

Almost every employed Californian is protected by workers' compensation for job related injuries or illness. Therefore it's important that both employer and employees understand workers' compensation insurance.

This guide provides general information on workers' compensation insurance and offers suggestions on where to seek help with a question or problem (see listings of exhibits I, II and III).

MOST FREQUENTLY ASKED QUESTIONS ABOUT WORKERS COMPENSATION

Q. What is covered under a workers' compensation insurance policy?

A. The workers' compensation insurance policy includes two separate coverages: workers' compensation and employers liability. The workers' compensation coverage applies to injury or disease to the employee resulting from employment. The insurance company will pay benefits to the employee specified under the law. Employers liability coverage protects the employer for employee work-related bodily injury which is not compensable under workers' compensation coverage.

Q. What are workers' compensation benefits?

A. Depending on the circumstances of the accident and/or the injury, employees may be entitled to one or more of the following benefits:

Medical Care: All medical treatment necessary to cure or relieve the effects of a work-related injury or illness will be paid either by the employer or the insurance company providing coverage. This includes physician services, hospitalization, physical restoration, dental care, prescriptions, X-rays, laboratory services, and all other necessary/reasonable care ordered by the treating doctor(s).

Temporary Disability (TD): Paid if a physician verifies that an injured employee cannot work because of a work-related illness or injury. TD benefits are not paid for the first 3 days of work missed unless the employee is off more than fourteen days or hospitalized. The amount of TD compensation is determined by law and is two-thirds of the employee's wages with a minimum of \$126.00 per week (or the actual weekly wage if that is less than \$126.00) and a maximum of \$490.00 per week. Payments must be made every two weeks, for as long as the employee is eligible. TD benefits stop when the employee returns to work or the treating physician releases the employee for work or says that the injury has reached a point of maximum improvement.

Permanent Disability (PD) Paid if an injury or illness results in a permanent impairment that reduces the injured workers ability to compete in the open labor market. The amount the employee will receive depends on the extent of the disability. Other factors that are considered when calculating PD include the date of injury, the age when injured, and occupation. PD benefit amounts are set by law. PD benefits are paid every two weeks until the benefit is completely paid or when the employee settles the case and receives a lump sum (See exhibit III for maximum benefit rates.)

Vocational Rehabilitation (VR) Paid if it is unlikely a worker will be able to return to the usual job prior to his/her injury and the employer does not offer other work. Vocational Rehabilitation Maintenance Allowance benefits (VRMA) are paid while the employee is participating in vocational rehabilitation. VRMA is paid every two weeks for as long as the employee is eligible. The Division of Workers' Compensation, Rehabilitation Unit, must approve the rehabilitation plan. The right to rehabilitation is voluntary; injured workers may accept or reject this benefit. For injuries occurring on or after January 1, 1994, there is a \$16,000.00 limit on all rehabilitation benefits.

Transportation Reimbursement Paid by the insurance carrier or employer for the reasonable cost of transportation incurred while obtaining medical care and rehabilitation. The injured worker is entitled to mileage from their home to place of treatment, examination or rehabilitation and back at the rate of 31 cents per mile.

Death Benefits Paid to qualified surviving dependents of a worker who dies from a work-related illness or injury. These benefits are paid usually at the same weekly rate as the maximum TD benefit in effect at the time of injury/illness. The maximum benefit will vary depending on the number of total and/or partial dependents.

- Q. Who decides where an injured employee receives medical treatment?**
- A.** The employer is responsible for arranging medical treatment for the first 30 days from the date of injury. If, prior to an injury or illness, an employee gives written notice to the employer selecting a personal physician, then the employee may go to this physician for treatment immediately after an injury.
- Q. Where can employees or employers get more information concerning workers' compensation benefits?**
- A.** Questions about the workers' compensation laws, claims process and/or benefits should be directed to an Information and Assistance Officer at one of the district offices of the Division of Industrial Accidents, Department of Industrial Relations.
(See Exhibit I for a list of the district offices).
- Q. What happens if an employee disagrees with the insurance company on a workers' compensation claim denial?**
- A.** The employee may request assistance from an Information and Assistance Officer who will attempt to help resolve the dispute informally. If that effort fails, the employee can file an application for adjudication with the Workers' Compensation Appeals Board, (WCAB). The Information and Assistance Officer may be able to assist with this filing unless the injured worker has retained a private attorney. The WCAB has exclusive jurisdiction for resolution of the dispute.

