Welcome to 2019 and the third issue of The Navigator! When a new year begins, we often make resolutions or set new goals. Sometimes setting goals requires not only an assessment of the previous year, but a plan to move forward. When looking back to the beginning of Florida’s workers’ compensation system, we see the same importance of obtaining coverage for employees then as we do today.

In 1935, Florida created the Industrial Commission and passed its first “Workmen’s Compensation Law”. A “workmen’s” compensation law was essential to meet the demands and requirements of the rising industrial employment in the state. Since then, there have been various changes to the law. The major reform in 1979 changed the name to “Workers’ Compensation” and during that time the Division of Workers’ Compensation was established.

Fast forwarding to today, an employer’s obligation to protect public health, safety and welfare is still required by the workers’ compensation law. Therefore, the Bureau of Compliance’s responsibility to ensure employer compliance with the workers’ compensation law continues to be an integral part of the Division of Workers’ Compensation’s mission. Through education and enforcement activities, the Bureau of Compliance fulfills its responsibility under Chapter 440, Florida Statutes.

The issues of The Navigator are one example of our attempts to keep our stakeholders apprised of our activities as well as educating them on the requirements of Chapter 440, Florida Statutes. Be on the lookout for more information regarding the Bureau of Compliance’s informational segments and how by knowing the requirements, you can keep your employees protected.

Pam Macon
Bureau Chief
INVESTIGATIONS: What Happens After an Employer Receives a Stop-Work Order?

Receiving a Stop-Work Order from the State of Florida and having to obtain workers’ compensation coverage in a hurry can be an overwhelming experience. Communication with an Investigator and Facilitator is key in keeping up to date throughout the process. After securing coverage and paying the minimum $1,000 down payment towards the penalty, the employer will sign an “Agreed Order of Conditional Release” (AOCR).

The AOCR allows the employer to conditionally return to work while gathering the requested business records as detailed in the Business Records Request that is received with the Stop-Work Order. The requested records tell the Department whom the employer paid; when the employer paid the employees; for what purpose; and how much was paid to those employees. This information will determine the payroll, which forms the basis for the statutory penalty.

These records are delivered to the Facilitator, who acts as the liaison with the penalty calculation unit.

At this point the employer might be thinking “what happens if I don’t provide my records?” If sufficient records are not received, the law requires the Department to determine an employer’s payroll applying the state average weekly wage to each employee (see pg.3), multiplied by 1.5 (this method is referred to as imputing). It is to the benefit of the employer to provide its business records to the Department. Otherwise, an imputed penalty will most often result in a much higher penalty compared to one calculated based on the employer’s business records.

The Department will contact the employer regarding missing records or to discuss other records, which may be provided.

Once the penalty has been calculated, an Investigator will contact the employer. If the employer cannot pay the penalty in full, the Department offers the option to enter a payment plan for the remainder of the assessed penalty amount. The Department’s payment plans require no additional money down and are interest free.

An employer can pay off the remaining penalty in monthly installments of 12, 24, 36, 48, or 60 months. Read more about the process on our FAQs page at https://www.myfloridacfo.com/Division/WC/InfoFaqs/SWO-FAQs.pdf

Look for more information on how the audit is conducted and what penalty credits are offered by the Department in our next newsletter in May, 2019.

Building your Tool Kit:

This issue’s featured tool is our Proof of Coverage Database. This tool is focused on helping employers remain in compliance with the workers’ compensation law. Regardless of the industry or if you’re simply a homeowner looking for someone to do work on your home, our Proof of Coverage Database will show coverage and exemption information, including effective and expiration dates. This can help ensure that properly insured entities are hired, which provides stakeholders the assurance of not only being in compliance with the workers’ compensation law, but also avoid potential liability for a work-related injury, illness, or fatality.
COMPLIANCE TIPS: Contractor's Due Diligence

Section 440.10(1)(c) requires a contractor to conduct due diligence. If you are a contractor, you have likely used subcontractors. Florida Administrative Code (FAC) 69L-6.032 details contractor requirements to make sure their subcontractors are in compliance with Florida workers' compensation law. This process can be summarized as conducting due diligence. To assure a contractor is meeting these requirements, remember the ABCs of due diligence.

