

Dear Members:

We recommend that all members have new hires complete the Second Injury Fund Employee Information Form in that brief window after they have been hired and before they begin working. When the member is completing post-hire paperwork with the employee before the employee actually begins work is when the Second Injury Employee Information Form should be completed.

We created a letter to the employee explaining the purpose of the form which should be provided to the employee at the time the member requests that they complete the Second Injury Fund Employee Information Form. The letter is accessible on the Second Injury Fund page on our website. We also created a script for members to use when discussing second injury fund with new hires, which can also be found on the website.

The employee should be encouraged to honestly complete the form and it should be retained in the **employee's medical file, which must be kept separate from the personnel file in a confidential area**. The name and signature of the employee, the employer's name and the date of completion needs to be entered at the bottom of the form.

If you have a different version of the Second Injury Fund Form in employees' medical files, they can remain in place. Moving forward, please use the Second Injury Fund Employee Information Form.

The Second Injury Fund Employee Information Form should be given to new hires only. Occasionally, employees get injured outside of work or come down with an illness after they've been hired. In that case, we still have an opportunity to recover from the Second Injury Fund if the employer has documentation of an out of work injury or illness. The documentation that would suffice would include, but is not limited to FMLA paperwork, Short Term Disability paperwork and doctor's notes that list the diagnosis. We encourage members to document non-work-related injuries on the employer's letterhead. The documentation should include the employee's name; the injury or illness; the date of injury/illness; dates out of work, if applicable; the date the document was created and the employer's signature. It is not necessary for the employee to sign that document. This documentation must be retained in the **employee's medical file, which must be kept separate from the personnel file in a confidential area**.

The Second Injury Fund reimburses the NHADA WCT if we can prove that the combination of the pre-existing condition and the subsequent work-related injury resulted in a greater disability than would have been caused by the work-related injury alone. The Second Injury Fund reimburses 50% of medical and indemnity payments after the first \$10,000 has been paid out and after 2 years of disability reimburses at 100%. The NHADA WCT has recovered \$6,999,125.00 from the Fund since 1990 saving NHADA members millions of dollars.

## **USING THE SECOND INJURY FUND FORM**

1. Offer of employment has been extended and accepted.
2. The Second Injury Fund Form should be part of employee's enrollment package.
3. The Second Injury Fund Form should be the last form completed after hire and before work starts.
4. The Second Injury Fund Form should be provided to **all** new hires, not selectively given.
5. The Second Injury Fund Form should be kept confidential and separate from the personnel file, in the employee's medical file.

Advise the employee that:

1. The Second Injury Fund was designed to encourage employers to hire people with pre-existing injuries and health conditions.
2. The prior impairment can be any medical condition and does not have to be work related.
3. The information they provide **will not** affect their application for employment or employment in any way.
4. The information they provide **will not** affect any workers' compensation claim that they may make in the future.
5. The Second Injury Fund Form is confidential and kept separate from personnel file and will only be used as permissible by law.
6. The Second Injury Fund helps reduce the employer's costs associated with workers' compensation claims.

### Conversation with New Employees About the Second Injury Fund Form

The Second Injury Fund is a program established by the State of NH to encourage employers to hire people with pre-existing conditions such as injuries or illnesses that may cause a hinderance to employment opportunities.

If you have a workplace injury here, NHADA Workers' Compensation Trust may be able to recoup some of our losses from the State if they can prove that your disability is greater due to the combination of your pre-existing condition and the workplace injury. Since we are part of a self-insured group, this money back from the State is very helpful.

The first step in the process, is proving that we knew about your pre-existing condition before the work-related injury occurred. Therefore, would you please complete this form as thoroughly as possible?

Even if you think that your previous injuries or illnesses would not impact your ability to perform a job the State may see if differently. Your answers on the form will not impact any workers' compensation claims processing or your employment opportunities with us.

Dear Recipient of Conditional Offer of Employment:

Under New Hampshire law, there is a Special Fund that reimburses workers' compensation carriers/employers for workers' compensation benefit payments made to employees who had a physical or mental impairment before they suffered a work injury. For further information see NH Department of Labor website at <http://www.nh.gov/labor/workers-comp/cost-containment/second-injury-fund.htm>. This prior impairment does not have to be work-related. In order to be eligible for reimbursement, an employer must have written documentation of an individual's previous impairment.

You have been asked to complete this second injury fund questionnaire for purposes of the second injury fund only. Please complete the form and provide accurate information about any physical or mental impairments you currently have, if any. The information you provide on this form will not affect your application for employment or employment in any way, nor will it affect any workers' compensation claim you may make in the future. This form will be kept confidential and separate from your personnel file and will only be used as permitted by law.

Please note that the Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Thank you for your cooperation.

## THE SECOND INJURY FUND

The Second Injury Fund was established by the State of New Hampshire to encourage employers to employ people with previous injuries, illnesses or disabilities by offering the employer a limitation on workers' compensation liability with respect to these health conditions. This law is good for the employees who have previous impairments, restrictions, injuries, illnesses or disabilities and for the companies who employ them. All employers doing business in the State of New Hampshire are required to pay workers' compensation insurance. Insurance companies that write workers' compensation insurance in the State of New Hampshire pay into the Second Injury Fund based on the percentage of workers' compensation insurance business they write in the state. The amount of money in this fund is determined yearly, based on the amount of money needed to reimburse the insurance companies.

We can apply for the Second Injury Fund only when an employee injured on the job has a **documented** previous impairment, restriction, injury, illness, or disability. By applying for the Second Injury Fund, we may be able to recoup some of the money paid on the claim, thereby reducing the cost of our workers' compensation insurance. It is important to point out that an application to the Second Injury Fund by us in **no way** affects an employee's workers' compensation benefits.

**We need your voluntary cooperation to place us in a position to be able to reduce our workers' compensation insurance costs. In order to take advantage of this fund, we must have prior written documentation of any previous impairment, restriction, injury, illness, or disability. This information will be handled in a strictly confidential manner.**

**Please describe any pre-existing impairments, restrictions, limitation, injuries, illnesses, or disability with dates:**

Nature of Injury or Impairment	Date of Origin	Name and Address of Treating Provider

Employee Name: \_\_\_\_\_ Employer: \_\_\_\_\_

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_