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STATE OFFICE OF RISK MANAGEMENT WORKERS' COMPENSATION MANUAL

*Derived from The Colorado Department of Labor and Employment
Division of Workers' Compensation Employer's Guide
January 2006 Version*

**THE INFORMATION IN THIS
BOOKLET IS INTENDED TO
BE GENERAL INFORMATION
ON THE COLORADO
WORKERS' COMPENSATION
SYSTEM AND IS NOT
INTENDED TO BE A
SUBSTITUTE FOR LEGAL
ADVICE**

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THE COLORADO WORKERS' COMPENSATION ACT

The purpose of workers' compensation is to speedily and justly compensate employees for injuries occurring during the performance of their jobs and to insure employers against liability for injuries to their employees. Before the workers' compensation law was established, there was little recourse for workers injured on the job. A worker could sue in court, but had to prove negligence. The outcome was uncertain and could take years to resolve. This was costly both to the employer and the worker, often with little benefit to either party. The move toward workers' compensation began during the Industrial Revolution as mechanization brought an increase in work-related injuries. It was a new legal concept: liability without regard to fault. First established in Germany in 1856 and adopted soon after by England and most of Western Europe, workers' compensation was enacted in Colorado in 1915. By 1920, most states had workers' compensation laws and by 1947, all states mandated workers' compensation coverage. Workers' compensation coverage is paid by the employer.

Workers' compensation is based on a mutual agreement between the employer and the employee and is called the "exclusive remedy" provision of the Workers' Compensation Act. This serves the following basic purposes:

1. To promptly provide employees with reasonable and necessary medical treatment and partial wage replacement while the employee recovers from the effects of a work-related injury or occupational disease. In the case of a fatality, to provide death benefits to dependent survivors and
2. To provide employers with predictable costs for work-related injuries and illnesses.

INSURANCE COVERAGE

EXEMPTIONS

There are some exemptions from coverage requirements for specific occupations and individuals. The Division of Workers' Compensation can provide detailed information on exemptions. The following is only a partial list of occupations and/or individuals exempt from mandatory coverage under the Workers' Compensation Act:

1. Certain casual maintenance or repair work performed for a business for under \$2,000 per calendar year;
2. Certain domestic work, maintenance or repair work for a private homeowner that is not done full time;
3. Licensed real estate agents and brokers working on commission;
4. Independent contractors who perform specific for-hire transportation jobs;
5. Drivers under a lease agreement with a common or contract carrier;
6. Any person who volunteers time or services for a ski area operator;

7. Persons who provide host home services as part of residential services and supports;
8. Federal employees (covered under federal laws);
9. Railroad employees (covered under federal laws);
10. Independent contractors who are generally defined below.

INDEPENDENT CONTRACTORS

A person hired to perform services for pay is presumed by law to be an employee unless they meet the definition of an independent contractor or qualify under a specific exemption provided by workers' compensation laws. A person who works as an independent contractor and can prove that the person meets the legal definition of an independent contractor is not an employee and is not entitled to workers' compensation benefits unless the person buys a separate policy.

If a business hires an individual as an independent contractor, the independent contractor must be:

- Free from the business' control and direction over how the service is performed; and
- Customarily engaged in an independent trade, occupation, profession, or business related to the service being performed.

A written contract may be helpful in proving independent contractor status and is always helpful in defining the work relationship. However, the actual facts of the work relationship are the most important evidence. If the actual facts differ from what the written contract says, the facts will control. A list of important criteria about written contracts is provided in the next section. It is important to remember that if a contractor is hired who has employees; the business must verify that the contractor has workers' compensation insurance for those employees. A business may verify insurance coverage by requesting a certificate of insurance from the contractor's insurance company. Notification of any policy changes may also be requested. If the contractor does not have workers' compensation insurance for its employees throughout the duration of the work being done for the business, the business that hired the contractor can be held responsible for the workers' compensation insurance for the contractor's employees. If the business provides coverage for the contractor's employees because the contractor failed to do so, the business can recover the cost of the premium from the contractor.

