

Workers' Compensation ADR Program

Overview for Workers

NECA / IBEW | Your Collectively Bargained Program

California law was changed in 1993 to allow construction trades unions and signatory employers to develop and operate an alternative compulsory and exclusive workers' compensation program, replacing all of the processes of the complex litigious state administered workers' compensation scheme. If you are injured and meet the conditions of compensability, you are entitled to benefits and the question of who is at fault is immaterial.

Your collectively bargained workers' compensation alternative dispute resolution (ADR) program is designed to provide you with immediate and high quality medical care and all the benefits you are entitled to under California Law — on time and without the hassles of litigation.

Your ADR Program is administered by a balanced Board of Trustees comprised of six members. Like your health and welfare and pension plans, the Trustees are appointed by the IBEW and by the National Electrical Contractors' Association (NECA). Three Trustees are electrical contractors and three Trustees are IBEW members. Among other things, the Board of Trustees approves the list of doctors that can provide services to injured union employees. The Board selects the Ombudsman, mediators and arbitrators to assist in answering injured workers' questions and resolving disputes.

Your program is designed to deliver high quality medical care and workers' compensation benefits much faster, provide access to an impartial expert for assisting with issues, and resolve problems without resorting to lengthy and costly litigation. The Trustees are very concerned that you obtain the benefits to which you are entitled and that you receive quality medical care that assists in returning you to your employment at the earliest possible time.

Get Your Benefits

Report the injury to your employer immediately. Fill out a claim form if more than first aid is required. The claim form will be used to coordinate your benefits through the insurance claims adjuster. Unless your employer knows about the injury, proper and complete evaluation of any subsequent claims cannot be made. Also, your employer may be able to direct you to medical help, if necessary.

Your Benefits

If you are injured at work you are eligible for medical treatment necessary to cure and relieve the effects of the injury. This includes medicines, lab tests, and other related expenses, including reasonable transportation expense reimbursement for trips to the doctor. Medical treatment also includes physical rehabilitation services necessary to return you to work, such as physical therapy to harden or strengthen your muscles. There is no deductible and all costs are paid by your employer's workers' compensation insurer.

In addition, you may become eligible for tax-free cash payments in the form of temporary disability indemnity (TD) and permanent disability indemnity (PD). TD and PD weekly amounts are regulated by law and are less than you normally make in wages.

If you cannot return to your usual and customary work, your employer may be able to offer you modified work or a position that would accommodate your disability. It is the policy of the employer to return workers who sustain injuries to gainful employment whenever practical, and to provide a position that meets their physical capabilities. The Return To Work Program consists of a team effort by the employer, Union, injured worker, the physician, and the workers' compensation insurance adjuster, requiring all participants to cooperate to achieve the goal of return to work. You can ask your employer if modified work is available.

If you are seriously injured and cannot return to your usual and customary occupation you may be entitled to receive a Supplemental Job Displacement Benefit (SJDB). Many employers are subject to the Americans With Disabilities Act, a Federal Statute. For more information on the requirements of the Act you may wish to contact the Equal Employment Opportunity Commission. Your workers' compensation program also covers claims of serious and willful misconduct of the employer or employee.

Your Cash Payments

Temporary Disability (TD)

TD payments are usually 2/3 of your wages up to a maximum set by the State Legislature. The maximum changes based upon your date of injury. TD is not paid for the first three days you are unable to work, unless you are hospitalized as an in-patient or unable to work for more than 14 days. Your first TD check should be mailed to you within 14 days. After that, you should receive your TD check every two weeks until a physician reports you can return to work or that you have reached maximal medical improvement (MMI), that is, become permanent and stationary (P&S). In most injury cases, TD will not exceed 104 weeks of payments.

After your medical condition has plateaued (i.e., reached MMI status), your treating physician will evaluate the permanent effects of your injury. If you do not agree with your treating physician's evaluation, you should contact the Ombudsman and request a Qualified Medical Evaluator (QME) evaluation. You will be able to choose a QME from a panel of 3 independent State certified QMEs. The QME will confirm or deny the opinion of your treating physician.

