

# NEVADA WORKERS' COMPENSATION CHRONICLE



Department of Business & Industry (B&I)

Division of Industrial Relations (DIR)

A Publication of the Workers' Compensation Section (WCS) Fall Edition (September–November 2010)

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.

## Specialized Assignments Improve Service

**NRS 616B.003** requires WCS to audit every Nevada insurer at least once every five years. However, rather than conducting randomly assigned audits to merely meet this requirement over time, WCS has matched auditors with certain insurers, self-insured employers and third-party administrators. This specialized matching allows the auditor to gain in-depth knowledge of a select group of administrators and, in turn, those claims examiners and managers have a specific WCS point of contact to address their questions and concerns.

“In the spring, we started looking at the way our current audit process was working,” said Suhair Sayegh, Southern District Manager. “The current process did not always result in effective or productive communication between our agency and the insurer or TPA. By assigning auditors to specific TPAs and insurers, we are able to streamline communications and improve audit accountability on our part.”

The current primary auditors and their audit accounts are as follows:

- **Chris Brown, 702-486-9098:** EMPLOYERS, Gallagher Bassett, GAB Robins
- **Jacque Everhart, 702-486-9089:** MGM Resorts, CNA, Farmers, Truck, State Farm
- **Darlene Rosenberg, 702-486-9094:** AIG, Chartis, Nelson Davison Administrators, FirsTier
- **Rosalyn Jackson, 702-486-9096:** CCMSI, Sierra Nevada Administrators, Pinnacle, Traveler's, Constitution State Services
- **Sonja Barnum-Mason, 702-486-9099:** Specialty Risk Services, MedComp, ESIS, Broadspire, Crawford, York; City of Las Vegas
- **James Estrada, 702-486-9093:** Republic, Wausau, Meadowbrook, TriStar, R.A. Wong, Clark County School District, FirstComp, South Point Hotel & Casino, Sedgwick
- **Dano Fernandez, 702-486-9186:** Liberty Mutual, Helmsman, Nevada Alternative Solutions, S&C Claims, Exchanging; Berkley Risk, ICW, Avizent, CorVel

## Stress Disability Ratings Allowed

On June 30, WCS finalized adoption of regulations relating to workers' compensation permanent partial disability rating for stress pursuant to **NRS 616C.180**. These regulations are now on the Workers' Compensation Section's Web site under the “Important Changes” menu: <http://dirweb.state.nv.us/WCS/R108-09A.pdf>

These regulation changes required WCS to create a new form, the D-9c “Mental Impairment Rating Worksheet.” This form is posted on the WCS Forms page: <http://dirweb.state.nv.us/Forms/d-9c.pdf>. Those wanting to read both the new regulations associated with this change and the accompanying Informational Statement, may do so on the Nevada Legislative Counsel Bureau Administrative Regulations Register: <http://leg.state.nv.us/register/2009Register/R108-09A.pdf> \*



These assignments represent the largest insurers, self-insured employers and TPAs. Other audits are assigned randomly, including (continued on page 3)

## Maximum Compensation Guidelines Posted

The State's Maximum Average Monthly Wage memo for fiscal year 2011, effective July 1, 2010, has been posted on the WCS Web site. The FY 2011 maximum monthly disability compensation is **\$3,452.70**, a slight decrease from last year's figure. <http://dirweb.state.nv.us/WCS/maxcomp.pdf>

The memo is located in the left-hand column under “Important Changes” - Maximum Compensation Guidelines - FY11. It provides an amendment to the computation of the state's maximum Average Monthly Wage for workers' compensation purposes. \*

## HOT TOPIC

### Out-of-State Matters

Greetings from the Northern District where signs of autumn are beginning to show and nighttime temperatures have dropped considerably. In this edition, I'll discuss an important and often misunderstood duty of the Workers' Compensation Section. Primarily, the Northern and Southern District units enforce all statutory requirements related to employers with one or more employees to ensure they maintain workers' compensation insurance. Of special note is what happens when an employee from an out-of-state company is sent to Nevada to work. **NRS 616B.600** allows employers from states that require similar workers' comp rights and benefits to insure their employees under their home state's workers' compensation carrier for up to 6 months.



