

DIVISION OF WORKERS' COMPENSATION

FACTSHEET

What is workers' compensation?

If you get hurt on the job, your employer is required by law to pay for workers' compensation benefits. You could get hurt by:

One event at work. Examples: hurting your back in a fall, getting burned by a chemical that splashes on your skin, getting hurt in a car accident while making deliveries.

—or—

Repeated exposures at work. Examples: hurting your wrist from doing the same motion over and over, losing your hearing because of constant loud noise.

What are the benefits?

- **Medical care:** Paid for by your employer, to help you recover from an injury or illness caused by work.
- **Temporary disability benefits:** Payments if you lose wages because your injury prevents you from doing your usual job while recovering.
- **Permanent disability benefits:** Payments if you don't recover completely.
- **Supplemental job displacement benefits** (if your date of injury is in 2004 or later): Vouchers to help pay for retraining or skill enhancement if you don't recover completely and don't return to work for your employer.
- **Death benefits:** Payments to your spouse, children or other dependents if you die from a job injury or illness.

What should I do if I have a job injury?

Report the injury to your employer

Tell your supervisor right away. If your injury or illness developed gradually (like tendinitis or hearing loss), report it as soon as you learn or believe it was caused by your job.



Photos by Robert Gumpoert

Minimizing the impact of work-related injuries and illnesses



Helping resolve disputes over workers' compensation benefits



Monitoring the administration of claims

Get emergency treatment if needed

If it's a medical emergency, go to an emergency room right away. Your employer may tell you where to go for treatment. Tell the health care provider who treats you that your injury or illness is job-related.

Fill out a claim form and give it to your employer

Your employer must give or mail you a claim form (DWC 1) within one working day after learning about your injury or illness. Use it to request workers' compensation benefits.

Get good medical care

Get good medical care to help you recover. You should be treated by a doctor who understands your particular type of injury or illness. Tell the doctor about your symptoms and the events at work that you believe caused them. Also describe your job and your work environment.

I'm afraid I might be fired because of my injury. Can my employer fire me?

It's illegal for your employer to punish or fire you for having a job injury, or for filing a workers' compensation claim when you believe your injury was caused by your job.

If you feel your job is threatened, find someone who can help. Note that there are deadlines for taking action to protect your rights.

The California Division of Workers' Compensation (DWC) is the state agency that oversees the delivery of benefits for injured workers and helps resolve disputes over benefits between injured workers and employers.

DWC information and assistance (I & A) officers can help you navigate the workers' compensation system, and can provide claim forms or other forms you need to receive benefits.

The FREE publication, "A Guidebook for Injured Workers," can be downloaded from www.dwc.ca.gov.



Call 1-800-736-7401 to hear recorded information on a variety of workers' compensation topics 24 hours a day, or go on line to www.dwc.ca.gov to find the I & A office near you.

*Please visit the
DIVISION OF WORKERS' COMPENSATION
Web site at: www.dwc.ca.gov
or call 1-800-736-7401*

DIVISION OF WORKERS' COMPENSATION

FACT SHEET A

ANSWERS TO YOUR QUESTIONS ABOUT UTILIZATION REVIEW

Utilization review (UR) is the process used by employers or claims administrators to review treatment to determine if it is medically necessary.

All employers or claims administrators handling their workers' compensation claims are required by law to have a UR program. This program is used to decide whether or not to approve medical treatment recommended by your doctor.

What are the medical treatment guidelines set by the state?

California's medical treatment utilization schedule (MTUS) details treatments scientifically proven to cure or relieve work-related injuries and illnesses. The MTUS lays out treatments that are effective for certain injuries, how often the treatment should be given, the extent of the treatment and other details.

Where can I look at the MTUS?

Go to www.dwc.ca.gov. In the left navigation pane, under "I want to," click on "find a publication". Scroll down to schedules and click on [medical treatment utilization schedule](#) (MTUS).

What if the treatment my doctor recommends isn't in the MTUS?

Your doctor needs to use other scientifically-based medical treatment guidelines generally accepted by the national medical community to support the recommended treatment.

I was awarded future medical treatment for my work injury. I have a copy of the award. Does UR apply to me?

Yes. The law requiring UR went into effect Jan. 1, 2004. It applies to all medical treatment being given, even if you received your award before Jan. 1, 2004.

