



California Workers' Compensation Institute
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VIA E-MAIL: dwcrules@dir.ca.gov

October 9, 2015

Maureen Gray, Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation, Legal Unit
Post Office Box 420603
San Francisco, CA 94142

RE: Benefit Notice Instruction Manual -- Title 8, California Code of Regulations, Sections 9810 through 9815 (Revisions effective January 1, 2016) Code of Regulations, §§9810–9815, Notice to Employees – §9881.1, Claim Form & NOPE – §10139

Dear Ms. Gray:

These written comments regarding the proposed Benefit Instruction Manual are presented on behalf of members of the California Workers' Compensation Institute (the Institute). Institute members include insurers writing 72% of California's workers' compensation premium, and self-insured employers with \$46B of annual payroll (28% of the state's total annual self-insured payroll).

Insurer members of the Institute include ACE Group, AIG, Alaska National Insurance Company, Allianz/Fireman's Fund Insurance Company, AmTrust North America, Chubb Group, CNA, CompWest Insurance Company, Crum & Forster, Employers, Everest National Insurance Company, The Hartford, ICW Group, Liberty Mutual Insurance, Pacific Compensation Insurance Company, Preferred Employers Group, Republic Indemnity Company of America, Sentry Insurance, State Compensation Insurance Fund, State Farm Insurance Companies, Travelers, XL America, Zenith Insurance Company, and Zurich North America.

Self-insured employer members include Adventist Health, California State University Risk Management Authority, Chevron Corporation, City and County of San Francisco, City of Santa Ana, City of Torrance, Contra Costa County Schools Insurance Group, Costco Wholesale, County of Alameda, County of San Bernardino Risk Management, County of Santa Clara, Dignity Health, Foster Farms, Grimmway Enterprises Inc., Kaiser Permanente, Marriott International, Inc., Pacific Gas & Electric Company, Safeway, Inc., Schools Insurance Authority, Sempra Energy, Shasta County Risk Management, Shasta-Trinity Schools Insurance Group; Southern California Edison, Special District Risk Management Authority, Sutter Health, University of California, and The Walt Disney Company.

Introduction

The Institute's members very much appreciate the extraordinary efforts made by the Division to revise the benefit notices and the Instruction Manual. The changes made by the Division were very constructive. While the manual is necessarily complicated, the instructions for use and the model forms should allow claims administrators to create system to meet their needs and keep injured workers well informed.

Certainly, the intent of the centralized electronic library is to provide injured workers with more comprehensive and up-to-date information that applies to their specific circumstances. Enhancing the information available on the DWC's website will make the notices less confusing and provide access to more extensive information for those who need it. These notices are absolutely required to keep the injured workers apprised of their rights and benefits. But we have seen in the past that flow of notices can be overwhelming for applicants. The ability to receive comprehensive information related to specific benefit notices will improve communications and keep the workers up-to-date.

Updating the Guidebook

As the Instruction Manual notes, claims administrators may use the forms as models and incorporate the information developed by the Division into their own notices. It is therefore essential that whenever DWC makes a change, claims administrators are notified and given a period to update their systems and to begin distributing the revised information. This applies to any changes to the Instruction Manual, as well.

It is not unusual for disputes to arise regarding specific information that the injured worker did or did not have at a specific point in time. If the DWC website is to become the primary informational resource, then every revised version must be archived and accessible, and the effective date for using the information must be noted to establish the information available at any given point in time for the resolution of future disputes.

While neither the model forms nor their individual instructions in the manual are regulations, they must be consistent with the regulations. Instructions for some individual forms that are to be customized by claims administrators might also need to

have modified instructions. It would be more effective and useful for model forms to have hyper-links to the corresponding instructions from the contents page and from the forms for claims administrators using the model forms.

Recommendations

Below are some minor corrections that should be considered:

3rd paragraph on page 5:

Claims administrators may continue to use forms that were used before this manual was produced as long as those forms meet the current requirements set forth in Title 8, California Code of Regulations, Section 9810(a), provided provides that where a claim is subject to an ADR program as described above, the contents of any required notice that would be inconsistent with the provisions of the ADR agreement must be modified to be consistent with the ADR agreement.

4th paragraph on page 5:

Ultimately, the The claims administrator is responsible for compliance with the regulations governing the issuance of benefit notices, regardless of whether these model notices are used, however benefit notices using the model notices devised by the Administrative Director and available on the Division's website are presumed to be adequate notice to the employee and, unless modified, shall not be subject to audit penalties.

Correct the spacing on pages 9, 12, 15 21, 25 and 28:

Chapter 5: Temporary Disability:
Chapter 5: Temporary Disability:

Correct the spacing on pages 21, 25, 29, 32 and 42:

Chapter 7: Permanent Disability:
Chapter 7: Permanent Disability:

Correct the spacing on pages 5, 17, 18, 19, 15, 58, 59, 60, 72, 73, 74, 76, 77, 79, 82, 83, 84 and 85:

Compensation's website at
http://www.dir.ca.gov/InjuredWorkerGuidebook.html or by
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Thank you for considering these recommendations and comments. Please contact me if additional clarification would be helpful.

Sincerely,

Michael McClain
General Counsel

Brenda Ramirez
Claims and Medical Director

MMc:BR/pm

cc: Christine Baker, DIR Director
Destie Overpeck, DWC Administrative Director
CWCI Claims Committee
CWCI Medical Care Committee
CWCI Legal Committee
CWCI Regular Members
CWCI Associate Members