

A Guide to Workers' Compensation for California Clinicians Serving Farmworkers

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I. INTRODUCTION

This guide is designed to provide California health professionals serving farmworkers with an introduction to the workers' compensation law in that state. Using a question and answer format, it: 1) offers a brief description of the workers' compensation system; 2) explains the key roles that the clinician can play in these cases; 3) provides a timeline of critical deadlines; and, 4) includes copies of important forms.

II. BACKGROUND AND OVERVIEW OF WORKERS' COMPENSATION

What is workers' compensation?

Workers' compensation is a system of employer-provided insurance that offers benefits to employees who suffer a job-related injury or illness. These benefits:

- Cover needed care and rehabilitation services, including medical treatment, surgery, physical therapy, hospitalization, laboratory tests, and medications;
- Provide partial payment of wages for the time period when temporarily-disabled employees cannot work;
- Pay workers who suffer a permanent disability; and,
- Cover burial costs and provide monetary support for surviving dependent family members (when the work-related injury or illness is fatal).

Why should clinicians learn about workers' compensation?

It's worth taking the time to become familiar with California's workers' compensation law for several reasons. First, farmworkers need these benefits. Without them, many farmworkers with a job-related injury or illness would forego needed treatment or their families would go into debt in order to secure it for them. Farmworker families would also be destitute while the injured worker was out of work. Second, taking on workers' compensation cases can provide an additional income stream for a health center.

Are migrant and seasonal farmworkers covered by workers' compensation?

Under California law, agricultural workers are entitled to workers' compensation insurance coverage. The name of the employer's insurer or claims administrator must also be posted at the worksite, along with information about procedures for accessing benefits. Not all farm labor contractors or other employers purchase the required insurance. In such circumstances, qualified injured workers can seek benefits from the Uninsured Employers Trust Fund.

Are undocumented farmworkers covered by workers' compensation?

Undocumented farmworkers in California are entitled to workers' compensation benefits when they are injured at work or contract an occupational illness.

What must an injured worker prove in order to secure workers' compensation benefits?

Typically, employees must show that they:

- suffered a work-related injury or an occupational illness;
- notified the employer of the ailment within 30 days of its occurrence or of learning of it;
- are an employee of the entity identified as the employer;
- have followed all the health care providers' instructions, including when to return to work and any work restrictions; and,
- the degree of remaining permanent disability, if any, after reaching a permanent and stationary level.

What is the degree of proof required?

The worker must prove all elements of the claim by a preponderance of the evidence. "Preponderance of the evidence" means the evidence that, when weighed against that opposed to it, has more convincing force and the greater probability of truth. When weighing the evidence, the test is not the relative number of witnesses, but the relative convincing force of the evidence.² To prevail, 51% of the convincing force of the evidence must favor the worker. The 51% standard, however, requires far less certainty than a clinician would normally require in making a diagnosis (i.e., 80%-90% certainty).

III. THE ROLE OF THE HEALTH CARE PROVIDER

Which health care providers can bill workers' compensation carriers for treating patients pursuing workers' compensation claims?

A health care provider generally must belong to an employer's Medical Provider Network to receive referrals to provide services to employees with workers' compensation claims. In limited circumstances, employees could designate their personal physician to treat them under workers' compensation, if: (i) they designate the provider prior to the occurrence of the injury or illness; and (ii) the employer provides non-occupational group health coverage in a health care service plan, a group health plan or a group health insurance policy.³ In addition, when the employer is uninsured or refuses to authorize initial treatment, the worker can choose any health care provider, who can bill the employer for the reasonable cost of care (with limited exceptions such as self-procured spinal surgery).⁴

What initial steps should a health care provider take when handling a patient seeking workers' compensation?

During the first visit, the health care professional should provide all necessary treatment. A health professional who believes that the patient is suffering from a work-related ailment should

also complete a Physician's First Report Form within five (5) days and send it to the patient's employer and to the employer's insurer or claims administrator. In response, the provider will be notified as to whether the employer, insurer or claims administrator has authorized initial treatment.

How quickly will employers or their insurance carriers authorize initial medical treatment?

Within one working day after the injured worker submits a claim form (DWC 1) to the employer, the employer, the insurer or the claims administrator is required to authorize medical treatment costing up to \$10,000, until the claim is approved or denied.⁵

What other responsibilities do health professionals have when treating patients with workers' compensation claims?

Health care providers should take a thorough patient history that includes occupational and environmental exposures, and secure all appropriate tests to determine the nature, cause and extent of the injury or illness. With the approval of the insurance carrier or claims administrator, all necessary treatment should be provided. When needed, appropriate referrals should be made for specialized care. To facilitate approval of the claim and the treatment plan, the health professional will need to submit a detailed report(s) to the employer, insurer and/or claims administrator, documenting: (i) the nature and full extent of the illness or injury; (ii) its causal connection to work activity; (iii) the treatment provided and the patient's compliance with it; (iv) when the patient can return to work; and, (v) what work modifications, if any, are needed to enable the patient to resume previous employment.

