

The Governor declared a state of emergency March 11, 2020 and has issued Executive Orders directing state and private employers to dramatically reduce the number of employees reporting to work in person.

The increase in individuals working remotely, combined with the guidelines for “social distancing” have created barriers to injured workers and others in accessing the workers’ compensation system. Additionally, the Division of Workers’ Compensation is striving to move all employees to remote work in order to protect employee safety and the safety of the general public.

The emergency rules contain provisions reducing the need for injured workers to interact with other individuals, mandate communications via email and remove requirements placing a significant burden on healthcare providers.

The substantive sections of the emergency rule are as follows:

Section 4: Settlement Documents – This section temporarily suspends the requirement to have settlement agreements notarized. With many law offices and banks shutting their doors, injured workers are struggling to find notaries. Settlement agreements are a critical way for injured workers to receive near-immediate cash payouts. Delays in processing these agreements, especially during this declared emergency, can create a substantial hardship for Colorado workers. The emergency rule allows for submission of documents without notarization, so long as a copy or photo of a photo ID is included. This will allow anyone with a smart phone or access to a photocopier to electronically submit settlement documents.

Section 5: Rejection of Coverage – Rejections of coverage are required for a variety of self-employed individuals who elect not to obtain workers’ compensation insurance for themselves. In many counties, general contractors are unable to obtain building permits unless they have filed this document with the Division of Workers’ Compensation. The emergency rule permits electronic filing of these forms; however, in order to comply with statute, paper copies must be submitted via certified mail within ninety days. Electronic submission will ensure that individuals who need to file this form in order to perform essential services are able to do so.

Section 6: Disfigurement Award – Injured workers can receive benefits for any permanent disfigurement they have suffered. While typically less than \$5,000, these benefits could be critical for some injured workers. Due to “social distancing” measures in place at the Office of Administrative Courts, hearings to determine the amount of these benefits can no longer take place in person. Injured workers must submit photographs for judicial review. The emergency rule permits electronic submission of the required forms and documentation.

Section 7: Motions to Close – This section will permit the Division of Workers’ Compensation to move several employees to remote working by requiring that these routine procedural motions be submitted and processed via email rather than in hard copy.

Section 8: Utilization Procedures – This section includes two provisions to reduce non-essential use of medical resources. The first suspends a requirement that injured workers be seen personally by a physician within the first three scheduled appointments. This provisions will

allow injured workers to receive treatment from physician assistants and other appropriate medical professionals. The second provision extends the deadline for insurers to obtain medical review of requests for non-essential treatment. This means insurers will not be asking physicians to review requests for authorization regarding medical procedures which cannot currently be performed.

Section 9; Electronic Communications – This section requires electronic submission of communication with the Division of Workers' Compensation. Requiring electronic submission will allow most employees of the Division of Workers' Compensation to continue to complete their duties while working remotely. Moving to electronic communication also eliminates the need for insurers, attorneys, doctors and others to be in their offices printing and mailing documents.