

NEVADA WORKERS' COMPENSATION CHRONICLE



Department of Business & Industry (B&I)

Division of Industrial Relations (DIR)

A Publication of the Workers' Compensation Section (WCS)

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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 should be sought from legal professionals.

WCS Education Conference 2011 Seeks Speakers & Exhibitors

The Nevada Division of Industrial Relations will hold the first Nevada Workers' Compensation Educational Conference in Las Vegas, August 11-12, 2011 at the Rio Hotel. The conference is sponsored by DIR in cooperation with the International Workers' Compensation Foundation. DIR invites all workers' compensation stakeholders: employers, employees, insurance companies, agents, attorneys, third-party administrators, healthcare organizations, managed care organizations, medical and rehabilitation professionals and researchers to attend.

The program will feature presentations and workshops led by experts from the Division of Industrial Relations, as well as the private sector. The focus of the discussions will be on

common questions and significant aspects of workers' compensation in Nevada. An exhibit hall will feature various service providers.

Prices for conference attendees and costs for exhibitors are still being determined. To be included on the distribution list for the Conference brochure when it is ready, or for information on exhibit or sponsorship opportunities, contact the International Workers' Compensation Foundation at iwcf@bellsouth.net or call (386) 677-0041. Those with workshop topics of interest or desiring to lead a workshop session should contact DIR/WCS directly: mbrooks@business.nv.gov, (702) 486-9102. *



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 double-checks these PPD ratings. State-wide, raters make an average of 464 permanent partial disability evaluations every month. As of December 1, 2010 there were 141 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 physicians and chiropractors. Panel members serve for one year and help WCS review PPD ratings to ensure the evaluations comply with the standards set forth in the *Guides to the Evaluation of Permanent Impairment 5th Edition* and the regulations of DIR. The panel, which meets every six weeks, has three 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 help WCS identify problem areas for the raters in the *Guides* or in the impairment process. To carry out this quality (Continued on page 3)



Request for Proposal Uninsured Claims Administration

The Workers' Compensation Section is required by Nevada Revised Statutes to manage the uninsured claims process for employees injured on the job whose employer has no workers' compensation insurance. (See article on page 4 for more information.)

This process has been contracted to a third-party administrator since July 2000. The current contract with Sierra Nevada Administrators runs from July 1, 2007 – June 30, 2011. WCS is required by NRS to re-issue a Request for Proposal to choose a TPA or insurer to provide claims management services for these injured employees beginning in July 2011.

WCS expects to release the RFP in the next few weeks, not later than the beginning of January 2011. For those interested in submitting proposals for the RFP, monitor the WCS website at: <http://dirweb.state.nv.us/WCS/wcs.htm>

Those interested in being on the electronic notification list for the release of this RFP and for other notifications, may sign up for it at: <http://dirweb.state.nv.us/WCS/handouts/electronicenroll.htm> *



Federal Child Support Office Partners with Insurers

Susan Sayegh (l), WCS Southern District Manager, shares a moment with Kathy Miller (c) and Erica Holliman (r) of the Federal Office of Child Support Enforcement. The trio met at the National Workers' Compensation and Disability Expo held in Las Vegas in November. The OCSE seeks insurers to partner with in a new initiative, the Insurance Match Program. More information is available at: <http://www.acf.hhs.gov/programs/cse/newhire/insurance/insurance.htm#> *

- C ① WCS Conference Seek Speakers
- ① RFP for UEA Claims Insured by DIR
- ① Rating Panel Ensures Quality
- O ② Confusion Corner: Voc Rehab & WC First-aid
- N ② NAIW: Making NAIW Work for You, Pt II
- ③ Online Orientation Updated
- T ③ New DOI Contact Information
- ③ WCS Hails & Farewells
- E ③ Reporting Reminders
- ③ WCS Contact Information
- ③ State Holiday Office Closures
- N ④ Workers' Comp Hearing License Required
- T ④ Form Focus: WCS Form Point of Contacts
- S ④ UEA Protects Injured Workers
- ④ Insurers must Notify DIR/WCS of Claim Denial

CONFUSION CORNER



Nevada Attorney for Injured Workers



When Does Voc Rehab Maintenance Start?

