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Title 8, California Code of Regulations, sections 9813.1, 10116.9, 10117, 10118, 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36, 10133.51, 10133.52, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 (Proposed Regulations, November 6, 2012)

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BENEFITS; REGULATORY AUTHORITY OF THE ADMINISTRATIVE DIRECTOR

8 CCR 9813.1 (2012)

§ 9813.1. ~~Notice of Supplemental Job Displacement Benefit~~, Notice of Offer of Modified or Alternative Work. For Injuries Occurring on or After between January 1, 2004 and December 31, 2012

~~(a) Notice of Potential Right to Supplemental Job Displacement Benefit (SJDB). Within 10 days of the last payment of temporary disability indemnity, if such notice has not previously been provided, the claims administrator shall advise the employee of his or her potential right to the supplemental job displacement benefit. The claims administrator shall use the mandatory form "Notice of Potential Right to Supplemental Job Displacement Benefit" that is set forth in section 10133.52 of these regulations. The notice shall be sent to the employee by certified mail.~~

~~(b)~~ Notice of Offer of Modified or Alternative Work. Within 30 days of the termination of temporary disability indemnity payments, the employer may offer, in the form and manner prescribed by section 10133.53 of these regulations, modified or alternative work accommodating the employee's work restrictions, lasting at least 12 months.

Authority: Sections 59, 133, 138.3, 138.4, 4658.5 and 5307.3, Labor Code.

Reference: Sections 124, 4658.1, 4658.5 and 4658.6, Labor Code.

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ARTICLE 6. RETRAINING AND RETURN TO WORK--DEFINITIONS AND GENERAL
PROVISIONS

8 CCR 10116.9 (2012)

§ 10116.9. Definitions for Article 6.5 and 7.5

The following definitions apply to the provisions of Article 6.5 and 7.5 governing injuries occurring on or after January 1, 2004:

(a) "Alternative work" means work (1) offered either by the employer who employed the injured worker at the time of injury, or by another employer where the previous employment was seasonal work, (2) that the employee has the ability to perform, (3) that offers wages and compensation that are at least 85 percent of those paid to the employee at the time of injury, and (4) that is located within a reasonable commuting distance of the employee's residence at the time of injury.

(b) "Approved training facility" means a training or skills enhancement facility or institution that meets the requirements of section 10133.58.

(c) "Claims administrator" means a self-administered insurer providing security for the payment of compensation required by Divisions 4 and 4.5 of the Labor Code, a self-administered self-insured employer, a self-administered joint powers authority, a self-administered legally uninsured, or a third-party claims administrator for a self-insured employer, insurer, legally uninsured employer, or joint powers authority.

(d) "Employer" means the person or entity that employed the injured employee at the time of injury.

(e) "Essential functions" means job duties considered crucial to the employment position held or desired by the employee. Functions may be considered essential because the position exists to perform the function, the function requires specialized expertise, serious results may occur if the function is not performed, other employees are not available to perform the function or the function occurs at peak periods and the employer cannot reorganize the work flow.

Title 8, California Code of Regulations, sections 9813.1, 10116.9, 10117, 10118, 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36, 10133.51, 10133.52, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 (Proposed Regulations, November 6, 2012)

(f) "Furnished" means five days after the date of deposit in the United States mail or the date of personal service.

(~~g~~) "Insurer" has the same meaning as in Labor Code section 3211.

(~~g~~h) "Modified work" means regular work modified so that the employee has the ability to perform all the functions of the job and that offers wages and compensation that are at least 85 percent of those paid to the employee at the time of injury, and located within a reasonable commuting distance of the employee's residence at the time of injury.

(~~h~~i) "Nontransferable ~~training~~ voucher" means a document provided to an employee that allows the employee to enroll in education-related training or skills enhancement. The document shall include identifying information for the employee and claims administrator.

(~~i~~j) "Notice" means a required letter or form generated by the claims administrator and directed to the injured employee ~~and specific information regarding the value of the voucher pursuant to Labor Code section 4658.5.~~

(~~i~~k) "Offer of modified or alternative work" means an offer to the injured employee of medically appropriate employment with the date-of-injury employer through the use of Form DWC-AD 10133.53 Notice of Offer of Modified or Alternative Work or Form 10133.34 Offer of Work for Injuries occurring on or after January 1, 2013.

(~~k~~l) "Parties" means the employee, the claims administrator and their designated representatives, if any.

