

Customer Workers Compensation Jurisdictional Resource – New York

| Issue | Mandatory | What & How | Impact | State Forms |
|----------------------------|--|---|--|---|
| Timely Reporting of Claims | <p>Yes</p> <p>Employer must maintain record of injuries for 18 years. Employer must file New York Form C-2 - Employer's Report of Work-Related Injury/Illness within 10 days of the injury with New York Workers' Compensation Board and carrier only if lost time is balance of shift plus one day OR if the claimant requires medical treatment beyond ordinary first aid or more than two treatments by a person rendering first aid.</p> <p>Article 7, Section 110 of the New York WKC Code.</p> | <p>The employer should complete the New York Form C-2 - Employer's Report of Work-Related Injury/Illness and file copies with the New York Workers' Compensation Board and carrier if required.</p> | <p>Refusal or neglect to maintain record of injury or file New York Form C-2 - Employer's Report of Work-Related Injury/Illness is a misdemeanor punishable by a fine up to \$1,000.00. The Board also has discretion to assess a penalty of \$2,500.00 following an administrative hearing.</p> | <p>New York Form C-2 - Employer's Report of Work-Related Injury/Illness</p> |
| Drug Free Workplace | <p>No</p> <p>Drug testing is not addressed in the Workers' Compensation Law although Article 2, Section 10 of the New York WKC Code</p> | <p>Drug testing may be performed by employers in a manner consistent with state and federal law.</p> | <p>Unless intoxication from alcohol or controlled substances is the sole cause of the injury, there is no impact on the claim.</p> | <p>N/A</p> |



| | | | | |
|--------------|---|--|---|------------|
| | <p>precludes liability when the injury has been solely occasioned by intoxication from alcohol or a controlled substance while on duty.</p> <p><u>Article 2, Section 10 of the New York WKC Code.</u></p> | | | |
| Managed Care | <p>Permits the injured worker to select any authorized physician. Employer has limited authority to transfer care if the interest of the injured worker necessitates it, or if the selected physician is not an authorized provider.</p> <p><u>Article 2, Section 13 of the New York Rule.</u></p> <p>Carriers may contract with preferred provider organizations (PPO). If employer is subject to a duty to collectively bargain, the employer shall collectively bargain the use and implementation of PPO's with the authorized bargaining unit.</p> <p>Carriers may contract with pharmacies and diagnostic services networks and require claimants to utilize those providers.</p> | <p>Only employers subject to collective bargaining are required to collectively bargain right to utilization of PPO's.</p> | <p>Unless the claimant is covered under a PPO, claimant's choice of physician is largely his own. Employers have little control over medical treatment.</p> | <p>N/A</p> |

| | | | | |
|--|---|--|---|--|
| <p>Controverted Claims</p> | <p>Yes</p> <p>Requires the carrier to begin payment of compensation or file a New York Form C-7 - Notice That Right To Compensation Is Controverted no later than 18 days after first disability or ten days after the employer has knowledge of the accident, whichever is later. In addition, the carrier must file the New York Form C-7 - Notice That Right To Compensation Is Controverted no later than 25 days from the date a Notice of Indexing has been sent or certain defenses are barred unless a late filing is excused by the Board for good cause show. Section 25 of the New York Workers' Compensation Law.</p> | <p>Carrier may file the New York Form C-7 - Notice That Right To Compensation Is Controverted by mail or electronically with the New York Workers' Compensation Board. A copy is to be sent to the employee, his representative, and all health providers.</p> | <p>Board may access penalty of \$300.00 for failure to file the New York Form C-7 - Notice That Right To Compensation Is Controverted within ten days of knowledge or 18 days of disability. Where New York Form C-7 - Notice That Right To Compensation Is Controverted is not filed within 25 days of the indexing, this results in waiver of defenses that injured worker was not an employee at the time of the accident, did not sustain an accidental injury or that the injury did not arise out of and in the course of employment. Board may excuse defense bar upon good cause shown. Section 25(2)(a) of the New York Workers' Compensation Law.</p> | <p>New York Form C-7 - Notice That Right To Compensation Is Controverted</p> |
| <p>Timely Reporting of Out of Work Status and Return to Work</p> | <p>Yes</p> <p>Employer is to promptly report a claimant's initial lost time and any subsequent periods of lost time by filing a New York Form C-11 - Employer's Report of Injured Worker's Change in Status or Return to Work with the Board and carrier.</p> | <p>New York Form C-11 - Employer's Report of Injured Worker's Change in Status or Return to Work is to be filed whenever the employment status changes. This includes the start of lost time, return to work, change in work hours, hourly rate or job title.</p> | <p>Confirms lost time, puts parties on notice of potential reduced earnings claim. Permits carrier to timely commence or suspend benefits. Failure to file form as requested by Board may result in a penalty.</p> | <p>New York Form C-11 - Employer's Report of Injured Worker's Change in Status or Return to Work</p> |

