



Safetyinsider®

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Bob's Corner

Welcome to the first TLC Client Newsletter of 2018. We are excited to build relationships with our new clients and to continue our successes with existing clients in 2018! Our newsletter is designed to help navigate through Safety, Compliance, HR, and many other topics. Please use this to guide and help improve your operations and remember that all past client and driver newsletters are available online.

This newsletter is aimed at giving you a different perspective on your business. What really is "a good night's sleep"? This is the risk management concept of the comfort level built on the risk in your business. Transportation is dangerous, especially when not controlled so we have to plan and prepare for all types of contingencies that can affect your business, your employees, and your customers. Let me break this down for you.

There are two key concepts with Risk Management: Risk Control and Risk Financing. These are methods to protect your business from these types of loss(es).

- Property – Truck, trailer and cargo
- Liability – Injury to persons and damage to property
- People – Injury to drivers and other employees

Risk Control is where losses are prevented, reduced or controlled. TLC's Injury Prevention and Flatbed Safety Program specifically instruct and train drivers on the key exposures and prevention techniques to avoid injuries to drivers. Being proactive is sometimes the hardest area since most persons that perform unsafely do not get hurt. For example, if a driver continues to jump out of the cab and doesn't get injured, why would they want to be safe and use the 3 point method of contact for entry and exit?

Risk Financing is insuring the cost of accidents and injuries. This is insurance like workers compensation, collision, cargo, liability or other risk financing techniques. Risk retention is choosing to keep the risk in house through self-funding or savings program. A deductible is retaining a small or larger part of the risk to reduce premiums. If we don't know the risk, or choose to ignore it, then it can and ultimately will incur cost. We can be blind to some risks.

Have you determined all the risks to loss in your company? Are you protected against the risks? Perhaps the best source and often the least expensive is prevention. Is your safety program aligned with your deepest exposures to risk? Are you covered, do you feel comfortable, but most importantly, can you get a good night's sleep knowing you are pro-active, protected, insured? Prevention and cost control are the least expensive and not only save the direct cost of accidents, but the indirect costs as well (often 4-12 times the direct costs).

You have a team at TLC Companies that is available to answer many of your questions or direct you to the right sources for assistance. Our safety team is often the most visible to you on our visits, but many others are working with you behind the scenes. The safety team can also discuss most TLC services. Be prepared to address any issues with us on our visits. If we don't know, we will find out.

Enjoy the New Year and contact us when we can help!

Cheers,
Bob Byrnes
Safety Director

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ACA: Reminders for 2018

The ACA (Obamacare) was NOT Repealed

Last year, it seemed as though there was a good chance of the Affordable Care Act (ACA) being repealed. However, a repeal did not happen. In late December 2017, Congress did vote to repeal the individual mandate – the requirement that Americans buy health insurance or face a penalty – but left all other provisions of Obamacare in place. Even if "repeal and replace" goes through successfully in the future, keep in mind that many of the features and requirements of the law are likely to stay in place. With that in mind, below are some reminders of the main features of ACA.

Applicable Large Employers

Applicable large employers (ALEs) are subject to the **employer shared responsibility provisions** of the Affordable Care Act (ACA) and related **information reporting requirements**. Under the ACA, your organization is an **applicable large employer** for a year if you had an **average of at least 50 full-time employees** (including full-time equivalent employees) during the *prior* year.

Remember that in determining your average number of full-time employees for the prior year, and your ALE status, employees who average at least 30 hours of service per week during a calendar month is counted as full-time for that month. Employers are still required to include employees who averages less than 30 hours of service per week in their numbers when calculating the number of "full-time-equivalent" employees.

How to determine if your company is an ALE for a year:

- Calculate how many **full-time employees** you had each month.
- Calculate how many **full-time equivalent employees** you had each month (total hours of all non-full-time employees for the month up to 120 hours per employee, divided by 120).
- For each calendar month, add those numbers together to get a monthly total.
- Add up the monthly totals.
- Divide the sum of the monthly totals by 12.

