

Section	Policy
20	22.70.30

Section Title: Board and Corporate Administration - Legal
Subject: Employers' Responsibilities for Reporting Claims
Effective Date: January 1, 2006

GENERAL INFORMATION

As provided for in *The Workers Compensation Act* (the Act), whenever a worker suffers a reportable injury, it is mandatory that his or her employer reports the accident and the resulting injury to the WCB within five business days. The worker's claim is depends on the employer's report to ensure prompt adjudication. Because of the importance of the employer's report to the adjudication process, the *Act* states that a fine or an administrative penalty may be levied against a late-reporting employer.

An employer is required to report the accident and the resulting injury within 5 (five) business days from the date of the injury or within five business days from the date the employer first became aware of the injury. This policy sets out the following:

- an employer's responsibility for reporting an accident resulting in an injury;
- defines a reportable injury; and
- specifies when and how late reporting penalties are applied.

A. POLICY

Reporting Responsibilities

In the event of a reportable injury the worker's employer must report the accident that results in an injury to the WCB within five business days. Business days are Monday to Friday with the exception of statutory holidays.

A reportable injury is an injury that arises out of, and in the course of employment, or which is claimed by the worker concerned to have arisen out of and in the course of such employment, and in respect of which any of the following conditions are present or subsequently occur:

1. The worker loses consciousness following the accident, or
2. The worker is transported, or directed by a first aid attendant or other representative of the employer to a hospital or other place of medical treatment, or is recommended by such person to go to such place, or
3. The injury is one that obviously requires medical treatment, or
4. The worker states that he/she intends to seek medical treatment, or
5. The worker has received medical treatment for the injury, or

6. The worker is unable or claims to be unable by reason of the injury to return to his or her usual job function on any working day subsequent to the day of the injury, or
7. An injury resulted or is claimed to have resulted in the breakage of an artificial limb, eye glasses, contact lenses, dentures, hearing aid, or any other prosthetic device, or
8. The WCB has requested that an employer forwards a report of the accident resulting in an injury or occupational disease to the WCB, or the worker has filed a claim.

The obligation of the employer to report the accident resulting in an injury to the WCB begins when a supervisor, first aid attendant, or other representative of the employer first becomes aware of any one of the conditions listed above, or when notification of any such condition is received at the local or head office of the employer.

The WCB will consider that an employer has reported an accident resulting in an injury on the date that an employer has communicated the details of the reportable injury to the WCB in one of the following ways:

- by handing in a report,
- by courier,
- by electronic mail,
- by telephone,
- by means of the Internet using the On-Line Accident Reporting System,
- by facsimile, or
- by regular mail.

If an employer disagrees with the validity of the claim, he or she must still report the accident that results in an injury, but may include a written statement of disagreement within the specified reporting period.

Administrative Penalties, Fines and Waivers

If employer fails to submit a report of an accident that results in an injury in a format acceptable to the WCB within five business days, the administrative penalties and fines in the *Act*, related regulations and policies will apply. A fine is generally reserved for employers who are chronic later reporters while administrative penalties are levied for late-reporting.

The WCB will consider the circumstances of the delay as explained by the employer and the consequences of the delay in the adjudication of the claim before applying the penalty. If the delay can be explained satisfactorily, the penalty may be waived. In addition, if an employer is consistently late in reporting workplace accidents and injuries, the WCB may pursue legal action consistent with provisions in the Act. This may result in a fine under subsection 18(4) and subsection 109.6(1) of the Act.

B. REFERENCES

The Workers Compensation Act, section 18 and subsections 109.6(1) and 109.7(1)
Manitoba Regulation 15/2015, Interest, Penalties and Financial Matters

History:

1. Policy 22.70.30 established by Board Order 7/92 on January 27, 1992, effective January 1, 1992.
2. Policy amended by Board Order 11/01 on April 27, 2001, effective for accidents reported to the WCB on or after May 1, 2001. Board Order 7/92 rescinded effective May 1, 2001. Former policy re-issued as 22.70.30.01.
3. Policy 22.70.30 amended according to revisions to *The Workers Compensation Act* and established by Board Order 21/05 on June 29, 2005, to be effective January 1, 2006. Current policy 22.70.30 re-issued as 22.70.30.01. Policy 22.70.30.01 re-issued as 22.70.30.02.
4. December 1, 2006, Policy 22.70.30 updated to reflect new Manitoba Regulation.
5. Policy updated to reflect changes in department name, June 2008.
6. Minor formatting and grammatical changes were made to the policy and the title was clarified, June 27, 2012.
7. Reference section revised to reflect Manitoba Regulation 204/2015, August 24, 2016

C. ADMINISTRATIVE GUIDELINES

1. The WCB will determine if the report of the accident resulting in an injury was received within five business days of the occurrence and that the report contains all the information required in order to establish a claim. The WCB may allow the employer a two day grace period. All relevant questions on the report must be answered. If not, the WCB will determine if a penalty is to be levied and will advise the employer accordingly.
2. The following reasons may be acceptable when an employer is late in submitting a report of an accident that results in an injury thus excusing the employer from the late penalty; however, they are guidelines only, and incomplete report submissions should also be reviewed – and each case must be considered individually:
 - i) A claim is initially thought to be a recurrence of a past claim but it is later determined to be a new accident. An employer is not obligated to complete a report of an accident resulting in an injury in cases of recurrence. However, the employer should notify the WCB of any recurrences that occur. In this case, the employer has five business days to submit the report from the date he/she is notified that it is a new accident.
 - ii) The worker does not report the accident resulting in an injury to the employer until some time after his/her lay-off.
 - iii) The claim did not initially result in time loss but later results in a loss of earning capacity for the worker, in which case the employer has five business days in which to report once informed of the new circumstance.
3. When an employer has not submitted a report of an accident resulting in an injury within the specified period of time and the reasons provided for the late submission are not considered acceptable, an administrative penalty as provided for in Regulation may be applied.

Application of penalties will only apply to traumatic time-loss claims, cumulative time-loss claims and occupational disease cases where a worker's report of injury or occupational disease has been received. However, in cases of occupational disease, employers may be allowed an extended grace period in which to report.

Employers who are covered under the *Government Employees Compensation Act* and self-employed employers are exempt from these penalties.

4. The Assessment Services Department is responsible for the collection of any penalties applied to employers not complying with the provisions of this section of the Act.
5. Appeals of penalties applied in these circumstances are to be considered by the Review Office.
6. When a penalty for late reporting has already been applied, any decision to overturn the penalty must first be approved by a manager or supervisor.