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# Workers' Compensation Essentials for North Carolina Employers

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# A New Claim

- **Initial Investigation**
  - **Accident Form**
  - **Witness interviews**

**\*\*Remember to not only interview the claimant, but talk to the witnesses and dig deep....claims are not always as they initially appear**

# A New Claim

- Completing a Form 19
  - Ask who, what, where, when, why and how
  - Be specific
- \*\*Remember to provide the employee with a copy of the Form 18 for completion.

# A New Claim

## 1. Know the Rules

- 30 days from filing Form 18 to accept for deny

## 2. When in doubt....file the 63!

- allows payment without prejudice
- provides 90 days to make decision
- but be aware of consequences

# A New Claim

## Accept or Deny?

### 1. Was there an “injury by accident?”

- Note the special caveat for back and hernia claims → SPECIFIC TRAUMATIC INCIDENT

- Occupational disease claims

- 1) exposure to an increased risk AND

- 2) employment conditions were significant contributing factors

# A New Claim

2. Did it “arise out of scope and in the course of employment?”

1) Going and Coming Rule



# A New Claim

Exceptions to the Going and Coming Rule:

1. Special Errand
2. Traveling Salesman
3. Contractual Duty
4. Personal Vehicle
5. Premises

# A New Claim

Did it “arise out of scope and in the course of employment?” (cont.)

2) Break time injuries

3) Assaults

Co-worker fights

Attacks by third parties

4) Horseplay

5) Athletic/Social Events



# A New Claim

Forms that are used to accept a claim

- Form 63 → Medical only and payment without prejudice
- Form 60 → Specificity required

A Form 61 is used to deny a claim.

# Payment of Compensation: Indemnity

Total Disability (N.C.G.S. 97-29)

- 7 day waiting period

Partial Disability/Wage Loss (N.C.G.S. 97-30)

- 300 weeks from date of accident

Permanent Partial Disability (N.C.G.S. 97-31)

- MMI and ratings

Bodily Disfigurement

Damage to Organs

# Payment of Compensation: Indemnity

## Calculation of Average Weekly Wage

- Form 22
- Short term employees
- 5 ways to calculate AWW

## Travel Reimbursements

- Form 25T

# Cessation of Weekly Benefits

## 1. Return to Work

- w/restrictions → Form 28T
- w/o restrictions → Form 28

## 2. Getting the Employee Back to Work

- job description/approval
- “make work”
- Form 24

# The Hearing Process

## Mediation



# The Hearing Process



# The Hearing Process

- Pre-Trial Agreement
- Lay witnesses
- Medical depositions
- Contentions

# Settlement Agreements

## Form 26A

- employee remains with the insured
- 2 years for change of condition
- payment of PPD rating only

## Clincher Agreement

- at least 10% over PPD rating
- requires Industrial Commission approval

# Settlement Agreements

## Medicare Set Asides



### Triggers

MUST include if...

1. Claimant already on Medicare OR
2. Settlement agreement over \$250,000 AND  
"Reasonable expectation" of enrollment  
within 30 months of settlement

# Miscellaneous

## Third Party Claims



Lien rights under N.C.G.S. 97-10.2

Note that many liens ultimately get reduced to 25% or eliminated completely

# Miscellaneous

## Contact with Physicians (N.C.G.S. 97-25.6)

1. Medical Status Questionnaire
2. Signed authorization from employee
3. Agreement of the parties
4. Order of the Commission

# Miscellaneous

## Death Claims

- w/in 6 years of accident or occupational disease
- w/in 2 years of final determination of disability
- 400 weeks unless...
  - 1) wife is disabled OR
  - 2) children under 18

QUESTIONS  
&  
COMMENTS