

# WORKERS' COMPENSATION PROGRAM

## CLAIMS MANUAL



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## I. Introduction

Under California law, an employer is legally obligated to provide benefits to its employees for injuries or illnesses that arise out of and in the course of employment. Employers may choose coverage for workers' compensation from the commercial insurance market or elect to self-insure for this exposure. As public agencies, BCJPIA Members have elected to self-insure and share their workers' compensation coverage and risks in a pooling environment.

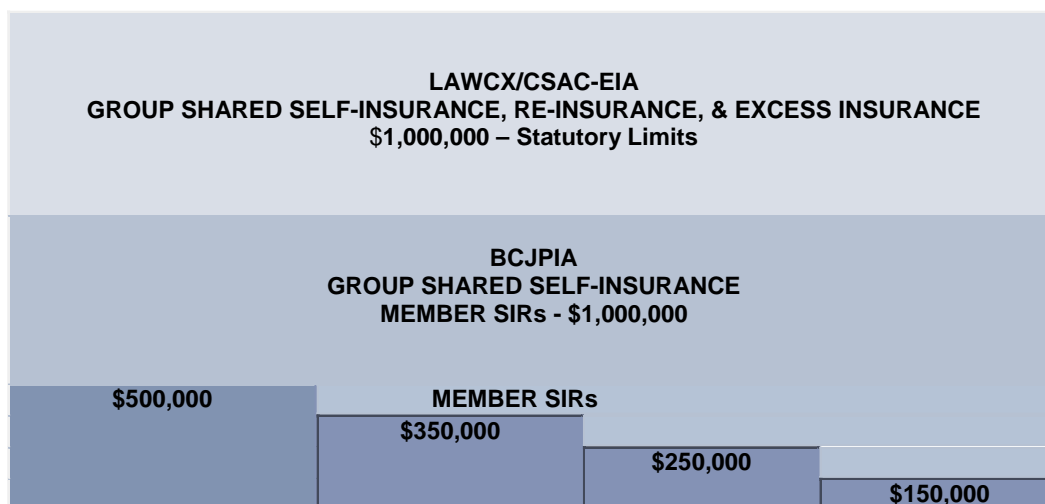
This handbook is provided as a tool to help you manage your workers' compensation program, answer frequently asked questions, and provide general information regarding workers' compensation and the BCJPIA program

## II. The BCJPIA Workers' Compensation Program

### A. How the program works

BCJPIA provides workers' compensation coverage for its Members in excess of the Members' retained limit, or Self-Insured Retention (SIR), up to \$1,000,000 per occurrence. Each member retains the portion of every loss that falls within their SIR, ranging from \$150,000 to \$500,000. BCJPIA is also a member of the Local Agency Workers' Compensation Excess Joint Powers Authority (LAWCX), a risk sharing joint powers authority. When losses exceed the \$1,000,000 per occurrence limit, LAWCX will provide coverage up to Statutory limits. The graph below outlines the various levels of coverage currently obtainable through BCJPIA's Workers' Compensation Program.

The limits of workers' compensation coverage currently offered are structured as follows:



BCJPIA contracts with Bickmore, a firm specializing in the management of joint powers authorities, to handle the day-to-day operations of BCJPIA. Bickmore's employees provide general administration, financial management, underwriting, loss prevention, claims management oversight, litigation management, risk management, and other services as necessary for the operations of the organization.

BCJPIA provides workers' compensation claims oversight through a dedicated, experienced Workers' Compensation Program Manager (WCPM) who conducts regular reviews of the claims program to assure quality claims handling and serves as a resource for Members regarding workers' compensation concerns or questions.

This emphasis on experience, oversight, and resource has resulted in reduced claims costs and claims resolution to the benefit of BCJPIA Members.

Estimating the Authority's costs for the Pooled Workers' Compensation Program consists of using estimates from the actuary for the funding portion, the LAWCX coverage costs, claims services and the administration costs allocated to the Workers' Compensation Program.

The primary funding portion determined by the actuary is based on the individual Member deductibles and is distributed first by the use of estimated payroll. The estimated payroll is provided by the Members for the next fiscal year. This primary funding is then modified by an experience modification factor. LAWCX' costs and claims services are distributed using the payroll of each Member.

The administration expenses for the Pooled Workers' Compensation Program are distributed in two ways - 40% of the administrative expenses are distributed equally to each Member, and 60% is distributed by payroll of the Members.

Certain other expenses like Department of Industrial Relations' assessments are distributed based on proportionate payroll. Marin Members' payments for run off claims are based on their initial outstanding losses.

The primary goal of BCJPIA is to provide quality protection at a reasonable cost to its Members. BCJPIA strives to accomplish this goal through managing its rates, and remaining competitive in a constantly fluctuating market.

Innovative Claim Solutions is the selected Third Party Administrator (TPA) who is responsible for the payment of workers' compensation benefits and for the general direction of each claim.

Accurate and prompt reporting of injuries will help to direct the employee to appropriate care, begin benefits in a timely manner, and allow the claims administrator to make timely and informed decisions regarding claims.

Members are encouraged to work with the BCJPIA WCPM and the TPA as a team regarding specific claims, and to address questions from Member staff as well as employees.

## B. Who Do I Contact?

Communication is important to the success of the BCJPIA program.

<b>General Email:</b>	<a href="mailto:info@bcjpia.org">info@bcjpia.org</a>
<b>BCJPIA Web Site:</b>	<a href="http://www.BCJPIA.org">www.BCJPIA.org</a>
<b>24 Hour Nurse Triage:</b>	1-877-215-7284
<b>To report new injuries or claims:</b>	Innovative Claim Solutions (ICS)
<b>ICS Address:</b>	P.O. Box 5128, San Ramon, CA 94583-5128
<b>ICS Toll Free:</b>	1-888-427-2424
<b>ICS' Web Site:</b>	Access on-line reporting through the BCJPIA Web Site utilizing the "Optional Electronic Claims Reporting to ICS" link
<b>To obtain information on existing claims:</b>	ICS
<b>Unit Manager's name and direct phone line:</b>	ICS Toll Free 1-888-427-2424 Janie Tebb Extension 110
<b>To obtain information on the workers' compensation program:</b>	Bickmore Bickmore Toll Free 1-800-541-4591
<b>Return to Work Coordinator's name and direct phone line:</b>	Sarah Centeno Extension 1142
<b>Workers' Compensation Program Manager's name and direct phone line:</b>	Jacquelyn Miller Extension 4615
<b>To obtain information on the BCJPIA program:</b>	Bickmore Bickmore Toll Free 1-800-541-4591
<b>Analyst's name and direct phone line:</b>	Jaesa McCulligan Extension 1130
<b>To obtain Risk Control Assistance:</b>	Bickmore Bickmore Toll Free 1-800-541-4591
<b>Risk Control Manager's name and direct phone line:</b>	Joe Costamagna Extension 4614

## C. What is an Injury or Illness?

An injury is defined in the California Labor Code (3208) as including "any injury or disease arising out of the employment, including injuries to artificial Members, dentures, hearing aids, eyeglasses and medical braces of all types; provided, however, that eyeglasses and hearing aids will not be replaced, repaired, or otherwise compensated for, unless injury to them is incident to an injury causing disability."

Further Labor Code 3208.1 indicates, “An injury may be either: (a) ‘specific,’ occurring as the result of one incident or exposure which causes disability or need for medical treatment; or (b) ‘cumulative,’ occurring as repetitive mentally or physically traumatic activities extending over a period of time, the combined effect of which causes any disability or need for medical treatment.”

It is the responsibility of the management of any BCJPIA Workers’ Compensation program participant to report possible industrial injuries or illnesses to BCJPIA. Determination of industrial causation will be made by the BCJPIA TPA after a thorough review of all available information.

Any question as to whether or not an injury or illness should be reported should be directed to the BCJPIA WCPM or the TPA.

#### **D. Who is Covered?**

Workers’ compensation benefits are provided through BCJPIA to all legally employed individuals of the covered BCJPIA participating Member.

The covered Member is named in Endorsement No. 1 of the Declarations Page of the Memorandum of Coverage and is a “Member” as defined in the System’s Agreement. If a Covered Member named in Endorsement No. 1 of the Declarations Page loses its status as an active “Member” of the System, the coverage under this Memorandum of Coverage shall terminate immediately upon such change in status.

This agreement shall also apply to loss on account of injury, illness or disease sustained by volunteer workers performing duties for, or on behalf of, the Covered Member while acting within the scope of their duties on behalf of the Covered Member provided the Covered Member’s Board has first adopted a resolution as provided in Section 3363.5 of the California Labor Code declaring such volunteer workers to be employees of the Covered Member for purposes of workers’ compensation law. The requirement for a volunteer resolution does not apply to volunteer firefighters outlined in California Labor Code Section 3361.

