Adding a New Body Part or Condition to Your Workers' Compensation Claim (Compensable Consequences)

This page is general information about California workers' compensation. It is not legal advice about your case, and reading it or contacting us does not create an attorney client relationship. Rules change, and every case is different. If you have a lawyer, talk to your lawyer before acting on anything here.

What a compensable consequence is

A compensable consequence is a new problem caused by your original work injury or by the treatment for it. Examples include knee, hip or back pain from limping on an injured leg, a shoulder strained from using crutches, a new injury from a fall caused by the original injury, side effects of medication, and depression or anxiety caused by chronic pain. If the original injury caused it, the new problem is part of the same claim.

Step 1: Get it into your medical records

1. Tell your treating doctor about every new symptom at every visit, including when it started and how it relates to the original injury.
2. Ask the doctor to examine the new body part, diagnose it, and state in a written report (a PR-2) whether it was caused by your work injury.
3. Ask the doctor to send a Request for Authorization (RFA) for any treatment or testing it needs, and ask for a copy.

Step 2: Tell the adjuster in writing

Send the adjuster a short letter claiming the new condition as part of your injury, and enclose the doctor's report. Use certified mail or another method you can prove, and keep a copy. A sample is below.

Step 3: If the adjuster denies it or does not answer, use the QME

Medical disputes in a case without a lawyer are decided by a Qualified Medical Evaluator (QME) chosen from a state panel. You can make sure the QME addresses the new condition:

- You may send the QME your medical records and a letter listing the body parts and conditions you want addressed (title 8, section 35(a)).
- **Timing matters.** Anything you send the QME must go to the adjuster first. Medical records must be served on the adjuster at least 20 days before they go to the doctor (section 35(c)).
- **Written only.** All communication with the QME must be in writing, with a copy to the adjuster at the same time (section 35(b)). Do not call the QME to discuss your case.

- At the exam, describe every problem, including the new ones, and how they started.
- **Another specialty.** If the new condition needs a different kind of specialist than your QME, another QME panel in that specialty may be needed. Without a lawyer, you and the adjuster arrange this with an Information and Assistance Officer, who records the agreement on the panel request (section 31.7(b)).

Step 4: If it is still in dispute

You can ask the Workers' Compensation Appeals Board to decide. An Information and Assistance Officer can explain how to file an Application for Adjudication and request a hearing. You may also hire a workers' compensation attorney at any point. Applicant attorney fees are set by the Appeals Board and paid out of your award, not up front.

Tips

- Watch for deadlines in every letter you receive, especially the 10 and 20 day periods for objecting to records sent to the QME.
- Keep a simple diary of symptoms, appointments, letters and phone calls.

Free help: the state Division of Workers' Compensation (DWC) has Information and Assistance Officers in every district office who help injured workers who do not have a lawyer. Call 1-800-736-7401 or visit www.dir.ca.gov/dwc.

Sample letter: claiming a new condition

[Date]

[Adjuster's name]
[Claims administrator]
[Address]

Re: [Your name]; Employer: [employer]
Claim No. [claim number]; Date of injury: [date]

Dear [Adjuster's name]:

I am claiming the following condition as a consequence of my [date] work injury: [describe the body part or condition and when it started].

Enclosed is the report of my treating physician, [doctor's name], dated [date]. Please accept this condition as part of my claim and authorize the treatment my doctor has requested.

If you do not accept it, please tell me in writing and explain why, so that the issue can be addressed by the QME.

Please send all letters about my claim to me at the address below.

Sincerely,

[Your name]
[Your address]
[Your phone number]

Enclosure: [doctor's report]