Overview of Missouri Workers’ Compensation Law
The following presentation was prepared by Nasreen Esmail, Chief Legal Counsel for the Missouri Division of Workers’ Compensation [DWC] for training purposes. It does not constitute legal advice. Any opinions expressed are solely those of the preparer.
What is Workers’ Compensation

- Workers’ Compensation Laws – among the first social welfare laws enacted in response to Industrial Revolution of the 19th century
- States enacted laws requiring employers to provide benefits to employees injured on job – employee would not file civil suit.
- Employee does not prove “fault” of employer, benefits limited by state law – no pain and suffering or right to jury trial
- Workers’ Compensation Law – exclusive remedy, §287.120 RSMo. Occupational diseases added to exclusive remedy in 2013 law changes. Note: Employer may elect to reject mesothelioma liability
- Missouri’s Workers’ Compensation Law first adopted in 1926 and amended several times over the years.
- It is contained in chapter 287 of the Revised Statutes of Missouri
Who is an Employee?

- §287.020. 1. The word "employee" as used in this chapter shall be construed to mean every person in the service of any employer, as defined in this chapter, under any contract of hire, express or implied, oral or written, or under any appointment or election, including executive officers of corporations.
- Also, members (owners) of a Limited Liability Company [LLC] are employers of the LLC. §287.037, RSMo.
- However, an “owner-operator” of a truck who is “leased” to a larger truck line is considered to be self-employed – not an employee of the truck line. §§ 287.0021.1; 287.040.4; 287.041 and 287.043.
- Parsons v. Steelman Transp., Inc., 335 S.W. 3d 6 (Mo.App. S.D. 2011) – Court of Appeals upheld Commission claimant was an owner-operator and not an employee of Steelman Transp. And exempt from Workers’ Comp Law under 287.020.1 RSMo.
- Rader v. Werner Enterprises, Inc. Missouri Court of Appeals Eastern District examined the definition of employee prior to the 2005 amendments where statute was construed liberally and stated that resolution of the issue as to whether claimant owned the truck was whether legal title passed to claimant. There was inconclusive evidence on whether there was a conveyance of title to tractor to claimant.
Who is an Employer?

- Defined in §287.030 RSMo
- Every employer that has **five or more employees** must insure its workers’ compensation obligations with an insurance carrier that is authorized to write such insurance in the state of Missouri by the Department of Insurance, Financial Institutions and Professional Registration, or meet the Division of Workers’ Compensation requirements to self-insure its liabilities;
- **Construction industry employers** that erect, alter, demolish or repair improvements are required to carry workers’ compensation insurance if they have **one or more employees**.
- **Sole proprietors and partners** are not themselves covered unless they elect to be covered. On the other hand, close family member-employees and members of limited liability companies are presumed to be covered unless they opt out.
- The Workers' Compensation Act does **exempt a very small and very specific group of employees**, which includes farm laborers, domestic servants, certain real estate agents and direct sellers and commercial motor-carrier owner-operators. Please refer to Mo. Rev. Stat. section 287.090 for additional information.
Who is an Employer?

- Employers that don't have the required number of employees or who have employees in the exempt categories may nevertheless "elect" to come under the law by purchasing and accepting a valid workers’ compensation insurance policy or endorsement. The election takes effect on the effective date of the workers’ compensation insurance policy or endorsement and continues while the policy or endorsement remains in effect. The exempt employer may withdraw the workers’ compensation coverage by cancellation or nonrenewal of the workers’ compensation insurance policy or endorsement.

- Exempt employers that decide not to purchase workers compensation insurance or to self-insure remain potentially exposed to civil lawsuits brought by employees who are injured during work.
Statutory Employment

• Statutory Employment –
• 1. Any person who has work done under contract on or about his premises which is an operation of the usual business which he there carries on shall be deemed an employer and shall be liable under this chapter to such contractor, his subcontractors, and their employees, when injured or killed on or about the premises of the employer while doing work which is in the usual course of his business.
• 2. The provisions of this section shall not apply to the owner of premises upon which improvements are being erected, demolished, altered or repaired by an independent contractor but such independent contractor shall be deemed to be the employer of the employees of his subcontractors and their subcontractors when employed on or about the premises where the principal contractor is doing work.
Religious Exception

• 287.804. 1.
• Employer and Employee files an application with the division of workers' compensation to be excepted from the provisions of this chapter in respect to certain employees.
• The application shall include a written waiver by the employee of all benefits under this chapter and
• An affidavit by the employee and employer, that the employee and employer are members of a recognized religious sect or division, as defined in 26 U.S.C. 1402(g), by reason of which they are conscientiously opposed to acceptance of benefits of any public or private insurance which makes payments in the event of death, disability, old age, or retirement or makes payments toward the cost of, or provides services for, medical bills, including the benefits of any insurance system established under the Federal Social Security Act, 42 U.S.C. 301 to 42 U.S.C. 1397jj.
• Sect to be in existence from January 1, 1950
Failure to Insure

• Employers who *knowingly fail* to insure their liability under chapter 287 are subject to criminal prosecution. §287.128.7, RSMo.

• The employer shall be guilty of a class A misdemeanor and is also liable to pay a penalty to the state of Missouri in the amount up to three times the annual premium the employer would have paid had the employer purchased insurance or up to fifty thousand dollars, whichever amount is greater. A subsequent offense by the same employer who previously pled guilty for failure to insure is regarded as a class D felony. Effective January 1, 2017, it will be a class E felony.

• The Supreme Court of Missouri, in *State of Missouri v. Salter*, 250 S.W.3d 705 (Mo. banc 2008), upheld the conviction of an individual for failure to insure his workers’ compensation obligations when he employed five or more employees, bringing him within the provisions of § 287.030.1, RSMo 2000.
Which businesses are Employers?

• Auto Repair Shop with 4 Employees.
• Auto Repair Shop with 5 Employees.
• Self-employed carpenter who is a sole-proprietor with no employees.
• “I Am A Carpenter, LLC” with one member/owner and no other employees.
• Tom, Dick & Harry (partnership) doing construction work under the name “We Built This City,” with no employees.
Coverage Requirements

Section 287.280.1, was amended in 2013, effective January 1, 2014 to state that:

– every employer subject to the provisions of chapter 287, shall
– on either an individual or group basis;
– insure their entire liability under the workers’ compensation law, and
– may insure “in whole or in part” ter liability, under a policy of insurance or a self insurance plan.