#### **COVERAGE APPLIES TO:**

1. Injuries that occur during the coverage period.
2. Illness by disease that is caused or aggravated by the conditions of employment by the Covered Member. The employee's last day of exposure to the conditions causing or aggravating such injury by disease must occur during the coverage period.

The JPA is not responsible for any payments in excess of benefits regularly provided by the Workers' Compensation Law including those required because:

1. Of the Covered Member’s serious and willful misconduct (except as stated herein above);

2. The Covered Member employs an employee in violation of law;
3. The Covered Member fails to comply with a health or safety law or regulation;
4. The Covered Member discharges, coerces, or otherwise discriminates against any employee in violation of the Workers' Compensation Law; or
5. The Covered Member violates or fails to comply with any Workers' Compensation Law.

**COVERAGE DOES NOT APPLY TO:**

Any liability imposed by the Workers' Compensation Laws because of injury, illness or disease to prisoners or inmates who receive compensation from an entity, other than the Covered Member, for the work performed except for liability imposed by the Workers' Compensation Laws because of injury, illness or disease to participants of a work release program or other community service program established by a county of the state of California

**QUESTIONS OF COVERAGE SHOULD BE DIRECTED TO EITHER THE WORKERS' COMPENSATION PROGRAM MANAGER (WCPM) OR THE THIRD PARTY ADMINISTRATOR (TPA).**

**WCPM – 800 541-4591 Ext. 4615  
TPA – 888 427-2424**

**E. What Benefits Are Payable?**

Five specific benefits are provided through the BCJPIA Workers' Compensation program. Provision of these benefits as well as determination of benefit rates are mandated through the State of California. Benefits provided are:

**1. Medical Treatment**

Treatment reasonably required to cure or relieve the effects of a work-related injury or illness until pre-injury or maximum medical improvement is reached.

Note: Medical treatment on claims under investigation is payable up to \$10,000 during the period of investigation.

**2. Temporary Disability**

Standard Temporary Disability is a non-taxable, wage replacement benefit payable to an injured worker who is temporarily unable to work as the result of an industrial injury.

Wage Loss is a supplemental benefit payable to an injured worker who returns to temporary modified work at a reduced salary either due to reduced hours or assignment to an alternative position or task.

Labor Code 4850 benefits are payable through the BCJPIA workers' compensation program for safety personnel, i.e., police and fire fighting workers who are temporarily

unable to work as a result of an industrial injury. This is payable at the worker's full salary without tax deductions.

### **3. Permanent Disability**

Permanent Disability is a monetary benefit payable to an injured worker who sustains a permanent limitation or impairment as the result of a work injury.

### **4. Job Displacement Benefits**

Job Displacement is an educational voucher given to injured workers whose employer cannot provide permanent/modified work.

### **5. Death Benefits**

Death Benefits are payable to the surviving legal financial dependents when a work injury or illness results in death.

## **III. When an Injury Occurs**

### **A. Directing and providing medical care**

When notified of an industrial injury, the first concern should be to provide medical care to the employee. The BCJPIA provides access to a 24-hour nurse triage program through Company Nurse which encourages the Employee to contact Company Nurse directly, report their injury to a medical professional and receive direction on the need for medical care. Company Nurse will direct the employee to your designated industrial clinic, if the need for care is not an emergency. In the case of a medical emergency, please follow emergency procedures, with follow-up care directed to your designated clinic.

All employees should be required to report injuries, even though minor, to their immediate supervisor.

The designated industrial clinic should be specifically selected for the treatment of the Member employees' work-related injuries and familiar with the BCJPIA return-to-work program. From time to time, Members may find it necessary to change to another designated industrial clinic.

Should this become necessary, notification of the change should be made to the Return-to-Work Coordinator to communicate the change to Company Nurse.

### **Predesignated Physicians**

An employee may predesignate a treating physician if they are provided medical benefits (medical insurance) from any source, an employee who notifies the Member in writing prior to the date of injury that he or she would like to be treated by their personal physician may do so.

### **Employer Medical Control**

Unless a physician has been predesignated, the Member controls medical care for the first 30 days of the claim, through coordination with the BCJPIA TPA. The employee may then choose to change their treating physician. All medical care and direction



should be coordinated with the designated BCJPIA TPA to assure benefits are timely and appropriately provided.

**If you are unsure of your responsibility regarding authorizing medical care, please direct your questions to either the WCPM or TPA.**

**B. Forms to Complete**

**Due – Within 1 day of Date of Knowledge of Injury  
DWC Form 1 Employee’s Claim Form**

Provide each injured employee with the Employee’s Claim Form for Workers’ Compensation Benefits within one (1) working day of receiving notice or knowledge of the claimed injury. If the employee refused to accept the form, document the refusal. If the employee is unavailable or unable to accept the form, mail the form to the employee, or his/her designated representative; via first class mail (certified mail is recommended). The burden of proof for providing the Claim Form rests with the employer and sufficient documentation that the form was provided timely is required.

The employee will complete the TOP PORTION of the form only. Once the form has been returned by the employee, complete the BOTTOM PORTION of the form and provide the employee with a completed copy. Note – The employee is NOT obligated to complete their portion of the form and return it to the District. The form should be distributed as follows:

Original – OSHA File  
One Copy – Employee  
One Copy – Innovative Claim Solution  
One Copy – Employee’s temporary copy until you have completed the Bottom Portion.

**Due – Within 5 days of Date of Knowledge of Injury  
DWC Form 5020 Employer’s Report of Occupational Injury**

The Employer’s Report of Occupational Injury is to be completed by management at the time of injury and is due to the BCJPIA TPA within five (5) Days of knowledge of the injury. The report is not necessary if the injury did not involve medical treatment beyond First Aid, lost time or litigation. Please direct any questions regarding submission of the report to either the BCJPIA Workers’ Compensation Program Manager or Innovative Claim Solutions (ICS). The form should be submitted to ICS. The form should be distributed as follows:

Original – ICS  
Copy – OSHA File

The Employer's Report can be made via the internet by accessing the BCJPIA Web Site at

<http://www.bcjpia.org/MembersOnly/WorkersCompensationClaims/OptionalElectronicClaimsReporting/tabid/2100/Default.aspx>

Copies of documents can be provided to ICS either by fax; or U.S. Mail at:

Innovative Claim Solutions  
P.O. Box 5128  
San Ramon, CA 94583-5128  
Fax 925 327-8078

Notify the nearest district office of the Division of Occupational Safety and Health (OSHA) by telephone of any injury or illness which: (a) results in death; (b) requires inpatient hospitalization; or (c) produces permanent disfigurement.

## **C. Reporting Concerns or Additional Information**

### **1. Reporting Concerns**

If you are unsure about reporting a claim – please contact Innovative Claim Solutions (ICS) or the BCJPIA Workers' Compensation Program Manager to discuss your concerns. Some claims need additional investigation to verify the claimed injury or illness is related to, or caused by the work environment.

If you possess information which you feel may aid in the investigation, prompt reporting of this information to ICS is very important to allow them to make an informed decision on compensability.

It may become necessary during the investigation of a claim for an independent investigative company to be assigned to gather information. ICS will notify the BCJPIA Member when an investigator has been engaged.

Information provided to the investigator may be confidential in nature and should be assumed to be provided directly to ICS by the investigator.

### **2. Additional Information**

Additional information may become available to the BCJPIA Member during the "life" of the claim. This information can take the form of return to work information, secondary employment, retirement application, termination of employment, or other information which you receive that may impact the timely and accurate provision of benefits. Prompt reporting of additional information to ICS is expected and required by BCJPIA.

## **D. Information to Request, Secure or Maintain**

A workers' compensation claim can remain active for a few weeks to a few years. During this period of time, the BCJPIA Member must gather information to aid in

providing accurate benefits to the injured worker. The information may be requested by the BCJPIA TPA at any time during the life of the claim and will aid in determining benefits.

If you have any question regarding information you have or should be gathering, please contact the BCJPIA TPA and/or the BCJPIA WCPM.

**1. Request:**

- a. The employee to provide the Member with any release from work or return to work information or documentation the employee receives from their treating physician. This information should then be provided to the BCJPIA TPA immediately.
- b. The TPA contacts the Member and discuss with them conducting an investigation of the claim if there is any question regarding the validity of the claim or ongoing benefits.
- c. The employee completes the DWC1 Form (Employee's Claim Form).
- d. Obtain copies of any police reports relating to the injury. This information should be provided to the BCJPIA TPA immediately.
- e. Information regarding any potential 3<sup>rd</sup> party involved in the injury (driver of another vehicle, owner of property) and provides this information to the BCJPIA TPA.

**2. Secure:**

Any damaged equipment that may have caused or been involved in the injury. ***DO NOT DISPOSE OF EQUIPMENT WITHOUT DISCUSSION WITH THE BCJPIA TPA.***

**3. Maintain:**

- a. Employment records (applications, vacation requests, etc.) relating to employees/volunteers injured on the job.
- b. Copies of DWC1 Form.
- c. Training records.
- d. Maintenance records (for building and equipment).

