

DIVISION OF WORKERS' COMPENSATION

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This pamphlet has been approved by the administrative director of the Division of Workers' Compensation.

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WORKERS' **compensation**

*Helpful answers to questions about
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QUESTIONS & ANSWERS

What is workers' compensation?

Are Disaster Service Workers covered?

Workers' compensation is a special kind of benefit to assist employees who are injured on the job or become ill from disease caused by the job.

Workers' compensation benefits are set by the Legislature and spelled out in the California Labor Code. One section in the Labor Code defines Disaster Service Workers as "employees" under certain conditions and describes their benefits.

Who is a Disaster Service Worker?

When is (s)he eligible for workers' compensation benefits?

A Disaster Service Worker is anyone who is registered with an Accredited Disaster Council or supervising agency approved by the California Emergency Council, or any person ordered to perform services during a "state of war emergency," or any "state of emergency" or "local emergency," by a person or body having authority to command the aid of citizens to carry out assigned duties. A state of emergency may be proclaimed by the Governor as a result of conditions such as air pollution, fire, flood, storm, epidemic, riot, or earthquake.

A Disaster Service Worker may be a reserve policeman, an auxiliary fireman, an emergency welfare worker, a communications specialist, a medical worker, a transportation specialist, a clerk, or anyone qualified to perform services that can aid the public in times of disaster.

Disaster Service Workers are eligible for workers' compensation benefits while performing assigned duties or undergoing any authorized training activities. However, if the Disaster Service Worker or the Accredited Disaster Council or supervising agency with which (s)he is working is paid for these services, an "employer-employee" relationship exists. In this case an injured worker would be entitled to traditional workers' compensation benefits instead of the special provisions for Disaster Service Workers. In addition, a registered firefighter of any regularly organized and municipally supported volunteer fire department is excluded from Disaster Service Worker benefits.

While engaged in regularly scheduled Disaster Service activities, including authorized training, coverage is only during such activities—not while en route between home and the service or training venue. However, if a Disaster Service Worker is activated during an emergency, workers' compensation coverage starts when leaving the home and lasts until a return home, as long as no route deviations are made for personal reasons.

What is a workers' compensation injury or illness?

An injury or illness that occurs on the job is considered a workers' compensation injury or illness. Under workers' compensation law, you will receive help if you are injured, no matter who was at fault.

Workers' compensation covers various types of events, injuries, and illnesses. You could get hurt by one event at work, such as hurting your back in a fall, or by repeated exposures at work, such as hurting your wrist from doing the same motion over and over.

What is State Compensation Insurance Fund?

We are the insurance carrier that adjusts claims for Accredited Disaster Councils or supervising agencies under the State of California Office of Emergency Services. We also have more than 90 years of experience providing workers' compensation throughout California.

Is workers' compensation the same as State Disability Insurance?

No. Workers' compensation is only for injuries or illnesses that occur on the job. State Disability Insurance (SDI) is for injuries or illnesses that are not work-related, and it is a benefit that the Employment Development Department provides.

How does this coverage affect my own health insurance?

Workers' compensation is separate from personal health-care insurance. Workers' compensation insurance covers work-related injuries and illnesses only. There is no deductible—the insurance carrier pays all approved medical bills. It is important to let the treating doctor know if your injury is work-related.

How do I file a claim?

As soon as you can after your injury, report immediately to your supervisor that you have been hurt. Except for first-aid injuries, the Accredited Disaster Council or supervising agency for which you work will provide you with a claim form on which you can describe your injury, as well as how, when, and where it occurred. Return the completed form to the Accredited Disaster Council or supervising agency, which will send it to us. We will then contact you to explain the benefits to which you may be entitled.

What are the workers' compensation benefits and rights for Disaster Service Workers?

Within one day after a Disaster Service Worker files a claim form, the law requires the Accredited Disaster Council or supervising agency to authorize medical treatment as required and limited by the law, until the claim is accepted or rejected, up to a limit of \$10,000 in total. All medical treatment is provided in accordance with the medical treatment utilization schedule.

If you are injured while performing authorized Disaster Service activities, you will receive the medical care required for your injury at no cost to you. Also, as of January 1, 1987, Disaster Service Workers are entitled to the same workers' compensation benefits as any other injured employee as outlined in this brochure.

If State Fund accepts your claim, State Fund will pay all approved medical care that is reasonable, necessary, and supported by evidence-based treatment guidelines. This care may include doctors, hospital services, physical therapy, lab tests, x-rays, medicines, and related reasonable transportation expenses. For injuries on or after January 1, 2004, there are limits on the number of chiropractic, occupational therapy, and physical therapy visits.