Q. As a sole employer or the sole owner/employee of a business, can I obtain workers' compensation insurance to cover myself?

A. Individual employers may be included for workers' compensation at the option of the insurance company. The inclusion must be clearly stated in the policy, or by an endorsement to the policy. If an individual employer is included, the remuneration earned by such a person during the policy period will be used as the basis of premium development, subject to a specified minimum and maximum.

The California Workers' Compensation Uniform Statistical Reporting Plan-1995, published by the Workers' Compensation Insurance Rating Bureau (WCIRB) effective January 1, 1995, establishes minimum remuneration of \$22,100 and a maximum of \$62,400 for this situation (Note: with Open Rating each insurer can establish its own minimum and maximum remuneration and file same with the CDI).

Q. What is my status as an active partner in a business described as a partnership? Does the policy provide coverage for me in this situation?

A. The definition of employee includes all working members of a partnership receiving wages irrespective of the profits from the partnership. The California Labor Code has a special provision for partners. You should refer to the policy provisions and/or consult with your agent or broker and insurer for the further details.

Q. Are executive officers covered under the workers' compensation policy?

A. The inclusion of all corporate officers or directors is mandatory unless the corporation is solely owned by the directors and executive officers. In the latter case, the officers and directors may elect to be excluded from coverage. Again, because of special provisions in the Labor Code for executive officers of solely owned corporations, consult with the agent, broker and insurer for further details.

- Q. What happens if my employer does not carry Workers' Compensation Insurance?
- A. You may be able to file a claim with the Uninsured Employers Fund, (U.I.F.). This Fund is located within the Department of Industrial Relations. You should contact an Information and Assistance Officer for help in pursuing a claim with U.I.F.
- Q. As an employer, where can I obtain workers' compensation insurance?
- A. You can secure workers' compensation insurance from any licensed insurance company that writes this coverage in California. You may also obtain the required coverage from the State Compensation Insurance Fund. Consult your local Yellow Pages under Insurance for names of companies, agents or brokers offering coverage.
- Q. As an employer, can I self-insure for workers' compensation claims?
- A. Yes, but only if you have applied for and received a Certificate of Consent to Self-Insure from the Department of Industrial Relations. The director of Industrial Relations will require a private self-insuring employer to meet certain standards before issuing this certificate. Usually, only large organizations choose to self-insure. For more information, contact the Self-Insurance Plans at the Department of Industrial Relations at (213)897-1423 or (415)557-2720.
- Q. What is the Workers' Compensation Insurance Rating Bureau (WCIRB) of California?
- A. The Workers' Compensation Insurance Rating Bureau of California sometimes referred to as the Bureau. This rating organization is organized pursuant to Article 3 of the California Insurance Code, for the following purposes:

- 1) To provide reliable statistics and rating information for workers' compensation insurance and employer liability insurance.
- 2) To collect and tabulate information and statistics for the purpose of developing premium rates to be submitted to the commissioner for issuance or approval.
- 3) To formulate rules and regulations in connection with pure premium rates and the administration of classifications and rating systems.
- 4) To inspect risks for classification or rate purposes and to furnish to the insurer/employer information concerning the rates applicable to the employers' insurance.
- 5) To examine policies, daily reports, and endorsements or other evidences of insurance for the purpose of determining compliance with provisions of law and to make reasonable rules governing the submission.
- 6) To initiate test audits of insured employers' payrolls and insurer's audits of such payrolls.
- 7) To exchange information and experience data with rating organizations, advisory organizations, and insurers.
- 8) To become a member or subscriber of any lawfully authorized ratemaking or advisory organizations whenever membership in such organization is necessary or helpful.

COMPETITIVE RATING FOR WORKERS COMPENSATION POLICIES: WHAT DOES IT MEAN?

