

**THIRD REVISED PROPOSED REGULATION OF THE
ADMINISTRATOR OF THE
DIVISION OF INDUSTRIAL RELATIONS OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R032-21

January 25, 2023

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1, 6, 9 and 12-17, NRS 616A.400; §§ 2 and 3, NRS 616A.400 and 616A.417; § 4, NRS 616A.400, 616A.417, 616B.227, 616C.020 and 616C.040; § 5, NRS 616A.400 and 616C.040; § 7, NRS 616A.400 and 616C.065; §§ 8 and 10, NRS 616A.400 and 616C.490; § 11, NRS 616A.400, 616C.110 and 616C.490.

A REGULATION relating to industrial insurance; revising provisions governing certain posters, forms and data related to claims for workers’ compensation and claims for occupational diseases; extending certain duties to physician assistants and advanced practice registered nurses who initially examine injured employees or file claims for compensation; revising the items relating to a claim which must be maintained by an insurer or third-party administrator; requiring an insurer or third-party administrator to provide a copy of a notice of denial of a claim to certain health care providers who provided the initial examination and treatment to an injured employee; revising requirements for insurers’ notifications of certain rights reserved by certain injured employees; repealing certain provisions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing regulations define the term “claimant” as used in chapters 616A to 616D, inclusive, of the Nevada Administrative Code. (NAC 616A.060) **Section 1** of this regulation provides that the terms “claimant,” “injured employee” and “injured worker” are deemed to be equivalent and are used interchangeably in those chapters.

Existing regulations: (1) set forth the posters and forms or data which must be used in the administration of claims for workers’ compensation and claims for an occupational disease; (2) set forth certain requirements for the preparation, signature, filing and retention of certain forms; and (3) provide that the Workers’ Compensation Section of the Division of Industrial Relations of the Department of Business and Industry will be responsible for printing and distributing certain forms. (NAC 616A.480) **Section 2** of this regulation: (1) revises the list of the posters, forms and data used for certain claims for workers’ compensation and claims for an occupational

disease; (2) revises certain requirements for the signature, filing and retention of certain forms; and (3) requires that the Workers' Compensation Section post certain forms on its Internet website.

Existing regulations require the physician or chiropractic physician who initially examined an injured employee to retain the original of a claim for compensation which is filed by electronic transmission. (NAC 616C.073) **Section 4** of this regulation revises those obligations and extends the duty of retention to a physician assistant or advanced practice registered nurse who initially examines an injured employee.

Existing regulations impose certain obligations on a physician or chiropractic physician who is required to file a claim for compensation or a medical facility that has been delegated the duty to file a claim for compensation. (NAC 616C.080) **Section 5** of this regulation extends those obligations to a physician assistant or advanced practice registered nurse who is required to file a claim for compensation and to a physician assistant or advanced practice registered nurse at a medical facility who has been delegated the duty to file a claim for compensation.

Section 6 of this regulation revises the items which must be contained in a file of a claim concerning an industrial injury or occupational disease that is maintained by an insurer or third-party administrator.

Existing regulations require that, if an insurer or third-party administrator denies a claim for compensation in whole or in part, the insurer or third-party administrator must provide a copy of each notice of denial to the injured employee's treating physician or chiropractic physician. (NAC 616C.091) **Section 7** of this regulation requires the insurer or third-party administrator to also provide a copy of each notice of denial of a claim to the physician, chiropractic physician, physician assistant or advanced practice registered nurse who provided the initial examination and treatment to the injured employee.

Sections 3, 8, 9, 11 and 13-16 of this regulation make conforming changes to accurately reflect the current form numbers and names of certain forms pursuant to the changes made in **section 2** to: (1) request a rating by a physician or chiropractic physician; (2) elect a lump sum payment of workers' compensation; (3) assign to the Division a claim for workers' compensation; (4) evaluate the rating of a work-related mental impairment; and (5) document a firefighter's or police officer's medical history, lung examination, heart examination or hearing examination.

Existing law reserves certain rights of a claimant who elects to receive and accepts payment in a lump sum for a permanent partial disability. (NRS 616C.495) **Section 12** of this regulation revises, for consistency with existing law, provisions regarding the notification of a waiver of rights which an insurer who offers an award for a permanent partial disability in a lump sum is required to provide to an injured employee.

Section 17 of this regulation repeals provisions: (1) governing the apportionment of impairments; and (2) authorizing an injured employee to accept an award for a permanent partial disability in installment payments without prejudice to any right which he or she may have to an administrative or judicial review. (NAC 616C.490, 616C.505) **Section 10** of this regulation makes a conforming change to update a reference to reflect the repeal of NAC 616C.490 in **section 17** of this regulation.

Section 1. NAC 616A.060 is hereby amended to read as follows:

616A.060 “Claimant” means a person who applies for or claims any right or benefit from an insurer because of any accident under chapters 616A to 616D, inclusive, of NRS or any occupational disease under chapter 617 of NRS. *“Claimant,” “injured employee” and “injured worker” are deemed to be equivalent and are used interchangeably in chapters 616A to 616D, inclusive, of NAC.*

Sec. 2. NAC 616A.480 is hereby amended to read as follows:

616A.480 1. The following posters and forms or data must be used by an insurer, employer, injured employee, provider of health care, organization for managed care or third-party administrator in the administration of claims for workers’ compensation:

(a) D-1, Informational Poster - Displayed by Employer. The informational poster must include the language contained in Form D-2, and the name, business address, telephone number and contact person of:

- (1) The insurer;
- (2) The third-party administrator, if applicable;
- (3) The organization for managed care or providers of health care with whom the insurer has contracted to provide medical and health care services, if applicable; and

(4) The name, business address and telephone number of the insurer’s or third-party administrator’s adjuster in this State that is located nearest to the employer’s place of business.

