

# UTBMS Workers' Compensation Code Set 2010

Uniform Task Based Management System

# Uniform Task Based Management System UTBMS Workers' Compensation Code Set 2010

The American Bar Association (ABA) and the Association of Corporate Counsel (ACC) facilitated the creation of a series of task based code sets to cover the major classification of legal services, including a specific UTBMS Litigation Task Code Set in 1995. Neither association officially endorsed or took ownership as such for the code sets. No umbrella management/professional development organization was created.

There was tacit recognition at the time of the creation of the litigation code set that there were distinct classes of litigation that warranted its special attention. It was resolved at that time to focus on introducing the concept of task-based management of budgeting and billing for litigation in general. UTBMS is digital based making it ideal for e-billing. It has become synonymous with LEDES supported e-billing applications.

Insurance defense litigation has emerged as the dominant user of "task based billing" systems. To address their specific budgeting and billing requirements a representative stakeholder group developed a modified UTBMS Litigation Code Set 2007. Subsequent to that a substantive stakeholder group with workers' compensation expertise, although supportive of the modifications, identified task gaps in code phases and ambiguity in the wording of existing tasks. The UTBMS Workers' Compensation Code Set 2010 remedies ambiguities and deficiencies in task based budgeting and billing for workers compensation litigation while retaining compatibility with the methodology and integrity of the UTBMS Litigation Code Set 2007.

The UTBMS Workers' Compensation Code Set 2010 will serve both as an e-billing platform for task based budgeting and billing and a practice management guide. Each task contains a set of "Commentary & Practice Tips" that will help workers' compensation defense lawyers and Workers' Compensation Claims Managers to develop a mutually beneficial working relationship.

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# UTBMS Workers' Compensation Code Set 2010

## UTBMS – WC Code Set

### Phase 100

#### WC110

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#### Initial Assessment of Case and/or Issue and Outcomes WC110 – Fact Investigation/Development - All actions to investigate, understand the facts of matter

- Interview of client personnel/potential witnesses/Conference with employer/adjuster
- Review of file documents, investigation/surveillance/background search and securing claims material
- Review of employer/personnel/wage records
- Legal research for initial case assessment purposes
- Development of factual and legal issues
- Identify potential experts
- Review of medical records regarding work status, treatment plan and maximum medical improvement
- Obtain and Review medical/legal claims records for prior injuries/diseases/disability/W.C. Claims.

#### WC110 Commentary & Practice Tips

- The only legal research that should be included in this code is that which is directly related to an initial evaluation of the case. All subsequent legal research should be itemized under the primary task for which the research is conducted, or issue within a case.
- Many of the tasks within the WC110 phase will apply during the entire life of the case, particularly in jurisdictions such as New York where issues arrive months and years following the initial determination of compensability.
- Keeping track of time spent performing this function will enable both the firms and insurers an opportunity to learn whether they are strategizing together. Insurers will learn whether they are included in the process of putting together a "game plan."
- The medical records obtained and reviewed in this section are from the employer, adjuster/carrier.

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#### WC 120 Analysis/Strategy – Thinking, Strategizing, and Planning for a case

- Preparing for/Attending initial strategy conference with adjuster/employer/ nurse case manager
- Discussions/Writing /Meetings on case strategy
- Preparation of litigation Plan & updates
- Communication on case strategy/trial strategy with adjuster/ employer/nurse case manager
- All written communication between defense attorney and adjuster/adjuster/nurse case manager re fact investigation and strategy should be included in this task.

#### WC 120 Commentary & Practice Tips

- When there might be overlap between the efforts attributable to fact/investigation case evaluation and case strategy, use this code.
- All written communication between defense counsel and the employer/carrier regarding fact investigation and the strategy should be under this code.

#### WC 130 Experts/Consultants

- Select medical/ vocational experts
- Reviewing Expert/Consultant Reports
- Communication with Expert /Consultants adjuster/employer/ nurse case manager regarding expert opinions.

#### WC 130 Commentary & Practice Tips

- This code is only meant to deal with the initial processes of identifying and interviewing experts and consultants.
- Time spent in helping an expert witness prepare his or her report or preparing for deposition or for trial should be billed to WC 330, WC340 or WC420 as appropriate but not to WC130.
- Time spent preparing for expert testimony is billable to WC 330, WC340 or WC420 as appropriate but not to WC130.
- As with other WC100 codes, WC130 focuses on initial steps in the handling and strategizing of the defendant's case.