WRITTEN CONTRACTS WITH INDEPENDENT CONTRACTORS

When a business intends to hire an independent contractor for a project, the parties may decide to write a contract. This helps to establish that the independent contractor adequately meets the two key principles of independent contracting identified above. A contract should show the following factors appropriate to the parties' circumstances:

- The business does not require the individual to work for it exclusively, except that the individual may choose to work exclusively for the business for a finite period of time specified in the contract.

- The business does not establish a quality standard for the individual, except that the business may provide plans and specifications regarding the work. The business cannot oversee the actual work or instruct the individual as to how the work will be performed.
- The business does not pay a salary or an hourly rate but rather pays a fixed or contract rate.
- The business does not have the right to terminate the individual's services during the contract period unless the individual violates the terms of the contract or fails to produce a result that meets the specifications of the contract.
- The business does not provide more than minimal training for the individual.
- The business does not provide tools or benefits to the individual, except that materials and equipment may be supplied.
- The business does not dictate the time of performance, except that a completion schedule and a range of negotiated and mutually agreeable work hours may be established in the contract.
- The business does not pay the individual personally but rather makes checks payable to the trade or business name of the individual.
- The business and the individual do not combine business operations in any way; all business operations are maintained separate and distinct.

REMEMBER: A written contract may be helpful in proving independent contractor status. However, the facts of the work relationship are actually more important than what the contract says. Section 8-40-202(2), C.R.S. states requirements for disclosure and format for such contracts. Be sure you are familiar with this section of the law.

REQUIRED NOTICES

POST NOTICES FOR EMPLOYEES

Every employer must post a notice in the workplace that reads as follows:

IF YOU ARE INJURED ON THE JOB, WRITTEN NOTICE OF YOUR INJURY MUST BE GIVEN TO YOUR EMPLOYER WITHIN FOUR WORKING DAYS AFTER THE ACCIDENT, PURSUANT TO SECTION 8-3-102(1) AND (1.5), COLORADO REVISED STATUTES. IF THE INJURY RESULTS FROM YOUR USE OF ALCOHOL OR CONTROLLED SUBSTANCES, YOUR WORKERS' COMPENSATION DISABILITY BENEFITS MAY BE REDUCED BY ONE-HALF IN ACCORDANCE WITH SECTION 8-42-112.5, COLORADO REVISED STATUTES.

Failure to post this notice in a conspicuous place on your work site exempts employees from the written reporting requirements until the notice is posted. This notice must have a minimum height of fourteen inches and a width of eleven inches with each letter to be a minimum of one-half inch in height. Posters may be obtained from the State Office of Risk Management website. Every employer also must continuously post a "Notice to Employees" poster in one or more conspicuous places on the employer's work site. The notice advises the employees that the employer is insured as required by law. It contains information about the Colorado workers' compensation system. This poster also provides the name of the medical provider designated by your agency. Your designated provider should provide this poster to you. It is very important that employers tell their employees the name of the State's third-party-administrator, , the designated medical provider, and procedures to follow in case of a work-related injury or illness occurs.

WHEN AN INJURY OCCURS

MEDICAL TREATMENT

When a worker is injured on the job, promptly furnish medical treatment. Emergencies should always be handled by the closest medical facility. In Colorado, the employer or insurance company has the right to select the physician that employees must use for treatment of work-related injuries. This becomes the designated medical provider. Your agency has a designated provider. If you are unsure of the designated provider for your agency, contact the Pinnacol Assurance Assurance adjuster assigned to your agency. If necessary, the designated provider will refer an injured worker to other providers in Pinnacol Assurance Assurance's Select Net PPO.

