

Workforce Services, Department of

Workers' Compensation Division

Chapter 3: Failure of Employer to Comply

Effective Date: 08/07/2017 to Current

Rule Type: Current Rules & Regulations

Reference Number: 053.0021.3.08072017

CHAPTER 3

FAILURE OF EMPLOYER TO COMPLY

Section 1. Delinquency – Case Liability.

(a) Employers will be charged for all injury case costs if the employers' account is in non-compliance in the following circumstances:

(i) Delinquent During the Reporting Period the Injury Occurred. Employers whose accounts are in a delinquent status for the reporting period during which an injury occurred will be charged case costs for the life of any such injury.

(ii) Injured Worker not Reported. Employers who omit the name of any injured worker on the Division's report form corresponding to the month of injury and fail to pay premium on that injured worker's earnings will be charged case costs for the life of any such injury.

(iii) No Account on Date of Injury. Employers who fail to establish an account, or fail to reactivate an inactive account on any date of injury will be charged case costs for the life of any such injury.

(b) Employers shall be deemed delinquent if premiums remain unpaid more than 30 days following the due date.

Section 2. Civil Liability.

(a) When a payroll report or payment of premium is past due, pursuant to Wyoming Statutes § 27-14-202(a), the Division shall send to the employer a notice that the report and/or premium is past due and that the employer's account will become delinquent if the required report and payment are not postmarked within 30 days of the date due. When an employer's account becomes delinquent, the Division shall send to the employer a notice of delinquency.

(b) For purposes of all penalties and rights of action under the Act, an employer shall be considered delinquent if a payroll report or any payment required by the Act is not postmarked within 30 days of the due date.

(c) Applying Payments. When an employer makes a payment to the Division, the Division shall apply it to the oldest premium or interest owed by the employer unless the employer has specified in writing that the payment should be applied to a particular portion of the employer's debt. However, bankruptcy laws or reorganization plans take priority over the employer's written specification.

Section 3. Cancellation of Optional Coverage. Coverage for an employer with optional coverage will be terminated if the account remains delinquent 30 days following notification by certified mail to the employer that the employer has been delinquent in reporting of payment of premium for one calendar quarter. The employer remains liable for the unpaid

premium and case cost reimbursement, as applicable, through the date of termination. Following termination under this section, the employer shall not be eligible for reinstatement of optional coverage for a period of six months.

Section 4. Notice to Administrator. Employees of the Division who identify a possible violation by any party shall immediately notify the Administrator of the Workers' Compensation Division in writing.

Section 5. Waiver and Settlement - Tax. Upon good and sufficient cause, the Administrator of the Workers' Compensation Division may waive, compromise or otherwise settle any amount owed to the Division by an employer.

Section 6. Out of State Employers – Experience Modification Rating. If an employer who meets the criteria under Wyoming Statutes § 27-14-207(h) refuses or fails to provide the Division with the experience history from their insurance company, that employer will be assigned the maximum experience modification rating (EMR) of 1.85.