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To: Human Resources Directors

From: Cathy Robinson, Senior Director
Human Resources Administration

Subject: INDUSTRIAL DISABILITY LEAVE (IDL) ADMINISTRATIVE GUIDE -
REVISED DECEMBER 1997

Three copies of the revised Industrial Disability Leave (IDL) Administrative Guide are attached for use by your staff. This Administrative Guide, revised effective December 1997, replaces the IDL Administrative Guide dated June 1993. Also included with the Guide are updated resources which include recent changes in law regarding transfer of medical treatment and vocational rehabilitation. Please note that the Return to Work Policy Guidelines are not being reissued since all campuses have their programs in place.

There have been no significant changes in IDL policy. The intent of the revision of the Guide is to provide clarification of language and policy direction due to the addition of other leave programs and their impact on IDL.

Questions regarding IDL policy should be addressed to Pamela Chapin in Human Resources Administration. She may be reached at (562) 985-2652 or via E-mail at pam_chapin@calstate.edu.

Attachments

Distribution:

Presidents	w/o Attachment
Interim Senior Director, Human Resources	w/o "
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THE CALIFORNIA STATE UNIVERSITY

**INDUSTRIAL DISABILITY LEAVE
ADMINISTRATIVE GUIDE**

**Prepared by:
Human Resources Administration
Office of the Chancellor
Revised: December 1997**

**INDUSTRIAL DISABILITY LEAVE
ADMINISTRATIVE GUIDE**

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**THE CALIFORNIA STATE UNIVERSITY
INDUSTRIAL DISABILITY LEAVE PROGRAM**

GENERAL INFORMATION

Reference: Education Code Sections 89529-89529.11

CSU employees who are members of the Public Employees Retirement System (PERS) or the State Teachers Retirement System (STRS) and who have suffered an industrial disability may be eligible to receive Industrial Disability Leave (IDL) in lieu of Workers' Compensation Temporary Disability (TD) benefits. An eligible employee may receive IDL payments for a period not to exceed 52 weeks within two years from the first day of disability. The 52-week eligibility period is equivalent to 365 calendar days. One calendar day means any day during which the employee is on the IDL program (which includes days where partial benefits are received and may include weekends). However, IDL payments are based on the actual number of work days the disabled employee is absent from work. A holiday is counted as a work day. (Please refer to Appendix A for Education Code sections concerning Industrial Disability Leave.)

DESIGNATION OF RETURN-TO-WORK COORDINATOR

Each campus of The California State University shall designate a return-to-work coordinator and shall forward his/her name to the Governor's Safety and Rehabilitation Program Office. The duties and responsibilities of the coordinator shall include but not be limited to ensuring that the disabled employee is informed of the benefits to which s/he is entitled to and to facilitate the employee's early return to work.

ELIGIBILITY - General

An employee who is a member of the Public Employees Retirement System or the State Teachers Retirement System in compensated employment who becomes disabled due to an injury or illness arising out of or in the course of employment, within the meaning of Education Code Section 89529.3, shall be eligible to receive IDL benefits. Eligibility shall be contingent upon appropriate medical determination and the agreement of the employee to cooperate and participate in a reasonable vocational rehabilitation plan when furnished by The California State University. An employee shall become entitled, regardless of his/her period of service, to receive IDL payments, in lieu of Workers' Compensation Temporary Disability (TD) payments with/without supplementation of appropriate leave credits.

A CSU employee who suffers a disability arising out of or in the course of CSU employment may receive IDL benefits if s/he meets all of the following conditions:

- 1.) Is an active PERS or STRS member, and
- 2.) Has a disability which has been verified and accepted by the State Compensation Insurance Fund (SCIF) as industrially caused, and
- 3.) Has chosen to receive IDL benefits in lieu of Workers' Compensation Temporary Disability benefits or has failed to make a choice within 15 days from the date of the notice of benefit eligibility, and
- 4.) Has been unable to work as a result of injury or illness since:
 - a.) the third calendar day of disability following the day of injury or illness, or
 - b.) the first day the injured employee leaves work as a result of an injury growing out of a criminal act of violence against the employee, or
 - c.) the first day of hospitalization, or
 - d.) the day following the injury if the employee is absent from work because of the injury for more than 14 calendar days.

Each new, independent disability must be recorded separately with its own 52-week period. Recurrence of old disabilities do not entitle the disabled employee to a new 52-week IDL eligibility period.

ELIGIBILITY - Delay in Determination

Under certain circumstances, it may take some time before a determination can be made by SCIF as to whether an employee's disability is or is not work-related. During this period, the employee should be allowed to use sick leave, vacation, and CTO leave credits as long as they are available. (The employee should also be encouraged to apply for NDI.) After all leave credits have been exhausted, the individual will be placed on leave without pay status until a determination is reached. When it is determined the disability is job-related and the employee is eligible for IDL or Workers' Compensation Temporary Disability, appropriate adjustments will be made to the employee's account in accordance with the procedures of the particular program selected by the employee.

ELIGIBILITY - Medical Determination

The State Compensation Insurance Fund (SCIF) shall make all temporary disability determinations based on medical evidence in accordance with its authority under Section 11871 of the Insurance Code. Eligibility for IDL benefits shall be contingent upon the certification of disability by SCIF. Upon expiration of IDL benefits, SCIF shall determine whether disability continues to exist and shall further determine the disabled employee's eligibility to receive Workers' Compensation Temporary Disability (TD) benefits.

ELIGIBILITY - Waiting Period

The disabled employee must serve a three calendar-day waiting period after the date of injury before becoming eligible for Industrial Disability Leave benefit payments unless:

- 1.) The employee is disabled as a result of an injury growing out of a criminal act of violence against the employee, in which case the employee is eligible for IDL benefit payments from the first day of disability.
- 2.) The employee is hospitalized on the date of injury, in which case the employee is eligible for IDL benefit payments from the first calendar day following the date of injury.
- 3.) The employee is hospitalized later because of the disability, in which case the employee is eligible for IDL benefit payments from the first day of the three calendar-day waiting period.
- 4.) The employee is disabled for more than 14 calendar days, in which case the employee is eligible for IDL benefit payments from the first day of the three calendar-day waiting period.

The three calendar-day waiting period need not be consecutive. Partial days of absence relating to the disability shall be accumulated to full days toward the waiting period. On the date of injury, the disabled employee shall be compensated for the full amount of time s/he would have worked had the injury not occurred. The waiting period may begin on the day following the injury, or at a later date. The disabled employee shall be eligible for IDL benefit payments when the accumulation of time off completes the three calendar-day waiting period. The waiting period may include weekend days. This can occur at any time during the day. The three calendar-day waiting period is equivalent to 24 hours of scheduled work for an employee on an eight-hour work day schedule, 30 hours of scheduled work for an employee on a ten-hour work day schedule, and 36 hours of scheduled work for an employee on a twelve-hour work day schedule.

Absences from scheduled work during the three-day waiting period shall not be charged to IDL. Absences are to be charged against the employee's sick leave balance or other paid leave credits. If a non-exempt employee is out of leave credits, the salary must be docked. Exempt employees are charged leave credits for absences only on a full day basis based on the normal hours worked.

BENEFITS - Choice

A disabled employee shall have 15 calendar days from the mailing of the notice of benefit eligibility to notify his/her campus that s/he elects Workers' Compensation Temporary Disability (TD) benefits with or without supplementation, rather than IDL benefits. The employee's choice shall be retroactive to the first day of eligibility for disability benefits. Upon failure to respond within the time limit, the employee shall be placed on IDL unless TD benefits are greater. In such a case, the employee shall be determined to have rejected IDL in accordance with Education Code Section 89529.05, and all provisions of Workers' Compensation Temporary Disability shall apply.

If a disabled employee is incapable of making decisions for himself/herself, the campus or the disabled employee's spouse or representative shall request through the State Compensation Insurance Fund that the Workers' Compensation Appeals Board appoint a guardian or trustee in accordance with Section 5307.05 of the Labor Code. In such cases, the 15 calendar-day time limitation on the benefit choice provisions shall be waived.

Appendix B is an example of a benefits summary form that the campus may wish to reproduce and use as a guide while counseling an employee on choice of benefits.

BENEFITS - Employee Waiver of Selection

If a disabled employee waives his/her right to make his/her benefit selection, Education Code Section 89529.05 provides that s/he will receive IDL benefits unless Workers' Compensation Temporary Disability payments are greater, in which case all provisions of Workers' Compensation Temporary Disability shall apply.

BENEFITS - Change

Employees will be given a one-time opportunity to change benefits. At any time during the first 90 calendar days of absence, the disabled employee may notify his/her campus to change benefits from IDL to Workers' Compensation Temporary Disability benefits or vice versa. Such change shall be a one-time opportunity and shall be effective on the 90th calendar day of

absence. The amount of benefit shall be that which the employee would have received on the 90th calendar day had the benefit been initially elected.

No later than the 60th calendar day of absence, the campus shall notify the disabled employee of his/her benefit modification rights provided for in this section. The employee must submit written notification of his/her desire to change benefits no later than the 90th calendar day of absence. Regardless of the change in benefits, the eligibility period for IDL benefits remains at 52 weeks within two years from the first day of disability. A failure of the employee to exercise his/her option by the 90th day shall result in no further opportunity for a change in benefits.

BENEFITS - Garnishment

Garnishment of IDL benefits may be only for court-ordered support payments. (Reference: State Controller's Payroll Procedure Manual (PPM) Deduction Section.)

BENEFITS - Expiration or Termination

The campus Human Resources office shall notify the Controller's Office (via the PPT document and standard form 674D) and the State Compensation Insurance Fund (via SCIF Form 68A) as soon as the campus anticipates expiration or termination of Industrial Disability Leave benefits as follows:

- 1.) In the event an employee has exhausted his/her IDL benefits and remains temporarily disabled, the employee shall be placed on Workers' Compensation Temporary Disability, with or without supplementation. Supplementation may include sick leave, vacation and/or CTO credits.
- 2.) If the disabled employee is offered medically approved temporary light duty and refuses to accept such duty, the employee's IDL benefits should be terminated. Furthermore, the employee would not be eligible to receive Workers' Compensation Temporary Disability benefits.
- 3.) If at any time an employee receiving IDL benefits refuses to participate or cooperate in a reasonable vocational rehabilitation plan provided by the campus, s/he is no longer entitled to IDL payments. (Reference: Education Code Section 89529.09.) At this time, the employee shall be placed on Workers' Compensation Temporary Disability payments, if otherwise eligible, with supplementation of applicable leave credits (sick leave, vacation, and/or CTO). The employee will have 15 calendar days to notify his/her department of the decision to NOT supplement the WCTD benefit with available leave credits.

If the employee has an adequate balance of leave credits available to supplement his/her Workers' Compensation Temporary Disability payments, s/he should be returned to active pay status. Standard form 674D should be completed as shown in the Disability Section of the State Controller's Payroll Procedures Manual.

- 4.) When a temporary employee's appointment expires while on IDL, the employee's IDL benefits will expire at the same time as the appointment and the employee will be separated. Following separation, if otherwise eligible, the employee may request Temporary Disability payments under Workers' Compensation. (Reference: FSA 76-79.)

PAYMENTS - Industrial Disability Leave - Basic

IDL provides that an eligible employee may receive up to 22 working days of full pay less an amount equal to his/her federal and state income tax and Social Security/Medicare taxes based on his/her exemptions in effect on the date of disability.

Federal/State Tax and OASDI or Medicare

Deductions for federal/state tax and OASDI or Medicare will NOT be made from IDL payments and IDL payments are not reported as Taxable Wages or Other Compensation on Form W-2. However, an employee's full gross will be reduced by the amount of federal and state tax and OASDI or Medicare to establish IDL reduced gross.

Retirement

Retirement contributions WILL BE deducted from all IDL payments. The deduction amount will be computed at the employee's current rate on the "full pay" amount and the "full pay" amount will be reported to PERS/STRS for full service credit. The state share will be computed in the same manner.

Full pay means the gross base salary the employee may earn (including shift differential payments) and subject to retirement contribution if s/he had not vacated the position. For example, for purposes of computing the IDL benefit payment for an employee injured while on Sabbatical Leave, full pay shall be the amount to which the employee's appropriate retirement system (PERS/STRS) retirement contribution is applied at the time of commencement of the Industrial Disability Leave.

Exemptions

The number of exemptions claimed by the employee on the Employee Action Request STD. 686 at the time a disability is incurred is one of several factors which will determine the size of IDL benefit payments. Employees should be encouraged to review the number of exemptions claimed on their Employee Action Request STD. 686 on a periodic basis. Employees should be informed of the effect the number of exemptions claimed will have on their IDL benefit payments should they incur a work-related disability.

Effect of Salary Adjustments

An employee's IDL benefits shall be adjusted during his/her leave to reflect any changes (increases or decreases) in the gross base salary which would have occurred due to salary modifications. These include performance-based salary increases, service-based salary increases, general salary increases, special salary adjustments, or decreases due to demotions which s/he would have received had s/he not gone on an Industrial Disability Leave but remained on active employment. The goal of IDL is to maintain, as close as possible, the disabled employee's take-home pay. IDL payment checks shall be issued by the State Controller's Office.

If the industrial disability continues beyond 22 working days, the IDL payment will be adjusted to two-thirds of the employee's gross monthly salary.

Probationary Period

A probationary employee who suffers a work-related injury and elects IDL coverage shall have his/her probationary period extended by the number of days on IDL. A probationary employee shall not gain permanent status in a classification while on IDL.

PAYMENTS - Industrial Disability Leave Benefits With Sick Leave Credit Supplementation

Both represented and nonrepresented employees shall be eligible to make application for supplementation of their Industrial Disability Leave benefits with accrued sick leave credits.

Employees whose disabilities are determined by the CSU to be work-related shall have a one-time opportunity to elect to receive Industrial Disability Leave benefits with or without supplementation of accrued sick leave credits

up to regular salary or wages. Total benefit and supplementation shall not be in excess of an employee's regular salary or wage.

Before an employee may elect to supplement IDL with accrued sick leave credits, s/he must have sufficient credits to provide an IDL and supplementation amount equal to his/her regular daily salary or wage. The campus will stop supplementation when the combined IDL and supplementation amount is less than the employee's daily salary or wage. Supplementation is limited to the use of sick leave accrued up to the date of the work-related injury or the first day of disability (which may be different than the date of injury) for which IDL with supplementation is sought, except as indicated under the Catastrophic Leave program. If an employee is released to return to work but goes out on IDL at a later time for the same work-related injury, sick leave accrued during the time in work status may be used for supplementation purposes.

Supplementation shall be made only upon written notification to the campus by an eligible employee. The notification shall be given to a designated member or representative of CSU management no later than fifteen (15) calendar days from the mailing of the notice of benefit eligibility. The employee's election commences with the 23rd day on IDL. Supplementation shall continue until the employee has exhausted his/her pre-disability accrued sick leave credits or until the employee provides written notification to the campus s/he wishes to discontinue supplementation. The written notification must be provided at least 15 calendar days in advance of the supplementation termination date so as to permit the campus and the State Controller's Office sufficient time to process the necessary documents.

All payments received by an employee while on IDL shall be subject to mandatory and authorized voluntary deductions.

ENHANCED INDUSTRIAL DISABILITY LEAVE (EIDL) - Unit 8

Employees covered by the California State University and the Statewide University Police Association Agreement (Unit 8) are eligible for an Enhanced Industrial Disability Leave (EIDL) for disabilities occurring on or after October 1, 1995, under the following conditions:

- 1.) When an employee is disabled by injury or illness arising out of and in the course of his/her duties regardless of his/her period of service with the campus. The EIDL benefit for police officers is no longer limited to injuries received as a result of a criminal act of violence.
- 2.) The campus makes the determination of employee eligibility for the enhanced benefit. The campus may periodically review the employee's

condition by any means necessary to determine an employee's eligibility for EIDL.

- 3.) The injury or illness meets the terms and conditions of the MOU and the policies and procedures outlined in this administrative guide.
- 4.) The injury or illness occurs between October 1, 1995 and June 30, 1998. The EIDL benefit expires on June 30, 1998, unless it is extended through the collective bargaining process.

The EIDL benefit will be equivalent to the injured employee's net take home salary on the date of occurrence of the injury. EIDL eligibility and benefits may continue for no longer than one (1) year after the date of injury. For the purposes of this Section, "net salary" is defined as the amount of salary received after federal and state income taxes, Social Security/Medicare taxes, and the employee's retirement contribution have been deducted from the gross salary.

The EIDL benefit does not apply to presumptive, stress-related disabilities, any psychiatric disability, or any physical disability arising from a psychiatric injury.

CATASTROPHIC LEAVE PROGRAM

The purpose of the Catastrophic Leave Program is to supplement any disability benefit for which the employee is eligible. Therefore, if the employee is eligible for IDL, catastrophic leave should be used only to supplement that benefit. The employee should not be allowed to waive IDL benefits at his/her option and still apply for catastrophic leave donations.

The use of catastrophic leave while on IDL is problematic due to the fact that all leave credits (sick leave, vacation, CTO, and in some cases the personal holiday) must be exhausted before an employee may request participation in the Catastrophic Leave Program. If an employee is out of leave credits and requests and is deemed eligible to participate in the Catastrophic Leave Program, the employee's sick and vacation leave credits should be used as accrued. Do not continue to process donated leave without exhausting the employee's own leave credits. An employee's participation in the Catastrophic Leave Program while on IDL is the only exception for use of the injured employee's vacation credits or use of the employee's sick leave after the date of the injury or the first day of disability, if different. Please refer to Technical Letter HR/Benefits 6600 92-19 and collective bargaining agreements, if applicable.

FAMILY MEDICAL LEAVE

The Family Medical Leave (FML) entitlement, if available to the employee, should run concurrently with IDL benefits. Please refer to HR 94-11 and collective bargaining agreements, if applicable.

PAYMENTS - Deductions

IDL benefits are not considered a salary or wage; therefore, the State Controller's Office will not report IDL payments as earnings for tax purposes. However, for the IDL-Sick Leave and Catastrophic Leave Supplement programs, the supplement portion is reported as earnings.

Appendix C provides examples of computation of benefits and a sample form for campus use when making such estimates. The following transactional guidelines should be followed when making benefit estimates:

- 1.) The employee's PERS/STRS contributions shall be deducted from the IDL benefit payment on the basis of his/her normal gross monthly salary.
- 2.) The State contribution to PERS/STRS shall be made on the basis of the disabled employee's gross monthly salary rate.
- 3.) Voluntary deductions shall continue to be made unless canceled by the employee.
- 4.) The employee's regular contribution to his/her health insurance premiums shall be deducted from his/her IDL benefit.
- 5.) The CSU shall continue to pay the employer's contribution for the health, dental, vision, life and/or long term disability insurance premiums.
- 6.) While receiving IDL benefit payments, the employee shall continue to accrue sick leave, vacation, service credits, and salary modifications.
- 7.) Only court-ordered support garnishments will affect IDL benefit payments.

PAYMENTS - Adjustments to Reflect Salary Changes

The employee's salary rate and the number of days and hours for which s/he would have been paid had the work-related disability not occurred shall be used to compute IDL payments at the time of disability in accordance with Section 89529.02(b) and 89529.03 of the Education Code. Thereafter, payments

shall be adjusted to reflect any salary adjustments which the employee would have received had s/he not incurred the disability.

In cases where the employee is on a variable work schedule, such as an intermittent employee who is a member of PERS/STRS, the employee's salary rate and number of days and hours for which s/he would have been paid had the disability not occurred as well as his/her past work schedule shall be used by the campus to compute IDL benefit payments.

PAYMENTS - Adjustment to Reflect Other Sources of Disability Benefits

Education Code Section 89529.03 states that IDL benefit payments shall be adjusted to offset disability benefits, excluding those disability benefits payable from the State Teachers Retirement System, the employee may receive from other employer-subsidized programs, except that no adjustments will be made for benefits to which the employee's family is entitled to a maximum of three-quarters of full pay. This allows an offset to IDL benefits only for other benefits which are paid for by the employer (e.g., Social Security payments) and does not offset against private income protection plans. Upon written notification by the employee that s/he is receiving other benefits, the campus shall adjust the employee's IDL benefit to reflect this. If the employee does not notify his/her campus of other benefits s/he is receiving, this inaction would constitute grounds for removing the employee from the IDL program.

PAYMENTS - Ten-Month and Ten-Twelve (10/12) or Eleven-Twelve (11/12) Pay Plan Employees

When a permanent or probationary employee in a ten-month appointment class incurs a work-related disability while on the active payroll and selects IDL coverage, the employee shall be eligible for IDL benefit payments only for the period of active payroll status. If the employee is still disabled when s/he goes on inactive payroll status, the employee shall be transferred to Workers' Compensation Temporary Disability for the two months of inactive payroll status. Upon the designated date of the employee's return to active payroll status, if the employee's disability continues, the employee is returned to IDL status for the balance of his/her IDL eligibility.

When an employee appointed on a temporary basis into a ten-month classification incurs a work-related disability while on the active payroll and selects IDL coverage, the employee shall be eligible for IDL benefit payments only for the period covered by the appointment. If the employee is still disabled at the end of the appointment, the employee is separated and placed on Workers' Compensation Disability until SCIF makes a decision that s/he is no longer eligible for benefits. NOTE: If the campus expressed an intent, in writing prior to a disabling injury, to reappoint the employee for a new ten-month period, the individual may be placed on active payroll status on the

designated date of the reappointment and returned to IDL status for the balance of his/her IDL eligibility.

Ten-Twelve and Eleven-Twelve Pay Plan employees will be continued on IDL for the duration of the benefit period. If, at the end of the benefit period the employee is still disabled, s/he shall be continued on Workers' Compensation Temporary Disability until SCIF makes a decision that s/he is no longer eligible for benefits.

PAYMENTS - Academic Year Employees

Semester and Quarter Systems

When an employee appointed to an academic year class (usually covers the period from September through June for two consecutive semesters or three consecutive quarters) incurs a work-related disability during the academic year and selects IDL coverage, the employee shall not be eligible for IDL benefit payments during the vacation period (normally July and August) while receiving regular monthly salary payments. S/he may be eligible for medical and hospital costs reimbursement. If such an employee continues to be disabled following the start of a new appointment or continuing appointment for the new academic year, the employee shall be returned to IDL status. If s/he continues to be disabled beyond the vacation period but has not been reappointed for the new academic year, s/he may be eligible to receive Workers' Compensation benefit payments.

When an employee appointed to an academic year class incurs a work-related disability during the vacation period while performing campus-related business, the employee, in all probability, would be receiving regular monthly salary payments during the vacation period and therefore shall not be eligible for concurrent IDL benefit payments. S/he may be eligible for medical and hospital costs reimbursement.

Summer Session

If an academic year appointment class faculty member incurs a work-related disability while employed during the Summer Session, s/he shall not be eligible for IDL but may qualify for Workers' Compensation medical and hospital benefits under the terms and conditions of Continuing Education's membership in the CSU Risk Pool. Since the disabled faculty member is not considered a "State" general fund employee while teaching during Summer Session, s/he is not eligible for the CSU IDL program.

Quarter System Year Round Operation (OSYRO)

When a faculty member in an academic year class employed on a QSYRO campus incurs a work-related disability while employed during an extra quarter for pay (typically the summer quarter), the faculty member shall not be eligible for IDL benefit payments concurrent with his/her salary payments during what normally would have been the vacation period.

When a faculty member in an academic year appointment class, employed on a campus operating on the quarter system, incurs a work-related disability while employed during a quarter in which s/he is banking salary payments for a future quarter off, the faculty member shall not be eligible for IDL benefit payments concurrent with his/her salary payments during what normally would have been the vacation period. Furthermore, there is no provision to bank IDL benefit payments to replace the lost earnings.

Employees in these two categories may be eligible for medical and hospital costs reimbursement. Only at such time when the faculty member is scheduled for a new appointment period and is not receiving concurrent salary payments is s/he eligible to select IDL benefits, should the disability continue into the new appointment period.

PAYMENTS - Partial Days of Absence

An employee receiving IDL benefits who is released by the physician to work only part-time shall be eligible to continue receiving IDL credit for the days on which s/he works. If the disabled employee works less than his/her scheduled work hours on a particular day, s/he shall receive wages for the hours actually worked and IDL payments for the balance of the workday. Partial days off work due to industrial disability shall be reported as full days of IDL. A partial day on IDL counts as a full day of IDL.

If an employee receiving IDL benefits is released by the physician to full-time employment and subsequently loses work time for doctor's appointments, physical therapy etc., such absences shall be charged to the employee's leave credits consistent with CSU policy on reporting of absences for non-exempt and exempt employees.

SELECTION OF PHYSICIAN

The campus shall exercise its right to control an injured employee's course of treatment during the first 30 days following the injury if the employee has not provided the campus with the name of his/her personal physician in advance.

Pursuant to Labor Code Section 4600, an injured employee, after 30 days from the date the injury is reported, may be treated by a physician of his/her own choice at a facility of his/her own choice within a reasonable geographical area or one selected from a panel of physicians provided by the campus. (Please refer to Appendix D for legal requirements and procedures.) The campus retains the right to require periodic reevaluation by its own physician or facility as deemed necessary.

Pursuant to Labor Code Section 4603, the employer may request a change of physician by submitting a petition to the administrative director of the Division of Industrial Accidents.

ASSIGNMENT OF RESPONSIBILITIES - Please refer to Appendix E

REHABILITATION

Vocational rehabilitation is legally required on the part of the employer and employee (please refer to Appendix F). A brief description of the rehabilitation process is presented in Appendix G. **NOTE:** Professionals reviewing medical disposition should be versed in requirements of the Americans with Disabilities Act (ADA), as appropriate.

The State Compensation Insurance Fund and the campus shall determine the need for the disabled employee to undergo vocational rehabilitation. It shall be the ultimate responsibility of the State Compensation Insurance Fund to notify the disabled employee and his/her campus of such decision if it is decided to provide vocational rehabilitation to the employee.

If it is determined that the employee is medically unable to undergo or successfully complete his/her vocational rehabilitation program, s/he shall continue to receive Industrial Disability Leave benefits.

