

THE
Ins & Outs
Ups & Downs
and Myths
Of Washington Workers'
Compensation

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Who are we?

We are an attorney and a vocational rehabilitation counselor with over 30 combined years of direct experience in the Washington Workers' Compensation System.

Injured at Work

- If an employee is injured at work and the claim is accepted, workers' compensation pays for medical care directly related to the accident
- If the employee is unable to work following the injury, he or she may be eligible for a portion of lost wages

Injured at Work

- An injured employee should make sure to:
 - Get first aid
 - See a doctor if necessary
 - Notify the employer

Filing a Claim

- If injured at work, the employee and the treating doctor will fill out an accident report form
 - Contractors may also provide SIF-2s
- A claim is filed CCSI receives the PIR or SIF-2

SELF INSURER ACCIDENT REPORT (SIF-2)



Worker Start Here

UBI **600174375** Risk class _____ CLAIM NUMBER **W 972321**

Business name of self insured employer		Name of injured employee (First-middle-last)		Employee's home phone () ()	
Employer's address		Mailing address		Employer's phone # () ()	
City	State	ZIP	City	State	ZIP
Dependent Children include unborn, estimate birthdate. Benefits will be based, in part, on number of legally dependent children. Please indicate custody status of each child.			Marital Status select one Married Widowed Separated Single Divorced	Sex M F	Date of birth _____
Name	Relationship	Legal custody Select one Yes No Yes No Yes No	Date of birth	Job title when injured _____	
Name of children's legal guardian, if other than self. Phone # () ()			Date of injury/exposure	Time of injury Select one AM PM	Height _____
Address			Part of body injured or exposed _____		Weight _____
City			Where did the injury or exposure occur? Employer Jobsite Parking premises Lot Other		When did you last work? _____
Describe in detail how your injury or exposure occurred: (Include tools, machinery, chemicals or fumes that may have been involved)			Was this incident caused by failure of a machine or product OR someone who is not a co-worker? Select one Yes No Possibly		When did you return to work? _____
List any witnesses _____			Did you report the incident to your employer? Yes No Name/title of person reported to: _____ Date reported: _____		Right Left
If reporting of incident was delayed, why? _____			Business name and address where injury or exposure occurred Address _____ County _____		City _____ State _____ ZIP code _____
Were you ever treated for same or similar condition before? Yes No If so, When?		Rate of pay at this job Write amount, select one \$ _____ Hour Week Day Month	Hours/day Days/week	Do you consistently work overtime? Yes No	Do you have more than one rate of pay? Yes No
Name of attending physician Address City State ZIP		Medical Release authorization: I hereby authorize my physician, hospital, agency or organization to disclose to my employer or their representative or the Dept. of Labor & Industries any medical records or other information regarding treatment which has previously been furnished to me. Today's date _____ Worker's signature _____		Do you have more than one employer? Yes No	Did you receive a bonus within the last 12 months? Yes No \$ _____

Employer Start here		Hourly rates of pay \$ _____ /hr _____ hrs/dy _____ days/wk \$ _____ /hr _____ hrs/dy _____ days/wk		Will you pay this employee full salary or wages during period of disability? select one Yes No	
Date returned to work _____		Was employee engaged in the regular course of employment when injured? select one Yes No		Average monthly value of all bonuses paid 12 months prior to injury \$ _____	
Do you agree with employee's description of the accident? If not, explain.		Average hrs including O/T worked Hrs: _____ Day _____ Mo _____		Average daily earnings from piecework, tips and commissions as reported to IRS \$ _____	
Were you contributing to this worker's and/or family's medical, dental and/or vision insurance on date of injury? Yes No		If so, how much did you pay? Per Mo. \$ _____		Was this medical insurance in effect on the day of injury? Yes No	
Worker's copy mailed Yes No		Treatment only Yes No Lt. duty provided Yes No Associated costs \$ _____		Date reported to employer _____ 3rd party involved? Yes No	
I declare that the foregoing statements are true to the best of my knowledge and belief.					
Worker's copy mailed Yes No		Date _____		Signature _____	

