**Workers’ Compensation Training Perspectives**

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

**August 2018**

**Compliance Training for Employers/Insurers**

**Compliance Training for Claims Administrators**

The next Open Training is October 25 & 26, 2018. 2019 open training dates are January 24-25, April 18-19, June 20-21, and October 24-25. Topics will include form filing, AWW calculation, and calculating compensation for incapacity under various scenarios.

**Workers’ Compensation Reporting Requirements for Employers:**

September 28, 2018, March 29, 2019, and September 27, 2019. This very popular half-day class started last year has been filling quickly! It discusses employers’ obligations and reporting requirements under the Maine Workers’ Compensation system, the Board’s dispute resolution process, and the importance of timely and effective interaction with claims administrators.

Above sessions are FREE and held at Dept. of Labor, 45 Commerce Drive in Augusta.

Contact Kimberly Belka to reserve a seat, sessions fill fast!

**Interested in On-site Training?**

It can be difficult and expensive to get all your staff to Augusta for training, so if desired, the Board will bring the training to you! These one-day sessions are very popular and are free within Maine and provided outside Maine for the cost of travel. The session covers form filing, AWW calculation, and benefit calculation under various scenarios, as well as covering any specific issues you may find helpful. It also includes a review and trend analysis of the trainee’s most recent audit and compliance reports. Contact Gordon Davis if you would like to know more about on-site training.

**Rule Changes Effective September 1, 2018**

The Board finally adopted amendments to a number of its rules during its June 12, 2018 meeting. The amendments have been approved by the Attorney General’s office (which reviews them for form and legality) and the Secretary of State’s office. The amended rules will be effective September 1, 2018. Following is a summary of some of the more relevant rule changes from an audit perspective. The full text of the rule, with strikeouts indicating deleted language and underlines indicating new language are available on the Board’s website at the following link: [http://www.maine.gov/wcb/Departments/legaldivision/Adopted_Rules_with_Changes_Effective_9-1-18.pdf](http://www.maine.gov/wcb/Departments/legaldivision/Adopted_Rules_with_Changes_Effective_9-1-18.pdf)
Rule Changes Effective September 1, 2018

Changes of particular note from an audit perspective include:

- **Ch. 1, § (5)(1)(A)(3):** 401(k), 403(b) and equivalent plan matching funds that cease being paid because the employee is not working must be included, as fringe benefits, in an employee’s average weekly wage. Inclusion of the matching funds ends when the employee returns to work. **Example:** injured employee has an AWW of $1,000 and is receiving a 3% employer contribution to his/her 401(k), or $30/week. $30 would be added to the AWW as a fringe benefit while out of work. The employee then returns to work restricted. In accordance with the amended rule, no addition for this fringe is required.

- **Ch. 1, § (5)(2):** An employer/insurer can adjust an employee’s average weekly wage using the modification form one time within 90 days after the first lost time payment on a claim to correct an error or miscalculation. Changes after 90 days are made by filing a 21-day certificate of discontinuance. **Example:** A provisional MOP is filed based on an estimated AWW/WCR of $600/$400. When actual wage information is obtained, AWW/WCR is determined to be $570/$380. Prior to the rule change, a 21-day reduction (WCB-8) was required, and payment continued at the higher rate for the 21 days. The amended rule provides for adjustment with a WCB-4 Modification, whereupon payment at the lower rate can begin immediately. This applies only within the first 90 days, and only one time. Amounts already paid at the higher rate are not recoverable.

- **Ch. 8, § (11):** Permits an employer/insurer to terminate benefits pursuant to §205(9)(A) when an employee has been released to work without restrictions by the employee’s treating health care provider, there are no conflicting medical reports and the employee, instead of returning to work, receives vacation, paid time off (PTO), or holiday pay instead of regular wages. **Example:** The employee is released to return to work full duty, but goes to work for a different employer, and a 21-day discontinuance is filed. Prior to the expiration of the 21 days, the employee and insurer may sign a WCB-4A Consent discontinuing benefits immediately per the amended rule.

- **Ch. 8, § (18)(1):** The Consent Between Employer and Employee (WCB-4A) may be used when the parties agree to discontinue or reduce benefits during the 21-day period following the filing of a Certificate of Discontinuance or Reduction of Compensation (WCB-8). **Example:** The employee is released to return to work full duty, but goes to work for a different employer, and a 21-day discontinuance is filed. Prior to the expiration of the 21 days, the employee and insurer may sign a WCB-4A Consent discontinuing benefits immediately per the amended rule.

- **Ch. 9, § (2)(2):** Allows coordination of benefits when an employee receives payments pursuant to a PTO or equivalent plan. If the PTO plan designates a certain percentage as sick time, then lost time benefits may be coordinated using that percentage of the PTO payment. Otherwise, coordination is allowed only if the PTO benefit is used for the equivalent of sick leave. The burden is on the employer/insurer to show an offset for PTO or equivalent plan is warranted.