The campus should keep in mind that it should give foremost consideration to the right of return of the disabled employee back to his/her former position whenever possible.

RETURN TO EMPLOYMENT FOLLOWING REHABILITATION

The campus shall take at least one of the following actions at such time as the employee has successfully completed his/her vocational rehabilitation program initiated while under IDL:

- 1.) Restore the employee to his/her former position if able to perform such duties without danger to his/her health or safety or to that of others. If the employee is covered by the ADA, restore the employee to

his/her former position if s/he is able to perform the essential duties of the position with or without reasonable accommodation;

- 2.) Demote or transfer the employee to another position, if s/he is able to perform such duties. If the employee is covered by the ADA, demote or transfer the employee to another position if s/he is able to perform the essential duties of the position with or without reasonable accommodation;
- 3.) Place the employee on a training and development assignment in another line of work suitable to his/her disability with the intent to transfer at a later date.
- 4.) Initiate placement services for non-CSU employment.

The campus is responsible for making the final determination concerning the medical suitability of placement of the disabled employee who has completed his/her vocational rehabilitation program.

When an employee on IDL is no longer disabled, s/he shall be returned to his/her former position.

Upon the request of an employee who is dismissed, demoted, or reassigned pursuant to Sections 43403 and 43406, Title 5, the employee shall be reinstated to an appropriate vacant position in the same class, comparable class or in a lower related class if it is determined that the employee is no longer incapacitated for duty. (See Title 5, Section 43407.)

APPEAL PROCESS

When a disabled employee has complaints regarding IDL action taken by the campus or other State agencies, s/he may seek a remedy through the following appeal process:

- 1.) The employee shall first seek administrative remedy through the campus for complaints which can be resolved administratively. The employee should notify his/her Human Resources office of the complaint in writing within 30 days of its origin. If the matter is not resolved to the satisfaction of the employee, s/he may appeal to the appropriate appeal source set forth below.
- 2.) The Workers' Compensation Appeals Board of the Division of Industrial Accidents is the source of appeal for such matters as:
 - A.) Determinations on the CSU's liability for provision of medical care.

- B.) Determinations on whether disability was industrially caused.
- C.) Determinations on eligibility for Workers' Compensation Temporary Disability payments.

There are certain time limits during which appeals shall be filed (Labor Code Sections 5404 and 5410), therefore, it is advisable that such appeals be filed as soon as possible.

APPENDICES

CALIFORNIA CODES
EDUCATION CODE
SECTION 89529-89529.11

89529. (a) This article applies to employees of the trustees who are members of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after July 1, 1974.

(b) This article also applies to a participant in the optional retirement program pursuant to Chapter 5.5 (commencing with Section 89600), provided that he or she would otherwise be eligible to participate in the Public Employees' Retirement System except for the election to participate in the optional retirement program.

(c) This article does not apply to employees of the trustees who are included in the provisions of Article 6 (commencing with Section 4800) of Chapter 2 of Part 2 of Division 4 of the Labor Code.

89529.01. If the provisions of this article are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

89529.02. As used in this article:

(a) "Industrial disability leave" means temporary disability as defined in Divisions 4 (commencing with Section 3200) and 4.5 (commencing with Section 6100) of the Labor Code and includes any period in which the disability is permanent and stationary and the disabled employee is undergoing vocational rehabilitation.

(b) "Full pay" means the gross base pay earnable by the employee and subject to retirement contribution if he or she had not vacated his or her position.

89529.03. When an employee is temporarily disabled by illness or injury arising out of and in the course of state employment, he or she shall become entitled, regardless of his or her period of service, to receive industrial disability leave and payments, in lieu of workers' compensation temporary disability payments and payment under Section 89527, for a period not exceeding 52 weeks within two years from the first day of disability. The payments shall be in the amount of the employee's full pay less withholding based on his or her exemptions in effect on the date of his or her disability for federal income taxes, state income taxes, and social security taxes not to exceed 22 working days of disability subject to Section

89529.08. Thereafter, the payment shall be two-thirds of full pay. Payments shall be additionally adjusted to offset disability benefits, excluding those disability benefits payable from State Teachers' Retirement System, the employee may receive from other

employer-subsidized programs, except that no adjustment will be made for benefits to which the employee's family is entitled up to a maximum of three-quarters of full pay. Contributions to the Public Employees' Retirement System or the State Teachers' Retirement System shall be deducted in the amount based on full pay. Discretionary deductions of the employee including those for coverage under a state health benefits plan in which the employee is enrolled shall continue to be deducted unless canceled by the employee. State employer contributions to the Public Employees' Retirement System and state employer normal retirement contributions to the State Teachers' Retirement System shall be made on the basis of full pay and state contributions pursuant to Sections 22825.1 and 22826 of the Government Code because of the employee's enrollment in a health benefits plan shall continue.

89529.04. An employee who is receiving industrial disability leave benefits shall continue to receive all employee benefits which he or she would have received had he or she not incurred disability.

89529.05. The disabled employee shall not receive temporary disability indemnity or sick leave or annual leave with pay for any period for which he or she receives industrial disability leave; however, he or she may elect to waive the provisions of this article and to receive disability indemnity pursuant to Divisions 4 (commencing with Section 3200) and 4.5 (commencing with Section 6100) of the Labor Code and to receive payments under Section 89527 in lieu of the benefits provided in this article. If the amount of the employee's benefits payable under this article is less than the amount he or she would receive under Divisions 4 (commencing with Section 3200) and 4.5 (commencing with Section 6100) of the Labor Code, the employee shall be deemed to have rejected the benefits of this article and shall be paid benefits pursuant to Divisions 4 (commencing with Section 3200) and 4.5 (commencing with Section 6100) of the Labor Code.

89529.06. Division 4.7 (commencing with Section 6200) of the Labor Code shall not apply to employees to which this article applies.

89529.07. If an employee continues to be temporarily disabled after termination of benefits under this article, he or she shall be entitled to the benefits provided by Division 4 (commencing with Section 3200) and 4.5 (commencing with Section 6100) of the Labor Code and to payments under Section 89527.

89529.08. (a) If an illness or injury causes temporary disability, the employee shall be placed on industrial disability leave on the fourth calendar day after the injured employee leaves work as the result of the illness or injury, except that in case the injury causes disability of more than 14 days or necessitates hospitalization, the employee shall be placed on industrial disability leave from the first day he or she leaves work or is hospitalized as a result of the injury.

(b) Notwithstanding subdivision (a), the disability payment shall be made from the first day the injured employee leaves work as a result of the injury, if the injury is the result of a criminal act of violence against the employee.

89529.09. Payments shall be contingent on the complete medical certification of the illness or injury including diagnosis and any prognosis of recovery. Further, payments shall be contingent on the employee's agreement to cooperate and participate in a reasonable and appropriate vocational rehabilitation plan when furnished by the state subject to appropriate medical approval as determined by the trustees.

89529.10. The trustees or its designee shall adopt any rules and regulations necessary for the administration of this article for its employees.

89529.11. (a) This article shall be effective upon the adoption of applicable rules and regulations, but not later than January 1, 1975.

(b) The reenactment of this article at the 1987-88 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

INDUSTRIAL DISABILITY BENEFITS INFORMATION

Appendix B

We are sorry to hear about your misfortune and sincerely hope that you make a full recovery and return to work soon. As a CSU Employee, you are entitled to certain disability benefits as a result of your disability. You have your choice of receiving Industrial Disability Leave payments or Workers' Compensation Temporary Disability payments with the option of Supplemental of Applicable Leave Credits. The following information is being provided to assist you in making your decision about benefits selection. The attached form is provided for your convenience; when filled out and signed, it tells your campus representative which benefit you desire. Do not complete the attached selection card at this time. Review this information carefully and wait for your campus representative to contact you within 15 days of the date listed above. If you have not been contacted within the 15 day period, immediately contact your personnel office. At this time, your campus representative will help explain what your benefits are.

DESCRIPTION OF BENEFITS AVAILABLE

Questions About Your Benefits	Workers' Compensation Temporary Disability*	Workers' Compensation Temporary Disability with Supplemental of Applicable Leave Credits (Full or Partial)	Industrial Disability Leave	Industrial Disability Leave with Sick Leave Supplementation	Enhanced Industrial Disability Leave
Who is eligible for benefit payments?	All CSU Employees.	All CSU employees with Available Leave Credits.	PERS & STRS members except for those included in Labor Code Section 4800.	PERS & STRS members except for those included in Labor Code Section 4800.	PERS & STRS members who are included in bargaining unit 8.
How much will my benefit be?	Amount varies; up to \$70 per day.	Amount varies; up to \$70 per day - Plus Supplemental Leave Credits up to full pay.	Amount varies; full net pay for 22 working days; 2/3 gross pay thereafter less discretionary deductions.	Amount varies; may supplement to full net pay for as long as leave credits last.	Full net pay for 52 weeks, 365 calendar days from the date of injury or illness.
How are my medical bills to be paid?	The State Compensation Insurance Fund pays for all eligible hospital, medical and surgical expenses.	The State Compensation Insurance Fund pays for all eligible hospital, medical and surgical expenses.	The State Compensation Insurance Fund pays for all eligible hospital, medical and surgical expenses.	The State Compensation Insurance Fund pays for all eligible hospital, medical, and surgical expenses.	The State Compensation Insurance Fund pays for all eligible hospital, medical, and surgical expenses.
How long will benefits be provided?	Until able to return to work (240 weeks within 5 years from date of injury maximum).	Until able to return to work (240 weeks within 5 years from date of injury maximum).	Until able to return to work (52 weeks within 2 years from first date of disability). After expiration, you may be eligible for Workers' Compensation Temporary Disability.	Until able to return to work (52 weeks within 2 years from first date of disability). After expiration, you may be eligible for Workers' Compensation Temporary Disability.	Until able to return to work or 365 calendar days from date of injury. After expiration, you may be eligible for Workers' Compensation Temporary Disability.
Does the CSU contribution to your health insurance premium continue?	No. You must pay full premium directly to carrier to maintain coverage.	CSU contribution continues.	CSU contribution continues.	CSU contribution continues.	CSU contribution continues.
Do you continue to receive service credit for vacation, sick leave and seniority?	You continue to receive full credit.	You continue to receive full credit.	You continue to receive full credit.	You continue to receive full credit.	You continue to receive full credit.
Do you continue to make PERS contribution?	Your option. If you wish to continue membership you must pay directly to PERS.	You make PERS contributions on the leave credit portion of pay. You may pay remainder directly to PERS.	You continue to make your full PERS contribution.	You continue to make your full PERS contribution.	You continue to make your full PERS contribution.
How will disability benefits from other sources affect my benefits?	No effect.	No effect.	Your benefit may be reduced if you receive other benefits.	Your benefit may be reduced if you receive other benefits.	Your benefit may be reduced if you receive other benefits.
Is vocational rehabilitation available?	It will be provided if necessary at your discretion.	It will be provided if necessary at your discretion.	You must participate in vocational rehabilitation if it is deemed necessary.	You must participate in vocational rehabilitation if it is deemed necessary.	You must participate in vocational rehabilitation if it is deemed necessary.

*Please refer to Code for most recent amount.

Industrial Disability Leave/Workers' Compensation Temporary Disability Comparison Estimate

Name: _____ SSN: _____ Date of Injury: _____ Date: _____

LEAVE CREDIT AVAILABLE AS OF THE DATE OF INJURY:

Sick Leave	_____	Direct Deposit: Yes _____ No _____
Vacation	_____	Tax Status: _____
Overtime	_____	Federal: _____ Additional \$ _____
Personal Holiday	_____	State: _____ Additional \$ _____
Holiday Credits	_____	
Total Hours of Leave	_____	
Credit Available	_____	

I. Industrial Disability Leave (IDL) - Provides a benefit of up to 22 days at "Full Pay" which is the employee's gross salary less the amount that is normally deducted for mandatory deductions (e.g., Federal and State taxes). After 22 days, the employee is paid at a 2/3 rate of his or her gross pay. The following computations establish monthly net benefit under each option.

First 22 days:		After 22 days:	
1.	\$ _____ Gross Monthly Salary	1.	\$ _____ 2/3 Gross Monthly Salary
2.	Less _____ Federal Tax Withheld	2.	Less _____ Retirement Contribution (based on full salary)
	_____ State Tax Withheld		_____ Voluntary Deductions
	_____ FICA/Medicare	3.	Total \$ _____ Monthly Net Benefit
	_____ Retirement Contribution	WITH SUPPLEMENTATION	
	_____ Voluntary Deductions	4.	Plus _____ Supplementation
3.	Total _____ Est. Monthly Net Benefit	5.	Less _____ Federal Tax on supplemental income
			_____ State Tax on supplemental income
			_____ FICA/Medicare on supplemental income
		6.	Total \$ _____ Monthly Net Benefit

Sick Leave Credit needed for a full month of supplementation:

@ 168 hrs/month - 56 hours

@ 176 hrs/month - 59 hours

II. Workers' Compensation (TD) - The benefit is determined by the State Compensation Insurance Fund

1.	\$ _____	Monthly Temporary Disability (TD) Payment
2.	Less _____	Retirement Contribution (Optional for TD without supplementation)
3.	Less _____	Health Insurance (Total premium paid by employee - no State contribution)
4.	Total \$ _____	Estimate Monthly Net Benefit

Workers' Compensation with Supplement

5.	\$ _____	Monthly Net Benefit from #4 above	Total Leave Credits needed for a full month of supplementation: _____
6.	Plus _____	Supplementation	
7.	Less:	_____ Federal Tax Withheld on Supplemental Income	
		_____ State Tax Withheld on Supplemental Income	
		_____ FICA/Medicare on Supplemental Income	
		_____ Voluntary Deductions	
8.	Total \$ _____	Est. Monthly Net Benefit	

My industrial disability benefits and program options have been explained to me. I hereby select the following:

- _____ Industrial Disability Leave - Basic
- _____ Industrial Disability Leave with Sick Leave Supplementation
- _____ Industrial Disability Leave - Enhanced Plan (Unit 8 only)
- _____ Workers' Compensation Temporary Disability
- _____ Workers' Compensation Temporary Disability with Supplementation

I understand that I must keep my Payroll Office informed of any industrial disability benefits I receive from other programs. I agree to participate in vocational rehabilitation when furnished by the California State University or any of its designated organizations.

EMPLOYEE _____ DATE _____
Signature

CAMPUS REPRESENTATIVE _____ DATE _____
Signature

NOTE: Authority cited: Sections 133, 4600.5, 4603.5 and 5307.3, Labor Code. Reference: Sections 4600 and 4600.5, Labor Code.

HISTORY

1. New section filed 3-27-95; operative 3-27-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 13).

§ 9779.5 Reimbursement of Costs to the Administrative Director; Obligation to Pay Share of Administrative Expense.

(a) Each organization certified under this article shall pay to the administrative director an amount as estimated by the administrative director for the ensuing fiscal year, as a reimbursement of a share of all costs and expenses, including routine on-site surveys, data collection and dissemination and overhead, reasonably incurred in the administration of this article and not otherwise recovered by the administrative director under this article or from the Worker's Compensation Managed Care Fund. The amount shall be assessed annually on or before April 15 and may be paid to the Workers' Compensation Managed Care Fund in two equal installments. The first installment shall be paid on or before July 1 of each year and the second installment shall be paid on or before December 15 of each year.

(1) Annual Assessment: The assessment shall be calculated on the basis of the number of enrollees in each individual HCO. Each HCO will be assessed a sum equivalent to \$1.00 per enrollee, based on the number of enrollees enrolled in the HCO on 12/31 of the prior calendar year.

(2) Loan Repayment Assessment: Sixty days prior to the date on which the general fund loan repayment is due, the DWC will assess each certified HCO a sum to represent its share of the monies required for DWC to reimburse its general fund loan. The loan repayment assessment shall be calculated as follows:

$(\text{Outstanding loan balance}) \times (\text{number of enrollees in HCO}) \div (\text{total number of enrollees in all certified HCOS})$

(b) Non-routine audits conducted in response to complaints will be charged based on the actual cost for performing the audit. The invoice will be sent within sixty days of the completion of the audit and shall be paid within 30 calendar days after the billing date.

(c) In no case shall the reimbursement, payment, or other fee authorized by this section exceed the cost, including overhead, reasonably incurred in the administration of this article.

NOTE: Authority: Sections 133, 4600.5, 4600.7, 4603.5, 5307.3, Labor Code. Reference: Sections 4600, 4600.5, Labor Code.

HISTORY

1. New section filed 2-14-96; operative 2-14-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 7).

§ 9779.8 Copies of Documents.

Fees for copies of documents will be charged as set forth in Section 9990. Any request for copies of documents must include payment of fees by check or money order made payable to the Workers' Compensation Managed Care Fund.

NOTE: Authority: Sections 133, 4600.5, 4600.7, 4603.5, 5307.3, Labor Code. Reference: Sections 4600, 4600.5, Labor Code.

HISTORY

1. New section filed 2-14-96; operative 2-14-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 7).

§ 9779.9 Late Payment.

Failure to pay fees and assessments within sixty days after the date due pursuant to this section shall allow the administrative director to charge a late payment fee for any outstanding amount at a rate of ten percent after sixty days or one hundred dollars, whichever is greater. In addition, after sixty days a late fee of ten percent per year shall be assessed on any outstanding amount. In addition, the administrative director may suspend or revoke certifications of HCOs which fail to pay fees and assessment in a timely manner.

NOTE: Authority: Sections 133, 4600.5, 4600.7, 4603.5, 5307.3, Labor Code. Reference: Sections 4600, 4600.5, Labor Code.

HISTORY

1. New section filed 2-14-96; operative 2-14-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 7).

Article 5. Transfer of Medical Treatment

§ 9780. Definitions.

As used in this Article:

(a) "Employer" includes insurers as defined in Division 4 of the Labor Code, and any person performing the duties of an employer under Division 4, Part 2, Chapter 2, Article 2 of the Labor Code, or this Article;

(b) "Employee" includes an attorney or other representative authorized by the employee to exercise any right under Division 4, Part 2, Chapter 2, Article 2 of the Labor Code, or this Article;

(c) "Physician" has the meaning defined in Labor Code Section 3209.3;

(d) "Facility" means a hospital, clinic or other institution capable of providing the medical, surgical, chiropractic or hospital treatment which is reasonably required to cure or relieve the employee from the effects of the injury;

(e) "Reasonable geographic area" within the context of Labor Code Section 4600 shall be determined by giving consideration to:

(1) The employee's domicile, place of employment and place where the injury occurred;

(2) The availability of physicians in the fields of practice, and facilities offering treatment reasonably required to cure or relieve the employee from the effects of the injury;

(3) The employee's medical history;

(4) The employee's primary language.

(f) "First aid" is any one-time treatment, and any follow-up visit for the purpose of observation of minor scratches, cuts, burns, splinters, etc., which do not ordinarily require medical care. Such one-time treatment, and follow-up visit for the purpose of observation, is considered first aid, even though provided by a physician or registered professional personnel.

(g) "Emergency treatment" is that medical treatment reasonably required by an injured employee immediately following an industrial injury or illness, which, if delayed, could decrease the likelihood of maximum recovery.

(h) "Personal physician" means a doctor of medicine, or a doctor of osteopathy, who prior to the injury has directed the medical treatment of the employee and who retains the employee's medical records and medical history. "Personal physician" includes a corporation, partnership or association of such doctors of medicine or osteopathy.

(i) "Employee-selected physician" includes personal physician and physician or facility selected by the employee more than 30 days from the date the injury is reported.

NOTE: Authority cited: Sections 124, 127, 133, 138.2, 138.3, 138.4, 139, 139.5, 139.6, 4600, 4601, 4602, 4603, 4603.2, 4603.5, 5307.3, 5402, 5450, 5451, 5452, 5453, 5454, and 5455, Labor Code. Reference: Chapters 442, 709, and 1172, Statutes of 1977; Chapter 1017, Statutes of 1976; Chapters 1099 and 1259, Statutes of 1975.

HISTORY

1. Repealer of Article 5 (Sections 9783-9785, 9787 and 9788) and new Article 5 (Sections 9780-9787) filed 1-28-76 as an emergency; effective upon filing (Register 76, No. 5). For prior history, see Register 70, No. 49, and Register 72, No. 51.

2. Certificate of Compliance filed 1-29-76 (Register 76, No. 5).

3. New subsections (f)-(i) filed 11-7-78; effective thirtieth day thereafter (Register 78, No. 45).

§ 9780.1. Employee Selection of Personal Physician.

If an employee wishes to be treated by a "personal physician" selected pursuant to Labor Code Section 4600, the employee shall notify his employer in writing. The notice need not be in any particular form, and may be in a form reasonably required by the employer and shall advise the employer of the name and address of such personal physician. Nothing in this Article shall prohibit an employer from permitting an injured employee to be treated by a physician of the employee's choice.

NOTE: Authority cited: Sections 124, 127, 133, 138.2, 138.3, 138.4, 139, 139.5, 139.6, 4600, 4601, 4602, 4603, 4603.2, 4603.5, 5307.3, 5450, 5451, 5452, 5453, 5454, and 5455, Labor Code. Reference: Chapters 442, 709, and 1172, Statutes of 1977; Chapter 1017, Statutes of 1976.

HISTORY

1. New section filed 11-7-78; effective thirtieth day thereafter (Register 78, No. 45).

§ 9780.2. Employer's Duty to Provide First Aid and Emergency Treatment.

Where an employee has notified his or her employer in writing prior to the date of injury that he or she wishes to be treated by a personal physician pursuant to Labor Code Section 4600, and Section 9780.1 of this Article, the employer shall continue to have the duty to provide first aid treatment, and appropriate emergency treatment reasonably required by the nature of the injury or illness. Thereafter, if further medical treatment is reasonably necessary, the employee may be treated by his or her personal physician at the expense of the employer.

NOTE: Authority cited: Sections 124, 127, 133, 138.2, 138.3, 138.4, 139, 139.5, 139.6, 4600, 4601, 4602, 4603, 4603.2, 4603.5, 5307.3, 5450, 5451, 5452, 5453, 5454, and 5455, Labor Code. Reference: Chapters 442, 709, and 1172, Statutes of 1977; Chapter 1017, Statutes of 1976.

HISTORY

1. New section filed 11-7-78; effective thirtieth day thereafter (Register 78, No. 45).

§ 9781. Employee's Request for Change of Physician.

An employee's request for change of physician pursuant to Section 4601 of the Labor Code need not be in writing. The employer shall respond thereto promptly, and in the manner best calculated to reach the employee, and in no event later than 5 working days from receipt of said request. Except where the employee is permitted to select his or her own physician or facility to provide medical treatment, the employer shall advise the employee of the name and address of the alternative physician, or chiropractor if requested, the date and time of an initial scheduled ap-

pointment, and any other pertinent information. The employer may confirm its response in writing.

NOTE: Authority cited: Sections 127, 133, 138.2, 138.3, 139.5, 139.6, 4603.2, 4603.5, 5307.1, 5307.3, 5450-5455, Labor Code.

HISTORY

1. Repealer and new section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).

§ 9782. Notice to Employee of Right to Choose Physician.

Every employer shall advise his employees in writing of their right to request a change of treating physician if the original treating physician is selected initially by the employer; to be treated by a physician of his or her own choice 30 days after reporting an injury; and to direct initial medical treatment, other than appropriate emergency or first aid treatment, by designating a personal physician and notifying the employer in writing of his or her choice prior to the injury. This duty may be satisfied by incorporating such advice in a notice, if posted in a conspicuous manner at all places of employment, or by any other regularly used means of communicating information to employees.

NOTE: Authority cited: Sections 124, 127, 133, 138.2, 138.3, 138.4, 139, 139.5, 139.6, 4600, 4601, 4602, 4603, 4603.2, 4603.5, 5307.3, 5450, 5451, 5452, 5453, 5454, and 5455, Labor Code. Reference: Chapters 442, 709, and 1172, Statutes of 1977; Chapter 1017, Statutes of 1976.

HISTORY

1. Repealer and new section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. Repealer and new section filed 11-7-78; effective thirtieth day thereafter (Register 78, No. 45).

§ 9783. Duties of the Employee.

Upon selecting a treating physician or facility pursuant to Labor Code Section 4600 30 days after reporting the injury, the employee shall immediately notify the employer of the name and address of the physician or facility selected. The employee shall not be penalized for failure to so

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notify the employer if the selected physician or facility promptly gives notice to the employer of the commencement of treatment or if the employer receives this information promptly from any source.

If so requested by the selected physician or facility, the employee shall sign a release permitting the selected physician or facility to report to the employer as required by these rules.

NOTE: Authority cited: Sections 124, 127, 133, 138.2, 138.3, 138.4, 139, 139.5, 139.6, 4600, 4601, 4602, 4603, 4603.2, 4603.5, 5307.3, 5450, 5451, 5452, 5453, 5454, and 5455, Labor Code. Reference: Chapters 442, 709, and 1172, Statutes of 1977; Chapter 1017, Statutes of 1976.

HISTORY

1. Amendment filed 11-11-78; effective thirtieth day thereafter (Register 78, No. 45).

§ 9784. Duties of the Employer.

In addition to the duty of the employer to give notice pursuant to Sections 9782 or 9880, upon being notified of the name and address of the employee-selected physician or facility, the employer, after treatment has commenced, shall promptly authorize such physician or facility to provide all medical treatment reasonably required to cure or relieve the employee from the effects of the industrial injury, furnish the name and address of the person to whom billing for treatment should be sent, and provide such other information as is required by this Article.

The employer shall also arrange for the delivery to the selected physician or facility of all medical information relating to the claim, all X-rays and the results of all laboratory studies done in relation to the injured employee's treatment.

If the employee-selected physician or facility fails to provide adequate medical reports pursuant to Section 9785, the employer shall promptly notify said physician or facility of the requirements of Section 9785.

NOTE: Authority cited: Sections 124, 127, 133, 138.2, 138.3, 138.4, 139, 139.5, 139.6, 4600, 4601, 4602, 4603, 4603.2, 4603.5, 5307.3, 5450, 5451, 5452, 5453, 5454, and 5455, Labor Code. Reference: Chapters 442, 709, and 1172, Statutes of 1977; Chapter 1017, Statutes of 1976.