PHYSICIANS INITIAL REPORT

MAIL TO SELF INSURED COMPANY

Instructions on reverse side

1. CLAIM NUMBER

1. NAME OF SELF-INSURED EMPLOYER

ADDRESS _____

CITY _____ STATE _____ ZIP _____

2. NAME OF SELF-INSURED EMPLOYER'S SERVICE REPRESENTATIVE

ADDRESS _____

CITY _____ STATE _____ ZIP _____

EMPLOYER'S TELEPHONE NO. _____ EMPLOYER'S SERVICE REP PHONE _____

PATIENT INFORMATION

2. NAME OF INJURED WORKER: FIRST MIDDLE LAST

3. WORKER'S TELEPHONE NO. _____

4. MAILING ADDRESS _____

5. SOCIAL SECURITY NUMBER _____

6. CITY _____ STATE _____ ZIP CODE _____

7. DATE OF BIRTH _____

8. INJURY DATE _____ 9. TIME _____

A.M. _____ P.M. _____

10. Have you missed work due to your injury?
If so, what dates were you off?
From: _____ To: _____

11. SEX _____ 12. MARITAL STATUS - NUMBER OF DEPENDENTS _____

13. Describe in detail how your injury or exposure occurred:

Physician -- START HERE

3. Date patient first seen by you for this injury/condition _____ / _____ / _____

a. ICDM-9 CODE _____ b. Diagnosis - Specify Right / Left _____

14. **MEDICAL RELEASE AUTHORIZATION:** I HEREBY AUTHORIZE MY PHYSICIAN, HOSPITAL, AGENCY OR ORGANIZATION TO DISCLOSE TO MY EMPLOYER OR MY EMPLOYER'S REPRESENTATIVE OR THE DEPARTMENT OF LABOR & INDUSTRIES ANY MEDICAL RECORDS OR OTHER INFORMATION REGARDING TREATMENT WHICH HAS PREVIOUSLY BEEN FURNISHED TO ME.
Worker's Signature _____ Date _____

15. I have read the Statement of Responsibility and the Legal Notice on the reverse side of this form.
Worker's Signature _____ Date _____

4. Are there objective findings to support this diagnosis
 No Yes, Specify _____

8. a. Has the worker ever been treated for the same or similar condition?
Select one. If YES, describe briefly or attach report.
 No Yes _____

b. Is there any pre-existing impairment of the injured area?
Select one. If YES, describe briefly or attach report.
 No Yes _____

c. Are there any conditions that will prevent or retard recovery?
Select one. If YES, describe briefly or attach report.
 No Yes _____

d. Was the diagnosed condition caused by this injury or exposure on a more probable than not basis? No Yes _____

5. Referred for Diagnostic Studies
 No Yes, Specify _____

9. a. Have you released this worker to return to regular work?
 No Yes effective date _____

b. Have you released this worker to return to light duty?
 No Yes effective date _____

c. What restrictions are placed on light duty return to work?
Lifting _____ Bending _____
Standing _____ Sitting _____
Other _____

d. If not released for work, estimate number of days of time loss: _____

6. Treatment Recommendations

Licensed Physician must sign before report is accepted

10. Signature _____

11. Phone _____ 12. Date _____

13. Physician Name (print or type) _____

14. Address _____

City _____ State _____ ZIP _____

15. Payee L&I Account # _____ 16. IRS Account # _____

7. Referred to: Dr. _____

Address: _____

Phone: _____

Distribution: White - Employer; Canary - Worker; Pink - Physician

DO NOT SEND THIS FORM TO LABOR & INDUSTRIES

Filing a Claim

- “Reasonable Notification: Worker's letter to DLI explaining that he had injured his back the day before he suffered from an accepted injury described as "heat" coupled with a letter from a physician's assistant indicating that the worker was seen for heat exhaustion and back pain constitute an application for benefits within the meaning of RCW 51.28.020.**Leroy Norris, 92 1471 (1993)**

Filing a Claim

- The injured employee should:
 - Complete all required paperwork
 - Keep in contact with CCSI on the status of their claim
 - Cooperate with any requests for an independent medical examination
 - Understand what rights he or she has as an injured worker
 - Take advantage of any light-duty options

Filing a Claim

- Worker has 1-year from date of “industrial injury” to file a claim; and
- Worker has 2-years to file an occupational disease claim
 - From date of manifestation: doctor tells worker he/she has occupational disease claim

Critical Tasks in the 24 Hours Following a Workplace Injury

- Initiate an accident investigation
- Obtain/create a paper-trail
 - Contractor's paper-trail:
 - Timely notification
 - Diligent record keeping
- Perform an accident scene safety audit
- Prompt management intervention
 - RTW issues: “Reasonable accommodations”, coverage, maintaining contact with the injured EE

