



Keeping OSHA in the Loop

By Douglas S. Jenks and Abigail K. White

Employers, beware: Responding to a work injury is stressful enough, but did you know that you may have to tell the Occupational Safety & Health Administration (OSHA) about the injury and record it on OSHA logs? Employers that do not follow OSHA's reporting and recording rules may face OSHA citations, not to mention citations for the conditions that caused the work injury.

Reporting Injuries

As of Jan. 1, 2015, OSHA requires employers to report any work injury causing inpatient care for one or more employees, provided the care occurs within 24 hours of the work-related incident. Previously, employers were only required to report work injuries when three or more employees were admitted to the hospital. The employer must contact OSHA within 24 hours of learning about the inpatient hospitalization.

Inpatient hospitalization means that the employee has been admitted to the hospital for treatment. As such, the employer need not notify OSHA if the employee is treated in the emergency room, or if ER doctors admit the employee only for "observation." However, even a saline IV or one dose of prescription medication constitutes treatment. Chances are that an employee admitted for observation will be treated. Under that scenario, the employer must notify OSHA within 24 hours of learning that the hospital actually provided treatment.

Moreover, regardless of inpatient care, employers must notify OSHA of an injury resulting in amputation of any body part or loss of an eye. This might sound obvious, but OSHA's definition of amputation is very broad. Many reasonable employers would not know when their employee suffered an "amputation."

OSHA defines amputation as "loss of a limb or other external body part . . . such as a limb or appendage, that has been severed, cut-off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; amputations of body parts that have since been reattached."

Under this definition, loss of skin at the fingertip is considered an amputation if it is confirmed as such in the treatment notes. Even if there is no loss of bone, or even exposure of bone, such an injury would fall under OSHA's definition of an amputation.

When in doubt, follow the treatment notes. For example, if the health care providers diagnose "amputation of tip of small finger," then an amputation has occurred. Again, employers must report such injuries within 24 hours.

Reporting Fatalities

More predictably, OSHA also requires employers to report any workplace fatality. Employers have just eight hours to report fatalities, instead of 24 hours for inpatient hospitalizations.

If a workplace accident causes a fatality within 30 days, then the employer again has just eight hours to report the fatality from the time of death, like any other fatality. However, if the death occurs more than 30 days after the accident, then the employer does not have to make the report.

Employers also must report heart attacks. If an employee has



a heart attack at work, whether or not the employer concludes that a workplace accident caused it, OSHA still requires the employer to report this like any work accident causing a fatality or inpatient hospitalization.

Making the Report

Employers must report the injuries or fatalities to the OSHA area office closest to the accident location. If the accident occurs after office hours, the employer can call 800-321-OSHA. OSHA has promised to create an online form, but has not done so yet.

When reporting an injury to OSHA, employers should provide the following:

- 1 The employer name
- 2 The time and place of the workplace accident
- 3 The number of injured employees
- 4 The names of the employees
- 5 A contact person for the company
- 6 A brief description of the workplace accident, and
- 7 The time and date of the report (when leaving a message).

Recording Injuries

In addition to contacting OSHA regarding injuries and fatalities as described above, OSHA requires employers to record work injuries and illnesses on particular forms.

Specifically, employers must record any injury or illness that causes an employee to miss work, or causes an employee to work light duty or a different job. Employers also must record any injury or illness that causes an employee to lose consciousness or results in medical treatment beyond first aid.

OSHA generally considers first aid to be over-the-counter medication, bandages, soft wraps (like an Ace bandage), hot or cold packs, washing of wounds, eye patches, massage therapy, and fluids for heat stress (OSHA has provided a complete list of first-aid treatments at its website, osha.gov). Again, employers must record any injury that requires treatment beyond first aid.

Employers must record these injuries and illnesses on three particular documents: the OSHA 300, 300A, and 301, all of which are downloadable from OSHA's website.

The OSHA 300 is the "Log of

Work-Related Injuries and Illnesses."

Employers with one or more employees at any time during the calendar year must use this form to record each work injury by noting the employees' names, job titles, dates of injuries, injury locations, descriptions of the injuries, and days missed from work. Employers also must classify the type of each injury.

The OSHA 300A is the "Summary of Work-Related Injuries and Illnesses." Employers must use this form to summarize the data collected in the OSHA 300. Where the OSHA 300 included information specific to each injury, this form is used to quantify that information, such as the total number of injuries, number of injuries by type, and total number of missed work days due to injuries. The OSHA 300A must be signed by an officer of the company and posted in the workplace from Feb. 1 through April 30 each year.

Lastly, the OSHA 301 is the "Injury and Illness Incident Report." This is essentially an accident report for each workplace injury. Employers do not have to specifically use OSHA's form in this instance, as long as the employer has an equivalent form that contains at least the information on the OSHA 301.

There are very specific requirements for these forms, including what is recorded, when it is recorded, and where the forms are physically kept. Again, OSHA has information on this on its website.

Currently, there is no requirement that employers proactively submit these forms to OSHA, but OSHA is considering such a rule. For now, employers must simply retain these forms for OSHA's inspection. Employers have just four business hours to produce the OSHA 300 or 300A if OSHA requests them. Failure to comply may be considered a serious violation of the OSHA record-keeping standard and may result in a penalty of up to \$7,000.

Be Vigilant and Keep Good Records

In sum, it is not enough to see that injured employees are properly treated or that workplace hazards are abated. Employers must fulfill their responsibilities under OSHA, or the state equivalent. Twenty-three states, plus Puerto Rico and the Virgin Islands, have OSHA-approved state plans with rules that are at least as strict as federal OSHA. Employers should carefully review the requirements under federal OSHA or their own state OSHA plan regarding reporting and recording work injuries. ■

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