

LCB File No. R007-06

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

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

AUTHORITY: NRS 616A.400; 616D.120; 616D.200; 616D.220; Assembly Bill 58 § 2;  
Assembly Bill 254 § 2.

**Section 1.** NAC 616B.013 is hereby amended to read as follows:

NAC 616B.013. 1. An insurer *or third-party administrator* shall ensure that the files of claims and records maintained ~~by the insurer~~ pursuant to chapters 616A to 617, inclusive, of NRS or a regulation adopted pursuant thereto are available for inspection by *an injured worker, his attorney or other authorized representative*, the Commissioner or his designee, or by the Administrator during regular business hours.

2. All files of the claims must be ~~kept, maintained and~~ administered in this State *and be available for inspection at an office in this State maintained by the insurer or third-party administrator.*

3. After reviewing the file of a claim, the Commissioner or Administrator will report his findings to the insurer.

*4. As used in this section “office” means a place of business operated by the insurer or third-party administrator. As used in this section “office” does not include a private residence where a person working for an insurer or third-party administrator lives.*

**Sec. 2.** NAC 616B.021 is hereby amended to read as follows:

NAC 616B.021 Not later than the date that compensation is due to a claimant, an insurer or third-party administrator shall:

1. Mail a check for compensation to the claimant *or, if directed to do so by the claimant, his attorney or other authorized representative*; or

2. *If directed to do so by the claimant, [M]make a check for compensation available to the claimant, his attorney or other authorized representative, in the office of the insurer or third-party administrator.*

**Sec. 3.** Chapter 616C of the NAC is hereby amended by adding thereto the provisions set forth as a new section to read as follows:

*1. As used in this section “place of employment” means one of the following:*

*(a) The office or facility of the responsible employer the injured employee typically reports to on a regular basis; or*

*(b) If the injured employee is scheduled to report to a site other than the office or facility defined above in subsection 1, the job site of the responsible employer from which the injured employee departs from and/or returns to from medical treatment.*

*2. In determining whether an injured worker is entitled to compensation pursuant to Section 2 of Assembly Bill 58, the insurer shall calculate the 50-mile, one-way travel distance minimum using point-to-point results generated by established travel or geography software, published maps, Internet travel calculators, or by verifiable results of a properly calibrated odometer.*

*3. The insurer shall use the following method for determining the amount of compensation to be paid to the injured employee:*

*(a) Compensable time is calculated as the sum of time the injured employee spends traveling to and/or returning from medical treatment 50 miles or more from the place of employment plus time spent in the medical facility awaiting and receiving treatment.*

*(b) Total travel and treatment time of four hours or less shall be paid at 50 percent of the daily rate of compensation paid pursuant to NRS 616C.475 for a temporary total disability. Compensation for total travel and treatment time of more than 4 hours per day will be paid at 100 percent of the appropriate rate.*

*4. An injured employee will use form D-24 "Request for Reimbursement of Expenses for Travel and Lost Wages" to capture qualifying data for the Lost Wages Compensation for Extended Medical Travel. This document is required for submission by the employer or injured employee for compensation.*

**Sec. 4.** NAC 616C.441 is hereby amended to read as follows:

NAC 616C.441 The ~~[rate of pay]~~ *earnings, including money, goods and services*, on the date of the accident or ~~[the onset of the disease]~~, *in the case of an occupational disease, the earnings, including money, goods and services, immediately prior to the date of disablement, [will] must* be used to calculate the average monthly wage.

**Sec. 5.** NAC 616C.571 is hereby amended to read as follows:

NAC 616C.571 1. Except as otherwise provided in this section, if an injured employee is required to travel more than ~~[40]~~ *50* miles per day to participate in a program of vocational rehabilitation, an insurer shall reimburse the injured employee for the costs of transportation~~[-~~

~~—(a) For not more than 200 miles per week; and~~

~~—(b) C]c~~ computed at a rate ~~[not to exceed]~~ *equal to* the mileage allowance for state employees who use their personal vehicles for the convenience of the State.

