CHAPTER 19

Records and Reports

**SECTION 42‑19‑10.** Employers’ records and reports of injuries.

 Every employer shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment on forms approved by the commission.

 If the injury requires minimal medical attention at a cost not to exceed an amount specified by regulation of the Workers’ Compensation Commission, and does not cause more than one lost workday or permanency, the employer is not required to make a written report to the commission or the employer’s insurance carrier, provided the employer maintains a record as prescribed by the commission and pays directly the incurred cost of the resulting medical attention.

 All other injuries must be reported in writing to the commission according to the following guidelines:

 (1) An injury for which there is no compensable lost time or permanency and the medical treatment does not exceed an amount specified by regulation of the Workers’ Compensation Commission must be reported annually on a form and at a time prescribed by the commission.

 (2) An injury involving compensable lost time, medical attention in excess of the limit established by commission regulation in item (1), or the possibility of permanency must be reported within ten business days after the occurrence and knowledge of it, as provided in Section 42‑15‑20, on a form or in an electronic format prescribed by the commission.

 However, for the injury of a South Carolina National Guard member as provided for in Section 42‑7‑67, the reporting periods must be counted from the date the employer, the South Carolina National Guard, has knowledge that the federal government has denied benefits to the injured guard member or that benefits or additional benefits may be due under the provisions of Title 42.

HISTORY: 1962 Code Section 72‑501; 1952 Code Section 72‑501; 1942 Code Section 7035‑69; 1936 (39) 1231; 1955 (49) 459; 1980 Act No. 318, Section 7; 1989 Act No. 197, Section 1, eff June 20, 1989; 1990 Act No. 612, Part II, Section 15D, eff June 13, 1990 (became law without the Governor’s signature); 1996 Act No. 424, Section 8, eff June 18, 1996.

Editor’s Note

1996 Act No. 424, Section 13, provides, in part, as follows:

“Employers who have filed with the Workers’ Compensation Commission a notice to reject the provisions of Title 42 before the effective date of the 1996 amendment will have until July 1, 1997, to comply with the provisions of the 1996 amendment relating to insuring their workers’ compensation liabilities. Any employer who has rejected the terms of this title prior to approval of the 1996 amendment and has procured another form of employee benefits insurance shall comply, not later than July 1, 1997, with the provisions of the 1996 amendment relating to the insuring of its workers’ compensation liabilities. Furthermore, nothing in the 1996 amendment shall affect or alter any cause of action, right, or claim accruing before the effective date of the 1996 amendment; however, any such cause of action, remedy, or claim accruing before the effective date of the 1996 amendment shall be governed by the law prior to the effective date of the 1996 amendment.”

Library References

Workers’ Compensation 1255.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Section 971.

NOTES OF DECISIONS

In general 1

1. In general

Where notice of an accident was not filed by the employer with the Commission as required by law, that does not (in the absence of fraud) raise an estoppel to deny liability under the statute of limitations, Code 1962 Section 72‑303. Kirby v. Holliday Laundry & Dry Cleaners (S.C. 1957) 230 S.C. 412, 96 S.E.2d 61. Workers’ Compensation 2082

Reports required by this section [Code 1962 Section 72‑501] are admissible in evidence as admissions or declarations against interest. Sligh v. Newberry Elec. Co‑op. (S.C. 1950) 216 S.C. 401, 58 S.E.2d 675.

The requirement of the law that employer within ten days after knowledge of an injury to employee must make a report to the Commission is not a perfunctory matter of form, but was intended to give correct and reliable information as to injury suffered by an employee. Sligh v. Newberry Elec. Co‑op. (S.C. 1950) 216 S.C. 401, 58 S.E.2d 675.

The mere failure on the part of an employer to report the accident does not, in the absence of fraud, toll the running of the statute as to the time for filing a claim for compensation. Duncan v. Gaffney Mfg. Co. (S.C. 1949) 214 S.C. 502, 53 S.E.2d 396.

**SECTION 42‑19‑20.** Employers’ reports of termination or extension beyond sixty days of disability.

 Upon the termination of the disability of an injured employee, or if the disability extends beyond a period of sixty days then also at the expiration of such period, the employer shall make a supplementary report to the commission on blanks approved by the commission for this purpose.

HISTORY: 1962 Code Section 72‑502; 1952 Code Section 72‑502; 1942 Code Section 7035‑69; 1936 (39) 1231; 1980 Act No. 318, Section 8.

