



GuideOne Center for Risk Management California Workers' Compensation Frequently Asked Questions, Issues, and Updates

Q. How many personnel folders should I have on each employee, and why?

A. You should have at least the following three folders on file for each employee:

1. Medical information – A separate folder allows the employer to prevent unauthorized access to medically private information. Medical information is private information and should be protected under the Health Insurance Portability and Accountability Act (H.I.P.A.A.).
2. Employment Eligibility Verification I-9 form – This form needs to be accessible in the event the Immigration and Naturalization Services wants to audit the files. Other employment information should not be shared.
3. Employment application, background checks, references, etc.

Q. How far back should I go to implement using the following forms: Employment Eligibility Verification I-9 Form, Employment Application, and the Description of Employee Job Duties?

A. The Employment Eligibility Verification I-9 Form is a federal requirement that was implemented on Nov. 6, 1986. This form should be used as of that date.

Employment Applications should be issued immediately to all new and future hires.

Description of Employee Job Duties should be issued immediately to all new hires and to all current employees who hold a manual labor position.

Q. The speaker at the workshop mentioned that California law requires documented right to work procedures. I found no sample of these in the workbook that was issued. Exactly what is this and how much is required?

A. This policy is federally mandated and the speaker was referring to the Employment Eligibility Verification I-9 Form that went into effect November 6, 1986.

- Q. Do I have to use the RU-91 Employees Job Description if I already have a job description form created for the positions we offer?**
- A.** If you currently have a job description, make sure that it includes the physical elements that are listed in the RU-91 Employees Job Description form. The job description that you use should give as much detail as possible about the physical aspects of the job. In the event of an injury, the physician who evaluates the employee will need all the assistance possible to evaluate the employee's injuries and their job functions. This is done so the employees can return to a usual and customary occupation, or a modified/alternate position.
- Q. For the Injury and Illness Prevention Program (IIPP), how much of the sample in the workbook is required?**
- A.** The amount of the IIPP that is required depends on the functions of your organization. If you have a church, daycare, pre-school, after care, or stand alone school with a full maintenance staff, you should have all the elements listed in the binder addressed for your organization.
- Q. Must we have a security committee?**
- A.** The committee can be titled as "Safety or Security," but it also needs to address and respond to emergencies.
- Q. How often must we have safety meetings?**
- A.** Safety meetings need to be held at least once every three months to address issues that could potentially cause injuries or illness.
- Q. Must the sample IIPP forms be used, or can we document things our own way?**
- A.** The forms provided in the binder and on the GuideOne Center for Risk Management Web site at www.guideonecenter.com are samples to help those who do not have another source. You can use GuideOne's version or your own, as long as the elements listed in the IIPP are addressed.

Q. Are written job descriptions required for teachers, or can we use descriptions for maintenance/custodial personnel? Since I only spend a few hours each week doing custodial/landscaping/construction work, must I have one covering this, or would I be exempt since my primary duties are administrative?

A. Job descriptions are required for all employees. This is needed if an employee is injured on the job and he or she is sent to the industrial clinic for medical care. The physician will need a description of the physical element of the job that the injured worker performs in order to evaluate the employee and allow the worker to return to his or her usual and customary occupation, or a modified/alternate position.

Q. It is stated that we are to have a designated physician for occupational injuries. Is a contract required, or can we simply designate the nearest hospital/urgent care center as our designated physician?

A. Select a medical facility that specializes in treating and reporting workers' compensation injuries. Such a facility can be found at www.corvel.com.

1. Once on the Web site, click the **Provider Look-Up** tab.
2. Select the **Workers' Compensation** option, and then click the **Continue** button.
3. Enter your city and state or your zip code, and press the **Continue** button.
4. From option **three**, select **Occupational Medicine Center**, and then click the **Search** button.

Call the facility you select, and request to take a tour to make sure that

- it is clean;
- the hours of operation are the same as your business hours;
- there is a doctor on staff; and that
- monitored physical therapy is available.

It is not necessary to sign a contract.

Try not to use a hospital if you have an industrial medicine facility available, for the following reasons:

- Hospital charges are more costly than an industrial clinic, which has a direct impact on the claim.
- It is difficult to obtain medical information, treatment plan, and work status from a hospital.

Q. Are all workers' compensation carriers requiring these steps?

A. The IIPP is a state requirement and the I-9 form is a federal requirement. It is a state requirement that all employers have access to a medical facility in the event that medical care is needed.

Q. If we fall short of GuideOne's expectations, what are our options?

A. If you are not able to, or choose not to comply with the requirements, you will need to discuss the decision and the options available to you with your insurance agent or broker.

Q. Are any organizations exempt from completing the OSHA logs?

A. Yes; employers are not required to keep OSHA injury and illness records for any establishment classified in Standard Industrial Classification (SIC) codes 82 Educational Services (schools, colleges, universities and libraries) and 835 Child Day Care Services (partial list). You should contact your agent or broker to find out about your SIC code. For more information, visit the OSHA Web site at <http://www.osha.gov/recordkeeping/ppt1/RK1exempttable.html>.

Important: The OSHA exemption Web site lists the organizations that are federally exempt from filing the OSHA 300 log. Per CalOSHA, **NO** employers are exempt from filing the OSHA 300 and 300A log in California.

