

CHAPTER 20
INJURY/MEDICAL PROCEDURES AND BENEFITS
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CHAPTER 20

INJURY/MEDICAL PROCEDURES AND BENEFITS

1. EMPLOYEE RIGHT TO PRIVACY. Employees are entitled to confidential handling of information on his/her on or off-duty job-related medical condition. Except for official reports, correspondence, and MIS Comm-Net messages to offices with a need to know, dissemination of information on employees is prohibited under the Confidentiality of Medical Information Act, Section 56 et seq. of the California Civil Code. If an employee desires to have others in the Department informed of his/her condition, a CHP 369, Authorization to Release Medical Information for Public Disclosure, shall be completed. It is not mandatory that an employee complete a CHP 369. It is an optional method for an employee to provide either a "blanket" instruction for any future medical disclosures or it can be used for a specific illness, injury, or operation. The completed CHP 369 is to be filed in the employee's field folder. In the absence of a CHP 369 or if the employee requests no disclosures outside of the "need to know" offices, only such information as would be released to the public by a hospital can be made public.

2. CONFIDENTIALITY OF MEDICAL RECORDS.

a. Release of Medical Records. Medical records, doctor's reports, or any other medical information concerning an employee shall be kept in strict confidence by commanders and any other individual who has a need to know the file contents. These records, or any information concerning them, shall not be released. Questions concerning the release of medical information shall be directed to the Office of General Counsel, Case Management Unit.

b. Providing Medical Information. All medical information in the possession of the Department shall be furnished to physicians examining an employee at the Department's request. State Compensation Insurance Fund (SCIF) shall be asked to provide all pertinent records to the examining physician when it is known an injury file exists.

c. Retention of Medical Reports. Medical reports, or copies of medical reports, shall not be retained at the local level after all command action has been completed. As soon as it has been determined that the employee can return to full duty, or must be placed off-duty pending disability retirement or medical separation, the medical reports concerning the employee shall be forwarded to Personnel Files of Business Services Section in headquarters. The medical report shall be accompanied with a request that Personnel Files maintain the report as a medical evaluation package or physical fitness package as appropriate.

d. Retention of X-Rays. Any x-rays, original electrocardiogram tracings, or original electromyogram tracings received by the Department shall be returned to the doctor or laboratory that ordered the study. If this information has been solicited for a Fitness-for-Duty evaluation, the materials shall be forwarded to the physician examining the employee for the Department.

3. PAYMENT FOR MEDICAL EXAMINATIONS.

a. Payment for Medical Examination. No payment shall be authorized for a medical examination until the doctor's report of findings and recommendations has been received.

b. Authorization of Medical Treatment. The Department cannot authorize a physician to provide medical treatment, therapy, or physical rehabilitation nor authorize payment for such service. Such authorization must come from SCIF.

c. Billing Attachments. Original medical reports shall accompany billings for treatment of job-related injuries submitted to SCIF. Supervisors accompanying employees to a medical appointment shall advise the physician that SCIF is the adjusting agent.

4. AUTHORIZATION OF PAYMENT FOR MEDICAL EXAMINATIONS.

a. Personnel Management Division Approval. Personnel Management Division is authorized to approve medical billings for:

- (1) All Fitness-for-Duty examinations.
- (2) Pre-employment medical examinations.

b. Academy Commander Approval. The Academy commander is authorized to approve medical billings for medical examinations of applicants for motorcycle training.

c. Forwarding of Bills. After approval of the bill, submit the original and one copy to Fiscal Management Section. Enter the following applicant information on the duplicate of the bill:

- (1) Special programs where an accounting of costs has been requested (health screening, etc.).
- (2) The location code of the employee's assignment.
- (3) The identification number of the employee who was examined.

- (4) The word "APPROVED" on the bill.
- (5) The signature and position title of the person approving payment.
- (6) The date of approval.

d. Retention of Billings. One copy of each approved bill shall be retained by the approving office for a maximum of six months. Disposition shall be in accordance with procedures outlined in Highway Patrol Manual (HPM) 11.1, Administrative Procedures Manual, Chapter 11, Records Management.