(~~l~~m) "Permanent and stationary" means the point in time when the employee has reached maximal medical improvement, meaning his or her condition is well stabilized, and unlikely to change substantially in the next year with or without medical treatment, based on (1) an opinion from a treating physician, AME, or QME; (2) a judicial finding by a Workers' Compensation Administrative Law Judge, the Workers' Compensation Appeals Board, or a court; or (3) a stipulation that is approved by a Workers' Compensation Administrative Law Judge or the Workers' Compensation Appeals Board.

(~~m~~n) "Permanent partial disability award" means a final award of permanent partial disability determined by a workers' compensation administrative law judge or the appeals board.

(~~n~~o) "Regular work" means the employee's usual occupation or the position in which the employee was engaged at the time of injury and that offers wages and compensation equivalent to those paid to the employee at the time of injury, and located within a reasonable commuting distance of the employee's residence at the time of injury.

(~~op~~) "Seasonal work" means employment as a daily hire, a project hire, or an annual season hire.

(~~pq~~) "Supplemental job displacement benefit" means an educational retraining or skills enhancement allowance for injured employees whose employers are unable to provide work consistent with the requirements of Labor Code section 4658.5, 4658.6 and 4658.7.

(~~pr~~) "Vocational & return to work counselor (VRTWC)" means a person or entity capable of assisting a person with a disability with development of a return to work strategy and whose regular duties involve the evaluation, counseling and placement of disabled persons. A VRTWC must have at least an undergraduate degree in any field and three or more years full time experience in conducting vocational evaluations, counseling and placement of disabled adults.

(~~rs~~) "Work restrictions" means permanent medical limitations on employment activity established by the treating physician, qualified medical examiner or agreed medical examiner.

Authority: Sections 133, ~~139.49~~, 4658.5, 4658.7 and 5307.3, Labor Code.

Reference: Sections 124, ~~139.48~~, 4658.1, 4658.5 and ~~4658.6~~ and 4658.7, Labor Code; and Henry v. WCAB (1998) 68 Cal.App.4th 981.

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ARTICLE 6.5. RETURN TO WORK

8 CCR 10117 (2012)

§ 10117. Offer of Work; Adjustment of Permanent Disability Payments

(a) This section shall apply to all injuries occurring ~~on or after~~ between January 1, 2005 and December 31, 2012 and to the following employers:

(1) Insured employers who employed 50 or more employees at the time of the most recent policy inception or renewal date for the insurance policy that was in effect at the time of the employee's injury;

(2) Self-insured employers who employed 50 or more employees at the time of the most recent filing by the employer of the Self-Insurer's Annual Report that was in effect at the time of the employee's injury; and

(3) Legally uninsured employers who employed 50 or more employees at the time of injury.

(b) Within 60 calendar days from the date that the condition of an injured employee with permanent partial disability becomes permanent and stationary:

(1) If an employer does not serve the employee with a notice of offer of regular work, modified work or alternative work for a period of at least 12 months, each payment of permanent partial disability remaining to be paid to the employee from the date of the end of the 60 day period shall be paid in accordance with Labor Code section 4658(d)(1) and increased by 15 percent.

(2) If an employer serves the employee with a notice of offer of regular work, modified work or alternative work for a period of at least 12 months, and in accordance with the requirements set forth in paragraphs (3) and (4), each payment of permanent partial disability remaining to be paid from the date the offer was served on the employee shall be paid in accordance with Labor Code section 4658(d)(1) and decreased by 15 percent, regardless of whether the employee accepts or rejects the offer.

(3) The employer shall use form DWC-AD 10133.53 (Section 10133.53) to offer modified or alternative work, or form DWC-AD 10118 (Section 10118) to offer regular work. The claims administrator may serve the offer of work on behalf of the employer.

(4) The regular, alternative, or modified work that is offered by the employer pursuant to

Title 8, California Code of Regulations, sections 9813.1, 10116.9, 10117, 10118, 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36, 10133.51, 10133.52, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 (Proposed Regulations, November 6, 2012)

paragraph (2) shall be located within a reasonable commuting distance of the employee's residence at the time of the injury, unless the employee waives this condition. This condition shall be deemed to be waived if the employee accepts the regular, modified, or alternative work, and does not object to the location within 20 calendar days of being informed of the right to object. The condition shall be conclusively deemed to be satisfied if the offered work is at the same location and the same shift as the employment at the time of injury.