## IV. Returning Employees to Work

### A. Transitional or Modified Work

#### 1. Temporary Modified Duty

Employers find that modified duty jobs have dramatically decreased costs for workers' compensation injuries. Returning the injured employee to work in a modified capacity can reduce not only the cost for lost-time injuries, but may also reduce medical costs as well as litigation. Employees may not have full capabilities during the healing process. This does not mean that the employee cannot perform work duties or functions that will not exceed their physical abilities.

Modified duty restrictions are determined by the treating physician. The physician may determine, for example, that the employee must refrain from lifting more than 10 pounds for a two week period. It is then the employer's responsibility to evaluate available work to determine if they can accommodate this restriction.

#### 2. How Do We Do This?

- a. BCJPIA has implemented a nurse triage program through Company Nurse in which injured workers contact Company Nurse via phone to report new injuries injury.

The triage staff at Company Nurse will telephonically evaluate the medical needs of the employee, discuss their medical concerns and provide guidance or direction regarding the need for "hands on" medical care. If medical care is appropriate, the triage staff refers the employee to the Member selected and approved clinic for care.

- b. The Member should coordinate efforts with the BCJPIA TPA and Return-to-Work (RTW) Coordinator to contact the treating physician and determine if work modifications are appropriate.
- c. Once modifications are determined and work is available, the Member will contact the injured worker and notify them to return to work under the restrictions and notify the TPA the offer has been made.
- d. If the employee does not return to work at modified duty, the Member should immediately notify the TPA as this may negatively impact benefits.
- e. The employee should be advised by the Member of their work restrictions and their responsibility to abide by these restrictions.

Over time, the work restrictions are generally reduced with the intention of returning the employee to their usual and customary occupation. The RTW Coordinator continues to monitor the progress in returning the employee to full duty.

Modified duty programs are designed to be temporary in nature and by recommendation should not exceed a period of 90 days without review and consideration as to whether they should continue.

### **3. Permanent Modified Duty**

There are cases where an injured worker's condition may not improve to the point of returning them to their usual and customary occupation. At that time, the treating physician will issue a report outlining their permanent work restrictions.

### **4. What Do We Do Then?**

The Member is then under an obligation to review these restrictions and determine if they can make a good faith offer of permanent modified work. A good faith offer is characterized as:

- a. Located within a "reasonable" commuting distance of the employee's residence **AT THE TIME OF INJURY**, unless the employee waives this condition;
- b. Available for a period of at least 12 months;
- c. Ability to perform all of the functions of the job; and
- d. Wages at least 85% of those paid **AT THE TIME OF INJURY**.

Workers' compensation benefits may be increased or decreased dependent upon this offer of work. Coordinating the offer with the BCJPIA TPA is vitally important to determining accurate benefit payments.

## **B. Return to Regular Work**

It is the goal of the employee, the Member and BCJPIA to return the employee to "regular work" or their usual and customary work as quickly as possible to minimize the financial impact of the claim to all parties.

Once the employee is ready to return to their regular work, they will provide the Member with a release form from their treating physician. It is recommended the Member call the BCJPIA TPA and notify them of the release as well as provide a copy of the release form to the TPA immediately, to assure all benefits are appropriately administered, and any notices are issued to the injured worker.

A copy of this form should be maintained by the Member in a file separate from the employee's personnel file.

If there is a dispute or concern as to whether the employee should return to regular work, please consult with the BCJPIA TPA.

## **C. Retirement and Workers' Compensation**

Retirement benefits may have a significant impact on Workers' Compensation benefits and case resolution. BCJPIA workers' compensation Members with employees who are Members of retirement systems such as the Public Employees' Retirement (PERS) system or the County Employees' Retirement Law of 1937 (CERL) may have claims which also involve applications for disability retirement. Retirements of this type are generally non-taxable, however retirements based upon length of service may be taxable.

Members should keep the BCJPIA TPA informed of retirement applications for those individuals with open Workers' Compensation claims.

While determination and approval of regular and disability retirements are not made by BCJPIA, the coordination of workers' compensation benefits impacted by these retirements will rely upon prompt communication and coordination of information between the TPA staff and the Members.

## **V. Legal Actions**

### **A. What if my employee hires an attorney?**

Employees/volunteers hire attorneys for a variety of reasons:

- Unsure of how their claim will be handled;
- Unclear or conflicting information from the Member, the TPA or other parties not directly involved in the claim;
- Severe injury;
- Pending personnel issues (job elimination, retirement pending, disciplinary action, etc. . . .); and
- An assumption that you *MUST* have an attorney to receive benefits

While some or all of these reasons may be valid, communication with the employee/volunteer remains important.

#### **1. Can I talk to the Employee?**

Absolutely! They remain your employee and your responsibilities as an employer continue whether or not they have hired an attorney. Some areas in which communication should be maintained are:

- Availability of modified duty;
- Follow up calls to the employee to inquire how they are doing, or if they have any questions;
- Keeping the employee informed and involved in the City's activities (such as community events);

- Requirements for returning to work (agility testing, fitness for duty, etc. . .).

The only areas in which the Member should not engage in conversation are those primarily focused on the employee's litigation of their claim. If you are unsure of discussing a topic with the employee, please contact either the TPA or the WCPM to discuss your concerns.

## **B. Requests for Information**

Requests for information regarding a workers' compensation claim can come from many sources. In order to provide the most accurate information in a timely manner, we recommend the following:

### **1. Requests for personnel files**

Follow your internal guidelines regarding access to personnel files. If the injured employee has an active workers' compensation claim, please notify the TPA before complying with this request as confidential medical or legal information may inadvertently be released.

#### **a. Subpoena Requests -**

Contact your TPA before complying with this request. The subpoena will request specific information regarding a specific employee or volunteer. Prior to complying with this request, please ask the TPA to review the subpoena and provide guidance on compliance regarding any workers' compensation information.

#### **b. Attorney Requests -**

You will be notified in advance if the TPA has requested the defense attorney (the attorney representing the City and BJCPIA) obtain information from the City. If you have not been notified in advance, please consult with the TPA before responding to this request.

#### **c. Investigator Requests -**

You will be notified in advance if the TPA has requested an investigator obtain information from the City. If you have not been notified in advance, please consult with the TPA before responding to this request.

**If you are unsure about the request and/or providing the requested information, please contact either the TPA or WCPM to discuss your concerns.**



### **C. Subrogation/3<sup>rd</sup> Party Liability**

Injuries can result from the actions or inactions of other parties. Examples of this may be injuries resulting from auto accidents and faulty equipment maintenance or manufacture. When this occurs, an investigation into the person or company responsible may be necessary and will be undertaken by the TPA.

The TPA will look to the BCJPIA Member to aid them in gathering information such as police reports, maintenance records, and purchasing records. It may become necessary for the Member to “secure” broken or faulty equipment to assure its availability should a dispute arise regarding the condition of the equipment at the time of injury. The TPA will provide guidance to the Member should this become necessary.

Occasions may occur when the 3<sup>rd</sup> party requests access to the BCJPIA Member’s records or property. The Member is directed to contact the TPA or the BCJPIA WCPM BEFORE providing this access

When a 3<sup>rd</sup> party is responsible for the injury, the injured worker or their representative may file a claim for reimbursement from this party. BCJPIA has the right to consider and pursue reimbursement as well for any payments or benefits issued to the injured worker.

The BCJPIA Memorandum of Coverage (MOC) states in section V.B regarding subrogation:

#### **“B. SUBROGATION - RECOVERY FROM OTHERS**

If the **Covered Party** waives its rights to subrogation on a claim covered under, or that may be covered under, this MOC, and if the amount of the claim exceeds the **Covered Party’s Retained Limit** (and therefore comes within the **Authority’s** layer), then the **Authority’s** coverage shall not apply to the claim and the **Authority** shall not be liable for any indemnity, reimbursement, payment, or costs on the claim exceeding the **Covered Party’s Retained Limit**, unless the **Authority’s** Workers’ Compensation Program Manager approves the waiver of subrogation in writing.

The exclusion of coverage for waiver of subrogation shall apply only to a waiver of subrogation made or approved by a **Covered Party** after the date of the injury or illness that resulted in the claim. This exclusion shall not apply to a waiver of subrogation contained in an agreement or contract that was approved by the **Covered Party** prior to the date of the injury or illness that resulted in the claim.