INVESTIGATE ACCIDENTS AND REPORT INJURIES

All accidents should be investigated to ensure that all pertinent facts are gathered and available if Pinnacol Assurance has any questions regarding the claim. Establish communication early with Pinnacol Assurance. This communication should be maintained until the conclusion of the claim. This is done by filing an electronic Employer's First Report of Injury. If the employer questions whether an injury is work related, this should be documented and filed with the first report form. Additional documentation may include, any prior injuries or medical history that may impact the claim. The employer can also request that Pinnacol Assurance obtain written statements from the injured employee and any witnesses. Timely filing is critical because Pinnacol Assurance cannot pay compensation benefits or medical bills until it has knowledge of the injury and has the opportunity to evaluate liability. Failure of the employer to file this report in a timely manner may result in penalties against the employer. Notice of a fatality or an accident in which three or more employees are injured should be given immediately. Filing the Employer's First Report of Injury is not necessarily an admission that the employer agrees with the facts of the incident. It is a statement that the employee is making a claim. By law, the injured worker must notify the employer in writing within four working days of an injury. If the injured employee does not notify the employer within this time frame and the employer posted the proper notice, the worker still may receive benefits, but there may be a penalty for not reporting timely.

Note: Due to the fact that the State of Colorado is self-insured, even a casual discussion regarding an injury between an injured employee and the supervisor is considered notice to the employer.

SAFETY RULE VIOLATIONS

In the event of a workers' compensation claim, safety rule violations must be reported to Pinnacol Assurance. Safety rule violations are determined by the following:

- The injury is caused by the willful failure of the employee to use safety devices provided by the employer;
- The injury results from the employee's willful failure to obey any reasonable safety rule adopted by the employer for the safety of the employee;
- Where injury results from the intoxication of the employee, either by alcohol or a controlled substance.

It must be proved that:

- ✓ **Definite rules existed (written, posted, enforced);**
- ✓ **Employee had knowledge of rules; and**
- ✓ **Employer enforced rules.**

Employer has the right to request blood alcohol content testing from the treating physician when objective cause can be sighted. Objective causes include: visual observation of staggering, slurred speech, or other physical signs, or visual observation of ingestion of alcohol or other drugs.

If an injury is determined to be a direct result of the employee's failure to follow a safety rule, a penalty reducing temporary wage indemnity compensation to fifty percent (50%) of the 2/3rds benefit will be enforced. Injury leave is forfeited if an injury is due to a safety rule violation.

EMPLOYER'S FIRST REPORT OF INJURY

This report initiates the claim, and Pinnacol Assurance sends the form to the Division of Workers' Compensation. In most cases, the management of workers' compensation claims in an efficient manner is dependent on Pinnacol Assurance receiving complete, factual information on the Employer's First Report of Injury. Pinnacol Assurance has a system for filing the Employer's First Report of Injury on-line.

Wages are defined in the Workers' Compensation Act as the money (including overtime) rate at which an employee is paid at the time of injury. Wages include fringe benefits of group health insurance, board, rent, housing or lodging, and gratuities reported to the IRS. No per diem payment shall be considered as wages unless it is also considered wages for federal income tax purposes. The fringe benefits are only computed into the wage replacement when the employer no longer pays the fringe benefit during any time the employee is receiving temporary disability benefits.

Complete the section of the Employer's First Report of Injury that deals with wages very carefully. There is a section for the Average Weekly Wage (AWW). This is used to determine compensation benefits for the employee. There is a form called Average Weekly Wage Worksheet that you can obtain from Pinnacol Assurance to help you calculate the AWW.

The following are examples of AWW calculations:

Gross monthly pay x 12/52

Example: \$2000 x 12/52 = \$461.54

Daily rate x number of days and partial days worked

Example: \$80 x 5 = \$400

Hourly pay rate x number of weekly hours worked

Example: \$7.50 x 40 = \$300

Where an employee is paid by the mile, calculation of mileage for AWW purposes is limited to the average number of miles per day driven in the 60 working days preceding the injury. This is multiplied by the rate per mile to arrive at a daily wage.

If one of the above methods is insufficient to determine a fair AWW due to the nature of the employment, the Division may determine a fair AWW using another method.

