

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

LCB File No. R013-04

Effective April 19, 2004

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

AUTHORITY: §§1 and 2, Section 3 of chapter 452, Statutes of Nevada 2003, at page 2794.

A REGULATION relating to industrial insurance; establishing a method of equitable distribution for an additional payment of compensation for permanent total disability to certain claimants and dependents of claimants; and providing other matters properly relating thereto.

Section 1. Chapter 616C of NAC is hereby amended by adding thereto a new section to read as follows:

For the purpose of carrying out the provisions of subsection 4 of section 3 of chapter 452, Statutes of Nevada 2003, at page 2795, the Administrator will use the following method to determine the equitable distribution of the money collected from the assessment imposed on insurers pursuant to subsection 2 of that section:

1. Each claimant or dependent of a claimant who, on June 10, 2003, was receiving compensation pursuant to chapters 616A to 617, inclusive, of NRS for a permanent total disability for which a final determination of permanent total disability was made before January 1, 1996, is entitled to receive an amount equal to \$200,000 divided by the total

number of claimants and dependents who are entitled to receive an amount pursuant to this subsection.

2. In addition to the amount a claimant or dependent of a claimant is entitled to receive pursuant to subsection 1, a claimant or dependent who, on June 10, 2003, was receiving not less than \$1,000 and not more than \$1,500 per month in compensation for permanent total disability is entitled to receive an amount equal to \$100,000 divided by the total number of claimants and dependents who are entitled to receive an amount pursuant to this subsection.

3. In addition to the amount a claimant or dependent of a claimant is entitled to receive pursuant to subsection 1, a claimant or dependent who, on June 10, 2003, was receiving less than \$1,000 per month in compensation for permanent total disability is entitled to receive an amount equal to \$200,000 divided by the total number of claimants and dependents who are entitled to receive an amount pursuant to this subsection.

Sec. 2. This regulation expires by limitation on July 1, 2004.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R013-04**

The Administrator of the Division of Industrial Relations of the Department of Business and Industry adopted regulations assigned LCB File No. R013-04 which pertain to chapter 616C of the Nevada Administrative Code on March 10, 2004.

Notice date: 1/15/2004
Hearing date: 2/18/2004

Date of adoption by agency: 3/10/2004
Filing date: 4/19/2004

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Section 3 of Senate Bill 193 (SB 193) requires the Division of Industrial Relations (“Division”) to assess each workers’ compensation insurer an amount that is required to obtain a total of \$500,000 and adopt regulations establishing a method for the equitable distribution of the \$500,000. The method established should provide for the largest proportional share of the money to be paid to claimants and dependents that receive the lowest amount of compensation for the permanent total disability pursuant to chapters 616A to 617 of the NRS. SB 193 required a one-time payment to claimants and the dependents of claimants based on the method of equitable distribution set forth by the regulation must be made by July 1, 2004.

Accordingly, the Division held a workshop and public hearing on February 18, 2004 on the draft regulation to calculate and disburse this one-time payment by July 1, 2004. In conjunction with providing notice to the public and interested parties of the workshop and public hearing, the Division prepared the Small Business Impact Statement required by NRS 233B. The Division submitted the draft regulation and Small Business Impact Statement to the Legislative Counsel Bureau pursuant to NRS 233B.

A summary of the responses from the public and affected businesses is included in #2 of this Informational Statement and may be obtained by contacting the Division of Industrial Relations’ Workers’ Compensation Section at the following locations:

Workers’ Compensation Section
1301 N. Green Valley Pkwy., #200
Henderson, NV 89074
Telephone: (702) 486-9080

Workers’ Compensation Section
400 W. King St., #400
Carson City, NV 89703
(775) 684-7270

2. The number of persons who attended the hearing, testified at each hearing, and submitted written statements to the agency.

The workshop was conducted at two sites via videoconference: the main site was at the Sawyer Building in Las Vegas; the other site was at the Legislative Building in Carson City. In Las Vegas,

15 people attended and 2 testified; in Carson City, 1 attended and none testified. The oral testimony is summarized as follows:

Rusty McAllister, Professional Firefighters of Nevada

Mr. McAllister asked for the breakdown of the number of claimants in each of the three categories and what the total number of claimants was.

Nancyann Leeder, Nevada Attorney for Injured Workers

Ms. Leeder referenced Section 2, paragraphs 1,2, and 3 and asked that the actual effective date of SB 193 be inserted instead of the phrase “effective date of Senate Bill 193” (copies of the draft regulation, as revised by the Legislative Counsel Bureau were available at the workshop and public hearing that followed). She pointed out the actual effective date was June 10, 2003 (the LCB Version of R013-04 reflected that date).

In paragraph 4, she suggested rewording the first sentence by putting the date before the word claimant.

The hearing was conducted at two sites via videoconference: the main site was at the Sawyer Building in Las Vegas; the other site was at the Legislative Building in Carson City. In Las Vegas, 6 people attended and 2 testified; in Carson City, none attended and none testified. The oral testimony is summarized as follows:

Delia Martinez, Employers Insurance Company of Nevada

Ms. Martinez asked for the specific dollar breakdown of each of the three categories of compensation. She asked if section 1 was \$585.61, section 2 was \$357.14 and section 3 was \$262.12 or \$1000.00. Ed Clements cautioned that those numbers were preliminary but the numbers did show that section 3 was \$262.12.

Nancyann Leeder, Nevada Attorney for Injured Workers

Ms. Leeder suggested that section 2 be reworded to say, “The payment should be made by July 1, 2004” and not use the phrase “This regulation expires by limitation on July 1, 2004.”

There were no written comments submitted by the February 26, 2004 deadline announced at the workshop and hearing.

3. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Division did not change the wording as suggested by the oral testimony during the workshop and hearing. Since the disbursement is a one-time event and stems from the Statutes of Nevada, the regulation will have no effect subsequent to July 1, 2004.

4. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public.

SB 193 requires assessed insurers to charge a fee to each policyholder to cover the cost of the assessment. As the \$500,000 total assessed amount is distributed over many insurers and again over many more policyholders, the Division anticipates the immediate adverse economic effect on of the proposed regulations on insurers and their policyholders to be minimal. As the regulation calls for a one-time assessment charge, the Division anticipates no long-term adverse or beneficial effects on insurers or policyholders.

The Division anticipates neither adverse nor beneficial immediate or long-term economic effect on the public.

5. The estimated cost to the agency for enforcement of the adopted regulation.

The Division estimates that the costs of the collection of the assessment and disbursement of payments to claimants will be minimal.

6. A description of any regulations of other state or governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulations overlap or duplicate a federal regulation, the name of the regulating federal agency.

The Division believes that the proposed regulations do not overlap or duplicate any existing state, federal or other government regulations.

7. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There is no federal regulation that regulates the same activity.

8. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Pursuant to SB 193, the proposed regulation provides for a one-time assessment to insurers as described in #1 of this Informational Statement. The regulations do not provide for ongoing new fees or an increase in existing fees.