The Unique World of Workers' Compensation

The Hanford Experience

2010

RCW & WAC

All workers' compensation claims filed in Washington State are handled utilizing the same guidelines

- RCW Title 51 - Revised Code of Washington
- WAC - Washington Administrative Codes

NO FAULT

Washington's industrial insurance program is a "No Fault" system

Course of Employment

For an injury claim, the worker does not have to be doing his/her actual job in order to be covered

The worker is usually covered:

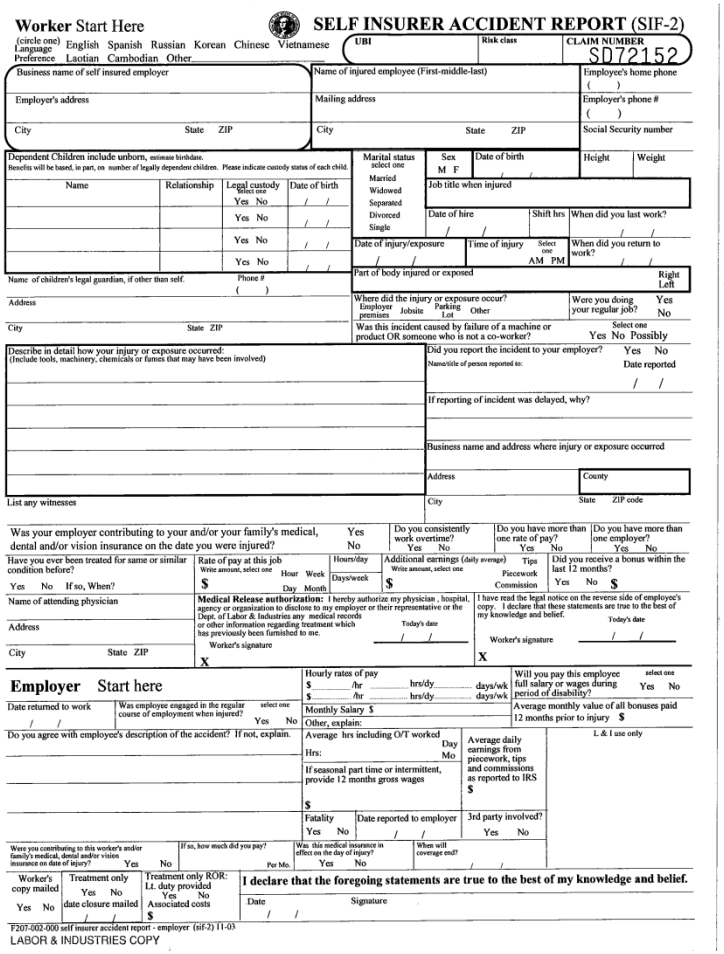
- while acting at the employer's direction
- furthering the employer's business

Compensability

- For both an injury and occupational disease claims, the medical condition diagnosed must be related to the incident and/or job duties on a “more probable then not basis”

- It is not sufficient that a physician indicate “possibly” or “may” be the cause

SIF2 – Self Insured Accident Report



Worker Start Here

(circle one) Language Preference: English Spanish Russian Korean Chinese Vietnamese Laotian Cambodian Other

SELF INSURER ACCIDENT REPORT (SIF-2)

UBI | Risk class | CLAIM NUMBER SD72152

Business name of self insured employer

Employer's address

City State ZIP

Name of injured employee (First-middle-last)

Mailing address

City State ZIP

Employee's home phone ( )

Employer's phone # ( )

Social Security number

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.

Name	Relationship	Legal custody (Select one)	Date of birth
		Yes No	/ /
		Yes No	/ /
		Yes No	/ /
		Yes No	/ /

Name of children's legal guardian, if other than self. Phone # ( )

Address

City State ZIP

Marital status (select one): Married, Widowed, Separated, Divorced, Single

Sex: M F

Date of birth / /

Height Weight

Job title when injured

Date of hire / / Shift hrs When did you last work? / /

Date of injury/exposure / / Time of injury (Select one) AM PM When did you return to work? / /

Part of body injured or exposed Right Left

Where did the injury or exposure occur? Employer premises Jobsite Parking Lot Other

Were you doing your regular job? Yes No

Was this incident caused by failure of a machine or product OR someone who is not a co-worker? (Select one) Yes No Possibly

Describe in detail how your injury or exposure occurred:
(Include tools, machinery, chemicals or fumes that may have been involved)

List any witnesses

Did you report the incident to your employer? Yes No

Name/title of person reported to: Date reported / /

If reporting of incident was delayed, why?

Business name and address where injury or exposure occurred

Address County

City State ZIP code

Was your employer contributing to your and/or your family's medical, dental and/or vision insurance on the date you were injured? Yes No

Do you consistently work overtime? Yes No

Do you have more than one rate of pay? Yes No

Do you have more than one employer? Yes No

Have you ever been 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

Additional earnings (daily average) (Write amount, select one) Tips Piecework Commission $

Did you receive a bonus within the last 12 months? 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 X

I have read the legal notice on the reverse side of employee's copy. I declare that these statements are true to the best of my knowledge and belief.

