

DWC profile audit review and full compliance audit performance standards for 2023

Labor Code §§ 129 and 129.5, require the Audit and Enforcement Unit of the Division of Workers' Compensation to conduct a routine profile audit review (PAR audit) for all adjusting locations of California workers' compensation claims at least once every five years. The performance of an audit subject is rated for provision of specific workers' compensation benefits and measured against standards set by the results of prior audits within the industry. The Administrative Director annually establishes the profile audit review and full compliance audit standards. The 2023 standards are based on the audit results of calendar years 2019 through 2021.

Other statutory provisions related to the performance standards for the audit program include:

- Audit subjects that meet or exceed profile audit review performance standards are required to pay all compensation found unpaid by the Audit Unit, but no penalties will be assessed.
- Audit subjects that do not meet or exceed PAR performance standards are subject to a full compliance audit (FCA).
- Audit subjects that meet or exceed FCA performance standard for a full sample of indemnity files are required to pay all compensation found unpaid by the Audit Unit, and will be assessed penalties for unpaid and late paid compensation only.
- Audit subjects that do not meet or exceed FCA performance standard for the full sample of indemnity and a sample of denied claims are required to pay any compensation found unpaid by the Audit Unit, and will be assessed penalties for all violations included in a full compliance audit failure penalty schedule.
- The Administrative Director shall publish and make available to the public on request a list ranking all insurers, self-insured employers, and third-party administrators audited according to their performance ratings.

Calculation of Profile Audit Review Performance Ratings

In order to determine whether audit subjects meet or exceed the PAR Performance Standard, each audit subject's PAR performance rating will be calculated following a review of a sample of randomly selected indemnity claims. The audit subject's PAR Performance Rating is a composite score based on performance in specific key areas. Ratings will be based on the frequency and severity of violations, with a weighting factor emphasizing the gravity of violations involving the failure to pay compensation. The higher the rating of an audit subject, the worse is the performance. Ratings will be calculated based on:

- The frequency of claims with unpaid compensation and the amounts of unpaid compensation found in the sample of randomly selected undisputed claims.

- The frequency of claims with violations involving late first temporary disability payments or first notices of salary continuation.
- The frequency of claims with violations involving late first payments of permanent disability and death benefits.
- The frequency of claims with violations involving late subsequent (scheduled) indemnity payments.
- The frequency of claims with violations involving the failure to comply with requirements for notices advising injured employees of the process for selection AME and/or QME evaluations.

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If the audit subject's PAR performance rating meets or exceeds (that is, is lower than) the worst 20% of performance ratings for all final audit reports issued over the three calendar years (2019- 2021) before the year preceding the current audit, the Audit Unit will issue Notices of Compensation Due pursuant to Section 10110 but will assess no administrative penalties for violations found in the profile audit review.

If the audit subject's PAR performance rating is higher than the worst 20% of performance ratings as calculated based on all final audit findings as published in the Annual DWC Audit Reports over the three calendar years (2019-2021) before the year preceding the current audit, the Audit Unit will conduct a Full Compliance Audit by randomly selecting and auditing an additional sample of indemnity claims.

It is estimated that approximately 80% of audit subjects meet or exceed the PAR Performance Standard and that approximately 20% of audit subjects will be subject to a Full Compliance Audit.

Calculation of Full Compliance Audit Performance Ratings

Following a review of an additional sample of randomly selected indemnity claims, each Full Compliance Audit subject's performance rating will be calculated based on the same criteria as in the PAR audit, except that the FCA Performance Rating will be based on combined results from the first and second samples. It is estimated that approximately 50% of FCA audit subjects (10% of the PAR audit subjects) will meet or exceed the FCA Performance Standard and that approximately 50% (the 10% poorest performing of all audit subjects) will fail the Full Compliance Audit.

Performance Standards for 2023

- The PAR Performance Standard for audits conducted in 2023 is **1.76323**. Audit subjects with PAR performance ratings of **1.76323** or lower will be required to pay any unpaid compensation, but no penalties will be assessed. If a PAR audit subject's PAR Performance rating is **1.76324** or higher, the audit will expand to a Full Compliance Audit, and an additional sample of indemnity claims will be audited.
- The FCA Performance Standard for audits conducted in 2023 is **2.00574**. FCA audit subjects with an FCA performance rating of **2.00574** or less will be required to pay any unpaid compensation and penalties will be assessed for all violations involving unpaid and late paid compensation. If an FCA subject's full compliance audit performance rating is **2.00575** or *higher*, an additional sample of denied claims as well as the expanded samples of indemnity claims will be audited. Penalties will be assessed for *all* violations as appropriate pursuant to 8CCR§§10111 through 10111.2.