Who can evaluate the medical treatment my doctor has recommended?

Anyone handling claims can **approve** the treatment recommended by your doctor. However, a decision to **deny** or **change** your treatment can only be made by a doctor who understands the type of injury or illness you have and the treatment being recommended.

What happens when my doctor recommends treatment and the claims administrator does a UR?

The claims administrator must do the review and make a decision within five days of the date your doctor requested the treatment. If it needs more time, the claims administrator can have up to 14 days. This is called "prospective review" because it's done before you get the treatment.

What if my doctor has already provided the treatment and the claims administrator does a UR?

The review must be done and the decision given to your doctor within 30 days. This is called a "retrospective review".



Minimizing the impact of work-related injuries and illnesses



Helping resolve disputes over workers' compensation benefits



Monitoring the administration of claims

November 2010

What happens if I got treated and the claims administrator says they won't pay for it? Do I have to pay?

Most likely, no. This is a problem your doctor and the claims administrator need to work out.

What if my doctor requests treatment while I am in the hospital?

Unless your doctor requests an "expedited review", the review process and timeframe is the same as in the "prospective review". This is called "concurrent review" because the review is being done while you're receiving treatment.

What is an expedited review?

This happens when your doctor recommends treatment and says you face a serious threat to your health if you don't receive it. That could mean possible loss of life, limb or other major bodily function. It could also mean the normal time frame for a decision could harm your life or health, or could permanently risk your ability to recover to the fullest.

How long does an expedited review take?

The claims administrator has 72 hours from when they get the information they need to make the decision. If your condition is so serious that 72 hours is too long, they have to make the decision sooner.

Can the claims administrator stop my treatment if I'm in the hospital?

The claims administrator can't stop treatment recommended by your doctor until they talk to your doctor and figure out another plan your doctor agrees to. This applies to any concurrent review.

Will the claims administrator tell me if they decide to change, delay or deny my doctor's request to treat me?

Yes. The claims administrator has to tell you and your doctor in writing, and state why they are changing, delaying or denying your treatment.

What if I disagree with the claims administrator's decision?

There are specific timelines you must meet or you will lose important rights. You must object to the decision in writing within 20 days of getting it. Once you do that, the claims administrator will give you a qualified medical evaluator (QME) panel request form to submit to the DWC Medical Unit. See Information & Assistance (I&A) [guide 2](#) for instructions on filing the QME request form.

Is there any way to help make the UR go smoothly?

UR works best when your doctor stays in contact with the claims administrator's doctor throughout the process. Your doctor must state the reasons for the treatment being requested when making the request. And if the claims administrator's doctor asks for more information, your doctor should respond.

If I have completed the QME process and the claims administrator is still denying the treatment, what do I do?

You'll need to see a workers' compensation judge to get the disagreement resolved. File a declaration of readiness to proceed to expedited hearing to go before a judge. See I&A [guide 6](#) for specific instructions. If you do not have an existing case open at the local WCAB office, you also need to file an application for adjudication of claim (see I&A [guide 4](#)), which opens a WCAB case for you.

What if more than 14 days have gone by since my doctor requested treatment and we haven't heard or received anything from the claims administrator?

If your doctor has not been able to get a response from the claims administrator, file a declaration of readiness to proceed to expedited hearing. See above answer for more details.



For more information, call 1-800-736-7401 or visit the DWC Web site at www.dwc.ca.gov to find a local I&A office. You may also download I&A [guides](#) and get information on [workshops](#) for injured workers.

DIVISION OF WORKERS' COMPENSATION

FACT SHEET C

ANSWERS TO YOUR QUESTIONS ABOUT TEMPORARY DISABILITY BENEFITS

Temporary disability (TD) benefits are payments you get if you lose wages because your injury prevents you from doing your usual job while recovering.

Do I need to fill out the claim form (DWC 1) my employer gave me?

Yes, if you want to make sure you qualify for all benefits. If you do not file the claim form within a year of your injury you may not be able get benefits. Your employer must give you a [DWC 1 claim form](#) within one day of knowing you were injured. Filling out the claim form opens your workers' comp case. State law also lays out benefits beyond the basics you may qualify for once you file the claim form with your employer. Those benefits include, but are not limited to:

- A presumption that your injury or illness was caused by work if your claim is not accepted or denied within 90 days of giving the completed claim form to your employer
- Up to \$10,000 in treatment under medical treatment guidelines while the claims administrator considers your claim
- An increase in your disability payments if they're late
- A way to resolve any disagreements that might come up between you and the claims administrator over whether your injury or illness happened on the job, the medical treatment you receive and whether you will receive permanent disability benefits.