Why is it important to consult the patient in formulating a treatment plan?

Health providers should fully discuss treatment options with patients to ensure that the patient is in agreement with the treatment option selected and able to comply with the provider's instructions (for example, does the patient have access to transportation for follow-up appointments?). These considerations are important because a patient's failure to comply with a clinician's instructions could result in the termination of workers' compensation benefits. On the other hand, a dissatisfied patient has a right to secure a second opinion from other health providers in the employer's Medical Provider Network.

How can a health professional assist a worker in proving that the injury or illness is related to work activity?

While clinicians do not usually concern themselves with the cause of an ailment, in the workers' compensation context, showing a work-related cause is a critical element of the claim. In a report submitted to the employer and insurer or claims administrator, the health professional should state facts, inferences and conclusions that support the worker's contention that the ailment is due to work activity. It is helpful to obtain from the worker information concerning:

- tasks performed on the job, including amount of weight lifted or carried;

- the work environment such as equipment used and chemical exposures experienced; as well as,
- how the injury or illness occurred or developed.

The patient's statements should be incorporated into the clinician's report. For example, when treating an injured patient, the health professional should ask:

- Did the incident occurred on the employer's premises?
- Did it occur during working hours?
- What work related activity were you engaged in at the time of the incident?
- Had you ever experienced this type of injury before? If so, how did it occur?

When treating a patient with an occupational illness, questions could include:

- Were you exposed to pesticides or other chemicals (by touching treated plants or through direct spray or drift) on the day you became ill?
- How soon after the exposure did your symptoms begin?
- Did any other workers in your area experience similar symptoms that day?
- Have you ever experienced symptoms like this before? If so, under what circumstances?

When treating workers with ailments that develop over time, such as back injury questions could include:

- How do you perform your job?
- How heavy are the bags of produce you lift?
- How many bags do you lift in an hour?
- How far do you have to carry bags of produce before emptying them in a bin?
- Do you have to reach over your head?
- How many times per hour do you repeat key tasks (e.g., carrying and emptying bags of produce)?

Can an illness or injury be covered by workers' compensation when work activity is not the sole cause of the condition?

When a combination of factors caused the illness or injury, workers' compensation will cover the condition if work activity was a major contributing cause.

Why does the health professional's report often play an important role in supporting a farmworker's claim for workers' compensation benefits?

The health professional's report often provides critical evidence on several elements of the claim (i.e., the nature and extent of the illness or injury, its work-related cause, the employee's compliance with the clinician's instructions, the date the worker can return to work, and any work restrictions). The more the report rests on objective findings and test results, and is internally consistent, the stronger it will be. Keep in mind that the opposing party will carefully review the report to identify any unsupported assertions or inconsistencies. The health professional's report is especially important in many farmworker cases because co-workers are

frequently reluctant to provide corroborating testimony for fear of losing their jobs (even though such retaliation is unlawful).

When should a clinician recommend “light duty” to facilitate a quick return to work?

To limit costs for temporary disability, an employer may put pressure on the clinician to direct an early return to work. Similarly, a worker may request a clinician recommendation of light duty due to economic need or fear of losing the job. But light duty should only be recommended if it is available and the patient would be able to accomplish such tasks without jeopardizing recovery or experiencing undue pain. Keep in mind that a worker’s failure to comply with a clinician’s direction to return to work or her inability to perform the work with the restrictions imposed by the clinician may lead to a termination of benefits.

To avoid common pitfalls, a clinician should consult the patient to determine the degree of recovery, including on-going pain, range of motion, etc. In addition, the clinician should inquire into the physical demands of the job and ascertain whether any light duty jobs exist at that establishment. If light duty is available and appears appropriate, the clinician should specify the conditions under which such duty may be performed, e.g., amount of weight that can be lifted, number of hours that the worker can stand, whether work can be performed in a stooped position, etc.

Finally, the clinician should advise the worker to return to the clinic if injury prevents her from performing light duty. In such circumstances, the clinician, after an examination, can make a determination that temporary disability requires time off work. When handled in this manner, a worker should be able to receive workers’ compensation benefits for the additional period of disability.

Does the employee need to prove fault or lack of contributory fault in order to secure workers’ compensation benefits?

Workers’ compensation is generally a no-fault system. There are, however, a limited number of exceptions to this rule. For example, an employee may be denied benefits if illegal drug or alcohol use were a contributing cause of the injury. On the other hand, an employee’s workers’ compensation benefits may be increased by 50% if the injury or illness resulted from serious and willful misconduct by the employer.⁶

What are the primary obstacles that keep workers from filing workers’ compensation claims?

The most frequently cited obstacle is fear of employer retaliation.⁷ Although such retaliation is illegal and would result in a substantial penalty to the employer if proved, many workers are unwilling to risk job loss for the uncertain prospect of obtaining financial compensation in the future. Other obstacles include lack of knowledge of the availability of benefits, inability to navigate the workers’ compensation system (especially for low literacy or limited English proficient workers), pressure from co-workers, and undocumented status.