(c) If the claims administrator relies upon a permanent and stationary date contained in a medical report prepared by the employee's treating physician, QME, or AME, but there is subsequently a dispute as to an employee's permanent and stationary status, and there has been a notice of offer of work served on the employee in accordance with subdivision (b), the claims administrator may withhold 15% from each payment of permanent partial disability remaining to be paid from the date the notice of offer was served on the employee until there has been a final judicial determination of the date that the employee is permanent and stationary pursuant to Labor Code section 4062.

(1) Where there is a final judicial determination that the employee is permanent and stationary on a date later than the date relied on by the employer in making its offer of work, the employee shall be reimbursed any amount withheld up to the date a new notice of offer of work is served on the employee pursuant to subdivision (b).

(2) Where there is a final judicial determination that the employee is not permanent and stationary, the employee shall be reimbursed any amount withheld up to the date of the determination.

(3) The claims administrator is not required to reimburse permanent partial disability benefit payments that have been withheld pursuant to this subdivision during any period for which the employee is entitled to temporary disability benefit payments.

(d) If the employee's regular work, modified work, or alternative work that has been offered by the employer pursuant to paragraph (1) of subdivision (b) and has been accepted by the employee, is terminated prior to the end of the period for which permanent partial disability benefits are due, the amount of each remaining permanent partial disability payment from the date of the termination shall be paid in accordance with Labor Code section 4658 (d) (1), as though no decrease in payments had been imposed, and increased by 15 percent. An employee who voluntarily terminates his or her regular work, modified work, or alternative work shall not be eligible for the 15 percent increase in permanent partial disability payments pursuant to this subdivision.

(e) Nothing in this section shall prevent the parties from settling or agreeing to commute the permanent disability benefits to which an employee may be entitled. However, if the permanent disability benefits are commuted by a workers' compensation administrative law judge or the appeals board pursuant to Labor Code section 5100, the commuted sum shall account for any adjustment that would have been required by this section if payment had been made pursuant to Labor Code section 4658.

Title 8, California Code of Regulations, sections 9813.1, 10116.9, 10117, 10118, 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36, 10133.51, 10133.52, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 (Proposed Regulations, November 6, 2012)

(f) When the employer offers regular, modified or alternative work to the employee that meets the conditions of this section and subsequently learns that the employee cannot lawfully perform regular, modified or alternative work, the employer is not required to provide the regular, modified or alternative work.

(g) If the employer offers regular, modified, or alternative seasonal work to the employee, the offer shall meet the following requirements:

- (1) the employee was hired for seasonal work prior to injury;
- (2) the offer of regular, modified or alternative seasonal work is of reasonably similar hours and working conditions to the employee's previous employment, and the one year requirement may be satisfied by cumulative periods of seasonal work;
- (3) the work must commence within 12 months of the date of the offer; and
- (4) The offer meets the conditions set forth in this section.

Authority: Sections 133, ~~139.49~~ and 5307.3, Labor Code.

Reference: Sections ~~139.49~~ and 4658, Labor Code; Del Taco v. WCAB (2000) 79 Cal.App.4th 1437; Anzelde v. WCAB (1996) 61 Cal. Comp. Cases 1458 (writ denied); and Henry v. WCAB (1998) 68 Cal.App.4th 981.

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ARTICLE 6.5. RETURN TO WORK

8 CCR 10118 (2012)

§ 10118. Form [DWC-AD 10118 “Notice of Offer of Work”]

[See attached]

Authority: Sections 133, ~~139.48~~ and 5307.3, Labor Code.

Reference: Sections ~~139.48~~ and 4658, Labor Code.

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ARTICLE 7.5. SUPPLEMENTAL JOB DISPLACEMENT BENEFIT

8 CCR 10133.31 (2013)

§ 10133.31. Requirement to Issue Supplemental Job Displacement Nontransferable Voucher for Injuries Occurring on or after January 1, 2013.

(a) This section and sections 10133.32 (Supplemental Job Displacement Nontransferable Voucher), 10133.33 (Description of Employee's Job Duties), 10133.34 (Offer of Work for Injuries after 1/1/13), 10133.35 (Form [DWC-AD 10133.35 "Notice of Offer of Work for Injuries Occurring on or after 1/1/13"]), and 10133.36 (Form [DWC-AD "Physician's Report of Permanent and Stationary Status and Work Capacity Evaluation"]) shall only apply to injuries occurring on or after January 1, 2013.