~~[2. For the entire period of a program of vocational rehabilitation, an insurer shall not reimburse an injured employee more than \$1,600 for the costs of transportation of which:~~

~~—(a) Not more than \$600 may be for costs incurred by the employee during the development of the program; and~~

~~—(b) Not more than \$1,000 may be for costs incurred during the period in which the employee participates in the program.]~~

**Sec. 6.** Section 35, subsection 3 of LCB File No. R118-02 is hereby amended to read as follows:

The Administrator will determine the amount of a benefit penalty required to be paid pursuant to subsection 3 of NRS 616D.120 according to the following schedule. In addition to the required minimum benefit penalty of \$5,000, a claimant will be awarded \$~~[1,000]~~ *1,625* for each point assessed, but in no event will the amount of the benefit penalty be greater than \$~~[25,000]~~ *37,500*.

**Sec. 7.** NAC 616D.340 is hereby amended to read as follows:

NAC 616D.340 Within 10 working days after the administrator notifies an employer ~~[of his determination, made pursuant to NRS 616D.200, that the employer failed to provide and secure compensation as required by the terms of chapters 616A to 616D, inclusive, of NRS]~~ *that he is required to provide information necessary for the calculation of premium pursuant to NRS 616D.200 or 616D.220:*

1. The employer, *or the former or current private carrier*, shall provide written information to the administrator that verifies the amount ~~[of pay earned by his employees during the period that the employer was doing business in this state without providing and securing compensation]~~ *premiums that otherwise would have owed to a private carrier for the period the employer was uninsured or for the period he failed to report a material fact concerning the amount of payroll upon which his premium was based;* or

2. If the employer, *or the former or current private carrier*, fails or is unable to provide the information required pursuant to subsection 1, ~~[he]~~ *the employer* shall ~~[calculate and provide to~~

~~the administrator an estimate of]~~ *verify* the *actual amount of* pay earned by his employees during the period that the employer was ~~[doing business in this state without providing and securing compensation]~~ *uninsured or during the period he failed to report a material fact concerning the amount of payroll upon which his premium was based* ~~[, using the wages actually received or deemed to be received, pursuant to the applicable provisions of chapters 616A to 617, inclusive, of NRS, by his employees].~~

*3. If the employer, or the former or current insurer, fails or is unable to provide the information required pursuant to subsection 1 or 2, the administrator may estimate the premiums that otherwise would have owed to a private carrier for the period the employer was uninsured or for the period he failed to report a material fact concerning the amount of payroll upon which his premium was based.*

**Sec. 8.** NAC 616D.345 is hereby amended to read as follows:

NAC 616D.345 1. ~~[Except as otherwise provided in NAC 616D.375, ]~~*If* the fraud control unit for industrial insurance ~~[established pursuant to NRS 228.420 notifies the administrator, pursuant to NRS 616D.120, that the unit]~~ will not prosecute an employer for failing to provide and secure compensation ~~[as required by the terms of chapters 616A to 616D, inclusive, of NRS or any regulation adopted pursuant thereto,]~~ the administrator will:

(a) For a failure to provide and secure compensation for a period of 90 days or less, impose an administrative fine ~~[in an amount that equals 10 percent of the expected annual premium of the employer or \$500, whichever is greater]~~ *up to \$1,000.*

(b) For a failure to provide and secure compensation for a period of more than 90 days, *but less than one year*, impose an administrative fine ~~[in an amount that equals 20 percent of the expected annual premium of the employer or \$1,000, whichever is greater]~~ *up to \$5,000.*

*(c) For a failure to provide and secure compensation for a period of more than one year, impose an administrative fine up to \$15,000.*

~~{2. In no case will the administrator impose an administrative fine pursuant to this section that is greater than \$10,000.}~~ *In determining the amount of the administrative fine, the administrator will consider:*

*(a) Whether the employer is a small employer; and*

*(b) Whether the lapse in industrial insurance was the result of an error of a private carrier or another third party;*

*(c) Whether the lapse in industrial insurance was the result of the employer's error; or*

*(d) Whether the lapse in industrial insurance was the result of an intentional violation.*

*3. If the employer is a small employer and the lapse in industrial insurance was not the result of an intentional violation, the administrator may reduce the administrative fine by 50%.*

*4. For purposes of this section, a "small employer" is an employer which employs fewer than 150 full-time or part-time employees.*

**Sec. 9.** NAC 616D.350, 616D.355, 616D.360, 616D.370, 616D.375, 616D.380 and 616D.385 are hereby repealed.