(b) D-2, Brief Description of ~~{Your}~~ Rights and Benefits . ~~{if You Are Injured on the Job.}~~

(c) C-1, Notice of Injury or Occupational Disease (Incident Report). One copy of the form must be delivered to the injured employee, and one copy of the form must be retained by the employer. The language contained in Form D-2 must be printed on the reverse side of the

employee's copy of the form, or provided to the employee as a separate document with an affirmative statement acknowledging receipt.

(d) C-3, Employer's Report of Industrial Injury or Occupational Disease. A copy of the form must be delivered to or the form must be filed by electronic transmission with the insurer or third-party administrator. The form signed by the employer must be retained by the employer. A copy of the form must be delivered to the injured employee. If the employer files the form by electronic transmission, the employer must:

(1) Transmit all fields of the form that are required to be completed, as prescribed by the Administrator.

(2) Sign the form with an electronic symbol representing the signature of the employer that is:

(I) Unique to the employer;

(II) Capable of verification; and

(III) Linked to data in such a manner that the signature is invalidated if the data is altered.

(3) Acknowledge on the form that he or she will maintain the original report of industrial injury or occupational disease for 3 years.

↪ If the employer moves from or ceases operation in this State, the employer shall deliver the original form to the insurer for inclusion in the insurer's file on the injured employee within 30 days after the move or cessation of operation.

(e) C-4, Employee's Claim for Compensation/Report of Initial Treatment. A copy of the form must be delivered to the insurer or third-party administrator. A copy of the form must be delivered to or the form must be filed by electronic transmission with the employer. A copy of

the form must be delivered to the injured employee. The language contained in Form D-2 must be printed on the reverse side of the injured employee's copy of the form or provided to the injured employee as a separate document with an affirmative statement acknowledging receipt. The original form signed by the injured employee and the ~~{physician or chiropractor}~~ *health care provider* who conducted the initial examination of the injured employee must be retained by that ~~{physician or chiropractor}~~ *health care provider*. If the ~~{physician or chiropractor}~~ *health care provider* who conducted the initial examination files the form by electronic transmission, the ~~{physician or chiropractor}~~ *health care provider* must:

- (1) Transmit all fields of the form that are required to be completed, as prescribed by the Administrator.
- (2) Sign the form with an electronic symbol representing the signature of the ~~{physician or chiropractor}~~ *health care provider* that is:
 - (I) Unique to the ~~{physician or chiropractor;}~~ *health care provider;*
 - (II) Capable of verification; and
 - (III) Linked to data in such a manner that the signature is invalidated if the data is altered.
- (3) Acknowledge on the form that he or she will maintain the original form for the claim for compensation for 3 years.

↪ If the ~~{physician or chiropractor}~~ *health care provider* who conducted the initial examination moves from or ceases treating patients in this State, the ~~{physician or chiropractor}~~ *health care provider* shall deliver the original form to the insurer for inclusion in the insurer's file on the injured employee within 30 days after the move or cessation of treatment of patients. *As used in*

this paragraph, “health care provider” means a physician, chiropractic physician, physician assistant or advanced practice registered nurse.

- (f) D-5, Wage Calculation Form for Claims Agent’s Use.
- (g) D-6, Injured Employee’s Request for Compensation.
- (h) D-7, Explanation of Wage Calculation.
- (i) D-8, Employer’s Wage Verification Form.
- (j) ~~D-9(a),~~ **D-9a**, Permanent Partial Disability Award Calculation Worksheet.
- (k) ~~D-9(b),~~ **D-9b**, Permanent Partial Disability Award Calculation ~~Worksheet~~ **Work Sheet** for Disability Over ~~25~~ **30** Percent Body Basis.
- (l) ~~D-9(e),~~ **D-9c**, Permanent ~~Partial Disability Worksheet for Stress Claims Pursuant to NRS 616C.180,~~ **Work-Related Mental Impairment Rating Report Work Sheet.**
- (m) ~~D-10(a),~~ **D-10a**, Election of ~~Method of~~ **Lump Sum** Payment of Compensation.
- (n) ~~D-10(b),~~ **D-10b**, Election of ~~Method of~~ **Lump Sum** Payment of Compensation for Disability Greater than ~~25~~ **30** Percent.
- (o) D-11, Reaffirmation/Retraction of Lump Sum Request.
- (p) ~~D-12(a),~~ **D-12a**, Request for Hearing - Contested Claim.
- (q) ~~D-12(b),~~ **D-12b**, Request for Hearing - Uninsured Employer.
- (r) D-13, Injured Employee’s Right to Reopen a Claim Which Has Been Closed.
- (s) D-14, Permanent Total Disability Report of Employment.
- (t) D-15, Election for Nevada Workers’ Compensation Coverage for Out-of-State Injury.
- (u) D-16, Notice of Election for Compensation Benefits Under the Uninsured Employer Statutes.
- (v) D-17, Employee’s Claim for Compensation - Uninsured Employer.