Every insurer selling workers' compensation insurance is now required to file with the California Department of Insurance (CDI) its complete manual which includes

- rate classifications
- rating plans
- rate deviations
- modification factors
- all applicable workers' compensation rates that will be charged by the insurer

The CDI can only disapprove the rates submitted after notice has been given and a hearing has been held to determine if the continued use of the rates would tend to impair or threaten the solvency of an insurer or threaten the solvency of an insurer or tend to create a monopoly in the market pursuant to section 11732 of the C.I.C. The intent behind making California a competitive rating state for workers' compensation was to give the employer the benefits of competitive pricing by insurers. This in turn is expected to encourage employers small and large to be more conscientious in improving safety on the job to control losses which should translate into cheaper insurance.

Q. How are premiums calculated?

A. First, the WCIRB groups all business and industrial operations into various occupational classifications. In 1995, over five hundred classifications existed, from advertising companies to YMCA institutions. The WCIRB calculates the rate for each classification based on the premium and loss experience of all employers in each occupational classification. The rate is expressed in the form of dollars and cents for each \$100 of payroll per classification. The basic premium is calculated by multiplying the rate (for each \$100 of payroll) and the amount per class. All classifications, rates and rules are specified in the California Workers' Compensation Insurance Manual published annually by the WCIRB. A carrier may start with a rate for a classification and then apply credits and/or debits based on individual risk characteristics. A policy is usually issued for a term of one year or less and may also indicate the method of payment: monthly, quarterly, semi-annually or prepaid with premium due on the effective date of coverage. At the policy expiration, the insurance company may examine your payroll and the rates that have been used to determine the final audited premium. This usually results in an additional premium due the company or a return premium to be refunded or applied to the renewal policy.

Q. What is experience modification?

A. Based on reported paid losses, loss reserves and the premium of the policyholder for an experience period, the WCIRB uses a standard mathematical formula that has been approved by the Insurance Commissioner to generate an experience modification for each employer. An employer is subject to experience rating when the premium for a three-year period reaches a specific amount set by the WCIRB. (Effective January 1, 1995, this amount is \$14,100 in pure premium; however, this figure changes periodically.) Therefore, the employer's loss experience will affect his or her premium in the form of an experience modification.

When an employer is subject to an experience modification, the modification must be shown on the policy and applied to the premium developed by application of basic manual rates. Additionally, an employer's premium can be further affected by the application of debits/credits for individual risk characteristics, for example, premium size, loss control programs etc. Note: all individual risk characteristics are applied before the Experience Modification.

Q. What is a loss reserve?

A. A loss reserve is an estimated amount of money that the insurance company sets aside to pay for a claim. Loss reserves are used to evaluate the worth of each claim, based upon the claims adjustor's judgement and experience in handling similar claims and the potential for claims payment. Insurers are required by law and WCIRB rules to establish these reserves for incurred claims.

Q. What is a workers' compensation surcharge?

A. An insurance company may surcharge premium if it believes that additional money is needed to meet expected losses and expenses for a particular employer. Consumers should ask the insurer to provide formal documentation that reflects all the rating components used to develop their premium. Surcharges are usually applied only to high-risk activities with a higher-than-average loss potential.

Q. What is a minimum premium?

A. Basically, minimum premium is the least amount for which the insurer is willing to insure an employer. Each insurer files its minimum premiums with the rating plan to CDI.

For Example: An insurance company has set a minimum premium of \$500 for your type of business. Assuming your actual payroll is only \$20,000 with a manual rate of .78 per \$100 of payroll, your calculated premium would be \$156 ($\$200 \times .78$). But you would still pay \$500 minimum premium instead of \$156, since your insurance company has set its minimum premium at that level. Thus you are encouraged to shop around for the company with the lowest minimum premium if you have a small payroll.

Q. Is there a penalty if I cancel my workers' compensation insurance during the policy year?

A. If you cancel the policy before the end of the policy term, you will pay a penalty. The premium will be based on the time the policy was in force, and increased by a standard short-rate percentage to cover company expenses. If the company cancels the policy, the premium will be based on the actual number of days it was in force (pro-rata). Also, your insurance company may charge you the minimum premium when the calculated short rate premium is less than its established minimum premium. Therefore, read your policy very carefully regarding the final determination of premium upon its cancellation.

