Workers' Compensation Medical Care YOUR LEGAL RIGHTS

Workers' compensation insurance normally covers reasonable medical care costs. Medical care may include treatment by various medical professionals, including physicians, chiropractors, psychologists, or psychiatrists. You may also be reimbursed for medical supplies, generic medications (unless specifically prescribed otherwise), and roundtrip mileage to and from your medical appointments.

1. Can I choose my own doctor?

   You have the right to see your own doctor right after the injury if you have notified your employer in advance of your injury, and your employer provides a group health insurance plan. This is called "pre-designating" your physician. You can do this by giving your employer (in writing) the name and address of your personal physician and stating that in case you are injured at work you designate your own physician to provide treatment. Your personal physician must be your primary care physician who usually treats you and maintains your records.

   If your employer has a medical network: If you do not have a pre-designated physician, your employer will arrange an initial medical evaluation by a network doctor. After this first visit, you have the right to see a doctor of your choice within the employer's network.

   If your employer does not have a medical network: If you do not have a pre-designated physician, your employer or claims administrator usually has the right to choose a treating physician during the first 30 days after your injury. After this period you can designate your own physician as your treating physician (see explanation below).

   NOTE: Your employer can lose the right to designate your doctor if no workers' compensation information was posted or if you were not informed of your right to pre-designate a physician.

   Designating a doctor as your treating physician is very important because he/she will decide:

   - what type of treatment you will receive (e.g., whether you need physical therapy or medication) and whether or not you should see specialists;
   - whether you should take time off from work to recover and when you are well enough to go back to work;
   - whether you can return to your former job with or without restrictions;
   - whether you need future medical care; and
   - what level, if any, of permanent disability you have.

2. How do I find a doctor?

   Possible sources of finding a doctor include:

1. Your primary care physician;
2. A referral by your union;
3. Other injured workers;
4. Your Human Resources department; or
5. Your attorney.

   You can also get a list of doctors who specialize in work-related injuries and illnesses from the Association of Occupational and Environmental Clinics. 202-347-4976 or www.aoec.org

3. What if I disagree with my treatment and want to change treating doctors?

If you pre-designated your doctor: You may switch to a different physician at any time. Write to your insurance company to let them know of the change.

If you did not pre-designate your doctor: If your employer has a medical network, you may choose a different doctor within the medical network.

If your employer does not have a medical network, within the first 30 days after you report your injury, you may request a one-time change of doctor from your employer or claims administrator. Your claims administrator is usually allowed to choose a new doctor and should provide you with the name of a new doctor and an appointment date within five days of your request (not counting the day of the request). If you do not receive the name of a new doctor within five days of your request, you may choose your own doctor. After the first 30 days after your injury, you may designate your own doctor. Write to the insurance company to let them know that you are exercising your right to designate your own doctor and provide them with her name and contact information.

4.

What happens after I see the doctor?

After examining you, your doctor will issue a medical report explaining the treatment she is recommending, and what kind of work you can and cannot do while recovering. Your work adjustments are sometimes referred to as a “work order.” The following is a list of some common work orders:

- Off-work order: Your doctor specifies an amount of time you should be off work in order to recuperate.
- Limited duties work order/ modified work order: Your doctor limits the tasks you can do at your job while you are recovering.
- Return to work order: Your doctor states that you can return to your job without restrictions.

NOTE: Give your employer a copy of any medical report.

5.

What if I disagree with my medical report?

If you disagree with your doctor’s opinion about the medical TREATMENT needed for your injury:

1. You may request a change of treating doctor (see explanation above).

- If your employer has a medical network: You may change to another doctor within the network. You may seek up to two more opinions from doctors within the network. If you still disagree after seeking these opinions, you have the right to formally dispute the treatment through an independent medical review though the state’s Division of Workers’ Compensation. The independent medical review will only evaluate whether or not the opinions of the three doctors comply with American Medical Association standards. If this process does not resolve the disagreement, you may be able to challenge the opinions through the process described below under “If you disagree with your doctor’s opinions about things other than treatment.”
- If your employer does not have a medical network: If your request to change doctors is within the first 30 days after you report your injury, the initial work order stands. If your request occurs after the first 30 days, your new doctor’s work order will be followed.

If you disagree with your doctor’s opinions about things OTHER THAN TREATMENT:

1. State your disagreement as soon as possible.

- If you have an attorney: – contact your attorney and explain your dispute. The attorney will have a 20-day deadline for stating your disagreement.
- If you do not have an attorney: send a letter to your claims administrator stating the reasons for your disagreement. You have a 30-day deadline to state your disagreement if you do not have an attorney.

2. You may be able to get another medical evaluation from a QME or AME (see explanation below).

For help with this process, contact the Information and Assistance Office or an attorney. The State Industrial Medical Council also publishes related written guides. 1-800-794-6900 or www.dir.ca.gov/imc/imchp.html

6.

What if my employer does not comply with my doctor’s medical report?

If your employer offers you work that does not comply with your treating doctor's work restrictions, you do not have to accept it. Keep in mind, however, that your employer is not required to offer you a job that you like; it only has to comply with the work restrictions. If you have concerns that cannot be resolved with your employer, it may be helpful to talk to your claims administrator, an Information and Assistance officer, or an attorney.

7.

What are medical-legal evaluations?

Medical-legal evaluations are "second opinions" that help resolve disputes between insurance companies and injured workers. Both you and your employer have the right to request a medical-legal evaluation

Some examples of common disputes that procure a medical-legal evaluation include:

- whether or not an injured worker's injury qualifies for workers' compensation benefits,
- disagreement about the treating doctor's opinion of an injured workers' injury or illness, and
- disagreement about the treating doctor's permanent and stationary report.

NOTE: The insurance company is responsible for paying for the medical-legal examination.

8.

Who are medical evaluators (QMEs and AMEs)?

Medical evaluators are doctors who examine injured workers and write reports addressing disputed medical issues.

- QMEs (Qualified Medical Examiners): QMEs are doctors certified by the Industrial Medical Council (IMC) to perform medical-legal evaluations. If you are not represented by an attorney, you will choose from a list of three QMEs provided to you by the Division of Workers' Compensation (DWC).
- AMEs (Agreed Medical Examiners): AMEs fulfill the same role as QMEs. The difference is that AMEs are not required to be certified by the Department of Worker's Compensation. If you are represented by an attorney, your attorney and your claims administrator may agree on an AME.

If no doctor has been agreed upon within 20 days, either you or your employer may request the assignment of a 3-member QME panel. If a medical evaluator still cannot be decided upon from the 3-member panel within 10 days, both you and your employer will strike one name from the panel, and the remaining QME will perform the medical evaluation. After the medical evaluator is chosen, you will have 10 days in which to make an appointment to be examined.

For further information about your employment rights, contact the Workers' Rights Clinic.

Disclaimer

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