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HIGHLIGHTS

OF THE

CALIFORNIA WORKMEN'S COMPENSATION LAW

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Effective April 1, 1972

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF INDUSTRIAL ACCIDENTS

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Administrative Director

THE WORKMEN'S COMPENSATION LAW

PURPOSE

The basic purpose of the California Workmen's Compensation Law is to:

> Insure that an employee who has an industrial injury and those who depend upon him, will have adequate means of support while he is unable to work, and to bring about a prompt recovery, and make it possible to decide disputed cases as quickly as possible.

This pamphlet offers highlights of this law as a guide to those who may be entitled to benefits.

WHAT IS AN INDUSTRIAL INJURY?

An industrial injury means any injury or disease, including damage to artificial limbs, dentures, and medical braces, and which is the result of your work or working conditions.

IF YOU ARE INJURED

You must first REPORT TO YOUR EMPLOYER OR IMMEDIATE SUPERVISOR. The law clearly states that the employer MUST BE NOTIFIED of the industrial injury or illness. It is then his responsibility to provide necessary medical treatment and to report the injury to the insurance company and the State.

If you fail to report an injury promptly (within 30 days) or do not accept medical attention offered, you may lose your rights to benefits.

For information on your particular case, contact your employer. He will refer you to the claims man of his insurance company, or the self-insurance manager who is handling your file. If you feel the need for additional information, ask at the nearest Division of Industrial Accidents office, your union representative, or you may consult an attorney of your choice.

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94102

WHO MAY COLLECT COMPENSATION BENEFITS?

Almost everyone hired to work may collect benefits if he suffers an industrial injury. This includes men and women; minors and adults; apprentices; public officials; and so on. However, some groups are *not* included under the compensation laws. Among those are:

Independent contractors—those who are engaged in business for themselves, who are not under the control of the person for whom they are performing services, and who are responsible to the principal for the results, but not the means whereby they are obtained.

Casual employees—those engaged to do work *not* in the usual business of the employer, and where the work is to be completed in not more than 10 days with a total labor cost of less than $100.

Persons selling newspapers or magazines where title (ownership) has passed to the seller.

Persons working in return for aid from a religious, charitable or relief organization.

Household domestics and babysitters working not more than 52 hours a week for one employer; gardeners who regularly work not more than 44 hours a month in connection with a single private dwelling.

Most railroad and maritime workers who are covered under laws other than the California law.

WHAT ARE THE COMPENSATION BENEFITS?

The principal types of benefits which may apply in the ordinary cases are:

Medical Treatment
Temporary Disability Indemnity
Permanent Disability Indemnity

MEDICAL BENEFITS

An injured worker is entitled to receive all medical, surgical and hospital services and supplies necessary to cure or relieve the effects of the industrial injury, including nursing care, and such things as crutches and artificial limbs, and including reasonable transportation expense incidental to treatment.

The employer, or his insurance carrier, has full control of the medical program. An injured worker who is dissatisfied with his treatment may request a change of physicians through the employer or insurance company. When the injury is serious, the employee may have a consulting physician of his own choice.

TEMPORARY DISABILITY

Temporary disability payments are to help the injured worker in meeting daily expenses while recovering from an injury or until a condition is reached where further improvement is not expected. At this point the employee may still not be able to return to work, but *temporary* disability payments will stop and the worker may be entitled to *permanent* disability payments.

Payments normally start on the eighth day after injury. When the temporary disability lasts beyond the 28th day, or the employee is hospitalized as a bed patient, the first week of disability will be paid for. Disability payments are never made for the day of injury. (In no case can temporary be paid for more than 240 weeks during the five years following date of injury).

The employer or insurance company must tell you when your benefits will start and when they will stop, and why. If your employer denies your claim, he must tell you so promptly.

PAYMENTS

Payments are based upon earnings. To calculate the weekly temporary disability payment, multiply the regular weekly wage by 61.75 percent; the monthly wage by 14.25 percent.

The accompanying table will give you an idea of the payments. There are maximum and minimum payments for both temporary and permanent disability as shown at right.

An employee able to work, although suffering a partial loss of earnings because of his injury, may be entitled to partial weekly disability payments.

Compensation benefits are not subject to income tax.

