



Reply to the attention of:

JAN 25 2010

Mr. Eric Blankenheim, OTR, MSIE, CPE, CSP  
Occupational Therapist  
Blankenheim Services  
1650 Tri-Park Way, Suite A  
Appleton, WI 54914

Dear Mr. Blankenheim:

Thank you for your June 19, 2009 letter to the Occupational Safety and Health Administration (OSHA) regarding the Recordkeeping regulation contained in 29 CFR Part 1904 – Recording and Reporting Occupational Injuries and Illnesses. In an effort to provide interested persons with prompt and accurate responses to their inquiries about the Recordkeeping regulation, we continue to develop and refine a set of (Frequently Asked Questions) as well as maintaining a log of Letters of Interpretations, all of which are on the Recordkeeping page on OSHA's web site at <http://www.osha.gov/recordkeeping>.

Your letter requests clarification of the term "abnormal condition" in the Recordkeeping regulation's definition of injury or illness and the role of health care professionals in evaluating whether an injury or illness has occurred.

**Question 1:** Is muscle soreness resulting from a new activity considered an "abnormal condition?"

**Answer:** Section 1904.4(a) of OSHA's Recordkeeping regulation provides that each employer who is required to keep occupational injury and illness records must record each case that:

- (1) Meets the regulation's definition of "injury or illness;"
- (2) Is work-related;
- (3) Is a new case and not a continuation of an old case; and
- (4) Meets one or more of the general recording criteria in section 1904.7 (e.g., days away from work, restricted work or job transfer, medical treatment beyond first aid), or the additional criteria for specific cases found in sections 1904.8 through 1904.11.

A case is recordable only if it meets all of these requirements. The starting point in decision-making is first determining whether the case meets regulation's definition of "injury or illness."

Section 1904.46 defines "injury or illness" as:

An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. [emphasis added].

Your inquiry is whether muscle soreness resulting from a new work activity is considered an abnormal condition within the definition of injury or illness. Although the Recordkeeping regulation broadly defines injury or illness, the definition "capture[s] only those changes that OSHA believes reflect an adverse change in the employee's condition that is of some significance, i.e., that reach the level of an abnormal condition" (66 FR 5916, 6080; 1-19-2001). For example, cuts or obvious wounds, breathing problems, skin rashes, blood tests with abnormal results, and the like clearly are abnormal conditions. By contrast, a mere change in mood or experiencing normal end-of-the-day tiredness would not be considered significant changes that rise to the level of abnormal condition. That said, an abnormal condition need not include objective signs, such as results from laboratory tests or medical evaluations, in order to be considered an injury or illness. Simple subjective signs, such as an employee's statement that he or she feels pain or other symptoms such as muscle soreness, of and by themselves, would be conclusive in determining that an abnormal condition exists.

OSHA believes this broad definition of injury or illness is appropriate because, as mentioned, determining whether a case meets that definition is just the first step in analyzing whether a case is recordable (66 FR 6080). An abnormal condition, such as muscle soreness, is recordable only if it also is work-related, a new case, and meets one or more of the general recording criteria in Section 1904.7 through 1904.11 (66 FR 6079). Thus, for example, work-related muscle soreness that reaches the level of abnormal condition but does not meet any of the regulation's general recording criteria because the employee did not require days away from work, did not require medical treatment beyond first aid, and is able to fully perform all job functions (albeit at a slower pace) without work restriction or job transfer would not be recordable.

**Question 2:** What is the role of the healthcare provider in determining whether an abnormal condition has occurred?

**Answer:** As mentioned, in determining whether a case is recordable, the employer must first decide whether an injury or illness has occurred. If the employer is uncertain about whether an injury or illness exists, the employer may refer the employee to a physician or other licensed health care professional (PLHCP) for evaluation and may consider the PLHCP's opinion in determining whether an injury or illness has occurred. However, the employer is ultimately responsible for accurately determining whether a

case must be recorded. This includes using the regulation's definition of injury or illness in making the determination.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA requirements are set by statute, standards, and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep appraised of such developments, you can consult OSHA's website at <http://www.osha.gov>.

Sincerely,

A handwritten signature in dark ink, appearing to read "Keith L. Goddard". The signature is fluid and cursive, with a long horizontal stroke at the end.

Keith Goddard, Director  
Directorate of Evaluation and Analysis

cc: Mel Liscbefski  
William J. Donovan