

**Public Benefits for Workers' Compensation Clients  
Your Legal Rights**

Workers' compensation clients may be eligible for other benefits to help replace lost wages and pay for medical expenses. State benefits that replace your income include state disability insurance and state unemployment insurance. Federal income replacement benefits include social security disability insurance and supplemental security income. Medicare is a federal health care benefit program and Medi-Cal is a mixed state and federal health care benefit program.

<b>Income Replacement Benefits</b>	<b>Eligibility</b>	<b>Coverage</b>	<b>State/Federal</b>	<b>Interrelation With Work Comp Benefits</b>	<b>Contact Agency</b>
State Disability Insurance	All workers who pay into SDI (including undocumented workers).	Up to 52 weeks	State	SDI benefits can be used to supplement your workers' compensation benefits if the SDI amount is the lesser of the two.	EDD <a href="http://www.edd.cahwnet.gov/">http://www.edd.cahwnet.gov/</a> 1-800-300-5616
State Unemployment Insurance	All workers who are willing, able, and available to work (undocumented workers not covered).	Up to 26 weeks in any given 12-month period	State	UI benefits will be reduced if you are receiving temporary total disability or income replacement through the workers' compensation system.	EDD <a href="http://www.edd.cahwnet.gov/">http://www.edd.cahwnet.gov/</a> 1-800-300-5616
Social Security Disability Insurance	Persons who cannot do any work that is "substantially gainful" because of a disability that will last more than year or result in death.	You must have worked long enough and paid into Social Security	Federal	If you receive Workers' comp benefits, SSA may subtract those amounts from your SDI.	U.S. Social Security Administration 800-772-1213 or <a href="http://www.ssa.gov">www.ssa.gov</a>
Supplemental Security Income	Persons with limited income and resources who cannot do work that is "substantially gainful" because of a disability that will last more than a year or result in death.	Funded by the federal government; can receive SSD and SSI if SSD is low	Federal	Workers receiving workers' comp are generally not eligible for SSI.	U.S. Social Security Administration 800-772-1213 or <a href="http://www.ssa.gov">www.ssa.gov</a>

<b>Health Care Benefits</b>	<b>Coverage/Eligibility</b>	<b>State/Federal</b>	<b>Interrelation With Work Comp Benefits</b>	<b>Contact Agency</b>
Medicare	Pays for health care for persons who have been receiving SSD (and for persons over 65).	Federal	Medicare may seek reimbursement for medical treatment that the insurance or employer should have paid for.	Centers for Medicare and Medicaid, a branch of U.S. Department of Health and Human Services (HHS) <a href="http://www.medicaid.gov/">http://www.medicaid.gov/</a>
Medi-Cal	Pays for health care for persons with limited income and resources.	State/Federal	Generally not available to workers' comp clients.	Department of Health Care Services <a href="http://www.dhcs.ca.gov/services/medi-cal/Pages/Medi-Cal-HowtoApply.aspx">http://www.dhcs.ca.gov/services/medi-cal/Pages/Medi-Cal-HowtoApply.aspx</a>

## **What are my worker compensation benefits?**

Workers' compensation benefits, known as “**temporary total disability (TTD)**” or “**temporary partial disability (TPD, also known as “wage-loss TD”)**”, both serve to compensate for lost wages while you are recovering from your injury or illness. <sup>1</sup> For specific information on workers' compensation benefits, see the Worksafe factsheets “If you get hurt on the job” and “Workers' compensation applicant attorneys.” (To obtain fact sheets, please contact Worksafe at 510-302-1043 or [info@worksafe.org](mailto:info@worksafe.org)).

**As a workers' compensation client do I have rights to other public benefits that help replace lost wages?** Yes. Workers' compensation clients may also be eligible for state and federal benefits that replace their income.

### **State Benefits:**

- **State Disability Insurance (SDI)** is a partial wage-replacement insurance plan for California workers. The SDI programs are state-mandated and funded through employee payroll deductions.<sup>2</sup> All workers who pay into the SDI program, which appears on your pay stub, are eligible for SDI, ranging from \$50-\$987 a week for up to 52 weeks, depending on the length of disability.<sup>3</sup>

The SDI program provides affordable, short-term benefits to eligible workers who suffer a loss of wages when they are unable to work due to a non work-related illness or injury, or due to pregnancy or childbirth.<sup>4</sup> **However, if the amount of money paid to you from your workers' compensation benefits is less than your SDI benefits would be, then your SDI benefits should cover the difference.**<sup>5</sup> **Also, if your employer disputes your entitlement to workers' compensation benefits, you should apply for SDI benefits until the dispute is settled.**

- **State Unemployment Insurance (UI) benefits** help replace wages if you are still willing, able, and available to work, but your employer terminates you (through no fault of your own) from your job anyway. This insurance is funded by tax contributions from employers.<sup>6</sup> Your benefits are based on recent earnings, called a “base” period.<sup>7</sup> The base period is the 12 months that ended between 4 and 6 months prior to you filing for unemployment.<sup>8</sup> The weekly benefit amount is based on your highest quarterly earnings during the base period.<sup>9</sup> The maximum UI benefit amount is \$450 per week and may be received for a maximum 26 weeks in any given 12-month period.<sup>10</sup>

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<sup>1</sup> Cal. Lab.Code §§ 4451-4459

<sup>2</sup> Cal. Unemp. Ins. Code §§2601 and 2655

<sup>3</sup> Cal. Unemp. Ins. Code §2653

<sup>4</sup> Cal. Unemp. Ins. Code §2601

<sup>5</sup> Cal. Unemp. Ins. Code §2629

<sup>6</sup> Cal. Unemp. Ins. Code §976

<sup>7</sup> Cal. Unemp. Ins. Code §1275

<sup>8</sup> Id.

