

CHAPTER 5

INDIVIDUAL PROVIDERS & PUBLIC AUTHORITY

WORKER'S COMPENSATION CLAIMS

General Information

Workers compensation is available for any Individual Provider (IP) who is injured while caring for an In-Home Supportive Services (IHSS) recipient. Under existing law, the California Department of Social Services (CDSS) is required to provide workers' compensation coverage to IPs who are employed by IHSS recipients. CDSS assumes the responsibility of the employer, rather than the IHSS recipient, for the purposes of workers' compensation claims only. CDSS has authorized IHSS and Public Authority staff to process the necessary paperwork for workers' compensation claims. CDSS requires that PA and IHSS employees report *every* alleged industrial injury.

Effective July 1, 2013, the York Risk Services Group, Incorporated (York) began administering the delivery of workers' compensation benefits and services for the IHSS Program in the State of California.

Effective August 1, 2013, IHSS Public Authority (PA) will be the single point of contact for IPs who wish to file a claim for workers' compensation benefits. All IHSS IPs will be referred directly to PA to start the claims process.

IHSS Public Authority staff submits, and tracks all IHSS workers' compensation claims for the County of San Diego IHSS Program.

Contact Information

When sending or requesting information related to a workers' compensation claim PA or IHSS staff may use or provide to the IP, the following contact information:

York Risk Services Group
P.O. Box 619058
Roseville, CA 95661
Phone: (855) 446-9675
Fax: (866) 548-2637

Department of Workers Compensation
(DWC) Information and Assistance Office
7575 Metropolitan Drive, Suite 202
San Diego, CA 92108-4424
(619) 767-2082

For questions from IHSS and/or PA staff related to forms completion or administration of benefits, use the contact information below:

Jessica Townsend, Assistant Risk Analyst
Office of Risk & Insurance Management
Department of General Services
Phone: (916) 376-5296
Fax: (916) 376 5275
Email: InsuranceServices@dgs.ca.gov

Required Forms

Provider Enrollment Sessions

The following forms from the Department of Workers Compensation (DWC) will be distributed

by Public Authority at provider enrollment sessions:

- *Time of Hire Information Pamphlet* (English and Spanish) (Attachment)
- *DWC 7 - Notice to Employees-Injuries Caused by Work* (English and Spanish) (Attachment)
- *DWC 9873 Pre-designation of Physician* (Attachment)

Posting of Information at District Offices – Public Authority and IHSS Clerical Staff

The *DWC 7 - Notice to Employees-Injuries Caused by Work* poster must be posted in the lobby of each IHSS district office in a conspicuous location. IHSS clerical staff will be responsible for ensuring that the flyer is posted as required and replaced when needed.

Distribution of Information - Public Authority and IHSS Staff

The *Time of Hire Information Pamphlet* and the Form *9783 - Pre-designation of Physician* (English and Spanish) must also be provided to the IP upon request by IHSS or Public Authority staff.

Workers' Compensation Claim

The following forms are required for any workers' compensation claim filed after June 30, 2013:

- *DWC 1 – Workers Compensation Claim Form & Notice of Potential Eligibility* (Attachment)
- *5020 – Report of Occupational Injury or Illness* customized for York (Attachment)
- *Supervisors Report of Employee Injury* (Attachment)

The following form is required when the DWC1 is given to a provider (or the provider's representative) in person, and he/she will be returning the form at a later date or by mail. This verifies that the DWC 1 was provided within the required time frame by PA staff.

- *Acknowledgement of Receipt of Employee Claim Form* (DWC 1) (Attachment)

Claims Process

Reports of IP injury may be received from any of several sources:

- The IP
- The recipient
- A medical office
- An attorney's office
- A York representative

When a notice of injury is received, PA staff will obtain as much information as possible directly from the reporting party and complete the *5020 – Report of Occupational Injury or Illness* and the *Supervisors Report of Employee Injury*. The following steps will then be completed within one working day:

1. Verify that the individual injured was an active IHSS IP at the time of injury.
2. Provide the following information to the IP:

- a. If the situation is a medical emergency, the IP may go to an emergency room right away.
- b. The IP may go to his/her own physician if a DWC 9873 Pre-designation of Physician form has been completed ahead of time. The IP must inform the medical provider that the injury is work-related at the time of treatment.
- c. Predesignation forms previously provided under the State Compensation Insurance Fund are still valid and are retained in the IHSS recipient’s case file. To obtain a copy of the form from the recipient’s case file, contact the designated clerk in the appropriate IHSS office below and include the supervisor.

IHSS Staff Responsibility

IHSS staff in each district office have the responsibility of assisting PA staff with the workers’ compensation process by providing *any* requested information from the IHSS recipient’s case file to PA staff.

Clerical staff listed below in each district office will be the centralized contact for documents.

Social Workers and Supervisors are also required to provide information from the recipient file when needed.

