

Chapter Ind 80

WORKER'S COMPENSATION

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Ind 80.01 Definitions. (1) "Act," "compensation act" or "worker's compensation act" means ch. 102, Stats.

(2) "Department" means the department of industry, labor and human relations.

(3) "Commission" means the labor and industry review commission.

History: 1-2-56; am. Register, April, 1975, No. 232, eff. 5-1-75; r. and recr. Register, September, 1982, No. 321, eff. 10-1-82.

Ind 80.02 Reports. (1) DUTY (a) *Employers*. Employers covered by the provisions of ch. 102, Stats., shall, within one day after the death of an employe due to an accident or industrial disease, make a brief report of this occurrence to the department by telegraph, telephone, letter, facsimile transmission or other means authorized by the department. Except as provided in par. (b), employers shall also make a report to the

department on a form WC-12 and notify their insurance carriers of the injury on or before the 7th day after the accident or beginning of a disability from occupational disease upon every accident or disease causing death or a disability which exists beyond the 3rd day after the employe leaves work as a result of the accident or disease. (s. 102.43, Stats.)

(b) *Alternative for employers.* In lieu of filing form WC-12 with the department as required in par. (a), an employer may, on or before the 7th day after the date of injury, report information required by form WC-12 to the department as authorized under sub. (3m) (a) or to an insurer who is authorized to file on behalf of its insured employers under sub. (3m) (a). An insurer reporting to the department on behalf of its insured employers shall report the information required by form WC-12 on or before the 14th day following that on which the injury occurred, or if the employer does not notify the insurer until after the 14th day, within 7 days of receiving notice of the injury from any source.

(2) **SELF-INSURED EMPLOYERS AND INSURANCE COMPANIES.** Except as provided in sub. (3m), pursuant to s. 102.38, Stats., for injuries which require the first report of injury set forth in sub. (1), self-insured employers and insurance companies shall:

(a) Make a supplementary report on a form WC-13 on or before the fourteenth day following that on which the injury occurred, a copy of the WC-12 shall be attached to the initial WC-13, and if the wage is less than the maximum wage as defined by s. 102.11 (1), Stats., submit with the form WC-13, wage information on form WC-13a. If wage information is not available at the time the WC-13 is submitted, a notation should be made on the form WC-13 that a form WC-13a will be submitted at a later date. If an employe restricts his or her availability on the labor market to part-time employment and is not actively employed full time elsewhere, a statement confirming this intention must accompany the WC-13a. This statement is not required if the employe is under the age of 16.

(b) Make a report within 7 days from the date that payments are stopped for any reason. If any payments are stopped for a reason other than the employe's return to work, an explanation of such cessation must be provided to the department and the employe. The self-insured employer or insurance carrier shall advise the employe as to what the employe must do to reinstate payments.

(c) Make a report to the department on form WC-13 with a copy to the employe if payment of compensation is changed from temporary total disability or temporary partial disability to a permanent disability basis. Similar report shall be made if temporary disability benefits are reinstated.

(d) Notify the department and the employe immediately if liability for payment of compensation is denied, giving the reason for such denial. The notice shall advise the employe of the right to a hearing before the department.

(e) Make a final report on a form WC-13 when final payment of compensation has been made. A practitioner's report is necessary if temporary disability exceeds 3 weeks or if permanent disability has resulted. Copies of the final WC-13 form and the final practitioner's report must be sent to the employe.

(f) Notify the department and the employe if the employe fails to return to a practitioner for final examination. The notice shall also advise the employe that in order to determine permanent disability, if any, the final examination is necessary.

(g) Submit a final receipt as proof of payment of any increased compensation due to an injured employe.

(h) File a current form WC-13 indicating all payments to date and the periods of time for which these payments were made when submitting a stipulation or compromise, or at the time of hearing.

(i) Make immediate report to the department of any amputation which will require an artificial member or appliance.

(3) **EVALUATION.** In evaluating whether payments of compensation and reports made by insurance carriers and self-insured employers were prompt and proper under the provisions of ss. 102.28 (2) and 102.31 (3), Stats., and before undertaking to revoke the exemption from insurance under s. 102.28 (2) (c), Stats., or before recommending under s. 102.31 (3), Stats., to the commissioner of insurance that enforcement proceedings under s. 601.64 be invoked the department will consider the following performance standards together with all other factors bearing on the performance and activities of the insurance carrier or self-insured employer:

(a) *Payment of first indemnity.* Whether 80% or more of first indemnity payments are mailed to the injured employe in 14 days or less following the last day worked after the injury.

(b) *First report of injury.* Whether 70% or more of reports required under sub. (1) are received by the department within 14 days of the last day worked after injury.

(c) *Correct and complete names.* Names of self-insured employers on reports filed with the department must be correct and complete. The name of an insurance group is not a substitute for the name of the individual company insuring the risk. The name of an insurance service company is not a substitute.

