



State of New Jersey

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
PO BOX 381
TRENTON, NEW JERSEY 08625-0381


JON S. CORZINE
Governor

DAVID J. SOCOLOW
Commissioner

MEMORANDUM

October 1, 2008

To: All Judges, Attorneys and Case Parties

From: Peter J. Calderone, Director and Chief Judge 

Re: Emergent Medical Care, Contact Person, Enforcement and UEF Rule Proposals

Pursuant to recent legislation, L. 2008, c. ____ (Senate Nos. 1913 and 1916), signed into law by Governor Jon S. Corzine on October 1, 2008 and effective immediately, attached to this memorandum are pre-publication rule proposals. Additionally, an internal committee has suggested changes to the Uninsured Employer's Fund regulations which are also submitted for pre-publication review. Please forward any comments or suggestions on the pre-publication proposals directly to my office at the addresses or fax number below to be received by this office on or before November 3, 2008. Your suggestions and comments will be considered in submission of formal rule proposals pursuant to the Administrative Procedures Act for publication in the New Jersey Register. The attached pre-publication rule proposals will also be the court and Division procedures for emergent medical care motions, contact person requirements and enforcement proceedings at the present time.

All motions for emergent medical care and enforcement must be filed in the appropriate workers' compensation district office.

Only a supervising judge or in the supervising judge's absence a judge assigned by the supervising judge will conference and hear the emergent medical care motions. Such motions are to be scheduled for conference or hearing in the afternoon as much as feasible to allow normal case handling in the morning. An emergent medical care notice of motion form and contact person information form are attached and available on our website and at the district offices.

Our mailing address for comments or suggestions is the New Jersey Department of Labor and Workforce Development, Division of Workers' Compensation, PO Box 381, Trenton, NJ 08625, our fax number is 609-984-2515 and our e-mail address is peter.calderone@dol.state.nj.us.

Thank you for your assistance in the implementation of this recently enacted legislation and UEF proposal.

Attachments

New Jersey Is An Equal Opportunity Employer

Pre-Publication Emergent Medical Care Rule Proposal

N.J.A.C. 12:235-3.____ Motion for Emergent Medical Care (New)

- (a) With or after the filing of a claim petition, a petitioner may file a motion for emergent medical care directly with the district office the claim petition is or will be assigned. See N.J.A.C. 12:235-3.1 for claim petition filing and assignment.
- (b) The notice of motion for emergent medical care shall be on a form prescribed by the Division and shall contain:
 - 1. A statement by the petitioner or the petitioner's attorney of the specific request(s) by the petitioner or the petitioner's attorney for medical treatment to the employer and/or the employer's insurance carrier including the names of the person or persons to whom the request(s) were made;
 - 2. Medical documentation including a statement by a physician that the petitioner is in need of emergent medical care, that the delay in treatment will result in irreparable harm or damage to the petitioner and the specific nature of the irreparable harm or damage.
 - 3. All medical records in the possession of the petitioner or petitioner's attorney relating to the requested medical care.
 - 4. A copy of the claim petition and answer. If no answer to the claim petition has been filed, the motion shall also include the telephone number and fax number if known of the employer and if insured the telephone and fax number of the contact person listed pursuant to N.J.A.C. 12:235-3.____ and contained on the Division's website.
 - 5. Proof of Service under (c) below.
- (c) The notice of motion and supporting papers shall be served on respondent's attorney by fax and a one day delivery service if an answer to the claim petition has been filed. If no answer to the claim petition has been filed, the employer and the employer's insurance carrier shall be served. Service on the employer shall be either by personal service or by fax and a one day delivery service. Service on the insurance carrier shall be by fax and a one day delivery service to the contact person listed pursuant to N.J.A.C. 12:235-3.____ and contained on the Division's website.. The personal service, fax service or the date of the one day delivery service whichever is later shall be considered the

date of service. If the employer is uninsured, the Uninsured Employer's Fund shall also be served by fax and a one day delivery service.

- (d) An answer shall be filed with the district office no later than five calendar days after the date of service under (c) above.
- (e) The employer or the employer's insurance carrier may have a medical examination of petitioner conducted within 15 calendar days of the date of service.
- (f) A conference on the motion shall be scheduled within five calendar days of the filing of the answer or, if no answer has been filed, within five calendar days from the date an answer should have been filed. The district office shall provide notice of the conference to the petitioner's attorney or petitioner pro se as provided in the notice of motion and the answering party by telephone and fax as provided in the answer. If no answer has been filed within the time period to answer, telephone and fax notice of the conference shall be to the employer and if insured also to the insurance contact person as provided with the notice of motion and if uninsured also to the Uninsured Employer's Fund.
- (g) If the motion is not resolved at the conference under (f) above, the judge shall schedule a hearing as soon as practicable but no later than 5 calendar days from the conference date. However, if the employer or the employer's insurance carrier has requested a medical examination under (e) above, the hearing shall be scheduled as soon as practicable after the examination date but no later than 5 calendar days from the examination date. The judge may require a continuous trial or other procedures to ensure that the motion is expeditiously heard. The judge shall render an oral decision and issue an order on the motion at the conclusion of the trial testimony. The oral decision may be later supplemented.

