Scenario #1

Ann is an equipment operator. She sprained her ankle when coming down a set of steps.

The initial x-ray showed no evidence of fracture or dislocation. The radiologist recommended a second x-ray in seven days to rule out a fracture. As a precaution the occ doc recommended a rigid boot until the second x-ray. The second x-ray determined no fracture.

Is Ann's scenario a ***recordable*** incident?

- **A:** Yes

Question: Does the use of the rigid boot after the first x-ray, and before the second x-ray, constitute medical treatment?
Response:
The case described in your letter is a recordable injury. The employee sustained a work-related injury (sprained ankle) while working in the work environment. In response to the sprain, a licensed health care professional directed the employee to wear a rigid boot. For purposes of OSHA recordkeeping, the rigid boot is an orthopedic device used to immobilize the ankle, and therefore is medical treatment beyond first aid.

Scenario 2

Jaime is employed as a packaging operator.

This morning, she visited the plant nurse and complained of pain in her upper back between her shoulders.

A contracted massage therapist was on site as part of the wellness program, so Jaime, at the suggestion of the nurse, had an upper back soft tissue massage.

Is Jaime's' scenario a **recordable** incident?

- **B:** No

Response:
Under Part 1904, medical treatment does not include "first aid" as defined in paragraph 1904.7(b)(5)(ii). The section specifically states that "using massages" is first aid. See, subparagraph (M). Section 1904.7(b)(5)(iii) goes on to state that the list of first aid treatments in section 1904.7(b)(5)(ii) is a comprehensive list of first aid treatments. Any treatment not included on the list is not considered first aid for OSHA recordkeeping purposes.

After conducting an analysis of available information, and based on the regulatory text in Part 1904, OSHA finds that soft tissue massage is first aid for recordkeeping purposes.

Scenario #3 and # 4

Matt is a transient construction worker for Employer A. He is a non-exempt, hourly employee who works on a project basis. Projects vary in duration, but the typical project lasts anywhere from four days to two weeks. At the end of a project, Matt is placed in inactive status. However, the employer does not terminate Matt so that the workforce can be quickly mobilized to the next job without going through the hiring process. During the inactive periods, Matt remains on the employer's payroll system, and in the employee database, but he is not working and does not receive compensation.

Matt suffered a work-related injury on August 14 that resulted in days away from work. The doctor advised Matt to remain off work until August 22. On August 15, the employer's project is completed as planned and the work crew of which Matt is a member demobilizes from the customer's site. A new project is scheduled to begin on August 25. Matt plans to work on this new project.

Is Matt's injury a **recordable** incident?

- **A:** Yes

How many lost time days must Employer A record?

- **B:** Eight (if return is on 8/28 or 7 if return on 8/27)

Question 1:
Does the employer continue counting the days away from work until the employee is returned to full duty status by the treating physician on August 22, or consistent with OSHA's Frequently Asked Question (FAQ) 7-21, can the day count stop on August 15 when the project terminated for reasons unrelated to the injury?

Response:
Although workers go into "inactive status" from time-to-time, they remain on the company payroll and do not have their employment terminated. Also, in your scenario, the company has not closed and Worker A has not left employment due to reasons either related or unrelated to an injury or illness. Therefore, the employer should not stop the day count when the project ends on August 15, but should continue to count the recommended number of calendar days until August 22.

Question 2: Same as Scenario A, except that the doctor advised Transient Worker A to remain off work until August 27. The employer offers Worker A work on the new project and Worker A accepts the work. The new project begins on August 25. Worker A returns to work on August 27. Does the day count stop on August 15 or continue through August 27?

Response: The employer should continue to count the recommended days away from work until August 27. Again, Transient Worker A and the company continue to have an employment relationship during the time of the recommended days away from work. Section 1904.7(b)(3)(ii) and (iii) make clear that an employer must record days away cases according to a physician or licensed health care professional's recommendation that the injured or ill worker stay at home or return to work.

Scenario # 5
John lacerated the palm of his hand and received seven sutures and returned to work with no restrictions.

The accident was a result of sharpening his personal pocketknife while sitting in the employers' parking lot during break.

Is John's scenario a **recordable** incident?

- **A:** Yes

Question
29 C.F.R. § 1904.5(b)(2)(i) states that you are not required to record injuries or illnesses if, at the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than an employee. Does this scenario fall under this exception making it non-work related, and therefore not recordable?

Response
No. The exception in section 1904.5(b)(2)(i) is aimed at employers whose establishments are also public places, i.e., retail stores. This exception allows the employer to avoid recording injuries or illnesses that occur outside of the employment relationship when a worker happens to be using the employer's facility as a member of the public. As explained in the preamble to the regulation, this exception would apply if an employee of a retail store patronized the store on a non-workday and was injured in a fall. 66 Fed. Reg. 5950. This exception is based on the fact that no employment relationship is in place at the time of such an injury. In these situations, the injury or illness has nothing to do with the employee's work or the employee's status as an employee.
This exception does not apply because your establishment is not a public place. In addition, the employee was using a company-owned car when the injury occurred. Accordingly, the injury described in the scenario above does not meet the exception in Section 1904.5(b)(2)(i),and therefore is recordable based on the medical treatment the employee received. See, 66 Fed 5950.

