

FLAHIVE, OGDEN & LATSON

ADVISORY NO. 21

TOPIC: INSTRUCTIONS FOR USE OF BRC EXCHANGE LETTER
(FO&L FORM 502)

The BRC Exchange Letter form is provided by FO&L to assist you in providing pertinent information relevant to the disputed issues as required by Rule 141.4. The form serves as a guide for the five specific informational requirements. It is intended that the letter addressed to the TWCC Field Office will provide a brief description of the attached information to be exchanged.

1. Attach a copy of the Claimant's Wage Statement from the employer. In absence of the wage statement, attach the evidence you used to calculate the AWW and show how you determined benefits paid or to be paid.

Employee's wages provide the basis for benefits based on the calculation of average weekly wage (AWW). In the absence of a signed wage statement from the employer, the carrier is required to initiate the payment of income benefits based on the carrier's presumption of average weekly wage. The carrier's presumption is services based on a full week's work reflects the employee's wage. The wage statement is required by the commission to be filed with the carrier within 30 days of the receipt of notice of injury on TWCC Form 3. If the employee will identify a similar employee performing similar services and will provide the wages of that similar employee for 13 weeks prior to the date of injury (Reference Rule 128.2). See Rule 128.3 for AWW on full time employees; 128.4 for AWW calculation for part time employees; and 128.5 for calculation of AWW on seasonal employees; Rule 128.6 addresses AWW for certain employees who are minors, apprentice trainees or students.

2. Attach copies of all medical doctor reports on the claimant's medical condition, but do not attach any medical bills unless they relate to a BRC issue. Medical bill disputes are not resolved at a BRC.

Rule 141.4(a)(2) requires information relating to the employee's medical condition be exchanged as pertinent information. Rule 133.100 describes the required medical reports which include the Initial Medical Report, Subsequent Medical Reports, Specific Medical Reports, Consulting Medical Reports and Physical and Occupational Therapy Medical Reports. The minimum medical record would consist of at least the initial medical report of the injured claimant. Seven data criteria are outlined for this report in Rule 133.101.

3. Witness statements. Copies of any and all witness statements relevant to the issues are to be attached.

4. Witness names. Names of witnesses who will attend the BRC are to be listed.

5. Other Relevant Information includes any other information you may have that is pertinent to the resolution of the disputed issues. Do not include internal file notes, memoranda or confidential investigations in this package to the TWCC and claimant. That information should be forwarded to FO&L alone for the BRC.

You are required to file the exchange information not later than 14 days before the benefit review conference or not later than 5 days before an expedited conference as set under Rule 141.1(d)(2).

You are required to forward the information to the Commission Field Office handling the claim and to the claimant or the claimant's representative. Any pertinent information that becomes available after the 14/5 day deadline must be brought to the conference in sufficient copies for filing and exchange.

The BRC exchange letter multiple form provides routing instructions of the color-coded copies for your benefit.