

SUBMITTING A NOTICE OF INJURY

There have recently been questions regarding who may file a notice of injury. These questions have come from providers who have experienced delays in receiving payment for services. What typically happens is that the insurance company does not have a claim number established so the medical bill is returned to the provider unpaid. These providers have asked if they can file a notice of the injury so a claim is established.

Section 8-43-103 (1) sets forth how and by whom a notice of injury is submitted. The statute directs the employer to give notice to the insurance carrier, and to the Division if it is a lost time claim. The statute then states: —[I]f no such notice is given by the employer, as required by articles 40 to 47 of this title, such notice may be given by any person.“ Accordingly, a medical provider may provide a notice of injury, but only if the notice has not been submitted by the employer. Occasionally an employer forgets or neglects to submit the notice of injury, or at times the employee has not notified the employer and the employer is unaware the employee is seeking medical treatment.

A medical provider may not submit a notice of injury until the time period for the employer to submit the notice has expired. If the Division and insurance carrier receive a notice from both the employer and the provider it will create confusion and will slow down the process. It is recommended that before submitting a notice of injury a provider contact the Customer Service Unit at the Division of Workers' Compensation, 303.318.8700, to check the status and inform the Division that the provider will be submitting a notice. A provider should utilize the Workers' Claim for Compensation form, WC015, when submitting a notice. As a practical matter, a provider may want to keep some of those forms on hand and have the employee fill one out during the initial visit. This way the provider will have the necessary information if there is a subsequent need to submit a notice of injury.

It is important to remember that an employer is required to file a notice with the Division only when an injury results in lost time from work in excess of three shifts or three calendar days, permanent physical impairment, contraction of certain listed occupational diseases, or when a claim is denied. The majority of workers' compensation claims are not required to be filed and require medical treatment only. Accordingly, submission of a notice of injury from a medical provider to the Division may not have the desired impact of speeding up the payment process. Most medical providers who treat workers injured on the job do so as designated providers. Increased communication between the provider and the insurer as to billing practices may do more to alleviate this situation than the provider submitting a report of the injury.