Question
29 CFR § 1904.5(b)(2)(v) states that you are not required to record injuries or illnesses if the injury or illness is solely the result of an employee doing personal tasks (unrelated to his/her employment) at the establishment outside of working hours. Does this scenario fall under this exception making it non-work related, and therefore not recordable?
Response
No. The injury described in the scenario does not meet both conditions in section 1904.5(b)(2)(v). For the "personal tasks" exception in section 1904.5(b)(2)(v) to apply, the injury or illness must: (1) be solely the result of an employee doing a personal tasks (unrelated to his/her employment) at the establishment; and (2) occur outside of the employee's assigned working hours. The injury you describe does not meet the second criterion because it occurred during the employee's lunch break. See, OSHA's March 10, 2005 letter of interpretation to Milagros Flores. Lunch breaks are considered assigned working hours for injury and illness recordkeeping purposes. See November 15, 2010

letter of interpretation to Kenneth Colonna; February 16, 2010 letter to Scott Hayes. OSHA's definition of assigned working hours means "those hours the employee is actually expected to work, including overtime." See FAQ 5-4. As explained in the preamble to the 2001 final rule, this exception is meant to be limited and only apply to situations where an employee is using the employer's establishment for purely personal reasons outside of his or her assigned working hours. See, 66 Fed 5951.

Scenario # 6

In late 2019, Tyson twisted his knee and fell coming down steps from the blow molding machine. He reported it to his supervisor and saw a physician. The physician referred him to a specialist who did a MRI and recommended surgery.

Tyson did not want to have surgery so wore a knee brace to work and did his regular job. Tyson finally scheduled surgery for July 2, 2020. There was RIF and the Tyson was let go on June 28, 2020.

Is Tyson's scenario a **recordable** incident?

- **B:** No

Answer: No lost time or restricted duties in 2019. In 2020, he left company unrelated to injury in 2020 prior to lost time and medical treatment.

Scenario #7

Alyssa fell at work and land hurt her side on Wednesday, June 5. She saw a physician that afternoon and her diagnosis is "bruised ribs".

She was prescription for a painkiller, which she filled and she was released to return to work the next day.

Alyssa came in late the next day (Thursday) and left early.

She called in on Friday and says her side is still hurting and she will not be in. She sees the doctor on Friday afternoon. The doctor issued a statement stating that Alyssa could return to work on Monday, June 10.

When did this incident become *recordable*?

- **A:** Wednesday, June 5th , due to prescription.

Scenario #8

Two employees reported to HR that they had tested positive for COVID19. They work together on the same line. They were sent home to quarantine. Two days later, a third employee reported to HR that she had COVID19 symptoms and was going to be tested. Her test came back positive.

How many of these cases are recordable?

C: Need more information. Understand the 'close contact definition'. Assess work activities and understand HIPPA requirements.

Scenario #9

Justin regularly cuts concrete as part of his weekly tasks. Ohio Manufacturing provides annual physical examinations, including pulmonary lung functions and audiograms, for all employees.

Justin's physical was March 31, on the 5-year anniversary of his hire date. The results of Justin's hearing test indicate that he has had a change in hearing threshold, relative to his baseline of an average of 15 decibels at 2000, 3000, and 4000 Hz in his right ear.

His overall hearing level was 40 decibels. He has not lost any time and has not received any medical treatment.

Is Justin's incident recordable?

A: Yes

Basic requirement. If an employee's hearing test (audiogram) reveals that the employee has experienced a work-related Standard Threshold Shift (STS) in hearing in one or both ears of 10 decibels or greater, and the employee's total hearing level is 25 decibels (dB) or more above audiometric zero (averaged at 2000, 3000, and 4000 Hz) in the same ear(s) as the STS, you must record the case on the OSHA 300 Log.

Scenario #10

Harrison was loading pallets on Line 8 Saturday, 7/11/20 at 6 am, and debris fell into his eye. He did not want to seek medical attention. On July 13, he stopped by to request an appointment because the debris is still present.

He was prescribed two prescriptions.

Is this a recordable incident?

- **A:** Yes, due to prescriptions

Scenario #11

Jason was working outdoors due building maintenance and was stung by a bee. He has had allergic reactions to bee stings in the past while not at work and carries a personal Epi Pen (epinephrine) with him. Just after the bee sting at work, and before any allergic symptoms arise, Jason injected himself with the Epi Pen as a precaution. His job functions have nothing to do with the keeping of bees, removing bees or the handling of bees.

- Is this a **recordable** incident?
  - **A:** Yes

Question 1: Where a prescription for an Epi Pen auto injector was not written for a work-related cause or event, and the job functions are unrelated to the handling of bees, would any subsequent precautionary usage of the personal Epi Pen at work after a bee stung without symptoms be recordable?

Response:
Under section 1904.5(b)(5), an injury or illness is a pre-existing condition if it results solely from a non-work-related event or exposure that occurs outside the work environment. Section 1904.5(b)(4) provides that a pre-existing injury or illness has been significantly aggravated when an event or exposure in the work environment results in "… (iv) medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

For example, under OSHA's recordkeeping regulation, the issuance of prescription medication is considered medical treatment beyond first aid, and work-related injuries or illnesses involving medical treatment beyond first aid must be recorded on the OSHA Form 300. See, section 1904.7(a).

The case described in your letter is a recordable injury. The employee has a known pre-existing condition (allergic to bee stings) and that condition was significantly aggravated by an event or exposure in the work environment. Specifically, a prescription Epi Pen was used to treat a bee sting injury that occurred in the work environment. The fact that the prescription medication was used as a precautionary measure, without any allergic

symptoms, is not relevant to the determination that a prescription was used to treat the employee's injury.

Scenario #12

Abby works on the finishing line, spraying empty propane tanks. One day Abby hurt her left arm trying to lift one of the tanks.

She goes to the doctor and is told not to use her left arm for one week.

Abby can perform all her routine job functions using only her right arm (though at a slower pace and is never required to use both arms to perform her job).

Is this considered restricted work?

- **B:** No, if quota is being met.

OMA Recordkeeping
Responses with limited explanation

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