IHSS District Office	Phone Number	Assignment Clerk	Worker Number	Supervisor	Worker Number
El Cajon	(619) 401-3900	Amare Kiflemariam	OC22	Dolores Aguilar Ortega	OC20
Escondido	(760) 480-3454	Maria Toscano	OC52	Charles Bleakney	ES30
Overland	(858) 694-2123	Desiree Wolford	OC25	Dolores Aguilar Ortega	OC20
Oceanside	(760) 754-3515	Ressie Ramos	OC41	Veronica Hernandez	KS30
South Bay	(619) 476-6200	Minda Videna	OC16	Patricia Jimenez	OC10

- d. If the injury is not a medical emergency and the IP does not have a predesignated physician, he/she can be referred to a local physician through the “WellComp” Medical Provider Network (MPN). Additional instructions on locating a physician are included below.
3. Provide the IP with the Acknowledgement of Receipt of Employee Claim Form (if the DWC 1 form is provided in person), after completing lines 9-15 (see the sample completed form Attachment). Lines 16 and 17 are completed once the document has been returned by the provider.
 - a. All of the following items will be given in person, or sent by registered/return receipt mail to the injured provider **within 24 hours**:
 - the DWC 1
 - Workers’ compensation Cover Letter (Attachment)
 - A self-addressed, postage paid, return envelope.
 - b. The IP is responsible for completing lines 1 – 8 on the DWC 1.

- c. If form DWC 1 is mailed to the injured provider, the completed form, upon its return, or the **registered mail receipt** will take the place of the Acknowledgement of Receipt of Employee Claim Form.
4. When the completed DWC 1 and is received back from the injured IP, PA staff will:
 - a. Immediately date stamp the returned DWC 1 form.
 - b. Sign and date the form using the date the form is received back from the injured IP.
 - c. Immediately (within 24 hours of receipt) provide a copy of the completed DWC 1 to the injured provider (in person or by mail).

Although it is required by law to provide the form DWC 1 to the injured IP within 24 hours, the injured provider is not required to complete the form and return it directly to the entity that is required to provide the form. The form may be sent directly to York by the IP or by an attorney representing the IP. This does not change the required process for PA staff. The procedure is followed even if the form is not returned.

5. The Supervisor's Report of Employee Injury will be completed and signed by designated PA staff.
 - a. If the information is unknown or unavailable, write "unknown".
 - b. The line titled "Employer" must include "recipient's name/CDSS/IHSS".
6. **The 5020 must be completed and submitted to York within five (5) calendar days of knowledge of the injury.** The form must be as complete and accurate as possible and be signed by PA staff when completed in hard copy. Forms submitted electronically are linked to the user ID and password of the individual staff member providing an electronic "signature".

The supervisor's signature is not an admission of liability.

7. **Whether or not the completed DWC 1 has been received back from the IP**, submit the form 5020 electronically at the link below.

<https://5020.yorkrsg.com/clients/login.aspx?ReturnUrl=%2fclients%2fDefault.aspx>

Print and include the completed 5020 in the packet below.
8. Forward all of the following forms to York within **five (5) calendar days** of knowledge of the injury to Fax number (866) 548-2637 "Attention Claims Manager".
 - a. The completed DWC 1 (if received)
 - b. The completed/submitted 5020
 - c. A photocopy of the most recent IHSS Notice of Action (NOA) describing the injured provider's duties
 - d. Acknowledgement of Receipt of Employee Claim Form or the registered mail receipt
 - e. Supervisors Report of Employee Injury

- f. SOC 332 – Recipient/Employer Responsibility Checklist
 - i. To obtain a copy of the current SOC 332 from the recipient case file, contact the designated clerk in the appropriate IHSS office as previously indicated for the 9873 form, including the clerical supervisor.
- g. A 12 month payment history for the IP
- h. Retain a copy of all documents submitted in the case file

WellComp Medical Provider Network (MPN)

The contact information for the York MPN is:

WellComp Patient Services Department
WellComp Managed Care Services, Inc.
MPN Liaison: Gale Chmidling

P.O. Box 59914
Riverside, CA 92517
(800) 544-8150, info@wellcomp.net

Referring an Injured IP

To locate a medical provider for an injured IP, go the WellComp provider search site at the link below. There are several ways to search for a physician; please see the “WellComp Web Site” attachment for screen prints and instructions on locating the search features.

<http://www.wellcomp.net>

Penalty

If form 5020 is not received by the York office within five (5) calendar days of the first notification received by PA staff of the provider’s injury, benefits due to the injured IP may be delayed. Additionally, the County may be assessed a penalty of 10% of the delayed benefit amount, which in turn is paid directly to the injured provider.

Serious Injury or Death

Serious injury or illness is defined as any injury or illness that occurs while performing services for an IHSS recipient, which requires any of the following:

- Inpatient hospitalization for a period in excess of 24 hours for other than medical observation
- A loss of any member of the body
- Any serious degree of permanent disfigurement

Full verification that the injury or illness occurred while the IHSS provider was providing services **is not required** prior to the reporting of the serious injury, illness or death. If a fatality or serious injury or illness occurs, the following procedure **must** be followed:

Report the incident immediately by telephone to York at 866-391-9675 and to the California Division of Occupational Safety and Health (DOSH).