Rejecting a Claim

- Claims can be rejected if the doctor cannot certify the worker's medical condition is related to something specific that happened at work or an occupational disease
- This legal standard frequently requires that CCSI collect background information about the worker's accident and the worker's medical and job history

If the Claim is Approved

- A claim can be approved if the employee's doctor certifies that the employee was injured at a specific time and place at work, or has an occupational disease
- Benefits will cover medical bills, but may also include wage replacement, return-to-work help and disability or pensions for the severely injured

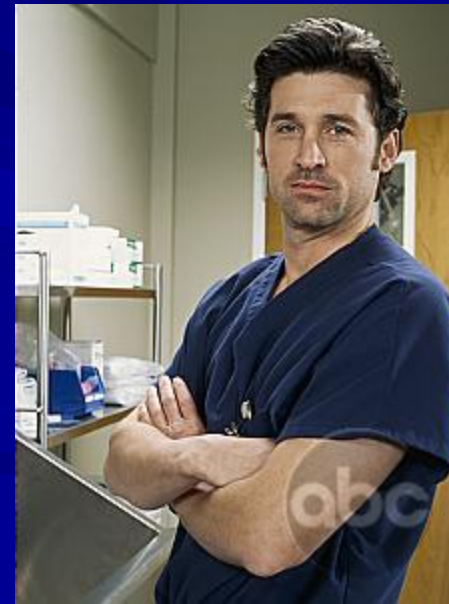
If the Claim is Approved

- Benefits for the injured employee may include:
 - Medical benefits
 - Wage replacement (Time Loss)
 - RCW 51.32.090
 - Benefits for the permanently disabled
 - Travel and property reimbursement

Interacting with the Treating Physician

■ Modified Job

- Provide physician with Job Analysis
- Employer accommodations
 - ADA requires employer to make “reasonable accommodations”



Interacting with the Treating Physician

- Washington law requires that any injured worker seeking compensation submit to a medical examination requested by the Department or the self-insured employer
- WAC 296-23-255(1) – Department or Employer may request injured worker undergo an examination:
 - Where treatment or progress is controversial;
 - To establish when the accepted medical condition has reached maximum benefit from treatment; and
 - To rate permanent impairment when maximum recovery is reached.

Light-Duty Programs: Benefits

- Keeps employee from being focused on claim
 - Studies routinely show the longer a person is out of work, the less likely the person is of ever returning to employment
- Employer still receives some benefit from employee working even in a light-duty position

Light-Duty Programs: Benefits

- Temporary disability benefits will be greatly reduced, if not eliminated altogether
- By limiting temporary disability benefits, perception of permanent disability claim may be diminished
- May eliminate need for vocational rehabilitation benefits

Implementing Light Duty

- Tip: Have “light duty” jobs that can be reserved for injured workers.
- RCW 51.32.090(4): You can terminate time loss if a worker refuses a light duty job or quits the light duty job before released to full duty IF: the job was approved by the attending physician and offered in writing to the injured worker.

Vocational Rehabilitation

■ Revised Code of WA – 51.32.095

- (A) Return to the previous job with the same employer;
- (B) Modification of the previous job with the same employer including transitional return to work;
- (C) A new job with the same employer in keeping with any limitations or restrictions;
- (D) Modification of a new job with the same employer including transitional return to work;

Return to Employer Assessment

- Job Analysis – Critical Document
 - Can the position be modified?
 - Could the injury have been prevented?
 - Identify injury reduction strategies
 - Take EJTA to attending physician for review
 - Reduce/eliminate time loss exposure

Return to Employer Assessment

- Transferable skills analysis

- Based on age, education, work history, etc.

- Job modification

- Can a position be modified to accommodate an injured worker?

Employability

- (E) Modification of the previous job with a new employer;
 - (F) A new job with a new employer or self-employment based upon transferable skills (Labor Market Survey needed);
 - (G) Modification of a new job with a new employer;
- Ability to Work Assessment Report

Vocational Retraining

- (H) A new job with a new employer or self-employment involving on-the-job training;
- (I) Short-term retraining and job placement.

