No person wishes to be hurt on the job. The reality is, however, that workplace injuries of varying degrees could happen at any time—from a simple slip-and-fall at the office, to a sawed-off limb at a construction site, to a disease that develops because of the hazardous nature of a particular job. For the injured employee (IE), the keys to having a higher probability of being covered under the employer’s workers’ compensation insurance are (i) knowing where and who to turn to after a workplace injury; and (ii) adhering to every deadline mandated by the Nevada Revised Statutes.

Workers’ compensation laws provide the involved parties with an exclusive remedy—they exist to avoid the myriad of lawsuits in tort that would, in effect, further clog the judicial courts of every state. In a sense, workers’ compensation skips the assignment of blame (although not entirely in some cases) and takes the IE straight to the benefit—the payment of medical bills and, in some circumstances, the replacement of lost wages. Each state in the U.S. enacts its own workers’ compensation laws, which makes for an interesting field of law practice, because workers’ compensation laws vary from state to state.

What to do After Suffering a Workplace Injury

In Nevada, every employer who hires at least one employee is required to purchase and maintain workers’ compensation insurance. In most cases, when an employee— or any person for that matter—is injured, they feel like time simply stops as the brain focuses in on the pain and then shifts to the immediate next step of making the pain go away by causing the person to quickly rub the affected area if it can even be reached or, as is more commonly the case, seek medical attention. Seldom, if ever, does an IE immediately think about what it is going to take to navigate the state’s workers’ compensation system after experiencing an injury. Therefore, the statutory requirements for correctly filing a workers’ compensation claim contain time frames. This means that all parties involved in a workers’ compensation claim must adhere to these statutorily defined deadlines because any deviation could, and most likely would, result in the IE’s claim being denied or the issuance of a benefit penalty or administrative fee by the state against the medical provider, insurer or employer.

Time Frame for Filing a Workers’ Compensation Claim

In Nevada, IEs have seven days to report a workplace injury in writing to the employer and 90 days to seek medical treatment for the work-related injury. The initial report is typically made by completing and submitting a Notice of Injury or Occupational Disease form to the employer. This form is commonly known as the C-1 and is completed by the IE and signed by them and their employer.
However, submitting the completed C-1 form, although required by statute, does not start the workers’ compensation claim.

A workers’ compensation claim begins at a doctor’s office with the accurate completion and correct filing of an Employee’s Claim for Compensation/Report of Initial Treatment form, known more commonly as the C-4 form. This form is completed by both the IE and the treating physician, but may only be signed by the IE and either a doctor of medicine (M.D.), a doctor of osteopathic medicine (D.O.), or a doctor of chiropractic (D.C.). After the C-4 form is completed, the medical provider has three working days to send a copy to both the employer and the correct employer’s workers’ compensation insurer.\(^1\)

Once the employer receives the C-4 form from the medical provider, the employer has six working days to complete an Employer’s Report of Industrial Injury or Occupational Disease, or C-3 form, and file it with its insurer.\(^4\) However, whether or not the employer completes and sends the C-3 form does not prevent the insurer from processing the C-4 form.

Upon receiving the C-4 form from the medical provider, the insurer has 30 days to make a determination about whether or not it is going to approve the IE’s workers’ compensation claim and pay their medical bills and provide wage replacement, if applicable.\(^3\) In cases where an IE misses five or more consecutive days post-injury or five cumulative days within a 20-day period post-injury, then the injured employee is entitled to payment of 66 2/3 percent of their average monthly wage, which the insurer would have to pay directly to the IE.\(^8\)

**Challenging the Insurer’s Determination**

One of the worst feelings for IEs comes right after they receive an ominous claim denial or an unsatisfactory offer for wage replacement through the mail. When this occurs, IEs have the option of appealing the insurer’s decision within 70 days of the date reflected on the letter of determination. The key inquiry in workers’ compensation cases is whether “the employee’s injury arose out of and in the course of [their] employment.”\(^7\) Nevada gives initial jurisdiction over workers’ compensation claim determination appeals to its Department of Administration’s Hearings Division. There are two offices within the Hearings Division—the Hearing Office and the Appeals Office.\(^4\) This construct provides the involved parties with two opportunities to come to a resolution of the workers’ compensation claim at the administrative level before having to turn to the judicial branch for a remedy.

The initial challenge of an insurer’s determination is filed at the hearing office. There, the hearings officer (HO) gives the IE an opportunity to present evidence, explain the reason(s) why they are challenging the insurer’s determination and articulate the benefit(s) they want to obtain from the insurer. Additionally, proceedings before the HO are considered informal because they are generally quick (10-15 minutes) and are not recorded (i.e., no transcript is created/preserved and no record of evidentiary exhibits is established). Also, HOs are not required to be licensed attorneys. In fact, HOs come from a variety of backgrounds—some are even former claims adjusters who worked for insurance companies. Lastly, IEs who are not represented by private counsel before the HO do not receive state-provided representation from the Nevada Attorney for Injured Workers (NAIW).\(^9\)

The party that does not prevail at the HO level has 30 days from the date the HO enters their Decision and Order (D&O) to file an appeal to the appeals office, if they so choose. Once a case reaches the appeals office, if an IE remains unrepresented, they may request that an appeals officer (AO) enter an order appointing the NAIW as the IE’s legal representative. Like HOs, AOs are also neutral decision-makers, however, every AO must also be a Nevada-licensed attorney. Also, because no record is established at the hearing-office level, cases brought before the AO are not limited to the evidence that was presented to the HO. As such, each party has an opportunity to submit their respective packet(s) of evidence and may call witnesses. Hearings before AOs are formal in nature—they are recorded, and all involved parties are subject to procedural rules similar to those followed in a judicial courtroom.

Going beyond the two hearings division levels requires the non-prevailing party to appeal their case to the appropriate Nevada district court, which must be done within 30 days of the AO’s D&O. Beyond that, the non-prevailing party may also appeal to be heard at either the Nevada Court of Appeals or the Nevada Supreme Court. In any event, once a workers’ compensation case reaches the judicial courts, it is limited to the record that was created at the appeals office hearing.

Navigating Nevada’s workers’ compensation system could be a daunting task. For IEs suffering from the ongoing, recurring or permanent effects of the more serious workplace injuries, navigating through this system may seem impossible. Although knowing where and who to turn to for help and adhering to the statutorily defined time frames for filing a workers’ compensation claim do not guarantee that the IE’s claim will be accepted, doing the opposite will almost surely result in claim denial. However, the fight does not have to end there, because Nevada provides administrative options for the involved parties in a workers’ compensation case to come to a resolution.

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1. NRS 616B.633.
2. NRS 616C.015 & NRS 616C.020.
3. NRS 616C.040.
4. NRS 616C.045.
5. NRS 616C.065.
6. NRS 616C.400 & NRS 616C.475.
7. NRS 616C.150.
9. The NAIW is a state agency that operates under Nevada’s Department of Business and Industry and provides free legal representation to IEs who request NAIW appointment from the Appeals Office. See [http://naiw.nv.gov](http://naiw.nv.gov).

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HOMERO A. GONZALEZ

is an associate attorney at Brandon | Smerber Law Firm in Las Vegas. He previously worked as a legal research assistant at the office of the Nevada Attorney for Injured Workers. He graduated from UNLV’s William S. Boyd School of Law in 2019. During his third year at Boyd, he served as a student attorney at the UNLV Immigration Clinic, where he represented clients before the Las Vegas Immigration Court and the Eighth Judicial District Court—Family Division. Prior to attending law school, he worked as an immigration paralegal at a private law firm and served 14 years in the U.S. Air Force.