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Employer/Insurer Requirements	C.R.S. § Statutory and Rule References	Health Care Provider Implications for Office Policies and Procedures
<p>CO Employers are required to carrier Workers' Compensation Insurance</p>	<p>8-44-101. Insurance requirements. (1) Any employer subject to the provisions of articles 40 to 47 of this title shall secure compensation for all employees in one or more of the following ways, which shall be deemed to be compliance with the insurance requirements of said articles: (a) By insuring and keeping insured the payment of such compensation in the <u>Pinnacol Assurance fund;</u> (b) <u>By insuring and keeping insured the payment of such compensation with any stock or mutual corporation authorized to transact the business of workers' compensation insurance in this state.</u> ... (c) By procuring <u>a self-insurance permit</u> from the executive director as provided in section 8-44-201, except for public entity pools as prescribed in section 8-44-204 (3), which shall procure self-insurance certificates of authority from the commissioner of insurance as provided in section 8-44-204; (d) By procuring a self-insurance certificate of authority from the commissioner of insurance as provided in section 8-44-205.</p>	<p>Obtaining the employer's workers' compensation insurance information will require the provider to :</p> <ol style="list-style-type: none"> 1) Ask the employer; and/or 2) Lookup on DWC website; and/or 3) Obtain from referring provider, if applicable.
<p>CO Employers are required to report any injury to their insurer, but not to the DWC, regardless of how minor the injury.</p> <p>The employer <u>(insurer or TPA on behalf of the employer may file the First Report of Injury)</u> is required to file a First Report of Injury with the DWC within 10 days of notice or knowledge of one of the following:</p> <ol style="list-style-type: none"> 1) The injured worker is off work in excess of three (3) shifts or calendar days 2) Any employee with an Occupational Disease that has been listed by the Director by Rule 3) Employee has permanent physical impairment 4) Claim is denied 5) File immediately with the DWC if <ol style="list-style-type: none"> a) 3 or > employees are injured b) The injured worker is a fatality 	<p>8-43-101. Record of injuries - occupational disease - reported to division - rules. (1) Every employer shall keep a record of all injuries that result in fatality to, or permanent physical impairment of, or lost time from work for the injured employee in excess of three shifts or calendar days and the contraction by an employee of an occupational disease that has been listed by the director by rule. Within ten days after notice or knowledge that an employee has contracted such an occupational disease, or the occurrence of a permanently physically impairing injury, or lost-time injury to an employee, or immediately in the case of a fatality, the employer shall, upon forms prescribed by the division for that purpose, report said occupational disease, permanently physically impairing injury, lost-time injury, or fatality to the division. The report shall contain such information as shall be required by the director.</p>	<p>Providers may need to choose whether to allow an employer to bill them, instead of their insurer. Options on what to do?</p> <ol style="list-style-type: none"> 1) Refuse to allow and quote this statutory reference. 2) Allow, but be aware of the possibility if the employer does not pay for the care, the DWC may not be able assist with non-payment issues due to: <ol style="list-style-type: none"> a) The employer does not have WC insurance b) No WC claim has been established

8-43-103. Notice of injury - time limit.

(1) Notice of an injury, for which compensation and benefits are payable, shall be given by the employer to the division and insurance carrier, unless the employer is self-insured, within ten days after the injury. and, in case of the death of any employee resulting from any such injury or any accident in which three or more employees are injured, the employer shall give immediate notice thereof to the director.

5-2 FILING OF EMPLOYERS' FIRST REPORTS OF INJURY

(A) Within ten days of notice or knowledge an employer shall report any work-related injury, illness or exposure to an injurious substance as described in subsection (F), to the employer's insurer. An employer who does not provide the required notice may be subject to penalties or other sanctions.

(B) A First Report of Injury shall be filed with the Division in a timely manner whenever any of the following apply. The insurer or third-party administrator may file the First Report of Injury on behalf of the employer.

(1) In the event of an injury that results in a fatality, or an accident in which three or more employees are injured, the Division shall be notified immediately.

(2) Within ten days after notice or knowledge by an employer that an employee has contracted an occupational disease listed below, or the occurrence of a permanently physically impairing injury, or that an injury or occupational disease has resulted in lost time from work for the injured employee in excess of three shifts or calendar days. An occupational disease that falls into any of the following categories requires the filing of a First Report of Injury:

- (a) Chronic respiratory disease;
- (b) Cancer;
- (c) Pneumoconiosis, including but not limited to Coal worker's lung, Asbestosis, Silicosis, and Berylliosis;
- (d) Nervous system diseases;
- (e) Blood borne infectious, contagious diseases.

(3) Within ten days after notice or knowledge of a claim for benefits, including medical benefits only, that is denied for any reason.

