

Appendix G

Non-Occupational Pesticide Injury Reimbursement

Interprets FAC section 12997.5

Background

FAC section 12997.5 places the financial burden to pay for “the immediate costs of uncompensated medical care from acute injuries and illness” on those businesses that are responsible for the harm caused by their behavior when they commit a violation of certain pesticide laws and regulations when using a pesticide for the production of an agricultural commodity.

The medical cost reimbursement provisions of this law do not apply to pesticide incidents that occur in the workplace. Employers are required to make sure workers that are injured on the job:

- Get treatment immediately; and
 - Have costs covered by the worker’s compensation system.
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Intent of the law

When non-occupational bystanders are injured or made ill by pesticides, it is reasonable for them to seek medical attention. The intent of the statute is to cover any costs to the injured person that are "out-of-pocket." If their insurance does not cover treatment, refuses to pay for treatment, or requires a co-payment, the patient can submit a claim to the violator/Respondent to be reimbursed. The law is intended to place the financial burden to pay for acute medical costs on the business that is responsible for the harm.

- The law requires violators to pay the medical expenses of people they injure or make ill when their actions were a violation of a pesticide law or regulation.
 - The law encourages completing investigations and enforcement actions in a timely manner so victims can be reimbursed for their uncompensated medical expenses in a timely manner.
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Definitions from FAC section 12996.5

Acute: A medical condition that involves the sudden onset of symptoms due to an illness, injury, or other medical problem that requires prompt medical attention and that has a limited duration.

Nonoccupational: The person exposed to the pesticide was not at the time of exposure performing work as an employee.

Uncompensated Medical Care: The cost of care not covered by any other program, such as, (but not limited to) copayments for medical insurance, the Healthy Families Program, or Medi-Cal. Reimbursed medical costs shall not be more than 125% of Medi-Cal reimbursement rates.

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Non-occupational Pesticide Injury Reimbursement, Continued

Requirements summary for medical costs reimbursement

If:

- The pesticide use was in violation of a law in FAC Division 7 or a regulation adopted under the authority of a FAC Division 7 law;
- The misuse caused an acute illness or injury;
- The misuse occurred in production of an agricultural commodity;
- The incident occurred to an individual in a non-occupational setting;
- The illness or injury required emergency medical transport or immediate medical treatment; and
- There is an order/determination of a responsible party for the violation,

then the violator must reimburse uncompensated medical costs to persons who were injured.

When do the requirements not apply?

The reimbursement provision cannot be applied when:

- The illness or injury is not acute.
 - The incident did not involve the production of an agricultural commodity (e.g., pesticide use on golf courses, rights-of-way, structural/home/industrial/institutional uses, mosquito vector control, etc.)
 - The victim did not incur uncompensated medical costs.
 - There has not been an order/determination of a violation.
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Responsibilities Under FAC section 12997.5

DPR responsibilities

DPR is responsible for:

- Providing guidance to the CACs.
- Assisting with the CAC investigation, when necessary.
- Receiving the written medical reimbursement plans.
- Following-up with enforcement actions, as needed.

DPR will encourage CACs to follow-up with additional enforcement actions when respondents, who have received due process and been found to have been responsible for a violation, do not pay the fine; do not submit a written reimbursement plan; or do not reimburse victims.

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Non-occupational Pesticide Injury Reimbursement, Continued

CAC responsibilities

The CAC is required to conduct an investigation and take appropriate action on pesticide episodes in a timely manner. The CAC should attempt to complete the determination within 45 days of the incident.

The CAC is responsible for:

- Properly collecting evidence.
- Identifying violations (and their elements).
- Identifying violators and victims to the best of their ability.

County investigations into these incidents will probably identify most individuals who were made ill, though FAC section 12997.5 does not require the CAC to determine the amount of uncompensated medical costs or who qualifies for reimbursement.

- The law does not require or authorize the CAC to oversee the reimbursement process.
- The law does not require the CAC to identify all persons entitled to medical cost reimbursement. However, to facilitate prompt reimbursement, the CAC should notify those individuals who qualify of their right to reimbursement and may provide contact information for those individuals to the violator/Respondent after consultation with their County Counsel. See *Release of Victim Contact Information* below.
- The CAC does not have to consider reducing the proposed penalty of respondents who pay for uncompensated medical expenses and then do not either make a timely hearing request and do not appear with evidence of the payment(s) at the hearing.

