

§ 10139. Workers' Compensation Claim Form (DWC 1) and Notice of Potential Eligibility

Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility (SEAL)

IMPORTANT: Read this notice and keep track of your claim form and all other documents in your claim.

HOW TO FILE A CLAIM FOR BENEFITS

If you have a work-related injury or illness, your employer is required by law to pay for workers' compensation benefits. Use the attached claim form to file a claim for benefits. Do this right away to avoid problems with your claim. In some cases, benefits will not start until you inform your employer about your injury by filing a claim form. Fill out and sign the "employee" portion of the claim form. Describe your injury completely. Include every part of your body affected by the injury. Give the claim form to your employer. If you mail it to your employer, use first-class mail. If you pay for a return receipt, you will be able to prove that it was delivered, and when it was received.

BENEFITS CAN INCLUDE:

- **Medical Care** – to help you recover from your injury or illness caused by work. This can include doctor visits, tests, medicines, equipment, and travel costs.
- **Temporary Disability (TD) Benefits** – if you lose wages because your treating doctor says you are unable to do your usual job for more than three days or you are hospitalized overnight, and your employer does not offer you other work that pays your usual wages while you recover.
- **Permanent Disability (PD) Benefits** – if you don't recover completely.
- **Supplemental Job Displacement Benefit (SJDB)** – to help pay for retraining or skill enhancement if you don't recover completely and your employer does not offer you work.
- **Death Benefits** – to your spouse, children, or other dependents if you die from a job injury or illness.

WHAT HAPPENS AFTER YOU FILE A CLAIM

Your employer must fill out and sign the "employer" portion and give the completed claim form to a claims administrator who handles workers' compensation claims for your employer. Your employer must give or mail you a copy of the completed claim form within one working day after you filed it. If you have lost time from work, the claims administrator should notify you within 14 days whether your claim is accepted or whether additional investigation is needed. In a complex case, that investigation could take up to 90 days. "Accepting" the claim means the claims administrator agrees your injury is covered by workers' compensation. "Denying" the claim means the claims administrator believes your injury is not covered by workers' compensation. You will be notified in writing if your claim is denied.

HOW TO GET MEDICAL CARE FOR YOUR INJURY

If it's an emergency, call 911 or go to an emergency room right away. Your employer must make sure you have access to treatment. Tell the medical staff your injury or illness is work-related. There are no out-of-pocket expenses to you for covered treatment. Healthcare providers – including doctors, clinics, therapists and pharmacies - must send their bills directly to your claims administrator for payment. If your claim has been accepted and you receive a bill, please contact the sender and ask them to bill your claims administrator. For non-emergency care, if you predesignated your personal physician or a medical group, you may see your personal physician or the medical group. (Only employees who have health coverage on the date of injury for medical conditions unrelated to work have a right to predesignate.) If you did not predesignate, you must see a physician selected by the claims administrator. The physician could be in a medical provider network (MPN) or in a health care organization (HCO).

The claims administrator must authorize treatment within one working day after you file this claim form. If the claims administrator does not authorize treatment right away, talk to your supervisor, someone else in management, or the claims administrator. Ask for treatment to be authorized now, while waiting for a decision on your claim. If the claims administrator won't authorize treatment, use your own health insurance to get medical care. Your health insurer will seek reimbursement from the claims administrator.

If you don't have health insurance, try to find a doctor, clinic, or hospital that will treat you without immediate payment. They will seek reimbursement from the claims administrator.

YOUR PRIMARY TREATING PHYSICIAN (PTP)

Your Primary Treating Physician (PTP) is the physician with the overall responsibility for treatment of your injury or illness.

SWITCHING TO A DIFFERENT DOCTOR AS YOUR PTP

- If you are being treated in a Medical Provider Network (MPN), you may switch to other doctors within the MPN after the first visit.
- If you are being treated in a Health Care Organization (HCO), you may switch at least one time to another doctor within the HCO. You may switch to a doctor outside the HCO 90 or 180 days after your injury is reported to your employer (depending on whether you are covered by employer-provided health insurance).
- If you are not being treated in an MPN or HCO and did not predesignate, you may switch to a new doctor one time during the first 30 days after your injury is reported to your employer. Contact the claims administrator to switch doctors. After 30 days, you may switch to doctor of your choice if your employer or the claims administrator has not created or selected an MPN.

