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.

A question addressed periodically in this newsletter is, “What about coming and going” in workers’ comp law? We have decided to revisit this question in light of a recent WCSHelp question received: “Are you covered for WC [workers’ compensation] when traveling home from a job? I’m a caregiver and was injured in an accident after I left my last client.” Nevada’s workers’ compensation statutes state that if an employee who is acting in the course and scope of his or her employment is injured that worker is entitled to compensation. Most injuries occur on a specific job site or at the business’ location. However, the accidents that occur in other places raise thorny coverage questions. Workers’ compensation coverage, as noted below in the Nevada Supreme Court’s discussion of tort law, does not cover an employee’s commute to and from work.

Questions that this WCSHelp query raise include: “Are caregivers paid mileage and/or salary or other compensation after seeing their final client? Is there a central office to which caregivers report that serves as a hub for handing out assignments and then the final client is considered the end of the work day? Were any non-work related stops made on the way home between the last client and the accident?”

So what’s the answer? As Dock Williams notes in his Straight Talk Col-

(Continued on page 2)
Basics of Coming and Going – Special Errands

Back in 2008, the Nevada Supreme Court elaborated on Coming and Going, especially as related to “special errands” in the case of Bob Allyn Masonry v. Murphy. In most cases, if you commute to work and you make it to the company’s parking lot, your coverage begins then. Likewise when you leave work, you are covered until you leave the lot. Here are some examples of the basic coming and going rules in workers’ compensation:

- If your boss sends you on an errand such as going to the bank or the office supply store, then you are covered the entire time you are gone unless you deviate from that errand and take care of some personal business, such as picking up your dry cleaning or stopping by the grocery store. These are questionable deviations.

- If a salesman in a company car is visiting clients and he’s involved in a car accident during the day, no question, he’s covered. But if he’s allowed to take the car home at night and on weekends, then is he covered if the accident occurs while he is going to the local 7-Eleven to get a Slurpee? Probably not! But what if that 7-Eleven is also a client of his? Then he might be covered.

- A third scenario might be if an employee takes the company’s banking with her when she goes home at night and is also doing personal banking when the accident occurs. She is probably covered because the employer had knowledge that the errand was being done as a “special errand.”

What about the employee who is sent out of state for a short time? Is he covered 24-hours a day? Many insurers would probably deny these claims.
Pay Attention Now or Pay Later

Whether your business is small or large, handling the expense and meeting the statutory requirements of workers’ compensation can be challenging. However, running a business without workers’ compensation insurance is bad for business. The consequences of not following the law are not worth the risks.

Workers’ compensation insurance is a no-fault coverage for employees suffering a job-related injury or illness. Workers’ compensation insurance is designed to help protect employers from personal liability and potential costs associated with job-related injuries. Because Nevada has “exclusive remedy,” the injured workers’ benefits are set forth in statute, generally an injured worker cannot sue an employer for work related injuries if the employer has secured workers’ compensation insurance as required by Nevada law.

The law requires Nevada employers to secure and maintain workers’ compensation insurance for their employees. There are few exceptions to this requirement. Employers meet this requirement of the law by:

1. Securing and maintaining a workers’ compensation insurance policy with a licensed insurer authorized by the Division of Insurance to write workers’ compensation policies in Nevada; or

2. Becoming self-insured for workers’ compensation (a self-insured employer may administer its own workers’ compensation claims or contract with a third party administrator to provide these services); or be legally exempt pursuant to statute to provide workers’ compensation insurance.

Some exceptions are outlined in NRS 616.A110.

Angelia Yllas
Compliance Enforcement Supervisor

Reporting Reminders

FY15 WCS Workers’ Compensation Claims Activity Report and Insurer Information Form pursuant to NRS 616B.009 and NAC 616B.016 are due January 8, 2016. Links to the blank forms can be found on our Web site at http://dirweb.state.nv.us/wcs/wcsanrp.htm.

OD-8 Occupational Disease Claim Report (NRS 617.357) forms for reportable claims in calendar year 2015 are due by December 31, 2015. All insurers that submitted zero OD-8 forms in calendar year 2015 must file a Statement of Inactivity for calendar year 2015. The Occupational Disease Claim Report Statement of Inactivity form is due by January 8, 2016. This form can be found on our Website at http://dirweb.state.nv.us/WCS/Occupational/OCC_DISEASE_STMT_OF_INACTIVITY.pdf.

Failure to submit the required reports may result in administrative fines. Information on reporting requirements and forms can be found on our Web site at http://dirweb.state.nv.us/wcs/wcs.htm under “Insurer and TPA Reporting” or you can contact the WCS Research and Analysis Unit by phone at (702) 486-9080 or by email at wcsrc@business.nv.gov.