Today's date / /

Worker's signature X

Employer Start here

Date returned to work / /

Was employee engaged in the regular course of employment when injured? (select one) Yes No

Hourly rates of pay
$ /hr hrs/dy days/wk
$ /hr hrs/dy days/wk

Monthly Salary $

Other, explain:

Will you pay this employee full salary or wages during period of disability? (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

If seasonal part time or intermittent, provide 12 months gross wages $

Average daily earnings from piecework, tips and commissions as reported to IRS $

L & I use only

Fatality Yes No

Date reported to employer / /

3rd party involved? Yes No

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

When will coverage end? / /

Worker's copy mailed Yes No

Treatment only Yes No date closure mailed / /

Treatment only ROR: Lt. duty provided Yes No Associated costs $

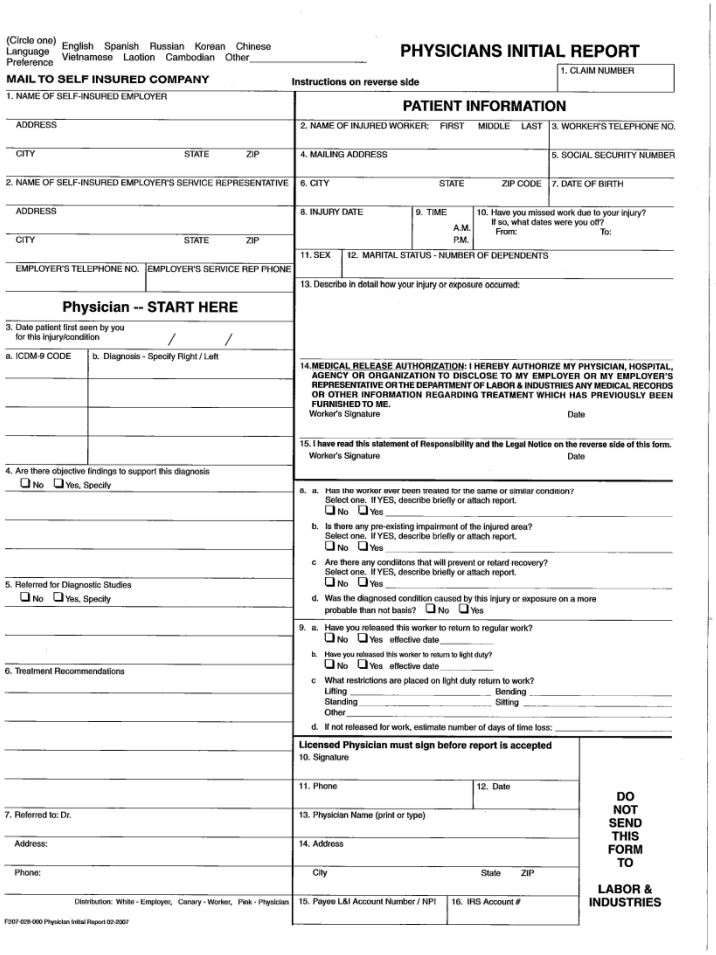
I declare that the foregoing statements are true to the best of my knowledge and belief.

Date / / Signature

F207-002-000 self insurer accident report - employer (sif-2) 11-03

LABOR & INDUSTRIES COPY

PIR – Physician's Initial Report



(Circle one) Language Preference: English Spanish Russian Korean Chinese Vietnamese Laotion Cambodian Other_____

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

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

5. Referred for Diagnostic Studies
☐ No ☐ Yes, Specify

6. Treatment Recommendations

7. Referred to: Dr.

Address:

Phone:

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 this statement of Responsibility and the Legal Notice on the reverse side of this form.**
Worker's Signature Date

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

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:

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 Number / NPI

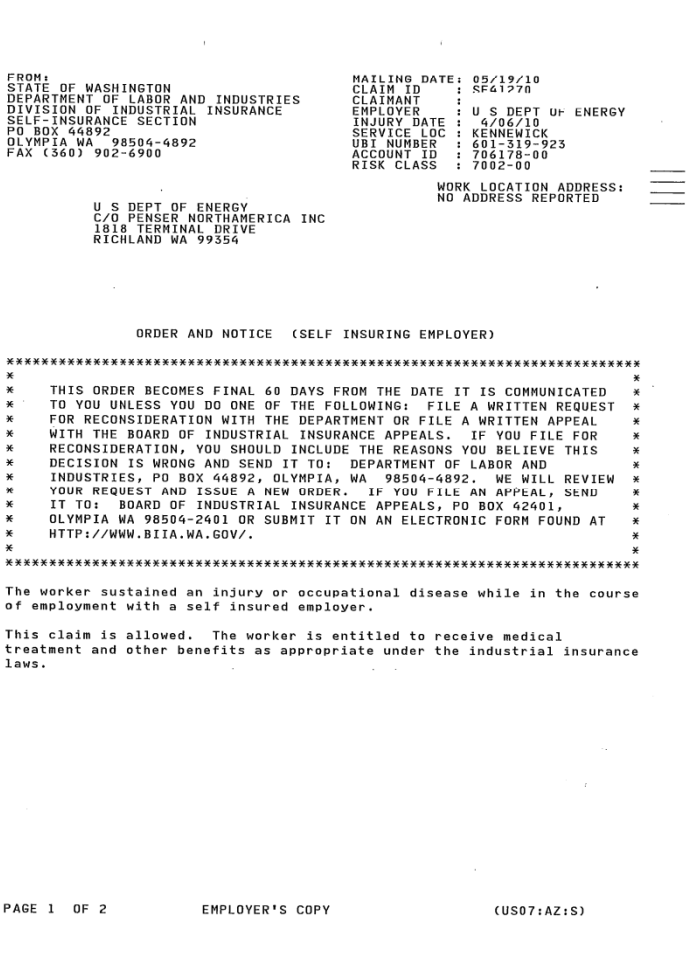
16. IRS Account #

DO NOT SEND THIS FORM TO LABOR & INDUSTRIES

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

F207-028-000 Physician Initial Report 03-2007

Department of Labor & Industries Order & Notice



FROM:
STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
DIVISION OF INDUSTRIAL INSURANCE
SELF-INSURANCE SECTION
PO BOX 44892
OLYMPIA WA 98504-4892
FAX (360) 902-6900