State Fund pays for all authorized treatment so you should not receive any bills. The law states that you are not responsible for copayments or balance-due bills after we have paid the provider. If you receive any bills or a medical provider or pharmacy demands payment up-front, contact your claims representative right away.

We will also pay a portion of your lost wages if you cannot work due to the injury. This benefit is called temporary disability. If your injury or illness results in a permanent

impairment that diminishes your future earning capacity, we will also pay you permanent disability benefits. In the event of a work-related death, we will pay death benefits to your qualified surviving dependents.

As of January 1, 2004, State Fund is required to review medical treatment requests from your physician through a utilization review (UR) process. This review process involves doctors and other health consultants reviewing your treatment needs based on the medical information provided by your physician to State Fund. There are time limits to approve, modify, delay, or deny treatment requests from your physician.

Who pays for these benefits, and where does the money come from?

State Compensation Insurance Fund is responsible for benefit calculations for the Disaster Service Worker. Based on these calculations, the Office of Emergency Services issues the payments. The monies for these benefits come from special funds appropriated by the California State Legislature.

Who reports the injuries?

The director of your Accredited Disaster Council or supervising agency is responsible for reporting any injury as soon as possible to State Fund's Sacramento State Contract Services office, using a specified form, and, in any case, no more than five days after his or her knowledge of the injury.

How do I get emergency medical treatment?

If it's a medical emergency, call 911 or go to an emergency room right away. The Accredited Disaster Council or supervising agency may advise you where to go for treatment. Tell the health-care provider who treats you that your injury or illness is job-related, and, if possible, give him/her the workers' compensation carrier information.

How is temporary disability (TD) calculated?

The amount of temporary disability compensation is determined by law and your date of injury. Temporary disability for Disaster Service Workers is always paid at the maximum allowable TD rate at the time of injury. The maximum weekly amount of \$602 is in effect for injuries in 2003; \$728 for injuries in 2004; and \$840 for injuries in 2005.

Temporary disability payments made two or more years after the injury will reflect the rates in effect at the time of the payment.

When does temporary disability start and stop?

If you are unable to work for more than 3 calendar days, we will pay you temporary disability. This 3-day “waiting period” will qualify for payment if you are unable to work for more than 14 calendar days, or if you are hospitalized as an inpatient. You will receive temporary disability payments every two weeks during the time you qualify for this benefit. Generally, temporary disability stops when you return to work, or when the treating physician releases you for work or says that your injury has reached a point of maximum improvement. TD payments will not be extended beyond 104 compensable weeks within two years after the initial TD payment. Exempt are certain injuries that typically take longer to heal; they are subject to a cap of 240 weeks within a five-year period.

How is permanent disability (PD) calculated and paid?

Your examining physician will report on any permanent impairment that may be considered a permanent disability. Under workers’ compensation law, a permanent disability rating involves the use of a specialized formula. This formula considers your age and occupation of “laborer” for Disaster Service Worker at the time of your injury or illness, diminished future earning capacity, plus any permanent impairments that the examining physician may indicate. The permanent disability rating yields a specific dollar amount. The exact amount depends on the date of injury, the percentage of disability, and the maximum PD rate allowable at the time of injury. Once permanent disability payments begin, you receive payments every two weeks at your permanent disability rate until the specific dollar amount is paid out. The table below lists the maximum PD payments for 2003 through 2005.

Disaster Service Worker PD rates for ratings up to 99.75%	
YEAR	RATE
2003	\$602 per week
2004	\$728 per week
2005	\$840 per week

When does permanent disability start and stop?

Generally, if we accept your claim and your treating physician has determined that you have permanent disability, payments begin within 14 days after the termination of temporary disability. If we know the extent of your permanent disability, payments will continue every two weeks until you are paid the full benefit. If we do not know the extent of your permanent disability, payments will continue every two weeks until you are paid a reasonable estimate of your permanent disability indemnity due.

How are death benefits calculated and paid?

The total death benefit is contingent on the number of surviving partial and total dependents at the time of injury or illness resulting in death. Once we determine the dependency, we pay the death benefit in installments at the decedent’s temporary disability rate. However, the rate must be no less than \$224 per week until we have paid the total death benefit, or, if dependency involves a minor child, until the minor child is 18 years old. For injuries on or after January 1, 2003, benefits will be paid to a dependent child for life when physically or mentally incapacitated from earning. The next table shows the distribution of maximum death benefits.

Death Benefit Maximums		
	07/01/96 - 12/31/05	2006-NEW BENEFITS
Single total dependent	\$125,000	\$250,000
No total dependents and one or more partial dependents	\$125,000	\$250,000
Single total dependent and one or more partial dependents	\$145,000	\$290,000
Two total dependents	\$145,000	\$290,000
Three or more total dependents	\$160,000	\$320,000
Effective 01/01/04, if no dependents exist, \$250,000 will be paid to the employee’s estate.		

