



NEVADA WORKERS' COMPENSATION CHRONICLE



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

Division of Industrial Relations (DIR)
Summer Edition (June - Aug.) 2008

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.



CVS 2.0 Helps Refine Coverage Search

The public launch of the WCS Coverage Verification Service back in January 2006 ushered in an era of Nevada coverage information accessibility. This advance was further enhanced in May 2008 with an information technology adjustment to upgrade the system and make CVS more reliable in displaying contact information about third-party administrators.

CVS allows anyone with Internet access to verify the workers' compensation coverage of a Nevada employer who has a policy with a private insurance carrier. Close to 200,000 CVS searches have been done since CVS first came online, and figures for April 2008 show an all-time monthly high of 11,110 searches.

By regulation, WCS is required to serve as a clearing house for routing misdirected C-4 claims for compensation to the correct insurer. The average number of C-4s WCS receives per month has declined slightly

over the past two years from 212 to 205. "In addition to having search numbers go up, we were hoping to see our C-4 processing numbers go down more," said Ruth Ryan, supervisor, Research and Analysis Unit.

"A common refrain we heard from many CVS users was that they needed not just the insurers, but the TPAs. So we worked hard with our IT staff and NCCI (the National Council on Compensation Insurance) to improve the accuracy of the TPA information," said Ms. Ryan. "It required us to synch our Nevada databases with NCCI's national insurer reporting database, and it took awhile to get them to talk to each other. TPA information is fluid, and the databases require constant maintenance. If someone hasn't used CVS in a while, they should try it again. Our goal is that when they click on the 'claim processing information' link, they'll get the latest TPA information available."

Pat Judge coordinates the efforts of three administrative assistants in Henderson who investigate misdirected C-4s. "Ideally, we'd like our monthly C-4 intake to be down in the double-digits. That keeps more (continued on page 3)



Jennifer Lozoya, a WCS Henderson administrative assistant, photocopies a C-4 form while searching for the correct insurer.

HOT TOPIC

Pain Reduction Advice:

Document First Aid Properly

When does administering first aid hurt more than it helps? When it prevents injured workers from receiving all of the benefits to which they are entitled. California's Occupational Safety and Health Administration defines "first aid" as any one-time treatment and any follow-up visit for the purpose of observation of minor scratches, cuts, burns, splinters or other minor industrial injuries which do not ordinarily require medical care. There are many other definitions for first aid, but for Nevada workers' comp purposes, the Division of Industrial Relations has not adopted one yet. Regardless of the definition, if a worker requires first aid or any medical treatment, then he or she should always fill out a Form C-1: Notice of Injury or Occupational Disease.

We have seen a case where a diabetic gets a scratch that becomes infected and later leads to an amputation. So don't ignore seemingly minor documentation. In addition, if a professional medical provider is involved, including in-house nurses, emergency medical technicians and doctors, then a C-4 claim form should be completed. Don't deny the injured worker his right to file a claim. If you do, then you could be the one who's hurt! WCS can assess a benefit penalty of up to \$37,500 if you induce a claimant (Continued on page 4)

Regulation Hearing Likely for Summer '08

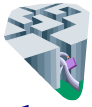
The Division of Industrial Relations, Workers' Compensation Section has submitted nearly 50 proposed regulation changes, additions and repeals to the Legislative Council Bureau. This submission is the next step following last summer's regulation workshop. In addition to the input presented at the July 2007 workshop, WCS considered subsequent comments and suggestions provided by the regulated community.

"We're required by law to thoroughly evaluate and document all public input," said Chuck Verre, WCS chief administrative officer. "This is actually a good thing, though it can lengthen the process a bit, because it ensures all voices are heard, and we receive a lot of good ideas to improve the regulatory process."

