

COVID-19 & Claims Management in Michigan

Included below you will find the Michigan Workers' Compensation update from Director Jack A. Nolish dated March 24, 2020 in connection with the current "stay home, stay safe" directive given by Michigan Governor Gretchen Whitmer on March 23, 2020. Due to the Coronavirus pandemic, the Michigan workers' compensation agency had issued the following directives in accordance with our practice.

First, during the COVID-19 crisis, the Workers' Disability Compensation Agency announced that in addition to US Mail, the Claims Department will accept claim forms submission of WC 107, WC 701 and WC 100 via mail, fax and email at the following:

Fax number: 517-284-8920

Email: hazeld2@michigan.gov or fedewaj5@michigan.gov

U.S. Mail: Michigan Department of Labor and Economic Opportunity
Workers' Disability Compensation Agency
P.O. Box 30016
Lansing, MI 48909

As always, forms must be filled out with all required information and a copy provided to the injured worker.

Please refer to the bottom of the March 24, 2020 memo and the three numbered paragraphs indicating how the agency will proceed during the shutdown through April 19, 2020. As of the date of this correspondence, Michigan Workers' Compensation Courts are closed and scheduled to reopen on May 11, 2020.

Paragraph 1 indicates the agency is continuing to operate remotely where possible including claims, insurance coverage and other filings on a routine basis. Time sensitive filings should be accomplished in the usual fashion in accord with existing requirements. Requests for extensions or alternative means of compliance will be considered on a case by case basis.

Paragraph 2 indicates information already conveyed regarding hearings, meetings, conferences, redemptions and facilitations. As conveyed earlier, such hearings, specifically redemptions, will be arranged with the permission of the presiding Magistrate and only for the most severe circumstances. Redemptions must be prescheduled with specific dates and times with all paperwork forwarded to the presiding Magistrate in advance of the hearing.

The hearings will be held via teleconference and should the redemption be approved, the orders will be signed via electronic means and emailed or faxed to the parties upon completion of the hearing.

Most importantly, **paragraph 3** specifically addresses Independent Medical Evaluations scheduled during the agency shutdown through at least April 19, 2020. Since medical evaluations typically require the examiner to be in close proximity to the examinee and since "Independent Medical Evaluations" are by definition are not for purposes of treatment, facilities where such examinations take place are likely to be closed to ingress, use and occupancy by members of the public per the Governors stay home, stay safe edict.

Additionally, any potential employment that may have been found by job search efforts, are shutdown or severely restricted with unemployment rapidly increasing. During the effective period of the shutdown orders through April 19th and any extensions, related additional orders or expansion, failure to attend such evaluations or conduct job searches should NOT

adversely on the claimant's entitlement to benefits. Therefore, the agency has recommended that any scheduled Independent Medical Evaluations during this time of crisis be cancelled or delayed in order to avoid "no show" fees and costs.

Further, any demand or threats made to injured workers relative to failure to attend Independent Medical Evaluations or failure to provide proofs of a job search may be considered a violation of the executive orders.

Finally, in addition to sanctions that may apply under the act, please be advised that any willful violations of the above order will be considered a misdemeanor. Therefore, we recommend reviewing all files in advance and taking a proactive approach to rescheduling any Independent Medical Evaluation that are scheduled between the date of this correspondence and April 19, 2020 and be rescheduled for some time in the future where they are likely to be completed. A recommendation would be at least mid-May or June at this juncture.

With all of this in mind, please advised that it is expected that the current suspension of Independent Medical Evaluations and job search proof requirements will be extended into May 2020. We will keep you advised.

As many of you know, southeast Michigan is one of the national "hot spots" for the Coronavirus. In fact, Michigan ranks third in the Country for confirmed Coronavirus cases with almost 30,000 as of the date of this correspondence. Sadly, one national grocery chain has had four workers perish due to the virus in southeast Michigan alone.

Due to this time of crisis, it is possible that the Michigan Workers' Compensation Agency will issue a further directive regarding handling of such claims. We will continue to keep you updated regarding analysis of same as events warrant. For now, we have outlined all crisis directives issued by the Agency, shared our analysis thereof and included each official announcement from the Workers' Compensation Agency below.

We hope that you found this beneficial and that everyone is staying safe during this most challenging time. If a claim arises or you have any questions please do not hesitate to contact a member of our Michigan Workers' Compensation Team. We are here for you and will consider the facts surrounding each claim in order to tailor an individualized plan to move forward.

