

# Employers' Initial Accident-Reporting Obligations

## Claims

<b>Application Date</b>	This policy applies to all decisions made on or after November 1, 2005, for all accidents on or after March 1, 2000.
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## Policy

### When notice is required

Employers **must** report a work-related accident to the WSIB if they learn that a worker requires health care and/or

- is absent from regular work
- earns less than regular pay for regular work (e.g., part-time hours)
- requires modified work at less than regular pay
- requires modified work at regular pay for more than seven **calendar** days following the date of accident.

When deciding whether to report an accident where a worker requires modified work at regular pay for more than seven calendar days, employers should consider that

- shift workers, or those on irregular work patterns, may not be scheduled to work on the eighth calendar day. In these cases, the employer must report the accident if the worker requires modified work on the first shift that follows the eighth calendar day.
- the seven calendar day period is not reset for workers that initially require modified work for less than seven calendar days, return to regular work for a brief period, and then require further modified work. In these cases, the requirement to report is based on whether the worker requires modified work after the initial seven calendar days following the date of accident.
- if a worker initially returns to regular work, but then requires modified work, the employer must report the accident if the worker requires modified work for more than seven calendar days from the date that the modified work began.

## NOTE

The use of calendar days reflects the WSIB's notion that if an injury affects the worker's ability to perform regular work after a week, health care is likely to be sought, regardless of the number of days worked.

## When notice is not required

Employers are **not** required to report a work-related accident if the worker

- receives only first aid
- receives first aid and requires modified work at regular pay for seven calendar days or less, following the date of accident
- does not receive first aid, but requires modified work at regular pay for seven calendar days or less, following the date of accident.

## NOTE

There are special rules if the worker is exposed to, or it is suspected that the worker has been exposed to, an infectious disease through needle stick injury.

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## Guidelines

### Definition of health care

Health care includes

- services requiring the professional skills of a health care practitioner (e.g., doctor, nurse, chiropractor, or physiotherapist, see [17-01-02, Entitlement to Health Care](#))
- services provided at hospitals and health facilities
- prescription drugs.

### Definition of first aid

First aid is the one-time treatment or care and any follow-up visit(s) for observation purposes only.

First aid includes, but is not limited to

- cleaning minor cuts, scrapes, or scratches
- treating a minor burn
- applying bandages and/or dressings
- applying a cold compress, cold pack, or ice bag
- applying a splint
- changing a bandage or a dressing after a follow-up observation visit.

### Accidents requiring health care

In deciding whether an accident should be reported to the WSIB because "care" has been provided to the worker, the employer should consider the type of care provided, rather than the professional qualifications of the provider giving the care, or where the care was provided.

The employer **must** report the accident to the WSIB when a worker is injured and the treatment received **could only have been administered by a health care practitioner**.

The accident must be reported **regardless** of whether

- the employer pays the health care practitioner for the service provided, and/or
- the health care practitioner treats the worker on the employer's premises.

An employer **is not required** to report the accident to the WSIB if first aid is provided to a worker by a

- co-worker, manager, lay person, or
- health care practitioner, when the first aid did not require the professional skills of that practitioner.

### **Example (First Aid)**

A worker goes to the first aid room and has a dressing applied to a minor cut by a registered nurse. Although the registered nurse is a health care practitioner, the employer is not required to report the accident because the worker simply received first aid.

### **Example (Health Care)**

A worker goes to the first aid room and has a dressing applied to a minor cut by a registered nurse. The company doctor is informed of the incident and decides that the worker should receive a tetanus shot. Even if the worker returns to work on the same shift, the employer must report the accident because a tetanus shot is considered health care.

## **Reporting of diseases**

If a worker is claiming to have developed a disease as a result of workplace exposure, an employer is required to report to the WSIB as previously outlined under the section entitled "When notice is required".

### **Exposure to infectious diseases through needle stick injury**

Some employers, such as hospitals, follow a surveillance protocol (a procedure for testing and monitoring) when a worker has been exposed to, or is suspected of having been exposed to, an infectious disease through a needle stick injury. These employers must maintain records of the incident, and any testing and monitoring.

If a worker of an employer that follows a surveillance protocol tests negative for exposure to an infectious disease through a needle stick injury, the employer is **not** required to submit an accident report. However, if the worker tests positive for an infectious disease, or requires any type of treatment related to the incident, the employer **must** report to the WSIB.

If a worker tests negative, but claims an emotional or anxiety-related response following the accident, the employer **must** report the accident.

In cases where HIV infection is suspected, the employer must report the accident if a health care practitioner provides a post-exposure prophylaxis (PEP) (see 23-01-01, Post-exposure Prophylaxis for Occupational Exposure to HIV).