Q. The employees at our pre-school are required to get a medical clearance prior to starting the school year. Do they need a post offer/pre-employment physical too?

A. All new hires are required to obtain a post offer/pre-employment physical for manual labor positions. New hire candidates who will be dealing with children five years of age or younger are required to obtain the physical evaluation from the industrial medicine center the employer has designated. The cost of the physical is to be paid by the employer. Any additional medical clearance is completed by the employee's private physician at the expense of the employee.

Q. We are planning on hiring a custodian. How will hiring the custodian impact our insurance premiums? And should we outsource this position instead of hiring someone on staff?

A. Contact your insurance agent or broker to see how your premiums will be affected.

Q. How can I find out when my policy expires or renews?

A. Contact your agent or broker for this information.

Q. How will the new reform, SB 899, which that was signed April 19, 2004, affect me as the insured?

A. You can view the entire Summary of SB 899 PDF from the Director of Industrial Relations page at <http://www.dir.ca.gov/chswc/Summary-of-SB899.pdf>.

A portion of the summary is listed below.

**Commission on Health and Safety and Workers' Compensation
SB 899 topic summary report - version 4**

RETURN TO WORK INCENTIVES

Return to work site reimbursements for worksite modification.

Labor Code §139.48.

Provides for reimbursement to private employers with 50 or fewer full-time employees for worksite modifications to accommodate the employee's return to work.

Program will reimburse up to \$1,250 of expenses to accommodate a temporarily disabled worker or \$2,500 to accommodate permanently disabled worker.

The program will be funded from Labor Code sec. 5814.6 (penalties for business practice of unreasonable delay or refusal of compensation) and from transfers by the AD from the WC Administration Revolving Fund.

Also see **PD Section:** Labor Code Section 4658

PROVISION OF MEDICAL BENEFITS

Medical Treatment Defined and Pre-designation of Physician. Labor Code sec. 4600.

Defines the treatment "reasonably require to cure or relieve" as the treatment that is in accordance with the utilization schedule or treatment guidelines adopted by the AD pursuant to Labor Code sec. 5307.27 or the ACOEM guidelines

Unless the employer uses a medical treatment network, the basic rule remains that employer has medical control for first 30 days (or longer in an HCO), and then employee gets the right to select treating doctor.

An exception to the basic rule is that employee may be treated by a predesignated physician from the date of the injury if all of the requirements for predesignation are met. It is only available if

- The employer provides group health coverage, and
- The physician is the employee's primary care MD or DO who has previously directed the employee's treatment and who agrees to be predesignated.
- If the employer establishes a medical treatment network, employees who did not predesignate must receive care only through the network.

Medical Networks. Labor Code sec. 4616.

- Beginning January 1, 2005, employers may establish networks composed of both primarily occupational and primarily nonoccupational treating doctors, with goal of at least 25% primarily nonoccupational.
- Network shall include sufficient number of physicians to provide timely treatment.
- Employer or insurer has exclusive right to decide which providers are in network.
- Physician compensation shall not be structured to achieve goal of reducing, delaying or denying treatment.
- Treatment shall be in accordance with the guidelines per ACOEM (American College of Occupational and Environmental Medicine) or Section 5307.27.
- Only a licensed physician in the appropriate scope of practice may modify, delay or deny a request for authorization for treatment. (This governs any internal utilization review process the network may adopt.)
- AD shall approve plan if it meets requirements of section. Default approval if AD can't act in 60 days.
AD shall adopt implementation regulations in consultation with the Department of Managed Health Care (DMHC).
- Section 4616.1 requires that economic profiling of providers must be disclosed.
- Section 4616.2 requires that continuity of care be provided for up to 12 months after provider leaves the network, depending on defined circumstance.

Early Medical Treatment. Labor Code sec. 5402

- Requires that the employer provide medical treatment to a worker after a workers' compensation claim form is filed and until the claim is accepted or rejected.
- Establishes a \$10,000 limit on liability before a claim has been accepted or rejected/

PAYMENT OF BENEFITS

TD Limit to Two Years. Labor Code sec. 4656.

- TD benefits are limited to 2 years from date of commencement of payment in most cases
- TD may extend to 240 weeks aggregate within first 5 years after date of injury for the following injuries: (§4656(c)(2))
 - Acute and chronic hepatitis B.
 - Acute and chronic hepatitis C.
 - Amputations.
 - Severe burns.
 - Human immunodeficiency virus (HIV).
 - High-velocity eye injuries.
 - Chemical burns to the eyes.
 - Pulmonary fibrosis.
 - Chronic lung disease

PERMANENT DISABILITY

PD Indemnity Chart, including Tiered PD Benefit Labor Code sec. 4658

- Return-to-Work adjustment
 - Tiered PD benefit system provides for 15% decrease or increase in the weekly rate of the payments of the PD award depending on whether or not the employer offers return to work.
 - If terminated before PD is all paid, the remaining weeks of the PD benefit from the time of termination are increased 15% above the base rate.
 - The 15% adjustment does not apply to employers with fewer than 50 employees.
- The increase or decrease does not apply to employers with less than 50 employees