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OSHA's Final Rule Broadens Employers' Obligations to Report Severe Injuries

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The Occupational Safety and Health Administration (“OSHA”) published a Final Rule on Thursday, September 11, 2014 regarding the scope of its mandatory reporting requirements in cases of severe injuries.¹ OSHA’s Final Rule does not change employers’ obligation to report work-related fatalities: all employers are still required to report fatalities within eight (8) hours of their occurrence. However, the Final Rule expands employers’ obligations to report (a) in-patient hospitalizations; (b) amputations; and (c) enucleations (losses of an eye).

Under the old regulations, employers were required to report in-patient hospitalizations only if three or more employees were hospitalized. Commenters noted that many circumstances could lead to the hospitalization of a single employee without signaling an employer’s failure to identify or control a particular hazard, and may not otherwise indicate a “major workplace issue.” While that may be true in some situations, OSHA explained that the hospitalization of any worker due to a work-related incident is a “serious and significant event,” indicating that serious hazards “may exist in the workplace” potentially warranting OSHA intervention. Thus, under the Final Rule, employers are now required to report all in-patient hospitalizations to

¹ The Final Rule also updated the list of industry groups which may be exempt from routine record-keeping requirements. However, even those “partially exempt” establishments must comply with the Final Rule’s obligation to report severe injuries.

OSHA within twenty-four (24) hours if the employee is “formally admitted” for at least one overnight stay for “care or treatment” – hospitalizations involving observation or diagnostic testing only are excluded from this reporting requirement. *See* 29 C.F.R. §1904.39(b)(9), (10).

Employers are also now required to report all “amputations” to OSHA, regardless of whether hospitalization is required. OSHA rejected arguments that such a requirement was either (a) redundant with the requirement to report hospitalizations or (b) unnecessary to the extent it required the reporting of non-critical accidents (i.e., those that did not require hospitalization). Instead, OSHA credited reports showing the prevalence and significance of amputations that did not involve in-patient hospitalization and further noted that amputations are “serious injuries with permanent consequences” which generally indicate unsafe conditions. Employers must report amputations only if they occur within 24 hours of the work-related accident; such amputations must then be reported within 24 hours. OSHA defines “amputation” in § 1904.39(b)(11).

OSHA also found that the loss of an eye is a severe and significant injury and that the reporting of such injuries, regardless of hospitalization, may help identify workplaces where serious eye hazards are present. Thus, if a work-related incident results in the loss of an eye within 24 hours, the injury must then be reported within 24 hours.

In addition to expanding the “severe injury” reporting requirements, OSHA clarified that the obligation to report is triggered upon the employer’s awareness of the hospitalization, amputation or enucleation, rather than upon the occurrence of the injury. OSHA also now allows employers to report such injuries electronically through www.osha.gov, in addition to allowing employers to report by telephone or in person.

Employers should read and understand the relevant OSHA definitions and regulations and update or implement their reporting procedures to ensure compliance with this Final Rule. For more information about OSHA's Final Rule feel free to contact Adam Doerr (adamdoerr@hessemartone.com) or Andy Martone (andymartone@hessemartone.com).