Q. What is participating policy?

A. If a policy is written on participating basis, an employer may participate in the profits of the insurance company derived from its California workers' compensation business in the form of a dividend. There are various types of dividend plans with different provisions and requirements. Check with your agent or company for specific details.

Q. Can an insurance agent or an insurance company promise or guarantee the payment of a future dividend?

A. No. It is a misdemeanor for an insurance company, agent or a broker to promise the payment of future workers' compensation dividends. Under California law, the insurance company's board of directors or other governing body must review the overall loss experience of the workers' compensation business since its last dividend declaration. This governing body then determines whether the insurer has a surplus from which dividends may lawfully be paid. Such dividends must be declared by resolution adopted after expiration of the policy term. This declaration should specify the dividend plans, formulas or schedules to be applied. 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 a felony.

Q. What if I disagree with the classifications assigned or rates applied to my business?

A. First, talk to your insurance agent or broker or the insurance company. If you disagree with their explanation, you may direct your complaint to the WCIRB (at its San Francisco address listed in Exhibit II). However, you must submit a statement of facts in writing, within twelve months after the expiration date of the policy in question, including the name of your firm, the name of your insurance carrier and the details of your complaint. The WCIRB will investigate your complaint, contact the insurance carrier, and advise you of its findings within 45 days.

Q. What if I do not agree with the WCIRB's decision?

A. You may direct an appeal to the Classification and Rating Committee in care of the WCIRB, and request a hearing. Hearings are held monthly, alternating between San Francisco and Los Angeles. You can write to the WCIRB to schedule a hearing date. The committee members will vote on each appeal after they have heard the case.

Q. What if I still dispute the Classification and Rating Committee's decision?

A. If you are not satisfied with the Classification and Rating Committee's decision, you can file an appeal with the Insurance Commissioner. A department hearing officer may schedule a hearing in either the San Francisco or Los Angeles office of the Department of Insurance.

Q. What should I do if I have an inquiry other than a claim or classification dispute?

A. If you have an inquiry other than a claim or classification dispute, you can call the California Department of Insurance/Hotline toll free at 1-800-927-4357- Los Angeles area please dial (213)897-8921-or write the Department of Insurance Consumer Services Division at :

300 South Spring Street
Los Angeles, CA 90013

Q. What should I do if I have workers' compensation claim problem?

A. Workers' compensation claim matters should be directed to the Department of Industrial Relations, Division of Industrial Relations, Division of Industrial Accidents, Office of Information and Assistance, at the address and phone numbers listed in Exhibit I.

