

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

LCB File No. R209-97

January 9, 1998

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

AUTHORITY: §§2-15, NRS 616B.186.

Section 1. Chapter 616B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. *The provisions of sections 2 to 15, inclusive, of this regulation apply only to an offender who is injured or killed in the course and scope of his employment in a work program directed by the administrator of a county jail, city jail or other local detention facility and only if the administrator of the jail or other detention facility has requested coverage under the modified program of industrial insurance pursuant to NRS 616B.186. The program does not include:*

- 1. Coverage for an injury that occurred before the offender was confined at a county jail, city jail or other local detention facility.*
- 2. Any service or benefit for vocational rehabilitation.*

Sec. 3. *Except as otherwise provided in section 2 of this regulation, 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 county jail, city jail or other local detention facility and engaged in*

employment in a work program to the extent that those provisions do not conflict with sections 2 to 15, inclusive, of this regulation.

Sec. 4. *In the case of an offender confined at a county jail, city jail or other local detention facility who is injured or killed in the course and scope of his employment in the work program, the term “wages”:*

1. Includes only the money he earns in the work 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 county jail, city jail or other local detention facility;

(b) The value of good time earned towards reducing the sentence of the offender; or

(c) Income from any source other than the work program.

Sec. 5. *The administrator of the county jail, city jail or other local detention facility or his designated agent shall:*

1. Adopt a written statement of the rights and duties of an offender pursuant to the provisions of sections 2 to 15, inclusive, of this regulation. The statement must include the procedures and time limits that the offender must follow when he files for benefits.

2. Give a copy of the statement to each offender confined at a county jail, city jail or other local detention facility before the offender’s first assignment to work.

3. Post a copy of the statement in a conspicuous place in each area where an offender works.

Sec. 6. *No compensation may be authorized pursuant to sections 2 to 15, inclusive, of this regulation, for an injury that:*

1. *Results from an assault, whether or not the offender is the aggressor.*
2. *Occurs as a result of a deliberate violation of a rule of the work program by the offender.*
3. *Is proximately caused because the offender is under the influence of a controlled substance. If the offender is under the influence of a controlled substance at the time of the injury, the controlled substance is presumed to be a proximate cause of the injury unless rebutted by evidence to the contrary.*

Sec. 7. *1. Except as otherwise provided in subsections 2 and 3, an offender or someone acting on his behalf shall submit the notice of injury pursuant to the provisions of NRS 616C.015.*

2. The notice of injury must be submitted to the administrator of the county jail, city jail or other local detention facility or his designated agent.

3. The administrator of the jail or other detention facility or his designated agent shall file the notice with its insurer within 15 days after he receives it. If an offender submits the notice of injury to the administrator of the jail or other detention facility or his designated agent within the time provided by NRS 616C.015, the failure of the administrator of the jail or other detention facility or his designated agent to file the notice with its 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. 8. *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 must be discontinued during any subsequent period of incarceration in:

(a) A facility of the department of prisons;

(b) Any other federal or state prison system; or

(c) A county jail, city jail or other local detention facility.

Sec. 9. *An offender must not be paid a lump-sum settlement for an injury or disease while he is incarcerated. When the offender is released, any lump-sum benefit to which he is entitled:*

1. Of more than \$2,400, must be paid in monthly installments that do not exceed 10 percent of the total benefit in any month. The first installment must be paid within 30 days after the offender is released.

2. Of \$2,400 or less, must be paid in a single payment within 30 days after the offender is released.

Sec. 10. *1. Except as otherwise provided in this section, the administrator of the county jail, city jail or other local detention facility or his designated agent has control over the medical treatment of any offender, including the right to select a treating, consulting and rating physician or chiropractor, or both, and any other health care professionals. An offender is not entitled to select a health care professional.*

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

3. The insurer may schedule any appropriate medical test, consultation or treatment in addition to those scheduled by the county jail, city jail or other local detention facility, but shall do so in accordance with the security procedures of the jail or other detention facility.

4. *If an insurer schedules an evaluation to determine if an offender has suffered a permanent partial disability, it must use a rating physician or chiropractor who has been designated by the administrator to determine the disability pursuant to NRS 616C.490 but is not required to select the next physician or chiropractor according to the order in which their names appear on the list maintained by the administrator.*

5. *If medication is prescribed for an offender, it must be retained and dispensed by the county jail, city jail or other local detention facility.*

Sec. 11. 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 a county jail, city jail or other local detention facility. In such a case, the hearing must be arranged and conducted in accordance with the security procedures of the county jail, city jail or other local detention facility.*

Sec. 12. *Offenders are entitled to the services of the Nevada attorney for injured workers, subject to the rules and procedures adopted by the county jail, city jail or other local detention facility relating to contact with offenders.*

Sec. 13. *The fact that an offender has earned a relatively low wage while incarcerated is not a ground for the reopening of a claim.*

Sec. 14. *An offender incarcerated in a county jail, city jail or other local detention facility may not reject coverage if the administrator of the county jail, city jail or other local detention facility has requested coverage under the modified program of industrial insurance pursuant to NRS 616B.186.*

Sec. 15. *Sections 2 to 15, inclusive, of this regulation do not restore, in whole or in part, any of the civil rights of an offender.*