*The **Authority** has the **Covered Party’s** rights, and the rights of persons entitled to compensation benefits from the **Covered Party**, to recover the **Authority’s** loss from any third party liable for the **bodily injury**. The **Covered Party** will do everything necessary to protect those rights for the **Authority** and to assist in enforcing them. Any recovery, after deducting the **Authority’s** recovery expenses, will first be used to reduce the **Authority’s** loss. The balance, if any, will be returned to the **Covered Party**.*



*If the **Covered Party** waives its rights to subrogation on a claim covered under, or that may be covered under, this MOC, and if the amount of the claim exceeds the **Covered Party's Retained Limit** (and therefore comes within the **Authority's** layer), then the **Authority's** coverage shall not apply to the claim and the **Authority** shall not be liable for any indemnity, reimbursement, payment, or costs on the claim exceeding the **Covered Party's Retained Limit**, unless the **Authority's** Workers' Compensation Program Manager approves the waiver of subrogation in writing.*

*The exclusion of coverage for waiver of subrogation shall apply only to a waiver of subrogation made or approved by a **Covered Party** after the date of the injury or illness that resulted in the claim. This exclusion shall not apply to a waiver of subrogation contained in an agreement or contract that was approved by the **Covered Party** prior to the date of the injury or illness that resulted in the claim.*

This provision indicates the BCJPIA Member does not have the opportunity to “waive” recovery rights without BCJPIA’s agreement in order for BCJPIA coverage to apply. Should an injury occur which involves a 3<sup>rd</sup> party and any concern develops between the BCJPIA Member and the TPA regarding whether to pursue subrogation recovery, these concerns should be directed to the BCJPIA WCPM for discussion.

#### **D. Case Settlement and Closure**

The majority of workers’ compensation injury claims resolve with the injured worker returning to their full employment and suffering no residual disability. Files can be closed when the employee’s medical condition has reached a permanent and stationary level (when the injury has resolved to a point that no further recovery is expected) and when all issues and benefits have been resolved (such as benefit payments and medical care).

Some claims involve litigation. The participation of an attorney representing the injured worker, the Member and/or BCJPIA DOES NOT indicate the injury is more serious or severe. Attorneys are frequently utilized by either party to facilitate the administration of benefits or provide discovery options and opportunities.

When a claim reaches a litigation status, it will generally resolve by one of three methods:

##### **1. Stipulation with Request for Award**

Used to settle the employee’s claim based upon written agreements of the parties. This agreement may or may not provide for an award of lifetime medical benefits. The Stipulation is primarily used for settling claims where the injured worker remains employed with the same employer.

##### **2. Compromise and Release**

Typically used to settle claims in a “lump sum” payment which will resolve all outstanding issues. Use of this type of settlement may include a provision that no admission of injury is made.

The Compromise and Release is generally utilized when the injured worker is no longer employed by the same employer.

### **3. Findings and Award or Findings and Order**

This type of settlement is issued by the Workers' Compensation Judge (WCJ) and generally follows a trial in which each party states their case and provides evidence. In general terms:

If the WCAB agrees with the injured worker, they will issue a "Findings and Award" providing a benefit or a determination which will benefit the injured worker;

If the WCAB agrees with the employer, they will issue a "Findings and Order" declining a benefit or a determination which will benefit the employer.

BCJPIA strives to keep the Members informed regarding case resolution and the TPA will contact Members to discuss settlement offers and seek Member's authorization for any settlement within the Member's retention level.

Additionally, the TPA will seek settlement authority from BCJPIA for any settlement that exceeds the specific Member's retention level. Should the Member have any questions or concerns regarding a proposed settlement beyond their retention level, they are encouraged to contact the BCJPIA WCPM.

Cases involving those individuals who are currently Medicare recipients or who may file for Medicare within 30 months of their settlement may require additional review and approval by Medicare in order to resolve their claims. Unfortunately, the involvement of Medicare in case resolution may delay the final resolution of a claim. The BCJPIA TPA will keep the employee and the BCJPIA member informed of any delay in case resolution.

Lifetime Medical Awards can be awarded to injured workers which provide benefits for treatment to their industrial injury. However, this should not be considered a "blanket" medical coverage as the medical benefit will only apply to the injury indicated in the award. Any questions on care relating to a Lifetime Medical Award should be directed to the BCJPIA TPA.

Once the employee is no longer employed by a BCPJIA Member, the TPA may consider settlement of a remaining Lifetime Medical Award. The employee's usage of medical care will be considered and a reasonable offer to "buyout" the award will be made. Should the employee agree to this offer, the file will be closed with all issues resolved at that time.

Workers' Compensation claims that have resolved with a Lifetime Medical Award can be administratively closed after a period of time with no provision of benefits. However, if the injured worker again requests care, the file will be reopened at that time.

## VI. Program Questions

### A. Requesting Specific Claims Information

Information regarding specific claims can be requested from two sources:

1. The TPA can answer claim specific questions. Members can contact either the claims adjuster assigned to them or the Unit Manager for the BCJPIA program.

#### **Innovative Claims Solutions**

**Toll-Free: (888) 427-2424.**

2. The BCJPIA Workers' Compensation Program Manager (WCPM) is available to discuss specific claims or concerns the Members may have regarding benefit administration:

#### **BCJPIA WCPM**

**Toll-Free: (800) 541-4591, Extension 4615**

### B. Requesting Loss Run data

Requests for loss runs or claim history information should be directed to the BCJPIA WCPM:

#### **BCJPIA WCPM**

**Toll-Free: (800) 541-4591 Ext 4615**

### C. Requesting Premium Information

Requests for premium information should be directed to the BCJPIA Finance Manager:

#### **BCJPIA Finance Manager**

**(800) 541-4591, Extension 1146**

## VII. Safety and Risk Control

The BCJPIA Risk Control Program provides occupational safety and health and risk control consulting services designed to assess risk exposures, identify internal processes to control risks, and create and maintain effective risk management systems. This includes customized safety and risk control assessments, and the development of best management practices that encourage accountability for risks. The [BCJPIA Safety and Risk Control Service Plan](#) is developed each year by the Risk Control Manager with input from the Safety & Loss Prevention Committee, Member Safety Liaisons, and Police and Public Works Representatives. The plan is adopted every fiscal year by the Board of Directors.

## **A. Risk Control Member Services**

### 1. Customized Consulting and Training

The BCJPIA Risk Control Manager works with each Member to identify the needs of each organization and to deliver customized consulting and training projects within the allocated budget.

Members may request risk control services by contacting Joe Costamagna, BCJPIA Risk Control Manager, at 800.541.4591 extension 4614 or by email at [jcostamagna@bickmore.net](mailto:jcostamagna@bickmore.net).

### 2. Regional Risk Control Workshops

The BCJPIA Risk Control Service Plan includes workshops available to all pool Members. The [BCJPIA Workshops](#) focus on significant loss areas for Member agencies and provide training to assist in the implementation of risk control and occupational safety best practices.

Additional workshops, such as liability training for police and public works and the Bay Area Training Consortium are available to BCJPIA Members and will be announced via email.

### 3. Risk Control Webinars

The BCJPIA Risk Control Plan includes one-hour webinars to provide additional training to all pool Members. The [Webinar Series](#) will significantly expand the range of topics and offer training opportunities for staff unable to attend frequent off-site trainings.

### 4. On-Line Safety Resources

Members have access to a variety of sample safety programs, webinars, hundreds of safety training videos and pertinent safety resources by accessing Bickmore's Risk Control Website at <http://riskcontrol.bickmore.net>. Many videos and templates are offered in multiple languages and most have a corresponding Instructor's Guide to help management achieve training best practices.

## **B. Risk Management Fund**

Each Member's Liability Program Deposit Premium includes an additional \$5,000 for its individual Risk Management Fund account.

Funds are to be used for development, implementation, and maintenance of safety and risk management programs, disaster preparedness, and any activity controlling or minimizing risk.

