

GUIDE TO

Workers' Compensation Claims



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Workers' Compensation Basics

Covered Employees

Domestic/US based policies cover all employees who become injured or disabled in the course and scope of their usual and customary work. This is a mandatory benefit that all employers with one or more employees must provide regardless of the length of employment, or the number of hours worked.

Undocumented workers are also covered under WC. Even though Federal law prohibits employers from hiring people who don't have a right to work in the US, these employees, with few exceptions, are nevertheless entitled to the same benefits as any other injured worker. Covered employees cannot waive their right to Workers' Compensation by signing a liability waiver.

Noncovered Employees

- Work performed in the exercise of a ministry as a duly ordained, commissioned, or licensed minister of a church is excluded from employment, and thus excluded from WC coverage.
- Volunteers or unpaid interns such as students are not eligible for WC if injured unless the employer elects to cover them under an endorsement to the policy
- Business owners, sole proprietors and partners unless covered by endorsement
- Properly classified independent contractors are not covered under WC.
- Domestic servants may or may not be covered depending on the state jurisdiction and policy. A domestic worker is an individual who works within the scope of a residence performing work for a private household (ie, nannies, personal chefs, housekeepers, or groundskeepers).

Employers should check their WC policy and state regulations for more information on the coverage and exclusions of these workers. Earnings of such workers not covered under WC should not be included in payroll for purposes of WC audits and premium base.



[Workers' Compensation Basics: Coverage](#)

Types of Workers Compensation Claims

Specific injuries are the most common type of covered work-related claims. However, there are others listed below. Not all of these are covered in all states.

Specific Injury - An injury that occurs due to a single one-time incident, such as a trip and fall.

Cumulative Trauma Injury - An injury that occurs gradually over time as a result of repeated exposure, such as developing wrist pain because of repetitive typing.

Aggravation of Pre-existing Condition - A pre-existing injury or condition worsened by work activities.

Psychiatric/Stress - A mental stress claim with or without a physical injury that occurs because of a violent incident at work, or because of stressful working conditions.

Compensable Consequence - A secondary injury or condition which stems from a primary injury, such as mental stress or anxiety due to a back injury, or gastrointestinal conditions due to pain medication for an injury.

Occupational Disease - A chronic medical illness or condition caused by work exposure or common to a specific industry. Examples include asbestos, skin conditions due to chemicals, or hearing loss.

- **COVID-19** - The COVID-19 pandemic changed the way occupational diseases and illnesses are viewed in workers' compensation. Historically, communicable diseases routinely transmissible in the public have not been covered under workers' compensation. This is because the common cold, flu, and similar illnesses are considered part of ordinary life and are typically viewed as unrelated to work. However, due to the highly infectious nature and rapid spread of COVID-19 from close contact, COVID-19 infections became covered under workers' compensation by certain states for certain occupations and circumstances.

Some states have enacted presumptions of compensability for front line or "essential" workers with frequent exposure to the public, such as healthcare workers, grocery and delivery workers, warehouse workers, law enforcement and firefighters. Essential workers are defined differently by each state. But almost all states with a COVID-19 presumption automatically cover healthcare workers.

Some states look at whether there was a greater risk of contracting the infection by virtue of the employee's work compared to the risk in the general population. They may consider other special situations as well. Other states, such as Texas, treat COVID-19 infections no different from the common cold and deny such claims.



[Types of Workers' Compensation Claims](#)

Foreign Voluntary Workers' Compensation (FVWC)

FVWC is a policy meant to provide coverage for injuries arising out of and in the course of employment outside of the employee's country of origin. FVWC is elected coverage that is included in the foreign package policy. For US based employees, it provides gap coverage meant to complement the domestic WC policy.

This coverage may apply in situations involving:

- Domestic employees traveling outside the US for business on a short- or long-term work assignment OR
- Employees traveling outside their home country (either employees from the US or another country)
- Different types of employees may be covered if injured in the scope of work while traveling internationally. These include individuals hired in the US traveling internationally for business or assigned to work in another country.
- Local nationals (host-country nationals) or employees who are hired within country of citizenship or permanent residence and work in their home country for a corporation headquartered in a different country. For example, a citizen of the UK is hired and works at a US based corporation's UK subsidiary.
- Third country nationals or employees who are hired in their native country and transferred to work outside their country of origin. For example, an employee whose native country is Germany is hired to work in the UK. These employees are often hired on a temporary basis.
- Ex-pats or employees who are assigned to work abroad on a long-term basis

