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Comments

In many example letters, under the headings - MANDATORY: include for all notices and MANDATORY LANGUAGE: Select one of the following: - There is inconsistent capitalization in the phrase Information and Assistance Officer Sometimes it is capitalized and sometimes it is not capitalized.

Introduction – Page 5

State Fund disagrees with the first sentence of the last paragraph of page 5, All benefit notices that are not mandatory by statute or these regulations require the “employee’s (or claimant’s) remedies” defined in § 9811(g) and provided in 9810(e).

Correction: The employees’ remedies are due on all regulatory and mandatory notices.

Also, it seems the words employee’s and claimant’s should be written with a plural possessive, for example: employees’.

Michael McClain, General Counsel
Brenda Ramirez, Claims & Medical Director

October 9, 2015

Introduction

The Institute’s members very much appreciate the extraordinary efforts made by the Division to revise the benefit notices and the Instruction Manual. The changes made by the Division were very constructive. While the manual is necessarily complicated, the instructions for use and the model forms should allow claims administrators to create system to meet their needs and keep injured workers well informed.

Certainly, the intent of the centralized electronic library is to provide injured workers with more comprehensive and up-to-date information that applies to their specific circumstances. Enhancing the information available on the DWC’s website will make the notices less confusing and provide access to more extensive information for those who need it. These notices are absolutely required to keep the injured workers apprised of their rights and benefits. But we have seen in the past that flow of notices can be overwhelming for applicants. The ability to

receive comprehensive information related to specific benefit notices will improve communications and keep the workers up-to-date.

Updating the Guidebook

As the Instruction Manual notes, claims administrators may use the forms as models and incorporate the information developed by the Division into their own notices. It is therefore essential that whenever DWC makes a change, claims administrators are notified and given a period to update their systems and to begin distributing the revised information. This applies to any changes to the Instruction Manual, as well.

It is not unusual for disputes to arise regarding specific information that the injured worker did or did not have at a specific point in time. If the DWC website is to become the primary informational resource, then every revised version must be archived and accessible, and the effective date for using the information must be noted to establish the information available at any given point in time for the resolution of future disputes.

While neither the model forms nor their individual instructions in the manual are regulations, they must be consistent with the regulations. Instructions for some individual forms that are to be customized by claims administrators might also need to have modified instructions. It would be more effective and useful for model forms to have hyper-links to the corresponding instructions from the contents page and from the forms for claims administrators using the model forms.

Recommendations

Below are some minor corrections that should be considered:

3rd paragraph on page 5:

Claims administrators may continue to use forms that were used before this manual was produced as long as those forms meet the current requirements set forth in Title 8, California Code of Regulations, Section 9810(a). ~~provided~~ ~~provides~~ that where a claim is subject to an ADR program as described above, the contents of any required notice that would be inconsistent with the provisions of the ADR agreement must be modified to be consistent with the ADR agreement.

4th paragraph on page 5:

~~Ultimately, the~~ ~~The~~ claims administrator is responsible for compliance with the regulations governing the issuance of benefit notices, ~~regardless of whether these model notices are used, however~~ benefit notices using the model notices devised by the Administrative Director and available on the Division's website are presumed to be adequate notice to the employee and, unless modified, shall not be subject to audit penalties.

Correct the spacing on pages 9, 12, 15 21, 25 and 28:

Chapter 5: Temporary Disability:
Chapter 5: Temporary Disability:

Correct the spacing on pages 21, 25, 29, 32 and 42:

Chapter 7: Permanent Disability:
Chapter 7: Permanent Disability:

Correct the spacing on pages 5, 17, 18, 19, 15, 58, 59, 60, 72, 73, 74, 76, 77, 79, 82, 83, 84 and 85:

Compensation's website at
<http://www.dir.ca.gov/InjuredWorkerGuidebook.html> or by
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Bert Arnold, Esq., President
California Applicants' Attorneys Association

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The purpose of this manual is to present advice for accurate and timely completion of benefit notices and mandatory forms that meet the requirements of the Administrative Director's regulations. It is represented in the introduction to the manual that the model notices presented in this manual are in English and Spanish. However, none of the notices in the Employee Benefit Notice Manual currently posted on the DWC Forum have been translated into Spanish.

The Pew Research Center reported in 2014 that California has the largest Spanish speaking population in the nation, with more than 14 million residents, which make up 37% of the state's population. A Spanish language version of these notices needs to be included in the final version of the manual both to ensure that the manual is complete before OAL approval, but to also ensure that the notices are translated properly. By not including these notices in the draft manual, valuable public comment has been excluded on any needed corrections.