Ability to Work Assessment Report

Plan: Length of time / Cost

Benefits of Using a Vocational Rehabilitation Counselor

- Cost containment
- Reduction of time loss
- Identify light / full duty RTW options
- Assist with preventing “disability conviction” (the longer a worker is off work, the less likely they will RTW)

Benefits of Using a VRC

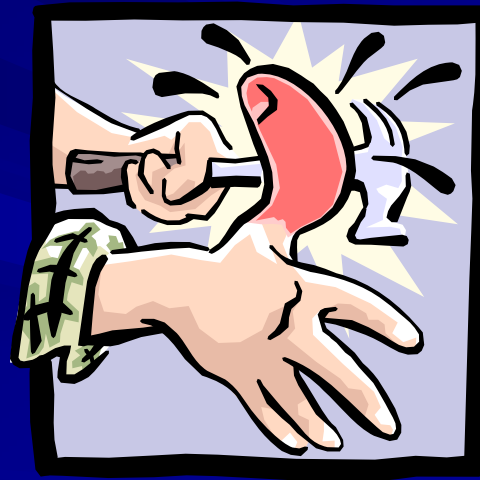
- Low employee turnover reduces hiring and training costs
- Minimizes overtime
- Retaining skilled workers increases productivity
- Improved labor relations

Benefits to the Worker

- The longer they are away from the job market, the more difficult it will be to re-enter
- Jobs can provide benefits for their family
- Once employed, moving to other jobs is easier
- TL benefits are limited and relatively stagnant
- The worker can take back control of their life

Myth #1

- If an employee gets injured, the individual should report it immediately to a supervisor.



Myth #1

CONFIRMED

- Yes, report injury to supervisor.
- Supervisor will determine if it is a first-aid issue, or time to get more help.
- If a worker needs to see a doctor, worker should be given paperwork to deliver to the doctor.

Myth #2

- If you cannot go back to work right away, it's okay because you immediately get money to cover missed wages.



Myth #2

BUSTED

- “Time-loss” payments do not start until a worker is off work for more than four (4) days.
- There is no way to make up the lost wages.

Myth #3

- Being on Workers' Compensation is sort of like being on a paid vacation.



Myth #3

BUSTED

- You hurt.
- You cannot do the things you usually do.
- Sleep may be difficult.
- You are home, so your spouse may suggest you do the laundry.

Myth #4

- Work restrictions do not apply at home.



Myth #4

BUSTED

- If you are not supposed to lift 10 pounds at work, this also means you are not supposed to lift 10 pounds at home.
- How much does a gallon of milk weigh?

Myth #5

- If you have to be off work for a while, Workers'

Compensation will pay you the same amount as you made when you were hurt.



Myth #5

BUSTED

- “Time-loss” payments generally do not replace 100% of your pay.
- If a person is brand new, time-loss payments may be calculated based on old job wages as well.

Myth #6

- If you cannot do your job anymore, they have to find you a job that pays about the same amount.



Myth #6

BUSTED

- Washington State does not have a “reasonable wage replacement” regulation.
- As long as you can be found employable at minimum wage, your claim may end.

Benefits End When Found Employable

“..once a worker is found to be employable
at minimum wage, benefits may cease.”

Attending Doctor's Return-to-Work Desk Reference
Published by the Department of Labor & Industries -
2004

Myth #7

- If you cannot go back to the job where you got hurt, it's okay because you would just get retrained for a new job.



Myth #7

BUSTED

- Return-to-Work Priorities (RCW 51.32.095).
 - Same employer.
 - New employer.
 - Employable based on transferable skills.
 - Self-employed or on-the-job training.
 - Retraining.

Myth #7 - Example

- A worker injured his elbow and cannot lift over 30 pounds. His work experience has included:
 - Radiation Tech (10 years).
 - Cook (1 year).
 - Cashiering at 7-11 (4 years).
 - Is he employable? Eligible for retraining?

Myth #7 - Example

BUSTED

- The worker's skills as a cashier most likely make him **employable**, and therefore he is not eligible for retraining.
- The cashier job also fits his lifting restriction.

Myth #8

■ If you are eligible for retraining, it's a great deal

because it will
allow you to get
that Bachelors

Degree you always wanted.



Myth #8

BUSTED

- There are significant limits on retraining programs:
 - Up to 52 weeks.
 - Up to \$4,000.
- How much does it cost for one year at a community college?

Myth #9

- At the end of my claim, I understand that I will get a whole bunch of money for the body part I injured.



Myth #9

BUSTED

- Amounts are set by the legislature.

- Example:

How much would you get for losing 25% use of your index finger?

a) \$3,037

b) \$11,637

c) \$21,987

d) \$54,837

Myth #10

- You don't have to worry about all of this, right? If you get hurt you can just sue the employer and get a bunch of money.



Myth #10

BUSTED

- Worker's Compensation is set up as a “no-fault” system.
- Generally, you cannot sue your employer for work related injuries.

