

Customer Workers Compensation Jurisdictional Resource - Delaware

Issue	Mandatory	What & How	Impact	State Forms
Timely Reporting of Claims	<p>Yes</p> <p>An employee must give notice of a claim within 90 days.</p> <p>An employer must give notice within 10 days of their knowledge of a work related injury.</p>	<p>An employer must file a first report no matter how minor the injury.</p>	<p>Failure of an employee to provide notice in that time is a bar to the claim as a matter of law. It does bar the claimant from receiving total disability until such time as notice is given.</p> <p>An employer may be fined \$100 to \$250 for failure to file a first report of injury.</p>	<p>Delaware Form - First Report of Occupational Injury (FROI)</p>
Drug Free Workplace	<p>No</p> <p>Drug testing is not mandatory but could be useful in defending a claim.</p>	<p>Drug testing may be performed by ER's in a manner consistent with state and federal law.</p>	<p>Delaware requires this to be the sole cause of the incident but in certain cases, drug test results may serve to bolster defense arguments on the cause of an injury or an employee's credibility.</p>	<p>N/A</p>
Managed Care Law	<p>No</p> <p>Employee has choice of physician, employee can switch physicians.</p>	<p>Pursuant to Section 2301 of the Delaware Code, the employee has the right to treat with any physician, surgeon, dentist or other medical provider of choice.</p>	<p>N/A</p>	<p>N/A</p>

		Pursuant to Section 2301 of the Delaware Code , the employer can require that the employee have an examination performed by their doctor in order to substantiate the claim.		
Other Medical Requirements Under Senate Bill 1	Yes 1. Health Care Payment System/Fee Schedule 2. Certification of Health Care Providers 3. Health Care Practice Guidelines for 5 injuries – shoulder, back, chronic pain, carpal tunnel and cumulative trauma.	The state has an application process for certification of health care providers who are rendering treatment for wc injuries.	If a provider is certified, they do not need to request authorization for treatment of one of the 5 injuries although required to treat within those guidelines. If the provider is NOT certified, only the first instance of treatment will be paid unless pre-authorization is obtained.	Delaware Form - Healthcare Provider Application for Certification
Forms Required of the Health Care Provider	Yes The Health Care Provider form developed by the state is now required to be submitted by the physician to the employee, the employer and the insurance carrier within 10 days after the date of first evaluation/treatment and then subsequently to report changes.	The Health Care Provider form developed by the state is now required to be submitted by the physician to the employee, the employer and the insurance carrier.	N/A	Delaware Form - Physicians Report of Workers Compensation History
Forms Required of the Employer	Yes The Employer Modified Duty Availability form developed by the state is now required	The Employer Modified Duty Availability form developed by the state is now required to be submitted to the health care provider and the insurance carrier.	The Employer may be subject to a fine of no less than \$500 but no more than \$2500.	Delaware Form - Employer's Modified Duty Availability

	to be submitted to the health care provider and the insurance carrier within 14 days of receiving a notice of injury.			
Wage Statements	<p>Yes</p> <p>Previously, the average weekly wage was calculated based upon the average work week of the employer. In most cases, it will now be based upon the average work week of the employee.</p>	<p>If the employee worked for the employer at least 26 weeks, average weekly wage shall be determined by computing the total wages paid to the employee during the 26 weeks immediately preceding the date of injury divided by 26.</p>	N/A	<p>Delaware Workers' Compensation Rate Chart</p>
Posting of Notices	<p>Yes</p> <p>Employers are required by law to display the Delaware Department of Labor Division of Industrial Affairs in a place accessible to employees and where they regularly pass.</p>	N/A	<p>Violations of Delaware Labor Laws could result in fines of up to \$10,000 per violation.</p>	<p>Delaware Department of Labor Division of Industrial Affairs Poster</p>