Does a worker need legal assistance to obtain workers' compensation benefits?

A recent report⁷ found that low-wage immigrant workers were much more likely to secure needed benefits when they had legal assistance in handling their claims. In any case involving significant costs, the health professional should consider recommending that the worker retain a lawyer to pursue the claim. Local legal services agencies, the Watsonville Law Center (831-722-2845), or the California Bar Association (415-538-2120; www.californiaspecialist.org) will provide referrals. Patients can also obtain free information from the State Division of Workers Compensation by calling 800-736-7401 or visiting www.dir.ca.gov (follow link to Workers' Compensation).

How do disputed claims get resolved in the workers' compensation system?

When a dispute arises (e.g., concerning the rejection of a claim or a denial of all benefits sought), the parties may request a hearing before an Administrative Law Judge (ALJ) from the Division of Workers' Compensation (DWC). Appeals from the ALJ's ruling go first to the Appeals Board within the DWC and then to state court.

What steps may migrant health centers need to take prior to accepting workers' compensation cases?

A recent study found that many health centers already screen patients for work-related injuries, but do not take on workers' compensation cases.⁷ Some clinicians were reluctant to take on such cases because:

- the paperwork is too burdensome
- the system is too complex
- they need additional training in occupational medicine

Consequently, to prepare for accepting workers' compensation cases, health centers may consider taking the following steps:

- Securing additional training for clinical staff in occupational medicine as well as obtaining consultant services from a board-certified occupational medicine specialist who has handled many workers' compensation cases
- Providing staff an orientation to California's workers' compensation law and their role in assisting patients in pursuing claims for benefits
- Setting up billing protocols so that for workers' compensation patients, billing would be based on specific services provided, rather than on a per visit basis
- Scheduling longer visits for workers' compensation patients
- Adjusting clinician productivity requirements to take into account the time that must be spent completing necessary reports
- Joining one or more employers' Medical Provider Networks

Can a clinician treat a patient who has a pending workers' compensation claim and bill the patient for the services rendered?

It is illegal for a physician or medical facility to bill a worker if the worker has submitted a claim for workers' compensation to the employer and the health professional knows that a claim is pending.⁸

IV. IMPORTANT DEADLINES

1. The worker must notify employer of injury or illness within **30 days** of its occurrence or of the employee's learning of it.
2. Employer must give the worker a Claim Form (DWC 1) within **one business day** of learning of the injury or illness.
3. Employer must date the claim form within **one day** of receiving it from the worker and must send it to the insurance carrier or claims administrator.
4. Physicians must submit two copies of a report of occupational injury or illness to the employer or the employer's workers' compensation insurance carrier within **five days** of examining the patient (Form 5021: Doctor's First Report of Occupational Injury or Illness). In case of diagnosed or suspected pesticide poisoning, a copy of the report must also be sent to the Division of Labor Statistics and Research, PO Box 420603, San Francisco, CA 94142-0603. Lastly, the clinician should notify the local health officer by telephone **within 24 hours**.
5. The workers' compensation insurance carrier or claims administrator has **90 days** to accept or deny a claim.
6. A worker has **one year** from the date of injury to file an application for adjudication of claim to preserve the right to request a hearing before an Administrative Law Judge.
7. An Administrative Law Judge must rule on a case within **90 days** or she or he will not be paid for conducting this hearing..

Key Forms

The following forms are attached:

- Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility (available in English and Spanish)
- Employer's Report of Occupational Injury or Illness - Form 5020
- Doctor's First Report of Occupational Injury or Illness - Form 5021
- Qualified or Agreed Medical Evaluator's Findings Summary Form – IMC Form 111

References

1. CA Labor Code § 1171.5(a); *see Farmers Bros. Coffee v. Workers' Comp. Appeals Bd.*, 133 Cal.App.4th 533, 35 Cal.Rptr.3d 23 (2005)
2. CA Labor Code § 3202.5
3. CA Labor Code section 4600(d)(1)
4. CA Labor Code section 4600(a)
5. CA Labor Code section 5402(c)
6. CA Labor Code § 4553

7. Lashuay N, Harrison R. *Barriers to Occupational Health Services for Low-wage Workers in California: A Report to the Commission on Health and Safety and Workers' Compensation*. California Department of Industrial Relations, April 2006. Available at http://www.dir.ca.gov/Chswc/chswc_whatsnew2006.html (accessed June 26, 2007)
8. CA Labor Code section 3751(b)

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

Formulario de Reclamo de Compensación para Trabajadores (DWC 1) y Notificación de Posible Elegibilidad



If you are injured or become ill, either physically or mentally, because of your job, including injuries resulting from a workplace crime, you may be entitled to workers' compensation benefits. Attached is the form for filing a workers' compensation claim with your employer. **You should read all of the information below.** Keep this sheet and all other papers for your records. You may be eligible for some or all of the benefits listed depending on the nature of your claim. If required you will be notified by the claims administrator, who is responsible for handling your claim, about your eligibility for benefits.

