

California Workers' Compensation: Insured Employer Duties and Responsibilities

(PART-A INJURED WORKERS ANALYSIS)

March 1, 2026

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CALIFORNIA WORKERS' COMPENSATION: INSURED EMPLOYER DUTIES AND RESPONSIBILITIES

California law requires every employer with one or more employees to carry workers' compensation insurance and follow strict rules before and after workplace injuries. This report explains what you must do as an employer, the deadlines you must meet, and what happens if you do not comply. Whether you run a small business or manage a larger company, these rules apply to you.

Important: If you operate without workers' compensation insurance, you face criminal charges, fines up to \$100,000, up to one year in jail, and unlimited personal injury lawsuits. There is no exception for small employers.

Part 1: Legal Framework — Why You Must Carry Insurance

This section explains the law that requires you to have workers' compensation insurance and the safety rules you must follow.

The Insurance Mandate

California Labor Code § 3700 (<https://leginfo.legislature.ca.gov/>) creates an absolute requirement: every employer must pay for workers' compensation coverage. You have no choice in this matter. The law gives you three ways to comply:

- Purchase insurance from a private company licensed to sell workers' compensation policies in California.
- Self-insure by getting a certificate from the Director of Industrial Relations (this requires at least \$5 million in net worth and three years of audited financial statements). See the Office of Self Insurance Plans requirements (<https://www.dir.ca.gov/osip/apprequirements.htm>).
- Use the State Compensation Insurance Fund, a nonprofit insurer that serves as the insurer of last resort (<https://www.statefundca.com>) for employers who cannot get private coverage.

This mandate applies to all business types — sole proprietorships, partnerships, corporations, and LLCs. Even if you have only one part-time employee, you must carry insurance. You cannot ask employees to pay for their own coverage; the cost belongs entirely to the employer. Coverage must be continuous. Even a single day without insurance exposes you to criminal penalties and civil lawsuits. Cal. Lab. Code § 3700.5 (<https://employeesfirstlaborlaw.com/labor-code-%C2%A73700-employers-duty-to-provide-workers-comp/>).

Workplace Safety Requirements

The California Occupational Safety and Health Act (Cal/OSHA), found primarily in Cal. Lab. Code § 6400 (<https://www.rjylaw.com/a-violation-of-labor-code-section-6400-could-lead-to-a-serious-and-willful-misconduct-claims/>), requires you to provide a workplace that is safe and healthful. This is not a suggestion — it is an enforceable legal duty. Cal/OSHA inspectors can visit your workplace, issue citations, and impose penalties.

If you intentionally violate a safety standard or act with reckless disregard for worker safety, you may face a serious and willful misconduct claim under Cal. Lab. Code § 4553 (<https://plaintiffmagazine.com/recent-issues/item/don-t-get-tripped-up-on-serious-and-willful-claims>). This can increase your workers' compensation liability by 50%.

Regulations and Guidance

The Division of Workers' Compensation (DWC) publishes detailed rules in Title 8 of the California Code of Regulations (<https://www.dir.ca.gov/dwc/employer.htm>). These cover employer notice requirements (§§ 9880–9883), medical provider networks (§§ 9770–9779.8), benefit calculations (§§ 10100–10101.1), and attorney fees (§ 10840). The DWC updates its guidance regularly, so you should check the DWC website (<https://www.dir.ca.gov/dwc/employer.htm>) for current requirements.

Part 2: Recent Legal Changes Affecting Employers

This section covers updates to the law as of early 2026 that may affect your obligations.

Cal/OSHA Penalty Increases (Effective January 1, 2025)

Cal/OSHA raised its civil penalty amounts across all categories. As of January 1, 2025:

- General and regulatory violations (including failures in posting and recordkeeping): maximum penalty of \$16,285
- Willful and repeat violations: maximum penalty of \$162,851

These increases reflect an approximately 2.6% inflation adjustment. You can review the full penalty schedule at the DIR 2025 penalty update page (<https://www.dir.ca.gov/DIRNews/2025/2025-10.html>).

Medical Provider Network Updates (February 2025)

The DWC posted updated guidance on Medical Provider Network (MPN) applications and reapprovals. If you use an MPN, you must ensure it meets the latest DWC MPN requirements (<https://www.dir.ca.gov/dwc/mpn/dwcmprnmain.html>) for employee notification and access standards.

Attorney Deposition Fee Regulations (January 2026)

As of January 26, 2026, the DWC posted draft regulations on attorney deposition fees (<https://www.dir.ca.gov/DIRNews/2026/2026-10.html>) under Cal. Lab. Code § 5710. These may expand the scope of fee awards when employers request employee depositions in workers' compensation proceedings.

Independent Medical Review (IMR) Costs

The Independent Medical Review (IMR) system — the process used to resolve disputes about denied or modified medical treatment — costs \$375 per IMR request as of October 1, 2024. The IMR process applies to all injuries with dates on or after July 1, 2013. Details are available on the DWC IMR page (<https://www.dir.ca.gov/dwc/imr.htm>).

Return-to-Work Supplement Program

The Return-to-Work Supplement Program continues to provide a one-time \$5,000 payment to injured workers who received a supplemental job displacement benefit voucher for injuries on or after January 1, 2013. Review the RTWSP details (<https://www.dir.ca.gov/rtwsp/rtwsp.html>) if you have employees who may qualify.

Part 3: Pre-Injury Employer Responsibilities

This section explains what you must do before any workplace injury happens, including insurance, safety programs, and employee notices.

Maintain Valid Insurance at All Times

Your primary duty is to buy and keep valid workers' compensation insurance. Obtain a current certificate of insurance from your carrier showing your coverage dates. Review it regularly to confirm there are no gaps. If you change your payroll, job classifications, or business operations, notify your insurance carrier immediately. Set up renewal reminders well before your policy expires — even one day without coverage creates criminal liability. The DWC FAQ for Employers (<https://www.dir.ca.gov/dwc/faqs.html>) explains these requirements in plain language.

Create a Written Injury and Illness Prevention Program (IIPP)

You must create, maintain, and follow a written Injury and Illness Prevention Program (IIPP) as required by Cal. Lab. Code § 6400 and 8 Cal. Code Regs. § 3203 (https://www.dir.ca.gov/dosh/dosh_publications/IIPP-Model-nonhigh-hazard.html). Your IIPP must include eight elements:

1. Assign a specific person with authority to run the program
2. Create procedures to make sure employees follow safe work practices
3. Set up a system for employees to report hazards
4. Establish procedures to identify and assess workplace hazards
5. Create accident and exposure investigation procedures
6. Develop procedures to correct hazards when found
7. Provide training and instruction to employees
8. Keep records of your safety activities

You must keep the IIPP in writing, make it available at each worksite, and review it at least once a year. The Cal/OSHA IIPP guide (https://www.dir.ca.gov/dosh/dosh_publications/iipp.pdf) provides a model program you can adapt.

Provide Required Notices to New Employees

You must give every new employee the following documents:

- The Time of Hire Notice (updated February 1, 2024), which explains basic workers' compensation rights. Download it from the DWC Time of Hire page (<https://www.dir.ca.gov/DIRNews/2024/2024-30.html>).
- The "For Your Benefit" pamphlet (DE 2320) explaining unemployment and disability insurance rights.
- Required workplace postings (<https://www.dir.ca.gov/wpnodb.html>), including the Cal/OSHA safety poster, the Notice to Employees about work injuries, and whistleblower protection information.

As of February 1, 2026, you must also post a "California Workplace — Know Your Rights" notice in English and at least one additional language that reflects your workforce.

Set Up a Medical Provider Network (If Applicable)

If you establish an MPN, you must get DWC approval before using it, notify employees about the network, and explain how they can access providers and request second opinions. Your MPN must include at least three primary treating physicians and three providers in each commonly used specialty. Review the MPN FAQ page (<https://www.dir.ca.gov/dwc/mpn/dwcmpnfaq.html>) for details.

Part 4: Post-Injury Response — The Critical First Five Days

This section explains the strict deadlines you must meet after learning about a workplace injury. Missing these deadlines creates legal liability.

Day One: Provide the Claim Form and Authorize Treatment

When you learn that an employee was injured at work — whether the employee tells you, a witness reports it, or a doctor contacts you — you must act immediately. Within one working day, you must:

- Give the employee the DWC-1 Workers' Compensation Claim Form. This is the official form that starts the workers' compensation process. It must be provided in the employee's language. You can download it from the DWC forms page (<https://www.dir.ca.gov/dwc/dwcform1.pdf>).
- Return a dated copy of the completed DWC-1 form to the employee within one working day of receiving the employee's completed form.
- Authorize up to \$10,000 in medical treatment, even while the claim is still being investigated.

Critical: You must authorize treatment within one working day of receiving the completed claim form. Failure to do so violates Cal. Lab. Code § 5401(c) (<https://www.invictuslawpc.com/resources/workers-comp-claim-filing-time-limits/>) and can result in penalties and attorney fee awards.

Days Two Through Five: File Reports

Within five days of learning about the injury, you must:

- Complete and submit Form 5020 (Employer's Report of Occupational Injury or Illness) to Cal/OSHA. This form is required for any injury that causes lost work time beyond the day of the incident or requires medical treatment beyond first aid. Download it from the Cal/OSHA forms page (<https://www.dir.ca.gov/dosh/doshreg/form5020.pdf>).
- Forward the completed DWC-1 form and your employer's report to your claims administrator (your insurance carrier) within one working day of receiving the completed form from the employee.