Some important things to note about ALE status:

- If your company is a member of an aggregated group (also known as a control group), count the employees of all members of the group. All employers with a common owner(s), or that are otherwise related, are combined and considered an aggregated group for determining ALE status (contact your legal counsel if you're unsure about your group's status, especially if you have complex ownership).
- Each employer of an aggregated group is responsible for its own 1094-C/1095-C reporting, but many companies outsource or combine forces to complete the administrative task.
- Note that being a PEO client does not have an impact on your company's or aggregated group's total headcount.

Coverage Requirements/Employer Shared Responsibility Provisions

Applicable large employers are subject to the employer shared responsibility provisions and may be subject to one of two potential employer shared responsibility payments for a given month, if at least one full-time employee received the Advance Premium Tax Credit (APTC) for purchasing coverage through the Health Insurance Marketplace (Marketplace) and for that same month your company either: (1) did not offer coverage to at least 95% of full-time employees (and their dependents) or (2) you offered coverage but at least one of your full-time employees received the APTC because the coverage was unaffordable, or did not provide minimum value, or the full-time employee was not offered coverage.

Reporting Requirements/Forms 1094-C/1095-C

Applicable large employers are required to report information to the IRS annually on **Forms 1094-C** and **1095-C**. This requirement began with calendar year 2015 reporting. Form 1095-C must be furnished to all full-time employees by January 31st following the year being reported (e.g. 1/31/18 for calendar year 2017 reporting); and copies of the 1095-C forms, along with summary information on Form 1094-C, are to be filed with the IRS by February 28th (or March 31st if filing electronically). Additional reporting requirements, using **Forms 1094-B** and **1095-B**, apply to organizations that sponsor self-insured coverage, even if they are not an ALE. Insurance carriers also report similar information for enrollees in fully insured coverage, using **Forms 1094-B** and **1095-B**.

If your company is an ALE, you are obligated to do the 1094-C/1095-C reporting for all full-time employees, whether or not you sponsor a group health plan.

TLC Benefits can help with 1094-C/1095-C reporting. Each Fall, TLC will contact you by email or mail if we believe your company is an ALE based on the headcount of the workforce you share with TLC. Keep in mind, we may not have enough information to identify your company as a potential ALE if: (1) your company is a member of an aggregated group, but not all companies of the aggregated group are TLC clients, or (2) you are new to TLC and we do not have a full year of historical data. **If you believe you're an ALE and subject to ACA reporting, we need to hear from you no later than November 1st if you'd like use TLC's ACA Reporting Services for the current year.**

If your company is an ALE and sponsors a group health plan outside of TLC, and you'd like us to prepare the 1094-C/1095-C forms for you, we'll need to gather certain plan and enrollment data from you by December 1st.

If your company is an ALE and participated in TLC's Aetna medical plans for the entire year being reported, we'll automatically prepare the 1094-C/1095-C forms for you - we'll mail 1095's to employees and send you a package to be signed and mailed to the IRS.

More Information

Find out more about the tax provisions of the Affordable Care Act for employers at IRS.gov/aca. The **questions and answers section** is a good resource with detailed information such as how to determine whether an employer is an ALE, rules for aggregated groups, new employers and seasonal workers, and more.

Learn more by calling **TLC Benefits at 800-825-3832**. Get a quote for ACA Reporting Services, learn more about ACA requirements and full-time equivalent calculations, find out more about TLC's benefit options, or get a quote to participate in TLC's Aetna medical plan.

Screening - Important Notice to Clients

Be aware of the liability and risks when placing drivers in trucks prior to approval or without all the payroll documents received by TLC. In the event of an injury, employees are not covered under workers compensation until approval and on the TLC payroll. Also, the drug screen results must be in prior to dispatching a driver. This is an FMCSA requirement that can result in a violation. Is the risk worth it? At TLC Companies, we are here to help and protect you. We are very effective in processing applications in under 24 hours once we receive the paperwork. We also understand the frustrations, but help us to help and protect your company to minimize the risks! All it takes is one severe accident that can and does result in very high costs and liability that often takes years to settle. Thank you for your patience and understanding.