| | | | | |
|----------------------|---|---|---|---|
| Bona Fide Job Offers | <p>No</p> <p>Employer is not required under WCL to make a job offer of limited duty.</p> | <p>If the employer can accommodate the claimant's light duty restrictions, it should send a letter detailing the job duties and terms of employment. The letter should be sent to the employee, Return Receipt Requested.</p> | <p>Under case law, a partially disabled claimant has an obligation to seek work within his restrictions. If the claimant refuses a job offer consistent with his restrictions, he may be ineligible for benefits until he can establish a reattachment to the labor market.</p> | <p>N/A</p> |
| Wage Statements | <p>Yes</p> <p>A New York Form C-240 - Employer's Statement of Wage Earnings shall be filed within ten days upon request by the New York Workers' Compensation Board. A New York Form C-240 - Employer's Statement of Wage Earnings will be needed in all lost time or schedule loss claims.</p> | <p>The New York Form C-240 - Employer's Statement of Wage Earnings for the 52 weeks preceding the date of accident or disability includes gross earnings and number of days worked per week. Copies of the wage statement should be provided to the Board and carrier.</p> | <p>The wage statement establishes the claimant's average weekly wage which controls the applicable rate for total and partial benefits as well as reduced earnings.</p> | <p>New York Form C-240 - Employer's Statement of Wage Earnings</p> |
| Posting of Notices | <p>Yes</p> <p>New York Form C-105 - Notice of Compliance - WCL indicating that the employer has conformed with the requirements of the Article 4, Section 51 of the New York Workers' Compensation Law must be printed on a form prescribed by the chair and posted</p> | <p>New York Form C-105 - Notice of Compliance - WCL must be posted and maintained in conspicuous places accessible to employees at employer's places of business. Employer must obtain the New York Form C-105 - Notice of Compliance - WCL from its carrier.</p> | <p>The New York Workers' Compensation Board may require any employer to furnish written proof of insurance coverage and failure to supply such written statement within ten days is presumptive evidence that the employer has neglected or failed to</p> | <p>New York Form C-105 - Notice of Compliance - WCL (this form is not available online)</p> |



| | | | | |
|--|---|--|---|--|
| | and maintained in a conspicuous place at the employer's premises. | | comply. Failure to maintain proper posting also subjects the employer to a fine of up to \$250.00 for each violation. | |
|--|---|--|---|--|

The Travelers Indemnity Company
and its property casualty affiliates
One Tower Square
Hartford, CT 06183

travelers.com

This material does not amend, or otherwise affect, the provisions or coverages of any insurance policy or bond issued by Travelers. It is not a representation that coverage does or does not exist for any particular claim or loss under any such policy or bond. Coverage depends on the facts and circumstances involved in the claim or loss, all applicable policy or bond provisions, and any applicable law. Availability of coverage referenced in this document can depend on underwriting qualifications and state regulations.

© 2009 The Travelers Companies, Inc. All rights reserved. CE - 10151 New 8-09