#### WC 150 Budgeting

- Preparation of Budget
- Correspondence regarding Budget

#### WC 150 Commentary & Practice Tips

- This code applies to time spent developing, negotiating or revising a budget including correspondence to substantiate the budget and periodic updates required by the client for a matter.
- This would include outlining the cost of anticipated tasks, planning staffing needs and hours, estimating external expenses, and outlining assumptions associated with the budget.
- Communications with your client reviewing and/or revising the budget should be billed under this section and not WC120.

#### WC 160 Settlement/Resolution

- Activities directed specifically to Settlement.
- Planning/Participation in Settlement discussions
- Conferences/communications with attorney, adjuster and employer and/or other party.
- Preparing Settlement Analysis
- Mediation
- Preparing Opening Statement for Mediation
- Traveling to/from Mediation

#### WC130

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#### WC150

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#### WC160

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- Attend Mediation
- Any and all communication regarding Settlement/Mediation/other non-binding procedures.
- Preparing /drafting Compromise & Release Agreement and Order
- Preparing/Drafting/Attending Motion to Enforce Settlement Agreements
- Prepare Settlement Stipulation
- Preparing Medicare allocation/application to CMS for pre or post Settlement approval

## WC160

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### WC 160 Commentary & Practice Tips

- All activities directed specifically to settlement. Encompasses planning for and participating in settlement discussions, conferences, and hearings and implementing a settlement. Covers pursuing and participating in mediation and other non-binding procedures. Also includes pre-litigation demand letters and ensuing discussions.
- Post ADR or Mediation settlement discussions that occur concurrently with Trial should be billed under WC160.
- Discussions or written communications with your client regarding settlement authority should be billed under this code.
- Drafting settlement agreements including Final Releases, Compromise & Release Agreements and Annuity contracts and MSA activities should be billed under this code.

## WC180

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### WC 180 Alternative Fee Arrangements

This code includes all non-hourly or other alternative fee arrangements for tasks and activities in this phase

#### Commentary & Practice Tips

Workers' Compensation practice is frequently encountering alternative billing arrangements such as flat fees. The intent of this task code is to permit the recording of time included within the initial assessment phase for which there is no an hourly rate entry. For example, if a matter such as settlement processing involves a single fee, regardless of the time spent, instead of entering a variety of time charges under WC160 broken down by various activity codes, the cumulative time can be recorded under WC180 insomuch as the separate activities do not impact the total amount of the bill.

## Phase 200

### Pleadings/Preliminary Proceedings

#### WC 210 Pleadings

- Drafting/Editing/Filing all Pleadings
- Reviewing Opposing pleadings
- Drafting/Reviewing Counter-claims and/or joinders
- Research for Pleadings
- Preparing/Drafting/Filing Workers' Compensation State forms and supporting Memorandum of Law
- Preparing Affidavits/Attorney affirmations
- Prepare communication with adjuster/employer regarding analysis/summary of pleadings/state forms
- Reviewing/preparing pre-hearing notices between tribunal and parties.

#### WC 210 Commentary & Practice Tips

- This code encompasses all pleadings and state forms prepared or reviewed by parties, as well as any asserted against prospective parties, including time spent researching the legal basis for the pleading.

#### WC 230 Conferences with Judge

- Preparing for conference
- Attending conference
- Reporting on conference with Judge

#### WC 230 Commentary & Practice Tips

- This code includes participation in, or travel to and attendance at conferences.
- Final pre-trial conferences should be billed to WC 450 (appearing at trial; related hearings)
- Preparation, review and service of papers submitted at WC tribunal - mandated events are included in this code.
- This code encompasses all matters up to the hearing on the merits. Actual hearing/trial matters are covered in WC 450.

#### WC 280 Alternative Fee Arrangements

This code includes all non-hourly or other alternative fee arrangements for tasks and activities in this phase.

#### WC 280 Commentary & Practice Tips

Workers' Compensation practice is frequently encountering alternative billing arrangements such as flat fees. The intent of this task code is to permit the recording of time included within the Pre-Trial Pleadings and Motions Phase of activities for which there is no hourly rate time entry. For example, if a matter such as filing an answer involves a single fee, regardless of time spent, instead of entering a variety of time charges under WC 210 broken down by various activity codes, the cumulative time can be recorded under WC280 insomuch as the separate activities do not impact on the total amount of the bill.