MAILING DATE: 05/19/10
CLAIM ID : SF41270
CLAIMANT :
EMPLOYER : U S DEPT OF ENERGY
INJURY DATE : 4/06/10
SERVICE LOC : KENNEWICK
UBI NUMBER : 601-319-923
ACCOUNT ID : 706178-00
RISK CLASS : 7002-00

WORK LOCATION ADDRESS:
NO ADDRESS REPORTED

U S DEPT OF ENERGY
C/O PENSER NORTHAMERICA INC
1818 TERMINAL DRIVE
RICHLAND WA 99354

ORDER AND NOTICE (SELF INSURING EMPLOYER)

THIS ORDER BECOMES FINAL 60 DAYS FROM THE DATE IT IS COMMUNICATED TO YOU UNLESS YOU DO ONE OF THE FOLLOWING: FILE A WRITTEN REQUEST FOR RECONSIDERATION WITH THE DEPARTMENT OR FILE A WRITTEN APPEAL WITH THE BOARD OF INDUSTRIAL INSURANCE APPEALS. IF YOU FILE FOR RECONSIDERATION, YOU SHOULD INCLUDE THE REASONS YOU BELIEVE THIS DECISION IS WRONG AND SEND IT TO: DEPARTMENT OF LABOR AND INDUSTRIES, PO BOX 44892, OLYMPIA, WA 98504-4892. WE WILL REVIEW YOUR REQUEST AND ISSUE A NEW ORDER. IF YOU FILE AN APPEAL, SEND IT TO: BOARD OF INDUSTRIAL INSURANCE APPEALS, PO BOX 42401, OLYMPIA WA 98504-2401 OR SUBMIT IT ON AN ELECTRONIC FORM FOUND AT HTTP://WWW.BIIA.WA.GOV/.

The worker sustained an injury or occupational disease while in the course of employment with a self insured employer.

This claim is allowed. The worker is entitled to receive medical treatment and other benefits as appropriate under the industrial insurance laws.

PAGE 1 OF 2 EMPLOYER'S COPY (US07:AZ:S)

SELF – INSURED CLAIM

- Report the injury to your employer
- Request a Self Insurer Accident Report (SIF2) from your Worker's Compensation Representative (WCR)
- See a doctor of your choice
- The doctor will complete the Physician's Initial Report (PIR) form
- The doctor mails the completed PIR to the Third Party Administrator (TPA)

Worker Responsibility

- Tell the doctor that the injury or disease is work related
- Respond timely to requests for information:
  - prior medical
  - attending physician contact information
  - correct personal contact information
  - work history
- Communicate with your claims examiner

Benefits Covered

- Medical treatment/bills
- Wage compensation
- Vocational services
- Permanent partial disability

Medical Treatment

The cost of all hospital, surgical and other medical services necessary for the treatment of the work place injury or disease is covered.

Wage Compensation

- Temporary Total Disability (TTD)

  TTD is payable when an injury or disease temporarily and totally disables an employee's ability to return to work

- Loss of Earning Power Benefits (LEP)

  LEP is payable when an employee has returned to light duty and the light duty results in a wage reduction greater then 5%

- Permanent Total Disability (PTD)

  PTD is payable when an injury or disease permanently and totally disables an employee's ability to return to the work force

Permanent Partial Disability

When a work place injury or disease results in a permanent physical impairment, a rating evaluation is conducted by either the treating physician or an independent medical examiner. Once the percentage of impairment is determined the Washington State Department of Labor & Industries will issue a closing order that stipulates the impairment award associated with the percentage of loss.

Independent Medical Examinations

An injured worker must appear for an independent medical evaluation (IME) scheduled by the self insured employer or the third party administrator.

Purpose of IME

- To determine if current treatment is appropriate or to determine if further treatment is necessary
- To determine if a condition is at maximum medical improvement
- To determine permanent partial disability
- To resolve disputes in the claim
- To address reopening of a claim

Office of the Ombudsman

For Self Insured Injured Workers

What they do:

- They can:

  - advise workers of the rights and responsibilities

  - investigate complaints

  - work to ensure workers receive the appropriate benefits under the law

- They cannot:

  - issue Department orders

  - authorize treatment

  - pay benefits

  - represent workers at the Board of Industrial Insurance Appeals

Why would a worker contact their office?

- If a worker has a general questions about workers compensation

- If a worker has a claim and feels they need assistance with understanding the claims process or to resolve a specific claim issue

Ombudsman Contact Information

Mailing address:

Office of the Self Insured Ombudsman
Department of Labor & Industries
PO Box 44001
Olympia WA 98504-4001

Phone: 1-888-317-0493 Fax: 360-902-4202
Website: Ombudsman.Selfinsured.wa.gov

Other resources for information:

- Self insurance section of the Washington State Department of Labor & Industries

  Phone: 360-92-6901

- http://www.lni.wa.gov/Main/WorkerTopics.asp
- To locate a provider: findadoc@lni.wa.gov

Questions?????

Work Suitability Evaluation (WSE)

AdvanceMed Hanford

Occupational Health Services

Today we will talk about

- Coordination and Communication with Penser and the Contractors
- Work Suitability Evaluation (WSE)
- Work Capacity Evaluation (WCE)
- Fitness for Duty Evaluation (FFD)

Coordination and Communication

- Monthly Case Management Meetings at Penser
- Coordination of Return to Work Evaluations
- Coordination of Referrals to National Jewish Health

What is a Work Suitability Evaluation (WSE)?