The coverages under FVWC are broader than those under the domestic WC policy and include:

- **Repatriation:** The cost incurred in transporting the injured employee back to their home country
- **Treatment for endemic disease:** Diseases common to a specific region



[Foreign Voluntary Workers' Compensation](#)

Pre-Injury Claim Handling Checklist

Prepare

- Know your workers' compensation carrier, policy dates, and policy number. If you do not know it, contact your Woodruff Sawyer representative, and ask for this information.
- Make sure your workers' compensation carrier has provided you with a claim kit with instructions on how to report a claim and access medical providers, as well as provide posting notices. Some clinics have portals available for employers to access the work status immediately after the examination. Check with your designated clinic and register for the portal, if available.

Communicate with your Workforce

- Provide information about designated occupational clinics to all existing employees and new hires. You are required to post the proper workers' compensation notices in conspicuous places. Whether or not your workplace is remote, you should also post the notices on your intranet site and inform your employees via email where they can be found. You can obtain these WC posters and notices from your carrier, or you can request assistance from your Woodruff Sawyer representative.
- Include instructions for your employees on how to report an injury in the event of an accident.

Post Injury Claim Handling Checklist

Address OSHA Requirements

- Employers are required to submit an OSHA log every February for the preceding year. If the injury is recordable, it is recommended that the log be updated regularly as injuries occur.

Start Workers' Compensation Process

- Determine injury severity. If the injury results in the need for emergency medical attention, call 911 or get the employee to the emergency room as quickly as possible.
- Gather facts and circumstances of injury from pertinent parties (injured employee, supervisor, manager, witnesses) as soon as it is possible to do so. Complete an [internal incident report](#) and retain this in your workers compensation records.
- Complete the appropriate state claim forms and give the injured employee a copy of all state required notices. Most states require that a claim form be given to the employee within 24 hours. Refer to this [WC Reporting Requirements by State](#) chart for more information. You may also reference the state website directly for updates to forms and notices. The claim must be reported directly to the WC insurance carrier. Each carrier has their own injury reporting protocols. You can find the procedures used by many carriers [here](#). Or refer to the claim kit your carrier sent you at the time of your renewal. You may also check with your Woodruff Sawyer representative. Retain a copy of the claim documents in your workers' compensation records.
- If you question whether the injury is work related, you should articulate these issues to the insurance carrier when reporting, provide pertinent documentation, and request a claim investigation. In addition to the above, you can notify Woodruff Sawyer when you are reporting a claim with questionable circumstances and a claim consultant will follow up to ensure that proper oversight of the claim is established.

Secure Medical Care for Employee

- If the injury is not life threatening or urgent, refer employee to designated occupational medical clinic. Even if you feel the claim is questionable, the employee should be referred to the clinic if medical care is requested. In some states an injured employee is entitled to medical treatment during the insurance carrier's investigation.

Post Injury Follow-up

- Follow up with the employee regarding work status reports from their physician. These reports will state the employee's eligibility to return to work and whether they will need modified duty or if they are able to return to full duty. The insurance carrier should be notified of any changes in the employee's work status.
- If modified work is available based on the work restrictions outlined by the treating doctor, notify the employee in writing. The notification should include the work restrictions outlined, the date the doctor released the employee to work, the date modified duty is available, and instruction that the employee return to work and report to supervisor on the designated date. A copy of the letter should be sent to the insurance carrier and a copy retained in the employee's personnel file.
- Notify the insurance carrier immediately to confirm the date the employee returned to work, and whether the employee has returned to full or part time hours, as well as modified or full duty status.
- Notify the insurance carrier if the employee does not report to work on a designated date or has declined light duty work and the reasons why, if known.
- Notify the insurance carrier if the employee's work status changes including whether the employee resigns, is terminated, or if light duty is no longer available.

Fatality/Catastrophic Loss Checklist

Recommended "Best Practice" PRIOR to Fatality/Catastrophic Loss

- Designate an internal contact who will act as the Spokesperson in the event of fatalities/catastrophic incidents. (For example, someone in Human Resources, Safety Committee, or a Risk Manager). This person will also be the spokesperson if the employer is contacted by the media or press.
- Maintain a panel of crisis counselors for support of your employees in the event of a loss.
- Establish an internal Command Center where fatal/catastrophic losses will be reported.