- (w) D-18, Assignment ~~{of Claim}~~ *to Division* for Workers' Compensation ~~{Uninsured Employer}~~ *Benefits*.
- (x) D-21, Fatality Report.
- (y) D-22, Notice to Employees - Tip Information.
- (z) D-23, Employee's Declaration of Election to Report Tips.
- (aa) D-24, Request for Reimbursement of Expenses for Travel and Lost Wages.
- (bb) D-25, Affirmation of Compliance with Mandatory Industrial Insurance Requirements.
- (cc) D-26, Application for Reimbursement of Claim-Related Travel Expenses.
- (dd) D-27, Interest Calculation for Compensation Due.
- (ee) D-28, Rehabilitation Lump Sum Request.
- (ff) D-29, Lump Sum Rehabilitation Agreement.
- (gg) D-30, Notice of Claim Acceptance.
- (hh) D-31, Notice of Intention to Close Claim.
- (ii) D-32, Authorization Request for Additional Chiropractic Treatment.
- (jj) D-33, Authorization Request for Additional Physical Therapy Treatment.
- (kk) D-34, *Health Insurance Claim Form (CMS 1500 Billing Form)*. ~~{~~
- (ll) D-35, Request for a Rotating ~~{Rating}~~ Physician or Chiropractor.
- (mm) D-36, Request for Additional Medical Information and Medical Release.
- (nn) D-37, Insurer's Subsequent Injury Checklist.
- (oo) D-38, ~~{Injured Worker Index System}~~ *Index of Claims System - Claim* Registration .
~~{Document}~~
- (pp) D-39, Physician's *and Chiropractor's* Progress Report - Certification of Disability.

(qq) ~~ID-41, International Association of Industrial Accident Boards and Commissions POC~~

1.

~~(rr)~~ D-43, Employee's Election to Reject Coverage and Election to Waive the Rejection of Coverage for Excluded Persons.

~~(ss)~~ (rr) D-44, Election of Coverage by Employer; Employer Withdrawal of Election of Coverage.

~~(tt)~~ (ss) D-45, Sole Proprietor Coverage.

~~(uu)~~ (tt) D-46, Temporary Partial Disability Calculation Worksheet.

~~(vv) D-48, Proof of Coverage Notice.~~

~~(ww) D-49, Information Page.~~

~~(xx) D-50, Policy Termination, Cancellation and Reinstatement Notice.~~

~~(yy)~~

(uu) D-52, CMS (UB-92).

~~(zz)~~ (vv) D-53, Alternative Choice of Physician or Chiropractor . ~~and Referral to a Specialist.~~

2. In addition to the forms specified in subsection 1, the following forms must be used by each insurer in the administration of a claim for an occupational disease:

(a) OD-1, ~~Firemen~~ *Firefighters* and Police ~~Officers'~~ *Officers* Medical History Form.

(b) OD-2, ~~Firemen~~ *Firefighters* and Police ~~Officers'~~ *Officers* Lung Examination Form.

(c) OD-3, ~~Firemen~~ *Firefighters* and Police ~~Officers'~~ *Officers* Extensive Heart Examination Form.

(d) OD-4, ~~Firemen~~ *Firefighters* and Police ~~Officers'~~ *Officers* Limited Heart Examination Form.

(e) OD-5, ~~{Firemen}~~ *Firefighters* and Police ~~{Officers'}~~ *Officers* Hearing Examination Form.

(f) OD-6, ~~{Firemen and Police Officers'}~~ Sample Letter.

(g) OD-7, ~~{Firemen and Police Officers'}~~ *Important Information Regarding* Physical ~~{Examination Information.}~~ *Examinations for Police Officers and Firefighters.*

(h) OD-8, Occupational Disease Claim ~~{Reporting.}~~ *Report.*

3. The forms listed in this section must be accurately completed, including, without limitation, a signature and a date if required by the form. An insurer or employer may designate a third-party administrator as an agent to sign any form listed in this section.

4. An insurer, employer, injured employee, provider of health care, organization for managed care or third-party administrator may not use a different form or change a form without the prior written approval of the Administrator.

5. The Workers' Compensation Section will ~~{be responsible for printing and distributing}~~ *post* the following forms ~~{}~~ *on its Internet website:*

(a) C-4, Employee's Claim for Compensation/Report of Initial Treatment;

(b) ~~{D-12(b).}~~ *D-12b*, Request for Hearing - Uninsured Employer;

(c) D-16, Notice of Election for Compensation Benefits Under the Uninsured Employer Statutes;

(d) D-17, Employee's Claim for Compensation - Uninsured Employer; and

(e) D-18, Assignment ~~{of Claim}~~ *to Division* for Workers' Compensation ~~{Uninsured Employer.}~~ *Benefits.*

6. Each insurer or third-party administrator is responsible for printing and distributing all other forms listed in this section. The provisions of this subsection do not prohibit an insurer,

employer, provider of health care, organization for managed care or third-party administrator from providing any form listed in this section.

7. Upon the request of the Administrator, an insurer, employer, provider of health care, organization for managed care or third-party administrator shall submit to the Administrator a copy of any form used in this State by the insurer, employer, provider of health care, organization for managed care or third-party administrator in the administration of claims for workers' compensation.

