



Board Releases (Subject Numbers)

New York State
Workers' Compensation Board
OFFICE OF THE CHAIR
20 Park Street Albany, New York 12207

Governor David A. Paterson

Subject No. 046-283

Enforcement of Requirement to File Form C-2, Employer's Report of Work-Related Injury/Illness

Date: February 10, 2009

Workers' Compensation Law Section 110 requires employers to record any injury or illness incurred by their employees in the course of employment using the form created by the Workers' Compensation Board for this purpose, Form C-2, Employer's Report of Work-Related Injury/Illness. Employers must maintain the completed forms, which are subject to review by the Board at any time, for 18 years.

In addition to maintaining these records, an employer must file a completed Form C-2 with the Board, and with its insurance carrier if insured, when a work-related injury or illness results in personal injury causing:

- a loss of time from regular duties of one day beyond the working day or shift on which the accident occurred; or
- will require medical treatment beyond ordinary first aid; or
- more than two treatments by a person rendering first aid.

Form C-2 must be filed within 10 days after the accident. Employers may designate a third party to complete and/or file Form C-2.

In Subject No. 046-250 dated September 17, 2008, the Board announced that it had substantially revised Form C-2 and other core Board forms. Revised Form C-2 requests additional information such as: policy period, date the employee gave notice of accident/illness, the employee's supervisor, a list of any witnesses and whether the employee was given a Claimant Information Packet. All parties were to begin using the new Form C-2 by no later than January 1, 2009. A slightly revised version of Form C-2 was issued in October 2008.

The Board has received requests to delay the imposition of penalties on employers who fail to file the new Form C-2 (9-08 or 10-08 version) based upon challenges employers face in meeting the January 1, 2009, deadline for submission of the revised form. The challenges cited include the need to inform the over 600,000 employers in the State and the time it takes to implement the revised form into their office software and/or business practices.

In light of these challenges the Board will not impose penalties on employers failing to submit the new form (version 9-08 or 10-09) until April 1, 2009. Between now and March 31, 2009, employers will not be penalized if they do not use the new Form C-2 (9-08 or 10-08 version). Despite the delay in penalties being imposed, the Board encourages all employers to begin using the new form immediately.

As of April 1, 2009, employers must use the new Form C-2 (9-08 or 10-08 version). Employers who do not use the new Form C-2 (9-08 or 10-08 version) or do not submit a Form C-2 at all, will be penalized. In other words, if an employer refuses or neglects to complete Form C-2 (9-08 or 10-08 version) and/or to file the form with the Board within 10 days after the accident, it will be fined by the Board. A Board claims examiner may issue an Administrative Decision and impose a penalty of \$50 for failure to file a form pursuant to WCL section 25 (3) (e). Additionally, pursuant to WCL section 110 (4), the Board may impose a penalty up to \$2,500 against an employer who refuses or neglects to file a C-2. This increased penalty can be used against employers who repeatedly fail to file a C-2 or who employ many employees.

Employers must make every effort to fully complete the Form C-2 (9-08 or 10-08 version). The Board recognizes that employers may not have the information to answer all of the questions on the Form C-2 (9-08 or 10-08 version) within 10 days of the date of accident. When this occurs, the employer should complete the form to the best of its ability, indicate

where it does not have the information and timely file the form. However, if the Board receives a Form C-2 (9-08 or 10-08 version) that is deficient because a significant number of the questions are unanswered, the employer will be penalized for not filing the form. The decision as to whether a form is deficient will be made by a Workers' Compensation Law Judge or Conciliator.

Please note that the Claimant Information Packet can be found on the Board's website at <http://www.wcb.state.ny.us/content/main/Workers/ClaimantInformationPacket.pdf> Employers must provide this document along with the Employee Claim (Form C-3) and the Limited Release of Health Information (Form C-3.3).

Form C-2 (10-08) is available at the Board's website for downloading at:
<http://www.wcb.state.ny.us/content/main/forms/c2.pdf>

and for on-line submission at:

https://www.wcb.state.ny.us/onlineforms/interface/index_C2.htm

Thank you for your cooperation.

Zachary S. Weiss
Chair