

Workers' Comp

# ADVISOR

nysif.com

1st Quarter 2016

## The Claims Issue

### Reviewing The Employer's Role

**A How-To On:**

- **Reporting Injuries**
- **NYSIF eFROI<sup>®</sup>**
- **Payor Compliance Rules**
- **First Aid Cases**
- **Recordkeeping**
- **Claims Tracking**
- **When to Use C-107, C-240, C-11**



## WCA FYI

# PASS Rescheduling

NYSIF announced the release of its electronic Premium Audit Scheduling System (PASS). PASS allows policyholders scheduled for an audit to choose a more convenient audit date, time, or location, by visiting [nysif.com](http://nysif.com).

"The new system is part of NYSIF's efforts to improve customer service," Executive Director Eric Madoff said. "The system allows customers to reschedule audit appointments at their convenience and avoid the higher premium charges that may result from an estimated audit."

Available 24/7, PASS virtually eliminates instances where

## NEED TO KNOW... Protecting Agricultural Workers

The U.S. Environmental Protection Agency updated its 1992 farmworker protection standard. [EPA Pesticide Worker Safety](#)

### This Issue

- [Payor Compliance, eFROI and the 18/10 Rule/3](#)
- [eClaims Reporting, Recordkeeping and Claims Data/4](#)
- [Workers' Comp 101 Handbook: Get Yours Online/5](#)
- [Health & Safety Focus: Taking Stock of 2014 Injuries/6](#)
- [More on Critical Claims Forms and When to File/8](#)

customers have to wait for business hours to contact NYSIF to schedule a new appointment.

To access PASS, policyholders or their representatives must enter the Appointment ID number found on the NYSIF letter informing them of their original audit date.

Representatives can elect to receive notices of all audits for their clients. After rescheduling an audit, users receive an immediate confirmation of the date change and an email with a new appointment letter.

Users can reschedule their appointment or cancel an appointment once per policy period, but must reschedule the appointment within a prescribed time to avoid an estimated audit. Policyholders who receive notices of estimated audits can use PASS to schedule an actual audit.

## What to do when you need a PASS

### Premium Audit Scheduling System

*Now if you receive an inconvenient premium audit date from NYSIF, just go online and use our Premium Audit Scheduling System (PASS) to pick a new one.\* You will receive an on-screen confirmation of the date you choose and an email with a new appointment letter.*

*When you pick the date, there's no need to call or email your NYSIF auditor. It's quick and simple.*

(\*One-time use only. Repeated missed appointments result in an estimated audit.)



## 2014 Injury/Illness Toll

Private employers reported nearly three million nonfatal workplace injuries and illnesses in 2014, a rate of 3.2 cases per 100 equivalent full-time workers, according to estimates by the U.S. Bureau of Labor Statistics.

Reported cases were nearly 54,000 fewer in 2014 compared to 2013. Combined with an increase in reported hours worked, the decrease accounted for a decline of 0.1 total recordable cases (TRC) per 100 full-time workers, a pattern that has occurred in 11 of the past 12 years.

Over half of private industry injury and illness cases in 2014, however, involved days away from work, job transfer, or restriction, which was unchanged from 2013 at 1.7 cases per 100 full-time workers.

Among private industry sectors, the rate of reported injuries and illnesses declined only in the retail trade, healthcare and social assistance, and accommodation and food services sectors.

### FATAL INJURIES

The preliminary national Census of Fatal Occupational Injuries (CFOI) showed 4,679 recorded fatal work injuries in 2014, a 2% increase over the revised count of 4,585 fatal work injuries in 2013, according to the U.S. Bureau of Labor Statistics.

Although the preliminary rate of fatal work injuries for U.S. workers remained unchanged from 2013 (3.3 per 100,000 full-time equivalent workers), 13 workers were taken tragically from their families every day.

Preliminary 2014 CFOI findings:

- Fatalities rose in the construction sector (along with an overall increase in construction employment).
- Workers identified as contracted at the time of their fatal injury, 797, accounted for 17% of fatal work injuries, 6% higher (749) than in 2013.