To file a claim, complete the "Employee" section of the form, keep one copy and give the rest to your employer. Your employer will then complete the "Employer" section, give you a dated copy, keep one copy and send one to the claims administrator. Benefits can't start until the claims administrator knows of the injury, so complete the form as soon as possible.

Medical Care: Your claims administrator will pay all reasonable and necessary medical care for your work injury or illness. Medical benefits may include treatment by a doctor, hospital services, physical therapy, lab tests, x-rays, and medicines. Your claims administrator will pay the costs directly so you should never see a bill. For injuries occurring on or after 1/1/04, there is a limit on some medical services.

The Primary Treating Physician (PTP) is the doctor with the overall responsibility for treatment of your injury or illness. Generally your employer selects the PTP you will see for the first 30 days, however, in specified conditions, you may be treated by your pre-designated doctor. If a doctor says you still need treatment after 30 days, you may be able to switch to the doctor of your choice. Special rules apply if your employer offers a Health Care Organization (HCO) or after 1/1/05, has a medical provider network. Contact your employer for more information. If your employer has not put up a poster describing your rights to workers' compensation, you may choose your own doctor immediately.

Within one working day after an employee files a claim form, the employer shall authorize the provision of all treatment, consistent with the applicable treating guidelines, for the alleged injury and shall continue to provide treatment until the date that liability for the claim is accepted or rejected. Until the date the claim is accepted or rejected, liability for medical treatment shall be limited to ten thousand dollars (\$10,000).

Disclosure of Medical Records: After you make a claim for workers' compensation benefits, your medical records will not have the same privacy that you usually expect. If you don't agree to voluntarily release medical records, a workers' compensation judge may decide what records will be released. If you request privacy, the judge may "seal" (keep private) certain medical records.

Payment for Temporary Disability (Lost Wages): If you can't work while you are recovering from a job injury or illness, you will receive temporary disability payments. These payments may change or stop when your doctor says you are able to return to work. These benefits are tax-free. Temporary disability payments are two-thirds of your average weekly pay, within minimums and maximums set by state law. Payments are not made for the first three days you are off the job unless you are hospitalized overnight or cannot work for more than 14 days.

Si Ud. se lesiona o se enferma, ya sea física o mentalmente, debido a su trabajo, incluyendo lesiones que resulten de un crimen en el lugar de trabajo, es posible que Ud. tenga derecho a beneficios de compensación para trabajadores. Se adjunta el formulario para presentar un reclamo de compensación para trabajadores con su empleador. **Ud. debe leer toda la información a continuación.** Guarde esta hoja y todos los demás documentos para sus archivos. Es posible que usted reúna los requisitos para todos los beneficios, o parte de éstos, que se enumeran, dependiendo de la índole de su reclamo. Si se requiere, el/la administrador(a) de reclamos, quien es responsable del manejo de su reclamo, le notificará a usted, lo referente a su elegibilidad para beneficios.

Para presentar un reclamo, complete la sección del formulario designada para el "Empleado", guarde una copia, y déle el resto a su empleador. Entonces, su empleador completará la sección designada para el "Empleador", le dará a Ud. una copia fechada, guardará una copia, y enviará una al/la administrador(a) de reclamos. Los beneficios no pueden comenzar hasta, que el/la administrador(a) de reclamos se entere de la lesión, así que complete el formulario lo antes posible.

Atención Médica: Su administrador(a) de reclamos pagará toda la atención médica razonable y necesaria, para su lesión o enfermedad relacionada con el trabajo. Es posible que los beneficios médicos incluyan el tratamiento por parte de un médico, los servicios de hospital, la terapia física, los análisis de laboratorio y las medicinas. Su administrador(a) de reclamos pagará directamente los costos, de manera que usted nunca verá un cobro. Para lesiones que ocurren en o después de 1/1/04, hay un límite de visitas para ciertos servicios médicos.

El Médico Primario que le Atiende-Primary Treating Physician PTP es el médico con toda la responsabilidad para dar el tratamiento para su lesión o enfermedad. Generalmente, su empleador selecciona al PTP que Ud. verá durante los primeros 30 días. Sin embargo, en condiciones específicas, es posible que usted pueda ser tratado por su médico pre-designado. Si el doctor dice que usted aún necesita tratamiento después de 30 días, es posible que Ud. pueda cambiar al médico de su preferencia. Hay reglas especiales que son aplicables cuando su empleador ofrece una Organización del Cuidado Médico (HCO) o después de 1/1/05 tiene un Sistema de Proveedores de Atención Médica. Hable con su empleador para más información. Si su empleador no ha colocado un poster describiendo sus derechos para la compensación para trabajadores, Ud. puede seleccionar a su propio médico inmediatamente.