What if my employer didn't give me the DWC 1 claim form?

Ask your employer for the form or call the claims administrator to get it. The claims administrator is the person or entity handling your employer's claims. The name, address and phone number of this person should be posted at your workplace in the same area where other workplace information, like the minimum wage, is posted. You can also get the form from the Division of Workers' Compensation (DWC) Web site at www.dwc.ca.gov. In the left navigation pane, under "I want to," click on "find a form".

What are TD benefits?

TD benefits are payments you get from the claims administrator if you can't do your usual job while recovering from your injury or illness. TD benefits are not taxable. If you can do some work while recovering but earn less than before the injury, you will receive temporary partial disability benefits. If you can't work at all while recovering you will receive temporary total disability benefits. Some employers have plans that pay all your wages for all or part of the time you are temporarily disabled. These plans are called salary continuation. There are different types of salary continuation plans. Some use your vacation and/or sick leave to supplement the TD payments required by state law. Check with your employer to find out if you are covered by one of these plans.



Minimizing the impact of work-related injuries and illnesses



Helping resolve disputes over workers' compensation benefits



Monitoring the administration of claims

How is TD calculated?

As a general rule, you are paid two-thirds of your gross (pre-tax) wages at the time of injury, with minimum and maximum rates set by law. Your wages are figured out by using all forms of income you receive from work: wages, food, lodging, tips, commissions, overtime and bonuses. Wages can also include earnings from work you did at other jobs at the time you were injured. Give proof of these earnings to the claims administrator. The claims administrator will consider all forms of income when calculating your TD benefits.



When does TD start and stop?

TD payments begin when your doctor says you can't do your usual work for more than three days or you get hospitalized overnight. Payments must be made every two weeks. Generally, TD stops when you return to work, or when the doctor releases you for work, or says your injury has improved as much as it's going to. If you were injured between April 19, 2004 and Jan. 1, 2008, your TD payments won't last more than 104 weeks from the first payment for most injuries. Those injured on or after Jan. 1, 2008 are eligible to receive 104 weeks of disability payments within a five-year period.

For more information, call 1-800-736-7401 or visit the DWC Web site at www.dwc.ca.gov to find a local [I&A office](#). You may also download I&A [guides](#) and get information on [workshops](#) for injured workers.

The five-year period is counted from the date of injury. Payments for a few long-term injuries, such as severe burns or chronic lung disease, can go longer than 104 weeks. TD payments for these injuries can continue for up to 240 weeks of payment within a five-year period.

You can also file a state disability insurance (SDI) claim with the Employment Development Department. You should file this claim even if your workers' comp case is accepted. This will allow you to get SDI payments after the 104 weeks of TD payments if you are still too sick or hurt to go back to work.

Do I get other benefits while receiving TD?

You have the right to receive medical treatment right away. The claims administrator may investigate your claim before deciding whether or not to accept it. Even if it investigates, the claims administrator must approve medical treatment for your injury within one working day after you submit a DWC 1 claim form. The treatment you get must be within medical treatment guidelines set by the state. The total cost of the treatment you get during the investigation cannot be more than \$10,000.

You should also be reimbursed for transportation costs including mileage, parking and tolls for trips to and from the doctor's office. The claims administrator also pays for prescriptions, physical therapy visits and other medical costs.

What if there is a problem with my benefits?

If you have a concern, speak up. Talk to your employer or the claims administrator handling your claim and try to resolve the problem. Misunderstandings and mistakes sometimes occur, but you can resolve most of them by calling the claims administrator. If this doesn't work, get help by trying the following:

Contact a state Division of Workers' Compensation (DWC) Information and Assistance (I&A) officer: State I&A officers answer questions to help injured workers. They provide information and forms and help resolve problems with your claim. They hold free workshops to teach injured workers about their rights and responsibilities under the law. Go to www.dwc.ca.gov to find a local office.