More, Page 6

# Payor Compliance & NYSIF eFROI®

A First Report of Injury for an on-the job injury/illness is required within:

- **18 days** after the injury/illness event, **or**
- Within **10 days** after the employer has knowledge of the injury/illness event. **This is called the 18/10 rule.**

Under NYS Workers' Comp Law (WCL), all on-the-job injuries/illnesses are "reportable" if they result in:

- Lost time of one day beyond the work day or shift in which the accident occurred, **or**
- More than ordinary first aid treatment, or more than two first aid treatments.

**First Aid Treatment defined by the WCB** is one-time treatment and subsequent observation of minor cuts, scratches, burns, splinters and the like, which do not ordinarily require medical care (even if treatment is administered by a physician or a registered health care professional).

**NOTE:** Filing a **FROI-00** will satisfy the employer's filing requirement. Filing a paper *C2F Employer's First Report of Work-Related Injury/Illness* **will not** satisfy the WCB filing requirement. **NYSIF policyholders should use NYSIF eFROI® to file FROI-00.** Any employer who fails to file a timely FROI may be subject to a fine of up to \$1,000 and penalties of up to \$2,500 by the WCB.

**The WCB uses the greater of these dates to monitor payor compliance for lost time claims:**

- **18 days** from Date of Accident
- **10 days** from Date Employer Had Knowledge of Injury (determined by the WCB as the earliest of date employer had knowledge of injury, employer had knowledge of date of disability, Assembly Notice EC-1 date, or Indexing Notice EC-84 date)
- **10 days** from Initial Date Disability Began (IDDB)

**NOTE:** Date the employer had knowledge of the claimant's disability may not necessarily be the same as the initial date disability began. **For example:**

- Claimant is injured on 3/1/15
- Employer is notified of accident on 3/2/15 = **Date Employer Had Knowledge of Injury**
- Claimant starts losing time from work on 3/13/15, but does indicate the reason for the lost time = **IDDB**
- Claimant contacts employer on 3/17/15 to advise lost time is due to injury on 3/1/15 = **Date Employer Had Knowledge of Date of Disability**

Every FROI-00 filed late may subject NYSIF to a \$50 fine.

## WHEN AND HOW TO FILE A FIRST REPORT OF INJURY WITHIN THE 18/10 RULE

### Use NYSIF eFROI® to Report Injuries

Go to [nysif.com/ReportInjury](http://nysif.com/ReportInjury) to use NYSIF eFROI® for all reportable injuries/illnesses, including Volunteer Firefighter and Volunteer Ambulance worker claims. **Complete all required fields to report a loss using NYSIF eFROI®.** Report losses for cancelled policies if NYSIF covered the policyholder on the date of accident.

### Submitting the FROI-00

Once the WCB accepts your submitted FROI-00, you can review it at [nysif.com](http://nysif.com). Go to the "Employer's Workers' Compensation Report of Injury" page and Click "Review a Prior NYSIF eFROI Submission." **Contact the assigned case manager immediately if data on the accepted FROI-00 is incorrect.**

**NOTE:** While NYSIF eFROI® will save a partially created FROI, it is a best practice to complete and submit the FROI-00 in one session. Partial FROI transactions must be monitored by the employer to **ensure submission of a completed FROI-00 under the 18/10 rule.**

Follow these steps to start or resume a FROI-00 after receipt of a First Notice of Loss and Loss ID number.

Answer as indicated at [nysif.com/ReportInjury](http://nysif.com/ReportInjury)  
**If an eFROI has not been started:**

- Do You have a Loss ID? "Yes"
- Are you resuming an eFROI? "No"
- Enter Loss ID (NYSIF claim number) and required information
- **Do not enter** the WCB Jurisdiction Claim Number in the Loss ID or policy number fields.

**Be sure to correctly enter the policy number. Once you click "Start eFROI" you cannot change the policy number.**

- Click "Start eFROI"
- If the claimant did not notify the employer of the injury, answer "No" to the question, Has employee given you notice of injury/illness?

**If an eFROI has been saved and must be completed:**

- Do You have a Loss ID? "Yes"
- Are you resuming an eFROI? "Yes"
- Enter the policy number and eFROI transaction ID.
- Click "Start eFROI."