El empleador autorizará todo tratamiento médico consistente con las directivas de tratamiento aplicables a la lesión o enfermedad, durante el primer día laboral después que el empleado efectúa un reclamo para beneficios de compensación, y continuará proveyendo este tratamiento hasta la fecha en que el reclamo sea aceptado o rechazado. Hasta la fecha en que el reclamo sea aceptado o rechazado, el tratamiento médico será limitado a diez mil dólares (\$10,000).

Divulgación de Expedientes Médicos: Después de que Ud. presente un reclamo para beneficios de compensación para los trabajadores, sus expedientes médicos no tendrán la misma privacidad que usted normalmente espera. Si Ud. no está de acuerdo en divulgar voluntariamente los expedientes médicos, un(a) juez de compensación para trabajadores posiblemente decida qué expedientes se revelarán. Si Ud. solicita privacidad, es posible que el/la juez "selle" (mantenga privados) ciertos expedientes médicos.

Pago por Incapacidad Temporal (Sueldos Perdidos): Si Ud. no puede trabajar, mientras se está recuperando de una lesión o enfermedad relacionada con el trabajo, Ud. recibirá pagos por incapacidad temporal. Es posible que estos pagos cambien o paren, cuando su médico diga que Ud. está en condiciones de regresar a trabajar. Estos beneficios son libres de

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

Formulario de Reclamo de Compensación para Trabajadores (DWC 1) y Notificación de Posible Elegibilidad



Return to Work: To help you to return to work as soon as possible, you should actively communicate with your treating doctor, claims administrator, and employer about the kinds of work you can do while recovering. They may coordinate efforts to return you to modified duty or other work that is medically appropriate. This modified or other duty may be temporary or may be extended depending on the nature of your injury or illness.

Payment for Permanent Disability: If a doctor says your injury or illness results in a permanent disability, you may receive additional payments. The amount will depend on the type of injury, your age, occupation, and date of injury.

Vocational Rehabilitation (VR): If a doctor says your injury or illness prevents you from returning to the same type of job and your employer doesn't offer modified or alternative work, you may qualify for VR. If you qualify, your claims administrator will pay the costs, up to a maximum set by state law. VR is a benefit for injuries that occurred prior to 2004.

Supplemental Job Displacement Benefit (SJDB): If you do not return to work within 60 days after your temporary disability ends, and your employer does not offer modified or alternative work, you may qualify for a nontransferable voucher payable to a school for retraining and/or skill enhancement. If you qualify, the claims administrator will pay the costs up to the maximum set by state law based on your percentage of permanent disability. SJDB is a benefit for injuries occurring on or after 1/1/04.

Death Benefits: If the injury or illness causes death, payments may be made to relatives or household members who were financially dependent on the deceased worker.

It is illegal for your employer to punish or fire you for having a job injury or illness, for filing a claim, or testifying in another person's workers' compensation case (Labor Code 132a). If proven, you may receive lost wages, job reinstatement, increased benefits, and costs and expenses up to limits set by the state.

You have the right to disagree with decisions affecting your claim. If you have a disagreement, contact your claims administrator first to see if you can resolve it. If you are not receiving benefits, you may be able to get State Disability Insurance (SDI) benefits. Call State Employment Development Department at (800) 480-3287.

You can obtain free information from an information and assistance officer of the State Division of Workers' Compensation, or you can hear recorded information and a list of local offices by calling (800) 736-7401. You may also go to the DWC web site at www.dir.ca.gov. Link to Workers' Compensation.

You can consult with 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 at (415) 538-2120 or go to their web site at www.californiaspecialist.org.

impuestos. Los pagos por incapacidad temporal son dos tercios de su pago semanal promedio, con cantidades mínimas y máximas establecidas por las leyes estatales. Los pagos no se hacen durante los primeros tres días en que Ud. no trabaje, a menos que Ud. sea hospitalizado(a) de noche, o no pueda trabajar durante más de 14 días.

Regreso al Trabajo: Para ayudarle a regresar a trabajar lo antes posible, Ud. debe comunicarse de manera activa con el médico que le atiende, el/la administrador(a) de reclamos y el empleador, con respecto a las clases de trabajo que Ud. puede hacer mientras se recupera. Es posible que ellos coordinen esfuerzos para regresarle a un trabajo modificado, o a otro trabajo, que sea apropiado desde el punto de vista médico. Este trabajo modificado, u otro trabajo, podría extenderse o no temporalmente, dependiendo de la índole de su lesión o enfermedad.

Pago por Incapacidad Permanente: Si el doctor dice que su lesión o enfermedad resulta en una incapacidad permanente, es posible que Ud. reciba pagos adicionales. La cantidad dependerá de la clase de lesión, su edad, su ocupación y la fecha de la lesión.

Rehabilitación Vocacional: Si el doctor dice que su lesión o enfermedad no le permite regresar a la misma clase de trabajo, y su empleador no le ofrece trabajo modificado o alterno, es posible que usted reúna los requisitos para rehabilitación vocacional. Si Ud. reúne los requisitos, su administrador(a) de reclamos pagará los costos, hasta un máximo establecido por las leyes estatales. Este es un beneficio para lesiones que ocurrieron antes de 2004.