It's come to DIR's attention that there is some confusion among some in the regulated community about when to begin vocational rehabilitation maintenance payments. These payments are compensation paid to an injured employee while that person is participating in a vocational rehabilitation program ([NRS 616C.575](#)). According to [NAC 616.C577 \(2\)](#), these payments begin on the date that an injured employee becomes eligible for vocational rehabilitation benefits, not when the actual rehabilitation program begins. However, an insurer may not pay voc rehab maintenance for more than 60 days during the period of vocational rehabilitation program development.

Does Nevada Have First Aid WC?

A question often asked via [WCSHelp](#) is whether Nevada has first-aid provisions that allow an employer to pay for first-aid for the injured employee without a full-fledged workers' compensation claim being filed. The answer, in a word, is "no."

In Nevada, if a physician or chiropractor knowingly treats a patient for a work-related injury, he or she must submit a [Form C-4](#), Claim for Compensation ([NRS 616C.040](#))

regardless of the severity of the injury. There are no provisions for "first aid" in the workers' compensation statutes and regulations, and it is illegal for the employer to pay directly for an injured employee's medical care. Also see [NRS 616C.015](#), Notice of Injury or Death; [NRS 616C.045](#), Report of Industrial Injury or Occupational Disease and [NRS 616C.095](#), Duty of Physician or Chiropractor to Advise Injured Employee of Rights for more information. *

Direct comments or suggestions about this newsletter to: Mike Brooks, Editor, or Terry Simi, Assistant Editor, (702) 486-9019 or: mbrooks@business.nv.gov

Making NAIW Work for You—Part II

Part I of Mr. Beavers' introductory column in the fall edition of the *Chronicle* touched on NAIW's role in giving free advice on injured workers' rights and remedies in the system. He also began a brief summary of the five remedies that represent the bulk of benefits. Part II continues this summary.



Temporary Total Disability

If your claim is accepted and treatment is received, the injured worker may miss work while treatment continues. If this is temporary and your employer cannot accommodate restrictions imposed by your doctor, you may qualify for Temporary Total Disability (TTD) payments in an amount equal to 66 2/3% of your average monthly wage. This income can be critical during your healing process. If it is not calculated accurately, you are entitled to a recalculation by a hearings officer. Knowing in advance what can or cannot be included in TTD can reduce the stress of recovering from your injuries and the loss in income.

Permanent Partial Disability

Stress is even more imposing when considering Permanent Partial Disability (PPD) and payments - your compensation for permanent injuries after treatment is concluded. Because employers and insurers have exposure to large pay outs. It is in their best interest to get PPD claims resolved finally and promptly. Stress comes at a time when the injured worker is greatly worried about his future and his finances. It is not a good time to be first introduced to the calculus of permanent disability compensation. Get familiar with the subject long before you are presented with a letter from the insurer offering a large payment. Contact the NAIW for the information necessary to make the correct decision, and do it promptly after your doctor decides you are a candidate for TTD or PPD. The claims process is designed to move promptly, and the deadlines come quickly.

Vocational Rehabilitation

If you have been injured on the job and you have received treatment but you still have physical restrictions which prevent you from returning to your job, or you are unable to find a job in your area with your physical restrictions, you may be a candidate for vocational rehabilitation. You will be referred to a vocational rehabilitation specialist, interviewed and tested, and you may qualify for retraining or you may be offered a lump-sum buyout instead. This could be a large amount of money offered at a particularly difficult period for the injured worker. The buyout offer only comes when the worker has not earned a full paycheck for months. An understanding of the consequences of decisions made at this point is critical. Use the resources available to you. Contact the NAIW.