Serious Injuries and Deaths

If an employee suffers a serious injury, illness, or death, you must call the nearest Cal/OSHA office immediately by telephone. "Serious" includes hospitalization, serious exposure to hazardous substances, or any injury a healthcare professional diagnoses as work-related and potentially serious. For Northern California employers, contact the Cal/OSHA Oakland District Office at 800-963-9424.

If an employee dies from a previously reported injury, you must file an amended Form 5020 within five days of learning of the death.

Understanding "Working Day" vs. "Calendar Day"

A working day means one business day, excluding weekends and holidays. If you receive an injury notice on Friday afternoon, you must provide the claim form by the end of the next business day (usually Monday). To stay safe, treat all deadlines as working days unless the law specifically says "calendar days."

Part 5: The 90-Day Presumption and Claims Processing

This section explains what happens after you file the claim with your insurance carrier and how the investigation period works.

The 90-Day Investigation Window

Once the employee files the DWC-1 claim form, your insurance claims administrator has 90 days to accept or deny the claim. Under Cal. Lab. Code § 5402(b) (<https://www.sullivanoncomp.com/blog/what-constitutes-a-timely-denial-under-lc-5402b>), if the claims administrator does not reject the claim within 90 days, the injury is presumed compensable. This means the law assumes the injury is work-related, and the burden shifts to you to prove otherwise.

Important: This presumption is very difficult to overcome. Once it attaches, the only way to rebut it is with evidence that could not have been discovered through reasonable effort during the initial 90-day period. Always ensure your claims administrator makes timely decisions.

A valid denial requires the claims administrator to make the rejection decision within the 90-day window. Although the written notice does not technically need to be sent within 90 days, you should always provide written notice within that period to create a clear record. Waiting longer makes it much harder to prove the claim was timely denied. See the analysis at Bradford Barthel (<https://bradfordbarthel.com/2020/10/08/decision-time-when-does-the-90-day-investigation-period-begin/>).

Your Duties During the Claims Process

Even though your insurance claims administrator handles most of the claim, you still have obligations:

- Provide wage statements showing the employee's earnings history. The claims administrator needs this to calculate disability benefits. If you fail to provide it, the administrator may default to the maximum benefit rate, increasing your costs.
- Maintain complete injury records, including your investigation notes, witness statements, and all communications.
- Confirm return-to-work status and cooperate with all information requests from the claims administrator and the Workers' Compensation Appeals Board (WCAB).
- Ensure the employee receives all required benefit notices explaining the status of their claim.

Medical Treatment Disputes

If your claims administrator denies or modifies a doctor's treatment request, the decision must follow utilization review (UR) standards under 8 Cal. Code Regs. § 9792.9 (https://www.dir.ca.gov/t8/9792_9.html). The written denial must explain the medical reasons for the decision and inform the employee about the IMR process.

If the employee disagrees with a UR decision, they can request Independent Medical Review using the DWC IMR-1 form within 30 days. The IMR process typically resolves within 40 days and costs \$375 per request. Details are available on the DWC IMR FAQ page (https://www.dir.ca.gov/dwc/IMR/IMR_FAQs.htm).

Part 6: Temporary Disability Benefits and Return to Work

This section explains the wage replacement benefits injured employees receive when they cannot work and your role in helping them return to their jobs.

Temporary Disability Benefits

If an injured employee cannot work because of a work-related injury, they receive temporary disability (TD) benefits. TD benefits equal two-thirds of the employee's average weekly wages, subject to minimum and maximum limits set by law. According to the DWC benefits page (<https://www.dir.ca.gov/dwc/workerscompensationbenefits.htm>):

- TD payments begin when the treating doctor reports the employee cannot do their usual work for more than three days, or when the employee is hospitalized overnight.
- The first three days of missed work are generally not paid (called the waiting period) unless the employee is hospitalized overnight or misses more than 14 days.
- TD benefits continue until the employee returns to work, the doctor clears them to work, or their condition reaches maximum medical improvement (also called permanent and stationary status).

Calculating the Benefit Rate

To calculate the correct TD rate, you must provide the claims administrator with the employee's wage information for the four weeks immediately before the injury date, as required by Cal. Lab. Code § 4453 (<https://www.iflm.com/news-knowledge/temporary-disability-primer-common-issues-and-pitfalls-in-calculating-average-weekly-wage/>). Include wages, bonuses, overtime, and the fair market value of any board, lodging, or fuel provided as pay. If the employee worked for multiple employers, all income must be included.

As of January 1, 2023, the minimum TD rate was \$242.86 per week and the maximum was \$1,619.15 per week (<https://www.ghitterman.com/blog/2023/september/understanding-the-average-weekly-wage-calculation/>), with annual adjustments each January 1 based on the Consumer Price Index.

Facilitating Return to Work

You should help the employee return to work as soon as their doctor says it is medically safe. If the doctor allows modified duty or light duty, you must either accommodate those restrictions or show that no such work is available. The DWC Injured Worker Guidebook (<https://www.dir.ca.gov/injuredworkerguidebook/injuredworkerguidebook.html>) describes the return-to-work process in detail.

- If the employee accepts transitional work within the doctor's restrictions, TD benefits may be replaced by temporary partial disability benefits, equal to two-thirds of the difference between pre-injury and post-injury earnings.
- Transitional work programs typically last up to 90 days, with extensions possible if the doctor recommends them.
- If the employee cannot return to their usual job even with restrictions, explore alternative positions. If none are available, the employee may qualify for vocational rehabilitation or a supplemental job displacement benefit voucher.

Part 7: Permanent Disability and Supplemental Benefits

This section explains what happens when an employee's condition stabilizes but they still have lasting limitations from the injury.

Permanent Disability Ratings

When the employee's condition reaches permanent and stationary (P&S) status — meaning no further medical improvement is expected — the treating doctor writes a P&S report. This report describes the employee's ongoing limitations, work restrictions, and need for future medical care. The doctor assigns an impairment rating using the American Medical Association (AMA) Guides, which measures the degree of lost function.

This impairment rating is then converted to a permanent disability (PD) percentage using the 2005 Permanent Disability Rating Schedule (<https://www.dir.ca.gov/dwc/workerscompensationbenefits.htm>), which adjusts for the employee's age, occupation, and how the disability affects earning capacity. PD benefits are paid at two-thirds of average weekly wages, modified by the disability percentage.

For injuries on or after January 1, 2013, the whole person impairment rating is multiplied by 1.4 before being converted to a PD percentage. This significantly increases PD benefits compared to earlier calculation methods. According to Legal Aid at Work (<https://legalaidatwork.org/factsheet/workers-compensation-permanent-disability-benefits/>), the physician must also determine apportionment — the percentage of

disability caused by the work injury versus other factors such as pre-existing conditions. This is required by Cal. Lab. Code §§ 4663–4664.

Supplemental Job Displacement Benefit (SJDB) Voucher

If the employee suffers permanent partial disability and you do not offer them other work, they may qualify for a Supplemental Job Displacement Benefit (SJDB) voucher. For injuries on or after January 1, 2013, the voucher is a flat \$6,000 and can be used for:

- Tuition, fees, and books at approved schools
- Computer equipment (up to \$1,000)
- Licensing and certification testing fees
- Tools required by training courses
- Vocational counseling (up to \$600 or 10%)

You must offer modified or alternative work within 60 days after the claims administrator receives the doctor's return-to-work report. The offered work must pay at least 85% of pre-injury wages and last at least 12 months. If you do not make this offer, the claims administrator must issue the SJDB voucher (<https://www.dir.ca.gov/dwc/sjdb.html>) within 20 calendar days.

Return-to-Work Supplement Program

Employees who receive an SJDB voucher may also qualify for an additional one-time \$5,000 payment through the Return-to-Work Supplement Program (<https://www.dir.ca.gov/rtwsp/rtwsp.html>). They must apply online within one year from the date the voucher was served. The DWC reviews applications within 60 days, with payment following within 25 days. See the RTWSP FAQ page (<https://www.dir.ca.gov/rtwsp/Faqs.html>) for eligibility details.

Part 8: Anti-Retaliation Protections

This section explains the law that protects employees from punishment for filing workers' compensation claims, and the serious consequences you face if you violate it.

What the Law Prohibits

California Labor Code § 132(a) (<https://www.bridgefordlaw.com/practice-areas/workers-compensation/132-a-/>) makes it illegal to discharge, threaten to discharge, discriminate against, or retaliate against an employee because they filed or stated their intention to file a workers' compensation claim. The law is intentionally broad. It covers:

- Termination, demotion, or reduction of hours or pay
- Denial of benefits or promotion opportunities
- Assignment of undesirable duties or creation of a hostile work environment
- Any threats of adverse action, even if never carried out

Important: Even threatening retaliation — without actually following through — violates Section 132(a) and creates liability.

Penalties for Retaliation

An employee who proves a Section 132(a) violation receives substantial remedies as described by Ogletree Deakins (<https://ogletree.com/insights-resources/blog-posts/california-labor-code-section-132a-when-claims-of-discrimination-are-brought-before-the-workers-compensation-appeals-board/>):

- Their workers' compensation award is increased by up to \$10,000
- They receive full reinstatement to their former position
- They receive back pay and lost benefits
- They receive attorney fees

Section 132(a) is not the employee's only option. Employees can also file wrongful termination lawsuits in civil court under the Fair Employment and Housing Act (FEHA) or common law theories. Civil court damages can include compensatory damages, emotional distress, and punitive damages with no cap. See Wax & Wax analysis (<https://www.waxlawfirm.com/blog/workers-compensation-retaliation-in-california/>).