<sup>9</sup> Cal. Unemp. Ins. Code §1280 (a)

<sup>10</sup> Cal. Unemp. Ins. Code §1280 (b)

**Note:** Your weekly benefit amount will be reduced if you are receiving temporary total disability or income replacement through the workers' compensation system.<sup>11</sup>

**Federal Benefits:**

- **Social Security Disability Insurance (SSD)** is for persons who cannot do any work that pays enough to rise to the level of “substantially gainful activity” because of a disability that is expected to last at least one year or result in death.<sup>12</sup> To be eligible, you must have worked long enough (depending on your age) and paid Social Security taxes.

If you receive workers' compensation TD or PD benefits, the SSA may subtract those amounts from your SSD payments, or bill you for overpayment.<sup>13</sup>

- **Supplemental Security Income (SSI)** is for permanently disabled persons with low-income and little to no work history.<sup>14</sup> You may be able to receive both SSD and SSI at the same time because SSI is intended as a supplement. SSI is a combination of federal and state funds. The Social Security disability benefits you receive are reduced if the combined total amount, plus your workers' compensation payment and any public disability benefit payment you receive, exceeds 80% of your average pre-injury/illness earnings.<sup>15</sup>

***Do I have rights to other public benefits that help pay for health care while applying for workers' compensation?***

Yes. You may be eligible for Medi-Cal and Medicare.

- **Medi-Cal** is California's Medicaid program. Medi-Cal pays for health care for persons with limited income and resources.<sup>16</sup> This includes persons receiving SSI.<sup>17</sup> Some persons receiving Medicare may still be eligible to receive Medi-Cal to help pay for uncovered costs.<sup>18</sup> Medi-Cal is funded jointly by the State of California and the federal government. Workers receiving workers' compensation are generally not eligible for Medi-Cal, and in fact Medi-Cal may seek reimbursement for medical costs that should have been covered by the workers' compensation insurance provider.<sup>19</sup> Even if you are not receiving SSI, you should apply for Medi-Cal if you are not able to pay for medical expenses.

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<sup>11</sup> Cal. Unemp. Ins. Code §1255.5 (a)

<sup>12</sup> 42 U.S.C. § 423(d)(1)(A)

<sup>13</sup> 20 C.F.R. § 416.571

<sup>14</sup> 20 C.F.R. § 416.305

<sup>15</sup> [http://ssa-custhelp.ssa.gov/app/answers/detail/a\\_id/413/~effect-of-workers%27-compensation-and-public-disability-benefit-payments-on](http://ssa-custhelp.ssa.gov/app/answers/detail/a_id/413/~effect-of-workers%27-compensation-and-public-disability-benefit-payments-on)

<sup>16</sup> Cal.Welf. & Inst. Code§ 14005.30

<sup>17</sup> 42 U.S.C § 1382 (c)(1)

<sup>18</sup> Cal.Welf. & Inst. Code§ 14005.11

<sup>19</sup> Cal.Welf. & Inst. Code§ 14124.71

- **Medicare** pays for health care for persons who have been receiving SSDI benefits (and also for persons age 65 or older). It is funded by the federal government.<sup>20</sup>

Medicare does not pay for medical treatment covered by workers' compensation. If workers' compensation insurance delays or denies your claim, and you receive Medicare to pay for costs that should have been covered by the insurance company or from your health care provider, Medicare may seek reimbursement from you for payments made as a "secondary payer."<sup>21</sup>

When an injured worker settles his or her workers' compensation case for a lump sum, the terms of the settlement can limit the amount that Medicare will pay for treatment of the injury. Therefore, before settling your workers' compensation case, you should contact an attorney to avoid possible problems with Medicare benefits.<sup>22</sup>

### ***Am I eligible for other public benefits if I am undocumented?***

If you are an undocumented worker, you may be able to receive SDI benefits if you have pay stubs showing you paid into SDI. That is, if you pay into SDI and are otherwise qualified, you cannot be denied benefits on the basis of your documentation status. Unfortunately, undocumented workers cannot receive UI, SSI, SSDI or Medicare.<sup>23</sup> However, individuals on refugee status may be eligible for Medi-Cal.<sup>24</sup>

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<sup>20</sup> 42 U.S.C. § 1395i-2a

<sup>21</sup> <http://www.medicare.gov/navigation/medicare-basics/who-pays-first.aspx#16>

<sup>22</sup> <http://www.medicare.gov/navigation/medicare-basics/who-pays-first.aspx#wc>

<sup>23</sup> 42 C.F.R. § 406.10 The Social Security Act prohibits the payment of benefits to persons in the United States who are not "lawfully present," but under certain circumstances, undocumented workers and dependents/survivors may receive benefits while residing outside the United States (including benefits based on unauthorized work).

<sup>24</sup> Cal.Welf. & Inst. Code§ 14005.30; *see also* <http://www.dhcs.ca.gov/services/medi-cal/Pages/DoYouQualifyForMedi-Cal.aspx>