

# Workers' Compensation Guide

Prepared for the members of the

## SEG Self-Insurer Workers' Compensation Fund

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## Exhibits

A: PPO Provider List
B: Authority for Treatment Form
C: Employee Report of Injury Form
D: Supervisor's Report of Injury Form
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F: Wage Statement Form
G: Return to Work Letter ( <b>Bona Fide Job Offers must be made with this letter</b> )
H: Benefits of Return to Work
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## **INTRODUCTION:**

### *What is Workers' Compensation?*

Workers' Compensation is the system used to provide wage replacement, medical, and rehabilitation benefits to employees who are injured while at work. The recovery under Workers' Compensation is limited to these three areas, no matter how serious the injury.

### *What is CCMSI?*

CCMSI, Inc., is the third-party administrator (TPA) designated to meet the needs of SEG Self-Insurer Workers' Compensation Fund members. CCMSI is committed to delivering superior service. Its role is to handle all Workers' Compensation claims, on behalf of Fund members.

It is the obligation and duty of the CCMSI claims department to provide thorough claims investigation, to determine compensability, perform medical management, make timely payments, and assist members in returning the injured employees to work, whether to full or light duty.

A specific claims unit has been designated exclusively to handle all of the Workers' Compensation claims reported by members of the Fund. The Medical-Only Claim Representative is responsible for the processing of all medical-only claims. A medical-only claim is a claim for which there are only physician bills or prescription expenses. The Lost-Time Claim Representative is responsible for the processing of all lost-time claims and handling all litigated claims. A lost-time claim results when an employee is off work for seven (7) days or more due to a work-related injury. A litigated claim is a formal dispute that is filed with the Michigan Workers' Compensation Agency.

In order for CCMSI to perform its claim function in a manner that will produce the best results for the Fund, there should be a free exchange of ideas and information between members and claim representatives. When an accident occurs, certain steps must be taken to ensure accuracy of detail. CCMSI partners with the member to procure, preserve, and record evidence.

## **Three Types of Benefits under Workers' Compensation**

### **Medical Benefits**

An employee is entitled to all reasonable and necessary medical care. This includes medical, surgical, hospital services, dental services, medical equipment, hearing apparatus, chiropractic treatment, prescription drugs and nursing care. The responsibility to provide medical care continues indefinitely as long as the need for the care is a result of the work-related injury.

**Choosing a Doctor**- During the first 10 days of treatment, the employer has the right to choose the treating doctor. After 10 days, the employee is free to change doctors if he or she desires. The employee, however, must notify the employer of the change.

The employee ordinarily seeks treatment from the employer's doctor first. If the assistance of a specialist is necessary, the employer's doctor refers the employee to the specialist.

**Processing of Medical Bills**- Most medical providers send their bills directly to the employer or its insurance carrier. The Michigan Workers' Compensation Act requires the provider to submit the original bill and medical notes that pertain to the specific treatment rendered to an injured employee.

The law stipulates that medical providers such as doctors and hospitals cannot charge more than the amount specified in the Michigan Workers' Compensation fee schedule. If they attempt to charge more, CCMSI will pay only the maximum allowed by the fee schedule. The provider is not allowed to collect the difference from the employee.

### **Wage-Loss Benefits**

Benefits are based on 80 percent of the average weekly wage (AWW).

**How an employee's average weekly wage is determined (AWW)** - The basic method of calculation provides that the average weekly wage is based on the highest 39 of the last 52 weeks of pay before the injury. Many factors are included in this calculation including the tax filing status, the number of dependents, and the state and federal tax rates. The state provides a calculator that translates the average weekly wage into an amount that equals 80 percent of the after-tax value of the wage earned.

**Maximums and Minimums**- The law provides that the maximum rate of benefits is 90 percent of the AWW for the year of the injury. The employee will not receive benefits higher than this amount regardless of how high his or her earnings may have been. There is no minimum wage benefit.

**Fringe Benefits**- Under certain circumstances, the value of fringe benefits may be included in determining the AWW. "Fringe Benefits" include the cost of health insurance, employer contribution to

a pension plan, vacation and holiday pay. Sometimes when an employee is injured, the employer continues to provide fringe benefits. The law does not require the employer to do this.

However, if benefits are not continued, the employee has suffered a greater loss of income. The value of fringe benefits that are not continued is added to the value of the cash wages to determine the employee's AWW. There is a limit, however. Fringe benefits cannot be used to raise the wage-loss benefit to more than two-thirds of the AWW.

**How long benefits are paid-** Benefits continue as long as the employee is disabled, which could be for the rest of his or her life. Benefits are reduced 5 percent each year beginning with the year of the employee's 65<sup>th</sup> birthday. This reduction continues until the employee is 75 years of age. During this 10-year period, benefits have been reduced to 50 percent. Benefits continue at that level as long as the employee lives.

