

Workers' Compensation Alert: New Injury Notice Requirements Effective August 10, 2022

Governor Polis recently signed House Bill 22-1112, which implements changes to the notice requirements for workers' compensation injuries. The changes go into effect on August 10, 2022 and will affect CIRSA's workers' compensation pool members.

CIRSA has outlined below the key changes in notice requirements made under House Bill 22-1112. The below also provides suggestions regarding best practices to ensure compliance with the new provisions.

House Bill 22-1112 and Workers' Compensation Rule of Procedure 3-6

House Bill 22-1112 and Workers' Compensation Rule of Procedure Rule 3-6 will amend the process regarding how an employee reports a work-related incident to an employer and the notice which must be provided by the employer.

Time frame for the employee to report is extended to 10 days

- House Bill 22-1112 extends the time frame for an employee to report a work-related injury, in writing, to his/her employer from four to 10 days.

Affixing the date and time of the receipt on the notice and providing a copy to the employee

The revised statute also requires that when an employer receives written notice of an injury from the employee, the employer is to:

- Affix the date and time of the receipt on the notice.
- Make a copy of the notice affixed with the date and time available to the employee within seven (7) days after the employer receives the notice.
- If the employer fails to provide a copy of the notice to the employee, the period allotted to the employee for reporting is tolled until the notice is provided.

In short, the statute will now require the employer provide the employee with date and time stamped copy of their notice of injury. Therefore, CIRSA recommends that the employer develop a procedure for processing the written notice provided by the employee. CIRSA further recommends that the employer implement a clearly defined protocol, with appropriate training of individuals designated by the employer to receive notice of an injury.

Notice regarding reporting injuries must now be posted on revised form provided by CIRSA

- The new Rule 3-6 requires that the Division's Form WC 50 must be displayed by all employers in one or more conspicuous places at all the employer's work sites at all times. Form WC 50 replaces both the current WC 49 and WC 50 as both are consolidated into one form (the new WC Form 50).
- The new Rule 3-6 also requires the insurer to supply all of its insured employers with the revised Form WC 50. CIRSA will be mailing new WC Form 50 posters to all of its Workers' Compensation pool members prior to the August 10, 2022 effective date of the new provisions.
- If the employer does not display the new WC Form 50, the employee's time frame to report the injury is tolled until such notice is displayed. Therefore, it is very important to follow the law and prominently display the Form WC 50.

What if the employer has actual notice of the injury?

The Act still provides that if the employer displays the statutory notice of the employee's requirements for reporting injuries (Form WC 50) and the injury was not timely reported by the employee, then the employee could lose up to one day's compensation for each day he/she failed to report the injury.

However, the House Bill 22-1112 changes now provide that the employee is not subject to this potential loss of compensation if the employer had actual notice of the injury, or the employee shows good cause for the failure to report the injury.

Therefore, CIRSA stresses that even if the Form WC 50 is appropriately displayed, the employer must properly report to CIRSA any injury of which the employer has actual notice.

You can view the complete text of House Bill 22-1112 [here](#). You can also view [here](#) the Division's rulemaking page for the recent changes to Rule 3-6, which includes links to blackline and final versions of the new Rule.

If you are a CIRSA Workers' Compensation pool member and have any questions for CIRSA regarding the new notice and posting requirements please contact Marla Myers, WC Claims Supervisor at marla@cirsa.org.

This article was prepared by Pollart Miller LLC, a member of CIRSA's workers' compensation defense panel.