Recommended "Best Practice" AFTER Fatality/Catastrophic Loss

PHASE ONE: "First Hour Response" for Fatality/Catastrophic Loss

- Call 911
- Notify Spokesperson* to arrange family notification
- Report fatality or catastrophic claim to insurance carrier

- Contact designated Woodruff Sawyer Claims Consultant
- Secure and take photographs of accident site and any/all physical evidence
- Make certain that all employees are accounted for
- Perform preliminary investigation of the accident
- Assist police force with investigatory process

PHASE TWO: Within 24 Hours of a Fatality/Catastrophic Loss

- Contact the area office of OSHA within 8 hours of Fatality/Catastrophic Loss Call the closest area office to the site of the accident or call 1-800-321-6742.
- Be prepared to provide the following information: Company Name, time of the incident, the number of fatalities/hospitalized employees, the names of any injured employees, name of contact person & his/her phone number and a brief description of the incident.
- If an accident involves machinery/equipment/vehicle, secure with a chain of custody.
- Debrief all employees who witnessed the accident.
- Take statements from witnesses of the accident details (who, what, when, where how and why).
- Determine the need for an on-site grief counselor to ensure employee well-being.

First Aid Injuries

Generally, first aid injuries include any one-time treatment of minor scratches, cuts, burns, splinters, or other minor industrial injury.

When Does an Injury need to be reported to the Carrier?

There are different requirements for reporting first aid claims by state. Some states have no special requirements. Please read the below Woodruff Sawyer bulletin for important legal changes in CA.

For CA, effective Jan. 1, 2017, the insurance commissioner approved amendments to the Workers' Compensation Uniform Statistical Reporting Plan – 1995 (USRP) to clarify the reporting requirements for small, medical-only or "first aid" claims. The reason for this clarification is the WCIRB had concerns that employers (and thus insurance carriers) were under-reporting small medical-only or "first aid" claims which reportedly caused unfairness within experience ratings. By not reporting the claim, the WCIRB indicated it limited an injured worker's access to medical benefits, thereby creating difficulties in managing a claim that may later deteriorate.

The WCIRB believes that the reporting of all claims will provide an even playing field to insurers, providers and brokers. Now that the WCIRB is explicitly citing first aid in the definition of medical claims and the reporting of losses, the amendments clarify the intent of the regulations. Most injuries, even first aid, should be reported to the insurance carrier. If the injury is minor, it should be reported to the carrier as an "incident only" or "record only" claim.

What Types of Incidents Do Not Need to be Reported?

- An employee cleans a minor wound, applies a Band-Aid or is given over-the-counter medication
- On-site mobile medical response units where a non-physician, such as an EMT, evaluates or treats a minor injury
- Telephonic nurse triage is not considered treatment, but rather advice only

If you are not sure whether the injury should be reported, it is recommended that you contact your carrier or Woodruff Sawyer to problem solve the issue.



[First Aid Injuries](#)

Key Workers' Compensation Principles

Exclusive Remedy

WC was designed as a trade-off in which employees give up their right to sue their employers for civil damages in exchange for automatic statutory benefits. This is known as the exclusive remedy rule. So, even if an employee is injured due to negligent acts by their employer, workers' compensation benefits are the employee's sole remedy.

No Fault System

With some exceptions, most states have no-fault workers' compensation laws ensuring that injured workers automatically receive timely benefits regardless of fault. There is no comparative negligence in workers' compensation.

Liberal Construction

WC is a liberal system which favors the injured worker as opposed to the employer. In CA, the labor code states, "This division and Division 5 shall be liberally construed by the courts with the purpose of extending their benefits for the protection of persons injured in the course of their employment." Each judge is charged by this statement to find compensability and award benefits if there is doubt or equal convincing evidence on both sides. This puts the burden of proof on employers to show evidence the injury was not due to employment.

Eggshell Skull Rule

Usually, employers hire the employee as is. This means that an employer takes an employee whole with all their strengths and weaknesses. The fact that there is a pre-existing condition does not lessen an employer's responsibility to the injured worker. Work does not need to be the sole cause of an injury. If employment activities contributed to or worsened an employee's pre-existing condition, the employee is entitled to WC benefits. Apportionment is sometimes allowed to reduce permanent disability awards.

AOE/COE

For an injury to be found compensable, it needs to Arise Out of the Employment and Occur in the Course of Employment. Arising out of employment means that the accident or injury had its origin in the employment and is traceable to causes connected with the employment. Or the injury must have had its origin in some risk connected with employment. In the Course of Employment means the injury takes place where the employee reasonably may be performing their duties, and where they are engaged in their duties or something incidental to them.