5. COVERAGE OF ABSENCES – GENERAL PROVISIONS.

a. Reporting. Except as provided in paragraphs 6 and 7 of this chapter, absences due to an industrial injury are reported in the same basic manner as regular sick leave. (Refer to Chapter 21, Sick Leave and Bereavement Leave.)

b. Attendance Reporting. If an employee is released for duty on a regularly scheduled day off, the time is to be reported as an "X" day unless he/she actually works on such a day.

c. Questionable or Unusual Absences. The coverage of absences may be discussed with the Disability and Retirement Section (DRS). Full credits shall be utilized pending clarification of any absence. Questionable injury absences for both uniformed and nonuniformed employees are covered as specified in paragraph 7.e.(2). If malingering is suspected, DRS and SCIF shall be informed.

d. Substantiation of Injury Absences. Workers' compensation benefits, including Labor Code Section 4800.5 (LC 4800.5), are verified on the basis of medical confirmation obtained by SCIF. Failure to obtain proper substantiation on the STD 634, Absence and Additional Time Worked Report, from the treating physician may result in the non-verification/denial of benefits by SCIF. **(Revised 3-07.)**

e. Permanent and Stationary Status. An injury condition is considered to be permanent and stationary when future changes in the condition, either for the better or for the worse, are not expected to occur. The actual ruling is made by SCIF or the Workers' Compensation Appeals Board (WCAB), but is based on medical opinion. After the condition becomes permanent and stationary, temporary disability (TD) compensation benefits are not payable by SCIF. LC 4800.5 benefits may stop at a permanent and stationary determination based upon the type of injury, either specific or cumulative trauma. Entitlement to LC 4800.5 benefits will be determined on a case by case analysis. SCIF will be responsible for appropriate LC 4800.5 benefit determinations. Disputes relating to LC 4800.5 benefits are under jurisdiction of the WCAB. **(Revised 3-07.)**

f. State Ordered Medical Examination.

(1) As permitted by state law, the state may require an employee to take a medical examination. When the appointment for such examination is during an employee's regularly scheduled work hours, he/she will receive straight time compensation for those hours. If scheduled during other than an employee's regularly scheduled work hours, the employee will attend on a Leave of Absence with pay. An equivalent amount of informal time off should be granted during that same pay period. (Refer to HPM 40.71, CHP 415 User's Manual, Chapter 7, Side One-Regular Work Shift, for notations required on the CHP 415, Daily Field Record, and HPM 10.3, Personnel Transactions Manual, Chapter 28, Attendance Reporting, for notations required in the "Remarks" column on the CHP 71, Attendance Report.) In no event will an employee earn overtime compensation for this examination. The provision of this subsection shall also apply to appointments (laboratory work, x-rays, other studies, etc.) prescribed by the examining physician as part of the evaluation. The results of said examination shall be furnished to a physician designated by the employee upon his/her request.

(2) Such leave of absence with pay shall not utilize LC 4800.5 or industrial disability leave (IDL) benefits, sick leave, compensation time off (CTO), vacation/annual leave, or any other leave credits.

(3) A state ordered examination is one arranged by the Department, SCIF, WCAB, or the California Public Employees' Retirement System (CalPERS); included are appointments (laboratory work, x-rays, other studies, etc.) prescribed by the examining physician as part of this evaluation. Appointments for treatment are not covered by this section.

(4) Evidence that an examination qualifies for coverage by this section is a letter from the arranging state authority informing the employee of the appointment.

(5) Travel and per diem expenses shall be in accordance with HPM 11.1, Administrative Procedures Manual, Chapter 2, Travel Expense.

6. COVERAGE OF ABSENCES – UNIFORMED EMPLOYEES.

a. Labor Code Section 4800.5. LC 4800.5 provides that uniformed employees who are temporarily disabled from a work-related injury or illness are to receive full salary for a period of up to one year. This is in lieu of disability payments made by SCIF. Decisions by the WCAB concluded that LC 4800.5 benefits are not interchangeable with TD benefits, and therefore, not paid under the same rules, regulations, and limitations set forth under the codes relating to TD benefits. **(Revised 3-07.)**

(1) Time lost during the shift on which the injury occurred will be handled as work time.

(a) No STD 634, Absence and Additional Time Worked Report, shall be submitted.

(b) The time off duty shall be entered as "Regular Time" on the CHP 415, Daily Field Record/CHP 71, Attendance Report. Enter the phrase "injury this shift" in the "Remarks" column.