(b) If the injury causes partial permanent disability, the employee shall be eligible for a Supplemental Job Displacement Benefit unless the employer makes an offer of regular, modified, or alternative work that meets both the following criteria:

(1) The offer is made within 60 days after receipt by the claims administrator of the Physician's Report of Permanent and Stationary Status and Work Capacity (Form DWC-AD 10133.36).

(A) Upon receipt of the Physician's Report of Permanent and Stationary Status and Work Capacity (Form DWC-AD 10133.36), the claims administrator shall forward the form to the employer.

(B) If the claims administrator provides the physician with a job description of the employee's regular work, proposed modified work, or proposed alternative work, the physician shall complete the bottom portion of the Physician's Report of Permanent and Stationary Status and Work Capacity (Form DWC-AD 10133.36.)

(2) The offer is for regular work, modified work, or alternative work lasting at least 12 months.

(c) The claims administrator shall issue a "Supplemental Job Displacement Nontransferable Voucher" (Form DWC-AD 10133.32) within 20 calendar days from expiration of time for

making an offer of regular, modified, or alternative work pursuant to paragraph (1) of subdivision (b).

(d) The voucher shall be redeemable up to an aggregate of six thousand dollars (\$6,000)

(e) The voucher may be applied to any of the following expenses at the choice of the injured worker:

(1) Payment for education-related training or skill enhancement, or both, at a California public school or with a provider that is certified on the state's Eligible Training Provider List (EPTL) at <http://etpl.edd.ca.gov>, including payment of tuition, fees, books, and other expenses required by the school for retraining and skill enhancement.

(2) Payment for occupational licensing or professional certification fees, related examination fees, and examination preparation course fees.

(3) Payment for services of licensed placement agencies, vocational or return-to-work counseling, and resume preparation, all up to a combined limit of six hundred dollars (\$600).

(4) Purchase of tools required by a training or educational program in which the employee is enrolled.

(5) Purchase of computer equipment including, but not limited to monitors, software, networking devices, input devices (such as keyboard and mouse), peripherals (such as printers), and tablet computers of up to one thousand dollars (\$1,000) reimbursable after cost is incurred and submitted with appropriate documentation. The employee shall not be entitled to reimbursement for purchase of games or any entertainment media.

(6) Up to five hundred dollars (\$500) as a miscellaneous expense reimbursement or advance, payable upon request and without need for itemized documentation or accounting. The employee shall not be entitled to any other voucher payment for transportation, travel expenses, telephone or internet access, clothing or uniforms or incidental expenses.

(f) The voucher will expire two years after the date it is issued to the employee, or five years after the date of injury, whichever is later. The employee shall not be entitled to payment or reimbursement of any expenses that have not been incurred and submitted with appropriate documentation to the claims administrator prior to the expiration date.

(g) Settlement or commutation of a claim for the supplemental job displacement voucher is not permitted.

(h) An employer shall not be liable for compensation for injuries incurred by the employee while utilizing the voucher

Title 8, California Code of Regulations, sections 9813.1, 10116.9, 10117, 10118, 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36, 10133.51, 10133.52, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 (Proposed Regulations, November 6, 2012)

(i) The claims administrator shall issue the reimbursement payments to the employee or direct payments to the VRTWC and the training providers within 45 calendar days from receipt of the completed voucher, receipts, and documentation.

Authority: Sections 133, 4658.1, 4658.7 and 5307.3, Labor Code.

Reference: Sections 4658.6 and 4658.7, Labor Code.

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ARTICLE 6.5. RETURN TO WORK

8 CCR 10133.32 (2013)

§ 10133.32. Form [DWC-AD 10133.32 “Supplemental Job Displacement Nontransferable Voucher for Injuries Occurring on or after January 1, 2013”]

[See attached]

Authority: Sections 133, 4658.1, 4658.7 and 5307.3, Labor Code.

Reference: Sections 4658.6 and 4658.7, Labor Code.

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8 CCR 10133.33 (2013)

§ 10133.33. Form [DWC-AD 10133.33 “Description of Employee’s Job Duties Form”]

Prior to any medical evaluation declaring the employee permanent and stationary, the physician may be sent Form DWC- AD 10133.33, “Description of Employee’s Job Duties.”