2018 Minimum Wage Increases

The following states have increased their minimum wage effective 1/1/2018:

Alaska	\$9.84	Arizona	\$10.50
California	\$11.00	Colorado	\$10.20
Florida	\$8.25	Maine	\$10.00
Michigan	\$9.25	Minnesota	\$9.65
Missouri	\$7.85	Montana	\$8.30
New Jersey	\$8.60	New York	\$10.40
Ohio	\$8.30	Rhode Island	\$10.10
South Dakota	\$8.85	Vermont	\$10.50
Washington	\$11.50		

If you need updated compliance posters, please contact Diane Hofstadter at 763-585-7073 or dhofstadter@tlccompanies.com.

Unassigned Miles

The primary purpose behind the new Electronic Logging Device (ELD) rule is to ensure that every time the wheels on a truck move, the movement is captured by the ELD and assigned to the appropriate driver. The Federal Motor Carrier Safety Administration's (FMCSA) goal is to prevent drivers from exceeding Hours of Service (HOS) limits by hiding or not recording drive time. Therefore, any drive time that is not assigned to a driver will be one of the main focuses of the FMCSA or state enforcement agencies during an audit or compliance review.

Unassigned drive time can quickly accumulate if not managed daily. Although drivers may have various reasons for not logging into a device, one motive may be to evade the rules in an attempt to drive more than the HOS limits allow. While ELDs are required to show unassigned drive time - drivers are not required to "accept" that time. If the proper driver does not assume "unassigned" drive time, the burden to track and assign that time falls on the motor carrier.

Motor carriers should select an ELD system that produces appropriate reports showing all unassigned drive time for every ELD and Automatic Onboard Recording Device (AOBRD) in use in their fleet. Motor carriers should work with drivers to quickly address all unassigned drive time to ensure the drivers' logs are correct. If a motor carrier does not assign all drive time, FMCSA or a state enforcement agency will ask to review all unassigned time and investigate why it was not assigned. Failure to assign the drive time will likely result in "false log" violations for those drivers that should have accepted drive time and may result in a downgrade of a motor carrier's safety rating.

There are other ELD data requirements a motor carrier is required to monitor. These include malfunctions, data diagnostic issues, other information the systems capture that may signal a problem or tampering by a driver.

In addition to addressing unassigned drive time and other ELD outputs, there is also the "supporting document" requirement. This requirement verifies if drivers are properly logging activities such as fueling, roadside inspections and other tasks as "on-duty" time.

Paid Sick Leave Laws

Although the trend is slowing, states, cities and municipalities continue to pass paid and unpaid sick leave laws in recent years and this trend is likely to continue.

We recommend you stay vigilant to determine if your business is required to comply with these laws by consulting with your legal advisor to understand the actions required to comply with the sick leave laws that apply to your business. The following website is an excellent resource to help you understand the state and local paid and unpaid sick leave laws that may affect your business. <http://www.paid sick days.org/>

Many of the sick leave laws also require record keeping. At the TLC Companies, we have the ability to record accrued paid and unpaid sick leave within our payroll system so that the accrued and used leave are reflected on the employee paystubs.

Feel free to contact our company to discuss how TLC can incorporate sick leave recording through our payroll system. Our payroll office number is 800-825-3832.

Medical Certification for CDL Drivers

The Federal Motor Carrier Safety Administration (FMCSA) requires states to place each interstate CDL driver's medical qualification status into the national commercial driver's license (CDL) database. In practical terms, this means:

- An interstate commercial motor vehicle (CMV) driver who is required to hold a CDL has to provide his/her current and all future medical certificates (wallet cards) and any applicable variances/exemptions to the state that issued the CDL. The expiration date of the certificate as well as other details about the driver's medical certification is then placed in the CDL database for tracking by the state. The driver then must submit each subsequent medical certificate to the state in order to maintain an active CDL for interstate commerce.
- The state has to make sure the driver is medically qualified before issuing, renewing, or upgrading a CDL, and has to add the driver's medical qualification status to the driver's driving record.
- Employers have to obtain each applicant's driving record — rather than the wallet cards — to verify that he/she is medically qualified.
- Because drivers' medical qualification status is instantly accessible to enforcement officers, many drivers no longer need to carry their medical cards with them in the truck or bus (at least for no longer than 15 days, as explained below). States are free to determine how the medical cards are to be delivered (e.g., in person, mail, fax, email), whether copies will be allowed, and whether a fee is charged for medical card processing. If a driver's medical card or medical variance expires, the licensing state must change the driver's medical certification status to "not certified," must notify the driver of that change, and then must remove the driver's interstate CMV driving privileges (i.e., must "downgrade" the license) within 60 days. The states are not required to notify drivers prior to the expiration of their medical cards.

Four categories

The regulations distinguish between four types of drivers, and each CDL or Commercial Learner's Permit driver (CLP) is expected to notify his or her state licensing agency of the type of driver he or she is or expects to be, as follows:

- **Non-excepted interstate** — operates in interstate commerce, is qualified under Part 391, and is required to obtain a medical card.
- **Excepted interstate** — operates in interstate commerce but is exempt from having to obtain a medical card under Part 391. The types of operations that are exempt are detailed in 49 CFR §390.3(f), §391.2, §391.68, or §398.3.
- **Non-excepted intrastate** — operates only in intrastate commerce and is subject to state qualification rules.
- **Excepted intrastate** — operates in intrastate commerce but is exempt from state qualification rules.

All "non-excepted interstate" drivers have to provide the state with a current medical card and all future cards.

Recordkeeping requirements

The recordkeeping requirements under the rule are as follows, for all interstate CDL/CLP holders and their motor carriers:

DRIVERS:

- Non-excepted interstate CDL/CLP drivers no longer have to carry their medical certificates except for the 15 days after receiving a new medical certificate. That is, drivers who provide a new medical certificate to the state licensing agency must carry a copy of the certificate for up to 15 days, giving the state time (up to 10 days) to add the new information to the driver's record.

MOTOR CARRIERS:

Physical Exam

- Motor carriers using interstate CDL/CLP drivers whose driving record currently includes their most recent medical certification status must use the driving record (MVR) as proof of physical qualification and keep that driving record in the driver's qualification file. The MVR must be updated every time the driver's medical certification status changes, i.e., after every new DOT medical exam. This requirement has been in place since January 30, 2012, for any interstate CDL driver whose MVR includes medical certification status.

- If a CDL/CLP driver obtains a new medical certificate then the motor carrier can retain a copy of that certificate for up to 15 days, giving the state time (up to 10 days) to add the new information to the driver's record. By the end of those 15 days, the carrier must have a new MVR showing the updated medical information.
- Motor carriers must verify that their CDL/CLP drivers self-certified under the appropriate operational category for their jobs. For example, a driver who self-certified as an intrastate driver is not authorized to operate in interstate commerce. Medical examiners and state licensing agencies are required to keep a copy of each driver's medical card for three years. Employers also have to continue maintaining medical cards for any drivers not subject to the rule, including non-CDL drivers.
- The requirements only applies to interstate CDL/CLP holders and their motor carrier employers, but states are expected to adopt similar rules for most in-state CDL/CLP drivers.

Changes due in June 2018

For interstate CDL and CLP drivers, the steps in recordkeeping will be revised for all driver medical examinations on or after June 22, 2018.

The medical examiner is instructed to submit the medical exam results directly to the FMCSA via the National Registry of Certified Medical Examiners web portal by midnight (local time) of the next calendar day after the completed exam. In turn, FMCSA will transmit the results to CDLIS within a day or two of the exams.

As of the result of these new processes for exams performed as of June 22, 2018:

- The CDL and CLP drivers will not be issued a medical examiner's certificate by the examiner. As a result, he/she will no longer have to carry the certificate, even temporarily, since enforcement will have access at roadside.
- The motor carrier will not use a medical examiner's certificate as temporary proof of the medical certification. The motor carrier must request an MVR within a couple of days of the exam and is not given 15 days as previously allowed since the information should be accessible to the state as soon as FMCSA enters it into CDLIS.
- The motor carrier no longer needs to verify the examiner appears on the National Registry of Certified Medical Examiners website since the examiner must be certified in order to submit the results of the exam via the secured web portal. This does not apply to non-CDL drivers.

