

ALL ABOUT CLAIMS

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DEPARTMENT OF LABOR AND EMPLOYMENT DIVISION OF WORKERS' COMPENSATION CLAIMS SERVICES SECTION

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This newsletter is dedicated to providing information to adjusters in the Colorado workers' compensation community. We highlight issues which impact the adjusting practice as well as items of a newsworthy nature from the Division of Workers' Compensation Claims Services Section. Should the reader have ideas for future topics of particular interest to claims adjusters or questions on any of the topics reviewed, please contact the Manager of Claims Services, JoAnne Ibarra, at 764-2920.

New Requirements under Rule IV (N) (3), (4), and (5) by JoAnne Ibarra

If you are keeping up with recent rule changes (and you can do this by getting a subscription and regular updates through the Public Records Corp. at 832-8262), then you know that the rule which went into effect on January 30, 1994, imposes an obligation on adjusters. The rule simply requires a carrier to react to impairment ratings or findings of maximum medical improvement by admitting liability and paying benefits OR initiating dispute resolution within prescribed time frames, and advising the claimant of the action.

The rule was promulgated in response to complaints received by both claimants and adjusters due to the absence of reasonable time frames for reacting to an impairment rating of MMI finding (either from the treating physician or Division IME). Claimants expressed frustration because there was seemingly no predictability for when a carrier could be expected to admit for the treating physician's rating or take action which would affect the timely resolution of the issue. Carriers complained that there was no mechanism for amending an admission if the findings by a Division IME served to reduce a rating, and no incentive for a claimant to set the matter for hearing to overcome the evidence.

By way of summary:

Paragraph 3 of Rule IV provides that admissions be filed in every instance in which benefits are terminated, resumed or changed, that is, when there is a change in status. The admissions must be filed within twenty days of receipt of the information upon which the change is based.

Paragraph 4 requires that within twenty days of receipt of a

finding of maximum medical improvement or impairment from the treating physician, the carrier either (1) file an admission of liability consistent with the finding or (2) request an IME through the Division. A binding IME or agreement by the parties will take precedence over a Division IME. For purposes of clarification, a binding IME is a physician selected by mutual agreement between the parties outside the Division process.

Within twenty days receipt of a Division IME for either MMI or impairment, the carrier must either admit liability consistent with the findings or file an application for hearing.

Further, if no statement addressing impairment is received from the treating physician within twenty days of the finding of MMI (or if the physician providing the impairment rating is not Level II accredited), then the carrier has twenty days to request a Division IME. This rule does not intend to require that all treating physicians be Level II accredited. If a treating physician opines that there is no impairment, a referral to a Level II accredited physician is not necessary. This requirement to obtain a Division IME shall be superseded only by a signed agreement by the parties or a binding IME.

Paragraph 5 allows the carrier to modify an existing admission regarding maximum medical improvement or impairment whenever the binding IME, Division IME or an order differs from the original finding. But, keep in mind, any modification shall not affect an earlier award or admission as to monies previously paid.

Paragraphs 4 and 5 pertain only to those injuries occurring on or after July 1, 1991.

Carrier Practices Audit Report by Ernie Dunn, Manager

The Carrier Practices Unit recently completed the first Compliance Review in accordance with Rule IV (O). We would like to acknowledge Mr. Earl Chaney and staff of the Colorado Springs branch of The Farmers Insurance Group for their cooperation. We gained considerable knowledge from this exercise which will enable us to further develop and refine the Carrier Practices review program.

We are in the process of determining criteria and a plan for scheduling reviews of other carriers which will satisfy the intent of the legislature as expressed in Sections 8-43-217 and 8-43-218.

In other news from the Carrier Practices Unit, the Director asked that we emphasize the importance of the timely payment of medical benefits in accordance with the expressed legislative intent. We sent a letter on his behalf to the providers from the list of Level I and II accredited physicians requesting information on their experience with the timeliness of medical payments on workers' compensation claims. The response varied greatly, and in fact some providers had dissimilar or conflicting experience with the same carrier or employers. The message we have received from this exercise in addition to actual complaints received over the last two years indicates some dissatisfaction in this area on the part of providers and injured employees. We were very pleased when the two audits recently performed revealed that both carriers were paying medical bills well within 15 days.

Calculating Lump Sums of \$10,000 or Less
by Harry Ferris

A number of the calls that I get are requests for assistance from claims adjusters who must calculate discounts on awards for medical impairment of \$10,000 or less. See §8-42-107 (8) (d). Using a simple calculator, the following table should provide you with the appropriate tools for calculating an award with the applicable 4% discount.

