

WHITT & DEL BUENO

E-NEWSLETTER

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The New 30 Day Order – What You Need To Know

Beginning July 1, 2020, the Commission started using a 30 Day Order, which has replaced the 20 Day Orders. The new 30 Day Order originated from the newly-enacted Virginia Code § 65.2-601.2. Here's what you need to know:

1. After a claimant files a claim for benefits with the Commission, the Commission will issue the 30 Day Order.
2. The employer will have 30 days from the date the order is issued to file a response.
3. The response must indicate whether the employer intends to accept or deny the claim or if more information is needed to make that determination.
4. If the claim is being denied, the reason for such denial must be included in the 30 Day Order response.
5. If additional information is needed, the response must identify the additional information that is needed.
6. A copy of the 30 Day Order response must be sent to the claimant or claimant's counsel via regular mail (if the claimant or claimant's counsel has previously consented, a copy may be sent via email).
7. If the employer fails to file a response on time, the Commission will assess a civil penalty of not more than \$500. If the Commission finds that the failure was willful, the civil penalty will be anywhere from \$500 to \$5,000.

We have already seen that the Commission is enforcing this deadline and imposing the above-mentioned civil penalty against employers and carriers who fail to file a timely response. We've seen a penalty assessed even if the delay was only one day! Please take the deadline seriously and be sure the response is filed on time.

GENERAL ASSEMBLY SPECIAL SESSION UPDATE

ALL COVID-19 PRESUMPTION BILLS FAIL

The General Assembly failed to pass several bills that would have created a presumption for certain types of employees who were diagnosed with COVID-19. This means that employees seeking workers' compensation benefits for COVID-19 will have to prove the disease was an occupational disease under Virginia Code § 65.2-400 or a compensable ordinary disease of life under Virginia Code § 65.2-401. Keep in mind that the General Assembly has not excluded the possibility that a COVID-19 presumption bill will be passed sometime in the future.

We welcome the opportunity to assist with any questions or concerns you may have about workers' compensation issues that may arise due to COVID-19 or any newly-enacted law. Please feel free to contact our attorneys with any questions or concerns you may have. We are here to help during this challenging time, and we hope you and your families stay safe and healthy!



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