Permanent Disability (PD)

Your PD payments will be based on the results of a medical evaluation and factors such as your age and pre-injury occupation. The weekly benefit is 2/3 of your weekly income, subject to minimums and maximums set by the State Legislature, and are considerably less than TD payments because you are expected to be able to return to work once you have reached MMI/P&S status and are eligible for PD payments.

Your Medical Care

The medical care you will receive is provided through the network of doctors approved by the Board of Trustees. Prior to sustaining an injury, you may pre-designate your own doctor to treat you in case of a work injury. If you become unhappy with the medical treatment you are receiving, inform the insurance claims adjuster and/or the Ombudsman,

because you can change from one treating doctor to another under certain circumstances.

Claims Adjuster

You will be contacted by an insurance Claims Adjuster several times while your claim is open. It is the Claims Adjuster's job to oversee the processing of benefits to which you are entitled under the law. If you have any questions you can call the Claims Adjuster or contact the Ombudsman.

The Ombudsman

Hopefully your claim will go smoothly and you will be satisfied with the services you receive. However, if at any time you have an unresolved issue with the claims adjuster, or if you do not feel comfortable with what is being done, or if you have a question about the ADR Program, simply visit:

simply visit adrprogram.com/ombudsman.

The word Ombudsman is Scandinavian in origin and means one who investigates complaints, reports findings, and helps to achieve fair settlements.

The Board of Trustees thought it important to give you access to a person who has expertise and experience with the legal and medical issues involved with workers' compensation injuries. The Ombudsman has more than 20 years' experience helping injured workers resolve issues. The Ombudsman will make a recommendation to resolve any issue that you have. The Ombudsman cannot force you to accept his recommendations. If the Ombudsman cannot resolve disputed issues to your satisfaction you will be notified of your mediation rights.

Dispute Resolution Process

STEP 1

Ombudsman

Informal. The Ombudsman contacts you and the claims adjuster to resolve matters. Recommendations are non-binding.

STEP 2

Mediation

Informal. A retired Workers' Compensation Judge contacts you and the claims adjuster to resolve matters. Recommendations are non-binding.

STEP 3

Arbitration

Formal and binding. An Arbitrator hears your case in a trial/hearing scheduled within 60 days of your request.

Attorneys

You are free to consult with an attorney at any time at your cost. However, at the Ombudsman stage you and the claims adjuster must personally speak directly with the Ombudsman. At the Mediation stage you and the claims adjuster must personally speak directly with the Mediator. During the Ombudsman and Mediation stages, you and the claims adjuster may not communicate with each other through attorneys. Attorneys have no standing at the Ombudsman and Mediation stages of the ADR Process.

With respect to attorney participation, the Arbitration stage is different than the Ombudsman and Mediation stages. Arbitration involves a trial/hearing where the parties can present their respective cases through an attorney if they wish. If you hire an attorney to represent you at Arbitration, the attorney's fee could be paid from the funds you are awarded (just like in the State system). Should you consult with an attorney at the Ombudsman or Mediation stages of the ADR Process, unlike the State system, you are not required to grant the attorney the right to a percentage of your future settlement or award. However, you and your attorney are free to negotiate any compensation agreement, but it is subject to the scrutiny of the Arbitrator if an award of attorney fees is requested by you.

Other Benefits You May Be Entitled To

An injured worker may have claims for benefits other than workers' compensation. In the event you want to evaluate a 3rd party claim, you may wish to contact a personal injury attorney to assist you. County Bar Association referral services are available to recommend personal injury attorneys who can answer your questions for a nominal office consultation charge.

Also, if your disability is expected to last at least 12 months, you may be eligible for Social Security disability benefits. You may wish to contact the nearest Social Security Office to explore the availability of those benefits. Also, claims for long-term disability benefits either through the union pension or health and welfare plan should be pursued separately outside the workers' compensation ADR program.

For additional information, visit adrprogram.com/ombudsman

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