

MAE News

Newsletter from the Office of Monitoring, Audit and Enforcement Maine Workers' Compensation Board

Winter 2015

Volume 10, Number 4



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Compliance Training for Employers/Insurers

Open training sessions for the remainder of 2015 are scheduled for April 23-24, June 25-26, and October 29-30, all held at the Maine Department of Labor, 45 Commerce Drive in Augusta. Please contact Anne Poulin to reserve a spot at any of these sessions.

The Board continues to be busy performing on-site training for insurers, self-insurers, and third party administrators. If you would like information about on-site training for your organization, please contact Gordon Davis.

Training modules are also available on the Board's website by clicking on "Training Modules" on the right side of the Board's home page.

Knowledge of an Injury

In Hearing Officer decision *Lewis Wilson v. Central Maine Towing, Inc. and The Phoenix Insurance Company*, Hearing Officer Greene did not bar the employee's claim to benefits although the employee did not report the injury in accordance with Title 39-A M.R.S.A. §301 until more than 90 days had passed from the date of injury.

According to the decree, the workers' compensation insurer, as agent of the employer, received a certified mailing from a medical provider which included a bill for services and a copy of the M-1 form providing the details of the claimed injury within 90 days from the date of injury. The Hearing Officer thus concluded that the employer or its agent had knowledge of the injury within the statutory time frame.

Many claim administrators return medical bills to providers when bills are received and there is no claim on file from the employer. Please be aware that if a bill for medical services is received and accompanied by an M-1 and/or other medical information that identifies the time, place, cause and nature of the injury, the employer may be deemed to have knowledge of the injury. Further, if the information is received via certified mail, Title 39-A M.R.S.A. §205, Subsection 4 penalties may apply if the bill is not paid or denied within 30 days of receipt.

Rule 8.11 Reminder

In accordance with Board Rules and Regulations, Chapter 8, Section 11, reductions and discontinuances pursuant to 39-A M.R.S.A. §205(9)(A) must be based on the employee's actual earnings unless the employee returns to work without restrictions or limitations (due to the injury for which benefits are being paid) according to the employee's treating health care providers and there are no conflicting medical records with respect to the lack of restrictions or limitations (due to the injury for which benefits are being paid). Therefore, claim adjusters need to review post-injury wages to assess a potential obligation to pay partial benefits when employees return to work on modified/restricted duty.

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From the Office of Information Technology Electronic Data Interchange Update

The rules requiring the electronic filing of payment information and the associated tables have been drafted in accordance with Title 39-A M.R.S.A. §152 2-A.

Programmers are busy modifying the Board's application to accept payment information electronically. The Board's Deputy Director of Information Management estimates that the Board will be ready to accept voluntary transmissions of payment information by early summer. Testing the application programming to ensure that the program operates successfully is required before the Board can adopt rules that officially mandate the electronic filing of payment information.

As part of the Board's preparation to receive payment information electronically, the Board is also working on a process for "legacy" claims. These are claims that are open at the time that electronic filing of payment information is mandated.

The first step in this process is to provide each claim administrator with a list of claims that appear open in the Board's database. The Board expects to send the list to each claim administrator by early February.

Each claim administrator will be required to review the list and identify any claims that are actually closed in its system. A Final WCB-11 form will be required to be sent for those claims with dates of injury from 1/1/2012 forward that appear open on the list but are actually closed. More detailed instructions will be included with the list.

Please send any questions or concerns regarding the electronic filing of payment information to Paul.Fortier@maine.gov. The Board will soon have a section on its website dedicated to the electronic filing of payment information. Included will be a series of frequently asked questions compiled from the emails received.

From the Office of Medical/Rehabilitation Services Medical Fee Schedule Annual and Periodic Updates

Pursuant to Title 39-A M.R.S.A. §209-A, Subsection 3, the Board has completed its annual update of the Medical Fee Schedule. The 2015 rule, appendices and user guide are all available on the Board's website.

In addition, rules have been drafted in accordance with Title 39-A M.R.S.A. §209-A, Subsection 5 that requires a periodic review of the Medical Fee Schedule once every three years. On January 13, 2014, the Board of Directors voted unanimously to send the draft rule out for public comment.

Once the rule is approved by the Governor's Office pursuant to Executive Order 09 FY 11/12, the public hearing will be scheduled. If you do not currently receive the Board's Notices of Rulemaking, you can join the WCB ListServe. To subscribe, send an e-mail to: wcb-request@lists.maine.gov with "subscribe" in the body of the message. No subject is necessary.