## WC210

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## WC230

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## WC280

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## Phase 300

### Discovery/Document Production

#### WC310

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#### WC 310 Written Discovery

- Preparing/Identifying
- Reviewing response to written discovery
- Preparing summary/analysis of written discovery

#### WC 301 Commentary & Practice Tips

- Preparing, responding to and/or objecting to interrogatories and requests to admit. Includes mandatory meet-and-confer sessions. Also covers mandatory written disclosures as under Rule 26(a).

#### WC320

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#### WC 320 Document Production/Acquisition

- Preparing/responding and/or objecting to document request
- Identifying/Reviewing documents for production
- Identifying/Reviewing documents for privilege
- Prepare/Draft Request to Produce
- Prepare/Draft response for Request to Produce
- Prepare/Draft Subpoena/authorizations
- Obtain non-subpoenaed documents
- Review/Summarize Subpoenaed Documents/Requests to produce documents.

#### WC 320 Commentary & Practice Tips

- Preparing, responding to, and/or objecting to document requests, including the mandatory meet-and-confer sessions to resolve objections. Includes identifying documents for production, reviewing documents for privilege, effecting production, and preparing requested privilege lists. (While a general review of documents produced by other parties falls under this task, the initial review of documents primarily to understand the facts is Task WC110.)
- WC 320 is applicable to the identification and analysis to determine portions of documents or whole documents that should or should not be disclosed.
- Identification and analysis of the pertinent data required to support a subpoena is appropriately billed using this code.
- Time spent by a paralegal or attorney associated with subpoena issuance, authorizations or compliance should be billed using this code.
- Timekeeping related to Electronic Discovery is included in this category, whereas technology and vendor costs relating to Electronic Discovery are considered Expenses.
- Timekeeping related to obtaining, reviewing and exchanging medical records should use this code. Timekeeping related specifically to medical experts, such as an IME, should be coded under WC340.

#### WC 330 Depositions

#### WC330

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- Preparing Deposition notices and subpoenas for lay witnesses.
- Communicating with witnesses and/or opposing counsel
- Discussing deposition strategy with adjuster/employer and/or witness
- Preparing witnesses
- Reviewing medical records/documents/Claims file for deposition preparation
- Preparing direct/cross examination questions for depositions
- Attending depositions
- Travel to and from depositions
- Prepare deposition summaries/reports to client

#### WC 330 Commentary & Practice Tips

- All work concerning depositions, including determining the deponents and the timing and sequence of depositions, preparing deposition notices and subpoenas, communicating with opposing or other party's counsel on scheduling and logistics, planning for and preparing to take the depositions, discussing deposition strategy, preparing witnesses, reviewing documents for deposition preparation, attending depositions, and drafting any deposition summaries/reports.
- WC 330 is applicable to the identification and analysis of documents to be referred to or used as exhibits at deposition.
- In some jurisdictions either lay or medical testimony is taken by deposition, but constitutes the trial testimony. This code should be used for such depositions.

#### WC 340 Expert Discovery

#### WC340

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- Preparing expert discovery and deposition notices
- Communicating with expert and opposing counsel
- Preparing subpoena to secure experts (vocational/ medical/other) appearance at deposition/trial
- Discussing deposition strategy with employer/adjuster
- Reviewing Expert documents/records and/or films review
- Drafting expert summaries
- Preparation for and consultation with expert
- Arranging and scheduling Independent Medical Examinations (IME) and Impairment Rating Evaluations (IRE)
- Review & Analysis of Independent Medical Examination (IME) & Impairment Rating Evaluation (IRE)
- Communicating with expert (vocation/medical and other) and obtaining vocational documents

#### WC 340 Commentary & Practice Tips

- This code is used once experts have been identified. Activity related to determining the appropriate experts should be coded to WC 130.
- Activities related to medical expert opinions or testimony, previously shown under WC 390.

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### WC 350 Discovery Motions

- Preparing/responding to/arguing motions that arise from discovery
- Review Order ruling on motion
- Preparing summary of tribunal order

### WC 350 Commentary & Practice Tips

- Preparing, responding to, and arguing all motions that arise out of the discovery process, should be included here. It also Includes the protective order process.

