

All About Claims

Colorado Department of Labor & Employment
Division of Workers' Compensation
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All About Claims is a newsletter published by the Colorado Division of Workers' Compensation designed to provide information to claims handlers. Please send comments or suggestions for future topics to JoAnne Ibarra at 303.318.8790 or by e-mail to JoAnne.Ibarra@state.co.us.

From the Director

Upcoming Rulemaking Hearings - Rules 2, 3, 4 and 5

The Division has scheduled rulemaking hearings in the upcoming months to consider amendments to each of the following Rules of Procedure. The proposed amendments to each Rule and their respective hearing dates are outlined below:

Rule 2 Hearing: April 30, 2007, 9:00 a.m.

To amend the workers' compensation and special funds premium surcharge rates paid by carriers and self-insured employers while maintaining the total surcharge at its current level.

Rule 3 Hearing: June 4, 2007, 9:00 a.m.

To revise 3-1(A) first sentence to read "The Division designates the National Council on Compensation Insurance, Inc.(NCCI) as its agent to receive, process, and make available to the Division all the required notices."

Rule 4 Hearing: June 4, 2007, 9:30 a.m. (or later)

To strike the current Rule 4 and promulgate a new updated rule. While portions of the proposed rule are very similar to the current rule, proposed revisions/amendments will provide information to those responsible for adjusting claims to assist them in understanding the Division's audit responsibilities, authority, methods and process. Proposed revisions/amendments will specifically inform insurers of claims adjusting matters that are subject to audit and the compliance level that is considered satisfactory. The revisions/amendments also provide the circumstances under which the director may order a fine for repeated violations, and criteria for determining the amount of any fine.

Rule 5 Hearing: June 4, 2007, 9:00 a.m.

To add a subsection (D) to 5-4 concerning requests for information to determine the average weekly wage and the resolution of any disputes concerning such requests for information.

For more details concerning these proposed changes, as well as the actual amended language contained within each Rule, please refer to our website: <http://www.coworkforce.com/dwc/Notices/Proposed%20Rules/Proposed%20Rules.asp>.

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In other Rulemaking news...

Amendments to the Medical Treatment Guidelines effective July 1

The updated Rule 17 (Medical Treatment Guidelines) and selected Exhibits to the rule will be effective on July 1, 2007. Please review and make use of these extensively researched guidelines! The rule amendments address the following areas:

- **Rule 17 - Medical Treatment Guidelines** - clarifies and amends the terminology and application of the Medical Treatment Guidelines.
- Exhibit 1 (**Low Back Pain**) and Exhibit 8 (**Cervical Spine Injury**) - terminology, procedures, and implementation of each of these exhibits is updated and revised in its entirety.
- Exhibit 9 (**Chronic Pain Disorder**) - Section F. 7. g. Nonsteroidal Anti-Inflammatory Drugs (NSAIDS) is amended. Additional amendments were made to the exhibit in the subject area of spinal injections so as not to conflict with the rule language adopted in Exhibits 1 and 8 concerning spinal injections.
- Exhibit 5 Section F. 5. d. - (**Cumulative Trauma Disorder**) and Exhibit 6-Section F. 4. d. (**Lower Extremity Injury**) are also amended in relation to NSAIDS.

A word from the IME Unit...

Reminders when filing Division Independent Medical Examinations

- When completing the IME Application form, please include - to the extent possible - the complete addresses, including suite numbers, of the treating physicians in the case. Also be clear and unambiguous about the body parts or medical conditions you wish to have evaluated; e.g., avoid general references like “upper extremity” as that could mean fingers, hand, wrist, elbow, shoulder, other soft-tissue, nerve, or vascular problems, or all of the above. Please be specific.
- Remember that the \$675 payment for the IME is due at the doctor’s office 10 calendar days prior to the appointment date. If the payment is late, the physician may charge an additional \$100 for the exam (Rule 11-4(B)). Also, the initial package of medical records as prepared by the insurer/employer should be provided to the doctor 14 calendar days prior to the exam. Finally, an IME appointment must be cancelled no later than 3 business days prior to the appointment in order to avoid a cancellation fee (Rule 11-4(C)).
- Communication with the selected IME physician or his/her office is limited to administrative matters such as setting the IME appointment or confirming receipt of payment or medical records. Physicians at times need to be reminded of this as well, especially those that are new to the Division IME panel. *When in doubt, contact the IME unit . . . 303-318-8655.*
- Finally, review Director’s Interpretive Bulletin #1, A Guide to H.B. 01-1161, for Division guidance on the filing of Final Admissions following a Division IME.



