

WORKERS' COMPENSATION FUNDAMENTALS

Know How to Navigate Your Claim

Overview

- Workers' Compensation System
- Rights and Responsibilities
- Return to Work
- Benefits
- Dispute Resolution
- Complaints vs Disputes

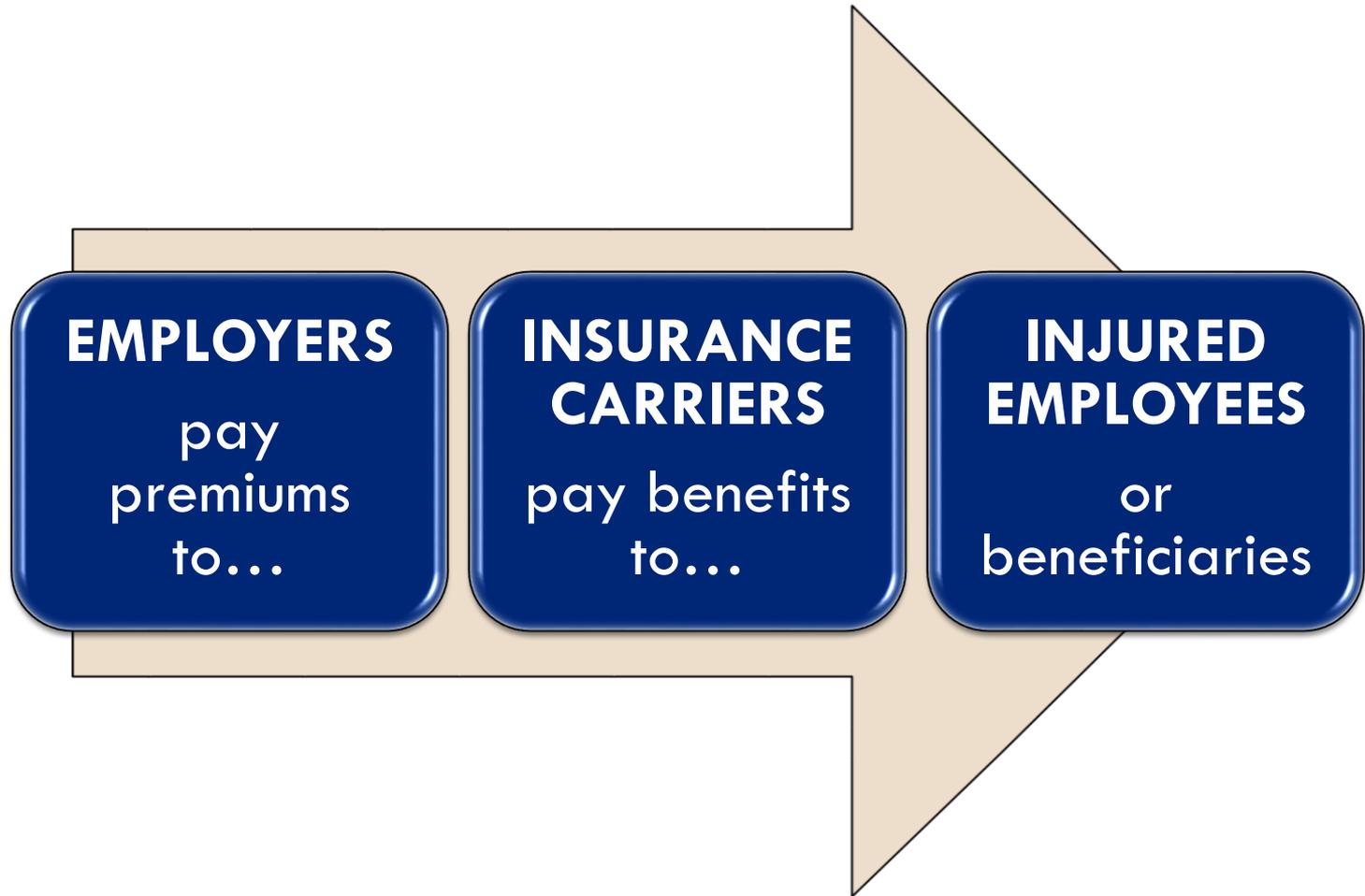
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Workers' Compensation System

Workers' Compensation in Texas

- A state-regulated insurance program that pays medical bills and some lost wages for employees with work-related illnesses and injuries.
- Not mandatory in Texas except for certain governmental entities, educational institutions, and for certain private employers as required by law.

