Federal Government Targets Employers for OSHA Inspections Based on Workers’ Compensation Claims Data

APRIL 4, 2012 | PUBLICATIONS

In an extraordinary move, the Occupational Safety and Health Administration (OSHA) is now evaluating occupational injuries and illnesses identified in workers’ compensation claims data to target OSHA inspections and enforcement activities against private employers. The OSHA Region 7 Office in Kansas City, Missouri (with oversight over Iowa, Kansas, Missouri, and Nebraska) issued a directive in October, 2011 authorizing the OSHA Nebraska Area Office in Omaha, Nebraska, to work with the Nebraska Workers’ Compensation Court in this effort. The directive is known as the Workers’ Compensation Local Emphasis Program. For its part, the Nebraska Workers’ Compensation Court is sending a weekly summary of reported injuries and illnesses to the OSHA Nebraska Area Office.

Historically, OSHA has not audited workers’ compensation claims data to prioritize inspections at privately-owned businesses. Citing concerns with OSHA recordkeeping and reporting of occupational injuries and illnesses, which it described as “spotty at best,” the directive is designed to allow OSHA to access data to identify where occupational injuries or exposure-related illnesses are occurring. In short, it appears that OSHA believes facilities are underreporting or not properly reporting OSHA injuries, particularly when comparing those same injuries with claims submitted for workers’ compensation coverage.

Under the OSHA Region 7 directive, the following types of illnesses and injuries will face particular scrutiny and possibly mandatory follow-up OSHA inspections: amputation; electrical shock; chemical exposure; noise exposure; ergonomic hazards; lower back disorders; and heat or cold stress.

Although the OSHA Region 7 directive currently is effective only through September 30, 2012, the initiative has already led to enforcement. According to at least one news report, of the 20 inspections under the Nebraska directive, half of those resulted in the issuance of citations. These have included the following types of businesses:

- Meat processing plants;
- Warehouse operations;
- Automobile parts manufacturer;
- Food service industry; and
- Electrical contractor.

Employers should expect that this program directive will be re-authorized and will expand going forward. If you operate in Nebraska and have worker’s compensation claims, you should act now to prepare for a possible OSHA inspection.

Spencer Fane has significant experience assisting companies in OSHA matters. If you have questions concerning OSHA recordkeeping and reporting obligations, responding to OSHA inspections and citations, or how OSHA Region 7’s workers’ compensation data inspection directive may impact your particular situation or company, please contact Andrew Brought.