

**ADVISORY NO. 90**

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**TOPIC: INSTRUCTIONS FOR ADJUSTMENT TO AVERAGE WEEKLY WAGE FOR SEASONAL EMPLOYEES DURING THE TEMPORARY INCOME BENEFIT PERIOD**

TWCC has issued Advisory 93-09 on the above subject based on 147th District Court of Travis County Agreement, Cause No. 92-07844, Frontier Insurance Company of New York vs. TWCC.

These instructions set out very detailed and specific steps a carrier must take to adjust (increase or decrease) a seasonal worker's AWW or TIBs whenever a dispute exists regarding wages a seasonal worker could reasonably be expected to earn. Notice that the Commission requires advance approval before an adjustment is made. TWCC form TWCC-54 is used to make the requested change and the request must be provided in both English and Spanish. The written request must be mailed to both the employee and TWCC, as set forth in the seven steps listed in TWCC Advisory 93-09.

If the employee fails to respond to the requested wage information in 2 weeks from the date of notice of the request, the carrier may request TWCC to obtain the wage history for the most recent 5 quarters from TEC on form EES-1. There is a \$15.00 fee for this service. The fee is due at the time of the request. This request must be made to the Field Office handling the claim. TWCC will only accept requests for TEC data if a seasonal change in AWW is an issue.

After receipt of the TEC data, the carrier may request from the DDO assigned to handle "official actions" an approval to adjust AWW for the period specified. This request is made on form TWCC-55. A copy must be sent to the employee simultaneously. The employee has two weeks to request the BRC. If the employee fails to request the BRC, the DDO shall approve the request to adjust the AWW. If a BRC is requested, it is to be set on an expedited basis and the BRO will make a determination to approve the adjustment or issue an Interlocutory Order to continue paying at the unadjusted rate pending a CCH.

As you can see, it is a tedious process as required under Article 8308-4.10(d) and Rule 128.5(c). The aforementioned forms are attached hereto.