

ADVISORY NO. 300
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TOPIC: INCOMPLETE NOTICE OF REFUSALS

Beginning in March 2001, TWCC began returning incomplete Notices of Refusals. They have attached a note that states: "The Commission has been unable to process the enclosed TWCC form due to lack of mandatory information." They will return it if any of the following information is incomplete:

1. Social Security Number of employee;
2. Date of injury;
3. Claimant's mailing address;
4. Employer's name; or
5. Employer's mailing address.

The forms that we have received to date have a file stamp on them. On one of the TWCC-21s, TWCC had crossed out the filed date. That suggests that they will argue that an incomplete NOR is not sufficient to meet our obligation under the seven-day and sixty-day deadlines.

Upon receipt of a returned TWCC-21, we recommend that you copy the document. On the copy of the document, fill in the missing information, and then file the newly completed copy of the document with a copy of the original file mark. Retain the original returned copy. This will be your archive copy to defend against an argument of waiver. The newly completed version will bear two file marks. It will have a copy of the original file stamp, and it will have TWCC's new file stamp.

We urge that you avoid this problem by ensuring that future Notices of Refusal contain Social Security Number, date of injury, claimant's mailing address and employer's name and mailing address. Be sure to use blank 43 to state all defenses that you may wish to raise. Remember that all defenses that could have been raised at the time the TWCC-21 is originally filed must be raised in the TWCC-21, or they are waived.

Again, for general guidance in completing Notice of Refusals, we would refer you to our Advisory No. 120, which may be found in the Resource Center on our website.

FLAHIVE, OGDEN & LATSON