Pre-Publication Carrier or Self-Insured Contact Person Procedures

N.J.A.C. 12:235-3. Insurance Carrier or Self-Insured Employer Contact Person Procedures (New)

- (a) Every insurance carrier providing workers' compensation insurance and every workers' compensation self-insured employer shall designate a contact person who is responsible for responding to issues concerning medical and temporary disability benefits where no claim petition has been filed or where a claim petition has not been answered. The contact person shall also receive notice of motions for emergent medical care as provided in N.J.A.C. 12:235-3. __.
- (b) The full name, telephone number, address, e-mail address and fax number of the contact person shall be submitted to the division utilizing the division's contact person form in the manner instructed on the form. The form shall be available on the division's website and at the district offices.
- (c) Any change of contact person or any change in the information about the contact person shall be immediately submitted to the division utilizing the contact person form.
- (d) After an answer to a claim petition has been filed, the attorney of record for the respondent shall be the point of contact for issues concerning medical and temporary disability benefits.
- (e) A contact person roster utilizing the information under (b) above shall be maintained and updated on the division's website.
- (f) Failure to comply with the requirements of N.J.S.A. 34:15-__ and these regulations shall result in a fine of \$2,500 a day payable to the Second Injury Fund.
 - 1. Notice of Noncompliance and the statutory fine will be sent by certified mail return receipt to the business address of the insurance carrier or self-insured employer as maintained by the Department of Banking and Insurance.
 - 2. The insurance carrier or self-insured employer shall have 30 days to pay the fine or to contest the fine.

3. Where the carrier or self-insured employer contests the fine, a division conference shall be held in an attempt to resolve the dispute.

Pre-Publication Enforcement Rule Proposal

N.J.A.C. 12:235-3.14 Enforcement (Replace current 3.14)

(a) Procedures

1. A party by written motion pursuant to N.J.A.C. 12:235-3.3 (a) and (b) may move for enforcement of any court order or for the enforcement of the requirements of any workers' compensation statute or regulation against an employer, insurance carrier, petitioner, case attorney or any other party to a claim petition. The motion shall identify the order, statute or regulation sought to be enforced. After receiving notice of the motion for enforcement, the party against whom the motion is brought shall file a written response to the motion within 14 days of the motion notice. The response shall include the reasons for any noncompliance and the manner and the time period to ensure compliance. Any time after the 14 day period to respond and on notice to the parties, the judge shall hold a hearing on the motion.
2. A judge on his or her own motion may move at any time to enforce a court order or enforce the requirements of any workers' compensation statute or regulation upon notice to the affected parties. The judge shall provide the parties an opportunity to be heard on the motion.

(b) Upon a finding of noncompliance, the judge in addition to any other remedies provided by law may :

1. Impose costs and simple interest on any monies due. An additional assessment not to exceed 25% on any moneys due may be imposed if the judge finds the payment delay to be unreasonable;
2. Levy fines or other penalties on parties or case attorneys in an amount not to exceed \$5,000 for unreasonable delay or continued noncompliance. A fine shall be imposed as a form of pecuniary punishment while a penalty shall be imposed to reimburse the division's administrative costs. The proceeds under this section will be paid into the Second Injury Fund;
3. Close proofs, dismiss a claim or suppress a defense as to any party;
4. Exclude evidence or witnesses;
5. Take other appropriate case-related action to ensure compliance; and/or
6. Allow a reasonable counsel fee supported by an affidavit of services to a prevailing party.

- (c) The judge may also hold a separate hearing on the issue of contempt. Upon a finding of noncompliance by the judge, the successful party or the judge may file a motion with the Superior Court for contempt action.
- (d) Any fine, penalty, assessment or cost imposed by a judge under (b) and (c) above shall be paid by the entity or party found to be in noncompliance and shall not be included in the expense base of an insurance carrier for the purpose of determining rates or as a reimbursement or case expense.

Pre-Publication Uninsured Employer's Fund Rule Amendments

Underlined- new language

Brackets- deleted language

12:235-7.1 Purpose; scope

- (a) No change
- (b) No change
- (c) No change
- (d) 1. The UEF may relax or dispense with requirements under the subchapter where appropriate and with the consent of the judge hearing the case.

2. A petitioner may move to relax or dispense with requirements under the subchapter. After a hearing on the motion, the judge may grant the motion upon a finding that the subject requirements under the particular facts of the case are unduly burdensome and that grant of the motion would not adversely affect the UEF.
- (e) Where petitioner seeks current medical treatment and/or temporary disability benefits and the only issue involved is whether or not an insurance policy is in effect, the judge may order the insurance carrier to provide treatment and/or benefits without prejudice and subject to reimbursement by the employer and the UEF if it is subsequently determined that the policy was not in effect.
- (f) The UEF shall be provided a copy of a notice of appeal of any order or judgment in which the UEF is a party.