What is the role and function of the primary treating physician?

Your treating doctor will decide what type of medical care you’ll get for your injury or illness, determine when you can return to work, help identify the kinds of work you can do safely while recovering, refer you to specialists, if necessary, and write medical reports that will affect the benefits you receive.

Can I choose the doctor who will treat me for my job injury?

Your ability to choose the doctor depends upon the following variables:

- **Health Care Organization (HCO).** If the Accredited Disaster Council or supervising agency offers an HCO, then the Accredited Disaster Council, or supervising agency, or workers' compensation insurance carrier will select the doctor.
- **Group Health Insurance.** If the Accredited Disaster Council, or supervising agency offers a group health insurance plan, you may predesignate your personal physician prior to an injury.

Your predesignated physician must meet the following requirements:

- Must be your regular physician.
- Must be your primary care physician.
- Must be licensed per Business & Professions Code.
- Must have previously provided your treatment.
- Retains your medical records, including medical history.
- Agrees to be your predesignated physician.

To predesignate, you must give your Accredited Disaster Council or supervising agency the name and address of your physician *in writing*, before you are injured. **If you do not predesignate**, your Accredited Disaster Council or supervising agency will arrange your initial treatment with a physician.

- If the Accredited Disaster Council or supervising agency does not offer any of the preceding options, then you may not predesignate.

If, in accordance with the above requirements, you have predesignated your personal physician or chiropractor or acupuncturist in writing, then you may go to this doctor for treatment immediately after your injury.

As established previously (effective January 1, 2003), the Accredited Disaster Council or supervising agency must provide all new Disaster Service Workers with a form on which they may predesignate their personal physician or personal chiropractor or acupuncturist who has treated them in the past and has their medical or chiropractic or acupuncturist treatment records. However, this predesignation is available only to those employees whose employers offer Group Health Insurance.

Contact your claims representative for more information.

How can I return to work as soon as possible?

To help you return to work as soon as possible, you should actively communicate with your treating doctor and claims representative about the kinds of work you can do while recovering. They may coordinate efforts to return you to a 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.

What if I become dissatisfied with my treatment?

If you are unhappy with the medical treatment you're receiving, you can take one of the following steps:

- Contact your State Fund claims representative and explain why you are dissatisfied. Our claims representative can try to resolve the problem with the physician.
- **HCO.** If the Accredited Disaster Council or supervising agency provides an HCO, after at least 90 days (or up to 180 days), you may go to a physician of your own choosing.

We'll continue to pay the approved medical bills and reasonable transportation costs, so be sure to tell your claims representative the name and address of your new physician.

You can also request a change of physician at any time during your injury. Your claims administrator/State Fund must consider your request for a physician change.

May I file a workers' compensation claim if an injury occurs outside of work?

Your Accredited Disaster Council or supervising agency or their insurance carrier may not be liable for the payment of workers' compensation benefits for an injury resulting from your voluntary participation in any off-duty recreational, social, or athletic activity that is not part of your authorized Disaster Service Worker related duties.

Note: Workers' compensation fraud laws make it a felony for anyone to file a false or fraudulent statement or to submit a false report or any other document for the purpose of obtaining or denying workers' compensation benefits. Anyone caught performing these illegal acts will be prosecuted. If convicted, the person can face up to 5 years in prison and/or up to a \$150,000 fine.

What if I have a recurrence and require further medical care?

If you need more medical care for your injury after your original treatment has ended, you have one full year after your last treatment to notify us of your request for more medical care.

What if I have to change my line of work because of a workers' compensation injury?

For injuries before January 1, 2004, if you are unable to return to your job due to a workers' compensation injury, you may qualify for vocational rehabilitation benefits. Your rehabilitation plan may be as simple as modifying your current job to accommodate any limitations you have suffered, or it may involve training for a new job. Our vocational rehabilitation counselors will help you obtain any needed services.

For injuries before January 1, 2004, a represented Disaster Service Worker may agree to settle his or her right to future vocational rehabilitation with a one-time payment which cannot be more than \$10,000.

For injuries on or after January 1, 2004, if your injury results in permanent disability, and you are unable to return to work within 60 days after the last payment of temporary disability, and the Accredited Disaster Council or supervising agency does not offer modified or alternative work, a non-transferable voucher for education-related costs is payable to a state-approved school. The voucher can range from \$4,000 to \$10,000 depending on the level of your permanent disability. This benefit is called a Supplemental Job Displacement Benefit (SJDB). The following table shows the different ranges.

