuries and illnesses most common in your work environment.

All supervisors are expected to know the elements of the IIPP and to train their employees on the procedures to be followed. Contact your department's Health and Safety Officer to obtain a copy of your IIPP.

Despite efforts to prevent injuries, they still occur. Knowing what to do when an injury occurs gives your employees assurance that they will be cared for properly and guarantees that you will meet all required timeframes.

After An Injury Occurs

Per Labor Code section 5401, you must provide a Workers' Compensation Claim Form (DWC 1)& Notice of Potential Eligibility (e3301) to your employee within one working day of your knowledge of an injury.

You must also provide the Employee's Guide to the State Fund MPN by Harbor Health (e3851) when you have knowledge of a work-related injury or illness.

You may also provide the employee with the I've Just Been Injured on the Job, What Happens Now? brochure available on the CalHR website at:

<http://www.calhr.ca.gov/state-hr-professionals/Pages/workers-compensation-program.aspx>

For injuries requiring immediate emergency assistance, dial 911. If emergency treatment is not needed but it appears that medical treatment is required, arrange for treatment by your chosen medical provider. An appointment for non-emergency medical treatment must be made for the injured employee within three working days from your department's knowledge of an injury, or one working day of receipt of the completed Workers' Compensation Claim Form (DWC1/e3301).

If an employee has pre-designated a treating physician or medical group, the employee has the right to seek medical treatment with that physician. The employee must have given the department written notification of the name of the physician prior to the date of injury. It is the employer's responsibility to arrange safe transportation to this first doctor visit.

The doctor must examine the employee, submit a doctor's first report of occupational injury, and comment on your employee's ability to return to work. Your description of the employee's normal duties, or of alternate "transitional" or "light duty" work that may be available, may help the doctor make a decision. By planning ahead and having this information readily available, you may save the employee lost time from work, assist in conserving sick leave or other leave credits, and reduce your workers' compensation costs.

Reporting the Injury

There are strict timeframes for reporting occupational injuries to State Fund. The completed Claim Form (DWC1/e3301) must be submitted to State Fund within one calendar day of receipt.

The Employer's Report of Occupational Injury or Illness (e3067) must be submitted to State Fund within five calendar days of your knowledge of the injury. It is important that you contact your RTWC immediately to start this process. You may also refer to the Workers' Compensation Claims Kit for instructions on how to complete these forms.

You may access this kit online at:

<http://www.calhr.ca.gov/state-hr-professionals/Pages/workers-compensation-program.aspx>

Maintaining Contact with Your Injured Employee

Maintain contact with any employee who is injured on the job. Support during the period of disability will help the employee feel connected to the workplace and will contribute to the employee's desire to return to work as soon as it is medically feasible. Disabling injuries can cause acute family and financial problems which can interfere with the employee's recovery. Your objective should be to maintain a support network for the employee. If your employee is too ill to maintain direct contact, work with their representative to ensure that their needs are met to the best of your ability. Show that you are interested in their welfare and that you sincerely want to do what is best for the employee. Make the employee feel important and needed by keeping him or her abreast of current events in the workplace. Encourage co-workers to maintain ongoing contact with the injured worker as well.

Workers' Compensation Benefits

Treatment that is reasonably required to cure or relieve the effects of the injury is paid for by the employer. This includes medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches and apparatus, including orthotic and prosthetic devices (Labor Code section 4600).

Medical treatment will be based on the Medical Treatment Utilization Schedule (MTUS) or other scientific and evidence-based medical treatment guidelines that are nationally recognized by the medical community.

Temporary Disability Benefits

The State offers various types of temporary disability benefit programs under workers' compensation: Temporary Disability, Industrial Disability Leave, Enhanced Industrial Disability Leave, and Labor Code section 4800/4800.5 Time.

Before benefits start, most disabled employees will serve a waiting period of three calendar days. The waiting period is waived if the employee is hospitalized, if the injury was caused by a criminal act of violence, or if the employee is disabled more than 14 calendar days.

TEMPORARY DISABILITY (TD) payments start on the fourth day of medically approved absence from work due to a work-related injury. TD is based on two-thirds of the average weekly wage at the time of injury. The Legislature determines the minimum and maximum benefit rates. There is a limit of two years (104 compensable weeks) of TD paid per claim. State employees are allowed to supplement TD payments with accrued leave credits up to the amount of their full net pay.

INDUSTRIAL DISABILITY LEAVE (IDL) is a salary continuation program that is paid in lieu of TD for active members of the California Public Employees' Retirement System (CalPERS) or the California State Teachers' Retirement System (CalSTRS). IDL is available to employees for a maximum of 52 weeks or 2080 work hours (40 hours/week x 52 weeks = 2080 hours for a full-time employee), within a two-year period from the first date of disability.

