

LCB File No. R209-97

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS

In the Matter of Amendment of Regulations
pertaining to Modified Program of Industrial
Insurance for Offenders in Work Program.
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DIR Proposed Reg. 98-

PROPOSED REGULATIONS

AUTHORITY: NRS 616A.400 and NRS 616B.186 (SB 372 § 1, passed by the 1997 Nevada State Legislature)

MODIFIED PROGRAM FOR OFFENDERS IN
PRISON INDUSTRY PROGRAM *OR WORK PROGRAM*

Section 1. NAC 616B.880 is hereby amended as follows:

The provisions of NAC 616B.880 to 616B.919, inclusive, apply only to an offender who is injured or killed in the course and scope of his employment in the *state's* prison industry program *or county, city, or other detention facility work program*, and only if the director of the department of prisons, *or the administrator of a county, city or other detention facility*, has requested such coverage under the modified program of industrial insurance. The program does not include:

1. Coverage for an injury which occurred before the offender was confined at a facility operated by the department of prisons[.], *county, city or other detention facility*.
2. Any service or benefit for vocational rehabilitation.

Sec. 2. NAC 616B.883 is hereby amended as follows:

Except as otherwise provided in NAC 616B.880, the provisions of chapters 616A to 617, inclusive, of NRS and chapters 616A to 617, inclusive, of NAC apply to any offender confined at a facility operated by the department of prisons, *county, city or other detention facility* and engaged in work in a prison industry program *or work program*, to the extent that those provisions do not conflict with NAC 616B.880 to 616B.919, inclusive.

Sec. 3. NAC 616B.886 is hereby amended as follows:

In the case of an offender confined at a facility operated by the department of prisons, *county, city, or other detention facility* who is injured or killed in the course

and scope of his employment in the prison industry program *or work program*, the term “wages”:

1. Includes only the money he earns in the prison industry program before any deductions are made from those earnings.
2. Does not include:
 - (a) The value of room and board, medical care or other goods or services provided by the department of prisons *or county, city or other detention facility*;
 - (b) The value of good time earned towards reducing the prison sentence of the offender; or
 - (c) Income from any source other than the prison industry program *or work program*.

Sec. 4. NAC 616B.889 is hereby amended as follows:

The department of prisons *or administrator of the county, city or other detention facility* shall:

1. Adopt a written statement of the rights and duties of an offender pursuant to the provisions of NAC 616B.880 to 616B.919, inclusive. The statement must:
 - (a) Include the procedures and time limits which the offender must follow when he files for benefits; and
 - (b) Be approved by the assistant director for industrial programs of the department[.] *or the administrator of the county, city or other detention facility*.
2. Give a copy of the statement to each offender confined at a facility operated by the department of prisons *or the administrator of the county, city or other detention facility* before his first assignment to work.
3. Post a copy of the statement in a conspicuous place in each place where an offender works.

Sec. 5. NAC 616B.895 is hereby amended as follows:

1. Except as otherwise provided in subsections 2 and 3, an offender or someone acting on his behalf shall submit the notice of injury as provided in NRS 616C.015.
2. The notice of injury must be submitted to the assistant director of industrial programs of the department of prisons[.] *or the administrator of the county, city or other detention facility*.
3. The assistant director of industrial programs or the department of prisons *or the administrator of the county, city or other detention facility* shall file the notice with the [system] *insurer* within 15 days after he receives it. If an offender submits the notice of injury to the assistant director of industrial programs of the department of prisons *or the administrator of the county, city or other detention facility* within the time provided by NRS 616C.015, the failure of the assistant director of the department of prisons *or the administrator of the county, city or other detention facility* to file the notice with the [system] *insurer* within 15 days does not bar a claim for compensation.
4. Incarceration is not an excuse for failure to submit a timely notice of injury.

Sec. 6. NAC 616B.898 is hereby amended as follows:

1. An offender is not entitled to accrue or be paid any compensation for temporary total disability, temporary partial disability, permanent partial disability or permanent total disability while he is incarcerated.

2. Payment of compensation begins upon the release of the offender from incarceration on:

- (a) Parole;
- (b) Final discharge; or
- (c) Discharge from custody by order of a court of competent jurisdiction.

3. Compensation will be discontinued during any subsequent period of incarceration in:

- (a) A facility of the department of prisons; **[or]**
- (b) Any other federal, state or local prison system~~[.]~~ *or county, city, or other local detention facility.*

Sec. 7. NAC 616B.904 is hereby amended as follows:

1. Except as otherwise provided in this section, the department of prisons *or the administrator of the county, city, or other detention facility* has control over the medical treatment of any offender, including the right to select treating and consulting physicians and all other health care professionals *including rating physicians or chiropractors*. An offender is not entitled to select a health care professional.

2. The department of prisons *or the administrator of the county, city, or other detention facility* is not required to disclose in advance to the offender the date, time or location of any medical service.

3. The **[system]** *insurer* may schedule any appropriate medical test, consultation, **[or]** treatment, *or permanent partial disability evaluation*, in addition to those scheduled by the department of prisons *or the administrator of the county, city, or other detention facility*, but will do so in accordance with the security procedures of the department of prisons *or the county, city or other detention facility*.

4. If medication is prescribed for an offender, it must be retained and dispensed by the department of prisons *or the county, city or other detention facility*.

Sec. 8. NAC 616B.907 is hereby amended as follows:

1. An offender is not entitled to be physically present at a hearing before a hearing officer or an appeals officer.

2. Any hearing must be conducted by telephone unless the appeals officer or hearing officer determines, for good cause, that the hearing should be held at an institution of the department of prisons~~[.]~~, *county, city or other detention facility*. In such a case, the hearing must be arranged and conducted in accordance with the security procedures of the department of prisons~~[.]~~, *county, city or other detention facility*.

Sec. 9. NAC 616B.910 is hereby amended as follows:

Offenders are entitled to the services of the Nevada attorney for injured workers, subject to the rules and procedures adopted by the department of prisons, *county, city or other detention facility* relating to contact with offenders.

Sec. 10. NAC 616B.916 is hereby amended as follows:

An offender confined at a facility operated by the department of prisons, *county, city or other detention facility* may not reject coverage if the director of the department of prisons *or the administrator of the county, city or other detention facility* has requested coverage under the modified program of industrial insurance.