Workers' Compensation Insurance



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Employee Rights & Responsibilities

Employee Rights

- Right to retain common-law right to sue;
- Right to Office of Injured Employee Counsel services;
- Right to receive income benefits for which they meet the eligibility criteria;
- Right to receive reasonable and necessary; medical care to treat work-related injury or illness;

Employee Rights (cont.)

- Right to judicial review of disputed claims;
- Right to hire an attorney;
- Right to confidentiality ; and
- Right to initial choice of doctor.
 - Non-network: any doctor can treat WC unless disciplined by the Division of Workers' Compensation
 - Network: any doctor contracted with the network as a treating doctor

Employee Responsibilities

- ❑ Tell employer about injury or illness within 30 days;
- ❑ Complete and send Form DWC-041 to DWC;
- ❑ Tell DWC and insurance carrier whenever income or employment changes;
- ❑ Tell doctor how injury occurred and if work-related; and
- ❑ Tell DWC and insurance carrier how to contact you.

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Return to Work

The Importance of Return to Work

- Recover faster & better;
- Retain benefits and earn wages;
- Retain job skills and prevent de-conditioning;
- Maintain financial status;
- Avoid secondary complications; and
- Need less medication & medical treatment.

Communication and Return to Work

- Successful Return to Work includes positive and continuous communication between:
 - Injured Employee;
 - Employer;
 - Health Care Provider/Doctor; and
 - Insurance Carrier.

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Benefits

Benefits Are Payable When:

- The injury or occupational disease occurred in the course and scope of employment; and
- The employer has workers' compensation coverage.

Types of Benefits

□ Income Benefits

- Replace a portion of wages lost from work-related injury or illness.

□ Medical Benefits

- Reasonable & necessary medical care needed to treat work-related injury or illness.
- Employer's workers' compensation carrier pays medical benefits directly to the health care provider.
- Goal is for you to heal and to return to work.

Average Weekly Wage

- Used to calculate the amount of income benefits.
- Based on the total wages earned in the 13 weeks prior to the injury.
- Also includes fringe benefits, such as health insurance.
- Reported by employer via wage statement.
- Multiple employment is considered.

Wage Statement (DWC-003)

- Weeks used for AWW calculation can be adjusted by a few days to match employer pay periods—cannot be adjusted more than one week.
- Include all figures for fringe benefits & whether they will be continued.

Temporary Income Benefits(TIBs)

- Paid during the period of initial disability, after there have been 8 days of accrued disability.
- TIBs are paid weekly and equal 70% of the difference between the employee's average weekly wage and the weekly wage after the injury, not to exceed the state maximum.
- Entitlement to TIBs ends at the earlier of:
 - the date the employee returns to work at wages equivalent to pre-injury wages, or
 - the date the employee reaches maximum medical improvement (MMI).

Maximum Medical Improvement (MMI)

- Maximum Medical Improvement is the earlier of:
 - The point in time when your work-related injury or illness has improved as much as it is going to improve; or
 - 104 weeks from the date you became eligible to receive temporary income benefits.

Impairment Income Benefits (IIBs)

- Paid to injured employees for permanent impairment.
- If eligible, employees receive IIBs once TIBs end; and employees may receive IIBs while back at work.
- IIBs are paid weekly at 70% of the employee's average weekly wage.
- Employees receive three weeks of IIBs for every percentage point of impairment assigned.
- Employees become eligible for IIBs the day after the employee reaches maximum medical improvement (MMI).

Supplemental Income Benefits (SIBs)

- Entitlement to SIBs is determined on a quarterly basis.
- The initial determination is made by DWC.
- Subsequent determinations are made by the Insurance Carrier.
- Paid monthly instead of weekly at a rate equal to 80% of the difference between 80% of the employee's average weekly wage and the weekly wage after the injury.

SIBs Qualifying Criteria

- Employees may qualify for SIBs if the impairment rating is 15% or greater;
- IIBs were not paid in a lump sum;
- Remains unemployed or under employed as a direct result of impairment from the work-related injury; and
- Meets job search requirements in every week of the qualifying quarter or participates in an approved vocational rehabilitation program.

Lifetime Income Benefits (LIBs)

- LIBs may be payable for certain catastrophic injuries.
- Paid weekly, monthly or by annuity.
- Paid at 75% of the employee's average weekly wage, with a 3% cost of living increase each year.

