

# NEVADA WORKERS' COMPENSATION CHRONICLE



Department of Business & Industry (B&I)

Division of Industrial Relations (DIR)

A Publication of the Workers' Compensation Section (WCS)

Winter Edition (Dec. - Feb.) 2008-2009

This newsletter is not intended to provide legal advice to the reader. Legal opinions or interpretations of statutes and regulations referenced here should be sought from competent legal professionals.

## Panel Ensures PPD Quality, Confidentiality

Permanent partial disability ratings are often subject to second-guessing by injured workers, workers' compensation insurers and others. However, there is a panel that reviews these PPD ratings as part of WCS' quality assurance program. State-wide, raters perform an average of 550 permanent partial disability evaluations every month. As of December 1, 2008 there were 128 active raters on the [Nevada Rating Panel of Physicians and Chiropractors](#).

Per [NAC 616C.023](#), the Division of Industrial Relations, Workers' Compensation Section must establish a panel to review PPD rating evaluations conducted by rating physicians and chiropractors. Panel members serve for one year and help WCS review some PPD evaluations to ensure the evaluations comply with the standards set forth in the *Guides to the Evaluation of Permanent Impairment 5<sup>th</sup> Edition* and the regulations of DIR. The panel meets roughly every six weeks and is composed of two raters from northern Nevada and three raters from southern Nevada.

WCS' objective is to establish and maintain a process for reviewing PPD evaluations to enhance the quality of PPD ratings, provide confidential instructional feedback to the rater and identify problem areas for the raters in the *Guides* or in the impairment process. To carry out this quality assurance mission, WCS requests that raters provide the Southern and Northern WCS Medical Unit with copies of their PPD evaluation reports every month. Then WCS randomly reviews approximately 10% of these PPD reports and refers those reports that may contain possible discrepancies, per the *Guides* and regulations, to the PPD Panel for review.



The panel conducts a thorough quality assurance review and (Continued on page 3)

## Don't Forget the D-2

**Reminder:** To ensure that injured workers are aware of their workers' compensation rights and benefits, specific laws and regulations address information and notification requirements: [NRS 616C.050](#), [NRS 616C.095](#) and [NAC 616A.480](#). Lately, however, the WCS audit staff have noticed recurring noncompliance in disseminating the Form D-2 "Brief Description of Rights and Benefits."

The language contained in the Form D-2 must be printed on the reverse side of the employee's copy of the Form C-1 "Notice of Injury or Occupational Disease" or provided to the employee as a separate document with an affirmative statement acknowledging receipt.

The Form D-2 is also printed on the back of page 4 of the original Form C-4. Page 4 is the page that medical staff should give to the employee. However, some health care providers and their staffs are giving injured workers photocopies of the page 4 front only which does not have the D-2 information on the reverse side. As with the Form C-1, if the D-2 language is not on the reverse side, it must be provided to the employee as a separate document with an affirmative statement (Continued on page 3)



Amy Royce, senior product manager, National Council on Compensation Insurance, exchanges information with Michael Brooks, manager, WCS Education, Research and Analysis Unit, at the National Workers' Compensation and Disability Expo and Conference held in Las Vegas November 19 - 21. Ms. Royce maintains the Coverage Verification Service for Nevada, which is accessible from the WCS Web site: <http://dirweb.state.nv.us/WCS/cvs.htm> \*

## HOT TOPIC

### DELAYS IN COMPLYING WITH DECISIONS AND ORDERS PROVE COSTLY

Usually, whenever a Hearing Officer (HO) or an Appeals Officer (AO) issues a decision and order, somebody wins and somebody loses. Either side can then appeal that determination. [NRS 616C.315](#) and [616C.375](#) describe timelines for some of these appeal rights.

An HO decision can be appealed to the Appeals Office and an AO decision can be appealed to District Court. But what if one of the parties wants to stop the implementation of the order while appealing the issue to a higher authority? They ask for a "stay." Usually when a stay is granted neither party needs to take action until after the appeal is heard. The problem arises when a stay is denied!

If you have been given an HO/AO decision and order, you have 30 days to comply. If you don't comply within that time frame, WCS may issue a Benefit Penalty. It is important to note that there are different circumstances and requirements that govern HO versus AO decision and orders.

If you apply for a stay from an HO decision any time during the 30 days after that decision and order, it is automatically stayed until an AO issues an order denying the stay. If the stay is denied, then you have 10 days to comply with the original decision and order.