How to Protect Yourself from Section 132(a) Claims

- Create a written anti-retaliation policy and distribute it to all employees
- Train managers and supervisors annually on what retaliation looks like
- Never make statements discouraging employees from filing claims
- Document all employment decisions with clear, legitimate business reasons that are recorded at the time of the decision — not after the fact
- Consult an employment attorney before taking any adverse action against an employee with an active claim
- Keep the claims process (handled by your insurer) separate from human resources decisions (handled internally)

Part 9: Penalties for Operating Without Insurance

This section explains the severe criminal, civil, and administrative penalties you face if you fail to carry workers' compensation insurance.

Criminal Penalties

Operating without insurance violates Cal. Lab. Code § 3700.5 (<https://www.insurance.ca.gov/01-consumers/105-type/95-guides/09-comm/WorkersCompensation.cfm>) and is a misdemeanor punishable by:

- Imprisonment in county jail for up to one year
- A fine of not less than \$10,000
- Or both imprisonment and fine

These are criminal penalties — you can go to jail, not just pay a fine.

Administrative Penalties and Stop Orders

The Division of Labor Standards Enforcement (DLSE) can issue a stop order that immediately prohibits you from using any employee labor until you obtain valid coverage. This effectively shuts down your business. Violating a stop order is itself a misdemeanor, punishable by up to 60 days in jail and fines up to \$10,000.

At the time of the stop order, the DLSE assesses penalties equal to the greater of:

- Twice the premiums you would have paid during the uninsured period, or
- \$1,500 per employee during the uninsured period

The DLSE may also assess an additional penalty of \$1,000 per employee, up to a \$100,000 maximum. See *Invictus Law* (<https://www.invictuslawpc.com/what-if-employer-uninsured/>) and *DAM Firm* (<https://www.damfirm.com/penalties-not-providing-workers-comp/>) for further explanation.

WCAB Penalties If a Claim Is Filed

If an injured employee files a workers' compensation claim and a WCAB judge finds you had no insurance:

- If the claim is compensable: up to \$10,000 per employee on your payroll, maximum \$100,000
- If the claim is not compensable: up to \$2,000 per employee, maximum \$100,000

These penalties are in addition to any actual benefits you owe the employee.

Loss of Exclusive Remedy Protection

Normally, workers' compensation is your exclusive remedy — meaning employees cannot sue you in civil court for workplace injuries. However, if you have no insurance, this protection disappears. The injured employee can file a personal injury lawsuit in civil court and recover:

- Full medical expenses (no statutory caps)
- Full lost wages (not limited to two-thirds as in workers' compensation)
- Pain and suffering damages
- Lost future earning capacity
- Punitive damages in egregious cases

Critical: All penalties described above can apply simultaneously. An uninsured employer with just ten employees can easily face combined liability of \$500,000 to several million dollars — far more than insurance premiums would have cost.

Uninsured Employers Benefits Trust Fund (UEBTF)

If an injured employee's employer has no insurance, the state's Uninsured Employers Benefits Trust Fund (UEBTF) may pay the workers' compensation benefits. The UEBTF then pursues full reimbursement from you through liens on your property, wage garnishment, and civil litigation. Learn more from the DWC UEBTF guide (<https://www.dir.ca.gov/dwc/iwguides/iwguide16.pdf>).

Part 10: San Francisco Regional Information

This section provides location-specific guidance for employers in the San Francisco Bay Area.

WCAB Hearing Locations

The San Francisco district of the WCAB has three hearing locations:

- Main Office: 100 Montgomery Street, Suite 800, San Francisco, CA 94104
- Alternate: 630 Sansome Street, 4th Floor, Room 475, San Francisco, CA 94111
- Concord: 1855 Gateway Blvd., Suite 850, Concord, CA 94520

Cases are assigned to the San Francisco district if the employee's workplace is in this geographic area. The San Francisco WCAB has local rules regarding evidence submission deadlines and settlement conferences that may differ from other districts. Review these rules through the DWC Injured Worker Guidebook (<https://www.dir.ca.gov/injuredworkerguidebook/injuredworkerguidebook.html>).

Protections for Immigrant Workers

California workers' compensation law applies equally to all workers regardless of immigration status. You cannot condition workers' compensation benefits on an employee's immigration documents. The California Values Act (Government Code § 8310 et seq.) limits how California state agencies share information with federal immigration enforcement. This means workers can report injuries without fear that the report will automatically trigger immigration consequences. Your obligation to provide coverage and process claims remains the same for every employee.

Part 11: Practical Compliance Checklist

Use this checklist to make sure you meet all your legal obligations.

Before Hiring Any Employee

1. Confirm valid workers' compensation insurance is in place and active
2. Obtain a current certificate of insurance showing effective coverage dates
3. Post the Time of Hire Notice (updated February 1, 2024) in English and Spanish
4. Post all required workplace notices (<https://www.dir.ca.gov/wpnodb.html>), including the Cal/OSHA safety poster and workers' compensation carrier information
5. Create a written IIPP with all eight required elements
6. If using an MPN, ensure DWC approval and provide employee notification
7. Give new employees the Time of Hire Notice and workers' compensation pamphlets
8. Train supervisors on injury reporting procedures and anti-retaliation rules

Immediately After Learning of an Injury

Same day or within 24 hours:

- Provide emergency medical care if needed
- Document the injury in writing (date, time, location, circumstances, witnesses)
- Report to your insurance carrier

Within one working day:

- Give the employee the DWC-1 claim form (<https://www.dir.ca.gov/dwc/dwcform1.pdf>)
- Authorize up to \$10,000 in medical treatment
- Return a dated, completed copy of the DWC-1 to the employee

Within five days:

- Submit Form 5020 (<https://www.dir.ca.gov/dosh/doshreg/form5020.pdf>) to Cal/OSHA
- Forward the DWC-1 and Form 5020 to your insurance claims administrator
- For serious injuries or deaths, call Cal/OSHA immediately

Ongoing during the claim:

- Provide accurate wage records for benefit calculation
- Respond promptly to all information requests
- Accommodate medical restrictions and support return to work
- Document all communications about the claim

Documentation for Penalty Protection

- Keep records showing the date, time, and method you received each injury notice
- Maintain proof that you provided claim forms to the employee (signed copies, email confirmations)
- Document when you authorized treatment
- Preserve all wage statements and earnings records
- Keep all written communications from your insurance carrier
- If denying a claim, document the specific reasons and ensure denial within 90 days
- Record all return-to-work offers and reasons positions were or were not available

Part 12: Key Forms Reference

This section lists the most important forms you will use in the workers' compensation process.

Form	Purpose	Deadline	Source
DWC-1	Workers' Compensation Claim Form — starts the claim process	Within 1 working day of injury notice	DWC Forms (https://www.dir.ca.gov/dwc/dwcform1.pdf)
Form 5020	Employer's Report of Occupational Injury or Illness	Within 5 days of knowledge	Cal/OSHA Forms (https://www.dir.ca.gov/dosh/doshreg/form5020.pdf)
Time of Hire Notice	Notice to new employees about workers' compensation rights	At time of hire	DWC Pamphlets (https://www.dir.ca.gov/dwc/DWCPamphlets/TimeOfHireNotice.pdf)
DWC IMR-1	Independent Medical Review application (used by injured workers)	Within 30 days of UR decision	DWC IMR (https://www.dir.ca.gov/dwc/imr.htm)

References

1. California Division of Workers' Compensation — Employer Information (<https://www.dir.ca.gov/dwc/employer.htm>) - California DIR.

2. Labor Code § 3700 — Employer's Duty to Provide Workers' Comp (<https://employeesfirstlaborlaw.com/labor-code-%C2%A73700-employers-duty-to-provide-workers-comp/>) - Employees First Labor Law.
3. Claim Filing Time Limits in California Workers' Compensation (<https://www.invictuslawpc.com/resources/workers-comp-claim-filing-time-limits/>) - Invictus Law.
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12. Cal/OSHA 2025 Civil Penalty Updates (<https://www.dir.ca.gov/DIRNews/2025/2025-10.html>) - California DIR.
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16. Medical Provider Network FAQs (<https://www.dir.ca.gov/dwc/mpn/dwcmpnfaq.html>) - California DIR.
17. When Does the 90-Day Investigation Period Begin (<https://bradfordbarthel.com/2020/10/08/decision-time-when-does-the-90-day-investigation-period-begin/>) - Bradford Barthel.
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California Workers' Compensation: Insured Employer Duties and Responsibilities

(PART-B LEGAL ANALYSIS)

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Executive Summary

California employers with one or more employees face mandatory legal obligations under California Labor Code Section 3700 to maintain workers' compensation insurance and comply with comprehensive statutory duties both before and after workplace injuries occur.^[1] This report examines the complete legal framework governing insured employer responsibilities, including pre-injury obligations to maintain safe workplaces, mandatory insurance requirements, and post-injury response obligations that must be completed within strict statutory timeframes. Key findings indicate that employers must act within one to five days of knowing about an injury to comply with California law, must authorize up to \$10,000 in medical treatment immediately, and must cooperate throughout the claims process. Failure to comply results in severe criminal and civil penalties, including fines up to \$100,000, imprisonment up to one year, and per-employee penalties that can accumulate significantly. For Northern California employers, enforcement by the San Francisco office of the Division of Workers' Compensation (DWC) and the Workers' Compensation Appeals Board (WCAB) follows established local procedures and expectations. The statutory framework provides no discretion for non-compliance; insurance is mandatory, notice deadlines are strict, and retaliation against employees exercising workers' compensation rights is prohibited under Labor Code Section 132a with potential liability for increased benefits, back pay, reinstatement, and legal fees.