HISTORY

1. Repealer and new section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment filed 11-11-78; effective thirtieth day thereafter (Register 78, No. 45).

§ 9785. Duties of the Employee-Selected Physician.

The physician or facility chosen by the employee who undertakes to provide treatment pursuant to Labor Code Section 4600 shall:

(a) Within 3 working days after undertaking to provide such treatment notify the employer of the name and address of such treating physician or facility, and

(b) Within 5 working days following initial examination submit a written report to the employer to include:

- (1) The name and address of injured employee;
- (2) The employee's medical history as obtained by the physician, including any significant prior injuries or disabilities;
- (3) Findings on examination, including the objective findings, the subjective complaints reported by the employee, and the diagnosis, including any applicable ICD-9-CM Number;
- (4) The planned course, scope, frequency and duration of treatment, including an estimated date of completion of treatment;
- (5) If appropriate, the estimated return-to-work date for regular or modified work;
- (6) An opinion as to whether residual permanent disability is to be anticipated and, if possible, an estimate of its extent;
- (7) An opinion as to whether the employee will eventually be able to engage in the occupation being performed at the time of injury.

Information required under this subdivision which is included in a "Doctor's First Report of Occupational Injury or Illness" submitted pursuant to Section 14007 may be supplied by attaching a copy of this form to the report.

(c) Submit progress reports no less frequently than every 45 days or 12 visits with the physician or a provider prescribed by the physician,

whichever occurs first, in the form and manner prescribed by the Administrative Director.

(d) Report promptly to the employer when:

(1) The employee's condition permits return to modified or regular work;

(2) The employee's condition requires him or her to leave work;

(3) Hospitalization or surgery is indicated or recommended;

(4) The employee's condition becomes permanent and stationary;

(5) The employee's condition undergoes a previously unexpected significant change or there is any significant change in the treatment plan reported under paragraph (4) of subdivision (b) This report shall contain any information required in the initial report under subdivision (b) which has changed, including any change in the proposed course, scope, frequency and duration of treatment and estimated date of completion of treatment;

(6) The employee is referred to another physician for consultation;

(7) The employer reasonably requests additional appropriate information;

(8) The physician concludes that the employee's permanent disability precludes, or is likely to preclude, the employee from engaging in the employee's usual occupation or the occupation in which the employee was engaged at the time of the injury, as required pursuant to Labor Code Section 4636(b).

(e) When required under section 9785.5, provide a report of findings of permanent disability, in the manner set forth in that section.

(f) Any controversies concerning this section shall be resolved pursuant to Labor Code Section 4603 or 4604, whichever is appropriate. NOTE: Authority cited: Sections 133, 139.5, 4603.2, 4603.5 and 5307.3, Labor Code. Reference: Sections 4600, 4603.2 and 4636, Labor Code.

HISTORY

1. Amendment filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment of subsection (b) filed 11-11-78; effective thirtieth day thereafter (Register 78, No. 45).
3. Amendment of subsections (c) and (d) and new subsection (e) filed 7-11-89; operative 10-1-89 (Register 89, No. 28).
4. Amendment of section and NOTE filed 8-31-93; operative 8-31-93. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 36).
5. New subsection (e) and subsection relettering filed 3-27-95; operative 3-27-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 13).

§ 9785.5. Primary Treating Physician.

(a) The primary treating physician is the physician primarily responsible for managing the care of an injured employee who has examined the employee at least once for the purpose of rendering or prescribing treatment and has monitored the effect of the treatment thereafter. The primary treating physician is the physician selected by the employer or the employee pursuant to Article 2 (commencing with Section 4600) of Chapter 2 of Part 2 of Division 4 of the Labor Code, or under the contract or procedures applicable to a Health Care Organization certified under Section 4600.5 of the Labor Code.

(b) Where the primary treating physician has been selected by the employer or through a Health Care Organization, the primary treating physician shall be identified in a report to the employer and to the employee or the employee's representative. Where the employee has chosen the primary treating physician, he or she shall be identified in the physician's initial treatment plan submitted in accordance with Section 9785. If there is a change in the initial designation by an employer, employee, or Health Care Organization, the new primary treating physician shall be identified in a subsequent report to the employer and the employee or the employee's representative.

(c) There shall be no more than one primary treating physician at a time. Where the primary treating physician discharges the employee from further treatment and there is a dispute concerning the need for continuing treatment, no other primary treating physician shall be identified unless and until the dispute is resolved. If it is determined that there is no further need for continuing treatment, then the physician who discharged

the employee shall remain the primary treating physician. If it is determined that there is further need for continuing treatment, a new primary treating physician may be selected and identified in accordance with subdivisions (a) and (b).

(d) The primary treating physician, or the physician designated by the treating physician, shall render opinions on all medical issues necessary to determine the employee's eligibility for compensation. When the physician determines that the employee's condition is permanent and stationary, the physician shall report any findings concerning the existence and extent of permanent impairment and limitations and any need for continuing medical care resulting from the injury. These findings should be reported in accordance with Section 10606 and may be reported on the form promulgated by the Industrial Medical Council pursuant to paragraph (9) of subdivision (e) of Section 139 of the Labor Code, but shall include additional information where necessary to adequately convey the factors which may affect the employee's entitlement to compensation.

(e) The primary treating physician shall be responsible for obtaining all of the reports of other treating physicians and shall incorporate, or comment upon, the opinions of the other treating physicians in the primary treating physician's report and attach all of the reports for submission to the employer. The reports of other treating physicians may be on the form promulgated by the Industrial Medical Council pursuant to paragraph (9) of subdivision (e) of Section 139 of the Labor Code, but shall include additional information where necessary to adequately convey the facts which may affect the employee's entitlement to compensation.

(f) The report of the primary treating physician as well as the report of any other treating physician shall be payable in accordance with the Official Medical Fee Schedule adopted pursuant to Section 5307.1 of the Labor Code unless such report also meets the definition of a comprehensive medical-legal evaluation, follow-up medical-legal evaluation, or supplemental medical-legal evaluation in Section 9793.

NOTE: Authority cited: Sections 133, 4061.5, 4603.5 and 5307.3, Labor Code. Reference: Sections 139 and 4061.5, Labor Code.

HISTORY

1. New section filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
2. Amendment of subsection (d) filed 3-27-95; operative 3-27-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 13).

§ 9786. Employer's Petition for Order Requiring Employee to Select Employer-Designated Physician.

(a) An employer desiring a change of employee-selected physician pursuant to Labor Code Section 4603 shall file with the Administrative Director a Petition for Order Requiring Employee to Select Employer-Designated Physician. Said petition shall be filed and verified under penalty of perjury on a form and in a manner prescribed by the Administrative Director.

Said petition shall be accompanied by any supportive documentary evidence filed therewith and proof of service on the employee or, if represented, the employee's authorized attorney or representative, and upon the employee-selected and currently treating physician or chiropractor.

(b) Good cause to grant the petition shall be clearly shown by verified statement of facts, and, where appropriate, supportive documentary evidence. Good cause includes, but is not limited to any of the following:

(1) The treating physician has failed to comply with subdivision (b) or (d) of Section 9785 by not timely submitting a required report or submitting a report which is inadequate due to material omissions or deficiencies;

(2) The treating physician has failed to comply with subdivision (c) of Section 9785 by failing to submit timely and complete reports on two or more occasions;

(3) A clear showing evidenced by medical reports that current treatment is inappropriate and that the employer is prepared to offer more effective treatment to cure or relieve from the effects of the injury or illness. If the current treatment is consistent with the treatment plan submitted pursuant to Section 9785, however, good cause shall not be deemed to exist

unless, within 15 calendar days of receipt of (A) the treatment plan submitted pursuant to subdivision (b) of Section 9785 or (B) the report of any significant change to the treatment plan submitted pursuant to subdivision (d)(5) of Section 9785, the employer notified the physician:

(i) of any objections to the treatment plan, or to a change to the treatment plan, including the medical basis for the objections, or

(ii) that the employer is scheduling a consultation with another physician to assist in assessing the treatment plan and the employer notified the physician of any objections to the treatment plan, or change to the treatment plan, including the medical basis for the objections, within 15 days of receipt of the consultation report;

(4) A clear showing that the current treatment is not consistent with the treatment plan submitted pursuant to Section 9785;

(5) A clear showing that the employee-selected physician or facility is not within a reasonable geographic area.

Where good cause is based on inadequate reporting under paragraphs (1), (2) or (3), the petition must show, by documentation and verified statement, that the employer notified the treating physician or facility of the requirements of Section 9785 prior to the physician's failure to properly report.

Good cause shall not include a showing that there is no present need for medical treatment to cure or relieve from the effects of the injury. The employer's contention that the employee is no longer in need of medical treatment to cure or relieve from the effects of the injury or illness should be directed to the Workers' Compensation Appeals Board, not the Administrative Director, in support of a Petition for Order Requiring Employee to Select Employer-Designated Physician.

(c) The employee, his or her representative, or the treating physician may file with the Administrative Director a response to said petition, provided the response is filed and served on the employer and all other parties no later than 20 days after service of the petition. If the responding party wishes the contents of said response, and any supportive evidentiary documents to be considered by the Administrative Director as evidence relating to the issue of good cause, said response shall be verified under penalty of perjury in the same manner as is the Petition for Change of Physicians form provided for in this Section.

(d) The Administrative Director shall, within 45 days of the receipt of the petition, either:

(1) Dismiss said petition, without prejudice, for failure to show good cause or to meet the requirements of this Section;

(2) Deny said petition pursuant to a finding that there is no good cause to require the employee to select an employer-designated physician;

(3) Grant said petition and issue an order requiring employee to select employer-designated physician pursuant to a finding that good cause exists therefor; or

(4) Set the matter for hearing before the Administrative Director or a member of the Administrative Director's staff for hearing and determination or refer the matter to the Workers' Compensation Appeals Board for hearing and determination by a Workers' Compensation Judge of such factual determinations as may be requested by the Administrative Director.

(e) The employer's liability to pay for medical treatment by the employee-selected physician shall continue until an order of the Administrative Director issues granting the petition.

(f) The foregoing provisions of this Section notwithstanding the Administrative Director may elect to attempt informal adjustment of the employer-employee dispute as to treating physician.

(g) The Administrative Director may extend the time specified in Subsection (d) within which to act upon the employer's petition for a period of 30 days.

(h) Amendments to subdivision (b) filed in 1993 shall apply only where the initial examination occurred on or after October 1, 1993. Subdivision (b) as it is existed prior to the effective date of these amendments shall remain in force where the initial examination occurred prior to October 1, 1993.

NOTE: Authority cited: Sections 133, 139.5, 4603, 4603.2, 4603.5, and 5307.3, Labor Code. Reference: Sections 4600, 4603 and 4603.2, Labor Code.

HISTORY

1. Repealer and new section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment of subsections (a), (c), (d)(4), (e), and (f) filed 11-11-78; effective thirtieth day thereafter (Register 78, No. 45).
3. Amendment of subsection (a) filed 8-9-84; effective thirtieth day thereafter (Register 84, No. 35).
4. Change without regulatory effect of subsection (c) filed 7-11-86; effective upon filing (Register 86, No. 28).
5. Amendment of section and NOTE filed 8-31-93; operative 8-31-93. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 36).
6. Amendment of subsections (b)(5), (d), and (g) filed 3-27-95; operative 3-27-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 13).
7. Editorial correction of subsection (h) (Register 95, No. 29).
8. Editorial correction of inadvertently omitted subsection (d)(2) (Register 96, No. 52).
9. Amendment of subsection (f) and repealer and new subsection (g) filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).

§ 9787. Appeal from Administrative Director's Order Granting or Denying Petition for Order Requiring Employee to Select Employer-Designated Physician.

Any order denying or granting the employer's petition whether issued with or without hearing, shall be final and binding upon the parties unless within 30 days from service thereof the aggrieved party petitions the Workers' Compensation Appeals Board for relief in the manner prescribed by the Board's Rules of Practice and Procedure.

HISTORY

1. Repealer and new section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).

Article 5.5. Application of the Official Medical Fee Schedule (Treatment)

§ 9790. Authority.

The rules and regulations contained in this Article are adopted pursuant to the authority contained in Sections 133, 4603.5, 307.1 and 5307.3 of the California Labor Code.

NOTE: Authority cited: Sections 133, 4603.5, 5307.1 and 5307.3, Labor Code. Reference: Sections 4600, 4603.2 and 5307.1, Labor Code.

HISTORY

1. New article 5.5 (sections 9790-9792) filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment of section and NOTE filed 10-7-93; operative 1-1-94 (Register 93, No. 41). This filing is exempt from much of the APA (including OAL review) pursuant to Government Code section 11351.
3. Editorial correction (Register 95, No. 15).

§ 9790.1. Definitions.

(a) "Composite factor" means the factor calculated by the administrative director for a health facility by adding the prospective operating costs and the prospective capital costs for the health facility, excluding the DRG weight and any applicable outlier payment, as determined by the federal Health Care Financing Administration for the purpose of determining reimbursement under Medicare.

(b) "DRG weight" means the weighting factor for a diagnosis-related group assigned by the Health Care Financing Administration for the purpose of determining reimbursement under Medicare.

(c)(1) "Revised DRG weight" means the producer of the DRG weight multiplied by the ratio set forth in subsection (c)(2) for 48 specified DRGs to reflect the different resource usage between the workers' compensation population and the Medicare population.

(2) The ratios to be applied to the DRG weights are as follows:

ASSIGNMENT OF RESPONSIBILITIES

When an employee becomes industrially disabled, the parties involved shall assume the following responsibilities: (Please see Appendix H for an employee IDL claim process flow chart.)

Injured Employee

After sustaining a work-related injury or illness, immediately reports it to his/her supervisor and requests an employee claim form but not later than 24 hours after the injury becomes known.

Supervisor of Injured Employee or Appropriate Campus Administrator

- 1.) Arranges for, or administers, first aid; arranges for transportation to and treatment by a physician, if necessary.
- 2.) Prepares "Supervisor's Injury Prevention Report," Standard Form 620. Provides employee claim form #DWC3301 to employee within 24 hours of notification of injury or illness. (If unsure of the work-related status of the injury, check box 2.6 of Form 620 - "From the facts I need my superior's or a physician's advice. The alleged claim of injury is not clearly identified with CSU employment.")
- 3.) If the injury causes death or a serious injury or illness, a telephone report of the incident shall be made immediately to the appropriate office of the Department of Industrial Relations (Labor Code Section 6409.1).

Appropriate Campus Administrator

Prepares "Employer's Report of Occupational Injury or Illness," State Compensation Insurance Fund (SCIF) Form 3067 (if the employee was hospitalized or absent from the job one or more work days because of that injury), and mails it to the SCIF Adjusting Office serving the campus that initiated the injury report along with the employee claim form DWCI 3301. Do not count the day of injury as a day of absence. Form 3067 must be submitted to SCIF no later than 5 days after notification of the employee's work injury or death.

Within five (5) working days from receiving notice of knowledge of a work related injury, the campus administrator notifies the injured employee or his/her dependents of the benefits to which the employee or dependents may be entitled.

State Compensation Insurance Fund (SCIF) Adjusting Office

- 1.) Verifies:
 - A.) Campus/departmental liability for Workers' Compensation benefits;
 - B.) That the injured employee is temporarily disabled (a requirement for IDL benefits).
- 2.) Sends SCIF Form 3290, "Temporary Disability Verification of State Employee," to the campus IDL Administrator noting:
 - A.) An authorized period of temporary disability;
 - B.) The daily calendar Temporary Disability (TD) rate. (Needed by the Personnel Office, and the injured employee, to compare with the daily IDL rate. If the IDL rate is less than the TD, IDL must be waived.)
- 3.) Notifies the injured employee (usually 10-15 days after receiving the injury report, SCIF Form 3067) of the general benefits due under TD and IDL.

Sends SCIF Form C-68, "Notice About Your Workers' Compensation Benefits" to the disabled employee.
- 4.) Sends the Workers' Compensation/IDL Administrator a copy of SCIF Form C-68.

Campus IDL Administrator/Return to Work Coordinator

Following receipt of the campus IDL Administrator's copy of the SCIF Form C-68, arranges for the counseling of the disabled employee within 15 days of the date on the SCIF Form C-68 in order to:

- 1.) Explain the benefit options available under both TD and IDL through a telephone call or a personal visit to the employee.
- 2.) Assist the employee to select the best benefit, TD or IDL by answering his/her questions. Do not advise on which benefits to select.

Disabled Employee

Selects his/her choice of benefits, either TD with or without supplementation of available leave credits (sick leave, vacation, and/or CTO), or IDL with or without supplementation of sick leave credits and mails "Disability Benefit Selection Notice #619" to the campus IDL Administrator as notification of benefit selection.

Note: The employee has 15 days from the date typed on his/her copy of Form 619 to notify the Human Resources Office of the benefits selected via the above selection notice. If no notification is made, the campus is required to provide IDL benefits (provided IDL benefits are in fact greater than TD benefits).

If the disabled employee is incapable of making decisions for himself/herself, request a guardian/trustee be appointed through SCIF by the Workers' Compensation Appeals Board.

Appropriate Campus Administration

- 1.) Notifies the appropriate SCIF Adjusting Office using SCIF Form 68-A, "Supplemental Information Regarding Work Disability," of any significant factors affecting the disabled employee's benefits. Such factors include:
 - A.) Employee is not a PERS or STRS member and is not eligible for IDL.
 - B.) Employee has initially chosen TD rather than IDL (Note: No notification necessary if employee chooses IDL).
 - C.) IDL rate is below TD rate.
 - D.) Employee initially chooses Workers' Compensation Temporary Disability payment but changes to IDL after 90 days or vice versa.
 - E.) Employee refused appropriate rehabilitation plan and loses his/her eligibility for IDL and must be placed on Workers' Compensation Temporary Disability payments.
 - F.) Employee has exhausted his/her IDL benefits and must be placed on Workers' Compensation Temporary Disability benefits if he/she is still temporarily disabled.

- 2.) Maintains complete and accurate records of calendar days absent while the employee is on leave. Each new independent disability must be recorded separately with its own 52 week period. However, reoccurrence of old disabilities do not entitle the disabled employee to a new 52 week IDL eligibility period.
- 3.) Notifies State Controller via Standard Form 674D or PPT of:
 - A.) The number of calendar days of IDL within each pay period;
 - B.) The number of days the disabled employee worked or would have worked in each pay period had he/she not been disabled;
 - C.) Any changes in the salary rate of the employee on IDL; and
 - D.) Any change in the employee's choice of benefits after 90 days of disability.

NOTE: Authority cited: Sections 133, 5307.3 and 5404.5, Labor Code. Reference: Sections 5401, 5402 and 5404.5, Labor Code.

HISTORY

1. New section filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

§ 10121. Date of Denial for Purposes of End of Tolling of Limitations Period.

For purposes of Labor Code Section 5401(c), the date "the claim is denied" for determining when the claim form ceases to toll the specified limitations periods is:

- (a) the date the written denial notice is personally served, or
- (b) five days after the written denial notice is placed in the mail if the address is within the State of California, ten days if the address is outside the State of California, but within the United States and twenty days if the address is outside of the United States.

The written denial notice must be issued in accordance with the notice regulations in Title 8, CCR, Subchapter 1, Article 8, Sections 9810 et seq. in order to cease the claim form's tolling of the limitations periods.

NOTE: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Section 5401, Labor Code.

HISTORY

1. New section filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

Article 7. Vocational Rehabilitation

§ 10122. Definitions.

The following definitions apply to this article and are in addition to those as set forth in Labor Code section 4635:

- (a) Case Initiation Document. The cover sheet that provides the name and address of the party(ies) and their representatives, if any, requesting action from the rehabilitation unit.
- (b) Claims Administrator. The person or entity responsible for the payment of compensation for a self-administered insurer providing security for the payment of compensation required by Divisions 4 and 4.5 of the Labor Code, a self-administered self-insured employer, or a third-party claims administrator for a self-insured employer, insurer, legally uninsured employer, or joint powers authority.
- (c) Correct Rehabilitation Unit District Office. The district office venue assigned by the Rehabilitation Unit.
- (d) Employer. The person or entity that employed the injured worker at the time of injury.
- (e) In-House Qualified Rehabilitation Representative. An employee of the insurer who is capable of developing and implementing a vocational rehabilitation plan and whose experience and regular duties involve the evaluation, counseling or placement of disabled persons, and who is familiar with this article and Article 2.6 (commencing with Section 4635) of Chapter 2 of Part 2 of Division 4 of the Labor Code.
- (f) Insurer. Has the same meaning as in Labor Code Section 3211.
- (g) Notices. Required notices letters generated by the claims administrator and directed to the injured worker.
- (h) Parties. The employee, claims administrator and their designated representatives, if any.
- (i) Rehabilitation Provider. A person or entity providing vocational rehabilitation services for a fee.
- (j) Rehabilitation Unit. The unit established within the Division of Workers' Compensation.
- (k) Regular Position: A position arising from the ongoing business needs of the employer which consists of defined activities that can be reasonably viewed as required or prudent in view of the company's business objectives and is expected to last at least 12 months.
- (l) Represented Employee: An injured worker who has retained an attorney-at-law who is a member in good standing of the State Bar of California.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 124, 139.5 and 4635, Labor Code.

HISTORY

1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. Change without regulatory effect amending section filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).
3. Amendment filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

§ 10123. Reporting Requirements.

(a) Except for notices required by this article to be sent to an employee, all forms or correspondence submitted to the Rehabilitation Unit shall include:

- (1) Rehabilitation Unit file number, or
- (2) Case Initiation Document or promulgated form requesting action which includes the Rehabilitation Unit file number as the cover sheet for the information being submitted.

Documents which have neither a Rehabilitation Unit file number or a Case Initiation Document will be returned to the sender with instructions for proper filing.

(b) All forms, notices, reports and other communications subject to Labor Code section 139.5 and article 2.6 commencing with Labor Code section 4635 are to be served simultaneously on all parties.

(c) All forms and reports as required by this article shall be submitted to the correct Rehabilitation Unit District Office in the manner prescribed by the Administrative Director.

(1) Incomplete forms or forms with incomplete information attached may be returned to the sender. Each form has instructions as to the reports/information which must be attached.

(2) A form filed without the attachments and a specific listing of all enclosures as required by the instruction section of the form is deemed incomplete and shall be denied or returned to sender for proper submission. All incomplete requests will be date stamped.

(3) The Rehabilitation Unit shall serve a copy of the transmittal information upon the other parties when a form is returned.

(d) Filing instructions and venue lists shall be provided upon request by the Rehabilitation Unit. Requests shall be submitted to:

REHABILITATION UNIT HEADQUARTERS
P. O. BOX 420603
SAN FRANCISCO, CA 94142

(e) All forms submitted to the Rehabilitation Unit shall bear original signatures and shall be on forms as issued by the Administrative Director or forms approved by the Administrative Director.

(1) No forms, notices or reports shall be forwarded to the Rehabilitation Unit when the claims administrator has raised a good faith issue of injury arising out of and occurring in the course of employment, until the claims administrator has accepted liability for the injury or there has been a finding of injury by the Workers' Compensation Appeals Board.

(2) Any requests for provision of rehabilitation services and for intervention/dispute resolution require confirmation by the employee or his/her representative that liability for the injury has been accepted.

Forms sent to the Rehabilitation Unit when a good faith issue of injury exists or where there has been no confirmation of acceptance of injury, shall be returned to the sender.

(f) All required notices shall be sent to the employee and his or her attorney, if any, on a timely basis by the claims administrator in the form and manner prescribed by the Administrative Director. Failure to provide notices timely shall subject the insurer, third party administrator or self-insured employer to administrative or civil penalties. The notices are timely when sent according to the requirements of Section 9813.

(g) The insurer shall advise the employer of a potential refund as described in Labor Code section 4638 no later than the required date of the initial notice of potential eligibility.

(h) The claims administrator shall retain a true copy of all notices sent to the employee and shall provide the unit with a copy upon request.

(i) When an employer, claims administrator or an employee chooses to be represented in matters pending before the Rehabilitation Unit, the represented party or representative shall notify the Rehabilitation Unit by

completing and filing DWC Form RU-101, "Case Initiation Document." Notice of representation to the Appeals Board shall not be considered notice to the Rehabilitation Unit.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5, 4636, 4637, 4638 and 4645, Labor Code.

HISTORY

1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code Section 11351.
2. Change without regulatory effect amending section filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).
3. Amendment of subsections (a)(2), (c)(2), (d), (e), (e)(1) and (f), repealer of subsections (f)(1)-(g)(2) and subsection relettering, and amendment of newly designated subsections (g)-(i) filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
4. Change without regulatory effect amending subsection (f) and NOTE filed 3-14-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 11).
5. Amendment of subsection (g) filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

§ 10123.1. Reproduction of Forms, Notices.

Any person or entity may reproduce all the forms required by this article and Article 2.6 of Chapter 2, Part 2 of Division 4 of the Labor Code (commencing with section 4635), including the pamphlet entitled "Help In Returning To Work-94" (Section 10123.2), and may only modify the heading to permit imprinting the name, address, telephone number and logo-type or other identifier of an employer, insurer or third party administrator.

The forms may be reproduced on white paper and must otherwise be comparable in type size, typestyle and format, to that promulgated by the Administrative Director in this section.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5, 4636, 4637, 4638 and 4645, Labor Code.

HISTORY

1. Change without regulatory effect adding new section filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).
2. Editorial correction of printing error restoring section 10123.2 (Register 91, No. 31).
3. Renumbering and amendment of former section 10123.2 to section 10123.1 filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
4. Amendment filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).
5. Amendment of first paragraph filed 8-7-95; operative 8-7-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 32).
6. Amendment of first paragraph filed 9-11-95; operative 9-11-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 37).

§ 10123.2. Unrepresented Employees.

The Rehabilitation Unit shall assist an unrepresented worker in complying with section 10123 of these regulations. Such assistance may include directing the worker to the correct Rehabilitation Unit district office, obtaining all reports and/or obtaining information necessary to make a determination on disputed issues.