Beneficio Suplementario por Desplazamiento de Trabajo: Si Ud. no vuelve al trabajo en un plazo de 60 días después que los pagos por incapacidad temporal terminan, y su empleador no ofrece un trabajo modificado o alterno, es posible que usted reúna los requisitos para recibir un vale no-transferible pagadero a una escuela para recibir un nuevo entrenamiento y/o mejorar su habilidad. Si Ud. reúne los requisitos, el administrador(a) de reclamos pagará los costos hasta un máximo establecido por las leyes estatales basado en su porcentaje del incapacidad permanente. Este es un beneficio para lesiones que ocurren en o después de 1/1/04.

Beneficios por Muerte: Si la lesión o enfermedad causa la muerte, es posible que los pagos se hagan a los parientes o a las personas que vivan en el hogar, que dependían económicamente del/de la trabajador(a) difunto(a).

Es ilegal que su empleador le castigue o despidan, por sufrir una lesión o enfermedad en el trabajo, por presentar un reclamo o por atestiguar en el caso de compensación para trabajadores de otra persona. (El Código Laboral sección 132a). Si es probado, puede ser que usted reciba pagos por pérdida de sueldos, reposición del trabajo, aumento de beneficios, y gastos hasta un límite establecido por el estado.

Ud. tiene derecho a estar en desacuerdo con las decisiones que afecten su reclamo. Si Ud. tiene un desacuerdo, primero comuníquese con su administrador(a) de reclamos, para ver si usted puede resolverlo. Si usted no está recibiendo beneficios, es posible que Ud. pueda obtener beneficios de Seguro Estatal de Incapacidad (SDI). Llame al Departamento Estatal del Desarrollo del Empleo (EDD) al (800) 480-3287.

Ud. puede obtener información gratis, de un oficial de información y asistencia, de la División estatal de Compensación al Trabajador (*Division of Workers' Compensation - DWC*), o puede escuchar información grabada, así como una lista de oficinas locales, llamando al (800) 736-7401. Ud. también puede ir al sitio electrónico en el Internet de la DWC en www.dir.ca.gov. Enlázese a la sección de Compensación para Trabajadores.

Ud. puede consultar con un(a) abogado(a). La mayoría de los abogados ofrecen una consulta gratis. Si Ud. decide contratar a un(a) abogado(a), sus honorarios se tomarán de sus beneficios. Para obtener nombres de abogados de compensación para trabajadores, llame a la Asociación Estatal de Abogados de California (*State Bar*) al (415) 538-2120, ó vaya a su sitio electrónico en el Internet en www.californiaspecialist.org.



WORKERS' COMPENSATION CLAIM FORM (DWC 1)

PETITION DEL EMPLEADO PARA DE COMPENSACIÓN DEL TRABAJADOR (DWC 1)

Employee: Complete the "Employee" section and give the form to your employer. Keep a copy and mark it "Employee's Temporary Receipt" until you receive the signed and dated copy from your employer. You may call the Division of Workers' Compensation and hear recorded information at (800) 736-7401. An explanation of workers' compensation benefits is included as the cover sheet of this form.

You should also have received a pamphlet from your employer describing workers' compensation benefits and the procedures to obtain them.

Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony.

Empleado: Complete la sección "Empleado" y entregue la forma a su empleador. Quédese con la copia designada "Recibo Temporal del Empleado" hasta que Ud. reciba la copia firmada y fechada de su empleador. Ud. puede llamar a la División de Compensación al Trabajador al (800) 736-7401 para oír información gravada. En la hoja cubierta de esta forma esta la explicación de los beneficios de compensación al trabajador.

Ud. también debería haber recibido de su empleador un folleto describiendo los beneficios de compensación al trabajador lesionado y los procedimientos para obtenerlos.

Toda aquella persona que a propósito haga o cause que se produzca cualquier declaración o representación material falsa o fraudulenta con el fin de obtener o negar beneficios o pagos de compensación a trabajadores lesionados es culpable de un crimen mayor "felonia".

Employee—complete this section and see note above **Empleado—complete esta sección y note la notación arriba.**

1. Name. *Nombre.* _____ Today's Date. *Fecha de Hoy.* _____
2. Home Address. *Dirección Residencial.* _____
3. City. *Ciudad.* _____ State. *Estado.* _____ Zip. *Código Postal.* _____
4. Date of Injury. *Fecha de la lesión (accidente).* _____ Time of Injury. *Hora en que ocurrió.* _____ a.m. _____ p.m.
5. Address and description of where injury happened. *Dirección/lugar dónde ocurrió el accidente.* _____

6. Describe injury and part of body affected. *Describe la lesión y parte del cuerpo afectada.* _____

7. Social Security Number. *Número de Seguro Social del Empleado.* _____
8. Signature of employee. *Firma del empleado.* _____

Employer—complete this section and see note below. **Empleador—complete esta sección y note la notación abajo.**