Work Suitability Evaluation (WSE)

- Employee is at work
 - Receive WSE request
 - Contact employee at work to request release of information for their private provider
 - Fax completed release to private provider
 - Receive records
 - Schedule WSE
 - Route medical records to AMH provider

Work Suitability Evaluation (WSE)

- Employee is at work
 - AMH provider performs WSE
 - Prepare WSE results letter
 - Case Manager gives copy
 - Fax and hard copy letter to contractor

Employee is Not at Work

- Receive WSE request
- Contact employee at home:
 - For release of records from private provider
 - Determine whether employee has a RTW release
- Fax record release to private provide
- Receive medical records
- Schedule WSE

Employee is Not at Work

- Route medical records to AMH provider
- Complete WSE
- Prepare WSE results letter
- Case Manager gives copy of letter to employee
 - Instructs employee to go home & their company will contact them

Employee is Not at Work

- Fax and hard copy to contractor
- Contractor contacts employee
- Employee goes to AMH for RTW

WSE with a Work Capacity Evaluation (WCE)

- Concurrence letter signed by AMH provider
- Letter faxed to private provider
- Schedule WCE
- Schedule WSE consult
- Follow WSE procedure

WCE with a Fitness For Duty (FFD)

- Request for FFD received
- Behavioral Health Services (BHS) will schedule
- Follow WSE protocol
- WSE letter is signed by BHS clinician and AMH provider

“Minimal Safety Net”

“Many workers’ compensation benefits result from legislated compromises between employer and labor community. Therefore, by law, many benefits are structured as a minimal safety net, rather than as a guarantee to assure the worker’s career goals, preserve their income, keep their career on track, or preserve their retirement.”

Attending Doctor’s Return-to-Work Desk Reference
Published by the Department of Labor & Industries - 2004

Do What You Can To Be Safe

- You have the ability to avoid all this.
- Every person should expect to go to work each day and return home uninjured and in good health.

Please take responsibility
for your own safety.

Help others work safely.

Closing a Claim

- If you or another worker does have a claim, there are criteria that need to be met for closure purposes

Closing a Claim

- In-House Medical Only Closure OK if:
 - Medical Only, or
 - Time loss claims: If less than 90 consecutive days of time loss & worker returned to JOI or job with employer at comparable wages – RCW 51.32.055, WAC 296-15-450
- Otherwise, submit claim to Department for adjudication
 - TIP: Department can refuse to rely upon medical evidence more than 6 months old – this is why updated IME's are often recommended prior to submission of claim for closure

Protests/Appeals

- Aggrieved party has 60 days from the date of the Order to file a protest or appeal.

Appeal Process

- At least one mediation conference within two to three months of Order granting appeal
- Confidential discussion between mediation Judge and parties
- Department may be represented by an Assistant Attorney General who must approve any settlements



Hearings Process

- A scheduling conference takes place to reserve hearing time and note litigation deadlines
- Usually Judge places a discovery cut-off about 30 days prior to hearing
- Testimony will be live in worker's county or by perpetuation deposition at expert location

Decision and Order

- Judge will issue a Proposed Decision and Order (PD&O)
- Aggrieved party has 20 days to file a Petition for Review
- Board of Industrial Insurance Appeals (BIIA) will either adopted PD&O or enter new Order
- Aggrieved party has 30 days to file Superior Court appeal

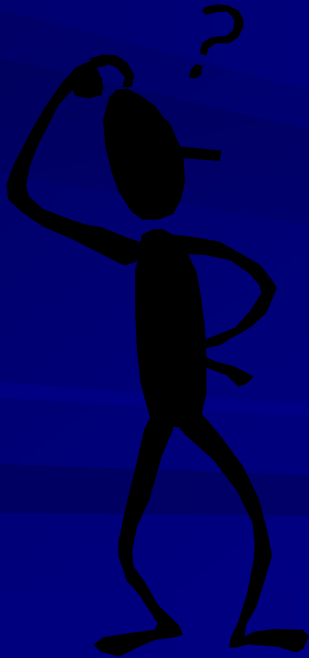
Superior Court Appeals

- Usually in county where worker resides or where accident occurred
- No new evidence taken – transcript from BIIA hearing read into record
- Either party may request a jury trial
- Judge will issue a ruling, which can be appealed to Court of Appeals

Conclusion

■ Important websites:

- www.biia.wa.gov
- www.ini.wa.gov



THANK YOU!

QUESTIONS?