Case management occupational medical evaluation to assess the worker's ability to perform the essential and/ or supplemental functions of their job.

When is a WSE Needed?

This service may be initiated by the employing company through AMH case management, particularly in cases where:

- recovery has been delayed
- functional abilities have decreased during treatment
- injury or illness is recurrent
- there is permanent impairment, disability or restrictions

What is needed before a WSE can be scheduled?

- employee job task analysis (prepared by the company)
- a letter from the contractor's human resources or industrial relations organizations outlining the reason for the request
- medical information from the worker's private medical provider

When an Employee is Working

AMH Case Manager:

- Receive WSE request from contractor
- 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

When an Employee is Working

AMH provider performs WSE

AMH Case Manager:

- Prepare WSE results letter
- Gives copy to patient
- Fax and hard copy of letter to contractor

Employee is not working

AMH Case Manager:

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

Employee is not working

AMH Provider Complete WSE

AMH Case Manager:

- Prepare WSE results letter
- Gives copy of letter to employee
  - Instructs employee to go home
  - Their company will contact them or
  - AMH performs a RTW/Contractor instruction

Employee is not working

- Fax and hard copy letter to contractor
- Contractor contacts employee
- Employee goes to AMH for Return To Work

WSE with a Work Capacity Evaluation (WCE)

AMH Case Manager:

- Fax Concurrence letter to private provider
- Schedule WCE
- Schedule WSE consult
- Follow WSE procedure

What is a Work Capacity Evaluation?

This Industrial Rehabilitation service provides an evaluation of individuals for jobs that require specific physical capabilities to perform their essential elements as defined in the appropriate worker job task analysis (EJTA)

Testing components of the work capacity evaluation (WCE)

- Analysis of client reliability of pain and disability report
- Evaluation of marginal effort
- Intake and vital signs
- sitting/standing/walking
- lift and carry capacity
- range of motion

Components cont.

- muscular strength and endurance (i.e. climbing, pushing, pulling)
- functional aerobic capacity
- musculoskeletal evaluation
- fine & gross dexterity & hand pinch/grip
- job simulation and job-task-specific assessment

What is a Fitness for Duty (FFD)Evaluation?

This evaluation is a comprehensive, behavioral health assessment as requested by eligible Hanford employers and/or their human resources organizations for performance concerns or for work suitability or reliability.

FFD may include one or all of the following:

- Psychological assessments
- Psychological testing
- Substance abuse assessments
- Return-to-work assessments
- Psychological monitoring plans
- Substance abuse monitoring plans

WSE with Fitness For Duty (FFD)

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

Questions???

UNDERSTANDING WASHINGTON WORKERS' COMPENSATION

Lawrence E. Mann

WALLACE, KLOR & MANN, P.C.
ATTORNEYS AT LAW

OVERVIEW

1. Coverage.
2. Injury vs. Occupational Disease.
3. Time Loss.
4. LEP.
5. Claim Closure.
6. Pensions & Fatalities.
7. PPD.
8. Reopening.
9. Appeals Process.

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1.

COVERAGE

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COVERAGE

- The Industrial Insurance Act only provides coverage for employees.
- Under the Act, an employer-employee relationship exists only where:

  (1) The employer has the right to control the worker's physical conduct in the performance of his/her duties; and

  (2) There is consent by the employee to this relationship.

COVERAGE

Course of Employment

RCW 51.08.013

The worker must be acting at his or her employer's direction or furthering the employer's business interests.

COVERAGE

Course of Employment

- Key distinctions between Washington State law and other jurisdictions include:
  - No consideration is given to degrees of "fault" by the worker or employer in determining entitlement to benefits.
  - While it is necessary that the injury occur in the course of one's work, it is not necessary that the injury "arise out of" the particular duties a worker is paid to perform.

COVERAGE

Parking Lots

(RCW 51.08.013)

- Injuries that occur in parking lots are generally not allowable.
- However, courts have held that the statute allows coverage for parking lot injuries if the job duties require the worker's presence in the parking lot.

COVERAGE

Parking Lots

(RCW 51.08.013)

For example, a grocery store employee who is injured while carrying groceries to a customer's car would be covered.

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COVERAGE

Coming & Going

(RCW 51.08.013)

- A worker injured going to and coming from the workplace in a private vehicle is generally deemed outside the course of employment.
- However, the worker is covered within a company-controlled area (except a parking lot), while reporting to or leaving work.

COVERAGE

Coming & Going

(RCW 51.08.013)

A worker may be covered when the employer provides transportation or compensation for travel. This arrangement can be a contractual obligation, an employee benefit, or a requirement of the job.

2.

INJURY VS. OCCUPATIONAL DISEASE

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INJURY vs. OCCUPATIONAL DISEASE

- When a claims manager reviews a claim, he or she begins by determining if the claim is filed for an injury or an occupational disease.
- This characterization of the claim will dictate further adjudication, including the application of timely filing requirements and requirements for allowance.

INJURY vs. OCCUPATIONAL DISEASE

INJURY

(RCW 51.08.100)

A sudden and tangible happening, of a traumatic nature, producing an immediate or prompt result, and occurring from without, and such physical conditions as result therefrom.

INJURY vs. OCCUPATIONAL DISEASE

INJURY EXAMPLES

Joe, a maintenance worker, had to wash windows as part of his work duties. Joe decided to climb up to the top of the ladder to reach the window, and fell. Despite Joe's contributory negligence, this is a compensable industrial injury.

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INJURY vs. OCCUPATIONAL DISEASE

INJURY EXAMPLES

Sally, who works in the office, strains her low back at work while lifting a box. As the injury occurred in the course of Sally's employment, this is a compensable industrial injury.

