

Claims Manual

JUDICIAL BRANCH WORKERS'
COMPENSATION PROGRAM



JUDICIAL COUNCIL
OF CALIFORNIA

JUDICIAL BRANCH WORKERS'
COMPENSATION PROGRAM
ADVISORY COMMITTEE

Table of Contents

TABLE OF CONTENTS	1
I. INTRODUCTION	2
II. CALIFORNIA RULES OF COURT	2
A. Rule 10.350. Workers' compensation program	2
B. Rule 10.67. Judicial Branch Workers' Compensation Program Advisory Committee	3
III. THE JBWCP	4
A. How the Program Works	4
B. Who Do I Contact?	5
C. What is an Injury or Illness?	6
D. Who is Covered?	7
E. What Benefits Are Payable?	8
IV. SENATE BILL (SB) 1159/ASSEMBLY BILL (AB) 1751 – COVID-19 REPORTING	9
A. SB 1159/AB 1751	9
B. Member Responsibilities if an Employee Tested Positive On or After September 18, 2020	9
C. Additional Information	10
V. WHEN AN INJURY OCCURS	10
A. Directing and Providing Medical Care	10
B. Forms to Provide and Complete	12
C. Reporting Concerns or Additional Information	13
D. Information to Request, Secure or Maintain	14
VI. RETURNING EMPLOYEES TO WORK	15
A. Transitional or Modified Work	15
VII. LEGAL ACTIONS	18
A. What if My Employee Hires an Attorney?	18
B. Requests for Information	19
C. Case Settlement and Closure	21
D. Claims Settlement Authority Process and Policy	22
VIII. RISK CONTROL RESOURCES	24
IX. PROGRAM QUESTIONS	25
A. Requesting Specific Claims Information	25
B. Requesting Loss Run Data	25
X. THE CLAIMS PROCESS	26
A. Flowchart.....	26
B. Important Timelines to Remember	26
XI. POSTING AND NEW EMPLOYEE NOTICE REQUIREMENTS	28
A. Posting.....	28
XII. APPENDIX A	ERROR! BOOKMARK NOT DEFINED.

I. Introduction

Under California law, an employer is legally obligated to provide benefits to its employees for injuries or illnesses that arise out of and in the course of employment. Employers may choose coverage for workers' compensation from the commercial insurance market, elect to self-insure, or be designated as "permissibly uninsured" for this exposure. The Judicial Branch Workers' Compensation Program (JBWCP) has been designated as "permissibly uninsured" for the purpose of providing workers' compensation benefits.

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

II. California Rules of Court

A. Rule 10.350. Workers' compensation program

1. The intent of this rule is to:

- a. Establish procedures for the Judicial Council's workers' compensation program for the trial courts; and
- b. Ensure that the trial courts' workers' compensation coverage complies with applicable law and is cost-efficient. (Subd (a) amended effective January 1, 2007.)

2. Duties of Judicial Council staff

To carry out the duty of the Judicial Council to establish a workers' compensation program for the trial courts, the council's Human Resources office, must:

- a. Maintain a contract with a vendor to provide courts, on a voluntary basis, with a cost-efficient workers' compensation coverage program;
- b. Monitor the performance of the vendor with which it contracts to provide such services;
- c. Timely notify the trial courts concerning the terms of the workers' compensation coverage program;
- d. Timely inform the trial courts about the legal requirements with which a workers' compensation program must comply;
- e. Make personnel available by telephone to consult with trial courts regarding the cost and benefits of the plan being offered by the Judicial Council; and

- f. Review and approve or disapprove any other workers' compensation programs identified by a trial court for consideration as a vendor to provide workers' compensation benefits to its employees. (Subd (b) amended effective January 1, 2016; previously amended effective January 1, 2007.)

3. Duties of the trial courts

- a. Each trial court that elects to participate in the program made available through the Judicial Council must:
 - (1) Timely notify the Human Resources office of its decision to participate in the workers' compensation program being offered through the Judicial Council;
 - (2) Timely complete and return necessary paperwork to the Human Resources office; and
 - (3) Timely pay all costs associated with the program.
- b. Each trial court that elects not to participate in the workers' compensation program available through the Judicial Council must:
 - (1) Independently identify a workers' compensation benefits provider that fulfills all legal responsibilities to offer such benefits in California in a cost-efficient manner;
 - (2) Timely submit to the Human Resources office for its approval the information necessary to evaluate the workers' compensation program identified by the trial court to provide benefits for its employees; and
 - (3) Maintain a contract with a workers' compensation benefits provider that fulfills all legal responsibilities to offer such benefits in California in a cost-efficient manner. (Subd (c) amended effective January 1, 2016; previously effective January 1, 2007.)

Rule 10.350 amended effective January 1, 2016, adopted as rule 6.302 effective January 1, 2005, and previously amended and renumbered effective January 1, 2007.

B. [Rule 10.67. Judicial Branch Workers' Compensation Program Advisory Committee](#)

1. Area of Focus

The committee makes recommendations to the council for improving the statewide administration of the Judicial Branch Workers' Compensation Program

and on allocations to and from the Judicial Branch Workers' Compensation Fund established under Government Code section 68114.10.

2. Additional duties

In addition to the duties specified in rule 10.34, the committee must review:

- a. The progress of the Judicial Branch Workers' Compensation Program;
- b. The annual actuarial report; and
- c. The annual allocation, including any changes to existing methodologies for allocating workers' compensation costs.

The advisory committee consists of persons from trial courts and state judicial branch entities knowledgeable about workers' compensation matters, including court executive officers, appellate court clerk/administrators, and human resources professionals.