NOTE: §287.200 (4) allows an employer (ER) to reject mesothelioma liability
New subsection 11 was added to §287.020 RSMo in 2013, effective 1, January 2014 defining “occupational diseases due to toxic exposure” under the chapter to include the following:

- Mesothelioma
- Asbestosis
- Berylliosis
- Coal Worker’s Pneumoconiosis
- Brochiolitis Obliterans
- Silicosis
- Silicotuberculosis
- Manganism
- Acute Myelogenous Leukemia
- Myelodysplastic Syndrome
Section 287.067.2 RSMo was amended in 2013, effective January 1, 2014 to add the word “death” and states that an injury or death by occupational disease is compensable only if the occupational exposure was the prevailing factor in causing both the resulting medical condition and disability.
Psychological Stress

• Under current law, a firefighter of a paid fire department must establish a direct causal relationship in order to receive benefits for psychological stress.

• The direct causal relationship standard of proof for psychological stress has been extended to paid peace officers of a police department who are certified under chapter 590.

MO. REV. STAT. §287.067.6
Rights and Benefits under the Law

- Medical benefits,


- Permanent partial or permanent total disability benefits.

- Upon the death of a worker who has suffered a compensable work injury, certain surviving individuals may be entitled to weekly benefits from the employer/insurer.

- Employer/insurer is also responsible for paying funeral expenses up to $5,000.
Occupational Diseases Due to Toxic Exposure – Enhanced Benefits

For all claims filed on or after January 1, 2014, for occupational diseases due to toxic exposure that results in permanent total disability (PTD) or death, an EE is entitled to:

- Such amount due to EE during EE’s life based upon an award of PTD and death; except
- the PTD and death shall only be paid when the enhanced benefits have been exhausted.

MO. REV. STAT. §287.200.4
Occupational Diseases Due to Toxic Exposure – Enhanced Benefits

• The enhanced benefit for occupational disease due to toxic exposure *not including mesothelioma* is an amount equal to 200% of the state average weekly wage (SAWW) as of the date of diagnosis for 100 weeks.

• The enhanced benefit for occupational disease due to toxic exposure that *is diagnosed to be mesothelioma*, is an amount equal to 300% of the SAWW for 212 weeks.
Mesothelioma Election

• Employers who elect to accept mesothelioma liability may do so by either:
  – Insuring their liability by purchasing insurance coverage with an insurance carrier;
  – Qualifying as a self-insurer; or
  – By becoming a member of a group of employers that agrees to pool their liabilities. Such group shall comply with the requirements of §287.223, RSMo (Supp. 2013). This section creates the Missouri Mesothelioma Risk Management Fund.

  MO. REV. STAT. §287.200.4(3)
Mesothelioma Election

• For employers who reject mesothelioma liability under subsection 4 of §287.200, RSMo the exclusive remedy provisions of §287.120, RSMo shall not apply to such liability. Therefore, the ER could be sued in civil court.

• The provisions expire on December 31, 2038.
Occupational Diseases Due to Toxic Exposure

• If the EE dies before the enhanced or additional benefits have been paid, the additional benefits are payable to the EE’s spouse or children, in addition to the benefits under §287.240, RSMo.

• If there is no surviving spouse or children and the EE has received less than the additional benefits the remainder shall be paid in 1 single payment to the EE’s estate.

MO. REV. STAT. §287.200.4(5)
Impact on Other Benefits

• Sub division 6 of §287.200.4 states that the provisions of subdivision 1 of §287.200.4 shall not be construed to affect the EE’s ability to obtain medical treatment at ER’s expense or other benefits otherwise available under this chapter.
Award of Mesothelioma

EE who obtains additional benefits for acquiring asbestosis who later gets an award for mesothelioma shall not receive more benefits than EE would have received for mesothelioma

• The enhanced benefits cannot be greater than mesothelioma benefits even if the employee later on acquires asbestosis.

MO. REV. STAT. §287.200.5
Toxic Exposure Subrogation

• If the EE suffers or suffered from occupational disease due to toxic exposure and;
• EE, dependents or persons eligible to sue for wrongful death under §537.080 are compensated under chapter 287;
• Employer (ER) shall not be subrogated to the rights of the EE, dependents or persons eligible to sue for wrongful death;

contd.
Toxic Exposure Subrogation

• Against such third person or party when the occupational disease due to toxic exposure arose from the EE’s work for ER.

No subrogation means that the ER/INS would be unable to recover monies paid in the workers’ compensation case from a third-party action.

MO. REV. STAT. §287.150.7
Division of Workers Compensation – what do we do?

- Division administers the Law
- Division also administers Tort Victims Compensation Program and the Line of Duty Compensation Fund
- Units within Division – Jefferson City Office – main office
  - Administration
  - Legal includes Dispute Management, Proof of Coverage, Medical Fee Disputes, Awards, Religious Exception, Line of Duty
  - Fraud and Non Compliance
  - Self-Insurance
  - Second Injury Fund
  - Programs and Support includes Toll Free Line, Records, Processing, Scanning
- Seven Adjudication offices – St. Louis; Cape Girardeau; Jefferson City; Springfield; Joplin; Kansas City and St. Joseph
Contested Case Proceeding

- Filing of a Claim for Compensation initiates Contested Case Proceeding – Administrative Law Judge has authority to decide the issues in dispute;
- Employee bears the burden of proof on entitlement to benefits;
- Docket settings offered by the adjudication offices – explained further
  - Prehearings
  - Mediations
  - Hardship Hearings
- Hearings on Final Award - Rules of Evidence applies
Non contested Case Proceeding

• Filing of a First Report of Injury mandated by §287.380 RSMo;

• Employee calling the Division’s Toll Free Number and requesting Dispute Management Assistance

• DMU assists with resolving issues prior to the filing of a Claim for Compensation
  – Savings Realized by stakeholders;
  – What kind of issues - TTD, TPD, Payment of Medical Bills, Need Medical Treatment.
Conference

Informal proceeding held before an ALJ in cases where no Claim for Compensation has been filed.

It is an opportunity for the injured worker to meet the lawyer for the employer/insurer, discuss the case, and attempt to resolve the case.

ALJ is NOT an attorney for any party to the case.

Case may be set for conference at Division’s discretion or by completing Division-approved Request for Conference form.

