

Plain Language

To speak effectively, plainly, and shortly, it becometh the gravity of the profession.

—Sir Edward Coke, 1600

Plain English in Workers' Compensation

By Nancy Caine Harbour

The Workers' Disability Compensation System in this state provides some good examples of the effective use of Plain English. At the heart of the workers' compensation procedure is a network of forms, clearly titled and required by the Compensation Act to be filed with the Bureau of Workers' Disability Compensation in Lansing. These forms track the chain of events from the time a worker is injured through the payment of benefits to benefit cessation.

The "Employer's Basic Report of Injury" (Form 100), must be filed by the employer when a worker is injured on the job. This form concisely states the name, address and other pertinent personal information about the worker, the date of the injury, how the injury occurred, and the worker's average weekly wage according to the employer's records.

If benefits are paid, a "Notice of Commencement of Compensation Payments" (Form 101), is completed by the employer or the employer's insurance carrier and sent to the injured worker. It lists when benefits started, for what injury they are being paid and the amount of benefits. Similarly, the "Notice of Stopping Compensation Payments" (Form 102), outlines what compensation benefits were paid and the reason for cessation of benefits.

Employers, insurance carriers and injured workers can read these documents and understand the information in them.

If an employer does not pay compensation benefits voluntarily and the injured worker wishes to apply for them, an uncomplicated document, called a "Petition for Hearing" begins the workers' compensation lawsuit.

This petition is analogous to the complaint filed by the plaintiff in other personal injury actions. But unlike other complaints, there is a refreshing absence of verbose and non-essential phrases, such as, "Now Comes Plaintiff, by and through his attorney, and states unto this Honorable Court, that. . ."

The introductory phrase on the Petition for Hearing simply states: "The applicant respectfully shows." The petition then lists on one page a concise

This is the third in a series of articles coordinated by the Plain English Committee of the State Bar of Michigan. The articles are written by sections, committees, groups and individuals interested in promoting plain language in the law.

summary, in numbered paragraph form, of the worker's name, how the injury occurred, what injury occurred and whether or not a claim for medical benefits in addition to weekly benefits is claimed.

The injured worker can read this petition and usually explain, if asked, what he or she is claiming. How many times, in contrast, has each of us heard a client lament about other legal documents: "I didn't know what I signed."

Although these workers' compensation forms are good examples of Plain English documents, the procedure which can accompany them dis-

plays the same complexities as litigation in other forums. The Petition for Hearing, for example, must be filed within certain time parameters or a worker's benefits can be adversely affected. And other benefits, such as Total and Permanent Disability Benefits, are requested by using the Petition for Hearing form. Also, an employer paying benefits under a Judge's order who wishes to stop these benefits must petition the Bureau to stop compensation benefits by using this Petition form.

Each of these procedures requires a trial on the issues including complicated medical questions, at times despite the fact that the initial pleading form was by comparison uncomplicated.

The workers' compensation system presents a good starting ground for change between Plain English proponents and practitioners who feel that the traditional language of the law must remain. The workers' compensation practitioner uses both — the Plain English forms and the traditional legal language — as a compensation case proceeds through litigation to the Workers' Compensation Appeal Board and perhaps to the Michigan Court of Appeals. We can hope that the development of plain understandable language in this system will continue. ■

Nancy Caine Harbour has been practicing Workers' Disability Compensation Law since her admission to the Bar. She is an associate with Miller, Cohen, Martens & Sugerman, P.C., Detroit, and was elected to the State Bar's Workers' Compensation Council in 1983 for a three-year term. She received her JD from Cleveland Marshall College of Law, Cleveland, Ohio, in 1978.

STATE OF MICHIGAN
DEPARTMENT OF LABOR
BUREAU OF WORKERS' DISABILITY COMPENSATION
PETITION FOR HEARING

Three copies of this application must be mailed to the Bureau of Workers' Disability Compensation, 7150 Harris Drive, P.O. Box 30016, Lansing, Michigan 48909. The applicant should keep one copy.

EMPLOYEE
Last First M.I. Street Address City & Zip Code

SOCIAL SECURITY # DATE OF BIRTH

EMPLOYER
Street Address City & Zip Code

INSURANCE COMPANY
(Do not fill in)

The applicant respectfully shows:

1. That this claim relates to a personal injury which occurred on or about
at
(Plant where injury occurred)

OR to a disablement from occupational disease which occurred on or about

2. That the injury or disablement occurred at and in the following
City County State
manner
(Give details)

.....
.....
.....
(Daily Wage at time of injury or disablement) (Weekly earnings)

3. Nature of disability
(Describe part of body injured. If occupational disease, state specific disease)

Date of recovery Date of return to work

4. If death resulted, give date of death Relationship of applicant to deceased

5. Names of persons dependent upon injured employee on date of injury

6. Has compensation been paid or is compensation being paid for this injury? Yes No

7. If adjustment of attorney or medical fees or funeral expense is sought, please state which and amount ...

8. The employer or insurance carrier is authorized to obtain Social Security records. Yes No

Wherefore applicant requests that he be granted such relief as he is entitled to under the Workers' Disability Compensation Law of Michigan and that the Bureau set this matter for hearing so that the parties hereto may have a determination of their rights under the Workers' Disability Compensation Law.

Dated at this day of 19

Name and address of Plaintiff's Attorney (if any)

..... Signed
(Applicant must sign here)

..... Address

NOTE: — Either party to a dispute regarding compensation matters may apply to the Bureau for an adjustment of its claim.