



Is the Loss of Vision Reportable Under OSHA's New Rule?

Insights

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OSHA's new rule requiring that any work-related amputation, inpatient hospitalization, or loss of an eye be reported within 24 hours has resulted in a drastic increase in the number of inspections initiated as a result of employer referrals. More than a 15 percent increase in referral-based inspections has been seen in some states. In fact, over 5,000 employers nationwide have made reports under the new rule this year despite the fact that some state plans, such as Arizona, have not yet adopted the new regulation.

This new requirement appears to be altering the OSHA enforcement landscape, most recently seen last month with OSHA's announcement that it will focus less on the number of inspections, and more on its "impact" on employee safety. See, [*What's the Real Effect of OSHA's Revamped Inspection Process*](#). This means fewer, more "complex" inspections that likely will result in a deeper analysis of workplace safety issues and higher penalties. This change in policy undoubtedly stems, at least in part, from the limited resources OSHA has to conduct the additional inspections required by the new reporting rule.

Our firm's workplace safety practice group has fielded a number of calls concerning various issues regarding the new reporting requirement.

These inquiries vary from "is this work-related," to "is this injury considered an amputation," and "I failed to timely report the amputation, now what do I do?" The answers to these questions are generally straightforward and are resolved with a single conversation. One question I've heard more than once, however, that caused me to pause was, "What Actually is the Loss of an Eye?"

What we hear from clients is "what if it's only a loss in vision- is that the loss of an eye?" That is a good question, and one slightly more difficult to answer than you think. Unlike "amputation" and "inpatient hospitalization," "loss of eye" is not defined by OSHA's reporting standard.

OSHA concedes this complexity. It recently issued a standard interpretation clarifying this issue.

In its December 2014 interpretation, OSHA defined "loss of an eye" as "the physical removal of the eye, including enucleation and evisceration." It expressly indicated, however, that the "loss of sight without the removal of the eye is not reportable." Thus, incidents resulting in the loss of vision, temporary or permanent, do not have to be reported to OSHA.

Despite OSHA's clarification on this issue, a loss of vision should still be reported on the employer's OSHA 300 injury log. Employers must also remember that a loss of vision injury may result in an in-patient hospitalization, which must be reported within 24 hours under the new rule.

We will keep you updated as the changes caused by this new reporting requirement continue to develop.

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