



NEVADA WORKERS' COMPENSATION CHRONICLE

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

Division of Industrial Relations Fall Edition
(September 2018 - November 2018)

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.

8th Annual Workers' Compensation Educational Conference

The 8th Annual Workers' Compensation Educational Conference was held August 23 & 24, 2018, at the Tuscany Suites and Casino. This year it had 286 attendees and 28 vendors. The Conference included speakers and panels from a cross-section of industry professionals including state regulators, attorneys, medical professionals and vocational rehabilitation specialists, addressing topics such as benefit penalties, adjuster licensing, vocational rehabilitation, employer misclassification, large deductible policies and much more. Attendees and presenters engaged in lively participation, dialogue and exchanged ideas on various aspects of workers' compensation and industrial relations, the hallmark of a successful conference.

The Workers' Compensation Section hosts the annual conference in cooperation with the International Workers' Compensation Foundation (IWCF). IWCF is a non-profit corporation that specializes in research and education regarding workers' compensation. They sponsor numerous workers' compensation conferences throughout the country each year.

We look forward to next year's conference to be held August 22 & 23, 2019 at the Tuscany Suites and Casino. Hope to see you all there!



Debbie Atkinson, WCS Northern District Manager, and Ruth Ryan, Research and Analysis Supervisor, at the Workers' Compensation Section booth During the 2018 WCS Educational Conference.
Photo by Lupe Manzo of WCS



Lenard T. Ormsby, Executive Vice President, Chief Legal Officer & General Counsel, EMPLOYERS
Photo by Lupe Manzo of WCS

FY 2019 Maximum Compensation Guidelines Posted

The State's Maximum Average Monthly Wage memo for fiscal year 2019, effective July 1, 2018, has been posted on the WCS web site. The FY 2019 maximum monthly disability compensation is **\$3,904.36**, an increase from last year's figure.

The Maximum Compensation Guidelines memo is located on the "Important Changes" page which is accessed via the link under "What's Hot" on the main page. It provides a chart with Maximum Compensation rates going back to FY 1975.

<http://dir.nv.gov/uploadedFiles/dirnv.gov/content/WCS/ImportantDocs/Max%20Comp%20FY19%20Memo%20and%20Calc.pdf>

Inside this issue

2018 Workers' Compensation Educational Conference	1
Adjuster Licensing	2
Annual PT Checks Coming Soon	2
Reporting Reminders	3
Benefit Penalties	4
Office Closures	4
Annual PT Checks Coming Soon	5
Hails, Farewells and Promotions	5

Adjuster Licensing



Effective July 1, 2018, Nevada law requires individuals and business entities who adjust workers' compensation claims to be licensed with the Nevada Division of Insurance.

Chapter 684A of Nevada Revised Statutes, as amended, provides that an individual who is employed by a third party administrator (TPA) and adjusts workers' compensation claims must obtain a staff adjuster license. An individual who is an independent contractor, as defined, and is contracted by a TPA to adjust workers' compensation claims must hold an independent adjuster license and have a workers' compensation line of authority.

A salaried employee of an insurance company may, but is not required to, obtain a company adjuster license, if the individual is adjusting workers' compensation claims.

Pursuant to law, a licensee may not concurrently hold more than one type of adjuster license. In addition, a licensee may not be concurrently licensed as an adjuster and an insurance producer.

Prior to applying for a license, an individual will need to complete prelicensing education, pass an examination and submit fingerprints for a criminal history background check. Once these actions have been taken, an individual must submit an application to the Division of Insurance.

Individuals currently acting as adjusters for workers' compensation claims have until December 31, 2018, to become licensed under the proper license type. Any unlicensed investigation, settlement or negotiation of a claim after that date is subject to criminal and civil penalties.

While individuals have until December 31st to obtain a license, the Division of Insurance urges adjusters to start the process as soon as possible. The steps to qualify for a license or to add a line of authority take time to complete, and the Division wants to ensure that all individuals are able to come into compliance with the law by the end of the year.

The Insurance Division presented an overview of the new law during the Nevada Workers Compensation Education Conference held in Las Vegas on August 23rd and 24th, and appreciates the input from attendees.

Information regarding the licensing requirements and the application steps is available on the Insurance Division's website at: <http://doi.nv.gov>. Please continue to check the website for updated information regarding adjuster licensing.

Stephanie McGee, Deputy Commissioner, Captives, Market Regulation and Producer Licensing, Nevada Insurance Division

Annual PT Checks Coming Soon

Those familiar with WCS recognize that certain activities and notices fall into a regular annual pattern. For example, the Medical Fee Schedule is updated every February 1st, the fall newsletter reiterates the maximum compensation rate for the new fiscal year that begins in July; and the WCS staff reviews evaluations from the summer's annual education conference and begins planning next year's. However, an ongoing WCS statutory function that is probably not well known involves certain PT claimants. WCS is required to identify a group of permanently and totally disabled injured employees who are eligible for a benefit payment per [NRS 616C.453](#) and to ensure that these annual payments are disbursed by the State of Nevada on or by October 1 each year.

