

# RISK SIMPLIFIED

## RESOURCES

[DIR Labor-Management \(Carve-Out\) Agreements](#)

[Labor Code section 3201.7](#)

[CCR Title 8, Sections 10200-10204](#)

[DIR How to Create a Workers' Compensation Carve-Out Program in California](#)

## QUESTIONS

[Email PRISM Risk Control](#)  
or call 916.850.7300

## Carve Out Programs

by Sarah Bruno, ARM

A carve out program is established when both employees and the employer decide to create their own procedures for providing workers' compensation, outside of the state worker's compensation system. It is commonly referred to as a carve-out, because specified employees and employers are carved out from the state workers' compensation system.

Once established, a carve out agreement will oversee the way benefits are provided to injured workers, as well as resolving problems and disputes. A key feature of most carve out agreements is an alternative dispute resolution process. It is important to note that carve outs are allowed in the Labor Code only for unionized employers. Both employers and employees often find carve outs beneficial. The program must continue to meet certain benefit requirements of workers' compensation laws that injured employees would otherwise receive under the state system (i.e. payment of medical treatment, temporary disability benefits, permanent disability benefits).

The following are potential optional features of a carve out agreement, authorized by law:

- An alternative dispute resolution (ADR) process
- The use of an ombudsman
- The use of an agreed list of providers of medical treatment that may be the exclusive source of all medical treatment
- The use of an agreed list of qualified medical evaluators (QME) and agreed medical evaluators (AME) that may be the exclusive source of QMEs and AMEs
- A joint labor-management safety committee
- A light-duty, modified job, or return-to-work program
- A vocational rehabilitation or retraining program

## Benefits of Utilizing a Carve Out

There are several reasons both employers and employees would find a carve out appealing. When compared to traditional workers' compensation, carve outs can provide the following benefits:

- **More Efficient**

Generally speaking those who choose to create a carve out are frustrated with the amount of time it takes to resolve claims and address disputes. They find carve out programs lead to faster claim resolution, less lost time and develop a streamlined settlement process.

- **Improved Labor/Management Relationship**

What can be viewed as an adversarial relationship between management and labor often becomes more cooperative as each part works to put together a program that benefits everyone. This can lead to better morale, productivity and job satisfaction. This improved relationship, in combination with an ADR process will often times decrease unnecessary litigation costs.



- **Less Expensive**

Both improved efficiency and better relationships between labor and management may lead to cost savings under the agreement. Carve outs can also reduce administrative costs if there is no utilization review, no independent medical review, or no independent bill review.

- **Faster Medical Treatment and Evaluation**

With an agreed list of providers for both medical treatment and evaluation, these can be scheduled in a shorter period of time.

## Setting up a Carve Out Program

In order to set up a carve out several steps must be taken in addition to coming to terms with a union agreement. This includes filing an initial petition with the Administrative Director of the Division of Workers' Compensation to confirm eligibility to negotiate, which is valid for up to 1 year. Once terms have been reached with the union, then a complete application must be submitted to the DIR for approval.

For PRISM members who participate in the Primary Workers' Compensation or Excess Workers' Compensation Programs and wish to establish a Carve Out program, a review of the proposal by the Claims Review Committee prior to implementation must take place.

For any additional questions regarding this topic, contact the [PRISM Risk Control Department](#).