Once the LCB returns the approved versions of the proposed changes, DIR/WCS must provide the public a 30-day notice before holding the hearings (NRS 233B.0603). The hearing notice and regulation drafts, along with the regulations slated for repeal will be posted on the WCS Web site. Those interested in receiving e-mail notification should enter their contact information in the WCS e-mail database at: <http://dirweb.state.nv.us/WCS/handouts/electronicenroll.htm> *

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CONFUSION CORNER

WORKERS' COMP FOR FAMILY MEMBERS:

A common question WCS receives comes in many forms but is basically "Does an employer have to provide workers' compensation coverage for family members working at his business as employees?" A short recap of information found in the Nevada Employer's Guide to Workers' Compensation provides the answer: <http://dirweb.state.nv.us/WCS/Brochures/employer.pdf>

Employers who have one or more employees must provide workers' compensation insurance coverage, unless excluded by law. Some employees are excluded by **NRS 616A.110** due to unique criteria. Employment exempt from workers' compensation insurance coverage requirements includes:

- » Employment related to those interstate commerce entities that are not subject to the legislative power of the State of Nevada.
- » Employment covered by private disability and death benefit plans which comprehend compensation payments of equal or greater amounts than those provided in **NRS 616** and which have been in effect for one year prior to July 1, 1947;
- » Employees who are brought into Nevada on a temporary basis and who are insured in another state if extraterritorial coverage provisions are in effect with the other state. (**NRS 616B.600**)
- » Casual employment (employment lasting not more than 20 days and having a total labor cost of less than \$500) is exempt if employment is not in the course of trade, business, profession or occupation of the employer.

However, **construction trade employers are always required to have workers' compensation insurance.** No exceptions. Plus, there is no exemption for family members!

In addition, also note that employers who do not provide workers' compensation will be subject to an admin-



FRAUD WATCH

THE CONTINUING SAGA OF 'INDEPENDENT CONTRACTORS'



A previous Fraud Watch column discussed the issue of foregoing workers' compensation because the workers were treated as independent contractors and not as employees. This is an idea that appears to be gaining widespread acceptance in many trades or professions. It is also an idea that is based on inaccurate information.

This problem is particularly prevalent in the trucking industry, delivery services, flooring sales and installation and construction trades. Business models are being set up and circulated touting the ability to avoid workers' compensation, unemployment insurance and even federal tax obligations as an employer by treating the employees as independent contractors. These business models can be a recipe for disaster.

Ignorance of the law is no defense. Most employers recognize that they are responsible for workers' compensation for employees. Employers must also be aware they are also responsible for subcontractors, independent contractors and employees of the subcontractors or independent contractors unless those subcontractors or independent contractors are truly separate businesses and are not in the same trade or business as the employer. Employers licensed pursuant to NRS 624 (*Contractors*) are always responsible for workers' compensation for subcontractors and independent contractors and the employees of the subcontractors or independent contractors.

Failing to provide this coverage is a criminal offense. The penalty for a violation is six months in jail and a \$1,000 fine. Additionally, an employer will be ordered to pay restitution for the cost of injuries suffered by any injured worker and to reimburse the Nevada Attorney General for costs of investigation.

Recently the Attorney General's Office participated in a Web seminar (Webinar) in conjunction with the Internal Revenue Service and the Small Business Administration concerning issues with classifying employees as independent contractors. You are invited to watch and listen to this Webinar and learn how to make the distinction between an independent contractor and an employee. Hear about how to avoid common pitfalls on taxes, unemployment insurance and workers' compensation caused by hiring a contractor who's really an employee as well as the tax responsibilities and reporting requirements for each type of worker. The Webinar can be accessed by going to <https://cc.readytalk.com/play?id=sd9u53mq>, completing a brief, free registration and then logging into the one hour and 20 minute seminar that includes audio and printable slides.

Anyone suspecting this type of fraud or 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

istrative fine up to \$15,000; appropriate premium penalties; may be ordered to close business until insurance has been obtained; and will be held financially responsible for all costs arising from a work-related injury. In addition, the uninsured employer may be subject to a criminal penalty for claims resulting in substantial bodily harm or death. (**NRS 616D.200 & NAC 616D.345**)

Those employers' rationalizing not covering a family member in the blissful assumption that this unlawful situation will never come to light, in addition to the harsh penalties mentioned above, should realize that they are cheating their relative out of substantial benefits designed to help injured workers.

These benefits may include, among

others: medical treatment; lost time compensation; permanent partial disability; permanent total disability; vocational rehabilitation; dependent's benefits in the event of death; and other claims-related benefits or expenses (i.e., mileage and lifetime reopening).