In keeping with [NRS 616C.453](#), this eligible pool of injured workers receives an annual payment disbursement from the Uninsured Employers' Claim Account based on the accrued interest amount with the statute stipulating that total payments may not exceed \$500,000 in any given year.

While the regulatory process detailed in [NAC 616C.526](#) for determining check disbursements has not changed since the law was enacted in 2005, the number of eligible claimants and check disbursement amounts have changed.

What have been the total disbursement amounts since 2005?

2005: \$285,146.92	2010: \$122,330.72	2015: \$ 43,350.12
2006: \$500,000.00	2011: \$ 37,638.31	2016: \$ 61,287.79
2007: \$496,131.50	2012: \$ 20,506.28	2017: \$101,507.29
2008: \$495,431.46	2013: \$ 28,356.91	2018: \$172,689.30
2009: \$307,993.95	2014: \$ 27,894.86	

(Continued on page 5)



REPORTING REMINDERS



Insurers must notify WCS of any changes such as contact name, address, phone and fax numbers, as well as changes in TPAs by submitting an **Insurer Information Form** via our CARDS web portal within 30 days of any changes. TPAs must also notify WCS of any changes in contact information within 30 days by submitting the **TPA Information Form** via the CARDS web portal. For information on how to submit the **Insurer Information Form**, see the Quick Steps guide on our website at http://dir.nv.gov/WCS/Insurer-TPA_Reporting/. For information on CARDS, please visit the CARDS Web page at <http://dir.nv.gov/WCS/cards/>.

The **2018 Permanent Total (PT) Disability Claim Reports (NRS 616C.453)** Form and Instructions were distributed via email in July and were due to WCS on **AUGUST 8, 2018**. All insurers must submit a **PT Claim Report** even if they have no PT claims to report. Insurers that have not yet submitted their **PT Claim Report** should do so immediately. Forms and instructions can be found on our website at http://dir.nv.gov/WCS/Insurer-TPA_Reporting/.

(OD-8) Occupational Disease Claim Report(s) (NRS 617.357) is an ongoing reporting requirement. The OD-8 form was updated in July 2018 to include the claimant's first and last name and appeal number fields to assist the DIR in implementing and enforcing the requirements set forth in AB 267 (2017), amending NRS 617.455 and 617.457.

A **D-35 Request for a Rotating Physician or Chiropractor** must be submitted to WCS prior to any PPD impairment evaluation being scheduled with a rater. Before WCS can process a D-35, the claim must be reported to the Claims Index System. If the claim has not been reported, submit the **D-38 Injured Worker Index System Claims Registration Document** via the CARDS web portal or by submitting the fillable form found on our website.

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. **Effective July 1, 2018, private carriers writing large deductible policies in Nevada are required to submit 3 additional data elements relating to the policy. See NCCI Circular POC-NV-2018-01 on our website for more information.**

Information on reporting requirements and forms can be found on our web site at <http://dir.nv.gov/WCS/Home/> under "Insurer and TPA Reporting" or go directly to our page at http://dir.nv.gov/WCS/Insurer-TPA_Reporting/. Contact the WCS Research and Analysis Unit by phone at (702) 486-9080 or by email at wcsra@business.nv.gov if we can be of any assistance.

FY 2019 Actuarial Annuity Table Posted

Ray Fierro, the Interim Administrator of the Division of Industrial Relations, adopted the Actuarial Annuity Table for fiscal year 2019, effective July 1, 2018.

The table has been posted on the WCS web site and can be found under "What's Hot!" on the WCS home page.

http://dir.nv.gov/uploadedFiles/dirnv.gov/content/WCS/2018_Signed_Notice_Ann_Table.pdf

Pursuant to NRS 616C.495 (5), the table must be reviewed annually by a consulting actuary and adjusted by July 1 of each year.

The Positives in the Neighborhood



The Division of Industrial Relations (DIR) team will be collecting non-perishable food items and personal products from late September through November to be delivered to Nevada's veterans. This is the 3rd year that DIR has partnered with Veterans Village to assist southern Nevada Veterans. Veterans Village has been caring for the needs of our homeless veterans for the last six years and has recently opened their third location which will provide medical and rehabilitation services in addition to other on-site services to help veterans needs. Future plans include Veterans Village Women's Housing. We look forward to our ongoing relationship with such an important organization.