## **C. Risk Control Assessments**

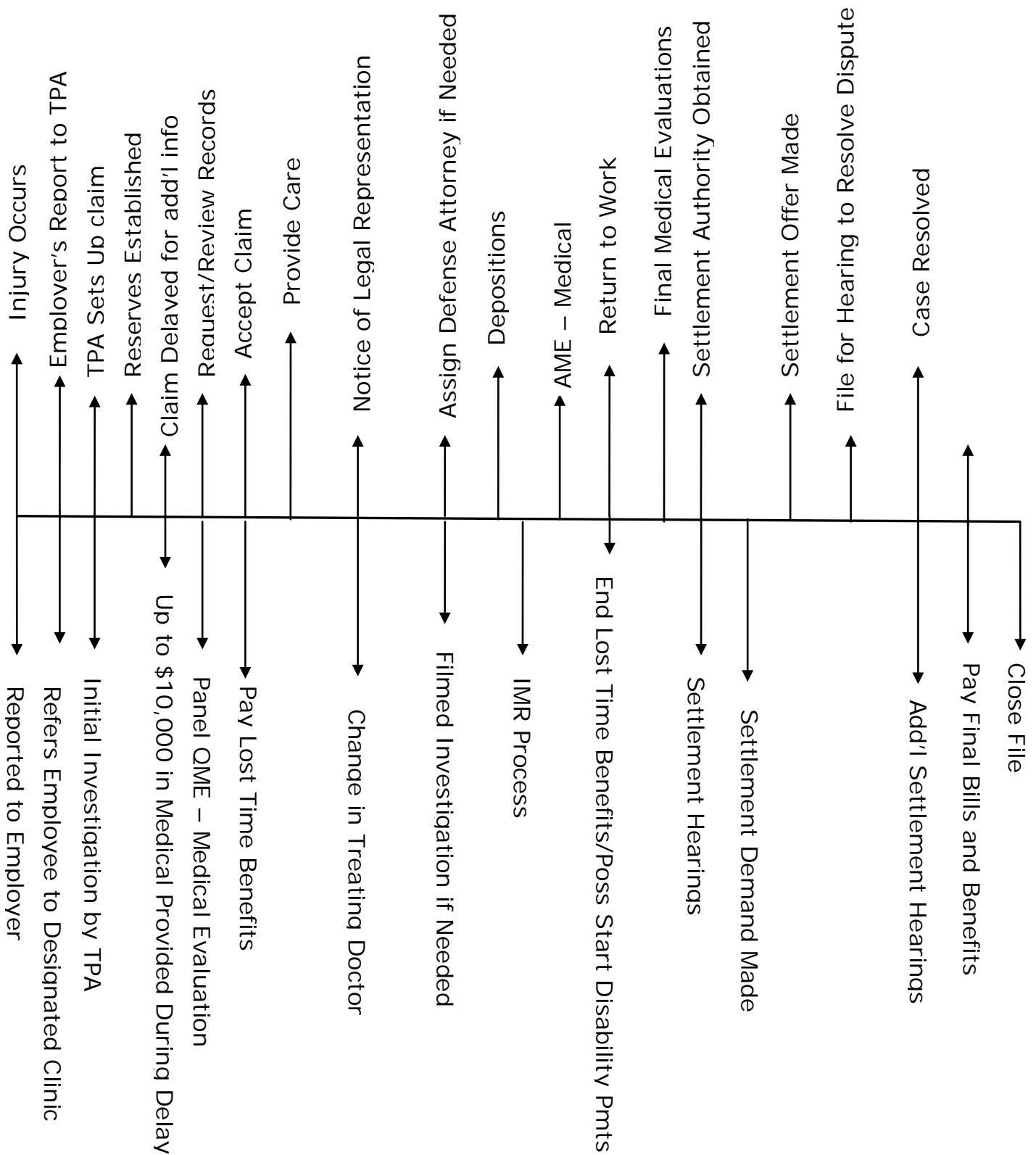
The recently developed Risk Control Assessment features a wider scope of risk factors that can be customized to more accurately address each member's exposures. The efficiency of the new Assessment allows for it to be conducted more frequently and provides more in-depth recommendations for each member.

**D. Contact Information**

For assistance or additional information regarding Safety and Risk Control for BCJPIA, contact Joe Costamagna, BCJPIA Risk Control Manager, at 800.541.4591 extension 4614 or by email at [jcostamagna@bickmore.net](mailto:jcostamagna@bickmore.net).

## VIII. The Claims Process

### A. Flowchart



The chart shown on the previous page is provided to illustrate the standard Workers' Compensation claims process in basic terms. However, each claim involves specific characteristics which may make the claim more complex than demonstrated.

**1. Claim Set-Up Timelines**

- a. 24 Hours from the Date of Knowledge (defined as One Working Day) – Provide the employee a claim form (DWC1).
- b. Five Days from the Date of Knowledge – Report the injury to the Third Party Administrator (TPA).
- c. 14 Days from the Date of Knowledge – The TPA must make their initial determination on acceptance, delay/investigation or denial of benefits.
- d. 90 Days from the Date of Knowledge – The TPA must make their informed decision on acceptance or denial of delayed and investigated claims.

**2. Benefit Payment Timelines**

- a. 14 Days from Knowledge of Compensable Time Loss - Initial payment, denial or delay of Temporary Disability payments.
- b. 14-Day Intervals – Continued payment of Temporary Disability payments.
- c. 14 Days from the End of Temporary Disability and with Knowledge of Likely or Known Permanent Disability – Initial payment, denial or delay of Permanent Disability payments.
- d. 14-Day Intervals – Continued payment of Permanent Disability payments.
- e. 60 Days from Receipt – Payment or objection of medical bills.



# Appendix A

## Form DWC-1 – New 01/01/2016



### Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility Formulario de Reclamo de Compensación de 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. Use the attached form to file 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 you file a claim, the claims administrator, who is responsible for handling your claim, must notify you within 14 days whether your claim is accepted or whether additional investigation is needed.

To file a claim, complete the "Employee" section of the form, keep one copy and give the rest to your employer. 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. Describe your injury completely. Include every part of your body affected by the injury. If you mail the form to your employer, use first-class or certified mail. If you buy a return receipt, you will be able to prove that the claim form was mailed and when it was delivered. Within one working day after you file the claim form, your employer must complete the "Employer" section, give you a dated copy, keep one copy, and send one to the claims administrator.

**Medical Care:** Your claims administrator will pay for all reasonable and necessary medical care for your work injury or illness. Medical benefits are subject to approval and may include treatment by a doctor, hospital services, physical therapy, lab tests, x-rays, medicines, equipment and travel costs. Your claims administrator will pay the costs of approved medical services directly so you should never see a bill. There are limits on chiropractic, physical therapy, and other occupational therapy visits.

**The Primary Treating Physician (PTP)** is the doctor with the overall responsibility for treatment of your injury or illness.

- If you previously designated your personal physician or a medical group, you may see your personal physician or the medical group after you are injured.
- If your employer is using a medical provider network (MPN) or Health Care Organization (HCO), in most cases, you will be treated in the MPN or HCO unless you pre-designated your personal physician or a medical group. An MPN is a group of health care providers who provide treatment to workers injured on the job. You should receive information from your employer if you are covered by an HCO or a MPN. Contact your employer for more information.
- If your employer is not using an MPN or HCO, in most cases, the claims administrator can choose the doctor who first treats you unless you pre-designated your personal physician or a medical group.
- If your employer has not put up a poster describing your rights to workers' compensation, you may be able to be treated by your personal physician right after you are injured.

Within one working day after you file a claim form, your employer or the claims administrator must authorize up to \$10,000 in treatment for your injury, consistent with the applicable treating guidelines until the claim is accepted or rejected. If the employer or 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 right now, while waiting for a decision on your claim. If the employer or claims administrator will not authorize treatment, use your own health insurance to get medical care. Your health insurer will seek reimbursement from the claims administrator. If you do not have health insurance, there are doctors, clinics or hospitals that will treat you without immediate payment. They will seek reimbursement from the claims administrator.

#### 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 pre-designate, 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 a doctor of your choice if

Si Ud. se lesiona o se enferma, ya sea físicamente 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 de trabajadores. Utilice el formulario adjunto para presentar un reclamo de compensación de 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 usted presenta un reclamo, el administrador de reclamos, quien es responsable por el manejo de su reclamo, debe notificarle dentro de 14 días si se acepta su reclamo o si se necesita investigación adicional.

Para presentar un reclamo, llene la sección del formulario designada para el "Empleado," guarde una copia, y déle el resto a su empleador. Haga esto de inmediato para evitar problemas con su reclamo. En algunos casos, los beneficios no se iniciarán hasta que usted le informe a su empleador acerca de su lesión mediante la presentación de un formulario de reclamo. Describa su lesión por completo. Incluya cada parte de su cuerpo afectada por la lesión. Si usted le envía por correo el formulario a su empleador, utilice primera clase o correo certificado. Si usted compra un acuse de recibo, usted podrá demostrar que el formulario de reclamo fue enviado por correo y cuando fue entregado. Dentro de un día laboral después de presentar el formulario de reclamo, su empleador debe completar la sección designada para el "Empleador," le dará a Ud. una copia fechada, guardará una copia, y enviará una al administrador de reclamos.

**Atención Médica:** Su administrador de reclamos pagará por toda la atención médica razonable y necesaria para su lesión o enfermedad relacionada con el trabajo. Los beneficios médicos están sujetos a la aprobación y pueden incluir tratamiento por parte de un médico, los servicios de hospital, la terapia física, los análisis de laboratorio, las medicinas, equipos y gastos de viaje. Su administrador de reclamos pagará directamente los costos de los servicios médicos aprobados de manera que usted nunca verá una factura. Hay límites en terapia quiropráctica, física y otras visitas de terapia ocupacional.

**El Médico Primario que le Atiende (Primary Treating Physician- PTP)** es el médico con la responsabilidad total para tratar su lesión o enfermedad.

