

From: Fred H Bruyns
To: Marilyn K. Schuster
Date: 5/8/02
Subject: OSHA record-keeping and workers' compensation claim confidentiality

The following is WCD's policy position regarding release of 801 information by a temporary or leasing company to its client:

Background: Oregon OSHA received a question from a temporary employment agency. As the employer, the temporary agency receives the claim from its employee on Form 801. However, the client is responsible for keeping the 300 log and associated Form 301 or equivalent.

Question: Can the temporary agency forward a copy of the 801 to the client so the client can use it for record-keeping purposes? If so, can the temporary agency forward both the worker's and employer's portions?

Answer: The temporary agency (or leasing company) may forward the employer portion of the 801 but not the worker's portion.

Reason:

- (1) The worker's portion of the 801 is a "claim" form and may not be released to anyone except the worker, worker's attorney, the insurer, or DCBS (unless the worker signs a release). OAR 436-060-0017 likely applies to employers, though it specifies what insurers may release.
- (2) The worker's portion is unnecessary for record-keeping.
- (3) The employer's page of the 801 includes a statement: "This form satisfies OSHA Form 301 record-keeping requirements." It is not a "claim" form and may be used for record-keeping even in the absence of a workers' compensation claim.
- (4) OSHA rules (OAR 437-001-0700(14)) state " You must use OSHA 300, 300-A, and DCBS Form 801 or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is the Log of Work-Related injuries and Illnesses, the 300-A is the Summary of Work-Related Injuries and Illnesses, and the DCBS Form 801 or equivalent is the Worker's and Employer's Report of Occupational Injury or Disease."

Please let me know if you have additional questions or if I may assist you in any way.

Thank you,
Fred Bruyns, Forms & Bulletins Coordinator
Policy Section, Workers' Compensation Division
(503)947-7623