

Customer Workers Compensation Jurisdictional Resource – Massachusetts

Issue	Mandatory	What & How	Impact	State Forms
<p>Timely Reporting of Claims</p>	<p>Yes</p> <p>Massachusetts Form 101 - Employer's First Report of Injury or Fatality must be submitted to Massachusetts Department of Industrial Accidents (DIA), the WC carrier and the employee. It must be sent to DIA within seven calendar days (not including Sundays and legal holidays) from fifth full or partial day employee has been disabled. Submission of Massachusetts Form 101 - Employer's First Report of Injury or Fatality does not constitute an admission of liability.</p>	<p>The Massachusetts Form 101 - Employer's First Report of Injury or Fatality shall be submitted on a form prescribed by the DIA and shall contain the name and nature of the business of the employer, the name, age, sex, and occupation of the injured employee, and the date, nature, circumstances and cause of the injury and such additional information as the DIA shall prescribe. Chapter 152, Section 6 of the Massachusetts Code</p>	<p>The sooner the claim is reported, the more accurate the information provided during the investigation will be. This also insures faster communication between the Carrier, injured worker, and medical providers.</p> <p>Fines are imposed for three or more violations of timely filing within one year.</p>	<p>Massachusetts Form 101 - Employer's First Report of Injury or Fatality</p>

<p>Drug Free Workplace</p>	<p>Yes</p> <p>Private employer's drug testing policy must be commensurate with employee's duties and responsibilities so as not to violate the Massachusetts Privacy Act. Court will apply balancing test of employer's interests vs. employee's privacy interests. A general interest in protecting safety of employees and in providing them a drug-free environment in which to work will not justify a significant invasion of privacy.</p>	<p>Intoxication not a defense, if it is merely a condition and not the proximate cause of the injury</p>	<p>Intoxication may constitute serious and willful misconduct on part of employee, and bar compensation, if found to be proximate cause of injury. Chapter 152, Section 27 of the Massachusetts Code Dupuis v. Phillip Beaulieu Home Improvement, 19 Mass. WC Rep. 33 (2005)</p>	<p>N/A</p>
<p>Directing Medical Treatment</p>	<p>The employer has the right to designate a health care provider for the first visit. After the first visit, the employee has the right to choose his/her own health care providers.</p>	<p>The employee may change these providers one time without the permission of the insurer. To change providers again, the insurer must agree to the change or employee must obtain approval of DIA. The insurer has the right to send the employee to see its doctor for an evaluation of capacity. Chapter 152, Section 30 (1) of the Massachusetts Code</p>	<p>Other than the first scheduled appointment, the employee has significant, but not unlimited, control over who he/she receives health care services from.</p>	<p>N/A</p>

<p>Posting Notice</p>	<p>Yes</p> <p>Employer is required to notify all existing and new employees that he has provided for payment to injured employees by a WC insurer, or by self-insurance, as provided by the Massachusetts Workers' Compensation Act.</p>	<p>The Massachusetts Form of Mandatory Notice to Employees must be posted on a bulletin board in a suitable public area on the employer's premises.</p>	<p>Avoids administrative penalties, and employees are more likely to report claims quickly. This enables the investigation to begin sooner, thereby increasing the chances for a better outcome.</p>	<p>Massachusetts Form of Mandatory Notice to Employees</p>
<p>Safety</p>	<p>Yes</p> <p>DIA maintains an Office of Safety. This office provides financial assistance for the prevention of occupational injury, illness and death in the workplace. Employers are eligible to receive grants up to \$25,000 to provide safety training.</p>	<p>Safety training videos on a wide variety of subjects are available at no cost to employers: Massachusetts Labor and Workforce Development - Video Library</p> <p>Written Safety materials are also available: Massachusetts Labor and Workforce Development - Safety Materials</p>	<p>The prevention of occupational injury and illness is in everyone's best interest. The goal of the Office of Safety is to promote safe and healthy conditions in the workplace through training, education, and other preventive programs, for employees and employers.</p>	<p>N/A</p>
<p>Medical Only Claims</p>	<p>No</p> <p>The DIA no longer requires a form. For a medical-only claim you would use whatever form your insurance carrier supplies to you. This form is NOT sent to the DIA.</p>	<p>Medical only claims for injuries that result in medical bills, but fewer than five days of disability, are reported just to the workers' compensation insurance company, and not to the DIA.</p>	<p>N/A</p>	<p>N/A</p>

<p>Can Employee be Discharged based on filing a WC claim</p>	<p>Employer shall not discharge, refuse to hire or discriminate against an Employee because Employee has exercised any rights under the WC law.</p>	<p>Employer also shall not discharge, refuse to hire or discriminate because Employee has testified or cooperated with any WC inquiry or proceeding. Chapter 152, Section 24 of the Massachusetts Code</p>	<p>Violations may result in payment of lost wages, granting Employee suitable employment and payment of Attorney's Fees.</p>	<p>N/A</p>
<p>Wage Statements</p>	<p>Massachusetts Form 127 - Average Weekly Wage Computation Schedule is <u>NOT</u> to be filed with the DIA. Instead, it should be filed with Travelers.</p>	<p>Includes earnings of the Employee during the period of 12 calendar months immediately preceding the industrial injury.</p>	<p>The Massachusetts Form 127 - Average Weekly Wage Computation Schedule provides the WC Insurer with accurate information to compute the Employee's Average Weekly Wage and Weekly Compensation rate.</p>	<p>Massachusetts Form 127 - Average Weekly Wage Computation Schedule</p>