NOTE: Sections 133, 139.5, 139.6 and 5307.3, Labor Code. Reference: Sections 139.5, 4636, 4637, 4638 and 4645, Labor Code.

HISTORY

1. Change without regulatory effect adding new section filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).
2. Editorial correction of printing error restoring section 10123.1 (Register 91, No. 31).
3. Renumbering of former section 10123.1 to section 10123.2 filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

§ 10123.3. Referral to Rehabilitation Providers; Facilities.

(a) An insurer may not refer an injured worker to a rehabilitation provider or facility in which the insurer has a proprietary interest. Nothing in this subdivision shall be construed to restrict or prohibit return-to-work services provided by a health care organization certified under Section 4600.5 of the Labor Code.

(b) A rehabilitation provider may not refer an injured worker to a evaluation facility or education or training program in which the rehabilitation provider has a proprietary interest or contractual relationship, express or implied. This extends to the provider's spouse, employer, employee or any party with whom he or she has entered into a contract.

(c) An in-house qualified rehabilitation representative may provide vocational rehabilitation services only if the expenses charged to the claimant for such services are disclosed to the insured and agreed to in advance.

(d) This section applies only to injuries which occur on or after January 1, 1994.

NOTE: Authority cited: Sections 133, 139.5, 139.6 and 5307.3, Labor Code. Reference: Section 139.5(h), Labor Code.

HISTORY

1. New section filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

§ 10124. Identification of Medical Eligibility.

(a) For Injuries Occurring on or after 1/1/90 through 12/31/93 at days of Aggregate Total Temporary Disability.

Within 25 days of receipt of the assignment required by subdivision (a) of Labor Code section 4636, the qualified rehabilitation representative shall:

(1) Meet with the employee to explain the services available to the employee in returning to work. If the employee's medical eligibility for vocational rehabilitation services has not yet been determined, the qualified rehabilitation representative shall assist the employee and confer with the employer in the joint development of a job description, using their DWC Form RU-91, "Description of Employee's Job Duties" and a narrative description, which may include a video tape of the tasks, work site and equipment.

(2) Submit DWC Form RU-90, "Treating Physician's Report of Eligibility Status," and the job description to the employee's treating physician and request the physician to determine the employee's medical eligibility for vocational rehabilitation services.

(3) Provide the injured worker with the "Help In Returning to Work" pamphlet published by the Department of Industrial Relations, Division of Workers' Compensation.

(b) For Injuries Occurring on or after 1/1/94.

When 90 days of aggregate total disability occurs, the claims administrator shall, within 10 days, provide the employee "Help In Returning Work-94" along with information on how to contact an Information Assistance officer. (Reference 9813(d)(1)).

(1) If the employee's medical eligibility for vocational rehabilitation services has not yet been determined, the claims administrator shall assist the employee in the joint development of a job description, using DW Form RU-91, Description of Employee's Job Duties or a narrative description which may include a video tape of the tasks, worksite and equipment. If the employee unreasonably refuses to participate in the development of a joint job description, the employer's description shall be presumed to be the joint description.

(2) In the event that a dispute regarding the job duties cannot be solved by the parties, the claims administrator shall submit this dispute to the Rehabilitation Unit. The Rehabilitation Unit will resolve the dispute on an expedited basis.

(3) The claims administrator must submit the DWC Form RU "Treating Physician's Report of Disability Status", and the job description to the employee's treating physician and request the physician to determine the employee's medical eligibility for vocational rehabilitation services. In the event the treating physician is unable to determine if employee is medically eligible for services, the claims administrator shall continue to contact the physician at no less than 60 day intervals until the physician can make a determination.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5 and 4636, Labor Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 10124 to section 10127.1 and former section 10124.1 to section 10124 filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10). For prior history, see Register 90, No. 4.
2. Editorial correction of printing error restoring section 10124 (Register 91, No. 31).

[The next page is 1265.]

3. Amendment of section heading and section filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
4. Change without regulatory effect amending subsection (b) filed 3-14-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 11).
5. Amendment of subsections (b)-(b)(1) filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

§ 10124.1. Initial Consultation.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5 and 4636, Labor Code.

HISTORY

1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. Change without regulatory effect renumbering and amending former section 10124 to section 10127.1 and former section 10124.1 to section 10124 filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10). For prior history, see Register 90, No. 4.
3. Editorial correction restoring section and adding HISTORY 2. (Register 91, No. 46).

§ 10125. Maximum Vocational Rehabilitation Expenditures for Injuries Occurring On or After 1/1/94.

The maximum expenditure for counseling fees, training, maintenance allowance, and costs associated with and arising out of vocational rehabilitation services shall begin when all of the following events have occurred:

- (a) The claims administrator has identified the employee as medically eligible for vocational rehabilitation services and has sent a notice of potential eligibility to the employee;
- (b) The employee has received notice in writing that confirms the lack of alternate or modified work with the employer;
- (c) The employee has made a request for vocational rehabilitation services.

Nothing in this article shall be construed to limit or discourage the use of additional public or private resources in addition to the maximum expenditure payable by the insurer as a part of a vocational rehabilitation plan.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5, 4636, 4638 and 4642, Labor Code.

HISTORY

1. Renumbering of former section 10125 to section 10127.2 and new section filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

§ 10125.1. Vocational Rehabilitation Maintenance Allowance.

(a) Vocational Rehabilitation Maintenance Allowance (VRMA) payments shall be made every 14 days on the day designated with the first payment.

(b) If the employee fails to reasonably cooperate with the provisions of vocational rehabilitation services subsequent to a request, the claims administrator may notify the worker of the claims administrator's intent to withhold the employee's maintenance allowance in accordance with Section 9813 (c)(4) and (d)(4). Failure to cooperate includes unreasonable failure to attend scheduled meetings and unreasonable failure to follow-up on tasks assigned in the development or implementation of a vocational rehabilitation plan.

(c) When the injured worker is receiving or should be receiving VRMA, the maintenance allowance payable during any delay caused by the employer or claims administrator shall be paid to the injured worker at the temporary disability rate. "Delay" includes any delay in the employer's provision of notice to the employee in accordance with subdivision (d) of Section 4636 of the Labor Code. For injuries occurring on or after 1/1/94, such payments will not be counted against the maximum allowable expenditure for vocational rehabilitation services or against the 52 week limitation on maintenance allowance payments.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5, 4636, 4638 and 4642, Labor Code.

HISTORY

1. New section filed 12-31-93; operative 1-1-94. Submitted to OAL for print only pursuant to Government Code section 11351 (Register 93, No. 53).
2. Change without regulatory effect amending subsection (a) filed 3-14-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 11).
3. Amendment of subsection (c) filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

§ 10126. Vocational Rehabilitation; Plans and Offers of Modified or Alternate Work.

(a) For Injuries occurring prior to 1/1/94,

(1) Within ninety (90) days after determination of the employee's vocational feasibility, the claims administrator shall either:

(a)(a) Submit Vocational Rehabilitation Plan, DWC Form RU-10 agreed to by the parties with appropriate attachments or,

(b)(b) Advise the Rehabilitation Unit of any dispute by filing a "Request For Dispute Resolution", DWC Form RU-103, to the Rehabilitation Unit, attaching a summary of the informal conference and the results thereof, including identification of the issues, issues resolved, issues pending, position of the parties and the rationale/supporting information for the position(s).

(2) A vocational rehabilitation plan that provides for modified or alternate work with the same employer and has been agreed to by the employer and employee shall not be subject to Rehabilitation Unit approval prior to implementation.

(3) Where a question arises concerning the duration of alternate plan of equal merit, the unit shall approve the plan that expedites the employee's return to suitable gainful employment.

(b) For Injuries Occurring On Or After 1/1/94.

(1) Offers to provide alternate or modified employment with the employer which meet the criteria of Labor Code Section 4644(a)(5), (6), (7) do not require a written plan nor approval from the Rehabilitation Unit. The offer shall be made on DWC Form RU-94. The injured worker shall accept or reject a bona fide offer within 30 calendar days of receipt of the offer. In the event that the offer is not accepted or rejected within 30 days, the offer is deemed rejected unless the time period for reply extended by the employer or by the terms and conditions of a collective bargaining agreement. The claims administrator shall submit a copy of the acceptance or rejection of the re-employment offer to the Rehabilitation Unit within 30 days of the acceptance or rejection.

(2) Plans developed for unrepresented employees or plan developed without the service of a Qualified Rehabilitation Representative require the approval of the Rehabilitation Unit. The plan must be submitted, on DWC Form RU 102, to the Rehabilitation Unit within 15 days of the agreement to the provisions of the plan.

(3) Agreed plans developed by a Qualified Rehabilitation Representative for represented employees do not require Rehabilitation Unit approval. The claims administrator shall submit a copy of the plan to the Rehabilitation Unit upon submission of the Notice of Termination Vocational Rehabilitation Services at the time of completion.

(4) Plans which provide the employee with discretionary monies to be used on a non-specific and/or self-directed basis must be reviewed by the Rehabilitation Unit to determine whether the plan is in conflict with Labor Code Section 4646. Any plan found to be in conflict with Labor Code Section 4646 shall not terminate an insurer's liability to provide vocational rehabilitation services and any money expended on such a plan shall not be counted against the maximum expenditure for vocational rehabilitation services.

(5) An employee may be granted a waiver of the services of a Qualified Rehabilitation Representative if the employee has made substantial progress towards the completion of a certificate or degree program from community college, California State University, or the University of California.

ifornia. Substantial progress includes but is not limited to situations where the employee can demonstrate all of the following:

(a)(a) The employee is, was, or will be enrolled as a full-time student taking 12 units or more;

(b)(b) The employee has completed 35% or more of the units necessary to complete the degree or certificate program and has attained at least a "C" grade in those courses necessary to complete the degree or certificate program;

(c)(c) The employee has produced a letter of recommendation from the school in which the employee is enrolled supporting the employee's course of study from one of the following: the Dean of Admissions, the school department head or the school counselor. Accompanying the letter shall be an outline of the courses to be taken and the estimated time frames for completion of each course.

(d)(d) The employee has identified the vocational goal to be achieved, the resources and time frames required to achieve the goal and, if the goal extends beyond the maximum expenditures and time frames allowed, the alternative resources available to the employee to complete the program.

The Rehabilitation Unit will assist the employee in completing the DWC Form RU 102.

(c) All plans must contain a description of the level of participation expected of the employee in order to continue to receive maintenance allowance. If the employee fails to adhere to the agreement, the claims administrator may petition to withhold the employee's maintenance allowance as described in Section 9813.

(d) Nothing shall preclude the claims administrator or employee from requesting the Rehabilitation Unit to approve a modification of the plan because of an unforeseen circumstance arising subsequent to the initial plan agreement.

(e) Within 15 days after the employee and claims administrator have agreed to the terms and conditions of a vocational rehabilitation plan, the plan shall be submitted to the Rehabilitation Unit for review and approval where approval is required. Within thirty (30) days of receipt of a properly submitted, documented and signed plan, the Rehabilitation Unit shall approve or disapprove the plan. If disapproval is not made within thirty (30) days of receipt of a properly submitted plan, the plan shall be deemed approved.

Notice of approval shall issue only in instances where the plan has been previously disapproved. Plan commencement shall not be deemed approval.

(f) Plans that are in conflict with Labor Code Section 139.5(h) or Section 10123.3 of these regulations shall not terminate the insurer's liability to provide vocational rehabilitation services and, for injuries occurring on or after 1/1/94, shall not be counted against the maximum expenditure for vocational rehabilitation services.

(g) A vocational rehabilitation plan is complete when the claims administrator and employee have fulfilled their respective obligations specified in the plan or when applicable maximum expenditures for vocational rehabilitation services have been reached, whichever occurs first.

(h) For injuries occurring on or after 1/1/94, a rehabilitation plan must be completed within 18 consecutive months from the date of plan approval, or, if approval is not required, from the date of plan commencement.

(i) A second vocational rehabilitation plan will not be provided where the claims administrator has fulfilled its obligations under the plan and the employee has completed, or with reasonable diligence could have completed the vocational rehabilitation plan, unless the employee can demonstrate a deterioration of his or her disability to the point where the worker is unable to meet the physical demands of the first plan.

(j) Private vocational schools selected to provide training as part of a vocational rehabilitation plan shall have approval from the Council for Private Post Secondary and Vocational Education.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5, 4638 and 4644, Labor Code.

HISTORY

1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. Change without regulatory effect amending section filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).
3. Amendment of section heading and section filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
4. Change without regulatory effect amending subsections (c)(c) and (c) filed 3-14-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 11).

§ 10127. Dispute Resolution.

When there is a dispute regarding the provision of vocational rehabilitation services, either the employee or claims administrator may request the Rehabilitation Unit to resolve the dispute. All requests for dispute resolution shall be submitted as follows:

(a) If the request for dispute resolution results from an employee's objection to the claims administrator's intention to withhold maintenance payment pursuant to section 4643:

(1) The employee shall forward to the Rehabilitation Unit request for Dispute Resolution DWC Form RU 103 to the correct Rehabilitation Unit district office with copy to all parties;

(2) The employee shall state his/her position with full explanation of his/her objection, and attach the same to the request for Rehabilitation Unit dispute resolution; copies shall be served on all parties;

(3) The Rehabilitation Unit shall schedule and hold a conference and issue a determination within ten (10) days of the date of receipt of the employee's objection.

(b) If a dispute exists regarding identification of a vocational goal for injuries occurring on or after 1/1/94, the parties may contact the Rehabilitation Unit for a telephone conference discussion. The Rehabilitation Unit Consultant will provide direction, issue a determination or schedule a conference to be held on an expedited basis within 10 days.

(c) Excluding (a) above, all other requests for Rehabilitation Unit dispute resolution shall be submitted by completing a Request For Dispute Resolution, DWC Form RU-103, and attaching all medical and vocational reports not previously submitted to the Rehabilitation Unit, along with a format summary of the Informal Conference. The format summary identifies the disputed issues and the positions of the parties, including supporting information which shall be attached. The request for dispute resolution and all attached documentation shall be served on the parties.

(d) Excluding (a) above, and in instances where an informal conference is either impossible or impractical:

(1) The requesting party shall:

(a) Complete the request form;

(bb) Attach all pertinent medical and vocational reports not previously submitted to the Rehabilitation Unit;

(cc) Clearly identify why an informal conference is inappropriate.

(dd) Clearly state the issue(s) and identify supporting information for each issue and position;

(ee) Serve copies on all parties.

(2) Upon receipt of the request above, the opposing party shall have fifteen (15) days to forward their position with supporting information to the Rehabilitation Unit with copies to all parties.

(3) Upon receipt of all information, the Rehabilitation Unit shall either issue its determination based on the record, will ask for additional information, or set the matter for formal conference.

(e) Pursuant to (b), (c) and (d) above, the Rehabilitation Unit shall issue a determination within forty-five (45) days of the receipt of the original request.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5 and 4645, Labor Code.

HISTORY

1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code Section 11351.
2. Change without regulatory effect amending section filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).
3. Amendment of first paragraph and subsection (a), new subsection (b) and subsection relettering, and amendment of newly designated subsection (c), (d) and (e) filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

§ 10127.1. **Conferences.**

(a) Upon receipt of "Request for Dispute Resolution," DWC Form RU-103, the Rehabilitation Unit shall determine if a formal conference is necessary. Notices shall be served by the Rehabilitation Unit on all parties, identifying the time, date, and location of any conference. Where the request is initiated by an unrepresented employee, the Rehabilitation Unit or an Information & Assistance Officer may assist the employee in completing and serving the form.

(b) Rehabilitation Unit Conferences shall be held on the date and time scheduled. Any party unable to attend the conference, may submit his/her position, on the issue(s) in writing, to the Rehabilitation Unit district office holding the conference. Following the conference, the Rehabilitation Unit shall issue a determination based on its file, information provided during the conference, and any written positions submitted prior to or at the time of the conference.

(c) If the dispute is resolved by the parties before the conference has been held, the party who requested the conference shall contact the Rehabilitation Unit for permission to cancel the conference. If permission to cancel is given, the requesting party shall notify all parties of the cancellation, and forward, in writing to the Rehabilitation Unit, with copies to all parties, notification that the conference has been cancelled. The requesting party shall include in the notification the issue(s) in dispute and the resolution reached by the parties.

(d) Except where the conference is held pursuant to Labor Code section 4643, a determination shall be issued within thirty (30) days of the date of conference unless additional information is requested by the Rehabilitation Unit, in which case, determination shall be issued thirty (30) days from the date of receipt of all further requested information.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5, 4638 and 4639, Labor Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 10124 to section 10127.1 filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10). For prior history see Register 90, No. 4.

§ 10127.2. **Independent Vocational Evaluator.**

(a) The Rehabilitation Unit Headquarters shall maintain a list of Qualified Rehabilitation Representatives (QRR) who meet the requirements of an Independent Vocational Evaluator (IVE) pursuant to Labor Code section 4635(c). A QRR who meets the qualifications specified in Labor Code Section 4635(c) may apply to be included on the IVE list throughout the year. The IVE list shall be reviewed and revised on a yearly basis, and shall be made available upon request.

(b) The parties are encouraged to select a QRR whenever a dispute is raised regarding the assignment of a QRR. If the parties cannot agree on the selection of a QRR within fifteen (15) days, either party may request the Rehabilitation Unit to appoint an IVE. To request an IVE either party must file a Request for Dispute Resolution, DWC Form RU-103, with the correct Rehabilitation Unit district office.

(c) Within fifteen (15) days of receipt of the request, the Rehabilitation Unit shall appoint an IVE with notice served simultaneously on the IVE and all parties. The assignment shall be made in rotation from a panel of all independent vocational evaluators in the geographic area included within the venue of the correct rehabilitation unit district office and who meet the language and specialty requirements, if any, of the employee.

(d) Upon receipt of notification of the IVE appointment, the claims administrator shall forward all medical and vocational reports to the IVE

within ten (10) days. If the IVE is unable to meet with the employee within ten (10) days of receipt of the medical and vocational reports, upon notification from either party, the Rehabilitation Unit shall appoint another IVE.

(e) The IVE shall communicate with the injured worker throughout the provision of rehabilitation services. Except as specified in Administrative Rule 10127.2(d) above, no party shall communicate with the IVE regarding the evaluation unless otherwise directed by the Rehabilitation Unit except for communications initiated by the IVE. All such communications shall be confirmed in writing by the IVE.

(f) The Rehabilitation Unit may order that vocational rehabilitation services be provided by an Independent Vocational Evaluator at the expense of the employer, subject to the maximum expenditure for counseling fees set forth in Labor Code Section 139.5 for injuries occurring on or after 1/1/94, upon a finding of any of the following:

(1) The claims administrator failed to provide vocational rehabilitation services in a timely manner subsequent to the employee requesting vocational rehabilitation services;

(2) An independent vocational evaluation is necessary for the rehabilitation unit to determine if an employee is vocationally feasible;

(3) An independent vocational evaluation is necessary for the Rehabilitation Unit to determine if a vocational rehabilitation plan meets the requirements of this article; or

(4) The employee and qualified rehabilitation representative cannot agree on a vocational goal.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4635 and 4639, Labor Code.

HISTORY

1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. Change without regulatory effect amending section filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).
3. Renumbering of former section 10125 to section 10127.2 and amendment of subsections (d)-(f)(1) filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

§ 10128. **Request for Order of Rehabilitation Services.**

If the claims administrator fails to voluntarily provide services, subsequent to the employee's written demand with substantiation of eligibility for services upon the claims administrator, the employee may, on DWC Form RU-103 "Request for Dispute Resolution", request the Rehabilitation Unit to order the provisions of vocational rehabilitation services at the expense of the employer. A copy of the demand and copies of all medical and vocational reports including a listing of documents shall be attached with a completed Case Initiation Document, DWC form RU-10. Medical reports filed by the parties will be returned upon request.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5 and 4639, Labor Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 10128 to section 10131.1 and former section 10130 to section 10128 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.
2. Amendment filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

§ 10129. **Interruption/Deferral of Services For Injuries Occurring Prior to 1/1/94.**

(a) The provision of vocational rehabilitation services may be interrupted or deferred upon the request of the employee and agreement by the claims administrator, or if the agreement cannot be reached, upon finding of good cause by the Rehabilitation Unit.

The claims administrator shall within 10 days of the agreement, confirm the deferral or interruption in writing to the employee including a notice concerning procedures to be followed by the employee to comment or continue vocational rehabilitation services.

(b) The period of deferral or interruption may be extended upon agreement of the employee and claims administrator. If the employee ar

claims administrator are unable to agree to an extension of the deferral or interruption period, the Rehabilitation Unit may order an extension of the deferral or interruption period upon a finding that the extension is in the best interests of the employee.

(c) If the claims administrator fails to commence or continue vocational rehabilitation services after receipt of a timely request from the employee, the employee may request the Rehabilitation Unit to order the provision of vocational rehabilitation services pursuant to section 10128.

(d) If the employer offers the employee modified or alternate employment, the claims administrator may request the Rehabilitation Unit to determine whether the employer's offer provides the employee with suitable gainful employment. If the Rehabilitation Unit finds the employer's offer reasonable and appropriate, the employee shall not be entitled to the development or implementation of an additional plan.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5 and 4644, Labor Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 10129 to section 10132 and former section 10131 to section 10129 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.
2. Amendment of section heading, subsections (a)-(c), new subsection (d) filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

§ 10129.1. Interruption/Deferral of Services For Injuries Occurring On Or After 1/1/94.

(a) An employee may defer rehabilitation services subsequent to being advised of medical eligibility for services, but prior to accepting services, only if the employer has not offered to provide alternative or modified work not exceeding the medical restrictions.

(b) An employee may interrupt rehabilitation services subsequent to accepting services. The interruption shall be for an agreed upon period of time. If the employee had previously agreed to a plan at the time of interruption, the claims administrator shall provide the notice specified in Section 9813(a)(4).

HISTORY

1. New section filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

§ 10130. Request for Reinstatement of Vocational Rehabilitation Services.

Request for reinstatement of vocational rehabilitation services following an interruption or deferral shall be made in accordance with Labor Code section 4644(b).

All other requests for reinstatement of services shall initially be submitted to the claims administrator. If the claims administrator fails to reinstate services and the employee wishes a determination of entitlement to further rehabilitation services, all such requests shall be directed to the correct Rehabilitation Unit district office on DWC Form RU-103, "Request for Dispute Resolution".

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Section 4644, Labor Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 10130 to section 10128 and former section 10132 to section 10130 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.
2. Amendment filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

§ 10131. Termination of Vocational Rehabilitation Services.

(a) When the claims administrator elects to terminate rehabilitation services of an employee injured before 1/1/90, prior to such termination, the claims administrator shall provide the employee with a "Request for Conclusion of Rehabilitation Benefits", DWC Form RB-105. For employees injured on or after 1/1/90, the claims administrator shall provide the employee with a "Notice of Termination of Rehabilitation Services," DWC RU-105. The notice must be sent within 10 days of the circum-

stances set forth in Labor Code section 4644(a) with copies sent to all parties, including the Rehabilitation Unit, with proof of service. The copy forwarded to the Rehabilitation Unit shall include the Rehabilitation Unit file number or a RU 101 attached.

(b) If the employee wishes to object to the "Request for Conclusion of Rehabilitation Benefits", DWC Form RB-105 or the "Notice of Termination of Vocational Rehabilitation Services", DWC Form RU-105, the objection must be filed with the Rehabilitation Unit within twenty days using the "Request for Dispute Resolution", DWC Form RU-103. The claims administrator shall provide the employee with a RU-103 with the "Request for Conclusion of Rehabilitation Benefits", DWC Form RB-105, or "Notice of Termination of Vocational Rehabilitation Services" DWC Form RU-105. Absent timely objection by the employee, the employer's liability for vocational rehabilitation services will be presumed terminated.

(c) When the employee objects to the claims administrator's "Request for Conclusion of Rehabilitation Benefits", DWC Form RB-105 or "Notice of Termination of Vocational Rehabilitation Services", DWC Form RU-105, the Rehabilitation Unit shall, within thirty (30) days of the employee's objection, hold a conference or otherwise obtain the employee's reasons for objection together with substantiating evidence and issue its decision.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5 and 4644, Labor Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 10131 to section 10129 and former section 10133 to section 10131 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.
2. Amendment of section heading and section filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
3. Amendment filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).

§ 10131.1. Declination of Rehabilitation.

(a) A request for conclusion of rehabilitation benefits, or a notice of termination of vocational rehabilitation services on the basis that the employee has declined rehabilitation services must be made in the form and manner set forth by the Administrative Director in section 10131 of these rules by using DWC Form RB-105 or DWC Form RU-105.

(b) Absent timely objection by the employee to the "Request for Conclusion of Rehabilitation Benefits", DWC Form RB-105 or the "Notice of Termination of Vocational Rehabilitation Services", DWC Form RU-105, the employer's liability for vocational rehabilitation services will be presumed terminated when:

(1)(A) The employee, with a date of injury prior to 1/1/90, received a notice of potential entitlement to rehabilitation services, immediately following the claims administrator's knowledge of potential medical eligibility or immediately following 180 days of aggregate total disability, or

(B) The employee with a date of injury on or after 1/1/90 has received a notice of potential eligibility pursuant to Labor Code section 4637(a); and,

(2) If the injury occurred between 1/1/90 and 12/31/93, the employee has received a full explanation by a Qualified Rehabilitation Representative of his/her rights and obligations pertaining to vocational services pursuant to Labor Code section 4636(a); or

(3) If the injury occurred on or after 1/1/94, the employee has received a notice of his/her rights and obligations as required in Section 9813(d)(2).

(c) The employee and his/her representative, if any, must sign a declination of rehabilitation on the form prescribed by the Administrative Director.