Set within 120 days of receipt of Request for Conference.
Docket Settings – Pre Hearing

- **Prehearing** –
  - A pre-hearing is a proceeding before an administrative law judge to discuss issues in a case in which a Claim for Compensation has been filed.
  - A pre-hearing may be requested by completing a Division approved Request for Pre Hearing form, when:
    1. The parties want to present a settlement agreement for approval; or
    2. Disputes or other issues arise that must be resolved in order for the case to proceed; or
    3. The parties have a good faith belief that a brief meeting with an administrative law judge will help in moving the case more expeditiously to settlement or final hearing.
  - A party requesting a pre-hearing is not required to have a medical report. If report available it is helpful.
  - Set within 120 days of local office receiving Request for Pre Hearing
Docket Settings – Mediation

• A mediation is a setting in which the parties and their lawyers, if represented, meet with an administrative law judge to discuss issues in a confidential manner, identify areas of agreement and facilitate a compromise settlement of a claim to avoid proceeding to a hearing.

• A mediation may be set upon the written request of a party by completing a Request for Mediation form provided that an administrative law judge finds that the issues have been sufficiently developed to make the mediation meaningful.

• Set within 120 days of local adjudication receiving Request for Mediation.

• All parties shall submit copies of all relevant medical records and reports and any other documents to the ALJ to explain or determine disputed factual and legal issues.
Mediation - contd

• All documents and notes of ALJ from a mediation are confidential.
• No information from the mediation shall be entered in a minute entry except the fact that the mediation was held, the parties in attendance, and any disputed issues that were not resolved.
• If mediation does not result in settlement, ALJ may be disqualified from hearing the case.
Docket Settings – Hardship Hearing including §287.203 Hearing

• A hardship hearing is an evidentiary hearing held before an administrative law judge when the employee alleges that he/she is not at maximum medical improvement, is in need of medical treatment or entitled to temporary total disability benefits, and the employer is not providing such treatment or benefits.

• The hearing may be based on the termination of benefits under §287.203, RSMo.

• A hardship hearing is a hearing in which the employee is requesting the issuance of a temporary or partial award that addresses issues of medical treatment and payment of temporary disability benefits. If a party requests the issuance of a final award and makes it an issue at the hearing and the evidence presented so merits, a final award may be issued.
Hardship Hearing

• Upon receiving the Request, an ALJ may-
  – Schedule conference call
  – Set case for hearing

• Continuance not granted except good cause or consent of parties

• All evidence introduced at the evidentiary proceeding is reported by a reporter appointed by the Division.

• If the administrative law judge determines that any proceedings have been brought, prosecuted or defended without reasonable grounds, the administrative law judge may assess the whole cost of the proceedings upon the party who brought, prosecuted, or defended them.
Docket Setting – Final Hearing

• A final hearing may be requested when the case is ready for final resolution.
• This is an evidentiary hearing on the record, and a verbatim record will be made for the reviewing tribunal. Rules of Evidence apply
• Party must submit Request for Hearing – Final Award to the local adjudication office
• The ALJ shall approve or deny a written request for hearing within 20 working days upon receipt of the request at the local adjudication office having venue over the case.
• The date of hearing assigned for each case will be no more than 120 days after the date that the request for hearing is approved, unless all the parties agree otherwise.
• All parties must appear at the hearing at the date, time, and place set and be ready to proceed with the presentation of evidence on all issues.
Hearing on Final Award contd.

- The hearing shall be concluded within 30 days of the date of the commencement of the hearing, except in extraordinary circumstances where a lengthy trial or complex issues necessitates a longer time.
- The administrative law judge shall issue an award, including findings of facts and rulings of law, within 90 days of the last day of the hearing.
- If the administrative law judge determines that any proceedings have been brought, prosecuted or defended without reasonable grounds, the administrative law judge may assess the whole cost of the proceedings upon the party who brought, prosecuted or defended them.
Settlements

- Compromise settlements between the parties are encouraged. A compromise settlement must be approved by an ALJ in order to be valid. An ALJ shall approve a settlement agreement pursuant to §287.390 RSMo as valid and enforceable as long as:
  - The settlement is not the result of undue influence or fraud;
  - The employee fully understands his or her rights and benefits;
  - The employee voluntarily agrees to accept the terms of the agreement; and
  - The settlement is in accordance with the rights of the parties.
Docket Settings - Dismissals

• Voluntary Dismissal

• Dismissal for Failure to Prosecute

• Default Hearings
Awards

• Three types of Awards - **Award (final).** Final determination by an ALJ after a hearing.

**Temporary or Partial Award.** Award is made for medical treatment or lost wage benefits not for extent of permanent disability. The case is kept open until a final award on permanent disability and additional medical needs are made.

• **Award on Agreed Statement of Facts (SOF).** Award may be issued without an evidentiary hearing where parties are in complete agreement on the facts of the case, and the only issues to be decided by the administrative law judge are issues of law. The parties must submit a complete Agreed SOF. The ALJ may allow parties to submit briefs or proposed awards. The award issued on an Agreed SOF may be a final Award or a Temporary Award.
Appeals

• Party aggrieved by the ALJ award may file an Application for Review with the Labor and Industrial Relations Commission - must be filed with the Commission within 20 days of the date of the award.

• Further appeal lies to Missouri Court of Appeals

• Then to the Missouri Supreme Court
Claims and Answers

• Filing of Claim for Compensation – revisions made to Form WC-21
  
  • There are 2 Claim forms – One that applies to injuries occurring prior to January 1, 2014, WC-21. One that applies to injuries that occur after January 1, 2014, WC-21A.
  
  • Changes to Claim form for injuries after 1/1/2014 –
    – Added Box for occupational disease due to toxic exposure;
    – SIF Portion – only claims for PTD for injuries occurring after January 1, 2014, can be filed against the SIF
**Claim for Compensation**

**NOTE:** This form should be used to file a Claim for Compensation for accident or injury including occupational diseases and occupational diseases due to toxic exposure that occur on or after January 1, 2014. This form should be completed in its entirety and must be typed or hand printed in black ink.