Rule 10.67 amended effective January 1, 2018; adopted effective January 1, 2015; previously amended effective July 1, 2016.

III. The JBWCP

A. How the Program Works

Members of the JBWCP share in all workers' compensation risks, as well as enjoy the benefits of reduced workers' compensation costs for providing pooled coverage for injured employees. Comprehensive first dollar workers' compensation coverage is offered to the JBWCP Members (Members). The JBWCP is "permissibly uninsured" and self-funded, with Excess coverage purchased up to statutory limits. Through the joint purchase of services including claims administration, claims audits, actuarial services, risk control services, claims oversight, and program management expertise, Members are assured the JBWCP is a viable solution to costly commercial insurance.

Specific coverage includes:

- Primary Coverage through the JBWCP up to Excess Limits
- Excess Coverage provided through specific carriers up to statutory limits

The JBWCP contracts with Sedgwick, a firm specializing in the management of "pooled" workers' compensation programs. Sedgwick's employees provide general administration guidance, claims management oversight, risk management, and other services as necessary for the operations of the organization, and subcontracts actuarial services through Bickmore Actuarial Services.

The JBWCP offers a joint protection program to its Members for workers' compensation injuries. When an employee sustains an injury or illness that arises out of and in the course of employment, the JBWCP provides first dollar coverage.

The JBWCP provides continual review of the program through the JBWCP Administrator, the JBWCP Senior Human Resources Analysts, and the Sedgwick Workers' Compensation (WC) Senior Advisor, who conducts regular reviews of the claims program to assure quality claims handling and serve as a resource for Members regarding workers' compensation concerns or questions.

This emphasis on experience, oversight, and resources can result in reduced claims costs and claims resolution to the benefit of the Members.

Sedgwick Claims (SC) is the selected JBWCP Third Party Administrator (TPA) who is responsible for the determination and payment of workers' compensation benefits, and management of each claim.

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

Members are encouraged to work with the JBWCP staff, the Sedgwick WC Senior Advisor, and the TPA as a team regarding specific claims. This team is available to address questions from Member's Staff as well as employees.

B. Who Do I Contact?

Communication is important to the success of the JBWCP. See below for contact information: General Email:	jbwcp@jud.ca.gov
To report new injuries or claims:	Sedgwick Claims (SC)
SC Address:	P.O. Box 14573 Lexington, KY 40512
SC Toll Free and Fax:	Rancho Cordova Office: Toll Free: 800-597-7677 Fax: 859-264-4368
SC Website, Email, and Toll-Free Number Reporting:	Access online reporting through Smart.ly: https://intake.sedgwick.com/ Email: SedgwickJBWCP9720@Sedgwick.com 24 Hour Intake Line: 866-261-5789

<p>To obtain information on the claims administration program/process:</p>	<p>Rachel Kerby, Client Services, Manager Rachel.Kerby@sedgwick.com Direct: 916-636-4429 Cell: 916-223-9775</p>
<p>To obtain information on existing claims:</p>	<p>Rancho Cordova Office: James (Jimmy) Jobson, Team Lead James.Jobson@sedgwick.com 916-636-1524 Candace Maibes, Assistant Vice President Candace.Maibes@sedgwick.com 916-636-1530</p>
<p>To obtain information on the MPN program:</p>	<p>MPN Coordinators@sedgwickcms.com Or the SC Client Services Manager</p>
<p>To obtain information on the workers' compensation program:</p>	<p>Ed Cho, Senior Human Resources Analyst (Trial Courts) Ed.cho@jud.ca.gov 916-643-7020 Jade Vu, Senior Human Resources Analyst (Judiciary) Jade.vu@jud.ca.gov 415-865-7744 Edward Metro, JBWCP Administrator Edward.Metro@jud.ca.gov 415-465-4902</p>
<p>Workers' Compensation Senior Advisor's name and direct phone line:</p>	<p>Jacquelyn Miller, Sedgwick Jacquelyn.Miller@sedgwick.com 916-290-4615</p>

C. What is an Injury or Illness?

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

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

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

Any question as to whether or not an injury or illness should be reported should be directed to the JBWCP Senior Human Resources Analyst or the TPA.

D. Who is Covered?

Workers' compensation benefits are provided through the JBWCP to all legally employed individuals, jurors, and judges of the covered JBWCP participating Member.

The covered Member is named in Endorsement No. 1 of the [Memorandum of Coverage](#) and is a "Member" as defined in the Program's Agreement. If a Covered Member named in Endorsement No. 1 loses its status as an active "Member" of the Program, the coverage under this Memorandum of Coverage shall terminate immediately upon such change in status.

1. Coverage Applies To:

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

The JBWCP is not responsible for any payments in excess of benefits regularly provided by the Workers' Compensation Laws of the State of California including those required because of:

- 1. The Covered Member's serious and willful misconduct (except as stated herein above);**
- 2. The Covered Member employs an employee in violation of law;**
- 3. The Covered Member fails to comply with a health or safety law or regulation;**
- 4. The Covered Member discharges, coerces, or otherwise discriminates against any employee in violation of the Workers' Compensation Law; or**
- 5. The Covered Member violates or fails to comply with any Workers' Compensation Law.**

QUESTIONS OF COVERAGE SHOULD BE DIRECTED TO THE JBWCP STAFF:

- Ed Cho – Senior Human Resources Analyst (Trial Courts)
916-643-7020, ed.cho@jud.ca.gov
- Jade Vu – Senior Human Resources Analyst (Judiciary)
415-865-7744, jade.vu@jud.ca.gov

E. What Benefits Are Payable?

Five specific benefits are provided through the JBWCP. Provision of these benefits as well as determination of benefit rates are mandated through the State of California. Benefits provided are:

1. Medical Treatment

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

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

2. Temporary Disability

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

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

Temporary Disability benefits may be coordinated with wage continuation benefits. These benefits will be coordinated directly with each individual Member.