However, if you apply for a stay from an AO decision and order, it is not automatically granted! If the stay is not granted by the 30<sup>th</sup> day after the (Continued on page 4)

- C ① Rating Panel Ensures PPD Quality
- O ① Don't Forget the D-2
- N ① Hot Topic: Delays Cause BPs
- T ② Confusion Corner: Who Has a Say in Questionable Claims?
- E ② Fraud Watch: The Undocumented Worker Problem
- N ③ Reporting Reminders
- S ③ What is a WC License?
- ④ Winter Training: Dec. 1 - Feb. 28
- ④ Long-time WCS Employee Retires
- ④ WCS Contact Information
- ④ State Holiday Office Closures



## CONFUSION CORNER

### Who Has a Say in Questionable Claims?

"I suspect my employee is faking an injury. What should I do?"

This is a common question we get from employers. Not only do these employers have a moral objection to allowing fraud, but also many fear their workers' compensation insurance rates will increase unnecessarily. In addition, we have received feedback from health care providers that some employers are reluctant to provide coverage information because they believe the injured employee's accident or disease is not work-related.

What many employers do not realize is that withholding information or trying to suppress a questionable claim is illegal. Subsection 1. of [NRS 616D.120](#) expressly prohibits an employer, insurer, third-party administrator, health care provider, or managed care organization from inducing a claimant not to report an industrial injury or occupational disease. The administrative fine for an initial violation is \$1,500, while second and subsequent violations carry a \$15,000 fine.

It is the insurer providing the workers' comp coverage that is responsible for evaluating whether the claim is "work-related" as defined by statute or regulation. The entire workers' compensation claims process provides adequate input and appeal rights to all workers' comp partners to allow those parties to address their concerns. In most circumstances, if an employee incurs an injury on the job or contracts an occupational disease, whether requiring immediate medical treatment or not, that employee is afforded the opportunity by the employer to fill out a *Form C-1: Notice of Injury or Occupational Disease*. Employers are legally required to have an adequate supply of these forms for their employees.

The employee signs this form to provide notice to the employer/supervisor that the incident occurred. The employer/supervisor must also sign the form. The employee normally has 7 days from the time of the incident to complete the form. The em-



## FRAUD WATCH

### THE MANY FACES OF THE UNDOCUMENTED WORKER PROBLEM



The Attorney General's Workers' Compensation Fraud Unit investigates and prosecutes claimants who make false statements to receive compensation benefits as well as employers who fail to provide workers' compensation for their employees. Being on both sides of the equation has offered me a unique view of issues involving undocumented workers.

All employees injured in an industrial accident, whether undocumented or not, are entitled to workers' compensation benefits in Nevada. The only restriction is that undocumented workers are not entitled to receive vocational rehabilitation benefits. Not being involved in the claims administration area, I do not have any data regarding the percentage of undocumented workers that forego claims for fear of having their status explored. We do, however, see a large number of cases involving uninsured employers.

Most of the cases filed against employers involve injuries to workers. These workers are entitled to file for benefits from the Uninsured Employers' Claim Account. Benefits are not sought in a very large percentage of cases, usually involving workers of Hispanic origin. Based on complaints being received by the WCFU, I suspect a major factor is a fear of losing one's job if a claim is filed.

We have to confront the real possibility of employers using a workers' undocumented status against the worker to coerce him or her from trying to collect lawful benefits. Employers want to reap the benefits of using an undocumented worker, but in some instances these employers fail to complete their end of the bargain by disrupting compensation for work related injuries.

The flip side of the problem is that although an undocumented worker is entitled to workers' compensation, it is illegal to make a false statement "relating to his identity" to obtain workers' compensation. The \$64,000 question is the legal implications of using a false Social Security number when applying for compensation.

There are many conflicting policy issues that may not be reconcilable. With our heightened concern with identity theft issues, the use of a false Social Security number is a big deal. The problem is that some employers are aware of the status of their workers and then complain only when the compensation award hits. This once again sets up a scenario in which the injured worker can be exploited. The party left in the middle is the insurance carrier. The reality is that both parties, the injured worker and the employer, may be committing a fraud on the insurance carrier by permitting an injured worker to knowingly use a false Social Security number or identity.

I am soliciting input from all sides of this debate. Please e-mail me at [Bkunzi@ag.nv.gov](mailto:Bkunzi@ag.nv.gov). I want to hear your perspective. If you represent injured workers I am interested in your experiences. Employers, most of you know what goes on in your industry. I am interested to know what problems you see from the unscrupulous employers. Carriers, case managers and claims administrators, I want to know what challenges you face. Your assistance will be helpful in formulating enforcement efforts that effectively address this growing concern.