## **Vocational Rehabilitation**

**Rights that an employee has to Vocational Rehab-** An employee has the right to vocational rehabilitation benefits. Vocational rehabilitation can include a variety of services. It might simply mean that the employer makes some minor change in the employee's job station so that he or she can return to work while experiencing a continuing injury-related problem. It might mean that an outside rehabilitation counselor will work with the employer and the employee to aid in his or her return to work at the same job or a similar job with the same employer.

It could mean that a state or private vocational rehabilitation agency will help the employee find a job with another employer. It might also involve short-term training to help the employee find a new job or, in some unusual circumstances, long-term re-education. In the appropriate circumstance an employer can be required to provide up to two years of vocational rehabilitation services.

**Who is eligible-** An employee who has suffered an injury covered by the act is entitled to prompt medical rehabilitation services. When, as a result of the injury, the employee is not able to perform work for which he or she has previous training or experience, the employee is entitled to vocational rehabilitation services.

As a result, each instance is reviewed on a case-by-case basis for referral to vocational rehabilitation services.

## **Six Steps when an Employee is Injured:**

When an accident occurs, it is necessary to provide prompt emergency first aid. Avoid practicing medicine. If you are not qualified to administer first aid, call an ambulance or provide transportation to a medical facility. The initial referral for medical care should be to the designated medical facility or, in the event of an emergency, referral may be made to the nearest hospital. Be selective when referring an employee to an outside medical facility because you are authorizing medical care. Employers have the right to select the medical, surgical and hospital services for the first 10 days from the inception of medical care. **Do not relinquish this control. Do not permit an employee to seek his or her own medical treatment.** It is wise to post notices stating that all injuries must be reported promptly, and that payment or reimbursement for unauthorized medical treatment may not be issued.

Each member should have a primary health doctor or medical clinic, and at least one alternate. The primary and alternate providers should participate in one of CCMSI's Preferred Provider Organization Networks (See *Exhibit- A, PPO Providers*). When a workplace injury occurs:

- 1) Provide the employee with an Authority for Treatment Form (*Exhibit -B*).
- 2) Obtain the employee's version of accident (See *Exhibit- C, Employee Report of Injury Form*) and obtain the employer's version of the accident (See *Exhibit-D, Supervisor's Report of Injury Form*).
- 3) Identify all key witnesses.
- 4) Verify accident details by inspecting the area.
- 5) Submit all the information and the claim through iCE, CCMSI's on-line proprietary claims system (See *Exhibit -E*). A tutorial on filing a claim through iCE is available at [www.setseq.org](http://www.setseq.org). Select Worker's Comp and click on the "Internet Claims Edge Training Center" in the Links box.
- 6) Assist CCMSI with the claim investigation. CCMSI will conduct a detailed investigation to determine whether a claim is work-related and deemed compensable by the Michigan Workers' Compensation Act. This investigation can include statements from the employee, supervisor, and witnesses. Interviews with doctors and hospital personnel can be conducted to confirm the medical status. A review of personnel and medical files often leads to clues that indicate a claim is really non-occupational in origin and might be better handled as a group accident health claim. Any and all injury reports generated by the member should be forwarded to CCMSI upon submission of a claim, as well as any medical documentation, wage history forms and off-work orders from a physician.

## **GENERAL RESPONSIBILITIES OF MEDICAL-ONLY REPRESENTATIVE**

If the employee has an accident and needs medical care, but continues to work (or misses work for less than seven [7] consecutive days) the claim is handled by the Medical-Only Representative.

- Depending on the seriousness of the injury, further investigation maybe needed, which entails calling the member contact, claimant and health care provider.
- Upon completion of the investigation, a determination is made whether the claim is work-related and deemed compensable.

If Compensable:

- If an authorization for treatment is needed, CCMSI will fax it directly to the provider.
- The CCMSI Medical-Only Representative will monitor the medical care provided to the injured worker.
- CCMSI will monitor and review all medical bills until the employee is released from care.

If Denied:

- A formal denial is made with the State, and a copy is sent to the member and the employee.
- Claimant may pursue legal action through the Michigan Workers' Compensation Agency or submit their bills to their health insurance carrier.

***Key Note:*** *If an injured worker is off work for 7 consecutive days, the claim becomes a Lost-Time claim. At that point, the claim file is reassigned to the appropriate Lost-Time Claim Representative.*

## **GENERAL RESPONSIBILITIES OF LOST-TIME REPRESENTATIVE**

If the injured worker is off work for 7 consecutive days the file is assigned to the appropriate Lost-Time Representative to make the required three-point contact within 24 hours. The three-point contact consists of calling the member's designated workers' compensation person, the injured employee/claimant, and the medical provider. This gives the Lost-Time Representative the opportunity to do an in-depth investigation to determine whether the injury is work related and deemed compensable.