9. Name of employer. *Nombre del empleador.* _____
10. Address. *Dirección.* _____
11. Date employer first knew of injury. *Fecha en que el empleador supo por primera vez de la lesión o accidente.* _____
12. Date claim form was provided to employee. *Fecha en que se le entregó al empleado la petición.* _____
13. Date employer received claim form. *Fecha en que el empleado devolvió la petición al empleador.* _____
14. Name and address of insurance carrier or adjusting agency. *Nombre y dirección de la compañía de seguros o agencia administradora de seguros.* _____

15. Insurance Policy Number. *El número de la póliza de Seguro.* _____
16. Signature of employer representative. *Firma del representante del empleador.* _____
17. Title. *Título.* _____ 18. Telephone. *Teléfono.* _____

Employer: You are required to date this form and provide copies to your insurer or claims administrator and to the employee, dependent or representative who filed the claim within **one working day** of receipt of the form from the employee.

SIGNING THIS FORM IS NOT AN ADMISSION OF LIABILITY

Employer copy/Copia del Empleador Employee copy/ Copia del Empleado

Empleador: Se requiere que Ud. feche esta forma y que provéa copias a su compañía de seguros, administrador de reclamos, o dependiente/representante de reclamos y al empleado que hayan presentado esta petición dentro del plazo de **un día hábil** desde el momento de haber sido recibida la forma del empleado.

EL FIRMAR ESTA FORMA NO SIGNIFICA ADMISION DE RESPONSABILIDAD

Claims Administrator/Administrador de Reclamos Temporary Receipt/Recibo del Empleado

State of California EMPLOYER'S REPORT OF OCCUPATIONAL INJURY OR ILLNESS		Please complete in triplicate (type if possible) Mail two copies to:		OSHA CASE NO.	
				FATALITY <input type="checkbox"/>	
Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers compensation benefits or payments is guilty of a felony.		California law requires employers to report within five days of knowledge every occupational injury or illness which results in lost time beyond the date of the incident OR requires medical treatment beyond first aid. If an employee subsequently dies as a result of a previously reported injury or illness, the employer must file within five days of knowledge an amended report indicating death. In addition, every serious injury, illness, or death must be reported immediately by telephone or telegraph to the nearest office of the California Division of Occupational Safety and Health.			
EMPLOYER	1. FIRM NAME			1a. Policy Number	
	2. MAILING ADDRESS: (Number, Street, City, Zip)			2a. Phone Number	
	3. LOCATION if different from Mailing Address (Number, Street, City and Zip)			3a. Location Code	
	4. NATURE OF BUSINESS; e.g.. Painting contractor, wholesale grocer, sawmill, hotel, etc.			5. State unemployment insurance acct.no	
	6. TYPE OF EMPLOYER: Private State County City School District <input type="checkbox"/> Other Gov't, Specify: _____			INDUSTRY	
	7. DATE OF INJURY / ONSET OF ILLNESS (mm/dd/yy)		8. TIME INJURY/ILLNESS OCCURRED _____ AM _____ PM		9. TIME EMPLOYEE BEGAN WORK _____ AM _____ PM
10. IF EMPLOYEE DIED, DATE OF DEATH (mm/dd/yy)		11. UNABLE TO WORK FOR AT LEAST ONE FULL DAY AFTER DATE OF INJURY? Yes No		12. DATE LAST WORKED (mm/dd/yy)	
13. DATE RETURNED TO WORK (mm/dd/yy)		14. IF STILL OFF WORK, CHECK THIS BOX:		15. PAID FULL DAYS WAGES FOR DATE OF INJURY OR LAST DAY WORKED? Yes No	
16. SALARY BEING CONTINUED? Yes No		17. DATE OF EMPLOYER'S KNOWLEDGE /NOTICE OF INJURY/ILLNESS (mm/dd/yy)		18. DATE EMPLOYEE WAS PROVIDED CLAIM FORM FORM (mm/dd/yy)	
19. SPECIFIC INJURY/ILLNESS AND PART OF BODY AFFECTED, MEDICAL DIAGNOSIS if available, e.g.. Second degree burns on right arm, tendonitis on left elbow, lead poisoning				AGE	
20. LOCATION WHERE EVENT OR EXPOSURE OCCURRED (Number, Street, City, Zip)		20a. COUNTY		21. ON EMPLOYER'S PREMISES? Yes No	
22. DEPARTMENT WHERE EVENT OR EXPOSURE OCCURRED, e.g.. Shipping department, machine shop.		23. Other Workers injured or ill in this event? Yes No		DAILY HOURS	
24. EQUIPMENT, MATERIALS AND CHEMICALS THE EMPLOYEE WAS USING WHEN EVENT OR EXPOSURE OCCURRED, e.g.. Acetylene, welding torch, farm tractor, scaffold				DAYS PER WEEK	
25. SPECIFIC ACTIVITY THE EMPLOYEE WAS PERFORMING WHEN EVENT OR EXPOSURE OCCURRED, e.g.. Welding seams of metal forms, loading boxes onto truck.				WEEKLY HOURS	
26. HOW INJURY/ILLNESS OCCURRED. DESCRIBE SEQUENCE OF EVENTS. SPECIFY OBJECT OR EXPOSURE WHICH DIRECTLY PRODUCED THE INJURY/ILLNESS, e.g.. Worker stepped back to inspect work and slipped on scrap material. As he fell, he brushed against fresh weld, and burned right hand. USE SEPARATE SHEET IF NECESSARY				WEEKLY WAGE	
				COUNTY	
				NATURE OF INJURY	
				PART OF BODY	
				SOURCE	
				EVENT	
				SECONDARY SOURCE	
35. OCCUPATION (Regular job title, NO initials, abbreviations or numbers)				EXTENT OF INJURY	
37. EMPLOYEE USUALLY WORKS _____ hours per day, _____ days per week, _____ total weekly hours		37a. EMPLOYMENT STATUS regular, full-time part-time temporary seasonal		37b. UNDER WHAT CLASS CODE OF YOUR POLICY WHERE WAGES ASSIGNED	
38. GROSS WAGES/SALARY \$ _____ per _____		39. OTHER PAYMENTS NOT REPORTED AS WAGES/SALARY (e.g. tips, meals, overtime, bonuses, etc.)? Yes No			
Completed By (type or print)		Signature & Title		Date (mm/dd/yy)	
* Confidential information may be disclosed only to the employee, former employee, or their personal representative (CCR Title 8 14300.35), to others for the purpose of processing a workers' compensation or other insurance claim; and under certain circumstances to a public health or law enforcement agency or to a consultant hired by the employer (CCR Title 8 14300.30). CCR Title 8 14300.40 requires provision upon request to certain state and federal workplace safety agencies.					