Consult an attorney: Lawyers who specialize in helping injured workers with their workers' compensation claims are called applicant's attorneys. Their job is to plan a strategy for your case, gather information to support your claim, keep track of deadlines and represent you in hearings before a workers' compensation judge at your local Workers' Compensation Appeals Board office. If you hire an attorney, the attorney's fees will be taken out of benefits you receive. A judge must approve the fees.

If you have a serious problem with your claim you may need to go before a workers' compensation judge. In that case, you must fill out an application for adjudication of claim. That form normally must be filed within one year from the date of your injury or the last date you were paid benefits. Use [I&A guide 4](#) to help you file this form.

DIVISION OF WORKERS' COMPENSATION

FACT SHEET D

ANSWERS TO YOUR QUESTIONS ABOUT PERMANENT DISABILITY BENEFITS

Permanent disability (PD) is any lasting disability from your work injury or illness that affects your ability to earn a living. If your injury or illness results in PD you are entitled to PD benefits, even if you are able to go back to work.

Do I need to fill out the claim form (DWC 1) my employer gave me?

Yes, if you want to make sure you qualify for all benefits. If you do not file the claim form within a year you may not be able to get benefits. Your employer must give you a [DWC 1 claim form](#) within one day of knowing you were injured. Filling out the claim form opens your workers' comp case. State law also lays out benefits beyond the basics you may qualify for once you file the claim form with your employer. Those benefits include, but are not limited to:

- A presumption that your injury or illness was caused by work if your claim is not accepted or denied within 90 days of giving a claim form to your employer
- Up to \$10,000 in treatment under medical treatment guidelines while the claims administrator considers your claim
- An increase in your disability payments if they're late
- A way to resolve any disagreements that might come up between you and the claims administrator over whether your injury or illness happened on the job, the medical treatment you receive and whether you will receive PD benefits.

What if my employer didn't give me the DWC 1 claim form?

Ask your employer for the form or call the claims administrator to get it. The claims administrator is the person or entity handling your employer's claims. The name, address and phone number of this person should be posted at your workplace in the same area where other workplace information, like the minimum wage, is posted. You can also get the form from the Division of Workers' Compensation (DWC) Web site at www.dwc.ca.gov. In the left navigation pane, under "I want to," click on "find a form".

Who decides if I should get PD benefits? How is that done?

A doctor decides if your injury or illness caused PD. The doctor's report is then turned into a PD rating. The process used to turn the doctor's report into a rating can vary depending on your date of injury and other factors. The PD rating determines the benefits you'll receive.

After your doctor decides your injury or illness has stabilized and no change is likely, PD is evaluated. At that time, your condition has become permanent and stationary (P&S). Your doctor might use the term maximal medical improvement (MMI) instead of P&S.

Once you are P&S or have reached MMI, your doctor will send a report to the claims administrator telling them whether you have any PD. The doctor also decides if any of your disability was caused by something other than your work injury, such as a previous injury or another condition. This is called apportionment.

The claims administrator may ask you to fill out a form describing your disability.



Minimizing the impact of work-related injuries and illnesses



Helping resolve disputes over workers' compensation benefits



Monitoring the administration of claims

What if I don't agree with the doctor?

If you or the claims administrator disagrees with your doctor's findings you can be seen by a doctor called a qualified medical evaluator (QME). You request a QME list (called a panel) from the DWC Medical Unit. The claims administrator will send you the forms to request a QME. Your employer will pay for the cost of the QME exam. You have 10 days from the date the claims administrator tells you to begin the QME process to submit your request form to the [DWC Medical Unit](#). If you do not submit the form within 10 days, the claims administrator will do it for you and will get to choose the kind of doctor you'll see.

There are other specific and strict timelines you must meet in filing your QME forms or you will lose important rights. Read the DWC Information and Assistance (I&A) Unit [guide 2](#) and refer to fact sheet E for more information.

What is a PD rating and how is it calculated?

First, after your exam, the doctor will write a medical report about your impairment. Impairment means how your injury affects your ability to do normal life activities. The report includes whether any portion of your disability was caused by something other than your work injury. The doctor's report ends with an impairment number. Next, the impairment number is put into a formula to calculate your percentage of disability. Disability means how the impairment affects your ability to work. Your occupation and age at the time of your injury and your future earning capacity are also included in the calculation. Then, any portion of your disability caused by something other than your work injury is taken out of the calculation.