(d) The claims administrator shall submit a "Request for Conclusion of Rehabilitation Benefits", DWC Form RB-105 for employees with a date of injury prior to 1/1/90, to the correct Rehabilitation Unit district office with copies to all parties. A "Notice of Termination of Vocational Rehabilitation Services", DWC Form RU-105, shall be submitted for

employees with dates of injury on or after 1/1/90 to the correct Rehabilitation Unit district office with copies to all parties. The request shall be accompanied with the signed "Statement of Decline of Rehabilitation Benefits", DWC Form RB-107, and a copy of the notice of potential eligibility for employees with dates of injury prior to 1/1/90. For employees with dates of injury on or after 1/1/90, an "Employee Statement of Declination of Vocational Rehabilitation Services," DWC Form RU-107 and a copy of notice of potential eligibility shall be submitted.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Section 4641 and 4644, Labor Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 10128 to section 10131.1 filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).

2. Amendment filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

3. Change without regulatory effect amending subsection (b)(2) filed 3-14-94 pursuant to title 1, section 100, California Code of Regulations (Register 94 No. 11).

4. Amendment filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).

§ 10131.2. Notice to Retire Rehabilitation Case File.

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 10135.1 to section 10131.2 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.

[The next page is 1269.]

2. Repealer filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
3. Editorial correction of HISTORY 2 (Register 96, No. 13).

§ 10132. Fee Schedule.

(a) The Fee Schedule promulgated by the Administrative Director shall be deemed reasonable for providers of vocational rehabilitation services pursuant to Labor Code section 139.5. For services provided to workers injured on or after 1/1/94, the maximum aggregate permissible fees paid for evaluation, plan development and job placement may not exceed \$4500, nor may the maximum aggregate permissible fees in each phase of the fee schedule be exceeded.

(b) For injuries occurring prior to 1/1/94, this fee schedule shall be presumed reasonable for services to employees who are determined medically eligible on or after 1/1/94.

(c) For injured workers who were determined medically eligible prior to 1/1/94, the fee schedule promulgated by the Administrative Director effective 1/23/91 shall apply.

(d) Rehabilitation providers and claims administrators may enter into agreements with any party to provide services at rates less than those provided by the Fee Schedule. Any agreements, however, shall be made in writing prior to the provision of such rehabilitation services. Fees that are charged back to a file by an in-house QRR who is providing rehabilitation services shall not exceed this fee schedule and are subject to the maximum permissible fees for counseling for injuries occurring on or after 1/1/94.

(e) Charges by an insurer for the activities of an employee supervising outside rehabilitation providers shall not exceed this fee schedule and shall not be attributed to the maximum permissible fees for counseling. These charges shall be attributed as expenses and not losses for the purposes of insurance rating pursuant to Labor Code Section 139.5(i) for injuries occurring on or after 1/1/94.

(f) Disputes pertaining to the application of the Fee Schedule shall be initially determined by the Rehabilitation Unit.

(g) Service provided by persons other than the firm in which the Qualified Rehabilitation Representative is employed must be clearly identified and billed separately.

(h) Qualified Rehabilitation Representatives appointed by the Rehabilitation Unit to act in the capacity of an independent Vocational Evaluator shall strictly adhere to the fee schedule.

(i) All billings from vocational rehabilitation service providers are due and payable within sixty (60) days of receipt by the claims administrator unless within the sixty (60) day period an objections filed contesting the billing or any portion thereof. Any portion of the billing not contested shall be paid within the sixty day period. Absent objection as described billings not paid within sixty days from the date of receipt are subject to penalty under Labor Code sections 129 and 129.5. A copy of each billing shall be sent to the employee, and his or her representative, if any, at the time the bill is sent to the claims administrator.

NOTE: Authority cited: Sections 129, 129.5, 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4635, 4636, 4638 and 4639, Labor Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 10132 to section 10130 and new section 10132 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.
2. Amendment filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
3. New subsection (c) and subsection relettering filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

§ 10132.1. Reasonable Fee Schedule.

VOCATIONAL REHABILITATION FEE SCHEDULE

All billings for casework provided are to be itemized in tenths of an hour, unless alternative agreements are made under Section 10132(c).

Non-billable costs include: postage, clerical services, photocopies, in-house waiting time, attempts telephone contacts, and in-house staffing. If detailed documentation of these activities is required, the activity is billable at the normal hourly rate of actual time spent.

Adjustments to the Fee Schedule will be reviewed by the Administrative Director of the Division of Worker's Compensation on an annual basis. Recommendations regarding adjustments to the Fee Schedule shall be reviewed by the Rehabilitation Advisory Committee prior to public hearings.

Professional Hourly Rate \$65.00

Vocational Evaluation Modules:

Work Sample Testing, Vocational Testing, Situational Assessment, or related activities in a group setting shall be subject to the following fee schedule. Includes report.

Service Code #	Item Description	Schedule
60	One Day	\$175
61	Three Day	\$375
62	Five Day	\$500
63	Eight Day	\$800

30 90 Day QRR Benefit Call Actual time at professional hourly rate, not to exceed 5 Hours

Includes all contacts to schedule appointments, preparation of RU90/91, visit verification, employer contact, first physician contact. Subsequent contacts to be billed at professional hourly rate.

31 Job Analysis of Position at Time on Injury Actual time at professional hourly rate, not to exceed 5 Hours

Includes contacts to schedule appointment, site visit, document completion, document review with worker/attorney, securing signatures and completed report.

PHASE ONE: EVALUATION OF VOCATIONAL FEASIBILITY MAXIMUM AGGREGATE PERMISSIBLE FEES NOT TO EXCEED \$1200

32 Initial Interview Actual time, not to exceed 5 Hours

Includes initial file review, scheduling contact with worker, contact with worker and representative, if any, interview, assessment of vocational feasibility and completed Initial Evaluation Summary, Form RU-120. Billing for the RU-120 shall not exceed 1.2 hours. The QRR must review with the worker the report and his or her initial recommendations regarding the worker's likely ability to benefit from the provision of rehabilitation services and regarding the nature, extent and cost of any additional services.

60,61,62,63 Vocational/Work Evaluation Services Appropriate module

To be used at most appropriate module if required to assist in the evaluation of vocational feasibility.

PHASE TWO: PLAN DEVELOPMENT MAXIMUM AGGREGATE PERMISSIBLE FEES NOT TO EXCEED \$2500

34 Vocational Testing & Report. Actual time at Professional Hourly Rate, not to exceed 5 Hours or most appropriate module (and related service code) if testing is done at a vocational/work evaluation facility.

Includes administration and scoring of a standard battery of vocational tests.

35 Counseling & Research Service Actual Time at Professional Hourly Rate

Includes professional time meeting with worker, assessment of transferrable skills, guidance through vocational exploration, test interpretation with worker, labor market assessment and resource research, determination of physical appropriateness of a proposed vocational goal.

43 DWC Form RU-102 Actual time at professional hourly rate, not to exceed 1 Hour

All required documents and cover letter completion for plans involving modified alternate work.

44 DWC Form RU-102 Actual time, at professional hourly rate, not to exceed 2 Hours

All required documents and cover letter completion for plans involving Direct placement, OJT, Training, Self-Employment.

Service Code #	Item Description	Schedule
45	Plan Monitoring Includes activities necessary to oversee the employee's successful completion of the plan. May entail contacts with worker, training facility or OJT employer.	Actual time, by report
46	Plan Monitoring Report	Actual time, not to exceed .5 hours
<p>PHASE THREE: JOB PLACEMENT MAXIMUM AGGREGATE PERMISSIBLE FEES NOT TO EXCEED \$2000</p>		
41	Job Seeking Skills All activity directed to providing the worker with skills, resume preparation, and personal presentation necessary to obtain employment.	Actual time, not to exceed 4 hours at \$65 hour
42	Job Placement Job placement services, placement follow-up and placement counseling.	Actual time at \$65/hour
<p>INTERPHASE SERVICES (pertains to all phases, to be charged during the phase in which the activity occurs and included within the maximum aggregate expenditure for each phase)</p>		
21	Travel Rate	Not to exceed \$32.50/hour plus \$0.24 per mile
51	Telephone Calls	Actual time
52	File Review/New Document Review After an initial review, file review is billable activity only for re-opening or re-activation of a file, or for conference preparation purposes. Review of new medical/legal reports, or work evaluation reports, upon receipt, is billable activity.	Actual Time at \$65.00
35	Counseling & Research Services	Actual Time at Professional Hourly Rate
53	Reporting For narrative reports at the request of a party unless otherwise specified, three-tenths of an hour per page, up to one and one half hour maximum.	The fee for completion of the Vocational Rehabilitation Progress Report, Form RU-121, is .5 hours at Professional Hourly Rate.
54	Rehabilitation Unit Conference, Informal Conference & Professional Appearance Preparation time up to one hour. Education & Training: As between schools of equal merit, preference will be given to those schools who have reduced their tuition rates by 10% from published 1989 tuition rates, in accordance with the reduction required by Labor Code section 139.5(a)(4). Documentation reflecting the tuition reduction shall be available upon request. Private Vocational schools may not charge a tuition rate for rehabilitation students which is greater than the lowest rate than that given to the general public.	Actual time at professional rate.
90	Extraordinary Services/Expenses For Dates of Injury prior to 1/1/94: It is recognized that there can occasionally be exceptional circumstances which may require services and fees beyond those listed. Billings above the recommended fee schedule shall require additional documentation prior authorization for excess billings should be obtained before service delivery.	

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4635, 4636, 4638 and 4639, Labor Code.

HISTORY

1. Change without regulatory effect adding new section filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.
2. Amendment filed 12-31-93; operative 1-1-94. Submitted to OAL for printing

- only pursuant to Government Code section 11351 (Register 93, No. 53).
3. Amendment filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).
4. Amendment of fee schedule filed 3-26-96; operative 3-26-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 13).

§ 10133. Forms & Notices.

TREATING PHYSICIAN'S REPORT OF DISABILITY STATUS

INSTRUCTIONS: Pursuant to requirements of the California Labor Code, please complete this form and return it to the claim administrator listed below within 15 days of receipt with a copy to the Qualified Rehabilitation Representative.

EMPLOYEE NAME: (LAST)	(FIRST)	(M.I.)	SSN	DATE OF INJURY
-----------------------	---------	--------	-----	----------------

EMPLOYER NAME: _____

Attached is a description of the employee's job duties. Based on your examination, including the history provided by the patient and the enclosed job description, choose one of the following:

I expect to release the employee to return to the pre-injury occupation on or about _____.

The employee's permanent disability as a result of the injury whether or not combined with the effects of a prior injury or disability, if any, is likely to preclude the employee from returning to work at the pre-injury occupation.

Is the employee currently physically able to participate in vocational rehabilitation services? Yes No

If yes, please describe any physical limitations: _____

If employee is not physically able to participate in vocational services, please estimate when participation may be possible: _____

At this time, I am unable to give an opinion concerning the employee's ability to return to the pre-injury occupation. I expect to be able to provide an opinion on or about: _____

Please advise also if the employee is currently physically able to perform light duties if modified or alternative work is available:

Yes, with the following limitations: _____

No

Physician's Name _____ Date: _____

Physician's Signature _____

Please return to: Employer/Insurer/Adjusting Agent Claim #:

Address: _____ (Street) _____ (City) _____ (State) _____ (Zip)

Send a copy to Qualified Rehabilitation Representative:

Address: _____ (Street) _____ (City) _____ (State) _____ (Zip)

STATE OF CALIFORNIA
DWC FORM RU-90 (12/90)

STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION

DESCRIPTION OF EMPLOYEE'S JOB DUTIES

INSTRUCTIONS: This form shall be developed jointly by the employer and employee and is intended to describe the employee's job duties. The completed form will be reviewed by the treating doctor to determine whether the employee is able to return to his/her job. This is an important document and should accurately show the requirements of the employee's job. If the employee needs help in completing this form, the employee may contact the Information and Assistance Officer at the Division of Workers' Compensation. The phone number can be found in the State Government section of the phone book.

EMPLOYEE NAME: (LAST)		(FIRST)		(M.I.)	CLAIM#:
EMPLOYER NAME:			JOB ADDRESS:		
JOB TITLE:		HRS. WORKED PER DAY:		HRS. WORKED PER WEEK:	
DESCRIPTION OF JOB RESPONSIBILITIES: (DESCRIBE ALL JOB DUTIES)					
1. Check the frequency of activity required of the employee to perform the job.					
ACTIVITY (Hours per day)	NEVER 0 hours	OCCASIONALLY up to 3 hours	FREQUENTLY 3 - 6 hours	CONSTANTLY 6 - 8+ hours	
Sitting					
Walking					
Standing					
Bending (neck)					
Bending (waist)					
Squatting					
Climbing					
Kneeling					
Crawling					
Twisting (neck)					
Twisting (waist)					
Hand Use: Dominant hand Right-- Left--					
Is repetitive use of hand required?					
Simple Grasping (right hand)					
Simple Grasping (left hand)					
Power Grasping (right hand)					
Power Grasping (left hand)					
Fine Manipulation (right hand)					
Fine Manipulation (left hand)					
Pushing & Pulling (right hand)					
Pushing & Pulling (left hand)					
Reaching (above shoulder level)					
Reaching (below shoulder level)					

DWC FORM RU-91 (2/95)

2. Please indicate the daily Lifting and Carrying requirements of the job: Indicate the height the object is lifted from floor, table or overhead location and the distance the object is carried.

	LIFTING				Height	CARRYING				Distance
	Never 0 hrs	Occasionally up to 3 hrs	Frequently 3-6 hrs.	Constantly 6-8+ hrs.		Never 0 hrs.	Occasionally up to 3 hrs.	Frequently 3-6 hrs.	Constantly 6-8+ hrs.	
0-10 lbs.										
11-25 lbs.										
26-50 lbs.										
51-75 lbs.										
76-100lbs.										
100+ lbs.										

Describe the heaviest item required to carry and the distance to be carried: _____

3. Please indicate if your job requires:

	YES	NO	(IF YES, PLEASE BRIEFLY DESCRIBE)
a. Driving cars, trucks, forklifts and other equipment?	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Working around equipment and machinery?	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Walking on uneven ground?	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Exposure to excessive noise?	<input type="checkbox"/>	<input type="checkbox"/>	_____
e. Exposure to extremes in temperature, humidity or wetness?	<input type="checkbox"/>	<input type="checkbox"/>	_____
f. Exposure to dust, gas, fumes, or chemicals?	<input type="checkbox"/>	<input type="checkbox"/>	_____
g. Working at heights?	<input type="checkbox"/>	<input type="checkbox"/>	_____
h. Operation of foot controls or repetitive foot movement?	<input type="checkbox"/>	<input type="checkbox"/>	_____
i. Use of special visual or auditory protective equipment?	<input type="checkbox"/>	<input type="checkbox"/>	_____
j. Working with bio-hazards such as: blood borne pathogens, sewage, hospital waste, etc.	<input type="checkbox"/>	<input type="checkbox"/>	_____

Employee Comments:

Employer Comments:

EMPLOYER CONTACT NAME:	EMPLOYER CONTACT TITLE:
EMPLOYER REPRESENTATIVE SIGNATURE:	DATE:
EMPLOYEE'S SIGNATURE:	DATE:
QUALIFIED REHAB. REPRESENTATIVE SIGNATURE: (IF APPLICABLE)	DATE:

DWC FORM RU-91 (2/95)

NOTICE OF OFFER OF MODIFIED OR ALTERNATE WORK

THIS SECTION COMPLETED BY EMPLOYER OR CLAIMS ADMINISTRATOR:

Your employer (name of firm) _____ is offering you the position of a
(name of job) _____.

Attached is a list of the duties required of the position.

Signature of the Representative: _____

Date of offer: _____ Date job starts: _____

Claims Administrator: _____ Claim Number: _____

NOTICE TO EMPLOYEE

You have 30 calendar days to accept or reject this offer of modified or alternate work. If you reject this job offer, you will not be entitled to rehabilitation services unless:

- A. You cannot perform the essential functions of the job; or
- B. The job is not a regular position lasting at least 12 months; or
- C. Wages offered were less than 85% of the wages paid at the time of injury; or
- D. The job is beyond a reasonable commuting distance.

THIS SECTION TO BE COMPLETED BY EMPLOYEE

Name of employee: _____ Date offer received by employee _____

- I _____ Accept this offer of Modified or Alternate work.
_____ Reject this offer of Modified or Alternate work.

_____ Date _____
signature

I feel I cannot accept this offer because:

NOTICE TO THE PARTIES

If the offer is not accepted or rejected within 30 days, the offer is deemed to be rejected by the employee.

The employer or claims administrator must forward a completed copy of this agreement to the Rehabilitation Unit with a Case Initiation Document (DWC Form RU-101) within 30 days of acceptance or rejection.

If a dispute occurs regarding the above offer or agreement, either party may request the Rehabilitation Unit to resolve the dispute by filing a Request for Dispute Resolution (DWC Form RU-103) at the nearest office of the State of California, Division of Workers' Compensation, Rehabilitation Unit.

MANDATORY FORMAT
STATE OF CALIFORNIA
DWC-RU-94 (1/94)

CASE INITIATION DOCUMENT

- TYPE OF ACTION (CHECK ONE)
- Initial Filing
 - Address Change
 - Employee/Employer Atty Firm Change
 - Adjusting Agency Change

INSTRUCTIONS: This form shall be completed and attached to all requests for Rehabilitation Unit action on matters for which no Rehabilitation Unit Case number has been assigned. This form is also to be used to update address changes for any of the parties or to record changes in representation for either the employer or employee and any change of adjusting agency. This form must be typed or printed clearly and submitted to the appropriate Rehabilitation Unit office. See reverse side for Rehabilitation Unit addresses.

EMPLOYEE NAME: _____		(LAST)	(FIRST)	(M.I.)	SEX: _____
ADDRESS: _____		(STREET)	(CITY)	(STATE)	(ZIP)
DATE OF BIRTH: _____	PHONE #: _____	SOCIAL SECURITY #: _____		DATE OF INJURY: _____	
EMPLOYER NAME: _____		DWC FIRM # (if known): _____			
MAILING ADDRESS (inc. city, state & zip): _____					
SELF-INJURED CERTIFICATE NAME: _____					
INSURANCE CARRIER (if any): _____					
ADJUSTING AGENCY NAME (if agency adjusted): _____					
CLAIMS MAILING ADDRESS (inc. city, state & zip): _____					
PHONE #: _____		CLAIM #: _____			
QUALIFIED REHAB REPRESENTATIVE, IF ANY					
FIRM NAME: _____		REPRESENTATIVE NAME: _____			
MAILING ADDRESS (inc. city, state & zip): _____					
PHONE #: _____		DWC FIRM # (if known): _____			
EMPLOYEE'S REPRESENTATIVE, IF ANY					
FIRM NAME: _____		REPRESENTATIVE NAME: _____			
MAILING ADDRESS (inc. city, state & zip): _____					
PHONE #: _____		DWC FIRM # (if known): _____			
EMPLOYER'S REPRESENTATIVE, IF ANY					
FIRM NAME: _____		REPRESENTATIVE NAME: _____			
MAILING ADDRESS (inc. city, state & zip): _____					
PHONE #: _____		DWC FIRM # (if known): _____			

SUBMITTED BY: _____
 TITLE: _____
 DATE: _____

REHABILITATION UNIT USE ONLY

Must be printed on Goldenrod paper or preapproved computer generated with Goldenrod borders.

MANDATORY FORMAT
 STATE OF CALIFORNIA
 DWC FORM RI-101 (12/90)

VOCATIONAL REHABILITATION PLAN

INSTRUCTIONS: This form shall be used for submitting a vocational rehabilitation plan to the Rehabilitation Unit for injuries in accordance with L.C. §4638. For injuries prior to 1/1/94, the claims administrator shall submit the signed form with medical and vocational reports to the Rehabilitation Unit for approval. For injuries occurring on or after 1/1/94 where the employee is not represented by an attorney, the claims administrator shall submit this signed form and all medical and vocational reports, not previously submitted, to the appropriate Rehabilitation Unit office for approval. For injuries occurring on or after 1/1/94 where the employee is represented by an attorney, the claims administrator shall submit this signed form attached to a copy of the Notice of Termination to the Rehabilitation Unit within 10 days of completion. If a Rehabilitation Unit case number has not been assigned, attach a completed Case Initiation Document (DWC RU-101).

SECTION A

EMPLOYEE NAME:	(LAST)	(FIRST)	(MI.)	RU CASE #
ADDRESS:	(STREET)	(CITY)	(STATE)	(ZIP)
CLAIMS ADMINISTRATOR:	(FIRM)			CLAIM#
ADDRESS:	(STREET)	(CITY)	(STATE)	(ZIP)

SECTION B

OCCUPATION AT INJURY:	EARNINGS AT INJURY:	DATE OF INJURY:
DESCRIBE TYPE OF INJURY AND MEDICAL LIMITATIONS: (Also identify medical report relied upon)		
SUMMARY OF EMPLOYEE'S EDUCATIONAL AND VOCATIONAL BACKGROUND AND EXPLANATION OF HOW TRANSFERABLE SKILLS HAVE BEEN USED IN SELECTION OF THE PLAN OBJECTIVE:		

INITIALS

REHABILITATION UNIT USE ONLY

Mandatory Format

DWC Form RU-102 (pg. 1 of 4)

SECTION C

VOCATIONAL OBJECTIVE:	ESTIMATED WEEKLY EARNING UPON COMPLETION:
TYPE OF PLAN	
WITH THE SAME EMPLOYER 1. <input type="checkbox"/> Modified Job 2. <input type="checkbox"/> Alternate Work	WITH NEW EMPLOYER 3. <input type="checkbox"/> Direct Placement 4. <input type="checkbox"/> On-the-job Training 5. <input type="checkbox"/> Educational Training 6. <input type="checkbox"/> Self-Employment
DESCRIBE NATURE AND EXTENT OF REHABILITATION PLAN:	
DATE VOCATIONAL FEASIBILITY DETERMINED: _____ PLAN COMMENCEMENT DATE: _____ EXPECTED COMPLETION DATE (including placement assistance): _____ # WEEKS OF TRAINING: _____ # WEEKS OF PLACEMENT ASSISTANCE: _____	

INITIALS

Mandatory Format

DWC Form RU-102 (pg. 2 of 4)

BUDGET FOR VOCATIONAL REHABILITATION PLAN EXPENDITURES

Identify incurred and estimated costs for this rehabilitation plan. For injuries on or after 1/1/94, the maximum expenditure for vocational rehabilitation expenses shall not exceed \$16,000.

RESOURCES TO EMPLOYEE

VRMA/VRTD paid to date	\$ _____ /week	Total \$ _____
VRMA/VRTD to be paid every 14 days	\$ _____ /week	Total \$ _____
Amount withheld for Attorney Fees, if any	\$ _____ /week	Total \$ _____
Total weekly benefit payment to employee	\$ _____ /week	Total \$ _____
Transportation Expenses to be paid as follows	\$ _____ /	Total \$ _____

PLAN EXPENDITURES

Training/tuition fees, if any (specify recipient)	_____	Total \$ _____
Other costs (specify type, recipient and method of payment):		
_____	\$ _____ /	Total \$ _____
_____	\$ _____ /	Total \$ _____
_____	\$ _____ /	Total \$ _____
_____	\$ _____ /	Total \$ _____

FEES FOR EVALUATION, PLAN DEVELOPMENT & PLACEMENT

(List Evaluation and Plan Development fees to date and estimated fees for Plan Monitoring and Placement)

Phase I:	Evaluation	\$ _____	
Phase II:	Plan Development	\$ _____	
	Plan Monitoring	\$ _____	
Phase III:	Placement	\$ _____	Total \$ _____

TOTAL ESTIMATE OF PLAN EXPENDITURES \$ _____

ADDITIONAL RESOURCES TO EMPLOYEE

Permanent Disability Supplement paid to date:	\$ _____ /week	Total \$ _____
Permanent Disability Supplement to be paid:	\$ _____ /week	Total \$ _____
Other resources to be provided to employee (Identify source and amount):		
_____	\$ _____ /	Total \$ _____
_____	\$ _____ /	Total \$ _____

SECTION D

1. List results of vocational testing, if any, and how they support the vocational objective.

2. Describe why this employee will be employable in the vocational objective of this plan. Include assessment of labor market.