DOCTOR'S FIRST REPORT OF OCCUPATIONAL INJURY OR ILLNESS

Within 5 days of your initial examination, for every occupational injury or illness, send two copies of this report to the employer's workers' compensation insurance carrier or the insured employer. Failure to file a timely doctor's report may result in assessment of a civil penalty. In the case of diagnosed or suspected pesticide poisoning, send a copy of the report to Division of Labor Statistics and Research, P.O. Box 420603, San Francisco, CA 94142-0603, and notify your local health officer by telephone within 24 hours.

1. INSURER NAME AND ADDRESS			PLEASE DO NOT USE THIS COLUMN Case No.		
2. EMPLOYER NAME					
3. Address		No. and Street		City Zip	
4. Nature of business (e.g., food manufacturing, building construction, retailer of women's clothes.)					Industry
5. PATIENT NAME (first name, middle initial, last name)			6. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female		7. Date of Birth Mo. Day Yr.
8. Address: No. and Street City Zip			9. Telephone number ()		Age
10. Occupation (Specific job title)			11. Social Security Number - -		Hazard
12. Injured at: No. and Street City County			13. Date and hour of injury or onset of illness Mo. Day Yr. _____ a.m. _____ p.m.		Disease
15. Date and hour of first examination or treatment Mo. Day Yr. _____ a.m. _____ p.m.			14. Date last worked Mo. Day Yr.		Hospitalization
16. Have you (or your office) previously treated patient? <input type="checkbox"/> Yes <input type="checkbox"/> No			17. DESCRIBE HOW THE ACCIDENT OR EXPOSURE HAPPENED. (Give specific object, machinery or chemical. Use reverse side if more space is required.)		Occupation
Patient please complete this portion, if able to do so. Otherwise, doctor please complete immediately, inability or failure of a patient to complete this portion shall not affect his/her rights to workers' compensation under the California Labor Code.					
18. SUBJECTIVE COMPLAINTS (Describe fully. Use reverse side if more space is required.)					
19. OBJECTIVE FINDINGS (Use reverse side if more space is required.) A. Physical examination B. X-ray and laboratory results (State if non or pending.)					
20. DIAGNOSIS (if occupational illness specify etiologic agent and duration of exposure.) Chemical or toxic compounds involved? <input type="checkbox"/> Yes <input type="checkbox"/> No ICD-9 Code ____ - ____					
21. Are your findings and diagnosis consistent with patient's account of injury or onset of illness? <input type="checkbox"/> Yes <input type="checkbox"/> No If "no", please explain.					
22. Is there any other current condition that will impede or delay patient's recovery? <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", please explain.					
23. TREATMENT RENDERED (Use reverse side if more space is required.)					
24. If further treatment required, specify treatment plan/estimated duration.					
25. If hospitalized as inpatient, give hospital name and location			Date admitted Mo. Day Yr.		Estimated stay
26. WORK STATUS -- Is patient able to perform usual work? <input type="checkbox"/> Yes <input type="checkbox"/> No If "no", date when patient can return to: Regular work ____/____/____ Modified work ____/____/____ Specify restrictions _____					
Doctor's Signature _____			CA License Number _____		
Doctor Name and Degree (please type) _____			IRS Number _____		
Address _____			Telephone Number (____) _____		