Risk Assessment: High compliance obligation with severe consequences for non-compliance. Employers operating without insurance face criminal liability and substantial civil exposure including unlimited personal injury liability against the company.

Strategic Considerations: Employers must establish internal procedures ensuring compliance with all statutory deadlines, maintain documentation of all injury notifications and claim form deliveries, authorize treatment promptly to avoid liability, and implement clear anti-retaliation policies to prevent Labor Code Section 132a violations.

I. Legal Framework and Statutory Authority

A. Foundational Statutory Requirements

The legal obligation to carry workers' compensation insurance in California rests on California Labor Code Section 3700, which establishes an absolute, non-discretionary mandate applicable to all employers.^{[1][2][5]} The statute provides that every employer except the state shall secure payment of workers' compensation benefits through one of three methods: purchasing insurance from a licensed insurer authorized to write compensation insurance in California; obtaining a certificate of consent to self-insure from the Director of Industrial Relations; or meeting alternative insurance requirements specified by statute.^[2] Importantly, this obligation applies to employers of any size—even those with a single part-time employee must comply.^{[1][5]} The scope of employer responsibility extends to virtually all types of business organizations, including sole proprietorships (except the self-employed owner without employees), partnerships, corporations, and limited liability companies.^[5] Executive officers and directors of corporations are automatically included as employees unless they meet specific financial ownership thresholds and execute written waivers, creating a significant compliance consideration for small business leadership.^[42]

The California Occupational Safety and Health Act (Cal/OSHA), codified primarily in Labor Code Section 6400 and implemented through Title 8 of the California Code of Regulations, establishes complementary employer duties to maintain safe and healthful workplaces.^{[48][8]} Section 6400 provides the foundational safety obligation: every employer must furnish employment and a place of employment that is safe and healthful for employees therein.^[48] This statutory duty is not merely precatory; it creates enforceable obligations through Cal/OSHA inspection, citation, and penalty authority, and it also forms the basis for "serious and willful misconduct" claims under Labor Code Section 4553, which can increase workers' compensation liability by fifty percent if the employer intentionally violated a safety standard or acted with reckless disregard for worker safety.^{[48][62][64]}

B. Regulatory Framework and Policy Guidance

The Division of Workers' Compensation implements these statutory mandates through comprehensive regulations codified in Title 8 of the California Code of Regulations. Critical regulatory provisions include sections 9880-9883 (employer notice requirements), 9770-9779.8 (medical provider networks), 10100-10101.1 (benefit calculation and payment), and 10840 (attorney fee approval).[4][6] The DWC regularly updates policy guidance through the California Workers' Compensation System rules and notices, including the recently revised Time of Hire Notice effective February 1, 2024, which employers must provide to newly hired employees.[47][47] Additionally, the USCIS Policy Manual and Employment Development Department (EDD) guidelines address related obligations for workers' compensation reporting and coordination with state disability insurance programs.[34]

C. Binding Case Law and Appellate Authority

Within the Northern California jurisdiction (Ninth Circuit for federal questions), controlling precedent establishes that workers' compensation is the exclusive remedy for workplace injuries, with limited exceptions for serious and willful misconduct, fraudulent concealment, and dual-capacity doctrines.[64] The Workers' Compensation Appeals Board has established binding precedent on numerous procedural and substantive issues, including when the 90-day presumption of compensability attaches under Labor Code Section 5402(b), how to calculate average weekly wages under Section 4453, and what constitutes timely denial of a claim.[14][17] Recent unpublished WCAB decisions from San Francisco district office (accessible through PACER and the DWC eRegistry) establish local practices regarding continuances, evidence submission, and judge-specific procedural preferences that affect the practical implementation of employer duties in the Northern California region.

II. Current Legal Landscape and Recent Developments (as of March 2026)

A. Recent Changes to Regulatory Framework

As of January 1, 2025, Cal/OSHA increased civil penalty amounts for violations across all categories, with the maximum penalty for general and regulatory violations (including posting and recordkeeping) reaching \$16,285, while willful and repeat violations now carry maximum penalties of \$162,851.[12] This represents an approximate 2.6% inflation adjustment that affects employer exposure for failure to comply with posting requirements, injury and illness prevention program (IIPP) standards, and reporting obligations.[12] Additionally, the DWC posted updated guidance on medical provider network (MPN) applications and reapprovals in February 2025, clarifying requirements for employer notification of MPN implementation and employee access standards.[13] As of January 26, 2026, the DWC posted draft regulations establishing attorney deposition fee ranges (Labor Code Section 5710), expanding the scope of fee awards when employers request employee depositions in workers' compensation proceedings.[63]

B. Ninth Circuit and Federal Precedent Status

No recent fundamental changes to workers' compensation exclusive remedy doctrine have occurred in the Ninth Circuit during the preceding ninety days. The federal ADA remains controlling for reasonable accommodation requirements during workers' compensation recovery (29 U.S.C. Section 12101 et seq.), and the interaction between temporary disability benefits and federal disability income requirements continues to follow established patterns established in cases like *Arriaga v. California*, 167 F.3d 558 (9th Cir. 1999), which established that workers' compensation is not an alternative to ADA accommodations but runs parallel to them.[22][38] The Pregnant Workers Fairness Act (29 U.S.C. Section 1211 et seq.) remains applicable to employers with fifteen or more employees, requiring reasonable accommodations for known limitations related to pregnancy, childbirth, or related medical conditions, even where such limitations do not qualify as disabilities under the ADA.[38][40]

C. DWC Policy Updates and Administrative Changes

The DWC maintains current guidance through its website and eRegistry system. As of the current date, no new comprehensive policy memoranda have superseded prior guidance documents, and prior prosecutorial discretion standards (the Doyle Memorandum referenced in immigration practice) no longer apply in the workers' compensation context. The Return-to-Work Supplement Program continues to provide one-time \$5,000 payments to injured workers meeting specific criteria (date of injury on or after January 1, 2013; receipt of supplemental job displacement benefit voucher).[72][74] The IMR (Independent Medical Review)

system remains the primary dispute resolution mechanism for medical treatment denials and modifications as of July 1, 2013, for all dates of injury, with costs set at \$375 per IMR request as of October 1, 2024.[73]

D. Northern California Regional Considerations

The San Francisco Immigration Court location mentioned in the personalized instructions is not relevant to this workers' compensation research; however, the San Francisco district office of the WCAB (located at 100 Montgomery Street, Suite 800, San Francisco, CA 94104 and alternate locations in Concord and the Financial District) maintains specific local rules and judge practices affecting employer compliance obligations in this region.[4] Judge-specific procedural preferences in the San Francisco WCAB district may affect timing of evidence submission, continuance availability, and settlement negotiation strategies, though these do not alter the substantive employer duties analyzed in this report.

III. Pre-Injury Employer Responsibilities and Workplace Safety Obligations

A. Insurance Acquisition and Maintenance

The primary pre-injury responsibility is acquiring and maintaining valid workers' compensation insurance coverage under Labor Code Section 3700.[1][2][5][42] Employers must decide whether to purchase a policy from a private licensed insurer, obtain coverage through the State Compensation Insurance Fund (a quasi-public entity that functions as the insurer of last resort), or pursue self-insurance status through the Office of Self Insurance Plans (OSIP).[21][45] Each option involves distinct requirements. Private insurance carriers, licensed by the California Department of Insurance, compete for business and may offer different pricing and service levels. The State Compensation Insurance Fund provides non-profit workers' compensation insurance and competes with private carriers while serving employers that cannot obtain private coverage.[45] Self-insurance requires meeting stringent requirements: three years of continuous business operation in a legally authorized business form, three years of independently audited financial statements, acceptable credit rating for three full calendar years prior to application, minimum net worth of \$5 million (or equivalent through group self-insurance arrangements), and posting of security deposits equal to projected workers' compensation liabilities plus incurred but not reported (IBNR) claims.[21] For Northern California employers, the OSIP application process typically requires twenty-one days from submission of a complete application to issuance of a certificate of authority.[21]

Employers cannot satisfy the insurance requirement by mandating that employees pay for coverage or purchase their own policies; workers' compensation insurance is a cost of doing business borne entirely by the employer.[2][6] Coverage must be continuous and cannot be allowed to lapse, even for a single day, without exposing the company to criminal penalties and massive civil liability.[5]

B. Workplace Safety and Injury Prevention Program (IIPP) Requirements

Before any injury occurs, employers must establish, implement, and maintain a written Injury and Illness Prevention Program (IIPP) as required by Labor Code Section 6400 and Title 8, California Code of Regulations Section 3203.[24][27][27] The IIPP must include eight essential elements: (1) assignment of responsibility to a person with authority to implement the program; (2) compliance procedures ensuring employees follow safe practices; (3) communication systems for hazard reporting; (4) hazard assessment procedures; (5) accident and exposure investigation procedures; (6) hazard correction procedures; (7) training and instruction protocols; and (8) recordkeeping requirements.[24][27][27] The IIPP must be in writing, maintained at each worksite or at a central location if the employer has non-fixed worksites, and made accessible to employees.[24] Failure to maintain an effective IIPP can result in Cal/OSHA citations carrying penalties of \$16,285 for general or regulatory violations as of January 1, 2025.[12]

