

ADVISORY NO. 227

TOPIC: COMMISSION PROVIDES GUIDANCE ON HOW TO RESPOND TO LATE OR INCOMPLETE WAGE STATEMENTS PROVIDED BY THE EMPLOYER

The Commission has released the attached TWCC Advisory 97-05 to clarify their Advisory No. 96-16.

Pursuant to Rule 128.2(a), the carrier shall base a claimant's average weekly wage (AWW) on the employer's last payment to the employee. If the last payment made by the employer was for less than a week or more than a week, the carrier shall prorate the amount to accurately reflect one week's wages. The carrier is required to adjust the AWW upon the filing of an employer's wage statement or a determination of AWW by agreement or TWCC order.

An employer's TWCC-3 is **incomplete** unless it contains the following items:

1. Employee's name, address and social security number;
2. Dates of employee's employment with the employer;
3. Date of Injury;
4. Wages of the employee or a similar employee for thirteen weeks prior to the date of injury;
5. Employee's name, address and federal tax identification number;
6. A certification that the wage listed includes the fair market value of non-pecuniary remuneration not provided after the date of injury, and that the statement is complete, accurate and complies with this rule; and
7. An identification of the employee's status as full-time, part time or seasonal worker, including the number of hours worked during the previous thirteen weeks, and whether the employee was also a student, apprentice or trainee.

If the employer's wage statement (TWCC-3) is incomplete or invalid, the carrier shall:

1. Consider the information on the incomplete TWCC-3 and adjust the comp rate accordingly;
2. Advise the employer of the incompleteness of the TWCC-3 and continue to obtain a complete TWCC-3; and
3. Adjust the AWW once a complete TWCC-3 is obtained and pay any deficit owed, if applicable.