(2) For absences subsequent to the shift of injury which are believed eligible for LC 4800.5 benefit coverage:

(a) Submit a STD 634 to cover the absence. For each date, enter the letter symbol "I" and the number of hours off duty. HPM 10.3, Personnel Transactions Manual, Chapter 27, Absence Reporting, contains general information on completion of the STD 634.

(b) For employees on automated attendance reporting, absences are shown by use of code "J" on the CHP 415. For other employees, the time off duty shall be entered in the "Injury" column of the CHP 71 for each date of absence; no credits shall be charged for the absence. Prior to submission of the STD 634 the dates and hours of absence shall be reconciled with the entries on the automated attendance screen or CHP 71.

(c) On a monthly basis, update the workdays lost entry in columns 4, 5, 11, and 12, as appropriate, on OSHA 300, Log and Summary of Occupational Injuries and Illnesses. The entry should be made in pencil to allow for future updating. At the end of the calendar year in which the injury occurred, if the employee continues disabled, estimate the number of future workdays the employee will be disabled and include in the log entry. The log for the next year shall not reflect the prior year's injuries or the resulting lost workdays.

(3) LC 4800.5 benefits are chargeable only in hourly increments.

b. Vacation, Annual Leave, or Sick Leave Usage. When LC 4800.5 benefits are used for a given absence, and approved, credits shall not be charged. For information on the maximum accumulation of vacation credits while on injury status, see HPM 10.3, Personnel Transactions Manual, Chapter 22, Vacation, Annual Leave, and Holiday-In-Lieu.

c. Payment Criteria. In order for an absence to be eligible for coverage by LC 4800.5 benefits, all of the following conditions must be met:

(1) The employee must have been a uniformed employee when the injury occurred and a uniformed employee on the specific date(s) of absence for which LC 4800.5 benefits are requested.

(2) The injury causing the disability must have been accepted as work connected by SCIF or WCAB. LC 4800.5 benefits may be used tentatively while a case decision is pending at SCIF, provided the Department has not identified a question of work connection. Since sick leave or other credits will need to be charged if the claim is subsequently denied, the tentative use of LC 4800.5 benefits pending a decision should not exceed the period for which accumulated credits are available. Interaction with SCIF on pending cases is desirable since the communication will speed decisions and help prevent salary overpayments.

(3) The SCIF or WCAB must determine that the absence was caused by a work-connected injury. DRS obtains this information from SCIF as STD 634s, Absence and Additional Time Worked Report, are processed.

(4) The employee's inability to work on the date(s) involved is verified by SCIF and reported to DRS. The SCIF decision is based on medical reports and other information available in the SCIF file.

(5) The employee has not exhausted the one year of disability time provided under LC 4800.5.

(6) Departmental liability for LC 4800.5 benefits for the injury involved must not have been terminated by a Compromise and Release settlement nor precluded by a credit against further benefits, based on a financial recovery received by the employee from a party who caused the disability. (Refer to paragraph 9 for information on third party claims.)

d. Termination of Eligibility for Labor Code Section 4800.5. LC 4800.5 applies to a uniformed employee's absence caused by an acceptable work-connected condition until:

(1) The employee returns to either limited or full duty. If the employee is capable of performing limited or full duty but declines to do so, LC 4800.5 benefits may be terminated on the concurrence of SCIF. Denial of benefits for a specific date or dates does not preclude payment of benefits for other dates. Each period of disability is viewed on its own merits for benefits.

(2) A year of disability time has resulted from the injury involved.

(3) The cumulative trauma injury becomes permanent and stationary and the employee is not eligible for vocational rehabilitation benefits. (**Revised 3-07.**)

(4) The employee enters into a Compromise and Release settlement for the injury causing the disability.

(5) The employment is terminated by resignation, retirement, or dismissal; this provision applies only to injuries which occur on or after January 1, 1981. Regardless of the date of injury of an accepted case, an employee's right to workers' compensation benefits other than LC 4800.5, is not affected by termination of employment.

e. Labor Code Section 4800.5 to Temporary Disability. At the expiration of LC 4800.5 benefits, the employee may be eligible for TD benefits. (Refer to paragraph 7.b., Nature of TD Benefits, for a description.) For employees on automated attendance reporting, absences for TD benefits are shown by coding Miscellaneous Time-Off, Code "Z," on the CHP 415, Daily Field Record (per HPM 40.71, CHP 415 User's Manual, Chapter 7, Side One-Regular Work Shift).