(C) The insurer shall state whether liability is admitted or contested within 20 days after the date the employer's First Report of Injury is filed with the Division. If an Employer's First Report of Injury should have been filed with the

	<p>Division, but wasn't, the insurer's statement concerning liability is considered to be due within 20 days from the date the Employer's First Report of Injury should have been filed. The date a First Report of Injury should have been filed with the Division is the last day it could have been timely filed in compliance with paragraph (B) above.</p> <p>(D) The insurer shall state whether liability is admitted or contested within 20 days after the date the Division mails to the insurer a Worker's Claim for Compensation or Dependent's Notice and Claim for Compensation.</p> <p>(E) No statement regarding liability is required unless a Workers' Compensation claim number is assigned or a First Report of Injury should have been filed pursuant to paragraph (B) of this rule. The Division cannot accept a statement regarding liability without a First Report of Injury, Worker's Claim for Compensation, or Dependents Notice and claim having been successfully filed and assigned a claim number.</p>	
<p>Anyone can file a claim with the DWC on behalf of an injured worker</p>	<p>8-43-103. Notice of injury - time limit.... <u><i>If no such notice is given by the employer, as required by articles 40 to 47 of this title, such notice may be given by any person.</i></u></p>	<p>If no claim has been established or the insurer does not have a first report of injury from the employer. Options include:</p> <ol style="list-style-type: none"> 1) Have the injured worker file the claim with the DWC 2) Request the insurer or TPA to file the First Report of Injury and position on claim. 3) If injured worker does not file the claim the provider may file the claim with the DWC.
<p>Treatment in an admitted CO Workers' Compensation claim is based upon what is "reasonable and necessary and related" to the injury.</p>	<p>8-42-101. Employer must furnish medical aid - approval of plan - fee schedule - contracting for treatment - no recovery from employee - medical treatment guidelines - accreditation of physicians - rules - repeal</p> <p>(1) (a) Every employer, regardless of said employer's method of insurance, shall furnish such medical, surgical, dental, nursing, and hospital treatment, medical, hospital, and surgical supplies, crutches, and apparatus <u><i>as may reasonably be needed at the time of the injury or occupational disease and thereafter during the disability to cure and relieve the employee from the effects of the injury.</i></u></p> <p>8-42-101</p> <p>(3)(b) Medical treatment guidelines and utilization standards, developed by the director, shall be used by health care practitioners for compliance with this section.</p>	<p>Providers are required to establish in their medical records the medical reasonableness and necessity of their care. In addition, physicians are requested to opine on whether the injury is work related or not. Physicians are requested to determine when an injured worker has reached Maximum Medical Improvement (MMI). MD and DO Level II Accredited Physicians are to provide an impairment rating after the injured worker reaches MMI.</p> <p>CO DWC's Medical Treatment Guidelines (MTG) is covered under Rule 17.</p> <p>Providers are required to utilize the DWC's Medical Treatment guidelines. When using the MTGs the providers</p>

		<p>should document:</p> <ol style="list-style-type: none"> 1) A patient specific treatment plan that includes objective realistic functional goals 2) Engage the injured worker in the development of their care plans 3) Reference MTG criteria and how the ordered testing or treatment for that particular injured worker is meeting the criteria listed in the appropriate MTG 4) Effectiveness of treatment (DC, specialist care, PT, OT, etc) and medical necessity for continued care or changes needed to further evaluate or medical necessity for different treatment options 5) Opine on causality (relatedness) if applicable
<p>Whether a CO worker’s compensation injury is an admitted or denied claim is a legal decision. This legal decision is made by the claims adjuster who may or may not utilize the “authorized treating physicians” opinion in making this determination. The adjuster can “deny” the entire workers’ compensation claim or “deny pending investigation”</p>	<p>5-2 FILING OF EMPLOYERS' FIRST REPORTS OF INJURY</p> <p>(C) <u><i>The insurer shall state whether liability is admitted or contested within 20 days after the date the employer's First Report of Injury is filed with the Division.</i></u> If an Employer's First Report of Injury should have been filed with the Division, but wasn't, the insurer's statement concerning liability is considered to be due within 20 days from the date the Employer's First Report of Injury should have been filed. The date a First Report of Injury should have been filed with the Division is the last day it could have been timely filed in compliance with paragraph (B) above.</p> <p>(D) The insurer shall state whether liability is admitted or contested within 20 days after the date the Division mails to the insurer a Worker's Claim for Compensation or Dependent's Notice and Claim for Compensation.</p> <p>(E) No statement regarding liability is required unless a Workers' Compensation claim number is assigned or a First Report of Injury should have been filed pursuant to paragraph (B) of this rule. The Division cannot accept a statement regarding liability without a First Report of Injury, Worker's Claim for Compensation, or Dependents Notice and claim having been successfully filed and assigned a claim number.</p>	<p>Clarify with employers and/or their insurers:</p> <ol style="list-style-type: none"> 1) How many visits will they pay for if the claim is denied or denied pending investigation? and 2) How will you as the provider be notified when a claim is denied? <ol style="list-style-type: none"> a) Contracts with payers/employers b) Template letters from payer to provider or provider to payer c) Email exchanged between adjuster and providers

<p>Workers' Compensation claims can be covered by non CO State Workers' Compensation laws/rules:</p> <ol style="list-style-type: none"> 1) Other State Workers' Compensation Acts 2) Federal Employees' Compensation Act (FECA) 3) Federal Employers' Liability Act (Railroad Workers Act) 4) The Longshore and Harbor Workers' Compensation Act occurring on the navigable waters and piers of the United States. 		<p>Provider offices should verify with whoever is paying the bills:</p> <ol style="list-style-type: none"> 1) What law that is being applied? 2) What fees schedule will be applied? 3) Any billing requirements or limitations? 4) Any treatment guidelines being applied? <ol style="list-style-type: none"> a) American College of Occupational and Environmental Medicine (ACOEM) Practice Guidelines <ol style="list-style-type: none"> a. Official Disability Guidelines (ODG) b. State specific guidelines