Sec. 3. NAC 616B.133 is hereby amended to read as follows:

616B.133 1. A private carrier shall submit proof of coverage to the designated agent by:

- (a) Electronic transmission; or
- (b) The United States Postal Service or any other mail delivery service.

~~2. If the private carrier does not use Form D-41, International Association of Industrial Accident Boards and Commissions POC 1, to submit:~~

~~—(a) Information relating to a binder, it shall submit Form D-48, Proof of Coverage Notice, and a schedule of the names, addresses and federal employer identification numbers of the employers covered by the binder.~~

~~—(b) Information relating to a policy, it shall submit Form D-49, Information Page.~~

~~—(c) Information relating to the termination, cancellation or reinstatement of a policy, it shall submit Form D-50, Policy Termination, Cancellation and Reinstatement Notice.~~

~~3.†~~ As used in this section, “electronic transmission” means the sending of information by electronic means in the manner prescribed by the designated agent, including, without limitation, by a magnetic tape, cartridge, mainframe or personal computer.

Sec. 4. NAC 616C.073 is hereby amended to read as follows:

616C.073 1. A claim for compensation must be printed or typed, properly titled, signed and dated by the person filing the claim or the person's attorney or other representative. A claim for compensation that is filed by electronic transmission must be signed with an electronic symbol representing the signature of the person submitting the claim that is:

- (a) Unique to the person who uses it as a signature;
- (b) Capable of verification; and
- (c) Linked to data in such a manner that the signature is invalidated if the data is altered.

2. A report of injury must be submitted on a form prescribed by the Administrator and provided by the insurer or third-party administrator. The form must set forth the name and address of the injured employee and the time, place, nature and cause of the injury. If the employer files the report of injury by electronic transmission, the employer must retain the original report for 3 years, unless, pursuant to NRS 616C.045, the insurer or third-party administrator requests the employer return by mail the report that contains the original signature of the employer or the employer's designee.

3. The original of each claim for compensation that is filed by electronic transmission must be retained by the ~~{physician or chiropractor}~~ *health care provider* who initially examined the injured employee for 3 years, unless, pursuant to NRS 616C.040, the insurer or third-party administrator requests that ~~{physician or chiropractor}~~ *health care provider* to return by mail the claim for compensation ~~{that contains the original signatures of}~~ *signed by* the injured employee and the ~~{physician or chiropractor}~~ *health care provider*. *As used in this subsection, "health care provider" means a physician, chiropractic physician, physician assistant or advanced practice registered nurse.*

4. If the injury or occupational disease will result in the injured employee losing time from work and the injured employee has been reporting his or her income from tips, the employer shall submit the amount of tips declared on Form D-23, which must be included in calculating the average monthly wage of the injured employee pursuant to NRS 616B.227.

Sec. 5. NAC 616C.080 is hereby amended to read as follows:

616C.080 1. A ~~{physician or chiropractor}~~ *health care provider* who is required to file a claim for compensation pursuant to NRS 616C.040, or a *physician assistant or advanced practice registered nurse at a* medical facility ~~{that}~~ *who* has been delegated the duty to file a claim for compensation pursuant to subsection 2 of NRS 616C.040, shall:

(a) Require the injured employee to complete the upper portion of the form designated in NAC 616A.480 as Form C-4, Employee's Claim for Compensation/Report of Initial Treatment, including, without limitation, the name, address and telephone number of the employer of the injured employee and the name of the insurer or third-party administrator of the employer;

(b) Contact the employer or the insurer or third-party administrator of the employer to confirm the name and address of the insurer or third-party administrator;

(c) Send a copy of the completed Form C-4 to the employer and to the insurer or third-party administrator of the employer; and

(d) Maintain, together with the completed Form C-4, documentation of the steps taken by the ~~{physician, chiropractor or medical facility}~~ *health care provider* to verify that the insurer or third-party administrator is the insurer or third-party administrator of the employer.

2. If the ~~{physician, chiropractor or medical facility}~~ *health care provider* is unable to confirm whether an insurer or third-party administrator is the insurer or third-party administrator

of the employer within 3 working days after first providing treatment to an injured employee for a particular injury, the ~~{physician, chiropractor or medical facility}~~ **health care provider** shall:

(a) Contact the nearest office of the Division by telephone at (702) 486-9000 for ~~{Henderson,}~~ **Las Vegas**, Nevada, or at (775) 684-7260 for Carson City, Nevada; and

(b) If requested by the Division, provide a copy of the completed Form C-4 and documentation of the steps taken to verify that the insurer or third-party administrator is the insurer or third-party administrator of the employer.

3. As used in this section, “health care provider” means a physician, chiropractic physician, physician assistant or advanced practice registered nurse.

Sec. 6. NAC 616C.088 is hereby amended to read as follows:

616C.088 1. Each file of a claim concerning an industrial injury or occupational disease that is maintained by an insurer or third-party administrator must contain:

(a) The employer’s report of the industrial injury or occupational disease.

(b) The claim for compensation and any medical report associated with that claim that is issued after the claim is filed with the insurer.

