

**Worker's Compensation
Insurance Letter**

INS #	431
Date	August 8, 2001
Program	Claims Management
Type	Policy Change
Replaces	428,429,430



**State of Wisconsin
Department of Workforce Development**

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To: Insurance Carriers' and Self Insured Employers' Claims Handling Offices
From: Judy Norman Nunnery, Division Administrator
Subject: Three Day Waiting Period and Automated Claims Management System

Purpose: To share information on the interpretation of the statutes relating to the 3-day waiting period and changes made to the claims management computer system to support the interpretation.

Background: Insurance Letters 428, 429 and 430 explained that, effective April 12, 2001, the Department had re-programmed its automated claims management system relating to the 3-day-waiting period. This re-programming did not change the Department's interpretation of the 3-day-waiting period, but merely aligned our interpretation with the Department's automated auditing system. The automated system would compute balance due notices related to the 3-day-waiting period using the day after the reported "Injury Date" instead of the day after the reported "Last Day Worked" where the two injury dates reported were different.

However, the Department has learned that there is a problem with the interpretation of the statutes that were used as a base for Insurance Letters 428-430. The interpretation of the phrase "leaves work" in s. 102.43(intro), Wis. Statutes, is inconsistent with the Department's interpretation of the same phrase in s. 102.22(1), Wis. Statutes. .

After review of this matter, we have determined that the appropriate interpretation of the phrase "leaves work" is as follows:

In both statutory sections, the phrase "leaves work" means an employee leaves the employer's work premises, not merely that an employee interrupts work and leaves the work station to report an injury to a supervisor or to seek on-site first aid. The 3-day-waiting period is not triggered without a work injury that causes an injured employee to leave or stay away from the employer's work premises during work hours.

We believe the inconsistency between s. 102.22(1) and 102.43, Wis. Statutes, will be resolved by adopting the above interpretation. Further, this is the most reasonable interpretation to promote consistent and uniform administration of the law.

Therefore, the Department is rescinding Insurance Letters 428-430 and will realign its automated systems with respect to the 3-day waiting period. The Department will not enforce any balance due notice issued to insurers or self-insured employers as a result of the April 12, 2001 change.

Action Requested: Discard Insurance Letters 428-430. Implement new interpretation of s. 102.22(1) and 102.43, Wis. Statutes.

Inquiries: Please direct any questions to Lee Shorey, Bureau of Claims Management Services Director, (608) 267-9407.

Enclosures: "Three-Day 'Waiting Period' for Indemnity Payments"

References: Wisconsin State Statutes, sections 102.22(1) and 102.43