[Key Workers' Compensation Principles](#)

The Primary Workers' Compensation Benefits

Statutory Framework

WC is a state mandated system designed to ensure that employees who are injured or disabled while working are provided benefits to help them recover and return to gainful employment. There is no pain and suffering or award for damages in WC as in civil liability. Under WC, statutory benefits flow automatically to injured employees without regard to fault. These benefits may include medical treatment, temporary disability for lost wages while an employee is unable to work, permanent disability if the injury results in permanent impairment. Some states provide retraining benefits if the employee is unable to return to their usual job because of the injury. Though rare, all states provide some type of workers' compensation death benefit if an employee dies because of a work-related injury or illness.

Death benefits may include medical expenses for the injury or illness pre-death, payments to surviving dependents, and funeral and burial expenses. Typically, if there are no surviving dependents, the workers' compensation carrier is required to pay the benefit to either the deceased's estate, or the state where the employee was injured. Benefits that are payable to the state are used to fund various programs such as the uninsured employers trust fund.

- **About Temporary Disability (TD) Waiting Periods** – With a few exceptions, when an injured worker is medically certified unable to work, they must be off work for a set number of days before they are eligible for TD. This is called the waiting period which varies by each state. Retroactive TD for the waiting period is also payable depending on the state once the worker has been off for an additional number of days. The [attached chart](#) shows waiting periods and retroactive benefits for each state. It is the responsibility of each employer to determine how to handle the waiting period, whether to pay the employee, whether to deduct PTO, or other. Employers should consult their labor counsel with any questions about this.

Workers' Compensation Settlements

Another benefit injured workers are often entitled to is a settlement after they have completed acute medical care. A claim is typically ready for settlement when an employee reaches maximum medical improvement, and the level of permanent disability or impairment is established by a medical evaluator. Almost all states require that a settlement be approved by a workers' compensation judge even when the parties agree. There are various types of settlements allowed depending on the State jurisdiction. Though each State has adopted its own terminology, the most common types of settlements include:

- **Full and final settlement** – These are also referred to as compromise and release or clincher settlements. New York calls their full and final settlement section 32. These settlements pay a lump sum and resolve all issues in a claim including the permanent disability, future medical care, retroactive and future temporary disability exposure, the right to re-open claim, and disputed issues. Medicare's interests are required to be considered when an injured worker is at least 65 years old or when there is a reasonable expectation that they will be eligible for social security disability within 30 months. If an injured worker has not resigned or been terminated, these settlements sometimes may include a voluntary resignation as well. Not all states allow settlement of future medical care.

- **Permanent impairment settlement with open medical care** – These are also called stipulations. These settlements resolve permanent impairment, but the file remains open for lifetime medical care. The permanent impairment is usually paid out in bi-weekly installments over a set period dictated by law based on the percentage of permanent disability.



Primary Workers' Compensation Benefits

Injury Investigation

Purpose of an Investigation

A comprehensive early investigation can provide the foundation for proper and cost-effective management of any claim, whether admitted or disputed. It is important to gather all relevant facts regarding the injury including a detailed account of how, why, where, and when the injury occurred. It is also important to take note of any witnesses and provide their names to the claims adjuster.

Gathering this information early can help establish what body parts are injured, whether medical case management is necessary, and an initial plan of action.

Some States give an employer and their insurer a limited amount of time in which to investigate a questionable claim. For example, the California State Labor Code provides that an employer/insurer has ninety (90) days from the date of knowledge of an injury to accept or deny a claim. Claims not denied in the statutory timeframe are presumed compensable. Thus, it is vital that losses be reported to the insurer immediately.

A sound investigation includes the participation and collaboration of both the employer and insurance carrier. The employer is a valuable front-line source of information used by the insurer to maintain control of the claim and mitigate costs.