**Ask for documentation.** Not only do you need to ask subcontractors about their forms of compliance, such as exemptions, a workers' compensation policy or coverage through an employee leasing agreement, but you are required to obtain the compliance documentation. You must request and receive copies of certificates of exemption, certificates of insurance and current copies of employee rosters if subcontractors have coverage through employee leasing. Securing documentation of compliance is required to meet the burden of due diligence.

**Be practical.** If a subcontractor provides an exemption as the sole form of compliance, keep in mind that an exemption only applies to the individual listed on the certificate. Is it practical that one person could complete the subcontracted work on their own? If not, ask the subcontractor how the work will be completed. If labor will be obtained through staffing companies or other subcontractors, obtain proof of compliance for those entities.

**Confirm information.** Once you have received certificates of exemption or insurance, verify the details on the documents are accurate. Below you will find the website for the Division of Workers’ Compensation which includes a Proof of Coverage database (https://apps8.fldfs.com/proofofcoverage/).

Failure of a contractor to conduct their due diligence pursuant to 69L.6.032, F.A.C. could result in the issuance of a Stop-Work Order and penalty, if the contractor does not have an insurance policy.

What is the State Average Weekly Wage?

Earlier in this issue, we mentioned that an employer’s failure to provide business records or sufficient business records to calculate payroll results in applying the Average Weekly Wage (AWW) multiplied by 1.5 to calculate payroll for each employee. However, the primary purpose of the state wide AWW is to calculate the maximum amount of wage replacement benefits that are provided to an employee who misses more than seven days of work due to an injury. The Department of Economic Opportunity determines the statewide AWW annually. Section 440.12(2), Florida Statutes, expressly provides that, for injuries occurring on or after August 1, 1979, the weekly compensation rate shall be equal to 100 percent of the statewide AWW, adjusted to the nearest dollar, and that the AWW determined by the Department of Economic Opportunity for the four calendar quarters ending each June 30, shall be used in determining the maximum weekly compensation rate with respect to injuries occurring in the calendar year immediately following. The 2019 maximum weekly compensation rate is $939.00.

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<th>HISTORICAL AWW RATES</th>
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<tr>
<td><strong>2016</strong></td>
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USEFUL LINKS:
Do you know or suspect someone of working without workers’ compensation insurance?
You can submit an anonymous referral through our Public Referral Database or by phone at 1-800-742-2214.

FAST FACTS:
During fiscal year 2017-2018, the Department conducted 28,790 investigations and issued 2,683 Stop-Work Orders

SEMINARS AND WEBINARS
Location & Dates for Employer Seminars:
Orlando: March 5, 2019  Jackson: April 10, 2019
Pensacola: April 17, 2019  Tampa: May 7, 2019
Miami: May 7, 2019

*Employer seminars contain information on both Workers’ Compensation & Workplace Safety and run from 9:00am-12:00pm ET.

The Webinar Sessions for Workers’ Compensation (WC) and Workplace Safety are from 2:00 PM thru 3:00 PM on the following dates:
March 6 & 7, 2019  April 17 & 18, 2019
May 8 & 9, 2019

If you are interested in registering for an upcoming WEBINAR or EMPLOYER SEMINAR, please contact the BOC for opportunities that may be available to you via email at: BOCseminars@myfloridacfo.com.

The Navigator
DIVISION OF WORKERS’ COMPENSATION
BUREAU OF COMPLIANCE

The Division’s Website Address:
www.MyFloridaCFO.com/Division/WC/

Bureau of Compliance Customer Service:
1-850-413-1609

Bureau of Employee Assistance & Ombudsman Office (Assists Injured Workers):
1-800-342-1741

For Feedback or Suggestions:
BOCFeedback@MyFloridaCFO.com

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