The Northern District Office receives approximately 30 written requests per month requesting extra-territorial certificates for temporary employers and their employees. Our office processes extra-territorial requests for the entire state. We investigate all requests to ensure the coverage can be approved or denied. For example, extra-territorial coverage cannot be extended to employees of a contractor, as defined in **NRS 624.020**, operating within the scope of his license. For contractors, Nevada coverage must (continued on page 3)

- C ① Audit Improvements
- C ① Stress Disability Ratings Allowed
- O ① FY 11 Max Compensation Posted
- N ① Hot Topic: Out-of-State Matters
- N ② Confusion Corner: In-state Administration
- T ② NAIW: Making NAIW Work for You
- E ③ Discounts for PPD Payments
- N ③ New Education Committee Members
- T ③ Hails & Farewells
- E ③ State Holiday Office Closures
- N ③ Insurer Reporting Reminder
- N ④ Spring Training: September-November
- T ④ Form Focus: Electronic C-series Forms Now Available
- S ④ ‘Recycled’ Articles

# CONFUSION CORNER



## Nevada Attorney for Injured Workers



### 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 requires that staff authorized to act for the insurer, with required licensure, if necessary, be available in Nevada to receive claims information and provide workers' compensation services to employers and employees. 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 third-party claims administration company licensed by the Nevada Division of Insurance.

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 be reproducible within 24 hours during regular business hours for inspection by the injured employee, the employer, WCS, or their designated agents. However, the physical records may be kept at an out-of-state office if they are still accessible from Nevada by computer. WCS also has authority to adopt regulations concerning maintenance and electronic storage of open and closed claim files.

[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

### Making NAIW Work for You—Part 1

The office of the Nevada Attorney for Injured Workers may be best known for representing injured workers free of charge in the state's workers' compensation system. However, NAIW lawyers generally are not appointed to represent an injured worker until the second level of the appeals process. Before that point, every employee entitled to benefits should take advantage of NAIW's other role which is giving free advice regarding the injured worker's rights and remedies in the system. Knowing what you are entitled to and how to get it may save you a lot of work, but more importantly it could save your claim. You do not wait until retirement age to consider retirement plans, and you should not wait until you are injured to consider workers' compensation benefits. Familiarize yourself with at least the five basic benefits and the procedures to securing each benefit.



The Nevada Industrial Insurance Act sets out the remedies to which employees are entitled regarding industrial injuries and occupational diseases. The initial issue of whether the injury or disease is covered is commonly referred to as Claim Acceptance. Once a claim is accepted, the employee is entitled to treatment as well as compensation for time lost from work. This benefit is commonly known as Temporary Total Disability. In the event the worker is not physically 100% after all treatment has been rendered, she may be entitled to an impairment award. This benefit is commonly known as Permanent Partial Disability. If, after treatment, physical restrictions exist that prevent the worker from returning to the same job, it may be necessary to identify new skills and retrain for a different job. This process is referred to as Vocational Rehabilitation. If the original injury worsens later in life, the claim once closed may be subject to Reopening. These five remedies—Claim Acceptance, Temporary Total Disability payments, Permanent Partial Disability payments, Vocational Rehabilitation and Reopening—are the bulk of the benefits provided by industrial insurance. It is not an exclusive list, but every employee needs to be familiar with the procedures for obtaining these benefits early on because the injured worker represents himself initially and mistakes in handling the claim for benefits can have very adverse effects on receiving benefits.

#### **Claim Acceptance**

Claim acceptance or denial is the source of much litigation. Medical treatment is expensive, and this cost to employers and their insurers may be cut dramatically if claims can be denied at the start. The threshold issue, whether a preponderance of evidence shows the injury arose out of and in the course of employment, is critical. The burden of proof is on the injured worker and the cost of a potential claim can be so great that the injured worker can face a vigorous defense in the form of expert medical evidence. Procedural errors at this stage, such as filing late or not appearing for a hearing, may be fatal to receiving benefits. If an employee is injured at work but the employer denies the claim, that injured worker must take the steps necessary to get that determination reviewed by a hearings officer. The injured worker should not be proceeding without the benefit of information readily available from the NAIW. Go to NAIW's Web site, call the Carson City or the Las Vegas office or get a copy of the Agency's pamphlet using the contact information below. Know what to expect and how to

(continued on page 4)

have a statewide, toll-free telephone number or accept 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, including the C-4 claim form, 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 (i.e. files accessible by computer) claim files must be kept, maintained and administered in the State of Nevada.

Anyone with questions on these requirements should e-mail WCS Help at [mbrooks@business.nv.gov](mailto:mbrooks@business.nv.gov) \*

**(Specialized Assignments, cont. from page 1)**  
those done in northern Nevada. However, Ms. Sayegh noted, "I encourage those administrators we audit that are not currently assigned a primary auditor to contact me [702-486-9105] if they want to request one." \*

**(Hot Topics, cont. from pg. 1)**

be obtained either through an insurance company that is licensed and authorized by the State of Nevada, or through a certificate of self-insurance approved by the Nevada Department of Insurance. Also, if the out-of-state employer hires employees within the state, those employees must be insured under Nevada state law.