3. Permanent Disability

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

4. Job Displacement Benefits

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

5. Death Benefits

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

IV. Senate Bill (SB) 1159/Assembly Bill (AB) 1751 – COVID-19 Reporting

A. SB 1159/AB 1751

Note – This requirement expired January 1, 2024. Please note that positive test results for COVID-19 up to January 15 (inclusive), 2024 must still be reported to Sedgwick. The SC [Positive COVID-19 Reporting Portal](#) will remain active until February 1, 2024, to accommodate any such reports. Furthermore, this section is being left in place to provide guidance in the event that a retroactive claim is filed for a COVID-19 illness date that falls within the law’s effective dates.

On September 17, 2020, Governor Newsom approved Senate Bill 1159 (SB 1159) which established certain COVID-19 illnesses/injuries as presumptively compensable for workers’ compensation benefits. SB 1159 states that the rebuttable presumption is triggered if an employee tested positive for COVID-19 during a period of an outbreak at the employee’s worksite. SB 1159 also included an “urgency” clause in which the bill requirements shall go into immediate effect. While benefits for all workers who suffered industrial injury or illness would be administered in a timely and appropriate manner by SC, SB 1159 would require increased cooperation and information gathering from each Member.

SC is responsible for tracking the reported information from each Member and determining whether it meets the “outbreak” requirements. While SB 1159 has established a rebuttably presumptive injury for employees who have contracted COVID-19, each claim will be reviewed with compensability determined by SC on an individual basis.

Covid Reporting Requirements have been extended through the approval of AB 1752 to December 31, 2023.

To ensure Members are compliant with SB 1159, please take note of the following guidelines, instructions, and submit online through the SC [Positive Covid 19 Reporting Portal](#).

B. Member Responsibilities if an Employee Tested Positive On or After September 18, 2020

Within three (3) business days of knowledge of a positive PCR COVID-19 test (non-work or work-related), Members **must** report online to the Portal, <https://Intake.sedgwick.com/u/outbreak/positiveresult>. This required reporting will remain in effect until January 1, 2024, as amended in AB 1751.

SB 1159 reporting applies to PCR testing, antigen/rapid testing is not reportable under SB 1159.

C. Additional Information

- Please note that civil penalties for intentional misrepresentation or failure to submit the information may be assessed up to \$10,000.
- SB 1159 positive test reporting to SC is *separate* from the AB 685 reporting to local public health officials.
- Any request for access to this confidential information from an outside source should be discussed with JBWCP staff.
- Unless otherwise indicated, “test” or “testing” means a PCR (Polymerase Chain Reaction) test approved for use or approved for emergency use by the United States Food and Drug Administration to detect the presence of viral RNA. “Test” or “testing” does not include serologic testing, also known as antibody testing. “Test” or “testing” may include any other viral culture test approved for use or approved for emergency use by the United States Food and Drug Administration to detect the presence of viral RNA which has the same or higher sensitivity and specificity as the PCR Test. Home and antigen positive tests are not reported.

For Members of the State Judiciary (Supreme Court, Courts of Appeals, California Judicial Center Library, Habeas Corpus Resource Center, Commission on Judicial Performance, Justices/Judges, and Judicial Council), Jade Vu will be responsible for providing all reporting to AIMS and will work with Member representatives to obtain additional information.

Should you have any immediate questions regarding SB 1159, please contact Ed Cho, ed.cho@jud.ca.gov (trial courts), Jade Vu jade.vu@jud.ca.gov (state judicial branch entities), or Rachel Kerby, SC Client Services Manager.

Additional information, including [FAQs](#), are available on the [JBWCP Advisory Committee's Resource webpage](#).

V. When an Injury Occurs

A. Directing and Providing Medical Care

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

When notified of an industrial injury, the first concern should be to provide medical care to the employee. In the case of a medical emergency, please follow emergency procedures, with follow-up care directed to your designated clinic.

The JBWCP participates in the SC MPN of clinics and physicians specifically set up to provide medical care for industrial illness or injuries. Each Member can choose to participate in the MPN. Members who would like to join the MPN program can contact either the JBWCP Staff or the SC Client Services Manager listed on page 6 of this manual.

If a Member has concerns regarding the service provided from a MPN provider, the concern should be escalated to the SC Client Services Manager for discussion.

If a Member is not participating in the MPN, they must designate an industrial clinic specifically selected for the treatment of the Member employees' work-related injuries and familiar with the JBWCP.

Employees should be provided a [preauthorization for treatment form](#) to take with them to the clinic.

From time to time, Members may find it necessary to change to another designated industrial clinic. Should this become necessary, notification of the change should be made to the SC Client Services Manager in order to communicate the change to the Claims Staff.

1. Predesignated Physicians

At the time of hire, every employee should receive [information regarding their right to predesignate a treating physician](#), should they suffer a work injury or illness. This would be included in the New Hire Packet provided for each employee. An employee may predesignate a treating physician if they are provided medical benefits (medical insurance) from any source. An employee who notifies the Member in writing *prior* to the date of injury that they would like to be treated by their personal physician/facility, and the physician/facility agrees to treat a work-related injury in writing, may do so. This notification should be maintained by the Member and provided to the TPA's Claims Staff if an injury occurs.

