

**RETURN TO WORK SUPPLEMENT PROGRAM
WRITTEN COMMENTS ON THE PROPOSED REGULATIONS**

Speaker	Entity	Issues Raised	Method
Hazel Ortega	Ortega Counseling Center	1) Will the applicant attorney receive fee for RTWSP services? 2) Can the applicant attorney charge for work done to request RTWSP services for client? 3) What is the phone # to call for questions regarding voucher rules?	email
Peggy Thill	State Compensation Insurance Fund	No comment	email
Rob Cottle	International Association of Rehabilitation Professionals	1) Access to the application process must be broad and more readily available. 2) Language, computer access, and other similar factors must be dealt with at this time and not left to a future date when a class of otherwise eligible injured workers is disenfranchised. 3) Include in regulations a description of the specific process that the Division will follow to inform the SCO's office that payment is to be made, a timeframe for that communication, and time frame for delivery.	email and hand-delivery
Douglas Gorman	Risk Management - Contra Costa County	1) Will DWC revise the voucher to include the notification language regarding the RTW Supplement and how to apply or will the employer be required to add notification language to training voucher? 2) Per LC § 10133.31(b), doctors (PTP/QME/AME) are required to utilize DWC form 10133.36 "Physician's Return to Work & Voucher Report" and identify work capacities and activity restrictions that are relevant to regular/modified/alternative work. To date, usage of this form has been "zero". The concern is that a delay in determining available mod/alt work and associated delay in determining that an employee is entitled to the training voucher is a delay in the employee being able to pursue the RTW supplement. The proposed rule directly ties the RTW supplement eligibility to receipt of the SJDB, the doctor problem as noted is a RTW supplement problem. 3) Is the DWC making efforts to encourage/require doctors to start utilizing form 10133.36 other than indicating on the form that completion is mandatory?	email
Latino Comp	Latino Comp	1) The levels of reimbursement from the RTW fund discussed in the study are only a fraction of IW compensated losses, ranging from \$4,950-\$11,662, see RAND 2/14 White Paper Table 5. 2) DWC form 10133.36 is an additional barrier to IWS, absent of this form, an IW cannot get the SJDB and the employer is under no obligation to provide the SJDB. The majority of treating doctors are not filling the form thereby precluding the IW from getting the SJDB and barring them from getting their share of the RTW fund. 3) Propose that alternative eligibility bases be provided for the RTW fund in addition to the SJDB, the amount of the RTW fund per eligible IW be at the maximum identified by the RAND 2/14 study or \$11,662.	hand-delivery

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Diane Worley	California Applicant Attorney's Association	<ol style="list-style-type: none"> 1) CAAA recommends adding a subdivision to section 25101 incorporating statutory language set forth in LC 139.48 which will state: This program shall be funded by one hundred twenty million dollars (\$120,000,000) annually derived from non-General funds of the Workers' Compensation Revolving Fund and it is the intent that all funds appropriated for this program be paid out each year to eligible applicants as defined in Section 25103. Moneys shall remain available for use by the Return-to-Work program without respect to the fiscal year. 2) The definition of "voucher" be simplified: 25102(b) "Voucher" means the "Supplemental Job Displacement Benefit Non Transferable Voucher for Injuries Occuring on or after 1/1/2013 "(Form DWC-AD 10133.32)". 3) Recommends adding the word "voucher" for consistency and clarity to section 25103 (a) "...Supplemental Job Displacement Benefit (SJDB) Voucher..." 4) It is possible that an IW may have received more than one voucher by the time these regulation are finalized. Therefore the recommendation is that subdivision (b) be amended to restrict payment of a second or subsequent RTW supplement, to receipt of a Voucher and not receipt of a payment from the RTW supplement fund: "...subsequent to receipt of a previous Voucher." 5) CAAA recommends that the regulations be amended to provide an application shall be attached to the Voucher as this will insure access to the RTW supplement program for those IWs who do not have access to a computer or the internet. 6) A Spanish version of the website and a Spanish version of the Notice would both comply with LC 124(b) and insure equal access to information for the large population of California's Spanish speaking IWs. 7) The rules for the Notice should be placed prominently, in bold print, on page 1 instead of "on page 6, proof of service, of form DWC-AD 10133.32." Alternatively, the Notice could be provided as a cover attachment to the Voucher. 8) Require a copy of the Voucher be provided to the Director by claims administrators at the time of issuance to avoid dispute with regard to eligibility in the application process. 9) Suggested revisions to section 25104: Any Voucher issued more than 30 days after the effective date of these regulations shall contain the following notice on page 1, of form DWC-AD 10133.32, or as a cover attachment to that form: Any Voucher issued more than 30 days after the effective date of these regulations shall contain the following notice on page 1 of form DWC-AD 10133.32, or as a cover attachment to that form: "Because you have 	email

