

ADVISORY NO. 291
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TOPIC: TWCC-28 (NOTIFICATION REGARDING MAXIMUM MEDICAL IMPROVEMENT)

These notices have been obsoleted by virtue of changes in the TWCC Rules.

Rule 124.2(e)(4) requires the carrier to notify the Commission and the claimant of a change from one income benefit type to another. That same rule has changed this notice from the form required by TWCC, to a “plain language notice.” Rule 124.2(f). Although the Commission will promulgate a form that will propose this “plain language,” currently, no form is prescribed. Accordingly, we are relieved from filing a TWCC-28, but we must nevertheless communicate the change in the benefit status, the same function that the TWCC-28 served.

This form is further affected by the change to Rule 130.5(e). Previously, a claimant was required to dispute the rating within ninety days after the claimant’s first written notice of the impairment rating. That was changed effective March 13, 2000. Now, the claimant has ninety days after written notice “is sent by the Commission to the parties, as evidenced by the date of the letter.” Notice from the carrier or a notice from the doctor is not sufficient.

If we utilize the TWCC-28 form, we must accordingly amend the final paragraph in bold stating as follows:

If you do not agree with the finding of maximum medical improvement or with the percentage of impairment rating assigned by the doctor, you may dispute the rating by contacting the Texas Workers’ Compensation Commission within ninety days from receiving notice of the doctor’s rating. For assistance, contact the Commission field office handling your claim or call 1-(800) 252-7031.

We recommend that the phrase “ninety days from receiving notice of the doctor’s rating” be changed to “ninety days after written notice of the MMI and IR is sent by the Commission to the parties, as evidenced by the date of the Commission letter.” See Advisory No. 292 for recommended procedure regarding first written notice of impairment.

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