Your disability will then be stated as a percentage. Your percentage of disability equals a specific dollar amount, depending on the date of your injury and your average weekly wages at the time of injury. A rating specialist from the DWC [Disability Evaluation Unit](#) may help calculate your rating.

If you were injured on or after Jan. 1, 2005 your PD award may be increased or decreased by 15 percent, depending on whether you work for an employer with 50 or more employees and your employer offers -- and you accept or decline -- regular, alternative or modified work.

How is PD paid?

Once your doctor says you have PD, the claims administrator will estimate how much you should receive and begin making payments to you, even if the final percentage of disability has not been calculated. PD benefits are paid in addition to temporary disability (TD) benefits you received. The claims administrator must begin paying your PD within 14 days after TD ends and continue the payments until a reasonable estimate of your disability amount has been paid. If you have not missed any work, PD payments are due from the date the doctor says you are P&S. PD benefits continue to be paid every two weeks on a day picked by the claims administrator until a reasonable estimate of your disability amount has been paid. When the actual amount of PD due has been determined, the amount over the estimate must be paid.

How is my claim finally resolved?

After the amount of PD in a claim is determined, there is usually a settlement or award for benefits. This award must be approved by a workers' compensation judge. If you have an attorney, your attorney should help you obtain this award. If you don't have an attorney, the claims administrator should help you obtain the award. You can also get help from the I&A officer at the local Workers' Compensation Appeals Board office. If your doctor said further medical treatment for your injury or illness might be necessary, the award may provide future medical care.

There are two types of settlements. A settlement is agreed on by you and the claims administrator.

You can resolve your whole claim through one lump sum settlement called a [compromise and release](#) (C&R). A C&R may be best when you want to control your own medical care and/or you want a lump sum payment for your PD. A C&R usually means that after you get the lump sum payment approved by the workers' compensation judge, the claims administrator will not be liable for any further payments or medical care.

You can also agree to a settlement called a [stipulation with request for award](#) (stip). A stip usually includes a sum of money and future medical treatment. Payments take place over time. A judge will review the agreement.

If you cannot agree to a settlement with the claims administrator, you can go before a workers compensation judge, who will decide your PD award. A judge's finding is called a findings and award (F&A). The F&A generally consists of an amount of money and a provision for the claims administrator to pay for approved future medical treatment.

For more information, call 1-800-736-7401 or visit the DWC Web site at www.dwc.ca.gov to find a local [I&A office](#). You may also download [I&A guides](#) and get information on workshops for injured workers.

DIVISION OF WORKERS' COMPENSATION

FACT SHEET E

ANSWERS TO YOUR QUESTIONS ABOUT QUALIFIED MEDICAL EVALUATORS AND AGREED MEDICAL EVALUATORS

Qualified medical evaluators (QMEs) or agreed medical evaluators (AMEs) examine injured workers to determine the benefits they will receive if there is a disagreement over the treating physician's opinions.

Do I need to fill out the claim form (DWC 1) my employer gave me?

Yes. Your employer must give you a [DWC 1 claim form](#) within one day of knowing you were injured. If you do not file the claim form within a year of your injury you may not be able get benefits. Giving the completed form to your employer opens your workers' comp case. It starts the process for finding all benefits you may qualify for under state law. Those benefits include, but are not limited to:

- A presumption that your injury or illness was caused by work if your claim is not accepted or denied within 90 days of giving the completed claim form to your employer
- Up to \$10,000 in treatment under medical treatment guidelines while the claims administrator considers your claim
- An increase in your disability payments if they're late
- A way to resolve any disagreements between you and the claims administrator over whether your injury or illness happened on the job, the medical treatment you receive and whether you will receive permanent disability benefits.

What if my employer didn't give me the DWC 1 claim form?

Ask your employer for the form or call the claims administrator to get it. The claims administrator is the person or entity handling your employer's claims. The name, address and phone number of this person should be posted at your workplace in the same area where other workplace information is posted. You can also get the form from the Division of Workers' Compensation (DWC) Web site at www.dwc.ca.gov. In the left navigation pane, under "I want to," click on "find a form".

I've been to the doctor. Why do I need to see a QME?

