

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

LCB File No. R010-97

July 28, 1997

EXPLANATION--Matter in italics is new; matter in brackets [] is material to be omitted.

AUTHORITY: NRS 616A.400 and 616D.120.

Section 1. Chapter 616D of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *For the purposes of carrying out the provisions of NRS 616D.120 and sections 3 and 4 of this regulation:*

1. A decision of a court, a hearing officer, an appeals officer or the division shall be deemed to be:

(a) Any written order or decision entered by a court of competent jurisdiction, hearing officer or appeals officer, including, without limitation, a written determination that is not appealed in a timely manner;

(b) Any written decision issued by the division; and

(c) A written settlement agreement or written stipulation that is modified or changed by a court of competent jurisdiction, a hearing officer, an appeals officer or the division.

2. "Payment of compensation" means:

(a) The payment of benefits to an injured employee or his dependents;

(b) The payment of accident, medical or other benefits to persons other than an injured employee or his dependents;

(c) Giving written notice to an injured employee of the date, time and place of an appointment for the receipt of accident, medical or other benefits; and

(d) Providing treatment to an injured employee for an industrial injury or occupational disease for which accident, medical or other benefits are payable.

3. "Written settlement agreement" means any agreement that is in writing or in the form of a transcript.

4. "Written stipulation" means any stipulation that is in writing or in the form of a transcript.

Sec. 3. *1. Each insurer, organization for managed care, health care provider or third-party administrator shall establish written policies and procedures for the payment of compensation found to be due an injured employee by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS.*

2. The policies and procedures adopted pursuant to subsection 1 must:

(a) Provide that payment be made within the time set forth in paragraph (b) of subsection 1 of NRS 616D.120;

(b) Provide for the quick and efficient payment of compensation to injured employees and their dependents in a manner that is consistent with the provisions of chapters 616A to 617, inclusive, of NRS;

(c) Establish a procedure for the clarification of any ambiguity in the payment of compensation found to be due an injured employee by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the division;

(d) Provide for the designation of a person or persons to receive and schedule notices for the payment of compensation found to be due an injured employee by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the division; and

(e) Provide for the designation of a person or persons to pay any compensation found to be due an injured employee by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the division within the time set forth in paragraph (b) of subsection 1 of NRS 616D.120.

Sec. 4. *For the purposes of paragraph (b) of subsection 1 of NRS 616D.120, to determine whether an insurer, organization for managed care, health care provider, third-party administrator or employer has unreasonably delayed payment to an injured employee of compensation found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the division when carrying out its duties pursuant to chapters 616A to 617, inclusive, of NRS, the administrator will consider:*

1. The reasons given by the insurer, organization for managed care, health care provider, third-party administrator or employer for making the payment after the time set forth in paragraph (b) of subsection 1 of NRS 616D.120;

2. *The efforts made by the insurer, organization for managed care, health care provider, third-party administrator or employer to make the payment within the time set forth in paragraph (b) of subsection 1 of NRS 616D.120, if any;*

3. *The date the payment was made;*

4. *Whether the amount of compensation due, or any portion of that amount, was unclear or ambiguous and whether the insurer, organization for managed care, health care provider, third-party administrator or employer took action or exercised reasonable diligence to clarify the uncertainty or ambiguity and to pay the compensation due within the time set forth in paragraph (b) of subsection 1 of NRS 616D.120;*

5. *Whether the amount of compensation due, or any portion of that amount, was unknown or could have been determined through the exercise of reasonable diligence within the time set forth in paragraph (b) of subsection 1 of NRS 616D.120, or at any time thereafter;*

6. *Whether the insurer, organization for managed care, health care provider, third-party administrator or employer was advised, in writing, by the injured employee or his representative that payment of the compensation due could be delayed pending the outcome of any further negotiations relating to the compensation that was due;*

7. *Whether the insurer, organization for managed care, health care provider or third-party administrator established the policies and procedures required by section 3 of this regulation and complied with those policies and procedures;*

8. *Whether the delay in the payment of the compensation due, or any portion thereof, was the result of error, lack of good faith or diligence, neglect or another cause within the control*

of the insurer, organization for managed care, health care provider, third-party administrator or employer; and

9. Any other circumstance which the administrator deems relevant to determine whether a delay in the payment of compensation due was reasonable.