

Risk Quick Tips

Risk Management Division OMB



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This newsletter may be forwarded or printed and shared in its entirety within your institution.

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Can I Get a Copy of the Incident Report?

This has become a very common request from various parties that have an interest in an incident or accident, such as the party involved in the incident/accident, an insurance agent, legal counsel, or media.

What should a State employee do when these requests are made?

State employees should not make copies of incident/accident reports and distribute them to others. Under the Tort Claims Act, incident reports, investigation reports, or other Risk Management Fund records of a pending or reasonably predictable claim against the state or a state employee are **privileged and exempt** from the open records law (N.D.C.C. § 32-12.2-11). Discretion to disclose these exempt records is with the Office of Management and Budget, which shall disclose the records when disclosure will not prejudice any outstanding or reasonably predictable claim, all civil litigation or adversarial administrative proceedings regarding the claim are completed, and the applicable statute of limitations for a reasonably predictable claim has expired. This means that **only** Risk Management (as the designee) has the authority to decide if these documents may be disclosed. Disclosure by any other State entity or employee may not only be adverse to the State's interests, but it may be inconsistent with the law. Therefore, please refer all requests for Risk Management Fund records to the Risk Management Division (328-7584) or instruct the party to submit its request in writing to the Risk Management Division.

This statutory provision also supports the importance of utilizing the Risk Management forms to report incidents and accidents. Because these forms are privileged and exempt from the open records law, employees can report incidents to Risk Management without the fear of the reports being disclosed to the public prematurely. This protection gives the State an opportunity to address matters as efficiently and effectively as possible.

As a reminder, you can find the following statement on the top of the PDF forms generated through the online reporting system.

	RISK MANAGEMENT FUND INCIDENT REPORT STATE OF NORTH DAKOTA SFN 50508 (3-2005) (Attach additional sheets if necessary)	<div style="border: 2px solid purple; border-radius: 50%; padding: 5px; display: inline-block;"> May be EXEMPT RECORD (Contact Risk Management Division) </div>
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[N.C.C.C. ch. 32-12.2](#)
[Online Incident Reporting](#)
[Office of Attorney General Open Records Manual](#)

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Mission

The mission of the Risk Management Division of the Office of Management and Budget is to protect the assets of the state of North Dakota – its people, property and financial resources – so that the state can continue to meet its obligations to its citizens.

Desktop Reference: Print and post at workstations to help employees choose the best form to use when reporting incidents and accidents.

Printable Copy

FORMS TO USE WHEN REPORTING INCIDENTS & ACCIDENTS		
Incident Report SFN 50508	Motor Vehicle Accident Report SFN 51301	Medical Services Incident Report SFN 53601
<ul style="list-style-type: none">• Incidents involving alleged:<ul style="list-style-type: none">✦ injuries (to non-employees and employees); OR✦ property damage of any type which occurred at any location/building/property owned or managed by the State; or✦ actions by State employee(s) that caused the alleged injury or property damage.• Use this form to make the first report of an employee's injuries to Risk Management Workers Compensation Program.	<ul style="list-style-type: none">• Incidents involving any type of vehicle owned or driven by the State or State employees (including permittee drivers) and causing injuries to individuals or damage to property that is not owned/managed or leased by the State. <p>Online Incident Reporting www.nd.gov/risk/</p>	<ul style="list-style-type: none">• Incidents involving any medical treatment or services provided by State employees or any injury to a third party at a State owned or managed medical facility (i.e. Human Service Centers, State Hospital, Developmental Center, Veteran's Home, or clinics).• This form is <u>NOT</u> for reporting vehicle accidents or employee injuries (workers compensation).

NOTES:



Protection of you, your agency, and the public.

A training PowerPoint on *Suspicious Mail or Packages*, prepared by Kirk Hagel from ND Department of Emergency Services Fusion Center, has been posted on the Risk Management Website Online Training Library. The presentation covers; what is identified as suspicious mail; who to contact when suspicious mail is received; and provides tips on writing policies and procedures.

[Suspicious Mail/Packages Training](#)



RMWCP Premium Billings

Experience Rating Plan Changes

The RMWCP premium billings will be mailed the first week of October. Changes to the North Dakota Experience Rating Plan may make a difference in the premiums paid in 2010 and beyond of all North Dakota experience rated employers. In order to be closer aligned with the workers compensation industry, as of July 1, 2010 the calculation will contain 3 years of claims history instead of 5 years of claims history. As a result, claims will remain on an employer's calculation for only 3 years versus 5 years. Experience rating applies to policies with more than \$15,000 in aggregate premiums over the previous 3 years.

The maximum experience rate surcharge is increasing from 125% to 150%. Changes were also made to the ballast and credibility factor. For more information.....

Essential Job Functions

As a part of the 2010 RMWCP Discount Application, a sample list of essential job functions for a selected job category was requested across state agencies as a validation to conclude if a specific agency qualified for premium discount in compliance with the RMWCP Discount Program.

The majority of the agencies that submitted completed essential job functions for a specific job demonstrated that they analyzed the physical and mental work demands of that job and the environmental conditions in which it is performed. Upon completion of the analysis, it was evident that these agencies were able to determine the essential functions of those jobs and therefore, qualifying to receive a premium discount. ***However, some examples submitted by agencies were solely Position Information Questionnaire's (PIQ's) and did not meet the qualification requirements to receive the premium discount.*** PIQ's and a list of essential job functions are two different documents and processes.

To qualify for the RMWCP discount for application question #4, a detailed review of each job description to determine the essential and nonessential job functions and the physical and mental demand of each job must be completed. The following links will assist you in developing your essential job functions.

- * <http://www.nd.gov/risk/forms/docs/completioninfo.doc>
- * <http://www.nd.gov/risk/forms/docs/54325.rtf>
- * <http://www.nd.gov/risk/forms/docs/54326.rtf>

Once analysis forms are complete you will be able to determine the essential job functions of a position.

The term "essential function" was first introduced within the Americans with Disability Act (ADA). The law states an individual (once they meet the definition of a disability) must have the experience, education, licensure, etc. needed to perform the job and be able to perform the essential functions of the job with or without reasonable accommodation. Even though the law does not require employers to determine essential functions, it is in the employer's best interest to do so. Why? If an individual with a disability applies for a position or an individual becomes disabled while employed, you must look at what reasonable accommodation, if any, they will need to perform the essential functions of the job. In other words, you cannot refuse to hire or discharge an employee until you determine if they can perform the essential functions of the job with or without reasonable accommodation. ***It is important for employers to develop a list of essential job functions for each job category. These lists help you properly place workers in jobs and assign injured workers to transitional duties.***

Agencies can receive help in determining essential functions and physical demands of a position by contacting Linda Jensen, Human Resource Management Services, 328-3299 or ljensen@nd.gov.

FYI.....

2010-2011 WSI Manual Rates are available.
<http://www.workforcesafely.com/library/documents/manuals/1011Rates.pdf>

Congratulations to those of you who saved money on your entity's workers compensation premium by participating in the RMWCP FY' discount program.

WSI will be issuing a premium dividend to North Dakota policyholders. The RMWCP account will receive a premium dividend credit in the amount of 50% of the 2009-10 premiums. The credit will be applied towards the 2010-11 policy renewal. Pending an actuarial review, the premium dividend credit amount may be returned to state entities based on percent of 2009 net actual premium paid.

The next Risk Management Seminar will be held in May 2011. If there are any suggested topics you would like discussed at the seminar, email Diane Waliser at drwaliser@nd.gov.