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INJURY vs. OCCUPATIONAL DISEASE

INJURY EXAMPLES

HOWEVER…

Employee Perry is struck in the face by his supervisor, Beverage, with a ceramic pitcher. Asked how hard he had struck Perry, the supervisor responds: **"I struck him with all my might. I don't know just how hard I did strike him."** This has been held to not constitute an industrial injury under the "deliberate intention" exception to the Industrial Insurance Act. *Perry v. Beverage*, 121 Wash. 652 (1922).

INJURY vs. OCCUPATIONAL DISEASE

"Horseplay"

Injuries sustained on the job as a result of "horseplay" are typically compensable, so long as the worker did not deviate from the "course of employment."

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INJURY vs. OCCUPATIONAL DISEASE

INJURY EXAMPLES

Bill was injured while scuffling with a co-worker during his lunch break on the employer's premises. His co-workers had been teasing him the entire morning. This is likely a compensable injury because the injuries were received in the lunchroom. *In re: Vince Polmanteer*, BIIA Dec., 88 0362 (1989).

INJURY vs. OCCUPATIONAL DISEASE

HOWEVER…

Frank was injured while lifting his employer's business associate during a "beer break" near the end of normal working hours. This was deemed to be not compensable because Frank's participation in the beer break was a deviation from and abandonment of the course of employment. *In re: Thomas G. Roe*, BIIA Dec., 43 694 (1974).

INJURY vs. OCCUPATIONAL DISEASE

Occupational Disease

(RCW 51.08.140)

A disease or infection that arises naturally and proximately out of employment.

INJURY vs. OCCUPATIONAL DISEASE

Timeliness

Claims for occupational disease must be filed within two years following the date the worker had written notice from a doctor than an occupational disease exists and a claim for disability benefits may be filed. The Department has no authority to waive the statutory filing time limit.

INJURY vs. OCCUPATIONAL DISEASE

Criteria for Allowance of O.D. Claims

After timely filing, three additional requirements must be met before an occupational disease can be allowed:

(1) **Legal Requirement** – The disease must arise naturally and proximately out of employment; and

(2) **Causal Relationship** – The doctor must state, on a more probable than not basis, the disease is related to work activities; and

(3) **Medical Findings** – The doctor must substantiate the diagnosis with objective medical findings.

INJURY vs. OCCUPATIONAL DISEASE

Common to All Employment or

Non-Employment Life

- Diseases that can be contracted from conditions present in all employment or non-employment setting are considered common to all employment or non-employment life.
- For example, an office worker who develops low back degenerative disc disease from 30 years of sitting, standing, and walking at work would not have a compensable occupational disease.

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3.

TIME LOSS

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TIME LOSS

- The Act attempts to reimburse an injured worker for the wages he or she was earning at the time of the injury.
  - The term "wages" may also include the reasonable value of board, fuel, housing, or other consideration of like nature received from the employer as part of the contract of hire. *Rose v. DLI*, 57 Wash.App. 751 (1990).
  - Employer-paid health insurance benefits are a form of compensation that must be included in wages used to calculate an injured worker's time loss rate. *Cockle v. DLI*, 142 Wash.2d 801 (2001).

TIME LOSS

Time Loss Rates

Single	
No Dependents	60%
Each Under 18	2%
Maximum of 5	70%

Married	
No Dependents	65%
Each Under 18	2%
Maximum of 5	75%

TIME LOSS

Payment of Ongoing Time Loss

- To be eligible for ongoing time loss, the injured worker must be receiving regular curative treatment.
- The attending provider must certify the worker's ongoing inability to work is the result of the accepted medical condition(s).
- The AP must submit medical reports at approximately 60-day intervals to support ongoing time loss.

TIME LOSS

Provisional Time Loss

- When a determination regarding claim allowance can't be made immediately (i.e. because the employer is still investigating validity), Penser is able to make "provisional" payments of time loss when it is otherwise appropriate.
- Any provisional payments must be paid back if the claim is ultimately denied.
- Provisional payments are not considered a binding determination on the self-insurer or worker and must be made until a determinative order is issued.

4.

LOSS OF EARNING POWER

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LOSS OF EARNING POWER (LEP)

- Earning Power is defined as the worker's ability to earn income as a result of labor.
- RCW 51.32.090 requires the self-insurer to compensate a worker for LEP when the worker's earning capacity has decreased as a result of the industrial injury or occupational disease.

LOSS OF EARNING POWER (LEP)

In order to be eligible for LEP, the worker:

Must have LEP exceeding 5% of wages at the time of injury.

Must have medical certification indicating the worker's LEP is due to the industrial injury or O.D.

Must be working at any employment for income, salary, wages, or commission.

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LOSS OF EARNING POWER (LEP)

Situations where a Worker May be Entitled to LEP

- The worker returns to work at a lower wage.
- The worker has more than one job at the time of injury and is restricted from performing one of the jobs even if it is not the job of injury.
- The worker returns to work but is unable to work at the premium or higher rates he/she normally works.
- The worker returns but must work less hours.

5.

PENSIONS & FATALITIES

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PENSIONS & FATALITIES

- Pensions are a monthly payment made if a worker is permanently and totally disabled from a workplace injury or occupational disease.
- A Statutory Pension is defined as the loss of both legs or arms, one leg and one arm, total loss of eyesight, or total paralysis. These severe injuries qualify for placement on pension regardless of employability.
- An Administrative Pension is defined as any condition that permanently incapacitates the worker from performing any work at any gainful occupation.

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PENSIONS & FATALITIES

Surviving Spouse/Domestic Partner

- The surviving spouse or domestic partner must submit an application for benefits within one year of the worker's death.
- If the death is due to the covered injury or occupational disease, pension benefits continue to the spouse or domestic partner's death and/or eligible dependent children.