INITIALS

Mandatory Format

DWC Form RU-102 (pg. 3 of 4)

SECTION E

<p>RESPONSIBILITIES OF THE CLAIMS ADMINISTRATOR:</p> <p>The claims administrator shall timely provide all vocational services and benefits necessitated by the agreed vocational rehabilitation plan and as required by the Labor Code. I verify that the insurer does not have a proprietary interest in the rehabilitation provider or facilities used in the development or implementation of this plan.</p> <p>Other: _____</p> <p style="text-align: right; margin-right: 100px;">signature</p>
<p>RESPONSIBILITIES OF THE EMPLOYEE:</p> <p>The employee shall be available and reasonably cooperate in the provision of vocational rehabilitation services. The employee shall arrive on time and participate in all scheduled activities; if for any reason the employee does not, he or she must immediately provide an explanation to the Qualified Rehabilitation Representative.</p> <p>The employee shall follow the requirements of all facilities and persons providing vocational rehabilitation services. The employee shall notify the Qualified Rehabilitation Representative about anything that may interfere with scheduled completion of this plan.</p> <p>Other: _____</p>

SECTION F

<p>VERIFICATION OF THE Q.R.R.</p>	
<p>1. This plan was developed by me as the Qualified Rehabilitation Representative or as an Independent Vocational Evaluator. It is my opinion that the services contained in this plan will provide the employee with the opportunity to return to suitable gainful employment.</p>	
<p>2. The worker was not referred for services for evaluation, education or training, to a facility in which I, my spouse, my employer, or co-employee has a proprietary interest or with which I, my spouse, my employer or co-employee has a contractual relationship.</p>	
<p>Q.R.R. Signature: _____</p>	<p>Date: _____</p>
<p>Firm Name & Address: _____</p>	

SECTION G

<p>PLAN AGREEMENT</p>		
<p>Signature of the claims administrator and employee on this plan shall be deemed to be an agreement that the claims administrator and employee intend to comply with all of the plan's provisions.</p>		
<p>Failure of the claims administrator to timely provide all services required by the plan may result in the employee being entitled to additional services.</p>		
<p>Failure of the employee to comply with the provisions and schedules developed for this plan may result in termination of the employer's liability for rehabilitation services.</p>		
<p>I have read and understand all four pages of this plan and agree with all of the plan's provisions.</p>		
<p>NAME OF EMPLOYEE: _____</p>	<p>SIGNATURE: _____</p>	<p>DATE: _____</p>
<p>NAME OF EMPLOYEE REPRESENTATIVE (if any): _____</p>	<p>SIGNATURE: _____</p>	<p>DATE: _____</p>
<p>ADDRESS OF EMPLOYEE REPRESENTATIVE: _____</p>		
<p>PERSON AUTHORIZING THE PROVISION OF THIS PLAN ON BEHALF OF THE EMPLOYER:</p>		
<p>NAME: _____</p>	<p>SIGNATURE: _____</p>	
<p>FIRM NAME AND ADDRESS: _____</p>		
<p>PERSONS SIGNING THIS SECTION SHALL ALSO INITIAL THE OTHER THREE PAGES IN INITIAL BOX.</p>		

REQUEST FOR DISPUTE RESOLUTION

DO NOT USE THIS FORM WHEN LIABILITY FOR THE INJURY IS DISPUTED.			
<p><i>INSTRUCTIONS:</i> This is to be used when the parties are unable to resolve disputed rehabilitation issues and a determination by the Rehabilitation Unit is required. The completed form must be accompanied by all medical and vocational reports, including an indexed listing, and any other pertinent information not previously submitted to the Rehabilitation Unit. The parties are expected to meet prior to filing this request in an effort to informally resolve disputed issues. This request must be sent to the appropriate Rehabilitation Unit office. If a case number has not been assigned, attach a completed Case Initiation Document (DWC Form RU-101). Please note: An expedited conference is a procedure designed to resolve single issues as identified below. Other issues will be resolved either by a separate conference or a determination on the submitted record.</p>			
EMPLOYEE NAME: (LAST)	(FIRST)	(M.I.)	CLAIM #
ADDRESS:	(STREET)	(CITY)	(STATE & ZIP)
<p>The Rehabilitation Unit is requested to resolve the following dispute(s) on an expedited basis because the parties disagree on: (Check the single issue which applies)</p> <p style="margin-left: 40px;"> <input type="checkbox"/> the description of the employee's job duties at the time of injury (for injuries after 1/1/94) <input type="checkbox"/> the selection of the Qualified Rehabilitation Representative <input type="checkbox"/> the employee objects to the attached Notice of Intent to Withhold Maintenance Allowance <input type="checkbox"/> the identification of a vocational goal (for injuries after 1/1/94) </p> <p>Other disputed issues:</p> <p style="margin-left: 40px;"> <input type="checkbox"/> the employee objects to a Notice of Termination of Vocational Rehabilitation Services <input type="checkbox"/> the employee's medical eligibility for vocational rehabilitation services. Medical report relied upon by requestor _____ <input type="checkbox"/> Other (explain): _____ </p>			NU CASE #: _____ DATE OF INJURY: _____
SUMMARY OF PARTIES' INFORMAL EFFORTS TO RESOLVE THIS DISPUTE:			
An informal conference was held on _____. A summary of the conference including a list of attendees, issues addressed, agreements reached, and unresolved issues is attached. If an informal conference was not held, attach explanation.			
Copies of this request with copies of medical and vocational reports have been served on: _____		Has the employer/insurer accepted this claim? <input type="checkbox"/> Yes <input type="checkbox"/> No Has liability for the injury been found by WCAB? <input type="checkbox"/> Yes <input type="checkbox"/> No Has more than 90 days TTD been paid? <input type="checkbox"/> Yes <input type="checkbox"/> No	
NAME OF REQUESTOR:		REHABILITATION UNIT USE ONLY	
TITLE			
FROM NAME:			
ADDRESS:			
SIGNATURE	DATE		

MANDATORY FORMAT
STATE OF CALIFORNIA
DWC FORM RU-103 (2/95)

NOTICE OF TERMINATION OF VOCATIONAL REHABILITATION SERVICES

TO: _____ CLAIM # _____
 _____ Rehab Unit # _____
 _____ Social Security # _____

We have determined we no longer are required to provide Vocational Rehabilitation Services to you because: (Insert reason for Termination of Vocational Rehabilitation Services)

NOTICE TO EMPLOYEE

If you agree with the above, no further action is required on your part, and we will not be providing vocational rehabilitation services in the future.

If you disagree with our determination that we have no further liability to provide vocational rehabilitation services, you or your representative must submit your written objections and the reasons for them to the Rehabilitation Unit within 20 days of receipt of this notice. The form to use to make your objection is enclosed. Be sure to send a copy to me. The Rehabilitation Unit will then determine if you are to be given further services. Please send a copy of this notice with your objection to the Rehabilitation Unit, located at: (Insert Rehabilitation Unit address)

If you have any questions about this notice, you may contact me at _____

SUMMARY OF SERVICES PROVIDED

Number of weeks of VRMA: _____	Check if employee returned to work with previous employer, either: Alternative job _____ Modified Job _____
Total Amount VRMA Paid: _____	Return to work other than above: yes _____ no _____
Total Amount of PD Supplement: \$ _____	Employee's New Job Title: _____
Amount Paid QRR for: Evaluation: \$ _____	Plan Type: _____
Plan Development \$ _____	Employed in plan objective Yes _____ No _____
Monitoring / Placement: \$ _____	Wages: \$ _____ per _____
Total costs of QRR services \$ _____	SUBMITTED BY (Name) _____
QRR Name _____	FIRM NAME _____
Total other costs of rehabilitation services: \$ _____	CITY, STATE, ZIP: _____
Amount withheld for Employee's Representative, if any: \$ _____	PHONE NUMBER _____ DATE: _____
Copies of this notice has been sent to: _____	

MANDATORY FORMAT
 STATE OF CALIFORNIA
 DWC RU-105 (1/94)

INSTRUCTIONS:

This notice is to be used when the claims administrator terminates vocational rehabilitation services. The claims administrator must provide the reason for termination and it must be the exact wording of one of the seven reasons for termination listed below.

The claims administrator must complete the Summary of Services Provided section and provide the employee with a Case Initiation Document (DWC Form RU 101) and Request for Dispute Resolution (DWC Form RU 103).

REASONS FOR TERMINATION OF VOCATIONAL REHABILITATION SERVICE

1. You have signed a "Statement of Declination" form indicating you do not wish rehabilitation services.
2. You have completed a vocational rehabilitation plan.
3. You have unreasonably failed to complete a vocational rehabilitation plan.
4. You failed to request vocational rehabilitation services within 90 days of our offer to provide services.
5. Your employer has offered to provide you modified work lasting at least 12 months.
6. Your employer has offered to provide you alternative work which, a) you are capable of performing, b) is a regular position lasting at least 12 months, c) offers wages and compensation within 15% of your previous wages, and d) is located within a reasonable commute distance.
7. You have accepted a job provided by your employer.

STATE OF CALIFORNIA

DIVISION OF WORKERS' COMPENSATION

EMPLOYEE STATEMENT OF DECLINATION OF VOCATIONAL REHABILITATION SERVICES

INSTRUCTIONS: This form is to be used for injuries occurring on or after 1/1/94, when the employee declines rehabilitation following notification of medical eligibility. It must be signed by the employee and his/her representative, if any, and submitted by the claims administrator to the Rehabilitation Unit along with a properly completed Notice of Termination of Vocational Rehabilitation Services (DWC Form RU-105). If a Rehabilitation Unit case does not exist, it must be accompanied by a Case Initiation Document (DWC Form RU-101).

Employee Name	Last	First	MI.	RU Case #:
NOTICE TO EMPLOYEE				
<p>The purpose of this form is to formally record your desire to end your right to rehabilitation benefits. If you decline rehabilitation services, your right to rehabilitation services will end. This means your employer will not be required to provide rehabilitation services to you at a later date, unless otherwise determined pursuant to the Rules and Regulations of the Workers' Compensation Appeals Board in accordance with Labor Code Section 5410.</p>				
DESCRIPTION OF VOCATIONAL REHABILITATION SERVICES				
<p>If you had a work-related injury or illness which prevents you from doing your former job and your employer cannot take you back, you are entitled to receive rehabilitation services. The amount of services you receive will depend on your needs and abilities.</p> <p>Vocational rehabilitation services help you to get another job, through job placement or training --whichever is best for you. The rehabilitation costs, including counselor fees and maintenance allowance, are paid by your employer subject to the statutory limits. You have a right to an evaluation to determine the vocational options available to you prior to making this decision. Your right to rehabilitation is separate from your other Workers' Compensation Benefits and cannot under the Labor Code be terminated by a cash payment to you. If you are not ready to participate now in rehabilitation, but might be later, it may be possible to delay your participation in rehabilitation for a period of time.</p> <p>If you want more information, you may contact an Information and Assistance officer with the Division of Workers' Compensation, at no charge, or you may contact an attorney.</p>				
STATEMENT OF DECLINATION				
<p>This form must be signed by the injured employee.</p> <p>The injured employee states:</p> <ul style="list-style-type: none"> I have read this statement of Declination for Vocational Rehabilitation Services. I have received the pamphlet "Help in Returning to Work-94". I decline rehabilitation. I understand by signing this form I am giving up a service to which I am entitled. <p>EMPLOYEE'S SIGNATURE _____ Date: _____</p>				
<p>Representative's signature, if any.</p> <p>The representative states:</p> <ul style="list-style-type: none"> I have reviewed this form with my client; and, I have explained the effects of declining vocational rehabilitation benefits. <p>EMPLOYEE'S REPRESENTATIVE'S SIGNATURE: _____ Date: _____</p>				

REHABILITATION UNIT USE ONLY

DWC FORM RU-107-A(1/94)

NOTE: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Section 4641, Labor Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 10133 to section 10131 and new section 10133 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.
2. New Form RU-94, repealer and new Forms RU-102, RU-105 and RU-107, and repealer of Forms RU-104, RU-105-W, RU-500-W.1, RU-500-X, RU-500-Y and RU-500-Z filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
3. Amendment of forms RU-91 and RU-103 filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

§ 10133.1. Standardized Report Forms

(a) The Qualified Rehabilitation Representative (QRR) shall use the Initial Evaluation Summary, Form RU-120, when reporting his or her findings and recommendations following the initial evaluation of the employee.

(b) The Qualified Rehabilitation Representative (QRR) shall report to the parties on an agreed upon basis the progress of each employee receiving vocational rehabilitation services. The QRR shall use the Vocational Rehabilitation Progress Report, Form RU-121, to report such progress.

(c) Nothing in subsections (a) and (b) shall be construed to prohibit a Qualified Rehabilitation Representative who has otherwise complied with subsections (a) or (b) from preparing additional and more detailed reports at the request of a party. The costs of such additional reports shall be borne by the party who requests the reports.

NOTE: Authority cited: Sections 133, 138.4, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor Code.

HISTORY

1. New section filed 2-16-95; operative 2-16-95. Submitted to OAL for printing only pursuant to Government Code § 11351 (Register 95, No. 7).

§ 10133.2. Pamphlets.

(a) "Help in Returning to Work-94"

Help In Returning To Work - '94

Vocational Rehabilitation Benefits for Workers Injured after January 1, 1994

What is vocational rehabilitation?

Vocational rehabilitation is a workers' compensation benefit that helps injured workers return to work.

You qualify for vocational rehabilitation if you can no longer do your old job, and your employer does not offer you another.

If you qualify, a plan to return you to work will usually be developed by a vocational counselor — with assistance from you and your claims administrator, the person who is handling your claim for your employer or your employer's insurance company.

California law limits the amount of money for rehabilitation services.

How do I find out if I'm eligible for vocational rehabilitation services?

When you are off work for 90 days, your claims administrator will give the doctor who is treating you a job description which lists the exact duties you perform at work.

Your claims administrator will ask you for your help in preparing this job description. This is to make sure that your doctor has an accurate picture of your job duties.

Your participation is very important, because if you do not assist, the claims administrator may send your doctor the employer's description of your job.

If you need help filling out the job description form, you may contact the Division of Workers' Compensation (DWC) informa-

tion and assistance office. (See list for the phone number of the office nearest you).

Once your doctor reports whether you can return to your job, you will receive a letter from the claims administrator and a copy of the doctor's final report.

If you are unable to return to your old job, your employer will decide whether you can return to other work with your disability. You should receive a notice in about a month.

You will not qualify for rehabilitation services if you reject or fail to accept within 30 days, your employer's offer of suitable work.

What if the job my employer offered does not work out?

You may still be entitled to rehabilitation services if the job doesn't last for 12 months or your disability prevents you from performing the tasks.

If you have concerns, talk to your employer, claims administrator, or information and assistance officer.

What if my employer does not offer me a job?

You will receive an offer of vocational rehabilitation services. You have 90 days to accept. You may ask for an evaluation to help you decide.

If you want services but can't start immediately, you should let your claims administrator know and ask about the possibility of delaying services.

If you do not wish rehabilitation at all, you may decline these services by signing a form. This ends your employer's obligation to provide rehabilitation services at a later date.

Can I receive cash instead of rehabilitation services?

No. California law does not permit vocational rehabilitation benefits to be traded for cash.

If I accept vocational rehabilitation, what should I expect?

You and your claims administrator can choose an agreed upon counselor who will develop a rehabilitation plan for you. This can include job modification, job placement assistance, short term training, and self-employment possibilities — whatever is the best way to return you to work.

You also have the right to request a change of counselor.

What income do I receive if I accept vocational rehabilitation?

If you are receiving temporary disability payments when you start vocational rehabilitation, you may continue receiving them until your doctor reports your condition is "permanent and stationary." When this occurs, you will then receive a maintenance allowance of up to \$246 per week.

There is a 52 week limit to the maintenance allowance, so it is better for you to start your rehabilitation as soon as possible. You may also receive advance payments of permanent disability benefits to supplement the maintenance allowance.

What are the limits of vocational rehabilitation?

The California Legislature has placed very strict limits on rehabilitation plans:

- The plan must be completed within 18 months.
- Vocational rehabilitation maintenance allowance payments are limited to a total of 52 weeks.
- Once you agree to a plan, changes are limited.
- Total costs, including maintenance allowance, counseling fees, services and expenses, are generally limited to \$16,000.

What if I'm already enrolled in a college or university?

If you are already enrolled and have made substantial progress toward a degree or certificate at a community college, state university or the University of California, you may be able to waive the services of a rehabilitation counselor. Funds normally paid for counseling may then be used to help pay for the college or university program in which you are enrolled. Contact the DWC Rehabilitation Unit for details.

What other services or benefits could I receive as part of the vocational rehabilitation benefit?

- Transportation allowance at a rate specified by the State of California.
- Specific costs required for your rehabilitation plan, such as the cost of retraining, supplies, tools and equipment, tuition and student fees.
- Reasonable additional living expenses, such as temporary relocation costs during evaluation or training. This consists of the costs of your food and lodging when you are required to be away from home.
- Reasonable relocation expenses if permanent relocation is required

Remember, total costs cannot be more than \$16,000 except in very limited circumstances.

What are my responsibilities?

You are expected to:

- Take an active role in your rehabilitation.
- Complete assignments.
- Be on time for all appointments, classes, interviews, and scheduled meetings.
- Notify your rehabilitation counselor immediately if you are unable to keep appointments.
- Maintain an accurate, complete travel expense log.
- Stay in contact with and immediately notify your counselor of any problems.
- Keep your counselor and claims administrator advised of any change of your address or phone number.
- Be available for rehabilitation services Monday through Friday, during reasonable business hours.

You should be aware that if you do not participate fully, your maintenance allowance may be stopped.

What are the claims administrator responsibilities?

The claims administrator in a timely manner:

- assists you in returning to work with your employer.
- pays you benefits that are due.
- pays for rehabilitation services and expenses that are agreed upon.
- notifies you of changes in benefits.
- submits required paperwork to DWC.
- responds to your questions.

If your claims administrator causes a delay in the provision of services, you may be entitled to additional benefits which could extend beyond the \$16,000 limitation. You must file a *Request for*

Dispute Resolution (DWC Form RU-103) if you wish a written determination as to whether there was a delay.

How do I request assistance from the DWC Rehabilitation Unit?

We hope that you can resolve problems informally with your claims administrator. However, the DWC Rehabilitation Unit is the agency responsible for resolving disputes in vocational rehabilitation.

You can contact the Rehabilitation Unit by phone, or you may request assistance by completing a *Request for Dispute Resolution* (DWC Form RU-103). (See list for the phone number of the office nearest you.)

There is also a toll-free information number you may call for a recorded message — 1-800-736-7401. You may also request any forms or printed information that you may need by calling the toll-free number.

Should I have an attorney represent me? How much will it cost?

Both the DWC rehabilitation consultant and the information and assistance officer are available to help at no cost to you.

If you decide you want the services of an attorney, you should be aware that your weekly vocational rehabilitation maintenance allowance payment (VRMA) may be reduced to pay the attorney. Generally 12% of your weekly VRMA is set aside for payment of attorney fees. For example, if you are entitled to the maximum rate of \$246 per week, a 12% reduction means that you would receive \$216.48 per week. For this reason, you should discuss attorney's fees with the attorney.

What other rights do I have?

The federal Americans with Disabilities Act (ADA) prohibits discrimination against qualified individuals. Qualified individuals include persons who have a physical or mental impairment that substantially limits one or more life activities, and who can perform essential job functions. The employer is required to provide a reasonable accommodation if it would not impose an "undue hardship" on the employer.

For information on the Americans with Disabilities Act, call the Equal Employment Opportunity Commission at 1-800-USA-EEOC.

The state Department of Fair Employment and Housing administers California laws which prohibit harassment or discrimination in employment, housing and public accommodations. If you feel an employer has discriminated against you and you want information, the phone number is 1-800-884-1684.

Here are some helpful phone numbers:

This publication is intended to answer the most frequently asked questions.

It may not necessarily provide a solution for your particular problem, because the specific facts of your situation may call for a different approach. The information contained here is general in nature, and not intended as a substitute for legal advice.

If you have more questions after reading this publication, contact one of the DWC information and assistance offices or rehabilitation offices listed below:

**DISTRICT OFFICES OF THE DIVISION OF
WORKERS' COMPENSATION**

AGOURA HILLS

Information and Assistance
(818) 901-5374 or
(805) 654-4701
Rehabilitation Consultant
(818) 901-5443

ANAHEIM

Information and Assistance
(714) 738-4038
Rehabilitation Consultant
(714) 558-4581

BAKERSFIELD

Information and Assistance
(805) 395-2514
Rehabilitation Consultant
(209) 445-5066

EUREKA

Information and Assistance
(707) 441-5723
Rehabilitation Consultant
(916) 225-2659

FRESNO

Information and Assistance
(209) 445-5355
Rehabilitation Consultant
(209) 445-5066

GROVER BEACH

Information and Assistance
(805) 481-3296
Rehabilitation Consultant
(805) 568-0266

LONG BEACH

Information and Assistance
(310) 590-5240
Rehabilitation Consultant
(310) 590-5033

LOS ANGELES

Information and Assistance
(213) 897-1446
Rehabilitation Consultant
(213) 897-1475

NORWALK

Information and Assistance
(310) 406-7107
Rehabilitation Consultant
(310) 406-2363

OAKLAND

Information and Assistance
(510) 286-1358
Rehabilitation Consultant
(415) 557-8060

PASADENA

Information and Assistance
(818) 578-8664
Rehabilitation Consultant
(213) 897-1475

POMONA

Information and Assistance
(909) 623-8568
Rehabilitation Consultant
(909) 623-8767

REDDING

Information and Assistance
(916) 225-2047
Rehabilitation Consultant
(916) 225-2659

SACRAMENTO

Information and Assistance
(916) 263-2741
Rehabilitation Consultant
(916) 263-2930

SALINAS

Information and Assistance
(408) 443-3058
Rehabilitation Consultant
(408) 277-1102

SAN BERNARDINO

Information and Assistance
(909) 383-4522
Rehabilitation Consultant
(909) 383-4073

SAN DIEGO

Information and Assistance
(619) 525-4589
Rehabilitation Consultant
(619) 525-4203

SAN FRANCISCO

Information and Assistance
(415) 557-1954
Rehabilitation Consultant
(415) 557-3915

SAN JOSE

Information and Assistance
(408) 277-1292
Rehabilitation Consultant
(408) 277-1102

SANTA ANA
Information and Assistance
(714) 558-4597
Rehabilitation Consultant
(714) 558-4581

SANTA BARBARA
Information and Assistance
(805) 966-9872
Rehabilitation Consultant
(805) 568-0266

SANTA MONICA
Information and Assistance
(310) 452-1188
Rehabilitation Consultant
(310) 452-4166

SANTA ROSA
Information and Assistance
(707) 576-2452
Rehabilitation Consultant
(707) 576-2427

STOCKTON
Information and Assistance
(209) 463-6201
Rehabilitation Consultant
(209) 948-3608

VAN NUYS
Information and Assistance
(818) 901-5374
Rehabilitation Consultant
(818) 901-5443

VENTURA
Information and Assistance
(805) 654-4701
Rehabilitation Consultant
(805) 654-4698

WALNUT CREEK
Information and Assistance
(510) 977-8343
Rehabilitation Consultant
(510) 977-8318

NOTE: Authority cited: Sections 133, 139.5, 139.6 and 5307.3, Labor Code. Reference: Sections 139.5 and 4636, Labor Code.

HISTORY

1. New section filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

§ 10133.3. Rehabilitation Unit File Retention.

(a) The unit shall retain its files until 90 days from the date of the filing of the "Notice of Termination of Rehabilitation Services", DWCRU 105, unless a timely objection to the notice is filed by the employee. File retention shall be extended to 90 days beyond a final decision of the appeals board on a petition which appeals a unit finding, decision or determination.

(b) When the parties, subsequent to the time limits in subsection (a), request a determination by the unit, the unit may require the parties to provide copies of pertinent notices, reports and documents which are necessary for the unit to make its determination.

NOTE: Authority cited: Sections 133, 138.4, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor Code.

HISTORY

1. Renumbering and amendment of former section 10019 to section 10134 filed 2-16-95; operative 2-16-95. Submitted to OAL for printing only pursuant to Government Code § 11351 (Register 95, No. 7).
2. Amendment of section number filed 8-8-95; operative 8-8-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 32).

**ANYONE WHO KNOWINGLY FILES OR
ASSISTS IN THE FILING OF A FALSE
WORKERS' COMPENSATION CLAIM
MAY BE FINED UP TO \$50,000 AND SENT
TO PRISON FOR UP TO FIVE YEARS.**

[Insurance Code Section 1871.4]

State of California
Department of Industrial Relations
Division of Workers's Compensation
Rehabilitation Unit

INITIAL EVALUATION SUMMARY		
Claims Administrator:	Employee:	
Address:	Claim #:	DOI:
City/State/Zip:	Employer:	
Contact Name:	Date of Initial Evaluation:	
Reason for Referral:		
<input type="checkbox"/> Full Service <input type="checkbox"/> Job Analysis Only <input type="checkbox"/> Other (Explain): _____ <input type="checkbox"/> Evaluation Only <input type="checkbox"/> 90-Day QRR _____		
Initial Meeting and Impressions: Vocationally Feasible? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Deferred (Explain)		
Summary:		
Recommendations:		
Plan of Action:		
Next Reporting Date:		
ORR (Print Name):	Signature:	Date:
Attachments: a) <u>Data Sheet</u> _____ b) _____ c) _____ d) _____	Copies Sent To: a) _____ b) _____ c) _____ d) _____	

DWC Form RU-120 (Page 1 of 4) (02/95)

INITIAL EVALUATION DATA SHEET			
PERSONAL INFORMATION: Name:			
Male: _____ Female: _____	Social Security No.:	DOB:	
Phone No.:	CA Driver's License No.:	Exp. Date:	
License Restrictions (Explain):			
Distance willing to travel to work (one way):		Areas willing to drive:	
Reliable vehicle available for transportation (full-time): _____ Yes _____ No If no, what method of transportation will be used:			
Willing to relocate? Yes No Work Shifts: All Days All Shifts M-F Only 8-5 Only			
Describe issues which may interfere with worker's participation in services:			
SOCIO-FAMILY FINANCIAL HISTORY			
Marital status: Married Single Divorced Widowed Separated			
Number of Dependents Living at Home:	Ages:	Child Support Payments? _____ Yes _____ No Amount: \$	
Child care required: Yes No	Estimated amount per week: \$		
Able to financially support self throughout duration of services: _____ Yes _____ No (Explain):			
Receiving VRMA? Yes No		Amount per week: \$	
Receiving PD Supplement? Yes No		Amount per week: \$	
Other sources of income (explain):			
EDUCATIONAL BACKGROUND			
High School Graduate? _____ Yes _____ No Year: _____		Name & Location of High School:	
If not HS graduate, GED? _____ Yes Year: _____ If No GED - Last grade completed:		Post-HS Studies _____ Certificate _____ AA/AS _____ BA/BS Area of Study: _____ Year: _____	
English Language Speak _____ Yes _____ No Read _____ Yes _____ No Level _____ Write _____ Yes _____ No Level _____		Other Language: _____ Speak _____ Yes _____ No Read _____ Yes _____ No Write _____ Yes _____ No	
Worker's List of Perceived Work Skills:			

DWC Form RU-120 (Page 2 of 4) (02/95)

MILITARY SERVICE: Dates of Service: _____ Branch: _____					
Special Skills: _____					
VOCATIONAL HISTORY					
		Dates Employed			
Company, Location	From	To	Job Title	Salary	Reason for Leaving
MEDICAL FILE REVIEW					
Treating Physician: _____				Phone: _____	
Address: _____					
Injury/Diagnosis: _____					
Permanent & Stationary		Yes	No	Date: _____	
Medical Restrictions/Limitations (specify medical report and date relied upon): _____					
Current Medications (specify medical report and date relied upon): _____					
Currently in Physical Therapy: ___ Yes ___ No Days/Times: _____					
Non-Industrially Related Medical Conditions (explain): _____					
PRESENT PHYSICAL TOLERANCES (Subjective)					
Sitting ___ minutes	Lifting ___ # of Pounds: ___	Reaching			
Standing ___ minutes	Climb Steps: Can ___ Cannot ___	Below shoulder ___ Yes ___ No			
Driving ___ minutes	Bending: Can ___ Cannot ___	At shoulder ___ Yes ___ No			
Walking ___ minutes	Dominant Hand: Rt. ___ Lft. ___	Handling/Feeling ___ Yes ___ No			
Vision Restriction ___ Yes ___ No		Pushing/Pulling ___ Yes ___ No			
		Ready to Return to Work ___ Yes ___ No			
Supplemental Medical/Physical Information: _____					

DWC Form RU-120 (Page 3 of 4) (02/95)

VOCATIONAL CONSIDERATIONS			
Preliminary Assessment of Transferrable Skills:			
Client's Expressed Interest/Expectations of Vocational Rehabilitation:			
Observations (Comments on Appearance, Rapport, Cooperation, Attitude):			
VOCATIONAL FEASIBILITY FACTORS			
Can the employee reasonably benefit from the provision of vocational rehabilitation services?			
INVESTIGATION OF MODIFIED/ALTERNATE EMPLOYMENT			
	Available	Contact:	
	Not Available	Title:	
	Unknown/Not Requested	Date of Conduct:	
EXPLANATION OF VOCATIONAL REHABILITATION PROCESS			
(Check Box for all issues covered with worker)			
	EE Role	Caps/Limits on VR	Termination Process
	QRR Role	VRMA	Reinstatement Process
	Carrier/ER Role	Dispute Resolution Process	Interruption Process
	Rehab Unit Role	Effect of Delays	Allowable Costs
	Help RTW Brochure	Plan Definition	Nature, Extent Added Costs
	Plan Hierarchy	Plan Parameters	Other (Explain)

DWC Form RU-120 (Page 4 of 4) (02/95)

VOCATIONAL REHABILITATION PROGRESS REPORT #			
Claims Administrator:		Employee:	
Address:		Claim #:	DOI:
City/State/Zip:		Employer:	
Contact Name:		Report Date:	Period Covered:
Date Medical Eligibility:		Date Vocational Feasibility:	
Anticipated Plan Submission Date:	Plan Start Date:	Plan Completion Date:	
Dates of Meetings/Appointments/Classes Attended: _____ _____		Dates Missed Meetings/Appointments/Classes: _____ _____	
Services Provided:			
Summary of Activities and Comments:			
Recommendations/Plan of Action:			
Next Reporting Date:			
QRR (Print Name):		Signature:	Date:
Attachments: _____ _____ _____		Copies Sent To: _____ _____ _____	Phase I: _____ Phase II: _____ Phase III: _____ Cum Total: _____
Report Preparation Time: _____ minutes			

§ 10133.4. Rehabilitation of Industrially Injured Inmates.