You and/or the claims administrator might disagree with what the treating doctor says. There could be other disagreements over medical issues in your claim. A second doctor -- an AME or QME -- has to address those disagreements. You might disagree over:

- Whether or not your injury was caused by your work
- Whether or not you need treatment for your injury
- What type of treatment is appropriate
- Whether or not you need to stay home from work to recover
- A permanent disability rating.

Who makes the decision about going to a QME?

You, your attorney or the claims administrator can request a QME exam. You might request a QME exam if:

1. Your claim is delayed or denied and you need a medical exam to find out if the claim is payable
2. You need to find out if you are permanently disabled in some way or if you'll need future medical treatment
3. You disagree with what your doctor says about your medical condition
4. You disagree with the finding of utilization review (to deny, delay or modify treatment).



Minimizing the impact of work-related injuries and illnesses



Helping resolve disputes over workers' compensation benefits



Monitoring the administration of claims

The DWC Medical Unit will provide whomever makes the request with a list (called a panel) of three QMEs. Each QME panel is randomly generated and the physicians listed are specialists of the type requested. One physician from the list is chosen to examine you and make a report on your condition. Once a QME is chosen for your claim, all medical disputes must go to that QME.

What qualifications do QMEs have?

The DWC Medical Unit certifies QMEs in different medical specialties. A QME must be a physician licensed to practice in California. QMEs can be medical doctors, doctors of osteopathy, chiropractors, psychologists, dentists, optometrists, podiatrists or acupuncturists.

What's the difference between a QME and an AME?

If you have an attorney, your attorney and the claims administrator may agree on a doctor without using the state system for getting a QME. The doctor they agree on is called an AME. If they cannot agree, they must ask for a QME panel list.

How do I request a QME exam?

Complete the "Request for Qualified Medical Evaluator" form and submit it to the DWC Medical Unit. See Information & Assistance (I&A) [guide 2](#) for help with this form.

NOTE: If your employer or claims administrator says there's a problem with your claim and sends you a "Request for Qualified Medical Evaluator" form, you have 10 days to complete the form, select the QME medical specialty and send the form to the DWC Medical Unit. If you do not submit the form within 10 days, the claims administrator will do it and will get to choose the kind of doctor you'll see.

What difference does it make who submits the form to request the QME?

Whoever submits the request form picks the specialty of the doctor for the exam. See I&A [guide 2](#) for more information. When you receive the panel, you will also receive a letter that explains how to set up the QME appointment and how to provide the QME with important information about yourself. Within 10 days of the date on the list, you must pick a QME from the list, make an appointment and tell the claims administrator. If you do not do this, the claims administrator may select the doctor and make the appointment for you.

Is there anything I can do if I disagree with what the QME says?

Yes, but you have a limited amount of time to decide if you agree with the QME's report or if you need more information. When you receive the report, read it right away and decide if you think it is accurate. If not, and you have an attorney, you should talk to him or her about your options.

If you don't have an attorney, first call the claims administrator. If that doesn't help, contact an [I&A](#) officer at your local Workers' Compensation Appeals Board (WCAB) district office. The I&A officer can help you figure out what's best in your case.

If you are in a union, you may be able to see an ombudsperson or mediator under the terms of your collective bargaining agreement or labor-management agreement.

I'm in a medical provider network (MPN). Does this process apply to me?

There are two tracks for resolving a medical dispute if you're in an MPN, depending on the situation. If your MPN doctor requests treatment that you agree with and that treatment is denied under utilization review (UR), you have the right to request an exam by a QME. The claims administrator must advise you of this right. However, if you only disagree with your MPN doctor about your diagnosis or treatment, you do NOT go to a QME – you have other options. You can change to another physician on the MPN list. You can also ask for a 2nd and 3rd opinion from a different MPN doctor. If you still disagree, you can have an independent medical review (IMR) to resolve the dispute. See the information on your MPN provided by your employer.

I still have questions. Who do I contact?

If you have questions about requesting a QME panel, contact the [DWC Medical Unit](#) by phone at 1-800-794-6900 or by writing to: DWC Medical Unit, P O Box 71010, Oakland, CA 94612.

For more information, call 1-800-736-7401 or visit the DWC Web site at www.dwc.ca.gov to find a local [I&A office](#). You may also download I&A [guides](#) and get information on [workshops](#) for injured workers.