Contact Pinnacol Assurance for answers to any questions regarding the calculation of average weekly wage.

STAY IN TOUCH WITH THE INJURED EMPLOYEE

When first injured, most employees are very fearful about their future and their ability to return to work. Usually, the longer an injured worker is off work, the more difficult it is to return to work, both physically and psychologically. Employers can reduce uncertainty by reassuring injured employees that they are cared about and wanted back at work as soon as possible.

The employer may be asked to provide the injured employee's job description or to complete forms that describe the injured employee's regular or modified-duty position. This is used by physicians to evaluate if the employee can return to full-duty or perform modified duties.

SUPPLEMENTAL REPORT OF ACCIDENT

When the injured employee returns to work either full-duty or modified-duty, or is terminated from employment, this information must be provided to Pinnacol Assurance immediately so that a supplemental report of accident can be filed promptly and payment to employee can be adjusted.

NOTE: THIS STEP IS VERY IMPORTANT AS IT GIVES PINNACOL ASSURANCE THE INFORMATION TO ADJUST AN INJURED EMPLOYEE'S PAY AND FILE THE REQUIRED REPORT WITH THE DIVISION. FAILURE TO FILE THE REPORT WITH THE DIVISION COULD LEAD TO FINES ASSESSED BY THE DIVISION. MORE INFORMATION IS PROVIDED BELOW UNDER THE HEADING, EMPLOYEE MISSING TIME FROM WORK.

LEARN FROM PAST ACCIDENTS TO PREVENT FUTURE ACCIDENTS

Recognize the importance of accident prevention in controlling workers' compensation costs. Identify the cause of the workplace injury or near miss and correct any safety or training problems to prevent future accidents and injuries. Contact the State Office of Risk Management for assistance with safety training and establishing safety programs.

RESPONSIBILITIES

RESPONSIBILITIES OF STATE OFFICE OF RISK MANAGEMENT OFFICE

Administers the self-insured workers' compensation program for the State of Colorado. Including the management of the contract with the third-party administrator and the procurement of excess workers' compensation insurance coverage.

Manages the State of Colorado's joint effort to establish safety and loss control programs within each department, agency, college and university with the exception of Colorado State University and the University of Colorado System.

Serves as the main resource for general workers' compensation questions and information including issues surrounding designated providers.

Serves as the primary liaison between Pinnacol Assurance and state agencies. Liaison responsibilities include assisting state agencies with claims management and designated medical provider selections and concerns.

Provides financial and claims information to allow each state agency to manage workers' compensation costs through training or other targeted loss control strategies.

Provide consulting services to state agencies in the areas of return to work programs, claims management, inspections, investigations, ergonomic evaluations and other occupational health and safety programs.

Provide safety related training to state agencies.

THE RESPONSIBILITIES OF

Pinnacol Assurance is the State of Colorado's third-party-administrator. This means that Pinnacol Assurance is responsible for the administration and management of workers' compensation claims. **Pinnacol Assurance is not the State's insurance company.**

Determines the compensability of claims.

Files required reports with the Division of Workers' Compensation within designated timeframe.

Authorizes and pays appropriate benefits pursuant to the Colorado Workers' Compensation Act.

Processes medical bills and adjusts payments to the Colorado Fee Schedule.

Provides proactive claims management by maintaining communication with the injured employee, employer representative, designated medical providers, and the State Office of Risk Management.

Manages a PPO Network.

Provides return to work assistance.

Provides loss control services such as ergonomic evaluations, safety training, inspections, investigations, etc.

Evaluates settlement value and facilitates settlement negotiations.

Provides claim information through the Pinnacol Assurance website.

Assign and provide legal representation when necessary.

RESPONSIBILITY OF EMPLOYER/WORKERS' COMPENSATION LIAISON

Designates a workers' compensation liaison. Ensures that the liaison is properly trained and has the resources to adequately manage workers' compensation claims.

Maintains the ultimate responsibility for the participation and accountability of each state agency in their efforts to establish and maintain safety and loss control programs.