Also from the Director

Changes to the Application for Lump Sum Form

New language will be added to the Lump Sum form. The motivation behind the change is that appellate decisions are moving in the direction of saying that if an injured worker gets a lump sum the injured worker cannot challenge any aspect of the Final Admission. The rationale appears to be that by signing the application the injured worker is waiving the right to proceed with any type of challenge. The Division’s position has been, and will continue to be, that an injured worker cannot receive a lump sum for PPD and continue to litigate the PPD award. However, receiving a lump sum for PPD should not cut off the opportunity to challenge all issues. For instance, based on that level of impairment the injured worker may want to go to hearing and try to prove that s/he is permanently, totally disabled. Or there may be an issue regarding medical benefits or interest on the award. Hopefully, this change will clarify that the injured worker is not waiving the right to go forward on all issues by receiving a lump sum. A copy of page 1 of the amended form can be found on page 3 and includes a minor clarification to item number four. The changes are highlighted. Look for an effective date of June 1.

COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF WORKERS' COMPENSATION

**APPLICATION FOR LUMP SUM
(Permanent Partial, Permanent Total and Dependents' Benefits)**

Claimant _____ W.C.# _____

Date of Injury _____ Employer _____

Insurance Carrier _____ Insurance Carrier Claim # _____

COMPLETE, SIGN AND MAIL (OR DELIVER) TWO COPIES TO THE INSURANCE CARRIER HANDLING YOUR CLAIM. FAILURE TO FORWARD AND/OR SIGN THE APPLICATION MAY DELAY PROCESSING OF YOUR REQUEST.

NOTE: A lump sum cannot be granted by the Director of the Division of Workers' Compensation until **SIX (6) MONTHS** have elapsed from the date of injury or death, and there has been a final award of permanent benefits. The maximum lump sum allowable is \$37,560, including any previously paid lump sums.

1. Name of applicant _____ Phone # (____) _____

Address _____
Street City State Zip Code

2. Date of applicant's birth _____

3. If applicant is other than claimant, state family relationship _____

4. The disability or death benefit award is the result of a: Final Admission Final Order

5. Date of disability or death benefit award _____
Month Day Year

6. Amount requested \$ _____

7. Applicant is presently:

Receiving Social Security Benefits Monthly Amount \$ _____

Receiving pension benefits or other income Monthly Amount \$ _____

Check the box that applies:

I accept the amount of permanent partial disability benefits awarded. I understand that in accordance with section 8-43-406 of the Colorado Workers' Compensation Act, a four percent per annum discount is subtracted from the total award.

I accept the award of permanent total disability benefits. I understand that in accordance with section 8-43-406 of the Colorado Workers' Compensation Act, a four percent per annum discount is subtracted from the total award.

I accept the award of death benefits. I understand that in accordance with section 8-43-406 of the Colorado Workers' Compensation Act, a four percent per annum discount is subtracted from the total award.

Dated this _____ day of _____, _____.
Day Month Year

Applicant's Signature

DELIVER OR MAIL TWO COPIES TO THE INSURANCE CARRIER

The insurance adjuster will complete the second page of this form and mail a copy to you and to the Division of Workers' Compensation.

Did You Know?

New Colorado Immigration Law: Employment Verification Requirements

A new Colorado law (8-2-122, C.R.S., HB 06S-1017) concerning employment verification requirements became effective on January 1, 2007. This law applies to public and private employers in Colorado, and to employees hired on or after January 1, 2007.

There are 2 main components to the law (these are distinct from federal I-9 requirements):

- (1) Each employer in Colorado shall make an affirmation within 20 days after hiring a new employee ([go here for a sample affirmation](#)). The employer must keep a written or electronic copy of the affirmation for the term of employment of each employee.
- (2) The employer must keep a written or electronic copy of the documents required by 8 U.S.C. Sec. 1324a ([copies of the employee's identity documents presented for the Form I-9](#)) for the term of employment of each employee.

The documents described above do not have to be submitted to the Division of Labor, unless specifically requested by the Division. For more information, contact the Colorado Division of Labor at 303-318-8441, or visit www.coworkforce.com/lab. Useful resources on this law include a [fact sheet](#), a more detailed [comprehensive guide](#), and the actual [text](#) of the law.

COLORADO STATE WEBSITE

<http://www.colorado.gov/>

WORKERS' COMPENSATION WEBSITE

www.coworkforce.com/DWC/

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