

# NEVADA WORKERS' COMPENSATION CHRONICLE

Department of Business & Industry  
A Publication of the Workers' Compensation Section

Division of Industrial Relations  
Spring Edition (March - May 2014)

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

## WCS to Hold First Advanced Insurer/TPA Forum

The Workers' Compensation Section will be holding its first Advanced Insurer/TPA Forum on Thursday, April 10, 2014 at 9:00 am in the Henderson office. This session focuses on Nevada claim management statutes and regulations.

For more information or to RSVP, email Terry Simi at [tsimi@business.nv.gov](mailto:tsimi@business.nv.gov) as soon as possible. Don't delay, seating is limited.

## HOT TOPIC

### B&I Launches Small Business Newsletter

The Department of Business & Industry, Director's Office has launched a new quarterly small business newsletter, The Advocate.



The newsletter aims to provide information and resources to assist entrepreneurs and Nevada-based businesses. This inaugural edition includes information highlighting the free services that the Division of Industrial Relations Safety, Consultation and Training Section (SCATS) offers to Nevada's employers. In future editions, we will highlight initiatives and programs of other B&I agencies that might be of inter- (Continued on page 3)

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### Misclassification of “Independent Contractors” Costly for Employers

During difficult economic times, many employers have sought creative ways to control costs and improve their bottom line. One such way, is the use of “Independent Contractors”, or as they are often called, “1099s”. **It is crucial that each working relationship be thoroughly examined before an employer classifies an individual as an independent contractor rather than an employee for the purposes of workers’ compensation insurance. Incorrectly classifying employees as independent contractors can result in significant fines, penalties, and/or criminal prosecution by the Attorney General’s office.**

According to the Attorney General’s office, some employers who have been prosecuted, mistakenly believed that they could circumvent the requirement to provide workers’ compensation by labeling their employees as “independent contractors” or by entering into a written contract with the employee. This misconception did not preclude employers from being criminally prosecuted.  
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## REPORTING REMINDERS

### Revised OD-8 Form Occupational Disease Claim Report For use beginning January 1, 2014



The [OD-8 Form](#) has been revised to reflect amendments made to the reporting requirements by the 2013 Nevada Legislature. Assembly Bill 11 (AB11) amended NRS 617.357 by limiting the reporting requirement to only claims in which the claimant is a firefighter, police officer, arson investigator or emergency medical attendant and that are filed pursuant to NRS 617.453, 617.455, 617.457, 617.481, 617.485 or 617.487.

**All claims reportable under the amended statute (NRS 617.357) that are accepted, or denied, or updated on or after January 1, 2014 must be reported to WCS on the newly revised Form OD-8.**

Additional information regarding reporting requirements for the OD-8 can be found on our website at <http://dirweb.state.nv.us/wcs/raoccdis.pdf>

### FY13 Claims Activity Report and Insurer Information Form

The **FY13 Claims Activity Report and Insurer Information Form** were due to WCS on December 31, 2013. Insurers that have not yet reported should do so as soon as possible.

Failure to submit the required reports may result in administrative fines.

Links to the blank forms and instructions can be found on our website at <http://dirweb.state.nv.us/wcs/wcsanrp.htm>

Questions may be directed to WCS Research and Analysis at [wcsra@business.nv.gov](mailto:wcsra@business.nv.gov) or (702) 486-9080.

#### 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.

(Independent Contractors, cont. from page 2) in addition, if an employer/employee relationship exists, the employer will not only pay a premium penalty for the time the employer was uninsured, but also any costs relating to an uninsured claim; a cost that can be significant depending on the severity of the injury. **The consequences for being uninsured could be catastrophic to a company.**

**Nevada Revised Statutes require all employers to secure coverage for their employees. There are few exceptions to this requirement. [NRS 616B.603](#) pertains to Independent Enterprises and should be reviewed to determine if you could be deemed an employer under this provision.**



**Please visit the website for the Division of Industrial Relations, Workers' Compensation Section**

**for more information regarding the provisions of workers' compensation and employer coverage requirements:**

<http://dirweb.state.nv.us/WCS/employer.htm>

**You can also contact the DIR/WCS at (702) 486-9080 or (775) 684-7270.**

**Holiday Closures  
Memorial Day  
Monday, May 26, 2014**

Direct comments or suggestions about this newsletter to: *Kevin Jackson, Editor* or *Terry Simi, Assistant Editor*, 702 486-9019 or email: [tsmi@business.nv.gov](mailto:tsmi@business.nv.gov)

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est to our target audience.