If Compensable:

- The Lost-Time Representative will obtain the disability slip and will receive the medical records throughout the life of the claim.
- The Lost-Time Representative will communicate any work restrictions to the appropriate member contact.
- The Lost-Time Representative will request wage information for the 52 weeks prior to the date of injury (*See Exhibit-F, Wage Statement Form*). An average weekly wage (AWW) will be calculated according to the Michigan Workers' Compensation Act. The AWW is based on the highest 39 weeks of earnings, taking into consideration the employee's tax filing status. The state provides a Wage Calculator that will generate the injured worker's weekly Workers' Compensation Wage loss rate. Wage loss benefits are paid weekly as long as the employee remains disabled from work.
- The first 7 consecutive days off work is considered a waiting period for wage loss benefits. No wage benefits are paid by Workers' Compensation during that time. In the event the employee is off work for more than 14 consecutive days, payment is retroactive to the first full day of work missed.
- An employee is entitled to all reasonable and necessary medical care. This includes medical, surgical, hospital services, dental services, medical equipment, hearing apparatus, chiropractic treatment, prescription drugs and nursing care. The responsibility to provide medical care continues indefinitely as long as the need for the care is related to the workplace injury.

At any time while the injured worker continues to be treated for his or her injuries, CCMSI can assign a nurse to the claim. The nurse's role is to monitor and manage the worker's treatment to ensure the injured worker is receiving the best possible care to allow a timely return to work.

If there are any questions or concerns regarding reasonable, necessary and related medical care, the Lost-Time Representative may arrange an Independent Medical Exam (IME) to

determine the need for ongoing treatment or disability benefits. An IME involves a one-time doctor's visit and a review of all medical records by a third-party doctor. This gives the Lost-Time Representative another opinion as to the current medical status of the employee and whether any future treatment is required.

The primary goal is to get the injured worker back to some type of work. Throughout the life of the claim, the Lost-Time Representative will communicate work restrictions from the treating doctor or IME. The injured employee does not have to go back to his or her original job or rate of pay. Once the restrictions have been communicated to the employer and there is a job available that the employee is physically capable of performing, a formal job offer must be made according to the Michigan Workers' Compensation Act (*See Exhibit- G, Modified job offer letter*). It is important that each member have a formal return-to-work program in place (*See Exhibit-H, Benefits of Return to Work*).

If an injured employee's claim is denied at any point during the life of the claim:

- A formal denial will be filed with the state and a copy sent to the employee and the member explaining the reason for the denial.
- The injured worker may pursue legal action through the State Workers' Compensation Agency.
- The member should refer all correspondence from the State Workers' Compensation Agency directly to CCMSI.
- Upon receipt of an application for hearing or mediation, CCMSI will assign defense council.
- A letter will be sent to the member indicating the assigned attorney firm, lawyer's name and contact information, as well as requesting the employee's personnel file and any additional information that may be beneficial to the defense of the claim.
- All legal correspondence to CCMSI from the defense attorney will be copied to the appropriate member contact.
- Any demand for settlement or offers for settlement will be communicated to the member contact.

Closure of a Lost-Time claim typically occurs in one of the following ways:

1. Return to work full duty.
2. Settlement – Lump-sum payment for closing the claim that will include voluntary resignation and release of rights for filing any future claim against the member.

3. Trial - Workers' Compensation cases are heard by a Workers' Compensation Magistrate. These individuals act as judges. They are appointed by the Governor, and hear only cases involving Workers' Compensation. The trial in a Workers' Compensation case is formal. All of the usual rules of evidence apply. The witnesses are sworn (exceptions can be made for religious reasons) and testimony is taken down by a court reporter. At the end of the trial, the magistrate does not ordinarily issue a decision immediately. Instead the magistrate "takes the case under advisement," reads all the records, including the testimony of the doctors, and writes a formal opinion. The opinion is mailed by the Agency to all the parties involved, including the attorneys, the employee, and the employer.

A magistrate decision concludes with one of the following:

1. Denial of all benefits.
2. A payment of a closed period of wage loss/Temporary Total Disability benefits and related medical costs.
3. Payment of wage loss and medical costs related to the injury for the rest of the employees' life (open award).

## **GENERAL RESPONSIBILITIES OF RISK CONTROL**

The SEG Self-Insurer Workers' Compensation Fund has a staff of three, full-time Risk Control Consultants who work closely with members to maintain safe environments for students, staff and the general public. Their services are available to each member district. Our Risk Control Consultants serve the state based on geographic territories.

The services provided by Risk Control include:

- Site Inspections
- Safety Committee Development Guidance
- School Safety Policy Development
- On-Site Safety Training Programs
- Loss Analysis