# SAFETY COP

Gary Dombroff, CSC  
NYSIF



## eClaims Reporting & Recordkeeping

**F**ollowing a workplace accident, NYSIF policyholders have a responsibility to comply with injury reporting and recordkeeping rules required of all New York employers. Do not delay when submitting a First Report of Injury for reportable injuries and illnesses. It is the employer's responsibility to report a work-related injury or illness within the period prescribed by the Workers' Compensation Board (WCB) [see page 3, "Payor Compliance and NYSIF eFROI®"].

The employer provides details of the accident and verifies the injured worker's account of the incident or illness [see "Reporting Questionable Claims" sidebar, page 5]. Timely submission is essential for NYSIF to avoid payor compliance penalties if the injury results in a claim for workers' comp benefits, and helps the employer lower the overall cost of the claim by allowing NYSIF to manage the case as soon as possible.

**NOTE: Not all injuries are reportable, but WCB recordkeeping requirements apply to all work-related injuries and illnesses.** For recordkeeping purposes, policyholders have the option to use NYSIF eFROI® to report on-the-job injuries that do not meet the criteria for reporting. These loss records remain in "incident" status and will be elevated to "claim" status if they become reportable, or if they are referred for investigation.

This article focuses on accident reporting, recordkeeping and leveraging claims data to prevent future accidents.

### ELECTRONIC REPORTING

The WCB requires electronic reporting for all reportable on-the-job injuries/illnesses. Note: the WCB no longer accepts forms C-2, C-669, C-7 and C-8/C-8.6. Information in these forms is now submitted electronically as FROI-00, FROI-04, or Subsequent Report of Injury (SROI) reports.

NYSIF eFROI®, our First Report of Injury system, allows policyholders to comply with this requirement by filing an electronic FROI-00 at [nysif.com/ReportInjury](http://nysif.com/ReportInjury) 24/7. This submission notifies NYSIF and the WCB of the workplace injury or illness. The WCB may enforce penalties payable by the employer for failure to file a timely report of injury/illness [refer to page 3]. **NOTE: Safety group policyholders should follow their group manager's claim filing procedures.**

## AVOID PAYOR PENALTIES FOR NYSIF AND RECORD- KEEPING ISSUES FOR POLICYHOLDERS: USE NYSIF eFROI® FOR TIMELY REPORTING OF INJURIES

### Using NYSIF eFROI®

NYSIF eFROI® (FROI-00) Worksheet lists required information for submitting a completed first report of injury and is available as an appendix in our Workers' Comp 101 handbook (r.) <http://www.nysif.com/Flipbook/WC101Handbook/index.html> or from the [nysif.com](http://nysif.com) web page [Role of the Employer - Claims](#)

NYSIF eFROI® allows you to save a partially created eFROI transaction if you do not have all the required information available when first reporting the incident. However, NYSIF recommends that employers complete the eFROI transaction and submit the FROI-00 in one session whenever possible.

### ABOUT THE FIRST AID OPTION

Not all injuries rise to the level of an actual claim. Using the first aid option, when permissible, allows employers to avoid having a claim impact their loss history. This can prevent a minor injury from developing into a claim that could affect an employer's experience modification.

NYSIF policyholders can pay for medical treatment for injuries that are not reportable. Immediately advise NYSIF, the worker and medical providers to send medical bills to you for prompt payment. Alternatively, policyholders can request that NYSIF pay medical bills, subject to reimbursement by the policyholder without affecting the policyholder's claims history. Policyholders must promptly supply accident details and reimbursement to NYSIF to avoid claim indexing by the WCB.

If the policyholder chooses the first aid option, but the injury later escalates to a lost time case, or medical care exceeds two treatments, the policyholder must immediately notify NYSIF so it can elevate the loss record to claim type status.



## RECORDKEEPING

The law requires employers to keep records of all accidents, including first aid cases, for at least 18 years whether filing a claim or not, in case an accident that is not reportable later becomes a claim. NYSIF eFROI® retains a permanent report of injury retrievable on NYSIF's website with the Loss ID, policy number and eFROI transaction ID. This is a convenient method of meeting WCB and federal Occupational Safety and Health Administration (OSHA) recordkeeping requirements. As an alternative for cases that are not reportable, policyholders may retain form C2F *Employer Report of Work-Related Injury/Illness* to fulfill records requirements.

The WCB can impose penalties not only for failure to report injuries/illnesses promptly, but also for failure to retain records. If OSHA investigates a serious or fatal accident at your workplace, poor recordkeeping could widen the scope of its inspection.