2. Employer Medical Control

Unless a physician has been predesignated prior to an injury, the Member controls medical care for the first 30 days of the claim for those Members who are not participating in the MPN program. Those Members in the MPN program maintain medical control with limited exceptions. Questions regarding medical control within the MPN should be directed to the applicable SC Team Lead or JBWCP Staff listed on page 6 and 7.

All medical care and direction should be coordinated through the TPA to assure benefits are timely and appropriately provided.

If you have questions about medical care, please direct your questions to either the JBWCP Staff or TPA.

B. Forms to Provide and Complete

1. Due – Within one working day of Date of Knowledge of Injury

[Workers' Compensation Claim Form \(DWC 1\) & Notice of Potential Eligibility](#)

Within one working day of receiving notice or knowledge of the claimed injury, provide each injured employee with the Workers' Compensation Claim Form & Notice of Potential Eligibility ([DWC 1](#)).

If the Member is participating in the MPN program, you must also provide the following document to the employee with the DWC 1:

- TPA [MPN Employee Notification \(English/Spanish\)](#)

If the employee refuses to accept the claim form (form), document the refusal. If the employee is unavailable or unable to accept the form, mail the document(s) to the employee or their designated representative via first class mail (certified mail is recommended). The burden of proof for providing the claim form rests with the employer and sufficient documentation that the form was provided timely is required.

The employee will complete the TOP PORTION of the form only. Once the form has been *returned* by the employee, then complete the BOTTOM PORTION of the form and provide the employee with a completed copy within one working day.

Note – The employee is NOT obligated to complete their portion of the form and return it to the supervisor/manager or designated assigned Human Resources Staff.

The form should be distributed as follows:

- Original – OSHA File
- One Copy – Employee
- One Copy – TPA

2. Due – Within five days of Date of Knowledge of Injury:

Employer's Report of Occupational Injury or Illness (5020) by Email, Report Online, Call 24 Hour Intake

It is required that the Member submit a completed [Employer's First Report of Occupational Injury or Illness Form \(5020\)](#), report online via [Smart.ly Claims Intake](#), and/or call the 24/7 Hour Intake, within five calendar days of injury or notification of injury for which the employee is seeking benefits. While Members are required by law to report claims within five calendar days of injury or notification of injury, the best practice of reporting claims within two to three calendar days is encouraged.

[The Employer's Report of Occupational Injury or Illness \(5020\)](#), reporting online, and/or calling the 24-hour Intake line, is to be completed/reported by management at the time of injury and is due to the TPA within five days of knowledge the employee is seeking benefits for an injury/illness. The report is not necessary if the injury did not involve medical treatment beyond First Aid, lost time beyond the date of injury, or litigation. Please direct any questions regarding submission of the report to either the JBWCP Staff or TPA.

Other options to reporting new claims are:

- Online: <https://intake.sedgwick.com/>.
 - Contact SC's Client Services Manager for access
- Via Dedicated Phone: 866-261-5789 (24/7 access)
- Via Email: SedgwickJBWCP9720@Sedgwick.com

NOTE: Regardless of the method the employer uses to report a claim, as soon as the claim is converted from an Incident Only (IO) to Medical Only (MO), or Indemnity claim, a 5020 is automatically generated by the claims system and attached to the claim file

Copies of documents can be sent to the TPA either by fax, email, or U.S. Mail at:

Rancho Cordova Office: Sedgwick, PO Box 14573, Lexington, KY 40512
Fax: 859-264-4368 (with claim info on document)
Email: JBWCP@sedgwick.com (with claim info)

Within eight hours, you must immediately notify the nearest district office of the Division of Occupational Safety and Health (OSHA) by telephone of any injury or illness which:(a) results in death; (b) requires inpatient hospitalization in excess of 24 hours; or (c) a loss of any member of the body or any serious degree of permanent disfigurement.

C. Reporting Concerns or Additional Information

1. Reporting Concerns

If you are unsure about reporting a claim, contact the TPA or the JBWCP Staff to discuss your concerns. Some claims need additional investigation to verify

whether the claimed injury or illness is related to or caused by the work environment.

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

It may become necessary during the investigation of a claim for an independent investigative company to be assigned to gather information. The TPA will notify the Member when an investigator may be appropriate and request authority for the assignment. This authority will be documented in the claim file.

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

2. Additional Information

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

D. Information to Request, Secure or Maintain

A workers' compensation claim can remain active for a few weeks to a few years. During this period of time, the Member must gather information to aid in providing accurate benefits to the injured worker. The information may be requested by the TPA at any time during the life of the claim and will aid in determining benefits. If you have any questions regarding information you have or should be gathering, please contact the TPA and/or the JBWCP Staff.

1. Request:

- a. The employee provides the Member with any release from work or return-to-work information or documentation the employee receives from their treating physician. This information should then be provided to the TPA immediately.
- b. The TPA contacts the Member to discuss conducting an investigation if there is any question regarding the validity of the claim or ongoing benefits.
- c. The employee completes the DWC 1 Form (Claim Form).
- d. The Member obtains copies of any police reports or other reports relating to the injury. This information should be provided to the TPA immediately.

- e. The Member or TPA obtains information regarding any potential third party involved in the injury (driver of another vehicle, owner of property) and provides this information to the TPA.
- f. The Member provides the TPA with a copy of the employee's current Job Description. If one is not available, the Member will consult with the TPA to determine if one should be developed.

2. Secure:

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

3. Maintain:

- a. Employment records (applications, vacation requests, etc.) relating to employees/volunteers injured on the job;
- b. Copies of DWC 1 Form;
- c. Training records; and/or
- d. Maintenance records (for building and equipment).