- Si usted designó previamente a su médico personal o a un grupo médico, usted podrá ver a su médico personal o grupo médico después de lesionarse.
- Si su empleador está utilizando una red de proveedores médicos (*Medical Provider Network- MPN*) o una Organización de Cuidado Médico (*Health Care Organization- HCO*), en la mayoría de los casos, usted será tratado en la *MPN* o *HCO* a menos que usted hizo una designación previa de su médico personal o grupo médico. Una *MPN* es un grupo de proveedores de asistencia médica quien da tratamiento a los trabajadores lesionados en el trabajo. Usted debe recibir información de su empleador si su tratamiento es cubierto por una *HCO* o una *MPN*. Hable con su empleador para más información.
- Si su empleador no está utilizando una *MPN* o *HCO*, en la mayoría de los casos, el administrador de reclamos puede elegir el médico que lo atiende primero a menos de que usted hizo una designación previa de su médico personal o grupo médico.
- Si su empleador no ha colocado un cartel describiendo sus derechos para la compensación de trabajadores, Ud. puede ser tratado por su médico personal inmediatamente después de lesionarse.

Dentro de un día laboral después de que Ud. presente un formulario de reclamo, su empleador o el administrador de reclamos debe autorizar hasta \$10000 en tratamiento para su lesión, de acuerdo con las pautas de tratamiento aplicables, hasta que el reclamo sea aceptado o rechazado. Si el empleador o administrador de reclamos no autoriza el tratamiento de inmediato, hable con su supervisor, alguien más en la gerencia, o con el administrador de reclamos. Pida que el tratamiento sea autorizado ya mismo, mientras espera una decisión sobre su reclamo. Si el empleador o administrador de reclamos no autoriza el tratamiento, utilice su propio seguro médico para recibir atención médica. Su compañía de seguro médico buscará reembolso del administrador de reclamos. Si usted no tiene seguro médico, hay médicos, clínicas u hospitales que lo tratarán sin pago inmediato. Ellos buscarán reembolso del administrador de reclamos.

#### Cambiando a otro Médico Primario o PTP:

- Si usted está recibiendo tratamiento en una Red de Proveedores Médicos



your employer or the claims administrator has not created or selected an MPN.

**Disclosure of Medical Records:** After you make a claim for workers' compensation benefits, your medical records will not have the same level of 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.

**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 may 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.

**Payment for Temporary Disability (Lost Wages):** If you can't work while you are recovering from a job injury or illness, you may receive temporary disability payments for a limited period. 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.

**Stay at Work or Return to Work:** Being injured does not mean you must stop working. If you can continue working, you should. If not, it is 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, your PTP, your employer (supervisors or others in management), the claims administrator, and your attorney (if you have one) will work with you to decide how you will stay at work or return to work and what work you will do. 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.

**Payment for Permanent Disability:** If a doctor says you have not recovered completely from your injury and you will always be limited in the work you can do, you may receive additional payments. The amount will depend on the type of injury, extent of impairment, your age, occupation, date of injury, and your wages before you were injured.

**Supplemental Job Displacement Benefit (SJDB):** If you were injured on or after 1/1/04, and your injury results in a permanent disability and your employer does not offer regular, modified, or alternative work, you may qualify for a nontransferable voucher payable for retraining and/or skill enhancement. If you qualify, the claims administrator will pay the costs up to the maximum set by state law.

**Death Benefits:** If the injury or illness causes death, payments may be made to a

(Medical Provider Network- MPN), usted puede cambiar a otros médicos dentro de la MPN después de la primera visita.

- Si usted está recibiendo tratamiento en un Organización de Cuidado Médico (Healthcare Organization- HCO), es posible cambiar al menos una vez a otro médico dentro de la HCO. Usted puede cambiar a un médico fuera de la HCO 90 o 180 días después de que su lesión es reportada a su empleador (dependiendo de si usted está cubierto por un seguro médico proporcionado por su empleador).
- Si usted no está recibiendo tratamiento en una MPN o HCO y no hizo una designación previa, usted puede cambiar a un nuevo médico una vez durante los primeros 30 días después de que su lesión es reportada a su empleador. Póngase en contacto con el administrador de reclamos para cambiar de médico. Después de 30 días, puede cambiar a un médico de su elección si su empleador o el administrador de reclamos no ha creado o seleccionado una MPN.

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

**Problemas con la Atención Médica y los Informes Médicos:** En algún momento durante su reclamo, podría estar en desacuerdo con su PTP sobre qué tratamiento es necesario. Si esto sucede, usted puede cambiar a otros médicos como se describe anteriormente. Si no puede llegar a un acuerdo con otro médico, los pasos a seguir dependen de si usted está recibiendo atención en una MPN, HCO o ninguna de las dos. Para más información, consulte la sección "Aprenda Más Sobre la Compensación de Trabajadores," a continuación.

Si el administrador de reclamos niega el tratamiento recomendado por su PTP, puede solicitar una revisión médica independiente (*Independent Medical Review-IMR*), utilizando el formulario de solicitud que se incluye con la decisión por escrito del administrador de reclamos negando el tratamiento. El proceso de la IMR es parecido al proceso de la IMR de un seguro médico colectivo, y tarda aproximadamente 40 (o menos) días para llegar a una determinación de manera que se pueda dar un tratamiento apropiado. Su abogado o su médico le pueden ayudar en el proceso de la IMR. La IMR no está disponible para resolver disputas sobre cuestiones aparte de la necesidad médica de un tratamiento particular solicitado por su médico.

Si no está de acuerdo con su PTP en cuestiones aparte del tratamiento, como la causa de su lesión o la gravedad de la lesión, usted puede cambiar a otros médicos como se describe anteriormente. Si no puede llegar a un acuerdo con otro médico, notifique al administrador de reclamos por escrito tan pronto como sea posible. En algunos casos, usted arriesga perder el derecho a objetar a la opinión de su PTP a menos que hace esto de inmediato. Si usted no tiene un abogado, el administrador de reclamos debe enviarle instrucciones para ser evaluado por un médico llamado un evaluador médico calificado (*Qualified Medical Evaluator-QME*) para ayudar a resolver la disputa. Si usted tiene un abogado, el administrador de reclamos puede tratar de llegar a un acuerdo con su abogado sobre un médico llamado un evaluador médico acordado (*Agreed Medical Evaluator-AME*). Si el administrador de reclamos no está de acuerdo con su PTP sobre asuntos aparte del tratamiento, el administrador de reclamos puede exigirle que sea atendido por un QME o AME.

**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. puede recibir pagos por incapacidad temporal por un periodo limitado. Estos pagos pueden cambiar o parar cuando su médico diga que Ud. está en condiciones de regresar a trabajar. Estos beneficios son libres de 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 una noche o no puede trabajar durante más de 14 días.

**Permanezca en el Trabajo o Regreso al Trabajo:** Estar lesionado no significa que usted debe dejar de trabajar. Si usted puede seguir trabajando, usted debe hacerlo. Si no es así, es importante regresar a trabajar con su empleador actual tan

spouse and other 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.

**Resolving Problems or Disputes:** You have the right to disagree with decisions affecting your claim. If you have a disagreement, contact your employer or 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) or unemployment insurance (UI) benefits. Call the state Employment Development Department at (800) 480-3287 or (866) 333-4606, or go to their website at [www.edd.ca.gov](http://www.edd.ca.gov).

**You Can Contact an Information & Assistance (I&A) 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](http://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.

**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 website at [www.californiaspecialist.org](http://www.californiaspecialist.org).

**Learn More About Workers' Compensation:** For more information about the workers' compensation claims process, go to [www.dwc.ca.gov](http://www.dwc.ca.gov). At the website, you can access a useful booklet, "Workers' Compensation in California: A Guidebook for Injured Workers." You can also contact an Information & Assistance Officer (above), or hear recorded information by calling 1-800-736-7401.

pronto como usted pueda medicamente hacerlo. Los estudios demuestran que entre más tiempo esté fuera del trabajo, más difícil es regresar a su trabajo original y a sus salarios. Mientras se está recuperando, su *PTP*, su empleador (supervisores u otras personas en la gerencia), el administrador de reclamos, y su abogado (si tiene uno) trabajarán con usted para decidir cómo va a permanecer en el trabajo o regresar al trabajo y qué trabajo hará. Comuníquese de manera activa con su *PTP*, su empleador y el administrador de reclamos sobre el trabajo que hizo antes de lesionarse, su condición médica y los tipos de trabajo que usted puede hacer ahora y los tipos de trabajo que su empleador podría poner a su disposición.

**Pago por Incapacidad Permanente:** Si un médico dice que no se ha recuperado completamente de su lesión y siempre será limitado en el trabajo que puede hacer, es posible que Ud. reciba pagos adicionales. La cantidad dependerá de la clase de lesión, grado de deterioro, su edad, ocupación, fecha de la lesión y sus salarios antes de lesionarse.