12:235-7.4 Medical bills; physician's examination

- (a) [The UEF shall have the opportunity to review all medical bills and charges to determine if the costs were reasonable and necessary.] Any medical bills or charges for which petitioner seeks payment from the UEF must be timely submitted to the UEF and be supported by:
1. A physician's report which finds that the bills and charges were reasonable, necessary and related to the work accident or occupational exposure alleged in the claim petition, and
 2. Other necessary medical documentation or information requested by the UEF.
 3. Any dispute under this section concerning the physician's report or UEF request for other medical documentation or information shall be determined by the judge after a hearing upon oral or written motion by the UEF or another party.
- (b) No change
- (c) No change
- (d) No change
- (e) No change

State of New Jersey
Department of Labor and Workforce Development
DIVISION OF WORKERS' COMPENSATION
P.O. Box 381
Trenton, NJ 08625-0381

**MOTION FOR EMERGENT
MEDICAL TREATMENT**
Pursuant to N.J.S.A. _____

Case No. : _____

Vicinage: _____

PETITIONER

NAME
ADDRESS

vs

ATTORNEY FOR
PETITIONER

NAME
ADDRESS
TELEPHONE NUMBER (AREA CODE)
APPEARING

RESPONDENT

NAME
ADDRESS

ATTORNEY FOR
RESPONDENT

NAME
ADDRESS
TELEPHONE NUMBER (AREA CODE)
APPEARING

INSURANCE CARRIER

NAME SELF-INSURED UNINSURED
ADDRESS
CLAIM NUMBER

PLEASE TAKE NOTICE that Petitioner seeks emergent medical care pursuant to N.J.S.A. 34:15-____. Attached or enclosed are the required supporting documents:

- A copy of the claim petition and, if received, the answer.
- A statement by the petitioner or the petitioner's attorney of the dates and to whom specific requests for authorized medical care were made.
- A statement by a physician that includes petitioner's need of emergent medical care, a delay in treatment will result in irreparable harm or damage to the petitioner and the specific nature of the irreparable harm or damage.
- All relevant medical records in the possession of the petitioner.

PETITIONER verifies that service of this motion and supporting materials has been made (check one):

- If an answer has been filed, by fax and certified mail return receipt on respondent's attorney.
- If no answer has been filed, on the petitioner's employer by personal service or by fax and by certified mail return receipt and if insured by fax and certified mail on the employer's insurance company contact person (listed on Division's website). If employer is uninsured, on the Uninsured Employer's Fund by fax and certified mail return receipt.

The personal service, fax service or the date of certified mailing whichever is later shall be considered the date of service. Respondent shall file an answer to the motion within 5 calendar days from the date of service and may have an examination of petitioner conducted within 15 calendar days from the date of service.

The following additional information is required for motion scheduling when an answer to the Claim Petition has not been filed:

Respondent Telephone Number _____ Fax (If known) _____

Insurance Contact Person _____ Telephone Number _____ Fax _____

Motions for Emergent Medical Care must be filed in the District Office (vicinage) the claim petition has been assigned or will be assigned. See N.J.A.C. 12:235-3.1.

If no claim petition has been filed one must be filed simultaneously in the Trenton Central Office, Division of Workers' Compensation, P.O. Box 381, Trenton, NJ 08625.

ATTORNEY FOR PETITIONER

Dated: _____



State of New Jersey
Department of Labor & Workforce Development
Division of Workers' Compensation

IMPORTANT WORKERS' COMPENSATION LAW NOTICE – OCTOBER 1, 2008

\$2500.00 A DAY FINE FOR FAILURE TO PROVIDE INSURANCE CARRIER OR SELF-INSURED EMPLOYER CONTACT PERSON FOR MEDICAL AND TEMPORARY DISABILITY ISSUES

Governor Jon S. Corzine signed into law Senate, No. 1916, L. 2008 c. ____, which is now effective and applies to every workers' compensation insurance carrier and self-insured employer. The law provides that:

Every carrier and self-insured employer shall designate a contact person who is responsible for responding to issues concerning medical and temporary disability benefits where no claim petition has been filed or where a claim petition has not been answered. The full name, telephone number, address, e-mail address, and fax number of the contact person shall be submitted to the division. Any changes in information about the contact person shall be immediately submitted to the division as they occur. After an answer is filed with the division, the attorney of record for the respondent shall act as the contact person in the case. Failure to comply with the provisions of this section shall result in a fine of \$2,500 for each day of noncompliance, payable to the Second Injury Fund.

In order to comply with this law, please complete this form and fax it to the attention of Joanne Allen at (609) 984-2515 or mail it to the address noted below. If you are completing the Adobe PDF version of this form on our website, you may save the form and then e-mail it to joanne.allen@dol.state.nj.us. The information you provide will be posted on the Division's website.

Note:

- **Completion of this new form is required even if this information was provided to the Division in the past.**
- **If your company has other subsidiaries operating in New Jersey, you must submit this form for each of those entities as well.**

Company Name: _____

Primary Contact Name (required):

Contact: _____ **Job Title:** _____

Address: _____

Phone #: _____ **Fax #:** _____ **E-Mail Address:** _____

Secondary Contact Name:

Name: _____ **Job Title:** _____

Address: _____

Phone #: _____ **Fax #:** _____ **E-Mail Address:** _____