## TRACKING CLAIMS AND CAUSES

Accident frequency is used in the experience rating formula, so policyholders should monitor and proactively use their claims data to their advantage. Policyholders with more than a couple of claims in the last four years should be reviewing their claims data using CONNECTS® (Client On Net-NYSIF Claims Tracking System). NYSIF's online claims tracking tool gives policyholders the power to identify, analyze and address accident causes, and potentially reduce future losses.

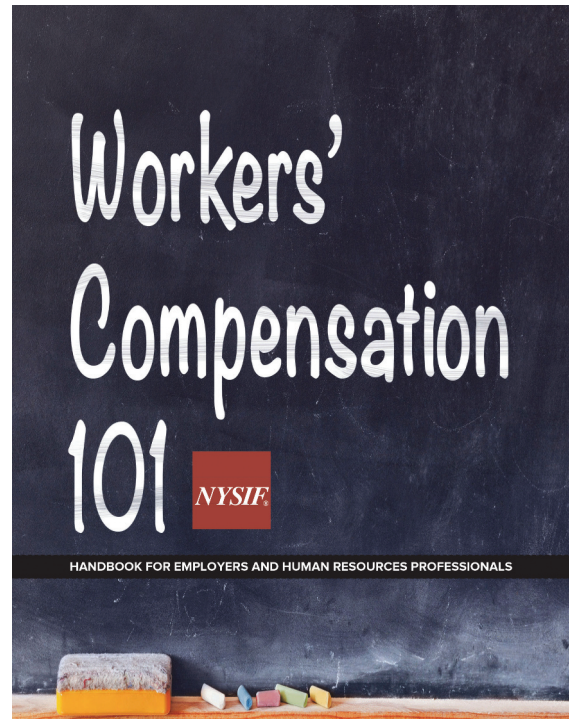
Detailed data accessible at nysif.com includes the reported body part, injury type, occupation, cause of accident and more. By exporting loss data to a spreadsheet, you can track current claims or claimants, seasonal trends and at-risk jobs. A little effort – adding columns to enter follow-up or hazard abatement plans, safety training, etc. – transforms the data into a risk management “leading indicator” of proactive accident prevention.

Ask questions: Who is getting hurt? Is a tool, task or location causing injury? Why are workers hurting limbs, slipping and tripping, or having motor vehicle accidents? Is weather a factor? Enter findings into the spreadsheet. Combined with NYSIF claim data, this can help managers pinpoint root causes of accidents and address them.

## THE BOTTOM LINE

Beyond reporting injuries and illnesses promptly and providing detailed information, good risk management involves tracking and using this information to prevent future losses. Track leading indicators that show where to focus to improve future safety performance. The best follow-up to an accident is preventing a recurrence by taking the proper preventive action. Monitor not just your losses, but also your reporting procedures and accident prevention efforts to control workers' comp costs.

Go to [nysif.com>Login](http://nysif.com/Login) to create an account to begin using CONNECTS to leverage your claims data.



## Workers' Compensation 101

NYSIF's newest publication (above), a handbook for employers and human resources professionals, is an essential reference guide covering the Employer's Role in the Claims Process, Injury and Illness Prevention, Return to Work, Reporting Fraud and Preparing For A Premium Audit. It also includes an eFROI worksheet, and forms to start your accident investigation and return-to-work programs.

Get yours here <http://www.nysif.com/Flipbook/WC101Handbook/index.html>

Two important employer responsibilities:

### Reporting Questionable Claims

Statements made when filing claims can be held binding by the WCB. If reporting questionable claims preface the accident description with phrases such as, "It is alleged that," or "The employee claims that..." Immediately notify NYSIF of any new information regarding a case after filing.

### Claimant Information Packet

The employer must provide an injured worker with a Claimant Information Packet before filing a claim (visit [nysif.com/forms](http://nysif.com/forms) for the Claimant Information Packet in several languages.) One of the forms in the packet is Form C-3.1 *Notice of Right to Select a Workers' Compensation Board Authorized Healthcare Provider*. The injured worker should sign and return the form to the employer, who should retain the form on file, or document all attempts to obtain the signed form. Receipt or non-receipt of the signed C-3.1, however, must not hinder any injured employee from securing timely, appropriate treatment for a job-related injury/illness.