**Beneficio Suplementario por Desplazamiento de Trabajo (Supplemental Job Displacement Benefit- SJD):** Si Ud. se lesionó en o después del 1/1/04, y su lesión resulta en una incapacidad permanente y su empleador no ofrece un trabajo regular, modificado, o alternativo, usted podría cumplir los requisitos para recibir un vale no-transferible pagadero a una escuela para recibir un nuevo curso de reentrenamiento y/o mejorar su habilidad. Si Ud. cumple los requisitos, el administrador de reclamos pagará los gastos hasta un máximo establecido por las leyes estatales.

**Beneficios por Muerte:** Si la lesión o enfermedad causa la muerte, es posible que los pagos se hagan a un cónyuge y otros parientes o a las personas que viven en el hogar que dependían económicamente del trabajador difunto.

**Es ilegal que su empleador** le castigue o despidan por sufrir una lesión o enfermedad laboral, por presentar un reclamo o por testificar en el caso de compensación de trabajadores de otra persona. (Código Laboral, sección 132a.) De ser probado, usted puede recibir pagos por pérdida de sueldos, reposición del trabajo, aumento de beneficios y gastos hasta los límites establecidos por el estado.

**Resolviendo problemas o disputas:** Ud. tiene derecho a no estar de acuerdo con las decisiones que afecten su reclamo. Si Ud. tiene un desacuerdo, primero comuníquese con su empleador o administrador de reclamos para ver si usted puede resolverlo. Si usted no está recibiendo beneficios, es posible que Ud. pueda obtener beneficios del Seguro Estatal de Incapacidad (*State Disability Insurance- SDI*) o beneficios del desempleo (*Unemployment Insurance- UI*). Llame al Departamento del Desarrollo del Empleo estatal al (800) 480-3287 o (866) 333-4606, o visite su página Web en [www.edd.ca.gov](http://www.edd.ca.gov).

**Puede Contactar a un Oficial de Información y Asistencia (Information & Assistance- I&A):** Los Oficiales de Información y Asistencia (*I&A*) estatal contestan preguntas, ayudan a los trabajadores lesionados, proporcionan formularios y ayudan a resolver problemas. Algunos oficiales de *I&A* tienen talleres para trabajadores lesionados. Para obtener información importante sobre el proceso de la compensación de trabajadores y sus derechos y obligaciones, vaya a [www.dwc.ca.gov](http://www.dwc.ca.gov) o comuníquese con un oficial de información y asistencia de la División Estatal de Compensación de Trabajadores. También puede escuchar información grabada y una lista de las oficinas de *I&A* locales llamando al (800) 736-7401.

**Ud. puede consultar con un abogado.** La mayoría de los abogados ofrecen una consulta gratis. Si Ud. decide contratar a un abogado, los honorarios serán tomados de algunos de sus beneficios. Para obtener nombres de abogados de compensación de trabajadores, llame a la Asociación Estatal de Abogados de California (*State Bar*) al (415) 538-2120, o consulte su página Web en [www.californiaspecialist.org](http://www.californiaspecialist.org).

**Aprenda Más Sobre la Compensación de Trabajadores:** Para obtener más información sobre el proceso de reclamos del programa de compensación de trabajadores, vaya a [www.dwc.ca.gov](http://www.dwc.ca.gov). En la página Web, podrá acceder a un folleto útil, "Compensación del Trabajador de California: Una Guía para Trabajadores Lesionados." También puede contactar a un oficial de Información y Asistencia (arriba), o escuchar información grabada llamando al 1-800-736-7401.





**WORKERS' COMPENSATION CLAIM FORM (DWC 1)**

**PETITION DEL EMPLEADO PARA DE COMPENSACION 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 in the Notice of Potential Eligibility, which is the cover sheet of this form. Detach and save this notice for future reference.

You should also have received a pamphlet from your employer describing workers' compensation benefits and the procedures to obtain them. You may receive written notices from your employer or its claims administrator about your claim. If your claims administrator offers to send you notices electronically, and you agree to receive these notices only by email, please provide your email address below and check the appropriate box. If you later decide you want to receive the notices by mail, you must inform your employer in writing.

**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. Una explicación de los beneficios de compensación de trabajadores está incluido en la Notificación de Posible Elegibilidad, que es la hoja de portada de esta forma. Separe y guarde esta notificación como referencia para el futuro.

Ud. también debería haber recibido de su empleador un folleto describiendo los beneficios de compensación al trabajador lesionado y los procedimientos para obtenerlos. Es posible que reciba notificaciones escritas de su empleador o de su administrador de reclamos sobre su reclamo. Si su administrador de reclamos ofrece enviarle notificaciones electrónicamente, y usted acepta recibir estas notificaciones solo por correo electrónico, por favor proporcione su dirección de correo electrónico abajo y marque la caja apropiada. Si usted decide después que quiere recibir las notificaciones por correo, usted debe de informar a su empleador por escrito.

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.

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.  Check if you agree to receive notices about your claim by email only.  *Marque si usted acepta recibir notificaciones sobre su reclamo solo por correo electrónico. Employee's e-mail.* \_\_\_\_\_ *Correo electrónico del empleado.* \_\_\_\_\_

You will receive benefit notices by regular mail if you do not choose, or your claims administrator does not offer, an electronic service option. *Usted recibirá notificaciones de beneficios por correo ordinario si usted no escoge, o su administrador de reclamos no le ofrece, una opción de servicio electrónico.*

9. Signature of employee. *Firma del empleado.* \_\_\_\_\_

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

10. Name of employer. *Nombre del empleador.* \_\_\_\_\_

11. Address. *Dirección.* \_\_\_\_\_

12. Date employer first knew of injury. *Fecha en que el empleador supo por primera vez de la lesión o accidente.* \_\_\_\_\_

13. Date claim form was provided to employee. *Fecha en que se le entregó al empleado la petición.* \_\_\_\_\_

14. Date employer received claim form. *Fecha en que el empleado devolvió la petición al empleador.* \_\_\_\_\_

15. Name and address of insurance carrier or adjusting agency. *Nombre y dirección de la compañía de seguros o agencia administradora de seguros.* \_\_\_\_\_

16. Insurance Policy Number. *El número de la póliza de Seguro.* \_\_\_\_\_

17. Signature of employer representative. *Firma del representante del empleador.* \_\_\_\_\_

18. Title. *Título.* \_\_\_\_\_ 19. 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.

**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.

SIGNING THIS FORM IS NOT AN ADMISSION OF LIABILITY

EL FIRMAR ESTA FORMA NO SIGNIFICA ADMISION DE RESPONSABILIDAD

Employer copy/Copia del Empleador  Employee copy/Copia del Empleado  Claims Administrator/Administrador de Reclamos  Temporary Receipt/Recibo del Empleado