How Employers Can Assist Insurance Carrier Investigations

- Provide early notice of the injury
- Provide information about the employee's work shift and wages
- Identify witnesses and provide access to the claims adjuster
- Advise of any personnel issues and provide copies of the personnel file
- Provide available information about prior injuries or pre-existing medical conditions
- Provide video footage of the area where injury occurred, if available
- Provide information about an injured worker's whereabouts, hobbies, recreational activities, social media accounts, prior and concurrent employment
- Identify red flags and potential fraud indicators

Standard Insurance Investigation Tools

- Employee deposition
- Medical-legal evaluations
- Subpoena medical, personnel, and earnings records
- Obtain statements from coworkers, supervisors, other witnesses
- Conduct a background check and social media search
- Conduct surveillance (subrosa) of the employee
- Run a medical canvas of the injured worker's personal medical providers
- Run an index search of prior injuries
- Identify red flags and potential fraud indicators

Investigating Red Flags and Potential Fraud

The first step of an investigation is to determine whether the injury occurred in the course and scope of employment. Here are some examples of when a claim may be denied based on affirmative defenses which vary by state:

- Intoxication – if alcohol or drugs are shown to be the proximate cause of injury
- Self-infliction – if an employee intentionally causes his/her own injury. For example, suicide
- Post Termination – if an employee files a claim after being terminated
- Altercation – if an employee suffers an injury due to being the initial physical aggressor
- Horseplay – injuries sustained due to horseplay
- Felony – if the injury occurs during the employee's commission of a crime
- Coming and Going Rule – injuries sustained during a normal commute to a fixed place of employment

Fraud or exaggerated symptoms occur in some workers' compensation cases, and can occur at any phase in a claim. This activity is not only unlawful, but it is very costly and often difficult to fight because of the subjective nature of certain injuries. While fraud may or may not be legally present, the following indicators should help isolate those claims meriting closer scrutiny and investigation by the insurance carrier to make a determination.

- History of short term employment
- Held a seasonal job and it was ending
- Took extensive time off prior to filing claim
- Was disciplined or terminated prior to filing claim
- Sought change of treating physician after being released to work
- Filed similar types of claims in the past
- The injury was unwitnessed
- Information from coworkers the injury may be "bogus"
- The injury was reported after a weekend or vacation

- The injury was reported late
- Occurred outside normal work hours
- Circumstances of injury report are vague or inconsistent
- Occurred near end of probation period
- First report of injury and initial medical report are inconsistent
- Subjective complaints unmatched by objective findings
- Soft tissue injury took inordinate amount of time to heal
- Employee is known to engage in aggravating non-occupational activities such as sports
- Employee has side job

Third Party Subrogation Investigations

When an employee sustains an injury while working, but the injury is caused by a third party, the WC carrier is responsible to pay first dollar for medical treatment and disability benefits under WC. They may then seek recovery from the third party once the claim is resolved. The ability to recover monies is affected by many factors including coverage of the at fault party, policy limits, comparative negligence, WC payments made, jurisdictional regulations, and others.

The most common types of third-party cases involve auto accidents, slips and falls on or off premises due to owner property negligence, equipment and machinery.

Employers can aid the WC carrier's investigation and ability to subrogate a claim by providing detailed loss information at the time of injury, vendor, contractor or owner/landlord information, photos of the accident scene or defective machinery, police reports and driver and witness statements in auto accidents, maintenance and service records of machinery, and contracts between parties. If a contract between the employees' employer and the third party provides a hold harmless agreement, the WC carrier will not be able to subrogate the claim.



[Investigation](#)

Return to Work

Return to work (RTW) programs which offer transitional light duty work are designed to help restore injured or ill workers to their usual and customary jobs safely and effectively and are a proven cost saving strategy by reducing disability. RTW also saves costs related to absenteeism, lost productivity, training replacement workers, and litigation.

RTW Options

Modified Work

The physical requirements of an employee's usual and customary occupation are adjusted in some way to allow the employee to continue to perform the same job. This might involve ergonomic accommodations, redesigning a workspace, such as providing an administrative worker who has a restriction of no prolonged sitting with a sit/stand work desk, or restructuring job tasks, perhaps using team members for assistance.

Alternate Work

This taps into the employee's transferable skills, knowledge, and experience to find other suitable work alternatives, even though they may differ greatly from the employee's pre-injury position. For example, a physical laborer might also have project management skills that could be used while not requiring heavy lifting.

Not-For-Profit Work

Nonprofit agencies such as Goodwill or Salvation Army are partnered with to temporarily employ injured workers when employers are unable to internally accommodate work restrictions. External vendors as well as some insurance carriers and TPAs provide such programs.

RTW Strategies

Flexibility and creativity are keys to success. Here are various ways to accommodate employees with physical limitations:

- Maintain a physical demands [job description](#) bank of modified and alternate work positions.
- Discuss transferable skills with injured employees when modified work cannot be accommodated.
- Voice-activated software that converts speech dictation to text offers many applications for employees with limited use of their hands.
- Automation and robotics to accommodate employees with heavy lifting or repetitive motion restrictions, particularly in production lines, manufacturing, and food processing.
- Allow remote or hybrid work for employees who are restricted from weight bearing or driving.
- Consider designating a RTW coordinator from your HR department to serve as a liaison between your injured workers, occupational clinics, and adjuster to improve communication and RTW efforts.

