



Claims Manual

JUDICIAL BRANCH WORKERS'
COMPENSATION PROGRAM



JUDICIAL COUNCIL OF CALIFORNIA

JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM ADVISORY COMMITTEE

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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

Rule 10.350. Workers' compensation program

(a) Intent

The intent of this rule is to:

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

(b) 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:

- (1) Maintain a contract with a vendor to provide courts, on a voluntary basis, with a cost-efficient workers' compensation coverage program;
- (2) Monitor the performance of the vendor with which it contracts to provide such services;
- (3) Timely notify the trial courts concerning the terms of the workers' compensation coverage program;
- (4) Timely inform the trial courts about the legal requirements with which a workers' compensation program must comply;
- (5) 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
- (6) 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.*)

(c) Duties of the trial courts

- (1) Each trial court that elects to participate in the program made available through the Judicial Council must:
 - (A) Timely notify the Human Resources office of its decision to participate in the workers' compensation program being offered through the Judicial Council;
 - (B) Timely complete and return necessary paperwork to the Human Resources office; and
 - (C) Timely pay all costs associated with the program.
- (2) Each trial court that elects not to participate in the workers' compensation program available through the Judicial Council must:
 - (A) Independently identify a workers' compensation benefits provider that fulfills all legal responsibilities to offer such benefits in California in a cost-efficient manner;
 - (B) 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
 - (C) 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.

Rule 10.67. Judicial Branch Workers' Compensation Program Advisory Committee

(a) 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.

(b) Additional duties

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

- (1) The progress of the Judicial Branch Workers' Compensation Program;
- (2) The annual actuarial report; and
- (3) 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.

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 (previously York), 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.

Acclamation Insurance Management Services (AIMS) 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:	Acclamation Insurance Management Services (AIMS)
AIMS Address:	P.O. Box 269120-Sacramento, CA 95826
AIMS Toll Free and Fax:	Toll Free 800-444-6157 / Fax 916-563-1919
AIMS Website:	Access on-line reporting through the AIMS website utilizing: https://www3.vportal.aims4claims.com/Gateway 24 Hour New Claim Reporting Line 844-291-8111
To obtain information on the claims administration program/process:	Beth Harville, AIMS Program Manager bharville@AIMS4Claims.com 916-340-2349 Direct 800-444-6157 Ext 349
To obtain information on existing claims:	AIMS Supervisors Beth Harville, AIMS Program Manager K. Kay Byrnes, Assistant Manager kbyrnes@aims4claims.com 916-842-2398 Direct 800-444-6157 Ext 398 John Cappa joncappa@Aims4Claims.com 925-246-2593 Direct 800 444-6157 Ext 593

	<p>Ta'Miya Crockett tcrockett@Aims4Claims.com 916-842-2388 Direct 800 444-6157 Ext 388</p>
<p>To obtain information on the MPN program:</p>	<p>Lea Morales-Mendez, Director of Client Services/Allied Managed Care LMMendez@AlliedManagedCare.com 925-978-3815</p>
<p>To obtain information on the workers' compensation program:</p>	<p>Maria Kato, Senior Human Resources Analyst (Trial) Maria.kato@jud.ca.gov 916-643-7020</p> <p>Jade Vu, Senior Human Resources Analyst (Judiciary) Jade.vu@jud.ca.gov 415-865-7744</p> <p>Patrick Farrales, JBWCP Administrator patrick.farrales@jud.ca.gov 415-865-8806</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.

COVERAGE APPLIES TO:

1. Injuries that occur during the coverage period.
2. 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:

- Maria Kato – Senior Human Resources Analyst (Trial)
916-643-7020, maria.kato@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 maximum 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. When an Injury Occurs

A. Directing and Providing Medical Care

All employees should be required to report injuries, even though 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 [Allied Managed Care \(AMC\) Medical Provider Network \(MPN\)](#) 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 TPA's Program 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 Program 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.

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 TPA's Program Manager in order to communicate the change to the Claims Staff.

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 to 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.

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 TPA Supervisor 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

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:

- [AMC MPN Employee Notification of Rights](#)

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.