As always, anyone suspecting any fraud associated with workers' compensation should contact the Attorney General's fraud hotline at **1-800-266-8688**. Other information about detecting workers' compensation fraud is also available on our Web site:

<http://www.ag.state.nv.us/org/wcfu/wcfu.htm>.

**Brian Kunzi, Director, Workers' Compensation Fraud Unit**



ployer must provide a copy to the injured worker and keep a copy of the C-1 for 3 years.

The Form C-1 and all other workers' comp forms are on the WCS Web site forms page: <http://dirweb.state.nv.us/wcs/wcsform.htm>. Depending on circumstances, a C-1 may not always be completed before an injured employee seeks medical treatment. Normally, the injured worker has 90 days from the date of injury

to seek medical treatment.

When the employee first seeks treatment for an occupational disease or injury, the employee and the health care provider must complete a *Form C-4: Employee's Claim for Compensation/Report of Initial Treatment*. Some health care providers believing the injury was not work-related have declined to sign their portion of this form. This is not the health care provider's decision. Again, the (Continued on page 4)

**(Rating Panel, cont. from page 1)**

provides constructive comments and recommendations for the rater. The panel's recommendations are provided to the individual raters under confidential cover. All PPD reports reviewed are redacted so that all confidential information is deleted including the names of the injured workers and raters. The disclosure of this information is for the individual rater and WCS only.

Insurers often contact WCS asking if a PPD evaluation has been performed per the *Guides*. However, insurers should initially contact the rater who performed the evaluation with their questions about the rater's evaluation. WCS will gladly address general *Guides* and ratings questions; however, WCS is not the agency, nor is it our charter, to provide an analysis of a PPD evaluation. Insurers have various options if they disagree with a PPD impairment evaluation. In addition to addressing their concerns with the actual rater, they may address their concerns with their medical advisors or request an independent review.

It is also important for insurers to educate their claims examiners on the *Guides*. Many independent companies and experienced raters offer excellent seminars on the *Guides*. Not only is this information vital to the examiner in reviewing ratings, but it is helpful for the insurer to understand what information is essential to the rater to provide a thorough, comprehensive and fair PPD evaluation for the injured worker. For more information on PPD quality assurance, call the Workers' Compensation Section Medical Unit Southern District (702) 486-9080 or the Northern District (775) 684-7270. \*

Direct comments or suggestions about this newsletter to: *Mike Brooks, Editor*, or *Terry Simi, Assistant Editor*, in the Workers' Compensation Section, Henderson Office (702) 486-9019 or to: [WCShelp@business.nv.gov](mailto:WCShelp@business.nv.gov)

**E-mail Notification**

Stay connected to what's new in the Nevada workers' compensation system by registering to receive e-mail notification of upcoming training sessions, hearings and other important events.

Simply go to the WCS Web site: <http://dirweb.state.nv.us/WCS/wcs.htm>, click on the "Update" icon and fill out the E-mail Enrollment Request Form as a new subscriber or to make updates to your current subscription.

**REPORTING REMINDERS**

**ALL NEVADA WORKERS' COMPENSATION INSURERS**, including private carriers, SIEs (both active and inactive), and associations, are required to submit the following reports or face possible administrative fines.

✓**Occupational Disease Claim Report(s) (OD-8) or Statement of Inactivity (NRS 617.357)** is an ongoing reporting requirement. Certain occupational diseases of the heart, lungs, diseases that are infectious or relate to cancer are required to be reported as outlined in NRS 617.357. Insurers with no occupational disease claims to report pursuant to NRS 617.357 during any calendar year must submit a **Statement of Inactivity** by the first week of January of the following year. **Note: Statements of Inactivity received prior to calendar year end will not be accepted.**

✓**FY08 WCS Workers' Compensation Claims Activity Report and Insurer Information Form** pursuant to NRS 616B.009 and NAC 616B.016 were due **October 27, 2008**. Blank forms and instructions were distributed via e-mail on September 15, 2008 and can be found on our Web site at <http://dirweb.state.nv.us/wcs/wcsanrp.htm> or by e-mailing us at [WCSRA@business.nv.gov](mailto:WCSRA@business.nv.gov). If you have not filed these reports, please do so immediately to avoid administrative fines. **Note: The Insurer Information Form is one of the most important documents required by the DIR – please make sure you file an updated form with us whenever you have contact changes such as TPAs, e-mail addresses, physical address and phone number changes.**

✓**Permanent Total (PT) Disability Claim Reports (NRS 616C.453)** The 2008 Form and Instructions were distributed via e-mail in July and were due to WCS on **AUGUST 4, 2008** and can be found on our Web site at <http://dirweb.state.nv.us/WCS/wcs.htm> under "Insurer Information." The **2009 PT Claim Report** form will be sent out in early July 2009.