(c) All:

(1) Applications for a stay concerning a decision on a claim for compensation made to a hearing officer, appeals officer or a court of competent jurisdiction;

(2) Written orders or decisions on a claim for compensation entered by a hearing officer, appeals officer or a court of competent jurisdiction;

(3) Written determinations made by an insurer, third-party administrator or an organization for managed care concerning a claim for compensation ~~{}~~ ***and, if any determination is sent or served by electronic transmission, proof of a successful transmission***

of that determination and receipt thereof by the injured employee or any person acting on his or her behalf;

(4) Written settlement agreements or stipulations made between the injured employee and his or her employer or the insurer of the employer concerning a claim for compensation; and

(5) Except as otherwise provided in subparagraph (2) of paragraph (f), other documents which affect the amount, timing or denial of the payment of compensation. As used in this subparagraph, “payment of compensation” has the meaning ascribed to it in subsection 2 of NAC 616D.305.

(d) A record of all compensation paid to the injured employee and all payments made to any other person in connection with the claim, for:

- (1) Accident benefits;
- (2) Temporary partial disability;
- (3) Temporary total disability;
- (4) Permanent partial disability;
- (5) Permanent total disability;
- (6) Death benefits; and
- (7) Vocational rehabilitation,

↪ and the amount of the expected total incurred costs and the justification.

(e) A copy of any notice of termination of benefits which has been sent to the injured employee.

(f) Copies of all correspondence and other documents pertaining to the claim, including, without limitation, copies of:

- (1) All medical bills incurred by the injured employee and received by the insurer; and

(2) Any notices sent to the injured employee to inform him or her of the right to a review or appeal,

↳ but not including records of any privileged communication between the insurer and its attorney or of any investigation conducted by or on behalf of the insurer concerning a possible violation of NRS 616D.300.

(g) All ratings performed by any physician or ~~chiropractor~~ *chiropractic physician*.

(h) A summary of conversations or oral negotiations, or both, conducted by the insurer or the third-party administrator with the injured employee, the legal counsel who represents the injured employee or any other party other than the physician or ~~chiropractor~~ *chiropractic physician* of the injured employee, if action is requested or taken.

(i) After the claim is closed, the log of oral communications relating to the medical disposition of a claim that must be maintained by an insurer or third-party administrator pursuant to NRS 616D.330.

2. Each file of a claim must be retained for 2 years after the death of the injured employee.

Sec. 7. NAC 616C.091 is hereby amended to read as follows:

616C.091 1. After receipt of a claim for compensation, the insurer or third-party administrator shall give written notice of its determination to accept or deny the claim to the injured employee, the attorney or other authorized representative of the injured employee or his or her dependents and, if the injured employee's employer is not self-insured, to the injured employee's employer.

2. If the insurer or third-party administrator denies the claim in whole or in part:

(a) The insurer or third-party administrator shall, pursuant to NRS 616C.065, notify the Administrator of the denial.

(b) The notice of denial to the injured employee, the attorney or other authorized representative of the injured employee or his or her dependents must include:

(1) A written statement of the right to request a hearing on the matter before a hearing officer and a form for requesting a hearing; and

(2) A specific statement of the reasons for the denial of the claim.

(c) The insurer or third-party administrator shall provide a copy of each notice of denial it gives pursuant to paragraph (b) to ~~the~~ :

(1) The physician, chiropractic physician, physician assistant or advanced practice registered nurse who provided an examination and treatment of the injured employee in the context of an initial examination and treatment pursuant to NRS 616C.010; and

(2) The injured employee's treating physician or ~~chiropractor~~ chiropractic physician.

(d) The notice of denial required to be given to the Administrator pursuant to paragraph (a) must include:

(1) A copy of the notice of denial given to the injured employee, the attorney or other authorized representative of the injured employee or his or her dependents; and

(2) A copy of Form C-4, Employee's Claim for Compensation/Report of Initial Treatment, that was completed by the injured employee or his or her dependents.

3. If the insurer or third-party administrator accepts the claim, the notice of acceptance provided to the injured employee, the attorney or other authorized representative of the injured employee or his or her dependents must include:

(a) Written notice of acceptance of the claim;

(b) A copy of Form ~~D-52~~ **D-53**, Alternative Choice of Physician or Chiropractor; and

(c) Either:

(1) If established and available, the Internet address of the website of the insurer or third-party administrator at which the injured employee, the attorney or other authorized representative of the injured employee or his or her dependents can obtain a list of providers of health care who are authorized to provide health care services to the injured employee; or

(2) Notification that, pursuant to NAC 616C.030, the injured employee, the attorney or other authorized representative of the injured employee, his or her dependents or the treating physician or ~~chiropractor~~ *chiropractic physician* of the injured employee may, upon written request, obtain a list of providers of health care who are authorized to provide health care services to the injured employee.

4. A written notice of determination issued by an insurer or third-party administrator must include:

- (a) The claim number;
- (b) The name of the employer;
- (c) The name of the insurer;
- (d) The name of the third-party administrator, if applicable;
- (e) The date of the injury;
- (f) The date of the written notice of determination;
- (g) Notice that the injured employee may, pursuant to subsection 1 or 3 of NRS 616C.315, request a hearing or appeal the determination within 70 days after the determination is issued by the insurer; and
- (h) The addresses of the offices of the Hearings Division of the Department of Administration located in Carson City and Las Vegas.