Drug Testing Custody and Control Form

Effective June 30, 2018

On August 8, 2017, the OMB approved a revised Federal Drug Testing. DOT regulated employers and their service agents (collectors, laboratories, Medical Review Officers) are to continue using the 'old' CCF until further notice from DOT's Office of Drug and Alcohol Policy and Compliance.

When using the 'old' CCF a "memorandum for the record" is not required. The 'old' CCF is the one that has been used under the DOT-regulated program since 2010.

The revised CCF includes the following changes:

In Step 1D:

- Removal of the checkbox, the letters "DOT" and hash line in front of the text "Specify DOT Agency"

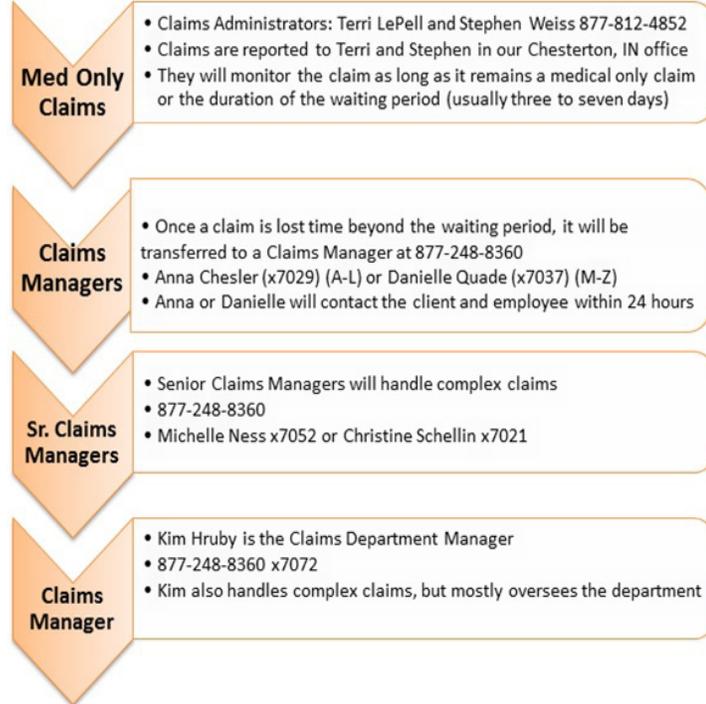
In Step 5A:

- Addition of four new analytes (oxycodone, oxymorphone, hydrocodone, and hydromorphone),
- Removal of the analyte methylenedioxyethylamphetamine (MDEA).

Can DOT regulated employers and their service agents use the OMB approved revised CCF for testing under 49 CFR Part 40?

Not at this time because DOT has not issued a final rule authorizing testing for synthetic opioids. However, if the revised CCF is used inadvertently and the testing was consistent with Part 40, MROs are to verify and report the result according to Part 40.

TLC Work Comp Claims Process



The 2018 Work Comp Carrier is Chubb Insurance, 436 Walnut Street, Philadelphia, PA 19106, 866-324-8222.

A few important points to be reviewed for this process to work effectively:

- Promptly report all on-the-job injury claims. Prior to seeking treatment, employees should immediately report their claim to our Chesterton office. By doing so, they can be given a name of a clinic within our carrier's PPO network in the event they feel the need for treatment. In the event of an emergency, the employee should call 911 or go to the nearest emergency room.
- Instruct the injured employee to provide us with all information regarding the claim. We may also have to follow-up with the owner or safety director for more information. TLC's responsibility is to complete the First Report of Injury and report to our insurance carrier, as well as reporting serious injuries to OSHA. For us to do this accurately and expediently, we need your prompt action. Failure to timely report may also result in penalties and fines.
- If a claim is reported for employees not on TLC payroll, then the claim may not be covered under our Workers Compensation policy.
- If a claim is not work related (determined through reporting and investigation by the carrier), it will be denied.