VI. Returning Employees to Work

A. Transitional or Modified Work

1. Temporary Modified Duty

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

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

2. How Do We Do This?

The JBWCP has developed Return-to-Work (RTW) Resources which are available to Members in the form of a [Transitional Return-to-Work \(TRTW\) Program Handbook](#) and [TRTW Program Aids](#) that include the following:

- Best Practices for Returning an Injured Employee to Work
- Supervisor Tips for Transitioning an Employee Back to Work
- WC Injury/Illness Reporting/RTW Process Flow Chart

3. Recommended Next Steps:

- a. The Member should coordinate RTW efforts with the TPA to contact the treating physician and determine if work modifications are appropriate.
- b. Once modifications are determined and work is available, the Member will contact the injured worker and notify them to RTW under the restrictions and notify the TPA the offer has been made.
- c. If the employee does not return to work at modified duty, the Member should immediately notify the TPA as this may negatively impact benefits.
- d. The employee should be advised by the Member of their work restrictions and their responsibility to abide by these restrictions.
- e. Best Practices for a successful RTW process include:
 - (1) Contacting the Injured Employee;
 - (2) Describing the Essential Functions;
 - (3) Obtaining Work Capabilities;
 - (4) Researching/Evaluating Possible Accommodations;
 - (5) Making an Offer of Modified Work, and;
 - (6) Implementing and monitoring.

Over time, the work restrictions are generally reduced with the intention of returning the employee to their usual and customary occupation. The TPA continues to monitor the progress in returning the employee to full duty. Modified duty programs are designed to be temporary in nature and by recommendation should not exceed a period of 90 days without review and consideration as to whether they should continue.

Additional information regarding RTW can be found in the RTW Webinar on the [Sedgwick's JBWCP Portal](#).

4. Permanent Modified Duty

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

5. What Do We Do Then?

The Member is then under an obligation to review these restrictions and determine if they can make a good faith offer of permanent modified work. The offer must be made within 60 days of receipt of the permanent work restrictions. Please note the receipt of the information may start from the date the TPA received it rather than the employer. A work offer is characterized as good faith if:

- It is located within a "reasonable" commuting distance of the employee's residence **AT THE TIME OF INJURY**, unless the employee waives this condition;
- It is available for a period of at least 12 months;
- The injured worker is able to perform all functions of the job; and
- The wages are at least 85% of those paid **AT THE TIME OF INJURY**.

Coordinating the offer with the TPA is vitally important to determining accurate benefit payments.

6. Return to Regular Work

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

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

A copy of this form and all related WC medical/documents should be maintained by the Member in a file separate from the employee's personnel file.

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

7. Retirement and Workers' Compensation

Retirement benefits may have a significant impact on workers' compensation benefits and case resolution. Members may have claims which also involve applications for disability retirement. Retirements of this type are generally non-taxable; however, retirements based upon length of service may be taxable.

Members should keep the TPA informed of retirement applications for those individuals with open workers' compensation claims.

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

VII. Legal Actions

A. What if My Employee Hires an Attorney?

Employees hire attorneys for a variety of reasons:

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

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

1. Can I Talk to the Employee?

The Member's responsibilities, as the injured employee's employer, continue whether or not they have hired an attorney. Some areas in which communication should be maintained are:

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

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

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

B. Requests for Information

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

1. Requests for Personnel Files

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

a. Subpoena Requests

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

b. Attorney Requests

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

c. Investigator Requests

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

d. SC COVID-19 Positive Report Form Requests

Any request for a copy of the SC COVID-19 Positive Report should be directed to JBWCP Staff. **If you are unsure about the request and/or**

providing the requested information, please contact either the TPA or the JBWCP Staff to discuss your concerns.

2. Subrogation/Third Party Liability

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

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

Use of legal counsel or the TPA Subrogation Unit for pursuit of subrogation recovery must be first consulted with the JBWCP and approved by the Member. Documentation of the rationale for assignment of either an attorney or the TPA Subrogation Unit will be documented in the file notes.

Occasions may occur when the third-party requests access to the Member’s records or property. The Member is directed to contact the TPA or the JBWCP Staff BEFORE providing this access.

When a third party is responsible for the injury, the injured worker or their representative may file a claim for reimbursement from this party. The JBWCP has the right to consider and pursue reimbursement as well for any payments or benefits issued to the injured worker.

The [JBWCP Memorandum of Coverage \(MOC\)](#) states in section V.B regarding subrogation:

1. “The JBWCP has the Covered Party’s rights, and the rights of persons entitled to compensation benefits from the Covered Party, to recover the JBWCP’s loss from any third person liable for the injury, illness or disease.
2. The Covered Party shall not take any action after injury or disease that would jeopardize the JBWCP’s right of recovery.
3. Any subrogation recovery by the JBWCP will be used to reduce the JBWCP’s loss.”

Should an injury occur which involves a third party, and any concern develops between the Member and the TPA regarding whether to pursue subrogation recovery, these concerns should be directed to the JBWCP Staff for discussion.

C. Case Settlement and Closure

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

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

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

1. Stipulation with Request for Award

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

2. Compromise and Release

Typically used to settle claims in a "lump sum" payment which will resolve all outstanding issues. Use of this type of settlement may include a provision that no admission of injury is made. The Compromise and Release is generally utilized when the injured worker is no longer employed by the same employer.

3. Findings and Award or Findings and Order

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

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

- If the WCJ agrees with the employer, they will issue a “Findings and Order” declining a benefit or a determination which will benefit the employer.