**SUBMIT AN ORIGINAL AND THREE COPIES.**

**Please read instructions before completing this form.**

**EMPLOYEE INFORMATION**

<table>
<thead>
<tr>
<th>1. INJURED EMPLOYEE’S NAME</th>
<th>1A. MAILING ADDRESS (ALSO INCLUDE STREET ADDRESS)</th>
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<tbody>
<tr>
<td>LAST</td>
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<tr>
<td>FIRST</td>
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<td>INITIAL</td>
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<td>MIDDLE NAME</td>
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<tr>
<th>2. SOCIAL SECURITY NO.  (last 4 digits)</th>
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<th>3. DATE OF BIRTH</th>
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<th>4. DATE OF ACCIDENT OR OCCUPATIONAL DISEASE</th>
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<th>5. AVERAGE WEEKLY WAGE</th>
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<th>6. TIME OF ACCIDENT</th>
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<th>7. PLACE OF ACCIDENT (City, County, State, Zip)</th>
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8. Check the appropriate box if you are filing a Claim due to an Occupational Disease due to Toxic Exposure:

- [ ] asbestosis
- [ ] benzyllis
- [ ] coal worker’s pneumoconiosis
- [ ] bronchitis, silicosis
- [ ] mesothelioma.

- [ ] Check this box ONLY if you are filing a Claim due to toxic exposure resulting in a diagnosis of mesothelioma.

<table>
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<tr>
<th>9. PART(S) OF BODY INJURED</th>
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<tr>
<th>10. DESCRIBE WHAT THE EMPLOYEE WAS DOING AND HOW THE INJURY OCCURRED.</th>
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</table>

**EMPLOYER INFORMATION** – If additional employers need to be listed or if you need more space, attach additional sheets.

<table>
<thead>
<tr>
<th>11. EMPLOYER(S) AGAINST WHOM THIS CLAIM IS FILED. THIS IS THE EMPLOYER IN WHOSE EMPLOYMENT THE INJURY OR OCCUPATIONAL DISEASE OR OCCUPATIONAL DISEASE DUE TO TOXIC EXPOSURE OCCURRED.</th>
</tr>
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<th>DIVISION USE ONLY</th>
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<td>Date Stamp</td>
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**BE SURE TO COMPLETE NEXT PAGE.**

**WC-21-A**
Claim for
Comp

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<tr>
<th>INJURY NUMBER</th>
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12. ☐ PLEASE CHECK THIS BOX IF YOU ARE FILING A CLAIM AGAINST THE SECOND INJURY FUND FOR PERMANENT TOTAL DISABILITY BENEFITS
13. DID INJURY RESULT IN DEATH? ☐ YES ☐ NO 12A. DATE OF DEATH __/____/____

IF DEATH OCCURRED, EMPLOYEE’S DEPENDENTS (SPOUSE, MINOR CHILDREN, OR OTHER PERSONS DEPENDENT ON EMPLOYEE).
IF YOU NEED TO LIST DEPENDENTS IN ADDITION TO THOSE LISTED BELOW, PLEASE ATTACH A SEPARATE SHEET.

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<tr>
<th>NAME</th>
<th>DATE OF BIRTH</th>
<th>RELATIONSHIP</th>
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MAILING ADDRESS
CITY
STATE
ZIP CODE

14A. NAME
DATE OF BIRTH
RELATIONSHIP
MAILING ADDRESS
CITY
STATE
ZIP CODE

14B. NAME
DATE OF BIRTH
RELATIONSHIP
MAILING ADDRESS
CITY
STATE
ZIP CODE

CLAIM IS HEREBY MADE FOR ALL COMPENSATION AS PROVIDED UNDER THE MISSOURI WORKERS’ COMPENSATION LAW, RELATING TO INJURY OR OCCUPATIONAL DISEASE OR OCCUPATIONAL DISEASE DUE TO TOXIC EXPOSURE (OR DEATH) OF THE EMPLOYEE ARISING OUT OF AND IN THE COURSE OF THE EMPLOYMENT.

15. INJURED EMPLOYEE OR CLAIMANT’S SIGNATURE

16. EMPLOYEE/CLAIMANT TELEPHONE NO.

17. DATE

18. ATTORNEY SIGNATURE

18A. ATTORNEY NAME (type or print)

18B. BAR NUMBER

19. ATTORNEY PHONE NUMBER

19A. ATTORNEY FAX NUMBER

19B. ATTORNEY E-MAIL ADDRESS

20. ATTORNEY MAILING ADDRESS

20A. CITY

20B. STATE

20C. ZIP CODE

21. ADDITIONAL STATEMENTS – Please use this box to add any further information that will assist you in filing your Claim.

Do not submit Confidential Documents at the time of filing the Claim for Compensation.
Answer to Claim

• WC-22-A
Claim For Compensation alleges occupational disease due to toxic exposure that includes the following: asbestosis, berylliosis, coal worker’s pneumoconiosis, bronchiolitis obliterans, silicosis, silicoproteinosis, manganism, acute myelogenous leukemia, and myelodysplastic syndrome.

Please Complete the following boxes if the Insurance Carrier or Self-Insured Group Trust is different than that indicated in boxes 5 through 9 above.

<table>
<thead>
<tr>
<th>10. Name of Insurance Carrier or Self-Insured Group Trust</th>
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<tr>
<th>11. Name of Claims Administrator or Third-Party Administrator</th>
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<tr>
<th>12. Telephone Number of the Insurance Carrier</th>
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<tbody>
<tr>
<td>Telephone Number of Claims Administrator or Third Party Administrator</td>
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</table>

If the Claim for Compensation alleges an Occupational Disease due to toxic exposure resulting in a diagnosis of mesothelioma, please check one of the following boxes that describes how the Employer has Insured his/her Liability:

- ☐ AN INSURANCE CARRIER; OR
- ☐ GROUP INSURANCE POOL UNDER §57-233; OR
- ☐ SELF-INSURANCE APPROVED BY THE DIVISION OF WORKERS’ COMPENSATION; OR
- ☐ REJECTED MESOTHELIOMA LIABILITY

Please complete the following boxes if the Insurance Carrier or Self-Insured Group Trust is different than that indicated in boxes 3 through 5 above.

<table>
<thead>
<tr>
<th>14. Name of Insurance Carrier or Self-Insured Group Trust or MO RISK MESOTHELIOMA RISK MANAGEMENT FUND</th>
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</table>

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<tr>
<th>15. Name of Claims Administrator or Third-Party Administrator</th>
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</table>

Employer’s Signature | Date |
Attorney Signature | 19.A. Attorney Name (Type or Print) | 19.B. Bar Number |
Attorney Phone Number | 20.A. Attorney Fax Number | 20.B. Attorney E-mail Address |
Answer to Claim revised

- Answer to Claim for Compensation – Revisions consist of adding boxes for ER to complete the insurance carrier or self-insurance information for occupational diseases due to toxic exposure.
- If the Claim alleges an occupational disease due to toxic exposure resulting in a diagnosis of mesothelioma the employer needs to check the box on how he/she insured liability; or rejected mesothelioma liability.
Reporting Requirements

Responsibilities of the Employee:

After an injury has occurred, the injured worker should notify the employer in writing of the injury. The written notices should include:

1. Date, time and place of injury
2. The nature of the injury
3. The name and address of the person injured.
First Reports of Injury

Injuries are to be reported to the Division when the accident or occupational disease requires medical treatment beyond first aid.