Besides, as seen on many court TV shows, family members are not above suing each other when the winds change and rancor is mixed with perceived loss of money or benefits. However, Nevada has "exclusive remedy," which means that injured workers' benefits are set forth in the statutes. Employers who provide coverage for their employees at the time of injury are protected from any additional damages claimed by their employees as a result of an injury on the job. *

Medical Billing: 30 + 30 ≠ 60

One of the most common questions WCS receives is based on misunderstood medical billing timelines. Common thinking is that insurers and third-party administrators have 30 days to approve or deny a medical bill – this is true. Then the insurer/TPA has another 30 days to pay the bill after approving any portion not in dispute – again, true (**NRS 616C.136**). Therefore, 30 days plus 30 days equals 60 days to pay – this conclusion, however, is false.

Just like those math story problems that bedevil many high school students, one must think through the details to compute the correct answer. If the insurer/TPA approves the medical bill for payment at the 20 day mark, then an additional 30 days to pay totals 50 cumulative days, not 60. Similarly, if the insurer/TPA approves the bill for payment in 12 days, then an additional 30 days to pay totals 42 cumulative days, etc.

Anyone with medical billing questions should contact the WCS Medical Unit chief in Henderson: Smiddy Lamb, slamb@business.nv.gov, (702) 486-9104; or Carson City: Gail McGuire, gmcguire@business.nv.gov, (775) 684-7275. *

SUMMER 2008 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:

July 8, 2008

WCS Specified Forum:

June 23, 2008 - Insurer Reporting
August 13, 2008 - TBD

For reservations, please contact:

✉ 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:

August 21, 2008

WCS Specified Forum:

July 19, 2008 - TBD

For reservations, please contact:

☎ (775) 684-7270

Uninsured Employers' Claim Account Protects Nevada Workers

One of the core WCS missions is to ensure that employers who must have workers' compensation coverage purchase and maintain proper coverage. In addition, hefty fines and penalties are in place to motivate employer compliance. However, this ongoing effort begs the question: "What happens to those injured workers whose employer, for whatever reason, doesn't have coverage?"



NRS 616C.220 details how an injured employee may receive compensation from Nevada's Uninsured Employers' Claim Account. As with a regular claim, there are various criteria to satisfy, but the bottom line is that the injured worker is entitled to the same range of compensation and benefits as if he worked for a fully-insured employer.

There are many of ways possible uninsured claims come to WCS's attention: Phone calls from "whistle blowers" or attorneys representing injured workers. However, one of the most common ways this information comes to light is when an injured worker seeks medical treatment and the healthcare provider's office cannot identify the correct workers' compensation insurer. The worker is treated, but the C-4 claim form is sent to DIR/WCS for further investigation, (see "**CVS 2.0 Helps Refine Coverage Search**"). Then when the C-4 investigation staff cannot find the insurer, they route the C-4 to the WCS Employer Compliance Unit for investigation as a possible uninsured employer claim.

ECU assigns an investigator who visits the alleged uninsured employer and collects information from the injured employee. The injured employee is informed of his right to elect compensation benefits from the UECA or seek direct redress from the employer, which often takes the form of a civil lawsuit.

Regardless of which option the injured worker chooses, if the employer is found to be uninsured, ECU will issue the applicable citations to that employer. If the injured worker chooses to file a claim with the DIR, that claim will ultimately be processed by the State's UECA third-party administrator, Sierra Nevada Administrators, Inc., which has 30 days to accept or deny the claim. In addition, the DIR Counsel and Administrative Services Unit pursue reimbursement collection action against the employer for all UECA expenses expended relating to the uninsured claim. *

(CVS 2.0, cont. from page 1)

payments and benefits flowing closer to the timeline required by law, and if we run across a possible uninsured employer, we can get that claim to the Employer Compliance Unit faster for follow up investigation (see **Uninsured Employers' Claim Account Protects Nevada Workers**).

"Still, if anyone can't find the information they need using CVS, they should give us a call," said Ms. Judge. The phone number for WCS Henderson is (702) 486-9080; WCS in Carson City can be reached at (775) 684-7270. CVS is currently at <https://www.ewccv.com/cvs/> *

Insurer Reporting Forum Helps Reduce Confusion

For the third straight year, the Henderson WCS office will hold a special forum to help explain reporting requirements for those responsible for reporting annual claim statistics. With more than 600 insurers required to file the *FY WCS Workers' Compensation Claims Activity Report* on a six-page form, there is a wealth of data to digest and compile. WCS is required by law to compile these statistics which include claims information; compensation, medical and rehabilitation expenditures, along with any recoveries for the previous fiscal year. All of these categories are further broken out into sub-categories to provide a detailed picture of workers' compensation insurer activity.