(a) Inmates of a state penal or correctional institution may be eligible for workers' compensation benefits, including the provision of vocational rehabilitation services, for injuries which occur during their incarceration and while engaged in assigned work or employment. As used in this section:

(1) "Assigned work or employment" means work performed in any pay or non-pay position in a work program under the direction and with the approval of a duly authorized inmate leadman or supervisory leadman or Department of Corrections employee. The term does not include skill centers, vocational training or academic education programs (except for physical fitness training and forestry training which are authorized by Labor Code Section 3365 as prerequisites to fire suppression duties) or activities which are clearly not encompassed within the duties and responsibilities of the position to which assigned.

(2) "Inmate of a state penal or correctional institution" means a person committed to the custody of the Department of Corrections; and who is in a facility, camp, hospital, or institution of the Department of Corrections for the purpose of confinement, treatment, employment, training, or discipline; or who has been temporarily removed by the Department of Corrections from a facility under its jurisdiction with or without custody, for the performance of assigned work. The term does not include a prisoner who has escaped or who has been released on parole.

(3) "Director," as cited in subdivision (b) of Section 5069 of the Penal Code, means the Director of Corrections. In addition to the requirements of Sections 10123, 10124 and 10126, the Director of Corrections shall

provide notice of the availability of vocational rehabilitation services to inmates disabled for 28 calendar days or more, on a form prescribed by the director. A copy of such form shall be sent to the Department of Rehabilitation.

(b) Notwithstanding Section 10125.1, an injured inmate who otherwise qualifies for vocational rehabilitation services shall not be entitled to vocational rehabilitation maintenance allowance payments while serving in a state penal or correctional institution.

(c) Vocational rehabilitation services to determine an inmate's eligibility as a qualified injured worker, and to develop any required vocational rehabilitation plan, shall be provided by a rehabilitation representative chosen by the Department of Corrections. Such services shall be provided the inmate as soon as it is feasible and prior to the inmate's release from custody, if possible, with the intent of preparing the inmate for suitable gainful employment upon release. Nothing shall bar the development and implementation of a plan, however, prior to the inmate's release, using modified work or an otherwise suitable work position meeting the definition of assigned work or employment under subsection (a) of this section.

NOTE: Authority cited: Sections 133, 138.4, 139.5 and 5307.3, Labor Code. Reference: Sections 3351 and 3370, Labor Code; and Section 5069, Penal Code.

HISTORY

1. Renumbering of former section 10021 to new section 10133.4 and amendment of section and NOTE filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).

**Article 8. Attorney Fee Disclosure
Statement**

§ 10134. Attorney Fee Disclosure Statement Form.

State of California
Department of Industrial Relations
Division of Workers' Compensation

FEE DISCLOSURE STATEMENT

If you choose to be represented by an attorney, your attorney's fees will be deducted from your benefits. The fee will be approved by the Workers' Compensation Appeals Board, with consideration given to the: (1) responsibility assumed by the attorney; (2) care exercised in representing you; (3) time involved; and, (4) results obtained.

Attorney's fees normally range from 9% to 12% of the benefits awarded. If your attorney has also represented you before the Rehabilitation Unit, there may also be a fee allowed for this representation.

There are certain circumstances where your employer (or his/her insurer) may be liable to pay your attorney's fees. For example, if employer disputes a permanent disability evaluation obtained when you were not represented by an attorney, your employer may be liable for any attorney fees you incur because of the dispute.

If at any time you no longer wish to be represented by the attorney, you may withdraw from representation by notifying the attorney. If you withdraw from representation, the fee amount found by a workers' compensation judge to be the fair value of any work the attorney did in your case will be deducted from your award.

An Information and Assistance Officer may be able to answer your questions concerning your workers' compensation benefits at no charge to you. He/She may be able to resolve your problems without the need for litigation.

Call this toll-free number: 1-800-736-7401.

Employee's Signature _____ Date _____

Employee's Name _____

Attorney's Signature _____ Date _____

Attorney's Name _____

Address _____

Phone No. () _____

Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of felony.

Estado de California
Departamento de Relaciones Industriales
División de Compensaciones al Trabajador

DECLARACION DE REVELACION DE HONORARIOS

Si Ud. escoge ser representado por un abogado, los honorarios de su abogado serán deducidos de sus beneficios. Los honorarios serán aprobados por el Directorio de Apelaciones de Compensaciones al Trabajador, se le dará consideración a lo siguiente: (1) responsabilidad asumida por el abogado; (2) el cuidado ejercido en representarlo a Ud.; (3) tiempo dedicado; y (4) resultados obtenidos.

Los honorarios del abogado normalmente fluctúan entre un 9% a un 12% de los beneficios otorgados. Si su abogado también lo ha representado a Ud. ante la Unidad de Rehabilitación, también puede ser que se permitan honorarios por esta representación.

Hay ciertas circunstancias en que su empleador (o la compañía de seguros de correspondiente) pueda ser responsable u obligado a pagar sus honorarios de abogado. Por ejemplo, si su empleador disputa una evaluación de incapacidad permanente obtenida cuando Ud. no ha sido representado por un abogado, su empleador puede ser responsable u obligado a pagar cualquier honorario de abogado incurrido por la disputa.

Si en cualquier momento Ud. no desea continuar siendo representado por un abogado, Ud. puede retirar la representación con una notificación a su abogado. Si retira Ud. su representación, la cantidad de honorarios será determinada por el juez por cualquier trabajo que el abogado haya efectuado en su caso y esta será deducida de su beneficio otorgado.

Un Oficial de Información y Asistencia podrá responder a sus preguntas en relación a sus beneficios de compensación sin costo alguno para Ud. El podrá resolver sus problemas sin necesidad de litigación. Llame a éste número de teléfono gratis: 1-800-736-7401.

Firma del Empleado _____ Fecha _____

Nombre del Empleado _____

Firma del Abogado _____ Fecha _____

Nombre del Abogado _____

Dirección: _____

Número de Teléfono (____) _____

Toda aquella persona que con conocimiento haga o cause que se produzca cualquier declaración o representación material falsa o fraudulenta con el fin de obtener o negar beneficios o pagos de compensación a trabajadores lesionados es culpable de un crimen mayor "felonía".

NOTE: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Section 4906(e), Labor Code.

HISTORY
1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code section 11351.

2. Repealer and new section filed 4-13-93; operative 4-13-93. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 16)

§ 10135. Required Use of Form.

Every attorney or his/her agent who consults with an injured worker or dependent is required to furnish the attorney fee disclosure statement form set forth in Section 10134 of this Article to the injured worker or dependent at the initial consultation.

NOTE: Authority cited: Section 133 and 5307.3, Labor Code. Reference: Section 4906(e), Labor Code.

HISTORY

1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code Section 11351.

2. Amendment filed 4-13-93; operative 4-13-93. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 16)

§ 10135.1. Service of Form.

Within 15 days of the employee's and attorney's execution of the disclosure form, a copy of the disclosure form shall be mailed to the employer or, if known, to the employer's insurer or third-party administrator.

NOTE: Authority cited: Section 133 and 5307.3, Labor Code. Reference: Section 4906(e), Labor Code.

HISTORY

1. New section filed 4-13-93; operative 4-13-93. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 16).

(b) An applicant is entitled to an expedited priority hearing and decision upon the filing of an Application for Adjudication of Claim and Request for Expedited Hearing, DWC Form 4, showing a bona fide dispute as to:

- (1) entitlement to medical treatment;
- (2) entitlement to temporary disability payments or amount;
- (3) appeal from a decision and order of the rehabilitation unit, enforcement thereof, or termination; or
- (4) liability for benefits among employers;

(c) The request for expedited hearing must be on the form set forth in Section 10137, DWC Form 4, and must be filed with an Application for Adjudication of Claim.

(d) Within two (2) days of receipt of the Request for Expedited Hearing, the Request shall be reviewed for compliance with Subdivision (b).

NOTE: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Section 5502(b), Labor Code.

HISTORY

1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code Section 11351.

2. Amendment of subsections (b), (b)(3), (b)(4) and (c), repealer of subsections (b)(5), (d), (e) and (f), and new subsection (d) filed 4-13-93; operative 4-13-93. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 16)

Article 9. Request for Expedited Hearing

§ 10136. Filing the Request.

(a) The Administrative Director shall establish a uniform expedited hearing calendar in all offices of the Division of Workers' Compensation.

§ 10137. Form.

WORKERS COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

CASE NO.:

REQUEST FOR EXPEDITED
HEARING AND DECISION
[LABOR CODE SECTION 5502(b)]

Applicant
vs.

Defendants

The applicant herein, having filed an Application for Adjudication of Claim this date, requests that this case be set for expedited hearing and decision at

_____ on the following issues:
Workers' Compensation Appeals Board

- _____ Entitlement to Medical Treatment per L.C. 4600
- _____ Entitlement to Temporary Disability, or Disagreement on Amount of Temporary Disability
- _____ Appeal from Decision and Order of Rehabilitation Bureau
- _____ Entitlement to Compensation in Dispute Because of Disagreement between Employers and/or Carriers

Explanation: _____

APPLICANT STATES UNDER PENALTY OF PERJURY THAT THERE IS A BONA FIDE DISPUTE; THAT HE/SHE IS PRESENTLY READY TO PROCEED TO HEARING; THAT HIS/HER DISCOVERY IS COMPLETE ON SAID ISSUES; THAT THE TIME REQUIRED FOR HEARING WILL BE _____

Name (Print or Type) _____

Signature of applicant _____

Signature of attorney (if represented) _____

Date: _____

INSTRUCTION FOR FILING

This request must be filed with an Application for Adjudication of Claim at the appropriate district office of the Appeals Board.

SERVICE

Type or print names and addresses of parties, including attorneys and representatives served with a copy of this request.

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

CASE NO.:

SOLICITUD PARA EXPEDIR
LA AUDICION Y DECISION
[CODIGO DEL TRABAJO SECCION 5502(b)]

Demandante

Contra

Demandado

El demandante en esta ha presentado una aplicacion para beneficios en esta fecha. el requiere que este caso sea dirigido para expedir la audicion y decision a _____

Oficina de La Compensacion de Trabajadores de la Junta de Apelacion

en los siguientes asuntos:

- _____ Tener Derecho a Tratamiento Medico segun L.C. 4600
- _____ Tener Derecho de Incapacitado Temporal, o estar de desacuerdo con la cantidad de la Incapacidad Temporal
- _____ Apelacion de la Decision y Orden del Bureau de Rehabilitacion
- _____ Tener Derecho a recibir compensacion en Litigio por desacuerdo entre el Empresario y/o Compania de Seguros

Explicacion: _____

EL DEMANDANTE DECLARA BAJO MULTO DE PERJURIO QUE AQUI EXISTE UN LITIGIO DE BONA FIDE; QUE EL/ELLA ESTA AHORA PREPARADA PARA PROCEDER CON LA AUDICION; QUE SU DESCUBRIMIENTO ESTA COMPLETO CON LAS CUESTIONES DICHAS; QUE LA REQUERIDA HORA SERA _____

Nombre (Escribe en letra de imprenta o maquina) _____

Firma del Demandante _____

Firma del Abogado (si es representado) _____

Fecha _____

INSTRUCCIONES PARA SER PRESENTADO

Esta solicitud debe ser presentada con la Demanda de Adjuicio en una Oficina de Compensacion de Trabajadores.

SERVICIO

Escriba a maquina o en letra de imprenta los nombres y direcciones de las personas que hayan recibidos una copia de esta demanda, incluyendo los abogados y los representantes

DWC Form 4 (02/93)

NOTE: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Section 5502(b), Labor Code.

HISTORY

1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code Section 11351.
2. Repealer and new section filed 4-13-93; operative 4-13-93. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 16)

Subchapter 1.6. Permanent Disability Rating Determination

§ 10150. Authority.

The Office of Benefit Determination, Disability Evaluation Unit, under the direction and authority of the Administrative Director, will issue permanent disability rating determinations. The terms used to identify the various rating determinations have a definite and exclusive meaning, and are not to be used interchangeably.

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. Amendment of subchapter 1.6 heading filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).

§ 10151. Schedule for Rating Permanent Disabilities.

The Schedule for Rating Permanent Disabilities as revised and issued by the Administrative Director in 1996, is hereby incorporated by reference in its entirety as though it were set forth below. The revised Schedule shall apply to injuries occurring on or after April 1, 1997.

NOTE: Authority cited: Sections 4660, 133, 4061, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

HISTORY

1. New section filed 12-30-96; operative 12-30-96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 97, No. 1).

§ 10152. Disability, When Considered Permanent.

A disability is considered permanent after the employee has reached maximum medical improvement or his or her condition has been stationary for a reasonable period of time.

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

§ 10154. Permanent Disability Rating Determinations, Kinds.

The Disability Evaluation Unit will prepare the following kinds of rating determinations:

- (a) Formal rating determinations
- (b) Summary rating determinations
- (c) Consultative rating determinations
- (d) Informal rating determinations

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124, 4061, 5452, 5701 and 5703.5, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. New subsection (d) filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).

§ 10156. Formal Rating Determinations.

A formal rating determination will be prepared by the Disability Evaluation Unit on request of the Appeals Board or a Workers' Compensation Judge on a form specified for that purpose by the Administrative Direc-

tor. The form will provide for a description of the disability to be rated, the occupation of the injured employee, and his or her age at the time of injury, the date of injury, the formula used, and a notice of submission in accordance with Appeals Board Rules of Practice and Procedure.

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124, 4061 and 5701, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

§ 10158. Formal Rating Determinations As Evidence.

Formal rating determinations prepared by disability evaluators shall be deemed to constitute evidence only as to the relation between the disability described and the percentage of permanent disability.

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

§ 10160. Summary Rating Determinations, Comprehensive Medical Evaluation of Unrepresented Employee.

(a) The Disability Evaluation Unit will prepare a summary rating determination upon receipt of a properly prepared request. A properly prepared request shall consist of:

(1) A completed Request for Summary Rating Determination, DEU Form 101;

(2) A completed Employee's Permanent Disability Questionnaire, DEU Form 100;

(3) A comprehensive medical evaluation of an unrepresented employee from a Qualified Medical Evaluator.

(b) The insurance carrier or self-insured employer shall provide the employee with an Employee's Permanent Disability Questionnaire (DEU Form 100) prior to the appointment scheduled with the Qualified Medical Evaluator. The employee will be instructed in the form and manner prescribed by the Administrative Director to complete the questionnaire and provide it to the Qualified Evaluator at the time of the examination.

(c) The insurance carrier or self-insured employer shall complete a Request for Summary Rating Determination (DEU Form 101), a copy of which shall be served on the employee. The insurance carrier or self-insurer shall send the request, including proof of service of the request on the employee, to the Qualified Medical Evaluator together with all medical reports and medical records relating to the case prior to the scheduled examination with the Qualified Medical Evaluator. The request shall include the appropriate address of the Disability Evaluation Unit. A listing of all of the offices of the Disability Evaluation Unit, with each office's area of jurisdiction, will be provided, upon request, by any office of the Disability Evaluation Unit or any Information and Assistance Office.

(d) Upon completion of the medical evaluation, the Qualified Medical Evaluator shall submit all of the following documents to the Disability Evaluation Unit at the location indicated on the DEU Form 101 and shall concurrently serve copies on the employee and claims administrator:

1. Request for Summary Rating Determination (DEU Form 101) as a cover sheet to the evaluation report;

2. Employee's Permanent Disability Questionnaire (DEU Form 100);

3. Comprehensive medical evaluation by the Qualified Medical Evaluator, including the Qualified Medical Evaluator's Findings Summary Form (IMC Form 1002).

(e) No request for a summary rating determination will be considered to be received until the DEU Form 100, the DEU Form 101, and the comprehensive medical evaluation have been received by the office of the Disability Evaluation Unit having jurisdiction over the employee's area of residence. In the event an employee does not have a completed Employee's Permanent Disability Questionnaire (DEU Form 100) at the time of his or her appointment with a Qualified Medical Evaluator, the

medical evaluator shall provide this form to the employee for completion prior to the evaluation. Any requests received on or after April 1, 1994 without all the required documents will be returned to the sender.

(f) Any request for the rating of a supplemental comprehensive medical evaluation shall be accompanied by a copy of the correspondence to the evaluator soliciting the supplemental evaluation along with proof of service of the correspondence on the opposing party. No supplemental or follow-up comprehensive medical evaluation will be accepted by the Disability Evaluation Unit for an additional or amended summary rating if it was solicited by a party after a summary rating determination has already been issued to the parties.

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064 and 4067, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. Amendment of section filed 1-28-94; operative 1-28-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 94, No. 4).
3. Amendment of section heading and text filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

§ 10160.1. Summary Rating Determinations, Report of Primary Treating Physician for Unrepresented Employee.

For injuries on or after January 1, 1994, the insurance carrier, self-insured employer or the employee may request a summary rating of the primary treating physician's report prepared in accordance with Section 9785.5. The request may be made by completing a Request for Summary Rating Determination of Primary Treating Physician's Report (DEU Form 102) and sending the request to the Disability Evaluation Unit together with a copy of the primary treating physician's report. A copy of the request form and a copy of the primary treating physician's report must be served concurrently on the non-requesting party, including a proof of service on the non-requesting party.

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124, 4061, 4061.5, 4062, 4062.1, 4062.2, 4062.5, 4064 and 4067, Labor Code.

HISTORY

1. New section filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

§ 10160.5. Summary Rating Determinations, Represented Employees.

(a) For injuries on or after January 1, 1991 and before January 1, 1994, the Disability Evaluation Unit will prepare a summary rating determination in cases where the injured worker is represented only if requested by

a party. A summary rating determination will be prepared only upon receipt of a properly prepared request. A properly prepared request shall consist of:

(1) A completed Request for Summary Rating Determination (DEU Form 101);

(2) An evaluation by a Qualified Medical Evaluator or Agreed Medical Evaluator.

(b) The requesting party shall complete a Request for Summary Rating Determination (DEU Form 101) and submit it together with all medical reports and medical records concerning the case to the medical evaluator. The medical evaluator shall send the completed medical evaluation report together with the Request for Summary Rating Determination to the office of the Disability Evaluation Unit designated by the Administrative Director and specific on the Request for Summary Rating Determination (DEU Form 101) and shall simultaneously serve the party or parties requesting the evaluation.

(c) Notwithstanding the provisions of subdivision (b), a party may request a summary rating determination following receipt of a medical report prepared by a Qualified Medical Evaluator or Agreed Medical Evaluator on a represented case. The party shall send the Request for Summary Rating Determination (DEU Form 101) and the medical report to the DEU office designated by the Administrative Director and shall simultaneously serve the other party.

(d) If a case is settled prior to receipt of a summary rating which has been requested, the requesting party shall notify the DEU office to which the request was directed.

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064 and 4067, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. Amendment of section filed 1-28-94; operative 1-28-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 94, No. 4).
3. Amendment of section heading and subsections (a)-(c), repeal of subsection (d), subsection relettering, and amendment of redesignated subsection (d) filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

§ 10161. Forms.

(a) Employee's Permanent Disability Questionnaire (DEU Form 100 (revised 1/95)).

(b) Request for Summary Determination of Qualified or Agreed Medical Examiner's Report (DEU Form 101) (revised 1/95).

(c) Request for Summary Determination of Primary Treating Physician's Report (DEU Form 102)

[The next page is 1288.10(c).]

STATE OF CALIFORNIA
Division of Workers' Compensation
Disability Evaluation Unit

EMPLOYEE'S PERMANENT DISABILITY QUESTIONNAIRE

To be used for injuries which occur on or after 1/1/91

This form will aid the doctor in determining your permanent disability. Please complete this form and give it to the physician who will be performing the evaluation. The doctor will include this form with his or her report and submit it to the Disability Evaluation Unit, with a copy to you and your claims administrator.

Employee

Employer

Social Security No.

Nature of employer's business

Street and Number

City, State, Zip Code

Claim number

Date of Injury

Date of Birth

PLEASE ANSWER THE FOLLOWING QUESTIONS FULLY, using reverse side if needed:

How was your evaluating doctor selected? (check one)

_____ From a list of doctors provided by the State of California, Industrial Medical Council.

_____ From a list of doctors provided by the State of California, Information and Assistance Unit.

_____ Other (explain) _____

What is the name of the doctor who will be doing the evaluation? _____

When is your examination scheduled? _____

What were your job duties at the time of your injury?

What is the disability resulting from your injury?

How does this disability affect you in your work?

Have you ever had a permanent disability as a result of another injury or illness? _____ If so, when? _____

Please describe the disability? _____

Sign here _____

Date: _____

DEU FORM 100 (REV 2/95)

**REQUEST FOR SUMMARY RATING DETERMINATION
of Qualified or Agreed Medical Examiner's Report**

State of California
Division of Workers' Compensation
Disability Evaluation Unit

DEU Use Only

To be used for dates of injury on or after 1/1/91

INSTRUCTIONS TO THE CLAIMS ADMINISTRATOR:

1. Complete this form and forward it along with a complete copy of all medical reports and medical records concerning this case to the physician scheduled to evaluate the existence and extent of permanent disability.
2. If the employee is unrepresented, be sure to send the EMPLOYEE'S PERMANENT DISABILITY QUESTIONNAIRE, DEU FORM 100 to the employee in time for the medical evaluation.
3. **This form must be served on the employee prior to the evaluation. Be sure to complete the proof of service.**

INSTRUCTIONS TO THE PHYSICIAN:

1. If the employee is unrepresented, review and comment upon the Employee's Permanent Disability Questionnaire, (DEU Form 100), in your report. (If the employee does not have a completed Form 100 at the time of the appointment, please provide the form to the employee.)
2. Submit your completed medical evaluation and, if the employee is unrepresented, the DEU Form 100, to the Disability Evaluation Unit district office listed below. **PLEASE USE THIS FORM AS A COVER SHEET FOR SUBMISSION TO THE DISABILITY EVALUATION UNIT.**
3. If the employee is unrepresented, serve a copy of your report and the Form 100 upon the claims administrator and the employee. If the employee is represented, serve a copy of your report on the party or parties requesting the evaluation only.

SUBMIT TO: DISABILITY EVALUATION UNIT

Mailing Address:
City, State, Zip:

**PHYSICIAN:
EXAM DATE:**

CLAIMS ADMINISTRATOR

Company:
Mailing Address:
City, State, Zip:
Claim No:
Phone No:
Adjustor:

EMPLOYEE

Name:
Mailing Address:
City, State, Zip:
Date of Injury:
Date of Birth:
Social Security #:
WCAB Case No. (if any):
Representative's name (if any):
Representative's address:

EMPLOYER:

OCCUPATION: _____

(Please attach job description or job analysis, if available)

WEEKLY GROSS EARNINGS: _____ (Attach a wage statement/DLSR 5020 if earnings are less than maximum. Include the value of additional advantages provided such as meals, lodging, etc. If earnings are irregular or for less than 30 hours per week, include a detailed description of all earnings of the employee from all sources, including other employers, for one year prior to the date of injury. Benefits will be calculated at MAXIMUM RATE unless a complete and detailed statement of earnings is attached.)

PROOF OF SERVICE BY MAIL

On _____, I served a copy of this Request for Summary Rating Determination on _____
(date) (name of employee) at _____ (address) by placing
a true copy enclosed in a sealed envelope with postage fully prepaid, and deposited in the U.S. Mail. I
declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature _____

DEU FORM 101 (REV. 2/95)

REQUEST FOR SUMMARY RATING DETERMINATION of Primary Treating Physician's Report

State of California
Division of Workers' Compensation
Disability Evaluation Unit

DEU Use Only

To be used for injuries which occur on or after January 1, 1994.