Form [DWC-AD 10133.33 “Description of Employee’s Job Duties”]

[See attached]

Authority cited: Sections 133 and 4658.7, Labor Code.

Reference: Sections 4658.6 and 4658.7, Labor Code.

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ARTICLE 7.5. SUPPLEMENTAL JOB DISPLACEMENT BENEFIT

8 CCR 10133.34 (2013)

§ 10133.34. Offer of Work for Injuries Occurring on or After January 1, 2013

(a) This section shall apply to all injuries occurring on or after January 1, 2013.

(b) The injured employee shall be entitled to a supplemental job displacement benefit unless the employer makes an offer of regular, modified, or alternative work on the form “Notice of Offer of Regular, Modified, or Alternative Work” (Form DWC-AD 10133.35) no later than 60 days after receipt of the “Physician’s Report of Permanent and Stationary Status and Work Capacity” (Form DWC-AD 10133.36).

(1) The claims administrator may serve the offer of work on behalf of the employer.

(2) The regular, alternative, or modified work that is offered by the employer pursuant to paragraph (1) shall be located within a reasonable commuting distance of the employee's residence at the time of the injury, unless the employee waives this condition. This condition shall be deemed to be waived if the employee accepts the regular, modified, or alternative work, and does not object to the location within 20 calendar days of being informed of the right to object. The condition shall be conclusively deemed to be satisfied if the offered work is at the same location and the same shift as the employment at the time of injury.

(3) The offer of regular, modified, or alternative work must be for work lasting at least 12 months.

(4) When the employer offers regular, modified or alternative work to the employee that meets the conditions of this section and subsequently learns that the employee cannot lawfully perform regular, modified or alternative work, the employer is not required to provide the regular, modified or alternative work.

(5) If the employer offers regular, modified, or alternative seasonal work to the employee, the offer shall meet the following requirements:

Title 8, California Code of Regulations, sections 9813.1, 10116.9, 10117, 10118, 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36, 10133.51, 10133.52, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 (Proposed Regulations, November 6, 2012)

(A) the employee was hired for seasonal work prior to injury;

(B) the offer of regular, modified or alternative seasonal work is of reasonably similar hours and working conditions to the employee's previous employment, and the one year requirement may be satisfied by cumulative periods of seasonal work;

(C) the work must commence within 12 months of the date of the offer; and

(D) The offer meets the conditions set forth in this section.

Authority: Sections 133, 4658.7 and 5307.3, Labor Code.

Reference: Sections 4658 and 4658.7, Labor Code.

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8 CCR 10133.35 (2013)

§ 10133.35. Form [DWC-AD 10133.35 “Notice of Offer of Regular, Modified, or Alternative Work”]

[See attached]

Authority: Sections 133, 4658.7 and 5307.3, Labor Code.
Reference: Sections 4658 and 4658.7, Labor Code.

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8 CCR 10133.36 (2013)

§ 10133.36. Form [DWC-AD 10133.36 “Physician’s Report of Permanent and Stationary Status and Work Capacity”]

[See attached]

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8 CCR 10133.51 (2012)

~~§ 10133.51. Notice of Potential Right to Supplemental Job Displacement Benefit~~

~~(a) This section and section 10133.52 shall only apply to injuries occurring on or after January 1, 2004.~~

~~(b) Within 10 days of the last payment of temporary disability, if not previously provided, the claims administrator shall send the employee, by certified mail, the mandatory form "Notice of Potential Right to Supplemental Job Displacement Benefit Form" that is set forth in Section 10133.52.~~

AUTHORITY:

~~Note: Authority cited: Sections 133, 4658.5 and 5307.3, Labor Code. Reference: Section 4658.5, Labor Code.~~

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8 CCR 10133.52 (2012)

~~§ 10133.52. "Notice of Potential Right to Supplemental Job Displacement Benefit Form."~~

~~Notice of Potential Right to Supplemental Job
Displacement Benefit Form
(Mandatory Form)~~

~~If your injury causes permanent partial disability, which prevented you from returning to work within 60 days of the last payment of temporary disability, and the claims administrator has not provided you with a Form DWC-AD 10133.53 "Notice of Offer of Modified or Alternative Work," you may be eligible for a supplemental job displacement benefit in the form of a nontransferable voucher for education-related retraining or skill enhancement, or both, at state approved or accredited schools.~~

