

ADVISORY NO. 338
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TOPIC: TWCC 28 IS MANDATORY

The Commission has revised the TWCC-28 form (Notification Regarding Maximum Medical Improvement and/or Impairment Rating) to remove all language regarding the 90-day rule. This revision, effective March of this year, was not mentioned on the Commission web site, and no other formal announcement was made. However, we have been informed that the Commission considers the use of the form to be mandatory when TIBs are suspended due to the claimant reaching MMI.

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. Rule 124.2(f) provides that notification to the claimant “requires the carrier to use plain language notices with language and content prescribed by the Commission.” The revised TWCC-28 is the only plain language notification to date.

However, the TWCC-28 should NOT be filed with the Commission. Doing so may subject you to an administrative violation. Rather, notice to the Commission is governed by Rule 124.2(g), and requires the carrier to use electronic filing. There is no requirement to separately file a paper TWCC-21 to notify the Commission of the change in benefits from TIBs to IIBs, and therefore, the carrier should not file one.