

New Reporting Obligations

Introduction

A new policy has changed the reporting obligations of employers. This article will provide details about those changes, some case sample illustrations and a reference tool which can be placed at your desk to help familiarise yourself with the new policy.

The effective date of the new policy is March 01, 2000.

Background

WSIA Operational 15-01-02 requires employers to report accidents when a worker is absent from regular work, needs modified duties at regular or less than regular pay, earns less than regular pay at regular work or obtains health care. If only first aid is needed,

Regulation 1101 obligates the employer to keep a record of the accident as described by the worker.

The reporting obligation policy has been revised to clarify and further define the terms “health care” and “first aid”. The new policy also adds a new criterion which addresses the obligation to report when modified work is required. The policy also provides additional clarification on the reporting obligation when exposure to infectious disease has occurred.

The New Policy

1. Reportable Situations:

Employers must report if the worker:

- obtains health care
- is absent from regular work
- is performing modified work at less than regular pay
- earns less than regular pay at regular work
- is performing modified work at regular pay for more than seven calendar days from time of injury

The last criterion is new. When a worker is placed on modified work because of an injury for more than seven calendar days, employers must report to the WSIB. The obligation to report these situations exists even if the worker received no health care. If the period of modified work is seven days or less there is no obligation to report – provided there is no wage loss or health care attention. Additional considerations in terms of this new criterion are as follows:

- shift workers, or those on irregular work patterns, may not be scheduled to work on the eighth calendar day. In these cases, the employer must report the accident if the worker requires modified work on the first shift that follows the eighth calendar day.
- The seven calendar day period is not reset for workers that initially require modified work for less

Notice: This document is intended to assist WSIB decision-makers in reaching consistent decisions in similar fact situations and to supplement applicable WSIB policies and guidelines as set out in the Operational Policy Manual (OPM). This document is **not a policy** and in the event of a conflict between this document and an OPM policy or guideline, the decision-maker will rely on the latter.

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than seven calendar days, return to regular work for a brief period, and then require further modified work. In these cases, the requirement to report is based on whether the worker requires modified work after the initial seven calendar days following the date of accident.

- If a worker initially returns to regular work, but then requires modified work, the employer must report the accident if the worker requires modified work for more than seven calendar days from the date that the modified work began.

2. Non-reportable Situations

Employers are not required to report if the worker:

- receives first aid only
- receives first aid and is placed on modified work at regular pay for up to seven calendar days from the date of injury
- does not require first aid, but is placed on modified work at regular pay for up to seven calendar days from the date of injury

3. New Definition of Health

Care and First Aid

The terms “health care” and “first aid” have been more fully defined to assist employers in distinguishing between health care situations, which are reportable, and first aid situations, which are not reportable.

To distinguish between health care and first aid where some “care” has been provided, the employer should consider the type of care provided, rather than the professional qualifications of the provider giving the care. For example, a situation where a plant foreman applies a bandage to a worker’s minor laceration, would be treated as a non-reportable first aid situation. If a plant physician applies the bandage, this is similarly treated as a non-reportable first aid situation. It is the nature

of the care, rather than the professional qualifications of the caregiver that creates the distinction.

Health care includes:

- services requiring the professional skills of a health care practitioner, eg. Doctor, nurse, chiropractor, physiotherapist
- services provided at hospitals and health facilities
- prescription drugs

New definition of first aid

First aid is the one time treatment or care given to a worker and any follow-up visit(s) for observation purposes only.

Examples of first aid include, but are not limited to:

- cleaning minor cuts, scrapes or scratches
- treating a minor burn
- applying bandages or dressings
- applying a cold compress, cold pack or ice bag
- applying a splint
- changing a bandage or dressing after a follow-up observation visit

4. Exposure to Infectious

Diseases

The new policy clarifies the employer’s reporting obligation when exposure to infectious disease has occurred – eg. needlestick injuries.

Some employers, such as hospitals, follow a surveillance protocol (a procedure for testing and monitoring) when a worker is exposed to an infectious disease (i.e., needlestick injuries). These employers must maintain records of the incident, and any testing and monitoring.

If the worker tests negative for exposure to an infectious disease and no treatment is needed, the employer is not required to submit an accident report. However, if the worker tests positive for an infectious disease, or requires any type of treatment related to the incident, the employer must report to the WSIB.

If a worker tests negative, but claims an emotional or anxiety-related response following the accident, the employer must report the accident.

In cases where HIV infection is suspected, the employer must report the accident if a health care practitioner provides a post-exposure prophylaxis (PEP). If it is suspected that a worker has been exposed to an infectious disease, but the worker chooses not to participate in the surveillance protocol, the employer must report the accident to the WSIB.

** Employers without a surveillance protocol must report all cases of workers exposed to, or suspected of being exposed to, infectious disease to the WSIB.

5. New Status Code

Code X62 is used to abandon claims when a worker does not receive health care attention for their injury. This practice will not change for the majority of reportable situations.

However, a new abandonment code – X87 – will be used for accidents that have been reported because a worker has been placed on modified duties for more than seven days. In these situations, if it is determined that health care attention was not received, the adjudicator will use this new code to abandon the claim.

The abandonment action will be communicated to the workplace parties by a new System 35 letter (page 6):

- MOD7W (to worker)
- MOD7E (employer copy)

The new code will provide a statistical measure of the number of new claims being created based on the new reporting requirement – worker placed on modified work for more than seven days.