Library References

Workers’ Compensation 1255.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Section 971.

**SECTION 42‑19‑30.** Penalty for failure to make required reports.

 Any employer or insurance carrier who refuses or neglects to submit required forms, records, and reports as may be necessary for the proper handling or adjudication of a claim is liable for a penalty of not less than ten dollars nor more than one hundred dollars for each refusal or neglect. The fine provided in this section may be assessed by the commission with the right of review and appeal as in other cases.

HISTORY: 1962 Code Section 72‑503; 1952 Code Section 72‑503; 1942 Code Section 7035‑69; 1936 (39) 1231; 1980 Act No. 318, Section 9; 1981 Act No. 27, Section 1; 1986 Act No. 366, eff April 11, 1986.

Library References

Workers’ Compensation 1042.17, 1255.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 971, 1616 to 1618.

**SECTION 42‑19‑40.** Records shall not be public.

 The records of the commission, in so far as they refer to accidents, injuries and settlements, shall not be open to the public, but only to parties satisfying the commission of their interest in such records and of the right to inspect them.

HISTORY: 1962 Code Section 72‑504; 1952 Code Section 72‑504; 1942 Code Section 7035‑69; 1936 (39) 1231.

Library References

Records 30, 55.

Westlaw Topic No. 326.

C.J.S. Records Sections 74, 76, 78, 80, 112, 121, 133.

Attorney General’s Opinions

Section 42‑19‑40 would allow access to the Single Commissioner Hearing Roster and a list of pending cases to be set for hearing only to employees and employers and, attorneys and claims administrators as to claim(s) to which they are a party. S.C. Op.Atty.Gen. (Jan. 12, 2010) 2010 WL 440992.

Inasmuch Section 42‑19‑40 contains no criminal penalty provision, a criminal prosecution cannot be undertaken pursuant to this provision for the unauthorized release of a confidential settlement agreement in a worker’s compensation case. Because only those officers possessing removal power by virtue of a statute or constitutional provision may exercise such power, it would be a matter for the Governor to determine whether the unauthorized release of a settlement agreement in violation of Section 42‑19‑40 would constitute sufficient grounds for removal. Because the Freedom of Information Act was designed to encourage the disclosure of public records and contains no specific provision dealing with the enforcement of confidentiality, either by criminal or civil remedies, the release of a settlement agreement which is confidential pursuant to Section 42‑19‑40 is not enforceable under the FOIA. 1986 Op.Atty.Gen., No. 86‑55, p 162, 1986 WL 192015.

Certain public funds maintained by State Workers’ Compensation Fund do not appear to be confidential and are subject to disclosure under Freedom of Information Act, unless exempt under provision of Section 30‑4‑40. 1984 Op.Atty.Gen., No. 84‑53, p. 132, 1984 WL 159860.

Section 42‑19‑40 (1976) prohibits the South Carolina Industrial Commission from providing information to Blue Cross/Blue Shield of South Carolina concerning Workmen’s Compensation claims in which Blue Cross/Blue Shield is not a party to a claim. 1976‑77 Op.Atty.Gen., No 77‑278, p 214, 1977 WL 24618.

NOTES OF DECISIONS

In general 1

1. In general

Term “parties” refers to employees and employers and does not include domestic mutual insurance company. Blue Cross and Blue Shield v. South Carolina Indus. Commission (S.C. 1980) 274 S.C. 204, 262 S.E.2d 35.

**SECTION 42‑19‑50.** Penalty for failing to file report of insurance coverage.

 Every insurance carrier providing coverage under the Workers’ Compensation law shall file a report of coverage with the Workers’ Compensation Commission within thirty days from the inception date of the policy on forms prescribed by the commission.

 Any insurance company who refuses or neglects to properly submit the required forms is liable for a penalty of not less than one hundred dollars and not more than two hundred fifty dollars for each day’s refusal to so file. The fine provided for in this section may be assessed by the commission with the right to review and appeal as in other cases.

HISTORY: 1985 Act No. 180, Section 1, eff June 21, 1985.

Library References

Workers’ Compensation 1042.18, 1058.5, 1074.5.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 794, 800, 802 to 806, 1616 to 1618.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 107, Concurrent Compensation Coverage.

Treatises and Practice Aids

Modern Workers’ Compensation Section 321:2, Compulsory and Elective Coverage.