



LAES has developed a series of immigrant issue instructional modules entitled "Tierra de Oportunidad" for orientation to our complex society.

LAES - Support Systems for Injured Workers

Tierra de Oportunidad - Module 5

READING

The U.S. has a complex support system for workers injured on the job. It is the responsibility of the workers to follow the rules not only while working but when applying for support.

The three main systems of support for injured or disabled workers that provide complementary services are:

1. **Workers' Compensation** which pays for medical and retraining stemming from on-the-job injuries, or occupationally-caused illnesses;
2. **California's Disability Insurance** program which provides support to workers when they can't perform their usual work because of non-occupational illness or injury; and
3. **Vocational Rehabilitation Services** from the California Department of Rehabilitation that are most easily secured by workers who have been seriously injured.

1. The Workers' Compensation (WC) was designed originally as a no-fault system to provide injured workers with rapid, fair support. Over the years it became an extremely unwieldy and adversarial system.

Workers' Compensation Insurance, paid for by employers, covers the costs of on-the-job injuries or illnesses caused by work. Services that can be paid by Workers' Compensation include:

- Medical treatment of on-the-job injuries,
- Rehabilitation services needed,
- In the case of permanent disability, training in a job they can do,
- In the case of death, benefits to workers' families.

Workers have a right to Workers' Compensation whether or not they are employment-authorized. If their employer has not covered them with workers' compensation, he or she can be sued in a civil suit to collect damages for injuries suffered by a worker. Unfortunately, the Workers' Compensation system does not work very well and workers will wait a long time to receive benefits if their employer contests their claim.

Workers who are injured on the job should get the medical help they need even if they are not sure about the process by which the bills will be paid. Workers cannot wait until all insurance company wrangling's are resolved before getting good medical care. They also should take charge of their own care. Even if an employer offers to pay for a doctor's care, the worker must determine whether that care is adequate and should refuse to have his or her medical care discontinued because the employer says he or she will not pay any more bills. Workers' Compensation Insurance carriers often contest workers' claims for benefits.

Workers' Compensation can pay for a vocational rehabilitation counselor to help a worker who cannot work in their usual job to develop the skills they need to find a different kind of work. Again, an injured worker has the right to effective help in planning retraining, for example, a counselor who speaks Spanish, if the worker does not know English well, and who will discuss carefully with them the difficult issue of finding a new kind of work, how long it will take, how best to develop new skills.

There are often problems in getting Workers' Compensation insurance carriers to pay for benefits. If problems appear, workers will probably need to get reputable legal help. Free legal services offices are prohibited from helping with Workers' Compensation claims but many private attorneys will represent Workers' Compensation claimants without charging up front. Workers should choose their attorney very carefully. The most difficulties are found when a worker suffers an illness or disability that may be job-related but which has other causes also, e.g., back problems and where medical experts may disagree about the causes or seriousness of the disability.

2. State Disability Insurance (SDI) provides workers with benefits to help them if they cannot work due to an off-the-job illness or injury. Unlike workers' compensation, workers who are not employment-authorized cannot receive disability benefits. There is a waiting period of one week before State Disability Insurance begins to pay benefits. So short-term illness is not covered. However, if a worker's illness or injury leaves them disabled for more than 14 days, the waiting period is waived. Also, if the illness or injury was serious enough that the person needed to be hospitalized, the first week may be covered (if the disability lasts at least seven days). At the other end, disability insurance coverage cannot provide a worker with support for more than one year. To apply for disability insurance a worker must file a claim with the Employment Development Department. The claim application requires a doctor's statement about the illness or injury.

State Disability Insurance provides benefits even for pregnancy or childbirth-related conditions which keep a worker from working. As with illnesses and injuries, a pregnant woman or recent mother must provide a doctor's statement.

3. Vocational Rehabilitation is available from the California Department of Rehabilitation. If a worker is permanently disabled by an off-the-job health problem or if they cannot collect Workers' Compensation insurance, there is a free state program providing rehabilitation -- treatment for medical conditions and/or worker retraining. Getting service from the program is difficult as it is not well funded.

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