

Practicing Under the Basic Crafts ADR

The Basic Crafts Program essentially keeps the substantive law found in the California Labor Code and its interpretive case law and modifies the dispute resolution or procedural aspects to construct a mediation and arbitration process to replace the MSC and trial process that is found in the state system.

In order to initially toll the statute of limitations in a case, a Claim Form should be filed with the employer. There is no need to file an Application for Adjudication of Claim with Basic Crafts or with the Workers' Compensation Appeals Board. A copy of the Claim Form, in addition to being served on the carrier, should also be served on the Basic Crafts program with a cover letter advising the program that you will be representing the applicant.

Time Limits to be Noted

Once this is accomplished, several time limitations that exist under the Basic Crafts Addendum that do not exist under the state system should be watched very carefully. They are:

1. Under Article VII, Section B, subsection 3, when the carrier denies, reduces or terminates compensation the carrier is obligated to notify you within 15 days, and to summarize the reasons for the action.

2. When you receive a notice of a denial, reduction or termination of compensation you have 30 days to contact the carrier and attempt to resolve the issue or issues.

3. If the issue or issues can not be resolved, **within 30 days of receiving the carrier's final response, a Workers' Compensation Grievance must be filed with the Basic Crafts ADR Director.** The Workers' Compensation Grievance is similar to filing a Declaration of Readiness to Proceed, but unlike the DR there is a time limit within which it must be filed. Once a grievance is filed, the ADR Director will schedule an Informal Conciliation.

4. If an agreement is not reached at the Informal Conciliation, either party may then proceed to Arbitration by filing an Arbitration Request with the ADR Director **within 30 days of the Informal Conciliation.** The parties will then be provided with a panel of Arbitrators and asked to agree to one, or strike names. However, an Arbitration proceeding will not be immediately set. Rather, when either party is ready to proceed, a Declaration of Readiness to Arbitrate will be filed and the actual Arbitration proceeding will be scheduled.

5. The Arbitrator is required to issue a decision within 30 days of the Arbitration proceeding, assuming that the matter has been fully heard and submitted for decision.

6. Either party, or both, may file a Petition for Reconsideration or Petition for Removal, as would be allowed in the state system, and within the same time deadlines.

Where questions exist regarding the process to be followed, the ADR Director may be contacted. If the parties are facing a problem that requires the setting of a Status Conference with the ADR Director, this may be requested by telephone or letter.

Medical Treatment

Injured employees covered by the Basic Crafts Workers' Compensation Program, must be treated by physicians found on the Exclusive Medical Provider List. Of course, if emergency care is required by a physician not found on the list, the emergency treatment will be reimbursed, and when the employee is stable, his or her treatment will be transferred to a physician on the Exclusive Medical Provider List thereafter.

The Basic Crafts' Exclusive Medical Provider List consists of any northern California physician covered by:

- 1) The Blue Cross PPO,
- 2) The Health Net HMO,
- 3) Kaiser Permanente, or
- 4) Where appropriate medical services are unavailable from a physician on the list due to geography, the Qualified Medical Examiner list of the Division of Workers' Compensation can be used to find appropriate medical care.

The Exclusive List of Medical Providers can be accessed on the Basic Crafts web site, which can be found at www.basiccrafts.org.

Injured employees under the Basic Crafts Program will be allowed to change treating physicians as long as the change is made to another physician covered by the Exclusive List of Medical Providers. This right, however, is subject to the limitation that a change cannot be made after the treating physician of record has released the employee from care, unless this same physician later indicates that more care is required, or this issue is resolved through the statutorily mandated medical-legal procedure.. (Title 8, California Code of Regulations, section 9785(b) (3)).

The treatment of injured workers is subject to the various restrictions imposed under the Labor Code section 4600, et seq. These restrictions include the requirement that treatment be consistent with scientific and evidence based treatment guidelines, the strict limitations on chiropractic and physical therapy visits, and the right to submit disputed prescriptions for treatment to a utilization review process.

Medical-Legal Evaluation

Injured employees covered by the Basic Crafts Workers' Compensation Program, must be evaluated where medical disputes arise, only by physicians found on the Exclusive Medical Evaluator List. The Basic Crafts Exclusive Medical Evaluator List consists of all physicians found on the Qualified Medical Examiner list of the Division of Workers' Compensation (the QME list). (See Article VIII of the Addendum and Article 10 of the Rules of Practice and Procedure). The QME list can be accessed through the Division of

Workers' Compensation Web site, which can be found at
<http://www.dir.ca.gov/databases/imc/imcstartnew.asp>.

Agreed Medical Examiners may also be selected by the parties, but only when the injured worker is represented by counsel. (See Article VIII, subsection E. of the Addendum, and Article 10, Rule 1004, subsection d of the Rules of Practice and Procedure).