Establishes a written safety program.

Thoroughly investigates every work-related injury. Provides all information gained from the investigation to Pinnacol Assurance.

Reports all work-related injuries to Pinnacol Assurance.

Reports all changes in work status of injured employee to Pinnacol Assurance. This includes employee being taken off work, returning to work full-time, returning to work part-time, working modified duty, and termination.

Reports exhaustion of Injury Leave (90 Occurrences) to Pinnacol Assurance and the State Risk Management Office.

Determines if a safety rule violation occurred. Promptly, report all documentation supporting a safety rule violation to Pinnacol Assurance.

Responds promptly to all requests for information made by Pinnacol Assurance adjusters. **NOTE:** Generally, the requests are made because specific information is required to timely file a report with the Division. Failure to provide information could lead to fines assessed by the Division.

Maintains a log of claims for the agency.

Maintains the workers' compensation file.

Identifies injury trends or repeat accidents and implements safety and training programs to correct them.

RESPONSIBILITIES OF THE INJURED WORKER'S SUPERVISOR

Maintains a safe working environment where safety is an important aspect to every job assigned to every employee.

Exhibits positive action and resolution related to the reported hazards.

Provides safety training and annual refresher sessions for employees, with particular emphasis on jobs where hazards exist.

Reports all work related injuries/incidents by completing the first report of injury form in conjunction with the injured employee.

Conducts follow-up investigation to determine the root cause of the incident/accident, Implement processes and procedures to avoid future incidents/accidents.

Assigns appropriate modified duty assignments consistent with medical restrictions and progress.

Ensures that injured workers are working within medical restrictions.

Monitor the medical progress of the injured employee until Maximum Medical Improvement (MMI) by reviewing medical restrictions and work status forms provided by the designated medical provider.

RESPONSIBILITIES OF INJURED WORKERS

Complies with any safety rules or procedures established for the agency.

Reports any unsafe machinery, equipment or procedure to the immediate supervisor.

Complies with any medical restrictions imposed by the authorized treating physician.

Attends all medical appointments, follows medical recommendations, and provides copies of any documents received or medical restrictions to the employer.

Participates in discussions involving modified duty or temporary work assignments.

EMPLOYER INJURY REPORTING PROCESS

WHEN TO REPORT

A REPORTABLE accident/injury or occupational disease is one that requires medical attention and/or time off work. All employers covered through the State Office of Risk Management's self-insured program are required to report the injury to Pinnacol Assurance within one working day from the date of notification that the accident/incident occurred.

A RECORDABLE accident/injury or occupational disease is one that is reported; requires no time off work; and requires no medical treatment other than first-aid. Record these injuries but do not report them to Pinnacol Assurance. The State Office of Risk Management may request the information on a periodic basis.

TIME LIMITS

1. By law, the employee must report the injury or illness in writing to the employer within 96 hours (4 calendar days) even if the employer has actual knowledge of the injury or illness.
2. If an employee fails to report the injury in writing, the employee may lose up to one day's wage compensation for each late reporting day.
3. All employers covered through the State Office of Risk Management's self-insured program are required to report the injury to Pinnacol Assurance within 24 hours from the date of notification that the accident/incident occurred. If the employee does not want to complete a first report or does not comply with providing a written statement, this does not alleviate the employer/supervisor's responsibility from the 24 hour reporting requirement.
4. Fatalities and Multiple Hospitalizations- If a fatality occurs, notification to Pinnacol Assurance and the State Office of Risk Management shall be immediate by phone or fax. Any accident or incident that requires the hospitalization of three (3) or more employees shall be reported to Pinnacol Assurance and the State Office of Risk Management immediately by phone or fax.

EMPLOYEES MISSING TIME FROM WORK

1. When an injury is reported and the employee is missing time from work, the employer claims liaison, coordinator or supervisor MUST report the lost time to Pinnacol Assurance every two weeks.
2. If an employee is not missing time but begins missing time please notify Pinnacol Assurance within 24 hours of the change in status.