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

Use of the TPA’s Medicare Set Aside (MSA) vendor is required. The Examiner will request authority from the Member for referral of Medicare Set Aside (MSA) services and provide an estimate of cost for these services.

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

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

On a case-by-case basis, it may be appropriate to consider settlement of Lifetime Medical Awards for injured workers who remain employees of the Member. These cases must outline the benefits and risks of settlement as part of the consideration for authorization.

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

Specific settlement authority process and levels have been established for the JBWCP and are discussed in the next section.

D. Claims Settlement Authority Process and Policy

Settlement recommendations are presented by the TPA to the Members for approval according to [JBWCP Claims Authority Policy](#) and procedures. All settlement recommendations must first meet JBWCP guidelines and be presented on the

[Settlement Authority Request/Notification \(SAR\) Form](#). The SAR will document all of the pertinent claim details and provide the rationale for the proposed settlement, which should include all outstanding issues.

All SARs will be provided by the TPA to the appropriate level of settlement authority, with copies to respective Members. In the event of a disagreement on the proposed settlement, the TPA, Member, or JBWCP Administrator may escalate the settlement request to the next level.

All SARs provided to the JBWCP Members must be reviewed, signed, and returned to the TPA in a timely fashion. If the requests are not returned within 10 court days and there is a scheduled court appearance, the next settlement authority level (or their designee) may authorize the settlement.

The SC Team Lead will email the SAR to the Member with a copy to the JBWCP Administrator's assigned analyst, and the JBWCP at: jbwcp@jud.ca.gov.

The subject line will include the Settlement Level, claimant's name, claim number, date of injury and due date.

1. JBWCP Settlement Authority Level Guidelines

All settlement authority amounts shown in Levels I through III are "new money" expected to be paid after the Response Date on the SAR, and do not reflect money that has already been paid out or advanced against the settlement.

a. Level I

The **TPA** shall have full authority to settle and approve all Compromise & Releases, and Stipulations with Request for Award settlements for any Member up to and including **\$10,000**. The TPA shall notify the Member for claims by its covered employees/volunteers at least 10 court days prior to finalizing the settlement offer and awaits a response from the member if they agree with the proposed settlement or have any questions. If the Member does not agree with the proposed settlement, then the Member must contact the TPA within the allotted 10 court day period.

Effective May 1, 2023, to streamline, expedite and reduce any delay in the settlement process, the TPA will continue to submit Level I SARS with no PD (no new money) with future medical only and will not wait the 10 days for a response from the courts.

b. Level II

The **Member** shall have full authority to settle and approve all Compromise & Releases, and Stipulations with Request for Award settlements for claims

by its covered employees/volunteers from \$10,001 up to and including **\$100,000**. The Member must review and respond to the SAR within 10 court days following the SAR's Request Date.

c. Level III

A **Settlement Authority Panel**, consisting of four voting JBWCP Advisory Committee Members who are not directly involved with the settlement, and the JBWCP Administrator or Designee, in consultation with the JBWCP Member that has received a claim made by its covered employees/volunteers, shall exercise **final decisional authority** over the settlement and approval of C&Rs and Stipulation settlements **above \$100,000** or when a **dispute** or **impasse** arises. A majority of the Panel Members must agree on the proposed settlement.

The SC Team Lead will send the SAR to the JBWCP Program Manager and assigned Analyst, Risk Consultant, involved Member, and the JBWCP at: jbwcp@jud.ca.gov, with response required within 10 court days of the SAR's Request Date. Once the JBWCP Administrator has determined no additional information is needed, the JBWCP Administrator (or designee) will send the SAR to the panel and involved member, and the panel meeting will convene within 10 court days following the SAR's Sent To Member Date.

2. Guidelines Applicable to All Authority Levels

Any party who disagrees with a settlement decision made in any level in this process may escalate the decision to the next authority level or the Level III Settlement Authority Panel to make a final decision.

All approved settlements that will exceed the Excess Insurance Coverage Levels will require authorization of both the Excess Insurance Carrier and the Level III Settlement Authority Panel.

A settlement report will be presented to the JBWCP Advisory Committee on an annual basis.

VIII. Risk Control Resources

All Members have access to the JBWCP consultant [Sedgwick's JBWCP Risk Control Portal \(Portal\)](#).

You may utilize this portal to access Streaming Videos, including past JBWCP webinars, Safety Communications, Sample Programs, Guides, and Publications which include topics such as ergonomics, Program Templates, etc.

Once you register, you will receive a confirmation email advising you that your registration is being processed. You will receive an additional email once your registration has been authorized which will allow you to enter the site.

If you experience difficulty accessing the new portal or registering for a login, please contact Sedgwick Risk Control at: 800-541-4591, extension 19126, or via email at: answers@sedgwickrisk.com.

IX. Program Questions

A. Requesting Specific Claims Information

Information regarding specific claims can be requested from two sources:

1. **The TPA can answer claim specific questions.** Members can contact either their assigned Claims Examiner or the Team Lead for the JBWCP at:

Rancho Cordova Office: 800-597-7677

2. **The JBWCP Staff is available to discuss specific claims or concerns the Members may have regarding benefit administration:**