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 – AIMS

One Copy – Employee’s temporary copy until you have completed the Bottom Portion

Due – Within five days of Date of Knowledge of Injury
Employer’s Report of Occupational Injury or Illness (5020)

The Employer’s Report of Occupational Injury or Illness [\(5020\)](#) is to be completed by management at the time of injury and **is due to the TPA within five days of knowledge of the 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. The form should be submitted to the TPA and be distributed as follows:

Original – TPA
Copy – OSHA File

The Employer’s Report can be made (submitted) by accessing the TPA’s website at:

- <https://www3.vportal.aims4claims.com/Gateway>

Please contact the TPA Program Manager for access information.

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

- **Acclamation Insurance Management Services (AIMS)**
P.O. Box 269120-Sacramento, CA 95826
Fax 916-563-1919

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 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 question 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 of the claim 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.

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).

V. 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 as well as 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

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. Should the Member need assistance in identifying modified duty opportunities, the [Buddy Court](#) System is available to assist.
- c. 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.
- d. If the employee does not return to work at modified duty, the Member should immediately notify the TPA as this may negatively impact benefits.
- e. The employee should be advised by the Member of their work restrictions and their responsibility to abide by these restrictions.
- f. Best Practices for a successful RTW process include:
 - 1) Contact the Injured Employee
 - 2) Describe the Essential Functions
 - 3) Obtain Work Capabilities
 - 4) Research/Evaluate Possible Accommodations
 - 5) Make an Offer of Modified Work
 - 6) Implement and Monitor

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](#).

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.

3. **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 good faith offer is characterized as:

- Located within a "reasonable" commuting distance of the employee's residence **AT THE TIME OF INJURY**, unless the employee waives this condition;
- Available for a period of at least 12 months;
- Ability to perform all of the functions of the job; and
- Wages 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.

B. 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 assure all benefits are appropriately administered, and any 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.

C. 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.

VI. 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.

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.

C. 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.

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.

D. 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 maximum 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.

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.

E. 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 TPA Supervisor will email the SAR to the Member with a copy to the JBWCP Administrator's assigned analyst. 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.

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. If the Member does not agree with the proposed settlement, then the Member must contact the TPA within the allotted 10 court day period.

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.

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 TPA Program Manager will send the SAR to the JBWCP Program Manager, Risk Consultant, and involved Member, 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.

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.