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Announcement

MICHIGAN DEPARTMENT OF
LABOR AND ECONOMIC OPPORTUNITY
Workers' Disability Compensation Agency

Memo from Director Jack A. Nolish

MEMO: To all interested parties

FROM: Jack A. Nolish, Director

DATE: 3/24/2020

This certainly is a challenging time to start serving as the Director of the Michigan Workers' Disability Compensation Agency. I will be working hard to keep the agency functioning and serving the people of our state. Your cooperation during this difficult time will be greatly appreciated. As announced by the Governor's office on 3/23/20:

Today, Governor Gretchen Whitmer signed the "Stay Home, Stay Safe" Executive Order (**EO 2020-21**), directing all Michigan businesses and operations to temporarily suspend in-person operations that are not necessary to sustain or protect life. The order also directs Michiganders to stay in their homes unless they're a part of that critical infrastructure workforce, engaged in an outdoor activity, or performing tasks necessary to the health and safety of themselves or their family, like going to the hospital or grocery store.

Effective at 12:01 am on March 24, 2020, for at least the next three weeks, individuals may only leave their home or place of residence under very limited circumstances, and they must adhere to social distancing measures recommended by the Centers for Disease Control and Prevention when they do so, including remaining at least six feet from people from outside the individual's household to the extent feasible under the circumstances. (the orders may be found on the Governor's website: www.michigan.gov/gov)

EO 2020-21 comes after and must be read with prior **EO 2020-20** which imposes "Temporary Restrictions on the use of places of public accommodation" closing places of public accommodation that specifically indicates in the definitions used in the order, Section 3(a): "Non-essential personal care services" includes but is not limited to hair, nail, tanning, massage, traditional spa, tattoo, body art, and piercing services, and similar personal care services that require individuals to be within six feet of each other. This does not include services necessary for medical treatment as determined by a licensed medical provider. (emphasis added)

There have been many questions raised about the impact of the Executive Orders dealing with Covid-19 on the Worker's Disability Compensation Agency, the hearing operations and our various stakeholders including injured workers, employers and insurance carriers.

1. The Workers' Disability Compensation Agency is continuing in operation. Although staff is working remotely where possible, claims, insurance coverage, and other filings are being handled routinely. Time sensitive filings should be accomplished in the usual fashion and in accord with existing requirements. Requests for extensions or alternative means of compliance will be considered on a case-by-case basis.
2. The hearings offices will continue to operate but hearings, meetings, conferences or other matters shall be conducted by teleconference unless specifically arranged with the magistrate and only for the most severe of circumstances. Redemptions must be pre-scheduled with specific date and time. All such hearings shall be conducted by teleconference with all necessary documents provided to the magistrate in advance of the call. Staff at the hearing site will handle incoming papers and send out the signed redemption orders by electronic means (email, fax, etc.)
3. The restrictions on individual activity specified in the orders will impact on an injured worker's ability to attend scheduled medical evaluations as well as continue to do job search activities. Since medical evaluations typically require the examiner to be in close proximity to the examinee (2020-19 paragraph 3a) and since "independent medical evaluations" are by definition not for purposes of treatment, facilities where such examinations take place are likely to be "closed to ingress, use and occupancy by members of the public" (2020-20 paragraph 1). Also, potential employment that might have been found by job search efforts, are shut down or severely restricted with unemployment rapidly increasing. During the effective period of the orders, and any extensions, related additional orders or expansion, failure to attend such evaluations or conduct job searches, should not adversely impact on the entitlement to benefits. It is recommended that any scheduled evaluations during this time be canceled or delayed in order to avoid "no show" fees/costs. Demands or threats made to injured workers relative to attending evaluations or conducting job searches may be considered a violation of the Executive Orders. In addition to sanctions that may apply under the Act, be aware of the provision in **2020-19, paragraph 7** and **2020-21 paragraph 14** "Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor." As reported in the Detroit Free Press, 3/23:

"Businesses who don't heed this order, I anticipate there will be fines," Whitmer said. "At this point in time, this is an order they must comply with for their own and their employees' health. Any businesses that don't comply, there will be ramifications."

It will be up to local law enforcement to investigate businesses that continue to operate when they should be closed, Rossman-McKinney said, and those complaints will be forward to the Attorney General's Office for prosecution.

Announcement

Workers' Compensation Hearings Update Related to COVID-19

In accordance with Governor Gretchen Whitmer and the Michigan Department of Health and Human Services' [recommendations designed to help prevent the spread of Coronavirus Disease 2019 \(COVID-19\)](#), effective March 16, 2020 at 5:00 pm, the Workers' Disability Compensation Agency and the Workers' Compensation Board of Magistrates are suspending in-person hearings until April 20, 2020.

Magistrates will be available to conduct hearings remotely with in-person hearings only taking place with prior approval of the magistrate. We will be communicating additional guidance in the very near future.

The state is taking proactive steps to mitigate the spread of COVID-19 in Michigan. We appreciate your understanding and cooperation in reducing the risk coronavirus to Michigan residents.

For current and up-to-date information regarding the Coronavirus visit <http://www.Michigan.gov/Coronavirus> or <http://www.CDC.gov/Coronavirus>.

Announcement

Claim Forms Submissions-Clarification

This change applies to claims forms only: Forms WC-100, WC-701, and WC-107.

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Email: hazeld2@michigan.gov or fedewaj5@michigan.gov

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