Benefit Penalties

DIR receives complaints about various violations of NRS Chapters 616A-D and 617 from injured employees, attorneys, employers, health-care providers, third-party administrators and insurers. Most of the complaints are investigated by the Audit Unit and the Medical Unit because they do not allege any facts which may result in a benefit penalty. NRS 616D.120(3) authorizes the imposition of a benefit penalty if NRS 616D.120(1)(a) to (e), inclusive, (h) or (i) have been violated.

A complaint for a benefit penalty should be filed with the DIR after the time in which the act should have occurred. The matter also should not be on appeal. The complaint should be filed within two (2) years of the violation date pursuant to NRS 11.190(4)(b).

When submitting a complaint for a benefit penalty, identify the specific provision(s) of NRS 616D.120(1) alleged to have been violated AND attach copies of any and all documents which tend to support or prove, in whole or in part, the alleged violation.

When DIR evaluates “payment of compensation” in NRS 616D.120, the definitions in NAC 616D.305(2) are used. If assessing a benefit penalty under:

- (a) NRS 616D.120(1)(c) for an unreasonable delay in payment, DIR uses NAC 616D.305 and NAC 616D.315;
- (b) NRS 616D.120(1)(h) for a pattern of untimely payments, DIR uses NAC 616D.413;
- (c) NRS 616D.120(1)(i) for an intentional violation, DIR uses NAC 616D.405 in its analysis.

The amount of a benefit penalty is controlled by NRS 616D.120(3) and (4). NRS 616D.120(4) allows a “mini benefit penalty” of “\$3,000 if the violation involves a late payment of compensation or other relief to a claimant in an amount which is less than \$500 or which is not more than 14 days late.” NRS 616D.120(3) allows a benefit penalty “in an amount that is not less than \$5,000 and not greater than \$50,000.”

If the minimum amount of a benefit penalty is \$5,000 per NRS 616D.120(3)(a), then NAC 616D.411 is used to calculate the total amount of the benefit penalty.

Pursuant to NRS 616D.140(2), “A person who is aggrieved by (a) A written determination of the Administrator; or (b) The failure of the Administrator to respond within 90 days to a written request” may appeal to the appeals officer. The request must be filed within 30 days of the Administrator’s determination or “within 100 days after the date on which the unanswered written request was mailed to the Administrator.” “The failure of the Administrator to respond to a written request for a determination within 90 days after receipt of the request shall be deemed...to be a denial of the request.”



HOLIDAY OFFICE CLOSURES

Labor Day
Monday, September 3, 2018

Nevada Day (Observed)
Friday, October 26, 2018

Veterans Day
Monday, November 12, 2018

Thanksgiving
Thursday, November 22, 2018

Family Day
Friday, November 23, 2018

CONTACT WCS

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WCSHelp@business.nv.gov

Questions about Workers' Compensation?
Click Here!



WCSHelp@business.nv.gov

Training Sessions

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WCS Basic Orientation

TBD (Visit our website for updates)

C-4 Processing & CVS

10/17/2018 at 9:30 am

Medical Billing

10/17/2018 at 1:30 pm

Direct comments or suggestions
about this newsletter to:

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Annual PT Checks Coming Soon

(Continued from page 2)

What have been the number of claimants since 2005?

2005: 1425	2010: 1254	2015: 975
2006: 1423	2011: 1205	2016: 921
2007: 1383	2012: 1151	2017: 880
2008: 1330	2013: 1083	2018: TBD
2009: 1283	2014: 1026	

Range of check amounts since 2005? \$7.12 - \$634.72

What should claimants keep in mind as they wait for their checks?

There are 3 factors that are used in the formula to calculate annual payment amounts:

- the number of eligible claimants each year:
- the monthly PT rate of the claimant: and
- the total dollar amount available to disburse among the eligible claimants

We saw the total amount available to disburse decline significantly with the struggling economy from 2007 through 2014; however, the tide appears to have turned as 2018 is the fourth consecutive year that the amount has increased.

Eligible PT claimants should immediately notify their claims administrators and WCS of any address changes. Maintaining current contact information will expedite the process and ensure that all payments arrive timely.

Promotions



Congratulations **Kimberly Williams** who was recently promoted to Compliance / Audit Investigator 1. Kimberly Williams started with the State of Nevada Bureau of Disease Control and Intervention Services / Health Division in September 1997. She worked in the Tuberculosis Program, Immunizations Program, and Family Health Services. She came to the Workers' Compensation Section May of 2008 where she became the D-35 Coordinator. Kimberly loves spending time with her senior fur baby, Lil Bear, a rescued American Bulldog and her four grandchildren. Her favorite place to hang out is Lake Tahoe, Nevada.

WCS MISSION STATEMENT

The purpose of the Workers' Compensation Section 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.