If the coverage is approved, the employer receives a certificate good for 6 months only. An approval letter is sent to the reciprocating state insurance agency, the employer and the company hiring the out-of-state business. More specific questions should be addressed to the Northern District Employer Compliance Unit supervisor, **Dawn Saucedo** at: [dsaucedo@business.nv.us](mailto:dsaucedo@business.nv.us)  
**Charlotte LaCombe**  
**Northern District Manager**

**Outsourcing, No Excuse**

Recently, it has come to the attention of DIR/WCS that some insurers and third-party administrators may be contracting with non-licensed entities to perform scheduling with medical providers, pay bills submitted by medical providers and/or other activities. This business relationship does not absolve the insurer of responsibility for mandates as detailed in the Nevada Revised Statutes. Please be aware that the insurer and/or third-party administrator is still accountable for the time frames, fees, and other mandates as outlined in the statutes and regulations, to include [NRS 616C.136](#), governing workers' compensation billing in Nevada, regardless of outsourcing contract terms.

**Sherry Crance, RN,**  
[scrance@business.nv.gov](mailto:scrance@business.nv.gov); (775) 684-7275

**NEVADA**

**Holiday Office Closures:**

**Labor Day**  
Monday, September 6, 2010

**Nevada Day**  
Friday, October 29, 2010

**Veteran's Day**  
Thursday, November 11, 2010

**Thanksgiving**  
Thursday, November 25, 2010

**Family Day**  
Friday, November 26, 2010

THE SILVER STATE

**Hails & Farewells**

**Anthony Freiberg** is the newest addition to the Northern District's Insurer/TPA Compliance Unit. This compliance audit investigator personifies the true definition of a [renaissance man](#). Tony spent most of the 1980s in the US Coast Guard as a C-130 engineer with assignments that included Alaska, Hawaii and Sacramento, CA. He then spent almost 15 years total as a pilot/engineer for Southern Air and, later, Japan Airlines, before landing a deputy sheriff position in the Douglas County Sheriff's Office from 2002-2009. Tony's married and has been a Nevada resident since 1994. \*



**New Faces on WCS Education Committee**

The Workers' Compensation Section staff and Education Committee welcome two new members to the WCS Education Committee. **Gary T. Watson, Esq.** has been the Nevada Attorney for Injured Workers' Las Vegas office supervisor for more than 20 years. His legal experience, in addition to workers' compensation, includes a variety of legal work, including insurance defense. The Henderson native also has 10 years of culinary union experience and attended the University of Nevada at Las Vegas before earning his law degree from the Gonzaga University School of Law.

Another addition to the committee is **Yvette Bouldin**, a claims manager with York Claim Services. She has been a Las Vegas resident for more than 30 years and began her workers' compensation career in 1994 at MedComp, which was later acquired by York where she's also been a claims examiner and supervisor. Yvette is a board member of the Nevada Self Insurers Association. \*

**Contractual Discounts for PPD Payments**

There has been a lot of confusion regarding payments for Permanent Partial Disability (PPD) Evaluations and whether contractual discounts can affect the amount of reimbursement.



Fees and charges for accident benefits cannot exceed the amounts outlined in the Nevada Medical Fee Schedule. However, [NRS 616B.527](#) allows an insurer to enter into contracts with one or more managed care organizations and health care providers. The health care provider must accept reimbursement as per the MFS, unless the contractual amount is less than what is outlined in the MFS.

An injured employee who has suffered a permanent impairment is entitled to receive compensation for that impairment, [NRS 616C.490](#). The PPD evaluation is the method used to determine the extent of the injured employee's impairment.

The MFS details a reimbursement amount for PPD evaluations, which are not considered treatment. Consequently, a rating physician's/chiropractor's PPO contract discounting their treatment payment, can not be applied to his PPD evaluation, unless the contract specifically allows PPD discounts or allows for a flat discount of all of the services listed in the MFS.

If you have any questions about PPD evaluation or the MFS, contact the WCS Medical Unit at (702) 486-9080 or (775) 684-7270. \*

**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>



**REPORTING REMINDER**

- **Insurer Information Form:** Insurers and TPAs must notify WCS of any changes such as name, address, phone and fax numbers. Insurers must also notify us of TPA changes.
- **Permanent Total (PT) Disability Claim Reports (NRS 616C.453)** The 2010 Form and Instructions were distributed via e-mail in July and were due to WCS on **AUGUST 6, 2010**.
- **Third-Party Administrator (TPA) Historical Data and Records Storage Location** forms were sent to TPAs by certified mail and were due to WCS on **AUGUST 16, 2010**.
- **(OD-8) Occupational Disease Claim Report(s) (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.
- **Proof of Coverage (POC):** Private carriers must also report 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.