Please take a moment to view the newsletter on the Department's website: [http://business.nv.gov/News\\_Media/Publications/](http://business.nv.gov/News_Media/Publications/)

You can also stay informed about what's happening throughout the Department by visiting our website or by following us on Twitter (@SmallBizNV) and/or Facebook ([www.facebook.com/BusinessandIndustry](http://www.facebook.com/BusinessandIndustry)).

**Teri Williams**

*Public Information Officer*

State of Nevada

Department of Business & Industry

## **Claim Reopening Rights Often Misunderstood**

Nevada is one of the few states that allows lifetime reopening of a closed workers' compensation claim. The Nevada Attorney for Injured Workers website has a helpful claim reopening primer which is abridged as follows:

To reopen your claim for medical treatment, you need to submit a written request to the insurer, TPA or self-insured employer. Include your name, social security number, current address and phone number, date of injury, employer at the time and the claim number.

A claim may be reopened if it meets certain requirements. It is your burden to provide the necessary medical evidence which justifies having the claim reopened for further treatment. So, to show that your claim should be reopened, you must provide medical evidence showing that: 1) the primary cause of the change in your condition is the original work injury; 2) as shown by objective medical evidence; your condition has changed since your claim was closed and 3) you need further treatment to help improve your condition. Therefore, you should enclose, with your written request, a report from your doctor containing the following information:

a. Your condition has changed (Continued on page 4)

## Contact Us

Department of Business & Industry, Division of Industrial Relations, Workers' Compensation Section

### Southern Office

(702) 486-9080

### Northern Office

(775) 684-7270

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

<http://dirweb.state.nv.us/WCS/wcs.htm>

(Reopening Rights, cont. from page 3)  
since claim closure.

- b. You need treatment.
- c. A description of the treatment.
- d. That there is a direct relationship between your worsened condition at the time you ask for reopening and your original injury.
- e. Your work injury is the primary cause for your need to re-open your claim.
- f. Any specified time period you are not to work at your job (the one you were injured doing or the one you were retrained to do). You must pay the cost of the original medical examination to substantiate the reopening of your claim. If the claim is accepted, you may be reimbursed for the medical exam. You will be notified in writing within 30 days as to whether your application for reopening is approved or disapproved with appeal rights.

You will be notified in writing within 30 days as to whether your application for reopening is approved or disapproved with appeal rights. If your request is denied, you have 70 days to appeal to the Department of Administration, Hearing Division.

You must pay the cost of the original medical examination to substantiate the reopening of your claim. If the claim is accepted, you may be reimbursed for the medical exam.

If the reopening is approved, your claim will be opened retroactive to the date your application for reopening was received. However, you may be allowed the cost of emergency treatment, prior to your application date, if there is sufficient evidence to substantiate that the treatment was necessary and done on an emergency basis. Otherwise, costs of treatment between claim closure and reopening are not reimbursed.

Please note the following exceptions:

- If you are trying to reopen your claim within one year of claim closure, you need to show the above points by clear and convincing evidence.
- If you did not receive a permanent partial disability award or were not off work due to your original injury, you must request reopening within a year of claim closure.
- If you have voluntarily removed yourself from the workforce before you reopened your claim, you are not entitled to temporary total disability compensation or vocational rehabilitation services.

For more information you can refer to the NAIW website: <http://naiw.nv.gov/Reopening/index.html>

## OSHA 300A Summary—Posting Procedures

The annual summary compiles information recorded on OSHA Form 300, Log of Work-Related Injuries and Illnesses (also known as the OSHA 300 Log), during the previous calendar year. For example, the Form 300A must be posted from February 1 to April 30, 2014, and must include injuries and illnesses recorded on the OSHA 300 Log from January 1, 2013, to December 31, 2013. (Federal Standard [CFR 1904.32](#))



In order to complete and post the OSHA 300A, the employer must first review the entries made on their OSHA 300 Log during the course of 2013. Then a company executive must sign the OSHA 300A Summary, certifying that he or she has examined both the OSHA 300 Log and the OSHA 300A and he or she believes, based on their knowledge of the process by which the information was recorded, that the annual summary is correct and complete. For more information or for a schedule of training courses offered at no charge by SCATS, call toll free 1.877.4SAFENV [1-(877) 472-3368], or visit, [www.4safenv.state.nv.us](http://www.4safenv.state.nv.us).