If it is suspected that a worker has been exposed to an infectious disease through a needle stick injury, but the worker chooses not to participate in the surveillance protocol, the employer **must** report the accident to the WSIB.

Employers who do not follow a surveillance protocol **must** report when a worker has been exposed to, or is suspected of having been exposed to, an infectious disease through a needle stick injury.

## **How employers report the accident**

The WSIB uses a variety of forms to collect accident information from an employer. In every case, the information must be sufficient to allow the WSIB to set up a claim.

Accordingly, the WSIB allows the employer to report the accident through the use of an

- [Employer's Report of Injury/Disease Form 7 \(Form 7\)](#), (see [www.wsib.on.ca](http://www.wsib.on.ca))
- WSIB-approved accident reporting form created by the employer
- WSIB-approved electronic reporting form.

## NOTE

Unless specified, all references to [Form 7s](#) in this document also apply to WSIB-approved accident report forms. An accident reporting form created by the employer, or an electronic reporting form, must be an exact copy of the Form 7 in format and substance. The form must be approved by the WSIB before it can be used.

Besides completing a [Form 7](#), employers may provide additional information to the WSIB regarding the claim.

## Authorization

To be considered valid, a completed [Form 7](#) must be authorized by the employer or a representative of the employer (e.g., a bookkeeper, safety representative, or an accountant).

Sole proprietors and independent operators who have obtained optional insurance may authorize a report of their own accident. Partners and executive officers who have obtained optional insurance may not.

## Reporting deadline

The WSIB must receive an employer's complete accident report within seven **business** days of the employer learning of the reporting obligation. (Business days are Monday to Friday, and do not include statutory holidays.)

In every case, the employer's reporting obligation depends on the nature of the worker's claim. For example, if the worker is injured and seeks health care on the day of injury, the reporting obligation begins immediately. If, however, a worker is injured and returns to modified work at regular pay without seeking health care, the reporting obligation would not generally begin until the eighth **calendar** day.

Workers must receive a copy of the accident report that is provided to the WSIB (including any additional information provided by the employer).

## Claim set up using another form

If a claim is set up based on a [Form 6 \(Worker's Report of Injury/Disease\)](#) or a [Form 8 \(Health Professional's Report\)](#), the WSIB asks that a [Form 7](#) be completed. WSIB forms are available at [Form 7](#) request, the WSIB allows the employer a further seven **business** days to provide the Form 7 information.

However, if the WSIB determines that the employer was aware of the reporting obligation before receiving the [Form 7](#) request, the seven **business** days begin from the date the employer learned of the obligation.

## Employer's failure to comply

At the initial entitlement stage of a claim, the WSIB may levy four separate \$250 penalties -- one each for

- late reporting
- incomplete reporting,
- not reporting on a pre-approved version of the form, and

- failing to provide a copy of the [Form 7](#) to the worker.

The WSIB may again levy these penalties if the employer fails to respond to subsequent requests for information, or at the time of a recurrence.

Because failing to comply is also a provincial offence, employers may be prosecuted. If convicted, employers are liable for a fine of up to

- \$25,000 or up to 6 months in jail, or both, for individuals, and
- \$100,000 for corporate entities.

## **Objections to penalties**

When considering an employer's objection to a penalty, the decision-maker reviews the employer's accident-reporting penalty record to determine whether there is a pattern of late or incomplete reporting.

## **Federal government**

For employees of departments of the federal government, Crown corporations, and agencies of the federal government, workplace insurance is provided through the *Government Employees Compensation Act* (GECA).

Before the WSIB can adjudicate a claim for an employee covered under GECA, Human Resources and Social Development Canada - Labour Program, must counter-sign the [Form 7](#) to identify the claim as a federal accident report covered under GECA.

While the WSIB **does not** exempt federal employers from their general reporting obligations, it **does**, because of the counter-signing requirement, exempt them from late reporting penalties.

## **Health and safety reporting obligations**

The *Occupational Health and Safety Act* (OHSA), and the regulations under OHSA require employers to provide information to their health and safety committees. If a photocopy of the [Form 7](#) is used for this purpose, personal information (e.g., the worker's Social Insurance Number, telephone number, earnings information, and pre-existing medical conditions) must be removed.

To determine the exact nature of these reporting obligations, employers should refer to the OHSA.

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## **Document history**

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15-01-02, dated October 10, 2004

15-01-02 dated March 23, 2000

3.1 dated January 1, 1998

02-02-03 dated January 3, 1995.

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## **References**

### **Legislative authority**

*Workplace Safety and Insurance Act, 1997*, as amended

Sections 21, 32, 152(3), 158

O. Reg 175/98

Section 15

R.R.O 1990, Reg. 1101

Section 5

### **Minute**

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