WEEKLY DISABILITY PAYMENTS

For Injuries Sustained On and After April 1, 1972

Weekly Wages	WEEKLY COMPENSATION Temporary Disability	WEEKLY COMPENSATION Permanent Disability	Monthly Wages	WEEKLY COMPENSATION Temporary Disability	WEEKLY COMPENSATION Permanent Disability
$32.39	$35.00	$20.00	$140.35	$35.00	$20.00
40.00	35.00	24.70	175.00	35.00	24.94
50.00	35.00	30.88	200.00	35.00	28.50
56.68	35.00	35.00	245.58	35.00	35.00
60.00	37.05	37.05	260.00	37.05	37.05
70.00	43.22	43.22	300.00	42.75	42.75
80.00	49.40	49.40	340.00	48.45	48.45
90.00	55.58	55.58	380.00	54.15	54.15
100.00	61.75	61.75	420.00	59.85	59.85
105.00	64.84	64.84	440.00	62.70	62.70
110.00	67.93	67.93	460.00	65.55	65.55
113.36	70.00	70.00	491.23	70.00	70.00
115.00	71.01	max.	500.00	71.25	max.
120.00	74.10		520.00	74.10	
125.00	77.19		540.00	76.95	
130.00	80.28		560.00	79.80	
135.00	83.36		580.00	82.65	
140.00	86.45		600.00	85.50	
145.00	89.54		620.00	88.35	
150.00	92.63		640.00	91.20	
155.00	95.71		660.00	94.05	
160.00	98.80		680.00	96.90	
165.00	101.89		700.00	99.75	
170.04 & over	105.00		736.84 & over	105.00	

NOTE: The rate of weekly compensation in most cases is based upon the employee's earnings at time of injury, but it may vary depending upon the facts in each case. If the date of your injury was before April 1, 1972, your compensation rate for either temporary or permanent disability may be different from the chart shown above. This is the most recent revision and is dated accordingly. In addition to money payments, tips, meals, room, and other advantages furnished by the employer are to be included in calculaitng earnings for compensation purposes. Contributions made by your employer to savings, wage continuation or replacement, or stock plans, or other employee benefit programs, to a union or trust fund are excluded.

PERMANENT DISABILITY

In some cases of industrial injury a *permanent* disability may result.

Where the effects of an injury cause a loss of earning power, or impairment of the normal use of a member, or a competitive handicap in the open labor market, there is at least a "partial permanent disability" and the worker will be entitled to compensation based upon the degree of this disability.

The degree of disability is "rated" in terms of "percent of permanent disability." The "percent" determines the number of weeks of payments. Payments are based on the earnings or earning capacity of the disabled worker, with a maximum of $70.00 per week. A life pension is added where disability is 70 percent or greater.

To compute a rating, the Division, insurance companies, and attorneys make use of the Permanent Disability Rating Schedule — a yardstick which provides a fair method of uniformly evaluating a disability in terms of dollars and cents, taking into consideration the nature of the disability and the age and occupation of the worker, and ability to compete in the open labor market.

INFORMAL RATINGS

An "informal rating" may be obtained from the Permanent Disability Rating Bureau on the joint request of the employee and his employer or the insurance company where no application has been filed. The Rating Specialist may have the employee examined by the Division's Medical Bureau to insure proper rating.

Though not legally binding an informal rating is used to determine the amount of permanent disability without a hearing or resorting to a compromise.

"Blue Forms," the employee's request for informal rating, are available at any Division of Industrial Accidents office.

REHABILITATION

An injured worker who may benefit from vocational rehabilitation may agree with his employer on a plan to provide services directed towards reemployment in a suitable occupation. The plan may include retraining and shall be voluntary for both the worker and his employer.

Injured public employees are entitled to reasonable medical and vocational services to return to suitable employment. If it requires attendance at a facility away from his home, the employee will receive a reasonable subsistence allowance.

During the rehabilitation program, the injured worker will receive temporary disability and concurrent weekly advances on his permanent disability rating. The permanent disability rating for the worker accepting the rehabilitation plan will be based on his age and occupation following its completion.

The Division of Industrial Accidents provides a Special Consultant in Rehabilitation to assist you with your rehabilitation needs.

DEATH BENEFITS

Where the industrial injury results in death, the benefit in cases of total dependency is $25,000. Where there is a surviving widow and one or more dependent minor children, the award will be $28,000. A burial allowance of up to $1,000 is allowed.

The law also makes provision for those only partly dependent upon the employee for support.

SUBSEQUENT INJURIES FUND

An employee with a prior injury or disablement who is injured at work may be entitled to benefits from the Subsequent Injuries Fund if the combined effect of the work injury and the earlier disablement equals a rating of 70 percent or more and:

1. The prior disability was to an eye, arm, hand, leg or foot and the new injury is to the opposite and corresponding member and rates 5 percent or more.
2. Where the prior disability is to any part of the body and the second injury is one which rates 35 percent or more.

Employers are liable only for the disability caused by an industrial injury and not for any pre-existing handicap. There is no financial penalty for hiring a handicapped worker.

The employer pays only the normal award for the injury at work. Any additional compensation is paid by the Subsequent Injuries Fund.

PENALTIES

Serious and Wilful Misconduct

Where the injury was caused by the serious and wilful misconduct of the employer, the compensation award may be increased by 50 percent (not to exceed $7,500). If the injured worker was guilty of serious and wilful misconduct, the compensation may be reduced by one-half.