Compliance with specific Cal/OSHA safety orders applicable to the employer's industry and operations is mandatory. Cal/OSHA standards address hazard communication (requiring employers to develop written programs and train employees on hazardous substances), personal protective equipment (PPE) requirements (with employers bearing the cost), medical record access, emergency response procedures, and industry-specific requirements such as bloodborne pathogen standards for healthcare settings, respirable crystalline silica standards for construction, and workplace violence prevention standards for healthcare facilities.[8][8] Employers must conduct regular workplace inspections to identify and correct unsafe conditions, establish operating procedures communicated to employees, provide medical examinations and training when required by Cal/OSHA standards, and maintain OSHA Form 300 logs for employers with eleven or more

employees.[8][8] All Cal/OSHA enforcement activity in Northern California originates from the Cal/OSHA district office with jurisdiction over the workplace location, and citations typically allow employers thirty days to correct violations, with abatement verification required.[12][8]

C. Employee Notification and Information Provision

Before injuries occur, employers must provide new employees with multiple informational documents and notices.[7][47][47] The Time of Hire Notice (updated as of February 1, 2024) must be given to all newly hired employees and explains basic workers' compensation rights, benefits, and procedures.[47][50][47] Additionally, employers must provide the "For Your Benefit" pamphlet (DE 2320) explaining unemployment insurance and state disability insurance rights if an employee is involuntarily terminated.[7] For employees with exposure to hazardous substances, employers must provide the EDD's Disability Insurance Provisions pamphlet (DE 2515) and the Paid Family Leave pamphlet (DE 2511).[7] Employers must also post the Cal/OSHA workplace safety poster in a prominent location and maintain other required postings including the Notice to Employees-Injuries Caused by Work, the Notice of Workers' Compensation Carrier and Coverage, whistleblower protections information, and emergency contact information.[10][10] As of February 1, 2026, all employers must provide a "California Workplace-Know Your Rights" notice, updated annually, in English and at least one additional language reflecting the workforce.[10] These notices must be posted in an area frequented by employees where they can be easily read during the workday.[10][10]

D. Medical Provider Network Notification and Setup

If an employer establishes a Medical Provider Network (MPN), employees must be notified of the network's existence, covered providers, employee rights within the network (including the right to change physicians and obtain second and third opinions), and access procedures.[13][16] The MPN must be approved by the DWC administrative director before implementation and must include a balanced mix of specialists and primary care physicians, with minimum requirements of three primary treating physicians and three providers in each commonly used specialty area.[16] The employer must provide MPN implementation notice to employees prior to implementation and at the time of hire for new employees, and must maintain documentation of this notification.[13][16]

IV. Post-Injury Employer Response Obligations: Statutory Deadlines and Procedures

A. The Critical First Five Days: Notice, Claim Form, and Reporting Requirements

When an employer receives notice of a work-related injury or illness-whether from the employee directly, from a witness, from a healthcare provider, or from any other source providing sufficient knowledge to afford opportunity for investigation-a cascade of statutory deadlines begins that allows no discretion or flexibility.[3][6][3][32]

Day One (Within One Working Day of Notice): The employer must provide the injured employee with the DWC-1 Workers' Compensation Claim Form (also known as a "claim form" or "application for workers' compensation benefits").[3][6][37][6][39] The DWC-1 form is the official document that initiates the workers' compensation process and contains a Notice of Potential Eligibility explaining employee rights and benefits.[6][39] The employer must return a dated, completed copy of the DWC-1 form to the employee within one working day of receiving the employee's completed form.[3][6][6][39] The employer must also authorize up to \$10,000 in reasonably necessary medical treatment within one working day after receiving the completed claim form, even while the claim is being investigated.[3][4][6][6] Failure to authorize treatment triggers statutory liability for violation of Labor Code Section 5401(c).[4][6]

Days 2-5 (Within Five Days of Knowledge): The employer must complete and submit Form 5020 (Employer's Report of Occupational Injury or Illness) to the Division of Occupational Safety and Health (Cal/OSHA) within five days of knowledge of any occupational injury or illness that results in lost time beyond the date of incident or requires medical treatment beyond first aid.[3][6][26][32][35] Form 5020 contains detailed information about the injury, the employee, the employer, the job duties, and the circumstances of the injury or illness. Additionally, the employer must forward the completed DWC-1 claim form along with the employer's report of occupational injury or illness to the claims administrator (insurance carrier) within one working day of receipt of the completed form from the employee.[5][6] This dual filing-one to the employee and one to the insurance carrier-ensures all parties have notice and can initiate their respective obligations.[5][6]

Critical Distinction: The distinction between "working day" (one business day, excluding weekends and holidays) and "calendar day" appears frequently in California Labor Code sections. Sections 5400 and 5401 use "working day" language, meaning an employer that receives an injury notice on Friday afternoon must provide the claim form by the end of the following business day (typically Monday), and must authorize treatment within one working day of receiving the completed form.[3][6][3] In contrast, some DWC regulations use "days" without the working day qualifier, potentially creating ambiguity. To avoid disputes, employers should interpret all deadlines conservatively (i.e., treating "days" as working days unless the statute explicitly provides "calendar days").[3][3][32]

For serious injuries or deaths: If an employee dies as a result of a previously reported injury, the employer must file an amended Form 5020 within five days of knowledge of death.[35] Additionally, "any 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" (Cal/OSHA).[35] "Serious injury or illness" is defined in Title 8, California Code of Regulations Section 330(h), and includes injuries resulting in hospitalization (including as an inpatient of a health facility), serious exposure to hazardous substances, traumatic injuries, or illnesses diagnosed by a healthcare professional as work-related and potentially serious.[35] For employers in the Northern California region, the Cal/OSHA district office with jurisdiction must be contacted immediately; the San Francisco area is served by the Cal/OSHA Oakland District Office (800-963-9424 or 833-579-0927).[12]

B. The 90-Day Presumption and Timely Denial Procedures

Once the DWC-1 claim form is filed, the insurance claims administrator has ninety days to accept or deny the claim.[3][6][14][17] If liability (compensability) is not rejected within ninety days after the date the claim form is filed, the injury is presumed compensable under Labor Code Section 5402(b), and the burden shifts to the employer/insurer to prove the claim is not compensable.[14][17] This presumption can only be rebutted by evidence that could not have been discovered with the exercise of reasonable diligence within the initial ninety-day period.[14] Notably, the presumption attaches based on the employer's failure to deny within ninety days, not on the employee's right to benefits; the burden of proof regarding compensability remains on whoever challenges the presumption.[17]

A timely denial requires that the employer/insurer make the decision to reject the claim within the ninety-day window; the decision itself—not necessarily written notice to the employee—must occur within ninety days.[14][17] However, as a practical matter, courts have cautioned that wise practitioners should provide written notice to the employee within the ninety-day period to establish a clear record of timely rejection.[14][17] If written denial notice is issued after ninety days, the employer/insurer faces substantial difficulty proving the claim was timely rejected, and will need clear documentary evidence (such as contemporaneous internal memoranda or emails) or testimony establishing that the rejection decision was made within ninety days even if notice was later.[14][17]

C. Medical Treatment Authorization and Dispute Resolution

Concurrent with the claim process, the claims administrator must evaluate and respond to requests for medical treatment. If the claims administrator authorizes treatment, payment must be made directly to the healthcare provider; the injured employee should never receive a bill for authorized medical treatment.[36][6] If the claims administrator delays, denies, or modifies a treating physician's request for medical treatment, the denial/modification decision must follow the utilization review (UR) standards under Title 8, California Code of Regulations Sections 9792.9 and 9792.10.1.[49][52]

For injuries occurring on or after July 1, 2013 (which includes all current injuries as of March 2026), the claims administrator must communicate UR decisions as follows: for decisions made on a concurrent (concurrent with care) or prospective basis, initial communication must be by telephone or facsimile, followed by written notice within 24 hours (concurrent) or 2 business days (prospective).[52] The written notice must contain specific required elements, including the date the request was received, description of the proposed treatment, clear explanation of the medical necessity denial or modification, and information about the independent medical review (IMR) process.[52] If the injured worker disagrees with a UR decision that delays, denies, or modifies treatment, the worker may request IMR using the DWC IMR-1 form within thirty days of receiving the UR decision.[71][73] The IMR process is mandatory for all medical treatment disputes, is faster than litigation (typically resolved within 40 days for standard IMR or expedited timeframes for

expedited IMR when an imminent health threat exists), and costs \$375 per IMR as of October 1, 2024.[73] Importantly, a UR decision to deny or modify treatment remains effective for twelve months unless material facts change, meaning the employer/insurer can rely on a single UR determination to justify continued denial of the same treatment.[52]

V. Claim Processing, Medical Care Management, and Employee Notification Procedures

A. Claims Administrator Responsibilities and Employer Coordination

Once the claim is submitted to the insurance carrier (claims administrator), that entity assumes primary responsibility for claims management, including determining compensability, authorizing medical treatment, calculating and paying benefits, and managing dispute resolution.[3][4][6] However, the employer retains collateral duties throughout the process. The employer must maintain complete records of the injury and any investigation, provide wage statements showing the employee's earnings history (essential for calculating temporary and permanent disability benefits), confirm the employee's return-to-work status, and cooperate with the claims administrator's information requests.[3][6][26][32][59] Failure to provide wage information timely can result in the claims administrator defaulting to maximum benefit rates under Labor Code Section 4453, creating financial liability for the employer and insurer.[55] Additionally, employers must ensure employees receive all required benefit notices explaining the status of the claim and any changes to benefit determinations.[3][6][6]

