



## **JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM CLAIMS SETTLEMENT AUTHORITY POLICY**

(Revised July 1, 2020)

Workers' compensation claims for the Trial Courts and the Judiciary Programs are administered through the Judicial Branch Workers' Compensation Program (JBWCP) by its third-party claims administrator (TPA).

Under authority of the JBWCP, the TPA manages all workers' compensation claims, with oversight from the Judicial Council of California Human Resources staff, along with the risk management consultant. Specific settlement authority levels have been established for the JBWCP which are:

Level I: The TPA (0 - \$10,000);

Level II: The JBWCP Member<sup>1</sup> (\$10,001 - \$100,000); and

Level III: Settlement Authority Panel - Four voting JBWCP Advisory Committee Members and JBWCP Administrator or Designee (Above \$100,000)

All Settlement Authority Requests (SARs) are for "new money" and do not reflect money that has already been paid out or advanced against the settlement. Any Permanent Disability advanced against the settlement AFTER completion of the SAR will be deducted from the settlement when paid.

Settlement recommendations are presented by the TPA to the JBWCP Members for approval according to JBWCP policies, procedures, and Service Guidelines. All settlement recommendations must first meet JBWCP guidelines and be presented on the SAR. The SAR will document all of the pertinent claim details and provide the rationale for the proposed settlement, which will include all outstanding issues. All SARs will be provided by the TPA to the appropriate level of settlement authority, with copies to respective JBWCP Members. In the event of a disagreement on the proposed settlement, the TPA, JBWCP Member, or JBWCP Program Administrator may escalate the settlement request to the next level.

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<sup>1</sup> JBWCP Member includes the following judicial branch entities, Supreme Court, Courts of Appeal, Superior Courts of California, Superior Court Judges, Habeas Corpus Resource Center, Center for Judicial Performance, and the Judicial Council.



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.

There are two commonly used ways to reach agreement for settlement of a workers' compensation claim:

- 1 ***Compromise & Release (C&Rs)***: This is a negotiated settlement which may resolve all or part of a workers' compensation claim. The settlement may result in claim closure with the claimant responsible for the cost of future medical care. Settlement by C&R may result in a lump sum payment to the claimant. This settlement must be approved by a workers' compensation judge.

If the claimant is a Medicare beneficiary, the settlement must include a Medicare set-aside analysis (MSA) if resolution of future medical care is considered. Once the amount of the MSA is determined, settling the claim by this method may increase the settlement request amount.

While case closure is a focus, settlement by C&R, either with or without an MSA, should be considered as needed based on the specific claim status and not as a general rule simply because the employee is no longer employed by the JBWCP Member. Should a file be settled, with future medical care awarded, administrative closure may be considered if there has been no medical treatment awarded for at least one year.

- 2 ***Stipulation with Request for Award (Stipulation)***: This is a type of settlement where an agreement is reached regarding the level of Permanent Disability per the Permanent Disability Rating Schedule from an industrial illness or injury. This settlement will provide direction on the provision of future medical benefits, included body parts, date of injury, and other stipulated agreements. This settlement must also be approved by a workers' compensation judge.

### **Guidelines Applicable to All Authority Levels**

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



All approved settlements that will exceed the Excess Insurance Coverage Levels<sup>2</sup> will require authorization of both the Excess Insurance Carrier and the Level III Settlement Authority Panel.

### **Judicial Branch Settlement Authority Level Guidelines**

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All settlement authority amounts shown in Levels I through III are “new money” expected to be paid after the Response Due Date on the SAR and does **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 C&Rs and Stipulation settlements for any JBWCP Member up to and including **\$10,000**. The TPA shall notify the JBWCP Member for claims by its covered employees/volunteers at least 10 court days prior to finalizing the settlement offer. If the JBWCP Member does not agree with the proposed settlement, then the JBWCP Member must contact the TPA within the allotted 10 court day period.

**Level II:** The JBWCP **Member** shall have full authority to settle and approve all C&Rs and Stipulation settlements for claims by its covered employees/volunteers from \$10,001 up to and including **\$100,000**. The JBWCP Member must review and respond to the SAR within 10 court days following the SAR’s Date Sent To Member.

**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 Program Administrator will send the SAR to the panel and JBWCP Member, and the panel meeting will convene within 10 court days following the SAR’s Sent To Member Date.

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<sup>2</sup> Settlements that have already exceeded the Excess Insurance Coverage Levels will require, at a minimum, authorization of the Excess Insurance Carrier.