

# ALL ABOUT CLAIMS

## DEPARTMENT OF LABOR AND EMPLOYMENT DIVISION OF WORKERS' COMPENSATION

March/April, 1993

Volume 2

We hope the first edition of the claims newsletter was of value and further extend our best wishes to you from the Claims Section of the Division of Workers' Compensation. The format of this newsletter will change from time to time as we receive contributions from other sources such as the Division of Administrative Hearings. When asked for their thoughts on items which would be of use to the claims community, Judges Bruce Friend and Morgan Rumler were enthusiastic in their response. Their contribution is entitled: Notes from the Judges.

### We Call Them "Error Letters"

You may have received correspondence from us requesting clarification or revisions on Admissions of Liability.... The letters are initially generated by the computer system which identifies errors in calculations, reductions in the temporary total disability rate and discrepancies between the average weekly wage as reported on the Employer's First Report of Injury/Workers' Claim for Compensation forms and the AWW as stated on an Admission of Liability. (To eliminate an error letter on the latter, attach support for any wage differential along with your admission and make reference to it in the "remarks" section.)

The claims manager at the division reviews the initial letters for data entry errors, requests revisions to the system if necessary, then pulls the remaining files to verify applicable offsets, AWW, safety rule reductions, RTW dates, etc. Following review, the claims manager may request clarification or revision from the carrier. The letters may then be copied to the carrier, claimant and attorney, envelopes are prepared, and the file is diaried for follow-up.

All admissions received by the division are reviewed. Nearly 10,000 admissions per month are received, and these are divided among eight (8) claims managers and three (3) carrier practices officers. As part of the legislative declaration to ensure the timely payment of benefits to injured workers at a reasonable cost to employers, it is important that we intervene on those issues which can be resolved administratively, to reduce litigation and ensure a certain level of practice where behaviors are clearly defined and subject to control.

### What good are Final Payment Notices?

Unlike admissions of liability, Final Payment Notices are not position statements. Their only purpose is to enable the division to gather data which is routinely obtained from Final Admissions of Liability. FA's are not typically filed following a final order or settlement, so we wouldn't be able to record the final expenditure as we are required to do. It's important to file a separate notice for each file that has been affected by a settlement but not to duplicate expenditures. Occasionally we receive a Final Payment Notice where the full settlement amount is listed on each W.C. number involved, thereby distorting the actual dollars expended per claim.

For example, if a settlement document involves two W.C. numbers and an amount of \$20,000 with equal consideration given to both files, then the settlement amount listed on each Final Payment Notice would be \$10,000. In another instance, you may elect to report \$20,000 on one Final Payment Notice and zero on the other.

Also, it is unnecessary to list the time period, number of weeks, and rate per week for the settlement amounts. However, any amounts previously admitted must be reflected in the same manner as it would appear on a Final Admission of Liability.

### Notes from the Judges

- "Discovery" is the procedure by which a party to a legal dispute may require the opposing parties or witnesses to answer written questions or to appear for a "deposition". At a "deposition", attorneys ask questions of the witness who gives answers under oath. A court reporter is present who takes down everything that is said, and later types a transcript of the deposition. A transcript of a discovery deposition of claimant or employer witnesses is usually only used in court to point out to the judge inconsistencies between the answers given at the deposition and at the hearing. A transcript of a deposition of a medical witness or a vocational evaluator is usually submitted to the A.L.J. at hearing for the A.L.J. to read completely and consider as if it were testimony given at the hearing. Such a deposition is called an "evidentiary deposition". Rule VIII (E) of the Workers' Compensation Rules of Procedure regarding discovery has been amended effective March 30, 1993. That

rule generally limits each party twenty written questions and three depositions, one of which may be evidentiary deposition.

- Claimants are now being advised to submit pictures of their scars for evaluation. If a claimant wishes to have a disfigurement award based upon photographs, the claimant is instructed to submit photographs and a "Stipulation for Disfigurement Award Based Upon Photographs" to the adjustor. The adjustor should determine if the photographs accurately show the disfigurement. If the photographs do not, the adjustor should advise the claimant of the objection so the claimant may either submit additional photographs or set the matter for a viewing before an A.L.J. If the photographs do accurately show the disfigurement, the adjustor should either determine how much should be admitted for the disfigurement and file an Admission, or sign the "Stipulation for Disfigurement Award Based Upon Photographs" and forward it and the photographs to the Department of Administration for the order. This procedure is intended to help the claimant avoid coming to an A.L.J.'s office and showing the scar. It also permits adjustors to know what the scar looks like and possibly admit for a disfigurement. Submitting the photographs to the A.L.J. will also permit the A.L.J. to spend less time compared to viewing the disfigurement in person. Finally, a photograph will often more accurately show the scar than an A.L.J.'s description for any court that may later review the A.L.J.'s award.

- The procedures on setting up a disfigurement evaluation in person before an A.L.J. have also been changed. The claimant should call a claims manager at (303) 764-2929 or (719) 248-7340 for a Western Slope claim. The claims manager will advise the claimant of the availability of an award based upon photographs. If the claimant desires an in-person evaluation, the claims manager will determine if an admission has been filed, and the injury or last surgery was at least six months prior. The claimant will then be transferred to Docket. Docket will set a time for the evaluation before an A.L.J. The insurer will receive a letter advising of the date, time and place of the disfigurement evaluation. The adjustor or attorney may appear at the evaluation but is not required to do so. If the insurer wishes to appear, but is unable to do so at the specified

time, the insurer should call docket to have the evaluation rescheduled.

### BITS AND PIECES

- Minors who sustain permanent partial disability under SB 218 are entitled to a computation of their medical impairment at the maximum compensation rate in effect on the date of determination. For example, if someone was 20 years old on DOI 1/1/92 with a comp rate of \$200, and was at MMI with a medical impairment rating of 7% as a working unit on 4/1/93, the award for PPD would be computed at the maximum comp rate in effect at the time of determination or:  
 $1.78 \times 400 \times \$414.05 \times 7\% = \$20,636.25$ .

- Decimal Equivalents of Fractions of a Week

1/7 = 0.142857  
2/7 = 0.285714  
3/7 = 0.428571  
4/7 = 0.571429  
5/7 = 0.714286  
6/7 = 0.857143

### DID YOU KNOW?

- Helen Marino will retire April 30, 1993 after 26 years of dedicated service to the workers' compensation community.
- In responding to requests for figures following a request for lump sum, please report only the permanent benefits which have been paid to date, excluding temporary compensation.

If you would like to recommend topics for future newsletters, or have comments you wish to relate, please contact JoAnne Ibarra at (303) 764-2920.

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