DISCLOSURE OF MEDICAL RECORDS

After you file a claim, you must agree to release medical records to allow the claims administrator to investigate your injury and determine your eligibility for benefits. You may request that a workers' compensation judge order that certain medical records be kept private.

PROBLEMS WITH MEDICAL CARE AND MEDICAL REPORTS

At some point during your claim, you might disagree with your PTP about what treatment is necessary. If this happens, you can switch to other doctors as described above. If you cannot reach agreement with another doctor, the steps to take depend on whether you are receiving care in an MPN, HCO, or neither. For more information, see "LEARN MORE ABOUT WORKERS' COMPENSATION," below.

If the claims administrator denies treatment recommended by your PTP, you may request independent medical review (IMR) using the request form included with the claims administrator's written decision to deny treatment. The IMR process is similar to the group health IMR process, and takes approximately 40 (or fewer) days to arrive at a determination so that appropriate treatment can be given. Your attorney or your physician may assist you in the IMR process. IMR is not available to resolve disputes over matters other than the medical necessity of a particular treatment requested by your physician.

If you disagree with your PTP on matters other than treatment, such as the cause of your injury or how severe the injury is, you can switch to other doctors as described above. If you cannot reach agreement with another doctor, notify the claims administrator in writing as soon as possible. In some cases, you risk losing the right to challenge your PTP's opinion unless you do this promptly. If you do not have an attorney, the claims administrator must send you instructions on how to be seen by a doctor called a qualified medical evaluator

(QME) to help resolve the dispute. If you have an attorney, the claims administrator must try to reach agreement with your attorney on a doctor called an agreed medical evaluator (AME). If the claims administrator disagrees with your PTP on matters other than treatment, the claims administrator can require you to be seen by a QME or AME.

STAY AT WORK OR RETURN TO WORK

Because you are injured doesn't mean you must stop working. If you can continue working, you should. If not, it's important to go back to work with your current employer as soon as you are medically able. Studies show that the longer you are off work, the harder it is to get back to your original job and wages. While you are recovering, many people should work with you to decide how you will stay at work or return to work and what work you will do. These include your PTP, your employer (supervisors or others in management), the claims administrator, and your attorney (if you have one). It is important that everyone stay in close touch throughout the process. Actively communicate with your PTP, your employer, and the claims administrator about the work you did before you were injured, your medical condition and the kinds of work you can do now, and the kinds of work that your employer could make available to you.

PROTECTION FROM DISCRIMINATION

It is illegal for your employer to punish or fire you for having a job injury or illness, filing a claim, or testifying in another person's workers' compensation case (Labor Code 132a). If proven, you may be reinstated and reimbursed for lost wages and benefits.

IF YOU HAVE A PROBLEM WITH YOUR CLAIM

You have the right to disagree with decisions affecting your claim. If you have a problem, contact your employer or claims administrator to try to resolve the problem. If this does not work, don't delay getting help. Try the following:

- **Contact an Information & Assistance officer.** State I&A officers answer questions, help injured workers, provide forms, and help resolve problems. Some I&A officers hold workshops for injured workers. To obtain important information about the workers' compensation claims process and your rights and obligations, go to www.dwc.ca.gov or contact an I&A officer of the state Division of Workers' Compensation. You can also hear recorded information and a list of local I&A offices by calling (800) 736-7401.
- **Consult an attorney.** Most attorneys offer one free consultation. If you decide to hire an attorney, his or her fee will be taken out of some of your benefits. For names of workers' compensation attorneys, call the State Bar of California (1-415-538-2120); www.californiaspecialist.org.

If you are off work and not receiving benefits, you may be able to get State Disability Insurance (SDI) benefits. Call the state Employment Development Department (EDD) at (800) 480-3287 (English) or (800) 658-8846 (Spanish), or go to the EDD website at www.edd.ca.gov.

LEARN MORE ABOUT WORKERS' COMPENSATION

For more information about the workers' compensation claims process, go to www.dwc.ca.gov, or contact an Information & Assistance Officer. You can also hear recorded information by calling 1-800-736-7401.