(d) *Penalty frequency and severity.* The number and amount of penalties assessed for violations of ss. 102.18 (1) (bp), 102.22 (1), 102.57, and 102.60, Stats.

(3m) **REPORTING BY ELECTRONIC, MAGNETIC OR OTHER MEDIA.** (a) An employer, self-insured employer or insurer may make a written request to the department to submit the information in reports or amendments to reports required to be filed with the department in sub. (1) or (2) via electronic, magnetic or other media satisfactory to the department. The department may authorize an employer, self-insured employer or insurer to use electronic, magnetic or other reporting media after considering the extent to which it will help the employer, self-insured employer or insurer meet or exceed the applicable reporting requirements and performance standards in subs. (1) to (3).

(b) The authorization shall be in writing and shall state the terms and conditions for granting and revoking the privilege to use electronic, magnetic or other reporting media, including any terms and conditions relating to reporting requirements or performance standards in subs. (1) to

(3). The written authorization shall specify what variations exist, if any, between the data required to be submitted on forms WC-12, WC-13, WC-13a, or other forms that are used by the department and the data required to be submitted via electronic, magnetic or other media.

(c) When the department authorizes a self-insured employer or an insurer to use electronic, magnetic or other reporting media to report information required by form WC-12, the self-insured employer or an employer insured by the insurer is exempt from the 7-day reporting requirements in sub. (1) (a).

History: 1-2-56; am. (1) and (2), Register, October, 1965, No. 118, eff. 11-1-66; am. Register, April, 1975, No. 232, eff. 5-1-75; am. (1), r. and recr. (2), Register, September, 1982, No. 321, eff. 10-1-82; am. (2) (intro.) and cr. (3), Register, September, 1986, No. 369, eff. 10-1-86; renum. (1) to be (1) (a) and am., cr. (1) (b) and (3m), am. (2) (intro.), Register, November, 1993, No. 455, eff. 12-1-93.

Ind 80.025 Inspection and copying of records. (1) The policy of the state on public access to records is set forth in ss. 19.31 to 19.37, Stats. The policy of the department is to provide, to the greatest extent possible, ready and open access to public records. In the worker's compensation division, access may be limited in particular cases only when consideration of the information in a file leads to the conclusion that the public interest served by nondisclosure is greater than the public interest served by disclosure. The inspection and copying of worker's compensation records shall be subject to the conditions specified in this section.

(2) The requester shall provide sufficient information on each individual file requested to permit identification and location of the specific file. Desirable information on claim files includes:

(a) The correct name of the individual who has claimed a work-related disability;

(b) The claimant's social security number;

(c) The date the claimed injury or illness occurred;

(d) The name of the employing firm or firms at the time of the claimed injury or illness;

(e) The name of the employing firm's insurance carrier.

(3) Requesters may inspect claim files only in the division's Madison office and under the supervision of division staff. Requesters shall direct requests to inspect files to the receptionist between the hours of 7:45 a.m. and 4:30 p.m. Requesters shall return all files by 4:30 p.m.

(4) Requesters may not remove files from the division offices without written authorization from the administrator of the division.

(5) Requesters wishing to make copies of all or a part of a file may do so under the supervision of division staff on the coin-operated copy machine provided for that purpose.

(6) The division shall provide transcripts of testimony taken or proceedings had before the division only in accordance with s. Ind 80.14.

(7) The division shall furnish copies of documents from worker's compensation claim files as requested, with the following limits:

(a) At least one week must be allowed before copies can be delivered or mailed.

(b) Advance payment shall not be required except as provided in par. (e). The division shall send an invoice to the requester for the necessary costs as set forth in par. (c).

(c) The following fees shall apply:

1. 20 cents per page for photocopying.
2. \$2.00 for certifying copies.
3. \$3.00 per request for postage and handling when copies are to be mailed.

(d) Upon a proper showing of inability to pay, the division shall furnish the requested copies upon such terms as may be agreed.

(e) If the requester has unpaid copying fees from prior requests outstanding in an amount that exceeds \$5.00, the division shall require the requester to pay the amount owed before providing more copies.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

Ind 80.03 Compromise. (1) Whenever an employer and an employe enter into a compromise agreement concerning the employer's liability under ch. 102, Stats., for a particular injury to that employe, the following conditions shall be fulfilled:

(a) The compromise agreement shall be in writing, or in the alternative, oral on the record at the time of scheduled hearing;

(b) The compromise agreement shall be mailed to the department unless made on the record;

(c) The compromise agreement must be approved by the department; and

(d) No compromise agreement may provide for a lump sum payment of more than the incurred medical expenses plus sums accrued as compensation or death benefits to the date of the agreement and \$5,000 in unaccrued benefits where the compromise settlement in a claim other

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