Obtain permission for release of personal information

DPR advises the CAC to obtain permission before releasing names and addresses of victims who may be eligible for reimbursement for non-occupational acute pesticide-related illnesses or injuries. Model language is in the “Contact Permission Template.” CACs should consult with County Counsel if they wish to use another format or method to obtain release of the victim’s name and address.

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Non-occupational Pesticide Injury Reimbursement, Continued

**Notice to
Respondent
requirement**

FAC section 12997.5 requires the CAC, when issuing the NOPA, to also provide the Respondent with a statement notifying the Respondent of their responsibility to pay uncompensated medical costs of those who suffered acute illness or injury in a non-occupational situation and sought immediate medical treatment.

The CAC must issue an order to pay the fine along with an order to the violator/Respondent to submit a written reimbursement payment plan to DPR (if reimbursements have not already been paid) after a hearing or stipulation to the violation.

Sample NOPA text is found in Chapter 7.

**Violator
responsibilities**

The violator is ultimately responsible for paying the uncompensated medical costs of those affected by the pesticide misuse and must compensate injured individuals or their medical providers, such as ambulance companies, doctors, and hospitals.

The violator is responsible for presenting evidence of their offer to reimburse the victim(s), or evidence of the reimbursement, at the hearing if they want the CAC to consider reducing the proposed penalty.

- Violators who refuse to comply with their legal responsibility are subject to additional enforcement actions by DPR.
 - The reimbursement activity does not protect the violator from additional criminal and civil sanctions and penalties.
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**Victim rights
and
responsibilities**

Victims have a right to contact the violator to claim reimbursement for uncompensated medical expenses. If the victim wants reimbursement, it is the victim's responsibility to contact the violator. If they do not, they might not receive reimbursement for their uncompensated medical costs.

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Non-occupational Pesticide Injury Reimbursement, Continued

Investigations

How do we know who is made ill?

Determining the scope of the incident and interviewing victims is part of an investigation. By the time an investigation is complete, and an enforcement order issued, the CAC usually knows the names of those made ill.

However, under the law it is not the responsibility of the CAC to identify all persons entitled to medical cost reimbursement. If additional individuals who suffered acute illness and sought immediate medical care are identified later, they can contact the alleged violator to claim medical reimbursement.

Contact information of victims who qualify for reimbursement (suffered acute illness or injury outside the scope of their employment and sought immediate medical attention) may be provided. However, to avoid issues related to the invasion of personal privacy, the CAC should notify the qualified individuals of their right to reimbursement for uncompensated medical expenses and request permission to release their contact information to the respondent/violator as soon as practical during the course of the investigation. See the section on CAC responsibilities and the Contact permission template below

This may be the only practical way for persons entitled to medical reimbursement to be reimbursed in a timely manner. The law is specific about encouraging the CAC to complete investigations of, and taking appropriate enforcement actions in, a timely manner.

DPR strongly encourages the CAC to consult with their County Counsel about the release of certain personal information.

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Non-occupational Pesticide Injury Reimbursement, Continued

Victim Contact Permission for Medical Costs Reimbursement

**Obtaining
release for
victim's name
and address**

The following template may be used during a pesticide illness or injury investigation to facilitate timely reimbursement for each person who appears to meet criteria for reimbursement pursuant to FAC sections 12996.5 and 12997.5 (non-occupational, acute pesticide injuries and illnesses). *This information may be translated into other languages.*

**Contact
permission
template**

[County Letterhead]

You may have the right to receive payment for your uncompensated medical costs from the person responsible for your pesticide-related illness or injury.

Do you wish to have your name and address released to the person who made the application that may have caused your symptoms, illness, or injuries so they may contact you about your uncompensated medical costs?

Yes Initials _____ Date _____ No Initials _____ Date _____

If you indicated "Yes" you are giving permission for the alleged violator, or their representative(s), to contact you about your medical expenses for acute non-occupational pesticide-related illness or injury.

If you indicated "Yes", please write, or ask the investigator to write, your full name and complete address below:

Name _____ Address _____

Signature _____ City, State Zip _____

If you indicated "Yes", your signature above verifies that it is permissible for the County Agricultural Commissioner to release your name and address to the alleged violator, and their representative(s).

