

RULES CERTIFICATE

STATE OF WISCONSIN)
) SS
 DEPARTMENT OF)
 WORKFORCE DEVELOPMENT)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

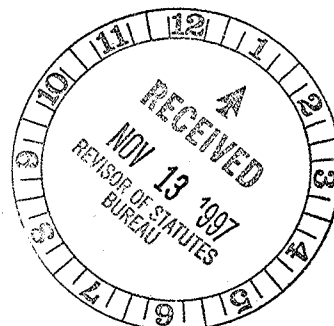
I, Linda Stewart, Secretary of the Department of Workforce Development, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to Reports were duly approved and adopted by this department on

I further certify that said copy has been compared by me with the original on file in the department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto
 set my hand and affixed the official seal of the
 department at 9:00 a.m.
 in the city of Madison, this 13th
 day of November A.D. 1997.

Linda Stewart

 Secretary



ORDER OF ADOPTION

Pursuant to authority vested in the Department of Workforce Development by section(s)
102.15(1), 102.28(2)(b), 102.37 and 102.38, Stats., the Department of Workforce Development
creates; amends; repeals and recreates; repeals and adopts rules of Wisconsin Administrative Code
chapter(s):

DWD 80.02

Reports

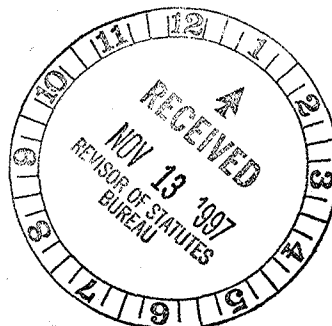
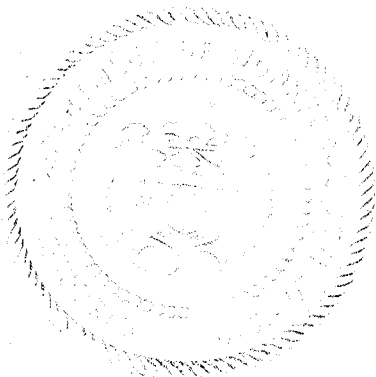
The attached rules shall take effect on January 1, 1998 pursuant to section 227.22, Stats.

Adopted at Madison, Wisconsin this

date: November 13, 1997

DEPARTMENT OF WORKFORCE DEVELOPMENT

Linela Stewart
Secretary





State of Wisconsin
Department of Workforce Development

RULES in FINAL DRAFT FORM

Rule No.: DWD 80.02

Relating to: Reports



The Wisconsin Department of Workforce Development proposes an order to amend DWD 80.02

Analysis of the Proposed Rule

Statutory Authority: ss. 102.15(1), 102.28(2)(b), 102.37 and 102.38, Stats.

The rule clarifies reports required by the department from insured employers, self-insured employers and insurance carriers. Generally, the rule eliminates or relaxes *reporting* requirements. It does not change prompt *payment* standards. Significant changes include:

- (1) Insured employers are no longer required by rule to file any first report of injury (WKC-12) with the Department (they will report only to their insurance carriers).
- (2) Insurance carriers will file the WKC-12 on behalf of their insured, but the deadline for doing so has been changed from 7 days after the injury to 14 days after the injury;
- (3) The current 14-day standard for insurance carriers and self-insured employers to file a supplemental report (WKC-13) and, if necessary, related documents (WKC-13-A, Part-time Employee Statement), has been changed from 14 days after the injury to 30 days after the injury; and,
- (4) Clarification that, except where investigations continue beyond 14 days, insurance carriers and self-insured employers are only required to report compensable injuries, not alleged injuries.

Under current law, there are several provisions in DWD 80.02 where the time period for reporting information is not specified or is indefinite (e.g., "immediately"). This rule sets a time period for reporting the information that is consistent with current, informal, department expectations. The rule also requires that, except for the WKC-12 and initial WKC-13, insurance carriers and self-insured employers shall provide injured employees with a copy of the documents submitted to the department. There are other minor clarifications or updates of language in the existing rule.

SECTION 1. DWD 80.02(1) and (2) are repealed and recreated to read:

80.02 Reports. (1) **EMPLOYERS.** An employer covered by the provisions of ch. 102, Stats., shall, within one day after the death of an employe due to a compensable injury, report the death to the department and the employer's insurance carrier by telegraph, telephone, letter, facsimile transmission or other means authorized by the department on a case-by-case basis as communication technologies change. An insured employer shall also notify its insurance carrier of a compensable injury within 7 days after the accident or beginning of a disability from occupational disease related to the employe's compensable injury if any of the following occurs:

(a) Disability exists beyond the 3rd day after the employe leaves work as a result of the accident or disease. In counting the days on which disability exists, include Sunday only if the employe usually works on Sunday.

(b) An employer's insurance carrier has primary liability for unpaid medical treatment.

(2) **SELF-INSURED EMPLOYERS AND INSURANCE COMPANIES.** Except as provided in sub. (3m), for injuries under sub. (1)(a) self-insured employers and insurance companies shall submit all of the following reports to the department:

(a) A first report of injury with the information required by a completed form WKC-12 on or before the 14th day after an accident or the beginning of a disability from occupational disease. If an employer does not notify the insurance carrier of the injury until after the 14th day, the insurance carrier shall submit the WKC-12 to the department within 7 days of receiving notice of the injury from any source.