DOSH
San Diego District Office
7575 Metropolitan Dr., Ste. 207
San Diego, CA 92108

(619) 767-2280
Fax (619) 767-2299
DOSHSD@dir.ca.gov

“Immediately” means within eight (8) hours of when PA staff knows, or with diligent inquiry would have known, of the death or a serious illness or injury. Immediate reporting also applies to injuries or illnesses initially determined to be non-serious, but later fall within the definition of a serious injury or illness. Upon learning of a serious injury or illness, a report must be made immediately to DOSH. Failure to make an immediate report is subject to a minimum fine of \$5,000.

Requests for and Release of Information - York

York will assign an examiner to gather further information on individual cases. It is the responsibility of both PA and IHSS staff to provide all necessary information related to individual claims of injury or occupational illness to representatives of York. Cooperating with York, and providing requested information, is not considered a violation of confidentiality under Welfare & Institution Code (WIC) Section 10850 or the CDSS Manual of Policies and Procedures (MPP) Division 19, since York is under contract with CDSS to administer these benefits and is acting on behalf of CDSS. York adjusters may ask questions in the following areas:

- Return to work dates
- Length of assignments
- Availability of alternative/modified work
- Background information
- Medical information

Information from the Recipient Case File

In order to determine eligibility for and evaluate the IHSS provider’s workers’ compensation benefits, York or PA on behalf of York, may request information that is available in the IHSS recipient’s case record. The majority of requests will be made in writing by York. However, in some circumstances, York may request information by telephone. The PA and the SW will release information to York over the telephone, if York agrees to follow up with a written request for release of information.

Note: If there is any doubt about the caller’s identity, ask for the name of a York contact and phone that person to verify the caller’s affiliation with the company.

IHSS Staff Responsibilities

All IHSS staff have the responsibility to assist with the Workers’ compensation process by providing to PA any information required to process the claim for the injured IP.

Fraud

Any PA or IHSS employee, who suspects an injured provider of committing fraud in relation to his /her Workers’ compensation claim, is to report the suspicion of fraud to YORK. Indications of a fraudulent workers’ compensation claim include:

- Someone who knowingly tells a lie about an injury
- Obtaining workers’ compensation benefits for a non-work related injury
- Not reporting the number of employers

- A provider who is reported as injured on the job and could not perform any services to the recipient but can perform the same services to others.

PA and IHSS staff **do not** investigate potentially fraudulent Worker's Compensation activities; York staff is responsible for the investigation of all reports of suspected fraud. All information is recorded as provided by the IP or reporting party, and submitted to York for review and determination of eligibility.

Vocational Rehabilitation

An injured provider may take part in vocational rehabilitation if the doctor decides that the provider can't perform his/her former duties. YORK has Qualified Rehabilitation Representatives (QRR) who will develop plans, assess the skills, interest, potential earnings, and educational level of the injured provider(s) to prepare him/her for a job. If the injured provider refuses to participate, the benefits will stop.

Return-to-Work Program

The Return-to-Work Program and Supplemental Job Displacement Benefit (SJDB) was established in order to promote the early and sustained return to work of the employee following a work-related injury. Welfare and Institutions Code (W&I Code) sections 12302.2 and section 12302.21 require the State to provide workers' compensation coverage for IHSS providers in IP and the County Contract Modes on behalf of the recipient as the employer. Accordingly, the State provides coverage for any additional benefits that may result from the Return-to-Work Program requirements and the SJDB. The State is responsible for the requirements to offer modified or alternative work to an injured employee under the IP Mode.

Regular, Modified or Alternative Work

Regular work is defined as the position and wages the employee was receiving at the time of the injury and is located within a reasonable commuting distance from the employee's residence at the time of the injury.

Modified work is defined as regular work modified so the employee can perform all the functions of the job and can receive wages of at least 85% of the wages paid at the time of injury and the location is in reasonable commuting distance from the employee's residence at the time of the injury.

Alternative work is defined as other work the employee is able to perform and can receive wages of at least 85% of the wages paid to the employee at the time of the injury, and the location is in reasonable commuting distance from the employees residence at the time of the injury.

Paid Family Leave for IHSS IPs

Starting January 1, 2004, all California workers covered under State Disability Insurance (SDI) contributed an additional .02 percent of taxable wages to pay for Paid Family Leave (PFL) benefits. PFL covers all employees who are covered by SDI, providing eligible IHSS-R/PCSP/IPW providers with partial wage replacement for up to six weeks in a twelve-month period. PFL may be used when the IP takes time off work to care for parents, children, a spouse, registered domestic partners, or to bond with a new child. This program provides protection

against wage loss only. PFL does not protect the individual's job. The IP may be replaced by someone else if their recipient decides to fill their position.

The PFL program is administered by the Employment Development Department (EDD). EDD is responsible for answering all questions regarding program eligibility and processing for all claims. Claim forms are not required to be provided by IHSS staff. Requests for applications should be referred to EDD at:

1-(877) 238-4373 – English

1-(877) 379-3819 – Spanish

1-(800) 563-2441 – TTY

Employment Development Department

P.O. Box 997017

Sacramento CA 997017

Internet site: www.edd.ca.gov/fleclaimpfl.htm