6. Late Filing Charges

There have been no changes to the time requirements for employers to report to the Board. Employers are obligated to provide a complete accident report to the

WSIB within 7 business days of first learning of the reporting obligation; business days are Monday to Friday and do not include statutory holidays.

However, adjudicators must be aware of situations where an accident may be reported by the worker to the employer immediately, but that the employer did not report until 8 days later. This would be acceptable and normal in situations where the worker was placed on modified duties only, and did not lose wages or obtain health care. The obligation to report, in such cases, would only commence on the eighth day of modified work. Therefore, an accident date of Feb 01 and a Form 7 completion date of Feb 08 would be expected and a late filing charge would not be applicable.

Note the following practice has not changed:

Claims not reported by employers to the Board within 7 business days of first learning of the reporting requirement are subject to late filing charges regardless of whether the claim is later abandoned.

Summary

Employers must report work related injury if a worker needs health care, is absent from work, suffers a wage loss or needs modified work at regular pay for more than seven calendar days. Health care has been defined to include services requiring the skills of a health care practitioner, prescription drugs or services provided at a hospital or other health facility. When a worker receives health care for their work-related injury, the employer has an obligation to report the injury to the Board.

First aid has been defined as the one time treatment or care given to a worker and any follow-up visits for observation purposes only. Employers do not have to report work related injuries to the Board that require first aid only.

7. NEW SYSTEM 35 LETTER MOD7W, MOD7E

Claim No.:

Date:

Injury Date:

Injury:

Dear Worker:

Your employer has reported that you were injured on the job. Your employer is required to report if you cannot do your regular job for more than seven calendar days past the date of injury.

I understand that your regular job has been modified with no wage loss and you did not need any health care for this injury. This means no benefits are payable at this time and I don't need to contact you further on this claim.

If this information is incorrect, or if you need health care or suffer a wage loss in the future, please let me know.

Sincerely,

Claims adjudicator
Operations Division

Telephone (xxx) (xxxx)

Copy to employer

8. Case Samples

For each of the following situations, determine whether a reporting obligation exists:

1. Robert cuts his finger at work and leaves later that day to see his doctor.
2. Eric injures his back on the morning of June 01, but only misses work for the balance of that day. No medical attention was obtained, and Eric returns to his regular work the next day.
3. Rose injures her elbow but does not lose any time from work. However, she requires modified work and is earning less than regular wages.
4. Ildiko works on a production line and develops an injury to her wrists. She continues at her regular work but her rate of production is lower than usual; this results in a partial ongoing wage loss.
5. Sanjai falls and sprains his wrist on February 01. He remains at work and continues to receive his regular pay while performing modified work for a period of nine days.
6. Breda sustains a needlestick injury with possible exposure to hepatitis at the hospital where she works. No time is lost from work, but a surveillance protocol is initiated. Breda later tests negative for exposure to hepatitis.
7. Tullia is bitten by a client in a facility for treating substance abuse. No surveillance protocol is in place.
8. Maria injures her finger at work and is given a bandage at the first aid office. She returns to her regular work at no wage loss.
9. Nicole falls and twists her ankle at work on May 01 and is given a tensor wrap by the company doctor in the first aid office. She is placed on modified duties but resumes her regular work on May 07 at no wage loss.
10. Sherri injures her back lifting a box at work. She does not receive first aid or any other medical treatment. She is placed on modified duties for three days only and continues to receive her regular wages.

In the following cases, would a late filing charge be applicable?

11. Helen twists her ankle at work on May 01 and was given modified duties at no wage loss the same day. She reported the accident right away to her employer. She also decided to call in and report her injury to the WSIB. Helen did not consider it necessary to receive health care. She resumed her normal duties on May 06.

12. Debbie sprained her wrist on March 01. She reported the accident to her supervisor right away and was given modified duties the same day at no wage loss. Debbie did not obtain any health care attention, and continued on modified duties until the end of the month when she returned to her regular job. The WSIB received notification of this accident on March 26. However, the claim was abandoned when it was confirmed that no medical attention was received.

11. Late filing charge not applicable as the Board would not consider this a reportable accident

12. Late filing charge is applicable. The worker was on modified duties for more than seven calendar days and the injury therefore became reportable as of March 09. The Board did not receive notification until March 26. Late filing charges are applicable even if the claim is abandoned.

Answers:

1. Reportable - received health care
2. Not reportable as no medical attention was obtained and there was no time lost beyond the day of accident. (Note: The WSIB does not consider the missed work on the day of accident as being “absent from regular work”)
3. Reportable - lost wages
4. Reportable - lost wages
5. Reportable - on modified work for more than seven calendar days
6. Not reportable – surveillance protocol revealed worker is negative for exposure
7. Reportable – if the employer does not have a surveillance protocol, all cases of suspected exposure to infectious disease must be reported
8. Not reportable – received first aid only
9. Not reportable – received first aid treatment only
10. Not reportable – no health care or first aid attention obtained, no wage loss and modified duties were only required for three days

9. Desk Top Reference Tool— New Reporting Obligations

Reportable Situations Non-Reportable Situations

- Receives health care
- Absent from regular work
- Needs modified work at less than regular pay
- Earns less than regular pay at regular work
- Needs modified work at regular pay for more than 7 calendar days
- receives first aid only
- receives first aid, not absent from regular work
- does not require first aid but is placed on modified work at regular pay for up to 7 calendar days from date of injury
- receives first aid and is placed on modified work at regular pay for up to 7 calendar days from date of injury