

CALIFORNIA

EMPLOYMENT LAW

Workers' Compensation – Claims Process



Workers' compensation is a system of no-fault insurance that provides medical and monetary benefits to employees or their survivors for work-related injuries, diseases and deaths.

The California Workers' Compensation Act (WCA) defines how workers' compensation are processed in the state. The [California Division of Worker's Compensation](#) (DWC) administers the worker's compensation system and resolves disputed claims under the WCA.

STATE RESOURCES

California Division of Workers' Compensation (DWC) [website](#)

Claim Process Flowchart

The DIR provides an overview of the workers' compensation claims process in this [flowchart](#)

Workplace Poster

Employers may use this WCA [notice](#) to satisfy their posting obligations.

First Reports of Injury

Employers must report employees' work-related conditions using [Form DWC 1](#) and [Form DLSR 5020](#).

FAQs

The DIR answers these [frequently asked questions](#) about workers' compensation for employers.

ACCIDENT REPORT

Employees must take the first step in the workers' compensation claim process by reporting any work-related conditions to their employers. In general, a condition qualifies for workers' compensation coverage if the damage or harm an employee suffers is the result of a workplace accident or the employee's exposure to a hazardous environment in the course of employment.

Employees must notify their supervisors within **30 days** of an injury or of first having knowledge of an occupational disease. Failing to report a work-related condition can result in a delay in the claims process or denial of a claim altogether.

If an employee waits more than **one year** to report an injury, the DWC may not allow the employee to recover any costs from the employer or its insurance carrier.

DISPUTED CLAIMS

To resolve claim disputes in California, employers and employees may have to go through arbitration or independent medical review before seeking a hearing with the Workers' Compensation Appeals Board or intervention from the judicial system.

ARBITRATION

Employees should first try to resolve any claim disputes directly with their employers or the employer's insurance carrier.

If matters remain unresolved, the parties must submit to arbitration if the dispute is related to insurance coverage or the right of contribution. Other matters must also go through arbitration if the parties agree to this dispute resolution process.

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INDEPENDENT MEDICAL REVIEW (IMR)

Medical treatment disputes must go through an independent review process. This involves submitting the dispute to an independent medical review organization for a determination as to whether the medical treatment is medically necessary.

WORKERS' COMPENSATION APPEALS BOARD (WCAB)

A party that is dissatisfied with an arbitration award or IMR determination can ask the WCAB to review it. The WCAB may refer the matter to an administrative judge or hold a hearing to evaluate the award. Once it issues a decision, the WCAB will not reconsider it unless a party can prove it was unjust or unlawful.

JUDICIAL APPEAL

The California appellate courts and state supreme court have the authority to review, correct or annul any workers' compensation decision. However, employers must go through the channels described above before they can submit their case to an appellate court.

Judicial review of workers' compensation decisions is limited. A court cannot re-hear a disputed claim, admit new evidence or issue an independent judgment on the evidence presented. Courts usually either uphold WCAB decisions or remand them back to the WCAB for further administrative proceedings.

Appealing an IMR decision is especially difficult under California law. A party can appeal an IMR decision only if it can prove with clear and convincing evidence that:

- The decision was made without or in excess of the reviewer's authority;
- The decision was procured by fraud;
- The IMR physician was subject to a material conflict of interest;
- The decision was the result of bias on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color or disability; or
- The decision was the result of a plainly erroneous express or implied finding of fact (the fact must be based on ordinary knowledge, not subject to expert opinion).

MORE INFORMATION

for more information on workers' compensation laws in California please visit the DWC's [website](#) or contact Heffernan Insurance Brokers.