7. COVERAGE OF ABSENCES – NONUNIFORMED EMPLOYEES.

a. Choice of Benefits. When a work-related injury causes a loss of more than three days work, the employee is eligible to receive IDL benefits. At the expiration of IDL benefits, the TD benefit may apply. IDL benefits are discussed under paragraph 7.d., and TD benefits under paragraph 7.b.

b. Nature of TD Benefits. These payments are specified in the law controlling workers' compensation. Currently, the rate is two-thirds of the employee's salary at the time of injury, subject to a maximum per week as specified by statute. The initial three calendar days of disability will be covered by the benefit only if the injury requires hospitalization or if the inability to work exceeds 14 calendar days. The benefit payment may be supplemented by use of sick leave, CTO, vacation/annual leave, or other leave credits so that the employee continues to receive his/her regular income amount.

c. Adjustment of Credits under TD. When this benefit has been elected, the employee may use accumulated sick leave, CTO, vacation/annual leave, or any other specified leave credits, to supplement the payment. When credits are insufficient to provide full salary, they will be used to the extent available. The following procedures apply:

(1) Sick leave, CTO, vacation/annual leave, or other leave credits will be used to supplement the TD payment unless the employee provides DRS with written notification denying the use of credits.

(2) All TD payments from SCIF are sent directly to the employee. If the employee prefers not to use credits to supplement the SCIF TD payment, a

written notice to this effect must be signed and dated by the employee and submitted through their chain of command to DRS. Until receipt of the notification not to use credits, DRS will proceed with the regular credit adjustment procedures.

d. Nature of IDL Benefits.

(1) Only CalPERS members are eligible for this benefit. IDL is not normally afforded to uniformed employees; however, IDL benefits may apply to a uniformed employee who sustained the disabling injury during cadet training.

(2) The initial three calendar days of disability are not covered by IDL benefits unless the employee is hospitalized or the inability to work exceeds 14 calendar days.

(3) IDL benefits provide the regular net salary (regular "take-home" pay) for the first 22 working days covered. For the next 11 months of disability, the benefit is two-thirds of gross salary.

(4) IDL benefits are paid without charging accumulated sick leave, CTO, vacation/annual, or other leave credits (except for the credits which may be required to cover the initial three calendar days of disability).

(5) IDL benefits may be supplemented by use of sick leave, CTO, vacation/annual leave, or any other specified leave credits.

(6) IDL benefits are terminated by:

(a) The employee being able to perform full duty or to perform limited duty if suitable job tasks are offered.

(b) The completion of one year of paid benefits within two years of the first date of disability.

(c) The condition reaches a permanent and stationary status where further significant changes are not expected. Exception to this policy is when the employee is undergoing vocational rehabilitation.

(d) The injury case being settled by Compromise and Release.

(e) The employment being terminated by a retirement, resignation, or dismissal. The employee's rights to workers' compensation benefits other than IDL are not affected by termination of employment.

e. Documenting Injury Absences. The following procedures apply for nonuniformed employee absences due to an industrial injury (and to a uniformed employee injury, if LC 4800.5 benefit does not apply):

(1) Absences on the shift of injury shall be treated as work time.

(a) No STD 634, Absence and Additional Time Worked Report, shall be submitted.

(b) The time off duty shall be entered as "Regular Time" on the CHP 71, Attendance Report. Enter the phrase "injury this shift" in the "Remarks" column. For employees on automated attendance reporting, absences are shown by use of code "I" on the CHP 415, Daily Field Record.

(2) For absences subsequent to the shift of the injury (except: when the disability or injury is questioned; when the condition has been ruled permanent and stationary; or when otherwise informed by DRS), use the following procedures:

(a) Enter the time off duty in the "Injury" column of the CHP 71. In the "Remarks" column enter "Credits Charged." (Refer to paragraph 5.f. regarding absences caused by a SCIF-arranged medical examination.)