Sec. 8. NAC 616C.103 is hereby amended to read as follows:

616C.103 1. For purposes of determining whether an injured employee is stable and ratable and entitled to an evaluation to determine the extent of any permanent impairment pursuant to this section and NRS 616C.490, the Division interprets the term:

(a) “Stable” to include, without limitation, a written indication from a physician or ~~chiropractor~~ *chiropractic physician* that the industrial injury or occupational disease of the injured employee:

- (1) Is stationary, permanent or static; or
- (2) Has reached maximum medical improvement.

(b) “Ratable” to include, without limitation, a written indication from a physician or ~~chiropractor~~ *chiropractic physician* that the medical condition of the injured employee may have:

- (1) Resulted in a loss of motion, sensation or strength in a body part of the injured employee;
- (2) Resulted in a loss of or abnormality to a physiological or anatomical structure or bodily function of the injured employee; or
- (3) Resulted in a mental or behavioral disorder as the result of a claim that has been accepted pursuant to NRS 616C.180.

2. If an insurer proposes that an injured employee agree to a rating physician or ~~chiropractor~~ *chiropractic physician* chosen by the insurer, the insurer shall inform the injured employee in writing that the injured employee:

(a) Is not required to agree with the selection of that physician or ~~chiropractor~~ *chiropractic physician*; and

(b) May request that the rating physician or ~~{chiropractor}~~ *chiropractic physician* be selected in accordance with subsection 3 and NRS 616C.490.

3. An insurer shall comply with subsection 2 of NRS 616C.490, within the time prescribed in that subsection for the scheduling of an appointment, by:

(a) Requesting a physician or ~~{chiropractor}~~ *chiropractic physician* from the list of qualified rating physicians and ~~{chiropractors}~~ *chiropractic physicians* designated by the Administrator to evaluate the injured employee and determine the extent of any permanent impairment or, if the injured employee and insurer have agreed to a rating physician or ~~{chiropractor}~~ *chiropractic physician* pursuant to subsection 2 of NRS 616C.490, by submitting a completed form designated in NAC 616A.480 as D-35, Request for a Rotating ~~{Rating}~~ Physician or Chiropractor, to the Workers' Compensation Section within 30 days after the insurer has received the statement from a physician or ~~{chiropractor}~~ *chiropractic physician* that the injured employee is ratable and stable;

(b) Mailing written notice to the injured employee of the date, time and place of the appointment for the rating evaluation; and

(c) At least 3 working days before the rating evaluation, providing to the assigned rating physician or ~~{chiropractor}~~ *chiropractic physician* from the insurer's file concerning the injured employee's claim:

(1) All reports or other written information concerning the injured employee's claim produced by a physician, ~~{chiropractor}~~ *chiropractic physician*, hospital or other provider of health care, including the statement from the treating physician or ~~{chiropractor}~~ *chiropractic physician* that the injured employee is stable and ratable, surgical reports, diagnostic, laboratory

and radiography reports and information concerning any preexisting condition relating to the injured employee's claim;

(2) Any evidence or documentation of any previous evaluations performed to determine the extent of any of the injured employee's disabilities and any previous injury, disease or condition of the injured employee that is relevant to the evaluation being performed;

(3) The form designated in NAC 616A.480 as C-4, Employee's Claim for Compensation/Report of Initial Treatment;

(4) The form designated in NAC 616A.480 as D-35, Request for a Rotating ~~Rating~~ Physician or Chiropractor; and

(5) The form designated in NAC 616A.480 as D-36, Request for Additional Medical Information and Medical Release.

4. An insurer shall pay for the cost of travel for an injured employee to attend a rating evaluation as required by NAC 616C.105.

5. Except as otherwise provided in subsection ~~7.1~~ 6, if the rating physician or ~~chiropractor~~ *chiropractic physician* finds that the injured employee has a ratable impairment, the insurer shall, within the time prescribed by NRS 616C.490, offer the injured employee the award to which he or she is entitled. The insurer shall make payment to the injured employee:

(a) Within 20 days; or

(b) If there is any child support obligation affecting the injured employee, within 35 days, ↪ after it receives the properly executed award papers from the injured employee or his or her representative.

6. ~~If the rating physician or chiropractor determines that the permanent impairment may be apportioned pursuant to NAC 616C.490, the insurer shall advise the injured employee of the amount by which the rating was reduced and the reasons for the reduction.~~

~~7.~~ If the insurer disagrees in good faith with the result of the rating evaluation, the insurer shall, within the time prescribed in NRS 616C.490:

(a) Offer the injured employee the portion of the award, in installments, which it does not dispute;

(b) Provide the injured employee with a copy of each rating evaluation performed of the injured employee; and

(c) Notify the injured employee of the specific reasons for the disagreement and the right of the injured employee to appeal. The notice must also set forth a detailed proposal for resolving the dispute that can be executed in 75 days, unless the insurer demonstrates good cause for why the proposed resolution will require more than 75 days.

~~8.~~ 7. The injured employee must receive a copy of the results of each rating evaluation performed of the injured employee before accepting an award for a permanent partial disability.

~~9.~~ 8. As used in this section, “award papers” means the following forms designated in NAC 616A.480, as appropriate:

(a) ~~D-10(a).~~ *D-10a*, Election of ~~Method of~~ *Lump Sum* Payment of Compensation.

(b) ~~D-10(b).~~ *D-10b*, Election of ~~Method of~~ *Lump Sum* Payment of Compensation for Disability Greater than ~~25~~ *30* Percent.

(c) D-11, Reaffirmation/Retraction of Lump Sum Request.