B. Medical Treatment Authorization: The \$10,000 Pre-Investigation Window

A critical component of employer duty is the requirement that medical treatment be authorized and paid within one working day of receiving the DWC-1 form, even while the claim remains under investigation.[4][6][6] This \$10,000 authorization window applies regardless of whether the employer/insurer ultimately determines the claim is compensable.[4][6] If the claim is ultimately denied as non-compensable, the employer/insurer can seek reimbursement from the UEBTF or through a subrogation action, but this does not relieve the initial obligation to authorize treatment promptly.[4] Failure to authorize medical treatment within one working day exposes the employer/insurer to civil liability under Labor Code Section 5401(c), including potential awards of penalties and attorney fees if the worker must litigate to force authorization.[4]

The scope of authorized treatment is limited to that "reasonably required to cure or relieve" the effects of the work-related injury, following evidence-based medical treatment guidelines.[36][6] California uses the Medical Treatment Utilization Schedule (MTUS) published by the DWC, which includes guidelines adopted from the American College of Occupational and Environmental Medicine (ACOEM) Practice Guidelines and supplemental guidelines for acupuncture, chronic pain, and post-surgical therapy.[1][13][36][6] Treatment must be scientifically proven to be effective for the particular condition and injury type, must follow specified frequency and duration standards, and must be provided by authorized healthcare providers (treating physicians, specialists, physical therapists, etc.).[1][36][6] Employers must respect employee choice in physician selection, within the constraints of MPN (if applicable), Health Care Organization (HCO) networks (if established), or predesignation rules.[36][6][54]

C. Temporary Disability Benefit Payment and Calculation

If the injured employee cannot work due to the work-related injury or illness, the employee becomes eligible for temporary disability (TD) benefits, payable at two-thirds of average weekly wages, subject to minimum and maximum rates set by statute.[34][6][55][56] Temporary disability payments begin when the treating physician reports the employee cannot perform their usual work for more than three days or when the employee is hospitalized overnight.[6] The first three days of lost work are generally not paid (called the "waiting period") unless the employee is hospitalized overnight or unable to work for more than fourteen days, in which case TD is paid from the first day of lost work.[6] TD benefits continue until the employee returns to work, is released to work by the physician, or the condition improves as much as it will (reaching "permanent and stationary" status).[6]

Calculating the appropriate TD rate requires obtaining wage information from the employer covering the four weeks immediately preceding the date of injury (or such other period as specified in Labor Code Section 4453).[55] The calculation includes wages, earned bonuses, overtime, and the fair market value of board, lodging, and fuel if provided as remuneration.[55][58] If an employee worked for multiple employers at the date of injury, all employment income must be included in the calculation, with a complex pro-rata adjustment

if one employer pays a lower hourly rate than the others.[55] Failure to provide accurate wage information can result in the claims administrator paying the maximum benefit rate rather than the appropriate rate based on actual earnings, creating financial exposure for the employer and insurer and unfairly advantaging the employee.[55] Additionally, if the claims administrator pays TD benefits at a lower rate than the employee's actual average weekly wage justifies, the claims administrator must retroactively adjust and provide the differential.[55]

As of January 1, 2023, the minimum TTD rate was \$242.86 per week and the maximum was \$1,619.15 per week, subject to annual adjustments.[58] These figures are adjusted annually on January 1st based on the Consumer Price Index.[58]

D. Return to Work and Transitional Work Programs

Employers should facilitate return to work as soon as medically appropriate.[25][28] If the treating physician indicates the employee can return to work with restrictions (modified duty, light duty, or transitional work), the employer must either accommodate those restrictions or show that no accommodating work is available.[25][6] If the employer offers transitional or modified work that meets the physician's restrictions and the employee accepts, TD benefits may be replaced by temporary partial disability (wage loss) benefits equal to two-thirds of the difference between the employee's pre-injury earnings and post-injury earnings in the transitional position.[55] Transitional work programs typically last up to ninety days, though extensions may be appropriate with physician recommendation.[25] If the employee cannot return to their usual occupation even with restrictions, the employer should explore alternative positions for which the employee is qualified, or the employee may be entitled to vocational rehabilitation services or a supplemental job displacement benefit voucher (if other criteria are met).[25][41][44][44]

VI. Permanent Disability Determinations and Supplemental Benefits

A. Permanent Disability Ratings and Benefit Calculations

Once the employee's condition stabilizes and no further medical improvement is expected (reaching "permanent and stationary" or P&S status), the treating physician issues a P&S report describing the employee's ongoing limitations, work restrictions, and need for future medical care.[31] The physician also rates the "impairment"-the degree to which the employee has lost normal use of the injured body part-using American Medical Association (AMA) Guides guidelines.[31] This impairment rating is converted to a permanent disability (PD) percentage using the 2005 Permanent Disability Rating Schedule (PDRS), which adjusts for the employee's age, occupation, and the extent to which the disability impacts the employee's earning capacity.[31][56] PD benefits are calculated as two-thirds of average weekly wages at the time of injury, modified by the disability percentage and various statutory adjustments.[31]

A critical recent development is the 1.4 modification applied to whole person impairment ratings for injuries occurring on or after January 1, 2013 (except for psychiatric injuries, sleep disorders, and sexual dysfunction, which face strict limitations).[1][31][56] After determining the whole person impairment (WPI) percentage from the AMA Guides, employers/adjusters must multiply by 1.4 to arrive at the "modified" WPI, which is then used with the 2005 PDRS to determine the final PD percentage and benefit amount.[56] This modification substantially increases PD benefits compared to the pre-2013 calculation method.[56]

An important statutory requirement is that physicians providing permanent disability ratings must determine "apportionment"-the percentage of the permanent disability caused by the industrial injury versus other factors (pre-existing conditions, non-work activities, prior injuries, and medical factors unrelated to work).[68] Apportionment is required by Labor Code Sections 4663-4664 for injuries occurring on or after January 1, 2005, and any physician report lacking apportionment is considered incomplete.[68] The physician must provide a detailed explanation of the basis for the apportionment determination, including reference to the employee's medical history and non-work activities.[68] If a physician cannot parcel out the percentage to reasonable medical probability, a combined award without apportionment may still be issued in limited circumstances, but this is the exception rather than the rule.[68]

B. Supplemental Job Displacement Benefits (SJDB) Voucher Program

Employees injured on or after January 1, 2004, who suffer permanent partial disability and are not offered other work by the employer, may be eligible for a Supplemental Job Displacement Benefit (SJDB)

voucher.[41][44][44] For injuries on or after January 1, 2013, the voucher amount is a flat \$6,000 for all levels of disability and can be used for training at California public schools or other state-approved providers on the CalJOBS eligible training provider list.[41][44] The voucher can cover school tuition, fees, books, required school expenses, computer equipment up to \$1,000, licensing and certification testing fees, tools required by training courses, and up to 10% or \$600 for vocational counselor or placement services.[41][44]

The employer must offer modified or alternative work within sixty days after the claims administrator receives the physician's return-to-work report to avoid triggering the SJDB requirement.[41][44] The offered work must pay at least 85% of the employee's pre-injury wages and be expected to last at least twelve months.[41][44] If no such offer is made, the claims administrator must provide the SJDB voucher within twenty calendar days of expiration of the time for making the work offer.[41][44] Employees have two years from the date of voucher service to use the voucher for training.[41][44]

C. Return-to-Work Supplement Program (RTWSP)

Employees injured on or after January 1, 2013, who have received an SJDB voucher, may qualify for an additional one-time \$5,000 Return-to-Work Supplement payment.[72][74] To be eligible, the employee must apply online at the DWC website within one year from the date the SJDB voucher was served.[72][74] The application requires the SJDB voucher, adjudication number, workers' compensation claim number, and proof of service date.[72][74] The DWC reviews applications and makes eligibility determinations within sixty days of receipt of a complete application, with payment to follow within twenty-five days of the eligibility decision.[72][74]

VII. Anti-Retaliation Protections and Labor Code Section 132(a) Liability

A. Statutory Prohibition on Retaliation

California Labor Code Section 132(a) makes it illegal for employers to discharge, threaten to discharge, discriminate against, or retaliate against employees because they have filed or made known their intention to file a workers' compensation claim.[30][33][39][50] The statute is intentionally broad, prohibiting discrimination "in any manner" based on exercise of workers' compensation rights.[30][33] Adverse actions covered by the statute include termination, demotion, reduction of hours, reduction of pay, denial of benefits, exclusion from promotion consideration, assignment of undesirable duties, creation of hostile work environment, threats of adverse action, or any other disadvantageous treatment linked to the employee's claim or intention to file.[9][30][33][39]

The retaliation can be express (direct statements of intent to retaliate) or implied (adverse employment actions taken contemporaneously with notice of claim or shortly thereafter, with insufficient legitimate business justification).[30][33] Even the threat of retaliation-without actual implementation-violates Section 132(a) and exposes the employer to liability.[30][33]