PENSIONS & FATALITIES

Fatalities

- Fatal claims constitute an umbrella of claims where a worker either dies while on the job, or dies later from a condition contended as related.
- When a beneficiary's claim is approved, a one-time immediate payment is made if there is a spouse, domestic partner, child, or dependent. The amount of the immediate payment is 100% of the average monthly wage in the State.

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6.

CLAIM CLOSURE

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CLAIM CLOSURE

A claim is ready to be closed when…

Medical Fixity

When the worker's condition has stabilized to the point where no further "curative" treatment is required, the condition is "fixed."

Vocational Fixity

The worker must be reasonably capable of continuous gainful employment

CLAIM CLOSURE

Closing Order Timeline of Events

- Closing Order is requested by Penser along with evidence showing medical and vocational fixity.
- DLI issues an order identifying the dates time loss was paid and PPD if appropriate.
- Any party who disagrees may protest or appeal within 60 days.

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7.

PERMANENT PARTIAL DISABILITY

PPD

- PPD is determined by a qualified examining physician after the claimant has reached maximum medical improvement.
- PPD must be established by objective clinical and medical findings establishing a loss of function.
- The rating must be based on medical opinion in accordance with the WAC's and *AMA Guidelines*.
- Permanent impairment does not mean "pain and suffering"

PPD

Schedule of Benefits

The schedule of benefits establishes a monetary award for permanent bodily impairment resulting from an industrial injury or occupational disease. The benefit amount on each schedule is updated every year to account for cost of living and other adjustments.

FOR EXAMPLE...

PPD

A worker is injured on July 2, 1994, when a machine explodes damaging the left side of his body. Once his conditions are medically fixed and stable, and the worker has returned to work, the IME finds the following:

- Category II low back impairment $6,107.63
- 25% of left leg above the knee joint with functional stump $16,490.60
- Loss of hearing in the left ear $9,772.20

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PPD

If that same worker was instead injured on July 2, 2009, he would be entitled to the following:

- Category II low back impairment $9,069.31
- 25% of left leg above the knee joint with functional stump $24,487.13
- Loss of hearing in the left ear $14,510.83

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8.

REOPENING

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REOPENING

Timeliness

When an injured worker applies to reopen a claim, the Department has authority to reopen injuries or occupational disease claims within 7 years from the date the first closing order became final.

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PPD

"Aggravation" is objective worsening of the worker's condition since the claim was last closed. The worker must show the following:

Causal Relationship	Medical Opinion	Objective Evidence
Between the accepted condition at the time of closure and the current condition.	That the condition has worsened.	To substantiate the medical opinion.

9.

APPEALS PROCESS

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APPEALS PROCESS

AppealsOverview

Any aggrieved party has the right to file an appeal of a Department order within 60 days of its issuance.

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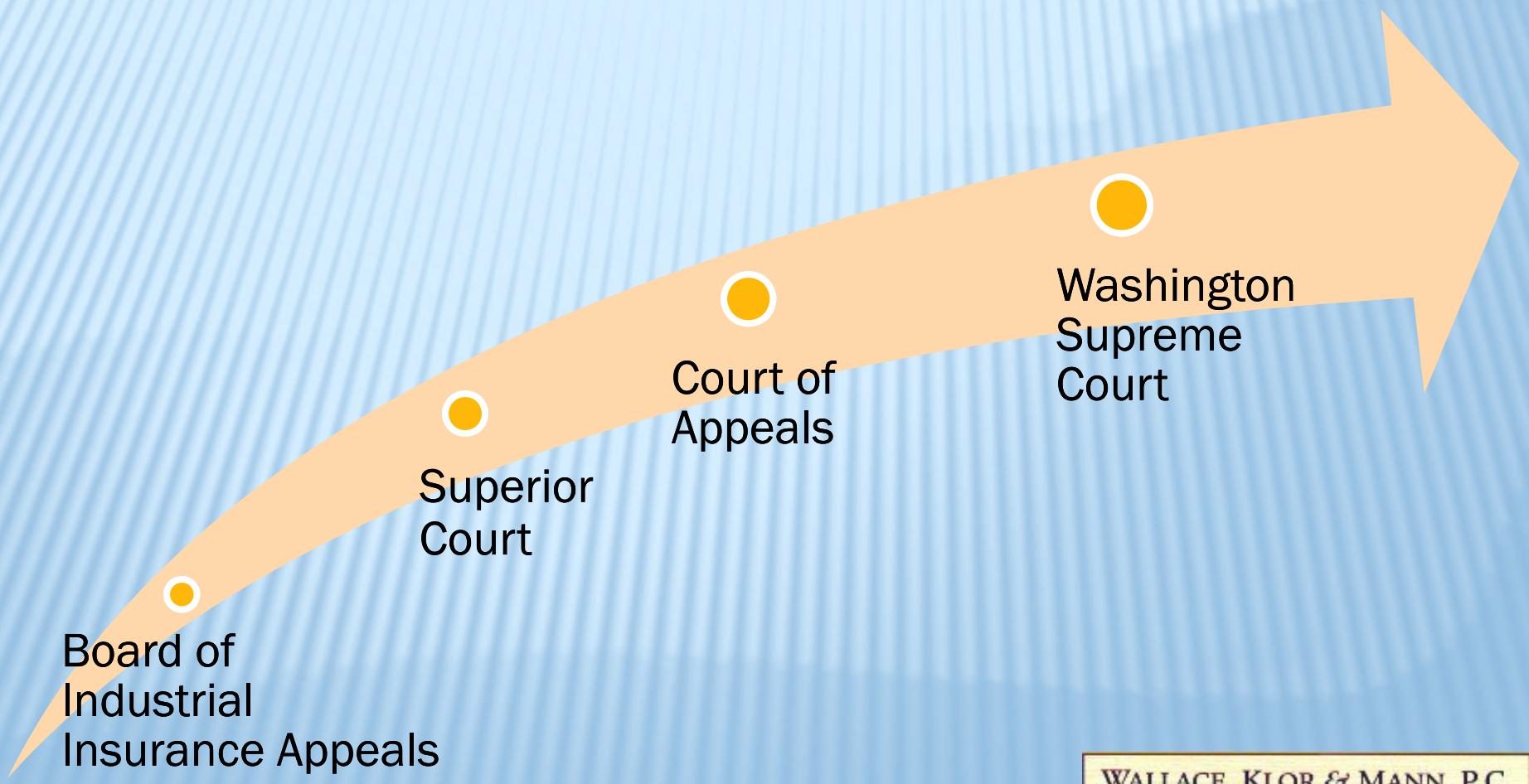
APPEALS PROCESS