NOTE: FAILURE TO REPORT LOST TIME WITHIN ESTABLISHED GUIDELINES MAY RESULT IN PENALTIES UP TO \$500/DAY.

Workers' Compensation Benefits

MEDICAL BENEFITS

Workers' compensation insurance pays for all reasonable and necessary medical expenses, if the care is received from an authorized treating physician. The authorized treating physician can refer the employee to other doctors for treatment of the injury. Other expenses such as reasonable and necessary supplies, prescriptions, and mileage for medical appointments are also covered.

Pinnacol Assurance may request that the employee be examined by another doctor of its choice. Medical providers under workers' compensation must bill their fees to Pinnacol Assurance, according to the established Medical Fee Schedule. The medical provider cannot bill the employee or the employer for any fees over the established schedule.

If an employee receives a medical bill for a medical treatment associated with a work-related injury, have the employee sent the bill directly to Pinnacol Assurance.

COMPENSATION BENEFITS

The employee is eligible to receive compensation benefits if the employee misses more than three shifts, or three days, due to a work-related injury or illness.

INJURY LEAVE AND "MAKE WHOLE"

Ninety occurrences of Injury leave are provided to employees who have a work-related illness or injury that is compensable under workers' compensation. Injury leave is counted in occurrences rather than hours so each workday an employee uses an increment of injury leave, one occurrence is subtracted from the total of 90.

When an employee is receiving injury leave the employee is paid their full salary. Pinnacol Assurance then reimburses the workers' compensation benefits back to the employer. It is very important that lost time is reported to Pinnacol Assurance no less than every two weeks.

Under the Workers' Compensation Act, an employee is charged sick leave for the first 24-hours of absences, any absences after the 24-hour period are counted against injury leave until the 90 occurrences are exhausted. When the employee misses 80 hours, adjusted for part-time employee, after the date of injury, the number of absences it took to reach the 24-hour period are then subtracted from the 90 occurrences and the employees' sick leave used is credited. Any absences after the 90 occurrences are exhausted would then be paid at the Temporary Total Disability (TTD) rate of 2/3rds of their salary directly from Pinnacol Assurance. (See "Temporary Disability" below.)

“Make Whole”

When the employees reach the point that Injury Leave is exhausted, employees are allowed to use their annual and sick leave to make up the difference between the workers' compensation pay and their regular pay. An employees' sick and/or annual leave is used to pay the employee the difference between the 2/3rds TTD payment from Pinnacol Assurance, and the balance of their regular pay to “make them whole” until their accrued leave is exhausted.

For further assistance on Injury Leave and Make Whole, please contact the Department of Personnel & Administration, Division of Human Resources.

TEMPORARY DISABILITY

If the injured employee continues to lose time from work, or remains off work completely once Injury Leave has been exhausted, the employee receives temporary total disability (TTD) benefits. The rate for TTD is calculated at sixty-six and two-thirds percent of the average weekly wage (AWW) up to the maximum allowed. The maximum average weekly wage is established on or before July 1st of every year by the Director of the Division of Workers' Compensation.

Temporary partial disability (TPD) benefits are paid when the employee returns to modified duty with reduced wages or reduced hours. This is calculated at two-thirds of the difference between the AWW at the time of the injury and the part-time earnings.

Payment of temporary benefits stops when the employee returns to work; is given a written release to return to regular work by the authorized treating doctor; is given a written release by the authorized treating doctor to return to modified work; the employer makes a written offer of such work and the employee begins or refuses to begin the work; or when the authorized treating doctor determines that maximum medical improvement (MMI) is reached. MMI means that the injury or disease causing disability has become stable and no further medical treatment will improve the condition.

PERMANENT IMPAIRMENT

If the employee is unable to fully recover from the injury (for example, due to the loss of use of a hand), the physician decides if there is any permanent impairment and assigns an impairment rating based on the "American Medical Association Guides to the Evaluation of Permanent Impairment," third edition, revised. Permanent partial disability (PPD) benefits are paid every two weeks until the award is paid out as compensation for the disability. The weekly amount depends on the laws in effect at the time and date of injury.