Claim Reopening

It may be years before you need to revisit the system. You once had an industrial injury; you were treated and compensated; you returned to work and your case was closed. But you have developed a condition you think is related to your original injury. You need to get more treatment but how do you reopen a claim that has all ready been closed? What role does the doctor play? What evidence of the existing condition and the old injury need to be presented, and to whom? Contact the NAIW. Take advantage of the experience of a dedicated staff intimately familiar with the issues presented.

The offices of the Nevada Attorney for Injured Workers represent injured workers in the administrative appeals process and, if necessary, in the courts. NAIW is not involved in the process before the claimant's case reaches the Appeals Officer level except to provide advice to the injured worker. A great deal of resources are available through the NAIW for injured workers negotiating the initial stages of the system on their own. Learn what benefits are available and what process must be followed in advance. Make NAIW work for you now and maybe you will never need an NAIW lawyer standing next to you in court.

Evan Beavers, Nevada Attorney for Injured Workers

Website: <http://naiw.nv.gov/>

Carson City: (775) 684-7555 Las Vegas: (775) 486-2830

(PPD Quality, cont. from page 1)

assurance mission, WCS asks raters to 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 discrepancies, per the *Guides* and regulations, to the PPD Panel.

This panel conducts a thorough quality assurance review and 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 injured worker and rater 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 concerning PPD evaluations and ask if the PPD evaluations have been performed per the *Guides*. However, the first person insurers should contact with questions regarding a PPD impairment is the actual rater who performed the evaluation. WCS will gladly address general *Guides* and ratings questions. However, WCS is not the agency, nor is it their charter, to provide an analysis of a PPD evaluation. Insurers have various options available to them 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 also 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. *

WCS EDUCATION COMMITTEE

- Mike Brooks, Chair, WCS
- Suhair (Susan) Sayegh, WCS
- Dock Williams, WCS
- Christi Mosher, Genex
- Kelly Spina, Employers
- Gary Watson, NAIW
- Cindi Rivera, Certified Vocational Srvc.
- Yvette Bouldin, York Claims Service



**Basic Orientation Online
Now Has Voc Rehab**

For the past three years, the basic orientation slides have been available on the WCS Web site, under the "training" menu option. Posting these PowerPoint slides makes basic knowledge about the system available to those unable to attend face-to-face orientation trainings in Carson City or Henderson. The content of those slides changes to reflect the latest business activity statistics or changes in regulations.

After in-depth discussion at a recent WCS Education Committee meeting, the members decided that the orientation needed more basics about Nevada's vocational rehabilitation programs for the presentation to be truly more comprehensive. The result is 14 vocational rehabilitation slides added to the orientation for a total of 61 slides overall. Here's the link to the new orientation: <http://dirweb.state.nv.us/WCS/Training/Basic.pps>

And, as always, anyone with questions, should contact the WCS Education, Research and Analysis unit, 702 496-9019; mbrooks@business.nv.gov *

DOI Has Moved to New Office

As of October 1, 2010, the northern office of the Division of Insurance <http://doi.state.nv.us/> has moved. The new contact information is: Division of Insurance 1818 E. College Parkway, Suite 103 Carson City, NV 89706 775-687-0700 phone 775-687-0787 fax

FRAUD WATCH

Anyone suspecting any type of fraud associated with workers' compensation should contact the Attorney General's fraud hotline at **1-800-266-8688**. More information about detecting workers' compensation fraud is available at: <http://ag.state.nv.us/org/bcj/wcfu/wcfu.htm>



HOW TO CONTACT WCS

Department of Business and Industry
Division of Industrial Relations
Workers' Compensation Section
SOUTHERN NEVADA
(702) 486-9080 / Fax: (702) 990-0364
NORTHERN NEVADA
(775) 684-7270 / Fax: (775) 687-6305
<http://dirweb.state.nv.us/WCS/wcs.htm>
mbrooks@business.nv.gov

Hails and Farewells

This time, there are no hails and two fond farewells. **Cheryl McDowell** leaves WCS after five years of exemplary service. She began her tenure with the State as an administrative assistant in OSHA, which like WCS is part of the Division of Industrial Relations. She later earned a promotion to serve as the office manager of WCS where since April 2008 she's worked directly for WCS CAO Chuck Verre. Cheryl notes that the most satisfying part of her job was supporting WCS's efforts to help injured workers. And she thanks everyone in DIR for their heart-felt farewells and best wishes on her journey to Alaska.