The attached table reflects the present value of \$1.00 taken over time increments of whole weeks. The example will demonstrate how to calculate a discount when the total number of weeks does not divide evenly but leaves a remainder.

Let's say you have an award for \$7,542.73 which the claimant has requested be paid out in a lump sum. Your payout rate is \$217.42.

$$\$7,542.73 \div \$217.42 = 34.692 \text{ weeks}$$

Now, looking at the chart you note that a present value is given for weeks 34 and 35. Determine the difference and multiply your answer by .692 (the portion of a week which is listed in the above equation).

$$\begin{array}{r} 35 \text{ weeks} = 34.530 \\ \text{minus } 34 \text{ weeks} = 33.556 \\ \hline .974 \times .692 = .674 \end{array}$$

Add the (pv) value listed for 34 weeks (33.556), to the percentage you have calculated for the remainder, and multiply this total times the payout rate to determine the amount due the claimant. The difference will be the discount.

$$33.556 + .674 = 34.230$$

(This is the present value.)

$$34.230 \times \$217.42 = \$7,442.29$$

(This is the discounted award.)

$$\$7,542.73 - \$7,442.29 = \$100.44$$

(This is the discount.)

Employment Opportunity/Mediator

This position is primarily responsible for mediating and negotiating disputed workers' compensation cases. This position determines the suitability of mediation in specific cases, contacts and meets with involved parties and uses mediation techniques, procedures and methodologies, as well as workers' compensation rules, to achieve a satisfactory resolution of issues in dispute. This position also provides information concerning the mediation program, as well as applicable laws, rules and administrative procedures.

Requirements:

Bachelor's degree from an accredited college or university PLUS one year of professional level mediation experience AND one year professional level Colorado Workers' compensation experience. Statewide travel is required. Salary approximately \$2,592.00 per month.

Please consult an official Department of Labor and Employment posting for further details. To apply, submit an official state application or an application form to any Job Service Center. All applications must be received by 03/25/94. For further information on the position, please call (303) 764-2860 or 2861 and ask to speak with Diana Maiden, Mediation Services Manager.

FYI....

o The Division assigns the processing of Employers First Report of Injury with transmittal forms as highest priority. If these are transmitted to us separately from other documents; such as subsequent admissions and employer supplemental reports, it will speed up the assignment of W.C. numbers and reduce delay in the processing of other documents.

o In *L.E.L. Construction v. Goode*, ___ P.2d ___, 18 BTR 207 (Colo. No. 92SC837, dec'd Jan. 31, 1994), the Supreme Court of Colorado held that mothers' insurance benefits are offsettable against workers' compensation benefits. In reversing the Court of Appeals, the Supreme Court held that, in amending prior §8-50-103, C.R.S. (1986 Repl. Vol. 3B), the General Assembly referred to the Federal Old Age, Survivors, and Disability Insurance Act, which encompasses mothers' insurance benefits, and adopted recommendations of the National Commission on State Workmen's Compensation Laws providing that all social security benefits should be offset in order to prevent double recovery of benefits.

LUMP SUM TABLE

\$10, 000.00 or less before discount

PRESENT WORTH OF \$1 PER WEEK @ 4%

PW	WKS										
.999	1	12.932	13	24.757	25	36.476	37	48.090	49	59.599	61
1.998	2	13.921	14	25.738	26	37.448	38	49.053	50	60.554	62
2.995	3	14.910	15	26.718	27	38.419	39	50.015	51	61.507	63
3.992	4	15.898	16	27.697	28	39.389	40	50.977	52	62.460	64
4.989	5	16.885	17	28.675	29	40.359	41	51.938	53	63.413	65
5.984	6	17.872	18	29.653	30	41.328	42	52.898	54	64.364	66
6.979	7	18.858	19	30.630	31	42.296	43	53.858	55	65.315	67
7.973	8	19.843	20	31.606	32	43.264	44	54.816	56	66.265	68
8.966	9	20.827	21	32.582	33	44.230	45	55.774	57	67.215	69
9.959	10	21.811	22	33.556	34	45.196	46	56.732	58	68.163	70
10.950	11	22.794	23	34.530	35	46.162	47	57.688	59	69.111	71
11.942	12	23.776	24	35.504	36	47.126	48	58.644	60	70.059	72

EXAMPLE:

Payout rate is \$217.42. We want to grant a lump sum of \$7542.73 before discount.

$$\$7542.73 \div \$217.42 = 34.692 \text{ weeks}$$

$$35 \text{ weeks} = 34.530$$

$$34 \text{ weeks} = \underline{33.556}$$

$$.974 \times .692 = .674$$

$$33.556 + .674 = 34.230 \text{ pw} \times \$217.42 = \$7442.29$$