Reporting Questions:
Contact WCS Research and Analysis at (702) 486-9080 or WCSR@business.nv.gov.

(Coming and Going Continued from page 2)

The performance of a special errand cannot extend indefinitely beyond the actual period of employment or off of the employer’s premises nonetheless arose in the course of employment, we consider ‘whether the employee [was] in the employer’s control.’ To ensure that employers are not held liable for injuries sustained by employees due to the hazards of daily living. Accordingly, when determining whether an injury that is sustained outside of the actual period of employment or off of the employer’s premises nonetheless arose in the course of employment, we consider ‘whether the employee [was] in the employer’s control.’ To ensure that employers are not held liable for injuries sustained when an employee is outside of the employer’s control, this court has adopted the going and coming rule, which originated in tort law and ‘preclude[s] compensation for most employee injuries that occur during travel to or from work.’”

The Court further contends that “…Under the special errand exception, injuries that are normally exempted from coverage on the ground that they did not arise in the course of employment are brought within the scope of coverage if they occur while the employee is in transit to or from the performance of an errand outside the employee’s normal job responsibilities.”

In addition: “…we [the Court] now clarify that just as injuries sustained while traveling to perform a special errand arise in the course of employment, so too do injuries sustained when returning from the performance of the special errand. But an employer’s liability certainly cannot extend indefinitely beyond the performance of a special errand. It is for the fact-finder to determine, taking into account the totality of the circumstances in each individual case, when the employee ceased returning from the special errand and resumed a journey solely personal in nature. In making this determination, the appeals officer should consider whether the location at which the injuries occurred was on a portion of the roadway that the employee would not have otherwise been if he had not been performing the special errand. An injury will not be compensable if it is sustained after the employee has resumed the portion of his journey, as indicated by the employee’s location at the time of the accident on a portion of the roadway where the employee would have been traveling anyway to perform a task solely personal in nature. Injuries sustained after the employee is no longer returning from the special errand do not fall under its exception and are thus noncompensable under the going and coming rule.”


Michael J. Brooks
Editor

Medical Fee Schedule

Many people are probably aware the Nevada Medical Fee Schedule (MFS) is currently being revised. New additions the DIR is considering include a dental fee schedule and reimbursement for independent medical evaluations. Updates will be posted on the DIR website at [http://dirweb.state.nv.us/WCS/wcs.htm](http://dirweb.state.nv.us/WCS/wcs.htm).

C-4 Forms Clarification

C-4 Forms should not be completed on students who suffer a work related injury as part of their training. Students are not considered employees. Most schools have either a special school insurance to cover students or require students to carry their own insurance. If you have questions regarding a specific school’s policy, please contact the school directly.

Anaheim, California

Angeline Norte, who served as the administrative assistant III to the WCS Chief Administrative Officer and Southern District Manager, said good-bye to WCS Henderson in October. Angie was a key player in many aspects of WCS office operations, and we wish her the best as she returns to the food industry for an exciting promotion opportunity. Both she and her delicious birthday cupcakes will be missed.

A warm welcome to Pamela Santizo, our new DIR Henderson Office reception area Administrative Assistant. She is originally from El Paso, Texas where she was born and raised until age 10. She’s lived in Las Vegas for 30 years but still considers herself a Texas girl. Before coming to DIR, she worked at a physical therapy office for 5 years. Pam is excited to see where her new career path will lead. In her spare time, she enjoys going for long motorcycle rides with her husband, spending time with her three girls, or watching her favorite football team, the Dallas Cowboys.

An October move from the DIR Legal Section brings Vanessa Skrinjaric to the WCS Henderson Insurer/TPA Audit Unit. Vanessa spent 18 years as a legal research assistant in the office of the Nevada Attorney for Injured Workers. She originally hails from Budapest, Hungary where she was born into a Ringling Brothers’ traveling circus family. Later, her family settled in Las Vegas and she went on to graduate from UNLV with a Political Science degree. In her spare time she is an avid soccer fan and movie watcher.

Hails and Farewells

Angelique Norte, who served as the administrative assistant III to the WCS Chief Administrative Officer and Southern District Manager, said good-bye to WCS Henderson in October. Angie was a key player in many aspects of WCS office operations, and we wish her the best as she returns to the food industry for an exciting promotion opportunity. Both she and her delicious birthday cupcakes will be missed.

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Happy New Year

Holiday Office Closures:

Christmas Day
Friday, December 25, 2016

New Year’s Day
Friday, January 1, 2016

Martin Luther King Jr. Day
Monday, January 18, 2016

Presidents’ Day
Monday, February 15, 2016

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