~~The amount of the voucher for the supplemental job displacement benefit will be as follows:~~

~~Up to four thousand dollars (\$ 4,000) for a permanent partial disability award of less than 15%.~~

~~Up to six thousand dollars (\$ 6,000) for a permanent partial disability award between 15 and 25%.~~

~~Up to eight thousand dollars (\$ 8,000) for a permanent partial disability award between 26 and 49%.~~

~~Up to ten thousand dollars (\$ 10,000) for a permanent partial disability award between 50 and 99%.~~

~~A permanent partial disability award is issued by a Workers' Compensation Administrative Law Judge or the Workers' Compensation Appeals Board. You may also settle your potential eligibility for a voucher as part of a compromise and release settlement for a lump sum payment. Any settlement must be reviewed and approved by a Workers' Compensation Administrative Law Judge.~~

Title 8, California Code of Regulations, sections 9813.1, 10116.9, 10117, 10118, 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36, 10133.51, 10133.52, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 (Proposed Regulations, November 6, 2012)

~~The voucher may be used for payment of tuition, fees, books, and other expenses required by the school for retraining or skill enhancement. Not more than 10 percent of the voucher moneys may be used for vocational or return to work counseling. A list of vocational return to work counselors is available on the Division of Workers' Compensation's website www.dir.ca.gov or upon request.~~

~~If you are eligible, and you have not already settled the benefit, you will receive the voucher from the claims administrator within 25 calendar days from the date the permanent partial disability award is issued by the Workers' Compensation Administrative Law Judge or the Workers' Compensation Appeals Board.~~

~~If modified or alternative work is available, you will receive a Form DWC AD 10133.53 "Notice of Offer of Modified or Alternative Work" from the claims administrator within 30 days of the termination of temporary disability indemnity payments. The claims administrator will not be required to pay for supplemental job displacement benefits if the offer for modified or alternative work meets the following conditions:~~

- ~~(1) You have the ability to perform the essential functions of the job provided;~~
- ~~(2) the job provided is in a regular position lasting at least 12 months;~~
- ~~(3) the job provided offers wages and compensation that are at least 85 percent of those paid to you at the time of the injury; and~~
- ~~(4) the job is located within reasonable commuting distance of your residence at the time of injury.~~

~~If there is a dispute regarding the Supplemental Job Displacement Benefit, the employee or claims administrator may file Form DWC AD 10133.55 "Request for Dispute Resolution before the Administrative Director."~~

~~If you have a question or need more information, you can contact your employer or the claims administrator listed below. You can also contact a State Division of Workers' Compensation Information and Assistance Officer.~~

~~Date: ...~~

~~Name of Claims Administrator:Phone No.: ...~~

~~Address of Claims Administrator:~~

Title 8, California Code of Regulations, sections 9813.1, 10116.9, 10117, 10118, 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36, 10133.51, 10133.52, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 (Proposed Regulations, November 6, 2012)

Email (optional):

AUTHORITY:

~~Note: Authority cited: Sections 133, 4658.5 and 5307.3, Labor Code. Reference: Section 4658.5, Labor Code.~~

Title 8, California Code of Regulations, sections 9813.1, 10116.9, 10117, 10118, 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36, 10133.51, 10133.52, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 (Proposed Regulations, November 6, 2012)

TITLE 8. INDUSTRIAL RELATIONS

DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
CHAPTER 4.5. DIVISION OF WORKERS' COMPENSATION
SUBCHAPTER 1.5. INJURIES ON OR AFTER JANUARY 1, 1990
ARTICLE 7.5. SUPPLEMENTAL JOB DISPLACEMENT BENEFIT

8 CCR 10133.53 (2012)

§ 10133.53. Form [DWC-AD 10133.53 "Notice of Offer of Modified or Alternative Work."]

[See attached]

Authority: Sections 133, 4658, and 5307.3, Labor Code.

Reference: Sections 4658, 4658.1, 4658.5, and 4658.6, Labor Code.

TITLE 8. INDUSTRIAL RELATIONS

DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
CHAPTER 4.5. DIVISION OF WORKERS' COMPENSATION
SUBCHAPTER 1.5. INJURIES ON OR AFTER JANUARY 1, 1990
ARTICLE 7.5. SUPPLEMENTAL JOB DISPLACEMENT BENEFIT

8 CCR 10133.55 (2012)

§ 10133.55. Form [DWC-AD 10133.55 "Request for Dispute Resolution Before the Administrative Director"]

[See attached form]

Authority: Sections 133, 4658.5 and 5307.3, Labor Code.