Limits on Income Benefits in Texas

- Income benefits of all types are capped.
- Excluding Lifetime Income Benefits, all eligibility to receive income benefits ends 401 weeks (approximately 8 years) from the date of injury or occupational illness.

Medical Benefits

- Reasonable and necessary medical treatment for a compensable injury is paid for by the insurance carrier.
- A doctor or health care provider may not bill an injured employee for treating a work-related injury or illness.
 - Injured employees in a certified network may be liable for the cost of health care when receiving treatment from non-network health care providers without the network's approval.

Medical Treatment

- Reasonable
 - Meets the standard of care generally accepted by the medical community.
- Necessary
 - Treatment to cure or relieve the effects of the condition caused by the work-related injury.

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Dispute Resolution

Dispute Resolution Process

- Informal Dispute Resolution
- Benefit Review Conference
- Contested Case Hearing
- Review by Appeals Panel
- Judicial Review

Informal Dispute Resolution

- Dispute resolution begins once DWC learns a dispute exists.
- The party requesting a benefit review conference:
 - must certify they have made a good faith effort to resolve the dispute before requesting the conference; and
 - have supporting documentation.

Benefit Review Conferences (BRCs)

- Informal conferences held in Division field offices basically designed to mediate and resolve disputes.
- Identify disputed issues or information needed to resolve disputes.
- Benefit Review Officer is an impartial individual trained to help parties resolve disputes.
- Up to two BRCs per disputed issue (max.), at the discretion of the Benefit Review Officer.
- A scheduling order is issued to the parties of the dispute upon completion of the first BRC that outline the steps each party must take to help resolve the dispute.

Contested Case Hearings (CCHs)

- Formal hearings held in Division field offices in which evidence is presented and testimony is taken.
- Hearing officers issue written decisions, which are binding, pending appeal, on disputed issues.

Appeals Panel

- Three judges assigned to each panel to review decisions.
- Review is limited to the evidence admitted during the benefit contested case hearing.
- The Hearing Officer's decision may be allowed to become final, reversed, remanded, or a combination of these actions.

Judicial Review

- Must be filed with the appropriate court in county of injury or death;
- Must be filed simultaneously with the court, the Division and served on any opposing party; and
- The court's decision must take into account the appeals panel's decision on each dispute issue.

Required Attendance

- When ordered or required by the Division:
 - Designated Doctor Examinations;
 - Required Medical Examinations;
 - Benefit Review Conferences; and
 - Contested Case Hearings.

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Complaints

What is a Complaint?

- A written submission to the Division alleging a violation of the Act or Rules by a system participant. Some examples are:
 - Health Care Provider who bills you for treatment of a compensable body part or injury;
 - An injured employee not attending an ordered or required examination/proceeding;
 - The insurance carrier not submitting medical records on time; and
 - The insurance carrier not mailing income benefit checks on time.

Disputes vs. Complaints

- Disputes are disagreements between you and another party where as Complaints are allegations of violations of the law

Disputes

- Denial of your claim
- Periods of disability
- Maximum Medical Improvement and/or Impairment Rating
- Denial of medical necessity or preauthorization
- Partial payment by the carrier of your doctor's bill

Complaints

- Payment was issued late by the carrier
- A required report was filed late
- A Commissioner's Order was not complied with timely
- A party was unprofessional

Role of DWC Claims Service Assistants

- Communication and Education
 - Promote realistic expectations of the workers' compensation benefits program among system participants;
 - Clarify elements of the law and rules; and
 - Answer questions and inquiries.
- Informal Dispute Resolution
 - Facilitate communication between parties;
 - Gather and share information; an
 - Identify and process claim-related issues.

Communicate

- Keep in contact with your employer & adjuster;
- Talk to your doctors about your medical treatment; and
- Update your information with the Division.

Office of Injured Employee Counsel

- A separate state agency – not a part of the Division of Workers' Compensation.
- Administers the Ombudsman program.
 - Assists un-represented injured employees or beneficiaries with disputes; and
 - Explains the dispute resolution process and prepare them for the upcoming proceeding.
- Ombudsmen assist, attorneys represent.
 - Ombudsmen do not give legal advice, make decisions or sign agreements; and
 - Ombudsmen cannot access confidential claim information without agreement by the injured employee.

Questions?