Injuries to Minors

Where an illegally employed minor under 16 is injured, compensation may be increased 50 percent ($7,500 maximum). Generally speaking, "illegal employment" means working with dangerous moving machinery or equipment.

Delay in Making Payments

If benefits are unreasonably delayed or refused, the award may be increased 10 percent. Interest is payable at 7 percent where compensation awarded by the Board has not been paid when due.

Uninsured Employer

If the employer is uninsured, he may be liable for certain penalties, payment of the employee's attorney fee, and a separate action in the civil courts.

Discrimination Because of Filing a Claim

It is unlawful for an employer to discharge, threaten to discharge, or discriminate against an employee because he is going to file an application or testify before the Workmens' Compensation Appeals Board or because he has done so.

Intoxication

Compensation benefits can be lost if an employee is injured by reason of his own intoxication; where the injury is intentionally self-inflicted; or arises out of an altercation in which he is the initial physical aggressor.

CLAIMING COMPENSATION BENEFITS

When you are sent for medical attention by your employer, you are receiving your first benefits.

Most compensation cases are worked out between the injured employee and his employer or the insurance company. This is particularly true where the only benefits needed are for medical care and perhaps temporary disability.

The Division of Industrial Accidents will, on request, help the worker and the employer to reach a friendly adjustment. If a dispute still exists with the company as to the amount of permanent disability, or the need for further temporary, or any other issues, a referee is needed to decide the dispute.

This is the job of the Workmen's Compensation Appeals Board and its referees and to bring the matter to the Board's attention, an application is filed.

Filing and Application. A proceeding for adjustment of dispute is started by filling out an "Application" and mailing or bringing it to the nearest office of the Division. A copy of the application will be mailed to the employer, who must furnish an answer stating his side of the matter within ten (10) days of the date the application was mailed.

Time Limits. The application must be filed within one year from date of a specific injury or the date on which a cumulative injury causes disability or within one year from the last treatment or the last payment of compensation.

In cases of occupational disease, the application must be filed within one year after the employee has a disability and knows (or reasonably ought to know) that the disability resulted from his employment.

An application for death benefits must normally be filed within one year from the date of death.

Where the injury causes new and further disability, a claim may be filed within five years from the date of the injury. However, the original application still must have been filed within a proper time limit, or the injury recognized through a voluntary furnishing of benefits.

Hearings. After an application and a "Declaration" that the party is ready to proceed are filed, a hearing is scheduled before a referee. Notice of the time and place is given to all parties. At the hearing, the parties may present evidence supporting or opposing the claim.

Compromises. Sometimes the parties to a disputed claim may want to agree upon a total sum in return for which the claim will be dropped. Any such "Compromise and Release" must be approved by the Board. Once the employer is released from liability by approval of the Compromise and Release, the employee's claim is ended. Only in rare instances will further proceedings be entertained.

Attorneys and Attorney Fees. Where the services of the Workmen's Compensation Appeals Board are necessary to resolve a dispute, employees may engage the services of an attorney or a person who is well versed in compensation law, although there is no requirement that he do so. Attorney's fees are set by the Board and are payable out of awards made to the injured employee. No fee need to be paid in advance.

If you want a more detailed explanation of any points contained in this pamphlet, do not hesitate to call, write, or visit your nearest Division of Industrial Accidents office.

OFFICES OF THE DIVISION OF INDUSTRIAL ACCIDENTS

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BAKERSFIELD	225 Chester Avenue (93301)	327-7591
EUREKA	619 Second Street (95501)	443-4003
FRESNO	2550 Mariposa Street (93721)	488-5051
INGLEWOOD	520 N. La Brea Avenue (90302)	674-2431
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VAN NUYS	6931 Van Nuys Boulevard (91405)	782-4061
VENTURA	3418 Loma Vista Road (93003)	642-2131

WORKMEN'S COMPENSATION APPEALS BOARD

455 Golden Gate Avenue, San Francisco 94102

HALE H. ASHCRAFT, *Chairman*

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JACK W. BRADLEY, *Commissioner*
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ROY L. WONDER, *Commissioner*

A Message From the Governor

The purpose of this pamphlet is to inform California workers of the benefits provided for them under the Workmen's Compensation Law for illnesses or injuries caused by their work.

Injuries or illnesses that occur off the job may entitle you to benefits under disability insurance laws administered by the Department of Human Resources Development. These benefits provide for you financially in case of illness or injury—but not as well as you can provide for yourself and your family by staying well and avoiding accidents. It is to your advantage to follow your employer's safety rules and avoid accidents on the job, at home and everywhere. By following good safety and health practices you will probably never need the benefits outlined in this pamphlet.

Ronald Reagan

Governor

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