Recording Criteria

Dear Reader:

The following document was created from the MTAS website (mtas.tennessee.edu). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

Table of Contents

Recording Criteria

Reference Number:
MTAS-863

The regulations require employers to record all fatalities, injuries and illnesses that are work-related (29 C.F.R. § 1904.5) or that are new cases (29 C.F.R. § 1904.4) resulting in:

- Death (29 C.F.R. § 1904.7(b)(2));
- Days away from work (29 C.F.R. §1904.7(b)(3));
- Restricted work or transfer to another job (29 C.F.R. § 1904.7(b)(4));
- Medical treatment beyond first aid (29 C.F.R. § 1904.7(b)(5));
- Loss of consciousness (29 C.F.R. § 1904.7(b)(6));
- Needle stick injuries (29 C.F.R. § 1904.8(a));
- Cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (29 C.F.R. § 1904.8(a));
- Medical removal under OSHA standards (29 C.F.R. § 1904.9(a));
- Hearing loss (29 C.F.R. § 1904.10(a));
- Tuberculosis (TB) (29 C.F.R. § 1904.11(a)); or
- A significant injury or illness diagnosed by a physician or other licensed health care professional. 29 C.F.R. § 1904.7(b)(7).

An injury or illness is work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. 29 C.F.R. § 1904.5(a). The work environment is by OSHA 29 C.F.R. § 1904.5(1)(b)(1) defined as "the establishment and other locations where one or more employees are working or are present as a condition of employment." The work environment includes not only the physical location, but also the equipment or materials used by the employee during the course of his/her workday.

An injury or illness is considered pre-existing if it resulted solely from a non-work-related event or exposure that occurred outside the work environment (C.F.R. § 1904.5(b)(5)). The act deems a pre-existing injury or illness "significantly aggravated" if the event results in death, loss of consciousness, one or more days away from work, days of restricted work, days of job transfer, or medical treatment. A case is considered "significantly aggravated" when no medical treatment was needed for the injury or illness before the workplace event or exposure or when a change in medical treatment was necessitated by the workplace event or exposure if the condition's aggravation would likely not have resulted but for the occupational event or exposure. 29 C.F.R. § 1904.5(b)(4).

According to 29 C.F.R. § 1904.5(b)(2) employers do not have to record injuries or illnesses under the following conditions:

- At the time of the injury or illness, the employee was present in the work environment as a member of the general public.
- The injury or illness involves signs or symptoms that surface at work, but result solely from a non-work-related event or exposure that occurs outside the work environment.
- The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.
- The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption (whether bought on your premises or brought in). For example, if the employee is injured by choking on a sandwich while in your establishment, the case would not be considered work-related. However, if an employee was preparing a meal for a business-related meeting and is injured, the case would be considered work-related.
- The injury or illness is solely the result of an employee doing personal tasks (unrelated to employment) at the establishment outside the employee's assigned working hours.
- The injury or illness is solely the result of personal grooming or self-medication for a non-work-related condition, or is intentionally self-inflicted.
- The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.
- The injury is the common cold or flu. Contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work.

- The illness is a mental illness unless the employee voluntarily provides you with an opinion from a physician or other licensed health care professional with the appropriate training and experience stating that the employee has a mental illness that is work-related.

In situations where you have difficulty determining whether the precipitating event or exposure occurred in the work environment or away from work, 29 C.F.R. § 1904.5(b)(3) provides that employers must evaluate the employee's work duties and environment to determine whether one or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing condition.

Another question that often arises is how to handle injuries and illnesses that occur while an employee is traveling. 29 C.F.R. § 1904.5(b)(6) provides that "injuries and illnesses that occur while an employee is traveling are work-related if, at the time of the injury or illness, the employee was engaged in work activities "in the interest of you." Examples include travel to and from customer contacts; conducting job tasks; and entertaining or being entertained to transact, discuss, or promote business at the direction of you. Injuries and illnesses that occur when the employee is traveling do not have to be recorded if the employee has checked into a hotel or motel for one or more days or has taken a detour for personal reasons.

Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one of the exceptions listed below. 29 C.F.R. §1904.5)b)(6).