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APPEALS PROCESS

Board of Industrial Insurance Appeals

- A granted appeal begins assigned to a mediation judge, who will facilitate communication between all parties to the appeal, with the goal being resolution.
- If no resolution is possible, the appeal will be assigned to a hearings judge .

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APPEALS PROCESS

Board of Industrial Insurance Appeals

Hearings before the Board follow the rules of evidence used in Superior Court.

Hearings are a formal process, with evidence provided by sworn witness testimony before an industrial appeals judge (IAJ).

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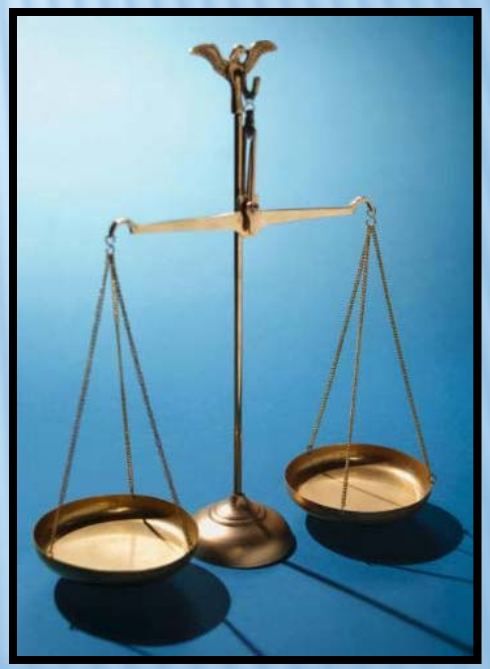
APPEALS PROCESS

Board of Industrial Insurance Appeals

After hearings are conclude, the IAJ will issue a Proposed Decision & Order, containing:

1. Discussion and analysis of issues raised and evidence presented.
2. Findings of fact.
3. Conclusions of law on each contested issue.



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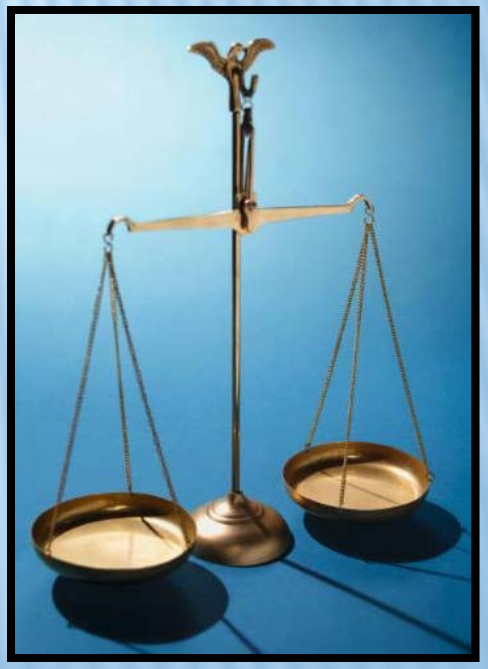
APPEALS PROCESS

Board of Industrial Insurance Appeals

Any party who disagrees with the PD&O may file a Petition for Review within 20 days of communication.

The Board must then issue a Decision and Order which may be appealed to Superior Court within 30 days.



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APPEALS PROCESS

Superior Court

The party aggrieved by the Board's final decision may then appeal to Superior Court.

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APPEALS PROCESS

Superior Court

- In Superior Court, one maintains the right to a trial by jury.
- The parties are limited to the Board's record.
- Appeals from a final decision by Superior Court go to the Court of Appeals, and finally the Washington Supreme Court.

QUESTIONS???

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RETURN TO WORK AND VOCATIONAL REHABILIATION IN WASHINGTON STATE

Craig Bock, MA, CRC – Bock Consulting

June 30, 2010

Bock Consulting

Revised Code of WA (RCW)
WA Administrative Code (WAC)

- RCW 51.32.090 – Time Loss
- RCW 51.32.095 – RTW
- RCW 51.32.099 – Vocational Rehab
- WAC 296-19A-010 – Definitions
- WAC 296-19A-070 – Ability to Work
- WAC 296-19A-170 – Job Analyses

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What is a Vocational Rehabilitation Counselor?

- Counselor.
- Employment Consultant.
- RCW & WAC Resource.
- Expert.
- Information hub.
- Job analyst.
- Helper.
- Professional.

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What is a CRC, CDMS & ABVE?

- **CRC** = Certified Rehabilitation Counselor.
- **CDMS** = Certified Disability Management Specialist.
- **ABVE** = American Board of Vocational Experts.