The number of eligible work hours must be prorated for employees on a different time base. IDL payments are based on the employee's full net pay for the first 22 working days or maximum of 176 hours (22 days x 8 hours/day = 176 work hours for full-time employees and prorated for different time bases) of disability and after that are calculated at two-thirds of the employee's gross pay.

All excluded employees and rank-and-file employees in all Bargaining Units (except Bargaining Unit 5) can supplement IDL payments with accrued leave credits up to the amount of their full net pay.

ENHANCED INDUSTRIAL DISABILITY LEAVE (EIDL) is an augmentation to the IDL program that provides "full net pay" for an eligible employee for one to three years. Check the specific provision of the memorandum of understanding that applies to your employee to determine eligibility and the length of time the benefit may be provided.

LABOR CODE SECTION 4800/4800.5 is a special benefit available only to eligible peace officers who work for the Department of Justice, Fish and Wildlife and the California Highway Patrol. It provides up to one year of full pay for injuries incurred in the line of duty.

Permanent Disability Benefits

Permanent Disability (PD) payments are made to compensate an injured employee for their permanent impairments or limitations resulting from the injury (Labor Code section 4660.1). An injured employee can receive PD payments and return to work full duty.

For dates of injury 01/1/05 – 12/31/12, the PD payments can be reduced by 15 percent if the employer offers the injured employee regular, modified, or alternative work within 60 days of their Permanent and Stationary (P&S) date. The P&S date is clearly specified in the treating or evaluating physician's report.

The 15 percent reduction takes place from the date of the offer and affects future payments. If the employer does not offer modified or alternative work then future PD payments are increased by 15 percent after the 60 day period has expired.

The plus or minus 15 percent adjustment is eliminated for dates of injury on or after 01/01/13.

Supplemental Job Displacement Benefit (SJDB)

An injured employee who has a permanent partial disability and has not returned to work may be eligible to receive a Supplemental Job Displacement Benefit (SJDB) voucher.

For dates of injury 1/1/04 through 12/31/12, the amount of the voucher depends on the level of permanent disability and is provided at claim settlement.

It ranges from \$4,000 to \$10,000 and can be used to pay for retraining or skill enhancement at a state approved or accredited school, related educational expenses, and fees for a vocational rehabilitation counselor.

For dates of injury after 12/31/12, the amount of the voucher is set at \$6000.00 and is provided at the time the employee reaches maximum medical improvement (MMI) also known as Permanent and Stationary (PS&).

Death Benefits

Benefits may be paid to surviving dependents if a work-related injury leads to death within 240 weeks of the original day of injury or within 420 weeks from the date of injury for firefighters and peace officers (Labor Code section 5406.7). Benefits are paid in weekly installments. Additionally, the employer is responsible for providing reasonable burial expenses not to exceed \$10,000.00 (Labor Code section 4701).

State employees who are members of CalPERS are entitled to various benefits in the event of death under the Government Code and any applicable memorandum of understanding. Since benefits vary, an employee's death must be reported to CalPERS for an actual determination of what death benefits will be paid in each case.

Supervisor's Checklist

1. Know the names and phone numbers of your contacts for questions related to employee safety and workers' compensation. (Fill in the attached contact sheet.)
2. Know your department's Injury and Illness Prevention Plan (IIPP).
3. Have an emergency treatment plan to ensure that any employee who is injured or ill receives prompt and proper medical.
4. Read the Notice to Employees (DWC 7) or equivalent form and become familiar with your department's chosen medical provider. It is the employer's responsibility to authorize the first visit and either arrange transportation or accompany the injured employee to the appointment.
5. Keep your employee's job descriptions within easy reach and send it with your employees to the doctor. It is also beneficial to provide the doctor with any available "transitional" or "light duty" job descriptions as well.
6. Provide the injured employee with a *Workers' Compensation Claim Form (DWC 1)* & *Notice of Potential Eligibility* (e3301) within 24 hours of knowledge of the injury or illness.
7. Complete the *Employer Report of Occupational Injury or Illness* (e3067) immediately for submission to State Fund within five days of knowledge.
8. Maintain regular contact with your employee during their recovery period. Encourage coworkers to do the same.

Contacts

Return-to-Work Coordinator: _____

Phone: _____

Personnel Benefits Specialist: _____

Phone: _____

Health and Safety Officer: _____

Phone: _____

State Fund Representative: _____

Phone: _____

Department's Medical Provider: _____

Phone: _____