- Develop a formal written [RTW policy](#) and share with your workforce as well as your designated occupational clinics.
- Always send a [written offer of light duty work](#) to injured workers and copy the claims adjuster.

When the Injured Worker Refuses Light Duty Work

If an injured employee refuses a bonafide offer of light duty, he/she will not be entitled to temporary total disability. Document the attempts made to offer/accommodate work restrictions. Supply this information to the workers' compensation carrier.

FEHA, ADA and the Interactive Process

The interactive process involving employee and employer collaboration is required under ADA and FEHA when an employee has a disability which requires accommodation. Employers should consult their labor counsel to protect against civil liability.



[Return to Work](#)

Remote Work

Remote Work Injuries and WC Coverage

In most cases, the remote worker has the burden of proof, meaning that they must be able to demonstrate that they were acting in the interest of their employer at the time they got sick or injured. However, the courts have found that, even though the employer does not have control over an employee's home environment, lack of evidence is not a reason to deny claims. Therefore, employers are responsible for providing the same safe work environment for both their on-site workers and remote workers.

Personal Comfort Doctrine

Some injuries may not be covered if an employee was injured during a break or deviation from work while handling a non-work-related matter. However, this depends on the specific circumstances and nature of the deviation. In a traditional work setting, injuries that occur during regularly scheduled breaks, such as bathroom breaks, are covered under the "personal comfort" doctrine- acceptable deviations from work to attend to reasonable personal comfort. This concept extends to a home work setting as well. What is considered a reasonable act of personal comfort is often a gray area and open to interpretation.

Personal comfort usually has a broader and more liberal meaning in homework environments, allowing more covered instances than at a traditional job site.

Coming and Going Rule

An employee who is injured while commuting to or from a regular designated workplace is not eligible for WC benefits since the employee is not “rendering any service to the employer” during a typical commute, with exceptions. However, this rule is less applicable when the home functions as a secondary job site. In general, whether an employee’s home is a second worksite depends on whether the employer expressly approved or authorized the employee to work from home, or if the employee chose to work from home out of personal convenience. If it was the employee’s choice, and the employer did not expressly prohibit it, the lack of clarity may be viewed as tacit approval condoning the behavior increasing the likelihood such commute injuries would be covered.

Factors to Determine Remote Injury Work Relatedness include:

- Was the employee acting in the course and scope of employment when the injury occurred?
- Was the employee acting in the course and scope of employment when the injury occurred?
- Was the employee acting in the service of the employer or benefiting the employer in some way?
- Was the employee on a personal break and if so, what was the employee doing? Was the break reasonable or could it be a significant deviation from work duties?
- What were the employer’s remote/hybrid work policies? What activities were allowed? What activities did the employer prohibit? Did the employer turn a blind eye to certain work behaviors?

Each case should be evaluated based on its own facts and individual merits. Employers should develop clear written and hybrid work policies to prevent confusion around WC liability and hold employees accountable.



[Remote Work Injuries and WC Coverage](#)

Safety and Ergonomics for Remote Workers

Due to the pandemic, 2020 gave the business world a crash course in remote work. If your employees are now permanently working from home, or in a hybrid work model, a comprehensive ergonomic plan for remote employees should be implemented. The most common injury for a remote worker is related to workstation ergonomics. These are soft tissue injuries such as the wrist, elbow, shoulder, cervical or lumbar spine. These injuries typically don't occur overnight. They develop overtime as cumulative trauma injuries and sometimes take much longer to heal. Once diagnosed, a proactive health and safety program can prevent these injuries. Remote work ergonomics should be a collaboration between the employer and employee. Employers should ask employees to take a photo of their remote workstation and another photo of them sitting at their workstation. Based on these photographs, employers can determine if the workstation is ergonomically appropriate.

Here are some things to look for:

- Wrists should be in a neutral, comfortable position that does not require them to flex or extend.
- Hips and knees should be at a 90-degree angle with feet firmly on the floor
- The chair should be at an appropriate height in relation to the desk
- Monitors should be at eye level and at a reasonable distance.
- Blinds or curtains should be adjusted to prevent glare or bright black lighting around the computer screen.
- Hands free headsets can potentially reduce upper extremity fatigue.