Information on reporting requirements and forms can be found on our Web site at <http://dirweb.state.nv.us/wcs/wcs.htm> under "Insurer Information" or you can contact the WCS Research and Analysis unit at (702) 486-9080 or [wcsra@business.nv.gov](mailto:wcsra@business.nv.gov)

(NAIW, cont. from pg. 2)

proceed so you are capable of presenting your own claim, or at least preserve the claim for an attorney to assist you at the next level of the appeals process.

In the next edition of "The Chronicle," we'll wrap up this expanded column with a look at TTD, PPD, vocational rehabilitation and claim reopening.

**Evan Beavers,**

**Nevada Attorney for Injured Workers**

Website: [naiw.nv.gov](http://naiw.nv.gov)

Carson City (775) 684-7555

Las Vegas: (775) 486-2830

**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



**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>



**FALL 2010 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.

**NORTHERN NEVADA**

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

**WCS Orientation:**

November 18, 2010

For reservations, please contact:

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

☎ (775) 684-7261

**SOUTHERN NEVADA**

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

**WCS Orientation**

September 8, 2010

November 2, 2010

**WCS Specified Forum:**

October, 2010 TBD

For reservations, please contact:

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

☎ (702) 486-9019

**Some News Never Gets Old**

Attentive readers of this newsletter may have noted that certain articles seem to resurface from time to time.



In fact, during an Education Committee meeting, I was once asked, point-blank about "re-runs" in the "Chronicle."

Yes, there are more than 30 recurring articles and information items that we reprint on a strategically planned rotation: everything from filing complaints with WCS (last published in the winter 2009 edition) to the regulation writing and approval process (run biennially after legislative sessions) to changes in mileage reimbursement rates (slated for spring editions).

This reprint plan begs the questions: why give readers what they've already seen before? Don't people hate "reruns"? While we try to make the news and information in the "Chronicle" as easy to read as possible, it is not an "infotainment" kind of publication designed to jazz up Nevada's workers' compensation regulatory information and news.

We realize from the many new faces we see at the bi-monthly orientations that there continues to be robust turnover among workers' compensation stakeholders. We hope that those new to workers' compensation in Nevada, along with their experienced colleagues, benefit from a reiteration of important information which is reprinted with updated information to reflect legislative or regulatory changes.

We strive to publish a helpful mix of new information such as legislative changes, new forms, and key WCS personnel changes with ongoing evergreen items that are always updated and slated to appear no more than once every two to three years. However this tight schedule is not impenetrable by any means. Chronicle readers with article ideas are encouraged to give me a call, **702-486-9019**, or send me an e-mail: [mbrooks@business.nv.gov](mailto:mbrooks@business.nv.gov)

- Mike Brooks, editor

**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](mailto:mbrooks@business.nv.gov)

**FORM FOCUS: ONLINE**

**Electronic C-4 and other C-Series Forms Now Online**

Forthcoming changes to NAC 616A.480 (5) relieve the Workers' Compensation

Section of the responsibility of C-4, Claim for Compensation, printing and distribution. To reduce the impact of this change, WCS has developed computer-compatible copies of all three claim-related forms:



the [C-1, Notice of Injury or Occupational Disease](#); [C-3, Employer's Report of Industrial Injury or Occupational Disease](#); and the [C-4](#).

Legal, user-friendly prototypes of the C-1, C-3 & C-4 forms are now on the WCS Web site <http://dirweb.state.nv.us/WCS/wcs.htm> Although users cannot save them without renaming the file, they can fill out and print the forms. WCS officials remind users that by law, the C-4 form still requires three (3) copies for distribution as indicated on the bottom of the form. Also, the injured employee must be given a copy of the "D-2 Form, Brief Description of Rights and Benefits" which is still found on the back of the remaining hard-copy C-4 forms distributed by WCS.

Medical staff should note that the electronic C-4 form may not be a suitable replacement for the mass printed form given the large volume of claim forms used by medical facilities. Additionally, WCS will continue to issue limited amounts of existing, printed C-4 forms until the current stock is exhausted.

Anyone with issues, questions or suggestions regarding these form prototypes should contact **Dock Williams** at [dockwill@business.nv.gov](mailto:dockwill@business.nv.gov) or (775) 684-7283. \*

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: [mbrooks@business.nv.gov](mailto:mbrooks@business.nv.gov)

**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.