

EMPLOYER INVOLVEMENT AND RESPONSIBILITIES IN WORKERS' COMPENSATION CLAIMS

OR

Why me, Lord, Why me?

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Primary Areas of Employer Involvement

- The Injury
- Medical Treatment (but not really)
- Return to Work
- Retraining
- Second Injury Fund

Reporting Injuries

AS 23.30.070. Report of Injury to Division.

(a) Within 10 days from the date the employer has knowledge of an injury or death or from the date the employer has knowledge of a disease or infection, alleged by the employee or on behalf of the employee to have arisen out of and in the course of the employment, the employer shall send to the division a report setting out

- (1) the name, address, and business of the employer;
- (2) the name, address, and occupation of the employee;
- (3) the cause and nature of the alleged injury or death;
- (4) the year, month, day, and hour when and the particular locality where the alleged injury or death occurred; and
- (5) the other information that the division may require.

Reporting Injuries

AS 23.30.070. Report of Injury to Division.

(c) A report made under (a) or (b) of this section is not evidence of a fact stated in the report in a proceeding in respect to the injury or death on account of which the report is made.

Reporting Injuries

AS 23.30.070. Report of Injury to Division.

(e) If the employer or the carrier has been given notice, or the employer, or an agent of the employer in charge of the business in the place where the injury occurred, or the carrier has knowledge of an injury or death of an employee and fails, neglects, or refuses to file a report of it as required by (a) of this section, the limitations in AS 23.30.105 (a) of this chapter do not begin to run against the claim of the injured employee or the employee's dependents entitled to compensation, or in favor of either the employer or the carrier, until the report has been furnished as required (a) of this section.

Reporting Injuries

AS 23.30.070. Report of Injury to Division.

(f) An employer who fails or refuses to send a report required of the employer by this section or who fails or refuses to send the report required by (a) of this section within the time required shall, if so required by the board, pay the employee or the legal representative of the employee or other person entitled to compensation by reason of the employee's injury or death an additional award equal to 20 percent of the amounts that were unpaid when due. The award shall be against either the employer or the insurance carrier, or both.

Issue:

What is an injury?

Medical Treatment

AS 23.30.095 Medical Treatments, Services and Examinations

(i) Interference by a person with the selection by an injured employee of an authorized physician to treat the employee, or the improper influencing or attempt by a person to influence a medical opinion of a physician who has treated or examined an injured employee is a misdemeanor.

Medical Treatment

AS 23.30.097. Fees for Medical Treatment and Services.

(b) An employer or group of employers may establish a list of preferred physicians and treatment service providers to provide medical, surgical, and other attendance or treatment services to the employer's employees under this chapter; however,

Medical Treatment

AS 23.30.097. Fees for Medical Treatment and Services.

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Medical Treatment

(1) the employee's right to chose the employee's attending physician under AS 23.30.095 (a) is not impaired;

Medical Treatment

(2) when given to the employee, the employer's preferred physician list must clearly state that the list is voluntary, that the employee's choice is not restricted to the list, that the employee's rights under this chapter are not impaired by choosing an attending physician from the list, and that, if the employee chooses an attending physician from the list, the employee may, in the manner provided in AS 23.30.095 , make one change of attending physician, from the list or otherwise.

Medical Treatment

(c) An employer or group of employers may negotiate with physicians and other treatment service providers under this chapter to obtain reduced fees and service charges and may take the fees and charges into account when forming a list of preferred physicians and providers. In no event may an employer or group of employers attempt to influence the treatment, medical decisions, or ratings by the physicians in the course of the negotiations of such a preferred physician and provider fee plans.

Return to Work Issues

Providing Light Duty or Transitional Work

Maintaining Contact With the Worker During Recovery

RETRAINING

a/k/a Vocational Rehabilitation
a/k/a Reemployment Benefits

Employer Involvement in the Eligibility Process

An employee may be eligible to be retrained if the work injury prevents the employee from returning to the job at the time of injury or jobs held in the 10 years prior to injury. Job descriptions may therefore be requested from the employer in order to sort this out. Contact may occur from the assigned vocational counselor and/or the adjuster.

Employer Involvement in the Eligibility Process

An employee would be ineligible to be retrained if the employer offered a job paying at least 75% of the gross hourly wages at the time of injury and the work prepares the employee for other jobs that exist in the labor market (i.e. it is a real job).

Second Injury Fund (SIF) Issues

What is the Second Injury Fund?

Why does it Matter?

What Information is Needed from the Employer?

Questions?

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