(b) Sick leave, CTO, vacation/annual leave, other leave credits, or dock shall be used to cover the absences and are to be entered in the appropriate balance box on the CHP 71. Full credits are to be applied until notified otherwise by the Personnel Services Section, Compensation Unit.

NOTE: If credits are to be restored, notification will be made by the Compensation Unit, for IDL and TD adjustments.

(c) A STD 634, Absence and Additional Time Worked Report, shall be prepared and submitted with appropriate substantiation for the absence, including an absence when vacation, dock, or any other specified leave credits are used for the injury (i.e., "S" for sick leave and "V" for vacation).

(d) For absences subsequent to the exhaustion of all credits, a CHP 71, Attendance Report, and a STD 634 shall continue to be submitted. The letter "L" shall be used to denote absences for which no credits are available. DRS shall provide notification when the reports are no longer required.

(e) On a monthly basis, update the workdays lost entry in columns H, and L, as appropriate, on OSHA's Form 300, Log of Work-Related Injuries and Illnesses. The entry should be made in pencil to allow for future updating.

At the end of the calendar year in which the injury occurred, if the employee continues disabled, estimate the number of future workdays the employee will be disabled and include in the log entry. The log for the next year shall not reflect the prior year's injuries or the resulting lost workdays.

8. INJURY-RELATED EXPENSES.

a. Medical Expenses. Payment of medical expenses, including drugs, physical therapy, and other related authorized items is one of the benefits to be provided by workers' compensation. If the employee incurs a medical expense, he/she may secure reimbursement by submitting an appropriate receipt to the SCIF office adjusting his/her case; the date of injury and case number, if known, should be included with the request for reimbursement.

b. Travel Expense. On request, SCIF will reimburse the injured employee for reasonable expenses when he/she travels out of his/her general vicinity for SCIF or WCAB authorized or requested examinations, treatment, or related services. State transportation shall not be used, nor shall a CHP 262, Travel Expense Claim, be submitted.

9. THIRD PARTY CLAIMS. When a work-related injury is caused by a person not employed by the Department, the injured employee may file a claim against that person. Since the injured person may also collect benefits from SCIF, the claim against the responsible party is frequently called a "third party claim."

a. Lien Rights of the State. SCIF, as adjusting agent for the Department, has lien rights against any recovery made by the injured person from the responsible party. The lien is for the value of the medical and compensation benefits (including payments made by the Department) resulting from the injury. Labor Code Section 3859 provides: "No release or settlement of any claim... as to either the employee or employer is valid without the written consent of both." SCIF, the adjusting agent, executes the release or settlement; normally, action by the Department is not necessary.

c. Credit Against Future Benefits. Pursuant to Labor Code Section 3858, when an employee makes a financial recovery from a third party, SCIF and/or the Department may be entitled to a credit against future medical and/or disability payments. LC 4800.5 and IDL benefits are subject to this credit.

d. Property Damage. Property damage claims are processed by the Fiscal Management Section independent of injury claims. Questions concerning property damage should be directed to the Fiscal Management Section.

- e. Procedure. The employee shall keep DRS informed of:
 - (1) The name and address of any attorney representing the injured employee in the third party matter.
 - (2) The date and number of any civil action filed.
 - (3) The name and address of any person contacting the injured employee on behalf of the responsible party.
 - (4) The date and manner in which the third party matter is terminated. It is not necessary that the amount of the recovery be indicated.

- f. Settlement of Claims. When the employee is approached regarding settlement of the third party claim:
 - (1) The person representing the third party shall be informed that the state has lien rights and he/she should contact the subrogation attorney in the SCIF office handling the injury.
 - (2) As a protection to the employee, the amount of the state's lien should be determined prior to agreeing on a settlement amount or signing a release or settlement papers. It is further recommended that the employee defer signing the agreement until SCIF has approved.
 - (3) In the event an employee settles a claim against the third party without the consent of SCIF, the state, including SCIF and the Department, can recover from the employee all funds expended for injury benefits.

10. COORDINATION WITH FEDERAL BENEFITS.

- a. There are two federal benefit programs which may provide benefits to uniformed employees for work-connected injuries or deaths. When it appears that a qualifying injury may have occurred, DRS shall inform the appropriate federal agency. Other persons may also report the occurrence to the appropriate federal agency or may discuss reporting it with DRS. The federal agency will forward their special report forms to the employee.

