

ADVISORY NO. 334

###

**TOPIC: RECOMMENDED CHANGES FOR DISPUTING SIBS
WHEN PAYING PREVIOUS QUARTERS**

We are seeing efforts to overturn several rules as being inconsistent with statutory provisions. Recently, a declaratory judgment action has been filed seeking to overturn Rule 130.108(e). This rule provides that a carrier is not required to dispute a SIBs quarter by requesting a Benefit Review Conference if the carrier has not paid the previous quarter. After *Downs*, it is impossible to gauge the merits of this case. However, should it prevail, waiver might be found in all cases where the carrier failed to timely dispute a SIBs quarter by requesting a BRC, regardless of whether the prior quarter was paid.

Therefore, we recommend that SIBs filings by claimants be timely disputed by requesting a BRC if the carrier believes that the claimant has failed to prove entitlement even if the prior quarter was not paid.

We are not suggesting, however, that SIBs be voluntarily initiated if a timely request for a BRC is not filed where the prior quarter was not paid. Until such time that the rule is declared invalid, the Commission will still refuse to find waiver. Therefore, although you may rely on the rule, it would be more prudent to file TWCC-45s on all disputes of SIBs as a precaution against an unfavorable decision from the trial or appellate courts.