## WC360

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### WC 360 Discovery On-Site Inspections/Visits

- Travel to and from site Inspection/visits
- Attend Site Inspection/visits
- Prepare summary of results from onsite inspection/visits

### WC 360 Commentary & Practice Tips

- This code includes all site inspections/visits.

## WC380

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### WC 380 Alternative Fee Arrangements

This code includes all non-hourly or other alternative fee arrangements for tasks and activities in this phase.

### WC 380 Commentary & Practice Tips

Workers' Compensation practice is frequently encountering alternative billing arrangements such as flat fees. The intent of this task code is to permit the recording of time included in the Discover/ Document Production Phase of activities for which there is not hourly rate of time entry. For example, if a matter such as taking a deposition involves a single fee, regardless of the time spent, instead of entering a variety of time charges under WC 330 broken down by various activity codes, the cumulative time can be recorded under WC380 insomuch as the separate activities do not impact the total amount of the bill.

## Phase 400

### Hearings/Trial Practice

#### WC 410 Fact Witnesses

- Preparing for examination of witness
- Interview/meeting with witness
- Preparing for cross-examination of witness
- Review & Analysis of deposition/trial transcripts

#### WC 410 Commentary & Practice Tips

- The preparation of witnesses includes meetings, mock examinations and the review of evidence.
- Preparing direct and cross-examinations under this section would include document and record review when preparing direct and cross-examinations. This would include time spent with demonstrative evidence and the use of exemplars. However, the actual development of the demonstrative evidence itself would be allocated to (WC 440).
- The time spent for the actual taking of testimony should be included under WC 330 or WC 450.

#### WC 420 Expert Witnesses

- Preparing for examination of expert witness
- Interview/meeting with expert witness
- Preparing for cross-examination of expert witness
- Review & Analysis of deposition /trial transcripts

#### WC 420 Commentary & Practice Tips

- This involves strategizing, review of collateral materials such as prior testimony, review of technical literature, document review and outline preparation for direct and cross-examination. Investigating an opposing expert witness's background and areas of alleged expertise is an activity allocated to this code.
- This code also includes meetings and communications analyzing, adjusting and responding to adversarial experts.
- Time associated with preparation of deposition notices and subpoenas, and preparing witnesses for depositions to be billed under WC 330 OR WC 340, as appropriate.

#### WC 430 Written Motions/Submissions

- Developing/Reviewing written motions for hearing
- Preparing and Responding to written motions
- Arguing written motions
- Review & Analysis of Order on Motion
- Jurisdictional Motions
- Research for Motions
- Dispositive Motions
- Prepare communication with adjuster regarding analysis/summary of Motion

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## WC420

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## WC430

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## WC 430 Commentary & Practice Tips

- This code encompasses all of the papers exclusive of discovery motions, which are under WC 350 that are filed with the tribunal from initiation of proceedings to the finish of the trial.
- This code would also involve the amendment of written submissions

## WC440

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## WC 440 Hearing Preparation and Support

- Preparing for hearing
- Identifying documents/evidence for use at hearing
- Preparing demonstrative materials, evidence and exhibits
- Pre-hearing conference with adjuster/employer /opposing counsel/witness
- Research of case law and statutes for use at hearing
- Review of deposition for use at hearing
- Preparation of trial summary Memorandum of Law
- Preparation of opening/closing statement

## WC 440 Commentary & Practice Tips

- This code lists very specific tasks, yet involves a broad range of areas of trial preparation.
- The entries allocated under this code should relate directly to what is necessary to prepare and perfect certain events during the trial.
- This section includes actual witness preparation immediately before the trial. Witness preparation other than immediately before trial should be coded by either WC 410 or WC 420.
- This code will allow for a critical analysis of the trial preparedness of a law firm. A worthy analysis is to review the ratio of trial preparation billing to actual in-trial billing.

## WC450

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## WC 450 Hearing

- Appearance at hearing
- Arguing written motions
- Travel to /from hearing
- Post-hearing communication/report regarding hearing

## WC 450 Commentary & Practice Tips

- This code encompasses time relating to the hearing.

## WC 460 Post-Hearing Conferences/ Motions/Submissions

## WC460

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- Post-hearing conference with adjuster/employer/opposing counsel/other parties.
- Preparing Proposed Findings of Fact/Conclusions of Law/Position Paper and Memorandum of Law in Support thereof
- Preparing Objection to Claimant's final submission
- Preservation of Objections
- Legal research
- Preparation of proposed Order for Court
- Review Order from Court

## WC 460 Commentary & Practice Tips

- This code includes post hearing conference and submissions, hearing evidence, but does not include time spent on appellate analysis, which should be coded to (WC 510) or (WC 520).
- This code will involve time spent seeking a new hearing and/or to have a decision set aside, or amended by the tribunal.