## PEOPLE

### NYCA 'Lifetime' Honor for NYSIF Chairman

The New York Claims Association (NYCA) honored NYSIF Chairman Kenneth R. Theobalds (r.) with a Lifetime Achievement Award at its 2015 Holiday Dinner Gala on December 12, 2015. Chairman Theobalds, vice president of Government & Regulatory Affairs for Entergy, has served on NYSIF's Board of Commissioners since 2008. He was named chairman in January 2014. Mr. Theobalds also served NYSIF previously as deputy executive director from 1992 to 1995. NYCA annually honors leaders in workers' comp who foster professional ethics and education in the field of insurance claims.



### Injury/Illness Toll | From 2

- Fatalities rose in mining (+17%), agriculture (+14%), manufacturing (+9%) and construction (+6%), while declining for government workers (-12%).
- Slips, trips and falls increased 10% from 724 to 793, driven by an increase of falls to a lower level, 647, compared to 595 in 2013.
- While accounting for 8% of all fatal occupational injuries in 2014, women suffered 13% more fatal work injuries than in 2013.
- Fatalities among workers 55 and over rose 9% from 1,490 to 1,621, the highest CFOI preliminary count ever reported in this category.
- Fatalities among Hispanic workers declined from 817 to 789, while fatal injuries among non-Hispanic white, African-American and Asian-American workers were all higher.

### OSHA's Most-Often Cited

The Occupational Safety and Health Administration's most frequently cited standards in 2014:

1. Fall protection (c=construction standard)
2. Hazard communication
3. Scaffolding (c)
4. Respiratory protection
5. Powered industrial trucks
6. Lockout/tagout
7. Ladders (c)
8. Electrical wiring
9. Machine guarding
10. Electrical systems design

## Health & Safety Focus

Preliminary statistics for 2014 showed a slight decline in non-fatal injuries and illnesses for U.S. workers. However, lost time cases remained unchanged and fatal injuries climbed 2% from 2013, as working hours increased in private industry. Unfortunately, recent cases point to continued safety issues covered frequently by the *Advisor*, including trenching hazards, fall protection and machine guarding.

### Contractors Indicted

OSHA cited two contractors following a trench collapse that buried a 22-year-old laborer beneath tons of soil and debris at a Manhattan construction site. Officials from both companies were indicted on manslaughter charges in New York State Supreme Court. OSHA said they allegedly failed to provide cave-in protection for the trench and an adjacent section of unsupported sidewalk.

In another incident, a New York cemetery faced fines of \$123,200 after the walls of a grave collapsed, burying a worker up to his waist.

### Worker Dies in Fall

A 51-year-old laborer fell from the sixth floor of a building under construction in Brooklyn and his employer received OSHA citations totaling \$84,500 for alleged hazards including failing to provide fall protection, missing guardrails, unprotected floor holes and construction debris in work areas.

### Supermarket Chain Cited for \$188K

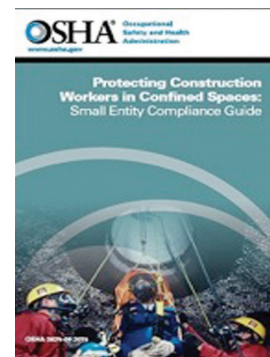
OSHA cited a supermarket chain for recurring hazards at its bakery in Rochester, NY, after a crewmember lost his fingertip while cleaning an operating conveyor, and a mechanic was burned by steam while repairing a valve.

### Order Manufacturers to Pay

OSHA Review Commission judges upheld \$154,000 in fines for a Rochester, NY, manufacturer after an employee lost a hand in an unguarded table saw. A second manufacturer will pay \$181,280 for allegedly continuing work and crane activity near power lines at a Valley Stream construction site after warnings by OSHA and the Long Island Power Authority.

### New Guides

OSHA published new guides designed to help protect workers in confined spaces (top) and firefighters and other responders (r.)



