

FASTEST 10 MINUTES IN WORKERS' COMP

TOP 10 ISSUES RIGHT NOW

Presented to EAF

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#10 – NOTICE OF INJURY

Workers' Comp Works For You

If you are injured on the job:

1. Notify your employer immediately to get the name of an approved physician. Workers' comp insurance may not pay the medical bills if you don't report your injury promptly to your employer.
2. Notify the doctor and medical staff that you were injured on the job so that bills may be properly filed.
3. If you have any problems with your claim or suffer excessive delays in treatment, contact the State of Florida's Division of Workers' Compensation at 1-800-342-1741.

Workers' compensation pays for all authorized medically necessary care and treatment related to your injury or illness.

If you are unable to work or your earnings are lower because of a work-related injury or illness, and you have been disabled for more than seven calendar days, you may be eligible for some wage replacement benefits.

\$25,000 Reward

ANTI-FRAUD REWARD PROGRAM

Rewards of up to \$25,000 may be paid to persons providing information to the Department of Financial

Services leading to the arrest and conviction of persons committing insurance fraud, including employers who illegally fail to obtain workers' compensation coverage. Persons may report suspected fraud to the department of

1-800-378-0445 or online at

<https://first.flids.com>

A person is not subject to civil liability for furnishing such information, if such person acts without malice, fraud or bad faith.

This notice of compliance must be posted by the employer and maintained conspicuously in and about the employer's place or places of employment, State of Florida Division of Workers' Compensation

69L-6.007, F.A.C. Compensation Notice
DFS-F4-1548
Revised March 2010
(Fraud reporting link updated May 2021)

PLACE INSURER INFORMATION STICKER HERE

- Regular injury -- 30 days
- S 440.185
- Occupational disease -- 90 days
- S 440.151

#9 – REMOTE WORKERS

- Sedgwick CMS/The Hartford/Sedgwick CMS v. Valcourt-Williams, 271 So.3d 1133 (Fla. 1st DCA 2019)
- 271 So.3d 1133 (2019)
- Tripped over dog at home
- <https://www.businessinsurance.com/article/20221005/NEWS08/912352746/Remote-exposures-alter-complexion-of-workers-compensation->



#8 – JOB OFFER



Written, email, text



Place, date, time,
supervisor, rate of pay,
expected days / hours



“You are assigned to the
following which we
understand to be within
your restrictions...?”



#7 – DRUG DEFENSE

THREE TIERS:

- 1) Drug-Free Workplace / positive test
- 2) NOT Drug-Free Workplace / positive test
- 3) No test

#6 – DRUG TEST

- Most ERs will not do for fear of not getting paid



KNOW TESTS ALLOWED UNDER F.S. S 440.102(4)

(a) An employer is required to conduct the following types of drug tests:

1. **Job applicant drug testing.**—An employer must require job applicants to submit to a drug test & may use a refusal to submit to a drug test or a positive confirmed drug test as a basis for refusing to hire a job applicant.
2. **Reasonable-suspicion drug testing.**—An employer must require an employee to submit to reasonable-suspicion drug testing.
3. **Routine fitness-for-duty drug testing.**—An employer must require an employee to submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer’s established policy or that is scheduled routinely for all members of an employment classification or group.
4. **Follow-up drug testing.**

#5 – WC PREMIUM RATE CUT

2021 – 4.7 % decrease

2022 – 4.9% decrease

2023 – **8.4 %** decrease

- Seventh straight reduction
- Severity
- Frequency

<https://www.insurancejournal.com/news/south-east/2022/08/25/681976.htm>

<https://floir.com/newsroom/archives/item-details/2021/11/12/oir-approves-a-4.9-decrease-in-workers'-compensation-insurance-rates-for-2022>



A detailed microscopic image of mold spores, showing various colors like blue, green, and yellow, with a fuzzy, textured appearance. The spores are arranged in clusters and some show internal structures.

#4 – MOLD COMPENSABILITY

- Almost impossible
- F.S. §440.02(1)
- “An injury or disease caused by exposure to a toxic substance, including, but not limited to, fungus or mold, is not an injury by accident arising out of the employment unless there is clear and convincing evidence establishing that exposure to the specific substance involved, at the levels to which the employee was exposed, can cause the injury or disease sustained by the employee.”



#3 – MEDICAL MARIJUANA

- Florida Statute §381.986(15)
- (15) APPLICABILITY.—This section does not limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy. This section does not require an employer to accommodate the medical use of marijuana in any workplace or any employee working while under the influence of marijuana. This section does not create a cause of action against an employer for wrongful discharge or discrimination. Marijuana, as defined in this section, is not reimbursable under chapter 440.

MEDICAL MARIJUANA

- (15) APPLICABILITY.—
- (a) This section does not limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy.
- (b) This section does not require an employer to accommodate the medical use of marijuana in any workplace or any employee working while under the influence of marijuana.
- (c) This section does not create a cause of action against an employer for wrongful discharge or discrimination.
- (d) This section does not impair the ability of any party to restrict or limit smoking or vaping marijuana on his or her private property.
- (e) This section does not prohibit the medical use of marijuana or a caregiver assisting with the medical use of marijuana in a nursing home facility licensed under part II of chapter 400, a hospice facility licensed under part IV of chapter 400, or an assisted living facility licensed under part I of chapter 429, if the medical use of marijuana is not prohibited in the facility's policies.
- (f) **Marijuana, as defined in this section, is not reimbursable under chapter 440.**

#2 – DOCTOR CHOICE / ONE-TIME CHANGE

- 440.13
- In Florida, carrier chooses all providers unless failure or acquiescence
- 440.13(2)(f)
- Only ONE one-time change
- Five days to respond





#1 – GOING & COMING CASE

- Driving to and from work; Section 440.092
- Driving to and from work in a company vehicle
- *Kelly Air Sys. V. Kohlun*, 337 So.3d 883 (Fla. 1st DCA 2022)

THANK YOU FOR YOUR TIME!

Visit us here for a copy of the presentation:

<https://www.hrlawflorida.com/fastest-10-minutes-in-workers-comp/>



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