Other potential injuries include slips, trips and falls from remote workplace hazards. Employees could be asked to provide photos of their entire workspace to determine if there are any obstacles. One thing to look for is cluttered workspaces with cords or other household items. Employers should educate employees on workspace surroundings to prevent injuries as an important first step to avoid slips, trips and falls. Other preventative measures include encouraging employees to take frequent stretch breaks throughout the day. Contracting with a physical therapist or ergonomic specialist could help teach stretching techniques to remote employees. This could be recorded and available on the employee Intranet site as well. Developing a remote worker safety team and holding regular remote worker safety meetings are important strategies.



[Safety & Ergonomics for Remote Workers](#)

Medical Treatment

Medical Control

Injured employees are entitled to medical treatment which is reasonable and necessary to cure or relieve from the effects of industrial injury. Official medical treatment guidelines, such as Utilization Review, are used by insurance carriers and doctors to establish whether the treatment requested is “evidence based” medicine. Most states also use medical-legal evaluations, such as independent medical evaluations or qualified medical evaluations to resolve treatment disputes. Of course, the scope of these exams is not limited to medical treatment and can also be used to address causation, extent of injury, return to work, and disability.

There are caps on certain types of treatments in some states, such as the twenty-four-session maximum on chiropractic and physical therapy in CA. Other states also enforce a limit on how many times the injured employee may change treating doctors.

Treatment of a non-industrial medical condition sometimes becomes the responsibility of the employer/insurance carrier when the non-industrial medical condition is interfering with the cure, or relief, or the industrial medical condition. For example, individuals with diabetes might not be cleared for a back surgery until they have brought the diabetes under control.

Different state jurisdictions are either “employer controlled” or “employee controlled” medical care. In “employer controlled” states, employers are allowed to direct employees to certain physicians within a network. In these situations, employees are not allowed to seek treatment for their injury from their personal care physician. Some states maintain “employer control” throughout the claim, while others afford employees a degree of control limited to doctors in a provider network.

Designated Occupational Clinics

Establishing medical provider relationships and designated occupational clinics through the insurance carrier’s medical provider networks is one way of gaining medical control, mitigating claim costs, reducing litigation, and expediting injured employee recovery. The insurance carrier can assist with obtaining a list of providers in the geographical areas of your workforce. All employees should receive information about designated clinics and how to access the provider listing at time of hire and again at time of injury.

Medical Triage

Medical triage, utilizing trained nurse case practitioners, helps to evaluate the injury severity and treatment needs at the outset of an injury. Research has shown that this approach, starting with the initial stages of injury, can significantly improve treatment prognosis and reduce claim costs and recovery time. Depending on the size of your organization and claim history, one of these options may be beneficial.

Medical triage can be conducted in a few ways:

- Employers may use internal medical staff to work with injured workers on site or telephonically.
- Employers may outsource to a company which provides triage services for a fee.
- Some insurance carriers provide triage services for a fee that is built in to the WC premium.

Telemedicine

Due to advancements in technology, and without compromising HIPPA and confidentiality, telemedicine provides a way to make information sufficiently and conveniently be exchanged with nurses, doctors and pharmacies via conference calls, videoconferencing, email, online chats, apps, and other special computer technologies available 24/7. Among some of the advantages, telemedicine has been shown to be useful in reducing prescription refill time and frustration, expediting treatment authorizations, and care coordination, reducing injured worker time away from work, and providing an option for rural situated injured workers with less access to care providers.



[Medical Treatment](#)

Common Worker's Compensation Acronyms

AGGRAVATION OF AN INJURY: Anything that makes the symptoms of an injury worse or makes the injury more serious.

AGREED MEDICAL EXAMINER OR EVALUATOR (AME): A physician selected to resolve disputed medical issues. There are different acronyms and rules used for such evaluations in different States. Other names include Commissioner Exam, QME (Qualified Medical Evaluator), IME (Independent Medical evaluator), DIME (Division Independent Medical Exam).

AOE/COE: Arising out of and in the course of employment. An injury or illness must meet these conditions to be compensable.

APPLICANT, CLAIMANT, or PLAINTIFF: A person asserting a right to relief before the Workers' Compensation Appeals Board. Generally used to refer to the injured worker once represented by an attorney or after an Application for Adjudication of Claim has been filed.

APPLICANT or PLAINTIFF ATTORNEY: The attorney who represents an industrially injured worker.