Reference: Sections 4658.5 Labor Code.

TITLE 8. INDUSTRIAL RELATIONS

DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
CHAPTER 4.5. DIVISION OF WORKERS' COMPENSATION
SUBCHAPTER 1.5. INJURIES ON OR AFTER JANUARY 1, 1990
ARTICLE 7.5. SUPPLEMENTAL JOB DISPLACEMENT BENEFIT

8 CCR 10133.57 (2012)

§ 10133.57. Form [DWC-AD 10133.57 "Supplemental Job Displacement Nontransferable Training Voucher Form for Injuries Between 1/1/04 and 12/31/12"]

[See attached form]

Authority: Sections 133, 4658.5 and 5307.3, Labor Code.
Reference: Sections 4658.5 Labor Code.

TITLE 8. INDUSTRIAL RELATIONS

DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS CHAPTER 4.5. DIVISION OF WORKERS' COMPENSATION SUBCHAPTER 1.5. INJURIES ON OR AFTER JANUARY 1, 1990 ARTICLE 7.5. SUPPLEMENTAL JOB DISPLACEMENT BENEFIT

8 CCR 10133.58 (2012)

§ 10133.58. State Approved or Accredited Schools

(a) This section shall only apply to injuries occurring on or after January 1, 2004.

(b) For injuries between January 1, 2004 and December 31, 2012, Private providers of education-related retraining or skill enhancement selected to provide training as part of a supplemental job displacement benefit shall be:

(1) approved by the Bureau for Private Postsecondary and Vocational Education (www.bppve.ca.gov), or a California state agency that has an agreement with the Bureau for the regulation and oversight of non-degree-granting private postsecondary institutions;

(42) accredited by one of the Regional Associations of Schools and Colleges authorized by the United States Department of Education; or

(23) has approval from a California State agency that has an agreement with the United States Department of Education or Regional Associations of School and Colleges for the regulation and oversight of non-degree granting private post secondary providers; or

(34) certified by the Federal Aviation Administration.

(c) For injuries after January 1, 2013, private providers of education-related retraining or skill enhancement selected to provide training as part of a supplement job displacement benefit shall be certified and on the state's Eligible Training Provider List (EPTL) at <http://etpl.edd.ca.gov/wiaetplind.htm>.

Authority: Sections 133, 4658.5, and 5307.3, Labor Code.

Reference: Section 4658.5, and 4658.7 Labor Code.

Title 8, California Code of Regulations, sections 9813.1, 10116.9, 10117, 10118, 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36, 10133.51, 10133.52, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 (Proposed Regulations, November 6, 2012)

DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
CHAPTER 4.5. DIVISION OF WORKERS' COMPENSATION
SUBCHAPTER 1.5. INJURIES ON OR AFTER JANUARY 1, 1990
ARTICLE 7.5. SUPPLEMENTAL JOB DISPLACEMENT BENEFIT

8 CCR 10133.60 (2012)

§ 10133.60. Termination of Claims Administrator's Liability for the Supplemental Job Displacement Benefit

(a) For injuries occurring on or after January 1, 2004, the claims administrator's liability to provide a supplemental job displacement voucher shall end if either (a)(1) or (a)(2) occur:

(1) the claims administrator offers modified or alternative work to the employee, meeting the requirements of this subsection ~~Labor Code §4658.6, on DWC AD Form 10133.53 "Notice of Offer of Modified or Alternative Work".~~

(A) If the claims administrator offers modified or alternative work to the employee for 12 months of seasonal work, the offer shall meet the following requirements:

1. the employee was hired on a seasonal basis prior to injury; and
2. the offer of modified or alternative work is on a similar seasonal basis to the employee's previous employment;

(2) the maximum funds of the voucher have been exhausted. Vouchers issued on or after January 1, 2013, shall expire two years after the date the voucher is furnished to the employee or five years after the date of injury, whichever is later.

Authority: Sections 133, 4658.7 and 5307.3, Labor Code.

Reference: Sections 4658.1, 4658.5, 4658.6, 4658.7 and 5410, Labor Code; and Henry v. WCAB (1998) 68 Cal.App.4th 981.