First Aid vs. Medical Treatment
First Aid is the immediate, temporary one-time treatment of minor scratches, cuts, burns, splinters, or other minor industrial injuries which do not require further medical care.

Plain & Simple-If an injury incurs a cost, REPORT IT!!
Responsibilities of the Employer:

An employer (or its insurer) **must report the injury** (except when the injury requires only immediate first aid—without further medical treatment being needed or lost time from work being incurred) to the Division of Workers’ Compensation. This report is referred to as the **First Report of Injury (FROI)**.

- The injury must be reported **within 30 days** after knowledge of the injury.

- The FROI is filed with the Division.

- Employers must also report all injuries to their workers’ compensation insurance carrier or Third Party Administrator **within 5 days** of the date of injury or within 5 days of the date on which the injury was reported to the employer by the employee, whichever is later.
Any person, INCLUDING ANY EMPLOYER, who knowingly fails to report any accident shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail for not less than one work nor more than one year, or by both fine and imprisonment.
Form 2 – Notice of Commencement/Termination of Compensation

• Ensure payment of compensation for cases indicating lost wages due to the work-related injury are reported to the Division on the Form 2 within thirty (30) days from the date of the original notification of the injury.
• If medical treatment or temporary benefits will continue past the thirty days, a status report including estimated dates of completion of medical treatment and temporary benefits shall be provided to the Division.
• A final report shall be filed with the Division on conclusion or termination of medical treatment and temporary benefits. A final medical report shall be filed with the final report 8 CSR 50-2.010 (2). The Form 2 must be updated and re-filed within ten (10) days after compensation benefits have been terminated. 8 CSR 50-2.010 (3)
Form 2 – Notice of Commencement/Termination of Compensation

✓ Lost time benefits shall be paid as the employee was paid prior to the date of the injury but at no more than two week intervals
✓ Employees are not paid for the first three (3) days they miss work, this is the Waiting Period
✓ Compensation days are counted as days the Employer operates, not the days the employees regularly work (i.e. If the employer operates 7 days a week, those 7 days count even if the employee does not normally work all 7 days)
✓ The waiting period is paid retroactively after the employee misses 14 days. (**Employers may voluntarily choose to pay the 3 day waiting period up front if it is known that the injured employee will miss more than 14 days of work)**
MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION
P.O. BOX 58, JEFFERSON CITY, MO 65102-0056
NOTICE OF COMMENCEMENT/
TERMINATION OF COMPENSATION

<table>
<thead>
<tr>
<th>INSURER'S OR SELF-INSURED EMPLOYER'S NAME</th>
<th>CLAIM NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADDRESS</td>
<td>ZIP CODE</td>
</tr>
</tbody>
</table>

THIS FORM NEEDS TO BE COMPLETED IF THE EMPLOYEE RECEIVED COMPENSATION BENEFITS AFTER THE THREE DAY WAITING PERIOD AND AS REQUIRED BY §287.300, 287.170 AND 287.180, RSMO, AND 8 CSR 50.2-3.010. SEND ORIGINAL TO THE DIVISION AND ONE COPY TO THE EMPLOYEE TO EMPLOYERS/INSURERS/THIRD PARTY ADMINISTRATOR: BE SURE TO COMPLETE THE COST OF MEDICAL AID AND ALL OTHER DATA ITEMS. EMPLOYER MUST NOTIFY EMPLOYEE OF TERMINATION OF BENEFITS WITHIN 10 DAYS OF WHEN BENEFITS WERE DUE.

(THERE IS FORM IS REQUIRED TO BE FILED WITHIN 30 DAYS OF THE DATE OF THE ORIGINAL NOTIFICATION OF THE INJURY.)

THIS FORM MUST BE UPDATED AND REFILED WITHIN 10 DAYS AFTER TERMINATION OF COMPENSATION UNDER §287.302.

<table>
<thead>
<tr>
<th>1. EMPLOYE NAME</th>
<th>14. SSN</th>
<th>15. DATE OF ACCIDENT</th>
<th>16. COST OF MEDICAL AID</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>XXX-XX-</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. EMPLOYEE ADDRESS</th>
<th>ZIP CODE</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>5. AVERAGE WEEKLY WAGE</th>
<th>3A. MAX AWW</th>
<th>3B. MAX RATE</th>
<th>3C. RATE OF COMPENSATION</th>
<th>7. WAITING PERIOD DATES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N</td>
<td>N</td>
<td>N</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>8. TYPE OF LT</th>
<th>9. DISABILITY BEGAN</th>
<th>10. DISABILITY ENDED</th>
<th>11. TOTAL WEEKS OF COMPENSATION</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>12. CUMULATIVE TEMPORARY TOTAL DISABILITY BENEFITS PAID TO DATE</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>13. CUMULATIVE TEMPORARY PARTIAL DISABILITY BENEFITS PAID TO DATE</th>
</tr>
</thead>
</table>

14. IF EMPLOYEE WAS PAID FULL SALARY FOR ANY PERIOD OF DISABILITY, TYPE AN "X" IN THIS BOX .

Salary

THE INFORMATION YOU VOLUNTARILY PROVIDE IN BOXES 15 & 16 BASED UPON SB 1 & 130 EFFECTIVE AUGUST 28, 2005, IS FOR STATISTICAL PURPOSES ONLY

15. HAS STATUTORY PENALTY BEEN ASSESSED FOR

SAFETY VIOLATION

| YES | NO |

DRUG/ALCOHOL VIOLATION

| YES | NO |

16. IF YOU CHECKED YES IN BOX 15, PLEASE INDICATE THE FOLLOWING AMOUNT REDUCED PERCENTAGE REDUCED MEDICAL TTD/TPD

DISABILITY PAYMENT

11. DATE FIRST PAYMENT WAS MADE TO EMPLOYEE BASED UPON CURRENT DISABILITY PERIOD BEING REPORTED

18. FIRST DAY OF PERIOD COVERED BY PAYMENT FOR CURRENT DISABILITY PERIOD BEING REPORTED

NOTICE OF TERMINATION OF COMPENSATION

19. THIS IS TO NOTIFY THE DIVISION OF WORKER'S COMPENSATION AND THE EMPLOYEE THAT COMPENSATION PAYMENTS IN THE ABOVE MATTER HAVE TERMINATED, THE LAST PAYMENT HAVING BEEN MADE ON FOR THE FOLLOWING REASON (MUST BE STATED)

PLEASE INDICATE WHETHER EMPLOYEE'S "POST-INJURY MISCONDUCT" SET FORTH IN SECTION §287.170.4 RSMO EFFECTIVE AUGUST 28, 2005, RESULTED IN TERMINATION OF TTD/TPD DISABILITY BENEFITS.

YES | NO

20. RETURN TO WORK DATE

21. PREPARED BY

22. PREPARER'S PHONE NUMBER

23. EMPLOYER/INSURER/THIRD PARTY ADMINISTRATOR SIGNATURE

24. DATE

25. PREPARER'S E-MAIL ADDRESS

DEATH BENEFIT PAYMENT (IF MORE THAN ONE DEPENDENT, USE ADDITIONAL SHEET)

26. NAME OF DEPENDENT TO WHOM PAID

27. WEEKLY AMOUNT PAID

28. ADDRESS OF DEPENDENT

29. RELATIONSHIP TO DECEASED

WC-2-2 (07-15) AI
MAY 29, 2015

50-000002

Injury No : 50-000002
Injury Date : 11-01-1950
Insurance No : 

Employee . . . . . : TEST
12345 TEST ROAD
ADD LINE 2
TEST CITY, KS 66201-1328

Employer . . . . . : TEST
12345 S. TEST ROAD
CITYLINE, MO 65039

Employer . . . . . : YELLOW TEST SYSTEM D/B/A
TESTWAT AMBULANCE SERVICE
11A TESTWAT AVE
CITYLINE, MO 65153

Employer . . . . . : C-W TESTS DUA LEPER DOT CAJUN CU
111 TESTAISL CAJUN CARS
LINES
CITY LINE, MO 64068

*Employer . . . . . : NOTARY LAM FIRM LLC
11 WEST TEST DR
CITY LINE, MO 64068

*Insurer . . . . . : TEST A INSURANCE HOME INSURANCE TRUST
C/O TEST INSURANCE SOLUTIONS LLC
1111 TEST BLVD STE 4A
LINES
CITY LINE, MO 65030-5426

The Division requests that the following forms and/or information be provided within thirty (30) days of the date of this letter, in order to update case status information in our system:

Total Cost of Medical to Date

Please furnish the information and forms requested above within thirty (30) days.

Check below and return if applicable:

____ No lost time paid
____ Still losing time
____ Still receiving medical treatment

(If this area is checked, you will receive another request in sixty (60) days unless you provide a different time frame, not to exceed four (4) months.)
____ Insert approximate date when information will be available

The following information that you voluntarily provide to the Division is for statistical purposes only.

____ Has a statutory penalty been assessed for safety violation?
____ Has a statutory penalty been assessed for drug/alcohol violation

PLEASE RETURN OR ATTACH THIS LETTER WITH RESPONSE.

DIVISION OF WORKERS’ COMPENSATION

If you would like to receive docket notices electronically from the Division, please call 573/526-4955 or by email at correspondence@labor.mo.gov

50-000002

50-000002

WC-152 (05-15)
INFORMATION-REQUEST
JOB
Relay Missouri: 800-735-2906

MISSOURI DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS
Missouri Division of Workers’ Compensation is an equal opportunity employer/program.
Auxiliary aids and services are available upon request to individuals with disabilities.
RETURN MAIL--ADDRESS CHANGE TO BE SUBMITTED

The Division of Workers’ Compensation (Division) received a First Report of Injury (FROI) pursuant to §287.380, RSMo providing us with the name and mailing address for the employee. Under the law, the Division is required to maintain accurate and complete data on the impact of work-related injuries on the system. We received return mail from the United States Post Office stating that the mail sent to the employee’s address indicated above, was “Not Deliverable as Addressed – Unable to Forward.”

The Division relies upon the correctness of the data reported to fulfill its regulatory responsibilities to all stakeholders. Please verify and submit a corrected address for the employee via EDI FROI upon receipt of this letter. Alternatively, you may complete the Change of Address Form below and return it to the Division.

Change of Address Form

<table>
<thead>
<tr>
<th>Name of Employee or Claimant</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Mailing Address, City, State and Zip Code</td>
<td></td>
</tr>
<tr>
<td>Signature &amp; Date</td>
<td></td>
</tr>
</tbody>
</table>

Thank you for your prompt attention to this matter.

MISSOURI DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS
Missouri Division of Workers’ Compensation is an equal opportunity employer/program.
Auxiliary aids and services are available upon request to individuals with disabilities.
Calculating the Lost Time Benefit

- If the wages are fixed by the week, that amount shall be the average weekly wage.
- If the wages are fixed by the month, the average weekly wage will be the monthly wage multiplied by 12 and divided by 52.
- If the wages are fixed by the year, the average weekly wage will be the yearly wage divided by 52.
- If the wages are fixed by the day, hour or by the output of the employee, the average weekly wage is computed by dividing by thirteen the wages earned while actually employed by the employer in each of the last thirteen calendar weeks immediately preceding the week in which the employee was injured or if actually employed by the employer for less than thirteen weeks, by the number of calendar weeks, or any portion of a week, during which the employee was actually employed by the employer.
Calculating the Lost Time Benefit (cont’d)

- If the employee has been employed less than 2 calendar weeks immediately preceding the injury, the employee’s weekly wage will be considered to be equivalent to the average weekly wage of a same or similar employee at the time of the injury.

- The Gross Wages are divided by 13 to get the Average Weekly Wage.

- If the employee works less than 13 weeks, but more than 2 weeks, the Average Weekly Wage is calculated by using the actual number of weeks that the employee was employed.

- If an employee misses nonconsecutive workdays during the 13-week period in multiples of 5 those days shall be subtracted from the denominator. For example; if the employee misses 5 days, one week is subtracted from 13 and denominator becomes 12; and so on.
Return to Work Program

✓ Every employer needs a thorough written procedure for their Return to Work program
✓ All efforts need to be made to accommodate Modified/Transitional Duty restrictions (time limited meaningful work)
✓ Program needs to be consistently implemented with all employees
✓ Employer needs to ensure that they are staying within the restrictions given by the treating physician
✓ Return to work needs to be thoroughly documented in the file notes with whether full duty or modified/transitional duty
✓ Amount paid needs to be correctly documented to clarify what wages the employee is receiving to determine their Temporary Partial Disability payment amounts
Drug, Alcohol and Safety Violations
Sections 287.120.5 and .6 RSMo

✓ If an injury is caused by the failure of the employee to use safety devices provided by the employer, or from the employee’s failure to follow safety procedures, if it is shown that the employee had actual knowledge of the safety procedures and the employer had made a reasonable effort to make employees use the safety devices, Compensation may be reduced between 25-50%
✓ If an employee fails to follow the employers drug-free workplace or the use of alcohol, illegal or non-prescribed controlled drugs policy and an injury occurs in conjunction with the use of such, Compensation shall be reduced by 50%
✓ If the employee is in violation of the employers policy or rule and the proximate cause of an injury is the use of alcohol, illegal or non-prescribed controlled drugs, Compensation otherwise payable shall be forfeited
✓ If an employee’s blood alcohol level is over the legal limit to constitute legal intoxication, the presumption is made that the use of alcohol was the proximate cause of the injury
✓ If an employee refuses to take a test for alcohol, illegal or non-prescribed controlled drugs at the request of the employer and the employer has sufficient reason to suspect the use of alcohol, illegal or non-prescribed controlled drugs by the employee, or if the employer’s policy clearly authorizes post-injury drug testing and the employee refuses to take a test, Compensation shall be forfeited
File Management

File Management includes the files, notes, claims systems and the financials of a file. Separate files must be maintained for each individual injury that occurs.

The following should be included in a claims file:

• Case Notes
• Payment Histories
• Reserve Worksheets & Histories
• Wage Statements
• Medical Reports, Documents & Bills
• Rating Reports
• Witness Statements
• All Medical, State & Legal Correspondence
• All applicable information/documentation that is pertinent to the injury
File Management

All files must reflect the current status of each case

Files must be well organized

Files must be updated on a regular basis

All files need to have regular reviews to ensure they are being properly maintained
Reserve Management

The Division uses the FASB Rule 5 as a guide for Reserve Management

- Reserves must be set for Medical, Indemnity and Expenses
- Reserves must be updated on a regular basis
- Reserves need to be reviewed and if needed updated as the case progresses and new information is developed
- Specified intervals need to be set for reserve reviews
- Reserves must be set when the exposure is known
- Reserve histories and worksheets must be included in the case files
- Reserves need to be set for the maximum potential exposure based on the most probable outcome of file
Employees are advised of benefits under the Missouri Workers’ Compensation Law at the time of hire and periodically throughout employment.


Authorized preferred provider listing; should include 24 hour emergency care, specialists, treating medical providers, etc.

3-point contact within 24 hours of medical treatment.

The Average Weekly Wage (AWW) is calculated using average earnings at the time of injury for the 13 weeks prior to the date of injury, if 13 full weeks are not available use a comparable employee position and pay should be used.

Initial lost time payments are issued in accordance with statute.

Initial lost time payments recognize 3 day waiting period.

3 day waiting periods paid after lost time reaches 14 days.

Additional lost time payments are issued as the employee was paid prior to the date of injury or at a maximum of every two weeks.

All compensation verified before release of payments.

System set up for manual payments, voids, stop pays, etc.

Job statements or job essential tasks obtained on all lost time cases.

Transitional or modified duty program formalized in writing in the policy and procedure manual.

Treating physician medical restrictions are recognized.
Division of Workers’ Compensation
Best In Practice Guidelines

- All employers should have an internal workers’ compensation procedure manual
- Injuries/incidents should be reported by the employee to the employer immediately
- A toll free telephone number should be available for reporting injuries and 24 hour reporting capabilities
- 3-point contact with employee, employer and treating medical provider
- Division of Workers’ Compensation Posting Notices are current and prominent
- Employer reports injury to insurer/claims administrator within 24 hours of notice of injury by the employee. The employer should report all injuries to their third party administrator within five (5) days and the third party administrator should report to the Division within the next five (5) days
- Payment of compensation for cases indicating lost wages should be reported to the Division on the Form 2 Notice of Commencement/Termination of Compensation within thirty (30) days from the initial compensation payment and within ten (10) days after compensation is terminated
- First Reports of Injuries should be submitted through EDI
- Investigation initiated within 24 hours of notification of injury by the employee to the employer
- Investigation completed within 14 days
Investigation Management

- All files need to have a thorough investigation completed and documented in the case notes.
- The initial investigation should collect all essential items necessary for claim evaluation.
- Compensability decisions should be made quickly.
- Employees, supervisors and any witnesses should complete applicable statements.
- Investigations should be completed within a specified time frame with continuing investigation throughout the life of the file.
- Medical releases should be signed by all employees in order to collect medical documentation from outside providers.
- Based on the investigation, adjusters should develop a plan of action to follow throughout the life of the file.
Communication Management

- All parties involved in a workers’ compensation file need to maintain an open line of communication in order to appropriately handle a file to conclusion.

This will include:
- Adjuster
- Employee
- Employer
- Attorney
- Medical Providers
- Rehabilitation Providers

- Initial contact should be made with the employee within 24 hours of notice of an injury.

- 3-point contact needs to be maintained between the employee, employer and medical providers.

- All contact, including personal contact, telephone calls, letters and e-mails must be documented in the file notes.
# First Reports of Injury (FROI) and Claims for Compensation

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016 (thru 12/1/2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total FROIs Received (All Employers)</td>
<td>102,207</td>
<td>102,723</td>
<td>95,754</td>
</tr>
<tr>
<td>Total Claims Received (All Employers)</td>
<td>13,735</td>
<td>14,401</td>
<td>13,338</td>
</tr>
<tr>
<td>Total Claims Received Against State Employers*</td>
<td>721</td>
<td>780</td>
<td>678</td>
</tr>
<tr>
<td>State Employer Claims with no FROI Filed or Where the Claim was Received First</td>
<td>76</td>
<td>68</td>
<td>47</td>
</tr>
<tr>
<td>State Employer Claims with no FROI File (Subset of the Number Immediately Above)</td>
<td>21</td>
<td>16</td>
<td>16</td>
</tr>
</tbody>
</table>

*State Employers include the Highway and Transportation Commission, the Curators of the University of Missouri and all Departments under the Missouri Office of Administration. The data does not include Second Injury Fund Claims.
State Employers Top 3 Nature of Injuries

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016 (thru 12/1/2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Contusion</td>
<td>Sprain or Tear</td>
<td>Contusion</td>
</tr>
<tr>
<td>2.</td>
<td>Sprain or Tear</td>
<td>Contusion</td>
<td>Sprain or Tear</td>
</tr>
<tr>
<td>3</td>
<td>Laceration</td>
<td>Laceration</td>
<td>Laceration</td>
</tr>
</tbody>
</table>

**Nature of Injury Codes:**
10 – Contusion
49 – Sprain or Tear
40 – Laceration
# State Employers Awards & Settlements

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016 (thru 12/1/2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Awards</td>
<td>57</td>
<td>40</td>
<td>47</td>
</tr>
<tr>
<td>Settlements</td>
<td>841</td>
<td>845</td>
<td>725</td>
</tr>
</tbody>
</table>
### All Employers

**Toxic 10 Occupational Disease** *

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016 (thru 12/1/2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td>FROIs</td>
<td>47</td>
<td>64</td>
<td>69</td>
</tr>
<tr>
<td>Claims</td>
<td>8</td>
<td>35</td>
<td>46</td>
</tr>
</tbody>
</table>

*Toxic 10 Occupational Diseases:* mesothelioma, asbestosis, berylliosis, coal worker's pneumoconiosis, brochiolitis obliterans, silicosis, silicotuberculosis, manganism, acute myelogenous leukemia, and myelodysplastic syndrome
Medical Fee Reasonableness Disputes

• Statute of limitations period was added in §287.140.4 for health care providers who file an application for payment of additional reimbursement of medical fees pursuant to 8 CSR 50-2.030. It is:
  – Two years from the date the first notice of dispute of medical charge was received by health care provider if the services were provided before July 1, 2013; (Cont. →)

 MO. REV. STAT. §287.140.4
Medical Fee Reasonableness Disputes

- One year from the date the first notice of dispute of medical charge was received by health care provider if the services were provided after July 1, 2013

• Notice is presumed to occur no later than 5 business days after transmission by certified U S mail.

MO. REV. STAT. §287.140.4
Medical Fee Reasonableness Disputes

• Regulation 8 CSR 50-2.030 has been amended to require an Application for Payment of Additional Reimbursement of Medical Fees to include date the first notice of the dispute of medical charge was received by the health care provider.

• Procedure was added for requesting and issuing awards on undisputed facts in reasonableness disputes.
Medical Fee Reasonableness Disputes

• Changes made to forms:
  – Revised Application for Payment of Additional Reimbursement of Medical Fees, WC-MD-02;
  – Request for Award on Undisputed Facts in Regard to Application for Payment of Additional Reimbursement of Medical Fees, WC-297; and
  – Amended Request for Dismissal of Application for Payment of Additional Reimbursement of Medical Fees, WC-MD-05
Reasonable Medical Examination

- Section 287.210.1 was amended to allow the Attorney General’s Office, on behalf of the Second Injury Fund, to request a reasonable medical examination if the employer has not obtained a medical examination report.
Second Injury Fund

- Section 287.220 RSMo states that the Second Injury Fund is created exclusively for purposes indicated in this section and for special weekly benefits in rehabilitation cases as set out in §287.141.
- SIF is maintained as provided in §287.710
- State Treasurer is custodian of the SIF
- SIF is subject to audit like state funds and protected by a bond
- Upon requisition of Division Director warrants are issued on the State Treasurer for payment of benefits awarded against the SIF
Second Injury Fund

• Cases of permanent disability involving previous disability due to injuries occurring prior to January 1, 2014, shall be compensated under §287.220.2

• All claims for injuries after January 1, 2014 and all claims involving a subsequent compensable injury for occupational disease after January 1, 2014, shall be compensated per §287.220.3
  – No claim for permanent partial disability (PPD) shall be filed against the Fund after January 1, 2014.
Second Injury Fund – PTD
Requirements

• Claims for PTD under §287.200 shall be compensable only when the following conditions are met:
  a. (a) An employee has a medically documented preexisting disability equaling a minimum of 50 weeks of PPD compensation which is:
      - A direct result of active military duty in any branch of U S armed forces; or
      - A direct result of a compensable injury defined in §287.020; or
Second Injury Fund – PTD Requirements

- Non-compensable injury, but such preexisting disability directly and significantly, aggravates or accelerates the subsequent work-related injury; or
- Preexisting PPD of an extremity, loss of eyesight in one eye, or loss of hearing in one ear where subsequent compensable work-related injury is to opposite extremity, eye or ear; and

  • (a) b. The employee sustains a subsequent compensable work-related injury that in combination with the above items results in PTD; or

  • (b) Employee is employed in a sheltered workshop and sustains a compensable work-related injury that combines with the pre-existing disability that results in PTD.

  MO. REV. STAT. § 287.220.3(a) (Supp. 2013).
Second Injury Fund – ER liability

• ER Liability for the last work-related injury shall only be for the disability resulting from the subsequent work-related injury considered alone and of itself

• Compensation for benefits are determined per the EE’s compensation rate calculated under §287.250
Second Injury Fund – Benefit Payments no longer being made 1/1/2014

• Uninsured Cases – medical and death benefits will no longer be paid from the Fund in uninsured employer cases relating to claims for injuries occurring after January 1, 2014.

• Second job wage loss benefits will no longer be paid for injuries after January 1, 2014.
Second Injury Fund – Payments no longer being made 1/1/2014

• No compensation is payable from the SIF when an employee files a Claim for Compensation under the Workers’ Compensation Law of another state for the injury or accident or occupational disease.

• Life payments made from the SIF shall be suspended when the employee is able to obtain suitable gainful employment or be self-employed.
Second Injury Fund - Prioritization

• A prioritization schedule was established for payment of Fund liabilities.
  1. Expenses relating to legal defense of the Fund;
  2. PTD awards in order in which claims are settled or finally adjudicated;
  3. PPD awards in order in which claims are settled or finally adjudicated;
  4. Medical expenses incurred prior to July 1, 2012;
  5. Interest on unpaid awards.

Thank You
For Information Only

The preceding presentation was prepared by Nasreen Esmail, Chief Legal Counsel for the Missouri Division of Workers’ Compensation [DWC] for training purposes. It does not constitute legal advice. Any opinions expressed are solely those of the preparer.