Sec. 9. NAC 616C.396 is hereby amended to read as follows:

616C.396 1. The Workers' Compensation Section will investigate each claim against an uninsured employer to determine whether the claim will be assigned to the third-party administrator or insurer designated by the Division pursuant to NRS 616C.220 for the payment of benefits from the Uninsured Employers' Claim Account. The Workers' Compensation Section will refuse to assign the claim if:

(a) The private carrier has failed to exhaust its remedies by failing to charge the claim against any existing policies of the employer of the employee or any principal contractor who is liable for the payment of compensation;

(b) The claim includes a person excluded as an employee pursuant to NRS 616A.110;

(c) The notice of the claim fails to include the documents which support the claim;

(d) The claim fails to satisfy any provision of NRS 616C.220; or

(e) The injured employee fails to complete and return to the Workers' Compensation Section:

(1) Form D-16, Notice of Election for Compensation Benefits Under the Uninsured Employer Statutes;

(2) Form D-17, Employee's Claim for Compensation - Uninsured Employer; or

(3) Form D-18, Assignment ~~of Claim~~ to Division for Workers' Compensation ~~Uninsured Employer,~~ Benefits,

↪ within 30 days after receiving the form from the Workers' Compensation Section.

2. If the Workers' Compensation Section refuses to assign a claim, it will include in the notice required by NRS 616C.220 a statement of the right of appeal provided by that section.

Sec. 10. NAC 616C.463 is hereby amended to read as follows:

616C.463 The provisions of NAC 616C.463 to ~~616C.490,~~ 616C.487, inclusive:

1. Apply to ratings of permanent partial disabilities which are determined on or after May 1, 1997.

2. May not be used as the only basis for a change of circumstances pursuant to NRS 616C.390 to require an increase of compensation for any ratings of permanent partial disability for injuries which occurred before May 1, 1997.

Sec. 11. NAC 616C.479 is hereby amended to read as follows:

616C.479 When performing an evaluation of a permanent partial disability for a claim accepted pursuant to NRS 616C.180, a rating physician shall use the form designated in NAC 616A.480 as Form ~~D-9(e),~~ *D-9c*, Permanent ~~Partial Disability Worksheet for Stress Claims Pursuant to NRS 616C.180,~~ *Work-Related Mental Impairment Rating Report Work Sheet*, to determine the percentage of impairment under Chapter 14, “Mental and Behavioral Disorders,” of the *Guide*.

Sec. 12. NAC 616C.499 is hereby amended to read as follows:

616C.499 1. If an injured employee elects to receive an award for a permanent partial disability in a lump sum, he or she must reaffirm the election within 20 days after receiving notification from the insurer pursuant to subsection ~~2~~ **3** of NRS 616C.495 before the lump sum will be paid.

2. If an injured employee reaffirms the election within 20 days, the insurer shall make payment to the injured employee:

(a) Within 20 days; or

(b) If there is any child support obligation affecting the injured employee, within 35 days,

↳ after the insurer receives the reaffirmation.

3. In offering an award for a permanent partial disability in a lump sum, the insurer shall notify the injured employee that acceptance of the award waives ~~all~~ *certtain* of his or her rights regarding the claim ~~[, including the right to appeal, except the right to reopen the claim and to vocational rehabilitation services.]~~ *as set forth in subsection 2 of NRS 616C.495.*

Sec. 13. NAC 617.050 is hereby amended to read as follows:

617.050 The lung examinations conducted pursuant to NRS 617.455 must include at least the following elements and must be supported by the following written material:

1. Form OD-1, ~~{Firemen}~~ *Firefighters* and Police ~~{Officers'}~~ *Officers* Medical History Form, as prescribed by the Division and completed by the firefighter or police officer being examined;
2. Form OD-2, ~~{Firemen}~~ *Firefighters* and Police ~~{Officers'}~~ *Officers* Lung Examination Form, as prescribed by the Division and completed by the examining physician;
3. An X-ray film of the chest;
4. If the person being examined is a police officer or a salaried firefighter, a pulmonary function test; and
5. A stethoscopic examination of the lungs.

Sec. 14. NAC 617.070 is hereby amended to read as follows:

617.070 1. Cardiac examinations which are conducted pursuant to NRS 617.457 must include at least the following elements and must be supported by the following written material:

- (a) Form OD-1, ~~{Firemen}~~ *Firefighters* and Police ~~{Officers'}~~ *Officers* Medical History Form, as prescribed by the Division and completed by the firefighter or police officer being examined;

- (b) Form OD-3, ~~Firemen~~ *Firefighters* and Police ~~Officers~~ *Officers* Extensive Heart Examination Form, as prescribed by the Division and completed by the examining physician;
- (c) A stethoscopic examination of the heart;
- (d) Except as otherwise provided in paragraph (e), an electrocardiogram;
- (e) If the person being examined is a police officer or a salaried firefighter who is 40 years of age or older, a stress electrocardiogram, in lieu of the electrocardiogram required by paragraph (d);
- (f) A blood test to determine the amounts of triglycerides and cholesterol which are present; and
- (g) A blood or urine test to determine the amount of glucose which is present.