**PRIVATE CARRIERS** must also report **Proof of Coverage (POC)** information to NCCI within 15 days of the effective date of the issuance, renewal, cancellation, nonrenewal, reinstatement or reissuance of a policy of workers' compensation insurance. Carriers must also report endorsements that materially affect the proof of coverage (i.e. insured name or address changes) within 15 days of their effective date. NAC 616B.100 through 616B.148 outline the POC reporting requirements and possible penalties for failure to report.

Questions may be directed to WCS Research and Analysis at (702) 486-9080. \*

**(Form D-2, cont. from page 1)**

acknowledging receipt.

Granted, there are financial and productivity savings which may drive automation of what can be a mountain of paperwork provided to injured workers and patients. However, these efforts must ensure that there are no information omissions that deny injured employees critical information to which they are lawfully entitled.

Form C-1 templates are posted on the WCS Forms page: <http://dirweb.state.nv.us/Forms/c-1.pdf>. Multi-page Form C-4s are available for free from the WCS Carson City office. Contact Grace Dean, (775) 684-7266, [gdean@business.nv.gov](mailto:gdean@business.nv.gov) for details. \*

**What is a Nevada Workers' Comp License?**

Many states such as Texas, Oregon and Connecticut require that claims adjusters who handle workers' compensation claims be licensed by the state. Currently, there is no such requirement in Nevada. However, what may cause some confusion is that there is indeed a Nevada license required for anyone representing an employer at a workers' compensation hearing, with the exception of attorneys and full-time employer representatives.

**NRS 616C.325** mandates this licensure. Those representing employees at a hearing must be employed full time by the employee's labor organization; admitted to practice law in Nevada; be employed full-time and be supervised by a Nevada attorney; or be appearing without compensation on behalf of the employee.

Applicants for a Workers' Compensation Representative license must submit a Worker's Compensation License application, with notary acknowledgement; provide a copy of their driver's license; pay a \$78.00 application fee to the Department of Administration; and pass the Workers' Compensation Representative Examination. Applicants are tested on NRS and NAC 616 and 617. The test is comprised of 60 multiple choice and true/false questions with a minimum 75 percent passing score. Applicants have up to three attempts to pass the test before reapplying. Tests are given at will. Anyone with questions on new licenses or license renewal should contact Hope Hufstetler, (702)486-2531, [hhufstetler@hearings.state.nv.us](mailto:hhufstetler@hearings.state.nv.us)

Those needing to test should call Paul Trepanier (702) 486-2536 in Las Vegas or Sondra Amodei at (775) 687-5966 in Carson City. More information is online at: <http://hearings.state.nv.us/WCLisc.htm> \*

**(Confusion Corner, cont. from page 2)**

insurer providing coverage makes this determination. However, there is a space on the C-4 for health care providers to indicate whether they believe the injury or disease was work-related. A copy of this form is also provided to the injured employee. After receiving his copy of the C-4, the employer now has six working days to complete a copy of the *Form C-3: Employer's Report Industrial Injury or Occupational Disease* and forward it to the insurer or TPA. This is the employer's opportunity to provide the insurer with their view of the incident and whether they believe the injury or disease contraction was work related.

Meanwhile, the insurer, upon receipt of the C-4, has 30 days to accept or deny the claim and begin payment on accepted claims. Some insurers have denied or delayed the decision to begin payment or have denied a claim based on not receiving a copy of the C-1. Others have denied or delayed making a determination based on not receiving a copy of the C-3. However, an insurer's not receiving the C-1 or the C-3 is not a valid reason for delaying payment or denying a claim for compensation. If the insurer denies a claim or requires information for acceptance or denial of the claim, the insurer must notify the employee and the health care provider. The insurer must also notify WCS of the claim denial ([NAC 616C.091](#)).