DISFIGUREMENT BENEFIT

Disfigurement benefits may be paid to employees who have a scar or disfigurement that is normally exposed to public view.

PERMANENT TOTAL DIASBILITY

Permanent total disability (PTD) benefits are made to workers who meet the statutory requirements for lifetime benefits.

SETTLEMENTS

The employee may settle all or part of the claim with Pinnacol Assurance. The settlement usually involves waiving all or some of the employee's rights to future workers' compensation benefits, including medical benefits, in exchange for an agreed upon amount of money. If the settlement amount is \$60,000 or more, approval from the State Office of Risk Management is required. The injured employee's department must approve settlements less than \$60,000.

REOPENING A CLAIM

After a claim is closed, the employee may apply to reopen the claim if the condition caused by the injury worsened or an error or a mistake occurred. If the claim was settled and the employee waived the right to reopen the claim, the settlement can be reopened only on grounds of fraud or mutual mistake of material fact. Pinnacol Assurance may apply to reopen the claim in order to seek repayment of overpayments made to an employee.

DIVISION OF WORKERS' COMPENSATION

CUSTOMER SERVICE

The Customer Service Unit provides information on all aspects of the workers' compensation system and resources at the Division. Representatives provide technical information about the rights and responsibilities of both employers and employees, and the roles and requirements of insurance companies. You can receive assistance about insurance coverage requirements, independent contractors, reporting injuries, medical and compensation benefits, wage calculations and other issues.

DIVISION OF WORKERS' COMPENSATION

633 17TH STREET, 2ND FLOOR

DENVER, CO 80202

Toll-free number (in state) 1.888.390.7936

www.coworkforce.com/DWC/

INDEPENDENT MEDICAL EXAMINATIONS

The Independent Medical Examination program assists with the resolution of disputes about the treating physician's opinion regarding when an injured worker has reached maximum medical improvement or the assessment of permanent medical impairment rating.

MEDICAL UTILIZATION REVIEW

If a party to a claim thinks that inappropriate or unnecessary treatment is being given by a health care provider, the issue may be submitted to the Division for review by a panel of medical experts. A fee is charged to cover the costs of this review.

MEDIATION SERVICES

Mediation is a confidential, informal process where an employee in the Division of Workers' Compensation will attempt to help the parties reach a resolution. The staff member does not act as a judge, give legal advice, or tell the parties what they must do.

PREHEARING AND SETTLEMENT CONFERENCES

A prehearing conference is an informal hearing conducted by an administrative law judge upon request of one of the parties. The judge may order the parties to attend. A prehearing conference provides an opportunity for the parties to a claim to meet and discuss issues and concerns about the case before a judge. The judge may also order the parties to exchange information, such as employment records, that may assist in resolving the issues. A settlement conference before an administrative law judge may also be requested. All parties must agree to the conference. The judge will facilitate discussion and possible resolution of some or all of the issues. In a settlement conference, the judge must maintain confidentiality of all conversations or proceedings.

The Division of Workers' Compensation also is a resource for information regarding options for arbitration before an administrative law judge. These conferences may be scheduled in Denver, Boulder, Colorado Springs, Durango, Fort Collins, Glenwood Springs, Grand Junction, Greeley or Pueblo. Anyone needing further information about mediation services, prehearing conferences, settlement conferences or arbitration should call the Customer Service Unit.

HEARINGS

A hearing is a formal legal proceeding where an administrative law judge decides what benefits, if any, must be paid, and decides any other issues. All parties may present evidence, including documents and sworn testimony of witnesses. A court reporter makes a record of the hearing.

There is no jury and there is no charge for a hearing. Hearings are held by the Office of Administrative Courts within the Department of Personnel and Administration.

C.R.S. Section 10-1-127(7)(a) states: "It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies."