

Help Us Help You!

Do's and Don'ts for Employers

Agenda

01 Reporting Claims

02 Wage Statement

03 Investigation

04 Return to Work

05 Litigation

06 Subrogation

07 Fraud

08 Settlement

Reporting Claims

Timely

Florida Statute **440.185**

- ▶ The injured worker has **30 days** to report the claim to the employer.
- ▶ Always report a claim, even if it is over the reportable time period.
- ▶ Employer should report as soon as possible, but no later than seven days to report to Carrier.

Employers' to-do's on timely reporting:

- ▶ Know the Who, What, When, Where, and Why
- ▶ Who was involved in the accident, what exactly occurred, when did the accident occur, where did it occur, and why did it occur?
- ▶ The injured workers must provide a social security number according to F.S. 440.185(2)(b) and all required details such as address and telephone number.

Impacts of Late Reporting

Late reporting impedes the adjuster's investigation

Evidence may have been moved or altered

People forget details of events

Witnesses are no longer available

Might prevent a defense

Fines from the Division

In Summary

Don'ts:

- ▶ Do not wait until you gather all the details to report a claim.

Do's:

- ▶ Report each accident or allegation, no matter how small or insignificant.
- ▶ If you believe the claim or allegation is not covered, report the claim anyway and tell the adjuster why you question the incident.

Wage Statement

Wage Statement: Is a State form the employer completes with 13 weeks of wages

Florida Statute **440.14** and administrative code **69L-3.0046**

- ▶ The wage statement is due to the WC carrier within 14 days of the employer's knowledge of the accident that caused the employee to be disabled for more than seven calendar days.
- ▶ Employers are responsible for reporting wages and completing wage statements with signatures.
- ▶ Attach the payroll records the employer used to complete the wage statement.

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Fringe Benefits

- ▶ Always complete the fringe benefit portion of the wage statement.
- ▶ Some examples of fringe benefits, according to F.S. 440.02(28), are:

Health insurance

Rent/housing

Discontinuing of Fringe Benefits

- ▶ The employer must notify the adjuster right away, but no later than seven days.

Common Mistakes on the Wage Statements

Not having the complete 13-week period

Not including the weekend period

Including the date of the accident in the 13 weeks

Not completing the top portion of the wage statement

The preparer not signing the wage statement, along with their phone number and the date completed

In Summary

Don'ts:

- ▶ Do not forget to let the adjuster know when fringe benefits end.

Do's:

- ▶ Submit a timely and accurate wage statement within 14 days.
- ▶ Double-check numbers.

Investigation

Employer To-Do's:

- ▶ Obtain the injured worker's statement.
- ▶ Obtain the statement of the supervisor or the person with the most knowledge.
- ▶ Provide written statements from the injured worker and the supervisor, as well as witness statements, if any.
- ▶ Provide police reports if applicable.
- ▶ Take pictures of the accident scene and provide video evidence if available.
- ▶ Provide return-to-work or out-of-work info to the adjuster.
 - ▶ **Have the injured worker provide a work slip after doctor's appointments.**

We have three options when determining compensability:

1. **Accept**
2. **Deny** – 14 days
3. **Invoke** the 120-day rule
 - ▶ Provide written notice to the employee of the election to pay and investigate.
 - ▶ All benefits are provided as if the claim was compensable until the claim is denied.
 - ▶ Accept or deny compensability within 120 days.
 - ▶ Work comp carrier waives the right to deny if past the 120-day period.

In Summary

Don'ts:

- ▶ Do not forget to obtain pictures and statements of the event.

Do's:

- ▶ Send the police report and all supporting documents as soon as possible.
- ▶ Please return the adjuster's call right away and provide any information you feel the work comp carrier should know.

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**Return
to Work**

Benefits of Returning to Work for **Employees**

Keeps the employee from feeling isolated and bored

Improves self-worth/morale

Prevents interruptions of salary/benefits

Employer
Benefits of
Bringing the
Employee Back
to Work

Reduces litigation

Reduces costs

Provides an opportunity to complete necessary tasks that otherwise are not completed

In Summary

Don'ts:

- ▶ When providing light-duty work for the injured worker who is not making his normal wage, do not forget to inform the adjuster immediately.

Do's:

- ▶ Create a return-to-work program.
- ▶ Communicate when the injured worker is to return to work in writing and via phone.

Litigation

Litigation

Limit conversation with the injured worker once represented.

Legal responses have a deadline; provide necessary information to the defense attorney.

Be prepared for mediation and deposition.

DO NOT RESPOND to Petition for Benefits (440.192(8)), Request to Produce, Subpoena, or Notice of Appearance

- ▶ Requires a legal response
- ▶ Privileged information – confidential information between the employer and the work comp carrier and should not be shared with the claimant's attorney
- ▶ Could waive legal defenses based on your response
- ▶ Lessens your chance as an employer of being deposed

Deposition/Mediation/Hearing

Deposition is a pre-trial oral testimony taken under oath.

Mediation is scheduled after a petition for benefits is filed. Mediation is confidential and legally binding.

- ▶ There are two types of mediation:
 1. **State mediation** – The State of Florida provides this at no cost.
 2. **Private mediation** – This is mediation agreed to by both parties, and the carrier incurs the cost. The carrier most often uses it to settle a claim.

Final hearing occurs when parties cannot come to a resolution of issue(s); therefore, the work comp judge will determine benefits owed to the injured worker.

In Summary

Don'ts:

- ▶ Do not discuss the work comp claim with the injured worker when they are represented.

Do's:

- ▶ Legal responses have a deadline; please provide the necessary information to our defense attorney.
- ▶ Be prepared for mediation and deposition.

Subrogation

Florida Statute **440.39**

- ▶ Work Comp is primary insurance when someone is injured while working.
- ▶ **Intention:** Pay benefits and prevent a double recovery. Any recovery should be shared.

Investigation

- ▶ Obtain police reports, videos, and pictures.
- ▶ Place all parties on notice of the lien.

Lien Recovery

We do not receive a full recovery due to expenses, comparative negligence, and uninsured motorist.

Personal injury protection and uninsured motorist cannot be recovered against.

Manfredo: did not receive full value of claim resulting in reduction of lien.

In Summary

Don'ts:

- ▶ Do not forget to provide police reports or any supporting documents.

Do's:

- ▶ Preserve the evidence.
- ▶ Let the adjuster know if there is third-party involvement when reporting the claim.



Fraud

Fraud elements are false statements of material matter willfully made with the intent to deceive and obtain benefits.

- ▶ The National Insurance Crime Bureau estimates that workers' compensation fraud in the United States is a \$30 billion problem each year.
- ▶ Fraud is found in Florida statutes 440.105 and 440.09(4).

Potential Results

Modified physician's medical orders

Modified judge's orders

Termination of benefits (440.09(4))

Reduced settlement amounts (mitigation)

Arrest/Fraud conviction

In Summary

Don'ts:

- ▶ Do not discuss the assignment of surveillance with anyone.

Do's:

- ▶ Report suspicious activity promptly.
- ▶ Fraud can reduce exposure.

08 Settlement

Work Comp claims are open **for life** unless the Statute of Limitation runs.

Settling a file is the **best way to mitigate** the employer's exposure.

Settlements are **voluntary**. We cannot force an injured worker to settle their claim.

Be prepared for the injured worker to **resign** if the claim settles.

Do not discuss the injured worker's settlement with other employees.

Understand the **claim's value** and discuss it with the adjuster before the claim is settled.

We can only discuss settlements with **unrepresented injured workers** when they have reached **maximum medical improvement**.

In Summary

Don'ts:

- ▶ Do not share settlement amounts with other employees.

Do's:

- ▶ The only way to close a claim permanently is to settle the claim.
- ▶ A settled claim is the best claim.

Questions?