2. Cardiac examinations which are conducted in the sixth year of continuous service and in each year of service thereafter must include the following elements and must be supported by the following written material:

- (a) Form OD-1, ~~Firemen~~ *Firefighters* and Police ~~Officers~~ *Officers* Medical History Form, as prescribed by the Division and completed by the firefighter or police officer being examined;
- (b) Form OD-4, ~~Firemen~~ *Firefighters* and Police ~~Officers~~ *Officers* Limited Heart Examination Form, as prescribed by the Division and completed by the examining physician;
- (c) A stethoscopic examination of the heart; and
- (d) If the examining physician believes circumstances warrant such a test, an electrocardiogram.

Sec. 15. NAC 617.075 is hereby amended to read as follows:

617.075 1. The test of the functioning of the hearing of an employee that is required pursuant to NRS 617.454 must consist of an air conduction test or a pure tone test.

2. If an air conduction test reveals a condition that is not within normal limits, the employee must undergo a bone conduction study or speech audiometry.

3. An air conduction test is acceptable for screening and to establish a baseline for further testing.

4. The person conducting the test of the functioning of the hearing of the employee must fill out Form OD-5, ~~Firemen~~ *Firefighters* and Police ~~Officers~~ *Officers* Hearing Examination Form, as prescribed by the Division.

Sec. 16. NAC 617.090 is hereby amended to read as follows:

617.090 The employee must:

1. Submit to the physical examinations and the test of the functioning of the hearing of an employee that are required by NRS 617.454, 617.455 and 617.457, and by his or her employer, at the time scheduled by the employer unless the employee has a reasonable excuse for missing the scheduled examination;

2. Complete and file with the insurer Form OD-1, ~~Firemen~~ *Firefighters* and Police ~~Officers~~ *Officers* Medical History Form, as prescribed by the Division; and

3. Sign a form acknowledging receipt of the forms provided by the examining physician.

Sec. 17. NAC 616C.490 and 616C.505 are hereby repealed.

TEXT OF REPEALED SECTIONS

616C.490 Apportionment of impairments. (NRS 616A.400, 616C.490)

1. If any permanent impairment from which an employee is suffering following an accidental injury or the onset of an occupational disease is due in part to the injury or disease, and in part to a preexisting or intervening injury, disease or condition, the rating physician or chiropractic physician, except as otherwise provided in subsection 8, shall determine the portion of the impairment which is reasonably attributable to the injury or occupational disease and the portion which is reasonably attributable to the preexisting or intervening injury, disease or condition. The injured employee may receive compensation for that portion of his or her impairment which is reasonably attributable to the present industrial injury or occupational disease and may not receive compensation for that portion which is reasonably attributable to the preexisting or intervening injury, disease or condition. The injured employee is not entitled to receive compensation for his or her impairment if the percentage of impairment established for his or her preexisting or intervening injury, disease or condition is equal to or greater than the percentage of impairment established for the present industrial injury or occupational disease.

2. Except as otherwise provided in subsection 8, the rating of a permanent partial disability must be apportioned if there is a preexisting permanent impairment or intervening injury, disease or condition, whether it resulted from an industrial or nonindustrial injury, disease or condition.

3. A precise apportionment must be completed if a prior evaluation of the percentage of impairment is available and recorded for the preexisting impairment. The condition, organ or anatomical structure of the preexisting impairment must be identical with that subject to current evaluation. Sources of information upon which an apportionment may be based include, but are not limited to:

- (a) Prior ratings of the insurer;
- (b) Other ratings;
- (c) Findings of the loss of range of motion;
- (d) Information concerning previous surgeries; or
- (e) For claims accepted pursuant to NRS 616C.180, other medical or psychological records regarding the prior mental or behavioral condition.

4. Except as otherwise provided in subsection 5, if a rating evaluation was completed in another state or using an edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment, other than the edition of the Guides as adopted by reference pursuant to NAC 616C.002, for a previous injury or disease involving a condition, organ or anatomical structure that is identical to the condition, organ or anatomical structure being evaluated for the present industrial injury or occupational disease, or if no previous rating evaluation was performed, the percentage of impairment for the previous injury or disease and the present industrial injury or occupational disease must be recalculated by using the Guides, as adopted by reference pursuant to NAC 616C.002. The apportionment must be determined by subtracting the percentage of impairment established for the previous injury or disease from the percentage of impairment established for the present industrial injury or occupational disease.

5. If precise information is not available, and the rating physician or chiropractic physician is unable to determine an apportionment using the Guides as set forth in subsection 4, an apportionment may be allowed if at least 50 percent of the total present impairment is due to a preexisting or intervening injury, disease or condition. The rating physician or chiropractic physician may base the apportionment upon X-rays, historical records and diagnoses made by physicians or chiropractic physicians or records of treatment which confirm the prior impairment.

6. If there are preexisting conditions, including, without limitation, degenerative arthritis, rheumatoid variants, congenital malformations or, for claims accepted under NRS 616C.180, mental or behavioral disorders, the apportionment must be supported by documentation concerning the scope and the nature of the impairment which existed before the industrial injury or the onset of disease.

7. A rating physician or chiropractic physician shall always explain the underlying basis of the apportionment as specifically as possible by citing pertinent data in the health care records or other records.

8. If no documentation exists pursuant to subsection 6 or 7, the impairment may not be apportioned.

616C.505 Acceptance of award in installment payments. (NRS 616A.400) An injured employee may accept an award for a permanent partial disability in installment payments without prejudice to any right which he or she may have to an administrative or judicial review.