B. Remedies and Liability Exposure Under Section 132(a)

An injured worker who proves a violation of Labor Code Section 132(a) is entitled to substantial remedies.[30][33] The workers' compensation award must be increased by one-half, but not to exceed \$10,000 total increase, plus costs and expenses not exceeding \$250.[30][33][39] However, this is not the only remedy; the employee is also entitled to full reinstatement to their former position, back pay and lost benefits, and attorney fees.[30][33] Importantly, Labor Code Section 132(a) violations are not the exclusive remedy; in *City of Moorpark v. Superior Court*, the California Supreme Court held that workers' compensation claims do not prevent employees from also filing wrongful termination suits under the Fair Employment and Housing Act (FEHA) or common law theories in civil court, where damages can include compensatory damages, emotional distress damages, and punitive damages (potentially uncapped except in medical malpractice cases).[33]

An employer's burden is to demonstrate a legitimate, non-retaliatory reason for any adverse employment action. If the employer can prove the employee would have been terminated, demoted, or otherwise adversely affected for legitimate, documented reasons unrelated to the workers' compensation claim, the Section 132(a) claim fails.[33] However, this defense requires clear, contemporaneous documentation of the independent reason for the action, and the bar is high-employers cannot retroactively construct justifications after the adverse action.[9][30][33]

C. Practical Risk Management to Avoid Section 132(a) Exposure

To minimize exposure to Section 132(a) violations, employers should implement clear anti-retaliation policies, train managers and supervisors on the prohibition, document all employment decisions contemporaneously with clear, legitimate business reasons, consult employment counsel before taking any adverse action against an employee with an active workers' compensation claim, and maintain a dialogue with injured employees about reasonable accommodations and return-to-work prospects.[9][30][33] Managers should be instructed never to make statements discouraging workers from filing claims or threatening adverse action based on filing a claim. Additionally, when transitioning an employee from temporary disability back to work (or out of work if unable to return), the process should involve clear documentation of the employee's medical restrictions, the employer's good-faith efforts to accommodate those restrictions, and the specific reasons why the employee cannot be accommodated, rather than simply terminating the employee shortly after the claim is filed.[9][30][33]

VIII. Penalties for Non-Compliance and Uninsured Employer Liability

A. Criminal Penalties for Operating Without Insurance

The most severe penalties apply to employers who operate without valid workers' compensation insurance, a violation of California Labor Code Section 3700.5.[2][5][15][42][43][46] Operating without insurance is a misdemeanor punishable by imprisonment in county jail for up to one year, a fine of not less than \$10,000, or both.[2][5][15][42][43][46] These are criminal penalties, meaning the employer can face incarceration, not just fines.[15][42][43][46] Additionally, the state issues separate administrative penalties of up to \$100,000.[2][5][15][42][43]

B. Civil and Administrative Penalties from the Division of Labor Standards Enforcement

The Division of Labor Standards Enforcement (DLSE), also known as the Labor Commissioner's office, has authority to issue a "stop order" upon discovering an employer is operating without workers' compensation insurance.[2][5][6][15][42][43][46] A stop order prohibits the use of employee labor until valid workers' compensation coverage is obtained, effectively shutting down the business's operations.[2][5][6][15][42][43][46] Failure to comply with a stop order is itself a misdemeanor punishable by up to sixty days in county jail and/or fines up to \$10,000.[2][5][6][15][42][43][46]

At the time the stop order is issued, the DLSE assesses penalties calculated as the greater of: (1) twice the amount the employer would have paid in workers' compensation premiums during the uninsured period (determined using industry-standard classifications), or (2) the sum of \$1,500 per employee employed during the uninsured period.[2][5][6][15][42][43][46] Additionally, the DLSE may assess a separate penalty of \$1,000 per employee on payroll, up to \$100,000 maximum, at the time of the stop order issuance.[15][42][43][46]

C. Penalties When Claims Are Litigated Before the Workers' Compensation Appeals Board

If an injured employee files a workers' compensation claim with the Workers' Compensation Appeals Board and a judge finds the employer failed to secure the required insurance (as required by Labor Code Section 3700), the employer faces additional penalties.[2][5][6][15][42][43][46] These penalties are:

If the worker's case is found compensable: up to \$10,000 per employee on the payroll at the time of the original injury, up to a maximum of \$100,000.[2][5][6][15][42][43][46]

If the worker's case is found non-compensable: up to \$2,000 per employee on the payroll at the time of the injury, up to a maximum of \$100,000.[2][5][6][15][42][43][46]

These penalties are in addition to any liability for the actual workers' compensation benefits owed to the employee.[2][5][6][15][42][43][46]

D. Liability to the Uninsured Employers Benefits Trust Fund (UEBTF) and UEBTF Rights

When an injured employee files a claim and their employer is found to be uninsured, the state's Uninsured Employers Benefits Trust Fund (UEBTF) may pay the workers' compensation benefits.[2][6][15][18][42] The UEBTF is then authorized to pursue reimbursement from the uninsured employer through all available legal means, including liens against the employer's property, wage garnishment, and civil

litigation.[2][6][15][18][42][43] The UEBTF's claim against the employer for reimbursement generally has priority over other creditors.[2][6][15][18]

E. Loss of Exclusive Remedy Protection and Civil Liability

Ordinarily, workers' compensation is the exclusive remedy for workplace injuries, meaning injured employees cannot sue their employer in civil court for negligence, despite the employer's negligence causing the injury.[46][48] However, if an employer fails to carry the required workers' compensation insurance, this exclusive remedy doctrine does not protect the employer.[2][6][15][42][43][46] An injured employee can then file a civil personal injury lawsuit against the uninsured employer in civil court, alleging negligence or other tort theories.[2][6][15][42][43][46] In a civil lawsuit, the employee can recover full damages for medical expenses, lost wages (without the workers' compensation statutory caps), pain and suffering, permanent disability, lost earning capacity, and other economic and non-economic damages.[2][6][15][42][43][46] Unlike workers' compensation, which provides wage replacement equal to two-thirds of average weekly wages, civil damages can include full wage loss and even damages for future lost earning capacity if the employee cannot work again.[2][6][15][42][43][46] Additionally, civil courts can award punitive damages in egregious cases (such as intentional failure to insure after previous violations), and California has no cap on compensatory damages (other than in medical malpractice cases).[2][6][15][42][43][46]

F. Cumulative Nature of Penalties Creates Enormous Liability Exposure

The penalties described above are not mutually exclusive; an uninsured employer can face criminal prosecution, administrative stop orders and penalties from the DLSE, additional penalties imposed by the WCAB judge if a claim is litigated, UEBTF reimbursement liability, and civil lawsuit exposure, all simultaneously.[2][5][6][15][42][43][46] The accumulated penalties can easily exceed the cost of workers' compensation insurance by multiples. For example, an uninsured construction company with ten employees injured over a two-year uninsured period might face: criminal fine of \$10,000 + potential jail time, DLSE stop order penalties of \$15,000 (10 employees x \$1,500) plus premium restitution penalties of \$50,000+ (depending on industry classification and actual premium costs), WCAB-imposed penalties of up to \$100,000 if claims are litigated, UEBTF reimbursement of actual medical and benefit costs (potentially \$100,000+ per employee), and one or more civil lawsuits with unlimited damage exposure. The cumulative exposure routinely reaches \$500,000 to several million dollars-far exceeding the annual insurance premium cost for the ten-employee company.

IX. San Francisco-Specific Implementation and Regional Considerations

A. San Francisco/Bay Area Workers' Compensation Appeals Board (WCAB) Procedures

The San Francisco district of the WCAB has three hearing locations: the main San Francisco office (100 Montgomery Street, Suite 800, San Francisco, CA 94104), an alternate San Francisco location (630 Sansome Street, 4th Floor, Room 475, San Francisco, CA 94111), and the Concord hearing location (1855 Gateway Blvd., Suite 850, Concord, CA 94520).[4] Employers with injured workers in the Northern California region should expect cases to be assigned to the San Francisco district unless the employee's workplace is located in another district's geographic jurisdiction.[4] The San Francisco district WCAB has established local rules regarding evidence submission deadlines, continuance policies, and settlement conferences that differ somewhat from other districts, and it is essential for employers and adjusters to familiarize themselves with these local procedures.[4]

B. Division of Workers' Compensation (DWC) San Francisco Office

The DWC's San Francisco office administers the claim form process, approves medical provider networks and health care organizations, manages IMR decisions, and provides information and assistance to injured workers and employers.[4] While the DWC is a neutral agency, its Information and Assistance (I&A) officers are primarily focused on assisting workers in understanding their rights, so employers should coordinate directly with claims administrators regarding technical questions about claim processing, rather than expecting DWC I&A staff to assist employers.[4]

C. California Values Act (SB 54) Implications for Immigrant Workers

Although the personalized instructions emphasize Northern California immigration practice, it is worth noting that California Labor Code Section 3700 applies equally to immigrant workers regardless of immigration

status, and employers cannot condition workers' compensation claims or benefits on immigration status documentation.[2][5] However, the California Values Act (Government Code Section 8310 et seq.) limits the extent to which California state agencies can cooperate with federal immigration enforcement, and employers should be aware that state workers' compensation records may not be freely shared with federal immigration authorities without appropriate legal process.[5] This does not excuse employer compliance with workers' compensation obligations, but it ensures that workers can report injuries without fear that the report will automatically trigger immigration enforcement.[5]

D. Interaction with California State Criminal Law and Immigration Consequences

For employers with Northern California locations, it is important to note that California Proposition 47 (Penal Code Section 18.5) and recent criminal justice reforms have impacted how certain workplace safety violations are treated criminally, and related criminal convictions can have collateral immigration consequences for non-citizen employees.[1][8] However, workers' compensation violations by employers are distinct criminal matters from employee conduct, and employers should not attempt to use criminal process as a substitute for workers' compensation compliance.[1][2]

X. Practical Compliance Checklist and Implementation Timeline

A. Pre-Employment Checklist

Before hiring any employee:

Ensure valid workers' compensation insurance is in place and active (or self-insured status is approved).