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Do You Need A Vocational Rehabilitation Counselor?

- RCW 51.32.090
  Temporary total disability — Partial restoration of earning power — Return to available work — When employer continues wages — Limitations.
- Utilizing the Work Status Activity Report and Job Descriptions prior to VRC involvement.

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Self-Insurance
Work Status – Activity Report

Visit Date _____

General Info

Injured Employee's Name:	Date of Injury:	Claim Number:
Employee's Description of Injury/Accident:	Employer's Name:	Doctor's Name:
	Employer's Fax or Email Address:	Doctor's Fax/Email:

Work Status

The employee's medical condition from their occupationally related injury/exposure is expected to:

❑ allow return to work on _____ (date) without restrictions.

❑ allow return to work on _____ (date) with the restrictions identified below, which are expected to continue through _____ (date).

❑ prevent the employee from returning to work as of _____ (date) and is expected to continue through _____ (date). The following describes how this injury prevents the employee from returning to work:

Description of work restrictions: _____

Work Restrictions*

A POSTURE RESTRICTIONS (IF ANY):

Max hours per day	0	2	4	6	8	other
Standing/walking	❑	❑	❑	❑	❑	_____
Sitting	❑	❑	❑	❑	❑	_____
Kneel/squat	❑	❑	❑	❑	❑	_____
Bend/stoop	❑	❑	❑	❑	❑	_____
Pushing/pulling	❑	❑	❑	❑	❑	_____
Twisting	❑	❑	❑	❑	❑	_____
Other _____	❑	❑	❑	❑	❑	_____

B MOTION RESTRICTIONS (IF ANY):

Max hours per day	0	2	4	6	8	other
Climbing stairs/ladders	❑	❑	❑	❑	❑	_____
Grasp/squeeze	❑	❑	❑	❑	❑	_____
Wrist flexion/extension	❑	❑	❑	❑	❑	_____
Reaching	❑	❑	❑	❑	❑	_____
Overhead reach	❑	❑	❑	❑	❑	_____
Keyboarding	❑	❑	❑	❑	❑	_____
Other _____	❑	❑	❑	❑	❑	_____

C LIFTING MAXIMUMS:

❑ Overhead
- ❑ <5 lbs
- ❑ 5-10 lbs
- ❑ 10-20 lbs
- ❑ 20-30 lbs
- ❑ 30-40 lbs
- ❑ 40-50 lbs
- ❑ > 50 lbs

❑ Knuckle-shoulder
- ❑ <5 lbs
- ❑ 5-10 lbs
- ❑ 10-20 lbs
- ❑ 20-30 lbs
- ❑ 30-40 lbs
- ❑ 40-50 lbs
- ❑ > 50 lbs

❑ Max work
- ❑ <5 lbs
- ❑ 5-10 lbs
- ❑ 10-20 lbs
- ❑ 20-30 lbs
- ❑ 30-40 lbs
- ❑ 40-50 lbs
- ❑ > 50 lbs

D MEDICATION RESTRICTIONS (if any):
- ❑ Must take prescription medication(s)
- ❑ Advised to take over-the-counter meds
- ❑ Medication may make drowsy (possible safety driving issues)
- ❑ Other_____

E MISCELLANEOUS RESTRICTIONS (if any):
- ❑ Max work hours per day_____
- ❑ Sit/stretch breaks of ___min per___hrs
- ❑ Must wear splint/cast at work
- ❑ Must use crutches at all times
- ❑ No driving/operating heavy equipment
- ❑ Can only drive automatic transmission

❑ NO LIFTING RESTRICTIONS:
- ❑ Not to perform any lifting/carrying
- ❑ May do sedentary work (sitting)
- ❑ Other_____

*These restrictions are based on the doctor's best understanding of the employee's essential job functions. If a particular restriction does not apply, it should be disregarded. If modified duty that meets these restrictions is not available, that patient should be considered to be off work. NOTE – these restrictions should be followed outside of work as well as work.

Follow-up Info

F NEXT VISIT: 1 wk 2 wk Other_____

❑ None. This is the last scheduled visit for this problem.

❑ Referral to/Consult with: _____

Doctor's signature_____Date_____

X

Instructions to Patient: It is your responsibility to review these restrictions with your employer. Failure to do so may delay your benefits. If your employer cannot accommodate your work restrictions, contact Penser by phone. **(509) 420-7290**

D0107000

Why We Exist – RCW 51.32.095

- Return to work at the employer of record.
  - Functional light duty.
    New skills acquisition.
  - Job Analyses.
  - New job.

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Why We Exist – RCW 51.32.095

- Employability. (WAC 296-19A-070)
  - Work history.
  - Transferability Work Skills worksheet.
  - Residual physical capacities.
  - Job Analyses.
    - WAC 296-19A-010 – (6) What is a Job Analysis?
    - WAC 296-19A-170 – Required information in JA.

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RCW 51.32.099 – Vocational Rehabilitation Plans

- A Vocational Rehabilitation Counselor must conclude that the worker is eligible for vocational rehab services (retraining).
- Employer has 15 days from date on retraining approval letter to make a valid job offer.
- If no job offer, plan development.

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The Vocational Rehabilitation Pilot Project

- Effective January 1, 2008.
- Significant amendments to vocational rehabilitation services, applicability of rehabilitation services, benefits, criteria, allowable costs, and performance criteria.

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RCW 51.32.099 – Vocational Rehabilitation Plans

- 90 days to develop plan.
  - 2 years/$14,000+.
  - Mileage.
- Plan submission. State has 15 days to respond.
- Worker selects: Option 1 / Option 2.

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QUESTIONS?

Craig Bock, M.A., CRC

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