- b. Federal benefits may be payable if the member is killed or injured under circumstances which involve a crime against the United States. Under this program, credit is taken for any state workers' compensation benefits. Qualifying injuries include those sustained while:

(1) Apprehending persons sought for violation of a federal statute or as a material witness in a proceeding instituted by the United States.

(2) Protecting or guarding a person held under such circumstances.

(3) Engaged in the lawful prevention of a violation of a federal statute.

c. A federal death benefit of at least \$276,000 is paid to eligible survivors of members who die as a result of a personal injury sustained in the line of duty. Starting in 1988, the payment is increased in accordance with inflation. Excluded are deaths resulting from intentional misconduct, voluntary intoxication, suicide, or from occupational illness or chronic disease. Credit is taken for the federal benefits described in paragraph 10.a. above; credit is not taken for any state benefits.

d. The procedure used by the federal government permits a claim to be filed by the uniformed employee, or survivors, or someone on their behalf. Regardless of who files the claim, the commander must certify certain requested information.

11. EDUCATIONAL BENEFITS.

a. Alan Pattee Scholarship Act:

(1) Overview. In 1970, Assembly Bill 338, known as the Alan Pattee Scholarship Act, amended Section 68120 of the California Education Code. Under this Act, no fees or tuition of any kind shall be required or collected by the University of California Regents or the Trustees of California State University from any surviving child, natural or adopted, of a public safety official who was killed in the line of duty in the State of California.

(2) Application. The Act may apply to other colleges or universities under written agreement. When applying, the student must make the university or college aware of the fact that he/she is a surviving child of a law enforcement officer killed in the line of duty and may qualify for tuition-free education under Section 68120 of the Education Code.

b. California Student Aid Commission:

(1) Overview. The Law Enforcement Personnel Dependents Scholarship Program provides need-based educational grants to dependents and spouses of peace officers who have been killed or totally disabled in the line of duty. Scholarship awards match the amount of any Cal Grant "B" award and range from \$1,555 to \$9,873 per year for up to four years. This amount is adjusted each year in accordance with the budget.

(2) Application. For application and eligibility requirements, contact the California Student Aid Commissioner Specialized Program, at P.O. Box 419029, Rancho Cordova, CA 95741-9029. The program may be contacted at (916) 526-7590 or (888) 224-7268.

12. NONINDUSTRIAL DISABILITY INSURANCE (NDI). Eligibility is limited to employees who are designated managerial, supervisory, confidential, and excluded (CBID M, S, C), and employees in Bargaining Units 5, 7, and 12. An employee may be eligible for NDI benefits if the claim for injury benefits has not yet been accepted and the accumulated credits have been exhausted. In addition, an employee whose claim for injury benefits has been accepted may also receive NDI after the condition has been determined to be "permanent and stationary" (Refer to paragraph 5.e.) and credits have been exhausted. (Caution: If the employee is eligible for service or disability retirement at a higher benefit level than NDI, there may be net loss of benefits under NDI.)

13. LEAVE FOR PENDING INJURY STATUS. When an injury claim has not been accepted and accumulated credits have been exhausted, the Department may place the employee on an informal leave status ("Pending Injury" leave) without the employee or the commander making the specific request. (Refer to Chapter 8, Leave of Absence.)

14. INCOME TAX STATUS OF LABOR CODE SECTION 4800.5. Revenue Ruling 68-10, issued by the Internal Revenue Service, held that LC 4800.5 benefits are excludable from income taxation. Eligibility for LC 4800.5 payments is not usually determined until after the close of a pay period. Since the employee should be paid on regular state pay days, income taxes are withheld from pay. The amount of the LC Statement, Form W-2 for that year, and the employee will receive a refund from State Controller's Office (SCO), Payroll Operations covering the amount that was withheld for income taxes. LC 4800.5 payment requests must be received by SCO no later than December 15th, of that calendar year. This is necessary because tax refunds cannot be issued after the tax year is closed. If the refund cannot be processed, the employee will receive a Wage and Tax Statement, Form W-2 correction reducing the amount of taxable gross income. Labor Code Section 4800.5 time corrections can only be processed one year prior to the current tax year; a written certification may be used to exclude the specific LC 4800.5 involved from the income reported for any tax year prior.

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