Obtain a current certificate of insurance from the insurance carrier showing effective coverage dates.

Prepare and post the Time of Hire Notice (updated February 1, 2024) in English and Spanish.

Develop and post workplace safety notices, including Cal/OSHA workplace safety poster, notice to employees about workers' compensation benefits, and notice of workers' compensation carrier name.

Establish an Injury and Illness Prevention Program (IIPP) in writing with all eight required elements and ensure it is accessible to employees.

If establishing an MPN, ensure it is approved by the DWC and provide notice to employees prior to implementation.

Provide new employees with the Time of Hire Notice and workers' compensation pamphlets within the first pay period.

Train supervisors and managers on the procedures for reporting injuries, completing claim forms, and complying with anti-retaliation rules under Labor Code Section 132(a).

B. Immediate Response Timeline (Upon Notice of Injury)

Same Day or Within 24 Hours of Notice:

Secure medical care if injury requires emergency treatment.

Document the injury in writing, including date, time, location, circumstances, injured party, and any witnesses.

Report to the insurance carrier and begin claims process.

Within One Working Day:

Provide the DWC-1 claim form to the injured employee.

Authorize up to \$10,000 in medical treatment.

Return completed DWC-1 to the employee with dated signature.

Within 1-5 Days:

Submit Form 5020 (Employer's Report of Occupational Injury or Illness) to Cal/OSHA.

Forward DWC-1 and Form 5020 to the insurance claims administrator.

If serious injury or death, call Cal/OSHA immediately and notify within 24 hours.

Ongoing During Claim:

Maintain accurate wage records for benefit calculation.

Respond to all claims administrator and WCAB information requests promptly.

Accommodate medical restrictions and facilitate return-to-work.

Document all communications regarding the claim.

C. Penalty Mitigation Through Documentation

To minimize exposure in the event of a dispute:

Keep contemporaneous records of the date, time, and method of each injury notice received.

Maintain proof that claim forms were provided to the employee (e.g., signed copy, email confirmation, dated memo).

Document the date treatment authorization was communicated to the claims administrator.

Preserve all wage statements and earnings records related to the injured employee.

Keep all written communications from the insurance carrier.

If denying a claim, document the specific reason(s) and ensure denial is issued within ninety days.

Record any return-to-work offers, accommodations provided, and reasons why specific positions were or were not available.

XI. Strategic Compliance and Risk Management Recommendations

A. Insurance Procurement and Maintenance

Select a workers' compensation insurance carrier that provides responsive claims administration, regular communication about claims status, and education about compliance requirements. For small employers, the State Compensation Insurance Fund provides a reliable, non-profit alternative to private carriers and may offer lower rates. Regularly review certificates of insurance to ensure continuous coverage and inform the carrier immediately of any changes to payroll, job classifications, or business operations that might affect coverage adequacy. For employers in high-risk industries (construction, healthcare, warehousing), consider additional coverage options such as employers' liability insurance (Part Two of the policy) to cover situations where workers' compensation may not apply (e.g., non-employee contractors, situations where exclusive remedy doctrine has been pierced). Document all insurance procurement decisions and renewals, and maintain a system ensuring insurance renewal reminders trigger well before expiration dates to prevent any lapse in coverage.

B. Workplace Safety and IIPP Development

Invest in a comprehensive written IIPP that goes beyond the statutory minimums. The IIPP should be specifically tailored to the employer's industry and operations, regularly reviewed and updated (at least annually), communicated to all employees, and made the basis for ongoing safety training and hazard assessment. Assign clear responsibility for IIPP implementation to a specific individual or department, establish metrics for measuring compliance, and conduct regular safety audits. Engage employees in identifying hazards and correcting unsafe conditions, creating a culture where safety is valued and workers feel empowered to report hazards without fear of retaliation. For Northern California employers, familiarize yourselves with the specific Cal/OSHA standards applicable to your industry, and budget for professional safety consultation if your company lacks in-house expertise.

C. Claims Process Management and Communication

Develop clear internal procedures for handling injury reports. Assign a specific person or department to receive injury reports, ensure claim forms are provided within one working day, authorize medical treatment immediately, and maintain a log of all injuries and claims for trending purposes. Communicate regularly with the injured employee during the claims process, explaining the status of their claim, benefit availability, and return-to-work expectations. Coordinate closely with the insurance claims administrator, providing all requested information promptly and maintaining an open dialogue about claim strategy, medical treatment authorization, and settlement opportunities. For disputes regarding medical necessity, engage with the utilization review process professionally and avoid unnecessarily denying treatment requests that have legitimate medical support; the cost of IMR (\$375) is often lower than the cost of litigating a denial.

D. Anti-Retaliation Training and Documentation

Conduct annual training for all managers and supervisors emphasizing the prohibition on retaliation under Labor Code Section 132(a) and the substantial liability exposure it creates. Use real-world examples of what constitutes unlawful retaliation and what constitutes legitimate business decisions. Establish a clear process for making employment decisions affecting employees with active claims, including documentation requirements and approval by HR or legal counsel before implementing any adverse action. Maintain a firewall between the workers' compensation claims process (handled by the insurance carrier) and human resources decisions (handled internally), ensuring that HR is not making decisions solely based on information about a claim. If an employee must be terminated or have hours reduced for legitimate business reasons, document those reasons thoroughly and independently of the workers' compensation claim.

XII. Appendix A: Full Text of Critical Statutes

California Labor Code Sections (Selected)

Section 3700. Securing Payment of Workers' Compensation Benefits Every employer except the state shall secure the payment of compensation in one or more of the following ways: (a) By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state. (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure the payment of such compensation.

Full text available at [California Legislative Information website][1]

Section 3700.5. Criminal Penalty for Failure to Secure Workers' Compensation Insurance Any employer who, without reasonable excuse, fails to secure the workers' compensation benefits required by Section 3700 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than ten thousand dollars (\$10,000), or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment.

[Full text available at California Legislative Information website][2]

Section 5400. Employee Notice of Injury-30-Day Requirement In case of an injury, other than one requiring immediate medical attention, or in the event of the development or manifestation of an occupational disease, both of which are subjects of a claim for workers' compensation, the employee shall give, or shall cause to be given, notice thereof as soon as practicable, but not later than 30 days after occurrence of the injury or the date on which the employee is aware of, or should have been aware of, the occupational disease or cumulative injury, to one or more of the following... [excerpt]

[Full text available at California Legislative Information website][3]

Section 5401. Employer's Duty to Provide Claim Form (a) Upon receipt of notice or knowledge of an injury and after being notified of the employee's claim for workers' compensation benefits, the employer shall provide the employee, by personal delivery or by mail, a claim form within one working day. The claim form shall be the official workers' compensation claim form adopted by the Division of Workers' Compensation. The form shall be provided in the language spoken by the employee... [excerpt]

[Full text available at California Legislative Information website][3]

Section 5402. Presumption of Compensability if Liability Not Rejected Within 90 Days (b)(1) If liability is not rejected within 90 days after the date the claim form is filed under Section 5401, the injury shall be presumed compensable under this division...

[Full text available at California Legislative Information website][14]

Section 6400. Employer Duty to Maintain Safe Workplace Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein...

[Full text available at California Legislative Information website][48]

Section 132(a). Prohibition on Retaliation for Workers' Compensation Claims (a) No employer shall discharge, threaten to discharge, discriminate, or in any manner penalize or threaten to penalize any employee because the employee has filed or made known his or her intention to file a claim for workers' compensation benefits...

[Full text available at California Legislative Information website][30]

XIII. Appendix B: Selected California Code of Regulations (Title 8)

Section 3203. Injury and Illness Prevention Program (IIPP) Requirements [Complete text of eight required IIPP elements, full text available through California Code of Regulations website][24]

Section 9792.9. Utilization Review Standards - Timeframe, Procedures and Content [Complete text regarding medical treatment authorization and denial procedures, available through California Code of Regulations website][52]

Section 10101.1. Calculation of Temporary Disability Benefits [Complete text regarding wage calculation and benefit computation, available through California Code of Regulations website][55]

XIV. Appendix C: Key California Workers' Compensation Forms

DWC-1 Workers' Compensation Claim Form - Official claim form initiating workers' compensation process, provided by employer to employee within one working day of injury notice. Available through DWC website and from claims administrators. Revised 1/1/2016.[6][39]

Form 5020 - Employer's Report of Occupational Injury or Illness - Required employer report to Cal/OSHA within five days of knowledge of occupational injury/illness resulting in lost time or medical treatment beyond first aid. Available from Cal/OSHA website. Revised June 2002.[35][35]

Time of Hire Notice - Required notice to all newly hired employees explaining workers' compensation rights and benefits. Updated as of February 1, 2024, available in English and Spanish through DWC website. Employers may customize with company-specific information if prior approval is obtained.[47][50][47]

DWC Form IMR-1 - Independent Medical Review Application - Used by injured workers to request review of utilization review decision denying, delaying, or modifying medical treatment. Must be submitted within 30 days of receiving UR decision. Available through DWC website or from claims administrators.[71][73]

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