



NEVADA WORKERS' COMPENSATION CHRONICLE



Department of Business & Industry (B&I)
A Publication of the Workers' Compensation Section (WCS)

Division of Industrial Relations (DIR)
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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.

Insurers Must Administer Nevada Claims in State

There are laws and regulations to ensure that both injured workers and the employers they work for get the level of service they need from workers' compensation insurers. Nevada lawmakers have passed statutes that specify basic in-state office requirements, claim file maintenance and accessibility, and toll-free telephone service, among other requirements.

However, WCS occasionally receives e-mails from insurers wanting to know exactly what they need to do to comply fully with the laws and regulations in force.

To summarize the most important requirements: Nevada statutes require that workers' compensation claims be administered in Nevada. The law also requires that the insurer or third-party claims administration company, licensed by the Nevada Division of Insurance, provide someone in state authorized to act on behalf of the insurer or TPA. In addition, any checks payable to injured workers should be immediately negotiable. If an insurer wishes to comply with Nevada statutes regarding this issue, WCS believes the easiest and most cost efficient method is to hire a TPA.

Here are the applicable laws and regulations that detail these requirements:

[NRS 616B.021](#) deals with the accessibility; maintenance; inspection and reproduction of claim files. This statute includes a requirement that an open claim file record be reproducible within 24 hours during regular business hours for inspection by the injured employee, the employer, WCS, or their designated agents. WCS also has authority to adopt regulations concerning maintenance and electronic storage of open and closed claim file records.

[NRS 616B.027](#) mandates that insurers provide an office in the State of Nevada staffed by persons authorized to act on behalf of the insurer. This office must have a statewide, toll-free telephone number or accept (Continued on page 3)

Early Change to Mileage Rate Made in Mid-Summer

Typically, changes to the State's mileage reimbursement rate are made annually, usually in January. The unexpected July 1, 2008, increase to **58.5 cents per mile** was driven by the Internal Revenue Service's mid-year reimbursement rate hike due to rising fuel costs. "Rising gas prices are having a ma-



major impact on individual Americans. Given the increase in prices, the IRS is adjusting the standard mileage rates to better reflect the real cost of operating an automobile," said IRS Commissioner Doug Shulman.

Effective, July 1, 2008, the standard mileage for transportation incurred for using a private (Continued on page 4)

Subsequent Injury Accounts 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 Accounts contact Jacquie Everhart at 702 486-9089 or at everhart@business.nv.gov

Terri Bixler, a WCS Carson City administrative assistant, tracks down WC coverage for a recent claim for compensation.



HOT TOPIC

Special Events In Nevada Need WC Coverage

Nevada is unique in many ways, some might even call us special. Certainly, the state has a wide variety of special events that are held here yearly. The gamut of events covers things like Burning Man, gay rodeos, poker tournaments, desert racing, weddings, bachelor & bachelorette parties, divorce parties, political rallies and conventions that are world famous (and all the spin off functions such as hospitality suites) etc. You get the idea.

All of these events take a lot of energy and labor to make happen. It's the labor part that WCS is concerned with: convention services people, vendors, salespeople, models, bartenders, caterers, security guards, janitors, limo drivers and other occupations. Many of these workers are called independent contractors and their employers don't believe they need workers comp coverage for them. **WRONG!**

It takes a lot of money to put on these special events, and much of that payroll money is dispersed as cash. So again, some less than honorable employers think that since there is no paper trail they can't be considered a worker's employer. **WRONG AGAIN!**

Recently there was a high profile case involving a special event. The workers were to be paid in cash, and there was no workers' compensation (Continued on page 4)

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**Workers' Comp Basics:
Signing the C-4**

Pursuant to [NRS 616C.020 \(3\)](#), a claim for compensation must be on a form prescribed by the Workers' Compensation Section (WCS). This is the Form C-4: [Employee's Claim for Compensation/Report of Initial Treatment](#).



Form C-4

The top half of the C-4 must be completed and signed by the injured employee. However, there are exceptions to this requirement if the employee is incapacitated, unable to sign the form due to language problems, etc. In those instances, annotation on the C-4 of the employee's consent or signature of a person who is authorized to act for the employee is required.