Ted Quill retires from State service after 30 years of audit duty, most of it with the former State Industrial Insurance System. He's been a WCS compliance audit investigator for the past 11 years and looking back says "I've worked with some real nice people along the way and enjoyed my job more because of it." As for the future, Ted plans on playing hard and working hard. But he'll miss his "DIR buds." *



REPORTING REMINDERS



FY10 WCS Workers' Compensation Claims Activity Report and Insurer Information Form pursuant to [NRS 616B.009](#) and [NAC 616B.016](#) were due **December 01, 2010**. Blank forms and instructions can be found on our website at <http://dirweb.state.nv.us/WCS/insurer.htm> or by e-mailing us at WCSRA@business.nv.gov. Failure to submit the required reports may result in administrative fines. Questions may be directed to WCS Research and Analysis at (702) 486-9080. *

Holiday Office Closures:

- Christmas Day**
Friday, December 24, 2010
- New Year's Day**
Friday, December 31, 2011
- Martin Luther King Day**
Monday, January 17, 2011
- Presidents' Day**
Monday, February 21, 2011

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 DiBartolomeo**, (702) 486-2531, hhufstetler@hearings.state.nv.us

Those needing to test should call **Paul Trepanier** (702) 486-2536 in Las Vegas or **Sondra Amodei** at (775) 687-8440 in Carson City. More information is online at: <http://hearings.state.nv.us/licensure.htm>

E-mail Notification

Stay connected to what's new in Nevada's workers' compensation by registering to receive e-mail notifications <http://dirweb.state.nv.us/WCS/wcs.htm>



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.

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 the 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 is a variety of ways possible uninsured claims come to WCS's attention: Phone calls from whistle blowers or attorneys for 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 that C-4 claim form is sent to DIR/WCS for further investigation. 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 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.

FORM FOCUS: FORM POCs

New WCS Form Point of Contacts

WCS often receives questions about the proper form to use or if a slightly customized form is OK. [Lorie Hebler](#), (775) 684-7266 will answer questions about C-4 claim forms remaining hard-copy stock. While [Dock Williams](#), (775) 684-7283, will answer questions about any WCS forms and review form variance requests to ensure that all key elements required by law are present. However, before calling WCS, a visit to the WCS Forms Page might take care of the problem: <http://dirweb.state.nv.us/wcs/wcsform.htm> *

Reminder: Insurers Must Notify DIR/WCS of Claim Denial

Throughout the Nevada's workers' compensation community; it is widely known that insurers have 30 days after notification to accept and begin payment on a claim or deny the claim, and notify the claimant of that denial and the right to appeal the decision ([NRS 616C.065](#)). However, an insurer denying a claim must also follow the provisions of [NAC 616C.091\(4\)](#) and notify the Workers' Compensation Section of the denial. Included in this denial notice must be a copy of the notice of denial given to the injured worker or his dependents and a copy of the Form C-4 that was submitted by the injured employee or his dependents. However, DIR officials stress that it is neither required nor desired for insurers to notify the WCS of claim approvals. *



Subsequent Injury Account Saves Employers Money

SIA 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 contact [Jacque Everhart](mailto:Jacque.Everhart@business.nv.gov) at 702 486-9089 or everhart@business.nv.gov *

NEVADA SCATS Safety Consultation & Training Section

Website: www.4safenv.state.nv.us
Toll Free: 877-4SAFENV
OSHA 10 & 30 Hr Construction Class must register online: www.nv1030.org