VII. 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.

VIII. 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 Supervisor for the JBWCP at:

**Acclamation Insurance Management Services
800-444-6157**

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

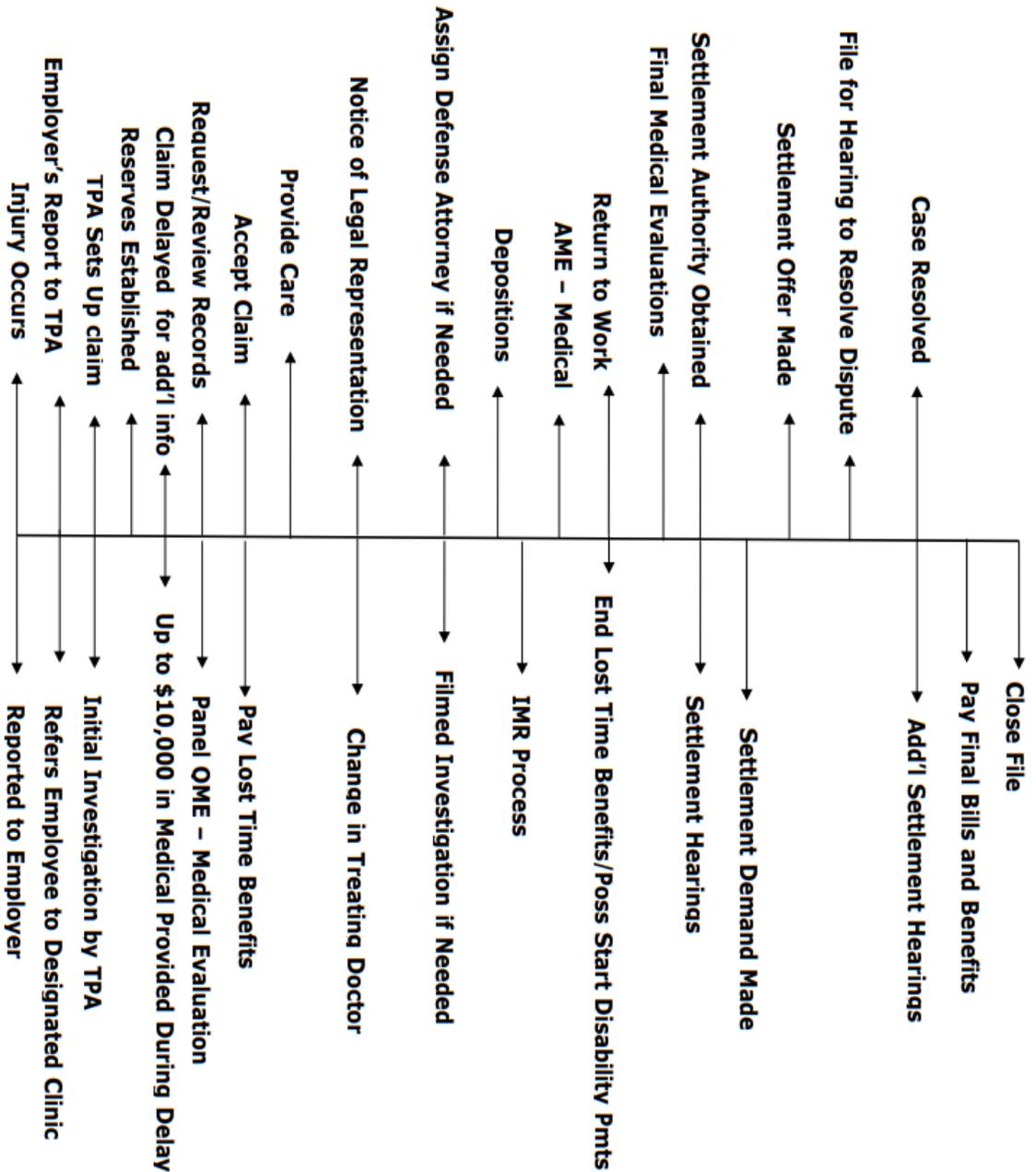
B. Requesting Loss Run Data

Requests for loss runs or claim history information should be directed to the JBWCP Staff:

JBWCP Staff
jbwcp@jud.ca.gov

IX. 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. 24 Hours (one working day) from the Date of Knowledge – Provide the employee:
 - WC Claim Form ([DWC 1](#)); and
 - [AMC MPN Employee Notification of Rights](#) (if Member is participating in the MPN program).
- b. Five Calendar days from the Date of Knowledge – Report the injury to the TPA by:
 - Complete the Employer's Report of Occupational Injury or Illness ([5020](#)); or
 - Report Online.
- 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.

X. 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:

1. For Members **not** utilizing the Allied Managed Care (AMC) 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:
 - MPN website (use this line): *Add the name of your designated Medical Facility and telephone number(s)*
 - Claims Administrator: *AIMS*
 - Phone: *1-800-444-6157*
 - Workers' Compensation Insurer: *Permissibly Uninsured*
 - The nearest Information and Assistance Officer can be found at location: *Refer to Posting Next to DWC 7*; and
 - c. [Information and Assistance Office List](#) – **Print** and post **next** to the DWC 7
2. For Members **participating** in the MPN:
 - a. **Print** this [pre-filled DWC 7](#), **add** the name(s) of your designated MPN Facility and Telephone Number(s)
 - b. **Print** and **post** the Information and Assistance Office List **next** to DWC 7
 - c. **Print** and **post** the required the [Employee Notification of Rights](#)

B. Time of Hire Pamphlet

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.

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.

Appendix A

Glossary of Terms

AA	Applicant's Attorney (Usually the employee's Attorney)
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
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)
Dr	Doctor/physician
DWC	Division of Workers' Compensation
DWC1	Employee's Claim for Workers' Compensation (form)
E&O	Errors and Omissions insurance coverage
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 132(a)	LC 132a provides for additional benefits if an employee has been discriminated against because they filed a workers' compensation claim
LDW	Last day of work

LTD	Long Term Disability
Med-Legal	Medical-Legal opinion or evaluation
MMI	Maximum 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 Disability 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
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)
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 loss 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