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		received this Voucher and are unable to return to your usual employment you may be eligible for a	

Diane Worley	continued	<p>Return-to-Work Supplement. You must apply within one year from the date this Voucher was served on you. You should make a copy of the Voucher which you will need to apply for the Return-to-Work supplement. Details about the Return-to-Work supplement program are available from the Department of Industrial Relations on its website, www.dir.ca.gov, or by calling 510-286-0787." A copy of the Voucher shall be provided to the Director by the claims administrator at the time it is issued, including the name and social security number of the injured worker. The Director will arrange for publication on the Department web site of a notice targeted at eligible persons who received vouchers before the notice was included on the voucher. Notice will also include a copy of the application to apply for payments from the fund, which can be submitted by mail or electronically. Instructions on how to submit the form electronically or by mail shall be included on the application.</p> <p>10) Propose that the regulations also allow an application to be submitted by mail. Having alternative methods to apply for the RTW supplement will insure simple and easy access for all IWs who are eligible.</p> <p>11) Revision of section 25106 as follows: An application may be submitted by electronic means through the Department of Industrial Relations web site or by mail. The Department will make access to this website available at each Division of Workers' Compensation Information and Assistance Office locations in the state.</p> <p>12) Suggested revision of section 25107: The application be made on either the electronic form on the Department of Industrial Relations website or paper form to be submitted by mail and shall include a declaration under penalty of perjury that the information provided is true and correct. The application shall contain the individual's first name, last name and middle name, social security number or tax ID number, address, telephone number and email address, if available, and the ADJ number of any workers' compensation cases filed by the applicant.</p> <p>13) Recommend that if an incomplete application is received, the IW will be notified that the incomplete application will not be processed and and the IW should be informed that they will lose their right to receive the supplemental payment unless the application is corrected and submitted within a reasonable time period, such as 30 days.</p> <p>14) The appeals process should be explained to the IW in the final decision.</p> <p>15) Suggested revisions to section 25108: All completed and timely filed applications will be reviewed and a decision will be made on whether the individual is entitled to the supplement within 60 days of the receipt of the completed application. The individual will be notified by mail, where available, email, of the decision. The decision is a final decision of</p>	email
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Diane Worley	continued	<p>the Director. The Appeals Process will be explained in the final decision. If an application is received that is timely but incomplete, the applicant will be notified of the required information needed by mail, and, where available, email, and the application will be held for 30 days. If the required information is received within that time, the 60 day period for issuing a decision will relate back to the date the complete application was received. The notice that the application is incomplete shall inform the injured worker that he or she will lose their right to receive this Supplemental Payment unless the application is corrected.</p> <p>16) The draft regulations do not provide guidance as to how or when an adjustment to the supplemental payment should be made. To clarify this provision, it is recommended that language be added to specify that the intent of any adjustment in the amount is to assure that the annual payout under the program will equal, but not exceed, the aggregate annual funding for this program.</p> <p>17) How will the return to work supplement funds be paid out in the first year of the program?</p> <p>18) Recommend that the draft regulations describe how the fund will be implemented in the first year.</p> <p>19) Suggested revisions to section 25109: The Return- to-Work Supplement Program will provide a supplement of \$5,000.00 to each eligible individual who submits a complete and timely application. The payment will be made within 25 days of the date the the decision of the Director on the application becomes final and will be paid in one lump sum. Payment shall be made directly to the individual and is not assignable before payment. The amount of this supplement may be adjusted by the Director from time to time based on further studies conducted by the Director in accordance with Labor Code section 139.48 and with consideration of the number of anticipated recipients in order to ensure that the aggregate annual payments under this Return-To-Work Supplemental Program equal, but do not exceed, the annual funding for this program as provided under Labor Code §139.48.</p>	email
Jason Schmelzer	California Coalition on Workers' Compensation California Chamber of Commerce California State Association of Counties California Manufacturers & Technology Association Rural County Representatives of California	<p>1) Employers believe that the RTW Fund would be funded through the assessment to the level of \$120 million. Then as injured workers became eligible for benefits and the Fund was depleted, employers would be assessed the amount needed to return the balance to \$120 million.</p> <p>2) We respectfully request that the Director exercise the authority granted under the proposed regulations to adjust the benefit level to an appropriate amount based on the resources available. Our organizations are concerned that the proposals referenced could ultimately lead to oversubscription of the benefit, depletion of the fund, and lead to calls for increasing the \$120 million cap.</p> <p>3) The State of California should be assessed for the RTW Fund if state employees are to be eligible for supplemental payments under this program. If not, California's public and private sector employers will be subsidizing the state's participation in a program that is meant to augment benefit payments to injured workers.</p>	email

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Grace Beatty	In Pro Per	1) What position is my case(s) when it comes to LC 139.48? 2) This benefit is needed and it was unjust to deny total and permanent disability which may be the issue for myself and others.	email