JBWCP Staff
jbwcp@jud.ca.gov

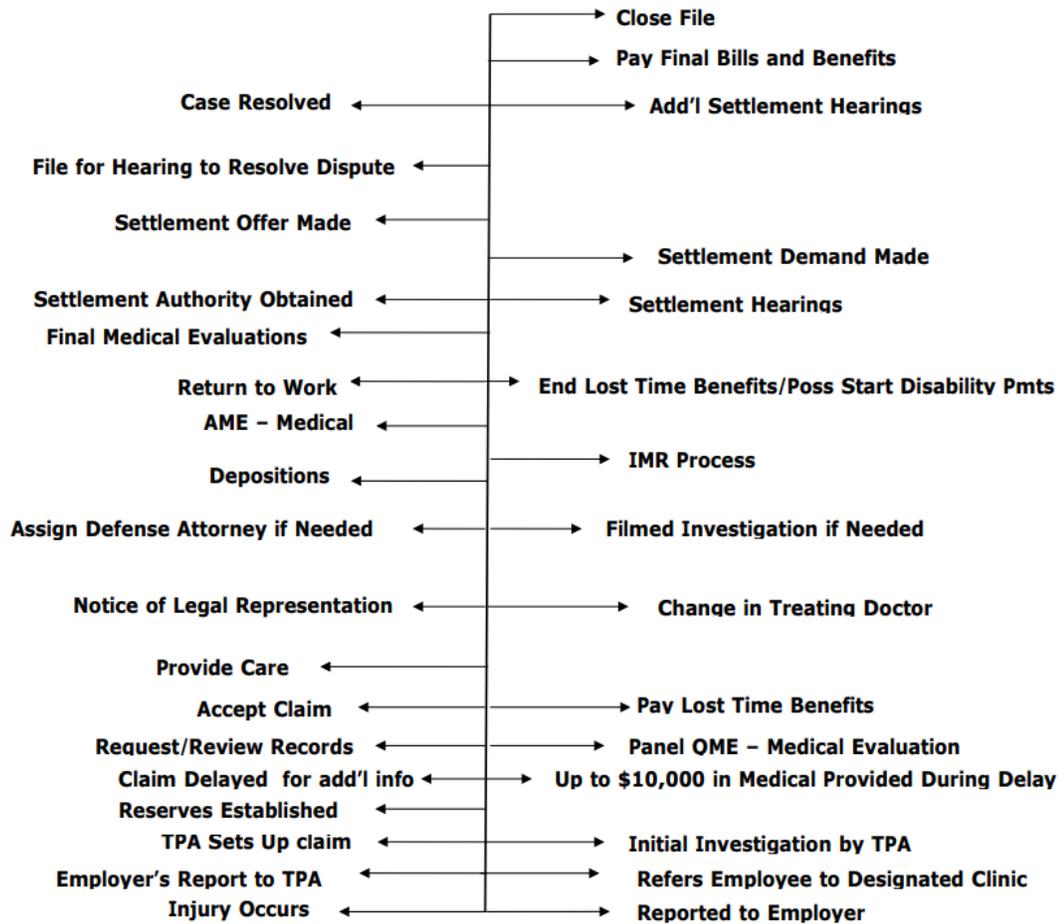
B. Requesting Loss Run Data

Loss runs will be sent monthly to all Members. Requests for specific information or claim history information should be directed to the JBWCP Staff:

JBWCP Staff
jbwcp@jud.ca.gov

X. The Claims Process

A. Flowchart



This chart illustrates the standard workers' compensation claims process in basic terms. However, each claim involves specific characteristics which may make the claim more complex than demonstrated.

B. Important Timelines to Remember

1. Claim Set-Up Timelines

- a. One working day from the Date of Knowledge – Provide the employee:
 - (1) WC Claim Form ([DWC 1](#)); and
 - (2) [SC MPN Employee Notification \(English/Spanish\)](#) (if Member is participating in the MPN program).

- b. Five Calendar days from the Date of Knowledge – Report the injury to the TPA by:
 - (1) Complete the Employer’s Report of Occupational Injury or Illness ([5020](#));
or
 - (2) Report Online. <https://intake.sedgwick.com/>
 - (3) Report Via Dedicated Phone: 866-261-5789 (24/7 access)
 - (4) Report Via Email: SedgwickJBWCP9720@Sedgwick.com
- c. 14 Days from the Date of Knowledge – The TPA must make their initial determination on acceptance, delay/investigation, or denial of benefits.
- d. 90 Days from the Date of Knowledge – The TPA must make their informed decision on acceptance or denial of delayed and investigated claims.

2. Benefit Payment Timelines

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

3. Offer of Work Timeline

- a. The offer of permanent modified/alternate work must be made within 60 days of receipt of permanent work restrictions.

4. Other Requirements

- a. Positive COVID-19 Tests are required to report to the TPA within 3 business days. Refer to Section IV of this manual.

XI. Posting and New Employee Notice Requirements

A. Posting

By law, employers shall post and keep posted, in a conspicuous location frequented by employees, the following DWC 7 posters in English and Spanish:

1. For Members **not** utilizing the SC Medical Provider Network (MPN):

- a. Print the blank [Notice to Employee - Injuries Caused By Work \(DWC 7\)](#);
- b. Add the following information on the DWC 7, per these [instructions](#):
 - (1) MPN website (use this line): Add the name of your designated Medical Facility and telephone number(s)

2. For Members **participating** in the SC MPN:

- a. Print and select the pre-filled [Notice to Employee – Injuries Caused by Work \(DWC 7\)](#) for MPN Members;
- b. **Add** the name(s) of your designated MPN Facility and Telephone Number(s). Additional California MPN Notice and posting instructions can be found [here](#).

B. [Time of Hire Pamphlet](#)

1. For Members **not** utilizing the SC Medical Provider Network (MPN):

- a. This [pamphlet](#), or a similar form, must be provided to new employees at the time of hire or by the end of the first pay period.
- b. The California Labor Code 3551 requires employers to notify new employees about California workers' compensation, their rights and benefits, and provide an opportunity to predesignate and obtain their personal physician/facilities' written agreement to treat their WC injury/illness *prior* to an injury. The employee is responsible for returning this document to their employer only if they wish to predesignate.