## WC 470 Assertion of Subrogation Claims on behalf of employer/carrier

## WC470

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## WC 480 Alternative Fee Arrangements

This code includes all non-hourly or other alternative fee arrangements for tasks and activities in this phase.

## WC 480 Commentary & Practice Tips

Workers' Compensation practice is frequently encountering alternative billing arrangements such as flat fees. The intent of this task code is to permit the recording of time included with the Hearings/Trial Practice Phase of activities for which there is no hourly rate or time entry. For example, if a matter such as attending a trial involves a single fee, regardless of the time spent, instead of entering a variety of time charges under WC 450 broken down by various activity codes, the cumulative time can be recorded under WC480 inasmuch as the separate activities do not impact the total amount of the bill.

## WC480

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## Phase 500 Appellate Practice

### WC510

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#### WC 510 Appellate Proceedings/Motion Practice

- Research Appellate Issues
- Draft Response to Motions/other filings
- Arguing Motions/other Findings
- Attend Motion Hearing
- Travel to & from Motion Hearing
- Prepare Notice of Appeal
- Designing Appellate Record
- Extraordinary Writs/Appellate Proceedings
- Review responses to Appellate Petition
- Prepare response to Appellate Petition
- Prepare petition Appendix

#### WC 510 Commentary & Practice Tips

- All time associated with motion practice regarding the appellate process should use this code, including time spent on appellate motions, including notices, scheduling and logistics, planning for and preparing to draft all appellate motion papers and memorandum of law.
- Time spent compiling exhibits or putting together the appellate motion papers should not be billed as it is considered overhead.

### WC520

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#### WC 520 Appellate Briefs

- Legal Research for Appellate Brief/Rebuttal
- Preparing Appellate Brief
- Reviewing opposing party Appellate Brief
- Review Record
- Prepare Appellate Record
- Communication with client/employer/adjuster/attorney/others re: appeal/rebuttal.

### WC530

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#### WC 530 Oral Argument/Post Submission Practice

- Preparing for Oral Argument
- Argue an Appeal
- Travel to & from
- Pre and post argument Communication re appeal.
- Review Board/Court Decision on Appeal

## WC 580 Alternative Fee Arrangements

This code includes all non-hourly or other alternative fee arrangements for tasks and activities in this task.

### WC 580 Commentary & Practice Tips

Workers' Compensation practice is frequently encountering alternative billing arrangements such as flat fees. The intent of this task code is to permit the recording of time included with the Appellant/Practice Phase of activities for which there is no hourly time rate entry. For example, if a matter such as an appeal involves a single fee, regardless of the time spent, instead of entering a variety of time charges under WC 510, WC 520 or WC 530 broken down by various activity codes, the cumulative time can be recorded under WC 580 insomuch as the separate activities do not impact on the total amount of the bill.

### Appendix

Activity and Expense Codes:

These code sets are an addendum to the task codes.

The activity codes are intended to describe how work is accomplished. They are entered as a second field after the listing of the specific task code.

The Expense codes indicate the nature of a disbursement or expense incurred in performance of a specific task.

A100 Activities	E100 Expenses
A101 Plan and prepare for	E101 Copying
A102 Research	E102 Outside printing
A103 Draft/revise	E103 Word processing
A104 Review/analyze	E104 Facsimile
A105 Communicate (in firm)	E105 Telephone
A106 Communicate (with client)	E106 Online research
A107 Communicate (other outside counsel)	E107 Delivery services/messengers
A108 Communicate (other external)	E108 Postage
A109 Appear for/attend	E109 Local travel
A110 Manage data/files	E110 Out-of-town travel
A111 Other	E111 Meals
	E112 Court fees
	E113 Subpoena fees
	E114 Witness fees
	E115 Deposition transcripts
	E116 Trial transcripts
	E117 Trial exhibits
	E118 Litigation support vendors
	E119 Experts
	E120 Private investigators
	E121 Arbitrators/mediators
	E122 Local counsel
	E123 Other professionals
	E124 Other

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