"There's a lot of information required, and it can be somewhat daunting and confusing," said Ruth Ryan, supervisor, Research and Analysis Unit. "We've found that having this reporting forum cuts down on some of the questions we get as the reporting deadline approaches. Also, we encourage the insurers to use the electronic reporting option, which is easy and more accurate; plus, it saves time."

The June 23 Forum is scheduled from 1:30 - 3:30 pm and will cover electronic reporting, the proper forms to use, how to get help and the October deadline. Other reporting topics that will be covered include Occupational Disease Claim Reports, Permanent Total Disability (PT) Claim Reports, Proof of Coverage reporting and Claims Indexing. Those interested in attending should contact Terry Simi at tsemi@business.nv.gov to make a reservation. *

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

No 'Backdoor' WC Charges Allowed

Occasionally, WCS receives reports from employees about deductions from their pay that look suspiciously like a charge for workers' compensation coverage. **NRS 616D.240** expressly prohibits employers from deducting any money from an employee's wages to meet workers' comp costs; similarly, employers may not require employees to purchase their own workers' comp coverage.

Those employees who suspect that such a violation has occurred should contact the Attorney General's Workers' Compensation Fraud Unit at **1-800-266-8688** and be prepared to submit proper evidence of the violation. *



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>

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, self-insured employers (both active and inactive), and associations, are required to submit the following reports or face possible administrative fines.



✓ **FY07 WCS Workers' Compensation Claims Activity Report and Insurer Information Form** pursuant to NRS 616B.009 and NAC 616B.016 were due **October 5, 2007**. Blank forms and instructions were distributed via e-mail on August 17, 2007 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. Watch for the **FY08 Claims Activity Report and Insurer Information Form** packet to come out in late summer/early fall 2008.

✓ **Permanent Total (PT) Disability Claim Reports (NRS 616C.453)** The 2007 Form and Instructions were distributed via e-mail in July and were due to WCS on **AUGUST 3, 2007** and can be found on our Web site at <http://dirweb.state.nv.us/wcs/wcs.htm> under "Insurer Information." The **FY08 PT Claim Report** form will be sent out in early July 2008.

✓ **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.

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. *

(Hot Topic, cont. from page 1)

to fail to report an accidental injury or occupational disease (**NRS 616D.120 (2)**). We prefer that everything is done correctly, so that nobody will be hurt, either physically or financially. *

Ken Webb, WCS, Southern District Manager

PEO Use Must Meet State Requirements

Employee leasing companies, also known as professional employer organizations, can offer many benefits and services to employers who ensure that the company complies with Nevada's workers' compensation laws and regulations. Many of these companies advertise that they save client-employers money by offering sweeping administrative oversight and responsibility. For example, many PEOs are responsible for all payroll and human resource issues to include health insurance, taxes and required workers' compensation coverage. Such delegation is possible because the PEO is in fact the legal employer of the workers while the employer-client is "leasing" his or her staff from the PEO.

The Workers' Compensation Section is responsible for issuing a certificate of registration for employee leasing companies and PEOs after they meet certain requirements. These requirements are covered in **Nevada Revised Statutes 616B.670 through 616B.697** with annual renewals required.

If an employer is considering one of these companies, WCS has a few suggestions. First, ask to see the company's current certificate issued by the WCS.

Second, as part of your contract with the company, you must specify that they maintain coverage for the length of the contract and should ask for the company's proof of workers' compensation insurance coverage. If the company cannot produce it, you may be liable for providing that coverage in the event of an on-the-job injury. Additionally, in each of the areas above, you should check with your current workers' compensation insurer and/or your legal advisor to make sure you and/or the company cover the employees you use from employee leasing companies.

Finally, be aware that all employee leasing companies certified to operate in Nevada must maintain an office or similar site in Nevada for the retaining, reviewing and auditing of payroll records and written agreements with client companies.

Employee leasing can be a viable option for employers. By asking the right questions upfront, that option won't turn out to be extra costly with fines and penalties that could have been avoided. *