If the employee has…	**You may use the following to determine if an injury or illness is work related.**
Checked into a hotel or motel for one or more days.	When a traveling employee checks into a hotel, motel, or other temporary residence, he or she establishes a "home away from home." You must evaluate the employee's activities after he or she checks into the hotel, motel, or other temporary residence for their work-relatedness in the same manner as you evaluate the activities of a non-traveling employee. When the employee checks into the temporary residence, he or she is considered to have left the work environment. When the employee begins work each day, he or she re-enters the work environment. If the employee has established a "home away from home" and is reporting to a fixed worksite each day, you also do not consider injuries or illnesses work-related if they occur while the employee is commuting between the temporary residence and the job location.
Taken a detour for personal reasons	Injuries or illnesses are not considered work-related if they occur while the employee is on a personal detour from a reasonably direct route of travel (e.g., has taken a side trip for personal reasons.)

Injuries and illnesses that occur while an employee is working at home will be considered work-related if the injury or illness occurs while the employee is performing work for pay or commission in the home, and the injury or illness is directly related to the performance of the work rather than to the general home environment or setting. If an employee, for example, drops a box of work documents and injures his/her foot, the case is considered work-related. If an employee is injured because he/she trips on the family dog while rushing to answer a work phone call, the case is not considered work-related. If the employee is electrocuted because of faulty home wiring, the injury is not work-related. 29 C.F.R. § 1904.5(b)(7).

New Cases

Reference Number:
MTAS-1978

The basic requirement at Section 1904.6(a) states that the employer must consider an injury or illness a new case to be evaluated for recordability if: (1) the employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body, or (2) the employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms of the previous injury or illness had disappeared) and an event or exposure in the work environment caused the injury or illness, or its signs or symptoms, to reappear.

According to the OSHA Recordkeeping Handbook [1], the term "new case" tends to suggest to some that the case is totally original, when in fact new cases for OSHA recordkeeping purposes include three categories of cases; (1) totally new cases where the employee has never suffered similar signs or symptoms while in the employ of that employer, (2) cases where the employee has a preexisting condition that is significantly aggravated by activities at work and the significant aggravation reaches the level requiring recordation, and (3) previously recorded conditions that have healed (all symptoms and signs have resolved) and then have subsequently been triggered by events or exposures at work. C.F.R. § 1904.6.

Both new injuries and recurrences must be evaluated for their work-relatedness and then for whether they meet one or more of the recording criteria; when these criteria are met, the case must be recorded. If the case is a continuation of a previously recorded case but does not meet the "new case" criteria, the employer may have to update the OSHA 300 Log [2] entry if the original case continues to progress, *i.e.*, if the status of the case worsens. For example, consider a case where an employee has injured his or her back lifting a heavy object, the injury resulted in medical treatment, and the case

was recorded as a case without restricted work or days away. If the injury does not heal and the employer subsequently decides to assign the worker to restricted work activity, the employer is required by the final rule to change the case classification and to track the number of days of restricted work. If the case is a previous work-related injury that did not meet the recording criteria and thus was not recorded, future developments in the case may require it to be recorded. For example, an employee may suffer an ankle sprain tripping on a step. The employee is sent to a health care professional, who does not recommend medical treatment or restrictions, so the case is not recorded at that time. If the injury does not heal, however, and a subsequent visit to a physician results in medical treatment, the case must then be recorded.

C.F.R. § 1904.6(b)(1) addresses chronic work-related cases that have already been recorded once and distinguishes between those conditions that will progress even in the absence of workplace exposure and those that are triggered by events in the workplace. There are some conditions that will progress even in the absence of further exposure, such as some occupational cancers, advanced asbestosis, tuberculosis disease, advanced byssinosis, advanced silicosis, etc. These conditions are chronic; once the disease is contracted it may never be cured or completely resolved, and therefore the case is never "closed" under the OSHA recordkeeping system, even though the signs and symptoms of the condition may alternate between remission and active disease.

The final rule provides, at C.F.R. § 1904.6(b)(1), that the employer is not required to record as a new case a previously recorded case of chronic work-related illness where the signs or symptoms have recurred or continued in the absence of exposure in the workplace. This paragraph recognizes that there are occupational illnesses that may be diagnosed at some stage of the disease and may then progress without regard to workplace events or exposures. Such diseases, in other words, will progress without further workplace exposure to the toxic substance(s) that caused the disease. Examples of such chronic work-related diseases are silicosis, tuberculosis, and asbestosis. With these conditions, the ill worker will show signs (such as a positive TB skin test, a positive chest roentgenogram, etc.) at every medical examination, and may experience symptomatic bouts as the disease progresses.

Links:
[1] https://www.osha.gov/enforcement/directives/cpl-02-00-135
[2] https://www.osha.gov/recordkeeping/RKforms.html

MTAS