EXHIBIT I

NAME

PHONE NUMBER

Anaheim, 92801

1661 N. Raymond Avenue, 1st & 2nd Floors.

Appeals Board

(714)738-4000

Information & Assistance Unit

(714)738-4038

Bakersfield, 93301

1800 30th Street, Suite 100

Appeals Board

(805)395-2723

Information & Assistance Unit

(805)395-2514

Eureka, 95501-0421

100 "H" Street, Suite 202

Appeals Board

(707)445-6518

Information & Assistance Unit

(707)441-5723

Fresno, 93721-2280

2550 Mariposa Street, Suite 4078

Appeals Board

(209)445-5051

Information & Assistance Unit

(209)445-5355

Grover Beach, 93433-2261

1562 Grand Avenue

Appeals Board

(805)481-4912

Information & Assistance Unit

(805)481-3296

Long Beach, 90802-4460

245 West Broadway, Suite 300

Appeals Board

(562)590-1554

Information & Assistance Unit

(562)590-5240

Los Angeles, 90012-4578

107 South Broadway, Suite 4107

Appeals Board

(213)897-1554

Information & Assistance Unit

(213)897-1446

Norwalk, 90650

12440 Firestone Blvd., Suite 3001

Appeals Board

(213)863-3405

Oakland, 94612

1515 Clay Street, 6th Floor

Appeals Board

(510)286-0500

Information & Assistance Unit

(510)622-2861

Pomona, 91768

971 Corporate Center Drive, Suite 100

Appeals Board

(909)623-4301

Information & Assistance Unit

(909)623-8568

Redding, 96001-2796

2115 Akard, Suite 15

Appeals Board

(530)225-2845

Information & Assistance Unit

(530)225-2047

Riverside, 92501

3737 Main Street, 3rd Floor

Appeals Board

(909)782-4269

Information & Assistance Unit

(909)782-4347

Sacramento, 95825

2424 Arden Way, Suite 230

Appeals Board

(916)263-2735

Information & Assistance Unit

(916)263-2718

Salinas, 93906-3486

1880 North Main Street, 1st Floor

Appeals Board

(831)443-3060

Information & Assistance Unit

(831)443-3058

San Bernardino, 92401-1888

303 West Third Street, Suite 640

Appeals Board

(909)383-4341

Information & Assistance Unit

(909)383-4522

San Diego, 92101-3690

1350 Front Street, Suite 640

Appeals Board

(619)525-4206

Information & Assistance Unit

(619)525-4589

San Francisco (District Office), 94102

30 Van Neas Avenue

Appeals Board

(415)557-0680

Information & Assistance

San Jose, 95113-1482

100 Paeso de San Antonio, Room 241

Appeals Board

(408)277-1246

Information & Assistance Unit

(408)277-1292

Santa Ana, 92701-4070

28 Civic Center Plaza, Suite 451

Appeals Board

(714)558-4121

Information & Assistance Unit

(714)558-4597

Santa Barbara, 93101-1598

1525 State Street, Suite 102 & 103

Appeals Board

(805)966-1527

Information & Assistance Unit

(805)966-9872

Santa Monica, 90405-5200

2701 Ocean Park Blvd., Suite 220

Appeals Board

(310)452-9114

Information & Assistance Unit

(310)452-1188

Santa Rosa, 95404-4760

50 "D" Street, Suite 420

Appeals Board

(707)576-2391

Information & Assistance Unit

(707)576-2452

Stockton, 95202-2314

31 East Channel Street, Suite 344

Appeals Board

(209)948-7759

Information & Assistance Unit

(209)463-6201

Van Nuys, 91401-3373

6150 Van Nuys Blvd., Suite 105

Appeals Board

(818)901-5367

Information & Assistance Unit

(818)901-5374

Ventura, 93003-6085

5810 Ralston Street

Appeals Board

(805)654-4694

Information & Assistance Unit

(805)654-4701

Walnut Creek, 94598-2469

175 Lennon Lane, Room 200

Appeals Board

(925)977-8313

Information & Assistance Unit

(925)977-8343

EXHIBIT II

Workers' Compensation Insurance
Rating Bureau (WCIRB) of California

Home Office

Spear Street Tower, Suite 500
One Market
San Francisco, CA 94105
(415)777-0777

Branch Office

10100 Pioneer #325
Santa Fe Springs, CA 90670
(310)946-0621

EXHIBIT III

Maximum Permanent Disability Payment

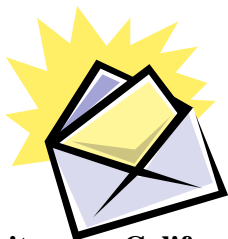
<u>PD Rating</u>	<u>Weekly Payment</u>
Up to 14.75%	\$140
15 to 24.75%	\$160
25 to 69.75%	\$170
70 to 99.75%	\$230
Minimum: \$70 per week	

TALK to US

*Do you have a question, comment or concern?
There are several ways to talk to us:*



1. **Call** our consumer Hotline at **(800) 927-HELP**
Callers within the Los Angeles area please dial **(213)- 897-8921**
Telecommunication Device for the Deaf dial **(800) 482-4TDD**



2. **Write:** **California Department of Insurance**
300 South Spring St., South Tower
Los Angeles, CA 90013



3. **E-mail** us through our website at
[www. Insurance.ca.gov](http://www.Insurance.ca.gov)
4. **or visit us in person on the 9th Floor at the address above.**
Monday through Friday 8:00 AM to 5:00 PM P.S.T.
Excluding Holidays