(b) A supplementary report with the information required by form WKC-13 on or before the 30th day following the day on which the injury in par. (a) occurred.

(c) The wage information required by form WKC-13-A if the wage is less than the maximum wage as defined by s. 102.11(1), Stats. The WKC-13 required in par. (b) and the WKC-13-A shall be

submitted together, except that if the wage information required by form WKC-13-A is not available at the time the WKC-13 is submitted, the insurance carrier or self-insured employer shall estimate on the WKC-13 the date by which the WKC-13-A will be submitted.

(d) If applicable, a signed statement from the employee verifying that the employee restricts his or her availability on the labor market to part-time employment, and is not actively employed elsewhere. The employee's statement shall accompany the WKC-13-A, but no statement is required if the employee is under the age of 16.

(e) A report within 30 days after each of the following events occurs, with a copy to the employee, using form WKC-13 indicating all worker's compensation payments to date and the periods of time for which these payments were made:

1. Payment of compensation is changed from temporary disability to permanent disability.
2. Temporary disability benefits are reinstated.
3. Temporary partial disability is paid. The insurance carrier or self-insured employer shall also include the information required by form WKC-7359.
4. Final payment of compensation is made. If there are more than 3 weeks of temporary disability or any permanent disability, the insurance carrier or self-insured employer shall submit a final treating practitioner's report together with the final WKC-13 or shall explain why the report is not being submitted and shall estimate when the final practitioner's report will be submitted.

(f) When submitting a stipulation or compromise, and at the time of hearing, a current form WKC-13 indicating all worker's compensation payments to date and the periods of time for which these payments were made.

(g) Written notice within 7 days, with a copy to the employee, after each of the following:

1. Payments are stopped for any reason. If any payments are stopped for a reason other than the employe's return to work, the self-insured employer or insurance carrier shall explain why it stopped payments and shall advise the employe what to do to reinstate payments.

2. A decision to deny liability for payment of compensation is made, giving the reason for the denial and advising the employe of the right to a hearing before the department.

3. Amputation will require an artificial member or appliance.

(h) Within 14 days of the date of an alleged injury under par. (1)(a), if the claim is not paid or denied because the insurance carrier or self-insured employer is still investigating the claim, a written explanation giving the reason for further investigation, with a copy to the employe. If notice from an insured employer to its insurance carrier under sub. (1) is not timely, the insurance carrier shall comply within 14 days of receiving notice of the alleged injury from any source.

(i) If increased compensation is due, a final receipt within 30 days of the final payment to the employe, as proof of payment of that increased compensation.

(j) If the employe fails to return to a practitioner for a final examination, written notice within 30 days, with a copy to the employe, advising the employe that in order to determine permanent disability, if any, the final examination is necessary.

Note: All of the forms referred to in this rule can be obtained from the Department of Workforce Development, 201 East Washington Avenue, P.O. Box 7901, Madison, Wisconsin 53707-7901.

SECTION 2. DWD 80.02(3)(a) and (b) are amended to read:

80.02(3) Evaluation. In evaluating whether payments of compensation and reports made by insurance carriers and self-insured employers were prompt and proper under the provisions of ss. 102.28 (2) and 102.31 (3), Stats., and before undertaking to revoke the exemption from insurance under s. 102.28 (2) (c), Stats., or before recommending under s. 102.31 (3), Stats., to the commissioner of insurance that enforcement proceedings under s. 601.64, Stats., be invoked the department will consider

all of the following performance standards together with all other factors bearing on the performance and activities of the insurance carrier or self-insured employer:

(a) *Payment of first indemnity.* Whether 80% or more of first indemnity payments are mailed to the injured employe in 14 days or less following the date of injury or the last day worked after the injury before the first day of compensable lost time.

(b) *First report of injury.* Whether 70% or more of reports required under sub. (1) ~~(2)~~(a) are received by the department within 14 days of the date of injury or the last day worked after injury before the first day of compensable lost time.

SECTION 3. DWD 80.02(3m)(b) is amended to read:

DWD 80.02(3m)(b) The authorization shall be in writing and shall state the terms and conditions for granting and revoking the privilege to use electronic, magnetic or other reporting media, including any terms and conditions relating to reporting requirements or performance standards in subs. (1) to (3). The written authorization shall specify what variations exist, if any, between the data required to be submitted on forms WKC-12, WKC-13, ~~WKC-13a~~ WKC-13-A, or other forms that are used by the department and the data required to be submitted via electronic, magnetic or other media.

SECTION 4. DWD 80.02(3m)(c) is repealed.

Tommy G. Thompson
Governor

Linda Stewart
Secretary



State of Wisconsin

Department of Workforce Development

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November 13, 1997

ADM-7239 TRANSMITTAL OF RULE ADOPTION

Gary Poulson
Assistant Revisor of Statutes
Suite 800
131 W. Wilson St.
Madison, Wisconsin 53703-3233

Douglas LaFollette
Secretary of State
10th Floor
30 West Mifflin Street
Madison, Wisconsin 53703

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO.: 97-112
RULE NO.: DWD 80.02
RELATING TO: Reports

Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is included for permanent rules. A fiscal estimate and fiscal estimate worksheet is included with an emergency rule.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Linda Stewart'.

Linda Stewart
Secretary