Nevada laws and regulations provide ample opportunities to appeal decisions made by an insurer. Each of the stakeholders in the process has specific functions to perform in a timely manner. If this doesn't happen, the process is slowed or disrupted, which is when WCS becomes involved and often fines and penalties ensue.\*

**WCS EDUCATION COMMITTEE**

- Dock Williams, Chair, WCS
- Mike Brooks, WCS
- Ken Webb, WCS
- Christi Mosher, Genex
- Suhair Susan Sayegh, Sierra Nv Adm
- Nancy Jennings, Sierra Nv Adm



**Subsequent Injury Account Saves Employers Money**

 The Subsequent Injury Accounts encourage employers to hire workers with a permanent physical impairment. The costs of any qualified subsequent injury are paid from the appropriate subsequent injury account. (NRS 616B.557-590) For more information on the SI Account contact Jacquie Everhart at 702 486-9089 or at [everhart@business.nv.gov](mailto:everhart@business.nv.gov)

**(Hot Topic, cont. from page 1)**

decision and order, then you must comply timely or face a possible BP. Requests for stays are not necessarily granted. Some administrators feel that applying for a stay will keep them from having to comply. Not so! Therefore, we suggest you don't wait until after the decision is made on the stay to begin compliance. Remember you only have **30** days (plus mailing time) from the date of the original decision and order.

So, as we roll into 2009, please, resolve to have things in order before the last minute arrives. WCS has issued several BPs because of late compliance. And remember BPs start at \$3,000; plus with every BP there is a fine.

**Ken Webb, WCS,  
Southern District Manager**

**STATE OF NEVADA**

**Holiday Office Closures:**

**Christmas Day**

Thursday, December 25, 2008

**New Year's Day**

Thursday, January 1, 2009

**Martin L King Day**

Monday, January 19, 2009

**President's Day**

Monday, February 16, 2009

**WINTER 2008-2009 TRAINING SESSIONS**

The **WCS Orientation** is a comprehensive overview of workers' compensation in Nevada. This session is beneficial for anyone involved. **Specified Forums** offer specified advanced topics. All training sessions are free and open to the public.

**SOUTHERN NEVADA**

Division of Industrial Relations  
1301 North Green Valley Pkwy.,  
Ste. 200, Henderson, NV 89074

**WCS Orientation:**

December 5, 2008

**WCS Specified Forum:**

Medical Fee Schedule

February 5, 2009

For reservations, please contact:

✉ [tsemi@business.nv.gov](mailto:tsemi@business.nv.gov)

☎ (702) 486-9019

**NORTHERN NEVADA**

The Carson City / Reno sessions are tentatively scheduled at Western Nevada Community College in Carson City.

**WCS Orientation:**

December 18, 2008

February 19, 2009

For reservations, please contact:

✉ [tbixler@business.nv.gov](mailto:tbixler@business.nv.gov)

☎ (775) 684-7261

**Retirement News**

In December, Tom Crider retires from the DIR/WCS after 24 years of service with the State of Nevada. Mr. Crider who hails originally from Oneonta in upstate New York has been a Las Vegas-area resident since 1980. Before joining Nevada's State Industrial Insurance System, and later WCS, Mr. Crider served in the Air Force with decorated tours in Okinawa, Thailand and Vietnam. After the service, he worked on construction projects in Kansas, Oklahoma and Colorado before eventually settling in Nevada.

"The best part of being an auditor has been not just the insurer-TPA visits, but getting out and visiting their clients, the employers," said Mr. Crider. "It's really fascinating to see how each one operates differently from the others."

Mr. Crider notes that the biggest change he saw was the dissolution of SIIS and the emergence of hundreds of private carriers to fill the opportunities that privatization created. In addition to conducting hundreds of audits during his career, he also volunteered his expertise as an unofficial assistant editor for the "Nevada Workers' Compensation Chronicle" and helped



answer dozens of WCSHelp e-mail questions. After he retires, he plans on working part-time and devoting a lot more time to fishing. \*

**WCS Mission Statement**

The purpose of the Workers' Compensation Section (WCS) is to impartially serve the interests of Nevada employers and employees by providing assistance, information, and a fair and consistent regulatory structure focused on:

- ✪ Ensuring the timely and accurate delivery of workers' compensation benefits.
- ✪ Ensuring employer compliance with the mandatory coverage provisions.

**HOW TO CONTACT WCS**

Department of Business and Industry (DBI)  
Division of Industrial Relations (DIR)  
Workers' Compensation Section (WCS)

**HENDERSON**

1301 North Green Valley Pkwy, Ste. 200  
Henderson, Nevada 89074  
Ph: (702) 486-9080 / Fax: (702) 990-0364

**CARSON CITY**

400 West King Street, Ste. 400  
Carson City, Nevada 89703  
Ph: (775) 684-7270 / Fax: (775) 687-6305

<http://dirweb.state.nv.us/WCS/wcs.htm>  
[WCSHelp@business.nv.gov](mailto:WCSHelp@business.nv.gov)