



# Workers' Compensation

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## WHO HAS A SAY IN QUESTIONABLE CLAIMS?

"I suspect my employee is faking an injury. What should I do?" This is a common question we get from employers. Not only do these employers have a moral objection to allowing fraud, but also many fear their workers' comp insurance rates will increase unnecessarily. In addition, we have received feedback from health care providers that some employers are reluctant to provide coverage information because they believe the injured employee's accident or disease is not work-related.

Many employers do not realize that withholding information or trying to suppress a questionable claim is not a legal employer option. Provision 1 of **NRS 616D.120** expressly prohibits an employer, insurer, third-party administrator, health care provider, or managed care organization from inducing a claimant not to report an industrial injury or occupational disease. The administrative fine for an initial violation is \$1,500, while second and subsequent violations carry a \$15,000 fine.

It is the insurer providing the workers' comp coverage that is responsible for evaluating whether the claim fits the "work-related" guidance provided by statute or regulation. The entire workers' compensation claims process provides adequate input and appeal rights to all workers' comp partners to allow those parties to address their concerns.

In most circumstances, if an employee incurs an injury on the job or contracts an

occupational disease, whether requiring immediate medical treatment or not, that employee is afforded the opportunity by the employer to fill out a **Form C-1: Notice of Injury or Occupational Disease**. The employer is legally required to have an adequate supply of these forms for employee use.

The employee signs this form to provide notice to the employer /supervisor that the incident occurred. The employer/supervisor must also sign the form. The employee normally has 7 days from the time of the incident to complete the form. The employer must maintain a copy of the C-1 for 3 years and provide a copy to the injured worker.

The Form C-1 and all other workers' comp forms are on the WCS Web site Forms page: . Depending on circumstances, a C-1 may not always be completed before an injured employee seeks medical treatment. Normally, the injured worker has 90 days from the date of injury to seek medical treatment.

When the employee first seeks treatment for an occupational disease or injury, the employee and the health care provider must complete a **Form C-4: Employee's Claim for Compensation /Report of Initial Treatment**. Some health care providers believing the injury was not work-related have declined to sign their portion of this form. This is not the health care provider's decision. Again, the insurer providing coverage makes this determination. However, there is a space on the C-4 for health care providers to indicate whether they believe the injury or disease was work-related. A copy of this form is

provided to the injured employee.

After receiving his copy of the C-4, the employer now has six working days to complete a copy of the **Form C-3: Employer's Report of Industrial Injury or Occupational Disease** and forward it to the insurer. This is the employer's opportunity to provide the insurer with their view of the incident and whether they believe the injury or disease contraction was work related.

Meanwhile, the insurer, upon receipt of the C-4, has 30 days to begin payment or deny the claim. Some insurers have denied or delayed the decision to begin payment or have denied a claim based on not receiving a copy of the C-1. Others have denied or delayed making a determination based on not receiving a copy of the C-3. However, an insurer's not receiving the C-1 or the C-3 is not a valid reason for delaying payment or denying a claim for compensation. If the insurer denies a claim or requires information for acceptance or denial of the claim, the insurer must notify the employee and the health care provider. The insurer must also notify WCS of the claim denial (**NAC 616C.091**).

Nevada laws and regulations provide ample opportunities to appeal decisions made by an insurer. Both the employee and the employer have rights and remedies. The claims administration process has sufficient opportunity to resolve any issues. Each of the participants in the process has specific functions to perform. If one of the participants does not comply with his or her role, the process is slowed or disrupted, which is when WCS becomes involved.

