



Oregon

John A. Kitzhaber, MD, Governor

Department of Consumer and Business Services
Workers' Compensation Division
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To: Workers' compensation insurers

Subject: Civil penalties for proof-of-coverage filings and mid-term cancellations

Industry Notice

The Workers' Compensation Division (WCD) will be reinstating the assessment of quarterly civil penalties to insurers in 2013 for late proof-of-coverage filings and late notices to the director of mid-term cancellation. Penalties previously assessed for insurers' filings were temporarily suspended in 2009 when Oregon converted to the current policy-based proof-of-coverage system.

Oregon law requires insurers to file proof of workers' compensation coverage, on behalf of insured employers, with the Department of Consumer and Business Services (DCBS). WCD monitors proof-of-coverage filings and investigates employers when their policies expire or are canceled mid-term to ensure necessary coverage exists to protect both employers and their workers for work-related injuries. These activities require that insurers provide WCD timely coverage filings and mid-term cancellations at a satisfactory level of performance.

WCD will resume the assessment of civil penalties for untimely filing performance for activity in the first quarter of 2013 and each quarter thereafter. Penalties will be assessed for both untimely proof-of-coverage filings and late notices of mid-term cancellation. Before resuming penalties, the division will provide insurers with data about their delinquent filings for the second and third quarters of 2012. WCD will also provide insurers with late-filed proof of coverage and mid-term cancellation data along with dollar amounts of civil penalties that would have been assessed for these sample results. This information will allow insurers to make necessary adjustments to their filing processes and to contact the division with questions before penalties are actually assessed for first quarter 2013 performance. Insurers will receive the second quarter data this month and the third quarter data by early November 2012.

Separately, WCD will continue to address "pending coverage" cases where there is evidence of coverage and insurers have not made the required filings or responded to our inquiries. Those "pending coverage" inquiries and assessed penalties will continue.

The following information summarizes what must be filed with WCD and information about the civil penalties that will be assessed:

Coverage filings must be filed electronically with the director of DCBS for each new or renewed issued policy within 30 days after coverage of the employer is effective (ORS 656.419(2)).



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Coverage cancellations:

- Coverage of an employer under a workers' compensation insurance policy continues until:
 - The expiration of the term of the policy.
 - The coverage is canceled before the expiration date of the policy as provided by ORS 656.423 or 656.427.
 - Another insurer files proof of coverage on behalf of the employer.
 - The employer becomes self-insured under ORS 656.430.
- An insurer's mid-term cancellation of coverage under ORS 656.427 requires the insurer to file notice with the director within 10 calendar days after the effective date of the cancellation provided in the notice given to the employer.
 - The insurer's notice to the employer for mid-term cancellation must be not less than 45 days after the notice is mailed to the employer, or not less than 90 days if the insurer ends coverage under a decision to not renew policies for a specific premium category, or not less than 10 days if the reason for cancellation is for nonpayment of premium.
 - Notice to the employer must be by mail, addressed to the employer at the last-known address of the employer.
- An employer's cancellation of coverage under ORS 656.423 also requires that the insurer file notice with the director within 10 calendar days after the effective date of the cancellation.
- Insurers are not required to provide the director notice of annual policy (coverage) expirations.

Penalties for failure to provide timely coverage filings or mid-term cancellation notices to the director are:

- Assessed at \$100 per late filing for filings or notices not meeting a 90 percent timeliness standard in any given quarter with at least five filings or notices. OAR 436-050-0480.
- The maximum penalty that may be assessed in each quarter is the statutory \$10,000 penalty ceiling allowed in a three-month period, less any other civil penalties assessed in that period. ORS 656.745.

For questions about coverage and filing requirements, pending coverage inquiries, quarterly civil penalties and appeals, etc., please contact Reg Gregory, manager, Employer Compliance, at 503-947-7665 or e-mail reg.e.gregory@state.or.us. You can also contact Employer Compliance at 503-947-7815 or e-mail wcd.employerinfo@state.or.us.

John Shilts, Administrator
Workers' Compensation Division