# Appendix B Form DWC 5020

State of California <b>EMPLOYER'S REPORT OF OCCUPATIONAL INJURY OR ILLNESS</b>	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	Please do not use this column	
	2. MAILING ADDRESS: (Number, Street, City, Zip)	2a. Phone Number		CASE NUMBER
	3. LOCATION if different from Mailing Address (Number, Street, City and Zip)	3a. Location Code		OWNERSHIP
	4. NATURE OF BUSINESS; e.g., Painting contractor, wholesale grocer, sawmill, hotel, etc.	5. State unemployment insurance acct. no.		
	6. TYPE OF EMPLOYER: <input type="checkbox"/> Private <input type="checkbox"/> State <input type="checkbox"/> County <input type="checkbox"/> City <input type="checkbox"/> School District <input type="checkbox"/> Other Gov't. Specify: _____			INDUSTRY
	7. DATE OF INJURY / ONSET OF ILLNESS (mm/dd/yyyy)	8. TIME INJURY/ILLNESS OCCURRED _____ AM _____ PM	9. TIME EMPLOYEE BEGAN WORK _____ AM _____ PM	10. IF EMPLOYEE DIED, DATE OF DEATH (mm/dd/yyyy)
	11. UNABLE TO WORK FOR AT LEAST ONE FULL DAY AFTER DATE OF INJURY? <input type="checkbox"/> Yes <input type="checkbox"/> No	12. DATE LAST WORKED (mm/dd/yyyy)	13. DATE RETURNED TO WORK (mm/dd/yyyy)	14. IF STILL OFF WORK, CHECK THIS BOX: <input type="checkbox"/>
	15. PAID FULL DAYS WAGES FOR DATE OF INJURY OR LAST DAY WORKED? <input type="checkbox"/> Yes <input type="checkbox"/> No	16. SALARY BEING CONTINUED? <input type="checkbox"/> Yes <input type="checkbox"/> No	17. DATE OF EMPLOYER'S KNOWLEDGE / NOTICE OF INJURY/ILLNESS (mm/dd/yyyy)	18. DATE EMPLOYEE WAS PROVIDED CLAIM FORM (mm/dd/yyyy)
	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			SEX
	INJURY	20. LOCATION WHERE EVENT OR EXPOSURE OCCURRED (Number, Street, City, Zip)	20a. COUNTY	21. ON EMPLOYER'S PREMISES? <input type="checkbox"/> Yes <input type="checkbox"/> No
22. DEPARTMENT WHERE EVENT OR EXPOSURE OCCURRED, e.g., Shipping department, machine shop.		23. Other Workers Injured or Ill in this event? <input type="checkbox"/> Yes <input type="checkbox"/> No		
24. EQUIPMENT, MATERIALS AND CHEMICALS THE EMPLOYEE WAS USING WHEN EVENT OR EXPOSURE OCCURRED, e.g., Acetylene, welding torch, farm tractor, scaffold			DAILY HOURS	
25. SPECIFIC ACTIVITY THE EMPLOYEE WAS PERFORMING WHEN EVENT OR EXPOSURE OCCURRED, e.g., Welding seams of metal forms, loading boxes onto truck.			DAYS PER WEEK	
26. HOW INJURY/ILLNESS OCCURRED. DESCRIBE SEQUENCE OF EVENTS. SPECIFY OBJECT OR EXPOSURE WHICH DIRECTLY PRODUCED THE INJURY/ILLNESS, e.g., Worker slipped 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 HOURS	
27. Name and address of physician (number, street, city, zip)			WEEKLY WAGE	
27a. Phone Number			COUNTY	
28. Hospitalized as an inpatient overnight? <input type="checkbox"/> No <input type="checkbox"/> Yes: If yes then, name and address of hospital (number, street, city, zip)			NATURE OF INJURY	
28a. Phone Number			PART OF BODY	
29. Employee treated in emergency room? <input type="checkbox"/> Yes <input type="checkbox"/> No			SOURCE	
ATTENTION This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes. See CCR Title 8 14300.29 (b)(6)-(10) & 14300.35(b)(2)(E)2. Note: Shaded boxes indicate confidential employee information as listed in CCR Title 8 14300.35(b)(2)(E)2.				
EMPLOYEE	30. EMPLOYEE NAME	31. SOCIAL SECURITY NUMBER	32. DATE OF BIRTH (mm/dd/yyyy)	
	33. HOME ADDRESS (Number, Street, City, Zip)	33a. PHONE NUMBER		
	34. SEX <input type="checkbox"/> Male <input type="checkbox"/> Female	35. OCCUPATION (Regular job title, NO initials, abbreviations or numbers)	36. DATE OF HIRE (mm/dd/yy)	
	37. EMPLOYEE USUALLY WORKS _____ hours per day, _____ days per week, _____ total weekly hours	37a. EMPLOYMENT STATUS <input type="checkbox"/> regular, full-time <input type="checkbox"/> part-time <input type="checkbox"/> temporary <input type="checkbox"/> seasonal	37b. UNDER WHAT CLASS CODE OF YOUR POLICY WHERE WAGES ASSIGNED	
	38. GROSS WAGES/SALARY \$ _____ per _____	38. OTHER PAYMENTS NOT REPORTED AS WAGES/SALARY (e.g. tips, meals, overtime, bonuses, etc.?) <input type="checkbox"/> Yes <input type="checkbox"/> No		
	Completed By (type or print)	Signature & Title		Date (mm/dd/yyyy)
	* 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.			

FORM 5020 (Rev7) June 2002

FILING OF THIS FORM IS NOT AN ADMISSION OF LIABILITY

## **Appendix C Glossary of Terms**

### **Glossary of Terms**

<b>AA</b>	Applicant's Attorney (Usually the employee's Attorney)
<b>ACOEM</b>	American College of Occupational and Environmental Medicine
<b>ADA</b>	Americans with Disabilities Act (Federal)
<b>AMA Guides</b>	American Medical Association Guides to the Evaluation of Permanent Disability
<b>AME</b>	Agreed Medical Evaluator/Examination
<b>AOE/COE</b>	Arising Out of Employment and Occurring in the Course of Employment
<b>App</b>	Application of Adjudication of Claim
<b>Appeals Board</b>	Workers' Compensation Appeal Board (WCAB)
<b>Applicant</b>	Usually the employee who files an application
<b>ARTW</b>	Actual return to work
<b>Attny/Atty</b>	Attorney
<b>Award</b>	Award by the WCAB
<b>AWW/AWE</b>	Average Weekly Wage or Average Weekly Earnings
<b>Board</b>	Workers' Compensation Appeals Board (WCAB)
<b>C&amp;R</b>	Compromise and Release (form of settlement)
<b>Comp</b>	Workers' Compensation
<b>CT</b>	Cumulative Trauma or Carpal Tunnel Syndrome
<b>DA/Def Attny</b>	Defense Attorney – usually represents the employer
<b>Depo</b>	Deposition testimony under oath
<b>DEU</b>	Disability Evaluation Unit (determines level of disability)
<b>DIR</b>	Division of Industrial Relations

<b>DOI</b>	Department of Insurance or Date of Injury
<b>DOK</b>	Date of Knowledge of injury or disability
<b>DOR</b>	Declaration of Readiness to Proceed (request for Hearing)
<b>Dr</b>	Doctor/physician
<b>DWC</b>	Division of Workers' Compensation
<b>DWC1</b>	Employee's Claim for Workers' Compensation (form)
<b>E&amp;O</b>	Errors and Omissions insurance coverage
<b>EDD</b>	Employment Development Department (State Disability)
<b>Ee</b>	Employee
<b>ER</b>	Employer or Emergency Room
<b>F&amp;A</b>	Findings and Award (a court award of benefits)
<b>FCE</b>	Functional Capacity Evaluation
<b>I&amp;A</b>	Information and Assistance Officer
<b>IBR</b>	Independent Bill Review
<b>IME</b>	Independent Medical Evaluation/Evaluator
<b>IBR</b>	Independent Bill Review
<b>IMR</b>	Independent Medical Review
<b>IW</b>	Injured worker (employee)
<b>JA</b>	Job Analysis
<b>LC</b>	Labor Code of California (rules and regulations)
<b>LDW</b>	Last day of work
<b>LTD</b>	Long Term Disability
<b>Med-Legal</b>	Medical-Legal opinion or evaluation
<b>MMI</b>	Maximum medical improvement (the condition has improved as much as possible)

<b>MSA</b>	Medicare Set-Aside (an amount of money set aside in a trust for payment of medical benefits)
<b>MSC</b>	Mandatory Settlement Conference (Settlement Hearing)
<b>New and Further</b>	A Petition to reopen a claim for additional benefits
<b>NOPE</b>	Notice of Potential Disability advising an employee of their potential rights to Supplemental Job Displacement benefits
<b>OSHA</b>	Occupational Safety and Health Act
<b>Pro Per</b>	Unrepresented employee acting as their own attorney
<b>P&amp;S</b>	Permanent and Stationary (the condition has improved as much as possible)
<b>PD/PPD</b>	Permanent Disability or Permanent Partial Disability
<b>PDA</b>	Permanent Disability Advance
<b>PDR</b>	Permanent Disability Rating
<b>PERS</b>	Public Employees' Retirement System
<b>PQME</b>	Panel Qualified Medical Evaluation/Evaluator
<b>PRN</b>	Medical term – return for care “as needed”
<b>PTP</b>	Primary Treating Physician
<b>QME</b>	Qualified Medical Evaluator/Evaluation
<b>Rating</b>	A calculation of permanent disability
<b>RRTW</b>	Released to return to work
<b>S&amp;W</b>	A petition for additional benefits due to the employer's Serious and Willful misconduct leading to an injury or illness
<b>SAWW</b>	State Average Weekly Wage
<b>SCIF</b>	State Compensation Insurance Fund
<b>SII</b>	Self-Imposed Increase. An increase in benefits paid as the result of late provision of benefits.
<b>SIU</b>	Special Investigations Unit. A unit generally managed by the TPA that investigated potentially fraudulent claims and issues.

<b>SJDB/SJDV</b>	Supplemental Job Displacement Benefit/Voucher (relates to retraining costs)
<b>SOL</b>	Statute of Limitations
<b>SSA/SS</b>	Social Security Administration or benefits
<b>SSN</b>	Social Security Number
<b>Stips</b>	Stipulated Award (an agreed upon award)
<b>Sub Rosa</b>	Undercover investigation (usually filmed)
<b>Take Nothing</b>	A determined by the judge that the party “takes nothing” or receives no award (usually the employee)
<b>TD/TTD</b>	Temporary Disability/Temporary Total Disability (payment for time loss from work)
<b>TPD</b>	Temporary Partial Disability (payment for part time loss from work – wage loss)
<b>U&amp;C</b>	Usual and Customary occupation (regular work)
<b>UR</b>	Utilization Review
<b>Voucher</b>	Supplemental Job Displacement Voucher (relates to retraining)
<b>VR/Voc Rehab</b>	Vocational Rehabilitation (relates to retraining)
<b>WC</b>	Workers’ Compensation
<b>WCAB</b>	Workers’ Compensation Appeals Board
<b>WCJ</b>	Workers’ Compensation Judge