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MAE News: Newsletter from the Office of Monitoring, Audit and Enforcement, Fall 2010

Maine Workers' Compensation Board

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Winter Training Sessions

The MAE Program's winter open training sessions will take place on **January 27-28, 2011** in the Department of Agriculture's third floor conference room located in the Deering Building (90 Blossom Lane) on the State's Augusta East Side Campus. (This is the same building where the Workers' Compensation Board's Central Office is located.)

The January 27th session will present the Basic Compliance program that includes basic forms and payment compliance training. The January 28th session will present the Advanced Compliance program that includes AWW and partial benefit calculation training followed by a group case study.

To sign up for one or more of these sessions, or if your company is in need of personalized training on form filing or other compliance issues, contact Anne Poulin.

National Council on Compensation Insurance, Inc. (NCCI) News

The Maine Bureau of Insurance has approved a change to NCCI's Exclusion of Maine Penalties for Unit Statistical Reporting. The change makes it clear that regardless of the reason, all penalties must be excluded from medical losses (incurred and paid), indemnity losses (incurred and paid), and Allocated Loss Adjustment Expense (incurred and paid). These penalties must not be recouped in the base rate, the premium or any rate filing. The filing is effective for claims valued no later than January 2011.

NCCI held its Maine State Advisory Forum at the Portland Country Club on October 21, 2010. The workers' compensation environment was described by State Relations Executive Laura Backus Hall as "precarious". Click on the following link to view the presentation in its entirety: <http://www.ncci.com/nccimain/Events/MinutesPresentationsMaterials/Pages/StateAdvisoryForumPresentations.aspx>

From the Office of Information Services

A recent question regarding how to electronically file a Notice of Controversy (Partial Denial) for a new employee-alleged Initial Date Disability Began when payments have already been made has generated a fair amount of discussion.

When a new employee-alleged Initial Date Disability Began is controverted, the information in the Initial Date Disability Began (DN0056) and Date Employer had Knowledge of Date of Disability (DN0281) should remain unchanged. The new alleged initial date of disability and the date that the employer was made aware of this new date must be entered into the beginning of the Denial Reason Narrative (DN0197). It is mandatory that these two dates be made part of the denial.

If the Initial Date Disability Began (DN0056) and Date Employer Had Knowledge of Date of Disability (DN0281) need to be changed as a result of Mediation or Hearing, the Claim Administrator must send a FROI Change Transaction (MTC 02) to update these two dates (DN0056 and DN0281), make payments as necessary, and amend and resubmit paper filings accordingly.

If you have questions, please contact Paul Fortier at (207) 287-3818 or Paul.Fortier@Maine.Gov.

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The Workers' Compensation Board has adopted a new audio- and videoconferencing policy regarding mediation.

The new policy states: **Mediations shall be conducted telephonically unless both parties agree to appear in person. If it is available and feasible, and both parties consent, videoconferencing may be used instead of teleconferencing.**

As of October 1, 2010, requests to conduct the mediation in person must be agreed to by all parties and submitted in writing to the Board at least 7 days prior to the scheduled mediation. As of October 1, 2010, requests to conduct the mediation by videoconferencing must be must be agreed to by all parties and submitted in writing at least 7 days prior to the scheduled mediation so it can be determined if videoconferencing is feasible and, if it is, appropriate arrangements can be made.

Attendance by a party in person is permissible if they notify the other party or parties and the Board prior to the mediation.

Reminders From the Office of Medical and Rehabilitation Services WCB Rules and Regulations Chapter 4, Section 4: Expenses and Fees for Independent Medical Examinations under 39-A M.R.S.A. § 312

1. Expenses incurred by the employee attending an independent medical examination are to be paid for by the employer. The following rates of reimbursement shall apply for travel:
 - A. \$.44 per mile for mileage reimbursements.
 - B. Actual costs or a maximum of \$120.00 per evening for overnight lodging. Reimbursement for overnight lodging is allowed only when the employee has traveled 100 miles or more, one way, from the employee's place of residence.
 - C. \$6.00 for breakfast, \$6.00 for lunch, and \$16.00 for dinner. Reimbursement for meals is allowed only when the employee has traveled 50 miles or more, one way, from the employee's place of residence.
 - D. Actual charges for tolls, accompanied by a receipt.
2. Independent medical examinations will have a maximum charge of \$300.00 per hour up to a maximum of five hours for review of records and information, the performance of any necessary examinations, and the preparation of the written report. This charge does not include such diagnostic testing as may be necessary. Additional charges may be allowed with the consent of both parties or by the Deputy Director of Medical/Rehabilitation Services for good cause shown. The fee for the examination and report must be paid by the employer.
3. If additional diagnostic tests are required, payment for such tests whether performed by the independent medical examiner or by another health care provider at the request of the examiner, shall be in accordance with the Board's Medical Fee Schedule and paid for by the employer.
4. If the employee fails to attend the independent medical examination or if an examination is cancelled by the employee or employer within 48 hours of the scheduled time, the independent medical examiner may charge and receive up to \$200, to be paid initially by the employer, subject to the right of the employer to be reimbursed by the employee if the failure to appear or the cancellation by the employee was without good cause. This determination shall be made by the hearing officer.
5. The reasonable costs of depositions of examiners, including the examiner's fees, court reporter's fees, and transcript costs, shall be borne by the requesting party.

If you have questions, please contact Betty Inman at (207) 941-4557 or
Betty.Inman@Maine.Gov.