Supplemental Job Displacement Benefits (SJDB)	
Permanent Disability Level	SJDB Voucher Amount
Less than 15%	Up to \$4,000
15% to 25%	Up to \$6,000
26% to 49%	Up to \$8,000
50% to 99%	Up to \$10,000

What are my protections against discrimination for filing a workers' compensation claim?

It is illegal for your employer to punish or fire you for having a work injury or illness, for filing a claim, or for testifying in another person's workers' compensation case. If proven, you may receive lost wages, job reinstatement, increased benefits, and costs and expenses up to limits set by the state. If you believe you have experienced discrimination because of your injury, you should discuss your rights with an Information and Assistance Officer at the State Division of Workers' Compensation or with an attorney.

What if I have not received the benefits I think I should have?

If you have not received the benefits you think you should have, ask for an explanation from your State Fund claims representative. Misunderstandings and errors sometimes do occur, but you can resolve most of them by talking with your claims representative.

If you are not satisfied with your claims representative's answers, you have several options. You have the right to consult with and be represented by an attorney. You can consult with an information and assistance officer of the Division of Workers' Compensation. You can also file an Application for Adjudication of Claim with the Workers' Compensation Appeals Board (WCAB) to resolve your claim formally. The information and assistance officer can help you file the Application for Adjudication of Claim.

Are there time limits for filing a claim?

Yes. Generally, the law requires you to provide the Accredited Disaster Council or supervising agency with notice of your injury within 30 days of the date of injury. In addition, should you disagree with any of our actions, in order to protect your rights you must commence proceedings before the Workers' Compensation Appeals Board by filing an Application for Adjudication of Claim within one year of the date of injury, or one year from the last furnishing of indemnity or medical treatment benefits by your employer or State Fund. It is very important that you act promptly so as not to risk losing your benefits because you waited too long.

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To Accredited Disaster Councils and supervising agencies:

California law requires you to provide this brochure and a form on which a Disaster Service Worker may indicate the name of his or her personal physician or personal chiropractor or personal acupuncturist. The form must be provided at the time the Disaster Service Worker officially registers or is ordered to perform services.

This form is available from your State Fund representative at no cost to you. Keep a supply on hand. Document personnel records, indicating when this form was provided and when it was returned to you.

PLEASE SEE REVERSE SIDE

After completion by the Disaster Service Worker, keep original in his or her personnel file, and provide a copy to the worker.

For the Disaster Service Worker/Para el Trabajador del Servicio de Desastre:

If I am injured while performing authorized disaster duties as a Disaster Service Worker, I wish to be treated by my **personal physician**, who meets all the following requirements: (1) is my regular physician; (2) is my primary care physician; (3) is licensed per Business & Professions Code; (4) has previously provided my treatment; (5) retains my records; (6) agrees to be my predesignated physician.

*Si me lesiono en el trabajo, deseo que me atienda mi **doctor personal**, quien llena todos los siguientes requisitos: 1) Es mi médico regular; 2) Es mi médico primario de cuidado; 3) Tiene una licencia de aprobación del Business & Professions Code; 4) Me ha proporcionado tratamiento médico anteriormente; 5) Tiene y mantiene mi historial médico; 6) Acepta ser mi médico designado.*

Or, I wish to be treated by my **personal chiropractor or acupuncturist**, who has treated me before and has my records. My personal chiropractor or acupuncturist may treat my injury during the first 30 days of the Accredited Disaster Council's or supervising agency's medical control, but I must first be evaluated by my Accredited Disaster Council or supervising agency's physician before I may request a change to my personal chiropractor or acupuncturist.

*Ó, deseo que me atienda mi **quiropático o acupunturista personal**, quien es el que me ha atendido anteriormente y tiene mi historial. Mi quiropático o acupunturista personal podrá ofrecerme tratamiento durante los primeros 30 días del control médico del Accredited Disaster Council o de la agencia que supervisa, pero un doctor asignado por mi Accredited Disaster Council o de la agencia que supervisa deberá examinarme primero antes de solicitar que me cambien a mi quiropático o acupunturista personal.*

**DISASTER SERVICE WORKER'S INFORMATION
INFORMACIÓN DEL TRABAJADOR DEL SERVICIO DE DESASTRE:**

NAME/NOMBRE: _____

YOUR DOCTOR'S INFORMATION/INFORMACIÓN DE SU DOCTOR:

DOCTOR: _____

ADDRESS/DIRECCIÓN: _____

CITY/CIUDAD: _____

STATE/ESTADO: _____ ZIP/CODIGO: _____

PHONE/TEL.: _____

DOCTOR'S SIGNATURE/FIRMA DEL DOCTOR _____ DATE/FECHA _____

YOUR SIGNATURE/SU FIRMA _____ DATE/FECHA _____