APPORTIONMENT: The allocation of a percentage of permanent disability to more than one cause. Apportionment may apply if the injured employee has a preexisting condition or injury.

AVERAGE WEEKLY WAGES OR EARNINGS (AWW): Wages include overtime and the market value of board, lodging, fuel, and other advantages received by the injured employee as part of his remuneration. Average weekly earnings shall not include any sum which the employer pays to cover any special expenses entailed on the employee by the nature of his employment.

CO DEFENDANT: Another carrier or employer who is joined in a workers' compensation case.

COMPENSABILITY: The determination that an injury arose out of and occurred in the course of the employment, making the employer liable for the payment of workers' compensation benefits.

COMPLAINT IN INTERVENTION: A pleading filed by the employer to join in a lawsuit filed by the employee to recover damages from a third party.

COMPROMISE AND RELEASE (C&R): A lump sum settlement of a workers' compensation case. Unless otherwise stated, after approval by a WCAB judge and payment by the employer, releases the employer from all obligations for further benefits. There can be no settlement of vocational rehabilitation benefits, however, unless there is a good faith issue, which, if resolved against the injured employee, would defeat the employee's right to all workers' compensation benefits.

CONTRIBUTION: The codefendant's share of the cost of a claim.

CUMULATIVE INJURY (CT): Any injury or disease arising out of employment occurring because of repetitive mentally or physically traumatic activities extending over a period, the combined effect of which causes disability or need for medical treatment. The date of injury for occupational diseases or cumulative injuries is that date upon which the employee first suffered disability and knew or should have known that such disability was caused by employment.

DECLARATION OF READINESS TO PROCEED (DOR): The document that is used to request a proceeding before the Workers' Compensation Appeals Board.

DEFENSE ATTORNEY: The attorney representing the employer.

DEPOSITION: The testimony of a witness taken under oath outside of a courtroom.

FINDINGS AND AWARD (F&A): A decision issued by a Workers' compensation judge which specifies the entitlement to certain benefits. It is issued after a trial or is the approval of Stipulations with Request for Award submitted by the parties.

JOB DESCRIPTION: A detailed description of an employee's job duties.

PERMANENT DISABILITY (PD): An indemnity benefit payable based on medical and legal formulas that consider the employee's diagnosis, occupation, age, earnings loss, and range of motion or loss of use.

PERMANENT AND STATIONARY (P&S): The point at which an employee has reached maximum medical improvement. Also known as MMI.

PETITION TO REOPEN FOR NEW AND FURTHER DISABILITY: A document filed with the Workers' Compensation Appeals Board requesting continuing jurisdiction of the WCAB and an increase in the amount of a prior award of benefits.

PETITION FOR RECONSIDERATION: An appeal of a final order, decision, or award.

RESERVES: The amount of money set aside to cover the total expected cost of a claim. May change over time depending on the prognosis of disability and facts determining the compensability of the case.

SERIOUS & WILLFUL MISCONDUCT (S&W): Intentional bad behavior on the part of either the employer or employee which has been established as the proximate cause of the industrial injury.

SPECIFIC INJURY: An injury occurring as the result of one incident or exposure which causes disability or need for medical treatment.

STATUTE OF LIMITATIONS: The time frame during which certain actions can be brought or rights enforced.

STIPULATIONS WITH REQUEST FOR AWARD (STIPS): A written agreement to the facts relating to a claim which is submitted to the Workers' Compensation Appeals Board with a request for the issuance of an award based thereon. This is a common way to resolve a case when the parties agree on the percentage of permanent disability and the injured worker wants to keep open his right to future medical care.

SUBPOENA: A writ directing a person to appear as a witness or to produce documents at a specified time and place.

SUBROGATION: The right of the employer to recover amounts paid in a workers' compensation case from a negligent third party.

SUBROSA: An attempt to obtain evidence of an applicant suspected of performing activities that are inconsistent with the claimed disability. May involve activity checks or undercover surveillance and video footage.

TEMPORARY PARTIAL DISABILITY (TPD): Also referred to as wage loss. A non-taxable weekly benefit that pays a portion of the earnings lost due to a temporary reduction in wages or hours because of the industrial injury.

TEMPORARY TOTAL DISABILITY (TD or TTD): A non-taxable weekly benefit paid to an injured worker while temporarily unable to work because of the industrial injury.

WORKERS' COMPENSATION APPEALS BOARD (WCAB) 132(A): The Labor Code section declaring the nondiscrimination policy against workers who are injured in the course and scope of their employment.

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