2. For Members **participating** in the SC MPN:

- a. The [New Hire and Predesignation of Personal Physician for MPN Members \(Spanish/English\)](#) notice must be provided to new employees at the time of hire or by the end of the first pay period.

Appendix A: Glossary of Terms

ACOEM	American College of Occupational and Environmental Medicine
ADA	Americans with Disabilities Act (Federal)
AMA Guides	American Medical Association Guides to the Evaluation of Permanent Disability
AME	Agreed Medical Evaluator/Examination
AOE/COE	Arising Out of Employment and Occurring in the Course of Employment
App	Application of Adjudication of Claim
Appeals Board	Workers' Compensation Appeal Board (WCAB)
Applicant	Usually the employee who files an application
ARTW	Actual return to work
Attny/Atty	Attorney
Award	Award by the WCAB
AWW/AWE	Average Weekly Wage or Average Weekly Earnings
Board	Workers' Compensation Appeals Board (WCAB)
C&R	Compromise and Release (form of settlement)
Comp	Workers' Compensation
COVID-19	Refers to the Global Pandemic of 2019-2020 involving a mild to severe respiratory illness.
CT	Cumulative Trauma or Carpal Tunnel Syndrome
DA/Def Attny	Defense Attorney – usually represents the employer
Depo	Deposition testimony under oath
DEU	Disability Evaluation Unit (determines level of disability)
DIR	Division of Industrial Relations

DOI	Department of Insurance or Date of Injury
DOK	Date of Knowledge of injury or disability
DOR	Declaration of Readiness to Proceed (request for Hearing). This declaration is filed by either Party to request a Hearing and move the case or disputed issue forward. Once this document is filed, there is a limited period of time to prepare for the requested Hearing and TPA staff will work with the Member to gather all necessary information (which may include settlement authority).
Dr	Doctor/physician
DWC	Division of Workers' Compensation
DWC 1	Employee's Claim for Workers' Compensation (form)
E&O	Errors and Omissions insurance coverage
ED	Emergency Department
EDD	Employment Development Department (State Disability)
EE	Employee
ER	Employer or Emergency Room
F&A	Findings and Award (a court award of benefits)
FCE	Functional Capacity Evaluation
I&A	Information and Assistance Officer
IBR	Independent Bill Review
IME	Independent Medical Evaluation/Evaluator
IBR	Independent Bill Review
IMR	Independent Medical Review
IW	Injured worker (employee)
JA	Job Analysis
LC	Labor Code of California (rules and regulations)

LC 132a	LC 132a provides for additional benefits if an employee has been discriminated against because they filed a workers' compensation claim or testified in another employee's workers' compensation claim
LDW	Last day of work
LTD	Long Term Disability
Med-Legal	Medical-Legal opinion or evaluation
MMI	Maximal medical improvement (the condition has improved as much as possible)
MSA	Medicare Set-Aside (an amount of money set aside in a trust for payment of medical benefits)
MSC	Mandatory Settlement Conference (Settlement Hearing)
New and Further	A Petition to reopen a claim for additional benefits
NOPE	Notice of Potential Eligibility advising an employee of their potential rights to Supplemental Job Displacement benefits
OSHA	Occupational Safety and Health Act
Pro Per	Unrepresented employee acting as their own attorney
P&S	Permanent and Stationary (the condition has improved as much as possible)
PD/PPD	Permanent Disability or Permanent Partial Disability
PDA	Permanent Disability Advance
PDR	Permanent Disability Rating
PERS	Public Employees' Retirement System
PQME	Panel Qualified Medical Evaluation/Evaluator
PRN	Medical term – return for care “as needed”
PTP	Primary Treating Physician
QME	Qualified Medical Evaluator/Evaluation
Rating	A calculation of permanent disability

RRTW	Released to return to work
S&W	A petition for additional benefits due to the employer's Serious and Willful misconduct leading to an injury or illness
SAWW	State Average Weekly Wage
SB 1159/AB 1751	Senate Bill 1159 enacted September 17, 2020, requires specific reporting of positive COVID-19 tests (refer to Section IV of this manual). This requirement expires January 1, 2024.
SCIF	State Compensation Insurance Fund
SII	Self-Imposed Increase. An increase in benefits paid as the result of late provision of benefits.
SIU	Special Investigations Unit. A unit generally managed by the TPA that investigated potentially fraudulent claims and issues.
SJDB/SJDV	Supplemental Job Displacement Benefit/Voucher (relates to retraining costs)
SOL	Statute of Limitations
SSA/SS	Social Security Administration or benefits
SSN	Social Security Number\
Stips	Stipulated Award (an agreed upon award)
Sub Rosa	Undercover investigation (usually filmed)
Subrogation	In Workers' Compensation cases, Subrogation (Subro) refers to the right of the employer to pursue recovery or reimbursement from a Third-Party that cause the injury to the employee.
Take Nothing	A determined by the judge that the party "takes nothing" or receives no award (usually the employee)
TD/TTD	Temporary Disability/Temporary Total Disability (payment for time lost from work)
TPD	Temporary Partial Disability (payment for part time loss from work – wage loss)
U&C	Usual and Customary occupation (regular work)

UR	Utilization Review
Voucher	Supplemental Job Displacement Voucher (relates to retraining)
VR/Voc Rehab	Vocational Rehabilitation (relates to retraining)
WC	Workers' Compensation
WCAB	Workers' Compensation Appeals Board
WCJ	Workers' Compensation Judge