The employee's signature certifies that the information is true and correct and the information is being provided in order to obtain the benefits of the Nevada Industrial Insurance or Occupational Disease Acts (NRS 616A to 616D, inclusive or [Chapter 617](#) of the NRS.)

In addition, the employee's signature authorizes the medical provider, any medical facility, or any insurance company to release to each other, any medical or other information, including benefits paid or payable, pertinent to this injury or disease with the following exception:

The injured employee must give specific authorization for information relative to diagnosis, treatment and/or counseling for AIDS, psychological conditions, alcohol or controlled substance. (The C-4 does not qualify as authorization for these exceptions.)

The treating physician or chiropractor is required by NRS 616C.040 (1) to sign the C-4 and submit the completed C-4 form to the correct insurer within 3 working days after first providing treatment to an injured employee. However, the filing duties may be delegated to a medical facility if both the physician or chiropractor and an authorized representative of the medical facility sign the delegation. But the medical facility must comply with the same time frames and requirements that are expected of the treating physician or chiropractor.

As for signing authority, only a treating physician or chiropractor from the [Panel of Treating Physicians & Chiropractors](#) list may sign the C-4. The medical facility may not

(Continued on page 4)

Maximum Compensation, Lodging and Meals Guidelines Posted

The State's Maximum Average Monthly Wage memo for fiscal year 2009, effective July 1, 2008, has been posted on the WCS Web site: <http://dirweb.state.nv.us/WCS/maxcomp2009.pdf>

The memo is located in the left-hand column under "Important Changes" - Maximum Compensation Guidelines - FY09. It provides an amendment to the computation of the State's maximum Average Monthly Wage for workers' compensation purposes.

Still in effect is the Lodging and Meals Reimbursement Rate memo, effective July 1, 2007, which is also found on the WCS Web site under "Important Changes." These revisions to the State Administrative Manual are pertinent to [NAC 616C.1168 Payment for Travel Costs](#) and reflect reimbursement at US General Services Administration per diem rates. *

(Confusion Corner; cont. from page 2)

includes testing for the use of alcohol or a controlled substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of [Chapter 652](#) of NRS.

However, despite the presumption of proximate cause and details verifying the presence of alcohol or a controlled substance, there is no explicit drug testing timeline in Nevada's workers' compensation statutes. Nor is there a legal requirement that an injured employee submit a drug test result.

In fact, when it comes to drug testing, workers' comp considerations are secondary to personnel policies. In most cases, the company's human resource department needs to have well-understood drug testing policies and programs already in place prior to the injury before a worker can be compelled to submit to a drug test. Ideally, the worker will have agreed to these policies in writing during the orientation phase of employment. Human resource departments have the latest information on employer and employee rights regarding drug testing.

As a reminder, even though there is no statutory timeline for testing for controlled substances, per [NRS 616C.065](#) insurers still have only 30 days after receiving the Form C-4 to accept a claim, begin payment and provide required notification or to deny a claim and provide required notifications. *

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

(Nevada Claims, cont. from page 1)
collect calls from injured employees.

[NAC 616B.010](#) requires that copies of all claim files maintained by an insurer, third-party administrator or managed care organization must be maintained in one of their Nevada offices. Also all correspondence and other documents concerning a workers' compensation claim sent to an insurer, third-party administrator or managed care organization must be addressed to one of their Nevada offices

[NAC 616B.013](#) requires that with some exceptions stated in NRS 616B.021 claim files must be kept, maintained and administered in the State of Nevada.

Anyone with questions on these requirements should e-mail WCS at wcs-help@business.nv.gov *

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



E-mail Notification UPDATE

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.

SCATS Safety Consultation & Training

Southern Nevada
Ph: (702) 486-9140/Fx: (702) 990-0362

Northern/Central Nevada
Ph: (775) 824-4630/Fx: (775) 688-1478

North/Eastern Nevada
Ph: (775) 778-3312/Fx: (775) 778-3412

Web site: www.4safenv.state.nv.us

Or contact us toll free at:
1 (877) 4SAFENV / (877) 472-3368

To register for training classes
✉ mary.castruita@osha.gov

GovCha, an Additional Resource for Injured Workers



Instead of filing a formal complaint with DIR/WCS, injured workers have the option of getting free help from the Office of the Governor Consumer Health Assistance. GovCHA was created in 1999 to serve as the ombudsman, providing a single-point of contact, to help injured workers understand their rights and responsibilities under workers' compensation laws and insurance company policies, and to advocate for the injured worker, according to Charles Quintana, GovCHA Quality Assurance Specialist –Workers' Compensation.