INSTRUCTIONS :

1. Complete this form and send it to the Disability Evaluation Unit along with a copy of the primary treating physician's report.
2. This form and any attachments including a copy of the primary treating physician's report must be served on the other party.
3. If you receive the completed form from the other party and you disagree with the description of the occupation or earnings, please attach the correct information to a copy of this form and send it to the Disability Evaluation Unit. You must also send a copy of your objection to the other party.

REQUEST IS MADE BY:

Employee
 Claims Administrator

**PHYSICIAN:
EXAM DATE:**

CLAIMS ADMINISTRATOR

Company:
Mailing Address:
City, State, Zip:
Claim No.:
Phone No.:
Adjustor:

EMPLOYEE

Name:
Mailing Address:
City, State, Zip:
Date of Injury:
Date of Birth:
Social Security #:
WCAB Case No. (if any):

EMPLOYER: _____

NATURE OF EMPLOYER'S BUSINESS: _____

JOB TITLE: _____

DESCRIBE THE GENERAL DUTIES OF THE JOB (Attach job description or job analysis, if available):

WEEKLY GROSS EARNINGS: \$ _____ Attach a wage statement/DLSR 5020 if earnings are less than maximum. Include the value of additional advantages provided such as meals, lodging, etc. If earnings are irregular or for less than 30 hours per week, include a detailed description of all earnings of the employee from all sources, including other employers, for one year prior to the date of injury. Benefits will be calculated at MAXIMUM RATE unless a complete and detailed statement of earnings is received.

PROOF OF SERVICE BY MAIL

On _____ I served a copy of this Request for Summary Rating Determination on
(date)
_____ at _____ by placing
(name of employee or claims administrator) (address)
a true copy enclosed in a sealed envelope with postage fully prepaid, and deposited in the U.S. Mail. I
declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature _____

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. Repealer and new DEU Form 100 filed 1-28-94; operative 1-28-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 94, No. 4).
3. Editorial correction restoring inadvertently omitted subsection (b) (Register 95, No. 8).
4. Amendment of subsections (a), (b) and forms 100 and 101; and new subsection (c) and form 102 filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

§ 10161.1. Reproduction of Forms.

The Request for Summary Rating Determination (DEU Form 101), the Employee's Permanent Disability Questionnaire (DEU Form 100), and the Request for Summary Rating Determination of the primary treating physician (DEU Form 102) may be reproduced by automated office equipment or other means as long as the content is identical to the specified form.

HISTORY

1. New section filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).
2. Amendment of section number filed 8-8-95; operative 8-8-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 32).

§ 10162. Summary Rating Determinations, Apportionment.

In cases where the injured worker is not represented and a Qualified Medical Evaluator's formal medical evaluation indicates apportionment

of the permanent disability, a summary rating determination will not be made until a Workers' Compensation Judge has reviewed the medical evaluation to determine if the apportionment is inconsistent with the law. The determination of the Workers' Compensation Judge will not be admissible in any judicial proceeding.

Upon receipt of a formal medical evaluation which apportions the disability, the Disability Evaluation Unit will transmit the medical evaluation to the Presiding Workers' Judge of the office of the Appeals Board designated by the Disability Evaluation Unit, with a request to review the apportionment to determine whether it is inconsistent with the law. The Workers' Compensation Judge will make the determination and respond to the Disability Evaluation Unit within 45 days.

If the Workers' Compensation Judge refers the medical report back to the Qualified Medical Evaluator for correction or clarification, the Qualified Medical Evaluator shall provide a response to the Workers' Compensation Judge within 30 days of the referral. If no response is received, the Workers' Compensation Judge will make a determination whether the apportionment is inconsistent with the law, and a summary rating determination will be made.

In cases where the injured worker is represented and an Agreed Medical Evaluator or Qualified Medical Evaluator apportions the permanent disability, the Disability Evaluation Unit will issue a summary rating determination "Before Apportionment."

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

[The next page is 1288.11.]

§ 10163. Apportionment Referral.

STATE OF CALIFORNIA
Department of Industrial Relations
Department of Workers' Compensation
OFFICE OF BENEFIT DETERMINATION
DISABILITY EVALUATION UNIT

Date: _____

TO: Presiding Workers' Comp. Judge, _____
(Office)

FROM: Disability Evaluation Unit, _____
(Office)

SUBJECT: DEU File:

Employee:

QME:

Date of Report:

The attached formal medical evaluation apportions the permanent disability. Please determine whether the apportionment is valid.

If you refer the report back to the medical evaluator for correction or clarification, and you receive no response within 30 days, please make a determination based on the available evidence.

Please indicate whether the apportionment is consistent with the law by checking the appropriate space, sign and date the bottom of this form and return it with the medical report to the DEU office listed above.

Thank you.

The apportionment: IS CONSISTENT _____ or
IS NOT CONSISTENT _____ with the law.

_____, Workers' Compensation Judge
(Signature)

(Date)

NOTE: This memorandum is an administrative document and is not admissible in any judicial proceeding.

DEU Form 105 (Rev 3-91)

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference:
Sections 124 and 4061, Labor Code.

HISTORY
1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

§ 10164. Summary Rating Determinations, Reconsideration If Employee Is Unrepresented.

(a) Requests for reconsideration of the summary rating determination must be filed with the Administrative Director in writing within 30 days of receipt of the summary rating determination. The request shall clearly specify the reasons the summary rating determination should be reconsidered and shall be accompanied by a copy of the summary rating, a copy of the comprehensive medical evaluation, proof of service on the other party and any other information necessary to support the request. Reconsideration of a summary rating may be granted by the administrative director for one or more of the following reasons:

- (1) the summary rating was incorrectly calculated,
- (2) the comprehensive medical evaluation failed to address one or more issues;
- (3) the comprehensive medical evaluation failed to completely address one or more issues;
- (4) the comprehensive medical evaluation was not prepared in accordance with required procedures, including the procedures of the Industrial Medical Council promulgated under paragraph (2) or (3) of subdivision (j) of Section 139.2.

Requests for reconsideration which are not based on one of the above reasons will be denied.

(b) The Administrative Director shall not accept or consider, as a basis for a request for reconsideration, a supplemental or follow-up evaluation which was requested by a party after a summary rating determination has already been issued to the parties.

(c) If the Administrative Director determines that an additional evalua-

tion from another Qualified Medical Evaluator is necessary, the matter shall be referred to the Executive Medical Director of the Industrial Medical Council for the provision of another Qualified Medical Evaluator.

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. Amendment of section filed 1-28-94; operative 1-28-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 94, No. 4).
3. Amendment of section heading, repealer of subsection (a), subsection relettering, amendment of redesignated subsection (a), new subsections (a)(1)-(4) and (b) and amendment of subsection (c) filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

§ 10165. Service of Summary Rating Determination and Notice of Options Following Permanent Disability Rating.

Within the time specified in Labor Code section 4061(h), the Office of Benefit Determination shall serve the permanent disability rating determination on the employee and employer by first class mail. At the same time, the employee shall also be served with the Notice of Options Following Permanent Disability Rating.

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

§ 10165.5. Form (Notice of Options Following Permanent Disability Rating).

Department of Industrial Relations
DIVISION OF WORKERS' COMPENSATION

STATE OF CALIFORNIA
Pete Wilson, Governor

NOTICE OF OPTIONS FOLLOWING PERMANENT DISABILITY RATING

This is a permanent disability rating determination (Rating) prepared by the State of California Disability Evaluation Unit within the Division of Workers' Compensation. It describes your percentage of permanent disability. This percentage is based on your limitations as reported by the doctor, your age, and the type of work you were doing at the time of your injury. If the rating indicates that you have some permanent disability, you should automatically begin to receive permanent disability payments. Payments are made in installments, every two weeks, for the number of weeks shown on the rating, less any permanent disability payments made to you prior to the rating.

If the rating is not disputed by you or your employer, you do not have to take any action to receive your benefits. We do want you to know that you may have two options you may want to consider. They are:

- 1) STIPULATED FINDINGS AND AWARD;
- 2) COMPROMISE AND RELEASE;

1) STIPULATED FINDINGS AND AWARD

If you and the employer, carrier or agent accept the rating, written agreements may be submitted to the Workers' Compensation Appeals Board (WCAB) requesting that an Award be made without the need for a hearing. We recommend this option when the rating is not disputed, and you have a need for future medical care. A Workers' Compensation Judge will review the stipulations and issue an award.

ADVANTAGES

- A stipulated award is a quick, easy way to settle your case while protecting your rights;
- There is no need to take time off work to go to a hearing;
- The Division of Workers' Compensation will review the settlement to protect your rights at no cost to you, there is no need to hire a lawyer;
- If your condition worsens, you can apply for additional payments anytime within five years from the date of your injury;
- If you need additional medical care or you are to receive a life pension (rating of 70% or more), your rights to future benefits can be fully protected and a judge can enforce the award if there later becomes a problem.
- You may request a lump sum payment of all or part of your permanent disability if you can show a financial need or hardship. However, a Workers' Compensation Judge must first be convinced that it would be in your best interest.

DISADVANTAGES

- You normally will not receive a lump sum payment, but will receive your benefits in payments every two weeks.
-

2) COMPROMISE AND RELEASE

A Compromise and Release Agreement is a settlement which usually permanently closes all aspects of a workers' compensation claim except for vocational rehabilitation benefits, including any provision for future medical care.

The Compromise and Release is paid in one lump sum to you. It must be reviewed and approved by a Workers' Compensation Judge.

ADVANTAGES

- You may receive more money than you would receive under a Stipulated Findings and Award because you are giving up your future rights in exchange for money.
- If the employer, or insurance company disputes the rating, a Compromise and Release will assure you receive an agreed amount of money now rather than risk getting nothing or a lesser amount later.
- You will receive your benefits in one lump sum.

DISADVANTAGES

- A Compromise and Release usually permanently releases the employer from all future responsibilities. After your case has been resolved by a Compromise and Release Agreement, you cannot ask for more medical treatment at your employer's expense, nor can you claim additional benefits if your disability or condition becomes worse. Also, if you later die as result of the injury, your dependents would not be entitled to death benefits.
- Once a Workers' Compensation Judge has approved your Compromise and Release, the settlement is final and it cannot be set aside except in very rare circumstances.

If you would like more information, you can receive recorded information free of charge, by calling 1-800-736-7401 or you may contact your local Information and Assistance officer (listed in the state government section of your telephone book under Department of Industrial Relations, Division of Workers' Compensation). You may also consult an attorney of your choice.

SPECIAL NOTICE TO UNREPRESENTED INJURED WORKERS

If you disagree with the rating because the doctor failed to address any or all issues or failed to follow the procedures of the Industrial Medical Council, you may request reconsideration of the rating from the Administrative Director of the Division of Workers' Compensation. In some cases, you may be entitled to an additional medical evaluation or a different medical specialist.

Your request should include a copy of the rating and a copy of the report from the doctor. A copy of the request must be sent to your claims adjustor.

If you have questions about whether to request reconsideration of your rating or whether another medical evaluation is appropriate, you should contact the local Information and Assistance Officer listed in the state government section of your telephone book under Department of Industrial Relations, Division of Workers' Compensation. They can tell you how to file the request if you decide to do so.

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. Amendment of section filed 1-28-94; operative 1-28-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 94, No. 4).

§ 10166. Consultative Rating Determinations.

(a) The Disability Evaluation Unit will prepare consultative rating determinations upon request of the Workers' Compensation Appeals Board, Workers' Compensation Judges, Settlement Conference Referees, Arbitrators, Workers' Compensation Judges Pro-Tempore and Information & Assistance Officers.

(b) Consultative rating determinations may be requested for the purpose of determining the ratable significance of factors, reviewing proposed Compromise and Release Agreements for adequacy, determining commuted values, resolving occupational questions or any other matters within the expertise of the disability evaluators. These rating determinations are the "informal ratings" referred to in subsection (k) of section 10301 of the Workers' Compensation Appeals Board Rules of Practice and Procedure. Consultative Rating Determinations will not be admissible in judicial proceedings.

(c) The Disability Evaluation Unit may also prepare consultative rating determinations upon receipt of reasonable requests from employers, injured workers or their respective representatives. A request is not considered reasonable where an insurance carrier or self-insurer seeks a consultative rating determination for the purpose of terminating its self-insurer seeks a consultative rating determination for the purpose of terminating its liability or for negotiating a Compromise and Release settlement where the injured worker has no representative. Consultative rating determinations shall not be used as a substitute for summary rating determinations.

(d) In all cases the person making a request for a consultative rating determination will provide the Disability Evaluation Unit with the occupation and age of the injured worker at the time of injury.

(e) No consultative rating determination will be provided on cases in which an application for adjudication of claim has been filed with the Appeals Board without prior written authorization of the Appeals Board, a Workers' Compensation Judge, Settlement Conference Referee, Arbitrator, Workers' Compensation Judge Pro-Tempore, or Information & Assistance Officer. In cases where an application has been filed, the disability evaluator may require that any request for consultative rating determination be accompanied by the Appeals Board file.

NOTE: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 123.6, 123.7, 124, 5275, 5451, 5502, 5701 and 5703.5, Labor Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. Amendment of section filed 1-28-94; operative 1-28-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 94, No. 4).

§ 10167. Informal Ratings.

An informal rating will be prepared by the Disability Evaluation Unit upon the request of both the employee and/or his/her representative and the employer, or at the request of an Information and Assistance Officer providing the necessary information. Such requests shall be submitted on forms and in a manner prescribed by the Administrative Director. Informal ratings shall be issued only in those instances where an Application for Adjudication of Claim has not been filed with the Appeals Board. All medical reports pertaining to the case must be submitted with the request.

The Disability Evaluation Unit may request the employee to submit to a medical examination as provided for under Labor Code Sections 4050, 4600, and 5703.5.

The Disability Evaluation Unit will issue the informal rating on a form prescribed for that purpose by the Administrative Director, which will contain a statement that the informal rating is not: a) a finding, award, order or decision of the Appeals Board, and b) evidence as to the existence of the factors of disability.

Where the informal rating indicates a life pension, or provision for future medical treatment appears indicated, the Disability Evaluation Unit will forward a copy of the rating to an Information and Assistance Officer for the purpose of obtaining a stipulated award, or other action as may be appropriate.

Self-ratings prepared by the employer are not acceptable substitutes for informal ratings prepared by the Disability Evaluation Unit.

NOTE: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Section 4061, Labor Code.

HISTORY

1. New section filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).

§ 10168. Records, Destruction of.

(a) The Disability Evaluation Unit's copies of requests for, and instructions on formal rating determinations, together with the disability evaluator's work notes shall be destroyed by the unit two years after the date of issuance of the formal rating determination by the disability evaluator.

(b) Requests for summary rating determinations and informal ratings, the documents and reports pertaining thereto, the rating and work notes of the disability evaluators, shall be destroyed by the unit two years after issuance of the summary or informal rating, unless there is evidence of on-going activity.

The approval of the Department of Finance, as required by the provisions of Government Code section 14755, is recognized.

NOTE: Authority cited: Sections 133, 135 and 5307.3, Labor Code. Reference: Sections 135 and 4061, Labor Code; and Section 14755, Government Code.

HISTORY

1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.
2. Amendment filed 3-27-95; operative 3-27-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 13).
3. Amendment of section and NOTE filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).

Subchapter 1.7

§ 10175. Definitions.

As used in this subchapter:

(a) "Employer" means any person defined as an employer in Section 3300 of the Labor Code who has secured the payment of workers' compensation benefits as required by Section 3700 of the Labor Code.

(b) "Exclusive provider of care option" means an option chosen by an employee under Section 10180 under which medical, surgical, and hospital treatment for both occupational and non occupational injuries and illness are provided to the employee through one health care service plan.

(c) "Health care service plan" means any of the following which offer a managed care product:

(1) A health care service plan licensed under Section 1353 of the Health and Safety Code (Knox-Keene Health Care Service Plan Act);

(2) A disability insurer authorized to transact health insurance or disability income insurance pursuant to Part 2 of Division 2 of the Insurance Code.

(3) An insurer authorized to transact workers' compensation insurance in California, including the State Compensation Insurance Fund.

(4) The state or an employer who has secured a certificate of consent to self-insure from the Director of Industrial Relations pursuant to Labor Code Section 3700.

(5) Multi-employer collectively bargained employee welfare benefit plans or an employee welfare benefit plan sponsored by a recognized exclusive bargaining agent for State employees.

(d) "Managed care product" means a system of medical care which provides for all of the following:

(1) All medical and health care services required under Section 4600 of the Labor Code in a manner that is timely, effective, and accessible to the employee. This shall include making available to an employee, within 5 days of a request, the services of any type of physician, as defined in Section 3209.3 of the Labor Code, including a chiropractor, following an initial visit with the employee's primary care physician, when treatment for an occupational injury or illness falls within the scope of practice of the requested type of physician.

(2) Appropriate case management, including direction of injured employees to appropriate medical service providers within a network for all non emergency services.

(3) Appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service, and mechanisms to identify and correct quality deficiencies.

(4) Adequate methods of quality assurance, peer review and service utilization review to prevent inappropriate or excessive treatment, and exclusion from participation those providers who violate treatment standards.

(5) Expertise in providing medical reports necessary for the prompt, proper administration of compensation, including those required under Sections 9785 and 10978.

(6) A procedure for resolving disputes concerning the provision of health care services under the plan, which shall be equivalent to that specified in Section 1368 of the Health and Safety Code.

(7) A program involving cooperative efforts by the employees, the employer, physicians, and other participants to promote employee wellness, workplace health and safety, and early return to work.

(8) Adequate mechanisms to assure coordinated case management goals and incentives among all providers of workers' compensation for employees with occupational injuries and diseases.

(e) "Principal place of business" means the location at which the majority of the employer's employees are employed.

(f) "Small employer" means an employer who on at least 50 percent of its working days during the calendar quarter preceding submission of the proposal under which the employer participates in the pilot project employed not more than fifty (50) employees.

(g) "Traditional health benefit plan" means a plan of medical coverage for non occupational injuries and illness provided by the employer, through a contract between the employer and a health care provider, or through a purchasing cooperative specifically authorized by state law.

(h) "Traditional workers' compensation provider" means a health care provider chosen pursuant to Labor Code Section 4600 or 4601.

NOTE: Authority cited: Sections 133, 4612, and 5307.3, Labor Code. Reference: Section 4612, Labor Code.

HISTORY

1. New subchapter 1.7 and section filed 8-31-93; operative 8-31-93. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 36).

§ 10176. Eligible Employers and Employees.

(a) Employers whose principal place of business is in any of the following counties may participate in the pilot project:

- (1) Los Angeles;
- (2) San Diego;
- (3) Santa Clara;
- (4) Sacramento.

(b) Employees of employers eligible to participate in the pilot project who are employed in counties other than those enumerated in subdivision (a) are not precluded from participation in the project.

(c) Nothing in this section shall be construed to prohibit participation by employers whose principal place of business is not within one of the four counties listed in subdivision (a) above if the employer is specifically authorized to do so by statute.

NOTE: Authority cited: Sections 133, 4612, and 5307.3, Labor Code. Reference: Section 4612, Labor Code.

HISTORY

1. New section filed 8-31-93; operative 8-31-93. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 36).

§ 10177. Eligible Applicants.

(a) Pilot project plan proposals may be submitted to the administrative director by any one or combination of the following entities or authorized agents thereof:

- (1) Employers
- (2) Health care service plans
- (3) Health insurance purchasing cooperatives specifically authorized under state law.

NOTE: Authority cited: Sections 133, 4612, and 5307.3, Labor Code. Reference: Section 4612, Labor Code.

HISTORY

1. New section filed 8-31-93; operative 8-31-93. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 36).

§ 10178. Pilot Project Proposal Requirements.

(a) Proposals submitted to the administrative director for final approval shall include all of the following:

(1) A description of the manner in which health care services are to be provided, including the administrative and organizational structure, how each component of the managed care product will be provided, and the standards and procedures under which an employee who selects the exclusive provider of care option will be permitted to change health care service plans.

(2) The business name and tax identification number of the employer or employee, the approximate number and occupations of participating employees, the health care service plan or provider of health care services, and any other parties required in the operation of the proposal. The proposal shall include signed authorization from all necessary parties, other than the employees, confirming their commitment to the plan. In the case of a proposal under which only small employers will participate, the proposal may specify the method by which employers will be selected to participate in lieu of identifying and obtaining commitments from participating employers and identifying the approximate number and occupations of participating employees.

(3) The method whereby employees will be informed of their rights and options under the proposal, including the right to obtain a decision from the Workers' Compensation Appeals Board in the case of disputes over compensation for injuries compensable under Division 4 (commencing with Section 3200) of the Labor Code. Materials to be used for this purpose shall be submitted with the proposal. Materials shall include a description of the dispute resolution process, a description of dependent coverage, a description of the method and frequency of employee choice of health care provider and a description of any other incentives offered to employees by employers to participate in the plan.

(4) The dispute resolution process under the exclusive provider of care option, including the process made available to employees to voluntarily resolve issues subject to the jurisdiction of the appeals board, as well as the process for resolving disputes which are not subject to the jurisdiction of the appeals board.

(5) A description of how dependents will be covered under the proposal, and if co-payments, premium shares, deductibles, or other charges are to be assessed against employers or dependents for non occupational injuries and illness, the amount of such charges and how these charges will be determined and segregated in a manner to assure compliance with subdivision (a) of Section 3751 of the Labor Code.

(6) The method and frequency of employee choice as to whether the employee will receive medical care under an exclusive provider of care option.

(7) A description of any incentives offered by an employer to employees to encourage participation in the exclusive provider of care option.

(8) Verification of agreement to participate executed by an authorized representative of each exclusive or certified bargaining agent which represents employees of the employer.

THE CALIFORNIA STATE UNIVERSITY

BRIEF DESCRIPTION OF THE REHABILITATION PROCESS

I. Eligibility

An employee shall be eligible for vocational rehabilitation services provided:

- A.) The employee is incapable of returning to the full duties of his/her former job without rehabilitation services because of a permanent, disabling condition;
- B.) The individual has sufficient potential to benefit from the rehabilitation process;
- C.) The employee, on a voluntary basis, is willing to participate in rehabilitation planning;
- D.) The medical prognosis is compatible with rehabilitation planning.

II. Diagnostic Work-Up

The first step in the rehabilitation process is the diagnostic work-up. This work-up involves the development of appropriate social, psychological, economic, and medical information. This information is needed as a basis for sound vocational planning.

III. The Planning Process

A.) The Employer

The employer is a very important resource in the planning process. The employer often has a great deal of information about the employee which may provide substantial help in the development of a new type of job environment for the employee. Some of the knowledge which the employer has includes:

- 1.) Long term contact with the employee which provides knowledge of the employee's performance and potential;
- 2.) Knowledge about how the employee relates to supervisory staff and colleagues;

- 3.) Knowledge about the employee's attendance patterns;
- 4.) Knowledge about the ability of the campus to assist the employee in one or more of the following ways:
 - Transfer
 - Place on leave
 - Reasonable accommodation
 - Offer special training
 - Develop a training and development assignment.

B.) The Rehabilitation Counselor

The counselor working with the employer may identify a number of possibilities for new training and placement for the employee. The counselor utilizes those services which will meet the individual need of the particular employee. While the range of services are quite extensive, the major services s/he utilizes are:

- 1.) Counseling with the employee;
- 2.) Retraining utilizing colleges, business schools, tutoring, or on-the-job training;
- 3.) Job placement;
- 4.) Physical restoration services;
- 5.) A variety of other services which may include supplemental maintenance, allowance for transportation, books and supplies, tools, stocks and supplies for self employment.

C.) The State Fund Claims Representative

The claims representative, on industrial cases, is the primary contact for arranging immediate service to the disabled employee. His/her focus is to ensure that your employee:

- 1.) Has suitable medical treatment;
- 2.) Returns to employment as soon as possible;
- 3.) If rehabilitation is necessary, it is provided to the employee;
- 4.) The employer and the employee receive attention with respect to the litigation process in those cases where litigation is necessary.

The supervisor or manager should have access to the claims representative on any case where there appears to be a misunderstanding or where the employer has need for additional information about the employee who is injured.

D. The Employee

Each employee referred for rehabilitation services will be evaluated for rehabilitation services in terms of his/her:

- 1.) Age
- 2.) Marital status
- 3.) Education
- 4.) Vocational experience
- 5.) Avocation
- 6.) Motivation
- 7.) Level of confidence
- 8.) Willingness to change
- 9.) Ability to relate to people
- 10.) Degree of disability
- 11.) Economic status
- 12.) Eligibility for other plans (these plans include Social Security, retirement, Workers' Compensation, private health insurance, private disability insurance, welfare, veteran's benefits, and previous retirement).

IV. Placement

The employee who has been trained may be placed in an area of work compatible with his/her training, and one that will not interfere with his/her medical limitations. Whether or not the employee returns to the former employer will depend on the employer's willingness and capacity to utilize the employee. At such time as the employee has successfully completed the rehabilitation program, the employer will take at least one of the following actions:

- A.) Restore the employee to his/her former position if s/he is able to perform such duties. If the employee is covered by the Americans with Disabilities Act (ADA), restore the employee to his/her former position if s/he is able to perform the essential duties of the position with or without accommodation.
- B.) Demote or transfer the employee to another position. If the employee is covered by the ADA, demote or transfer the employee to another position if s/he is able to perform the

essential duties of the position with or without reasonable accommodation.

- C.) Place the employee on a training and development assignment in another line of work with intent to transfer at a later date.

If employment is not possible with any department, the employee may be placed with a private employer, or if s/he has special skills, in his/her own business.

Summary

The above information gives you an overview of some of the elements in the rehabilitation process. The employer is a key person in the rehabilitation process of the employee. The employer has available a great deal of valuable information which can be utilized to effectively assist the employee's return to the competitive labor market.

THE CALIFORNIA STATE UNIVERSITY
THE EMPLOYEE INDUSTRIAL DISABILITY CLAIM PROCESS