- Reporting minor medical claims will not affect your rates with TLC, but unreported claims paid internally by your company can and periodically result in larger claims and often result in fines and higher costs. Please report all claims, even if perceived to be very minor.

We sincerely appreciate your cooperation to maximize the effectiveness of treatment and more controllable costs to your company and to TLC Companies.

FMLA and ADA Leaves of Absence

FMLA is the Family Medical Leave Act. It's a law requiring certain large employers (50 or more employees within a 75 mile radius) to allow eligible employees to take an unpaid leave of absence of up to 12 weeks due to their own serious medical condition or to care for an immediate family member (spouse, parent or child) with a serious medical condition. A **"serious medical condition"** is an injury, illness or impairment that causes the employee to miss time from work, and is certified by a physician (the employee has the doctor fill out a form). During an FMLA leave the employer continues to pay their portion of health, dental, and vision premiums, and the employee's job (or an equivalent job) is guaranteed to them when they are able to return to work. The employee is still responsible for paying their portion of premiums – the employee should be given a 30-day grace period to make payments. A **"serious medical condition"** is an injury, illness or impairment that causes the employee to miss time from work, and is certified by a physician (the employee has the doctor fill out a form).

The ADA (Americans with Disabilities Act) may also require that you offer an unpaid leave of absence as a reasonable accommodation for an employee requesting time off for medical reasons. The ADA applies to employees who are not eligible for FMLA or who may need to have additional time off after their FMLA time ends. It also applies to smaller worksites than FMLA, and should always be considered before terminating an employee requesting time off for medical reasons. A leave of absence offered as an ADA accommodation only applies to the employee's own medical condition, and does not require continuation of employer-paid benefits or same-job security.

If the employee does not qualify for FMLA or ADA leave, or if the employee has exhausted leave time available, the employee may be terminated, except when FMLA time is being tracked simultaneously with work comp time off. If the employee does not qualify for FMLA or has exhausted their FMLA time, and the employee is enrolled in health, dental, or vision benefits, continuation of benefits may be offered through COBRA (if the employee is enrolled in TLC benefits, we'll automatically offer COBRA).

TLC manages FMLA/leave tracking for you. We'll determine whether or not your company is subject to FMLA, if any other type of leave may apply, and whether or not the employee is eligible. For FMLA and/or ADA (Americans with Disabilities Act) leaves of absence, we send notices to employees, process their requests and doctors' certifications, track the time taken by employees, and let you know their status so you can alert your benefits providers to continue, stop, or bill for benefits as needed. (If the employee is enrolled in TLC benefits, we'll automatically continue, stop, or bill the employee for their portion of benefits while they're out.)

Behind the Scenes @ TLC

Safety Department Contacts

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TLC Application Link

Did you know you can have TLC's online driver application linked to your company's webpage? Your applicants can click a link on your webpage that will bring them directly to TLC's online application. Contact Stacey Gibson at 800-926-8440 x4033 for more information.

New TLCHRConnect®

TLC Companies has launched our new and improved TLCHRConnect web site which is designed to be mobile-friendly and work on all devices. Our new online application is simplified and easier. We are still in transition and will be integrating all sections of the web site over the course of the year. Look for enhanced reporting capabilities as we fully migrate to our mobile platform.

Open Road Driver Plan

The driving record is the most valuable asset to professional drivers and trucking companies. Traffic tickets, violations and warnings not only affect the drivers' record, but the companies' SMS scores as well.

The Open Road Drivers Plan is a voluntary benefit that provides local, licensed attorney representation for the driver. Membership benefits extend to a spouse. It also provides discounts for prescription drugs, tax preparation services, car rentals and hotel accommodations, among many other benefits. For a brochure on the benefit and cost, please contact a TLC Safety Professional or TLC Benefits.

Ninety percent of the cases are either won or the fine reduced. Adjudicated violations can be removed from the company and driver's SMS record using DataQ.