In later years, other services were added to the office including the Bureau for Hospital Patients, the RXhelp4NV.org and the Canadian Pharmacy prescription drug assistance programs. GovCHA helps Nevada consumers with information, education and advocacy, to healthcare covering all aspects of healthcare from access to care, to hospital/provider billing, quality of care issues, as well as, workers' compensation.

Mr. Quintana estimated that of the 4,000 help calls GovCHA receives annually, 23% are for workers' compensation-related issues. Some of these can be quickly resolved by answering a "process" question while others may require much more time and assistance with appeals. Questions related to the WC process in general, typically range from injured worker rights and responsibilities, to the appeals process, to identifying the WC insurance carrier. Mr. Quintana noted that GovCHA also helps with filing appeals, reporting unreported injuries, and reporting uninsured employers to DIR/WCS.

In addition, Mr. Quintana emphasized that injured workers should report injuries immediately and document the incident on the C-1 form: Notice of Injury or Occupational Disease; provide as much detail on the C-1 and C-4 claim form as possible; and call GovCHA immediately with any questions.

The Office of the Governor Consumer Health Assistance is open Monday through Friday, from 8:00 a.m. to 5:00 p.m., and may be reached by calling **702-486-3587** or toll-free at **1-888-333-1597** or, at their Web site: <http://govcha.state.nv.us>.

(WC Basics, cont. from page 3)

sign the Form C-4. However, an emergency room treating physician does not have to be on the treating panel, but must sign the C-4 after first providing treatment to an injured employee. Additionally, in cases where remote services are provided by a physicians assistant, the PA may sign the C-4. However, when a PA signs a C-4, it should be countersigned by the attending physician if possible. In cases where the additional signing would delay forwarding of the claim, the form must be annotated with the attending physician's name and location information.

The insurer, or third-party administrator (not the employer or physician), is responsible for determining whether a claim is truly work-related and compensable. In addition, the insurer/TPA should verify the circumstances surrounding the presence or lack of an injured employee's signature. A copy of the Form C-4 is to be given to the injured worker, the employer, and the Insurer/TPA while the treating physician retains the original. *

(Hot Topic, cont. from page 1)

coverage. Tragically, many workers were injured with one being paralyzed. Fortunately, Nevada has the Uninsured Employers' Claim Account. The injured individuals are receiving benefits, but who pays for these costs? DIR goes after the employers for any costs involved and assesses the insurance companies an amount to cover anything the employer can't pay. From a regulator's perspective, how does one efficiently monitor all of these "special events" in a wide open state like Nevada? We try to educate, train and be as high profile as possible; plus, we will be focusing much more of our attention on future special events. *

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

STATE OF NEVADA Holiday Office Closures:

LABOR DAY

Monday, September 1, 2008

NEVADA DAY

Friday, October 31, 2008

VETERAN'S DAY

Tuesday, November 11, 2008

THANKSGIVING

Thursday, November 27, 2008

FAMILY DAY

Friday, November 28, 2008



Date Notations are Required

Reminder: Per **NAC 616C.082**, insurers, third-party administrators and managed care organizations must ensure that all documents relating to industrial injury or occupational disease claims indicate the date of receipt. This practice is commonly known as "date stamping," which make it easier for insurers, TPAs and MCOs to comply with the second provision of the regulation that requires all claims documents to be acted upon in chronological order, "insofar as possible." Note: Faxes with accurate date stamps satisfy this requirement. *



(Mileage Rate Change, cont. from page 1)

vehicle while traveling on official State of Nevada business was increased from 50.5 cents per mile to **58.5 cents per mile**. These official rates are important for workers' compensation purposes because per NAC 616C.150: Under appropriate conditions, reimbursement for the cost of transportation for an injured employee must be computed at a rate equal to the mileage allowance for State employees.

The official memo announcing this change is on the WCS Web site: <http://dirweb.state.nv.us/wcs/mileage.pdf> *

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