If you do not provide permission, it is up to you to contact the alleged violator to obtain reimbursement for your uncompensated medical costs related to your non-occupational, acute pesticide illness or injury.

The name and address of the alleged violator is:

Name _____ Address _____

City/State/Zip _____

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Non-occupational Pesticide Injury Reimbursement, Continued

Penalty Reductions

Incentive to reduce penalty for immediate reimbursement of medical costs

The law provides an incentive for persons, who made the application resulting in the acute illness or injury, to pay medical costs before an investigation is complete. If the responsible party pays medical costs immediately, FAC section 12997.5(g) gives the CAC the option of reducing penalties, for violations specific to the illness or injury, by as much as 50% for the specific violation penalty.

Utilization of this option is at the discretion of the CAC (the CAC may or may not be the Hearing Officer in this matter). The penalty reduction may be calculated in any manner considered appropriate and fair by the CAC, as long as reduction does not exceed 50 percent of the proposed aggregate penalty.

The Respondent must timely request a hearing and bring evidence of the prompt reimbursement of uncompensated medical costs to the hearing before the CAC can consider reducing a penalty.

Payment is not an admission of guilt

Payment of emergency medical costs shall not be held against the person in any action to determine whether the person violated those provisions. That is, for purposes of implementing the medical reimbursement incentive portion of this law, payment of the uncompensated medical costs does not constitute an admission of guilt or stipulation to the charges.

What happens if the investigation finds no violations can be proven?

An alleged violator may pay before a final determination that there was a violation. There is no recourse through the CAC if it is later determined that there was no violation or that the victim did not meet all the criteria necessary to be reimbursed for uncompensated medical costs.

An alleged violator may reimburse victims before the investigation is completed or before a Notice of Proposed Action is sent. Their prompt reimbursement might be because they wish to build community goodwill, or they anticipate they will be held in violation if the matter goes to a hearing, or they wish to be considered for a lesser fine at a hearing.

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Other Information

Internet links

[FAC Division 7 Article 12](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=FA&division=7.&title=&part=&chapter=2.&article=12) Sections 12996.5, 12997.5, 12997.7:
<https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=FA&division=7.&title=&part=&chapter=2.&article=12>

Department of Pesticide Regulation:

- [Reimbursing Medical Costs of Persons Injured in Pesticide Incidents](https://www.cdpr.ca.gov/wp-content/uploads/2025/05/reimbursing_medical_costs_of_persons_injured_in_pesticide_incidents.pdf) at <https://www.cdpr.ca.gov/wp-content/uploads/2025/05/reimbursing_medical_costs_of_persons_injured_in_pesticide_incidents.pdf>
 - [Reembolso de Gastos Medicos a Personas Lesionadas en Incidentes de Pesticidas](https://www.cdpr.ca.gov/wp-content/uploads/2025/05/reimbursing_medical_costs_of_persons_injured_in_pesticide_incidents_sp.pdf) at <https://www.cdpr.ca.gov/wp-content/uploads/2025/05/reimbursing_medical_costs_of_persons_injured_in_pesticide_incidents_sp.pdf>
 - Compendium Volume 5 [Investigation Procedures](https://www.cdpr.ca.gov/enforcement/resources-for-county-agricultural-commissioners/volume-5-investigation-procedures/) at <<https://www.cdpr.ca.gov/enforcement/resources-for-county-agricultural-commissioners/volume-5-investigation-procedures/>>:
 - Chapter 1: Jurisdiction (specifically “Human Effects Episodes), Investigative Plan, and Timely Submission of Human Effects Episode Investigations
 - Chapter 2: Human Effects Episodes (specifically “Field Worker Cluster Episodes” and “Public Exposure Episodes Involving Large Numbers of People”)
 - Appendix F: Public Exposure Episodes Involving Large Numbers of People
 - [Pesticide Episode Investigation Non-Occupational Exposure Supplement \(DPR-ENF-128\)](https://www.cdpr.ca.gov/wp-content/uploads/2024/08/prenf128.pdf) at <<https://www.cdpr.ca.gov/wp-content/uploads/2024/08/prenf128.pdf>>
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