Protect Workers in Confined Spaces  
<https://www.osha.gov/Publications/OSHA3825.pdf>



Fire Service Features  
<https://www.osha.gov/Publications/OSHA3256.pdf>



# CUSTOMER APPRECIATION



## Derrick Monument Company, Leroy, 75 Years

Derrick Monument Company, Inc., has manufactured tens of thousands of cemetery memorials for western New York. At one time, it was the only monument company between Buffalo and Rochester. Charles Burbeck Derrick, "C.B." as he was known, founded the 100-year-old business in 1915. His son, Leslie, worked with C.B. and eventually took over the company. In 1972, he sold the business to the Carlsen family. Now in its third generation of Carlsen ownership, the Leroy, New York, company serves customers from Niagara Falls to Watertown.

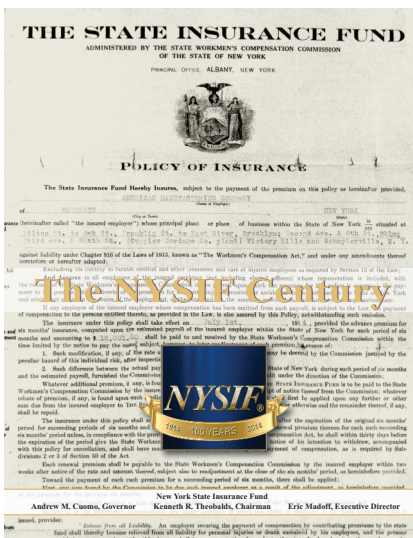
Photo (l.-r.): Derrick Monument Co. President David Carlsen, NYSIF Field Rep Paul Coles



## Chamberlin Rubber Company, Rochester, 85 Years

An industrial rubber supplier since 1865, Chamberlin Rubber Company manufactures the only UL 94 rated hose assembly in the HVAC industry. The Rochester, New York, company is a major supplier of mass transit railcar products including custom die-cut gaskets, pads, strips, sub-assemblies, extruded and molded parts, window extrusions, door seals, rubber cleats, strips, bumpers, roof panel seals, HVAC seals, battery door gaskets, FST ducting and other materials for ceiling and wall insulation, flooring, sub-flooring and anti-vibration. Chamberlin's materials are smoke, flame and toxicity tested to meet the most stringent industry standards.

Photo (l.-r.): Chamberlin Rubber Co. President Phil Collins, NYSIF Field Rep Paul Coles



## NYSIF Century Takes Top Honor

The American Association of State Compensation Insurance Funds awarded NYSIF its top honor for The NYSIF Century commemorative book (l.), which took first place in the Open Category in the 2015 AASCF communications contest. WCA1Q2015 (r.) won a second place Excellence in Writing award for the article "Remedy For The Ranch."



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Disability Benefits Claims & Service 1-866-697-4332  
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Send WCA comments to [jmesa@nysif.com](mailto:jmesa@nysif.com)

## A NYSIF 'U' REFRESHER

NYSIF's education and information series for employers.



### New, Fillable C-107 and Other Critical Forms

NYSIF has a new, [fillable Form C-107](http://nysif.com/forms) available at [nysif.com/forms](http://nysif.com/forms). This form is one of three whose timely submission is critical to the employer's role in the claim process. Policyholders should be particularly interested in Form C-107, which allows for reimbursement of advance payments of compensation made by the employer to the injured worker. Timely submission of the C-107 is important because employers must file this form before the Workers' Comp Board makes a compensation award. Two other critical forms in the claims process are described below.

**C-240** - Promptly provide accurate wage and attendance information about the injured worker to your NYSIF case manager by submitting Form C-240, *Employer's Statement of Wage Earnings Preceding Date of Accident*. This helps establish the validity of a claim and compensation rate, if awarded.

**C-11** - Report any change in a claimant's work status to the case manager as soon as it occurs by using Form C-11, *Employer's Report of Injured Employee's Change in Status or Return to Work*. This includes return to work, discontinuance of work, decrease in regular working hours or reduction of wages.

Your cooperation in submitting these forms to NYSIF avoids delays in claims payments and reimbursements, prevents WCB penalties and limits claim costs, especially if a claimant's stated wages are inconsistent with actual earnings.

In all cases, notify NYSIF immediately if you are suspicious about a claim. The employer also is responsible to attend hearings before the WCB if requested.

[ If you have a question for NYSIF 'U' e-mail [jmesa@nysif.com](mailto:jmesa@nysif.com) ]