Injured Workers Guide to Workers’ Compensation Benefits & Alternative Dispute Resolution
The Building & Construction Trades Council of Santa Clara & San Benito Counties (the signatory craft unions) and the County of Santa Clara have entered into a workers’ compensation Alternative Dispute Resolution (ADR) agreement.

The workers’ compensation agreement is designed to provide the best possible access to delivery of medical care and disability benefits for covered employees. The agreement also implements a dispute resolution procedure for a fair and prompt method to resolve disputes. Every employee working under this agreement can be covered by workers’ compensation under Labor Code 3201.5. This law replaces much of the awkward administration of the traditional workers’ compensation process with an Alternative Dispute Resolution agreement.

What is workers’ compensation?
Workers’ compensation is insurance required by law, which provides benefits to workers who are injured or become ill due to employment. It also provides death benefits to dependents in the event of the worker’s death. Whenever a job causes an employee to have an injury or illness, the employee will be covered. This includes everything from first aid to serious injuries to work related illnesses. Employees are covered from the first day of work.

What are the benefits of workers’ compensation?
There are five basic benefits:
1. Medical care necessary to cure or relieve the effects of the injury is provided at no cost. An employee may pre-designate a treating provider or, be treated by the provider designated by the employer or insurance carrier. If the employee is not satisfied with the treating provider, the employee may select a medical provider who is in the project’s Medical Provider Network.
2. Temporary Disability benefits are provided if the employee is unable to work for more than three days because of an on the job injury.
3. Permanent Disability benefits may be available if the employee does not fully recover from the injury.
4. Death benefits are provided when a worker is fatally injured on the job. This includes benefits to qualified surviving dependents and reasonable burial expenses (maximum set by law).
5. Supplemental Job Displacement Voucher, which is available if an employee is unable to return to regular work and the employer cannot offer permanently modified or alternative work. An employee may qualify for a non-transferable job displacement voucher ranging in value from $4,000 to $10,000 depending on the level of permanent disability. The voucher may be used for re-training or enhancing your skills.

What can be done if the employer discriminates against an employee for filing a worker’s compensation claim?
The law forbids an employer to discriminate against an employee who files a workers’ compensation claim. Employers are subject to the Americans with Disabilities Act (ADA) and the Fair Employment Housing Act (FEHA). For questions call the Equal Employment Opportunity Commission at 1-800-669-4000.

When does temporary disability begin?
Temporary disability benefits (TDD) are based on two-thirds of an employee’s average weekly wage. Benefit maximums are set by law. For injuries after January 1, 2010, the maximum TTD rate is $986.69 per week. A letter of explanation will be mailed to the employee explaining on what day of the week a check will be mailed. TTD will be paid every two weeks while an employee is qualified. TTD is not paid for the first three days, unless the employee is in the hospital or unable to work for more than 14 days.

How are claims reported?
First, an employee should contact their foreman or supervisor. Employees will be sent to an approved medical clinic. Second, a claim form will be given to the employee. This form should be filled out and returned as soon as possible.

How does the Alternative Dispute Resolution (ADR) program work?
First, talk to the Ombudsperson for the program. If the Ombudsperson is unable to resolve your issue, the case goes to mediation. In mediation, a mediator will try to resolve the issue by meeting with all parties to discuss the concerns. If mediation is not successful, the case will go to arbitration. Arbitration is like a court hearing. An Arbitrator will be assigned to hear the employee’s case. Evidence will be presented and the Arbitrator will render a decision. The decision of the Arbitrator has the same authority as a workers’ compensation judge.

If an employee has questions or needs assistance, who and what number should be called?
Barbara Shogren Lies has been appointed as the Ombudsperson for the Santa Clara Valley Medical Center Seismic Safety Project. The Ombudsperson helps the injured employee receive workers’ compensation benefits without delay. The Ombudsperson will work with the insurance company, doctor, employer, and union representative to make sure the injured employee gets all the workers’ compensation benefits that they are entitled to receive. These services are free to workers who become injured or ill because of work performed at the Seismic Safety Project.
Call Barbara Shogren Lies if you have any questions or need assistance with any of the following:
Claim Form
Temporary or Permanent Disability Benefits
Benefits or Coverage
Communication with your employer, doctor, insurance company claims representative or union representative
Medical Care and Disability Payments
Returning to Work
Supplemental Job Displacement Voucher
Arbitration

Barbara Shogren Lies can be reached at 800-905-7595 or fax at 951-788-0320. Ms. Shogren Lies email is shogren@earthlink.net and the address is:
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