Chapter 2. After You Get Hurt on the Job

What should I do after reporting my injury or illness to my employer?

After reporting your injury and getting emergency treatment if needed (see Chapter 1), follow the steps below.

Fill out a claim form and give it to your employer

Your employer must give or mail you a Workers’ Compensation Claim Form (DWC 1) within one working day after you report your injury or illness (or your employer learns about it). You use this form to request workers’ compensation benefits. If your employer does not give you a claim form, get one from a state Information & Assistance officer (see pages 54-55).

Read all of the information that comes with the claim form. Fill out and sign the “employee” portion of the form. Describe your injury completely. Include every part of your body affected by the injury. Give the form to your employer. This is called “filing” the claim form. Do this right away to avoid possible problems with your claim. If you mail the form to your employer, use first-class or certified mail and buy a return receipt.

Get good medical care

You should be treated by a doctor who understands your particular type of injury or illness. Chapter 3 explains how this doctor, called your “primary treating physician,” is chosen. The role of this doctor is to:

- Prescribe care for your job injury or illness and manage your overall care
- Help determine when you can return to work
- Help identify the kinds of work you can do safely while recovering
- Refer you to specialists if necessary
- Write medical reports that will help determine the benefits you receive.

Tell the doctor about your symptoms and the events at work that you believe caused them. Also describe your job and your work environment.

What happens after I file the claim form?

Your employer must fill out and sign the “employer” portion of the form and give the completed form to a claims administrator. This person handles workers’ compensation claims for your employer. (Most claims administrators work for insurance companies or other organizations that handle claims for employers. Some claims administrators work directly for large employers that handle their own claims. This person may also be called a claims examiner or claims adjuster.) Your employer must give or mail you a copy of the completed form within one working day after you filed it. Keep this copy.

The claims administrator must decide within a reasonable time whether to accept or deny your claim.
"Accepting" the claim means the claims administrator agrees your injury is covered by workers’ compensation. If your claim is accepted, you will receive paid medical care for your injury. You may also be eligible for payments to help make up for lost wages. To learn about these payments, see Chapter 5. “Temporary Disability Benefits.”

“Denying” the claim means the claims administrator believes your injury is not covered by workers’ compensation. If the claims administrator sends you a letter denying your claim, you have a right to challenge the decision. Don’t delay, because there are deadlines for filing the necessary papers. To get help with your claim, use the resources in Chapter 9.

If I haven’t heard from the claims administrator, is my claim accepted?
The claims administrator must decide within a reasonable time whether to accept or deny your claim. If you have questions about a delay with your claim, use the resources in Chapter 9. If the claims administrator doesn’t send you a letter denying your claim within 90 days after you filed the form or reported your injury, your claim is considered accepted in most cases.

Who decides what type of work I can do while recovering?
Your primary treating physician is responsible for explaining in a medical report:

- What kind of work you can and can’t do while recovering
- What changes are needed in your work schedule or assignments.

You, your primary treating physician, your employer, and your attorney (if you have one) should review your job description and discuss the changes needed in your job. For example, your employer might give you a reduced work schedule or have you spend less time on certain tasks. See Chapter 6. “Working for Your Employer After Injury.”

If you disagree with your primary treating physician, you must promptly write to the claims administrator about the disagreement, or you may lose important rights. To review the steps you can take if you disagree with a medical report, see Chapter 4. “Resolving Problems with Medical Care & Medical Reports.”

NOTE
On the claim form, you will see a message telling you that it is against the law for anyone to commit fraud in order to:

- Obtain workers’ compensation benefits or payments, or
- Deny an injured worker these benefits.

Fraud is a felony. This law applies to everyone in the workers' compensation system, including injured workers, employers, claims administrators, doctors, and attorneys.

To report fraud, contact a local district attorney’s office or the California Department of Insurance (DOI). You can call the DOI toll-free at 1-800-927-4357, and ask for the phone number of the nearest office of their Fraud Division.

See also the DOI website: www.insurance.ca.gov (link to Fraud).
I’m afraid I might be fired because of my injury. Can my employer fire me?

It’s illegal for your employer to punish or fire you for having a job injury, or for filing a workers’ compensation claim when you believe your injury was caused by your job. It’s also illegal for your employer to punish or fire co-workers who testify in your case. The California Labor Code (section 132a) prohibits this kind of discrimination.

Also, the federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) say that an employer with 50 or more employees usually must let you take unpaid leave for up to 12 weeks, without losing your job, if you need time off for a serious medical condition.

If you do not fully recover from your injury, the federal Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA) make it illegal for your employer to discriminate against you because of a serious disability.

If you feel your job is threatened, find someone who can help. Use the resources in Chapter 9. Note that there are deadlines for taking action to protect your rights.

Besides workers’ compensation benefits, can I get any other financial assistance?

Other types of assistance may be available:

- State Disability Insurance (SDI) or, in some cases, unemployment insurance (UI) benefits paid by the state Employment Development Department (EDD) when workers’ compensation payments are delayed or denied. (You should file a claim for SDI or UI benefits if you are not working because of your injury, in case there is a problem with your workers’ compensation claim. Make sure to tell the EDD about your workers’ compensation claim.)

- Social Security disability benefits paid by the US Social Security Administration (SSA) for total disability (these benefits may be reduced by workers’ compensation payments that you receive).

- Benefits offered by employers and unions, such as sick leave, group health insurance, long-term disability insurance (LTD), and salary continuation plans.

- A claim or lawsuit if your injury was caused by someone other than your employer.

To learn more about these other kinds of assistance, use the resources in Chapter 9.